

East Bellevue Community Council
Summary Minutes of Regular Meeting

March 1, 2022
6:30 p.m.

Virtual Meeting
Bellevue, Washington

PRESENT: Chair Kasner, Vice Chair Dhananjaya, Alternate Vice Chair Epstein and Councilmembers Hummer and Lai

ABSENT: None

STAFF: Brian Wendt, Assistant City Attorney, City Attorney's Office
Liz Stead, Land Use Director, Development Services Department (DSD)
Reilly Pittman, Senior Planner, Development Services Department (DSD)
Kristina Gallant, Code and Policy Senior Planner, Development Services Department (DSD)

1. CALL TO ORDER

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

2. ROLL CALL/FLAG SALUTE

Deputy City Clerk Karin Roberts called the roll and all Councilmembers were present. Councilmember Hummer led the flag salute.

3. APPROVAL OF AGENDA

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

4. COMMUNICATIONS: WRITTEN AND ORAL

Chair Kasner announced that the state legislature voted earlier in the day to eliminate the community councils in Bellevue and Kirkland within the next 60-90 days. He said he attended the Houghton Community Council meeting the night before to talk about legislation, and approximately 100 people had signed up to speak about the La Quinta hotel purchase to create a homeless services facility.

Mr. Kasner said he attended a neighborhood leaders meeting regarding the Comprehensive Plan update and more than 150 people attended that event. More than 70 people attended the Lake Hills Neighborhood Association's (LHNA) meeting in February for presentations regarding neighborhood character. Mr. Kasner said the next LHNA meeting will include a presentation from the Police Department and the Fire Department.

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

6. REPORT OF THE CHAIR

(a) Open Public Meetings Act (OPMA) and Public Records Act Training (PRA)

Chair Kasner welcomed Jessica Skelton from Pacifica Law Group to provide training about the Open Public Meetings Act (OPMA) and the Public Records Act (PRA) and how they affect the role of EBCC members.

Ms. Skelton provided an overview of the OPMA, which applies to all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices and all other public agencies of the state and its subdivisions. The OPMA requires that meetings be accessible to the public and that the meeting agenda and minutes be released for the public as well. Ms. Skelton said that a discussion of any three Councilmembers about City-related business constitutes a meeting that must be open to the public.

Ms. Skelton said that meeting agendas must be posted at least 24 hours in advance of a meeting. Items may be added to the agenda, but action can be taken only on items posted 24 hours in advance. She said the EBCC cannot take action during an Executive Session as all decisions must be reached through discussion at an open meeting. She cautioned that a serial discussion among EBCC members using any method of communication (e.g., phone calls, text messages, emails, and online discussions) could qualify as a meeting under the OPMA. She described an ongoing case for the City of Seattle involving Councilmembers and staff who communicated extensively via a number of methods regarding the head tax. Ms. Skelton said elected officials are allowed to socialize with each other. However, they should not discuss any Council business.

Ms. Skelton highlighted the rules applicable to executive sessions, which can be held only for specific reasons and cannot involve any formal Council action. The discussion must follow state guidelines regarding what can and cannot be discussed during an executive session.

Ms. Skelton said that claims of violations of the OPMA can be made against both a governing body and individuals.

Responding to Councilmember Hummer, Ms. Skelton suggested that it is preferable for the Deputy City Clerk to initiate email communications to the EBCC than for EBCC members to generate emails that could end up resulting in a serial meeting.

Moving on, Ms. Skelton provided an overview of the PRA, which was established as a “strongly worded mandate for the broad disclosure of public records.” The law requires the disclosure of all records with a few specific types of exceptions. The public may request the records in any particular form, including in electronic form. Ms. Skelton described guidelines regarding the use of email and social media.

Ms. Skelton commented on the issue of segregating personal records from information that could potentially be subject to PRA requests. She noted a court decision in Pierce County regarding an elected official who used his personal phone to communicate regarding county business. In that case, his personal phone was subject to the public records request. Ms. Skelton commented regarding the importance of keeping all personal records separate from government records. She

highlighted cases involving social media posts about city business. Ms. Skelton encouraged EBCC members to contact staff regarding the retention periods for different types of records.

Ms. Skelton said individuals may sue cities they believe are guilty of violating the PRA. An agency may be required to pay legal fees and other costs for failing to comply with a public records request. Ms. Skelton said a city or agency must show good faith in its attempt to identify and provide documents.

Responding to Chair Kasner, Ms. Skelton said EBCC members should provide any records still within their retention period to City staff when the EBCC comes to an end under the new state law.

Chair Kasner thanked Ms. Skelton for the presentation.

7. **DEPARTMENT REPORTS:** None.

8. **PUBLIC/COURTESY HEARINGS**

(a) Public Hearing: Glendale Country Club Rezone

Brian Wendt, Assistant City Attorney, introduced the public hearing regarding the proposed Glendale Country Club rezone. He said the EBCC is sitting in its capacity as a quasi-judicial body in its review of the rezone application. He said EBCC members must maintain fairness and impartiality and are not allowed to consider or otherwise engage in ex parte or off-the-record communications regarding the rezone.

EBCC members are required to disclose all ex parte contacts regarding the proposal, whether verbal or written exchanges. If local government officials acting in a quasi-judicial capacity cannot exclude ex parte information from their consideration and base their decision solely on the record, and affirm that they will maintain impartiality, they are to be recused from participating in the final decision.

Mr. Wendt said that if EBCC members had ex parte communications to disclose, they should provide the name of the person, date or approximate date of the contact, method of communication and the substance of the communication. Following all Councilmember disclosures, the parties will be offered the opportunity to comment on the substance of any ex parte communication. Mr. Wendt suggested that Chair Kasner give each Councilmember the opportunity to disclose any ex parte contacts.

Responding to Chair Kasner, all EBCC members indicated they have not had any ex parte contacts.

Liz Stead, Land Use Director, said this is the third meeting with the EBCC regarding the Glendale Country Club proposal.

Reilly Pittman, Senior Planner/Acting Planning Manager, Development Services Department (DSD), said the rezone parcel is located in the northeast corner of the Glendale Country Club.

The parcel is currently zoned R-1 and is proposed to be rezoned to R-10 to be consistent with a Comprehensive Plan Amendment (CPA) adopted in 2020. There is no proposed development plan associated with the rezone application.

Mr. Pittman said the rezone is a Process III application. The DSD Director issued a recommendation to the Hearing Examiner following staff's review of the proposal. The Hearing Examiner held a public hearing on November 18, 2021 and issued a recommendation of approval to the City Council on November 30, 2021. No appeals were filed, and the City Council approved the rezone request with the adoption of Ordinance No. 6648. The rezone is within the EBCC jurisdiction and the EBCC must take action on the City Council ordinance. Mr. Pittman noted that a determination of non-significance (DNS) for the CPA and the rezone request was issued on October 8, 2020.

Mr. Pittman described a map showing the rezone parcel. The surrounding area is primarily zoned R-2.5 and R-3.5, and there is multifamily development east and northeast of the site. Mr. Pittman said there are some wetlands/critical areas on the parcel.

Mr. Pittman summarized the public engagement process. Public notice and signage were posted at the site on April 29, 2021, and a courtesy hearing was held with the EBCC on May 4, 2021. A second courtesy hearing was held on September 8, 2021 and the minutes of those two EBCC meetings are included in the project file. No comments were received from the public during the meeting. One comment expressing concern regarding traffic and safety impacts was previously submitted to the Hearing Examiner.

Mr. Pittman said the rezone proposal does not include a specific development plan. Future development will be proposed under separate applications and must meet all codes in place at the time an application is submitted. He noted that LUC 20.25B, Transition Overlay Area, and LUC 20.25H, Critical Area Ordinance, apply to the site.

Mr. Pittman said the Hearing Examiner and the City Council determined that the proposal met all of the decision criteria provided in the Land Use Code.

At 7:36 p.m., Councilmember Hummer moved to open the public hearing. Vice Chair Dhananjaya seconded the motion, which carried by a vote of 5-0.

No one came forward to comment.

At 7:37 p.m., Councilmember Hummer moved to close the public hearing. Councilmember Lai seconded the motion, which carried by a vote of 5-0.

Councilmember Hummer said she did not recall that the boundary line adjustment was involved with the rezone.

Responding to Councilmember Lai, Mr. Pittman said R-10 zoning allows up to 10 housing units per acre. The units may be single-family homes, multifamily homes, duplexes, triplexes, condos, etc.

Chair Kasner noted that the parcel is located on a golf course, which he considers park land. He said it is important for the City to focus on preserving park land and open spaces.

Mr. Kasner thanked staff for their time and information.

(b) Public Hearing: Clean-up Land Use Code Amendment (LUCA)

Kristina Gallant, Code and Policy Senior Planner, recalled that a courtesy hearing on the Clean-up LUCA was held with the EBCC in November. Following tonight's public hearing, staff requests that the EBCC take action on Resolution No. 604 approving City Council Ordinance No. 6643.

The revisions reflected in the LUCA are intended to improve clarity and internal consistency and to correct inaccurate or outdated citations. The revisions are categorized as: 1) references and numbering and 2) internal consistency and clarity. Ms. Gallant noted that nearly all of the revisions affect the Downtown Code and do not affect the code applicable within the EBCC jurisdiction.

Ms. Gallant highlighted the LUCA process. The Planning Commission held a study session on October 27, 2021 and the EBCC held a courtesy hearing on November 2, 2021. The Planning Commission held its public hearing and issued its recommendation on December 8, 2021. The City Council discussed the proposal on January 10, 2022 and took action approving the rezone on January 24, 2022. The purpose of tonight's meeting is to hold the public hearing and take formal EBCC action.

At 7:50 p.m., Councilmember Lai moved to open the public hearing. Councilmember Epstein seconded the motion, which carried by a vote of 5-0.

No one came forward to comment.

At 7:51 p.m., Councilmember Hummer moved to close the public hearing. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Hearing no questions or comments from the EBCC, Chair Kasner thanked staff for the presentation.

9. RESOLUTIONS

(a) Resolution No. 603 approving City Council Ordinance No. 6648

Councilmember Hummer moved to adopt Resolution No. 603 approving City Council Ordinance No. 6648. Councilmember Epstein seconded the motion, which carried by a vote of 5-0.

(b) Resolution No. 604 approving City Council Ordinance No. 6643

Councilmember Hummer moved to adopt Resolution No. 604 approving City Council Ordinance No. 6643. Vice Chair Dhananjaya seconded the motion, which carried by a vote of 5-0.

10. UNFINISHED BUSINESS

(a) Status Update of House Bill 1769

Chair Kasner said House Bill 1769 terminating the community councils was approved that day by a majority of the State Senate. He noted Councilmember Hummer's extensive involvement in lobbying against the bill.

Councilmember Hummer said her efforts were assisted by other residents. She said she was disappointed that the voters' rights were completely dismissed. She feels it is a travesty to get rid of the community councils. She opined that the move could influence the public's trust of government. She believes the EBCC has provided effective public service to protect the neighborhood and to further residents' goals.

Ms. Hummer said that Karen Levinson helped coordinate the recent efforts to lobby against the legislation. She thanked Senator Phil Fortunato and others who voted in favor of continuing the community councils.

Councilmember Lai thanked Chair Kasner and Councilmember Hummer for their efforts as private citizens to champion the continuation of the community councils. He thanked everyone who helped with that effort.

Alternate Vice Chair Epstein thanked Chair Kasner and Councilmember Hummer for all of their work to respond to HB 1769.

Vice Chair Dhananjaya said it was unfortunate that the state legislature voted to end the community councils. He said he has enjoyed learning about local government and the issues affecting East Bellevue in particular. He said he has enjoyed working with everyone.

Chair Kasner thanked Karen Levinson for her tireless efforts to retain the community councils. Mr. Kasner said the issue originated in Kirkland related to the Houghton Community Council. He said My-Linh Thai was the only Democrat in the House to vote in favor of the community councils. He thanked Senator Lisa Wellman and Senator Phil Fortunato for their support as well.

Mr. Kasner expressed disappointment that Mayor Lynne Robinson and Senator Patty Kuderer did not support the community councils.

Chair Kasner said the residents of the Houghton area in Kirkland and the EBCC jurisdiction are considering ways to leave their respective cities. He said there is a path in which they could form their own city or join another city. He opined that the City of Bellevue is not interested in public input, at least not to the extent that it was 20 years ago. He expressed interest in continuing his advocacy efforts.

Councilmember Hummer said she just heard from John Kappler of the Houghton Community Council. He is attending a Kirkland City Council meeting this evening. Ms. Hummer said that Mr. Kappler expressed his appreciation for the EBCC.

Ms. Hummer said that even if the EBCC no longer exists, she intends to be involved in the Comprehensive Plan Update and to help other neighborhoods become more involved. She expressed support for City Councilmember Robertson's suggestion to distribute affordable housing throughout the community instead of in one area or part of town. Ms. Hummer noted the importance of good relationships with schools, the King County Housing Authority, and others.

Ms. Hummer thanked the EBCC's constituents for their support in voting for the continuance of the community council. She thanked her fellow Councilmembers for trusting her to serve four years as the EBCC Chair.

Chair Kasner said the legislation still needs to be signed by the governor. However, he is expected to do so, and the community councils will end.

11. NEW BUSINESS: None.

12. CONTINUED COMMUNICATIONS

Councilmember Hummer encouraged everyone to attend the Planning Commission meetings and to read their meeting minutes. She said the commission is currently discussing permanent supportive housing as well as other types of housing.

Pamela Johnston said her One Bellevue committee has been working to gather information regarding some of the proposed state legislation addressing accessory dwelling units (ADUs) and other potential types of housing. She noted their work with City staff to increase transparency in the Comprehensive Plan update process. She thanked the EBCC members for their service to the community.

13. APPROVAL OF MINUTES

(a) Summary Regular Meeting Minutes of February 1, 2022

Councilmember Hummer moved to approve the minutes of the February 1, 2022 Regular Meeting. Councilmember Lai seconded the motion, which carried by a vote of 5-0.

14. ADJOURNMENT

At 8:21 p.m., Chair Kasner declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

/kaw