

EDMONDS CITY COUNCIL APPROVED MINUTES

December 10, 2002

Following a Special Meeting at 6:00 p.m. for Council committee meetings, the Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with 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

ALSO PRESENT

Brandy Grout, Student Representative

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

Arvilla Ohlde, Parks and Recreation Director

Noel Miller, Public Works Director

Brent Hunter, Human Resources Director

Dave Gebert, City Engineer

Don Fiene, Assistant City Engineer

Joan Ferebee, Court Administrator

Scott Snyder, City Attorney

Sandy Chase, City Clerk

Jana Spellman, Senior Executive Council Asst.

Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF THE AGENDA. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

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

(A) ROLL CALL

(B) APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 26, 2002

(C) APPROVAL OF CITY COUNCIL MEETING MINUTES OF DECEMBER 3, 2002

(D) APPROVAL OF CLAIM CHECKS #59454 THROUGH #59590 FOR THE WEEK OF DECEMBER 2, 2002, IN THE AMOUNT OF \$180,585.06. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #34618 THROUGH #34719 FOR THE PERIOD NOVEMBER 16 THROUGH NOVEMBER 30, 2002, IN THE AMOUNT OF \$808,246.07.

3. APPROVAL OF THE 2003 BUDGET

Council President Earling explained the intent was to approve the budget tonight, noting the Council has been working over the past 2-3 weeks to come to terms with the magnitude of cuts that would be required and to determine, via departments' priorities, what could be added back to the budget using the available revenues. He noted staff would be making a presentation on items the Council seemed to agree upon and Public Works would make a presentation regarding a proposal to fund one of the positions cut from the General Fund budget.

Administrative Services Director Peggy Hetzler provided a presentation summarizing additional revenues adopted by the Council, a 1.5% property tax recapture that would generate \$113,027 and a 6% utility tax on solid waste that would generate \$225,000, for a total of new revenues for the 2003 budget of \$338,027. She noted the revenue generated by the solid waste utility tax was slightly less than indicated last week because 60 days notice was required before implementing the tax, therefore, the revenue was reduced assuming it would not be collected for the first two billing cycles.

Ms. Hetzler then reviewed the items that have been discussed during recent Council meetings including the following:

\$179,746 - Restoring three firefighters positions and the Fire Inspector

\$129,718 – Restoring two Patrol Officers

\$ 89,608 – Restoring Crime Prevention Program

\$ 58,342 – Restoring Second Floor Receptionist

\$ 41,943 – Restoring First Floor Receptionist

\$499,357 – Subtotal of Staff Restorations

\$ 5,000 – Contribution to Team Edmonds

\$ 5,000 – Contribution to Snohomish County Economic Development Council

\$ 6,020 – Restoring Fire Reserves on a volunteer basis

\$ 14,000 – Restoring Council meeting advertising (in addition to legal advertising)

\$ 15,000 –Legislative Lobbyist

\$ 84,000 – Salary Adjustment for laid-off staff

\$129,020 – Subtotal of Other Adjustments

\$628,377 – Total Adjustments

Ms. Hetzler noted the Council had also discussed restoring the Beach Ranger program; however, the Port has agreed to fund those positions in 2003 in the amount of approximately \$20,000

Ms. Hetzler reviewed revenue sources available to fund the above adjustments including the \$113,207 in property tax recapture, \$225,000 in solid waste utility tax, and \$290,350 from the ending cash balance.

Councilmember Orvis inquired whether a particular election date had been considered for a levy lid lift ballot issue. Ms. Hetzler answered that would be a Council decision but discussions have indicated interest in the primary election in September 2003.

For Councilmember Marin, Ms. Hetzler explained the \$113,027 in revenue represented revenue from the 1.5% property tax recapture, the 1% increase was already included in the projected revenues.

Councilmember Petso asked the amount of a levy lid lift. Ms. Hetzler answered the example she provided previously was \$1,389,000. Councilmember Petso noted if the Council added \$300,000 in expenses to the budget that could not currently be covered with revenue, those funds would come from the levy lid lift. Ms. Hetzler agreed. Councilmember Petso assumed next year's wage and benefit increases would be funded via revenues from the levy lid lift. Ms. Hetzler answered that would depend on revenues as expenditures were projected at an inflationary rate of 3% and General Fund revenues, with the exception of property taxes, were projected to increase at approximately the rate of inflation. She summarized revenue growth would be approximately enough to fund salary and benefit increases.

Councilmember Petso argued that as some contracts were cost of living plus 1% and there were merit raises in some instances of 5%, she questioned how revenues could fund inflation plus salary increases. Ms. Hetzler answered the inflationary rate in the projections was higher than the current inflation rate. She explained she used an historic rate of 3% in the projections but the CPI that contracts were based on was 1.4%. Adding 1% resulted in 2.4%, less than the 3% used in the projections. Councilmember Petso referred to increased benefit costs, recalling the City was paying an increased portion of employee benefits in 2003 and inquired whether that would be paid from levy lid lift revenues or other projected revenues. Ms. Hetzler answered it was conceivable that it would be paid from other revenues.

For Councilmember Petso, Ms. Hetzler explained if inflation were above the 3% used in the projections, additional cuts or additional revenue sources would need to be identified or funded via levy lid lift revenues.

Assistant City Engineer Don Fiene presented a proposal to fund the Engineering Technician position from the Combined Utility Fund. He provided background regarding the proposal in the preliminary budget to cut this position. He explained the Engineering Department was already lean, only increasing 10% in the past ten years. Cutting this position would actually cost the City more as much of the design that was currently done in-house would have to be done by outside consultants. He noted in-house services also reduced response time and did not require administrative oversight of a consultant's work.

Mr. Fiene explained staff time was currently billed at 47% utility, however, recent calculations indicate approximately 54% of the staff time was devoted to utilities. He noted the extra percentage would fund this position.

Mr. Fiene reviewed utility services that were affected by the elimination of this position including utility mapping and in-house design associated with the water replacement program, stormwater management program, and sanitary sewer program. He noted these services were identified in the approved Comprehensive Plan and were factored into cost estimating.

Mr. Fiene summarized this position saved the City money and adequate revenue was available in the Combined Utility Fund via minor adjustments in the capital budget. He suggested taking \$10,000 from the capital for each of the three utilities to fund this position, noting this position was already funded one-half by

the utility. He explained that by eliminating the position, the capital budget would have to be reduced more as designs would have to be done by consultants at a higher cost. Staff presented a new storm system development charge to the Council Finance Committee tonight which could generate more revenue than the cost of this position. The Finance Committee endorsed instituting such a charge.

Mr. Fiene recommended that the Engineering Tech I position be dedicated to and funded by the Combined Utility Fund.

Councilmember Wilson inquired about the impact on the capital program of taking \$10,000 from each fund. Mr. Fiene answered capital projects would be reduced slightly; there were no specific projects identified for reduction. He explained the water capital budget averaged over \$1 million per year, sewer averaged \$600,000 per year, and storm averaged \$500,000 per year, thus the proposed \$30,000 reduction was from a \$2 million capital budget. He noted that if necessary, the ending cash balance in each fund would provide adequate funding for several years.

Councilmember Petso asked whether this Engineering Technician would be prohibited from working on other projects and restricted to working on 1/3 water, 1/3 sewer and 1/3 stormwater projects. Mr. Fiene agreed the proposal was that the position be dedicated to the Combined Utility Fund. Mr. Fiene reiterated that without this position, it would cost more for design, etc. due to the use of consultants rather than in-house staff.

Councilmember Wilson inquired whether funds could be transferred from the General Fund if this employee were used for projects outside the scope of the Combined Utility Fund. Ms. Hetzler answered the City would have the ability to use this dedicated utility position on non-utility projects as long as the Utility Fund was fully reimbursed for those costs.

Councilmember Wilson explained Parks & Recreation Director Arvilla Ohlde made a presentation to the Port Commission yesterday regarding the Beach Ranger Program. **Fred Gouge, 9220 192nd Place SW, Edmonds, Port of Edmonds Commissioner**, explained part of the Port's mission was to be an environmental and financial steward of the waterfront. He noted the City's Parks Department has been a vital portion of the waterfront due to the beaches on the south and north sides of the Port. Commissioners agreed it was appropriate to assist the City with funding the Beach Ranger program as it was an environmental education program and brought many visitors to the waterfront, resulting in economic development. He expressed the Port's appreciation to the City for funding as much of the program as they were, indicating it was appropriate for the Port to assist.

Councilmember Wilson clarified the Port Commissioner's decision to assist with funding the Beach Ranger Program was only for 2003 and should not necessarily be considered a long term funding source. Commissioner Gouge agreed it was a one-year funding source to assist the City in funding this program.

Councilmember Wilson expressed his appreciation to the Port for their assistance in maintaining a vital program. Council President Earling expressed the Council's appreciation to the Port for their contribution to this community amenity.

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF THE MAYOR'S 2003 BUDGET.

Amendment #1

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER WILSON, TO APPROVE THE ADJUSTMENTS TO THE BUDGET AS REVIEWED BY MS. HETZLER (RESTORING THREE FIREFIGHTER POSITIONS AND THE FIRE INSPECTOR, RESTORING TWO PATROL OFFICERS, RESTORING THE CRIME PREVENTION PROGRAM, RESTORING THE SECOND FLOOR RECEPTIONIST, RESTORING THE FIRST FLOOR RECEPTIONIST, CONTRIBUTING \$5,000 TO TEAM EDMONDS, CONTRIBUTING \$5,000 TO SNOHOMISH COUNTY ECONOMIC DEVELOPMENT COUNCIL, ADDING THE FIRE RESERVES ON A VOLUNTEER BASIS, RESTORING COUNCIL MEETING ADVERTISING, ADDING A LEGISLATIVE LOBBYIST, AND ADDING FUNDS FOR SALARY ADJUSTMENT FOR LAID-OFF STAFF.) MOTION CARRIED UNANIMOUSLY.

Amendment #2

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO RESTORE NINE MONTHS OF FUNDING FOR THE ORDINANCE ENFORCEMENT OFFICER.

Councilmember Orvis explained the Ordinance Enforcement Officer was responsible for parking enforcement in downtown Edmonds. Parking enforcement promoted economic development by improving customer access to businesses as well as increasing the visibility of businesses. Further, he explained there was significant public benefit from parking enforcement as it increased availability of parking for others, and permits for residents allowed ordinance enforcement officers to address improperly parked ferry commuters. He proposed funding the position for nine months to allow time for the passage of a levy lid lift which could then be used to fund the position. He estimated the cost at \$32,000 which left \$700,000 in the ending cash balance.

Councilmember Petso asked whether this position also provided animal control services. Police Chief David Stern advised the Ordinance Enforcement Officer was responsible for parking enforcement, animal control, educational functions, and other ordinance enforcement. Councilmember Petso asked whether restoring this position also restored the other functions of the officer such as the Youth Services program that educated youth on spaying/neutering pets. Chief Stern explained that function was done by many people in the unit and was not assigned to any one position. Councilmember Petso asked whether that program would be in the budget if this position were not restored. Chief Stern answered no.

Council President Earling inquired about the funding source for this restoration. Councilmember Orvis answered from ending cash balance.

Council President Earling spoke in opposition to the proposal, urging Council to keep staff restorations to a minimum unless a funding source was identified. He noted if a levy lid lift were unsuccessful next year, further layoffs would need to be considered.

Councilmember Dawson agreed with Council President Earling, pointing out the Police Department's first priority was being funded and this position was far down the Police Department's list of priorities. She indicated there were several restorations she would prefer over this. She questioned the suggestion to fund the position for nine months, pointing out that if the levy lid lift were successful, the funds would not be collected until the following year.

Administrative Services Director Peggy Hetzler explained the net cost of restoring the position was approximately \$10,000 due to a revenue offset from parking enforcement fees.

Councilmember Petso spoke in favor of restoring this position, pointing out this position was next on the Police Department's list of priorities. She suggested the funding for this position could be generated via reducing merit raises from 5% to 2% or eliminating funding for the Edmonds Alliance for Economic Development.

Councilmember Plunkett indicated his support for the motion, commenting the revenue offset accounted for the proposal to fund the position for nine months.

Councilmember Orvis commented that if a levy lid lift was successful, ending cash could be used to fund this position for the remainder of the year. He noted his support for restoring this position had increased with the knowledge that it would have a lower cost than originally anticipated.

Ms. Hetzler advised estimated parking enforcement revenue for this year was \$40,000. The \$10,000 net cost she quoted was \$49,000 for annual cost of the position less \$40,000 in revenue. Councilmember Wilson suggested the officer spend more time on parking enforcement and less on animal enforcement. Chief Stern answered this was not possible due to health and safety issues associated with animal control enforcement.

Councilmember Dawson inquired about the original estimate for this position of \$21,000. Chief Stern answered it should have been \$10,000. Councilmember Dawson inquired whether the \$49,000 cost included benefits. Chief Stern answered yes. Chief Stern advised this position was currently vacant and it would take 45-60 days to fill the position.

Councilmember Dawson explained that if a decision had been made regarding funding for the Alliance, she may have supported this restoration; however, without additional funds to pay for this position, she was opposed to its restoration.

Councilmember Wilson suggested that if restoring the position were approved, the position be filled for the last nine months of the year, possibly to avoid laying off an employee if the levy lid lift was not successful.

Councilmember Petso shared discussion that had occurred at the Public Safety Committee, a specific request from citizens to increase the parking fees for repeat traffic offenders.

Councilmember Orvis amended his motion to fund the position for the full year and to consider Councilmember Petso's funding suggestion.

Mayor Haakenson restated the motion as follows:

RESTORE THE ORDINANCE ENFORCEMENT OFFICER FOR 2003.

UPON ROLL CALL, MOTION FAILED (3-4), COUNCILMEMBERS PLUNKETT, PETSO, AND ORVIS IN FAVOR, AND COUNCIL PRESIDENT EARLING, AND COUNCILMEMBERS MARIN, WILSON, AND DAWSON OPPOSED.

Amendment #3

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO APPROVE FUNDING THE ENGINEERING TECHNICIAN VIA THE COMBINED UTILITY FUND. MOTION CARRIED UNANIMOUSLY.

Council President Earling pointed out the economic benefit of the Flower Program to the community, businesses, and visitors.

Amendment #4

COUNCIL PRESIDENT EARLING MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO RESTORE FUNDING IN THE BUDGET FOR THE FLOWER PROGRAM IN THE EXACT AMOUNT OF THE BEACH RANGER PROGRAM FUNDING, \$19,890.

Councilmember Wilson expressed his support for restoring funding for the Flower Program, commenting the program was good for economic development because the community was known for the flower program and visitors generated funds that paid for other programs and positions. He referred to the Port's offer to assist with funding the Beach Ranger program for 2003, recalling the Commissioners' discussion pointed out the asset the Beach Ranger Program as well as the Flower Program provided to the community. He noted at one point, the Commission considered making funding the Beach Ranger Program contingent on the City restoring the Flower Program but they concluded this was the Council's decision to make.

Councilmember Dawson agreed with the comments made by Council President Earling and Councilmember Wilson, noting the Parks & Recreation Department made over \$300,000 in cuts and without funding the Flower Program, none of the Parks & Recreation Department's priorities would be funded. She recalled the Council was agreeable to funding the Beach Ranger Program until the Port offered to provide that funding.

MOTION CARRIED UNANIMOUSLY.

Amendment #5

COUNCILMEMBER PETSO MOVED TO REDUCE THE DISCRETIONARY SALARY INCREASES FROM 5% TO 2% FOR 2003 FOR NON-REPRESENTED EMPLOYEES SUBJECT TO THE ANNUAL SALARY ORDINANCE. MOTION DIED FOR LACK OF A SECOND.

Councilmember Petso explained her intent was to demonstrate fiscal responsibility to citizens and employees by holding the discretionary increase to 2% which, in addition to COLA, would result in at least a 4% increase which she felt was adequate. She reiterated this was a good first step toward generating support for the upcoming levy lid lift by demonstrating the Council's intent to get finances under control.

Amendment #6

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO ELIMINATE FUNDING FOR THE EDMONDS ALLIANCE FOR ECONOMIC DEVELOPMENT.

Councilmember Petso expressed her appreciation for the Alliance's recent change in their focus from raising building heights and reducing parking to economic development and business recruitment. However, she was not satisfied there had not been enough of a change because the Alliance's proposed work plan included funding for more studies. She summarized the City was not getting the economic development it needed via the Alliance's work plan.

Councilmember Plunkett spoke in opposition to the motion and in support of the Alliance, explaining the Alliance planned to focus on increasing development on Hwy. 99 which would be important for increased revenue for the private sector as well as funding public services. He noted the Alliance was also planning to provide a business recruitment package.

Councilmember Wilson spoke in opposition to the motion, noting he did not have the history some Councilmembers had with problems in the association between the City and the Alliance. He explained in his travels in California for his business, he noticed that as tax cutting initiatives have occurred, cities must become very creative in attracting businesses and creating new business opportunities. He noted the only way cities in California have been able to sustain programs and services for citizens were by developing in-house economic development teams that search out businesses that would result in the largest economic development to the community as well as be compatible with the community. He noted the City did not currently have those resources on staff. He commented Team Edmonds did a great job marketing the community to bring in shoppers but they did not identify/analyze economic development opportunities. He noted it was not as simple as calling a large entity and inviting them to the community and study was required to determine what made a community stand out enough to attract businesses. The more revenue that was generated via sales tax, the less reliant the City would be on property taxes.

Councilmember Dawson disagreed with Councilmember Plunkett and Councilmember Wilson regarding what the Alliance has said they will do this year, characterizing it as "more talking than doing." She noted it was not a bargain to expend \$20,000 for the tasks on the Alliance's proposed work plan. She noted tangible results were already apparent from Team Edmonds who had only been in existence a short time. She expressed her preference that the funding be used for other items such as Team Edmonds or Snohomish County Economic Development Council, parking enforcement, fully funding the pool, etc. rather than providing \$20,000 to the Alliance. She agreed the focus of the Alliance's work plan had improved, recalling last year their focus was doubling the density and increase heights downtown.

UPON ROLL CALL, THE MOTION FAILED (3-4), COUNCILMEMBERS PETSO, DAWSON AND ORVIS IN FAVOR, AND COUNCIL PRESIDENT EARLING, COUNCILMEMBERS WILSON, MARIN, AND PLUNKETT OPPOSED.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO REQUEST THE ALLIANCE PROVIDE A MONTHLY WRITTEN REPORT ON THEIR ACTIVITIES TO IDENTIFY HOW FUNDS ARE SPENT AND ALLOCATED AND TO SHOW THEIR PROGRESS VIA THE CONTACTS THEY HAVE MADE AS WELL AS PROVIDE A QUARTERLY FACE-TO-FACE PRESENTATION TO ALLOW THE COUNCIL TO ASK QUESTIONS REGARDING THEIR ACCOMPLISHMENTS.

Councilmember Plunkett advised the Alliance already makes a presentation to the Council quarterly and provides a monthly written report.

MOTION CARRIED UNANIMOUSLY.

Councilmember Dawson commented it was her hope that the funding for the Alliance could be used to fund the pool for the entire season, an approximate \$5,000 net cost. Parks & Recreation Director Arvilla Ohlde recalled last week Councilmember Dawson asked several questions with regard to a letter from former Councilmember Dick Van Hollebeke. She explained the proposal in the 2003 preliminary budget was to operate the pool for 60 days (rather than the usual 101 days) which, with a 3% revenue increase in fees, would generate revenue of \$73,000 and expenditures of \$69,360. Using Mr. Van Hollebeke's suggestions, operating the pool for the full season with a 10% increase in fees as well as increasing attendance by 10% via heavy marketing of the pool, the revenue generated could be \$119,185 and expenditures \$124,230, requiring a \$5,045 subsidy. She emphasized pool revenues were impacted by weather, the economic climate, competition with other pools and market demand.

Councilmember Dawson referred to Mr. Van Hollebeke's comment regarding loss of revenue from activities such as swim lessons, water aerobics, swim team, scuba classes, etc. during the reduced operating period. Ms. Ohlde disagreed, noting the pool was very tightly programmed. She noted most King County Forward Thrust Pools required approximately a 40% subsidy. She noted the sheltered location of Yost Pool increased usage in poor weather (over other outdoor pools) and the pool has been operated very efficiently and programmed to maximum usage.

Councilmember Dawson inquired whether there would be a loss of revenue as a result of parents taking their children elsewhere for swim lessons if lessons were not available for the entire summer at Yost. Ms. Ohlde answered the months of July and August were the most heavily programmed months. Although Yost Pool has traditionally opened May 24, school does not get out until about June 20. She noted during that time period, there were more adult swims, lap swims, etc.

Councilmember Dawson inquired whether there would be a loss in revenue due to decreased pass sales because of the reduced season. Ms. Ohlde agreed that was a possible downside of a shortened season.

Mayor Haakenson clarified the \$5,000 subsidy was based on a 10% increase in fees and a 10% increase in attendance. He questioned the idea that in difficult economic times 10% more people would come to the pool and pay 10% more in fees. Ms. Ohlde answered the intent would be to achieve this via good marketing.

Councilmember Wilson, a former lifeguard and instructor, remarked shortening the pool season may result in children already having established a swim lesson relationship with another instructor elsewhere. He commented even during difficult economic times, swimming was a relatively inexpensive form of entertainment and a great environment for kids.

Council President Earling, a parent with three swimmers, indicated that although he was sympathetic to the proposed cuts, he was not confident that great marketing would result in a 10% increase in attendance. He noted the 10% fee increase was possible but the 10% increase in attendance was questionable.

Councilmember Plunkett inquired whether recreation fees were down. Ms. Hetzler answered recreation fees in 2002 were down compared to 2001. She noted most of the decrease was in day camp attendance which were usually sold out.

Councilmember Wilson inquired whether there had been a decrease in pool attendance. Ms. Ohlde answered the revenue in 2002 was \$90,000 and the pool expenditures were \$110,000 which was approximately the same ratio.

For Councilmember Wilson, Ms. Ohlde advised the proposed budget cuts also included eliminating the drop-in daycare program. She noted no other fee-generating programming had been cut.

Councilmember Dawson commented other advantages to operating the pool for the entire season include avoiding the difficulty finding lifeguards willing to work for two months vs. an entire season. She asked what the subsidy would be if only the 10% fee increase were instituted. Ms. Ohlde answered approximately \$16,000.

Councilmember Dawson indicated it had been her hope that funding from the Alliance could be used to fund the remainder of the Yost Pool season. As she was not interested in further reducing the ending cash, she was hopeful efforts over the course of the next year would prevent shortening the operating season for the Yost Pool again. She encouraged staff to incorporate some of Mr. Van Hollebeke's ideas in hopes of generating a 10% increase in attendance.

Mayor Haakenson asked whether Councilmember Dawson's request for further information regarding the Court had been satisfied. Councilmember Dawson advised the memo from Court Administrator Joan Ferebee answered her questions.

Council President Earling advised his calculations indicated the total amount Councilmembers had added to the 2003 budget was \$628,377 plus an additional \$19,980 for a total adjustment of \$648,257. Ms. Hetzler agreed. Council President Earling noted the ending cash balance would be further reduced to accommodate the additional expenditure of \$19,980.

Councilmember Wilson requested Human Resources Director Brent Hunter describe his proposal to restore the third floor receptionist. Mr. Hunter explained the request was for a partial restoration of that position due to a proposal by the Public Facilities District (PFD) to share this employee. By increasing her hours to share the employee with the PFD, her hours would again be over the benefit threshold. The requested \$1,700 would fund the City's share of her benefits. The proposal was that the employee would work 16 hours for the City and 16 hours for the PFD.

**MAIN MOTION AS AMENDED BY AMENDMENTS #1, 3, AND #4 CARRIED (6-1),
COUNCILMEMBER PETSO OPPOSED.**

Council President Earling expressed his thanks to Ms. Hetzler for her assistance and willingness to answer questions. He also expressed his appreciation to the Council for their efforts over the past few weeks. He noted while it was good news the Council had identified ways to fund portions of the budget, the budget still included \$1.35 million in cuts. He enumerated the positions these cuts represented: a part-time Human Resources position, part-time clerk and bailiff positions in the Municipal Court, accounting assistant, reduced hours for a second accounting assistant, information technology software specialist, part-time administrative assistant, three cadets in the Police Department, administrative supervisor, staff assistant, and part-time records management, ordinance enforcement officer, Assistant Fire Chief, planner, administrative assistant, accounting coordinator, all seasonal staff in Parks & Recreation, part-time Parks & Recreation Department staff members, maintenance worker in Public Works, custodian in Public Works, eliminating a portion of the Yost Pool program, and eliminating the drop-in day care program. He distributed a list of the cuts to the audience and encouraged them to consider that if the City was not successful in identifying ways to generate additional income, the Council would be facing the same process next year and in particular jeopardy would be the positions/programs that were restored tonight. He noted the City was facing a severe situation which the Mayor had stressed when the preliminary budget was presented. If citizens were happy with the level of service this budget brought, fine; the Council's responsibility was to respond to what the public wanted. He urged citizens to be mindful that these cuts would result in considerable reductions in the level of service that was provided to citizens.

Councilmember Petso explained why she voted against approval of the budget, noting her intent was to meet the public and employees halfway. She explained the budget that the Council approved paid one position 9% more than that position was paid a year ago, which she did not find appropriate in a time when employees were being laid off and services that the public expected were being cut. Although she has been told this is only a couple thousand extra to that one employee, she pointed out a couple thousand multiplied by 250 employees was \$500,000, eight full-time positions. She noted if this continued, cuts would also continue. She referred to the five year projection provided by Ms. Hetzler that estimated ending cash balances if costs increase at 3%. She expressed doubt that only a 3% increase could be achieved due to the contracts and policies that were in place. Therefore, she asked Ms. Hetzler to provide a projection at 5%, commenting that scenario was "ugly." She offered to make copies of this projection available to the Council and the public.

Councilmember Petso noted the 2003 budget already spent in excess of revenues, requiring the use of reserves to maintain positions long enough to identify revenue sources to fund them. She noted this would have to be made up or the reserve disappeared in approximately three years. Further, she noted all employees receive raises, which she estimated at approximately \$800,000 in salary and benefit increases next year. She noted the City could not build its way out of this dilemma; a long term solution must be identified. In addition to the possibility of a levy lid lift, she encouraged the public to envision large retailers and other revenue generating businesses on Hwy. 99, visitors to the FACE project spending money in Edmonds, etc.

Councilmember Wilson commented on the difficulty of laying off employees who do a great job for the City. He noted this budget situation was the worst he had seen in 20 years working for government in the Puget Sound region. He referred to comments regarding the high percentage of the City's budget that was devoted to personnel costs, pointing out that the City was a service business that was limited to charging for costs and could not use a profit in one department to offset costs in another department. He noted some departments cover their costs but many operate from the General Fund. It was appropriate that a high level of the City's budget was associated with personnel because the City did not manufacture or sell a product; it provided people who served the community. He noted one of the fundamental goals of the City has been to be responsible in how the City was staffed, recognizing the danger of living above the City's means. One of the reasons good salaries were paid was because the City had fewer employees when compared to other jurisdictions and the City expected a great deal from its employees. He recommended the Council consider at their retreat how the City did business and consider whether fundamental shifts were necessary to ensure the best possible service was provided to the community.

Councilmember Dawson agreed this had been a difficult process to lay off employees. She shared that her employer, the Court of Appeals, was also facing similar cuts. She sympathized with how difficult it was to go to work unsure of whether you or co-workers would still be employed the next day. For that reason, she did not support cutting employee salaries now. She provided an example of reductions in administrative support staff and attorneys in her office, noting her own job could be eliminated. She emphasized that making the necessary cuts to the City's budget had not been easy but the Council was trying to the best they could with the little they had. She expressed her sympathy to the City employees who would be losing their jobs particularly in this economy.

Mayor Haakenson advised the budget ordinance would be presented to the Council next week for final approval by the Council. He thanked the Council for their effort on the budget. He noted he has been involved in seven budgets, four as a Councilmember, and three as the Mayor, and this had been the most difficult. He acknowledged the difficulty of being at work each day facing the employees who were being laid off. He recalled the preliminary budget was based on a five year plan which would keep the City afloat for the next five years and included the assumption that there would be a levy lid lift in 2003. He asked whether there would be further Council action specifying their plans to pursue a levy lid lift and when the election would occur. Council President Earling recalled most Councilmembers agreed some additional income must be generated and that it was fair to ask the taxpayers whether they were willing to accept that additional tax burden. He noted a levy lid lift would only be to fund public safety. He suggested discussing this further at the Council retreat in February in hopes of reaching some conclusion regarding the size, date, etc. shortly thereafter.

Mayor Haakenson declared a brief recess.

4. **PRESENTATION OF AN INITIATIVE PETITION RELATING TO A MANDATORY SPAY-AND-NEUTER POLICY FOR PETS ADOPTED THROUGH THE CITY, AND CONSIDERATION OF ADOPTING THE INITIATIVE, OR IN THE ALTERNATIVE, CALLING FOR AN ELECTION.**

City Clerk Sandy Chase explained on November 12, 2002, an Initiative Petition was submitted to the City relating to a mandatory spay-and-neuter policy for pets adopted through the city. By State law, the Snohomish County Auditor must certify the petition; therefore the petition was immediately delivered to that office. In order for the petition to qualify, 15% of the registered voters for Edmonds at the last general election were required to sign the petition. The Auditor provided official notice verifying the sufficiency of the petition on November 25, 2002.

Ms. Chase explained the City Attorney has advised the Council has two alternatives, 1) adopt the initiative petition by ordinance, or 2) place the initiative petition on the ballot. If the Council were to place the initiative petition on the ballot, the first available election date is February 4, 2003. The deadline to place it on that ballot is December 20, 2002. The cost has been estimated at \$50,000 to \$60,000.

Councilmember Plunkett recommended the Council adopt the initiative petition by ordinance to avoid the Council spending \$50,000 – \$60,000 on a ballot measure.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER ORVIS, THAT THE COUNCIL DIRECT THE CITY ATTORNEY TO DRAFT AN ORDINANCE AS PRESENTED IN THE PETITION AND RETURN IT TO THE COUNCIL FOR APPROVAL ON THE CONSENT AGENDA NEXT WEEK.

Council President Earling asked when validating the signatures, did the Auditor only validate enough until the amount necessary plus some percentage was reached. Ms. Chase answered the Auditor validated signatures slightly over the required amount, 2,800 signatures of qualified registered voters; 15% of the Edmonds voters in the last general election was 2,150. Council President Earling observed there were signatures not verified, therefore, a recount would not be feasible. Ms. Chase responded there were over 5,000 signatures submitted.

Councilmember Dawson requested staff address problems with the way the initiative was drafted, 1) the funding issue, and 2) administrative nature of the law. City Attorney Scott Snyder explained the initiative process, as established by State law, was one that cities may elect to make available to its citizens which the

Council has done. He pointed out there was a very limited power via initiatives; citizens could 1) take actions that were delegated to the City in its corporate capacity but could not exercise powers that were delegated specifically to the City Council and 2) actions must be of a large, permanent nature rather than administrative or fine-tuning. He noted of the cases that had been considered by the Washington courts, an overwhelming majority of initiatives have been struck down for various reasons. He noted this ordinance had a specific flaw, Section 3, appropriating funds. He explained State statutes were very clear that only a City Council could enact a budget and citizens could not appropriate funds.

Mr. Snyder explained if the Council refused to appropriate the funds, a citizen would need to take the City to court to force the Council to appropriate funds as the initiative required. If the Council wanted more specific advice regarding the legal process of a challenge, he suggested it be discussed in Executive Session. He observed the Council was concerned with how few options were available in this situation. The courts were clear in a case involving the Attorney General, public officials, whether elected or appointed, did not have any discretion once a petition was certified, the Statute must be complied with. Thus the reason initiatives were designed to make large scale, permanent changes rather than fine tuning because they could not be amended. With regard to whether a vote could be deferred until September, Mr. Snyder explained that although the legal answer was no, the practical answer may be different. If a citizen wished to challenge the Council's decision to place the matter on other than the first available election date, only statutory attorney's fees would be available and a citizen would have to be willing to spend \$3,000 - \$8,000 in order to cost citizens \$50,000. He noted that although it was unlikely this would occur, legally he could not advise the Council to take that action.

Councilmember Petso recalled when the Council previous considered this issue, they were considered with the potential loss of the City's service provider who was affordable and local and did not euthanize animals due to lack of space, as well as the fact that this would cost the City an additional \$5,000 in funding each year. She noted it was a lose-lose situation. She recalled being asked whether she would sign a petition to protect Edmonds' pets and then realizing she was being asked to sign a petition to adopt a policy she had previously voted against. She pointed out to the signature-gatherers that this was an issue that put the City's shelter provider at risk, a fact they were not aware of. She referred to the petition which said in large letters at the top, "Protect Edmonds Pets," and stated in a box below the title that spaying and neutering ended pet overpopulation and reduced the killing of healthy cats and dogs. She expressed concern whether the will of the citizens was actually to protect Edmonds pets or adopt the specific provisions in the tiny print. She noted citizens likely did not read the small print when they signed the petition but it was that information that the Council discussed for several months and ultimately did not approve. Councilmember Petso summarized that if she voted not to support the motion, it was due to her concerns with the loss of the service provider and her concerns with whether this truly represented the will of the people, noting at least with an election, she would determine the will of the people.

Councilmember Orvis spoke in support of the motion because it was good policy, a policy that would reduce the stray population and reduce the number of animals that were euthanized. In response to doubts regarding public support, he pointed out 1) the 5,000 signatures on the petitions, and 2) the results of Initiative 713, a statewide initiative to prohibit the use of traps. He explained I-713 passed 54.6% in favor and 45.4 opposed statewide; however, in Edmonds precincts, the initiative passed 60% in favor and 40% opposed. He noted this seemed to suggest Edmonds residents were concerned about animals and their welfare. He concluded the public would be inclined to support approval of the initiative via ordinance.

Councilmember Wilson explained he did not object to the policy as it may be valuable to the community; his concerns were with the economics of the policy. He recalled when the Council took action previously on this issue, it was not approved because the mechanisms were flawed including costs, service provider, the additional cost if the service provider were lost, etc. He explained the intent had been that when the contract with the service provider was considered for renewal, it would be analyzed and revised accordingly but unfortunately, that had not occurred. He recalled in the budget process, the Council laid off a significant number of employees due to a lack of revenue and for the Council to enact a policy that was flawed due to the economics and the potential cost to the City was not being fiscally responsible.

Councilmember Dawson recalled the Council had a lengthy debate over this issue. She pointed out all Councilmembers thought it was a good idea to spay/neuter dogs and cats, the issue was that the city did not really have an animal shelter nor the means to transfer animals to a veterinarian for this service. She recalled Councilmembers were supportive of developing more stringent spay/neuter policies but that did not occur because, instead, this petition was submitted.

Councilmember Dawson emphasized it was very bad policy for an initiative process to result in an initiative that clearly exceeded the lawful scope of the initiative power. She indicated she would vote against the motion, not because she did not like dogs and cats or because she did not feel it was good policy to spay/neuter dogs and cats, but because this was not the way to do it.

UPON ROLL CALL, MOTION FAILED (2-5), COUNCILMEMBERS PLUNKETT AND COUNCILMEMBER ORVIS IN FAVOR, AND COUNCIL PRESIDENT EARLING, AND COUNCILMEMBERS WILSON, MARIN, PETSO, AND DAWSON OPPOSED.

Councilmember Marin recalled when the Council discussed this issue previously, there were issues with the funding mechanism. As a result, he prepared a draft ordinance, currently being reviewed by the City Attorney and Councilmember Plunkett, with the intent of having the Council consider the ordinance in January. He explained the ordinance enacted the language from the initiative with regard to the spaying/neutering of animals and enacted an adoption fee to cover the cost of spaying/neutering, making the program revenue neutral.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER WILSON, TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE CALLING FOR AN ELECTION ON THE INITIATIVE PETITION RELATING TO THE MANDATORY SPAY-AND-NEUTER POLICY FOR DOGS AND CATS.

Council President Earling commented an election would still be required even if the Council and animal groups found Councilmember Marin's proposed ordinance acceptable. Mr. Snyder agreed. Council

President Earling noted the cost of an election would range from \$25,000 - \$60,000. Mr. Snyder agreed, explaining the cost depended on the election.

Councilmember Plunkett asked whether an ordinance would be required to place the matter on the ballot. Mr. Snyder agreed. Councilmember Plunkett asked whether the ordinance could be changed. Mr. Snyder explained that under the State structure adopting initiatives for cities, ordinances adopted by the people could only be amended by the people.

Councilmember Wilson commented the ordinance drafted by Councilmember Marin was a moot point until after the election on the initiative. If the initiative failed, the Council could consider and possibly enact the ordinance proposed by Councilmember Marin or if the initiative passed but the ordinance drafted by Councilmember Marin addressed the Council's concerns regarding financing, the Council would have to return to the ballot to request the initiative be overturned to consider Councilmember Marin's ordinance. Mr. Snyder agreed, noting a third possibility would be if the Council approved an acceptable ordinance themselves, the voters would not approve the initiative ordinance. Council President Earling pointed out the difficulty of explaining that concept to a voter.

Councilmember Dawson clarified the Council's only option now was to put the initiative ordinance on the ballot. Mr. Snyder agreed, providing an example of the Seattle City Council who, without statutory authorization, delayed an initiative ordinance for several months to place it on the ballot they wanted. This worked because no one challenged it. He clarified the legal answer was the Council had only the two options.

Councilmember Dawson questioned how the Councilmember who put this initiative forward was only now learning that he could not change it on the ballot, pointing out that should have been determined before the petitions were circulated. She pointed out that if this initiative petition had not been submitted, the Council could have considered a compromise ordinance.

Councilmember Plunkett commented he did not want the ordinance changed, he did not want an alternative and neither did the citizens of Edmonds as attested by the 5,200 people who signed the petitions. He pointed out the service provider has indicated five times in public that he would provide the service if an ordinance were passed. He referred to the trapping ordinance that passed by 60% in Edmonds, and cited a survey done several years ago that indicated 90% of Snohomish County residents supported spay/neuter policies. He contended that if the petition ordinance were placed on the ballot, it would pass and would enact a good public policy that would cost the City \$5,000. The City would then have to renegotiate its contract with the service provider, which could result in an increase of approximately \$15,000, but in the long run, it would reduce the number of animals in the community that he recalled Assistant Chief Wean indicated animal control could not handle. He noted every jurisdiction that has enacted a mandatory spay/neuter policy has reduced their costs. This would result in reduced costs over time and allow the enforcement officer to put more effort toward parking enforcement.

Mayor Haakenson asked Councilmember Marin whether he had an election date in mind. Councilmember Marin preferred separate motions on placing the ordinance on the ballot and the election date. Mr. Snyder advised if the motion to place the issue on the ballot passed, he would draft an ordinance in accordance with State statute (February election).

Councilmember Wilson preferred the Council first consider whether to place the initiative on the ballot followed by discussion regarding the election date. He noted after reviewing a memo from the City Attorney that included discussion regarding an election date in the future which although it made sense economically, that was contrary to State law.

Mayor Haakenson asked whether the Council could make a motion without specifying a date for the election. Mr. Snyder answered that because by State law the Council had only one option for setting the election date, a motion without a specific date would direct him to draft an ordinance that complied with State law, the next available election date. Mayor Haakenson asked whether the Council could then make a second motion specifying an election date. Mr. Snyder answered yes.

Councilmember Plunkett asked whether the City's costs would be less for the February election since the School District was planning a February election. Ms. Chase answered the Election Manager with the Snohomish County recommended budgeting \$50,000 - \$60,000 although he believed it would be less than that.

Responding to Councilmember Petso, Mr. Snyder answered he would draft, for Council approval, a ballot title using the standards for ballot titles. He advised the ballot title would read something like, "Shall Edmonds Adopt an Ordinance that Provides for the Spaying and Neutering of Cats and Dogs..." Councilmember Petso noted that would likely pass versus a title such as, "Shall Edmonds Pay \$5,000 to Spay and Neuter Cats and Dogs" may not. Mr. Snyder reiterated an initiative could not compel the Council to appropriate funds.

For Council President Earling, Mr. Snyder suggested any discussion regarding court challenges be held in Executive Session. He explained if the Council placed the initiative on the September ballot and that was subsequently challenged, it would be difficult for a Superior Court Judge to render a decision in time to place the matter on the February ballot due to the amount of time required to file a lawsuit, hold a hearing, complete the preliminary injunction process, briefing, etc.

Councilmember Marin pointed out the cost to place the initiative on the February ballot was \$60,000, however, placing it on the September ballot, assuming the levy lid lift was on that ballot, the cost would be less. If the initiative was placed on the September ballot, his intent would be to have the draft ordinance adopted in January or February 2003 with a mechanism that was revenue neutral. He could then draft an opposing position for the voters' pamphlet that an ordinance was already in place.

Councilmember Plunkett emphasized that regardless of which ballot, the initiative would pass, therefore, he recommended the Council adopt the initiative petition by ordinance to avoid the cost of an election. He stressed he was not the one who wanted to spend the extra funds on an election; he preferred the Council adopt the initiative petition by ordinance.

Councilmember Orvis commented another option would be for the Council to adopt the initiative petition and initiate an appeal on a future, less costly ballot.

Council President Earling asked Councilmember Plunkett for his impression of whether the groups involved would seek legal relief if the initiative ordinance were placed on the September ballot. Councilmember Plunkett answered his general impression was that they would not, stressing he was not speaking for them. Council President Earling asked whether Councilmember Plunkett would advise them to wait until the September ballot. Councilmember Plunkett said his intent was for the Council to pass the ordinance and, if not, put the measure on a future ballot.

Councilmember Wilson asked whether Councilmember Plunkett would proactively urge the community to vote against the ordinance if Councilmember Marin was successful in crafting an ordinance that addressed all the issues regarding spaying/neutering as well as a mechanism for funding. Councilmember Plunkett answered that was too speculative.

Councilmember Wilson commented the intent of the initiative petition was to force the Council to place the initiative on the ballot or take away the Council's legislative authority when the Council had already acted twice on the issue. He noted the only possible outcome of the petitions was to force the Council to either adopt a proposal they rejected twice before based on sound reasoning or force the Council to spend additional money to place the ordinance on the ballot.

MOTION CARRIED (6-1), COUNCILMEMBER PETSO OPPOSED.

Councilmember Wilson pointed out the discussion now was whether to place the issue on the February or September ballot and February was the only election that met the statutory requirements. He noted there were three additional dates for special elections between February and September. He noted the deadline for placing the measure on the February ballot was December 20. Ms. Chase advised the deadline for the March 11 election was January 24, the deadline for the April 22 special election was March 7, the deadline for the May 20 special election was April 4, and the deadline for the September 16 primary election was August 1.

Councilmember Wilson observed of the four potential election dates, the September election was the only date where the cost of the election would potentially be reduced. Ms. Chase agreed.

Councilmember Wilson asked when Councilmember Marin expected his draft ordinance to be presented to the Council. Councilmember Marin answered in early January.

Councilmember Orvis expressed his appreciation to the signature gatherers, acknowledging the difficulty of gathering signatures.

Councilmember Petso commented that although holding an election in September would save the City a lot of money, she could not support holding an election on an illegal date when the City Attorney has advised that the Council was legally obligated to hold the election in February.

Councilmember Dawson agreed it was practical but not legal to place the initiative petition on the September ballot. She referred to Mr. Snyder's indication in his memo that he had taken an oath as an attorney to uphold the law, noting she too had taken that same oath as an attorney as well as a Councilmember. She expressed frustration that the Council's only choices were to 1) pass an unlawful ordinance, 2) put an unlawful ordinance on the February ballot, or 3) put an unlawful ordinance on a ballot that the law says the City cannot even though it would be a better decision financially. She commented the law was clear that even though an initiative was unlawful, it must be placed on the ballot even if it would later be struck down.

Councilmember Marin suggested the Council consider his draft ordinance at the December 17 Council meeting and if the Council enacted it, he would have an opportunity to draft the opposition statement for the February ballot that would show the public that the Council had already addressed the issue and that a mechanism was in place to fund it.

Councilmember Orvis commented that if the Council was pursuing the draft ordinance in an attempt to identify a funding mechanism, he agreed with that effort; however, if the draft ordinance was an attempt to stop the movement to pass the initiative, that effort would not be successful because if the public approved the initiative, it could only be repealed by a court or another election.

Council President Earling commented he had taken the Oath of Office three times and that oath contained his pledge to uphold the Constitution of the United States, the Constitution of the State of Washington, and the ordinances of Edmonds. For that reason, he would support putting the initiative on the February ballot and would vote against any effort to change the date of the election.

Councilmember Marin asked whether the Council could discuss the draft ordinance next week, noting his sole objective was to identify how to fund the program. Mr. Snyder commented Councilmember Marin's objectives could be accomplished after the fact. He reiterated one of the problems was that the initiative went into more administrative detail than was appropriate for an initiative, specifically the portion that required the Council budget money for the program. He advised if the public approved the initiative ordinance or the Council approved it, there was a 99% probability that a court would not require the Council appropriate funds. He summarized Councilmember Marin's ordinance would not be an attempt to appeal the initiative but add the administrative funding detail which could be done at a later date.

Councilmember Dawson hypothesized if the initiative were placed on the ballot and it passed including the \$5,000 allocation and the Council did not make that allocation, the Council could be in danger of a lawsuit even though a court would rule in the City's favor. Mr. Snyder answered if someone brought an action against the Council, the City would bring and likely win a counter claim asking to strike Section 3. He noted this would likely result in footnotes in the code indicating the provisions that were enacted by the voters and the funding mechanism.

Councilmember Plunkett expressed his support for Councilmember Marin's efforts, recalling the service provider previously indicated he would not increase his fees to pay for this.

Mr. Snyder explained the action on the ordinance next week would be to place the initiative on the ballot. He pointed out the ordinance drafted by Councilmember Marin regarding the funding mechanism could be adopted anytime prior to the February election. Councilmember Marin advised if the Council reached agreement regarding his draft ordinance on December 17, he would have an opportunity to write the opposition statement to accompany the ballot to indicate the initiative was not necessary.

Mr. Snyder encouraged Councilmembers to call him with concerns/comments regarding the wording of the ballot title.

5. **MAYOR'S COMMENTS**

Mayor Haakenson expressed his thanks to the Council for the difficult choices they had to make on the 2003 budget.

6. **COUNCIL COMMENTS**

Student Representative Brandy Grout commented she volunteered at the Humane Society and at an offsite adoption center at PetsMart in Lynnwood where the cost of spaying/neutering was included in the \$80 adoption fee. Although the youth education on animals was eliminated from the budget, she encouraged the Council to support this program in the future, recalling she became interested in the animals after participating in the program.

With no further business, the Council meeting was adjourned at 10:00 p.m.