

East Bellevue Community Council
Summary Minutes of Regular Meeting

October 5, 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
Trisna Tanus, Consulting Attorney, Development Services Department (DSD)
Caleb Miller, Senior Planner, 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 Dhananjaya led the flag salute.

Responding to Chair Hummer, Assistant City Attorney Chad Barnes said the EBCC meeting is conducted following Robert's Rules of Order. Before an individual may speak, they should be recognized by the Chair. He said every Councilmember should be allowed to speak. However, the EBCC should avoid getting into a dialogue.

3. **APPROVAL OF AGENDA**

Chair Hummer moved to amend the agenda to add Edit Resolution to Support Save Our Scale under Unfinished Business. There was no second.

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

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Chair Hummer indicated that the EBCC cannot hear public comment regarding rezones or conditional use permit (CUP) applications that come before the body as quasi-judicial matters. The EBCC cannot hear public comment regarding Puget Sound Energy's Energize Eastside project or about the Glendale and NE 8th rezones, except during the courtesy/public hearings. Chair Hummer said members of the public may submit written comments on those subjects to ebcc@bellevuewa.gov and they will be included in the official record.

Noel Le played an excerpt from a podcast of an individual opposed to teaching critical race theory in schools. The individual on the podcast is introduced as having served as an elected official. That individual said that critical race theory has been trending on the national news and on Twitter over the past year. Mr. Le said the rest of the podcast is an extended interview of the individual. He expressed concern that the voice of the individual identifying himself as Connor Nash may be familiar to other EBCC members. Mr. Le said he has information that Connor Nash is engaging in efforts to disrupt the education system.

Peter Davidson said he too is concerned that Connor Nash is a fictional character who is creating discord on social media. He said that it has been well documented and provided to the EBCC. Mr. Davidson said the individual's social media posts are targeting administrators and inciting hateful speech. Mr. Davidson clarified that critical race theory is not taught in public schools. He said the individual is publicly endorsing school board candidates who are spreading disinformation. Mr. Davidson said he recognizes the voice on the podcast and he noted that the podcast was later removed. He said he has provided information about his concerns to the EBCC, as well as to the State given the election implications.

Charles Thulin said he represents the group known as Save Our Scale, which previously provided a presentation to the EBCC regarding the replacement of homes in Bellevue with much larger homes. He said the EBCC has the statutory authority to make recommendations and to give advice to the City Council. He believes the EBCC can make any proposals that affect land use within the EBCC area. He asked the EBCC to make recommendations to prevent the redevelopment of properties to build large homes that are out of scale with existing neighborhood development.

Tim Hay said he has a master's of business administration (MBA) degree from the Stanford Graduate School of Business. He is a retired contractor and home builder, and has lived in Bellevue for 57 years. He said the City should understand the importance of recognizing HR 1220, the landmark law. He said Save Our Scale is preparing a statement of its position for posting on Nextdoor.com to generate volumes of homeowner emails. He said they have met with certain EBCC members and conferred with a Mercer Island official to explore that city's success in controlling volume builders. He noted Save Our Scale's involvement with the group known as 300 Trees. He said they are working to create the most effective presentation for the council.

Rick Chesmore recalled that Save Our Scale proposed four main changes to the current Land Use Code to address the redevelopment of residential properties that are out of scale with existing neighborhoods. The requested changes relate to floor-area ratio (FAR), limiting houses to two stories, increasing side yard setbacks, and increasing tree retention. He thanked Vice Chair Epstein and Councilmember Kasner for meeting with members of Save Our Scale to discuss ideas. He thanked Mr. Kasner for making them aware of the need to update the neighborhood subarea plan. He thanked Councilmember Dhananjaya for expressing support to address the issues raised by Save Our Scale and for suggesting that the group engage with the Planning Commission. Mr. Chesmore thanked Councilmember Gooding for his comment related to whether any neighborhoods are aware of enacted elements of their proposal. He said the City of Mercer Island made changes to dimensional requirements to address the issue of scale and the

retention of trees. He thanked Chair Hummer for previously suggesting that the EBCC develop a letter of support. He said he understands the limitations of the EBCC's authority. However, he urged them to support their neighborhoods and constituents.

Vic Bishop noted that he lives on West Lake Sammamish Parkway SE, outside of the EBCC jurisdiction. He was a member of the Transportation Commission from 2010 to 2018 and chair of the commission in 2017. He is currently the legislative chair of the Eastside Transportation Association (ETA). Mr. Bishop commented regarding the Planning Commission's recommendation to retain policies aimed at congestion relief in the Comprehensive Plan. He expressed concern about the continued growth in Bellevue. He said the ETA Board sent letters to the Planning Commission and the City Council regarding their concerns. Mr. Bishop said the Transportation Commission recommended removing references to congestion relief from the Comprehensive Plan. He said the City is not meeting its concurrency standards. He encouraged the EBCC to support the Planning Commission's recommendation.

Joni Vanderburg said she is a member of Save Our Scale. She expressed concern regarding the demolition of older homes to build large homes that are out of scale with neighborhoods. She said there are five new homes under construction within a two-block radius of her home. She said the group is not anti-development but is asking for sustainable solutions that work for everyone.

Scott Lampe said he lives one block from the Downtown Park and served on the Transportation Commission from 2000 to 2019, including two years as chair. He said he also serves on the ETA Board and is in his second term on the Sound Transit citizen oversight panel. He expressed support for Mr. Bishop's suggestion to keep references to congestion relief in the Comprehensive Plan. He encouraged the EBCC to support the suggestion as well.

Heidi Dean said she lives in the Newport Hill neighborhood. She recently learned about the Save Our Scale group and plans to join. She said she is aware of seven large home rebuilds in the Newport Hills area, including next door to her home. She encouraged the EBCC to address the issues regarding scale and retaining the tree canopy. She stated her understanding that the zoning charts allow taller building heights in R-5 districts than what is allowed in neighborhood business districts. Ms. Dean said she has been told that there are plans to replace 200 homes in Newport Hills. She said developers are targeting R-4 and R-5 residential districts.

Councilmember Kasner said EBCC members received copies of emails regarding the individual described as Connor Nash. He asked how they can be made a part of the record. He said the emails allege that Connor Nash is EBCC member Ross Gooding, and Mr. Kasner would like those to be part of the record for this meeting and available to the public.

Responding to Chair Hummer, Mr. Barnes said the emails could be moved to the record or attached as part of this meeting's proceedings. Mr. Barnes said he would follow up with more information. He said the emails are subject to public records requests.

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

Deputy Mayor Jared Nieuwenhuis provided an update regarding the City Council. In early September, the City Council received an informational update regarding Bellevue's homelessness outreach program. He said the Bellevue School District has 375 students currently experiencing homelessness. He said the City is investing in shelters, transitional housing, affordable housing, and efforts to assist individuals living in vehicles. When individuals experiencing homelessness encounter law enforcement, they are referred to supportive services for help. He said the City works closely with King County and social services providers.

Mr. Nieuwenhuis said the City Council recently received a presentation from the new CEO of the King County Regional Homelessness Authority. The agency was established in 2019 through an interlocal agreement between King County and the City of Seattle. Mr. Nieuwenhuis said the City Council also received a presentation from representatives of A Regional Coalition for Housing (ARCH) regarding ARCH's proposed 2022 budget and efforts to provide affordable housing.

Mr. Nieuwenhuis said the City Council continues to work on the East Main Station Area Land Use Code Amendment (LUCA) to be applied to the development of housing and commercial space near the East Main light rail station. He said Amazon donated \$7.5 million to help complete the Eastrail and to restore the Wilburton Trestle along the former rail corridor.

6. **REPORT OF THE CHAIR**

Chair Hummer said the EBCC is up for a vote of continuance every four years, which will be on the ballot this November along with the five council member positions. Under RCW 35.14, the EBCC's role is to review and vote on certain land use decisions within its jurisdiction, which extends from NE 8th Street to the entrance of Bellevue College, and from 156th Avenue to 140th Avenue, including the Glendale Country Club. The land use decisions involving the EBCC include Comprehensive Plan Amendments (CPAs), Land Use Code Amendments (LUCAs), Conditional Use Permits (CUP), and certain property rezones. The EBCC may also make recommendations regarding any proposals that directly or indirectly affect the use of property or land within the service area, provide a forum for the consideration of the conservation or development of property, and advise and consult with the City Council on any matters affecting the service area.

7. **PUBLIC/COURTESY HEARINGS**

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

Chair Hummer said the courtesy hearing addresses a change in state law regarding residential occupancy limits. A memo will be drafted to communicate the EBCC's suggestions, concerns and questions to the Planning Commission and the City Council.

Trisna Tanus, Consulting Attorney, Development Services Department (DSD), said that SB 5235 approved by the state legislature prohibits cities from regulating the number of unrelated

occupants in a dwelling, effective July 25, 2021. The City Council approved Ordinance No. 6586 adopting an Interim Official Control (IOC) to bring the Land Use Code into immediate compliance with state law while the City develops permanent regulations.

Ms. Tanus said the EBCC's input will be provided to the Planning Commission following tonight's hearing and discussion.

Caleb Miller, Senior Planner, said there are some exceptions to the state law for health and safety reasons and for short-term or transient rentals (e.g., vacation rentals). The current IOC expires on January 12, 2022.

Staff's proposed LUCA amends the definitions for family and single housekeeping unit and removes limits for specific types of housing (i.e., accessory dwelling units, boarding houses and rooming houses) to be consistent with the new state law. The purpose of the LUCA is to comply with the law but not to necessarily go beyond state law. Mr. Miller said the City's nuisance, noise, parking and related codes remain in effect and concerns regarding those issues may be reported to the City's code compliance staff or the police department.

Mr. Miller said the City previously limited the number of occupants of residential units to four unrelated adults. Single housekeeping unit refers to a group of people in a home where everyone has access to the entire home and shares in responsibilities and the general maintenance of the home. The City's definition required members of a single housekeeping unit to be on the same lease. However, the LUCA proposes removing that provision because it conflicts with the new state law. For boarding houses, the two-person maximum for boarders has been replaced with a limit on renting two rooms. For transient lodging of stays less than 30 days in duration, the two-person maximum and two-room maximum still apply. Mr. Miller said rooming houses are not owner-occupied and rooms are rented on an individual basis. The former limitation on five occupants residing in four rooms has been amended to retain the four-room maximum without a limit on the number of residents.

Public engagement regarding the proposed LUCA follows Process IV requirements for noticing and holding a public hearing. The City's web site contains information regarding staff contacts and the LUCA schedule and status. Following tonight's EBCC meeting, the Planning Commission will hold a public hearing on October 13. Action by the City Council, followed by a public hearing and action by the EBCC, will be held before the IOC expires in January.

Chair Hummer thanked staff for the presentation.

At 7:26 p.m., Councilmember Kasner moved to open the public testimony portion of the courtesy hearing. Vice Chair Epstein seconded the motion, which carried by a vote of 5-0.

Robert Leingang said it is difficult to understand the exceptions regarding health and safety and he would like more information.

Heidi Dean recalled the effort led by Stephanie Walter to address homes that are being used essentially as dorms with individual tenants. She encouraged the EBCC to retain the limits on the

number of individuals in a dwelling unit. She said there are many homes in neighborhoods with multiple cars, cars parked on lawns, and litter. She said that allowing an unlimited number of occupants affects everyone's quality of life as well as the public's health and safety.

At 7:29 p.m., Councilmember Kasner moved to close the public testimony portion of the courtesy hearing. Councilmember Dhananjaya seconded the motion, which carried by a vote of 5-0.

Councilmember Dhananjaya said he understands residents' concerns. However, he noted that the City must comply with state law.

Vice Chair Epstein expressed concern regarding health and safety issues in rooming houses and the number of people who could potentially live in four bedrooms. He noted a statement in the proposed LUCA that the provisions enhance public health, safety and welfare. However, he does not see how that is possible when an unlimited number of people can live in a dwelling unit. Mr. Epstein said there is a rooming house in his neighborhood and there are many cars parked on the street. He noted an overdose death related to the house. He said this type of house is not owner-occupied and causes a number of concerns for neighbors. He questioned how removing the limit on the number of occupants makes the community healthier or safer.

Responding to Mr. Epstein, Mr. Miller said there are building code requirements addressing the number of occupants per square foot, which may apply in some cases. However, they are not generally applicable to single-family homes. He said the state law indicates that the bill is intended to increase affordable housing opportunities for individuals who need to share housing expenses. This could include individuals aging in place who would like to stay in their home but need assistance in covering expenses. Regarding health and safety, Mr. Miller said that existing codes applicable to noise, garbage and other issues remain in place, and concerns may be reported to the City's code compliance staff. He said the City prohibits parking cars on lawns and requires that they be parked on a hard surface. The City also limits street parking to a 24-hour period.

Mr. Epstein asked at what point does too many people in a dwelling or room become a health and safety issue. Mr. Miller said he has been told by the City's building official that in extreme cases of unhealthy living circumstances, the building official or fire marshal may intervene. However, in general, the enforcement of standards is based on complaints.

Councilmember Kasner said it is disheartening to see that all of the work by residents and the EBCC to achieve regulations on single-family room rentals has been reversed by the new state law. He concurred with Vice Chair Epstein that the law does not enhance public health and safety. Mr. Kasner said it will do so for individuals who might currently be homeless. However, the removal of the limit on the number of residential occupants does not enhance existing neighborhoods. He expressed concern that the City will be overwhelmed with complaints following the implementation of new regulations. He said the enforcement of parking regulations should be automatic and not based only on complaints.

Mr. Kasner said he would like to understand which regulations are needed to conform with state law versus provisions in the LUCA that exceed the state law requirement. He is concerned that more homes will be used as dorm-style housing in single-family neighborhoods.

Councilmember Gooding said the law is inconsistent with Bellevue's goal of retaining neighborhood character. He said it is disappointing to see the law after all of the work by the EBCC and residents to successfully advocate for regulations applicable to single-family room rentals in residential areas.

Councilmember Dhananjaya said this issue is somewhat related to the concerns expressed by Save Our Scale representatives regarding overly large homes. He said the change in state law will negatively impact neighborhood character, and he is concerned that more rooming houses will begin operating. He asked whether there is data to indicate the percentage of the population that will benefit from the change in state law. Mr. Miller said he did not have that information. The City did not conduct a study, however there might have been studies at the state level when the Senate bill was adopted. Mr. Dhananjaya said he is disappointed to see the state law and is concerned about the impacts on the overall quality of life in Bellevue neighborhoods.

Chair Hummer said she is a little surprised that Bellevue and other cities with regulations on single-family room rentals did not anticipate this type of law or that they allowed it to happen. Ms. Hummer asked whether there was any discussion about refusing to comply with state law or about suing the State for impinging on the City's longtime planning.

Ms. Tanus said the City worked with state legislators and lobbyists throughout the legislative session. However, she was unaware about whether changes were made based on those efforts.

Mr. Barnes said he would follow up with guidance through a confidential memo regarding the potential ramifications of not complying with state law.

Ms. Hummer asked whether any amendments could be made to address the health and safety concerns expressed by residents during the courtesy hearing. Mr. Miller said the Planning Commission has not suggested any amendments to date. He clarified that rooming houses are allowed only in certain multifamily districts and not in single-family districts. He said there are existing regulations for rooming houses that might address some of the health and safety concerns. Mr. Miller said the revisions in the LUCA are narrowly targeted to comply with state law.

Chair Hummer said she hopes the City's web site provides public comments, including those heard tonight. She said the EBCC's memo following tonight's discussion will be sent to staff, the Planning Commission and the City Council. She said it would be nice to have links to the applicable Land Use Code sections.

Ms. Hummer said that many residents do not want to file complaints with the City regarding their neighbors. She expressed concern that excessive street parking could impede emergency vehicles. Mr. Miller said staff could provide more information about fire and transportation

codes that regulate emergency vehicle access. Ms. Hummer said it would be nice to provide links to that information on the City's web site.

Chair Hummer asked the City to post the item on Nextdoor.com and encouraged residents to use the MyBellevue app to report potential code violations. Mr. Miller said that meetings materials are on the LUCA web page, including comments submitted during meetings. He said the agenda materials include descriptions of what was discussed during the meetings and public comments about the topic. He said the web page is part of the Development Services Department's web site, which has links to the City's codes.

Chair Hummer said she appreciates that the LUCA is targeted to do the minimum required by state law. While the change in residential occupancy limits provides housing, it will not necessarily provide affordable housing. She said she knows of homeowners who charge below-market rental rates because the tenants have lived in the houses for a long time. She suggested that a group of landlords and homeowners could work together to provide housing at the 30-percent AMI (area median income) and 80-percent AMI levels. Ms. Hummer said that perhaps the state law will be overturned. She said she was recently in Arizona where property owners are working to overturn regulations that they consider overly restrictive.

Councilmember Dhananjaya asked whether the City could follow some type of permitting system similar to what is applied to Airbnb. He suggested training for property owners regarding their civic duties and responsibility for being a good neighbor. Ms. Tanus said staff has been talking internally about how to best work with Airbnb and provide information regarding the City's codes. She said the City's web site contains extensive information for the public. Ms. Tanus encouraged the public to reach out to code compliance staff if they see something that seems amiss, even if it might not be a specific violation.

Mr. Dhananjaya said the EBCC wants to promote the best use of City resources and to avoid placing an unnecessary burden on City staff and residents. He said there are increasing incidents involving excessive vehicles parked in neighborhoods, including cars blocking fire hydrants and driveways. He said when he called the police department about a car blocking his driveway, it took 45 minutes for someone to respond. By that time, the person driving the vehicle had returned from picking blueberries.

Chair Hummer reiterated her concern that the City's emphasis on creating more housing will not necessarily produce affordable housing. She thanked staff for their work on this issue and for the presentation.

8. **NEW BUSINESS:** None.

9. **CONTINUED COMMUNICATIONS:** None.

10. **APPROVAL OF MINUTES**

(a) Summary Regular Meeting Minutes of September 8, 2021

Vice Chair Epstein moved to approve the minutes of the September 8, 2021 Regular Meeting. Councilmember Kasner seconded the motion, which carried by a vote of 5-0.

(b) Upcoming EBCC Calendar

Deputy City Clerk Roberts said the EBCC's November meeting date falls on Election Day.

Chair Hummer said she would prefer to not change the meeting date and that, given no opposition, the EBCC will meet on November 2 as regularly scheduled.

Ms. Roberts highlighted the EBCC's upcoming calendar. There will be a courtesy hearing on November 2 as well as a public hearing on the NE 8th Street Partners rezone application. A public hearing on the affordable housing density bonus LUCA is tentatively set for the December 7 meeting, and the transportation CPAs might be on the agenda for that evening as well. On January 4, there will be a courtesy hearing on the supportive and emergency housing LUCA and a public hearing on extending the supportive and emergency housing interim official control (IOC).

Chair Hummer encouraged EBCC members to attend the Planning Commission meetings.

Ms. Hummer asked Ms. Roberts to arrange for a presentation from code compliance staff and for a presentation by Mike McCormick Huentelman regarding the state of East Bellevue. Ms. Hummer said she would like to hear the information from the Parks and Community Services Department and the Bellevue Police Department regarding crime statistics.

Responding to Councilmember Kasner, Ms. Roberts said the annual training regarding the Open Public Meetings Act (OPMA) is scheduled for spring 2022, potentially in February.

Chair Hummer questioned whether Mike McCormick Huentelman might be able to attend the EBCC's November meeting. She also requested an update regarding single-family room rentals. Ms. Roberts said she will work with staff to determine availability for presentations.

11. **ADJOURNMENT**

At 8:14 p.m., Chair Hummer declared the meeting adjourned.

Karin Roberts, CMC
Deputy City Clerk

/kaw