

CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 9072

A RESOLUTION finding that costs related to an appeal brought by the East Bellevue Community Council currently pending before the Washington state Shoreline Hearings Board are necessary expenses of the Community Council and shall be budgeted and paid by the City in an amount not to exceed \$ 30,000.

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 denied the EBCC an automatic stay of this ruling; and

WHEREAS, East Bellevue Community Council appealed these rulings to Division I of the Washington State Court of Appeals; and

WHEREAS, following the trial court's ruling on jurisdiction over the shoreline permit and dissolution of the stay, the City transmitted the Shoreline Conditional Use Permit to the state Department of Ecology as required by law; and

WHEREAS, the Department of Ecology reviewed and approved the Shoreline Conditional Use Permit for this transmission line project in December 2015; and

WHEREAS, the East Bellevue Community Council appealed Ecology's issuance of this shoreline permit to the state Shoreline Hearings Board which has set this matter for hearing in March 2106 with a discovery cut-off of March 24, 2016; and

WHEREAS, on February 5, 2016 the East Bellevue Community Council transmitted a letter dated February 3, 2016 to the City Council requesting \$30,000 in funding for this matter indicating that the community council's goal was a "meaningful review" of the shoreline permit; 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 both with the community council's claim of jurisdiction over shoreline permits and its statutory authority to challenge decisions of governmental agencies other than the Bellevue City Council; and

WHEREAS, despite this disagreement, the City Council agrees it may be beneficial for future legal guidance of the parties to achieve clarification of the scope of community councils' jurisdiction and statutory authority; and

WHEREAS, the amount of up to \$ 30,000 is a reasonable amount of legal costs for litigation 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 this matter, the legal costs associated with the shoreline conditional use permit appeal before the state Shoreline Hearings Board are necessary expenses of the community municipal corporation and shall be budgeted and paid by the City.

Section 2. The sum of up to \$ 30,000 is a reasonable amount of funds to pay for this matter before the Washington state Shoreline Hearings Board. The City Manager or his designee is hereby authorized to enter into an agreement for

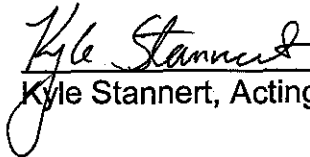
professional services with attorney Kathleen Haggard of Porter Foster Rorick LLP for purposes of representing the East Bellevue Community Council in this matter.

Passed by the City Council this 16<sup>th</sup> day of February, 2016,  
and signed in authentication of its passage this 22<sup>nd</sup> day of February,  
2016.

(SEAL)

  
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John Stokes, Mayor

Attest:

  
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Kyle Stannert, Acting City Clerk