East Bellevue Community Council
Summary Minutes of Special Meeting

June 24, 2015
6:30 p.m.

Lake Hills Boys & Girls Club
Bellevue, Washington

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

ABSENT: None

STAFF: Monica Buck, Assistant City Attorney
Carol Helland, Land Use Director
Sally Nichols, Senior Land Use Planner

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**

Chair Capron led the flag salute.

Chair Capron said the Community Council was resuming its discussion from June 2 of City Council Ordinance No. 6226 granting Puget Sound Energy's Conditional Use Permit and Shoreline Conditional Use Permit application related to the Lake Hills transmission line electrical reliability project. He recalled that the required public hearing for PSE's permit application was held in November 2014. The Hearing Examiner issued findings, conclusions and recommendations on December 9, 2014. No appeals were filed.

Mr. Capron said the Community Council has not been allowed to take public comment on this quasi-judicial matter because the record closed with the issuance of the Hearing Examiner's recommendation. No additional evidence or public comment may be considered by the Community Council in rendering a decision on the Examiner's recommendations.

Mr. Capron said there has been considerable interest in the project over the past few months, particularly by members of the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE), residents along the route of the Lake Hills project, and others within the East Bellevue

Community Council boundaries. As a result, the Council as a whole and individual Councilmembers have received emails and possibly other contacts related to this matter.

Mr. Capron asked Assistant City Attorney Monica Buck to explain quasi-judicial proceedings and to lead the Council through disclosures of any ex parte contacts since the item was last discussed on June 2.

Ms. Buck suggested that the Council conduct its Executive Session before proceeding further on this matter.

4. EXECUTIVE SESSION

At 6:36 p.m., Chair Capron declared recess to Executive Session for approximately 20 minutes.

The meeting resumed at 7:04 p.m.

5. RESOLUTIONS

(a) Resolution No. 550 re: Consideration of City Council Ordinance No. 6226 granting PSE's Conditional Use Permit and Shoreline Conditional Use Permit application

Chair Capron asked Ms. Buck to comment on the Appearance of Fairness Act and quasi-judicial matters.

Ms. Buck said the State Appearance of Fairness Act governs quasi-judicial matters in which the Community Council makes a decision regarding the rights of specific interested parties under the City's existing regulations. In this matter, Councilmembers must act as judges and maintain fairness and impartiality in deciding the applicant's right to receive the requested permits for this project. Judges may not engage in ex parte or off-the-record contact with parties, in order to maintain impartiality.

Councilmembers must disclose all ex parte contacts with the applicant or members of the public, whether verbal, emails or other writings on topics of this application. If Councilmembers acting in a quasi-judicial capacity cannot exclude ex parte information from their consideration and base their decision solely on the record made during earlier proceedings, or affirm that they will maintain their impartiality, they are to be recused from participating in the discussion.

Ms. Buck recommended that, before the Council takes up the substance of this matter, Councilmembers disclose any ex parte contacts since the June 2 disclosures, and that they disclose any contacts that Councilmembers remember now and failed to make during the June 2 meeting. If any ex parte communications are disclosed, the Councilmember should state the following on the record: name of person involved in contact, date of contact, method of communication, and the substance of the communication. If there are written communications or a transcript exists, those items should be placed in the record. However, their substance shall not be considered by the Council in making its decision.

Ms. Buck suggested starting with Councilmember Hughes, noting that he was not able to attend the June 2 meeting. Mr. Hughes confirmed that he listened to the recording of that meeting and is fully informed and able to participate in the quasi-judicial matter.

With regard to ex parte contacts, Mr. Hughes said he asked Ms. Buck about the April 20 City Council meeting and watched about 20 minutes of it. He attended the Solarize Bellevue meeting and spoke with Mayor Balducci. He told her he would like to meet to discuss forecasting. However, Ms. Balducci has not contacted him since that time. Mr. Hughes said he spoke with Paul Inghram, who he encountered when he was at City Hall reviewing the Hearing Examiner's record. They did not discuss the project application.

Mr. Hughes recalled he had communications with Councilmembers Capron and Kasner at times about the quasi-judicial process. He said Mr. Capron disclosed that on June 2.

Responding to Ms. Buck, Mr. Hughes said he was able to make a decision based solely on the record and with impartiality.

Councilmember Kasner disclosed that he watched the April 20 City Council meeting discussion of the matter. He had a conversation unrelated to the project with Keri Pravitz, Puget Sound Energy, following the conclusion of the June 2 meeting. On June 15, Mr. Kasner received a call from Steve O'Donnell (CENSE) who inquired about the date for tonight's special meeting.

Responding to Ms. Buck, Mr. Kasner said he was able to make a decision based solely on the record and with impartiality.

Chair Capron reported that he watched the City Council meeting in which the Council voted on the project.

Responding to Ms. Buck, Mr. Capron said he was able to make a decision based solely on the record and with impartiality.

Councilmember Gooding said he had no ex parte communications to disclose.

Councilmember Hummer said she was not sure whether she previously disclosed that she attended both the April 20 and May 4 Council meetings and watched the videos as well.

Responding to Ms. Buck, Ms. Hummer said she was able to make a decision based solely on the record and with impartiality.

Responding to Ms. Buck, Chair Capron asked whether any audience member wished to challenge any of the Community Councilmembers' participation in discussion of this matter. No one came forward to comment.

Chair Capron recalled that, on June 2, the Community Council heard a staff report and had the opportunity to ask questions, seek clarifications on information presented in the record, and begin discussion. Since that time, the Community Council was directed to provide proposed findings and conclusions for either approval or disapproval of Ordinance No. 6226. Puget Sound

Energy was invited to submit proposed findings and conclusions. These were provided to the Community Council for review in advance of this meeting. He said copies were also available on the back table of the current meeting.

Chair Capron asked Ms. Buck to describe the standard of proof and decision criteria guiding the Community Council's decision.

Ms. Buck said the Land Use Code does not specify what burden of proof is required to support the decision. However, since this is a civil matter, an appropriate standard of proof would be a preponderance of evidence. If a majority of the Council concludes that the Hearing Examiner's recommendation is supported by sufficient evidence to convince a fair-minded person of the correctness of the findings of fact, conclusions and recommendations, the Council should vote to approve Ordinance No. 6226. The Ordinance should be disapproved only if the Council finds that the Hearing Examiner's findings, conclusions and recommendations are not supported by substantial evidence in the record.

Ms. Buck said the applicable decision criteria related to Conditional Use Permits, Shoreline Conditional Use Permits, and electrical utility facilities are outlined in the meeting packet.

Chair Capron noted that Councilmember Hughes provided written materials to the Council before the meeting and invited him to start the discussion.

Mr. Hughes said that, when he wrote the statement, he had not yet spent four hours at City Hall going through the Hearing Examiner's record. He said he quoted only from the Hearing Examiner's report.

Mr. Hughes referred to page 86 of the Hearing Examiner's report for a City of Bellevue Land Use Decisions Staff Report. He said the report indicates impacts to travel lanes, but there is no further analysis of costs. This carries over into the Hearing Examiner's report where there is no financial discussion or cost-benefit analysis of this project. Mr. Hughes said this seems to be a major oversight.

Mr. Hughes observed that the project will require the closure of one or two lanes of 148th Avenue between SE 16th Street and NE 8th Street for a period of months, perhaps up to one year. He said that anyone who has observed the effects of lane closures on 148th Avenue knows this will have disastrous impacts on traffic flows, which will spillover onto 140th, 145th, 156th and 164th Avenues. He said this will negatively impact the Kelsey Creek, Lake Hills and Fred Meyer Centers. It will also directly impact the cost of commerce related to trucking costs for those serving the shopping centers. He said commuters will suffer as well. He said approximately 50,000 vehicles use 148th Avenue daily.

Mr. Hughes said he believes this is a major oversight in the Hearing Examiner's report. The issue was raised during a Community Council public meeting, and Mr. Hughes said he knows of no response. In the Hearing Examiner's report, there is a statement that comments from the EBCC were considered. However, Mr. Hughes sees no evidence that that was the case. Given that there is little economic benefit from the project, he thinks a full cost-benefit analysis should have been undertaken.

Referring to the questions and responses in the Hearing Examiner's report, Mr. Hughes said questions 1 and 2 relate to the mitigation of power outages as a result of the new transmission project. The questions ask whether there would have been fewer outages had the power line existed over the past 20 years. He has read the responses and they do not answer the question. Mr. Hughes opined that it would have no impact on power outages from failing transformers or downed local distribution lines, which make up the vast majority of outages. He questioned whether there were really five power outages that would not have occurred with the new transmission line. He said this is inconsistent with information given to the Community Council; his recollection was that Puget Sound Energy representatives noted two outages during previous discussions.

Mr. Hughes referred to page 11 addressing benefits of the new transmission line including the reduction in power outages and their durations. He said he sees no evidence in the Hearing Examiner's report indicating that the project would have anything but a minimal impact. During the April 20 City Council meeting, Mr. Hughes said Mayor Balducci said she remembered all of the power outages in Lake Hills when she was growing up, which was the reason she favored this project. She had just completed a personal tour with PSE which explained how the electrical system works.

Mr. Hughes said Ms. Balducci also stated that she did not understand the technical aspects that were discussed by PSE. He suggested that she was misinformed and that this project would have minimal impact on power outages in Lake Hills. He wondered if other City Councilmembers were influenced by her comments.

Mr. Hughes said it is impossible for him to estimate the economic benefit of a power outage compared to a lane on 148th Avenue being unavailable for months. He believes it is common sense that a full cost-benefit analysis should have been performed. He said this area has had reliable power for decades without the transmission line. He said the record indicates how few power outages there have been and how reliable PSE is in general.

Mr. Hughes referred to language on page 75 of the Hearing Examiner's report indicating that the 164th Avenue and 156th Avenue alignments were considered to have the greatest visual impact on the Kelsey Creek area. He questioned how that could be true compared to placing poles along 148th Avenue on the edge of the greenbelt. He said that does not make any sense.

Mr. Hughes referred to page 21: "PSE will not be allowed to place overhead along the entire southern section of SE 16th Street running from 148th Avenue to 156th Avenue." He said that is consistent with information presented to the Community Council, which described connecting 148th and 156th Avenues on SE 16th Street. Mr. Hughes read from the report that, during a previous public meeting, PSE stated that it could not complete the new transmission lines unless they could install new poles on the south side of SE 16th Street. PSE argued that double-stringing the poles on the north side would not work. Mr. Hughes said that, now, there would be no new lines on that street at all. He said the new sidewalk capital project was part of this new line but it is no longer in the current capital budget for the City. He said the City is now approving the transmission line without that section, which was previously stated as essential.

Mr. Hughes said he does not understand why the City changed its position on that item. He does not understand why the East Bellevue Community Council is not allowed to discuss this major change during a public meeting. He believes this was an error by the Hearing Examiner. Mr. Hughes did not know about this change until he read the Hearing Examiner's report. He said perhaps there is more to the decision process than it appears.

Mr. Hughes referred to page 3: "The public interest suffers no substantial detriment." He disagreed, noting the temporary financial impact on the community during construction as well as the addition of 115kV power lines on 148th Avenue, which is the most attractive major thoroughfare on the Eastside.

Mr. Hughes noted that Ms. Buck advised against his next comment. However, the comment is not about the Hearing Examiner's report but about Ms. Buck's memo of May 27. He finds it strange that this project could be defined as an essential public facility. In other words, if the Community Council disapproves the application, the project could be declared an essential public facility and move forward.

Mr. Hughes said there has been adequate power for decades without the proposed project, which he believes is not essential.

Chair Capron explained that what is before the Community Council is PSE's application for permits to build an above-ground 115kV power line to connect two substations. The line runs from SE 16th Street to 148th Avenue, NE 8th Street, and eventually to the substation at 164th Avenue. That is the subject project in the permit applications.

Mr. Capron said that, if the project meets the criteria of the Land Use Code, the agency may be granted the permits. He said the Community Council will decide tonight whether it believes the permit application meets the criteria. However, the Council does not have the option to suggest an alternative location or alignment (e.g., underground). The Council's role is to review what is being requested by PSE.

Mr. Hughes said that is considering everything in the public record for the project. Mr. Capron concurred.

Councilmember Kasner said he had a slightly different format for his comments. He reviewed PSE's proposed findings and conclusions and modified their statements, based on the record, where he agreed with them, and he added conditional justification to do something else.

Mr. Kasner said State law indicates that the Community Council may vote for or against the permit application but cannot make any changes. He read his comments: Whereas PSE attempted to engage the public on the tradeoffs with respect to the 115kV transmission line between Lake Hills and Phantom Lake substations in 2007, and held four public meetings between 2007 and 2011 which did not adequately notify the public of the benefits and costs of the alternatives and the possibility of making no changes to the system. He said that, when we get that far, he will provide the documentation for that statement.

Continuing, he read: Whereas in 2009 the City of Bellevue ensured that the public was protected when siting electrical facilities in sensitive environmental areas, such as the Lake Hills Greenbelt, recognizing that these are difficult decisions that require the balancing of often conflicting Comprehensive Plan policies.

And whereas the East Bellevue Community Council (EBCC) held three public courtesy hearings on June 5, 2012, September 2012, and June 4, 2013. Three hearings had to be held because it was unclear whether the public's need for information on this project had been met. Councilmember Kasner said City staff, at the June 4, 2013 meeting, attempted to restrict the discussion for the evening to mitigation for a project that had not yet been approved. He said this was overruled and the entire project was discussed with meaningful public input received.

Continuing, Mr. Kasner read: Whereas the City of Bellevue and PSE conducted two duly noticed public meetings regarding PSE's application in 2012 and 2013, as a quasi-judicial matter the Community Council was not allowed to attend and did not receive any information from those meetings. Public comments are in the record, however.

Mr. Kasner read: Whereas copies of the City's weekly permit bulletin, including information about the PSE application, were mailed to addresses within 500 feet of the proposed transmission line, large public information signs were posted along the route at each substation, and a separate letter was mailed to every property owner address that touched the proposed line within 150 feet. He said this did not adequately inform the public that they could express their opinions about the necessity of the project.

Continuing: Whereas the City of Bellevue hired Exponent, an independent contractor with expertise in transmission lines, to draft the Electrical Reliability Study, which included an evaluation of the need for a transmission line between Lake Hills and Phantom Lake substations; and whereas in February of 2012, Exponent concluded that construction of a new 115kV transmission line could improve reliability and reduce the frequency and duration of the five transmission line outages in the Lake Hills neighborhood, which account for less than half of the outages, most of which were distribution line problems over the past 10 years.

Continuing: Whereas where the health and safety, particularly of vulnerable populations, including persons who depend on medical equipment, are at risk when power outages occur, no electrical system is immune to temporary outages, especially during winter storms, and each vulnerable customer should make arrangements for a backup generator to ensure their welfare is protected.

Whereas transmission line redundancy allows for needed maintenance of the transmission line system, the route selected does not provide more benefit than cost to the residents and customers of the East Bellevue Community Council area. And whereas the City of Bellevue Comprehensive Plan requires that PSE demonstrate the proposed electrical facility improves reliability to customers served and to the system as a whole, as certified by the applicant's licensed engineer, there is ample evidence in the Hearing Examiner's file which shows that the PSE engineer has overstated the reliability improvements which would be obtained by completing this project.

Mr. Kasner continued: And whereas applicants submitting proposals located on sensitive areas are required to demonstrate compliance with the alternative siting analysis requirements which PSE dutifully submitted on December 29, 2011. Whereas PSE's alternative analysis considered far more than three potential routes but, subsequent to public feedback which strongly asked for the transmission lines to be buried on any of the routes, PSE chose to submit a route that used overhead lines that ran 2,000 feet through the neighborhoods and past the greenbelt, and along the established urban boulevard, contrary to the unique neighborhood character that residents have come to expect in Lake Hills. And whereas the selective route jeopardizes the transportation system of East Bellevue with construction on 148th Avenue and NE 8th Street for four to six months, which will paralyze an already poorly functioning major arterial, which far outweighs the inconvenience of five transmission-related power failures over the past 10 years.

Continuing, Mr. Kasner read: Whereas the proposed mitigation for the selected route is totally inadequate to restore the character of the urban boulevard which is based on stately vegetation and less medians.

Whereas Land Use Code 20.20.255.E requires that proposals for electrical facilities provide mitigation sufficient to eliminate long-term impacts to properties located near an electrical facility. Mr. Kasner said the Code states that newer expanded facilities are allowed within a critical area or critical area buffer only when no technical feasible alternative with less impact on the critical area or buffer exists. He said the proposed power line has not met that standard.

Mr. Kasner said the City of Bellevue and PSE spent three years determining and designing mitigation that would be required to minimize long-term impacts to properties located near the proposed 115kV transmission line in the Lake Hills neighborhood. He said PSE chose to claim they were under regulation 74 from burying a transmission line, which he said is not true.

Mr. Kasner continued: Whereas the City of Bellevue required robust planting and that PSE contributed $856,407, based on the appraised trunk formula, after originally offering less than $300,000 to pay for replantings, which was far less than the Parks Department estimate of $1.2 million to pay for tree and landscape mitigation related to such a long-term investment.

Whereas over the long term, the replantings will extend the life of the greenbelt along 148th Avenue SE, and many of the trees that will be removed are toward the end of their lives, which the residents of East Bellevue expect to replace with like vegetation that will last for the next 50 years, the City of Bellevue Planning Department issued a detailed and comprehensive 200-page staff report and recommendation for approval of Conditional Use and Shoreline permits for the PSE transmission line to connect the Lake Hills substation and the Phantom Lake substation that does not meet the needs of the residents of the East Bellevue Community Council area.

And whereas the City of Bellevue retains significant discretion to monitor and limit potential impacts to traffic, and by selecting this route they have failed to protect the public from a potentially horrific half year of traffic impacts by allowing this project to move forward.

Continuing, Mr. Kasner read: Whereas the City of Bellevue reviewed application materials but did not seek or consider public feedback and issued a mitigated determination of non-

significance (MDNS) under SEPA, a critical land use permit for aspects of the transmission line under the file 11121125-LL and Shoreline Substantial Development permit 12127693-WA.

Whereas issuing an MDNS, City of Bellevue staff was in error of testimony to the Hearing Examiner as to the analysis and documentation regarding various aspects of the environment including, without limitation, wildlife, plants, scientific resources, visual impacts and noise.

Mr. Kasner said it is not necessary to resolve this issue and make a decision on this matter at this time.

Continuing, Mr. Kasner read: Whereas the MDNS, the Critical Land Use permit and Shoreline Substantial Development permit were subject to appeal before the Hearing Examiner, but none were appealed. On November 20, 2014, the Bellevue Hearing Examiner convinced a duly noticed, open record public hearing on the application for a Conditional Use and Shoreline Use permits, which was not the most convenient time for true citizen involvement, right before Thanksgiving with the two-week appeal period actually including Thanksgiving Day.

Whereas, on December 19, 2014, the Hearing Examiner issued findings of fact and conclusions of law and recommendations that the City Council approve the application, with the addition that the City Council approve the application with conditions, which was even more an inconvenient time for true citizen involvement, before Christmas with the two-week appeal period running through New Year's Day.

Mr. Kasner continued: Whereas the Hearing Examiner found in error, based on his analysis on the record of PSE's licensed engineer credibly established that the proposed transmission line improves reliability to customers served and reliability as a whole. The Hearing Examiner found, based on the record of evidence, that the City of Bellevue and its residents would benefit from a new transmission line, primarily from improved system reliability and the reduction of power outages and their duration, which can be achieved with the looping provided with the new line, but failed to weigh these benefits against the environmental harm and utter lack of compliance with the Comprehensive Plan, which would make the residents of East Bellevue far worse off than doing nothing.

Whereas the Hearing Examiner found, based on record evidence, that the route selected was most consistent with the City Council's hierarchy of preferred locations found in Land Use Code 20.20.255.D.2, which was an error based on the testimony of witnesses that did not have the self-serving interest by being employees or consultants to the proponent.

And whereas the Hearing Examiner found, based on record evidence, that City of Bellevue staff devoted substantial time and attention working with PSE representatives to ensure the final project would present a less industrial design and settled on pole designs with more decorated arms, where possible, instead of standard transmission arms in error because both City of Bellevue staff and the Hearing Examiner ignored substantial evidence in the record that the route selected and the method chosen was not in the best interest of Bellevue residents.

Whereas the Hearing Examiner found, based on record evidence, that the public comments received on PSE's Conditional Use permit application were thoroughly addressed and the

alternative siting analysis moved forward, submitted by PSE as part of its application, was clearly in error because they clearly show the decision criteria for a Conditional Use permit found in Land Use Code 20.33.140 were not met, specifically a) the Conditional Use permit is not consistent with the Comprehensive Plan, b) the design is incompatible in response to the existing or intended character, appearance, quality of development and physical characteristics of the setting and property in the immediate vicinity. The conditional use will be served by added public facilities including streets, fire protection and utilities. The conditional use will not be of material detriment to uses or property in the immediate vicinity of the subject property, any of the conditional use applies with applicable requirements of the Land Use Code.

Mr. Kasner continued: The proposed Conditional Use permit fails in all five areas based on the non-self-serving testimony in the record. Whereas the Hearing Examiner found, based on record evidence, that undergrounding costs were shown to be substantially higher, up to 10 times higher than the proposed transmission line, was in error because the record shows that PSE kept changing its cost formulas over the years and started from a position they were barred by law to underground transmission lines, so that they did not want because it was more expensive and would set a very bad precedent.

Mr. Kasner said the City of Bellevue and PSE disagreed about the cost-sharing potential of underground transmission lines and that local customers and/or the City would need to pay additional costs under terms of applicable tariffs and regulations. These facts were never made public so the residents of East Bellevue could prioritize which solution worked for everyone.

Whereas the Hearing Examiner did determine that no one stepped forward with a viable plan to fund the substantial cost to underground new lines, and none of the public witnesses at the Hearing Examiner's hearing expressed a desire to pay their share of costs to modify their existing overhead electric meter connections. Which is in error, because this discussion was never public or duly noticed so the public could participate in this discussion.

Whereas the Hearing Examiner and the EBCC are without legal authority to mandate extraordinary financial participation and would require from the City and affected property owners to underground transmission lines. However, the EBCC does have the legal authority to disapprove this Conditional Use permit so that an adequate community discussion can be had to solve the problems to the benefit of all. That is supposed to be why the EBCC conducts courtesy hearings to keep the public apprised of potential issues.

And whereas the Hearing Examiner concluded in error that the City of Bellevue staff review was robust, since most of the evidence shows that PSE was in error, was ignored by staff, directly tried to restrict public input at the EBCC meeting in June 2013. And this body has no knowledge of what happened at the other public meetings since we were barred from attending because of the quasi-judicial nature of this proceeding.

Mr. Kasner said the residents of East Bellevue deserve the process where the assertions of the proponent were independently reviewed to make sure they were satisfied of the public safety and welfare of Bellevue citizens. We find that this was not done for this application.

Whereas the Hearing Examiner concluded based on the evidence in the record that PSE's applications in error met the decision criteria for the Conditional Use permit, which I stated earlier in the document, they did not. Whereas the City has complied with the State Environmental Policy Act and the City environmental procedures Code.

Whereas no appeal of this Hearing Examiner's findings of fact, conclusions of law, and recommendations was filed. Whereas, following a discussion at a duly noticed public closed record hearing, the Bellevue City Council voted to direct staff to return to Council on May 4, 2015, with an Ordinance adopting the findings, conclusions and recommendations of the Hearing Examiner and granting the application with conditions.

Whereas on May 4, 2015, at a continued closed record public meeting, the City Council voted on a vote of 6-1 following public deliberation that the Hearing Examiner was supported by a preponderance of the evidence and approved, with conditions, PSE's Conditional Use permit applications, which we, the members of the East Bellevue Community Council, have chosen to agree with the dissenting view of the preponderance of all of the evidence in the file does not support the issuance of the aforementioned permits for this project.

Continuing with his comments, Mr. Kasner read: Whereas in this matter, the EBCC has full jurisdiction to approve or disapprove land use decisions, including Conditional Use permit applications that apply within the boundaries of our jurisdiction, Mr. Kasner said we do find that after a thorough, quasi-judicial review of the closed record before this body and the findings of fact, conclusions of law, decisions of conditions of approval issued by the City of Bellevue Hearing Examiner with respect to the two Conditional Use permits by PSE. EBCC will look at the same closed record the Hearing Examiner used to reach his findings of fact, and conclusions of law, decisions of conditions of approval, and may disapprove said findings and conclusions if we find they are not supported by a preponderance of the evidence in the entire closed record, which includes all the information presented at three courtesy hearings with the East Bellevue Community Council.

Mr. Kasner continued: Whereas the East Bellevue Community Council did not consider any information obtained through ex parte contacts and may use our observations of locations cited in the Conditional Use permit application to rule on the issue of – Does the evidence submitted meet the criteria laid out in Land Use Code 20.33.140.

Whereas PSE requests to enter in the development agreement with the City of Bellevue to vest their right to construct the second 115kV transmission line along the south side of SE 16th Street. At some point in the future, if the City constructs the unwanted and unneeded TFP 158 project, which is expressly prohibited in the Hearing Examiner's report and should not be allowed because the costs, financial and environmental, far exceed the potential benefits of this project.

Whereas following a discussion at a duly closed public meeting on June 2, the East Bellevue Community Council reconvened in a Special Meeting on June 24, 2015.

Councilmember Kasner said that concluded his comments.

Councilmember Hummer said she would read what she wrote. From driving around and visualizing enormous poles and criss-crossing of the road, she has observed that there is major visual clutter and the degradation of the urban boulevard.

Reading, Ms. Hummer continued: I believe that great oversight has occurred on the initial design, on a very fundamental design, of the PSE Lake Hills to Phantom Lake transmission line project. On page 2, lines 4 to 5, of the Hearing Examiner's report, the second conditional use permit decision criteria B is not met. It states: The design is compatible with, and responds to, the existing or intended character, appearance, quality of development, and physical characteristics of the subject property and immediate vicinity.

She continued to read: Throughout the documents, NE 8th and especially 148th Avenue are designated as urban boulevards and part of the enhanced rights-of-way. The routes are continually described as having no existing power lines. This was not done by accident. 148th Avenue was developed as an urban boulevard by a visionary city and involved sacrifice for the greater good by private citizens. Homes were condemned and neighborhoods radically transformed to provide a national example of how major thoroughfares can be a pleasant park for commuters and residents alike. Obviously, a major element of the urban boulevard is a lack of visible utilities, such as distribution and transmission wires. The only visible utilities on NE 8th and 148th are light poles.

Ms. Hummer continued reading her statement: In the Hearing Examiner's report, the following elements from the Comprehensive Plan refer to Bellevue's commitment to a City in a Park and developing the urban boulevard and enhanced rights-of-way. UT-45 on page 209 states: Avoid locating overhead lines in greenbelts and open spaces. UT-53 on page 210: Require all utility facilities to be aesthetically compatible. UT-19, page 212, refers to a City in a Park preserving trees. UT-42, page 212, directs us to design boulevards to reinforce the image of Bellevue as a City in a Park. SW1-44 Utilities on page 214: Serve need, enhancing the visual quality of the community. None of these policies are met.

Ms. Hummer continued: I understand mitigation factors were negotiated to minimize the visual and environmental impact of the project. However, simple viewing of existing 80-foot poles shows that no amount of mitigation can obscure the utility poles. The addition of the wires criss-crossing the boulevards exacerbates the issue. Instead of trying to hide them at the edge of the rights-of-way, they will be visible from close up and far away. The addition of visual clutter to the landscape is inexcusable and, unfortunately, not addressed in enough detail by staff.

Ms. Hummer said Glenn Kost, on pages in the C section of the record, pages 139 to 149, his insightful, thorough, detailed letter and attachments organize and clarify all the salient points of the wrong choice of the NE 8th Street and 148th Avenue routes. In particular is attachment 6. Understanding Bellevue's commitment to street aesthetics, he cites the formal enhanced right-of-way and urban boulevards program, whose mission is "to enhance the visual and functional quality of City streets and gateways." It includes a four-person steering committee of City directors and assistant directors and an eight-person program team of City staff. Apparently this committee and team were inadvertently left out of the decision process. This fundamental criteria was not regarded with the strength of following other rules and guidelines. As Mr. Kost points

out, more than 50,000 people enjoy this park daily, and the whole project will adversely affect this enjoyment, from construction delays to long-term visual pollution.

Ms. Hummer concluded that the project does not meet the criteria as set forth.

Councilmember Gooding said there are a lot of projects that cities undertake with the best of intentions and with the right idea in mind. They can assemble resources to make it seem like a pretty easy thing. After all, it is electricity, something we all use. However, he thinks the Council has brought up a lot of points questioning the marginal improvement provided by the project. What is the standard of reliability?

Mr. Gooding said he has lived in East Bellevue for 20 years. There have been a few power outages, mostly from downed power lines and transformers that go out. He said storms happen and trees fall over. He said it is hard sometimes to delineate what is fact and what is just a claim, which makes this a challenge for the Community Council. He said Bellevue residents have become accustomed to the beauty of their neighborhoods and enjoy the parks. He said there is a lot to consider and he thanked the public for listening to the Council.

Chair Capron said City staff have worked hard on this, and everyone involved has done what they believe is their best. However, looking at this, the first thing is that the Hearing Examiner's findings were not appealed. That was the opportunity to appeal this matter. However, the problem is that it happened over Thanksgiving, and the Examiner issued his finding the week before Christmas. Mr. Capron said he believed there was a 30-day appeal period. He wondered if politics influenced scheduling the hearing at an inconvenient time for residents opposed to the project.

Chair Capron said the Hearing Examiner approved the application with conditions. The purpose of the project is to connect the Phantom Lake substation with the Lake Hills substation. On page 11 of the Hearing Examiner's report, it says: The transmission line is needed to improve reliability by creating a loop connecting two currently under-utilized substations and feeding each substation with two transmission lines instead of one. Mr. Capron said that is the testimony from PSE witnesses.

The Hearing Examiner's condition states that PSE cannot complete the line down SE 16th Street, so basically the Examiner is denying part of what PSE is requesting. Mr. Capron said the Examiner's conditions do not provide the project requested by PSE. On page 2 of the report, it says: The applicant shall demonstrate that an operational need exists that requires the location or expansion of the proposed site. Then on page 11 it states that they are under-utilized substations. Mr. Capron questioned whether this meets the standard that it requires it, but these are under-utilized substations.

Continuing, Mr. Capron said the reliability study refers to people wanting their internet to work 99.999% of the time. He questioned whether that level of reliability is needed.

Mr. Capron said he lost power for eight days in 2006. He recalled asking PSE whether the proposed transmission line would have prevented that outage, and the answer was no, absolutely not. That outage was far upstream of this line. Mr. Capron said that eight days is 99.999% for a

long time. Most of the power outages are distribution lines, not transmission lines. He said a couple of the outages that PSE says this project would solve were caused by trees. He said perhaps more trees could be trimmed instead of building a new power line. He questioned whether that would increase reliability more than building a new power line.

Mr. Capron concurred with Councilmember Hummer's comments. He said the value of the boulevards to East Bellevue is worth more than Downtown Park. He said the East Bellevue Community Council, many years ago, worked hard on 148th Avenue, and he does not believe the community should easily give up on that. He said the City works very hard on Downtown Park and is trying to complete the last quarter. However, in the meantime, they are trying to take away East Bellevue's park-like boulevards.

Mr. Capron said trees have more than a monetary value; they have a time value. If you plant a tree now and tell me that in 50 years it will be a beautiful big Oak tree, he said he will never see it. He said there is a time value to a tree because they take time to grow. The replacement trees will not have the value of the current mature trees.

Referring to page 2 of the Hearing Examiner's report, Mr. Capron read: The applicant shall demonstrate that the proposed electrical utility facility improves reliability to customers served and reliability for the system as a whole, as certified by the applicant's licensed engineer. Mr. Capron questioned the standard. Is it 99.999% reliability? Could residents live with 90% reliability? Probably not, and probably not 95% as well. However, would residents be satisfied with a few more power outages? He said they occur less than once per year. Would the proposed transmission line solve those power outages?

Councilmember Hughes said it was frustrating that the Councilmembers cannot talk to each other, and instead make their separate statements. Chair Capron noted that the Councilmembers work separately, and he observed that PSE parties have been working together.

Mr. Hughes noted that Ms. Buck indicated to him that if he made a statement, he would need to back it up. He listened to the last Community Council meeting. However, he was unsure about who was talking at certain times.

Mr. Hughes read his statement: The conclusion connecting the Lake Hills and Phantom Lake substations will very slightly reduce blackouts and improve maintenance. The issues, we can only consider the 148th Avenue up or down, and the process of the selection of this route is questionable. The benefits may not outweigh the costs: environmental degradation, aesthetics, and impacts on commerce during this period of construction.

Mr. Hughes said he addressed reliability: The new transmission line will not reduce the outages from distribution lines. He noted that the vast majority of outages, nearly 95%, are caused by local equipment failures. Mr. Hughes said that, in the Hearing Examiner's files, 26.F is the preliminary reliability review, and it looks at the January 2012 storm and concludes that they were all caused by trees and equipment failures. It was nothing about transmission lines. Page 35 of the current systems study notes few outages due to substation or transmission lines. 19C: Five power outages in 10 years, four by trees fixed within a day.

Mr. Hughes said he did not know whether he was allowed to say that there is this public record, and it is annotated by someone in the City. He said the annotation indicates four outages caused by trees that were fixed within a day.

Continuing, Mr. Hughes referred to 27.F: Mostly due to failures of overhead conductors and tree-related events. So, the criteria was "shall demonstrate that an operational need exists," and he does not believe this has been demonstrated.

Regarding the question of whether the project is an essential public facility, Mr. Hughes said the area has had reliable power for decades and there is little, if any, growth in power needs in East Bellevue. He said he had a list of all of the outages by circuit, and there are comments that East Bellevue is well below average for PSE's system and similar comments.

Continuing, Mr. Hughes said the Hearing Examiner did not mention the numerous letters from citizens and experts in this report. Mr. Hughes referred to page 149.C which has a letter from Glenn Kost, Bellevue resident, who was the Parks and Community Services Planning Manager at the time. It offers a complete analysis of the 148th corridor, and it goes through everything that has been mentioned during this meeting. On page 148.C, it notes inconsistencies between the project and the Comprehensive Plan and Subarea Plan. He said Mr. Kost's letter is approximately 15 pages long and goes through every element of the plan. Mr. Hughes said this was never brought to the Community Council.

Mr. Hughes referred to 179.C in the Hearing Examiner's files, which is a letter from Dan DeWald, Bellevue resident, urban forester and the Parks Department Natural Resources Manager for the City. The letter dated June 3, 2013 states: We strongly support the points identified in the letter. Page 42.C refers to written comments by two individuals that the project is inconsistent with the Bellevue Comprehensive Plan, does not demonstrate a clear need, causes significant degradation of landscaping, and that the decision to not place the lines underground is short-sighted. Mr. Hughes referred to 156.C and paraphrased comments as: Did anybody look at the New York-New Jersey Hurricane Sandy? Above-ground lines were significantly hit; underground lines were not.

Mr. Hughes referred to 156.F for a letter from Chris Peters, a registered professional electrical engineer and former employee of Detroit Edison, to Claudia Balducci, dated April 9, 2008. Mr. Peters states: Contrary to what we control, the variable of 120 kV cables was available in 1979 and implemented in Michigan that year. Mr. Hughes said Mr. Peters' letter comments on his conversation with Ms. Balducci and the April 2 public meeting with the Lake Hills Community Center.

Mr. Hughes read from Mr. Peters' letter:

> During the meeting, I had the opportunity to discuss the three proposals. In each project, the representative had different answers and takes on which was preferable from PSE's perspective and of the City of Bellevue. Some of the statements I heard directed to other guests were categorically wrong. Most notably that the new interconnect would provide greater reliability during wind storms, such as those we've had in the past few years. One of these representatives acknowledged the possibility of constructing part or all of this

> underground, but told me that "if we did it here, we'd have to do it for others" and that "we couldn't then tolerate the cost to local PSE customers." I was also informed that the City really didn't like Plan 1, the route along 148th Avenue. During these discussions with the three route plan representatives, I was told to direct my technical questions to their engineering capacity manager, Carol Jaeger. I'm not sure if her misinformation was intentional, but her answers to my questions were shocking and unsettling. When I asked her if direct burial options were being considered, she flatly stated that there was no underground cable and/or installation practice capable of supporting 115kV or higher voltage, but there might be some day. This is totally false. It has existed for over 27 years. She then said, if it were, it would be too expensive anyway. I then asked about transformer load balancing capacity that was previously installed at the Phantom Lake substation in the early 1990s. She told me there was never any changes. It's false. She questioned me about my background and I then told her I was a registered professional electrical engineer and a former employee of Detroit Edison company. And, I then informed her that 123kV direct burial cable was available in 1979, and that I had personally and successfully designed and implemented into Michigan substations back in 1979. And by the way, it is presently used throughout downtown Seattle.

Mr. Hughes said the letter then noted questions about whether the lines would have to be put through peat moss, and Mr. Peters explained how that is not a problem. Mr. Hughes read further from the letter:

> Years ago, PSE attempted to sell essentially the same project. It was rejected by the then-existing Sammamish Community Council. At that time, the Council agreed and pressed for a direct burial solution but it was repeatedly rejected by PSE for cost reasons, not for technical or civil engineering concerns.

Mr. Hughes said he would not read any more of the letter. He referenced a letter, 59.F, from Ron Kessack dated 4/15/2008 to Brad Miyake, then Deputy City Manager, stating: San Diego Gas and Electric has been installing 200kV transmission systems underground in conduit, without floating systems, for years.

Mr. Hughes said none of these letters or any content were ever presented to the EBCC. He said there is no mention that these concerns were considered. He said none of the public opposition letters were presented either, which he believes is a gross error.

Mr. Hughes said the consideration of underground was his next section. He recalled that someone said, during the last EBCC meeting, "undergrounding would cost dozens of millions of dollars." A little bit later, someone quoted $40 million to $60 million if the line was undergrounded along 148th Avenue. Mr. Hughes said the cost would be $2,000-$5,000 to hook up to each home underground. He said the City spent $500,000 expanding the dog park.

Mr. Hughes referred to 19.C regarding the EBCC courtesy hearing on 9/4/2012. Statements include that constructing an underground power line generally costs 10 times as much, and owners would have to pick up $9 million to $16 million if the line was on 164th Avenue. The annotations state: "We need numbers for underground. PSE probably can't give a number because they have never built one." Mr. Hughes said 163.F indicates that undergrounding the

164th Avenue route would cost an additional $4.3 million, and the customer cost would be approximately $500,000. He said the result would be an improved appearance with fewer poles and cross wires.

Mr. Hughes said the Exponent electrical reliability study, referenced on page 35, states that PSE runs distribution assets to failure. He noted language on page 54: City needs to approach conversion of distribution lines to underground, consistent with the Bellevue Comprehensive Plan.

Mr. Hughes said he drove down 164th Avenue earlier that day. They are installing all new power lines along the street and there are lines crossing the street in many locations. He suggested that placing the 115kV line there with underground connections to houses, it would be a huge improvement over the current situation. However, on 148th Avenue, the addition of a transmission line represents a degradation of current conditions.

Mr. Hughes said NE 8th Street has no power poles and a 115kV line is underground. He concluded that neither PSE or the City really knows the cost of undergrounding. It was never actually considered and is not discussed in the Hearing Examiner's report.

Mr. Hughes said he does not believe that the traffic layouts and mitigation comply with Conditional Use decision criteria D, which states: "...not materially detrimental to uses of property and immediate facilities." Mr. Hughes said he concludes there is material and substantial evidence in the public record that weighs against the decision criteria.

At 8:20 p.m., Chair Capron declared a brief recess. The meeting resumed at 8:29 p.m.

Ms. Buck said most of the Councilmembers have prepared proposed findings. She suggested they present and make motions on each finding. She reminded the Council that the standard of review of the Hearing Examiner's findings is that one or more of the decision criteria are or are not supported by substantial evidence. The findings should relate back to the decision criteria and cite which evidence in the record is being relied upon.

Councilmember Kasner moved that the East Bellevue Community Council disapprove Ordinance No. 6226 for the following reasons:

Finding 1: Whereas PSE attempted to engage the public on the tradeoffs with respect to a 115kV transmission line between Lake Hills and Phantom Lake substations in 2007 and held four public meetings between 2007 and 2011, and did not adequately notify the public regarding the benefits and the costs of the alternatives and the possibility of making no changes to the system. Mr. Kasner cited Chris Peters' letter, 57.C, in the record, and Glenn Kost's letter, 149.C, and Dan DeWald's email, 180.C.

Finding 2: Whereas the East Bellevue Community Council (EBCC) held three public courtesy hearings on June 5, 2012: September 2012; and June 4, 2013. Three hearings had to be held because it was unclear whether the public's need for information on this project had been met. At the June 4, 2013 meeting, City staff attempted to restrict the discussion to mitigation for the project that had not yet been approved. This was overruled and the entire project was discussed

with meaningful public input received. He referenced Community Council minutes from June 4, 2013, citing 66.C in the record.

Finding 3: Whereas the Hearing Examiner's finding, based on record evidence, that the public comments received on PSE's Conditional Use permit applications were thoroughly addressed in the alternative siting report submitted by PSE as part of its application was clearly in error, because they clearly showed that the decision criteria for a Conditional Use permit found in Land Use Code 20.30B.140 were not met. Specifically Section A, the Conditional Use permit is consistent with the Comprehensive Plan. The citation is the Glenn Kost letter, 149.C, with the additional support of the Dan DeWald email, 180.C.

Finding 4: Whereas the Hearing Examiner found, in error, based on his analysis of record evidence, that PSE's licensed engineer credibly established that the proposed transmission line improved reliability to customers served and reliability as a whole. Mr. Kasner referenced Chris Peters' letter dated April 8, 2009, at 56.F and 57.F, which also supports the next two findings.

Responding to Ms. Buck, Mr. Kasner said he is following the format that PSE used in their findings. He confirmed that findings 4, 5 and 6 cite to the Chris Peters' letter. Mr. Kasner indicated that Ms. Buck had the language for finding 5 and 6. He noted that, in finding 6, he stated earlier "which is an error based on the testimony of witnesses that did not have a conflict of interest." He said it is not a "conflict of interest," he meant to write "did not have self-interest." He said Mr. Peters provides the expertise of a neutral third party.

Finding 5: Whereas, the Hearing Examiner found, based on evidence in the record, that the City of Bellevue and its residents would benefit from a new transmission line, primarily from improved system reliability, and reduction in power outages and their duration, which can be achieved with the "looping" provided with the new line but failed to weigh these benefits against the environmental harm and lack of compliance with the comprehensive plan which would make the residents of East Bellevue worse off than doing nothing. (Inserted by Ms. Buck based on proposed findings submitted by Mr. Kasner prior to the meeting)

Finding 6: Whereas, the Hearing Examiner found, based on evidence in the record, that the route selected was most consistent with the City Council's hierarchy of preferred locations found in LUC 20.20.255D(2)(d) which was in error based on the testimony of expert witnesses that did not have a self-interest by being employees or consultants to the proponent. (Inserted by Ms. Buck based on proposed findings submitted by Mr. Kasner prior to the meeting)

Mr. Kasner said he had two more findings to support the motion.

Finding 7: Whereas in this matter the EBCC has full jurisdiction to approve and disapprove Land Use Decisions. He said that is an RCW citation near the end of the document.

Mr. Kasner said the final mandatory finding to support the motion, Finding 8, is: PSE's request to enter into a development agreement with the City of Bellevue to vest their right to construct the second 115kV transmission line along the south side of SE 16th Street at some point in the future, if the City constructs the unwanted and unneeded TFP 158 project, which is expressly prohibited in the Hearing Examiner's report and should not be allowed because the costs,

financial and environmental, far exceed the potential benefits of the project. The citation is Hearing Examiner's report page 36, item 15 in the conclusions of law.

Councilmember Hughes seconded the motion.

Chair Capron asked whether anyone wanted to amend Mr. Kasner's motion.

Councilmember Hummer said she would like to amend the motion to include Finding 9.

Ms. Hummer referred to page 2, lines 45 of the Hearing Examiner's report, the second Conditional Use permit decision criteria D is not met: "The design is compatible with and in response to the existing or intended character, appearance, quality of development, and physical characteristics of the subject property in the immediate vicinity." Ms. Hummer said the citation is Glenn Kost's letter, pages 139 to 149.C, attachment 6: "Understanding Bellevue's commitment to street aesthetics."

Mr. Capron suggested it would be important for Ms. Hummer to state that NE 8th Street and 148th Avenue are designated as urban boulevards. Ms. Buck indicated that she had what Ms. Hummer typed previously.

Ms. Hummer continued. Throughout the documents, NE 8th Street and especially 148th Avenue are designated as urban boulevards and part of the enhanced rights-of-way program. The routes are continually described as having no power lines. In the Hearing Examiner's report, the following elements from the Comprehensive Plan refer to Bellevue's commitment to a City in a Park and developing the urban boulevard enhanced rights-of-way: UT-45, page 209 of the Hearing Examiner's report, avoid locating overhead lines in greenbelts and open spaces; UT-53, page 210, require all utility facilities to be aesthetically compatible; UD-19, page 212, refers to City in a Park and preserving trees; UD-42, page 212, design boulevards to reinforce the image of Bellevue as a City in a Park; SW-I-44, page 214, serve need enhancing the visual quality of the community.

Ms. Hummer said none of those policies were met. For the enhanced rights-of-way and urban boulevards guiding principles, page 192F, is the citation for the first mention of urban boulevards and enhanced rights-of-way. She also cited the Glenn Kost letter and attachment 6: "understanding Bellevue's commitment to street aesthetics," he cites the formal enhanced right-of-way and urban boulevards program "whose mission is to enhance the visual and functional quality of City streets and gateways, and includes a four-person steering committee of City directors and assistant directors and an eight-person program team of City staff." Ms. Hummer said that, apparently, this committee and team were inadvertently left out of the decision process as fundamental criteria was not regarded with the same strength of following other rules and guidelines. As Mr. Kost points out, Ms. Hummer said more than 50,000 people enjoy this park daily and the whole project will adversely affect this enjoyment, from construction delays to long-term visual pollution.

Ms. Hummer said this is very difficult, and Chair Capron concurred. Ms. Hummer said her greatest take-away from this is that the process is in place for a reason, and the applicant and City staff did their best and their due diligence. They had their meetings. They listened to the

public, obviously, because on SE 16th Street there are only going to be transmission lines where there are existing transmission lines. They obviously listened to the people on 156th and 164th Avenues because the project will not use those routes.

Ms. Hummer said this demonstrates that residents need to pay attention to what is going on in their community on a regular basis. She said she has told several people, since she was elected to the EBCC, that she has attended many City-related meetings. She said she appreciates everything that the City has done on this project.

Mr. Kasner added that, referring to the SE 16th Street segment, there is additional documentation in an email from Eric Miller at 114.D stating that $250,000 of the proposal would advance the preliminary design work initiated on behalf of PSE to allow them to appropriately work with their transmission line poles, which was specifically excluded by the Hearing Examiner.

Councilmember Kasner accepted Councilmember Hummer's amendment.

Councilmember Hughes said he had an amendment related to D of the conditional use decision criteria: "not materially detrimental to uses of property in immediate facility."

The Deputy City Clerk suggested that the Council list all of its findings first, and then take action on each finding individually. She said they may offer an amendment to each amendment, if desired.

Councilmember Hughes said he would like to add an amendment to Mr. Kasner's statement that "The Hearing Examiner's report does not comply with D of the Conditional Use decision criteria: "not materially detrimental to uses of property in the immediate vicinity." Mr. Capron said that is on page 2 of the Hearing Examiner's report. Mr. Hughes said the Hearing Examiner's report, in the findings on the mitigation of traffic, states only that the City or PSE will do everything it can to mitigate traffic problems.

Mr. Hughes said a cost-benefit analysis of the traffic problems of closing one lane of 148th Avenue for 4-6 months was not considered. It is not in the Hearing Examiner's report. Mr. Hughes said his citation is the comment in the Hearing Examiner's findings about the mitigation of traffic. He believes the project will be detrimental to uses of property in the immediate vicinity, which is 148th Avenue.

Ms. Buck said that, typically, traffic is mitigated through the applicant acquiring a right-of-way use permit, which is separate from what is before the East Bellevue Community Council tonight. She said that is an administrative decision appealable to Superior Court.

Mr. Hughes said the Hearing Examiner's report does not address any details about traffic mitigation for 148th Avenue, which he believes is the major impact during construction. This will adversely affect commerce, traffic safety, and pollution. He believes this is a gross oversight in the report.

Chair Capron referred to page 30 and a condition to satisfy, prior to the issuance of any engineering clearing and grading permit for the project, is a right-of-way use permit. He read:

"The applicant is required to apply for a right-of-way use permit before the issuance of any clearing and grading permit. In some cases, more than one right-of-way use permit may be required. The right-of-way use permit regulates activity within the City right-of-way, including but not limited to truck hauling routes, loading and unloading activities, hours of construction, continuity of pedestrian facilities, temporary traffic control, pedestrian detours for construction activities, street sweeping, location of construction fences, parking for construction workers and construction vehicles, equipment and materials in the right-of-way." He said it actually does not address traffic.

Ms. Hummer noted page 86: "Transportation, Traffic Impacts and Mitigation." She read: "The Transportation Department has reviewed the plans submitted for this project and recommends approval of the final engineering plans, which must show all transportation-related improvements and must be consistent with the Development Code. Traffic impacts and mitigation: Traffic impacts from this project will be temporary and occur only during the construction phase of this project. These impacts will be the result of needed travel lane and sidewalk closures to allow the safe installation of power lines within the City right-of-way. Appropriate mitigation will be specified in the required ROW permit for this project…No permanent traffic impacts will be created by this project."

Mr. Hughes opined that the section does not address the issue the impact on commerce, travel times, and environment. He said the traffic impacts are materially detrimental to uses of property within the immediate vicinity of the project. Chair Capron noted that the Hearing Examiner identifies the impacts as temporary.

Ms. Buck read her interpretation of the issue: "The Hearing Examiner's findings of fact, conclusions of law, and recommendation that Conditional Use permit criteria D (she will include language) is not supported by material and substantial evidence because the Hearing Examiner insufficiently considered traffic impacts on 148th Avenue." Mr. Hughes suggested including "impacts on commerce, commuter time, trucking, pollution." He said previous construction activity has made it difficult to access the Kelsey Creek Shopping Center. He said the project will impact access to businesses in the center.

Moving on, Mr. Hughes offered an amendment to state that criteria 3 shall demonstrate that an operational need exists. He does not believe that has been demonstrated. He referred to the Preliminary Reliability Review from the January 2000 storm (26.F); the current systems study (19.C) which states there have been five power outages in 10 years, four of which were caused by trees; and 27.F refers to local outages being mostly due to failures of overhead conductors and tree-related events. He said there are other references in the public record which indicate that the project still stop very few outages, if any.

Responding to Chair Capron, Mr. Hughes confirmed that he is referring to page 2, paragraph 3: "The applicant shall demonstrate an operational need exists that requires the location or expansion at the proposed site." Mr. Capron said he had a citation to add; page 11, paragraph 3 of the Hearing Examiner's report states that "the two substations are currently under-utilized." This refers to the Lake Hills and Phantom Lake substations.

Mr. Hughes said he is wondering how he could word a finding regarding the letters from professionals and City staff with very detailed information that was not presented to the EBCC for consideration or in any public meeting. Mr. Kasner said it is in the record now and can be cited. Mr. Hughes said the Hearing Examiner does not refer to any of those letters. He questioned whether an amendment could state that, and Mr. Capron suggested they be used as citations for findings. Mr. Hughes said he listed, in the report he previously submitted to Ms. Buck, all of the letters (149.C, 179.C, 42.C, 156.C, 56.F, and 58.F). The letters indicate that the route, or elements of it, are not viable for the project.

Ms. Hummer observed that perhaps Mr. Hughes would like to address the issue of the public hearings.

Chair Capron said that, for an amendment, the Council needs to address where it believes the Hearing Examiner made an error.

Responding to Ms. Hummer, Mr. Hughes confirmed his objection that certain information was not made available to the EBCC. He said the letters were not mentioned in the Hearing Examiner's report.

Responding to Councilmember Hughes, Chair Capron opined that the Community Council could not address that issue because it can only discuss the 148th route and not the alternative siting analysis to which the letters would apply.

Councilmember Kasner said that one of the decision criteria in 255.E is that the alternative siting analysis be done properly. He said that is in the beginning of the Hearing Examiner's report, page 2 of the Additional Criteria for Electrical Facilities. Councilmember Gooding suggested a finding that the alternative siting analysis was improperly done, with a reference to the letters.

Responding to Ms. Buck, Mr. Capron said the finding is that a detailed alternative siting analysis was required and was not properly completed. Mr. Hughes said the citations are the letters not included in the Hearing Examiner's report: 149.C, 179.C, 42.C, 156.C, 56.F, and 58.F. These are letters from professional and City staff that refer to the benefits of alternative siting. Mr. Capron said it appears the Hearing Examiner gave more weight to PSE's alternative siting and disregarded comments from other citizens.

The Deputy City Clerk suggested deliberating and taking action on each finding separately.

Councilmember Hughes said he would like to add a finding that the Hearing Examiner did not seriously consider undergrounding. He cited 19.C and 163.F, and an annotation on one of the documents that: "PSE probably cannot give us a good number because they have never built an underground transmission line."

Mr. Kasner said the permit application is for an overhead facility, and the specific suggestion that an underground option be considered is not relevant to the application.

Councilmember Kasner accepted Mr. Hughes' suggested amendments to the motion.

Chair Capron said he had two findings. The first is on page 2 of the Hearing Examiner's report, paragraph 3: "The applicant shall demonstrate that an operational need exists that requires the location or expansion of the proposed site." His citation reference is page 11, paragraph 3, which states: "PSE and its officials explained that the transmission line is needed to improve reliability by creating a loop connecting two currently under-utilized substations." He suggested that the "operational need" is not justified for the "under-utilized substations."

His second is Roman numeral V in the Hearing Examiner's report that: "PSE's application for a Conditional Use permit and a Shoreline Conditional Use permit to construct a new 115kV overhead transmission line connecting the existing Lake Hills substation with the Phantom Lake substation be approved subject to conditions." Mr. Capron referred to condition 15 on page 36: "PSE will not be allowed to run a new transmission line down the south side of SE 16th Street, nor will PSE be allowed to remove trees from the side of the street for the new line. Possible ways to accommodate the second line include but are not limited to colocation of the new line on the north side of the street or to undergrounding the line in a manner which does not require removal of trees to the south side of the street."

Responding to Mr. Kasner, Mr. Capron acknowledged that this is similar to an earlier finding. However, Mr. Capron said he is adding the citation to the Roman numeral V section, paragraph 5. Mr. Capron said the conditions placed by the Hearing Examiner regarding SE 16th Street prohibit the completion of the project.

Mr. Capron referred to page 21, paragraph 34, sub-section 8, there is a change to the proposal as a result of City review, which states: "Construction of the SE 16th Street portion of the line will be deferred until the City constructs the identified TIP project for this street, and PSE will not be allowed to place overhead lines on the entire southern side of SE 16th Street, from 148th Avenue to 156th Avenue." Mr. Capron said that, when PSE was told it could not place the lines on SE 16th Street as desired, PSE amended its request. However, if the goal is to create a loop between the two substations, Mr. Capron observed that cannot be accomplished without completing SE 16th Street.

Councilmember Kasner accepted the additional proposed amendments.

Councilmember Hughes seconded the main motion.

At 9:30 p.m., Chair Capron declared a recess. The meeting resumed at 10:07 p.m.

Responding to Chair Capron, the Deputy City Clerk said the motion on the floor is to disapprove Ordinance No. 6226 based on a number of findings. She suggested taking action on each finding.

Councilmember Hughes said he would like to add one more finding. He said it relates to underground wiring, which the Council decided not to mention. Ms. Buck said there is already a finding addressing that issue.

Chair Capron restated the motion to disapprove City Council Ordinance No. 6226, based on a number of findings (Exhibit A: East Bellevue Community Council's Findings and Conclusions in support of Resolution No. 550 disapproving City Council Ordinance No. 6226).

The Council proceeded to take action on the findings as recorded by Ms. Buck.

Chair Capron noted no objections from the Council to Finding 1.

Mr. Capron moved to Finding 2. Councilmember Hummer questioned the language that three public hearings were held by the EBCC "because it was unclear of the public's need for information." Mr. Kasner said he called the EBCC to request additional hearings, which is cited in the meeting minutes. The Council agreed to language that "three hearings were held." Mr. Kasner said this speaks to the Hearing Examiner's finding that adequate public outreach was held and considered. Chair Capron noted Council agreement with Finding 2.

Chair Capron noted no objections to Finding 3.

Chair Capron noted no objections to Finding 4.

Chair Capron noted no objections to Finding 5.

Chair Capron noted no objections to Finding 6.

Chair Capron moved to Finding 7. Mr. Kasner said the last sentence does not reflect that the Hearing Examiner was "in error." Mr. Kasner said his point was to state that the EBCC has jurisdiction to make this decision. The Council accepted a revision proposed by Ms. Buck to delete the second sentence. Mr. Capron noted no objections to Finding 7, as revised.

Chair Capron noted no objections to Finding 8.

Chair Capron noted no objections to Finding 9.

Chair Capron noted no objections to Finding 10.

Chair Capron noted no objections to Finding 11, deleting the reference to "inadvertently left out."

Moving to Finding 12, Mr. Hughes suggested a reference to the "cost impacts" of increased traffic. Mr. Gooding suggested "adverse impacts." Mr. Hughes recalled Council discussion earlier regarding the lack of detail in the Hearing Examiner's report (page 86) on traffic impacts and mitigation. Chair Capron noted no objections to Finding 12, revised to incorporate the suggestions reflected here.

Moving to Finding 13, the Council discussed the issue of whether the transmission line would affect reliability, given that past outages were not related to transmission lines. Mr. Kasner said that, of the five outages over 10 years, three were at one substation and two were at another, so no one household was affected by all five outages.

Mr. Hughes read the second sentence of Finding 13: "The record indicates that there have been fewer outages due to substation or transmission lines." He suggested adding in parenthesis: "five

power outages in 10 years, four of which were caused by falling trees and fixed within one day." He noted that other outages have been caused by problems with distribution lines and transformers. He said PSE has made a number of improvements to the overall system which have improved reliability.

Chair Capron noted no objections to Finding 13, with minor clarifications and the additions of citations by Ms. Buck.

Moving to Finding 14, Mr. Capron reiterated the language from the Hearing Examiner's report: "PSE will not be allowed to run a separate new transmission line down the south side of SE 16th Street, nor will PSE be allowed to remove trees from the side of the street for this new line. Possible ways to accommodate the second line include, but are not limited to, colocation of the new line with the existing line on the north side of the street or undergrounding the line in a manner that does not require the removal of trees on the south side of the street." Mr. Capron said the transmission line project, a loop connecting substations, cannot be completed without this segment.

There was discussion about whether this should be combined with Finding 8.

Ms. Hummer read additional language from page 54 of the Hearing Examiner's report: "Although Conditional Use approval to run a segment of the new line down SE 16th Street is requested through this Conditional Use application approval, PSE does not intend to build this piece of the line until an unspecified date in the future. The City of Bellevue has identified a Transportation Improvement Project planned to take place on SE 16th Street between 148th Avenue and 156th Avenue. This work is expected to include the addition of curbs, gutters, sidewalks, bike lanes and new landscaping. No specific construction date and/or funding have yet been identified. However, the City has indicated that the SE 16th Street project might take place within the next 5-10 years. PSE is now proposing to defer final design and construction of the half-mile-long segment of the transmission line along SE 16th Street to 148th Avenue and the Phantom Lake substation in order to coordinate the design of the transmission line work with the City, and to undertake construction concurrently with planned road and streetscape improvements. This approach will result in a more unified streetscape and will diminish construction-related disruptions to adjacent neighbors. Until the second line to the Phantom Lake substation is installed, PSE proposes to install two automatic switches at the NE corner of 148th Avenue and SE 16th Street. These switches will allow PSE to change the flow of power to the Phantom Lake substation from the north or the south. This interim plan allows PSE to improve reliability for all customers in the area, although the full reliability benefits to the Phantom Lake substation will not be realized until the second line on SE 16th Street is installed."

Chair Capron corrected that his citation is page Roman numeral IV (not V), paragraph 5, at the front of the Hearing Examiner's report. He read: "Based upon detailed findings and conclusions, the Hearing Examiner recommends that PSE's two applications for a Conditional Use permit and a Shoreline Conditional Use permit can construct a new 115kV overhead transmission line connecting the existing Lake Hills substation with the Phantom Lake substation be approved, subject to conditions." However, with the condition prohibiting the use of SE 16th Street, the project does not connect the two substations.

Chair Capron noted no objections to Finding 14.

Mr. Capron moved to Finding 15 which states that the cost of undergrounding was not properly considered.

Mr. Hughes reiterated page 54 of the Exponent electrical reliability report recommending that the City approach the conversion of distribution lines to underground under the Comprehensive Plan. He said there is no analysis of feasibility or costs.

Ms. Hummer referred to page 95 of the Hearing Examiner's report. Item 4(b) questions whether PSE is required to underground overhead distribution lines with future transmission lines projects. The report answers "no."

Carol Helland, Land Use Director, said the citation for the Exponent report is 5(g), and the finding relates to language on page 54.

Chair Capron noted no objections to Finding 15, as clarified by Ms. Buck based on the discussion.

Mr. Capron said Finding 16 relates to page Roman numeral IV of the Hearing Examiner's report, paragraph 5. He read: "Based upon detailed findings and conclusions, the Hearing Examiner recommends that PSE's two applications for a Conditional Use permit and Shoreline Conditional Use permit to construct a new 115kV transmission line connecting the existing Lake Hills substation with the Phantom Lake substation be approved subject to conditions attached to the Examiner's recommendations." Under the conditions, the report states that PSE cannot complete the project along SE 16th Street. The application is to loop the two substations for improved electrical reliability and, by the Examiner's conditions, that is not allowed.

Mr. Kasner suggested that the finding is that the project fails to achieve the desired benefit because it does not complete the "loop" to provide the desired redundancy as proposed.

Mr. Capron said the citation should be page 36, #15. Responding to Mr. Kasner, Mr. Capron said page IV, paragraph 5, addresses the permit request. Mr. Capron suggested following Ms. Hummer's earlier citation to page 54 of the Hearing Examiner's report which includes the statement that PSE does not intend to build the SE 16th Street segment until an unspecified date in the future.

Chair Capron noted no objections to Finding 16.

Chair Capron allowed time for the Councilmembers to read over all of the findings on their own. He noted Council agreement with all findings, with minor wordsmithing.

The Deputy City Clerk clarified that the main motion is to approve Resolution No. 550 disapproving City Council Ordinance No. 6226, based on Attachment A.

The motion to approve Resolution No. 550 disapproving City Council Ordinance No. 6226, based on the 16 Findings listed in Attachment A, carried by a vote of 5-0.

Responding to Councilmember Kasner, Assistant City Attorney Monica Buck said the Community Council's decision becomes effective immediately.

6. ADJOURNMENT

Councilmember Hummer moved to adjourn the meeting. Councilmember Gooding seconded the motion, which carried unanimously.

Chair Capron declared the meeting adjourned at 11:42 p.m.

Charmaine Arredondo
Deputy City Clerk

/kaw