

EDMONDS CITY COUNCIL APPROVED MINUTES

Special Monday Evening Meeting

August 18, 2008

Following a Special Meeting at 6:30 p.m. for an Executive Session regarding legal advice, negotiation of purchase of real estate, and a report on labor negotiations, the Edmonds City Council meeting was called to order at 7:11 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

Duane Bowman, Development Services Director
 Brian McIntosh, Parks & Recreation Director
 Noel Miller, Public Works Director
 Kathleen Junglov, Finance Director
 Debi Humann, Human Resources Manager
 Stephen Koho, Treatment Plant Manager
 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 N be removed from the Consent Agenda.

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

Roll Call

A. ROLL CALL

Approve
08/05/08
Minutes

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF AUGUST 5, 2008.

Approve
Claim Checks

C. APPROVAL OF CLAIM CHECKS #106040 THROUGH #106211 FOR AUGUST 7, 2008 IN THE AMOUNT OF \$454,580.72, AND CHECKS #106212 THROUGH #106363 FOR AUGUST 14, 2008 IN THE AMOUNT OF \$851,929.53. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #46956 THROUGH #47064 FOR THE PERIOD JULY 16, 2008 THROUGH JULY 31, 2008 IN THE AMOUNT OF \$870,485.51.

Claims for
Damages

D. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM BRENDAN GREENSTREET (AMOUNT UNDETERMINED) AND BILL ROBINSON (\$12,821.13).

Edmonds
Center for the
Arts

E. ADDENDUM NO. 1 TO INTERLOCAL AGREEMENT FOR DEVELOPMENT OF THE EDMONDS CENTER FOR THE ARTS.

Utility Billing
Accounts

F. PENALTY ADJUSTMENTS ON UTILITY BILLING ACCOUNTS.

Judicial
Salary

G. JUDICIAL SALARY AND COURT IMPROVEMENT ACCOUNT.

Human
Resources
Analyst

H. PROMOTION OF HUMAN RESOURCES ASSISTANT TO HUMAN RESOURCES ANALYST.

Odor Control
System at
WWTP

I. AUTHORIZATION TO ADVERTISE A REQUEST FOR QUALIFICATIONS TO DESIGN IMPROVEMENTS TO THE ODOR CONTROL SYSTEM AT THE CITY'S WASTEWATER TREATMENT PLANT.

Two New Aid
Cars

J. AUTHORIZATION TO ADVERTISE FOR BIDS FOR TWO (2) NEW AID CARS.

Surplus Police
Radar Trailer

K. AUTHORIZATION TO DECLARE A POLICE RADAR TRAILER SURPLUS AND AUTHORIZE TRAILER TO BE DONATED TO THE TOWN OF WOODWAY.

Surplus
Vehicle

L. DECLARE VEHICLE UNIT #998, A 1999 GMC SONOMA, AS SURPLUS AND AUTHORIZE PUBLIC WORKS FLEET DIVISION TO CONTRACT WITH JAMES G. MURPHY TO SELL UNIT #998.

Ord# 3694
2nd Quarter
Budget
Amendment

M. ORDINANCE NO. 3694 – 2008 SECOND QUARTER BUDGET AMENDMENT

ITEM N: ORDINANCE NO. 3695 – ADOPTING A SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR THE YEARS 2008 THROUGH 2014.

Councilmember Wilson commented since the CIP had not changed since he previously voiced his reservations, he would vote against it. He noted the current document did not reflect the changes that the Council received in this morning's meeting with regard to Fund 116.

COUNCIL PRESIDENT PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, FOR APPROVAL OF ITEM N. MOTION CARRIED (6-1), COUNCILMEMBER WILSON OPPOSED.

Provinces
(Five Spice
Bistro) Liquor
License

3. PUBLIC HEARING ON THE PROVINCES (FIVE SPICE BISTRO) LIQUOR LICENSE DUE FOR RENEWAL BY THE WASHINGTON STATE LIQUOR CONTROL BOARD. THE BUSINESS IS LOCATED AT 8404 BOWDOIN WAY, EDMONDS.

Councilmember Wilson explained neighbors in the Five Corners area brought this issue to the Council during the period when comment was to be provided for a liquor license for a new restaurant at Five Corners, Five Spice Bistro (formerly Provinces), due to concern about a restaurant with a liquor license in their neighborhood. The City submitted a letter to the Liquor Control Board requesting they delay issuing the license until public comment was taken; the Liquor Control Board appreciated the City's letter, however, they issued the license to the restaurant as the comment period for that process was closed. From this process, the City learned about the State's procedure for issuing liquor licenses as well as realized the City did not have a process for gathering and submitting public comment to the State. He summarized the original purpose of the public hearing was no longer an issue because the comment period for the liquor license was closed and the license had been granted.

Councilmember Wilson advised the ownership of the restaurant and the neighbors met Saturday to air their concerns. The parties realized that many of the neighbors' concerns were already being addressed by the owners although there were some concerns the owners were not aware of. He suggested the public's comments address what could be done in the future to ensure the public had an adequate voice in the process.

Councilmember Wambolt suggested the public confine their comments to why they did/did not think a liquor license should be issued, not why a restaurant should not be located in that area.

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

David Thorpe, Edmonds, expressed support for the renewal of the liquor license for Five Spice Bistro and expressed his anger and frustration at the expense and City time spent on this issue. He pointed out legal notice appeared in the local newspaper to solicit public comment on liquor license applications and that was the manner in which the public could voice their opinions. He was not aware of any other instance when the Council held up a liquor license application and did not feel it was the Council's place to do so. He referred to unsubstantiated concerns by approximately five people in the Five Corners area regarding rat problems, trash collection and trash storage of existing tenants, a situation Mr. Thorpe suggested was best addressed by the Public Health Department. With regard to concerns with the volume of beer/wine sales to transients and under age sales, he noted that was a potential issue for any business selling beer and wine and did not feel this would be any more of a problem than when the Five Corners store operated on the site. Neighbors also expressed unsubstantiated concerns with the Jeremiah Center and drawing prostitution on Hwy. 99 into the Five Corners area. He pointed out the applicant's history including serving 17 years in Edmonds and who wanted to remain in Edmonds.

Cyndi Correnti, Edmonds, an Edmonds business owner and Five Corners area resident, commented Five Corners was a very tight-knit community. She anticipated the restaurant would provide a meeting place for the neighbors and did not envision it causing any problems. She was glad the liquor license had been approved and planned to patronize the restaurant.

Rich Rentel, Edmonds, expressed support for the Five Spice Bistro's liquor license. He noted the restaurant would be approximately a 200 yard walk for residents of the nearby 60 unit condominium development. Currently there are no restaurants within walking distance in the Five Corners area that serves wine and/or beer. As a previous customer of Provinces, he found their management professional, their food excellent and never encountered any problem with their food or beverage service.

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

Councilmember Dawson noted for the public that the liquor license has been granted by the State and she looked forward to enjoying the food and beverages at this restaurant.

Councilmember Wilson commented Councilmember Wambolt and he met with five members of the community along with the restaurant owner this weekend and as result, none of the neighbors felt it necessary to speak this evening as their concerns had been addressed. He concluded this process resulted in an outcome whereby the Council learned about the process, citizens felt they had been heard and no harm was done to Five Spice Bistro as their liquor license had been granted.

Councilmember Orvis thanked Councilmember Wilson for bringing this matter to the Council's attention and educating the Council and the public regarding the process, commenting that in the past notice of liquor licenses had been approved routinely on the Consent Agenda.

Mayor Haakenson commented whenever a business applied for a liquor license, it was posted at the site. He had directed Senior Executive Assistant Linda Carl to forward any State liquor license applications to Senior Executive Council Assistant Jana Spellman who would forward them to the Council prior to their appearing on the Consent Agenda.

4. **PUBLIC HEARING BY CITY ON REVISIONS TO EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17.40 - NON-CONFORMING REGULATIONS - RELATING TO (1) MINOR ARCHITECTURAL ENCROACHMENTS INTO SETBACKS AND (2) ESTABLISHING A THRESHOLD DATE FOR DETERMINING NON-CONFORMING STATUS FOR ACCESSORY STRUCTURES.**

Development Services Director Duane Bowman recalled at the Council's June 3, 2008 public hearing he raised additional issues that had not been considered by the Planning Board and the Council directed staff to present those items to the Planning Board for review and recommendation. The Planning Board's recommendation on, 1) minor architectural encroachments into the setback and 2) establishing a threshold for determining non-conforming status for accessory structures, were now before the Council.

With regard to the first amendment, he read the language proposed to be added to ECDC 17.40.020.D.3: *“Minor architectural improvements in commercial and multiple family residential zones which, in an effort to provide modular relief and a better overall appearance such as bay windows, eaves, and chimneys may encroach into a nonconforming setback adjacent to an access easement or public right-of-way not more than 30 inches. Such improvements shall be required to obtain administrative design review.”* He provided an example that was also provided to the Planning Board, an existing building (located at the corner of Edmonds and 3rd) that received approval to enhance the building's exterior via the addition of garden windows. He relayed the Planning Board's unanimous support of the amendment which would encourage adaptive reuse of buildings.

The second amendment would add language in Section 17.40.020, Nonconforming buildings, that addressed existing nonconforming accessory buildings. He explained the City requires a true and accurate plot plan with every building permit application. Often these reveal accessory buildings for which there is no record regarding when it was constructed. As the City's records are fairly good from January 1, 1981 when the ECDC was adopted, staff proposed an amendment if the property owner could show the accessory structure existed prior to that date, it would be presumed to be nonconforming. For areas that annexed to the City, if the property owner could demonstrate the structure existed at the time of annexation, it would be grandfathered. He referred to testimony reflected in the Planning Board minutes from a property owner who purchased property with a detached carport that had existed since the early 1990s and when he proposed a remodel, the City attempted to enforce the City's current street setbacks.

City Attorney Scott Snyder advised another matter arose the day following the Planning Board hearing. In the BD5 zone, the Arts Corridor, there are a number of residential properties that could be converted to a variety of uses from office to bed & breakfasts. However, a change in use would trigger conforming use requirements. He noted many of these homes may have 2-3 steps up to the front door; if a commercial use must be on the ground floor and the ground floor must be at ground level, those houses could not be converted to a commercial purpose. He recalled when these amendments were first proposed to the Council, there was a discussion regarding the concept of adaptive reuse and encouraging preservation of some of the buildings downtown that provide ambiance and character. However staff was unable to think of an appropriate example of adaptive reuse at the time. He noted the conversion of homes in the Arts Corridor was a good example of adaptive reuse that would conflict with the commercial use ground floor requirement in existing buildings. He noted this seemed like an oversight, however, given the Council's previous direction to refer changes to the Planning Board and negative reaction to staff interpretations, he felt it appropriate to bring this to the Council's attention. He summarized this issue could be referred to the Planning Board or the Council could give staff direction.

Councilmember Dawson appreciated staff bringing this issue to the Council's attention, agreeing this was an example that was not foreseen, but was clearly what was intended for the Arts Corridor, allowing existing residential structures to be converted to either live/work spaces or commercial spaces. However, a staff

interpretation was not appropriate as the code did not state that although she agreed that was the intent. She asked whether there was any danger in not referring it to the Planning Board. Mr. Snyder suggested there was no danger, recalling the Council discussed the issue of adaptive reuse. It was also discussed extensively at the Planning Board who spoke in favor of the concept but he had been unable to provide an example. He concluded that with Council direction, he could include the language, highlighting it in the final draft.

It was the consensus of the Council to have staff prepare the language as proposed by Mr. Snyder.

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

Roger Hertrich, Edmonds, concurred with Mr. Snyder's recommendation. He referred to the example Mr. Bowman provided with regard to minor architectural encroachments into the setback, noting that building stood alone on a corner lot and the garden windows, which occupy very little space, where the improvements were made. Conversely he envisioned a chimney the height of the building encroaching into the setback 30 inches could significantly impact a neighboring structure's view corridor. To address this, he suggested establishing a review process whereby the property owners within a certain distance were notified and a public hearing held to discuss whether the encroachment deteriorated the value of property in the area.

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

Councilmember Orvis asked if the proposed language limited the encroachment to bay windows, eaves and chimneys. Mr. Bowman answered it did, noting the encroachment was also only allowed on an access easement or street right-of-way, not on the side or rear yard. Mr. Snyder pointed out the language "such as" implied a category but did not limit it to those items. Councilmember Orvis asked how minor architectural improvement was defined, for example, how would the code prevent someone from adding 30 inches to the building. Mr. Bowman advised the language minor architectural improvements such as bay windows, eaves and chimneys indicated it was not intended to extend the building.

Council President Plunkett referred to Mr. Hertrich's suggestion to determine the effect on property values and asked if the Council or ADB could consider that. Mr. Snyder answered only if the Council chose to make extensive revisions to the code; as the code currently exists, that was not an issue for consideration.

Council President Plunkett commented chimneys could be more obtrusive than a bay window or eaves. Mr. Bowman answered 30 inches would not be more obtrusive, noting these encroachments were already allowed for new buildings, the proposal was to allow the encroachment up to 30 inches for nonconforming buildings.

Councilmember Bernheim asked staff to clarify that these encroachments were already allowed for new construction. Mr. Bowman responded minor encroachments were allowed for these types of structures. Mr. Snyder read from Section 16.30.040, Multi family Residential, that allows eaves, chimneys, porches and enclosed porches, steps, patios and decks to encroach into the setback. He noted different sections had different encroachment standards.

Councilmember Orvis suggested the section be rephrased to allow the same encroachments allowed for new construction.

Councilmember Bernheim suggested in the interest of uniformity and consistency, the same encroachments be allowed for a retrofit that were allowed for a new building.

Mayor Haakenson asked whether this language was originally developed for the BD1 zone. Mr. Bowman answered the building in the example was not in the BD1 zone but was in the RM zone.

Councilmember Dawson commented the proposed language was more definitive and allowed less than was allowed for new construction. She noted the intent was not to allow more than 30 inches, to require the encroachment to be an improvement and to be limited to certain items. Mr. Bowman answered if “such as” were removed, the improvements allowed would be very definitive.

Councilmember Dawson observed the minor architectural encroachments allowed for new construction were more extensive. Mr. Bowman advised the RM zone identified what minor architectural encroachments were allowed. Councilmember Dawson asked if the distance was specified. Mr. Bowman answered yes, noting the distance was the same - 30 inches. Staff’s intent was to model the existing language and the type of encroachment that was allowed. Mayor Haakenson noted the language regarding minor architectural encroachments allowed for nonconforming structures was more restrictive. The example Mr. Bowman provided was of a property owner who rather than demolishing the building and constructing a new building, added these architectural elements and saved the existing building.

Councilmember Dawson agreed this language was more restrictive than was allowed for new construction. She concluded the intent was to make buildings more attractive as they were remodeled and to allow the encroachment only to the distance that was allowed for new construction. Mr. Bowman agreed, noting the encroachment was also oriented toward the street. Councilmember Dawson stated the improvement then would be beneficial to passersby.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO DIRECT STAFF AND THE CITY ATTORNEY TO PREPARE AN ORDINANCE AMENDING ECDC CHAPTER 17.40 NON-CONFORMING REGULATIONS RELATING TO 1) MINOR ARCHITECTURAL ENCROACHMENTS INTO SETBACKS AND 2) ESTABLISHING A THRESHOLD DATE FOR DETERMINING NON-CONFORMING STATUS FOR ACCESSORY STRUCTURES, ADD MR. SNYDER’S ADDITION TO BD5, AND A MINOR CHANGE REPLACING “SUCH AS” IN ECDC 17.40.020.D.3 WITH “LIMITED TO.”

Councilmember Dawson commented it was appropriate to allow encroachment into the setback to allow property owners to maintain existing buildings consistent with new construction. She also agreed with allowing buildings in the BD5 to be converted for commercial purposes, preserving historic building stock.

Councilmember Bernheim objected to the phrase “better overall appearance,” finding it vague. He suggested the language with regard to encroachment into the setback be the same for nonconforming buildings as it was for new construction. Mr. Snyder pointed out encroachments into the setback were limited to eaves and chimneys in most other zones; the proposed language included bay windows. Councilmember Bernheim did not envision bay windows would withstand the test of time and preferred to preserve the setback rather than allowing bay windows to encroach into the setback. He preferred to limit the items that could encroach into the setback to those items that were already permitted and not expand the scope for retrofitted buildings.

Councilmember Wambolt expressed support for allowing bay windows to encroach into the setback. He pointed out bay windows had withstood the test of time, having been in vogue throughout his lifetime.

Councilmember Bernheim pointed out one wall of the building in the example was renovated without the windows. Mr. Bowman agreed there were no bay windows on 3rd Avenue because the garden windows were added to the kitchens which are on the Edmonds Street side. Councilmember Bernheim pointed out the front or the side of a building facing the street could be renovated to demonstrate better architecture. He did not agree that bay windows equated to better architecture.

MOTION CARRIED (6-1), COUNCILMEMBER BERNHEIM OPPOSED.

5. AUDIENCE COMMENTS

South
Snohomish
County Senior
Center

Rose Cantwell, Edmonds, President, South Snohomish County Senior Center Board, commented although the Council may have heard stories about conflict at the Senior Center, many were interested in a compromise. She advised last month the Board passed a motion via an 8-3 vote that the Board would implement a split board in 2008; of the 18 member Board, 9 would be appointed by the Board and 9 would be elected by the membership. She believed in this compromise, anticipating it would allow the Board to work together in unity and involve the membership. She noted South County Senior Center as most Senior Centers, needed to get younger seniors involved and active to keep the concept of senior centers moving forward. She was supportive of the City renewing the lease, anticipating any questions regarding the Senior Center's financial status could be addressed and resolved by an outside audit.

Mayor Haakenson invited the Board members in the audience to stand.

South
Snohomish
County Senior
Center

Ray Martin, Edmonds, recognized Ms. Cantwell as a very nice, patient and understanding lady, who unfortunately had not been well received by certain members of the Senior Center Board, and had encountered severe obstructionism during the past year. There are many problems at the Senior Center including financial problems. He relayed a situation where Ms. Cantwell was attempting to organize committees and one of the "old guard" boardmembers decided he would appoint the committees and override Ms. Cantwell's appointments. As a result arguments regarding who had been appointed by the Board to committees continued at every Board meeting. He relayed comments from Carl Zapora, United Way, that the Center's biggest weakness was fundraising. Mr. Martin pointed out since Senior Center Director Fleming left, grants have decreased, costs have increased and there have been several questionable expenditures. He summarized there was a great deal of potential at the Senior Center and it could be successful if everyone worked together.

South
Snohomish
County Senior
Center

Miriam Edelstein, Edmonds, Chair of the Senior Center Grass Roots Advisory Council, explained the purpose of the Center was to serve the population of South Snohomish County and the bickering, backstabbing, name calling and criticism was taking a toll on the operation and ambiance of the Center as well as affected how the Center was viewed. She requested the Center be allowed to proceed without finger-pointing and secret meetings and to function as it should to fulfill its purpose.

South
Snohomish
County Senior
Center

Harold Huston, Edmonds, a 17-year volunteer at the Senior Center, pointed out this was the oldest Senior Center in the United States. He noted some of the current problems were due to morale issues with the volunteers and employees. The biggest problem in the past few years has been staff turnover including several good employees who were let go. He noted the bingo license required the Board have at least 15 members. He recommended holding a forum night to introduce prospective boardmembers and that the board members be elected by the membership via secret ballot. He also suggested consideration be given to placing the Senior Center under the direction of the Parks & Recreation Department. He suggested all the existing boardmembers resign and a new election be held.

South
Snohomish
County Senior
Center

Roger Hertrich, Edmonds, agreed there was trouble afoot at the Senior Center, noting the number of people in the audience were indicative of the problem. Acknowledging a fair election was held, he pointed out many of the "old guard" boardmembers were resistant to change. With regard to encroachments into the setback, he pointed out nonconforming setbacks were different than new construction setbacks; a nonconforming building could be within 30 inches of the property line and allowing a 30 inch encroachment would bring the encroachment to the property line. Next, he referred to the water tank at PCC, concurring that the tank was within the allowed height but recommended the pipes and the support structure for the pipes above the tank be included in the height measurement. He also disagreed with staff's interpretation regarding the trash enclosure as a fence.

Non-
Conforming
Setbacks

Councilmember Wambolt asked if the split Senior Center Board would only be in 2009 or indefinitely. Ms. Cantwell commented the cycle to elect 1/3 of the Board each year had gotten out of balance due to the resignation of some boardmembers who were not replaced. Therefore a special distribution would be required in 2008. Councilmember Wambolt asked if there was an agreement that eventually the Board would be fully elected. Ms. Cantwell answered no, the agreement was the Board would always be balanced and after this year's election, each year the Board would appoint three members and each year the members would elect three members. She offered to provide the Council a copy of the articles of incorporation and bylaws. She advised a motion was passed to have a balanced Board and the Governance Committee, with the assistance of a volunteer attorney, have been working out the details.

Councilmember Wambolt commented it did not appear that process was what the majority of the members wanted - the membership electing all members of the Board. Ms. Cantwell advised the motion specified the positions be numbered 1-18 and the first 3 shall be appointed by the Board and the second 3 elected by the membership.

Mayor Haakenson asked when the 9/9 split would take complete effect. Ms. Cantwell advised it would take affect this year. She offered to provide the spreadsheet that detailed how this would occur. She advised the motion was passed and the amended bylaws and articles would be presented to the Board at the August 20 meeting. Councilmember Wambolt asked if the full membership was required to pass the amendment to the bylaws and articles. Ms. Cantwell answered State law required the articles of incorporation be ratified by two-thirds of the membership vote.

6. DISCUSSION REGARDING THE SENIOR CENTER

Councilmember Bernheim explained he asked that this item be placed on the agenda because the lease for the Senior Center would automatically renew on November 1 for a five year period unless either party to the lease, the Senior Center corporation or the City, took steps to terminate the lease. He felt this was a topic worth airing versus automatically renewing the lease without any input and without regard to consequences or costs to the City or seniors, particularly in this time of financial crisis for the City. He noted the City allocated approximately \$60,000 to Senior Center programs and pointed out the building was in disrepair and may require major renovation, a factor worthy of the Council's consideration regardless of whether the Senior Center was the tenant. If the Senior Center required a large repair in the future, he did not want the Council blamed for not taking action when the lease was renewed. His intent was to announce the lease renewal and to investigate whether it was a good decision to renew the lease particularly in view of the property's value due to its location on the waterfront.

He pointed out the annual \$10 lease had not been paid in recent years and questioned what else was being ignored if the responsibility to pay the lease was being ignored. He noted in addition to the \$10/year lease, the lease agreement required an annual report of the Senior Center's budget, information that had also not been submitted which was in violation of the lease. He noted the 2007 Recreational Services Agreement by which the City provides the Center \$57,500 per year also required the Center account for expenses for all funds received from the City on an annual or more frequent basis which had also not been accomplished. He recommended that information be provided prior to the City renewing the lease.

Councilmember Bernheim also suggested consideration be given to customer satisfaction at the Center, recalling a lawsuit was filed by several members to allow the membership to elect officers. He referred to the official tally of the election that revealed the member-supported slate was elected by an 80% margin which implied there was dissatisfaction with the programs and conduct of the Center's operations. He noted the Council's purpose was to serve the residents of the City and he wanted to be certain the Senior Center was operating to his expectations. He cited examples of dissatisfaction at the Center including the Sound

Singers, a highly respected group of seniors, who were in favor of changes at the Senior Center and have expressed dissatisfaction, and Ms. Cantwell's May memorandum that summarized many of the disagreements and conflicts at the Center. He noted the kitchen renovation was approved by the Council in 2003, funded via a grant but had yet to be completed. He questioned whether any of these circumstances indicated that the City's seniors were being served in an exemplary manner. He expressed support for long term planning for the Senior Center, particularly in view of the valuable asset. He sought input on the Senior Center prior to the November 1 automatic renewal of the lease to ensure acceptable operation into the future and to allow the Council to make the best decision.

Councilmember Dawson advised her job as the Executive Director at Snohomish County included oversight of the Human Services Department which also funds the Snohomish County Senior Center. She emphasized for the public that the building housing the Center should continue to be leased to the Senior Center for the purposes of a senior center. She appreciated the effort to work together at the Center and commended Ms. Cantwell for her efforts to bring people together under difficult circumstances. As the City looked toward the renewal of the lease, conditions should be built into the lease to ensure the services the City expected to be provided to seniors in the community were being provided in that facility. She noted the Recreational Services Agreement included several requirements; however, the lease was very vague with regard to the services to be provided for the \$10/year lease. She noted the City had also not ensured that the Center was complying with the Recreational Services Agreement on an annual basis. If this non-profit were allowed to lease the building for \$10/year, it was incumbent on the Council to ensure the services the City expected were provided at a high level. She agreed it was appropriate to review and potentially modify the lease rather than renew the lease in its existing form.

If there was a vote of the membership and the bylaws and articles of incorporation were amended and a compromise could be achieved, Councilmember Dawson was comfortable with this non-profit corporation continuing to provide the services and leasing the facility. If an impasse were reached, the City would need to consider whether this non-profit should continue to provide the services, lease the facility and receive funds from the City and Snohomish County. She pointed out the City was not well suited to providing senior services but there were other models that could be considered including a new non-profit. She had spoken with the non-profit Senior Services regarding whether this was a role they were interested in assuming in an interim capacity, and they were open to the idea but had not discussed it with their Board.

Councilmember Dawson commented the existing non-profit operating the Senior Center had done a great service to the citizens of Edmonds and Snohomish County for many years and the boardmembers and everyone involved with the Center deserved the Council's thanks. She was hopeful the existing non-profit could be changed via amending its bylaws and articles to meet the current needs of seniors in the community. If the bylaws and articles were not changed and this level of dissatisfaction by the membership continued, the Council needed to consider whether this non-profit should continue to lease the facility. She looked forward to ensuring the facility was operating in the manner it should be and the City having some oversight over the operations.

Councilmember Orvis agreed this was an appropriate time for the Council to place conditions on the lease. He supported including a condition in the lease that required the Board to be fully elected and comply with the Open Public Meeting Act, pointing out because the Senior Center was leasing a public building and was receiving public funds, it should be held accountable. He had little sympathy for maintaining the "old guard" and if the Board was not amenable to the conditions, another non-profit could provide the services. He acknowledged there were a lot of problems with the Senior Center building and the City may not have the funds to make the repairs and the members needed to be empowered to help themselves. He supported the use of this building for senior services by a non-profit that was open, non-secretive and elected by the membership.

Councilmember Wilson concurred with Councilmember Dawson and Orvis' comments emphasizing that there should continue to be a Senior Center at this location. He noted any 15 people could get together, write bylaws, file a non-profit corporation and present themselves to the Council to provide services at the Center and lease the building. He noted the Council was aware there were financial problems at the Senior Center due in part to difficulties with fundraising. He suggested a one-year lease to give either the existing non-profit or another non-profit the time to prove themselves. He anticipated in 2009 the City would again allocate approximately \$60,000 for recreational services at the Senior Center. In addition, the Capital Improvement Program included a \$194,000 grant for a parking lot which required a \$334,000 City match. He questioned whether it was appropriate to fix the parking lot if the City was not committed to making major investments in the building. He recalled the Council discussed funding of building improvements/repairs at a Council workshop this morning, acknowledging it was difficult to discuss that type of expenditure without stability at the Center. He pointed out the City not only provided approximately \$60,000 for programs and \$334,000 in matching funds for the parking lot, but also provided a major subsidy by allowing the non-profit to lease the facility for \$10/year. He anticipated a \$10,000/month rental fee would be far closer to market than \$10/year.

Councilmember Wilson explained the Council got the first of what will be a long string of bad news this morning regarding the state of the City's budget and the dire straights the City will be in the next two years, losing approximately \$2.5 million. He summarized if the financial house of the non-profit operating the Senior Center was not in order, it would be difficult to give them a \$100,000/year subsidy in free rent, \$60,000 for programs and \$334,000 for a parking lot. He urged the members to help the Council make the case for funding the Center by getting their financial house in order.

Councilmember Wambolt supported the membership electing the Board and the Board naming the officers. It was his understanding the "old guard" members had not been illegally elected and had been properly elected in accordance with the bylaws; the bylaws needed to be revised. He asked whether any grants would be jeopardized if the City did not renew the lease. City Attorney Scott Snyder advised the City had the obligation under a series of prior grant applications to operate a senior center type program at that location or give back hundreds of thousands of dollars the City received over the years. Who operated the programs was a different issue and up to the Council's discretion.

Council President Plunkett suggested Councilmembers propose amendments to the lease and that the lease be reviewed by the Council 2-3 times before the November renewal date. Councilmember Wilson suggested a letter of termination per the agreement be drafted and sent as soon as possible to remove the automatic renewal clause. He noted the City could terminate the lease immediately with cause due to non-payment of the lease.

Councilmember Dawson suggested a letter of termination be drafted and sent at the end of October to avoid causing a panic. She asked if any of the grants were made to the current non-profit rather than to the City. With regard to the City Mr. Snyder answered no, but he was uncertain with regard to County funding. Councilmember Dawson advised she had requested County staff investigate that issue. With regard to Councilmember Wilson's suggestion that any group of 15 could form a non-profit, she was not open to a newly formed non-profit taking over the lease. She was open to an interim solution while another non-profit was identified, noting operating a Center of this size was a major undertaking that required some degree of sophistication. If this non-profit was deemed unable to continue, she suggested Snohomish County Human Services or Senior Services of Snohomish County take over operations on an interim basis until a new non-profit were formed, noting there were substantial dollars and facilities challenges associated with this facility. She was supportive of consistency between the City and the County's Recreational Services Agreements as both provided similar funding.

Councilmember Wambolt asked if the lease could be terminated at any time due to violation of the terms when the City had allowed the terms to be violated for several years. Mr. Snyder responded the contract has automatic renewals unless terminated by either party prior to the renewal date; therefore, cause was not required to terminate.

Council President Plunkett asked if there was any legal reason to provide a termination letter. Mr. Snyder advised the City only needed to deliver notice prior to the renewal date.

Councilmember Wilson commented if the City wanted to be open to another non-profit operating the facility, the sooner that was announced, the more likely the City was to find an appropriate entity. If the City waited until October 31 to inform the public the lease was being terminated, there would be little time to identify another entity. If the Council was committed to amending the lease, they were committing to working only with the current non-profit.

Councilmember Dawson commented the reason for the November 1 renewal was because the lease actually begins in January. She anticipated the Council's discussion would be well reported and the public would understand that either the non-profit's financial house needed to be in order or someone else would be operating the South County Senior Center.

Councilmember Olson requested the Council be informed of any ramifications associated with terminating the lease.

Council President Plunkett suggested the lease be scheduled on the Council agenda in 3-4 weeks and in the meantime Councilmembers could pose questions to staff.

7. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF AUGUST 12, 2008.

Community/
Development
Services
Committee

Community Services/Development Services Committee

Councilmember Wilson reported the Committee received a report by Treatment Plant Manager Stephen Koho about a possible conflict of interest with regard to a future Request for Qualifications. Mr. Koho recused himself from the selection committee. Next the Committee reviewed proposed amendments to ECC Title 6 regarding property nuisances and directed staff to finalize a draft ordinance for the Committee's review at their September meeting. The last item was a discussion on townhouse subdivisions and staff was asked to continue researching design code language and to present the language at the September meeting.

Finance
Committee

Finance Committee

Councilmember Wambolt reported on the following items reviewed by the Committee:

- A. A consultant provided a report on the fiber optic project including proposed next steps. It was the consensus of committee members to continue moving forward with the project. Staff will provide additional information to full Council during an Executive Session tentatively scheduled for September 2, 2008.
- B. Judge Fair provided a history and overview of the requirements for the Court improvement/judicial salary reimbursement. This item was approved on the Consent Agenda.
- C. Staff briefed the Committee on the consultant selection process for projects at the Treatment Plant. Mr. Koho plans to take an unpaid leave to assist CH2M Hill in the start up of an incinerator in Puerto Rico. In order to allow CH2M Hill to participate in the RFQ process and to avoid any perception of a conflict of interest, Mr. Koho will recuse himself from the selection process. Committee members supported this proposal and the item was approved on the Consent Agenda.
- D. Human Resources Manager Debi Humann reviewed a request to promote the Human Resources Assistant to a Human Resources Analyst. This item was approved on the Consent Agenda.

- E. Finance Director Kathleen Junglov reviewed the penalty practice on utility billing accounts and the auditor's recommendation to formalize the policy. This item was approved on the Consent Agenda.
- F. Ms. Junglov reviewed the second quarter budget report and responded to questions and comments regarding declining Sales Tax and Real Estate Excise Tax revenues.
- G. Ms. Junglov reviewed items on the second quarter budget amendment, highlighting amendments that were offset by revenues. This item was approved on the Consent Agenda.

Public Safety
Committee

Public Safety Committee

Councilmember Dawson reported the Public Safety Committee also reviewed maintaining eligibility for court improvement funds and judicial salary and this was approved on the Consent Agenda. Next, the Committee discussed approval of the Interlocal Agreement with the Snohomish County Regional Drug Task Force in which the City has participated for the past 20 years. The cost to be a member of the Regional Drug Task Force is approximately \$9,000 from the Police Department budget. She supported approval of this item; Councilmember Bernheim reserved his support, presenting a study done by King County Bar Association on alternatives to the war on drugs. This will be scheduled on the Consent Agenda without a recommendation from the Public Safety Committee. Next, the Committee discussed red light cameras and supported conducting a survey to determine whether the three locations identified by staff would be appropriate for red light cameras. This will be scheduled as an agenda item for the full Council. The final item was a request to advertise for bids to purchase two aid cars which was approved as Item J on tonight's Consent Agenda. The Committee requested the Fire Department also report to the Committee regarding the potential use of hybrid vehicles.

Mayor Haakenson advised Mountlake Terrace completed a red light camera survey today and the consultant concluded there were no problems at those locations.

8. MAYOR'S COMMENTS

Parking
Enforcement

Mayor Haakenson reported the City was now fully staffed on parking enforcement. He noted a full staff of parking enforcement typically resulted in a lot of tickets being written and his receipt of numerous complaints. Therefore he asked Senior Animal Control/Parking Enforcement Officer Debbie Dawson to prepare the following information which he planned to publicize in the newspaper: The City of Edmonds laws include 3-hour time limit in the downtown area to encourage a turnover of shoppers and vehicles. The 72-hour time limit on all public streets is to discourage the storing of vehicles on the streets. Prohibiting re-parking within the same 100 block is to discourage vehicles being shuffled around. Displaying expired plates while parked is unlawful as is driving with expired plates. Removal of a chalk mark is prohibited so parking enforcement officers can monitor vehicles. Parking a trailer is prohibited between midnight and 6 a.m. to discourage the storage of trailers on the street. In accordance with Washington State law, parking a car facing the wrong direction which causes the vehicle to cross over the centerline is illegal. Parking to display a vehicle for sale discourages shopping and driving at the same time. Parking in a manner that blocks the handicapped access lane prevents disabled individuals from getting in or out. Parking on the travel portion of the roadway is a hazard to vehicles traveling in the roadway.

2009-2010
Budget
Shortfall

Mayor Haakenson advised staff reported on the budget and the City's financial picture at the Council's mini-retreat this morning. He summarized with the downturn in the economy, staff forecasted a \$1.4 million shortfall at the end of 2009 with the deficit growing to \$4.4 million in 2010. He asked the Council to consider all possible revenue sources in order to balance the 2009/2010 budget, emphasizing that without a significant increase in revenues, millions of dollars in budget cuts will be required, cuts that would result in visible losses of service for the residents of Edmonds. Staff plans to present some of the possible revenue sources to the Council in the near future. He looked forward to working with the Council during a very difficult budget process, the most difficult in his 13-year tenure as an elected official.

9. COUNCIL COMMENTS

Councilmember Dawson advised she would be absent from next week's Council meeting as she was a delegate to the National Convention in Denver.

Councilmember Wilson advised the shortfall in the budget was approximately 8.5% over the next two years, 8.5% fewer dollars than were currently being expended on current service levels.

10. ADJOURN

With no further business, the Council meeting was adjourned at 9:23 p.m.