

EDMONDS CITY COUNCIL APPROVED MINUTES

June 3, 2008

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Deanna Dawson, Council President Pro Tem
Peggy Pritchard Olson, Councilmember
Steve Bernheim, Councilmember
D. J. Wilson, Councilmember
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

ELECTED OFFICIALS ABSENT

Michael Plunkett, Council President

ALSO PRESENT

Hilary Scheibert, Student Representative

STAFF PRESENT

Tom Tomberg, Fire Chief
Al Compaan, Police Chief
Duane Bowman, Development Services Director
Stephen Clifton, Comm. Serv./Econ. Dev. Director
Dan Clements, Administrative Services Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Kathleen Junglov, Asst. Admin. Services Dir.
Rob Chave, Planning Manager
Bertrand Hauss, Transportation Engineer
Mike Thies, Code Enforcement Officer
Scott Snyder, City Attorney
Linda Hynd, Deputy City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

Approve
Agenda

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

Roll Call

A. ROLL CALL

Approve
05-27-08
Minutes

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF MAY 27, 2008.

Approve
Claim Checks

C. APPROVAL OF CLAIM CHECKS #104566 THROUGH #104677 FOR MAY 29, 2008 IN THE AMOUNT OF \$633,670.54.

Ord# 3687
Edmonds
Center for the
Arts

D. ORDINANCE 3687 - EDMONDS CENTER FOR THE ARTS REVISED CONTINGENT LOAN AGREEMENT.

Old Woodway
Elementary
Park

E. AUTHORIZATION TO CALL FOR BIDS FOR THE OLD WOODWAY ELEMENTARY PARK PROJECT WHICH INCLUDES THE REGIONAL STORMWATER INFILTRATION SYSTEM FOR THE SOUTHWEST EDMONDS BASIN.

Res# 1175 –
Student
Representative

F. **RESOLUTION NO. 1175 OF THE EDMONDS CITY COUNCIL COMMENDING HILARY SCHEIBERT FOR HER SERVICES AS A STUDENT REPRESENTATIVE ON THE EDMONDS CITY COUNCIL.**

2008 Street
Overlay
Program

G. **REPORT OF BIDS OPENED ON MAY 20, 2008 FOR THE 2008 STREET OVERLAY PROGRAM AND AWARD OF CONTRACT TO NORTSHORE PAVING, INC. (\$385,218.34).**

Alpha
Omicron Pi
Sorority

3. **PRESENTATION BY ALPHA OMICRON PI SORORITY TO HONOR POLICE CHIEF DAVID STERN.**

Michele Simmons, President, Seattle Alumni Chapter, Alpha Omicron Pi Sorority, a women's fraternity in Canada and the United States, explained one of their basic tenets was to be of value to others as well as themselves.

Lori Gannon, Philanthropy Chair, Alpha Omicron Pi Sorority, explained they were honored to donate the teddy bears, a small portion of the over 150 bears collected with more to come, to the Edmonds Police Department. On behalf of the Seattle Alumni Chapter of Alpha Omicron Pi and in honor of the great Chief David Stern, a man who provided great love and care for his community, she thanked the Council for allowing them to make this presentation to the community and to the children of Edmonds.

Ann Beardsley, Seattle Alumni Chapter member and friend of Darlene Stern, presented Police Chief Al Compaan a basket of teddy bears so that all the City's officers would have bears to distribute to children involved in domestic calls. She also presented Darlene Stern with an Alpha Omicron Pi bear and a rose, the symbol of their sorority, and thanked her for coordinating this effort with the Police Department and the City Council. Mrs. Stern expressed her appreciation to the Alpha Omicron Pi Sorority for the year they spent collecting the bears, commenting her husband had given her bears for 30 years and she would add this bear to her collection. She commented on the love and comfort that teddy bears would symbolically provide to children involved in domestic situations, providing a continuity of love during their time of need. She extended her thanks to the Sorority on behalf of her family.

Assistant
Chief of
Police Jim
Lawless

4. **SWEARING IN OF ASSISTANT CHIEF OF POLICE JIM LAWLESS. NOTE: A 15-MINUTE RECEPTION WILL FOLLOW THE SWEARING-IN CEREMONY.**

Police Chief Al Compaan swore in Assistant Chief Jim Lawless and his wife pinned on his badge. Chief Compaan described Assistant Chief Lawless' background, beginning with his law enforcement career in 1987 with the Key West, Florida Police Department where he served as patrol officer, street crimes officer, narcotics detective, as well as sergeant of patrol and detectives and an instructor for Key West Police Department and Florida State Criminal Academy. Recalling traveling through Edmonds on vacation, he contacted Edmonds regarding a position and was subsequently hired. Since joining the Edmonds Police Department, he has served as a patrol officer, corporal and sergeant, been assigned to the State Training Academy and served as an instructor for crisis intervention, been assigned to the South Snohomish County narcotics taskforce as a unit supervisor and has been active with the in-house field training program, new hires and the in-service training program.

Assistant Chief Lawless thanked Chief Compaan and Mayor Haakenson for their confidence in him. He also expressed his appreciation to his wife Lisa for her support over the years.

Mayor Haakenson recessed the Council to a 15-minute reception in Assistant Chief Lawless' honor.

Student Representative
Hilary Scheibert

5. **PRESENTATION OF RESOLUTION COMMENDING HILARY SCHEIBERT FOR HER SERVICE AS STUDENT REPRESENTATIVE ON THE EDMONDS CITY COUNCIL**

Council President Pro Tem Dawson commented on the exceptional service by Student Representative Scheibert, explaining typically Student Representatives serve for one semester; Ms. Scheibert served for the entire school year including several lengthy meetings. She read a resolution commending Hilary Scheibert for her service as Student Representative September 4, 2007 through June 10, 2008.

Ms. Scheibert thanked the Council for the opportunity to serve as Student Representative, commenting she had enjoyed her time on the Council and had learned a lot. She thanked the Council for the experience and thanked her parents.

Mayor Haakenson commented on what a remarkable young lady Ms. Scheibert was and that it had been a pleasure to have her work with the Council.

Edmonds Backyard Wildlife Habitat Project

6. **PRESENTATION OF CERTIFICATE TO THE CITY COUNCIL AND MAYOR FROM THE EDMONDS BACKYARD WILDLIFE HABITAT PROJECT.**

Laura Spehar, Edmonds Backyard Wildlife Habitat Project, explained they began meeting in December 2007 and currently have 15 team leaders who divide their time on various wildlife habitat projects such as schoolyard habitat, grants for public and wildlife gardens and spaces, church and congregation habitat and community outreach. The goal of the project was to foster a community that lives in harmony with nature. Their mission was to increase community awareness of local wildlife and allow themselves and neighbors to preserve, restore and create low maintenance wildlife habitat at home, at work, in parks and in other public spaces. She provided a packet of information for each Councilmember.

Ms. Spehar advised their group hosts monthly meetings at the Frances Anderson Center and offers information via various speakers. The Edmonds Backyard Wildlife Habitat Project also hosts workshops about gardening and wildlife and holds community events. They currently have a partnership with the National Wildlife Federation and Washington Department of Fish and Wildlife to certify the entire City of Edmonds as a community wildlife habitat. Through individual backyards, schools and public areas such as parks, residents of Edmonds can make it a priority to provide habitat for wildlife by providing four basic elements, food, water, cover and a place to raise young. The community certification process involves a point system based on the City's population; the City recently reached the number of points to register as a community wildlife habitat. She provided a framed copy of the registration.

She commented on the May 3 Yost Park trail work party in honor of the registration; at that time the National Wildlife Federation and Washington Department of Fish and Wildlife registered Yost Park as a certified backyard wildlife habitat and presented the Parks & Recreation Department a metal certification sign post. She expressed appreciation for the Councilmembers who have participated in work parties and invited Mayor Haakenson, the Council and residents to attend their next meeting on June 5 at 7:00 p.m. at Frances Anderson Center where the guest speaker will be a Seattle Urban Nature Project. She provided their website: www.EdmondsBackyardWildlifeHabitat.org.

Transportation Element of the Comprehensive Plan

7. **UPDATE ON THE TRANSPORTATION ELEMENT OF THE COMPREHENSIVE PLAN**

Transportation Engineer Bertrand Hauss explained for the last few months, staff had been working with consultants from ICF Jones & Stokes on the Transportation Plan update. He invited citizens with transportation issues to attend an open house in the Brackett Room of City Hall on June 19 at 7:00 p.m. As the Transportation Advisory Committee would be contributing to the Transportation Plan, he

introduced the Chair, Christina Johnson. He also introduced Mr. Loan, ICF Jones & Stokes, who participated in the update six years ago.

Mr. Loan commented in addition to ICF Jones & Stokes, the team was joined by Otak and Henderson Young and Company, the same team that prepared the City's last Transportation Plan update. He noted there would be several significant elements of the Plan update including a forecasting model. A transportation model would be developed for the City based on current traffic volumes and land use and calibrated to current conditions. That model would then be used to apply land use growth over the next six years and longer periods of time consistent with the Comprehensive Plan to develop traffic models over that time and analyze traffic volumes at key intersections to determine where failure of level of service standards and identify projects to address those failures. Once a project list was developed, they will develop cost estimates used in the budget process and the six year TIP. They will also update the traffic calming plan and a process for deploying those devices. They will also develop an ADA compliance plan and have already done an inventory of sidewalk ramps in the City and will be looking at locations for additional ramps and developing a program and cost estimates.

He explained they will review and update the goals and objectives in the Plan, the walkway plan including reprioritizing and cost estimating, as well as reviewing the bikeway plan. Throughout the process there will be a number of citizen involvement programs including the Transportation Advisory Committee, two additional Citizen Advisory Committees and three open houses.

Councilmember Orvis asked whether this would tie in with the Transportation Benefit District (TBD). Mr. Loan answered they will be considering a financial plan including expenses and revenue sources; establishing a TBD or increasing impacts may partly be included in their recommendation.

Councilmember Orvis asked when the plan update would be complete. Mr. Loan answered it was an approximate ten month process and anticipated it would be completed in January/February 2009. Councilmember Orvis recalled his concern with the previous transportation element update with regard to arterials and reiterating his dislike of arterials in neighborhoods.

Councilmember Wambolt inquired about transportation issues that citizens could comment on at the June 19 open house. Mr. Hauss provided examples such as traffic calming, sidewalks, bus routes, bike routes, speeding, etc., anything related to transportation.

Councilmember Wilson commented the City's previous overlay cycle, one mile every seven years, was improved via allocating REET funds in excess of \$750,000 to road overlays. Recognizing the decline in REET funds, he asked the consultant team to consider the cost to improve the City's entire infrastructure to an acceptable level.

Councilmember Orvis asked whether there was a time limit on forming a TBD. Community Services/Economic Development Director Stephen Clifton answered there was not.

Councilmember Bernheim asked whether the consultant was aware of any legislative proposal to limit the number of miles driven by cars as part of a statewide greenhouse gas emission plan. Mr. Loan answered he was not.

Sound Transit
Update

8. SOUND TRANSIT UPDATE BY JONI EARL, CHIEF EXECUTIVE OFFICER. PUBLIC COMMENT WILL BE ACCEPTED

Joni Earl, Chief Executive Officer, Sound Transit, commended new Sound Transit Boardmember Deanna Dawson, who was doing a great job representing Edmonds as well as South Snohomish County

and Community Transit. Ms. Earl described the basis for Sound Transit's efforts which include responding to public demand and growth projections, increasing highway congestion, increasing gas prices, existing service reaching capacity, and concern regarding the environment. She displayed a graph that illustrated increases in Sound Transit service since 1999 -2007, commenting recent increases were in ridership without adding much new service. In the first quarter of 2008 compared to first quarter 2007, Sound Transit experienced an overall increase of 15% including 13% in ST Express service and 28% in Sounder Commuter Rail. Sound Transit ridership one year ago was approximately 43,800 people per day; today the average is 53,350. ST Express was carrying 12,600 passengers per day out of Snohomish County with the two biggest routes to Seattle and Bellevue. Sound Transit has 57 facilities providing service and half of the parking was over capacity and 28% was 70% full.

She advised of the groundbreaking this Friday for the Everett station that would provide approximately 440 parking spaces and last Saturday's opening of the Mukilteo station. She advised of two capital projects to be completed, the South Everett Park & Ride near 128th and the Mountlake Terrace Park & Ride. Design of the Mountlake Terrace Park & Ride was 100% complete; staff will be presenting funding options to the Sound Transit Board for that project in July. With regard to light rail, she advised the line downtown to SeaTac airport was approximately 90% complete and will open in July 2009. The groundbreaking for the extension from downtown to the University of Washington will occur later this year.

Shortly after the defeat of the roads and transit measure Prop 1 last year, at the Sound Transit Board request, staff conducted a qualitative and quantitative research of voters. They found the biggest issue for the voters who voted no was the measure was too big and too costly although they agreed transportation and congestion were the top issues in the region and that light rail was the right investment. The goal now was to develop a transit-only package. She displayed the ST 2 plan that was on the ballot last year, explaining that plan with updated cost estimates and the additional year added to the schedule, remained the adopted plan of the Sound Transit Board until amended. She noted that plan brought light rail to Ash Way as well as provided planning dollars for light rail to Everett in a future phase.

Sound Transit staff also talked with the public in focus groups about 1) time - schedule for developing projects, 2) scope/reach of the projects, and 3) cost. They found faster delivery was the highest priority followed closely by reach and surprisingly the sales tax rate was the least sensitive issue. The Sound Transit Board has been discussing amending the plan to 12 years. She commented one of the public's misconceptions with the 20 year plan was that nothing would happen during the 20 years when in fact construction would occur throughout that 20 years but the Ash Way station would not open for 20 years.

She explained the Board was seeking feedback on two pricing options and investment levels for a 12 year plan, a four-tenths of one percent (0.4%) and five-tenths of one percent (0.5%). She noted current tax level for Sound Transit was 0.4% under Sound Move and 0.3% MVET that goes away in 2028. She explained the 12-year plan would not bring light rail into Snohomish County; therefore, they considered other investments while not losing the vision of bringing light rail into Snohomish County and eventually to Everett. The result was an incremental approach, the long range plan/vision is the same; however, the public does not appear ready to approve a 20 year plan at this time. The 12-year plan would include improvements at Mukilteo and Edmonds, new ST Express facilities at Everett, Park & Rides in Everett, Ash Way and Lynnwood, funds for environmental, alternative and alignment analysis, preliminary engineering and right-of-way acquisition for light rail. She clarified Sound Transit only had the .05% sales tax authority remaining; the vote after the upcoming vote would be authority to extend the tax to continue building the regional system, not a tax increase. The 12-year plan would also include arterial transit lane improvements in Snohomish County to support Community Transit's Bus Rapid Transit in the Hwy. 99 corridor.

She explained there was much the same in the 0.4% and 0.4% options, including light rail from University of Washington to Northgate, right-of-way acquisition, light rail extensions; the major difference was the distance light rail could be extended. She pointed out there was not sufficient taxes collected in the 12-year plan in the Snohomish County subarea to extend light rail to Ash Way. She provided a cost summary comparing the updated November 2007 plan (\$20.5 billion), the 0.4% plan (\$10 billion) and 0.5% plan (\$11.4 billion). She explained the cost of the 0.5% plan equated to approximately \$69/year per adult. She encouraged the public to provide comment and described the upcoming schedule including decisions by the Board in July with regard to timing (20 year or 12 year), tax rate, scope and ballot timing.

Council President Pro Tem Dawson expressed her appreciation for the hard work by Ms. Earl and Sound Transit staff. She asked Ms. Earl to explain that not all of Snohomish County was in the Sound Transit district. Ms. Earl explained the Sound Transit District in Snohomish County was comprised of Everett south and east to Mill Creek along 35th.

Council President Pro Tem Dawson relayed a frequent question regarding expanding Sounder service in other areas. Ms. Earl explained in the north corridor, Sounder operated on a mainline freight track for BNSF and the four round trips required extensive negotiations; the fourth roundtrip would be operational in September. In order to expand beyond four round trips would require the addition of a third track which would require filling approximately 25-30 acres of Puget Sound. She concluded it was not environmentally possible to provide the additional track capacity without impacting freight. She noted that was not the case in the south corridor. Another difference in the south corridor was the commuter train runs through the heart of several cities; the north corridor is located west of most cities. She noted although ridership in the north corridor continued to increase, there was still a great deal of capacity with the existing service. In the north corridor Sound Transit also has a partnership with Amtrak, Rail Plus Partnership, which allows riders to use Amtrak.

Council President Pro Tem Dawson relayed the public's interest in bringing light rail to Snohomish County, pointing out there was little difference in the annual cost between the 12-year and 20-year plans. With regard to the estimated per adult annual cost of \$69, she relayed spending \$70 today to fill her car with gas, concluding it was not a huge per person investment to bring light rail to the region.

Councilmember Wilson asked the primary reason voters did not support Prop 1 last November. Ms. Earl answered most said it cost too much although 67% could not say how much it cost, just that it was too much and too big. She noted with a combined ballot measure with road and transit, some would have voted yes for roads or yes for transit but when combined, it was too much. She recalled there were groups such as the Sierra Club who were opposed to the roads piece and other road proponents who were opposed to the transit piece; hence, there were a lot of mixed messages during the fall campaign that confused the public. They also heard via the surveys that the public wanted to vote on separate packages, which was different than what the public said the year before that they wanted a combined plan. The surveys also indicated the public wanted smaller increments.

Councilmember Wilson asked whether sensitivity to the sales tax increase was an issue. Ms. Earl responded it was not. Although there often was an aversion to sales tax, when it was the only funding source available to Sound Transit, there was not a great of opposition to 0.4% or 0.5%.

Councilmember Wilson asked for a further explanation of the inability of the Snohomish County subarea to fund light rail to Snohomish County. Ms. Earl described subarea funding, North King County subarea is comprised of Seattle north to the Snohomish County line, Snohomish County subarea is from the Snohomish County line to Everett, south King County area is south of Seattle to Pierce County line and the Lake Washington subarea is everything east of Lake Washington. She explained the core light rail

system was being constructed in Seattle. In the 12-year plan, the North King County subarea could only afford light rail to Northgate which leaves a gap from Northgate to Snohomish County. In the 20-year ST 2 plan Snohomish County would pay for light rail from 185th north. It may be feasible to extend north of the County line if all the Snohomish County funds were spent in North King County.

Council President Pro Tem Dawson advised it was theoretically possible to extend light rail to Mountlake Terrace using all the funds collected in the Snohomish County subarea in the 12-year plan which would not leave any funds for the Everett or Mukilteo station and would substantially delay the ability to reach Lynnwood or Everett. She summarized that did not appear to be in the best interest of Snohomish County.

Councilmember Wilson inquired about a Tacoma model light rail from Everett to South Snohomish County and not connecting it to Seattle. Ms. Earl advised that was on the project list two years ago and Everett has not expressed interest in starting light rail in that manner as it would take a great deal of Snohomish County subarea funds and they wanted the right investment for the region.

Councilmember Wilson asked when light rail would reach Lynnwood. Ms. Earl anticipated if a 12-year plan were funded, the next phase would extend light rail into the Lynnwood area. She noted the bigger stretch was reaching Everett due to the distance between Lynnwood and Everett. Council President Pro Tem Dawson commented under a 20-year plan, light rail would reach Ash Way.

Ms. Earl encouraged the public to provide input regarding the 12-year versus the 20-year plan. The Board was also discussing the timing of a third vote if they decide to pursue a 12-year plan this time. She relayed the Board's assurance that they were not abandoning the commitment to light rail, it was a question of how much voters would accept.

Councilmember Wilson expressed support for a 12-year plan with a vote in 2008, noting it was an incremental approach that reflected what the voters wanted.

Councilmember Orvis inquired about light rail to the airport. Ms. Earl explained light rail to Tukwila would open in July 2009 with shuttle service to the airport, the airport station would open in December 2009, and a fourth commuter rail trip from Edmonds to downtown would begin in September 2008. She explained Sounder riders from Edmonds would transfer across the street from King Street station to light rail to the airport. Light rail would operate every 6-7 minutes during peak hours and every 10 minutes during non-peak with travel time from the Westlake station in Seattle to the airport of 31 minutes.

Councilmember Wambolt asked if the financial projections/growth projections were from PSRC. Ms. Earl answered the population and employment growth projections were from PSRC. Councilmember Wambolt questioned the accuracy of those projections as they were developed when the economy was much stronger than it was today. Ms. Earl answered PSRC did little independent forecasting; their projections were a compilation of each jurisdiction's Comprehensive Plans.

Mayor Haakenson invited the audience to comment; there were no members of the public who wished to provide comment.

Non-Conforming Regulations

9. **PUBLIC HEARING ON PROPOSED AMENDMENTS TO ECDC CHAPTER 17.40 REGARDING NON-CONFORMING REGULATIONS.**

Development Services Director Duane Bowman recalled this was presented to the Council at a work session on February 26. He reviewed key amendments:

- Change the damage percentage from 50% to 75% - under the current regulations, if a building is damaged more than 50%, it must be brought into compliance. He explained the intent was to allow reuse of existing structures.
- Exceptions to the 75% rule - if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner's agent or the building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent.
- Historic buildings/structures - addition of clarifying language and reference to the Edmonds Register of Historic Places.
- New section regarding residential buildings in commercial zones - existing non-conforming buildings in commercial zones in use solely for residential purposes or structures attendant to such residential use may be remodeled or reconstructed without regard to the limitations of ECDC 17.40.2020(B), (E) and (F) but only if several conditions listed in the ordinance are met.

Mr. Bowman reviewed additional items for consideration by the Council and input from the public that had not been reviewed by the Planning Board:

- Modify the Non-conforming Lot Table - ECDC 17.40.030 to include the RS-10 zone, 75% needed for minimum lot size and a minimum of 7,500 square feet for a legal lot. He explained the RS-10 zone was not currently contained in the chart identifying the minimum lot area for a nonconforming lot.
- Modify ECDC 17.40.020 - Maintenance and Alternations
 - D. Maintenance and Alternations
 - 2. Alterations which otherwise conform to the provisions of the zoning ordinance, its site development and bulk standards, and which do not expand any nonconforming aspect of the building shall be permitted. Minor architectural improvements which, in an effort to allow for more creative design and a better overall appearance such as bay windows, eaves, and chimneys may encroach into a nonconforming setback not more than 30 inches. He cited the building at the corner of 3rd & Edmonds as an example of what this language would allow.
- Establish a date for detached Accessory building for enforcement purposes
 - 17.40.020 Nonconforming Buildings
 - A. Definition. A nonconforming building is one which once met bulk zoning standards and the site development standards applicable to its construction, but which no longer conforms to such standards due to the enactment or amendment of the zoning ordinance of the City of Edmonds or the application of such ordinance in the case of a structure annexed to the City. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. Such presumption may be overcome only by clear and convincing evidence.
 - G. Subject to the other provisions of this section, an accessory building that is not an accessory dwelling unit shall be presumptively nonconforming if photographic or other substantial evidence conclusively demonstrates that the accessory building existed on or before January 1, 1981. Such presumption may be overcome only by clear and convincing evidence. He commented this arose frequently and because the City's records were not very complete before the 1970s, it was often difficult to prove the status of older accessory buildings. Staff's intent was to establish a grace period for structures that existed prior to January 1, 1981, the effective date of the ECDC, and staff would not pursue those buildings as nonconforming. The exception would be an accessory dwelling unit. He commented this would reduce the burden on staff and homeowners to demonstrate compliance with a building permit for accessory structures in existence for 30+ years.

Councilmember Bernheim advised the last issue was not included in the materials provided to the Council. Mr. Bowman acknowledged it had inadvertently been omitted from the materials. Councilmember Bernheim asked whether the Council was expected to take action tonight. Mr. Bowman recommended the Council take public testimony and determine whether to adopt the additional amendments or refer them to the Planning Board.

Councilmember Orvis referred to the setback encroachment ECDC 17.40.020, inquiring whether it would apply to a new building. Mr. Bowman answered a new building could encroach into the required setback up to 30 inches. Mayor Haakenson commented property owners rehabilitating a building frequently complained that they should have the same ability to encroach into the setback that a new structure had.

Councilmember Orvis referred to the increase in the damage percentage from 50% to 75%, suggesting the percentage for a historic building be 100%. City Attorney Scott Snyder responded the Council could set that standard and require the building be reconstructed on the exterior as close to the former building as possible. Mr. Bowman answered that was currently allowed and read from the code, nothing in this section shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, the Edmonds Registry of Historic Places or is listed in a City approved survey meeting the standards of the State Department of Archeology and Historic Preservation. Planning Manager Chave pointed out one of the most significant changes in that section was that it applied to buildings not on a formal register but on a survey.

Councilmember Wambolt asked the reason for the change from 50% to 75%. Mr. Bowman answered the intent was to liberalize the current standard. The conservative approach was a nonconforming building must be brought into code compliance if damage exceeded 50%; the City Council and the Planning Board were interested in liberalizing the approach to allow the reuse of existing buildings that were damaged.

Councilmember Wambolt asked for a further explanation of the exception to 75%. Mr. Bowman answered gross neglect was someone who allowed their property to fall into disrepair, did not paint, repair, etc. Mr. Snyder clarified the 75% exception would only apply to someone whose property was damaged through no fault of their own. Council President Pro Tem Dawson commented a building that was damaged beyond the established percentage due to the owner's neglect would be required to be brought into compliance with the code.

Council President Pro Tem Dawson agreed with the addition of the RS-10 zone, percentage and minimum legal lot size to the Non-conforming Lot Table. She referred to the minor architectural improvements (amendment to ECDC 17.40.020 maintenance and alteration), questioning how a more creative design or better overall appearance would be determined. She suggested referring that proposed language to the Planning Board. Mr. Snyder commented for anything subject to the ADB review, there was already a process. He referred to the proposal to allow a 30-inch protrusion into the setback, noting this may be problematic if a structure was only 36 inches from the property line. Council President Pro Tem Dawson agreed, pointing out a nonconforming setback meant a structure could already be closer to the adjacent building and if the adjacent property also had a nonconforming setback, that could be further problematic. Mr. Bowman pointed out fire code separation issues would also be considered.

Mayor Haakenson recalled when this was discussed previously it was to be in the multi family zone and not the single family zone to match up the BC zone with multi family neighborhoods that were immediately surrounding the BC zone. Mr. Bowman agreed it could be restricted to the BC zone. Council President Pro Tem Dawson advised the single family zone was her primary concern. She envisioned there were numerous lots with nonconforming setbacks where a 30-inch intrusion into the

setback would be problematic. She suggested this was a significant enough change that it should be referred to the Planning Board.

Council President Pro Tem Dawson expressed concern that the proposed amendment to establish a date for detached accessory buildings for enforcement purposes was not included in the packet for the public hearing. She suggested also referring that amendment to the Planning Board for further vetting.

Councilmember Wilson referred to the proposed amendment to ECDC 17.40.010(D)(2), specifically “minor architectural improvements” and suggested further examples be provided in the code. With regard to the historic buildings/structures, he recalled the survey included any building over 40 years old. Mr. Chave answered the original discussion was 40 years but the conclusion was an arbitrary year was not appropriate and a building would need recognition via national historic standards. Councilmember Wilson suggested the language “City approved historic survey” be changed to “Council approved historical survey.”

Mayor Haakenson opened the public participation portion of the public hearing.

Roger Hertrich, Edmonds, agreed with Council President Pro Tem Dawson’s suggestion to refer the amendment to ECDC 17.40.020 maintenance and alteration to the Planning Board for further consideration and clarification. He recalled the flexibility was being added to the code to assist property owners in older parts of the City who were restricted by the code due to nonconformance. He recalled a building on the waterfront north of the Senior Center where only one wall was retained and the nonconforming setbacks were used to reconstruct the building, resulting in a bigger building than they would have otherwise been allowed. He recommended any time 50% or 75% for damage was allowed, there be requirements in the historic areas to reconstruct the building in the same style/look and not utilize the “one wall method” to construct a new building. If the intent was to construct a new building, the property owner should comply with the current code. He referred to his garage that was constructed under the old codes and due to changes in the code was now nonconforming. He was not allowed to extend the roof to provide better weather protection as it would extend the nonconforming building into the setback.

Hearing no further public comment, Mayor Haakenson closed the public participation portion of the public hearing.

Council President Pro Tem Dawson asked staff to address Mr. Hertrich’s comments regarding rebuilding a building in a different style but utilizing the footprint of the nonconforming building in the case of damage. Mr. Snyder referred to the proposed amendment in paragraph 4 on page 6 of the ordinance that was included at the Planning Board’s suggestion that applied to reconstruction of residential structures in commercial areas. Council President Pro Tem Dawson noted the proposed amendment appeared to give greater flexibility to rebuild a nonconforming single family residential building. Mr. Hertrich’s concern was the opposite. Mr. Snyder advised the concept was discussed by the Planning Board in this limited context. Council President Pro Tem Dawson asked if there was any language that disallowed what Mr. Hertrich referred to. Mr. Bowman answered it was implied throughout the code, recalling the Council was particularly concerned with the ability for property owners in the commercial area to rebuild to retain the unique character of downtown.

Council President Pro Tem Dawson asked if a building that was damaged beyond 75%, leaving only one wall intact, would the property owner be allowed to rebuild it on the footprint. Mr. Bowman answered a residential building could be. Mr. Snyder explained typically buildings were nonconforming due to bulk standards - height and setback - and this was not an architectural design ordinance. He commented there were buildings in the City that no one would want reconstructed in the same configuration. He cautioned

against forcing a property owner to rebuild the same building when they may be able to provide a better look with a new building. He summarized if the intent was to require buildings be reconstructed with the same look, there was no opportunity to improve the look. Council President Pro Tem Dawson commented there was the ability to improve the look within the existing code.

Council President Pro Tem Dawson asked whether it would be appropriate to ask staff to return with an ordinance to adopt the provisions that the Planning Board had considered and amend the ordinance at a later date to include the other proposed amendments or was it preferable to adopt them all at the same time. Mr. Bowman answered it was preferable to do the amendments via one ordinance for codification purposes. Council President Pro Tem Dawson asked whether an additional public hearing before the Council be required if these issues are returned to the Planning Board. Mr. Bowman answered the Council typically held a public hearing on the Planning Board's recommendations. Mr. Snyder advised a public hearing at the Council was discretionary. He advised the proposed amendment regarding establishing a date for detached accessory building for enforcement purposes that was not contained in the Council packet would require a public hearing. Mr. Bowman advised it could be done at the Planning Board level.

Councilmember Bernheim recalled when this issue first arose, the impetus was to facilitate redevelopment/remodeling of buildings in the downtown area and avoid the expense of developing to the current code. Mr. Bowman recalled the goal was to expand the ability to reuse buildings and was not targeted at only downtown. He acknowledged downtown raised a number of issues, specifically single family residences in a commercial zone. He noted the Council's policy has been strict with regard to variances; one of the tools was the nonconforming regulations.

Councilmember Bernheim asked how the proposed amendments would facilitate the redevelopment/reuse of existing structures. Mr. Bowman answered the 50% damage percentage was a very low threshold for damage; the intent was to increase that threshold to provide more flexibility when a building was damaged. If a building was destroyed entirely, it would be required to meet the current code; however, historic structures and residential structures in commercial zones that were destroyed in excess of 75% could be reconstructed. Councilmember Bernheim asked whether any of the amendments applied to owners who elected to renovate an existing building. Mr. Snyder answered adaptive reuse was discussed at the Planning Board but was set aside because it was a bigger topic and may be more suitable for discussion along with LEED.

COUNCIL PRESIDENT PRO TEM DAWSON MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO REFER THE TWO ITEMS NOT PREVIOUSLY CONSIDERED BY THE PLANNING BOARD TO THE PLANNING BOARD, THE STAFF RECOMMENDED CHANGES REGARDING 1) MINOR ARCHITECTURAL IMPROVEMENTS ENCROACHING INTO NONCONFORMING SETBACKS AND 2) ACCESSORY BUILDINGS AND BROUGHT BACK TO COUNCIL FOR CONSIDERATION. MOTION CARRIED UNANIMOUSLY.

ECC Title 6,
Property
Nuisances

10. PUBLIC HEARING ON PROPOSED AMENDMENTS TO ECC TITLE 6 REGARDING PROPERTY NUISANCES.

Development Services Director Duane Bowman explained the Planning Board initially began work on the performance standards in the zoning code when the City Attorney pointed out they were not zoning issues but part of the City's police powers related to nuisance. Staff reviewed EMC Chapter 6 which included nuisance regulations and discovered a number of outdated code sections, including regulations dating back to the early 1900s. He reviewed the rationale for the proposed revisions:

- Consolidate nuisance regulations into one location, the Edmonds Municipal Code (EMC).

- Clean up antiquated code in the EMC.
- Nuisance regulations are part of the city's broad police powers and should rightfully be in the EMC and not within the Edmonds Community Development Code (ECDC).
- The proposed regulations cover the types of frequent complaints received by the City's Code Enforcement Officer.

Mr. Bowman provided photographic examples of situations encountered by Code Enforcement Officer Mike Thies that included piles of construction debris, a house that has fallen into disrepair, blackberry bushes, numerous vehicles in a yard, a carport full of materials, and debris covered by a tarp. He provided a photograph of the carport brought into compliance by enclosing the materials with chain link fencing and other materials.

Mr. Bowman advised the proposed ordinance cleans up outdated sections of the code and adds new nuisance regulations as well as expands the list of nuisances found in EMC 6.20.040. He noted the list of nuisances were issues the Code Enforcement Officer encountered or were culled from other cities' regulations. He read from the expanded list of nuisances:

- Any junk, trash, litter, boxes, salvage materials or lumber not neatly stacked in any front yard, side yard, rear yard or vacant lot.
- Any attractive nuisances dangerous to children, including but not limited to the following items when located outside of a fully enclosed building:
 1. Abandoned, broken or neglected equipment;
 2. Rusted, jagged, sharp or otherwise potentially dangerous machinery;
 3. Household or commercial appliances, including but not limited to refrigerators, freezers, washers, dryers, dishwashers, ovens, hot water tanks or toilets;
 4. Unpermitted excavations; and/or
 5. Unprotected or open wells or shafts.
- Any graffiti on the exterior of any building, fence or other structure in any frontyard, side yard, rear yard or on any object in a vacant lot.
- Any vehicle parts or other articles of personal property which are stored, discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot.
- Hazardous trees,
- Any accumulation, stack or pile of building, landscaping or construction materials which are exposed to the elements or are in disarray and which are not directly associated with a project on the premises for which a current building permit has been obtained; or, with respect to a project which does not require a permit, that is in progress or which is scheduled to begin within ten (10) business days. Construction materials include but are not limited to metal, wood, wire, drywall, electrical components, and any supplies, equipment or other items utilized for painting, landscaping, logging, roofing, masonry or plumbing.

He noted the ordinance had a separate procedure for abatement and removal of junk vehicles which followed the State code. He referred to Section 6.20.045 regarding protective covering that states "Except as otherwise expressly provided by applicable City ordinance or a valid regulatory permit, any condition enumerated in ECC 6.20.040 shall constitute a public nuisance irrespective of whether such condition is covered in whole or in part by a tarpaulin, vapor barrier, canvas or plastic sheeting, or other temporary covering."

Mr. Bowman recommended the Council take public testimony tonight and continue the matter to July 15 to allow the public additional time to review the proposed ordinance. He advised the ordinance would be posted on the City's website. He suggested a way to test the list of nuisances was whether a Councilmember would want any of them on a property next door to their home. He noted the revised

ordinance would provide the Code Enforcement Officer the tools to effectively deal with these issues as the current ordinance was quite general and difficult to enforce.

Council President Pro Tem Dawson highlighted the Council was not taking any action tonight. She supported the request to continue the public hearing to allow residents to submit comments regarding the proposed revisions. She inquired about the most effective way for residents to provide input regarding the proposed revisions. Mr. Bowman answered the most effective way was to speak to the Council at the public hearing on July 15 or they could submit written comments/email to the Code Enforcement Officer Mike Thies or to him.

Councilmember Wilson recognized this was a particularly challenging topic. He asked how many complaints staff received each year. Mr. Thies answered approximately 400-500 nuisance complaints and with building violation complaints, the number increased to 700-800. Councilmember Wilson asked Mr. Thies whether the ordinance would be of assistance to him. Mr. Thies agreed it would be. Mr. Bowman pointed out clarity was important for the residents who violate the code. Mr. Snyder explained the intent was to update the code to delete issues common in the early 1990s and to add regulations to address current risks such as standing water in junk tires that attract mosquitoes and the possibility of West Nile Virus.

For Councilmember Wilson, Mr. Bowman explained references to the Health Officer were being removed as the Health Officer addressed health issues and property nuisances were addressed by the Code Enforcement Officer. References to the Police Chief in the ordinance were also being removed.

Councilmember Wilson referred to Section 20.40(B) types of nuisances that identified any attractive nuisances dangerous to children, including but not limited to the following items when located outside of a fully enclosed building and asked whether this applied to those items in a fully enclosed yard. Mr. Snyder answered a fully enclosed building was a structure. Mr. Bowman explained a dangerous situation that was attractive to children could exist in a fenced backyard. Councilmember Wilson questioned whether the Council wanted to regulate things that were covered by tarp that were attractive to children in a fenced yard. Mr. Bowman agreed that was a fundamental policy issue.

Councilmember Wilson referred to Section 20.40(F) regarding hazardous trees, questioning how the City determined what was hazardous. He envisioned someone could complain that a tree was hazardous when it was actually blocking their view. Mr. Bowman advised staff would inspect the tree for obvious signs and if there were any questions, an arborist would inspect the tree. Mr. Snyder advised a violation was a civil infraction and the City had the burden of proof before the Hearing Examiner. For that reason, the City would likely hire an arborist to inspect the tree, providing the City could gain access to the property. Councilmember Wilson expressed concern with the City mediating between neighbors arguing over a view rather than the health of a tree. Mr. Thies pointed out two neighbors with an issue over a tree were usually allowed to work it out themselves. Mr. Bowman suggested adding language in the hazardous tree section that it applied to trees that overhang the public right-of-way.

Councilmember Bernheim pointed out the existing code sections regarding nuisances focused on health issues while many of the nuisances described in Section 6.20 were not health related. He urged the public to comment on the proposed revisions to determine whether residents wanted more regulation of their aesthetic conduct. He was concerned with the private property rights aspect of several of the nuisances identified in the ordinance. He recalled while campaigning he encountered many yards where a great deal was stored that their neighbors may not have appreciated. He was uncertain the City wanted to tell residents what they could store in their yard. Even with regard to junk cars/car parts, his approach was from a property right viewpoint rather than social conduct enforcement. Mr. Bowman responded staff heard both sides, the property owner that stores the items and the neighbor who was concerned with the

appearance. He recalled a case several years ago where an entire cul-de-sac was impacted by one home, and three of the homes could not be sold due to the appearance of one home. He agreed the Council must find the balance.

Councilmember Bernheim noted the test cited by Mr. Bowman, whether the Council wanted that next door to their home, that was only one of the tests. Another test may be whether a Councilmember wanted to store such items on their property. Mr. Snyder explained the list of nuisances was staff's attempt to identify everything that cities receive complaints about and the Council could make a policy decision about where to draw the line. Mr. Bowman agreed the Council had the ability to strike any items they did not want regulated.

Councilmember Orvis relayed a comment he received via his blog regarding whether garbage cans could be stored on the side of a residence or must be stored in back. Mr. Bowman assured garbage cans could be stored on the side of a residence.

Council President Pro Tem Dawson agreed there was a line between health items that affected the public and aesthetic items and what was a resident's private business versus what was the public's business. She asked whether a law enforcement officer that encountered a violation had the authority to issue a citation. Mr. Bowman answered the officer would typically report the violation to Mr. Thies who would conduct a follow up investigation to determine whether a violation exists, contact the property owner and begin the code enforcement process if necessary. Mr. Snyder commented these were civil enforcement issues where residents were provided a notice and an opportunity to correct, and could request a hearing before the Hearing Examiner. He referred to code section 6.20.130 that provided a summary of abatement. Mr. Bowman explained the first step in the process was to send a letter to the property owner to inform them of the violation and provide them an opportunity to respond within a prescribed timeframe. If they do not respond, the formal process begins with an Order to Correct that identifies the violation and the timeframe for correction. If they do not comply, they received a Notice of Violation that includes fines. He acknowledged usually residents worked with Mr. Thies to establish a compliance schedule.

Council President Pro Tem Dawson observed the benefit of having all nuisances in one section was there was consistency in the way they were handled. Mr. Bowman noted the process also provided a chain of investigation in the event of an appeal. Mr. Snyder advised under the current ordinance, failure to abate a nuisance was a misdemeanor but it did not describe how the notice to abate was given.

COUNCIL PRESIDENT PRO TEM DAWSON MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO EXTEND THIS ITEM FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.

Council President Pro Tem Dawson referred to paragraph K regarding accumulation of perishables attract mold, insects and/or vermin, commenting one of the problems with perishables was the number of crows it attracted. She suggested the ordinance also refer to attracting crows as a type of nuisance. Councilmember Wilson commented wherever there were crows there were also rats.

Councilmember Wilson referred to comments in the December 12 Planning Board regarding nuisance vines, hazardous trees in parks or public property and asked whether the City would be required to expend funds to remove vegetation in response to a complaint regarding a noxious vine in a park. Mr. Bowman answered the Parks Department would investigate any complaint. Mayor Haakenson commented if there were a damaged tree on City property, the arborist would investigate and the tree would be removed if appropriate.

Councilmember Wilson referred to a comment in the Planning Board minutes regarding parking recreational vehicles in a side yard. Mr. Bowman advised that was not a nuisance and was covered in a different section that the Planning Board would be addressing in the future.

Mayor Haakenson opened the public comment portion of the public hearing.

Roger Hertrich, Edmonds, pointed out RVs, boats, trailers, etc. were vehicles and according to the definition of vehicle in the code were not allowed in a yard. With regard to crows, he favored any regulation that would prevent the crows that were attracted to the deli across the street from his home that spread debris into his yard. He pointed out he planted tomatoes in tires in his yard. He envisioned Mr. Thies would need a gun and a badge to enforce the proposed ordinance. With regard to tarps, he questioned how the City could determine material covered by a tarp was a violation. He did not favor the City prohibiting tarps, noting they were used in this area to protect against rain. He pointed out the code did not address screening; if something could not be seen, it would not be a bother to someone. He explained he had two old cars and his yard was screened by foliage and fencing, yet Mr. Thies has attempted to peer through the bushes to see whether they were licensed. He recommended the City not pursue enforcement of plastic buildings unless they were in disarray/disrepair. He recalled the Planning Board discussed items in the setback and in Chapter 17. He urged the Council to review the Planning Board minutes, recalling many of their concerns were based on safety. He provided each Councilmember a copy of the old code and suggested they identify the references to safety and what constituted a nuisance in the early 1900s.

COUNCIL PRESIDENT PRO TEM DAWSON MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO EXTEND THIS ITEM FOR 5 MINUTES. MOTION CARRIED UNANIMOUSLY.

Finis Tupper, Edmonds, acknowledged some updating was required but the proposed ordinance was overkill. He questioned whether the City wanted to get involved in neighborhood disputes, finding that a poor use of the City's resources particularly in the current economy. He emphasized the City would only enforce the ordinance upon complaint which resulted in selective enforcement and the opportunity for abuse of police powers. He pointed out some of the City's statutes ignored the Washington State Constitution Article 7.

Hearing no further public comment, Mayor Haakenson closed the public participation portion of the public hearing.

COUNCIL PRESIDENT PRO TEM DAWSON MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO CONTINUE THE PUBLIC HEARING TO JULY 15, 2008. MOTION CARRIED UNANIMOUSLY.

Councilmember Wilson acknowledged RVs were defined as a motor vehicle and motor vehicles was listed as a type of nuisance as were articles of personal property stored in the side yard. Mr. Bowman advised RVs and similar items would be addressed as part of the performance standards. Councilmember Wilson suggested clarifying in 6.20.040(E) that operational motor vehicles were excluded.

Mayor Haakenson asked whether Mr. Thies was investigating a complaint regarding Mr. Hertrich's yard. Mr. Bowman advised a valid complaint had been filed against Mr. Hertrich. The case remains open as Mr. Hertrich has denied staff permission to perform a site inspection.

11. AUDIENCE COMMENTS

4th of July
Celebration

Jim Hills, Edmonds, President, Edmonds Chamber of Commerce, announced the 101st annual 4th of July celebration that is paid for, organized and sponsored by the Edmonds Chamber of Commerce. He invited residents to provide donations and businesses to provide sponsorships by mailing checks to the Greater Edmonds Chamber of Commerce, online at edmondswa.com, dropped off at the Edmonds Log Cabin. He

displayed a pie chart illustrating how the funds were expended; total cost of the event was approximately \$40,000. He provided a schedule of events:

- 10:00 a.m. 5K Run
- 11:30 a.m. Children's parade
- 12:00 p.m. Main parade
- 2:00 p.m. City Park activities
- 7:30 p.m. Entertainment by the Penguins at Civic playfields
- 10:00 p.m. Fireworks at the civic playfields

ACE Funding
of Prize Money
for Waterfront
Design Contest

Roger Hertrich, Edmonds, encouraged the public to contribute to a fundraising campaign established by ACE to replace the prize money for the waterfront design contest. ACE has collected \$2,000. Next, he expressed concern that the Police Department's seatbelt patrol at Dayton & 5th that also targeted people leaving drinking establishments, scared away customers in downtown Edmonds. He preferred enforcement focus on Hwy. 99.

Environmental
Review at Old
Milltown

12. **AUTHORIZATION TO CONTRACT FOR ENVIRONMENTAL SERVICES WITH LANDAU & ASSOCIATES.**

City Attorney Scott Snyder advised this item was to request an appropriation for environmental review at the Old Milltown site as well as to provide information to the public. He explained staff and Council had discussed purchase of the courtyard area in Executive Session, an effort that has gotten hung up in negotiations. As the former site of the Yost garage, it was used for the storage of petroleum products and there are significant environmental issues regarding the reuse of the property, particularly environmental liability for clean up now and in the future. As part of the City's due diligence, staff was seeking funds for Landau & Associates to conduct additional soil testing and underground imaging to determine if there were any tanks in the portion the City was seeking to purchase to assist the City in their risk assessment and in negotiating liability with the property owner.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO AUTHORIZE STAFF TO CONTRACT WITH LANDAU & ASSOCIATES TO CONDUCT ENVIRONMENTAL WORK FOR \$6,500.

Councilmember Bernheim commented many people had expressed support for this purchase; however, because it was the site of a former auto mechanic yard, it was important to conduct further investigation to ensure there were no hazardous materials that would pose a threat to the City in the future.

MOTION CARRIED UNANIMOUSLY.

AWC
Conference

13. **SELECTION OF VOTING DELEGATES FOR THE ASSOCIATION OF WASHINGTON CITIES CONFERENCE.**

Council President Pro Tem Dawson advised AWC was holding their annual conference in Yakima. One of the items that occurred at the business meeting on the last day of the conference was a vote on representatives to the AWC Board as well as representatives to AWC from Snohomish County and at-large representatives. She explained every member city was allowed three delegates who were the city's voting representatives; no proxies and not more than three delegates were allowed. As she was the only elected official planning to attend the conference and Senior Executive Assistant Linda Carl planned to attend, she asked that they be authorized as the City's voting representatives.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO AUTHORIZE COUNCILMEMBER DEANNA DAWSON AND SENIOR EXECUTIVE ASSISTANT LINDA CARL AS THE CITY'S VOTING REPRESENTATIVES AT THE AWC CONFERENCE. MOTION CARRIED UNANIMOUSLY.

14. MAYOR'S COMMENTS

Mayor Haakenson relayed answers to questions he was frequently asked:

1. Why is the grass so tall south of 5th Avenue on SR 104 near the Welcome to Edmonds sign? That is WSDOT property and they have said they are not planning to mow it. Staff is having further dialogue with them.
2. When will the Olympic View Drive widening project start? The project has started and Mayor Haakenson urged everyone to avoid the area.
3. Are the Antique Mall and Skippers properties for sale? The Antique Mall property owner offered to sell the property for not less than \$16 million. The owner of the Skipper's property, Bob Gregg, has stated the property is not for sale.
4. Is the City going to buy the Old Milltown plaza? Environmental studies are the next step in the negotiation process.
5. Is it illegal to text/talk on a cell phone while driving? It has been illegal to text while driving since January 1, 2008 and it will become illegal to drive while holding a cell phone to your ear on July 1, 2008.
6. When will the Mayor hold another neighborhood meeting? The next meeting is scheduled on June 11 at 7:00 p.m. at Steven's Hospital.
7. Does the TV camera add ten pounds to a person's figure? Mayor Haakenson relayed people had mentioned to him that he looked thinner in person so the adage that the camera added ten pounds may be true.
8. Can't you do something about the rain? Mayor Haakenson responded he could not.

15. COUNCIL COMMENTS

Antique Mall
and Skipper's
Properties

Council President Pro Tem Dawson asked whether any alternatives to purchase/sale had been discussed with the Antique Mall or Skipper's property owners such as land swap, transfer development rights or a public/private partnership. Mayor Haakenson did not recall there had been much discussion about a public/private partnership and the subject of land swap or TDR was broached and although it was not ruled out, there was not much discussion. Council President Pro Tem Dawson commented it would be helpful to know what the property owners had ruled out and what they were interested in discussing. Mayor Haakenson commented it was his feeling they were not particularly enthused about doing anything other than building a project on their property and both intended to move forward with that effort as the year progressed. Council President Pro Tem Dawson clarified it would be helpful to get a definitive statement from the property owners regarding what they would/would not consider. Mayor Haakenson commented the property owners were confused; if the Council made them an offer, they could provide an answer.

D.A.R.E.
Graduations

Councilmember Orvis announced handcrafted, ancient artifact replicas from Mesopotamia, Egypt, Rome and Greece would be on display June 10-12 at Westgate Elementary. He thanked Mayor Haakenson for attending his son's D.A.R.E. graduation, Mayor Haakenson's 99th D.A.R.E. graduation. Mayor Haakenson advised he was presented a D.A.R.E. graduation certificate when he attended his 100th D.A.R.E. graduation on June 2. Councilmember Orvis also reported on a Public Health Committee meeting whether they discussed serious funding issues affecting the Health District.

Health District

Audience
Comments

Councilmember Wambolt suggested moving Audience Comments up on the agenda. Council President Pro Tem Dawson explained typically Public Hearings were held prior to Audience Comments; items on tonight's agenda before the public hearings tonight were scheduled at the request of the presenter due to participants who had traveled from out of town to attend. Mayor Haakenson noted the Council could change this practice at any time. Council President Pro Tem Dawson commented many public bodies

only allowed public comment on items scheduled on the agenda and took public comment at the beginning of the meeting. The Edmonds Council allowed public comment on virtually any subject. Councilmember Wambolt suggested the Council reconsider the timing of Public Comment on the agenda, acknowledging the Council was not required to take public comment at all.

Councilmember Olson thanked Council President Pro Tem Dawson for attending the AWC Conference, commenting it was a very important event and she was sorry she was unable to attend as she would be out of town.

Waterfront Property Owners Councilmember Wilson commented if the Council wanted to make an offer to the waterfront property owners, the Council needed to develop a package or provide clear direction to staff to develop a package. He acknowledged part of the frustration was the property owner's reluctance to commit until the Council presented an offer. Next, recognizing that the City and community derived a great deal from the 4th of July events, he recommended the Council provide a \$1,000 contribution toward the 4th of July celebration this year only. Council President Pro Tem Dawson suggested scheduling it as an agenda item in accordance with the Council's past practice on donations.

Waterfront Property Owners Councilmember Bernheim explained he was invited to the meeting with the waterfront property owners last week but was later told it was not a public meeting and that there would not be a discussion regarding the sale of the property. Mayor Haakenson clarified he told Councilmember Bernheim that it was not a public meeting and he was not invited. Councilmember Bernheim commented part of the problem with the Council's inability to get information or formulate follow-up questions was the Council's questions were not raised at meetings with the property owners. Mayor Haakenson suggested the Council form a committee of three Councilmembers and invite Mr. Gregg and Mr. Dykes to meet with them. Councilmember Bernheim commented that was what he thought would happen when he was invited to attend the meeting with the property owners last week. Mayor Haakenson reiterated a Port Commissioner explained to him after the Council meeting that it was not a public meeting and Councilmember Bernheim was not invited.

Councilmember Bernheim commented hopefully as this effort proceeded, with the cooperation and communication between the owners and Council, that some progress could be made. If the channels of communication did not remain open to facilitate questions and answers, he feared the City's goal would not be achieved as easily. Mayor Haakenson commented the City had not yet defined what they wanted to do. He reiterated his suggestion that Councilmember Bernheim and two other Councilmembers meet with Mr. Dykes and Mr. Gregg. Council President Pro Tem Dawson suggested any Councilmembers interested in participating inform her and she would coordinate a meeting with Mr. Dykes and Mr. Gregg. Councilmember Bernheim answered Council President Plunkett and he had already expressed interest and he thought he would be meeting with the property owners last week.

Waterfront Property Owners Councilmember Wambolt explained the meeting that Mayor Haakenson, Mr. Clifton and he attended was a property owners' meeting. They were invited to participate in that group and signed a non-disclosure agreement. The recent meeting was another property owners' meeting and was the reason it was a closed meeting. Councilmember Bernheim disagreed there was a non-disclosure agreement that applied to that group and said no private information was exchanged at those meetings.

Councilmember Wambolt pointed out the question the Council directed them to ask of the property owners was whether they would sell their property. They were not directed to ask about a land swap or TDR or a public/private partnership.

Councilmember Wilson recalled Mr. Gregg attended the entire Council meeting last week and no questions were directed to him. He noted this discussion had been ongoing for the past five months as

well as last year and the previous year and during that time he had met with Mr. Gregg and Mr. Dykes. He commented it was not incumbent on the Mayor or a Councilmember to schedule a meeting; Councilmembers were welcome to contact Mr. Gregg and Mr. Dykes. Councilmember Bernheim commented he would like to know what went on in those meetings. He acknowledged anyone could call Mr. Gregg, noting it was his understanding at the conclusion of last week's meeting that he had been invited to attend a meeting and later learned he had not.

Student Representative Scheibert reminded Edmonds-Woodway High School seniors to be safe at prom so they could walk in graduation.

Council President Pro Tem Dawson expressed her thanks to Student Representative Scheibert for her service on the Council. Student Representative Scheibert expressed her gratitude to the Council for the experience.

16. ADJOURN

With no further business, the Council meeting was adjourned at 10:25 p.m.