

**CITY OF EDMONDS  
PLANNING BOARD MINUTES**

**August 25, 2010**

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Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:02 p.m. in the Council Chambers, Public Safety Complex, 250 – 5<sup>th</sup> Avenue North.

**BOARD MEMBERS PRESENT**

Philip Lovell, Chair  
John Reed, Vice Chair  
Todd Cloutier  
Kristiana Johnson  
Valerie Stewart

**STAFF PRESENT**

Rob Chave, Planning Division Manager  
Gina Coccia, Planner  
Bio Park, Assistant City Attorney  
John Westfall, Fire Marshall  
Karin Noyes, Recorder

**BOARD MEMBERS ABSENT**

Kevin Clarke (excused)

**READING/APPROVAL OF MINUTES**

**VICE CHAIR REED MOVED THAT THE MINUTES OF AUGUST 11, 2010 BE APPROVED AS AMENDED. BOARD MEMBER CLOUTIER SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

**ANNOUNCEMENT OF AGENDA**

No changes were made to the agenda.

**AUDIENCE COMMENTS**

There was no one in the audience who expressed a desire to address the Board during this portion of the meeting.

**DISCUSSION OF TENT CITY**

Mr. Park advised that since the last time the Board reviewed this Tent City Ordinance, the draft was revised to incorporate their recommendations, which were primarily related to more flexibility in layout and setback. The Board asked him to determine if specific setbacks and distance between the tents and structures was a requirement the City had to adopt, and the answer is no. Any reasonable distance that provides proper safety is sufficient. Therefore, the changes the Board requested were made to the draft document. In addition, changes were made to the draft ordinance to incorporate the requirements of House Bill 1975 concerning restrictions on standards and conditions of approval.

As requested by the Board, Mr. Park said he also provided sample codes from other jurisdictions with similar ordinances.. He reported that there have not been any ordinances that have gone before the court. However, the Kirkland and Bellevue ordinances have been used by tent city organizations. He referred the Board to the sample ordinances from Bellevue, Mercer Island, Kirkland and Lynnwood. He explained that all the ordinances are similar. They define the tent city use and describe the process required for approval. They also contain some very general provisions to provide for the health, safety and welfare of the community. He reminded the Board that the City cannot regulate the behavior and conduct of the tent city residents, but they can regulate the impacts to the community associated with the use.

Chair Lovell referred to Section 17.20.080 on Page 10 of the draft ordinance, which states that if the sponsor of a temporary homeless encampment is a “religious organization,” the indemnification and hold harmless requirements would not apply. Mr. Park explained that as per recently adopted State Law, the City cannot enforce conditions of approval or requirements that substantially burden religious organizations who want to sponsor temporary homeless encampments, and this includes indemnification and insurance requirements. However, the law also includes an amnesty provision for elected officials and employees of the City for any harm or damage that may be caused from approval of a temporary homeless encampment. Chair Lovell asked if the law would protect the City legally from all aspects having to do with tent cities that are sponsored by religious organizations. Mr. Park answered affirmatively and added that no additional language needs to be incorporated into the proposed language because the issue is clearly addressed by State Law.

Board Member Cloutier pointed out that all previous references to fire safety requirements and procedures have been replaced with a statement that refers to the requirements defined in Chapter 24 of the International Fire Code. He asked if it would be relatively simple for an applicant to meet the requirements of the Fire Code without hiring a consultant. He also asked if the fire code provides enough guidance for sponsors to layout the tents properly. Mr. Park answered that there is good incentive for applicants to approach City staff early in the process to discuss their plans. It is important for applicants to obtain the required assistance from the City staff or the Fire Marshall before an application has been submitted. He noted that some sponsoring organizations will have the expertise to lay out the tent cities by themselves, but most will not.

Board Member Cloutier suggested that while it would be appropriate to have a 30-day review period for tent city applications, the Board should keep in mind that the City may not have this much notice of a future tent city. He suggested the City provide a “cheat sheet” to help sponsors lay the tents out correctly. This information could also include a short list of the fire code requirements. Mr. Park advised that regardless of whether a tent city is sponsored by a religious organization or not, they would not legally be allowed to establish an encampment without going through the permit process.

Fire Marshall Westfall said that as per WAC 51-16-030, RCW 19.27.042 and ECDC 19.00.040, non-conforming religious structures can be excluded from certain requirements. The law provides for reasonable accommodation and gives the Building Official and Fire Marshall the ability to exempt religious organizations from any requirement of the State Building Code that would be triggered by a change in use. For example, it would be reasonable to exempt a religious organization from the requirement that a sprinkling system be provided if the organization agrees to provide a night fire watch. While planning is important, he recognized that emergency situations can come up that require the City to accommodate a more urgent schedule.

Vice Chair Reed referred to the second paragraph on Page 1 and questioned if it is necessary to name all of the nearby cities. Perhaps they could just say “several nearby jurisdictions.” He also referred to the second sentence in Section 20.030.A on Page 3, which requires that temporary homeless encampments be located a minimum of 20 feet from any property line. He suggested the wording be changed to make it clear that the tent city must be at least 20 feet away from adjacent property lines. Mr. Park agreed the language could be reworded to make the intent more clear. Vice Chair Reed also observed that the term “reasonably safe distance” is open to interpretation. He suggested it would be better to provide a specific number to identify what the distance must be. Mr. Park explained that the Hearing Examiner, with a recommendation from staff, would make this determination after reviewing the total size of the site, the number of tents proposed, and the number of anticipated residents.

Vice Chair Reed referred to Section 17.20.020 on Page 3 of the draft, and suggested that the last sentence be deleted since the public hearing requirement is addressed elsewhere in the proposed language. As currently written, this sentence seems to imply that a second public hearing would be held if a code violation occurs. Mr. Park clarified that only one public hearing would be held for the initial permit approval. If a violation occurs, the issue would come before the Hearing Examiner again to make a determination as part of the code enforcement process. He explained that Section 17.20.020 is intended to outline the process, and the more specific details are provided elsewhere in the chapter. It also sets forth that the permit will be a Type III-A decision. He expressed his belief that it is important to place this information up front. Vice Chair Reed recommended that the second sentence be moved to just after the third sentence. The remainder of the Board concurred.

Board Member Stewart observed that the Bellevue ordinance does not categorically exclude people under the age of 18 from being in the encampment. Instead, their ordinance includes a statement that under extreme circumstances, children with

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parents are allowed. She said it seems exclusionary for the City's ordinance to flat out prohibit children under the age of 18, particularly given that the area will likely face more homelessness as time goes on. Mr. Park said that when he reviewed ordinances from other jurisdictions several months ago, most of them excluded children under the age of 18. However, Bellevue, Mercer Island, and one other jurisdiction allow children under 18 with adult supervision. He explained that it is difficult to determine if a person is indeed the child's parent or guardian, and that is why most jurisdictions have the limitation. He agreed the Board could change the language to allow children under extreme circumstances if accompanied by a parent or guardian.

Board Member Stewart suggested the City incorporate the language contained in Section 20.30U.125.9 of Bellevue's ordinance, which states, ". . . shall not permit children under the age of 18 to stay overnight in a Temporary Encampment unless circumstances prevent a more suitable overnight accommodation for the child and parent and guardian." The remainder of the Board concurred.

Board Member Cloutier asked if these same provisions would be used to set up temporary homeless encampments in the event of a natural disaster. Mr. Park answered that the code includes an exemption for natural disasters or other situations that require emergency tent cities.

Board Member Stewart noted that Bellevue prohibits weapons in their temporary homeless encampments, and she suggested the City do the same. She noted that people living in the encampments are not able to lock their doors, and she personally, would not feel safe if weapons were allowed. Mr. Park said he researched this issue extensively and feels strongly that prohibiting weapons would be considered "regulating conduct," which is constitutionally not allowed. He explained that, although residents would be living in tents, the tents must be considered their homes and the constitution provides them with certain rights. He pointed out those ordinances from Bellevue and other jurisdictions that specifically call out rules of conduct use flexible wording that merely outlines the rules and regulations they would like the sponsors to have.

Board Member Stewart referred to Section 20.30U.125.2 of Bellevue's ordinance, which lists specific elements that should be included in a code of conduct. She agreed that, as worded, a sponsor would not be required to adopt all of the rules contained in the section. It simply asks the sponsors to address the items on the list. Again, Mr. Park explained that, although temporary, the tents are considered places of abode, and it would be very difficult for the City to actually enforce a prohibition on weapons and prevail if challenged. He further explained that tent city sponsors have their own codes of conduct that include no weapons, knives, alcohol, etc., and they strictly enforce the rules. Therefore, he felt it would be better risk management for the City to stay on this side of what the law requires.

Chair Lovell observed that it would be difficult for the City to prohibit someone from caring a concealed weapon in a temporary homeless encampment if an individual has the required permit. Mr. Park said it is very unlikely that a sponsor would have no code of conduct in place, which typically prohibits weapons. They have strict enforcement of the rules, and people do follow them.

Vice Chair Reed noted that Item I in Section 17.20.030 actually requires that sponsors have and enforce a code of conduct. In addition, Section 17.20.050.A requires that the code of conduct be submitted as part of the permit application. He suggested that perhaps it would be helpful for the City to provide a sample code of conduct to guide sponsors in development of their own document. Mr. Park summarized that because a sponsor is required to have and enforce a code of conduct, he believes it would be best to leave this obligation to the sponsor rather than the City risking legal challenge.

Board Member Johnson asked if Share Wheel, the sponsor of Tent City, has a policy that prohibits children under the age of 18. Mr. Park answered that they did have this policy, but he has not checked in recent months to see if it has changed.

Board Member Stewart referred to Section 17.20.050.A, which requires that applications be submitted a minimum of 30 days prior to the anticipated start of an encampment. She also referred to Section 17.20.050.C, which states that a notice of application and public hearing shall be provided within ten days after the City determines the application is complete. It also says the comment period would begin upon mailing of the notice of application and end after seven days. She expressed concern that this timeline may be too short. It would only allow adjacent property owners a short period of time to decide

how they want to react to a proposal. She noted that Mercer Island has a 75-day process, which is too long. However, she suggested the timeline be expanded to at least 45 days.

Mr. Park agreed the timeline could be changed. He noted that the code contains provisions that allow the City to speed up the process to address emergency situations, but the proposed timeline would be the default. A 30-day timeline would offer a reasonable amount of time for staff to review the application and submit a recommendation to the Hearing Examiner and for the Hearing Examiner to make a determination. He reminded the Board that temporary homeless encampments tend to move around a lot and the sponsors do not typically have time to go through a lengthy permit process. In good faith, the City has an obligation to try to accommodate this use, especially when it is being proposed by a religious organization.

Board Member Johnson observed that while the informational meeting is not part of the City's decision making process, it could be a useful meeting for the community. If notice is not sent out to adjacent property owners until seven days before the meeting, the situation could have already reached a crisis stage. She suggested that a 10 or 14 day notice would be more appropriate.

Board Member Cloutier said he would support a default timeline of 45 days, but the City should also recognize that tent cities move around frequently and sometimes they are relocated before the required permits have been obtained.

Vice Chair Reed observed that a public hearing would be conducted before the Hearing Examiner, and the public and applicant would be invited to testify. He agreed with Board Member Stewart that a 45-day process would make more sense. He reminded the Board that ECDC 20 was amended to take the applicant out of the notification process for Type III-A actions. The City is now responsible for providing all notices. He suggested the language in the proposed ordinance be updated to reflect this change, and the remainder of the Board concurred.

Mr. Park summarized that the Board would like the ordinance to be updated to require a permit application at least 45-days prior to establishment of an encampment. In addition, notice of the information meeting should be provided 10 days prior. He said he would modify the rest of the permit timeline as appropriate to fit in with the two proposed changes. In addition, the language would be modified to make the City responsible for providing notice of the information meeting, as well as the notice of application.

Mr. Park explained that because temporary homeless shelter permits are completely different than other land use permits, he felt it was important to put all of the applicable processes and requirements in ECDC 17.20 rather than merely references Type III-A actions in ECDC 20.

Chair Lovell noted that the proposed ordinance is scheduled for a public hearing before the Planning Board on September 22<sup>nd</sup>.

### **DISCUSSION OF TEMPORARY HOMELESS SHELTERS**

Mr. Park referred the Board to Attachment 12 of the Staff Report, which is the draft ordinance setting forth the proposed application process and conditions of approval for establishing emergency temporary shelters. He summarized that since the last time the Board reviewed the document, the ordinance was revised to meet the requirements of House Bill 1956, as well as the conditions, requirements and exemptions adopted by ECDC 19.00.040 for nonconforming religious buildings. The language provided in Section 17.105.020.B was taken from RCW 19.27.042 and WAC 51.16.030 and provides the following guidelines for reviewing exemptions:

1. Any code deficiencies to be exempted pose no threat to human life, health or safety.
2. The building is owned or administered by a public agency or non-profit corporation.
3. The proposed emergency temporary homeless shelter for indigent persons is less hazardous than the existing use.

Mr. Westfall explained that the sprinkling requirement, in particular, will often prohibit a religious organization from changing the use of their building to a temporary homeless shelter to accommodate indigent persons. This provision gives

the Building Official and Fire Marshall the authority to exempt a nonconforming religious building based on the guidelines provided in Section 17.105.020.B.

Chair Lovell referred to Guideline 3 and questioned how the City could determine that a temporary homeless shelter is less hazardous than the existing use. For example, he expressed his belief that a church that is used as a public gathering place during the day and seats 250 people would be less hazardous than 25 people living in the basement. Mr. Park said that having a small number of people stay in the facility overnight with a night fire watch, with no candles, and with clearly marked exits could be considered less hazardous than a formal ceremony with 200 people in attendance and lit candles are involved. Mr. Chave noted that the Frances Anderson Center is another example where there are children in the classrooms. It is easy to imagine that using one of the classrooms for an overnight shelter could be less hazardous than a room full of children.

Mr. Westfall said the fire code addresses many hazardous situations. He reminded the Board that they are talking about a temporary shelter and not someone's actual home where a separate heating system might be in disrepair, people may be working on vehicles in the garage, and there are independent cooking areas. People staying in the homeless shelters congregate and share the accommodations that are under one maintenance arrangement. He said that in addition to the code of conduct agreements that the agencies bring into play, there are built-in safeties; and in many cases, the overall package would be less hazardous or not any more hazardous than the existing use.

Board Member Johnson noted that Page 1 of Interim Ordinance 3769 (Attachment 2) makes the point that temporary homeless shelters are a solution for cold temperatures. However, the proposed ordinance (Attachment 12) seems to be more general in scope. She questioned if the new ordinance is intended to apply to more situations than just cold weather. Mr. Park explained that the provisions in Section 19.00.040 would only be triggered during cold weather emergencies. These provisions allow the Building Official and Fire Marshall to exempt certain nonconforming religious buildings from having sprinkler systems, smoke detectors, etc. However, if a building already meets the more stringent fire code requirements, it could be used as a temporary shelter during other times, as well. No special limitations would be applied for cold days only, but special treatment would only be granted if it is very cold outside.

Vice Chair Reed observed that the proposed definition for "emergency" in Section 19.00.040 appears to go further than just cold weather. He asked the Board's thoughts on whether the ordinance should extend beyond cold weather situations. Mr. Park explained that if there is a natural disaster or catastrophe, the City Council has the ability to pass a temporary ordinance to allow emergency shelters in Edmonds. Board Member Cloutier added that the Development Code includes separate provisions for natural disasters and other emergency situations. Mr. Park said that in the event of a natural disaster, the rules could be relaxed, and the City would have the latitude to enforce the requirements broadly based on the conditions present at the time.

The Board agreed that the ordinance is ready to move forward to a public hearing. However, they noted that Section 17.105.030 should be updated to reference Ordinance 3794 rather than 3769.

### **FURTHER DISCUSSION ON HIGHWAY 99 OFF-STREET PARKING STANDARDS**

Mr. Chave referred to the Staff Report, which contains the additional information requested by the Board at their August 11<sup>th</sup> meeting. He noted that Mr. Shoup (Attachment 2) is an nationally-known expert on parking policies. In addition, the recently published American Planning Association paper (Attachment 1) provides worthwhile information for the Board to consider. He said that Board Member Stewart also provided a link to the Environmental Protection Agency's Smart Growth Pamphlet, which was referenced by Board Member Clarke at their last meeting.

Mr. Chave said staff will continue to develop the following two options, which were discussed at the Board's last meeting:

- No minimum parking standard for those properties that front on Highway 99.
- A minimum standard that is applied uniformly across the entire area.

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Board Member Cloutier pointed out that Community Transit refers to the new SWIFT line on Highway 99 as a multi-modal transit opportunity. However, no parking is provided near the stops so that people can shift from their automobiles to the bus. Mr. Chave said the SWIFT line is intended to be more high-capacity transit than multi-modal. The point is to move people rapidly along the corridor rather than act as a transfer to other services. Board Member Cloutier pointed out that, at this time, people who do not live in close proximity to Highway 99 cannot use the SWIFT service to access businesses along the corridor because there is no where for them to park. He suggested that this results in people parking wherever there is space, which could impact the properties along the corridor. He suggested that Community Transit needs a long-term plan for “mini parking lots” along the SWIFT route to allow people to transfer. Mr. Chave said that is not how Community Transit envisions the SWIFT service at this point. Board Member Cloutier suggested that, at the very least, Community Transit busses should provide access to the SWIFT stops.

Mr. Chave said that a group of representatives from Edmonds, Shoreline and Mountlake Terrace have been meeting to talk about issues such as east/west connections once light rail starts to move forward. Board Member Cloutier suggested the SWIFT service could be utilized as an above-ground subway system. However, this would require that parking spaces be provided. He questioned if Community Transit would be able to provide enough east/west connections to meet the public’s needs.

Board Member Johnson noted that when she uses the SWIFT service, she parks at the Edmonds Park and Ride that is located near the hospital. Board Member Cloutier agreed that people can use the park and ride lot, but if they want to access any of the other SWIFT stops, they will need to park in other parking lots that are provided by the local businesses. Board Member Johnson suggested that Community Transit consider a shared parking arrangement with the Safeway and Top Foods properties where there is more parking than needed at most times. Mr. Chave said the City’s code allows for shared parking, but it does not really promote it.

Board Member Cloutier observed that both the American Planning Association pamphlet and the Environmental Protection Agency pamphlet point to how having centralized parking for transit uses can justify having a lower or no minimum parking requirement. He suggested this is a smart approach since improved transit service will raise the need for parking on an area-wide basis. Mr. Chave said if good transit service is provided, some people may decide they no longer need a car, particularly if they live within close proximity to the Highway 99 Corridor. He emphasized that the SWIFT service has been a tremendous success to date.

Board Member Cloutier suggested that the reason there have been no significant parking problems associated with the SWIFT service is because of the City’s currently high parking requirements. If the required parking is significantly reduced, there will end up being less parking available and existing parking lots will become congested. Mr. Chave suggested the Board request feedback from Community Transit about where their actual ridership will come from and where they are going. He said he does not believe most people drive to the corridor to ride the SWIFT buses. This service is used primarily by people who live within close proximity to the corridor and want to take advantage of the faster service.

Vice Chair Reed recalled that two years ago, representatives from Community Transit made a presentation before the Planning Board and City Council regarding their new SWIFT Program. He suggested it may be appropriate for them to once again address the Board and provide additional information.

Chair Lovell observed that the option of having no minimum parking requirement is based on the assumption that the marketplace will determine the amount of parking needed for a proposed development. These decisions will be based on available public transportation, the type of business, etc. Mr. Chave said the central argument in the Shoup Paper is that a planner who copies standards from other jurisdictions knows less than a business owner who has experience and knows what the parking needs will be. He stressed the need to balance the parking requirements. If they are too low, there will not be enough space to accommodate potential tenants. If they are too high, there will be a lot of underutilized paved areas. He said that, in his opinion, the City’s existing parking requirement is set too high because it is based on peak period loads such as weekends and Christmas. Most of the time, businesses along Highway 99 have more than enough parking space. Board Member Cloutier observed that if the minimum parking standard is reduced and two businesses that peak at the same time co-locate on a property, there could be insufficient parking to meet the demand.

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Board Member Stewart asked if there are any multi-family residential developments along the Highway 99 Corridor. Mr. Chave answered that most of the properties are developed as commercial uses. Board Member Stewart said she was surprised at how much parking space costs and that, in many cases, it is not the best use of land. Applying parking standards takes away the developers' ability to figure out the right balance. She noted that there are numerous variables related to parking, such as impacts to the environment from runoff. She reminded the Board of the City's goal to reduce impervious surfaces. She suggested the City offer developers incentives if they consider opportunities to utilize alternate modes of transportation. She suggested that Stevens Hospital could be used as a model example of how the City could allow a developer to build more in exchange for improved public transportation opportunities.

Board Member Stewart asked if the Highway 99 Task Force has weighed in on the parking issue. Mr. Chave said they had a general discussion and felt it would be appropriate for the Board to consider the options. While they did not get into a lot of details, they were interested in modifying the standards to be better than what currently exists.

Board Member Johnson reminded the Board that this issue was forwarded to them by the City Council. She asked staff to share the City Council's perspective regarding the issue. Mr. Chave said that when the issue was presented to the City Council for feedback, staff did not present the two options. However, they agreed that looking at the parking on Highway 99 would be a worthwhile exercise. They are leaving the details to the Board at this time.

The Board discussed whether or not it would be appropriate to invite a representative from Community Transit to a future meeting. Board Member Cloutier said it would be helpful if Community Transit could share their plans for affecting the single-occupancy vehicle rates on Highway 99. However, it does not appear a plan of this type exists. Mr. Chave agreed to contact Community Transit for more information. If he determines they have something valuable to offer the Board as part of their discussion, he would invite them to a future meeting.

#### **REVIEW OF EXTENDED AGENDA**

Mr. Chave agreed to meet with Chair Lovell and Vice Chair Reed to update the extended agenda. He reviewed that the September 8<sup>th</sup> meeting agenda would include an update on sustainability indicators, a review of subdivision regulations/PRD's, a presentation on the Capital Facilities Plan, and further discussion on proposed amendments to the wireless communication facilities regulations. He noted that the Shoreline Master Program would likely be postponed until the Board has completed some of the other items they are currently working on.

#### **PLANNING BOARD CHAIR COMMENTS**

Chair Lovell did not provide any comments during this portion of the meeting.

#### **PLANNING BOARD MEMBER COMMENTS**

Board Member Stewart asked that the Board have a discussion on September 22<sup>nd</sup> about the potential of having a student representative on the Board. The remainder of the Board agreed that would be appropriate.

Board Member Cloutier reported that the Mayor's Climate Protection Committee established a subcommittee to look at implementing the Climate Action Plan. This work is consistent with the Board's effort to implement sustainability indicators. They reached the same conclusion as the Planning Board that they would start with "energy consumption and buildings." The subcommittee worked on the webpage design and considered the types of materials that would be useful. He is working to finish the spreadsheet and others have assignments, as well. They will present their work to the entire Climate Protection Committee on September 2<sup>nd</sup>. Their goal is to have something on the webpage by October 10<sup>th</sup>. He said he would send out an updated spreadsheet to Board Member Stewart and Mr. Chave to comment on.

Board Member Cloutier announced that he made a presentation to the City Council on August 24<sup>th</sup> regarding Sustainable Edmonds' Energy Conservation Program. Representatives from Sustainable Works, a non-profit organization funded by Federal stimulus money, was present to describe their program. They are working in Edmonds for the next four months. People can sign up for an energy audit at a cost of \$95, and the remainder of the cost would be subsidized. The fee can be

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waived for people of moderate income using funds provided by the County. As part of the program, consultants will read energy audits and plan upgrades to properties. They will also act as general consultants to offer subsidized work to retrofit buildings. The goal is to reduce energy consumption. Interested individuals can sign up on SustainableEdmonds.com.

Vice Chair Reed said he was present for Board Member Cloutier's presentation to the City Council, and he encouraged the Board Members to watch it on the City's public channel. He also asked Board Member Cloutier to provide each of the Board Members with a copy of his PowerPoint presentation. He expressed his belief that the presentation contains a lot of useful information.

**ADJOURNMENT**

The Board meeting was adjourned at 8:50 p.m.

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