

East Bellevue Community Council
Summary Minutes of Special Meeting

May 19, 2009
5:00 p.m.

Bellevue City Hall, Room 1E-120
Bellevue, Washington

PRESENT: Chair Kasner, Vice Chair Elwin, and Councilmembers Erwin, Gooding, and Seal

ABSENT: None.

STAFF: Monica Buck, Assistant City Attorney

1. **CALL TO ORDER**

The meeting was called to order at 5:09 p.m. with Chair Kasner presiding. He declared recess to dinner for approximately 20 minutes. The meeting reconvened at 5:30 p.m.

Deputy Mayor Balducci reminded the Council of the Lake Hills Shopping Center groundbreaking celebration scheduled for the next day, May 20.

2. **ROLL CALL**

All Councilmembers were present.

3. **WORKSHOP**

(a) Statutory Authority Review

Monica Buck, Assistant City Attorney, briefly reviewed RCW 35.14, which provides the statutory authority for Community Municipal Corporations, also known as Community Councils. She reviewed RCW 35.14.040, which outlines the types of actions in which the Community Council has authority over ordinances and resolutions affecting projects and development within its boundaries: 1) Comprehensive Plan, 2) Zoning Ordinance, 3) Conditional Use Permit, Special Exception or Variance, 4) Subdivision Ordinance, 5) Subdivision Plat, and 6) Planned Unit Development. Ordinances and resolutions adopted by the City Council shall become effective upon approval by the Community Council, or by failure of the Community Council to disapprove within 60 days of final enactment.

RCW 35.14.050 describes additional duties of community municipal corporations (Community Councils) to: 1) Make recommendations concerning any proposed Comprehensive Plan or other

proposal which directly or indirectly affects the use of property or land within the service area, 2) Provide a forum for consideration of the conservation, improvement or development of property or land within the service area, and 3) Advise, consult and cooperative with the legislative authority of the city on any local matters directly or indirectly affecting the service area.

Ms. Buck noted that RCW 35.14.060 addresses the original term of four years for Community Councils. Community Councils can be continued every four years with the approval of the voters. Authorization for a Community Council to continue its existence may be initiated by a resolution or petition.

Ms. Buck responded to questions of clarification from the Council.

(b) Appearance of Fairness Doctrine

Ms. Buck distributed copies of the Appearance of Fairness Doctrine handbook as well as RCW 42.36 outlining the guidelines and limitations. She referred to page 7 of the handbook and briefly reviewed the requirements of the statute as applied to quasi-judicial proceedings, which are aimed at arriving at a fact-based decision between two distinct alternatives (pro and con). The decision involves policy application rather than policy setting. A quasi-judicial matter applies a general rule of policy to specific individuals, interests or situations, while a legislative action produces a general rule or policy that applies to an open class of individuals, interests, or situations.

Ms. Buck provided a handout of the subsections of Bellevue Land Use Code 20.35 that incorporate principles of the appearance of fairness doctrine, including the rules for quasi-judicial decisions.

Ms. Buck responded to questions of clarification regarding ex parte communications. She acknowledged that the Community Council will likely not be aware of applications involving quasi-judicial matters at the time they are submitted. However, if ex parte communications occur, Councilmembers must disclose them during each public hearing on the matter.

Responding to Chair Kasner, Ms. Buck said ex parte communications are communications with a proponent or opponent of a specific quasi-judicial matter. Ex parte literally means one-sided.

Ms. Buck referenced pages 3 through 6 of the handbook, which reviews the three major categories of bias that are recognized as grounds for the disqualification of decision-makers who perform quasi-judicial functions: 1) Personal interest, 2) Prejudgment of issues, and 3) Partiality. She described additional provisions of the Appearance of Fairness Doctrine, as outlined in the handbook. Ms. Buck noted that the safest approach is to avoid any appearance of partiality or bias, and to disclose any communications that could in any way be seen as ex parte in nature.

Ms. Buck encouraged the Council to access the Municipal Research and Services Center web site (www.mrsc.org) for a broad range of publications and information.

(c) Open Public Meetings Act

Ms. Buck distributed copies of a report published by MRSC regarding the Open Public Meetings Act, which applies to governing bodies associated with cities, counties, and special purpose districts. Under the law, “meeting” is defined as any meeting at which action is taken. If a quorum of Community Councilmembers gets together to discuss city business, the meeting must be open to the public. For the East Bellevue Community Council with five members, three members constitute a quorum. Meetings include email and telephone communications as well.

Ms. Buck reviewed the procedural requirements that apply to meetings, as well as the rules that allow executive session meetings which are closed to the public for the discussion of specifically defined matters. While meetings other than executive sessions must be public, the governing body is not obligated to allow the public to comment unless there is a public hearing.

Ms. Buck responded to questions of clarification from the Council and highlighted specific sections of the Act’s requirements.

(d) Election and Campaign Guidelines

Ms. Buck distributed handouts regarding the guidelines for local government agencies in election campaigns, which are based on RCW 42.17.130. Responding to the Council, she said the same rules apply to an individual candidate’s campaign and to the recurring ballot measure about whether to continue the existence of the Community Council.

Councilmember Seal provided background information as to how elections have been handled in the past, and how information regarding the continuance of the Community Council has been distributed in the past.

Continuing, Ms. Buck highlighted guidelines regarding the use of public facilities in campaigns.

Responding to Chair Kasner, Ms. Buck said the Community Council is allowed to take action in public meetings either supporting or opposing ballot measures, including the voter measure about whether to continue the Council’s existence.

Ms. Buck responded to questions from the Council.

Chair Kasner declared recess for 10 minutes.

4. **COMMUNITY COUNCIL WEB PRESENCE**

The meeting reconvened at 7:30 p.m.

Michelle Murphy, Deputy City Clerk, reviewed recent changes to the East Bellevue Community Council’s web pages. Citizens may now subscribe to be alerted via email when meeting agendas and meeting minutes are posted online.

Councilmembers discussed desired enhancements to the site including expanding individual biographies and adding a group photo.

There was a consensus to resume discussion about the Council's web page during the second half of the retreat on May 20. Chair Kasner noted that an additional topic for that meeting is performance measures for the Community Council.

5. **ADJOURNMENT**

At 8:01 p.m., Chair Kasner declared the meeting adjourned and noted that the workshop would continue the next evening, May 20, at 5:00 p.m.

Michelle Murphy, CMC
Deputy City Clerk

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