

EDMONDS CITY COUNCIL APPROVED MINUTES

December 15, 2015

The Edmonds City Council meeting was called to order at 7:08 p.m. (following conclusion of an executive session) by Mayor Pro Tem Fraley-Monillas in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Adrienne Fraley-Monillas, Mayor Pro Tem
Kristiana Johnson, Council President Pro Tem
Diane Buckshnis, Councilmember
Lora Petso, Councilmember
Joan Bloom, Councilmember
Thomas Mesaros, Councilmember
Michael Nelson, Councilmember

ELECTED OFFICIALS ABSENT

Dave Earling, Mayor

ALSO PRESENT

Ari Girouard, Student Representative

STAFF PRESENT

Al Compaan, Police Chief
S. Gagner, Police Officer
Phil Williams, Public Works Director
Carrie Hite, Parks, Rec. & Cult. 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
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. ROLL CALL

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

2. APPROVAL OF AGENDA

Councilmember Bloom asked to pull Item 5A and Councilmember Petso asked to pull Item 5B.

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

5. PRESENTATIONS/REPORTS

A. PRESENTATION OF RESOLUTION AND PLAQUE THANKING COUNCILMEMBER BLOOM FOR HER SERVICE AS AN EDMONDS CITY COUNCILMEMBER

Councilmember Bloom requested this item be removed from the agenda in the interest of time. The Council agreed.

B. PRESENTATION OF RESOLUTION AND PLAQUE THANKING COUNCILMEMBER LORA PETSO FOR HER SERVICE ON THE EDMONDS CITY COUNCIL

Councilmember Petso requested this item be removed from the agenda in the interest of time. The Council agreed.

3. **APPROVAL OF CONSENT AGENDA ITEMS**

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT PRO TEM JOHNSON, TO APPROVE THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. **APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF DECEMBER 8, 2015**
- B. **APPROVAL OF CLAIM CHECKS #217509 THROUGH #217611 DATED DECEMBER 10, 2015 FOR \$1,414,663.37**
- C. **ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM BRANDON MAR (\$1,353.00) AND WILLIAM WILSON (\$22,903.62)**
- D. **APPROVAL OF RESOLUTION THANKING COUNCILMEMBER JOAN BLOOM FOR HER SERVICE AS A COUNCILMEMBER**
- E. **APPROVAL OF RESOLUTION THANKING COUNCILMEMBER LORA PETSO FOR HER SERVICE AS A COUNCILMEMBER**
- F. **APPROVAL OF RESOLUTION THANKING FERRARI "ARI" GIROUARD FOR HER SERVICE AS A STUDENT REPRESENTATIVE**

4. **AUDIENCE COMMENTS**

Cassie Goforth, Edmonds, thanked Councilmembers Bloom and Petso for their service to the City. As a resident she felt both had represented her interests very well and cared about the people of Edmonds whether related to the environment, children, safety and or procedures. She thanked them on behalf of herself and many mothers in the City would appreciate everything they have done.

Jack Goforth, Edmonds, thanked the Council for helping kids.

Rondi Nordal, President, Edmonds-Woodway High School Students Saving Salmon Club, thanked the Council and Mayor Earling for their generous support of the stream team program and for their review of the Critical Areas Ordinance (CAO) update. She highlighted the significance of the CAO review and how it relates to community efforts to restore salmon habitat and runs. Streamside vegetation such as salmon berries located within buffer areas is key to continued salmon survival because salmon swimming upstream to spawn use overhanging vegetation as shelter and protection from predators. The shade created by vegetation also contributes to the growth of small aquatic organisms upon which young salmon feed. Shade from vegetation also regulates water temperature during the summer. For example, increased water temperatures in the Columbia River last summer contributed to salmon death because increased water temperatures are harmful and often fatal to salmon. With insufficient native vegetation, fewer salmon will survive to adulthood. Given that the CAO directly relates to ecology and the environment, she emphasized the importance of using best available science when making decisions directly related to stream and wetland buffers. She summarized the Council's decisions will affect future generations.

Val Stewart, Edmonds, spoke regarding the critical area regulations update. A Planning Board Member, her comments reflect her own researched perspectives which have been expressed during Planning Board meetings and the public hearing. She commended the Council for their diligence and scrutiny of the proposed draft and associated documents. She also thanked Kernen Lien for his work to evolve the

critical area regulations in response to questions and concerns voiced by the Planning Board, Council, citizens and DOE. Her focus was on appropriate buffers given that Edmonds has lost much of its critical areas in the past due to not having known their ecological value. She referred to the RCW which states counties and cities shall use BAS in developing policies and development regulations to protect the function and values of critical areas as well as give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries. The City can guide appropriate actions to restore buffers where possible and enhance existing buffers whose width and quality are already compromised by existing development. Science does not support further encroachment into the remaining buffers. She did not support allowing more development within buffers in exchange for enhancement. She suggested the City establish a Salmon Relief Fund to accept donations from citizens and organizations to assist property owners with creekside restoration including daylighting.

WRIA8 has funding available and has already assisted many streamside homeowners in the region as well as contributed significant funds to the daylighting of Willow Creek thanks to the efforts of Councilmember Buckshnis. The Students Salmon Stream Team will also provide information regarding water quality, placing the City in a better position to seek funding for buffer enhancement and restoration as well as to provide further education. She pointed out on page 28 of the October 19, 2015 draft, the definition of “adjacent” means those activities located on-site immediately adjoining a critical area; or a distance equal to or less than 225 feet, recalling this was 300 feet in the April 22, 2015 draft. In summary, she did not support development within the existing footprint of development in a wetland or stream buffer. Furthermore she did not support reducing buffer width for restoration projects to more than 75% of standard. She urged the Council to do what’s best for the future of the City’s critical areas. Councilmember Petso requested Ms. Stewart email her comments.

Roger Hertrich, Edmonds, reported the Edmonds School District Superintendent’s Roundtable included a lady who was very enthusiastic about a baseball field who was ready to wait 1½ years until the ban ends so crumb rubber could be installed. He recommended the Council consider extending the ban to three years to prevent that. He apologized for interrupting the Council’s budget discussion last week, relaying he misunderstood the Mayor’s response to his inquiry during Audience Comment about public participation regarding the budget. He expressed concern that compressing public hearings limits public participation. He recommended the Council return to the committee structure, recalling a Planning Board public hearing where a subject was raised that had never been reviewed by the City Council; it had gone from the public to staff to the Planning Board and a public hearing. The topic was not well advertised to the public although it was a citywide issue. He suggested establishing a parking committee that met monthly to discuss parking problems and develop practical answers.

Scott Blomenkamp, Edmonds, commented contrary to Mr. Taraday’s argument, Hearing Examiner Olbrechts is not acting as a defacto official as the requirement to act as a defacto official is that the person fulfills the duties of the official. By not providing a written report in September 2013 as required by 10.35.010.G, not providing verbal and written report in 2014 and acting in a supposed defacto capacity in 2015 Mr. Olbrechts has not performed the required duties. He relayed the following inaccuracies in Mr. Olbrechts’ report regarding his case: first, Mr. Olbrechts claims that fines were not request in his application; they were requested as well in his presented brief. This decision by Mr. Olbrechts cost the City \$27,000 since at the hearing it was shown the developer knew the work would damage his trees and he could have levied fines. Second, Mr. Olbrechts incorrectly portrayed ECDC 20.100.040 as a permit review when it is actual closer to an administrative appeal. RCW 36.70B.160.3 allows for enforcement of development permit conditions. Most municipalities including Lynnwood and Shoreline have processes to allow any administrative decision to be appealed to a Hearing Examiner. Mr. Olbrechts’ interpretation of 20.100.040 violates a pillar of statutory interpretation where it is assumed that everything included in the ordinance has purpose and meaning. Exhausting all administration appeals is a requirement before filing for a writ of mandamus. Third, Mr. Olbrechts’ reference regarding there not being replacement

ratios and heights in 20.100.040; his decision states beyond the fines he will be entitled to all restoration requirements for ECDC 18.45 violations since it provides for objective legislative standard as to what would be appropriate, restoration for nuisances determined to have occurred under 21.100.040. Mr. Olbrechts then does not follow those requirements and arbitrarily decides three 10-foot trees adequately replace a 160 foot tree. Last, Mr. Olbrechts violates his Article 3 and 16 State constitutional rights prohibiting the taking or damage for public or private use without just compensation. For these reasons, yesterday he filed a LUPA appeal and today filed a financial claim with the Clerk's office. He summarized these could have been avoided by the administration following the code as Mr. Olbrechts stated was violated and if Mr. Olbrechts had imposed the restoration standards as his decision states.

5. **PRESENTATIONS/REPORTS (CON'T)**

C. **PRESENTATION OF RESOLUTION AND PLAQUE TO FERRARI "ARI" GIROUARD FOR HER SERVICE AS STUDENT REPRESENTATIVE**

Mayor Pro Tem Fraley-Monillas read a resolution thanking Student Representative Ari Girouard for her service on the Edmonds City Council from September 1 through December 15, 2015. Mayor Pro Tem Fraley-Monillas also presented her a plaque in recognition of her service.

Student Representative Girouard commented she had a very pleasant experience and learned a lot; although she did not speak a lot, she is very observant. She found it interesting to see her peers such as Rondi Nordal, representing the Students Saving Salmon Club and was glad to be part of that. She was proud of the Council for passing a ban on crumb rubber which will impact her as well as her peers who currently play softball on a crumb rubber field. She thanked the Council for allowing student representatives to serve on the City Council, commenting she used some of what she learned in mock debates in her history class.

D. **RECEPTION FOR OUTGOING COUNCILMEMBERS AND STUDENT REPRESENTATIVE**

Mayor Pro Tem Fraley-Monillas recessed the Council to a 15 minute reception for outgoing Councilmembers and Student Representative.

E. **HEARING EXAMINER ANNUAL REPORT**

Phil Olbrechts, Hearing Examiner, commented Edmonds is fairly unique in that it requires an annual report. He was glad to provide a report, finding it a good opportunity for a dialogue regarding ordinances that need to be changed to meet the Council's objectives and decision-making that needs to be adapted to the Council's wishes. He issued 16 decisions this year, most have been fairly routine. He reviewed decisions not listed in his report:

- **Swedish Hospital Sign Variance:** Recommendation to City Council from Alternate Examiner Emily Terrell. The hospital needed a more visible emergency room sign closer to the street than normally allowed.
- **Starbucks Conditional Use Permit:** The code requires a CUP for drive-throughs. Issues considered include queuing and noise generated by a drive-through adversely affecting neighboring properties.
- **Rotary of Lynnwood:** Appeal notice of violation and monetary fine for unpermitted tree cutting activity. The Rotary bought a property in Edmonds and worked with an Edmonds' high schools to build a house. Several trees were cut without authorization and the City imposed a \$7500 fine. He waived \$3500 due to an arborist report that established some of the trees were cut for emergency reasons.

He reviewed cases in his report:

- **Cascadia Art Museum (2/28/15)**: Approved. CUP to locate Cascadia Art Museum within an existing building at 190 Sunset Avenue.
- **Salish Crossing (5/12/15)**: CUP approved. Applicant proposed 1,500 square foot retail pavilion along with a drive-through at 190 Sunset Avenue.
- **Chris Schuetz and Edmonds Trees Services (3/13/15)**: Notice of violation sustained. Property owner and tree cutting business hired by property owner were issued a notice of violation assessing \$23,000 in fines for cutting and damaging 10 trees within a critical area on property located across the street from the property owner. Different stories from homeowner and contractor regarding permission for tree cutting. To make owners as responsible as possible, he suggested imposing strict liability where if a contractor violates the code in cutting trees, the owner will be held jointly and severably responsible absent evidence the contractor acted beyond the authority of the homeowner.
- **Woodway High School Field Improvements (4/10/15)**: Conditional use permit for ballfield improvements and height variance for fencing sent to City Council with recommendation for approval. Two height variance applications for ballfield lighting were sent to City Council with recommendation for denial. The most controversial part of the application, the turf, was not subject to review. If the City wants to ensure that does not occur in the future, it could be addressed via more clearly defined standards regarding when something is considered an amendment to a CUP.
- **Seabrook Estates Preliminary Plat (4/23/15)**: Preliminary plat application approved. Applicant proposed seven lot subdivisions at 860 Caspers Street.
- **Port of Edmonds Restroom Facilities (5/28/15)**: Shoreline substantial development permit approved. Applicant proposed adding restrooms at the Edmonds Marina.
- **9/11 Memorial (6/12/15)**: Setback variance approved. Applicant proposed to install 9/11 memorial within the setbacks of Fallen Firefighter Memorial Park
- **Sprouts Daycare (8/6/15)**: Conditional use permit approved. Applicant proposed to increase number of children authorized for existing daycare center at 20919 76th Ave. from 30 to 40 with the ability to add additional children if parking space is increased
- **Edmonds Public Works Noise Variance (8/26/15)**: Noise variance approved. Applicant proposed variance to night time noise limits for four nonconsecutive nights for pavement preservation project on 220th St. SW between 76th Ave. W. and the Interurban Trail
- **Blomenkamp Design Review Re-Review (Final decision issued 10/5/15, decision upon reconsideration issued 11/18/15)**: Unique provision in City's code; other jurisdictions allow administrative appeals but by state law that must be done within 14 days. At the time 20.100.040 was written, case law allowed cities and counties to revoke permits that turned out to be illegal or inconsistent with local code requirements. The law has changed since then and it is no longer allowed. This provision should be amended to avoid violating state law. State law states once a decision has been issued and the appeal period expired, compliance with permitting criteria cannot be reconsidered. Edmonds code allows three citizens go to the community development director and request it be addressed via a code violation, conditions of approval are not being followed or it creates a nuisance. In the Blomenkamp case, staff found there was no inconsistency with permit criteria and only the nuisance issue was forwarded to the Hearing Examiner. One of issues raised by Mr. Blomenkamp was staff did not have right to decide what goes to the Hearing Examiner. As he stated in his decision, the Hearing Examiner is allowed and authorized to consider potential code violations if he proposes conditions to fix the problem. Issuing an invalid condition under state law was not reasonable to remedy the situation. This case was unique in that a citizen was asking for damages in a land use decision. He explained duplexes were constructed on a lot adjacent to Mr. Blomenkamp's property and the developer cut tree roots while excavating which killed trees on Mr. Blomenkamp's property. Mr. Blomenkamp requested \$50,000 in fines but his original complaint only alleged noncompliance with the clearing and grading code, not the

tree code. He encouraged Councilmembers to read the decision; pointing out the code needs to be clarified to conflict with state law.

Councilmember Bloom referred to the Shaw Lane Plat that the Council considered in 2015, relaying a concern with the definition of “maximum extent feasible.” In that instance, by the time it reached the City Council, the Hearing Examiner approved the property owner cutting all the trees on the right-of-way on one side of the property line. The code says trees are to be saved to the maximum extent feasible. She abstained from approval of the plat because she did not feel the Council had enough information with regard to whether the trees had been saved to the maximum extent feasible. The property owner and the adjoining property owner both wanted the trees removed. A staff member said ordinarily tree roots would be protected from development and they would try to save them. She asked how the Hearing Examiner defined maximum extent feasible and how the Council can ensure the City’s policies are followed in that regard. She did not see any rationale for allowing removal of all those trees. Mr. Olbrechts did not recall the case and did not want to speak without having the facts in front of him. He agreed maximum extent feasible was a subjective standard.

Councilmember Buckshnis recalled that decision was in 2013. She noted the Hearing Examiner only had 3 cases in 2014, 2 related to Prestige Care, a noise variance and a WSDOT reconsideration. She asked if he provided the Council a report last year. Mr. Olbrechts said he not asked to make a report and he assumed it was due to the limited number of cases. Councilmember Buckshnis asked if the Hearing Examiner was required by law to provide a report even if the cases were not significant. Mr. Taraday responded the requirement quoted to the Council was in the City’s code; the code does not address a threshold for a report such as the number of cases.

Councilmember Buckshnis referred to the expiration of the Hearing Examiner contract and asked if he had an explanation. Mr. Olbrechts said he leaves it up to the cities regarding how often and when they want to renew the contract. He has 15 contracts; of those 2 cities are very fastidious about contract renewals. Of the remaining 13, some have automatic contract renewals and some do not. Occasionally he will receive a call from the city attorney stating his contract expired two years ago and needed to be updated. As Mr. Taraday has informed the Council, it does not affect the validity of his decision. He reiterated is up to the city how contract expirations are handled as it does not impact his work or affect the validity of his decisions.

Councilmember Buckshnis recalled an instance where he assessed fees for tree cutting at Pt. Edward based on the range of fees in the code. She asked whether the Council could direct him to impose the maximum fee. Mr. Olbrechts answered it helps to know the Council wants to be tough on fees and he is tough on fees when given that discretion. In the two tree-related cases this year, in one he sustained the maximum amount, \$23,000; in the other, best evidence in the record indicated the trees were a hazard to the people working on the project site. The Council’s action to increase fees over the years establishes legislative intent that they tough fines and he imposes tough fines based on that.

Mr. Olbrechts commented similarly with variances, when he was interviewed for the position, he was told the City wanted to be tough on variances. The only time he has been overturned on appeals is when he has too tough on a variance or imposing too many conditions on a developer. It would help if the Comprehensive Plan included policies that the City wanted variances allowed only in rare circumstance. Other jurisdictions that are more rural or more property rights oriented in their code, he is more lenient with regard to variances. In variances there is a little discretion but not in most other applications. Edmonds is unique in having a 4 year term limit; only a handful of other jurisdictions have term limits. If an examiner is doing his/her job properly and doing what the Council wants as evidenced in the Comprehensive Plan and the regulations, there is little room for discretion. Councilmember Buckshnis remarked the City is in the process of updating its code.

Council President Pro Tem Johnson referred to the Chris Schuetz and Edmonds Trees Services case, and asked whether trees in the critical area were required to be restored in addition to a fine. Mr. Olbrechts answered yes, he followed the restoration requirements in the code. Council President Pro Tem Johnson recalled in a similar case a few years ago there was a question whether planting the trees would disturb the steep slope in the critical area and she did not believe the trees were restored in that instance. Mr. Olbrechts said he vaguely remembered testimony and an arborist report that restoration would damage the other trees. He did not remember exactly how that was handled but thought the number of trees to be restored was reduced for that reason.

6. ACTION ITEMS

A. REVIEW AND ADOPTION OF COMPREHENSIVE EMERGENCY PLAN AND DEBRIS MANAGEMENT PLAN

Police Chief Al Compaan explained this is a resolution to adopt the revised City Comprehensive Emergency Management Plan (CEMP) and Disaster Debris Management Plan. These are statutorily required documents. The Emergency Services Coordinating Agency (ESCA) which is sunsetting at the end of the month, worked with City staff in the preparation of these documents. The documents contain reference to ESCA along with reference to Snohomish County Department of Emergency Management (DEM). The intent was to have the document span the switch over to DEM which will occur January 1, 2016. The CEMP describes the basic strategies, objectives, assumptions, and operational protocols the City will employ along with surrounding jurisdictions as well as county and state resources to best respond to emergencies and disasters that exceed what the City can handle on its own. For example the Oso landslide where the county's CEMP was used because many jurisdictions and responding entities were involved and there needed to be a coordinated effort.

Chief Compaan explained the CEMP was developed using a standardized template. Edmonds has emergency support functions that describe in general terms the responsibilities and processes that City departments and outside entities who assist the City will employ with regard to certain areas of expertise. There are 16 emergency support functions described in the CEMP along with addendums and appendixes. The CEMP was submitted to Washington State Emergency Management Division (EMD) for approval as statutorily required and they approved it. EMD requested the City Council also approve the CEMP.

Chief Compaan referred to the Debris Management Plan, explaining any time there is a major disaster, there needs to be a plan to deal with the debris. This plan has been updated to remove references to Edmonds Fire due to the City's transition to Fire District 1. An up-to-date debris management plan is important for eligibility for state and federal emergency management funding to recoup costs. For example, following the two significant storm events, the City is applying for grants to recoup costs for response to those storm events. He requested the Council pass the resolution recognizing and approving the documents so the City can complete its transition from ESCA to DEM as well as have up-to-date documents.

Councilmember Petso observed the recommended action was to schedule this on a future Consent Agenda. Chief Compaan responded this was originally scheduled for a Council business meeting a few weeks ago but a meeting was cancelled due to a storm. He would like to have the plans approved by the end of the year. Councilmember Petso said she emailed Chief Compaan a number of concerns, including the document not being internally consistent such as it still identifies ESCA as the primary emergency coordinator when ESCA is going away and cites two different locations for media briefings. She asked if this plan was only for statutory purposes and was there a real emergency plan somewhere else. Chief Compaan answered each department has internal protocols. This document is not intended to detail to any

great degree the specifics of any particular disaster. It is intended to provide a general guideline/infrastructure pursuant to the statute.

Councilmember Petso said she had never seen an emergency plan quite like this and she did not like it. She expressed concern with things like staging, handing out food and water at the Frances Anderson Center but also staging mutual aid vehicles there. She assumed this plan met the statutory requirements and real planning would be done in the future. Chief Compaan answered this document is absolutely in response to statutory requirements. The specifics regarding how to respond to a particular disaster will depend on the disaster. Councilmember Petso asked if there was anything new in the document, whether it took into account what has been learned from Super Storm Sandy or other recent disasters or is this just a rehash of the same plan that was in place 25 years ago and just replaced Edmonds Fire with Fire District 1. Chief Compaan answered the City did not have this plan 25 years ago. This was initially promulgated by FEMA as a result of defining events such as Hurricane Katrina, 9/11, etc. and each political subdivision was required to have a plan.

Councilmember Petso asked whether those recommendations had been updated over the past decade. Chief Compaan answered yes, the emergency support functions have been tweaked, agencies responsible for certain areas of expertise have been tweaked, etc. Councilmember Petso asked whether there were individuals on staff who were trained and who planned to serve as public information officer and staff members responsible for maintaining contact phone numbers. Chief Compaan answered yes.

Councilmember Petso said she will not vote for this and did not recommend the Council vote for it. She considered the City's emergency planning efforts very important as large numbers of the public are not prepared. She referred to another inconsistency in the document; in one place it says be prepared for 72 hours and for 7 days in another place. She feared there were people who were not prepared for the duration of the latest power outages. She did not feel this plan was good enough for the City and encouraged him and the Council to actually do something even if it required a committee comprised of emergency planners. She concluded meeting statutory minimums may not be enough.

Councilmember Buckshnis said she has similar concerns; the document seems like a template. She asked if Brier, Edmonds, Lake Forest Park, Kenmore, Lynnwood, Mill Creek, Mountlake Terrace, Mukilteo, Woodway and Woodinville all plan to join Snohomish County DEM. Chief Compaan responded they all belonged to ESCA which is active until December 31, 2015. Effective January 1, 2016, the King County cities will be part of King County DEM. Councilmember Buckshnis expressed concern this was already an outdated document. She referred to an email response from Chief Compaan that said New World will absolutely enhance the interagency public safety communications, records, location of police and fire responders, address locations, mapping, etc. She recommended New World be added to Appendix A. She summarized it read like a standardized document and there were several outdated areas.

Councilmember Mesaros asked the worst thing that could happen if the Council did not approve the resolution. Chief Compaan answered there will not be a transitional document to carry the City through to DEM. Washington State EMD has already approved it; it meets their requirements. Councilmember Mesaros asked Mr. Taraday the worst thing that could happen if the Council did not approve the resolution. Mr. Taraday answered he was not aware of any sanction for delayed adoption if amendments needed to be made. It is important to comply with State law, and to the extent the City has not done that, he would encourage the Council to do so as soon as possible. Councilmember Mesaros asked whether the Council could approve the plans as a temporary measure for the next 60 days and ask Chief Compaan to return with a revised document that addresses the Council's concerns. Mr. Taraday answered the Council can amend the documents at any time. It may be a better course of action for the Council to adopt the plans so there is something official in place and to the extent improvements need to be made, make those revisions in the future.

Mayor Pro Tem Fraley-Monillas asked if staff could review and bring it back on January 5, 2016. Chief Compaan answered he doubted it, commenting it was not clear what the Council wanted. The CEMP was prepared largely by ESCA who are experts in preparation of these legally required documents. He is not an expert; he is the facilitator for the City and the City's disaster coordinator. With the transition to DEM it will likely take longer than January 5, 2016. Mayor Pro Tem Fraley-Monillas suggested Councilmembers identify conflicts in the document such as were pointed out by Councilmembers Buckshnis and Petso. Chief Compaan agreed that could be done.

Councilmember Nelson relayed his understanding the document was legally required and asked whether any practices would be impacted if a disaster occurred between now and when the document was approved by Council. Chief Compaan answered he did not believe so; the City's eligibility for federal disaster recovery funds may be impacted. Councilmember Nelson suggested from a practical standpoint the safest way would be to approve the document now with the intent of amending it at later time.

Councilmember Bloom asked how this differed from what was currently in place. Chief Compaan answered the current document was largely the same; it was last reviewed with the City Council by the Fire Department in 2009. Councilmember Bloom suggested continuing that document until the changes were made and the transition was made from ESCA to DEM. Chief Compaan answered the 2009 document does not address the transition; that is the intent of this document and there is statutory language covering the duties/responsibilities of DEM and the City. He was uncertain that not approving the revised document would impact the City's eligibility for federal disaster funds but that was a cautionary note. If the Council wants to pass a resolution approving the document for six months, that would cover the transition and the City could then work with DEM on an update.

Councilmember Mesaros summarized the proper action would be to approve it for a limited period of time and make the necessary revisions.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER NELSON, TO APPROVE THIS DOCUMENT UNTIL MARCH 31, 2016, AND ASK CHIEF COMPAAN TO CALL ON COUNCILMEMBERS OR OTHER RESOURCES TO MAKE THE PROPER REVISIONS TO THIS DOCUMENT AND BRING IT BACK TO COUNCIL DURING THE MONTH OF MARCH.

Councilmember Petso asked if funds were available for peer review or to provide additional expertise to the City on emergency plans. Chief Compaan answered this was prepared by ESCA who are the experts and it was approved by the State of Washington EMD. He anticipated DEM will work with the City on this. Councilmember Petso asked if there were grant funds available to assist communities with emergency planning. Chief Compaan answered not that he was aware of.

MOTION CARRIED UNANIMOUSLY.

Chief Compaan assumed this was approved via a resolution. City Clerk Scott Passey provided resolution number 1346. Councilmember Petso asked whether there was a resolution in the packet. Mr. Passey advised there was. Mr. Taraday explained the resolution in the packet states effectively immediately upon adoption and continue in full force and effect until amended. He recommended leaving that language as is with the understanding a revised plan will be brought back to the Council prior to March 31, 2016.

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO APPROVE RESOLUTION 1346, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, TO ADOPT THE 2015 CITY OF EDMONDS

COMPREHENSIVE EMERGENCY MANAGEMENT PLAN AND DISASTER DEBRIS MANAGEMENT PLAN.

Councilmember Buckshnis suggested adding “continue in full force and effect until March 31, 2016.” Mr. Taraday recommended leaving the existing language in place. For example, if that language were included and a storm cancelled a March meeting, there would be no emergency management plan in effect. He summarized it was safer to leave the plan in effect until amended with the administration’s understanding it will be brought back to Council.

MOTION CARRIED UNANIMOUSLY.

7. STUDY ITEMS

A. PRESENTATION OF AN AGREEMENT WITH THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY FOR A MUNICIPAL STORMWATER CAPACITY GRANT

City Engineer Rob English explained this is a stormwater capacity grant offered by Department of Ecology (Ecology). In 2015, the Washington State Legislature appropriated funds to Ecology for implementation of the Western Washington Phase II Municipal Stormwater Permit. Each jurisdiction subject to Ecology’s Municipal Stormwater Permit receives \$50,000 to use in the 2015-2017. The overall goal of the grant program was to improve water quality by reducing stormwater pollutants discharged into the state’s receiving waters. The City will use the funding provided in 2016 and 2017 to update the stormwater code and evaluate opportunities for low impact development infrastructure. If any funding remains, it could be used for video assessment of City’s stormwater system. Staff recommends approval of the grant agreement on the January 5, 2016 Consent Agenda.

Councilmember Buckshnis recalled a meeting with Ecology where bringing the stormwater code up-to-date by 2016 was discussed. Mr. English advised the City’s stormwater code was updated in 2010. The proposed update which will address the recent Phase 2 requirements will be completed by the end of 2016. Councilmember Buckshnis observed that would be using the 2010 standards, recalling the Woodway Fields used the 2005 stormwater requirements. Mr. English answered the current update will use the 2012 standards.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER NELSON, FOR APPROVAL. MOTION CARRIED UNANIMOUSLY.

B. REVIEW AND POTENTIAL ACTION ON THE CRITICAL AREA REGULATIONS UPDATE

Senior Planner Kernan Lien said this is the fifth meeting regarding the CAO update. The City hired ESA Consultants to review Best Available Science (BSA) associated with the critical area update. The BSA reports and the gap analysis were included in the September 8, 2015 packet. The gap analysis reviewed the City’s existing code for gaps with BAS and recommended revisions. At the November 2 meeting, ESA provided a memo with the rationale for proposed development flexibilities; this addressed three specific provisions in the draft code: physically separated and functionally isolated buffers, buffer reductions, and restoration projects. The City received a letter of support from Ecology on the draft regulations. Tonight’s packet includes a Q&A to address questions that arose during Council review. This item has delayed a few times due to windstorms, other agenda items, etc. He and Aaron Booy, ESA, are here to answer questions.

Councilmember Mesaros referred to his previous mention of surrounding jurisdictions that identify alders as a noxious weed and asked whether staff had developed an alternate recommendation. Mr. Lien advised alders are not listed on Snohomish County's noxious weed list. Alders are a pioneering species and some see them as a weed species. He displayed code sections related to "allowed activities and exemptions" which although do not specifically identify alters, would address alder management:

- ECDC 23.40.220.C.7 – Select Vegetation Removal
- ECDC 23.40.230.C.2 – Operation and Maintenance includes normal maintenance of vegetation performed in accordance with best management practices
 - Would allow removal of alder seedlings
- "Normal maintenance of vegetation" means removal of shrubs/non-woody vegetation and trees (less than 3-inch diameter at breast height) that occurs at least every other year. Maintenance also may include tree topping that has been previously approved by the City in the past 5 years.

Councilmember Mesaros recalled Mr. Hertrich provided examples of 3-inch and 4-inch tree sections and felt a 4-inch diameter would not be harmful to remove. Mr. Lien said the current definition of a tree is 6 inches diameter at breast height (DBH). The above is an exemption from the critical area regulations; with this exemption, a property owner could clear alders in a wetland or stream buffer or geologically hazardous area. The intent of the critical area regulations is to protect critical areas; a small diameter is exempted. Another place this could be addressed is ECDC 23.40.022.C Allowed Activities, which identifies species that can be removed without a critical area report such as species on the noxious weed list, blackberries, scotch broom, etc. An addition to this section is the limitation of clearing 1,500 square feet within a critical area over a 3 year period. The Council could increase the DBH but if it is included, 23.40.220.C would restrict the area that could be cleared over a 3 year period.

Councilmember Bloom referred to a change she referenced previously related to the director's authority in 23.40.010 Authority, expressing serious concerns about the phrase, "Edmonds development services director or his/her designee." She preferred it be the specific responsibility of the development services director and suggested adding the sentence, "The director may designate the planning manager to make such determination when the director is on vacation or extended leave." Her rationale was there needed to be one person responsible for making these decisions; it has not worked well to have the authority and decision-making spread to line staff members which is what happened for the four-year there was no development services director.

Motion #1

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO CHANGE THE SENTENCE "EDMONDS DEVELOPMENT SERVICES DIRECTOR OR HIS/HER DESIGNEE HEREAFTER REFERRED TO AS THE DIRECTOR" TO "THE EDMONDS DEVELOPMENT SERVICES DIRECTOR AND THE DIRECTOR MAY DESIGNATE THE PLANNING MANAGER TO MAKE SUCH DETERMINATION WHEN THE DIRECTOR IS ON VACATION OR ON EXTENDED LEAVE."

Councilmember Buckshnis suggested omitting the reference to vacation or extended leave.

Action on Motion #1

COUNCILMEMBER BLOOM WITHDREW THE MOTION WITH THE AGREEMENT OF THE SECOND.

Motion #2

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO CHANGE UNDER AUTHORITY TO READ, "EDMONDS DEVELOPMENT SERVICES DIRECTOR AND THE DIRECTOR MAY DESIGNATE THE PLANNING MANAGER UNDER SPECIFIC CIRCUMSTANCES."

Councilmember Bloom commented one of issues with the Woodway Fields was a 1993 SEPA determination was signed by line staff not the development services director even though it was required to be signed by the development services director at that time and that determination was used to allow the school district to be the lead agency in the determination of non-significance related to Woodway Fields which she did not feel was appropriate. She preferred to have one person accountable at all times for the enforcement and follow up on the CAO.

Mr. Lien expressed concern with how that would be implemented. The development services director is mentioned 138 times in the critical area regulations; 23 times it states development services director shall, 25 times it states development services director may and 13 times it is at the discretion of the development services director. He questioned how the development services director and the planning manager would make all decisions on critical area determination. He referred to Councilmember Bloom's reference to a SEPA determination, noting it was actually a critical area determination. The City has four planners; planning staff review critical area maps, do site visits and ultimately make the decision whether further critical area reports are required or there are no critical areas. If the code is changed to require the development services director or planning manager make all decision, he questioned what line staff would do if the development services director made all the decisions. He explained there are some things that are cut and dried in the code; for example a waiver when there is clearly no critical area. When there is ambiguity, line staff describes the situation to the development services director and asks him/her to make the call. He did not think it was appropriate for the development services director to make all the decisions, taking away from their duties as a director.

Councilmember Petso expressed support for the motion. The numerous code references regarding the development services director's discretion and other variations are precisely why the motion was made and why an individual needed to be accountable for the decision. She acknowledged it was not necessarily that the development services director would visit every site but he/she would have an active role in the decisions. For example, she recalled a citizen had to walk the Woodway Elementary site with staff to point out the stream. If this proposed amendment provides a way to avoid that type of situation, it would be time well spent and would pay off for the City.

Councilmember Buckshnis commented this could be changed in the future but right now someone should be accountable because Edmonds has had so many issues with wetlands in the past. She acknowledged the development services director did not need to be "tromping around in the weeds" but his/her signature should be on the document stating he/she approved it.

Councilmember Mesaros did not support the motion as he believed the accountability existed; department directors are accountable for their staff and how they carry out their responsibilities. In the example Councilmember Petso provided regarding a citizen identifying a stream for staff, he doubted the development services director would be walking the site. The intent is department leadership trains staff and holds staff accountable. The planner looks at the facts and then signs the document; both the staff person and the director are accountable for what is signed.

Councilmember Bloom read from 23.40.010 Authority, "A. As provided herein, the Edmonds development services director or his/her designee (hereafter referred to as "the director") is given the authority to interpret and apply, and the responsibility to enforce, this title to accomplish the stated purpose. B. The director may withhold, condition, or deny development permits or activity approvals to ensure that the proposed action is consistent with this title." She expressed concern that the designee could be anybody; a line staff member, or whoever is in the field making decisions. She preferred there be clarity regarding who is accountable and responsible.

Development Services Director Shane Hope appreciated the interest in the director being accountable and recognition of the director's responsibility. She agreed the director is responsible but did not think the language needed to state only the director makes the decision. The director is still responsible even if her staff makes the decision. It is up to her to ensure staff knows they are to bring something to her that needs further consideration and up to her to be responsible for her staff. For example in the building code, the building official is responsible for making sure buildings are safe, yet the building official does not make all those decisions, his staff does because the building official cannot visit every site. The building official's designees make those decisions but the building official is still responsible.

Ms. Hope explained as a practical matter for the director to be knowledgeable would require hours of work to make a responsible decision. She suggested conferring with the City Attorney regarding common practice related to designating the responsible person. Mr. Taraday said if the motion were adopted, the Council would affectively be asking planners to bring completed decisions to the director's desk for a signature. That is only feasible way that the language regarding designee could be removed and still allow the department to function. Nothing changes in terms of work flow; the planners would continue doing those reviews and visit the sites; the only change would be instead of authorizing a planner to sign the document, the director would be required to sign the documents. The director already takes responsibility for all those documents regardless of who signs them. He clarified the real world effect of the motion was changing whose name was on the signature line because anything else would frankly be infeasible.

Action on Motion #2

UPON ROLL CALL, MOTION CARRIED (4-2-1), COUNCILMEMBERS BLOOM, BUCKSHNIS, JOHNSON, AND PETSO VOTING YES; COUNCILMEMBERS MESAROS AND NELSON VOTING NO; AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Motion #3

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO DIRECT THE CITY ATTORNEY TO PREPARE AN ORDINANCE ADOPTING THE PROPOSED AMENDMENTS TO THE CRITICAL AREA REGULATIONS (ECDC 23.40 - ECDC 23.90) AS CONTAINED IN EXHIBIT 1 AND ASSOCIATED FREQUENTLY FLOODED AREAS AMENDMENTS TO THE BUILDING CODE (ECDC 19.00.025) AND THE DEFINITION OF HEIGHT CONTAINED IN ECDC 21.40.030 RELATING TO PROPERTIES IN THE COASTAL FLOOD HAZARD ZONES AS CONTAINED IN EXHIBIT 2.

Amendment #1

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE DEFINITION OF FOOTPRINT OF EXISTING DEVELOPMENT (PAGE 30 OF 90) TO READ, "FOOTPRINT OF EXISTING DEVELOPMENT" OR "FOOTPRINT OF DEVELOPMENT" MEANS THE AREA OF A SITE THAT CONTAINS LEGALLY ESTABLISHED: BUILDINGS; ROADS, DRIVEWAYS, AND PARKING LOTS, ~~STORAGE AREAS, WALKWAYS OR OTHER AREAS PAVED WITH CONCRETE, ASPHALT OR COMPACTED GRAVEL; OUTDOOR SWIMMING POOLS; AND PATIOS.~~

Councilmember Buckshnis asked Councilmember Petso to provide her reasoning, questioning what happened if a property owner had a swimming pool. Councilmember Petso responded the rationale was this provision was an exception not an excuse to encroach into critical area buffers. Where someone has already constructed something substantial such as building, she understood replacing a building with pretty much anything was not doing further damage to a critical area. The items later in the list are areas that contain only gravel and replacing it with a large building could impact wildlife and have a greater effect than the items on the beginning of the list. She was not overly concerned about the swimming pool example, assuming there were not a lot of them and for the sake of simplicity she ended the sentence after "parking lots."

Councilmember Mesaros asked staff the impact of Councilmember Petso's motion. Mr. Lien said including a comma after parking lots would allow roads, driveways and parking areas to be constructed of gravel and fall under the definition of developed footprint. He provided some history of the definition; developed footprint was defined in the interim ordinance as the legally established impervious surface area. There was also an itemized list that included gravel and compacted earthen material. This CAO update was intended to narrow that definition; buildings is one concept; roads, driveways, parking lots, storage areas, parking lots and other areas is another concept. Other concepts include outdoor swimming pools which are by definition impervious surfaces and patios. The impact of Councilmember Petso's proposed change would not address gravel driveways, parking lots, etc.; her amendment would still allow them. He suggested retaining concrete, asphalt, and compacted gravel, noting the qualifier needed to follow those.

Councilmember Bloom referred to the term "legally established" and asked if there was a difference between legally established and legally permitted. Mr. Lien answered they are basically the same; legally established is used to avoid someone paving an area and that is now the developed footprint and they can build on top of it. Legally established means it was permitted and not done in violation of the code and then used as a reason for continued development in that area. Councilmember Bloom suggested using "legally permitted." Mr. Lien was hesitant to use "permitted" as things can be done without a permit; for example a building permit is only required on residential property for structures over 190 square feet. A property owner could legally put a structure on a site without a permit but it must still comply with the regulations. He preferred legally established rather than legally permitted.

Councilmember Bloom asked about the grandfathering clause which is not in the CAO, which allows buildings to remain if the property owner can prove they were in place before 1981. She asked whether a grandfathered building would be considered a legally established building. Mr. Lien said that is addressed in the nonconforming section; for a structure to be nonconforming, it was legally established originally, built consistent with the regulations established at that time. The nonconforming code addresses an accessory structure that was in place prior to 1981 as legally conforming. He interpreted legally established as something that was deemed nonconforming and would find it falls under this definition. Mr. Taraday added it would make the square footage of those legally established out buildings no longer subject to being replaced with new development. Removing words from the definition of footprint of development further shrinks what can be considered permissible new development within the critical area.

Councilmember Bloom relayed her understanding of staff's explanation, if the Council did not pass the amendment, a swimming pool on the edge of steep slope could be considered part of the footprint even if it was built prior to 1981, essentially allowing a large footprint because nonconforming building have been grandfathered. Mr. Taraday said the logic built into the code as currently proposed is this list of items are development so it doesn't matter whether a swimming pool is replaced with an expanded living room because they are both development and neither enhance the critical area. From his perspective the real world effect of the amendment was which things would be allowed to be substituted for each other; could driveway or shed square footage be substituted for building square footage. The first step in a development proposal would be to look at the existing site, the developed footprint and the amount of new development they would be allowed.

Action on Amendment #1

COUNCILMEMBER PETSO WITHDREW HER MOTION BASED ON MR. LIEN'S COMMENTS WITH THE AGREEMENT OF THE SECOND.

Amendment #2

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND TO READ, "FOOTPRINT OF EXISTING DEVELOPMENT" OR "FOOTPRINT OF DEVELOPMENT" MEANS THE AREA OF A SITE THAT CONTAINS LEGALLY

ESTABLISHED: BUILDINGS OR PAVED ROADS, DRIVEWAYS, AND PARKING LOTS; STORAGE AREAS, WALKWAYS OR OTHER AREAS PAVED WITH CONCRETE, ASPHALT OR COMPACTED GRAVEL; OUTDOOR SWIMMING POOLS; AND PATIOS.

Councilmember Petso asked if this amendment addressed Mr. Lien's concern with the prior amendment. Mr. Lien expressed concern with "paved," the original definition referred to paved with concrete and asphalt; he questioned what was included in paved as typically paved would include concrete and blacktop but not gravel. Councilmember Petso said that was how she would guess it would be interpreted.

Action on Amendment #2

MOTION CARRIED (6-1), COUNCILMEMBER MESAROS VOTING NO.

Mayor Pro Tem Fraley-Monillas declared a brief recess.

Amendment #3

COUNCIL PRESENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER NELSON, TO AMEND SECTION 23.40.215 CRITICAL AREA RESTORATION PROJECTS (PAGE 16-17 OF 90) BY DELETING SECTIONS 3a, b, c AND d.

Council President Pro Tem Johnson explained this would allow a reduced buffer in a restoration project of 50-70% of the expanded buffer associated with the class of stream. She preferred to protect streams as much as possible; 75% is allowed by the state and she did not support reducing the buffer any further.

Councilmember Mesaros commented 23.40.215.B.2 covers what Council President Pro Tem Johnson was interested in doing, "A buffer may be applied to the restored portion of the stream or wetland that is not less than 75% of the expanded buffer associated with the class of stream or category of wetland.

Council President Pro Tem Johnson requested Mr. Lien describe what "not less than 75%" means. Mr. Lien explained not less than 75% means the buffer could be reduced 25%. For example, if a 100-foot buffer was required, a 75-foot buffer could be allowed.

Councilmember Mesaros recalled one of the reasons this paragraph was included was to encourage restoration projects; removing 3a, b, c and d would eliminate the incentive for restoration projects. Mr. Lien answered this code provision was modeled after a Shoreline Management Act provision; if a shoreline restoration project expands shoreline jurisdiction, you do not have to apply the SMP within that expanded area. The intent was not to discourage restoration projects. For example if daylighting a stream requires a wide buffer that severely limits the use of the property, daylighting of the stream will not happen. A reduced buffer of 75% can be granted up front but can be reduced to 50% if certain criteria are met which is described in 3 a, b, c and d. He pointed out 3c which states there will be a net environmental benefit from the restoration project. He clarified these are restoration projects not required as mitigation.

Councilmember Bloom clarified if these sections were removed, anyone wanting to do a restoration project could still apply for a variance for an additional reduction. Mr. Lien agreed they could apply for variance but staff discourages people from applying for variances. Variances are difficult to get; very strict criteria must be met to be granted a variance. Variances can also be expensive; applying for a critical area variance is approximately \$6,300 plus the cost of the hearing examiner for which a \$1500 deposit is collected; a total of at least \$8,000 to apply for a critical area variance in addition to the cost of the restoration project. He anticipated that would discourage someone from applying from a restoration project.

For Councilmember Bloom, Mr. Lien explained this would apply to the Marina Beach project and the daylighting of Willow Creek and the impact of the buffers on the park. He displayed a drawing from the

Marina Beach Master Plan, pointing out one of main reasons for daylighting Willow Creek was to allow salmon access to the Edmonds Marsh. The Master Plan proposed a 50-foot buffer on one side and a 75-foot buffer on the dog park side. He identified how an additional 25 feet of buffer would impact access to Marina Beach. There are other areas in the City with culverted streams such as Shellabarger Creek which is culverted in some places and open in others. If someone wanted to open the stream on their property to provide a stream feature, that would be good for the stream but if by doing that the property owner can no longer construct an addition to their house without going through the variance process, they likely would be discouraged from opening the stream. He acknowledged people were not knocking down the door to do restoration projects but he cautioned against making it difficult to do restoration projects.

Councilmember Petso asked whether the amendment was also to remove Paragraph 3 in its entirety as well as a, b, c and d. Council President Pro Tem Johnson answered yes.

Council President Pro Tem Johnson commented there is only one restoration project in the City at this time. Based on conversation with Mr. Lien, she learned due to the nature of fish in that stream, the state would allow a 25% reduction of the buffer from 100 feet to 75 feet. However, this provision of the CAO would allow a further reduction that would only be allowed by the City. If the City daylights Willow Creek, that should be the main focus. The assumption in developing the Marina Beach Master Plan was the setback on the dog park side would be 75 feet and the setback on Marina Beach side would be 50 feet to allow better access to the parking lot, etc. She preferred to maximize the critical area which is the stream itself. Within the 75 feet there could be fairly active activities such as kids wading, bridges, etc. and the size and nature of parcel would be a perfect opportunity for a variance. This would not eliminate the opportunity to develop the Marina Beach Master Plan but a degradation of the stream would not automatically be allowed and a different process would be required to allow the parking lot.

Councilmember Buckshnis did not support the motion due to information provide by Council President Pro Tem Johnson which differed from what she learned as part of the Project Advisory Committee (PAC). Daylighting Willow Creek will not allow kids to play in it at full tide and the salmon are tiny. This has been considered and reviewed with environmentalists and there is nothing wrong with a 50-foot buffer on that side of Marina Beach.

Parks & Recreation Director Carrie Hite reminded Council that the PROS Plan, adopted by Council following a very robust public process last year, includes very aggressive goals to increase access to the waterfront for people. Marina Beach Park is a gem; 100-foot or even 75-foot buffers would eliminate the parking lot on the north side. The PAC discussed this at length with the consultant as well as Ecology who recommended buffers between 35 and 75 feet on the dog park side and 50 feet on the north side. The buffer was increased to 75 feet on the dog park side to mitigate any concerns from dogs. Increasing the 50-buffer on the north side by 25 feet would block the parking lot as well as take part of the play area and the walkway. She clarified passive recreation is allowed in buffers such as trails but not active recreation. She summarized increasing the buffer would impact Marina Beach Park and the components that the community planned for the park. There are mutual goals in the PROS Plan; daylight Willow Creek and increase access to the waterfront for people. Those do not have to be mutually exclusive; the goal of the Marina Beach Master Plan was a win-win for salmon and people.

Council President Pro Tem Johnson reminded the Council has not approved the marina Beach Master Plan. An assumption was made that the buffers could be reduced to 50% as Ecology indicated but that is not allowed under the current CAO. If the intent was to spend \$5 million to daylight Willow Creek, she felt the main emphasis should be on daylighting the creek even at the expense of some active recreation at Marina Beach Park. There could still be passive recreation; nothing would change with regard to Marina Beach's ability to exist in the future and there would be a process whereby the City could request a variance for access to the parking lot. She was concerned with taking a very narrow example and applying

it citywide. Mr. Lien clarified the current critical area regulations allow a buffer reduction of up to 50%. If this provision is removed, it could only be reduced 75% and any further reduction would require a variance.

Councilmember Bloom agreed with Council President Pro Tem Johnson. The City was not serving its critical areas and environment by applying one example to every project. She recalled that was done with physically separated and functionally isolated related to two projects. She was so upset by what she felt was an inappropriate vote that she went to the Planning Board and brought it back to Council and changed her vote. Mayor Earling ended up vetoing that ordinance. The Council did that for two projects which she did not feel was a good way to deal with critical area. She read a comment from Joe Scordino, a retired fisheries biologist, who stated it was important for the regulations to stipulate that this section applies only to self-standing restoration projects and would not apply to a development activity that includes a restoration project. If the Council did not agree with eliminating 3a, b, c and d, she recommended limiting it to self-standing restoration projects because it could be used to increase the development and reduce the buffer via a restoration project.

Councilmember Petso asked whether this project was likely to qualify for a variance if this provision were eliminated. Mr. Lien could not say whether or not it would qualify. For this type of project to go forward, two variances would be required, a critical area variance and a shoreline variance. The hearing examiner makes a recommendation regarding the shoreline variance and the decision is made by Ecology. The criteria for a critical area variance are listed on page 14. The criteria that would apply are the standards for public agency or utility, Section A. The project would need to meet those criteria as well as the SMP variance criteria.

Councilmember Mesaros supported providing incentives. He agreed this should not be approved/denied based on Marina Park but felt there was an opportunity to tell citizens if they take the initiative to do a restoration, they may have an opportunity to reduce the buffer. The reduction requires approval and the property owner must show the restoration project brings value and improvement to the stream. He did not anticipate a rush to do restoration projects but nor should it be required to spend \$8,000 on a variance. Requiring a variance would limit an activity that the City should be encouraging citizens to do. He did not support the amendment because he wanted to encourage citizens to do restoration.

Mr. Lien referred to specific variance criteria in 23.40.210.B.1-6 (page 15 of 90) which probably also applies to public agencies; in order for a variance to be granted all six of the criteria must be met. He referred to item 2, the special conditions or circumstances do not result from the actions of the applicant, noting if an applicant is daylighting a stream thus creating the buffers, that variance criteria would not be met.

Mr. Taraday commented if it is the Council's intent to have a project like the daylighting be done via a variance, he recommended the provisions in 23.40.210.B.1-6 not be applicable to the type of variance described in 23.40.210.A.1 public agency and public utility variances because those could be difficult to satisfy.

Councilmember Buckshnis commented the buffer used to be 50% now it's 75%. The intent is to encourage restoration; one way to do that via incentives. She preferred not to continuing to use Marina Beach Park as an example and she did not support the amendment.

Action on Amendment #3

UPON ROLL CALL, MOTION CARRIED (4-2-1), COUNCILMEMBERS BLOOM, JOHNSON, NELSON AND PETSO VOTING YES; COUNCILMEMBERS BUCKSHNIS AND MESAROS VOTING NO; AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Amendment #4

COUNCILMEMBER NELSON MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND BY REMOVING SECTION 23.40.220.C.4 (PAGE 18 OF 90), DEVELOPMENT PROPOSALS WITH PHYSICALLY SEPARATED AND FUNCTIONALLY ISOLATED STREAM OR WETLAND BUFFERS.

Councilmember Nelson explained this section addresses physically separated and functionally isolated buffers and the ESA memo states there is no BAS that directly supports or defines criteria for determining when an existing modification makes an adjacent area physically separated and functionally isolated. He expressed concern with reducing buffers, relaying that although there were ways to ensure there was no net loss, the net effect was an overall reduction of buffers via the new sections. He referred to the ESA memo that states almost all parcels have some sort of existing development and historical development practices have resulted in many streams and wetland with minimal buffers. He summarized at some point the Council needs to protect critical area because they are going away.

Councilmember Bloom expressed support for the amendment.

Council President Pro Tem Johnson referred to a letter from Joe Scordino, a retired fisheries expert, that states he was not convinced all ecological functions including hydrologic connections are actually separated by a road or other structure and recommended the proposed allowance for separated development not be approved. She expressed support for the amendment in large part because she has struggled with this since the temporary provision related to the spray pad. In talking with Mr. Lien, there were several examples that seemed like they would be okay but from a logical standpoint she had problems with it.

Councilmember Mesaros inquired about the impact of eliminating this paragraph. Mr. Lien displayed a photograph of a channelized stream with no buffer between two houses. He identified a house separated from the stream by another house that wanted to construct an addition. With a 75-foot buffer on the stream, technically that parcel is within the stream buffer and the addition would not be allowed. He provided another example, the Edmonds Marsh currently has a 200-foot buffer; if it is a Category 1 wetland it would have a 150-foot buffer. The marsh's buffer technically extends across the railroad tracks to development west of the tracks. This was an obvious example of physically separated and functionally isolated as development west of the railroad tracks will have no impact on the marsh. Jacobsen Marine was one of the projects permitted under the interim ordinance; they were required to do buffer mitigation on the marsh side. He displayed an aerial map of the City, pointing out other examples of streams that cut through developed areas and places where roads separate development from the buffer making them physically separated and functionally isolated. He concluded allowing development in an area that is physically separated and functionally isolated will have no impact on the critical area. The impact of deleting this section is it removes flexibility. Councilmember Mesaros observed there would be opportunity for a variance. Mr. Lien agreed they could apply for a variance.

Councilmember Mesaros asked Councilmember Nelson his rationale for the amendment, commenting he did not want to limit buffers but the examples staff presented illustrate that buffers have been limited by past generations and development will not change the stream. He questioned why Councilmember Nelson wanted to take opportunity away from citizens. Councilmember Nelson said if the City was updating the CAO based on BAS, he was concerned with making decisions based on non-scientific information. If the goal was to protect critical areas, he was concerned with simply accepting because Edmonds is already developed and is an urban area, that's the way it's gonna be and believed the City could do better. Councilmember Mesaros said he has the same goals in mind but was not sure eliminating this paragraph reached those goals. It would seem scientific that a building on the other side of the railroad tracks would not impact the stream on the other side of the tracks.

Councilmember Petso referred to Council President Pro Tem Johnson's comments regarding potential connection either for habitat in critical areas or hydrogeological connections. The fact that there is a house between her property and a stream does not prevent water continuity on the subsurface. Development between her house and the stream was not enough to convince her that the areas were physically separated and functionally isolated, coupled with the fact it is not BAS. She anticipated a tighter provision could be drafted in the future where several experts determined there was no hydrologic or wildlife connection but it did not seem worth the effort. She preferred to remove this section.

Aaron Boy, ESA, referred to ESA's memo and the opening language regarding consistency with BAS and where departures from where BAS should be applied. They were looking to State guidance for their evaluation criteria within the GMA with regard to how those departures should be presented. The guidance provided by the State does not specifically address isolated buffers but they were looking at situations where there was an existing physical separation and a functional isolated; from their perspective they did not see there was an issue with allowing development in those areas. The recommendations provided in the memo for additional criteria for the City to evaluate functional isolation were intended to address some of the Council's concerns. In situations where there is an existing roadway or existing structure but the City's review determines there is still a hydrologic or other connection, this provision would not apply. He summarized this section provides a structure where the City could make a determination whether both physical separation and functional isolation occur.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO EXTEND THE MEETING UNTIL 10:30 P.M. MOTION CARRIED UNANIMOUSLY.

Councilmember Buckshnis recalled Council President Pro Tem Johnson was the only Councilmember who voted against the spray pad; in her [Councilmember Buckshnis'] view, the spray pad was physically separated and functionally isolated by the parking lot. She commented the entire City is hydrologically connected, referring to the marsh and fill on the waterfront. She asked whether Jacobsen Marine would have been allowed without this section even though it is on the other side of the railroad tracks. Mr. Lien responded it may have needed a variance process.

Councilmember Buckshnis expressed concern with forcing someone to go through an expensive variance process. Mr. Lien referenced the criteria for determining physically separated and functionally isolated and referred to the last line in the section Councilmember Nelson proposed to remove, "In determining whether an area is physically separated and functionally isolated from the adjacent stream or wetland, the director shall consider the hydrologic, geologic, and/or biological habitat connection potential and the extent and permanence of the interruption." He clarified all the issues that have been raised are considered and the director may require the assessment be done by a qualified professional. Councilmember Buckshnis said other examples of development that would not be allowed include the spray pad and the senior center. Mr. Lien clarified the senior center is not within any buffer.

Mayor Pro Tem Fraley-Monillas asked whether Councilmember Buckshnis' statement that there would be no development on the other side of railroad tracks was accurate. Mr. Lien explained the 2014 BAS Report identified the Edmonds Marsh as a Category 1 wetland which has a 200-foot buffer under the existing CAO; under the proposed CAO it would have a 150-foot buffer. He identified the area that would be within the 150-foot marsh buffer.

Councilmember Petso recalled Ecology stated the marsh was not a Category 1 wetland and recommended a 60-foot buffer but now Mr. Lien is stating a 150-foot buffer would be required. Mr. Lien responded there has not been an official delineation of the marsh; he says Category 1 because the 2004 BAS Report identified the marsh as a Category 1. Ecology is saying it is a Category 2 because it is a degraded estuarian wetland. Councilmember Petso reiterated Ecology recommended a 60-foot buffer. Mr. Lien cautioned this is mixing different projects. Councilmember Petso pointed out if Ecology recommends a

60-foot buffer, that buffer will not impair future development on the west side of the tracks. Mr. Lien responded if the marsh is a Category 2 wetland, the CAO would require a 75-foot buffer. If the railroad right-of-way is 100-feet wide, a 75-foot buffer would not extend beyond the railroad right-of-way. Councilmember Petso concluded there was no impact of this amendment under that scenario. Mr. Lien agreed if the marsh is a Category 2 wetland.

Action on Amendment #4

UPON ROLL CALL, MOTION CARRIED (4-2-1), COUNCILMEMBERS BLOOM, JOHNSON, NELSON AND PETSO VOTING YES; COUNCILMEMBERS BUCKSHNIS AND MESAROS VOTING NO; AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Amendment #5

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND BY CHANGING “ONE INCH IN DIAMETER AT BREAST HEIGHT” IN SECTION 23.40.220.C.b.iv (PAGE 20 OF 90) TO “1½ to 2 INCHES IN DIAMETER AT BREAST HEIGHT..

Councilmember Bloom explained a former Tree Board Member indicated Seattle uses 1½ to 2 inch caliper for replacement. The reason they do not use a higher caliper and why she did not recommend a higher caliper such as 3 inches is a smaller tree has a better survival rate of the tree but a 1-inch tree is too small to replace a very large tree.

Action on Amendment #5

MOTION CARRIED (6-0-1), MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Amendment #6

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND SECTION 23.80.020.7, LANDSLIDE HAZARD AREAS, (PAGE 32 OF 90) TO CHANGE THE DIAMETER FROM 3 INCHES AT DBH TO 4 INCHES.

Councilmember Mesaros recalled when looking at the samples Mr. Hertrich provided of a 3-inch and a 4-inch tree, it was appropriate that homeowners be allowed to remove shrubs/non-woody vegetation less than 4-inches as part of normal maintenance of vegetation.

Action on Amendment #6

MOTION CARRIED (5-1-1), COUNCILMEMBER BLOOM VOTING NO AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Councilmember Bloom asked whether it would be appropriate to add a 3-year maintenance responsibility that would require replacement if a tree died or was that assumed. She was concerned there was no requirement to replace the replacement trees if they died. Mr. Lien referred to the removal of hazardous trees section, noting monitoring is not specifically addressed in that section. If replacement trees or mitigation was required as part of the development of a project, monitoring for five year was required. This section does not specifically address monitoring of replacement trees associated with the development. Councilmember Bloom stated she was satisfied.

Councilmember Bloom inquired about the language staff proposed removing in 23.40.270.B (page 24 of 90), “Critical areas tracts shall be recorded on all documents of title of record for all affected lots.” Mr. Lien explained the new language in Paragraph B is an elaboration of the sentence proposed to be removed. Previously only critical area tracts had to be recorded; the new language expanded on that to require critical area tracts as well as other things be recorded on title. Councilmember Bloom confirmed critical area tracts will still be recorded. Mr. Lien answered yes, explaining generally a critical area tract would be created via a subdivision process and the subdivision is recorded.

Councilmember Buckshnis referred to 23.90.040.C.1 (page 84 of 90) and the 30% retention requirement for native vegetation determined by the existing site area that supports native vegetation, 10 inches in diameter and 70% of the canopy cover. She relayed a citizen's question regarding how 10 inches DBH and/or 30% was determined. Mr. Booy answered the intent was to ensure protection for intact forest areas adjacent to existing critical areas such as wetlands, stream corridors and steep slopes. Ten-inch trees are typically associated with Pileated Woodpecker habitat. The 70% canopy was a threshold where key core habitats are included. Mr. Lien explained the existing provision requires retention of 30% native vegetation in all RS-12 and RS-20 zones. This provision is similar to the King County provision that was struck down for being too broad. The intent in the update was to continue to protect native but provide definition of native vegetation to be protected by tying it to wetlands, steam corridors and steep slope areas. There are parcels where native vegetation does not exist; for example, the subdivision on 9th & Casper that is in an RS-12 zone and they had to establish 30% native vegetation in the existing field.

Councilmember Buckshnis referred to Ms. Stewart's comment regarding Section 23.40.320 and the definition of "adjacent" in the April 22, 2015 draft was 300 feet and this draft was 225 feet. Mr. Lien responded 225 feet is the largest buffer in this CAO. An earlier draft included 300 feet; the existing CAO has 200 feet. Councilmember Bloom recalled Ms. Stewart's concern was the earlier draft contained 300 feet and that was not discussed by the Planning Board. Mr. Lien responded the rationale for 225 feet was it was the widest buffer in the CAO. If an adjacent property was 300 feet away, the critical area buffer or critical area regulations would not apply that far away.

Amendment #7

COUNCIL PRESIDENT PRO TEM JOHNSON MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND BY DELETING 21.40.030.D.1 HEIGHT EXCEPTIONS (PAGE 529 OF 564) WHICH READS, "FOR ALL PROPERTIES LOCATED WITHIN THE COASTAL HIGH HAZARD AREAS AND COASTAL A FLOOD ZONES HEIGHT IS MEASURED FROM THE ELEVATION THAT IS TWO FEET ABOVE BASE FLOOD ELEVATION AS IDENTIFIED FROM THE APPLICABLE FEMA FOOD HAZARD MAP."

Council President Pro Tem Johnson commented this is essentially a height exemption and would have the defacto result of raising heights in the waterfront area. Height is a politically charged issue and she urged careful consideration of a provision that could result in several additional feet of height. Mr. Lien answered a frequently flooded area is a critical area. In Edmonds, frequently flooded regulations are included in the building code. The first change in this document is in the building code where the following language is added, "For buildings in all structure categories located in the Coastal High Hazard Areas and Coastal A Flood Zones, the elevation of the lowest floor shall be a minimum of two feet above the base flood elevation, as determined from the applicable FEMA flood hazard map." The rationale of this provision includes, 1) updated FEMA Flood Insurance Rate Map (FIRM) effective in 2016 that will greatly expand the flood hazard zones in the waterfront area, and 2) sea level rise projections. The most recent studies in the Puget Sound area project an average 2-foot sea level rise by 2100. If a structure has a 100-year life span, it would experience that 2-foot sea level rise.

Mr. Lien described how the City determines height; height is measured from the average original grade. A rectangle is drawn around the development, elevations taken at the four corners, divided by four which produces an average grade from which height is measured. He displayed the updated FEMA FIRM; the base flood elevation for the waterfront area is 12 feet. He identified the area at 12 feet or below that is in that flood hazard area. All the zones on the waterfront (CG, BC, CW) have a 30 foot height limit. If the average grade is 11 feet, building height can be 30 feet for a total of 41 feet above base sea level. If the City requires buildings to be built two feet above base sea level, it essentially takes away one foot of allowable zoning height.

Councilmember Nelson observed this is projected to occur in approximately 85 years. Mr. Lien said the latest projections are a 2-foot level rise by 2100. The 100 year flood plain has a 1% chance of that type of flood occurring in any given year.

Councilmember Mesaros observed it would be a gradual rise; 2 feet in 85 years or 1 foot in 42½ years. Mr. Lien answered it is based on climate change and current studies.

Councilmember Buckshnis commented since a building's lifespan is 50-70 years, this language is accounting for nature. Mr. Lien agreed it was planning ahead.

Action on Amendment #7

UPON ROLL CALL, MOTION CARRIED (4-2-1), COUNCILMEMBERS BLOOM, JOHNSON, NELSON AND PETSO VOTING YES; COUNCILMEMBERS BUCKSHNIS AND MESAROS VOTING NO; AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO EXTEND THE MEETING FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.

Councilmember Bloom referred to 23.90.040.C.1 (page 84 of 90), and language regarding achieving the minimum 30% retention requirement for native vegetation, 10-inches DBH and 70% canopy, commenting that seemed like a high bar to achieve. She asked whether there were any existing parcels that could achieve 70% cover with 10-inch DBH native trees. Mr. Lien explained the RS-12 and RS-20 zones were established in large part due to the presence of critical areas in north Edmonds, mainly landslide hazard area. Due to the slopes, there are still connected forest areas that would meet this criterion.

Councilmember Bloom asked if a parcel that did not meet the criteria would not qualify for achieving the minimum 30% retention for native vegetation. Mr. Lien answered if a parcel did not meet the requirement, they may not be required to retain 30%. He referred to 23.90.040.C.4, "For undeveloped (or redeveloped) subdividable lands zoned RS-12 or RS-20 that currently do not support any native vegetation areas meeting minimum requirements in ECDC 23.90.040.C.1, the director may waive the requirements of this provision." For example the development at 9th & Caspers; they would not be required to retain 30% native vegetation because it does not exist. Councilmember Bloom observed there could be parcels in landslide hazard areas that do not meet that criteria that would not be required to retain 30%. Mr. Lien answered the director may waive the requirements.

Amendment #8

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND BY REDUCING THE DBH IN 23.90.040.C.1 TO 6 INCHES.

Councilmember Bloom was concerned with allowing development in an area where numerous trees do not meet the 10 inch DBH criteria and only 10 inch DBH trees are considered for the 70% canopy cover. She was concerned with allowing development and removal of trees that are needed to stabilize steep slopes and prevent landslide hazards.

Councilmember Petso suggested the objective could be achieved by eliminating 23.90.040.C.1 instead of revising it. Mr. Lien said that would result in a provision that was similar to a King County provision that struck down by the courts. The intent of this paragraph was to describe the type of habitat to be retained to make it more defensible.

Council President Pro Tem Johnson asked about 6-inch versus 10-inch DBH. Mr. Booy reiterated 10-inch DBH is a threshold size for certain habitat such as the Pileated Woodpecker. There is definitely habitat value in small trees such as 6-inch DBH. Mr. Lien said 6 inch DBH is the current definition of trees.

Action on Amendment #8

MOTION CARRIED (6-0-1), MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Councilmember Bloom proposed reducing the percent canopy cover to 50% which was more reasonable, observing 70% canopy cover was pretty high. Mr. Booy said similar to the DBH criteria, this is open to the Council's interpretation; either would protect habitat. The 70% canopy was included to ensure protection was provided for the most important adjoining forested habitat areas. Councilmember Bloom asked what other cities do with regard to protecting areas and maintaining their canopy. Mr. Booy said this is a somewhat unique provision that he has not seen in other jurisdictions. Most jurisdictions do not typically have protections for adjoining habitats associated with a stream, wetland, or steep slope area that is already being protected. There is a percent threshold in the State's wetland rating system, 30% for an area that could be considered forest canopy. If more than 30% of the wetland and adjoining buffer is forested canopy, the wetland can be considered to have a forested habitat class.

Mr. Lien clarified this paragraph does not say there has to be 70% forest cover on a site; it says trees 6 inches in diameter make up more than 70% of the canopy cover. Whatever canopy cover exists on the site, 70% has to be 6-inch trees or greater. He noted the Council budgeted for the creation of an urban forest management plan which could look at habitat, canopy coverage, corridors, etc. and be used to refine these provisions. Councilmember Bloom commented in the meantime the City continues to lose canopy cover.

Amendment #9

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND 23.90.040.C.1 TO MAKE UP MORE THAN 40% OF THE CANOPY COVER.

Action on Amendment #9

MOTION CARRIED (4-1-2) COUNCILMEMBER MESAROS VOTING NO, AND COUNCIL PRESIDENT PRO TEM JOHNSON AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO EXTEND THE MEETING FOR 10 MINUTES. MOTION CARRIED UNANIMOUSLY.

Call for the Question

COUNCIL PRESIDENT PRO TEM JOHNSON CALLED FOR THE QUESTION ON THE MAIN MOTION. COUNCILMEMBER MESAROS SECONDED. UPON ROLL CALL, CALL FOR THE QUESTION FAILED (2-4-1), COUNCIL PRESIDENT PRO TEM JOHNSON AND COUNCILMEMBER MESAROS VOTING YES; COUNCILMEMBERS BLOOM, BUCKSHNIS, NELSON AND PETSO VOTING NO; AND MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

Councilmember Bloom recommended Item 5a on page 87 be amended for consistency. Mr. Lien said it is consistent because it references the definition in ECDC 23.40.320.

Mr. Lien referred to a correction in Item 2 on page 45 identified by Council President Pro Tem Johnson, "...Wetland buffer averaging with enhancement shall be preferred over wetland buffer ~~averaging~~ width reduction ~~with enhancement~~..."

Action on Motion #3 as amended

MOTION CARRIED (6-1), MAYOR PRO TEM FRALEY-MONILLAS ABSTAINING.

8. REPORTS ON OUTSIDE BOARD AND COMMITTEE MEETINGS

Councilmember Buckshnis reported Snohomish County Tomorrow was provided an update on the GMA growth plan and growth occurring in unincorporated areas. WRIA 8 recognized retiring King County Councilmember Larry Phillips. She recalled he told her not to be daunted by the marsh which started her work on the marsh in 2009. The Rainbow Bend Park was named the Larry Phillips Natural Park Area.

Councilmember Bloom reported the Tree Board did not have a quorum and the Port met on a day she was not available this month.

Councilmember Nelson reported the SERS Board meet on December 3, 2015. He relayed a former senior SERS staff member is currently being criminally investigated for theft.

9. MAYOR'S COMMENTS

Mayor Pro Tem Fraley-Monillas said she was sure Mayor Earling was wishing everyone a Happy Holiday and Happy New Year from Hawaii.

10. COUNCIL COMMENTS

Councilmember Buckshnis wished everyone a Happy Holiday. She thanked Councilmember Bloom for her service, remarking the trees love her. She thanked Councilmember Petso for her service and all the amendments she has made throughout the years.

Councilmember Petso thanked Councilmember Bloom and Student Representative Girouard.

Councilmember Mesaros bid farewell to Student Representative Girouard, wished her good luck in softball and looked forward to reading about her in My Edmonds News. He bid farewell to Councilmembers Petso and Bloom, stating it had been nice to serve with them and wished them good luck.

Councilmember Bloom said goodbye to everyone and wished Student Representative Girouard good luck. She thanked citizens who provided input on the CAO particularly Val Stewart, Suzie Shafer, Joe Scordino, and Susan Paine, summarizing the CAO was a collaborative effort. She expressed appreciation for all the input, support and work of many citizens during her four years as a Councilmember and encouraged citizens to stay involved.

Councilmember Nelson thanked Student Representative Girouard for her service. He thanked Councilmembers Petso and Bloom for their service, stating it had been a pleasure working with them.

Council President Pro Tem Johnson announced an open house tomorrow night on the Edmonds Development Code with presentations on subdivisions at 6:30 p.m. and on the sign code at 7:15 p.m. She expressed appreciation to Student Representative Girouard for her service. To Councilmembers Petso and Bloom, she assured no one would ever question their dedication or passion; everyone is enriched by their discussion and contributions to the City.

Mayor Pro Tem Fraley-Monillas thanked Student Representative Girouard and Councilmembers Petso and Bloom for their service. She reminded existing and new Councilmembers to submit their board and commission requests to Council Executive Assistant Spellman, who she noted is retiring.

Student Representative Girouard thanked the Council for welcoming her and helping her understand some of the discussions. She had a very pleasant experience as a Student Representative on the Council. She asked the Council to pose for a selfie with her.

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 10:55 p.m.