

# EDMONDS CITY COUNCIL APPROVED MINUTES

## August 16, 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

Phil Williams, Public Works Director  
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.  
Shane Hope, Development Services Director  
Scott James, Finance Director  
Rob English, City Engineer  
Kernen Lien, Senior Planner  
Jeff Taraday, City Attorney  
Scott Passey, City Clerk  
Andrew Pierce, Legislative/Council Assistant  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### 1. CALL TO ORDER/FLAG SALUTE

The Edmonds City Council meeting was called to order at 7:01 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

Council President Johnson advised the presenter for Item 5.1 will arrive at approximately 8:00 p.m.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER, MOVING ITEM 5.1 TO ITEM 8.1. MOTION CARRIED UNANIMOUSLY.**

### 4. APPROVAL OF CONSENT AGENDA ITEMS

**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 AUGUST 2, 2016**
2. **APPROVAL OF COUNCIL SPECIAL MEETING MINUTES OF AUGUST 9, 2016**
3. **APPROVAL OF COUNCIL MEETING MINUTES OF AUGUST 9, 2016**
4. **ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM BRUCE WHITE (AMOUNT UNDETERMINED)**

- 5. APPROVAL OF CLAIM CHECKS
- 6. JUNE 2016 QUARTERLY FINANCIAL REPORT
- 7. SENIOR CENTER LEASE AGREEMENT AMENDMENT

5. **PRESENTATIONS/REPORTS**

2. **PRESENTATION OF NATIONAL CITIZEN SURVEY RESULTS**

Economic Development/Community Services Director Patrick Doherty provided background:

- Pursuant City Council approval and funding, the National Citizen Survey, administered by the National Research Center (NRC), was conducted between 6/3/16 and 7/17/16 in Edmonds
- Survey is conducted in a scientifically valid, statistically significant fashion
- Surveys were sent to 2,200 randomly selected households
- Online, opt-in survey was open from 7/1/16 to 7/17/16
- Responses to the randomized survey totaled 586, or 28%, within 20-40% national average.
- Constitutes statistically significant survey response.
- 320 online responses were received
- 906 total responses
- Results were combined since both samples were most similar in NRC's national experience
- Increased confidence level to only 3% margin of error

Mr. Doherty described the Community Livability Report:

- NRC conducts detailed analysis and draws conclusions in so-called "Community Livability Report"
- 3 pillars of community:
  - Community characteristics
  - Governance
  - Participation
- Across eight central facets of community:
  - Safety
  - Mobility
  - Natural Environment
  - Built Environment
  - Economy
  - Recreation and Wellness
  - Education and Enrichment
  - Community Engagement
- Benchmarking
  - Comparison against nationwide averages
  - Comparison against 25 Pacific NW cities 20,000 to 60,000 population
  - Compare/contrast across 5 demographic cohorts:
    - Length of residency in Edmonds
    - Annual household income
    - Rent or own dwelling unit
    - Age
    - Gender

He provided summary conclusions:

- Overwhelming majority of residents gave Edmonds a resounding thumbs-up!
- Indicators of Quality of Life
  - 93% - Overall image
  - 86% - Neighborhood
  - 92% - Place to raise children
  - 87% - Place to retire
  - 96% - Overall appearance
- Edmonds is a great place to live, with 9 in 10 residents positively rating overall image, overall appearance and Edmonds as a great place to raise children, among other attributes. Ninety-six percent of respondents rated Edmonds as an excellent or good place to live, much higher than responses in nationwide surveys and those from throughout the Pacific Northwest.
- Safety is an asset and a priority, with 9 in 10 residents stating they feel safe in Edmonds and also identifying safety as a priority to focus on in coming years.
- The economy is important to residents and highly rated in Edmonds. About 8 in 10 residents rated the City's economic health as positive, although it is recognized that more jobs in Edmonds for Edmonds residents would be desirable as only 3 in 10 work in the city.
- The City supports a culture of diversity and opportunities for citizen engagement. At least three-quarters of residents gave excellent/good ratings to opportunities for cultural/arts/events engagement. Also, up to 6 in 10 felt that the City has high levels of community engagement and is open to people of diverse backgrounds.
- Respondents rated the following well above national averages:
  - Ease of walking
  - Overall natural environment
  - Air quality
  - Vibrant downtown area
  - Mental health care
  - Healthcare
  - Adult education
  - Traffic flow
  - Cleanliness
  - Public places
  - Places to visit
  - Preventative health services
  - Cultural/arts/music activities
  - Social events and activities
- Only one category ranked lower than national averages:
  - Affordable quality housing

Mr. Doherty reviewed responses to five customized questions, unique to Edmonds:

- How likely or unlikely would you be to support increased local public funding for the following transportation-related services in Edmonds?
  - Repair/replacement of existing sidewalks – 86% favorable
  - Repair and/or maintenance of City streets – 88% favorable
  - Construction of new sidewalks – 84% favorable
  - Expansion of bicycle facilities – 59% favorable
- How likely or unlikely would you be to support increased local public funding for the following parks and recreation-related services in Edmonds?
  - Acquisition of parkland, beachfront – 77% favorable
  - Capital projects such as Civic Field, Marina Beach Park, etc. – 83% favorable
  - Upgrading Frances Anderson Center – 79% favorable
  - Upgrading maintenance levels of existing parks – 85% favorable

- Please indicate whether or not you currently experience discrimination in Edmonds based on your:
  - Sexual orientation or gender identity – 2%
  - Disability – 3%
  - Religion – 3%
  - National origin – 3%
  - Race – 4%
  - Gender – 3%
  - Age – 5%
- How likely or unlikely would you be to support increased funding to enhance the following Edmonds Police-related services?
  - Domestic violence services – 89% favorable
  - Increased patrol presence for crime deterrence, detection and apprehension – 89% favorable
  - Crime prevention services – 89% favorable
  - Youth Services programs (High School Resource Officer, DARE, GREAT, etc.) – 74% favorable
  - Crime analysis – 82% favorable
  - Traffic enforcement – 65% favorable
- Rate how various media are regular source of information for you about City functions, activities, programs and events through the following channels
  - Word of mouth – 36%
  - Posters, banners or other signage – 32%
  - Online media – 46%
  - Printed media – 43%
  - City website or Facebook page – 26%

He described survey responses related to community focus moving forward:

- Residents believe the following should be areas of focus over the next two years:
  - Overall quality of natural environment – 83%
  - Overall quality of built environment – 79%
  - Health and wellness opportunities – 65%
  - Sense of community – 84%

Mr. Doherty advised survey information will be placed on the City’s website and a press release issued tomorrow.

Councilmember Tibbott asked whether the location of the responses was known. Mr. Doherty referred to a map that identified the households that received surveys; location information is not available for the online respondents.

Councilmember Buckshnis said she took the survey and forwarded it to her friends. She relayed a concern she heard that there were no dollar amounts associated with any of the questions. In utopia all the projects would be great but in reality the estimates are \$5+ million for Marina Beach, \$8+ million for Civic Field, etc. She asked how the survey data would be used. Mr. Doherty said the questions asked whether the respondent supported increased funding; there was some debate among staff about whether to included numbers but there was concern it began to sound like a referendum and the amounts are unknown. This survey provides one piece of information for the Council when debating priorities during the budget process. For example, if the Council is debating improving Marina Beach Park versus another park, this may be one piece of information showing the public’s support for Marina Beach.

Councilmember Buckshnis recalled when the Council originally reviewed the questions there was reference to a levy and the recommendation was to remove that. She commented people may indicate support for a concept but will not support it when the actual cost is presented She asked how the survey results would be integrated with the Strategic Action Plan (SAP). Mr. Doherty said following the presentation to Council and posting information on the website, there are plans for an open house in September to share this information with the public The SAP items could be displayed on boards in the room while the survey information is shared to determine whether the SAP items are still important. Councilmember Buckshnis agreed, noting over time the SAP items should be whittled down to what is reality.

Councilmember Nelson commented it was great to see that the natural environment scored the highest. He observed only the question related to discrimination included a note from the survey: *NOTE: While low absolute figures, it is important to recognize that for some of these categories (sexual orientation, disability, national origin, and race) the portion of the Edmonds population who fall within those cohorts is mostly under 10%, making these response rates more significant within each cohort (e.g., 2% of the population stating they experience discrimination based on sexual orientation, when approximately 5-10% of the population may be a member of this cohort, meaning that 20% to 45% of that cohort may be experiencing discrimination).* Councilmember Nelson said if a certain segment of a population is being discriminated against, that needs to be considered. Mr. Doherty commented that is the reason for the Diversity Commission, their programs and outreach; in forums the Diversity Commission has had, some people still feel they are experiencing discrimination.

Councilmember Nelson asked what was learned from the survey that was not known before. Mr. Doherty answered the age discrimination was the youngest cohort and that 42% get information via print media. Generally speaking in reviewing the questions, he expected Edmonds to score high and that happened. Councilmember Nelson remarked he likes both forms of media.

Councilmember Teitzel referred to the way the questions were framed; many begin with the phrase, "Would you support increased local public funding for..." He questioned whether the response rate would have been as favorable if the question stated, "Would you be willing pay an increased local tax rate for improved streets and sidewalks in Edmonds." Mr. Doherty recalled the Council debated that language before approving the survey; an earlier version included more directed language related to a levy or increased property taxes and the decision at the time was it was too directive and sounded too much like a poll. He agreed the way the question was worded lost a little precision but the problem with specifying a funding source is that funding source may not make the most sense in the future which increases the complexity of the question. He was counseled by NRC to make the question more generic, recognizing it does not provide precision but provides one point of information. Councilmember Teitzel asked whether most respondents knew that when reading the question. Mr. Doherty answered the language was not very complicated so he assumed they would understand it meant more funds although they would not know whether it was a tax, a fee or a re-appropriation of existing funds.

Councilmember Fraley-Monillas commented the survey tells the City what is being done right and what could be done better. She supported providing information to the Diversity Commission and potentially to other commissions. She noted although respondents indicate a willingness to spend more money on public safety, roads, and parks, voters recently did not support a \$0.02 sales tax increase for public safety. She recognized the reasons for not including a dollar amount in the survey but questioned whether the results would be the same if an amount were included. Mr. Doherty responded the percentages in the 80s and 90s indicate there is a lot support for some kind of funding increases. As those issues arise during this and subsequent budget cycles, this survey can be used as a piece of information indicating support for those subject matters. Councilmember Fraley-Monillas agreed, noting countywide funding is different than in funding in our own backyard. She agreed the survey results will be of value to the City. Mr.

Doherty said he likely will return to Council in three years asking whether to do the survey again; those results would illustrate how the City is doing then compared to 2016 as well as compared to other cities.

Mayor Earling said the survey results indicate the community's level of satisfaction community as well as information regarding where improvements are needed/wanted.

## 6. AUDIENCE COMMENTS

**Roger Hertrich, Edmonds**, said when driving along 7<sup>th</sup> Avenue tonight and looking at Civic Field, he recognized that great open space accommodates events and sports on the same field. He encouraged the City to maintain the space without too many impediments. Next, he said the National Citizens Survey was a waste of time and money and should not be given much credit, commenting he would not take the time to answer the questions. He referred to the Council's 4-3 decision to remove themselves from quasi-judicial hearings, deciding that the Council was not smart enough to handle court-type proceeding that are important to the public. He recalled the hard work he did on quasi-judicial matters when he was on the Council. When Councilmembers participate in quasi-judicial hearings, they look harder at the code and realize changes need to be made. He pointed out land use is always changing and there is not enough public participation in land use decisions, leaving it up to staff where sometimes things get out of hand. The Council has ability to assist citizens and ensure things are done correctly. He concluded the Council made the wrong decision.

**Dorothy Trennen, Edmonds**, a member of the Edmonds Housing Task Force, a citizen group advocating for housing for those in need, urged the Council to focus on the affordable housing that may be going in as part of Westgate redevelopment. Mayor Earling suggested she provide comments regarding Westgate during the public hearing.

## 7. PUBLIC HEARINGS

### 1. PUBLIC HEARING AND RESOLUTION TO DESIGNATE WESTGATE MIXED-USE ZONE DISTRICT AS RESIDENTIAL TARGETED AREA

Economic Development/Community Services Director Patrick Doherty explained on July 26, 2016 the Council passed a resolution of intent, a step required by State law to consider the Westgate Mixed Use (WMU) Zone as a residential targeted area for the potential implementation of the Multifamily Tax Exemption Program and set a public hearing for tonight. The reason the Council chose the WMU Zone was the implementation of a plan for zoning for that mixed use center 1½ years ago. There has been little development activity in that area and he learned most neighboring jurisdictions have this provision. Following the public hearing, the Council has the opportunity to designate the Westgate area as a residential targeted area. That action does not institute the program; it simply designates Westgate as an area where the program may be instituted. Staff will come back to Council in the next couple months with the code provisions, ordinance, public hearing, etc. and the Council can debate the particulars of the program at that time. The proposed action tonight is to pass the resolution to designate the WMU zone as a residential target area.

Councilmember Teitzel referred to language in Section 1 of the resolution that states the WMU Zone lacks sufficient affordable housing. If the resolution and subsequent processes are approved and Westgate is redeveloped to include affordable housing, he asked what mechanism ensures those units are rented to people who meet that demographic. Mr. Doherty referred to Section 1.b that states the district lacks sufficient available, desirable and convenient residential housing including affordable housing, noting that section does not refer only to affordable housing. Statutory provisions at the State level provide two incentives options, 1) 8-year tax exemption for projects that do not include affordable housing, and 2) a 50% bonus, 12-year exemption for projects if 20% of the units are affordable. He noted in any

development, some units are more affordable than others such as smaller units or units that face another building. There is a multistep process; applicants seeking this provision apply to the City, the City Council approves the preliminary contract; once the project is complete, the applicant returns to execute contract. The contract states they recognize the duty to provide those housing units in accordance with a formula for affordable for the entirety of the exemption period as well as provide an annual report to the City regarding compliance. If the applicant does not comply, they lose the exemption.

Mayor Earling opened the public hearing.

**George Keefe, Edmonds**, urged the Council to adopt a development plan that provides for a 20% affordable housing mandate with a 12-year tax incentive. The report card on child homelessness for the 2012-2013 school year ranks the State of Washington 40<sup>th</sup> in the United States. There were 61,000 homeless children in Washington; Washington ranked lower than Arkansas, Georgia, Louisiana, Mississippi, South Carolina and Texas. The Washington statewide homeless student report by district for the school year 2014-2015 reports the Edmonds School District had 600 homeless students, 40-60 homeless students in each of 10 grades; two-thirds were doubled up sharing housing due to loss of housing or income hardship, more than 100 were in shelters, more than 50 were in hotels/motels and 11 were unsheltered. Such statistics about children are shameful; he commented on the difficult to do homework in the backseat of a car or in tent city. All children deserve a home in which to study, learn and thrive. He urged the Council to begin to address the need for affordable housing in Edmonds.

**Carolyn Harris, Edmonds**, a member of the Edmonds Housing Task Force, agreed with Mr. Keefe, regarding the need for affordable housing. She explained a family is supposed to pay 30% of their income in rent; a family she put in affordable housing recently pays 75% of their income in rent. The poverty level in 1995 was \$25,000/year; the poverty level now for a family of 4 is \$24,000, yet the same housing she put refugees in in 1995 that rented for \$500/month now rents for \$1500/month. There is no place for people to live and there is a great deal of discrimination against the poor. Edmonds needs affordable housing and needs to do something significant. She encouraged the Mayor to be the spirit of Edmonds and for homeless children. There is a very diverse student population in Edmonds; 30 different countries are represented in the children bused into Westgate, Chase Lake, and College Place. Thirty-nine children who are residents of Edmonds are homeless. She noted there is little assistance for homeless children as there is no welfare and HUD has stopped taking applications and has not increased their housing for 15 years. She urged Edmonds to take actions like Bellingham, Everett, and Seattle have done.

**Roger Hertrich, Edmonds**, said Westgate is crowded now and difficult to negotiate. He recognized Westgate could be developed to some degree including residential against the hillside but did not think there was enough room at Westgate to make it a district for this purpose and felt it was premature to put Westgate in a new category. He recognized there were problems with housing but did not think this program was appropriate for this area. He questioned the financial benefit of this program to the City.

Mayor Earling closed the public hearing.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE RESOLUTION 1368, A RESOLUTION OF THE CITY OF EDMONDS, WASHINGTON, TO DESIGNATE THE WESTGATE MIXED-USE ZONE DISTRICT AS A RESIDENTIAL TARGETED AREA FOR THE PURPOSE OF ESTABLISHING A MULTIFAMILY TAX EXEMPTION PROGRAM. MOTION CARRIED UNANIMOUSLY.**

## **8. ACTION ITEMS**

1. **PRESENTATION AND AUTHORIZATION FOR MAYOR TO SIGN SUPPLEMENTAL AGREEMENT WITH HWA GEOSCIENCES FOR THE FISHING PIER REHABILITATION PROJECT**

City Engineer Rob English explained this is a supplemental agreement for additional inspection services on the fishing pier project. The original contract, executed in March 2016, for \$61,000 was followed by the first supplemental agreement executed earlier this summer for additional testing and inspection. The services included in this supplemental agreement total \$13,891. As the concrete repairs are ongoing; this is an estimated amount. Staff is working with the contractor on testing issues and may need to return to Council depending on how that is resolved. He recommended approval of the supplemental agreement so funds are available to continue inspection and testing. There were plans for a soft opening of the pier by the end of this week; however, recent developments have moved the soft opening to September 2 due to issues with the rail and rail supports as well as the waterline and the materials needed to correct it. There was also a change from a clear concrete deck surface sealant to an opaque sealer.

**COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AUTHORIZE THE MAYOR TO SIGN THE SUPPLEMENTAL AGREEMENT.**

Council President Johnson inquired about the funding source. Mr. English answered it is paid from the management reserve which is comprised of grant funds.

**MOTION CARRIED UNANIMOUSLY.**

2. **AUTHORIZATION TO JOIN THE KING COUNTY LAWSUIT REGARDING RONALD WASTEWATER DISTRICT SERVICE AREA**

Public Works Director Phil Williams explained industrial land in southwest Snohomish County, Pt. Wells, has been proposed for significant residential development, potentially 3,000 residential units. Shoreline has been working with the property owner/developer to put the project together. The proposal went to the Snohomish County Boundary Review Board who issued decisions related to service providers that were contrary to King County and Shoreline's interests. Those decisions were appealed and without any action by Snohomish County were subsequently abandoned. The parties are asking King County to opine regarding whose stormwater service area Pt. Wells is in. Olympic View Water & Sewer District (OVWSD), based largely in Snohomish County, feel Pt. Wells is in their service area and Edmonds supports OVWSD's position. He requested the Council authorize the City Attorney to take the necessary actions to have Edmonds added to the action in King County.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO DIRECT THE CITY ATTORNEY TO INTERVENE AS A DEFENDANT IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 16-2-15331-3 SEA, CAPTIONED AS RONALD WASTEWATER DISTRICT, PLAINTIFF VS. OLYMPIC VIEW WATER AND SEWER DISTRICT ET AL., DEFENDANTS, TO PROTECT THE CITY OF EDMONDS' INTEREST IN RECEIVING WASTEWATER FLOWS FROM FUTURE DEVELOPMENT IN THE POINT WELLS AREA OF SNOHOMISH COUNTY. MOTION CARRIED UNANIMOUSLY.**

Mayor Earling declared a brief recess.

3. **SHORELINE MASTER PROGRAM UPDATE**

Senior Planner Kernen 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.
- Ecology's reply to the City's initial response – October 31st

Mr. Lien reviewed Ecology's required changes and Council action to date:

Ecology Required Change 1 – Update Critical Area Ordinance reference

- Required change to reference Ord. 4026 dated May 3, 2016
- August 2nd – Council voted to accept change

Ecology Required Change 2 – Replace Appendix B

- Required change is to replace Appendix B with the critical area regulations adopted in 2016 under Ord. 4026 (minus exceptions)
- August 2nd – Council voted to accept change

Ecology Required Change 3 - Critical Area Provisions Requiring Shoreline Variance

- Required change would eliminate SMP 24.40.020.C
- August 2nd – Council voted to accept change

Ecology Required Change 4 – Critical Area Exceptions

- 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)
- August 2nd – Council voted to accept change

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
- Since the City adopted the CAO, Ecology published Guidance for Critical Area Ordinances
  - Council requested information regarding the difference between Guidance for Small Cities and Guidance for Critical Area Ordinances
    - Council packet contains a comparison done by Paul Anderson, Ecology (Exhibit 4)
- Updated critical area regulations wetland section is based on Ecology's Guidance for Small Cities
- Physically Separated/Functionally Isolated Buffer

Councilmember Teitzel referred to the statement in Exhibit 4 (packet page 486), "For water quality improvement, the benefit of buffers is achieved within the first 60-75 feet and wider buffer are providing primarily habitat value." In the UMU IV the buffer was set at 50 feet, less than 60-75 feet. He asked how Mr. Anderson's recommendation regarding a 50-foot buffer width squared with his comments in Exhibit 4. **Paul Anderson, Wetland Specialist, Washington State Department of Ecology**, responded the statement was related to buffers that are primarily intact, well vegetated to start with, and was a general statement about buffer function. The 50-feet proposed for the Harbor Square area would be restored buffer via mitigation to compensate for increased land use intensity. There would be some water quality benefit but redevelopment would also occur consistent with current stormwater standards. That statement was not that a 60-75-foot buffer would apply; it was a general statement about the functions that buffers provide.

Recognizing the buffer is measured from ordinary high water mark (OHWM), Councilmember Tibbott asked if there was any estimate/guess regarding how the OHWM could change with daylighting of Willow Creek and a more natural tidal flow into the marsh and how that would affect where the buffer is measured from. Mr. Anderson referred to a graphic Mr. Lien displayed two meetings ago that illustrated

the estimated shift of ordinary high water as a result of daylighting Willow Creek. The graphics that have been displayed are planning level estimates; the OHWM and the wetland edge would not be precisely determined until a development proposal is submitted. Mr. Lien displayed a 2008 WSDOT survey of the marsh that identified the salt tolerant vegetation that existed at that time. He identified an additional area on the aerial image that was likely to become salt marsh if Willow Creek is daylighted and there is free flow tidal influence into the marsh. He clarified the boundaries of marsh would not change but the ecological makeup of a certain portion would change. Councilmember Tibbott relayed his understanding the OHWM currently extends roughly to the base of the dike and would expand somewhat to the east with additional flows. Mr. Lien agreed.

Councilmember Buckshnis said in Mr. Anderson's comparison, the changes are not that significant and she questioned why not update the CAO based on the most recent BAS. Mr. Anderson answered that could be done, it was a Council decision; they were not recommending one way or another. They were okay with leaving the the reference to Guidance to Small Cities in the CAO especially since the new guidance came out after the Council's recent adoption of the CAO. Councilmember Buckshnis said although she had not done a comparison of the tables, it appeared the basis for the 10-year update was revising buffers widths and discussing the difference between Category I and II wetlands. Mr. Anderson commented it wasn't a 10-year update, it just happened to be that the BAS was published in 2005 and all the documents that have come out since then have been based on the 2005 guidance. The update in June provided clarification; some people were misinterpreting the buffer table in the Guidance for Small Cities. He was unsure why Category II estuarine wetland were not included in the Small Cities Guidance but it is now included. All the tables arise from Volume 2 of the BAS document; Appendix 8C is the origin of the tables. The guidance in June was to clean up and clarify.

Councilmember Buckshnis commented if the SMP is based on 2005 the marsh is still Category I. Mr. Anderson disagreed, that is not the not rating system, it is the BAS; the state rating system is a separate document. Councilmember Buckshnis said if the City utilizes this data, it clearly identifies the marsh as a Category II. Mr. Anderson answered it is based on the current rating system which is not in these documents. Councilmember Buckshnis agreed, stating that is why the current documents should be updated with these new rulings.

Councilmember Tibbott referred to the buffers for Category II wetlands in the 2016 Guidance. Mr. Anderson referring to Table XX.1 (packet page 495) explaining these were separated out due to the belief that estuarine and interdunal wetland had special enough characteristics that the buffer widths should not be based solely on wetland ratings score. The current wetland rating system only goes into detail for freshwater wetlands. Estuarine wetlands are identified separately because there is not a system for rating them, the habitat functions are not as well understood and interdunal wetlands are a unique system. For the salt marsh portion of Edmonds Marsh, only the estuarine buffer widths would be used and the habitat score would not be considered in establishing the buffer.

Councilmember Tibbott concluded from the table that BAS suggests there should be a 110 buffer in that area. Mr. Anderson said Table XX.1 would be 150 feet; Table XX.3 would be 110 feet on a Category II wetland. The minimization measures in XX.2 need to be included or a wildlife corridor established that is 100 feet wide. If either can be done, it qualifies for the reduced buffer width of 110 feet. If a wildlife corridor cannot be established or the minimization measures included, the buffer is 150 feet in Table XX.3. Mr. Lien added this assumes a vegetated buffer exists and there is not already existing development. If development occurred in an area where there was an existing buffer, this guidance would apply in that area. Mr. Anderson agreed, pointing out the 50-foot buffer with setback in the required changes is a restored buffer which is not what these tables are referencing. These tables apply to a well vegetated or any remaining portion of a well vegetated buffer.

Councilmember Tibbott concluded from the explanation that these tables have nothing to do with the Edmonds Marsh. Mr. Anderson they have nothing to do with the marsh along the west, north and east side; there is still some intact buffer on the south side and there may be 150 feet of forest in the southeast corner. When the buffer along Harbor Square was measured, the only effective buffer that exists is 13 feet to the top of the berm. Mr. Lien displayed an aerial view of the impacted buffer, explaining Ecology Required Change 5 is related to the wetland section of the SMP and making it consistency with the CAO. While related, is a separate issue from Ecology Required Change 7 which is related to the appropriate setback and buffer for the area next to the marsh. The SMP establishes specific setbacks and buffer for the marsh based on site specific characteristics; this is more general guidance.

Councilmember Nelson said given that this would apply to a portion of the Edmonds Marsh, the June 2016 Guidance should apply to the CAO.

**COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS. TO USE THE JUNE 2016 GUIDANCE FOR CAO UPDATES FOR WESTERN WASHINGTON TO UPDATE THE CRITICAL AREAS ORDINANCE.**

Development Services Director Shane Hope said a new CAO cannot be adopted on the spot; this is direction to use this as guidance in future discussions. Mr. Lien said the Ecology required change is whether the wetland section in the SMP are consistent with the CAO. If the Council accepts this change, it utilizes the current CAO. If the Council wants to use the 2016 update in the SMP, that alternative would need to be proposed to Ecology. If that is the Council's direction, he will need to review the wetland section to determine what should be removed such as the physical separated/functionally isolated provision. It may be that the table is retained because the rest is consistent with the CAO. Councilmember Nelson said if staff needs more time, that is his intent. Mr. Lien suggested the Council vote on that and he will take a closer look and bring it back to Council.

Council President Johnson asked staff to explain what this would mean to the adopted CAO and the process that would be followed to make changes to the adopted CAO. Ms. Hope said her understanding is the Council is providing an alternative to Ecology's required change on the wetland section and referencing the newer guidance. While it could create a need to revise the CAO, that would not happen now but as part of a future process and Mr. Lien could return with the details at a future meeting. She suggested the Council indicate their preference related to the SMP response.

Councilmember Teitzel pointed out the CAO was considered and adopted before the June 16, 2016 report. There will be timing issues in the future as new science continually emerges and he did not want the Council reopening the CAO and SMP to integrate new information. This may be a unique circumstance as the report impacts both the CAO and SMP. Mr. Lien pointed out there are periodic updates of the CAO and SMP and agreed this was a unique situation. Ms. Hope said cities typically do not amend the CAO within 1-2 years of adoption. However, that decision is still ahead regardless of tonight's decision.

Councilmember Buckshnis asked whether physically separated/functionally isolated was changed to interrupted buffer in the CAO. Mr. Lien explained in the section of the SMP that Ecology recommends be removed, 24.40.020.F, there is a physically separated/functionally isolated buffer. If the Council wants to include the 2016 guidance from Ecology in the SMP, he would need to review 24.40.020.F to see what needs to be retained to include the 2016 update; it was likely only the buffer table needed to included. Councilmember Buckshnis said Mr. Anderson's summary indicates it cleans things up and provides better guidance; therefore, she feels it may be advantageous to do this as an alternative. Mr. Lien said one of the reasons for the CAO integration was to have the same regulation apply within shoreline jurisdiction that apply outside shoreline jurisdiction. Different guidance in the SMP defeats that purpose. Updating the

CAO would be a separate action and follow a different timeline. Ms. Hope pointed out it would require a full public process and may take a few months.

Councilmember Buckshnis asked how it would affect the October 31, 2016 deadline. Ms. Hope said staff will research what could be done that would have the least disruption. Councilmember Buckshnis preferred to get done before October 3, 2016. **David Pater, Regional Shoreline Planner, Washington State Department of Ecology**, clarified it would not delay the SMP process, it cleans up Ecology's Required Change 5 and the changes would be reflected in the table. There would be some deviation until the CAO is updated.

Mr. Lien clarified the motion as follows:

**WITH REGARD TO ECOLOGY REQUIRED CHANGE 5, USE 2016 ECOLOGY GUIDANCE ON WETLANDS IN THE SMP.**

**MOTION CARRIED UNANIMOUSLY.**

Mr. Lien said he will return at future meeting with information regarding how it is integrated.

#### 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 if Ecology has already not agreed to an interim, there is no reason to use an interim. Even though she believed all the logic and past discussions on the interim, she did not support this because she did not want to waste time.

Council President Johnson said she was tasked with reaching out to stakeholders to determine whether they were interested in participation in an interim designation. She reported the Port was not interested in an interim designation so there was not agreement amongst the stakeholders. Without the Port's interest in an interim designation, it does not make sense for the City to pursue it.

**COUNCILMEMBER TIBBOTT MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO REMOVE THE INTERIM DESIGNATION OF UMU IV FOR THE PURPOSES OF ESTABLISHING A BUFFER FOR THE SHORELINE MASTER PROGRAM. UPON ROLL CALL, MOTION CARRIED (4-3), COUNCIL PRESIDENT JOHNSON AND COUNCILMEMBERS MESAROS, TEITZEL AND TIBBOTT VOTING YES; AND COUNCILMEMBERS NELSON, FRALEY-MONILLAS AND BUCKSHNIS VOTING NO.**

#### Ecology required Change 7 – UMU IV Setback/Buffer

- Council approved SMP established a 100-foot setback with the requirement to establish a 50-foot vegetative buffer within the setback with redevelopment in the UMU IV environment
- Required change would establish a 65-foot setback with the requirement to establish a 50-foot vegetative buffer within the setback with redevelopment in the UMU IV environment
- Larger setback/buffer vs. Smaller setback/buffer
  - Large setback/buffer may perpetuate status quo
  - Smaller setback/buffer may provide incentive for redevelopment and buffer restoration

Mr. Lien displayed an aerial image of the original UMU III, explaining when it was first determined that the Edmonds Marsh was a shoreline of the state instead of an associated wetland and the shoreline

jurisdiction was extended, a new environment for the Harbor Square and the property on the south side of the marsh (Chevron property) was established. When originally established, it was an Urban Mixed Use III environment which also included residential development. The initial proposal developed by staff included only a 25-foot setback which was based on the contract rezone for the Harbor Square property which has a 25-foot open space area adjacent to the marsh. At the Planning Board, the SMP was slowed to coincide with the Port of Edmonds Harbor Square Master Plan process so they could be discussed concurrently. The Planning Board recommended a 50-foot setback as measured from OHWM; implicit in that 50-foot setback, although not described in detail in the SMP, was with redevelopment of Harbor Square there would be enhancement of the buffer around the marsh although the amount to be revegetated was not specified.

Mr. Lien continued, the Council discussed options related to the buffer and setback, including a 150-foot setback as measured from the edge of the marsh with a 50-foot vegetated buffer. This option arose from some confusion of the buffer setback issue and where it was measured from. A lot of Council discussions regarding buffers and setbacks revolved around Appendix L of a grant guidance document on three specific water quality grants. The Council wanted a 50-foot vegetated buffer and it was thought at the time that according to Appendix L a 100-foot buffer applied which was added to the 50-foot buffer for a total of 150 feet. During discussions about where buffer and setback are measured from, the Council ultimately adopted the 100-foot setback as measured from the OHWM and within the 100-foot setback a requirement to establish a 50-foot vegetated buffer with redevelopment of Harbor Square.

Mr. Lien explained Ecology's required change is a 65-foot setback from the edge of the marsh with a 50-foot vegetated buffer within it. His understanding of Ecology's buffer and setback requirements consider existing conditions. Buffers provide two functions, water quality and habitat. The habitat value landward of the marsh is diminished. Water quality could be provided with a vegetated buffer and water quality can be met with a small buffer than habitat. Ecology recommended 65 feet because the CAO requires a 15-foot building setback in addition to the buffer. One of the main criteria of the SMP is meeting the no net loss requirement. He read from the SMP handbook regarding buffers and setback, "Some local governments with intensely developed shorelines have established only setbacks from the OHWM. Vegetation conservation is required and planting new vegetation and replacing noxious weeds and invasive plants with native plants and other habitat improvements are required for new or expanded development." That was implicit in the Planning Board's recommendations and somewhat more explicit in the Council's adopted 100-foot setback and 50-foot vegetated buffer as well as in Ecology's required change. In response to questions regarding why this is different than BAS, he explained the primary reason is looking at existing conditions on the ground. As there basically is no buffer or severely impacted buffer particularly on the Harbor Square side, consideration is given to what can be done to improve existing conditions. He suggested a smaller setback buffer may provide incentive for improvements; a larger buffer is just a line on ground when no buffer exists.

Councilmember Teitzel said buffers, setbacks, shoreline setbacks and structure buffers are confusing and complicated and only apply to to UMU IV. He referred to a statement in Ecology's findings and conclusions (Attachment A, packet page 262), "SMP-required change number three requires a 50-foot buffer with a minimum 15-foot structural buffer setback." Councilmember Teitzel agreed with that logic, finding it consistent with the CAO. In order to simplify, he suggested using Ecology's language throughout the SMP related to a buffer and a structural setback. He recognized that would require changing the shoreline bulk and dimensional standards but could be done by removing the quantification footnote and stating in the UMU IV there is a 50-foot buffer and 15-foot structural setback.

Councilmember Tibbott agreed with Councilmember Teitzel's suggestion for consistency in the way buffers and setbacks are described. He observed there is currently a 25-foot setback or buffer. Mr. Lien said the 1980s contract rezone for Harbor Square established General Commercial zoning with certain restrictions. The contract rezone established a 25-foot open space zone from the edge of the marsh to

provide an ecological separation for the marsh; it is not specifically identified in the contract rezone as a buffer or setback. Councilmember Tibbott asked the difference between an open space and a vegetated buffer. Mr. Lien answered open space is a zoning term. There is a chapter in the ECDC regarding open space and allowed uses. A vegetated buffer is intended to provide some ecological benefit to an adjacent critical area, stream, wetland, etc. Two primary functions of a buffer are water quality and habitat. Generally wider buffers are driven by habitat need; water quality standards can be met with smaller buffers.

If the Council adopted a 50-foot vegetated buffer, Councilmember Tibbott assumed the area north and south of the marsh would look significant different than it does today with just open space. Mr. Lien answered not immediately. The 50-foot vegetated buffer is established with redevelopment within the shoreline jurisdiction. Currently the 50-foot area is not vegetated all the way around the marsh; that buffer would be established as mitigation for development. With regard to a 15-foot setback landward of the 50-foot buffer, Councilmember Tibbott asked if impervious surfaces would be allowed in that building setback. Mr. Lien referred to page 54 of the SMP, Shoreline Bulk and Dimensional Standards; the left side of column has the different uses that could occur within shoreline jurisdiction; across the top are the shoreline environments. He referred to shore setback for commercial development in UMU IV, 150/50. Footnote 18 states setback from new development with UMU IV is 100 feet; new development activities within the UMU IV environment require the establishment of a 50-foot vegetated buffer. The 100/50 applies to other uses, not just structures; even parking within the UMU IV would be required to be setback 100 feet from the edge of the marsh. Ecology's required change would change 100/50 in the table to 65/50. He clarified it is not just a structural setback; it is a use setback.

Councilmember Tibbott asked if there are other significant uses other than buildings and parking. Mr. Lien said recreation has a 15-foot setback. Councilmember Tibbott inquired about a pervious walking trail. Mr. Lien said trails are addressed in the SMP; access to the shoreline is a critical component of the Shoreline Management Act (SMA). There are specific regulations regarding trails in the shoreline area.

Councilmember Buckshnis recalled a long discussion she and Mr. Lien had with a citizen regarding comments 17-23 about the buffer and setback starting at the same point of origin which is contrary to what was done previously. She asked Mr. Lien to explain how the 100-foot buffer/setback language occurred and how the 100-foot setback and 50-foot buffer was determined. Mr. Lien referred to Comment 1 and his response (packet page 271) regarding the buffer/setback combination, "Chapter 11 of the SMP Handbook notes, "Shoreline setbacks are the distances separating two features such as a structure and the water, or a structure and the buffer." The SMP handbook also notes, "Some local governments with intensely developed shorelines have established only setbacks from the OHWM. Vegetation conservation is required." With the SMP, buffer is defined as the area adjacent to a critical area and/or shoreline that is required for the continued maintenance, function, and/or structural stability of the critical area and/or shoreline. Buffer widths vary depending on the relative quality and sensitivity of the area being protected. Unlike zoning or shore setbacks, buffer areas are intended to be left undisturbed, or may need to be enhanced to support natural processes, functions and values. Shore setback is also defined in the SMP, the minimum distance between a structure or use and the shoreline ordinary high water mark." Councilmember Buckshnis recalled the citizen saying he hoped Ecology required Edmonds to clear up this confusion and determine if the 50-foot buffer and 100-foot setback from any new development is appropriate for the UMU IV.

Councilmember Nelson recalled Ecology's PowerPoint presentation regarding buffers stated the State Supreme Court ruled that under GMA there is no requirement to restore degraded buffers and that that same principle applied to the Edmonds Marsh and Harbor Square. The case, Snohomish Indian Tribal Community versus Western Washington Growth Management Hearings Board was related to the GMA and competing river and agricultural farming land. Mr. Anderson agreed it was the Skagit River and

reestablishing buffers on agricultural land to support salmon. Councilmember Nelson pointed out the SMA was never mentioned in that case. Mr. Anderson agreed. Councilmember Nelson asked whether the requirement not to restore degraded buffers been brought to the State Supreme Court. Mr. Anderson answered he was not aware it had but it has been reviewed as a land use issue, not taking property without due process. Mr. Pater added this is addressed in the State Shoreline Master Program Guidelines in the WAC. In Edmonds the status of the ecology function was established in 2007 with the shoreline inventory and characterization. In the case of the marsh, the inventory and characterization assumed the shoreline jurisdiction at that time went to the edge of the wetland until Mr. Anderson's research in 2010 that determined the jurisdiction extended further. That set the baseline for no net loss of ecological functions. Anything above that is considered restoration unless redevelopment of Harbor Square and Unocal sites increases the intensity of uses and warrants mitigation. Legally the State cannot force a jurisdiction to restore an area; it is purely voluntary. Councilmember Nelson observed if the baseline was established in 2007 and then further research was done in 2010, who knows what happened in those 3 years. Mr. Pater agreed it was always a moving target which was one of problems with prolonged local processes. He agreed things have changed since 2007.

Councilmember Nelson said the requirement for no restoration is under WAC 173-26-241 standards which states, "Master programs shall establish a comprehensive program of use regulations for shorelines and shall incorporate provisions for specific uses consistent with the following as necessary to assure consistency with the policy of the act and where relevant within the jurisdiction." That WAC, under Commercial development states, "Master programs shall first give preference to water-dependent commercial uses over nonwater-dependent commercial uses; and second, give preference to water-related and water-enjoyment commercial uses over nonwater-oriented commercial uses" as well as "Master programs should require that public access and ecological restoration be considered as potential mitigation of impacts to shoreline resources and values for all water-related..." and "Master programs shall prohibit nonwater-oriented commercial uses on the shoreline unless they meet the following criteria: he use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act's objectives such as providing public access and ecological restoration." Councilmember Nelson asked how this applies to UMU IV. Mr. Pater pointed out Harbor Square is not a water-dependent use. Mr. Lien said the Edmonds Marsh is different type of shoreline environment than Puget Sound. Puget Sound has navigable waters and is appropriate for water-dependent uses; the Edmonds Marsh is not an environment where there will be water dependent uses. The SMA focuses on navigable waterways. Councilmember Nelson said restoration cannot be required yet the WAC states nonconforming uses can require restoration. Mr. Pater answered that is restoration through mitigation. Mitigation is a requirement when increasing the intensity of development. The SMA is a balancing act between public access and protecting shoreline resources and allowing water-dependent uses.

Councilmember Nelson appreciated the balancing act and wanted to ensure there was a balance. He felt there was an imbalance and he wanted to restore the balance. City Attorney Jeff Taraday said there has been some confusion about restoration mitigation because of the way Ecology distinguishes between the two. The buffers the Council is discussing will only apply when redevelopment occurs. He disagreed with Ecology's conclusion that the Council was limited by what currently exists because the buffers the Council will be establishing are only relevant in the context of redevelopment, not what currently exists.

**COUNCILMEMBER TIBBOTT MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO ADOPT THE 65-FOOT SETBACK/BUFFER AS RECOMMENDED BY ECOLOGY.**

Councilmember Mesaros appreciated Mr. Taraday's clarification. He acknowledged everyone would like to have a 100-foot buffer to protect the marsh; however, that does not exist. The Council could approve that and many in the City would be happy but it would only be an approval on paper due to the amount of development that exists in that area. He expressed support for the motion, finding the 50 foot plus 15 feet

appropriate and that buffer will be established as redevelopment occurs. He was hopeful with this setback/buffer the Port would do something.

Councilmember Fraley-Monillas did not support the motion. She was uncertain the Council was ready to determine the best buffer, whether it is a 50-foot buffer and a 15-foot setback, she was not clear that was enough. She has her own opinion about the buffer but that is irrelevant to this motion.

Councilmember Nelson also opposed the motion, commenting not one size fit all. There are parts of the marsh buffer that are vegetated and parts that are not; to establish a blanket setback/buffer for the entire marsh did not make sense using BAS. For example, in the Willow Creek area where there is the intent to bring back juvenile salmon, taking away the existing buffer does not make sense. Mr. Lien clarified Councilmember Nelson's comment, explaining this buffer would only apply within shoreline jurisdiction. The southwest corner of the marsh where a buffer exists is outside shoreline jurisdiction and whatever buffer is established in the CAO or the wetland section of the SMP would apply in that area. The 65-foot setback/50-foot buffer would not apply because it is outside the shoreline jurisdiction. Councilmember Nelson said he still has an issue with the Harbor Square area that is much more salvageable and one size does not fit all. He said that setback/buffer was a minimum and the City can do better.

Councilmember Teitzel expressed support for the motion. He explained the Council could potentially approve a 100 buffer/setback but that means Harbor Square would remain as it currently exists, dooming the marsh to the existing 12-13 foot open space and providing less opportunity for recovery over time. He wanted to see the marsh recover and the best way to do that was to give deference to Ecology's expertise. He agreed it was a balancing act and this was a compromise to improve the quality of the marsh.

Councilmember Buckshnis did not support the motion. She recommended Ecology adhere to its own literature and guidance. The 50-feet was supposedly an agreed-upon amount with some stakeholders that the City was not a part of. She recalled a meeting with Mr. Stockdale at Ecology who talked about mitigation and how the area could be redone as part of redevelopment.

With regard to marsh recovery, Councilmember Fraley-Monillas recalled reading that having buildings and people closer to the marsh does not help the marsh's recovery. Mr. Pater said that is not in the findings and conclusions. Mr. Lien referred to the last bullet on the PowerPoint related to Ecology Required Change 7, the buffer around the marsh is disturbed, establishing a large setback and buffer may perpetuate the status quo because there is no incentive for redevelopment. A smaller setback and buffer may provide incentive for redevelopment and establish a buffer, improving existing conditions. He concluded a larger buffer would be nice but he questioned whether that was reality or just a line on the ground.

Councilmember Fraley-Monillas asked how development improved the marsh. Mr. Lien answered the buffer is not established unless redevelopment occurs. A large setback discourages redevelopment so the buffer is not established. Development and restoration are not a no sum gain; environmental and economic benefits can be realized with development. Mr. Taraday said the last bullet in the PowerPoint assumes that all other things are equal. There are other tools the Council can use to incentivize redevelopment; buffer width is a major factor but it is not the only way. He agreed in the absence of redevelopment there would not be a vegetated buffer; either redevelopment or a lot of money would be required to create a vegetated buffer. Upon the occurrence of a certain amount of redevelopment, property owners would be required to create a vegetated buffer; the Council is deliberating on how much of a vegetative buffer would be required.

Councilmember Fraley-Monillas asked who determines the benefit of development via an incentive. Mr. Taraday answered the Council controls what it values as a beneficial development or mitigation via establishing shoreline environments, corresponding zoning, uses, building heights and other factors to incentivize development. Mr. Lien clarified the difference between what the Council adopted and what Ecology is proposing; both require establishing a 50-foot vegetated buffer, the difference is the setback. Where the Council had a 100-foot setback, Ecology is proposing a 65-foot setback, a difference of 35 feet in the setback area.

Councilmember Tibbott spoke in favor of the motion. Redevelopment has the potential of establishing a vegetated buffer as well as compliance with new stormwater regulations which would be a significant improvement to the water quality that currently drains directly into marsh. Second, it would meet the no net loss requirement particularly on the southeast side of the marsh where the larger buffer that currently exists could be improved. The Council is currently discussing the setback for the SMP but in the future will be considering zoning for Harbor Square or the south side of marsh which can fine-tune in ways that cannot be done in the SMP. He was supportive of this setback/buffer as a starting point.

**COUNCIL PRESIDENT JOHNSON CALLED FOR THE QUESTION. MOTION TO CALL FOR THE QUESTION CARRIED UNANIMOUSLY.**

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

Council President Johnson suggested the Council continue its discussion regarding the SMP after the following presentation.

**1. OFFICE OF NEIGHBORHOODS PRESENTATION ON HOMELESS OUTREACH BY SGT. IAN HURI OF THE SNOHOMISH COUNTY SHERIFF'S DEPARTMENT**

**Sgt. Ian Huri, Snohomish County Sheriff's Department**, explained a few years ago Snohomish County realized, specifically in the jail, there was a large problem with opioid abuse and the impacts and cost it had on the community. The jail and human services at the County level partnered and determined the needs were with the frequent jail utilizers as well as those in need in the community. The needs of frequent jail utilizers do not necessarily match the needs of low income families in the community as a whole. What a family in need requires from human services and can easily acquire by following the proper channels is not the same for an opioid addict or someone with mental health problems. The issue was how first responders effectively respond to crises they are called to.

The jail began a program, Jail Transitional Services, that looked at how to end the cycle of homelessness, drug abuse and provide proper mental health treatment and other post-incarceration options. The business model is broken; the cycle is patrol is called to a nuisance complaint, trespasser, shoplifter, etc., they are arrested for the crime, usually a misdemeanor level offense, booked into Snohomish County Jail, solving the problem for about eight hours. As soon as the person is released, they still do not have housing, they are still addicted and will steal, etc. to get better. When he first started in law enforcement 13 years ago, methamphetamine was a big problem in Snohomish County. Although meth addicts do crazy things under the influence, the long term impacts on their health and the community's health are very different than what is seen now. With opioid addicts, their daily goal is to get enough of the drug to not feel sick (the worst flu multiplied by ten). He described a couple of people he interviewed today, both were using over a gram of heroin/day just to keep from getting sick. One is working full-time under the table and is just getting by, has no place to live, and all the money he earns goes to heroin.

The Sheriff's Office started a unit called the Office of Neighborhoods that began by looking at other agencies and in-house jail studies to determine how to better serve these groups. They visited Santa Monica Police Department to learn about their community's efforts to address homelessness and tried to implement some of their programs. One giant takeaway from Santa Monica was not only did they have a very effective homeless community program that works on the municipal level, human services could be integrated with law enforcement more effectively. In the previously described cycle, people have the co-occurring problems like chemical dependency, homelessness, mental illness, were not connecting with services that were available to them. The Office of Neighborhoods includes a social worker to help law enforcement navigate those services with clients. They quickly realized simply giving someone direction wasn't effective; they were not showing up because so many have lost life skills and they are unable to proceed when encountering minor roadblocks. They realized more handholding would be required such as social workers who drive people to their appointments; very labor intensive but people began realizing they could follow through.

Drug treatment is used with most clients as a way to get housing. Housing in Everett has a less than 2% vacancy rate; landlords are more likely to rent to someone with a stable income than someone working through drug treatment and has no income. With drug treatment, they qualify for a county grant program that provides three months of free housing; their full-time job during that three months is intensive outpatient. The Office of Neighborhoods began to piece together the assets in Snohomish County and throughout the State. He noted if the existing 16 detox beds in Snohomish County were doubled or tripled, they could be quickly filled. Opioid addicts go through five days of detox before inpatient. Clients are sent to Spokane, Palm Springs and elsewhere to get help. The goal is not to make them another city's problem; they want them back in Snohomish County where they grew up and where they went to local schools and they want them healthy. When clients return to Snohomish County, they go straight into the three months of free housing and three months of subsidized housing; during the second three months they complete outpatient and 90 meetings in 90 days and start looking for jobs, go back to school, and find other programs while self-managing their issues and begin tapering off the hand holding.

Last year's Point in Time count found an increase in unsheltered and homeless individuals. Although below record numbers, it found a higher percentage of the homeless that are opioid addicts. The Office of Neighborhoods' approach is working; approximately 60 people began detox, 55 completed detox and went to an in-patient facility, 35 graduated and 9 are still in treatment which is much better compared to 10% national average success rate. Their program has only been in operation since August 2015 and at full-strength with him, two deputies and two social workers since March 2016. Social liberals love this idea because it is the right thing to do to help people instead of continually incarcerating people. Fiscal conservatives want to know the savings. He provided an example, Edmonds books an opioid addict into the Snohomish County jail who then hurts themselves enough to be taken to the hospital. Two custody deputies accompany the person to the hospital and remain with them, probably on overtime. The person is probably prescribed medication that is dispensed by medical personnel at the jail. The program he described was about ¼ of that cost. The 211 program, run by Volunteers of America, manages flex funds for law enforcement and is available to any jurisdiction. Officers only need to call and ask for emergency flex funds for a person such as emergency housing for the night. He recommended the City looking for ideas and use Santa Monica as an example. The goal is law enforcement, judges, prosecutors, defense, and human services working together to help transition people from chronic homelessness into housing.

Councilmember Fraley-Monillas said in working with Robin Fenton and the Law and Justice Commission, it was important for people to understand this is low barrier housing which does not prevent people from housing due to alcohol or drug addiction. She commented one of the hardest parts of getting a job and moving forward beyond treatment is not having a place to shower, wash clothes or an address. Snohomish County has the highest opioid heroin abuse in the nation. Having these services provided by the Sheriff's Office with Everett has done a lot for Everett. She thanked them for what they are doing.

Councilmember Buckshnis also commended the Office of Neighborhoods for their program. She asked how many clients were veterans. Sgt. Huri answered the population they have helped in Snohomish County has included four veterans who were connected with Veteran Services of Snohomish County. There are other frequent jail utilizers that have served in the military but for some reason do not claim veteran's status. Of the four, two were referred to VA Seattle for drug treatment and housing and the others were helped locally via VA Services of Snohomish County. He said Veterans Services has begun serving veterans effectively and the end result is seen on the street in that homeless veterans and under-housed veterans are not seen as frequently as they were 2-3 years ago.

For Councilmember Buckshnis, Sgt. Huri explained some of the material he provided was research done by Robin Fenton and Snohomish County Human Services prior to the implementation of the Office of Neighborhoods, their reference point regarding what they have and what they need. They have a lot of opioid, mental health and homeless issues in the jail and frequent utilizers; what they need is drug treatment, low barrier housing where relapses are not the end of the world. He believes in the housing first model and has seen it work. Of the three clients who have relapsed, two are still housed and the third has been homeless for a week and is getting back into the program. Relapses are shorter and the chance of reoffending can be better managed via housing.

Observing the model he described is based in Snohomish County, Council President Johnson asked what 1-2 things Edmonds could do as a city of 40,000 to make a difference. Sgt. Huri recommended getting all the stakeholders together to discuss how to solve the problem as a community. Law enforcement, human services, or fire cannot solve the problem by themselves. He recommended getting human service, police, fire, prosecutor, public defense attorney and possibly a judge together to look at frequent utilizers that hit the legal system or emergency department repeatedly, and determine how to intervene as a group. A connection between law enforcement and human services is vital.

Councilmember Nelson commented the region has auto theft and gang task forces, this is obviously a regional problem and the homeless likely go to Mukilteo, Edmonds and Everett. He suggested all Snohomish County cities chip in officers and funding for a regional solution. Sgt. Huri said he was a fan of that approach; they have discussed that with some cities, providing assistance even one day a week. He agreed with a regional approach where budgets allow.

### **3. SHORELINE MASTER PROGRAM UPDATE - Continued**

Council President Johnson said this is area where the City Council could benefit from some expert advice. The Council does not have all the answers tonight which is the reason some Councilmembers were reluctant to accept Ecology's proposal.

**COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO NOT ACCEPT ECOLOGY'S RECOMMENDATION ON THIS SUBJECT AND COME BACK WITH AN ALTERNATIVE TO ECOLOGY.**

Council President Johnson reiterated neither she nor other Councilmembers have all the information. She wanted to make a decision based on science and in order for the City Council to move forward, she felt more work needed to be done. Mayor Earling asked the nature of the work.

Councilmember Mesaros questioned whether a motion was needed. Rather than passing a motion saying more research was needed, he preferred to do the research. He suggested simply requesting more information, reviewing the information and making a decision.

Councilmember Teitzel agreed with Councilmember Mesaros, commenting the Council has received a great deal of information and can always ask for more. Councilmembers have studied the issue for many hour as well as talked to experts and stakeholders. He was frustrated and sad because although he dearly wanted to see the marsh recover and be a host to salmon and be a refuge for birds, he was concerned if the Council continued to debate the issue of setback and buffers and Council decided there should be larger buffer such as 100 feet or 150 feet, it was a hollow victory because it was on paper only and the existing conditions would continue which would not benefit the marsh or the environment. He preferred the Council have positive motion on the issue so the marsh can begin to recover.

Councilmember Fraley-Monillas said if movement was desired, she was ready to propose a width tonight.

**COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO AMEND THE MOTION TO CALL FOR A 75-FOOT BUFFER BASED ON THE WETLAND BUFFER REQUIREMENTS FOR WESTERN WASHINGTON PUBLISHED BY THE DEPARTMENT OF ECOLOGY AND A 15-FOOT SETBACK.**

Mayor Earling ruled the amendment was unrelated to the motion.

**COUNCILMEMBER BUCKSHNIS WITHDREW THE MOTION WITH THE AGREEMENT OF THE SECONDER.**

Council President Johnson commented the City has a history of many different setbacks, proposals and scientific tables. She needs independent advice to help her understand what is the most defensible position for the City. Once the information is provided, the Council can make a recommendation. Without sufficient evaluation of all the different requirements as well as what that means for Edmonds, this is the best step to take rather than make a decision based on a table, recommendation or position. She wanted a defensible, rational, scientifically based decision that the City can live with. Mr. Pater said that is the same thing Ecology struggled with when recommending the 50-foot buffer and 15-foot setback. The SMP was adopted in 2014 and public comment was taken in the spring. Ecology listened to everyone involved including the Port, Chevron, Unocal, WSDOT, Councilmembers and staff in an effort to move the process forward. Although he understood Council President Johnson's desire for more information, that information may not be available until the site is redeveloped. It is a complicated site and the City is charting new territory because it is a compromised system, Harbor Square is part of the wetland, there is a dike, etc.

Councilmember Fraley-Monillas asked if Council President Johnson was suggesting an outside source help determine the best step. Council President Johnson agreed that was her thinking.

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

**COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER TEITZEL, TO EXTEND THE MEETING UNTIL 10:15 P.M. MOTION CARRIED UNANIMOUSLY.**

It was agreed the Council would continue discussing the SMP at a future meeting.

## **9. MAYOR'S COMMENTS**

Mayor Earling offered congratulations to the community and the Chamber for a successful Taste of Edmonds, with particular thanks to the Chamber for lowering the music volume. He has heard from several citizens that the volume was much better than in recent years.

Mayor Earling relayed he introduced the concert in the park last week, attended by approximately 400 people. He encouraged citizens to attend the concerts in the park as well as the concerts at Hazel Miller Plaza.

**10. COUNCIL COMMENTS**

Councilmember Fraley-Monillas suggested Councilmembers who attend conferences on behalf of the City provide a report to Council regarding what they learned.

Councilmember Buckshnis thanked the citizens who called and emailed her regarding the quasi-judicial process. The reason she amended the motion to not have the issue scheduled on the Consent Agenda and instead take a vote at that meeting was because placing it on the Consent Agenda would simply result in it being pulled and having the same argument and the same vote. She encouraged citizens to contact Councilmembers and/or talk to the media.

Council President Johnson thanked everyone who attend the Taste and helped with the Waste Management stations. The stations are a commitment by the City to have zero waste and a wonderful opportunity to educate the public regarding how to recycle everything in the waste stream. She appreciated the attendance at the Old Settlers Picnic, commenting this was the first time she attended and she was glad she did. She expressed thanks to Chris who has taken over this project for the City.

Councilmember Teitzel reported in working with the postmaster and the postmaster getting input from citizens regarding the value of a downtown drive-up mailbox at 2<sup>nd</sup> and Main, the postmaster has agreed to have a box installed in the downtown core area. He, Mr. Williams and the postmaster have been looking for a location and have narrowed it to 2-3 locations. Unfortunately, the postal maintenance crew removed the existing drive-up mailbox today without the postmaster's knowledge. They will attempt to have the process of installing a new mailbox accelerated.

Councilmember Mesaros reported the Pacific Little League lost to Bend, Oregon earlier this week, ending their attempt at the Little League World Series. He encouraged the public to wish the players well and was glad they had an opportunity to play in the regional playoffs.

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

This item was not needed.

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

This item was not needed.

**13. ADJOURN**

With no further business, the Council meeting was adjourned at 10:09 p.m.