

EDMONDS CITY COUNCIL APPROVED MINUTES

JUNE 18, 2002

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

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Dave Earling, Council President
Jeff Wilson, Councilmember
Michael Plunkett, Councilmember
Lora Petso, Councilmember
Dave Orvis, Councilmember
Richard Marin, Councilmember
Deanna Dawson, Councilmember

STAFF PRESENT

Tom Tomberg, Fire Chief
David Stern, Chief of Police
Duane Bowman, Development Serv. Director
Stephen Clifton, Community Services Director
Peggy Hetzler, Administrative Services Director
Rob Chave, Planning Manager
Dave Gebert, City Engineer
Darrell Smith, Traffic Engineer
Don Fiene, Assistant City Engineer
Scott Snyder, City Attorney
Terry McCarthy, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. **APPROVAL OF AGENDA**

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO ADD “PROPOSED ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF SECTION 2.25.020 RELATING TO INVOLUNTARY MILITARY SERVICE IN ORDER TO COORDINATE THE USE OF MILITARY LEAVE PROVIDED THEREIN WITH EXISTING VACATION, COMPENSATORY AND OTHER PAID LEAVE BENEFITS” TO THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER MARIN, FOR APPROVAL OF THE AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY.

2. **CONSENT AGENDA ITEMS**

Councilmember Dawson requested Item B be removed from the agenda, Councilmember Petso requested Item H be removed, Council President Earling requested Item I be removed, and Councilmember Plunkett requested Item J be removed.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER WILSON , FOR APPROVAL OF THE BALANCE OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- (A) **ROLL CALL**
- (C) **APPROVAL OF CLAIM CHECKS #55916 THROUGH #56097 FOR THE WEEK OF JUNE 3, 2002 , IN THE AMOUNT OF \$324,616.83. APPROVAL OF CLAIM CHECKS #56098 THROUGH #56248 FOR THE WEEK OF JUNE 10, 2002 , IN THE AMOUNT OF \$250,849.28. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #32795 THROUGH #32933 FOR THE PERIOD MAY 16 THROUGH MAY 31, 2002, IN THE AMOUNT OF \$765,337.41**
- (D) **ACKNOWLEDGE RECEIPT OF CLAIM FOR DAMAGES FROM MARILYN HAINES (AMOUNT UNDETERMINED)**
- (E) **APPROVAL OF LIST OF EDMONDS BUSINESSES APPLYING FOR RENEWAL OF THEIR LIQUOR LICENSES WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD**
- (F) **APPROVAL OF TOWING SERVICES CONTRACT**
- (G) **REAPPOINTMENT OF EDMONDS PUBLIC FACILITIES DISTRICT BOARD MEMBER**
- (K) **ORDINANCE NO. 3399 OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF SECTION 2.25.020 RELATING TO INVOLUNTARY MILITARY SERVICE IN ORDER TO COORDINATE THE USE OF MILITARY LEAVE PROVIDED THEREIN WITH EXISTING VACATION, COMPENSATORY AND OTHER PAID LEAVE BENEFITS**

Item B: Approval of City Council Meeting Minutes of June 4, 2002

Councilmember Dawson requested the minutes be revised as follows: Page 7, paragraph 4, first sentence to read, “Councilmember Dawson advised the ordinance did not address ~~low shrubs and~~ low trees.”

COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER PETSO, FOR APPROVAL OF ITEM B AS AMENDED. MOTION CARRIED UNANIMOUSLY. The item approved is as follows:

- (B) **APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 4, 2002**

Item H: Authorization for the Mayor to Sign an Interlocal Agreement with Edmonds Community College – Edmonds Community College Foundation, Center for Families

Councilmember Petso recalled a donation of \$5,000 to the Edmonds Community College Center for Families was previously approved by the Council. She objected to the donation at that time due to her concern that it would be an illegal gift of public funds. The City Attorney has since drafted an interlocal agreement between the City and Edmonds Community College Foundation. Councilmember Petso indicated she would vote against this donation for a number of reasons including that there were many other worthy causes.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER DAWSON , FOR APPROVAL OF ITEM H.

Council President Earling pointed out the motion to approve the donation was conditioned on review by the City Attorney which has been accomplished and the language revised accordingly.

MOTION CARRIED (6-1), COUNCILMEMBER PETSO OPPOSED. The item approved is as follows:

- (H) AUTHORIZATION FOR THE MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH EDMONDS COMMUNITY COLLEGE – EDMONDS COMMUNITY COLLEGE FOUNDATION, CENTER FOR FAMILIES**

Item I: Mike Doubleday Government Relations – Contract Proposal for Services

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO REFER THIS ITEM TO THE FINANCE COMMITTEE FOR REVIEW. MOTION CARRIED UNANIMOUSLY. The item referred to the Finance Committee is as follows:

- (I) MIKE DOUBLEDAY GOVERNMENT RELATIONS – CONTRACT PROPOSAL FOR SERVICES**

Item J: Report on the General Fund and other Selected Funds Financial Position for the Period Ended April 30, 2002

Councilmember Plunkett inquired about the ending cash balance. Administrative Services Director Peggy Hetzler explained each year projections are made regarding monthly expenditures and in April, \$96,000 more than anticipated was expended, requiring an interfund loan due to late distribution of property tax revenue from King County . She noted the first half of the property tax revenue, approximately \$4 million, was received in May, resulting in a positive cash balance in the General Fund.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCIL PRESIDENT EARLING, TO APPROVE ITEM J. MOTION CARRIED UNANIMOUSLY. The item approved is as follows:

- (J) REPORT ON THE GENERAL FUND AND OTHER SELECTED FUNDS FINANCIAL POSITION FOR THE PERIOD ENDED APRIL 30, 2002**

3. PRESENTATION OF THE D.A.R.E. ROLE MODEL SCHOLARSHIPS TO KELLEE ROSTAD AND MARIA DALBOTTEN BY THE EDMONDS POLICE FOUNDATION

Hank Sitka , President of the Edmonds Police Foundation, announced D.A.R.E Role Model Scholarships were awarded to Kellee Rostad and Maria Dalbotten. He briefly described Ms. Rostad's and Ms. Dalbotten's involvement in the community.

4. PUBLIC HEARING ON THE 2002 WATER COMPREHENSIVE PLAN

Assistant City Engineer Don Fiene presented the 2002 Water Comprehensive Plan, explaining state law required the City to update the plan every six years. He explained the plan was reviewed by the Department of Health according to a checklist. Mr. Fiene reviewed Section I of the Plan, Description of the Water System, which includes ownership and management, history and background, inventory of existing facilities, related plans, and service area and characteristics. Also included in Section I is a schematic of the system.

Mr. Fiene explained Edmonds had two water sources, Alderwood and Seattle. He identified various components of the system on the schematic.

Mr. Fiene described Section II of the Plan, Basic Planning Data, including current populations and number of connections, current water use and data reporting, current and future land use, future populations, connections and water use (demand forecast). Section III, System Analysis, outlines system design standards, water quality analysis, system inventory, source, storage, distribution system/hydraulics, and summary of system deficiencies based on modeled fireflow and peak hour scenarios and analysis of possible improvement projects.

Section IV of the Plan outlines the conservation program following the Department of Health, Everett and Seattle guidelines. This section also includes water use analysis, which revealed the average user consumption has dropped 13.3 gallons per day in the past nine years, a 10.7% reduction. Section V, Operations and Maintenance, addresses water system management and personnel, operator certification, operating procedures, maintenance and record keeping, water quality sampling procedures, coliform monitoring plan, emergency response plan and safety procedures. Mr. Fiene displayed a water service area organizational chart.

Section VI, Capital Facilities Plan, identified Comprehensive Plan priorities such as to improve fireflow, replace deteriorated pipes (leaks/poor material), replace 1% of City pipes or 1.38 miles per year, storage and control improvements. Mr. Fiene reviewed the ranking of transmission and distribution improvements according to the following priorities: hydraulic analysis (fireflow and peak hour demand needs), street project needs (overlay), pipe repair history, pipe material, undersized pipe, and pipe age. He displayed a diagram showing project ranking, explaining projects would be done in Perrinville and Seaview areas in the coming year to address the highest priority projects.

Section VII, Financial Program, provides a summary of past income and expenses, balanced operating budget, revenue and cash flow stability and rate structure that considers affordability and water conservation. Mr. Fiene described 2002 water system spending – 43% for operations and maintenance, 34% for wholesale water purchases, 20% for transfer for capital projects, and 3% for debt service.

Mr. Fiene explained the decline in water usage indicates the existing program has resulted in acceptable water conservation rates, therefore, a different rate structure was not necessary to encourage additional conservation. He explained a key component of the Water Comprehensive Plan was to aggressively seek low interest loans, noting the City has applied for loans totaling over \$2.6 million. The loans would not be approved without an updated Water Comprehensive Plan; the deadline for approval was December 31, 2002. To allow sufficient time for review of the Plan by the Department of the Health, the Plan must be submitted by June 30, 2002. He provided an analysis of the savings from a 20-year loan at 1.5% interest.

Mr. Fiene explained the City's existing water rates have been in effect since 1994 and were lower than all four adjacent water systems. The rates needed to be increased to maintain the existing Operations and Maintenance Program and construct improvements identified in the Water Comprehensive Plan. Staff is currently evaluating rate alternatives. He displayed a proposed rate scenario assuming acquisition of low interest loans, noting the proposed rates would be less than the 1994 rate at 3% inflation.

Staff recommends the Council approve the Water Comprehensive Plan for submission to the Department of Health.

Councilmember Petso asked whether the Council would separately evaluate the proposed rate increase or was the Council approving the rate increase along with the Comprehensive Plan. Mr. Fiene answered the rate increase would be presented to the Council separately. Only one scenario was shown in the Water Comprehensive Plan to accommodate that requirement in the checklist.

Councilmember Petso noted the unaccounted-for water data since 1997 indicates there is over 10% unaccounted-for water. She inquired whether there were any plans to do a leak detection program to identify

the source of the unaccounted-for water. Mr. Fiene responded one of the priorities in the plan was to replace the remaining steel lines in the system which tend to leak. Councilmember Petso suggested consideration be given to a leak detection program to identify which lines are leaking the most and repair them the soonest. Mr. Fiene answered that would be possible. Councilmember Petso asked whether there were sufficient funds in the operating budget to accomplish that. Mr. Fiene answered yes.

Council President Earling asked whether the source of unaccounted-for water had been identified. Mr. Fiene explained the unaccounted-for water was the difference between what the City purchases and what was sold to customers. The unaccounted-for water could be due to flushing mains, fireflow tests, and leaking water mains.

Councilmember Plunkett recalled there had been reference in the past to taking over the Olympic View Water District. He inquired whether the City had that authority and whether there was an advantage to doing so.

(Councilmember Petso, an Olympic View Water District Commissioner, excused herself during this discussion.)

Mr. Fiene commented there was an RCW that indicated when the City covered over 60% of the assessed valuation of an area, the City may take over the Water District but was not required to. City Attorney Scott Snyder explained that due to geographic issues, topography, etc. and the City's street system, it has not been economical in the past to consider taking over Olympic View Water District. Councilmember Plunkett asked staff to confirm that the lack of benefit to the City was the reason staff had not pursued taking over Olympic View Water District. Mr. Fiene responded staff would need to research the systems together, noting there could be some benefits such as Olympic View's storage system was very good and Olympic View had a secondary supply, Deer Creek. He noted Olympic View purchased its water from Seattle whose water costs are higher. Mr. Snyder noted it had been 12-15 years since this issue had been reviewed.

(Councilmember Petso returned to the dais.)

Councilmember Wilson inquired whether staff had calculated whether the City was at 60% of assessed valuation. Mr. Fiene answered the City was under 60%, possibly close to 50%. Councilmember Wilson suggested staff quantify that percentage to assist in any future discussions regarding feasibility. He suggested consideration be given to metering flows during Fire Department fire flow tests to assist in determining the amount of leakage versus water used during operations.

Mayor Haakenson opened the public participation portion of the public hearing. There were no members of the audience who wished to provide testimony. Mayor Haakenson closed the public participation portion of the hearing.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCIL PRESIDENT EARLING, TO APPROVE THE WATER COMPREHENSIVE PLAN FOR SUBMISSION TO THE DEPARTMENT OF HEALTH. MOTION CARRIED UNANIMOUSLY.

5. PUBLIC HEARING ON THE SIX-YEAR (2003-2008) TRANSPORTATION IMPROVEMENT PROGRAM

Traffic Engineer Darrell Smith explained State law required that each city and county update their Transportation Improvement Program (TIP) by July 1 of each year. He noted the TIP must contain all regionally significant projects although Edmonds includes all transportation improvement projects on the TIP. The TIP is submitted to the State where a master database of all regional projects is compiled. He noted the TIP may be amended this Fall when the Transportation Element update is completed.

Mr. Smith explained the TIP must be financially constrained in the first three years (funding sources must be identified for projects to be undertaken in the first three years). However, the last three years are not

financially constrained. He noted if a project was not included in the TIP, it was not eligible for State or Federal grants, thus the importance of having all projects in the TIP. He reviewed an example of a project on the TIP identifying the project name, purpose, project phase, total cost, source of funds, and funds available in years 2003 – 2008.

Mr. Smith advised new project costs totaling over \$9 million were added to the TIP, \$3 million of which must be local matches. He noted many of the projects may not receive grant funding and would not be completed.

He reviewed projects that were added to the TIP:

- Pine Street Gate and Signage Improvements
- Signal at 9th and Caspers
- Dayton & Main Pedestrian Improvements
- 238th (84th – SR104) Improvements
- 212th & 84th Capacity Improvements
- Citywide Walkway Improvements
- School Zone Improvements
- Signal Upgrade at Puget & Caspers
- Olympic View Drive Sidewalks (76th – 168th Street)
- 176th Grade Improvements at Olympic View Drive
- Citywide Signal Controller Upgrades
- Signal at 212th Street & 80th Avenue
- Puget Drive Study
- Highway 99 Illumination Project (Study)

Staff recommends Council approval of the Six-year TIP and direct the City Attorney to draft a resolution adopting the Six Year TIP and place the item on the Council Consent Agenda for June 25, 2002 .

For the audience, Councilmember Plunkett asked staff to describe how a citizen could get a project in their neighborhood on the TIP. Mr. Smith invited citizens to call him at 425-771-0220 and said there were Transportation Concern flyers available at City Hall. Councilmember Plunkett inquired whether public meetings were held to develop the list of projects. Mr. Smith advised this year there were three public meetings held, as well as a Citizen Advisory Committee and Technical Advisory Committee, although their focus was primarily the Transportation Element update.

Councilmember Plunkett asked whether the TIP projects were in the Capital Improvement Plan (CIP). Mr. Smith explained because the CIP was financially constrained, some larger projects included on the TIP were not included on the CIP.

Councilmember Plunkett inquired about how one could tell whether the funds identified for a project were secure or not. Mr. Smith advised projects on the TIP were financially “secure” for the first three years. He agreed there was not a method of identifying whether funding was security and said that could be added to the spreadsheet for the City’s purposes.

Councilmember Petso inquired whether a project could be moved up on the TIP if funding became available. Mr. Smith advised that could be done.

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

Roger Hertrich, 1020 Puget Drive, Edmonds, recalled the Pine Street project was originally only a gate, then it became signs, traffic revisions, etc. that moved a majority of traffic to 9th Avenue which was not a State Route. Originally Pine Street only addressed approximately 20 vehicles and limited times of day. He expressed concern that the proposed project was now \$270,000 for a signal. He noted the intersection could be made more safe and effective by revising the channeling. Next, Mr. Hertrich requested staff make a

walkway on the west side of 9th Avenue between Puget Drive and Caspers Street a priority due to the number of students using this area as well as a great deal of community pedestrian traffic. In conclusion, Mr. Hertrich urged the City to allow left turn movements once the traffic clears at signals with a left turn signal as was done in Lynnwood .

Betty Mueller, 209 Caspers Street, Edmonds, expressed concern with the proposed signal at 9th Avenue and Caspers as it would direct ferry traffic onto 9th Avenue . She noted the stores on 9th Avenue would suffer as a result of the additional traffic. She suggested the City save the money for a second fire station.

Hearing no further public comment, Mayor Haakenson closed the public participation portion of the public hearing.

Councilmember Petso requested Mr. Smith explain the benefits of the signal at 9th Avenue and Caspers as well as other signals on 9th Avenue. Mr. Smith explained the signals proposed on 9th Avenue were in the existing TIP and were proposed for capacity reasons as well as due to increases in accidents. He explained prior to the installation of any signal, a detailed traffic analysis would be done to consider level of service as well as existing accident data. With regard to the Pine Street Study, per Councilmember Dawson's request, the Washington State Department of Transportation planned to install improved signage on I-5 at their expense rather than the City's expense. He assured the intent was not to have 9th Avenue become a State Route .

Councilmember Wilson recalled the intersection at 9th and Caspers was currently LOS F. Mr. Smith explained during peak hours there was over a 157 second delay which can be exacerbated by ferry unloading. He noted in six years, this delay would be increased to over 310 seconds. He agreed the delays were primarily due to left turn movements.

Councilmember Wilson inquired about standards for installing a signal at an intersection. Mr. Smith answered a signal at 9th and Caspers would be required to meet more strict standards as it was on a State Route . Councilmember Wilson inquired whether the current situation would meet the federal criteria for a signal. Mr. Smith answered it would meet the criteria in six years but he would need to research whether it met the criteria today.

Councilmember Wilson inquired about the cost of the signal at 9th & Caspers. Mr. Smith explained the cost of a signal was approximately \$150,000 - \$180,000 but there were additional costs associated with channelization and pavement. He noted the increased cost of the 9th & Caspers signal was because there may be a desire to tweak the intersection slightly. Councilmember Wilson commented that regardless of the improvements at Pine Street , the intersection of 9th & Caspers would be identified in the TIP. Mr. Smith agreed.

Councilmember Orvis inquired whether the signal would be reviewed by Council prior to installation. Mr. Smith advised it would not necessarily but he was willing to agree to that. He noted that signal as well as three other recommendations from the Pine Street Study were included in the TIP.

Mayor Haakenson remanded the matter to Council for action.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO DIRECT THE CITY ATTORNEY TO DRAFT A RESOLUTION ADOPTING THE SIX YEAR TIP AND PLACE THE ITEM ON THE COUNCIL CONSENT AGENDA ON JUNE 25, 2002 . MOTION CARRIED UNANIMOUSLY.

6. **PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION TO APPROVE A PROPOSED AMENDMENT TO THE EDMONDS COMMUNITY DEVELOPMENT CODE, ADDING A NEW CHAPTER 16.75 TO ESTABLISH A NEW "MP – MASTER PLAN HILLSIDE MIXED USE ZONE" ZONING CLASSIFICATION (MP1 AND MP2) TO IMPLEMENT THE COMPREHENSIVE PLAN. (Applicant: Unocal / File No. CDC-2002-37)**

Mayor Haakenson introduced Attorney Terry McCarthy who was sitting in as City Attorney.

Planning Manager Rob Chave explained there were two applications by Unocal before the Council, the first (Agenda Item 6) was a request to amend the Edmonds Development Code by adding a new zoning district, MP – Master Plan Hillside Mixed Use Zone which has two designations within the zone, MP1 and MP2. He noted the intent of the zone was to implement the City’s Comprehensive Plan.

Mr. Chave explained the Planning Board carefully reviewed the Purposes Section of the proposed zone. He read portions of the Purpose section, “*D. To promote a mix of residential, commercial, and other uses in a manner that is consistent with the city’s comprehensive plan, and with the Downtown Waterfront Plan that has been adopted as part of the comprehensive plan. The mix of uses is contemplated to occur throughout the MP1 and MP2 zones; mixed-use development is not required on any specific parcel of land.*” Another purpose Mr. Chave indicated was to be considered was, “*C. To permit construction in accordance with a master plan concept and site design that is visually pleasing.*” He clarified any development in the zone would occur under the guidance of a master plan. He noted the Comprehensive Plan specifically identified this site for master plan development.

Mr. Chave referred to the Planning Board’s Findings and Recommendations, highlighting the statement, “*Since the proposed MP1 and MP2 zones require that any development be in conformance with an adopted master plan, these zones would implement the Comprehensive Plan requirement for ‘master plan development’ in this area.*” He noted the Planning Board also relied on specific guidance provided in the Downtown Waterfront Plan and included the following statement in their Findings, “*Taken together, the Downtown Waterfront Plan encourages a mix of uses which do not conflict with the core commercial uses downtown, and which are compatible with the Edmonds Transportation Element and with development in the surrounding area. The MP1 and MP2 zones implement these goals by permitting a mix of residential, office, and less-intensive retail uses, as well as making provision for a multimodal transportation facility. The MP1 and MP2 zones would therefore be an appropriate development regulation for implementing the uses specified in the Comprehensive Plan.*”

Mr. Chave explained the Planning Board’s record indicates they carefully considered the specific uses identified in the MP1 and MP2 zones. He noted the MP1 zone was intended for the upper portion of the site (upper yard) and those uses were generally less intensive, a mixture of multifamily uses, and office-type uses. The MP2 zone was intended for the lower portion of the site and includes the development allowed in the MP1 as well as neighborhood oriented retail uses, services uses, and a multimodal transportation center. He noted the lower yard had been identified as the site for the multimodal facility which had been in planning for several years.

During the Planning Board’s review, it was noted the multimodal facility could straddle the two zones as configured in this proposal. Mr. Chave pointed out much, if not all, of the multimodal facility would be designated right-of-way. He noted the Planning Board did not review all the information included in the Council packet as some information (Exhibit 4 – three letters from King County and a response from City Attorney Scott Snyder) was received after the Planning Board closed their hearing and completed their deliberations. Mr. Chave advised there was an issue raised in the letters about notice to King County. He explained the Determination of Non-Significance on this project which included a description of the City’s actions but also notice of the comment period and appeal period was sent to King County. He noted this was sent a full month before the Planning Board’s hearing occurred. He concluded adequate notice had been provided to King County and they should have commented during the appropriate comment period.

Councilmember Petso referred to Purpose D and the statement “*The mix of uses is contemplated to occur throughout the MP1 and MP2 zones; mixed-use development is not required on any specific parcel of land,*” inquiring whether this meant that the entire upper yard could be devoted to a single use. Mr. Chave answered yes, it could be. Using the example of a daycare, Councilmember Petso asked whether approving this would allow a master plan proposal for a daycare on the entire site. Mr. Chave explained that was not the intent,

noting a master plan would be required for development and the master plan for the entire site must show a mixture of uses. He summarized it was premature to say that the City would accept a master plan for a single parcel that did not recognize a larger mixed use development on the entire site.

Councilmember Petso asked whether a 20 acre daycare could be located on the entire upper yard as long as there was a mixture of uses on the lower yard. Mr. Chave answered that did not appear to be a reasonable use for the site. Councilmember Petso agreed, but questioned why a mix of land uses was not required in the MP1 zone. Why would the ordinance allow a single use on MP1? Mr. Chave answered staff would strive for a master plan that showed a mixture of uses. For example if a master plan were proposed for only the upper yard, staff would look for a mixture of uses in the master plan.

If a master plan were proposed for both, Councilmember Petso asked why the ordinance would allow a 100% single use in the upper yard. Mr. Chave answered if the upper yard, as a portion of a larger development, contained a single use such as office, that would be an appropriate mixture of uses if included within the overall master plan for the entire property. If a master plan proposal was submitted for the upper yard that only showed a single use and there was no other mixture of uses identified elsewhere on the property, staff “would have trouble approving that.” In the Planning Board record, that is obviously not what is being discussed; there is a master plan proposed for the entire property that includes a mixture of uses throughout the property.

Councilmember Petso noted the legislative action being considered allowed a 100% single use on the upper yard. She questioned why it would be good to adopt a zone that allowed a 100% single use in the upper yard. Mr. Chave answered review of any master plan proposal would look for a mixture of uses within the master plan. If the master plan for the entire property were withdrawn and a master plan for a portion of the property indicating a single use would not be consistent with the proposed zoning.

Councilmember Petso asked staff to consider the following scenario: Agenda #7 fell through and the Council approved Agenda Item #6 and a proposal was submitted for the upper and lower yard which included a 20 acre daycare on the upper yard and a mixture of uses on the lower yard. Would staff have any authority to prohibit that. Mr. Chave answered that could potentially be approved.

Councilmember Petso asked what the maximum building height would be if this new zone were approved. Mr. Chave answered the maximum height for the MP1 zone (upper yard) was 35 feet plus 5 feet for a modulated roof. Councilmember Petso asked whether a variance could be requested for an additional 10 feet. Mr. Chave answered no, although there could be a Conditional Use for a single landmark structure.

Councilmember Petso asked how the height would be measured. Mr. Chave referred to the diagrams on pages 6 and 7 (Figures A, B, and C) of the Council packet, explaining that the averaging method would be used, however, due to the uniqueness of the site and the desire to have the buildings follow the slope, it was possible depending on the design of the specific building that they could be segmented into two separate calculations. He clarified the intent was to have the buildings follow the slope.

Councilmember Petso noted the intent was for the zoning to be consistent with implementing the Downtown Waterfront Plan. She referred to a provision in the Downtown Waterfront Plan that read, “the maximum height of all building was 35 feet as measured from the existing grade elevation at each point of the structures footprint.” She noted this did not allow slope averaging based on design of the building or allow an additional 5-feet for a modulated roof. She questioned why this recommendation in the Waterfront Plan was not being adhered to. Mr. Chave pointed out this was a recommendation, not a regulation and there was impracticality with calculating the height at any given point of the building. The intent was to maintain the spirit of the Downtown Waterfront Plan but provide more practicality, thus the segmentation of buildings.

Councilmember Petso asked what the height limit would need to be to achieve a maximum height of 35 feet measured from any point at the base of the building. Mr. Chave answered the proposal was consistent with

the Downtown Waterfront Plan which recommended 35 feet and showed a pitched roof extending above the 35 foot height limit and addressed buildings tracking with the slope on the site.

Councilmember Petso recalled lot coverage for residential zones was 35% and 45% for multifamily and questioned why the proposed lot coverage requirements (page 5 of the Council packet) for the MP1 and MP2 zones was 75%. She asked how a 75% lot coverage helped preserve the aesthetics of this hillside property. Mr. Chave noted the configuration of the lots was unknown; it could be developed similar to a PRD where the lots are clustered with common open space. The concern was that if a coverage figure was established such as multifamily 45%, it could severely limit the flexibility to design development on the site. The Planning Board felt there was adequate protection such as open space requirements and guidance in the Downtown Waterfront Plan that would prevent the hillside from being covered with massive buildings and ensure buildings fit in the terrain and nature features.

Councilmember Petso questioned how 75% lot coverage could protect the stands of trees and natural features. Mr. Chave clarified if the entire hillside were one lot, 75% coverage would not be allowed. He explained 75% lot coverage was the maximum lot coverage that could be attained; however, any development would be balanced by the goals, policies and design guidelines in the City's regulations and Comprehensive Plan. The 75% lot coverage was a maximum that could not be exceeded.

Councilmember Petso asked the number of units that could be developed on the upper yard if it were developed 100% multifamily. Mr. Chave answered the calculation in the Master Plan provided by Unocal was approximately 400.

Councilmember Petso referred to the Purposes section, noting the property under its current zoning Commercial Waterfront had a purpose of ensuring physical and visual access to the waterfront. She noted that purpose was not included in the proposed zone and asked whether it could be included. She suggested a Purpose E – "Ensure physical and visual access to the waterfront." Mr. Chave noted the Commercial Waterfront Zone was intended to be located next to and in proximity to the water/shoreline. He noted there were practical difficulties on this site as it would require cooperation of multiple entities who own property between this site and the water. He preferred an additional Purpose be to promote access versus to ensure access. Mayor Haakenson noted this site previously had physical access to the water but the City now owned that property.

Councilmember Orvis noted the Commercial Waterfront Zone had a height limit for the tanks that was different from the height limit for buildings. He asked why the height limit in the MP2 zone was 45 feet versus 35 feet in the MP1 zone. Mr. Chave answered the MP2 zone was at the bottom of the hillside and the height that would be required for Edmonds Crossing to get over the railroad tracks was approximately 45-50 feet.

Councilmember Orvis asked whether landmark structures were currently allowed in the Commercial Waterfront Zone. Mr. Chave answered no. Councilmember Orvis asked what limitations there were on landmark structures. Mr. Chave stated only the language in the Downtown Waterfront Plan and the proposed zone – a single structure but there were no height limits mentioned. The specific example provided was a clock tower. Councilmember Orvis asked whether the structure being a landmark would preclude its use as office space, etc. Mr. Chave replied the only guidelines were the language in the Downtown Waterfront Plan and the physical description in the proposed zone. He assured any landmark structure would undergo design review.

In response to Councilmember Orvis' question regarding the height limit for the tanks, Mr. Chave advised the maximum height in the Commercial Waterfront Zone was 30 feet and the height limit for the tanks was 48 feet.

Councilmember Wilson noted there was nothing in the text that prohibited a developer from applying for a variance and he suggested language be incorporated to prohibit the use of a variance to gain additional height.

Mr. Chave explained a variance for height would likely not be approved due to the guidelines, background, policies, etc. Councilmember Wilson suggested incorporating language that prohibited the use of a variance as a mechanism to gain additional height. He also suggested language be included that would describe under what circumstances an applicant might have their lot coverage reduced below 75%. Mr. Chave suggested a footnote that described the purpose of the 75% lot coverage or lowering the percentage with an indication it could be raised as high as 75% under specified conditions. He noted consideration could also be given to establishing different lot coverages for the MP1 and the MP2 zones. He noted a reasonable lot coverage for MP1 may be 45%.

Councilmember Wilson inquired whether there was a distinction made between providing visual access from public spaces and private spaces in the MP1 zone. Mr. Chave agreed it would be more appropriate to require visual access from public spaces versus private spaces. He suggested setting a lower default lot coverage with a footnote that the lot coverage could be increased up to 75% as part of a master plan.

Councilmember Wilson referred to the text for Figure A, “*A building is considered to have two or more clearly separated portions when each portion is separated by a one-story high (min.) space above a plaza or roof*”, and suggested that because “story” was not defined, a quantifiable number be used. Mr. Chave agreed story was not defined.

Councilmember Orvis requested staff describe the Conditional Use process. Mr. McCarthy explained the Conditional Use process was utilized when the use was permitted but required it be designed to fit with the surrounding uses. He explained the process included a hearing before the City Council or Hearing Examiner. Mr. Chave clarified in Edmonds the Conditional Use hearing was held by the Hearing Examiner and it was an appealable decision.

Councilmember Orvis noted a conditional use was not a way of stopping a use from occurring. He asked the difference between a permitted use and a conditional use. Mr. McCarthy explained some uses were permitted outright, and other uses were permitted conditionally to ensure the use fit with the surrounding area. Mr. Chave explained the Conditional Use process enabled the use to be conditioned to ensure it was compatible with the neighborhood.

Councilmember Dawson expressed concern with the vague description of a landmark structure. She asked whether a hotel could be considered a landmark structure. Mr. Chave explained the guidance was the examples in the code language, “landmark buildings or structures such as a clock tower, viewing platform or similarly unique structure that contributes to the overall development.” He noted it was unlikely given that description and the descriptions and illustrations in the Downtown Waterfront Plan that hotel would qualify. If the Council were concerned with that, he suggested the Council include more descriptive language or other restrictions.

Councilmember Dawson observed the 45-foot height limit for the proposed MP2 zone was due to the Edmonds Crossing project. Although the Edmonds Crossing was the preferred use for the site, if that did not occur, other structures could be 45 feet in height. She inquired if there was a method of stipulating that the 45-foot height limit applied only to a multimodal facility and otherwise the height limit was 35 feet. Mr. Chave advised the lower yard was below the hillside and a 45 foot height limit may not be an issue. Councilmember Dawson was concerned if heights were increased to 45 feet in one area, it would lead to requests for increased height in other areas. Mr. Chave noted a conditional use process could be appropriate with one of the criteria being a multimodal facility.

Councilmember Dawson inquired about the purpose of a 35-foot height limit and allowing an additional 5 feet for a “normal” roof. Mr. Chave explained the Downtown Waterfront Plan describes a portion of the roof being above the 35-foot height limit. He noted there was a section of the code that allowed an additional 5 feet for building heights if part of a modulated design. The language allowing a 35-foot height and an

additional 5 feet for a modulated roof was included to be consistent with recommendations of the Downtown Waterfront Plan as well as with the existing code.

Councilmember Petso asked why a landmark structure would be allowed on MP1 and MP2 when the Downtown Waterfront Plan addressed only one landmark structure. Mr. Chave said it was unknown whether a landmark structure would be constructed; the provision was made that if it were not on the hillside due to concerns with views, it may be located lower on the hillside in conjunction with the multimodal facility.

Councilmember Wilson suggested providing a definition for landmark structures such as not having leasable floor area above the maximum height limit in the zone. Mr. Chave suggested the Council provide direction regarding the intent for a landmark structure such as the footprint, height, etc.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER MARIN, TO EXTEND THIS ITEM FOR 30 MINUTES. MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson opened the public participation portion of the public hearing. He advised emails had been received from the following individuals in support of the recommended action:

- Phyllis Forister, 230 3rd Avenue S
- Laurie Dressler & John Quast, 15714 7th Place W
- Kevin & Linda O'Morrison, 10120 240th Place SW
- Art & Athalie Kirschenbaum, 700 8th Ave S
- Desmond R. Call, 8732 209th Place SW
- Roy & Mary Ellerman
- Marianne C. Burkhart, 654 5th Avenue S #402
- Bill Rengstorf, 821 Laurel Way
- Burton & Barbara Walker, 18506 88th Avenue W
- David Page
- Barbara & Vern Chase, 1105 Daley Place
- John M. Park, 20800 72nd Avenue W #304
- Dr. Richard B. Stuart, 1109 12th Avenue N
- Carolyn Drake & Martha Lake

Scott Snyder, attorney with Ogden Murphy Wallace, 1601 Fifth Avenue, Seattle, explained he normally served as the City Attorney but was appearing tonight to present a procedural objection in response to letters filed by King County. He noted he usually advised the Council but raising an objection and advising the Council how to rule on the objection may be in conflict. Therefore Mr. McCarthy would be advising the Council.

Mr. Snyder explained this was not a hearing regarding any proposal by King County with regard to the Brightwater treatment plant. He explained code amendments were an exercise of the Council's legislative function and as such any person or entity may present testimony. The rezone application (Agenda Item #7), however, was a quasi judicial matter forwarded to the Council from the Planning Board as a closed record review where only the existing record could be considered and no new information provided. He indicated he would reserve his comments regarding King County's efforts to supplement the record of the closed record review until the Council reached Agenda Item #7.

Mr. Snyder explained the Growth Management Act (GMA) reversed the standing rules regarding the application of city zoning codes in the Comprehensive Plan. In the past, the Zoning Code took priority over the Comprehensive Plan. One of the major changes of GMA was to reverse that; any code change must be consistent with the Comprehensive Plan. He noted the City was also only allowed to consider Comprehensive Plan amendments annually and, by City ordinance, requests must be docketed by December

31 of each year. The Council must determine whether the proposed change was consistent with the Comprehensive Plan. He noted any argument that the Council should deny the code change due to a hypothetical use by King County was premature. He used the term “hypothetical” based on five factors, 1) King County has not acquired an ownership interest in the site, 2) King County has not finally selected a site for the proposed Brightwater facility, 3) Brightwater is currently studying two sites and has found by ordinance that there are four viable sites, 4) King County has not availed itself of the process under City ordinance or GMA to have this site docketed for consideration as appropriate for any public use other than those in the Comprehensive Plan, and 5) although Brightwater may be an essential public facility, it was not defined as an essential public facility by State law nor has an application been filed with Edmonds or Snohomish County to have it designated under the interlocal agreement.

Mr. Snyder summarized that having failed to docket a Comprehensive Plan amendment, his position on behalf of staff was that King County was premature in asking that any other application be denied. He advised King County could be heard as any other citizen or entity regarding the code amendment. He commented a takings issue could arise if the City denied the application of a property owner to use the property consistent with the Comprehensive Plan based on some hypothetical future use of the site. He noted the City had gone to great lengths over a number of years to designate the site as appropriate for the multimodal facility and had taken step-by-step plans via the Comprehensive Plan including inclusion of the Edmonds Crossing project on the CIP and TIP.

Tayloe Washburn, King County, 1111 – 3rd Avenue, Seattle, asked to be allowed to have Verna Bromley’s (King County) three minutes added to his three minutes.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO SUSPEND THE RULES AND ALLOW MR. WASHBURN TO SPEAK FOR SIX MINUTES. MOTION CARRIED UNANIMOUSLY.

Mr. Washburn indicated he planned to discuss notice issues, the Brightwater siting process as it related to Edmonds , and their concerns with the proposed ordinance. Mr. Washburn expressed concern regarding the absence of notice to King County of the Planning Board’s consideration of this issue. He noted King County was provided notice of tonight’s public hearing but did not receive notice of the Planning Board’s consideration of this ordinance despite King County ’s obvious interest in the site. He pointed out that although Edmonds had actively participated in King County ’s siting process, the City did not provide King County notice. When King County learned of the process and tried to provide testimony on May 8, 2002 (Note: This date later corrected to May 22, 2002) to the Planning Board, it was not accepted for the Contract Rezone and Ms. Bromley was not permitted to testify. He objected to the refusal to accept King County ’s testimony on the Contract Rezone and requested Council reconsideration.

Mr. Washburn noted the Appearance of Fairness Doctrine required a fair hearing and that persons and entities affected by the proposed quasi judicial action must be fully and fairly heard. In this instance, a decision by the City on the proposed rezone which consciously excluded consideration of an identified regional facility and ignored regional impacts would be arbitrary. Given that King County was not provided notice and had limited time to submit documentation, Mr. Washburn advised they were submitting 40 documents, which he noted would have been submitted to the Planning Board regarding the Contract Rezone had they been allowed. He pointed out that the Council had authority and discretion to accept limited evidence or information such as the materials he was providing. Further, the Council had the authority to remand the matter to the Planning Board to consider the evidence.

With regard to the King County siting process, Mr. Washburn explained a two-year siting process has been conducted not to find the most popular site but to determine the best site. He acknowledged any city or county could impose reasonable mitigations of proposed essential public facilities, but they could not preclude an essential public facility via local regulations or policies. King County has made it clear that if a decision is made to site Brightwater at Unocal, King County is prepared to mitigate any projected impacts.

He noted the materials he was submitting explained the need for such a regional facility was founded in state laws and adoption of a regional wastewater plant which the City participated in and commented on in 1999.

Mr. Washburn noted King County has conducted a full, fair, and thorough process with a great deal of input before narrowing the potential sites to two optimal sites. However, instead of engaging in discussion regarding how King County could mitigate a wastewater treatment facility at any site including Unocal in a reasonable manner, Edmonds has chosen to actively conduct a focused effort to oppose, obstruct, and in effect preclude the Unocal process. He noted this effort to preclude any possibility of siting Brightwater at Unocal was illustrated in 1) statements of the Council in Resolution No. 1009, 2) repeated statements by the Mayor and other City officials in letters, interviews and speeches over many months; 3) requests to other City officials to stop the siting of Brightwater at Unocal, and 4) the proposed ordinances.

Mr. Washburn explained siting Brightwater at Unocal complied with most, if not all, common siting criteria for essential public facilities that were adopted by King County and possibly Edmonds . He noted the ordinances failed to comply with GMA provisions relating to essential public facilities.

Mr. Washburn expressed King County 's concern with the ordinances including that the record did not contain any mention of the Brightwater proposal. He commented the City ignoring the existence of a regional facility in the ordinances as well as not considering evidence was a "putting your head in the sand approach" that King County did not encourage. He requested the Council remand both ordinances to the Planning Board to consider the evidence offered by King County in the five volumes. If the Council elected not to remand the ordinances to the Planning Board, he requested the Council review the materials and before adopting the ordinances, revise them to allow, subject to reasonable mitigation, regional wastewater plants and associated conveyances provided they go through the same master planning process and Comprehensive Plan amendment. Mr. Washburn provided the City Clerk with materials (five volumes) in support of his testimony.

On behalf of staff, Mr. Snyder asked Mr. Washburn to clarify his statement that Ms. Bromley was denied an opportunity to speak on May 8, noting the record indicated Ms. Bromley submitted written comments on May 22. Mr. Washburn agreed the date was May 22, 2002 .

Mr. Snyder referred to Mr. Washburn's indication that Brightwater had been identified as a regional facility and inquired whether there was any City document or application by King County to Edmonds requesting the designation of this site for use by Brightwater. For example, has King County made any effort to docket a Comprehensive Plan amendment to designate the Unocal site. Mr. Washburn answered King County has discussed over a two-year period their intent to possibly site the treatment plant at Unocal. He acknowledged King County had not approached the City with an indication the treatment plant would be constructed on the Unocal property as King County must first conduct environmental review on the two potential sites. Mr. Snyder clarified King County had not filed a request to designate the site as appropriate for public use through an amendment to the City's Comprehensive Plan. Mr. Washburn noted it was the duty of the City, having been apprised of the possible siting of a wastewater treatment plant at Unocal, to identify that as a possible public use. He acknowledged King County had not submitted a request for a Comprehensive Plan amendment.

Mr. Snyder asked Mr. Washburn to cite any law that guaranteed King County special notice of a zoning hearing in the City beyond that published in the City's official newspaper. Mr. Washburn answered he could cite a number of cases under common law which indicate that affected and aggrieved parties are not necessarily subject to the strict enforcement of technical notice requirements. He pointed out most courts supported a full and fair consideration of all views of affected parties. He pointed out that although the City knew King County would be the most interested party in this site, King County was not provided notice although, under common law, they were entitled to it.

Mr. Snyder asked whether any of the cases referred to were cases where the right to notice was extended to an individual or entity without a property interest. Mr. Washburn answered that would require further research.

Peter Block, 23821 115th Place W, Woodway, indicated he was a Councilmember in Woodway but was speaking as a private citizen although he believed his views were shared by the Mayor of Woodway and Councilmembers. Mr. Block explained Woodway neighborhoods were adjacent to the site. Via the Pt. Wells/Unocal Advisory Committee, Woodway defined various values that were important to be addressed in planning future land uses in and adjacent to Woodway. He wanted assurance that Woodway's community values would be considered for uses that may impact Woodway residents. Mr. Block advised significant values that have been identified related to future uses that may locate at the Unocal site include traffic, pedestrian access, safety and security, property values, aesthetics, lighting and glare, and construction impacts. The uses allowed by right and/or condition under the MP1 and MP2 zoning districts could have significant adverse environmental impacts on Woodway and the values of the community. He said any public or private sector proposal should consider the impact on surrounding properties and uses. He noted that although this action did not create environmental impacts, it had the potential to enable serious impacts to occur. He urged the Council to consider requiring the preparation of an EIS for any action contemplated in these zoning districts.

Mr. Block explained that in the past few years, Woodway has surveyed residents to define qualities Woodway residents value. For example, residents expressed concern with the elevation of any structure that exceeded the contour of Pine Street at the common Edmonds/Woodway limits due to the potential impact on sight lines. Mr. Block summarized Woodway's concerns were with the obvious conflicts with the Town's values and desire for view protection. He also expressed concern with the height limit exclusively in the MP1 zone as well as with the potential traffic impacts.

Mayor Haakenson declared a brief recess.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO EXTEND THIS ITEM FOR 60 MINUTES. MOTION CARRIED UNANIMOUSLY.

Roger Hertrich, 1020 Puget Drive, Edmonds, commented too many questions had been raised for the Council to make a decision tonight. He recommended the Council review the materials and develop revisions to the ordinances including more protections. He expressed concern with the open-ended nature of the landmark structures. He noted the size of the Unocal site presented an opportunity to do good planning, create open spaces and people places, and setbacks. With regard to Councilmember Petso's question regarding allowing a single use on the MP1 portion, he suggested a separate master plan for each area to guarantee there would be mixed use in MP1 and in MP2. He expressed concern with heights and the way heights would be measured.

Carl Keller, Unocal, 11720 Unoco Road, Edmonds, thanked staff for their diligence and hard work on their application. He noted he has participated in the Edmonds Crossing Oversight Committee since 1993 as well as on the Steering Committee for the Downtown Waterfront Plan. He noted their application was the culmination of ten years of planning and participating in the public process. He reviewed the background of the Unocal property, explaining 110 acres were purchased in 1920 and in 1991 the fueling facility was decommissioned and remediation activities were begun.

Karin Steele, 11111 Wachusett Road, Woodway, Woodway Councilmember, expressed her support for Mr. Block's comments. She noted Woodway was unaware of the hearing before the Planning Board and requested the Council hold the public hearing open for one week to allow Woodway to comment.

Ron Wambolt, 11701 Bella Coola Road, Woodway, a property owner immediately adjacent to the Unocal property (Woodway Park Estates), expressed support for residential development of the site. He explained approximately five weeks ago he surveyed 60 homes in their area; 80% preferred residential development on

the site. He urged the Council to rezone the property and return the unique site to the people, noting it had been an industrial site for too long.

Carolyn Drake, a frequent tourist to Edmonds , explained it was the custom in real estate development to purchase an option on property or serve notice via another process that a person/entity was interested in a property. It was not Edmonds ' responsibility to assume this duty on behalf of King County . Although she empathized with King County , they had a duty to keep track of a property in which they had an interest. She questioned whether Unocal's development of the property was to be delayed until King County determined which site they would select for Brightwater. King County 's EIS would not be complete until May 2003 or later. Granting King County 's request would be unduly burdensome on Unocal and negatively impact Edmonds ' ability to collect property taxes for that property.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO SUSPEND THE RULES TO ALLOW MR. CARSON TO SPEAK FOR SIX MINUTES. MOTION CARRIED UNANIMOUSLY.

Brent Carson, Buck & Gordon, 1011 Western Avenue, Ste 902, Seattle, representing Unocal, said with regard to Mr. Washburn's comments, that it appeared Unocal's application was being hijacked. He noted the application by Unocal was a text amendment of its property that would comply with the Comprehensive Plan designation for this area, however, Mr. Washburn seemed to be indicating this was the forum to consider whether the code should be amended to allow a sewage treatment facility. He noted there was a separate time and place for that consideration. He stated the Council could not take the action King County wanted because, as Mr. Washburn indicated, King County must undergo an environmental review process, which was being done.

Mr. Carson said King County misunderstands/mischaracterizes the proposal before the Council. Unocal's intent is a text amendment to implement the zoning uses and standards in the Comprehensive Plan and designate those uses for the site. He said there had been no attempt to exclude King County uses nor was there any attempt to exclude other uses that were not contemplated in the Comprehensive Plan. He noted the Council had legislative discretion on what uses to allow consistent with the Comprehensive Plan and there was currently nothing in the Comprehensive Plan or Downtown Waterfront Plan suggesting this was a location for a sewage treatment facility. He explained the issue before the Council was not excluding essential public facilities, assuming the treatment plant were identified as an essential public facility, however, the City was not obligated to allow essential public facilities in every zone. The City's zoning code allowed essential public facilities in the P zone. He noted there had been no decisive data issued by King County for locating an essential public facility on the property and it was premature to consider such a use.

In response to the question regarding the height of a "story," Mr. Carson suggested 10 feet. With regard to landmarks, Unocal included landmarks in their proposal to be consistent with the Comprehensive Plan, not because they had plans for a landmark. If there were concerns with landmarks, he suggested the Council place future limitations on them.

With regard to the 45 foot height limit in the lower yard, Mr. Carson explained that was included with the intent of linking uses with the multimodal facility. He envisioned a parking structure with uses allowed in the zone on top of the parking structure. He noted development could not occur below grade on this site. Considering garage structures and uses above a garage structure, 45 feet was determined to be a reasonable height limit. Regarding lot coverage, he noted this was difficult to determine as lot sizes had not yet been identified.

Hearing no further public comment, Mayor Haakenson closed the public participation portion of the public hearing.

Due to the numerous issues raised by Councilmembers, Council President Earling suggested continuing the hearing for two weeks to allow staff to develop the changes requested by Council and to continue Item #7

until July 2, 2002 . He requested Councilmembers summarize their issues. He suggested the Council accept the materials submitted by King County .

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO ACCEPT THE MATERIALS FURNISHED BY KING COUNTY FOR ITEM #6.

Councilmember Dawson agreed with Mr. Snyder's opinion expressed in his memo that it was not necessary to accept the material provided by King County . However, in an effort to err on the side of caution and fairness, the Council should review the materials. She expected King County to provide a copy of the materials to each Councilmember. Mr. Washburn commented that since the materials were provided at the public hearing, there was no legal basis for not accepting the materials. He preferred not to provide individual copies and only have copies available at a central location for Council review. Mr. Snyder clarified his objection to the Council accepting the materials was only for Agenda Item #7. He noted the materials were admissible at this legislative hearing. He recalled the Council's procedure was when applicants provided material at a hearing, they were to provide sufficient copies for all Councilmembers.

Councilmember Dawson pointed out King County should have made the material available prior to tonight's public hearing as the Council could have made a decision tonight without the opportunity to review the materials.

Councilmembers discussed how King County should provide the materials (individual copies or 1-2 copies available for Council review) and whether the Council would have adequate time to review the materials. Mr. Washburn offered to provide a CD copy of the materials and messenger his copy of the materials to the Council.

Mr. McCarthy commented the Council was being asked to do a nearly impossible task as the five volumes of materials represented thousands of pages. He suggested having Mr. Washburn cite what information he wanted the Council to pay attention to in each volume.

Mr. Washburn noted his three page statement accompanying the materials explained why the materials were relevant to the Council's decision. He emphasized the importance of all materials presented and said the two years of work that have gone into this issue were not easily summarized. Mayor Haakenson suggested Mr. Washburn itemize the type of documents that were in the materials he presented, noting much of the information the Council may have already seen.

Mr. Snyder suggested the Council consider referring the King County proposal to the Comprehensive Plan process for 2003 as is the GMA preferred procedure. Although it was being suggested King County should come back later if the site is selected, Mr. Washburn said that would be running a major legal risk not to be present when the rules are being changed on land King County was interested in. He reiterated the planning report analyzing this proposal failed to mention that the site had been identified as a potential site for a regional public facility.

Mr. Snyder objected to Mr. Washburn's inference that the site was designated as an essential public facility. He referred to Ms. Bromley's letter which indicates the site might be the location of an essential public facility, noting it has not been defined as such by State statute. He suggested the Council ask Mr. Washburn to identify what materials within the five volumes were inconsistent with the amendment of the code for the MP1 and MP2 zones. He objected to King County asking the Council to review volumes of materials regarding an application King County has not yet filed on a site it has not yet identified. Mr. McCarthy agreed.

Councilmember Plunkett suggested the Council read and digest the materials as best they can. Councilmember Marin expressed dismay with King County 's reluctance to duplicate the materials and their inability to identify important documents within the materials.

COUNCILMEMBER MARIN WITHDREW HIS SECOND.

COUNCILMEMBER PLUNKETT SECONDED THE MOTION.

Mr. Washburn said King County was willing to provide individual copies along with a memo identifying materials the Council should pay particular attention to. Council President Earling agreed that would facilitate the Council's review.

MOTION CARRIED (6-1) COUNCILMEMBER ORVIS OPPOSED.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, TO CONTINUE THE PUBLIC HEARING ON AGENDA ITEM 6 TO JULY 2 AND TO ACCEPT PUBLIC COMMENT FROM ANYONE WHO HAS NOT SPOKEN BEFORE. MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson suggested Councilmembers summarize their concerns.

Councilmember Petso commented the Downtown Waterfront Plan dated back to 1992-1994 where there was a great deal of public input regarding what development would occur on the site when the tanks were removed. She requested the proposal contain language that more closely represented the recommendations in the Downtown Waterfront Plan such as the following: prohibit the use of a variance to obtain increased height, add language that limited the 75% lot coverage, add language that reduced the height limit to 30 feet with the 5 feet for a modulated roof, add a Purpose regarding the promotion of physical and visual access to the waterfront, require a mix of uses rather than allowing a single use, accommodate the multimodal height into a conditional use process, and require a buffer from existing residential development.

Councilmember Wilson clarified the height limits and prohibition on a variance process for increased heights should be limited to the MP1 zone. Regarding lot coverage, his intent was not to reduce lot coverage below 75% but to add language that identifies the basis for reducing lot coverage below 75%. He requested staff provide a definition of a landmark structure, develop a mechanism for limiting the leasable area in a landmark structure, develop language that required any use in a landmark structure to be ancillary. He was willing to accept Mr. Carson's definition of 10 feet for a "story" of a building.

Councilmember Orvis commented he was generally supportive of the proposal; his only concern was with heights. He explained in neighborhoods he did not want heights over 25 feet because residential zoning currently only allowed 25 feet. In the Commercial Waterfront Zone, there were 30 foot building heights allowed and 48 feet for the tanks. He found the 48-foot height limit acceptable, noting a tank was more difficult to see through than a building. He requested the landmark provision be removed from the zone to avoid any structures over 48 feet.

Councilmember Dawson requested the Purpose section refer to visual access from public spaces. With regard to the height limit in the MP2 zone, she requested language that established a conditional use process for multimodal/transportation facilities or uses secondary/complimentary to a multimodal facility. She preferred the 30-foot height limit with 5 feet for a modulated roof rather than 35 foot height limit and 5 feet for a modulated roof. She did not agree with a 48 foot height limit for a residential neighborhood.

With regard to physical access, Councilmember Wilson noted when the Comprehensive Plan and Downtown Waterfront Plan were adopted, Unocal owned the property to the waterfront and could provide physical access to the waterfront. However, Unocal no longer owns that property and it would be difficult to provide physical access. He preferred the Purpose refer to visual access. With regard to landmark structures, he noted landmarks would be a key component as this was a very focal point in the community. He requested staff consider language that would require a landmark structure be proportional to the other structures on the site.

Councilmember Marin supported retaining the provision regarding a landmark structure. Mayor Haakenson suggested the Council provide staff a list of items they would not want as landmarks.

7. **CLOSED RECORD REVIEW OF THE PLANNING BOARD RECOMMENDATION TO APPROVE A PROPOSED CONTRACT REZONE OF PROPERTY LOCATED AT POINT EDWARDS (11720 UNOCO ROAD) TO MP1 AND MP2 TOGETHER WITH APPROVAL OF A MASTER PLAN TO GOVERN FUTURE DEVELOPMENT OF THE SITE. (Applicant: Unocal / File No. R-2002-38)**

Mayor Haakenson opened the closed record review.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER WILSON , TO CONTINUE AGENDA ITEM #7 TO JULY 2, 2002 . MOTION CARRIED UNANIMOUSLY.

8. **AUDIENCE COMMENTS**

Roger Hertrich, 1020 Puget Drive, Edmonds, read Mayor Haakenson's comments from the June 4, 2002 Council minutes that indicated Mayors Fahey and Hall had a Community Services Director, Paul Mar, and Stephen Clifton was hired to replace him in the same job description. Mr. Hertrich pointed out when Paul Mar left, a Development Services Director was hired who oversaw the engineering, planning and the building department, the same duties as Paul Mar. Mr. Hertrich pointed out a Community Services Director, Stephen Clifton, was then hired, and both had salaries of approximately \$90,000. Mr. Hertrich noted when Mayor Haakenson was elected, his salary was in the \$60,000 range; his salary increased to the \$80,000 range and now an increase to \$97,000 had been suggested. He read the Community Service Director duties - CIP administration, special assistance to the Mayor, community relations, and special projects coordination. He pointed out the City of Renton , used as a comparison city, has 531 employees, population of 46,000, and General Fund of \$95 million. Edmonds has 262 employees, population of 38,000, and General Fund of \$20 million. If the Mayor's salary was increased to \$97,000, his salary would rank second although Edmonds was not comparable to Renton in size or General Fund. He requested the Mayor's salary not be increased, noting the Mayor received an ample salary and did a good job for that salary.

Mayor Haakenson encouraged Mr. Hertrich to make those comments on July 16 at the public hearing regarding the recommendations of the Citizens Commission on Salaries of Elected Officials.

9. **REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF JUNE 11 AND JUNE 12, 2002**

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

10. **MAYOR'S COMMENTS**

Mayor Haakenson had no report.

11. **COUNCIL COMMENTS**

Council President Earling welcomed Councilmember Marin back and requested he provide a list of the dates he was absent due to his military service so that the Council could excuse him from those Council meetings.

With no further business, the Council meeting was adjourned at 10:40 p.m.