

EDMONDS CITY COUNCIL APPROVED MINUTES

July 1, 2014

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

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Kristiana Johnson, Council President Pro Tem
Lora Petso, Councilmember
Joan Bloom, Councilmember
Adrienne Fraley-Monillas, Councilmember
Thomas Mesaros, Councilmember

ELECTED OFFICIALS ABSENT

Diane Buckshnis, Council President
Strom Peterson, Councilmember

STAFF PRESENT

Phil Williams, Public Works Director
Shane Hope, Development Services Director
Scott James, Finance Director
Brian Tuley, IT Manager
Mike Clugston, Planner
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Sandy Chase, Senior Executive Council Asst.
Gerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Council President Buckshnis and Councilmember Peterson.

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO EXCUSE COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBER PETERSON. MOTION CARRIED UNANIMOUSLY.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

3. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Bloom requested Item B be removed from the agenda.

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda item approved is as follows:

A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 24, 2014

ITEM B: APPROVAL OF CLAIM CHECKS #209244 THROUGH #209347 DATED JUNE 24 - 26, 2014 FOR \$518,661.97 (REPLACEMENT CHECK #209245 \$430.00). APPROVAL OF

**REPLACEMENT PAYROLL CHECK #61016 AND POLICE DEPARTMENT
RETROACTIVE CHECKS #61017 THROUGH #61064 FOR \$33,486.29**

Councilmember Bloom referred to Voucher 209284 to Foster Pepper regarding PFD finance matters, explaining she received the engagement letter but it does not say anything about the services Foster Pepper is providing. Finance Director Scott James explained in 2013 the previous Finance Director signed a letter of engagement with Foster Pepper; the intent was to provide services to the City regarding the bonds and the relation between the PFD and the City. The Inter-Local Agreement (ILA) between the City and the PFD is confusing and there was an effort to streamline and clarify it. However, in the initial attempt, several other issues were addressed and it became even more complex. The next effort, which began when he was hired, was to address only the financing piece of the ILA. He asked if Councilmember Bloom's concern was whether there had been authorization for this work.

Councilmember Bloom recalled the former Finance Director requesting \$5,000 to pay Foster Pepper to renew something related to the ILA. She also recalled a lengthy email exchange and a lot of questions but it never came to Council for approval which prompted her concern with approving it on the Consent Agenda.

Councilmember Petso suggested this be discussed at next week's Finance Committee meeting which would provide a week to research the history, determine when the work was authorized, if there was a not to exceed amount, etc. She was also comfortable with approving the expenditure tonight and discussing it at the Finance Committee.

Councilmember Bloom said she will vote against approval until she knew what the City was paying for.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM JOHNSON, TO APPROVE ITEM B. MOTION CARRIED (4-1), COUNCILMEMBER BLOOM VOTING NO.

4. AUDIENCE COMMENTS

Richard Marin, Edmonds, commented when he served on the City Council, he developed a profound respect for City staff and his recent experience reinforced that. His church, the Church of Jesus Christ of Latter Day Saints, took up President Obama's charge to be involved in days of service. Last year he was appointed chair of that committee and began to look for worthwhile projects. Working with Maintenance Manager Rich Lindsay, they arranged a project at City Park where they painted and prepared railings. Mr. Lindsay told him about the possible community build of new playground equipment. About 6 weeks ago Recreation Manager Renee McRae contacted him with the dates of the playground build and he arranged 85 volunteers in 4 shifts over 2 days. Although it was hot and the work was hard, the volunteers had a great time and were thrilled to be part of the project. Midday Saturday when the volunteers stopped for lunch, he discovered Parks & Recreation Director still working and together they assembled a railing. He summarized Ms. Hite did not have to be there, yet her fingerprints are all over project from finding the money to building it. That demonstrates the quality of people working for the City. On behalf of the Council, Mayor Earling thanked Mr. Marin for assembling an 85-member work crew. The amount of work done on the playground over three days was amazing.

5. EDMONDS CEMETERY TOUR: "A WALK BACK IN TIME"

Dale Hoggins, Edmonds Cemetery Board Member, introduced Melissa Johnson, Edmonds Cemetery Board Chair. On behalf of the Cemetery Board, he invited the public to the 24th annual open house, "A Walk Back in Time" on Thursday, July 17, 2014 at 1:00 p.m. Cemetery Board Member and friends, dressed in period mourning costumes, will conduct a guided tour highlighting remarkable women buried

in the historic cemetery established in 1891 by the International Order of Odd Fellows. Every tombstone, grave niche or marker has a story to tell of hardship, courage, accomplishment, romance perseverance, tragedy, kidnapping, standoff and bears. He encouraged the public to bring stories about remarkable women buried in the Edmonds Memorial Cemetery and call him with the information at 425-776-1453.

The Edmonds Cemetery Board is seeking two board members and two alternates. Anyone with an interest in history, appreciation of the cemetery's appearance, computer skills, experience in marketing, or interested in helping plan and carry out the annual Memorial Day program, Walk Back in Time or annual Veterans Day tour are invited to apply. Although the Edmonds Memorial Cemetery is a historic cemetery, it is active with sites available. For more information contact the Cemetery Sexton Cliff Edwards or visit the City's website. He referred to a self-guided tour brochure.

6. APPROVAL OF SHORESHIRE FINAL PLAT AT 24223-24227 76TH AVE W PROPOSED BY ARDSLEY HOMES (FILE # PLN20080046)

Planner Jack Clugston explained Ardsley Homes has been working on this plat on Lake Ballinger for six years and are seeking final plat approval. He explained:

- All conditions of preliminary plat approvals have been met
- Performance bond in place, maintenance bond will be retained
- Directors of Public Works and Development Services have signed the final plat
- Parks, Planning & Public Works Committee received briefings on plat road and sewer easement on April 8, 2014

He described the final plat approval process:

- Council approval of final plats (ECDC 20.75.155.D)
- If the City Council finds that the public use and interest will be served by the proposed subdivision and that all requirements of the preliminary approval in this chapter have been met, the final plat shall be approved and the mayor and city clerk shall sign the statement of the city council approval on the final plat
- City council approval of the final plat constitutes acceptance of all dedication shown on the final plat

The final plat documents are contained in the agenda memo as Exhibit 2 and the resolution for final plat approval is Exhibit 1.

Councilmember Petso referred to the Hearing Examiner condition 81 (page 109 of the packet) that requires the civil improvements be completed. She relayed her understanding that not all the civil improvements have been completed and questioned Mr. Clugston's indication that conditions had been met. She understood if it was the City's requirement, the code allowed a performance bond but this was a Hearing Examiner requirement. Mr. Clugston responded civil improvements commonly are not installed in plats and short plans before final plat approval is granted and a performance bond is typically provided for those elements. He was not certain what improvements had not been completed but there was a bond in the amount of approximately \$421,000. For example the top coat of the road, landscaping, etc. would not be not completed until the houses are built. He was not certain why the Hearing Examiner condition was worded in that manner but clearly the code allows for a performance bonds when plat improvements are not finished at the time of final plat approval. He read from Code section 20.75.130(b), Installation of Improvements, the applicant shall either complete the improvements before the final plat is submitted for city council approval or the applicant shall post a bond or other suitable surety guarantee of completion of the improvements within one year of the approval of the final plat.

Councilmember Petso referred to condition 9 of the Hearing Examiners decision, also on page 109, which states prior to final plat approval a homeowners association shall be formed for the perpetual maintenance of stormwater facilities and the native growth protection area. The association formation documents shall indicate by what mechanism necessary costs of such maintenance will be accumulated. She asked whether the homeowners association (HOA) has been formed and whether provisions have been made to set aside money to maintain draining and the native growth protection area (NGPA). Mr. Clugston answered on June 12, 2014 the applicant provided an updated version of the CC&Rs. The CC&Rs have not been filed yet but will be with approval of the plat. He referred to page 3 of the updated CC&Rs where maintenance, common expenses and collection assessments are listed and described. Councilmember Petso asked whether the CC&Rs specifically address the stormwater facilities and the NGPA. Mr. Clugston answered it does.

Councilmember Petso relayed Hearing Examiner condition 5 states the NGPA is to be identified on the face of the plat. It is identified on page 6 and she wanted to ensure that constituted the face of the plat. Mr. Clugston answered the final plat document is those six pages, not just the first page. The NGPA is identified on pages 4 and 6 and on note 2 on page 2. Mr. Taraday generally agreed the face of the plat is not necessarily the top sheet of the plat papers.

Councilmember Bloom asked what is different now compared to when final plat approval was scheduled on the April 22, 2014 agenda and pulled from agenda. Mr. Clugston recall two things, 1) the issue of showing the NGPA over the entire wetland and wetland buffer on the face of the plat, and 2) the four minor changes to the original plat approved in 2008. In the original preliminary plat approval the Hearing Examiner identified lake and lot access for Lots 5 and 6 in a certain configuration. Minor modification 2 changed that access to access easements to provide better access for the City to service an existing manhole. There is a code requirement that requires lake and lot access for RSW-12 lots like the three that front Lake Ballinger in this plat to have their access approved by the Hearing Examiner. Minor modification 4 changed the lot access for Lots 5 and 6 back to what was approved by the Hearing Examiner.

Councilmember Bloom asked whether all the minor changes were taken back to the Hearing Examiner. Mr. Clugston answered ECDC requires access to parcels zoned RSW-12 to have their access approved by the Hearing Examiner. That was done in 2008; minor modification 2 in 2013 changed the access for Lots 5 and 6 from direct access to an access easement. When staff realized the ECDC required access be approved by the Hearing Examiner, the access was changed back to what was approved by the Hearing Examiner in 2008.

Councilmember Bloom asked what constitutes a minor change and why wasn't the preliminary plat taken back to the Hearing Examiner for a second review when there were four changes. Mr. Clugston read from ECDC 75.110.A changes to preliminary plats, the Community Development Director may approve as a Type II decision, staff decision notice required, minor changes to approved preliminary plat or its conditions of approval. If the proposal involved additional lots, rearrangement of lots or roads or additional impacts to surrounding property or other major changes, the proposal shall be reviewed in the same manner as the original application.

Mr. Clugston explained on October 15, 2008, the Hearing Examiner approved the 8 lot Hill-Lake Ballinger preliminary plat and shoreline substantial development permit (PLN20080046 & PLN20080047). He displayed a site map and identified the lots lines. The plat was not developed for over four years. When it was acquired by Ardsely Homes, four minor changes were made. He described the four minor changes and identified the changes on a map:

- Minor Change #1

- December 12, 2012 - minor change to the preliminary plat per ECDC 20.75.110A (Changes to Preliminary Plats)
- Remove one lot, small shift to location of utilities, road, renamed “Shoreshire”
- Type II decision with notice provided – no comments received on the change
- Minor Change #2
 - July 30, 2013
 - Shifted road and lake access for Lots 5 and 6 to facilitate maintenance of an existing sewer manhole
 - Type II decision – no comments received
- Minor Change #3
 - February 6, 2014
 - Correct locations of external lots lines that had been shown incorrectly on previous preliminary plat surveys
 - Type II decision – no comments received
- Minor Change #4
 - June 5, 2014
 - Road and lake access for lots 5 and 6 shifted back to that originally approved by Hearing Examiner in accordance with ECDC 16.20.010(Sub 4)
 - Type II decision, no comments received

Councilmember Bloom asked about the wetland. Mr. Clugston answered there is a Category 4 wetland and associated 35-foot buffer. The line through the wetland is the lot line between Lots 6 and 7. Councilmember Bloom asked whether the property owners owned the wetland. Mr. Clugston answered three lots own the wetland; the uses are described in the HOA agreement.

Councilmember Bloom relayed the agenda memo states Mr. Williams has not yet signed the face of plat. Mr. Clugston said he has now signed it.

Councilmember Bloom recalled when she first reviewed this, the initial application materials indicated no trees would be retained; planning staff strongly encouraged retention of mature trees especially along the south of proposed Lot 6. The applicant submitted a plan showing the location of seven mature trees that would be retained. When she visited the property, she found there are no trees on it. She asked who authorized removing the trees when the plan indicated seven mature trees would be retained. Mr. Clugston agreed the goal in the preliminary plan was to retain trees to the extent practical as is stated in the code. When civil improvement plans were presented, it was clear the trees could not be retained and removal of the trees was approved at that time. Councilmember Bloom asked why the trees could not be retained. Mr. Clugston did not recall the specifics.

COUNCILMEMBER, MESAROS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE RESOLUTION 1323, A RESOLUTION OF THE CITY OF EDMONDS, WASHINGTON, APPROVING THE SEVEN LOT SHORESHIRE FINAL PLAT.

Councilmember Petso relayed she would vote against approval of the final plat for the following reasons: 1) the civil improvements are not completed per the Hearing Examiner’s order, and 2) she has not seen the CC&Rs which is also one of the Hearing Examiner’s conditions. Her concerns related to policy in the future include that the changes to the plat in her opinion do not qualify as minor modifications. The code section states rearranging roads or lots is not a minor modification. The staff report states the change involves shifting the road and lake access back to that which had originally been approved. In her view there had been a modification to roads and lots as well as removal of a lot. She suggested the code rewrite provide more specifics about what constituted a minor modification and what needed to go back to the Hearing Examiner.

Councilmember Petso was also concerned about geometrically creative lots, noting Lot 5 has two large rectangles connected by a 10 x 100 piece of property. Mr. Clugston identified Lot 5, explaining the code requires lots zoned RSW-12 have lake access. For Lot 5, that is provided by a 5 foot strip. Councilmember Petso said two rectangles connected by “a string” is too geometrically creative and she preferred that be written out of the code during the code rewrite particularly in shoreline areas. There could have had two ordinarily shaped lots on the waterfront and not the additional lot created with two rectangles connected by a string of land. She summarized her concerns tonight were, 1) the civil improvements have not been completed, 2) she has not seen the CC&Rs, and 3) the changes may not have been minor modifications.

Councilmember Bloom said she will vote against final plat approval for the same reasons. She was also concerned about the loss of trees and would like to know how it was determined that healthy trees could not be saved when staff encouraged the developer to retain them and it was in the plan that they would be retained. She commented a lot of trees are being lost in Edmonds.

Councilmember Fraley-Monillas asked if there was any requirement to replant trees. Mr. Clugston answered there is no requirement to replace any vegetation, but the developer plans to plant native shrubs, grass and other landscaping north of the plat road. Councilmember Fraley-Monillas observed the trees were in the middle of the lots and some on south edge. She asked if a developer would be required to build around a tree that the City required be retained. Mr. Clugston acknowledged that is the difficulty. The zoning code requires lots of a certain size and often certain shape. Setbacks further reduce the area where building can occur. Trees often have to be removed on RS-8000 lots.

Councilmember Fraley-Monillas asked about the strip of land on the south side. Mr. Clugston answered that strip is part of Lot 5. The Hearing Examiner approved the lots in this configuration. In minor modification 2, Lot 5’s access to the lake was between Lots 6 and 7. Due to the code requirement, that was changed in minor modification 4 back to what the Hearing Examiner approved.

Council President Pro Tem Johnson asked why there is lake access for Lot 5 but not Lots 1-4. Mr. Clugston answered the lots on the eastern half of the plat are zoned RSW-12, the lots on the west are zoned RS-8. The code requires lots zoned RSW-12 have lake access, the lots zoned RS-8 are not required to have lake access.

MOTION CARRIED (3-2), COUNCILMEMBERS PETSO AND BLOOM VOTING NO.

7. PRESENTATION FOR IT EQUIPMENT

Mayor Earling explained he met 2-3 times last week with Mr. Tuley and Mr. James; they have done an enormous amount of work and have produced a product of value. He was hopeful the Council would approve moving forward.

IT Manager Brian Tuley provided a project update:

- Telephony
 - Have quotes to bring the existing system to a supportable platform
- Stabilize the existing infrastructure
 - Identify preliminary bottleneck (SAN)
 - Installed temporary loaner SAN
- Design, build, replace and support servers, storage and network
 - Vendor designed infrastructure
 - Vendor to build and implement
 - Vendor to provide long term support

Mr. Tuley explained yesterday morning the telephone system at the police department went down. With regard to telephony, Mr. Tuley described:

- Strategic plan, migrate to VoIP (Voice over Internet Protocol)
 - Requires resilient network including all switches and cabling
 - Immediate need stabilize and support
- 3 quotes
 - Pricing reuses existing phones and licenses
 - Time to live: 3 weeks from launch
 - Vendor C: \$25,262
 - Vendor F: \$25,809
 - Vendor T: \$25,922

Mr. Tuley provided an update regarding the server/storage/network

- Design/build vendor identified
- Equipment build list completed
- Timeline – 4-6 weeks

Mr. Tuley reviewed a diagram of the backup strategy, a local SAN and an offsite SAN that communicate on fixed intervals as well as daily backups via an online storage device to a City Hall backup as well as daily backup to tape that is stored in an offsite tape vault (long term archive). He described the rationale for tape versus USB, concluding tape is faster and can store more. The City’s currently has approximately 7 Tb of data; a 8-tape unit can store up to 24 Tb of storage; 112 flash drives would be necessary to store 7 Tb. USB external drives can store up to 4 Tb.

Mr. Tuley reviewed the budget request:

Computing Infrastructure	Cost
Server cost	\$ 32,712
Storage cost	69,697
Network costs	55,545
Software	14,781
Maintenance	29,675
Vendor design/install/train	53,855
Contingency	<u>10,000</u>
Subtotal	\$266,264
Telephony	\$ 25,000
Project Subtotal	\$291,264
Tax	<u>27,670</u>
Project Total	\$318,934
Existing budget reallocation available	\$190,000
Capital Requests	\$128,934

Mr. Tuley described the strategic plan:

- Ensures data and service ability
- Defines direction and focus
- Moves IT from break/fix mode to proactive mode
- Components include equipment replacement policy and replacement schedule

He described the replacement policy/schedule:

- Replacement policy defines useful life of equipment based on type and function
- Replacement schedule lists all technology assets including date acquired and cost
- Based on replacement policy, the replacement schedule provides future budget estimates

He recommended the Council authorize proceeding with the replacement plan. A budget amendment will be presented to Council next week.

Mayor Earling referred to the police department's loss of phone service this weekend and periodic interruption of the City's email system, emphasizing these problems need to be addressed. He commended staff for developing this project.

Council President Pro Tem Johnson commented staff demonstrated the City is in a break/fix mode and what is needed is a long term strategy. In the meantime she wanted the Council to authorize staff to move forward with a plan to fix the immediate problems with the telephone, backup and storage system. The budget amendment can be reviewed by the Finance Committee at the July 8 meeting with possible approval of the budget amendment at the July 15 Council meeting.

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO MOVE FORWARD WITH A PLAN TO FIX THE IMMEDIATE PROBLEMS WITH THE TELEPHONE, BACKUP AND STORAGE SYSTEM.

Councilmember Bloom referred to the second part of the initiative, to design a replacement environment to provide a robust secure solution to existing and future technology needs. She asked whether that would include a more user friendly website. Mr. Tuley answered that is not part of this plan. This plan is to ensure the server that runs the website stays up and running, is secure against break-ins and is isolated in case something happens. The look, feel and design of the City's website would be a different initiative. Councilmember Bloom asked whether this plan would free staff up to facilitate communication with the public via the website. Mr. Tuley agreed there will be more time and there are things that can be added to the website. The City does not have a full time web developer; each department maintains their own content.

Councilmember Petso clarified the motion is to give the go ahead to acquiring the initial necessary equipment with the understanding a budget amendment will be processed by Council approving it. She asked for more information about the replacement policy and replacement fund and suggested considering that in the budget process. Council President Pro Tem Johnson agreed that was the intent of the motion.

Councilmember Mesaros suggested including a replacement schedule in the strategic plan so the necessary capital can be set aside. Mr. Tuley agreed that would be part of the plan.

MOTION CARRIED UNANIMOUSLY.

8. REVIEW OF COMPREHENSIVE PLAN UPDATE PROCESS

Development Services Director Shane Hope provided background on the Comprehensive Plan:

- Provides long term community planning and public process
- Required under Growth Management Act (GMA)
- Must be internally consistent
- Cannot be amended more than once/year (with certain exceptions)
- Must be implemented by local government through budget and other activities

- Existing Comprehensive Plan last amended in 2013
- Reviewed in 2014 for consistency with current state laws
 - Found to be mostly in compliance, with need for some updating

She reviewed existing Comprehensive Plan elements (2013):

- Community Culture and Urban Design
- Utilities
- Community Sustainability
- Land Use
- Housing
- Transportation (2009 Plan)
- Parks Recreation and Open Space Plan (2008)

She reviewed the 2014 Comprehensive Plan update:

- No formal applications received by deadline
- Planning Board recommended one amendment for text change related to Westgate
- In February 2014 City Council held public hearing and approved new PROS Plan and Community Cultural Plan
 - New PROS Plan and Community Cultural Plan have not yet been adopted into Comprehensive Plan
 - Adoption can occur as part of 2014 update
 - New plans would then replace similar PROS and Community Cultural Plans/elements in the existing Comprehensive Plan
- 2014 updated to be processed later this summer

Ms. Hope described the 2015 major review and update:

- Every few years cities and counties must do major review of Comprehensive Plan and development regulations and update as necessary
- Next major review and update due June 30, 2015
- Development Services staff recently completed extensive checklist under GMA

Ms. Hope identified 2015 update issues:

- Comprehensive Plan:
 - Census data out of date (largely based on 2000 data)
 - New jobs and population forecasts to be incorporated (Snohomish County Tomorrow process) extending from year 2025 to 2035
 - Transportation Plan needs major updating (process just getting started)
 - All other elements need updating (except any updated in 2014) to reflect newer data
 - Possible exception: Sustainability element
 - Consideration to add performance measures and action steps (optional)
- Development Regulations
 - Critical Area regulations update (budgeted)

She described options the Planning Board considered for the 2015 Comprehensive Plan update:

1. Minimal update with existing resources
 - Assumes no additional staff or consultant resources
 - Address only basic required updates
 - Likely take 6-12 months past state deadline
2. Basic update with some additional resources
 - Assumes temporary hire of part-time planner to assist with update

- Address basic required update plus some general clean up
- Likely be accomplished by state deadline.

At their June 25, 2014 meeting, the Planning Board recommended Option 2. A 2014 second quarter budget amendment is being prepared for Council consideration to fund a part-time planner to assist with the 2015 Comprehensive Plan update. She reviewed a Comprehensive Plan update schedule assuming Option 2, recognizing is a very aggressive schedule to complete in less than a year and envisions reviewing and updating 1-2 elements each month. She summarized the schedule:

- 2014 update for public process and decision within next 2 months
- 2015 update for public process and decision by July 2015 (assuming option 2)

Councilmember Mesaros thanked Ms. Hope for the background on the Comprehensive Plan, noting it was particularly helpful for him as a new Councilmember. He recalled Councilmember Bloom's question last week about consistency between the Transportation Plan and the Transportation Improvement Plan (TIP) and asked whether Ms. Hope noticed any major conflicts or inconsistencies. Ms. Hope answered the 2009 Transportation Plan, an element of the Comprehensive Plan, has a lot of good things and is implemented via the TIP. Transportation planning by Sound Transit, Community Transit, and Washington State Department of Transportation that affects Edmonds has continued since 2009. In addition more has been learned about walkability and biking opportunities and the desire for more since 2009. The next TIP will need to be consistent with the updated Transportation element.

Councilmember Petso relayed her understanding that 2014 is a basic clean up and minor amendments as well as a text change regarding Westgate. She asked whether the text change is the proposal to convert Westgate from a vehicle based commercial district to multi-family residential or mixed use residential. Ms. Hope advised the proposed changes will be presented to the Council later this month; there is a code amendment and minor text changes to the Comprehensive Plan to allow for mixed use in the Westgate area. Councilmember Petso asked whether the text change would allow for pure residential such as townhomes. Ms. Hope was not certain of the specifics.

Councilmember Petso asked what Sound Transit's plans are and how they will affect Edmonds. Ms. Hope answered for example in 2009 the location of the light rail stations were unknown and Community Transit's BRT is more firmed up. Councilmember Petso relayed Sound Transit is considering a train from Shoreline Community College to Edmonds. Ms. Hope explained some things are further along than others, for example the Sound Transit station at 236th and I-5 and the station in Lynnwood. In Sound Transit's latest supplemental EIS, based on public comment, they are looking at high capacity transit (HCT) somewhere in that vicinity. That would not be addressed in Edmonds' Comprehensive Plan until much more was known. HCT does not necessarily mean rail; it could be more like BRT. Councilmember Petso asked how the City can respond to the EIS if the location is unknown. Ms. Hope said staff is trying to get more information.

Councilmember Bloom explained the City had a transportation committee when the Transportation Plan was last updated. She asked whether it would be a good thing to form a transportation committee again to work with the consultant and staff. Ms. Hope said she wanted to talk further with Mr. Williams about that.

Council President Pro Tem Johnson referred to the comment that the 2015 update will not include updating the Sustainability element. Ms. Hope clarified the elements will be updated with the possible exception of the Sustainability element because there is no data in the Sustainability element. The Sustainability element consists of a number of things that should be done and a lot of goals and general policies. From a broad planning perspective, there is nothing wrong with a Sustainability element, what is

missing is a way to implement it. She hoped the 2015 update would include performance measures and possibly action steps.

Council President Pro Tem Johnson observed there are also some optional elements in the Comprehensive Plan that are unique to Edmonds such as the Street Tree Plan. She asked whether all the optional elements would be updated in 2015. Ms. Hope anticipated looking at some of them to see if they are necessary and if they are not necessary or up-to-date enough, dropping them or making them an appendix.

Council President Pro Tem Johnson commented this was a good overview of the process. It will take more discussion to thoroughly understand the options she presented. As Council President Buckshnis and Councilmember Peterson were not here tonight, she suggested continuing this discussion to the July 22 work session.

Councilmember Fraley-Monillas asked what Ms. Hope wanted from the Council tonight. She viewed this as an overview of the tentative schedule and outline of what will be presented to the Council in the future. Ms. Hope asked whether this is a generally acceptable way to proceed; staff will provide further details in the future. Councilmember Fraley-Monillas answered it was reasonable to accept this as a tentative schedule. Mayor Earling suggested he will work with staff regarding the update.

9. OPEN PUBLIC MEETINGS ACT TRAINING

City Attorney Jeff Taraday advised this is part two of the Open Public Meetings Act (OPMA) training provided to the Council approximately a month ago. To the question of what if action taken at a closed meeting, Mr. Taraday provided the following from RCW 42.30.060, “Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.” Councilmember Fraley-Monillas asked for an example. Mr. Taraday provided an example, four Councilmembers meet at Starbucks and adopt an ordinance; that ordinance would be null and void. He summarized the Council cannot take action at a meeting that is in violation of the OPMA.

Councilmember Mesaros relayed his understanding of Mr. Taraday’s explanation that it did not matter if four Councilmembers were together. Mr. Taraday answered it matters for reasons he will explain later; there are penalties associated with violating the OPMA. Although legally the Council could not change the law by adopting an ordinance at a meeting that was in violation of the OPMA, they were violating law in purporting to have a closed meeting.

With regard to voting, Mr. Taraday provided the following from RCW 42.30.060, “No governing body of a public agency at any meeting required to be open to the public shall vote by secret ballot.” He explained this is the reason the ballots are read when Councilmembers nominate candidates to fill a vacancy on the City Council.

With regard to location, Mr. Taraday provided the following from RCW 42.30.070, “...meetings of the governing body need not be held within the boundaries of the territory over which the public agency exercises jurisdiction.”

With regard to special meeting notice, Mr. Taraday provided the following from RCW 42.30.080, “shall specify the time and place of the special meeting and the business to be transacted. Final disposition shall not be taken on any other matter at such meetings by the governing body.” He explained anytime the Council deviated from the meeting time specified in the code, special meeting notice needed to be provided. Special meetings provide some flexibility to deal with emergencies, but unlike a regular meeting where items can be added to the agenda, 24 hour notice must be provided for anything on a special meeting agenda.

With regard to whether final disposition equals final action, he provided the following from RCW 42.30.080, "Final action" means a collective positive or negative decision or an actual vote by a majority often members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance."

With regard to executive sessions, RCW 42.30.110(1) states nothing contained in this chapter may be construed to prevent governing body from holding an executive session during a regular or special meeting. He provided the following reasons for holding an executive session:

- (b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price.
- (f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge.
- (g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee.
- (h) To evaluate the qualifications of a candidate for appointment to elective office. However any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public.
- (i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

He explained according to 42.30.110(1)(i), potential litigation means:

- (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become a party.
- (ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body or a member acting in an official capacity.
- (iii) Litigation or legal risks of a proposed action or a current practice that the agency has identified when public discussion of the litigation or legal risks is likely to lead to an adverse legal or financial consequence to the agency.

He referenced RCW 42.30.110(2), explaining the executive session process, before convening in executive session the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.

He provided other exceptions to the OPMA in RCW 42.30.140, "...this chapter shall not apply to:

- (2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group or
- (4)(b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

He provided the following from RCW 42.30.110 with regard to violations:

- (1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him or her, with

knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars.

He described other possible consequences of a violation:

- Action rendered null and void
- Attorney's fees paid by City
- Injunction
- Recall (not specified in statute)

10. MAYOR'S COMMENTS

Mayor Earling reminded of the 4th of July celebration on Friday, beginning with a 5k run/walk at 10:00 a.m. followed by a series of events including the children's parade, the parade and fireworks in the evening. He urged the public to be safe.

11. COUNCIL COMMENTS

Councilmember Mesaros reported on his tour of SNOCOM's facilities and encouraged other Councilmembers to take the tour. He met many of the wonderful people who work at SNOCOM 24/7 and Executive Director Debbie Grady invited him to sit in for a day to listen to 911 calls. He reported SNOCOM's facility in Mountlake Terrace has a backup area for SNOPAC in the event their facility goes down and SNOPAC has a similar area for SNOCOM at their facility. Plans are underway to provide backup for NORCOM. He reported using 911 to report a traffic accident while in north Georgia this morning.

Councilmember Mesaros reported on efforts to develop a process for evaluating the Lighthouse Group. He anticipated introducing the evaluation process to the Council at the July 22 meeting but not voting that evening.

Councilmember Mesaros reported Edmonds participated last Saturday in the inaugural Mukilteo-Edmonds golf tournament. A team comprised of current and retired Edmonds police officers won the tournament. He played in Scott James' foursome along with Mr. James' wife and daughter, who came in third. The Mukilteo team took second place.

Councilmember Fraley-Monillas reminded fireworks are illegal in Edmonds. She encouraged citizens to enjoy the fireworks display at Civic Field and or in Lynnwood. She thanked the firefighters and police officers who work on July 4th protecting the public and wished everyone a nice 4th of July.

Councilmember Petso announced she selected Finis Tupper to fill a vacancy on the Economic Development Commission. She thanked everyone who applied for the position, noting several reached out to her to discuss economic development issues.

Councilmember Petso notified Council of her intent to request a revote in two weeks on the motions made last week regarding Sunset Avenue and the TIP. During the discussion of the TIP, Councilmembers were encouraged to allow to staff continue seek a solution to the Sunset Avenue walkway issues. Last week staff described a trial project using paint to mark a configuration on Sunset. When discussing this with Mr. Williams after the meeting, she realized the trial carried the same public safety risks as the original proposal in that the plan was still to allow bikes on the west side walkway at the top of bluff. That was too much of a safety risk for her to endorse and she would like the opportunity to change her vote. She did not want to feel responsible if a dog walker with an extendable leash caused a bike to topple over onto tracks.

Essentially she will support Councilmember Bloom's motion to amend the TIP to only do the south portion of that project. If that motion fails, she will vote against the TIP as well.

Councilmember Bloom reported she met with some Edmonds residents who are very interested in getting a Code of Ethics in place in Edmonds. She worked on that while on the Public Safety & Personnel (PSP) but was unsuccessful in getting it adopted. She distributed Shoreline's Code of Ethics which is one page and very concise. She feels this is an important issue for the City and requested Council President Pro Tem Johnson schedule it on the PSP Committee agenda. She anticipated it could be accomplished within a few months.

Councilmember Bloom reminded the Edmonds in Bloom deadline is July 3. She is entering for the second time and encouraged anyone with a garden to enter the competition.

Councilmember Bloom reminded of the Salish Crossing midweek market on Wednesday from 3:00 – 7:00 p.m. SeaJazz performs at the Port on Wednesday from 5:00 – 7:00 p.m. and Sunday from 1:00 – 3:00 p.m.

Council President Pro Tem Johnson said she was reminded tonight what a wonderful community Edmonds is. She thanked Richard Marin and the 85 volunteers who helped with the community build at City Park. She also thanked Dale Hoggins and Melissa Johnson for their work on the Cemetery Board's Walk Back in Time on July 17 at 1:00 p.m. She wished everyone a safe and happy 4th of July.

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

At 8:57 p.m., Mayor Earling announced that the City Council would meet in executive session regarding pending or potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 10 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Councilmembers Johnson, Fraley-Monillas, Petso, and Bloom. Councilmember Mesaros recused himself from the executive session. Others present were City Attorney Jeff Taraday and City Clerk Scott Passey. The executive session concluded at 9:10 p.m.

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

Mayor Earling reconvened the regular City Council meeting at 9:11 p.m.

14. **ADJOURN**

With no further business, the Council meeting was adjourned at 9:11 p.m.