

Melonie Anderson

From: Reid Brockway <waterat@comcast.net>
Sent: Tuesday, May 7, 2013 6:48 AM
To: Melonie Anderson
Subject: Fwd: ECA Review Process
Attachments: Testimony to 12-11-12 City Council.docx

Melonie,

I was looking on the city's website for the attached testimony to the city council and could not find it. Could you please tell me if it was posted, and if so where? If it was not, I request that it be added to the ECA page under the appropriate City Council ECA Process tab.

Thanks,
Reid

----- Original Message -----

Subject: ECA Review Process
Date: Tue, 11 Dec 2012 10:51:14 -0800
From: George Toskey <getoskey@comcast.net>
To: manderson@ci.sammamish.wa.us
CC: Harry Shedd <harryshedd@gmail.com>

Melonie,

Please distribute the attached document from Citizens for Sammamish to the City Council members.

I have "volunteered" to summarize the document during the Public Comment session at tonight's City Council meeting.

Thanks,
George

EXHIBIT NO. CC48

8400

From: Citizens for Sammamish
To: Sammamish City Council
Date: December 11, 2012
Subject: ECA Review Process

Over the last roughly one year the Environmentally Critical Areas update process before the Planning Commission has generated a tremendous volume of public testimony. At last count there were 280 so-called "exhibits" logged, some of which are comprised of multiple separate submittals. These add up to many hundreds of pages of text and exhibits. The fact that there is so much testimony is a reflection, in part, of the extent of the problems with the current code and the degree of public concern. As the testimony explains, there are significant inequities built into our code that can and should be eliminated. And the testimony contains proposals for fixing them.

It is not our purpose to address these issues now. Our concern is with the process for assimilating public input, which we believe is not working. But just to offer one clear cut example...

The code prescribes fixed width buffers for streams and wetlands, irrespective of whether the streams and wetlands are found on undeveloped land or in densely developed neighborhoods. An occasional drainage charged with storm water can still meet the definition of a Type F stream, which is the most protected category. Presently the code prohibits a resident from placing any structure, even a small, portable garden shed, closer than 165 ft from a Type F stream. This is true even if the so-called stream has no fish and there are multiple houses between it and this resident's property. It is a case where the citizen is prevented from doing what is entirely within the rights of other citizens to do, and no environmental benefit is achieved.

There are many inequities in the code like this. And there are solutions that achieve a balance between human and environmental concerns, if the city will just consider them.

But that is the problem – the testimony is not being referred to by the Planning Commission in its deliberations.

As the volume of testimony mounted, it raised concern in our minds as to how the Planning Commission could possibly digest it. The Commission meets roughly every two weeks, and after administrative tasks, presentations from Staff or the consultant, and public comment, it has only one or two hours to deal with the substance of the ECA policy and code. No working sessions take place outside of this.

What *is* happening is that a process has been put in place that hamstring the public's ability to bring about substantive change to the code. Here is a brief chronology of what has happened:

When the process was begun in late 2011 city Staff declared that the code update was merely a "tweak" and published a list of "known topics" that was narrow in scope.

Staff obtained buy-in from the city council to limit consideration to these topics.

The city hired a consultant whose task was to identify the legal and scientific basis for code elements and how they are handled in other jurisdictions, but only for what has changed since 2005 when the

current version of the code was adopted. The underlying presumption is that the 2005 code was correct and appropriate at the time and only the changes in law and BAS since then need be considered.

The consultant produced biased reports that strongly favor environmental over human concerns, supported *not* by peer reviewed science but by references to surveys, policy documents, and other sources reflecting the “popular wisdom” of the environmental community. In these reports there is little true science nor discussion of the legal basis or practices of other jurisdictions.

A series of Commission meetings took place, organized by topic, in which the consultant educated the Commission on its version of reality concerning those topics and public testimony was received.

Staff cataloged public and consultant issues and recommendations into Proposed Amendments which they grouped into Major Items, Minor Items, and Parking Lot Items. In so doing they unilaterally performed a screening process based on Staff’s assessment of what should be in and out of scope. Here again the Know Topics list became the justification.

Staff filled out Evaluation Forms for only those items on the Major Items list (there are 14 items). The characterization of the issues, possible solutions, and assessments of the impacts on the environment, on the public, and on implementation all came from Staff. The public had no direct input. Each Evaluation Form had a bottom line rating of Positive, Neutral, or Negative. It was ruled that only those with a positive rating would be subject to deliberation by the Commission.

To determine what proposed amendments would proceed to deliberations, the Commission reviewed the Major Items based on the Evaluation Forms. There was some critical evaluation of the content and conclusions of these forms on the part of the Commissioners, but by and large this was done in the context of the issues as characterized by Staff in the Evaluation Forms. Aside from a public comment period at the ends of these meetings there was no opportunity for the public to interact with the Commission as these key decisions were being made. Members of the public had submitted their own versions of some Evaluation Forms, but those were not consulted during these meetings, nor was other public testimony referenced to any significant degree.

For those Major Items that made the cut, Staff prepared a draft of the ECA code containing changes to implement those amendments and comments referencing the Major Items in question.

Last week the Commission began the Deliberation process, in which it reviews the code changes in the context of the Evaluation Forms. This is proceeding rapidly, again without explicit reference to public testimony. The Commission indicated it’s expectation to complete the process in just one more meeting, which will be this Thursday. That is an absurdly short time frame considering the volume of public testimony received. It is only possible because the distillation of the issues prepared by Staff is all that is on the table and being considered.

Note that public comment is not being taken during deliberations, and of course there is no dialogue between the Commission and the public.

In the opinion of Citizens for Sammamish, the draft ECA changes produced by Staff fall well short of the mark when it comes to solving the inequities present in the code. As just one example, the issue

mentioned above of a homeowner not being allowed to install a garden shed in a stream buffer, whether or not it is within the range of influence, has not been addressed. For this reason the Citizens for Sammamish Environment Sub-group produced its own mark-up of the code, starting with the Staff's version. It retains the Staff's changes and comments but adds comments and recommended changes that address the problems that we see as not being solved. Those problems are numerous and profound.

Our expectation was that the Commission would refer to this draft in the course of deliberations. It is a manageable alternative to the hundreds of pages of testimony that would otherwise have to be reviewed. It brings in perspective and constructive recommendations that should be considered before making decisions that will affect the citizens of Sammamish for years to come.

We recognize that to truly consider the large volume of testimony is a formidable task. But *that testimony* represents the product of literally thousands of hours of research, meetings, writing, and verbal testimony on the part of concerned citizens. To set that aside and decide important policy over the course of a couple meetings based on a model of reality produced by city Staff would be a great disservice to the public.

