

# EDMONDS CITY COUNCIL APPROVED MINUTES

August 27, 2002

Following a Special Meeting at 6:00 p.m. for an Executive Session with the Edmonds Public Facilities District Board regarding a real estate matter, the Edmonds City Council meeting was called to order at 7:23 p.m. by Mayor Haakenson in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds. The meeting was opened with the flag salute.

## ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor  
Dave Earling, Council President  
Michael Plunkett, Councilmember (arrived 7:25 p.m.)  
Lora Petso, Councilmember  
Dave Orvis, Councilmember  
Richard Marin, Councilmember  
Deanna Dawson, Councilmember

## ELECTED OFFICIALS ABSENT

Jeff Wilson, Councilmember

## STAFF PRESENT

Tom Tomberg, Fire Chief  
David Stern, Chief of Police  
Duane Bowman, Development Serv. Director  
Peggy Hetzler, Administrative Services Director  
Noel Miller, Public Works Director  
Arvilla Ohlde, Parks and Recreation Director  
Rob Chave, Planning Manager  
Dave Gebert, City Engineer  
Pam Lemcke, Engineering Specialist  
Scott Snyder, 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 ORVIS, TO REVERSE THE ORDER OF AGENDA ITEMS 4 AND 5 TO ALLOW COUNCILMEMBER PLUNKETT TO BE PRESENT DURING THE DISCUSSION OF ITEM 5. MOTION CARRIED UNANIMOUSLY (5-0). Councilmember Plunkett was not present for the vote.**

**COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCIL PRESIDENT EARLING, FOR APPROVAL OF THE AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY (5-0). Councilmember Plunkett was not present for the vote.**

**2. CONSENT AGENDA ITEMS**

Councilmember Marin requested Item E be removed from the Consent Agenda. Council President Earling requested Item B be removed.

**COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER MARIN, FOR APPROVAL OF THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY (5-0). Councilmember Plunkett was not present for the vote. The agenda items approved are as follows:**

**(A) ROLL CALL**

**(C) APPROVAL OF CLAIM CHECKS #57526 THROUGH #57653 FOR THE WEEK OF AUGUST 19, 2002, IN THE AMOUNT OF \$206,860.73. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #33666 THROUGH #33836 FOR THE PERIOD AUGUST 1 THROUGH AUGUST 15, 2002, IN THE AMOUNT OF \$869,507.44.**

**(D) REPORT ON BIDS OPENED AUGUST 19, 2002 FOR THE SALE OF A 1985 CATERPILLAR FRONT-END LOADER AND AWARD OF BID TO ASIF IQBAL (\$27,000).**

**Item B: Approval of City Council Meeting Minutes of August 20, 2002**

Council President Earling requested the following correction to the second sentence in the last paragraph on page 13: “The application under consideration this evening is for property located approximately two blocks *further* away from this home *than the previous Talbot Park hearing* and after studying the record, he felt he would not be able to make a fair minded decision regarding the proposal.”

**COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER MARIN, FOR APPROVAL OF ITEM B AS AMENDED. MOTION CARRIED UNANIMOUSLY. The agenda item approved is as follows:**

**(B) APPROVAL OF CITY COUNCIL MEETING MINUTES OF AUGUST 20, 2002**

**Item E: Authorization for Mayor to Sign Contract with the Greater Edmonds Chamber of Commerce for the Hot Autumn Nites Automobile Show and Celebration**

Councilmember Marin advised he pulled this item to highlight it. He indicated he was very supportive of this event and other events that draw people to Edmonds.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCIL PRESIDENT EARLING, FOR APPROVAL OF ITEM E. MOTION CARRIED UNANIMOUSLY. The agenda item approved is as follows:**

- (E) AUTHORIZATION FOR MAYOR TO SIGN CONTRACT WITH THE GREATER EDMONDS CHAMBER OF COMMERCE FOR THE HOT AUTUMN NITES AUTOMOBILE SHOW AND CELEBRATION**

**Agenda Order**

**COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO REINSTATE THE ORDER OF AGENDA ITEMS 4 AND 5. MOTION CARRIED UNANIMOUSLY.**

**3. AUDIENCE COMMENTS**

**Ron Gard, 1114 8<sup>th</sup> Avenue S, Edmonds**, distributed written information to the Council. He explained that 3½ years ago, he began contacting the Planning Board, Council and the Planning Department to request that the downtown area of Edmonds with lot sizes that did not quite meet the current standard of 6,000 square foot minimum lot size be examined and possibly reduced. He recalled on October 25, 2000, Mr. Chave issued a report to the Planning Board outlining his (Mr. Gard's) request and the number of lots that could be modified via his request. Mr. Gard identified their RS6 zoned property at 506 6<sup>th</sup> Avenue S on a map and also identified "condominium row" on Walnut Street. He proposed that splitting the lot be included as a Comprehensive Plan amendment. He noted the property at 545 Holly was also zoned RS6 but had far less lot size. He summarized if he were able to split his property, the lots would have more property than the lots to the west. He referred to a letter from staff that indicated he was "between a rock and a hard place" because he could not get a variance to do what he would like. He was hopeful that this would be an amendment to the Comprehensive Plan that the Planning Board would recommend to the City Council.

**Roger Hertrich, 1020 Puget Drive, Edmonds**, distributed information to the Council including copies of the Council retreat minutes relevant to Agenda Item #4. He noted the minutes summarized a presentation by David Peterson, Edmonds Alliance for Economic Development, regarding items he felt were important for Edmonds, adding one floor of height in downtown Edmonds, changing parking codes, and doubling the density. Mr. Hertrich urged the Council to keep that in mind when considering the contract with the Alliance. He expressed concern with the proposed contract with the Alliance, noting there "really isn't anything for them to do, they got rid of all the marketing efforts." He noted the efforts of the Alliance in the past have been primarily lobbying which the City Attorney indicated was not proper. Mr. Hertrich noted the Alliance's work plan was primarily a promotion for the property owners

and he questioned how a study conducted by this body could provide any neutral information as it was his belief that any conclusion the Alliance reached would favor property owners in downtown Edmonds. He summarized the changes in the code as a result of the Alliance's efforts have lead to what people are complaining about in downtown Edmonds such as the way the buildings are beginning to look. He was certain the Planning Board, staff and citizens could do proper planning for the City without any assistance from the Alliance. He concluded the City did not need to fund an organization that represented the property owners in downtown Edmonds.

Councilmember Plunkett inquired whether Mr. Gard had contacted staff to determine the process he needed to follow to realize his goal. Mr. Gard advised he had and felt he was making progress.

4. **PROPOSED CONTRACT BETWEEN THE CITY OF EDMONDS AND EDMONDS ALLIANCE FOR ECONOMIC DEVELOPMENT**

Mayor Haakenson stated the third paragraph on the first page of the proposed contract should read as follows: WHEREAS, the City of Edmonds proposes to contract with the Edmonds Alliance for Economic Development, a Washington not-for-profit corporation, in order to provide a centralized cooperative means of facilitating economic development *and* business expansion ~~and the marketing and promoting of the City of Edmonds, both locally and regionally, as a special place to visit; and~~

**David Peterson, Edmonds Alliance for Economic Development**, introduced Boardmember Doug Dewar, and Officer Jan Conner. Mr. Peterson explained in the three years he has been working with the City on behalf of the Alliance, there has not been a written contract. He recalled there had been a written contract in previous years when the organization was the Visitors Bureau. He advised he had been working with City Attorney Scott Snyder on a contract including a work program that would be presented to the Council annually for their approval during the budgeting process which he anticipated to occur in October for 2003. He noted the Alliance's work program had been presented to the Council each year during the budget process which represented a verbal contract. He advised the proposed contract met the needs of the Alliance.

Mayor Haakenson clarified the proposed contract was for the balance of 2002 and the Council could expect to receive a contract for 2003 in the next few months.

Councilmember Orvis asked whether the changes requested by the Chamber had been incorporated into the contract. Mr. Peterson answered the changes proposed by the Chamber related to references in the work program regarding the Chamber's role. He noted although the Alliance's fiscal year was the calendar year, their work program year was July to July. The Alliance would be adopting a new work program next Tuesday (September 3) for 2003. He noted the work program that had been provided to the Council was for July 2001 through 2002. Because the work program extended back to July 2001, there was reference to the Chamber and the work they have pledged to do in the work program, but not in the contract. He noted the Chamber had a new administration and staff, and they indicated they would not be providing the role indicated in the work program. Mr. Peterson advised that change had been noted.

Councilmember Orvis asked whether Council approval of the work program was required. Mr. Peterson answered the proposed contract requires a new contract be presented to the Council for consideration by the end of October. He clarified if the Council adopted the proposed contract, it required the work program for the next year be provided in October of each year. The contract was being proposed in August this year because the Alliance had been operating without a written contract.

Councilmember Orvis pointed out that currently the Council approved the work program via funding. He asked if there were any requirements that the Alliance adhere to the work program. Mr. Peterson responded if the Council determined there were items in the work program they did not agree with and the Alliance absolutely felt they needed to do those items, the Alliance would understand they would not be funded. If the Council agreed with the work program, the Alliance would report quarterly and honor the items in the work program. If any changes needed to be made to the work program during the year, Mr. Peterson assured the Alliance would present the changes to the Council for consideration and approval prior to making any changes.

Councilmember Petso stated the agenda memo indicated the Alliance received \$20,000 per year from the City plus an additional \$25,000 for Alliance matching funds. She asked whose funds were matched by the \$25,000. Mr. Peterson answered those funds were provided by the local sector including banks, real estate firms, developers, private citizens, property owners, etc. He noted those funds were on a dollar-to-dollar match not to exceed \$25,000.

Councilmember Petso noted there was reference in the work program to communicate recommendations and findings to "Friends," and asked who were the "Friends" the Alliance communicated with. Mr. Peterson answered the Alliance's newsletter was sent to Councilmembers; Board members; every organization represented on the Board including the City, Port and private sector; anyone who has contributed financially or via time and effort; the newspapers; as well as anyone who requested they be on the Alliance's mailing list.

Councilmember Petso inquired about the appropriateness of the City paying the Alliance to lobby the Council to change building codes, noting it may not be necessary to use taxpayer's money to do that because it only required a majority of the Council to approve a change. Mr. Peterson advised this contract indicates the Alliance cannot lobby the City Council. Per the language drafted by the City Attorney, the Alliance was to perform neutral economic analysis but could not lobby. The Alliance could lobby on the City's behalf to other PFD Boards, King County, the State, etc. but could not lobby the Council.

Councilmember Petso expressed concern with an item on the work program, to bring local building codes more in line with other comparable cities. She questioned how the Alliance could achieve this item without persuading the Council to change the City's codes. Mr. Peterson clarified the work program was adopted in July 2001; the language in the contract as drafted by the City Attorney after that date was very clear regarding that issue and would take precedence over the work program. He noted there were several references in the contract regarding neutral economic analysis. He reiterated the Alliance was posed to adopt a new work program next week. Under the proposed contract, the Alliance would not be allowed to lobby the Planning Board or City Council.

Regarding a citizen's question tonight regarding how the Alliance would achieve neutral economic analysis, Councilmember Petso questioned whether that was what the Council wanted. If the Council was paying for a study, she did not necessarily want a neutral analysis unless it was with regard to an issue where an absolutely objective opinion was warranted, otherwise she preferred an analysis that showed what was in it for the citizens, property owners, etc. If that was the desire, she questioned whether the Alliance was the best organization to purchase that analysis from or should staff do it. Mr. Peterson differed with the supposition that there was a difference between neutral economic analysis and analysis that could be helpful to the City. He clarified all good economic analysis was neutral to the extent that it did not take a point of view prior to beginning the analysis and provided facts and information to determine whether it was an economic answer that was agreed with or not. If economic analysis was not neutral, the implication was that the assignment began with how to make the findings look a certain way. He noted their analysis to date has been with regard to the economics of the community, the spending habits, and what affect different actions by Council or private individuals would have on the tax base, economic growth for the community, etc. and allows conclusions to be drawn from the findings. The Council should be wary of any economic analysis that already determined the answer. He noted the work done by the Alliance had been conservative.

Councilmember Petso recalled another item in the work program was to change the parking standards so that not all residential in BC zones required two parking spaces per unit. She noted this appeared to have already determined a conclusion. Mr. Peterson noted this was not an economic study but represented lobbying for development which would not be allowed under the proposed contract.

Councilmember Petso asked how the Alliance would handle a potential conflict of interest, for example residents may want to park in downtown Edmonds to shop, etc. and a downtown property owner may be indicating two parking spaces per residential unit were not economically feasible. Councilmember Petso asked with both entities contributing to the Alliance, the citizens and the developer, who would the Alliance favor? Mr. Peterson answered the Alliance's role would be to bring the two groups together to reach the conclusion that was in the best interest of the community.

Councilmember Petso referred to the parking study.

Mayor Haakenson explained the Alliance's work program was finished; the proposed contract was to approve funding for the Alliance for the balance of 2002 and a new work program would be presented to the Council in the next few months. He suggested the Council may want to delay approval of the proposed contract until they have an opportunity to review the new work program. He noted the proposed contract was before the Council due to Mr. Snyder's determination that the Alliance should not be lobbying the Council.

Councilmember Petso explained she was not interested in funding an organization that appeared to have an inherent conflict of interest. She expressed a desire for Mr. Peterson to indicate how he has handled and intends to handle conflicts of interest between property owner supporters and citizen supporters, should such conflicts arise. Mr. Peterson answered each issue was addressed individually. He noted the parking study had not been completed; the first phase has been done but the City has not completed the second phase.

Councilmember Petso asked whether citizens were polled or represented on the Alliance Board or were only supporters and merchants on the Board. Mr. Peterson answered there were two City representatives – the Mayor and a Councilmember – on the Board, two Port representatives, 2-3 citizens at large, a citizen representing the arts community, and 2-3 property owner or development community representatives. He pointed out the Alliance was not necessarily the group to survey the community at large. The Alliance would present the points they were hearing and the ensuing dialogue was the opportunity for all points of view to be considered.

Councilmember Marin recalled earlier this year the Council was approached by Team Edmonds with a request for funding for their marketing effort, but the Council did not have funds available at that time. He noted Alliance President Jack O'Hara indicated that the Alliance Board released \$10,000 of the \$25,000 matching funds to Team Edmonds for their marketing effort. Councilmember Marin stated that as those matching funds were provided by the Council, in effect the Council supported Team Edmonds. Councilmember Marin indicated he would support the proposed contract.

Councilmember Orvis asked for clarification regarding the time span represented by the work program that would be presented to the Council in October. Mr. Peterson answered it would be for September 2002 through "deep into 2003." He pointed out the work program had been verbally approved for the past three years via the Council budgeting funds for the Alliance. He acknowledged past work programs have included efforts that could be considered lobbying but those efforts were not permitted under the proposed contract.

Councilmember Plunkett commented that via the approval of this contract, the Council was indicating support for Team Edmonds for 2002. He noted this did not imply that funding would be provided for 2003. Mr. Peterson agreed.

Councilmember Plunkett pointed out the Council reviewed the 2002 work program and funded the Alliance for 2002. Mr. Peterson agreed, noting the Alliance made commitments based on that funding. Councilmember Plunkett stated any efforts of the Alliance were done with the acquiescence and knowledge of the Council. Mr. Peterson agreed. Councilmember Plunkett commented that would be the same process for 2003. Mr. Peterson advised the proposed contract required the Alliance to present its work program to the Council. Councilmember Plunkett summarized the Council would have the opportunity to review the 2003 work program as well as the contract.

Councilmember Dawson asked Mr. Snyder to describe why it was improper for the Alliance to lobby the Council. Mr. Snyder answered that using City funds to pay for a point of view that may be considered by the Council in a quasi judicial context could result in an Appearance of Fairness Doctrine violation.

Councilmember Dawson noted the proposed contract indicated the funding provided was for the items in the work program, however, items in the work program include lobbying. Mr. Snyder pointed out the work program was approved previously by the Council. His approach was an audit approach to require funds not be used for activities such as lobbying. He noted the Alliance receives funds from other sources, they could accept projects with private funding and not be in violation of the contract.

Councilmember Dawson asked whether the Council was under any legal obligation to approve the contract when the work program had been approved before some Councilmembers were on the Council or because the activities in the work plan had been done or when some of the items on the work program were items that the Alliance should not be doing with City funds. Mr. Snyder noted the issue becomes whether the Alliance had performed services that were authorized by the Council and for which they had a right to be paid. If there were concerns that funds were used for purposes for which the Council should not authorize the use of funds, the best way to determine that would be via an audit. He noted the cleanest way would be to approve the contract and conduct an audit to ensure the Council received \$45,000 in services within the scope of services that are within the Council's authority to approve.

Councilmember Dawson questioned the benefit of authorizing a contract that references a work plan with work that has already been done or that the Council should not have authorized because it represents lobbying. Mr. Snyder explained the City began drafting a contract in Spring 2002 when it was realized services were being performed without a contract and that the work program contained items that were not appropriate for the use of public funds. The original intent was to bring the Alliance's efforts into the City's standard consulting/professional services contract. He noted the services are currently being provided under the Council's oral authorization. The primary purpose of the contract was to provide direction to the Alliance, prevent the inappropriate expenditure of funds and provide an audit trail. He noted the Council had \$25,000 in funding that had not yet been released and the contract requires the Alliance maintain and make records available to the Council for audit.

Councilmember Dawson reiterated her concern that the contract prohibits lobbying but requires they adhere to the work program, yet the work program contains lobbying activities. Mr. Snyder stated the Alliance receives funding from a variety of sources, admittedly a substantial amount from the City. He indicated the hope would be that during an audit, sufficient sources were provided from other sources to provide for the other items on the work program.

Councilmember Dawson inquired about the total amount of funding the Alliance receives. Mr. Peterson answered the Port has provided funding in the amount of \$30,000 in the past. He noted the Alliance did not receive the full \$25,000 from the City last year because they "stepped aside" on \$10,000 of the match so received slightly less than \$40,000 from the City, and received \$15,000 - \$20,000 from other sources. He pointed out the Alliance did no lobbying before the Council or Planning Board during 2002. The Alliance has been working on economic models and economic background materials and it was their intent when that work was completed, to carry it forward to a presentation. Although the Alliance still planned to present the information from the study, the existence of the unsigned contract convinced the Alliance Board that a presentation that lobbied a point of view would not be appropriate.

Councilmember Dawson asked if preparing to do something that could be seen as lobbying, such as items on the work plan, constituted a violation of the contract. Mr. Snyder answered lobbying had a fairly specific definition under RCW 42.17 and entailed presentation to or appearance before public bodies.

Mayor Haakenson remanded the matter to Council for action.

Councilmember Orvis indicated he was often torn when funding the Alliance because there were aspects they were studying that he did not want studied but there were other items he was very happy with such as the parking study and plans to look at Hwy. 99. He could support the proposed contract as he would have an opportunity to address work items when the Council reviewed the Alliance's work plan.

**COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, FOR APPROVAL OF THE CONTRACT BETWEEN THE CITY OF EDMONDS AND THE EDMONDS ALLIANCE FOR ECONOMIC DEVELOPMENT.**

Councilmember Petso reiterated her concern with the potential for a conflict of interest. There were issues where the Alliance would have a definite conflict of interest because of funding received from the Port and from the City. She cited a recent example, a sewer treatment plant, where the Port and the City took a very different approach. If the City wanted to spend funds on economic development, she felt it should not be done in a conflict situation where different interests and parties were played against each other. She pointed out there were also conflicting goals – the Alliance's goal to add a layer of residential to downtown versus residents who did not want the small town atmosphere altered. She summarized the opportunities for conflict were endless and she preferred if funds were to be expended on economic development, that the City contract with someone working for the City and its citizens and not with someone with potential conflicts of interest. She would not support the contract but would approve paying the Alliance for services provided.

Councilmember Dawson commented these are difficult economic times and although everyone agrees with the goal of economic development, there may be disagreement with the form economic development takes. She was concerned with devoting \$45,000 of the City's budget to the Alliance, noting there would have to be a huge increase in goods/services sold in the City to recoup those funds in increased revenues to the City. However, there did not appear to be a financial return from the funds provided to the Alliance. It appeared the Alliance had a vision for the City but their vision differed from her vision and from what a lot of people envisioned. At the Council retreat, Mr. Peterson indicated crucial things the Council should do to help economic development, the density should be doubled in downtown so that the number of people in downtown could be doubled by adding one floor of height to the downtown area and changing the parking code so that it was not always necessary for there to be two parking spaces for every residential unit. Councilmember Dawson reiterated that was not her idea of what downtown Edmonds should look like and questioned why the City would want to provide \$45,000 to the Alliance to achieve that goal. She agreed having groups work on economic development was appropriate and she supported the Team Edmonds concept of promoting the city's existing small town feel. She noted \$45,000 was nearly another employee in the Planning Department and many of the suggestions could be accomplished via hiring an employee using the \$45,000 funding. She noted the Planning Board, ADB, etc. did planning for free. She indicated she would vote against the proposed contract.

Councilmember Marin spoke in favor of the motion. The Council had agreed to the work program and to funding the Alliance and the proposed contract was only putting that agreement in writing. It was appropriate for the Council to follow through on its commitments. He acknowledged there were disagreements on what the Alliance should be doing and what economic development meant. He noted the Community Services/Development Committee has discussed this several times and Alliance President Jack O'Hara has indicated there will be a shift in elements of the work plan that will be more in line with the Councilmembers' comments.

Councilmember Orvis pointed out the proposed contract prohibited lobbying and required approval of the work program.

Councilmember Plunkett recalled other economic development groups that predated the Alliance, noting the Alliance came out of the will of the community to encourage and create possibilities for a vibrant and healthy downtown which was still the will of the community. Each year the Council has the opportunity to review the work of the Alliance. He read from the retreat minutes, "Mr. Peterson told the Council he felt there were three critical things they could do," noting the Alliance had not done anything other than give information to the Council and give the Council the opportunity to make decisions. He pointed out the Council was the policy making body and he objected to the inference that the Alliance was making policy. He urged the Council to support the contract.

Council President Earling objected to the comments by the public as well as by some Councilmembers that inferred that the Alliance had a hidden agenda. He found the implication outrageous that some sort of scheme was planned with President of Edmonds Community College Jack O'Hara at the helm and Mayor Haakenson and Councilmember Plunkett on the Board as well as the many citizens who participated on the Board. He acknowledged he has had issues with the Alliance in the past and continues to have issues with the Alliance; however, he and other downtown property owners also pay taxes and should have their voice heard. He pointed out it was no mystery why the quilt shop was gone or why other businesses have left the downtown core over time; it was because at best, doing business in downtown Edmonds was marginal. He noted a healthy climate needed to be created where business could flourish because that enhanced the community. The inference that only zoning and heights were the Alliance's agenda was a discourtesy to the community. He noted the parking study, business recruitment and study of Hwy. 99 were issues important to the community. He concluded it was fundamentally necessary to have a thriving business community and he supported the proposed motion.

**MOTION CARRIED (4-2), COUNCILMEMBERS PETSO AND DAWSON OPPOSED.**

Councilmember Petso responded to Council President Earling's comments, clarifying she cast no doubt on the people working for the Alliance; her concern was the potential conflict of interest. The Alliance began a Team Edmonds type of organization – advertisement to revitalize downtown economics. She noted that discussions with people who resigned from the Board may indicate where the Alliance has gone and where the conflicts are now. She noted the Port would not see eye-to-eye with the City on all issues and questioned why the City should pay the same economic development expert. If economic development was desirable, she preferred putting it together with no conflict such as with Team Edmonds promoting the downtown core. If a conflict of interest arose with Team Edmonds, she would recommend discontinuing that also. She was disappointed with continuing to fund an organization that received funding from entities with so many different interests. She urged the Council to consider whether there were conflicts in the work program when reviewing the upcoming work program.

Mayor Haakenson pointed out last November when the Mayor's budget was presented to the Council, he requested only \$20,000 in funding for the Alliance and had removed the \$25,000 for matching funds which Council action reinstated. He pointed out the Council had opportunity to take action at that time. He pointed out last November he asked the Council to tell him what economic development was and although the Council had deliberated the issue tonight, he still had no idea how the Council wanted economic development funds to be spent. He noted his 2003 budget would be presented soon and if he

has not heard direction from the Council, he will include funds for economic development where he felt they could be best spent. He summarized someone in the community, whether it was a consultant, staff or an organization, needed to bring ideas to the Council so that the Council could determine the policy.

5. **REPORT ON BIDS OPENED JULY 30, 2002 FOR THE 76<sup>TH</sup> AVENUE WEST ROCKERY REPAIR SOIL NAIL RETAINING WALL AND AWARD OF CONTRACT TO CONDON-JOHNSON & ASSOCIATES, INC. (\$588,149.74)**

City Engineer Dave Gebert explained in July 2003 the City received three bids for this project; the low bid was from Condon Johnson & Associates in the amount of \$620,968 for all bid schedules. The City Engineer's estimate was \$361,328 for all bid schedules. He noted staff's review of the low bidder record and references were positive.

Mr. Gebert explained there were four issues to be considered before the contract was awarded, 1) what to do with regard to the repairs to the rockery along Lot 23 where the property owner has not agreed to grant the City easements, 2) funding for the project, 3) discuss why the bids significantly exceeded the estimate and budget and whether the bids are reasonable, and 4) what alternatives there are.

Regarding the repairs to the rockery along Lot 23, Mr. Gebert explained six of the seven property owners whose properties abutted the rockery have granted easements to the City which have been signed and recorded with Snohomish County. The seventh property owner, Lot 23, has not agreed to the easement. Mr. Gebert explained staff has been negotiating with the property owner for several months via written correspondence from staff as well as the Mayor; however, staff has been unsuccessful in obtaining any type of easement. The options for addressing this portion of the rockery include, 1) purchase the portion of the property that is needed, between the property owner's fence and the street, 2) pursue condemnation to condemn the area necessary for an easement, 3) award the construction contract for construction on that portion of the rockery without the necessary easements, and 4) defer the repairs to the rockery along that property in hopes staff can eventually reach agreement to obtain access to the property. Mr. Gebert explained staff recommends option 4, to defer repairs to the rockery along Lot 23.

Mr. Gebert explained the property owner was advised of the four options and that staff was considering option 4 and requesting the property owner provide any comments prior to the recommendation was presented to the Council. The response from the property owner did not address the options other than to confirm they had no intention to grant the City an easement. Since that time, the property owner was advised in writing that staff intended to recommend to the Council that the work along their property be deferred. Mr. Gebert explained the design engineer and geotechnical engineer have advised that deferring work on that portion of the rockery carries some risk. Although that portion of the rockery is in better condition and is not as tall, there is still potential for shifting of rocks and rocks falling off. If the Council approves deferring work on that portion of the rockery, the recommendation of the design engineer and geotechnical engineer is that the City implement a program of regular inspection and if deterioration is occurring more rapidly, that action be taken. He advised Engineering and Public Works would implement a regular and periodic inspections program and take action as the need arises. Staff recommends proceeding with the construction contract but deferring the work along Lot 23.

Regarding funding for the project, due to the bids being higher than the budget, Mr. Gebert explained the invitation for bids included two separate bid schedules, one for all the work other than the work along Lot 23 and bid schedule two was the work along Lot 23. The low bidder's bid for Bid Schedule 1 was \$588,150. The 2002 budget for the project was \$400,000. In order to award the contract and to construct the project for the working Bid Schedule 1, funds in the amount of \$735,000 would be necessary for contract award, design engineering, construction engineering, construction contingency, testing lab services and miscellaneous items. He summarized that to award the contract, an additional \$335,000 appropriation would be required from the ending cash balance of the 112 Fund.

Mr. Gebert referred to an updated CIP schedule for the 112 Fund which indicates spending that amount on this project would leave an acceptable positive cash balance in the 112 Fund through 2004 but a negative cash balance at the beginning of 2005. Therefore, additional funding sources are necessary for the 112 Fund to accomplish this project as well as other high priority projects in the CIP. Administrative Services, Public Works and Engineering are developing a financing plan that the Administrative Services Department will present to the Council in September that calls for incurring debt service through issuance of Limited Tax General Obligation Bonds. He noted the most recent CIP anticipated a debt of approximately \$1 million for 112 Fund for the 220<sup>th</sup> Street project and this project would increase that amount. He referred to a second CIP that indicates the issuance of debt provides sufficient cash balance for this project as well as other high priority projects programmed through 2007 with a positive cash balance. The option to incurring debt would be to defer projects to balance the Fund.

Regarding why the bids significantly exceed the Engineer's estimate and budget and whether the bids were reasonable, Mr. Gebert explained the preliminary engineer's estimate was prepared prior to completing the final design. Staff evaluated the engineer's estimate and compared it to the bid and concluded the engineer's estimate was low, underestimating mobilization costs, the cost of applying shotcrete and the cost of installing soil nails. The reason for underestimating was because the standard estimating manuals used did not take into account the degree of difficulty of this project. Staff determined the engineer's estimate and budget were low and that the bids were reasonable.

Regarding available options, staff evaluated rejecting all bids and re-advertising in an attempt to obtain lower bids for the soil nailing but have not been able to develop any design revisions that would significantly reduce the cost. Further, re-advertising would require additional time to re-design and re-advertise. He advised staff also considered other design alternatives but other design alternatives were expected to cost more than the bids. Other design alternatives such as cantilevered concrete wall would be approximately the same cost or more, would be more intrusive to the property owners, require significant excavation into the private property, would incur additional engineering costs and would require renegotiation of the easements that have been recorded.

Mr. Gebert pointed out the importance of proceeding with the repairs as the rockery was assessed 8-10 years ago as most seriously in need of repairs because it is the tallest rockery and has the most significant signs of failure such as cracks, improper rock placement, possible rock movement and rock failure. He explained if the rockery was not repaired, deterioration would continue, presenting the City with potential risk and liability. Mr. Gebert recommended the Council appropriate the additional \$335,000 from the Fund 112 cash balance and award the construction contract to Condon-Johnson & Associates for Bid Schedule 1.

Mayor Haakenson asked Mr. Gebert to explain how the rockery was installed and why it was the City's responsibility. Mr. Gebert explained the rockery was built on a public road project when that section of 76<sup>th</sup> Avenue West was built in the early 1970's. Although the City did not acquire the necessary easements and the rockery is located on private property to a great extent, it was built with public funds and the City has taken on the obligation of inspection and recurring maintenance, thereby assuming responsibility for the rockery.

Councilmember Marin asked how much the owner of Lot 23 wanted for the easement and whether that would offset the amount necessary to finish the work along Lot 23. Mr. Gebert answered that although the City has offered to purchase an easement, the owner of Lot 23 has declined the offer.

Councilmember Marin expressed disappointment with that situation, recalling the Community Services/Development Services committee requested staff negotiate a solution that was acceptable to the property owner. Councilmember Marin was satisfied the City had made a good effort to resolve the issue and was disappointed a solution could not be reached. Councilmember Marin asked how the work up to that point would be constructed to allow the rockery to be completed in the future. Mr. Gebert explained that section was designed and separated in the bid in anticipation that the work would not be done at this time. The rockery will be constructed with a key joint with the capacity to install the necessary reinforcing steel to join the new work to the rockery in the future.

Council President Earling inquired about the timeline for condemnation. Mr. Snyder answered acquiring use and possession could occur within 4-6 weeks but the actual condemnation process took much longer. He explained a property owner who failed to offer use and possession of property after the initial hearing lost his/her ability to claim his/her attorney fees and costs, therefore, it was usually at that point that the City could acquire access to the property.

Council President Earling asked why condemnation was not a better recommendation than the recommendation offered by staff. It appeared staff had gone out of their way to work with the property owner and would need to significantly alter the project to work around that property and ultimately pay more to complete the project in the future. He commented that by deferring the work may create a public safety issue. Mr. Gebert explained staff did not pursue condemnation several months ago because he was hopeful staff could reach resolution with the property owner. When it became clear that was not possible, the time involved with proceeding with condemnation would not allow completion of that process in time to award the contract. If the City chose to proceed with condemnation, it may be possible to award the contract with that bid item and acquire use and possession to allow the contractor to construct that portion without adjusting his work schedule.

Council President Earling commented it appeared to be in the public good to proceed with condemnation. He indicated he would not support the recommended action. Mr. Gebert advised if that was the preference of the Council, approximately another \$30,000 would need to be appropriated to award the full contract amount and staff would proceed with condemnation as soon as possible.

Councilmember Orvis asked the height of the wall along Lot 23. Mr. Gebert answered it ranged from 2-3 feet to 10-12 feet high; other portions of the wall were 18-20 feet high. Councilmember Orvis asked if

Lot 23 was on one end or between sections of the rockery. Mr. Gebert answered Lot 23 was at the far south end.

Councilmember Marin commented that although he was reluctant to proceed with condemnation, if the end result was \$30,000 additional to complete the project and get a product that was superior and added value, he could support condemnation.

Councilmember Petso asked whether the work was time critical and why the Council needed to act now versus waiting for the property owner to return. Mr. Gebert indicated the property owner was not currently out of town; the property owner stated he would be out of town from September 3 - 22. Mr. Gebert stated the award could be delayed 2-3 weeks but bids were only good for a limited amount of time. He noted this project was not as weather dependent as some work but it would be desirable to begin the work before winter weather.

Councilmember Petso recalled that the property owner asked that the Council not proceed without his appearing to address Council; however, the recommended action did not appear to require his presence since his property was unaffected. If the Council changed to an action of condemnation, she asked whether fairness would suggest that the property owner be invited in advance. Mr. Gebert explained the property owner was informed in writing that this issue would be considered by the Council tonight. The property owner was advised of staff's recommendation as well as the four options that were presented to the Council.

Mr. Snyder advised if the property owner was out of town beginning September 3, there would not be time to get a petition drafted, obtain Council approval of a condemnation ordinance authorizing the filing of the petition and serve the property owner in a timely manner.

Councilmember Dawson questioned the cost differential between condemnation and doing nothing. Mr. Gebert advised the low bid for that bid schedule was \$32,800, or approximately \$35,000 to award the bid. Councilmember Dawson noted that did not include the cost of condemnation and asked Mr. Snyder the cost of condemnation proceedings. Mr. Snyder answered the attorneys' fees for both sides would likely be 4-5 times the value of the easement.

Councilmember Dawson asked whether Mr. Snyder could provide a guesstimate of the cost of a condemnation proceeding in open session or whether he preferred to do it in Executive Session. Mr. Snyder advised it could be provided to the Council in writing. Councilmember Dawson commented she was not comfortable proceeding with condemnation without an estimate of the cost. Mr. Snyder advised if the Council wished to authorize condemnation, it was a two step process, authorize drafting of the condemnation ordinance which could be reviewed and approved at the next Council meeting when estimates could also be provided.

Mr. Gebert noted the bids were good for 60 days pointing out the bids were opened on July 30.

Mayor Haakenson noted staff was extremely concerned with providing good customer service and fair opportunities to every citizen. Council had been provided a packet that included all the correspondence with this property owner which began on May 20 and extended through August 20. There had been numerous correspondence between the property owner and staff and he had never seen staff bend over backward to resolve a situation with a citizen such as Mr. Gebert has done in this instance. He summarized every fair opportunity had been given this property owner, predominantly because he has spoken to the Council several times and there were Councilmembers who have taken up his cause and continue to do so this evening. Mayor Haakenson urged the Council, whether they chose condemnation or proceeding with the project without that section of the wall, to move on with regard to this project.

Councilmember Marin asked whether by awarding the first phase of the contract that much of the work could be completed on the north end and further negotiations or condemnation would allow the section on the south to be completed. Mr. Gebert answered yes, noting the City could also award the contract including the second bid schedule and work with the contractor's schedule to defer starting that section which did not include soil nails. The other portions of the rockery included soil nails; the portion along Lot 23 was only the shotcrete fascia over the existing rocks and anchors placed in the rocks.

Councilmember Dawson pointed out that unlike condemnation of property that would include demolition of a structure, in this instance it was only going onto the property and putting anchors into the property to protect the wall so that the wall did not slide down. Mr. Gebert explained the property where an easement was desired along Lot 23 was an 8-10 foot strip between the sidewalk on 76<sup>th</sup> Avenue West and the property owner's fence, outside his backyard, where the rockery presently exists. Mr. Gebert pointed out that the City Attorney has advised that by the rockery having been in place for 30 years, the City had a prescriptive easement and the right to have the rockery there, however, the extent of the prescriptive easement was only the physical space occupied by the rockery. Mr. Gebert's concern was that in doing the work on the rockery, a shovel of dirt may be turned beyond the rockery and that it was a risk the City may not want to take. He emphasized the project would have very little impact on this property owner's property and would have no impact on his ability to develop his property because the easement was fully encompassed in a 25-foot setback.

Councilmember Dawson clarified the easement would protect the rockery and enhance the property owner's property. Mr. Gebert answered the repairs would benefit both the City and the property owner.

Councilmember Orvis indicated he was more concerned about the public safety implications of not repairing the wall than he was about the cost of condemnation. He urged the Council to factor into any cost analysis the potential liability the City could incur. He was leaning toward condemnation and if a Councilmember wanted to hear from the property owner again, the Council could authorize drafting of the ordinance and invite the property owner to advise why the City could not condemn the property.

Councilmember Plunkett asked staff to briefly describe the property owner's concern. Mr. Gebert explained the problem as stated to the City was that the property owner did not want to grant an easement because he did not want his property to be encumbered by an easement. The property owner did offer to sell the property which Mr. Gebert indicated may not be in the City's best interest.

Councilmember Dawson suggested the Council consider how much it would cost to purchase the property outright versus how much would be spent on the condemnation process. Mr. Gebert agreed it would be far less to purchase the property but urged the Council to consider that option carefully. Councilmember Dawson asked why purchasing the property was questionable. Mr. Snyder answered the problem was with other property owners providing the City their property for free and then rewarding the individual who did not cooperate. Staff's concern has been trying to keep faith with the other property owners where the work is more extensive and the burden much greater than on Lot 23. Councilmember Dawson urged the Council to consider the expense to the public in order to make a point.

Mr. Gebert asked whether it was contractually acceptable to award both bid schedules and subsequently not do the second bid schedule. Mr. Snyder answered that as he recalled the bid documents, that would be possible with a change order.

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER MARIN, THAT THE COUNCIL APPROPRIATE AN ADDITIONAL \$335,000 FROM THE FUND 112 CASH BALANCE AND AWARD A CONTRACT TO CONDON-JOHNSON & ASSOCIATES, INC. IN THE AMOUNT OF \$588,149.74 FOR BID SCHEDULE 1.**

Councilmember Petso commented this action did not affect Lot 23 and did not lead to the incalculable condemnation process and perhaps during the course of the work, the property owner would grant the City a free easement on the property and a change order could be approved to complete the project.

Councilmember Plunkett preferred to have an Executive Session to discuss other possibilities. Councilmember Dawson agreed.

**MOTION FAILED, (2-4) WITH COUNCILMEMBERS MARIN AND PETSO IN FAVOR, AND COUNCIL PRESIDENT EARLING AND COUNCILMEMBERS DAWSON, ORVIS, AND PLUNKETT OPPOSED.**

Council President Earling announced an Executive Session on Tuesday, September 3 at 6:30 p.m. Councilmember Marin advised the Community Services/Development Services Committee special meeting would be moved from 6:30 p.m. to 6:00 p.m.

Mayor Haakenson declared a brief recess.

- 6. REVIEW OF BUILDABLE LANDS INFORMATION PERTAINING TO FUTURE DEVELOPMENT CAPACITY WITHIN EDMONDS. THIS INFORMATION COULD HAVE IMPLICATIONS FOR FUTURE DEVELOPMENT TRENDS AND CITY REGULATIONS**

**REGARDING DEVELOPMENT, AS WELL AS THE SETTING OF URBAN GROWTH BOUNDARIES ELSEWHERE IN SNOHOMISH COUNTY**

Planning Manager Rob Chave advised this was an item of interest to cities as well as Snohomish County. He advised Snohomish County Tomorrow (SCT), the countywide, collaborative planning organization comprised of elected officials from various cities and the Snohomish County Council, who assisted Snohomish County in doing countywide planning under the Growth Management Act (GMA), would be meeting tomorrow night to discuss the Buildable Lands issue.

Mr. Chave explained there were two specific goals under GMA regarding urban growth, 1) encourage growth in urban areas where adequate public facilities and services exist or can be provided in an efficient manner, and 2) reduce the inappropriate conversion of undeveloped land into sprawling, low density development. Edmonds' Comprehensive Plan must be consistent with the State's goals and with regional goals. The Snohomish Countywide Planning Policies apply to all jurisdictions within Snohomish County and were developed via the collaborative planning process at SCT. He noted a collaborative planning process was required under GMA when reaching consensus or developing planning policies that applied regionally to all jurisdictions. Urban Growth Areas (UGA) were also an important aspect of GMA and regional planning. UGAs were designed to inhibit sprawl and were set to delineate the boundary between urban and rural development. He noted there was a direct relationship between the capacity cities planned for and were able to accept versus where the urban growth boundary was set.

Mr. Chave explained the six largest counties in western Washington and the cities within their boundaries need to meet special requirements for monitoring land supply and urban density. This was a result of 1997 amendments to GMA, commonly termed the Buildable Lands requirement. State law mandates there be local monitoring of buildable lands and recording requirements are in countywide planning policies that are consistent with the State's Buildable Lands guidelines. The reporting for 2002 was being done by Snohomish County via a collaborative countywide process known as SCT.

Mr. Chave made a distinction between the technical and policy analysis regarding Buildable Lands. The Buildable Lands report provides technical information intended to be used by policy makers in the review of plans and programs. The Buildable Lands review also provides an opportunity for the City to evaluate its policies and responsibilities under GMA.

Mr. Chave displayed a graph illustrating the total population of Snohomish County from 1940 through 2012, and the average annual increase in population for each decade. Although the total population showed a consistent upswing in population, the actual percentage change has been dropping. The result was a much larger base, more people living in Snohomish County so it required a smaller increase on an annual basis to produce as many people coming to the county in previous years.

Mr. Chave displayed a graph for the City of Edmonds, pointing out Snohomish County's boundaries have not changed, however, Edmonds' boundaries have changed and although there have been substantial increases in population, much of the growth was due to annexation and not increased development in the City's boundaries. He displayed another graph illustrating the City's growth compared to the area's

growth, noting that although population within Edmonds' boundaries has made significant jumps, the population in the Edmonds area has been flat when annexations are not included.

Mr. Chave explained that combined with recent census data, the Buildable Lands report provides a status report on growth and development issues. All current plans in Snohomish County are based on adopted State Office of Financial Management (OFM) projections for 1992 – 2012.

Mr. Chave advised several conclusions were drawn from the countywide report – the overall growth of Snohomish County has been tracking with the original 2012 projections but was at the lower end of a new set of projections done by OFM for 2002 – 2025. Another significant finding was that cities have been achieving urban densities within UGAs. The last finding, where much of the controversy lies, is that there is significant capacity for growth within existing UGAs, enough capacity for the remaining 10 years of the 20 year planning period to accommodate the additional population within existing UGAs.

Mr. Chave displayed a graph illustrating a low, medium and high forecast – the new population forecast from OFM. He noted the original population projections were within OFM's projections but at the low range of OFM's new projections. Therefore the concern was that the county and cities would need to increase the population estimates as well as the capacity to address that growth.

Mr. Chave displayed a graph that illustrated the UGAs and the amount of growth each had achieved. He noted the growth in most cities had been approximately 50%, however, the growth in some areas such as Darrington, Gold Bar, Monroe, and Arlington had far exceeded expectations. The majority of urban growth had occurred in the Southwest UGA which includes Edmonds. He displayed a graph illustrating the experience in the last five years (1995-2000) for density in single family plats. He pointed out a line on the graph that illustrated 4 units per acre which was the definition for urban development established by the Growth Management Hearings Board. He noted the graph illustrated Edmonds' single family development during that period was approximately 4.1 dwelling units per acre citywide.

With regard to the implications for Edmonds, Mr. Chave explained the City's existing plan was based on the 1992-2012 targets. Edmonds' 1995 Comprehensive Plan adopted a policy of design infill to meet its growth target of 6,000 more people by 2012. He noted this was a growth rate believed at the time to be fairly modest, 0.9% per year, approximately the growth that the City experienced in the 1980's and early 1990's. The Comprehensive Plan emphasized a balanced community with the dominant land use pattern being single family neighborhoods. The top two land uses at the time were 55% single family and 30% public facilities (parks, streets, schools, etc.).

According to the draft Buildable Lands report, Edmonds retains the capacity for 5,786 additional people by 2012. While the capacity is available, the rate of growth within the city, however, has not met its target. Although the target assumed a 0.9% annual growth rate, the annual growth rate between 1990 and 2000 was .07%. Under the Buildable Lands analysis, if development does not occur at planned levels, reasonable measures need to be identified and appropriate action taken. He noted in the years following adoption of its Comprehensive Plan, Edmonds adopted a number of measures to ensure infill development consistent with the Plan, targeted at encouraging infill development consistent with established zoning rather than making changes in the overall pattern of uses. He noted the measures

taken to meet the goals, targeted at multifamily and commercial zoning, included establishing new mixed use zoning along Edmonds Way, establishing new mixed use zoning and Master Plan for the Unocal site, revising regulations lifting an artificial density cap for multifamily units downtown (removing the density restriction that allowed only one unit per 3,000 square feet of lot area), and revising the parking standards for multifamily development.

Mayor Haakenson inquired who had taken the actions Mr. Chave was describing. Mr. Chave clarified these were changes adopted by the City Council.

Mr. Chave continued, indicating changes targeted at single family infill development included revising regulation for accessory dwelling units to promote efficient use of housing stock and improve affordability, and revising regulations for Planned Residential Developments (PRD) to provide for flexible infill development on difficult sites consistent with the underlying zoning densities.

Mr. Chave explained the City must review reasonable measures that have been taken and determine whether any additional steps are warranted. Another next step was that the update of countywide growth targets and the cities' and county's Comprehensive Plan are due by the end of 2004.

Mr. Chave explained there was interaction between urban and rural because Edmonds residents were not only residents of the City but also Snohomish County and the Puget Sound region. Via the collaborative planning process, the county and cities must determine what future projections will be and determine how they will be allocated.

Mr. Chave referred to the memo from the City Attorney regarding the line the Growth Management Hearings Board has set. Mr. Chave recalled this line was used by the Hearings Board when Woodway tried to argue that a small area of critical areas justified a higher lot size. The Hearings Board disagreed, noting a larger lot size could only be justified for the area in the immediate vicinity and not for a much larger area. Woodway also attempted to argue that the larger lot sizes were important to the community character; the Hearings Board again disagreed, stating the minimum density in urban areas was four units per acre. This set a very difficult test and would be something the City must consider when evaluating population, the City's capacity, and reasonable measures that have not yet been considered but may be appropriate.

Mr. Chave explained the Council packet included information regarding recent developments including preliminary action taken by the County Council to amend the Buildable Lands report following their review. There were also some changes to methodology and data that were not included in the Council packet. His understanding was that the overall capacity estimates were significantly lower and the future population was assumed to be more in line with the new OFM projections. He noted this meant, in the Snohomish County Council's view, that there was not sufficient capacity within UGAs and potentially those areas needed to be expanded or the cities and existing UGAs must take more population. This was a conclusion Mr. Chave felt was premature as the collaborative planning process was necessary to reach that conclusion.

Mayor Haakenson advised he sent a letter to the Snohomish County Councilmembers and all mayors in Snohomish County in support of the SCT's Buildable Lands report, not in support of the move by Snohomish County Councilmembers.

Councilmember Orvis asked whether it was possible for the City to justify the RS12 and RS20 zones. Mr. Chave explained in the Meadowdale area for example, there were significant environmental constraints that could be acknowledged in different ways. Historically the City used large lot sizes because that allowed the home to be located on the more preferable areas of the lots, kept overall densities down, and reduced risk, etc. The City would need to consider the assumptions made in 1992, particularly under the Growth Management Hearings Board's rulings that have occurred since that time and assess whether the larger lot sizes were defensible. Mr. Chave summarized it would be largely dependent on sensitive areas.

Councilmember Orvis asked whether the Planning Board would review that issue and whether there would be sufficient opportunity for public comment. Mr. Chave answered yes.

Councilmember Petso asked why the measurement was based on population. At the beginning of the measurement period, 1995, her house contained five people; at the end of the measurement period, it was possible that the population would be reduced to two, yet that was not the City's fault and not the developers' fault. She noted the people moving into Edmonds are not always young people planning to have families but are often older people without children. She noted these issues may be unique to Edmonds but if the measurement were based on new housing units created versus population, Edmonds would score much higher. She noted Edmonds had actually done a far superior job than was reflected by population numbers and questioned how this would be recognized. Mr. Chave advised it was ultimately recognized via the countywide planning process when the allocation among cities would be discussed. He agreed there was a difference with the State focusing on population targets and the Hearings Board focused on the number of housing units.

Councilmember Petso asked if there was an accommodation made for people who are aware they could subdivide their property but did not want to. Mr. Chave advised that was included in the capacity calculations; there was some disagreement regarding what the Snohomish County Council felt was a reasonable set-aside for possibility versus what the original SCT report indicated. He noted there were factors built into the Buildable Lands analysis that reduced the capacity because some people would not sell, some vacant land would not become available, etc. Councilmember Petso asked whether there was the ability to adjust on what is actually happening or whether it was done on a countywide basis. Mr. Chave answered there was some historical information available from a statewide report, from King County as well as some contradictory evidence from Marysville. He indicated it was appropriate to make the best guess in the Buildable Lands report and highlight that as an area that needed particular study. He noted the draft Buildable Lands report did attempt to highlight issues that needed further study.

Responding to Councilmember Petso, Mr. Chave advised if a jurisdiction's Comprehensive Plan was found not to be consistent with the State's goals, it could lose all access to state funding including grants, TIB funds, etc.

Councilmember Orvis asked for clarification of what had happened at the Snohomish County Council level, whether the UGA had been expanded. Mr. Chave answered the UGA had not been expanded; when the Snohomish County Council considered the Buildable Lands report, they were concerned that the number factors erred on the excess capacity side and there were concerns regarding set asides that were not reflected in the report. The Snohomish County Council was also concerned because they want to address growth in a short timeframe rather than waiting. The problem Mr. Chave had with that was that there was a process via SCT to perform that analysis. He was concerned with Snohomish County Council unilaterally deciding to change numbers, assumptions, and policy, that absent that collaborative process, the County could be headed down a road that was difficult to get out of. He emphasized all cities and the county were in this together; any changes made to capacity, population targets, etc. would impact Edmonds.

Councilmember Plunkett referred to Councilmember Petso's comment regarding potential loss of funding, noting other actions were potentially more detrimental such as if the city did not adhere to GMA, someone could eventually take the City to the Growth Management Hearings Board and the Hearings Board could determine the zoning for the City, recalling the Growth Management Hearings Board established the density for the parcel in Woodway. Mr. Chave agreed, pointing out the zoning the Hearings Board could mandate would be project specific. Mr. Chave referred to the list of reasonable measures the City has taken, emphasizing the City has taken a number of actions to encourage infill development consistent with the Comprehensive Plan goals although some of those actions have not taken hold such as the Master Plan for the Unocal site. He summarized the City had set the stage for the next ten years to improve capacity. He reiterated the City's Comprehensive Plan was found to be consistent with GMA and the City has been taking reasonable measures to address capacity issues.

**COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO EXTEND THE MEETING FOR 15 MINUTES. MOTION CARRIED UNANIMOUSLY.**

Council President Earling asked whether staff had an opportunity to do an analysis on Snohomish County Council's work compared to the work of Snohomish County Administration and SCT. Mr. Chave answered yes, in a general way. Council President Earling expressed interest in what differences the two policies, the Buildable Lands policy versus the policy drafted by the Snohomish County Council, created for Edmonds. Mr. Chave answered the changes the Snohomish County Council approved reduced the capacity within current UGAs and increased the projected population that needs to be accommodated. The Snohomish County Council's use of the higher population projections and assuming that more people would not be willing to sell their land, resulted in their determination that nearly all UGAs individually did not have sufficient capacity for the 2012 target population and collectively they did not have sufficient capacity. Mr. Chave noted this was a dynamic turnaround, diametrically opposed, to what the preliminary report indicated and one must conclude that actions must be taken such as additional capacity, expanding UGAs or a combination.

Council President Earling requested a more detailed report be provided regarding the differences between the reports. He inquired whether SCT planned to take action tomorrow. Mr. Chave indicated his understanding was that SCT was expected to take action.

**Gary Nelson, Snohomish County Councilmember**, explained that when there were open forums for the public to look at land designations within each UGA, there were many mistakes identified in property

designations. Thus it became evident to the County Council that factors were not “one size fits all” and there were unique situations in each city. He noted there were also areas in Edmonds developed with large plats such as the Talbot Park area which was not the case in other areas of the county. Therefore, using an across-the-board factor for all UGAs was not appropriate and a determination must be made regarding how factors applied in each city. He pointed out issues that needed to be addressed including the annexation process and the impact of covenants/conditions/restrictions on development. He noted the County Council found via public testimony that modeling did not fit what was envisioned to happen by 2012. He noted there were also concurrency problems with regard to roads, sewers, and water supply that did not allow property to be used to the extent that was reported by the planners who prepared the Buildable Lands report. Further, within each UGA the amount of public purpose lands must be evaluated as well as critical areas issues such as buffering for wetlands, streams, creeks, etc. He pointed out an issue omitted by the planners was which jurisdictions have a 150 foot habitat management zone.

Mr. Nelson referred to the market availability reduction factor, noting this was used to determine the availability of land in the next ten years. In Edmonds for example, there were properties that could accommodate three homes but were developed with one home. The County Council was concerned that if an expectation was presented to the State or the public that the County had the capacity to handle population growth to 2012, that was not truthful. He noted the preliminary report would be forwarded to the State by September 5 with a follow-up report in October. He summarized it was not the City Councils who established UGAs or determined population allocations, it was the County Council. He said the County Council has not endorsed the Buildable Lands report as presented due to their belief it did not tell the situation as it exists in Snohomish County.

#### **7. MAYOR’S COMMENTS**

Mayor Haakenson advised ballots would soon begin arriving for the September 17 primary election. He urged voters to pay careful attention to an orange flier regarding the opportunity to renew the Edmonds Fire Department’s Emergency Medical Services levy. He explained this was not a new tax but a renewal of the levy approved by Edmonds voters in 1979, 1985, 1992, and 1997. He explained a new State law allowed the City to seek permanent renewal of the levy which saved taxpayers the cost of an election every six years at a cost of approximately \$45,000. He urged the public to vote on September 17.

#### **8. INDIVIDUAL COUNCIL REPORTS ON OUTSIDE COMMITTEE/BOARD MEETINGS**

Councilmember Dawson advised SnoCom recently passed their budget and she planned to ask Council President Earling to schedule a brief presentation regarding SnoCom’s budget. She noted that overall for Edmonds, SnoCom’s budget was better than expected but more than the Council liked to spend.

Councilmember Plunkett reported in approximately 30 days the Historical Preservation Commission would be forwarding documentation to Mayor Haakenson requesting he sign and deliver to the State the Commission’s application to become a local certified government which would allow property owners who preserved a historical building to receive a tax credit.

With no further business, the Council meeting was adjourned at 10:20 p.m.