

East Bellevue Community Council
Summary Minutes of Regular Meeting

December 7, 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: Kathy Gerla, City Attorney
Brian Wendt, Assistant City Attorney
Liz Stead, Land Use Director, Development Services Department (DSD)
Heidi Skinner, Code Compliance Officer, DSD
Caleb Miller, Senior Planner, DSD
Trisna Tanus, Consulting Attorney, DSD

1. **CALL TO ORDER**

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

2. **ROLL CALL/FLAG SALUTE**

Deputy City Clerk Karin Roberts called the roll. All Councilmembers were present and participating remotely. Councilmember Gooding led the flag salute.

(a) Recognition of Service for Councilmember Gooding

Chair Hummer thanked Councilmember Gooding for his dedicated service on the East Bellevue Community Council. Ms. Hummer noted his efforts to disapprove the Puget Sound Energy (PSE) transmission line project, oppose the SE 16th Street bike paths, and to support affordable housing projects. She said Mr. Gooding has participated in discussions and planning for a number of schools, the Lake Hills Village shopping center, and Kelsey Creek Center. Chair Hummer said Councilmember Gooding has regularly invited presenters to become more involved in the EBCC's activities and has acted as a liaison with various community organizations.

Councilmember Gooding thanked Chair Hummer for the kind words. He said he has enjoyed working with EBCC members and the community on behalf of East Bellevue residents and businesses.

3. **APPROVAL OF AGENDA**

Councilmember Kasner moved to approve the agenda, amended to add Agenda Item 11(a) to discuss the EBCC's legislative agenda. He suggested changing the wording of Agenda Item 10(a) from "Discussion of support for Save Our Scale" to "Discuss Infill Development." He suggested adding Agenda Item 11(b) to discuss the new attorney for the EBCC. The motion was seconded by Councilmember Dhananjaya.

Chair Hummer said the EBCC's new attorney would be addressed under Agenda Item 6, Report of the Chair. She opined that there is no need to discuss a legislative agenda because that is not part of the EBCC's role. She said she preferred to leave the wording for Agenda Item 10(a) as written.

Councilmember Dhananjaya expressed support for revising the title of Agenda Item 10(a) and for having a discussion with additional interested parties before the EBCC decides whether to take an official position regarding the Save Our Scale group's initiatives.

Councilmember Kasner withdrew his proposed amendments regarding the legislative agenda and legal counsel.

The motion to approve the agenda, as amended, carried by a vote of 4-1, with Chair Hummer opposed.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Chiho Lai said he looks forward to joining the EBCC in January. He thanked Councilmember Gooding for his service to the community and his tenure on the EBCC. He said he looks forward to listening and learning about the issues addressed by the EBCC.

Gerald Hughes thanked Councilmember Gooding for his service, noting that they served on the EBCC together for five years. Mr. Hughes said he sent a letter to the EBCC regarding the issues raised by the Save Our Scale group. He opined that many of the new houses in East Bellevue are not any larger than the houses built up to 15 years ago. He said there are a lot of dilapidated houses and many of the redeveloped lots and homes have improved the neighborhood. He encouraged the EBCC to hear from residents and others outside of the Save Our Scale group to determine their needs and priorities. Mr. Hughes said he is concerned about the removal of trees. However, he feels the new homes are an improvement and the construction activity provides jobs.

Ben Brittingham, representing MN Custom Homes, noted his submittal to the EBCC regarding the issues raised by the Save Our Scale group. He said he has heard several presentations before the EBCC and he is concerned about inaccuracies that have been presented. He noted that a number of homes in East Bellevue have not been well maintained and often need significant repairs. He said homeowners often do not want to update or remodel their homes to place them on the market. He said most of their new homes sell quickly, indicating that there is a market demand for the homes. He said homeowners selling to builders are able to avoid costly repairs

and to have certainty regarding the buyer, costs and closing date. Buyers of the new homes are able to design their home layouts and other features. He said MN Custom Homes supports a number of community organizations and activities including Jubilee Reach and the Arbor Day Foundation.

Cheryl Kuhn said she was invited by Councilmember Kasner to provide some background information regarding infill development and redevelopment. In 2006-2007 as a City employee, Ms. Kuhn was involved in a study of the issues and concerns raised by residents regarding the character and livability of their neighborhoods. Staff was directed by the City Council to make recommendations for actions that would balance the interests of all stakeholders. Ms. Kuhn said staff conducted extensive visual surveys of the community and spoke with residents, neighborhood associations, developers, architects and other jurisdictions about how they handle infill development. She said the primary concerns about redevelopment relate primarily to the loss of trees and vegetation, building height and bulk, loss of light and privacy, and construction impacts (e.g., noise, traffic modifications). Ms. Kuhn said she wanted the EBCC to be aware that the City has more information that would be helpful to the EBCC as it addresses residential redevelopment.

Rick Chesmore said the Save Our Scale group has presented information to the EBCC four times regarding its concerns about residential redevelopment. He asked for the EBCC's support of the group's efforts.

Chuck Thulin expressed concern regarding redevelopment in single-family neighborhoods. He noted Save Our Scale's ongoing concerns regarding floor-area ratio (FAR) and building heights. He said the City of Mercer Island has adopted regulations to address the impacts of redevelopment. He said neighborhood quality and character in Bellevue should be preserved. He asked the EBCC to support Save Our Scale's initiative.

Joni Vanderburg-Paner said that members of the Save Our Scale group met with City Councilmember Barksdale, who she said is supportive of their cause and encouraged them to propose holistic solutions that benefit everyone. She said they also met with City Councilmember Zahn, who also encouraged a holistic approach to identifying solutions. Ms. Vanderburg-Paner said Save Our Scale is not opposed to development. However, the new homes should fit into the character and scale of existing neighborhoods, offer solutions for senior adults aging in place, address housing affordability and protect trees.

5. REPORTS OF CITY COUNCIL, BOARDS, and COMMISSIONS

Deputy Mayor Nieuwenhuis thanked Councilmember Gooding for his service on the EBCC.

Mr. Nieuwenhuis provided an update on the City Council's activities over the past month. He said the Council made minor revisions before adopting the mid-biennium update to the 2021-2022 Budget and 2021-2027 Capital Investment Program (CIP) Plan on November 22. He said the Council is working to develop best practices and expectations related to permanent supportive housing, including in the areas of neighborhood outreach, relationship building and on-site supportive services.

Deputy Mayor Nieuwenhuis said the Council will take action soon regarding proposed updates to the Northwest Bellevue and Northeast Bellevue neighborhood area plans. He said the Council recently approved funding recommendations presented by the Arts Commission. He said the Council approved a Land Use Code Amendment (LUCA) to establish a density bonus for the development of affordable housing on certain land owned by religious, nonprofit and public entities.

Mr. Nieuwenhuis said the Council voted unanimously to adopt the residential occupancy LUCA, which removes the limit on the number of people living in a dwelling based on new state law. He said the Council has been working on the East Main Station Area LUCA and anticipates adoption by the end of the year. He said the City recently completed its business survey that is conducted every two years. Despite the pandemic, businesses are generally optimistic about the economic recovery. However, small businesses continue to express concerns regarding the lack of affordable tenant space. Mr. Nieuwenhuis said the Council received a presentation regarding economic development and tourism, including a proposal to create a tourism promotion area (TPA) to attract visitors to Bellevue.

6. **REPORT OF THE CHAIR**

City Attorney Kathy Gerla introduced Assistant City Attorney Brian Wendt, who will serve as the EBCC's legal counsel going forward. Ms. Gerla said that Mr. Wendt has extensive experience in representing local governments, including several counties in Washington state. He also served as general counsel for the Port of Port Angeles. Ms. Gerla said Chad Barnes was unable to attend this evening. She thanked him for his excellent work with the EBCC over the past year, which was intended to be an interim assignment.

Mr. Wendt said he looks forward to getting to know the EBCC members and supporting their efforts.

Chair Hummer thanked Ms. Gerla and welcomed Mr. Wendt. Ms. Hummer commended Mr. Barnes' effectiveness in working with the EBCC.

Councilmember Kasner expressed appreciation for Mr. Barnes' work with the EBCC. Responding to Mr. Kasner, Ms. Gerla said Mr. Wendt is in the position previously held by Catherine Drews and his immediate supervisor is the Deputy City Attorney.

7. **DEPARTMENT REPORTS**

(a) Single-Family Dwelling Rentals Update

Liz Stead, Land Use Director, introduced staff's update regarding the enforcement of regulations governing single-family dwelling rentals. She recalled that Ordinance No. 6223 went into effect on April 14, 2015 to regulate room rentals in single-family dwellings. The EBCC has been updated periodically since that time, with the last report covering the period ending on March 31,

2020. The report provided tonight covers the time period of April 1, 2020 through October 31, 2021.

Ms. Stead said the purpose of Ordinance No. 6223 was to maintain and strengthen the vitality and quality of Bellevue neighborhoods and to respond to concerns about single room rentals and transient rentals. The ordinance imposed a limit of four unrelated adults living in a single-family home unless they were able to show that they were living as a single household.

Ms. Stead said an interim official control (IOC) that removed the limit on the number of residential occupants was adopted in July 2021 following a change in state law. The City Council adopted Ordinance No. 6616 on November 15, 2021 to permanently amend the Land Use Code consistent with the newly enacted law, RCW 35A.21.314. Ms. Stead said the majority of the provisions adopted in Ordinance No. 6223 remain in place today. She said transient rentals are allowed only in owner-occupied dwellings that have a home occupation permit. She noted existing regulations to address external conditions including nuisances, noise, garbage, traffic, parking, and health and safety issues.

Heidi Skinner, Code Compliance Officer, described the complaint-based code compliance process. A finding of no violation is often made when the officer's investigation reveals that there is a legitimate explanation for what residents observe and report. Sometimes an officer is unable to confirm an alleged violation due to a lack of information. The Bellevue City Code directs that the alleged responsible parties (e.g., property owners, tenants) be provided a reasonable opportunity to voluntarily correct a violation before a notice of civil violation is issued and the case is forwarded to the Hearing Examiner. If corrective actions are taken, the case will be designated as Closed-Complied. If Code Compliance staff are unable to reach a decision that there is no violation or that the responsible party has complied with regulations, the case is forwarded to the Hearing Examiner for resolution.

Ms. Skinner said that from April 1, 2020 through October 31, 2021, there were 65 enforcement cases citywide and 10 in the EBCC jurisdiction. Within East Bellevue, three cases were closed with no violation, four were designated as Closed-Complied, three cases remain open and no cases were sent to the Hearing Examiner. Ms. Skinner presented a map depicting the locations of the cases citywide. She said one of the challenges faced by City staff is that the property owners or tenants may have a limited ability to speak or read English. She said the City continues to provide information about the residential rental ordinance to property owners, rental agents/realtors, community groups, homeowners associations and the general public.

Ms. Skinner commented on the challenges related to investigating room rentals advertised through Airbnb, Craigslist and other online platforms. Officers must try to link photos of the exterior and interior of the rental property and other printed information with the property under investigation. Ms. Skinner noted that advertising the availability of property for transient rental is not itself a violation of the ordinance. She said investigating this type of complaint can be very time-consuming. She said staff continues to work to increase public engagement. Ms. Skinner said that residential rental regulations, like other code requirements, are gradually being translated on the City's web site into the primary languages used by Bellevue residents. Staff

continues to work to implement streamlined code compliance procedures for single-family dwelling rental violations.

Councilmember Dhananjaya thanked staff for the presentation. Responding to Mr. Dhananjaya, Ms. Stead said the responsible party is defined as the person who has control over the property. In further response, Ms. Stead said it can be difficult to connect photos in room rental ads with specific properties.

Councilmember Gooding thanked staff for the update.

Councilmember Kasner thanked staff for their code enforcement work and expressed an interest in more information about the open cases. Ms. Stead said staff will provide written details on the open cases to the EBCC.

Chair Hummer said she is pleased to see that the number of cases is declining and that the public seems to be more aware of the regulations.

8. **PUBLIC/COURTESY HEARINGS**

(a) Public Hearing: Residential Occupancy Land Use Code Amendment (LUCA)

Chair Hummer introduced the public hearing regarding the residential occupancy Land Use Code Amendment (LUCA) adopted by Ordinance No. 6616.

Trisna Tanus, Consulting Attorney, recalled that the EBCC previously approved City Council Ordinance No. 6586 that established the interim official control (IOC) for regulating the number of unrelated occupants in a dwelling. A courtesy hearing on the proposed permanent regulations was held by the EBCC in October. Ms. Tanus said state legislation amended RCW 35A.21.314 to prohibit cities from regulating the number of unrelated occupants in a dwelling, effective July 25, 2021.

Caleb Miller, Senior Planner, said the Bellevue City Code and the Land Use Code contain a number of health and safety regulations applicable to fire safety, building safety, sanitation, heat, noise, transient lodging, nuisances, parking and traffic. The residential occupancy LUCA amends the definition of family and removes occupancy limits for specific housing types. Boarding houses and bed and breakfast inns are limited to renting two rooms to two individuals, and rooming houses may rent up to four rooms. Mr. Miller said that Process IV requirements were followed for noticing and holding the public hearing, and the City's web site contains information regarding the LUCA process and staff contacts. He said the notice for tonight's public hearing was issued in the weekly permit bulletin on November 24 and published in The Seattle Times on November 30.

Mr. Miller said the City Council adopted Ordinance No. 6616 on November 15, 2021. Staff is seeking the EBCC's action on the ordinance following the public hearing.

At 7:54 p.m., Councilmember Dhananjaya moved to open the public testimony portion of the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

No one came forward to comment.

At 7:55 p.m., Councilmember Dhananjaya moved to close the public testimony portion of the public hearing. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

Vice Chair Epstein thanked staff for the presentation. He said that removing the limit on the number of residential occupants might help to provide more affordable housing. However, he expressed concern that renting to an unlimited number of individuals will decrease health and safety for the occupants of the home and potentially for the neighborhood. He said a large number of individuals in one dwelling could exacerbate the spread of the COVID-19 virus. He noted concerns about noise and traffic impacts. Mr. Epstein said that many cities use the International Property Maintenance guidelines that limit the number of occupants based on square footage. He believes that would be a better standard for maintaining public health and safety.

Councilmember Gooding said he wants to maintain the beauty and character of Bellevue neighborhoods. He expressed concern about the potential impact of the state law and similar regulations over time, noting that they could make it easier for certain types of illicit activities to take place.

Councilmember Kasner said he will support the ordinance to comply with state law. He said he will trust staff and the City's codes and regulations to address problems and protect neighborhoods. He noted his interest in seeing that development is equitably distributed citywide and that no single neighborhood is burdened with a disproportionate amount of density or development. He thanked staff for the information and encouraged the City to be vigilant.

Councilmember Dhananjaya expressed concern about potential unintended consequences related to removing residential occupancy limits. He noted concerns regarding parking and traffic impacts.

Chair Hummer concurred with her colleagues. She said she is concerned about the people living in crowded homes. She objects to the state mandate removing occupancy limits because Bellevue has always been a well-planned community. She would like to see the City challenge this type of state requirement for the benefit of the community. She asked what would happen if the EBCC disapproves the ordinance.

Councilmember Gooding expressed concern that a series of legislative and other changes over time can contribute to the decline of a neighborhood. He wondered whether anyone who voted for the state law actually lives in a neighborhood that is likely to suffer negative impacts from the change in the law.

Councilmember Kasner noted that Assistant City Attorney Barnes provided a legal opinion regarding what would happen if the EBCC disapproved the ordinance and did not comply with

state law. Mr. Kasner noted that the City Council adopted the minimum change required by the new law and the EBCC is required to do so as well.

Responding to Chair Hummer, Ms. Tanus confirmed that if the EBCC disapproves the City Council ordinance, it will not be effective within the EBCC jurisdiction.

Assistant City Attorney Wendt said the EBCC would be out of compliance with state law and the consequences would be what was outlined in the confidential opinion provided by Chad Barnes.

9. **RESOLUTIONS**

- (a) Resolution No. 597 approving City Council Ordinance No. 6616

Councilmember Kasner moved to adopt Resolution No. 597 approving City Council Ordinance No. 6616. Vice Chair Epstein seconded the motion, which carried by a vote of 4-1, with Councilmember Gooding opposed.

10. **UNFINISHED BUSINESS**

- (a) Discussion of Infill Development

Chair Hummer recalled previous presentations to the EBCC by members of the Save Our Scale group regarding recommended Land Use Code revisions to address the tree canopy and the size and scale of new homes.

Rick Chesmore said Save Our Scale is a group of residents who are concerned about the impacts of residential redevelopment in existing neighborhoods. He said the group's proposed changes would apply to redevelopment only and not to new homes on vacant lots. The first recommendation is to reduce the allowed floor-area ratio (FAR) from 50 percent to 40 percent. The second recommendation is to reduce building height and to limit redeveloped homes to two stories. The third recommendation is for an increase in side yard setbacks from five feet to a minimum of 7.5 feet, or to 10 feet if there is a wall 15 feet or higher adjacent to the side yard. The fourth recommendation relates to tree retention. Mr. Chesmore said the Land Use Code currently calls for 30 percent tree retention, and Save Our Scale recommends increasing that to 50 percent. He further recommended retaining at least one tree in the front yard setback. He said some developers are removing all trees on a property.

Ben Brittingham described MN Custom Homes' process for building and selling homes based on market demand. He said tree retention can be resolved by looking at the overall tree canopy and determining how they can positively impact the canopy on specific properties and in other areas of the community. He noted the company's work with the Arbor Day Foundation to support tree plantings. He said MN Custom Homes has built and sold approximately 230 homes over the past 10 years. Mr. Brittingham said he is the director of sales, marketing and land acquisition for MN Custom Homes. He expressed an interest in working with the EBCC and the community to address their concerns.

Councilmember Dhananjaya thanked the guests for the information. He asked Mr. Brittingham about how his company identifies properties for acquisition. Mr. Brittingham said they identify properties based on lot size and square footage. He said residents interested in selling their homes often respond to their mailers. Mr. Brittingham said the average construction time is 7-8 months, and larger homes may take up to 10 months to build. Responding to Councilmember Dhananjaya, Mr. Brittingham said they work with people who already have their homes on the market as well as those who have not listed their homes for sale. He said they are often competing with other brokers or builders, which benefits the person selling their home.

Responding to Councilmember Dhananjaya, Mr. Chesmore said most of the lots in Lake Hills are 10,000 square feet or larger. He said his lot is 13,000 square feet, and his neighbor's lot is 21,000 square feet. With the suggested 40 percent FAR, a 4,000 square foot home could be built on a 10,000 square foot lot. Mr. Chesmore acknowledged that there is a market for larger homes. However, he said there is also a need for an adjustment in scale when building in existing residential development.

At 8:32 p.m., Vice Chair Epstein moved to extend the meeting for one hour. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

Responding to Vice Chair Epstein, Mr. Chesmore said Save Our Scale is not asking for the building footprint to stay the same when a house is torn down to be rebuilt. However, they believe there needs to be some sensitivity with regard to scale and neighborhood character.

Responding to Mr. Epstein, Mr. Brittingham said that new homes in West Bellevue tend to be up to 5,000 square feet. New homes in East Bellevue range from 3,200 to 4,600 square feet. Mr. Brittingham noted that it could be extremely difficult to redevelop on an odd-shaped lot under some of Save Our Scale's recommendations.

Responding to Councilmember Gooding, Mr. Brittingham confirmed that his company does send letters to homeowners based on the size of lots. He said some homeowners are able to sell to another individual for a higher price. However, his company is especially beneficial to owners of smaller homes on larger lots that will enable the builder to develop and sell a larger home.

Responding to Councilmember Kasner, Mr. Chesmore said Save Our Scale is not suggesting that open spaces should be developed. Rather, they are recommending code amendments that would apply only to redevelopment in existing neighborhoods to ensure sensitivity to existing neighborhood scale, character and affordability.

Mr. Kasner said that houses are going to continue getting larger based on market demand, and neighborhoods will evolve. He suggested focusing exclusively on the tree canopy. He said there are special tree codes in the Bridle Trails area, and it is important to better understand citywide needs.

Mr. Chesmore reiterated Save Our Scale's interest in retaining trees and revising Bellevue's tree code.

11. **NEW BUSINESS**

Chair Hummer introduced discussion with members of Kirkland's Houghton Community Council.

Rick Whitney, Chair of the Houghton Community Council, said the City of Kirkland is advocating to eliminate community councils (municipal corporations). He said the Houghton Community Council met with the Kirkland City Council and both sides presented their perspectives. However, there was no opportunity for discussion. He said Larry Springer is a longtime advocate of eliminating the two community councils in the state.

Mr. Whitney suggested speaking with state legislators to determine their thoughts on the proposed legislation before the legislative session begins in early January. He said the Houghton Community Council is interested in whether there could be a legal basis for demanding the ability to reinstate as a separate town or city.

Councilmember Kasner moved to create a legislative action committee to work with the Houghton Community Council to address the ongoing existence of community councils and other issues of mutual interest. Vice Chair Epstein seconded the motion.

Mr. Kasner recalled that in 2012, the EBCC was not aware of Representative Larry Springer's attempts to sunset the community councils until legislation had already passed in the House. He said he has recently reached out to legislators representing the 41st and 48th Districts to alert them to the issue.

Responding to Councilmember Dhananjaya, Mr. Wendt noted the aggressive timing and suggested that the first issue is to determine the boundaries of what legal counsel can advise on legislative issues. He said a preliminary opinion was provided to Chair Hummer and Councilmember Kasner. However, further analysis is needed before getting back to the EBCC in more depth.

Mr. Whitney said the Houghton Community Council has a respectful and collaborative relationship with members of the Kirkland City Council. However, the Kirkland City Council is of the opinion that it is not fair for a small area of the community to have more influence over City decisions than any other neighborhood or area. A comprehensive equity analysis of Kirkland's municipal operations identified the community council as inherently and structurally unfair.

Mr. Wendt noted that he is the legal adviser to the EBCC. City Attorney Gerla said she was not aware of this topic and that there are a number of legal issues to sort through.

Responding to Ms. Gerla, Councilmember Kasner said the essential question is what is the EBCC's legal authority to exist and to lobby for its continued existence when there is proposed legislation to eliminate the community councils?

Mr. Whitney said that if the condition for annexation to a city was to establish a community council and have some influence over certain land use decisions and that basis is removed, is there a legal basis for the two areas (East Bellevue and Houghton) to separate from their respective cities?

Ms. Gerla noted that Bellevue staff is only authorized to advise the EBCC.

Councilmember Dhananjaya asked whether the EBCC could leverage Deputy Mayor Nieuwenhuis, liaison to the EBCC, to work with the City Council and possibly seek resolution as a partnership with the City Council.

The motion to establish a legislative committee with members of the Houghton Community Council carried by a vote of 5-0.

John Kappler, a member of the Houghton Community Council, said he believes that some of their actions, including vetoes of certain land use decisions, might have caused the Kirkland City Council to take this course of action. He suggested that the EBCC contact their constituents and ask them to get involved in this issue.

12. **CONTINUED COMMUNICATIONS**

Councilmember Kasner thanked Councilmember Gooding for serving on the EBCC from April 2006 through December 31, 2021. Mr. Kasner encouraged Mr. Gooding to stay involved in the EBCC's activities.

Councilmember Dhananjaya thanked Councilmember Gooding for his partnership and collaboration on the EBCC.

Vice Chair Epstein thanked Councilmember Gooding for his community service and wished him well in his future endeavors.

13. **APPROVAL OF MINUTES**

- (a) Summary Regular Meeting Minutes of November 2, 2021

Councilmember Kasner moved to approve the minutes of the November 2, 2021 Regular Meeting. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Responding to Chair Hummer, Deputy City Clerk Roberts said there will be a courtesy hearing on the supportive and emergency housing LUCA and a public hearing on the affordable housing density bonus LUCA in January. In February, the EBCC will elect officers and address the transportation policy Comprehensive Plan amendments. In March, there will be a public hearing on the Glendale Country Club rezone.

14. **ADJOURNMENT**

At 9:29 p.m., Chair Hummer declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

/kaw