

East Bellevue Community Council
Summary Minutes of Regular Meeting

March 7, 2017
6:30 p.m.

Lake Hills Clubhouse
Bellevue, Washington

PRESENT: Chair Capron, Vice Chair Kasner, Alternate Vice Chair Hummer, and Councilmembers Gooding and Hughes

ABSENT: None.

STAFF: None.

1. **CALL TO ORDER**

The meeting was called to order at 6:34 p.m. with Chair Capron presiding.

2. **ROLL CALL**

The Deputy City Clerk called the roll. All Councilmembers were present.

3. **FLAG SALUTE**

Councilmember Hummer led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Don Boettiger spoke regarding Puget Sound Energy's transmission line project planned for NE 8th Street and 148th Avenue. He said it zigzags back and forth across NE 8th Street and down 148th Avenue, instead of following a nice straight line. He said he wished City Councilmembers would drive down 164th Avenue to see how bad the lines look and how the street would benefit from the project, instead of using 148th Avenue.

Councilmember Hummer encouraged the public to email the City Council with concerns and input on any topic: council@bellevuewa.gov.

5. **REPORTS OF CITY COUNCIL, BOARDS AND COMMISSIONS**

(a) Community Council Business and New Initiatives

Councilmember Hummer reminded the public of her interest in representing them and their priorities. She has been attending both City Council and Board and Commission meetings. She said her most recent public comment during a City Council meeting was to thank City

Councilmember Robertson for suggesting that the street vacation fee from Bellevue College be used for transportation improvements in the Eastgate area. Ms. Hummer thanked Michelle Wannamaker for her advocacy before the City Council and Planning Commission, asking that the City complete certain traffic congestion improvements before moving forward with increased employment and residential densities in the Eastgate area. Ms. Hummer said the Mayor directed the Transportation Commission to consider potential near-term improvements, which resulted in a recommendation from the Commission for two projects involving 150th Avenue SE.

Ms. Hummer encouraged residents to join www.NextDoor.com to learn about issues and activities in their neighborhood. She suggested that residents write to the *Bellevue Reporter* and the City Council with input as well.

Councilmember Gooding commented on the outpouring of email communication from the public in regards to the PSE-148th powerline project. He said that the comments were almost unanimously against the project.

Councilmember Kasner thanked Councilmember Hummer for suggesting he report two potholes through www.PublicStuff.com. He said they were fixed within two days of him filing the request. He encouraged everyone to use the site for similar items (e.g., graffiti).

Mr. Kasner said he attended a meeting at Bellevue College regarding the street vacation. He said he has heard concerns from residents that the college does not let them know about projects in advance. He expressed concern about the college's extensive master plan over the next several years, and noted that the college owns property in Issaquah.

Mr. Kasner attended the Lake Hills Neighborhood Association meeting, where Cheryl Kuhn, a former City employee, provided a history of the area over the past 15 years. Terry Cullen and Nicholas Matz, current employees, attended as well and were interested in hearing about the neighborhood's priorities. Mr. Kasner said the next LHNA meeting is April 27. He expressed an interest in learning about the projects intended for the neighborhood connectivity and safety levy approved by the voters in November. He said there are serious connectivity and sidewalk needs in East Bellevue.

Mr. Kasner said he has received numerous phone calls and emails regarding the vacant City Council position. He said 43 individuals applied and finalists have been interviewed. He said four City Council seats will be up for election this fall.

Mr. Kasner attended the Neighborhood Leaders meeting, during which Gwen Rousseau, Associate Planner, provided an update on Bellevue's demographic information. He said the information will be made available on the City's website. He said Mark Manuel, Diversity Outreach and Engagement Administrator, presented information as well. Mr. Kasner said more than 100 residents were in attendance. He spoke to the need to improve the two-way communication with the City. He said he looks forward to the release of the report by the Affordable Housing Technical Advisory Group (TAG).

Councilmember Hughes said there is a lot of talk about the City Council or staff potentially negotiating with PSE regarding the Lake Hills transmission line project. He recalled PSE

attending EBCC meetings over the past two to three years to present information. However, Mr. Hughes opined that PSE was not interested in what the EBCC or the public had to say. He said PSE is not interested in negotiating the project alignment.

Mr. Hughes said he and Mr. Capron were invited to a meeting regarding the PSE transmission line last fall, which had approximately 10 other attendees including a representative from the State Department of Ecology (DOE), the City of Bellevue's city attorney, two PSE attorneys, a wetlands specialist, a mediator, PSE's project manager, PSE's communications person, and the EBCC's attorney. Mr. Hughes said PSE read a statement about their plan. However, there was no discussion or mediation, and he does not anticipate that PSE is interested in further negotiations.

Mr. Hughes attended the Lake Hills Neighborhood Association meeting, where there was a discussion about the area's strengths, weaknesses, opportunities, and threats. He noted that the mosque has received strong support from the community and has raised a great deal of money to rebuild following the recent fire. Mr. Hughes said he is working with the mosque to bring in a national expert to provide advice on planned giving and fundraising.

Chair Capron stated that the EBCC held an executive session with their attorney during the February meeting and agreed to take the PSE transmission line case to the State Supreme Court. He recalled that the EBCC won before the King County Superior Court but lost before the Court of Appeals. Mr. Capron said he attended a City Council meeting to request \$7,000 for legal services to petition the State Supreme Court, and potentially an additional \$20,000 if the case moved forward. He said Deputy Mayor Chelminiak made negative comments regarding the EBCC, and the Council ultimately voted 4-2 to deny the requested funding.

Following that evening, Chair Capron said that he, Councilmember Hummer, Councilmember Kasner, and Councilmember Hughes made calls and wrote emails to advocate for the funding. Two weeks later, a large group from the Coalition of Eastside Neighborhoods for Sensible Energy (CENSE) attended the City Council meeting. Mr. Capron said Steve Fricke, an attorney for Microsoft, encouraged the City Council to fund the EBCC to pursue the case with the State Supreme Court. Mr. Fricke said that, otherwise, the City Council was acting as the court.

Mr. Capron said he was told earlier by the Mayor that the EBCC could fund the legal fees themselves. However, Mr. Capron said the EBCC's attorney works only for municipalities and will not take funds from the Community Council. Mr. Capron said the City Council then voted 4-2 in favor of funding the requested legal services as necessary expenses of the EBCC, with Deputy Mayor Chelminiak and Councilmember Wallace opposed. Mr. Capron opined that the City Council was most influenced by Mr. Fricke's argument.

Councilmember Kasner noted that City Councilmember Jennifer Robertson has always understood those issues, and she did a great deal of work on the neighborhood's behalf. Chair Capron thanked her for her efforts. Mr. Kasner said Ms. Robertson provided additional information to the City Council to help them understand the issues and to encourage them to reconsider their vote. Councilmember Hummer noted that Councilmember Robertson was the only City Councilmember who voted against the Hearing Examiner's recommendation on the transmission line matter.

Chair Capron said the City Council approved \$7,000 to petition the State Supreme Court and an additional \$20,000 if the court agrees to review the case. He said he did not understand why Puget Sound Energy will not consider another alignment. He said that, if PSE decided to consider the shorter direct route that buries some distribution lines and makes the electrical grid more reliable with fewer power outages in East Bellevue, PSE would be required to apply for a new project permit from the City.

Mr. Capron said the City has been working on a traffic light project in front of his business that was originally scheduled as a nine-week project, and it has not been completed after eight and a half months. He opined that the EBCC has no friends. It has authority over the City Council in certain land use decisions within the EBCC boundaries. However, when the EBCC exercises that authority and gets sued, the City is required to pay for the EBCC's legal services and gets to choose the law firm. He feels it is a conflict of interest for the City to pay attorneys on both sides of the issue. However, that is not supported by state law.

Mr. Capron said the state legislature does not like community councils. There are two in the state. He said the state legislature has tried to terminate community councils and boards and commissions. He recalled that the EBCC was originally given authority over land use issues. A few years later, shoreline land use issues emerged and were brought before the EBCC as well. During the transmission line litigation with PSE, Judge Downing of the King County Superior Court determined that state law did not give the EBCC authority over shoreline land use decisions, only land use decisions. Mr. Capron observed that it was an oversight by the state legislature when the shoreline commissions were created. The City of Bellevue no longer brings shoreline land use issues to the EBCC.

Chair Capron said EBCC members are elected officials, yet they must check in at City Hall to obtain a pass to visit staff on upper floors. He said employees and City Councilmembers receive ID badges to enter office areas. He expressed an interest in posting photos of the EBCC members in City Hall however he said the City has not supported that request. He said that, when the PSE project emerged, the matter was quasi-judicial and EBCC members were not allowed to discuss the project outside of a public meeting with all EBCC members present.

Mr. Capron said the EBCC would like the City Attorney's Office to appoint a different in-house attorney to work with them as they are not satisfied with the current legal representative. He said he and Councilmember Hughes met with the City Attorney, who was not willing to change the EBCC's assigned attorney. When the EBCC later denied PSE's transmission line project, the staff attorney did not provide support to the EBCC. Mr. Capron said both courts highlighted the ineffectiveness of the EBCC's legal representation that evening, and the matter will now go to the State Supreme Court.

Chair Capron said most City staff do a good job, are knowledgeable, and work hard. However, he observed that other issues are higher priorities for the City and, in some cases, staff's workloads are too heavy.

Regarding PSE's Lake Hills transmission line project, Mr. Capron said the Hearing Examiner determined that PSE could not complete the route because double poles on SE 16th Street would not be allowed. Mr. Capron said PSE employees told the EBCC that, if the agency could not

complete the route, there was no reason to build the project. Mr. Capron said PSE now states that the agency can install switches and that completing part of the project is better than none. He is disappointed in the process and outcome. He apologized for his inexperience when the transmission line project was first transmitted to the EBCC. Mr. Capron said the project's alignment is on NE 8th Street and 148th Avenue, which are the two major urban boulevards in East Bellevue. He said East Bellevue residents will not receive improved electrical service because the distribution lines will be above ground and vulnerable to trees during storms.

Chair Capron welcomed City Councilmember Jennifer Robertson to the meeting and invited her to make some comments. Ms. Robertson said that one of the first things a law school student learns in a legal ethics class is that a lawyer's duty runs to whoever he or she is representing and not to the person paying for the legal services. She said the outside attorney hired to represent the EBCC has a duty to the EBCC, and not to the City which pays the bills.

Ms. Robertson noted that Councilmember Hummer referenced the two near-term transportation projects planned for the Eastgate area. Ms. Robertson said the City Council approved Ordinance No. 6346 on February 21, amending Ordinance No. 6333 and adopting a preliminary project list for the use of neighborhood transportation levy funds. Levy projects in Lake Hills are: 1) 148th Avenue (SE 16th Street to SE 22nd Street); 2) SE 16th Street (146th Avenue to 164th Avenue); 3) Lake Hills Boulevard (148th Avenue to 159th Avenue); 4) Main Street (140th Avenue to 164th Avenue); 5) 158th Place SE (Lake Hills Boulevard to SE 5th Street); and 6) 156th Avenue northeast corner crosswalks. Ms. Robertson said most of those are safety projects, including sidewalks. She said specific projects will be discussed with the City Council in future meetings.

Responding to Mr. Kasner, Ms. Robertson said 2017 is the mid-biennial budget year. However, the City Council will adopt an updated comprehensive capital budget in late 2018.

Councilmember Kasner said the EBCC has repeatedly expressed to the City that it does not want the SE 16th Street project. He questioned the process for removing the project. City Councilmember Robertson suggested that he email her via her Council address, and she will forward the question to Transportation Director Dave Berg.

Ms. Robertson said the City Council's process to fill the Council vacancy is ongoing. The Council did not address the issue during the March 6 meeting due to an emergency requiring the absence of one Councilmember. She said she would like to see a resident from an unrepresented part of Bellevue appointed to the vacant position. There are currently two Councilmembers who reside in Woodridge, two in Somerset, one in Lakemont, and one in West Bellevue. Ms. Robertson said there are no Councilmembers who live east of 100th Avenue and north of SE 8th Street. While she does not support a district system, she believes it is helpful to have Councilmembers representing different neighborhoods because they know different people and are aware of different issues. Ms. Robertson said she is interested in geographic diversity when appointing Board and Commission members as well.

Ms. Robertson noted that the Planning Commission will be holding the Downtown Livability Land Use Update public hearing tomorrow night. With regard to comments about getting information from the City, she said the City is currently testing its new website, which will have a better search capability. She referred to earlier EBCC comments about how to notify the City

regarding potholes and other issues, and noted that residents may use the MyBellevue app to report problems and concerns.

Don Boettiger questioned the ability to represent geographic diversity on the City Council without having a district model. City Councilmember Robertson said the distribution changes depending on who runs for office. She recalled that former Mayor and Councilmember Claudia Balducci lives in East Bellevue. Ms. Robertson said she is not in favor of districting because she believes Councilmembers should be working for the entire community. However, it is helpful to have Councilmembers from across the city. In further response, Ms. Robertson noted that five of the six Councilmembers live east of I-405.

Responding to Councilmember Hummer, Ms. Robertson said she supported the EBCC's request for additional legal services funding in the first and second Council votes.

6. **APPROVAL OF AGENDA**

Vice Chair Hummer moved to approve the agenda. Chair Capron seconded the motion, which carried by a vote of 5-0.

7. **DEPARTMENT REPORTS**

(a) Presentation regarding Lake Hills Public Art Project

Scott MacDonald, Associate Planner, Planning and Community Development (PCD) Department, presented information regarding the Lake Hills Public Art Project. He highlighted the process related to the art project:

- The Bellevue Arts Commission recommended the project for the Lake Hills Puget Sound Energy utility poles.
- City staff met with the Lake Hills Neighborhood Association to discuss the idea.
- City staff engaged in drafting an agreement with PSE and wireless carriers.
- Wireless carriers require a removal provision for the artwork, with 30 days notice.
- City staff is seeking alternative solutions for installing the artwork on the utility poles.

Mr. MacDonald said the artwork, entitled Delight in Green, was created by artist Danielle Foushee and is constructed of steel and colored acrylic. He said the art piece was commissioned by the City for the 2016 Bellwether Exhibition and Art Walk. Mr. MacDonald noted that Delight in Green draws references from mid-century motifs. It will be a great addition to the Lake Hills neighborhood and consistent with its mid-century beginnings.

Mr. MacDonald outlined the next steps:

- Staff will finalize the agreement with the utilities and select a pole for the art installation.
- The Arts Commission will take action regarding the relocation of the artwork from Downtown to Lake Hills during its April 4 meeting.

- If approved, staff will hire an engineer to design a new mounting bracket to fit the larger dimensions of the PSE-owned pole. The artist will be consulted regarding the specific siting of the artwork.
- Installation of the artwork is targeted for September 2017.

Vice Chair Kasner said he did not understand why they were being told that the art will be at this location on the utility pole. Responding to Mr. Kasner, Mr. MacDonald said the bracket to hold the art is estimated at less than \$5,000. Mr. Kasner spoke in favor of allowing the community to decide where to place the art piece. He noted that he likes the art that has been chosen. He expressed concern that the art will be on the pole for only 4-5 years. He suggested installing a pole specifically for the artwork in a location chosen by the neighborhood.

Mr. MacDonald said the artwork is currently installed on a City street light pole. He said he is following the Arts Commission's recommendation in bringing this issue to the EBCC. However, he said it might be possible to install the artwork on a City street light pole in the neighborhood.

Mr. Kasner suggested discussing the artwork with the Lake Hills Neighborhood Association at their next meeting on April 27. He would rather install the artwork at a permanent location than on a pole not owned by the City.

Responding to Chair Capron, Mr. MacDonald said the artwork's current location was intended to be temporary. He said Puget Sound Energy will not charge the City to place the artwork on one of its utility poles.

Mr. Capron observed that, after PSE completes its project installing new poles along NE 8th Street and 148th Avenue, the City will not be able to prevent lease agreements involving other utilities wanting to place their equipment on the poles.

City Councilmember Robertson commented that other utilities are able to use PSE's poles whether PSE wants them to or not. She said Senate Bill 5711 currently before the state legislature would take away cities' authority to deny small cell wireless carriers from installing equipment on any poles or property in the right-of-way.

Responding to Councilmember Kasner, Ms. Robertson confirmed that the City is opposed to the bill. She said she has personally called several state senators, and the City's lobbyist is working on the issue. The Association of Washington Cities (AWC) opposes it as well.

Chair Capron requested information on the cost of moving the artwork.

Sandra Hughes said she is excited about bringing the artwork to East Bellevue. She recalled that the pole was chosen due to its height. Mr. MacDonald confirmed that the scale of the pole was a factor in choosing the location. He said the site is a key location in Lake Hills near the library and other community businesses.

Councilmember Kasner said he likes the artwork. However, he questioned whether it would be possible to view other pieces owned by the City for consideration. Mr. MacDonald said there were three pieces in storage, and one was recently installed in Robinswood Park.

Councilmember Hummer expressed concern that the EBCC and neighborhood were not informed before the artwork was installed in Robinswood Park.

Responding to Mr. Kasner, Mr. MacDonald said the Robinswood Park piece is called Wild in the City. It is located near a path and intended as something that people can walk through.

Chair Capron expressed concern about the City entering into an agreement with PSE, which could order the removal of the artwork at any time with a 30-day notice. Mr. MacDonald said the City has similar agreements with other parties involving landscaping, Metro bus shelters, and other items.

Ms. Hummer said Kelsey Creek Shopping Center is heavily used by the community, and there are some nice light poles along 148th Avenue. Mr. Capron said there might be an opportunity for locating the art on the corner of the shopping center after the new building is completed. He observed that the poles would have greater visibility at the shopping center than at the proposed location.

Wesley Clark concurred with the concern that PSE could demand that the City remove the artwork with a 30-day notice. He proposed asking PSE to donate \$10,000 toward the installation of the artwork. A second idea is to talk to the developer of the Lake Hills Village center about placing the artwork on that site.

Mr. MacDonald said that locating the artwork on private property could be perceived as a gifting of public funds.

Graham Siebe suggested placing the art at the location where the greenbelt trail crosses 148th Avenue. Chair Capron noted that there is a street light at that location.

Councilmember Hummer thanked City Councilmember Robertson for advocating to keep the Lake Hills Greenbelt restrooms open year-round.

Vice Chair Kasner suggested providing comments to the Arts Commission that the EBCC and neighbors support the commission's work so far, but they would like the commission to consider additional ideas before finalizing the plan.

Mr. MacDonald suggested that the EBCC prepare a transmittal that he can take to the Arts Commission on their behalf. He said there is no urgent deadline for the Arts Commission to vote in April.

Stephanie Walter expressed support for the alternate locations discussed tonight. She observed that the proposed location is less visible than other sites. She suggested a more central location on 148th Avenue, potentially near the Kelsey Creek Shopping Center.

Chair Capron thanked staff for the presentation.

8. **PUBLIC/COURTESY HEARINGS:** None.

9. **RESOLUTIONS**: None.
10. **COMMITTEE REPORTS**: None.
11. **UNFINISHED BUSINESS**: None.
12. **NEW BUSINESS**
 - (a) Potential Future Agenda Items
 - Bellevue College Student Legislative Affairs Presentation
 - Bellevue School District Presentation
 - Eastgate Land Use Code Amendments
 - Kelsey Creek Culvert Replacement

Responding to Chair Capron, Deputy City Clerk Karin Roberts said City Council action on the Eastgate Land Use Code Amendment (LUCA) has not been scheduled. An update will be provided to the EBCC following the City Council's review and action.

Ms. Roberts said the Kelsey Creek Culvert Replacement project is anticipated to come to the EBCC by mid-year, with construction targeted for 2018.

Responding to Mr. Capron, Vice Chair Kasner said he thought the Bellevue College student liaison would attend tonight's meeting. He noted that the student group has completed its agenda, and he suggested inviting the liaison to come to the EBCC's April meeting.

Mr. Kasner recalled that the EBCC discussed requesting a presentation from the Bellevue School District regarding its capital plans and projects. Chair Capron said he will contact the Bellevue School District.

Mr. Kasner requested more information on the potential neighborhood transportation levy projects in Lake Hills, as outlined earlier in the meeting by City Councilmember Robertson.

Ms. Roberts said she has contacted Eric Miller, Transportation Capital Programming Manager, about bringing the topic to either the EBCC's April or May meeting.

Responding to Chair Capron, Ms. Roberts noted that the EBCC will need to appoint Pro and Con Committees to write statements for the voters' pamphlet with regard to the ballot measure to continue the EBCC. She will place it on the April meeting agenda.

Responding to Councilmember Hummer, City Councilmember Robertson confirmed that information on the fire facilities levy and the neighborhood transportation levy is available online in the February 21, 2017 meeting agenda packet.

(b) EBCC Retreat Discussion

Chair Capron suggested that the EBCC retreat should be a separate Special Meeting.

Responding to Vice Chair Kasner, Councilmember Hummer said her emails following the previous retreat discussions included the facilitator's comments.

Following Council discussion, Mr. Capron said the retreat will tentatively be held on Wednesday, March 22, at 6:00 p.m.

Councilmember Kasner said he appreciated City Councilmember Robertson's interest in geographic diversity on the City Council. He noted that two of the eight finalists, Stephanie Walter and Janice Zahn, have attended EBCC meetings.

13. **CONTINUED COMMUNICATIONS:** None.

14. **EXECUTIVE SESSION:** None.

15. **APPROVAL OF MINUTES**

(a) Summary Regular Meeting Minutes of February 7, 2017

Councilmember Hummer moved to approve the minutes of the February 7, 2017 Regular Meeting. Councilmember Gooding seconded the motion.

Sandra Hughes, a resident, noted an error in her comments in the meeting minutes. She said the minutes refer to SE 8th Street and Main Street, and it should read 148th Avenue and Main Street.

The motion to approve the minutes, as amended by Ms. Hughes's suggestion, carried by a vote of 5-0.

16. **ADJOURNMENT**

At 8:13 p.m., Chair Capron declared the meeting adjourned.

Karin Roberts
Deputy City Clerk

/kaw