

EDMONDS CITY COUNCIL APPROVED MINUTES

July 1, 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
(arrived 7:03 p.m.)
Peggy Pritchard Olson, Councilmember
Steve Bernheim, Councilmember
D. J. Wilson, Councilmember (arrived 7:02 p.m.)
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

ELECTED OFFICIALS ABSENT

Michael Plunkett, Council President

STAFF PRESENT

Al Compaan, Police Chief
Duane Bowman, Development Services Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Jeanie McConnell, Engineering Program Manager
Renee McRae, Recreation Coordinator
Mike Clugston, Planner
Jen Machuga, Planner
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

Mayor Haakenson requested the order of Agenda Items 7 and 8 be reversed.

Change to the
Agenda

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO APPROVE THE AGENDA, REVERSING THE ORDER OF ITEMS 7 AND 8. MOTION CARRIED. (The vote was 4-0; Council President Pro Tem Dawson and Councilmember Wilson were not present for the vote.)

2. CONSENT AGENDA ITEMS

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED. (The vote was 4-0; Council President Pro Tem Dawson and Councilmember Wilson were not present for the vote.) The agenda items approved are as follows:

Roll Call

A. ROLL CALL

Approve
06-24-08
Minutes

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 24, 2008.

Approve
Claim Checks

C. APPROVAL OF CLAIM CHECKS #105131 THROUGH #105273 FOR MAY 26, 2008 IN THE AMOUNT OF \$1,027,118.02.

Claim for
Damages

D. ACKNOWLEDGE RECEIPT OF CLAIM FOR DAMAGES FROM CAROL A. SCOTT (AMOUNT UNDETERMINED).

Lake
Ballinger and
McAleer
Creek

E. AUTHORIZATION FOR MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH ALL JURISDICTIONS WITHIN THE LAKE BALLINGER AND MCALEER CREEK WATERSHED AREAS.

Recreation
and Parks
Month

3. **PROCLAMATION IN HONOR OF RECREATION AND PARKS MONTH.**

Mayor Haakenson read a Proclamation declaring July as Recreation and Parks month and presented the Proclamation to Parks & Recreation Director Brian McIntosh and Recreation Coordinator Renee McRae.

Mr. McIntosh advised the Council packet included flyers regarding activities occurring during Recreation and Parks month. He commented many of the special events were done in partnership with other organizations such as the Wenatchee Youth Circus performing on July 15 and 16 sponsored in part by the Exchange Club. Other events include movie night at Frances Anderson Center, a belly flop contest, and a sand castle contest. He invited all citizens to participate in these events.

Amend
Official Street
Map (203rd
St. SW)

4. **PUBLIC HEARING - APPLICATION TO AMEND THE OFFICIAL STREET MAP (OSM) REQUESTING THE PROPOSED RIGHT-OF-WAY ON 203RD STREET SW BE REDUCED FROM 30 FEET IN WIDTH TO 15 FEET IN WIDTH. APPLICANT: DON AND CLAUDIA ETZLER / 20323 81ST AVENUE WEST / FILE NO. ENG-2008-76**

Engineering Program Manager Jeanie McConnell explained this was a public hearing on the recommendation of the Hearing Examiner to amend the Official Street Map (OSM) to reduce the required street dedication from 30 feet to 15 feet on a portion of 203rd Street SW adjacent to 20323 81st Avenue West. Don and Claudia Etzler submitted an application to amend the OSM; staff reviewed the application and forwarded a recommendation of approval to the Hearing Examiner. The Hearing Examiner held a public hearing on April 3 and upon review of staff's recommendation and testimony provided at the hearing, recommended approval the street map amendment.

The existing 203rd Street SW right-of-way is 20-foot wide; the OSM indicates a planned right-of-way of 50 feet. The requested OSM amendment is to reduce the additional 30-foot wide street dedication to 15 feet adjacent to the Etzler property. The Hearing Examiner concluded a 15-foot dedication would provide adequate area to maintain City utilities within the existing roadway and to develop 203rd Street SW to current City standards.

The City received a comment letter from J. A. Murphy expressing concern with pedestrian access through to 76th Avenue. Ms. McConnell displayed a photograph of the existing 203rd Street SW right-of-way illustrating the 20-foot wide paved area that was currently used by pedestrians. The additional street dedication area of 30 feet that was requested to be reduced to 15 feet is located outside the existing paved area, therefore vehicular access to the properties as well as pedestrian access through to 76th Avenue will be maintained and be unaffected by the OSM amendment.

Ms. McConnell relayed staff's recommendation to uphold the Hearing Examiner's recommendation to approve the requested OSM amendment to reduce the required street dedication from 30 feet to 15 feet for the segment of 203rd Street SW adjacent to the single-family residential property located at 20323-81st Avenue W.

Mayor Haakenson opened the public participation portion of the public hearing. There were no members of the public present who wished to provide testimony and Mayor Haakenson closed the public participation portion of the hearing.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO UPHOLD THE HEARING EXAMINER'S RECOMMENDATION TO APPROVE THE REQUESTED OFFICIAL STREET MAP AMENDMENT TO REDUCE THE REQUIRED STREET DEDICATION FROM 30 FEET TO 15 FEET FOR THE SEGMENT OF 203RD STREET SW ADJACENT TO THE SINGLE-FAMILY RESIDENTIAL PROPERTY LOCATED AT 20323 81ST AVENUE WEST.

Councilmember Bernheim commented Ms. Murphy's concerns had been addressed by staff's assurance that pedestrian access would be maintained.

Council President Pro Tem Dawson expressed her appreciation to staff for bringing forward this application, commenting it was appropriate to return the right-of-way to the property owner if the City did not need the property.

MOTION CARRIED UNANIMOUSLY.

Comp Plan
Amendment
Request at
1030
Grandview

5. **PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION TO DENY THE REQUEST BY ZAMMIT/HBA ARCHITECTS TO AMEND THE COMPREHENSIVE PLAN FROM "SINGLE FAMILY - RESOURCE" TO "MULTIPLE FAMILY - HIGH DENSITY." THE SITE IS LOCATED AT 1030 GRANDVIEW. (FILE NO. AMD-07-19)**

Planner Mike Clugston explained a request was submitted by Michael and Lisa Zammit for a Comprehensive Plan amendment at 1030 Grandview Street, located west of the northwest corner of Olympic View and Puget Drive. The requested amendment would change the current Single Family Resource designation for the parcel to Multiple Family High Density.

Mr. Clugston described the four criteria that must be met for a Comprehensive Plan amendment to be approved:

1. The proposed amendment must be consistent with the Comprehensive Plan and in the public interest.
2. The proposed amendment would not be detrimental to the public interest, health, safety or welfare of the city.
3. The proposed amendment would maintain the appropriate balance of land uses within the city.
4. The subject parcels are physically suitable for the requested land use designation(s) and the anticipated land use development(s), including, but not limited to, access, provision of utilities, compatibility with adjoining land uses and absence of physical constraints.

Mr. Clugston advised staff found none of the four criteria were met by this application. The Comprehensive Plan does not indicate the desire to create buffer parcels between adjacent disparate land uses in this particular area which was cited as one of the reasons for this amendment. Although upzoning was an option for creating additional density for affordable housing in specific designated corridor areas such as Edmonds Way and Highway 99 because those areas have good existing access to transportation and other facilities, this was not the case for the Puget Drive/Olympic View Drive area. Further, the request was not in the public interest because the Best Available Science report prepared for the 2004/2005 Comprehensive Plan update indicated large-lot single family residential was the most appropriate land use pattern in the northern part of the City in order to protect environmentally sensitive areas. He noted North Stream runs approximately 200 feet north of the site and there are numerous steep slopes in the northern part of the City.

Mr. Clugston advised the Planning Board held a public hearing on June 11, 2008, and after considering public testimony, unanimously recommended that the application be denied by the City Council.

For Councilmember Bernheim, Mr. Clugston identified the approximate location of North Creek on the Comprehensive Plan map, approximately 200 feet north of the site. He advised the stream was not identified as a critical area for this project as it was located outside the required buffer.

Councilmember Bernheim asked whether the City must approve a Comprehensive Plan amendment request if the application met the four criteria. City Attorney Scott Snyder answered the City Council has legislative discretion to determine whether a proposal fit the Comprehensive Plan and there were typically balancing factors as well. He emphasized this was a legislative rather than a quasi judicial decision, and

any appeal would be to the Growth Management Hearings Board who would give Council due legislative deference and look to the City's Comprehensive Plan and whether there was substantial support in the record for the Council's decision.

Councilmember Bernheim concluded if the four criteria were met, the Council would have no discretion to deny an amendment. Mr. Snyder explained as a legislative decision, the Council had more latitude and a great deal of deference. He acknowledged an unreasoned decision that was counter to the record would have a good chance of being overturned by the Growth Management Hearings Board. He assumed the Council would always state the reasons for their decision based on the record. He concluded even if the criteria were met, other reasons could be identified in the Comprehensive Plan to support denial.

Mayor Haakenson opened the public participation portion of the public hearing. He referred to a letter received from Dorothy Gouge expressing support for the Planning Board's denial of the application.

Rick Hood, Edmonds, explained he was unable to attend the Planning Board hearing but his father as well as several others spoke regarding this inappropriate zoning change. His home is located across the street from the site and zoned single family; the proposed amendment would dramatically change the character, traffic, and safety of the neighborhood. He and many others who submitted letters found the proposed amendment unsatisfactory in terms of quality of life as well as setting a poor precedent by changing the zoning on the property from R12, less than 4 units per acre, to up to 30 units per acre.

Scott Urquhart, Edmonds, whose home was two lots west of the subject property, advised there were eight lots on Grandview Street, four of which were built in the last four years, all within the guidelines of the existing Comprehensive Plan. He expressed pride at living in a city where leaders had the vision to adopt a Comprehensive Plan and was grateful to the Planning Board and staff for having the wisdom to follow the Comprehensive Plan. He relayed it was the broad consensus of the residents in this area that the proposed change would be bad for the neighborhood. He recognized staff for their responsiveness and transparency in the process, and encouraged Council to follow the Planning Board's recommendation and deny the application.

Roger Hertrich, Edmonds, a resident in the same general area, expressed support for the Planning Board's recommendation to deny this "spot rezone." He recalled one of the reasons cited was the buffer this huge building would provide, noting the Planning Board recognized the back of Portofino Restaurant already provides a great buffer. He commented on the amount of time and effort expended on this application, remarking it was unfortunate applicants requesting a spot rezone could not be told immediately that it was unlikely to be approved.

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

COUNCIL PRESIDENT PRO TEM DAWSON, MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO DENY THE PROPOSED AMENDMENT TO THE COMPREHENSIVE PLAN.

Council President Pro Tem Dawson expressed her thanks to staff for their efforts, noting the staff report clearly outlined the reasons for denying the proposal. She did not find this area appropriate for development of this intensity as it was not consistent with the development in the area, would have immense traffic impacts on the neighborhood and was a spot designation. She agreed there were areas in the City where upzoning was appropriate but not in this neighborhood. She did not find any basis in the record to suggest this was in the public's best interest and she urged Council to deny the proposed amendment.

MOTION CARRIED UNANIMOUSLY.

6. AUDIENCE COMMENTS

Bettinger/
Kretzler
Historic
Home

Al MacFarlane, Edmonds, asked for confirmation that staff found the stadium land an inappropriate site for the Bettinger/Kretzler historic house. He explained the Museum was attempting to save the house not only because it was beautiful, but it was a one-of-a-kind opportunity to bring money into the city via using the house for meetings, weddings and overnight accommodations. This house and many others would draw visitors to the City from around the region. He referred to Leavenworth as an example of a city that has been developed in a manner that attracts year-round visitors. He asked Council to provide the Museum members more time to determine a solution.

Mayor Haakenson responded that at last week’s meeting, staff outlined the parameters for locating the building on the Civic Center Playfield. The Council did not make any decision. The consensus of the Council at that meeting was that they would continue to work to find a location for the house somewhere in the City. His conversation with the mover today indicated the property owners were willing to wait another month or two. In response to Mr. MacFarlane’s request to the Council for more time, Mayor Haakenson pointed out the Council did not have any control over the situation.

Enforce Comp
Plan – Private
Development
in the City

Jesse Scott, Edmonds, recalled he previously spoke to Council in favor of the rework of a street in their area. He noted the work was completed; the contractor did a great job minimizing the impact and the results provided an easy, safe route for school children. Next, he asserted the Council had not taken the necessary action to enforce the Comprehensive Plan as it relates to private development in the City. He provided quotes from the Comprehensive Plan regarding protecting neighborhoods from incompatible additions to existing buildings that do not harmonize with existing structures in the area, and minimizing encroachment on views of existing homes by new construction or additions to existing structures. He displayed the view from his living room window of an adjacent 1500 square foot one-story private residence, including a view of the Sound. He overlaid a drawing on the garage depicting the proposed expansion of the garage to 2600 square feet which would significantly impact his view of the Sound. He clarified he had no animosity against the person proposing the addition, it was completely legal. He pointed out unfortunately the City’s code did not recognize that views were impacted by the slope of property. He encouraged Council to enact legislation that complied with the Comprehensive Plan with regard to additions to existing structures. He noted the garage would be attached by a 10 x 10 breezeway, not to the house, but to a carport that was connected to the house. He relayed his conversations with staff who suggested he present his concerns to Council.

Bettinger/
Kretzler
Historic
Home

Bette Bell, Edmonds, encouraged Council to have the foresight and vision to save the Bettinger/Kretzler historic house on 6th & Main, emphasizing no matter what it took, the house must be saved. She feared if the house was not preserved, Edmonds would begin to lose its identity which she noted had already begun to happen with construction of large condominiums and buildings. She pointed out the preservation of historic structures was important to citizens’ quality of life. She recalled the loss of the church at 5th and Bell because there was not enough time to save it, noting there was time to save this house, time that needed to be put to good use. She referred to the Museum’s offer to pay to move the house to the Civic Center Playfield; if that site was not feasible, she urged the City to fund moving the house to another site. She referred to comments at a previous Council meeting regarding the cost to re-carpet the Council Chambers, remarking she would prefer to use those funds to move the house. She concluded the house needed to be saved and it needed to remain in the heart of Edmonds.

Bettinger/
Kretzler
Historic
Home

Fred Bell, Edmonds, explained approximately two months ago he contacted the new owner of the house on 6th & Main who indicated the City or the Museum could have the house. He advised the cost to move the house to the Civic Center Playfield was approximately \$27,500 and estimated the cost to demolish the house would be more than half that amount. He asked for the code citation Development Services Director Duane Bowman used regarding the requirement for a temporary foundation and the code

outlining the setback requirements for the Civic Center stadium. He questioned the claim that the City had no money, referring to the recent purchase of a small parcel at Old Milltown and the salary increase approved for Mayor Haakenson. He reiterated the Historical Society's willingness to fund the move of the building but was unwilling to commit the funds to move the house to a temporary location. He wanted assurance that the house could be moved to City property and remain until the lease expired or until the City purchased the house. He suggested the City negotiate an agreement with the Edmonds School District to locate the house on the Civic Center Playfield property which would preserve the house for future use.

Acquisition of
Antique Mall
and Skippers
Properties

Natalie Shippen, Edmonds, noted several recent well attended meetings emphasized the citizens' priority, acquisition of the Antique Mall and Skippers properties. She asserted that the Council's reaction had been to dodge the issue by suddenly finding several priorities that must be addressed first as evidenced by the list of 17 unfunded priority projects staff provided at last week's Council meeting. She noted the Council must have reviewed the list of capital improvement projects during the last year and questioned why the Council now must schedule a Saturday workshop to discuss them. She referred to the project "ongoing transportation improvements" that was on the list, recalling last year's Prop 1 provided each city an opportunity to identify projects to be funded; Edmonds had two street projects for a total of \$10 million and the Edmonds Crossing at a cost of \$154 million. She questioned why the City included Edmonds Crossing on the list of projects when it was a State project and did not include the "ongoing transportation improvements" that were now identified as a high priority. She also questioned the Council's consideration of transfer of development rights (TDR), a complex, sophisticated involved maneuver that would require legislation and extensive Council discussion, when the citizens' top capital improvement priority was acquisition of the waterfront properties. She urged the Council to hire an appraiser to determine the value of the Antique Mall and Skippers properties, pointing out the Council had the obligation to inform the citizens how much acquisition would cost. She planned to discuss uses for the waterfront property at a future meeting.

Bettinger/
Kretzler
Historic
Home

Roger Hertrich, Edmonds, questioned the source of the requirement relayed by Mr. Bowman that a foundation be constructed within 30 days if the Bettinger/Kretzler house were moved to the Civic Center Playfield. With regard to setback, he stated the requirements were 25 feet from the street which he noted deducting the 5-foot sidewalks would only require an additional 20 feet; and 25 feet from the RS zone which deducting the 17-foot alley would only require an additional 8 foot setback. He asserted there had been an attempt by staff to mislead the Council with regard to the proposal to move the house to the Civic Center Playfield. He also questioned the requirement for a setback from the track. Next, he commented on the trees that were cut illegally at the PCC site, noting the penalties for their removal was not sufficient. He then referred to boats, trailers and RVs stored on residential property in Edmonds, relaying a comment from a resident in Esperance who said he would not want to live in Edmonds if recreational vehicles, boats, etc. were allowed to be stored in yards. He cautioned Council to be careful what restrictions they imposed on residents via the nuisance ordinance if they ever wanted Esperance to annex to the City.

Trees at PCC
Site

Nuisance
Ordinance

Antique Mall
and Skippers

Rowena Miller, Edmonds, thanked the Council for being open and listening to the public so that they could respond to the talent in the community. She was proud to be part of a community that had a Council and Mayor that attempts to build trust in government. She echoed Ms. Shippen's comments regarding the need to obtain an appraisal on the Antique Mall and Skippers properties. She also spoke in support of saving the Bettinger/Kretzler historic house, suggesting if the waterfront properties could be acquired, it would be an appropriate location for a house with this much character. She summarized she preferred the Council expend funds on an appraisal rather than re-carpeting Council Chambers.

Bettinger/
Kretzler
Historic
Home

Bettinger/
Kretzler
Historic
Home

Jack Hall, Edmonds, commented on his involvement in the Museum, the Historical Society and the Chamber of Commerce and urged the Council to continue working toward saving the Bettinger/Kretzler historic house for Edmonds.

8. **REJECTION OF ALL BIDS FOR THE CASPERS/NINTH AVENUE NORTH/PUGET DRIVE (SR524) WALKWAY PROJECT AND AUTHORIZATION TO REBID THE PROJECT.**

Public Works Director Noel Miller commented this type of report would typically be placed on the Consent Agenda but he wanted the public to be aware the cost of transportation projects was exceeding resources in Edmonds, the region and statewide, which illustrated the need for additional transportation funding sources to avoid deferring projects. He explained the City received two bids for this project that significantly exceeded the engineer's estimate. Recognizing this was a busier season, he planned to rebid the project later this fall when the bidding climate may be more favorable.

Councilmember Wilson asked whether the high bid was due to the tight labor market. Mr. Miller answered yes, anticipating better bids and greater participation from contractors may be received later this year. He noted this walkway project could be completed during the rainy season. In the meantime, he hopes other funding options could be identified, anticipating less funds would be available for transportation projects due to decreased REET revenue.

Councilmember Wilson recalled REET revenue was projected to be \$1.4 million, with any funds over \$750,000 transferred to transportation projects. He also recalled projected revenues had been revised from \$1.4 million to \$850,000. He requested staff provide a list of transportation projects that would not be funded if additional transportation funds were not received or projects that could be funded if an additional \$200,000 were available. He recalled the Caspers/Ninth Avenue North/Puget Drive (SR524) walkway project was the highest rated project in the State for state funding. He also asked staff to identify park projects that would not be funded if the \$750,000 Parks received from REET were reduced by \$200,000-\$250,000.

Councilmember Wambolt commented there was good reason to expect that the bids would be lower in the future. He explained the Port accepted a much lower roofing bid at their recent meeting after rejecting bids earlier this year that were much higher and rebidding the project. He noted Everett had also recently done some rebidding and found some projects were millions lower than estimated. With regard to Councilmember Wilson's question regarding REET revenue, he explained the most recent projection for 2008 was \$835,000 although revenues continue to decline. Extrapolating revenues collected to date for half the year, approximately \$763,000 could be anticipated in REET revenue for 2008. He continued to be pessimistic with regard to REET revenue.

Councilmember Wilson summarized instead of \$650,000 from REET that would be available for transportation and walkway projects, the City could expect between \$0 and \$60,000.

(Note: A motion on this item was voted upon after Agenda Item 7.)

7. **PRESENTATION AND DISCUSSION ON TRANSFER OF DEVELOPMENT RIGHTS (TDR) – CONCEPTS AND PROGRAMS – BY THE CASCADE LAND CONSERVANCY.**

Jeff Aken, Cascade Land Conservancy, explained the Cascade Agenda was a program of the Cascade Land Conservancy looking at the next 100 years with regard to growth, planning for growth, enhancing communities as they grow, and preserving shorelines, mountains and forests. He relayed two goals that emerged from a stakeholder process involving 4,000 people that was completed in 2005: 1) protect 1.3 million acres of farms, forests and shorelines, and 2) create spectacular communities via protecting rural lands. He displayed a map illustrating population growth in the region between 1950 and in 2000, pointing out the spread of population to the north and east. He referred to Puget Sound Regional Council's projections for an additional 1.7 million people coming to the region by 2040, commenting it

was important to consider policies and programs such as Transfer of Development Rights (TDR) and other innovative programs to accommodate that growth and enhance communities as they grow.

Mr. Aken explained the goal was to redirect growth into cities where infrastructure, transit, etc. exists. Another key component was accommodating growth in cities in a manner that was affordable for families and provided a range of housing choices.

The Cascade Agenda's vision for cities was that they be complete, compact and connected. He explained complete refers to things like schools, parks, open space, economic development, smart growth policies, live, work and play in the same place. Compact refers to how to grow within borders, promote infill development using tools such as TDR, walkable community, adaptive reuse, policies that bring people into the community, that support business and transit, redevelopment. Connected refers to transit and traffic, ability to reach job centers, complete streets with sidewalks and bike lanes, and more transportation and housing choices for future generations.

Mr. Aken explained TDR was a strategy Cascade Land Conservancy had been working on for the past 18 months including research of the 180+ programs nationally to determine what has or has not been successful. They have begun working with several jurisdictions including Pierce County, Sammamish, Kittitas County and others to create successful TDR programs.

Taylor Carroll, Cascade Land Conservancy, explained TDR was a planning tool for jurisdictions to redirect growth, not stop growth, using a market-based mechanism. TDR provides a permanent planned preservation, is a voluntary program for landowners; fairly compensates landowners, uses the market to achieve conservation and helps support healthy communities where growth makes sense.

Mr. Carroll provided a schematic of how a TDR program works, explaining the two players in TDR are a sending area and a receiving area. The sending area is an area identified for land conservation by the jurisdiction; the receiving area is an area identified for greater development within the city. The sending area has a bundle of land use rights associated with it, one of which is development rights. The TDR program is a mechanism to transfer/sell those development rights from one property to another property. On the receiving side, a developer wants increased density or something that adds value to their land; the TDR mechanism allows that to occur by allowing the developer to purchase the development rights and place them on the receiving area. Funds are then used in the free market to conserve land while development occurs. This is a planning tool that allows jurisdictions to redirect growth in a more condensed manner.

For the sending site, the development rights are removed from the land, a conservation easement is placed on the land preserving it in perpetuity, the property owner receives money for the transfer of development rights, retains other property rights associated with the land (farming, recreation, etc.), retains ownership, and provides a mechanism to sell the development rights. For the receiving site, the developer buys the development rights, is allowed additional density, and realizes increased land value via the TDR mechanism.

Mr. Carroll relayed two examples of finances associated with the TDR program:

1. Each development right from a sending unit is worth \$50,000 and the sending area has two development rights to sell for a total of \$100,000. In the receiving area, the current base density is six units per acre; with TDR, they would be allowed eight units per acre. Each additional dwelling unit for the developer would be worth \$30,000 in profit. With a TDR exchange rate of 1:1 (one development right equals one additional unit in the receiving area), the developer purchases the two development rights for \$100,000 and realizes an additional \$60,000 profit from

the two additional dwelling units, and the developer loses \$40,000. He explained in this example the exchange rate was unworkable; however, the TDR program is very flexible and can be designed to cater to the market demand in the area.

2. Exchange rate of 1:2 (one development right from the sending area equals two development rights in the receiving area). The developer purchases one development right (\$50,000) and realizes two bonus units (\$60,000 profit).

Mr. Carroll described options with regard to the role of the jurisdiction in the TDR process:

1. Private market transaction
 - Buyer-seller transaction
 - Buyer seller transaction with support (administrator acts as a middle man between the sending site owner and the receiving site owner)
 - Brokered transaction
2. TDR bank - funds used to actively buy/sell development rights which eliminates any issues with matching up buyers and sellers at the same time.
3. Private investment corporation - for example a group of realtors form a corporation
4. Density fee - an in-lieu fee developer pays to gain additional development rights

Mr. Carroll explained to make a TDR program workable there must be a demand for development rights, an adequate supply of development rights on sending sites, and a marketplace must be created by the jurisdiction. He provided several keys to success they discovered in their work with other jurisdictions and research of other TDR programs nationally: there is no one-size-fits-all program, clear conservation goals must be identified, the sender and receivers need tangible finance benefits, the transaction process must be simple, and there needs to be clear leadership in creating a program. He displayed a United States map illustrating the location of over 180 TDR programs. He identified several jurisdictions with successful TDR programs including King County, Redmond, Issaquah, Seattle, and Black Diamond.

Mr. Carroll described success stories from around the region including King County and Seattle, noting King County's program, which identifies agricultural and forest lands and rural forest focus areas, trails and open space and critical areas as their conservation goals, is the most successful in the country with 91,500 acres preserved. King County makes inter-jurisdictional agreements and provides cities with amenity funding as an incentive to join their inter-jurisdictional program. Seattle's program identifies open space and resource lands as well as historic preservation and landmark preservation as their conservation goals and as an affordable housing component.

One of the most noteworthy transfers was King County to Seattle's Sugarloaf Olive 8 transfer. In this transfer, King County purchased 56 development rights from 285 acres on Sugarloaf Mountain that went to the receiving area, Olive 8 condominiums in downtown Seattle. The developer paid \$930,000 into King County development rights bank (approximately \$30,000 per TDR) and in exchange was able to build 2,000 square feet per development right and build higher than 300 feet.

He explained Redmond also had a successful TDR program; their conservation goals center around urban forest, critical areas and historic buildings but was not an inter-jurisdictional program; both sending and receiving sites were within the city. Redmond has successfully preserved over 415 acres and their average price per TDR is approximately \$30,000.

Councilmember Wambolt asked if the TDR program worked best if the land being transferred was within the same municipality. Mr. Carroll answered it depended on the jurisdiction and the market mechanism; there were successful programs within a city particularly when there are areas of high conservation concern and high demand for development.

Councilmember Wilson referred to audience comments regarding historic preservation in the community and asked about maintaining historic buildings via TDR. Mr. Carroll responded in Seattle's program, there are historic/landmark buildings with historic preservation status. The TDR program allows the historic building to sell the air rights to a receiving area which provides funds for refurbishing the historic building, making structural upgrades, etc. while lowering the market value of their building making it less susceptible to conversion.

Councilmember Wilson asked if a non-conforming historic building sold its air rights and then was not maintained, could the owner replace it with a similar structure. Mr. Bowman answered it would depend on how the TDR program was structured.

Councilmember Wilson commented anyone today could purchase development rights from another property but could not do anything with them. He asked if a specific receiving site needed to be identified in order to transfer those credits. Mr. Aken answered in Seattle the receiving sites were initially the Denny triangle area for King County preservation parcels. The key was to find an area that could accommodate growth and where the neighborhood would realize sufficient amenities and there would not be opposition to the increased density. Most programs designated certain areas; in Redmond it was most of downtown and in Issaquah much of their central area was a receiving site for TDR.

Councilmember Wilson asked whether Cascade Land Conservancy had model ordinances staff could review. Mr. Carroll suggested staff meet with the Cascade Land Conservancy to discuss conservation goals, potential receiving areas and areas where the City was interested in increased development to allow them to identify programs that would work best for Edmonds.

Planning Manager Rob Chave commented often TDR programs were envisioned as a rural area transferring development rights to an urban area; however, there were much broader possibilities. TDR programs were now viewed as a tool that could be applied to further local public benefit goals. For example there may be opportunities for receiving sites in multi family zones on Hwy. 99 and via a TDR program realize a public benefit in exchange for economic development.

Councilmember Wilson inquired about the mechanism for a TDR bank, whether the City would be required to purchase the development rights and hold them in escrow. Mr. Carroll answered the jurisdiction typically purchased the development rights and held them until they were purchased by a receiving site. He noted there was usually a markup in the price, providing funds for the jurisdiction to purchase additional development rights as well as partially cover the cost of the administrator's position.

Councilmember Orvis commented in the example the receiving area was a single family zone and asked whether that was a typical receiving area or was the receiving area usually higher density. Mr. Carroll answered it depends on the area; for example in Maryland all the receiving areas were single family zones and they had a very successful program. In other areas such as Seattle and Colorado the receiving area was allowed increased height, reduced parking requirements, etc. Mr. Aken noted there were examples of programs that allowed transfer of residential development rights for affordable housing, for commercial and office development, reduced parking, etc.

Councilmember Wambolt asked whether a change in the zoning was required for the receiving site. Mr. Carroll answered a TDR program establishes what is allowed in each area. He explained jurisdictions could establish multiple receiving areas with different added-value such as increased height. In another area where the City wants to encourage mixed use, it would only be allowed via TDR, or in another area a second story could only be added via TDR.

Caspers/9th/
Puget Dr.
Walkway

8. **REJECTION OF ALL BIDS FOR THE CASPERS/NINTH AVENUE NORTH/PUGET DRIVE (SR524) WALKWAY PROJECT AND AUTHORIZATION TO REBID THE PROJECT (CON'T)**

Mayor Haakenson requested the Council make a motion regarding this item.

COUNCIL PRESIDENT PRO TEM DAWSON, MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO AUTHORIZE STAFF TO REJECT ALL BIDS FOR THE CASPERS/NINTH AVENUE NORTH/PUGET DRIVE (SR524) WALKWAY PROJECT AND AUTHORIZE STAFF TO REBID THE PROJECT UNTIL DECEMBER 31, 2008. IF LATER THAN DECEMBER 31, 2008, IT WOULD COME BACK TO THE COUNCIL. MOTION CARRIED UNANIMOUSLY.

Lake
Ballinger and
McAleer
Creek

9. **APPOINTMENT OF CITY REPRESENTATIVES TO THE LAKE BALLINGER AND MCALEER CREEK WATERSHED FORUM.**

Mayor Haakenson advised the Council approved the Interlocal Agreement with all jurisdictions within the Lake Ballinger and McAleer Creek Watershed Areas on the Consent Agenda.

It was the consensus of the Council to appoint Councilmember Wilson to the Lake Ballinger and McAleer Creek Watershed Program.

10. **MAYOR'S COMMENTS**

4th of July
Events

Mayor Haakenson reminded the public of the 4th of July parade and fireworks on Friday and invited donations to the Chamber of Commerce to fund the day's events.

Mayor Haakenson complimented Engineering Program Manager Jeanie McConnell and Planner Mike Clugston who made their first presentations to the Council, commenting they were indicative of the quality of young people working for the City and both did a great job making their presentations.

Mayor Haakenson referred to comments made during Audience Comments by Mr. Scott, noting although Mr. Scott took issue with some of the City's codes he recognized staff for their efforts.

11. **COUNCIL COMMENTS**

Personal
Fireworks
Prohibited

Council President Pro Tem Dawson encouraged citizens to enjoy the events in the City on July 4th and provided a reminder that personal fireworks were prohibited in Edmonds. With regard to the historic house, Council President Pro Tem Dawson assured the Council supported taking all necessary steps to preserve the house and there were many people looking for a suitable location.

Historic
House

Nuisance
Ordinance

With regard to Mr. Hertrich's reference to the nuisance ordinance, Council President Pro Tem Dawson explained the Council had not taken a position on the nuisance ordinance; staff developed a very restrictive package in the nuisance ordinance in an effort to gather public comment. The ordinance was developed based on complaints staff has received; the public hearing was an opportunity for the public to tell the Council how they want these issues to be handled in Edmonds. As the Council's decision on the ordinance will be driven largely by input from the public, she encouraged citizens to write, call, email or testify at the public hearing.

Antique Mall
and Skippers
Properties

Regarding the Antique Mall and Skippers properties, Council President Pro Tem Dawson assured the Council remained very interested in moving forward and it was not fair to characterize the Council's action as dodging the issue. She pointed out it was appropriate for the Council to consider other priorities when contemplating such a purchase. The point of scheduling further discussion was to allow the Council to discuss and weigh that high priority with the City's other financial needs. As there may be an

opportunity to co-locate some of the other items on the priority list on those properties, it was important for the Council to consider acquisition of those properties in the context of other capital projects. She pointed out that acquisition of those properties was not sufficient, there needed to be a plan for redevelopment of the properties. A meeting has been scheduled for August 5 when all seven Councilmembers would be present where she anticipated a robust discussion regarding this topic would occur. She requested staff return at the July 15 meeting with an estimate for obtaining an appraisal for the Antique Mall and Skippers properties.

Sound Transit

With regard to Sound Transit, Council President Pro Tem Dawson reported the Board met last Thursday where they reviewed the letter Edmonds submitted, letters submitted by other cities as well as public comment. At the meeting, the Chair, Seattle Mayor Nickels, put a 12-year plan on the table. She recalled the transit portion of last year's unsuccessful Prop 1 was a 20 year plan. The Board made a decision to take public comment on two 12-year plans, a 4/10ths sales tax increase and a 5/10ths sales tax increase, as well as the 20-year plan. The public comment on the plans indicated overwhelming public support was for the 20-year package particularly in Snohomish County. She noted although the Chair put a 12-year plan on the table for discussion, the Snohomish County representatives expressed their strong view that a 12-year plan did not work for Snohomish County as it did not bring light rail to Snohomish County or provide enough immediate results. Sound Transit staff is working on a package that was between 12 and 20 years.

Council President Pro Tem Dawson relayed the three things that need to be in the Sound Transit 2 package to make it workable for Snohomish County, 1) light rail to Snohomish County, 2) immediate short term benefits such as improved bus service while the area awaits light rail, and 3) a commitment that the Snohomish County tax dollars will be spent in Snohomish County projects. She expected the 12-20 year package would be presented to the Sound Transit Board at their July 10 meeting.

Global Warming

Councilmember Bernheim announced Professor Dennis Harper would be making a presentation regarding global warming to the Council at their July 22 meeting and how that science applies locally. He invited the public to contact him with any questions or topics they would like to have Professor Harper address.

Paine Field

Councilmember Bernheim apologized for voting against the \$5,000 appropriation for potential Paine Field legal and administrative purposes at last week's meeting. At the time he felt the \$5,000 appropriation was a knee-jerk reaction and if he had the opportunity to vote again, he would support the appropriation.

Development Services Department

With regard to the building department, Councilmember Bernheim commented there were multiple perspectives in this process and no one side was correct. To illustrate this, he referred to an April 8, 2004 *Edmonds Beacon* article in which Mr. Bowman stated the building height in the BC zone had been 30 feet since 1981. However, in a subsequent lawsuit, a judge found the language in the section unambiguous and that flat roofs were not allowed to protrude above the 25 foot height limit. He cited this as an example of an incorrect interpretation that resulted in construction of the two Gregg buildings at 5th & Dayton as well as the Spee Building at 3rd & Bell. Although he did not object to the buildings, he believed they were constructed contrary to the law.

Councilmember Bernheim also disagreed with the Development Services Department's determination that there was a 25-foot setback requirement from the track with regard to citing the historic house on the Civic Center Playfield site. He cited this misleading statement as establishing a negative attitude toward locating the house on that site. He referred to the code section that was cited, 16.80.30(a), pointing out it had nothing to do with setbacks in public spaces between public facilities. He expressed concern with the potential ramifications if a decision had been made based on that information. He was also concerned there was no memo from the Development Services Department in the Council packet regarding that

conclusion; that information was expressed orally during the meeting. He was disappointed with the information provided by the Development Services Department, noting he was no longer certain whether the house fit on the Civic Center Playfield site, whether the stairway could be removed to provide more space, etc.

Councilmember Bernheim hoped there was a public process for Mr. Bowman's replacement and that the views of the developers and citizens were taken into account during that process. Next, Councilmember Bernheim agreed with Council President Pro Tem Dawson's request to have staff provide an estimate for obtaining an appraisal of the Antique Mall and Skippers properties.

With regard to whether the house fit on the Civic Center Playfield site, Council President Pro Tem Dawson suggested due to changes in the previous interpretation, that issue also be presented to the Council at the July 15 meeting. She expressed her appreciation to Councilmember Bernheim for his apology regarding his vote on the Paine Field appropriation.

Wenatchee Youth Circus

Councilmember Wilson announced the Wenatchee Youth Circus would be performing on the Civic Center Playfield on July 15 &16, sponsored in part by the Exchange Club of Edmonds.

Trees at PCC Site

With regard to the trees that were cut on the PCC site, Councilmember Wilson assured the trees were cut illegally and an appropriate fine would be levied. With regard to the historic house, he assured the Council all wanted to save the house but had few options as they did not own the property. Whether or not the house could be moved, there were sincere differences of opinion whether eliminating park space to place a house on the Civic Center Playfield site was a worthwhile endeavor. He noted Mr. Bowman had submitted an email stating he had reconsidered his interpretation regarding the setback. He noted TDR was an option for historic preservation; if the owners were willing to sell the development rights to retain the house on that site and someone could purchase those development rights, they should approach the City asking that this occur.

Historic House

Development Services Department

Councilmember Wilson thanked administration for providing the comment sheets regarding the Development Services Department and suggested they continue to be provided to the Council.

Waterfront Property Appraisal

Councilmember Wilson recalled in March he suggested a motion that included an appraisal of the waterfront property and a public use consideration, specifically an aquatics and recreation center which was tabled by the Council President. Approximately one month ago he reiterated his suggestion to obtain an appraisal as well as suggested a public survey to identify the public's preferred use for the properties and neither suggestion was acted upon. He looked forward to further information regarding an appraisal.

Waterfront Property Appraisal

Mayor Haakenson cautioned an appraisal would not be available in two weeks; Council President Pro Tem Dawson's request was for staff to provide an estimate regarding the cost of an appraisal. Council President Pro Tem Dawson requested staff also identify a funding source for the appraisal. She was hopeful the appraisal would be available for the August 5 discussion. Mayor Haakenson was uncertain the appraisal would be completed in time for the August 5 meeting.

Concerts in the Park

Councilmember Olson announced Concerts in the Park started this Sunday. She encouraged everyone to attend, noting there was a variety of music at these free concerts held at 3:00 p.m. in City Park.

Historic House

Although Mr. Bowman had corrected his interpretation, determining from a code standpoint the historic house may fit on the Civic Center Playfield site, Councilmember Wambolt commented it may not be a practical location. He relayed that Mr. Bowman was actively seeking a solution regarding a site for the house and was optimistic a solution could be found.

Trees at PCC
Site

Councilmember Wambolt expressed disappointment that the trees had been cut on the PCC property, recalling a citizen who specifically asked whether the trees would be removed was assured they would be retained. He noted the fine was inadequate and the trees should be replaced with mature trees. He found it ironic that a so-called green company removed mature trees illegally. Mayor Haakenson commented staff did not yet have all the facts regarding why the trees were removed. Council President Pro Tem Dawson recalled the trees were specifically discussed and was assured they would not be removed. She suggested staff also provide an update on how/why the trees were removed.

Historic
House

Councilmember Orvis expressed his appreciation that the Council was still open to the Civic Playfield site for the historic house. He did not view it as replacing park land with a house but rather replacing one park use with another, envisioning history and parks merging. He recalled a positive experience when Mr. Bowman made a code interpretation and later changed his mind following his persuasive argument.

12. ADJOURN

With no further business, the Council meeting was adjourned at 9:05 p.m.