

# EDMONDS CITY COUNCIL APPROVED MINUTES

## February 20, 2007

Following a Special Meeting at 6:45 p.m. for an Executive Session regarding a real estate matter, the Edmonds City Council meeting was called to order at 7:00 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  
Peggy Pritchard Olson, Council President  
Deanna Dawson, Councilmember  
Richard Marin, Councilmember  
Mauri Moore, Councilmember  
Michael Plunkett, Councilmember  
Dave Orvis, Councilmember  
Ron Wambolt, Councilmember

### STAFF PRESENT

David Stern, Chief of Police  
Dan Clements, Administrative Services Director  
Noel Miller, Public Works Director  
Kathleen Junglov, Asst. Admin. Services Dir.  
Rob Chave, Planning Manager  
Dave Gebert, City Engineer  
Debi Humann, Human Resources Manager  
Don Fiene, Assistant City Engineer  
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 WAMBOLT, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

### 2. CONSENT AGENDA ITEMS

Councilmember Orvis requested Items I and N be removed from the Consent Agenda and Councilmember Moore requested Item J be removed.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE THE REMAINDER 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 FEBRUARY 6, 2007.

#### C. APPROVAL OF CLAIMS CHECKS #93978 THROUGH #94206 FOR FEBRUARY 8, 2007 IN THE AMOUNT OF \$578,468.54 AND #94207 THROUGH #94365 FOR FEBRUARY 15, 2007 IN THE AMOUNT OF \$541,563.29. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #44468 THROUGH #44504 FOR THE PERIOD OF JANUARY 16 THROUGH JANUARY 31, 2007 IN THE AMOUNT OF \$789,517.19.

#### D. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM LEE AND PAM MCALLISTER (\$1,000.00), GREGG PRODUCTION ASSOCIATES (\$163,000.00 AND CONTINUING), AND DIANNE ROTH LAUER (\$3,998.00).

Approve 2/6/07  
Minutes

Approve Claim  
Checks

Claims for  
Damages

Stormwater  
Engineering  
Program Mgr.

E. **RATIFICATION OF EMPLOYMENT OFFER TO STORMWATER ENGINEERING PROGRAM MANAGER.**

92nd Ave W &  
234th St SW  
Improvements

F. **APPROPRIATION OF \$11,000 AND AUTHORIZATION FOR MAYOR TO SIGN CONTRACT CHANGE ORDER NO. 2 FOR THE 92ND AVENUE WEST/234TH STREET SW INTERSECTION SAFETY IMPROVEMENTS PROJECT.**

Lake Ballinger  
Lake Level  
Study

G. **AUTHORIZATION FOR MAYOR TO SIGN INTERLOCAL AGREEMENT FOR LAKE BALLINGER LAKE LEVEL STUDY AND TO ADVERTISE FOR STATEMENTS OF QUALIFICATION FROM CONSULTANTS FOR THE STUDY.**

Taxicab  
Operator's  
License

H. **APPROVAL OF 2007 TAXICAB OPERATOR'S LICENSE FOR LOW FARE AIRPORT AND LOCAL FOR HIRE VEHICLE.**

Prisoner  
Detention  
Agreement

K. **APPROVAL OF 2007 ADDENDUM TO PRISONER DETENTION AGREEMENT WITH CITY OF LYNNWOOD.**

Interlocal  
Agreement for  
Purchase of  
Backhoe

L. **AUTHORIZATION FOR MAYOR TO SIGN AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF BOTHELL AND THE CITY OF EDMONDS, IN CONJUNCTION WITH N.C. MACHINERY FOR THE PURCHASE OF ONE (1) NEW BACKHOE IN THE AMOUNT OF \$98,272.63, INCLUDING TAX.**

Res# 1141 –  
Public Health  
Financing

M. **RESOLUTION NO. 1141 – SUPPORTING THE FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS OF THE JOINT SELECT COMMITTEE ON PUBLIC HEALTH FINANCING.**

Ord# 3628  
BD Zone in  
Other Code  
Provisions

O. **ORDINANCE NO. 3628 – AMENDING THE EDMONDS COMMUNITY DEVELOPMENT CODE SECTIONS 17.50.040(B); 17.50.070(B); 17.75.010; 17.75.020; 20.50.040(B); 20.50.050(C); 20.50.060(C); 20.60.005; 20.60.025; 20.60.030; 20.60.035; 20.60.045 (B); AND 20.60.080 IN ORDER TO PROVIDE FOR THE CREATION OF THE BD ZONE IN OTHER PROVISIONS OF THE CODE NOW REFERENCING THE BC OR CENTRAL BUSINESS ZONE.**

Hearing  
Examiner  
Agreement

**ITEM I: PROFESSIONAL SERVICES AGREEMENT FOR LAND USE HEARING EXAMINER SERVICES**

Councilmember Orvis reported he participated in the interview of three sets of candidates and recommended Toweill Rice Taylor to provide Hearing Examiner services. He explained this was a group of three individuals who alternated providing Hearing Examiner services which would ensure one of them was always available. He recalled during their interview they emphasized the importance of citing the record to justify how an application met the code and cited their decisions in other municipalities in their application materials. He was also impressed with their knowledge of variances and the legal issues surrounding variances. They also emphasized their desire to listen to people at hearings.

Councilmember Marin advised he also participated in the interview process and was impressed with this group of attorneys' expertise and their focus on providing Hearing Examiner services.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF ITEM I. MOTION CARRIED UNANIMOUSLY. The item approved is as follows:**

**I. PROFESSIONAL SERVICES AGREEMENT FOR LAND USE HEARING EXAMINER SERVICES.**

Legal Services Agreement

**ITEM J: AGREEMENT FOR LEGAL SERVICES BETWEEN CITY OF EDMONDS AND OGDEN MURPHY WALLACE, P.L.L.C.**

Councilmember Moore referred to Mayor Haakenson’s email regarding the January legal bill, and asked whether the Council wanted to discuss Ogden Murphy Wallace’s bills. She acknowledged Council President Olson and Mayor Haakenson planned to discuss finances at the retreat and it may be appropriate to discuss legal expenses at that time.

**COUNCILMEMBER MOORE MOVED, SECONDED BY COUNCILMEMBER MARIN, FOR APPROVAL OF ITEM J. MOTION CARRIED UNANIMOUSLY. The item approved is as follows:**

**J: AGREEMENT FOR LEGAL SERVICES BETWEEN CITY OF EDMONDS AND OGDEN MURPHY WALLACE, P.L.L.C.**

New Zones for Edmonds Way Corridor

**ITEM N: PROPOSED ORDINANCE CREATING TWO NEW ZONES FOR THE EDMONDS WAY CORRIDOR.**

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER MOORE, FOR APPROVAL OF ITEM N.**

City Attorney Scott Snyder referred to the suggestions he made which were also provided to the applicant. The applicant did not respond, therefore, he assumed his suggestions were acceptable. He inquired whether the Council had any feedback regarding the frontage requirement which states the ground floor must be devoted to retail if it was 150 feet but if longer than 150 feet, 60% must be devoted to retail. He pointed out a frontage of 151 feet would require only approximately 90 feet of retail.

Planning Manager Rob Chave suggested if the Council wanted to consider that requirement further, the Planning Board revisit that particular provision but it did not require a change to the ordinance tonight.

**UPON ROLL CALL, MOTION CARRIED (4-3), COUNCIL PRESIDENT OLSON AND COUNCILMEMBERS WAMBOLT, MOORE AND MARIN IN FAVOR; AND COUNCILMEMBERS DAWSON, PLUNKETT AND ORVIS OPPOSED. The item approved is as follows:**

Ord# 3627  
New Zones for Edmonds Way Corridor

**ORDINANCE NO. 3627 – AMENDING CHAPTER 16.30 RM-MULTIPLE RESIDENTIAL AND CHAPTER 16.50 BC-COMMUNITY BUSINESS IN ORDER TO INCORPORATE CERTAIN CHANGES REGARDING ZONING REQUIREMENTS ALONG EDMONDS WAY.**

Safe Food Handling Award (Arby’s)

**3. RECOGNITION OF "EXCELLENCE AWARD" FOR SAFE FOOD HANDLING RECEIVED BY ARBY'S RESTAURANT.**

Councilmember Marin, Snohomish County Health Board Member, advised that Arby’s Restaurant on Hwy. 99 received an Excellence Award from the Snohomish County Health Board for safe food handling. He explained his wife and he often visit this restaurant and were impressed with their practices that include the use of mystery shoppers to ensure the use of best practices.

Councilmember Moore commented this was not meant to imply that the other food establishments in Edmonds were not up to the same standards. Councilmember Marin acknowledged it was very difficult to select the best of the best because there were so many restaurants utilizing best practices.

Title 7 Utility Billing Update

**4. MUNICIPAL CODE TITLE 7 UTILITY BILLING UPDATE.**

Administrative Services Director Dan Clements explained the proposed ordinance was primarily housekeeping changes; two business practice changes included, 1) suspension of bills for homes that were vacant for 60 days, and 2) applicability of delinquent charges.

With regard to suspension of bills for vacant homes, Mr. Clements explained the current code did not allow for suspension of utility bills, yet the practice had been to stop billing for a home that was vacant for more than 60 days. Staff found the City was not following the code; abiding by the code would impact approximately 50 of the City's 11,000 customers via a base charge of \$90 for each two month period. If the resident opted to have their water turned off and on, there would be a \$20 fee. With regard to delinquency charges, staff found delinquency fees were not charged on one of the six water meter routes and customers on one route were billed monthly rather than bimonthly. Staff found there would be efficiencies incorporating the one monthly billed route into the five remaining routes and recommends instituting the same delinquency policy for all customers. He advised implementation would take a number of months as it would be necessary to move customers to the other five billing routes.

Councilmember Orvis commented the logic for charging a home that was vacant was because most of the charge was for the infrastructure, the pipes. Mr. Clements agreed, noting there would be no charge for consumption if the house was vacant.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER MOORE, FOR APPROVAL OF ORDINANCE NO. 3629. MOTION CARRIED UNANIMOUSLY. The ordinance approved reads as follows:**

Ord# 3629  
Title 7 Utility  
Billing Update

**ORDINANCE NO. 3629 - AMENDING THE PROVISIONS OF CHAPTER 7.10 ECC ON WATER SERVICE, ECC 7.30.070 ON WATER, SEWER AND STORMWATER RATE REDUCTIONS FOR LOW INCOME CITIZENS, ECC 7.40.040 ON MONTHLY FIRE SERVICE CHARGES, REPEALING ECC 3.50.030 ON DELINQUENCY CHARGE, ADOPTING ECC 7.10.025 ON DELINQUENCY CHARGE, PROVIDING FOR SEVERABILITY, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.**

Public Hearing  
ECC 5.05.050 -  
Prohibiting  
Animals from  
Running at  
Large

5. **PUBLIC HEARING ON PROPOSED ORDINANCE AMENDING THE PROVISIONS OF EDMONDS CITY CODE SECTION 5.05.050 PROHIBITING ANIMALS FROM RUNNING AT LARGE, REQUIRING HUMANE TREATMENT AND NOTIFICATION OF DETAINED ANIMALS.**

Police Chief David Stern explained this was a continuation of the discussion regarding the proposed ordinance. He referred to the clarifications provided by City Attorney Scott Snyder in the ordinance which he noted better represented staff's intent.

Mr. Snyder advised staff attempted to follow-up on all the citizen comments and questions. He explained this was an example of legislative balancing between a problem and how to correct the problem.

Councilmember Orvis asked whether there was anything in the code that prevented a person from detaining a stray with the intent of providing it a home. Mr. Snyder responded both the City ordinance and State statute prohibit abuse of animals. As animals are a form of personal property, it could be theft to detain an animal with a tag or chip. He concluded as long as it was done with reasonable care and force, it would not be illegal.

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

**Ray Martin, Edmonds**, relayed when he picked up his cat Turbo who had been trapped, he appeared to have been beaten, was terrified, hungry and filthy, had cuts on his face and body and had his identification removed. He disagreed with the assertion that his cat had been trapped in a humane manner and objected to the proposed ordinance that would allow humane trapping of animals. He commented on the trapping of his cat by a neighbor, orchestrated by animal control. He provided a statement from the animal control officers regarding red marks that were not bleeding on his cat's face, compared with a statement from the veterinarian that the cat was very dirty and had areas of bruising and hair loss below

each eye. He provided a statement from the animal control officer stating the City did not use that type of trap and stating the injuries on the cat's face were consistent with injuries on animals captured in humane traps caused by attempts to escape from the trap. He provided a Wikipedia definition of cage traps and a picture of his injured cat. He recommended the Council not approve the proposed ordinance, concluding the live trapping of animals with malicious intent was intolerable and recommending any necessary trapping be done by a qualified professional.

**Robert McCallum, Edmonds**, commented animal control had been very fair with everyone involved in this incident. He advised the animal control officer left the cat's tags at the shelter and returned them the next day. He voiced his support for the ordinance, advising it was fair for everyone and provided protection for the animal by requiring it be treated in a lawful and humane way if captured or detained. He pointed out the dangers of cats running at large from vehicles, wildlife, dogs, etc. He suggested cat owners keep their pets inside or install an invisible fence. He described birds that visit their yard. He advised since the cat was trapped in September, there had not been any further sightings of the cat or interaction/argument between the neighbors. He urged the Council to adopt the ordinance in an effort to respect each other's property and to keep unwanted pets off others' property.

**Marge Martin, Edmonds**, commented this had been the worst experience she had in the 37 years living in Edmonds. As an animal lover, she could not imagine trapping a pet. She disagreed this was a neighborhood dispute, pointing out the person who trapped their cat had been a friend and business associate for over 20 years. She was concerned the proposed ordinance would lead to vigilante tactics and prankster trappings. She pointed out the property owned by the person who trapped their cat abuts a large wooded area and there were still numerous cats frequenting that area. She advised their cat had been kept in for ten days prior to being trapped, and the cat raced out the door that day. When their cat was returned after being trapped he was bloody, cut to the bone and it was devastating to see your pet this way. She would not like to see anyone else experience this.

**Cheryl Lynn Ram, Edmonds**, relayed her experience with a neighbor who trapped squirrels, explaining she released an injured squirrel from the trap when they were out of town. She reported this to the City and was told this was not allowed. She also relayed to City staff that the squirrels were being drowned in the person's garage. She did not want cats treated the same way as the squirrels.

**Laura Martin, Edmonds**, explained under Washington State law a person was guilty of animal cruelty in the first degree when they intentionally inflicted pain or physical injury or killed an animal by causing undue suffering or inflicting unnecessary pain or death on the animal. She explained her cat was trapped and inflicted with unnecessary pain and injury and was denied medical attention until he was returned over 24 hours after being trapped. She relayed that Washington State law also required a person be authorized to trap animals. She questioned why the City would legalize trapping of cats when cats were non-threatening animals as compared to dogs. She questioned the purpose of trapping cats other than injuring the animal.

**Roger Hertrich, Edmonds**, preferred a leash law for cats as there was for dogs. He questioned whether a recent initiative that prohibited trapping of animals would apply to trapping of cats by a private party. He preferred any trapping be conducted by the animal control officer.

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

Councilmember Wambolt asked Mr. Snyder how many cat trapping incidents he had encountered in the 20 years he had been the City Attorney. Mr. Snyder answered this was the first.

Councilmember Orvis asked staff to comment on the State law that prohibited animal trapping. Mr. Snyder answered the distinction was traps that kill and traps that did not. Even with a humane trap, there were State and local prohibitions against animal cruelty and intent to deprive the owner. He emphasized there was nothing in the City's current ordinance that prohibited the humane use of traps and there was nothing in the proposed ordinance that authorized the use of traps. Staff's recommendation focuses on the humane treatment of animals after they were lawfully collected. He concluded it was staff's position this was not a problem that warranted the use of City resources.

Councilmember Plunkett thanked Mr. Martin for his passion and expressed empathy for Turbo. He described his successful and humane efforts to trap feral cats that were then taken to veterinarians and adopted. He advised the traps were provided by PAWS who encouraged the trapping of feral cats. He questioned whether this was a large enough problem that warranted the use of City resources. He expressed his thanks to Mr. Snyder for his research of this issue.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, FOR APPROVAL OF ORDINANCE NO. 3630.**

Councilmember Orvis commented although he did not like the idea of trapping pets, he acknowledged traps had other uses such as trapping strays. He noted some other cities' ordinances contained provisions that allowed citizens to trap a stray in order to adopt it. He reiterated that under the City's current ordinance, trapping was legal with no rules regarding the treatment of the animals. The proposed ordinance did not authorize trapping but imposed regulations with regard to the treatment of the animal. With regard to the suggestion that citizens not be allowed to trap animals, he noted a citizen with a trap on their property was better prepared to monitor a trap than the animal control officer who had other constraints on their time.

Councilmember Marin supported the ordinance due to the additional language that protected the animal and the animal's owner that did not exist in the current ordinance. He recalled the original proposal was a person was allowed 24 hours to deliver the animal to the City's custody; the Public Safety Committee reduced the time to 12 hours which would increase the likelihood of humane treatment of the animal.

Councilmember Wambolt spoke against the ordinance, recalling when living in Woodway many cats traversed through their property, an experience he missed living downtown. He commented this issue had been blown out of proportion and could be addressed via adding one sentence to the ordinance to protect the animal by requiring the trapping be done by animal control. He concluded trapping cats caused more damage to the animal than the animal could do to the property, thus the ordinance placed more emphasis on protecting property than the animal.

Councilmember Dawson did not support the ordinance although she appreciated staff and Councilmembers' efforts to develop a reasonable compromise. She was troubled that the ordinance would allow residents to trap someone else's pet that entered their property. She found the proposed ordinance did authorize trapping because it specifically allowed trapping. She concurred it was not safe for cats to be outdoor animals due to potential injury from wildlife but any harm that could be caused by a cat could also be caused by wildlife. She advised in Washington cats and dogs were considered personal property although some people feel their pets were family members and she did not support allowing the trapping of a family member. She agreed if a person's animal trespassed on someone's property, the animal's owner was liable for damages. With regard to the question about what purpose the ordinance served, she was concerned with the potential for mischief via the proposed ordinance. She questioned specifically excluding cats from the prohibition of roaming animals which would allow cats to roam at large and yet authorize people to trap them when they came onto their property.

Councilmember Moore agreed with Councilmember Dawson, commenting she was opposed to trapping any animal and more importantly someone's pet. She requested the Council be provided a photograph of a humane trap. She did not support the ordinance.

Council President Olson pointed out the current ordinance allowed trapping. Mr. Snyder agreed it was within an individual's civil and legal rights if it was done using reasonable force and means and it was not currently illegal in the city. Council President Olson pointed out an ordinance containing regulations requiring humane treatment was preferable to the current ordinance. She supported the ordinance, noting if residents were going to trap animals, it was preferable to have requirements on the length of time they could be detained and requiring humane treatment of the animal.

Councilmember Plunkett commented the Council could make it illegal for an individual to trap an animal. Mr. Snyder agreed. Councilmember Plunkett relayed that the question was then whether it was a burden for animal control to do the trapping.

Council President Olson commented if trapping were illegal, it would be difficult to trap feral cats and have them spayed/neutered. She did not support making trapping illegal.

Councilmember Dawson suggested prohibiting the intentional trapping of a companion animal which would allow trapping of strays and feral cats.

Councilmember Wambolt recalled the recent initiative that outlawed trapping of moles; he found it odd that a person could not trap a nuisance mole but could trap a cat. Mr. Snyder commented the difference was the lethal nature of the traps versus a humane trap.

**UPON ROLL CALL, MOTION FAILED (3-4), COUNCIL PRESIDENT OLSON AND COUNCILMEMBERS MARIN AND ORVIS IN FAVOR; AND COUNCILMEMBERS WAMBOLT, MOORE, DAWSON AND PLUNKETT OPPOSED.**

Councilmember Plunkett suggested the Public Safety Committee discuss distinguishing between a domestic and feral cat.

Mayor Haakenson asked what happened if no action was taken. Mr. Snyder answered with no change to the ordinance, the protections in the proposed ordinance would not be adopted. He observed four Councilmembers appeared to be interested in limiting the trapping of animals and suggested the Council provide direction to staff and not direct them to study it further.

**COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER MOORE, TO DIRECT STAFF TO COME BACK WITH AN ORDINANCE THAT SPECIFICALLY PRECLUDES THE TRAPPING OF PET/COMPANION ANIMALS AND REQUIRES IF AN ANIMAL IS TRAPPED, THE PROTECTIONS IN THE PROPOSED ORDINANCE BE INCLUDED THEREIN.**

Councilmembers Moore and Dawson requested staff also provide information regarding humane traps.

Councilmember Wambolt did not support the motion, preferring that the current ordinance be revised to require animal control do any trapping.

Councilmember Plunkett suggested adding that any trapping involve an animal control officer. Councilmember Dawson commented there may be circumstances where residents would not involve

animal control such as trapping feral cats. She questioned under what circumstances animal control would be involved. Councilmember Plunkett suggested via a complaint.

Councilmember Orvis expressed support for the motion to ensure there were regulations requiring the humane treatment of a trapped animal.

Councilmember Dawson commented if/when animal control would be authorized to set a trap on private property was a separate issue.

**COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO AMEND THE MOTION TO INCLUDE DIRECTION TO THE CITY ATTORNEY TO DEVELOP LANGUAGE CLARIFYING THAT ANIMAL CONTROL COULD, UNDER CERTAIN CIRCUMSTANCES TO BE DETERMINED, BE CALLED OUT TO EFFECTUATE TRAPPING OF A CAT. MOTION CARRIED UNANIMOUSLY.**

**MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.**

Mayor Haakenson suggested any further revisions be discussed by the full Council and not by Council Committee.

## **6. AUDIENCE COMMENTS**

Renovation of  
Old Milltown

**Ray Martin, Edmonds**, read a letter to the editor he submitted to the *Everett Herald* that had not been published regarding the decision on the renovation of Old Milltown. He cited the fine job the Council was doing individually and collectively, citing individual Councilmember accomplishments. He opined the Council made a correct decision with regard to Old Milltown and doubted the developer, Mr. Gregg, would win his appeal in Superior Court. With regard to the previous item, he suggested a resident who felt a cat was a nuisance in their yard, first talk to the owner and if they did not respond appropriately, have the animal control officer contact the owner to discuss options.

Old Woodway  
Elementary  
School Site

**Colin Southcote-Want, Edmonds**, referred to his January 18 request for public records for documents pertaining to the termination of the Sherwood Park Interlocal Agreement, the agreement that guaranteed access to the Old Woodway Elementary School playfields through June 2009. As nothing could be found in the City's records regarding termination, the City Clerk's office contacted Snohomish County who provided a copy of the document terminating the agreement. He noted Mayor Haakenson and the Edmonds School District Superintendent signed the agreement on November 16, 2006 and Snohomish County signed the agreement on December 18, 2006. He posed the following questions: Did the Mayor have the power to sign an agreement giving up access, did it amount to a free gift of public funds to a private developer, did the Council vote to give the Mayor authority to sign the termination agreement, as this was a de facto abandonment of a park was it considered by the Planning Board or a public hearing held and a vote taken, and did the Edmonds School District Superintendent have the authority to sign the agreement after the Edmonds School District sold the property. He cited the value of 2½ years of access to 5½ acres of land. He requested a response to these questions.

**Strom Peterson, Edmonds**, resident and local business owner, explained it was the people of Edmonds who made every day an Edmonds kind of day. He commented the City Council had a responsibility to these citizens, to protect the City's resources and uphold the laws, a pledge many feel the Council had not upheld and he planned to become involved. Mayor Haakenson interrupted, advising speakers were not allowed to campaign from the podium. Mr. Peterson advised there may be interesting information in the upcoming editions of the local newspaper. He thanked the Council, Mayor and staff for their work and looked forward to working with them in the future. Mayor Haakenson referred to the statement on the back of the agenda regarding audience participation that states in accordance with RCW 42.17.130, the



opportunity for public comment shall not include comments that promote or oppose candidates for public office.

Ordinances re:  
Animals  
Neighborhood  
Park  
Term Limits for  
Mayor

**Al Rutledge, Edmonds**, recalled similar discussions regarding animals in the 1990s and commented that he believes the ordinances dealing with animals need to be revised. He commented on the neighborhood park issue and stated he is involved and is keeping an eye on how this issue is going. Next, he discussed the issue of term limits related to the Mayor's position. He is not aware of action taken regarding term limits and requested information in writing.

ADB Meeting  
Regarding Old  
Milltown

**Roger Hertrich, Edmonds**, commented as a former Councilmember, he learned those who worked for the City protected the City; the Planning Board and ADB were in a similar situation. He commented it was unfortunate that the City was being sued because of a decision made by the City Council and ADB on Mr. Gregg's first proposal to the ADB for Old Milltown. He suggested the Council review the minutes of the last ADB meeting where Mr. Gregg made a second proposal regarding Old Milltown. He commended the ADB on their review of Mr. Gregg's second proposal and their consideration of public comment, pointing out this was not done with the first proposal. He noted at the first meeting the Board did not adequately consider how the proposal met the design guidelines or consider public comment. He expressed concern with ADB Chair Utt's conduct at the meeting where Mr. Gregg made his first proposal as well as the meeting where he made his second proposal. He requested the Council review the minutes and consider dismissing Mr. Utt with cause.

Proposed  
Ordinance re:  
Animals  
Roaming at  
Large

**Robert McCallum, Edmonds**, provided photographs of two traps used by most humane societies and animal control agencies. He referred to the ordinance that stated although not prohibited from roaming at large and not thereby granted any special rights or privileges, cats permitted to roam by their owners were liable for trespassing even if no damage is caused. He recalled making four attempts over the course of a year to approach the neighbors who owned the cat and finding they were unwilling to reach a compromise. He explained they used a humane trap and there was never any intent to hurt the cat.

## 7. REPORT ON CITY COUNCIL COMMITTEE MEETINGS

Community/  
Development  
Services  
Committee

### Community/Development Services Committee

Councilmember Marin reported staff presented the 2007-2013 Capital Improvement Program. Following discussion, the Committee endorsed the proposed CIP for a presentation at a public hearing before the full Council. Staff then provided a LIDAR map of the earth subsidence landslide hazard area of North Edmonds which was also forwarded for a public hearing before the full Council. Next, the Committee discussed Shell Valley emergency access. It was recommended this project be included in the 2007-2013 CIP and the 2007-2008 capital budget with design in 2007 using the \$50,000 budgeted for right-of-way stabilization, construction in 2009, and with an option to construct in 2008 if funding could be appropriated. The final item the Committee discussed was the Historic Preservation Commission's recommendation on design guidelines for downtown; no action was taken and a presentation will be made to the Council next week.

Finance  
Committee

### Finance Committee

Councilmember Wambolt reported staff reviewed the fourth quarter budget report, advising increased revenue and decreased expenditures increased the ending balance by \$720,000. Sales tax revenue exceeded projections by \$320,000; the three main contributors to sales tax revenue are motor vehicle sales (30%), construction/building (10%) and food/beverage sales (10%). He advised although 2006 ended strong, the City still needed to identify other sources of revenue. He reported at a recent meeting in Olympia the Speaker of the House assured streamlined sales tax would be approved by the legislature this year. The Committee then discussed the 2007 bond sale; a rating conference call was held on February

17 and the bond sale will be held on February 27. The final item discussed was potentially making EMS a standalone cost center rather than including it in the Fire Department budget.

Public Safety  
Committee

#### Public Safety Committee

Councilmember Dawson reported the Committee discussed graffiti in the City and the possibility of an anti-graffiti ordinance. She advised graffiti was currently prosecuted under the malicious mischief provisions of the code. The committee discussed potentially criminalizing possession of graffiti implements and formalizing the abatement procedures in the code. She will provide a model ordinance to the committee next month and then the matter will be forwarded to the full Council for discussion of a range of options. She invited the business community to provide input regarding criminalizing possession of graffiti implements. The Committee also reviewed the 2007 addendum to the Prisoner Detention Agreement with the City of Lynnwood which was approved on tonight Consent Agenda.

### **8. MAYOR'S COMMENTS**

Mayor's  
Neighborhood  
Meeting

Mayor Haakenson invited the public to the neighborhood meeting at Seaview Elementary on February 22 at 7:00 p.m.

### **9. COUNCIL COMMENTS**

AWC  
Conference

Council President Olson reported on the Association of Washington Cities conference and the Snohomish Cities and Towns legislative dinner where several legislators described bills they were sponsoring.

Building  
Heights

In response to an email from Dave Page asking Councilmembers to clarify their position on building heights, Councilmember Wambolt advised when he ran for election he opposed tall buildings in the downtown area, specifically the area now identified as the BD1 zone – 5<sup>th</sup> from Main to Maple and Main between 3<sup>rd</sup> and 6<sup>th</sup>. He supported taller buildings in other areas to meet the City's growth targets and for economic reasons which was why he voted for taller buildings in Firdale Village, Five Corners, Hwy. 99 and the Edmonds Way Corridor.

Building  
Heights

Councilmember Moore advised she supported the Planning Board's first proposal regarding building heights. Now that the building heights issue had been decided, it was appropriate to move forward with consideration of other neighborhood centers to give the residents what they needed and deserved for neighborhood village development.

Old Woodway  
Elementary  
School Site

Councilmember Moore reiterated her disagreement with the Council's decision not to preserve the 11 acres in south Edmonds known as the old Woodway Elementary School site. She forwarded the questions posed by Mr. Southcote-Want to Mayor Haakenson and requested he direct staff to answer the questions. Mayor Haakenson advised he would.

Legal Fees

With regard to legal fees, Councilmember Moore explained Mr. Snyder was not opposed to the Council discussing legal fees. She felt it was her responsibility as a Councilmember to ask questions; if the City's legal fees were increasing, consideration may need to be given to whether it would be appropriate to have a staff attorney. She concluded while consideration was given to developing neighborhood centers and developing new revenue sources, it was also appropriate to look at how funds were spent.

For Councilmember Moore, Mr. Snyder explained the Ogden Murphy Wallace bills was broken out into specific litigation, Mayor/Council authorized projects, and by department. He advised there were detailed billings submitted that were available for the Council's review. Councilmember Moore pointed out it was important for the Council and citizens to know the cost of actions taken by the Council as well as by citizens. She noted some citizens cost the City a great deal in legal fees.

Councilmember Moore thanked Council President Olson for ending the Council meetings much earlier in 2007, acknowledging it may be the subject matters that facilitate shorter meetings.

Workforce  
Development

Councilmember Dawson reported on this morning's State of the County address by Executive Reardon and invited the public to access the address on the County's website. One of the issues Executive Reardon talked about was workforce development, an issue she is involved with at Snohomish County including working with the Workforce Development Council. Two members of the Workforce Development Council and she will be in Washington, DC Friday through Wednesday working on workforce development. She regretted missing the February 27 joint meeting with the Historic Preservation Commission.

**10. ADJOURN**

With no further business, the Council meeting was adjourned at 8:40 p.m.