

# EDMONDS CITY COUNCIL APPROVED MINUTES

## August 2, 2016

### 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

Al Compaan, Police Chief  
Jim Lawless, Assistant Police Chief  
Don Anderson, Assistant Police Chief  
Alan Hardwick, Police Sergeant  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Shane Hope, Development Services Director  
Scott James, Finance Director  
Rob Chave, Planning Manager  
Rob English, City Engineer  
Jeanie McConnell, Engineering Program Mgr.  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Andrew Pierce, Legislative/Council Assistant  
Jerrie Bevington, Camera Operator

### 1. CALL TO ORDER/FLAG SALUTE

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

### 2. ROLL CALL

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

### 3. APPROVAL OF AGENDA

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

### 4. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Fraley-Monillas requested Item 8 be removed from the Consent Agenda.

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

### 1. APPROVAL OF COUNCIL MEETING MINUTES OF JULY 26, 2016

2. CLAIM FOR DAMAGES
3. APPROVAL OF CLAIM CHECKS
4. APPROVE ENGAGEMENT OF NORTHWEST MUNICIPAL ADVISORS FOR 2016 FINANCIAL ADVISORY SERVICES
5. APPROVE OF ENGAGEMENT OF FOSTER PEPPER FOR BOND COUNSEL SERVICES FOR 2016
6. RENEWAL OF INTERLOCAL AGREEMENT WITH EDMONDS SCHOOL DISTRICT FOR POLICE COVERAGE AT ATHLETIC EVENTS
7. RENEWAL OF INTERLOCAL AGREEMENT WITH SNOHOMISH REGIONAL DRUG & GANG TASK FORCE 2016-2017

**ITEM 8: ORDINANCE ADDING PUBLIC INDECENCY SECTIONS TO ECC 5.38 (OFFENSES AGAINST PUBLIC MORALS)**

Councilmember Fraley-Monillas said it appears more work needs to be done on this ordinance. She offered to work with Council President Johnson, City Attorney Jeff Taraday and Assistant Police Chief Lawless and Councilmember Buckshnis and she invited the public to provide input.

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO WORK WITH STAFF ON REVISIONS TO THE ORDINANCE. MOTION CARRIED UNANIMOUSLY.**

Councilmember Buckshnis thanked the citizens who have contacted her regarding the ordinance, commenting it is an interesting, social and quality of life issue. She invited citizens to continue providing input to the Council to ensure the ordinance addresses the issues.

Mayor Earling invited the public to provide comment on this issue.

**Brian Potter, Edmonds**, said according to the July 26 Council agenda narrative, the newly proposed definitions of public indecency and nudity are meant to allow the police greater ability to control bikini barista stands. Nudity, as defined in the ordinance, is equal in stature to actions such as engaging in public intercourse, masturbation or defecation. That definition includes revealing the pubic area which technically extends upward to the navel, any exposed buttock cleavage, the side of a women's breast below the top of the areola or any man whose genitals are "discernibly turgid." These criteria are violated every summer day in Edmonds by people in swimsuits, halter tops or bike shorts as well as on the covers of women's health magazines sold at QFC. Avoiding seeing something that one dislikes is not a right or guarantee in society. The police do not approach every person who is technically nude; selective application of any law leads to charges of racial or gender discrimination, disparate impacts or civil rights harassment. As a church-trained human sexuality educator for 14 years, he said one of the biggest challenges in the class is dealing with body image among women who have been taught their bodies are shameful and they are at fault if they dress immodestly and a male verbally or physically accosts them. The ordinance states the mere exposure of the areas mentioned is criminal. The ordinance's definition of obscenity cites contemporary community standards; he asked what those are, anticipating even the seven Councilmembers' standards vary every more variance among the greater Edmonds community. The language breaks apart the community it claims to represent and bind together. The people patronizing bikini barista stands are members of the community. He suggested the definition of nudity be simplified to exposed genitals.

**Robert Stivers, Edmonds**, expressed his opposition to the proposed ordinance because its specificity takes away freedoms. Public nudity is legal in Washington State; subsection A.3 of the proposed ordinance would abolish that freedom. The intent criteria of this section extends to those not wanting to cause reasonable affront or alarm. The definitions listed in subsection C impose a dress code, some of which are either unenforceable such as C.1.b or require subjective judgment by the enforcing officer such as in subsection C.1.d. These could also be cause for discrimination, allowing only one kind of female endowment to be skin emphasized and perhaps penalizing black men more than those of other races. He has served in the armed forces defending the freedoms we enjoy and is a member of the American Civil Liberties Union for the same reason. Freedom is precious and any encroachment must be opposed. Washington State law is reasonable and sufficient with regard to indecent exposure and indecent liberties. He cited a city where he was employed for 25 years where complaints resulted in a report forwarded to the City Attorney; he suggested this practice for Edmonds. Washington State law also covers prostitution, allowing full enforcement by any police force. Edmonds is fortunate to have an excellent police force that contributes to having an Edmonds Kind of Day; he urged the Council to keep it that way.

**Mark Daniels** referred to the list of public indecency violations and asked how many complaints had occurred in the past 1-2 years outside of complaints regarding bikini barista stands. Mayor Earling explained the Council and staff do not respond to questions from the public during the meeting. He offered to have a police officer contact Mr. Daniels to respond to his question. Mr. Daniels said if enforcement is complaint-driven, how many complaints and complainants are required before enforcement action is taken against an individual or business. Mayor Earling requested Assistant Police Chief Anderson contact Mr. Daniels tomorrow.

## 5. PRESENTATIONS/REPORTS

### 1. OATH OF OFFICE/SWEARING IN CEREMONY -POLICE SERGEANT ALAN HARDWICK

Police Chief Al Compaan commented this is an opportunity to celebrate the achievement of a Police Department member. An oath is an important public recognition of personal achievement and a personal pledge to the highest legal, ethical and professional standards critical to the law enforcement mission. He described Sergeant Hardwick's law enforcement experience; he was hired as a lateral police officer on September 16, 2001 and will celebrate his 15<sup>th</sup> anniversary with Edmonds next month. Prior to Edmonds, he had 10 years' police experience with Ada County, Idaho, Sheriff's Office and the Boise Police Department. During his time at Edmonds, he spent eight years as a detective including seven years assigned to the FBI's Joint Terrorism Task Force. He continues to stay abreast of domestic security and terrorism events and information and continues as a liaison for the department with the FBI. Sergeant Hardwick has had a major impact on the department as a trainer, serving as a Field Training Officer for 7 new officers in the last 18 months. FTOs guide new officers from academy graduation to their release to solo duty. Sergeant Hardwick was also a trainer for the department's transition to New World, the countywide public safety dispatch and records management system. Sergeant Hardwick also works as an emergency vehicle operations course instructor.

Sergeant Hardwick introduced his family including his wife Kristin and his five children: Logan and his wife Bethany and their daughter Nora; Devin; Gavin; and Breann; his daughter Kaylin is in Wisconsin. Chief Compaan commented on the importance of family to law enforcement officers.

Chief Compaan administered the oath of office to Sergeant Hardwick. Sergeant Hardwick's wife, Kristin, pinned his badge. Chief Compaan presented Sergeant Hardwick a framed Certificate of Promotion.

Sergeant Hardwick said this is more than a dream come true; he will celebrate 25 years in law enforcement in December. He was excited and honored to be promoted to sergeant. He thanked Chief

Compaan and the community for their support. He introduced his father-in-law Duane McIntyre, members of his band Ricardo Venezuela and his wife Annette, and Mark Pentalino; sister-in-law Kim; and his half-sister whom he found this past year, Melissa Nelson. He also offered thanks to Steven Dean, retired FBI. He thanked his crew and other law enforcement officers who were present.

Numerous police personnel and cadets were present in the audience.

## **6. AUDIENCE COMMENTS**

**Cindy Easterson**, President, Pilchuck Audubon Society, said their region includes Edmonds and their largest contingency is from Edmonds. Audubon speaks for birds, ubiquitous creatures that offer fleeting moments of color and character and who captivate the imagination with their ability of flight and brighten the day with sound and song. Other birders have testified regarding the great diversity of birdlife seen at the marsh. Various bird species hold a unique collective memory or place; this memory is a piece of the puzzle that drives migration and that brings birds back to the same nesting grounds year after year. It is what helps protect important birding areas and establish safe flyways for migration. The birds we want to inhabit and utilize the marsh; their collective memory brings them back in search of resources that once were. When they land and find a place impacted by development and disturbance, they do not stay long. She relayed the Pilchuck Audubon's request for the City to establish a 100-foot buffer and 50-foot setback at the marsh, a renewed effort to daylight Willow Creek, alternative management of the tide gate to allow saltwater and tidal influence into the wetland, restoration alternatives to the pathway on the north side of the marsh and the engagement of a public/private coalition to provide expert recommendation and to support future decisions related to the marsh. If the Council allows an encroaching, built environment and human disturbance in the marsh, it will not be without birdlife as birds are drawn to open spaces. The City may welcome a healthy population of American Crows, European Starlings, pigeons and gulls. Where birds thrive, people prosper; she requested the Council act to protect and preserve the marsh because people and birds' lives will be richer.

**Darlene Stern, Edmonds**, President, Edmonds Police Foundation, invited the Mayor, Councilmembers and citizens to join in the celebration of the Edmonds Police Foundation's 20<sup>th</sup> anniversary open house, a joint event with the Edmonds Police Department on August 3 in the parking lot and the police station. Refreshments donated by local businesses and friends of the Police Foundation will be served from the Police Department's Support 7 mobile unit in the parking lot. Display areas will include of Edmonds Police support vehicles, a K-9 demonstration, a SWAT team, dive team, crime scene response vehicle, information regarding distracted driving provided by Campbell-Nelson and Allstate Insurance. Displays and information will be available inside the station regarding child internet safety, burglary and crime prevention, domestic violence awareness and resources, and recruiting as well as a guided tour of the police station. Raising funds for department equipment is part of the mission of the Edmonds Police Foundation; raffle tickets are available for baskets containing items donated by local businesses as well as two K-9 ridealong experiences and a simulator experience. Coloring pages are available at several locations; each child that provides a colored page will receive a small item.

**Natalie Shippen, Edmonds**, requested a clarification regarding temporary signs, pointing out in the proposed sign code, the definition of a temporary sign is not to exceed 60-calendar days. Four sign types have been given permanent status so they can be displayed for 365 days. She pointed out the definition of temporary sign no longer includes "portable sign." She requested the ordinance list the temporary signs that now exist and have a 60-day requirement. She questioned how the 60-calendar day requirement would be enforced. She described her appeal of a sign that fell under the 60-day requirement; it could not be enforced because there was no record of when it was established. Even with a permit that establishes a day for a temporary sign, there is no date when it terminates and she doubted there would be enforcement for every sign in that category. She requested the definition be changed to consecutive days instead of calendar days to make it enforceable.

**Todd Zackey, Edmonds**, Marine and Nearshore Program Manager, Tulalip Tribes, provided an overview of the Tulalip Tribes' perspective related to the Shoreline Master Program (SMP) update. The Environmental Division of the Natural Resources Department of the Tulalip Tribes does research, monitoring, permit review and restoration. Edmonds is within the treaty area where multiple tribes can fish, hunt and gather. One of his responsibilities is to review SMPs, permits, etc. for this area. Although in a highly developed area, the Edmonds Marsh, a pocket estuary, is rare in the area as most saltwater marshes have been filled. The SMP needs to consider that the Edmonds Marsh is the last valuable place, ecologically speaking, and Edmonds must be considered in the context of greater Puget Sound and Salish Seas and its connectivity such as providing a stopping point for salmon and other species. Drainage issues are also an important consideration and are difficult to address with infrastructure outside of filling or pumping due to high tides. He encouraged the City to think outside the box with regard to preserving and expanding the ecological function, yet allowing for economic development. He offered to work with the City and provided written information regarding pocket estuaries and small streams.

**Robert Stivers, Edmonds**, thanked the Council for the opportunity to provide input on the proposed public indecency ordinance.

**Rebecca Wolfe, Edmonds**, commented on the value of disappearing estuaries, marshes, etc. in Puget Sound. The Washington Shoreline Management Act (SMA), RCW 90.58, was adopted in 1972 to protect the shoreline natural resources including the land and its vegetation and wildlife and the waters of the State and their aquatic life. The SMA promotes public access but focuses on being consistent with the overall best interests of the State and the people generally. It is to encourage water dependent uses that are consistent with control of pollution and prevention of damage to the natural environment or are unique to or dependent upon use of the State shorelines. Historically the shoreline of the Snohomish Delta was 120.6 kilometers long; by 2011 it was reduced to 95.3 kilometers. The shoreline is being lost and wetlands are being sacrificed to development and other harmful influences such as industry and dairy farms. The total area of wetlands was historically 84.64 square kilometers; in 2011 the area was reduced to 18.33 square kilometers. She recognized positive efforts are being made including stormwater management; a new rain garden keeps pollution from flowing into Willow Creek which enters the marsh and eventually Puget Sound. Regarding the proposed buffers, the 2004 rating system was updated in 2014 using the rapid assessment method which is a time and cost saving method. The update was designed to differentiate between wetlands based on specific attributes such as rarity, sensitivity and disturbance and functions. She urged the Council to retain the 100 foot buffer and 50 foot setback.

**Roger Hertrich, Edmonds**, referred to the ordinance regarding public indecency and the definition of the state of nudity and how far that line extends on a bathing suit. He felt the definition was excessive, commenting according to the ordinance, the act of a baseball player scratching could be considered obscene. He questioned who had drafted the ordinance and whether the goal was to moralize everyone's behavior. He concluded the ordinance, intended to address a limited problem with bikini baristas, was overdone.

**Barb Drake, Seattle**, a conservationist, urged the City to conserve one of the last urban estuarine marshes so that current and future generations can experience its immense beauty, living history, tribal cultural and ecological significance. Much like a historical monument that is preserved, the marsh has a long, rich history that dates back hundreds of years when Salish villages lined the shores of the Salish Sea. Without a minimum 150-foot buffer and setback, this historic treasure may become endangered to a type of economic development that serves only a few and wreaks havoc on the marsh and its living history and the valuable functions it provides by bringing significant amounts of impervious surfaces, noise, lighting, erosion, floods, toxic pollutants and sediment buildup, destroying its historic present and future significance for people and wildlife. She urged the Council to continue working with DOE to

reconsider its disastrous recommendations in favor of a minimum 150-foot buffer and setback and protect and to preserve the living history of the Edmonds Marsh in its natural state.

**Val Stewart, Edmonds**, thanked the Council for their careful review of the CAO update as well as the SMP update. A Planning Board Member, but speaking as a citizen, she has done a great deal of study regarding the watershed and Puget Sound ecosystem. She is a co-leader of the Students Saving Salmon Club at Edmonds-Woodway High School and her co-leader, Joe Scordino, started the Stream Team with students, which does monitoring. In light of her education and experience, she has changed her mind with regard to recommendations she made at the Planning Board level; she is more conservative about the marsh and wants to protect and restore this treasure. Leaving this valuable ecological asset to future generations will take careful thought and she encouraged the Council to carefully determine the appropriate category for the marsh. A biology class at Edmonds-Woodway High School taught by John Cook in the 1970s investigated the marsh when it was in danger of being filled by Unocal and found evidence of marine life. Following a hearing, the marsh was saved from being filled. She encouraged the Council to leave a similar legacy. She thanked Councilmember Buckshnis for being a champion of the marsh and expressed appreciation for the Council's support of the marsh. She commented on the importance of the determining the ordinary high water mark.

**Joe Scordino, Edmonds**, a retired fishery biologist, urged the Council to consider the science and facts related to the SMP update, ensure they are getting the best information and asking the right questions. For example if someone makes a statement that the principle problem in the marsh is stormwater, the Council should be asking for the data, reports and evidence to substantiate it. In his opinion, the buffer needs to be increased for a number of reasons. The principle reason is all wetland marshes have four functions, one is wildlife habitat. Anything that is done to constrict the edges of the marsh will constrict wildlife habitat. Some birds in the marsh, Yellowlegs for example, are constricted enough and will leave if the buffers are reduced.

## 7. PUBLIC HEARINGS

### 1. PUBLIC HEARING ON PROPOSED CODE CHANGES TO THE STORMWATER MANAGEMENT SECTION (CHAPTER 18.30) OF TITLE 18, EDMONDS COMMUNITY DEVELOPMENT CODE

Public Works Director Phil Williams introduced Jeanie McConnell, Engineering Program Manager, and **Craig Dubberstein, CPD Solutions**, a subconsultant to Herrera, who is assisting the City in making changes required by the State in the Stormwater Management section of the ECDC. Staff presented an overview of the changes to the Council in June; the proposed changes have now been drafted and public comment is invited on the changes.

Mr. Dubberstein reviewed the history of the City's Stormwater Code:

- 1977: First code
- 1980: Code revised
- 1995: Code revised
- 2009: Code rewritten
- 4/20/2010: Current version adopted

He described why the code is being updated:

- Mandated by Department of Ecology
- Compliance with 2013-2018 Western Washington Phase II Municipal Stormwater Permit (NPDES Permit) required

- Compliance with 2014 Stormwater Management Manual for Western Washington (Ecology' Manual) required
- (Edmonds is essentially implementing identical requirements as 87 "NPDES Phase II" municipalities across western Washington)

Mr. Dubberstein reviewed what changes can be expected:

- Most substantial change has to do with new Low Impact Development requirements ("Minimum Requirement (MR) #5" in the Permit)
  - Affects small projects ( $\geq 2,000$  sq. ft. of impervious)
  - More complex site assessment requirements
  - Additional City review requirements

Mr. Dubberstein provided examples of Stormwater Management (SWM) – MR #5: Implementation

- Category 1 project sites (trigger MR #1-5): List #1 or modeling (LID Performance Standard)
- Category 2 project sites (trigger MR #1-9): List #2 or modeling (LID Performance Standard)

He explained List 1 and List 2 provide options or best management practices (BMP), established by Department of Ecology, for managing stormwater runoff on a project site related to lawn and landscaped areas, roofs, and other hard surfaces (driveways, patios, sidewalks, etc.). Separate lists must be followed for each type of surface. In design, all SWM options must be considered in the order listed. The first option that is considered feasible is to be used:

- Lawn and Landscaped Areas
  1. Soil quality and depth
- Roofs
  1. Full dispersion or downspout full infiltration
  2. Rain gardens [or bioretention]
  3. Downspout dispersion systems
  4. Perforated stub-out connections
  5. Detention pipes or vaults (City-specific standard)
- Other Hard Surfaces
  1. Full dispersion
  2. Permeable pavement [or rain gardens or bioretention]
  3. Sheet slow dispersion, or concentrated flow dispersion
  4. Detention pipes or vaults (City-specific standard)

Mr. Dubberstein continued his review of changes that can be expected:

- City will not require historical tracking of impervious surface area on individual properties
- Stormwater management of at least 25% of existing unmanaged impervious surfaces, but no more than area equal to proposed new plus replaced area (retrofitting).

He reviewed five example scenarios:

Scenario #1 – Existing unmanaged surfaces – retrofit

- Project includes an existing "unmanaged" parking lot, and an existing structure
  - Project will tear down and rebuild the structure, but will not alter the parking area.
  - Project discharges to the City's storm system
- Triggers MR #1-5 plus retrofit requirement
  - Project site contains existing hard surfaces that do not drain to an approved stormwater management facility and will not be modified as part of the proposed project
- List No. 1

- Existing hard surfaces: Use any BMP from List No. 1 to manage at least 25% of existing unmanaged surface area. BMPs are not required to be evaluated in priority order or document infeasibility
- MR #5 applies for replaced structure
  - New/replaced surfaces: see details on requirements in Project Scenarios 2-5

Scenario #2 – Category 1 Project

- This project results in 3,000 square feet of new plus replaced hard surface area and discharges to the City’s storm system.
- Triggers MR #1-5
  - Results in 2,000 square feet or greater of new plus replaced hard surface area or
  - Has land disturbing activity of 7,000 square feet or greater
- List No. 1 or Modeling (LID Performance Standard)

Scenario #3 – Category 2 Project

- Project removes and replaces structures and pavement totaling 12,000 square feet of area and discharges to the City’s storm system
- Triggers MR #1-9
  - Results in 5,000 square feet or greater of new plus replaced hard surface area, or
  - Converts 0.75 acres, or more, of vegetation to lawn or landscaped areas, or
  - Converts 2.5 acres, or more, of native vegetation to pasture
- List No. 2 or Modeling (LID Performance Standard)

Scenario #4 – Direct Discharge to Puget Sound (and located in Edmonds Way Basin)

- Project located in a direct discharge basin and includes specific requirements for the Edmonds Way basin.
  - Results in 3,000 square feet of new plus replaced hard surface area
- Triggers MRs #1-5 (Category 1 Project)
  - Direct Discharge to Puget Sound
    - Only a subset of List #1 applies
  - If project is also located in the Edmonds Way basin
    - Provide peak flow control for all remaining project site runoff

Scenario #5 – Does Not Discharge to the City’s Storm System

- The project removes and replaces structures and pavement totaling 6,000 square feet and does not discharge to the City’s storm system.
- Triggers MRs #1-9 (category 2 project)
  - Discharge to Downstream property
    - Approval from downstream owner(s)
  - Discharge on-site to List #1 BMP (not required to be evaluated in priority order or document infeasibility)
    - Geotech required per review fee
  - Pump on-site runoff to City’s storm system
    - Quantitative downstream analysis

Mr. Dubberstein reviewed the schedule/status

June 14	City Council study session
June 20	Public meetings
August 2	City Council public hearing
August 16	City Council action item (seeking approval of code with effective date of January 1, 2017)

Fall 2016      Completion of stormwater addendum. Development of implementation tools (e.g. review checklists)

Councilmember Buckshnis relayed the concern she had mentioned to Mr. Williams with regard to the speed with which this has gone through Council due to its complexity. She requested staff provide the PowerPoint presentation and a redline version of the code. She pointed out the additions include differences in authority, exemptions, administration, access, etc. and she found it difficult to determine exactly what had changed without a redline version. She referred to Scenario 5 and asked why the project could not install a drywell for the stormwater. She referred to a drywell she installed on property in Oregon due to the age of the city's stormwater systems. Mr. Dubberstein answered downspout infiltration, a trench with gravel which functions very similarly to a drywell, is one of the options under List #1; Ecology does not call it a drywell. A geotechnical assessment would be required if the project was in an erosion landslide hazard area. Councilmember Buckshnis said she may have additional questions after reviewing the presentation.

Council President Johnson requested staff summarize the public meetings including attendance and general concerns. City Engineer Rob English answered two meetings were held on July 20; one for developers and engineers; three people attended, two engineers and one developer. There were a lot of good questions regarding how the new code will affect them and their clients. Overall they understand the requirements as other cities are implementing a similar code. The second meeting was for the general public; three people attended. There were also good questions asked regarding how a potential change in impervious surface or a project would affect them and their treatment of stormwater. Overall both meetings were positive.

Council President Johnson referred to the process outlined in the agenda memo, Council approval will not occur until the Washington State Department of Commerce has reviewed the changes to the Stormwater Code and the State's review period will begin in August and be completed within 60 calendar days. Mr. William explained Development Services Director Shane Hope interpreted the State law on issues related to land development as requiring review by the Department of Commerce who circulate it to other State departments and comments are submitted to the City. Ms. Hope will confirm that that review is required and if required, ample time is available in the schedule for the review and incorporating any suggested changes into the final draft prior to final Council approval. All code changes must be completed by the end of 2016; these are only the stormwater specific changes.

Council President Johnson stated the 1,000-page regulation promulgated by the Department of Ecology is standard across western Washington. She was interested in seeing the addendum that is specific to Edmonds. She inquired about the review process for the addendum. Mr. Williams answered the 1,000-page document is the manual, a source document for cities. The addendum will highlight differences; the goal with this update was to retain the best parts of the code while adding the new requirements that the State has imposed on all Phase II cities in western Washington.

Councilmember Teitzel referred to language in 18.30.060.D.4 – Preservation of Natural Drainage Systems and Outfalls, in the draft code, “To demonstrate compliance with this core requirement, all projects shall submit a qualitative analysis downstream from the site to the receiving water. If an existing problem (or potential future problem after development) is identified, mitigation will be required to prevent worsening of that problem. A quantitative analysis may be required for any project deemed to need additional downstream information...” He felt that wording was somewhat loose and asked what is included in the qualitative analysis, who performs it and what happens if a problem is identified later. Mr. Dubberstein answered that requirement exists in the current stormwater code in MR 10 and was added to MR 4 so it parallels changes to MR 5. Qualitative and quantitative downstream analyses are in the current City code and are described in the addendum; most descriptions will remain the same with minor tweaks

to address site assessment requirements required now for MR 5. He summarized the description of qualitative and quantitative will be in the addendum as it is currently and will be used by developers and staff to determine if the appropriate downstream analysis was performed.

Councilmember Teitzel asked what is included in the qualitative analysis and who performs it. Mr. Dubberstein answered qualitative analysis is performed by the project proponent working with the City to identify known flooding problems, culvert capacity issues, etc. a non-engineering, non-modeling approach to look at downstream issues. The analysis can be done by a non-engineer; the intent is to look downstream using available data to determine if problems exist that need to be addressed. Quantitative analysis includes modeling, engineering, sizing, pipes, etc., a more engineered solution and approach.

Councilmember Mesaros observed the goal to reduce stormwater runoff. Using development that has occurred in the last 12 months, he asked how much runoff would be reduced if these requirements were in place. He suggested multiplying that over 5-6 years would illustrate the anticipated success level of implementing these regulations. He asked whether quantifying the improvement had been considered, Mr. Dubberstein answered the process at the State level was amazing as was the interest of environmentalists, developers, municipalities and other experts. The optimism in him says this is the best of all the approaches and desires considered to reach the goal of reducing stormwater impacts, protecting creeks and streams and Puget Sound.

Councilmember Mesaros asked the percentage of improvement by applying the requirements to the projects in Edmonds over the past 12 months. Mr. Williams answered the faster the pace of development, the more change could be seen between existing conditions and after. The City has had a fairly rapid pace of development over the past 12 months; the City's existing code, which he noted was nothing to be ashamed of, has been applied to new projects over the last several years. Addressing peak flows and water quality benefits have been achieved with development that has occurred recently. The idea of LIDs includes site development, retention of onsite vegetation, etc. early in a project to ensure runoff is addressed. He did not know the impact long term as it will depend on the rate of development. Councilmember Mesaros said it would be interesting to know the percentage of gain from these requirements which admittedly will complicate some people's lives but the tradeoff is a percentage improvement over time.

Mr. Williams referred to Councilmember Mesaros' earlier comment that the goal was to reduce runoff, commenting infiltrating into the ground does reduce runoff but there are other goals such as water quality. There may be the same amount of runoff but over a longer period of time.

Councilmember Tibbott asked to what extent the ordinance addressed runoff from a State-run facility such as SR 104 and what the State's responsibility is with regard to handling stormwater. Mr. Dubberstein answered the City is a Phase II permittee; WSDOT is one of seven Phase I permittees (WSDOT, Seattle, Tacoma, Pierce, King, Snohomish and Clark County) who were required to meet these same Ecology requirements at the end of 2015. As a Phase I permittee, WSDOT's facilities are essentially required to meet the same requirements. If Ecology found there was a deficiency in the way WSDOT was handling stormwater, Councilmember Tibbott asked if there was anything that would trigger an improvement based on this code. Mr. Dubberstein answered yes, violation of water quality standards would trigger additional requirements. Permits are updated every five years and a draft permit will be out next year. If a problem were found with a WSDOT project, Ecology would have recourse to discuss improvements with them. Mr. Williams answered the requirements are triggered by new and replaced impervious surfaces. The SR-104 has been the same width and likely will remain the same width for a long time; if WSDOT added impervious surface such as widening the roadway, adding sidewalks, expanding the intersection, etc., the new square footage would be subject to these new regulations. Repaving done by the State does not create new square footage. Councilmember Tibbott concluded unless

there was a change, no one would be responsible. He echoed Councilmember Buckshnis' request for a redline version of the changes.

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

**Val Stewart, Edmonds**, thanked the staff and consultant for their work on the stormwater code update, recognizing it was incredibly complicated. As the open house was not well attended, she suggested another, better publicized open house due to the wide ranging impact of the update. She referred to her experience five years ago when trying to design a five-star built green residence and infiltrate 100% of the rainwater on site to avoid a connection to the City's stormwater system. The City required she install a redundant system and that cost was one of the factors of the project's failure. She pointed out there was little reference in the presentation to green building techniques, noting there were few green building projects in Edmonds, due in part to barriers to building green. Vegetated roofs are a wonderful way to infiltrate stormwater at least partially; she recalled a 50% credit for green roof. Her rain gardens were designed to address 100% of the runoff. She did not see any incentives in the code for using natural systems and green building techniques.

**Alex Witenberg, Edmonds**, reported he attended the public meeting in July and found the presentation by City staff and the consultant very thorough and they capably answered the public's questions. He thanked staff and the consultant for the work they have done on the stormwater code update.

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

Council President Johnson advised this is scheduled for Council action on August 16. Mayor Earling requested Council refer any additional questions to staff prior to August 16.

Councilmember Buckshnis suggested a 30-minute discussion on next week's agenda as well as staff providing the Council a redline version of the proposed code changes. Mr. Williams said staff will provide a strikethrough/underline version but the changes are quite significant at this point.

Mayor Earling declared a brief recess.

## **8. ACTION ITEMS**

### **1. ADOPTION OF ORDINANCE AMENDING THE SIGN CODE**

Planning Manager Rob Chave advised this is a continued discussion from the July 26 meeting. He highlighted two changes to the ordinance that were voted on by Council and reflected in Exhibit 1:

1. Add a 2-1/2 foot maximum width to the allowed dimensions for pedestrian signs.
2. Insert the following language in ECDC 20.060.050 (insertion underlined):  
"1.c. The sign shall be located within 10 feet of the building entry unless it is placed in a location that better preserves public pedestrian and vehicular access, and must be placed within two feet of the building. Any deviations from this standard must be submitted to the Architectural Design Board for review and approval per 20.60.015(B)(1)."

Councilmember Fraley-Monillas suggested establishing an automatic review of the sign code in nine months to review how it is being implemented as the revisions have been fairly controversial. City Attorney Jeff Taraday advised the sign code will be presented to Council again within the next year as part a more comprehensive consideration of the Reed versus Town of Gilbert case and the Council could address portable signs at that time. Councilmember Fraley-Monillas said that was acceptable to her.

Councilmember Teitzel referred to Ms. Shippen's concerns with temporary signs and how the start date of the 60-day period was determined and whether further revision to the sign code was required. Mr. Chave answered it was his understanding Ms. Shippen was talking about other temporary signs, not pedestrian signs, which are typically new business signs, for lease signs, etc. that are placed in windows or on buildings. The code does not specify start dates and does not require a permit or registration; typically, the City would not be aware when they were put up. On occasion, code enforcement has followed up on a complaint but without a permit or registration, those signs are not tracked. That could be addressed as part of the legal review that Mr. Taraday mentioned; it may be problematic to add at this point.

Councilmember Buckshnis said Ms. Shippen was addressing section 20.60.080 Temporary Signs, and the removal of portable, free-standing signs and that 60 days does not state consecutive dates. Mr. Chave reiterated a permit is not required so there is no way to track the 60 days. The reason pedestrian signs were removed is they are no longer treated as temporary. Temporary signs cannot be portable signs; they must be affixed to a building or structure in some way which necessarily limits them. As temporary signs include things like grand openings or for lease, the challenge with a 60-day consecutive time period is the potential for the space to be leased more than once in a year. Councilmember Buckshnis said the WWU students will be considering a mobile app which she felt was the way to go and could eventually result in removing pedestrian signs. Mr. Chave said there haven't been any problems with temporary signs on buildings to this point; the issue has been the number of temporary signs such as for lease signs in every window of a block-long building which can be addressed via enforcement because it obviously doesn't comply. Businesses typically do not display grand opening or for lease signs for a long period of time.

Councilmember Nelson thanked City staff, Planning Board, citizens, businesses, councilmembers for all their work to revise the sign code.

**COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO ADOPT ORDINANCE NO. 4039, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE CITY'S SIGN CODE AS CODIFIED IN CHAPTER 20.60 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE.**

Council President Johnson asked how the new sign code will be implemented. Development Services Director Shane Hope answered all property owners and businesses within the district where this applies will be notified and provided information so they can voluntarily comply. At a certain point, property owners and businesses who have not complied will be notified and some patrolling will be done, especially in the early stages. Council President Johnson observed this is a joint effort between business owners who have temporary signs which are now permanent signs and the City's code enforcement. She encouraged businesses who have these signs to work closely with the City to take the steps necessary to make their signs legal.

**MOTION CARRIED UNANIMOUSLY.**

**2. WILLOW CREEK DAYLIGHTING RCO AUTHORIZATION**

Parks & Recreation Director Carrie Hite requested Council authorization for the Mayor to sign a grant submittal to RCO for funding of Willow Creek daylight. Due to the dual benefit, this is a joint project with Parks and Stormwater. The City hired Keely O'Connell as the project manager.

**Keeley O'Connell** explained in this case, daylighting means converting a 1400+ foot pipe and vault system that connects the marsh to Puget Sound to an open channel to directly connect the marsh to Puget Sound. The project began in 2011 with the City's first successful application to the State for a combination of salmon recovery funding and Puget Sound restoration funding to do project feasibility. This is an incredibly rare opportunity in Puget Sound; very few systems like the 28-acre Edmonds Marsh

exist because systems like this were often filled and developed in the past. Using funding from the 2011 grant, three different alternatives for the daylighted channel were considered; 1) north into Olympia Beach, 2) into the marina, and 3) south across Marina Beach. The only alternative determined to be feasible was from the southwest corner of the marsh through the Unocal property, under the BNSF railroad tracks and across Marina Beach Park.

Ms. O'Connell explained the City successfully applied in 2013 for State salmon recovery funding and Puget Sound restoration funding to finalize feasibility. Last year, the feasibility of daylighting Willow Creek was coordinated with the Parks Master Plan for Marina Beach Park to assess how the park could be redesigned to accommodate all the current uses plus a new creek channel to allow salmon access into the marsh. The final feasibility study also considered the potential need for a flood gate to replace the very outdated tide gate buried in a vault system with a self-regulating flood gate that would close infrequently, reducing the timeframe salmon would not have access to the marsh.

Ms. O'Connell explained the City was again successful in 2014 applying through RCO for salmon recovery to fund the current phase, preliminary design. Preliminary design includes the proposed alternative to the south, flood gate and Marina Beach Master Plan that includes the creek channel. Tonight staff is requesting authorization for the 2016 application to RCO for Puget Sound restoration dollars to take the project to 60% design, the next phase of the project. This phase will include preparation of all permits required for the project; funding will be awarded at the end of 2017 for 2018 and 2019.

Councilmember Nelson asked when the project will be completed if the City receives the grant funding. Ms. O'Connell advised design would be nearly complete by 2019; additional funding would need to be secured to finalize design. It can take up to a year to secure permits from state, federal and local entities. A robust funding package will need to be compiled to fund implementation and construction for this very complex project in an urban environment. Throughout this timeframe, efforts have been underway to determine that funding package which will be a combination of federal, state and local funding. Ms. Hite said parallel to that process, final design for Marina Beach Master Plan will need to be accomplished as well as funding for that effort.

Councilmember Teitzel referred to language in the resolution that states the City will only request payment from RCO after incurring eligible and allowable costs and pay them. He asked how much money that represented and whether reimbursement by the granting agency of funds the City had already spent was unusual. Ms. Hite answered all RCO grants are reimbursable. The City pays upfront, expedites the billing and RCO reimburses the City. Councilmember Teitzel asked how much the City may pay prior to reimbursement. Ms. Hite estimated cash flow on this project at \$20,000/month. Once the City requests reimbursement, RCO releases payment in 1-2 weeks.

Councilmember Buckshnis suggested Ms. O'Connell provide the Council a visual presentation regarding the daylighting process to date.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE RESOLUTION NO. 1366, AUTHORIZING THE MAYOR TO SIGN THE WILLOW CREEK DAYLIGHTING RCO GRANT APPLICATION SUBMISSION. MOTION CARRIED UNANIMOUSLY.**

**3. AUTHORIZATION FOR MAYOR TO SIGN REVISED GOODS & MATERIALS AGREEMENT FOR THE PROCUREMENT OF STONE CLADDING, PAVING AND SITE FURNISHINGS FOR THE VETERAN'S PLAZA FROM COLDSRING**

Parks & Recreation Director Carrie Hite recalled the Council's unanimous approval on July 19 of a sole source agreement with Coldspring. Following that approval, Coldspring requested a few changes in the

agreement; they requested the warranty and indemnification follow Minnesota law as they operate in Minnesota as well as a change in the time for material delivery. The City Attorney has approved the change in the language.

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AUTHORIZE THE MAYOR TO SIGN A REVISED GOODS & MATERIALS AGREEMENT. MOTION CARRIED UNANIMOUSLY.**

**9. STUDY ITEMS**

**1. SHORELINE MASTER PROGRAM UPDATE**

Senior Planner Kernen Lien advised the City has not received a response to its preliminary/initial response requesting more time. Similar to Ecology's recommended changes to the CAO, he recommended the Council consider and make a decision on each of Ecology's recommended changes.

Mr. Lien explained pursuant to RCW 90.58.090(2)(e), the City of Edmonds has two options for responding to Ecology's conditional approval:

1. Agree to the proposed changes, or
2. Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology with the Shoreline Management Act.

He summarized Ecology's required changes:

- Five critical area integration changes
- Three UMU IV Required Change
  - Setback/buffer
  - Interim Designation
  - When buffer establishment triggered
- Recommended change to consider residential in UMU IV

Mr. Lien reviewed Ecology's required changes individually:

Ecology Required Change 1 – Update Critical Area Ordinance reference

- Council approved SMP references Ordinance 3527 dated November 23, 2004
- Required change to reference Ordinance 4026 dated May 3, 2016
- Same version of critical area regulations will apply within and outside shoreline jurisdiction

Council President Johnson referred to Mr. Lien's suggestion for the Council to vote on accepting Ecology's recommended changes, noting the agenda memo states staff will return with a revised version. Mr. Lien answered Council decisions tonight would provide guidance to staff.

Councilmember Buckshnis referred to Ecology's comment that Edmonds' CAO was the basis for their buffers. Mr. Lien explained the COA adopts the 2014 Department of Ecology wetland rating system. Neither the CAO nor the SMP determine the categorization of the marsh, they only adopt the rating system. If the Council approves this recommended change, the same version of the critical area regulation will apply within and outside shoreline areas.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO RECOMMEND APPROVAL OF ECOLOGY REQUIRED CHANGE 1 IN CONCEPT. MOTION CARRIED UNANIMOUSLY.**

Ecology Required Change 2 – Replace Appendix B

- Current Appendix B is the version of critical area regulations adopted in 2004 under Ordinance 3527
- Required change is to replace Appendix B with the critical area regulations adopted in 2016 under Ordinance 4026 (minus exceptions)
- Extension of Change 1
- Same version of critical area regulations will apply within and outside shoreline jurisdiction

**COUNCILMEMBER TEITZEL MOVED, SECONDED BY COUNCILMEMBER TIBBOTT, TO APPROVE ECOLOGY REQUIRED CHANGE 2 IN FORM AND CONTENT. MOTION CARRIED UNANIMOUSLY.**

Ecology Required Change 3 - Critical Area Provisions Requiring Shoreline Variance

- Council approved SMP lists specific critical area regulations that may only be implemented through a shoreline variance process (SMP 24.40.020.C)
- Required change would eliminate SMP 24.40.020.C
- Critical area provisions listed in SMP 24.40.020.C modified during CAO update to an extent that a shoreline variance is no longer required

Councilmember Teitzel asked whether a property owner could apply for a variance to reduce the buffer of up to 25%. Mr. Lien answered a variance would not be required because that is allowed as long as they follow the provisions in the critical area regulations. A shoreline variance would be required if the property owner wanted to go below 25%.

**COUNCILMEMBER TIBBOTT MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO ADOPT ECOLOGY REQUIRED CHANGE 3. MOTION CARRIED UNANIMOUSLY.**

Ecology Required Change 4 – Critical Area Exceptions

- SMP 24.40.020.D lists critical area regulations that do not apply in shoreline jurisdiction
- Required change would modify list to only except critical area variance (ECDC 23.40.210) and geologically hazardous areas allowed activities (ECDC 23.80.040.B)
- Shorelines has its own variance process
- Allowed activities in ECDC 23.80.040 may be allowed under SMA without requiring a variance

With regard to allowed activities in geologically hazardous areas, Mr. Lien explained this was previously in the variance section but moved to the exceptions section because some activities would not require shoreline substantial development permit, for example, a fence. A single family residence is an activity in the shorelines that does not require a shoreline substantial development permit. A fence would be considered an appurtenant structure; rather than a fence requiring a shoreline variance, it was removed from the critical area section and the shoreline regulations determine the allowed activities.

Councilmember Tibbott asked whether allowed activities were listed in the SMP or CAO. Mr. Lien answered the specific provision ECDC 23.80.040.B is excepted out of the CAO and will not be applicable within shoreline jurisdiction. Using a fence as an example, Councilmember Tibbott asked whether it would be on a list of exceptions and asked where the list of exceptions can be found. Mr. Lien answered the list of exceptions is in the SMP. The two provisions of the CAO that do not apply in shoreline jurisdictions are variances (23.40.210) and geologically hazardous areas allowed activities (23.80.040.B). The remainder of the critical area regulations that apply outside the shoreline jurisdiction would apply within shoreline jurisdictions except for those two provisions because they are covered in other areas of the SMP and the Shoreline Management Act (SMA). Councilmember Buckshnis summarized in laymen's terms, the variance is being removed from the COA because it is already covered in the SMP. Mr. Lien agreed.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE ECOLOGY REQUIRED CHANGE 4. MOTION CARRIED UNANIMOUSLY.**

Ecology Required Change 5 – SMP Wetland Section

- SMP 24.40.020.F contains wetland regulations for shoreline jurisdiction based on Ecology's Guidance for Small Cities
- Required change would remove SMP 24.40.020.F
- Updated critical area regulations wetland section is based on Ecology's Guidance for Small Cities
- Physically Separated/Functionally Isolated Buffer

For Councilmember Buckshnis, Mr. Lien said a physically separated functionally isolated buffer is called an interrupted buffer in the CAO. The required change from Ecology would take the physically separated functionally isolated buffer out of the SMP and the provision adopted in the CAO would apply in the shoreline area. Councilmember Buckshnis asked if Ecology's Guidance for Small Cities was what staff provided Council last week that defines categories, buffer and setback widths, etc. Mr. Lien answered yes. Councilmember Buckshnis recalled Appendix L was used previously. Mr. Lien explained Appendix L did not define wetland buffers; Appendix L was an appendix to a funding guidance document for three very specific water quality grant funds which is not the same as Guidance for Small Cities.

Council President Johnson recalled a new Ecology publication was issued in June/July related to the same subject. **Paul Anderson, Wetland Specialist, Washington State Department of Ecology**, explained the document, Critical Areas Ordinance Guidance, was released in June due to recommendations and principles in the Small Cities Guidance that applied to other jurisdictions such as counties. Council President Johnson asked whether that new guidance needed to be incorporated into the SMP or CAO. Mr. Anderson answered there are arguments on both sides; because the City is so far into the process, Ecology does not recommend it at this time.

Councilmember Nelson clarified his understanding of Mr. Anderson's statement that Ecology was not recommending using best available science (BAS) because the City was so far along in the process. Mr. Anderson clarified Ecology was not recommending adopting the standards in the CAO Guidance. Councilmember Nelson observed the Critical Area Ordinance Guidance was the current BAS. Mr. Anderson agreed it was, the standards go back to the 2005 BAS Fresh Water Wetlands in Washington.

Councilmember Buckshnis asked whether the City wanted to use the latest and greatest BAS by incorporating that document in the SMP. Mr. Lien answered the City adopted the CAO a couple weeks before the new guidance came out. The new document is Critical Areas Ordinance Guidance; the old document was Ecology Guidance for Small Cities. There are some small changes; if the new Critical Areas Ordinance Guidance is used in the SMP, one version of wetland regulations would apply within shoreline jurisdictions and another version of regulations would apply outside shoreline jurisdiction and the new guidance would need to be incorporated into the SMP.

Council President Johnson commented it was difficult to proceed without seeing that information. She preferred to rely on the best guidance from Ecology rather than an 11-year old document but it may require updating the CAO. She asked the process and timeframe for adopting the CAO. It was her understanding it was not reviewed or approved by Ecology but was used to coordinate the City's CAO and State's SMP. Ms. Hope referred to the process for adopting a CAO amendment which includes public hearings, Planning Board review and review by State agencies. Unlike the SMP, State agencies can comment on the CAO and if they strenuously object to something, they can appeal it.

Mr. Lien observed this change may require further discussion. He offered to provide a comparison of the two documents at a future meeting. Councilmember Fraley-Monillas expressed interest in reviewing the Critical Areas Ordinance Guidance released in June. Councilmember Mesaros concurred.

#### Ecology Required Change 6 – UMU IV Interim Designation

- UMU IV shoreline environment established as an interim designation
- Required change would eliminate the interim designation
- Changing interim designation would require an SMP amendment
- If Council proposes to keep interim designation, a clear purpose and specific timeline should be developed with stakeholders

Councilmember Buckshnis said she has been a proponent of this and has been involved since March 2013. Her concern was Ecology did a 180, stating the City has had enough time; however, the City has not had enough time to talk to the Port, Chevron, Unocal, the Tulalip Tribes, or do its own analysis of the marsh when it is downgraded to a Category II. The City has sufficient information to support an interim designation but does not have a work plan because Ecology did not inform the City that was necessary. She was willing to participate on a team to develop a purpose and timeline.

Councilmember Tibbott asked what the disadvantage would be of keeping the interim designation, either from Ecology's perspective or application of the SMP. Mr. Lien answered it is an interim designation in name only and simply means the City is going to look at it in a shorter timeframe than the usual eight year SMP update process. One problem with the existing interim designation in the SMP is it does not have a clear purpose and specific timeline. If the Council wants to retain the interim designation, he strongly suggested the alternative submitted to Ecology clearly identify a work program and what would be done during the interim period.

Councilmember Tibbott provided a hypothetical situation, a granting agency was interested in a 200-foot buffer; with the interim designation, the City could not indicate the exact buffer. He concluded the interim designation could be a disadvantage when pursuing grant opportunities. **David Pater, Regional Shoreline Planner, Washington State Department of Ecology**, responded it is not a disadvantage as restoration is a voluntary part of the SMP process; a property owner could decide to restore and expand a buffer regardless of the regulations. Ms. Hope said one possible disadvantage is the term interim continues some uncertainty for the two-year period. Councilmember Tibbott commented there are a number of stakeholders with whom the City would like to consult and there may be advantages to maintaining flexibility in this language. He asked whether that was an advantage in implementing the rest of the SMP or was it too arbitrary. Ms. Hope said the term interim could be useful for internal discussions, but practically it is interim in name only as Mr. Lien stated. The designation stays in effect until/if the Council chooses to adopt something different. Mr. Pater said if Ecology agreed to retain the term interim, at some point the City would need to go through a SMP amendment which could be considered a disincentive to retaining it.

Councilmember Nelson agreed with Mr. Lien that if Council proposes to keep interim designation, a specific timeline should be developed along with identified stakeholders to include neighboring property owners, scientists, agencies, the public, etc.

If the Council agrees to allow the interim designation of UMU IV to remain for a period of time and hires an expert to assess the marsh, Councilmember Teitzel said one of the things that expert may consider is whether the marsh has been disturbed which is one of the key factors in categorizing the marsh. An expert could potentially say the marsh is undisturbed for the past 30-year period; Ecology would say the marsh is disturbed because it has been diked and filled, SR-104 runs through it, and a train track runs along it. He asked what Ecology would do if an expert determined it should be a Category I wetland because using

that definition, it was not disturbed. Mr. Anderson answered Ecology would consider that in light of the rating system and whether they agreed with the City's interpretation. Mr. Lien said if a strong stakeholder group was established and the stakeholders agreed at the end of the two-year period on what they wanted for the area and the marsh, that would carry a lot of weight with Ecology's review.

Councilmember Buckshnis asked for clarification that the interim designation amendment would only be for the UMU IV. Mr. Lien answered the process is the same but it can be focused on UMU IV environment and the area around the marsh. Mr. Pater said all the steps are the same; the process could be much quicker because the focus is much narrower.

Councilmember Mesaros expressed support for Councilmember Nelson's suggestion, noting he could support retaining the interim designation if there was a plan and a timeline. He suggested staff develop a recommendation regarding the time period. Mr. Lien said that effort may also require some budget.

Council President Johnson asked if there was anything in the SMA that allowed for an interim designation. Mr. Taraday answered the SMA has authority for interim official controls which are allowed to last up to six months at a time. That is different from what the interim designation was originally contemplated to be. There is no clear express authority in the SMA for a two-year long interim designation. If all the stakeholders are on board with the concept of an interim designation, whether it is interim in name only or by consensus may not matter if the Port, City, Ecology and everyone agrees a two-year period for an interim designation makes sense. If there was pushback on having an interim designation, someone could make an issue of the fact that there is no express authority in the SMA. Mr. Pater said the legislative intent regarding an interim designation is different than the SMA which refers to moratorium requirements which includes six month timelines and check-ins. The Council will ultimately need to determine the designation.

Council President Johnson said it sounds like the City needs to know whether all the stakeholders are interested in participating. She suggested the City needed to investigate further by asking the Port, Unocal, Ferries whether they were interested in having the City pursue this.

Councilmember Buckshnis said if all stakeholders need to be involved, she assured Chevron was not interested; they will not even allow the Stream Team onto their property. She referred to Mr. Pater's suggestion to use Everett's urban conservancy agricultural interim.

Councilmember Mesaros relayed he was in a meeting with several Chevron leaders last week and they were eager to have a conversation with the City. He acknowledged they would not necessarily agree with the City but they were willing to have a conversation.

Mayor Earling relayed his understanding the Council was interested in having this brought back for consideration for up to two years. He requested Council staff or the Council President do the outreach to the stakeholders and report back to the Council as soon as possible.

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO EXTEND THE MEETING FOR FIVE MINUTES. MOTION CARRIED UNANIMOUSLY.**

Due to the late hour, Council agreed to continue review of Ecology's required changes at a future meeting.

**10. MAYOR'S COMMENTS**

Mayor Earling reported on the Edmonds Center for the Arts' very successful 10<sup>th</sup> anniversary celebration on Saturday, noting Councilmember Mesaros was also in attendance. It was a great celebration, particularly for those who were around at the beginning of the formation of the ECA.

**11. COUNCIL COMMENTS**

Councilmember Fraley-Monillas commented the community has again been impacted by a tragedy involving children; a shooting in Mukilteo took the lives of three 19-year olds who graduated from Meadowdale High School last year. Six children have been lost in this community in the last two weeks; she suggested parents and the community pay closer attention to what's occurring as there were signals or signs in both incidences that something was not right.

Councilmember Teitzel added to Councilmember Fraley-Monillas' remarks, commenting he was heartsick about the events in Mukilteo. He was tired of saying his thoughts and prayers go out to people in Dallas, Orlando and now in Mukilteo. In each incident the murder weapon was an AR-15 assault rifle which is designed to kill the maximum number of people in a very short time. He recommended taking action soon and planned to contact his state and federal legislators to encourage them to take action to do something about assault rifles. He appreciated the Second Amendment issue but in his opinion there is no reason for citizens to have AR-15s in their possession.

Councilmember Mesaros said one of the joyful things in the community is the Pacific Little League won the State championship and hopefully will repeat that at regionals. Councilmember Mesaros reported on the ECA 10<sup>th</sup> anniversary celebration, remarking the City is blessed to be a city of arts.

Councilmember Mesaros encouraged everyone to attend the 20<sup>th</sup> anniversary of the Edmonds Police Foundation tomorrow at 5:00 p.m. inside and outside the Public Safety building.

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

This item was not needed.

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

This item was not needed.

**14. ADJOURN**

With no further business, the Council meeting was adjourned at 9:11 p.m.