EDMONDS CITY COUNCIL APPROVED MINUTES
September 16, 2014

The Edmonds City Council meeting was called to order at 6:15 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
Joan Bloom, Councilmember
Thomas Mesaros, Councilmember

ELECTED OFFICIALS ABSENT

Strom Peterson, Councilmember
Adrienne Fraley-Monillas, Councilmember

ALSO PRESENT

Noushyal Eslami, Student Representative

STAFF PRESENT

Phil Williams, Public Works Director
Carrie Hite, Parks & Recreation Director
Shane Hope, Development Services Director
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.
Rob Chave, Planning Manager
Kernen Lien, Senior Planner
Brian Tuley, IT Supervisor
Rob English, City Engineer
Sharon Cates, City Attorney
Scott Passey, City Clerk
Gerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. CONVENE IN EXECUTIVE SESSION REGARDING COLLECTIVE BARGAINING PER RCW 42.30.140(1)(a) AND POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)

At 6:15 p.m., Mayor Earling announced that the City Council would meet in executive session regarding collective bargaining per RCW 42.30.140(1)(a) and potential litigation per RCW 42.30.110(1)(i).He stated that the executive session was scheduled to last approximately 45 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 Johnson, Buckshnis, Petso, Bloom and Mesaros. Others present were City Attorney Sharon Cates, Parks & Recreation/Human Resources Reporting Director Carrie Hite, Human Resources Manager MaryAnn Hardie, and City Clerk Scott Passey. The executive session concluded at 6:58 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:00 p.m. and led the flag salute.

2. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Councilmembers Peterson and Fraley-Monillas.

3. APPROVAL OF AGENDA

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

4. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Bloom requested Items B and E be removed from the Consent Agenda and Councilmember Petso requested Item D be removed.

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

A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF SEPTEMBER 9, 2014

C. 2014 JULY MONTHLY BUDGETARY FINANCIAL REPORT

F. AUTHORIZATION FOR MAYOR TO SIGN A SUPPLEMENTAL AGREEMENT WITH PERTEET FOR THE 228TH ST. SW CORRIDOR IMPROVEMENT PROJECT

G. APPROVAL TO SURPLUS COMPUTER EQUIPMENT

H. ADOPTION OF LAW SUPPORT COLLECTIVE BARGAINING AGREEMENT FOR 2014-2016

ITEM B: APPROVAL OF CLAIM CHECKS #210337 THROUGH #210346 DATED SEPTEMBER 4, 2014 FOR $26,625.76, CLAIM CHECK #210347 DATED SEPTEMBER 5, 2014 AND CLAIM CHECKS #210348 THROUGH #210517 DATED SEPTEMBER 11, 2014 TOTAL $2,423,039.38. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #61167 THROUGH #61178 FOR $467,673.17 AND #61188 FOR $750.01, BENEFIT CHECKS #61179 THROUGH #61187 FOR $91,649.44 AND WIRE PAYMENTS FOR $312,987.24 FOR THE PERIOD OF AUGUST 16, 2014 THROUGH AUGUST 31, 2014

Councilmember Bloom pointed out the September 4, 2014 vouchers were listed twice in the packet and the September 11, 2014 vouchers were not listed in the packet. The September 11, 2014 vouchers were forwarded to the Council late today. She asked whether the Council could approve the September 11, 2014 vouchers if they were not in the packet. City Attorney Sharon Cates advised she would need to research that.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO SCHEDULE APPROVAL OF THE SEPTEMBER 11, 2014 VOUCHERS ON NEXT WEEK'S AGENDA. MOTION CARRIED UNANIMOUSLY.

ITEM D: AUTHORIZATION FOR MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH FEHR & PEERS FOR THE 2015 TRANSPORTATION PLAN

Councilmember Petso asked, 1) because the plan will be done over the winter, what adjustments if any will be made for ferry traffic, and 2) whether the plan will address Pt. Wells. Public Works Director Phil Williams did not recall a specific conversation with the consultant regarding Pt. Wells but they will do growth projections on traffic in the system. Impacts on several intersections in Edmonds from Pt. Wells, assuming that project is built, could be added to the consultant's work.

With regard to accounting for summer ferry traffic, Mr. Williams explained existing data prepared by DOT ferries division could be used to graph the seasonal difference in ferry traffic even if the study did not include that season. Councilmember Petso asked whether she could assume the upcoming Transportation Plan would include consideration of Pt. Wells and ferry traffic seasonality. Mr. Williams answered she could make that assumption.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO APPROVE ITEM D. MOTION CARRIED UNANIMOUSLY.

ITEM E: AUTHORIZATION FOR MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH FEHR & PEERS FOR THE SR-104 COMPLETE STREET CORRIDOR ANALYSIS

Councilmember Johnson acknowledged the long awaited corridor study for SR-104 is being authorized via approval of this item. She looked forward to the results of this study and incorporating them in the plans for the Westgate area.

Councilmember Bloom relayed there were a lot of questions at the Town Hall meeting she held from people who shop in Westgate as well as from one property owner about parking at Westgate. She referred to the parking section which states, no formal parking demand inventory will be conducted. The consultant will also conduct a parking evaluation for the proposed Westgate zoning to determine reasonable parking demand for a mixed use development. She asked what was meant by no formal parking demand inventory will be conducted. Mr. Williams answered the study will look in detail at the parking needs and potential solutions at Westgate but a citywide parking inventory study will not be done. Councilmember Bloom asked whether there would be significant parking study, noting that was a major concern at the Town Hall meeting. Mr. Williams answered yes, not a standalone study but that work will be done as part of overall analysis.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO APPROVE ITEM E. MOTION CARRIED UNANIMOUSLY.

5. AUDIENCE COMMENTS

Don Hall, Edmonds, referred to the minutes of the Public Safety and Personnel Committee meeting, commenting it was great to see that a code of ethics was getting close to reality. The minutes reflect Councilmember Fraley-Monillas' suggestion that enforcement be a separate policy. He agreed it probably should be, but if they are not passed together there is no reason to have a code of ethics because without a policy and procedure to address potential violations and a public process to resolve complaints, a code of ethics is only a piece of paper that means nothing. He feared if the code of ethics and enforcement policy were not adopted together, it would take another 2½ years to adopt an enforcement policy.

Roger Hertrich, Edmonds, commented $1.76 million bill from Fire District 1 was not considered when the City contracted with FD1. He recommended initiating a new Edmonds Fire Department and getting out of the contract with FD1. With regard to the traffic survey, his research regard the complete streets analysis has little to do with biggest problem in the Westgate Plan, how to get cars in and out with the tremendous amount of ferry traffic. He expressed concern that Councilmembers have never expressed what they want the study to analyze and staff and the consultant developed their own criteria. He requested the Council have a public discussion with the consultant regarding the plan for the transportation study, pointing out this is an opportunity to analyze traffic at Westgate and Pt. Wells as well as ferry traffic.

6. PRESENTATION FROM EDMONDS DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (EDBID)

Pam Stuller, Walnut Street Coffee, President, EDBID, provided a list of the Advisory Board Members:

- David Arista, Arista Wine Cellars
- Robert Boehlke, House Wares
- Natalie-Pascale-Boisseau, Innate Radiance

- Juliana Van Buskirk, Edward Jones
- Cadence Clyborne, HDR Engineering
- Sally Merck, Merck Counseling Services
- Paul Rucker, Saetia
- Mary Kay Sneeringer, Edmonds Bookshop
- Jordana Turner, Edmonds Massage and Bodywork
- Pam Stuller, Walnut Street Coffee
- Kim Wahl, Reliable Floor Coverings

She reported on process for developing branding and identity:

- RFP
- High caliber response – 20 excellent applicants
- Decision matrix
- Interview process
- Hired Turnstyle Studio

She provided ideas from the brand manifesto that the design team used to develop visuals, graphics, fonts, etc. of the visual identity:

- In most of our lives we face abundant choices, and access to every-more-convenient amenities
- And the great paradox is that – despite our greater connectivity, increasing choice and rising consumption – many feel even more dislocated, stressed for time and somewhat unfulfilled…
- Our retail malls are packaged;
- Our stores are concepts;
- Our meals are taste-lab tested;
- Our apparel and styles are representative;
- Our apartments and communities are derivative of other places, and
- Our human interactions are increasingly remote, virtual and binary…
- But in a geologic basin, along the shores of Puget Sound lies the *Town* of Edmonds
- Now this *Town* isn't just a place, it's an idea…
- An interdependent shoreside community – living, working and playing in a positive spirt of independence.
- The residents here prize their connections to people and community.
- And the natural beauty strolling from the front door…
- For locals, tumbling into *Town* is a time-held practice of refreshing and reconnecting.
- For visitors, *Town* is just a little out of the way – but an accessible escape.
- Just four miles down the hill, and light years from "same."
- *Town* is something you take part in, an antidote to alone, superficial, impersonal and predictable
- There is a practical idealism about *Town*: a place that necessarily grows and changes, but yet retains a character and values gifted to us;
- A contemporary expression of a constant truth in how humans at their very best can interact. Scenic, safe and social – *Town* represents a new civility…
- Everyday life creates an environment that stresses and contorts our true self. Who we are, what we value, how we perceive becomes steadily occluded by our work, societal and commercial environments.
- Over time we become dislocated from who we are, and who we intended to be…
- The *Town* you find in Downtown Edmonds, helps us recapture our better, original selves. We enable people to Return, Forward.

She described the personality and values that came from the brand manifesto:

Personality	Friendly	Quirky, Creative	Happy	Industrious	Positive

Values	Neighborliness Originality Delight Enterprise Refreshment

She relayed concepts that make a good name:

- Memorable
- Pronounceable
- Spellable
- Unique or different
- Credible
- Associative
- Short
- Available

Their new name is: Ed! Edmonds Downtown Alliance. This name provides visual opportunities for fun, creative outlets:

- Ability to anthropomorphize the place and the organization. A character named Ed who epitomizes the qualities of neighborliness we want to project
- Or, think of Ed! as the nickname for Edmonds and the Edmonds Downtown Alliance. Imagine a series of different faces (a child, an adult, even a dog on the beach), each with a name tag saying the same thing: "Hello, my name is Ed!" We are all Ed! – welcoming, positive, approachable
- When communicating in an official capacity or to a business audience, Ed! can be downplayed and Edmonds Downtown Alliance can lead the conversation. The nickname "Ed!" is a logical abbreviation of Edmonds so it's a natural fit.

She displayed the logo, collateral materials (letterhead, business cards, buttons), ways to use Ed! at the end of a word (investEd!, spiritEd!, delightEd!), print advertisement, an illustration to round out the visual package, and examples of a banner and a tote bag.

Ms. Stuller described their new website, explaining the primary focus is the directory, driving visitors to local businesses, eat & drink, services, and shopping. The website includes links to "Friends of Ed!" such as the Edmonds Historical Museum, Edmonds Center for the Arts, Chamber of Commerce, etc. The homepage of the website has links to businesses within the business district and every business within the BID will get their own, individual webpage.

She provided a mid-year update:

- Progress!
- Brand creation, name and logo
- Optimized website
- Collaboration
  - Edmonds Community College Marketing Program
  - IB program at Edmonds-Woodway High School
  - Luncheon, September 24 at 11:30 in the Brackett Room at City Hall
- Catalyst for action – signage
- Encourage walkability – umbrella program
- Share knowledge – business seminar
- Engage members – small grants program
- Leverage funding – 501c3 charity

She reviewed 2014 Q2 Financials (as of June 30, 2014)

	Budget	Q2 Actual
Assessments (Revenue)	$89,000	$45,745
Total Expenditures 2014	$80,000	$13,522
Balance (thru Q2)		32,223

She encouraged the Council to attend the Advisory Board's meetings on the second and fourth Thursday of the month at 8:00 a.m. in Room 225 at Edmonds Center for the Arts. The EDBID will submit their 2015 work plan to the Council by October 1.

Councilmember Petso requested Ms. Stuller review the founding documents developed when the EDBID was formed to ensure the small grants program that was included. She found it odd that businesses would be taxed and funds then directed to an individual businesses. Ms. Stuller explained the idea behind the grants program is the member's request must fit the scope of work and the mission of the organization. There will be well-defined decision criteria. Councilmember Petso acknowledged it may be a good idea but it may be that that EDBID is not the organization to implement that idea.

Council President Buckshnis commended the EDBID on the development of Ed! She asked about scheduling the work plan at an October Council meeting. Ms. Stuller offered to email her. Council President Buckshnis commended Ms. Stuller and other members for their efforts, recognizing the difficulty of running a business and doing volunteer work.

7. REPORT FROM THE PLANNING BOARD

Neil Tibbott, Vice Chair, Planning Board, explained the Planning Board serves at the discretion of the City Council, working on projects the Council refers to them and issues that the City's rules require be reviewed by the Planning Board. There is a great deal of cooperation on the Planning Board; its members have diverse talents and skills that provide opportunity to consider project details from a variety of angles. The Planning Board also has the luxury of an extended amount of time to address questions and deliberate which the Council often does not have.

Vice Chair Tibbott described Planning Board activity since April 2014

Topic	Action Taken
Westgate Plan	Two public hearings capping off five years of work Forwarded to City Council 6/11
Legal Lot Definition	Working sessions and public hearing Forwarded to City Council
CG and CG2 commercial use mandates	Working sessions and public hearing Forwarded to City Council
ECDC Rewrite	Working sessions
Stormwater Code Update	Information meeting
Adopting Performance Measures	Information meeting

With regard to the Westgate Form-based Code and Comprehensive Plan Update, he described three modifications the Planning Board made to the Westgate Plan:

1. Building heights reduced in one area from 45 feet to 35 feet in response to public input regarding proximity of the building to neighborhoods
2. Changed the UW study's recommendation to narrow streets to two lanes
3. Increased setbacks between buildings and slopes in response to public input and to utilize the slopes in their natural habitat

With regard to the CG and CG2 Updates, the Planning Board considered:

- Permitted uses along Hwy 99

- Site Specific form-based code
  - Multi-use building vs multiple uses on the site
- Parking options by use
  - Auto dealers
  - Retail vs. residential

With regard to the Stormwater Code Update, the goal is to have stormwater handled onsite. The Planning Board considered:

- Design goals
  - Pervious surfaces
  - Retention options
- Discussed ongoing enforcement and compliance
- Discussed homeowner resources

The Planning Board also discussed the following Sustainability Performance Measures:

- Land Use
- Transportation
- Community Health
- Utilities
- Economic development
- Cultural & Recreational
- Housing

The Planning Board's extended agenda includes:

- September 2014
  - Comprehensive Plan Housing Element
  - Presentation of Development Projects/Activities
  - Public hearing on Capital Facilities Plan element
- October 2014
  - Parks & Recreation Report

Vice Chair Tibbott invited the Council's input on items the Planning Board should prioritize.

Council President Buckshnis recalled there was discussion of priorities at the joint meeting with the Planning Commission. She offered to schedule another joint meeting in November. Vice Chair Tibbott agreed joint meetings are a helpful way for the Planning Board to collaborate with the Council; the joint meeting assisted with establishing priorities. Council President Buckshnis advised the Council plans to hold two study sessions per month; a joint Planning Commission/City Council study session could be scheduled.

Councilmember Johnson relayed there is a vacancy on the Planning Board. Vice Chair Tibbott advised the Planning Board's expert on plants and landscaping has resigned.

Councilmember Petso suggested an effort be made to get things in the right sequence, for example, the changes proposed on Highway 99 when the stormwater work has not yet been done. Any development on Highway 99 is likely to drain to Lake Ballinger where a great deal has been spent to clean it up and prevent flooding. One of her priority was working on the stormwater code as quickly as possible. She also expressed concern with the timing of items; when the joint meeting was held with the Planning Board regarding Highway 99 in April, the Planning Board had already committed at a February 26, 2014 meeting (which did not have a quorum) to pushing the Highway 99 amendments. She preferred to have Council discussion first and then the Council refers the item to the Planning Board.

8. REPORT ON BIDS OPENED SEPTEMBER 10, 2014 FOR THE 15TH ST. WALKWAY (EDMONDS WAY TO 8TH AVE S) PROJECT AND POSSIBLE AWARD OF CONTRACT

City Engineer Rob English referred to a map in the packet showing the limits of the project, explaining there was one change made to the geometry. The existing street is 40 feet wide; the proposed improvements will construct a 5-foot sidewalk on the south side of the street, 5 feet of street pavement will be removed, leaving 35 feet of street pavement with a 15-foot shared lane eastbound, a 13-foot lane westbound and a 7-foot parking lane on the north side.

He described the project improvements

- 650 feet of 5-foot sidewalk
- 4 ADA compliant curb ramps
- 2 Stormwater infiltration trenches
- Bicycle sharrows
- Pavement striping

Mr. English reviewed the bid result; bids were opened September 10, 4 bids were received:

Engineer's Estimate:	$222,420
Contractor bid result:	
Kamins Construction (low bid)	$233,753
Road Construction NW	$245,358
Aurora	Rejected
Trinity	$256,475

He described the construction budget

Item	Cost
Construction contract	$233,753
Construction management	$ 32,000
5% management reserve	$ 11,700
Total	$277,453

He reviewed construction funding:

Funding	Amount
Safe Routes to Schools Grant (state grant)	$251,000
Stormwater Utility Fund (422)	$ 26,675
Total Construction Funding	$277,675

Staff recommends awarding a contract to Kamins Construction for $233,752.62 and authorizing a 5% management reserve of $11,700.

Councilmember Petso recalled public meetings were held regarding this project; she asked which plan was displayed at the meeting at Sherwood Elementary. Mr. English responded the public meeting covered whether to build the sidewalk on the north or south side. The meeting was in regard to 2 other walkway projects, 5 people attended regarding 15th Street and they all supported the south alignment which was one of the reasons the south side was chosen. Councilmember Petso asked whether they were informed parking would be added to one side of the street. Mr. English advised a flyer was sent to the residents along 15th Street showing the proposed parking on the north side, no parking on the south side and a sidewalk on the south side and requesting comments; no comments were received. Two people called about a month ago, one requested the sidewalk be constructed on the north side because he lived on the

north side. The second person also requested the sidewalk be constructed on the north side due to concern for his landscaping. He was told the sidewalk would be built in the street which alleviated his concern.

Councilmember Petso observed there was approximately 10 feet of right-of-way on each side of the street and asked why the extra right-of-way was not utilized to avoid narrowing the lane from 20 feet to 13 feet. Mr. English explained this is a residential street; the 40-foot width was felt to be oversized. A typical travel lane would be 12 feet with 7 feet of parking. The standards for residential street widths vary from 22 - 28 feet depending on the number of lots that front the street. He summarized 40 feet was a very wide street and it was felt there was enough width within the existing street to build the sidewalk which would help slow traffic, not add impervious area and minimize the impact to the property owners. Although there is 10 feet of right-of-way, much of it is landscaping maintained by the property owners.

Councilmember Petso observed toward SR-104 there are 2 lanes, a dedicated right turn lane and a through lane. She asked whether the reduction to 13 feet and the parking would occur in that location as well. Mr. English advised the approach onto SR-104 will stay the same.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO AWARD A CONTRACT TO KAMINS CONSTRUCTION FOR $233,752.62 AND AUTHORIZE A 5% MANAGEMENT RESERVE OF $11,700. MOTION CARRIED UNANIMOUSLY.

9. PUBLIC HEARING ON POTENTIAL AMENDMENTS TO THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) MODIFYING THE DEFINITION OF "LOT" (ECDC 21.55.010), DEFINING "LOT OF RECORD" (ECDC 21.55.015) AND ESTABLISHING A PROCESS FOR DETERMINING "INNOCENT PURCHASER" (ECDC 20.75.180). (AMD20140001)

Senior Planner Kernen Lien explained this issue came to light late last year and early this year when the legal status of a number of properties came into question. He provided the following existing definitions:

- ECDC 21.55.010 – Lot
  Lot means a single tract of land legally created as a separate building site with frontage on a street or access easement. For purposes of this code, adjoining lots under common ownership, which were created without subdivision or short subdivision approval from applicable city or county governments, shall be considered as one lot and subject to the regulations contained herein. The terms of this section shall apply regardless of whether the individual adjoining lots meet current zoning requirements.
- ECDC 20.75.180 Violation – Permits
  No building permit, septic tank permit or other development permit, shall be issued for any lot, tract or parcel of land divided in violation of this chapter unless the applicant for such a permit has applied to the hearing examiner and obtained a ruling from the hearing examiner that the public interest will be not adversely affected thereby; provided, however, the prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.
- ECDC 17.40.030 Nonconforming Lots
  No building permit, septic tank permit or other development permit, shall be issued for any lot, tract or parcel of land divided in violation of this chapter unless the applicant for such a permit has applied to the hearing examiner and obtained a ruling from the hearing examiner that the public interest will be not adversely affected thereby; provided, however, the prohibition contained in this section shall not apply to an innocent purchaser for value without actual notice.

Mr. Lien explained one of the clearest examples of a legal lot is a lot created through the subdivision process. He displayed a time lapse map illustrating subdivisions that have occurred in the City from 1890 to the present. He provided an example of a plat becoming parcels, displaying a plat originally recorded in

1915 where one short plat was recorded in 1983; additional parcels were created by other means outside the subdivision process which raised legal lot questions.

The Planning Board proposed the following amendments:
ECDC 21.55.010 – Lot Definition

- Revised definition of lot to be consistent with RCW 58.17.020
- Keep portion of definition relating to common ownership

ECDC 21.55.015 – Lot of Record (new definition)

- Create new definition for Lot of Record
- Platted Lots
  - Tied to specific dates around adoption of subdivision codes
    - City of Edmonds
    - Snohomish County
- Unplatted Lots
  - Specific Washington State Law exemptions
  - Created prior to first City of Edmonds subdivision code (effective July 3, 1956)

He explained the City has five historic plats in the downtown area that meet the R-6 zoning standard:

- City of Edmonds
- Brackett's First Addition
- Gephart's First Addition
- Kelloggs's Plat
- Albert B. Lord's Grandview Addition

He explained ECDC 20.75.180 Violation – Permits, the prohibition against issuing building permits on lots created outside the subdivision process does not apply to innocent purchaser. However, there are no criteria or a process to determine what an innocent purchaser is. He described the proposed innocent purchaser process:

- ECDC 20.75.180
- Establish criteria to determine innocent purchaser (proposed criteria developed by City Attorney based on case law)
- Innocent purchaser status may be approved subject to conditions of approval requiring the applicant to make improvements to the property that would likely have been required by the City had the property been properly subdivided unless it is determined that such improvements have already been constructed
- Affirmative determination shall be recorded with the county auditor
- Innocent purchaser determination as Type II decision in ECDC 20.010.003 (staff decision with notice to property owners within 300 feet)

Councilmember Petso recalled the Planning Board minutes stated a desire to have the determinations filed with Snohomish County. Mr. Lien explained an affirmative decision of innocent purchaser would be filed with county auditor; the City attorney did not think it wise to record a negative decision.

Councilmember Petso asked if the effect of adopting the proposal would be to convert lots that are presently not buildable into lots of record allowing the possibility that they could be built on. Mr. Lien answered it establishes what a lot record is; a lot of record is not necessarily a buildable lot. All the other City zoning, development and nonconforming standards would still apply. Councilmember Petso asked when a lot became a buildable lot, if it meets the standards, it conceivably be built on versus under the current process it could not be built on. Mr. Lien explained a lot of record is currently defined by case law; the City does not have a definition of a lot of record. The clearest example is a lot approved via the

subdivision process. Property that is not a lot of record now will not become a lot of record by establishing this definition. This provides clarity regarding what a lot of record is.

Councilmember Petso provided an example, a person purchases a house and there is a vacant parcel that the realtor says is not a buildable lot between the house and the view. She asked whether this change would allow that lot, although undersized, to be developed. Mr. Lien advised an undersized lot would still have to comply with nonconforming standards regarding a lot. There is reference to an innocent purchaser in the code today so someone could purchase a lot created outside the subdivision process and apply for innocent purchaser; there is just not any criterion or an established process. Councilmember Petso observed as long as a lot was within the percentage of legal size, it could be developed. Mr. Lien answered yes, it could be built on if it met the size standards in the nonconforming table. That is true even without this code update.

For Councilmember Bloom, Mr. Lien reviewed the permit type chart in 20.01.003: Type I is an administrative decision with no notice; Type II including innocent purchaser is a staff decision with public notice; Type IIIA and IIIB are Hearing Examiner processes, Type IVA and IVB are quasi-judicial legislative actions and Type V is a legislative action. Innocent purchaser was added to the table as a Type II decision. Councilmember Bloom asked why Type II was chosen and whether there were any other options. Mr. Lien answered all the review types are options. Type II was recommended by the City Attorney because the criteria for innocent purchaser are clearly identified, allowing staff to make a determination. Type II also provides notice to property owners in the area; adjacent property owners may have information to be considered during the review process. Type II decisions are appealable to the Hearing Examiner. The Planning Board agreed with the City Attorney's recommendation.

Councilmember Bloom asked whether a lot could become nonconforming as a result of the City purchasing property from the property owner or the property owner giving property to the City for a walkway, roundabout, etc. Mr. Lien answered he was uncertain whether that had been looked at but the definition of nonconforming lot states it met the zoning standards when it was created. At Councilmember Bloom's request, staff will research how the dedication or acquisition of right-of-way affects the status of a lot. That is not impacted by this code update as no changes are proposed to the nonconforming code.

Mayor Earling opened public participation portion of public hearing. There were no members of the public present who wished to provide testimony and Mayor Earling closed the public hearing and remanded to City Council for action.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE PROPOSED AMENDMENTS AS RECOMMENDED BY THE PLANNING BOARD AS SHOWN IN EXHIBIT 1 AND DIRECT STAFF TO PREPARE AN ORDINANCE. UPON ROLL CALL, MOTION CARRIED (3-2), COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBERS JOHNSON AND MESAROS VOTING YES; AND COUNCILMEMBERS BLOOM AND PETSO VOTING NO.

10. PUBLIC HEARING ON POTENTIAL AMENDMENTS TO THE CITY OF EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) MODIFYING THE PROVISIONS OF THE GENERAL COMMERCIAL (CG) ZONES. THE AMENDMENTS FOCUS ON TWO SETS OF CHANGES:
(1) PARKING. THE PARKING STANDARDS FOR ALL CG-ZONED PROPERTIES WOULD BE SET AT A UNIFORM STANDARD (1 SPACE PER 400 SQ. FT. OF LEASABLE BUILDING SPACE), AND POTENTIALLY FURTHER REDUCE THE PARKING STANDARD TO 1/600 SQ. FT. FOR PROPERTIES THAT ONLY HAVE FRONTAGE ADJOINING OTHER CG ZONES. THE AMENDMENTS WOULD ALSO PROVIDE FOR DEVELOPMENT-SPECIFIC PARKING STUDIES.
(2) USES. THE AMENDMENTS WOULD REMOVE THE REQUIREMENT FOR TWO FLOORS OF COMMERCIAL SPACE WITHIN ALL CG DEVELOPMENTS. MIXED USE

DEVELOPMENTS WOULD BE ALLOWED WITH NO SPECIFIC COMMERCIAL SPACE REQUIREMENT

Planning Manager Rob Chave explained the Planning Board's recommended changes to the CG and CG2 zones focus on two sets of changes:

1. 2-floor commercial requirement before residential units can be added
2. Parking standards

The Planning Board's goals included:

- Remove obstacles to development
- Encourage retention of commercial uses while encouraging more residential uses along Highway 99 – develop a "community"
- Take advantage of transit and other development scenarios developing along the corridor in other jurisdictions (Lynnwood, Shoreline, Everett)

With regard to the commercial requirement, the current requirement is two floors of commercial before any residential can be built. The exception is large scale developments of two acres or more. The Planning Board:

- Looked at different options with the focus on removing the requirement for two floors of commercial space:
  - No commercial requirement
  - Minimum requirement (e.g. some commercial requirement across the site) but not 2 floors
- Recommended no requirement with a review after one year of experience

With regard to parking standards, Mr. Chave explained parking is currently regulated by use. Parking standards are minimums and more parking can be provided. For example, Top Foods provided more than parking than was required. They later found they did not needed all the parking and began redeveloping the parking lot. With parking minimums, it is up to owner to decide how much parking to provide. Many jurisdictions have moved away from use standards and developed standard rates; rates can vary by location. During their review, the Planning Board:

- Looked at two options:
  - Single blended rate of two-tiered parking requirement based on access to Highway 99 (1 per 400 square feet or 1 per 600 square feet (if only have Highway 99 frontage)
  - A parking study option was also considered, where a project-specific study could be approved in lieu of the specified standards
- Recommended the two-tiered parking system and the study option

Mr. Chave noted the packet includes other options considered by Planning Board for the Council's consideration.

Councilmember Bloom relayed her concern that all the information presented was related to Highway 99, and the CG zone at the Port was not discussed at all. She asked whether approving the Planning Board's recommendation would change the zoning at the Port as well. Mr. Chave explained the Port is zoned CG but it is a contract rezone, a specific contract that regulates uses on the Port property. The contract rezone does not allow residential uses; anything related to mixed use or residential in the CG zones would not apply to the Port. The change to the parking standards would affect the Port property. The Port does not have frontage on Highway 99 so the parking requirement would be 1 per 400 square feet. Parking at the Port is currently regulated by use. The uses are largely office and light industrial which are less stringent than 1 per 400 square feet. Due to parking requirements for the health club, there is a mix of parking requirements and he estimated the current parking was approximately 1 per 400 square feet.

Councilmember Bloom asked for clarification, due to the contract rezone none of the changes apply to the CG zones at the Port other than the parking. Mr. Chave explained the contract is very specific, excluding certain uses from the CG zone such as residential. None of the changes to commercial would affect the Port property because the contract rezone supersedes it.

Councilmember Petso referred to the one year experiment and asked whether the code is automatically limited to 1 year. Mr. Chave explained that could to be done via ordinance; tonight the Council is authorizing the City Attorney to prepare an ordinance.

Councilmember Petso referred to the February 26 meeting where the Planning Board did not have a quorum as only 3 commissioners were present. At a later meeting, when the Planning Board took action, there were only four commissioners present and one commissioner preferred to wait. She asked why the Planning Board was rushing this, noting the Council was also missing two members tonight. Mr. Chave explained the Planning Board had had a couple meetings and the commissioners present that night wanted to proceed.

Councilmember Petso referred to a statement in the February 26 minutes that there have been discussions with the Top Food property owners who have expressed an interest in developing or upgrading the site which is currently underutilized. She asked whether there was any chance that the proposal to allow 100% residential on Highway 99 was the reason the grocery store closed. Mr. Chave answered that chance was probably zero because it preceded this discussion. The Top Foods transaction involved many properties throughout Puget Sound and was not site specific.

Councilmember Petso recalled one alternative to risking the loss of an existing businesses such as a car dealership and/or grocery store to 100% housing was to limit 100% housing to properties that could demonstrate commercial challenges. She has been told that some of the properties on Highway 99 have topographical challenges and that viable commercial is difficult on some properties due to an awkward or unusual shape. She asked whether the Highway 99 Task Force or the Planning Board discussed limiting the residential experiment to just the properties that could demonstrate they have commercial challenges. Mr. Chave answered there was no discussion like that; he was unsure what criteria would be used. Councilmember Petso asked whether there was any discussion about the risk of losing large, revenue generating car dealerships to housing. Mr. Chave answered that was highly unlikely but anything was possible.

Councilmember Petso asked whether there was any discussion regarding the effects on Lake Ballinger. When serving on the Lake Ballinger Task Force, she learned about flooding due to rain events as well as water quality issues. A study has been done regarding the amount of impervious surface in the area; she asked whether increasing impervious surface would make the situation at Lake Ballinger worse or would development be required to require clean and retain their stormwater. Mr. Chave answered any redevelopment would be required to meet current standards. For example, Dicks had to deal with the stormwater on their property.

Councilmember Petso said the February 26 Planning Board minutes refer to allowing parking on the ground floor. She asked whether parking on the ground floor would be encouraged or permitted. Mr. Chave it was not encouraged, it was not permitted now and he was uncertain how that could be done.

Councilmember Petso asked whether consideration had been given to requiring a property that developed entirely residential to comply with the multi-family code, observing multi-family residential parcels have requirements such as side setbacks that the CG zone does not have. Mr. Chave answered no, the multi-family code comes into play with the parking standards, otherwise building codes largely govern multi-family. Councilmember Petso observed in multi-family zones elsewhere in the City there would be a 15-foot side setback; she asked whether the side setback for multi-family residential on Highway 99 would

only be what the fire code required. Mr. Chave answered that was essential the same as downtown; there are residential setback and street setbacks, commercial zones do not have side setbacks. It is common to have multiple properties under a single ownership; requiring a side setback would heavily restrict how a project could be designed. Councilmember Petso asked whether there was a rear setback on Highway 99. Mr. Chave answered there is a residential setback.

Council President Buckshnis relayed the action requested tonight is to direct the City Attorney to create an ordinance that will be returned to the Council which will allow Councilmembers Fraley-Monillas and Peterson to provide input if they have any concerns. Neither Councilmember Fraley-Monillas nor Peterson objected to the Council reviewing this in their absence.

Council President Buckshnis asked whether a developer could pay for a parking study if they wished. Mr. Chave answered yes, under the proposed code; that is not currently included in the code. Council President Buckshnis asked how to prevent a developer paying someone to write a report saying they needed a lower parking requirement. Mr. Chave responded a developer would need to justify with clear evidence why a lower parking standard would work. Staff would be looking for hard experience; for example, a developer who has done mixed use in transit locations and can demonstrate the parking works and that the proposed development is in a similar location.

Councilmember Johnson observed there are two standards proposed for the parking, one is related to protection of overflow parking. She asked whether any analysis had been done of the streets that could be affected by on-street parking or what lots have an abutting CG or CG2 zone. Mr. Chave answered property with only frontage on Highway 99 would have the less stringent parking requirement. Properties with frontage on streets other than Highway 99 would be required to meet higher parking standards.

Councilmember Johnson asked whether there was any current data regarding the number of parking spaces that currently exist in the Highway 99 corridor. Mr. Chave answered no, explaining that would be a large project. The 1 per 400 square feet is more stringent than the old downtown standards (1 space per 500 square feet). That standard was established due to the amount of on-street parking downtown; there is little on-street parking on Highway 99. The ratios for service are 1/200 up to 1/600; 1/400 was splitting the difference. The parking ratio for office without customer service is 1/800 but that was less likely to occur on Highway 99 and it was not considered in determining an average. The 1/400 reflects the mix of service and retail that exists on Highway 99 today. The auto dealers have very unique parking standards; their parking standards are lower but they have a lot of cars parked on their lots.

Councilmember Johnson asked whether there was any data to support the parking recommendations. She observed the parking for medical offices was 1 per 200 square feet. She questioned how an average could be determined without knowing what currently exists. Mr. Chave answered the goal was identifying a reasonable average based on the general pattern of development on Highway 99. A detailed study would be an extensive piece of work. Councilmember Johnson said she was not suggesting a detailed study, she wondered whether there was any data to support the proposed change. Mr. Chave answered it was determined by considering the overall mix of uses, general locations, and a general average between the low and high of the mix of uses. Staff also considered data from other cities which are generally less stringent such as 1/500. Staff was reluctant to recommend 1/500 due to the proximity to residential. It was felt the requirement could be reduced slightly if a property only had Highway 99 frontage and there was no opportunity for parking to spill into a residential area.

Councilmember Johnson said the difficulty with the information provided was it was not all comparable to Edmonds. For example parking requirements for regional growth centers which do not reflect Highway 99. In the parking requirements for other centers, the only representative one is the Lynnwood Highway 99 Mixed Use Node which required 3 spaces per 1,000 square feet. She was concerned the standard for properties with frontage on Highway 99 was 1 space per 600. Mr. Chave agreed it was a minimum. He

acknowledged in considering other cities requirements, there was not a one to one match. Councilmember Johnson summarized she would be more comfortable with more data.

Councilmember Bloom asked Economic Development & Community Services Director Patrick Doherty if he was comfortable the changes would protect the car dealerships. Mr. Doherty answered this was being offered as pilot project to see the response from the development community. The City has a full range of car dealerships, long standing, main car dealerships and some smaller, more marginal car dealerships. The very large profitable car dealerships on Highway 99 are very entrenched in their businesses, have a profitable market niche and the larger ones own their property. There is a huge hurdle for a developer to overcome in a market that not super-hot. In a market that is still struggling to prove itself for residential and mixed use such as the Highway 99 corridor, the margins between development costs and rents are thin. A developer would need property with a very low basis, no leases to buy out, little development on the site, and low construction and site development costs to meet that thin margin. Profitable car dealerships do not fall in that that category. Especially with a one year pilot project, the chances were infinitesimal. There may be a slightly higher likelihood for the smaller dealerships.

Mayor Earling opened the public participation portion of the public hearing. There were no members of the public present who wished to provide testimony and Mayor Earling closed the public hearing and remanded to Council for action.

Main Motion
COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO PROVIDE DIRECTION TO STAFF AND THE CITY ATTORNEY TO DRAFT AN ORDINANCE FOR FINAL COUNCIL ACTION IN TWO WEEKS REFLECTING THE PLANNING BOARD RECOMMENDED CHANGES REGARDING PARKING AND USES.

Councilmember Petso asked whether the motion included limiting the ordinance to one year. Mr. Chave advised that was up to the Council; the Planning Board wanted to review what happened in a year. If the Council wished, a sunset date could be established.

Amendment 1
COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, TO AMEND THE MOTION TO INCLUDE A SUNSET DATE OF ONE YEAR.

Action on Amendment 1
MOTION CARRIED UNANIMOUSLY.

Amendment 2
COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO ELIMINATE THE OPTION TO REDUCE PARKING REQUIREMENTS WITH A PARKING STUDY.

Councilmember Petso explained she shared Council President Buckshnis' concerns that it may be difficult require sufficient documentation to ensure parking will be adequate. As Mr. Chave said one of the means of reducing parking was based on management of the property, she was concern a property owner who cleverly managed his parking could sell and the structure with inadequate parking remain.

Councilmember Johnson said in general she would be more comfortable if there was more parking data and information available before a change was made.

Action on Amendment 2
UPON ROLL CALL MOTION CARRIED (3-2), COUNCILMEMBER BLOOM, JOHNSON AND COUNCILMEMBER PETSO VOTING YES; AND COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBER MESAROS VOTING NO.

Amendment 3

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO LIMIT 100% RESIDENTIAL TO PROPERTIES THAT CAN DEMONSTRATE COMMERCIAL CHALLENGES SUCH AS UNUSUAL PARCEL SHAPE, CHALLENGING TOPOGRAPHY OR A HISTORY OF MINIMUM COMMERCIAL ACTIVITY.

Councilmember Petso explained her goal was to attempt to encourage more development activity on Highway 99 but not risk replacing valuable commercial uses that currently exist. If a property is vacant because there is a steep slope in the center or it has an odd shape that will not accommodated a viable business, those properties can be subject to the 100% residential experiment.

Mayor Earling asked how that would be defined. Councilmember Petso reiterated unusual parcel shape, challenging topography or a history of minimal commercial activity. Mr. Chave observed that sounded like a policy statement rather than a regulation. Councilmember Petso suggested if the amendment passes, the City Attorney could tighten up the language.

Action on Amendment 3

UPON ROLL CALL, MOTION FAILED (2-3), COUNCILMEMBERS BLOOM AND PETSO VOTING YES; AND COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBERS JOHNSON AND MESAROS VOTING NO.

Amendment 4

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO REQUIRE PROPERTY OPTING FOR 100% RESIDENTIAL BE GOVERNED BY THE RM 1.5 DEVELOPMENT STANDARDS. COUNCILMEMBER BLOOM SECONDED.

Mr. Chave asked whether that would include lot coverage, setbacks and everything in the RM 1.5 zone. Councilmember Petso responded it may be appropriate to exclude height limits. She explained RM 1.5 is the maximum density multi-family zone which most would consider appropriate for Highway 99. It includes standards to ensure quality residential development such as side setbacks, lot coverage requirements, etc. Mr. Chave suggested specifying which requirements would be included to avoid unintended consequences. For example multi-family zones have very specific density requirements. Councilmember Petso suggested excluding density and height.

Councilmember Bloom said it was difficult to make a decision on the amendment without knowing all the RM 1.5 development standards. She asked whether Mr. Chave could provide further information. Mr. Chave agreed he could depending on the outcome of vote. He preferred to identify the standards that would be included such as setbacks. He explained multi-family standards are established for multi-family zones such as low building heights, individual buildings on a site, buffered from residential; they are not set up for mixed use development.

Action on Amendment 4

COUNCILMEMBER PETSO WITHDREW HER MOTION WITH THE AGREEMENT OF THE SECOND.

Amendment 5

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO REQUIRE IF 100%RESIDENTIAL IS DEVELOPED ON A SITE, THE PARCEL BE SUBJECT TO THE COVERAGE, SETBACK AND PARKING REQUIREMENTS OF THE RM 1.5 ZONE.

Action on Amendment 5

UPON ROLL CALL, MOTION FAILED (2-3), COUNCILMEMBERS BLOOM AND PETSO VOTING YES; AND COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBERS JOHNSON AND MESAROS VOTING NO.

Amendment 6
COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO STRIKE THE SENTENCE IN THE AGENDA MEMO, MIXED USE DEVELOPMENTS WOULD BE ALLOWED WITH NO SPECIFIC COMMERCIAL SPACE REQUIREMENT.

Councilmember Johnson explained she supported removing the second floor commercial space requirement which she felt was consistent with the direction given to the Planning Board at the joint meeting. The Planning Board considered that and added allowing residential development. Mr. Chave summarized Councilmember Johnson preferred the option the Planning Board considered but did not recommend; there is still a commercial requirement on the site but it can be configured so that there was a strictly commercial building and a strictly residential building but the equivalent of one floor of commercial would be somehow configured on the site. Councilmember Johnson agreed. Mr. Chave pointed out that is similar to the provision for 2+ acres. He clarified under the amendment, a residential building could not be constructed on a property without any commercial; there would still be a commercial requirement.

Councilmember Johnson explained this would preserve the intent of commercial for the Highway 99 corridor and allow creative options. Mr. Chave relayed Mr. Doherty's suggestion that with that change, the sunset provision may not be needed.

Councilmember Mesaros clarified under this amendment, every site would require some commercial use. Mr. Chave answered yes.

Council President Buckshnis did not support the amendment, citing the need for affordable housing and progressive zoning on Highway 99 and that there may not need for commercial development on all properties. The larger properties are required to have a commercial mix, the smaller properties are not.

Action on Amendment 6
AMENDMENT CARRIED (3-1-1), COUNCIL PRESIDENT BUCKSHNIS VOTING NO AND COUNCILMEMBER MESAROS ABSTAINING.

COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO DIVIDE THE QUESTION TO VOTE ON PARKING AND USES SEPARATELY. UPON ROLL CALL, MOTION CARRIED (3-2), COUNCILMEMBERS BLOOM, PETSO AND JOHNSON VOTING YES; AND COUNCIL PRESIDENT BUCKSHNIS AND COUNCILMEMBER MESAROS VOTING NO.

Action on Main Motion as amended to provide direction to Staff and the City Attorney to draft an ordinance for final Council action in two weeks reflecting the Planning Board's recommended changes regarding parking
UPON ROLL CALL, MOTION FAILED (2-3), COUNCIL PRESIDENT BUCKSHNIS AND MESAROS VOTING YES; AND COUNCILMEMBERS BLOOM, PETSO AND JOHNSON VOTING NO.

Action on Main Motion as amended to provide direction to staff and the City Attorney to draft an ordinance for final Council action in two weeks reflecting the Planning Board's recommended changes regarding uses
MOTION CARRIED UNANIMOUSLY.

Mr. Chave advised staff will bring back an ordinance for final discussion/action in two weeks.

Mayor Earling declared a brief recess.

11. PUBLIC HEARING ON THE SHORELINE MASTER PROGRAM UPDATE

Senior Planner Kernen Lien Senior Planner Kernen Lien provided an overview of the Shoreline Management Act (SMA) RCW 90.58

- Adopted in 1971
- Policies address:
  - Shoreline Uses
  - Environmental Protection
  - Public Access
- Shoreline Master Program

The SMP update is to bring the City's SMP into compliance with Department of Ecology Guidelines – WAC 173-26, the standards for regulation of shoreline uses. The SMP contains a number of elements:

- Shoreline Inventory and Characterization
- Shoreline restoration plan
- Development regulations
  - Draft ECDC Title 24
  - Policies, regulations and standards for shoreline uses and modifications
  - Administrative provisions
- Cumulative impact analysis

Mr. Lien described the SMP's relationship to other plans or regulations:

- 24.10.030 – Relationship to Other Plans or Regulations
  - SMP is adopted element in Edmonds' Comprehensive Plan
  - SMP works in tandem with rest of ECDC
    - Uses, developments, and activities must comply with ECDC and SMP
    - SMP prevails where there are conflicts

Mr. Lien provided definitions for jurisdiction, setbacks and buffers:

- Jurisdiction – Shorelines and 200 feet from ordinary high water mark (OHWM) of shorelines
- Setback – Minimum distance between a structure or use and the shoreline OHWM
- Buffer – the area adjacent to a critical area and/or shoreline that is required for the continued maintenance, function, and/ or structural stability of the critical area and/or shoreline.

The SMP applies to shoreline jurisdictions which include:

- All marine waters
- Streams and rivers greater than 20 cfs (none in Edmonds)
- Lakes 20 acres or larger (Lake Ballinger)
- Shorelands – upland areas within 200 feet of the OHWM
- Associated wetlands (Edmonds Marsh east of SR-104 and the mouth of Shell Creek)

He described shoreline environments identified in the SMP (ECDC 24.30.000 – 24.30.080)

- Environment designations are analogous to zoning designations for areas under SMA jurisdiction
- 12 proposed shoreline environmental designations:
  - Aquatic I and II
  - Natural Environment
  - Urban Conservancy
  - Shoreline Residential I, II and III

- Urban Mixed Use I, II, III
- Urban Mixed Use IV (proposed interim)
- Urban Railroad

Mr. Lien explained one of biggest changes with the SMP update is related to the Edmonds Marsh. Under the current SMP, the Edmonds Marsh was considered an associated wetland so the shoreline jurisdiction ended at the edge of the marsh. With the SMP update, the Edmonds Marsh was identified as a shoreline of the state which means shoreline jurisdiction extends 200 feet beyond the wetland boundary. The shoreline of the state area was established as the salt influence portion of the marsh. Under the current SMP the marsh was an associated wetland, no shoreline designation was established for the areas on either side of the marsh, Harbor Square and the old Unocal site. The Planning Board's recommendation was Urban Mixed Use III:

- Multi-family residential uses allowed
- 50-foot setback (measured from OHWM)

The City Council's discussion included:

- No residential allowed
- 150-foot setback (measured from OHWM)
- 50-foot vegetative buffer

Department of Ecology proposed the Urban Mixed Use IV be an interim designation to allow the City and the property owners on both sides of the marsh to work together. He relayed staff's recommendation regarding Urban Mixed use IV:

- 50-foot setback
  - Consistent with BAS and no net loss criteria
  - Department of Ecology supports
  - Opportunities for enhancement
- 150-foot setback creates nonconforming situation
- Interim designation

Mr. Lien explained another important aspect of the SMP update is the CAO integration. He highlighted Part IV: General Policies and Regulations (ECDC 24.40.000 – 24.40.090)

- 24.40.020 – Critical Areas
- GMA vs. SMA
- CAO Integration options
  1. Copy specific sections of CAO into SMP
  2. Reference a specific AO addition noting which CAO provisions will not apply to the SMP
  3. Include portions of the CAO as an appendix to CAO
- City pursued options 1 and 2
- 24.40.020.D – CAO exceptions
  - General provisions
  - Wetlands
    - At Ecology's suggestion, the Small Jurisdictions Guidance for Wetlands have been incorporated into the SMP wetlands section replacing the CAO wetland section.
- 24.40.020.C – CAO provisions allowed with shoreline variance

Mr. Lien provided information regarding wetlands:

- Lake Ballinger ringed by wetlands
- CAO Buffer (ECDC 23.50.040)
  - Category III = 50 feet
  - Category IV = 35 feet

- SMP wetland buffers (ECDC 24.40.020.F)
  - Category III = 60 feet base (+ 45 to 105 feet)
  - Category IV = 40 feet
- Variance required to reduce buffer more than 25%

Mr. Lien provided information regarding bluff setbacks:
- 50-foot setback plus 15 feet building setback
- A shoreline variance would be required to build closer

Mr. Lien explained another change in the updated SMP is in Part VIII: Administration – Shoreline Permits (ECDC 24.80.000 – 24.80.170):
- Administrative Chapter largely based on WAC 173-27
- 24.80.100 – Public Hearing
  - Current SMP requires all shoreline permits to be decided by Hearing Examiner
  - Proposing only significant permits going to Hearing Examiner:
    - One or more persons request a hearing
    - A SEPA Determination of Significance is issued
    - Permit requires shoreline variance or conditional use
    - The project requires a public hearing for other City of Edmonds permits

He responded to questions raised by Councilmember Johnson's at the previous meeting:
- Eelgrass, specifically in Brown's Bay:
  - Eelgrass distribution discussed in shoreline inventory and characterization, no specific mention of Brown's Bay
  - Reviewed most recent data from WDNR Near Shore Habitat Inventory, no specific information regarding Brown's Bay
  - Restoration Plan addresses opportunity for restoration throughout Edmonds marine shoreline
- Projected Sea Level Rise
  - UW Climate Impacts Group and the Washington Department of Ecology: *Sea Level Rise in the Coastal Waters of Washington State* (January 2008)

Year	**Projected Puget Sound Sea Level Rise***
2050	Low 3" Medium 6" High 22"
2100	Low 6" Medium 13" High 50"

*Numbers are for advisory purposes, not actual predictions

  - Sea level rise tied to climate change. Considerations include:
    - Location
    - Time horizon
    - Risk tolerance

He identified SMP policies related to sea level rise:
- Shoreline Use Goal ECDC 24.20.050.B.10 - Develop adaptive management strategies to increase capacity to respond to future possible impacts on the Edmonds shoreline from climate change in the Puget Sound region.
- EDCD24.20.050.C.11- C.13 (new policies recommended by Planning Board)
  - Stay abreast of scientific information
  - Prioritize Edmonds Marsh studies
  - Development should use LID techniques where appropriate

He identified regulations in the draft SMP that although they do not specifically mention sea level rise, they imply it be taken into consideration:
ECDC 24.40.030 – Flood Hazard Reduction
ECDC 24.50.010 – General Modification and Policies Regulations
ECDC 24.50.020 – Shoreline stabilization
ECDC 24.60.070 - Residential development

Mr. Lien reviewed the City's approval process:

- Assemble complete draft SMP
- Complete SEPA review and documentation
- Provide Growth Management Act 60-day notice of intent to adopt
- Hold public hearing
- Prepare a responsiveness summary
- Approve SMP and submit to Ecology
- Demonstrate compliance with Guidelines

He reviewed Ecology's approval process:

- Approval process generally takes six months to complete
- Process for minor amendment is the same as full blown update
- Provide public notice and opportunity for comment
- Minimum 30 day comment period
- Send comments to local government within 15 days
- Local government has 45 days to prepare response to comments
    - Prepare decision packet 30 days after receiving response to comments
    - Ecology may:
        - Approve the submitted SMP amendment as is
        - Approve the SMP amendment subject to required changes
        - Deny the SMP amendment
- Work with local government to finalize SMP amendment approval

Mr. Lien commented due to the Comprehensive Plan code update/reorganization, the code may be organized differently and the SMP may not be in Title 24.

Mayor Earling advised the Council will hold a public hearing but not make a decision regarding the specific outcome. Mr. Lien sought guidance with regard to the Urban Mixed Use IV setback.

Council President Buckshnis relayed Councilmembers Fraley-Monillas and Peterson did not object to the Council discussion during their absence but felt it best to have the full Council present for a decision. With regard to buildings in Harbor Square becoming nonconforming with a 150-foot setback, she observed 2 of the buildings would be nonconforming with a 50-foot setback including the bubble, a portion of the tennis court and near Blue Collar Dog House. Mr. Lien displayed an image of the 50-foot setback from the edge of the marsh, identifying the shoreline jurisdiction and the 50-foot setback from the march, advising the tennis bubble and the other three buildings at Harbor Square do not appear to be within the 50-foot setback. The tennis court would be but it depends on where the 50-foot setback is measured from. Council President Buckshnis noted the 150-foot setback is standard for most grant programs.

Councilmember Bloom observed the Planning Board added development should use LID techniques where appropriate and feasible. She suggested replacing "where appropriate and feasible" with "to the maximum extent feasible." Mr. Lien responded he did not recall discussion regarding the maximum

extend but there was discussion regarding should versus shall versus may. A definition of should was added to the definitions section, the particular action is required unless there is a demonstrated compelling reason based on policies of the Shoreline Management Act and this Master Program against taking the action. The stormwater update will include criteria for appropriate and feasible LID development. "Shall" was not used because LID techniques are not feasible in all areas. The feasibility aspect of LID is spelled out in the stormwater update; adding "to the maximum extent feasible" does not add to the language.

Councilmember Petso recalled at one point she wanted to delete the physically separate and functional isolated language and recalled Mr. Lien recommended it be retained. Mr. Lien recalled the discussion regarding physically separate and functional isolated was related to an interim CAO regulation.

Councilmember Petso recalled the Council's preference for Urban Mixed Use IV was no residential. Yet the table on packet page 305 indicates Urban Mixed Use IV contemplates residential. Mr. Lien referred to the Shoreline Development Table: Shoreline Development Permitted by Area Designation, explaining the X under Urban Mixed Use IV for detached residential and attached or stacked residential means it is not a permitted use. The Shoreline Bulk and Dimensional Standards table indicates residential is not allow in Urban Mixed Use IV.

Councilmember Johnson asked when the last OHWM was done, when the flooding study will be done and when it will be measured after Willow Creek is daylighted. Mr. Lien explained the OHWM for Puget the Sound shoreline along Edmonds is the average higher high tide which in this area is 10 feet above mean sea level elevation. The OHWM for Edmonds Marsh is the wetland boundary. To be a wetland, a site must meet three criteria, 1) predominantly wetland vegetation, 2) wetland hydrology saturated for 12.5% of the growing season, and 3) have hydric soils. While the overall boundaries of the marsh are not likely to change, the boundary is set by the historic fill. Daylighting and sea level rise could change the makeup of the marsh. He displayed a 2008 aerial image of the marsh from a survey done by WSDOT during planning for Edmonds Crossing and the salt marsh boundary. He identified the 10-foot elevation mark; if Willow Creek is daylighted and more free flow is allowed between Puget Sound, the marsh boundaries will not change but the marsh makeup will change. Councilmember Johnson concluded from that explanation that the artificial dikes around Harbor Square are not likely to be affected by the OHWM. Mr. Lien agreed that boundary would not change.

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

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO EXTEND THE MEETING FOR 30 MINUTES. MOTION CARRIED UNANIMOUSLY.

Barbara Tipton, Edmonds, commented the Edmonds Marsh is a 24 acre remnant of barrier estuary, a uniquely rich Puget Sound habitat that is an ecological asset to the community. Less than 20% of tidal wetlands of Puget Sound remain intact. Improving the function of estuaries like the Edmonds Marsh is an essential step to Puget Sound recovery. Since the founding of Edmonds, the marsh has lost over 50% of its original size. Reestablishment of proper hydrology in the remaining remnant would improve stormwater management, help the community adapt to sea rise, and establishing a more direct connection between the marsh and Puget Sound through Willow Creek would allow juvenile salmonid and spawning Coho to access the marsh. The marsh is of interest to many entities including the City of Edmonds, the Port of Edmonds, Native American Tribes and local citizen groups. The purpose of buffers is to protect aquatic ecosystems such as the Edmonds Marsh from the negative impacts of industrial, commercial and residential land uses. Buffers are transitional areas and should be populated by native vegetation. A recent study by the Economic Development Commission recommended the City continue to improve annual festivals. While at Bird Fest, she met people from Colorado and New England; restoration of the marsh represents a unique opportunity for creating a wildlife recreation area that attracts people to the City.

Jim Orvis, Port of Edmonds Commission President, commented the process has been long and complicated, and the Port appreciates the efforts of staff, the Council, Ecology and the public to create a shoreline plan that represents the best interests of the Edmonds community. The Port has serious concern with the proposed expansion of setbacks from the Edmonds Marsh to 150 feet. The current 25-foot buffer at Harbor Square have worked well for over 30 years, demonstrating that structures and activities at Harbor Square are compatible with a function marsh. Establishing setbacks of 150 feet will have a serious, adverse effect on Harbor Square, drawing the setback line into existing structures and regulating them to nonconforming use. This will severely impact the Port's and Harbor Square tenants' ability to upgrade existing building as well as eliminate the opportunity for creative redevelopment, ensuring the buildings within the 150 setback remain as they are indefinitely. A 150 setback means these buildings cannot be modified to be more compatible with the marsh. Both DOE and staff have stated the existing buffer meets the no net loss criteria specified in the shoreline regulations. There is no scientific basis to support the expanded setback. Council action to expand existing buffers by imposing a 150-foot setback is an arbitrary taking of property rights for two reasons, 1) it is not supported by the required scientific evidence, and 2) it will not have the desired effect of improving the marsh. The action establishing a 150-foot setback is proposed as an interim solution to permit the parties to discuss a final solution. In the Port's opinion, those discussions have been held and the Port views the proposed interim solution as simply a mean to avoid making a decision. He requested the Council reconsider this important issue and served notice if the revised SMP is approve as presented with a 150-foot setback, the Port Commission will, in the interest of its constituents, appeal directly to the Department of Ecology and the Shoreline Hearings Board.

Evan Zhao, Students Saving Salmon Club, Edmonds-Woodway High School, commented growing up he passed the Edmonds Marsh many times but did not know its function, thinking it was bare land waiting for development. After joining this club, he recognized the marsh's true importance. Theodore Roosevelt was a strong advocate of conservation and preservation of the nation's resources. He had the foresight to set aside 800,000 acres to create the Grand Canyon National Park and 600,000 acres to create Olympic National Parking. This is an opportunity to follow Roosevelt's example and create the City's own gem. There is grant funding available to restore the functions of the marsh, making it a center for natural life in Edmonds, a breeding ground for salmon and to purify water runoff. He asked the Council to realize the potential of the marsh and hoped it will one day become a gem of the City.

Patrick Madvlka, Edmonds-Woodway High School Student, explained restoration of the Edmonds Marsh represents a large step to make Edmonds more environmental friendly and efficiently coexist with nature. His generation is cognizant of environmental issues and will facilitate change in the future for the good of the environment. He suggested starting now to make Edmonds a pristine example of environmental progress, starting with the restoration of the marsh.

Val Stewart. Edmonds, speaking as an individual and not as a Planning Board Member, commented the interim Urban Mixed Use IV shoreline designation allows two years to work out details regarding buffers, setbacks and allowed uses on property adjacent to and including the marsh. After the SMA was passed in 1971, a high school teacher in the community, John Cook, took 30 students into the marsh to do a field study where they found evidence of saltwater influence. The students ultimately testified at a Snohomish County hearing that resulted in saving the marsh from fill. Now that a portion of the marsh has been reclassified as a shoreline, it will be subject to stricter standards of the SMP. This bodes well for the future of salmon populations and upstream where spawning occurs. Salmon are important to the health of the ecosystem. No net loss is not good enough. Before the marsh was diked and filled, it was a rare habitat and the remaining remnant is even rarer. Since the early 1900 approximately 90% of backshore tidal marshes in Puget Sound have been filled for agriculture and development. The City is at a crossroads; allowing more time to explore the possibilities for salmon recovery with available grant money through collaborative work the Tribes, government agencies and nonprofits. She relayed the words

of the late Billy Frank Jr., a tribal elder and a long time champion of tribal rights, salmon recovery and the environment.

Dave Page, Edmonds, commented he came by his environmental concerns firsthand as a sportsman, diver and swimmer and was aware and concerned about preserving the environment. This morning he and his wife caught four silver salmon in Edmonds. In two weeks, silver salmon will be seen butting their heads on the seawall, trying to return to the stream where they were born but they cannot because the hatchery is behind the marsh. He was excited to learn about efforts to save the marsh, daylight Willow Creek and allow the salmon to incubate in the marsh. A 150-foot setback would make the marsh eligible for millions in grant funds for recovery. However, as a protector of private property rights, the Fifth Amendment of the Constitution states if life, liberty or property is taken for public use, it has to be paid for; this is a clear taking. He suggested an interim 150-foot buffer for a couple years. If he was a Port Commission, he would advocate for a lawsuit against the City if the 150-foot setback was approved.

Hearing no further comment, Mayor Earling closed the public hearing and remand to Council for comments.

Councilmember Petso suggested deleting physically separate and functionally isolated provision, Item G on page 291 of the Council packet.

Council President Buckshnis, a member of WRIA 8, believed cleaning up the marsh would improve the surrounding property values. She agreed with an interim solution, noting there are millions available in salmon recovery grants. A 100-150 foot setback is standard.

Councilmember Johnson announced Val Stewart has arranged a tour of the Edmonds Marsh on October 4 from 10:30 a.m. to 12:00 p.m. for the Mayor, City Council Planning Board, the Climate Protection Committee and the Edmonds-Woodway High School Students for Salmon.

12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF SEPTEMBER 9, 2014

Due to the late hour, this item was postponed to a future meeting.

13. MAYOR'S COMMENTS

With regard to Westgate, Mayor Earling commented there has been a mischaracterization that staff is the reason the Westgate Plan is what is which he said is not true. It has also been characterized as the Mayor's plan which is also not true. There have been several comments from the public saying the Westgate Plan feels rushed. He understood those comments, recognizing people often come late to a process. In fact the Westgate Plan is not rushed; it has been worked on for 4-5 years. It has been before the City Council, a group of UW students who helped shape some of the recommendations, the Economic Development Commission, the Planning Board and now it is back to the City Council. There has been a thorough vetting of the plan including Councilmember Bloom's Town Hall meeting yesterday. Sometimes in the heat of changes, people jump to assumptions. This plan has been underway at several levels for a number of years.

Mayor Earling referred to today's press release regarding a $1.67 million bill from Fire District 1 as a result of union negotiations over the last few years. The City knew FD1 would retroactively bill the City for 2013 and 2014, but the size of the bill was a surprise. Mountlake Terrace. Brier and Edmonds were taken aback that no preview of the amount was provided. The contract agreement with FD1 was approved in November 2009, under a different Council and administration. He has asked FD1 for full accounting and is working with FD1 and City Attorney to ensure all the costs they are billing are justified. FD1 Chief Ed Widdis will provide further information regarding the process and the amount at the October 14 study

session. Further information with also be provided with his 2015 budget message at the October 7 Council meeting.

14. COUNCIL COMMENTS

With regard to the Westgate Plan, Councilmember Petso commented one reason for the perception that it is being rushed is the current version of the plan was presented to the Council on August 4, was promptly modified and further modifications are in the works. She agreed the process has been going on a long time but the current plan has not. She suggested beginning work on the current plan.

Councilmember Petso announced the Edmonds Historical Society's Heritage Day fundraiser on Friday, October 24, an event that finances many of the Historical Society's activities. Tickets are available at a reduced price until October 1. Tickets can be purchased by visiting the Museum or their website, HistoricEdmonds.org, or calling 425- 774-0900.

Councilmember Mesaros reported last Friday he attended the SeaShore Transportation Forum, an organization that discusses transportation issues in north King County and south Snohomish Count. One of the presentations was on the impact of potential coal trains. The individual has been invited to make a presentation to the Edmonds City Council.

Councilmember Bloom reported on the Town Hall meeting she held last night. She thanked Theresa Wippel and Larry Vogel for filming and making it available on My Edmonds News. She also thanked Councilmember Petso for attending and helping her organize and Senior Council Executive Assistant Jana Spellman who organized the materials. The Town Hall was very, very well attended. She echoed Councilmember Petso's comment that although the process has been underway, a majority of the people at the Town Hall said this was the first time they heard about it and many were concern about key issues in the plan related to parking, traffic patterns, impacts to shopping, etc. She found a Town Hall meeting was a format conductive to conversation unlike study sessions or joint meetings. A variety of concerns that she and the public had with the plan were discussed as well as how the plan could be modified to address the concerns.

Councilmember Bloom requested the City Council hold a Town Hall meeting together before the October 7 public hearing. She commented a public hearing where each person is allowed three minutes and there is no discussion is very different; a Town Hall meeting allows discussion. She requested Council President Buckshnis work with her to organize a Town Hall meeting in advance of the public hearing that could be publicly noticed to allow discussion and to hear the public's concerns.

Council President Buckshnis objected to being put on the spot. She commented September 23 is a study session which is very similar to a Town Hall meeting. Protocols for a Town Hall meeting would need to be determined. She offered to take Councilmember Bloom's request under advisement.

Councilmember Johnson announced all City Councilmembers are invited to attend Snohomish County Tomorrow's annual meeting on Wednesday, September 24. Mayor Earling, Council President Buckshnis and she plan to attend.

Council President Buckshnis advised the September 23 study session will be a mock beginning to the Council's twice a month study sessions and will include discussion regarding Westgate. The public is welcome to provide comment. A public hearing regarding Westgate is scheduled on October 7. She advised Keely O'Connell is assisting Ms. Stewart with the October 4 tour of the marsh.

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

This item was not needed.

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

This item was not needed.

17. ADJOURN

With no further business, the Council meeting was adjourned at 10:28 p.m.