

ORIGINAL

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 9015

A RESOLUTION finding that costs for a legal appeal of a jurisdictional ruling in the case of PSE v. City of Bellevue and East Bellevue Community Council are necessary expenses of the Community Council and shall be budgeted and paid by the City in an amount not to exceed \$15,000.

WHEREAS, the Washington State Legislature enacted Chapter 35.14 in 1967 creating community municipal corporations, limited authority municipalities to be formed upon approval of voters annexing from unincorporated areas to cities; and

WHEREAS, in 1969 voters in unincorporated East Bellevue approved annexation to the City of Bellevue and concurrently approved creation of the East Bellevue Community Council, a community municipal corporation; and

WHEREAS, the East Bellevue Community Council has been granted statutory approval/disapproval authority over certain ordinances of the Bellevue City Council affecting development of land within its jurisdictional boundaries; and

WHEREAS, prior to 2015 the East Bellevue Community Council has acted on a single shoreline conditional use permit application filed by the City's Utilities Department in 1988, prior to the enactment of the State Growth Management Act and revision of the City's Land Use Code; and

WHEREAS, in June 2015 the East Bellevue Community Council disapproved both a conditional use permit and shoreline conditional use permit application filed by Puget Sound Energy previously approved by the City Council upon recommendation of the Hearing Examiner in Ordinance No. 6226; and

WHEREAS, following disapproval of Ordinance No. 6226 by the East Bellevue Community Council Puget Sound Energy filed suit against the City of Bellevue and East Bellevue Community Council in King County Superior Court as well as an appeal with the State Shoreline Hearings Board; and

WHEREAS, on September 9, 2015, the trial judge in King County Superior Court ruled that the East Bellevue Community Council had exceeded its statutory grant of authority under the plain language of RCW Chapter 35.14 in disapproving the shoreline conditional use permit and ordered the Community Council to revise Resolution No. 550 to remove reference to the shoreline conditional use permit; and

WHEREAS, East Bellevue Community Council has filed an appeal of this trial court ruling with Division I of the Washington State Court of Appeals; and

WHEREAS, on November 6, 2015 the East Bellevue Community Council transmitted a letter to the City Council requesting that the Council find that the legal costs associated with pursuing that appeal are necessary expenses of the Community Council and should be budgeted and paid by the City; and

WHEREAS, prior appellate court decisions have clarified the limited scope of jurisdictional and budgetary authority of community municipal corporations under the enabling state law RCW Chapter 34.15; and

WHEREAS, the City disagrees with East Bellevue Community Council's claim of jurisdiction over shoreline permits; and

WHEREAS, an appellate ruling could resolve the question of a community municipal corporation's jurisdictional authority over shoreline conditional use permits and provide future guidance should any other shoreline permits be issued by the City within the jurisdictional boundaries of the East Bellevue Community Council; and

WHEREAS, the issue on appeal of the trial court's ruling in this matter is limited to a single issue of law, therefore requiring minimal briefing and argument; and

WHEREAS, the amount of up to \$15,000 is a reasonable amount of legal costs for an appeal under such circumstances; now, therefore,

**THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES
RESOLVE AS FOLLOWS:**

Section 1. In the limited circumstances presented by the dispute between the parties in the litigation associated with the East Bellevue Community Council's disapproval of the shoreline conditional use permit granted to Puget Sound Energy by the City Council in Ordinance No. 6226, the costs of an appeal to Division I of the Court of Appeals are necessary expenses of the community municipal corporation.

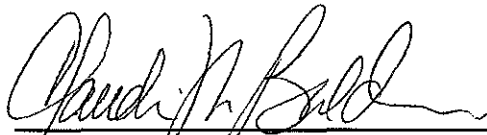
Section 2. The sum of up to \$15,000 is a reasonable amount of funds to pay for this appeal. The City Manager is hereby authorized to enter into an agreement for professional services with an appellate attorney selected by the City Attorney for purposes of prosecuting this appeal on behalf of the East Bellevue Community Council.

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3283-RES
11/16/2015

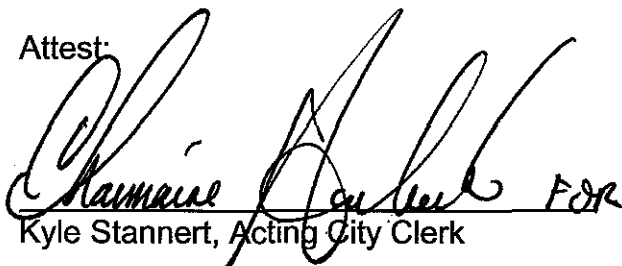
Passed by the City Council this 16 day of NOVEMBER, 2015,
and signed in authentication of its passage this 16 day of NOVEMBER,
2015.

(SEAL)



Claudia Balducci, Mayor

Attest:



Kyle Stannert, Acting City Clerk