

East Bellevue Community Council
Summary Minutes of Regular Meeting

August 7, 2018
6:30 p.m.

Bellevue City Hall
Bellevue, Washington

PRESENT: Chair Hummer, Vice Chair Walter, Alternate Vice Chair Gooding, and Councilmembers Dhananjaya and Kasner

ABSENT: None.

STAFF: Carol Helland, Code and Policy Director

1. **CALL TO ORDER**

The meeting was called to order at 6:31 p.m., with Chair Hummer presiding.

2. **ROLL CALL**

Deputy City Clerk Karin Roberts called the roll. All Councilmembers were present.

3. **FLAG SALUTE**

Councilmember Gooding led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Chair Hummer read RCW 35.14.050, Powers and duties of community municipal corporation.

Bart Goft asked about the City of Bellevue's holistic program in dealing with the homeless issue. He expressed concern regarding increasing rents for seniors and people with disabilities. He spoke in favor of the City and the State implementing a holistic policy framework for rental regulations.

Irene Fernandes, a Board Member for the Lake Hills Neighborhood Association (LHNA), said the LHNA picnic was held on July 21 with approximately 300 people attending. She noted that all of the leftover food went to HopeLink and to the Patriots Glen assisted living community. She said the next LHNA meeting is scheduled for September 13 and will include a candidate forum. The second annual Trunk or Treat event will be held on October 27.

Don Boettiger spoke about the Puget Sound Energy (PSE) substations. He asked where customers are getting their power if the two substations involved in the Lake Hills transmission

line project are not currently linked. He cautioned the EBCC to be skeptical about information received from PSE. He said one of the substations has not been operating for the past 45 days.

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

6. **APPROVAL OF AGENDA**

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

7. **DEPARTMENT REPORTS:** None.

8. **PUBLIC/COURTESY HEARINGS**

(a) Public Hearing: Homeless Services Uses Land Use Code Amendment (LUCA)

Carol Helland, Code and Policy Director, described the Homeless Services Uses Land Use Code Amendment (LUCA) adopted by the City Council through Ordinance No. 6419 on July 16. The LUCA provides the permitting process and regulations to be applied to a future shelter for individuals experiencing homelessness. She said the East Bellevue Community Council must take action to approve or deny the LUCA within 60 days, or the Ordinance will be considered approved by the EBCC.

Ms. Helland said the Council's priorities support the establishment of a year-round men's homeless shelter for the Eastside. A seasonal winter shelter has operated in Bellevue over the past eight years. The Council's objective is to ensure that homelessness is rare, brief, and one-time. This includes efforts to prevent individuals from becoming homeless.

The LUCA provides two permitting paths: Conditional Use Permit (CUP) Process I and development agreement. The LUCA describes the use requirements, development standards, and design guidelines applicable to homeless services uses. The public involvement process is the same for both approaches. The CUP process involves a public hearing and a decision by the Hearing Examiner, with the opportunity to appeal the decision to the City Council.

Ms. Helland described a map depicting the land use districts in which shelters are allowed: General Commercial (GC), Community Business (CB), Eastgate transit-oriented development, Office-Limited Business (OLB), Office-Limited Business 2 (OLB-2). A shelter is allowed in all of the Downtown and BelRed districts, with the exception of the BelRed ORT (Office-Residential Transition) zone on the south side of NE 8th Street. Shelters are also allowed in all Factoria and Medical Institution districts.

Ms. Helland identified the Community Business locations within the EBCC jurisdiction: 1) Champions Centre (adjacent to Bellevue College), 2) Main Street and 148th Avenue, 3) Lake Hills Village, 4) NE 8th Street and 156th Avenue NE, and 5) NE 8th Street and 148th Avenue NE.

Ms. Helland noted that Vice Chair Walter previously asked staff to provide the land use charts as a point of comparison between current regulations and the recently adopted LUCA. Ms. Helland said the only district in East Bellevue where shelters are allowed under the LUCA is Commercial Business.

At 6:50 p.m., Vice Chair Walter moved to open the Public Hearing. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Bart Goft encouraged a holistic approach to address homelessness. He noted his background in working to prevent homelessness and discrimination. He spoke about the Senior Citizen Rent Increase Exemption (SCRIE) program in New York City. He asked about the use of a tracking system by shelters.

Tzachi Litov spoke about his background in nonprofit organization management. He expressed concern that the City Council approved the LUCA. He questioned how potential shelter sitings would look if there was a buffer requirement. He opined that shelters do nothing to help homelessness to be rare, brief, and one-time. He does not want Bellevue to become like Seattle. He urged the EBCC to not adopt the LUCA and to ask for more information.

Don Boettiger spoke about the July 16 City Council meeting during which the LUCA was adopted by the Council by a vote of 4-3. He noted that the Mayor found some problems with the Ordinance but felt compelled to vote for it. He asked the EBCC to do it the right way.

Tzachi Litov said he was disheartened by the turnout at tonight's meeting. He spoke about the shelter concept being sprung on the Planning Commission after its work on the Eastgate Land Use Code Amendment (LUCA). He opined that the Mayor supports siting a shelter at the Eastgate location. He said the EBCC has the power to affect real change. He spoke about the effects of having a homeless population near schools. He is opposed to the development agreement permitting path. He opined that under the CUP process, the Hearing Examiner must take every comment into account.

Bart Goft said the EBCC could be an advocate for East Bellevue residents to the City Council.

At 7:09 p.m., Vice Chair Walter moved to close the public hearing. Councilmember Gooding seconded the motion, which carried by a vote of 4-1, with Councilmember Kasner dissenting.

Responding to Councilmember Kasner, Ms. Helland said there are two permitting paths in the LUCA based on the Council's decision: development agreement and Conditional Use Permit (CUP). A development agreement would not require EBCC approval.

Vice Chair Walter expressed concern that a Community Business property could be rezoned to Neighborhood Mixed Use, which would allow a shelter to be permitted outright. She recalled the EBCC's input to the City Council regarding a 1,000-foot buffer requirement, allowing the CUP process only, metrics, and no drug consumption services associated with a shelter. Given that the EBCC's input, except for one issue, was not incorporated into the LUCA, Ms. Walter said she opposes the LUCA.

Councilmember Gooding expressed concern regarding crime and drug use impacts. He said the City of Seattle is probably the worst example of enabling negative behaviors, which is a disservice to its citizens. He is in favor of a buffer requirement around shelters.

Responding to Councilmember Dhananjaya, Ms. Helland confirmed that a shelter is allowed a maximum of 100 beds. In further response, Ms. Helland said there was a presentation by the Bellevue Police Department on April 23 regarding crime statistics related to the winter shelter. The Police Department is required to provide input on a shelter's security and safety plan, and the plan and any permits of approval are administered through the Development Services Department (DSD). If there is a complaint regarding an applicant's failure to meet a condition of a permit, the City conducts enforcement action. An escalation of enforcement can ultimately result in the revocation of an operating license.

Mr. Dhananjaya noted the importance of addressing the underlying reasons for homelessness. Ms. Helland said there is additional information regarding homeless services uses on the City's website, which describes the holistic approach. She said the LUCA and the siting of a men's homeless shelter is one component of an overall strategy. That strategy includes mechanisms to address the prevention of homelessness.

In further response to Mr. Dhananjaya, Ms. Helland said that individuals trying to access shelters are typically from the immediate geographic area. However, the regulations do not require proof of Bellevue residency to obtain services. She noted that the men's homeless shelter will serve the outside. Kirkland has an Eastside women's and family shelter, and Redmond has a shelter for youth. Ms. Helland said Ordinance No. 6419 acknowledges that it is important to have transit services in proximity to shelters.

At 7:29 p.m., Councilmember Kasner moved to reopen the public hearing. Vice Chair Walter seconded the motion, which carried by a vote of 5-0.

Fiona Cofield said the Homeless Services Uses LUCA allows the siting of shelters within 1,000 feet of homes. She opined that the development agreement permit path does not require the City Council to be put under oath or to adhere to the appearance of fairness doctrine. She said dozens of residents expressed opposition to the development agreement option and support for a buffer requirement. She expressed concerns regarding security and safety in neighborhoods and near schools and noted the negative impacts related to the City of Seattle's approach to the issue of homelessness. She urged the EBCC to reject the LUCA.

At 7:33 p.m., Councilmember Kasner moved to close the public hearing. Vice Chair Walter seconded the motion, which carried by a vote of 5-0.

Councilmember Kasner said the EBCC has rejected City Council Ordinances only eight times in the EBCC's 39-year history. If the LUCA is approved, all five of the Community Business areas in East Bellevue could have shelter applications involving a development agreement, and the EBCC would not have jurisdiction over those agreements. Mr. Kasner suggested tabling the

discussion until a legal framework is in place that allows the EBCC to more appropriately address homeless shelters in East Bellevue.

Vice Chair Walter said that, if the LUCA is not approved, the current land use charts will continue to apply. She said the EBCC jurisdiction does not include any land use districts in which a shelter could be permitted outright. A shelter permit application in the Community Business district requires the CUP process. She said a shelter permit application would be treated as a transient use and processed as a conditional use. Ms. Helland noted that if the LUCA is rejected, none of its provisions will apply to a CUP (e.g., Good Neighbor Agreement and GNA Advisory Committee).

Chair Hummer recalled that the EBCC previously approved the Interim Official Control Ordinance regarding shelter permitting. In June, the EBCC held a courtesy hearing on the Homeless Services Uses LUCA and developed a formal statement that was presented to the City Council. The EBCC spoke in support of removing the development agreement permitting path and recommended that the membership of the GNA Advisory Committee should not be directed solely by the Director of the Development Services Department. The EBCC felt that each neighborhood association should appoint its own representative, and that each Councilmember should select one representative. Ms. Hummer said the EBCC also asked the City Council to include light industrial zones in the LUCA to provide the flexibility for future unanticipated service needs. The EBCC also voted that homeless services use operators should be required to use the Homeless Metric Information System (HMIS). Ms. Hummer said the EBCC previously suggested that the LUCA should explicitly exclude drug consumption sites at shelters, and that provision was included in the LUCA by the City Council. The EBCC asked that the LUCA include a 1,000-foot buffer requirement.

Chair Hummer said the EBCC presented its input to the City Council on June 11 during the public hearing. However, none of the EBCC's suggestions were incorporated into the LUCA, except for the language regarding drug consumption sites. Ms. Helland said the EBCC has been working diligently to represent its constituents. If the EBCC does not approve the LUCA Ordinance, a shelter permit application would involve courtesy hearings and public hearings on the CUP application, similar to the process for Puget Sound Energy's transmission line project.

Ms. Hummer asked staff to describe a Process I CUP, as referenced in the LUCA. Ms. Helland said that one of the City Council's goals with Ordinance No. 6419 was to approve a permitting process that would be consistently applied Citywide. She said a Process I CUP involves a Director recommendation, Hearing Examiner public hearing and decision, and the opportunity to appeal to the City Council. An additional appeal would go to the Superior Court. Ms. Helland said the EBCC does not have a role in Process I land use permitting review. For Process III matters, the EBCC has the opportunity to provide input during the courtesy hearing before a decision is made, and to exercise its approval/disapproval jurisdiction.

Responding to Ms. Hummer, Ms. Helland said a Process III CUP involves a Director recommendation and a Hearing Examiner public hearing and recommendation. The EBCC's courtesy hearing typically occurs before the Director issues their recommendation, and the

EBCC's comments are provided to the Director. The Hearing Examiner's recommendation always goes to the City Council, and the matter can also be appealed to the City Council.

Responding to Councilmember Dhananjaya, Ms. Helland said the Hearing Examiner is a neutral third party hired by the City Clerk's Office. They are typically attorneys or pro tem judges with expertise in land use and environmental law.

Responding to Councilmember Kasner, Ms. Helland said that Ordinance No. 6419 provides the two permitting paths: development agreement and Process I CUP. She said CUP applications for projects outside of the EBCC jurisdiction are typically processed as a Process I conditional use. Permits affecting the EBCC area are handled as Process III CUPs. She said Process III applications automatically result in a City Council action by ordinance because the EBCC can only act on ordinances passed by the City Council.

Responding to Chair Hummer, Ms. Helland said the general provisions of the Land Use Code will apply to any permit if the Homeless Services Uses LUCA is not approved by the EBCC. Criminal and code compliance matters would be enforced by the Police Department and the appropriate City staff under the City Code.

Responding to Councilmember Kasner, Ms. Helland said that, in the absence of Ordinance No. 6419 and the LUCA, the City would apply the current transient uses/hotel/motel regulations through the permit process. Typical regulations regarding building heights, setbacks, etc., would apply. However, the number of shelter beds would not be restricted based on the Land Use Code if Ordinance No. 6419 is not adopted.

Responding to Chair Hummer, Councilmember Kasner moved to review the two resolutions presented for the EBCC's consideration. Vice Chair Walter seconded the motion, which carried by a vote of 5-0.

Chair Hummer said she believes that the EBCC should document its findings and the views of its constituents in formal resolutions. She referred the EBCC members to the draft resolutions provided in the meeting materials and read her suggested Whereas clauses. She highlighted the EBCC's previous suggestions to: 1) remove the development agreement option from the LUCA, 2) modify the procedure for selecting members of the Good Neighbor Agreement (GNA) Advisory Committee, 3) include light industrial districts in the LUCA, 4) require the use of the Homeless Metric Information System (HMIS), 5) restate the City's prohibition on drug consumption sites, and 6) require a 1,000-foot buffer around shelters.

Following a discussion regarding the language proposed by several Councilmembers, the EBCC agreed to a series of Whereas clauses and directed the Deputy City Clerk to prepare a resolution for future action.

Councilmember Kasner moved to table formal action on City Council Ordinance No. 6419 until the EBCC's September meeting, under the condition that an interim special meeting will be held on this issue before the September meeting. Vice Chair Walter seconded the motion.

Mr. Kasner noted there are legal matters that have not been resolved. Vice Chair Walter suggested scheduling a special meeting for further consideration of the Ordinance, which was accepted as a friendly amendment and incorporated into the motion above.

The motion carried by a vote of 4-1, with Councilmember Gooding dissenting.

At 8:47 p.m., Chair Hummer recessed for 10 minutes. The meeting resumed at 8:59 p.m.

9. **RESOLUTIONS**

- (a) Resolution 570 adopting updated Community Council Rules of Procedure

Chair Hummer requested discussion and/or a motion to adopt the updated Community Council Rules of Procedure.

Vice Chair Walter noted the following language at the bottom of page 2: "It shall be the presiding officer's duty to see that the transaction of Community Council business is in accord with these Rules of Procedure, and when not covered by Robert's Rules of Order." She suggested changing the language to indicate that the EBCC "follows the Community Council Rules of Procedure and, if something is not covered in those Rules, the EBCC follows Robert's Rules of Order."

Vice Chair Walter moved to adopt Resolution 570, as amended on the floor. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

- (b) Resolution 571 approving/denying City Council Ordinance No. 6419

[Postponed.]

10. **COMMITTEE REPORTS**

- (a) EBCC Capital Budget Committee Update

No report.

11. **UNFINISHED BUSINESS**: None.

12. **NEW BUSINESS**

- (a) Discussion Regarding Potential Future Agenda Items
- Conformance LUCA
 - Affordable Housing Strategy Update

Vice Chair Walter said she spoke as an individual during the City Council's budget public hearing the night before, where she cited Comprehensive Plan policies regarding neighborhoods

and community building. She reported that she requested funding to supplement neighborhood associations and community groups in their community events. She suggested that the EBCC make a formal request to the City Council.

Chair Hummer noted the importance of staying focused on the City's Affordable Housing Strategy and suggested that an EBCC member serve as a liaison to the Human Services Commission. Vice Chair Walter suggested reviewing the list of nonprofit organizations that receive funding from the City. Ms. Hummer suggested that the EBCC participate in the tour of affordable housing by ARCH (A Regional Coalition for Housing).

Councilmember Kasner requested a future discussion regarding the location of EBCC meetings.

13. **CONTINUED COMMUNICATIONS**

Bart Goft proposed adding flags along 148th Avenue or 156th Avenue that represent the diversity of East Bellevue. With regard to shelters, he suggested using the term "transitional shelter" instead of "homeless shelter".

14. **EXECUTIVE SESSION:** None.

15. **APPROVAL OF MINUTES**

- (a) Summary Minutes of the June 5, 2018 Regular Meeting

Councilmember Kasner moved to approve the minutes of the June 5, 2018 Regular Meeting. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Vice Chair Walter moved to reschedule the next EBCC meeting to September 5. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

16. **ADJOURNMENT**

Vice Chair Walter moved to adjourn. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

At 9:17 p.m., Chair Hummer declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

/kaw