

EDMONDS CITY COUNCIL APPROVED MINUTES

July 15, 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
Michael Plunkett, Council President
Peggy Pritchard Olson, Councilmember
Steve Bernheim, Councilmember
D. J. Wilson, Councilmember
Deanna Dawson, Councilmember
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

STAFF PRESENT

Tom Tomberg, Fire Chief
Al Compaan, Police Chief
Duane Bowman, Development Serv. Director
Stephen Clifton, Community Services Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Mike Thies, Code Enforcement Officer
Rich Lindsey, Park Maintenance Supervisor
Mike Clugston, Planner
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

Approve
Agenda

1. APPROVAL OF AGENDA

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

2. CONSENT AGENDA ITEMS

Councilmember Wilson requested Item F be removed from the Consent Agenda and Council President Plunkett requested Item G be removed.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WILSON, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

Roll Call

A. ROLL CALL

Approve
07/01/08
Minutes

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JULY 1, 2008.

Approve
Claim
Checks

C. APPROVAL OF CLAIM CHECKS #105274 THROUGH #105455 FOR JULY 3, 2008 IN THE AMOUNT OF \$459,270.19, AND #105456 THROUGH #105598 FOR JULY 10, 2008 IN THE AMOUNT OF \$364,283.89. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #46733 THROUGH #46834 FOR THE PERIOD OF JUNE 16 THROUGH JUNE 30, 2008 IN THE AMOUNT OF \$1,006,599.29.

Comm.
Services &
Econ. Dev.
Report

D. COMMUNITY SERVICES AND ECONOMIC DEVELOPMENT QUARTERLY REPORT – JULY, 2008.

Public
Facilities
District
Board

E. REAPPOINTMENT OF EDMONDS PUBLIC FACILITIES DISTRICT BOARD MEMBER.

Substitute
House Bill
1756
Report

H. SUBSTITUTE HOUSE BILL 1756 ANNUAL COMPLIANCE REPORT.

Hot
Autumn
Nites

I. AUTHORIZATION FOR MAYOR TO SIGN THE SUPPLEMENTAL AGREEMENT WITH THE GREATER EDMONDS CHAMBER OF COMMERCE FOR HOT AUTUMN NITES.

Liquor
Control
Board

ITEM F: LIST OF EDMONDS BUSINESSES APPLYING FOR RENEWAL OF THEIR WASHINGTON STATE LIQUOR LICENSES, APRIL - JUNE 2008.

Councilmember Wilson reported he received correspondence from citizens concerned with the issuance of a liquor license to a restaurant in Five Corners and asked if any of the licensees were operating at Five Corners. Mayor Haakenson identified the restaurant as The Province, Inc., doing business as Five Spice Bistro and their previous address was 201 5th Avenue South. He noted it was not uncommon for a business to list their current address when they complete the application; the address has been changed with the Washington State Liquor Control Board (WSLCB) to the Five Corners address.

Councilmember Wilson suggested scheduling a public hearing or allowing public comment on this item to provide residents of Five Corners an opportunity to express their concerns regarding a full-service lounge in their neighborhood.

Councilmember Dawson inquired whether Councilmember Wilson's intent was to allow public comment tonight or schedule it for another meeting, noting it would be appropriate to also allow the applicant to comment. Councilmember Wilson suggested approving the remaining businesses and scheduling a date for public comment in the future.

Councilmember Bernheim asked if this agenda item was issuance of the liquor license. Mayor Haakenson responded the City had no control over whether a business obtained a liquor license. City Attorney Scott Snyder advised the City had no role in the denial of a liquor license and it was his understanding that the extent of the City's authority was to comment on liquor license applications. He offered to confirm that before scheduling an opportunity for public comment.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER DAWSON, FOR APPROVAL OF THE REMAINDER OF THE LIST OF EDMONDS BUSINESSES APPLYING FOR RENEWAL OF THEIR WASHINGTON STATE LIQUOR LICENSES, APRIL - JUNE 2008. MOTION CARRIED UNANIMOUSLY.

Councilmember Wilson requested the Council President schedule a time for public comment to allow the neighbors of Five Corners to speak to the issue.

Mayor Haakenson explained the WSLCB sends liquor license applications to the City for comment, particularly the Police Department. On occasion the City has provided comment such as a business that over-serves. It was his understanding the Five Spice Bistro had submitted an application to open a restaurant at Five Corners and this was a normal course of action. Mr. Snyder explained typically the Mayor and staff conducted an investigation and make recommendation to the Council to affirm the recommendation or set the matter for public hearing. He explained once the City receives notice from the State, the City was required to respond within ten days. If the Council wanted to hold a public hearing, the City needed to notify the WSLCB, ask for an extension and schedule a public hearing.

Set Public
Hearing:
Liquor
License for
Provinces

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO SET A PUBLIC HEARING REGARDING THE LIQUOR LICENSE FOR PROVINCES, INC., DBA FIVE SPICE BISTRO, SUBJECT TO THE CITY CLERK AND THE COUNCIL PRESIDENT SCHEDULING IT ON THE AGENDA AT AN APPROPRIATE TIME. MOTION CARRIED UNANIMOUSLY.

Findings
re: Request
to Amend
Comp Plan
1030
Grandview

ITEM G: APPROVAL OF FINDINGS OF FACT RELATED TO THE PUBLIC HEARING HELD ON JULY 1, 2008 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.

Council President Plunkett advised he would abstain from the vote as he was absent from this quasi judicial hearing.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF ITEM G.

Councilmember Dawson clarified it was a legislative matter, not quasi judicial, but it was appropriate for Council President Plunkett to abstain if he was not comfortable voting due to his absence.

MOTION CARRIED (6-0-1), COUNCIL PRESIDENT PLUNKETT ABSTAINED.

Public
Service
Announce-
ments

3. PUBLIC SERVICE ANNOUNCEMENTS

Council President Plunkett explained this was a new item as a result of organizations requesting time on the agenda to make a presentation. He clarified this was an opportunity for any non-political organization to make a public service announcement.

Taste of
Edmonds

Bill Vance, Greater Edmonds Chamber of Commerce, reported the Taste of Edmonds includes three stages for entertainment, a kids area with rides, arts and crafts, food, beverages, commercial areas, artists—all day fun. He described the economic impact of the Taste which brings tens of thousands of people into the City and provides funding that allows the Chamber to sponsor over \$20,000 in programs and services from a variety of community service organizations. He recognized the incredible group of over 200 volunteers who put on the Taste event, remarking the Taste was one of the top five festivals in the Northwest. He invited the City Council to be judges at the Taste-Off and urged the public to come to the Taste of Edmonds on August 8, 9 & 10. Free shuttle service is available from Edmonds-Woodway High School, handicapped parking is available, and admission is \$3 for adults, children 12 and under are free. More information regarding the event was available at Edmondswa.com or by calling the Chamber at 425-776-6711.

Adopt-a-
Dog

4. ADOPT-A-DOG

Council President Plunkett commented this was another new item that had been tried with a great deal of success by other municipalities.

Charles Greenberg explained in an effort to reduce the scope of the problem of too many dogs and too few homes which often leads to their being euthanatized, he approached the Council about presenting dogs at Council meetings after reading a magazine article that indicated other municipalities had experienced a 100% adoption rate. He presented 10-year old Comet and described his qualities. He advised many of the dogs came from olddoghaven.org. He provided his phone number 425-774-0138 and Council President Plunkett's phone number 425-776-1119 for contact.

Bill Vance announced he had adopted Comet.

Title 6 –
Property
Nuisances

5. CONTINUED PUBLIC HEARING ON PROPOSED AMENDMENTS TO EDMONDS CITY CODE TITLE 6 REGARDING PROPERTY NUISANCES

Development Services Director Duane Bowman recalled, following the June 3 public hearing, the Council requested the public hearing be continued to July 15 to allow additional public testimony. He explained the Planning Board initially began work on the performance standards found in Edmonds Community Development Code (ECDC) Chapter 17.60 and concluded with the assistance of the City

Attorney that some of the property performance standards were actually nuisance issues that should be in the Edmonds Municipal Code (EMC) and that some of the provisions in Title 6 of the EMC needed to be updated.

He advised the originally proposed draft ordinance was contained in the Council packet as Exhibit 1. Since the June 3 public hearing, City Attorney Scott Snyder drafted amendments to address the primary concerns, which were contained in the Council packet as Exhibit 2. Both ordinances have been posted on the City's website. He referred to an article in the *Edmonds Beacon* that indicated the City planned to ban RVs as part of its nuisance ordinance, assuring there were no plans to ban RVs. He advised the Planning Board was discussing, as part of property performance standards, the number of vehicles that could be stored on a property and where they could be parked. He suggested members of the public interested in RVs attend the Planning Board's continued public hearing on Wednesday, July 23 at 7:00 p.m. He emphasized the Council was not considering RVs tonight except if they were junk vehicles.

Mr. Bowman explained the purpose of the amendments was to 1) consolidate the nuisance regulations into one location, the EMC, 2) clean up antiquated code in the EMC, 3) the nuisance regulations are part of the City's broad police powers and should be in the EMC and not the ECDC, and 4) the proposed regulations cover the type of frequent complaints received by the City's Code Enforcement Officer. He assured the amendments did not regulate RVs, boats, cars and trailers, except if they were junk vehicles.

He provided several photographs illustrating debris in a yard, a dilapidated house, blackberry bushes, numerous vehicles parked in a yard, material stored in a carport, material covered with a tarp, old tires enclosed in plastic and the materials in the carport remedied via wire fencing around the carport.

He advised Mr. Snyder's suggested revisions establishes classes of nuisances, including aesthetic nuisances, health and safety nuisances, garbage, recycling and compost facilities, and a separate section for junk vehicles. Mr. Bowman explained staff was seeking direction from the Council that would be used to redraft the ordinance. He commented much of the language was taken from other cities' ordinances; for example, Mountlake Terrace has a very good nuisance ordinance and they have made a concerted effort to clean up their community via very aggressive enforcement action on property nuisances. Staff recommends, after taking public testimony, the Council direct the City Attorney to prepare the necessary ordinance implementing the City Council's decisions regarding the nuisance ordinance. He urged the Council to inform staff what items they wanted to regulate; any items the Council did not want to regulate, when citizens filed complaints, staff would simply inform them the City did not enforce it.

Mr. Snyder commented after listening to comments at the public hearing he realized one of the difficulties with including all nuisances in one section was there were different issues with different nuisances. Staff determined a better approach would be to group like items together and seek direction from the Council whether those were issues they wanted to relate. He noted one man's treasure was another man's trash; many communities feel maintenance can contribute to neighborhood blight and there was statistical information that littering and blight, similar to graffiti, have a tendency to spread and affect property values in a community. He referred to Exhibit 2, Section 16.20, that grouped things that could have negative impact on property values based on what they look like. He referred to Section 16.20.041.f which provided an exception for aesthetic nuisances that were wholly enclosed or behind a fence. He noted this may not be effective in areas where the topography allowed neighbors to see into each other's yards but would address the majority of instances.

Mr. Snyder referred to Section 16.20.042 in Exhibit 2 that addressed health and safety nuisances, noting some things even if enclosed by a fence were still a health issue. Subsection A deals with vegetation, subsection B with attractive nuisances to children, subsection C with breeding grounds for vermin or insects, and subsection D with other hazardous substances or materials. He noted the only addition was in

subsection D.2 regarding unstable embankments because when the State changed from the Uniform Building Code to the International Building Code, it did not adopt the provisions regarding unstable fill or embankments.

Mr. Snyder explained garbage, recycling and compost facilities were also placed in a separate section, 16.20.043, acknowledging this may be an area the City Council chooses not to regulate. As more people recycle and compost, many communities regulate the length of time materials can remain at the curb and how they are stored. He noted references to motor vehicles had been deleted from the proposed ordinance in Exhibit 2 as the Planning Board would be considering that separately as part of performance standards. He noted there was previously a reference to dangerous vegetation. Although many common ornamental plantings can be poisonous to children and animals, he narrowed the focus to trees, defining them as in the clearing ordinance 6 inch caliper and specifying in order to be dangerous they must be a danger to the traveling public on a public right-of-way or street.

Mayor Haakenson asked Mr. Snyder to provide a definition of a junk vehicle. Mr. Snyder advised the provisions parallel State law, were fairly standard community-to-community, and adopted by reference in Section 16.20.060. Mr. Bowman referred to the definition of junk vehicle in Exhibit 1, a vehicle meeting any three of the following criteria: 1) is three years old or older; 2) is extensively damaged, including but not limited to any of the following conditions: a broken or missing windshield or missing wheels, tires, motor or transmission; 3) is apparently inoperable; 4) has an approximate fair market value equal only to the approximate value of the scrap in it.

Councilmember Dawson asked why the age of a vehicle would be relevant. Mr. Snyder advised the definition paralleled RCW Chapter 46.55 which includes a process for abatement and redemption.

Council President Plunkett referred to the provision that allowed screening of materials by a fence and asked whether the fence could be shrubbery. Mr. Bowman advised the draft ordinance references a fence; the Council could decide to include vegetation. Mr. Snyder recalled fences and hedges had a lengthy history in the City and the definition of fence was non-living material. If the definition were expanded to include vegetation, he pointed out the height of a vegetative fence may be problematic in some neighborhoods.

Councilmember Orvis asked whether the fence would be required to surround a junk pile or was the backyard fence sufficient. Mr. Bowman advised the backyard fence would be sufficient as long as it screened the material from view. He acknowledged the difficulty was although a 6-foot fence may surround a backyard that blocked the view when standing next to the fence, the yard may be visible from a 2-story home next door.

Mayor Haakenson opened the public participation portion of the public hearing, advising the Council received a letter from Eileen Nelson and two emails from Ray Martin expressing concern with the proposed ordinance as drafted and a letter from Mr. Pflugrad regarding motor homes and travel trailers.

Roger Hertrich, Edmonds, thanked Mr. Snyder for the changes he proposed. He questioned whether the City could regulate view protection, recalling previous discussions that the City could not protect the views from private property. He questioned whether the issue was the public's view from property from the right-of-way or neighbor-to-neighbor. If the City was unable to protect views, the same should be true with regard to nuisance views. He questioned the definition of screening, commenting a screen/fence could be created via two poles and a tarp. He suggested the definition be changed to "reasonable screening, protection from view outside the property," etc. so that tarps would be permitted. He questioned the section on aesthetic nuisances that defined a public nuisance as any junk, trash, litter, boxes, salvage materials or lumber not neatly stacked. He advised the original ordinance referred to vehicles in the backyard which could have included motor homes and plastic canopies which were now

defined as temporary buildings. He noted attractive nuisances previously were defined but now included anything in a person's yard. Using that definition, he suggested a plastic pool could constitute an attractive nuisance.

John Heighway, Edmonds, advised his comments were with regard to Exhibit 1. He suggested further revisions to the definitions, pointing out the exception that allowed aesthetic nuisances located in a rear yard and screened from view from adjacent properties and the public right of way by a six-foot opaque fence was not workable in sloped areas. He relayed that Snohomish County Code Enforcement only regulated views from the public right-of-way and did not consider the view over a fence from a neighbor's property. He suggested perpetual yard sales be defined as a nuisance or health issue. He referred to Section 6.20.040 suggesting "any" be deleted from types of nuisances and cited several concerns including if the definition of attractive nuisance would include an old rusty plow he has as part of his landscaping, the definition of graffiti, vague nature of "personal property," worms in his compost pile that may be prohibited by paragraph K, replacing "any stagnant water" with "known stagnant water" in paragraph L, removing "berry" in paragraph Q, and allowing garbage receptacles that comply with vendor specifications to be located in the front yard (paragraph T) particularly in multifamily zones. In Section 6.20.045 he suggested making an exception for manufactured covers.

Dave Page, Edmonds, referred to a property under continuous fine for ongoing violations and asked whether the proposed amendments provided the City more power over violations.

Lora Petso, Edmonds, urged the Council to proceed carefully, commenting what constituted a private property nuisance may vary; landscaping may be pleasing to one person and not another, the lawn may not be watered enough to suit everyone, and the house may need painting. Recognizing the City had encountered difficulties with hedges blocking views, she suggested some things were best left to the neighbors to work out. She encouraged the Council to include vegetation as an approved screening method. She encouraged the City to develop its own definition of a junk vehicle rather than relying on the State's definition. She expressed concern with the definition of a junk vehicle, envisioning an older car stored for a child away at college could meet the definition of a junk vehicle.

Don Hall, Edmonds, asked whether these regulations would pertain to the City as well as private property owners. He referred to paragraph F of Section 6.20.040 regarding hazardous trees and vegetation dangerous to the general public health, safety and welfare; and paragraph Q regarding berries and noxious weeds, inquiring whether these sections also applied to parks and rights-of-way.

Dave Thorp, Edmonds, commented friends who live next to a hoarder met a great deal of resistance from City staff in responding to the situation, a severe problem that met the definition of a health and safety nuisance in the proposed ordinance. He commended the City for revising its nuisance regulations, pointing out the litigation process was often expensive and lengthy as well as questionable at times for people with mental conditions.

Harry Shelton, Edmonds, expressed his disappointment that RVs were not being discussed tonight when he was told on June 3 that would be a topic of discussion tonight.

Kevin Clarke, Edmonds, commented this was a very valuable discussion for the community and although contentious, helped citizens understand each other's points of view. He agreed with Mr. Snyder's comments that studies show when nuisances are not repaired, a negative environment can be created in a neighborhood that adversely impacts property values. He recommended neighborhoods' Covenants, Conditions and Restrictions (CC&Rs) that outline nuisances and/or development standards be adopted as part of the City's regulations and enforced by the City.

Mary Humphrey, Edmonds, suggested a fee to file a complaint against a neighbor, pointing out a fee may make a person think about it before making a complaint. She expressed concern the City was overly governing its citizens and preferred they be responsible for themselves. She envisioned a neighbor with a 2-story house next door to a rambler with a 6-foot fence who did not like what their neighbor was doing could continually file complaints. She commented many of the houses in their neighborhood had junk in their yards; they have lived there 45 years so obviously it did not bother them. She questioned how one Code Enforcement Officer could enforce all these regulations.

Tom Fagnan, Edmonds, commented when he moved into his home in 1990, it was in unincorporated Snohomish County and he purchased it because there were no CC&Rs regulating the color of his house, what he would have parked in his yard, etc. He objected to the City enacting such regulations, noting one neighbor continually complained to the City about his house/yard, although another neighbor across the street did not object. He commented the condition of his yard had not prevented his property value and taxes from increasing.

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

With regard to concern expressed regarding the City's intrusion into neighbors' problems, Mr. Snyder explained this was a list of concerns citizens have raised with the Planning Department on a regular basis; staff's question to Council was whether they wanted to regulate this "laundry list" of items. With regard to covenants, Mr. Snyder pointed out the City did not enforce private covenants because they had not been the subject of a public hearing, voted on by the City Council and in many cases there were covenants in place that prohibited residents based on race or religion, restricted residential or commercial, etc. He was not aware of any City that uniformly incorporated private covenants into their regulations.

Regarding the suggestion to use vegetation as a screen, he suggested the Council could add vegetative opaque screens maintained at a certain height. With regard to Ms. Petso's concerns that a college student's car could be considered a junk vehicle, he suggested storing it in a garage. Regarding enforcement on public property, he explained the purpose of these regulations was as an enforcement tool; the City has liability for any damage caused by a tree falling from a public right-of-way and the public was encouraged to notify the City of any dangerous trees in the right-of-way. With regard to Mr. Page's question, the proposed ordinance did not provide any additional enforcement power. With regard to the use of "any" in the definition, that language assisted the City in enforcement actions.

With regard to views, he noted the view issue previously discussed by the Council was the transfer of property rights from one property owner to another; in Washington anyone desiring to protect their view must buy a view easement. He noted the City did not regulate design of residential property with regard to design or view blockage, other than height restrictions. Conversely, the view referred to in this ordinance was what a person saw from their window or sidewalk. The revisions he proposed allowed an exception for material screened from view by a 6-foot fence. With regard to municipalities that regulate what was visible from the public right-of-way, he noted that was easy for the Code Enforcement Office as what was visible from the street could be prosecuted and a search warrant was not needed. However, many of the complaints the department receives are regarding what is visible from a neighbors' window. He acknowledged visibility from the public right-of-way was an approach the Council could take if they wished.

With regard to the assertion that an attractive nuisance was anything in a person's backyard, he cited the items identified as attractive nuisances in Section 6.20.041: 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.

Mr. Bowman described the City's enforcement process: first, code enforcement was done by complaint. After a complaint was received, the Code Enforcement Officer investigates and if there appears to be a violation of the code, they are sent a letter informing them of the issue and providing a timeline for response. If they fail to respond, the Code Enforcement Officer issues an Order to Correct which begins the formal code enforcement process. The Order outlines a deadline to contact the City to resolve the issue and identifies the remedy. If the Order to Correct is ignored, a Notice of Violation is issued, which includes daily fines. He noted once a citizen filed an appeal of the Notice of Violation to the Hearing Examiner, the burden of proof shifts to the City to prove a violation was occurring. The current ordinance was very general and the Hearing Examiner was very conservative in their view of the code; the intent of the proposed ordinance was to strengthen the City's position in meeting the burden of proof.

Council President Plunkett asked staff to respond to the suggestion to charge a fee to file a complaint. Mr. Bowman advised the Council's policy with regard to complaints has been not to require a fee for an issue the City should be enforcing. He acknowledged a fee could have the effect of making a citizen stop and think. If the Council wanted to charge a fee, an option would be to refund the fee if a violation was found, although that would be a bookkeeping issue. He did not recommend charging a fee for filing a complaint.

Council President Plunkett asked how often people filed complaints out of revenge or spite. Mr. Bowman answered that was not routine. Mr. Snyder commented a number of communities utilize neighborhood mediation and there were several groups in Snohomish County that provide this service. Deferring some problems to mediation efforts and out of code enforcement was an option for the Council.

Council President Plunkett asked how many appeals the Code Enforcement Officer addressed at any one time. Code Enforcement Officer Mike Thies responded he handled approximately 300 pending complaints at any one time. Some were also handled by the Building Department. With regard to neighbors filing a complaint as revenge, he tried to stop that from happening.

Councilmember Orvis asked staff to respond to Mr. Heighway's question whether a historic item used as part of landscaping could be considered an attractive nuisance. Mr. Bowman answered that was not typically the subject of code enforcement. The attractive nuisances referred to in the ordinance were junk equipment and he did not believe the ordinance would apply to the item described by Mr. Heighway. Mr. Snyder referred to the definition in the attractive nuisance section "rusted, jagged, sharp or otherwise potentially dangerous machinery," suggesting "rusted" be removed from the definition. He noted yard art that was dangerous to children could be problematic.

Councilmember Orvis observed there were First Amendment issues with house color. Mr. Snyder referred to a case in Missouri where a message the homeowner wrote on their house regarding the Vietnam War was protected. He reiterated the City's design code criteria did not extend to residential neighborhoods, therefore, houses could be painted whatever color the owner wished. Councilmember Orvis summarized as long as something was screened in the backyard, there would not be an aesthetic nuisance, but it could constitute a health, safety and welfare nuisance, such as pooled water. He inquired about the use of vegetation as a screen. If that was the Council's direction, Mr. Snyder suggested language identifying a hedge or other vegetative material that was opaque and maintained at a certain height.

Councilmember Wambolt commented under the proposed definition, a vehicle that was three years old, with a cracked windshield and a dead battery could be defined as a junk vehicle. He asked whether the City was required to adhere to the State's definition. Mr. Snyder answered the definition paralleled the

State provisions to match the process. Using Councilmember Wambolt's example, he commented a person could likely get their battery fixed during the time it took to begin the enforcement process. He acknowledged the definition was somewhat broad but there were several examples of residents operating what their neighbors considered rebuild/junk operations. Councilmember Wambolt objected to the criterion regarding the age of the vehicle. Mr. Snyder offered to research the State provisions.

Councilmember Wambolt referred to Mr. Heighway's comment regarding garbage receptacles in multifamily zones. Mr. Snyder advised that was addressed in the Architectural Design Board design criteria.

Councilmember Wambolt agreed with Mr. Heighway's suggestion regarding year-round yard sales. Mr. Snyder commented that would not be a nuisance, but a building permit or zoning issue. Mr. Thies advised complaints about perpetual garage sales were addressed via a business license and home occupation.

Councilmember Dawson expressed her appreciation for the revisions made by Mr. Snyder. She referred to Section 6.20.041.A, "Any junk, trash, litter, boxes, salvage materials or lumber not neatly stacked," envisioning neatly stacked referred to lumber only. Mr. Snyder suggested deleting boxes and putting salvage materials or lumber not neatly stacked in a separate paragraph.

Councilmember Dawson recalled comments regarding a vehicle being considered a junk vehicle if it were not licensed, but did not see any reference to license in the proposed ordinance. Mr. Snyder advised licensing was incorporated in the definition of operable.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCIL PRESIDENT PLUNKETT, TO EXTEND DISCUSSION OF THIS ITEM FOR 15 MINUTES. MOTION CARRIED UNANIMOUSLY.

With regard to garbage, recycling and compost, Councilmember Dawson recognized garbage could breed vermin or insects if not stored properly. Mr. Snyder suggested if the Council chose not to include Section 6.20.043 regarding garbage, recycling and compost facilities, staff could consider incorporating a paragraph regarding the vermin attracted by garbage. Councilmember Dawson suggested an exception for compost materials that were properly screened, rather than a section regarding garbage, recycling and compost. Mr. Snyder acknowledged the Council may choose not to regulate those items. He noted a simple method for regulating garbage and recycling was to require it to be removed from the curb.

Councilmember Dawson suggested adding neighborhood mediation as an option in the code. She referred to a local taskforce that had been established regarding hoarding. Mr. Thies responded he was on the taskforce. Councilmember Dawson requested he provide Council an update on the taskforce in the future. Mr. Bowman noted there was also a website with a great deal of information about the causes of hoarding, resources, etc.

Councilmember Wilson asked whether if Section 6.20.043 were deleted, did Section 6.20.041.C.1 define compost. Mr. Snyder responded if the Council did not want to regulate compost, there were sufficient tools under health and safety nuisances to allow staff to address egregious situations; properly maintained composts were not a problem.

Councilmember Wilson referred to Section 6.20.041.F.2, the exception to aesthetic nuisances that were located in a rear yard and screened from view from adjacent properties and the public right of way by a six-foot opaque fence, and asked why that would not apply to front yards. Mr. Bowman answered the problems were typically in side yards and backyards. He acknowledged it was a policy issue if the Council wanted to allow it to be screened in the front yard. Mr. Snyder pointed out there were restrictions on fences in the front yard due to sight distances issues.

For Council President Plunkett, Mr. Snyder advised he did not change the protective covering (tarps) provisions.

Councilmember Orvis agreed with allowing people to have a reasonable compost on their property. Mr. Bowman agreed a properly maintained compost pile was not a problem. Councilmember Orvis asked whether yard waste bags could be stored on a property until pick-up. Mr. Bowman advised that was a self-correcting problem. Mr. Snyder advised yard waste was a recyclable material that was not considered a nuisance unless stored outside for longer than 30 days.

Councilmember Wambolt asked if it was permissible to have a 6-foot fence in the front yard. Mr. Bowman answered it depended on the distance from the right-of-way; front yard fences were regulated for sight distance.

Councilmember Wambolt objected to including the age of a vehicle in the definition of a junk vehicle. Mr. Snyder responded he would research the State definition. Mr. Thies advised in his experience in the City, the three year age had never come up. He advised the regulations regarding junk vehicle made it very easy to enforce. Councilmember Wambolt commented it could be problematic if an unhappy neighbor wanted to complain.

Council President Plunkett commended staff for doing an excellent job of assembling ideas in an effort to gather Council and citizen input. He recognized private property rights were a sensitive subject. He advised staff would use the information provided to develop another revised ordinance and suggested scheduling another public hearing and potential Council action on those revisions.

Councilmember Bernheim questioned the guidance that a laundry list of potential enforcement provided the Council. He preferred staff present a well thought out ordinance with specific language versus the proposed broad ordinance. He found little in the proposed laundry list that he was willing to incorporate in the current code. He noted the current code regulated junk, litter, attractive nuisances, discarded furniture, broken trailers, vehicle part, dangerous trees and junk vehicles, and in the health section, putrid dangerous garbage that was a threat to health. He found the current definition of junk adequate other than minor tweaks, and suggested greater tolerance of neighbors. He noted if blackberries were included as a nuisance, the City would be required to spend a great deal of money to remove blackberries and scotch broom in City rights-of-way. He noted the current law also addressed dangerous compost piles. He agreed with neighborhood mediation as an option as well as requiring a fee for filing a complaint. He noted the reason there were so many open code enforcement files was because there was no fee. He did not object to serious legitimate complaints, but he envisioned in the 300 complaints staff was handling, there were many that were not serious.

Councilmember Bernheim was opposed to hiring any additional code enforcement personnel to enforce nuisance regulations and suggested consideration be given to the City's limited financial resources before enacting the ordinance. With regard to view protection, he acknowledged the Council could legislate aesthetic views. However, his preference was to protect private property rights rather than the view from a neighbor's property. Another option would be to define regulations as other communities have done, in terms of lowered property values, if a person could prove that the storage of materials on a neighboring property has a substantial impact on their property values. He objected to the language "neatly stacked" and "in disarray," finding it vague. He sympathized with residents whose neighbors stored an abundance of materials in their yard but preferred to modify the current code to address the real problem rather than rewriting the code.

Mayor Haakenson assured, regardless of the regulations the Council passed, there would only be one Code Enforcement Officer.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO DIRECT STAFF TO TAKE THE COUNCIL'S COMMENTS AND REVISE THIS VERSION OF THE ORDINANCE AND BRING IT BACK FOR A PUBLIC HEARING AND POTENTIAL ACTION.

Councilmember Wilson suggested having the ordinance reviewed by the Community Services/Development Services Committee. Council President Plunkett agreed that was appropriate and requested it be incorporated into the motion.

Councilmember Dawson requested staff provide the Community Services/Development Services Committee an analysis of the ability to impose a fee for frivolous complaints. She envisioned there would not be a fee for legitimate complaints but there would be a fee for frivolous complaints. Councilmember Wambolt asked how a citizen or staff, when the complaint was filed, would know whether it was frivolous. Councilmember Dawson noted it was common in legal proceedings that a person was sanctioned for bringing a frivolous action. For example, a fee could be imposed if staff determined a complaint was filed for the purpose of harassment and/or not based on reality. Mr. Snyder advised an option could be to require a deposit or make a frivolous complaint an infraction. Councilmember Dawson was interested in whether other cities required a fee to file a complaint.

Mr. Snyder reiterated staff's recommendation to move nuisances out of the zoning code and into the police power regulation provisions. He suggested a fine/penalty for making a frivolous complaint, rather than a fee.

Mr. Snyder referred to the negative comments made by Councilmembers regarding the garbage and recycling provisions and offered to remove that section and strengthen other sections.

MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson declared a brief recess.

Parks,
Recreation
and Open
Space
Comp Plan
and
Community
Cultural
Plan

6. PUBLIC HEARING ON THE PARKS, RECREATION AND OPEN SPACE COMPREHENSIVE PLAN AND THE COMMUNITY CULTURAL PLAN TO UPDATE THE CITY OF EDMONDS COMPREHENSIVE PLAN.

Parks & Recreation Director Brian McIntosh advised this was a required public hearing in advance of the eventual adoption of the Parks, Recreation & Open Space Comprehensive Plan and the Community Cultural Plan. He explained the review process for the update of both Plans began in March 2007 with the development of two 20 person Advisory Committees that met monthly for the remainder of the year. Two public open houses were held as well as three presentations to the Planning/Parks Board including a public hearing. The Plans have since been presented at three City Council meetings including a public hearing. He relayed staff's appreciation for the review and input from City Council and citizens to update these plans to reflect the uniqueness of Edmonds and its quality of life.

Since the May 20 meeting a question raised was whether levels of service in regard to park standards are less ambitious in the updated Plan. This has been a point of discussion from the beginning of the planning process with the realization that Edmonds was close to build out and land was not readily available. Therefore a high emphasis has been placed on upgrading existing properties and working with partners (School District, County, and neighboring jurisdictions) to make existing space more usable and enjoyable. There were several of these listed in the Action Plan. He summarized this update was realistic in regard to land acquisition and service areas and did not restrict in any way the ability of Council to acquire or develop property of any size, in any location, if the opportunity arose.

With regard to regional park levels of service, he acknowledged the City was not at national standards but had unique regional parks, such as the 900 foot fishing pier, the underwater park, and numerous waterfront amenities. He emphasized the unique nature of many of the City's parks, such as the waterfront, are not reflected in the level of service acreages.

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

Lora Petso, Edmonds, recalled she previously protested the procedures being used for this Comprehensive Plan amendment and the Plan itself. She noted the field inventory on page 317 was still incorrect and still showed adult soccer fields at Sierra and Seaview Parks. She expressed concern with the reduction in levels of service. She asserted Mayor Haakenson has said that he does not want more parks because it requires paying staff to maintain them. She emphasized it was not purely Mayor Haakenson's decision, the Council could decide to maintain the current levels of service and meet the levels of service adopted in 2001. She commented there had not been any changes since 2001 to justify lower service levels, people did not stop wanting parks or pools, and the only change since 2001 was the doubling of REET revenue which should make it easier to maintain service levels. She reiterated none of the council members ran for Council proclaiming their commitment to building maintenance or to lower park level of service and several claimed to support parks and quality of life. She asked which council members were willing to lower the level of service for every park type. She referred to a newspaper article that stated Seattle was striving to maintain an admittedly poor 1 acre/1,000 neighborhood park space. She noted Edmonds was not at 1 acre/1,000; in 2001, the goal was .95 acres/1,000, and the proposed Plan recommends .71 acres/1,000. Although the Council had some discretion in meeting the City's park needs, it could not deliberately fail to meet park needs. She anticipated the size of Edmonds with no adult playfields would be in violation of the GMA. She commented leaving acquisition of future park land to political whim was also not compliant with the GMA.

Mayor Haakenson requested Ms. Petso forward him the email or comment he made that he did not want more parks in the City. He advised the City was opening two new neighborhood parks, Woodway Elementary and Meadowdale Community Park, the first since 1973.

John Heighway, Edmonds, commented he recently moved from the bowl area to the Perrinville area and had seen a gross difference in the attitude toward park maintenance in the Snohomish County Park. He supported increasing the park ratio to 1 acre/1,000, pointing out increased density put more pressure on the City's parks. He urged the Council to purchase more park land.

Roger Hertrich, Edmonds, recalled the Antique Mall and Skippers properties were discussed extensively before the Council approved the Parks Plan to meet a grant deadline and questioned whether those properties were identified in the Plan as future park areas. He agreed with Ms. Petso's concern with reducing the park level of service and recommended the Council reconsider that issue. Next he referred to the statement in the Community Cultural Plan regarding themes and interests 1994 - 2008 in marketing plans and greater effort to promote Edmonds as a cultural destination with arts as an integral part of the City identity, and asked the amount of funding committed to the marketing plan and what programs were devised to market the City. With the emphasis on some public participation in the Antique Mall/Skippers area, he envisioned a market plan in conjunction with planning for that area was important.

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

Council President Plunkett asked Mr. McIntosh to address Ms. Petso's comments regarding park level of service. Mr. McIntosh referred to the level of service chart for the five park types, explaining the purpose of this update was to make those levels of service more realistic. He commented he could add acreage to those charts to increase the level of service, but the reality was those acres were not there. The goal was

to identify areas in the City where there was a deficit of a certain type of parks. He noted people from throughout the City, as well as outside the City, used all of the City's parks. For example, neighborhood parks are designed for the neighborhood to walk to them and have a one-half mile radius, and he hoped people walked a mile or biked two miles to reach the neighborhood park. He summarized it was not correct to say they were lowering their expectations for the level of service.

Council President Plunkett asked if the level of service was inflated in the past. Mr. McIntosh answered it was the difference between a quality neighborhood park being a 3-5 acre park versus a two-acre property. The proposed plan indicates any neighborhood park would be an average of two acres; two acres multiplied by six equated to twelve acres that they foresee achieving in this Comprehensive Plan. He noted the two neighborhood parks that were opening were not two acres; one was 5.6 acres and the other was one-half acre. Both were neighborhood parks but with different functions.

Council President Plunkett summarized Mr. McIntosh's comments that whether someone liked the level of service or not, it was a better reflection of reality. Mr. McIntosh answered yes, both in staff's opinion and the consultant's opinion.

Councilmember Wilson recognized staff's attempts to be realistic. To the extent this was a visioning document, he did not want to reduce the Council's ambitions, particularly as it becomes more important to have vibrant green spaces in a larger metropolitan area. He found Mr. McIntosh's comments regarding the fishing pier compelling, commenting the value of that amenity could not be measured in acreage. He suggested a different method to demonstrate the City's ambition. He referred to *Seattle Magazine's* ranking of best neighborhoods that reported Edmonds had the smallest amount of park acreage, noting that was not how the city wanted to be perceived. If acreage was the only measure, he could not support the Plan. He supported being more ambitious rather than less in the Plan. Mr. McIntosh commented ambition in the Plan is reflected in many areas. Both advisory groups, the surveys, open house and public hearings emphasized the importance of connections; this Plan is very ambitious with regard to making connections and includes at least ten connection projects, including the Interurban Trail and the Meadowdale walkway. He referred to the Comprehensive Plan Action Plan that includes the CIP which identifies six field improvement projects. He acknowledged the field improvements may not be glamorous and may only be drainage improvements, but another overriding theme in the Plan was to make use of what the City has. He concluded the ambition in the Plan to acquire more park land was not any less, it was actually more.

Councilmember Dawson asked staff to respond to Ms. Petso's comments regarding the adult-sized soccer fields. Mr. McIntosh advised there was a standard length and width of an adult-sized soccer field. He agreed the fields in Sierra and Seaview Parks are not full-size adult soccer fields. He offered to correct that in the Park's matrix.

Councilmember Wambolt observed people often remark they do not like the increase in density, however, the population of the City is increasing as reflected by the population number on the City's website of 40,760. He noted other communities are able to add land via annexation; the only way Edmonds will get more land is to manufacture it. He noted Hong Kong obtains most of their waterfront by reclaiming land. He summarized as housing became denser the City needs to add more parks, as well as identify revenue to fund their acquisition and development.

Councilmember Wambolt referred to Ms. Petso's comment about REET funds, pointing out REET revenue year-to-date was 47% less the same period last year and total revenue collected for 2008 was projected to be \$774,000 and not \$1.4 million as budgeted. He pointed out the Seattle Times reported home sales in Edmonds were down 56.8% in June 2008 compared to June 2007, and prices are down 9.1%. He anticipated REET revenue would continue to drop.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO FORMALLY ADOPT THE PARKS, RECREATION AND OPEN SPACE COMPREHENSIVE PLAN AND THE COMMUNITY CULTURAL PLAN AS PART OF THE CITY OF EDMONDS COMPREHENSIVE PLAN.

Councilmember Bernheim expressed disappointment regarding the increase per capita availability of parks, noting as the population grows the City had a responsibility to increase its park land rather than just acknowledge that it could not be done. He agreed with Councilmember Wilson that a more aggressive policy needed to be reflected in the Plan. He pointed out the 23 acre Edmonds Marsh, although a wonderful amenity, offered little recreation opportunity. Similarly, the 26 acre Underground Park, one of the City's largest parks and acreage that increases the park ratio, did not provide recreational opportunity for everyone.

Councilmember Bernheim pointed out the Burnstead property as well as the property in the Downtown Waterfront Activity Center and other undeveloped properties should be considered for increasing the City's park inventory. He also agreed with the importance of connections.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCIL PRESIDENT PLUNKETT, TO AMEND THE MOTION TO ADD ON PAGE 10 OF THE COMMUNITY CULTURAL PLAN (PAGE 417 OF THE PACKET) A FOURTH GOAL, 1.3.d, THAT READS, "SUPPORT THE CREATION OF OPEN SPACES AND PUBLIC AMENITIES IN THE DOWNTOWN WATERFRONT ACTIVITY CENTER THAT WOULD ATTRACT OUT OF TOWN VISITORS."

Councilmember Wambolt asked what area Councilmember Bernheim felt encompassed the Downtown Waterfront Activity Center. Councilmember Bernheim answered it included the Antique Mall, the ferry parking lot, the Skippers property and the Port property. Councilmember Wambolt clarified it was the entire bowl area. Councilmember Bernheim explained his intent was to generalize the issue so as not to *raise hackles* by identifying the Antique Mall/Safeway as the property to be acquired. He was satisfied with acquiring any area within the Downtown Waterfront Activity Center due to his interest in attracting tourists via a public heritage center.

Councilmember Wambolt advised he would not support this or Councilmember Bernheim's other amendments because they focused exclusively on enhancing the bowl area. He pointed out the bowl area was bordered on the south by Pine Street, by Caspers on the north, by 9th on the east and Puget Sound to the west. He recalled complaints from residents in northern Edmonds, such as Meadowdale, that the Council was bowl-centric.

Councilmember Wilson commented the larger question before the Council was priorities. He suggested a more appropriate venue for this amendment would be the Council's summer retreat where agenda items will include a discussion of priorities as well as discussion of the waterfront area.

Councilmember Dawson agreed it was appropriate to consider the City's capital facilities needs in the context of a larger policy discussion. If the Council determined the highest priority for funding was additional park space, it would be appropriate to add additional language to the Plan. She noted the plans were not formally adopted until the Comprehensive Plan was adopted. Council President Plunkett recalled this was included on the agenda to meet a grant deadline. Mr. McIntosh advised Council's approval of the Plan via resolution on May 20 satisfied the State requirement.

Councilmember Bernheim commented it was important to include his proposed language in the Plan, commenting the Plan was the City's wish list and it was not required that everything in the Plan be accomplished. Rather, it was important to include items in the Plan in the event opportunities arose. He noted the Downtown Waterfront Activity Center was important to tourism development and was the gem and center of the City's entire geographic orientation.

Council President Plunkett advised he would support the amendment but also supported Councilmember Wilson's suggestion for further discussion at the summer retreat.

COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER WILSON, TO TABLE THE UNDERLYING MOTION. MOTION FAILED (2-5), COUNCILMEMBER DAWSON AND COUNCILMEMBER WILSON IN FAVOR.

UPON ROLL CALL, THE AMENDMENT CARRIED (5-2), COUNCIL PRESIDENT PLUNKETT AND COUNCILMEMBERS ORVIS, WILSON, DAWSON AND BERNHEIM IN FAVOR; COUNCILMEMBERS WAMBOLT AND OLSON WERE OPPOSED.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCIL PRESIDENT PLUNKETT, TO REVISE THE SECOND PARAGRAPH, UNDER DETERMINATION OF DEMAND STANDARD FOR REGIONAL PARKS ON PAGE 4-5 OF THE PARKS PLAN, "THE CITY OF EDMONDS SHOULD CONTINUE TO PURSUE OPPORTUNITIES TO ACQUIRE WATERFRONT PROPERTIES AND PROPERTIES WITHIN THE WATERFRONT ACTIVITY CENTER AND TO PARTNER WITH PRIVATE OWNERS FOR PUBLIC ACCESS TO THE WATERFRONT ~~AND PROPERTIES WITHIN THE WATERFRONT ACTIVITY CENTER.~~

Councilmember Bernheim explained the rewording was intended to express the City's intent to pursue opportunities to acquire property within the Downtown Waterfront Activity Center, not to partner for access to the Downtown Waterfront Activity Center.

Councilmember Wambolt reiterated when Councilmember Bernheim wrote the amendments, he did not understand the scope of the geography of the Downtown Waterfront Activity Center, which was the entire bowl. The priority in the plan is to acquire contiguous waterfront property, not property in the area up to 9th. Councilmember Bernheim responded he was proposing the City continue to pursue opportunities to acquire property within the Downtown Waterfront Activity Center, which includes specific properties but he did not want to limit the acquisition of other properties within that area.

Councilmember Wambolt pointed out it was not necessary for the Plan to be that definitive. For example, the portion of Old Milltown the City was attempting to purchase was not in the Parks Plan. He did not support the amendment.

COUNCILMEMBER ORVIS, MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO EXTEND DISCUSSION OF THIS ITEM 20 MINUTES. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER ORVIS MOVED, SECONDED BY PLUNKETT, TO EXTEND THE MEETING TIME UNTIL MIDNIGHT. MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson agreed the Council could consider purchasing any property in the City regardless of whether it was in the Park Plan.

Councilmember Dawson recalled the City has expressed interest in pursuing opportunities to purchase open space in the downtown area because of its draw for visitors; therefore, it was appropriate to identify that as a goal in the Comprehensive Plan and to add that language to reflect the Council's intent.

THE VOTE ON THE AMENDMENT CARRIED (5-2), COUNCIL PRESIDENT PLUNKETT, AND COUNCILMEMBERS ORVIS, WILSON, DAWSON AND BERNHEIM IN FAVOR; COUNCILMEMBERS WAMBOLT AND OLSON WERE OPPOSED.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO ADD A PURPLE STARBURST ON THE RECOMMENDED FACILITIES MAP IN THE VICINITY OF THE DOWNTOWN WATERFRONT ACTIVITY CENTER WHICH SYMBOLIZES A PROPOSED COMMUNITY/REGIONAL PARK. UPON ROLL CALL, MOTION CARRIED (4-3), COUNCIL PRESIDENT PLUNKETT AND COUNCILMEMBERS

BERNHEIM, DAWSON AND ORVIS IN FAVOR; COUNCILMEMBERS WAMBOLT, WILSON AND OLSON WERE OPPOSED.

Councilmember Dawson supported further Council discussion regarding the level of service as well as more ambitious goals in the Park Plan in the context of other Council priorities.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO REFER THE PLAN WITH AMENDMENTS TO THE SUMMER RETREAT. MOTION CARRIED UNANIMOUSLY.

7. AUDIENCE COMMENTS

Waterfront
Antique
Mall and
Skippers
Properties

Natalie Shippen, Edmonds, recalled on May 27, Finance Director Dan Clements outlined a path to purchase the Antique Mall and Skippers properties that included the following Steps, 1) determine which parcels to purchase, 2) get an appraisal, and 3) define uses if the property is acquired. She recalled Mr. Snyder explained the condemnation process and his indication that if the property were acquired via condemnation, it could only be used for public purposes and the City is required to show specific plans to illustrate it was purchasing exactly what was needed. Mr. Snyder also indicated private uses could only be incidental and could be accomplished via a concession agreement in support of the park. She referred to a list she created of public uses that justify condemnation and a list of potential concession uses and requested the City provide citizens a similar list. She expressed concern this discussion occurred seven weeks ago and nothing else had been done. She requested the City provide the public a fact sheet with regard to acquisition of these properties.

Perrinville
Residents

John Heighway, Edmonds, reported Perrinville residents were recently provided an architect's plan to amend the Comprehensive Plan and found the proposal did not meet the residents' needs. The Planning Board subsequently denied approval of their proposal. He recalled staff's presentation was somewhat bland and used the plan for Firdale Village as a template. The Planning Board suggested the Perrinville residents present their vision. He asked for assistance with how the residents could develop a plan that reflected what they wanted.

City Parks

Jack Bevan, Edmonds, commented the City's parks did not need to be like every other city. He pointed out the value of waterfront parks, including the public amenity provided by the Port. He recalled the City received the 120-acre county park from the University of Washington when he served on the Council; one day that would be returned to the City, which would drastically change the acreage per 1,000.

Downtown
Waterfront
Activity
Center

Don Hall, Edmonds, commented although the Comprehensive Plan referred to the Downtown Waterfront Activity Center, access from the Antique Mall and Skippers properties was blocked by a parking lot, railroad tracks, and a 3-story and 5-story building, the definition of waterfront was land that abuts a body of water. He pointed out the use of the language Downtown Waterfront Activity Center gave many people the wrong impression; they think it is waterfront when it is not. With regard to parks being an economic driver, he said parks that were economic drivers were typically a zoo, an aquarium, or Disneyland. In his experience, private development was a much better economic driver than public development. Before the Council spent money on an appraisal, he urged them to consider whether they were willing to proceed with condemnation as well as developing and maintaining the property.

PCC

Roger Hertrich, Edmonds, recalled the Council's interest in green building and a LEED platinum building for the new PCC at the former Albertson's site resulted in the Council allowing a rain barrel in the setback. He recalled there were public concerns about locating the rain barrel in the setback. Further, he noted the possible loss of trees and cited the illegal cutting of trees that occurred a few weeks ago. Now the rain barrel structure is atop a large concrete stand where the trees were previously located, a structure that staff determined was constructed without a building permit. Next, he suggested City Park as a location for the Bettinger/Kretzler historic home. Mr. Hertrich then reported the Senior Center's

Senior
Center

recent financial reports indicated they have lost \$21,000 and project losses of \$42,000. He noted the Center was still controlled by the same group, there were no fundraisers, and they were losing money. He questioned whether allowing the Senior Center to go out of business was purposeful to allow another use. He urged the City to get involved.

BD1 Code
Interpre-
tation

8. DISCUSSION ON BD1 CODE INTERPRETATION.

Mayor Haakenson advised staff was asked to make an interpretation regarding the Council's intent about ground floor depth requirements in the BD1 zone

Mr. Chave explained the benefit of the interpretation based on a question rather than a permit application was the Council was able to clarify the code such as via an interim zoning ordinance if a change was required versus via a quasi judicial matter. He explained there were three questions to be addressed:

- What does the code require?
- What was the Council's intent?
- What, if any, 'fix' is desired?

He displayed a drawing of an "idea" of a building proposed for the 555 Main Street site, clarifying that they have not yet submitted an application. The drawing illustrated a building with a 15-foot ground floor and upper floor viewed from the front in the street depth area and behind, in the non-street depth area, there would be a different arrangement of floors, with the lower floor partially submerged. Staff issued an interpretation on July 2, 2008 based on staff's reading of the code, together with pertinent legislative history; any appeal would need to be filed by July 16.

He reviewed legislative history, explaining the terms "ground floor" and "first floor" were used interchangeably in Planning Board and Council discussions, BD1 ground floor/first floor was always discussed as being a standard (15-foot) height, and there was no discussion of allowing 'other' uses behind commercial in BD1. He reviewed the BD1 requirements:

- Only commercial uses allowed on ground floor in BD1
- Entry from Main or 5th, within 7" of sidewalk
- Parking not considered to be a commercial use
- BD2, BD3 and BD4 require commercial use only for the first 60 feet of the ground floor – there is no such exception for BD1

He reviewed a definition in ECDC 21.35.017 dating from 1993 that addressed this situation in the BC zone and clarifies the location of the ground floor in relation to the stacked floor. If the Council agreed with the applicant, the following questions arise:

- If the area behind the street-front is not a ground floor, what is it?
- If it isn't a ground floor, it is not regulated.
- If it is not regulated, then any use can go there?

He reviewed options for Council consideration

1. Let the interpretation stand.
2. Agree with the applicant. (staff withdraw interpretation and reissue based on Council interpretation/clarification of intent.)
3. Clarify the Council's intent, in light of the situation highlighted here and have the City Attorney and staff provide code language that does not have the ground floor definition relevant in BD1 and draft an interim zoning ordinance to implement the Council's direction.

If the Council chose to clarify the intent, the following issues need to be resolved:

- How deep should the ‘retail-friendly’ street front space be? Staff suggests 60 feet to be consistent with the BD2, BD3 and BD4 standards.
- What uses can go behind the commercial front of the building and what should the floor height be? He noted in the proposed building, it would be a combination of commercial and parking. He recalled the BD1 zone was intended to be primarily commercial.
- Should corner lots be treated differently? He noted 555 Main was on the edge of the commercial district; therefore, its corner characteristics were different than a corner lot in the core commercial area.

Mayor Haakenson referred to a minimum depth of commercial space must be at least 30 feet. Mr. Chave answered that applied only in the BD2, BD3 and BD4, which has a 60-foot commercial requirement for lots that may not have sufficient space behind the 60 feet to provide parking. The 30-foot rule was included for those lots. Mayor Haakenson observed the code did not state that there was a minimum 30-foot commercial space requirement in the BD1 zone. Mr. Chave agreed, explaining the 60-foot commercial requirement could be reduced to 30 feet if there was insufficient space. He emphasized that was a very specific exception in the BD2, BD3 and BD4 zones.

Council President Plunkett recalled his intent was that the ground or first floor would be the closest to the commercial space and he was satisfied with a 12-15 foot first floor ceiling height for a depth of 45-60 feet and allowing flexibility for uses behind that space. Mr. Chave commented the difficulty with the applicant’s opinion was that the space behind the 30-foot commercial would be totally unregulated. He envisioned Council President Plunkett’s intent would be another alternative.

Councilmember Wambolt commented the example Mr. Chave provided where the street slopes north to south was not representative of the topography of the land at 555 Main Street site that slopes east to west. Mr. Chave agreed it was for illustration only. Mr. Chave advised the property owners have proposed a ramp from the alley into the parking area; the bottom of floor A would be lower than the alley level.

Councilmember Wambolt recalled the Council specified a 15-foot ceiling height in the BD1 zone.

Councilmember Orvis recalled the drawing of a building with a ground floor, upper floor and partially submerged lower floor would be allowed in BD2 and BD3. In the BD2 zone, the ground floor could be 12 feet in height, must be 60 feet in depth with flexibility behind. In the BD1 zone, he recalled the intent was ground floor height would be 15 feet and that the ground floor extended all the way to the back. The reason was BD1 was intended to be commercial with strong commercial standards.

Councilmember Dawson agreed it was the intent of the Council to have commercial all the way to the back on the ground floor in BD1. She noted the current code may not describe that well and suggested amending the code to better reflect that intent. She was not comfortable with making a change that would allow other uses behind commercial in the BD1. Mr. Chave agreed with Councilmember Orvis and Dawson that was the Council’s intent. He noted there was no specific discussion regarding the example where there were two floors at the front of the building, ground and upper, and three floors behind, A being the lowest with B and C above, where floor A was partially below ground and the ceiling floor A did not necessarily match the floor height of the ground floor in front. In this example, the ground floor in front was 15-foot high commercial and floor B behind was commercial but potentially had a lower height. Councilmember Dawson commented in that example floor B was not 15 feet in height, when the recommendation from staff has been a minimum 15-foot ceiling height and the example would be a change in the previous direction. She recalled the Council extensive discussion regarding the ceiling height for commercial and there was never any discussion about varying the ceiling height in the back of the building.

Councilmember Bernheim agreed the Council’s intent at the time was to extend the 15-foot ceiling height all the way to the back; however, the current ordinance did not address that issue at all. He said the plan as proposed by the property owner was permitted by the current code in spite of the Council’s intent not

to allow it. He viewed the drafting of the code language with that omission as a huge mistake by staff, Planning Board and the Council. He recalled proposing at the time and in his recent email that one of the ways to address this would be to allow a maximum of two stories in the BD1 zone. He did not agree with adapting staff's interpretation, finding that went beyond what the law provided.

Councilmember Orvis commented he was comfortable with tightening the code. He pointed out parking was only required for residential in the BD1.

Councilmember Wambolt agreed with Councilmembers Dawson and Orvis, although he did not feel the code was ambiguous, referring to 16.43.030.B.3 which states, within the BD1 zone, development on the ground floor shall consist of only commercial uses and commercial uses to a minimum building depth of 60 feet in the BD2 and BD3 zones. He was open to changing the code, noting changes had been made in the past, such as for the Gregory where residential was allowed at the back of the building due to the 120-foot depth. He recalled unsuccessfully introducing a motion to restrict buildings to two floors in the past.

Council President Plunkett inquired about the City's legal liability with regard to the three options. Mayor Haakenson pointed out an application had not yet been submitted. City Attorney Scott Snyder advised if an application had been filed, staff's interpretation would be final. He was comfortable with defending the plain meaning as the Council has expressed with regard to the full length. He noted the problem of the carryover interpretation of ground floor which was never discussed in the recent process. Council President Plunkett summarized Alternative 3 suggested by staff was a minor tweak and not a substantial change.

Mr. Chave advised Alternative 3 would be to clarify the Council's intent and draft an interim zoning ordinance to implement the Council's direction. Mr. Snyder explained the Council's direction was to delete/amend the ground floor definition to clarify the holdover definition of ground floor did not apply to the BD1 definition.

Councilmember Bernheim referred to his memo that explained his disagreement with Mr. Snyder's position. He felt the drawing referred to as the applicant's idea was lawful and any attempt to claim that idea was contrary to the terms in the code was doomed to fail because of the clause that states the ground floor shall be a minimum of 30 feet. He asked whether Mr. Snyder's proposal was contrary, and with the principle of ambiguity in the code, deference is given to the property owner. Mr. Snyder responded there were three maxims that applied, 1) the intent of the Council, 2) the plain meaning, and 3) in the event of ambiguity X goes to the property owner. He noted zoning laws were a derogation of common law property rights. Councilmember Bernheim responded if there was nothing in the code that reflected that intent, the Council was not allowed to divine the intent from discussion and read it into a code that the language did not support. Mr. Snyder commented plain meaning was the primary. Councilmember Bernheim urged staff to consider his suggestion for a 2-story limit. Mr. Snyder recalled there was considerable discussion regarding two stories; however, a 2-story approach would require extensive revision of the code.

Mayor Haakenson relayed the response by one of the property owners in the audience that the width of the building on the Main Street side was 86 feet. Mayor Haakenson advised approximately 90 feet by a 45 foot depth was approximately 4,000 square feet of retail. He recalled the primary importance of the 15-foot ceiling height was the storefront on Main Street and on 5th Avenue, not necessarily inside the store. As a former retailer he would be hesitant to have three storefronts in that location with a 90-100 foot depth. He recalled the intent of the 15-foot ceiling height was to create viable retail space and he was uncertain whether the result in this location would be good, viable retail spaces. He envisioned if the property owners reverted to their previous idea, they would be required to have parking on the street. Councilmember Dawson reiterated the only parking requirement in BD1 was for residential.

Councilmember Dawson commented although she was open to the idea that it was not necessary to have 15-foot ceilings the entire depth of the building, that had not been discussed previously.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO EXTEND DISCUSSION OF THIS ITEM FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.

Mr. Snyder advised of the three options, Option 1, the staff interpretation was most in line with the plain meaning and, as Councilmember Bernheim noted, it could be tweaked to be more defensible. In Option 2, the Council's only option was to accept the applicant's position. If the Council wanted to make any significant, substantive change, the matter would be required to go through the full process or an interim ordinance. He noted Bauer v. City of Edmonds was a situation where the Council had made a series of incremental, logical interpretations that over time exceeded the plain meaning of the ordinance. He was comfortable with defending the sentence structure and the lack of reference to 30 feet in the BD1 zone given the intent of the Council.

Councilmember Wilson asked about whether in an instance, a corner lot, there are two street sides. Mr. Chave recalled all the discussion in the development of the BD zones established where the entry had to be, which in this instance was Main Street. Once that was established, the entire floor must be at that level regardless of the other corner. He noted the property owner's initial plan oriented the entry to 6th. The biggest issue for the property owner is locating parking behind the building and the reason they proposed access from the alley.

Councilmember Wilson asked whether allowing a street entry on both Main Street and on 6th address Mayor Haakenson's concern with the depth of the retail space. Mr. Chave explained on a corner lot the applicant could chose to have orientation on both streets, but it was not required. Councilmember Wilson suggested that may be something the Council wanted to foster, to provide entries on both streets. He suggested a minor tweak to the BD1 stating a commercial storefront must be at street level. Mr. Chave answered that would not be a minor tweak due to potentially different street levels.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO REFER THIS ITEM TO THE CITY ATTORNEY TO DRAFT AN INTERIM ORDINANCE THAT CLARIFIES THE COUNCIL'S POSITION.

Councilmember Bernheim explained the interim ordinance would clarify that the Council's intent that the entire ground floor in the BD1 zone was required to have a 15-foot ceiling height.

MOTION CARRIED UNANIMOUSLY.

Mr. Snyder advised there was no incentive for the property owner to appeal as the Council had affirmed their intent was parallel with staff's interpretation.

Old
Woodway
Elementary
School
Park and
76 Ave W
75 Pl SW
Walkway
& 162nd St
Park

9. RECOMMENDATION ON BIDS RECEIVED FOR OLD WOODWAY ELEMENTARY SCHOOL PARK & REGIONAL INFILTRATION SYSTEM AND THE 76TH AVENUE WEST/75TH PLACE SW WALKWAY & 162ND STREET PARK PROJECTS.

Parks & Recreation Director Brian McIntosh advised this was an exciting time for the Parks & Recreation Department, with the development of two neighborhood parks, the first since 1973. He reviewed the status of the Parks Improvement Fund 125 as of July 10, 2008:

Fund 125 Balance	Current Balance:	\$4,505,842	
	Est. 2008 revenue to Dec. 31 (REET + interest)	<u>370,000</u>	
	Estimated funds available 2008:		4,875,842
	2008 possible deferred projects:		
	City Park (playground replacement)	200,000	
	Maplewood Park (playground replacement)	45,000	
	Mathay-Ballinger (playground replacement)	60,000	

Civic Center	<u>40,000</u>	
Total deferred projects	\$345,000	
2008 Parks Projects to complete this year:		
Fishing Pier repairs	\$30,000	
Willow Creek/Hatchery stream restoration	10,000	
Aquatic Feasibility Study	60,000	
Playground Partnership	42,500	
Edmonds Marsh Environmental Plan	30,000	
Dayton Street Plaza renovation	70,000	
4th Avenue Cultural Corridor Plan	50,000	
Yost Park & Pool	25,000	
Citywide Parks Improvements/Misc. Projects	<u>70,000</u>	
Estimated expenditures park projects remainder 2008		<u>387,500</u>
Available funds for Old Woodway El. Park and 75th/76th St. Walkway & 162nd St. Parks projects:		\$4,488,342

He advised the use of these funds did affect the CIP through 2014.

Next, Mr. McIntosh reviewed bids for the Regional Infiltration System and Old Woodway Elementary Park, advising nine bids were received for this combined project ranging from \$1.7 million to 2.4 million. He explained the regional stormwater infiltration and storm outlet improvements were bid separately from the park construction and public right-of-way improvements as the infiltration was funded via the Storm Utility and the park was funded from the Parks 125 Fund.

Mr. McIntosh displayed the low bid results for the infiltration project totaling \$210,560, engineer's estimate of \$545,425 and budget of \$385,000. He reviewed the low bid results for the roadway improvements, picnic shelter and overall park development, totaling \$1,577,902, engineer's estimate of \$1,420,966. The base bid for the additional cost of the pervious surface parking lot was \$110,000. He advised there was \$1.2 budgeted in Fund 125; an additional appropriation of \$377,902 was needed or \$488,382 if the pervious surface parking lot was added.

He recalled due to interest in the pervious surface as well as other green measures at the open houses and public hearings for this park, a decision was made to bid the project with the pervious surface parking lot. The cost of an asphalt parking lot was approximately \$50,000; the cost for a pervious parking lot was an additional \$110,000. The landscape consultant and Engineering Department indicated the pervious surface was unnecessary at this site and the parking lot would drain adequately into the rain garden.

Mr. McIntosh advised the contractor's background checks have been completed and recommended Council authorize the Mayor to sign a contract with the low bidder without the pervious surface. He concluded the project was affordable and this was a very competitive bidding process.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER OLSON, TO AUTHORIZE THE MAYOR TO SIGN A CONTRACT WITH THE LOW BIDDER WITHOUT THE PERVIOUS SURFACE.

Councilmember Bernheim pointed out the asphalt parking lot was designed to drain into the rain garden.

Council President Plunkett suggested delaying approval, noting there may be citizens interested in commenting about this project as the agenda did not state the Council would be taking action tonight.

COUNCILMEMBER BERNHEIM WITHDREW HIS MOTION WITH THE AGREEMENT OF THE SECOND.

Councilmember Wilson echoed Council President Plunkett's suggestion to delay approval to allow anyone with concerns to provide comment. It was agreed to schedule approval on next week's Consent Agenda.

Mr. McIntosh reviewed the low bid and engineer's estimate for the 75th/76th Street Walkway and 162nd Street Park, advising four bids were received ranging from approximately \$2 million to \$2.7 million. He identified the four parts of this project, 1) main walkway, 2) 158th Street pullout, 3) park, and 4) timber walkway. The low bid for these four parts was approximately \$2.3 million; available Parks 125 funding is approximately \$1.4 million and the funding shortfall is approximately \$937,000.

Mr. McIntosh explained when this project went to bid, staff assumed the bids would be high. He advised the low bid for the main walkway and the park would have a shortfall of approximately \$736,000. He noted the pullout and timber walkway could be deferred to a later date. Given the shortfall, deferral of the Caspers Street walkway until fall, and the receipt of only four bids, staff recommends not accepting any of the bids and rebidding the project this fall.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO AUTHORIZE STAFF TO REJECT ALL BIDS FOR THE 76TH AVENUE WEST/75TH PLACE SW WALKWAY AND 162ND STREET PARK PROJECT AND AUTHORIZE THE REBID OF THE PROJECT FOR LATE FALL OF THIS YEAR. MOTION CARRIED UNANIMOUSLY.

Estimated
Cost of
Appraisal /
Waterfront
Antique
Mall &
Skippers
Properties

10. REPORT ON ESTIMATED COST OF AN APPRAISAL OF PROPERTIES COMMONLY REFERRED TO AS THE WATERFRONT ANTIQUE MALL AND SKIPPERS. APPRAISAL AND OTHER RELATED MATTERS WILL BE TAKEN UP AT THE AUGUST 5, 2008 COUNCIL MEETING

Mayor Haakenson reported the cost of an appraisal was \$12,000 and could be done in 4-6 weeks.

Councilmember Dawson referred to City Attorney Scott Snyder's email recommending some environmental work be conducted prior to obtaining an appraisal. Mayor Haakenson was not aware that any further information was available regarding that suggestion. He anticipated that information would be presented to the Council on August 5.

Councilmember Bernheim reported he contacted two professional appraisers who estimated the cost of an appraisal between \$7,000 and \$10,000.

Councilmember Wambolt recalled the estimate provided by Mr. Snyder of an environmental study was very high. Mayor Haakenson recalled his original estimate was \$300,000. Council President Plunkett suggested environmental due diligence could be conducted for approximately \$20,000.

COUNCILMEMBER BERNHEIM MOVED TO DIRECT STAFF TO OBTAIN AN APPRAISAL. MOTION DIED FOR LACK OF A SECOND.

Council President Plunkett advised this would be discussed on August 5.

Bettinger/
Kretzler
Historic
Home

11. ADDITIONAL DISCUSSION AND POTENTIAL ACTION REGARDING THE BETTINGER/KRETZLER HISTORIC HOME CURRENTLY LOCATED AT 555 MAIN STREET

Mayor Haakenson read the following article he emailed to Council and was published in the *Edmonds Beacon*:

"I met with staff on Wednesday to explain that the Council would like additional updates on the potential of moving the house at 555 Main Street to the southwest corner of Civic Field. After much discussion with staff, it was determined I would send you the facts as we know them. We believe that the south and west setbacks at Civic Field are 20 feet from the property lines. No one knows exactly where the property lines are located without a survey. We will, for the sake of discussion, use the east side of the sidewalk on

the west side and the back of the grandstand on the south side, knowing full well that the line may be a foot or so off.

I personally went out with Fire Chief Tom Tomberg as my helper, to measure the house with a tape measure. We measured the setbacks and where the house would sit using the setbacks. It extends, depending on where you place the entrance, anywhere from six to ten feet into the running track. So, if the Council wants to place the house there, they can do it. The location would simply interfere with the use the track. Or, the Council could pass an ordinance suspending the setback requirements on a temporary basis, allowing them to ignore the setbacks, and place the house against the fences where it would not protrude on the track.

If willing, the Council has the ability to put the house there permanently, or temporarily, depending on how they choose to use their own codes. Staff will follow their lead and direction and make it happen. The philosophical questions that they must answer are: 1. Is that location the best one for the house? 2. What will its use be? 3. Who will own and maintain it? Speaking administratively, we don't need another building for our (the City's) future space needs. We don't believe that Civic Field is the best location long-term for the house. We would love to see it remain in the bowl-that seems to be the right fit for it; however, no one appears to be interested in acquiring it. And we don't believe we have the responsibility to save the house for a City use when the City has no need for it. The City Council can choose to place the house on Civic Field if they wish. Staff is very busy and I struggle with asking them to spend any more time on this project. We ask the Council to make a decision one way or the other. If they don't want it at Civic Field, say so and allow the private sector of real estate to do its work. City staff, the City Council and many citizens feel it is a worthy cause to save the house. But it's time to make a decision and get on with business."

Council President Plunkett recalled Fred Bell, Edmonds Museum, indicated there were private funds available to move the house. He asked where funds would come from to move the house a second time if it were moved to the Civic Field temporarily. Mr. Bell responded the Museum established a line of credit with the Bank of Washington to move the house, set it up and make it operational. He was unwilling to commit the membership's money on a temporary move. He anticipated if they were able to move the house to the Civic Field permanently, they would initiate a capital campaign to raise funds to support and maintain the building while they own it. He inquired who would own the building. He summarized time was running out; the property owner gave them another 30 days, which expires on August 1. Council President Plunkett summarized Mr. Bell's response that the funds were subject to a permanent location. Mr. Bell agreed.

Councilmember Bernheim asked what would happen to the house if the Council did not to act to save it. Mr. Bell responded if the Museum or City does not accept the house, the owner is under obligation with the Nickel Brothers Movers and it would be moved. Mayor Haakenson advised Nickel Brothers was moving a house in Woodway at the end of July through Edmonds to another community. He anticipated the same would be done with the Bettinger/Kretzler house. Councilmember Bernheim summarized the house would not be destroyed. Mr. Bell preferred to save the house and keep it in Edmonds as part of the City's heritage. He suggested using the City funds moving the house to a temporary location until a permanent location could be found.

Councilmember Wilson expressed his appreciation for Mr. Bell's passion with regard to preserving this house. He inquired whether Larry Paul contacted him regarding a potential site. Mr. Bell responded that if the City or the Museum did not accept the house, the owner was under obligation to Nickels Brothers Movers who were already advertising the house on their website, as well as on Craig's List. Councilmember Wilson concluded from Mr. Bell's comments that the house could only go to the City or the Historical Society. Mayor Haakenson commented it was his understanding the property owners

would allow the house to stay in the city if a suitable location were identified within the allotted timeframe. Councilmember Wilson advised Mr. Paul's property was on or about 198th & 88th.

Council agreed to return to this item after Mayor Haakenson conferred with the property owner.

12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF JULY 8, 2008

Community
& Develop-
ment
Services
Committee

Community Services/Development Services Committee

Councilmember Wilson reported the Committee discussed the possibility of increasing foot traffic and retail sales downtown via closing parts of the downtown core. Concern was expressed that street closures cause a drop in sales. The Committee plans to meet with the Downtown Merchants Association next month.

Finance
Committee

Finance Committee

Councilmember Orvis reported the Committee discussed job titles and responsibility, a topic they will continue to discuss in the future.

Public
Safety
Committee

Public Safety Committee

Councilmember Dawson reported staff provided a report on Substitute House Bill 1756 Annual Compliance Report which was approved on tonight's Consent Agenda. The Committee also discussed anti-idling signs. Councilmember Bernheim provided signs that will be referred to the Public Works Department for placement in the City, such as in the ferry holding lanes and possibly contacting the Edmonds School District regarding posting the signs in school pick-up/drop-off areas.

Bettinger/
Kretzler
Historic
Home

11. ADDITIONAL DISCUSSION AND POTENTIAL ACTION REGARDING THE BETTINGER/KRETZLER HISTORIC HOME CURRENTLY LOCATED AT 555 MAIN STREET (CONTINUED)

Mayor Haakenson reported with the constraint of August 1, if someone in the bowl wanted the house, whether the City, the Museum or another owner, it could be accomplished. Councilmember Wilson asked if it could only be located in the bowl area. Mayor Haakenson commented the house belonged in the bowl area. Councilmember Wilson concluded from Mayor Haakenson's comments that if the house could not be cited in the bowl, it should be sent out of town. Mayor Haakenson anticipated a purchaser other than the Museum or the City would be required to negotiate with the owner.

Councilmember Orvis expressed his preference to move the house to the southwest corner of Civic Field as a permanent location. Recognizing there were objections to that location, he noted there were ways it could work. He pointed out the historic downtown had not only aesthetic value but also economic benefits. He liked the idea of the Museum taking over the house, commenting that it could attract visitors to downtown, and be a viable use of the Civic Field land. To those who were opposed to siting the house on the Civic Field, he pointed out its history was a park use. He was open to the Museum operating the house. He was also open to siting the house at City Park.

Councilmember Dawson did not recall an offer by the Historic Society to operate the facility and would expect that to be done by the City. She noted the City was not in a position to take on property that was expensive to maintain. She asked whether the Museum was interested in operating the facility. Mr. Bell answered the current plan was to move the house to the Civic Field to preserve it and, once relocated, have it placed on the historic registry and operate it as an annex of the Museum and be available for public use, just as the Plaza Room at the library, or the third floor of City Hall. Councilmember Dawson asked whether the Historic Museum intended to provide funds to staff and operate the facility. Mr. Bell answered yes. Councilmember Dawson commented this was the first she had heard of that offer, recalling in the past the intent was for the City to fund operation and maintenance of the house.

Councilmember Wilson commented that he had similar concerns, questioning whether the Historical Society was willing to take on renovation costs that could reach into the hundreds of thousands of dollars. He questioned the City's liability for anything that might happen in and around the structure located on City property. He also questioned what would happen if the Historical Society decided they no longer wanted to maintain or operate the facility and whether there would be funds available to demolish or move the house at that time. He was reluctant to reduce active park space by placing a building in that location. In order to site the house on Civic Field, he needed assurance that there would be no City funds for operations, no future liability for the City and no financial liability if the Historical Society decided they no longer wanted to operate the facility. He was uncertain that could be accomplished by the August 1 deadline.

Mr. Bell advised the Museum Board needed to know whether they would be allowed to move the building to the Civic Field. Another question was how the Museum would retain title to the building if it was relocated to Edmonds School District property leased to the City. He described plans for a capital campaign to provide funds to operate the building in perpetuity and anticipated the Museum would staff the building with one person and with docents. They are discussing liability but their primary concern was saving the building.

Councilmember Wilson stated it would be difficult to save the building unless these contractual and financial questions were addressed. He concluded no one was aware of the full magnitude of the immediate costs.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO EXTEND THE MEETING FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.

With regard to Mr. Bell's concern regarding title to the house, Councilmember Dawson advised there were many examples where someone owned a building but not the underlying property, and the building rights were easily separated from the underlying property rights.

Councilmember Wambolt commented this was a difficult decision for the Council. He pointed out part of what made a traditional building look good was the setting. This house would not look natural located in the corner of Civic Field. Further, the only way it could be sited on Civic Field was to violate the City's regulations with regard to setback, which was not a good precedent to set. With all the other issues, he found it appropriate, recognizing that as much as the Council wanted to save the building, they were not able to.

Council President Plunkett concurred with Councilmember Orvis' comments, advising he would be willing to discuss this at a future meeting if the Historical Society was willing to provide a written commitment that they would pay to move the building, and fund maintenance and operation of the building, and resolve the title issue.

Councilmember Bernheim commented his primary concern was saving other historic buildings in place. He agreed with Councilmember Wambolt's comments and preferred that Civic Field be maintained for recreational uses. He commented his vision of Edmonds' historic future was not moving buildings on to alternate locations. He expressed interest in developing regulations so that this situation did not occur in the future.

Councilmember Wambolt summarized, as much as the Council wanted to support the acquisition of the Bettinger/Kretzler home, moving it to the only identified site at Civic Field was not a viable solution.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER BERNHEIM, TO NOT AUTHORIZE MOVING THE BUILDING. UPON ROLL CALL, MOTION FAILED (3-4) COUNCILMEMBERS WAMBOLT, BERNHEIM AND WILSON IN FAVOR; COUNCIL PRESIDENT PLUNKETT AND COUNCILMEMBERS ORVIS, DAWSON AND OLSON WERE OPPOSED.

Council President Plunkett concluded the Council was open to hearing additional information that addressed the specific questions that were raised.

13. MAYOR'S COMMENTS

Mayor Haakenson had no report.

14. COUNCIL COMMENTS

Summer
Retreat

Council President Plunkett advised options with regard to a summer retreat was to schedule it on a date that not all Councilmembers could attend, or schedule the retreat in the fall.

Budget
Process

Council President Plunkett advised Mayor Haakenson requested two Councilmember participate in the budget process. Councilmember Wambolt and Councilmember Wilson had volunteered.

Stevens
Hospital

Councilmember Wilson expressed his appreciation for the public service announcements and Adopt-a-Dog items on the agenda. He reminded them of the Summer Concerts on Sundays at 3:00 p.m. in City Park. He reported the Lake Ballinger group met today; all the cities have signed the Interlocal Agreement. He reported Councilmembers Bernheim, Wambolt and he met with several people who expressed concern with the second floor in an effort to identify an amicable solution. He announced a Stevens Hospital special meeting on July 21st will include an opportunity for public comment about the future of the hospital and discussion regarding transfer of ownership to another party. A regular meeting is scheduled on July 23rd after which a press conference will be held.

Excused
Absence

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO EXCUSE COUNCIL PRESIDENT PLUNKETT FOR THE JUNE AND JULY COUNCIL MEETINGS. MOTION CARRIED (6-0-1), COUNCIL PRESIDENT PLUNKETT ABSTAINED.

15. ADJOURN

With no further business, the Council meeting was adjourned at 12:15 a.m.