

EDMONDS CITY COUNCIL APPROVED MINUTES

March 15, 2016

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Kristiana Johnson, Council President (arrived 7:04 p.m.)
Michael Nelson, Councilmember
Adrienne Fraley-Monillas, Councilmember (arrived
7:36 p.m.)
Diane Buckshnis, Councilmember
Dave Teitzel, Councilmember
Thomas Mesaros, Councilmember
Neil Tibbott, Councilmember

STAFF PRESENT

Phil Williams, Public Works Director
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.
Shane Hope, Development Services Director
Scott James, Finance Director
Kernen Lien, Senior Planner
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Council President Johnson and Councilmember Fraley-Monillas (see arrival times above).

Mayor Earling relayed Council President Johnson agreed to move Item 6A before 5A because Councilmember Fraley-Monillas would be arriving late. He announced there would be an approximately 10 minute executive session at the end of tonight's agenda.

2. APPROVAL OF AGENDA

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE AGENDA IN CONTENT AND ORDER MOVING ITEM 6A AFTER ITEM 4. MOTION CARRIED UNANIMOUSLY. (Council President Johnson and Councilmember Fraley-Monillas were not present for the vote.)

3. APPROVAL OF CONSENT AGENDA ITEMS

COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. (Council President Johnson and Councilmember Fraley-Monillas were not present for the vote.) The agenda items approved are as follows:

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF MARCH 8, 2016**
- B. APPROVAL OF CLAIM CHECKS #218871 THROUGH #219013 DATED MARCH 10, 2016 FOR \$270,735.98**
- C. ACKNOWLEDGE RECEIPT OF THE CLAIMS FOR DAMAGES FROM SHIRLEY OLSEN (\$867.24) AND FROM MARINER PLAZA CONDOMINIUM (\$6,675.87)**

- D. AMENDMENT TO ECC 5.34.010 ADOPTING RCW 9.61.260 (CYBERSTALKING) BY REFERENCE
- E. AUTHORIZATION FOR MAYOR TO SIGN 2016 SPECIAL EVENT CONTRACTS
- F. EDMONDS AND SPRAGUE STREETS ON CIVIC FIELD VACATIONS
- G. LAKE BALLINGER ACCESS PROPERTY ACQUISITION
- H. AUTHORIZE MAYOR TO SIGN DEED OF RIGHT FOR CIVIC FIELD
- I. AUTHORIZATION FOR MAYOR TO SIGN A RESOLUTION ALLOWING SNOHOMISH COUNTY TO PREPARE A HAZARD MITIGATION PLAN FOR THE CITY OF EDMONDS
- J. REPORT OF FINAL CONSTRUCTION COSTS FOR THE CITY PARK SPRAYPARK AND ACCEPTANCE OF PROJECT
- K. AUTHORIZATION FOR MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH OLYMPIC VIEW WATER & SEWER DISTRICT TO FUND GRIND AND OVERLAY OF 102ND AVE FROM JUST SOUTH OF 238TH ST. TO THE SOUTH END OF THE CUL-DE-SAC
- L. JANUARY 2016 MONTHLY BUDGETARY FINANCIAL REPORT

4. **AUDIENCE COMMENTS**

There was no one present who wished to provide comment.

6. **ACTION ITEMS**

- A. **APPROVAL OF A CONTRACT WITH THE STATE DEPARTMENT OF ENTERPRISE SERVICES TO WORK WITH AMERESCO, INC. FOR THE PHASE 5 ENERGY SAVINGS PROJECT - SOLIDS PROCESSING EQUIPMENT REPLACEMENT**

Public Works Director Phil Williams recalled he provided the Council a thorough briefing last week regarding the project's origin and purpose and the equipment as well as information regarding similar energy savings projects in Edmonds. He described:

- Energy Savings Performance Contracting (ESPC)
 - An ESPC is a contract between an energy services company (ESCO) and the Washington State Department of Enterprise Services (DES) under which DES:
 - Prequalifies firms wishing to participate in the ESPC program as an ESCO
 - Manages the contracting process, and
 - Enforces contract provisions
- The ESCO:
 - Performs detailed energy audits
 - Identifies energy and operational savings opportunity
 - Designs infrastructure improvements that reduce resource consumption
 - Causes the improvements to be implemented as the general contract, and
 - Guarantees not to exceed cost, performance and energy savings
- Energy performance contracting benefits
 - ESPCs shift project risk from the customer to the ESCO
 - ESCO guarantees the construction cost and responsible for cost overruns

- ESCO guarantees energy savings and reimburses owner for shortfall
- ESCO provides annual measurement and verification of resource savings
- ESPCs provide single source accountability and enhance customer control of equipment and subcontractor selection
- ESPCs reduce future energy costs and use the savings to pay for infrastructure improvements implemented today

Mr. Williams reviewed the Phase 5 project capital improvement request:

- 2500 lb/hr screw presses
- New conveyor and increased solids storage hopper
- Heat recovery system
- New 125 HP blower and actuators to better control and optimize the aeration system.
- Total estimated electrical savings of 541,208 kWh - \$36,581/year
- Total estimated savings of diesel fuel – 24,383 gallons - \$70,468/year
- Operation and maintenance savings - \$26,161
- Total estimated savings of \$133,210/year
- 1,072,152 lbs CO2 reduction – 536 tons
- The project has a simple payback of 27 years
- Project cost:
 - Total guaranteed project price \$3,700,061
 - Less SnoPUD energy incentive (est) \$108,242
 - \$3,591,819
 - WWTP Partners Balance \$1,759,184
 - Edmonds responsibility (from 2016 & 2017 CIP budget) \$1,815,449

He displayed photographs of:

- Belt filter press installed 1988
- Old inefficient blower
- New efficient blower

Mr. Williams described next steps:

- Department of Enterprise Services
 - Initiates ESP contract and monitors progress and deliverable
- Ameresco
 - Initiates design/construction – phase 5 solids upgrade project
 - Install 125 HP blower and all new control valves in 2016
 - Complete all sewer press sludge storage and conveyance by October 2017
 - Continue research and proposal for potential gasification project in the future
- City of Edmonds
 - Manages projects on-site, continues with strategic improvements designed to improve plant performance and reliability, reduce cost of operation and reduce environmental impact

Mr. Williams concluded the WWTP is the largest single energy consumer in the City so it is appropriate to look there for energy savings. He requested the Council authorize the Mayor to sign the contract documents with DES for \$3,700,416 and approve the necessary request to authorize wastewater funds to be expended.

Councilmember Tibbott inquired about the payment schedule. Mr. Williams said he did not have that information with him tonight but could provide it to Council.

COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER TIBBOTT, AUTHORIZE THE MAYOR TO SIGN THE CONTRACT DOCUMENTS WITH DES FOR \$3,700,416 AND AUTHORIZE WASTEWATER FUNDS TO BE EXPENDED. MOTION CARRIED UNANIMOUSLY. (Councilmember Fraley-Monillas was not present for the vote.)

Citing the winds this weekend, Councilmember Mesaros asked Mr. Williams to provide a brief update on how Public Works addressed any issues. Mr. Williams explained staff was very busy all weekend, many staff members working overtime to address weather-related issues including worked with PUD after seven major trees fell into power lines. Most of the pump stations were out of power including Lift 1 on Sunset Avenue; all the generators came on and everything worked perfectly including the transfer switches. Councilmember Mesaros echoed kudos My Edmonds New gave Public Works staff.

5. PUBLIC HEARING

A. PUBLIC HEARING ON CRITICAL AREAS ORDINANCE UPDATE

Senior Planner Kernen Lien relayed:

- Update started in fall 2014 with review of existing code and BAS
- Planning Board and City Council Review in 2015
- Council Adoption January 26th and Mayor veto
- December 15, 2015 Code in Exhibit 1
- February 23, 2015 Council scheduled public hearing for tonight to consider potential new amendments to draft regulations in Exhibit 1
 - Intent of public hearing was to identify universe of potential amendments to the December 15 code in Exhibit 1
- Tonight and next steps
 - Tonight
 - Review proposed City Council amendments
 - Take public comments
 - Staff emailed Council comments received after packet prepared
 - Next City Council meetings
 - April 5th – Council discuss and decide which proposed amendments to carry forward
 - April 12th – Discuss and refine proposed amendments carried forward on April 5th
 - April 19th – Potential adoption of updated critical area regulations
 - Council previously adopted resolution indicating critical area regulations would be adopted by April 30.
 - May be time tonight to begin discussion of potential amendments

Mr. Lien reviewed the potential amendments grouped by topic:

ECDC 23.40.220.C.4 – Physically Separated/Functionally Isolated

- 1.A – Require determination to be made by a qualified critical area consultant
 - Maintains flexibility
 - May be costly for smaller projects
- 1.B – Rename Provision
 - “Potentially isolated”
 - Change to “Interrupted Buffer”
 - Defection of buffer: designated area immediately next to and part of a stream or wetland that is an integral part of the stream or wetland ecosystem

Council Review/Critical Area Decision Process

- 2.A – Include City Council in decision making process for certain critical area decisions

- Could insert public opinion into what is supposed to be opinion based on science
- Could create an appearance of fairness issue
- 2.B – Decision matrix/threshold for which projects would include City Council in decision making process
- 2.C – Consider amending the decision process for certain types of critical area decisions
- Exhibit 2 – Contingent Critical Area Review Procedure (proposed by City Attorney)
 - Scope:
 - Development of at least 600 square feet within standard buffer
 - Physically separated/functionally isolated buffer
 - Restoration project
 - Wetland/stream buffer reduction
 - Would include also moving physically separated/functionally isolated out of allowed activities and into new provisions in the wetland and stream sections
 - New Type II-B procedure
 - Public notice (including City Council)
 - Citizen may request public hearing which would escalate the process up to a Type III-A
 - Public hearing before Hearing Examiner
 - Requestor must pay a fee in the amount of 50% the difference between Type II-B and Type III-A application fee
 - Project proponent shall pay the other 50% difference between Type II-B and Type III-A application within 30 days
 - Notice of Final Decision to City Council with opportunity to appeal Hearing Examiner decision through LUPA appeal
 - Staff will provide an example at April 5 meeting

ECDC 23.40.220.C.7.b.iv – Hazard tree replacement

- 3 – Change the required diameter of deciduous replacement trees from 1-inch dbh to 1 to 2 inches dbh
 - Larger tree not necessarily better for restoration
 - Smaller relative root ball for larger tree
 - More difficult for tree to become established

Definitions

- 4.A – Change “normal maintenance of vegetation” from ...trees less than 3-inch dbh to trees less than 4-inch dbh...
 - Normal maintenance exemption in ECDC 23.40.230.C.2
 - Allows the clearing of slightly larger saplings as a critical area exemption
- 4.B – Add definition for “Council”
 - Definition exists in ECDC 21.15.030
- 4.C – Add definition for Best Available Science
 - ECDC 23.40.310 – Best Available Science
- 4.D – Move definitions from Part VI to ECDC 23.40.010 after Purpose section

ECDC 23.90.040.C.1 – Native Vegetation

- 5.A – Apply to RS-8 and RS-10 zones
 - Would greatly expand the area the provision would apply to
 - RS-12 and RS-20 established because the presence of critical areas
 - Comprehensive Plan designation
 - Single-family Resource (RS-12, RS-20)
 - Single-family Urban (RS-8, RS-10)

- 5.B – Consider different native vegetation percentage for RS-8 and RS-10 zones
- 5.C – Change “...native trees over 10 inches in dbh make up more than 70 percent of the canopy cover” to “...native trees over 6 inches in dbh make up more than 40 percent of the canopy cover.”
 - May trigger the requirements of this provision on more properties than the original proposal
 - Original proposal based on specific habitat features
 - Amendment intended to preserve more canopy coverage
- May be further refined through development of UFMP

Frequently Flooded Areas

- 6 – Do not consider amendments to ECDC 19.00.025 and 21.40.030 at this time
 - Frequently flooded areas are critical areas by definition
 - Building code regulates development in the flood plain
 - Proposed amendment to definition height intended to compensate for requirement to build two feet above base flood elevation
 - Is appropriate to consider at this time
 - Language in Comprehensive Plan Sustainability Element: “Focusing on short term expedient solutions will only make actions necessary to support sustainability more difficult in the future. For example the areas of environmental issues and climate change, deferred action now will only make cumulative effects more difficult to resolve in the future. The familiar GMA-based 20-year planning timeframe will not be sufficient – planning for sustainability must take an even longer view.”

Council Status Reports

- 7 – Require periodic reports to the City Council
 - Detailed reports can be time consuming and expensive
 - With existing resources could provide periodic reports with basic data, for example:
 - How many buffer reductions were granted and where
 - Number of critical area determinations
 - Number and general type of physically separated/functionally isolated buffer determinations
 - Provide some sample projects
 - Clarify report frequency

Appendices

- 8.A – Insert new Appendix A: Map of Critical Areas in Edmonds
 - Not regulatory - used for reference purposes only
 - Maps do not show the exact locations of all critical areas
 - Subject to change
- 8.B – Insert new Appendix B: Listing of critical areas in Edmonds with buffer widths and category/classification designations
 - Cost prohibitive
 - Would have to visit every property in Edmonds
 - Critical areas not fixed in time or place
 - Per updated code, critical area determinations and reports only valid for five years (ECDC 23.40.080 and 23.40.090.F)
- Could make existing critical area information available on City of Edmonds web map
 - Do not want people making decisions based on information that may be incorrect

Mr. Lien displayed Wetland and Streams; Landslide, Erosion and Seismic Hazards; and Priority Habitat Areas maps for Edmonds. He continued his review of the proposed amendments:

ECDC 20.15.215 Restoration Projects

- 9 – Replace draft language in Exhibit 1 with Council proposal
 - Restoration of historic ecological functions is encouraged
 - Which “historic” period
 - Looking to improve existing conditions
 - Project proponent proposes buffer width necessary to ensure success
 - Should have some specific parameters
 - Director reviews and forwards recommendation to City Council
 - Same issues with Council administration of the code as previously discussed

ECDC 23.40.040.C – Areas subject to the provision of the CAO

- 10 – Replace to refer to new appendices if appendices are adopted
 - ECDC 23.40.040.C notes that the critical area regulations apply regardless of any formal identification

ECDC 23.40.040.D – Areas Adjacent to Critical Areas

- 11 – Keep only first sentence and delete the remainder of the section
 - Amendment would correct discrepancy between ECDC 23.40.040.D and definition of adjacent in ECDC 23.40.320

Councilmember Buckshnis commended Mr. Lien for all his hard work. She has read four different critical area ordinances and will rely on Shoreline’s Ordinance 723 which includes a definition for BAS and others words. She offered to confer with Mr. Lien outside the meeting about definitions.

Councilmember Teitzel read from Department of Ecology’s January 12, 2016 letter which states, “ In recognition of the value of restoration in urban landscapes and the limited restoration opportunities, in 2009 the Washington State Legislature amended the Shoreline Management Act (see RCW 90.58.580) to encourage urban restoration. This amendment allows local jurisdictions to grant relief from shoreline permitting requirements when a restoration project causes a landward shift of the ordinary high water mark. Allowing a reduction in the standard buffer is a similar approach to encouraging restoration; not implementing a restoration project because of inadequate buffers would be an unfortunate loss of opportunities for environmental improvement.” He asked Mr. Lien if he agreed with DOE’s conclusion. Mr. Lien answered yes, the provision in the CAO is based on a SMA provision. The DOE’s letter is in response to one of the December 15, 2015 amendments which would have deleted one of the sections in the restoration projects. DOE’s letter supports the language proposed in Exhibit 1.

Councilmember Teitzel relayed his understanding allowing and encouraging restoration by reducing the buffer is a win for the environment and for the landowner which should be the City’s goal. Mr. Lien agreed, explaining the language in Exhibit 1 states the restoration project must have a net environmental benefit. If the land owner were allowed to reduce the buffer, the project overall would be required to have a net environmental benefit.

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

Mike Echelbarger, Edmonds, a builder in Edmonds, he relayed his experience with a stream and critical area on an adjacent property and requirement for a study. The study was related to language deleted from ECDC 23.40.090 and 23.40.310 regarding peer review. He described how peer review works in Edmonds; they were required do a report, in this case a watershed analysis. They hired a licensed engineer and paid \$10,000 for the report. The report was submitted to the City and the City hired a consultant to do peer review which cost another \$10,000. The consultant identified one addition and it

cost him \$1500 to have it included in the report. The bill for peer review from the City was \$5,000. He summarized he did not believe in peer review; the cost was nearly three times what it should have cost and he did not believe the results were significantly different. Next, he referred to ECDC 23.40.280 building setbacks, questioning why a setback, essentially a buffer for the buffer, was required in addition to the critical area buffer and how 15-feet was determined. He recommended the City inform its residents; there was little development potential in Edmonds but many people living next to a stream or wetland do not know these changes are being proposed.

Justin Heckt, Edmonds, a Students Saving Salmon volunteer, said for the greater environmental health of Edmonds and surrounding areas, the City needs to be accountable by doing scientific testing and using reliable and unbiased data collected from critical area. Critical areas contain streams and marshes that add to the ecosystem and can potentially support a thriving salmon community. These test provide not only information for health factors such as pH, dissolved oxygen and other factors, they look for potentially dangerous factors such as E.coli and toxins that can leak into neighborhoods or enter streams and the Marsh. Due to potential threats and the need to defend the environment, the City should look to scientific organizations such as the National Oceanic and Atmospheric Administration and Washington State University Extension to guide reports that will be used to make future guidelines. It is important that BAS be used in conjunction with the data acquired. Not having dependable data could lead to compromised water sources, increased potential infections from bacteria, exposure to pollutants in stormwater runoff. He suggested focusing attention on the Edmonds Marsh, an estuarine wetland and priority habitat. As the Marsh feeds into Puget Sound, it impacts the health of upland waters. Using BAS and all available data can promote a healthy society that will lead to a sustainable future.

Alan Merns, Edmonds, referred to written materials he provided, a chart showing, 1) bird population trends in his Maplewood neighborhood over 13 years, species and how they have appeared/disappeared, and 2) photos of 20 trees on a property near his home that were marked in late February; he was unsure this meant they were intended to be removed. He expressed concern with the CAO's inaction on bird and wildlife corridors across Edmonds. Although not in a critical area, he monitor birds in his yard; the abundance and biodiversity of bird life has been decreasing since 2005. He has shared his observations during the past five years with Edmonds citizens via presentations at the Bird Fest, Edmonds Floretum, Native Plant Demonstration Garden and a recent course at the Edmonds Community College Creative Retirement Institute. At least 6 of the 75 species are now locally extinct in his area; climate change and tree and shrub removal are likely factors in the decline. Citizens attending his presentations have been alarmed and are employing their own monitoring. When his family moved to Edmonds, there was a corridor of tall trees connecting Yost Park and Maplewood Park where birds including eagles, owls, band-tailed pigeon could be observed. During that time over 100 trees have been cut and not replaced. During its deliberations, he encouraged the Council to be inspired by the increased citizen monitoring and concern.

Phil Lovell, Edmonds, said the Council must incorporate support and implement appropriate language necessary to address the potential impacts of sea level rise on the Edmonds Puget Sound waterfront. The new community center currently under design per City Resolution 1313 approved on March 18, 2014, is based on a full 30-foot tall building with a first floor at elevation 15.0 in NAVD 88 datum. This criteria compiles with the current building height regulations and engineering based on BAS. He submitted the briefing document presented to the Council during the senior center's briefing to City Council at its March 4 retreat. He referred to a New York Times article printed in the March 15, 2016 Seattle Times regarding a recently published study in the magazine "Nature Climate Change" which states in part, "rising seas which already endanger coastal communities through tidal floods and storm surges could rise 3 feet and possibly even more." The updated CAO must contain provisions supporting the current design direction of the new waterfront community center so important to the welfare and benefit of the community.

Sam Kleven, Edmonds, expressed concern for the City's wildlife including salmon that use streams and wetlands. He cited the importance of protecting wildlife with the help of buffers. To successfully complete their lifecycle, salmon need wide enough buffers, sized in accordance with BAS. A buffer is a strip of land that surrounds environmentally fragile streams and wetland; properly sized buffers will help prevent harmful silt and pollutants such as stormwater runoff from entering streams and wetlands. Providing native vegetation and shade to nourish salmon will create a safe haven for species in Edmonds. As well as protecting birds, plants, insects and fish native to the City, buffers are also a visual symbol of Edmonds' land stewardship. Restoring urban streams also includes daylighting wherever possible; for example, Willow Creek will be daylighted thanks to the City's efforts to secure funding. The Students Saving Salmon Stream Team at Edmonds-Woodway High School monitors the status of many streams in Edmonds, including Willow Creek. Bringing back salmon runs will require providing incentives for daylighting streams and enhancing buffer areas such as tax reductions. Several incentives can be offered to citizens with regard to buffers via the Puget Sound Urban Resources Partnership, Community Salmon Fund, private stewardship programs and Five Star Restoration Challenge grants. The City currently supports the Student Saving Salmon program, a step in the right direction toward conservation restoration. He encouraged the Council to approve the use of strong language regarding conservation in Edmonds' CAO.

Joe Scordino, Edmonds, retired fishery biologist, summarized points in an email he provided the Council. First, he supported including a list of critical areas in Edmonds in the regulations. He questioned having 90+ pages of regulations but not knowing where they apply. Regulations should be easily readable by the public and people should know whether they apply to their property. He suggested simply listing Shellabarger Creek, Willow Creek, Edmonds Marsh and others and their buffers. Next, he felt it was important to encourage restoration projects and suggested letting the project proponent dictate the size of the buffer. For a restoration project to be successful it needs an adequate buffer and the buffer should be based on the science of the project rather than setting arbitrary buffer widths. With regard to physically separated/functionally isolated buffers, he recommended modifying the language to ensure what is functionally isolated is scientifically proven not just based on a regulation. He supported the amended language regarding monitoring and reporting so residents can see what is happening to critical areas. He referred to numerous regulatory structuring comments in his email. With regard to preserving the Marsh, he agreed there was some overlap with the SMP which has not yet been approved. He feared the intersect of the two may result in a reduction of the Marsh buffer widths or other changes in the Marsh's protection. He encouraged the Council to look closely at the Marsh when structuring the regulations.

John Reed, Edmonds, speaking on behalf the Alliance of Citizens for Edmonds (ACE), explained a task force of ACE members have considered the 12 proposed amendment as well as ideas and main areas identified for updating in the public hearing notice dated March 1, 2016. The task force also considered the 8 amendments made by Council on December 15, 2015 and the presentation by staff on the 12 amendments on February 23, 2016. Yesterday ACE submitted written comments to the Council, Mayor and Mr. Lien, suggesting changes and voicing support for some aspects of the CAO. ACE's comments are based on the October 19, 2015 redline version of the CAO and in some instances the proposed amendment in the public hearing memo in tonight's material has been revised and incorporates some of the recommendations in their submittal. He highlighted ACE's major recommendations.

- Amendment 1: The 2015 Council deleted this new section. ACE recommends the two terms be carefully and completely defined in the CAO definition section. This provision needs to be coordinated with footprint development and the SMP. Note F footprint of development should include compacted gravel. This was addressed in 2015 Amendment 5 to include legally established buildings, paved roads, driveways and parking lots. ACE recommends it be limited to those items.

- Amendment 2: Agree this needs to be limited to major items in physically separated/functionally isolated restoration exemption areas and recommend adding variances.
- Amendment 5.A: Agree this is unduly burdensome unless selected area such as parcels falling within a fish or wildlife habitat conservation area can be specifically called out.
- Amendment 9: Recommend remove buffer reduction allowance and allow project proponents to propose based on need for special projects. Reduction be limited to 25% and eliminate paragraph B.3 as proposed in 2015
- Note C: Recommend compensatory mitigation be eliminated and actual mitigation be required
- Building code and height exceptions: Stand by position taken on January 25, 2016 letter to Council....

He requested the Council keep in mind the primary purpose of the ordinance was to protect critical areas and allow exceptions only when absolutely necessary.

Susan Paine, Edmonds, cited the importance of trees to critical areas and the environmental services they provide, more so in critical areas. She supported preserving existing trees and expressed concern with allowing the removal of trees smaller than 4 inches or 6 inches as it eliminates much of the underbrush and prevents trees from maturing. Trees provide slope stabilization and other environmental benefits. She recommended restoration projects be limited to non-development projects to prevent additional development around sensitive areas which will be important for future generations and salmon runs. Regarding physically separated/functionally isolated buffers, she did not support including that provision, envisioning a sawtooth system of buffers around sensitive areas, wetlands and streams that would be difficult to enforce. With regard to building footprint, she questioned including gravel as part of a building footprint and recommended retaining the old language and not including loose or compacted gravel. She recommended Council review projects where a buffer reduction of 25% or more is proposed.

Bob McChesney, Executive Director, Port of Edmonds, said his comments are not related to any specific project or specific property. The local regulations such as the CAO are already restrictive as they pertain to future development opportunities and may devalue private property located in or adjacent to critical areas as well as place new limits on previously accepted private property rights. The Port's mission endorses both economic development and environmental stewardship as core values. The Port is committed to the balance between restoration and protection and renewal and economic vitality to serve future generations. In an ideal world restoration and redevelopment work together; the Port's responsibility is to find reasonable solutions that create new resources, to invest in restoration and support environmental stewardship. The Port is opposed to wider buffers around the Marsh as they would be overly restrictive and counterproductive to Marsh restoration which is a mutual goal. The Port is also concerned with amendments to frequently flooded areas. A contract rezone for Harbor Square, in existence since for many years, stipulates maximum building heights to 35 feet which should be reflected and protected in the new CAO. With regard to how the physically separated/functionally isolated provision works in the real world, he explained a portion of the footprint for the new Jacobsen Marine was in a critical area even though the Burlington Northern railroad runs down the middle, preventing any impacts to the Marsh. Regardless, \$11,000 in mitigation was required for impacts that did not exist. He was hopeful whatever amendments are passed do not overly restrict future development opportunities.

Eric Thuesen, Edmonds, recommended informing residents if their property is located in a critical area. Many of Edmonds' critical areas are steep slopes, anything over 15%, so it would not be difficult to delineate those. The information is important for a person to know when purchasing property. He expressed concern with the Council's level of involvement in critical area decisions, noting the Council has not been involved in past. Developers spend a considerable amount to hire experts to review projects using BAS to make determinations. Involving the Council, it becomes a political situation and may result in five years getting through the process. He acknowledged LUPA was an option but was expensive for the City as well as the proponent. He recommended the Council not be involved in decisions and instead

rely on experts and the Hearing Examiner. Often the Council does not have the expertise and the net effect could be an expensive lawsuit. He agreed with the proposal to increase the height of a house in a wetland.

Rondi Nordal, President, Edmonds-Woodway High School Students Saving Salmon Club, urged the Council to take to heart her and other young people's comments as they are the future of Edmonds. As a member of the Stream Team, she places a high value on the environmental health and conscientious protection and restoration of it. This requires the use of BAS as a means of ensuring these projects have a net positive benefit for wildlife habitat, critical because if BAS is not applied, restoration projects may not focus on key environmental factors or appropriate species. An example of a key factor is embeddedness, the extent to which silt surrounds or fills rocks, a key factor to stream health. One way to ensure restoration efforts benefit critical habitat is continued monitoring with oversight by qualified officials. Continued monitoring ensures a project progresses successfully and also collects information that can be used for future updates of the CAO and similar documents. In addition, qualified officials, preferably someone with a specialization in the factors being assessed, adds another level of accountability and potential for success. Considering the current BAS, she questioned whether tradeoffs that allow development to encroach on critical areas or add impervious surfaces in critical buffer zones should be encouraged and whether the width of a buffer established to protect critical habitat should be reduced, allowing human interests to come before the greater health of the collective environment. She urged the Council to consider the best interests of Edmonds when drafting amendments to the CAO. The natural beauty of Edmonds is a core identity and reflects the residents' values. She thanked the Council for their commitment to drafting the best CAO as it will greatly impact the future.

Ferrell Fleming, Edmonds, Executive Director, Senior Center, commented Edmonds pride itself on being a community with a high level of environmental sensitivity and awareness and a commitment to sustainability. BAS demands the City take account of sea level rise. While the magnitude and timeframe of that rise is a matter of considerable debate, sea level rise is a fact. Amendment 6 proposes not including amendments related to frequently flooded areas in the ordinance. Although this amendment may be well-meaning deal with the belief that this matter should be address elsewhere in the code, frequently flooded areas are critical areas by definition and with the growing attention paid to the threat of sea level rise, it would be odd for an environmentally progressive community such as Edmonds with considerable stake in its waterfront, to leave frequently flooded areas out of the CAO update. He urged the Council to defeat this amendment and leave frequently flooded areas in the updated CAO. The City's Strategic Action Plan asked the senior center to build a community center; that can be stopped at any number of points in the process either by action or inaction; consideration of the CAO is one such point. He urged the Council to pay specific attention to framing the language of the CAO update in such a way that they can build a multi-generational center that will serve many generations to come.

David Mellitte, Edmonds, a Woodway High School teacher, agreed with the students' comments regarding the impact that critical areas have on the environment. Critical areas are often overlooked unless one steps in it but they are extremely necessary to health and economic benefit. As has been seen in Louisiana, when critical areas are overlooked, they do not act as sponges to soak up overflows from natural changes in weather patterns and cannot act as a buffer. If buffers are intentionally reduced and robust buffers are not required, property owners will face the consequences. He encouraged the Council to maintain a robust effort with regard to critical areas.

Roger Hertrich, Edmonds, thanked Mayor Earling for his veto which extended discussion regarding the CAO and the four Councilmembers who voted in favor of holding a public hearing. He appreciated Councilmember Teitzel's question regarding buffer modification which would apply to stream restoration. He found that extremely critical and said being overly strict, non-practical would discouraged stream restoration. He pointed out toxic crumb rubber should be addressed in the CAO, noting there are

no provisions for stormwater with toxic materials that flows into Puget Sound. With regard to replacement trees, he pointed out a 1-inch tree has a better survival rate. He commented definite critical area maps are overly expensive and are impractical. As a board member at the senior center, he preferred to keep the old center to avoid these problems. He did not believe sea level rise would be as high as has been stated and did not think that belonged in the CAO.

Doug Swartz, Edmonds, referred to Amendment 9 regarding restoration and requested the Council consider restricting buffer reduction to 25%. Many Edmonds regulations include flexibility; although flexibility sounds good at the outset, the problem is if staff gives into one developer, every other developers or special interest will clamor for the same treatment. Buffer reduction up to 75% or allowing the proponent to recommend the amount of buffer reduction violates the idea of a code. If a project need more than a 25% reduction, the variance process would be appropriate. He urged the Council not to allow up to a 75% buffer reduction without a variance because the end result would be a code that was immaterial and that people could get around.

Sue Little, Edmonds, explained after purchasing her home at 806 Dayton Street in January 2007, she was told by the City in October 2011 to daylight the stream on the property. Before she daylighted the stream, it was in a pipe except for a waterfall. She hired a biologist and was told to complete a SEPA checklist for the work in the onsite stream. The biologist reported the stream is a non-fish bearing tributary to Shellabarger Creek. She was also required to obtain hydrologist project approval and even though her yard has no evidence of a wetland or habitat for endangered, threatened or sensitive species, she was told to create a berm to hold water in the stream. The work had to be done during low flow during the summer, 10 months from the time the original problem began with the rockery. Her rockery failed due to the timing. The Fish and Wildlife report stated an annual inspection was required which has never been done by Fish and Wildlife, the biologist or the Edmonds. After five years of misinformation, lack of communication has created more water problems and expense. She found this very stressful as a property owner as she cannot control the water coming down hill, the rain or the amount of water in her backyard. After discovering rodents in her crawlspace, 3 feet of water was pumped out, a sump pump and more drainage installed under her home at a cost of \$9,000. She summarized throughout this process she has spent approximately \$40,000-\$45,000 and still needs to spend more for drainage to address water issues. She assured she was an environmentalist and liked water and trees but she did not like water threatening her home.

Hearing no further comment, Mayor Earling closed the public participation portion of the public hearing. He noted the agenda memo and the agenda mentions only a public hearing. He agreed discussion was appropriate but questioned whether the Council wanted to take action on the amendments tonight.

Councilmember Mesaros recalled Mr. Lien's slides recommended discussion on April 5 and asked Mr. Lien to clarify. Mr. Lien agreed the agenda memo identified April 5 to narrow the potential amendments. As there are no other items on tonight's agenda, he suggested the Council have further discussion tonight.

Councilmember Buckshnis pointed out the agenda memo states potential action and asked if the Council could begin taking action on the amendments. City Attorney Jeff Taraday responded the agenda memo limitations are more of a Council protocol issue than a legal issue; there is no legal issue with the Council narrowing down the amendments tonight.

Councilmember Tibbott commented it may be worthwhile to consider amendments the Council can agree on and address the remaining amendments at the next meeting.

Council President Johnson thanked everyone who participated in the public hearing particularly the Students Saving Salmon, noting it was good to hear from young people in the community. She assured

the Council will consider the written comments that have been submitted and citizens are welcome to make comments regarding the specific amendments. As Mr. Lien mentioned, the Council wanted to create the universe of potential amendments for the public hearing. The CAO is a very complex, complicated ordinance and the Council should carefully consider how to move forward. She agreed with proposed the schedule with adoption by the end of April.

Councilmember Teitzel appreciated Ms. Little's comments about her experience. If a citizen invests thousands to daylight a stream for the benefit of the environment, it should be a positive experience for the citizen and the environment. He supported establishing the CAO so that a citizen has reasonable use of their property at the same time restoring and enhancing the environment to the extent possible and avoiding Ms. Little's experience whenever possible.

Councilmember Nelson relayed his excitement to begin working on the amendments, preferring to begin with the amendments that Councilmembers disagree on.

Council President Johnson commented on the importance of the Council considering the comments made during the public hearing, fearing that taking action tonight would be premature. She preferred to read the record more thoroughly, consider what has been said tonight and return at a future meeting.

Councilmember Mesaros was not certain which amendments the Council agreed on; he preferred to begin with Amendment 1.

Councilmember Buckshnis suggested delaying Amendment 2 until the April 5 when the City Attorney will provide information and Mr. Lien will provide an example. She suggested Amendment 11 was an easy one, simply cleaning up the language.

Councilmember Teitzel did not advocate for the Council's involvement in the administration's decision-making process; Councilmembers are legislators and set policy, the administration acts on the policy. If a decision was made not to have Council take action on exceptions and in 1-2 years the Council found the legislative intent was not being carried out, he asked if the Council could reopen the CAO to make it more restrictive and possibly have the Council involved or did the Council have to wait 7 years to make an amendment Mr. Taraday responded the Council could always clarify ambiguities in the code at a later date if an ambiguity leads to decisions by the Hearing Examiner that the City Council did not contemplated when adopting the code.

Councilmember Fraley-Monillas said the Council could also include something in the CAO and if it didn't work, amend it. Mr. Taraday agreed that could also be done; whatever the Council adopts in 2016, the Council was not forced to live with the 2016 CAO unchanged for 8 years. The Council can amend and clarify it as necessary. Councilmember Fraley-Monillas asked if the Council could modify it in 2017. Mr. Taraday answered yes.

Main Motion #1

COUNCILMEMBER TIBBOTT MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE AMENDMENT 11 AS PROPOSED.

Mr. Taraday clarified Councilmember Tibbott was seeking Council consensus to include Amendment 11 in the CAO. He advised the Council was not adopting anything tonight.

Action on Main Motion #1

MOTION CARRIED (6-1), COUNCIL PRESIDENT JOHNSON VOTING NO.

Main Motion #2

COUNCILMEMBER TIBBOTT MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE AMENDMENT 3.

Councilmember Mesaros asked if 2 inch dbh replacement trees will be required if the amendment is approved. Mr. Lien responded if the amendment is approved, the required replacement must be between 1-2 inches; a 1-inch tree would still be allowed. Councilmember Mesaros asked whether 3-inch tree would be allowed. Mr. Lien answered yes. Councilmember Mesaros clarified the minimum was 1 inch.

Councilmember Teitzel asked what was gained with the amendment as the size of the replacement tree was at a person's discretion. Mr. Lien said the vast majority of proposals will propose to plant a 1-inch tree.

Action on Main Motion #2

UPON ROLL CALL, MOTION CARRIED (5-2), COUNCIL PRESIDENT JOHNSON AND COUNCILMEMBERS NELSON, FRALEY-MONILLAS, BUCKSHNIS AND TIBBOTT VOTING YES; AND COUNCILMEMBERS MESAROS AND TEITZEL VOTING NO

Councilmember Teitzel proposed changing the title of ECDC 23.40.220.C.4, Amendment 1.B, Physically separated/functionally isolated to physically separated/interrupted buffer. Mr. Lien clarified his suggestion was to replace the entire phrase "physically separated/functionally isolated" with "interrupted buffer."

Main Motion #3

COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER TIBBOTT, TO CHANGE THE TITLE OF ECDC 23.40.220.C.4. TO INTERRUPTED BUFFER.

Mr. Lien said changing the entire section to interrupted buffer may require changing other references to physically separated/functionally isolated throughout the CAO.

Action on Main Motion #3

MOTION CARRIED UNANIMOUSLY.

Main Motion #4

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER TIBBOTT, TO APPROVE THE 4-INCH DBH IN AMENDMENT 4.A.

Council President Johnson referred to comment from Susan Paine regarding the importance of brush and small young trees. Changing maintenance to allow removal of trees 4-inches dbh or smaller was not taking into consideration other vegetation that may be useful in stabilizing a slope or providing habitat. She suggested Ms. Paine's comments were worthy of additional consideration. She interpreted this change to basically allow clear cutting of any steep slope that had 4 inch or less dbh vegetation.

Councilmember Mesaros responded he did to interpret this to allow clear cutting. He read it to allow removal of vegetation as part of normal maintenance of vegetation around a critical area. He was certain a property owner wanted to protect the slope as much as the City did. He recommended approving Amendment 4.A and allow property owners to take responsibility for their land.

Councilmember Fraley-Monillas asked for clarification. Mr. Lien explained this definition refers to a specific exemption in 23.40.230 (page 22 of Exhibit 1), an exemption allowed for operation, maintenance or repair. A statement was added that reads, "Operation and maintenance also includes normal maintenance of vegetation performed in accordance with best management practices, provided that such management actions are part of regular and ongoing maintenance, do not expand further into the critical area, are not the result of an expansion of the structure or utility, and do not directly impact an endangered

or threatened species.” A definition of normal maintenance of vegetation was also added, “normal maintenance of vegetation means removal of shrubs, non-woody vegetation and trees less than 4 inch dbh that occurs at least every other year. Maintenance also may include tree topping that has been previously approved by the City in the past five years.” Another possible provision would be within the allowed activity section, 23.40.220.C.7 (page 19 of Exhibit 1) that addresses select vegetation removal activities and includes a list of evasive and noxious weeds. Amendments to this section would limit the amount of clearing to an area 1500 square feet over a 3 year period.

Councilmember Fraley-Monillas asked how this would apply to the two incidents on one property where property owners cut trees on a hillside in a critical area. Mr. Lien answered the most common is alders that sprout on a property. Alders are a pioneering species and can come up by the thousands on a site. The exemption would prevent alders from taking over the site. The site Councilmember Fraley-Monillas was referring to was subject to restoration. Alders can overwhelm a restoration project. The exemption would allow a property owner to control the alders. Councilmember Fraley-Monillas commented it was not related only to alders. Mr. Lien agreed, alders were only an example that this would apply to; other trees sprout in a similar manner.

Councilmember Mesaros relayed his understanding if the amendment were approved, the regulations would not allow a clear cut. Mr. Lien agreed the regulations would not allow a clear cut; it was related to normal maintenance of vegetation on an ongoing regular basis.

Councilmember Buckshnis asked why 4 inches was preferable to 3 inches. Councilmember Mesaros recalled a citizen presenting a 3-inch and a 4-inch log to illustrate there was not much difference between 3 inches and 4 inches.

Action on Motion #4

MOTION CARRIED (6-1), COUNCIL PRESIDENT JOHNSON VOTING NO.

Main Motion #5

COUNCILMEMBER NELSON MOVED, SECONDED BY TIBBOTT TO APPROVE AMENDMENT 1.A.

Councilmember Nelson explained this amendment provided a balance between allowing some flexibility while requiring a qualified critical area consultant to make the determination whether it is in fact a separated and isolated buffer.

Councilmember Mesaros referred to Mr. Echelbarger’s comments regarding peer review and asked whether this amendment would require peer review. Mr. Lien answered that was elsewhere in the regulations. The amendment would not necessarily require peer review but it could. One of the instances when the City requires peer review is when there are multiple critical area reports that do not agree. In the instance referenced by Mr. Echelbarger, staff did not feel they had the expertise to review the critical area reports so it was sent to a consultant with that expertise. Another area that always requires peer review is development within the earth subsidence landslide hazard area in North Edmonds. He summarized there are a few instances where this amendment may require peer review.

Councilmember Mesaros referred to Ms. Little’s comments and the investments she has made when trying to do the right thing that has not turned out well for her. If decisions are made to reduce the buffer, he supported having good reason to do so and having expertise but did not want the property owner to go through a series of events that complicates their lives rather than helps them with their property and helps the City.

Mr. Taraday pointed out a portion of Amendment 1.A overlaps with Amendment 2; Amendment 1.A includes a process involving a recommendation to the City Council and Amendment 2 includes a different process. An earlier Council comment recommended deferring Amendment 2 to a later date.

Councilmember Buckshnis said if Amendment 1.A was related to Amendment 2, she preferred to first hear from the City Attorney on April 5.

Councilmember Tibbott relayed his understanding Amendment 1.A was an opportunity to agree with what was already proposed in the CAO and was one of greatest opportunities to allow for development that would improve environmental effectiveness in the critical area. He was supportive of Amendment 1.A and looked forward to a further understanding of Amendment 2.

Action on Main Motion #5

COUNCILMEMBER NELSON WITHDREW AMENDMENT 1.A WITH AGREEMENT OF THE SECOND.

Councilmember Teitzel expressed concern with the wording of Amendment 1.A, which states the director will require the applicant to provide a site assessment and functional analysis report by a qualified critical area consultant. His concern was this removes staff almost entirely from the decision. He envisioned a property downslope from a stream and did not support requiring a report when it was absolutely clear there was no impact on the nearby stream or wetland. He found Amendment 1.A too restrictive and felt it should be reworded.

Main Motion #6

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO REMOVE AMENDMENT 4.C, ADDING A DEFINITION FOR BEST AVAILABLE SCIENCE.

Councilmember Buckshnis commented the definition is already contained in ECDC 21.40.310.

Action on Main Motion #6

MOTION CARRIED UNANIMOUSLY.

Main Motion #7

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO APPROVE AMENDMENT 4.D, MOVE DEFINITIONS FROM PART VI TO ECDC 24.40.010 AFTER PURPOSE SECTION.

Councilmember Buckshnis commented the definitions should be at the beginning which is done in other cities' CAO for readability. Mr. Lien commented moving definitions from Part IV will not move the section related to BAS which has its own section describing characteristics of BAS, not a definition. He clarified Section 23.40.310 BAS is not contained in the definitions; the motion is to move the definitions contained in Part IV, 23.40.320 to 23.40.010, moving the definitions from the end of the general section to the beginning.

Councilmember Fraley-Monillas asked if Mr. Lien could bring back the amended text next week. Mr. Lien relayed his understanding the Council was reducing the amendments via changes discussed tonight so there were fewer to consider on April 5. He did not intend to make any of the changes approved tonight and would incorporate all the proposed amendments following the April 5 meeting into a new draft code for the April 12 meeting. Councilmember Fraley-Monillas feared it would be difficult to follow on April 5 if some changes were approved tonight and not incorporated into the document. Mr. Lien offered to create a new draft for the April 5 meeting although moving the definitions would require renumbering everything which would be very confusing. Mr. Taraday suggested when the COA returns to

the Council on April 5, staff categorize the amendments the Council has already acted on and amendments that have not yet been acted on. Mr. Lien agreed with Mr. Taraday's suggestion.

Councilmember Mesaros asked the intent of Amendment 4.B. Councilmember Buckshnis answered it relates to Amendment 2.

Councilmember Teitzel agreed it made sense to move the definition to the beginning as it will help the reader to have the definitions as they read the CAO. With regard to BAS, he suggested referencing in the list of definitions where BAS is in the document. Mr. Lien commented there was already motion to remove Amendment 4.C. Councilmember Teitzel clarified his suggestion was to reference the section on BAS as the definition of BAS.

Councilmember Buckshnis agreed with Councilmember Teitzel's suggestion.

Councilmember Mesaros clarified Councilmember Teitzel's suggestion; he was not recommending the language regarding BAS be included in the definitions, he was recommending including a reference to BAS in the definitions.

Amendment #1 to Main Motion #7

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND TO ADD REFERENCE CLARIFYING IN THE DEFINITION LIST WHERE A READER MIGHT FIND INFORMATION ON BEST AVAILABLE SCIENCE.

Action on Amendment #1

AMENDMENT CARRIED UNANIMOUSLY.

Action on Main Motion #7 as amended

MAIN MOTION CARRIED UNANIMOUSLY.

It was the consensus of the Council to defer further discussion and action on the amendments to April 5.

7. MAYOR'S COMMENTS

Mayor Earling advised the new Economic Development Commission (EDC) has been formed and thanked Councilmembers for their appointments. The EDC is a fabulous group of people; their first meeting is March 30. The Mayors Pedestrian Safety Committee will meet for the first time on April 5.

Mayor Earling reminded of the Snohomish County Cities dinner on Thursday; he is unable to attend.

8. COUNCIL COMMENTS

Councilmember Nelson referred to comments regarding the subject of sea level rise. He was excited there was so much interest in the topic and Edmonds, as well as other communities along the Washington coast including Seattle, Olympia, King County, Bellingham and Bremerton and Kitsap Council have looked at comprehensive ways to address sea level rise. If the City takes on this challenge, which he believed the City should, we should look at ways to adopt, prepare and fight. The reality is all the modeling is over an 84-year time frame and for the first 34 years of that modeling, the damage is already done. Seas will rise regardless of whether habits or lifestyles change. Beyond that point, from 2050 to 2100, there are things the City can do to impact sea level rise and he recommended being proactive not just reactive.

Councilmember Fraley-Monillas apologized for arriving late; she was at Health District's annual retreat until 6:45. The Health District is struggling with cuts and deciding which programs to cut. One of the proposals is for the Health District to no longer serve the WIC program and subcontract it instead. There

is some interest in asking cities to contribute funds per capita to the Health District. Funding is becoming critical; by 2018 there will be a \$2 shortfall every year, increasing to \$8 million by 2019.

Councilmember Fraley-Monillas advised the Edmonds Senior Center is hosting a St. Patricks' dinner on Thursday.

Councilmember Mesaros was inspired by Councilmember Nelson's comments about addressing issues causing sea level rise proactivity such as global warming. He referred to Mr. Williams' presentation on the ESCO project, noting in addition to energy savings, there will be a 536 ton reduction in CO2.

Councilmember Teitzel reported on an Audubon Society meeting he attended Friday evening in Everett where the Students Saving Salmon made a presentation. He was impressed by their passion for the issue, the environment health of the community, and salmon as well as their preparation. Edmonds is lucky to have them in the community. He also complimented their advisors, Mr. Scordino and Ms. Stewart. The group has a lot more data points that illustrate seasonal affects, water quality, temperature dissolved oxygen, etc. and plan to make a presentation on their updated data to the Council soon.

Councilmember Tibbott commented while the Council was discussing the CAO, there was poetic justice related to allergy season; he notices trees much more during this season. He expressed appreciation for the comments during the public hearing, relaying his intent to incorporate them in his comments during the process. He recognized as the Council deliberates, Councilmembers are informing each other, reaching consensus, disagreeing and ultimately reaching a decision. He respected the value of that deliberation and felt the public was well served by the process. He looked forward to the amendments and ultimate adoption of the CAO. He understood not everyone would agree on everything but that was part of working together. Although new to the Council, he was deeply appreciative of what the Council is able to accomplish via its deliberation.

Council President Johnson relayed a conversation with Police Chief Compaan regarding the status of the City's Comprehensive Emergency Management Plan. The plan was brought to Council in December and the Council passed a legally required resolution approving the plan. At that time Council requested minor revisions to plan, particularly in light of the City's move from ESCA to SCDEM and requested it be returned to Council by March 31. Chief Compaan said the plan is being revised as Council requested and will be presented to Council by the end of June.

Council President Johnson encouraged attendance at an interactive workshop regarding Highway 99 on Thursday, March 24 at 7:00 p.m. in the Brackett Room.

Council President Johnson advised that the Governor called a special conference on race relations on April 15 in Bothell. She encouraged Diversity Commission members or anyone interested in the subject to attend.

Council President Johnson announced this is National Sunshine Week, recognizing the 1972 national sunshine laws that encouraged open government and transparency.

9. CONVENE IN EXECUTIVE SESSION REGARDING PENDING OR POTENTIAL LITIGATION PER RCW 42.30.110(1)(i)

At 9:36 p.m., Mayor Earling announced that the City Council would meet in executive session regarding pending or potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 10 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-

Monillas, Buckshnis, Teitzel, Tibbott, Mesaros and Nelson. Others present were City Attorney Jeff Taraday, and City Clerk Scott Passey. The executive session concluded at 9:46 p.m.

10. **RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION**

Mayor Earling reconvened the regular City Council meeting at 9:46 p.m.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 9:47 p.m.