

EDMONDS CITY COUNCIL APPROVED MINUTES

February 11, 2014

The Edmonds City Council meeting was called to order at 5:30 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Diane Buckshnis, Council President
Kristiana Johnson, Councilmember
Lora Petso, Councilmember
Strom Peterson, Councilmember
Joan Bloom, Councilmember
Adrienne Fraley-Monillas, Councilmember

STAFF PRESENT

Phil Williams, Public Works Director
Carrie Hite, Parks & Recreation Director
Rob Chave, Acting Development Services Dir.
Kernen Lien, Senior Planner
Rob English, City Engineer
Renee McRae, Recreation Manager
Sarah Mager, Accountant
Brian Tuley, IT Supervisor
MaryAnn Hardie, Human Resources Manager
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Linda Hynd, Deputy City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. ROLL CALL/FLAG SALUTE

City Clerk Scott Passey called the roll. All elected officials were present.

2. CONVENE IN EXECUTIVE SESSION REGARDING POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)

At 5:32 p.m., Mayor Earling announced that the City Council would meet in executive session regarding potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. Action may occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Peterson, Petso and Bloom. Others present were City Attorney Jeff Taraday, Senior Planner Kernen Lien and City Clerk Scott Passey. The executive session concluded at 6:05 p.m.

Mayor Earling reconvened the regular City Council meeting at 6:07 p.m. He deferred the gavel to Council President Buckshnis to conduct the next agenda item.

3. CONTINUED INTERVIEWS TO FILL COUNCIL VACANCY POSITION #6

The Council conducted a second, 20 minute interview of the following candidates for City Council Position #6 vacancy:

- Deborah Anderson

- Alvin Rutledge

Council President Buckshnis returned the gavel to Mayor Earling.

5. POTENTIAL ACTION ON APPOINTMENT TO FILL COUNCIL VACANCY POSITION #6

Mayor Pro Tem Buckshnis explained that the Council’s goal was to ensure all applicants felt they were treated fairly and equally; this continues to be the objective. The recommended process initially was to follow the previous process that included two nights of extended interviews. However, concerns were expressed that it could be advantageous if some applicants became aware of questions ahead of time. Other Councilmembers were concerned the length of the interviews would have to be shortened due to the number of applicants. In hindsight, the concern about applicants becoming aware of questions ahead of time was not resolved with conducting all interviews on one night because the interviews are live streamed. Regardless, a hybrid approach was utilized that allowed for shorter interviews of all applicants in one night and a second set of interviews afforded to those candidates that may have been less known to the community and Councilmembers. Council President Buckshnis commented she had not directly heard a single complaint from a citizen or applicant that this process was unfair.

Council President Buckshnis explained prior to the second set of interviews, some Councilmembers were uncomfortable that some applicants were afforded additional time. Therefore the process was modified again to allow all applicants who wanted to have a second interview that right. Two applicants requested a second interview, with the others declining but providing written responses to additional questions.

Council President Buckshnis summarized this hybrid approach may not have been a perfect process and the appointment process has never been a perfect process. But it was hard to argue that the applicants had not been afforded an opportunity to express in both writing and verbally, 1) why they would like to join the Council, 2) their perspectives about the community’s values and priorities, and 3) what their goals may be. Considering the amount of time spent on this process, she suggested it may be valuable to consider adopting a formal policy for future appointments. She thanked City Attorney Jeff Taraday for his assistance during the process.

City Clerk Scott Passey read the rules for nomination/election to fill Council vacancy which were contained in the Council packet:

Nominations

Each Councilmember may nominate one candidate from the list of applicants by placing an “X” beside the name of the applicant of his or her choice on the form supplied for that purpose by the City Clerk, and by signing the nomination form. The City Clerk will announce and maintain a permanent record of the nominations and of the Councilmember nominating each candidate.

The Election

Each Councilmember may vote for one candidate by placing an “X” beside the name of the candidate of his or her choice on the ballot supplied for that purpose by the City Clerk, and by signing the ballot. The City Clerk will announce and maintain a permanent record of each ballot and who voted for each candidate.

A Deadlock

A deadlock occurs after each Councilmember votes the same way on three consecutive ballots. In the event the City Council should deadlock, then previous nominations are declared null and void and the Council may begin a new round of nominations.

Nomination 1	
Candidate	Councilmember

Stephen Schroeder	Buckshnis
Kathleen Dewhirst	Peterson
Neil Tibbot	Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember
Ballot 1		
Stephen Schroeder	1	Buckshnis
Kathleen Dewhirst	1	Peterson
Neil Tibbot	1	Johnson
Steve Bernheim	3	Bloom, Petso & Fraley-Monillas
Ballot 2		
Stephen Schroeder	1	Buckshnis
Neil Tibbot	2	Peterson & Johnson
Steve Bernheim	3	Petso, Fraley-Monillas & Bloom
Ballot 3		
Stephen Schroeder	2	Buckshnis & Johnson
Neil Tibbot	1	Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 4		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 5		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 6		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock (each Councilmember voted the same way on three consecutive ballots), making previous nominations null and void. Mr. Passey requested Councilmembers complete Nomination Form 2.

Nomination 2	
Candidate	Councilmember
Stephen Schroeder	Buckshnis
Neil Tibbot	Peterson & Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Councilmember Petso thanked all the candidates who applied, noting the Council was fortunate to have a number of good candidates. She nominated Steve Bernheim because the Council was fortunate to have two former Councilmembers willing to return to serving on the Council, one of whom is Mr. Bernheim. She recalled during the interviews, Mr. Bernheim emphasized he would support process over outcome which she felt it would be valuable to the Council.

Council President Buckshnis expressed her support for Stephen Schroeder, noting his answers to the interview questions were very well informed and illustrate that he has done his homework and watches City Council meetings. The information he provided on quasi-judicial matters was accurate and his background would be helpful in the code rewrite. In addition he is well-informed about the critical areas ordinance; after

the Council’s quasi-judicial consideration of the Hillman variance appeal, he and his neighbor purchased the property. She agreed many wonderful candidates applied; Mr. Schroeder is an excellent candidate.

Candidate	Votes	Councilmember
Ballot 7		
Stephen Schroeder	1	Buckshnis
Neil Tibbot	2	Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Ballot 8		
Stephen Schroeder	1	Buckshnis
Neil Tibbot	2	Johnson & Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 9		
Stephen Schroeder	1	Buckshnis
Neil Tibbot	2	Johnson & Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 3.

Nomination 3	
Candidate	Councilmember
Stephen Schroeder	Buckshnis & Johnson
Neil Tibbot	Peterson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember
Ballot 10		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 11		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 12		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 4.

Councilmember Bloom asked how many deadlocks the Council could reach. Mr. Passey responded there are no hard and fast rules about the number of deadlocks; it is the Council’s process. There needs to be four votes for one of the candidates in order to appoint. Councilmember Fraley-Monillas recalled the Council completed 33 ballots before Councilmember Peterson was appointed. Council President Buckshnis commented Roberts Rules allow the Council to convene in executive session to discuss the candidates’ qualifications.

Nomination 4	
Candidate	Councilmember
Stephen Schroeder	Buckshnis & Johnson
Neil Tibbot	Peterson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Councilmember Peterson commented Mr. Tibbot has shown a great deal of interest and dedication to the City over the years on the Planning Board, the Transportation Committee and other committees. He was very impressed with Mr. Tibbot’s knowledge of the way the City works and his involvement with the City’s processes on a number of different issues. He was impressed with Mr. Tibbot’s interview as well as the quiet, often frustrating work done by committee members.

Councilmember Fraley-Monillas explained one of the reasons she believed Mr. Bernheim was the best candidate was he served on the Transportation Committee as well as on the Council for four years. She said the Council needs a consensus builder, someone who the Council knows and has worked with, someone who will not jump the perceived sides; he is honest and direct and regardless of whether one likes his decisions, he stands by his decisions. For those reasons, she felt Mr. Bernheim was the best choice.

Candidate	Votes	Councilmember
Ballot 13		
Stephen Schroeder	2	Buckshnis & Johnson
Neil Tibbot	1	Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 14		
Stephen Schroeder	2	Buckshnis & Johnson
Neil Tibbot	1	Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 15		
Stephen Schroeder	2	Buckshnis & Johnson
Neil Tibbot	1	Peterson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 5.

Nomination 5	
Candidate	Councilmember
Stephen Schroeder	Buckshnis & Peterson
Neil Tibbot	Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember
Ballot 16		
Stephen Schroeder	2	Buckshnis & Peterson
Neil Tibbot	1	Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 17		
Stephen Schroeder	2	Buckshnis & Peterson
Neil Tibbot	1	Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 18		
Stephen Schroeder	2	Buckshnis & Peterson
Neil Tibbot	1	Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock.

Mayor Earling asked whether the Council was interested in continuing to vote, taking a break, or convening in executive session. Mr. Taraday explained per RCW 42.30.110(1)(h), the Council can go into executive session to evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public.

Councilmember Petso asked whether the notes that are typically taken of executive session would be immediately subject to disclosure upon seating the new Councilmember or would they remain confidential. Mr. Taraday answered that is a debatable question; the Public Records Act (PRA) does not provide an express exemption for this type of record. To the extent that the City did not want to disclose that type of record, there would need to be an argument that it fit within the rubric of other exceptions to the PRA.

Mayor Earling declared a 5 minute recess.

Mr. Passey requested Councilmembers complete Nomination Form 6.

Nomination 6	
Candidate	Councilmember
Stephen Schroeder	Buckshnis, Peterson & Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember Vote
Ballot 19		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 20		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 21		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 7.

Nomination 7	
Candidate	Councilmember
Stephen Schroeder	Buckshnis, Peterson & Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember Vote
Ballot 22		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 23		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 24		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 8.

Nomination 8	
Candidate	Councilmember
Stephen Schroeder	Buckshnis, Peterson & Johnson
Steve Bernheim	Fraley-Monillas, Bloom & Petso

Candidate	Votes	Councilmember Vote
Ballot 25		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 26		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso
Ballot 27		
Stephen Schroeder	3	Buckshnis, Peterson & Johnson
Steve Bernheim	3	Fraley-Monillas, Bloom & Petso

The Council vote reached a deadlock.

Mayor Earling commented a pattern was emerging. He suggested the Council take a week’s break to think about the candidates and continue the process at the next Council meeting.

Councilmember Petso commented if the Council chose to continue the process next week, she would watch the interviews of the two candidates again. If all Councilmembers did the same, that may lead to a solution.

Council President Buckshnis expressed her appreciation to all the candidates who applied. She suggested Councilmembers also review the candidates’ written responses to questions.

Councilmember Fraley-Monillas said she would agree to a week’s delay if the Council concentrated on the two candidates that the vote had deadlocked on five times. She did not want begin nominating other candidates next week. She suggested an executive session to discuss qualifications. She asked about the procedure for a continued deadlock. Mr. Taraday explained if the Council failed to appoint a Councilmember within 90 days of the occurrence of the vacancy, the County Council will make the appointment. The Council has at least six weeks until that deadline.

Councilmember Bloom preferred to convene in executive session to discuss the candidates.

Councilmember Peterson said he was agreeable to an executive session. If the Council decided to delay a decision to next week, he did not support limiting nominations to the two candidates.

Mayor Earling suggested an executive session and the Council making a decision following the executive session whether to continue with nominations and voting tonight or delay the decision to next week.

Executive Session

At 7:57 p.m., Mayor Earling announced that the City Council would meet in executive session to evaluate the qualifications of a candidate for appointment to elective office per RCW 42.30.110(1)(h). He stated that the executive session was scheduled to last approximately 15 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. Action may occur as a result of meeting in executive session. Elected officials present at the executive session were: Councilmembers Johnson, Fraley-Monillas,

Buckshnis, Peterson, Petso and Bloom. Others present were City Attorney Jeff Taraday and City Clerk Scott Passey. At 8:15 p.m. Council President Buckshnis announced to the public present in the Council Chambers that an additional 10 minutes would be required in executive session. The executive session concluded at 8:25 p.m.

Mayor Earling reconvened the regular City Council meeting at 8:26 p.m.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO EXTEND THE PROCESS UNTIL NEXT WEEK AS SOME COUNCILMEMBERS WANT AN OPPORTUNITY TO REVIEW THE INTERVIEWS AND THEIR NOTES. MOTION CARRIED UNANIMOUSLY.

6. ADJOURN TO COMMITTEE MEETINGS

With no further business, the Council meeting was adjourned to committee meetings at 8:27 p.m.