

EDMONDS CITY COUNCIL APPROVED MINUTES

April 3, 2007

Following a Special Meeting at 6:15 p.m. for an Executive Session regarding legal matters, 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
Peggy Pritchard Olson, Council President
Michael Plunkett, Councilmember
Richard Marin, Councilmember
Deanna Dawson, Councilmember
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

ELECTED OFFICIALS ABSENT

Mauri Moore, Councilmember

ALSO PRESENT

Shaun Callahan, Student Representative

STAFF PRESENT

Gerry Gannon, Assistant Police Chief
Duane Bowman, Development Services Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Dave Gebert, City Engineer
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

Mayor Haakenson added introduction of the Student Representative as Agenda Item 3A and renumbered Item 3 as Item 3B.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

A. ROLL CALL

B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF MARCH 27, 2007.

C. APPROVAL OF CLAIM CHECKS #95184 THROUGH #95342 FOR MARCH 29, 2007 IN THE AMOUNT OF \$202,530.81.

D. REPORT ON FINAL CONSTRUCTION COSTS FOR THE 92ND AVENUE WEST/234TH STREET SW INTERSECTION SAFETY IMPROVEMENTS PROJECT AND COUNCIL ACCEPTANCE OF PROJECT.

Change to
Agenda

Approve 3/27/07
Minutes

Approve Claim
Checks

92nd Ave. W /
234th St. SW
Intersection

So. County Senior Center Roof Project

E. REPORT ON FINAL CONSTRUCTION COSTS FOR THE SOUTH COUNTY SENIOR CENTER ROOF REPLACEMENT PROJECT AND COUNCIL ACCEPTANCE OF PROJECT.

So. County Senior Center Fire Alarm

F. REPORT ON FINAL CONSTRUCTION COSTS FOR THE SOUTH COUNTY SENIOR CENTER FIRE ALARM RENOVATION PROJECT AND COUNCIL ACCEPTANCE OF PROJECT.

Contract for the Edmonds Market

G. AUTHORIZATION FOR MAYOR TO SIGN CONTRACT WITH EDMONDS-SOUTH SNOHOMISH COUNTY HISTORICAL SOCIETY FOR THE EDMONDS MARKET.

Surplus Equipment

H. AUTHORIZATION TO CONTRACT WITH JAMES MURPHY AUCTIONEERS TO SELL SURPLUS EQUIPMENT.

Interlocal Agreement / Reciprocal Serv.

I. APPROVAL OF GENERIC INTERLOCAL AGREEMENT REGARDING RECIPROCAL SERVICES FOR CODE-ENFORCEMENT OFFICERS AND BUILDING OFFICIALS.

Days of Remembrance Proclamation

J. PROCLAMATION IN HONOR OF DAYS OF REMEMBRANCE, APRIL 15 - 22, 2007.

Ord# 3635 – CG and CG-2 Zone

K. ORDINANCE NO. 3635 REGARDING STREET SETBACKS AND LANDSCAPE STANDARDS IN THE CG AND CG-2 ZONE: AMENDING THE PROVISIONS OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO REPEAL CHAPTER 16.60 RELATING TO GENERAL COMMERCIAL ZONES.

New Student Representative

3A. INTRODUCTION OF STUDENT REPRESENTATIVE

Council President Olson introduced Shaun Callahan, a student at Edmonds-Woodway High School, and described his interests and activities.

Student Representative Callahan thanked mentors who have assisted him including his grandfather George Walsh, and coaches Pat White and John Gradwohl.

National Telecommunicator's Week

3B. PROCLAMATION IN HONOR OF NATIONAL TELECOMMUNICATOR'S WEEK, APRIL 8 - 14, 2007.

Councilmember Dawson, SnoCom Chair, read a proclamation declaring April 8 – 14, 2007 as Telecommunicator's Week in Edmonds and urging citizens to show their appreciation to public safety communications and support staff. She presented the proclamation to SnoCom Director Steve Perry and SnoCom Dispatcher Association President John Chandler.

Mr. Perry thanked the Council for the proclamation on behalf of SnoCom and its staff. In response to a frequently asked question why SnoCom is so successful, he explained it was due to the excellent, high quality staff and their partnership with user agencies such as Edmonds. He noted the relationship between SnoCom and the Edmonds Police and Fire Departments was an excellent example. Councilmember Dawson added SnoCom's success was also due to the excellent leadership Mr. Perry provided.

Public Health Week

4. PROCLAMATION IN HONOR OF PUBLIC HEALTH WEEK, APRIL 2 - 8, 2007

Councilmember Marin read a proclamation declaring April 2 – 8, 2007 National Public Health Week, in recognition of the Public Health Department's efforts to protect the well-being of Edmonds citizens. He presented the proclamation to Dr. Gary Goldbaum, Snohomish County Health Officer.

Dr. Goldbaum commented the Public Health Department was able to do such good work due to the excellent people working in the background. He remarked Public Health was often forgotten because when things went well, nothing happened. He commented on Public Health's role in unleaded gasoline, reduction in TB cases, clean water, and keeping food sources safe. He commented when the public did hear of something going wrong, Public Health was monitoring the situation on the public's behalf to ensure any problems were quickly addressed.

Res# 1143 –
Integrated Roads
& Transit Plan

5. **PROPOSED RESOLUTION RELATING TO THE SUPPORT AND ADOPTION OF THE INTEGRATED ROADS & TRANSIT PLAN DEVELOPED BY THE REGIONAL TRANSPORTATION INVESTMENT DISTRICT AND SOUND TRANSIT.**

Councilmember Marin recommended approval of the resolution, explaining Sound Transit had been through a long process of making decisions regarding projects to submit to the public for a vote in November. Sound Transit was currently in a public comment period about the elements to be included in the package. Both ST2 and RTID contain elements that would be beneficial to Edmonds particularly related to Edmonds Crossing.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCIL PRESIDENT OLSON, FOR APPROVAL OF RESOLUTION NO. 1143 RELATING TO THE SUPPORT AND ADOPTION OF THE INTEGRATED ROADS & TRANSIT PLAN DEVELOPED BY THE REGIONAL TRANSPORTATION INVESTMENT DISTRICT AND SOUND TRANSIT. MOTION CARRIED UNANIMOUSLY.

Abatement and
Demolition of
Old Woodway
Elementary

6. **AUTHORIZATION TO CALL FOR BIDS FOR THE ABATEMENT AND DEMOLITION OF THE OLD WOODWAY ELEMENTARY SCHOOL LOCATED AT 23700 104TH AVENUE WEST.**

City Attorney Scott Snyder referred to the report provided at the Council's request in response to questions raised by citizens whether the City had the cart before the horse with regard to demolishing the school buildings on the old Woodway Elementary School site. He provided the Council copies of the Purchase and Sale Agreement, available to the public via the City Clerk, which was executed in May 2006 that provided the City a \$1 million price break on the property in consideration of the City's promise to remove all improvements from all portions of the property by June 30, 2007. He advised the \$1 million price break was consistent with the appraisal which the City and the Edmonds School District performed.

He explained authorization of a contract was necessary to fulfill the City's obligation to remove the buildings and abate the asbestos on the site. He advised there was a \$500,000 IAC grant currently in the State budget; that grant application was based on the purchase of raw land (land after the removal of structures) for a low impact neighborhood park. This authorization was a necessary step to meet the City's obligation in the Purchase and Sale Agreement.

COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO AUTHORIZE STAFF TO CALL FOR BIDS FOR THE ABATEMENT AND DEMOLITION OF THE OLD WOODWAY ELEMENTARY SCHOOL LOCATED AT 23700 104TH AVENUE WEST. MOTION CARRIED UNANIMOUSLY.

Design
Guidelines

7. **SECOND PUBLIC HEARING ON THE PLANNING BOARD RECOMMENDATION TO UPDATE THE EDMONDS COMMUNITY DEVELOPMENT CODE WITH NEW DESIGN GUIDELINES AND A NEW "UP-FRONT" DESIGN REVIEW PROCESS APPLICABLE TO SPECIFIC DISTRICTS (INITIALLY LIMITED TO DOWNTOWN AND HIGHWAY 99).**

Planning Manager Rob Chave recalled the Council held the first public hearing on the new design guidelines and proposed new process on March 6, 2007. He briefly reviewed the history of this issue, highlighting the Planning Board recommendation.

Mr. Chave displayed a flowchart and described the old process in which design review occurred near the end of the developer's process when typically a great deal of preliminary work and detail had been completed. He noted there was currently an optional design review process in the existing process although the process does not specify when it occurred. Under the current process, typically all the design work was done when the applicant submitted an application and proceeded through the design review process, resulting in a limited ability for the Architectural Design Board (ADB) to make changes. Applicants who were familiar with the City's codes knew what was expected; however, new applicants have a very little idea of what was expected particularly applicants for small projects.

Under the proposed new process, Mr. Chave explained the design review process occurred almost entirely at the front of the process. The proposed process is a two-phase public hearing, the first phase would include discussion by the ADB regarding what criteria would apply and what elements were important to consider. Following the first phase, the applicant would further their design to address those issues. He noted the amount of time that would transpire between the first and second phases was dependent on how quickly the applicant responded. He explained the intent of having design review early in the process was to involve the applicant before they had settled on a design.

Mr. Chase acknowledged the design presented at phase two of the public hearing would still be more general than the application for a building permit but would include elevations, a more detailed site plan, etc. He noted there would generally be enough information to see what the building would look like and how it related with its surroundings. He summarized design review at the beginning of the process would be more general, conceptual than has historically been provided for design review. The benefit would be the larger issues that affect the site would be addressed early in the process. He noted any appeals would occur after phase two of the public hearing followed by preparation of detailed design leading to a building permit application. In reviewing the building permit application, staff would ensure the conditions identified by the ADB for the project were applied. If they were not, the project could potentially be referred back to the ADB.

Mr. Chave noted one of the changes in City Attorney Scott Snyder's memo was additional opportunity for public notice at the building permit stage on an as-requested basis. All parties would be informed during the earlier design review phase to indicate whether they wanted to be notified when an application for a building permit came in or the City signed off on the final review. He remarked this was currently done but would be more formalized via inclusion in the process.

He explained the current 120 day review via Regulatory Reform did not start until an applicant applied for design review; any pre-application meetings did not count toward the 120 days. Under the proposed new process, the 120 day time period would begin when an applicant submitted for the phase one public hearing. He summarized even though the design review would occur earlier in the process, from the City's standpoint there would be less time to review some aspects of the project than under the current process. Therefore staff would need to be very efficient to ensure all the hearings and review fit within the 120 day period. In response to concerns expressed by citizens that the proposed process would lengthen the process, in his view it would not lengthen because the preliminary design done by applicants would be included in the process. He anticipated if an applicant needed additional time prior to the building permit stage, they could request an extension of the 120 day time period. He summarized only the City's time counted toward the 120 days, not the applicant's time.

Mr. Chave summarized the Planning Board's recommendation retained the existing design process for most areas of the City but had a new design process that would be applied area-by-area as design guidelines/design standards were developed. The first two areas where the new process would apply were

the CG zones on Hwy. 99 and the BD zones downtown. The design review guidelines also formalized the landscape requirements. He provided a comparison of the current and proposed processes:

Current process	New Process
General design review (Section 20.11)	District Based (Section. 20.12)
ADB and public input at the end of the process	ADB and public input at the beginning of the process
Guidance from criteria in 20.11.030, Zoning bulk standards and Comprehensive Plan design objectives	Guidance from the ADB design guidelines and the checklist, Zoning bulk standards and applicable adopted district-based design standards and applicable Comprehensive Plan design objectives

Mr. Chave referred to Mr. Snyder’s March 29, 2007 memo that described the limited changes made based on Council and public comments. He identified an additional revision to page 48 of the packet, the ADB Design Guidelines, regarding screening of dumpsters and utilities, so that the first sentence reads, “Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street where possible *while maintaining their accessibility to the utilities.*”

Councilmember Plunkett commented prior to the 120 day period, staff saw the application at the counter and he assumed the staff person determined everything necessary was included. He asked whether once that occurred, would staff immediately schedule for ADB review. Mr. Chave answered typically not because staff would need to ensure not only whether the information was provided but whether additional information was necessary. He noted it was fairly common that additional site specific information was required after an applicant submitted an application before staff review could occur.

Councilmember Plunkett asked about staff making a judgment with regard to the design. Mr. Chave assured it was code-based. He noted staff typically did not make decisions regarding whether the building was ugly or needed to be designed differently, only code-related elements.

Responding to Councilmember Plunkett, Mr. Chave explained staff’s intent was to ensure when the ADB reviewed the design, the project on the surface appeared to meet the code. He noted in addition to landscaping, access was another issue that arose fairly frequently as well as access to utilities.

Councilmember Plunkett concluded staff was attempting to identify obvious issues that needed to be addressed. Once the application was in order, would staff schedule the first phase of the ADB hearing? Mr. Chave advised staff would schedule it for the first available meeting that met advertising requirements. Under the existing process staff would ensure the project met the code and if there was a problem, contact the applicant to provide them an opportunity for redesign before it was reviewed by the ADB. Under the new process, the information would be more conceptual, making it less likely that details would be identified. Councilmember Plunkett concluded it was more likely under the new process that a design would get to the ADB in a shorter amount of time.

Councilmember Plunkett asked whether the application could get to the ADB within 30 days in most cases. Mr. Chave agreed in most cases but he could not guarantee it. For the most part, he anticipated an application would be reviewed by the ADB within a month.

Councilmember Dawson inquired about the status of design guidelines for other neighborhoods. Assuming the proposed process was better than the current process, she noted it behooved the Council to move forward with design guidelines for the other areas of the City. Mr. Chave answered the next logical areas would be the neighborhood business centers as there had already been some Comprehensive Plan

changes for those areas as well as Westgate. He noted the problem now was staffing as well as time spent on the Shoreline update and the code rewrite. He hoped the Planning Board could focus on design guidelines for other areas once the Shoreline update was completed in the latter part of 2007. He invited the Council to assist in prioritizing neighborhood areas, recalling there were Comprehensive Plan amendments regarding Firdale and Five Corners and the Comprehensive Plan has always identified the unique aspects of Westgate. Councilmember Dawson commented Westgate was a likely candidate as it seemed ripe for redevelopment.

Councilmember Dawson asked whether the ADB would be involved in the process for neighborhood districts. Mr. Chave anticipated beginning by discussing overall parameters such as height, bulk, etc. with the Planning Board and then involving the ADB.

Councilmember Dawson recalled under the proposed process, the ADB would be involved with developing design guidelines for other areas. Mr. Chave anticipated the ADB would consider their design guidelines and for the particular district, determine whether there were aspects of the code that were not appropriate or other elements that needed to be added. That discussion would also include what items should be guidelines versus elements that were so important they needed to be in the code.

For Councilmember Dawson, Mr. Chave anticipated the design guidelines for other neighborhoods would be provided to the Council late this year or early next year depending on the Shoreline update and the code rewrite. Councilmember Dawson asked whether community meetings would be held in those districts. Mr. Chave agreed they would be.

Councilmember Orvis referred to the 120 day period, clarifying only staff's time counted toward the 120 days. Mr. Chave agreed, noting some applicants may be in a hurry and proceed rapidly through the process; others would take longer.

Councilmember Orvis observed both processes would be retained and the new process would apply only to Hwy. 99 and downtown. Mr. Chave agreed. Councilmember Orvis asked whether the Council could make a distinction between downtown zones such as BD1. Mr. Chave answered theoretically but it could potentially be very confusing. Councilmember Orvis observed there were currently design standards in place; if the proposed process were enacted, only the guidelines would be in place. Mr. Chave answered there were also the standards in the BD zone as well as the design objectives specific to downtown in the Comprehensive Plan and the landscaping standards. Mr. Chave commented if Councilmember Orvis' concern was the historic elements for BD1, the Council could make a policy decision to delay the upfront process for BD1. He noted that even though all the standards may not yet have been determined for the BD1, the proposed process was superior to the existing process.

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

Don Kreiman, Edmonds, expressed support for the proposed design guidelines. He pointed out baby boomers are living longer and Edmonds' demographics were changing. When the baby boomers begin retiring in 2011, many will want housing in areas where they can walk and use public transit. He agreed the City needed to begin developing design guidelines for other neighborhoods.

Rob Michel, Edmonds, recalled the Council requested staff provide examples and research other cities that used the upfront process which did not appear to have been done. He expressed concern with the amount of time to conduct two public hearings, noting the new process did not appear to meet Regulatory Reform which allowed only one public hearing. He provided an example of an application submitted on January 1, staff taking a month for review making it too late to schedule for the February ADB meeting requiring a delay until the March 1 ADB meeting. At the March 1 ADB meeting a list of criteria was

established which the applicant then responded to. The applicant submitted their response on April 1 and staff took 30 days to review, causing them to miss the May ADB meeting. He concluded staff would have used up the 120 days before the applicant learned whether their design was approved by the ADB.

Al Rutledge, Edmonds, commented on increased revenue from car dealerships on Hwy. 99. He recalled the Council passed design guidelines for Hwy. 99 that established 60-75 foot building heights which would bring in more businesses and more people.

Roger Hertrich, Edmonds, recalled his comments at the previous public hearing expressing concern that the proposed process would take much longer than the existing process. He pointed out if a project was under the threshold established by SEPA, design review was conducted by staff and the decision was not appealable, thereby removing the public from the process if a project was under the SEPA threshold. He recalled there had been a question regarding whether Old Milltown met the SEPA threshold but there were no drawings to confirm it. He objected to an applicant providing conceptual drawings via the proposed process. With regard to appeals, he questioned how the hearing on a SEPA appeal, rezone, and/or variance would be combined if there was only one public hearing. He concluded it appeared the process for the applicant as well as the public would be more complex. He recommended the Council delay a final decision on adopting the proposed process until all the public's questions were addressed.

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

In response to Mr. Michel's concern about the timeline, Mr. Chave explained the ADB typically met once a month now but reserved a second meeting each month. Because the timeline in the new process was shorter, the ADB planned to meet twice a month. He pointed out the basis for the process was the projects with the most impact were the ones that should be reviewed. The City's SEPA threshold was fairly low; many cities have raised their threshold but Edmonds had not. He cautioned against lowering the SEPA threshold so that more were under ADB. He noted that was the reason that as many design standards as possible should be included in the code so they could not be debated at the public hearing but an applicant would know what was expected.

In response to Mr. Michel's question regarding multiple hearings, City Attorney Scott Snyder advised there would be one public hearing before the ADB that was continued, a hearing in two parts with a decision after the second phase of the hearing. With regard to the comment that staff's decision was not appealable, he assumed it referred to the staff decision that was akin to a building permit, noting that was nearly identical to the current process where staff issued the building permit based on the ADB decision.

Mr. Snyder advised the draft ordinance referenced Regulatory Reform which provides for a consolidation process with the hearing held by the body with the highest authority.

Councilmember Plunkett assumed staff would monitor the new process, report back to the Council and recommend any changes. Mr. Chave agreed, advising the computerized permit tracking system could track dates and provide a report regarding the time it took from application submittal to the first phase, the time between the first phase and second phase, etc.

Councilmember Plunkett asked what would happen if he suggested an amendment that required once an application was complete, staff shall hold the ADB review within 30 days and staff could not hold the meeting for 35 days. Mr. Snyder commented staff could schedule the hearing within 30 days, but had no control over issues such as quorums. Councilmember Plunkett clarified his intent was to have the ADB review held within 30 days. Mr. Chave commented when an application was turned in would determine whether 30 days would be enough time. Mr. Snyder commented if worded correctly, it would be an administrative guideline where the remedy was not an invalidated decision but forcing the staff to

schedule the hearing. He was hesitant to put strictures on the ADB because they may want to continue the hearing to take more evidence, etc. He suggested giving the ADB the latitude to get their work done.

Councilmember Plunkett commented his intent was not to provide latitude but to require the ADB hearing be held within 30 days of a complete application. Mr. Chave preferred not to establish a mandatory number of days in the code but include in the adopting ordinance that it was Council's policy for staff to strive to schedule hearings within 30 days, making it an administrative guideline rather than something in the code. Mr. Snyder suggested the Council request by motion a staff report within six months regarding the time the process took and then the Council determine whether to impose a requirement. Mr. Snyder agreed to draft language for Council consideration.

For Councilmember Marin, Mr. Chave explained as soon as an applicant applied and staff determined the application was complete, the 120 day clock started. Once the applicant submitted the information following the phase one hearing, the clock began again. Councilmember Marin asked the difference between the information presented at the first phase versus the second phase. Mr. Chave answered at the second phase the information would be more detailed and focus on what the building looked like; the first phase addressed massing, relationship of the site to its surroundings, intended uses, etc., to provide the ADB enough information to identify which criteria needed to be addressed. At the second phase, there would be more detail such as elevations, building design, etc. without the specific detail regarding materials, colors, utility systems, etc.

Councilmember Marin asked who did the work between phase one and phase two. Mr. Chave answered the applicant. Councilmember Marin asked if the clock was running during that time; Mr. Chave answered the 120 day clock stopped while the applicant worked on their submission. The clock began again when the applicant submitted their response which was in accordance with Regulatory Reform. The benefit for an applicant that did not need much time was they could respond quickly and the clock would begin again. For an applicant that wanted a general idea before pursuing a detailed design, they could take the time they needed. Councilmember Marin presumed an applicant could come to the first phase, glean information and within a week be ready to schedule the second phase. Mr. Chave agreed it would depend on the applicant.

Councilmember Marin inquired about the number of items on ADB meeting agendas. Mr. Chave answered their agendas were not very full. The time to schedule an ADB hearing would be impacted by the time necessary for advertising. He anticipated the shortest turnaround time would be three weeks. Councilmember Marin observed it would be important for the ADB to hold two meetings a month.

Council President Olson asked staff to review the materials in the packet regarding other cities that use the upfront process. Mr. Chave advised staff found several cities including Mercer Island, Issaquah and Seattle that utilize a variation of an upfront design review process to review conceptual design earlier in the process. These cities indicated their process worked well, even Seattle which had a fairly lengthy process. He noted staff also talked to other cities such as Bothell and Mukilteo who employ an administrative design review where design review occurs at the building permit phase. He noted that process could also be problematic if an applicant did not seek guidance early in the process and staff identified issues with aspects of their design at the building permit phase. He noted Snohomish used design review only in their Historic District, a more specific and targeted design review.

Council President Olson concluded several other cities were using some variation of an upfront process. Mr. Chave agreed although none of them were the same.

Councilmember Orvis referred to the design objectives in the Comprehensive Plan that applied to every zone. Mr. Chave agreed there were design objectives in the Urban Design Element that applied citywide

and another set in the Downtown Plan that applied only to downtown. Councilmember Orvis observed the design objectives were in place regardless of whether the proposed process was adopted. If the Council passed the proposed process, it would go from design objectives in the Comprehensive Plan and standards to objectives and guidelines without historic standards. Mr. Chave clarified the City did not currently have historic standards in the code.

Councilmember Orvis noted there was an effort underway to develop historic standards. By adopting the proposed process, there would only be design guidelines and objectives in downtown. Mr. Chave explained the criteria in 20.11.030 would no longer be applied to areas using the district-based review process but district-based review would use the ADB's design guidelines which are outlined on page 30 of the Council packet. He reiterated he found the proposed process superior to the current process because it provided more guidance. Mr. Snyder commented in theory the specific controlled the general and the specific guidelines should be used to apply the general criteria. He suggested that was the way the code should be applied.

Councilmember Orvis commented design guidelines did not carry the weight of the code. Mr. Snyder noted in this instance they did; they explained how the code was to be applied. Councilmember Orvis noted design guidelines were not as binding as the code. Mr. Snyder commented if the Council wanted something done, it should be included in the code as a zoning requirement; design guidelines were of the either/or nature allowing the goal of the code to be accomplished in a number of ways. If the Council wanted something done one way, it needed to be a code-specific provision. He noted the City's obligation was also to give specific direction to developers. If the Council wanted specifics with regarding to historic preservation, it should be in the code. Mr. Chave commented his primary concern with the criteria in 20.11.030 was that many were guidelines in the guise of code. He found the ADB's guidelines provided more direction.

Councilmember Dawson asked whether the criteria in 20.11.030 applied in both processes and the guidelines were explanations. Mr. Snyder advised one of the changes identified in his memo was in 20.11.020 he provided more detail on how the two were to be integrated. He noted the criteria in 20.11.030 were the same as cited in *Issaquah v. Anderson*; further direction must be provided with regard to how they were applied. That direction is applied via the Urban Design Element.

Councilmember Dawson clarified if the Council adopted the proposed process, it would not eliminate the specificity in the code but add to it. Mr. Chave explained when the design objectives were adopted in the Comprehensive Plan, the relationship between the design objectives and the criteria was not explained in the code. Councilmember Dawson clarified if the Council exempted a zone from the new process, there would not be more protection for that zone but less because the criteria in the code was not being eliminated but added to. Mr. Snyder agreed, noting staff's intent was to continue adding specificity for developers.

Councilmember Dawson referred to Councilmember Orvis' concern about abandoning the existing standards, commenting those would not be abandoned but added to. Mr. Chave clarified the criteria in 20.11.030 did not apply in the new process; 20.11.030 was the existing process and 20.12 was the new process. The criteria in 20.11.030 do not appear in 20.12. Mr. Snyder advised he was addressing the general process. Using massive and monotonous as examples, he explained there were a variety of techniques in the Urban Design Guidelines that stated how they applied, those same techniques existed but without the vague criteria that was at issue in *Anderson v. Issaquah*.

Councilmember Dawson explained Councilmember Orvis' concern appeared to be whether there were items that should be included in the code such as with regard to historic preservation. The code criteria were not included in the proposed process. Mr. Snyder agreed. Councilmember Dawson asked whether

there were any code criterion that would be proposed to the Council soon that should be inserted prior to adopting the proposed process. Mr. Chave answered the only thing he was aware of was historic preservation related to the BD1 zone. He noted that was on a separate track; the Historic Preservation Commission still had to report their ideas to the Council which would then proceed to the Planning Board for review. The value of the upfront process and the ADB design guidelines outweighed any benefit of waiting for the historic preservation standards. Mr. Snyder explained his concern has always been an attempt to apply one of the broad, general criterion without using the specifics provided by design guidelines due to the as-applied issues that arose in *Anderson v. Issaquah*. He explained an ordinance could be unconstitutional on its face or as applied.

Councilmember Dawson inquired about the timeframe for the Historic Preservation Commission to complete that effort. Mr. Chave anticipated the Commission would have a report to the Council within the next month. It would then be forwarded to the Planning Board for public hearing, thus it was a 4-6 month process.

Councilmember Dawson commented if something arose that needed to be included, it could be done via an interim zoning ordinance prior to the Planning Board review. Mr. Snyder agreed.

COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER MARIN, TO EXTEND DISCUSSION OF THIS ITEM FOR 20 MINUTES. MOTION CARRIED UNANIMOUSLY.

Councilmember Plunkett referred to the Hinshaw/Chave historic design standards that he will move forward regardless of the Historic Preservation Commission. He noted the only thing delaying the Historic Preservation Commission was additions to the process, not the code. He advised the Commission was meeting in the next two weeks and he anticipated the historic design standards would be presented to the Council in mid-April. He commented although the Council could adopt the Hinshaw/Chave design standards via an interim zoning ordinance, he was hesitant to do that as it was a lengthy document to adopt without Planning Board review.

Councilmember Orvis supported the concept of an interim solution to downtown to bridge what he considered to be a hole between the existing process and the historic design standards.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER MARIN, THAT THE COUNCIL ADOPT THE PROPOSED ORDINANCE IN EXHIBIT 1, ORDINANCE NO. 3636.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER DAWSON, TO ADD THE FOLLOWING TO THE END OF THE FIRST SENTENCE IN D-6, "WHILE MAINTAINING ACCESS TO UTILITIES." AMENDMENT CARRIED UNANIMOUSLY.

Councilmember Plunkett commented although he was confident in staff's ability to process applications, he shared the concern of developers and proposed including language regarding the 120 day time period.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO REVISE SECTION 20.12.005.A TO READ, "PUBLIC HEARING (PHASE 1). THE APPLICANT SHALL SUBMIT A PRELIMINARY CONCEPTUAL DESIGN TO THE CITY. *STAFF SHALL SCHEDULE THE FIRST PHASE OF THE ADB HEARING WITHIN 30 DAYS OF STAFF'S DETERMINATION THAT THE APPLICATION IS COMPLETE.*"

Councilmember Dawson voiced her support for the motion, noting it provided staff time to determine whether the application was complete. She did not anticipate this would put an undue hardship on staff and if it was an issue for staff, it could be brought to the Council's attention.

AMENDMENT CARRIED UNANIMOUSLY.

MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY. The ordinance reads as follows:

ORDINANCE NO. 3636 – AMENDING THE PROVISIONS OF THE COMMUNITY DEVELOPMENT CODE BY THE REPEAL AND RE-ENACTMENT OF CHAPTER 20.10 RELATED TO DESIGN REVIEW, THE RE-ENACTMENT OF A NEW CHAPTER 20.11 GENERAL DESIGN REVIEW, A NEW CHAPTER 20.12 DISTRICT-BASED DESIGN REVIEW, REPEALING AND RE-ENACTING CHAPTER 20.13 LANDSCAPING REQUIREMENTS, ADOPTING NEW DESIGN GUIDELINES; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

8. AUDIENCE COMMENTS

Ord# 3636 –
Design Review;
Design
Guidelines

Old Woodway
Elementary

Term Limits

Al Rutledge, Edmonds, commented the City needed to negotiate with the Edmonds School District regarding the \$1 million price break on the purchase of the old Woodway Elementary School site that required removal of structures by June 30, 2007 unless a park plan was adopted by that time. Next, he recommended the Council vote on term limits. The third issue he addressed was the changes Bothell had made to their plan.

Design Review
Process

Roger Hertrich, Edmonds, referred to a concern voiced by Councilmember Wambolt at the March 6 meeting that the public would not see detailed design at the public hearing and that this was a concern to citizens because under the existing process, the public hearing was held after the detailed design was created, yet many buildings when constructed did not look like the plans. Mr. Hertrich provided a list of what might be provided in a detailed design – size of windows; color of roof; number of plants and type; roof equipment; trim color, size and location; flower boxes; dumpster locations; location of garage doors; etc. – concluding there were many elements that would not be available to members of the public who wanted to see what the building looked like. He suggested any Councilmember who had concerns about the process should reconsider their vote.

Comments that
Promote or
Oppose Ballot
Measures

Natalie Shippen, Edmonds, commented in December 2005 the Council added what she considered a gag rule to the Council procedures that states the opportunity for public comment shall not include comments that promote or oppose ballot measures except during the course of a public hearing. It was her understanding that she could state that the Edmonds Crossing project was an extremely extravagant farce and state the reasons why as long as she did not say vote against Sound Transit and RTID. Mr. Snyder explained the rule Ms. Shippen cited attempted to recognize that public facilities under State law could not be used to promote or oppose ballot measures or candidates. A member of the public at the podium could not say/do anything more than the Council could say/do; the Council was prohibited from promoting or opposing a ballot measure. He clarified Ms. Shippen could inform the Council that the process/proposal was ill-conceived but neither she nor the Council could urge voters to support or oppose a ballot measure or candidate unless very specific rules were followed.

Ms. Shippen asked whether she could say Edmonds Crossing was a farce as long as she did not say vote against the ballot measure. Mr. Snyder supported her first amendment right to do so. He explained the Council and staff could perform the normal functions of their office, debate public policy and provide factual information. He noted Ms. Shippen always presented factual information and presented a point of view; he had no issue as long as she addressed the project itself on a factual basis and did not urge voters to vote for or against a ballot measure.

Ms. Shippen commented the Council took a position on a ballot measure in Agenda Item #5. Mayor Haakenson explained it was a resolution related to the integrated road and transit plan developed by RTID and Sound Transit and did not address a ballot measure. Councilmember Dawson explained under

Agenda Item #5, the Council voted to support two measures being on a ballot, not urging the public to vote in support of or against the ballot measure. Mr. Snyder commented in advising the Council, he used the Public Disclosure Commission's guidelines with regard to information the City could provide.

9. MAYOR'S COMMENTS

Mayor Haakenson commented he was feeling much better than he did last Tuesday when he was absent from the Council meeting due to illness.

10. COUNCIL COMMENTS

Council President Olson wished Councilmember Orvis a Happy Birthday on April 12th.

Councilmember Dawson welcomed Student Representative Callahan, noting his biography stated he was voted by his class as most likely to be elected President.

Councilmember Wambolt referred to Mr. Hertrich's comment that buildings may be approved by staff that citizens/Councilmembers may not like, acknowledging there was that chance. He pointed out this process was not chiseled in stone and could be revised if ugly buildings were being constructed.

Councilmember Marin advised last Wednesday the Snohomish County Tomorrow Steering Committee had planned to discuss the annexation principles that had been developed by a subcommittee. As the legislature was considering a bill on this subject that was supported by AWC, the Steering Committee set aside their discussion and expressed their support for the legislative bill.

Student Representative Callahan thanked the Council for the opportunity to serve. He planned in the future to inform the Council and public about sports and drama schedules at Edmonds-Woodway High School. He encouraged the Council and the public to support high school sports and activities.

11. ADJOURN

With no further business, the Council meeting was adjourned at 8:48 p.m.

Snohomish Co.
Tomorrow