

EDMONDS CITY COUNCIL APPROVED MINUTES

April 5, 2016

The Edmonds City Council meeting was called to order at 7:05 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
Michael Nelson, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember
Dave Teitzel, Councilmember
Thomas Mesaros, Councilmember
Neil Tibbott, Councilmember

STAFF PRESENT

D. Compton, Police Officer
Phil Williams, Public Works Director
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.
Scott James, Finance Director
Rob Chave, Planning Manager
Bertrand Hauss, Transportation Engineer
Kernen Lien, Senior Planner
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

Mayor Earling apologized for unanticipated disruptions of the broadcast of the government access channels, Comcast channel 21 and Frontier channel 39, due to upgrades to the audio-visual system in Council Chambers installed during the past ten days. He cautioned there may be logistical issues as the Council gets used to the new system tonight and as additional features are added over the next few weeks. He asked the audience's patience as the Council gets used to the new and improved system.

1. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO AMEND THE AGENDA TO ADD CONSIDERATION OF A SETTLEMENT AGREEMENT RELATED TO A CONDEMNATION ACTION AT THE CORNER OF 76TH AVENUE AND 212TH STREET. MOTION CARRIED UNANIMOUSLY.

Council President Johnson suggested the additional item be added between Agenda Items 7A and B.

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

3. APPROVAL OF CONSENT AGENDA ITEMS

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF MARCH 22, 2016
 - B. APPROVAL OF COUNCIL SPECIAL MEETING MINUTES OF JANUARY 26, 2016, FEBRUARY 9, 2016, FEBRUARY 23, 2016, AND MARCH 1, 2016
 - C. APPROVAL OF CLAIM CHECKS #219083 THROUGH #219179 DATED MARCH 24, 2016 FOR \$385,169.60 (REISSUED CHECK #219125 \$130.00) AND CLAIM CHECKS #219180 THROUGH #219314 DATED MARCH 31, 2016 FOR \$454,672.86 (REISSUED CHECK #219282 \$123.60)
 - D. FEBRUARY 2016 MONTHLY BUDGETARY FINANCIAL REPORT
 - E. AUTHORIZE THE MAYOR TO SIGN FUNDING AGREEMENT WITH PUBLIC HOSPITAL DISTRICT NO. 2, SNOHOMISH COUNTY, WASHINGTON TO PROVIDE THE 2016 HEALTH & FITNESS EXPO
 - F. AUTHORIZATION FOR MAYOR TO SIGN PROFESSIONAL SERVICES AGREEMENT WITH BHC FOR DAYTON ST. UTILITY REPLACEMENT (3RD TO 9TH AVE)
 - G. AUTHORIZATION FOR MAYOR TO SIGN A SUPPLEMENTAL AGREEMENT WITH MURRAY, SMITH & ASSOCIATES FOR FIVE CORNERS RESERVOIR RECOATING
 - H. AUTHORIZATION TO AWARD A CONSTRUCTION CONTRACT FOR THE CITYWIDE CIPP SEWER REHABILITATION PROJECT TO INSITUFORM TECHNOLOGIES
 - I. AUTHORIZATION TO AWARD A CONSTRUCTION CONTRACT FOR THE 191ST STREET SW AND 216TH ST. DRAINAGE IMPROVEMENTS PROJECT TO AGR CONTRACTING
 - J. BUDGET AUTHORIZATION FOR FEDERAL LOBBYIST/STRATEGIST SERVICES
 - K. CONFIRMATION OF APPOINTMENT OF VIVIAN OLSON TO THE CITIZENS' TREE BOARD
4. PRESENTATIONS/REPORTS
- A. COMMUNITY TRANSIT CHOICE CONNECTIONS AWARD PRESENTATION

Mayor Earling explained Community Transit makes a series of awards every year; this year Edmonds was selected as Employer of the Year. He read Community Transit's presentation: The City of Edmonds is a shining example of the worksite transportation program. The City sponsors a successful bike to work day commute station and had outstanding participation in the bike month challenge last year. The City worked hard to surpass its established worksite goals. During the second quarter of 2015 Edmonds saved more than 800 gallons of gas and prevented 16,000 pounds of carbon dioxide emissions. For that reason and consistency though the year, Edmonds was awarded Employer of Year. He presented the award to Transportation Engineer Bertrand Hauss.

Mr. Hauss explained the City has been involved in the commute trip reduction incentive program for the last couple years. Approximately 21 employees participated in 2015; participants use an alternate mode of

transportation to commute to work at least eight times during the month such as carpool, bike, walk or use transit. During 2015 the City offered three raffle prizes every month throughout the year. Based on a comparison with other employers in Snohomish County with over 100, the City had the highest reduction in emissions or reduced the highest number of commute trips. He anticipated increased participation in 2016; the City secured a \$2500 Community Transit grant and the City budgeted \$1000 for a total of \$3500 to provide incentives. Mayor Earling directed Mr. Hauss to hang award in his office.

B. PLANNING BOARD UPDATE

Planning Board Chair Phil Lovell introduced Vice Chair Carreen Nordling Rubenkonig and Board Member Val Stewart. As there are several new Councilmembers and Planning Board Members, his report was divided into administrative and activities. He presented the administrative portion of the report:

- Organization
 - Board meets second and fourth Wednesday of each month at 7 p.m.
 - Board Members as of February 23, 2016
 - Phil Lovell (Chair)
 - Carreen Nordling Rubenkonig (Vice Chair)
 - Matt Cheun
 - Todd Cloutier
 - Nathan Monroe
 - Daniel Robles
 - Valerie Stewart
 - Alicia Crank (Alternate)
 - Sam Kleven (Student Rep)
- Characteristics
 - Members represent a broad variation in:
 - Background
 - Geographic location within the city
 - Experience
 - Issue concentration
 - Board acknowledges the high level of professionalism and assistance from City staff in all matters of research, presentation and work
 - Liaison closely with Park and Recreation and Arts, CEDC, Mayor, Council, and other city organizations as warranted
 - Board received training via City legal counsel regarding
 - Appearance of Fairness Doctrine
 - Quasi-judicial process
 - Public Records Act provisions

Chair Lovell reviewed the activities portion of the report:

- Land Use
 - Local lot rezone, 75th & 76th Avenue, RS-20 to RS-12
 - Recommended – moved to City Council and subsequently approved
 - Notice of Application reconciliation between ECDC 20.03.002B.2 and RCW 36.70B.110
 - Recommended, moved to Council and subsequently approved
 - Related: Parking requirements in RS zones addressing issues regarding provisions and enforcement
 - Recommendations forwarded to Council with interim provisions subsequently enacted
- Parks & Recreation
 - Department Director Carrie Hite briefed the Board on status of programs and projects including:

- Acquisition of Civic Field
- Marina Beach Park
- Arts and Cultural Services
- Local parks projects and improvements
- Veterans Plaza scope and plans
- Long range plans and potential programs
- Reports and Updates
 - Highway 99 Subarea Study (consultant: Fregonese Assoc)
 - Land use analysis
 - Transportation data
 - Economic evaluations
 - Redevelopment opportunities
 - Scenario planning
 - Local and stakeholder interface
 - Edmonds City Code and Community Development Code Update Process (consultant: Makers)
 - Reviews of process, schedule, and progress [2]
 - Briefing and attendance at two public workshops/open house including review of specific DRAFT language for sections on lot subdivisions and signage
 - Organizational formatting: Titles 15 through 23
 - Definitions of next steps [largely anticipated in 2016]
 - Allocation of consultant vs. city staff resources
 - Capital Facilities Plan [CFP] and Capital Improvement Program [CIP]
 - Reviewed 2016-2021 updates and recommended to Council for adoption
 - Waterfront Access Study Update - Board briefed on progress to date by task force member
 - Purpose and needs
 - Task force organization
 - Scope definition and concept evaluation process (reflecting input from two public briefings/workshops to date)
 - Overall study schedule
 - Growth in Edmonds - Development Services Director Shane Hope briefed on aspects of anticipated growth in the City with strategies toward
 - Minimizing environmental impact
 - Improving mobility
 - Making efficient use of urban land
 - Board undertook discussion at recent retreat [Mar. 9, 2016] regarding growth strategies with emphasis on different housing opportunities with the goal of accommodating a diversity of population

Councilmember Tibbott expressed appreciation for the work the Planning Board does and for Chair Lovell attending the Highway 99 Task Force and his involvement in the At-Grade Crossing Task Force. He asked whether during its deliberations the Planning Board encountered any need for clarification or direction from the City Council. Chair Lovell responded the most important thing between the two is communication. He and Vice Chair Nordling Rubenkönig have periodic meetings with the Mayor and he communicates with the Council President with regard to upcoming issues. A lot of what Planning Board undertakes is the result of action that occurs within the City or land uses. The Planning Board reviews information and studies, deliberates, reaches a consensus and makes a recommendation to the City Council.

Council President Johnson echoed Councilmember Tibbott's comments and looked forward to working with the Planning Board on a regular basis. She asked what came out of the Planning Board's retreat,

whether they clarified any issues or priorities. Chair Lovell answered the retreat included briefings from legal counsel regarding ethics and public meeting protocol such as conflict of interest, etc. The Planning Board is very interested in responsible growth as a subject; the City will be asked to accommodate approximately 5,200 residents in the next 15-20 years and additional employment. As Edmonds is fully built out, there are few opportunities for redevelopment in Edmonds. The Planning Board would like to consider opportunities in Five Corners and Highway 99. The Planning Board recommended to the Highway 99 consultant conducting a survey of the property owners regarding their thoughts, hopes, desires and long and short range plans for their property and opportunities for creating synergy. He concluded the Planning Board's primary interests are growth and housing.

Council President Johnson asked Vice Chair Nordling Rubenkönig her thoughts. Vice Chair Nordling Rubenkönig responded the Planning Board benefits from Chair Lovell's leadership, contacts within the community and wealth of experience. During the retreat, the Planning Board looked at a zoning map of Edmonds in an effort to gather information and to determine each person's understanding of the housing issue. Council President Johnson expressed appreciation for the leadership Chair Lovell provides and the work the Planning Board does, noting the Planning Board serves a vital function looking at land use as well as serving as the City's Parks Board.

Councilmember Buckshnis echoed Councilmember's thanks for the Planning Board's work. She was hopeful the code update could be completed before undertaking other tasks as the City continues to hear about difficulties with the code. She asked whether the Planning Board had experienced an increase in interest from citizens since the City began videotaping Planning Board meetings last year. Chair Lovell responded it depends on the issue; there is a lot of interest in issues such as signage or significant rezones. He summarized the videotaping had not necessarily changed the public's participation although it was unknown how many people watch the meetings.

Councilmember Buckshnis recalled joint Planning Board and City Council meetings in the past and suggested scheduling another one as some issues from the Council retreat are Planning Board related. She recalled in the past the City Council was criticized when the Planning Board considered an issue and when it came to the City Council, the Council shut it down, for example was development agreements. A joint meeting will ensure the Planning Board and City Council are on the same page. She enjoyed reading the Planning Board's minutes and also watches the video. Chair Lovell relayed the Planning Board's support for a joint meeting.

Councilmember Teitzel commented affordable housing and homelessness are not unique to Edmonds and are shared by neighboring cities. He asked to what extent the Planning Board reaches out to Planning Boards in other cities on such issues. Chair Lovell said the Planning Board receives updates regarding what is happening in other jurisdictions but has not reached out specifically regarding affordable housing or low cost housing. In reviewing Snohomish County's program, the major impetus of their efforts appear to focus on low income housing and homelessness, primarily via subsidization of rental units, identifying projects in specific jurisdictions and grants to improve rental rates or the conditions of rental units. He did not see Edmonds' mentioned specifically in Snohomish County's 114 -page report but there was mention of Everett, Lynnwood and other smaller jurisdictions. He suggested interfacing with PSRC with regard to an organized approach on the issue.

Councilmember Fraley-Monillas commented there are differences from block to block and neighborhood to neighborhood throughout the 2 miles of Highway 99. She hoped the City would do more than survey the business and property owners along Highway 99, anticipating determining their interest will take a great deal of face-to-face discussion. She noted English may not be the first language for many business and property owners on Highway 99, and they may not be receptive to information from government. She encouraged the City to actually visit each business and/or property owner, anticipating interest will vary.

Councilmember Nelson expressed appreciation for the Planning Board update. A former Planning Board Member, he was reminded how he misses the Planning Board. He echoed Councilmember Buckshnis' support for a joint Planning Board and City Council meeting.

Council President Johnson advised she will work with Chair Lovell to set up a joint meeting with the Planning Board and City Council in the future.

5. AUDIENCE COMMENTS

Val Stewart, Edmonds, referred to the efforts of a group of concerned citizens that includes herself to ensure the Edmonds Marsh is given highest priority in any decisions related to the Critical Area Ordinance (CAO) and Shoreline Master Program (SMP) updates. She referred to the Department of Ecology (DOE) memo dated December 11, 2015 to staff regarding downgrading the Edmonds Marsh from Category 1 to Category 2 and the rationale for buffer reduction which in their opinion was not based on BAS. A March 15, 2016 DOE letter states it was never the intent of DOE or City staff to downgrade the category of the Edmonds Marsh. Therefore, the City Council can decide to designate the Edmonds Marsh Category 1. DOE included in the reference list the City's own shoreline inventory and characterization document which the Planning Board reviewed during the SMP update; page 45 states the City has one wetland, the 23 acre Edmonds Marsh designated as a Category 1 wetland, highest quality. In addition to wildlife habitat and natural resource sanctuary, it is classified by the State as a priority habitat. She requested the Council reconfirm the designation of the Edmonds Marsh as a Category 1 wetland due to its special characteristics both as an estuarine wetland and a wetland of high conservation value based on the wetland rating system 2014 update. A Category 1 designation reflects the long standing efforts to restore the marsh and the community's value of this treasured asset. For both Category 1 and 2, the least standard buffer width is 75 feet according to the wetland guidance for small cities. Edmonds Marsh has a unique set of conditions and there is very little science that directly relates to a dike marsh alongside intense development and on land below the level of the adjacent wetland. A well designed, planted, and maintained buffer should provide ecologic values and functions for the marsh and a net positive benefit. Restoring a substantial buffer to its natural state would provide continuity for wildlife and would improve success for salmon habitat restoration; a great example for the region and a gift to future generations.

Kelly Meldrum, Edmonds, described a situation that occurred at her insurance agency at Five Corners when a water main broke outside her office. She was notified by the City January 14 that her water meter was higher than normal. She immediately turned the water off, called a plumber who obtained a permit the following day and within two days the pipe under the pavement was repaired at a cost of \$4700. She received a letter from the City stating a credit could be obtained for a maxim of \$1000. Her normal water bill from October 20 – December 18, 2015 was \$151.83. She received a letter on February 23 stating she was eligible for the \$1000 credit, one leak credit within 3 years and it would be applied on the next applicable bill. She was alarmed when she received a bill for \$3,094.18 as she did not expect to receive a bill of that amount when she had turned the water off as soon as she was notified. She appreciated the credit, but was informed by Finance Director Scott James and Public Works Director Phil Williams that this policy was adopted by the City. She requested a reasonable resolution, noting the majority of the bill was for sewer and storm drain and taxes (\$1771.78) although it was unknown if the water entered the sewer as it was not visible. She suggested subtracting the \$1000 credit and the sewer costs (\$1771.78), leaving \$322.40 which she would be happy to pay. Mayor Earling relayed he has talked with staff and someone will be in contact with her. There will also need to be a discussion by the Council.

Jenny Anttila, Edmonds, referred to the Edmonds Marsh, questioning whether the City was aware there was marsh on both sides of SR 104. The portion of the Marsh on the left side of SR 104 as one leaves the City is dying; the reason is unknown but they are two invasive weeds. She was unsure if that portion of the marsh affected the marsh on the right side. She commented on the importance of setbacks to retain a

vibrant City and protect wetlands. Next, she referred to parking issues in the City, fearing parking will get worse especially on 6th Avenue as the City accommodates additional housing. Parking needs to be taken seriously, particularly for shopkeepers and vendors who need parking for their customers. She also asked about the status of Sunset Avenue, and how the survey information and the petition with signatures from 1000 people opposed to the design will be used. She suggested publishing an update in the newspaper or on My Edmonds News.

Roger Hertrich, Edmonds, referred to the reply from the DOE and the concern with the Edmonds Marsh. He suggested regardless of the designation of the Edmonds Marsh, a 100-foot buffer would be appropriate because that is approximately where building/structures are located and that buffer has done a fairly good job to date. He did not support changing the buffer regardless of the category. With regard to where the high water mark is measured, DOE's letter addresses the height of the salt water intrusion. He suggested the existing high water mark is correct. His primary concern was the marsh designation and the buffer, summarizing the buffer should not be more than 100 feet because it was not practical to remove buildings. He encouraged the Council to consider the issues raised in the letter of concern from the citizens to DOE and DOE's reply. Next, he explained after conferring with Comcast several times regarding the government access channel outage over the past two weeks, he learned today, just as the service was restored, that the issue was the City's. He anticipated the upgrades will improve service in the future.

6. PUBLIC HEARINGS

A. PUBLIC HEARING TO DETERMINE THE ELIGIBILITY OF THE FIRST BAPTIST CHURCH OF EDMONDS LISTING ON THE EDMONDS REGISTER OF HISTORIC PLACES

Senior Planner Kernen Lien recognized Historic Preservation Commission (HPC) members present tonight. Emily Scott, Larry Vogel and Sandra Albery. He explained the First Baptist Church of Edmonds, located at 404 Bell Street, was nominated for consideration for placement on the Edmonds Register of Historic Place. The property owners nominated the house and signed the authorization form. He reviewed:

- Effects of listing on the register
 - Honorary designation denoting significant association with the history of Edmonds
 - Prior to commencing any work on a register property (excluding repair and maintenance), owner must request and receive a certificate of appropriateness from the Historic Preservation Commission
 - May be eligible for special tax valuation on their rehabilitation
- Aerial photograph identifying location of property
- Designation Criteria
 - Significantly associated with the history, architecture, archaeology, engineering or cultural heritage of Edmonds
 - Has integrity
 - At least 50 years old, or has exceptional importance if less the 50 years old
 - Original church building constructed in 1909 at corner of 6th & Edmonds Street
 - Moved to current location in 1929
 - house in back moved to site in 1946 as parsonage and eventually connected to church
 - Church was remodeled in 1950. HPC determined the period from 1950 has integrity and has not changed since that time.
 - Falls into at least one of designation categories, ECDC 20.45.010.A – K
 - HPC determined met two of designation categories:
 - D. Exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering or architectural history....

- Church is longest continually operated church in the City
 - Numerous special events since 1909
- E. Associated with lives of persons significant in local history
- Alice Kerr was the first woman Mayor in the City, elected in 1924, entered the race two days before the election and won by a narrow margin.

He displayed photos of the church and parsonage and a newspaper advertisement for the dedication of the remodel. The packet contains a history of the church's first 100 years which mentions the Cedar of Lebanon in front. The tree came down in the 1980s after a windstorm. He displayed plans from the 1950s and relayed the HPC's recommendation:

- HPC held a public hearing on February 11, 2016
- HPC found the nomination meets the criteria and eligible for designation on the Edmonds Register of Historic Places
- HPC recommends the property be listed on the Edmonds Register of Historic Places

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

Emily Scott, Edmonds, HPC Chair, said the HPC was thrilled to have the building added to register. It has been an important part of the community for over 100 years and continues to be a well-run organization. She recognized several church members in the audience. She thanked the Council for supporting Edmonds's history and historic preservation.

Pastor Barry Crane, North Sound Church, said they were excited about the little white church being on the City's historic register and thanked the HPC for all their hard work. He was amazed with Councilmember Teitzel who has been in dialogue with the church for the past few months as well as with the work of the HPC on behalf of citizens to preserve the City's history.

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

Councilmember Mesaros commented one of the nice things about living in Edmonds is the mix of new and old. It is wonderful to see the efforts to preserve the gems in the City that his out of town guests often remark on.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE ORDINANCE NO. 4023, ADDING THE NORTH SOUND CHURCH/FIRST BAPTIST CHURCH OF EDMONDS TO THE EDMONDS REGISTER OF HISTORIC PLACES.

Councilmember Teitzel commented he attends North Sound Church but before attending, he admired it for many years as a resident of Edmonds. The church is located on the on 4th Avenue Arts Corridor, is highly visible, the bell tower is highly recognizable and it is a wonderful thing to engage with church to retain its historical character which Pastor Crane has said he is committed to doing. He was pleased to have the church listed on the Edmonds Register, both for the church and the city.

Councilmember Fraley-Monillas said she does not attend North Sound Church but enjoys looking at it and the community involvement. She thanked thank Pastor Crane for agreeing to continue to protect this valuable asset, noting his agreeing to have the church added to the Edmonds Register will protect it in perpetuity. She also thanked the HPC for their efforts.

Councilmember Buckshnis thanked the HPC and Pastor Crane for bringing this forward. She relayed her support for the North Sound Church's purchase of the Edmonds Conference Center.

Council President Johnson echoed the previous comments, noting as the former Council liaison to the HPC, she knew the HPC has been working on this a long time. She commended the new liaison, Councilmember Teitzel, for closing the deal and Pastor Crane for his leadership.

Councilmember Tibbott recognized the North Sound Church for the great job they do caring for the building, noting an old building requires a lot of maintenance. The church did a great job refurbishing it recently as well as preserving its history for the City. The church is a great asset to add to the Registry.

MOTION CARRIED UNANIMOUSLY.

7. ACTION ITEMS

A. CIVIC FIELD STREET VACATIONS RESOLUTION

Parks & Recreation Director Carrie Hite requested Council consideration of a resolution to begin the process of vacating the two streets and they alley that run through Civic Field. She displayed a drawing of Civic Field, explaining as the City proceeded with the purchase of Civic field, it became apparent that there were no official vacations of either Edmonds or Sprague streets or an alley that runs through the Civic Field property. This allowed the City to negotiate a purchase price from the School District for 6.07 +/- acres, instead of the full 8-acre site. In order for the City to plan and develop this property as open space and parkland, she recommended the City Council consider the official vacation of these two streets and alley to itself as part of the park. A resolution in the packet will officially begin the process of the vacations and sets a public hearing for May 17, 2016.

Ms. Hite explained the Council previously passed Resolution No. 1352; the proposed resolution repeals that resolution and sets a new public hearing date. She requested the Council forward the resolution to the Consent Agenda for approval and the City Clerk will assign a resolution number.

Councilmember Fraley-Monillas asked the effect of the street vacation. Ms. Hite explained the City negotiated with the two granting agencies concentrating streets and alley into northwest corner of the two acre-area so that area would not be subject to deed restrictions. The Council previously approved a conservation easement and deed of right for the acreage that includes the two streets; staff will return with amendments to include the acreage of the alley within the next few weeks.

Councilmember Fraley-Monillas asked what Ms. Hite foresees being on that property. Ms. Hite referred to plans for a master planning process; three firms were interviewed today. As the master planning will include a robust public, she wanted to give the community an opportunity to plan the project/site.

Council President Johnson asked for clarification regarding restrictions on the use for the different areas on the map of Civic Field. Ms. Hite explained the 6.07 acres, the I-shaped lot, is restricted by Conservation Futures and the deed of right with RCO; allowed uses on that site include passive and some active recreation, a limited amount of impervious surface, no structures, no synthetic turf, as much of a natural area as can be planned. Uses on the two acres depicted in orange on the map are unrestricted and subject to the Master Plan.

Councilmember Teitzel observed when the School District purchased the property years ago, the City never transferred ownership of those two streets and alley easements; the City owned the easements then and owns them now. City Attorney Jeff Taraday said a dedicate right-of-way remains a dedicated right-of-way indefinitely unless it is vacated. No record could be found that those streets or the alley were previously vacated; the property had been subject to City's right-of-way rights ever since the plat was originally recorded. If approved, this would be the first time that right-of-way dedication has been lifted from the property.

It was the consensus of the Council to schedule approval of a resolution on next week's Consent Agenda.

Mayor Earling declared a brief recess.

NEW ITEM: CONSIDERATION OF SETTLEMENT AGREEMENT RELATED TO A CONDEMNATION ACTION AT THE CORNER OF 76TH AVENUE AND 212TH STREET

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO APPROVE THE MARCH 29, 2016 SETTLEMENT AGREEMENT BETWEEN THE CITY OF EDMONDS AND FOUR PROPERTY OWNERS KNOWN AS THREE GRACES #1 LLC, THREE GRACES #2 LLC, THREE GRACES #3 LLC AND PORTERFIELD DEVELOPMENT LLC IN WHICH THE PARTIES HAVE AGREED TO SETTLE THE CONDEMNATION ACTION FILED UNDER SNOHOMISH COUNTY CAUSE NUMBER 15-2-05187-1 FOR A TOTAL JUST COMPENSATION OF \$273,000. MOTION CARRIED UNANIMOUSLY.

B. CRITICAL AREA ORDINANCE UPDATE

Senior Planner Kernen Lien reviewed expectations for tonight's meeting and next steps:

- Tonight
 - Recap Decisions made on March 15, 2016
 - Continue Council discussion and decide which proposed amendments to carry forward
 - City Attorney not at next week's meeting so need to make decision regarding contingent critical area review procedure tonight
- Next Council Meetings:
 - April 12th – Discuss and refine proposed amendments carried forward on April 5th
 - April 19th – Potential adoption of updated critical area regulations

Mr. Lien reviewed amendments the Council approved at the March 15 meeting:

- Amendment 1.B: Rename provision to physically separated/potentially isolated or “interrupted buffer.”
 - Council voted to rename of the physically separated/functionally isolated buffer provision to “interrupted buffer.”
 - All references to physically separated/functionally isolated buffer in the CAO will be changed prior to adoption
- Amendment 3: ECDC 23.40.220.C.7.b.iv - Hazard Tree Replacement
 - Council voted to change the required diameter of deciduous replacement trees from one inch dbh to one to two inches dbh
- Amendments 4: Definitions
 - A. ECDC 23.40.320 - Normal Maintenance of Vegetation Definition
 - Council voted to Include removal of trees less than 4-inch dbh
 - C. Add definition for Best Available Science.
 - Council voted to insert reference to ECDC 23.40.310 (Best Available Science) in the definitions section
 - D. Move definitions from Part VI to ECDC 23.40.010 after Purpose section
 - Council voted to move definitions to ECDC 23.40.010
- Amendment 11: ECDC 23.40.040.D - Areas Adjacent to Critical Areas
 - Council voted to keep only the first sentence and delete the remainder of this section

Mr. Lien reviewed potential amendments:

Council Review/Critical Area Decision Process

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

- 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

Mr. Lien described the contingent critical area review procedure:

- Scope
 - Development of 600 square feet within standard buffer
 - Interrupted Buffer
 - Restoration Project
 - Wetland/Stream Buffer Reduction
- 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

Council President Johnson referred to the contingent critical area review procedure, observing a restoration project such as Willow Creek daylighting may not have 600 square feet of development within the standard buffer. Mr. Lien explained after the restoration project there will be a buffer to the critical area; if the restoration project involved more than 600 square feet of disturbance from daylighting the stream or expansion of the wetland, it would elevate to this process. Mr. Taraday clarified for this procedure to apply, both the 600 square foot threshold and at least one of the other three items (interrupted buffer, restoration project or wetland/stream buffer reduction) needs to occur. It would not apply every time there was development of 600 square feet within a standard buffer.

Council President Johnson said she will keep this question in mind and will see how the contingent critical area review procedure would work for a project with restoration but no construction within the buffer. Mr. Lien said if the desire was to have all restoration projects included, the language could be changed to restoration projects or interrupted buffer or wetland buffer reduction that include development of 600 square feet within the standard buffer.

Mr. Lien provided a photograph and described a theoretical contingent review:

- Features of example:
 - Stream requiring a 75-foot buffer
 - 75-foot buffer
 - 25% buffer reduction allowed by CAO
 - 600 square foot detached garage on a developed property with stream
 - Interrupted buffer or buffer reduction may be applicable
 - Initial applications required
- Contingent review process:
 - Planning staff reviews critical area application and issues a “Study Required” finding do the presence of a stream
 - Planning staff reviews building permit application
 - Notes 600 square feet of disturbance within standard buffer
 - Notifies applicant of contingent review process

- Contingent review process – Type II-B
 - Applicant applies for the Type II-B contingent review and pays \$820 application fee
 - 28-day completeness review for Type II applications
 - Notice of Application provided
 - Properties within 300 ft., posted on site, published in Everett Herald, and notice provided to Council
 - City received request for public hearing within the 14-day comment period
 - Requesting party pay \$921
 - Applicant pays \$921 to continue with Type III contingent review process within 30 days
- Contingent review process – Type III-A
 - Notice of Public Hearing provided
 - Properties within 300 ft., posted on site, published in Everett Herald, and notice provided to Council
 - Public hearing held
 - Hearing Examiner has 10 business days to issue decision
 - Hearing Examiner decision may be appeal under LUPA (RCW 36.70C)
 - No appeal on Hearing Examiner decision
 - Building permit process may be completed

He provided a comparison of the critical area contingent review:

Review Type	Length of Process	Cost
Building permit review	25-30 days	\$1,173.50
Building permit review with Type II-B critical area contingent review	2-3 months	\$1,993.50
Building Permit review with Type III-A critical area contingent review	4-5 months	\$2,914.50

Mr. Lien reviewed contingent review process takeaways:

- Adds opportunity for public input into decision process
- Adds cost and time to project review
- Council options
 - Adjust threshold for when project is triggered
 - Further limit what type of projects are subject to contingent review
 - Reserved for special circumstances
 - Keep existing review process
 - Not apply to buffer reduction
 - Current critical area code includes buffer reduction of 50% of standard buffer and reduced buffer can also be buffer averaged
 - Draft code only allows reduction of up to 25% of standard buffer and does not allow combining buffer reduction with buffer averaging

Councilmember Buckshnis said her intent has been to address wetland categories 1 and 2 and estuaries. She recalled an instance where a massive cutting took place, Council provided input to staff and staff did not act on Council’s input. Her intent was to ensure the Council had knowledge of the threshold and what is occurring. Her primary concerns were daylighting Willow Creek and any issues related to Lake Ballinger.

Council President Johnson referred to Mr. Lien’s indication that buffer reduction and buffer averaging could not be combined. She recalled for Willow Creek there was a 25% buffer reduction on the south side and the Marina Beach Master Plan includes a buffer of less than 75 feet on the north side and there was an

opportunity for buffer averaging. Mr. Lien responded both sides of the creek have 75-foot buffer; buffer averaging could be done on one side and a buffer reduction could potentially be done on the other side; they cannot be combined on one side.

Council President Johnson observed the current code allows a 25% buffer reduction and the proposed code allows a 50% reduction. Mr. Lien said her observation related to several provisions in the CAO. There is a provision that applies to streams and wetlands that allows buffer reduction. The current code allows a buffer reduction of 50% of the standard buffer and that 50% buffer could be averaged as well. The current code does not have a provision for restoration projects. The buffer can only be reduced by 25%, not 50% and buffer reduction and buffer averaging cannot be combined. With regard to the restoration section of the code, a new section based on the Shoreline Management Act (SMA) only applies to projects that are not required as mitigation for a development proposal such as daylighting of a stream or landward expansion of a wetland. If a stream is in a culvert, there is no buffer. Once the stream is daylighted, it is subject to the critical area regulations. The restoration section was modeled after the SMA provision that states for a shoreline project that expands shoreline jurisdiction, the SMP does not apply in that area. The draft critical area provision states a restoration project that expands the critical area buffer, the buffer could be reduced if certain criteria are met to a maximum of 50% of the standard critical area buffer. Another amendment will address that issue; he recommended focusing on the contingent review procedure tonight in order to complete it while Mr. Taraday is present. As currently drafted the contingent review would apply to restoration projects

Council President Johnson commented if the Council were involved, she recalled a ten-day period for the Council to act after the Hearing Examiner's decision. Mr. Lien explained a LUPA appeal must be made within 21 days of the Hearing Examiner's decision. Council President Johnson asked if contingent review example had the same deadline and whether it was considered a LUPA appeal. Mr. Taraday responded one of the key features of this process is it takes the City Council out of the quasi-judicial decision making role for these types of critical area decisions but does not take the Council out of process. That is important because when City Councils act in quasi-judicial decision making roles, they incur the greatest potential liability for making a decision based not on adopted criteria but on other factors that may not be permissible. With the contingent review process, the City Council is involved, receives notice of application, can engage with constituents because the Council is not in the decision making role so the Appearance of Fairness Doctrine does not apply. Councilmembers can talk to proponents and opponents, testify at the Hearing Examiner, etc. and if a majority of the Council does not like the Hearing Examiner's decision, the Council can direct the City Attorney to file a LUPA appeal of the Hearing Examiner's decision to Superior Court. He summarized the Council was involved, just not as decision makers.

Council President Johnson asked for clarification regarding notification to Council and how quickly the Council needed to act. Mr. Lien advised there are three potential notices to Council, 1) notice of application of Type II-B, 2) notice of public hearing if a party requests a public hearing, and 3) notice of the Hearing Examiner's decision. If a decision is made at the end of the Type II-B process without a public hearing, that decision is appealable to the Hearing Examiner.

Councilmember Nelson referred to the comparison of costs. A homeowner constructing a garage would pay the \$1173.50 building permit. If it was discovered the garage met the criteria, the homeowner would pay an additional \$821. He asked what the homeowner would be responsible for in moving forward in a Type II-B process. Mr. Lien advised the application fees do not include any consultant fees. The property owner will be required to prepare a critical area report. Once an application is submitted and deemed complete, there is usually additional discussion with staff. If there is no request for a hearing, that is the end for the property owner.

Councilmember Nelson clarified if someone requests a public hearing, that person pays a fee. Mr. Lien explained in an attempt for the requested party to have some buy-in to the process to prevent abuse, the person requesting the public hearing must pay the half difference between the Type II and III permit process. Councilmember Nelson asked how the cost for the Type II and III permit fee is determined. Mr. Lien answered they are in the City's adopted fee schedule. A Type III process is about \$1,600 and anything that goes to the Hearing Examiner, the applicant is required to pay the cost of the Hearing Examiner and staff takes a deposit at the time of application. Councilmember Nelson observed the person requesting a public hearing pays 50% of the fee and the homeowner pays 50% of the fee even though they may not want a Type III process.

Councilmember Fraley-Monillas asked how many applications the City receives a year for property restoration projects. Mr. Lien did not think the City had ever had an application for a restoration project and that is not currently included in the code. There has only been one daylighting of stream that he knew of and it did not start out as a restoration project. Councilmember Fraley-Monillas summarized the occurrence of restoration projects is very low. Mr. Lien answered it could be but he could foresee a situation where someone wanted to daylight a stream on their property for a water feature but they may not want to if daylighting the stream requires a 50-75 foot buffer that takes away the use of their property. Councilmember Fraley-Monillas asked if a property owner could daylight a stream on their property now. Mr. Lien answered they could but there is no provision that provides relief from the critical area regulations; if someone daylighted a stream, they would be stuck with the standard buffer.

Councilmember Mesaros pointed out there was no incentive for a property owner to do a restoration project. Mr. Lien agreed. If the goal was to encourage restoration, Councilmember Mesaros said a system that provided some relief or incentive was a positive step. He noted the small relief would still cost the property owner a lot of money, time and effort. Mr. Lien agreed.

Council President Johnson pointed out there have been no requests for this in the past and before providing an incentive via such a tremendous change, the Council needs to consider how this would actually be applied. She observed it applies to the Willow Creek daylighting project.

Councilmember Buckshnis supported reserving the contingent review process for special circumstances such as Wetland 1 and 2 and Estuary 1 and 2. Many stakeholders are involved in those areas and the projects will be very expensive so it is important to have the Council provide oversight and opportunity to involve the City Attorney. If someone wants to daylight a stream in their yard, the Council does not need to be involved; however, the Council will want to be involved with the daylighting of Willow Creek and if there are any issues with Lake Ballinger Council in the future. Mr. Lien summarized the Council's direction: reserve for special circumstances to apply to restoration projects on anadromous fish bearing streams which include Willow Creek or wetland restoration projects on Category 1 and 2 wetlands and tweak the language to have it apply to those projects.

Councilmember Teitzel agreed with Councilmember Mesaros' comment. He referred to Mr. Lien's indication that there have virtually been no restoration requests because homeowners are cognizant if they take a stream out of a culvert, they may not be able to expand their home to add bedroom or a deck so it is not surprising homeowners have not made any requests. That is unfortunate because it is a lost opportunity to enhance the environment and those type of projects need to be encouraged. He encouraged the Council to strike the proper balance between respect for the environment and homeowner rights and not create a disincentive to take a stream out of a culvert.

Councilmember Nelson relayed concern with costs for an average homeowner trying to doing a project. He agreed this process would be rare and infrequent and would only be applicable to a substantial restoration project. He did not support trying to do a restoration project while fixing something else on a

property. He preferred to make a distinction between an improvement on a property that fell within a critical area versus restoring a critical area. If the goal was to restore a critical area, that should be the priority.

Councilmember Mesaros referred to the photo of the contingent review process example. There is a culverted stream on a property and a homeowner wants to build a garage next to their house. They decide to daylight the stream as a part of the construction to add value to their property. They may determine daylighting the stream will not allow construction of the garage. Mr. Lien said if the stream was culverted and the homeowner daylighted it, there would be a 75-foot buffer which could be reduced via the buffer width reduction or potentially an interrupted buffer. Daylighting the stream would further restrict the rest of the property. He summarized with a stream in a culvert there is no buffer, daylighted, there is a buffer. Councilmember Mesaros wanted to allow a homeowner constructing a garage to be able to daylight the stream. They likely would not do that because without buffer reduction and daylighting would not allow them to construct the garage. Mr. Lien agreed that was potentially correct.

Mr. Lien clarified a restoration project is not tied to a development project and not required as mitigation, it is just something a property owner wants to do to improve the critical area. Councilmember Mesaros asked if a property owner could do both if they wanted to. Mr. Lien said he would discourage a restoration project to obtain a reduced buffer for a development proposal. Councilmember Mesaros clarified the homeowner may want all the construction to be done at one time. He anticipated the planning department would inform the homeowner that daylighting the creek would require a 75-foot buffer and describe any additional costs and the homeowner may decide to leave the stream in the culvert. Mr. Lien said the homeowner would be informed of the consequences. He agreed the City wants to encourage restoration projects where possible. If the contingent review process only applied to anadromous fish bearing streams and Category 1 and 2 wetlands, it would not impact the property in the example because an anadromous fish bearing stream has a 100-foot buffer.

Councilmember Fraley-Monillas agreed with Councilmember Nelson, finding it difficult to believe anyone would want to restore a waterway on their property at same time they are increasing the footprint of their home. She was glad Councilmembers were interested in the environment and restoration, noting the built-out condition of Edmonds will require more preservation of the environment. She summarized most homeowners would choose to do one or the other, develop the waterway or their home and she doubted they would do both at same time.

Councilmember Fraley-Monillas announced the meeting audio is online right now but not on television; IT staff are working on the AV system.

Councilmember Buckshnis said she also wanted to include Category 1 and 2 estuaries due to DOE's downgrading the marsh to a Category 2 estuary.

Council President Johnson asked for clarification; originally there were three categories: buffer reduction, restoration projects and interrupted buffer. She asked if the Council wanted to include all three in the contingency critical area review procedures. Mr. Lien said he has only heard interest in including restoration projects. He said a buffer reduction would not be allowed on a Category 1 or 2 wetland, it is only allowed on Category 3 and 4 wetlands. Council President Johnson asked the Council's interested in including the interrupted buffer. Mr. Lien relayed what he has heard from the Council: include Category 1 and 2 wetlands, estuary wetlands and anadromous fish bearing streams restoration projects.

For Councilmember Buckshnis, Mr. Lien explained for a restoration project on a Category 1 or 2 wetland, estuary wetland or anadromous fish bearing streams, the buffer relief associated with the restoration

project is addressed in that review. There are different stream and wetland buffer reduction sections in the code but a buffer reduction cannot occur on a Category 1 or 2 wetland.

Main Motion #1

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, THAT THE CONTINGENT REVIEW PROCESS APPLY TO CATEGORY 1 AND 2 WETLANDS AND CATEGORY 1 AND 2 ESTUARIES AND ANADROMOUS FISH BEARING STREAMS FOR BOTH RESTORATION PROJECTS AND WETLAND STREAM BUFFER REDUCTIONS.

Mr. Lien clarified a wetland buffer reduction cannot be done on a Category 1 or 2 wetland.

Councilmember Buckshnis restated the motion:

THAT THE CONTINGENT REVIEW PROCESS APPLY TO CATEGORY 1 AND 2 WETLANDS AND CATEGORY 1 AND 2 ESTUARIES AND ANADROMOUS FISH BEARING STREAMS FOR RESTORATION PROJECTS.

Action on Main Motion #1

MOTION CARRIED UNANIMOUSLY.

Mr. Lien continued his review of potential amendments:

ECDC 23.40.220.C.4 – Interrupted Buffer

- 1.A – Require determination to be made by a qualified critical area consultant
 - Maintains flexibility
 - May be costly for smaller projects

Mr. Lien advised the language in 1.A also originally included Council review but given the previous discussion, he assumed that would be removed.

Councilmember Mesaros concurred with eliminating City Council review based on the previous discussion.

Councilmember Teitzel expressed concern this amendment was very restrictive and required a critical area assessment to be done in all cases. He envisioned some instances where staff may determine analysis may not be required such as a property that is downslope from stream where there can be no impact from development. This amendment would require the homeowner to bear the cost in that instance; therefore, he did not support the amendment.

As the drafter of this amendment, Councilmember Nelson supported it with the modification to remove Council review. As demonstrated in the text, it maintains flexibility and allows the project/property owner flexibility that they do not currently have. The determination is important and he wanted a qualified critical area consultant to make the determination.

Councilmember Mesaros suggested if staff makes a determination a project proposal cannot proceed, why would a consultant be needed to affirm staff's determination. Councilmember Nelson suggested staff also could be mistaken and their decision would deny the homeowner the ability to do some development; the critical areas consultant could find development could occur. This provision allows an expert to make that determination.

Main Motion #2

COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ADOPT THE AMENDMENT WITHOUT THE COUNCIL REVIEW.

Council President Johnson spoke in favor of motion, commenting it requires a hydrologic, geologic and/or biological habitat professional. These areas of the City are critical and it would not apply to all development.

Councilmember Mesaros acknowledged Councilmember Nelson's response, commenting he had not looked at it that way, staff could be overruled by the consultant's determination.

Action on Main Motion #2
MOTION CARRIED (6-1), COUNCILMEMBER TEITZEL VOTING NO.

Mr. Lien continued his review of potential amendments:

ECDC 20.15.215 Restoration Projects (not required as mitigation)

- 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

Mr. Lien explained the draft language is based on the SMA provision and would allow an automatic reduction of 25% of the buffer and if certain criteria are met, could be reduced to 50% of the expanded buffer area. He referred to revised language in the packet that combines Amendment 9 and the existing code. Another proposal regarding restoration projects was submitted this afternoon.

Councilmember Mesaros referred to the language in the PowerPoint, “Director reviews and forwards recommendation to City Council” and asked how many projects this will affect. Mr. Lien answered given the previous discussion regarding the contingent review process, if this were a restoration project on a Category 1 or 2 wetland, estuary wetland or anadromous fish bearing streams, this would be the contingent review process, it would be a staff process and would not be forwarded to City Council. Based on the Council's previous discussion the last bullet, “Director reviews and forwards recommendation to City Council” would be eliminated.

Councilmember Nelson advised his modified language no longer references historic. He emphasized the importance of a qualified critical area consultant making the determination regarding the buffer. He noted people often wrongly assume a qualified professional will require a larger buffer when in fact a qualified consultant may determine a smaller buffer is appropriate such on Willow Creek. This allows the use of science for a specific location rather than a one size fits all buffer.

Mr. Lien reviewed the staff's proposed language in the packet for ECDC 23.40.215, explaining the revised language provides a range for the reduced buffer, up to 50%.

Council President Johnson expressed concern with allowing the director to reduce the buffer by 50%. She understood that may be good for a particular project but she did not like the idea in general and preferred to use the contingency review process to make that determination. Mr. Lien said given the earlier amendment, this process would still go through the contingency review process. For a restoration project on a Category 1 or 2 wetland, estuary wetland or anadromous fish bearing stream, these criteria would apply but it would still go through the contingency review process.

Council President Johnson asked why it needed to be specified that the buffer could be reduced by 50%. Mr. Lien responded if 50% was not specified, someone could propose 25%. Council President Johnson

relayed her understanding the State allows a 25% reduction; she felt it best to follow the State's guidelines rather than the City creating its own. Mr. Lien clarified 75% of the standard buffer would be a 25% reduction. If the code does not at least specify 50% a proposal could be made for 25% of the standard buffer.

Council President Johnson relayed her understanding that the State wants to encourage restoration projects and have taken a position of allowing a 25% reduction of the buffer. Mr. Lien responded the State guidelines are modeled after SMA which states for a shoreline project within shoreline jurisdiction, the SMP does not have to be applied at all in the expanded shoreline area. This provision was modeled after that but did not propose not having critical area regulations applied in the expanded area but was intended to provide some buffer relief. For buffer reduction or buffer averaging for project proposals and mitigation, the State's recommendation is 25% reduction of the buffer. He clarified that is related to specific development proposals and not restoration projects; the restoration project would still be required to have a net environmental benefit. A daylighted stream with a 50% buffer will have a net environmental benefit over a stream in a culvert.

Council President Johnson said to her knowledge, the City has never had any restoration projects, however, a big restoration project is proposed for the daylighting of Willow Creek. The City has unofficially determined it would have a 25% reduction or averaging and that the current proposal fits within the guidelines of a 25% reduction. She saw no purpose for going down to 50%, finding it unnecessary and she preferred to retain the 25% reduction.

Main Motion #3

COUNCIL PRESIDENT JOHNSON MOVED TO ACCEPT THE LANGUAGE FOR THIS AMENDMENT BUT CHANGE STAFF'S RECOMMENDATION OF A 50% BUFFER REDUCTION.

Action on Main Motion #3

MOTION DIED FOR LACK OF A SECOND.

Council President Johnson clarified she did not want to allow a 50% buffer reduction. Mr. Lien asked for clarification regarding Council direction regarding the three versions under consideration. Council President Johnson's proposal was the project proponents may request a reduced buffer up to 75% of the expanded buffer; that means they can only get a 25% reduction in the buffer. Council President Johnson preferred the language be more clear and state 25% rather than 75%. Mr. Lien agreed he could revise the language accordingly.

Councilmember Nelson referred to his proposed language, commenting the percentages in this amendment make it complicated. The intent is a restoration project could deviate from the standard CAO requirements by hiring a qualified professional who would recommend a reduction in the buffer of 50%, 75%, etc. or whatever makes sense for the site as long as the ecological functions are maintained and the site is restored.

Councilmember Buckshnis said a report could be prepared to support a buffer reduction. Mr. Lien agreed there would need to be a report to allow reduction of the buffer. Councilmember Buckshnis suggested clarifying the buffers can be reduced based on a report from a qualified consultant. She asked why a number needed to be included. Mr. Lien answered technically a number did not need to be included; he suggested a number to establish a lower limit for reducing the buffer.

Council President Johnson preferred not have lower number.

Main Motion #4

COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ACCEPT THE AMENDMENT WITH THE REMOVAL OF THE HISTORICAL COMPONENT AND NOT REQUIRE COUNCIL REVIEW.

Councilmember Mesaros expressed support for the motion, noting Councilmember Nelson's proposal will solve the problem and address specific issues and locations.

Mr. Lien explained the intent of a restoration project is to improve a critical area. For example, for a culverted stream, the goal is not to preserve the existing conditions but to enhance the critical area. He suggested the language proposed for ECDC 23.40.215.B be revised to read, "The restoration project proposal will include a proposed buffer width for the project that is developed from an assessment by a qualified Critical Area Consultant on the buffer width necessary to ensure that the restoration project is successful and ~~the ecological functions of the areas adjacent to the stream or wetland are preserved~~ there will be a net environmental benefit of the restoration project."

Councilmember Nelson responded the intent of restoration is to restore something. He suggested "ecological functions are enhanced." Mr. Lien clarified the goal is a net environmental benefit from the restoration project.

Council President Johnson asked whether the motion includes staff's proposal for the amount of buffer reduction the applicant can request. Councilmember Nelson clarified his motion was not the redlined amendment. He restated the motion:

TO ACCEPT THE AMENDMENT (REPLACE DRAFT LANGUAGE IN ECDC 23.40.215 WITH SECTIONS A – D) WITH THE EXCEPTION OF NOT HAVING THE COUNCIL REVIEW PROCESS.

Amendment #1

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO AMEND THE MOTION TO CHANGE ITEM B TO READ, "...THE FUNCTION OF THE AREA ADJACENT TO THE STREAM OR WETLAND ~~ARE PRESERVED~~ WILL BE ENHANCED."

Councilmember Tibbott expressed support for staff redlined version including reference to the allowed 50% reduction which was not included in Councilmember Nelson's amendment. He felt it was important to identify a percentage and agreed with a 50% reduction. He did not support the amendment.

Vote on Amendment #1

AMENDMENT CARRIED (6-1), COUNCILMEMBER TIBBOTT VOTING NO.

Mr. Lien recalled the original motion also included eliminating restoration of the historic ecologically functions from Item A. Councilmember Nelson agreed.

Action on Motion #4

MAIN MOTION AS AMENDED CARRIED (6-1), COUNCILMEMBER TIBBOTT VOTING NO.

Following a brief discussion, Council agreed to continue review of the amendments until 10:00 p.m.

Mr. Lien reviewed the remaining amendments:

Definitions

- 4.B - Add definition for Council
 - Definition exists in ECDC 21.15.030

Main Motion #5

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO ADD A DEFINITION OF COUNCIL VIA REFERENCING ECDC 21.15.030.

Action on Main Motion #5
MOTION CARRIED UNANIMOUSLY.

ECDC 20.40.090.D –Minimum Report Contents

- 12 – Add a new subsection to ECDC 23.40.090.D require critical area report to identify the location of all native and nonnative vegetation of 6 inch dbh and larger

Main Motion #6
COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE COUNCIL AMENDMENT AS WRITTEN.

Councilmember Tibbott asked what is involved in researching 6 inch dbh vegetation on a site such a 2 or 5-acre site. Mr. Lien answered critical areas are unlikely to cover the entire 2 or 5-acre site and there are few 2-5 acre sites in the City. The critical area report, which focuses on the critical area and buffers, requires a site visit and description of the site. This information is already included in most critical area reports so this language does not add additional burden but specifies what is to be included in the critical area report.

Action on Main Motion #6
MOTION CARRIED UNANIMOUSLY.

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 interrupted buffer determinations
 - Provide some sample projects
 - Staff proposed language in agenda packet
 - Reports in 1st and 3rd quarter of each year
 - List critical area decisions made since the last report
 - Provide specific examples
 - Provide whatever information the Council requests during the previous report

Councilmember Nelson expressed support for staff’s proposal, commenting it simplifies his overly detailed proposal and provides flexibility for staff and Council.

Main Motion #7
COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO ADOPT COUNCIL STATUS REPORTS AS STAFF DESCRIBED.

Councilmember Teitzel appreciated staff’s efforts to streamline the amendment but expressed concern with staff’s proposal specifically, “staff will provide example projects.” He felt that was too broad and suggested the following alternative language.

Amendment #2
COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO AMEND TO STATE, “THE DIRECTOR SHALL PROVIDE TWO REPORTS PER YEAR TO COUNCIL, ONE IN THE FIRST QUARTER AND ONE IN THE THIRD

QUARTER, ITEMIZING AND INSTANCES OF BUFFERS REDUCTIONS IN CRITICAL AREAS OCCURRING SINCE THE PRIOR REPORT THAT WERE ASSOCIATED WITH MITIGATION, ENHANCEMENT OR RESTORATION. THE REPORT SHALL INCLUDE THE DEGREE OF BUFFER REDUCTION IN EACH INSTANCE, THE SPECIFIC REMEDIATION ASSOCIATED WITH EACH BUFFER REDUCTION AS WELL AS OTHER INFORMATION SPECIFICALLY REQUESTED BY COUNCIL.

Councilmember Teitzel said his amendment appropriately streamlines the language to remove ambiguity and removes the term “example project.” Mr. Lien expressed concern the language was very specific and tied to buffer reductions during a period of time; the staff proposed language is more broad and would include information about all critical area decisions, restoration projects, buffer reduction, buffer averaging. The term “example projects” was used as it would be staff’s decision regarding what examples to include; his intent would be typical project or extraordinary projects. The proposed language would limit the type of information would provide to Council in the reports. The reference in staff’s proposal, “...other information specifically requested by the Council following the previous report.” would allow the reports to evolve to include information the Council wants to hear.

Councilmember Teitzel agreed staff’s proposed language was a substantial improvement from the initial proposal. He preferred to remove the term example projects.

**Action on Amendment #2
COUNCILMEMBER TEITZEL WITHDREW HIS AMENDMENT.**

**Amendment #3
COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER NELSON, TO AMEND THE MOTION TO REMOVE “EXAMPLE PROJECTS” FROM THE THIRD PARAGRAPH.**

Councilmember Fraley-Monillas asked what example projects are. Mr. Lien said example projects would include any extraordinary projects done since the previous report and if there were several buffer reduction or averaging projects, staff would provide an example of one rather than reporting on all the projects. Councilmember Fraley-Monillas observed that would help pull the report together. Mr. Lien agreed. Councilmember Fraley-Monillas did not support removing example projects if staff was interested in providing that information.

Councilmember Buckshnis observed if there had been seven projects during the reporting period, staff would report on one project but would have information available on all seven projects. Mr. Lien answered yes. Councilmember Buckshnis did not support the amendment.

Councilmember Tibbott commented if the language were removed, staff could still improve an example or case study. Mr. Lien said he probably would, noting the intent was to provide the information the Council was interested in.

Councilmember Tibbott expressed support for the amendment, noting staff could include examples if they chose.

Councilmember Nelson expressed support for the amendment because in reality staff will provide information requested by Council following the previous report. After hearing a report, if there were no examples, Council could request examples.

Councilmember Teitzel commented an ordinance is an important document, this is a confusing ordinance and he did not support including the term “example projects” as it was subject to interpretation. The Council can request information from staff as desired.

Action on Amendment #3

UPON ROLL CALL, AMENDMENT CARRIED (4-3), COUNCIL PRESIDENT JOHNSON AND COUNCILMEMBERS NELSON, TEITZEL, AND TIBBOTT VOTING YES; AND COUNCILMEMBERS FRALEY-MONILLAS, BUCKSHNIS, AND MESAROS VOTING NO.

Action on Main Motion #7

MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.

As there were a few more amendments to be considered at the April 12 meeting Mr. Lien advised he will not make any revisions to the code until all the amendments are adopted. He will return with the revised code including all the amendments at the April 19 Council meeting.

8. MAYOR'S COMMENTS

Mayor Earling had no report.

9. COUNCIL COMMENTS

Councilmember Teitzel reported he had an opportunity to meet the new WSU President Dr. Kirk Schulz at Everett Community College. He is very dynamic and friendly and supports branch campuses and the new WSU medical school in Spokane.

Councilmember Teitzel, a member of the Civic Field Master Plan Advisory Committee, reported three consultants were interviewed today. All three had great presentations with creative ideas. The master planning process will include a great deal of public involvement and there will be great things in the future at Civic Field.

Councilmember Fraley-Monillas invited the public to attend tomorrow's Diversity Commission meeting at the Edmonds Senior Center. She reported the PSRC General Assembly meeting at Husky Stadium included a report on what Sound Transit's accomplishments during the past year.

Councilmember Buckshnis reported she is participating in WRIA8's grant funding process, commenting it is fascinating to see what other cities are doing; Seattle is undertaking a daylighting project that will cost \$12 Million. She reported Edmonds was a star in the Citizens Action Training School, an 8-week environmental school that selects 30 participants who are required to do 50 hours of training. She recognized two students of that program, Joe Scordino and Val Stewart, who started the Students Saving Salmon via this project.

Councilmember Nelson thanked Mayor Earling for convening the Pedestrian Safety Task Force who had their first meeting this morning. He relayed his research in preparation for that meeting, particularly in light of the recent pedestrian incident last night, shared data compiled by the Washington traffic Safety Commission over the last 5 years regarding the cause of pedestrian fatalities:

- Most dangerous time for pedestrians is between 3:00 and 9:00 p.m. at an intersection in a city where the speed limit is 25-35 mph
- Highest percentage of fatalities are between the ages of 46 and 65
- Of the accidents where the driver was main contributor, the #1 contributing factor was the driver was distracted, #2 was the driver failed to yield the right-of-way, #3 was the driver was impaired and #4 was speed
- Investigation determined 56% of drivers had not made an error
- Pedestrian's contribution to fatalities were #1 impaired by alcohol drugs, #2 not visible to the driver, and #3 crossing improperly.

This data illustrates the Pedestrian Safety Task Force and the community have its work cut out. Some things can start tonight; drivers can watch for pedestrians at night and during bad weather, slow down at crosswalks or before making a turn, and be cautious when backing up. Pedestrian can be predictable by crossing in crosswalks, walk facing traffic, making eye contact with drivers, and wearing bright colors and reflective material. He looked forward to working with the Task Force on ways to better protect the community.

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

This item was not needed.

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

This item was not needed.

12. **ADJOURN**

With no further business, the Council meeting was adjourned at 10:15 p.m.