East Bellevue Community Council
Summary Minutes of Regular Meeting

June 2, 2015
6:30 p.m.

Lake Hills Boys & Girls Club
Bellevue, Washington

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

ABSENT: Councilmember Hughes

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 6:30 p.m. with Chair Capron presiding.

2. **ROLL CALL**

The Deputy City Clerk called the roll. All Councilmembers were present, with the exception of Councilmember Hughes.

3. **FLAG SALUTE**

Councilmember Hummer led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**: None.

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

6. **APPROVAL OF AGENDA**

Chair Capron moved to reorder the agenda and place Executive Session at agenda item number 7. The motion was seconded by Councilmember Kasner and carried unanimously.

7. **EXECUTIVE SESSION**

At 6:38 p.m., Chair Capron declared recess to Executive Session for approximately 20 minutes to discuss one item of potential litigation.

The meeting resumed at 7:12 p.m.

8. **DEPARTMENT REPORTS**: None.

9. **PUBLIC HEARINGS**

(a) Consideration of City Council Ordinance No. 6226 approving Puget Sound Energy's (PSE) application for a Conditional Use Permit (CUP) and a Shoreline Conditional Use Permit (SCUP) to construct the Lake Hills Transmission Line project.

Chair Capron introduced consideration of the City Council's approval of Puget Sound Energy's application to construct an electrical reliability project connecting two of the City's substations. The required public hearing before the Hearing Examiner was held on November 20, 2014. The Hearing Examiner's findings, conclusions and recommendations were issued on December 9, 2014, and no appeals were filed.

On May 4, 2015, the City Council adopted Ordinance No. 6226 granting PSE's CUP and SCUP applications. The Community Council has not been able to take public comment on the permit applications because this is a quasi-judicial matter that does not follow the Council's usual process. The record on this matter officially closed with the issuance of the Hearing Examiner's report. No additional evidence or public comment can be considered by the Community Council in rendering a decision on the ordinance.

Mr. Capron said there has been considerable interest in this project over the past several months, particularly among members of CENSE (Coalition of Neighborhoods for Sensible Energy), which is also concerned about PSE's Energize Eastside project. Given the level of interest and the communications that have taken place to date, Mr. Capron said he would like the Assistant City Attorney to explain the quasi-judicial procedure and to lead the Council through its disclosures of any ex parte communications.

Monica Buck, Assistant City Attorney, said quasi-judicial proceedings are matters pending before the Community Council in which the Council makes a decision regarding the rights of specific interested parties under the City's regulations. In those situations, the Community Council must act as judges and maintain fairness and impartiality. Because this is a quasi-judicial matter, it falls under the provisions of the State's Appearance of Fairness Act. Councilmembers are acting as judges to decide the applicant's right to receive the requested permits for the project. Judges may not engage in ex parte or off-the-record contacts with parties in order to maintain impartiality.

Local government officials, under State law, must disclose all ex parte contacts with the applicant or members of the public, whether verbal exchanges, emails, or other writings on the topic of the application. Local government officials acting in a quasi-judicial capacity who cannot exclude ex parte information from their consideration, basing their decision solely on the record made during the earlier proceedings, or affirm that they will maintain their impartiality, are to be recused from participating in the decision.

Ms. Buck asked that, before the Council takes up the substance of the matter, Councilmembers disclose any ex parte communications they may have had with the applicant or any other

supporting or opposing comments. If any ex parte communications are disclosed, the Councilmember should state the following for the record: name of person involved in contact, date or approximate date of the contact, method of the communication, and the substance of the communication. If written or a transcript of a voicemail exists, these items should be placed in the record.

Chair Capron invited Councilmembers to disclose any ex parte communications. If Councilmembers have copies of any written communications or transcripts of any voicemails that have not already been given to the Deputy City Clerk, they should do so now.

Responding to Ms. Buck, Councilmember Gooding said he has not had any ex parte contacts on this matter.

Councilmember Kasner disclosed that, on March 9, 2015, Brandon Macz, a reporter for the *Bellevue Reporter,* called Mr. Kasner to let him know he was writing an article on the power line project and asked whether he could comment. Mr. Kasner said he told Mr. Macz in the past and during this contact that he could not discuss the project. Mr. Macz asked for names of individuals who could comment, and Mr. Kasner said he could not do so, even if he had any names.

Councilmember Kasner noted that, during the City Council hearing on April 20, 2015, the Mayor specifically called Mr. Kasner out for opposing the project. Mr. Kasner said he has had many conversations with the Mayor. This process has been miserable for him, but he still has not made up his mind on the permit applications. Mr. Kasner said an article was printed essentially reporting that PSE would be starting construction in August. He did not believe that was right because the matter had not yet gone before the City Council for formal action. Mr. Kasner said the Mayor's husband ran into him at the grocery store within hours of seeing the news article.

Mr. Kasner said he is uncomfortable that the Community Council is alone, the matter is quasi-judicial, Councilmembers cannot talk to anyone, and they cannot obtain guidance. He said that was his disclosure, the contact with the Mayor's husband, Jim Harja, and a City staff member who has been referred to as "unnamed City staff person." Mr. Kasner said he had a very short conversation with that staff person related to the fact that there was an article published about a project that had not yet been approved.

Mr. Kasner said his next disclosure was that, on March 23, he received an email from Keith Collins, one of the people involved with CENSE. The subject line said "Essential Public Facility" so, until tonight, Mr. Kasner did not read the rest of the line that said "as it relates to Energize Eastside," which meant that it was not related to this project and he could have read it. He did not read it and forwarded it to the Deputy City Clerk tonight.

Mr. Kasner said he works fairly frequently with the *Bellevue Reporter* related to the Lake Hills Neighborhood Association and other issues. On April 14, he talked to Mr. Macz about Craig Groshart's retirement and how that would change the *Reporter.* Mr. Macz asked Mr. Kasner whether he was going to the protest that night, of which Mr. Kasner was unaware. Mr. Kasner said Mr. Macz said CENSE was protesting the Lake Hills Transmission Line project. That was the extent of that contact.

Mr. Kasner said that, on April 28, Steve O'Donnell called Mr. Kasner to ask whether a determination of non-significance (DNS) had been issued for the transmission line project. Mr. Kasner said "no" and that he could not talk about the project.

Mr. Kasner disclosed that, on May 29, during the Lake Hills Neighborhood Association meeting, Irene Fernandes asked him what would happen on Tuesday. He told her he did not know and could not tell her if he did know.

Continuing, Mr. Kasner said that, earlier in the day, Steve O'Donnell called him and asked whether the Community Council would be making a decision that night. Mr. Kasner texted him to reply that the meeting started at 6:30 p.m. and there would be an undetermined Executive Session. That was the extent of the contact.

Responding to Assistant City Attorney Buck, Councilmember Kasner said he was able to put those ex parte communications aside and to make his decision based solely on the record made in the proceedings before the Hearing Examiner, with impartiality.

Responding to Ms. Buck, Chair Capron said he has had conversations with Community Councilmember Gerry Hughes (in person) and with Councilmember Betsi Hummer (phone). They discussed the process (i.e., avoiding ex parte communications and how the quasi-judicial process is supposed to work) but not the content of the matter.

Responding to Assistant City Attorney Buck, Chair Capron said he was able to put those ex parte communications aside and to make his decision based solely on the record made in the proceedings before the Hearing Examiner, with impartiality.

Responding to Ms. Buck, Councilmember Hummer said she spoke to different people. As a Community Councilmember, she perceived her role as a representative of a constituency in the Lake Hills area who wanted their voice heard. Therefore, it was hard to not talk to people in her area about subjects. However, she told everyone she talked to that she could not talk about the substance of this application.

Ms. Hummer said that one day she saw that Don Marsh posted something on Nextdoor.com titled "Let's Defend Our Trees and Beautiful Streets." She did not read the article but she wrote him to indicate that the matter would be heard at the East Bellevue Community Council meeting. There is an East Bellevue bulletin that has a blog as well as the Lake Hills Neighborhood Association web site. Ms. Hummer said she wrote that "the lines would be crossing both NE 8th Street and 148th Avenue, in which there are no power lines; utilities may already be in the ground; thanks for doing this." Ms. Hummer said she also wrote: "please give me a call," and I told him more about going to commission meetings where his voice might be heard.

Councilmember Kasner said he wanted to make one other point on a non-communication. He said Councilmember Hummer reached out to both he and Councilmember Hughes. She is the Community Council's newest member, who started in January 2014. Mr. Kasner said he has been aware of this project for 10 years, in other forms before it became quasi-judicial. Ms. Hummer asked if he could help her understand the flash drive which contained the record. He contacted the City Attorney, who said absolutely not to him assisting her because it would be

difficult for him to do so without commenting on the substance of the matter. Mr. Kasner said that was a contact. However, he did not violate the quasi-judicial rules because they did not actually talk about the project application.

Responding to Assistant City Attorney Buck, Councilmember Hummer said she was able to put those ex parte communications aside and to make her decision based solely on the record made in the proceedings before the Hearing Examiner, with impartiality.

Chair Capron moved on to the consideration of Ordinance No. 6226, which granted the CUP and SCUP applications.

Ms. Buck explained that, because this is a permitting decision by Council on a closed record, there will be no argument by the parties. The Council will receive a staff report, and staff is prepared to answer questions to the extent they can to provide clarifications of information contained in the record. The Land Use Code does not specify the burden of proof required to support the decision. However, because 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 only be disapproved if a majority of the Community Council determines that one or more of the decision criteria is not supported by material and substantial evidence. In that case, the Community Council should identify and cite to the evidence in the record that supports disapproval.

Chair Capron invited Carol Helland, Land Use Director, and Sally Nichols, Senior Land Use Planner and Project Manager for the Lake Hills-to-Phantom Lake transmission line project, forward to present the staff report.

Ms. Helland said this is essentially the same presentation provided to the City Council. The action requested of the Community Council is approval or disapproval of Ordinance No. 6226 granting PSE's CUP and SCUP to construct a 115kV overheard transmission line to connect existing substations located in Lake Hills and Phantom Lake. Ms. Helland displayed a map of the area and the proposed alignment. The project involves several permits that are not before the City Council or Community Council, including a Critical Areas Land Use Permit, under Process II. Those were issued and no appeal was filed. The Shoreline Substantial Development permit was also a Process II. It was issued in October 2014 and there was no appeal.

Ms. Helland said the Conditional Use Permit and the Shoreline Conditional Use Permit are subject to City Council and Community Council approval because they are Process III decisions. The Department's recommendation was issued in October 2014 and no appeals were filed. The final decision by the City Council was based on the record, and the Council could not consider any new information. In addition to the original staff presentation on January 26, 2015, staff provided the same presentation to the City Council on April 20. The City Council took action on May 4 to adopt Ordinance No. 6226 approving the applications. Ms. Helland said the approvals

are not final until the Community Council takes action to approve or disapprove. The Shoreline CUP goes to the State Department of Ecology for final approval.

Ms. Helland displayed an illustration of the purpose of the proposal. The project is a reliability improvement proposal connecting two substations to create a loop providing redundancy of electrical service. When maintenance of the current dead-end lines are required, PSE must interrupt electrical service to customers to complete the work. When an outage occurs, there is no other option for power until the affected line is repaired.

Ms. Helland said the City's electrical reliability study commissioned by the City Council is part of the record. The consultant recommended the additional transmission feeds between the two substations to improve reliability and to increase flexibility for PSE to maintain the lines.

Ms. Helland described a map depicting the neighborhoods served by the proposed project, which includes the areas of Phantom Lake, Lake Hills and College Station. Residents in these areas will receive an increased level of reliability as a result of the proposal, which is equal to the reliability available elsewhere in Bellevue.

Ms. Helland said this was the first proposal following adoption by the City Council of new electrical utility facility requirements in the Land Use Code. PSE was required to perform an alternative siting analysis. She described an illustration depicting a range of north-south and east-west alignments that were studied as alternatives for connecting the two substations. Public notices were sent to all residents of the area. The alternatives compared street classification, visual impacts to park view shed, and the relationship to residential dwellings. The selected alignment has fewer residential properties, and primarily commercial properties, facing the lines.

Responding to Councilmember Kasner, Ms. Helland said the alternatives analysis was conducted in 2011 before PSE applied for its permit. PSE began public outreach on the project in 2009.

Ms. Helland said PSE also looked at distance of the lines to adjacent structures. In looking at the alternatives, the Hearing Examiner found that 148th Avenue had the fewest impacts on residential neighborhoods and on the fewest residential properties, as well as the greatest opportunities for mitigation. She presented a map showing the two substations, including the Lake Hills substation 12-foot wooden fence which is in a relatively wooded location. The fence will be removed and additional equipment will be placed within the boundary of the substations. However, that equipment will fall within the existing footprints of the substations and will not be visible.

Ms. Helland described the proposed route, starting at the northeast end (Lake Hills substation). The alignment goes along the south side of NE 8th Street because it cannot be on the same side of the street as the fire station. The alignment avoids residential dwellings as much as possible and is routed in a way to provide better opportunities for mitigation. The line goes south on 148th Avenue. Locations where it crosses the street are intended to ensure the greatest distance from residential structures and to avoid conflicts with underground utilities and other facilities. In some cases the alignment is located along the existing noise walls.

Ms. Helland described the alignment parallel to the greenbelt before the line turns back east on SE 16th Street. A portion of the SE 16th Street alignment is being delayed. The conditions

associated with that street were imposed on the PSE project largely due to input from the East Bellevue Community Council. That input included concerns about circuits on both sides of SE 16th Street, and the proposal was conditioned to require that there not be overhead lines on both sides of the street. An additional condition was that construction of this segment of the line be delayed until the City's transportation capital project on SE 16th Street was underway to coordinate the two projects.

Councilmember Kasner stated his understanding that the SE 16th Street project was not funded for construction because the community does not want it. Ms. Helland said it is still in the City's Transportation Facilities Plan (TFP). Mr. Kasner said the Community Council was told by City staff that, based on community feedback during the Budget hearings of 2014, the project will not be completed because it is not needed. He requested clarification.

Ms. Helland reiterated that the project is not funded in the Capital Investment Program (CIP) Plan, which funds projects over a seven-year horizon. However, the project could be completed in roughly 10 years because it is a high priority for the City to complete safe sidewalks.

Continuing, Ms. Helland addressed restoration and mitigation for the transmission line project. Originally 500 trees were estimated for removal. City staff walked the alignment and looked at every tree. The loss of trees has been reduced to 295. Those trees have a value between zero dollars and $30,000 and will be replaced based on a trunk method valuation. There are $856,000 of mitigation that will be required in the form of new tree plantings along the corridor.

Ms. Helland said that, in 2012, the corridor was identified as one in which the trees were approaching the end of their life cycle. As a result, the PSE project was viewed as an opportunity for the City to redefine the corridor. The urban corridor project conducted a study of an urban boulevard concept plan for 148th Avenue to describe the type of long-range vision the City wanted for the corridor when the trees were replaced. PSE conducted a study of the individual trees that needed to be removed and will be mitigating consistent with the urban boulevard concept plan.

Ms. Helland said there was extensive public notice of project-related public meetings. There were a total of 10 meetings prior to today, beginning in 2007. Meetings in 2007, 2009, 2010, and 2011 occurred before submittal of the CUP application. After submittal of the application, two more hearings were held by staff, the East Bellevue Community Council held three meetings on the project, the hearing was held before the Hearing Examiner, and the Study Session was held before the City Council.

Councilmember Hummer noted two East Bellevue Community Council courtesy public hearings in 2012 and one on June 4, 2013. Ms. Helland said those appropriately occurred after the City received the CUP application.

Councilmember Kasner said there was a problem at the June 4, 2013 meeting as to what could be discussed because City staff said they were only going to discuss mitigation for the project. Mr. Kasner said he ruled at that time that was not appropriate. Since the Community Council had not decided whether the City would approve the project, Mr. Kasner believed the Council could

discuss anything related to the proposal and not just mitigation. He said that is contained in the minutes of that East Bellevue Community Council meeting.

Ms. Helland said it should be noted that, when PSE started the process, they issued nearly 6,000 mailings regarding the early meetings. In April 2009, another 5,700 notices were mailed. As the alignment alternative was narrowed, the number of public notices was also reduced. There were individuals living on 164th Avenue who were very involved early in the planning process, but they did not continue to participate after the potential for an alignment along that street was removed from further consideration.

Ms. Helland noted a brief summary of the questions received from the public, which were also provided in the meeting packet. She said the Comprehensive Plan's sensitive siting requirements apply to this project. She noted the Hearing Examiner's recommendation included in the presentation. A number of conditions were placed on the permits regarding noise and construction hours, facility activation and the timing of landscaping, pole design, right-of-way use permits, off-street parking permits, final engineering plans, maintenance and monitoring plan for restoration mitigation work over five years, fee in lieu of some of the required plantings, and a required development agreement.

The Process III decision criteria, including the conditional use decision criteria, apply to the Community Council's rendering of its decision. Additional criteria for electrical utility facilities are in Land Use Code 20.20.255, which are the new provisions adopted by the City Council that required the alternative siting analysis. Ms. Helland displayed a map depicting an aerial view of the project.

Councilmember Kasner said he is still concerned about SE 16th Street. He questioned how the development agreement changes the prohibition on alignments on both sides of the street. He said the Hearing Examiner determined that the project cannot run poles down both sides of the street. Ms. Helland said the poles are located on one side of the street. Mr. Kasner said he was glad to hear that. However, he is not necessarily comfortable with a development agreement that includes a project that might never be implemented.

Ms. Helland said the development agreement is only related to the vesting and the coordination between the City and the Transportation Department as to when projects commence. In further response to Mr. Kasner, Ms. Helland said the City has completed the 60-percent design phase for SE 16th Street. This is the design level at which the Transportation Department submits for any approvals it needs to advance its project. The project is ready to start the permitting process. However, it is not funded in the current CIP Plan. If the transportation project does not ultimately go forward and PSE chooses to proceed with its project separately, the condition for coordinating projects would need to be removed. PSE would still be required to limit its poles to one side of the street.

Responding to Councilmember Gooding, Ms. Helland said the record indicates that the estimated time for the installation of the power lines project is four months to six months. Mr. Gooding questioned the closure of 148th Avenue.

Ms. Helland said the City generally issues construction and ROW permits immediately before construction begins. The Transportation Departments prefers to not fully close streets and works closely with applicants to ensure that the flow of traffic continues. Appropriate detours are established when necessary. Ms. Helland noted that the 4-6 month period is the total road closures at different locations of the alignment occurring at different times.

Councilmember Kasner said the record refers to five power outages over 10 years, but it is unclear whether this refers to distribution or transmission lines. He said this is less than one-thousandth of one percent of the time. He has trouble understanding how anyone would notice five days over a 10-year period.

Ms. Helland said the statements he just made were not in the record and she could not comment. She observed that Mr. Kasner made some arithmetic extrapolations of what he believes to be the case. She suggested that the best source for information about power outages is in the electrical reliability study by Exponent. She referred to power outages in the Lake Hills area in 2010, some of which were in excess of 86,000 customer minutes.

Ms. Helland observed that Mayor Balducci probably said it best, which is that, when looking at a "nice to have" versus a "must have," a power outage could equate to a life or death situation for someone reliant on power for medical reasons.

Mr. Kasner said PSE indicated that most of the outages were related to distribution lines that will not be cured by adding a transmission line. Ms. Helland said she is relying on information in the record and cannot comment on what PSE might have said during a public meeting.

Councilmember Gooding concurred that PSE told the Community Council that, for most of the outages caused by local transformers going out, this would not cure that problem. Ms. Helland agreed with that statement. However, the current gap between the two substations presents a problem to PSE. If they have to shut down the power to service a substation, customers must be taken out of service for a period of time for PSE to complete the repairs. A looped system would make that unnecessary. The reliability need is not related only to storm events but to maintenance needs as well.

Councilmember Hummer questioned the role of a Determination of Non-Significance (DNS) versus an Environmental Impact Statement (EIS) review.

Ms. Helland said a DNS was not issued. This is the case for most projects in Bellevue because the City has a robust Land Use Code. In the scope of environmental review, the State Environmental Policy Act (SEPA) process is intended to supplement situations in which regulations are not considered to be as comprehensive. In this case, when the City initially conducted its SEPA review, staff thought there was the potential for a significant adverse environmental impact. However, the City was able to mitigate that below the threshold of significance.

Ms. Helland said non-significance does not mean zero impacts. It means that the impacts are tolerable based on the City's Codes. Ms. Helland noted that SEPA no longer applies to 115kV projects. The state legislature changed that after this project came to the City for review, and it

was vested under the SEPA rules when PSE applied. As a result, the City was able to achieve the desired mitigation, including the $856,000 for restoration/landscaping and the single circuiting of the line along SE 16th Street. If the project was submitted today, it would be exempt from SEPA requirements.

Responding to Chair Capron, Ms. Helland said PSE could withdraw the application and reapply, and not be subject to mitigation requirements. However, that is unlikely given the eight years it took to get to this point.

Responding to Councilmember Hummer, Ms. Helland said the Land Use Code contemplates essentially all development that could occur in Bellevue. She noted that the only area not covered in the Land Use Code during her tenure with the City was light rail. However, light rail regulations were adopted in 2013.

Councilmember Kasner said one of the things he is struggling with, which he thinks the Council will spend the most time talking about, is Condition B for the CUP decision: "Design is compatible in response to the existing or intended character, appearance, development and physical characteristics of the subject property in the immediate vicinity." He said the 148th Avenue corridor has special meaning to the residents of East Bellevue in how it is developed. One of the comments provided by the Community Council in the past was that most of the improvements in additional lines were put on developers with new development. The result is underground distribution lines. He said East Bellevue was not originally a part of the city and therefore it does not look the same as some of the other neighborhoods (e.g., Bridle Trails, Somerset). Mr. Kasner said there are significant impacts, and there has to be a limit somewhere.

Ms. Helland said Somerset has an existing 115kV transmission line and their distribution lines are underground. The City's Comprehensive Plan specifically provides direction to staff regarding what the City can require of developers. Policy UT-39 states that the City can require that distribution lines are undergrounded. In new development areas, the distribution lines are underground. That policy does not require transmission lines to be undergrounded.

As the Land Use Director, Ms. Helland said she has no authority to require the undergrounding of 115kV lines because there are no regulations to require that. The cost differential is dozens of millions of dollars. Ms. Helland said that, when the City Council was faced with this issue, Mayor Balducci questioned whether there was interest in considering the undergrounding of these lines. There was uniform acknowledgement that this was not a cost the City wanted to bear. When the City has talked with residents about whether they would be interested in undergrounding power lines, residents did not support the formation of local improvement districts to finance projects.

Councilmember Kasner reiterated his concern about adding power lines to 148th Avenue when they might not be needed.

Ms. Helland said that, if the Community Council chooses to take that position, it will have to point to the place in the record that supports that determination. The record concludes that the reliability and flexibility are necessary. There were no contradictory statements or appeals to be considered by the Hearing Examiner.

Chair Capron said he would not read Mr. Hughes' sealed comments because he did not believe the Council should be influenced by them.

Chair Capron said he has reviewed the Hearing Examiner's report, emailed with the City Attorney, and read about essential public facilities and the standards for considering the Hearing Examiner's recommendations. There are many aspects of the project that he does not like, but he has yet to find anything in which the Hearing Examiner was wrong. He can see instances in which, had he been the Hearing Examiner, he would have ruled differently. However, he cannot say the Hearing Examiner was wrong.

Responding to Councilmember Kasner, Mr. Capron referred to SE 16th Street and said when the City indicated it could not complete improvements for all of SE 16th, as a Hearing Examiner he would have told the City to come back with a plan to finish the loop to link the two substations. Mr. Capron said he would have indicated that PSE could not overhead or double-pole SE 16th Street, and he would have asked for a plan to complete the loop. He said the Hearing Examiner said PSE could build most of it, but they could not go down SE 16th Street on both sides.

Mr. Capron said the Hearing Examiner said PSE could wait until the City's SE 16th Street project is completed, which could be a 10-year timeline. This will delay connecting the loop to the Phantom Lake substation. However, the project will achieve getting the Eastgate substation and the College substation in the loop, which does improve the reliability of the system. That is an example of how, as a Hearing Examiner, he would have ruled differently. However, Mr. Capron said that does not mean the Hearing Examiner was wrong.

Chair Capron said this is a big responsibility for the Community Council. He said everyone does not want their power to go out. He was without electricity after one storm for eight days. However, this project would not have changed that; he still would have been without power. He said this is a difficult decision for everyone.

Councilmember Gooding noted that the alignment was selected prior to 2011 and the neighborhood has changed in terms of additional development and traffic. He questioned whether there has been any thought during the process of reevaluating the siting given the changes in the area.

Ms. Helland said the City did not rule out any alternative as long as the application was ongoing. The work to select the alignment was completed with the involvement of all Directors of operational departments including Transportation, Parks, Utilities, Planning and Community Development, Development Services, and the City Manager's Office. In looking at the Code and the goal of avoiding residential properties as much as possible, as well as the visual analysis by PSE, the Directors determined that 148th Avenue had the lesser impacts. It was not a perfect solution but it was selected as a solution that best balanced and mitigated the impacts.

Councilmember Kasner said he is troubled that the project has been on the books since 1993 but did not come forward until 2007. He believes it is not needed. In balancing whether the area would be getting more than it is giving up, he does not see a demonstration of that.

Ms. Helland said that, with an essential public facility, it is not necessary to demonstrate that there is a specific need. However, she hears Mr. Kasner saying that he would like to see a demonstration of need. She said the City's independent consultant advised, from a reliability perspective, that the project is needed to ensure the safety and viability of electrical power to East Bellevue. The report determined that this area currently receives a lower level of service than the rest of the community and identified this as an equity issue to be addressed by PSE.

Ms. Helland recalled that, in 1993, the City had the same discussion. Citizens did not want the project and the alignment was blocked. Now, the Washington Utilities and Transportation Commission (WUTC) and PSE have taken the position that it is no longer safe to allow the current gap in electrical service. Responding to Mr. Kasner, Ms. Helland said that information is contained in the record.

With regard to the equity and fairness issue, Mr. Kasner said the Phantom Lake substation is within the East Bellevue Community Council area. However, the Lake Hills substation is not. All of the power lines project is borne by the citizens in the East Bellevue Community Council area, and most of them are not benefitting at all because they are in the College Hill area.

Chair Capron added that the project does not link the two substations until SE 16th Street is completed. Ms. Helland said the lines can be double-circuited on the single pole on SE 16th Street. Mr. Capron suggested that the lines could be undergrounded along SE 16th Street. Ms. Helland said the condition does not foreclose that option.

Councilmember Kasner said the legal question is whether there is a substantial provable record that says "this is an error and this project cannot go forward." Over the next couple of weeks, he wants to analyze what is and is not substantial error. He said the Council may or may not be able to reach that standard. It would only matter if three or more Councilmembers have the same perspective on the issue. However, he fails to see how the 1993 neighborhood is any different than the neighborhood in 2012 when this project started in terms of electrical power reliability.

Councilmember Hummer said that, as she was reviewing the documents, she did not keep track of how many comments were received after the application was filed. Ms. Helland recalled that there are 119 comments in the record after that date.

Ms. Hummer said it is too bad that more people were not involved early in the process. In the later meetings, there seemed to be detailed, conclusive, thoughtful and insightful reasons to put the line someplace other than NE 8th Street and 148th Avenue. She said the project could have been an opportunity to improve 156th Avenue, which already has power poles.

Ms. Hummer said she was not very concerned about power lines until she started reading the information and hearing about issues such as visual clutter. She started noticing things more and observed that NE 8th Street is a park-like corridor that provides a pleasant public experience. She is impressed that NE 8th Street and 148th Avenue are designated urban boulevards, which includes policies supporting that these roadways reflect Bellevue as a City in a Park.

Ms. Hummer said she understands that trees reach the end of their life, trees can be replaced, and other vegetation can be provided. However, she said the power poles will be higher than any

trees and visible. She said the current roadways provide a better commuting experience than they would with power lines.

Councilmember Hummer observed that the project mitigation should include scalable items. When mature trees are removed, the replacement vegetation and trees will take years to grow. She expressed concern about wetland areas along the alignment that will be damaged as well. She would have liked the City to have worked on locating the project along 156th Avenue where there are already large power poles, commercial uses, and multifamily uses. She suggested 145th as an option since it already has large power lines as well.

Ms. Hummer said she understands this is an essential public facility that is necessary to create the reliability looping. However, she is especially concerned about wires that crisscross over NE 8th Street and 148th Avenue. It would be better to have the poles off to the side of the right-of-way. She is concerned about the visual impacts of the transmission lines, especially along the two urban boulevards. She opined that the project does not meet the criteria of being compatible with the existing neighborhood and amenities. Responding to Ms. Hummer, Ms. Helland said 164th Avenue is not within the East Bellevue Community Council jurisdiction.

Councilmember Kasner said it would be helpful to have the substation service maps superimposed on the Community Council area map. He is troubled because he feels like East Bellevue residents are receiving a higher burden from the project. He is trying to understand the mitigation on 148th Avenue: Does it work? Is it enough? He questioned whether believing that the mitigation is not enough is a substantial reason for the Community Council to deny the application.

Ms. Helland said she would defer to the Community Council's attorney to advise him on that issue.

Responding to Mr. Kasner, Chair Capron invited a motion on whether to take action tonight or another night. He would prefer to have all five members present for the vote.

Mr. Kasner opined that the City caused confusion by referring to this as a public hearing in the permit bulletin and other sources. It should be clear that the public is not allowed to speak at this point in the quasi-judicial process. Ms. Helland said the terminology comes from the Community Council's Rules and the Council might want to consult with their attorney about whether it would be appropriate to change the terminology.

Councilmember Kasner said he was not prepared to make a decision that night. However, he would like to set a date that all five members can attend.

Councilmember Hummer asked why comments were received from the Muckleshoot Tribe. Ms. Helland said the Tribe comments on many of the City's permit applications. The Tribe has jurisdiction in the area related to shoreline restrictions and wetland disturbance. Ms. Helland said the area is a historical and regional fishing ground for the Tribe. As a result, the Tribe has an interest in environmental issues in Bellevue that could impact water quality and fish habitat.

Chair Capron said the alignment reflected in PSE's application was based on its alternative siting analysis, which demonstrated that the 148th Avenue route was adjacent to the fewest number of residences. He observed that an alignment along 156th Avenue and/or 164th Avenue would have affected many more residences.

Ms. Nichols said the alternative alignments along 156th and 164th Avenues affected the front yards of many residences. On 148th Avenue, the poles are positioned behind the homes and, given the width of the street, the homes across the street are relatively unaffected.

Councilmember Kasner said 148th Avenue has been designated as an urban boulevard, which is intended to be special. He believes that will change if the power lines are located along that street. Mr. Kasner said he was disappointed that so few people attended meetings as far back as 2007. With the unrelated proposed Energize Eastside project, the community now has serious questions about how Puget Sound Energy does business.

Mr. Kasner said the East Bellevue Community Council has an obligation to evaluate the transmission line proposal in terms of how it affects the community. He recalled that Mr. Halverson asked the Hearing Examiner why an EIS was not completed. Mr. Kasner said he did not fully understand the response.

Ms. Helland said there was not an EIS because the project was viewed to have mitigated the impacts to a level below a threshold of significance. She recalled her earlier statement that this does not mean zero impacts.

Councilmember Kasner questioned how to figure out what the impacts are and where they need to be reduced in order to no longer be significant.

Ms. Helland said the most significant impact with PSE's proposal is the removal of trees, for which the City will receive compensation of approximately $856,000.

Ms. Helland said she understands the Community Council's concerns about the questions that have been raised regarding PSE's business practices and the Councilmembers' charge as elected officials. She said it is important to understand that City staff's legal authority is based on the Code, and the City has no authority to look at a company's business practices. PSE is an applicant requesting the approval of project permits, and the City is required to review it under existing Codes. If it were reviewed today, the review would likely be different because 115kV lines are now exempt from SEPA requirements, following action by the state legislature. There would be no obligation to conduct an EIS review or a DNS review.

Councilmember Kasner said he was stuck on residents of East Bellevue being told in the recent past that they cannot regulate boarding houses because it violates federal law. He said the Comprehensive Plan has Subarea Plans and East Bellevue is unique. He does not feel that City staff or the Hearing Examiner acknowledge that. Does that rise to the level of invalidating the Hearing Examiner's decision on the transmission line project? Maybe. He said it feels like the neighborhoods are getting a raw deal for a limited return, and the Community Council has approximately 30 days to figure out whether or not there is a way to acknowledge the character of its area.

Councilmember Kasner said he has been involved with this project officially for eight years, and he started with the Parks and Community Services Board. He is very concerned about this project and about doing the right thing for the community.

Councilmember Kasner moved to set a future meeting to take action on City Council Ordinance No. 6226. The motion was seconded by Councilmember Hummer.

Mr. Kasner said he wants the Community Council to be provided with alternative documentation. He believes there are potential reasons to deny the application. However, he is not certain whether they are legally sufficient.

Chair Capron said the Community Council must have a legal reason if it chooses to deny the application.

Responding to Councilmember Kasner, Ms. Buck suggested that the Community Council create its resolution from the floor during the special meeting, because the Council will need to vote on each provision as they are discussed. In further response, Ms. Buck said that, if the Community Council decides to deny the ordinance and application, the Council must be able to cite points in the record for which there is a lack of substantial evidence.

As a friendly amendment, there was a consensus to set the special meeting date for Wednesday, June 24.

Councilmember Kasner thanked Ms. Helland and Ms. Nichols for their presentation and responses to questions.

The motion carried, as amended, by a vote of 4-0.

At 8:42 p.m., Chair Capron declared a brief recess. The meeting resumed at 8:50 p.m.

10. **RESOLUTION:** None.

11. **COMMITTEE REPORTS**: None.

12. **UNFINISHED BUSINESS**: None.

13. **NEW BUSINESS**: None.

(a) Council Reports – Out and About

Councilmember Hummer announced that the City is now on Nextdoor.com. She noted the importance of the public becoming involved in issues.

Councilmember Kasner said the City officially became a partner that week with Nextdoor.com, which provides data on neighborhoods and the ability for the City to push information out to residents.

Continuing, Ms. Hummer reported that the Planning Commission recently addressed the proposed affordable housing at St. Luke's Church on Bellevue Way in Northtowne. The noticing requirement of 500 feet did not include residents across Bellevue Way. As a result, those residents showed up to the Planning Commission meeting to express their concerns and input. The project is a partnership with Imagine Housing. Residents are concerned about traffic impacts and the increased density. Ms. Hummer encouraged the Community Council to consider the potential for similar projects in East Bellevue.

Ms. Hummer said she attended a King County workshop at Bellevue College as a member of the King County Long-Range Planning Commission. She noted plans to rework the interchange and area around the Park and Ride on the southeast side of Bellevue College, which will greatly impact the adjacent neighborhood of condominiums. She said when the condos were built, the developer took measures to decrease the buffer between the condos and Bellevue College. Ms. Hummer said that buses currently passing Bellevue College will be rerouted to pass the condos. She suggested that the Community Council become involved in this issue to determine potential impacts.

Ms. Hummer reported that she attended the Environmental Services Commission meeting. The City is cataloging all easements dating back to the 1950s and updating its records. The City is also taking an inventory of its own water rights and alternative water sources (e.g., wells).

Councilmember Kasner said he attended the Eastside Transportation Alliance meeting, which involved a presentation by the legislative director for the Association of Washington Business about the state legislature's consideration of transportation packages.

Mr. Kasner noted that seven individuals are running for four City Council positions. There are 46 individuals running for nine Seattle City Council positions. He said it is remarkable to see the diversity and different philosophies represented by all of the candidates.

Chair Capron said he wrote an article for *It's Your City* this quarter. It addressed the challenges of serving on the East Bellevue Community Council and highlighted key projects, including Sammamish High School.

With regard to future agenda items, Councilmember Kasner requested a written update from Mark Poch, Transportation, regarding traffic lights on 148th Avenue.

Mr. Kasner said the City Council is reviewing the Comprehensive Plan Update. He noted that some of the Subarea boundaries will be changed. He and Councilmember Hughes met with City staff when they were planning the new boundaries to help them understand the boundary between Lake Hills and Eastgate.

Responding to Mr. Kasner, the Deputy City Clerk indicated that a staff report on the Comprehensive Plan Update is planned for the Community Council's August meeting.

14. CONTINUED COMMUNICATIONS

Councilmembers commented that they have seen individuals picking up litter in the neighborhood.

15. APPROVAL OF MINUTES

(a) Summary Regular Meeting Minutes - May 5, 2015

Councilmember Kasner moved to approve the minutes of the May 5, 2015 meeting.

Councilmember Hummer seconded the motion, which carried unanimously.

16. ADJOURNMENT

Chair Capron declared the meeting adjourned at 9:20 p.m.

Charmaine Arredondo
Deputy City Clerk

/kaw