

CITY OF EDMONDS PLANNING BOARD

Minutes of Retreat

February 12, 2020

Chair Robles called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

LAND ACKNOWLEDGEMENT FOR INDIGENOUS PEOPLES

We acknowledge the original inhabitants of this place, the Sdohobsh (Snohomish) people and their successors the Tulalip Tribes, who since time immemorial have hunted, fished, gathered, and taken care of these lands. We respect their sovereignty, their right to self-determination, and we honor their sacred spiritual connection with the land and water.

BOARD MEMBERS PRESENT

Daniel Robles, Chair
Mike Rosen, Vice Chair
Matthew Cheung
Alicia Crank
Nathan Monroe
Carreen Nordling Rubenkönig
Roger Pence
Conner Bryan, Student Representative

STAFF PRESENT

Rob Chave, Planning Division Manager
Jeff Taraday, City Attorney
Jerrie Bevington, Video Recorder

BOARD MEMBERS ABSENT

Todd Cloutier (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER CRANK MOVED THAT THE MINUTES OF JANUARY 22, 2020 BE APPROVED AS PRESENTED. BOARD MEMBER MONROE SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The agenda was accepted as presented.

AUDIENCE COMMENTS

There were no audience comments.

DEVELOPMENT SERVICES DIRECTOR REPORT TO PLANNING BOARD

Chair Robles referred the Board to the Development Services Director's Report that was provided in the packet. There were no comments or questions from the Board.

CITY ATTORNEY TRAINING AND DISCUSSION

City Attorney Taraday provided training regarding the Open Public Meetings Act (OPMA). He advised that each of the Board Members should have already taken the on-line training offered by the Attorney General's Office. He explained that the intent of the act is to ensure that actions of government bodies are taken openly and that deliberations are conducted openly. "Action" means the transaction of the official business of a public agency by a governing body, including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations and final actions. "Final Action" means a collective position or negative decision or an actual vote by a majority of the members of a governing body when sitting as a body or entity on a motion, proposal, resolution, order or ordinance. Any kind of discussion of the official business of the Planning Board is an "action."

Chair Robles asked if the OPMA would apply when two members of the Board meet outside of a meeting? City Attorney Taraday responded that to have action, you need to have a quorum present. If less than four Board Members are present, by definition, there would be no meeting. The safest way to avoid an OPMA problem is to make sure you are always discussing in groups of three or less. The OPMA is the single easiest law for Planning Board Members to violate, particularly if you are used to doing business and discussions via email.

Board Member Monroe asked how OPMA violations are typically identified. City Attorney Taraday said the main motivation for an OPMA lawsuits is to invalidate an action. He explained that the OPMA does not extended to advisory committees and other entities that do nothing more than conduct internal discussions and provide advice or information to the governing body. However, he shared a court case involving a planning board task force that was conducting public meetings and independent investigations that were not properly noticed. Because decision-making bodies relied on this work to make a final decision, the court found that the task force was subject to the OPMA. He summarized that the Board can assign subcommittees to work on particular issues. The subcommittee can meet regularly to exchange ideas and draft proposals for the entire Board to discuss. Board Member Rubenkönig asked if the subcommittee members could email each other as part of their work together, and City Attorney Taraday answered affirmatively.

Board Member Rubenkönig said her understanding is that she can email information to individual board members, but can't encourage interaction between all of them. City Attorney Taraday responded that the exchange of emails can constitute a meeting, but passive receipt of email and other one-way forms of communication do not, by themselves, amount to participation in a meeting because such passive receipt of information does not demonstrate the necessary intent to meet. When an OPMA case comes before the Supreme Court, the rule that will apply is, "did the members of the body collectively intend to meet." He shared real-life examples from case law to clarify the rules regarding email.

Board Member Cheung asked if more than three Board Members could meet together without violating the OPMA, as long as they do not discuss issues related to the Planning Board. City Attorney Taraday responded that, technically, Board Members can socialize in groups greater than three without violating the OPMA, but the Board Members should be mindful of how their interactions might be perceived by members of the public.

City Attorney Taraday explained that, in addition to potential invalidation of whatever action was taken, there is also a civil (monetary) penalty associated with OPMA violations. Worse than the penalties, is the possibility that a Board Member might have to defend himself/herself. Whether or not a board member is covered by the City depends on the circumstances and whether or not the board member intentionally violated the law.

City Attorney Taraday summarized that Board Members can forward information, such as policies from other cities or articles, to the other Board Members. However, he advised that Board Member email addresses should be in the "bcc" field to eliminate the potential for an accidental "reply all." He cautioned that reacting to information that someone else sends out is best done either one-on-one or at the Board meeting.

Chair Robles said the Board is interested in getting the public more involved in their meetings, and one idea is for Board Member to post information relative to Planning Board topics in open public online forums. He asked if this would be a violation of the OPMA. City Attorney Taraday recalled that several years ago, the City Council adopted a social media policy when a City Council Member expressed interest in establishing a blog. The issue was complicated from both a public records and/or records retention standpoint.

APPROVED

Board Member Crank said that, as an Airport Commissioner, she has shared information about upcoming public hearings on her neighborhood social media site. While other members of the group might discuss the issue of the public hearing further, she has not engaged in these discussions beyond announcing the public hearings and providing links to pertinent information.

City Attorney Taraday summarized that, as long as the Board Members do not respond and comment on posts that are shared via social media that pertain to Planning Board business, he does not foresee a violation of the OPMA. The only two types of legal meetings are those that happen at the regular time and place or special meetings that are properly noticed. He cautioned that there are some real complications involving records retention and public records compliance. If a Planning Board post turns into a vibrant discussion on social media and someone makes a public records request, it would be up to the Board Member who posted the comment to produce the public record. The City would have no control over the records and could not easily retain them for the purposes of the State Archives records schedule.

Board Member Pence said he looks at information sharing and agenda setting as administrative actions, since the discussions do not include negotiating, deliberating, receiving public testimony, evaluating or making final decisions. It is simply information gathering and sharing. City Attorney Taraday said he cannot tell the Board exactly when the discussions would cross the line into transacting the official business of an agency, but he considers agenda setting to be the official business of a public agency. In his work at the City, there has been a lot of controversy at times over what is and is not on an agenda. Board Member Pence observed that the Planning Board Chair and staff can do this work in the dark, but as soon as four Board Members become involved, the work can only occur in an announced public meeting. City Attorney Taraday suggested the Board could have an agenda setting discussion at the end of each meeting. This would give the Board an opportunity to talk about the next agenda while they are all together.

Board Member Rubenkong commented that, currently, an individual is doing fundraising on social media to get money to address how Edmonds handles ADUs. She wanted to comment that this topic would fall under the realm of what the Housing Commission is deliberating on, but she felt it would go beyond what she is allowed to do as a Board Member. She questioned where the line is for when Board Members are commenting as representatives of the Planning Board and when they are commenting as private citizens. City Attorney Taraday said he doesn't know exactly where the line is that separates transactions of official business from administrative stuff. He is not saying they cannot comment on social media in their capacity as Board Members, but they need to be careful to make sure there is not a quorum of Board Members commenting. Providing information is safe, but if someone is trying to cultivate an extremely active social presence in their capacity as a Planning Board Member, it would become more complicated. Chair Robles said the intent is to let people know about upcoming meeting topics and encourage participation.

Chair Robles asked if he is allowed to contact the Architectural Design Board Chair to find out how the Planning Board can assist them in their efforts. City Attorney Taraday replied that the two chairs can communicate with each other, and the Planning Board can also meet jointly with the Architectural Design Board. Chair Robles asked if he is allowed to communicate and coordinate with other City boards and commissions without receiving permission from the Planning Board. City Attorney Taraday said the Board Chair doesn't have a lot of authority unless the Board delegates a specific task.

Board Member Cheung suggested that perhaps a disclaimer could be put on emails. City Attorney Taraday said they could add a tag to City emails saying "please don't forward," but he hasn't created a standard tag for email that would cover the various scenarios. Board Member Pence said a tag of "do not forward" would at least establish the email sender's intent. The Board agreed that would be appropriate.

2020 PLANNING BOARD CALENDAR

Chair Robles referred to the Board's extended agenda, which is full through April. The intent of this discussion is to prioritize the list of remaining topics so they can be scheduled on the Board's agenda accordingly and presented to the City Council for feedback at the joint meeting. He said he and Vice Chair Rosen will meet quarterly with Mayor Nelson to discuss the Planning Board's agenda. The Board agreed they would like each of their meetings to last approximately 90 minutes. They would like to discuss two topics at each meeting, with at least one of the items coming from the prioritized list.

Rather than scheduling each of the items on the extended agenda now, Mr. Chave said it would be most useful for the Board to present the City Council with a prioritized list. Once the Board has communicated their highest priorities to the City Council, they can begin to schedule them on the extended agenda. Vice Chair Rosen said he would agree to this approach, as long as the Board populates its calendar at the very next meeting following the joint meeting. Otherwise, the pending items never seem to get scheduled. Chair Robles said he will be meeting with Mayor Nelson in the next few weeks and the joint meeting with the City Council will occur sometime this quarter.

Mr. Chave said Development Code updates are a priority for both staff and the City Council and have been tentatively scheduled on the Board's extended agenda starting in March and April. The City will be hiring a half-time person to help with this task. In addition to the major update, he expects that a variety of Development Code amendments will come before the Board throughout the year. Chair Robles suggested that half of each meeting agenda could be dedicated to the Development Code updates, and the other half could be for other topics. Mr. Chave agreed that is a good goal, but in some cases, the Development Code update could involve an elaborate discussion that takes an entire meeting. He said he expects the Development Code update to continue throughout the entire year. The Climate Goals Project may result in some necessary Development Code and/or Comprehensive Plan amendments, as well.

Board Member Pence observed that much of the Development Code work could involve a lot of heavy lifting on the Board's part. He suggested that perhaps the Board could form subcommittees to work with the new staff person to shape the code amendments. Chair Robles suggested they start by using the usual approach, and make this decision at a later time as needed. Mr. Chave added that code work has typically been done by the full Board, as there are multiple opinions and Board Members have an opportunity to bounce ideas off of each other. Using small committees would be challenging for that reason.

Board Member Rubenkönig suggested they give specific attention to what they want the Parks, Recreation and Cultural Services Report to cover. While the past reports have been delightful, she suggested they should be more succinct. She suggested that the Board Members are responsible for lengthening the reports by responding with multiple questions and comments. Both the staff and the Board can play a role in making the reports more succinct.

Board Member Monroe asked what role the Board would play in the Buildable Lands Report. Mr. Chave answered that the Buildable Lands Report is preliminary to the next Comprehensive Plan update and also relates to the Puget Sound Regional Council's (PSRC) Vision 2050 process. The report happens periodically at the County level where they set the distribution of population and housing in the County, including Edmonds. The information provided in the report feeds into the Comprehensive Plan for specific goals to achieve for having enough capacity for housing and population within the City.

The Board agreed they would like to meet jointly with the City Council, Architectural Design Board and Economic Development Commission in 2020. It might also be necessary to meet jointly with the Tree Board as directed by the City Council. Board Member Monroe suggested that opportunities to meet jointly with the Architectural Design Board should be scheduled to coincide with the Board's work on Development Code amendments that relate to design. Mr. Chave said it would be appropriate to involve the Architectural Design Board when creating the multi-family design standards, which will occur in either 2020 or 2021.

Board Member Pence observed that Mayor Nelson seems to be making a priority out of the Highway 99 Corridor with the median project he is promoting. This might be the right time for the Board to receive information on the Highway 99 Corridor. For an example, he would like a status report on the project at the northwest corner of 234th Street and Highway 99. Board Member Monroe pointed out that Board has completed its work on the Highway 99 Subarea Plan, which was adopted by the City Council.

Mr. Chave advised that there are two privately-initiated amendments for changes in the Comprehensive Plan Map, which will need to be considered and acted upon before the end of 2020. There may be some city-initiated amendments, as well. The Comprehensive Plan amendments will come before the Planning Board for a public hearing and a recommendation to the City Council.

REFLECTION

Chair Robles reviewed the Planning Board Purpose and Duties found in Edmonds City Code (ECC) 10.40. One of the Board's duties is to do research and investigation on specific projects assigned to it by the Mayor and City Council. The Board is in the process of obtaining direction from the Mayor and City Council on projects to accomplish in 2020. How the Board accomplishes the tasks is their prerogative, and public outreach is a significant component. He recalled the Board's previous discussion with City Attorney Taraday about the rules and guidelines for soliciting public input via social media. He invited the Board Members to share their thoughts on how to increase public awareness and participation in the Planning Board process.

Board Member Crank noted that the City is in the process of hiring a Public Information Officer/Communications Strategist. Hopefully, this person will be able to institute some options for the Board to utilize. Mr. Chave announced that the City's website would be completely overhauled in 2020, too. Board Member Crank suggested the Board find a temporary work around until the new staff person has laid out a public outreach program.

Chair Robles said he really likes the way that Board Member Crank has used social media to communicate important information to the public. Board Member Crank summarized that the first step is letting the public know that something is happening. It is also important to consider the target audience and make sure they solicit diverse opinions. She referred to a link in the American Planning Association email called, "Planning for Future Leaders," which talks about how to engage youth in planning. While the Planning Board and other City boards and commissions have youth representatives, they need to do more to engage them in the process and solicit their input.

Student Representative Bryan commented that his purpose is to represent the high school students of the City, but being just one person doesn't really cover that. In addition, most of the items that come before the Board are not directly related to youth opinions. Board Member Cheung suggested that perhaps teachers could be encouraged to provide extra credit to students who attend Planning Board meetings and comment on subjects that might impact them. The Board Members discussed that students might be more interested in subjects related to housing, climate change and Five Corners. Student Representative Bryan agreed to speak to the Service Hours Coordinator about the idea of students receiving service hours for attending and providing comments at Planning Board Meetings.

Vice Chair Rosen suggested that when the Board discusses the next agenda at the conclusion of each meeting, perhaps they should also have a discussion about who would benefit from being in the audience and how they can best encourage their participation.

Board Member Pence asked about the timeline for updating the City's website. Mr. Chave answered that it supposed to happen in 2020, but he doesn't know the exact schedule. Board Member Pence commented that the website is the front door to City Government, and it is not inviting in its current format. Board Member Crank announced that the City just posted the Human Services Program Manager and Public Information Officer/Communications Strategist positions. Mr. Chave said the IT department is currently working on the design and content of the new website. Mr. Pence asked Mr. Chave to provide him with contact information for the staff person in charge of the website.

The Board discussed the 2020 liaison assignments. Chair Robles agreed to serve as the Board's liaison to the Architectural Design Board and Board Member Pence agreed to serve as the liaison for the Economic Development Commission and Housing Commission. Mr. Chave pointed out that the Board Members can attend meetings of any of the City's boards and commissions and report back to the Board.

REVIEW OF EXTENDED AGENDA

There was no further discussion about the extended agenda.

PLANNING BOARD CHAIR COMMENTS

Chair Robles did not provide any additional comments.

APPROVED

PLANNING BOARD MEMBER COMMENTS

There were no Board Member comments.

ADJOURNMENT

The retreat was adjourned at 8:50 p.m.

APPROVED