

East Bellevue Community Council
Summary Minutes of Regular Meeting

May 4, 2021
6:30 p.m.

Virtual Meeting
Bellevue, Washington

PRESENT: Chair Hummer, Vice Chair Epstein, Alternate Vice Chair Dhananjaya,
Councilmember Gooding and Councilmember Kasner

ABSENT: None.

STAFF: Chad Barnes, Assistant City Attorney
Reilly Pittman, Senior Planner
Liz Stead, Land Use Director
Caleb Miller, Senior Planner
Kristina Gallant, Senior Planner
Trisna Tanus, Consulting Attorney

1. **CALL TO ORDER**

The meeting was called to order at 6:30 p.m., with Chair Hummer presiding.

2. **ROLL CALL/FLAG SALUTE**

Deputy City Clerk Karin Roberts called the roll. All Councilmembers were present. Vice Chair Epstein led the flag salute.

3. **APPROVAL OF AGENDA**

Councilmember Kasner moved to approve the agenda. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

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

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

6. **REPORT OF THE CHAIR**

Chair Hummer said tonight's meeting demonstrates the purpose of the community council, which is to make certain land use decisions to be applied within the EBCC jurisdiction. She commented on the importance of public input into planning processes.

7. **PUBLIC/COURTESY HEARINGS**

(a) Courtesy Hearing: Glendale Country Club Rezone

Chair Hummer introduced the courtesy hearing and discussion regarding the Glendale Country Club rezone application. She said a memo summarizing the comments from the public and the EBCC will be prepared and submitted to staff and others involved in the decision. She recalled the EBCC's approval of a Comprehensive Plan Amendment (CPA) application for the same property in December 2020 that changed the map designation to multifamily housing.

Deputy City Clerk Karin Roberts noted that this is a Process III decision and therefore a quasi-judicial matter.

Chad Barnes, Assistant City Attorney, clarified the difference between a public hearing in the legislative context versus a quasi-judicial context. If the purpose of the public hearing is to create or amend policy, that is the legislative function. However, a quasi-judicial matter is the application of the law or an existing policy to the facts and/or to an applicant. Mr. Barnes said the state Appearance of Fairness Doctrine states that each person who comes before the EBCC for a quasi-judicial decision has a due process right to have their application heard by neutral parties. He said EBCC members may not have ex parte contacts, which are any contacts with an applicant or a proponent or opponent of a specific project.

Responding to Chair Hummer, Mr. Barnes advised against discussing the process with the applicant or an opponent of the application. However, he said it is appropriate to raise process questions with him and Deputy City Clerk Roberts. Mr. Barnes cautioned that ex parte contacts could ultimately become the basis for overturning a decision by the EBCC.

Responding to Chair Hummer, Mr. Barnes concurred with her suggestion to refer individuals to opportunities for public comment through the City Council, Board and Commission processes.

Reilly Pittman, Senior Planner, described the rezone application proposal for a lot in the northeast corner of the Glendale Country Club, adjacent to NE 8th Street. He said the rezone request follows the approval of the CPA for the site by the City Council and the EBCC in December 2020. Public notice of the application will be mailed to property owners within 500 feet of the property, and signage will be placed at the site. The Director of the Development Services Department will issue a recommendation on the proposed rezone for the Hearing Examiner. The Hearing Examiner will conduct a public hearing and issue a recommendation for the City Council's consideration and decision. The EBCC will then take action on the City Council's ordinance.

Mr. Pittman highlighted the Process III timeline, noting that staff is beginning to review the application. Public comment is accepted throughout the entire review process, including the hearing before the Hearing Examiner.

Mr. Pittman noted that the purpose of tonight's courtesy hearing is to hear comments from the EBCC and the public and to answer any questions. He introduced Jessica Roe, land use attorney for the rezone applicant, to comment regarding the proposal.

Ms. Roe thanked the Council for supporting the CPA last year. The applicant is requesting an R-10 (10 units per acre) zoning designation to allow for modest density on a lot in the northeast corner of the overall country club property. She said the proposal is consistent with the rezone criteria, which are described in the application materials.

Clint Whitney, General Manager of the Glendale Country Club, thanked the Council for approving their related CPA last year. He said he wanted to ensure that the Council and neighbors of the golf course understand that the proposed rezone affects a very small portion of the property. He said the club will be in Bellevue for many years to come. He said the proposed project provides needed housing near frequent transit service and preserves wetlands and open space.

Brenda Barnes, project architect, noted the location of the site on NE 8th Street near transit services. She said the R-10 zoning is consistent with adjacent zoning and multifamily housing. She presented a map depicting the property's buffers and restrictions, buildable area, utility easement, setback along NE 8th Street to retain trees, and a transition buffer to the golf course. The buildable area is 13 percent of the 3.35-acre site. She said the number and exact types of units have not been selected. Ms. Barnes noted that the trees around the site will be maintained, including along NE 8th Street. However, a specific project has not yet been designed.

At 6:59 p.m., Councilmember Kasner moved to open the courtesy hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

Louis Nickols, a member of the Glendale Country Club, thanked Councilmembers for their consideration of the rezone application. He said the redevelopment of the property will benefit both the club and the public. He encouraged support of the rezone application.

Ellen Lenhart expressed support for the Glendale Country Club rezone application. She thanked the Council for moving forward with the CPA. She said that redevelopment of the property will allow the club to make the infrastructure improvements needed to keep the golf course environmentally sound and sustainable for a long time. She said the club looks forward to many more years in Bellevue.

At 7:02 p.m., Councilmember Kasner moved to close the courtesy hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

Responding to Vice Chair Epstein, Mr. Pittman said there is no public access to the golf course from NE 8th Street. In further response, Ms. Barnes noted that ingress and egress for the future development will be decided at the project-level review stage with the City. Mr. Pittman said the City has received the rezone application but has not received a specific project proposal.

Responding to Councilmember Dhananjaya, Mr. Pittman said the plan for access to the property will be required to meet the transportation code.

In further response to Councilmember Dhananjaya, Mr. Pittman said the application was noticed in the weekly permit bulletin. The public process includes mailings to properties within 500 feet and signage at the site. He said that documents related to the rezone application can be viewed online through a link in the weekly permit bulletin.

Responding to Councilmember Kasner, Ms. Barnes said a community meeting was held at the beginning of the CPA process. At that time, neighbors to the golf course expressed concern regarding the access between the golf course and the future multifamily development. The proposed location of the access now reflected in the initial design is based on that input. However, a final decision will be made during the project review stage.

Chair Hummer expressed concern regarding the potential increased density. Mr. Pittman confirmed the location of the Puget Sound Energy (PSE) power lines and Olympic pipeline. Responding to Ms. Hummer, Mr. Pittman said the exact number of housing units would be decided later during the project review process. Chair Hummer encouraged the City to enhance the links between related information on the City's web site. Mr. Pittman provided tips for accessing the online information.

Chair Hummer said she would like to be able to review the written public comments received by the City. Mr. Pittman said that written communications will go into the Hearing Examiner's file/public record.

Responding to Chair Hummer, Mr. Barnes said that for a quasi-judicial matter, EBCC members are confined to reviewing only the documents included in the Hearing Examiner's record. He summarized the remaining steps of the process leading to final actions by the City Council and the EBCC.

Chair Hummer thanked everyone for the presentation.

Vice Chair Epstein expressed support for the rezone application.

Councilmember Dhananjaya concurred and encouraged the property owner to ensure that the project does not negatively impact traffic around the site.

Councilmember Kasner expressed support for the rezone application and thanked the applicant for working with the community.

Councilmember Gooding expressed support for the rezone and redevelopment of the site.

Chair Hummer expressed support for the project. However, she noted her concerns regarding the neighboring church property and access via NE 8th Street.

(b) Public Hearing: Temporary Use Permit IOC

Chair Hummer introduced discussion regarding the temporary use permit (TUP) interim official control (IOC) related to outdoor dining and other modifications during the pandemic. The purpose of tonight's public hearing is to determine whether to extend the temporary IOC for an additional six months. Chair Hummer asked staff to include the EBCC's comments in their documentation.

Liz Stead, Land Use Director, Development Services Department (DSD), said staff is seeking direction from the EBCC to hold a public hearing and to approve Resolution No. 590 adopting City Council Ordinance No. 6574. She recalled that the EBCC approved the initial IOC ordinance on December 1, 2020. The City Council extended the IOC through the recent adoption of Ordinance No. 6574.

Ms. Stead said the IOC revises the tolling of time limitation for the effective duration of active permits related to COVID impacts. The tolling time begins on the first day after the completion of all phases of the Safe Start Washington plan. The IOC also suspends the restriction on successive TUP applications and allows the applicant to reapply for successive permits as needed. The restriction will resume 30 days after the completion of all phases of Safe Start Washington.

Caleb Miller, Senior Planner, said that the only active TUP within the EBCC jurisdiction is a COVID-19 testing site at Bellevue College. He noted the types of TUPs issued during the pandemic: 1) outdoor dining in parking lots, 2) outdoor spaces for retail stores, 3) drive-in movies, 4) portable classrooms to allow distancing, and 5) drive-in and drive-through medical services. He described the permit decision criteria for temporary uses: 1) protect public health, safety or welfare and avoid injury to adjacent properties, 2) must not be incompatible in intensity and appearance with existing land uses in the immediate vicinity, 3) include adequate parking for the temporary use, 4) must specify hours of operation, and 5) must not cause adverse noise, light or glare on surrounding uses.

Mr. Miller noted that staff recommends approval of Resolution No. 590 adopting City Council Ordinance No. 6574.

At 7:31 p.m., Councilmember Kasner moved to open the public hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

No one provided public comment.

At 7:32 p.m., Councilmember Dhananjaya moved to close the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

Vice Chair Epstein noted the significant impact of the pandemic on small businesses and expressed support for extending the IOC. Responding to Mr. Epstein, Ms. Stead said the permit fee varies from \$211 to \$355, depending on whether a Fire Department review is required.

Councilmember Dhananjaya thanked staff for the presentation and expressed support for the resolution. He suggested that Kelsey Creek Center would be a good place for outdoor dining.

Councilmember Kasner expressed support for the resolution.

Chair Hummer noted that the EBCC would vote on the resolution later in the agenda.

(c) Public Hearing: Reduced Minimum Residential Parking Land Use Code Amendment (LUCA)

Kristina Gallant, Senior Planner, Development Services Department (DSD), said staff is requesting that the EBCC hold a public hearing and take action to approve Resolution No. 591 adopting City Council Ordinance No. 6575. Ordinance No. 6575 amends Land Use Code Chapters 20.20, General Development Requirements, 20.25, Special and Overlay Districts, and 20.50, Definitions, to establish lower minimum parking requirements for certain housing developments near frequent transit service.

Ms. Gallant described the frequent transit service criteria developed by the City based on state legislation. The two-tier system establishes minimum parking requirements for: 1) permanent affordable housing within a one-quarter mile radius of frequent transit service (stops 2-4 times per hour) and 2) market-rate multifamily, senior housing, and affordable housing within a one-half mile radius of transit service four or more times per hour (including future light rail and bus rapid transit stops planned within the next two years). Ms. Gallant highlighted a map depicting the areas within Bellevue that potentially meet the frequent transit service criteria. She said the Director may determine that a service is not available when a physical or geographical impediment would require someone to walk more than one-half mile to a transit stop.

Ms. Gallant described the reduced parking minimums. For affordable housing up to 80 percent area median income (AMI), 0.75 parking spaces per unit are required for areas within one-quarter mile of transit stops with service 2-4 times per hour, and 0.5 parking spaces per unit are required for housing near transit stops with service four or more times per hour. For market-rate multifamily housing, 0.75 spaces per unit are required for housing near transit stops with service four or more times per hour. No minimum parking is required for senior housing. Ms. Gallant noted that developers may provide additional parking if desired.

Ms. Gallant said the reduced minimum residential parking Land Use Code Amendment (LUCA) includes a provision related to parking requirements for accessory dwelling units (ADUs) in order to be consistent with RCW 36.70A.698. The amendment removes the requirement for a dedicated ADU parking space for property located within a one-quarter mile radius of transit stops with service four or more times per hour, including future light rail and bus rapid transit stops opening within the next two years.

Trisna Tanus, Consulting Attorney, Development Services Department (DSD), said the parking LUCA is consistent with the Affordable Housing Strategy adopted in 2017, including Action B-1, Encourage housing around light rail stations; Action B-2, Update ADU standards; and Action

D-1, Revise codes to reduce costs for building multifamily housing. She said the proposed LUCA conforms the code with RCW 36.70A.620 and 36.70A.698.

Ms. Tanus said the EBCC is being asked to approve the conforming regulations within the EBCC jurisdictional area to avoid being out of compliance with state regulations.

Ms. Tanus recalled previous questions raised by the EBCC. She said the City has received five permit applications that plan to take advantage of reduced parking requirements under the IOC. One project is an affordable housing development in the Eastgate area, and the other four projects are market-rate mixed-use developments in the Downtown. The applications propose 0.8-0.9 parking spaces per residential unit.

Ms. Tanus recalled a previous question about the definition of frequent transit service. It is defined in RCW 36.70A.620 as a transit stop that receives transit service at least two times (affordable housing) or four times (market-rate and housing for seniors and disabled) per hour for 12 or more hours per day. A major transit stop is defined as a stop on a high capacity transportation system funded or expanded under the provisions of RCW 81.104 and includes commuter rail stops, bus rapid transit, rail or fixed guideway systems, and other transit modes.

Ms. Tanus recalled that the public engagement process followed Process IV requirements for noticing and holding a public hearing. Discussions were held with community stakeholders as well and information is provided on the City's web site. She said the Planning Commission held two study sessions regarding the LUCA on January 13 and 27 before holding its public hearing on February 24. The EBCC held a courtesy hearing on the topic on April 6. The City Council took action to adopt the ordinance on April 26. Ms. Tanus said the IOC regarding parking requirements expires on May 18.

At 7:52 p.m., Councilmember Kasner moved to open the public hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

No one provided public comment.

At 7:53 p.m., Councilmember Kasner moved to close the public hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

Vice Chair Epstein said he was having difficulty understanding how the frequency of transit service corresponds with the reduction in minimum parking requirements, especially from the standpoint of getting to conveniences and services within the EBCC jurisdiction. He noted that it is often quicker to drive or even walk in East Bellevue than to take the bus. Mr. Epstein said he believes people will continue to have cars, even in affordable housing.

Councilmember Dhananjaya observed that one-half mile is a little far to walk to a transit stop. He expressed support for what has been proposed. He encouraged staff to monitor the impact of light rail service on bus service in Bellevue. He said the proposed LUCA should be evaluated on how it meets future needs.

Councilmember Kasner said this has not been a controversial issue and no one has submitted any complaints. The ordinance was approved unanimously by the City Council. He said there are no short-term impacts and minimal mid-term impacts. He noted that he has supported this legislation from the beginning. He hopes the EBCC passes it tonight to show a good faith effort to work with the City Council to increase affordable housing stock. He said that none of the EBCC's constituents have had any issues with this LUCA and is excited to put an ordinance in place.

Councilmember Gooding said it is interesting to presume that someone should live someplace without a place to park their car. He said this is an auto-based society. He spoke about the unintended consequences of limited parking.

Chair Hummer said she has had concerns about this proposal since it was first discussed in 2014 and 2015. She said there are three multifamily housing complexes within one-quarter mile of her house. Two provide affordable housing and the third includes subsidized housing. Chair Hummer said that all of the parking lots are completely full. She said there are four bus lines that run within one-quarter mile of those locations. She expressed concern regarding negative parking impacts. She believes this would better serve its purpose located next to the transit hubs, as she does not think it serves the EBCC jurisdiction well at all. She said the LUCA decision criteria includes the provision that the amendment is not contrary to the best interests of citizens and property owners.

Chair Hummer recalled that the EBCC has received public comments expressing concerns regarding overflow parking impacts and potential discrimination under the Americans with Disabilities Act (ADA). She opined that the LUCA does not serve the best interests of the EBCC's constituents. She said bus service to East Bellevue has decreased over the years. Ms. Hummer said she cannot envision that Metro will provide sufficient transit service in Bellevue to discourage car ownership. She expressed concern that the reduced parking requirements discriminate against the tenants of affordable housing.

8. **RESOLUTIONS**

- (a) Resolution No. 590 approving City Council Ordinance No. 6574 extending the IOC for Certain Active Temporary Use Permits

Councilmember Kasner moved to approve Resolution No. 590. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

- (b) Resolution No. 591 approving City Council Ordinance No. 6575 adopting the Reduced Minimum Residential Parking Land Use Code Amendment (LUCA)

Vice Chair Epstein moved to vote on Resolution No. 591. Councilmember Kasner seconded the motion.

Chair Hummer suggested a roll call vote:

Vice Chair Epstein: I vote no.

Alternate Vice Chair Dhananjaya: I vote yes.

Councilmember Kasner: I vote yes.

Councilmember Gooding: I vote no.

Chair Hummer: I vote no.

Resolution No. 591 was disapproved by a vote of 2-3.

Chad Barnes, Assistant City Attorney, recommended that the EBCC clearly provide for the record any comments regarding the decision criteria that led the EBCC to its vote. He noted Chair Hummer's comment that she believed it was not within the best interests of the citizens in the EBCC jurisdiction. He noted that the ADU parking amendment and the reduced minimum parking requirements are required under state law. He said that disapproving the resolution puts the EBCC out of compliance with state mandates.

Mr. Barnes reiterated his suggestion that EBCC members clearly articulate the decision criteria that affected their vote to disapprove the resolution. He suggested they identify specific language in the City Council ordinance to which they object.

Responding to Chair Hummer, Mr. Barnes said the EBCC cannot revise the City Council ordinance but may take action to approve or disapprove the legislation. Mr. Barnes reiterated that disapproving the City Council ordinance puts the EBCC jurisdiction out of compliance with state law. He suggested that EBCC members articulate what affected their votes for the record.

Chair Hummer said she believes, through her research, that the City Council ordinance could have complied with state law by not making a blanket requirement but restricting the parking requirements to light rail transit hubs with affordable housing. She said the state law uses one-quarter mile as the desired distance to transit stops, while the City's ordinance extends that to one-half mile. She suggested that the measurement should be based on walking distance and not on the radius from the transit stop.

Ms. Hummer suggested retaining the requirement for a parking space for an ADU unit, with an exception if the ADU happens to be near a major transit hub. She noted that Planning Commissioner deVadoss expressed concern that the provision restricts who can own a car. Ms. Hummer said there is no guarantee that transit service will increase in Bellevue neighborhoods.

Councilmember Gooding expressed a procedural concern. He referred to Section F of the meeting packet, page 48, which outlines the minimum and maximum parking requirements by use. He suggested that other language regarding the LUCA is not consistent with page 48. He said the guidelines do not provide a maximum limit on parking facilities.

Vice Chair Epstein expressed concern that reducing parking spaces will push more cars into parking on the street. He said everyone has a right to own a car and the proposed LUCA creates a burden for individuals.

Councilmember Kasner expressed concern that the EBCC members opposing the LUCA are out of step with their constituents. He said the EBCC will have to approve the amendments at some point in order to comply with state law. He thanked Mr. Barnes for his legal advice.

9. **UNFINISHED BUSINESS**

Chair Hummer recalled her past suggestion to hold an EBCC retreat in September. She said there has been a suggestion to postpone the retreat until early next year after this fall's elections. She asked Deputy City Clerk Roberts to provide the 2019 EBCC Retreat notes to EBCC members.

Councilmember Kasner suggested there are bigger issues related to continuing the EBCC before the EBCC discusses the retreat, based on decisions like the one made tonight. He spoke in favor of postponing the retreat until next year.

Chair Hummer said she would like to identify action items for the year. She said there will be more affordable housing actions for consideration.

Mr. Barnes suggested that if the retreat is held next year, the agenda should include training for new and continuing EBCC members.

Councilmember Dhananjaya referred to Mr. Barnes' earlier suggestion that EBCC members articulate their objections based on the decision criteria. Mr. Dhananjaya suggested that training at the retreat address how to hold discussions and how to make and document the EBCC's decisions.

Councilmember Kasner expressed an interest in the next update regarding single room rental enforcement. Deputy City Clerk Roberts said she will request an update from staff.

Referring to the upcoming Energize Eastside courtesy hearing, Chair Hummer asked whether the EBCC will be able to review the project record. Mr. Barnes said the courtesy hearing provides the opportunity to make comments and to create the official record. He said that EBCC members may review what has been proposed. However, EBCC members should not engage in public contacts regarding the quasi-judicial matter.

Chair Hummer recalled that several courtesy hearings were held for the Lake Hills transmission line project. However, the EBCC kept asking the same questions and did not receive answers until the final hearing. She said the EBCC's comments were not reflected in the record and there were public comments in the record that were not seen by the EBCC until they had to make a

final decision. Ms. Hummer said that the information kept from the EBCC was crucial to the decision.

At 8:34 p.m., Councilmember Kasner moved to extend the meeting for up to 30 minutes. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Continuing in response to Ms. Hummer regarding the Energize Eastside project, Mr. Barnes said the EBCC will be asked to review a large record in order to make a decision, and to document the rationale for the EBCC's decision.

Chair Hummer reiterated her concern that the EBCC has not been given copies of all past public comments, including related to the Puesta del Sol school project.

Councilmember Kasner said he would like to request an electronic copy of the Energize Eastside file when the north project segment moves forward. He said that more information is needed by the EBCC.

Mr. Barnes cautioned that the review guidelines for the public differ from those for EBCC members who will be considering a quasi-judicial issue.

10: **CONTINUED COMMUNICATIONS:** None.

11. **APPROVAL OF MINUTES**

(a) Summary Regular Meeting Minutes of April 6, 2021

Councilmember Dhananjaya moved to approve the minutes of the April 6, 2021 Regular Meeting. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

12. **ADJOURNMENT**

At 8:47 p.m., Chair Hummer declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

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