

**CITY OF BELLEVUE
ENVIRONMENTAL SERVICES COMMISSION
MEETING MINUTES**

Thursday
February 3, 2011
6:30 p.m.

Conference Room 1E-112
Bellevue City Hall
Bellevue, Washington

COMMISSIONERS PRESENT: Chair Helland; Commissioners Cowan, Mahon, Roberts, Swenson, and Wang

COMMISSIONERS ABSENT: Mach

OTHERS PRESENT: Wes Jorgenson, Pam Maloney, Brian Ward, and Kit Paulson

MINUTES TAKER: Laurie Hugdahl

1. CALL TO ORDER:

The meeting was called to order by Chair Helland at 6:30 p.m.

2. ORAL COMMUNICATIONS:

Janet Pritchard, Allied Waste Services, Municipal Relationship Manager, 1600 127th Ave NE, Bellevue, WA 98005, gave an update on the results of Bellevue's recycling program. She displayed a fleece jacket which was the product of a recycled plastic milk container. She explained that Bellevue's recycling goes to South Seattle to the largest recycling facility west of the Mississippi. This facility has some of the highest technology in the world for separating the co-mingled materials for recycling. Bellevue's diversion rate is 68% which is very high. Co-mingling the recycling makes it easier for people to recycle. She invited the Commissioners to come on a tour of the material recovery facility, which is where they separate the co-mingled materials. She commended the residents of Bellevue for their participation in this miraculous process.

Commissioner Roberts asked where they ship the materials. Ms. Pritchard replied that they ship the plastics to China. Most of the paper products go to the southeast United States.

Ms. Pritchard reminded everyone to remove the bottle lids before recycling and noted that plastics smaller than three-inches are not recyclable. Foam peanuts are also not recyclable. Single plastic grocery bags blow around and cause problems, but a bunch of plastic grocery bags can be put in recycling if they are tied together to make them heavier. She pointed out that 30% of their costs at the recycling facility are because of down machinery due to things getting stuck in it.

Commissioner Wang asked about medicine bottles. Ms. Pritchard recommended

caution with those due to the residuals inside. She suggested mixing those with kitty litter or coffee grounds and putting them in the garbage.

Chair Helland asked what the diversion rate in Seattle is. Ms. Pritchard was not sure, but indicated that she would get the information for them. She noted that Kirkland is 67% and their numbers are always very close to Bellevue's. She pointed out that the worst offenders for recycling are the multi-family housing units.

Commissioner Roberts suggested putting out a flyer showing what was acceptable for yard waste. He noted that he still sees people putting shredded paper in the regular garbage or recycling when it should be going in yard waste. Ms. Pritchard thought that was a great idea.

3. APPROVAL OF AGENDA

Mr. Jorgenson pointed out that the agenda in their packet is different than the agenda they received. Under New Business, the Shoreline Master Plan Program is going to be introduced to the Commission tonight.

Motion made by Commissioner Swenson, seconded by Commissioner Roberts, to approve the agenda as amended. Motion passed unanimously (6-0).

4. APPROVAL OF MINUTES

- January 6, 2011 Regular Meeting Minutes

Chair Helland stated that he would be abstaining as he was not at the January 6 meeting.

Commissioner Wang referred to page 10 of the minutes and recalled that he had commented on the duplicative language on lines 20-21 of the Emergency Response Policy (in the Commission's packet) at the December meeting. Staff and Commission had concurred to delete the last sentence in the paragraph.

Motion made by Commissioner Roberts, seconded by Commissioner Cowan, to approve the minutes as amended. Motion passed unanimously (6-0).

5. REPORTS & SUMMARIES

a. ESC Calendar/Council Calendar

Mr. Jorgenson explained that the Shoreline Master Plan Policies would likely be added in March and April. Some of the other topics may be

adjusted to balance the meetings. The NPDES has to be done in March because of the timeline necessary to submit it to the State. Staff will do what they can to balance the meetings.

Chair Helland asked if they will see the Stormwater Management Program in advance of the public meeting in March. Mr. Jorgenson said he will stress the need to Phyllis to get the report to the Commission in advance. This is the annual report that summarizes the City's compliance actions with the permit.

Commissioner Wang asked if the Sewer Lakeline Study on May 5 would take the whole meeting. Mr. Jorgenson replied that it would not, but due to the timelines for the Shoreline Master Plan policy they will not be able to move that to May. Staff will consider moving the Year-End Financial Report and possibly the Sewer Comprehensive Plan to the May meeting.

Commissioner Roberts asked why the Sewer Comprehensive Plan is so big that it goes all the way through October. Mr. Jorgenson explained that in April staff will present the Findings and Recommendations chapter of the report. In September the Commission will see the actual report. The Findings and Recommendations are significant components of it that are used for future planning purposes, for CIP, and other things.

Commissioner Wang asked about switching the CIP tour from July to August and taking a recess in July. Commissioners said they would take that suggestion under consideration because there will be at least two new people by that time. Commission Wang commented that the July date is a conflict for him. Mr. Jorgenson suggested that they could have a discussion about this in March when they have the new commissioners present.

b. Desk Packet Material(s)

Mr. Jorgenson pointed out that this includes the Events and Volunteer Opportunities page as well as a map showing alternate parking. He noted that at the last two meetings parking was a challenge and some commissioners had to park offsite. The City will reimburse the Commission for off-site parking if this is necessary. Please retain receipts to submit to Mr. Jorgenson.

c. Comprehensive Storm & Surface Water Plan Policies

Commissioner Swenson commented that he met with Brian Ward, Kit Paulson, and Wes Jorgenson for an excellent meeting regarding his concerns. He thanked them for their time.

Brian Ward, Project Manager for the Storm and Surface Water Comprehensive Plan Update, and Kit Paulson, brought forward more Storm Water Comprehensive Plan policies and reviewed the process to date. He commented that the goal is for the City Council to eventually adopt the Storm and Surface Water Comprehensive Plan. The Council delegated responsibility to the ESC for the review of the plan and to give the public opportunity to provide comments. Staff's intention for each of the meetings is that they are opportunities for the public to comment.

He referred to page 34 of the packet which is a calendar of the Storm and Surface Water Comprehensive Plan ESC Review Schedule. In December there was discussion about the City's Comprehensive Plan and how it relates to the Storm Comprehensive Plan. He referred to page 32 of the packet which was a diagram showing how the City Comprehensive Plan relates to the Storm and Surface Water Plan. He noted that at the December 2010 meeting Commissioner Wang was asking how the two plans related so this diagram on page 32-33 is his attempt at clarifying that relationship.

Chair Helland asked if there are there are things in the Environmental Element and the Capital Facilities Element of the City's Comprehensive Plan that also directly bear on the Surface Water Comprehensive Plan. Mr. Ward stated they do not to the degree that the Utilities Element does. The Utilities Element has policies that are specific to the Storm and Surface Water Utility as shown in the box on page 33.

Mr. Ward pointed out that in the notebooks provided to the ESC there is a tab titled City Comprehensive Plan Policies which includes the Land Use Element, the Utilities Element, the Environmental Element and the Capital Facilities element. The next tab is Existing Storm Policies (also shown in the last box on page 33). Additionally, there is a link on the website for all of the information.

Mr. Jorgenson emphasized that they are not proposing that the Storm Comprehensive Plan go into the City Comprehensive Plan. It is a completely separate process. The focus here is really on the elements specifically related to the Utilities Storm Comprehensive Plan. Chair Helland asked about ESC's role in the City Comprehensive Plan update. Mr. Jorgenson was not sure of the role of the ESC in that process. Commissioner Roberts did not think they would have a role outside of the Utilities portion of it.

Commissioner Wang referred to the terminology *UT* for references related to Utilities. He asked if the same terminology would apply to the Environmental Element and the Capital Facilities Element. Mr. Ward said they did. Commissioner Wang noted that the ones in the binder did not

seem to use this terminology. Commissioner Roberts noted that EN was on page 214 and 215. Mr. Wang did not appear to have this information. There was discussion about the contents of the notebooks. Commissioner Roberts pointed out that the City's Comprehensive Plan was for homework for the Commission and that they would not be going through it at the meeting. Mr. Ward offered to review Commissioner Wang's notebook to ensure that it was complete after the meeting. Mr. Ward then gave an overview of the process for making changes to the policies and reviewed the actual changes.

Emergency Response Policy:

- Staff accepted all of the proposed changes discussed at the December meeting except for two places where the ESC had questions. He then pointed out how staff had responded to the ESC's questions and comments.
- Mr. Ward pointed out that in the header of each page he has shown where the original policy can be found in the ESC's notebook. The footer shows which edit number this is.
- Line 6 – Staff had proposed changes to *significant property damage*. Based on concerns raised by the ESC, staff decided to revert back to the original language.
- Line 21 - Staff agreed that the highlighted sentence was duplicative as suggested by the Commission. They propose deleting that line.

Mr. Roberts commended the format of the revisions. The rest of the Commission concurred.

Deltas Policy:

- Lines 6 and 7 – These lines had been proposed for deletion, but the language has been reinstated. Chair Helland asked if this was duplicative of another policy. Mr. Jorgenson stated that it was not, but the utility provides information and support to various entities, not only just deltas, but in general. It was duplicative of the entire effort, but they understood the Commission's concern about making sure it was documented somewhere so it was easier to just leave it as it was.
- Line 14 – The term *downstream* was reinstated based on concerns that removing it would be a substantial policy change.
- Line 35 – Staff recommended reinstating the original language as shown.

Capital Investment Policy:

- Lines 8-15 – There was a proposal to re-order the bullets, but this is the order that they are presented in the CIP budget. Staff is recommending that this document maintain consistency with

the budget document. Commissioner Roberts was pleased with this.

- Line 16 – This was a bullet. Staff has moved it to the left to show it applies to all previous bullets.
- Line 20 – Concern had been expressed about the CIP policy which is evaluated every two years and that it may drift from the City Comprehensive Plan policies. Legal counsel indicated that as long as they are clear where the primacy is, then they are covered. Legal consistency is achieved by including language stating which document has primacy and that it is appropriate to sync the language as proposed to the budget language during the periodic Comprehensive Plan updates. Mr. Ward stated that what they are doing here is deferring to the budget updates. Chair Helland asked for clarification on the wording. Mr. Ward stated that the most recently adopted CIP budget reflects the most current Capital Investment Policy. Mr. Jorgenson added that legal is inferring that primacy is, in fact, the most current CIP.

Regional, State and Federal Policy Involvement:

- This was the ESC's first review of this document. Mr. Ward reviewed the document along with the comments to help explain the edits. These changes are similar to other proposed changes. They are just intended to update the language and make the policy current, not to change any strategies.
- Chair Helland asked about the bullet on line 19 which had been deleted. This seemed substantive to him and there was no explanation. Kit Paulson explained that this bullet had seemed out of sync with the rest of the bullets because this was looking at the Storm policy to make it more consistent with the region whereas the whole focus on this was working on regional policies. Mr. Jorgenson suggested that staff come back next time with an explanation of this from their regional policy advisors.
- Mr. Ward explained that the Discussion Section on lines 33 through 78 on the back of page 25 had been proposed for deletion. Staff felt that the content was self-explanatory and not necessary.
- Commissioner Wang questioned the addition of the word *coalitions* on line 28. Mr. Jorgenson explained this refers to the actual groups that have been developed and this is just being consistent with what actually is occurring in the region. Mr. Wang noted that there is also an *alliance* so maybe this should be added too. Mr. Jorgenson suggested getting clarification on this.

Storm Water System Responsibility:

- Their intention is to eliminate redundancy without changing the content. This is the product of combining the two existing policies – the Conveyance System Responsibility and Detention System Responsibilities – into a single one. The only things that were removed were things that were redundant. They were very careful not to change policy with this.
- Commissioner Roberts commented that it is nice to see things cleaned up and reduced. He said he was in agreement with most of what he was seeing.
- Chair Helland referred to the change on line 8 and asked if that was what the intent of the policy always was. Mr. Ward explained that this was added to make the delineation clear between publicly-owned components and privately-owned components.
- Commissioner Swenson referred to line 7 and asked if *should* ought to be *shall*. Mr. Ward explained that *shall* is reserved for specific situations that are mandated. Commissioner Roberts noted that the next set of bullets clarifies the conditions under which the Utilities Department could accept additional components.

Commissioner Roberts left the meeting at 7:28 p.m.

- Chair Helland asked why the *residential plat or short plat* section had been added on line 21. Mr. Ward stated that this was taken from the Detention System Responsibility Policy. Ms. Maloney added that line 20 was also added from that policy and was intended to apply only to detention systems. Chair Helland suggested adding the word *detention* in front of *system* on bullet 6 for clarification.
- Line 39 – *pursed* should be *pursued*.
- Chair Helland asked what the private drainage inspection (PDI) program is. Mr. Jorgenson explained that staff goes out and makes sure the private drainage facilities operate and are maintained. Commissioner Swenson asked what happens if they are found not to operate satisfactorily. Mr. Jorgenson replied that the owner is obligated to take corrective actions to clean it or repair it. Commissioner Swenson asked about a hypothetical situation in a subdivision where the sub-divider was gone and the property had been turned over to the POA who did not take action. Ms. Maloney said they have code authority to do code enforcement, but they try to do education first. She noted that they have a high record of compliance, but there is a mechanism to make them pay. She offered to invite someone in to explain the PDI program to the ESC.

- Chair Helland asked what they do if there is an emergency situation. Mr. Jorgenson explained that then it falls under Emergency Response and the City takes care of it.
- Commissioner Cowan asked if they maintain all as-builts for the properties. Mr. Jorgenson affirmed that the PDI has a record of the as-builts from the private systems.
- Commissioner Wang asked if there are sections that are dedicated to the City when plans are approved. Mr. Jorgenson said they do, but only under certain situations, such as a detention facility for a residential plat. In those cases there is an easement or a dedicated tract to the utility to maintain that facility. Commissioner Wang asked about a storm drain system in a private street. Mr. Jorgenson explained that in short plats the facility does not become public because it does not drain any public rights of way. If it only drains private property, it remains a private facility.
- Commissioner Wang asked how a homebuyer would know whether a storm drain system is public or private. Mr. Jorgenson explained that there should be a recorded document clearly showing this. Commissioner Wang noted that he knows of at least two communities where the residents do not know if it is public or private. Mr. Jorgenson noted that it is not uncommon for people to not actually read all the title report information. He noted that from a legal standpoint they are still obligated to maintain the facility if it is a private facility. He stated that when they have situations like that they work with the homeowners association to help them figure out how they can go about making repairs and taking responsibility. Ultimately, the City cannot use public funds to maintain private systems. Pam Maloney commented that one thing that helps is the private inspectors go out regularly and inspect the system and provide a report to the owners. Commissioner Wang asked if there is a public record to indicate where the investigators visit. Staff indicated that there is a database of all the systems and when they were visited. Ms. Maloney offered to have a PDI discussion sometime. Commissioner Wang expressed interest in this. Commissioner Swenson indicated that he was satisfied that the program is working as it is.
- Mr. Jorgenson noted that there has been a lot of discussion about public and private storm water issues. Staff intends to come back to the ESC with a history of the storm water for the benefit of the Commission to help them understand the nuances between public and private drain systems. Chair Helland noted that the residents of Phantom Lake are alleging that it's other people's development that has increased flows that has in turn impacted their drainage systems. Mr. Jorgenson replied that not

only does the City not agree, but state case law does not agree. He reviewed some of the history of Phantom Lake and noted that the issues there have been going on since the 70's. Mr. Jorgenson noted that they met the code at the time of development. Commissioner Wang commented that Storm Water 101 would be a welcome topic as this subject will be touched on time and time again. Commissioner Swenson suggested that they wait until they get their new members. Mr. Jorgenson concurred.

- Mr. Ward stated that by definition the Detention System Responsibility Policy will be a deleted policy with the relevant information transposed into the Systems Responsibility Policy.

Stormwater Runoff Control Requirements Policy:

- Legal recommends that this section be deleted because runoff control requirements are now stipulated in the NPDES permit. Staff is proposing that this policy be dropped from the Stormwater Comprehensive Plan.

Mr. Ward concluded that they will be back in March with more revisions.

Mr. Jorgenson left the meeting at 7:50 p.m. and Pam Maloney staffed the rest of the meeting in his place.

Carol Helland, Land Use Director of the Development Services

Department, reviewed the process that is underway for updating the Shoreline Master Program for Bellevue. She discussed the history of the Shoreline Master Plan. She explained the ESC's role in the process and how they have the opportunity to provide feedback to the Planning Commission. The Planning Commission is in the process of approving a draft that will go out to the public for a public hearing. She provided a copy of draft policies that the Planning Commission has been considering.

She noted that they have been trying to do a deliberate job of separating out what is in the purview of the Planning Commission and what is in the purview of other commissions. There is necessarily some overlap due to the Shoreline Master Plan requirements. They have been including utilities staff in the review of the policies and the regulations as they go forward for consideration by the Planning Commission. They think it would be also be appropriate for the ESC to provide feedback to either staff, to the Planning Commission, or at the public hearing. Chair Helland asked if there is a formalized process for the ESC's involvement. Ms. Helland stated that there is not a formalized process. She explained that the Planning Commission is responsible for making recommendations to the Council on all Comprehensive Plan Amendments and all Land Use Code Amendments. Staff tries to incorporate all feedback into a proposed code.

Chair Helland asked if the proposed draft is all new or if it is a revision. Ms. Helland stated that this would repeal and replace the current document. Chair Helland asked if they had a copy of the current code. Ms. Helland stated that she did not provide that to the ESC, but the Comprehensive Plan is on the City website.

Commissioner Wang asked about issues that might affect the ESC. Ms. Helland said that there *may* be issues, but that would be for the ESC to decide. She explained that these are the policies that were directed by the Planning Commission to address shoreline issues. What staff wants to know from the ESC is: *Are there policies that are in here that concern you from your perspective as the ESC?* Commissioner Wang commented that in order to answer that question they would have to understand the entire package of the Shoreline Master Program. Chair Helland suggested starting with the document in front of them. Ms. Helland stated that the policies drive the creation of the regulations; the regulations must be consistent with the policies so if the Commission reviewed the policies they might be able to identify potential issues. Commissioner Wang said it would help the ESC if staff provided a list of things the ESC might be concerned about. Ms. Helland noted that Wes Jorgenson might be compiling a list of potential issues for and those would be appropriate for him to address with the ESC. She stated that she is familiar with the Land Use and Shoreline part of this, but it was difficult for her to understand the ESC's concerns as well as they do.

Chair Helland commented that one issue seems to be related to the timing of this. He asked if the public meeting had been set yet. Ms. Helland said they are looking at late March or April. Chair Helland noted that if they were going to get a briefing it would have to be at the next meeting. Ms. Maloney commented that Mr. Jorgenson had said they would probably want to add time for discussion of this on the March agenda and potentially at that time Utilities staff could highlight policies they think the ESC might be concerned about. Chair Helland suggested that the ESC read through this and if there are elements that they want to see included in the briefing, they could let Mr. Jorgenson know about those. Ms. Helland referred the Commission to the website and to the policies as a starting point for the discussion. She noted that there will be an open house in March and the ESC will be invited to that.

Commissioner Swenson suggested another aspect to consider. The Shoreline Master Plan impacts 200 feet from the water as well as the water itself in terms of the quality of the water. He suggested that there might be a potential for conflict with other regulatory mechanisms. He thought that they would be best able to ascertain the potential conflict in there. He asked if they see potential conflicts with Utilities Comprehensive Plan or

Utilities policies. If so, it would be helpful for staff to point out those potential conflicts and how those things could be reconciled. Ms. Maloney said that Utilities staff is looking at these policies and regulations. She noted that Utilities has a number of facilities along the shoreline which are of concern to them. Ms. Helland stated that they are working very closely with Utilities staff. They are look into streamlining the permit process with all of the applicants, including Utilities.

Commissioner Mahon summarized that it appears that Utilities will provide a list of areas of concern, but he noted that it would also be necessary for each commissioner to go in-depth with the material. He suggested that each commissioner take the time to do the reading and research. Chair Helland concurred.

Commissioner Wang requested that Utilities' notes would be provided to the Commissioners first. Chair Helland agreed that if there is anything that staff can provide to the Commission in advance it would be helpful. Chair Helland summarized that the Commission should get back to staff with any issues they see as soon as possible. Ms. Maloney stated that staff would add an item to the agenda related to this. If the Commission wants to make comments to the Planning Commission, they could draft those at the April meeting which would still be in advance of the Planning Commission public hearing.

Chair Helland commented on the tight turnaround for this. Going forward, it might be better for the Commission to have more notice of this. He asked why the timeline was so tight. Ms. Helland commented that there has been a tremendous amount of dialogue around this issue and a reluctance to commit to code language before the public has had an opportunity to express their concerns. Chair Helland suggested that in the future when they are in that phase of extensive dialogue it might be better to get Utilities and the ESC in the loop. Ms. Helland noted that all of this has been a public forum at the Planning Commission. Staff was invited to attend and report back to their commissions, but she stated that they can make that expectation really clear.

Commissioner Wang asked if anyone from Phantom Lake has raised an issue at the Planning Commission. Ms. Helland discussed the relationship between the Shoreline code and Phantom Lake issues. She stated that the Phantom Lake property owners are concerned about the drainage that's leaving the basin and ending in their lake. Their lake is like a bathtub where the "plug in the drain" is restricting the water from leaving the lake. Under the Shoreline Management Act there is a mark that is left on the ground by the water over time. The ordinary high water mark is where you measure jurisdictional limits and where you measure where you can locate bulkheads and docks. However, if the water level changes over time, the

ordinary high water mark can change over time. As a result of the outflow not being maintained over time it is possible that the ordinary high water mark has changed. This means the residents may have less area to develop. It is in the residents' best interest to maintain their outflow and this is what they have been advised.

Commissioner Wang commented that this measurement seems like a moving target. Ms. Helland concurred and noted that this method of measuring is in state law.

Commissioner Cowan asked who actually does the measurement. Ms. Helland said that it can be done by either environmental planners on her staff or by the Department of Ecology. She explained that on Lake Sammamish they have been able to do an average of ordinary high water marks over time. Department of Ecology has said that they are able to do this for the purpose of setbacks, but they are not able to use that for the purposes of locating a bulkhead because it's not accurate enough.

Ms. Maloney provided the ESC a copy of correspondence between Dennis Vidmar and Phantom Lake residents regarding the situation.

6. NEW BUSINESS

None.

7. Director's Office Report

None

8. Continued Oral Communications

None

9. Executive Session

None

10. Adjournment

Motion made by Commissioner Mahon, seconded by Commissioner Cowan, to adjourn the meeting at 8:25 p.m. Motion carried unanimously (5-0).