

# EDMONDS CITY COUNCIL APPROVED MINUTES

## June 2, 2015

The Edmonds City Council meeting was called to order at 6:00 p.m. by Mayor Earling in the Council Chambers, 250 5<sup>th</sup> Avenue North, Edmonds.

### ELECTED OFFICIALS PRESENT

Dave Earling, Mayor  
Adrienne Fraley-Monillas, Council President  
Kristiana Johnson, Councilmember  
Lora Petso, Councilmember  
Joan Bloom, Councilmember  
Thomas Mesaros, Councilmember  
Michael Nelson, Councilmember

### ELECTED OFFICIALS ABSENT

Diane Buckshnis, Councilmember

### ALSO PRESENT

Noushyal Eslami, Student Representative

### STAFF PRESENT

Al Compaan, Police Chief  
Jim Lawless, Assistant Police Chief  
Don Anderson, Assistant Police Chief  
Mark Froland, Police Corporal  
Phil Williams, Public Works Director  
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.  
Scott James, Finance Director  
Shane Hope, Development Services Director  
Kernen Lien, Senior Planner  
Frances Chapin, Arts & Culture Program Mgr.  
Sharon Cates, City Attorney  
Scott Passey, City Clerk  
Jerrie Bevington, Camera Operator  
Jeannie Dines, Recorder

### SPECIAL MEETING

1. **CONVENE IN EXECUTIVE SESSION TO DISCUSS A REAL ESTATE MATTER PER RCW 42.30.110(1)(b)**

At 6:00 p.m., Mayor Earling announced that the City Council would meet in executive session to discuss a real estate matter per RCW 42.30.110(1)(b). He stated that the executive session was scheduled to last approximately 60 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Petso, Bloom, Mesaros and Nelson. Others present were City Attorney Sharon Cates, Finance Director Scott James, Parks & Recreation Director Carrie Hite, Economic Development & Community Services Director Patrick Doherty, and City Clerk Scott Passey. The executive session concluded at 7:00 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:02 p.m. and led the flag salute.

### BUSINESS MEETING

2. **ROLL CALL**

City Clerk Scott Passey called the roll. All elected officials were present with the exception of Councilmember Buckshnis.

3. **APPROVAL OF AGENDA**

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.**

**4. APPROVAL OF CONSENT AGENDA ITEMS**

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

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF MAY 26, 2015**
- B. APPROVAL OF CLAIM CHECKS #214466 THROUGH #214553 DATED MAY 28, 2015 FOR \$254,357.04**
- C. RESOLUTION THANKING NOUSHYAR P. ESLAMI FOR HIS SERVICE AS A STUDENT REPRESENTATIVE**
- D. AUTHORIZATION FOR MAYOR TO SIGN ATM CONCESSION AGREEMENT AT FRANCES ANDERSON CENTER**
- E. APPROVE MANAGEMENT RESERVE FOR THE 2015 SANITARY SEWER REPLACEMENT PROJECT**
- F. APPROVE QUIT CLAIM DEED FOR 23727 104TH AVE W FOR THE 238TH ST. WALKWAY PROJECT**

**5. PRESENTATION OF RESOLUTION AND PLAQUE TO NOUSHYAR P. ESLAMI STUDENT REPRESENTATIVE**

Council President Fraley-Monillas read Resolution No. 1335 thanking Noushyar P. Eslami for his service as Student Representative to the Edmonds City Council from September 2, 2014 to June 2, 2015.

Mr. Eslami thanked the Council for this amazing opportunity. He said it had been great to see how government worked from the inside and he had learned a great deal from the experience that he would apply to his life moving forward.

**6. MUSIC4LIFE MONTH PROCLAMATION**

Mayor Earling commented he has a music background, including teaching college instrumental music for 11 years. He read a proclamation declaring June as Music4Life Month in Edmonds and encouraging all citizens to donate any lovingly used musical instruments they may have to Music4Life.org and show what financial support they can to this fine home-grown organization. He presented the proclamation to Dr. Chelsea Tripp, President of Edmonds Music4Life.

Dr. Tripp said the goal was to increase exposure to Music4Life in Edmonds. The Edmonds Music4Life chapter, started a year ago, continues to gather new instruments, add new board members, do fundraising to repair instruments and they have a new partner to repair instruments. Edmonds Center for the Arts is one of their donation stations. She summarized they have great connections, but need instruments to come out of storage and into the hands of children. She welcomed any instrument donations.

**7. OATH OF OFFICE CEREMONY FOR POLICE CORPORAL MARK FROLAND**

Police Chief Al Compaan commented this is an opportunity to celebrate the achievement of a Police Department member. He commented 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 Corporal Froland's 25 years of law enforcement experience. He began his career at the Lynnwood Police Department, working there from 1990 to 1997. He was a school resource officer, assigned to the South Snohomish County Narcotics Task Force, and worked in the proac unit. He then spent 8 years at the Bellevue Police Department, achieving the rank of corporal. While at Bellevue, he was a proac plain clothes detective focusing on motor vehicle theft, spent two years as training coordinator, worked as a tac officer and instructor at the Washington State Criminal Justice Training Commission working primarily with the Washington Police Corp group.

Corporal Froland has been with the Edmonds Police Department December 2005, assigned to the street crimes unit, completed a temporary assignment as a narcotics detective and has been assigned to the detective unit since January 2015. He has also completed assignments as a background investigator, hostage negotiator and dive team member. He has been on the SWAT teams for Bellevue and Lynnwood and has been an EVOIC instructor in Bellevue and Edmonds and a field training officer for new officers in all three departments. Corporal Froland introduced his wife, Brenda, and his three daughters, Rachel, Madison and Ashton.

Chief Compaan administered the oath of office to Corporal Froland, pinned his badge and presented him a framed Certificate of Promotion. Chief Compaan announced Corporal Froland will be assigned as a corporal to the detective unit.

Corporal Froland thanked the department for the promotion and said it was an honor to be in this profession. He grew up in Edmonds and always wanted to be a police officer. He had a great experience working for Lynnwood and Bellevue but wanted to come back to Edmonds. Having been in other departments, he said Edmonds is a fantastic city, community and police department and it is an honor to serve here. He has gotten to do everything he wanted to do in his career and to be able to continue to serve in this community and for this department is a privilege.

Numerous police personnel and cadets were present in the audience.

## **8. AUDIENCE COMMENTS**

**Bob Sears, Edmonds**, said last Friday he and his partner wanted to take advantage of the view of the gorgeous sunset from Sunset Avenue. They knew it would be crowded and a lot of the parking is no longer available. When they arrived, it was very crowded and no legal or illegal parking was available from Main Street to Caspers but they enjoyed watching a beautiful sunset with hundreds of others. Apparently one of the homeowners was displeased because two police cars were dispatched to disperse those parked in the no parking zones; unattended cars were given parking tickets. What started out to be a wonderful Edmonds experience turned into a sad and unfortunate event to witness. He encouraged the City to restore parking at the north end of Sunset Avenue.

**Roger Hertrich, Edmonds**, thanked the approximately 175 people who attended last week's Planning Board meeting. He referred to the Mayor's comments in the newspaper where he said it was great effort by the Planning Board but the proposal was overreaching. Mr. Hertrich said the excitement in the community was due to a small board that decided to develop rules without understanding how citizens feel. Councilmembers are elected and represent the citizens; boards make decisions that do not reflect citizens' interests. Nearly 100% of those in attendance were opposed to the tree ordinance. Next, he referred to the Edmonds School Board's decision to use crumb rubber for the ball fields even though many citizens have expressed health concerns with crumb rubber. He recommended the Parks & Recreation Director be directed to tell the School Board not to use crumb rubber on the fields. He opined

the School Board does not listen to the people and makes their decisions without regard to the health of citizens.

9. **PUBLIC HEARING ON AN INTERIM ORDINANCE AMENDING TITLE 20 ECDC TO DEEM A DEVELOPMENT APPLICATION WITHDRAWN IF AN IRRECONCILABLE APPLICATION IS SUBMITTED LATER**

Senior Planner Kernen Lien provided background on Interim Ordinance 3992:

- Passed by City Council on March 17, 2015 as an emergency ordinance
- RCW 36.70A.390 requires a public hearing within 60 days and adoption of Findings of Fact
  - Due to an oversight, 77 days have elapsed since March 17
    - The City has taken steps to ensure that does not happen again
    - The City Attorney felt there was no substantive effect of missing the 60 day timeline and should not affect the validity of the ordinance
    - No applications have been received within the 60 days
- Interim ordinance is effective for six months

He described irreconcilable applications:

- Cannot have two active applications on the same property that are in conflict with each other
- If a second application is made that is on the same property as a previous application and the two projects have locations or features that would be “irreconcilable,” the first application would be deemed withdrawn and will not be process further.

Mr. Lien provided irreconcilable examples:

- Applicant submits an application for a four-lot short plat on a particular property. Subsequently, another application is submitted for a three-lot short plat on the same property. Assuming there is not enough land for seven lots, the two applications are irreconcilable because one could not construct both short plats. Hence, the four-lot short plat is deemed withdrawn.
- Applicant submits a design review application for a twenty-unit multi-family housing development. Subsequently, another design review application is submitted for a thirty-unit multi-family housing development whose footprint would substantially overlap with the footprint of the structure shown for the twenty-unit application. Because both structures would occupy substantially the same space, they are irreconcilable and the twenty-unit application would be deemed withdrawn.

He described inconsistent examples:

- Applicant submits an application for a four-lot short plat on a particularly property. Subsequently a building permit application is submitted for a single-family home, the footprint of which would encroach into the setbacks as measured from the proposed short plat lot lines. Because the building permit application could be corrected to properly locate the footprint, the applications are reconcilable and do not effect a withdrawal of the short plat application.
- Applicant submits a landscape plan that is inconsistent in an insignificant way with civil site-improvement plans that are submitted for the same property. If the two sets of plans can be reconciled by submitting a corrected version of at least one of the two plans, then City staff would seek corrections and withdrawal would not be deemed to occur.

The ordinance also addresses resubmission after denial:

- Existing code language
  - Moved from Chapter 20.07 ECDC – closed Record Reviews to Chapter 20.02 ECDC – Development Project Permit Applications
  - Cannot resubmit an application within 12 months unless there has been a significant change

Mr. Lien relayed staff's recommendation to adopt the resolution included as Attachment 2 that contains findings for the interim ordinance.

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

With the agreement of the Council, Councilmember Bloom read an email from **Ken Reidy, Edmonds**, Ordinance No. 3992 specifically mentions RCW 35A.12.130 related to whether it was the public health, public safety, public property or the public peace that needed to be protected via an emergency ordinance and language in the ordinance. He questioned why Ordinance No. 3992 had to be an emergency ordinance especially when the ordinance starts by stating that Washington courts have stated that land use applications are subject to the legal doctrine of res judicata which affords every party one, but not more than one, fair adjudication of his her application. One of the examples of irreconcilable applications mentioned in Ordinance No. 3992 is the following: Applicant submits an application for a four-lot short plat on a particular property. Subsequently, another application is submitted for a three-lot short plat on the same property. Assuming there is not enough land for seven lots, the two applications are irreconcilable because one could not construct both short plats. Hence, the four-lot short plat is deemed withdrawn. Mr. Reidy referred to this situation in his own neighborhood; in that case the City told the applicant in a letter dated February 2, 2009, "The City obviously cannot simultaneously process much less approve two fundamentally different subdivision proposals for the same property. Likewise the City cannot allow construction to proceed under a right-of-way permit where the plat application upon which it is based has been abandoned or otherwise superseded by a subsequent proposal." He asked, if the City was aware of these issues back in early 2009, why wasn't something like Ordinance No. 3992 passed long ago if it was necessary to protect the public health, safety and welfare.

Mr. Lien said he did not have an answer to why nothing was adopted since 2009. Adopting the ordinance now provides certainty for the City and applicant in these types of circumstances. Councilmember Bloom asked why Ordinance No. 3992 had to be an emergency ordinance, especially when the ordinance states the Washington courts have stated that land use applications are subject to the legal doctrine of res judicata which affords every part one, but not more than one, fair adjudication of his her application. With regard to the reason for an emergency ordinance, Development Services Director Shane Hope said typically an ordinance goes through the Planning Board and other public notice. When an issue arises that is important to address prior to that process, the Council has the option under state law of adopting an emergency ordinance, interim ordinance or moratorium. It should not be done regularly or lightly but on occasion when the City believes there is a reason or needs to protect itself from a certain situation it can take those steps, avoiding the normal longer process of adopting an ordinance.

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

If the City was aware of these issues in 2009, Councilmember Bloom asked why an ordinance was not passed at that time to protect the public health and safety. Ms. Hope referred to Mr. Lien's response, that the City was not previously aware that there was an issue and when it became aware more recently, an ordinance was proposed to make it clearer.

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO APPROVE RESOLUTION 1336, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, ADOPTING FINDINGS OF FACT IN SUPPORT OF THE ADOPTION OF INTERIM ORDINANCE 3992, WHICH CLARIFIED THE EFFECT OF AN APPLICANT SUBMITTING AN APPLICATION THAT CANNOT BE RECONCILED WITH A PREVIOUSLY SUBMITTED APPLICATION ON THE SAME PROPERTY.**

Councilmember Bloom said she will abstain from the vote because she was very concerned this was not brought to the Council before the 60 day deadline. She understood those questions were answered in an email today but the ordinance states an interim ordinance can be approved as long as a hearing is held within 60 days.

Council President Fraley-Monillas acknowledged errors were made but Ms. Hope is immediately putting procedures in place to avoid it occurring in future. As it served no purpose to vote against the motion, she will support it.

**MOTION CARRIED (5-0-1), COUNCILMEMBER BLOOM ABSTAINING.**

**10. DISCUSSION AND POTENTIAL ACTION REGARDING DRAFT CODE OF ETHICS, ATTACHMENT 16. REVIEW OF OPTIONS A, B, C AND D**

Council President Fraley-Monillas commented the Council has discussed this in great detail for a long period of time and Councilmembers have made their views fairly clear.

**COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO APPROVE ATTACHMENT 13.**

Council President Fraley-Monillas viewed this as a good starting point as the Council has not previously had a code of ethics. She read the purpose paragraph, "The purpose of the Edmonds Code of Ethics is to strengthen the quality of government through ethical principles which shall govern the conduct of elected officials and appointed citizen volunteers serving in an official capacity." She disagreed with including staff in the code of ethics because the personnel policy includes a code of ethics for them.

Councilmember Bloom said she was shocked by Council President Fraley-Monillas' action. The Council has had many discussions and she appealed to Council President Fraley-Monillas to allow her and Councilmember Buckshnis to work on the code of ethics. They developed a draft code of ethics that is much stronger and there are four items for review. She worked on this for two years in the Personnel Committee and will absolutely not support the motion as she wants the Council to review the final draft that she and Councilmember Buckshnis developed after a great deal of work.

Councilmember Petso raised a point of order, stating the motion made by Council President Fraley-Monillas did not appear to be germane to the agenda item, Discussion of Attachment 16, Review of Options A, B, C and D.

Council President Fraley-Monillas said Councilmember Buckshnis was not able to be here due to family reasons. She read an email from Councilmember Buckshnis, "The Council President knows my opinion about the code of ethics and my position on that. Just because my name's on the agenda memo and I assisted Ms. Bloom in trying to add more data and pattern it after the Shoreline Code of Ethics, I've always been of the opinion to start small and I liked what both Mr. Peterson and Ms. Monillas put forth. So let's march on."

Councilmember Petso requested a ruling on her point of order, that the motion was out of order. Mayor Earling ruled that was not correct. This is an opportunity for discussion. If the motion is defeated, the floor can be opened again. Councilmember Petso said her point of order was that the motion made was not an item on the agenda. Mayor Earling said the title refers to potential action and discussion; both are being addressed via the motion and opportunity for discussion.

Councilmember Bloom read the subject title from the agenda memo that Councilmember Petso is referencing, "Discussion and Potential Action Regarding Draft Code of Ethics, Attachment 16. Review of

Options A, B, C and D.” She said Council President Fraley-Monillas moved attachment 13 which is completely unrelated to the subject title and the recommendation. There has been no opportunity to review Attachment 16 and options A, B, C and D. She agreed the motion was completely out of order.

Council President Fraley-Monillas said Attachment 16 has been part of packet for at least 3 Council meetings and is not new information. The reason she moved to approve Attachment 13 is because she rejects Attachment 16. If Councilmembers did not like Attachment 13, she respected that and Councilmembers were welcome to vote against the motion. If the motion fails, discussion can commence on Attachment 16. She felt Attachment 16 was not in the best interest of the City or the citizens.

Councilmember Petso said she was very surprised. Although she was not previously inclined to vote in favor of a code of ethics, after speaking with Councilmember Bloom today for about 30 minutes, she had concluded she probably would vote in favor of a code of ethics. What surprised her most was the Council President, who has the authority to determine the agenda title, chose to make a motion at odds with the agenda title. Councilmember Petso said she studied Attachment 16, not Attachment 13.

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO APPEAL THE RULING OF THE CHAIR. MOTION FAILED (2-4), COUNCILMEMBERS PETSO AND BLOOM VOTING YES.**

Councilmember Bloom said this was appalling to her. She disagreed with Council President Fraley-Monillas’ statement that this has been on the agenda multiple times; the Council has never discussed Attachment 16 or reviewed options A, B, C and D. The Council is not being given an opportunity to discuss Attachment 16 and is being asked to vote on what has been discussed in the past which she objected to moving forward with due to her interest in the code of ethics being more inclusive. Council President Fraley-Monillas she disagreed with Attachment 16 and chose to move forward with Attachment 13. If Councilmembers want to reject Attachment 13 and discuss Attachment 16, it will be reflected in their vote on the motion.

**MOTION CARRIED (5-1), COUNCILMEMBER BLOOM VOTING NO.**

(Councilmember Bloom left the meeting at 7:47 p.m.)

**11. LOAN OF ARTWORK FROM CITY PUBLIC ART COLLECTION TO CASCADIA ART MUSEUM**

Arts & Culture Program Manager Frances Chapin explained this is a request for the loan of a significant painting in the City’s collection to be displayed at the new Cascadia Museum that is opening in September. The loan agreement was prepared by the City Attorney. She identified the painting on display in Council Chambers, “Two Workmen” by Guy Anderson, painted in 1960. The Council Chambers location was selected because the painting requires a secure site with some visibility to the public. The Arts Commission was delighted when a request was received to loan the painting because it is truly one of the stellar works in the City’s public art collection, particularly significant because Guy Anderson was once a resident of Edmonds. The Arts Commission recommends the City Council approve the one-year loan, an opportunity to show the painting to a much broader audience than it receives in City Council Chambers.

Councilmember Mesaros asked how the City acquired the painting. Ms. Chapin said the painting was a gift to the City from the Yost family in the 1960s. It hung in the public library for many years but that was not a very secure location.

Councilmember Petso referred to the effort to have items receive two touches by Council; she asked whether this had previously been before the Council. Ms. Chapin answered it had not. She consulted with Council President Fraley-Monillas and emailed Councilmembers regarding the request approximately a month ago so that any questions could be addressed. Council President Fraley-Monillas said the intent was to discuss it tonight and schedule it on next week's Consent Agenda. Ms. Chapin remarked there is plenty of time to address any questions before the loan takes place.

For Council President Fraley-Monillas, Ms. Chapin said Cascadia Museum will provide insurance from the time they pick up the painting until it is returned to this site and they are responsible for transportation. Council President Fraley-Monillas relayed she did not want the City to incur any cost as a result of the loan. Ms. Chapin agreed there would be no cost to the City.

**COUNCILMEMBER PETSO MOVED, SECONDED BY NELSON, TO PUT THIS ON CONSENT FOR NEXT WEEK. MOTION CARRIED UNANIMOUSLY. (Councilmember Bloom was not present for the vote.)**

**13. PUBLIC DEFENDER SERVICES UPDATE AND CONTRACT AMENDMENT**

Parks & Recreation/Human Resources Reporting Director Carrie Hite recalled Council gave direction to staff in December 2014 to secure the services of Eileen Farley, an attorney who worked for the cities of Mount Vernon and Burlington, to ensure their compliance with new public defense laws passed in 2012. Ms. Farley reviewed the City's RFQ process and the contract with Feldman and Lee, the City's current public defender, and recommended amendments to the current contract with Feldman and Lee. Ms. Farley felt the City currently did not request enough information from Feldman and Lee to ensure defendants are being adequately defended. The five areas of her recommendation include, a) data to be provided, b) contract terms such as keeping notes on the processes with each client in the event a question arises regarding whether a client was defended appropriately or adequately, c) complaint process including that any unresolved complaints come to a designated person in the City and making defendants aware a complaint process is available, d) responsibility for client files such as keeping them locked and secured, and e) scope of work including the number of cases in which the public defense firm can expect to provide representation or a mechanism for addressing dramatic increases in filings.

Ms. Hite said she worked with Sharon Cates, Lighthouse Law Group, to draft the contract amendment and Ms. Cates has also reviewed the RFQ process recommended by Ms. Farley. She requested Council discuss the recommended contract amendment and forward it for approval on next week's Consent Agenda. Next steps include an RFQ for a competitive process to hire a public defender firm, a process staff promised when presenting to Council in 2014. The intent is to send out the RFQ during the next week. The City could select Feldman and Lee but the City has not gone through a competitive process for some time. A third step will be to hire a contract person to oversee the reports provided by Feldman and Lee to ensure compliance with the adequate defense law.

Councilmember Mesaros said he was glad to hear about a compliance officer to review Feldman and Lee's work. He asked who the public defender reports to at the City. Ms. Hite answered the public defender reports to the Mayor or the Mayor's disagree; reports are submitted to the Mayor and her. The purpose of hiring a compliance officer to review the reports is to bring a knowledge base to ensure adequate defense service is being provided.

Councilmember Mesaros suggested also establishing a performance evaluation process similar to the city attorney. He felt the feedback had been helpful for the city attorney and provided a structure for good communication. Ms. Hite said Ms. Farley recommended a qualified review panel assist in the selection process of a public defense firm. She will add an evaluation process.

Councilmember Nelson referred to the request for reports from the contractor such as data requests, specifically the number of pending trials, number of substantive motions on a particular case, number of hours spent by the attorney on a particularly case, use of investigators, etc. He asked whether those were based on a standard or could questions arise regarding the numbers. Ms. Hite said since the law was passed in Washington, the criteria for evaluating whether services are adequately defending a defendant is evolving and information is being collected throughout the state to create criteria. Ms. Farley incorporated that into Mount Vernon and Burlington’s procedures and the Office of Defense recommends that data be collected and looked at analytically.

Councilmember Petso asked whether this was the first time the Council has seen this report. Ms. Hite answered yes. She was not requesting action tonight; she was hoping Council could get answers to their questions and schedule it for approval on next week’s Consent Agenda.

Councilmember Petso asked where the assumed caseload of 600-650 came from. Ms. Hite answered that was the current caseload and what was defined in the Feldman and Lee contract but was not capped in the contract. Ms. Farley recommended defining the caseload and they should be compensated for anything above that. For example, if Feldman and Lee defends 800 cases, there currently is no mechanism for them to provide adequate staffing for 800 cases unless it is built into the contract. Councilmember Petso assumed the provision that was built into the contract was the \$333. She asked how that amount was determined. City Attorney Sharon Cates answered Feldman and Lee has a \$20,000/month fee. When asked how that number was determined she was told they divided their caseload of 720 by their annual amount. She told him that amount was actual be in excess of \$400 and he said leave it at \$333.

Councilmember Petso requested prior to next week the provision regarding unanticipated caseloads be amended as it did not say \$333 per case in excess of the caseload but rather \$333 per case. She assumed the intent was to pay \$333 per case over the expected caseload. Ms. Hite agreed to clarify that prior to next week.

**COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO SCHEDULE AMENDMENTS TO THE FELDMAN AND LEE CONTRACT FOR PUBLIC DEFENSE SERVICES FOR 2015 ON NEXT WEEK’S CONSENT AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY. (Councilmember Bloom was not present for the vote.)**

**12. MARCH 2015 QUARTERLY FINANCIAL REPORT**

Finance Director Scott James displayed and reviewed 1<sup>st</sup> Quarter 2015 Revenue Summary – General Fund Types with and without revenue bond proceeds of \$2.7 million. He highlighted the General Fund was \$98,054 ahead of last year. The Building Maintenance Fund is \$142,000 behind last year, primarily due to fewer grants.

He displayed General Fund Revenue Budget to Actual (page 161 of the packet), highlighting taxes:

General Fund Resource Category	YTD Actual		
	3/31/2014	3/31/2015	% Change
<b><u>Taxes</u></b>			
Property Taxes	448,855	680,898	51.7%
Sales Tax	1,477,603	1,605,365	8.6%
Utility Tax	1,931,206	1,797,811	-6.9%
Other Taxes	218,447	233,353	6.8%
Total Taxes	4,076,111	4,317,427	5.9%
<b><u>Licenses &amp; Permits</u></b>			
Business Licenses & Misc Permits	122,017	114,091	-6.5%

Franchise Fees	286,075	347,941	21.6%
Development Related Permits	77,649	140,974	81.6%
Total Licenses & Permits	485,741	603,006	24.1%

Mr. James said General Fund taxes are 5.9% greater than last year due to earlier payers in 2015 as a result of the improved economy and 1% increase in the EMS and regular property tax levy. Sales tax continues to grow. Utility taxes are down slightly primarily due to a timing issue which will be made up next month. He referred to development related permits, up 81.6% ahead of last year.

He displayed a bar graph entitled Change in General Fund Revenue for YTD March Compared to YTD March 2014, pointing out sales tax and property taxes have had the greatest increase and utility taxes are slightly behind 2014. He referred to Interfund Reimbursement, where the General Fund charges other funds for services; it is behind due to a timing issue; in fact the budget amount is higher in 2015.

He reviewed a pie chart of Sales Tax Analysis by Category, pointing out the major sources of sales tax revenue is retail automotive and contractors. He displayed a bar graph of Change in Sales Tax Revenue March 2015 compared to March 2014; pointing out sales tax is \$127,000 ahead and contractors are \$114,000 ahead. He pointed out retail automotive is down \$43,000 compared to 2014. Councilmember Mesaros found it interesting retail automotive was down as he heard a report this morning that the auto industry is having a record year. Mr. James said it may be a timing issue and Edmonds will join the rest of the nation shortly.

Mr. James displayed and reviewed 1<sup>st</sup> Quarter 2015 Expense Summary – General Funds, noting expenses are lower than 2014 primarily due to timing. For example, last year the City paid the Fire District 1 bill in the first quarter; this year it will be paid in April. He reviewed a General Fund Department Expense Summary, commenting there was nothing of note. He reviewed 1<sup>st</sup> Quarter 2015 Revenue Summary – Special Revenues, noting the differences are primarily due to lower grant revenues, otherwise revenues are on par with 2014. He reviewed 1<sup>st</sup> Quarter 2015 Expense Summary – Special Revenue Funds, noting it is nearly identical to last year but \$12,000 less.

He displayed a graph of Motor Vehicle Fuel Tax revenues, noting 1<sup>st</sup> quarter revenues for 2010-2015 are fairly flat. He displayed a graph of the Hotel/Motel Lodging Tax Revenues 2010-2015, noting 1<sup>st</sup> quarter lodging tax for 2015 has increased slightly over 2014. He displayed a graph of REET Revenues 1<sup>st</sup> quarter 2010-2015, noting there is an upward trend. He displayed and reviewed a 1<sup>st</sup> Quarter 2015 Revenue Summary – Utility Revenue Funds, commenting revenues are up; the City is in year 2 of a 3 year rate increase. He also displayed the 1<sup>st</sup> Quarter 2015 Expense Summary – Utility Funds.

**14. DISCUSSION AND POTENTIAL ACTION ON BOARDS AND COMMISSIONS**

Parks & Recreation/Human Resources Reporting Director Carrie Hite explained this was a topic identified at the Council retreat for review by a team of staff and Councilmembers. Council President Fraley-Monillas and Councilmembers Bloom and Buckshnis met with Ms. Hope and her for four lively discussions to develop the materials for tonight’s discussion. Part of this committee’s charge was to look at all boards and commissions and to discuss and policy level issues as well as whether the boards and commission made sense for the City, whether some efficiencies could be realized, etc.

She reviewed the committee’s discussion and recommendations.

1. **Staffing:** The committee prepared a chart that included the location; staffing; staff person; monthly average staff time; average monthly cost; notes that identified any anomalies; whether there is a Council rep; whether the board/commission is required by City code, State Code and its priority; what kind of records are kept; and potential efficiencies. She explained the chart

identifies the boards/commissions that are codified. Several are not but have been in existence for a long time such as the Highway 99 Task Force, the Mayor's Climate Protection Committee, the Parking Committee, and the Transportation Committee. She pointed out not everyone agrees; therefore it is important for the full Council to have that discussion.

The committee members discussed the time allotted for each board/commission and whether that was still adequate, which boards/commission had dedicated staff and which did not. Most boards/commissions have dedicated staff that attend meetings as well as administrative staff that posts notices, minutes, etc. The committee wanted the Council to discuss whether the staff hours for each board/commission were appropriate and whether the Council will consider adding staff support for the Tree Board and the Diversity Commission (scopes of work are attached to the packet).

2. Efficiencies: The committee discussed whether any of the boards/commissions could be combined and/or whether all of them were needed. Review of the Economic Development Commission (EDC) is on a separate track and was not addressed by this committee. The committee discussed whether the Hwy 99 Taskforce could be combined with the EDC and whether the Transportation Committee and the Parking Committee could be combined. There were differences of opinion from all three Councilmembers.
3. Financial considerations: These include both the direct staff cost as well as the indirect cost of work staff cannot do while staffing a board/commission. Efficiencies were discussed such as changing the meeting location from City Hall to avoid the cost of a door monitor, whether the boards/commissions need a minute taker or could summary notes be taken and which board/commissions actually required minutes. To the question of whether staff is paid overtime to staff boards/commissions, Ms. Hite said most of the staff that support boards/commissions are manager level and up and do not incur overtime. There are instances when overtime is incurred such as when the arborist attended the Tree Board meeting. Councilmembers on the committee wanted the full Council to discuss financial considerations.
4. Administrative: The committee discussed issues related to the Open Public Meetings Act, which boards/commissions/committees post notices and agendas, whether there is a Council rep, etc. The committee recommended discussion by full Council.

Council President Fraley-Monillas suggested Councilmembers review the information and make suggestions. One of the areas she was concerned with was summary notes versus minutes. When she began on the City Council, there were summary notes by staff with topics and action items. The Finance Committee brought in a paid minute taker and it has gone from there. The committee discussed boards/commissions that are required to have minutes: City Council, Architectural Design Board and Planning Board. In the overall budget the cost of minutes may not seem excessive, but she is more frugal than most and thinks the City may be able to do business better in different ways.

Council President Fraley-Monillas recalled another area of discussion was combining committees, for example the Parking and Transportation Committees. Transportation is not a permanent committee but maybe it should be due to issues such as overlays, traffic calming devices, etc. Another issue was whether parking is part of transportation. The Hwy 99 Task Force has been in place for 12 years; she was uncertain the difference between a task force and a committee. The committee was interested in ways that business could be done different or better. She noted transparency is also an issue; any meeting held in a locked building after business hours prevents citizens and/or committee members from attending.

Ms. Hite pointed out Councilmembers on the committee did not agree on all items. Mayor Earling relayed his understanding that Council President Fraley-Monillas was seeking big picture, general feedback tonight and to provide the Council an opportunity for continued study of options.

Councilmember Mesaros asked whether the committee looked at the structure. He assumed the employees who staff boards/commissions report to the executive branch. Ms. Hite answered yes except for the Tree Board. Councilmember Mesaros asked whether the committee considered why that is an exception. Ms. Hite answered that is the reason for the recommendation to provide staff support to the Tree Board. When the Council formed the Tree Board, there was no staff capacity to staff the Tree Board; the Council Executive Assistant provides administrative support. There is also no staff capacity to provide support for the Diversity Commission.

Councilmember Mesaros suggested the committee consider whether everyone should continue to report to the executive branch and if not, why not. Council President Fraley-Monillas explained 3-4 staff attend some committee meetings and some have one staff person attend their meetings but not necessarily the same one at every meeting. The committee did not reach any resolution other than spreading staff out better so staff was not overburdened. Ms. Hite recalled the committee had several discussions regarding the role of boards and commissions which leads into the structure. Most boards/commissions are advisory to the City Council and the Council does not have staff so the Mayor provides support to assist them and help frame recommendations/advice to the City Council.

Councilmember Mesaros relayed he was looking at this from a philosophical, not a technical standpoint. His understanding was the intent was to have support from the executive branch and to provide as much information as possible to the legislative branch as it works through the boards/commissions. Once the Council makes a decision, it is up to the executive branch to carry it out. He suggested if the Council wants the boards/commissions to have staffing, it needs to provide adequate budget to the executive branch to provide that staffing. Ms. Hite agreed, noting that was the intent of the scopes of work for the Tree Board and Diversity Commission.

Councilmember Nelson asked the cost savings of notes versus minutes, recognizing there may be ways to save money to provide staffing for the Diversity Commission. Ms. Hite said the cost of minutes according to Councilmember Buckshtnis is approximately \$100/month or \$1200/year per board/commission. Mayor Earling said it is not just the \$100/month, it is also a staff member not doing something else. For example, two staff members served on this committee while they could have been doing something else.

Council President Fraley-Monillas said the committee discussed reporting and if Council wanted to hire staff to support all boards and commissions, cuts could be made elsewhere to hire staff. The flip side to hiring staff is the disconnect when the person hired to assist the board/commission is not a direct report to the Mayor. Ms. Hite said in her experience, boards/commissions in most cities are staffed by the executive branch; they do research and provide information to assist the Council in making informed decisions at the policy level.

Councilmember Nelson referred to the Hwy 99 Task Force that has existed for 12 years and asked how boards or committees died. Ms. Hite answered in her experience when they were done with their work, they disbanded. For a lot of working committees, once they are finished their work, the committee is done. Ms. Hope said some things are codified and the only way to change that is via an ordinance. There are other task forces or committees that are the result of some past action and the administration or Council could decide to dissolve it depending on the nature of the committee.

Councilmember Petso recalled in one case, all members of the committee resigned and another way is to allow a commission to sunset. She asked whether the materials contained the cost of minutes or monitors.

Ms. Hite said she will provide that information. Councilmember Petso asked staff to provide any other costs such as public noticing, etc., whatever constitutes the true cost of the meetings. She asked whether meeting sites had been determined to avoid paying a monitor. Ms. Hite answered that had not been done; the committee wanted the full Council to weigh in on that concept. She recommended asking staff who attend the board/commission to identify an alternate location. There have been discussions about using the police training room or a room at the Frances Anderson Center although the Frances Anderson Center closes at 8:30/9:00 so meetings would need to be concluded by then to avoid incurring extra staffing costs. The meetings that require a door monitor include the EDC, Tree Board, Historical Preservation Commission and Sister City Commission.

Council President Fraley-Monillas said the committee compared Edmonds to other cities; most do not have as many boards/commissions. To Councilmember Petso's comment about total cost, Ms. Hite relayed Mr. James' comment that because boards/commissions are required to be on the City's email system, the City has licensed many more emails at a cost of \$26,000/year.

Councilmember Johnson said in general she preferred summary notes for boards/commissions with the exception of the ADB, Planning Board and City Council. She commented approximately 1/3 of the minutes could be condensed as the minutes tend to be as elaborate as possible including almost verbatim discussion. She recalled City Clerk Scott Passey brought that to the Council's attention a few years ago. In general she preferred staff support versus outside contractors for organizing boards/commissions. She preferred making adjustments in the work program or priorities rather than hiring an outside person due to institutional knowledge and connection. She recalled the entire Transportation Committee resigned and was recently reconstituted for the Transportation Element of the Comprehensive Plan. The Transportation Committee worked well together and wants to continue meeting quarterly.

Councilmember Petso suggested the Council Assistant double check the list of committees to ensure it includes all the boards, commissions and committees.

Ms. Hite relayed there are two proposals for Council consideration tonight or at a future meeting. The Diversity Commission was codified but has no support. She has received many emails asking when the commission will be started. She has no answer other than it is in limbo until staff support is identified. Council President Fraley-Monillas asked how the Council could assist in getting the Diversity Commission underway. Mayor Earling said the packet includes a cost estimate. Ms. Hite said the current proposal is to hire a consultant; neither she nor the Mayor was able to identify staff that has the capacity to staff up the Diversity Commission. Council President Fraley-Monillas suggested temporarily compensating an employee. Ms. Hite answered full-time employees could have special duty pay but she was not sure that would be an incentive for someone to work more nights, more hours and more stress. She reiterated the Council took action to create the Diversity Commission and citizens are waiting for it to be implemented.

Councilmember Mesaros recommended the executive look at staffing across the entire City and make a determination who would be best to staff the commission and bring the Council a recommendation. If it includes a budget cost, the Council can consider that and vote accordingly. Mayor Earling said he could look but the prospects are not good. Ms. Hite recalled Councilmember Bloom spoke out during the committee about the need for staff support for the Tree Board as well. Councilmember Mesaros requested the executive's recommendation also include the Tree Board.

Council President Fraley-Monillas commented the Tree Board has been staffed 80% of the time. Ms. Hope said staff from the Council office notices meetings, posts the agenda, and does general administrative actions. At least two people from Development Services have attended meetings to present specific issues or assist with preparing materials. They both have full-time work and are not able to

provide all the staffing the Tree Board would like. Parks & Recreation have also occasionally staffed the Tree Board on occasion. Council President Fraley-Monillas recalled Councilmember Bloom's interest in the Tree Board having consistent staff. Mayor Earling recalled the request in that case is to have specific minutes taken and reported out. If the Diversity Commission is to staff up with notices, public disclosure requests, etc., that is a hidden but real cost. He was glad to follow Councilmember Mesaros' suggestion but a cursory look has already been done and it will be difficult because the City is thinly staffed compared to other cities Edmonds' size.

Councilmember Mesaros agreed there was not an easy answer. If the Council wants multiple boards and commissions, resources need to be provided so they are staffed properly. He asked Mayor Earling to recommend what that looks like.

Councilmember Nelson observed a consultant for the Diversity Commission was \$4,500 for July 1 – Dec 31. Ms. Hite agreed, pointing out that is contract staff, not a current City employee. That model has been used in the City including the PIO, media relations person, etc.

At Council President Fraley-Monillas' inquiry, Councilmembers agreed they wanted to review the information provided and return at a study session with information provided by Mayor Earling regarding staffing, costs, etc.

**15. MAYOR'S COMMENTS**

Mayor Earling reported he attended Lynnwood's State of City speech by Mayor Smith. He was excited to have an active government in Lynnwood eager to work with the other cities in South Snohomish County. With regard to the legislature, all the projects Edmonds is interested in are still included but he was uncertain how long they will be included if the legislature does not develop a budget. He congratulated the Rotary who sponsored the Waterfront Festival this past weekend; it looked like a magnificent success.

**16. COUNCIL COMMENTS**

Councilmember Nelson congratulated Student Representative Eslami.

Councilmember Petso also congratulated Student Representative Eslami and wished him good luck.

Councilmember Mesaros commented Student Representative Eslami has more experience on Council than Councilmember Nelson. Councilmember Mesaros reported the SnoCom and SnoPac joint meeting included an update on the New World project and a further postponement of the new software that will enhance 911 capabilities. The pretest to determine whether the system could go live on June 9 failed. The original checklist with 44 concerns has been reduced to 3-4; he and others are hopeful by September/October the four items will be addressed and the next test simulating a catastrophic event in Snohomish County will be successful.

Councilmember Mesaros reported the Edmonds-Woodway Jazz Band will be performing at Jazz Alley on June 8<sup>th</sup>.

Councilmember Johnson congratulated Student Representative Eslami who will be attending the University of Washington studying chemical engineering.

Councilmember Johnson announced an open house at City Hall on the Comprehensive Plan on June 10 from 6:00 to 7:00 p.m. followed by a 7:00 p.m. public hearing. She reported on the Waterfront Festival, having spent most of Friday, Saturday and Sunday in response to the Rotary's request that each member commit to four 4-hour shifts. She thanked the Port of Edmonds, the Edmonds Yacht Club, the Boy Scouts

who kept everything clean, other service clubs who participated, and the Waste Warriors of Washington State Extension Club for food waste recycling. This was the 28<sup>th</sup> year the Rotary Club has put on the Waterfront Festival, a wonderful community success. She thanked everyone who attended and helped.

Council President Fraley-Monillas congratulated Student Representative Eslami. She relayed a citizen's question about the cost of the New World system. Mr. James offered to email Councilmembers tomorrow.

Council President Fraley-Monillas said she spent the weekend assisting the Edmonds Special Olympics Team at Fort Lewis at the annual track meet. She congratulated the Edmonds Special Olympics Team who came home with many golds, include two won by her son.

Councilmember Petso said she requested an executive session of both Council President Fraley-Monillas and the City Attorney; five minutes regarding potential or pending litigation.

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

At 8:55 p.m., Mayor Earling announced that the City Council would meet in executive session regarding pending or potential litigation per RCW 42.30.110(1)(i). He stated the executive session was scheduled to last approximately five minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Petso, Mesaros and Nelson. Others present were City Attorney Sharon Cates and City Clerk Scott Passey. The executive session concluded at 9:00 p.m.

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

Mayor Earling reconvened the regular City Council meeting at 9:00 p.m.

**19. ADJOURN**

With no further business, the Council meeting was adjourned at 9:00 p.m.