

ORDINANCE NO. 3901

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PORTIONS OF CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE THAT REQUIRES EXPANDED NOTICE REQUIREMENTS FOR EASEMENTS RETAINED DURING STREET VACATIONS.

WHEREAS, in response to a citizen request, the City Council tasked the Planning Board with considering an amendment to Chapter 20.70 of the Edmonds Community Development Code entitled "Street Vacations" to expand the content of notice requirements for street vacations; and

WHEREAS, after a public hearing held on May 9, 2012 the Planning Board forwarded a recommendation to the City Council regarding a proposed amendment to street vacation noticing requirements to indicate the nature of any easement that would be retained in connection with a vacation; and

WHEREAS, after a considering the Planning Board's recommendation at a public hearing held on June 5, 2012 the City Council directed that an ordinance be prepared to adopt expanded notice requirements for street vacations; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to Chapter 20.70 Street Vacations. Section 20.70.090 of the Edmonds Community Development Code, entitled "Public notification – Contents and distribution," is hereby amended to read as follows (new text is shown in underline):

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

B. Distribution. At least 20 calendar days before the public hearing the planning manager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;

2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;

3. A copy will be published in the official newspaper of the city;

4. At least three copies will be posted in conspicuous public places in the city; and

5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated.

Section 2. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:


MAYOR DAVID O. EARLING

ATTEST/AUTHENTICATED:


CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 
JEFF TARADAY

FILED WITH THE CITY CLERK:	11-30-2012
PASSED BY THE CITY COUNCIL:	12-04-2012
PUBLISHED:	12-09-2012
EFFECTIVE DATE:	12-14-2012
ORDINANCE NO. <u>3901</u>	

SUMMARY OF ORDINANCE NO. 3901

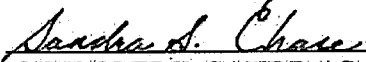
of the City of Edmonds, Washington

On the 4th day of December, 2012, the City Council of the City of Edmonds, passed Ordinance No. 3901. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PORTIONS OF CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE THAT REQUIRES EXPANDED NOTICE REQUIREMENTS FOR EASEMENTS RETAINED DURING STREET VACATIONS.

The full text of this Ordinance will be mailed upon request.

DATED this 5th day of December, 2012.


CITY CLERK, SANDRA S. CHASE

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH }

S.S.

SUMMARY OF ORDINANCE NO. 3901
of the City of Edmonds, Washington

On the 4th day of December, 2012, the City Council of the City of Edmonds, passed Ordinance No. 3901. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PORTIONS OF CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE THAT REQUIRES EXPANDED NOTICE REQUIREMENTS FOR EASEMENTS RETAINED DURING STREET VACATIONS.

The full text of this Ordinance will be mailed upon request.
DATED this 5th day of December, 2012.

CITY CLERK, SANDRA S. CHASE
Published: December 9, 2012.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Summary of Ordinance No. 3901

a printed copy of which is hereto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

December 09, 2012

and that said newspaper was regularly distributed to its subscribers during all of said period.

Karen E. Zeman

Principal Clerk

Subscribed and sworn to before me this

10th

day of December, 2012

Diana J. Hendrix

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.

- E. **LAW SUPPORT (NON-COMMISSIONED POLICE DEPARTMENT EMPLOYEE GROUP) MEMO OF UNDERSTANDING (MOU) FOR ONE YEAR EXTENSION.**
- F. **ORDINANCE NO. 3900 - ADOPTING CHAPTER 20.23 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE, BED AND BREAKFASTS, AND AMENDING OTHER REFERENCES AND DEFINITIONS AS NECESSARY.**
- G. **ORDINANCE NO. 3901 - STREET VACATION AMENDMENT TO CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE (FILE AMD20120003).**
- H. **ORDINANCE NO. 3902 - AMENDMENTS TO CHAPTER 4.12 OF THE EDMONDS CITY CODE AND PORTIONS OF CHAPTERS 16.43, 16.50, 16.55, AND 16.60 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE TO EXPRESSLY PERMIT MOTORIZED MOBILE VENDORS.**

ITEM A: APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 20, 2012.

Councilmember Bloom requested the following:

- Revise Fred Breske's comments Page 3, Audience Comments: "He questioned what other property had to divert ~~property~~ water from the City's stormwater drainage system onto private property as a condition to obtain a building permit."

ITEM B: APPROVAL OF CITY COUNCIL MEETING MINUTES OF NOVEMBER 27, 2012.

Councilmember Bloom requested the following:

- Replace the first sentence, second paragraph, Page 18, with "Councilmember Bloom referred to Change #14 (revised wording in Senior Planner, Associate Planner and Senior and Engineering Planning Manager job descriptions), and requested it be revised to read, "Prepares and maintains a variety of records and reviews related to assigned activities; recommends updates ~~or makes recommendations~~ regarding policy or code changes to the department head as necessary."

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE CONSENT AGENDA ITEMS A AND B AS AMENDED. MOTION CARRIED UNANIMOUSLY.

4. AUDIENCE COMMENTS

Donna Breske, Snohomish, a licensed civil engineer, relayed she submitted a request to the city for an internal investigation for four unsubstantiated and falsely issued city code violations to one individual by Code Enforcement Officer Mike Thies:

1. Although no city business license is required per city code for a house rental, Mr. Thies issued a code violation for failure to obtain a business license for a house rental.
2. Ignoring 17.60.010 that requires proof of non-compliance for a noise violation, Mr. Thies issued a noise violation without any proof from a qualified testing laboratory.
3. Mr. Thies issued a code violation for advertising an event facility when the advertisement was for a vacation house rental, not an event facility.
4. Mr. Thies issued a code violation stating the people renting the house would not meet the definition of family per ECDC 21.30.010. The definition applies to people residing in the City, not visiting and renting a vacation house.

The November 3, 2008 Council meeting minutes reflect a statement by the former City Attorney that the City has never regulated the common practice of renting houses. Ms. Breske pointed out the house, located at 8022 Cyrus Place, and owned by John Ryan, was lost to foreclosure in 2011 because the City bombarded him with unsubstantiated code violations. The unsubstantiated code violations triggered the issuance of a warrant for Mr. Ryan's arrest for failure to obtain a business license. On June 6, 2010, Mr. Ryan was placed under arrest by the Edmonds Police Department and placed in jail. She summarized she tells everyone she knows not to bring their investment money to Edmonds; they will get thrown in jail for

EDMONDS CITY COUNCIL APPROVED MINUTES

December 4, 2012

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

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Strom Peterson, Council President
Frank Yamamoto, Councilmember
Joan Bloom, Councilmember
Kristiana Johnson, Councilmember
Lora Petso, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember (arrived 7:02 p.m.)

STAFF PRESENT

Jim Lawless, Assistant Police Chief
Stephen Clifton, Community Services/Economic Development Director
Phil Williams, Public Works Director
Shawn Hunstock, Finance Director
Carrie Hite, Parks & Recreation Director
Rob Chave, Planning Manager
Carl Nelson, CIO
Kernen Lien, Senior Planner
Jeff Taraday, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. ROLL CALL

City Clerk Sandy Chase called the roll. All Councilmembers were present with the exception of Councilmember Buckshnis.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED (6-0). (Councilmember Buckshnis was not present for the vote.

(Councilmember Buckshnis arrived at 7:02 p.m.)

3. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Bloom requested Items A and B be removed from the Consent Agenda.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER YAMAMOTO, TO APPROVE THE CONSENT AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- C. APPROVAL OF CLAIM CHECKS #135610 THROUGH #135697 DATED NOVEMBER 29, 2012 FOR \$839,642.62 (REPLACEMENT CHECK #135662 \$18,595.29).**
- D. NONREPRESENTED COMPENSATION POLICY.**

AM-5302

3. G.

City Council Meeting**Meeting Date:** 12/04/2012**Time:** Consent**Submitted By:** Gina Janicek**Department:** Planning**Review Committee:****Committee Action:****Type:** Action

Information**Subject Title**

Ordinance for a Street Vacation amendment to Chapter 20.70 of the Edmonds Community Development Code (file AMD20120003).

Recommendation

Approve the draft ordinance (Exhibit 1) amending portions of Chapter 20.70 of the Edmonds Community Development Code to require expanded notice requirements for easements retained during street vacations.

Previous Council Action

The Council considered the Planning Board's recommendation at a public hearing on June 5, 2012 and directed that an ordinance be prepared to adopt expanded notice requirements for street vacations.

Narrative

See attached ordinance, Exhibit 1.

Attachments**Exhibit 1: Ordinance**

Form Review

Inbox	Reviewed By	Date
Planning Department	Rob Chave	11/29/2012 11:06 AM
City Clerk	Sandy Chase	11/29/2012 11:17 AM
Mayor	Dave Earling	11/30/2012 08:11 AM
Finalize for Agenda	Sandy Chase	11/30/2012 08:23 AM
Form Started By: Gina Janicek		Started On: 11/29/2012 10:26 AM
Final Approval Date: 11/30/2012		

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PORTIONS OF CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE THAT REQUIRES EXPANDED NOTICE REQUIREMENTS FOR EASEMENTS RETAINED DURING STREET VACATIONS.

WHEREAS, in response to a citizen request, the City Council tasked the Planning Board with considering an amendment to Chapter 20.70 of the Edmonds Community Development Code entitled "Street Vacations" to expand the content of notice requirements for street vacations; and

WHEREAS, after a public hearing held on May 9, 2012 the Planning Board forwarded a recommendation to the City Council regarding a proposed amendment to street vacation noticing requirements to indicate the nature of any easement that would be retained in connection with a vacation; and

WHEREAS, after a considering the Planning Board's recommendation at a public hearing held on June 5, 2012 the City Council directed that an ordinance be prepared to adopt expanded notice requirements for street vacations; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment to Chapter 20.70 Street Vacations. Section 20.70.090 of the Edmonds Community Development Code, entitled "Public notification – Contents and distribution," is hereby amended to read as follows (new text is shown in underline):

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

B. Distribution. At least 20 calendar days before the public hearing the planning manager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;

2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;

3. A copy will be published in the official newspaper of the city;

4. At least three copies will be posted in conspicuous public places in the city; and

5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated.

Section 2. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
JEFF TARADAY

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. _____

SUMMARY OF ORDINANCE NO. _____

of the City of Edmonds, Washington

On the ____ day of _____, 2012, the City Council of the City of Edmonds, passed Ordinance No. _____. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PORTIONS OF CHAPTER 20.70 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE THAT REQUIRES EXPANDED NOTICE REQUIREMENTS FOR EASEMENTS RETAINED DURING STREET VACATIONS.

The full text of this Ordinance will be mailed upon request.

DATED this ____ day of _____, 2012.

CITY CLERK, SANDRA S. CHASE

4840-7251-8158, v. 1

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCIL PRESIDENT PETERSON, TO APPROVE THE BALANCE OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

- A. ROLL CALL
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF MAY 22, 2012.
- D. APPROVAL OF CLAIM CHECKS #132105 THROUGH #132331 DATED MAY 24, 2012 FOR \$858,770.43, AND CLAIM CHECKS #132332 THROUGH #132413 DATED MAY 31, 2012 FOR \$203,306.88.
- E. APPROVAL OF LIST OF BUSINESSES APPLYING FOR RENEWAL OF THEIR LIQUOR LICENSE WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD, MAY 2012.
- F. AUTHORIZATION TO SELL TWO (2) SURPLUS FORD CROWN VICTORIA PATROL VEHICLES TO THE CITY OF TENINO, WASHINGTON.

ITEM C: APPROVAL OF CITY COUNCIL MEETING MINUTES OF MAY 29, 2012

Councilmember Petso explained she pulled this item to abstain from voting on the minutes of that meeting.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE ITEM C. MOTION CARRIED (5-0-1), COUNCILMEMBER PETSO ABSTAINING.

4. PUBLIC HEARING ON PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (ECDC 20.70.090.A). FILE NO. AMD20120003.

Associate Planner Kernen Lien explained in response to a citizen request, the Council tasked the Planning Board with considering an amendment to ECDC 20.70.090.A that would amend noticing requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation and if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The Planning Board held a public hearing on May 9, 2012 regarding the proposed amendment. The Planning Board recommends adding a new item 6 to ECDC 20.70.090.A that would read, "A description of any easement under consideration to be retained by the City. In the event an easement is desired but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided." At the Planning Board's public hearing Mr. Reidy identified two additional items in ECDC 20.70 that could be updated:

1. Insert language from RCW 35.79.030, the state law regarding vacations, within two sections of ECDC 20.70:
 - Insert "construction repairs and maintenance of" prior to "public utility services" in ECDC 20.70.030. This would clarify the type of easement that the City may retain in street vacations.
 - Change "applicant" to "owners of property abutting upon the street or alley or part thereof so vacated" in ECDC 20.70.140.A.3. The language in 20.70.140A.3 does not make sense if the City initiates the street vacation.

The Planning Board was tasked solely with the notice requirement. After discussing Mr. Reidy's additional amendments, the Planning Board recommended the City Council task the Planning Board with holding a public hearing on the two additional proposed amendments.

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

Ken Reidy, Edmonds, thanked the Council for considering the proposed code amendment to provide standard notice requirements for vacations of public easements. He expressed his support for the proposed code amendment as it will further protect citizens from a surprise replacement easement on their property against their will without any prior public notice. The City's code already does not allow surprise replacement easements; replacement easements must be granted by a citizen after the City Council adopts a resolution of intent to vacate if specific conditions are met in 90 days. He referred to page 3 of Attachment 1 of the packet, ECDC 20.70.140 Final Decision that outlines options for the Council's final decision. Mr. Reidy summarized there is no option for the Council to adopt an ordinance granting a vacation while at the same time reserving a surprise replacement easement against the will of the citizen without any prior public notice. He recommended the Council approve the code amendment to protect citizens from surprise replacement easements in the future. Based on his research, every street vacation administered by the City over the past 10 years has violated ECDC 20.70. As Mr. Lien stated there are other sections of ECDC 20.70 that need to be corrected and he requested the City Council ask the Planning Board to consider those corrections.

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

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO DIRECT THE CITY ATTORNEY TO DRAFT AN ORDINANCE APPROVING THE PROPOSED CODE AMENDMENT. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO TASK THE PLANNING BOARD WITH REVIEWING THE OTHER TWO PROPOSED AMENDMENTS. MOTION CARRIED UNANIMOUSLY.

5. AUDIENCE COMMENTS

Al Rutledge, Edmonds, reported on two upcoming events: 1) the booth at this Saturday's Farmers Market to collect donations for maintenance of the Edmonds Log Cabin, and 2) the car show on July 14 at Top Foods to benefit the food bank. He reported a number of students are coming to the food bank; most of them do not have jobs.

Ken Reidy, Edmonds, referred to discussion during recent Council meetings regarding ex parte communications, noting there seemed to be uncertainty regarding what the City and elected officials can do in certain circumstances. He asked the City's elected officials to address and clarify the following: when a land use legal dispute is ongoing involving a developer, the City of Edmonds and a group of citizens opposing the development, is it legal for the City to enter into a settlement agreement with the developer or the citizens group without the involvement or knowledge of the other party? For example, is it legal for the City to execute a settlement agreement with the citizens group without the involvement or knowledge of the developer and all three entities are parties to the related legal action? He requested the City Council request and require the City Attorney to research this question and answer it during an open public meeting in the near future.

6. APPOINTMENT TO FILL CITY COUNCIL VACANCY

City Clerk Sandy Chase provided the following rules with regard to appointment to fill City Council vacancy:

Nominations

Each Councilmember may nominate one candidate from the list of applicants by placing an "X" beside the name of the applicant of his or her choice on the form supplied for that purpose by the City Clerk, and

AM-4851

4.

City Council Meeting**Meeting Date:** 06/05/2012**Time:** 15 Minutes**Submitted By:** Gina Coccia**Department:** Planning**Review Committee:** Planning/Parks/Public Works **Committee Action:** Recommend Review by Full Council**Type:** Action

Information**Subject Title**

Public hearing on proposed code amendment to provide expanded notice requirements for street vacations (ECDC 20.70.090.A). File No. AMD20120003.

Recommendation

Staff and the Planning Board recommends APPROVAL of the proposed code amendment (Attachment 3).

Previous Council Action

This agenda item was reviewed by the Planning, Parks, and Public Works Committee on 03-13-12 and recommended to be placed on the Consent Agenda for approval. On 03-20-12, the Council approved this item on the Consent Agenda and forwarded it to the Planning Board for review. The Planning Board reviewed and discussed the item on 04-25-12. On 05-09-12, the Planning Board held a public hearing and a recommendation of approval was forwarded to the Council.

Narrative

The Council committee for Planning/Parks/Public Works discussed proposing a code amendment to expand notice requirements for street vacations on March 13, 2012. The City Council approved sending this item to the Planning Board on their March 20, 2012 consent agenda.

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations. A possible code amendment was discussed that would amend the noticing requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided. The proposal, as drafted, would amend the Edmonds Community Development Code by adding a new section 6 to ECDC 20.70.090.A as follows:

ECDC 20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;
2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;
3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file;
5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally; and
6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At the Public Hearing before the Planning Board, Mr. Reidy identified two additional items that could be updated in ECDC 20.70. After discussing the best approach for moving the amendments proposed by Mr. Reidy forward, the Board agreed to recommend that the City Council task the Board to hold a public hearing on the following two changes, which are consistent with RCW 35.79.030:

1. In ECDC 20.70.030 add "construction, repair and maintenance of" prior to "public utilities and services."
2. In ECDC 20.70.140.A.3 change "applicant" to "owners of property abutting upon the street or alley or part thereof so vacated."

Attachment 1: ECDC 20.70 – Street Vacations

Attachment 2: Minutes & Past Agendas

Attachment 3: Proposed Code Amendment to ECDC 20.70.090.A

Attachment 4: RCW 35.79.030

Attachments

Attachment 1: ECDC 20.70 - Street Vacations

Attachment 2: Minutes & Past Agendas

Attachment 3: Proposed Code Amendment

Attachment 4: RCW 35.79.030

Form Review

Inbox	Reviewed By	Date
Engineering	Robert English	05/31/2012 11:15 AM
Public Works	Phil Williams	05/31/2012 02:47 PM
City Clerk	Sandy Chase	06/01/2012 08:17 AM
Mayor	Dave Earling	06/01/2012 08:30 AM
Finalize for Agenda	Sandy Chase	06/01/2012 08:37 AM
Form Started By: Gina Coccia		Started On: 05/21/2012 02:21 PM
Final Approval Date: 06/01/2012		

Chapter 20.70**STREET VACATIONS****Sections:**

- 20.70.000 Purpose.
- 20.70.010 Applicability.
- 20.70.020 Criteria for vacation.
- 20.70.030 City easement rights for public utilities and services.
- 20.70.040 Limitations on vacations.
- 20.70.050 Initiation of proceedings.
- 20.70.060 Application requirements.
- 20.70.070 Public hearing – Date fixing.
- 20.70.80 Staff report preparation
- 20.70.090 Public notification – Contents and distribution.
- 20.70.100 Vacation file content and availability.
- 20.70.110 Public hearing – Required.
- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

20.70.000 Purpose.

This chapter establishes the procedure and criteria that the city will use to decide upon vacations of streets, alleys, and public easements. [Ord. 2933 § 1, 1993].

20.70.010 Applicability.

This chapter applies to each request for vacation by city council or by petition. Note: if the street to be vacated is shown on the official street map (Chapter 19.80 ECDC), the approved street vacation also changes the official street map to remove the vacated street (See Chapter 20.65 ECDC). [Ord. 2933 § 1, 1993].

20.70.020 Criteria for vacation.

The city council may vacate a street, alley, or easement only if it finds that:

- A. The vacation is in the public interest; and

B. No property will be denied direct access as a result of the vacation. [Ord. 2933 § 1, 1993].

20.70.030 City easement rights for public utilities and services.

In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

20.70.040 Limitations on vacations.

A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.

B. Objection by Property Owner. The city shall not proceed with the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the planning division prior to the time of the hearing. [Ord. 2933 § 1, 1993].

20.70.050 Initiation of proceedings.

A vacation may be initiated by:

- A. City council; or

B. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated. [Ord. 2933 § 1, 1993].

20.70.060 Application requirements.

An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;

B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;

C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';

D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more

than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;

2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;

3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and

4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and

2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning man-

ager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;
2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;
3. A copy will be published in the official newspaper of the city;
4. At least three copies will be posted in conspicuous public places in the city; and
5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

- A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and
- B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

1. Adopt an ordinance granting the vacation; or
2. Adopt a motion denying the vacation; or

3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:

- a. Either:
 - i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at "public expense", then full appraised value shall be paid; or
 - ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or
 - iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

OR

- b. A grant of an easement to the city in exchange for the easement vacated.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].

Chapter 20.75

SUBDIVISIONS

Sections:

20.75.010	Citation of chapter.
20.75.020	Purposes.
20.75.025	Scope.
20.75.030	Subdivision defined.
20.75.035	Compliance required.
20.75.040	Application.
20.75.050	Lot line adjustment – Application.
20.75.055	Lot combination.
20.75.060	Required information on preliminary plats.
20.75.065	Preliminary review.
20.75.070	Formal subdivision – Time limit.
20.75.075	Modifications.
20.75.080	General findings.
20.75.085	Review criteria.
20.75.090	Park land dedication.
20.75.100	Preliminary approval – Time limit.
20.75.105	<i>Repealed.</i>
20.75.110	Changes.
20.75.120	Review of improvement plans.
20.75.130	Installation of improvements.
20.75.135	Preparation of final plat.
20.75.140	Final plat – Required certificates.
20.75.145	Final plat – Accompanying material.
20.75.150	Waiver of survey.
20.75.155	Review of final plat.
20.75.158	Short plat – Staff review.
20.75.160	Final plat – Filing for record.
20.75.165	Effect of rezones.
20.75.170	Further division – Short subdivisions.
20.75.175	Court review.
20.75.180	Violation – Permits.
20.75.185	Penalties.

AM-4653

4. L.

City Council Meeting

Meeting
Date: **03/20/2012**

Time: **Consent**

Department: City Clerk's Office

Review Planning/Parks/Public

Committee: Works

Type: Action

Committee Approve for Consent

Action: Agenda

Information

Subject Title

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

This agenda item was reviewed by the Planning, Parks and Public Works Committee on 03-13-12 and recommended to be placed on the Consent Agenda for approval.

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council,

ATTACHMENT 2

whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

Attachments

Attachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Form Started By: Sandy Chase		Started On: 03/15/2012
Final Approval Date: 03/16/2012		

ATTACHMENT 2

E. Authorization to approve Utility Easement for the Sewer Lift Station Rehabilitation Project.

Mr. English explained the purpose of the utility easement and how the easement is needed to supplement an existing utility easement at Sewer Lift Station No. 14. The City agreed to pay \$2,221.18 in compensation for the permanent sewer easement.

ACTION: Moved to consent agenda for approval.

F. Traffic Impact Fee Annual Report.

Mr. English reviewed the 2011 Traffic Impact Fee Annual Report and informed the committee that the report would be forwarded to the full council for information.

ACTION: Moved to consent agenda for approval.

G. Proposed ordinance amending the provisions of ECDC 18.00.050 for apprenticeship participation on City construction contracts.

Mr. English discussed the proposed changes to the Apprenticeship requirements on public works construction contracts. The committee recommended that the threshold for apprenticeship participation be increased to match the small works construction contract limit and that the item be presented to the full council for review and action.

ACTION: (Item to be presented at the March 20, 2012 Council Meeting.)

H. Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

The Committee recommended that the proposed changes be referred to the Planning Board for review and action and to place the recommendation on the March 20, 2012 consent agenda for approval.

ACTION: Moved to consent agenda for approval.

I. Code language regarding Edmonds City Code Chapter 2.10.

Mr. Taraday presented the proposed changes to City Code Chapter 2.10 and answered questions from the Committee.

ACTION: Item will be discussed further at the April 10, 2012 Planning, Parks and Public Works Committee.

J. Public Comments.

No Comments.

The meeting adjourned at 7:45 p.m.

AM-4615

9. H.

City Council Meeting**Meeting Date:** 03/13/2012**Time:** 10 Minutes**Submitted For:** Councilwoman Petso**Submitted By:** Jana Spellman**Department:** City Council**Review Committee:** Planning/Parks/Public Works**Committee Action:****Type:** Action

Information**Subject Title**

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

None

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council, whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

ATTACHMENT 2

AttachmentsAttachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Planning Department	Rob Chave	03/08/2012 12:00 PM
City Clerk	Sandy Chase	03/08/2012 12:13 PM
Mayor	Dave Earling	03/08/2012 12:40 PM
Final Approval	Sandy Chase	03/08/2012 01:59 PM
Form Started By: Jana Spellman		Started On: 03/05/2012 09:00 AM
Final Approval Date: 03/08/2012		

ATTACHMENT 2

DRAFT
Subject to June 13th Approval

**CITY OF EDMONDS
PLANNING BOARD MINUTES**

May 9, 2012

Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Philip Lovell, Chair
Valerie Stewart, Vice Chair
Todd Cloutier
Bill Ellis
Kristiana Johnson
John Reed
Neil Tibbott

STAFF PRESENT

Kernen Lien, Planner
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Kevin Clarke

READING/APPROVAL OF MINUTES

VICE CHAIR STEWART MOVED THAT THE MINUTES OF APRIL 25, 2012 BE APPROVED AS AMENDED. BOARD MEMBER REED SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The agenda was accepted as presented.

AUDIENCE COMMENTS

Ken Reidy, Edmonds, said he was present to voice his concerns about Ordinance 3740, which was adopted by the City Council on June 16, 2009. He said he has approached the Mayor and City Council on numerous occasions over the past few years, but has not received a satisfactory response. Therefore, he felt it necessary to bring the issue to the Planning Board's attention, as well. He explained that Ordinance 3740 adopted a new ECDC 19.80.022 to authorize the Hearing Examiner to decide building code appeals whenever the Board of Appeals is unable to convene; repealed duplicate and conflicting provisions relating to the board of appeals in ECDC 10.15; provided for severability; and fixed a time when the same shall be effective. He said the ordinance was originally placed on the City Council's consent agenda for approval, but it was removed for further discussion. At that time, Council Member Bernheim asked whether a public hearing had been held regarding the amendments. Building Official Ann Bullis responded that public hearings were held for the adoption of ECDC 19.80. However, when the code was adopted, these sections were inadvertently omitted, a scrivener's error. City Attorney Snyder further responded that since entire sections had inadvertently been omitted, staff determined the best course of action was to present them to the City Council for approval. After this discussion, Council Member Bernheim moved, seconded by Council Member Wambolt, to approve the proposed amendment.

ATTACHMENT 2

Mr. Reidy said that, after thorough research of the ordinance, he believes there was no scrivener's error and the ordinance was approved under false pretences. He pointed out that other ordinances he has seen to correct scrivener's errors refer to the scrivener's error in the heading and/or body of the related ordinance (i.e. Ordinances 3453, 3514, 3561, 3652 and 3654), but there is no mention of the word "scrivener's" or the word "error" in the heading and/or body of Ordinance 3740. He said that City staff instructed him to pursue his appeal to a code enforcement decision through the Board of Appeals process. He trusted he was instructed properly, and he spent a great deal of money and time only to find out just prior to the hearing that in a Board of Appeals review, the burden of proof is the responsibility of the appellant and not the City. He questioned what caused the City to review this issue in 2009 and why City staff guided him down the Board of Appeals path just a few months later. He asked that the Board investigate this issue further, and he agreed to provide more information regarding the issue.

PUBLIC HEARING ON PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (ECDC 20.70.090.A) (FILE NUMBER AMD20120003)

Mr. Lien advised that code language related to street vacations is contained in Edmonds Community Development Code (ECDC) 20.70. The proposed amendment was forwarded to the Board from the City Council. He explained that street vacations are rare and occur when a property owner adjacent to a right-of-way wants to purchase land from the City. The cost of a street vacation application is \$1,750 plus recording fees, and applicants are required to provide an explanation of why the City should relinquish the property. They must also submit maps, a fair market value appraisal, notice labels for property owners living within 300 feet of the project, etc. Street vacation applications are processed by the Planning Division but analyzed by the Engineering Division. Staff forwards a recommendation to the City Council, and the City Council conducts a public hearing and makes a final decision about whether to sell and/or vacate the property.

Mr. Lien advised that the proposed amendment would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation. The exact proposal would add a new Section 6 to ECDC 20.70.090.A to read: *"A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided."* He summarized that, as proposed, if further analysis determines that an easement is needed, re-noticing the hearing would be required.

Chair Lovell asked if the proposed language in ECDC 20.70.090.A.6 is sufficient to cover the retention of existing easements, as well as any new easements that are needed. Mr. Lien answered affirmatively and explained that the proposed language would mandate that all easements required by the City must be included in the public hearing notice. If the City determines that an additional easement is needed, which was not identified in the notice of public hearing, the meeting would be re-noticed and a new public hearing would be conducted.

Board Member Ellis asked who is responsible for reviewing street vacation applications to determine what easements the City needs. Mr. Lien answered that the Planning Division processes street vacation applications, but the Engineering Division reviews the applications to identify necessary utility and access easements.

Chair Lovell summarized that ECDC 20.70.090 is intended to address situations where property owners want to purchase public right-of-way from the City. Mr. Lien said that, typically, street vacation applications involve unimproved alleyways in the downtown area. Adjacent property owners can approach the City with a vacation request and, if approved, the property is typically split between the two property owners on either side.

Vice Chair Stewart asked if the proposed amendment would require the City to reschedule a public hearing if it is determined in the days following the public notice that an additional easement needs to be considered. Mr. Lien said the public hearing could go forward as scheduled, but then it would be continued so that further notice related to the easement could be provided.

Ken Reidy, Edmonds, said the proposed amendment is directly related to a recent experience he encountered when the City encouraged him to pursue vacation of an alleyway to address a number of issues in his neighborhood. He emphasized that it was the City's idea and he approached the City Council with a street vacation proposal. He explained that street vacation applications can either be initiated by a private property owner or by the City Council. Some street vacation applications are

so obviously in the City's best interest that the City Council will initiate the process after receiving a request from a citizen. He said he and two of his neighbors met with Mayor Haakenson and Council Members Pritchard-Olsen and Wambolt to discuss the matter, and it was agreed that a street vacation would be appropriate.

Mr. Reidy explained that a 7.5-foot right-of-way was identified to the north of his property in the late 1800's. The intent was that an additional 7.5 feet of right-of-way would be designated once property to the north was annexed. This annexation never occurred, and the City was left with a small strip of land that is not large enough for access. Mayor Haakenson and staff initiated a street vacation, which included no mention of a construction easement. However, at the public hearing, City Attorney Snyder recommended a legislative action to preserve a temporary construction easement on the property to allow an adjacent property owner to construct a retaining wall. The City Council voted to approve the street vacation, but they also approved a temporary construction easement that dramatically changed his life.

Mr. Reidy pointed out that ECDC 20.70.050 makes it clear that street vacations can be initiated by either the City Council or by owners of more than two thirds of property abutting the portion of the street or alley to be vacated. ECDC 20.70.070 also gives the impression that a street vacation can be initiated by either property owners or the City Council. He said that while he supports the proposed amendment to add new language to ECDC 20.70.090, it is not necessary because State Law does not allow surprise easements to be reserved on someone's property without notice. The new language would add a new layer of insurance so other property owners do not have to go through what he experienced. He noted that the language in ECDC 20.70.140.A also supports his contention that it is not possible for the City to do a last minute surprise easement in a street vacation process. It allows the City Council to adopt an ordinance granting the vacation; adopt a motion denying the vacation; or adopt a resolution of intent to vacate stating that the City Council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The City may also require the applicant to:

1. Provide monetary compensation to the City in exchange for the easement.
2. Grant a substitute public right-of-way.
3. Provide a combination of monetary compensation and a grant of substitute public right of way
4. Grant an easement to the City in exchange for the vacated easement.

To address the issue of easements associated with street vacations in the future, Mr. Reidy suggested that the following additional changes are also needed:

- **ECDC 20.70.030.** Mr. Reidy suggested that a very critical component of State Law (RCW 35.79.030) was omitted from ECDC 20.70.030. To address this omission, he suggested that the words "construction, repair and maintenance of" should be inserted before "public utilities and services." He recalled that at the hearing, City Attorney Snyder argued that the City had the right to preserve a construction easement for a private developer to use while constructing a retaining wall. This was not a City need. He emphasized that State Law only allows the City to reserve easements for construction, repair and maintenance of public utilities and services.
- **ECDC 20.70.140.A.** Mr. Reidy expressed his belief that the word "applicant" is too narrow because street vacations can be initiated by property owners or the City Council. There are no applicants for street vacations that are initiated by the City Council. He suggested this word should be replaced with "fee title owner to the property," which is the term used in RCW 35.79.030.

Mr. Reidy said he has researched every street vacation that has been approved by the City since 2000, and he found that all were done in violation of City code for a variety of reasons. He asked the Board to not underestimate the importance of getting the language in ECDC 20.70 right. This one section had a profound impact on his family's life. He asked the Board to give attention to the items he brought forward for change.

Board Member Reed asked if Mr. Reidy has presented his proposed changes to the appropriate City Council committee for consideration. Mr. Reidy answered that he has not. Board Member Reed pointed out that the Board cannot make a recommendation on the proposed amendments unless directed to do so by the City Council. Chair Lovell added that while he understands Mr. Reidy's concerns, the issues needs further investigation by the staff and City Attorney and are outside the scope of the public hearing. The Board must limit their discussion to the proposed amendment that was advertised for public hearing.

Mr. Reidy inquired regarding the process for getting his proposed amendments on the Planning Board's agenda for consideration. Mr. Lien answered that any citizen can propose an amendment to the ECDC, but there is an associated fee (\$1,000 to \$2,000). The other option is for citizens to approach the City Council with a request for them to direct the staff and Planning Board to pursue a code amendment. He noted that Mr. Reidy's comments would be included in the Board's minutes, which are forwarded to the City Council.

Chair Lovell suggested it would be appropriate for the Board to forward a recommendation to the City Council regarding the proposed amendment that was advertised for public hearing. The issues raised by Mr. Reidy could be addressed as a separate item. Board Member Johnson asked if Mr. Reidy is in support of the proposed amendment. Mr. Reidy answered affirmatively. He added that he intends to approach City Council with a request to sponsor his proposed amendments.

Board Member Cloutier suggested that, as per RCW 35.79.030, the correct term to use in ECDC 20.70.140.A.3 is "owners of property abutting upon the street or alleyway or part thereof so vacated." Mr. Reidy explained that, typically, the underlying fee titles for rights-of-way are owned by adjacent property owners. However, this ownership is subordinate to the public's right for ingress and egress over the property. When streets and alleys are vacated, they go back to the owner of the underlying fee title. He agreed that the term used in RCW 35.79.030 would be more appropriate than "applicant."

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Cloutier suggested the Board forward a recommendation to the City Council regarding the proposed amendment that was advertised for public hearing, as well as the two amendments brought forward by Mr. Reidy. Chair Lovell questioned the Board's ability to amend the language above and beyond what was outlined in the public notice. Mr. Lien read the public notice, which was specifically related to the proposed amendment. Chair Lovell noted that the City Council's memorandum was also specific to just the proposed amendment.

CHAIR LOVELL MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENT (ECDC 20.70.090.A) TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (FILE NUMBER AMD20120003) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL AS PRESENTED BY STAFF. BOARD MEMBER REED SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

After discussing the best approach for moving the amendments proposed by Mr. Reidy forward, the Board agreed to recommend that the City Council task the Board to hold a public hearing on the following two changes, which are consistent with RCW 35.79.030:

1. In ECDC 20.70.030 add "construction, repair and maintenance of" prior to "public utilities and services."
2. In ECDC 20.70.140.A.3 change "applicant" to "owners of property abutting upon the street or alley or part thereof so vacated."

PUBLIC HEARING ON UPDATING THE CITY OF EDMONDS CITY CODE (ECC) 4.12 AND PORTIONS OF EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) TITLE 16 TO ALLOW MOTORIZED MOBILE VENDORS (FILE NUMBER AMD20100012)

Mr. Lien recalled that the Board previously reviewed the proposed amendments (Attachments 1 and 2) on February 8th and March 28th. He explained that, at this time, there is conflicting and confusing language with the Edmonds City Code (ECC) and the Edmonds Community Development Code (ECDC) as to whether motorized mobile vending (MMV) units are an allowed activity in Edmonds. He explained that ECC 4.12 allows peddlers, but the language was directed more towards non-motorized mobile vending (NMMV) units. There were also conflicts in ECDC 16, which restricts uses to those that are carried on entirely within a completely enclosed building. As directed by the City Council, the intent of the proposed amendments is to make it clear that MMV units are permitted within the City of Edmonds. He reviewed the changes that were made to ECC 4.12 and ECDC 16 as directed by the Board on March 28th:

ECDC 20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;
2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;
3. A statement of the time and place of the public hearing before the city council;
4. A statement of the availability of the vacation file; and
5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally; and
6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

RCW 35.79.030

Hearing — Ordinance of vacation.

The hearing on such petition may be held before the legislative authority, before a committee thereof, or before a hearing examiner, upon the date fixed by resolution or at the time the hearing may be adjourned to. If the hearing is before a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If the hearing is held before a committee it shall not be necessary to hold a hearing on the petition before the legislative authority. If the hearing is before a hearing examiner, the hearing examiner shall, following the hearing, report its recommendation on the petition to the legislative authority, which may adopt or reject the recommendation: PROVIDED, That the hearing examiner must include in its report to the legislative authority an explanation of the facts and reasoning underlying a recommendation to deny a petition. If a hearing is held before a hearing examiner, it shall not be necessary to hold a hearing on the petition before the legislative authority. If the legislative authority determines to grant the petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located. One-half of the revenue received by the city or town as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town.

[2011 c 130 § 1; 2002 c 55 § 1; 2001 c 202 § 1; 1987 c 228 § 1; 1985 c 254 § 1; 1969 c 28 § 4. Prior: 1967 ex.s. c 129 § 1; 1967 c 123 § 1; 1965 c 7 § 35.79.030 ; prior: 1957 c 156 § 4; 1949 c 14 § 1; 1901 c 84 § 2; Rem. Supp. 1949 § 9298.]

Mr. Reidy said that, after thorough research of the ordinance, he believes there was no scrivener's error and the ordinance was approved under false pretences. He pointed out that other ordinances he has seen to correct scrivener's errors refer to the scrivener's error in the heading and/or body of the related ordinance (i.e. Ordinances 3433, 3514, 3561, 3652 and 3654), but there is no mention of the word "scrivener's" or the word "error" in the heading and/or body of Ordinance 3740. He said that City staff instructed him to pursue his appeal to a code enforcement decision through the Board of Appeals process. He trusted he was instructed properly, and he spent a great deal of money and time only to find out just prior to the hearing that in a Board of Appeals review, the burden of proof is the responsibility of the appellant and not the City. He questioned what caused the City to review this issue in 2009 and why City staff guided him down the Board of Appeals path just a few months later. He asked that the Board investigate this issue further, and he agreed to provide more information regarding the issue.

PUBLIC HEARING ON PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (ECDC 20.70.090.A) (FILE NUMBER AMD20120003)

Mr. Lien advised that code language related to street vacations is contained in Edmonds Community Development Code (ECDC) 20.70. The proposed amendment was forwarded to the Board from the City Council. He explained that street vacations are rare and occur when a property owner adjacent to a right-of-way wants to purchase land from the City. The cost of a street vacation application is \$1,750 plus recording fees, and applicants are required to provide an explanation of why the City should relinquish the property. They must also submit maps, a fair market value appraisal, notice labels for property owners living within 300 feet of the project, etc. Street vacation applications are processed by the Planning Division but analyzed by the Engineering Division. Staff forwards a recommendation to the City Council, and the City Council conducts a public hearing and makes a final decision about whether to sell and/or vacate the property.

Mr. Lien advised that the proposed amendment would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation. The exact proposal would add a new Section 6 to ECDC 20.70.090.A to read: *"A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided."* He summarized that, as proposed, if further analysis determines that an easement is needed, re-noticing the hearing would be required.

Chair Lovell asked if the proposed language in ECDC 20.70.090.A.6 is sufficient to cover the retention of existing easements, as well as any new easements that are needed. Mr. Lien answered affirmatively and explained that the proposed language would mandate that all easements required by the City must be included in the public hearing notice. If the City determines that an additional easement is needed, which was not identified in the notice of public hearing, the meeting would be re-noticed and a new public hearing would be conducted.

Board Member Ellis asked who is responsible for reviewing street vacation applications to determine what easements the City needs. Mr. Lien answered that the Planning Division processes street vacation applications, but the Engineering Division reviews the applications to identify necessary utility and access easements.

Chair Lovell summarized that ECDC 20.70.090 is intended to address situations where property owners want to purchase public right-of-way from the City. Mr. Lien said that, typically, street vacation applications involve unimproved alleyways in the downtown area. Adjacent property owners can approach the City with a vacation request and, if approved, the property is typically split between the two property owners on either side.

Vice Chair Stewart asked if the proposed amendment would require the City to reschedule a public hearing if it is determined in the days following the public notice that an additional easement needs to be considered. Mr. Lien said the public hearing could go forward as scheduled, but then it would be continued so that further notice related to the easement could be provided.

Ken Reidy, Edmonds, said the proposed amendment is directly related to a recent experience he encountered when the City encouraged him to pursue vacation of an alleyway to address a number of issues in his neighborhood. He emphasized that it was the City's idea and he approached the City Council with a street vacation proposal. He explained that street vacation applications can either be initiated by a private property owner or by the City Council. Some street vacation applications are so obviously in the City's best interest that the City Council will initiate the process after receiving a request from a citizen.

APPROVED

He said he and two of his neighbors met with Mayor Haakenson and Council Members Pritchard-Olsen and Wambolt to discuss the matter, and it was agreed that a street vacation would be appropriate.

Mr. Reidy explained that a 7.5-foot right-of-way was identified to the north of his property in the late 1800's. The intent was that an additional 7.5 feet of right-of-way would be designated once property to the north was annexed. This annexation never occurred, and the City was left with a small strip of land that is not large enough for access. Mayor Haakenson and staff initiated a street vacation, which included no mention of a construction easement. However, at the public hearing, City Attorney Snyder recommended a legislative action to preserve a temporary construction easement on the property to allow an adjacent property owner to construct a retaining wall. The City Council voted to approve the street vacation, but they also approved a temporary construction easement that dramatically changed his life.

Mr. Reidy pointed out that ECDC 20.70.050 makes it clear that street vacations can be initiated by either the City Council or by owners of more than two thirds of property abutting the portion of the street or alley to be vacated. ECDC 20.70.070 also gives the impression that a street vacation can be initiated by either property owners or the City Council. He said that while he supports the proposed amendment to add new language to ECDC 20.70.090, it is not necessary because State Law does not allow surprise easements to be reserved on someone's property without notice. The new language would add a new layer of insurance so other property owners do not have to go through what he experienced. He noted that the language in ECDC 20.70.140.A also supports his contention that it is not possible for the City to do a last minute surprise easement in a street vacation process. It allows the City Council to adopt an ordinance granting the vacation; adopt a motion denying the vacation; or adopt a resolution of intent to vacate stating that the City Council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The City may also require the applicant to:

1. Provide monetary compensation to the City in exchange for the easement.
2. Grant a substitute public right-of-way.
3. Provide a combination of monetary compensation and a grant of substitute public right of way
4. Grant an easement to the City in exchange for the vacated easement.

To address the issue of easements associated with street vacations in the future, Mr. Reidy suggested that the following additional changes are also needed:

- **ECDC 20.70.030.** Mr. Reidy suggested that a very critical component of State Law (RCW 35.79.030) was omitted from ECDC 20.70.030. To address this omission, he suggested that the words "construction, repair and maintenance of" should be inserted before "public utilities and services." He recalled that at the hearing, City Attorney Snyder argued that the City had the right to preserve a construction easement for a private developer to use while constructing a retaining wall. This was not a City need. He emphasized that State Law only allows the City to reserve easements for construction, repair and maintenance of public utilities and services.
- **ECDC 20.70.140.A.** Mr. Reidy expressed his belief that the word "applicant" is too narrow because street vacations can be initiated by property owners or the City Council. There are no applicants for street vacations that are initiated by the City Council. He suggested this word should be replaced with "fee title owner to the property," which is the term used in RCW 35.79.030.

Mr. Reidy said he has researched every street vacation that has been approved by the City since 2000, and he found that all were done in violation of City code for a variety of reasons. He asked the Board to not underestimate the importance of getting the language in ECDC 20.70 right. This one section had a profound impact on his family's life. He asked the Board to give attention to the items he brought forward for change.

Board Member Reed asked if Mr. Reidy has presented his proposed changes to the appropriate City Council committee for consideration. Mr. Reidy answered that he has not. Board Member Reed pointed out that the Board cannot make a recommendation on the proposed amendments unless directed to do so by the City Council. Chair Lovell added that while he understands Mr. Reidy's concerns, the issues needs further investigation by the staff and City Attorney and are outside the scope of the public hearing. The Board must limit their discussion to the proposed amendment that was advertised for public hearing.

Mr. Reidy inquired regarding the process for getting his proposed amendments on the Planning Board's agenda for consideration. Mr. Lien answered that any citizen can propose an amendment to the ECDC, but there is an associated fee (\$1,000 to \$2,000). The other option is for citizens to approach the City Council with a request for them to direct the staff and Planning Board to pursue a code amendment. He noted that Mr. Reidy's comments would be included in the Board's minutes, which are forwarded to the City Council.

Chair Lovell suggested it would be appropriate for the Board to forward a recommendation to the City Council regarding the proposed amendment that was advertised for public hearing. The issues raised by Mr. Reidy could be addressed as a separate item. Board Member Johnson asked if Mr. Reidy is in support of the proposed amendment. Mr. Reidy answered affirmatively. He added that he intends to approach City Council with a request to sponsor his proposed amendments.

Board Member Cloutier suggested that, as per RCW 35.79.030, the correct term to use in ECDC 20.70.140.A.3 is "owners of property abutting upon the street or alleyway or part thereof so vacated." Mr. Reidy explained that, typically, the underlying fee titles for rights-of-way are owned by adjacent property owners. However, this ownership is subordinate to the public's right for ingress and egress over the property. When streets and alleys are vacated, they go back to the owner of the underlying fee title. He agreed that the term used in RCW 35.79.030 would be more appropriate than "applicant."

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Board Member Cloutier suggested the Board forward a recommendation to the City Council regarding the proposed amendment that was advertised for public hearing, as well as the two amendments brought forward by Mr. Reidy. Chair Lovell questioned the Board's ability to amend the language above and beyond what was outlined in the public notice. Mr. Lien read the public notice, which was specifically related to the proposed amendment. Chair Lovell noted that the City Council's memorandum was also specific to just the proposed amendment.

CHAIR LOVELL MOVED THAT THE BOARD FORWARD THE PROPOSED AMENDMENT (ECDC 20.70.090.A) TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (FILE NUMBER AMD20120003) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL AS PRESENTED BY STAFF. BOARD MEMBER REED SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

After discussing the best approach for moving the amendments proposed by Mr. Reidy forward, the Board agreed to recommend that the City Council task the Board to hold a public hearing on the following two changes, which are consistent with RCW 35.79.030:

1. In ECDC 20.70.030 add "construction, repair and maintenance of" prior to "public utilities and services."
2. In ECDC 20.70.140.A.3 change "applicant" to "owners of property abutting upon the street or alley or part thereof so vacated."

PUBLIC HEARING ON UPDATING THE CITY OF EDMONDS CITY CODE (ECC) 4.12 AND PORTIONS OF EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) TITLE 16 TO ALLOW MOTORIZED MOBILE VENDORS (FILE NUMBER AMD20100012)

Mr. Lien recalled that the Board previously reviewed the proposed amendments (Attachments 1 and 2) on February 8th and March 28th. He explained that, at this time, there is conflicting and confusing language with the Edmonds City Code (ECC) and the Edmonds Community Development Code (ECDC) as to whether motorized mobile vending (MMV) units are an allowed activity in Edmonds. He explained that ECC 4.12 allows peddlers, but the language was directed more towards non-motorized mobile vending (NMMV) units. There were also conflicts in ECDC 16, which restricts uses to those that are carried on entirely within a completely enclosed building. As directed by the City Council, the intent of the proposed amendments is to make it clear that MMV units are permitted within the City of Edmonds. He reviewed the changes that were made to ECC 4.12 and ECDC 16 as directed by the Board on March 28th:

- Separate definitions were provided for MMV and NMMV units. The definition for MMV unit was broadened to allow MMV units to sell other items besides food and beverages. He referred to a memorandum from Board Member Johnson

APPROVED

Planning Board Agenda**Meeting Date:** 05/09/2012

Public Hearing on code amendment to expand notice requirements for street vacations (ECDC 20.70.090.A)

Staff Lead/Author: Gina Coccia**Department:** Planning**Initiated By:** City Council

Information**Subject/Purpose**

Public hearing on proposed code amendment to provide expanded notice requirements for street vacations (ECDC 20.70.090.A). (File No. AMD20120003).

Staff Recommendation

Staff recommends the Board recommend APPROVAL of the proposed code amendment (Attachment 3) to the City Council.

Previous Board Action

The Planning Board discussed this item on April 25, 2012 (Attachment 2) and scheduled a public hearing for May 9, 2012.

Narrative

The Council committee for Planning/Parks/Public Works discussed proposing a code amendment to expand notice requirements for street vacations on March 13, 2012. The City Council approved sending this item to the Planning Board on their March 20, 2012 consent agenda.

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations. A possible code amendment was discussed that would amend the noticing requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided. The proposal, as drafted, would amend the Edmonds Community Development Code by adding a new section 6 to ECDC 20.70.090.A as follows:

ECDC 20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;
2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;
3. A statement of the time and place of the public hearing before the city council;
4. A statement of the availability of the vacation file;
5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally; and
6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

Attachment 1: ECDC 20.70 – Street Vacations

Attachment 2: Minutes & Past Agendas

Attachment 3: Proposed Code Amendment to ECDC 20.70.090.A

Attachments

Attachment 1: ECDC 20.70 Street Vacations

Attachment 2: Minutes & Past Agendas

Attachment 3: Proposed Code Amendment

Chapter 20.70**STREET VACATIONS****Sections:**

- 20.70.000 Purpose.
- 20.70.010 Applicability.
- 20.70.020 Criteria for vacation.
- 20.70.030 City easement rights for public utilities and services.
- 20.70.040 Limitations on vacations.
- 20.70.050 Initiation of proceedings.
- 20.70.060 Application requirements.
- 20.70.070 Public hearing – Date fixing.
- 20.70.80 Staff report preparation
- 20.70.090 Public notification – Contents and distribution.
- 20.70.100 Vacation file content and availability.
- 20.70.110 Public hearing – Required.
- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

20.70.000 Purpose.

This chapter establishes the procedure and criteria that the city will use to decide upon vacations of streets, alleys, and public easements. [Ord. 2933 § 1, 1993].

20.70.010 Applicability.

This chapter applies to each request for vacation by city council or by petition. Note: if the street to be vacated is shown on the official street map (Chapter 19.80 ECDC), the approved street vacation also changes the official street map to remove the vacated street (See Chapter 20.65 ECDC). [Ord. 2933 § 1, 1993].

20.70.020 Criteria for vacation.

The city council may vacate a street, alley, or easement only if it finds that:

- A. The vacation is in the public interest; and

B. No property will be denied direct access as a result of the vacation. [Ord. 2933 § 1, 1993].

20.70.030 City easement rights for public utilities and services.

In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

20.70.040 Limitations on vacations.

A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.

B. Objection by Property Owner. The city shall not proceed with the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the planning division prior to the time of the hearing. [Ord. 2933 § 1, 1993].

20.70.050 Initiation of proceedings.

A vacation may be initiated by:

- A. City council; or

B. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated. [Ord. 2933 § 1, 1993].

20.70.060 Application requirements.

An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;

B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;

C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';

D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more

than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;

2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;

3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and

4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and

2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning man-

ager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;
2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;
3. A copy will be published in the official newspaper of the city;
4. At least three copies will be posted in conspicuous public places in the city; and
5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and

B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

1. Adopt an ordinance granting the vacation; or

2. Adopt a motion denying the vacation; or

3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:

a. Either:

i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at "public expense", then full appraised value shall be paid; or

ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or

iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

OR

b. A grant of an easement to the city in exchange for the easement vacated.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].

Chapter 20.75

SUBDIVISIONS

Sections:

20.75.010	Citation of chapter.
20.75.020	Purposes.
20.75.025	Scope.
20.75.030	Subdivision defined.
20.75.035	Compliance required.
20.75.040	Application.
20.75.050	Lot line adjustment – Application.
20.75.055	Lot combination.
20.75.060	Required information on preliminary plats.
20.75.065	Preliminary review.
20.75.070	Formal subdivision – Time limit.
20.75.075	Modifications.
20.75.080	General findings.
20.75.085	Review criteria.
20.75.090	Park land dedication.
20.75.100	Preliminary approval – Time limit.
20.75.105	<i>Repealed.</i>
20.75.110	Changes.
20.75.120	Review of improvement plans.
20.75.130	Installation of improvements.
20.75.135	Preparation of final plat.
20.75.140	Final plat – Required certificates.
20.75.145	Final plat – Accompanying material.
20.75.150	Waiver of survey.
20.75.155	Review of final plat.
20.75.158	Short plat – Staff review.
20.75.160	Final plat – Filing for record.
20.75.165	Effect of rezones.
20.75.170	Further division – Short subdivisions.
20.75.175	Court review.
20.75.180	Violation – Permits.
20.75.185	Penalties.

DRAFT
Subject to May 9th Approval

CITY OF EDMONDS
PLANNING BOARD MINUTES

April 25, 2012

Chair Lovell called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Philip Lovell, Chair
Valerie Stewart, Vice Chair
Kevin Clarke
Todd Cloutier
Kristiana Johnson
John Reed
Neil Tibbott

STAFF PRESENT

Rob Chave, Development Services Director
Gina Coccia, Planner
Mike Clugston, Planner
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Bill Ellis (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER REED MOVED THAT THE MINUTES OF APRIL 11, 2012 BE APPROVED AS AMENDED. CHAIR LOVELL SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

Chair Lovell recalled that staff had intended to provide updated code language for Mobile Mobilized Vending (MMV) Units for the Board's review prior to the May 9th public hearing. Mr. Chave indicated that the updated code language would be emailed to the Board Members prior to the next meeting.

The agenda was accepted as presented.

AUDIENCE COMMENTS

Roger Hertrich, Edmonds, said he attended the April 24th Strategic Plan and Visioning Retreat, where members of the City Council, Planning Board and Economic Development Commission reviewed the survey and focus group results. He expressed his concern about public awareness and the public's concern that they are sometimes left out of the process. As an example, he suggested it would be appropriate to publish the Planning Board's full agenda on Channel 21 so it is clear that a public comment period is part of all the Board's meetings. He felt that publishing the entire agenda would encourage more people to attend.

Mr. Hertrich pointed out that, although the Planning Board is also the City's Parks Board, they have not discussed the current proposal to change the entire scenario on Sunset Avenue. After consulting with the City Council, the Public Works Director

and the Parks, Recreation and Cultural Services Director applied for grants for the project without conducting a public hearing or notifying the property owners on Sunset of the potential project. He suggested that the correct approach would have been to involve the public much earlier in the process.

Mr. Hertrich referred to a memorandum from Council Member Petso outlining her concern that the Westgate survey results are misleading. He requested that Board read the important parts of the memorandum into the record. He commented that, on a practical basis, Westgate is a regional, auto-oriented shopping area. There will not be enough pedestrians in the area to warrant making the entire design pedestrian dependent, which appears to be the conclusion reached to this point.

PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (FILE NUMBER AMD20120003)

Ms. Coccia advised that code language related to street vacations is contained in Edmonds Community Development Code (ECDC) 20.70 (Attachment 1). The proposed amendment was forwarded to the Board from the City Council, and a summary of the Council's review was provided in Attachment 2. She noted that ECDC 21.100.010 defines "vacation" as "a statutory procedure by which the City may relinquish its interest in streets, alleys, or easements."

Ms. Coccia explained that street vacations are rare (about one per year) and occur when property owners adjacent to unimproved rights-of-way want to purchase land from the City. The cost of a street vacation application is \$1,750 plus recording fees, and applicants are required to provide an explanation of why the City should relinquish the property. They must also submit maps, a fair market value appraisal, notice labels for property owners living within 300 feet of the project, etc. Street vacation applications are processed by the Planning Division but analyzed by the Engineering Division. Staff forwards a recommendation to the City Council, and they conduct a public hearing and make a final decision about whether to sell and/or vacate the property.

Ms. Coccia advised that the proposed amendment would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation. The exact proposal would add a new Section 6 to ECDC 20.70.090.A to read: *"A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided."* She explained that street vacation applications make their way to the City Council quickly and the administrative work is done early. If further analysis determines that an easement is needed, the proposed amendment would require re-noticing the hearing.

Ms. Coccia announced that a Planning Board public hearing on the proposed amendment is scheduled for May 9th.

Board Member Reed asked if there was a problem in the past that facilitated the need for the proposed change. Mr. Chave said the issue was brought up when the City Council was considering a street vacation, and at the last minute they entertained putting an easement in place on the same property. The easement was not part of the advertised public hearing for the street vacation. The City Council has since expressed their desire that any easement associated with a street vacation should be part of the same public process. He explained that a public hearing is already required for a street vacation. The amendment would require that any easement that is retained or put in place as a result of a street vacation be part of the advertised public hearing. He emphasized that the proposed amendment is a change in the procedural process, but not a change to the street vacation standards.

Board Member Clarke questioned the value of notifying the public of easement agreements and how the public could contribute to the process. Chair Lovell pointed out that the proposed amendment would not require an additional public hearing. It would merely require that any easements associated with a street vacation must be advertised as part of the public hearing. Mr. Chave further clarified that public notice is already required for street vacations. The proposed amendment would require street vacation notices to also indicate whether any easements would be retained or required in conjunction with the vacation. No new notice would be required specifically for easements. Board Member Reed added that the proposed amendment would add a procedural step to make sure easements that are part of street vacation proposals are not overlooked.

Chair Lovell asked if the proposed language has been reviewed by the City Attorney. Ms. Coccia answered affirmatively and read the statement submitted by the City Attorney regarding the proposed amendment.

Board Member Johnson pointed out that there are many different kinds of easements. She asked if the proposed amendment would apply to construction easements, too. Mr. Chave answered that the proposed amendment would apply to all easements associated with a street vacation.

The Board agreed to schedule a public hearing on the proposed amendment for May 9th. Board Member Reed noted that the “; and” found at the end of ECDC 20.70.090.A.4 should be moved to the end of ECDC 20.70.090.A.5 to accommodate the new section ECDC 20.70.090.A.6.

WESTGATE/FIVE CORNERS INTRODUCTION

Jill Sterrett and Nancy Rottle were present to provide an overview of the Westgate planning document titled, “Revisioning Westgate.” Ms. Sterrett noted that many members of the Board participated in the fairly extensive public review process that was used to develop the plan. The Board also met jointly with the Citizens Economic Development Commission (CEDC) to discuss the plan further. In addition, a series of teams worked on both the Westgate and Five Corners plans starting in the fall of 2010 with a team of undergraduate students, and a team of student interns from a variety of disciplines were hired in 2011 to work on the project. She and Ms. Rottle assisted the student teams throughout the process.

Ms. Rottle explained that Phase I (Research and Data Analysis) began in 2010 and included an on-line survey asking citizens of Edmonds what they liked and disliked about the Westgate and Five Corners Centers, a site survey of land uses and amenities, an analysis of available parking and how it is used, and an analysis of the physical conditions of the sites. Ms. Rottle reviewed that Phase 2 (Listening Session and Audience Response Surveys) involved a very extensive public process. After the initial citizen survey, two public listening sessions were held to find out what the public knew about the two areas. At the first session, citizens were invited to participate in an audience response survey to identify their preferences for future redevelopment in the two centers. Alternatives were presented at the second session, and participants were invited to identify their preferred elements from each one.

Ms. Rottle said Phase 3 (Design Workshop and Draft Plans) started with a public design workshop with local professionals that was attended by approximately 60 people. The team reviewed what they had heard from the public and presented a draft site design to use as a baseline for moving the discussion forward. Using a unique process developed by a firm in Copenhagen, the group was divided into teams to talk about the types of activities they want to occur in the two centers and the public space and buildings that would be required to support the desired activities. She provided a diagram to illustrate the site design that was presented at the design workshop to illustrate the public comments received to date. She reported that they received interesting and good ideas from a mix of people, including citizens, trained planners and architects.

Ms. Rottle reviewed that the public sentiment related to the Westgate Center was grouped into the following themes:

- **Building Scale.** People were most interested in a building scale of three to four-story buildings with a residential component.
- **Public Space.** Increasing public space was the most popular recommendation for improvement from all ages. Examples suggested were plazas, sitting space and green space.
- **Walking/Biking.** Many people were in favor of improving walkability by creating a safe environment for people of all ages.
- **Traffic.** There were no prominent issues with automobile traffic in the Westgate Center.
- **Services.** The community expressed a desire for better restaurants, street cafes, and perhaps a bakery. There was a strong desire for business fronts to be located at the sidewalk.
- **Amenities.** The public communicated a desire for additional amenities including landscaping on the sidewalk, street trees and the use of native plant species.

Ms. Sterrett advised that during Phase 4 (Refining and Selecting Preferred Alternative), the information gathered from the public was used to develop two potential alternatives, and people were asked to identify the elements from each plan that they liked best. These elements were combined into a preferred alternative. She provided a drawing depicting how development could occur over the next 20 years based on the proposed regulations. In the drawing, residential development would be located around the edges of the site. The PCC Natural Market would be maintained in its current parameters, as

AM-4653

4. L.

City Council Meeting

Meeting

Date:

03/20/2012

Time: Consent

Department: City Clerk's Office

Review Planning/Parks/Public

Committee: Works

Committee Approve for Consent

Action: Agenda

Type: Action

Information

Subject Title

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

This agenda item was reviewed by the Planning, Parks and Public Works Committee on 03-13-12 and recommended to be placed on the Consent Agenda for approval.

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council,

whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

Attachments

Attachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Form Started By: Sandy Chase		Started On: 03/15/2012
Final Approval Date: 03/16/2012		

E. Authorization to approve Utility Easement for the Sewer Lift Station Rehabilitation Project.

Mr. English explained the purpose of the utility easement and how the easement is needed to supplement an existing utility easement at Sewer Lift Station No. 14. The City agreed to pay \$2,221.18 in compensation for the permanent sewer easement.

ACTION: Moved to consent agenda for approval.

F. Traffic Impact Fee Annual Report.

Mr. English reviewed the 2011 Traffic Impact Fee Annual Report and informed the committee that the report would be forwarded to the full council for information.

ACTION: Moved to consent agenda for approval.

G. Proposed ordinance amending the provisions of ECDC 18.00.050 for apprenticeship participation on City construction contracts.

Mr. English discussed the proposed changes to the Apprenticeship requirements on public works construction contracts. The committee recommended that the threshold for apprenticeship participation be increased to match the small works construction contract limit and that the item be presented to the full council for review and action.

ACTION: Item to be presented at the March 20, 2012 Council Meeting.

H. Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

The Committee recommended that the proposed changes be referred to the Planning Board for review and action and to place the recommendation on the March 20, 2012 consent agenda for approval.

ACTION: Moved to consent agenda for approval.

I. Code language regarding Edmonds City Code Chapter 2.10.

Mr. Taraday presented the proposed changes to City Code Chapter 2.10 and answered questions from the Committee.

ACTION: Item will be discussed further at the April 10, 2012 Planning, Parks and Public Works Committee.

J. Public Comments.

No Comments.

The meeting adjourned at 7:45 p.m.

AM-4615

9. H.

City Council Meeting**Meeting Date:** 03/13/2012**Time:** 10 Minutes**Submitted For:** Councilwoman Petso**Submitted By:** Jana Spellman**Department:** City Council**Review Committee:** Planning/Parks/Public Works **Committee Action:****Type:** Action

Information**Subject Title**

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

None

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

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Attachment: ECDC 20.70 - Street Vacations

AttachmentsAttachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Planning Department	Rob Chave	03/08/2012 12:00 PM
City Clerk	Sandy Chase	03/08/2012 12:13 PM
Mayor	Dave Earling	03/08/2012 12:40 PM
Final Approval	Sandy Chase	03/08/2012 01:59 PM
Form Started By: Jana Spellman		Started On: 03/05/2012 09:00 AM
Final Approval Date: 03/08/2012		

ECDC 20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;
2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;
3. A statement of the time and place of the public hearing before the city council;
4. A statement of the availability of the vacation file; ~~and~~
5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally; and
6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

hearing or notifying the property owners on Sunset of the potential project. He suggested that the correct approach would have been to involve the public much earlier in the process.

Mr. Hertrich referred to a memorandum from Council Member Petso outlining her concern that the Westgate survey results are misleading. He requested that Board read the important parts of the memorandum into the record. He commented that, on a practical basis, Westgate is a regional, auto-oriented shopping area. There will not be enough pedestrians in the area to warrant making the entire design pedestrian dependent, which appears to be the conclusion reached to this point.

PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS (FILE NUMBER AMD20120003)

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APPROVED

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Planning Board Agenda**Meeting Date:** 04/25/2012

Code amendment to expand notice requirements for street vacations (ECDC 20.70.090.A)

Staff Lead/Author: Gina Coccia**Department:** Planning**Initiated By:** City Council

Information**Subject/Purpose**

Proposed code amendment to provide expanded notice requirements for street vacations (ECDC 20.70.090.A).
(File No. AMD20120003).

Staff Recommendation

The Planning Board should review the existing notice requirements for street vacations and schedule a public hearing for Wednesday May 9, 2012.

Previous Board Action

None.

Narrative

The Council committee for Planning/Parks/Public Works discussed proposing a code amendment to expand notice requirements for street vacations on March 13, 2012. The City Council approved sending this item to the Planning Board on their March 20, 2012 consent agenda.

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations. A possible code amendment was discussed that would amend the noticing requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided. The proposal, as drafted, would amend the Edmonds Community Development Code by adding a new section 6 to ECDC 20.70.090.A as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

Attachment 1: ECDC 20.70 – Street Vacations
Attachment 2: Summary of the Council's Review

Attachments

Attachment 1: ECDC 20.70 Street Vacations
Attachment 2: Previous Council Action

Chapter 20.70**STREET VACATIONS****Sections:**

- 20.70.000 Purpose.
- 20.70.010 Applicability.
- 20.70.020 Criteria for vacation.
- 20.70.030 City easement rights for public utilities and services.
- 20.70.040 Limitations on vacations.
- 20.70.050 Initiation of proceedings.
- 20.70.060 Application requirements.
- 20.70.070 Public hearing – Date fixing.
- 20.70.80 Staff report preparation
- 20.70.090 Public notification – Contents and distribution.
- 20.70.100 Vacation file content and availability.
- 20.70.110 Public hearing – Required.
- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

20.70.000 Purpose.

This chapter establishes the procedure and criteria that the city will use to decide upon vacations of streets, alleys, and public easements. [Ord. 2933 § 1, 1993].

20.70.010 Applicability.

This chapter applies to each request for vacation by city council or by petition. Note: if the street to be vacated is shown on the official street map (Chapter 19.80 ECDC), the approved street vacation also changes the official street map to remove the vacated street (See Chapter 20.65 ECDC). [Ord. 2933 § 1, 1993].

20.70.020 Criteria for vacation.

The city council may vacate a street, alley, or easement only if it finds that:

- A. The vacation is in the public interest; and

B. No property will be denied direct access as a result of the vacation. [Ord. 2933 § 1, 1993].

20.70.030 City easement rights for public utilities and services.

In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

20.70.040 Limitations on vacations.

A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.

B. Objection by Property Owner. The city shall not proceed with the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the planning division prior to the time of the hearing. [Ord. 2933 § 1, 1993].

20.70.050 Initiation of proceedings.

A vacation may be initiated by:

- A. City council; or

B. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated. [Ord. 2933 § 1, 1993].

20.70.060 Application requirements.

An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;

B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;

C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';

D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more

than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;

2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;

3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and

4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and

2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning man-

ager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;
2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;
3. A copy will be published in the official newspaper of the city;
4. At least three copies will be posted in conspicuous public places in the city; and
5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and

B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

1. Adopt an ordinance granting the vacation; or
2. Adopt a motion denying the vacation; or

3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:

- a. Either:
 - i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at “public expense”, then full appraised value shall be paid; or
 - ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or
 - iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

OR

- b. A grant of an easement to the city in exchange for the easement vacated.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].

Chapter 20.75

SUBDIVISIONS

Sections:

20.75.010	Citation of chapter.
20.75.020	Purposes.
20.75.025	Scope.
20.75.030	Subdivision defined.
20.75.035	Compliance required.
20.75.040	Application.
20.75.050	Lot line adjustment – Application.
20.75.055	Lot combination.
20.75.060	Required information on preliminary plats.
20.75.065	Preliminary review.
20.75.070	Formal subdivision – Time limit.
20.75.075	Modifications.
20.75.080	General findings.
20.75.085	Review criteria.
20.75.090	Park land dedication.
20.75.100	Preliminary approval – Time limit.
20.75.105	<i>Repealed.</i>
20.75.110	Changes.
20.75.120	Review of improvement plans.
20.75.130	Installation of improvements.
20.75.135	Preparation of final plat.
20.75.140	Final plat – Required certificates.
20.75.145	Final plat – Accompanying material.
20.75.150	Waiver of survey.
20.75.155	Review of final plat.
20.75.158	Short plat – Staff review.
20.75.160	Final plat – Filing for record.
20.75.165	Effect of rezones.
20.75.170	Further division – Short subdivisions.
20.75.175	Court review.
20.75.180	Violation – Permits.
20.75.185	Penalties.

AM-4653

4. L.

City Council Meeting

Meeting

Date:

03/20/2012

Time:

Consent

Department: City Clerk's Office

Review Planning/Parks/Public

Committee: Works

Type: Action

Committee Approve for Consent

Action: Agenda

Information

Subject Title

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

This agenda item was reviewed by the Planning, Parks and Public Works Committee on 03-13-12 and recommended to be placed on the Consent Agenda for approval.

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council,

ATTACHMENT 2

whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

Attachments

Attachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Form Started By: Sandy Chase		Started On: 03/15/2012
Final Approval Date: 03/16/2012		

ATTACHMENT 2

- E. Authorization to approve Utility Easement for the Sewer Lift Station Rehabilitation Project.**
Mr. English explained the purpose of the utility easement and how the easement is needed to supplement an existing utility easement at Sewer Lift Station No. 14. The City agreed to pay \$2,221.18 in compensation for the permanent sewer easement.

ACTION: Moved to consent agenda for approval.

F. Traffic Impact Fee Annual Report.

Mr. English reviewed the 2011 Traffic Impact Fee Annual Report and informed the committee that the report would be forwarded to the full council for information.

ACTION: Moved to consent agenda for approval.

G. Proposed ordinance amending the provisions of ECDC 18.00.050 for apprenticeship participation on City construction contracts.

Mr. English discussed the proposed changes to the Apprenticeship requirements on public works construction contracts. The committee recommended that the threshold for apprenticeship participation be increased to match the small works construction contract limit and that the item be presented to the full council for review and action.

ACTION: Item to be presented at the March 20, 2012 Council Meeting.

H. Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

The Committee recommended that the proposed changes be referred to the Planning Board for review and action and to place the recommendation on the March 20, 2012 consent agenda for approval.

ACTION: Moved to consent agenda for approval.

I. Code language regarding Edmonds City Code Chapter 2.10.

Mr. Taraday presented the proposed changes to City Code Chapter 2.10 and answered questions from the Committee.

ACTION: Item will be discussed further at the April 10, 2012 Planning, Parks and Public Works Committee.

J. Public Comments.

No Comments.

The meeting adjourned at 7:45 p.m.

AM-4615

9. H.

City Council Meeting**Meeting Date:** (03/13/2012)**Time:** 10 Minutes**Submitted For:** Councilwoman Petso**Submitted By:** Jana Spellman**Department:** City Council**Review Committee:** Planning/Parks/Public Works**Committee Action:****Type:** Action

Information**Subject Title**

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

None

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council, whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

ATTACHMENT 2

AttachmentsAttachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Planning Department	Rob Chave	03/08/2012 12:00 PM
City Clerk	Sandy Chase	03/08/2012 12:13 PM
Mayor	Dave Earling	03/08/2012 12:40 PM
Final Approval	Sandy Chase	03/08/2012 01:59 PM
Form Started By: Jana Spellman		Started On: 03/05/2012 09:00 AM
Final Approval Date: 03/08/2012		

ATTACHMENT 2

- I. AUTHORIZATION FOR MAYOR TO APPROVE A RELEASE OF EASEMENT AT 633 2ND AVENUE NORTH.
- J. AUTHORIZATION TO APPROVE UTILITY EASEMENT FOR THE SEWER LIFT STATION REHABILITATION PROJECT.
- K. TRAFFIC IMPACT FEE ANNUAL REPORT.
- L. REFERRAL TO PLANNING BOARD OF PROPOSED CODE AMENDMENT TO PROVIDE EXPANDED NOTICE REQUIREMENTS FOR STREET VACATIONS.
- M. PARK IMPACT FEE STUDY PROCESS.
- N. FIBER OPTIC SERVICE AGREEMENT FOR INTERNET SERVICE.
- O. LEASE AGREEMENT FOR ACCESS TO FIBER FROM 110 JAMES ST.

5. CONFIRMATION OF APPOINTMENTS TO ARTS COMMISSION (1), AND SISTER CITY COMMISSION (2).

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO CONFIRM THE APPOINTMENT OF BEVERLY SHAW-STARKOVICH TO THE ARTS COMMISSION AND MARLENE FRIEND AND KAY VREELAND TO THE SISTER CITY COMMISSION. MOTION CARRIED UNANIMOUSLY.

Council President Peterson thanked the citizens for volunteering to serve as well as those already serving on the Commissions. They will bring exciting additional expertise to the Commissions, a reflection of the talent pool in Edmonds and the willingness of citizens to volunteer.

Councilmember Buckshnis commented on the qualifications of Ms. Shaw-Starkovich, Ms. Friend and Ms. Vreeland.

6. ANNUAL REPORT - SNOHOMISH COUNTY TOURISM BUREAU

Amy Spain, Executive Director, Snohomish County Tourism Bureau, commented on the importance of tourism to economic development. Visitors to Washington State spent \$16.4 billion in 2011; accounting for nearly \$1 billion in local/state tax revenues. Travel spending increased by 5% in Washington state from 2010 to 2011. The Washington State Tourism Office closed July 2011, making Washington the only state without a state tourism office. Washington Tourism Alliance (WTA) was established by industry stakeholders with the sole mission of sustaining destination tourism marketing for Washington State. The organization is governed and overseen by the tourism industry and is not a state government organization. The organization is evaluating other state organizational structures and funding models and plans are being developed for a three year program of work. The state's tourism website and content is now managed by WTA. A state tourism summit will be held April 5 to bring together all sectors of the tourism industry. She encouraged the City to advocate for tourism development because tourism is economic development.

Ms. Spain provided several statistics regarding tourism:

- The economic impact of tourism in Snohomish County includes 8,980 jobs, \$190.8 million payroll, \$13.4 million in local taxes and \$47.9 million in state taxes
- Visitor spending in Snohomish County was \$880 million in 2011, up 8.6% from the previous year
- Visitors from outside of Washington (residents of other states or countries) generated \$245 of tax revenue for each Washington household. Resident travel within the state generated an additional \$145 of tax revenue per household.

Yamamoto, Fraley-Monillas, Buckshnis, Peterson and Bloom. Parks & Recreation Director Carrie Hite was present as well as Cultural Services Manager Frances Chapin. Members of the public also attended.

Mayor Earling reconvened the regular City Council meeting at 7:00 p.m. and led the flag salute.

3. APPROVAL OF AGENDA

Council President Peterson asked to pull and amend Agenda Item 5, Confirmation of Appointments to the Architectural Design Board, Arts Commission and Sister City Commission. Due to questions regarding the Architectural Design Board (ADB) process and appointment, he requested the ADB appointment be removed from Agenda Item 5 and rescheduled on a future agenda.

Councilmember Fraley-Monillas asked to remove Agenda Item 13, Proposed Ordinance Amending the Provisions of ECDC 18.000.050 for Apprenticeship Participation on City Construction Contracts, and reschedule it on April 3. She explained this item was discussed by the Parks, Planning and Public Works Committee. Councilmember Petso is out of town and she needs to confirm the committee's recommendation regarding that item.

COUNCIL PRESIDENT PETERSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE AGENDA AS AMENDED. MOTION CARRIED UNANIMOUSLY.

4. APPROVAL OF CONSENT AGENDA ITEMS

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

- A. ROLL CALL**
- B. APPROVAL OF CITY COUNCIL MEETING MINUTES OF MARCH 13, 2012.**
- C. APPROVAL OF CLAIM CHECKS #130945 THROUGH #131106 DATED MARCH 15, 2012 FOR \$720,444.13.**
- D. APPROVAL OF LIST OF BUSINESSES APPLYING FOR RENEWAL OF THEIR LIQUOR LICENSES WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD, FEBRUARY 2012.**
- E. APPROVAL OF 2012 TAXICAB OPERATOR'S LICENSE FOR NORTH END TAXI.**
- F. AUTHORIZATION TO APPROVE AN EASEMENT FOR STORM PIPE AND A CATCH BASIN AT 220 7TH AVE N.**
- G. AUTHORIZATION TO PURCHASE LIGHT POLES AND ELECTRICAL COMPONENTS FOR THE SR 99 INTERNATIONAL DISTRICT ENHANCEMENTS PROJECT THROUGH US COMMUNITIES INTERLOCAL COOPERATIVE PURCHASING AGREEMENT.**
- H. AUTHORIZATION FOR MAYOR TO SIGN A PROFESSIONAL SERVICES AGREEMENT WITH HERRERA CONSULTANTS TO PROVIDE CONSULTING SERVICES FOR THE PERRINVILLE CREEK CULVERT REPLACEMENT AT TALBOT ROAD.**

AM-4653

4. L.

City Council Meeting

Meeting
Date: 03/20/2012

Time: Consent

Department: City Clerk's Office

Review Planning/Parks/Public

Committee: Works

Type: Action

Committee Approve for Consent

Action: Agenda

Information

Subject Title

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

This agenda item was reviewed by the Planning, Parks and Public Works Committee on 03-13-12 and recommended to be placed on the Consent Agenda for approval.

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council,

whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

Attachments

Attachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Mayor	Dave Earling	03/15/2012 04:00 PM
Final Approval	Sandy Chase	03/16/2012 07:36 AM
Form Started By: Sandy Chase		Started On: 03/15/2012
Final Approval Date: 03/16/2012		

Edmonds Community Development Code

Chapter 20.70 STREET VACATIONS

Sections:

- 20.70.000 Purpose.
- 20.70.010 Applicability.
- 20.70.020 Criteria for vacation.
- 20.70.030 City easement rights for public utilities and services.
- 20.70.040 Limitations on vacations.
- 20.70.050 Initiation of proceedings.
- 20.70.060 Application requirements.
- 20.70.070 Public hearing – Date fixing.
- 20.70.80 Staff report preparation
- 20.70.090 Public notification – Contents and distribution.
- 20.70.100 Vacation file content and availability.
- 20.70.110 Public hearing – Required.
- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

20.70.000 Purpose.

This chapter establishes the procedure and criteria that the city will use to decide upon vacations of streets, alleys, and public easements. [Ord. 2933 § 1, 1993].

20.70.010 Applicability.

This chapter applies to each request for vacation by city council or by petition. Note: if the street to be vacated is shown on the official street map (Chapter 19.80 ECDC), the approved street vacation also changes the official street map to remove the vacated street (See Chapter 20.65 ECDC). [Ord. 2933 § 1, 1993].

20.70.020 Criteria for vacation.

The city council may vacate a street, alley, or easement only if it finds that:

- A. The vacation is in the public interest; and
- B. No property will be denied direct access as a result of the vacation. [Ord. 2933 § 1, 1993].

20.70.030 City easement rights for public utilities and services.

In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

20.70.040 Limitations on vacations.

- A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.
- B. Objection by Property Owner. The city shall not proceed with the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the planning division prior to the time of the hearing. [Ord. 2933 § 1, 1993].

20.70.050 Initiation of proceedings.

A vacation may be initiated by:

- A. City council; or
- B. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated. [Ord. 2933 § 1, 1993].

20.70.060 Application requirements.

An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;
- B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;
- C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';
- D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;
2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;
3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and
4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and
2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning manager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;

2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;

3. A copy will be published in the official newspaper of the city;

4. At least three copies will be posted in conspicuous public places in the city; and

5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

- A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and
- B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

- 1. Adopt an ordinance granting the vacation; or
- 2. Adopt a motion denying the vacation; or
- 3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:
 - a. Either:
 - i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at "public expense", then full appraised value shall be paid; or
 - ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or
 - iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

OR

- b. A grant of an easement to the city in exchange for the easement vacated.

If the applicant complies with conditions imposed in the resolution of intent to vacate within 90 days, the city council shall adopt an ordinance granting the vacation.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].

E. Authorization to approve Utility Easement for the Sewer Lift Station Rehabilitation Project.

Mr. English explained the purpose of the utility easement and how the easement is needed to supplement an existing utility easement at Sewer Lift Station No. 14. The City agreed to pay \$2,221.18 in compensation for the permanent sewer easement.

ACTION: Moved to consent agenda for approval.

F. Traffic Impact Fee Annual Report.

Mr. English reviewed the 2011 Traffic Impact Fee Annual Report and informed the committee that the report would be forwarded to the full council for information.

ACTION: Moved to consent agenda for approval.

G. Proposed ordinance amending the provisions of ECDC 18.00.050 for apprenticeship participation on City construction contracts.

Mr. English discussed the proposed changes to the Apprenticeship requirements on public works construction contracts. The committee recommended that the threshold for apprenticeship participation be increased to match the small works construction contract limit and that the item be presented to the full council for review and action.

ACTION: Item to be presented at the March 20, 2012 Council Meeting.

H. Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

The Committee recommended that the proposed changes be referred to the Planning Board for review and action and to place the recommendation on the March 20, 2012 consent agenda for approval.

ACTION: Moved to consent agenda for approval.

I. Code language regarding Edmonds City Code Chapter 2.10.

Mr. Taraday presented the proposed changes to City Code Chapter 2.10 and answered questions from the Committee.

ACTION: Item will be discussed further at the April 10, 2012 Planning, Parks and Public Works Committee.

J. Public Comments.

No Comments.

The meeting adjourned at 7:45 p.m.

AM-4615

9. H.

City Council Meeting**Meeting Date:** 03/13/2012**Time:** 10 Minutes**Submitted For:** Councilwoman Petso**Submitted By:** Jana Spellman**Department:** City Council**Review Committee:** Planning/Parks/Public Works**Committee Action:****Type:** Action

Information**Subject Title**

Referral to Planning Board of proposed code amendment to provide expanded notice requirements for street vacations.

Recommendation from Mayor and Staff

Councilmember Petso consulted Rob Chave regarding this item. Rob Chave expressed no opposition to the proposal at this time, and indicated that the Planning Board would need to review the proposed code amendment. The Mayor is aware of the proposal.

Previous Council Action

None

Narrative

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations.

A possible code amendment was discussed that would amend the notice requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided.

The exact proposal, at present, is adding section 6 to ECDC 20.70.090A which would provide as follows:

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At this point, the proposed language has not been reviewed by the City Attorney.

My request is that the proposed amendment be sent to the Planning Board for their review this spring. It is expected that the Planning Board will provide a prompt recommendation to Council, whether for, against, or with modification.

Attachment: ECDC 20.70 - Street Vacations

AttachmentsAttachment: ECDC 20.70

Form Review

Inbox	Reviewed By	Date
Planning Department	Rob Chave	03/08/2012 12:00 PM
City Clerk	Sandy Chase	03/08/2012 12:13 PM
Mayor	Dave Earling	03/08/2012 12:40 PM
Final Approval	Sandy Chase	03/08/2012 01:59 PM
Form Started By: Jana Spellman		Started On: 03/05/2012 09:00 AM
Final Approval Date: 03/08/2012		

Edmonds Community Development Code

Chapter 20.70 STREET VACATIONS

Sections:

- 20.70.000 Purpose.
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- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

20.70.000 Purpose.

This chapter establishes the procedure and criteria that the city will use to decide upon vacations of streets, alleys, and public easements. [Ord. 2933 § 1, 1993].

20.70.010 Applicability.

This chapter applies to each request for vacation by city council or by petition. Note: if the street to be vacated is shown on the official street map (Chapter 19.80 ECDC), the approved street vacation also changes the official street map to remove the vacated street (See Chapter 20.65 ECDC). [Ord. 2933 § 1, 1993].

20.70.020 Criteria for vacation.

The city council may vacate a street, alley, or easement only if it finds that:

- A. The vacation is in the public interest; and
- B. No property will be denied direct access as a result of the vacation. [Ord. 2933 § 1, 1993].

20.70.030 City easement rights for public utilities and services.

In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

20.70.040 Limitations on vacations.

- A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.
- B. Objection by Property Owner. The city shall not proceed with the vacation if the owners of 50 percent or more of the property abutting the street or alley or part thereof, or underlying the easement or part thereof, to be vacated file a written objection in the planning division prior to the time of the hearing. [Ord. 2933 § 1, 1993].

20.70.050 Initiation of proceedings.

A vacation may be initiated by:

- A. City council; or
- B. The owners of more than two-thirds of property abutting the portion of the street or alley to be vacated or, in the case of an easement, two-thirds of property underlying the portion of the easement to be vacated. [Ord. 2933 § 1, 1993].

20.70.060 Application requirements.

An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;
- B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;
- C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';
- D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;
2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;
3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and
4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and
2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning manager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;

2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;

3. A copy will be published in the official newspaper of the city;

4. At least three copies will be posted in conspicuous public places in the city; and

5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

- A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and
- B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

- 1. Adopt an ordinance granting the vacation; or
- 2. Adopt a motion denying the vacation; or
- 3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:
 - a. Either:
 - i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at "public expense", then full appraised value shall be paid; or
 - ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or
 - iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

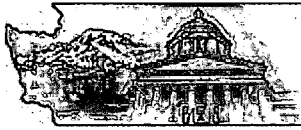
OR

- b. A grant of an easement to the city in exchange for the easement vacated.

If the applicant complies with conditions imposed in the resolution of intent to vacate within 90 days, the city council shall adopt an ordinance granting the vacation.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].



Inside the Legislature

- ★ Find Your Legislator
- ★ Visiting the Legislature
- ★ Agendas, Schedules and Calendars
- ★ Bill Information
- ★ Laws and Agency Rules
- ★ Legislative Committees
- ★ Legislative Agencies
- ★ Legislative Information Center
- ★ E-mail Notifications (Listserv)
- ★ Civic Education
- ★ History of the State Legislature

Outside the Legislature

- ★ Congress - the Other Washington
- ★ TVW
- ★ Washington Courts
- ★ OFM Fiscal Note Website



[RCWs](#) > [Title 35](#) > [Chapter 35.79](#) > [Section 35.79.030](#)

[35.79.020](#) << [35.79.030](#) >> [35.79.035](#)

RCW 35.79.030

Hearing — Ordinance of vacation.

The hearing on such petition may be held before the legislative authority, before a committee thereof, or before a hearing examiner, upon the date fixed by resolution or at the time the hearing may be adjourned to. If the hearing is before a committee the same shall, following the hearing, report its recommendation on the petition to the legislative authority which may adopt or reject the recommendation. If the hearing is held before a committee it shall not be necessary to hold a hearing on the petition before the legislative authority. If the hearing is before a hearing examiner, the hearing examiner shall, following the hearing, report its recommendation on the petition to the legislative authority, which may adopt or reject the recommendation: PROVIDED, That the hearing examiner must include in its report to the legislative authority an explanation of the facts and reasoning underlying a recommendation to deny a petition. If a hearing is held before a hearing examiner, it shall not be necessary to hold a hearing on the petition before the legislative authority. If the legislative authority determines to grant the petition or any part thereof, such city or town shall be authorized and have authority by ordinance to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate such city or town in an amount which does not exceed one-half the appraised value of the area so vacated. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city or town may require the owners of the property abutting the street or alley to compensate the city or town in an amount that does not exceed the full appraised value of the area vacated. The ordinance may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services. A certified copy of such ordinance shall be recorded by the clerk of the legislative authority and in the office of the auditor of the county in which the vacated land is located. One-half of the revenue received by the city or town as compensation for the area vacated must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city or town.

[2011 c 130 § 1; 2002 c 55 § 1; 2001 c 202 § 1; 1987 c 228 § 1; 1985 c 254 § 1; 1969 c 28 § 4. Prior: 1967 ex.s. c 129 § 1; 1967 c 123 § 1; 1965 c 7 § [35.79.030](#) ; prior: 1957 c 156 § 4; 1949 c 14 § 1; 1901 c 84 § 2; Rem. Supp. 1949 § 9298.]

Cunningham, Diane

From: Ken Reidy [kenreidy@hotmail.com]
Sent: Thursday, May 10, 2012 9:28 AM
To: Cunningham, Diane; Cunningham, Diane; Chave, Rob
Cc: John Reed; Todd Cloutier; Taraday, Jeff
Subject: Street Vacations - reservation of different easements

Ms. Cunningham and Mr. Chave,

Please forward this email to all Planning Board members. I have CC'd the Planning Board members I believe I have correct email addresses for. I'm also CC'ing Mr. Taraday. Thank you!

Dear Planning Board members,

It was a privilege to speak in front of you last evening. Thank you for listening to my comments. **Please know how much I appreciate your service to our City.**

I want to provide the Planning Board with Former City Attorney Scott Snyder's representation related to the City's legal right to reserve the temporary construction easement on my property against my will, without any public notice, and without doing so via Resolution of intent to vacate should I agree to grant a different easement to the City within 90 days.

Mr. Snyder's representation is documented in the email below. I have highlighted his related comments. He sights RCW 35.79.050 by mistake instead of RCW 35.79.030.

Thanks again.

Ken

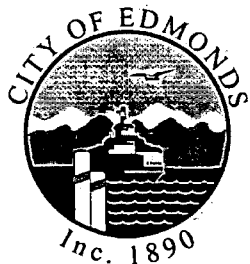
From: W. Scott Snyder [mailto:ssnyder@omwlaw.com]
Sent: Monday, November 02, 2009 9:40 AM
To: Matt Cruz
Subject: RE: COE/Reidy

First, he approved shed design does not show the lean to attachment. Therefore it was not permitted under the original permit. Second, hasn't your client waive any challenge to the lack of permit by a) not including it in his notice of appeal and b) not appealing the original OTC requiring him to provide a plan for the removal of the lean to.

Finally, from your clients frequent emails to councilmembers, I have a better idea of the basis for your "lack of authority" argument for the reservation of the right of way use/construction easement.

RCW 35.79.050 says that a vacation ordinance "may provide that the city retain an easement or the right to exercise and grant easements in respect to the vacated land for the construction...of public utilities and services." Here the public "service" is the use of the public right of way under the Right of Way use provisions for private construction activities and the other private uses referenced in Chapter 18.70 of the city code.

Scott



CITY OF EDMONDS

121 5th Avenue North, Edmonds WA 98020

Phone: 425.771.0220 • Fax: 425.771.0221 • Web: www.edmondswa.gov
DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

Letter of Transmittal

Date: May 4, 2012

To: Ken Reidy
771 Daley St.
Edmonds, WA 98020

Subject: AMD20120003

Transmitting Planning Board Agenda and Staff Report

For Your Information: ☒ _____

As you requested: _____

For your file: _____

Comment: _____

Note attachments: ☒ _____

Sincerely,

Diane Cunningham, Administrative Assistant

Affidavit of Publication

STATE OF WASHINGTON,
COUNTY OF SNOHOMISH

} S.S.

NOTICE OF PLANNING BOARD PUBLIC HEARING

NAME OF APPLICANT: City of Edmonds
DATE OF NOTICE: 04/25/2012
FILE NO.: AMD20120003
PROJECT LOCATION: City-wide, Edmonds WA.
PROJECT DESCRIPTION: Notice of Public Hearing for a "Type V" proposed code amendment that would require expanded notice requirements for street vacations (ECDC 20.70.090.A).
COMMENT PERIOD: Public comments are due by 05/09/2012
CITY CONTACT: Gina Cocca, Associate Planner
425-771-0220

NAME OF APPLICANT: City of Edmonds
DATE OF NOTICE: 04/25/2012
FILE NO.: AMD20100012
PROJECT LOCATION: City-wide, Edmonds WA
PROJECT DESCRIPTION: Notice of Public Hearing regarding updating the City of Edmonds City Code (ECC) 4.12 and portions of Edmonds Community Development Code (ECDC) Title 16 to allow Motorized Mobile Vendors.
COMMENT PERIOD: Public comments are due by 05/09/2012
CITY CONTACT: Kernen Lien, Associate Planner
425-771-0220

Any person has the right to comment on these proposals during the public comment period, receive notice and participate in any hearings, and request a copy of the decision on the proposal. Information on this proposal can be viewed or obtained at the City of Edmonds Planning Dept., 121 5th Ave. N., Edmonds, WA 98020 between the hours of 8:00 A.M. and 4:30 P.M. Monday through Friday or online through the City's website at www.edmondswa.gov

HEARING INFORMATION

Date: May 9, 2012
Time: 7:00 p.m.
Location: Council Chambers, Public Safety Complex,
250 5th Ave. N., Edmonds
Published: April 25, 2012.

The undersigned, being first duly sworn on oath deposes and says that she is Principal Clerk of THE HERALD, a daily newspaper printed and published in the City of Everett, County of Snohomish, and State of Washington; that said newspaper is a newspaper of general circulation in said County and State; that said newspaper has been approved as a legal newspaper by order of the Superior Court of Snohomish County and that the notice

Notice of Public Hearing

Street Vacations

Mobile Vendors

a printed copy of which is hereunto attached, was published in said newspaper proper and not in supplement form, in the regular and entire edition of said paper on the following days and times, namely:

April 25, 2012

and that said newspaper was regularly distributed to its subscribers during all of said period.

Karen E. Ziemer

Principal Clerk

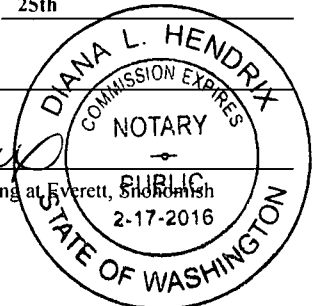
Subscribed and sworn to before me this

25th

day of April, 2012

Diana L. Hendrix

Notary Public in and for the State of Washington, residing at Everett, Snohomish County.



**THIS IS A LEGAL ADVERTISEMENT AND SHOULD BE BILLED TO THE PLANNING
DEPARTMENT**

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425-771-0220

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HEARING INFORMATION

Date: May 9, 2012
Time: 7:00 p.m.
Location: Council Chambers, Public Safety Complex,
250 5th Ave. N., Edmonds

Please publish on April 25, 2012

Notice of Planning Board Hearing
Date of Notice: April 25, 2012
File No.: AMD20120003

Applicant Information		Permit Information	
Name of Applicant...	➔ City of Edmonds	Requested Permits and Approvals...	➔ Amend ECDC 20.70.090.A
Date of Application...	➔ March 20, 2012	Other Required Permits not yet applied for (if known)...	➔ None
Date Application Complete...	➔ March 20, 2012	Required Studies related to the project...	➔ None
Project Location...	➔ Citywide	Related Environmental Documents...	➔ None
Project Description...	➔ Notice of public hearing for a "Type V" proposed code amendment that would require expanded notice requirements for street vacations Edmonds Community Development Code (ECDC) 20.70.090.A.	City Contact...	➔ Gina Coccia, Assoc. Planner coccia@ci.edmonds.wa.us 425-771-0220 ext. 1778
		Comments Due By...	➔ May 9, 2012

Public Hearing Information

Date: May 9, 2012	Time: 7:00 pm	Place: Public Safety Complex - 250 5th Avenue North, Edmonds
--------------------------	----------------------	--------------------------------------------------------------------------------

Any person has the right to comment on this application during the public comment period, receive notice and participate in any hearings, and request a copy of the decision on the application. The City may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit. Only parties of record as defined in ECDC 20.07.003 have standing to initiate an administrative appeal. Information on this development application can be viewed or obtained at the City of Edmonds Development Services Department, 121 5th Ave North, Edmonds, WA 98020 between the hours of 8:00 A.M. and 4:30 P.M.

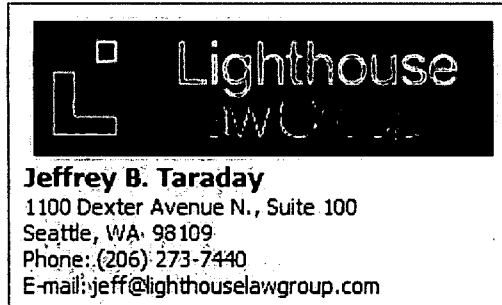
Warning!	The removal, mutilation, destruction, or concealment of this notice before the removal date is a misdemeanor punishable by fine and imprisonment.	This notice may not be removed until directed by the City of Edmonds.
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Coccia, Gina

From: Jeff Taraday [jeff@lighthouselawgroup.com]
Sent: Saturday, April 21, 2012 10:04 AM
To: Coccia, Gina
Subject: Re: AMD20120003 - Street Vacation Amendment

Hi Gina,

For planning board purposes, I think this language adequately describes the substance of the proposal as I understand it. It is possible that the language could be refined later, but there's always a chance of that. Thanks for checking in.



From: "Coccia, Gina" <coccia@ci.edmonds.wa.us>
Date: Thu, 19 Apr 2012 20:26:36 -0400
To: Jeffrey Taraday <jeff@lighthouselawgroup.com>
Subject: AMD20120003 - Street Vacation Amendment

Hi Jeff,

I'm taking an item before the PB for discussion next week and I wanted to get up to speed on it. Here's what I wrote in the agenda memo (mostly copied from old memos that I found in the file):

The Council committee for Planning/Parks/Public Works discussed proposing a code amendment to expand notice requirements for street vacations on March 13, 2012. The City Council approved sending this item to the Planning Board on their March 20, 2012 consent agenda.

In response to a citizen request, Councilmembers Petso and Bloom met with City Attorney Jeff Taraday to discuss temporary construction easements and street vacations. A possible code amendment was discussed that would amend the noticing requirements for street vacations to indicate the nature of any easement that would be retained in connection with the vacation, and, if such notice is not provided, continue the public hearing until such time as adequate notice is provided. The exact proposal, at present, is adding section 6 to ECDC 20.70.090.A which would provide as follows:

6. A description of any easement under consideration to be retained by the City. In the event an easement is desired, but was not included in the notice, the public hearing will be continued to allow time for notice of the easement to be provided.

Did you want to review this proposed language before the PB looks at it, or do you want to be involved later when it goes to the Council? Please let me know if you have any issues with the language, as proposed. It seems pretty straightforward, though. ECDC 20.70.090: <http://www.mrsc.org/mc/edmonds/edmonds20/edmonds2070.html#20.70.090>

Thanks,

Gina Coccia :: Associate Planner

City of Edmonds Development Services Department
121 5th Avenue North, Edmonds WA 98020
425.771.0220 x 1778 | www.ci.edmonds.wa.us

Coccia, Gina

From: Coccia, Gina
Sent: Friday, April 20, 2012 3:31 PM
To: 'kenreidy@hotmail.com'; Petso, Lora
Subject: AMD20120003 - Street Vacations

Greetings,

Per your request, this email is to inform you that a code amendment regarding street vacations (AMD20120003) will be discussed at next week's Planning Board meeting on April 25th. Public testimony on the topic will be considered during the public hearing before the Planning Board, which is tentatively scheduled for May 9th. I've provided a link to the Agenda Memo below, for your convenience. Please don't hesitate to contact me if you have any questions.

<http://www.edmondswa.gov/government/public-involvement/public-notice/meeting-agendas-and-materials.html>

Sincerely,

Gina Coccia :: Associate Planner

City of Edmonds Development Services Department
121 5th Avenue North, Edmonds WA 98020
425.771.0220 x 1778 | www.ci.edmonds.wa.us

4/25 - PB Discussion
5/9 - PB Hearing
6/5 - Council Hearing
12/4 - Council Consent

Cunningham, Diane

From: Ken Reidy [kenreidy@hotmail.com]
Sent: Tuesday, March 27, 2012 11:29 AM
To: Cunningham, Diane
Cc: Petso, Lora
Subject: RE: Street Vacations

Hi Ms. Cunningham,

Can you put me on the email list for the Planning Board Agenda related to the Street Vacation topic.

Thank you.

Ken Reidy

Subject: Fwd: Street Vacations
From: lora.petso@ci.edmonds.wa.us
Date: Tue, 27 Mar 2012 11:17:54 -0700
To: kenreidy@hotmail.com

Begin forwarded message:

From: "Chave, Rob" <Chave@ci.edmonds.wa.us>
Date: March 26, 2012 11:21:15 AM PDT
To: "Petso, Lora" <lora.petso@ci.edmonds.wa.us>
Subject: RE: Street Vacations

No extended agenda online (I believe the Council is the only entity who does that). They will probably take it up in April... just ask Mr. Reidy to contact Diane Cunningham (diane.cunningham@edmondswa.gov) in our office and ask to be put on a mailing list for that subject... we'll then email him in advance of when the PB is scheduled to discuss.

Rob Chave
Edmonds Planning Manager

From: Petso, Lora
Sent: Monday, March 26, 2012 11:11 AM
To: Chave, Rob
Subject: FW: Street Vacations

Rob-

Can you help us with this?

Is the planning board's extended agenda online?

Lora

From: Ken Reidy [mailto:kenreidy@hotmail.com]

Sent: Sun 3/25/2012 6:42 AM

To: Petso, Lora

Subject: Street Vacations

Hi Lora, do you know when the Planning Board is goint to discuss the street vacation/replacement easement issue? I can't find their extended agenda online.

Thanks,

Ken

Chapter 20.70**STREET VACATIONS**

Sections:

- 20.70.000 Purpose.
- 20.70.010 Applicability.
- 20.70.020 Criteria for vacation.
- 20.70.030 City easement rights for public utilities and services.
- 20.70.040 Limitations on vacations.
- 20.70.050 Initiation of proceedings.
- 20.70.060 Application requirements.
- 20.70.070 Public hearing – Date fixing.
- 20.70.80 Staff report preparation
- 20.70.090 Public notification – Contents and distribution.
- 20.70.100 Vacation file content and availability.
- 20.70.110 Public hearing – Required.
- 20.70.120 Public hearing – Continuation.
- 20.70.130 Public hearing – Presentation by planning manager.
- 20.70.140 Final decision.

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In vacating a street, alley, or easement, the city council may reserve for the city any easements or the right to exercise and grant any easements for public utilities and services. [Ord. 2933 § 1, 1993].

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A. Areas that May Not Be Vacated. The city may not vacate any street, alley, easement, or part thereof that abuts any body of water unless all elements of RCW 35.79.035 are complied with, and the vacated area will thereby become available for the city or other public entity to acquire and to use for a public purpose.

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An applicant may apply for a vacation by submitting the following:

- A. A vacation petition with supporting affidavits on forms provided by the planning division;

B. A legal description of the street, alley, easement, or part thereof to be vacated. This legal description shall be prepared by a surveyor registered in the state of Washington;

C. Fifteen paper copies of a site map showing the street, alley, easement or part thereof to be vacated and showing all properties with subdivision, block, lots, and specifying open and unopened rights-of-way for a radius of 400 feet from the street, alley, easement, or part thereof, to be vacated. These site maps must be at a scale of 1" = 50';

D. An 8-1/2-by-11-inch clear plastic transparency of the site map;

E. Address labels obtained from the Snohomish County comptroller's office containing the names and addresses of the owners of all property within 300 feet of any boundary of the street, alley, easement, or part thereof, to be vacated;

F. A copy of the Snohomish County assessor's map identifying the properties specified in subsection E of this section;

G. Two copies of an appraisal prepared by a qualified land appraiser with an M.A.I. designation, establishing the fair market value of the street, alley, or part thereof to be vacated. An appraisal is not required if a utility easement only is proposed to be vacated;

H. A completed application and fee as established by ordinance;

I. If the property was originally dedicated by one and only one of the abutting properties, the designation of the property from which the right-of-way was dedicated; and

J. Any additional information or material that the manager of the planning division or his/her appointee determines is reasonably necessary for the city council to consider the requested vacation. [Ord. 2933 § 1, 1993].

20.70.070 Public hearing – Date fixing.

Subsequent to the completion of an application, or initiation by city council, the city council shall by resolution fix a time when the city council will hold a public hearing on the proposed vacation. The hearing will be not more

than 60 days nor less than 20 days after the date of passage of the resolution. [Ord. 2933 § 1, 1993].

20.70.80 Staff report preparation.

A. Contents. The planning manager or his/her designee shall prepare a staff report containing the following information:

1. All pertinent application materials submitted by the applicant;

2. All comments regarding the vacation received in the planning division prior to distribution of the staff report;

3. An analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan; and

4. A recommendation on the vacation.

B. Distribution. Prior to the hearing, the planning manager shall distribute this report to:

1. Each member of the city council; and

2. Each applicant (if applicable). [Ord. 2933 § 1, 1993].

20.70.090 Public notification – Contents and distribution.

A. Content. The city clerk shall prepare a public notice containing the following information:

1. A statement that a request to vacate the street, alley, easement, or part thereof will be considered by the city council;

2. A locational description in nonlegal language along with a vicinity map that identifies the street, alley, easement, or part thereof;

3. A statement of the time and place of the public hearing before the city council;

4. A statement of the availability of the vacation file; and

5. A statement of the right of any person to submit written comments to the city council prior to or at the public hearing and to appear before the city council at the hearing to give comments orally.

B. Distribution. At least 20 calendar days before the public hearing the planning man-

ager shall distribute the public notice as follows:

1. A copy will be sent to the owner of each piece of property within 300 feet of any boundary of the street, alley, easement, or part thereof to be vacated;

2. A copy will be sent to each resident living immediately adjacent to the street, alley, easement, or part thereof to be vacated;

3. A copy will be published in the official newspaper of the city;

4. At least three copies will be posted in conspicuous public places in the city; and

5. At least three copies will be posted on the street, alley, easement, or part thereof to be vacated. [Ord. 2933 § 1, 1993].

20.70.100 Vacation file content and availability.

A. Content. The planning manager shall compile a vacation file which contains all information pertinent to the proposed vacation.

B. Availability. This file is a public record. It is available for inspection and copying in the planning division during regular business hours. [Ord. 2933 § 1, 1993].

20.70.110 Public hearing – Required.

The city council shall hold a public hearing on each requested vacation. [Ord. 2933 § 1, 1993].

20.70.120 Public hearing – Continuation.

The city council may continue the hearing if, for any reason, it is unable to hear all of the public comments on the vacation, or if the city council determines that it needs more information on the vacation. If during the hearing, the city council announces the time and place of the next hearing on the vacation, no further notice of the hearing need be given. [Ord. 2933 § 1, 1993].

20.70.130 Public hearing – Presentation by planning manager.

At the outset of the hearing, the planning manager or his/her designee shall make a brief presentation of:

A. An analysis of the requested vacation in relation to the provision of this chapter and the applicable provisions of the comprehensive plan; and

B. A recommendation on the requested vacation. [Ord. 2933 § 1, 1993].

20.70.140 Final decision.

A. Generally. Following the public hearing, the city council shall, by motion approved by a majority of the entire membership in a roll call vote, either:

1. Adopt an ordinance granting the vacation; or

2. Adopt a motion denying the vacation; or

3. Adopt a resolution of intent to vacate stating that the city council will, by ordinance, grant the vacation if the applicant meets specific conditions within 90 days. The city may require the following as conditions:

a. Either:

i. Monetary compensation to be paid to the city in the amount of up to one-half the fair market value for the street, alley, or part thereof to be vacated unless acquired at "public expense", then full appraised value shall be paid; or

ii. The grant of a substitute public right-of-way which has value as an access way at least equal to the vacated street, alley, or part thereof; or

iii. Any combination of paragraphs A(3)(a)(i) and A(3)(a)(ii) of this section totaling but not more than one-half the fair market value of the street, alley, or part thereof to be vacated.

OR

b. A grant of an easement to the city in exchange for the easement vacated.

B. Findings Required. As part of each ordinance granting a vacation, motion denying a vacation, or resolution of intent to vacate, the city council shall adopt findings and conclusions to support its decision.

C. Distribution. Within five working days of the city council decision, the planning manager shall mail a copy of the notice of decision to the applicant and all persons who submit a written or oral testimony at the city council's hearing. [Ord. 2933 § 1, 1993; Ord. 2493, 1985].

Chapter 20.75

SUBDIVISIONS

Sections:

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20.75.025	Scope.
20.75.030	Subdivision defined.
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20.75.040	Application.
20.75.050	Lot line adjustment – Application.
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20.75.060	Required information on preliminary plats.
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20.75.070	Formal subdivision – Time limit.
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20.75.105	<i>Repealed.</i>
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20.75.150	Waiver of survey.
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20.75.170	Further division – Short subdivisions.
20.75.175	Court review.
20.75.180	Violation – Permits.
20.75.185	Penalties.

(19) **Procedural actions.** The proposal or adoption of legislation, rules, regulations, resolutions or ordinances, or of any plan or program relating solely to governmental procedures, and containing no substantive standards respecting use or modification of the environment shall be exempt. Agency SEPA procedures shall be exempt.