

EDMONDS CITY COUNCIL APPROVED MINUTES

February 18, 2014

The Edmonds City Council meeting was called to order at 6:00 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

STAFF PRESENT

Stephen Clifton, Community Services/Economic
Development Director
Phil Williams, Public Works Director
Rob English, City Engineer
Sharon Cates, City Attorney
Scott Passey, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. ROLL CALL

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

2. CONVENE IN EXECUTIVE SESSION TO EVALUATE THE QUALIFICATION OF A CANDIDATE FOR PUBLIC EMPLOYMENT PER RCW 42.30.110(1)(g) AND TO DISCUSS POTENTIAL LITIGATION PER RCW 42.20.110(1)(i).

At 6:01 p.m., Mayor Earling announced that the City Council would meet in executive session to evaluate the qualification of a candidate for public employment per RCW 42.30.110(1)(g) and to discuss potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. Action may occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Peterson, Petso and Bloom. Others present were City Attorney Jeff Taraday, Public Works Director Phil Williams, City Engineer Rob English, and City Clerk Scott Passey. At 6:32 p.m., City Clerk Scott Passey announced to those present in the Council Chambers that an additional 10 minutes would be required in executive session. The executive session concluded at 6:42 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:10 p.m. and led the flag salute.

3. APPROVAL OF AGENDA

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO REMOVE CONSENT AGENDA ITEM O, CITIZENS' COMMISSION ON THE COMPENSATION OF ELECTED OFFICIALS - COUNCIL APPOINTMENT TO THE COMMISSION, AND AGENDA ITEM 6, INTRODUCTION AND CONFIRMATION OF MAYOR'S APPOINTMENT OF KEVIN CONEFREY TO THE ARTS COMMISSION, AND RESCHEDULE THEM ON THE FEBRUARY 25, 2014 AGENDA TO ALLOW COUNCILMEMBERS TO ENGAGE WITH THE CITIZENS PRIOR TO THEIR APPOINTMENT. MOTION CARRIED UNANIMOUSLY.

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

4. APPROVAL OF CONSENT AGENDA ITEMS

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

- A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 4, 2014**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 11, 2014**
- C. APPROVAL OF CLAIM CHECKS #206823 THROUGH #206957 DATED FEBRUARY 6, 2014 FOR \$353,417.48 AND CLAIM CHECKS #206958 THROUGH #207110 DATED FEBRUARY 13, 2014 FOR \$616,726.14. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #60781 THROUGH #60794 AND #60805 THROUGH #60811 FOR \$478,783.05, BENEFIT CHECKS #60795 THROUGH #60804 AND WIRE PAYMENTS OF \$398,207.40 FOR THE PERIOD JANUARY 16, 2014 THROUGH JANUARY 31, 2014**
- D. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM MIRIAM D. EDELSTEIN (\$4,749.76)**
- E. APPROVAL OF 2014 TAXICAB OPERATOR'S LICENSE FOR NORTH END TAXI**
- F. WSLCB JANUARY AND FEBRUARY 2014 LIQUOR LICENSE RENEWALS**
- G. 2013 PRELIMINARY DECEMBER BUDGETARY FINANCIAL REPORT**
- H. INTERLOCAL AGREEMENT WITH THE CITY OF MOUNTLAKE TERRACE TO FORMALIZE ROLES AND RESPONSIBILITIES IN REGARD TO EDMONDS' WATER, SEWER, AND STORM UTILITIES LOCATED WITHIN MOUNTLAKE TERRACE'S RIGHT OF WAY**
- I. APPROVAL OF AMENDMENT OF INTERLOCAL AGREEMENT BETWEEN THE CITY OF EDMONDS AND THE CITY OF LYNNWOOD FOR THE 76TH AVE W SEWERLINE AND WATERLINE INSTALLATION PROJECT**
- J. AUTHORIZE MAYOR TO SIGN INTERLOCAL AGREEMENT WITH DEPARTMENT OF FISH AND WILDLIFE**
- K. APPROVAL OF THE PC SUPPORT TECHNICIAN UPDATED JOB DESCRIPTION**
- L. AUTHORIZATION FOR MAYOR TO SIGN INTERLOCAL AGREEMENT WITH SNOHOMISH COUNTY FOR MUNICIPAL ROAD AND STREET SERVICES**
- M. AUTHORIZATION FOR MAYOR TO SIGN INTERLOCAL AGREEMENT WITH SNOHOMISH COUNTY FOR OVERLAY IMPROVEMENTS**
- N. AUTHORIZE THE MAYOR TO SIGN A GRANT AGREEMENT WITH THE STATE RECREATION AND CONSERVATION OFFICE (RCO) FOR \$200,000 TO COMPLETE THE FINAL FEASIBILITY STUDY FOR THE WILLOW CREEK DAYLIGHTING/EDMONDS MARSH RESTORATION PROJECT**

5. AUDIENCE COMMENTS

There were no members of the audience who wished to provide comment.

6. INTRODUCTION AND CONFIRMATION OF MAYOR'S APPOINTMENT OF KEVIN CONEFREY TO THE ARTS COMMISSION

This item was rescheduled to the February 25, 2014 agenda via action taken under Agenda Item 3.

7. ANNUAL REPORT OF THE EDMONDS ECONOMIC DEVELOPMENT COMMISSION (EDC)

Community Services/Economic Development Director Stephen Clifton introduced EDC Chair Bruce Witenberg. Chair Witenberg introduced Vice Chair Kevin Garrett and Commissioner Teresa Wippel.

Chair Witenberg acknowledged the EDC's annual report was due in early December but was delayed for several reasons. He explained the Edmonds City Council passed Ordinance 3735 in June 2009, which amended the Edmonds City Code, Title 10, adding a new Chapter 10.75 Citizens' Economic Development Commission. The impetus for the EDC came from the 2009 Citizens' Levy Review Committee. The EDC, consisting of 17 members, is empowered to advise and make recommendations to the Mayor and City Council and, as appropriate to the Planning Board, Architectural Design Board or other Boards or Commissions of the City on such matters as may be specifically referred to the Commission by the Mayor or City Council including but not limited to 1) determining new strategies for economic development within the City of Edmonds, and 2) identifying new sources of revenue for consideration by the City Council, and other strategies for improving commercial viability and tourism development.

The EDC's 17 members are appointed as follows: Each Councilmember appoints two members and the Mayor appoints three. There are two City Council liaisons, currently Strom Peterson and Kristiana Johnson; a Planning Board Liaison, Phil Lovell; a Port of Edmonds Liaison, Bruce Faires; and a Student Representative, Gloria Evstatieva. The EDC is staffed by Community Services/Economic Development (CSED) Director Stephen Clifton, CSED Program Coordinator Cindi Cruz, Cultural Services Manager Frances Chapin, and as needed, by Planning Manager Rob Chave. The expertise and cooperation of the staff is invaluable to the Commission. Jeannie Dines is our professional minute taker. The EDC meets on the third Wednesday of each month from 6 p.m. to 8 p.m. in the Bracket Room on the 3rd floor of City Hall. Meetings are open to the public and audience comments are taken at the conclusion of each meeting.

Chair Witenberg explained the EDC has two elected officers, a Chair and Vice Chair. The Chair position was vacant as a result of Evan Pierce's resignation in October, 2013. At the EDC's January 2014 meeting he was elected Chair and Kevin Garrett was elected Vice Chair. EDC members have diverse backgrounds and professions.

The EDC has been meeting monthly since the commission was formed in June of 2009, except for the period between December 2011 and May 2012 while the Council deliberated whether the December 31, 2011 sunset date should be extended. During this time EDC lost ten members to resignation. In May 2012 the Council voted to extend the EDC's sunset date to December 31, 2015. The process to appoint replacements took until June, 2012. The first meeting as a reconstituted body took place in July 2012. Extensive background information including staff presentations had to be provided to the new members to bring them up to speed. This continues to be a work in progress as the more recent appointees continue to study the voluminous material and begin to feel more comfortable expressing their opinions.

In addition to meeting on a monthly basis to discuss issues, the Edmonds Economic Development Commission also has four current Sub Groups: Strategic Planning, Technology, Business Districts Enhancement (formerly Land Use Sub Group) and Tourism and Visitor Services (formerly Tourism Sub Group).

Chair Witenberg described the EDC's 2014 overarching goals:

- Enhance the working relationship between Council and the EDC
 - Chair Witenberg and Commissioner Purcell will act as liaisons to the City Council and work with the Council liaisons to ensure that the lines of communication are more open and interactive.
 - Goals include increasing collaboration with Council and increasing receptiveness of any initiatives the EDC puts forward to the Council.
 - First meeting with Councilmember Johnson and Peterson has been held
- Make the EDC more visible to the community
 - Ad hoc committee created to better inform the community about EDC activities
 - First press release in the local media on January 27, 2014
 - Collaborate more directly with other City boards, commissions and non-governmental organizations
 - EDC members assigned to act as liaisons to a City board, community organization and non-governmental organizations to coordinate economic development initiatives and avoid duplication of efforts as well as make other groups aware of EDC's existence and role in economic development.

He described the work of the EDC Technology Sub Group in concert with the Community Technology Advisory Committee (CTAC):

- Extended fiber network to Harbor Square including hotel and main buildings.
- Installation of service for the Chamber of Commerce
- Secured \$40,000 in the current budget for redundant routing of fiber network
- Secured \$40,000 in the current budget for developing a marketing plan and sales strategy
- Secured \$35,000 in the current budget for a business plan

Chair Witenberg explained the redundant route and marketing plan and business plan are on hold due to resistance from PUD to provide cost effective pole attachment pricing. PUD is insisting on spacing on poles that in some cases would require replacing the entire pole. Also in concert with CTAC, a plan is being developed to test and implement testing of a WiFi service called WiFog within the vicinity of the ferry holding lanes and other parts of downtown. At no cost to the City, testing is underway and contract issues have been worked through. It is hoped testing will be conducted within the month and a decision reached whether to recommend proceeding after testing over a six-month period.

The EDC continues to be involved in investigating new strategies for economic development and new sources of revenue. These include but are not limited to:

- Fiber network
- Following Planning Board progress on the Westgate Plan
- Investigating opportunities for development on Highway 99 including retail, visitor and housing accommodations to complement Swedish hospital employees and visitors and transit oriented development
- Opportunities for Five Corners, Firdale Village, Perrinville, Harbor Square and Salish Crossing

Chair Witenberg reviewed the activities of the Business District Enhancement Sub Group:

- Worked extensively on the initiative to limit office uses in the BD1 zone.
- Reviewing business incentives; each incentive requires no General Fund budget except the building façade improvement program which would require a budget at Council's discretion.
 - Sub Group will work with staff to finalize these incentives for presentation to the EDC in the spring and then to the Council.
- Have begun revising the 2006 Economic Development Plan
- Studying form based code
 - Some form based code concepts were integrated into the draft Westgate Plan and anticipate these concepts will be applied to other neighborhood development plans in the future.

- Discussed streamlining the permitting process by reviewing examples of procedures from other jurisdictions; no recommendations have been made to date.

Chair Witenberg reviewed the activities of the Tourism and Visitors Subgroup:

- Investigating the feasibility of:
 - Year-round farmers market
 - Fine Arts Museum
 - Downtown restrooms
 - Cruise ship passenger visits
 - Economic spending model for tourism and visitors,
- Exploring potential of:
 - Marine Tourism
 - Work with Port resulted in the Port updating and improving their website's tourism information

Chair Witenberg reviewed the activities of the Strategic Plan Sub Group:

- Monitoring stakeholder performance on 86 specific tasks in the Plan.
 - Attachment 1: Spreadsheet prepared by Commissioner Darrol Haug summarizing the action items in the plan with tabs indicating those tied to City Council and staff.
 - Commissioner Proudfoot prepared an online document published as a website. The EDC Report contains a link to this document.

EDC members attended six joint meetings with Council, Planning Board and consultants and provided verbal and written input into the Strategic Plan. EDC members also participated as individuals and in focus groups. Members of the EDC are participating in the newly formed Strategic Plan Facilitation Committee along with City staff, representatives of the Chamber, Senior Center, Port of Edmonds and the City Council. The Council appropriated \$40,000 in the 2014 budget for consulting services to facilitate implementation of the Strategic Action Plan.

Chair Witenberg enumerated activities and presentations EDC members have attended and participated in:

- January 23, 2013 –Presentation on the final draft Strategic Action Plan by consultant during joint meeting between the Planning Board and Economic Development Commission
- May 13, 2013 – Economic Development Commissioners invited to attend a meeting with City representatives and Roger Brooks. Meeting hosted by City to discuss with downtown Edmonds property/building owners the topic of limiting office and other similar uses along designated ground level street frontages
- May 15, 2013 - Representatives from the Kingston Chamber of Commerce, Port of Kingston and Kitsap County government attended a meeting in the Brackett meeting room to learn about economic development and related programs and activities in Edmonds.
- September 18, 2013 - presentation by David Jaffe, Swedish Edmonds CEO, on existing operations and development plans for Swedish Edmonds
- November 20, 2013 - Jill Sterret and Julie Kriegh, University of Washington, provided a broad overview of the process and various components of the proposed Westgate Plan and formed-based code to inform commissioners appointed since last summer.

Chair Witenberg acknowledged and thanked Evan Pierce for his service on the EDC and the Land Use Sub Group (now known as the Business Districts Enhancement Sub Group) for four years and as Chair following Frank Yamamoto's election to the City Council. Mr. Pierce resigned recently due to the demands of his business and family.

Chair Witenberg relayed the EDC looks forward to enhancing its working relationship with the Council, other boards, commissions and community organizations in order to continue working collaboratively toward increasing economic development opportunities in Edmonds.

Council President Buckshnis recalled the Council included funds in the budget to establish a Green Resources Room. She asked if the EDC was considering a streamlined permitting process for green buildings. Mr. Clifton responded the EDC plans to follow the process of amending the code and business district incentives.

Council President Buckshnis commended former Chair Pierce and Chair Witenberg, commenting they made a great team.

Councilmember Peterson commented the Chamber of Commerce has a new President and the Business Improvement District has been formed. This is an exciting time for actions the City and these organizations can take with regard to the Strategic Action Plan. He inquired about outreach to these groups. Mr. Clifton responded he met with Chamber President and CEO Kyle Vixie. As he did for the Senior Center, Port, he provided Mr. Vixie the Strategic Plan highlighting all references to the Chamber. He also provided Mr. Vixie with meeting dates and times for the EDC, Chamber Economic Development Committee, BID, etc. Chair Witenberg advised EDC liaisons have been appointed to the BID and Chamber.

Councilmember Johnson reported she served as the Planning Board liaison to the EDC when she was on the Planning Board. She thanked Chair Witenberg for his service on the EDC. She looked forward to serving as one of the 2014 Council liaisons and working with the EDC members.

8. PUBLIC WORKS QUARTERLY PROJECT REPORT

City Engineer Rob English explained the Parks, Planning & Public Works Committee was briefed on select capital projects in January. Council President Buckshnis requested the status of several projects be presented to the City Council:

- 238th St SW Drainage to Hickman Park
 - Purpose: Improve storm drainage on 238th by collecting runoff and routing to the infiltration system in Hickman Park (built specifically for this runoff)
 - Status: Project has been merged into a grant-funded sidewalk project. Consultant selected and professional services agreement will be before Council first quarter 2014
 - Next Steps: Complete design with construction in 2015
- Citywide Drainage Improvements
 - Purpose: Design and construct small and emergent drainage-related projects throughout the City
 - Status: Current projects under design include upgrade of storm system on 4th Avenue South between Walnut & Dayton and a new culvert inlet near Puget Drive and 11th Avenue North. Also used for repairs to Willow Creek outfall pipe.
 - Next Steps: Complete designs and construct 4th Avenue improvements in 2014.
- Lake Ballinger Associated Projects
 - Purpose: Work with the Lake Ballinger/McAleer Creek Watershed Forum and on our own to reduce flooding and improve water quality
 - Status: Funding used for City staff time, forum administration and lobbying support
 - Next Steps: Continue these actions during 2014. Explore partnering options with USACOE
- Perrinville Creek Flow Reduction Study
 - Purpose: Primary goal of project is to reduce peak flows in Perrinville Creek by reducing stormwater runoff. Various retrofit strategies will be evaluated including low impact development strategies
 - Status: Hydrologic modeling completed, flow meters installed, grant funded study ongoing
 - Next Steps: Geotechnical investigations planned, public meetings and predesign report to be completed third quarter 2014

- Talbot Rd/Perrinville Creek Drainage Improvement and Habitat Enhancement Phase II
 - Purpose: Reduce flooding of private properties and enhance habitat
 - Status: Project completed at the end of 2012. New pipe installed, bank erosion stabilized upstream, and road paved
 - Next Steps: Project is complete. Further work in the Perrinville basin will await completion of the ongoing Hydrologic Study
- Willow Creek Day-Lighting/Edmonds Marsh Restoration
 - Purpose: Assess the feasibility and develop a plan for daylighting Willow Creek from Edmonds Marsh to Puget Sound to improve Chinook salmon-rearing habitat and achieve other environmental benefits
 - Status: Initial feasibility study completed. Funding received from Recreational Conservation Office/Salmon Recovery Funding Board (RCO/SRFB) to complete final feasibility
 - Next Steps: Begin final feasibility study, scheduled for completion early 2015
- 76th Ave Waterline Replacement and Road Restoration Project
 - Purpose: Replace existing waterline from 180th Street SW to 175th Street SW. Restoration of 76th Ave W right-of-way from approximately 175th Street SW to 181st Street SW due to installation of watermain and Lynnwood sewerline installation
 - Status: City waterline, Lynnwood sewerline and temporary road restoration complete. Permanent road restoration design in planning phase
 - Next Steps: Complete pavement restoration design and construct I 2014. Per Interlocal Agreement, road restoration to be done and paid for by City of Lynnwood
- Hwy 99 Illumination (Phase 1 & 2)
 - Purpose: Improve pedestrian and roadway safety on SR-99 from 232nd Street SW to 220th Street SW with the addition of decorative light poles with banners and a decorative lantern within the island (on west side of street at 76th Avenue W intersection). Create a gateway to International District
 - Status: Construction completed in December 2013
- Hwy 99 Illumination (Phase 3)
 - Purpose: Improve pedestrian and roadway safety on SR-99 from 220th Street SW to 212th Street SW with addition of decorative light poles with pedestrian lights. Create a gateway to Healthcare District (extension of Phase 1 and 2 Hwy 99 Illumination project)
 - Status: 90% design completed
 - Next Steps: design to be completed in 2014 and construction begun in 2015

Councilmember Bloom referred to the Talbot Rd/Perrinville Creek Drainage Improvement and Habitat Enhancement Phase II and inquired about the three change orders totaling \$85,800. Mr. English responded Change Order 2 for \$68,000 was a negative change order; project came in under budget.

Councilmember Bloom recalled there were concerns expressed with that project with regard to drainage to Brown's Bay. She asked how the project affected Brown's Bay and whether there had been any damage to the tidelands. Public Works Director Phil Williams explained the project removed some of the stormwater from Talbot and routed it to the diversion structure and directly out the existing outfall. He recalled one of the concerns expressed was that small fish, sensing flow from Perrinville Creek, their native stream, would be attracted to the flow from the diversion structure which is a dead-end trip, rather than the historic Perrinville Creek channel. Staff offered to study the feasibility of a tide gate on the end of the outfall pipe that would close at low tide to prevent fish from being attracted to the pipe. Staff determined a tide gate was not feasible as the elevation of the pipe and accretion of sands and sediment would prevent the tide gate from functioning properly.

Mw. Williams explained a much larger project that could be pursued someday would be a larger culvert under the railroad tracks that would allow the main channel of Perrinville Creek to flow through a fish accessible culvert or an entirely new channel from Talbot Road to the railroad tracks with a new fish passable culvert under the railroad tracks. He noted that would be a huge project; the City does not own the property, does not have

access to the property, and does not have funding. The project that was pursued several years ago was a new fish-passable culvert under Talbot Road; that project was designed but created more flooding downstream. The project was changed to Perrinville Creek flow reduction study to determine whether there were opportunities to improve the hydrologic conditions in Perrinville Creek. He agreed the diversion structure was not ideal from an environmental standpoint; it has been in place for 20 years and was designed to prevent flooding of structures which it accomplishes.

Councilmember Bloom asked whether the Department of Fish and Wildlife was involved. Mr. Williams answered yes. Councilmember Bloom asked whether there had been any follow-up regarding fish loss at the diversion structure. Mr. Williams recalled there were statements made about dead fish found at the mouth of the culvert from the diversion box. He has not seen that and Fish and Wildlife has not opined on that issue; they understand the reality of the diversion box. Fish and Wildlife has been cooperative and have provided a permit to allow frequent cleaning. He noted the biggest issue from an O&M standpoint is sediment in Perrinville Creek that fills the diversion box following a significant rainstorm event.

Councilmember Bloom asked whether there had been any follow-up with residents regarding the project. Mr. Williams answered no, anticipating most would not be happy. The project is successful; the pipe solves the flooding problem but it does not resolve the environmental or fish issue that existed before the project and continues to exist following completion of the project.

Councilmember Bloom asked whether any study had been done to determine damage to the tidelines. Mr. Williams answered the same amount of water was going to Brown's Bay previously. He did not anticipate it would have any impact on the overall ecology of Brown's Bay.

9. DISCUSSION REGARDING RENEWAL OF THE PUBLIC DEFENDER CONTRACT

Mayor Earling explained staff was in the process of negotiating a public defender contract with Feldman & Lee.

City Attorney Sharon Cates reported on the status of contract negotiations with the Public Defender, Feldman & Lee. The City has contracted with Feldman & Lee for public defender services for many years and has been in communication with them recently due to changes in caseload standards imposed by the Washington Supreme Court to ensure effective assistance of counsel in indigent defense situations. The Washington Supreme Court's final standards have not yet been issued; they are expected to be issued this year and to be effective January 1, 2015. A federal case was recently decided that highlighted the effect these new standards could have on cities and public defenders in terms of insufficiently funding public defender services to the point that effective assistance of counsel is not possible.

Ms. Cates explained after that federal opinion was provided, Feldman & Lee gave the City notice of termination as of March 31, 2013 pursuant to the terms of the contract. The contract would have continued through the end of 2014. The City has been in negotiations with Feldman & Lee and has proposed the contract attached to the Council packet. No action is requested tonight other than feedback. Managing partners David Lee and Jim Feldman are present to answer questions.

Jim Feldman, Feldman & Lee, explained the systems that the federal court found deficient, the system used by the Cities of Mt. Vernon and Burlington, are almost identical to Edmonds' system. Based on the federal court decision, they have instituted many changes with regard to how cases are processed. The federal decision said the courts in Mt. Vernon and Burlington had a meet and plead culture; they would meet the client for the first time and plead the client guilty to resolve the case in order to proceed with the number of cases the public defender was handling. He agreed, noting they find it is in the majority of clients' best interest to handle cases in that manner. The federal court said no matter how great the outcome for the defendant, it deprived the defendant of his/her constitutional rights to adequate representation. There is now a process where even if a defendant wants to plead guilty, the public defender cannot plead them guilty if they have not met with the defendant

previously. The case must now be continued, and the public defender must meet with the person in private in a separate meeting, not in a courtroom setting or outside the courtroom waiting for the judge to hear the case, where a copy of the police report is provided and they can discuss the police report and its implications with the defendant. This has caused a large number of continuances and to the extent defendants do not follow through on their commitment to meet with the public defender, the case is continued further. It will also have a large impact on people who are in custody due to missing a court hearing. Instead of being able to simply resolve a case, a private, separate meeting will be required to discuss their case.

Mr. Feldman explained the federal district court decision will also impact people who arrive out of custody for arraignment who previously were given access to the public defender to discuss their case and make a decision regarding resolution. Under the federal district court decision, they cannot give advice to someone they have not meet with in private with a copy of the police report to discuss the ramifications of their plea. Caseloads have been down in recent years due to reductions in the police department; caseloads are now increasing because people they previously met with in an out of custody arraignment without appointment of a public defender or attorney are no longer receiving that service. He summarized 2013 cases are up 25% over 2012.

Mr. Feldman relayed the federal district court decision will no longer allow client's actions to dictate the public defender's actions. In the past the public defender provided contact information and if the defendant did not contact the public defender, they would resolve the case at the next favorable court hearing. Now a due date is provided for the public defender to call the defendant to set up an appointment, requiring additional clerical time to track down defendants. He noted many defendants do not have the most stable living environment, making it difficult to contact them. The public defender has always had the ability to hire a private investigator following the court's review of the merits of hiring a private investigator. The federal district court decision noted the cities of Mt. Vernon and Burlington did not have a private investigator and ordered there be a private investigator on staff for every four attorneys.

Mr. Feldman noted the above is in the context of the federal district court decision. The Washington Supreme Court will issue their guidelines; it is unknown how the federal district court decisions will be incorporated into the Washington Supreme Court decision. Their firm is in the process of hiring additional clerical personnel and private investigators; a cost that will be borne by the municipalities they serve.

Mayor Earling commented efforts are being made to reach a satisfactory resolution. Mr. Taraday is out of the office this week. Police Chief Compaan has also been involved in the discussions.

Council President Buckshnis expressed support for moving forward, noting the City has had a contract with Feldman & Lee for public defender services for over 25 years.

When this is presented to Council for action, Councilmember Petso requested Feldman & Lee provide comparables with similar cities. Mr. Feldman responded the federal court instituted oversight on the administration of the contracts with Burlington and Mt. Vernon; their contract increased from \$230,000/year for 1500 cases to \$530,000. He explained that was approximately \$385/case; Edmonds currently pays \$130/case.

Councilmember Petso recalled Mr. Feldman's annual report mentioned ways to reduce the number of cases, particularly for Driving with License Suspended. She asked if those options have been investigated. Mr. Feldman responded a number of cities have tried that and none found a great reduction in costs. The problem is costs will increase because cases can no longer be resolved without the appointment of a public defender. The other problem is the old definition of a case; a charge of a crime. Historically cities paid one fee based on taking that case from beginning to end versus a new charge/case each time a person comes to court. For example if a public defender was appointed for a theft case, the person plead guilty and was put on probation and told he would return to court if he committed any new crimes. One of the interpretations is if the person commits a new crime, it will be a new case. The Supreme Court will allow attorneys to handle 450 cases/year. He noted it is not unusual to have multiple review hearings; a person is put on probation for two years, they continually return to

court due to violations of probation conditions; if each return to court is counted as a new case toward caseload limits, the 450 case limit will be reached quickly.

Councilmember Peterson commented this is not only a budget decision but a policy decision with regard to how the City chooses to defend those who need a public defender. For future discussions, he asked for information regarding how much cities fund their public defender and the services they offer. Ms. Cates answered in light of the recent federal court decision, cities are considering making more funds available.

Councilmember Fraley-Monillas relayed she has been told a number of jurisdictions are considering contracting with the county and bringing the local court system into the county system. She inquired about the cost. Ms. Cates answered that could be researched. Mr. Feldman explained Edmonds contracted with Snohomish County to provide municipal services from approximately 1984 – 1990. Mill Creek and Mountlake Terrace operate through the Snohomish County system; both have private attorneys doing prosecution and public defender.

Councilmember Petso recalled approximately ten years ago the City analyzed the cost of a local court versus contracting out the court. She suggested that analysis be done again to determine whether the court was a financially and economically reasonable alternative. Councilmember Peterson pointed out that analysis was also done approximately four years ago.

10. DEVELOPMENT SERVICES DIRECTOR AND FINANCE DIRECTOR PROCESS

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, THAT THE CITY COUNCIL WAIVE ADDITIONAL ROUNDS OF INTERVIEWS FOR THE FINANCE DIRECTOR POSITION AND AUTHORIZE THE MAYOR TO BRING FORWARD CANDIDATE #2 FROM THE PREVIOUS RECRUITMENT CYCLE FOR CONFIRMATION. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCIL PRESIDENT BUCKSHNIS, THAT THE CITY COUNCIL WAIVE THE THREE INTERVIEWS REQUIREMENT FOR THE DEVELOPMENT SERVICES DIRECTOR POSITION AND REDUCE THE NUMBER TO TWO. MOTION CARRIED UNANIMOUSLY.

Mayor Earling declared a brief recess.

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

City Clerk Scott Passey explained this is the continuation of the process to appoint to fill Council vacancy Position #6 that began at last week’s meeting. As the rules for nomination/election to fill Council vacancy were described at last week’s meeting it was agreed they did not need to be described again tonight. Mr. Passey requested Councilmembers complete Nomination Form 9.

Nomination 9	
Candidate	Councilmember
Steve Bernheim	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	Peterson
Ron Wambolt	Johnson
Thomas Mesaros	Buckshnis

Candidate	Votes	Councilmember
Ballot 28		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	1	Peterson,

Ron Wambolt	1	Johnson
Thomas Mesaros	1	Buckshnis
Ballot 29		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Thomas Mesaros	2	Peterson & Buckshnis
Ron Wambolt	1	Johnson
Ballot 30		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Thomas Mesaros	2	Peterson & Buckshnis
Ron Wambolt	1	Johnson
Ballot 31		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Thomas Mesaros	2	Peterson & Buckshnis
Ron Wambolt	1	Johnson

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 10.

Nomination 10	
Candidate	Councilmember
Steve Bernheim	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	Peterson
Ron Wambolt	Johnson
Tim Healy	Buckshnis

Candidate	Votes	Councilmember
Ballot 32		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	2	Peterson & Johnson
Tim Healy	1	Buckshnis
Ballot 33		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	3	Peterson, Johnson & Buckshnis
Ballot 34		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	3	Peterson, Johnson & Buckshnis
Ballot 35		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Kathleen Dewhirst	3	Peterson, Johnson & Buckshnis

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 11.

Nomination 11	
Candidate	Councilmember
Steve Bernheim	Fraley-Monillas, Petso & Bloom
Neil Tibbot	Peterson & Johnson
Steve Schroeder	Buckshnis

Candidate	Votes	Councilmember
Ballot 36		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom

Neil Tibbot	2	Peterson & Johnson
Steven Schroeder	1	Buckshnis
Ballot 37		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Neil Tibbot	3	Peterson, Johnson & Buckshnis
Ballot 38		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Neil Tibbot	3	Peterson, Johnson & Buckshnis
Ballot 39		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Neil Tibbot	3	Peterson, Johnson & Buckshnis

The Council vote reached a deadlock. Mr. Passey requested Councilmembers complete Nomination Form 12.

Nomination 12	
Candidate	Councilmember
Steve Bernheim	Fraley-Monillas, Petso & Bloom
Timothy Schell	Peterson
Steven Schroeder	Johnson & Buckshnis

Councilmember Peterson commented he heard from many interviewees that there was a great selection of candidates to choose from. He took that to heart, reviewed the interviews and resumes again and found there were a number of candidates who could do the job admirably. He was proud to nominate Timothy Schell as he had been proud to nominate Neil Tibbot, Kathleen Dewhirst and Steven Schroeder in previous nominations. Although Mr. Schell was not his first choice, he was very capable and very dedicated to the City. He encouraged the Council to consider that as the nomination/voting process continued.

Candidate	Votes	Councilmember
Ballot 40		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Timothy Schell	2	Peterson & Buckshnis
Steven Schroeder	1	Johnson
Ballot 41		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Timothy Schell	2	Peterson & Johnson
Steven Schroeder	1	Buckshnis
Ballot 42		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Timothy Schell	2	Peterson & Johnson
Steven Schroeder	1	Buckshnis
Ballot 43		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Timothy Schell	1	Peterson
Steven Schroeder	2	Johnson & Buckshnis
Ballot 44		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Steven Schroeder	3	Peterson, Johnson & Buckshnis
Ballot 45		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Steven Schroeder	3	Peterson, Johnson & Buckshnis

Council President Buckshnis suggested the Council meet in executive session. Councilmember Bloom agreed.

At 9:03 p.m., Mayor Earling announced that the City Council would meet in executive session to evaluate the qualification of a candidate for appointment to elective office per RCW 42.30.110(1)(h). 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: Councilmembers Johnson, Fraley-Monillas, Buckshnis, Peterson, Petso and Bloom. Others present were City Attorney Sharon Cates and City Clerk Scott Passey. At 9:21 p.m., Mayor Earling announced to those present in the Council Chambers that an additional 10 minutes will be required in executive session. The executive session concluded at 9:31 p.m.

Mayor Earling reconvened the regular City Council meeting at 9:32 p.m. Mr. Passey requested Councilmembers complete Ballot 46.

Candidate	Votes	Councilmember
Ballot 46		
Steve Bernheim	3	Fraley-Monillas, Petso & Bloom
Steven Schroeder	3	Peterson, Johnson & Buckshnis

The Council vote reached a deadlock.

COUNCIL PRESIDENT BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO MOVE THE PROCESS TO THE FEBRUARY 25, 2014 MEETING FOR POTENTIAL ACTION ON APPOINTMENT TO FILL COUNCIL VACANCY POSITION #6. MOTION CARRIED UNANIMOUSLY.

12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF FEBRUARY 11, 2014

Finance Committee

Councilmember Johnson reported on the following items discussed by the committee and the action the committee recommended:

- Information Technology Update – information only, committee requested quarterly reports
- Surplus Computer Equipment – Consent Agenda
- 2013 December Budgetary Financial Report – Consent Agenda
- Amendment to the Public Facilities District (PFD) Interlocal Agreement and related City Financial Statement changes – return to Finance Committee Meeting at March meeting
- Public Comments from Bruce Witenberg and Ron Wambolt

Public Safety & Personnel Committee

Councilmember Peterson reported on the following items discussed by the committee and the action the committee recommended:

- Review and recommendation on ordinance enacting recreational marijuana licensing regulation –City Attorney draft City ordinance for consideration at next month’s committee meeting
- Citizens’ Commission on the Compensation of Elected Officials applications for the Council appointment to the Commission – full Council next week
- PC Support Technician job description – Consent Agenda
- ECC Chapter 2.10 related to Confirmation and Duties of City Officers – no recommended action
- Discussion regarding hiring a consultant to work with Council to improve council relationship – no recommended action
- Discussion regarding setting a standard process/procedure for future Council appointees – no recommended action

- Employment Contracts – discussion continued to a future committee meeting

Parks, Planning & Public Works Committee

Councilmember Bloom reported on the following items discussed by the committee and the action the committee recommended:

- Docket of Proposed Comprehensive Plan Amendment and proposed re-zone for Unocal lower yard – discussion continued to March committee meeting
- Authorization to advertise, a Request for Bid, for construction services for the Wastewater Treatment Plant Facility Upgrade. – Consent Agenda
- Approval of Amendment of Interlocal Agreement between the City of Edmonds and the City of Lynnwood for the 76th Ave W Sewerline and Waterline Installation Project – Consent Agenda
- 76th Ave. W at 212th St. SW Intersection Improvements Project Update – presentation at future Council meeting
- Interlocal Agreement with the City of Mountlake Terrace to formalize roles and responsibilities in regard to Edmonds’ water, sewer, and storm utilities located within Mountlake Terrace’s right of way – Consent Agenda
- Authorization for Mayor to sign Interlocal Agreements with Snohomish County for 2014 Pavement Preservation Program – Consent Agenda
- Discussion of Legal Lot Issues – forwarded to Planning Board
- Authorize the Mayor to sign a grant agreement with the State Recreation and Conservation Office (RCO) for \$200,000 to complete the Final Feasibility Study for the Willow Creek Daylighting/Edmonds Marsh Restoration Project – Consent Agenda
- Authorize Mayor to sign Interlocal Agreement with Department of Fish and Wildlife – Consent Agenda
- City Park Project Update – presentation at February 25 Council meeting

13. MAYOR'S COMMENTS

Mayor Earling reported the State legislature is discussing a transportation package; the House and Senate versions differ. Senator King’s transportation budget includes \$10 million for improvements on Highway 99. He encouraged Councilmembers to contact legislators regarding the transportation package.

Mayor Earling reminded the audience of the State of the City presentation on Thursday, February 20 at 8:30 a.m. at the Edmonds Theater at 415 Main.

14. COUNCIL COMMENTS

Council President Buckshnis was excited about the new Finance Director and was glad that process had been moved forward.

Councilmember Peterson reported the Chamber auction is this Saturday; seats are still available. Funds raised will benefit scholarships for community college students.

Councilmember Fraley-Monillas observed the City Council continued to deadlock with regard to an appointment to fill the Council vacancy and it was possible that would continue. She has asked the City Attorney to research holding an election to fill the vacancy.

15. ADJOURN

With no further business, the Council meeting was adjourned at 9:51 p.m.