

EDMONDS CITY COUNCIL APPROVED MINUTES

August 4, 2014

The Edmonds City Council meeting was called to order at 6:30 p.m. by Mayor Earling in the Council Chambers, 250 5th 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
Thomas Mesaros, Councilmember

STAFF PRESENT

Phil Williams, Public Works Director
Shane Hope, Development Services Director
Patrick Doherty, Community Services Director
Rob Chave, Planning Manager
MaryAnn Hardie, Human Resources Manager
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Gerrie Bevington, Camera Operator
Jeannie Dines, Recorder

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

At 6:30 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 15 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, Bloom and Mesaros. Others present were City Attorney Jeff Taraday and City Clerk Scott Passey. At 6:46 p.m., Mayor Earling announced to the public present in the Council Chambers that an additional 5 minutes would be required in executive session. At 6:55 p.m., Mayor Earling announced that an additional 5 minutes would be required in executive session. The executive session concluded at 6:57 p.m.

2. INTERVIEW CANDIDATES FOR POSSIBLE APPOINTMENT TO THE CITIZENS' COMMISSION ON THE COMPENSATION OF ELECTED OFFICIALS (CCCEO)

At 6:58 p.m., the City Council interviewed CCCEO candidates Barbara Tipton, Evelyn Wellington, and Kathie Ledger. The interviews took place in the Jury Meeting Room, located in the Public Safety Complex. All City Councilmembers were present for the interviews. The interviews were open to the public.

Mayor Earling reconvened the regular City Council meeting at 7:07 p.m. and led the flag salute.

3. ROLL CALL

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

4. APPROVAL OF AGENDA

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

5. **APPROVAL OF CONSENT AGENDA ITEMS**

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

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE REAMINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- B. APPROVAL OF CITY COUNCIL MEETING/CSED DIRECTOR INTERVIEW MINUTES OF JULY 14, 2014
- C. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JULY 22, 2014
- D. APPROVAL OF CLAIM CHECKS #209642 THROUGH #209752 DATED JULY 24, 2014 FOR \$886,293.48 AND CLAIM CHECKS #209753 THROUGH #209871 DATED JULY 31, 2014 FOR \$947,955.28. APPROVAL OF PAYROLL REPLACEMENT CHECK #61117 FOR 513.35 AND PAYROLL CHECKS #61118 THROUGH #61119 FOR \$598.09
- E. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM SARAH RICHARD (\$156.00)

ITEM A: **APPROVAL OF CITY COUNCIL MEETING/AUDIT EXIT CONFERENCE MINUTES OF JULY 14, 2014**

Councilmember Johnson requested the minutes reflect that she was present at the meeting.

COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO APPROVE ITEM A AS AMENDED. MOTION CARRIED UNANIMOUSLY.

6. **AUDIENCE COMMENTS**

There was no one members of the public present who wished to provide comment.

7. **PUBLIC HEARING ON THE PLANNING BOARD'S RECOMMENDATIONS TO ADOPT A COMPREHENSIVE PLAN TEXT AMENDMENT, ZONING CODE TEXT AMENDMENT, AND ZONING MAP CHANGE TO IMPLEMENT A NEW DEVELOPMENT PLAN FOR THE WESTGATE COMMERCIAL AREA**

Development Services Director Shane Hope explained the public hearing is an opportunity to hear about the project, ideas and background as well as an opportunity for the public to provide testimony. There is no action scheduled on this agenda item tonight.

Planning Manager Rob Chave explained the Planning Board's proposal includes three distinct actions:

1. Comprehensive Plan text amendment (policy language)
2. Establishment of new zone (Westgate Mixed Use)
3. Rezoning of commercial properties in the Westgate area to WMU

He reviewed the proposal's features:

- No expansion of the existing commercial area

- Additional intensity of development within the commercial area
- “Hybrid zone” mixture of traditional regulations (uses, setbacks) and form-based elements not regulated in standards zones (building types and locations, requirements for amenities and open space)
- Mix of building heights dependent on location and topography
- “Green Factor” landscape system
- Additional protection for surrounding slopes and trees/vegetation
- Supporting traffic analysis done reflecting higher level of development than currently proposed found no reduction in level of service (LOS)

He displayed maps showing the boundaries of the Westgate study area and the existing zoning (BN-Neighborhood Business, BC-Community Business and BC-EW-Community Business-Edmonds Way). During the Planning Board’s process, a resident identified a property with an odd configuration. Staff researched the zoning map and found it was an error that had been repeated since an old mylar was converted to digital mapping. He identified the actual property boundary which was straight. The Planning Board recommended the mapping error not continue to be replicated; all future maps will have the straightened boundary. He identified the area that would be rezoned WMU.

With regard to why Westgate, Mr. Chave explained the Economic Development Commission’s (EDC) white paper identifies economic development-related support for the Westgate Plan; he identified several other issues and trends that support the Westgate Plan:

- Growth – Growth and development is a fact of life in the Puget Sound Region, including Edmonds. The choice made in Edmonds has been to focus growth in existing commercial/multi-family areas rather than expand those areas or rezone adjacent areas.
- Demography – The population is aging and needs new housing opportunities (e.g. for different life stages and housing needs/desires). Current housing choices in Edmonds can be improved by offering more variety and styles. Different housing types also enable the younger generation to locate in the community instead of moving out.
- Environment – Local communities have relatively constrained options for dealing with issues such as transportation and climate change. Land use, such as encouraging transit-oriented development and increasing the mix of uses in compact, defined area can help transportation choices – and the environment. This was a key point made by Forterra, a partner in the project.

Mr. Chave explained the initial phase of the process focused on public workshops and meetings, culminating in a report and proposal by a team consisting of:

- City
- University of Washington, Green Futures Lab
- Cascade Land Conservancy (now Forterra)

Mr. Chave explained one of Forterra’s missions is to encourage protection of open spaces; open space cannot be protected without also making urban areas more attractive. Their principles include exemplary commercial centers that are complete, compact and connected; creating a sense of place.

Before the design started, the team did the following:

- Prepared citizen survey
- Conducted site surveys of land uses
- Surveyed of existing amenities
- Conducted parking counts
- Determined Walking distances and conditions
- Mapped study results

- Analyzed user friendliness
- Did a Neighborhood Identity Comparison

One of the premises of the process was thoughtful design can make change for the better. The participatory public process included:

- Community survey by mail and online (October 2010 – March 2011)
- Design workshop (March 2011)
- Alternative preferences Forum (May 2011)

He displayed a sample drawing from a workshop. He explained the difference between traditional zoning codes, design guidelines and form-based code:

- Traditional zoning code regulate and emphasize the separation of uses
- Design guidelines modulate building facades and materials
- Form-based codes emphasize the relationship between public and private space to support users and foster local character.

Through this process the UW identified goals to leverage synergies:

- Create mixed use walkable compact commercial center
- Improve connections for bicycles and pedestrians
- Enhance Westgate identity and visibility
- Prioritize amenities spaces
- Promote civic and private investment
- Incorporate sustainable features
- Regulate building placement and form
- Create variety of housing choices and retail options and parking options

The UW plan regulated the following in Westgate:

1. Amenity spaces
 - Common areas
 - Amenity space
 - Trees
 - Stormwater management
2. Required building lines
 - UW Plan focused development at the intersection, buildings as close as possible to the street
3. Streetscape Standards
 - Internal circulation drive
 - SR-104
4. Building types
 - Rowhouse
 - Live work
 - Stacked dwelling
 - Loft dwelling
 - Courtyard residential
 - Side court
 - Commercial block
5. Street Frontage Types
 - Define how buildings meet the street
6. Sustainable and green features
 - Based largely on Seattle's Green Factor program
7. Development requirements and options

- Menu of options, includes minimums for all buildings

He displayed a diagram prepared by the UW team of the Westgate study area with photographs of features and their possible locations.

Mr. Chave explained the Planning Board's work focused on reviewing the UW/Cascade product and producing Comprehensive Plan and Code amendments that would fit within the City's regulatory system and produce a result acceptable to the community. The Planning Board held three public hearing during the approximately two year process as well as numerous work sessions. The current proposal is a product of that review and includes a numbers of changes made by the Planning Board.

He displayed and reviewed several photographs of buildings and uses and spaces created behind buildings. He reviewed the key changes made by the Planning Board:

- The plan's emphasis has been shifted from the adjoining streets/highways to the four quadrants that make up the Westgate commercial area.
- The overall approach is now a hybrid approach combining traditional and form-based elements. Provides for opportunity while not mandating that new development conform rigidly to certain minimum building heights or requiring that all buildings be pushed up against sidewalk lines. Nonetheless, open space and amenity space is still required, as well as pedestrian and non-motorized circulation within each of the four quadrants of the Westgate commercial area.
- Instead of development up to 5 stories, buildings are now capped in most places at 2 or 3 stories, with an opportunity to obtain 4 stories only where the nearby slopes are higher, or where no residence are nearby.
- Street setbacks have been increased from the original 8 feet to 12 feet to provide a wider street interface and to assure that, if needed, turn pockets can be provided for traffic access.
- The intersection of SR-104 and 100th Ave W has a significant step-back requirement radiating from the intersection to assure that a sense of place is provided at this key intersection.

He displayed a map of the Westgate topography, identifying the surrounding steep slopes, noting most of the steep slopes are located on commercially zoned properties. He displayed a map identifying the height of the slopes as well as a map that was prepared by analyzing where various building heights would be visible from surrounding properties. He displayed a map that identifies height limits:

- Parcels eligible for potential 4th story height bonus
- Parcels limited to 2 stories in height
- Parcels limited to 3 stories in height.

Ms. Hope commended the community for the public input received during the process to date. She reviewed post-hearing discussions and potential action dates:

- August 19: Comprehensive Plan text amendment and potential adoption of Westgate text along with already-approved 2014 Parks and Cultural Plan amendments
- August 26: New Westgate Mixed Use (WMU) zone and rezone of Westgate commercial properties

Councilmember Bloom referred to the parking requirement, 1 space for every 500 square feet of commercial and asked the square footage of existing buildings such as PCC. Mr. Chave advised staff could provide that information at a future meeting. He was confident that PCC provided more parking than was required which is typical of many businesses. Parking requirements are minimums; businesses typically provide parking in accordance with what they expect the need will be. He offered to confirm the amount of parking PCC provides and the square footage of the building. Councilmember Bloom asked whether QFC, Bartell, Walgreens and Goodwill provided more parking than required. Mr. Chave was not certain, pointing many of those parking lots are shared or blended parking as different stores have

different peak times which is part of the rationale for a blended parking rate. Identifying minimum parking throughout the development is more appropriate than identifying parking according to each use. The difficulty with establishing parking by use is uses change and parking requirements by use vary widely. In the past when a use that required more parking replaced another use downtown, the only option was to lease parking on an adjacent property. He summarized that is an awkward process and a barrier to a healthy mix of uses. Councilmember Bloom requested the existing parking spaces and building square footages, relaying her concern there would not be enough parking because the parking lots are already full.

Councilmember Bloom asked whether amenity space was the same thing as open space. Mr. Chave answered they were different; amenity spaces are active spaces. An example of open spaces is the slopes, typically not areas where the public would walk. He noted sometimes open space can be amenity space; there is some overlap but they are not the same thing. The code also includes trees and greening of the parking lots, walkways and roads within the development. It is not quantified as a percentage of the parking area but the concept is trees that frame walkways and driveways so the result is an open space feature. Councilmember Bloom relayed her understanding that open space could be defined as a landscaping feature. Mr. Chave agreed.

Councilmember Bloom commented the amenities in the code depend on whether it is commercial or residential but central courtyards, roof decks, green roofs, plaza and courtyards may be included in the cumulative total area and the requirement is 15% amenity space. She asked whether a roof deck could be amenity space as well as open space. Mr. Chave answered yes, for some uses primarily residential. A green roof cannot be counted as an amenity for a commercial block building. Residential buildings may not want residential amenities at the street front; a roof top deck would be an attractive feature for residents and provides a sense of privacy in the development.

Councilmember Bloom relayed her understanding that amenity space and open space are different and there is a requirement for 15% amenity and 15% open space. Mr. Chave answered it is complicated; there is a requirement for 15% amenity space throughout the development. Open space is slightly different, sometimes the open space will be equivalent or overlap the amenity space but sometimes the open space is above the 15% such as the slopes. Councilmember Bloom read from the proposed code that the open space is not required to be usable where buildings back up to steep topography. Mr. Chave responded that provision is only for residential building types and does not apply to commercial block buildings.

Councilmember Petso asked for confirmation that the amenity space can be entirely private. Mr. Chave answered yes. Councilmember Petso provided an example of a commercial block building with 2 floors of residential that provided 15% in a green roof open only to residents. She asked whether that would be allowed. Mr. Chave answered theoretically it would be but he did not think that would occur because of all the other requirements such as setbacks, green factor requirements, etc.

Councilmember Petso relayed her understanding there is no setback other than the 12 feet at the front of the property line. Mr. Chave agreed.

Council President Buckshnis commented design standards in the code will not result in a big box building. Mr. Chave agreed he did not see that happening given the green factor and the green spaces. Council President Buckshnis commented form-based code creates nice, livable areas with specific design that fit the area, not just big boxes. Mr. Chave answered form-based code considers the relationship between the building, the relationship to the street fronts and parking, landscaping, linkages, etc.

Council President Buckshnis asked how the SR-104 study will be included. Mr. Chave answered that study will address the public right-of-way; this plan is internal to development. The interface will be

important; the SR-104 study will provide guidance regarding how the right-of-way should be developed in Westgate as well as along the entire corridor. He summarized the SR-104 study was complimentary but was not contingent.

Council President Buckshnis opened the public participation portion of the public hearing.

Mike Schindler, Edmonds, Economic Development Commissioner, encouraged the Council to keep an open mind and respectfully consider the Westgate Plan. He acknowledged no plan is perfect and members of the EDC went back and forth on some things in the Plan. He was impressed by the collective input from the community, experts, and studies. To the question of why do anything in Westgate, he explained this plan gives the City an opportunity to be strategic and thoughtful in planning for growth. The plan packages some of the best features of downtown such as walkability, a destination and transportation but adds new things such as form-based code. Although he loves Edmonds the way it is, he supports this opportunity to improve and to add to the City's long term sustainability. This is an opportunity to create a gateway as well as a secondary designation to downtown. The Plan provides structure and incentive; the current development in Westgate, a pass-through destination, is the result of not having a plan. He encouraged the Council to be part of something that will contribute to long term human and financial benefit as well as sustainability for the City.

Careen Nordling-Rubenkönig, Edmonds, expressed her support for the Westgate Plan as endorsed by the EDC and approved by the Planning Board. As a recently appointed Planning Board Member, she thanked the other Planning Board Members for the years they have spent researching and deliberating this approach to future development of Westgate. She found this new approach necessary; recalling as a teen exploring the Edmonds waterfront on her bike. At that time there was a chicken processing plant and mink farm to the south; the changes that have occurred in that area have been wonderful and many people know Edmonds for that area. She acknowledged the regrettable decision to fill much of the marsh. Now is the time for Westgate to evolve, to deepen diversity and strengthen how it functions. She looked forward to watching it mature into a more bountiful area and continue to serve Edmonds residents.

John Rubenkönig, Edmonds, Economic Development Commissioner, explained they discovered Edmonds when they ran out of money 35 years ago on their honeymoon and returned 10 years later to raise their family. Edmonds is a unique place but its problems are not unique; many jurisdictions suffer from a lack of economic development. The Westgate area has not been utilized as effectively as could be. This plan seeks to change that by allowing more and variety uses, more public/pedestrian spaces, LID development, a variation in the built appearance of the space and may allow a slight increase in some places. The Planning Board made some excellent pragmatic adjustments to the plan as they listened to citizens' concerns. The Westgate Plan has been researched and studied at multiple hearings and public meetings over the past four years. He appreciated the public involvement and expressed his support for the plan.

Roger Hertrich, Edmonds, relayed his concern that because Washington State Department of Transportation does not have any plans to rectify the existing traffic problems they are just ignored. He referred to the transportation analysis, recalling the original plan was to reduce the width of the travel lanes on 100th. He feared the motorized public who currently use the Westgate area will go elsewhere if it is inconvenient or congested due to increased density. He also feared increasing the density will increase property values which will cause the grocery stores to leave. He was also concerned there was no setback requirement from adjacent zones. He referred to the March 12, 2014 Planning Board minutes where the chair agreed traffic needs to be addressed and Board Member Stewart commented adding more residential will increase traffic volumes on SR-104 and 100th and the City is putting its head in the sand if it thinks traffic congestion would not be an increasing problem as redevelopment occurs. Mr. Chave's response to

the Planning Board was the City does not control SR-104. Mr. Hertrich recommended traffic problems be addressed.

Darlene Stern, Edmonds, speaking as a citizen, requested the Council pass the amendment to the Comprehensive Plan text and the ECC to create a new Westgate Mixed Use zone. She noted there are times when it is necessary to pivot from time-honored systems to new ideas; one of those times was in the late 40s when GIs returning from the war required a major change in the housing, likely a difficult transition for the GIs to move from a farming culture to master planned communities, likely as difficult as changes that are needed today in housing. She encouraged the Council to look forward and prepare for new living standards and housing to meet the younger generation as well as for older generations who want to downsize. Form-based codes create an attractive pedestrian friendly environment that works cooperatively with building and green regulations and creates a better quality of life for residents and visitors. She pointed out the four years of input and study provide a true representation of the community's interest in the change. Walkable communities bring economic benefits, higher real estate values and increased occupancy rates. She encouraged the Council to support the proposed amendments.

Doug Purcell, Edmonds, submitted aerial views of Westgate in 1947, 1955 and 1965. Edmonds is frequently discussed as a state of mind, a walkable community where residents have access to entertainment, restaurants, and other activities. A member of the EDC, he encouraged the Council to review the white paper the EDC submitted. Form-based codes and this plan provide an opportunity to identify spaces and Westgate is such a space. He recalled a resident speaking at an EDC meeting said some areas of Edmonds have looked the same for over 100 years. He referred to the aerial views of Westgate that illustrate development in that area was very different in 1965. This plan and the form-based code provide an opportunity to experience the state of mind of Edmonds in Westgate.

Alex Witenberg, Edmonds, recalled when he turned 16, most young people had a car. Now a 25-year old, many young professionals make their living decisions based on access to public transportation and walkability, whether they can get from home to school, work, social events without driving and can they get by without a car at all, are there grocery stores or dining options nearby and whether they will feel connected to the community. Edmonds has the have opportunity to redevelop Westgate and entice young people to settle in the community and stay for the long term. Residents often say they have lived in Edmonds for 20-50 years; this is an opportunity for the next generation to plant their roots and become long term residents. A redeveloped Westgate under this proposal offers a future that includes amenities the Westgate community is missing by encouraging dining, entertaining and sustainable businesses that will extend Edmonds' vibrant community and culture beyond the bowl. This is a very important plan for the future and he urged the Council to support it.

Bruce Witenberg, Edmonds, Chair, EDC, and a member since inception, explained the EDC initially proposed the neighborhood business residential plan for Westgate in 2010 and has been involved in each step of the plan. During that time approximately 35 commissioners have had input into the process and more than 50 public meetings have been held during which Westgate was discussed and the public had an opportunity to comment. All the documentation regarding the Westgate process is posted on the City's website as events have occurred. The plan was significantly revised by the UW Green Futures and Cascade Land Conservancy after the EDC reviewed and offered input on the initial and revised working drafts. Additional significant revisions were made by the Planning Board prior to and subsequent to its three public hearings in response to public comment. The EDC approved the Re-visioning Westgate white paper by a vote of 11-0-1 (1 Commissioner abstaining) endorsing the Planning Board's recommendation for the redevelopment of Westgate. He relayed former Community Services/Economic Development Director Stephen Clifton's support for the reasons in the EDC's white paper. Edmonds citizens living outside the bowl deserve amenities similar to those in the bowl including a lifestyle center and walkable community with easy access to restaurants, services, housing, transportation and open spaces. Westgate is

a major gateway to the community. The proposal is sound, taking into consideration protection of the environment, creation of open space, green building standards, increased revenue and enhancement of an important neighborhoods. He encouraged the Council to support the Planning Board's recommendation as presented.

Ron Wambolt, Edmonds, commented when he moved to this area in 1979 the PCC property did not exist; Albertsons was built in 1980/1981, the QFC was a small Olson's grocery store and Goodwill was a Coast to Coast with a pharmacy. He summarized there have been massive changes in area. He looked forward to a lot of the changes envisioned in the Planning Board recommendation, particularly an enlarged QFC. QFC has wanted a bigger store for some time but was unsuccessful in acquiring the old Albertson's or bowling alley properties due to multiple property owners. This plan would allow a larger QFC with underground parking and residential above to assist with the cost of constructing underground parking. He urged the Council to adopt the Westgate Plan.

Hearing no further comment, Mayor Earling closed public hearing.

Councilmember Petso complimented the members of the City's boards and commission who spoke tonight including six members of the EDC as well as a Planning Board Member. She asked the press to assist the Council in getting the word out to the rest of the public that the Council is considering this Plan and accepting comments. In addition to the members of boards and commissions, the only other people who provided testimony were a relative of an EDC member and a citizen who attends all Council meetings.

Councilmember Petso referred to drawing of a commercial block mixed use building and a drawing identifying where that building type would be allowed in Westgate. If it was not the desire of those promoting the Westgate Plan to allow that building type on most of the properties in Westgate, she suggested deleting building type 7. If the intent was to allow that type of building on most properties in Westgate, consideration should to be given to setbacks, landscaping, parking, and design requirements.

Councilmember Petso asked if Mr. Chave could provide additional research regarding parking minimums and what parking requirements are needed for viable commercial space. She assumed a drugstore owner knows how much parking they need. Mr. Chave responded parking requirements vary by use, use type and the company. For example, the parking was very rarely used when the PCC building was occupied by Albertsons; PCC is a different occupant/type of development and has a much larger parking use ratio. He offered to provide estimates of square footage and numbers of parking spaces from an inventory done by the UW at the outset of the process. He also offered to provide information from other jurisdictions for more concentrated development.

Councilmember Petso requested the standards and criteria that proposals need to meet for a Comprehensive Plan amendment and rezone. She recalled from the review of the Port's plan, one of them was maintain the appropriate balance of land uses in the city.

Councilmember Petso asked whether this proposal had been reviewed by the City Attorney. Mr. Chave answered the City Attorney has seen it at different times but not as a final ordinance. Councilmember Petso explained the reason she asked was her concern that words were used in different contexts. For example, one of the building types is a courtyard residential, in another area of the code a courtyard can be access to a building and in another area a courtyard is open space. She asked whether there were plans to tighten the definitions. Mr. Chave suggested she email him specific references.

Councilmember Petso referred to the EDC's white paper that stated the hope that the plan will create more public space, yet although the ordinance has required amenity space, there is no requirement that it

be public; it can be on a privately accessible rooftop or courtyard. She asked how public space could be created that would make Westgate a destination versus just a quick stop to shop. Mr. Chave suggested that be a topic for discussion.

Councilmember Petso relayed her interest in quality business space. She recalled buildings that were constructed downtown that did not reflect the intent and the Council subsequently adopting requirements for minimum first floor ceiling height, surface level first floor, first floor commercial depth, etc. She suggested adding those to the Westgate proposal. Mr. Chave suggested that be a topic for discussion.

Councilmember Fraley-Monillas referred to Mr. Hertrich's comment about setbacks to adjoining properties and asked if there was a setback between the QFC property and the cemetery. Mr. Chave answered the cemetery is zoned public; he was not certain whether there was a required setback between commercial and public. He offered to research, commenting if there was not, it would be easy to remedy. He explained all the other properties adjacent to Westgate are zoned residential and have a least a 15 foot setback. In many cases there would be a larger setback due to the slopes. He referred to the Westgate Protected Slopes map, identifying slope and setbacks.

To clarify Councilmember Petso's concerns regarding the commercial block mixed use building, Council President Buckshnis pointed out many other building types are allowed in that area such as side court mixed use, loft mixed use, live/work mixed use, stacked dwellings, courtyard and rowhouses. Although Councilmember Petso showed only one of the seven types, Council President Buckshnis did not envision the entire area would be developed with commercial mixed use building. Mr. Chave answered the commercial mixed use is typically the larger properties that front on 100th and SR-104. There are several properties on the periphery where commercial block building could not be constructed. He noted there are only two types of commercial buildings – commercial block and side court. Historically commercial buildings are blocks because that is the most efficient way to construct commercial space and it provides a nice, uniform pedestrian-oriented front entry and sidewalks. He noted the name of the building type could be changed if commercial block did not have a positive image. Council President Buckshnis suggested during the presentation staff provide illustrations of all seven building types.

Council President Buckshnis advised August 26 is a study session and no action will be taken.

Councilmember Bloom asked about the step-back area at the intersection. Mr. Chave displayed the map that identified height limits in various areas, advising the step-back from the intersection was 30 feet. The required setback is 12 feet, therefore, an additional 18 feet would be required to go above two stories.

Mayor Earling declared a brief recess.

8. DISCUSSION REGARDING COMPENSATION COMMISSION ORDINANCE OPTIONS

Council President Buckshnis explained she asked City Attorney Taraday to identify policy issues based on what has happened in past and what could happen in the future. His memo, contained in the Council packet, suggests five options:

1. Confirm Mayor Earling's appointments/reappointments and allow the Commission to proceed to establish the 2015-2016 compensation for the City Council, Mayor and Judge.
2. Confirm Mayor Earling's appointments/reappointments but limit the Commission's role to establishing the 2015-2016 compensation for the City Council.
3. Confirm two or fewer of the Mayor's appointments.
4. Repeal Ordinance 3974, but leave the Chapter 10.80 ECC on the books.
5. Repeal Chapter 10.80 ECC

If the Council selected Option 1 and appointed a seven-member commission, Councilmember Peterson asked whether the commission would still be legitimate and able to carry out its duties if one member quit, moved away, etc. Mr. Taraday answered yes, explaining the City has been served with a lawsuit that alleges that anything less than seven members is improper. He disagreed that a commission of less than seven cannot function; a commission of less than seven can function legally just as a city council of less than seven can function legally. There is a process for filling vacancies and that process is before the Council tonight. Notwithstanding the contention of the plaintiff in the lawsuit, his opinion is the Compensation Commission can function fully and legally with less than seven members.

Council President Buckshnis asked Mr. Taraday to explain how the salaries for future Councilmembers, Mayor and Judge would be set if the Council repealed Chapter 10.80. Mr. Taraday answered many cities do not have compensation/salary commissions. Many cities establish the compensation of elected officials via adoption of an ordinance the same as is done for city employees. The difference is, because the Council is not constitutionally allowed to fix their own compensation, the establishment of any Councilmember compensation can only take effect for the term of the next person in office. For example, Council Positions 1, 2 and 3 are filled through December 31, 2017. Any adjustment the Council would make to its compensation could not affect Positions 1, 2 and 3 until 2018. Positions 4, 5, 6 and 7 are filled through December 31, 2015; any adjustment the Council would make to its compensation could not affect Positions 4, 5, 6 and 7 until 2016. That option would necessarily result in a staggered compensation schedule because if there was a Council-adopted increase in Council compensation, for a period of time Positions 4, 5, 6 and 7 would be paid more than Positions 1, 2 and 3. He summarized there is no way to avoid that if the Council takes back the authority to set Council compensation.

Council President Buckshnis asked about the Council President's compensation. Mr. Taraday answered if Chapter 10.80 were repealed, the Council would also control the Council President's salary. Out of an abundance of caution, he suggested any adjustment in the Council President's compensation not take effect until 2016.

Council President Buckshnis asked whether in that scenario, the salary of the Mayor and Judge would go through the Finance Committee. Mr. Taraday answered that is a Council process; there is no requirement for Finance Committee review. The position of Mayor and Judge are different than the Council in that the Mayor does not set his own compensation, therefore, the constitutional prohibition is not implicated in the same manner as it is for Council compensation. In the absence of a salary commission or with a salary commission and Option 2, the Council could set the salary for the Mayor and Judge.

Council President Buckshnis recalled in the past the Mayor's salary include an annual increase. Due to budget cuts the Council decided not to grant the salary increase the second year. She asked whether the Council would still have that control. Mr. Taraday answered constitutionally the compensation of an elected official cannot be decreased during his/her term of office. Council President Buckshnis clarified the salary was not decreased, the increase was not given. Mr. Taraday responded with an example: if the next Mayor runs for office under the assumption the salary is X for 2016, Y for 2017, and Z for 2018, etc., it would not be permissible for the Council to change the salary after the fact. He would consider that a decrease in compensation.

**COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER BLOOM,
TO REPEAL CHAPTER 10.80 OF THE ECC.**

Councilmember Peterson commented the salary commission takes the politics out of setting the Council's or other elected officials' salaries. If there were logistical mistakes made during the salary commission's work, those can be corrected. He felt it was a fantastic idea to have a group of Edmonds citizens, appointed by the Mayor and approved by the Council which provides some agreement with regard to their impartiality, to establish compensation and allow the Council to step away. He did not want to set the

Mayor's salary and potentially have a battle every budget year depending on whether Councilmembers liked the Mayor. Keeping the Council out of establishing compensation is a much clearer process. He found it shocking every year when the U.S. Congress gives themselves a raise and he preferred the process the legislature follows. He summarized repealing Chapter 10.80 puts politics in the middle of salary compensation.

Councilmember Johnson agreed with many of Councilmember Peterson's points. Her research found salary commissions were authorized by the State legislature in 2001. According to MRSC, in 2010, 35 cities and 13 counties utilized a salary commission, clearly the majority of cities and counties, a process that is considered to be an improvement in the way compensation was handled in the past. Although the system may have been flawed, it is a good system and she will continue to support it.

Councilmember Mesaros did not support the motion, pointing out the need to take politics out of setting salaries for Council, Mayor and Judge. He preferred a group of citizens who are responsive to other citizens deciding and making recommendations regarding compensation. Although the last process had a few hiccups, those are correctable. Changing the entire system due to a few hiccups was not good policy or good politics.

Councilmember Bloom referred to Option 2 in which the Compensation Commission would establish City Council compensation, and asked whether Chapter 10.80 would need to be amended. Mr. Taraday answered yes. Councilmember Bloom commented the Council could repeal Chapter 10.80 and readopt it using Option 2 which would take the politics out of Councilmembers setting their own salary. She observed the current process has been very political. She suggested the Council repeal Chapter 10.80 and have the Public Safety & Personnel Committee rewrite it with the Compensation Commission establishing Council salaries. Mr. Taraday agreed that could be done. Councilmember Bloom expressed support for the motion and rewriting Chapter 10.80 so that the Compensation Commission established Council salaries.

Councilmember Fraley-Monillas commented she was not sure how having a Compensation Commission took politics out of the process, especially after what has occurred recently. She commented it was politics at its finest, not a hiccup or a little problem. She agreed the City Council should not determine their own compensation. She preferred to rewrite Chapter 10.80, commenting that would be good for the citizens as well as elected officials and would take personalities out of it.

Councilmember Peterson remarked politics entered the process when it came back to the Council. He did not want to accuse anyone on the Salary Commission of being political during their meetings. He observed some Councilmembers apparently believe citizen members of the Salary Commission were politically motivated to make the decisions they made, and he refused to believe that. The commission follows State law, the Mayor makes the appointments and Council confirms them, eight people agree there is an impartial jury to consider compensation. He expressed concern with some Councilmembers implying that members of the commission were politically motivated to give the Mayor a raise and not give the Council a raise. He was certain the commission did their best to be as impartial as possible and felt any logistical hiccups could be easily remedied by Option 1.

Councilmember Fraley-Monillas clarified she did not say the politics were in the commission. Politics can rear their head in many forms but she was not implying it was within the commission. She expressed her appreciation for the work done by the commission.

Council President Buckshnis relayed her intent was to simplify things and the process make easier by repealing Chapter 10.80 and rewriting it. She did not believe politics were involved, just a lot of misunderstanding and miscommunication.

COUNCIL PRESIDENT BUCKSHNIS CALLED FOR THE QUESTION. THE VOTE ON THE CALL FOR THE QUESTION CARRIED (5-2), COUNCILMEMBERS PETERSON AND MESAROS VOTING NO.

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

Mr. Taraday clarified the Council selected Option 5 which directs the City Attorney to draft an ordinance to repeal Chapter 10.80 ECC. This vote does not repeal Chapter 10.80; an ordinance is required to repeal an ordinance. He will provide the ordinance at the August 19 Council meeting.

9. CONFIRMATION OF THE MAYOR'S APPOINTMENTS TO THE COMPENSATION COMMISSION

As a result of Council action in Agenda Item 8, no action was necessary regarding this item.

10. CITY ATTORNEY CONTRACT EVALUATION PROCESS

Councilmember Mesaros recalled several weeks ago when the Council discussed renewal of the Lighthouse Group's contract, he suggested a process to evaluate their work and determine if there were areas for improvement. He worked with Councilmembers Johnson and Fraley-Monillas; he complimented Councilmember Johnson for her research and for providing evaluation examples. He met with Mr. Taraday to share the examples with him and discuss the process. Mr. Taraday also suggested changes which are reflected in the documents in the Council packet. He referred to the City Attorney job description, explaining the evaluation will be based on what the City Attorney is asked to do. Standards of performance have not yet been established; those will be established following the evaluation. In the proposed process, the City Attorney will meet with Mayor and the Council President to provide standards of performance for the next year.

Councilmember Petso disagreed with the standards of performance being developed/approved by the Council President, the Mayor and the City Attorney. The full Council makes the decision on the provision of legal services to the City; she preferred to have more Councilmembers or the entire Council involved in that process, possibly by having it reviewed by the Public Safety & Personnel Committee and then the full Council. Councilmember Mesaros agreed and suggested the Mayor, Council President and City Attorney provide a recommendation.

Assuming the evaluation would be for the prior year, Councilmember Fraley-Monillas asked whether the current or prior year's Council President would be involved. Councilmember Mesaros explained in the proposed process the evaluation would occur before September 1. He envisioned the current Council President be involved. The past Council President would have input into the process by completing an evaluation form. Councilmember Fraley-Monillas suggested including both the current and the prior year's Council President in the meeting with the Mayor and City Attorney.

Council President Buckshnis observed according to the evaluation procedure, each Councilmember and Director completes an evaluation form. She agreed with including the past Council President.

Councilmember Bloom asked whether additional members of the Lighthouse Group will be added to the evaluation in the future. Councilmember Mesaros explained the Lighthouse Group is being evaluated, not just Mr. Taraday; the services of the City attorney are provided by the group.

Councilmember Fraley-Monillas assumed the evaluation would be based on Councilmembers' and Directors' opinions as there was not a way to measure some of the questions. For example does the City Attorney advocate for the interests of the City; the response will be based on personal experience and interaction. Councilmember Mesaros said if the answer to that question was no, the City Attorney would likely be interested in an example. Councilmember Mesaros said many of the questions have a rating of 1-7. For ratings of 4 or less, the reviewer is asked to provide an explanation. Mr. Taraday explained for any rating of 4 or lower, Lighthouse Group will have an opportunity to provide a written response. He questioned what would happen after that. At some point the Council will need to determine whether Lighthouse Group's written response addressed the concern that was raised.

Councilmember Bloom asked for clarification whether the evaluation forms were confidential. Councilmember Mesaros said they are not confidential, the reviewer provides his/her name.

Councilmember Fraley-Monillas asked whether the Lighthouse Group's response to a rating of 4 or lower would be reviewed by a Council subcommittee. Councilmember Mesaros said that could be determined; he envisioned the explanation would come to the full Council. Councilmember Fraley-Monillas observed many of the questions are subjective such as, Is the City Attorney tactful and diplomatic in its communications?

Councilmember Petso asked for clarification that the Council is creating a process whereby Directors and Council can give feedback to the City Attorney in written form and the Council can consider the evaluations in making its decision regarding provision of legal services for the City. Councilmember Mesaros agreed, explaining his intent was to provide a factual basis for approving a contract with the Lighthouse Group and if there are issues with the services the City Attorney provides, allow them to provide feedback and an opportunity to correct.

Councilmember Johnson commented there is some overlap and conjecture in the questions. She suggested practicing completing the evaluation form and providing feedback to Councilmember Mesaros.

Councilmember Mesaros advised the following Council suggestions will be incorporated into the evaluation process:

1. The standards of performance be approved by the full Council
2. Development of the standards of performance will include the current and past Council President and the Mayor.

Mr. Taraday commented this will be good tool for everyone; he welcomed a formalized performance review to help his firm provide the type of City Attorney services the City wants. However, it is highly unorthodox and State law does not have appropriate mechanisms to protect any embarrassment or confidential issues that might arise in the process. For example, if someone complains about a City employee or a City employee is evaluated, it can be done in executive session. Because he is not a City employee, the evaluation will be out in the open. He explained that was not a reason not to do the evaluation; he was proud of the work his firm has done and did not feel they had anything to hide but it will be an unusual process.

Councilmember Peterson said Mr. Taraday's explanation causes him a lot of pause and concern; a Director or Councilmember may not want to put something in writing. He asked if there was a way not to make the evaluations public. For example if a Director gave the City Attorney a bad review, the Director may not get the best response from the City Attorney in the future. Councilmember Peterson clarified he was not suggesting Mr. Taraday would do that but that was the reason evaluations are confidential.

Councilmember Fraley-Monillas said she discussed this with a local attorney; their view was it was a very complete evaluation and would solicit good input but that attorney said probably would not participate because it is based on opinion versus fact. That attorney suggested a factual basis such as the number of cases dismissed, upheld, etc. versus a personality basis. She agreed with Councilmember Johnson's suggestion to practice completing the evaluation. Councilmember Mesaros responded the standards of performance will provide a factual basis.

Council President Buckshnis agreed with Councilmember Fraley-Monillas, everyone perceive things differently. She recalled if there is a serious complaint, it can be discussed in executive session. As the evaluation forms are public, she suggested attaching Lighthouse Group's win/loss record. She agreed the evaluation would be very subjective but that's what evaluations are.

Councilmember Fraley-Monillas assumed if one assessment was really negative, it would stand out and not meet the bar of median. She asked whether City employee evaluations can be made public. Mr. Taraday answered he would need to confer with the attorney in his firm who handles the Public Records Act. His reference to executive session exemption was for evaluation of employees.

Council President Buckshnis agreed with Councilmember Peterson's concerns. Someone could have a grudge against the City Attorney and write a terrible review which becomes public record and could affect the Lighthouse Group's future employment. She hoped the reviews could be as diplomatic as possible. Mr. Taraday responded he was not worried as long as the information is truthful and the reviewers name is attached so he can understand who is providing feedback and the factual basis for the feedback. His job security at the City is ultimately tied to how their performance is evaluated anyway; the evaluation isn't any more or less subjective than the existing situation. The evaluation provides an extra tool to give him feedback and allow Councilmembers, the Mayor and the Directors to provide feedback. He agreed it was potentially damaging to their reputation, but he did not expect that. As long as the evaluations were the truth, they could deal with it.

Councilmember Mesaros relayed he had a conversation with another municipality's Mayor who was interested in using the evaluation. This will be setting a standard that others may want to use to evaluate their City Attorney.

Mayor Earling said he was happy to participate in developing the standards of performance. This is a Council driven decision so his office will not set the meeting schedule. He was fine with completing the evaluation form but said staff may be cautious about responding because it puts them in a very difficult position. He anticipated some may extol the City Attorney; others have serious questions that have arisen over the last couple years; he was uncertain there would always be a balance. Councilmember Mesaros said there is no requirement to complete form; everyone has the opportunity. Mr. Taraday advised the Directors may be required to complete the evaluation.

Councilmember Johnson commented if there are areas of contention, the score could initiate a verbal discussion. That would solve the problem and improve communication without creating a negative public record. Mr. Taraday said what protects him is the truth. If someone rates him a 1-4, they should be required to say why. As long as that is a truthful statement, he is not worried about it. He was worried about the possibility of someone providing a low score and not providing a basis for the score. The only thing that protects him and his reputation is the truth and facts.

11. MAYOR'S COMMENTS

Mayor Earling had no report.

12. COUNCIL COMMENTS

Council President Buckshnis reported WRIA 8 granted the City \$155,000 to finish the design for daylighting Willow Creek. She has asked for a presentation.

Councilmember Johnson reported she participated in the consultant selection process for the SR-104 Corridor Study and Transportation Element of the Comprehensive Plan. Further information will be provided in the future.

Councilmember Fraley-Monillas reported Edmonds Night Out last Tuesday was well attended and included remarks from Mayor Earling. She thanked the police and their support groups for organizing it.

Councilmember Fraley-Monillas reported she hosted a recent music in park. She encouraged citizens to enjoy music in the park on Sunday afternoons at City Park. She thanked Frances Chapin and the Arts Commission for selecting the musicians.

Councilmember Mesaros relayed his interest in establishing an evaluation process for the Prosecutor and Public Defender. He recognized the scope of their services was smaller than the City Attorney but there was value in establishing standards of expectations and evaluating their services.

Councilmember Peterson reminded there were only 22 hours left to vote. Voter turnout statewide has not been the best. Ballots can be postmarked by 5:00 p.m. or placed in a drop box by 8:00 p.m.

13. ADJOURN

With no further business, the Council meeting was adjourned at 9:46 p.m.