

East Bellevue Community Council
Summary Minutes of Regular Meeting

April 7, 2015
6:30 p.m.

Lake Hills Boys & Girls Club
Bellevue, Washington

PRESENT: Chair Capron, Councilmember Hummer, Councilmember Kasner,
Councilmember Hughes, Councilmember Gooding (appeared late at 7:50 pm)

ABSENT: NONE

STAFF: Catherine Drews, Legal Planner, Development Services

1. **CALL TO ORDER**

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

2. **ROLL CALL**

The Deputy City Clerk called the roll. All Councilmembers were present, with the exception of Councilmember Gooding.

3. **FLAG SALUTE**

Councilmember Hummer led the flag salute.

4. **COMMUNICATIONS: WRITTEN AND ORAL**

Chair Capron noted that Oscar del Moro intended to be present at the meeting, but was called out of the country due to a family emergency. His update to the Community Council will be rescheduled.

Councilmember Kasner noted that he met with Oscar previously and that things are filling up in the Lake Hills Shopping Center. 71 of the 72 apartments have people living in them and out of the 18 townhomes, 4 or 5 are occupied. By the end of June the building where Bank of America will be finished.

Stephanie Walter said that there are two houses within a mile radius around her that are abandoned. She feels the abandoned and vacant houses need to be addressed. There is a house on the Lake Hills Connector that has been vacant for 13 years. To require neighbors to live with that is unreasonable. Land is at a premium.

Chair Capron stated he is more concerned with the homes that have burned down and are now a safety hazard and an eyesore in the neighborhood.

Catherine Drews stated that there are ordinances regarding vacant houses. She suggests contacting code enforcement to get the process started.

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

(a) Community Council Business and New Initiatives

Councilmember Kasner noted that the downtown park might finally get finished. The current issue is the net parking loss. The people in Old Bellevue and on Main Street are interested in the City putting in a parking garage. Over the next few months they will begin construction on the park. It is truly one of the most visionary projects the City has seen over the years and would not have happened without the interest of a few key people in the beginning when the property was purchased from the school district. Councilmember Kasner also attended the Eastside Transportation Alliance. He noted the financial projections are remarkable. Sound Transit bonds show an interest rate of 5.75%.

Councilmember Hughes noted that the Ace Hardware store is closing around September.

Chair Capron noted that he drove by Odle Middle school. The construction is well underway and he spoke with the project manager. He hopes to have a site tour before the next meeting. The project manager said that the project is within a couple of days of being on schedule for construction. Chair Capron also noted that there was a house fire 6 or 8 months ago in the East Bellevue area. The house has construction fencing around it and nothing has changed. Chair Capron wondered if it is a Code Compliance issue and asked for an update at next month's meeting. He also noted that SE 16th has a full sidewalk that was covered with bushes, which has been cleaned up now. Also, the property at the SE corner of 148th and Main is now for sale.

Councilmember Hummer attended the March Parks Board meeting at the new Youth Theater in Crossroads. She learned that the Parks department has a 7 inch manual that contains their work scope regarding what needs to be maintained. There are 3100 acres of parks in Bellevue. She also learned that the life of the synthetic turf at Robinswood has been extended just due to the regular maintenance that the Parks Department conducts. The new Hidden Valley complex will have the same maintenance program. Councilmember Hummer also noted that there was discussion around finishing the Downtown Park, which will significantly reduce the parking. Councilmember Hummer also went to the Planning Commission meeting held at Bellevue College. She noted that you can get a list of all the comments received regarding the comprehensive plan if you visit their website. The tree canopy was a topic at the meeting and the Planning Commission is meeting with the various neighborhoods regarding their desires of what they want in their neighborhood.

Bart Goft spoke and had questions regarding light rail. He asked if anything has been discussed regarding whether the last train coming into the station will be met by buses to take people where they need to go.

In response, Councilmember Hummer said she did not know specifically but that she would bring it up at the next transportation meeting.

6. **APPROVAL OF AGENDA**

Chair Capron would like to delete item 11a off of the agenda and potentially bring the item back at a future meeting. Councilmember Hummer moved to approve the amended agenda. Councilmember Kasner seconded the motion and it passed unanimously.

7. **DEPARTMENT REPORTS**

(a) Wolter Preliminary Short Plat

Carol Hamlin presented a short staff report. The item is on for information only.

Ms. Hamlin stated that the short plat process requires 30% retention of the tree canopy.

Councilmember Kasner asked if there is any process in the city that marks aging trees and asks for their removal.

Ms. Hamlin stated that every time there is an application, the on-staff tree expert looks at the trees.

Councilmember Kasner questioned what the current regulations are for removing trees. Does everyone have to ask to take a single tree down?

In response, Ms. Hamlin stated that if it is not a critical site, the threshold for requiring a permit is 1000 square feet of disturbance.

Councilmember Kasner stated that there is a large gap in the regulations. If everyone took out 18 trees, our tree canopy would diminish significantly. The issue is not related to this particular parcel, however he feels that it should be addressed going forward.

Thomas Wolter, the applicant, stated that out of the 30 or so trees on the property, they are anticipating removing only six.

Chair Capron questioned the relevance of the 2007 tree report and asked if it is still considered current.

Ms. Hamlin responded that the on-staff tree expert went out recently to make sure there were no other changes or additions since the tree report was completed.

In response to Councilmember Kasner's question regarding time table, Mr. Wolter said that the current approval looks to be about nine months out at this point.

8. **PUBLIC HEARINGS**

(a) Public Hearing to Consider Extension of Recreational Marijuana Ordinance

Catherine Drews presented the staff report. The City is asking to extend the interim regulations to allow Washington State legislature to get through their process, which should end April 26. The legislature is looking at reconciling the recreational and medical marijuana laws and also at revenue sharing. The extension would be for six additional months.

Chair Capron opened the public hearing.

Councilmember Kasner reiterated that East Bellevue does not have any property zoned for producers or processors. Ms. Drews agreed, but also stated that the Legislature is looking at reducing the separation requirements which may cause some changes in where businesses can be located.

In response to Councilmember Kasner's question regarding State rules, Ms. Drews said that our ordinance matches the State rules and added that we also have some additional restrictions that City Council added. For instance, Council added language about odor not being allowed to escape the premises. When that restriction was added, Puget Sound Clean Air Agency began regulating that particular issue.

Irene Fernanz stated that she has heard that marijuana producers have problems with banking.

Ms. Drews responded that there are some issues with banking. Some smaller banks have agreed to take the cash. For example, Green Theory has to have an armored car pick up two or three times during the day. There are requirements, much like is required of jewelers, requiring businesses to remove all of their product and cash and put it in a safe or a vault at the end of each day.

Councilmember Kasner asked if the City receives any tax revenue.

Ms. Drews responded that there is no revenue sharing at this point. The Association of Washington Cities is very active working on behalf of cities. They are looking at several revenue packages.

Chair Capron stated that he has heard that retail stores have installed ATM's in their lobbies that they fill with the cash received from the business. The customers come in and take cash from the ATM, buy their products, then the retailer puts the money back into the ATM, effectively avoiding depositing the money in a federally regulated bank.

Ms. Drews noted that things are starting to happen on the federal level. They will have to start addressing banking regulations.

In response to Councilmember Kasner's question, Ms. Drews stated that we have no legal medical dispensaries in the city of Bellevue. Collective gardens are allowed, however.

Steve O'Donnell asked what the rate of tax is on marijuana.

Ms. Drews responded that each transaction is taxed. The transaction between a producer and processor is 25%, between a processor and a retailer is 25% and then the end tax is 25%. A

business can hold both a producer and processor license, which eliminates one of the 25% tax hits.

Mr. O'Donnell asked if there is a tabulation for cash sales at the end of the day that is turned into the city or the state.

Ms. Drews responded that no, there is no tabulation on the cash. The Washington State Liquor Control Board has very strict rules about the operations of these businesses.

Mr. O'Donnell asked if there is an electronic way, that immediately upon sale, would tell the Department of Revenue how much was sold at a particular location.

Ms. Drews responded that the Liquor Control Board would have to be asked that question.

Mr. O'Donnell asked if there is an estimate on what the costs of treatment will be when someone is impaired and kills innocent people.

Ms. Drews stated that the University of Washington has an informative website where they have looked at those social costs and other issues.

Bart Goft questioned if the odor from marijuana is more dangerous or offensive than second hand smoke.

Ms. Drews responded that it is a good question. She said the odor isn't necessarily dangerous, but it may be offensive to some people. The standard written into the Ordinance is "odor to a reasonable person."

Steve O'Donnell asked if the same RCW applying to bars regarding over serving someone at a bar, applies to pot shops.

Ms. Drews said that would be a question that should be directed to the Liquor Control Board.

Hearing no further comments, Chair Capron closed the public hearing.

Councilmember Kasner moved to approve Resolution No 548. Councilmember Hummer seconded the motion and it carried unanimously.

(b) Final Public Hearing on Single Family Room Rentals

Catherine Drews presented the staff report. She noted that this has been almost a two year process that began in September 2013. The primary goal was to prohibit the practice of dorm style room rentals in single family homes. There was a public hearing before the Planning Commission in 2014. There was some discussion with council about making sure proposed regulations were sound and robust. The matter went back to the Planning Commission and on March 25 they offered some amendments. The Ordinance passed through City Council unanimously last night.

Chair Capron opened the public hearing.

Chair Capron asked for a show of hands in the room of how many people are in opposition to the ordinance. He noted that no one in the room is in opposition to the current ordinance.

David Pater spoke and said he is still confused about who will regulate the houses during the grace period.

Ms. Drews stated that the emergency ordinance is repealed on the effective date of the new ordinance. Once the interim is repealed, everyone has to conform.

Stephanie Walter said that the interim ordinance brought the number of unrelated persons from an unknown number to six. No one should be above six at this point and that is enforceable today. Taking it from six unrelated persons to four is enforceable for each house depending on when the last of the current leases is up or a year from the effective date, whichever is sooner.

Chair Capron asked if there is any way of knowing when the current leases for each home would be up.

In response, Mr. Drews said no. If the City received a complaint it would send code enforcement out to investigate. They will make a determination and report back to the complainant. Code enforcement will ask to see a lease.

Councilmember Kasner asked if someone could have a ten year lease.

Ms. Drews responded that leases are private matters between the landlord and tenants. However, everyone must be in compliance within one year at the very latest. If they have a 10 year lease then one year from now they have to be in compliance.

Councilmember Kasner stated he has serious concerns about enforceability and funding for code compliance. He strongly recommends that this matter come back in six months with data on complaints and enforcement action taken.

Ms. Drews stated that the effectiveness of the ordinance will be monitored by code enforcement. There will be training that code enforcement and the City Attorney's Office will go through in order to have the tools to effectively enforce this ordinance.

In speaking to the ordinance language, Stephanie Walter said that the registered agent is secondary to the property owner or landlord. In the absence of a landlord it would be a registered agent. At no time is the registered agent a tenant of the house. In most purposes it will be the owner of the property.

Bart Goft questioned who the registered agent is registered with.

Ms. Walter did not know the answer to the registering agency.

Mr. Goft voiced his frustration regarding no one knowing who will be registering the agents.

Ms. Drews said that there is a mix of apples and oranges. The City has taken and made rooming houses illegal in single family zones. A single family home owner can rent their property out to up to four unrelated individuals.

David Pater said that there has been a lot of healthy discussion and a lot of public comment regarding this issue. He noted that he brought up the rental registration program. He would like to see more done. He doesn't believe that a complaint driven system is that effective, but he also noted that we have come a long way.

Councilmember Gooding appeared at 7:50 pm.

Steve O'Donnell asked if Bellevue has a regulation on how many persons can live in a single family home based on how many bedrooms it has.

Ms. Drews said that the International Residential Code would provide that answer. We are allowed to amend it as we see fit, but do not know the answer to that at this moment.

Stephanie Walter spoke and stated that this is a good ordinance. She commented that Mayor Balducci said that this will in no way impact families with children. A house with children can have as many people residing in the house as the fire code will allow. The staff at the City of Bellevue are talented and educated and want to do right by the citizens of Bellevue. This is not the end. This is the beginning. The egregious behavior will be stopped. Code enforcement will enforce these regulations. When enough time passes, it will be obvious if there is a next step that we need to take.

Ken Seal asked if the City has a sample lease agreement form that people can sign.

Ms. Drews said no, the City does not regulate the leases. The Code Enforcement process starts with education. There will be a request for voluntary compliance with the law. If there is still a failure to comply, a notice of violation will be issued and a hearing before the Hearing Examiner will be scheduled. Fees then begin to accumulate.

Sherri Carchano asked if there is an ordinance that speaks to how many cars can be parked in front of a house.

Ms. Drews responded that in general parking is not regulated. The streets are public and anyone can park on them unless they have zoned parking.

Bart Goft asked if there will be a massive outreach to every homeowner in Bellevue regarding the penalties.

Chair Capron said absolutely not. It's a complaint driven system.

Ms. Drews said that public information will be available if people are interested in renting out their home.

Hearing no further comment, Chair Capron closed the public hearing.

Councilmember Kasner moved to approve Resolution No. 549. Councilmember Hughes seconded the motion and it carried unanimously.

9. **RESOLUTION**

- (a) Resolution No. 548 re: Recreational Marijuana

Passed under item 8a.

- (b) Resolution No. 549 re: Room Rentals

Passed under item 8b.

10. **COMMITTEE REPORTS**

None.

11. **UNFINISHED BUSINESS**

- (a) Retreat discussion/agenda setting

This item was previously deleted from the agenda.

12. **NEW BUSINESS**

- (a) Presentation by Coalition of Eastside Neighborhoods for Sensible Energy

Don Marsh, Co-Founder of CENSE, presented his information regarding the Energize Eastside project.

Mr. Marsh began with an overview of the project. The line runs for 18 miles through five eastside cities. PSE will run six power wires plus two data cables on this line. There are not currently any poles the size that PSE is suggesting for this project, which are 130 foot poles.

Mr. Marsh went on to say that CENSE is an all-volunteer group of hundreds of concerned citizens who oppose PSE's plan. The group opposes Energize Eastside because it is too big, too expensive, not necessary, and better options are available.

Mr. Marsh discussed the concerns that CENSE has with the cost of Energize Eastside. The upfront costs are approximately \$200 million dollars and the costs will be paid by PSE customers in the form of higher bills for the next several years.

CENSE volunteers have studied PSE's planning documents, met with company representatives, interviewed industry experts and have tracked energy trends, but still cannot justify the PSE

forecast. Mr. Marsh stated that PSE shows two forecasts that assume different levels of conservation by its customers.

Mr. Marsh went on to say that CENSE does not object to paying for increased electrical reliability, but they do not believe that this expensive project is necessary when resources are needed for other priorities.

Mr. Marsh stated that CENSE does not understand PSE's projection of demand growing at an average rate of 1.7% per year, which is contrary to trends at the national, regional and local level.

CENSE has not found increasing use for the whole system or for the largest city on the eastside. In the past, consumption and peak demands have been highly correlated, but CENSE believes something may have changed.

CENSE calculated the trend line for the last ten years and saw growth of only 0.1% per year. Going back 15 years, the rate is still under 1% per year. CENSE argues that a 1% growth rate is more plausible than PSE's 1.7% projection.

Mr. Marsh referred to a graph with 1% growth rate that showed the area would have until 2022 before crossing PSE's artificial capacity line. That number is reached without taking into account any additional measures to avoid problems. CENSE believes there are better solutions to our energy needs.

PSE hired a company named E3 to look at efficiencies. They found 56 megawatts of cost effective savings using a combination of electrical efficiency and distributed generation. They would save customers \$40 million dollars and would have an environmental benefit. CENSE believes even more savings are possible.

Mr. Marsh showed the audience an updated forecast showing what would happen if the solutions identified by E3 and Columbia Grid were pursued. PSE's current infrastructure would be sufficient to meet our needs until 2038. Demands could be monitored between now and then and technology could improve to the point where power lines would not be necessary.

Mr. Marsh stated that PSE already has a 230kv line, but it is leased from Bonneville Power Administration. The lease expires in 2018. If PSE is able to secure a new lease it will be expensive. CENSE maintains that even if PSE loses the lease on the 230kv line, the citizens will not lose power. The power will still flow no matter who controls the line. The only question is who collects the tolls.

Mr. Marsh explained that CENSE tried to file a complaint with the State Attorney General's Office. The Attorney General told CENSE that it is the jurisdiction of the Utilities and Transportation Commission. The complaint was filed with the UTC and CENSE was told that the UTC will look at the project after it is built to determine whether it is reasonable to charge PSE's customers for it. Even if the customers are relieved from having to pay the charges, CENSE believes it will be small comfort for those who have to live with the results for decades.

Mr. Marsh informed the audience that more information can be found at www.cense.org

Councilmember Kasner asked if battery technology is advanced enough at this point.

Mr. Marsh responded that batteries are on the cusp, but they are not ready right now.

Councilmember Hughes questioned the decrease of 25 percent in PSE's projections in a two year period.

In response, Mr. Marsh noted that, not only in this area, but throughout Northwest, every utility continues to bring their utility forecast down each year. Seattle just lowered their predicted rate from 0.8% to 0.5%.

Steve O'Donnell noted that there are many buildings coming with zero consumption. There is much more efficient consumption going forward. Also, he noted that just in the last six months in his neighborhood of Somerset there have been six solar panel installations.

Chair Capron noted that he has heard of homes in Florida being built and sold as zero-consumption homes.

Councilmember Hughes noted that Mayor Balducci told everyone at the Solarize Bellevue event that the Lake Hills area has more solar energy projects than any other neighborhood in Bellevue.

Steve O'Donnell questioned if we want one city or two cities. Do we have the city west of 405 with predominately no poles or wires, or do we want the city east of 405 with all the wires and poles. He questioned why to not have a 20 or 30 year plan to make east Bellevue better.

Councilmember Kasner questioned what the milestones are in the next three to six months.

In response Mr. Marsh stated that the independent consultant's report was due at the end of February. It has been delayed until the beginning of May. The EIS and the scoping period is commencing.

Mr. Marsh went on to say that the only other city CENSE has given their presentation to is Newcastle. In fact, Newcastle signed the dissenting report out of the Citizens Advisory Group, citing irreparable damage to the businesses and residential areas of our cities.

Mr. Goft questioned whether PSE trades on the stock market.

Councilmember Hughes said no, they are a privately owned company.

(b) Potential Future Agenda Items.

Councilmember Kasner questioned when SMP will come back.

The Deputy City Clerk stated that as of right now it appears it would not come back before July.

Councilmember Kasner stated that the EBCC will not be ready to deal with the quasi-judicial matter on May 5 if City Council does not act until April 20.

Chair Capron noted that if City Council acts on April 20, then EBCC could see the matter on May 5 but would not expect a vote to be taken that evening. The discussion at the May 5 meeting will inform the EBCC as to whether a special meeting would need to be set for voting on the proposed legislation.

Councilmember Kasner moved to set a special meeting regarding the quasi-judicial matter. In response, Chair Capron stated that for discussion purposes that is fine. However, a vote will not be taken on the matter at anything other than a regularly scheduled meeting.

Councilmember Hughes questioned if he could vote by proxy in June since he will be on vacation.

In response, the Deputy City Clerk said she would find out about the ability to cast a proxy vote.

13. **CONTINUED COMMUNICATIONS**

None.

14. **EXECUTIVE SESSION**

None.

15. **APPROVAL OF MINUTES**

(a) Summary Regular Meeting Minutes - March 3, 2015

Councilmember Gooding moved to approve the minutes. Councilmember Kasner seconded the motion and it was approved unanimously.

16. **ADJOURNMENT**

Chair Capron adjourned the meeting at 9:06 p.m.

Charmaine Arredondo
Deputy City Clerk

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