East Bellevue Community Council
Summary Minutes of Regular Meeting

November 3, 2015
6:30 p.m.

Lake Hills Clubhouse
Bellevue, Washington

PRESENT: Chair Capron, Vice Chair Kasner, Councilmember Gooding[1], Councilmember Hughes, Councilmember Hummer

ABSENT: None.

STAFF: None.

1. CALL TO ORDER

The meeting was called to order at 6:31 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.

4. COMMUNICATIONS: WRITTEN AND ORAL

Warren Halverson expressed appreciation for the Community Council's representation of East Bellevue residents with regard to Puget Sound Energy's transmission line project. He said he was surprised to see PSE take legal action in this matter. He believes that undergrounding and other alternatives should be considered. He thanked Councilmembers for their work.

Councilmember Hummer invited the public to write or email the City Council at council@bellevuewa.gov and/or City Attorney Lori Riordan at lriordan@bellevuewa.gov with their comments.

James Edison said he found a history of the Lake Hills community online called Not Just Old, But Significant: http://cep.be.washington.edu/wp-content/uploads/2014/02/LakeHills.pdf. He expressed concern about new extremely large homes that are being built and said the report recommended that at least a portion of the neighborhood be designated as an historic district. He thanked the Councilmembers for their community service.

[1] Councilmember Gooding left the meeting at 9:12 p.m.

Councilmember Kasner said the report was prepared by four University of Washington students for the Lake Hills Neighborhood Association. He encouraged the community to stay involved and said there are a number of issues related to historic preservation that should be considered before seeking that designation.

Councilmember Hughes noted that certain group homes serving specific purposes are regulated by the federal government and the City must comply with those regulations.

Chair Capron observed that the issue of elderly care facilities in single-family neighborhoods will come to the forefront in the near future. He said the original intent was to allow senior adults to remain in neighborhoods. However, some have essentially become nursing home businesses in residential areas.

5. REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS

(a) Community Council Business and New Initiatives

Councilmember Hughes said he toured the new Sammamish High School, which is a great facility. He encouraged residents to visit as well. He attended the meeting of the Lake Hills Neighborhood Association and noted residents' interest in having an EBCC member act as liaison to the group.

Councilmember Gooding said a traffic calming project will be installed on his street at the end of the month and medians will be installed later.

Councilmember Hummer said houses in her immediate neighborhood are being acquired by Bellevue College. She has been visiting the State Archives at the college to read past meeting minutes of the East Bellevue Community Council. She noted that issues regarding streets, sidewalks, and utilities were similar to today's issues.

Ms. Hummer said she provided oral comments to the Planning Commission and the City Council regarding the EBCC's discussions and perspectives on the PSE transmission line project.

Ms. Hummer recalled that, a couple of months ago, Steve Fricke mentioned that he reported concerns to the City about the crosswalk outside the Lake Hills Clubhouse. She said City staff came out the next day and, the following week, removed some of the plantings to address residents' concerns.

Ms. Hummer said she attended a meeting of the King County Transit Long-Range Planning Committee as a member of the committee.

In going through papers at the State Archives, Ms. Hummer said she learned that, the day before Lake Hills was annexed by the City of Bellevue, King County passed an ordinance allowing multifamily housing around Larson Lake. She said another ongoing issue in the records is about open use and protecting waterways. She said the land under the Kelsey Creek Shopping Center was a culvert that was filled with silt under King County regulations.

Councilmember Kasner noted that the EBCC has had a number of special meetings recently. He attended the Lake Hills Neighborhood Association meeting. He said he has been reading a number of history documents about the neighborhood. Mr. Kasner recalled that when Leavenworth, Washington lost its logging and railroad activity, the community recreated itself in the early 1960s as a German-themed village. He noted that Bellevue's recent Comprehensive Plan Update added a Neighborhood Element. He suggested there are opportunities for the community to be involved in creating and/or reinforcing a neighborhood identity for East Bellevue. Mr. Kasner reported that he attended the Eastside Transportation Alliance meeting.

Mr. Kasner said there are many issues and opportunities in East Bellevue. He thanked residents for their interest and encouraged them to be involved in planning activities.

Chair Capron said he traveled to Washington, D.C. for a week with his wife. He said the City has been working on sidewalks on Main Street to replace sections damaged by tree roots. He noted that he spoke to the City Council on October 26 to communicate that the EBCC would rather work with PSE toward a more favorable solution for the transmission line project than go through litigation.

Councilmember Kasner said a friend recently purchased a building on 148th Avenue across from Kelsey Creek Center. He learned that the commercial buildings and 40 townhouses were part of a planned development before the area was annexed to Bellevue. Ken Seal, a former EBCC Member, commented on the original King County zoning process for that site.

6. APPROVAL OF AGENDA

Councilmember Kasner moved approval of the agenda. Councilmember Hummer seconded the motion, which carried unanimously.

7. DEPARTMENT REPORTS

(a) Spiritwood Ordinance Update

Councilmember Hummer said Stephanie Walter, a Planning Commissioner, continues to express concerns about how the residential room rentals ordinance will be enforced. Ms. Hummer encouraged residents to report suspected violations to the City.

Councilmember Hughes referred to the memo in the meeting packet and said the City has received and responded to complaints on 109 properties. Some of those properties received multiple complaints. He is impressed with the City's efforts and encouraged residents to file complaints.

Councilmember Hummer shared a map resulting from a Google search of "adult family homes," which indicates properties throughout Bellevue, including Enatai, and in neighboring Clyde Hill.

Councilmember Kasner observed that the density of those homes is higher in East Bellevue. He spoke in favor of a rental registration system to complement Code Compliance efforts. He noted a statement in the packet memo indicating that investigations are being prioritized based on the

Responding to Chair Capron, Deputy City Clerk Arredondo noted the following potential future agenda items: National Pollutant Discharge Elimination Systems (NPDES) Permit requirements, Shoreline Master Program, Subarea Plan Update, and Lake Hills art project. Ms. Arredondo said the art project presentation is anticipated for January.

Councilmember Kasner suggested following the affordable housing issue when the City Council begins its work on that topic. Mr. Kasner observed that the December EBCC meeting would be a good time for Lake Hills Village and/or Kelsey Creek Shopping Center representative/s to attend to provide updates. He would like periodic updates on the Planning Commission from Commissioner Walter.

Chair Capron said he would talk to the shopping center owners and invite them to the meeting.

Steve Fricke asked if the Community Council could request a future update on the home security alarm registration program. Chair Capron said he found it interesting that the vendor is in California rather than in Washington state.

Ms. Arredondo said staff is working on a response to the City Council's concerns about the alarm registration program. She will provide that information to the East Bellevue Community Council as well once it is available.

(b) Discussion regarding Necessary Expenses Memo to City Council

Chair Capron said the East Bellevue Community Council will be submitting a request for necessary expenses to the City Council for legal counsel expenses. He said a judge recently ruled that the EBCC does not have jurisdiction over shoreline land use issues. The EBCC held a special meeting and reached an agreement to appeal the judge's decision.

Mr. Capron said the City is required to fund the EBCC's "necessary expenses." In response to the Puget Sound Energy lawsuit, the City funded an outside attorney to represent the EBCC. However, the appeal of the judge's determination with regard to shoreline jurisdiction was at the discretion of the EBCC. Mr. Capron said he and Councilmembers Hughes and Hummer drafted the request for funds, which has been reviewed by the City's legal department.

Chair Capron said the concern is that the judge ruled the EBCC has no authority over any Shoreline Conditional Use Permit (SCUP) applications, even beyond the issue of jurisdiction as it applies to the PSE transmission line project. He said the EBCC is concerned that this removes much of its authority over land use matters within its boundaries.

Councilmember Hummer read the EBCC's request for necessary expenses in the amount of $15,000 to pay for outside legal expenses to appeal the judge's decision to a higher court. The letter states that it is critical to preserve the EBCC's jurisdiction to ensure it is fully compliant with its statutory voter mandate under RCW 35.14. The Bellevue City Council has recognized this jurisdiction for more than 40 years and presented numerous shoreline conditional use permit applications for EBCC action.

Continuing with reading the letter, Ms. Hummer said the RCW states that the necessary expenses of the EBCC shall be budgeted and funded by the City. The judge's decision was based upon his observation that the EBCC was formed before the Shoreline Management Act became law. Councilmember Hummer said that is correct. However, the Bellevue City Council was formed decades earlier. This decision sets a precedent that will impact the other community council in the state and any future ones that might be formed through annexations by other Washington cities. The letter states that the judge's decision threatens the existence of community councils and the City should cover related necessary expenses.

Ms. Hummer said the EBCC area has substantial shoreline including wetlands, Larson Lake, and Kelsey Creek. An example of a SCUP application previously brought before the EBCC is attached to the letter. Ms. Hummer said that, in 2012, the State of Washington established a non-partisan, joint House-Senate committee to review and reduce the number of junior taxing districts. Municipal corporations/community councils were part of this review although they have no taxing authority. Voter approval to continue the EBCC was approximately 90 percent in the last election, and the joint legislative committee voted 7-1 to support the continued existence of municipal corporations for their role in representing local communities.

The EBCC was established when Lake Hills was annexed in 1969 and was a necessary condition of that annexation, Ms. Hummer said the EBCC's position is that it continue to serve its constituents. Appealing the judge's decision on SCUP jurisdiction is necessary for the EBCC to remain effective.

Councilmember Kasner said the issue regarding SCUP applications is that "incorporated cities" are specifically named in the legislation as having SCUP approval authority. The legislation was passed by the state legislature in 1971 and drafted earlier during the same period that the EBCC was being formed. He recalled that voters denied the formation of a community council in 1964.

Mr. Kasner suggested that it was a legislative oversight that no one considered municipal corporations as entities with jurisdiction as opposed to specifically including cities and excluding municipal corporations. He suggested removing references to the Bellevue City Council from the draft letter. However, he noted that every SCUP has been forwarded to the EBCC for action for more than 40 years.

Responding to Councilmember Hughes, Assistant City Attorney Monica Buck suggested adding that state law requires that community councils approve or disapprove Conditional Use Permits (CUPs). She recommended adding a reference to the City Code provision that CUPs are renewable by the community councils.

Councilmember Hughes said that he and Chair Capron met with Ms. Buck and the City Attorney. There was an agreement that the EBCC would draft a letter which the City Attorney's Office would review, finalize, and submit to the City Council.

Ms. Buck clarified that she would provide input but it would be the EBCC's role to approve the final letter. She agreed that she would help edit the letter.

Councilmember Hughes suggested removing the statement in the letter that the City Council was formed decades before the Shoreline Management Act.

Responding to Chair Capron, Councilmembers agreed to remove the reference to the EBCC forming two years before the Shoreline Management Act. Councilmember Hughes suggested noting that the EBCC was formed and the legislation was passed at approximately the same time.

Responding to Steve Fricke, Chair Capron confirmed that two issues are on appeal. The second issue is that the judge said the EBCC must amend its resolution denying the project, to remove references to shorelines. Mr. Capron said the EBCC does not believe it has the authority to do so because the action presented to the EBCC was to approve or disapprove legislation passed by the City Council. The judge then held the EBCC in contempt of court, after which a decision was made to amend the resolution despite the EBCC's belief that it was not within its authority.

Responding to the same citizen, Councilmember Hughes said the outside attorney estimated a cost of $6,000-$8,000 to pursue the appeal on the SCUP issue. He recalled Ms. Buck's comment that estimates are generally low and her suggestion to request $10,000-$15,000.

Ms. Hummer highlighted facts regarding the past Larson Lake multifamily land use action mentioned earlier. Ms. Buck advised against including that in the letter.

Citizens in the audience offered suggestions, and the EBCC engaged in a lengthy discussion to brainstorm revisions to the letter.

[Councilmember Gooding left the meeting at 9:12 p.m.]

The Deputy City Clerk indicated that the voter approval rate for the last ballot measure to continue the EBCC was 81 percent, not 90 percent as stated in the letter.

After additional discussion, with input from Ms. Buck, the Community Council agreed to a number of revisions to be reflected in the final letter.

Responding to the EBCC, Ms. Buck said the next opportunity for presenting the request during a City Council meeting would be November 16. She said the opening brief for the appeal is due to the court in mid-January. However, depending on the attorney hired for the appeal and his or her schedule, an extension of the deadline can be requested.

Responding to Chair Capron, the Deputy City Clerk said she can forward the final letter to the City Council at any time, as directed by the EBCC. If the EBCC would like to present the letter during a City Council meeting, November 16 would be the next opportunity. The November 9 meeting is a workshop with the Planning Commission to be held away from City Hall and it will not be televised.

Councilmember Hummer moved to approve the letter requesting necessary expenses of $15,000 from the City Council for legal counsel, as revised on the floor. Councilmember Kasner seconded the motion, which carried unanimously.

The letter will be available to the East Bellevue Community Council and the public after it is finalized.

(c) PSE Litigation Update: No discussion.

Responding to Councilmember Kasner, the Community Council agreed to take up approval of the meeting minutes next before recessing to Executive Session.

15. **APPROVAL OF MINUTES**

(a) Summary Special Meeting Minutes of September 15, 2015

Councilmember Hummer moved to approve the minutes of the September 15, 2015 Special Meeting. The motion was seconded by Councilmember Hughes and carried unanimously.

(b) Summary Special Meeting Minutes of September 24, 2015

Councilmember Kasner moved to approve the minutes of the September 24, 2015 Special Meeting. The motion was seconded by Councilmember Hughes and carried unanimously.

Chair Capron noted he abstained because he was not in attendance at the September 24 meeting.

(c) Summary Regular Meeting Minutes of October 6, 2015

Mr. Kasner referred to page 16 of the meeting packet and requested a change at the bottom of the page: "Once the permit was ~~issued~~ filed it became a quasi-judicial matter." The Community Council concurred.

Councilmember Hummer referred to the first page of the minutes and suggested changing the location of the meeting from Lake Hills Boys & Girls Club to Lake Hills Clubhouse. The Community Council agreed to the change for future agendas and meeting minutes.

Councilmember Kasner moved to approve the minutes, as amended, of the October 6, 2015 Regular Meeting. The motion was seconded by Councilmember Hummer and carried unanimously.

(d) Summary Special Meeting Minutes of October 19, 2015

Councilmember Kasner moved to approve the minutes of the October 19, 2015 Special Meeting. The motion was seconded by Councilmember Hughes and carried unanimously.

Councilmember Hummer noted that she abstained.

13. **CONTINUED COMMUNICATIONS**: None.

14. **EXECUTIVE SESSION**

(a) Item of Pending Litigation

At 9:50 p.m., Chair Capron declared recess to Executive Session for approximately 35 minutes to discuss one item of pending litigation.

16. ADJOURNMENT

The Executive Session was concluded and the meeting was adjourned at 10:27 p.m.

Charmaine Arredondo
Deputy City Clerk

/kaw