

# EDMONDS CITY COUNCIL APPROVED MINUTES

## December 4, 2012

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

### **ELECTED OFFICIALS PRESENT**

Dave Earling, Mayor  
Strom Peterson, Council President  
Frank Yamamoto, Councilmember  
Joan Bloom, Councilmember  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Adrienne Fraley-Monillas, Councilmember  
Diane Buckshnis, Councilmember (arrived 7:02 p.m.)

### **STAFF PRESENT**

Jim Lawless, Assistant Police Chief  
Stephen Clifton, Community Services/Economic  
Development Director  
Phil Williams, Public Works Director  
Shawn Hunstock, Finance Director  
Carrie Hite, Parks & Recreation Director  
Rob Chave, Planning Manager  
Carl Nelson, CIO  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Sandy Chase, City Clerk  
Jana Spellman, Senior Executive Council Asst.  
Jeannie Dines, Recorder

### **1. ROLL CALL**

City Clerk Sandy Chase called the roll. All Councilmembers were present with the exception of Councilmember Buckshnis.

### **2. APPROVAL OF AGENDA**

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED (6-0). (Councilmember Buckshnis was not present for the vote.**

(Councilmember Buckshnis arrived at 7:02 p.m.)

### **3. APPROVAL OF CONSENT AGENDA ITEMS**

Councilmember Bloom requested Items A and B be removed from the Consent Agenda.

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER YAMAMOTO, TO APPROVE THE CONSENT AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:**

- C. APPROVAL OF CLAIM CHECKS #135610 THROUGH #135697 DATED NOVEMBER 29, 2012 FOR \$839,642.62 (REPLACEMENT CHECK #135662 \$18,595.29).**
- D. NONREPRESENTED COMPENSATION POLICY.**

- E. **LAW SUPPORT (NON-COMMISSIONED POLICE DEPARTMENT EMPLOYEE GROUP) MEMO OF UNDERSTANDING (MOU) FOR ONE YEAR EXTENSION.**
- F. **ORDINANCE NO. 3900 - ADOPTING CHAPTER 20.23 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE, BED AND BREAKFASTS, AND AMENDING OTHER REFERENCES AND DEFINITIONS AS NECESSARY.**
- G. **ORDINANCE NO. 3901 - STREET VACATION AMENDMENT TO CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE (FILE AMD20120003).**
- H. **ORDINANCE NO. 3902 - AMENDMENTS TO CHAPTER 4.12 OF THE EDMONDS CITY CODE AND PORTIONS OF CHAPTERS 16.43, 16.50, 16.55, AND 16.60 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO EXPRESSLY PERMIT MOTORIZED MOBILE VENDORS.**

**ITEM A: APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 20, 2012.**

Councilmember Bloom requested the following:

- Revise Fred Breske’s comments Page 3, Audience Comments: “He questioned what other property had to divert ~~property~~ water from the City’s stormwater drainage system onto private property as a condition to obtain a building permit.”

**ITEM B: APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 27, 2012.**

Councilmember Bloom requested the following:

- Replace the first sentence, second paragraph, Page 18, with “Councilmember Bloom referred to Change #14 (revised wording in Senior Planner, Associate Planner and Senior and Engineering Planning Manager job descriptions), and requested it be revised to read, “Prepares and maintains a variety of records and reviews related to assigned activities; recommends updates ~~or makes recommendations~~ regarding policy or code changes to the department head as necessary.”

**COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE CONSENT AGENDA ITEMS A AND B AS AMENDED. MOTION CARRIED UNANIMOUSLY.**

**4. AUDIENCE COMMENTS**

**Donna Breske, Snohomish**, a licensed civil engineer, relayed she submitted a request to the city for an internal investigation for four unsubstantiated and falsely issued city code violations to one individual by Code Enforcement Officer Mike Thies:

1. Although no city business license is required per city code for a house rental, Mr. Thies issued a code violation for failure to obtain a business license for a house rental.
2. Ignoring 17.60.010 that requires proof of non-compliance for a noise violation, Mr. Thies issued a noise violation without any proof from a qualified testing laboratory.
3. Mr. Thies issued a code violation for advertising an event facility when the advertisement was for a vacation house rental, not an event facility.
4. Mr. Thies issued a code violation stating the people renting the house would not meet the definition of family per ECDC 21.30.010. The definition applies to people residing in the City, not visiting and renting a vacation house.

The November 3, 2008 Council meeting minutes reflect a statement by the former City Attorney that the City has never regulated the common practice of renting houses. Ms. Breske pointed out the house, located at 8022 Cyrus Place, and owned by John Ryan, was lost to foreclosure in 2011 because the City bombarded him with unsubstantiated code violations. The unsubstantiated code violations triggered the issuance of a warrant for Mr. Ryan’s arrest for failure to obtain a business license. On June 6, 2010, Mr. Ryan was placed under arrest by the Edmonds Police Department and placed in jail. She summarized she tells everyone she knows not to bring their investment money to Edmonds; they will get thrown in jail for

unsubstantiated code violations. She provided the Council copies of the information she submitted today requesting a formal investigation

**Mona Fairbanks, Edmonds**, an artist, recognized cuts have been made to the budget but wanted to emphasize the importance of arts in Edmonds for personal business and bringing people to the community. She referenced the presentation by Roger Brooks, commenting making the City beautiful with visual, performing and literary arts will attract people as illustrated by the number of people who attended the recent tree lighting event. She urged the Council to remember the arts.

**Gretchen Johnston, Edmonds**, Director, Edmonds Conference Center, explained when she left her previous employer, Washington State Arts Alliance, colleagues from across the state told her how lucky she was to be coming to Edmonds because it was such a strong arts community. They referenced Edmonds' art galleries, its public art, its downtown flower boxes and the many events such as the writers' conference, the arts festival, music festivals, etc. She heard this same view from Edmonds residents while serving on the advisory committee for the Cultural Plan update. Edmonds' civic identity is closely tied to arts and culture and that identity is important to the quality of life and economic vitality for the community. A clear up-to-date Cultural Plan can help keep that identity alive. The conference center uses that identity to market their facility regionally. She urged the Council to remember the importance of arts and culture to the community and local economy.

**Alvin Rutledge, Edmonds**, referred to the Post Office's test of same day delivery in 2013 and suggested the City inquire whether that would be possible in Edmonds. Next, he recalled Walmart's interest in the former Kmart site and residents' concerns with a large business and their interest in keeping Edmonds a small town. He noted there may be similar concerns if a large business expresses interest in the recently purchased waterfront property.

**Dave Page, Edmonds**, recalled in 2000-2001, voters' approval of \$30 license tabs and 1% cap on property tax increases resulted in a \$1 million reduction in the City's annual revenue. By various cuts and other manipulations, the City's budget reached this point, a lean, mean, fighting machine, noting all the fat has been cut. The City is facing large deficits next year and in future years and there are no more ways to address it. All departments were asked to cut 4.5%; as a result the Police Department cut 3 police officers and other programs. The Public Works Department already does not have sufficient funds to do street overlays. Overlays done downtown and elsewhere were funded by federal grants, not an ongoing overlay program. The Parks Department also cut 4.5%. He summarized this needs to be addressed; sooner rather than later the public needs to make a decision about what kind of city they want to have.

**Tracy Felix, Edmonds**, thanked the Council and Mayor for the service they give to the community and the difficult decisions they will be making regarding the budget. She echoed Ms. Johnston and Ms. Fairbanks' comments regarding the importance of arts in Edmonds. Arts are the city's cultural identity and a huge part of her life. A working artist in Edmonds for at least 15 years, she has participated in the Art Walk, is a member of the Art Festival Foundation and Artist Connect, involved with all the galleries in the city, and recently opened an art supply, gallery and workshop studio on Main Street. She referred to the grants to schools for in-classroom projects and artists in residencies, commenting on the amount of support and caring in that program. She urged the Council to restore staff support for the cultural arts department. She noted Cultural Arts Manager Francis Chapin obtains grants to support art programs.

## 5. LEOFF 1 INSURANCE PLAN CHANGE

Parks & Recreation/Interim Human Resources Reporting Director Carrie Hite explained staff has been researching medical plans and made a change to medical plans for employees and Council to United Health Care (UNHC); that plan also included LEOFF 1 employees. The City is responsible for medical costs for 30 retired law enforcement and firefighters (LEOFF 1), paying Medicare parts A, B and D as

well as an additional medical plan through AWC. During analysis, a better plan than UNHC was found to cover the LEOFF 1 retired employees through the Employers Health Coalition of Washington (EHCW) working with the National Employees Benefit Companies, Inc., called AmWINS. This plan reduces the premium and results in savings to the City.

Councilmembers Fraley-Monillas and Bloom, representatives of the Disability Board that approves medically necessary expenses for LEOFF 1 retired employees, also reviewed the proposed plan.

Staff recently hired a consultant to perform an actuarial study with the 2012 claims data for LEOFF 1 retirees. That study was not peer reviewed and the results are +/- 30% margin of error. Savings of up to \$185,000/year are anticipated in LEOFF 1 costs, primarily in premium share costs. Even in the worst case scenario of adding 30% to the cost of the bottom line, the AmWINS plans could still potentially save \$75,000. The Disability Board plans to look at medical benefit plan limits next year. Another benefit of having LEOFF 1 retirees on a different plan and not following employees and Council onto the UNHC plan is they will not be included in the City's claims data and included on their own in a pooled trust through AmWINS.

Ms. Hite recommended the savings not be identified for any spending but be added to the LEOFF 1 reserves for any future liability until the City has 1-2 years of experience with this new plan. There is the potential to enter into a Medicare supplement plan with UNHC plan next year; the open enrollment ends December 7, which was too soon to consider that plan for 2013.

Councilmember Fraley-Monillas expressed her support, commenting Councilmember Bloom and she reviewed the plan and it appeared there would be cost savings while providing similar services.

Councilmember Bloom also expressed her support.

Mayor Earling reiterated Ms. Hite's suggestion not to utilize the savings from this change in the 2013 budget until the City has a track record of performance.

Councilmember Buckshnis asked if this will impact Fund 617 or 009. Ms. Hite answered it would be allocated to Fund 009. Councilmember Buckshnis commented on the proposed change to Fund 009. Ms. Hite explained costs of \$550,000 are incurred annually. Some cities spend dollar for dollar for LEOFF 1 in their budgets; others have a reserve for liabilities. She noted the City has some liability and risk as LEOFF 1 retirees age and a few are receiving benefits for long term care which is very expensive. There is potential for more requests for long term care. Therefore it would be prudent for the City to consider its reserves and budget accordingly.

Councilmember Buckshnis suggested if the reserves are at \$532,000 and there will be additional savings of \$185,000-\$200,000, then \$100,000 could be allocated for a code rewrite. Ms. Hite answered the Council may do that; however, she noted staff may need to request additional funds for LEOFF 1 costs if the balance gets too low.

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AUTHORIZE THE MAYOR TO SIGN THE ATTACHED AGREEMENTS TO PROVIDE THE AMWINS INSURANCE PLAN FOR LEOFF 1 RETIRED EMPLOYEES. MOTION CARRIED UNANIMOUSLY.**

## **6. UPDATE FROM THE PLANNING BOARD**

There was no one from the Planning Board present to provide an update.

7. **CITY OF EDMONDS DRAFT 2013 LEGISLATIVE AGENDA AND PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF EDMONDS AND MIKE DOUBLEDAY.**

Community Service/Economic Development Director Stephen Clifton explained the Council packet contains the proposed draft 2013 legislative agenda, which, if approved by the Council, will serve as a scope of work for Mike Doubleday, the City's legislative contractor, during the 2013 legislative session. The draft legislative agenda has been modified since previously presented to the Council on October 8 based on comments from Directors, Councilmembers and meetings Mayor Earling and he have had with legislative representatives. The Council packet also includes a Professional Services Agreement between Mike Doubleday and City of Edmonds for year 2013 that needs to be approved by Council.

Mike Doubleday explained the 2013 session is 105 days, January 14 through the end of April. There are three State budgets, capital, operating and transportation. He reviewed top priorities in the City of Edmonds' 2013 Legislative Agenda:

- **Transportation Revenue Package**
  - Statewide Package – Support the advancement of a statewide transportation revenue package, with a substantial local government component, to address maintenance and infrastructure projects in Edmonds
  - Public Access To/From West and East Sides of BNSF Rail Lines and Edmonds Ferry Terminal – Edmonds seeks funding to alleviate public safety, public access and ferry loading concerns as a result of more train travel through Edmonds [*this item was not included in Mr. Doubleday's presentation but was included in the legislative agenda in the Council packet*]
  - Transportation Benefit District (TBD) – Support legislation to create local funding options for street maintenance through formation of local street utilities or by expansion of the existing TBD to raise the local option with Council approval from \$20 to \$40.
  - Healthy & Sustainable Communities – Pursue funding to support and enhance “Healthy & Sustainable Communities” efforts – including Complete Streets, Safe Routes to Schools, Bicycle & Pedestrian Grants, and the Recreational Trails Program (Transportation Budget).
- **Coal Trains**
  - Monitor any legislation relating to the movement of coal along the BNSF rail lines.
- **Public Records Requests**
  - Support legislation that provides some financial relief for cities and other governmental agencies related to, and addresses ways of managing public records requests.
- **Extension of Public Facilities District (PFD) Sales and Use Tax Credit**
  - Seek to extend the PFD sales tax credit (.033) 15 years from 2027 to 2042.
- **State-Shared Liquor Revenues**
  - Remove the \$10 million annual diversion of liquor taxes to the state general fund. This funding was formerly distributed to cities.
- **Washington Wildlife and Recreation Program**
  - Advocate for increased WWRP funding in 2013-15 Capital Budget.

Mr. Doubleday reviewed support items on the 2013 Legislative Agenda:

- **Phase II Storm Water Funding**
  - Seek state funding for cities, including Edmonds, so they can continue to meet Phase II storm water permit requirements
- **Refinements to Local Revitalization Financing (LRF) and Tax Increment Financing (TIF) Tools**
  - Support a new round of funding for the LRF.
  - Support the passage of TIF in Washington.
- **Youth Athletic Facilities**
  - Pursue legislation to re-establish funding for the Youth Athletic Facilities (YAF) Account (Capital Budget/Policy Bill). The YAF account remains in state statute, but has not been

funded for several years. The City of Edmonds supports the reestablishment of the YAF funding, through retention of 50 percent of the expected sales tax proceeds that would come from the application of sales tax on competitive leagues run by public agencies and private organizations, and Metropolitan Park Districts.

- **Monitor and Support the easing property tax ‘suppression’ pressures on Metropolitan Parks Districts (MPDs).**
- **Support Legislation that Removes or Extends the Sunset Provision Relating to Lodging Tax Uses Allowing Funds to be Used for Operations and/or Support of the Operations and Capital Expenditures of Tourism-Related Facilities Owned by Non-profit Organizations.**
- **Support \$80 Million for Puget Sound Acquisition and Restoration (PSAR) Funding which Supports Implementation of the Highest Priority Projects Throughout Puget Sound.**
- **Support \$40 Million Request in Recreation and Conservation Office Capital Budget Request, to Serve as State Match to Federal Pacific Coastal Salmon Recovery Fund.**
- **Support Funding for Salmon Recovery Lead Entities in the Recreation and Conservation Office’s General Fund Budget Request.**
- **Support a Study Bill of the Draft Watershed Investment District Legislation.**

Councilmember Buckshnis asked if Mr. Doubleday wanted to meet with her to review the salmon recovery issues discussed at WRIA8. Mr. Doubleday answered yes. Also, with the passage of the marijuana initiative, Councilmember Buckshnis asked if the sale of marijuana would generate taxes for the City. Mr. Doubleday answered in theory cities would receive tax revenue. That will be decided by the Liquor Control Board during the next six months.

Councilmember Petso asked if there had been any change in the relevant legislative committees that may assist or impair the effort to extend the PFD Sales and Use Tax Credit. Mr. Doubleday answered there has been no change in the House; the Ways and Means Chair is the same and he does not like special purpose districts. He was unaware of the Senate Ways and Means Committee Chair’s feelings regarding PFDs.

Councilmember Petso asked about the intent to monitor coal trains, pointing out the Council has passed at least two resolutions opposing the coal trains and the terminal in Bellingham. Mr. Doubleday advised he was aware of that. Councilmember Petso suggested Mr. Doubleday actively monitor that issue and keep the Council up to date.

Councilmember Petso expressed concern that there were a number of support items funded by the capital budget and asked how the City could share its priorities with the legislature priorities on those items. Mr. Doubleday advised most of the items were generic and cities/groups would receive a small percentage.

Councilmember Bloom pointed out the top priorities in the Council packet included Public Access To/From West and East Sides of BNSF Rail Lines and Edmonds Ferry Terminal but Mr. Doubleday’s presentation did not include that item. She expressed concern with the language “ferry loading concerns” in the second bullet point. As Council did not approve including the underpass on the CIP, she preferred to study public safety and public access and consider ways to fund that, separate from the underpass.

Councilmember Fraley-Monillas commented if “ferry loading concerns” were removed, consideration would still be given to public access to/from the west and east sides of the railroad tracks. Mr. Clifton agreed, explaining public access could mean pedestrian, bicycle and vehicular.

**Main Motion #1**

**COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO STRIKE “FERRY LOADING CONCERNS” FROM “THE PUBLIC ACCESS TO/FROM WEST AND EAST SIDES OF BNSF RAIL LINES AND EDMONDS FERRY TERMINAL...” BULLET POINT.**

Councilmember Petso commented she too was interested in revising this item so that it was not specific to a ferry underpass. To those who have asked why not study it, Councilmember Petso said studying was never presented as an option; it was presented to the Council as a project. An alternative would be to change the language to “Edmonds seeks funding to study several alternatives to alleviate...” She supported seeking funding to study alternatives for public safety access for pedestrian access and possibly for ferry loading but wanted there to be options such as Pt. Edwards and Main Street locations; the City needs to decide and convey which way they want to proceed. If the intent is to use the language to push the tunnel project that the Council recently declined, she did not support it.

Councilmember Fraley-Monillas did not support the motion as she preferred the language Councilmember Petso proposed to study several alternatives.

**Amendment #1**

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND THE MOTION SO THAT THE SECOND BULLET READS, “PUBLIC ACCESS TO/FROM WEST AND EAST SIDES OF BNSF RAIL LINES AND EDMONDS FERRY TERMINAL - EDMONDS SEEKS FUNDING TO STUDY SEVERAL ALTERNATIVES TO ALLEVIATE PUBLIC SAFETY, PUBLIC ACCESS AND FERRY LOADING CONCERNS AS A RESULT OF MORE TRAIN TRAVEL THROUGH EDMONDS.”**

Council President Peterson pointed out the amendment included the language removed by the main motion.

**Action on Amendment #1**

**COUNCILMEMBER BUCKSHNIS WITHDREW HER AMENDMENT WITH THE AGREEMENT OF THE SECOND.**

**Action on Main Motion #1**

**THE VOTE ON THE MOTION FAILED (2-5), COUNCILMEMBERS BLOOM AND PETSO VOTING YES.**

**Main Motion #2**

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND THE SECOND BULLET POINT TO READ, “PUBLIC ACCESS TO/FROM WEST AND EAST SIDES OF BNSF RAIL LINES AND EDMONDS FERRY TERMINAL - EDMONDS SEEKS FUNDING TO STUDY SEVERAL ALTERNATIVES TO ALLEVIATE PUBLIC SAFETY, PUBLIC ACCESS AND FERRY LOADING CONCERNS AS A RESULT OF MORE TRAIN TRAVEL THROUGH EDMONDS.”**

Councilmember Johnson observed there was a conflict between the Council’s previous decision that this is not a top priority and now direction to Mr. Doubleday that this is a top priority; everything cannot be a top priority. She preferred the legislative agenda only include three top priorities (Statewide Package, Transportation Benefit District, and Healthy & Sustainable Communities). She found it difficult to vote against this, acknowledging it is an important issue but until the results of the Strategic Plan are available, she questioned giving this direction to Mr. Doubleday.

Councilmember Fraley-Monillas explained this will enable Mr. Doubleday to begin talking to legislators. If the Council prefers it not be a top priority, it could be moved to support items.

Councilmember Yamamoto pointed out priorities could be modified in the future.

**Amendment #2**

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO MOVE THIS ITEM OFF THE LIST OF TOP PRIORITIES TO THE SUPPORT SECTION.**

Council President Peterson asked if the legislature had discussed funding for this project. Mr. Doubleday answered during a Joint Transportation Committee visit to Edmonds a few months ago, three trains passed by within 30 minutes which demonstrated the concern. If the item is moved to the support section, no other cities are pursuing it but Edmonds. Council President Peterson was concerned with missing an opportunity if this item is moved to support. He clarified he was not advocating for the undercrossing, but if the City was not actively engaging legislators in looking at this, they will not do it. He did not support moving this item to support as this item is related specifically to Edmonds and Edmonds needs to take the lead; the ferry route is the Edmonds-Kingston route, not Mukilteo-Kingston.

Councilmember Fraley-Monillas asked if Mr. Doubleday was not actively pursuing the other 14 items on the support list. Mr. Doubleday answered with the time he has, he will working mostly on top priorities and work on support items as time permits. Councilmember Fraley-Monillas asked if there was another section other than top priority or support.

Mr. Clifton commented Edmonds is the only Washington State terminal with an at-grade crossing and that poses significant conflicts for pedestrians, vehicles and bicycles and maneuvering around ferry traffic loading/unloading. If Edmonds is not pushing to address safety issues at the Edmonds terminal and the waterfront, no other city will fight on the City's behalf. That is why it is a top priority.

Councilmember Yamamoto did not support moving this item to the support section as he wanted Mr. Doubleday to pursue it with legislators.

Councilmember Buckshnis did not support this amendment but will support adding language to the item as a top priority. She supported studying ways to get around, over, or under the railroad tracks.

**Action on Amendment #2**

**COUNCILMEMBER FRALEY-MONILLAS WITHDREW THE AMENDMENT WITH THE AGREEMENT OF THE SECOND.**

Councilmember Bloom did not support the motion because her original motion to remove "ferry loading concerns" was due to her interest in pursuing safety access separate from a huge project that would stop/reroute train and ferry traffic for two years and have a huge economic impact to the City. She preferred to focus on the immediate public safety and public access problem.

Councilmember Johnson commented this was an important issue but not a 2013 legislative agenda top priority. As a transportation planner, she sees the relationship between transportation and land use. As the City will be doing an update to the Comprehensive Plan and there is potential for redevelopment, those need to be considered at the same time. She preferred to pursue safety issues separate from the 2013 legislative agenda.

**Action on Main Motion #2**

**UPON ROLL CALL, MOTION FAILED (3-4), COUNCILMEMBERS BUCKSHNIS, YAMAMOTO AND COUNCIL PRESIDENT PETERSON VOTING YES; AND COUNCILMEMBERS JOHNSON, FRALEY-MONILLAS, BLOOM AND PETSO VOTING NO.**

**Main Motion #3**

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO REMOVE THE SECOND BULLET FROM THE 2013 LEGISLATIVE AGENDA.**

**Action on Main Motion #3**

**MOTION CARRIED (4-3), COUNCIL PRESIDENT PETERSON AND COUNCILMEMBERS BUCKSHNIS AND YAMAMOTO VOTING NO.**

**Main Motion #4**

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO APPROVE THE 2013 STATE LEGISLATIVE AGENDA.**

Councilmember Bloom recalled during the last legislative session the Senate or the House voted to exempt audio recordings of executive sessions from public records requests and if a request was made, a judge would review the tape to determine if the Council met the criteria for an executive session. She suggested including that on the 2013 legislative agenda. City Attorney Jeff Taraday recalled Councilmember Bloom's interest was for all audio recordings of executive sessions to be automatically exempt from public records regardless of the subject of the executive session versus the current hodge-podge of exemptions. Councilmember Bloom clarified her intent was to support the original bill that was approved by either the House or Senate. If the Council was not interested, she was okay with not pursuing it at this time.

**Action on Main Motion #4**

**THE VOTE ON THE MOTION CARRIED UNANIMOUSLY.**

**Main Motion #5**

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF EDMONDS AND MIKE DOUBLEDAY.**

**Action on Main Motion #5**

**THE MOTION ON THE MOTION CARRIED UNANIMOUSLY.**

**8. SHORELINE MASTER PROGRAM UPDATE INTRODUCTION**

Senior Planner Kernen Lien explained the City has been working on the Shoreline Master Program (SMP) update for about six years. The Planning Board recommended the Council review the SMP update concurrent with the Harbor Square Master Plan. He provided an overview:

- Shoreline Management Act (SMA)
  - Passed by legislature in 1971, adopted by voters in 1972
- SMA policies address:
  - Shoreline Uses
  - Environmental Protection
  - Public Access
- Shoreline Master Program (SMP)
  - Under the Shoreline Management Act (SMA), each city and county with "shorelines of the state" must prepare and adopt a Shoreline Master Program (SMP) that is based on state laws and rules but is tailored to the specific geographic, economic and environmental needs of the community. The local SMP is essentially a shoreline-specific combined comprehensive plan, zoning ordinance, and development permit system.

In 2003, the Department of Ecology (DOE) adopted new guidelines for SMP development. The SMP guidelines are state standards which local governments must follow in drafting their SMPs. The guidelines translate the broad policies of the SMA into standards for regulation of shoreline uses. The SMP consists of several sections, including:

- Shoreline Inventory and Characterization
- Shoreline Restoration Plan
- Development Regulations
  - Draft ECDC Title 24
  - Policies, regulations and standards for shoreline uses and modifications
  - Administrative provisions

- Cumulative Impact Analysis

In 2006 the City received a grant from DOE to begin work on the SMP update. A Technical Advisory Committee (TAC) was formed who reviewed policies, inventory and characterization, restoration plan, and shoreline environments. A consultant drafted ECDC Title 24 and the Cumulative Impact Analysis. Tonight's presentation is intended to be an introduction to the SMP update; Mr. Lien envisioned there would be several reviews/discussions with the Council in the first quarter of 2013. Once the Council adopts the SMP; it is forwarded to DOE for approval.

Mr. Lien explained the SMP applies to shoreline jurisdictions which include:

- All marine waters
- Streams and rivers greater than 20 cfs (Edmonds has none)
- Lakes 20 acres or larger
- Shorelands – upland areas within 200 feet
- Associated wetlands

Mr. Lien explained the intent of shoreline environments is to encourage uses that will protect or enhance the current or desired character of a shoreline. Environment designations are analogous to zoning designations for areas under SMA jurisdiction. The TAC reviewed the environmental designations with the exception of Mixed Use III and how it applies to Harbor Square. In the current draft SMP, there are 11 shoreline jurisdictions.

Mr. Lien displayed a map of current shoreline designations, explained the current shoreline jurisdiction is 200 feet from Puget Sound. Under the current SMP, the Edmonds Marsh is considered an associated wetland, meaning shoreline jurisdiction ends at the edge of the Edmonds Marsh boundary. As part of the update, the Edmonds Marsh was determined to be a shoreline, meaning that shoreline jurisdiction extends 200 feet beyond the Marsh. He displayed an aerial view of the Edmonds Marsh, identifying historic boundaries of the marsh in 1870, 1944, 1964 and 2006. In negotiations with DOE, the extent of Edmonds Marsh as a shoreline was determined to be the 2006 boundary. Shoreline jurisdiction extends 200 feet beyond the Edmonds Marsh, into Harbor Square and the potential Edmonds Crossing site.

Mr. Lien displayed another aerial view, a survey WSDOT did when considering Edmonds Crossing. A question that often arises is what happens when Willow Creek is day lighted and saltwater is allowed to intrude further into the Edmonds Marsh. He explained the Edmonds Marsh boundary will not expand; the salt aspect of the Marsh will expand. He identified the area that WSDOT believes will become a salt marsh (blue hatched on map) and the 10-foot elevation mark (mean high tide of Puget Sound is 10 feet depicted as red line on map).

Mr. Lien explained it was near the end of the SMP update that DOE determined Edmonds Marsh would be a shoreline rather than an associated wetland. During the SMP update, consideration must be given to all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state. The SMP must be consistent with the Comprehensive Plan and the Comprehensive Plan must be consistent with the SMP. When it was discovered Edmonds Marsh would be a shoreline, he was aware of the Port's plans with regard to the Harbor Square Master Plan. When a new environment was created it was with that and the City's Comprehensive Plan in mind. He referred to the Downtown Master Plan that states, this area is appropriate for design-driven master planned development which provides for a mix of uses and takes advantage of its strategic location between the waterfront and downtown.

Under the current SMP, there were two Urban Mixed Use zones:

- Urban Mixed Use I

- North of fishing pier to Brackett's Landing South
- Urban Mixed Use II
  - Ferry Terminal
  - Marina Beach to fishing pier

With the language in the Downtown Master Plan and the knowledge of the Harbor Square Master Plan, a new shoreline environment was established:

- Urban Mixed Use III
  - Upland areas around Edmonds Marsh
  - Commercial area north of ferry terminal

Mr. Lien explained the Urban Mixed-Use III designation is appropriate for those areas that have been intensely developed and that have no direct access to navigable waters. This designation is assigned to areas that are suitable and planned for mixed-use development including high-intensity, commerce, transportation, recreation and residential development. (ECDC 24.30.070.B). The Planning Board delayed review of the SMP update until the Harbor Square Master Plan was submitted.

Mr. Lien reviewed uses and bulk and dimensional standards in the SMP that apply to Harbor Square:

- ECDC 24.40.80 – Permitted Use by Shoreline Designation
  - Multifamily Residential Development proposed as an allowed use
- ECDC 24.40.090 – Bulk and Dimensional Standards
  - 50 foot setback from edge of Edmonds Marsh for most uses and development
  - 15 foot setback for recreational use
  - Allowed height 35 feet with footnote that height determined by underlying zoning

The current contract rezone for Harbor Square property has a 35-foot height limit. The Port has requested taller building within the Harbor Square site.

Mayor Earling reiterated there will be further meetings on the SMP update. He invited general, big picture questions from the Council.

Councilmember Bloom commented when she reviewed the SMP, it is clear that wetland buffers need to be observed. It was her understanding the Marsh is a wetland and the standard buffer for a Category I wetland such as the Edmonds Marsh was 200 feet; the Harbor Square Master Plan has a 50-foot setback. She asked how that would be resolved. Mr. Lien answered critical area regulations are an outgrowth of the GMA. There have been a few court decisions that have addressed that and DOE has developed guidelines: areas 200 feet from the ordinary high water mark are ruled by the SMP and areas outside of shoreline jurisdictions are ruled by the GMA and the critical areas regulations. When the SMP update was being drafted, there were a few options: copy specific sections of the Critical Areas Ordinance (CAO) into the SMP, reference the CAO and SMP, or include portions of the CAO in the appendix of the SMP. The City did a combination, adopting most of the CAO within the SMP but DOE felt the City's wetland regulations did not meet their requirements and requested the City incorporate their Best Available Science for Small Jurisdictions. Title 24 contains a new section regarding wetlands and how wetland buffers will be applied within a shoreline jurisdiction area; the base buffer from DOE is 150 feet.

Mr. Lien referred to allowed uses in critical areas, ECDC 23.40.220.C and ECDC 23.50.020, explaining Harbor Square is currently developed to approximately 25 feet of the Edmonds Marsh. Any redevelopment is an allowed activity per the City's critical area regulations. The Port's Master Plan references enhancing and increasing the buffer where possible but the critical area regulations would allow the site to be redeveloped within the critical area buffers because it already is a developed area.

Councilmember Buckshnis relayed her understanding that the City would grandfather in its current footprint. Mr. Lien answered the Port is grandfathered to the developed footprint which is within 25 feet in some places. The impervious footprint of Harbor Square can be redeveloped per the City's critical area regulations. In addition to language in the Harbor Square Master Plan regarding enhancing and increasing the buffer where possible, there are other things that can be done to improve the Marsh and reduce existing impacts.

Councilmember Buckshnis asked if she could add to the questions she previously asked of staff regarding Harbor Square. Mr. Lien advised another public hearing regarding the Harbor Square Master Plan is scheduled for December 18.

9. **PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION TO APPROVE THE PORT OF EDMONDS REQUEST TO INCORPORATE THE PORT'S HARBOR SQUARE MASTER PLAN INTO THE CITY'S COMPREHENSIVE PLAN. THE HARBOR SQUARE MASTER PLAN ENVISIONS A MIXED-USE TRANSIT-ORIENTED DEVELOPMENT. THE MIXED-USE NATURE OF THE MASTER PLAN WILL ALLOW FOR RETAIL, COMMERCIAL, OFFICE AND PUBLIC USES, AND RESIDENTIAL HOUSING. THE MASTER PLAN COULD PROVIDE 340 TO 358 RESIDENTIAL UNITS, 50,400 SQUARE FEET OF RETAIL, 9,784 SQUARE FEET OF OFFICE, 123,410 SQUARE FEET OF RECREATIONAL HEALTH CLUB USES (INCLUDING TENNIS COURTS), 3.8 ACRES OF PUBLIC OPEN SPACE, AND 1,091 SPACES OF OFF-STREET PARKING. THE MASTER PLAN ENVISIONS BUILDINGS OF VARYING HEIGHTS, UP TO A MAXIMUM OF 55 FEET CONCEPTUALLY, BUILDINGS UP TO 35 FEET ARE PROPOSED FOR THE SR-104/DAYTON STREET INTERSECTION WHILE BUILDINGS OF 45 FEET ARE PROPOSED ALONG DAYTON STREET (WITH STEP-BACK PROVISIONS FOR PORTIONS ABOVE 35 FEET). FIVE STORY BUILDINGS (UP TO 55 FEET IN HEIGHT) COULD BE LOCATED TOWARD THE FAR SOUTHERN EDGE OF THE SITE.**

Senior Planner Kernen Lien explained the Port of Edmonds has submitted a request to the City to incorporate the Port's Harbor Square Master Plan into the City's Comprehensive Plan. The Port envisions a mixed use development including retail, commercial, office, public uses, and residential development. He emphasized this is a non-project level plan review. The Port has not applied for a development permit or a rezone. However, incorporating the Port's Harbor Square Master Plan into the Comprehensive Plan would lay the foundation for a future rezone and/or development agreement for the site.

Mr. Lien reviewed steps in a timeline of the Comprehensive Plan/development review process for Harbor Square, 2004-2014 and beyond, identifying points where the City Council will be involved (shown in italics):

- 2004-June 2012
  - Port prepares and adopts Harbor Square Master Plan
- July – October 2012
  - *City reviews and adopts Harbor Square Master Plan as a Comprehensive Plan amendment*
  - City completes and adopts SMP
- 2012-2013
  - *City and Port enact conceptual development agreement/MOU*
- Undetermined – depends on market conditions and other factors
  - The Port prepares and issues a developer RFP, review proposals and select developer
  - Developer refines analysis, secures financing and prepares proposal and permit application
  - *Developer applies to City for final development agreement, City reviews and approves with conditions*
  - Developer completes construction documents and prepares building permit application
  - City reviews building permit application
  - Construction begins

Pursuant to ECDC 20.00.050, an amendment to the Comprehensive Plan may be adopted only if the following findings are made:

- The proposed amendment is consistent with the provisions of the Edmonds Comprehensive Plan and is in the public interest.
- The proposed amendment would not be detrimental to the public interest, health, safety or welfare of the City.
- The proposed amendment would maintain the appropriate balance of land uses within the City.

Mr. Lien explained Harbor Square is located within the Downtown/Waterfront Activity Center and the site itself is within the Downtown Master Plan District which includes Harbor Square, the Antique Mall site, the WSDOT parking area and the former Skippers site. The Downtown Master Plan district is described as:

*Downtown Master Plan. The properties between SR-104 and the railroad, including Harbor Square, the Edmonds Shopping Center (former Safeway site), and extending past the Commuter Rail parking area up to Main Street. This area is appropriate for design-driven master planned development which provides for a mix of uses and takes advantage of its strategic location between the waterfront and downtown. The location of existing taller buildings on the waterfront, and the site's situation at the bottom of "the Bowl," could enable a design that provides for higher buildings outside current view corridors. Any redevelopment in this area should be oriented to the street fronts, and provide pedestrian-friendly walking areas, especially along Dayton and Main Streets. Development design should also not ignore the railroad side of the properties, since this is an area that provides a "first impression" of the city from railroad passengers and visitors to the waterfront. Art work, landscaping, and modulated building design should be used throughout any redevelopment project (pg. 55).*

The Planning Board reviewed the Harbor Square Master Plan over seven meetings and forwarded a recommendation to incorporate the Harbor Square Master Plan into the City's Comprehensive Plan. The Planning Board also made 14 specific recommendations for Council consideration. At the November 20 meeting, the City Council scheduled two public hearings, tonight and December 18. Also at that meeting Councilmembers indicated they would submit questions for staff and Port response. The Port's responses are included in the Council packet (Attachments 5 and 6); City staff's responses will be available before the continued hearing on December 18. Mr. Lien referred to correspondence the City has received related to the public hearing that have been provided to the Council this evening (printed on pink paper).

Councilmember Petso commented Comprehensive Plan amendments generally need to be submitted by December 31 the year prior to their consideration. There is an exception in the code that the Council may for good cause shown accept applications after the prescribed deadline. She asked what constituted good cause shown and whether a motion was necessary to accept it as a 2012 or 2013 application. Mr. Lien responded the Port requested that the Harbor Square Master Plan be docketed for 2012; the Port has made that request every year since 2009. Public entities such as the Port, School District and Hospital District have their own processes for adopting plans. The Port Commission had to adopt the Harbor Square Master Plan before it was forwarded to the City. When public entities are expecting adoption in the coming year, the City has accepted letters requesting the docket, knowing they have their own public process to go through prior to coming to the City.

Mr. Taraday clarified Councilmember Petso was raising a factual question about whether this in fact was a late application for 2012. Councilmember Petso asked if out of an abundance of caution she wanted to ensure it was accepted as a 2012 application, would the correct course of action be to ask for a vote on December 18 and what would constitute good cause shown. With regard to good cause shown, Mr. Taraday explained it is a legislative determination; the Council determines whether there is good cause to accept an application submitted after the deadline. He noted that is not to say that this is a late application.

Mr. Taraday explained the purpose of the deadline and the docketing process is to ensure all Comprehensive Plan amendments are reviewed in a simultaneous process so that the Planning Board and Council understand the relationship between the amendments. Some years there may be several Comprehensive Plan amendments being considered at the same time. The docketing process ensures each amendment's effect on the Comprehensive Plan as well as on the other amendments is considered. There are no other pending Comprehensive Plan amendments in 2012; therefore, the issue of integration between the amendments is not an issue. Because this is a Master Plan, a good argument could be made that the Council could adopt it as the initial adoption of a subarea plan. If it is treated as an initial adoption of a subarea plan, one of the exceptions to the annual amendment cycle, the Council can adopt it whenever they want. The Council could make a motion out of an abundance of caution, but he did not want Council to assume the application was untimely because he had not concluded that it was.

Council President Peterson asked for clarification whether the application was timely. Mr. Taraday answered he has seen correspondence dated 2011 that requests this be docketed for 2012. If one considers that correspondence the application, it is timely. His understanding is, even though the code refers to Comprehensive Plan amendment applications being made on a form provided by the director, he was uncertain such a form exists. If there is no true application form, there would be no reason not to consider the letter as an application for the purpose of 2012. He summarized it was difficult for him to conclude tonight whether or not this was a timely application. His point was that it does not matter because whether it is timely or not, if the Council decides to treat it as the initial adoption of a subarea plan, it can be adopted whenever the Council wishes.

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

**Charles Gold, Edmonds**, speaking for a number of people, relayed their strong opposition to a 55-foot height variance on the Harbor Square property. Citing economic viability, increased profitability, the Port asked the Council for the right to destroy the long standing practice of height control that has created the lovely and desirable Edmonds bowl, an island-like waterfront that attracts residents and visitors and supports solid property values. The Port has a right to develop up to 35 feet; if a higher limit is allowed, he fears it will be the new height limit west of SR 104 on all buildings beginning with the former Antique Mall and Skippers sites and extending throughout the waterfront. The City will have to grant the same limits to all or be sued by developers or property owners at the expense of taxpayers. The result is the irreplaceable loss of the quiet lovely town everyone desires. He relayed their request that the voters decide via a referendum whether to "Ballardize" Edmonds' waterfront and downtown or if they wish to address problems in a less invasive way. They urge the Council to represent them and retain the bowl concept and limit height near the waterfront. Although it appears the project will generate a lot of one-time revenue and a small amount of ongoing revenue, no study has been done regarding infrastructure costs. He relayed their slogan, "Don't Ballardize Edmonds."

**Drake Bradley, Edmonds**, a resident of Bella Coola Condominiums on 5<sup>th</sup> Avenue, referred to Attachment 7 of the Harbor Square Master Plan report, a study conducted by UW students on the impact of a 65-foot structure at Harbor Square. He displayed a map illustrating an L-shaped area where 65-foot structures were envisioned and the visibility of that location from 45 locations. He displayed a graph illustrating the results for Observation Point 42, explaining the students determined what could be seen from this point using airborne laser radar, topography and software. The conclusion, that structures would not be visible from Hemlock & 5<sup>th</sup>, is incorrect because the picture for Observation Point 42 shows a building across the street that blocks the view of all of Puget Sound and a good portion of the sky. He commented that this is a worthless data point because there is no view to be blocked. A majority of the points in the view corridor the Planning Board wanted studied are bounded by buildings on the left and right side of the road which, from the 6 foot elevation the students used, are high enough to block any building in the distance. The data leads to the mistaken conclusion that there is no dramatic visual impact

of this structure. He pointed out the analysis needed to be done not from the street elevation but the elevation of view properties. Although the study goal was to assess whether there would be a negative impact on property values for property owners in the Edmonds bowl, the methodology does not allow that conclusion to be drawn because the observation points are not viewpoints of Puget Sound. He did not support the 55-foot height limit or the project until a solution to this problem was determined.

**Bill Angle, Edmonds**, commented he has been a commercial property developer of public and private projects for the past 15-20 years and was also a participant in the preliminary redevelopment vision for Harbor Square. At that time he was not adverse to greater density and felt over-height exceptions could be addressed by really good design. In the course of this process, he called attention to the scale and began to have concerns when he learned there would be a parking garage of up to 1000 stalls. He noted 1000 parking stalls in one or a series of buildings represents an infrastructure cost of \$35 million. He displayed information regarding a transit-oriented development in Redmond, Overlake Station, sponsored by King County that has 2 floors, 300 affordable apartments, and 500 parking stalls on a Park & Ride garage on 3 acres. The proposed Harbor Square project is 2½ - 3 times as large on 9 acres. He spoke in favor of maintaining Edmonds' village atmosphere as cited in the Comprehensive Plan. The proposed project will be a very different kind of village, dramatically different than existing development. If allowed for public property, it almost assuredly will be requested for the Safeway and Skipper's sites.

**Rick Utt, Edmonds**, a former Architectural Design Board Member, a Planning Commissioner for Everett during the rezoning and application for the Navy port, and an expert witness on a lawsuit regarding a view corridor, commented on the sacredness of height requirements in Edmonds. After being asked to conduct a study of increasing height limits 5 feet, he soon learned you don't mess with building heights in Edmonds, a fact everyone should be well aware of before suggesting increased heights. He was concerned with the lack of information to make this assessment; the materials include pictures and aerial views but the lidar survey is worthless because the reference points do not match the viewpoints. He was also concerned that the Antique Mall site, which has the same zoning, was not being considered at the same time. He feared if this development was approved, the heights permitted for Harbor Square would be cited when the Antique Mall site was developed.

**Elliott Shaw, Edmonds**, stated he, his wife and his son purchased property at 3<sup>rd</sup> & Dayton and enjoy the view. He recalled asking the Council if any had a view and Mayor Earling's response that he had a view. He asked if Mayor Earling's view was obstructed by Harbor Square. City Attorney Jeff Taraday pointed out the purpose of a public hearing was for the Council to hear from the public, not vice versa. Mr. Shaw commented his view is obstructed by the proposed Harbor Square development. He explained he had to cut his building down 2½ inches which cost him a lot of money. He summarized the proposed Harbor Square Master Plan is wrong. He referred to an advertisement for an exceptional Emerald Place view condominium, commenting what sells in Edmonds is the view and he did not want his view eliminated. He suggested in the future the public hearing on the Harbor Square Master Plan be at the beginning of the agenda. He was opposed to any increased height and recommended the Port live with the 35-foot height limit. He referred to Michael Echelbarger's purchase of the Antique Mall property and asked whether Mayor Earling was involved with that. Mayor Earling responded he was not involved with that acquisition.

**Charles Schaaf, Edmonds**, said he signed in to show his attendance.

**Peter Tassani, Edmonds**, a civil engineer from UW, spoke in favor of the Port's plan for redevelopment of Harbor Square. He pointed out the project will create jobs, local businesses will profit from increased foot traffic and the City will increase its tax base. Edmonds needs to take advantage of opportunities in an honest and responsible manner such as has been done via this process and continue to build the City's reputation as business friendly and continue to fund arts. The influx of resources, capital and human, is a sign of life and growth. Although many have spoken about deficits and budget cuts, some of those same

people are unwilling to expand responsibly to maintain services they desire. The proposed buildings are a responsible way to proceed; going up is preferable to spreading out. He concluded over the three years the plans have been developed, the process has been transparent. He referred to a common phrase in business, if you are not growing you're dying, and encouraged the City to grow and the Council to approve the Harbor Square Master Plan.

**John Reed, Edmonds**, a member of the Edmonds Planning Board, speaking on behalf of Alliance for Citizens of Edmonds (ACE), summarized ACE's goals: to support responsible development that respects and compliments the character of Edmonds, its small town atmosphere and its general low level architecture; promotes preservation of the natural environment in the City, its streams, beaches, parks and open space. ACE also attempts to provide citizens with accurate information about land use activities to allow them to make informed decisions and provide relevant input to elected leaders. ACE was asked by the Port to consider supporting the redevelopment vision earlier this year. In early April ACE conditionally supported the mixed use concept for the property detailed in the Port brochure mailed to citizens, provided that, a) heights were reduced to less than 5 and 4 stories, b) Dayton setbacks and step-backs were increased to eliminate the wall effect, and c) more emphasis was placed on open space and gathering space within the property. ACE also requested more opportunity for general public input. Those changes have not been made. After considerable discussion, ACE concluded they cannot lend their support to the proposal presented by the Port even if all of the Planning Board recommendations are incorporated. He summarized points in their December 3, 2012 letter sent to the Council:

- 5 story, 55-foot buildings do not respect and compliment the small town atmosphere and general low level architecture of Edmonds and have an undesirable and unnecessary effect on uphill private views.
- 4-story, 45-foot buildings 15 feet off Dayton with no upper floor step-back requirement will severely impact public view corridors, especially if similar structures were allowed in the future on the north side of Dayton.
- Alternatives other than intense residential mixed use that incorporate more open space, gathering spaces and features that generate tourism and attract visitors to the City should be considered by the Port, City and citizens before modifying the Comprehensive Plan.
- Several environmental concerns need to be addressed now including the impact of tall buildings near the Marsh, on the Marsh and its wildlife, the fill nature of the Harbor Square soils, underground and under-building contamination, train noise and ongoing flooding problems on SR104 at Dayton.
- The tall building proposed by the Port at Harbor Square will lead to similar proposals of the Antique Mall and Skippers properties and possibly uphill toward downtown. It will be difficult of the City to control or deny them after allowing Harbor Square to develop in this manner.

ACE recommends the Port Harbor Square Master Plan not be incorporated into the City's Comprehensive Plan and instead propose that the Port, City, and the public work together to develop one or more alternative redevelopment visions for the Harbor Square site, taking advantage of its prime location near the waterfront.

**Hank Landau, Woodway**, a property and business owner in Edmonds, explained as Edmonds is one of his favorite places, he looked closely at the Port of Edmonds conceptual plan for Harbor Square. He also looked at areas needing improvement in Edmonds, such as the large number of vacant commercial buildings, the struggling nature of some business and the loss of tax revenue. He recalled when moving to the area in 1973, most products and services were available in Edmonds. He believed the Port's proposal will rejuvenate the downtown area in a highly positive way. It is more likely to provide space for business that complement existing businesses than to compete with them. With proper marketing it will provide a catalyst for technology based businesses to move to Edmonds, providing high paying jobs. The availability of commuter rail, buses and the ferry and a downhill route for morning bicyclists and the housing units at Harbor Square will mitigate the increase in auto traffic. The proposed plan will also add

to the pedestrian friendliness of the waterfront, provide further amenities for Edmonds residents and potential environmental improvements to the Edmonds Marsh and Willow Creek. Although he was concerned with view impacts, the Port's plan minimizes this impact. Vertical development also lessens the environmental impact caused by urban sprawl and decreases energy consumption compared to horizontal growth. The Port's proposal for 3-5 story buildings is much less than the 18 stories proposed for Pt. Wells below Woodway and Shoreline. If the Port was less interested in what is good for the community and more interested in revenue, it could have made the argument that it is on a transportation corridor and thus justify extremely tall buildings that would truly impede neighbors' views.

**Kathleen Dewhirst, Edmonds**, explained she was on the Steering Committee, a diverse group who worked very hard and discussed a wide variety of options. All the Port is asking is for the Council to have a vision for the future; this is an opportunity to provide a platform so that a developer can make a proposal. She urged the Council to adopt the Harbor Square Master Plan.

**John Rutter, Edmonds**, a resident of a view condominium on 3<sup>rd</sup> Avenue South, asked whose interest the Council should be most concerned with; in his opinion the Port's interest was dwarfed by concern with the interest and investment of Edmonds view owners. The three condominium owners on his level of the building paid a 100% premium for their views, a total of about \$800,000 purely for the view. The floor below paid slightly less. Considering other buildings in the Edmonds bowl with views, the Edmonds citizens' investment is enormous. He feared if one building was allowed at 55 feet, the next developer would expect the same.

**Karen Wiggins, Edmonds**, requested the Council not amend the Comprehensive Plan to allow the height and density increases requested by the Port's Harbor Square Master Plan. The majority of Edmonds residents want to keep Edmonds like it is because they love the small town character. She was not opposed to change and was supportive of allowing residences on the Harbor Square site. She noted the City's reference to the Ebftide as a benchmark for new development, questioning whether the City wanted to compound one mistake with many others. She was concerned with residential development close to the train tracks and pointed out there is no scientific evidence that buildings that close and that tall next to Edmonds Marsh will not harm the Marsh. As Chair of the Edmonds Parking Committee, she knows people will only walk up to two blocks from where they park their car. The proposed development is 4-5 blocks from 5<sup>th</sup> & Dayton; shoppers will not walk that far, meaning either downtown or new development at Harbor Square will suffer and die. She referred to Edmonds' duty to protect its public view corridors and suggested the Port do a virtual reality presentation to prove their proposal does not violate this requirement.

**Judy Nelson, Edmonds**, expressed her strong opposition to the Harbor Square Master Plan. Implementation of the plan which includes 5-story building and 358 new residences is not in the public interest and will negatively affect the beauty and character of Edmonds for visitors and residents by blocking views of the water and increasing traffic congestion. The redevelopment plan will result in 2000 more people and 1000 more cars. It is questionable whether the project could be built as no soils engineering study has been performed. It is also questionable whether this area should be developed due to climate change and the increased likelihood of flooding and other natural disasters. She urged the Council to vote no on the Harbor Square Master Plan.

**Jan Conner, Edmonds**, Manager, Best Western Hotel at Harbor Square, explained the company is also under a management agreement to manage Harbor Square property. She agreed with the proposed Harbor Square Master Plan, pointing out this is an effort to take the next step. If change and redevelopment are not considered, some of the values that Edmonds residents treasure are in jeopardy due to budget and service cuts. She urged the Council to give serious consideration to the Harbor Square Master Plan. Although she understood the concern with views, the Council is responsible for protecting public, not private views. This project will take years but is needed to add vitality to Edmonds.

**Chris Keuss, Edmonds**, expressed support for the Harbor Square Master Plan. A member of the Steering Committee, he listed the principles the Committee formulated:

- Create an entry point and visual gateway and a key link to the downtown area. New development may have an impact on downtown businesses; encourage links to downtown.
- Ensure the area is pedestrian friendly to encourage the public to walk the area and use the public amenities.
- Mixed use development encourages the Edmonds community to be more actively involved at Harbor Square and the waterfront.
- Make sure the Edmonds Marsh is protected and enhanced via buffers, improved walking trails, viewing sites and habitat improvement.

The principles were developed over a year; the Port has worked hard to gather public input on the plan and incorporate it into the plan. Economic development will generate badly needed revenue and have a positive impact on the business community. The Master Plan would reinvigorate a slowly deteriorating area into a vibrant and visible attractive community asset. He encouraged the Council to include the Harbor Square Master Plan in the Comprehensive Plan.

**Darlene Stern, Edmonds**, a member of the EDC, stated she was speaking as a private citizen in favor of incorporating the Port's Harbor Square Master Plan into the Comprehensive Plan. She suggested considering what is important to citizens: preserving the charm, the Marsh and public views. The proposal will provide sustainable economic development, connectivity between the waterfront and downtown, optimize transportation components, and create energy and interest in the business community. The Port has been a good neighbor and partner to the City, improving the marina and bringing interest and value to the community, demonstrating its transparency during the last four years this project has been under consideration by holding public meetings and implementing the community's ideas into the Master Plan. Change is inevitable in business cycles and community cycles; change and survival is not mandatory for businesses or communities. The Harbor Square Master Plan is a conceptual idea for consideration; many steps will need to be taken before any of the renderings offered by the Port can come to fruition. None of the ideas can be discussed unless the first step is taken. She preferred Edmonds be vibrant, thriving and financially successful. She urged the Council to consider the benefits of including the Master Plan in the Comprehensive Plan: local residential dwellings, increased shopping for tourists and residents and connecting the waterfront and downtown. Redevelopment would increase interest in Edmonds and bring visitors interested in the City's historical amenities while improving its financial future. She has a view but recognizes it is not the City's responsibility to maintain or legislate policy that allows citizens to keep their views.

**Ron Clyborne, Edmonds**, explained the goal of the Edmonds Chamber of Commerce is to promote the economic vitality of the greater Edmonds business community through advocacy, leadership and education. As President of the Chamber, speaking on behalf of the Board of Directors and members, the proposed development is a crucial step forward and he encouraged the Council to incorporate the Port's Harbor Square Master Plan into the City's Comprehensive Plan. The Chamber Board carefully reviewed the Port's plan and concluded the Harbor Square Master Plan is a benefit to the community overall, not just the business community. The Board appreciates that some are concerned about change, their points of view are important, they contribute to a healthy dialogue and the Chamber respects their opinions. He urged the community to maintain their focus on the Harbor Square Master Plan and avoid worst case scenarios by citing examples such as Kirkland or Ballard. The Chamber wants to maintain the small town feel and charm of Edmonds. This plan represents a landmark decision and a critical moment in the City. The Council can choose to go forward or backward; to approve the Master Plan and allow the project to continue is seizing the opportunity and taking a bold step. The Council must weigh many factors and make one of their most difficult decisions during their tenure. The Harbor Square Master Plan has the Chamber's full endorsement.

**Val Stewart, Edmonds**, Vice President, Planning Board, referred to Planning Board Chair Phil Lovell's summary of the Planning Board's review of the Harbor Square Master Plan, adding that the Planning Board's vote on the proposal overall was recorded as 6-1. At the October 10 meeting, 4 hours and 37 minutes into the meeting, she stated if she were to vote tonight, she would vote no. The reason she planned to vote no was the first of the 14 recommendations read, building heights shall be limited to 45 feet and consideration may be given to heights up to 55 feet if the development proposal includes significant public amenities and/or sustainable design certification such as LEED platinum. She wanted "or" removed to ensure any project with a 55 foot height was held to the highest standards. During their review, the Planning Board was reminded this is not a project proposal, but rather an amendment to the Comprehensive Plan. The Planning Board's charge was whether to include residential and up to certain heights in the Comprehensive Plan. She recommended the Council consider the question, if the Comprehensive Plan includes language providing for buildings to be up to 55 feet in height, does that mean development regulations must allow buildings as high as 55 feet? Would an applicant asking for a zoning change that allowed 55-foot buildings be entitled to that change or would the City have discretion to deny such a change in zoning? She was in favor of the conceptual plan in general although she was uncomfortable with some aspects.

**Alan Mearns, Edmonds**, a marine biologist and a member of the Friends of the Edmonds Marsh, explained the Friends have been involved in the Port's planning effort and the Port has addressed many of the concerns they raised. The Port recognizes the ecological and cultural aspects of the Marsh and its wildlife and took their input seriously. However, the devil is in the details and they wonder how the hundreds of species of fish, wildlife and birds will adapt to the changes. In the later planning stages, he recommends bringing in experience from other marsh areas in urban and suburban environments to discuss how building setbacks, building heights, etc. affect wildlife in marshes.

**Dave Buelow, Edmonds**, suggested the Council think about the following during their deliberations:

1. Harbor Square is not safe for residential construction. The land is fill dirt and has a very high water table. This combination makes it susceptible to liquefaction in the event of an earthquake as well as located in a high danger zone if a tsunami were to hit. If disaster hits here, the decisions the Council is able to make will determine if property damage, injury and loss of life could take place.
2. The Harbor Square project has not been thoroughly reviewed from an environmental impact perspective. The Port and Planning Board say this is not needed for inclusion into the Comprehensive Plan. That may be the process but it is backward and dangerous; the full impact of this development should be thoroughly vetted before being incorporated into the City's Comprehensive Plan
3. The traffic study is not being considered. The Port's own study states the project will generate an additional 3,300 net vehicle trips per day, taking the total to over 8,000, a 70% increase with no infrastructure changes proposed.
4. The transit advantage touted for this project is ending; the estimated completion date of Harbor Square corresponds with the arrival of light rail in Lynnwood on the I-5 corridor in 10 years. Edmonds School District is already moving tenants out of a former school site near 220<sup>th</sup> and Sound Transit is hoping to take over the site for the new Edmonds rail station. Commuter rail in the bowl will end.
5. Private views will be seriously impacted in the lower bowl. The Planning Board dismissed this claim when the Chair concluded it was a non-issue. View impacts will be dramatic, and the result will be decreased quality of life and home values for those in the viewshed along with decreased property tax revenues for the City.

Mr. Buelow concluded the decision before the Council is huge and is about much more than Harbor Square. If a tax supported public entity gets their way, others will seek to replicate it on adjacent properties and potentially throughout the City. The Harbor Square Master Plan will negatively impact the

lives of many residents and is potentially dangerous for new residents. He urged the Council to vote against including the Harbor Square Master Plan in the Comprehensive Plan.

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO EXTEND THE MEETING FOR 45 MINUTES. MOTION CARRIED UNANIMOUSLY.**

**Larry Beard, Edmonds**, spoke in favor of the amendment to include the Harbor Square Master Plan in the Comprehensive Plan. The City desperately needs an increase in tax revenue and to create a transition from downtown to the waterfront. The area between SR 104 and the railroad tracks is an economic and aesthetic wasteland, more akin to the Kent Valley than what would be expected on the Edmonds waterfront. The Port has proposed a well thought out plan that will actually work. Such a plan is not financially viable unless heights are sufficient to create residential properties, mixed use and amenities. Without residential and building height adjustments, the development does not pencil out. He urged the City Council to support including the Harbor Square Master Plan in the Comprehensive Plan. He pointed out due to the location in the bowl, view impacts will be negligible; however, it is not the City's responsibility to protect private views, only public views. He concluded this project is needed to maintain and improve the City's vitality.

**Steve Johnston, Edmonds**, encouraged the Council to approve the amendment to allow the incorporation of the Harbor Square Master Plan into the Comprehensive Plan. This concept has been carefully, publicly and transparently vetted by fellow citizens. Responsible redevelopment consistent with the amendment will provide additional revenues to the City via construction fees in the short term and property taxes in the long term. It will provide community gathering places, high-end shopping and residents, and quality amenities. New residents will spend money in the City. A specific project will provide many opportunities including further protection of the Edmonds Marsh. It is scientifically possible to protect the Marsh with small buffers. It is scientifically possible and engineering feasible to build a 4 or 5 story building on the site despite the soils. This could be the centerpiece of a newly vibrant and healthy downtown and waterfront. With regard to shadows and shading, the City has lived in the shadow of no change for too long. This project can be the beginning of a carefully thought out, beneficial and feasible future for the community; no action is no plan at all.

**Roger Hertrich, Edmonds**, challenged the timing of the filing of the Comprehensive Plan amendment. In addition, the Shoreline Master Plan map identifies soils and liquefaction for this area on Figure 10. He suggested the Council ask the City Attorney whether the City was liable by recommending changes in an area that had geologic problems. He attended several Planning Board meetings and suggested a study of the shadow from the tall buildings was missing from the process. Snohomish County's Comprehensive Plan requires studies regarding shadows from tall buildings. He envisioned Dayton Avenue would be a cold corridor when the sun was blocked by buildings. He envisioned the shadow from buildings would also impact wildlife in the Edmonds Marsh. He envisioned development that was allowed on the south side of Dayton would also be requested on the north side. He concluded the Harbor Square Master Plan was a dramatic change and should not be approved.

**Ron Wambolt, Edmonds**, a resident in downtown Edmonds with a view, recognized he does not own the view and it could go away at any time. To those opposed to the Port's proposal, he noted many of the statements and opinions were devoid of facts and were opinions that denigrate the lengthy and thorough work done by the Port, Steering Committee, expert consultants and the Planning Board. He pointed out the Council represents everyone, not just those whose views may possibly be affected. To those who cited 65-foot buildings, the maximum is 35 feet; the average of the buildings is 45 feet. To the person who spoke about a parking garage with condominiums above, he pointed out the parking garage is envisioned along the railroad tracks and could potentially be topped with tennis courts, not condominiums. To those that question why the Antique Mall is not being discussed now, he pointed out the Port does not own the Antique Mall property. To those worried about 45-55 foot buildings setting a precedent and the Antique

Mall developing with similar height buildings, he questioned why there were not more 5-story buildings like the Ebbitide. To the speaker who said the City would lose money from decreased property values if views were blocked, he pointed out the tax rate would simply increase to allow the City to collect 1% more in taxes than they did the prior year. He expressed his support for the project.

**Natalie Shippen, Edmonds**, suggested the Council disregard the 500 pages of data they were asked to evaluate, as it only represents what \$196,000 will buy. Instead, she urged the Council to consider the appeal Edmonds has for its citizens. The Planning Department paraded representatives of four failed cities before the Planning Board (Shoreline, Mountlake Terrace, Bothell and Lynnwood). Those cities all proposed taller buildings, the modern day snake oil. A failed town is one whose residents are not satisfied or proud of it. Edmonds is not a failed town; its residents are pleased with what they see and hear from visitors. Edmonds does not need a remedy or fix; it only needs a City Council that will protect what pleases residents. If Edmonds buys the remedy of failed towns, there is no turning back; once larger buildings are allowed, they will spread and what citizens once enjoyed will be lost. She urged the Council to deny the Port's misguided proposal, say no to its 40-55 foot developer incentives and preserve what Edmonds residents value.

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

**COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO CONTINUE THE PUBLIC HEARING TO DECEMBER 18, 2012. MOTION CARRIED UNANIMOUSLY.**

#### **10. ADOPTION OF UTILITY RATE ORDINANCE**

Public Works Director Phil Williams advised the packet included the Water Comprehensive Plan and appendixes as well as the Stormwater Comprehensive Plan, both approved by the Council and incorporated into the Comprehensive Plan in 2010. The plans include rate recommendations approved by the Council for ongoing rate adjustments for water and stormwater.

Mr. Williams displayed a page from the 2010 Water Rate Plan that illustrates the recommended rate increase for 2013 of 7.5%. He displayed a page from the 2010 Stormwater Rate Plan that illustrates the recommended rate increase for 2013 of 8.5%; his revised recommendation is an 8.0% increase.

He provided a comparison of 2010 sewer rates, noting Edmonds rates are 11<sup>th</sup> of the 12 comparator cities; Edmonds' rate is \$25.32; the average is \$39.48 or 56% higher than Edmonds's rates. He displayed a comparison of 2010 sewer rates that included two additional cities, pointing out Edmonds' rate of \$25.32; the average is \$38.53 or 52% higher than Edmonds. He also displayed a comparison of 2012 sewer rates, pointing out Edmonds' rate of \$25.32; the average is \$42.21 or 67% higher than Edmonds. He noted Edmonds has not adjusted its rates during the past two years; most other jurisdictions have. He provided a comparison of the percentage of rate changes for the comparator cities. He also provided a rate comparison of the average monthly single family utility bill changes (based on 500 cf/month without taxes).

Mr. Williams pointed out Edmonds' sewer rates are low. The Sewer Comprehensive Plan is being prepared now and will be presented to the Council for review and adoption mid-year. The plan will contain new capital projects that were unknown when the plan was last updated six years ago. The projects are based on data gathered via video of the City's sewer lines. Staff recommends adjusting rates by 5% now to smooth future larger rate increases.

#### **Main Motion**

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER YAMAMOTO, TO APPROVE ORDINANCE NO. 3903, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF SECTION 7.30.030 WATER RATES – METER INSTALLATION CHARGES, RELATING TO UTILITY RATES OF WATER**

**SUPPLIED THROUGH METERS, THE PROVISIONS OF SECTION 7.30.040 UTILITY CHARGES – SANITARY SEWER, RELATING TO UTILITY RATES FOR SANITARY SEWER SERVICE, AND THE PROVISIONS OF SECTION 7.50.050 RATES AND CHARGES, RELATING TO UTILITY RATES FOR STORM AND SURFACE WATER MANAGEMENT SERVICES, IN ORDER TO INCREASE SUCH RATES.**

**Amendment #1**

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO NOT INCREASE THE SANITARY SEWER RATES IN SECTION 7.30.040.**

Councilmember Petso understood the concept of smoothing the rates and that staff sees increases coming based on preliminary work that has been done. She preferred not to impose a rate increase until a capital plan has been approved and the revenue analysis provided.

**Action on Amendment #1**

**UPON ROLL CALL, THE VOTE ON THE AMENDMENT CARRIED (4-3), COUNCILMEMBERS PETSO, FRALEY-MONILLAS, BLOOM AND JOHNSON VOTING YES; COUNCILMEMBERS YAMAMOTO, BUCKSHNIS AND COUNCIL PRESIDENT PETERSON VOTING NO.**

City Attorney Jeff Taraday clarified the amendment effectively deletes Section 2 from the ordinance.

**Action on Main Motion**

**THE VOTE ON THE MAIN MOTION CARRIED UNANIMOUSLY.**

**11. MAYOR'S COMMENTS**

Mayor Earling reported a group of statewide Mayors are meeting to discuss a potential recommendation to the legislature for an improved statewide transportation package. It likely will include a recommendation regarding gas tax, a small increase in Motor Vehicle Excise Tax, and increased TBD fees from \$20 to \$40. He offered to provide the Council a memo in the next few days with the recommendations, noting it is scheduled as an agenda item on December 18.

**12. COUNCIL COMMENTS**

Councilmember Johnson thanked everyone who participated in tonight's public hearing. It was a very balanced representation and she appreciated all the comments. She reported the 2013 Historic Preservation Commission calendar featuring historic buildings in Edmonds is in presales this week for \$4.50, the price will increase to \$5.00 next week. Calendars are sold at City Hall, the Edmonds Museum and at many local businesses. She thanked the public for supporting their local Historic Preservation Commission and Edmonds Museum.

Councilmember Yamamoto thanked everyone who attended this evening and provided input at the public hearing.

Councilmember Buckshnis thanked everyone who emailed, called and stopped her on the street to offer their input. She pointed out an article in the Citywide Vision publication, relaying her hope to move toward Budgeting by Priorities next year.

Councilmember Fraley-Monillas referred to a comment that the Council needs to have a vision for Edmonds future, assuring that she is up half the night most nights wondering about the City's vision for the future.

Councilmember Bloom thanked everyone who provided input tonight, noting it was enriching and enlightening to hear all perspectives. She was concerned with the either-or attitude; if the Council did not approve the Port project, they had no vision or that was the only vision. Regardless of what the Council decides and particularly if the Council does not approve the project, the Council has a wide-open opportunity to determine its vision and work in a short term way rather than what the City will look like in decades. She looked forward to the continued public hearing and encouraged everyone with an opinion to talk to the Council.

**13. ADJOURN**

With no further business, the Council meeting was adjourned at 10:34 p.m.