

CITY OF BELLEVUE  
BELLEVUE PLANNING COMMISSION  
STUDY SESSION MINUTES

May 26, 2010  
6:30 p.m.

Bellevue City Hall  
City Council Conference Room 1E-113

COMMISSIONERS PRESENT: Chair Sheffels, Commissioners Ferris, Hamlin, Himebaugh, Lai, Mathews, Turner

COMMISSIONERS ABSENT: None

STAFF PRESENT: Paul Inghram, Department of Planning and Community Development; Catherine Drews, Development Services Department

GUEST SPEAKERS: None

RECORDING SECRETARY: Gerry Lindsay

1. CALL TO ORDER

The meeting was called to order at 6:35 p.m. by Chair Sheffels who presided.

2. ROLL CALL

Upon the call of the roll, all Commissioners were present with the exception of Commissioner Mathews, who arrived at 6:37 p.m., and Commissioner Hamlin, who arrived at 6:40 p.m.

3. PUBLIC COMMENT – None

4. APPROVAL OF AGENDA

The agenda was revised to remove items 7A and 8A given that the Comprehensive Plan amendment had been withdrawn, and the revised agenda was approved by consensus.

5. COMMUNICATIONS FROM CITY COUNCIL, COMMUNITY COUNCILS, BOARDS AND COMMISSIONS

Chair Sheffels reported that she had been appointed to serve with a group studying the effects on the Wilburton area resulting from the extension of NE 4<sup>th</sup> Street, NE 6<sup>th</sup> Street, and the revisions to 120<sup>th</sup> Avenue NE.

Commissioner Ferris noted that the Park Board had approved the proposal for Meydenbauer Bay Park and asked when the issue would be before the City Council. Comprehensive Planning Manager Paul Inghram said it likely would be in front of the Council sometime in June. He added that the plan will require certain Comprehensive Plan amendments and that those issues will eventually make their way onto the Commission's plate.

6. STAFF REPORTS – None

7. PUBLIC HEARING

A. 2010 Comprehensive Plan Amendment – Innoue/Laswell

It was stated that the Comprehensive Plan amendment had been withdrawn. The item was deleted from the agenda.

B. Land Use Code Amendment – Electrical Vehicle Infrastructure

Legal Planner Catherine Drews explained that the proposed Land Use Code amendment seeks to allow electric vehicle infrastructure as a use in all land use districts, except for residential districts and critical areas. She said the amendment is intended to implement the provisions of SSHB 1481 passed by the state legislature in 2009 to facilitate the use of electric vehicles throughout the state. She stressed that the amendment will not prevent the use of electric vehicle chargers in private homes but will prevent the installation of commercial recharging infrastructure in residential zones.

SSHB 1481 supports ongoing electric vehicle infrastructure projects, such as roll out of the Nissan Leaf. Several automobile manufacturers are expected to roll-out electric vehicles in the future. This infrastructure is necessary to support the use of electric vehicles.

SSHB 1481 requires jurisdictions bordering regional freeways and meeting a population threshold to amend their development regulations to allow electric vehicle infrastructure as a use in all zones except for residential and critical areas. The amendments are to be effective as of July 1, 2010.

Motion to open the public hearing was made by Commissioner Ferris. Second was by Commissioner Lai and the motion carried unanimously.

There was no public testimony.

Motion to close the public hearing was made by Commissioner Ferris. Second was by Commissioner Himebaugh and the motion carried unanimously.

Commissioner Ferris asked what a “fully automated battery exchange station” is. Ms. Drews explained that they are commercial facilities similar to a quick lube except that they are designed to quickly replace the batteries on electric vehicles. Guidelines for the privately funded stations are still being developed by the Washington State Department of Commerce.

C. Land Use Code Amendment – FEMA Consistency

Ms. Drews stated that the proposed code amendment is needed to ensure the Land Use Code is consistent with the minimum floodplain management requirements established by the Federal Emergency Management Agency (FEMA) and the state. Harmonizing the city’s floodplain provision with those the federal and state requirements is required in order to participate in FEMA’s National Flood Insurance Program.

Motion to open the public hearing was made by Commissioner Ferris. Second was by Commissioner Turner and the motion carried unanimously.

Mr. Brian Parks, 16011 SE 16<sup>th</sup> Street, noted that at the Commission meeting on May 12 staff stated that the shorelines will not continue to be called critical areas. Yet in the proposed code amendment, section 20.25H.175 states that areas of special flood hazard shall include land

subject to 100-year flood, and areas identified on the FEMA flood insurance maps. He asked if the code changes are required or only desired. The FEMA maps related to Phantom Lake show 261 NGVD, which by the new standard of measurement is 265 NAVD, as the elevation of the flood plain. That is four feet above the typical surface elevation. He said an elevation of that degree would put much of Lake Hills under water. The FEMA benchmark of 261 was established years ago, but in truth it is a very unrealistic number and should be revised; it puts a lot of people into the flood plain that do not necessarily belong in the flood plain and requires them to obtain flood insurance. The lake fluctuates plus or minus about a foot from the 257 that has been the benchmark in the past, which would be a max of 258. The 261 is fully three feet higher, which is about three times above the actual flood peak. Bringing up the issue in the middle of the Shoreline Master Program process shows a lack of professionalism, and the timing seems very suspicious. The Shoreline Master Program draft policies call for preserving and maintaining the 100-year flood plains in a natural and undeveloped state, and restoring conditions that have become degraded. It will only serve to confound the Shoreline Master Program process to address the FEMA issue. There is also the concern that designating critical areas as the whole flood plain region will slip in things that do not necessarily belong, thus bypassing the Shoreline Master Program process. Local news articles have demonstrated concerns with the process and how it is being carried out, so it is not just a group of lakeside residents who question how the Shoreline Master Program is being pushed through. Bellevue may not have the same issues being faced by other jurisdictions, but factual issues raised elsewhere should be reviewed before proceeding in Bellevue. The most affected shorelines in Bellevue would be Lake Sammamish and Phantom Lake. The higher water levels with resulting erosion and loss of shoreline vegetation could be argued to be a form of taking. The Judge Zilly decision noted the Endangered Species Act salmon issue as the driving need for restricting development on shorelines. At the Washington Sensible Shorelines Association presentation on March 24, the expert Gil Pauley explained that the Lake Sammamish shorelines do not supply salmon habitat, and Phantom Lake does not support salmon habitat, only warm water species. It is mentioned in the staff report that the city has several code provisions that go beyond the federal requirements, and it is unclear whether or not the Commission understands what they are and the reason for them. More information is needed. The proposed amendments are premature, and the Washington Sensible Shorelines Association recommends tabling the FEMA issue for now.

Motion to close the public hearing was made by Commissioner Ferris. Second was by Commissioner Lai and the motion carried unanimously.

## 8. STUDY SESSION

### A. 2010 Comprehensive Plan Amendment

This item was deleted from the agenda.

### B. Land Use Code Amendment – Electric Vehicle Infrastructure

Chair Sheffels noted that she previously had been concerned about the size of the charging stations but welcomed the news that most are not much larger than a parking meter or gasoline pump. She said stations of that size will not be overly intrusive. Ms. Drews said the size of the station will depend on the type of charging facility. Rapid charge systems utilize a 480 volt base system and provide a full charge in about 20 minutes. The secondary charge systems utilize a 220 volt base system and take longer to fully charge a vehicle.

Commissioner Lai asked if the definition of electric vehicle is based on state code, and if not, if a

definition should be added to the Bellevue code. Ms. Drews said the definitions included in the proposed code amendment were drawn in their entirety from SSHB 1481. She reiterated that there is a deadline to have the code amendments adopted by July 1, 2010, and allowed that once the model ordinance is received from the Department of Commerce it may be necessary to revisit the issue.

Chair Sheffels asked if persons with electric bicycles or lawn mowers will be able to use the charging stations. Ms. Drews said each charging unit and vehicle has a unique coupler, so it will not be possible to charge anything but electric vehicles.

Motion to have the Planning Commission recommend to the Bellevue City Council adoption of the proposed electric vehicle infrastructure code amendments was made by Commissioner Lai. Second was by Commissioner Ferris and the motion carried unanimously.

### C. Land Use Code Amendment – FEMA Consistency

Commissioner Ferris asked how the city determines the limits of the 100-year flood plain. Ms. Drews said it is based on FEMA mapping. FEMA develops the maps and the city utilizes a formula to determine the 100-year flood plain based on those maps. The city's mapping must in turn be approved by FEMA. She stressed that the proposed code amendment does not have anything to do with mapping or updating any maps.

Commissioner Ferris commented that as an engineering intern he participated in flood plain mapping for the Army Corps of Engineers. He said the work done by the Corps resulted in a recommendation for local jurisdictions to follow. He asked if anyone from the city is charged with modifying the limits of the flood plain as a result of locally conducted work, or if the work done by the federal government is simply adopted. Ms. Drews said the utilities department works with the flood plain mapping but said she did not know if Bellevue employees make any changes to the work handed down by the federal government.

Mr. Inghram said he also did not know if Bellevue makes specific changes to the federal government's maps, but he said he was aware that King County has acted to do some mapping work which they submitted to FEMA for review.

Answering a question asked by Commissioner Himebaugh, Ms. Drews said one of the proposed changes will update the reference to the FEMA-developed maps that are used by the city.

Chair Sheffels asked staff to address the comments made by Mr. Parks. Ms. Drews commented that the proposed amendments are to keep the city's floodplain management regulations consistent with the National Flood Insurance Program, which is voluntary on the part of the city. The city participates in the program because within the city limits there are over two hundred residents who rely on the program. The case in which Judge Zilly handed down a decision involved a challenge by a group of citizens to the National Flood Insurance Program under the the citizen suit provision of the federal Endangered Species Act. The citizens alleged the NFIP jeopardized endangered chinook salmon and southern resident orca whales. Chinook salmon do have critical habitat in Lake Washington. As a result of the lawsuit, FEMA had to do a Section VII consultation under the Endangered Species Act with the National Marine Fisheries Services. The product of the consultation was a biological opinion stating that FEMA's National Flood Insurance Program has the potential to jeopardize or take salmon, and because the orca feed on salmon, the potential to harm them as well. The federal agencies are in the process of resolving the jeopardy issue. The proposed code amendments relate only to FEMA's current regulations, which is 44 C.F.R Part 60.

With respect to the issue raised by Mr. Parks regarding why Bellevue should have a higher level of protection, Ms. Drews explained that the issue affects the rate Bellevue citizens must pay for the National Flood Insurance Program. Bellevue's rating of five on a scale of zero to ten means Bellevue citizens get a better rate on their flood insurance premiums.

Commissioner Turner asked if having a higher standard in Bellevue could result in other impacts, such as higher development costs for people with shoreline properties. Ms. Drews said the flood plain acts to provide storage capacity when rivers flood. The city's longstanding policy is that construction done within the flood plain must be designed to allow for flow-through and not obstruct the storage capacity of the flood plain. For instance, a home in the flood plain would need to have doors or windows in the lower level that open to permit water to flow through.

Mr. Inghram commented that while the concerns voiced by Mr. Parks relative to how the city applies flood regulations may be valid, the fact is the proposed amendments do not address that issue.

Commissioner Himebaugh raised the issue of timing that was mentioned by Mr. Parks. Ms. Drews said the city received the FEMA study in April 2009 but has not yet acted on it due to workload issues. Traditionally there is a six-month window in which to make the changes. On June 24 the city will have a Community Assistance Visit by the state Department of Ecology, and part of that visit will include a review of the city's code. The changes are separate from the Shoreline Master Program work and should be in place before the June 24 visit.

Motion for the Planning Commission to recommend to the Bellevue City Council adoption of the proposed FEMA consistency code amendments was made by Commissioner Ferris. Second was by Commissioner Mathews and the motion carried unanimously.

9. OTHER BUSINESS – None

10. APPROVAL OF MINUTES

A. April 14, 2010

Motion to approve the minutes as submitted was made by Commissioner Mathews. Second was by Commissioner Lai and the motion carried without dissent. Commissioners Ferris and Turner abstained from voting.

11. PUBLIC COMMENT – None

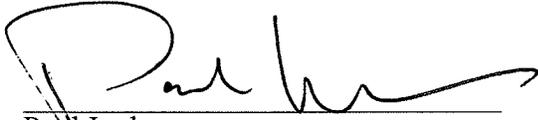
12. NEXT PLANNING COMMISSION MEETING

A. June 9, 2010

Chair Sheffels asked if a tentative date has been set for the annual Planning Commission retreat. Mr. Inghram said staff has been working on the issue. He noted that the retreat is typically held in either June or July on a regular Wednesday meeting date. He said he would follow-up with an email with suggested dates.

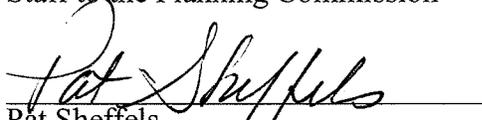
13. ADJOURN

Chair Sheffels adjourned the meeting at 7:08 p.m.



Paul Inghram  
Staff to the Planning Commission

7/28/10  
Date



Pat Sheffels  
Chair of the Planning Commission

7/28/10  
Date