

# EDMONDS CITY COUNCIL APPROVED MINUTES

## July 17, 2007

Following a Special Meeting at 6:45 p.m. to interview a candidate for the Lodging Tax Advisory Committee, 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  
Michael Plunkett, Councilmember  
Richard Marin, Councilmember  
Mauri Moore, Councilmember  
Deanna Dawson, Councilmember  
Dave Orvis, Councilmember  
Ron Wambolt, Councilmember

### STAFF PRESENT

Al Compaan, Acting Police Chief  
Duane Bowman, Development Services Director  
Stephen Clifton, Community Services Director  
Rob Chave, Planning Manager  
Dave Gebert, City Engineer  
Don Fiene, Assistant City Engineer  
Bertrand Hauss, Traffic 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 MOORE, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

### 2. CONSENT AGENDA ITEMS

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

Roll Call

#### A. ROLL CALL

Approve  
6/26/07  
Minutes

#### B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JUNE 26, 2007.

Approve Claim  
Checks

#### C. APPROVAL OF CLAIM CHECKS #97251 THROUGH #97415 FOR JUNE 28, 2007 IN THE AMOUNT OF \$553,924.67. APPROVAL OF #97419 THROUGH #97437 FOR JULY 3, 2007 IN THE AMOUNT OF \$196,367.70. APPROVAL OF #97438 THROUGH #97668 FOR JULY 12, 2007 IN THE AMOUNT OF \$446,427.64. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #45059 THROUGH #45162 FOR THE PERIOD OF JUNE 16 THROUGH JUNE 30, 2007 IN THE AMOUNT OF \$840,632.63.

Claims for  
Damages

#### D. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM LINDA KRAMER-LIND (AMOUNT UNDETERMINED), AND MICHAEL JORDON (\$4,569.26).

School  
Resource  
Officer

#### E. SCHOOL RESOURCE OFFICER INTERLOCAL AGREEMENT WITH EDMONDS SCHOOL DISTRICT.

Ord# 3654  
Repeal ECDC  
21.40.030(C)(1)

F. **ORDINANCE NO. 3654 – AMENDING THE PROVISIONS OF ECDC 21.40.030 HEIGHT, (C) HEIGHT EXCEPTIONS TO REPEAL SUBSECTION (1) RELATED TO A NONEXISTENT ZONE.**

Lodging Tax  
Advisory  
Committee  
Appointment

3. **CONFIRMATION OF CITY COUNCIL APPOINTMENT OF JOE MCIALWAIN TO LODGING TAX ADVISORY COMMITTEE.**

Mayor Haakenson advised the Council interviewed Mr. McIalwain prior to tonight’s meeting.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO APPROVE MAYOR HAAKENSON’S RECOMMENDATION TO APPOINT JOE MCIALWAIN TO THE LODGING TAX ADVISORY COMMITTEE.**

Councilmember Marin commented Mr. McIalwain was very qualified and had put his heart and soul into the community.

**MOTION CARRIED UNANIMOUSLY.**

Public Facilities  
District Board  
Appointment

4. **APPOINTMENT OF EDMONDS PUBLIC FACILITIES DISTRICT BOARD MEMBER TO FILL VACANCY.**

Edmonds Center for the Arts Executive Director Joe McIalwain explained two of the original members of the Edmonds Public Facilities District Board, Kay Mahaffey and Jan Conner, recently stepped down from their positions. Each played an important role of the development of the PFD and saw the project through the renovation and grand opening of the Center. The PFD accepted applications and conducted interviews of several qualified candidates and recommended the appointment of Bob Rinehart. Mr. McIalwain described Mr. Rinehart’s background.

Mr. Rinehart commented he came to Edmonds wanting to be a part of the community. He viewed serving on the PFD Board as an honor.

**COUNCILMEMBER MOORE MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO ACCEPT THE NOMINATION OF BOB RINEHART TO THE EDMONDS PUBLIC FACILITIES DISTRICT BOARD.**

Councilmember Moore commented Mr. Rinehart “hit the ground running” when he moved to Edmonds, was a leader in the community and was very well suited to serving on the PFD Board.

**MOTION CARRIED UNANIMOUSLY.**

Vacate Portion  
of Right-of-  
Way Adjacent  
to 17008 - 77th  
Pl W

5. **PUBLIC HEARING REGARDING THE PROPOSED VACATION OF A PORTION OF THE PUBLIC RIGHT-OF-WAY ADJACENT TO 17008 - 77TH PLACE WEST, EDMONDS.**

Councilmember Plunkett asked whether a vacation was a legislative action. City Attorney Scott Snyder answered yes, explaining there were certain limitations on the amount the Council could require if the vacated property was originally dedicated by the party now requesting the vacation but that was not applicable in this case.

Planning Manager Rob Chave explained this was an application to vacate public right-of-way within a recently approved Planned Residential Development (PRD). The owners of Lot 7 were interested in a vacation of an area on the northern boundary of their property to allow expansion of their footprint and build a deck which they would be unable to accomplish without the vacation. He explained the public

right-of-way contained two on-street parking spaces. He relayed Engineering's finding that they anticipated no potential use of this property.

Mr. Chave explained the property appraisal used a very different method and arrived at a much lower valuation; typically a per square foot value was developed and applied to the property. Staff contacted the appraiser who verified it was an appropriate appraisal.

Councilmember Wambolt asked who paid the cost of the appraisal. Mr. Chave answered the applicant. Councilmember Wambolt referred to the ordinance that states the maximum compensation that could be required was one half the appraised value, inquiring whether that practice was always followed. Mr. Snyder advised that was the limit under State statute. Councilmember Wambolt asked whether the Council had any latitude with regard to how the property was appraised. Mr. Snyder answered the Council would need to make a finding that the value was properly established. Mr. Chave advised staff included two other appraisals in the packet as examples.

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

**Don Wills, Edmonds**, the proponent of the request, explained when staff instructed them to have the property appraised, he researched appraisers via the internet and selected one located in Bothell. With regard to the City's usual method of a square footage valuation, he pointed out the amount of land was 560 square feet, an amount commonly referred to as an uneconomic remainder. He noted the discrepancy in the valuation was due to the limited amount of land available. He inquired about the process if the Council determined their appraisal was incorrect and whether there was any ability to negotiate.

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

Councilmember Moore asked staff to clarify the process. Mr. Snyder answered the Council was required to make a finding that the vacation was in the public's interest. Typically there were two considerations, whether the City needed the property for another purpose and whether citizens received a reasonable benefit from the vacation. The Council was free to negotiate if they did not feel the appraisal fairly represented the fair market value of the property.

Councilmember Dawson commented it appeared this was the first time this issue had arisen as appraisals were typically done in the manner Mr. Chave described. She asked whether consideration had been given to establishing a policy for future dedications regarding how appraisals would be done. Mr. Chave stated typically appraisers utilized the square footage method versus this method which resulted in a much lower value. He referred to the appraisal examples in the packet, noting the Council often reduced the property value. He agreed it may be appropriate to establish a standard appraisal methodology.

Councilmember Dawson observed if the Council rejected the appraisal, the options were to require the applicant to have a second appraisal done or for the City to have their own appraisal done. If the Council wanted a second appraisal, Mr. Chave suggested the City have their own appraisal done. Councilmember Dawson asked the approximate cost of an appraisal. Mr. Chave relayed Mr. Wills' comment that the estimates they received were \$400 - \$1200, they paid \$400 for this appraisal. Mr. Chave commented most appraisals were more expensive than that. Councilmember Dawson asked the difference between the appraisals. Mr. Chave answered appraisals of similar property ranged from \$4 to \$11 per square foot. He noted another concern with this appraisal was it referenced property outside the area that he did not feel was comparable.

Councilmember Marin observed the applicant appeared to have followed the City's process.

Mr. Wills stated the reason they were requesting the vacation was the City determined a window seat on the back of the house encroached into the setback. He noted they already removed the deck and French doors from the house and were told at final inspection for occupancy they had to remove the window seat. He explained they had approved plans for all the changes that were made and they had been inspected; however, on November 16, 2006 the Planning Department determined there was an encroachment. He noted this was the first knowledge they had of it, acknowledging the builder may have been aware.

Mr. Snyder explained property was usually vacated when the City identified unusable right-of-way and wanted to eliminate the City's liability for that property and return the property to the tax rolls. What was unusual about this appraisal was, although it provides a square foot value, it used unimproved property which does not determine fair market value. He noted the unique value of the right-of-way to this property tended to skew how fair market value was determined. The Council had discretion to negotiate, determine it was not in the public's best interest to proceed, or send it back procedurally. He commented likely what would be gained by another appraisal would be lost in the price paid for the property. Mayor Haakenson commented the Wills had already paid the City \$1525 for the street vacation.

For Councilmember Dawson, Mr. Chave advised the initial appraisal was revised to be slightly higher at \$3 per square foot for a total appraised value of \$1680 and Council could require payment of half that amount. Mr. Snyder explained the Council could determine fair market value; the appraisal was to provide a basis for the public benefit. If the Council felt the value was higher, the Council could make that determination. Councilmember Dawson summarized the Council could find the property was worth more than the appraisal indicated. She noted the property owner had offered to pay \$1400 and asked whether the Council could make a finding that the value was \$3000 and require payment of \$1400. Mr. Chave agreed that would be appropriate. Mr. Chave agreed the vacation would add value to the property and result in additional taxes for the City.

Councilmember Moore referred to the applicant's indication that the plans were approved and then later an encroachment was identified. Mr. Chave recalled the building permit was approved when the plans showed it as a chimney which was allowed to encroach into the setback. When the structure was finished and inspected, it was no longer a chimney but livable space which was when the issue of encroachment arose. Councilmember Moore asked the difference between a vacation request and an encroachment permit. Mr. Chave answered the City would never allow part of a building to encroach, only things that were easily removable and would not be a hindrance should the City decide to develop the right-of-way. Mr. Snyder explained an encroachment permit was for something in the right-of-way, this was for encroachment into the setback. He noted a variance would not be permitted as it was due to the action of the owner/builder.

Councilmember Wambolt pointed out this was an example of a builder putting too much home on too little land; there was no room for a deck on three sides of the home. Although the vacation was a small piece of land, 540 square feet, it represented more than 10% of the 4,792 square foot lot. He noted for tax purposes the property was appraised at \$300,000 or \$62.60 per square foot. This property was far more valuable to the buyer than the City and would significantly enhance the value of the property to the buyer.

Mayor Haakenson remanded to Council for action.

Councilmember Dawson found the vacation was in the best interest of the public. She also found based on the record that the value of the property was at least \$3,000 and the property owner had offered to pay \$1400.

**COUNCILMEMBER DAWSON MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO VACATE THE RIGHT-OF-WAY AND ACCEPT THE OFFER OF \$1400 FOR THE VACATED LAND.**

Councilmember Wambolt spoke against the motion, finding it was not a fair return to the City and was a windfall for the property owner. He preferred to develop a fair market value using the usual method.

Councilmember Dawson commented the City did not have a standard appraisal method. If the City obtained a second appraisal, the cost likely would exceed the amount the property owner would pay. She found it was not in the city's best interest to seek a second appraisal. She noted in the past the City has vacated property for substantially less than the appraised value; in one example property was appraised for \$8,000 and the Council accepted payment of \$1500.

Councilmember Marin spoke against the motion, preferring to accept half the value determined by the appraisal due to the property owner acting in good faith.

Council President Olson commented the proposed solution was win-win for the property owner and the City.

Councilmember Wambolt commented this would motivate builders to continue building substandard PRDs and then wait for the City to bail them out. He pointed out this home would be far more expensive on a larger parcel.

**MOTION CARRIED (5-2), COUNCILMEMBERS WAMBOLT AND MARIN OPPOSED.**

Mayor Haakenson commented this was the first time an appraisal had been submitted using this methodology; all others had used the other method. He asked whether the Council could direct staff to require that methodology. Mr. Snyder advised staff could establish parameters for appraisals. He explained the appraisal was intended to provide a piece of evidence for the Council's decision; prior to requiring appraisals, the Council used a square footage percentage of assessed valuation. It was the consensus of the Council to have staff develop language regarding a standard appraisal practice. Mayor Haakenson urged the Wills to take action against their builder as the plans were approved for one thing and he built something else.

Amend Code  
Definitions:  
Domestic Fowl

**6. PUBLIC HEARING ON A PROPOSED ORDINANCE AMENDING THE PROVISIONS OF EDMONDS CITY CODE, SECTION 5.05.010, DEFINITIONS, (M) RELATED TO DOMESTIC FOWL, AND THE EDMONDS COMMUNITY DEVELOPMENT CODE SECTION 17.35.040.**

Councilmember Wambolt recalled the ordinance regarding cats was precipitated by cats attacking a neighbor's quail. A question then arose why quail were not included in the definition of domestic fowl which he recalled City Attorney Scott Snyder indicated was an oversight. A decision was made to hold a public hearing to invite public comment on the addition of quail to the definition of domestic fowl.

For Councilmember Dawson, Mr. Snyder stated the definition of fowl had been in the ordinance for many years. Apparently the definition was developed using the most common domestic fowl, chickens, and did not include others. Councilmember Dawson asked what change was proposed to the ordinance. Mr. Snyder explained this type of ordinance was typically directed toward animals raised for food and kept in backyard coops versus an indoor animal. The definition of poultry was domestic fowl normally raised for eggs or meat and includes chickens, turkeys, ducks and geese, an inclusive rather than exclusive list.

Councilmember Moore commented on her experience working on a ranch in Texas where they raised quail, turkeys, pheasants, chuckers, other fowl used for food and hunting.

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

**Don Kreiman, Edmonds**, a biology graduate of the University of Washington, pointed out quail were not a domestic animal. He commented on property owners' ability to enjoy their property as long as they did not impact their neighbors, noting recent events involving a cat and quail was an issue between neighbors. He was concerned with Council adopting legislation that could not be enforced or would be selectively enforced. He encouraged Council not to adopt a regulation prohibiting quail because they were wild animals.

**Mike Mestres, Edmonds**, objected to the Council spending time on what should be a neighborhood dispute. He noted problems such as drug dealers in neighborhoods were worthy of Council discussion but not quail.

**Roger Hertrich, Edmonds**, pointed out quail were game birds regulated by the Washington Department of Fish and Game and hunting was allowed. He commented once fowl raised in a domestic situation where they were restrained in a cage/enclosure got loose, they were wild. He recommended the Council establish regulations for residents who raised domestic fowl.

**Ray Martin, Edmonds**, advised in early July the 10 to 15 captive quail were released in their neighborhood. He described discovering quail on his property looking for food, commenting quail kept in captivity were domestic fowl and were at a severe disadvantage surviving in the wild.

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

Councilmember Plunkett asked whether there had been any discussion when the Council decided to prohibit chickens about requiring they be confined instead. Mr. Snyder commented the cat situation was mild compared with the furor that occurred when the Council limited the number of chickens; until the public hearing the Council was unaware how many residents kept chickens. He noted the chicken issue was a zoning discussion with regard to a non-conforming use right.

Councilmember Dawson commented the ordinance was not attempting to regulate wild quail but rather quail raised in a domestic situation. Mr. Snyder agreed these provisions were aimed at the number of animals a person could have on their property. Councilmember Dawson clarified the ordinance proposed quail be treated the same as chickens, ducks, etc. and residents would be prohibited from raising them for eggs or meat. Mr. Snyder agreed. She asked how many chickens a resident could keep. Mr. Chave answered under the zoning ordinance, a resident was not allowed to keep any chickens unless they were grandfathered. Mr. Snyder summarized quail would be banned as poultry kept for meat or eggs.

Councilmember Dawson asked if a grandfathering provision was also proposed. Mr. Snyder advised anyone currently keeping quail as of the date the ordinance is enacted would be grandfathered under the zoning ordinance. Councilmember Dawson commented that was consistent with grandfathering chickens.

**COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, FOR APPROVAL OF ORDINANCE, NO. 3655.**

Councilmember Plunkett spoke in support of the motion, particularly with the grandfathering provision.

Councilmember Dawson found it appropriate not to allow residents to raise chickens in their yard and appropriate to treat quail the same as other types of poultry.

Councilmember Moore commented there were areas of the code that were arcane and archaic and this was an opportunity to improve it.

Councilmember Orvis spoke in favor of the motion, noting consistency was the issue.

Council President Olson commented this did not appear to be a large issue to most citizens.

Councilmember Plunkett commented this issue was important to someone and it was important that it be resolved.

**MOTION CARRIED UNANIMOUSLY. The ordinance reads as follows:**

Ord# 3655 –  
Amend Code  
Definitions re:  
Domestic Fowl

**ORDINANCE NO. 3655 - AMENDING THE PROVISIONS OF EDMONDS CITY CODE, SECTION 5.05.010, DEFINITIONS, (M) RELATED TO DOMESTIC FOWL, AND THE EDMONDS COMMUNITY DEVELOPMENT CODE SECTION 17.35.040.**

Six-Year  
Transportation  
Improvement  
Program

7. **PUBLIC HEARING FOR THE SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM (2008-2013), PROPOSED RESOLUTION ADOPTING THE SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM, AND DIRECTING THE SAME TO BE FILED WITH THE SECRETARY OF TRANSPORTATION AND THE TRANSPORTATION IMPROVEMENT BOARD.**

Mayor Haakenson advised the City received five emails from parents of Madrona Elementary School students in support of funding for the Madrona walkway.

Traffic Engineer Bertrand Hauss explained RCW 35.77.010 and RCW 36.81.121 required that each city and county update their Transportation Improvement Program (TIP) by July 31 of each year and file a copy of the adopted program with the Washington State Department of Transportation (WSDOT). The TIP document is intended as a planning tool for local, state and federally funded projects and is utilized by the State, Puget Sound Regional Council, Transportation Improvement Board and other funding agencies to develop the state-wide TIP and prioritize projects for competitive funding. It is not required to show projects that are locally funded. However, the City of Edmonds has traditionally shown all anticipated or planned projects.

The first three years of the TIP are required to be financially constrained. The last three years of the TIP, however, are not. Projects must be identified on the TIP to be eligible for State or Federal grants. Mr. Hauss noted approval and adoption of the TIP did not constitute Council approval of the proposed projects, the Council would have additional opportunities to review the projects such as during the update of the Transportation element of the Comprehensive Plan, when staff presents the draft CIP for adoption, during the budget summation, when staff requests authorization to call for bids or when bids are accepted. He advised one new project, a walkway near Madrona Elementary School, was added to the TIP for construction in 2011. He advised the walkway was included in the 2002 Walkway Plan and had a good chance of receiving grant funds due to its proximity to a school as well as linking existing sidewalks to SR104. He commented this project was ranked lower than it should have been in the Walkway Plan and deserved a higher priority. He referred to emails in support of including this project in the TIP.

With regard to the SR 99 International District, Mr. Hauss made a correction to the federal funding for that project, advising it was \$316,000 for 2008. He relayed staff's recommendation to approve the Six Year TIP and adoption of the resolution.

Councilmember Marin asked whether the Madrona walkway was included in staff's recommendation. Mr. Hauss advised it was.

Councilmember Moore welcomed Mr. Hauss to the staff and thanked him for his presentation.

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

**Roger Hertrich, Edmonds**, questioned the accuracy of the cost estimates particularly due to escalating construction cost in recent years. He raised questions with several projects:

- Edmonds Crossing - does not include emergency access to the waterfront.
- Downtown parking - what does \$20,000 per year buy?
- 196<sup>th</sup>/88<sup>th</sup> - how was the \$200,000 project cost determined and did it represent the true cost?
- 212<sup>th</sup> & Five Corners - \$810,000 shown in 2012 for a roundabout. What does a signal cost? No grant funds shown for this project.
- 9<sup>th</sup> & Casper - recalled the previous Traffic Engineer deemed this the most dangerous intersection in Edmonds, yet a roundabout is proposed. Would the State allow a roundabout?
- Olympic View Drive/76<sup>th</sup> - another roundabout estimated to cost \$610,000. Questioned whether the majority of the Council favored roundabouts.
- 76<sup>th</sup> Walkway - \$900,000 cost estimate, no grants shown for this project, no engineering costs identified
- Madrona Walkway - no grants shown, grants are available from Walkway to Schools program. No engineering costs shown for this project.

He encouraged the Council to total the project costs and determine whether the City had adequate funding for these projects. Mayor Haakenson advised Mr. Hertrich provided only five copies of his written comments. City Attorney Scott Snyder suggested the City Clerk copy the material for the record and the remaining two Councilmembers. Councilmember Dawson advised the materials contained the same information Mr. Hertrich described in his comments.

**Don Kreiman, Edmonds**, displayed and described several photographs of dangerous walking conditions in the neighborhood surrounding Madrona K-8. He advised funds were available for walkways from the Safe Routes to Schools program; therefore, it was important to include this project on the TIP so that it was eligible for grant funds.

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

For Councilmember Plunkett, City Engineer Dave Gebert advised Mr. Kreiman was speaking in support of including the Madrona walkway project in the TIP. Councilmember Plunkett inquired about grants for that project. Mr. Gebert advised staff would pursue grant opportunities for that walkway project. He recalled the City applied for grants for two walkway projects last year and received a \$438,000 grant for the 9<sup>th</sup>/Caspers/Puget Drive walkway; staff determined the 76<sup>th</sup> walkway did not meet the criteria.

With regard to Edmonds Crossing providing emergency access to the waterfront, Community Services Director Stephen Clifton advised that would be considered during the final design permitting phase. Councilmember Plunkett inquired about the \$20,000 for downtown parking citywide, non-motorized. Mr. Gebert answered there were several project categories in the CIP and TIP used to fund unanticipated small project requirements such as traffic calming, minor signal improvements, downtown parking, etc. He acknowledged there were no specifics for those funds as they were used to address unanticipated projects as they arose.

With regard to the 196<sup>th</sup>/88<sup>th</sup> project, Councilmember Plunkett recalled the Council appropriated funds for review of that intersection, commenting the \$200,000 in the CIP/TIP was only a placeholder pending additional evaluation. Mr. Gebert agreed in later years the cost estimates were less well defined; in many instances six years out the estimates were only planning level or placeholders. A consultant has been hired to evaluate the 196<sup>th</sup>/88<sup>th</sup> intersection; the \$200,000 was a placeholder as the scope of the solution was refined.

Councilmember Plunkett commented on the importance of identifying projects in the TIP and funding placeholders in order to qualify for grants. Mr. Gebert acknowledged the cost estimates in later years

were planning level and did not become budget numbers until the Council approved the annual capital budget. Usually by that time the design and costs were fairly well refined.

Councilmember Plunkett referred to \$810,000 for a roundabout at Five Corners in 2012. Mr. Gebert advised he had intended to change the project title to intersection improvement as it was unknown whether a roundabout would be the best solution. He advised staff would change roundabout to intersection improvements throughout the TIP. Councilmember Plunkett asked how the cost was determined. Mr. Gebert answered the previous Traffic Engineer developed that estimate. Councilmember Plunkett inquired about the \$200,000 placeholder for the 196<sup>th</sup>/88<sup>th</sup> intersection improvements versus \$810,000 estimated for the Five Corners intersection improvements. Mr. Gebert answered the \$200,000 was likely to be low and in 2012 \$810,000 likely would not be sufficient to improve that intersection. He assured as the projects moved closer, the costs were refined.

With regard to Mr. Hertrich's questions whether the Council wanted to do these projects, Councilmember Plunkett commented this was a projected plan but the Council made the ultimate decision whether to proceed with each project. Mr. Gebert agreed, using the 76<sup>th</sup> walkway project as an example, and the presentation to the Council regarding phasing, the side of the street to locate the sidewalk, etc. He anticipated a similar process for other projects on the CIP/TIP.

For Councilmember Dawson, Mr. Gebert explained the first three years of the TIP must be financially constrained - projected revenues identified to fund the projects, essentially what was in the CIP. The latter three years were not financially constrained and represented somewhat of a wish list. He acknowledged there were generally more projects in the latter three years of the TIP than in the latter years of the CIP because the CIP was entirely financially constrained, thus the CIP was more realistic. Councilmember Dawson observed the projects in the first three years were more likely to be accomplished and the projects in the latter three years were a wish list to allow the City to apply for grants. Mr. Gebert answered generally yes, however, 76<sup>th</sup>/Hwy. 99 was a high priority project and there was \$75,000 in 2008 for preliminary engineering to develop sufficient scope and design detail to allow the City to apply for a grant; there was approximately \$1.3 million in 2010 for construction.

Councilmember Dawson asked if grants could be pursued for projects where grant funds were not identified. Mr. Gebert stated the most likely grant sources were identified in the CIP and TIP; however, if staff became aware of a grant opportunity, it would be pursued. Councilmember Dawson noted there were no grants for the 75<sup>th</sup>/76<sup>th</sup> walkway project. Mr. Gebert advised staff reviewed all grant opportunities and determined it did not fit the criteria or score high enough to obtain grant funds. Assistant City Engineer Don Fiene stated the walkways that scored well for grant funding were near schools. Mr. Gebert stated grant applications were submitted for the 164<sup>th</sup> walkway and the 9<sup>th</sup>/Caspers/Puget walkway as staff was hopeful they would score well; one did and the other did not.

Councilmember Moore recalled talking to Congressman Inslee's Chief of Staff who was famous for obtaining federal funds and encouraged the City to contact Congressman Inslee's office to request project funds. She assured there were obscure funds available in the federal budget that the congressional office could assist the City in obtaining. Mr. Gebert commented staff generally pursued grants via grant programs. He welcomed the Council's assistance with identifying federal funds that were not available via structured grants. Councilmember Moore encouraged the City to notify Congressman Inslee what they wanted and to allow him to determine the source.

Councilmember Dawson commented the City's focus with its federal lobbyist was on high profile projects such as Edmonds Crossing. She recognized Mr. Clifton who has done an outstanding job seeking out funding alternatives for Edmonds Crossing. Councilmember Moore commented the lobbyist did not find grant sources. She reiterated Congressman Inslee's office had encouraged the City to request assistance with funding projects.

Councilmember Marin pointed out Congressman Inslee's office had been approached for funding for Hwy. 99 with support from staff.

Res# 1149  
Six Year  
Transportation  
Improvement  
Program

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO APPROVE THE SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM, ADOPT RESOLUTION NO. 1149 AND AUTHORIZE RECORDING OF THE DOCUMENTS BY THE CITY CLERK. MOTION CARRIED UNANIMOUSLY.**

Mayor Haakenson declared a brief recess.

Rezoning at 125  
2nd Ave N.

- 8. CLOSED RECORD REVIEW ON THE PLANNING BOARD'S RECOMMENDATION TO APPROVE THE APPLICATION BY ROB MICHEL FOR A REZONE FROM RM-2.4 TO RM-1.5 FOR PROPERTY LOCATED AT 125 2ND AVENUE NORTH. (FILE NO. R-2007-15).**

As this was a quasi judicial matter, Mayor Haakenson asked whether any Councilmembers had any ex parte communications or conflicts to disclose.

Councilmember Marin advised Mr. Michel contributed to his campaign in the past.

Councilmember Plunkett advised he had received campaign contributions from the Jacobsons and from Mr. Michel.

Councilmember Dawson advised Mr. Bernheim had contributed to her campaign but that would not influence her decision in this matter.

Councilmember Orvis advised Mr. Bernheim had supported his current campaign and Mr. Michel had supported his campaign in the past.

Councilmember Wambolt advised he received campaign contributions from the Jacobsons and from Mr. Bernheim.

Councilmember Moore advised Mr. Michel had contributed to her campaign.

Mayor Haakenson asked whether any parties of record objected to the participation of any Councilmember. There were no challenges voiced and Mayor Haakenson advised all Councilmembers would participate. He allotted Mr. Michel 10 minutes for his presentation.

Planning Manager Rob Chave explained the Planning Board reviewed this application. He identified the subject property located at 125 2<sup>nd</sup> Avenue North on a vicinity map, explaining it was currently designated in the Comprehensive Plan as high density multi family and zoned RM-2.4. The adjoining properties are part of the downtown commercial core, single family to the west, multi family adjoining and lower density multi family further north. He displayed an aerial photograph identifying the property which was currently occupied by an older, non-conforming, 8-unit building. He explained the proposed rezone would increase the density of the property but only allow seven units. The Planning Board considered the staff report and the testimony and unanimously recommended approval.

Councilmember Plunkett asked if the applicant planned to develop the site with apartments or condominiums. Mr. Chave suggested asking the applicant that question, noting the zoning controlled the number of dwelling units.

Councilmember Plunkett referred to page 5, the Planning Board transcript, where Mr. Jacobson recommended rezoning the entire area to RM-1.5. He observed that had no impact on this application as

that was not the applicant's request. Mr. Chave advised the City was required to respond to the application which was for this property. He noted the proposed zoning was consistent with the Comprehensive Plan. He suggested it may be appropriate for the City to study the current multi family zones as the only difference between RM-2.4 and RM-1.5 was the number of units; the setback, height, bulk requirements, etc. were the same.

Councilmember Dawson recalled a reference in the record to an increase in density, commenting it was not actually an increase in density and was in fact a reduction in density. Mr. Chave answered it was an increase in density only with regard to what the zone currently permitted. Councilmember Dawson noted if the property were rezoned, there would not be an increase in density. Mr. Chave advised even if the existing building were demolished, either RM-2.4 or RM-1.5 zoning would not result in more units. Councilmember Dawson questioned the benefit if it did not result in increased density. Mr. Chave responded the assumption was a new building would be constructed and the change in zoning would allow more units than the RM-2.4 would otherwise permit. Councilmember Dawson asked whether the rezone would determine whether the building was demolished and a new building constructed. Mr. Chave was not certain; staff's understanding was the site would be redeveloped. City Attorney Scott Snyder suggested consideration be given to GMA which assumed anything non-conforming would be abated and densities in accordance with current zoning.

Councilmember Dawson inquired about benefits other than an increase in density. Mr. Chave referred to testimony by Planning Board Chair Cary Guenther, an architect, who stated this building was at the end of its useful life and therefore its overall property value was less than a new building. Councilmember Dawson remarked the flipside of that argument was preservation of the existing building may provide more affordable housing. Mr. Chave referred to Mr. Guenther's statements on page 10 of the Planning Board transcript that the building was at the end of its useful life and renovation was questionable because it had not been built to last. Councilmember Dawson asked what Mr. Guenther's opinion was based upon. Mr. Chave advised it was based on his observations when visiting the site.

#### Applicant

**Rob Michel, Edmonds**, advised he would allow the record to speak for itself and reserve his time for rebuttal.

Mayor Haakenson invited comment from parties of record.

**Jack Jacobson, Edmonds**, advised he lived across the alley from this building. He questioned the statement that a 50-year old building could not be saved, noting the previous owners had done nothing to the building for the past 20 years. He pointed out RM-2.4 was put in as a buffer between RS-6 and RM-1.5 and BC. If this rezone were approved, he questioned whether the applicant could sell the property as a 7-unit site which would increase traffic and density. He recommended eliminating RM-2.4 and rezoning the area to RM-1.5.

**Steve Bernheim, Edmonds**, displayed the vicinity and zoning map, Attachment 1 to the staff report. He referenced page 4 of the record, noting two of the reasons by Mr. Schlumberger in support of the rezone were increased sustainability and increased affordability. Although Mr. Bernheim supported those concepts, he preferred they be approached from a Comprehensive Plan point of view not on a lot-by-lot basis, particularly when in this instance eight units would be demolished and replaced with 4-5 units. He did not believe the objective of sustainability and affordability would be realized by constructing 1-2 more units than the current zoning allowed. He referred to page 45 of the record, citing an erroneous legal basis via the statement that the recent implementation of the BC zone and its elimination of a third story severely reduces the feasibility of building new residences downtown. He disagreed, noting three stories were not allowed downtown. He questioned why the Council was even considering a rezone from RM-2.4 to RM-1.5 as there was no justification in the staff report why RM-1.5 was preferable over RM-2.4.

He pointed out there was value in not increasing the density due to the increased burden that RM-1.5 zoning would have on services. He concluded the proposal did not make a substantial contribution to affordability or sustainability.

#### Rebuttal

Mr. Michel referred to Mr. Bernheim's comments regarding sustainability, noting those were not criteria upon which the rezone was judged; the criteria was as listed in the staff report. He referred to the value criteria and their explanation of how the proposal met the value criteria on page 46 of the record. He stated there was more in value to the community than affordability, such as public health, safety and welfare, aesthetics, improved safety via new systems, ADA access, etc. He noted the building was constructed 55 years ago and the structure, plumbing, electrical were in poor condition, the units were small with a poor layout, and there was no ADA access to the second floor. The building was in poor condition and it was too expensive to rehabilitate it to bring it up to the current code. He noted affordability was discussed at the Planning Board, he referred to page 9 of the record, and Mr. Chave's comment that although affordability was an issue, the City could not control the number or price of units on a site. He referred to Mr. Guenther's testimony that the building was at the end of its useful life.

Councilmember Dawson asked staff to comment on the existing Comprehensive Plan designation and the zoning of the site.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER MOORE, TO EXTEND DISCUSSION OF THIS ITEM FOR TEN MINUTES. MOTION CARRIED UNANIMOUSLY.**

Mr. Chave answered the Comprehensive Plan had two classifications of multi family - low and high. The zoning classifications that correspond to high density multi family residential are RM-2.4 and RM-1.5. The Comprehensive Plan designation for this property is multi family high density. The property owner has a choice of applying for RM-2.4 or RM-1.5.

Councilmember Dawson asked whether the proposed RM-1.5 was consistent with the Comprehensive Plan. Mr. Chave answered yes and unless staff could determine a reason that RM-2.4 was preferable over RM-1.5, most applicants would choose the higher density. He explained the RM-2.4 and RM-1.5 zones were created in the early 80s before the current Comprehensive Plan was adopted. When the Comprehensive Plan was updated, the multi family zones were not revisited. He noted it may be appropriate to reconsider the multi family Comprehensive Plan designations; the Planning Board has expressed interest in doing that. The Mayor's Climate Control Committee could also be involved in that effort such as determining whether there were incentives that could be offered to achieve the purposes of the Comprehensive Plan. He noted currently it was difficult to distinguish between the two multi family zones as the height, bulk, setback, etc. were the same for both zones and the only difference was the number of units. He noted in an area where there was a solid transportation system like downtown, traffic was unlikely to be a determinant between RM-2.4 and RM-1.5.

Councilmember Plunkett referred to comment that the City had failed to analyze the outcome of proceeding with RM-1.5 zoning; however, it had been analyzed because the Comprehensive Plan analyzed what zoning was suitable. Mr. Chave agreed, explaining the Comprehensive Plan considers a range of land use alternatives, zoning that would be applied, environmental impacts, etc. relative to utilities, services, density, projected population, etc. Therefore if zoning was applied consistent with the Comprehensive Plan, there should not be a need to reanalyze it.

Councilmember Plunkett referred to the question why the entire area was not zoned RM-1.5. He asked whether the Council could make their decision based on what they wished the zoning would be. Mr. Snyder advised the Council was limited on this rezone to what was in the record and what had been

advertised; rezoning additional property could be referred to the Planning Board. Councilmember Plunkett referred to the comment that the applicant could obtain the rezone and sell the property, asking whether the Council could consider the applicant's future actions in making a decision on the rezone. Mr. Snyder answered no unless it was germane to one of the criteria. He noted profit was only considered if it was property that remained undeveloped due to an inappropriate use category.

Councilmember Dawson commented it was assumed this property would be redeveloped if it were rezoned. She commented the Council's decision may be easier if the building had already been demolished because that would eliminate the preservation issue. She acknowledged the property owner could demolish the building and then request a rezone. She suggested a future agenda item regarding how to make it easier for property owners to rehabilitate existing buildings and provide incentives for preserving existing housing. Mr. Chave answered that could also be considered by the Planning Board and Climate Control Committee when considering the multi family zones.

**COUNCILMEMBER MARIN, MOVED, SECONDED BY COUNCILMEMBER WAMBOLT, TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO UPHOLD THE PLANNING BOARD'S RECOMMENDATION TO APPROVE THE REZONE APPLICATION.**

Councilmember Plunkett concluded the proposal met the criteria, RM-2.4 and RM-1.5 were consistent with the Comprehensive Plan, the bulk and setback requirements were identical, the use on the parcel would remain multi family which was consistent with the surrounding area, it was consistent with changes in the area, the property was economically and physically suitable, the value/public benefit met GMA, and it would replace a deteriorated 1950s with a building that meets all safety codes.

Councilmember Marin acknowledged Councilmember Dawson's concerns and agreed with the need to consider housing affordability. He pointed out some buildings were built to last and others were not. He acknowledged one of the difficulties with a remodel was the requirement to bring the building up to the existing code.

Councilmember Wambolt commented this was not a building with architectural features that should be preserved. It was a non-conforming building with eight units that if redeveloped would have fewer units and be consistent with the current code.

**MOTION CARRIED UNANIMOUSLY.**

Rezoned at 318-320 Walnut St.

**9. CLOSED RECORD REVIEW ON THE PLANNING BOARD'S RECOMMENDATION TO APPROVE THE APPLICATION BY ROB MICHEL FOR A REZONE FROM RM-2.4 TO RM-1.5 FOR PROPERTY LOCATED AT 318-320 WALNUT STREET. (FILE NO. R-07-28).**

As this was a quasi judicial matter, Mayor Haakenson asked whether any Councilmembers had any ex parte communication or conflicts to disclose.

Councilmember Moore disclosed Mr. Michel had contributed to her campaign.

Councilmember Wambolt disclosed Mr. Bernheim had contributed to his campaign.

Councilmember Orvis disclosed Mr. Bernheim had contributed to his current campaign and Mr. Michel had contributed to his past campaign.

Councilmember Dawson disclosed Mr. Bernheim had contributed to her campaign in the past.

Councilmember Plunkett disclosed he had received campaign contributions from Mr. Michel in the past.

Councilmember Marin disclosed Mr. Michel contributed to his campaign in the past.

Mayor Haakenson asked whether any parties of record objected to the participation of any Councilmember. There were no challenges voiced and Mayor Haakenson advised all Councilmembers would participate. He allotted Mr. Michel 10 minutes for his presentation.

Planning Manager Rob Chave advised this was a rezone from RM-2.4 to RM-1.5. He identified the site, 318-320 Walnut Street on a vicinity map, indicating the entire area was designated high density multi family in the Comprehensive Plan, was adjacent to a commercial area and was surrounded by large scale multi family development. The property around the site was zoned RM-1.5 with the exception of a property to the west zoned RM-2.4. He noted the adjacent property to the south was an older high density building with 42 units. He identified the site on an aerial map, advising there were three dwelling units on one property and two on the other for a total of five. The application would increase the potential density to a total of nine dwelling units. The applicant has completed a SEPA review and had ADB design approval for a building with 5-7 units. At the Planning Board they voiced their intent to proceed with seven units. He acknowledged the applicant could choose to redesign or sell the property. He concluded in this location there were no negative impacts of a rezone from RM-2.4 to RM-1.5.

Councilmember Dawson referred to testimony regarding getting rid of substandard property and questioned what substandard property meant, noting it seemed to imply that new was better. She referred to Planning Board Chair Guenther's comment on page 7 that appeared to imply that older housing was worse and newer housing was better. Councilmember Dawson commented the only evidence of public benefit was the opinion that older housing was not as good. Mr. Chave pointed out the Planning Board found a benefit of additional dwelling units downtown to support the commercial vitality of downtown.

#### Applicant

**Rob Michel, Edmonds**, advised he would allow the record to speak for itself and reserve his time for rebuttal.

Mayor Haakenson invited comment from parties of record.

**Steve Bernheim, Edmonds**, commented approving the proposed zoning would reduce the diversity of housing stock. He reiterated there was no distinction between RM-2.4 and RM-1.5 and no support that a higher density was better. Although he supported higher density and the sustainability of downtown, he wanted it done for the right reasons and not lot-by-lot. He commented from a citizen's point of view, the Council was handing these property owners a benefit at no charge. He preferred the City provide incentives such as energy efficiency, sidewalks, open space, etc. in exchange for higher densities.

#### Rebuttal

Mr. Michel referred to benefits outlined in the record that included under-structure parking, access via the alley which would eliminate curb cuts on 4<sup>th</sup> and on Walnut, and increased on-street parking.

Councilmember Orvis commented as currently zoned, the site could be developed with five units versus nine if zoned RM-1.5. Mr. Chave agreed, noting the applicant had an ADB and SEPA approval for up to seven units. The site was currently developed with five units.

**COUNCILMEMBER MOORE MOVED, SECONDED BY COUNCILMEMBER MARIN, TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE TO UPHOLD THE PLANNING BOARD'S RECOMMENDATION TO APPROVE THE REZONE APPLICATION.**

In response to Mr. Bernheim's comment regarding providing incentives for rezone, Councilmember Moore supported that concept, however, the Council could not do that on this application. She found the

proposal adhered to GMA policies, met the GMA housing goals, fit within the surrounding uses, was suitable and met the value criteria.

Councilmember Orvis spoke against the motion, commenting if allowing additional units on a site was required to get buildings upgraded, the entire City would be rezoned eventually which was contradictory to the changes, suitability and surrounding area criteria.

Councilmember Marin spoke in favor of the motion, noting there were many requirements a developer must meet currently. He supported having the Planning Board consider the multi family zoning but cautioned against requiring sustainability as he was hesitant to mandate sustainability in private buildings.

Councilmember Wambolt spoke in support of the motion. In response to Mr. Bernheim, he noted the benefit of the rezone and subsequent new construction which would be more energy efficient than the existing homes that were constructed in 1946 and 1966.

Councilmember Plunkett commented in a quasi judicial hearing the Council could not consider what should be, only whether the applicant met the criteria with their proposal. He found the applicant met the criteria under the existing code, zoning and Comprehensive Plan.

**MOTION CARRIED (6-1), COUNCILMEMBER ORVIS OPPOSED.**

**10. AUDIENCE COMMENTS**

Term Limits

**Roger Hertrich, Edmonds**, requested the Council consider term limits for Boards and Commissions as well as the City Council and the Mayor. Council President Olson cautioned him to avoid campaign issues. Next, Mr. Hertrich commented he could not recall a Council meeting being cancelled when he was on the Council and he objected to giving the Council President that power.

Meeting Cancellations

**11. DISCUSSION OF CITY COUNCIL RULES OF PROCEDURE INCLUDING: (1) CANCELLATION OF MEETINGS, (2) EXECUTIVE SESSIONS, (3) GOVERNMENT ACCESS CHANNEL 21, AND (4) COMMITTEE ASSIGNMENTS.**

Council Rules of Procedure

Council President Olson explained these issues were discussed at the recent Council retreat.

Cancellation of Meetings

Council President Olson did not envision this occurring very often, noting it occurred in the past due to the loss of the Police Chief. As it was not possible to talk to each Councilmember because that was considered a rolling quorum, there needed to be a way to cancel Council meetings.

Councilmember Marin was satisfied with delegating that authority to the Council President. Councilmember Plunkett agreed.

Councilmember Dawson envisioned it would be a rare occurrence for the Council President to exercise his/her authority to cancel a meeting. She acknowledged two meetings were cancelled earlier this year due to Police Chief Stern's sudden illness and subsequent memorial service. She found it inappropriate to require staff and/or Council to attend a meeting under those circumstances. She remarked it was a waste of public resources to schedule a meeting if there was no business as each Councilmember was paid, some staff members were paid, etc. She concluded it was appropriate to delegate that authority to the Council President.

Councilmember Moore commented the proposed method was more efficient. She noted a Council President who cancelled meetings that the Council did not want to have cancelled would answer to the Council.

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO ADOPT ORDINANCE NO. 3656. MOTION CARRIED UNANIMOUSLY. The ordinance reads as follows:**

**AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PROVISIONS OF THE EDMONDS CITY CODE, CHAPTER 1.04 COUNCIL MEETINGS TO ADD A NEW SECTION 1.04.140 CANCELLATION OF MEETINGS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.**

Executive Session

Councilmember Plunkett advised he requested a resolution be prepared regarding Executive Sessions. He recalled during the discussions of the park in south Edmonds over the past year, there was some confusion regarding what information was and was not Executive Session, whether the Council should discuss certain issues in Executive Session and in at least one instance the confidentiality of an Executive Session was broken. The intent of the resolution was to identify a way for the Council to reach a consensus regarding when to break the confidentiality of an Executive Session. He advised this resolution would accomplish two purposes, 1) if a Councilmember believed an Executive Session was taking place that should not, they could propose a motion to end the Executive Session and the Council could have discussion and make a determination during the public meeting, and 2) prevent any one member from revealing information that other Councilmembers believed was protected by Executive Session.

Councilmember Dawson commented the resolution did not appear to address Councilmembers questioning whether the Council should be in Executive Session; she agreed it was appropriate for Councilmembers to have the ability to question whether a topic should be discussed in Executive Session. She noted the draft resolution also addressed the dissatisfaction expressed at the retreat with the way meetings were handled, the way Councilmembers were recognized and the number of times each Councilmembers could speak.

Councilmember Moore agreed the resolution did not appear to provide Councilmembers a way to question an inappropriate Executive Session. City Attorney Scott Snyder advised a Councilmember could always leave an Executive Session that they felt was inappropriate. He noted the City kept minutes of Executive Session to satisfy the public at a future date that the Council discussed the appropriate issue. He explained the Council could reach consensus in Executive Session. If the Council agreed to discuss an issue in the open meeting, they could come out of Executive Session and make a motion to have the issue placed on a future agenda and/or request information be released. In the absence of a motion, the confidence of the Executive Session would be observed. He noted the resolution did not address the appropriateness of a subject for Executive Session because that was addressed in state law.

Councilmember Plunkett recalled there were Councilmembers who revealed information that the Council had agreed should not be disclosed. His intent was to develop rules so that all Councilmembers had the same understanding. Mr. Snyder agreed, noting release of confidential Executive Session information was a crime and a potential basis for forfeiture of office. The resolution was intended to establish an orderly way to decide when Executive Session privilege ended. He concluded Executive Session information remained confidential as long as the Council felt it should remain confidential.

**COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER MARIN, TO SCHEDULE APPROVAL OF RESOLUTION NO. 1150 ON A FUTURE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY.**

**COUNCILMEMBER MARIN MOVED, SECONDED BY COUNCILMEMBER PLUNKETT, TO EXTEND THE MEETING TEN MINUTES. MOTION CARRIED UNANIMOUSLY.**

Committee Assignments

Council President Olson explained in the past some Council committee meetings were paid and others were not; in assigning committees, it seemed more prudent to simply pay Councilmembers for a

maximum of four meetings per month. Councilmember Dawson commented there were some committees that Councilmembers attended that were not Council appointments. Council President Olson clarified it would only be official meetings of the committees to which Councilmembers were assigned. Mr. Snyder advised the Council must have a fixed compensation during their term of office. He recalled a cap on payment for meetings was instituted previously.

Senior Executive Council Assistant Jana Spellman offered to email Councilmembers the list of meetings eligible for payment.

#### Government Access Channel 21

Councilmember Plunkett asked whether the proposed policy included the Mayor. Mr. Snyder answered the policy did not apply to the Mayor. He explained the Council currently had no rule with regard to allocation of assets. With regard to the use of City facilities such as Channel 21 or a room, each Councilmember was free to use them as long as they did not violate State law. The issue arose due to a question regarding a Council meeting versus a meeting called by a Councilmember and whether there should be a distinction for the use of Channel 21 or other assets. If no change was made, all Councilmembers had access to those facilities/resources. Councilmember Plunkett preferred the policy apply to any elected official. He also preferred a majority of the Council determine whether a meeting would be publicized on Channel 21. He clarified he was not suggesting meetings Councilmembers held were anything other than constituent meetings.

Councilmember Dawson agreed with Councilmember Plunkett that the Council should establish a policy regarding what information was publicized on Channel 21. Councilmember Dawson acknowledged Councilmembers frequently announced events at Council meetings that were broadcast on channel 21; those announcements could be viewed as advertisements. She recommended announcements be a legitimate use of the Council's time and not a campaign related event.

Councilmember Dawson noted rules were often applied differently during campaign season such as the Mayor's newspaper column was not appearing during campaign season. She suggested the Council could establish a policy that they would not allow anyone to display information that even vaguely appeared to be a political campaign.

Councilmember Moore commented this was the result of three constituent meetings she asked be advertised on Channel 21. She emphasized they were constituent meetings and not campaign meetings. She pointed out Mayor Haakenson announced his constituent meetings on Channel 21 and in Council Chambers. She viewed Channel 21 as a way for the Council to communicate with the public and encouraged Councilmembers to use this tool to communicate with the public but not to campaign. She commented it was advantageous to the public to learn a Councilmember would be available at a particular location to listen to their questions/concerns. She encouraged Councilmembers to have a constituent meeting to take public input regardless of whether it was an election year. She preferred the Council use Channel 21 to inform the public rather than being scared someone would use it to their advantage.

Councilmember Plunkett stated he believed Councilmember Moore's use of Channel 21 was equal to the Mayor's use, and equally appropriate.

Councilmember Marin commented once a Councilmember announced they were running for election, Councilmembers and the Mayor should be cautious about anything that could be construed as inappropriate use of City facilities to avoid criticism.

Councilmember Plunkett preferred a more structured policy. He noted it was difficult to avoid criticism without a policy that established a bright line.

Councilmember Orvis commented his Councilmember page on channel 21 containing his picture and his name gave him an advantage during the election. He suggested during campaign season the

Councilmember's page be replaced by a page for each position that contained the name, picture and contact information for the incumbent as well as the challengers. He noted this would even the playing field and not give incumbent Councilmembers an advantage via their page on Channel 21. He noted this would be similar to a Channel 21 voter pamphlet. He summarized this would keep the playing field level, provide information to the voters and reduce the effect of special interest.

Council President Olson asked whether campaigning was allowed on Channel 21. Community Services Director Stephen Clifton disagreed with Councilmember Orvis' proposal, explaining Councilmembers' pages on Channel 21 provided a service to the public, informing them who the Councilmembers are and the committees they served on. He viewed the inclusion of an opponent's name, picture and contact information as a campaign purpose.

Mr. Snyder explained the issue for the Public Disclosure Commission was whether communications or the use of city facilities was part of the normal and usual function of an office. Speaking with constituents and being accessible to the public were a fundamental part of the office; anything that facilitated communication with a Councilmember whether it was the use of the telephone, website or Channel 21, was definitely part of the normal function of the position. He envisioned a way could be determined to do what Councilmember Orvis suggested because the City was allowed to provide factual information. He was hesitant about having a link to a candidate's website. He noted a similar policy would need to be established for the City's website.

Councilmember Moore commented Councilmember Orvis' idea was brilliant as it provided a public service and encouraged more people to engage in the civic process. She suggested rather than having debates between candidates, providing each candidate five minutes of air time on Channel 21. She noted this was an asset to the public and leveled the playing field.

Councilmember Dawson commented many cities had video voters guides, that may be something worthwhile to explore in the future although there were issues with who did the video taping, etc. She preferred to establish a candidate page in addition to the Councilmember's page, citing Snohomish County as an example where two Councilmembers were term limited and could not run for office, yet their contact information needed to be available to the public.

Councilmember Wambolt suggested scheduling further discussion regarding the use of Channel 21 on a future agenda.

Although he supported a video voter's guide, Councilmember Plunkett remarked Councilmember Orvis' proposal encumbered a Councilmember's highest responsibility which was to serve the people of Edmonds. He pointed out the importance of displaying each Councilmember's page with their contact information and the committees they served on. He suggested referring this issue to the Community Outreach Committee.

## 12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS

Community/  
Development  
Services  
Committee

### Community Services/Development Services Committee

Councilmember Marin reported the Committee discussed plug-in hybrid cars and charging stations and directed Public Works to investigate the concept of providing a plug-in for electric vehicles including cost estimates, alternatives, experience of other jurisdictions and the possible costs of a short term lease for an electric vehicle and report back to the committee at their next meeting. A discussion on building permit application timelines was postponed to a special CS/DS Committee meeting on July 26 at 7:00 p.m. He encouraged people attending that meeting to bring suggestions.

Finance  
Committee

### Finance Committee

Councilmember Wambolt reported the Committee discussed judicial salary certification for State funding reimbursement and Judge Fair provided Committee members background information on the history of

the Judge's compensation. It was the consensus of the Committee to forward a recommendation to negotiate the salary term of the contract to keep the City eligible for court improvement account funds to the full Council as a consent item. Councilmember Wambolt reported the Committee then discussed the Interlocal Agreement with Edmonds School District for the School Resource Officer which provides for a 50% salary reimbursement. Committee members recommended approval and this item was approved as Consent Agenda Item E this evening.

Public Safety  
Committee

### Public Safety Committee

Councilmember Dawson reported the Committee reviewed a draft graffiti ordinance. The Committee agreed some of the issues contained in the ordinance were inappropriate for Edmonds such as requiring businesses to keep graffiti implements behind the counter, not sell graffiti implements to minors, etc., but should be forwarded to the full Council for a public hearing. A public hearing will be held in August. She noted Snohomish County was hosting a graffiti summit on July 26 at 8:30 a.m. She asked Mayor Haakenson to have staff attend and encouraged any interested Councilmembers and/or the public to attend. The next item the Committee discussed was the judicial salary certification for State funding reimbursement. She explained for the City to be eligible for State reimbursement, the Municipal Court Judge must be an elected position and the salary must be equivalent to 95% of a District Court Judge's salary prorated by the number of hours worked. Raising the Municipal Court Judge's salary would result in a net financial gain to the City in 2007 but due to uncertainty with the reimbursement in the future, that may not be the case in 2008. The City Attorney confirmed the salary could be reduced if the reimbursement was not available and the Committee recommended an ordinance establishing a base salary be scheduled on a future Consent Agenda. The final item, request for a contract amendment from the City Prosecutor, was pulled from the agenda with a recommendation that staff negotiate with the City prosecutor on any contractual issues and schedule the matter on a future Committee agenda if necessary.

### **13. MAYOR'S COMMENTS**

Mayor Haakenson had no report.

### **14. COUNCIL COMMENTS**

Concerts in the  
Park

Council President Olson wished Mayor Haakenson a belated Happy Birthday on July 14. She reminded the public of the Concerts in the Park at 3:00 - 4:00 in City Park, announcing this weekend's performer would be Merchant of Venice.

Boards/  
Commissions  
Term Limits

Councilmember Dawson commented in response to a suggestion during audience comments regarding Boards/Commissions term limits, explaining term limits may have been eliminated due to State requirements of the LEOFF1 Disability Board that requires members be Police and Fire LEOFF1 members. She pointed out there were few remaining LEOFF1 members who were willing to serve on this Board and there was a fairly steep learning curve. If term limits were established for that Board, the City may be unable to meet the State's requirements. With regard to other Boards/Commissions, the Council always had the ability not to renew a member.

Councilmember Dawson also suggested discussion be scheduled on a future agenda regarding the Council's involvement in making appointments to Boards/Commissions rather than confirming the Mayor's selection.

### **15. ADJOURN**

With no further business, the Council meeting was adjourned at 10:56 p.m.