

# EDMONDS CITY COUNCIL APPROVED MINUTES

## February 25, 2014

The Edmonds City Council meeting was called to order at 6:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds.

### ELECTED OFFICIALS PRESENT

Dave Earling, Mayor  
Diane Buckshnis, Council President  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Strom Peterson, Councilmember  
Joan Bloom, Councilmember  
Adrienne Fraley-Monillas, Councilmember

### ALSO PRESENT

Thea Ocfemia, Student Representative

### STAFF PRESENT

Stephen Clifton, Community Services/Economic Development Director  
Phil Williams, Public Works Director  
Carrie Hite, Parks & Recreation Director  
Rob Chave, Acting Development Services Dir.  
Frances Chapin, Cultural Services Manager  
Renee McRae, Recreation Manager  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Jana Spellman, Senior Executive Council Asst.  
Jeannie Dines, Recorder

1. **CONVENE IN EXECUTIVE SESSION TO EVALUATE THE QUALIFICATIONS OF A CANDIDATE FOR PUBLIC EMPLOYMENT PER RCW 42.30.110(1)(g), AND TO DISCUSS POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

At 6:01 p.m., Mayor Earling announced that the City Council would meet in executive session to evaluate the qualifications of a candidate for public employment per RCW 42.30.110(1)(g), and to discuss potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. Action may occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Peterson, Petso and Bloom. Others present were City Attorney Jeff Taraday, Police Chief Al Compaan, Assistant Police Chief Jim Lawless, Parks & Recreation Director Carrie Hite and City Clerk Scott Passey. At 6:35 p.m., Mayor Earling announced to the public present in the Council Chambers that an additional 10 minutes would be required in executive session. At 6:50 p.m., Mayor Earling announced an additional 5 minutes would be required in executive session. The executive session concluded at 6:53 p.m.

2. **COUNCIL DISCUSSION WITH DEVELOPMENT SERVICES DIRECTOR CANDIDATE - SHANE HOPE**

At 6:55 p.m., the City Council met with Development Services Director candidate Shane Hope. All City Council members were present.

3. **MEET WITH ARTS COMMISSION CANDIDATE KEVIN CONEFREY FOR CONFIRMATION TO THE ARTS COMMISSION. MEET WITH CANDIDATE MIKE HATHAWAY FOR CONFIRMATION TO THE COMMISSION ON THE COMPENSATION OF ELECTED OFFICIALS**

At 7:15 p.m., the Council met with Kevin Conefrey, a candidate for confirmation to the Arts Commission, and Mike Hathaway, a candidate for confirmation to the Commission on the Compensation of Elected Officials.

Mayor Earling reconvened the regular City Council meeting at 7:20 p.m.

**4. ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present.

**5. APPROVAL OF AGENDA**

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

**6. APPROVAL OF CONSENT AGENDA ITEMS**

Councilmember Johnson requested Item D be removed from the Consent Agenda.

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

- A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 18, 2014**
- B. APPROVAL OF CLAIM CHECKS #207111 THROUGH #207237 DATED FEBRUARY 20, 2014 FOR \$207,819.10. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #60812 THROUGH #60827 FOR \$440,801.30, BENEFIT CHECKS #60828 THROUGH #60834 AND WIRE PAYMENTS OF \$195,411.76 FOR THE PERIOD FEBRUARY 1, 2014 THROUGH FEBRUARY 15, 2014**
- C. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM RATELCO PROPERTIES CORP. (\$6,838.28)**
- E. CONFIRMATION OF KEVIN CONEFREY TO THE ARTS COMMISSION**
- F. CONFIRMATION OF MIKE HATHAWAY TO THE CITIZENS' COMMISSION ON THE COMPENSATION OF ELECTED OFFICIALS**

**Item D: AUTHORIZATION TO ADVERTISE, A REQUEST FOR BID, FOR CONSTRUCTION SERVICES FOR THE WASTEWATER TREATMENT PLANT FACILITY UPGRADE**

**COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO SEND THIS ITEM TO THE FINANCE COMMITTEE FOR FURTHER DISCUSSION.**

Councilmember Johnson explained she would like an opportunity for the Finance Committee to review this item in greater detail. Mayor Earling advised this is a budgeted item and was reviewed by the Parks, Planning & Public Works Committee (Councilmember Bloom and Council President Buckshnis) who forwarded it to the Consent Agenda.

Councilmember Petso said she was happy to have the Finance Committee (herself and Councilmember Johnson) discuss this as long as the delay would not be problematic for staff. Public Works Director Phil Williams offered to respond to Council questions now or at the Finance Committee.

Councilmember Fraley-Monillas commented unless there were specific issues with this item, she was uncertain why it would be referred to the Finance Committee.

Councilmember Bloom commented if a Councilmember had a concern and there was no issue with timing, she was willing to have it reviewed by the Finance Committee.

Councilmember Peterson did not support referring this to the Finance Committee, pointing out nearly everything the City does has a financial implication. He did not want to set a precedent that items must have a double committee review. He had faith that the Parks, Planning & Public Works Committee had reviewed this and that staff had provided the necessary information.

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

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ITEM D. UPON ROLL CALL, MOTION ENDED IN A TIE VOTE (3-3), COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBERS FRALEY-MONILLAS AND PETERSON VOTING YES; COUNCILMEMBERS BLOOM, JOHNSON AND PETSO VOTING NO.**

**MAYOR EARLING VOTED YES TO BREAK THE TIE AND THE MOTION CARRIED (4-3).**

## **7. AUDIENCE COMMENTS**

**Dewayne Farman, Edmonds**, referred to Item 13, explaining the potential sale of this property has elevated Seaview residents' concern about the Angler's Crossing PRD. Without the City's property, that 26-home PRD cannot meet the 10% open space requirement. He recalled when the McNaughton Group applied for a permit to develop the PRD in 2005, nearly 100 homeowners organized, a group called Save Perrinville Woods, in an effort to protect the woodlands that would be at risk from the development. He enumerated the reasons they opposed the PRD: loss of the natural environment including a wetland and native habitat, changes in drainage that would cause irreversible damage to Perrinville Creek and surrounding wetlands, loss of the trees that provide a weather buffer and reduce light and traffic noise from Perrinville, significant change to the neighborhood's quality of life particularly the 12 homes that border the PRD, and increased vehicular and pedestrian safety issues caused by additional traffic on 80<sup>th</sup> particularly the limited sight distance at the intersection of 184<sup>th</sup>. He urged the City to support the Seaview and Perrinville residents and not sell the property. He also requested the Council set a date to gather more public testimony regarding the sale of the property.

**Brian Furby, Edmonds**, referred to Item 13, commenting once property is sold it is gone. The school district's practice is to retain property, allow the district to generate revenue and minimize the cost to citizens of capital improvements. He clarified he was not suggesting this property be used to generate revenue. Before making a final decision, he suggested the Council, 1) inform Seaview residents that the sale of the property is being considered, and 2) consider developing the property as a park. The property could include educational programs, nature trails, co-exist with Seaview Park and serve as a corridor to South Snohomish County Park. He recommended the City notify the residents of Seaview and hold a public hearing. He also suggested seeking a grant to develop a park.

**Dick Van Hollebeke, Edmonds**, referred to Item 13, commented this PRD was approved when he was on the Council in 1997. The property is a ravine with an approximately 75 foot drop in a narrow canyon. That parcel would not be developed but it adds to the square footage. The property owners, the Parks, who are in their eighties, have a right to develop their property; whether it is developed as a PRD is yet to be decided. Residents cannot just say they want it to remain wilderness because it benefits them and

ignore the fact that the Parks own the property and have a right to develop it. He anticipated a win-win-win, the City has the opportunity to generate revenue from property taxes and development fees, new residents would provide economically benefit to Perrinville businesses, and development would eliminate vandalism that is occurring on the property. He summarized development would not hurt residents in the area; none of the properties face the neighbors.

**Bill Rankin, Edmonds**, referred to emails he has sent to Councilmembers regarding Item 13. He urged the Council not to sell the property for the reasons outlined in his emails. He questioned why the sale of this land was still tied to the PRD from 2007, suggesting it was an obsolete document that should be readdressed due to the changes that have occurred in the area since 2007. The PRD does not address public safety issues; there are no sidewalks and he feared an additional 150 residents would increase vehicular and pedestrian traffic concerns as well as environmental concerns. The PRD does not connect to Perrinville in a meaningful way; he suggested a through street that would allow the neighborhood easier access to Perrinville. He summarized a plan was needed that addressed the infrastructure, the environmental impacts and safety. He agreed the landowners have a right to develop their land but questioned the sale of property to persons who have two abandoned buildings on their property, one burned to the ground and the other one vandalized. He suggested the development should be “Strangler’s Crossing” as it will choke the life out of the neighborhood.

**Roger Hertrich, Edmonds**, urged the Council to consider residents’ concerns with regard to Item 13. Next, he referred to the perception that there are problems with Councilmembers’ demeanor and attitudes toward each other. He found Councilmember Peterson’s remarks in the newspaper about a candidate being divisive to be inappropriate, particularly in light of the Public Safety & Personnel Committee’s efforts to identify someone to assist the Council with conflict resolution. He commended the three Councilmembers who support Steve Bernheim for appointment to the Council vacancy as he has represented the citizens well in the past and would do so without taking sides and by working with everyone. He suggested Council President Buckshnis do the job of Council President by mending fences or bending her principles to properly end the process.

**Lori Haug, Edmonds**, referred to Item 13, voicing her opposition to the City selling the property because it will assist a development that should not happen. She recalled the Hearing Examiner approved 27 homes on the property in 2007. In addition to the ravine property owned by the City, there is another very steep slope to the south. The development would fill two ravines with concrete which is not beneficial to the watershed. The sale of the City’s property will increase the number of homes that can be developed. She displayed a 2005 site plan that included the open space required for a PRD and 26 homes. She displayed a subsequent site plan with 27 homes with the open space on the City’s property. The 1998 contract rezone includes aspects that are problematic for developers including the requirement for a limited building footprint.

**8. CONFIRMATION OF TOP CANDIDATE N. SCOTT JAMES AS FINANCE DIRECTOR**

Mayor Earling explained several months ago, candidates for a Finance Director were interviewed and two highly qualified individuals emerged from that process; the Council had an opportunity to interview both candidates. One candidate was selected; that person resigned effective January 31, 2014. Mayor Earling presented Scott James for appointment as Finance Director, explaining Mr. James lives in Edmonds and previously worked in Edmonds’ Finance Department; he most recently worked in Mukilteo as their Finance Director.

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE EMPLOYMENT AGREEMENT FOR N. SCOTT JAMES AND CONFIRM HIS APPOINTMENT AS FINANCE DIRECTOR.**

Council President Buckshnis explained she and former Councilmember Yamamoto participated in the original interview process where many supported the selection of Mr. James. She welcomed him to Edmonds.

**MOTION CARRIED UNANIMOUSLY.**

Mayor Earling recognized Mr. James' family in the audience. Mr. James thanked Mayor Earling and expressed his appreciation to the Council for their vote of confidence. He looked forward to returning to Edmonds where he worked for seven years before leaving nine years ago, spending seven of those years as Finance Director in Mukilteo. He looked forward to assisting in Edmonds' continued success.

**9. DISCUSSION AND POTENTIAL ACTION ON ORDINANCE CLARIFYING WIRELESS REGULATIONS IN ECDC 20.50 AND ECDC 17.40.020**

City Attorney Jeff Taraday spoke regarding Items 9 and 10, two code revisions related to wireless telecommunication facilities. Although it was anticipated these would be scheduled on the Consent Agenda, the response to a question when the Council last discussed this needed to be corrected. The question was in regard to Item 10 which creates amnesty for a particular wireless telecommunication facility that has existed for quite some time but the permitting documentation does not clearly indicate it was a legally constructed facility at the time it was installed. AT&T proposed having that facility treated as a legal nonconforming use from this point forward. The question was whether or not the code amendment could have the effect of allowing other telecommunication companies to locate antennas on the same building. The answer provided was no; however, Item 10 combined with Item 9 would have that effect. He summarized Item 9 and 10 together could possibly allow other wireless carriers to locate antennas on this building. No changes have been made to the ordinances since they were previously presented to the Council.

Mr. Taraday relayed a question from a Councilmember whether the ordinances were discretionary or did the Council have to adopt them. He responded Item 10 is discretionary, although not adopting Item 10 would make it difficult for the wireless facilities to be upgraded. Item 9 is less discretionary as it is intended to comply with federal law.

Councilmember Petso asked whether the change the Council intended to approve was to allow updating of the existing company's equipment on the two sites. Mr. Taraday responded Item 10 is an amnesty provision that states any wireless communications facility that was established prior to August 5, 1998 and does not conform to the current standards of Chapter 20.50 shall be treated as a legal nonconforming wireless communication facility regardless of whether the original establishment of that wireless communication facility complied with the applicable code that existed at the time of such establishment.

Councilmember Petso clarified the original use was nonconforming; the intent was to allow it to be updated as needed; making that change also allows new companies to locate on the same site. Mr. Taraday explained Item 10 does not refer to new companies, it only states anything prior to August 5, 1998 is a legal nonconforming use. However, applying that status of legal nonconforming in the context of the ordinance in Item 9, the net effect of the two together is a company could apply to co-locate and it likely will be allowed.

Councilmember Petso asked whether the new company would be required to comply with current standards or could they locate antennas in accordance with the previous code. Mr. Taraday referred to language in 20.50.020(c) that states, for existing sites only to the extent feasible additional antennas and equipment shall maintain the appearance intended by the original facility including but not limited to color, screening, landscaping, camouflage, concealment techniques, mounting configuration or architectural treatment. He clarified the net effect is it is not a free-for-all on the legal nonconforming

sites; there are still some limits but they do not necessarily comply with current standards. Acting Development Services Director Rob Chave explained the City's codes regarding wireless communication facilities are predicated on the idea that co-location is preferable to new sites/locations. The language Mr. Taraday referred to is the attempt to have some local control. The language allows co-location but requires the overall appearance to remain the same.

Councilmember Petso asked whether the ability to require screening/camouflage for a new carrier co-locating on the same site would be minimal if an existing site is minimally screened/camouflaged. Mr. Chave answered it would depend on the site. On one site, the antennas are spread across the roof; screening is difficult because what is preferable, the antennas or a wall?

Councilmember Petso commented one of the characteristics of a nonconforming use is it can be maintained/repared but not necessarily expanded. She asked why new companies would be allowed to expand a facility. Mr. Chave answered the City could make that decision; the difficulty is technology changes and federal rules. Over time antenna sizes have generally decreased; it is generally preferable to allow upgrades to the extent they improve the situation. He noted not allowing any change would eliminate the possibility of improving the situation. Councilmember Petso asked why allowing additional companies to co-locate was not considered an expansion of the nonconforming use. Mr. Taraday answered federal law states if co-location does not substantially change the physical dimensions of the tower or base station, it must be approved. There is some judgment call about what the language "does not substantially change the physical dimensions" means but federal law intends to make it easier for wireless communication facilities to upgrade their technology as new technology comes on line. Mr. Chave pointed out there are few sites that fit into that category.

Councilmember Petso asked whether the code section Mr. Taraday read applies to nonconforming facilities or only conforming facilities. Mr. Taraday answered the language applies to existing, potentially nonconforming facilities; there is no need for special treatment for conforming facilities.

Council President Buckshnis commented the visual pollution will improve over time as technology improves. Mr. Chave answered that has been recent history and there is no reason to believe that will change. Council President Buckshnis referred to the building across the street from the post office that has a number of antennas.

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ORDINANCE NO. 3961, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 20.50, WIRELESS COMMUNICATION FACILITIES, SECTION 21.05.005, ACCESSORY ANTENNA DEVICE, AND SECTION 17.40.020, NON-CONFORMING BUILDING AND/OR STRUCTURE, OF THE EDMONDS COMMUNITY DEVELOPMENT CODE. MOTION CARRIED UNANIMOUSLY.**

**10. DISCUSSION AND POTENTIAL ACTION ON ORDINANCE ADDRESSING THE LEGAL STATUS OF EXISTING WIRELESS COMMUNICATION FACILITIES THAT WERE BUILT PRIOR TO OR JUST AFTER ADOPTION OF EDMONDS' ORIGINAL WIRELESS REGULATIONS**

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE ORDINANCE NO. 3962, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 17.40 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO ADD SECTION 17.40.023, AMNESTY FOR CERTAIN LONG-EXISTING WIRELESS COMMUNICATION FACILITIES.**

Councilmember Bloom asked if the wording of the ordinance could be revised to not allow co-location of new facilities on a nonconforming facility. Mr. Taraday answered this ordinance is discretionary; the

Council is not required under federal law to approve it. However, a wireless telecommunication facility has existed at this location since approximately 1998. When the company maintaining that facility applies for permits to upgrade their facility it becomes problematic if it cannot be recognized as a legal facility. The incidental fallout from making this a legal nonconforming facility is it falls under the federal code provision that allows co-location at that facility. The Council cannot do anything about the federal law; the Council could theoretically not adopt this ordinance but that places the company and staff in a difficult position with regard to this facility that has existed since 1998 seemingly without public complaint. He summarized staff views this as the fix to a problem staff is confronted with when AT&T wants to upgrade their facility.

**MOTION CARRIED UNANIMOUSLY.**

**11. PUBLIC HEARING: PARKS, RECREATION, AND OPEN SPACE AND COMMUNITY CULTURAL PLANS**

Parks & Recreation Director Carrie Hite explained this is a continued public hearing from February 4, 2014 when she made a presentation regarding both plans. She explained the process began in June 2013 when the Council authorized a contract for the consultant MIG. The public process included Project Advisory Teams for the Parks, Recreation and Open Space (PROS) Plan and Community Cultural Plans. The first draft plan was published and presented to Council in early December. Comments were accepted for a 60 day period and the plan was published to the Department of Commerce. Changes made to the draft plan based on those comments were presented to the Planning Board at a public hearing in January and to the Council in early February. She requested the Council approve the PROS and the Community Cultural Plan tonight; they will be formally adopted with the Comprehensive Plan adoption later this year.

Since the February 4 presentation, further revisions have been made to the PROS Plan based on comments forwarded by Councilmembers:

- Typographical and editorial changes for consistency and clarity,
- Clarifying recommendation 2.C to include other public and private partners in acquisition and development collaborations,
- Added references to additional City sites and efforts
  - Profiles for Point Edwards overlooks and Meadowdale Natural Area
  - Year-round market, as elaborated on in the Strategic Action Plan
  - Removing “relocate” on Senior Center inventory page

Ms. Hite relayed special thanks to Councilmember Petso who thoroughly reviewed the plan and meet with her to provide comments.

Ms. Hite relayed changes made to the Community Cultural Plan based on comments received:

- Typographical changes and editorial clarifications,
- Updated Appendix A for consistency with the body of the document,
- Added an introduction to Appendix C
- Added Strategy 1.8: Encourage the City to review/develop zoning and permitting incentives that actively encourage developments that sustain the vision for a people-friendly, culture-oriented community, which includes public art and public space, and adds to a rich network of cultural resources

Councilmember Petso asked if the language in the Comprehensive Plan would allow the acquisition of property in the vicinity of the Skipper’s property or Salish Crossing for recreational purposes. She referred to past efforts to include a star on the map to indicate a recreational facility in that area was a

desirable use. Ms. Hite answered there are several broad references in Goals 2 and 3 that would allow that. Councilmember Petso asked whether there was language in the plan that would allow the City to pursue grants to purchase open space that became available for purchase. Ms. Hite answered yes, explaining a chapter was added to the PROS Plan regarding natural resources and habitat conservation that allows the City to aggressively pursue open space and habitat areas for conservation.

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

**Joanne Otness, Edmonds**, Arts Commissioner, acknowledged the hard work and spirit of cooperation in the development of the plans, particularly the Community Cultural Plan. The process exhibits a spirit of cooperation and communication between the community, staff and consultants. As a result of last year's Arts Summit, public hearings and public meetings, revisions and refinement of ideas the updated plan will serve the City well and continue to evolve. The plan is broad enough yet specific enough to allow the Arts Commission, other arts entities and the City to work with it. She thanked everyone involved for their hard work in developing the plan.

**Jan Elliott Glanister, Edmonds**, echoed Ms. Otness' comments. She expressed support for the PROS and Community Cultural Plans, commenting she was involved in the advisory team for the Community Cultural Plan. She was particularly supportive of the plan in regard to youth activities such as drop-in centers, concerts for or by youth and classroom space for visual arts and music classes. The plan suggests a number of venues in Edmonds for these activities; she reminded there are other possible venues in the over 30 churches in Edmonds that have auditoriums, sound systems, lobby areas, kitchens, parking, classrooms and a volunteer staff dedicated to youth.

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

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO APPROVE THE PARKS, RECREATION AND OPEN SPACE AND COMMUNITY CULTURAL PLANS.**

Councilmember Johnson inquired about prioritization or sequencing of projects in the PROS Plan. She suggested establishing timeframes or priorities to provide an expectation of when projects will occur. Ms. Hite answered the PROS Plan is a 6-year plan and is updated every 6 years although it can be amended as necessary. In response to the State Recreation and Conservation Office's (RCO) recommendation to identify 2-3 projects that will be worked on in the next 6 years, those are identified in the final draft plan. The annual CIP/CFP process is an opportunity to include projects based on funding or other opportunities.

Council President Buckshtnis commended everyone involved, noting the plan reads well, she liked the charts and it includes her priority, the marsh.

**MOTION CARRIED UNANIMOUSLY.**

Mayor Earling declared a brief recess.

**12. CITY PARK PROJECT UPDATE**

Parks & Recreation Director Carrie Hite explained this project, City Park Play and Spray Revitalization, will replace the play area and add a spray park. The process has been underway for the past 6-8 months with a consultant team from MacLeod Reckord. Council has authorized separate bids for the play park equipment and the spray park equipment. The process has reached 95% construction documents and is in

the permitting process. Information has been provided the geotech sub-consultant and the Department of Ecology (DOE).

With 95% design and the geotech report, the first issue encountered is related to the water table under the area where the spray park was to be located. She explained the spray park is designed as a water reuse system that allows capture of the water from the spray area for use for irrigation, toilet flushing and filling the water tank for the flower program. This is the first system in the State that attempts to reuse water in this many ways. Upon receipt of the water table and soil report and discussions with the permitting department, City engineers and the consulting team, it was determined the best alternative in moving forward would be to redesign the tank and the tank location. Instead of locating the tank directly under the spray park, the solution would be additional geotech work on the hillside under the ballfield and to locate the tank there. This would likely be out of the water table and less expensive to construct, but would require redesign and a pump to move water to the tank rather than a gravity fed tank. She anticipated this alternative would be workable but redesign and additional geotech work would be necessary to confirm that. The redesign, geotech work and going from 65% to 95% design would increase the \$1.35 million budget by \$322,419.

Ms. Hite relayed an additional issue, DOE determined reuse is too new in the State and they will only allow irrigation reuse with redesign of the filtration system. This would save \$52,000 in the budget and lead to additional water waste.

Ms. Hite relayed options for Council consideration, advising these were presented to the Parks, Planning & Public Works Committee who recommended presentation to full Council:

1. Approve additional expenditure
  - Additional expenditures may be required if further issues are discovered
2. Cease project
  - Funding Sources:
    - \$500,000 in CIP
    - \$500,000 granted from State RCO
    - \$270,000 granted from Hazel Miller Foundation
    - \$80,000 granted from Snohomish County
  - Would require refunding Hazel Miller Foundation and State grants
3. Go forward with replacement of play area. Research options for alternative locations for spray play area at City Park that would accommodate a water recirculating system

Ms. Hite relayed a question about locating the spray pad in another park, explaining there is no other park with restrooms, parking and the infrastructure to accommodate such an attraction. A comment received during the SEPA process was to consider the traffic and safety on 3<sup>rd</sup> Avenue which will be done.

Councilmember Fraley-Monillas asked the cost of only replacing the play area. Ms. Hite answered the play area is approximately \$200,000 which includes a community-build. Approximately \$110,000 has been spent in design. The spray pad with a recirculating system in a different location can be \$650,000 - \$800,000 and possibly more if additional geotech work and design are required. With the budget of \$1.35 million, less \$200,000 for play equipment and less the \$100,000 spent on design, approximately \$1 million remains for a spray pad with a recirculating system.

Councilmember Fraley-Monillas commented on the possibility that another area will not be feasible. She asked if locating an above ground tank elsewhere in the park will work. Ms. Hite answered she was not certain; that option will have to be explored. She advised \$200,000 for the play area and \$110,000 for design still leaves \$200,000 of the \$500,000 in the CIP to determine if that alternative is feasible.

Council President Buckshnis asked whether a smaller tank could be utilized since not all the water would be reused. Ms. Hite answered yes. Council President Buckshnis asked whether the State would eventually allow reuse for flushing toilets and for the flower program. Ms. Hite answered a recirculating system would eliminate that aspect of the project. She did not anticipate the State would allow reuse for flushing toilets and the flower program within the timeline for this project. If the State allowed it in the future, an add-on to the current project would require digging up the entire system.

Councilmember Peterson clarified the State will allow the water to be used for irrigation in the park but not to flush toilets. Ms. Hite answered that is her understanding. Councilmember Peterson commented the location of City Park near the marsh seemed ripe for issues related to the water table. He asked about early geotech work. Ms. Hite answered a preliminary geotech report thought it would be feasible to plant the tank without any dewatering or shoring in the construction process. When the consultant submitted 95% document for permits, the City's engineers and permit techs asked a lot of questions. The geotech sub-consultant described the construction model, stating it was possible an extensive process of dewatering and shoring would be necessary which could cost an additional \$200,000 - \$250,000. After questioning by City staff, the geotech took a more conservative approach.

For Councilmember Peterson, Ms. Hite advised the geotech is a sub-consultant hired by the consultant. Councilmember Peterson asked whether there was peer review. Ms. Hite said there was not.

Councilmember Johnson relayed her understanding the spray pad would be a very popular feature and asked whether a parking impact analysis had been done to determine whether there was sufficient parking. Ms. Hite answered the parking impact analysis was done with adoption of the Master Plan which included the spray park. Councilmember Johnson asked how many daily users were anticipated. Ms. Hite answered it depends on the weather; spray pads can attract upward of 300-500 kids and families throughout the day. She acknowledged a hot Sunday with the spray pad, a summer concert and a picnic shelter rental could create parking issues.

Council President Buckshnis referred to a letter she received from a resident regarding pedestrian safety that she forwarded to the Police Department. Ms. Hite advised that is the letter she referred to.

Council President Buckshnis asked whether the funds from the Hazel Miller Foundation could be used somewhere else if the replacement of the play area proceeded. Ms. Hite answered if the Council chooses to proceed with Option 3, she will need to contact the State RCO, Hazel Miller Foundation and Snohomish County. The \$80,000 from Snohomish County is for the play area.

It was the consensus of the Council to proceed with Option 3.

13. **DISCUSSION AND POTENTIAL ACTION ON POTENTIAL SALE OF SURPLUS CITY PROPERTY LOCATED NEAR THE INTERSECTION OF 184TH STREET SW AND 80TH AVENUE W (TAX PARCEL NUMBER 00370800101200)**

Councilmember Fraley-Monillas asked for clarification of a statement made during Audience Comments that the property is owned by a private party. She also inquired about the process for selling the property. Senior Planner Kernen Lien identified the City-owned property, the Angler's Crossing Plat/PRD and the Parks property on a map.

City Attorney Jeff Taraday noted several people during Audience Comments referred to this as a PRD; the PRD expired some time ago. A new development permit or PRD could be submitted with or without the inclusion of the City's property. The City Council's decision whether to sell the City property in no way prevents development of the remainder of the property. With regard to Councilmember Fraley-Monillas' question about the process for selling the property, Mr. Taraday explained it is common for

cities to conduct a public process to ensure it receives the highest price but there is no legal requirement to do that as long as the city ensures it receives fair market value. The best way to get fair market value is to put it up for auction or sale.

Mr. Lien identified the City's property, Perrinville, 80<sup>th</sup> Avenue West, 184<sup>th</sup>, and Angler's Crossing/PFD on the map. He explained the City's property has been associated with the Angler's Crossing Plat/PRD for several years since the contract rezone in 1996/1997. The Angler's Crossing Plat/PRD received preliminary approval in January 2007. Technically the preliminary plat is good until January 2017; however, the plat cannot proceed without the PRD which expired in 2012. A number of developers have approached the City regarding this property and some purchase and sale agreements have been signed over the years that have since expired. There are no current purchase and sale agreement for the property. This item was presented to the Council due to developers who have approached the City regarding the sale of the City's property.

Councilmember Petso observed the citizens who spoke under Audience Comments recommended holding a public hearing before making a decision to sell the property. She asked whether that was an appropriate action. Mr. Taraday answered the Council could hold a public hearing although there is no legal requirement to hold a public hearing before making a decision to surplus property.

Councilmember Peterson observed the PRD has expired. He inquired about the process for developing the property if the Council surplused the property and someone purchased that property and the Parks' parcels. Mr. Lien answered the plat is still good but the PRD has expired; technically someone could apply for the same PRD but would need to comply with current standards such as stormwater. The plat was approved with older stormwater regulations. Complying with current stormwater standards may change the plat somewhat. He summarized it was unlikely someone would attempt that due to the difficulties with applying for the same PRD.

Councilmember Peterson inquired about the procedure to begin the process again. Mr. Lien answered someone could apply for a plat and not a PRD. Preliminary plat approval is a Type III-B process before the Hearing Examiner. Adding a PRD to a plat requires neighborhood meetings up front, design review, and preliminary plat and PRD approval is before the Hearing Examiner. Final approval of a plat and PRD is a City Council decision. Councilmember Peterson summarized if a buyer moved forward with a PFD there would a public process with notice, traffic studies, etc. Mr. Lien answered a new process would include traffic impacts, geotech, stormwater reports, etc. utilizing the regulations that are in place at the time they apply.

Councilmember Fraley-Monillas suggested gathering community input regarding the sale of the property. She asked if a public hearing was held in the past on the sale of this property. Mr. Lien answered the City property has been associated with the Park property back to a street vacation on Olympic View Drive in 1996/1997 which included a public process. A contract rezone followed which included public hearings at the Planning Board and City Council. The plat/PRD approval also included a public process. Councilmember Fraley-Monillas asked the harm in having another public hearing on the sale of the City's property other than taking additional time. Mr. Lien answered there was no harm but here is a time factor. If someone purchases the property and considers applying for the exact same PRD, the preliminary plat approval is good until January 2017. The person would need to go through the PFD process and make it fit into the preliminary plat, and have the civil work completed and/or bonded for.

Council President Buckshtnis suggested holding a public hearing prior to selling the property because it has been a hot topic for a number of years. She recalled only a portion of two houses are on the City's property, therefore, if the City does not sell the property, only two houses will be affected. Mr. Lien displayed a map of the 27-lot Angler's Crossing preliminary plat/PRD and identified portions of houses

that would be located within the City's property. The density calculation for Angler's Crossing included the City's parcel; the City's parcel would be needed to achieve 27 lots. Council President Buckshnis asked if the City's property could be used as open space as part of a PRD. Mr. Lien answered a PRD allows some of the zoning standards to be altered and has open space requirements. PRDs are typically done on sites with steep slopes and create smaller lots which allow more intense development. The City's property could be included to achieve the density and the parcel set aside as open space. He noted that would be a major change to the plat/PRD and would require a new process.

Council President Buckshnis asked if a public hearing could be held on March 4. City Clerk Scott Passey advised the soonest would be March 18.

Councilmember Bloom inquired about notice for the public hearing, recalling a request that the people originally involved be noticed. Mr. Taraday answered because there is no legal requirement to have a public hearing regarding the sale of property, there are no notice requirements. Unless directed otherwise, staff would publish a general notice of the public hearing. Councilmember Bloom recalled when the Council discussed the extension of expired plats, some Councilmembers requested those involved in the expired plat be noticed that the plat would be extended. She asked whether the Council could request the people involved be notified. Mr. Lien advised the parties of record for the Angler's Crossing could be added to the notice in addition to the typical land use notice of property owners within 300 feet. Councilmember Bloom requested the public hearing include that notice.

Councilmember Petso agreed with Councilmember Bloom's request for a public hearing and noticing prior participants as well as property owners within 300 feet. She asked whether a public hearing and/or public process occurred prior to the purchase and sale agreement. Mr. Lien answered he was uncertain as it related to sale of the property; there was a public process with regard to the development.

Council President Buckshnis agreed to schedule a public hearing on March 18.

Councilmember Peterson requested the notice of the public hearing state sale of surplus City property to avoid confusion that it is a public hearing on the PRD. Mr. Taraday agreed, noting it was not a public hearing on a land use project, it would be a public hearing on whether or not the City should sell the property and not on any proposed use of the property except perhaps the City's use of the property and how the City could use it.

For Councilmember Bloom, Mr. Lien confirmed the notice would include parties of record and property owners within 300 feet. Mayor Earling observed the community members in the audience would also spread the word.

Council President Buckshnis inquired about the cost of noticing. Mr. Lien answered it was not a significant amount, a recently mailing to for the Westgate public hearing to property owners within 500 feet (approximately 300 properties) was approximately \$100.

#### **14. POTENTIAL ACTION ON APPOINTMENT TO FILL COUNCIL VACANCY POSITION #6**

Councilmember Bloom observed many people were anxious for the Council to make this decision tonight. She has gone through a lengthy process including an article in Edmonds Forum regarding why she supported Steve Bernheim for appointment to the City Council, how much time she spends doing research, etc. She felt this process had become very contentious and she preferred the decision not be made by the Snohomish County Council. She observed 3 Councilmembers support Steve Bernheim and 3 support 3-4 other candidates; a total of approximately 5 candidates. She preferred not to vote tonight as she anticipated the same result as the last meeting and because she wanted to continue talking with

candidates that other Councilmembers have voted for to determine if there was another candidate who would work well with the Council. She suggested the following options:

- Interview the candidates that have received 3 votes each either in person or via written questions
- Delay a decision for two weeks (Councilmember Peterson will be absent on March 4) to allow Councilmembers an opportunity to talk with other candidates

Council President Buckshnis apologized to the candidates who have been attending Council meetings for the past month awaiting the Council's decision. She has done a tremendous amount of work and has received comments and emails from many people. She proposed several candidates in an effort to reach a compromise. She pointed out Steven Schroeder's resume includes 30 years in the public sector as a federal prosecutor, numerous complex trials and cases, he has authored 4 books, has 10 years' experience in coaching fast-pitch softball, and he has received letters of commendation from former FBI directors, assistant secretary and state, the attorney general and the Vice President of the United States. She relayed Councilmembers Peterson and Johnson and her desire for a candidate with no prior positive or negative constituents. Since this process began she received 2 letters of commendation for Mr. Bernheim and 15-20 opposing him. She spoke in favor of a fresh perspective and expressed her willingness to train a new Councilmember, summarizing the goal is to move the process forward.

Councilmember Petso relayed she has also been asking candidates additional questions over the past 4-5 days. She supported delaying a decision for two weeks to allow Councilmember Bloom the opportunity to continue her research.

Councilmember Fraley-Monillas commented there has been a lot of talk about flexibility, willingness and compromise and she supported moving in that direction even if it meant eliminating the two strongest candidates to reach a decision. She has also met with candidates during the past week and was willing to postpone a decision to allow Councilmembers to speak with candidates.

Councilmember Peterson was encouraged by some of the comments and the willingness to consider other qualified candidates although he was frustrated it had not taken place sooner. He nominated a couple candidates he was prepared to advocate for and thought would be the best but remained willing to consider other candidates. He acknowledged the sense of frustration with how slow government moves. He invited candidates he had not talked with to contact him.

Councilmember Fraley-Monillas referred to the issue of placing blame and victimizing in the media and at the dais. She recalled 33 votes had been taken in the past in an effort to select a Councilmember without any complaint. She preferred to move forward in a positive manner.

Councilmember Johnson thanked the candidates who applied for the Council vacancy. She met with seven candidates and welcomed the opportunity to meet with the remainder if they chose. She is prepared to vet the candidates she feels are the most qualified including some she has not nominated.

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO EXTEND THE PROCESS TO A SPECIAL MEETING ON MARCH 11 PRIOR TO COMMITTEE MEETINGS.**

Councilmember Fraley-Monillas asked the deadline for the Council to make a decision before it is referred to the Snohomish County Council. City Clerk Scott Passey answered the deadline is March 31. Councilmember Fraley-Monillas asked how long the County Council has to make its decision. Mr. Passey answered the same as the City Council, 90 days.

Councilmember Peterson requested the media clearly state that the process would be extended to a special meeting on March 11 at 6:00 p.m. before committee meetings.

**MOTION CARRIED UNANIMOUSLY.**

**15. REPORT ON OUTSIDE BOARD AND COMMITTEE MEETINGS**

Councilmember Petso thanked the Historic Preservation Commission for the way they conducted themselves when debating a very difficult issue at a recent meeting.

Councilmember Fraley-Monillas reported she was elected Vice Chair of the Snohomish Health District. The Health District is embarking on a strategic planning process and she was proud to provide their consultant with Edmonds' Strategic Plan.

Councilmember Peterson reported a new Councilmembers from Lake Forest Park joined the Lake Ballinger Forum as well as Snohomish County Councilmember Terry Ryan although Snohomish County is not a voting member. The meeting included an update on federal funding sources and the possibility that the Water Resources Development Act may include funding this year. If so, Lake Ballinger Forum would like to send a delegation to Washington DC to meet with legislators who have been supportive of the multi-jurisdictional Lake Ballinger Forum speaking with a single voice. As the City has no travel budget, if a delegation goes to Washington DC, he offered to go if it could be coordinated with his trip to visit friends. The Forum is currently addressing downstream funding; although this does not have an immediate effect on Edmonds residents, those regional partners will be important when issues facing Edmonds residents such as water quality and flooding are addressed.

Councilmember Bloom reported the Tree Board asked to present their annual report on April 22. Mr. Taraday will be reviewing the Heritage Tree Program documentation which the Council will review on April 22. The Tree Board also discussed renewing the Tree City USA designation, grant opportunities and annual Tree Board planning. She reported Mr. Lien plans to work with the Tree Board to seek grants.

Councilmember Johnson reported the February 10 Port Commission meeting included an introduction of the Comprehensive Plan and Harbor Square Master Plan update. The Port does not anticipate any difficulties with City staff's review of the Jacobsen Marine building application.

Councilmember Bloom reported the February 24 Port Commission meeting included an update by the Jacobsen Marine representative, a report on marina operations and the 2013 annual report. She summarized the Port's bottom line looks good. Further discussion regarding the Port's strategic plan was postponed to a future meeting.

Councilmember Johnson reported she attended the February 19 Economic Development Commission (EDC) meeting as well as met with their leadership. She looked forward to working with the EDC and Councilmember Peterson.

Council President Buckshnis reported WRIA 8 sent a letter to legislators thanking them for funding the Puget Sound Acquisition and Restoration Program. She was selected to assist with grants this year. Snohomish County Tomorrow's upcoming meeting will include updates from the Puget Sound Regional Council and the Economic Alliance of Washington and discussion regarding affordable housing.

**16. MAYOR'S COMMENTS**

Mayor Earling reported on a meeting he attended with Congressman Rick Larsen along with the mayors of Mukilteo, Everett and Marysville about the additional production of crude oil in North Dakota and Texas and moving oil to refineries for processing. The meeting focused on the potential for increased rail traffic due to oil tankers. Most crude oil currently is moved through pipelines but that has reached a

saturation point and more crude oil is being hauled via train. It can be expected over time to have trains up to 100 cars long similar to some of the current freight trains. He noted conversations about coal trains and oil trains are not occurring together. He distributed a handout from Congressman Larsen.

Mayor Earling thanked Councilmembers who participated in the Snohomish County Cities meeting last week with Snohomish County Executive Lovick and 60 Mayors and Councilmembers from across the County.

**17. COUNCIL COMMENTS**

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AUTHORIZE THE CITY ATTORNEY TO PROCEED WITH A WARRANT OF ABATEMENT FOR THE PROPERTY AT 8707 236<sup>TH</sup> STREET SOUTHWEST. MOTION CARRIED UNANIMOUSLY.**

Council President Buckshnis reported the Council retreat is scheduled for March 14-15. She was discouraged a seventh Councilmember would not be appointed by the retreat; possibly another retreat can be scheduled in May. She invited Councilmembers to contact her with agenda ideas.

Councilmember Bloom thanked her fellow Councilmembers for agreeing to postpone the appointment process for two weeks. This is an extremely important decision and she looked forward to more time to work on it.

Councilmember Peterson thanked Mayor Earling for his report on crude oil trains. HB 2347 regarding safety concerns, cleanup, etc. will be moving to the Senate. He also thanked Mayor Earling for the State of the City address that is now available online.

Student Representative Thea Ocfemia invited the public to Edmonds-Woodway High School's production of "Life on the Bowery" with performances Thursday through Sunday, tickets are \$7.

**18. CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)**

This item was not needed.

**19. RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

This item was not needed.

**20. ADJOURN**

With no further business, the Council meeting was adjourned at 9:48 p.m.