

**From:** [phyllisjwhite@comcast.net](mailto:phyllisjwhite@comcast.net)  
**To:** [TransportationCommission](#)  
**Cc:** [Carlson, Diane \(she/her\)](#); [Gerla, Kathy](#)  
**Subject:** Ethics Complaint Against City of Bellevue Mobility Planning and Solutions Manager Franz Loewenherz  
**Date:** Tuesday, December 5, 2023 1:43:01 PM  
**Attachments:** [Ethics Complaint Loewenherz 12-4-23.pdf](#)

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Dear Transportation Commissioners,

I hope this message finds you well. I am reaching out to bring the Transportation Commission's attention to an ethics complaint that I formally submitted to the City Council, City Manager Diane Carlson, and City Attorney Kathy Gerla yesterday. Please find the attached letter outlining the specifics of the complaint for your information.

Additionally, I have cc'd Diane Carlson and Kathy Gerla to inform them of this email.

Sincerely,

Phyllis White

Bellevue Resident

December 4, 2023

Bellevue City Council

Diane Carlson, City Manager

Kathy Gerla, City Attorney City of Bellevue

*Submitted via email*

**Re: Ethics Complaint Against  
City of Bellevue Mobility Planning and Solutions Manager Franz Loewenherz**

Dear Mayor Robinson, City Council, City Manager and City Attorney,

I respectfully submit the following ethics complaint against City of Bellevue Mobility Planning and Solutions Manager Franz Loewenherz and request that:

- Mr. Loewenherz be removed from overseeing or participating in any form in the Bike Bellevue project.
- The City re-initiate the public outreach and communication process for Bike Bellevue with explicit direction to provide complete and transparent information about the impacts, cost and outcomes consistent with the Council Vision, the staff's Mission and Core Values and the adopted policies in the Comprehensive Plan.
- This complaint is referred to the City Ethics Officer or another ethics expert to provide an independent review, determine whether an ethics violation has occurred and recommend modifications to the city ethics rules and/or codes of staff conduct to ensure the conduct described below does not occur in the future.

The policy underpinning the City of Bellevue's code of ethics for employees is set forth in BCC 3.90.010, which provides:

*This chapter is enacted to establish guidelines for ethical standards of conduct which shall govern the performance of city employees in the conduct of public project work and other city business, and to prevent potential conflicts of interest.*

With regard to prohibited conduct, BCC 3.90.040 broadly states in relevant part that "No city employee shall engage in any act which is in conflict with, or creates an appearance of conflict with, the performance of official duties."

The City's adopted broad policy and prohibited conduct language is similar to the language set forth in RCW 42.23.070, which was enacted as part of the comprehensive Ethics in Public Service Act and provides:

*Ethics in government are the foundation on which the structure of government rests. State officials and employees of government hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling the responsibilities to which they are elected and appointed. Paramount in that trust is the principle that public office, whether elected or appointed, may not be used for personal gain or private advantage.*

*The citizens of the state expect all state officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the state only in a manner that advances the public's interest.*

Our State Supreme Court has rejected the notion that such policy and prohibited acts language applies only to conflicts of interest, and instead applies broadly to all conduct undertaken by public employees. See *Hubbard v. Spokane County*, 146 Wn.2d 699, 50 P.3d 602 (2002). As such, BCC Chapter 3.90 mandates that City employees not engage in any act that conflicts with or appears to conflict with the performance of public duties, irrespective of whether there is also a conflict of interest.

In May 2021, the Bellevue City Council unanimously adopted an update of the 20-year vision originally adopted in 2014. See [https://bellevuewa.gov/sites/default/files/media/pdf\\_document/2021/Council-Vision-Priorities-2021.pdf](https://bellevuewa.gov/sites/default/files/media/pdf_document/2021/Council-Vision-Priorities-2021.pdf). On page 7, the Council Vision states:

*We seek input from our residents and businesses, and this input informs city decision-making. We make decisions in a transparent manner and support public engagement and connectivity.*

In 1999, Bellevue staff adopted a mission statement and core values “to help guide how we do our work. The City Council Vision is the community vision that defines what that work is.” See <https://bellevuewa.gov/city-government/departments/city-managers-office/mission-and-core-values>. The Core Values include “Exceptional Public Service” and “Integrity.” “Exceptional Public Service” means that “Our community can expect open, fair, consistent and responsive service,” and one of the adopted General Strategies is “Maintain effective public information processes.” For “Integrity,” City staff is to “behave ethically, honestly and fairly” and “perform [its] work with steadfastness to truth, responsibility and open communication.” The adopted General Strategies for Integrity include:

- Live the city’s core values.
- Use core values to guide decisions.
- Contribute to an environment that is safe for open and honest dialogue.
- Receive open and honest communication in a positive way.
- Give a consistent message to all audiences.
- Take the risk to be honest.

In *Hubbard v. Spokane County*, the State Supreme Court found that engaging in conduct that conflicted with the Spokane County’s adopted airport master plan could serve as a basis for an ethical violation as the county’s plan provided a valid public policy. See *id.* Without question, the City’s adopted Council Vision and Mission and Core Values express and represent a valid, strong public policy with a clear mandate that staff engage the public in a fair, transparent, honest, inclusive, ethical and open manner. A violation of the City’s adopted principles and strategies for public communication is a violation of public policy and a basis for an ethical violation under the City code and state law. *Accord id.*

Here, Mr. Loewenherz has engaged in conduct that conflicts with or appears to conflict with the adopted Council Vision and the adopted Mission and Core Values for City employees by engaging in a biased, covert and selective effort to undermine the Bike Bellevue public engagement process and to steer the resulting public comment and participation toward a pre-determined result. Specifically, Mr. Loewenherz has engaged in the following unethical acts:

1. On September 7, 2023, Mr. Loewenherz sent an email to four private individuals in leadership positions in various special interest groups (Seattle Bike Blog, Cascade Bicycle Club, Eastrail Partners, and Complete Streets Bellevue), soliciting efforts to disseminate City information through their various communication channels to encourage people in the bicycling community to provide feedback through the City's Bike Bellevue survey (Konveio online engagement tool). Please refer to Attachment A, which is a true and correct copy of Mr. Loewenherz's email to this effect. While these special interest groups may have members in Bellevue, the effect of having them solicit feedback from their membership is to invite significant responses from non-Bellevue residents and thereby skew the results and undermine the validity of the Konveio survey.
2. On September 15, 2023, Mr. Loewenherz sent a second email to five private individuals—including several non-residents—in leadership positions in various special interest groups (Seattle Bike Blog, Cascade Bicycle Club, Eastrail Partners, and Complete Streets Bellevue), referring to them as his "Team" and soliciting efforts to disseminate City information through their own communication channels. Please refer to Attachment B, which is a true and correct copy of Mr. Loewenherz's email to this effect. Mr. Loewenherz reference to the leaders of special interest groups as his "Team" for a City-funded project shows bias, partiality and special access, and the use of such groups to solicit member feedback again skews the results and undermines the validity and utility of the Konveio survey. This is politicking, not data gathering.
3. On October 17, 2023, Mr. Loewenherz covertly shared an email communication sent from a stakeholder to Mr. Loewenherz, the Transportation Commission and the City Council with two leaders of special interest groups (Complete Streets Bellevue and Eastside Urbanism), acknowledging in his communication that his conduct was atypical and non-transparent by writing "FYI - Sharing in confidence." Please refer to Attachment C, which is a true and correct copy of Mr. Loewenherz's email to this effect. This again shows bias and unequal access to information with members of Mr. Loewenherz's "Team." One may speculate about the purpose and intent of such abnormal covert sharing, but one thing is clear: even Mr. Loewenherz recognized the impropriety of action by requesting confidentiality.
4. On November 3, 2023, Mr. Loewenherz referenced public comments from a stakeholder that were a part of an upcoming Transportation Commission meeting packet in a communication with two leaders of special interest groups and three City staff. Mr. Loewenherz acknowledged in his communication that his conduct was atypical and non-transparent by writing, "We need to be careful in our communications. We have received critiques from others in the community that we are not being transparent enough about the impact to travel lanes and parking," noting that the City had to update its draft guide to detail such impacts. Mr. Loewenherz goes on to explicitly request help from the special interest groups to communicate so as to avoid having to disclose such impacts by using Eastside Urbanism as a communications proxy with "a different approach to the communications that [the City] needs to follow." Please refer to Attachment D, which is a true and correct copy of Mr. Loewenherz's email to this effect. This is a direct effort by Mr. Loewenherz to disseminate incomplete and therefore misleading information about the Bike Bellevue plan through his "Team" of special interest groups.
5. On November 8, 2023, Mr. Loewenherz covertly shared an email communication submitted by a stakeholder to the Transportation Commission with two leaders of special interest groups (Complete Streets Bellevue and Eastside Urbanism), acknowledging in his communication that his conduct was atypical and non-transparent by writing, "FYI - Sharing in confidence." Please refer to Attachment E, which is a true and correct copy of Mr. Loewenherz's email to this effect. This again

shows bias, unequal access to information and the acknowledged impropriety of action by requesting confidentiality.<sup>1</sup>

In sum, Mr. Loewenherz has used his position as the City of Bellevue Mobility Planning and Solutions Manager and the project manager for Bike Bellevue, as well as public resources, to undermine and evade the City Council's adopted Vision for transparency in community engagement and to violate the City's adopted Mission, Core Values and General Strategies by providing covert, unique access and advantage to special interest groups that support the project he is leading and to avoid accurate, good-faith communication with all stakeholders and constituents using approved City content. Mr. Loewenherz's conduct thus violates BCC 3.90.040.

I respectfully request that Mr. Loewenherz be removed from the Bike Bellevue project and that the City re-initiate the community engagement process in a manner that comports with the Council's adopted Vision and the Mission and Core Values that guide how Bellevue staff does its work. Doing so will ensure a more inclusive and transparent approach to foster increasing trust and participation from the residents of Bellevue. Additionally, I further request that the matter be referred to the City Ethics Officer or other independent ethics expert for a determination of whether an ethics violation has occurred. Their suggested recommendations to the staff ethics rules and other codes of conduct will not only address present concerns but also foster a culture that mirrors our City's ethical approaches in future projects. This will ultimately benefit the entire Bellevue community by ensuring such conduct does not happen in the future.

Thank you for your dedicated service to our city.

Sincerely,

Phyllis White

<sup>1</sup> It is common practice for City staff to require stakeholders to submit a formal public records request for information that is in the possession of the staff and where the request for information is initiated by the stakeholder. In this case the recipients did not initiate the request for the information, nor were they required to submit a public records request. If this common practice is not already codified, it should be.

## Attachment A

**From:** Loewenherz, Franz

**Sent:** Thursday, September 7, 2023 12:51 PM

**To:** [tom@seattlebikeblog.com](mailto:tom@seattlebikeblog.com); Vicky Clarke <[vicky@cascadebicycleclub.org](mailto:vicky@cascadebicycleclub.org)>; Katherine Hollis <[Katherine@easttrailpartners.org](mailto:Katherine@easttrailpartners.org)>; Christopher Randels <[crandels@cs-bellevue.org](mailto:crandels@cs-bellevue.org)>

**Subject:** Bike Bellevue - Please assist in sharing information through your communication channels starting next Friday, Sept 15

**Importance:** High

Hello Tom, Vicky, Katherine, and Chris –

I hope this email finds you well and that you are as excited as I am about [Bike Bellevue](#). In 2022, the [Bellevue City Council approved funding](#) to plan and implement rapid-build bicycle infrastructure in the urban core neighborhoods and subsequently [directed staff to work with the Transportation Commission](#) to prepare a Bike Bellevue recommendation plan for implementation.

As you know, past efforts to advance bicycle facility improvements in the City of Bellevue have proved to be challenging, involving time-consuming and costly consultative processes that ultimately delivered only incremental segments of the broader vision for a safe and connected connector. Bike Bellevue represents a coordinated approach to implementing [network improvements](#) with a single engagement process through which stakeholders arrive at a clearly articulated strategy for investments for multiple years that will help the city achieve its goals more efficiently and effectively.

Next Thursday, September 14 staff will share the following information with the Bellevue Transportation Commission: 1. [Agenda Memo](#), 2. [Att A. DRAFT Project Area Map](#), 3. [Att B. Bike Bellevue Project Principles](#), 4. [Att C. DRAFT Design Concepts Guide, September 2023](#), 5. [Att D. Draft Community Engagement Plan](#). Please consider Attachment C highlighted above to better understand the proposed bike network improvements (see Appendix F through Appendix P).

A notable near-term community engagement activity is the launch of an online project design feedback tool on September 15, 2023. Through this [Konveio tool](#), the public can submit comments and offer their perspective on feedback from others on the proposed designs for each of the eleven Bike Bellevue corridors. The deadline for comment via Konveio is November 15, 2023.

I'm hoping that your community-based organization can assist us in getting the word out about Bike Bellevue through your various communication channels. We would appreciate your highlighting in your public messaging that starting next Friday people can provide feedback via the Konveio tool. Also, we would benefit from your help identifying participants for our subsequent focus group conversations (more to come on this later). Please let me know if you'd benefit from additional information.

Thank you,  
Franz

**Franz Loewenherz**

He/him/his ([Why does this matter?](#))

Mobility Planning and Solutions Manager

[Vision Zero](#), [Bike Bellevue](#), [Transit](#)

[Transportation Department](#), [City of Bellevue](#)

[FLoewenherz@bellevuewa.gov](mailto:FLoewenherz@bellevuewa.gov) / (425) 452-4077

## Attachment B

RE: Bike Bellevue - Please assist in sharing information through your communication channels starting next Friday, Sept 15



Loewenherz, Franz

To: tom@seattlebikeblog.com; Vicky Clarke; Katherine Hollis; Christopher Randels; Colin Petkus

Reply Reply All Forward

Fri 09/15/23 12:59 PM

Hi Team – Letting you know that last night staff met with the Transportation Commission on [Bike Bellevue](#). We reviewed the [DRAFT Design Concepts Guide](#), today released the [online engagement platform](#), and next week intend on sending out this [mailer](#) to all addresses in the project area encouraging participation. Please let me know if you can assist us in getting the word out about Bike Bellevue through your various communication channels. Thank you, Franz

## Attachment C

Fwd: Responses to Bike Bellevue inquiries



Loewenherz, Franz

To: Christopher Randels; Lara Gardner

Reply Reply All Forward

Tue 10/17/23 8:03 PM

This message is part of a tracked conversation. Click here to find all related messages or to open the original flagged message.

09132023 Mariya Frost Bike Bellevue request for information.pdf .pdf File

KDC Written Comment on Bike Bellevue for 9-14 Meeting Outlook item

RE: Questions RE: Bike Bellevue modeling Outlook item

FYI - Sharing in confidence.

From: Mariya Frost <[mariya.frost@kemperdc.com](mailto:mariya.frost@kemperdc.com)>

Sent: Tuesday, October 17, 2023 2:32 PM

To: Loewenherz, Franz <[FLoewenherz@bellevuewa.gov](mailto:FLoewenherz@bellevuewa.gov)>

Cc: TransportationCommission <[TransportationCommission@bellevuewa.gov](mailto:TransportationCommission@bellevuewa.gov)>; Council <[Council@bellevuewa.gov](mailto:Council@bellevuewa.gov)>; Halse, Katie <[KHalse@bellevuewa.gov](mailto:KHalse@bellevuewa.gov)>

Subject: FW: Responses to Bike Bellevue inquiries

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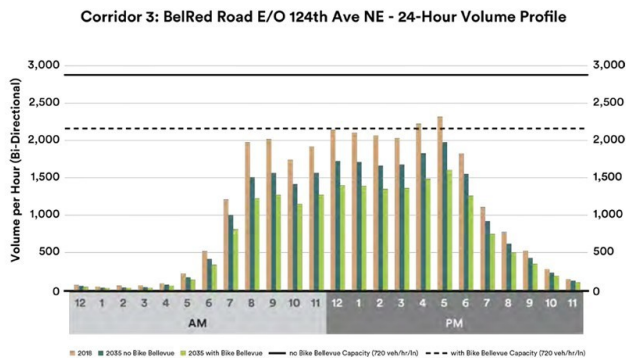
Franz,

Thank you again for taking the time to put together a thorough response to our questions regarding Bike Bellevue. I do have some follow-up comments and inquiries I hope you and the department might be able to address.

### 1. Travel data is misrepresented

Bike Bellevue argues that Bellevue roads are underutilized and overbuilt to justify significant reductions in capacity for the creation of bike lanes. The City averaged bi-directional traffic at all hours of the day to illustrate this point, rather than presenting data that reflects the public's travel experience at peak hours. In response to concerns about this claim, you've provided directional data comparing directional vehicle volumes and directional capacity, which is much more meaningful. For some corridors, the contrast is shocking.

For example, the City shows bi-directional data in Bike Bellevue for Corridor 3, giving the impression that taking travel lanes will have no impact on traffic, which would remain below the newly reduced capacity limit (dashed line):



## Attachment D

RE: Materials



Loewenherz, Franz

To: Lara Lara; Allan, Mackenzie (she/her); Hagstrom, Gillian  
Cc: Christopher Randels; Backman, Jay (They/Them/Theirs) C.

Reply Reply All Forward

Fri 11/03/23 3:33 PM

Click here to download pictures. To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

Hi Lara – We need to be careful in our communications. We have received critiques from others in the community that we are not being transparent enough in Bike Bellevue communications about the impacts to travel lanes and parking and that this should be the focal point of our headline about the project (see [11092023 Bike Bellevue Attachment C.pdf \(bellevuewa.gov\)](#) – pages 141 and 142). We've received similar communications from others in various venues. As a result, you'll observe in our updated DRAFT Guide that we now include the messaging below on page 5. Perhaps if you've developed rapport with the managers at these buildings, they would be willing to receive suggested communications from Eastside Urbanism that has a different approach to the communications that we need to follow. Otherwise [@Allan, Mackenzie \(she/her\)](#) will coordinate with [@Hagstrom, Gillian](#) early next week in preparing content that is similar to our poster. Thank you, Franz



## Attachment E

FW: KDC Written Comment for 11-9 meeting / Bike Bellevue



Loewenherz, Franz

To: Christopher Randels; Lara Gardner



Reply Reply All Forward

Wed 11/08/23 1:23 PM

FYI – Sharing in confidence.

**From:** McDonald, Kevin <[KMCDonald@bellevuewa.gov](mailto:KMCDonald@bellevuewa.gov)>  
**Sent:** Wednesday, November 8, 2023 10:36 AM  
**To:** Loewenherz, Franz <[FLoewenherz@bellevuewa.gov](mailto:FLoewenherz@bellevuewa.gov)>  
**Subject:** FW: KDC Written Comment for 11-9 meeting / Bike Bellevue

Incoming, FYI. KM

**From:** Mariya Frost <[mariya.frost@kemperdc.com](mailto:mariya.frost@kemperdc.com)>  
**Sent:** Wednesday, November 8, 2023 10:35 AM  
**To:** TransportationCommission <[TransportationCommission@bellevuewa.gov](mailto:TransportationCommission@bellevuewa.gov)>  
**Cc:** McDonald, Kevin <[KMCDonald@bellevuewa.gov](mailto:KMCDonald@bellevuewa.gov)>  
**Subject:** KDC Written Comment for 11-9 meeting / Bike Bellevue

**[EXTERNAL EMAIL Notice]** Outside communication is important to us. Be cautious of phishing attempts. Do not click or open suspicious links or attachments.

Chair Stash and Commissioners,

Please consider the attached written comment from Kemper Development in preparation for your Bike Bellevue study session on November 9<sup>th</sup>.

Sincerely,

Mariya Frost  
Director of Transportation  
Kemper Development Company  
The Bellevue Collection | Bellevue Square | Lincoln Square | Bellevue Place  
425-450-5925 Mobile  
[mariya.frost@kemperdc.com](mailto:mariya.frost@kemperdc.com)  
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