

**EAST BELLEVUE COMMUNITY MUNICIPAL CORPORATION
OF THE CITY OF BELLEVUE, WASHINGTON**

Resolution No. 554

A RESOLUTION of the East Bellevue Community Council amending Resolution No. 550 to eliminate reference to the Shoreline Conditional Use Permit granted by City Council Ordinance No. 6226, on the Application of Puget Sound Energy (PSE) to construct a new 115 kV overhead transmission line connecting the existing Lake Hills Substation with the Phantom Lake Substation as a 2.89 mile route located in the Right-of-Way along SE 16th Street, 148th Avenue SE, and NE 8th Streets in Bellevue, WA, File Nos. 11-131123 LB and 11-131124 WG.

WHEREAS, on June 24, 2015, the East Bellevue Community Council adopted Resolution No. 550 disapproving City Council Ordinance No. 6226 granting Conditional Use and Shoreline Conditional Use Permits with conditions, on the Application of Puget Sound Energy (PSE) to construct a new 115 kV overhead transmission line connecting the existing Lake Hills Substation with the Phantom Lake Substation as a 2.89 mile route located in the Right-of-Way along SE 16th Street, 148th Avenue SE, and NE 8th Streets in Bellevue, WA, File Nos. 11-131123 LB and 11-131124 WG (the "Project"); and

WHEREAS, PSE challenged Resolution No. 550 by filing a Land Use Petition and Petition for Statutory Writ of Certiorari with King County Superior Court and a Petition for Review with the Washington State Shoreline Hearings Board; and

WHEREAS, PSE filed a motion challenging the East Bellevue Community Council's jurisdiction over the Shoreline Conditional Use Permit for the Project under RCW 35.14.040; and

WHEREAS, the King County Superior Court granted PSE's motion, finding that the East Bellevue Community Council does not have jurisdiction over Shoreline Conditional Use Permits, and ordered the East Bellevue Community Council to ". . . eliminate reference to shoreline conditional use permits in Resolution No. 550. . ." (the "Court Order"); and

WHEREAS, on September 25, 2015, the East Bellevue Community Council appealed the King County Superior Court order and filed a Notice of Stay; and

WHEREAS, following PSE's motion the King County Superior Court issued an order to quash the stay; and

WHEREAS, the purpose of this Resolution is to comply with the Court Order while the appeal is pending.

NOW, THEREFORE, BE IT RESOLVED by the Community Council of the East Bellevue Community Municipal Corporation of the City of Bellevue:

Section 1. The East Bellevue Community Council amends Resolution No. 550 as set forth in Attachment A, attached hereto and incorporated herein.

Passed by a majority vote of the East Bellevue Community Council on the 19th day of October, 2015, and signed in authentication of its passage this 19th day of October, 2015.

(Seal)



William Capron, Chair

ATTEST


Charmaine Arredondo
Deputy City Clerk

Attachment A

**EAST BELLEVUE COMMUNITY MUNICIPAL CORPORATION
OF THE CITY OF BELLEVUE, WASHINGTON**

Resolution No. 550

A RESOLUTION of the East Bellevue Community Council disapproving City Council Ordinance No. 6226 granting Conditional Use and Shoreline Conditional Use Permits with conditions, on the Application of Puget Sound Energy (PSE) to construct a new 115 kV overhead transmission line connecting the existing Lake Hills Substation with the Phantom Lake Substation as a 2.89 mile route located in the Right-of-Way along SE 16th Street, 148th Avenue SE, and NE 8th Streets in Bellevue, WA, File Nos. 11-131123 LB and 11-131124 WG.

WHEREAS, on the 4th day of May 2015, the City Council of the City of Bellevue, Washington passed Ordinance No. 6226 granting Conditional Use and Shoreline Conditional Use Permits with conditions, on the Application of Puget Sound Energy (PSE) to construct a new 115 kV overhead transmission line connecting the existing Lake Hills Substation with the Phantom Lake Substation as a 2.89 mile route located in the Right-of-Way along SE 16th Street, 148th Avenue SE, and NE 8th Streets in Bellevue, WA, File Nos. 11-131123 LB and 11-131124 WG; and

WHEREAS, the subject matter of said Ordinance falls within the jurisdiction of the East Bellevue Community Council pursuant to RCW 35.14.040; and

WHEREAS, following East Bellevue Community Council's consideration of this matter on June 2, 2015 and June 24, 2015, the Community Council voted to disapprove Bellevue Ordinance No. 6226.

NOW, THEREFORE, BE IT RESOLVED by the Community Council of the East Bellevue Community Municipal Corporation of the City of Bellevue:

Section 1. The East Bellevue Community Council makes and enters the following findings of fact as contained herein on Exhibit A.

Section 2. Based on the Findings of Fact contained on Exhibit A and entered by the East Bellevue Community Council, the Community Council hereby disapproves Ordinance No. 6226 enacted by the Bellevue City Council on May 4, 2015, and pursuant to RCW 35.14.040, this Ordinance shall not become effective within the area of the East Bellevue Community Council.

Section 2: The Clerk is hereby directed to certify the original of this Resolution, to file the same and to keep the same on file in her office. The Clerk is further directed to distribute

certified and conformed copies of the Resolution to the Bellevue City Council, the Planning Department, and the Development Services Department.

Passed by a majority vote of the East Bellevue Community Council on the 24th day of June, 2015, and signed in authentication of its passage this 24th day of June, 2015.

(Seal)

William Capron, Chair

ATTEST

Charmaine Arredondo
Deputy City Clerk

East Bellevue Community Council's
Findings and Conclusions in Support of Resolution No. 550

1. PSE attempted to engage the public on the tradeoffs with respect to an 115kV transmission line between the Lake Hills and Phantom Lake substations in 2007 and held four public meetings between 2007 and 2011 which did not adequately notify the public of the benefits and costs of the alternatives and the possibility of making no changes to the system. (Hearing Examiner Record at 57C, 149C, 180C).
2. The East Bellevue Community Council (EBCC) held three public courtesy hearings on June 5 and September 4, 2012 and June 4, 2013. Three hearings were held because it was unclear if the public's need for information on this project had been met. At the June 4, 2013 meeting City staff attempted to restrict the discussion to mitigation for a project that had not yet been approved. This was overruled and the entire project was discussed with meaningful public input received. (Hearing Examiner Record at 66C).
3. The Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation that the decision criteria for a Conditional Use Permit (CUP) set forth in Land Use Code (LUC) 20.30B.140 have been met is not supported by material and substantial evidence. Specifically, the conditional use is not consistent with the Comprehensive Plan. LUC 20.30B.140.A (Hearing Examiner Record at 149C, 180C).
4. The Hearing Examiner found in error based on his analysis of record evidence that PSE's licensed engineer credibly established that the proposed transmission line improves reliability to customers served and reliability as a whole. (Hearing Examiner Record at 56-57F).
5. The Hearing Examiner found, based on evidence in the record, that the City of Bellevue and its residents would benefit from a new transmission line, primarily from improved system reliability, and reduction in power outages and their duration, which can be achieved with the "looping" provided with the new line but failed to weigh these benefits against the environmental harm and lack of compliance with the comprehensive plan which would make the residents of East Bellevue worse off than doing nothing. (Hearing Examiner Record at 56-57F)
6. The Hearing Examiner found, based on evidence in the record, that the route selected was most consistent with the City Council's hierarchy of preferred locations found in LUC 20.20.255D(2)(d) which was in error based on the testimony of expert witnesses that did not have a self-interest by being employees or consultants to the proponent. (Hearing Examiner Record at 56-57F).

7. In this matter the EBCC has full jurisdiction to approve or disapprove land use decisions including CUP applications that apply within the boundaries of its jurisdiction. Chapter 35.14 RCW.
8. PSE has requested to enter into a development agreement with the City of Bellevue to vest their right to construct a second 115kV transmission line along the South side of SE 16th Street at some point in the future if the City constructs the unwanted and unneeded TFP – 158 project. This is expressly prohibited in the Hearing Examiner's report and should not be allowed since the costs (financial and environmental) far exceed the potential benefits of the project. (Hearing Examiner Report at 36, 114D).
9. The Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation that Conditional Use Permit LUC 20.30B.140(B) has been met is not supported by material and substantial evidence. Throughout the documents, NE 8th, and especially 148th Ave are designated as Urban Boulevards, and part of the Enhanced Rights of Way; the routes are continually described as having no existing power lines. (Hearing Examiner Record 139-149C, 192F, 140C). This was not done by accident. 148th Ave was developed as an Urban Boulevard by a visionary City, and involved sacrifice for the greater good by private citizens. Homes were condemned and neighborhoods radically transformed to provide a national example of how major thoroughfares can be a pleasant park for commuters and residents alike. Obviously, a major element of the Urban Boulevard is a lack of visible utilities, such as distribution and transmission wires. The only visible utilities on NE 8th and 148th are light poles.
10. The Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation that Conditional Use Permit LUC 20.30B.140(A) has been met is not supported by material and substantial evidence. This conditional use is inconsistent with the Comprehensive Plan provisions noted below which repeatedly refer to Bellevue's Commitment to a City in a Park, and developing the Urban Boulevard and Enhanced Rights of Way:
 - a. UT-45 page 209 "avoid...locating overhead lines in greenbelt and open spaces..."
 - b. UT-53 page 210 "require all utility...facilities to be aesthetically compatible..."
 - c. UT-19 page 212 refers to city in a park, preserving trees
 - d. UT-42 page 212 Design boulevards to reinforce the image of Bellevue as a "City in a Park"
 - e. S-WI-44 Utilities page 214 serve need enhancing the visual quality of the community

11. The evidence in the record does not support the NE 8th St, and 148th Avenue route. (Hearing Examiner Record at 139-149C). "Understanding Bellevue's Commitment to Street Aesthetics" which cites the Formal Enhanced Right of Way & Urban Boulevards Program whose mission is to "Enhance the visual and functional quality of city streets and gateways... It includes a 4-person Steering Committee of City Directors and Assistant Directors and 8-person Program Team of city staff..." (Hearing Examiner Record at 140C). This fundamental criteria was not regarded consistent with other rules and guidelines. As pointed out in the letter, more than 50,000 people enjoy this park daily, and the whole project will adversely affect this enjoyment; from construction delays to long-term visual pollution.
12. The Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation that Conditional Use Permit LUC 20.30B.140(D) has been met is not supported by material and substantial evidence. The impact of traffic on 148th Avenue NE including costs of adverse impacts to commerce, pollution, and commute time were not considered. (Hearing Examiner Report at p. 86)
13. The Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation that Additional Criteria for Electrical Utility Facilities LUC 20.20.255E.3 has been met is not supported by material and substantial evidence. The record indicates that there have been few outages due to substation or transmission lines. There were 5 power outages in 10 years; 4 by trees, fixed within a day caused by transmission line failure. (Hearing Examiner Record 26F, 19C). Outages are "mostly due to failures of overhead conductors and tree related events." (Hearing Examiner Record 27F). Any claims of improved reliability are statistically insignificant. (Hearing Examiner Record 26F, 19C, 27F, Hearing Examiner Report at p. 11 para 3, stating that the two substations are currently underutilized).
14. The Alternative Siting Analysis required by LUC 20.20.255D was not completed properly because letters submitted by professionals and city staff were not properly considered. Series of letters from professionals and city staff that refer to the benefits of alternative siting that were not considered in selecting 148th Avenue alignment. (Hearing Examiner Record 149C, 179C, 42C, 156C, 56F, 58F).
15. The cost and/or feasibility of alternative sites/undergrounding was not properly considered by the Hearing Examiner. This is inconsistent with the Bellevue Comprehensive Plan which provides that the City needs to approach conversion of distribution lines to underground. (Hearing Examiner Record 5G at p. 54).
16. The project fails to achieve the desired benefit of redundancy because the "loop" cannot be completed as originally proposed (Hearing Examiner Report at pp. iv and 36). PSE does not intend to construct the segment of the project along SE 16th until an unspecified date in the future. (Hearing Examiner Report at p. 54).

