

AGENDA
Edmonds City Council
Council Chambers, Public Safety Complex
250 5th Ave. North, Edmonds

June 3, 2008
7:00 p.m.

Call to Order and Flag Salute

1. **Approval of Agenda**
2. **Approval of Consent Agenda Items**
 - A. Roll Call
 - B. **AM-1602** Approval of City Council Meeting Minutes of May 27, 2008.
 - C. **AM-1599** Approval of claim checks #104566 through #104677 for May 29, 2008 in the amount of \$633,670.54.
 - D. **AM-1593** Edmonds Center for the Arts Revised Contingent Loan Agreement. *This item was approved for the Consent Agenda by the Finance Committee on 05-27-08.*
 - E. **AM-1586** Authorization to call for bids for the Old Woodway Elementary Park Project which includes the regional stormwater infiltration system for the Southwest Edmonds Basin. *This consent agenda item was not reviewed by a Council Committee.*
 - F. **AM-1600** Resolution of the Edmonds City Council commending Hilary Scheibert for her services as a Student Representative on the Edmonds City Council. *This consent agenda item was not reviewed by a Council Committee.*
 - G. **AM-1596** Report of bids opened on May 20, 2008 for the 2008 Street Overlay Program and award of contract to Northshore Paving, Inc. (\$385,218.34)
3. **AM-1595 (10 Minutes) Presentation by Alpha Omicron Pi Sorority to honor Police Chief David Stern.**
4. **AM-1575 (25 Minutes) Swearing In of Assistant Chief of Police Jim Lawless. Note: A 15-minute reception will follow the swearing-in ceremony.**
5. **AM-1598 (5 Minutes) Presentation of Resolution commending Hilary Scheibert for her service as Student Representative on the Edmonds City Council.**
6. **AM-1588 (10 Minutes) Presentation of certificate to the City Council and Mayor from the Edmonds Backyard Wildlife Habitat Project.**
7. **AM-1587 (10 Minutes) Update on the Transportation Element of the Comprehensive Plan.**

8. **AM-1589 (30 Minutes) Sound Transit Update by Joni Earl, Chief Executive Officer. *Public comment will be accepted.***
9. **AM-1590 (45 Minutes) Public Hearing on proposed amendments to ECDC Chapter 17.40 regarding non-conforming regulations.**
10. **AM-1591 (30 Minutes) Public Hearing on proposed amendments to ECC Title 6 regarding property nuisances.**
11. **Audience Comments (3 minute limit per person)***
Regarding matters not listed on the Agenda as Closed Record Review or as Public Hearings
12. **AM-1601 (10 Minutes) Authorization to Contract for Environmental Services with Landau & Associates.**
13. **AM-1597 (5 Minutes) Selection of Voting Delegates for the Association of Washington Cities Conference.**
14. **(5 Minutes) Mayor's Comments**
15. **(15 Minutes) Council Comments**

Adjourn

AM-1602

2.B.

**Approval of City Council Meeting Minutes of May 27, 2008
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Linda Hynd **Time:** Consent
Department: City Clerk's Office **Type:** Action
Review Committee:
Action: Approved for Consent Agenda

Information

Subject Title

Approval of City Council Meeting Minutes of May 27, 2008.

Recommendation from Mayor and Staff

It is recommended that the City Council review and approve the Draft Minutes.

Previous Council Action

N/A

Narrative

Attached is a copy of the Draft Minutes.

Fiscal Impact

Attachments

Link: [Draft Minutes](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 04:12 PM	APRV
2	Mayor	Gary Haakenson	05/29/2008 04:15 PM	APRV
3	Final Approval	Linda Hynd	05/30/2008 09:11 AM	APRV

Form Started By: Linda Hynd
Started On: 05/29/2008 04:10 PM
Final Approval Date: 05/30/2008

EDMONDS CITY COUNCIL DRAFT MINUTES

May 27, 2008

Following a Special Meeting at 6:30 p.m. to setting negotiation parameters for real estate acquisition, the Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Michael Plunkett, Council President
Peggy Pritchard Olson, Councilmember
Steve Bernheim, Councilmember
D. J. Wilson, Councilmember
Deanna Dawson, Councilmember
Dave Orvis, Councilmember
Ron Wambolt, Councilmember

STAFF PRESENT

Al Compaan, Police Chief
Duane Bowman, Development Serv. Director
Stephen Clifton, Community Services Director
Dan Clements, Administrative Services Director
Brian McIntosh, Parks & Recreation Director
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

2. CONSENT AGENDA ITEMS

Councilmember Wambolt requested Item J be removed from the Consent Agenda and Councilmember Bernheim requested Item H be removed.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, FOR APPROVAL OF THE REMAINDER 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 20, 2008

C. APPROVAL OF CLAIM CHECKS #104402 THROUGH #104565 FOR MAY 22, 2008 IN THE AMOUNT OF \$706,197.67. APPROVAL OF PAYROLL DIRECT DEPOSITS AND CHECKS #46539 THROUGH #46592 FOR THE PERIOD OF MAY 1 THROUGH MAY 15, 2008 IN THE AMOUNT OF \$792,476.96

D. ACKNOWLEDGE RECEIPT OF CLAIM FOR DAMAGES FROM MICHAEL PALMER (AMOUNT UNDETERMINED)

E. POLICE DEPARTMENT MULTIYEAR PLAN 2008-2012

- F. APPROVAL OF POLICE COLLECTIVE BARGAINING AGREEMENT - COMMISSIONED MEMBERS
- G. APPROVAL OF COLLECTIVE BARGAINING AGREEMENT BETWEEN CITY OF EDMONDS AND THE PUBLIC, PROFESSIONAL AND OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION #763 (TEAMSTERS)
- I. APPROVAL OF 2008 TAXICAB OPERATOR'S LICENSE FOR LOW FARE AIRPORT AND LOCAL FOR HIRE VEHICLE

ITEM H: APPROVAL OF ORDINANCE AMENDING THE PROVISIONS OF ORDINANCE NO. 3622 TO INCREASE THE SALARY OF THE MAYOR, EFFECTIVE JULY 1, 2008 AND JULY 1, 2009

COUNCILMEMBER BERNHEIM MOVED TO TABLE THIS ITEM. MOTION DIED FOR LACK OF A SECOND.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCILMEMBER DAWSON, THAT THE SALARY INCREASE FOR THE MAYOR TAKE EFFECT JULY 1, 2012 AND JULY 1, 2013.

Councilmember Bernheim commented this would result in \$25,000 in savings by not increasing the salary of the current Mayor who was elected knowing what the salary was and who did not ask for this increase.

Councilmember Wambolt explained the Salary Commission considered a great deal of relevant data and correctly concluded the Mayor's salary was in the 39th percentile; the City's policy has been to pay at the 50th percentile. The Salary Commission's recommendation was to increase the Mayor's salary by 3.5% on July 1, 2008 and 3.5% on July 1, 2009; at that rate the salary would never reach the 50th percentile. For that reason, five Councilmembers approved the proposed salary increase last week. He summarized accepting the Salary Commission's recommendation was a rubberstamp and not doing what the Council was elected to do - assess issues and make their own judgment.

Council President Plunkett expressed support for the motion, cautioning against personalizing the salary increase by stating this Mayor knew what the salary would be. He explained the discussion had nothing to do with Mayor Haakenson but with the position of Mayor and that position should be paid comparable to Mayors in comparable cities.

Councilmember Dawson agreed the discussion was the appropriate salary for the office of the Mayor and not specifically the current Mayor. She noted the proposed ordinance would result in Edmonds' Mayor being paid higher than any other elected Mayor for a City of Edmonds' size in the region and place the Mayor's salary closer to cities such as Everett or Seattle. She noted the Salary Commission's recommendation, a 3.5% COLA and \$400 per month in deferred compensation, would put the Mayor's salary in the 50th percentile for elected Mayors and City Managers. She noted the salary proposed by Councilmember Wambolt and contained in the ordinance would pay the Mayor similar to a City Manager. Although she acknowledged there were similarities between Mayors and City Managers, the increase contained in the ordinance would place the Mayor's salary so far ahead of other Mayors in the region as to be "out of whack."

She agreed elected officials did not get paid what they should for the work they do, however, that was the nature of being an elected official; their salaries were not comparable to the private sector. As compared to the fulltime Mayors of Lynnwood or Marysville, the proposed salary would be vastly higher. She suggested if the Council was inclined not to accept the Salary Commission's recommendation, the issue

be referred to the Finance Committee for further consideration of what other Mayors in the region are paid. She noted this increase, if approved, would make Edmonds Mayor the fourth highest paid Mayor in the State. She indicated she would not support the proposed ordinance.

Councilmember Bernheim explained the plan was to increase the Mayor's salary by \$12,000 in July 1, 2008 and another \$12,000 the following year and the Mayor would not be assuming any additional responsibilities as a condition of this gratuitous increase. He noted one of the few arguments offered by the supporters of this increase was it would attract qualified people to run for Mayor during the next election. He emphasized an additional \$25,000 was not needed to attract people to the position because people ran for the office of Mayor not for the health benefits or the salary, but because they wanted to be Mayor. He commented he considered running but decided not to and plenty of other competent people did run and it was unnecessary to offer a salary of \$150,000 per year.

He explained this was a step for responsible government; to hold salaries of elected officials in times of economic belt-tightening. He disagreed the Council was rubberstamping the Salary Commission's recommendation; the Council rejected the Salary Commission's recommendation and offered a gratuitous wage increase that was not requested and not conceived of by anyone else other than Councilmember Wambolt prior to the meeting. He pointed out the intent of the L5 policy, paying salaries at parity, was to keep employees happy; there was no need to keep the Mayor happy as his salary was what he expected to receive when he ran for election. He preferred to spend the additional money on developing a native plant garden at the Arts Center. He agreed the discussion was not personal and did not see a need for a salary increase in this instance. He noted the Salary Commission would meet again in two years and could change their recommendation at that time. He concluded the salaries paid by comparable cities was not a consideration in times of economic belt-tightening.

Councilmember Wambolt commented this did not need to be returned to the Finance Committee; the Council received all the materials reviewed by the Salary Commission and had ample time to study them. He reviewed the materials and based on his experienced reached the conclusion that led to his motion. He relayed that people have asked him if he planned to run for Mayor in four years and was that why he proposed the salary increase. Councilmember Wambolt assured he would never run for Mayor. He noted Councilmember Bernheim had no experience in the industry. Even when times were tough, organizations set their pay scales at an appropriate level to ensure fairness. He learned early in his career that it was not the amount of money people were paid that motivated them; it was the level of fairness to other employees. Twelve of the Mayor's staff have higher salaries than the Mayor. He agreed this discussion was not regarding Mayor Haakenson but the position of Mayor.

To Councilmember Dawson, he pointed out when comparing the salaries of Mayors and City Manager in comparable cities, Edmonds' Mayor's salary was in the 39th percentile and 3.5% or approximately \$3,500 and an additional \$400 in deferred compensation would not bring that salary near the 50th percentile.

Councilmember Dawson emphasized government was different than the private sector; there were many staff members whose salaries were higher than the County Executive, the Governor, etc. That was the nature of the position because those officials must live within their jurisdictions versus City Managers or Directors who could be recruited on the open market. She anticipated the salary of every Director in Snohomish County was higher than the County Executive's salary. The proposed salary increase would put Edmonds' Mayor's salary out of whack with other elected officials in the region and would pay the Edmonds Mayor more than the Lieutenant Governor, more than virtually all elected officials in Snohomish County. She did not object to a reasonable salary but did object to establishing the Mayor's salary at a level far above any other elected official. She noted that information, what other elected officials were paid, may not have been before the Council when they made their decision last week.

Councilmember Dawson explained the L5 policy did not average salaries; it compared salaries and establish a rate that was in the middle. The Salary Commission's recommendation would place the Mayor's salary at the median of the other cities. She urged the Council to reconsider the increase for the office of the Mayor.

Councilmember Bernheim assured his challenge of the 25% increase in the Mayor's salary was not an attack on Mayor Haakenson and assured he felt Mayor Haakenson was a great Mayor. With regard to fairness, he questioned the argument that it was fair to increase the Mayor's salary because a majority of the Council felt he deserved it. He summarized the proposed increase was an unrequested, gratuitous donation of public taxes in an era of belt-tightening and urged the Council to support his amendment.

Councilmember Wambolt referred to Councilmember Bernheim's comment that the salary increase was not appropriate due to the City's tight financial situation, commenting that philosophy had not been applied to any other employee's salary.

UPON ROLL CALL, MOTION FAILED (3-4), COUNCIL PRESIDENT PLUNKETT AND COUNCILMEMBERS BERNHEIM AND DAWSON IN FAVOR; AND COUNCILMEMBERS WILSON, OLSON, ORVIS AND WAMBOLT OPPOSED.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, FOR APPROVAL OF ITEM H. UPON ROLL CALL, MOTION CARRIED (5-2), COUNCIL PRESIDENT PLUNKETT AND COUNCILMEMBERS OLSON, WAMBOLT, WILSON, AND ORVIS IN FAVOR; AND COUNCILMEMBERS DAWSON AND BERNHEIM OPPOSED. The item approved is as follows:

APPROVAL OF ORDINANCE AMENDING THE PROVISIONS OF ORDINANCE NO. 3622 TO INCREASE THE SALARY OF THE MAYOR, EFFECTIVE JULY 1, 2008 AND JULY 1, 2009

ITEM J: ORDINANCE AMENDING THE PROVISIONS OF ORDINANCE NO. 3410 TO PROVIDE FOR THE COMPENSATION OF COUNCIL MEMBERS ELECTED AND TAKING OFFICE ON OR AFTER JANUARY 1, 2010

Councilmember Wambolt pulled this item to vote against it.

COUNCILMEMBER BERNHEIM MOVED, SECONDED BY COUNCIL PRESIDENT PLUNKETT, FOR APPROVAL OF ITEM J. UPON ROLL CALL, MOTION CARRIED ((4-3), COUNCILMEMBERS BERNHEIM, ORVIS, DAWSON AND COUNCIL PRESIDENT PLUNKETT IN FAVOR; AND COUNCILMEMBERS WAMBOLT, WILSON AND OLSON OPPOSED. The item approved is as follows:

J. ORDINANCE AMENDING THE PROVISIONS OF ORDINANCE NO. 3410 TO PROVIDE FOR THE COMPENSATION OF COUNCIL MEMBERS ELECTED AND TAKING OFFICE ON OR AFTER JANUARY 1, 2010

3. PRESENTATION ON THE DALE TURNER FAMILY YMCA

Vern Chase, YMCA Executive Board Member, introduced incoming YMCA Board Chair Michael Schultz, Executive Director Courtney Whitaker, Development Director Stacy Segal and Daybreaker Rotarian Marisa Gallier.

Mr. Chase explained the \$19.5 million family YMCA located on Hwy. 99 south of the Snohomish County line was scheduled to open this fall. He participated on the Search Committee for a new YMCA for over seven years to find the right site for a family YMCA that would meet the needs of their service area - north Seattle to Lynnwood to Edmonds to Lake Forest Park. To ensure they were meeting the needs of

the community, gaining the financial support of the leaders in the area and were a true partner with the public and private groups in the area, the site needed to be visible and in a convenient location. He provided a brief fly-through video that highlighted the key programmatic spaces in the new YMCA that include an aquatic center, family center, and total health center.

Incoming YMCA Board Chair Michael Schultz commented on the positive impact of YMCA programs on youth in the Edmonds community. He recognized that no one organization or City program could support the diversity of community needs. He described YMCA school-based programs that serve more than 200 elementary and 50 middle school students each day. In addition, over 40 teens participate in leadership clubs each month. The new facility will allow further development of these programs and provide opportunities for children, teens and adults to gather in one location. He summarized they were proud of the impacts the YMCA was having in the area and hoped Edmonds residents would find a place for themselves in the new YMCA's wellness, family and aquatic programs. He looked forward to working with Edmonds staff and elected leadership to determine if there were collaborations and joint ventures to better serve the residents of Edmonds.

Executive Director Courtney Whitaker displayed a rendering of the outside of the building located on Hwy. 99 south of the County line between Sky Nursery and Costco. They broke ground July 2007 and expect to be open by fall 2008. She displayed floorplans, identifying the aquatics center that includes recreation and place space, fitness space, a therapeutic hot tub, and is handicap accessible. She identified the youth development center, open and free to teen members of the community that offered leadership, computer technology, health, etc. as well as designated teen/youth exercise space. The facility includes a 21-foot climbing pinnacle, a family center offering a variety of activities for all ages and a total health center. She concluded although the building was nearly complete, they had not yet finalized programming. She looked forward to discussions with Edmonds Park and Recreation staff to identify needs they could partner on to ensure a broad base of programming was available to the community.

Mr. Chase commented they had raised a great deal of money and were well positioned to meet the unique needs of the community. As a member of the Chamber of Commerce's Economic Development Committee, he recognized the new YMCA would enhance Edmonds' quality of life and add to Edmonds' attractiveness as a great place to work and live. He looked forward to collaborating with the City of Edmonds.

Councilmember Olson expressed her pleasure that the facility was named after Reverend Dale Turner, one of the most amazing people she has ever known. Ms. Whitaker commented they were excited to be able to honor the memory of the late Reverend Dale Turner, a Minister at the University Congregational Church, religion columnist for the *Seattle Times* for 19 years, resident of the service and a lifetime board member of the YMCA of greater Seattle.

Councilmember Wambolt asked the size of the pool. Ms. Whitaker answered it was 25 yards.

Councilmember Wilson commented the facility was very impressive and he wished it could have been constructed within Edmonds. Ms. Whitaker assured they tried to site the facility in Edmonds.

Mayor Haakenson echoed Councilmember Olson's comments regarding Reverend Whitaker.

4. AUDIENCE COMMENTS

Lora Petso, Edmonds, referred to Councilmember Wilson's comment last week regarding whether the revised Park Plan was less ambitious than the previous Plan and provided the following as evidence it clearly was less ambitious.

Item	2001 Plan	2008 Plan
Pool	Develop a pool, fixed location	Strong interest, maybe
Neighborhood Park acres/1,000 pop.	.95	.71
Neighborhood Park size	5 acres	1-5 acres
Planned Acquisition	7 sites, average size 3 acres	6 sites, average size 2 acres
Community Park acquisition	3 sites, 2-mile service area	1 site, 5-mile service area
Community Park service area	2 miles	5 miles
Community Park acres/1,000 pop.	2.61	2.03
Regional Park acres/1,000 pop.	1.08	1.96
Special Use Area/1,000 pop.	.98	.71
Open Space/1,000 pop.	6.1	5.86

Virginia Redfield, Edmonds, commended the Council for listening to the input from the community regarding the redevelopment of the waterfront property and submitting the idea for a bond issue to purchase the property. She expressed her support for that effort.

Jim Lockhart, Edmonds, expressed interest in the modernization of the waterfront property. He pointed out the City had a unique opportunity to create an attractive, enduring, signature development as a gateway to the City that would also serve as a neighborhood destination for citizens. He expressed his support for the Council's effort to submit a bond proposal to finance the purchase of the waterfront property.

Jim Hills, Edmonds, President, Edmonds Chamber of Commerce, representing the 430 members, expressed the Chamber's support for a process guided by reasoned standards that represent the best interest of the City, residents and businesses and ensured the best and most sustainable uses. They urged the Council to develop specific criteria to address the long term fiscal feasibility of any project, noting the economic realities of any proposal must be carefully considered in light of the City's current financial standing and potential impacts on residents, businesses and taxpayers. For example, should the City pursue purchasing the site for any eventual use, it was important to consider both short and long term costs including the initial purchase price, demolition of existing structures, construction costs and future annual maintenance. Further, if the City purchased the property, there must be assurance that future needed/desired infrastructure improvements could be funded. He pointed out revenue should also be a factor in the Council's discussion should any future use preclude or reduce the tax revenue from the site. He summarized the Chamber's position was not opposition to any proposal, rather they supported establishing and applying reasonable guidelines for each proposal considered by the Council.

David Arista, Edmonds, Downtown Edmonds Merchants Association, expressed the Association's support for the Chamber's statement. In response to comments that the merchants did not support a mixed use/commercial/retail space on the Harbor Square/Antique Mall properties, he assured the merchants felt such a development would not be competition but help draw visitors to Edmonds.

Roger Oliver, Edmonds, expressed concern with dangerous sidewalks, lack of curb cuts, and dangerous curb cuts, citing the area from 3rd & Howell, north to Walnut, east to 5th, south to Howell Way and to the Port was an example. He noted many of the hazards would not be obvious to an able-bodied person but presented a danger to him while traveling in his motorized chair. He invited two Councilmembers to accompany him to view the hazards. Mayor Haakenson suggested Public Works Director Noel Miller accompany Mr. Oliver.

Fred Bell, Edmonds, President, Edmonds Historic Society, described efforts to save the 107-year old building at the corner of 6th & Main including articles/editorials in the *Edmonds Beacon* and a display ad

asking for help/suggestions for moving and a location for the building. He explained the City did not have sufficient funds to relocate or maintain the building. He suggested siting the building on the Civic Stadium property, leased by the City until 2021, noting the Edmonds School Board has expressed willingness to discuss that location. He suggested a Museum fund drive to move the building and place it on a foundation and work out with the City and other entities how to maintain it.

Cliff Sanderlin, Edmonds, thanked the City Council and Mayor for allowing more citizen input in the process than in the past. He assured the people of Edmonds were willing to help in any way possible. He offered to assist with fundraising via private sources to purchase all or part of the waterfront properties. He noted private fundraising from individuals, foundations and businesses could be very helpful in providing seed money, early studies, etc. as well as funding elements of the project.

John Reed, Edmonds, Alliance for the Citizens of Edmonds (ACE) referred to a memo they provided to the Council with facts and ideas developed via several ACE meetings and encouraged the Council to review the presentations Dick Van Hollenbeke and he made to the Council on April 1. He relayed ACE's recommendation that the City acquire the Skipper's and Antique Mall parcels, commenting acquisition was the best option as it would lead to the development of a combination of public amenities and revenue-producing attractions that would draw residents, visitors and additional revenue. Leadership by the Council, Mayor, staff and the Port would be necessary throughout the development process as well as community involvement. He referred to the list of needs that would be presented by staff, noting they should be viewed as an opportunity not a warning. He referred to staff's projection that bonding for the \$12 million cost to acquire the property would cost the owner of a home valued at \$500,000 approximately \$63 per year. He suggested consideration be given to larger bond issue to fund public amenities at the Waterfront Activity Center as well as develop playfields, sidewalks and fund other needs. He anticipated an additional \$10-\$20 million could be raised for a total cost of approximately \$190/year for the owner of a home valued at \$500,000. He summarized the members of ACE were ready, willing and able to assist the City in whatever way possible.

In light of the recent decision by the owners of the Antique Mall property to withdraw the prize money for the design contest and not reward the Edmonds-Woodway High School students who worked many hours on their design and presentation, Mr. Reed invited the community to contribute to a fundraising campaign established by ACE to replace the prize money. Donation could be sent to ACE - EWHS Design Fund, POB 1793, Edmonds, Washington, 98020.

Karen Wiggins, Edmonds, expressed her support for the City's purchase of the old Safeway/Antique Mall property and Skipper's property, noting it was her understanding there were many types of grants available. She supported placing a bond measure on the November 2008 ballot. She agreed with Mr. Oliver's comments regarding curb cuts and sidewalks, noting there were many inadequate curb cuts including one at 3rd & James as well as near the cemetery.

Natalie Shippen, Edmonds, expressed support for public ownership of the property between Main and Dayton, the railroad tracks and Sunset Avenue. She preferred the land be used for public purposes rather than commercial uses. She asked whether public land could be used for commercial purposes, and urged the City to obtain the answer to this question before moving forward. It was her understanding a municipality could not serve as a landlord.

George Murray, Edmonds, recognized the Garden Club for their efforts, noting they have an arrangement to maintain the park across from Tully's. Next, he expressed support for a bond issue for a park. With regard to the Mayor's salary increase, he was disappointed the City Council authorized this salary increase due to the message it sent to staff. He envisioned it would now be difficult for the Mayor withhold increases and/or cut staff if necessary. He pointed out there were other methods of providing the

Mayor an increase such as an annual bonus for excellent service. He relayed that the Mayor of San Diego vetoed an increase approved by the Council and asked they reconsider the matter, finding it put him in an untenable position with his staff.

Betty Larman, Edmonds, commented the Council was able to make a momentous decision by voting on the future of the waterfront. She expressed her support for purchasing the property for everyone to enjoy. She inquired about the purchase of the Old Milltown courtyard. Mayor Haakenson advised the Council and Mr. Gregg were still in negotiation.

Brian Larman, Edmonds, commented in the past five years there had been an erosion of Edmonds' character and unique ambiance. The City's codes and Comprehensive Plan seemed to be interpreted in a manner that did not meet the intent of the policy makers. He supported purchasing the waterfront property and developing something that was a designation for the community rather than just residential. He questioned the legacy Councilmembers wanted to leave – a legacy of Edmonds as a jewel of the northwest or just condominiums on the waterfront.

Robert Deigert, Edmonds, supported the City's purchase of the waterfront properties. He pointed out the importance of not allowing a few builders to control various political entities. He urged the Council, after purchasing the property, to allow the people to determine the uses. He urged the City to be careful with development downtown to avoid another Kirkland that had only condominiums and 5-story buildings. He suggested converting Harbor Square to a personalized work area that would create income for the City as well as bring people into Edmonds. He summarized the decisions the Council made with regard to the waterfront property would affect the City for the next 100 years.

Larry Pauls, Edmonds, echoed the previous comments regarding purchasing the waterfront property, commenting it was unfortunate the most aggressive building approach was on the Skipper's site which was immediately adjacent to the waterfront park. He suggested researching a way to allow the developers to build in an area that was not as critical as the area between Main & Dayton.

Linda Bontecou, Edmonds, expressed support for purchasing the Antique Mall and Skipper's properties. She recalled the saying – location, location, location – noting everyone knew this was the perfect location in Edmonds. She pointed out the Edmonds-Woodway High School students' presentations eliminated negativity and made people think about possibilities – a jewel for all. She encouraged the Council not to miss this opportunity and to have the vision to make this a wonderful place for Edmonds.

Joan Bloom, Edmonds, relayed 10 members of ACE met to discuss a vision for the Waterfront Activity Center; a summary of this vision was emailed to the Council. Their review of the two scale models created by the Edmonds-Woodway High School students and the committee's discussion led to many commonalities including a low level design within current height limits; an innovative and progressive design throughout the properties; environmentally sensitive and attentive to the properties' constraints such as regular flooding and proximity to the railroad tracks; easy to reach by foot, bicycle, or shuttle; easy to reach downtown and the Arts Corridor and connected to the neighborhood by shuttle, walkways, bike paths; a lot of indoor/outdoor areas; services and activities that appeal to all age groups and interests; welcoming and accessible; draw visitors from throughout the region and country; and provide so much to do, see and purchase that it would generate a great deal of revenue, and a place everyone wanted to come because it was so much fun. She noted many of the ideas they developed were in the notes of the WG33; it was the designs by LMN Architects that the community objected to, not the ideas they were based on. She encouraged the Council to embark on a visioning process to create a world class Waterfront Activity Center and assured it could be done.

Richard Senderoff, Edmonds, supported development of the waterfront area for public use, comparing the possibilities and financial benefits to the recreational uses available on the Jersey-Delaware shore. He envisioned development could occur in three ways, 1) a developer driven Master Plan, 2) a City-driven Master Plan, and 3) the City purchase all or part of the properties. He found it unreasonable to allow a developer to purchase property and only develop it if the zoning were changed to meet their needs which held the City and community hostage. Although he found a City-driven Master Plan more acceptable than a developer-driven Master Plan, he was concerned it would put the Council and Mayor between the community's interests and the developer's interests and lead to a costly and extended debate. The only reasonable solution was for the Council to find a way to purchase the property and develop it using citizen input in a manner that attracted visitors and generated revenue.

Bill Angle, Edmonds, commented this decision was critical as it would impact the physical space and sense of community for 50-10 years. He observed there was no ongoing support for the plans that arose from the earlier planning process. In earlier comments he raised the question whether the City should purchase all or a portion of the properties and had concluded along with many others that acquiring the property was the best option to ensure the properties were developed for the long term benefit of the citizens of Edmonds. He noted the first step was an appraisal; he was not overly concerned about the property being too expensive in view of the height limits, setbacks, parking requirements, etc.; physical constraints such as the high water table, adjacent railroad tracks and Puget Sound; ferry lines on SR104, etc., as well as the political constraints with regard to increase building heights and greater density. Due to these constraints, he anticipated the appraisal would find they were significantly less valuable than the owners believed them to be. He concluded the City had the elements necessary to create a great future for the City and community; acquiring these properties was critical for community building. He looked for the Council and its strong leadership in making this public/private approach a reality.

David Page, Edmonds, commented things either grew or they died; the idea of a waterfront development was growing daily. He recognized there were problems on Lake Ballinger, Meadowdale, Hwy. 99 and suggested creating a bond issue large enough to fix many of the problems in Edmonds. He recalled the uproar over the \$9.5 million bond to construct the Public Safety Complex and \$4 million to purchase the City Hall building. He noted today, 13 years later, those buildings were worth approximately \$50 million. He recalled the Public Safety group had to raise \$9,000 to put the bond issue on the ballot and expressed his willingness to donate to this effort. He pledged \$500 toward replacing the prize for the waterfront design competition.

Jack Jacobson, Edmonds, commented when the property owners purchased the waterfront property, they knew there were restrictions; when their efforts to change the building heights were unsuccessful, they offered the property for sale. He expressed dismay with the property owners' withdrawal of the prize from the design competition.

John Hall, Edmonds, expressed his faith in the Council and urged them not to give the developers the ammunition to shoot the golden goose.

Brian Pettoletti, Edmonds, a business owner in Edmonds, commented change was enviable and people either watched it or were part of it. Now was the time for change and he urged the Council not to let the process get in the way of progress.

5. **DISCUSSION AND POTENTIAL ACTION REGARDING THE DOWNTOWN MASTER PLAN AREA - WATERFRONT ANTIQUE MALL, HARBOR SQUARE AND SKIPPERS PROPERTIES**

Community Services/Economic Development Director Stephen Clifton described the series of events that led to tonight, specifically the continued effort by the Council to explore options for redeveloping the

Downtown Master Plan Area as identified in the City's Comprehensive Plan, the area also known as the Port of Edmonds Harbor Square, Antique Mall and Skipper properties and the WSF parking lot.

Following discussion at the 2008 City Council retreat, the Council conducted two public meetings on March 25 and April 1, 2008. During the March 25 meeting City staff presented information on the existing redevelopment framework as established by the City's Comprehensive Plan and Zoning Code. Following presentations by City staff, Mark Hinshaw, LMN Architects, presented information on the national and regional phenomenon of people choosing to move into and near downtowns. He also spoke about the redevelopment opportunities and/or constraints of subject area. The next group of presentations were given by the owners of Harbor Square, the Antique Mall and Skipper's properties.

On April 1, 2008, the public was invited to share comments or ideas on the potential redevelopment of the subject area. The City Council then discussed possible next steps following the public comment period and at the conclusion of the meeting, the Council asked the Council President to work with staff to bring the issue of Downtown Master Plan redevelopment back to the City Council.

After meeting with the Mayor and City Staff, the City Council President requested City staff present the following information at the May 27, 2008 City Council meeting:

1. The necessary steps if the Council wanted to control all or a portion of subject properties with a city driven master plan
2. Council control over all or a part of subject properties with an applicant driven master plan
3. The necessary steps if the Council wanted to control the property by buying some or all

Additional information requested included City Staff's recommendations should City Council decide to purchase all, or a portion of the subject properties (Antique Mall, WSF parking lot and Skipper's properties), as well as information on unfunded high priority projects.

Planning Manager Rob Chave explained the Downtown/Waterfront Activity Area was a much larger area in the Comprehensive Plan, from Pine Street to 9th to Caspers, primarily the bowl area and the hill. The "Downtown Master Plan" area was part of the Downtown/Waterfront Activity Area and defined as three properties - Harbor Square, the old Safeway/Edmonds Shopping Center and the Skipper's property. The current Comprehensive Plan differentiates the downtown district and emphasizes the importance of master plane-based redevelopment. The current Comprehensive Plan direction includes, 1) linked open space/public areas along waterfront "esplanade," 2) view corridors and downtown/waterfront pedestrian connections east-west and north-south, 3) master-plan based redevelopment of key areas, and 4) support compatible design of regional facilities (transit, parks and walkways, port).

Development Services Director Duane Bowman reviewed Comprehensive Plan implementation choices under the existing Plan versus a changed Plan. Utilizing the existing plan, one of the available process options was zoning unchanged; implementation would be either a Master Plan or Contract Rezone utilizing the existing zoning that was publicly or privately driven or developing under the existing zoning. The second available process option utilizing the existing plan was a zoning amendment; implementation could be via a new zone, creating an overlay zone, or a minor zoning amendment.

Under a change to the existing Comprehensive Plan, there were three options, planned action, subarea plan or modify/clarify existing policies. He explained implementation of a planned action would require a Master Plan and SEPA. He explained the planned action was the most expensive and most detailed of the options. It involved developing a master plan for the subject property that considered all the environmental issues, traffic, stormwater drainage, building design, etc. as well as SEPA. Once that process was complete, someone could propose a development and would not be required to complete the detailed review process as it would already have been done. Implementation of the subarea plan for the

property was a zoning change and/or design overlay. Modifying/clarifying existing policies would require a Zoning Code amendment/design standards to implement the changes.

He reviewed options for implementation of the existing Comprehensive Plan:

- Develop subject properties under existing zoning
- If there is a desire to provide flexible development standards, other than what current exists, a new zoning district could be established which includes new development standards
- An applicant could initiate development of master plan and proposes related zoning code provisions, followed by a request for a contract rezone to implement the proposed plan.

He noted master plans must be consistent with the Comprehensive Plan goals and polices for the area.

Opportunities under the no change to the Comprehensive Plan:

- Focus on implementation
- May be easier to accomplish redevelopment within a shorter timeframe
- Minimal out of pocket costs to City/public
- Flexibility of master plan option allows for creativity
- Individual entities may proceed at their own pace as they are willing/ready
- Voluntary partnership are possible, but optional.

Weaknesses of a no change to the Comprehensive Plan approach:

- Only as good as existing regulatory framework
- General plan language provides for many options but less certainty of acceptance/approval
- Current zoning and ownership pattern may nota result in what the public or City ultimately wants

Opportunities with a Comprehensive Plan amendment:

- Very public process; implementation predictability
- City can serve as “glue” holding interests together and provide link between Comprehensive Plan and implementation
- Opportunity to involve major public interests who own property in the area: Sound Transit, WSF, Port
- Provides potential to look at options not current on the table: land swaps; transfer of development rights; property mix of private and public development options
- Opportunity to develop key environmental information and public/private funding options needed for an overall master plan implementation program

Weaknesses with a Comprehensive Plan amendment:

- Must have willing participants
- Takes time

Administrative Services Director Dan Clements commented one of the problems was the property acquisition costs were unknown but a voter-approved bond issue would be required to acquire the properties. He displayed an aerial photograph and provided the Snohomish County assessed value of each property:

Skipper’s property (owned by Bob Gregg):	\$ 1,181,000
WSF parking lot:	\$ 1,180.400
Antique Mall/old Safeway (owned by Al Dykes):	<u>\$ 9,738,900</u>
Total assessed value:	\$12,100,300

He described property tax impacts of a 20 year bond @ 5% annual interest, explaining for a principal of \$12,100,000, the annual payment would be \$970,959 and the impact on a \$500,000 home approximately \$64/year. He clarified these were not the costs that would included in a bond issue as they did not include demolition, environmental or maintenance/operational costs. He reviewed potential project caveats:

- How does this rank with other projects?
- Is this the most important issue to take to voters? Election costs of \$80,000 - \$125,000. Purchase and Sale agreement would be based on voter approved bond amount to fund the purchase
- Use not yet determined: affects type of bonds, interest rates, and budget. Difficult to determine the type without a determined use
- Owners have not agreed to sell for assessed value
- Significant issues with condemnation; condemnation requires a public purpose

Mr. Clements reviewed the path to purchase:

1. Determine use which determines type of bonds and ballot title
2. Determine what parcels to buy
 - Triggers appraisal and environmental assessment
 - Determine property owner expectations
3. Determine funding: voter approved
 - a. Bond Issue: 60% approval required
 - b. Levy lid lift: 50% approval plus one
4. Purchase and Sale/First Right Offer
 - Contingent on voter approved funding clause
5. Place before voters

Mr. Clifton reviewed City staff's recommendation should the City Council decide to purchase all or a portion of the subject properties:

1. Determine how purchase of property fits within the City's high priority needs. He highlighted examples of unfunded high priority projects, estimated costs and possible funding sources including ongoing building maintenance projects (\$200,000/year), ongoing transportation improvements (\$500,000 - \$1 million/year), aquatic center (\$10-\$40 million), parks and facilities maintenance building (\$3-3.5 million), Senior Center building (\$4-\$10 million), civic playfield acquisition (cost unknown), former Woodway High School playfields (\$12 million), Fire Station 16 (cost unknown), 4th Avenue Cultural Center (\$10 million), Boys & Girls Club Building (\$5 million), Wade James Theater (\$5 million), etc. He summarized if a bond issue to purchase the waterfront properties were placed before the voters, a decision would need to be made whether to have it be a standalone item or with other unfunded, high priority needs.
2. Include within 2009-2011 budget process
3. Conduct due diligence activities
 - Clearly define public purpose basis for purchase at the earlier possible point
 - Vet use with bond counsel prior to election
 - Perform environmental review
 - Conduct appraisal
 - Prepare "planned action" (outlined in May 22 memo from City Attorney Scott Snyder)

Councilmember Dawson referred to public comment and staff's question regarding combining this purchase with other high priority unfunded needs including an aquatics center. She asked whether the old Woodway High School or the waterfront properties could be sites for an aquatic center. Mr. Clifton answered they could be potential sites; however, a preferred site had not yet been identified.

Councilmember Dawson commented improvements to the Senior Center would be an appropriate item to combine with a bond for the purchase of the waterfront property as it was adjacent to these parcels. She noted several of the options required a willing property owner and asked whether the property owners had been approached regarding selling their property or partnering with the City. Mayor Haakenson advised he emailed Mr. Gregg and Mr. Dykes 10-14 days ago asking if they were interested in selling their property and neither had responded.

Councilmember Dawson commented transfer development rights or land swap may make the property owners more willing to sell their property or partner with the City. She asked whether that topic had been broached with the property owners. Mr. Clifton answered it had not. Councilmember Dawson asked whether development with the Port via land swap of Harbor Square had been broached with the Port. Mr. Clifton answered in concept that was a possibility and conversations had been held with the Port but no decision had been made with regard to pursuing that option.

If it was decided the existing Comprehensive Plan met the community's needs, Councilmember Dawson asked whether there was a way to pursue a master plan/SEPA process under the existing Comprehensive Plan or would it be better to change the Comprehensive Plan. Mr. Bowman answered it was likely that a change to the Comprehensive Plan would be required. The current Comprehensive Plan policies were quite broad and gave a wide range of opportunities for development. If the Council had an idea regarding what they wanted to see on the site, it would be preferable to modify/strengthen the policies to reflect that direction.

Councilmember Dawson commented the next steps could not be determined until the City ascertained whether there were willing property owners as all the processes depended on that or the developer submitting a proposal under the current regulations. Mr. Bowman advised if the existing private property owners wanted to develop under the existing code, there was little the City could do as long as they followed the existing code.

City Attorney Scott Snyder commented via a partnership, public money could be used for public purposes and the City could partner with a private developer to accomplish a mixed use project. If the City utilizes its condemnation powers, it can only be for a public purpose and private uses could only be incidental. The City would be required to show very refined plans to illustrate it was purchasing exactly what it needed and if there was some land left over, the courts were somewhat forgiving if there was a strong plan. Before contacting the property owners, he noted it was essential to determine the use and purpose.

Councilmember Dawson commented the City could purchase the property and then partner with a willing developer or pursue a joint purchase with a private developer other than the current property owner. Whether the Council intended to pursue condemnation or a bond, Mr. Snyder emphasized that staff needed to know the use of the property. Councilmember Dawson suggested contacting the existing property owners to determine their interest in selling the property and then determine what uses the public wanted on the properties. If the Council was interested in pursuing condemnation, the property could not be used for restaurants and/or retail because those uses were not defined as a public purpose. Mr. Snyder agreed, noting some incidental use was allowed.

Councilmember Dawson emphasized if the public's interest was in revenue-generating uses, condemnation was not an option. Mr. Snyder agreed, noting the uses would also determine the type of bond financing. Councilmember Dawson commented with a willing seller, commercial uses would be possible, depending on the type of bond used to finance the project. Mr. Snyder agreed that was true for a portion of the cost; to estimate the other costs such as environmental, infrastructure, transportation, etc., a use must be determined. Councilmember Dawson summarized depending on how the property was acquired, the uses may be more limited. Mr. Snyder explained condemnation was a complicated and involved process and did not result in any deals as the City paid costs; a negotiated sale was almost always preferable. He acknowledged condemnation was the City's "hammer" for acquiring property for purposes the Council deemed appropriate. He noted there were defined public purposes and the Washington State Constitution was more restrictive than the federal Constitution with regard to public purpose.

Mr. Snyder preferred to have as much of the work done in term of environmental assessment, infrastructure assessment and purpose before the bond issue because significant delays in the form of environmental appeals could result in construction cost escalation and could kill a voter-approved project because there would be insufficient funds available. Therefore it was important to get as much of the process completed via planned action and review. He reiterated the recommendation in his memo that the City review its Critical Areas Ordinance and SEP provisions.

Councilmember Dawson asked whether review of critical areas on private property required a partnership with the property owner. Mr. Snyder answered many Puget Sound communities were using scientific data to review critical area maps. He noted there had been four flooding events at the intersection of Dayton & SR 104 in the past ten years; if the global warming reports are even moderately correct, greater frequency of flooding could be assumed. Councilmember Dawson asked whether flooding would impact the price of the property. Mr. Snyder agreed it could, noting it could also affect some of the uses currently allowed in the Comprehensive Plan. Mr. Snyder explained his focus was on public infrastructure costs so that it was clear this process was not intended to deflate the value of the property but to adequately assess what the City's cost would be.

Councilmember Dawson inquired about a city on the east coast that condemned property for private development. Mr. Snyder advised the U.S. Constitution permits condemnation for a broad public purpose that can include redevelopment; purchasing blighted areas with resale to a private developer for redevelopment because without the use of condemnation powers, it was difficult to acquire large blocks of parcels that may be necessary for private development. That is not possible in Washington State. For example, when Seattle was purchasing Westlake, their initial plan was to buy 100 acres and resell it to private developers. The Supreme Court struck down that project, stating while there could be some incidental, private use of property acquired via condemnation, but it must be incidental.

In a later case, Washington State Trade Center, the Center had a very specific public purpose but ended up with 20% of the property resold to private developers. The Washington Trade Center was designed to have a large, unimpeded display space which allowed them to show the court they did not acquire anything more than they had to acquire and what was left over was available because of the topography and how the ownership was divided among private property owners. He summarized if the intent was to use condemnation, the City should not enter into the project assuming they would sell a portion. He in condemnation, the public use must be carefully defined. The first step was passage of a condemnation ordinance; the second step was a public use and assessment hearing. At both stages, it was important to have the public purpose clearly identified. The public purpose would also determine the type of bond.

Councilmember Dawson asked about renting. Mr. Snyder answered concession agreements were a common part of many park projects and could be considered an incidental use in support of a park. Councilmember Dawson recognized a use could be incidental to a park but condemnation could not be used if the primary purpose was shops and restaurants. Mr. Snyder agreed that would be very difficult to justify. Councilmember Dawson referred to the River Park Square Development in Spokane which although it did great things for Spokane, was found not to be a public purpose.

Mr. Snyder advised there was a list of public purposes in the statutes that controlled local government condemnation powers. He referred to a recent case in Cowlitz County where the County attempted to condemn a culvert for salmon recovery. Although required by federal law, counties do not have the ability to condemn for salmon habitat. Councilmember Dawson pointed out the uses on the site would not be limited with a willing seller.

Council President Plunkett commented the steps appeared to be, 1) determining the public purpose and 2) appraisal, environmental and construction costs. With regard to the public purpose, Council President

Plunkett read the following from the Comprehensive Plan, 1) in Edmonds the economic benefit of the parks systems element include attracting tourism, highlight cultural elements of the downtown shopping core, accessibility, pedestrian friendly, design of waterfront parks, public art, development of cultural facilities, 2) the community has expressed an interest in enhancement of new multiple purpose arts facility for visual arts, support also expressed for public gathering spaces that may be used for visual art forms, and 3) identified as a cultural designation. He asked whether the existing Comprehensive Plan would meet the first step of determining the public purpose. Mr. Snyder responded the sections Council President Plunkett cited were true and valid public purposes but were general public purposes; the question was what would be located on the site. In order to determine the cost, the City must have some idea of what would be on the site and in what priority, otherwise the numbers would be very soft. He envisioned a public process to define the public uses while the preliminary environmental assessments, etc. were being conducted. He summarized a lot more detail would be necessary before a bond issue was prepared, before the bond council drafted an ordinance, and before a condemnation ordinance could be drafted. Council President Plunkett asked whether a cultural center would be a valid public purpose. Mr. Snyder answered it was; further detail would be required before a bond amount could be determined.

Councilmember Wambolt pointed out of the property taxes residents paid, the City received only approximately 20%. There were other entities with demands on taxes including the Hospital District who would soon be seeking a great deal of money to upgrade their facility either via partnership with another hospital or voted taxpayer debt. He noted that was likely to be more costly than any other item on the list of unfunded high priority projects.

Councilmember Orvis asked whether the funds from a levy lid lift could be allocated specifically to this project. Mr. Clements answered the City would be required to do so; the levy must be lifted for a specific purpose. Councilmember Orvis clarified a future Council would be bound to maintain those funds for that purpose. Mr. Clement agreed. Councilmember Orvis asked whether a levy lid lift would allow the City to raise funds for maintenance. Mr. Clements answered a maintenance levy would be required.

With regard to determining uses, Councilmember Orvis asked whether at this stage it would be appropriate to identify major uses and staff could provide details regarding the elements. Mr. Snyder answered precision was not necessary at this level; he assumed a list of uses would be refined via a public process in conjunction with unfunded projects to determine a bond amount. Mr. Bowman advised a public master plan could be developed that defined the public uses for the site. Another option if there were willing sellers was a master plan/planned action that would identify the amenities the public wanted as well as recognize the desires/needs of the private property owners. The advantage of a planned action was once it was completed, a developer could submit a development proposal and proceed through the process without SEPA, etc. and the property could be developed in accordance with the planned action.

Councilmember Bernheim agreed the Council needed a general idea of the what they wanted to accomplish before conducting any preliminary negotiations with the property owners. He found the Washington Trade Center example interesting as a it approximated in many relevant ways one of the plans developed by the students, covering the property entirely with a park on top and office and commercial space beneath that could be used for parking, municipal offices, farmer's market or indoor park space all of which were permissible purposes under the terms of the condemnation statute. His review of the Washington Trade Center case led him to believe it would be easy to justify the space under a park for use by the City or leased to restaurants, etc. Mr. Snyder agreed that may be possible with careful planning.

Councilmember Bernheim asked the cost of the EMS levy election. Mr. Clements estimated the cost was \$80,000 - \$125,000; the City shared the cost with Edmonds School District.

Councilmember Bernheim asked whether the appraised value of the Antique Mall property could be lower than the assessed value in light of the commercial impact of the railway, traffic circulation and the flood proneness of the area. Mr. Clements answered it was possible but unlikely. Councilmember Bernheim asked whether there had ever been any objections by the property owner to the \$9 million appraisal. Mr. Clements recalled the property owner indicated last year they would sell the property for \$16 million. He noted a great deal of study would need to be done before a lower appraisal was a possibility. Further, the railway could be considered a transportation advantage to residents in a development. In Kent, the proximity to the railway has raised property values. He acknowledged the flooding may impact the property's values. Councilmember Bernheim recalled in discussion with the Port regarding structured parking, they indicated pumps would be required to remove water from the lower floors. Mr. Clements commented even if the appraised value were lower, the net would be nearly the same due to the amount of environmental study that would be required.

Mr. Snyder explained staff's intent was to use current scientific data to reevaluate critical areas provisions and the SEPA map and those regulatory efforts would provide a generalized framework, the critical area ordinance, and a specific tool, the SEPA process, to evaluate specific projects. Those would provide a better framework for discussion with an appraiser than flood history.

Councilmember Bernheim asked about how the condemnation process and voter approval of a bond would coincide. Mr. Snyder answered there were some steps that could be conducted parallel. He suggested getting the work done and if the bond issue passed, proceeding with condemnation. The first steps in condemnation were, 1) passage of condemnation ordinance by the Council and 2) a use and necessity hearing before the court. If a valid public purpose was determined, in most cases the court gave possession of the property to the City with the value to be determined in the court proceeding. The first steps, physical acquisition of the property, come quickly; the determination of value may take longer. Thus the importance of ensuring the amount of the bond measure was the amount necessary.

Councilmember Bernheim referred to the estimated cost of the 4th Avenue Arts Corridor on the unfunded high priority projects list. Mr. Clifton answered that amount was an estimate; that streetscape project included subgrade and infrastructure work.

Councilmember Dawson asked what would happen if the bond measure passed and a use and necessity hearing failed. Mr. Snyder answered he hoped that would not happen; however, the Council could pass another condemnation ordinance and redefine the purpose. Overall he did not see anything in the Comprehensive Plan that was not doable as long as it was properly planned; the only controversial items were the potential resale or public/private partnerships. The basic purposes in the Comprehensive Plan as cited by Council President Plunkett had counterpart public uses in the condemnation statute.

Councilmember Dawson agreed a public use could be determined for the site; however, the difficulty may be proving the necessity of that public use on these particular parcels. Mr. Snyder replied the court gave a great deal of deference to the Council's selection of a site for a park. For example public open space should be included as a use in any condemnation ordinance for that area because the City may find they did not have sufficient funds for development and it may require a phased development plan. Councilmember Dawson emphasized part of the issue was that this location was key to the City. She questioned whether the City needed to acquire the property or if transfer development rights could accomplish the same goal without the City acquiring the site.

Councilmember Dawson agreed with Mr. Snyder's recommendation that the Council review its Critical Areas Ordinance, SEPA provisions, flood maps and other City planned policies based on global climate change and inquired about the cost for that review. Mr. Snyder estimated \$200,000 to \$400,000 over a two year planning horizon. Councilmember Dawson noted that was the first step before pursuing any of

the paths and asked if the Council should budget for that in the next budget cycle. Mr. Snyder answered many Puget Sound cities have begun this review and due to Edmonds' topography and location, the City needed to conduct this review. If the Council was moving ahead with a purchase plan for an area that may be affected, the City could get double duty from the investigation by building it into the process. Councilmember Dawson summarized the City needed to conduct this review regardless but it was an important first step in this process as well.

Councilmember Dawson also agreed with Mr. Snyder's recommendation that the Council adopt the Washington Administrative Code (WAC) provisions for planned action review. Mr. Snyder noted the SEPA provisions were included by reference; the Council could have the Planning Board hold a public hearing and forward a recommendation to the Council or they could be adopted via an interim zoning ordinance.

Councilmember Dawson commented a planned action with a willing participant may negate the need for the city to purchase the property. Mr. Bowman agreed, noting the private property owners and other public entities such as WSF, Sound Transit or Port could work with the City on transfer of development rights as part of a master plan. Councilmember Dawson commented there were a number of possibilities via transfer development rights whereby the City would have more input on the development of the waterfront property due to its importance and the developer could develop another site whose features were not as key to the City. Mr. Snyder pointed out Parcel 2 was a state owned parcel and would require negotiation as it could not be condemned. Councilmember Dawson agreed the City would not acquire that parcel but there was the possibility of a joint development.

Councilmember Dawson agreed the appropriate first steps were to review the Critical Areas Ordinance and SEPA provisions, noting many of the issues could be double-tracked. If the primary goal was to have private development in conjunction with open space, perhaps a planned action was more appropriate due to the difficulty with condemnation if part of the primary purpose was revenue-generating. Mr. Bowman agreed, noting at the conclusion of a master plan and a planned action process, the private property owners knew what could be done on the property and they could submit a proposal in accordance with that process. Councilmember Dawson noted another option was the property owner could develop elsewhere via a land swap or transfer development rights.

Councilmember Dawson expressed interest in determining whether the property owners were willing participants because if they were not, that limited the paths the City could pursue. Mr. Bowman agreed it would be intriguing to determine whether they were interested in any of the options discussed tonight. He explained a master plan process was a very public process as was a public/private partnership. Councilmember Dawson posed a scenario where the property owners were interested and the process proceeded and did not work out. She asked whether the Council could still pursue acquisition via a willing seller or condemnation. Mr. Bowman agreed they could.

Mayor Haakenson commended staff for the information provided in their presentations.

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

Councilmember Dawson expressed interest in staff returning with a proposal for the ordinance updates as recommended by Mr. Snyder as well as determining whether there was any funding available this year rather than waiting until the budget process to identify funding. She also requested Mr. Snyder bring the WAC provisions to the Council for adoption. She asked staff to enter into a dialogue with the property owners and report to the Council regarding their interest in partnering with the City because without that information, the Council was constrained in their next steps. Mayor Haakenson advised Mr. Gregg

indicated he would provide a response but assumed he was waiting until after tonight's meeting; Mr. Dykes did not respond.

Councilmember Dawson was intrigued by the idea of transfer development rights or land swap which had the potential for a win-win situation where the City did not have to invest millions in a project and could still achieve what the public wanted. She acknowledged it may not be possible but it was a route worth exploring as well as determining the private property owners' interest in selling the property. That information would help determine uses on the properties. She observed most of the public supported a development with some retail component and not just a park, a use that would be very challenging via condemnation or low interest bonds. She preferred a partnership with the private owners which would provide more of what the public wanted than could be achieved via condemnation. She was not a fan of condemnation unless it was strictly necessary.

Councilmember Bernheim agreed it was important to get the owners' cooperation and it was appropriate to have staff explore that with them. He suggested a Councilmember accompany staff. Mayor Haakenson suggested two Councilmembers meet with the property owners. Councilmember Bernheim found it premature for the Council to make any decision tonight regarding how to proceed as there was a great deal of information to digest. Mayor Haakenson asked Mr. Gregg and his attorney to respond to him at their earliest convenience.

Councilmember Wilson commented the transfer of development rights was a tricky issue. He suggested inviting Cascade Land Conservancy to discuss that option with the Council. He noted there had been a great deal of public engagement on this topic and he was at a loss what to do with all the great feedback. He questioned when the Council would make a decision and preferred to take some action soon. He suggested asking for an appraisal and/or conducting a commissioned survey to determine what amenities the public wanted on the site. He supported including funds for a number of projects in any future bond issue. He estimated the cost of a bond to purchase the three waterfront parcels (\$12 million), development costs (\$20 million), maintenance and operation levy (\$1.7 million), and additional capital projects (\$16 million) would cost taxpayers approximately \$29.50 per household per month. He asked whether the Council felt that was a reasonable number that the citizens would support. If the citizens did not support that additional amount, the Council could skip the acquisition process and pursue a master plan process.

Councilmember Wambolt pointed out the numbers staff provided were based on the average cost of a home in Edmonds, \$461,000; the amount would be significantly higher for homes with higher values. He preferred to determine the private property owners' intentions before proceeding further. He noted Mayor Haakenson, Mr. Clifton and he were meeting with the property owners this Thursday.

Council President Plunkett agreed with Councilmember Wilson's interest in making a decision. He pointed out the Comprehensive Plan addressed what the citizens wanted and had been developed with years of effort and public input. He did not need a survey because he knew what the people of Edmonds wanted and felt the people of Edmonds would support something akin to what was described in the Comprehensive Plan. He concluded a gathering place that drew people from downtown would be a good economic engine and would create the synergy that the City needed. He envisioned that could be accomplished by acquiring the property and supported giving the people of Edmonds an opportunity to vote on a bond to acquire the property.

Councilmember Orvis was encouraged by the numbers staff provided which opened the possibility of considering an aquatics center. He agreed it was in the City's best interest to work with the property owner to reach an agreement on the price and what portions of the property would be used for private and public purposes. He agreed with staff that the Council needed to identify the uses before the bonding

phase. He favored an aquatics center, open space, and commercial on the site and urged the Council to reach a decision with regard to the uses to allow the process to move forward.

Councilmember Wilson expressed interest in an aquatics center, a family recreational center, commercial and open space on the site.

Councilmember Olson emphasized the need to develop specifics before presenting a bond measure to the public.

Councilmember Orvis agreed elections were expensive but elections were a post-Eyman reality. If a large bond issue was proposed and failed, he would be in favor of scaling back the project and presenting it to the public again.

Councilmember Dawson inquired about the timing for the aquatics center feasibility study. Park and Recreation Director Brian McIntosh anticipated a consultant would be hired by the end of August and depending on the scope of the study, it could be completed in late fall. Councilmember Dawson commented there was interest in an aquatics center but the results of the feasibility study were needed before a bond measure was proposed to the voters. Mr. McIntosh noted the size of an aquatics facility was also a factor.

It was agreed staff would provide further information at the June 24 meeting as three of the seven Councilmembers would be absent from the June 17 meeting. Councilmember Dawson suggested staff provide Councilmembers updates in the meantime.

Councilmember Wilson suggested the Council pass a resolution indicating the Council was serious about considering the purchase of these properties. Mayor Haakenson commented it was pointless to pursue the matter further until the property owners' intentions were known.

Council President Plunkett advised he was prepared to pass a resolution stating that intent, due to his belief that the people of Edmonds wanted the Council to purchase this property. He expressed his thanks to staff for the information they provided.

Councilmember Dawson observed a majority of Council had given fairly clear direction to staff regarding their interest in doing something that would result in master planning of the properties and either a purely public development or a public/private partnership. She noted the lack of knowledge regarding next steps had the potential to drive a wedge between Councilmembers, a dangerous possibility at this stage.

Councilmember Wambolt commented he was not convinced the people of Edmonds wanted the Council to purchase the property. Clearly the people who have provided public comment want the Council to purchase the property but he questioned what percentage of the City's total population those people represented. He recalled at the recent community meeting held by Mayor Haakenson at Edmonds Elementary, attended by approximately 24 people, none of them had any interest in purchasing these properties. He concluded it was premature to assume that a super majority of City residents (60%) wanted to purchase these properties.

Mayor Haakenson suggested if there was interest in pursuing an aquatics center, open space and commercial on any of the properties, the Council also include a new Senior Center or at least \$4 million for renovations.

6. COUNCIL REPORTS ON OUTSIDE COMMITTEE/BOARD MEETINGS

Council President Plunkett reported the Outreach Committee had several new members. One of the Committee's ideas was to have a Question of the Month on the City's website.

Councilmember Wambolt reported the Port had a presentation from the Edmonds-Woodway High School students regarding their designs for development of the waterfront property. He noted although their designs were excellent, there was no economic analysis. The Port also discussed the high vacancy rate at Harbor Square and ways to attract tenants. The Port reviewed their first quarter operations of the marina that indicated the financial results were very good given the state of the economy. At tonight's meeting, the Port was considering a resolution similar to what the Council adopted regarding Stevens hospital not relocating. The Port also reported their May 23 retreat was the best one ever.

Councilmember Wilson reported a Snohomish County Cities and Town's meeting that Councilmember Olson, Senior Executive Council Assistant Jana Spellman and he attended included a presentation regarding affordable housing and tools cities could use to support that type of development. Today's meeting of the Lake Ballinger Work Group was well attended and there was broad agreement on an Interlocal Agreement that would allow the group to access the funds provided by the State. He noted there was also the potential of some funding from the U.S. Army Corp of Engineers. The Group's next meeting will be held on July 15. He advised the Interlocal Agreement would be presented to the Council soon.

Councilmember Olson reported SeaShore was provided an update from Sound Transit.

Councilmember Dawson advised she attended Sound Transit's open house last week on behalf of the Sound Transit Board. She relayed that recent polling indicates citizens want something done faster which was the reason for the 12 year plan. However, via the 12 year plan, light rail only reaches Northgate. People at the open house learned insufficient revenue was raised in Snohomish County to pay for light rail to Snohomish County in that 12 year period because state law limits Sound Transit's taxing authority. It was also explained at the public hearing that light rail was phased over 12-20 years. In response to her question at the public hearing regarding how many would support a ballot measure that would bring light rail to Snohomish County, all but one person raised their hand. When asked how many would support a measure that bring light rail only to Northgate, only three people raised their hands. She noted people wanted a light rail package that brought light rail to Snohomish County and did not want to mix increased bus service. She noted 95% of the cost of the 20-year proposal that brings light rail to Ash Way was light rail, the remainder for Snohomish County was Sounder stations in Edmonds and Mukilteo.

She advised a presentation on the proposals would be made to the Sound Transit Board on June 3 and the Board would accept public comment at that meeting. She encouraged the residents of Edmonds to attend the meeting and provide input. The Sound Transit Board would be provided all the feedback from the public meetings at their June 27 meeting; staff did not anticipate the Board would be voting on whether to have a 2008 ballot measure until the end of July.

With regard to the Cities and Town's presentation on affordable housing, Councilmember Dawson advised Snohomish County was doing a great deal of work on affordable housing measures to support the work of the Housing Consortium. The Affordable Housing Action Plan will be unveiled at the Housing Consortium's June 5 meeting and she encouraged Councilmembers and the public to attend. She noted the Plan relied on cities taking part in the production of affordable housing.

Councilmember Orvis displayed a graph of deaths per 1,000 from infectious diseases in the United States, noting the Public Health Board has played a major role in the downward trend of deaths from infectious diseases. For example the Public Health Board enforces the regulations that force a property owner to clean up their property; the Public Health Board inspects septic systems to ensure they were not spreading

disease; and the Health Board tracks infectious diseases such as tuberculosis to ensure people with the disease were taking their medication and to ensure anyone exposed was treated. He referred to a spike in deaths from infectious diseases on the graph from pandemic influenza, noting it was important for Public Health Boards to be prepared for those events. He advised the Health Board was anticipating a \$4.4 million shortfall next year.

Councilmember Orvis reported WRIA8 had funded conservation projects via the King County Conservation District.

Councilmember Bernheim reported the Economic Development Committee meeting would be considering programs/projects to increase economic development of the downtown area and neighborhood centers.

7. MAYOR'S COMMENTS

Mayor Haakenson reported he attended last week's Senior Center Board meeting, noting many citizens had already reported their interpretation of the meeting to Councilmembers. He summarized there appeared to be consensus on the Board that they needed to change their bylaws. An Edmonds attorney rewrote the bylaws and presented them for the Board's consideration. The Board has a retreat scheduled where they plan to take care of some of the issues. He provide the Council a copy of his notes from the meeting.

8. COUNCIL COMMENTS

Council President Plunkett advised he would be absent from next week's meeting; Councilmembers could contact Councilmember Dawson regarding the agenda during his absence.

Councilmember Wambolt reported Mayor Haakenson, Councilmember Olson, Fire Chief Tomberg and he had a very productive meeting with the CEO and CFO of Stevens Hospital last Friday and they agreed to come to a Council meeting in June.

Councilmember Bernheim encouraged Mayor Haakenson to consider exercising the veto power with regard to the Mayor's salary increase. He invited the public to contribute to the fundraising campaign hosted by ACE to replace the prize money for the design competition by mailing donations of any amount to POB 1793, Edmonds, Washington 98020. He committed to donating \$100 to the fund. He recognized the students' hard work, noting in many ways they were single handedly responsible for what had been accomplished so far.

9. ADJOURN

With no further business, the Council meeting was adjourned at 10:47 p.m.

**Approval of claim checks
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Debbie Karber **Time:** Consent
Department: Administrative Services **Type:** Action
Review Committee:
Action: Approved for Consent Agenda

Information

Subject Title

Approval of claim checks #104566 through #104677 for May 29, 2008 in the amount of \$633,670.54.

Recommendation from Mayor and Staff

Approval of claim checks.

Previous Council Action

N/A

Narrative

In accordance with the State statutes, City payments must be approved by the City Council. Ordinance #2896 delegates this approval to the Council President who reviews and recommends either approval or non-approval of expenditures.

Fiscal Impact

Fiscal Year: 2008

Revenue:

Expenditure: \$633,670.54

Fiscal Impact:

Attachments

Link: [Claim cks 5-29-08](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Admin Services	Dan Clements	05/29/2008 10:52 AM	APRV
2	City Clerk	Linda Hynd	05/29/2008 11:51 AM	APRV
3	Mayor	Gary Haakenson	05/29/2008 12:12 PM	APRV
4	Final Approval	Linda Hynd	05/29/2008 12:18 PM	APRV
Form Started By: Debbie Karber			Started On: 05/29/2008 10:49 AM	
Final Approval Date: 05/29/2008				

Voucher List
City of Edmonds

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104566	5/29/2008	041695 3M XAM3522	TP00468		STREET - 1 ROLL WHITE DG CUBE STREET - 1 ROLL WHITE DG CUBE 111.000.653.542.640.310.00 Sales Tax 111.000.653.542.640.310.00	489.38 43.56
Total :						532.94
104567	5/29/2008	061029 ABSOLUTE GRAPHIX	508321		YOST POOL SHIRTS YOST POOL TANKS AND T-SHIRTS 001.000.640.575.510.310.00 Sales Tax 001.000.640.575.510.310.00	572.55 50.96
Total :						623.51
104568	5/29/2008	066054 ADIX'S BED & BATH FOR DOGS AND	June 2008		KENNELING SERVICES JUNE 2008. JUNE 2008 KENNELING SERVICES 001.000.410.521.700.410.00	1,921.23
Total :						1,921.23
104569	5/29/2008	064615 AIR COMPRESSOR SERVICE	30579		80709 COOLANT 411.000.656.538.800.310.21 Sales Tax 411.000.656.538.800.310.21	320.00 28.48
Total :						348.48
104570	5/29/2008	000917 ALL WORLD SCIENTIFIC	IN035082		INV#IN035082 - EDMONDS POLICE MALEIC ACID/EVIDENCE ROOM 001.000.410.521.220.310.00 Freight 001.000.410.521.220.310.00 Sales Tax 001.000.410.521.220.310.00	24.70 6.54 2.66
Total :						33.90

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104571	5/29/2008	001634 AQUA QUIP	321416-1		50609 DISINFECTION 411.000.656.538.800.310.11 Sales Tax 411.000.656.538.800.310.11	299.97 26.70 Total : 326.67
104572	5/29/2008	069751 ARAMARK	655-3710799		18386001 UNIFORMS 411.000.656.538.800.240.00 Sales Tax 411.000.656.538.800.240.00	93.41 8.31 Total : 101.72
104573	5/29/2008	064343 AT&T	730386050200		425-744-6057 PUBLIC WORKS Public Works Lines 001.000.650.519.910.420.00 Public Works Lines 111.000.653.542.900.420.00 Public Works Lines 411.000.654.534.800.420.00 Public Works Lines 411.000.655.535.800.420.00 Public Works Lines 511.000.657.548.680.420.00 Public Works Lines 411.000.652.542.900.420.00	1.84 6.99 6.99 6.99 6.99 6.99 6.99 Total : 36.79
104574	5/29/2008	064343 AT&T	425-771-0152		STATION #16 FAX STATION #16 FAX 001.000.510.522.200.420.00	35.09 Total : 35.09
104575	5/29/2008	070305 AUTOMATIC FUNDS TRANSFER	45380		OUT SOURCING OF UTILITY BILLS	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104575	5/29/2008	070305	AUTOMATIC FUNDS TRANSFER	(Continued)		
					UB Outsourcing area #500 printing 411.000.652.542.900.490.00	36.99
					UB Outsourcing area #500 printing 411.000.654.534.800.490.00	36.99
					UB Outsourcing area #500 printing 411.000.655.535.800.490.00	37.09
					UB Outsourcing area #500 postage 411.000.654.534.800.420.00	111.10
					UB Outsourcing area #500 postage 411.000.655.535.800.420.00	111.09
					Sales Tax 411.000.652.542.900.490.00	3.33
					Sales Tax 411.000.654.534.800.490.00	3.33
					Sales Tax 411.000.655.535.800.490.00	3.34
			45474		OUT SOURCING OF UTILITY BILLS	
					UB Outsourcing area #600 printing 411.000.652.542.900.490.00	31.68
					UB Outsourcing area #600 printing 411.000.654.534.800.490.00	31.68
					UB Outsourcing area #600 printing 411.000.655.535.800.490.00	31.76
					UB Outsourcing area #600 postage 411.000.654.534.800.420.00	103.04
					UB Outsourcing area #600 postage 411.000.655.535.800.420.00	103.04
					Sales Tax 411.000.652.542.900.490.00	2.85
					Sales Tax 411.000.654.534.800.490.00	2.85
					Sales Tax 411.000.655.535.800.490.00	2.86
					Total :	653.02

Voucher List
City of Edmonds

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104576	5/29/2008	069218 BISHOP, PAUL	33		MAY 08 WEB SITE MAINTENANCE May 08 Web Site Maintenance 001.000.310.518.880.410.00	300.00
					Creation & Revisions to Climate 001.000.310.518.880.410.00	160.00
					Revisions to Stormwater pages & me 001.000.620.532.200.410.00	85.00
					Total :	545.00
104577	5/29/2008	002500 BLUMENTHAL UNIFORM CO INC	651163-03		INV#651163-03 - CLERK SHOES/ED SHOES/COLLINS & JOHNSON 001.000.410.521.110.240.00	225.90
					Sales Tax 001.000.410.521.110.240.00	20.11
			658514-01		INV#658514-01 - EQUIPMENT/EDMONDS 2/RHOD 1/2" LTRS 001.000.410.521.220.240.00	67.80
					Sales Tax 001.000.410.521.220.240.00	6.03
			661775		INV#661775 - MEDALS - EDMONDS MEDAL OF VALORS (3) 001.000.410.521.100.310.00	225.00
					Sales Tax 001.000.410.521.100.310.00	20.25
			662401		INV#662401 - JOHNSON/EDMONDS SHIRTS/A.JOHNSON 001.000.410.521.110.240.00	125.85
					Sales Tax 001.000.410.521.110.240.00	11.20
			671060		SWEATER VEST CREDIT/M.GREEN CREDIT FOR SWEATER VEST/GRE 001.000.410.521.110.240.00	-20.00
					Sales Tax 001.000.410.521.110.240.00	-1.80

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104577	5/29/2008	002500 BLUMENTHAL UNIFORM CO INC	(Continued) 671213		INV#671213 - GREENMUN/CPL. CH CPL. CHEVRONS 001.000.410.521.220.240.00 Sales Tax	7.50
			672786		001.000.410.521.220.240.00 INV#672786 - LIM - EDMONDS PD TACTICAL FBI PANTS/LIM 001.000.410.521.220.240.00 Sales Tax	0.68 39.99
			672787		001.000.410.521.220.240.00 INV#672787 - LAVELY/EDMONDS P TACTICAL FBI PANTS/LAVELY 001.000.410.521.220.240.00 Sales Tax	3.60 39.99
					001.000.410.521.220.240.00 Total :	3.60 775.70
104578	5/29/2008	070009 BOLA ARCHITECTURE & PLANNING	8		MUSEUM MASONRY RESTORATIO MUSEUM MASONRY RESTORATIO 116.000.651.519.920.410.00	291.53
					Total :	291.53
104579	5/29/2008	071909 BUREAU VERITAS	994500		Prof Serv/Temp Bld Inspector Prof Serv/Temp Bld Inspector 001.000.620.524.100.410.00	872.22
					Total :	872.22
104580	5/29/2008	071942 CAMPBELL, JULANN	CAMPBELL9663		OIL PAINTING CLASSES OIL PAINTING #9663 001.000.640.574.200.410.00 OIL PAINTING #9662 001.000.640.574.200.410.00	369.60 800.80
					Total :	1,170.40
104581	5/29/2008	069458 CASCADE CONTROLS CORP	0145217-05		242560	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104581	5/29/2008	069458	CASCADE CONTROLS CORP	(Continued)	TEST SOCKET	
					411.000.656.538.800.310.22	0.17
					Sales Tax	
					411.000.656.538.800.310.22	0.01
			019422		24256-00	
					PLC CARD C-286	
					414.000.656.594.320.650.00	4,464.00
					Freight	
					414.000.656.594.320.650.00	13.58
					Sales Tax	
					414.000.656.594.320.650.00	401.76
					Total :	4,879.52
104582	5/29/2008	068484	CEMEX / RINKER MATERIALS	9415261032	STREET - ASPHALT	
					STREET - ASPHALT	
					111.000.653.542.310.310.00	576.04
					Sales Tax	
					111.000.653.542.310.310.00	51.84
			9415269780		STREET - ASPHALT	
					STREET - ASPHALT	
					111.000.653.542.310.310.00	384.00
					Sales Tax	
					111.000.653.542.310.310.00	34.56
			9415269781		STORM DUMP FEES	
					STORM DUMP FEES	
					411.000.652.542.320.490.00	228.77
			9415277364		STREET - ASPHALT	
					STREET - ASPHALT	
					111.000.653.542.310.310.00	320.00
					Sales Tax	
					111.000.653.542.310.310.00	28.80
			9415277365		STORM - DUMP FEES	
					STORM - DUMP FEES	
					411.000.652.542.320.490.00	39.66

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104582	5/29/2008	068484 CEMEX / RINKER MATERIALS	(Continued) 9415287666		STREET - ASPHALT STREET - ASPHALT 111.000.653.542.310.310.00 Sales Tax 111.000.653.542.310.310.00	288.00 25.92 Total : 1,977.59
104583	5/29/2008	064840 CHAPUT, KAREN E	CHAPUT9456		FRIDAY NIGHT OUT FRIDAY NIGHT OUT #9456 001.000.640.574.200.410.00	77.00 Total : 77.00
104584	5/29/2008	065774 CHAVOND-BARRY ENGINEERING CORP	1560-051308		INCINERATOR CONSULTING INCINERATOR CONSULTING 411.000.656.538.800.410.11	2,571.72 Total : 2,571.72
104585	5/29/2008	066382 CINTAS CORPORATION	460156991 460162220		OPS UNIFORMS Stn. 20 001.000.510.522.200.240.00 Sales Tax 001.000.510.522.200.240.00 UNIFORMS Stn. 17 - ALS 001.000.510.526.100.240.00 Stn 17 - OPS 001.000.510.522.200.240.00 Sales Tax 001.000.510.526.100.240.00 Sales Tax 001.000.510.522.200.240.00	136.04 12.11 120.69 120.69 10.75 10.74 Total : 411.02
104586	5/29/2008	019215 CITY OF LYNNWOOD	6115		INV#6115 - NARC SGT REIMBURSE	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104586	5/29/2008	019215 CITY OF LYNNWOOD	(Continued)		JAN - MARCH 2008/NARC SGT. 104.000.410.521.210.510.00	11,364.26
			6123		DEC. 2007 OVERTIME/NARC SGT. 104.000.410.521.210.510.00	215.21
					INV#6123 - NARC SGT REIMBURSE 4/15/07 THRU 6/29/07/NARC SGT 104.000.410.521.210.510.00	3,249.27
					6/30/07 THRU 09/21/07/NARC SGT 104.000.410.521.210.510.00	6,528.38
					09/22/07 THRU 12/31/07/NARC SGT 104.000.410.521.210.510.00	6,528.38
					Total :	27,885.50
104587	5/29/2008	004095 COASTWIDE LABORATORIES	W1929309		SUPPLIES LINERS 001.000.640.576.800.310.00	980.35
					Sales Tax 001.000.640.576.800.310.00	88.23
					Total :	1,068.58
104588	5/29/2008	004095 COASTWIDE LABORATORIES	W1929013		FAC MAINT - BLEACH, TT, BIGFOLI FAC MAINT - BLEACH, TT, BIGFOLI 001.000.651.519.920.310.00	1,039.41
					Freight 001.000.651.519.920.310.00	2.75
					Sales Tax 001.000.651.519.920.310.00	93.79
					Total :	1,135.95
104589	5/29/2008	004095 COASTWIDE LABORATORIES	W1924751-1		26119-1 CLEANER 411.000.656.538.800.310.59	22.76
					Sales Tax 411.000.656.538.800.310.59	2.05

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104589	5/29/2008	004095	004095 COASTWIDE LABORATORIES	(Continued)		Total : 24.81
104590	5/29/2008	068077	CODES KNOWLEDGE COMPANY	510	Prof Serv - Bld Div Prof Serv - Bld Div 001.000.620.524.100.410.00	3,410.00 Total : 3,410.00
104591	5/29/2008	069983	COMMERCIAL CARD SOLUTIONS	2276	ACCT#2276 - GANNON/EDMONDS COOKIES/POLICE FOUNDATION M 001.000.410.521.100.310.00	8.98
					LEXUS KEY MADE 001.000.410.521.100.310.00	76.23
					LATE PAYMENT FEE 001.000.410.521.100.310.00	1.85
			3263		ACCT#3263 - O'BRIEN/EDMONDS GIFT CARD FOR DARE DESIGN 001.000.410.521.310.310.00	112.84
					COSTCO - DYMO LABELS, BUSINE 001.000.410.521.100.310.00	272.39
					FERRY FEES/SUBPOENA SERVICE 001.000.410.521.400.430.00	21.15
					LATE PAYMENT FEE 001.000.410.521.100.310.00	6.65

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104591	5/29/2008	069983 COMMERCIAL CARD SOLUTIONS	(Continued) 8298		ACCT #8298 - BARD AIR FARE/R.T.SMITH~ 001.000.410.521.400.430.00	365.00
					DATA PROJECTOR/GRANT 001.000.410.521.400.350.00	970.09
					DVD PLAYER 001.000.410.521.400.310.00	45.67
					REGISTRATION/E.FALK~ 001.000.410.521.400.490.00	174.95
					REGISTRATION/S.HARBINSON~ 001.000.410.521.400.490.00	174.95
					AIR FARE/S.KAMKA~ 001.000.410.521.400.430.00	335.00
					LODGING/S.KAMKA~ 001.000.410.521.400.430.00	101.00
					STORAGE BOX, MASTER COMB LC 001.000.410.521.400.310.00	132.77
					RANGE TARGETS 001.000.410.521.400.310.00	256.00
					REGISTRATION/HESLOP~ 001.000.410.521.400.490.00	161.00
					REGISTRATION/A.GREENMUN~ 001.000.410.521.400.490.00	299.00
					FLASHDRIVES 001.000.410.521.220.310.00	92.93
					1 GB SECURE FLASH CARDS 001.000.410.521.220.310.00	58.27
					LAPTOP BATTERY 001.000.410.521.210.310.00	167.56
					AIR FARE/S.KAMKA~ 001.000.410.521.400.430.00	389.00
					LATE PAYMENT FEE 001.000.410.521.100.310.00	7.09

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104591	5/29/2008	069983 COMMERCIAL CARD SOLUTIONS	(Continued) 9821		ACCT#9821 - EDMONDS MEAL/HESLOP -CPTED TRAINING~ 001.000.410.521.400.430.00	13.83
					MEAL/HESLOP - CPTED TRAINING~ 001.000.410.521.400.430.00	17.56
					MEAL/HESLOP - CPTED TRAINING 001.000.410.521.400.430.00	112.70
					LODGING/HESLOP - CPTED TRAIN 001.000.410.521.400.430.00	303.40
					FUEL/OFFICER LAVELY~ 001.000.410.521.400.430.00	41.90
					MEAL/LAVELY~ 001.000.410.521.400.430.00	60.74
					LODGING/A.GREENMUN~ 001.000.410.521.400.430.00	285.78
					MEAL/GREENMUN~ 001.000.410.521.400.430.00	33.19
					LODGING/LAVELY~ 001.000.410.521.400.430.00	190.52
					LATE PAYMENT FEE 001.000.410.521.100.310.00	1.00
					Total :	5,290.99
104592	5/29/2008	069983 COMMERCIAL CARD SOLUTIONS	7403		COUNCIL TOUR WWTP COUNCIL TOUR WWTP 411.000.656.538.800.310.00	69.42
					WEFTEC/ZUVELA 411.000.656.538.800.490.71	1,255.00
					WEFTEC/KOHO 411.000.656.538.800.490.71	905.00
					LATE FEE 411.000.656.538.800.490.00	6.55
					Total :	2,235.97
104593	5/29/2008	068815 CORRECT EQUIPMENT	9614		CITY PARK WADING POOL ELECTIF	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104593	5/29/2008	068815 CORRECT EQUIPMENT	(Continued)		CITY PARK WADING POOL ELECTI 125.000.640.576.800.480.00	3,723.00
					Sales Tax 125.000.640.576.800.480.00	335.07
			9615		CITY PARK WADING POOL PUMP CITY PARK WADING POOL PUMP 125.000.640.576.800.480.00	3,458.00
					Sales Tax 125.000.640.576.800.480.00	311.22
			9616		CITY PARK WADING POOL TANK CITY PARK WADING POOL TANK 125.000.640.576.800.480.00	2,440.00
					Sales Tax 125.000.640.576.800.480.00	219.60
					Total :	10,486.89
104594	5/29/2008	066368 CRYSTAL AND SIERRA SPRINGS	0508 2989771 5374044		INV#0508 2989771 5374044 - EDMC BOTTLE WATER & COOLER RENT/ 001.000.410.521.100.310.00	69.00
					Total :	69.00
104595	5/29/2008	072278 CUETER, THAYER	CUETER9680		FUN WITH FROGS FUN WITH FROGS #9680 001.000.640.574.200.410.00	110.50
					Total :	110.50
104596	5/29/2008	061570 DAY WIRELESS SYSTEMS - 16	139541		UNIT 718 - RADIO REPAIR UNIT 718 - RADIO REPAIR 511.000.657.548.680.480.00	291.20
					Sales Tax 511.000.657.548.680.480.00	25.92

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104596	5/29/2008	061570 DAY WIRELESS SYSTEMS - 16	(Continued) 139657		UNIT EQ03PO - 6 ON GLASS ANTE UNIT EQ03PO - 6 ON GLASS ANTE 511.100.657.594.480.640.00 Sales Tax 511.100.657.594.480.640.00	197.88 17.61 Total : 532.61
104597	5/29/2008	064531 DINES, JEANNIE	08-2874		MINUTE TAKING Council Mtg 5/6 & 5/20 001.000.250.514.300.410.00	585.00 Total : 585.00
104598	5/29/2008	007253 DUNN LUMBER	09247822		LUMBER LUMBER FOR PICNIC TABLE REPA 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	118.35 10.53 Total : 128.88
104599	5/29/2008	007550 ECONOMY FENCE CENTER	0014043-IN		CITY PARK WADING POOL FENCE CITY PARK WADING POOL FENCE 125.000.640.576.800.480.00 Sales Tax 125.000.640.576.800.480.00	2,369.00 210.84 Total : 2,579.84
104600	5/29/2008	007675 EDMONDS AUTO PARTS	94785		SUPPLIES SOCKET SET, ETC. 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	31.98 2.85 Total : 34.83
104601	5/29/2008	069523 EDMONDS P&R YOUTH SCHOLARSHIP	SHAHID0515		YOUTH SCHOLARSHIPS YOUTH SCHOLARSHIPS:~ 122.000.640.574.100.490.00	220.00

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104601	5/29/2008	069523	069523 EDMONDS P&R YOUTH SCHOLARS (Continued)			Total : 220.00
104602	5/29/2008	008705	EDMONDS WATER DIVISION	3-38565	WATER 18410 92ND AVE W	
				6-00025	001.000.640.576.800.470.00 CITY MARINA BEACH PARK	10.10
				6-00200	001.000.640.576.800.470.00 CITY MARINA BEACH PARK CITY FISHING DOCK & RESTROOM	105.19
				6-00410	001.000.640.576.800.470.00 CITY FISHING DOCK & RESTROOM CITY FISHING DOCK & RESTROOM	249.93
				6-00475	001.000.640.576.800.470.00 BRACKETT'S LANDING SOUTH BRACKETT'S LANDING SOUTH	156.35
				6-01250	001.000.640.576.800.470.00 MINI PARK MINI PARK	373.40
				6-01275	001.000.640.576.800.470.00 CITY PARK BALLFIELD CITY PARK BALLFIELD	127.70
				6-02125	001.000.640.576.800.470.00 CITY PARK PARKING LOT CITY PARK PARKING LOT	681.56
				6-02900	001.000.640.576.800.470.00 PINE STREET PLAYFIELD PINE STREET PLAYFIELD	117.17
				6-03000	001.000.640.576.800.470.00 ANDERSON CULTURAL CENTER (S ANDERSON CULTURAL CENTER (S	282.32
				6-03275	001.000.640.576.800.470.00 CIVIC CENTER PARKING LOT SPRI CIVIC CENTER PARKING LOT SPRI	144.53
					001.000.640.576.800.470.00 HUMMINGBIRD HILL PARK HUMMINGBIRD HILL PARK	62.17

Voucher List
City of Edmonds

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104602	5/29/2008	008705 EDMONDS WATER DIVISION	(Continued) 6-03575		CITY MAPLEWOOD PARK CITY MAPLEWOOD PARK 001.000.640.576.800.470.00	58.37
			6-04400		SEAVIEW PARK SPRINKLER SEAVIEW PARK SPRINKLER 001.000.640.576.800.470.00	348.31
			6-04425		WATER 8100 185TH PL SW 001.000.640.576.800.470.00	261.13
			6-04450		SIERRA PARK SIERRA PARK 001.000.640.576.800.470.00	152.64
			6-07775		BALLINGER PARK BALLINGER PARK 001.000.640.576.800.470.00	119.31
			6-08500		YOST PARK SPRINKLER YOST PARK SPRINKLER 001.000.640.576.800.470.00	482.18
			6-08525		YOST PARK POOL YOST PARK POOL 001.000.640.576.800.470.00	233.68
Total :						3,966.04
104603	5/29/2008	008975 ENTENMANN ROVIN CO	0041162-IN		INV#0041162-IN - EDMONDS POLIC OFFICER/EMPLOYEE OF THE YEAI 001.000.410.521.100.310.00	156.50
					Freight 001.000.410.521.100.310.00	10.56
			0041507-IN		INV#0041507-IN - EDMONDS POLIC REFURBISH OFFICER BADGE 001.000.410.521.220.240.00	35.00
					HANDLING CHARGE 001.000.410.521.220.240.00	4.50
					Freight 001.000.410.521.220.240.00	10.56

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104603	5/29/2008	008975 008975 ENTENMANN ROVIN CO	(Continued)		Total :	217.12
104604	5/29/2008	070271 FIRST STATES INVESTORS 5200	197894		TENANT #101706 4TH AVE PARKIN June 08 4th Avenue Parking Lot Rent 001.000.390.519.900.450.00	300.00
					Total :	300.00
104605	5/29/2008	069469 FLINT TRADING INC	95429		STREET - SIGNS - PREMARK QUO STREET - SIGNS - PREMARK QUO 111.000.653.542.640.310.00	1,232.49
					Sales Tax 111.000.653.542.640.310.00	109.74
					Total :	1,342.23
104606	5/29/2008	010665 FOSTER PEPPER PLLC	888802		March 08 Legal Fees Fiber Optic Proj March 08 Legal Fees Fiber Optic Proj 001.000.390.528.800.420.00	70.00
					Total :	70.00
104607	5/29/2008	068450 HARBORVIEW MEDICAL CENTER	CS. #08-1597		H2589657 T 78340623 E - EDMOND CERTIFICATION & COPY FEES~ 001.000.410.521.210.410.00	8.03
					Freight 001.000.410.521.210.410.00	1.07
					Sales Tax 001.000.410.521.210.410.00	0.71
					Total :	9.81
104608	5/29/2008	012900 HARRIS FORD INC	FOCS238155		UNIT 484 - REPAIRS UNIT 484 - REPAIRS 511.000.657.548.680.480.00	596.98
					Sales Tax 511.000.657.548.680.480.00	53.13

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104608	5/29/2008	012900 HARRIS FORD INC	(Continued) FOCS238471		UNIT 485 - REPAIRS UNIT 485 - REPAIRS 511.000.657.548.680.480.00 Sales Tax 511.000.657.548.680.480.00	1,038.05 92.39 Total : 1,780.55
104609	5/29/2008	069332 HEALTHFORCE OCCMED	5651-15		INV#5651-15 - LAVELY/EDMONDS F RESPIRATORY QUESTIONNAIRE~ 001.000.410.521.100.410.00	32.00 Total : 32.00
104610	5/29/2008	067862 HOME DEPOT CREDIT SERVICES	31018		0205 PVC ELS 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	9.20 0.82
			6072635		0205 PIPES, ELS 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	16.03 1.44
			6072638		0205 SUPPLIES 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	19.97 1.79
			7573755		0205 SPRAY GUN 001.000.640.576.800.310.00 Sales Tax 001.000.640.576.800.310.00	59.97 5.39

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104610	5/29/2008	067862 HOME DEPOT CREDIT SERVICES	(Continued) 8032885		0205 GASSER, ETC. 001.000.640.576.800.310.00	52.97
					Sales Tax 001.000.640.576.800.310.00	4.76
			9044498		0205 SUPPLIES 001.000.640.576.800.310.00	23.94
					Sales Tax 001.000.640.576.800.310.00	2.15
			9574718		0205 BUSHINGS, ADAPTERS 001.000.640.576.800.310.00	23.80
					Sales Tax 001.000.640.576.800.310.00	2.14
					Total :	224.37
104611	5/29/2008	067171 HUSKY TRUCK CENTER	169037T		UNIT 31 - SHOCK ABSORBERS UNIT 31 - SHOCK ABSORBERS 511.000.657.548.680.310.00	242.80
					Sales Tax 511.000.657.548.680.310.00	21.85
					Total :	264.65
104612	5/29/2008	070042 IKON FINANCIAL SERVICES	76476592		COPIER LEASE PARKS & RECREATION COPIER LE 001.000.640.574.100.450.00	806.59
					Total :	806.59
104613	5/29/2008	006841 IKON OFFICE SOLUTIONS	1012206689		INV#1012206689 - EDMONDS POLICE DOCUMENTUM RENEWAL MAINT. 001.000.410.521.110.350.00	4,991.00
					Sales Tax 001.000.410.521.110.350.00	444.20

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104613	5/29/2008	006841	006841 IKON OFFICE SOLUTIONS	(Continued)		Total : 5,435.20
104614	5/29/2008	072274	JOHNSON, GIGI	GJOHNSON0521	TENNIS COACH LITTLE TIKES TENNIS COACH~ 001.000.640.575.520.410.00	60.00 Total : 60.00
104615	5/29/2008	068396	KPFF CONSULTING ENGINEERS	E2DB.27 E2DB.28	E2DB.Services thru 02/29/08 E2DB.Services thru 02/29/08 125.000.640.594.750.410.00 E2DB.Services thru 03/31/08 E2DB.Services thru 03/31/08 125.000.640.594.750.410.00	2,832.28 Total : 8,205.22
104616	5/29/2008	016600	KROESENS INC	87252	OPS UNIFORMS Boots 001.000.510.522.200.240.00 Sales Tax 001.000.510.522.200.240.00	102.95 Total : 112.22
104617	5/29/2008	060132	LAB SAFETY SUPPLY	1011552141	OPS UNIFORMS gloves 001.000.510.522.200.240.00 Freight 001.000.510.522.200.240.00	51.00 Total : 65.60
104618	5/29/2008	017135	LANDAU ASSOCIATES INC	0022996	810 WALNUT ST - ENVIRONMENTA 810 WALNUT ST - ENVIRONMENTA 411.000.652.542.400.410.00	510.00 Total : 510.00
104619	5/29/2008	068711	LAWN EQUIPMENT SUPPLY	3008-363	SUPPLIES	

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104619	5/29/2008	068711	LAWN EQUIPMENT SUPPLY	(Continued)	HANDLE 001.000.640.576.800.310.00	79.99
					Sales Tax 001.000.640.576.800.310.00	7.12
					Total :	87.11
104620	5/29/2008	020039	MCMASTER-CARR SUPPLY CO	86830344	123106800 HOSE COUPLINGS 411.000.656.538.800.310.21	162.89
					Freight 411.000.656.538.800.310.21	7.89
			86983018		123106800 HOSES/BRASS/LUG/FITTINGS 411.000.656.538.800.310.11	1,132.28
					Freight 411.000.656.538.800.310.11	80.86
			87086123		123106800 HOSE COUPLING 411.000.656.538.800.310.21	80.28
					Freight 411.000.656.538.800.310.21	11.24
			87100746		123106800 POLY SHEETING/PIPE FITTING 411.000.656.538.800.310.21	81.20
					Freight 411.000.656.538.800.310.21	25.39
					Total :	1,582.03
104621	5/29/2008	072273	MECHANICAL SOLUTIONS INC	BusLic Ref	REFUND OVERPMT OF BUS LIC Refund overpmt of Business License 001.000.000.257.310.000.00	40.00
					Total :	40.00
104622	5/29/2008	071441	MOTION INDUSTRIES INC	WA09-028283	101690-01	

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104622	5/29/2008	071441 MOTION INDUSTRIES INC	(Continued)		BUSHING/SHEAVES 411.000.656.538.800.310.21	171.62
					Freight 411.000.656.538.800.310.21	13.22
					Sales Tax 411.000.656.538.800.310.21	16.64
					Total :	201.48
104623	5/29/2008	024302 NELSON PETROLEUM	0291898		FLEET BATTERY INVENTORY - 3 FLEET BATTERY INVENTORY - 3 511.000.657.548.680.340.40	605.37
					Sales Tax 511.000.657.548.680.340.40	52.00
			0370992-IN		FLEET DELO OIL INVENTORY - 18 FLEET DELO OIL INVENTORY - 18 511.000.657.548.680.340.21	192.63
					Sales Tax 511.000.657.548.680.340.21	16.33
					Total :	866.33
104624	5/29/2008	024960 NORTH COAST ELECTRIC COMPANY	S2140888.002		2091 INHIBITING BLOCK 411.000.656.538.800.310.22	11.17
					Sales Tax 411.000.656.538.800.310.22	0.96
			S2140888.003		2091 INHIBITING STRIP/BLACK 411.000.656.538.800.310.22	80.06
					Sales Tax 411.000.656.538.800.310.22	6.89
			S2140888.004		2091 INHIBITING BLOCK 411.000.656.538.800.310.22	11.17
					Sales Tax 411.000.656.538.800.310.22	0.96

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104624	5/29/2008	024960 NORTH COAST ELECTRIC COMPANY	(Continued) S2140888.005		2091 FILTER 411.000.656.538.800.310.22 Sales Tax 411.000.656.538.800.310.22	63.96 5.50 Total : 180.67
104625	5/29/2008	061013 NORTHWEST CASCADE INC	0731125		HONEY BUCKET RENTAL HONEY BUCKET RENTAL:~ 001.000.640.576.800.450.00	92.20
			0731126		HONEY BUCKET RENTAL HONEY BUCKET RENTAL:~ 001.000.640.576.800.450.00	98.02 Total : 190.22
104626	5/29/2008	072116 NORTHWESTERN CONSTRUCTION	PAYMENT #4		FRANCES ANDERSON SEISMIC ST FRANCES ANDERSON SEISMIC ST 116.000.651.594.190.650.00	369,869.46 Total : 369,869.46
104627	5/29/2008	063511 OFFICE MAX INC	869800		OFFICE SUPPLIES FILE POCKETS 001.000.640.574.100.310.00 King County Sales Tax 001.000.640.574.100.310.00	20.79 1.87
			961469		OFFICE SUPPLIES DIVIDERS, PENCILS 001.000.640.574.100.310.00 King County Sales Tax 001.000.640.574.100.310.00	12.00 1.08 Total : 35.74
104628	5/29/2008	063511 OFFICE MAX INC	816576		INV#816576 - EDMONDS POLICE	

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104628	5/29/2008	063511 OFFICE MAX INC	(Continued)		COPY PAPER & CERTIFICATE COV 001.000.410.521.100.310.00	360.18
					LASER BUSINESS CARDS/NARC 001.000.410.521.210.310.00	9.03
					LABELS 001.000.410.521.300.310.00	49.59
					LABELS 001.000.410.521.100.310.00	33.06
					King County Sales Tax 001.000.410.521.100.310.00	35.39
					King County Sales Tax 001.000.410.521.210.310.00	0.81
					King County Sales Tax 001.000.410.521.300.310.00	4.47
					Total :	492.53
104629	5/29/2008	063511 OFFICE MAX INC	754004		OFFICE SUPPLIES Office Supplies 001.000.250.514.300.310.00	109.62
					King County Sales Tax 001.000.250.514.300.310.00	9.87
			884734		OFFICE SUPPLIES Office Supplies 001.000.250.514.300.310.00	89.41
					King County Sales Tax 001.000.250.514.300.310.00	8.05
			934518		OFFICE SUPPLIES Desk Pad not delivered 001.000.250.514.300.310.00	-36.59
					King County Sales Tax 001.000.250.514.300.310.00	-3.30
					Total :	177.06
104630	5/29/2008	063511 OFFICE MAX INC	826544		PW OFFICE SUPPLIES - FOLDERS	

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104630	5/29/2008	063511 OFFICE MAX INC	(Continued)		PW OFFICE SUPPLIES - FOLDERS	
					001.000.650.519.910.310.00	103.77
					STREET - CLIP BOARDS	
					111.000.653.542.900.310.00	7.70
					WATER - CARTRIDGES, PENS	
					411.000.654.534.800.310.00	88.43
					King County Sales Tax	
					001.000.650.519.910.310.00	9.34
					King County Sales Tax	
					111.000.653.542.900.310.00	0.69
					King County Sales Tax	
			879665		411.000.654.534.800.310.00	7.96
					PW OFFICE SUPPLIES - LABEL TAI	
					PW OFFICE SUPPLIES - LABEL TAI	
					001.000.650.519.910.310.00	32.08
					WATER - INKCART'S	
					411.000.654.534.800.310.00	85.30
					King County Sales Tax	
					001.000.650.519.910.310.00	2.89
					King County Sales Tax	
					411.000.654.534.800.310.00	7.67
					Total :	345.83
104631	5/29/2008	063511 OFFICE MAX INC	921125		ADMIN SUPPLIES	
					Admin office supplies	
					001.000.510.522.100.310.00	514.33
					King County Sales Tax	
					001.000.510.522.100.310.00	45.53
			931838		ADMIN SUPPLIES	
					breakroom supplies	
					001.000.510.522.100.310.00	6.52
					King County Sales Tax	
					001.000.510.522.100.310.00	0.59
					Total :	566.97

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104632	5/29/2008	063511 OFFICE MAX INC	678936		520437 ERASABLE CALENDAR 411.000.656.538.800.310.41 King County Sales Tax 411.000.656.538.800.310.41	31.77 2.87 Total : 34.64
104633	5/29/2008	025889 OGDEN MURPHY AND WALLACE	666843		Legislative Legal Fees for April 2008 Legislative Legal Fees for April 2008 001.000.110.511.100.410.00	4,622.50 Total : 4,622.50
104634	5/29/2008	066817 PANASONIC DIGITAL DOCUMENT COM	010373477		ADMIN LEASE Admin copier lease 001.000.510.522.100.450.00 Sales Tax 001.000.510.522.100.450.00	137.06 12.20 Total : 149.26
104635	5/29/2008	029117 PORT OF EDMONDS	04371		UNIT F1 B1 FUEL Fire Boat - Fuel AND LATE FEES 511.000.657.548.680.320.00	484.70 Total : 484.70
104636	5/29/2008	046900 PUGET SOUND ENERGY	7918807004		YOST POOL YOST POOL 001.000.640.576.800.470.00	664.75 Total : 664.75
104637	5/29/2008	072254 RIVER OAKS COMMUNICATIONS CORP	5/8-5/27/08		N PUGET SOUND CONSORTIUM-V N Puget Sound Consortium-Edmonds 001.000.610.519.700.410.00	2,494.20 Total : 2,494.20
104638	5/29/2008	071945 ROSE, SUE GILL	ROSE9664		WATERCOLOR CLASSES BEGINNING/INTERMEDIATE WATE 001.000.640.574.200.410.00	431.20

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104638	5/29/2008	071945	071945 ROSE, SUE GILL		(Continued)	Total : 431.20
104639	5/29/2008	069593	SAFELITE FULFILLMENT INC	00446-580608	UNIT 236 - WINDSHIELD REPLACEMENT UNIT 236 - WINDSHIELD REPLACEMENT 511.000.657.548.680.480.00	142.64
				01804-238617	UNIT 718 - WINDSHIELD REPAIR UNIT 718 - WINDSHIELD REPAIR 511.000.657.548.680.480.00	29.95
				01804-238618	UNIT 11 - WINDSHIELD REPAIR UNIT 11 - WINDSHIELD REPAIR 511.000.657.548.680.480.00	29.95
					Total :	202.54
104640	5/29/2008	067802	SAN DIEGO POLICE EQUIP CO	583618	INV#583618 - EDMONDS POLICE 30/SIMULATED HANDGUN GLOCK 001.000.410.521.400.310.00 Freight 001.000.410.521.400.310.00 Sales Tax 001.000.410.521.400.310.00	1,081.50 47.37 100.47
				583858	INV#583858 - EDMONDS POLICE FED - 12GA BUCK, 9-PLT, TACTICAL 001.000.410.521.400.310.00 FED 223 55GR SOFT POINT 001.000.410.521.400.310.00 Sales Tax 001.000.410.521.400.310.00	260.00 1,331.00 141.60
					Total :	2,961.94
104641	5/29/2008	061482	SEA-WESTERN INC	124955	OPS PROTECTIVE CLOTHING facepieces w/microphone 001.000.510.522.200.250.00 Freight 001.000.510.522.200.250.00 Sales Tax 001.000.510.522.200.250.00	1,884.00 9.12 170.38

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Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104641	5/29/2008	061482	061482 SEA-WESTERN INC		(Continued)	Total : 2,063.50
104642	5/29/2008	066964	SEATTLE AUTOMOTIVE DIST INC	03-921033	UNIT 16 - PUMP KIT UNIT 16 - PUMP KIT 511.000.657.548.680.310.00 Sales Tax	26.99
				03-922218	511.000.657.548.680.310.00 UNIT 815 - BRAKE SHOE KIT, ROTC UNIT 815 - BRAKE SHOE KIT, ROTC 511.000.657.548.680.310.00 Sales Tax	2.40
				03-922251	511.000.657.548.680.310.00 UNIT 815 - BRAKE SHOE KIT UNIT 815 - BRAKE SHOE KIT 511.000.657.548.680.310.00 Sales Tax	12.86
				05-265165	511.000.657.548.680.310.00 UNIT 815 - RETURNED BRAKE SHC UNIT 815 - RETURNED BRAKE SHC 511.000.657.548.680.310.00 Sales Tax	43.88
					511.000.657.548.680.310.00 UNIT 815 - RETURNED BRAKE SHC UNIT 815 - RETURNED BRAKE SHC 511.000.657.548.680.310.00 Sales Tax	3.91
					511.000.657.548.680.310.00 UNIT 815 - RETURNED BRAKE SHC UNIT 815 - RETURNED BRAKE SHC 511.000.657.548.680.310.00 Sales Tax	-52.77
					511.000.657.548.680.310.00	-4.70
					Total :	177.10
104643	5/29/2008	068489	SIRENNET.COM	0078160-IN	UNIT EQ45PO - HACP UNIT EQ45PO - HACP 511.100.657.594.480.640.00	159.25
				0079130-IN	UNITS EQ36,37,38PO - MOUNT KIT UNITS EQ36,37,38PO - MOUNT KIT 511.100.657.594.480.640.00	1,195.80
				0079271-IN	UNIT 424 - SUPER LED RED LIGHT UNIT 424 - SUPER LED RED LIGHT 511.000.657.548.680.310.00	92.40

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104643	5/29/2008	068489 SIRENNET.COM	(Continued) 0079832-IN		UNIT EQ03PO - HALOGEN HIDEAW UNIT EQ03PO - HALOGEN HIDEAW 511.100.657.594.480.640.00	76.50
			0079838-IN		EQ45PO - FLATLIGHTER LED R/B 511.100.657.594.480.640.00 UNIT EQ44PO - HIDEAWAY STROB UNIT EQ44PO - HIDEAWAY STROB 511.100.657.594.480.640.00	202.12 160.50
			0079926-IN		Freight 511.100.657.594.480.640.00 UNIT EQ45PO - HALOGEN HIDE A \	15.95
			0080053-IN		UNIT EQ45PO - HALOGEN HIDE A \	67.20
			71697A-CM		Freight 511.100.657.594.480.640.00 UNIT EQ04,05,07PO - 4 OUTLET PC UNIT EQ04,05,07PO - 4 OUTLET PC 511.100.657.594.480.640.00	18.50 926.28
					FLEET - VEHICLE BASE RETURNEI FLEET - VEHICLE BASE RETURNEI 511.000.657.548.680.310.00	-42.77
					Total :	2,871.73
104644	5/29/2008	036950 SIX ROBBLEES INC	14-185088		UNIT 67 - GRAB HOOKS UNIT 67 - GRAB HOOKS 511.000.657.548.680.310.00	27.00
			1-631469		Sales Tax 511.000.657.548.680.310.00	2.32
					UNIT 128 - 4 POLE PLUGS, CONNE UNIT 128 - 4 POLE PLUGS, CONNE 511.000.657.548.680.310.00	144.44
					Sales Tax 511.000.657.548.680.310.00	12.42

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104644	5/29/2008	036950 SIX ROBBLEES INC	(Continued) 19-021714		UNIT 17 - BRAKE KIT, BRAKE DRUM UNIT 17 - BRAKE KIT, BRAKE DRUM 511.000.657.548.680.310.00 Sales Tax 511.000.657.548.680.310.00	606.80 52.18 Total : 845.16
104645	5/29/2008	036955 SKY NURSERY	270861		CEMETERY SUPPLIES MULCH FOR CEMETERY 130.000.640.536.500.310.00 Sales Tax 130.000.640.536.500.310.00	44.15 3.97 Total : 48.12
104646	5/29/2008	060889 SNAP-ON INDUSTRIAL, ABA 02100021 C 23V/14196689			SHOP - PIN PUNCH, 6 PC PICK SET SHOP - PIN PUNCH, 6 PC PICK SET 511.000.657.548.680.311.00 Freight 511.000.657.548.680.311.00 Sales Tax 511.000.657.548.680.311.00	83.22 9.95 8.30 Total : 101.47
104647	5/29/2008	037375 SNO CO PUD NO 1	4160017333		SPRINKLER SYSTEM SPRINKLER SYSTEM 001.000.640.576.800.470.00	108.42 Total : 108.42
104648	5/29/2008	037375 SNO CO PUD NO 1	716016235		C/A 958001000 8 WWTP POWER 411.000.656.538.800.471.61 Sales Tax 411.000.656.538.800.471.61	29,557.41 1,773.44

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104648	5/29/2008	037375 SNO CO PUD NO 1	(Continued) 896010338		C/A 206001485 5 24400 HIGHWAY 99 RICHMOND PA 411.000.656.538.800.471.62 Sales Tax	28.52
			922007701		411.000.656.538.800.471.62 C/A 463001671 7 8421 244TH ST RICHMOND PARK 411.000.656.538.800.471.62 Sales Tax	1.71 28.52
					411.000.656.538.800.471.62	1.71
					Total :	31,391.31
104649	5/29/2008	038100 SNO-KING STAMP	38841		Stamps for Bid/DSD - Spellman Stamps for Bid/DSD - Spellman 001.000.620.558.800.310.00	50.36
					Total :	50.36
104650	5/29/2008	064351 SNOHOMISH COUNTY TREASURER	2008054		INV#2008054 - EDMONDS POLICE 48.67 BOOKINGS 001.000.410.523.600.510.00 849.78 HOUSING DAYS 001.000.410.523.600.510.00	4,415.34 50,791.35
					Total :	55,206.69
104651	5/29/2008	037800 SNOHOMISH HEALTH DISTRICT	CP WADING POOL		CONSTRUCTION PERMIT APPLICA CONSTRUCTION PERMIT APPLICA 001.000.640.576.800.490.00	139.00
					Total :	139.00
104652	5/29/2008	038410 SOUND SAFETY PRODUCTS	2305852-01		WATER - WORK JEANS - V SMITH WATER - WORK JEANS - V SMITH 411.000.654.534.800.240.00 Sales Tax 411.000.654.534.800.240.00	79.40 6.83

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104652	5/29/2008	038410 SOUND SAFETY PRODUCTS	(Continued) 4133404-01		WATER - ANNUAL BOOTS - J DANI WATER - ANNUAL BOOTS - J DANI 411.000.654.534.800.240.00 Sales Tax 411.000.654.534.800.240.00	129.95 11.57 Total : 227.75
104653	5/29/2008	070677 SPRINT	0620014133-1		ACCT#0620014133-1 - CELL PHONE CELL PHONE SERVICE 001.000.410.521.220.420.00	172.07 Total : 172.07
104654	5/29/2008	039775 STATE AUDITOR'S OFFICE	L70979		APRIL 08 AUDIT FEES April 08 Audit Fees 001.000.390.519.900.510.00 April 08 Audit Fees 411.000.652.542.900.510.00 April 08 Audit Fees 411.000.654.534.800.510.00 April 08 Audit Fees 411.000.655.535.800.510.00 April 08 Audit Fees 411.000.656.538.800.510.00 April 08 Audit Fees 111.000.653.543.300.510.00 April 08 Audit Fees 511.000.657.548.680.510.00	14,503.63 604.32 2,417.27 2,417.27 2,417.27 604.32 1,208.64 Total : 24,172.72
104655	5/29/2008	071585 STERICYCLE INC	3000021329		INV#3000021329 - EDMONDS POLI CHEMICAL DISPOSAL 001.000.410.521.910.410.00	10.36 Total : 10.36
104656	5/29/2008	065373 STI-CO INDUSTRIES INC	0000098342		UNIT EQ44PO - COVERT ANT SYS	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104656	5/29/2008	065373 STI-CO INDUSTRIES INC	(Continued)		UNIT EQ44PO - COVERT ANT SYS 511.100.657.594.480.640.00	56.70
					Freight 511.100.657.594.480.640.00	12.22
					Total :	68.92
104657	5/29/2008	072277 STOVER & ASSOCIATES INC	8914		LAB SOFTWARE LAB SOFTWARE 411.000.656.538.800.310.31	295.00
					Total :	295.00
104658	5/29/2008	040917 TACOMA SCREW PRODUCTS INC	10681286		SUPPLIES TAPPING SCREWS 001.000.640.576.800.310.00	188.80
					Freight 001.000.640.576.800.310.00	5.82
					Sales Tax 001.000.640.576.800.310.00	17.32
					Total :	211.94
104659	5/29/2008	040917 TACOMA SCREW PRODUCTS INC	10671098		SHOP - FLANGE LOCK NUTS, DRIL SHOP - FLANGE LOCK NUTS, DRIL 511.000.657.548.680.311.00	12.82
					Sales Tax 511.000.657.548.680.311.00	1.14
					Total :	13.96
104660	5/29/2008	009350 THE DAILY HERALD COMPANY	1589634		NEWSPAPER AD Hearing Amendment ECD code~ 001.000.250.514.300.440.00	34.04
			1589635		NEWSPAPER AD Hrng. Amendment to code Title 6 001.000.250.514.300.440.00	38.48
					Total :	72.52
104661	5/29/2008	044300 US POSTAL SERVICE	250-00202		POSTAGE FOR CITY METER	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104661	5/29/2008	044300 US POSTAL SERVICE	(Continued)	250-00202	Postage for City Meter 001.000.250.514.300.420.00	8,000.00
Total :						8,000.00
104662	5/29/2008	064423 USA BLUE BOOK	593679		WATER - SWIVEL ADAPTER, HEX I WATER - SWIVEL ADAPTER, HEX I 411.000.654.534.800.310.00	350.94
					Freight 411.000.654.534.800.310.00	18.21
Total :						369.15
104663	5/29/2008	011900 VERIZON NORTHWEST	425-AB8-2844		POLICE T1 LINE Police T1 Line 5/10-6/10/08 001.000.310.518.880.420.00	380.81
Total :						380.81
104664	5/29/2008	011900 VERIZON NORTHWEST	425-206-7147		LIBRARY SCAN ALARM LIBRARY SCAN ALARM 001.000.651.519.920.420.00	14.93
			425-206-8379		MEADOWDALE COMMUNITY CLUB MEADOWDALE COMMUNITY CLUB 001.000.651.519.920.420.00	14.93
			425-712-0417		TELEMETRY STATIONS TELEMETRY STATIONS 411.000.654.534.800.420.00	29.00
					TELEMETRY STATIONS 411.000.655.535.800.420.00	28.99

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104664	5/29/2008	011900 VERIZON NORTHWEST	(Continued) 425-712-8251		P/W FIRE ALARM, FAX LINE & 2 SP P/W FIRE ALARM, FAX LINE & 2 SP 001.000.650.519.910.420.00	14.24
					P/W FIRE ALARM, FAX LINE & 2 SP 111.000.653.542.900.420.00	71.18
					P/W FIRE ALARM, FAX LINE & 2 SP 411.000.654.534.800.420.00	58.37
					P/W FIRE ALARM, FAX LINE & 2 SP 411.000.655.535.800.420.00	58.37
					P/W FIRE ALARM, FAX LINE & 2 SP 511.000.657.548.680.420.00	82.55
			425-775-1534		TELEMETRY LIFT STATIONS TELEMETRY LIFT STATIONS 411.000.654.534.800.420.00	161.14
					TELEMETRY LIFT STATIONS 411.000.655.535.800.420.00	299.25
			425-775-2455		PUBLIC SAFETY FIRE ALARM PUBLIC SAFETY FIRE ALARM 001.000.651.519.920.420.00	49.51
			425-775-7865		Radio Line between Public Works & l Radio Line between Public Works & l 411.000.654.534.800.420.00	52.43

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104664	5/29/2008	011900 VERIZON NORTHWEST	(Continued) 425-RT0-9133		PUBLIC WORKS CPNNECTION TO Public Works Connection to 911 001.000.650.519.910.420.00	5.48
					Public Works Connection to 911 111.000.653.542.900.420.00	20.81
					Public Works Connection to 911 411.000.654.534.800.420.00	20.81
					Public Works Connection to 911 411.000.655.535.800.420.00	20.81
					Public Works Connection to 911 511.000.657.548.680.420.00	20.81
					Public Works Connection to 911 411.000.652.542.900.420.00	20.78
					Total :	1,044.39
104665	5/29/2008	011900 VERIZON NORTHWEST	425-774-0944		FS #20-FAX LINE FS #20-FAX LINE 001.000.510.522.200.420.00	49.75
			425-NW4-3726		FRAME RELAY FOR FS #20 & SNO FRAME RELAY FOR FS #20 & SNO 001.000.510.528.600.420.00	247.00
					Total :	296.75
104666	5/29/2008	011900 VERIZON NORTHWEST	425 712-0423		AFTER HOURS PHONE AFTER HOURS PHONE 411.000.656.538.800.420.00	55.90
					Total :	55.90
104667	5/29/2008	067865 VERIZON WIRELESS	206-660-2168		FAC MAINT CELL - G EVANS FAC MAINT CELL - G EVANS 001.000.651.519.920.420.00	41.54
			470091643-00001		425-238-8846 cell phone-Tod Moles 411.000.652.542.900.420.00	39.82

Voucher List
City of Edmonds

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104667	5/29/2008	067865 VERIZON WIRELESS	(Continued) 470103273-00001		425-238-5456 cell phone-Mike Johnson 111.000.653.542.900.420.00	36.22
			670091643-00001		425-327-5379 cell phone-unit #77 411.000.654.534.800.420.00	39.84
			769986915-01		425-231-2668 cell phone-water lead 411.000.654.534.800.420.00	56.32
Total :						213.74
104668	5/29/2008	069816 VWR INTERNATIONAL INC	34443996		1066294 GLOVES 411.000.656.538.800.310.31	449.22
					Freight 411.000.656.538.800.310.31	15.93
					Sales Tax 411.000.656.538.800.310.31	41.41
Total :						506.56
104669	5/29/2008	047200 WA RECREATION & PARK ASSOC	08-356		PROFESSIONAL MEMBERSHIPS PROFESSIONAL MEMBERSHIPS:~ 001.000.640.574.200.490.00	234.00
Total :						234.00
104670	5/29/2008	062320 WA ST ARTS ALLIANCE FDN	EAC0523		MEMBERSHIP DUES 2008-2009 MEMBERSHIP:~ 117.100.640.573.100.490.00	100.00
Total :						100.00
104671	5/29/2008	065828 WA STATE CRIMINAL JUSTICE	2009-0831		2008 JOB FAIR - INV#2009-0831/ED DEPT. JOB FAIR PARTICIPATION 001.000.410.521.400.490.00	150.00
Total :						150.00
104672	5/29/2008	072115 WASHINGTON TRUST BANK	RETAINAGE #4		RETAINAGE PMT #4	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104672	5/29/2008	072115 WASHINGTON TRUST BANK	(Continued)		RETAINAGE PMT #4 116.000.651.594.190.650.00	17,799.30
					Total :	17,799.30
104673	5/29/2008	072279 WAYSIDE GARDENS	7483121		PLANTS PLANTS 001.000.640.576.800.310.00	24.95
					Freight 001.000.640.576.800.310.00	5.70
			7491815		PLANTS ASSORTED PLANTS 001.000.640.576.800.310.00	196.35
					Freight 001.000.640.576.800.310.00	29.15
					Total :	256.15
104674	5/29/2008	068106 WELCOME COMMUNICATIONS	6038		UNIT EQ03,04,28PO - HANDS FEE I UNIT EQ03,04,28PO - HANDS FEE I 511.100.657.594.480.640.00	279.00
					Freight 511.100.657.594.480.640.00	7.96
					Sales Tax 511.100.657.594.480.640.00	25.54
					Total :	312.50
104675	5/29/2008	049208 WESTERN EQUIP DIST INC	551560		UNIT 118 - KNUCKLE ASSEMBLY, C UNIT 118 - KNUCKLE ASSEMBLY, C 511.000.657.548.680.310.00	86.10
					Freight 511.000.657.548.680.310.00	7.83
					Sales Tax 511.000.657.548.680.310.00	8.45
					Total :	102.38
104676	5/29/2008	072195 WESTERN GRAPHICS INC	7753		UNIT EQ03,06,28PO - POLICE CAR	

Bank code : front

Voucher	Date	Vendor	Invoice	PO #	Description/Account	Amount
104676	5/29/2008	072195 WESTERN GRAPHICS INC	(Continued)		UNIT EQ03,06,28PO - POLICE CAR	
					511.100.657.594.480.640.00	1,272.00
					Sales Tax	
					511.100.657.594.480.640.00	111.94
					Total :	1,383.94
104677	5/29/2008	051280 ZEP MANUFACTURING COMPANY	63944898		SHOP - ZEP ID RED, GLASS CLEAN	
					SHOP - ZEP ID RED, GLASS CLEAN	
					511.000.657.548.680.310.00	114.00
					Freight	
					511.000.657.548.680.310.00	23.47
					Sales Tax	
					511.000.657.548.680.310.00	12.24
					Total :	149.71
112 Vouchers for bank code : front						Bank total : 633,670.54
112 Vouchers in this report						Total vouchers : 633,670.54

**Edmonds Center for the Arts Revised Contingent Loan Agreement
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Dan Clements **Time:** Consent
Department: Administrative Services **Type:** Action
Review Committee: Finance
Action: Approved for Consent Agenda

Information

Subject Title

Edmonds Center for the Arts Revised Contingent Loan Agreement. *This item was approved for the Consent Agenda by the Finance Committee on 05-27-08.*

Recommendation from Mayor and Staff

Approve ordinance and revised contingent loan agreement.

Previous Council Action

October 26, 2005 Council approves \$7.0 million contingent loan agreement
 January 15, 2008 Council approves \$3.5 million contingent loan agreement
 May 27, 2008 Finance Committee approves up to \$4.0 million contingent loan agreement.

Narrative

The Edmonds Center for the Arts is preparing to issue bonds the week of June 9 to convert its bridge construction loan to permanent financing. As part of this effort bond counsel has recommended that the contingent loan agreement approved by Council in January of this year be modified to conform with the bond issue.

Specific changes include increasing the amount of the agreement from \$3.5 to a not to exceed \$4.0 million level in order to cover bond issuance costs and additional roof repair work. Additionally, reporting and notification provisions have been clarified.

This topic was reviewed by the Finance Committee on May 27.

Fiscal Impact

Attachments

Link: [Loan Agreement](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/28/2008 12:09 PM	APRV
2	Mayor	Gary Haakenson	05/28/2008 01:46 PM	APRV
3	Final Approval	Linda Hynd	05/28/2008 04:18 PM	APRV
Form Started By: Dan Clements			Started On: 05/28/2008 11:09 AM	

CITY OF EDMONDS, WASHINGTON

ORDINANCE NO. ____

AN ORDINANCE of the City of Edmonds, Washington, authorizing the execution and delivery of a final form of contingent loan agreement to the Edmonds Public Facilities District previously approved in draft form by the City Council; and fixing a time when the same shall be effective.

Adopted June ____, 2008

This document prepared by:

*Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
(206) 447-4400*

CITY OF EDMONDS, WASHINGTON

Ordinance No. _____

AN ORDINANCE of the City of Edmonds, Washington, authorizing the execution and delivery of a final form of contingent loan agreement to the Edmonds Public Facilities District previously approved in draft form by the City Council; and fixing a time when the same shall be effective.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EDMONDS DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. Pursuant to RCW 67.28.130 and Ordinance 3676, adopted by the City Council on January 15, 2008 (the “Authorizing Ordinance”), the City of Edmonds, Washington (the “City”) previously authorized the form of a Contingent Loan Agreement (the “Contingent Loan Agreement”) with the Edmonds Public Facilities District (the “District”) to provide credit support for approximately \$3.5 million of sales tax and general revenue bonds to be issued by the District to carry out a refunding of its Not to Exceed \$7,000,000 General and Revenue Obligation Line of Credit Note, 2005, which was originally issued to provide funds to complete the construction of the Edmonds Center for the Arts and related costs.

1.2 After review of its plans and funding needs, the District has determined to issue its Sales Tax Obligation and Refunding Bonds, 2008 (the “Bonds”) in the approximate par amount of \$4,000,000, for the purpose of: (a) prepaying and redeeming in a current refunding all outstanding amounts drawn under the District’s Not to Exceed \$7,000,000 General and Revenue Obligation Line of Credit Note, 2005 (the “Refunding”); (b) making certain improvements to the Regional Center, including roof repair and replacement, renovation or reconstruction of interior spaces, and other related improvements (collectively, the “Improvements”); and (c) paying certain fees and the costs of issuance and sale of the Bonds.

1.3 The City Council has determined that it is in the best interest of the City to approve the expansion of the purposes of the bond issue and the change to the par amount of the bonds, and therefore wishes to approve the final form the Contingent Loan Agreement reflecting these changes.

Section 2. Approval of Contingent Loan Agreement. The form of the Contingent Loan Agreement attached as Exhibit A, and incorporated by this reference, is approved, and the Mayor is authorized and directed to execute and deliver the Contingent Loan Agreement on the City’s behalf with only such changes as may be consistent with its purpose and necessary, in his judgment, to fill in blanks and conform to the details of the bonds when issued. The form of Contingent Loan Agreement attached hereto as Exhibit A supersedes and replaces all prior versions approved or executed by the City. All other provisions of the Authorizing Ordinance remain in full force and effect.

Section 3. Additional Authorization and Ratification. The Administrative Services Director, Mayor and other appropriate officers of the City are authorized and directed to take any actions and to execute such documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated in connection with this ordinance, the Authorizing Ordinance and the Contingent Loan Agreement, including but not limited to executing any document required to release the City and the District from the Prior Guarantee (as defined in the Contingent Loan Agreement). The Administrative Services Director is further authorized to give the City's approval where required under the Contingent Loan Agreement or the resolution of the District authorizing issuance of the bonds (the "Bond Resolution") if, in his sole judgment, such consent is in the best interest of the City and all conditions in the Contingent Loan Agreement and Bond Resolution related to such consent are met. All actions previously taken in furtherance of and not inconsistent with the provisions of this ordinance are hereby ratified and confirmed in all respects.

Section 4. Effective Date. This ordinance shall take effect and be in full force from and after its passage and five days following its publication as required by law. This ordinance is the exercise of a power delegated to the City Council and is not subject to referendum.

PASSED by the City Council at a regular open public meeting thereof this ____ day of June, 2008.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Filed with the City Clerk:
Passed by the City Council:
Published:
Effective Date:

EXHIBIT A

Form of Contingent Loan Agreement

[This space intentionally left blank.]

CERTIFICATION

I, the undersigned, City Clerk of the City of Edmonds, Washington (the "City"), hereby certify as follows:

1. The foregoing Ordinance No. _____ (the "Ordinance") is a full, true and correct copy of the Ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on June __, 2008, as that Ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper; and

2. A quorum was present throughout the meeting and a sufficient number of members of the City Council voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of June, 2008.

CITY OF EDMONDS, WASHINGTON

City Clerk

(S E A L)

EXHIBIT A – Form of Agreement For City Council Approval

CONTINGENT LOAN AGREEMENT

by and between

THE CITY OF EDMONDS

and

THE EDMONDS PUBLIC FACILITIES DISTRICT

relating to the

EDMONDS PUBLIC FACILITIES DISTRICT

[NOT TO EXCEED \$4,000,000]

**SALES TAX OBLIGATION
AND REFUNDING BONDS, 2008**

Dated as of June __, 2008

*This document prepared by:
Foster Pepper PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101
(206) 447-4400*

EXHIBIT A – Form of Agreement For City Council Approval

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**CONTINGENT LOAN AGREEMENT
RELATING TO THE
EDMONDS PUBLIC FACILITIES DISTRICT’S**

[NOT TO EXCEED \$4,000,000]

**SALES TAX OBLIGATION
AND REFUNDING BONDS, 2008**

This CONTINGENT LOAN AGREEMENT (this “Agreement”) is dated as of June __, 2008, by and between THE CITY OF EDMONDS (the “City”), a code city organized under the laws of the State of Washington, the EDMONDS PUBLIC FACILITIES DISTRICT (the “District”), a municipal corporation established by the City of Edmonds and duly organized and existing under and by virtue of the laws of the state of Washington (together, the “Parties”).

The City and the District enter into this Agreement solely for the purpose of providing credit support for the District’s Sales Tax Obligation and Refunding Bonds, 2008 (the “Bonds”), issued in the principal amount of [NOT TO EXCEED \$4,000,000] pursuant to Resolution No. __ of the District adopted on June __, 2008 (the “Bond Resolution”).

The Parties agree as follows:

**ARTICLE 1.
Recitals**

The following facts and circumstances form the background of this Agreement:

1. The District is a duly organized and legally existing municipal corporation of the State of Washington. The District and the City are authorized by applicable provisions of state law, including chapters 35.57 and 35.59 RCW, and RCW 82.14.390, to acquire, construct, own, remodel, maintain, equip, repair and operate a regional center (including multipurpose community centers and special events centers) and related parking facilities.

2. The City and the District have the authority to enter into interlocal agreements under chapters 35.57, 35.59 and 67.28 RCW for joint and cooperative action, including provisions to finance joint or cooperative undertakings, multipurpose community centers, regional centers and tourism-related facilities, and to provide for services to be provided by one government to another.

3. The District’s Board of Directors (the “Board”) has previously found and determined that the residents of the District and the region will benefit from the District’s acquisition, construction, operation and maintenance of a performing arts center, known as the Edmonds Center for the Arts (the “Regional Center”), which will provide for meetings, conferences, community events, trade shows, and artistic, musical, theatrical or other cultural exhibitions, presentations or performances.

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4. As authorized by RCW 35.57.040(1)(d) and RCW 82.14.390, the District has since 2001 imposed and collected a 0.033% sales and use tax to assist in financing the design, development, acquisition, construction, operation and management of the Regional Center, which taxing authority will expire when the bonds issued for the construction of the Regional Center and related parking facilities are retired, but not later than 2026, which is twenty-five years after the tax was first collected.

5. The District has entered into the County PFD Agreement (the “County PFD Agreement”) with the City, the Snohomish County Public Facilities District (the “County PFD”) and Snohomish County (the “County”), dated November 4, 2002, regarding the joint development and operation of the Regional Center and pursuant to which the City, the County PFD and the County agreed to make payments to the District to support such joint development and operation, and pursuant to which the District has agreed to make certain payments to the City in support of the City’s Limited Tax General Obligation Bonds, 2002 (the “City Bonds”) issued to pay a portion of the costs of acquisition and development of the Regional Center.

6. In Section C.1.(b) of the County PFD Agreement, the parties “reserve[d] the right to make or to agree to make, additional payments or transfers among themselves with respect to the Edmonds Center For the Arts, so long as such agreements and/or payments are consistent with the terms of this Agreement.”

7. Pursuant to RCW 35.57.030, the Board desires to issue [NOT TO EXCEED \$4,000,000] of its Sales Tax Obligation and Refunding Bonds, 2008 (the “Bonds”), payable from Sales Tax Revenue and General Revenue (as described herein) for the purpose of (i) prepaying and redeeming all outstanding amounts drawn under the District’s not to exceed \$7,000,000 General and Revenue Obligation Line of Credit Note, 2005 issued to provide funds needed to complete construction of the Regional Center and other related costs and to provide interim financing upon completion (the “Prior Note”); (ii) making certain improvements to the Regional Center, including roof repair and replacement, renovation or reconstruction of interior spaces, and other related improvements (collectively, the “Improvements”); and (iii) paying certain fees and the costs of issuance and sale of the Bonds.

8. In connection with the Prior Note, the City, the District and Bank of America, N.A. entered into a Guarantee Agreement, dated as of October 26, 2005 (the “Prior Guarantee”), which will be released upon the refunding of the Prior Note.

9. The District has requested that the City provide, for the benefit of the holders of the Bonds, credit support to the District to permit the District to obtain the financing described herein at the lowest interest rates available.

10. The City is willing to provide credit support for the District’s Bonds and has authorized the execution of a contingent loan agreement pursuant to its Ordinance No. 3676, adopted on January 15, 2008, as amended by Ordinance No. ____, adopted on June __, 2008 (the “City Authorizing Ordinance”).

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**ARTICLE 2.
Definitions**

Unless the context clearly requires otherwise, capitalized terms used in this Agreement have the meanings given such terms in the Bond Resolution.

**ARTICLE 3.
Loans to the District; Repayment Terms**

Section 3.1 Loans to the District. The City shall lend money to the District at the times and in the amounts set forth in Section 3.2. The District shall borrow the amounts described above from the City pursuant to this Agreement for the purpose of paying debt service on the Bonds. The City irrevocably agrees to disburse all loans made hereunder directly to the District, and the District irrevocably agrees to immediately apply all such amounts received by it for the purpose of meeting its obligations under the Bonds. The aggregate principal amount of outstanding loans to be made by the City pursuant to this Agreement shall not exceed the outstanding principal amount of the Bonds, plus all interest accrued on the Bonds.

Section 3.2 Procedures Under Guarantee; Time and Amount of Loans.

(1) Notice of Insufficiency. On the 1st day of the month preceding each Debt Service Payment Date (or if the 1st is not a Business Day, then on the next Business Day), the District shall review the amount on deposit in the Debt Service Fund to determine whether there will be sufficient money available in the Debt Service Fund to make the required payment due on the upcoming Debt Service Payment Date. If, upon such review, it appears that the money available in the Debt Service Fund will be insufficient to make that payment, the District shall provide the City a notice in substantially the form attached hereto as Exhibit A (a “Notice of Insufficiency”) within five days after the date on which the review was required. Failure of the District to give a Notice of Insufficiency to the City shall not relieve the City of its obligation to make loans upon demand by the District under subsection (4) of this section.

(2) Budgeting for Loans. Upon receipt of a Notice of Insufficiency from the District, the City shall, to the extent necessary, include in its budget the amounts required to make the loans described in subsection (4) of this section. If the need to budget for such loans was not reasonably foreseeable at the time the City prepared its biennial budget, the City shall budget for such loans under Title 35A RCW and the Edmonds Municipal Code in sufficient time to provide for the loans described in subsection (4).

(3) Cancellation Notices. If, at any time before 10 a.m. (Pacific time) on the 24th day of the month preceding an upcoming Debt Service Payment Date for which the District has given a Notice of Insufficiency (or, if the 24th is not a Business Day, the Business Day preceding the 24th), the District determines that there will be sufficient money available in the Debt Service Fund to make the required payment due on the upcoming Debt Service Payment Date, the District shall provide, prior to 5 p.m. on the same day, a notice to the City in substantially the form attached hereto as Exhibit B (a “Cancellation Notice”). Delivery of a Cancellation Notice

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by the District to the City shall not relieve the City of its obligations to make loans upon demand by the District under subsection (4) of this section.

(4) Loans. For as long as any Bonds remain outstanding, the City shall, no later than 10 a.m. on the business day preceding that Debt Service Payment Date, lend to the District an amount that, when added to the money available in the Debt Service Fund, is sufficient to make all make all payments of principal of and interest on the Bonds due on the upcoming Debt Service Payment Date. The City shall, upon demand by the District in accordance with Section 3.1, cause the amount of each loan hereunder to be transferred to the District in United States Dollars and immediately available funds.

(5) Method of Notice. Notices of Insufficiency and Cancellation Notices shall be sent by the District to the City Administrative Services Director by hand delivery or facsimile (which facsimile shall be promptly confirmed by telephone communication to the City Administrative Services Director). The original of each such notice also shall be mailed to the City pursuant to Section 8.3. Any failure by the District to send such notices shall not nullify the City's obligation to make loans to the District hereunder, but may result in a delay by the City in transferring loan amounts to the District.

(6) Assumed Payment Under County PFD Agreement. Solely for the purpose of determining whether sufficient money will be available in the Debt Service Fund on any Debt Service Payment Date, the parties may assume that the City will make payments to the District at the times, and in the amounts, required by the County PFD Agreement, except to the extent expressly modified by this Agreement.

Section 3.3 Covenants Regarding Debt Limit and Additional Bonds.

(1) The District does not intend to submit this Agreement or any indebtedness created hereunder to qualified electors of the District for approval. Under RCW 35.57.030 and existing laws, the District may incur non-voted indebtedness in an aggregate amount equal to one-half of one percent of the value of the taxable property within the District. In light of the foregoing, and to comply with RCW 67.28.130, the District agrees not to incur additional indebtedness after the Bonds are issued unless prior written approval is obtained in accordance with Section 8.7 of this Agreement and Section 19 of the Bond Resolution.

(2) In the event the District lacks sufficient non-voted debt capacity to incur indebtedness resulting from a loan from the City in the amount determined under Section 3.2, the District shall incur indebtedness for an amount equal to the District's remaining non-voted debt capacity, if any, and any loan amount greater than the District's then-remaining non-voted debt capacity shall be deemed an equity payment by the City to the District in exchange for an interest in the Regional Center, which need not be repaid pursuant to Section 3.4. Within 60 days after any such equity payment by the City, the District shall deliver to the City a quitclaim deed conveying to the City a tenancy-in-common interest in the Regional Center. Such interest shall be a percentage ownership interest in the Regional Center, the numerator of which shall be the sum such equity payment and the costs of transferring title and recording such quitclaim deed, and the denominator of which shall be the aggregate original principal amounts of: (a) the Bonds, (b) all bonds issued by the City to finance the Regional Center, and (c) any other bonds

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issued by the District to finance the Regional Center (excluding the Prior Note and any bonds, or any portion thereof, issued to refinance bonds issued by the City or the District to finance the Regional Center).

(3) The City will reconvey to the District, by means of a quitclaim deed, all of the City's interest in the Regional Center acquired pursuant to subsection (2) of this Section if the District pays to the City an amount equal to the sum of:

(a) all payments made by the City to the District in exchange for an interest being reconveyed to the District; *plus*

(b) all costs incurred by the City relating to the transfer of title and recording of deed(s); *plus*

(c) interest on the sum of the amounts described by clauses (a) and (b), calculated from the date(s) of the City's payment thereof; *plus*

(d) the costs of transferring title to the District and recording such quitclaim deed.

The rate of interest to be used for purposes of this calculation shall be the rate described in Section 3.4(2).

(4) The transfers of interest authorized by this Section are intended to reflect the joint and cooperative nature of the financing of the Regional Center pursuant to chapters 35.57, 35.59 and 67.28 RCW.

Section 3.4 Repayment Terms.

(1) *Repayment Terms.* The principal amount of each loan to the District hereunder, together with interest thereon calculated as set forth in subsection (2) of this section, shall be repaid by the District from available Sales Tax Revenue and General Revenue during each calendar year after (a) the Debt Service Fund has been fully funded for such calendar year and (b) reasonable provision has been made for the operating expenses of the Regional Center. Such payments will be applied *first* to costs owed to the City, *second*, to interest owed to the City on account of outstanding loans made under this Agreement and *third* to the principal of all outstanding loans made under this Agreement in the order in which such loans were made.

(2) *Interest Rate.* Each loan made under the terms of this Agreement will bear interest from the date of the loan until the date such loan is repaid. Interest on the loans will be calculated on the basis of a 365/366-day year, for the actual number of days elapsed. The rate of interest borne by each loan hereunder shall be a variable rate equal to the monthly average rate of return on the State of Washington Local Government Investment Pool (or its successor), as determined as of the last day of each month in which a loan is outstanding, and shall change monthly as of the first day of each month in which a loan is outstanding. The City may in its discretion charge a lower rate of interest. Absent manifest error, all calculations of the City Administrative Services Director shall be binding upon the District.

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(3) *Maturity.* Unless paid earlier pursuant to subsection (1) of this section, all loans hereunder shall mature on December 31 of the year of expiration of the District’s authority to impose the Sales Tax under RCW 82.14.390, as it may be amended from time to time, but not earlier than 2026, which is the year that is twenty-five years after the tax was first collected. If any loan has not been repaid under this Agreement on the loan maturity date described in this Section 3.4(3), the City shall acquire an ownership interest in the Regional Center equal to the unpaid principal and interest due to the City on that loan maturity date, and the District shall execute and deliver a quitclaim deed and such other documents as may be necessary to convey this interest to the City as described in Section 3.3, and the District’s obligation to repay the loan under this Agreement shall be discharged.

Section 3.5 Nature of District’s Obligation. The District’s obligation to make the loan repayments to the City from the sources identified herein and to perform and observe the other obligations on its part contained herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. The full faith, credit and resources of the District are hereby pledged for the payment of all amounts owed to the City under this Agreement. The District’s obligations under this Agreement shall continue in effect and shall survive the satisfaction of the District’s obligations under the Bonds and the Bond Resolution until such time as principal and interest due to the City pursuant to any loan or loans made hereunder have been repaid, together with any costs owed to the City pursuant to Section 6.5 and Article 7. To further its ability to make such payments to the City, the District hereby irrevocably covenants and agrees to continue imposing the Sales Tax as permitted under RCW 82.14.390 for so long as the Bonds remains outstanding or any District obligation to pay any amount to the City under this Agreement remains outstanding.

Section 3.6 Nature of City’s Obligation. The City’s obligation to advance funds to the District in the amounts, at the times, under the conditions and in the manner described herein shall be absolute and unconditional, and shall not be subject to diminution by setoff, counterclaim, abatement or otherwise. The full faith, credit and resources of the City are pledged irrevocably to make the loans, in the amounts, at the times, in the manner and subject to the limitations described herein, regardless of whether the Regional Center is operating at any particular time. The obligations of the City hereunder shall terminate upon payment in full of the principal of and interest on the Bonds. For each fiscal year during the term of this Agreement, the City agrees that it will include in its budget and appropriate an amount that the City reasonably expects to be necessary to fulfill its obligation to make loans to the District under the terms of this Agreement. Failure to so budget shall not be a default under this Agreement if the City fulfills its obligation to make loans to the District as required under this Article III.

Section 3.7 City Acknowledgments. The City acknowledges and agrees that the District will pledge to the payment of the Bonds: (a) the loan proceeds it receives under this Agreement; (b) the Sales Tax Revenues, junior to the lien granted in connection with the City’s Limited Tax General and Revenue Obligation Bonds, 2002; and (c) the District’s General Revenue.

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ARTICLE 4.

Rights of City Upon Making Loans

Section 4.1 Rights of the City . If the City has made any loans to the District under this Agreement and such loans have not been repaid in full (whether or not the loan is in default), the City may take any one or more of the following steps:

(1) The City may have access to and inspect, examine and make copies of the books and records and any and all accounts and data of the District; and

(2) With the consent of the parties to the County PFD Agreement, the City may, but shall not be required to, appoint a manager (which may be the City) or a receiver for the Regional Center. Any manager or receiver appointed pursuant to this subsection (2) shall have, in addition to all the rights and powers customarily given to and exercised by receivers, all rights of the District to manage, operate and maintain the Regional Center and shall have all other rights of the District to exercise its rights and powers in the same manner and to the same extent that the District could do, including without limitation the execution, enforcement and termination of contracts providing for management or maintenance of the Regional Center, all on such terms as are deemed best by the City to protect its interests under this Agreement. The City, or the manager or receiver appointed by the City, shall be entitled to receive a reasonable fee for managing the Regional Center. The City shall not enter into an agreement with a manager unless it receives written confirmation from nationally recognized bond counsel that the agreement will not adversely affect the tax-exempt nature of interest on the Bonds for federal income tax purposes.

ARTICLE 5.

Additional Obligations and Covenants

Section 5.1 Agreement to Issue Bonds. The District shall issue the Bonds in accordance with the Bond Resolution and this Agreement in the principal amount of [NOT TO EXCEED \$4,000,000], which amount does not to exceed the amount necessary to finance or refinance the Regional Center and the Improvements in accordance with the Project Budget.

Section 5.2 Third Party Beneficiary. Each covenant and commitment of the District in the Bond Resolution is incorporated herein for the further benefit of the City, and the City shall be a third party beneficiary of the contract of the District set forth in the Bond Resolution.

Section 5.3 Representations and Warranties of the District.

(1) *Commencement of Construction Prior to January 1, 2004*. The District represents that it commenced construction (within the meaning of RCW 82.14.390) of the Regional Center before January 1, 2004.

(2) *Regarding the Regional Center*. The District has, and will have, as long as any Bonds or Additional Bonds remain outstanding, good right and lawful authority to proceed with the development of the Regional Center and to provide for the maintenance, operation, improvement and construction of the Regional Center. The District shall not release or modify the obligations of any user of the Regional Center that would in any way limit any such user's obligation to make payment of such rents, rates, fees or other charges imposed by the District

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for such use of the Regional Center. The foregoing shall not prohibit the District from establishing reduced rates and charges, or eliminating rates and charges, for the use of the Regional Center for certain classes of users of the Regional Center if and as appropriate, as long as charges are applied on a fair and nondiscriminatory basis.

Section 5.4 Additional Covenants and of the District.

(1) *Operation of Regional Center.* The District agrees that it shall cause the Regional Center to be operated and maintained in a business-like fashion (including the maintenance of proper and customary property and liability insurance with respect to the Regional Center) as both a “tourism-related facility” (within the meaning of RCW 67.28.080(7)) and a “regional center” (within the meaning of RCW 35.57.020) and shall cause all books and records to be maintained with respect thereto.

(2) *Reporting.* The District shall provide the City (at the notice address set forth in Section 8.3) with a quarterly report summarizing actual financial activity and financial expectations for the following four quarters.

(3) *No Liens.* Neither the City nor the District shall grant or permit any lien (other than consensual liens such as contractors’ liens) against the Regional Center or its interest therein which, if unpaid, might become a lien or charge upon the Sales Tax Revenue, or any part thereof, prior to or superior to the lien of the Bonds and any Additional Bonds, or which might impair the security of the Bonds and any Additional Bonds.

(4) *Enforcement of Obligations.* The District shall take all reasonable measures permitted by law to enforce payment to it of all Sales Tax Revenue, including without limitation any payments due to it under the County PFD Agreement, and shall at all times, to the extent permitted by law, defend, preserve and protect the rights, benefits and privileges of the District and of the Registered Owners under or with respect to the Bond Resolution.

(5) *Ownership, Sale, Transfer or Disposition of the Regional Center.* The District shall be the owner of the Regional Center except to the extent the City acquires any interest therein pursuant to Section 3.3 of this Agreement. Except pursuant to Section 3.3, the District will not sell, transfer or otherwise dispose of any facilities or property (real or personal) comprising a part of the Regional Center, except upon approval by resolution of the Board and only consistent with one or more of the following:

(a) The District in its discretion may sell, transfer or dispose (each, as used in this subparagraph, a “transfer”) of facilities or property that is not material to the operation of the Regional Center, or which has become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Regional Center or is no longer necessary, material or useful to the operation of the Regional Center; or

(b) The District in its discretion may transfer facilities or property if the District receives from the transferee in a bona fide, arm’s length transaction an amount equal to the fair market value of the facilities or property so transferred. As used herein, “fair market value” means the most probable price that a property should bring in a competitive and open market under all conditions

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requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably. The proceeds of any transfer under this subparagraph (ii) shall be used (1) to promptly redeem, or irrevocably set aside for the redemption of, the District's outstanding Bonds or Additional Bonds, and/or (2) to provide for all or part of the cost of capital improvements and/or additions to or expansions of the Regional Center.

Nothing in the foregoing is intended to restrict the transfer of the facilities or property to the City pursuant to the County PFD Agreement or to permit transfers not permitted under the County PFD Agreement.

ARTICLE 6. Remedies Upon Default

Section 6.1 Remedies of City on Default. Upon the occurrence of a default by the District in its obligations hereunder, the City may proceed to protect and enforce its rights in equity or at law, either in mandamus or for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, as the City may deem most effectual to protect and enforce any of its rights or interests hereunder; provided that the City may not enforce repayment of the loans until repayment in full of the principal of and interest on the Bonds.

Section 6.2 Remedies of District on Default. Upon the occurrence of a default by the City in its obligations to make loans to the District hereunder, the District may proceed to protect and enforce its rights in equity or at law, either in mandamus or for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, as the District may deem most effectual to protect and enforce any of its rights or interests hereunder.

Section 6.3 No Remedy Exclusive. No remedy conferred upon or reserved to either party by this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute, and either party hereto shall be free to pursue, at the same time, each and every remedy, at law or in equity, which it may have under this Agreement, or otherwise.

Section 6.4 No Implied Waiver. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. For the exercise of any remedy, it shall not be necessary to give any notice, other than such notice as may be expressly required herein.

Section 6.5 Agreement to Pay Attorneys' Fees and Expenses. If a default arises under any of the provisions of this Agreement and either party hereto should employ attorneys or incur other expenses for the collection of amounts due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the other party contained in this Agreement, on demand therefor, the nonprevailing party shall pay

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or reimburse the prevailing party for the reasonable fees of such attorneys and such other expenses so incurred.

Section 6.6 Dispute Resolution. The parties may mediate any dispute over the interpretation of any terms or conditions under this Agreement. Mediation will be made available upon request of either party. The costs associated with any such mediation shall be shared equally by the parties.

ARTICLE 7. Hold Harmless

As between the City and the District, the District shall assume the risk of, be liable for, and pay all damage, loss, cost and expense of any party, including its employees, arising out of the performance of this Agreement, except that caused by negligence and/or willful misconduct solely of the City and its employees acting within the scope of their employment. The District shall hold harmless the City and its officers, elected officials, agents, and employees against all claims, losses, suits, actions, costs, counsel fees, litigation costs, expenses, damages, judgments or decrees by reason of damage to any property or business and/or any death, injury or disability to or of any person or party, including any employee, arising out of or suffered, directly or indirectly, by reason of or in connection with the performance of this Agreement or any act, error or omission of the District or the District's employees, agents, or subcontractors, whether by negligence or otherwise, but only after repayment in full of the principal of and interest on the Bonds.

The District's obligation shall include, but not be limited to, investigating, adjusting and defending all claims against the City alleging loss from action, error or omission or breach of any common law, statutory or other delegated duty by the District, the District's employees, agents or subcontractors.

ARTICLE 8. Miscellaneous

Section 8.1 Continuing Disclosure Undertaking of the City. To meet the conditions of paragraph (d)(2) of United States Securities and Exchange Commission ("SEC") Rule 15c2 12 (the "Rule"), as applicable to a participating underwriter for the Bonds, the City undertakes for the benefit of holders of the Bonds to provide to each NRMSIR and the SID (as those terms are defined in the Rule), the following annual financial information: (i) annual financial statements for the City prepared (except as noted in the financial statements) in accordance with generally accepted accounting principles applicable to Washington governmental units such as the City, as such principles may be changed from time to time, which statements need not be audited, except, however, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (ii) statements of authorized, issued and outstanding general obligation debt of the City; (iii) statements of assessed valuation of property within the City subject to ad valorem taxation for the fiscal year; and (iv) the ad valorem regular property tax levy rate and regular property tax levy rate limit for the fiscal year.

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Such annual financial information shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City’s fiscal year ending December 31, 2007. It may be provided in a single or multiple documents, and may be incorporated by reference to other documents that have been filed with each NRMSIR and the SID, or, if the document incorporated by reference is a “final official statement” with respect to obligations of the City, that has been filed with the MSRB.

The City’s obligations under this undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City’s obligations under this undertaking shall terminate if those provisions of the Rule which require the City to comply with this undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of nationally recognized bond counsel or other counsel familiar with federal securities laws delivered to the City and the District, and the District provides timely notice of such termination to each NRMSIR or the MSRB and the SID. To the extent authorized by the SEC, the City may satisfy this undertaking by transmitting the required filings using <http://www.disclosureusa.org> (or such other centralized dissemination agent as may be approved by the SEC).

Section 8.2 Governing Law; Venue. This Agreement is governed by and shall be construed in accordance with the substantive laws of the State of Washington and shall be liberally construed so as to carry out the purposes hereof. Except as otherwise required by applicable law, any action under this Agreement shall be brought in the Superior Court of the State of Washington in and for Snohomish County.

Section 8.3 Notices. Except as otherwise provided herein, all notices, consents or other communications required hereunder shall be in writing and shall be sufficiently given if addressed and hand delivered or mailed by certified or registered mail, postage prepaid and return receipt requested, as follows:

To the City: City of Edmonds
121 Fifth Avenue North
Edmonds, WA 98020
Attention: Finance/Administrative Services Director
Fax: (425) 771-0265
Telephone: (425) 771-0240

To the District: Edmonds Public Facilities District
121 Fifth Avenue North
Edmonds, WA 98020
Attention: PFD Treasurer
Fax: (425) 771-0265
Telephone: (425) 771-0240

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The City or the District may designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent by giving notice of such change to the other party. Notices shall be deemed served upon deposit of such notices in the United States mail in the manner provided above.

Section 8.4 Binding Effect. This Agreement shall inure to the benefit of the City, the District and the holders of the Bonds and shall be binding upon the City and the District and their successors. This Agreement may not be assigned.

Section 8.5 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6 Amendments. This Agreement may be amended, changed, modified or altered by an instrument in writing duly executed by the City and the District (or the successors in title of each) if, in the opinion of bond counsel, such amendment will not adversely affect the security for the Bonds or tax exemption of interest on the Bonds. This Agreement may not be terminated until the Bonds are no longer outstanding, unless the City has assumed all liability for payment of the principal of and interest on the Bonds when due and has pledged its full faith and credit to such payment.

Section 8.7 Additional Debt. So long as the Bonds remain outstanding and the Contingent Loan Agreement remains in effect, the District shall not incur any additional indebtedness, other than in the ordinary course of business, without the prior written consent of the City. Such consent shall not be unreasonably withheld if the following conditions are met at the time:

- (a) The District is not in default under this Agreement or under the Bond Resolution;
- (b) The proceeds of the additional debt will be used to fund capital expenditures relating to the Regional Center;
- (c) The additional indebtedness will not cause the District to exceed its non-voted debt capacity under RCW 35.57.030(1); and
- (d) No ownership interest in the Regional Center has been transferred to the City under Section 3.3(2) that has not been transferred back to the District under Section 3.3(3).

Unless specified in a separate agreement or an amendment hereto, the City shall be under no obligation to make loans hereunder to pay debt service on any additional debt.

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Section 8.8 Waiver of Breach. No waiver of any breach of any covenant or agreement contained herein shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the nondefaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults that were in existence at the time such payment or payments or performance were accepted by it.

Section 8.9 No Rights Created in Third Parties. The terms of this Agreement are not intended to establish or to create any rights in any persons or entities other than the City, the District, the respective successors and assigns of each.

Section 8.10 Time of Essence. Time and all terms and conditions shall be of the essence of this Agreement.

Section 8.11 Effective Date of and Termination of Agreement. This Agreement shall take effect and shall supersede the Prior Guarantee Agreement as of the date first written above. Except as provided in Section 3.5, this Agreement shall terminate upon payment in full of all principal of and interest on the Bonds. Section 3.3 and Article 7 shall survive the termination of this Agreement.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LEND MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

IN WITNESS WHEREOF, the City and the District have caused this Agreement to be executed in their respective names by their duly authorized officers, and have caused this Agreement to be dated as of the date set forth on the first page hereof.

CITY OF EDMONDS, WASHINGTON

EDMONDS PUBLIC FACILITIES
DISTRICT

Mayor

President, Board of Directors

Attest:

Attest:

City Clerk

Secretary, Board of Directors

EXHIBIT A – Form of Agreement For City Council Approval

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

SS.

I certify that I know or have satisfactory evidence that _____ and _____ are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument, on oath stated that said persons were authorized to execute the instrument and acknowledged it as the Mayor and Clerk, respectively, of the CITY OF EDMONDS, a municipal corporation of the State of Washington, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of December, 2008.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON

COUNTY OF SNOHOMISH

SS.

I certify that I know or have satisfactory evidence that _____ and _____ are the persons who appeared before me, and said persons acknowledged that said persons signed this instrument, on oath stated that said persons were authorized to execute the instrument and acknowledged it as the President and Secretary, respectively, of Board of Directors of the EDMONDS PUBLIC FACILITIES DISTRICT, a municipal corporation of the State of Washington, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of December, 2008.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington, residing at _____

My appointment expires _____

EXHIBIT A – Form of Agreement For City Council Approval

**Exhibit A
Form Notice of Insufficiency**

City of Edmonds
121 Fifth Avenue North
Edmonds, WA 98020
Attention: Finance/Administrative Services Director

VIA FACSIMILE
(with telephone confirmation)

**Re: NOTICE OF INSUFFICIENCY
Edmonds Public Facilities District
General and Revenue Obligation Bonds, 2008**

The undersigned, a duly authorized officer of the Edmonds Public Facilities District (the “District”), hereby certifies to the City of Edmonds, Washington (the “City”), with reference to the Contingent Loan Agreement (the “Agreement”) dated as of January [__], 2008, by and between the City and the District, and the above-captioned bonds (the “Bonds”), that:

1. Next Debt Service Payment Date: _____, 20__
2. Debt service due:

Principal	\$ _____
Interest	\$ _____
Total	\$ _____
3. There will be insufficient money available in the Debt Service Fund on the date described in clause (1) to make the debt service payments described in clause (2):

Amount expected to be on deposit in the District’s Debt Service Fund:	\$ _____
Plus the payment the City is required to make on _____, 20__,	
pursuant to the County PFD Agreement:	\$ _____
<hr/>	
Total available for debt service	\$ _____
4. Amount of the loan requested is calculated as follows:

Debt service total listed in clause (2):	\$ _____
Less the amount available for debt service, as listed in clause (3):	\$ _____
<hr/>	
Loan Amount	\$ _____

Pursuant to Section 3.2 of the Agreement, the City is requested to make a loan to the District no later than _____, 20__, in the amount listed in clause (4). The City shall cause such amount to be transferred to the District’s Debt Service Fund, in United States Dollars and immediately available funds.

Any capitalized term used herein and not defined shall have the meaning assigned to such term in the Agreement or, if not therein defined, as defined in the Bond Resolution. The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

Dated: _____, 20__.

EDMONDS PUBLIC FACILITIES DISTRICT

[Executive Director or designee]

EXHIBIT A – Form of Agreement For City Council Approval

**Exhibit B
Form Cancellation Notice**

City of Edmonds
121 Fifth Avenue North
Edmonds, WA 98020
Attention: Finance/Administrative Services Director

VIA FACSIMILE
(with telephone confirmation)

**Re: CANCELLATION NOTICE
Edmonds Public Facilities District
General and Revenue Obligation Bonds, 2008**

The undersigned, a duly authorized officer of the Edmonds Public Facilities District (the “District”), hereby certifies to the City of Edmonds, Washington (the “City”), with reference to the Contingent Loan Agreement (the “Agreement”) dated January __, 2008, by and between the City and the District, and the above-captioned bonds (the “Bonds”), that:

1. Next Debt Service Payment Date: _____, 20__
2. Debt service due:

Principal	\$ _____
Interest	\$ _____
Total	\$ _____
3. There will be sufficient money available in the Debt Service Fund on the date described in clause (1) to make the debt service payments described in clause (2):

Amount expected to be on deposit in the District’s Debt Service Fund:	\$ _____
Plus the payment the City is required to make on _____, 20__,	
pursuant to the County PFD Agreement:	\$ _____
<hr/>	
Total available for debt service	\$ _____
4. The District’s Notice of Insufficiency and loan request delivered on _____, 20__ is hereby cancelled.

Pursuant to Section 3.2 of the Agreement, the City is requested NOT to make a loan to the District with respect to the debt service payments described in clause (2).

Any capitalized term used herein and not defined shall have the meaning assigned to such term in the Agreement or, if not therein defined, as defined in the Bond Resolution. The individual signing below hereby represents that he or she is an officer of the undersigned and is duly authorized to execute and deliver this document.

Dated: _____, 20__.

EDMONDS PUBLIC FACILITIES DISTRICT

[Executive Director or designee]

**Authorization to call for bids on Old Woodway Elementary School
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Brian McIntosh **Time:** Consent
Department: Parks and Recreation **Type:** Action
Review Committee:
Action:

Information

Subject Title

Authorization to call for bids for the Old Woodway Elementary Park Project which includes the regional stormwater infiltration system for the Southwest Edmonds Basin. *This consent agenda item was not reviewed by a Council Committee.*

Recommendation from Mayor and Staff

Council authorize Staff to advertise for bids for the Old Woodway Elementary Park and infiltration system projects.

Previous Council Action

On November 14 , 2006 Council authorized Staff to advertise for Statements of Qualification (SOQ) for landscape consultants or consultant teams and the firm MacLeod Reckord Landscape Architects was selected for design of the Old Woodway Elementary Park Project.

On September 12, 2007 and October 16, 2007 public hearings were held at City Council. At the November 5, 2007 meeting Council unanimously approved the current park design plan.

Narrative

Design and specifications are now complete for both projects and ready to call for bids for construction. The 2008 - 2014 Capital Improvement Program contains \$1,200,000 for park development and \$385,000 for the infiltration system. Descriptions of these projects are included as Attachment 1 and 3. Attachment 2 is a site plan for the park (west trail loop not showing) including the location of the infiltration system.

Fiscal Impact

Attachments

Link: [Old Woodway Elem Development](#)

Link: [Old Woodway Elem Site Plan](#)

Link: [Southwest Basin](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Public Works	Noel Miller	05/30/2008 10:44 AM	APRV
2	Development Services	Duane Bowman	05/30/2008 10:45 AM	APRV

3	City Clerk	Linda Hynd	05/30/2008 10:47 AM	APRV
4	Mayor	Gary Haakenson	05/30/2008 10:49 AM	APRV
5	Final Approval	Linda Hynd	05/30/2008 10:56 AM	APRV

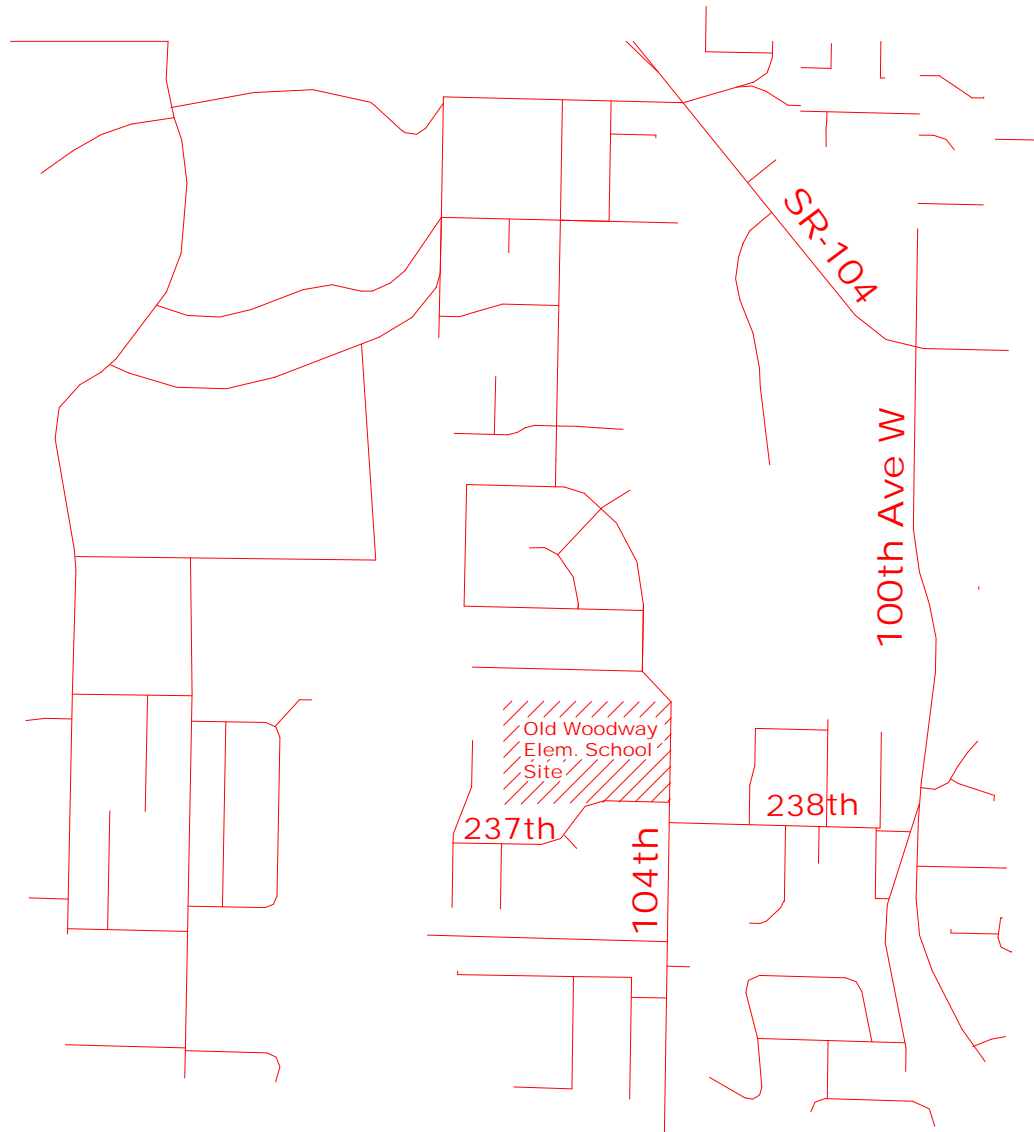
Form Started By: Brian McIntosh

Started On: 05/27/2008 10:32 AM

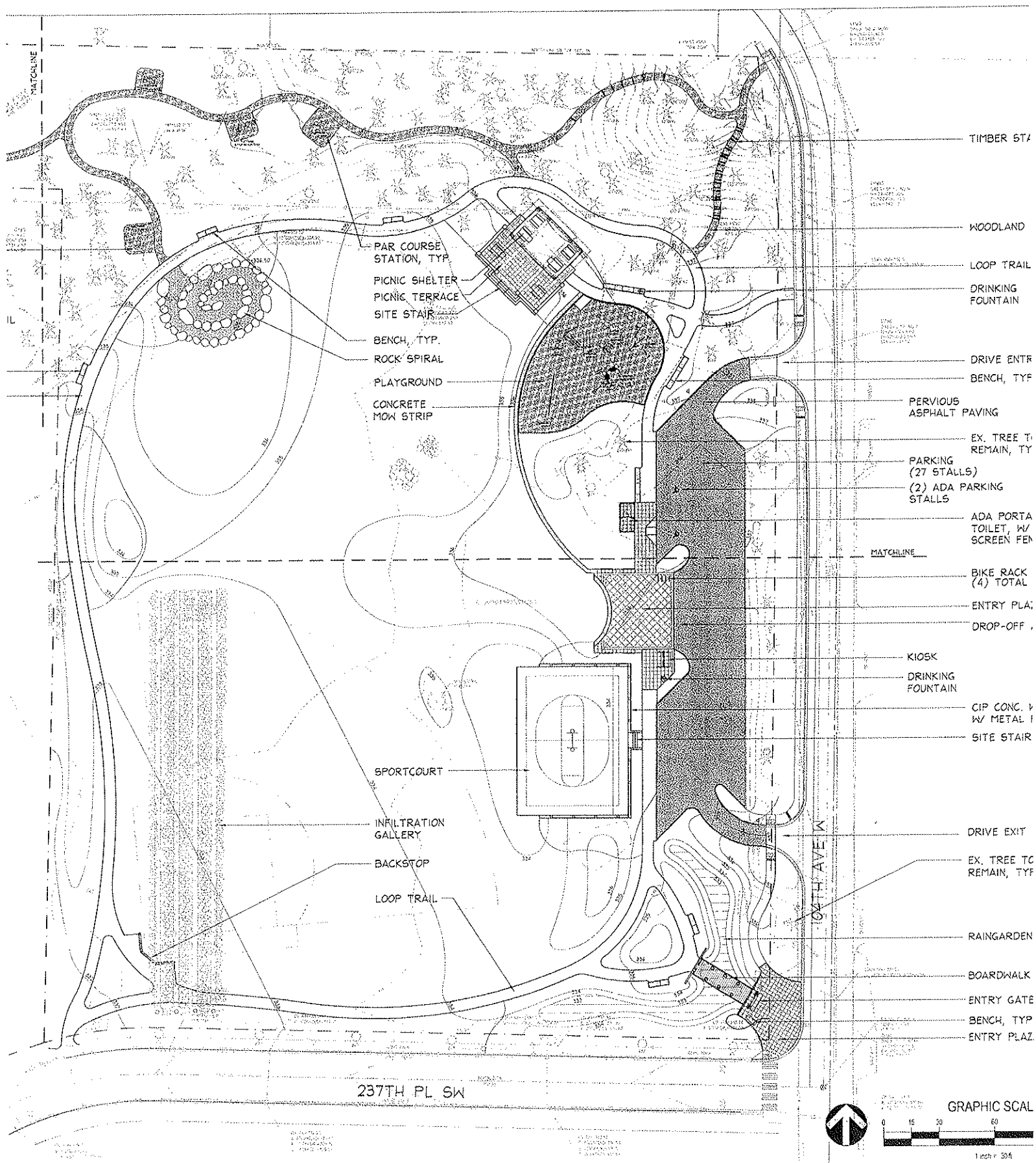
Final Approval Date: 05/30/2008

CAPITAL IMPROVEMENT PROJECT DESCRIPTION

PROJECT NAME: Old Woodway Elementary School Park Development	ESTIMATED COST: \$1,260,000
---	------------------------------------



PROJECT DESCRIPTION: Plan and develop park at old school site.							
PROJECT BENEFIT/ RATIONALE: Meet the need for parkland identified in Comprehensive Plan with supporting park amenities to serve the community.							
SCHEDULE: 2008-2014							
COST BREAKDOWN							
PROJECT COST	2008	2009	2010	2011	2012	2013	2014
Planning/Study							
Eng. & Admin.							
Construction	\$1,188,000	\$9,900	\$9,900	\$9,900	\$9,900	\$9,900	\$9,900
1% for Art	\$12,000	\$100	\$100	\$100	\$100	\$100	\$100
TOTAL	\$1,200,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000

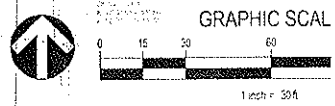


237TH PL SW

104TH AVENUE

- TIMBER STR
- WOODLAND
- LOOP TRAIL
- DRINKING FOUNTAIN
- DRIVE ENTR
- BENCH, TYP
- PERVIOUS ASPHALT PAVING
- EX. TREE TO REMAIN, TY
- PARKING (27 STALLS) (2) ADA PARKING STALLS
- ADA PORTA TOILET, W/ SCREEN FEN
- MATCHLINE
- BIKE RACK (4) TOTAL
- ENTRY PLAZA
- DROP-OFF
- KIOSK
- DRINKING FOUNTAIN
- CIP CONC. W/ METAL I
- SITE STAIR
- DRIVE EXIT
- EX. TREE TO REMAIN, TYP
- RAINGARDEN
- BOARDWALK
- ENTRY GATE
- BENCH, TYP
- ENTRY PLAZA

- PAR COURSE STATION, TYP
- PICNIC SHELTER
- PICNIC TERRACE
- SITE STAIR
- BENCH, TYP.
- ROCK SPIRAL
- PLAYGROUND
- CONCRETE MOW STRIP
- SPORTCOURT
- INFILTRATION GALLERY
- BACKSTOP
- LOOP TRAIL



MacLeod Reckord
 Landscape Architects
 731 Summit Ave First
 Seattle, Washington 98107
 206-223-7919
 FAX 206-223-9242

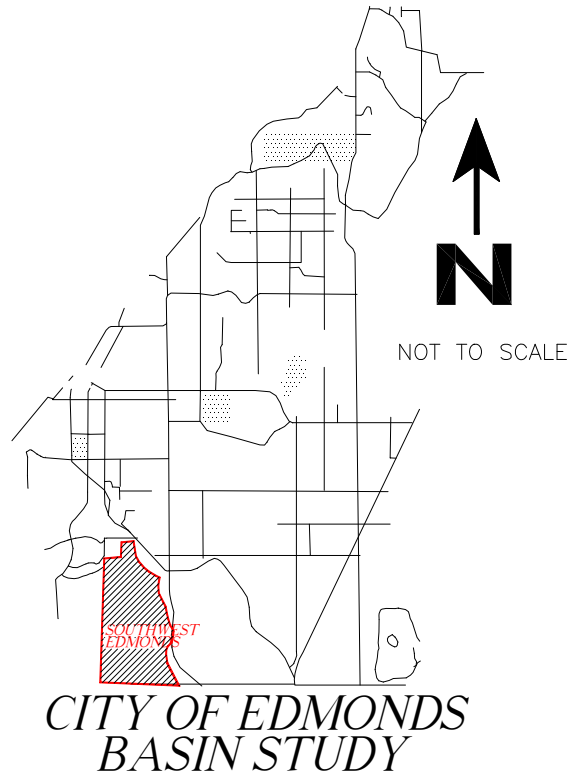
SCALE	1" = 30'-0"
DATE	MAY 23, 2008
DRAWN BY	JR
CHECKED BY	EM
308785	07109

OLD WOODWAY PARK

SITE PLAN

CITY OF EDMONDS CAPITAL IMPROVEMENT PROJECT DESCRIPTION

PROJECT NAME: Southwest Edmonds Basin Study Projects	ESTIMATED PROJECT COST: \$535,000
---	--



PROJECT DESCRIPTION: Construct projects identified in Southwest Edmonds Basin Study which was adopted in 2003.

PROJECT BENEFIT/ RATIONALE: Projects identified in the study address water quantity and quality problems. Projects are prioritized based on 1) magnitude of the problem 2) frequency of occurrence and 3) potential damage exposure.

Existing drainage facilities in the area consist mostly of numerous catch basins and infiltration sumps. These facilities were installed incrementally without an overall plan as the area developed over a period of many years. There are no major drainage pipelines running through the project area. Since annexation, the City has constructed infiltration facilities at several locations to reduce ponding on streets and private property in the area.

SCHEDULE: 2008

COST BREAKDOWN						
PROJECT COST	2007	2008	2009	2010	2011	2012
Planning/Study						
Engineering & Administration						
Construction						
1% for Art						
TOTAL	\$385,000	\$150,000				

**Resolution of the Edmonds City Council commending Hilary Scheibert
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Jana Spellman
Submitted For: Council President Pro Tem Deanna Dawson **Time:** Consent
Department: City Council **Type:** Action
Review Committee:
Action:

Information

Subject Title

Resolution of the Edmonds City Council commending Hilary Scheibert for her services as a Student Representative on the Edmonds City Council. *This consent agenda item was not reviewed by a Council Committee.*

Recommendation from Mayor and Staff

N/A

Previous Council Action

N/A

Narrative

Resolution of the Edmonds City Council commending Hilary Scheibert for her services as a Student Representative on the Edmonds City Council from September 4, 2007 to June 3, 2008.

Fiscal Impact

Attachments

Link: [Scheibert Resolution](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 11:51 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 12:12 PM	APRV
3	Final Approval	Linda Hynd	05/29/2008 12:18 PM	APRV
Form Started By: Jana Spellman			Started On: 05/29/2008 10:54 AM	
Final Approval Date: 05/29/2008				

Resolution

No:

*A Resolution of the Edmonds City Council Commending
Hilary Scheibert
for Her Service as a Student Representative on the Edmonds City Council*

Whereas, Hilary Scheibert, a student at Edmonds-Woodway High School, was selected to serve as a Student Representative of the Edmonds City Council; and

Whereas, Hilary Scheibert, served as a student member of the City Council from September 4, 2007 through June 10, 2008; and

Whereas, during her tenure as Student Representative, Hilary Scheibert demonstrated exceptional interest in the work of the body while at the same time participating in a host of activities as a student of Edmonds-Woodway High School including ASB, Play Production, Teen Council, Steering Committee (student representative) and Environmental Club. She was also involved in the Junior Statesmen Symposium on Leadership and Politics, Invisible Children, Resolve Uganda, International Rescue Committee, as a breakfast cook for ROOTS Young Adult Shelter, and a section leader for the Seattle Children's Chorus. This remarkable young lady was the first to volunteer to serve on the Council through two terms and is to be commended for regular attendance, being well-versed on the agenda, and lending a youthful perspective during the comment period.

Now, Therefore, Be It Resolved, that Hilary Scheibert be congratulated for her exemplary participation in city government in Edmonds during her term as Student Representative while participating in an extensive variety of school and other activities, and

Be It Further Resolved that the City Council and the Mayor hereby extend their best wishes to Hilary in her future endeavors and express the hope that she will continue to contribute her vast talents to the democratic process of government in the City of Edmonds and elsewhere.

Now, Therefore, Be It Passed, Approved, and Adopted the 3rd day of June, 2008.

Gary Haakenson, Mayor

Deanna Dawson, Council President Pro Tem

Michael Plunkett, Council President

D. J. Wilson, Councilmember

Ron Wambolt, Councilmember

Steve Bernheim, Councilmember

Peggy Pritchard Olson, Councilmember

Dave Orvis, Councilmember

Attest: City Clerk

**2008 Street Overlay Program Award of Contract
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Conni Curtis
Submitted For: Noel Miller **Time:** Consent
Department: Engineering **Type:** Action
Review Committee:
Action:

Information

Subject Title

Report of bids opened on May 20, 2008 for the 2008 Street Overlay Program and award of contract to Northshore Paving, Inc. (\$385,218.34)

Recommendation from Mayor and Staff

Council award a contract to Northshore Paving, Inc. in the amount of \$385,218.34 for the 2008 Street Overlay Program (Schedules A-1 through A-7, A-14, and A-16 through A20).

Previous Council Action

On April 15, 2008, Council authorized Staff to advertise for bids on the 2008 Street Overlay Program.

Narrative

On May 20, 2008, the City received six bids for the Street Overlay Program contract. The bid tabulation summary is provided as Attachment 1. The bids ranged from a low of \$550,588.28 to \$783,177.52 for all bid schedules. The engineer's estimate was \$558,276.71 for all bid schedules. The low bid was submitted by Northshore Paving, Inc. A review of the low bidder's record was satisfactory.

The invitation to bid included a total of 20 bid schedules for various different streets and project requirements within the City. In addition to street overlays, the invitation for bids included some walkway/crosswalk and ADA curb ramp improvements, and parks paving improvements (asphalt trail overlay for Sierra Park). The 2008 adopted capital budget includes the following amounts for these projects:

Project	Fund 112	Fund 125 (Trans)	Fund 125 (Parks)
Overlays – Utility Streets	\$215,000		
Overlays - Citywide	\$100,000	\$100,000	
ADA Curb Ramp Improvements		\$20,000	
Walkways and Bikeways Citywide	\$15,000		
Street Improvements Citywide	\$15,000		
School Zone Improvements	\$10,000		

Citywide Parks, Misc Small Projects			\$100,000
Total Budget	\$355,000	\$120,000	\$100,000

The total budget required for construction of the 2008 Citywide Overlay Program is \$437,868.34, as shown in Attachment 2, along with the awarded schedules and their funding source.

Fiscal Impact

Attachments

Link: [Bid Results](#)

Link: [Award Schedules & Budget](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	Public Works	Noel Miller	05/29/2008 02:35 PM	APRV
2	City Clerk	Linda Hynd	05/29/2008 02:47 PM	APRV
3	Mayor	Gary Haakenson	05/29/2008 03:09 PM	APRV
4	Final Approval	Linda Hynd	05/29/2008 04:12 PM	APRV
Form Started By: Conni Curtis			Started On: 05/29/2008 09:47 AM	
Final Approval Date: 05/29/2008				

Bid Results
City of Edmonds
2008 Street Overlay Program
E8CA/c279

SCHEDULE	Engineer's Estimate	Northshore Paving	Northwest Asphalt	Wilder Construction	Cemex	Quilceda Paving	Lakeside Industries
A-1 Alley between Pine and Fir Streets	\$ 20,734.35	\$ 21,347.22	\$ 19,144.50	\$ 22,212.25	\$ 35,619.75	\$ 36,088.00	\$ 31,286.00
A-2 80th Avenue West, south of 200th Street SW	\$ 17,872.05	\$ 18,835.55	\$ 17,883.75	\$ 19,588.50	\$ 23,783.25	\$ 24,012.50	\$ 24,143.50
A-3 201st Street SW, west of 76th Avenue West	\$ 47,067.30	\$ 52,593.55	\$ 47,584.00	\$ 58,079.50	\$ 57,285.25	\$ 53,202.50	\$ 71,779.25
A-4 202nd Street SW, west of 76th Avenue West	\$ 15,988.35	\$ 20,139.40	\$ 18,716.00	\$ 23,162.70	\$ 28,549.25	\$ 26,212.50	\$ 37,109.00
A-5 202nd Place SW, west of 76th Avenue West	\$ 52,921.05	\$ 61,055.34	\$ 52,673.00	\$ 65,153.85	\$ 65,945.10	\$ 66,045.00	\$ 79,753.25
A-6 203rd Street SW, west of 76th Avenue West	\$ 55,462.05	\$ 61,265.00	\$ 56,345.00	\$ 63,611.00	\$ 68,932.50	\$ 67,175.00	\$ 81,324.25
A-7 79th Avenue West, north of 206th Street SW	\$ 33,174.75	\$ 30,807.80	\$ 32,825.00	\$ 33,584.50	\$ 39,713.00	\$ 40,738.00	\$ 44,243.00
A-8 196th Place SW, east of 80th Avenue West	\$ 16,968.00	\$ 17,315.85	\$ 17,595.00	\$ 18,486.00	\$ 20,013.75	\$ 23,533.50	\$ 25,687.75
A-9 198th Street SW, east of 80th Avenue West	\$ 25,678.80	\$ 27,497.72	\$ 25,210.00	\$ 29,298.75	\$ 28,489.25	\$ 34,812.50	\$ 35,203.20
A-10 206th Place SW, east of 80th Avenue West	\$ 19,722.15	\$ 14,241.80	\$ 18,893.00	\$ 13,358.10	\$ 17,308.50	\$ 20,800.00	\$ 22,824.75
A-11 207th Place SW, east of 80th Avenue West	\$ 19,695.90	\$ 13,491.80	\$ 18,818.00	\$ 13,361.10	\$ 17,140.00	\$ 20,600.00	\$ 22,799.75
A-12 209th Street SW, east of 80th Avenue West	\$ 19,869.15	\$ 13,641.80	\$ 18,818.00	\$ 13,775.10	\$ 17,380.00	\$ 21,150.00	\$ 22,999.75
A-13 211th Place SW, east of 80th Avenue West	\$ 25,156.95	\$ 17,569.95	\$ 23,004.00	\$ 17,486.35	\$ 28,744.00	\$ 26,548.80	\$ 30,386.75
A-14 School Zone Pedestrian Improvements, Intersection of 76th Avenue West and 206th Street SW	\$ 3,512.25	\$ 6,553.10	\$ 5,620.00	\$ 5,802.00	\$ 14,498.00	\$ 11,710.00	\$ 14,116.25
A-15 82nd Place West, west of 196th Street SW	\$ 66,402.00	\$ 61,611.02	\$ 63,720.80	\$ 63,939.90	\$ 66,898.65	\$ 71,491.70	\$ 74,575.95
A-16 198th Place SW, between 82nd and 83rd Place West	\$ 17,626.35	\$ 17,049.21	\$ 17,612.00	\$ 20,777.50	\$ 23,471.00	\$ 24,379.60	\$ 25,561.15
A-17 198th Street SW, east of Maplewood Lane	\$ 29,367.45	\$ 26,777.60	\$ 27,519.75	\$ 28,325.75	\$ 31,952.25	\$ 35,494.10	\$ 35,858.95
A-18 83rd Place West, north of 200th Street SW	\$ 46,071.90	\$ 45,554.40	\$ 43,718.00	\$ 47,112.05	\$ 48,411.25	\$ 53,281.30	\$ 55,995.95
A-19 197th Street SW, east of 84th Avenue West	\$ 10,402.35	\$ 9,958.62	\$ 9,844.20	\$ 10,397.75	\$ 15,693.00	\$ 13,753.00	\$ 17,841.30
A-20 Asphalt Trail Overlay, Sierra Park	\$ 14,583.56	\$ 13,281.55	\$ 15,436.58	\$ 12,509.72	\$ 18,421.36	\$ 40,135.10	\$ 29,687.77
GRAND TOTAL ALL SCHEDULES	\$ 558,276.71	\$ 550,588.28	\$ 550,980.58	\$ 580,022.37	\$ 668,249.11	\$ 711,163.10	\$ 783,177.52

2008 Street Overlays - Recommended Award Schedules vs. Budget

Date: May 29, 2008

Recommended Contact Award			Charge to Fund		
	Schedule	Amount	112	125 (Trans)	125(Parks)
A-1	Alley between Pine and Fir Streets	\$21,347.22	\$21,347.22		
A-2	80th Ave W, south of 200th St SW	\$18,835.55	\$18,835.55		
A-3	201st St SW, west of 76th Ave W	\$52,593.55	\$52,593.55		
A-4	202nd St SW, west of 76th Ave W	\$20,139.40	\$20,139.40		
A-5	202nd Pl SW, west of 76th Ave W	\$61,055.34	\$61,055.34		
A-6	203rd Pl SW, west of 76th Ave W	\$61,265.00		\$61,265.00	
A-7	79th Ave W, north of 206th St SW	\$30,807.80		\$30,807.80	
A-14	School Zone Ped Imprvts-76th/206th	\$6,553.10	\$6,553.10		
A-16	198th Pl SW, west of 196th St SW	\$17,049.21	\$17,049.21		
A-17	198th St SW, east of Maplewood Ln	\$26,777.60	\$26,777.60		
A-18	83rd Pl W, north of 200th St SW	\$45,554.40	\$45,554.40		
A-19	197th St SW, east of 84th Ave W	\$9,958.62	\$9,958.62		
A-20	Asphalt Trail Overlay, Sierra Park	\$13,281.55	\$13,281.55		\$13,281.55
	Contract Award Amount Total	\$385,218.34	\$293,145.54	\$92,072.80	\$13,281.55
Plus: Other Costs					
	Contract Admin	\$30,000.00	\$30,000.00		
	Contingency	\$19,300.00	\$14,000.00	\$4,600.00	\$700.00
	Testing Lab Services	\$3,000.00		\$3,000.00	
	Advertising	\$350.00	\$350.00		
	1% Art	\$0.00			
	Total Other Costs	\$52,650.00	\$44,350.00	\$7,600.00	\$700.00
Grand Total, Contract Award Plus Other Costs		\$437,868.34	\$337,495.54	\$99,672.80	\$13,981.55
Budget:			\$355,000.00	\$120,000.00	\$100,000.00

**Presentation by Alpha Omicron Pi Sorority to honor Police Chief David Stern
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Gerry Gannon
Submitted For: Al Compaan **Time:** 10 Minutes
Department: Police Department **Type:** Action
Review Committee:
Action: Recommend Review by Full Council

Information

Subject Title

Presentation by Alpha Omicron Pi Sorority to honor Police Chief David Stern.

Recommendation from Mayor and Staff

Previous Council Action

None.

Narrative

The Alpha Omicron Pi Sorority have spent their resources of both time and funding to provide an honor to Chief David Stern. The members of the sorority have been collecting Panda bears for many months (perhaps a year) and they would like to make a presentation to the Department in front of the City Council. The department uses the bears to comfort children that have gone through a stressful situations. The representatives from the Alpha Omicron Pi Sorority are Ann Beardsley, Lori Gannon, and Michele Simmons.

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 10:13 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 11:11 AM	APRV
3	Final Approval	Linda Hynd	05/29/2008 11:52 AM	APRV

Form Started By: Gerry Gannon
 Started On: 05/28/2008 03:45 PM
 Final Approval Date: 05/29/2008

AM-1575

4.

**Swearing In of Assistant Chief of Police Jim Lawless
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Al Compaan **Time:** 25 Minutes
Department: Police Department **Type:**
Review Committee:
Action:

Information

Subject Title

Swearing In of Assistant Chief of Police Jim Lawless. Note: A 15-minute reception will follow the swearing-in ceremony.

Recommendation from Mayor and Staff

Previous Council Action

Narrative

Assistant Chief Jim Lawless was promoted on May 16, 2008 from the rank of Sergeant to Assistant Chief of Police after placing first on the Civil Service eligibility list. He will be officially sworn in on June 3rd, 2008 at the City Council meeting.

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/28/2008 10:18 AM	APRV
2	Mayor	Gary Haakenson	05/28/2008 10:26 AM	APRV
3	Final Approval	Linda Hynd	05/28/2008 12:20 PM	APRV
Form Started By: Al Compaan			Started On: 05/19/2008 10:54 AM	
Final Approval Date: 05/28/2008				

**Presentation of Resolution commending Hilary Scheibert
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Jana Spellman
Submitted For: Council President Pro Tem Deanna Dawson **Time:** 5 Minutes
Department: City Council **Type:** Action
Review Committee:
Action:

Information

Subject Title

Presentation of Resolution commending Hilary Scheibert for her service as Student Representative on the Edmonds City Council.

Recommendation from Mayor and Staff

N/A

Previous Council Action

N/A

Narrative

Presentation of the Resolution to Hilary Scheibert for her outstanding service as the Student Representative on the Edmonds City Council from September 4, 2007 to June 10, 2008.

Fiscal Impact

Attachments

Link: [Scheibert Resolution](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 11:51 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 12:12 PM	APRV
3	Final Approval	Linda Hynd	05/29/2008 12:18 PM	APRV
Form Started By: Jana Spellman			Started On: 05/29/2008 10:43 AM	
Final Approval Date: 05/29/2008				

Resolution

No:

*A Resolution of the Edmonds City Council Commending
Hilary Scheibert
for Her Service as a Student Representative on the Edmonds City Council*

Whereas, Hilary Scheibert, a student at Edmonds-Woodway High School, was selected to serve as a Student Representative of the Edmonds City Council; and

Whereas, Hilary Scheibert, served as a student member of the City Council from September 4, 2007 through June 10, 2008; and

Whereas, during her tenure as Student Representative, Hilary Scheibert demonstrated exceptional interest in the work of the body while at the same time participating in a host of activities as a student of Edmonds-Woodway High School including ASB, Play Production, Teen Council, Steering Committee (student representative) and Environmental Club. She was also involved in the Junior Statesmen Symposium on Leadership and Politics, Invisible Children, Resolve Uganda, International Rescue Committee, as a breakfast cook for ROOTS Young Adult Shelter, and a section leader for the Seattle Children's Chorus. This remarkable young lady was the first to volunteer to serve on the Council through two terms and is to be commended for regular attendance, being well-versed on the agenda, and lending a youthful perspective during the comment period.

Now, Therefore, Be It Resolved, that Hilary Scheibert be congratulated for her exemplary participation in city government in Edmonds during her term as Student Representative while participating in an extensive variety of school and other activities, and

Be It Further Resolved that the City Council and the Mayor hereby extend their best wishes to Hilary in her future endeavors and express the hope that she will continue to contribute her vast talents to the democratic process of government in the City of Edmonds and elsewhere.

Now, Therefore, Be It Passed, Approved, and Adopted the 3rd day of June, 2008.

Gary Haakenson, Mayor

Deanna Dawson, Council President Pro Tem

Michael Plunkett, Council President

D. J. Wilson, Councilmember

Ron Wambolt, Councilmember

Steve Bernheim, Councilmember

Peggy Pritchard Olson, Councilmember

Dave Orvis, Councilmember

Attest: City Clerk

**Presentation by Edmonds Backyard Wildlife Habitat Project
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Linda Hynd
Submitted For: Sandy Chase **Time:** 10 Minutes
Department: City Clerk's Office **Type:** Information
Review Committee:
Action:

Information

Subject Title

Presentation of certificate to the City Council and Mayor from the Edmonds Backyard Wildlife Habitat Project.

Recommendation from Mayor and Staff

N/A.

Previous Council Action

N/A.

Narrative

The Edmonds Backyard Wildlife Habitat Project wishes to present to the City Council and the Mayor certificates of achievement.

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/28/2008 12:20 PM	APRV
2	Mayor	Gary Haakenson	05/28/2008 01:46 PM	APRV
3	Final Approval	Linda Hynd	05/28/2008 04:18 PM	APRV
Form Started By: Linda Hynd			Started On: 05/28/2008 10:19 AM	
Final Approval Date: 05/28/2008				

**Update on Transportation Element of the Comprehensive Plan
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Conni Curtis
Submitted For: Noel Miller **Time:** 10 Minutes
Department: Engineering **Type:** Information
Review Committee:
Action:

Information

Subject Title

Update on the Transportation Element of the Comprehensive Plan.

Recommendation from Mayor and Staff

N/A - Information Only

Previous Council Action

On February 19, 2008, Council authorized the Mayor to sign a professional services agreement with Jones & Stokes for the update of the Transportation Element of the Comprehensive Plan.

Narrative

The City of Edmonds is currently in the process of updating the Transportation Element of the Comprehensive Plan. Under the Growth Management Act (GMA), the City is required to perform a major update to the Plan every six to ten years. Our last major update was prepared in 2002. The Plan lists existing transportation conditions for all users (drivers, pedestrians, bikers and transit users) as well as possible improvements to these conditions. The main objective of the Comprehensive Plan is to identify improvements necessary to provide a system for all modes of transportation that will function safely and efficiently through the year 2028.

Since finalizing the agreement with the consultant, City staff and Jones & Stokes have been working together on the Update. This evening they will be presenting the different elements covered under this new Plan, along with the project schedule (see attachment 1) and items to be discussed at the up-coming Open House to be held Thursday, June 19 at 7 p.m. in the Brackett Room of City Hall.

Fiscal Impact

Attachments

Link: [Project Schedule](#)

Form Routing/Status

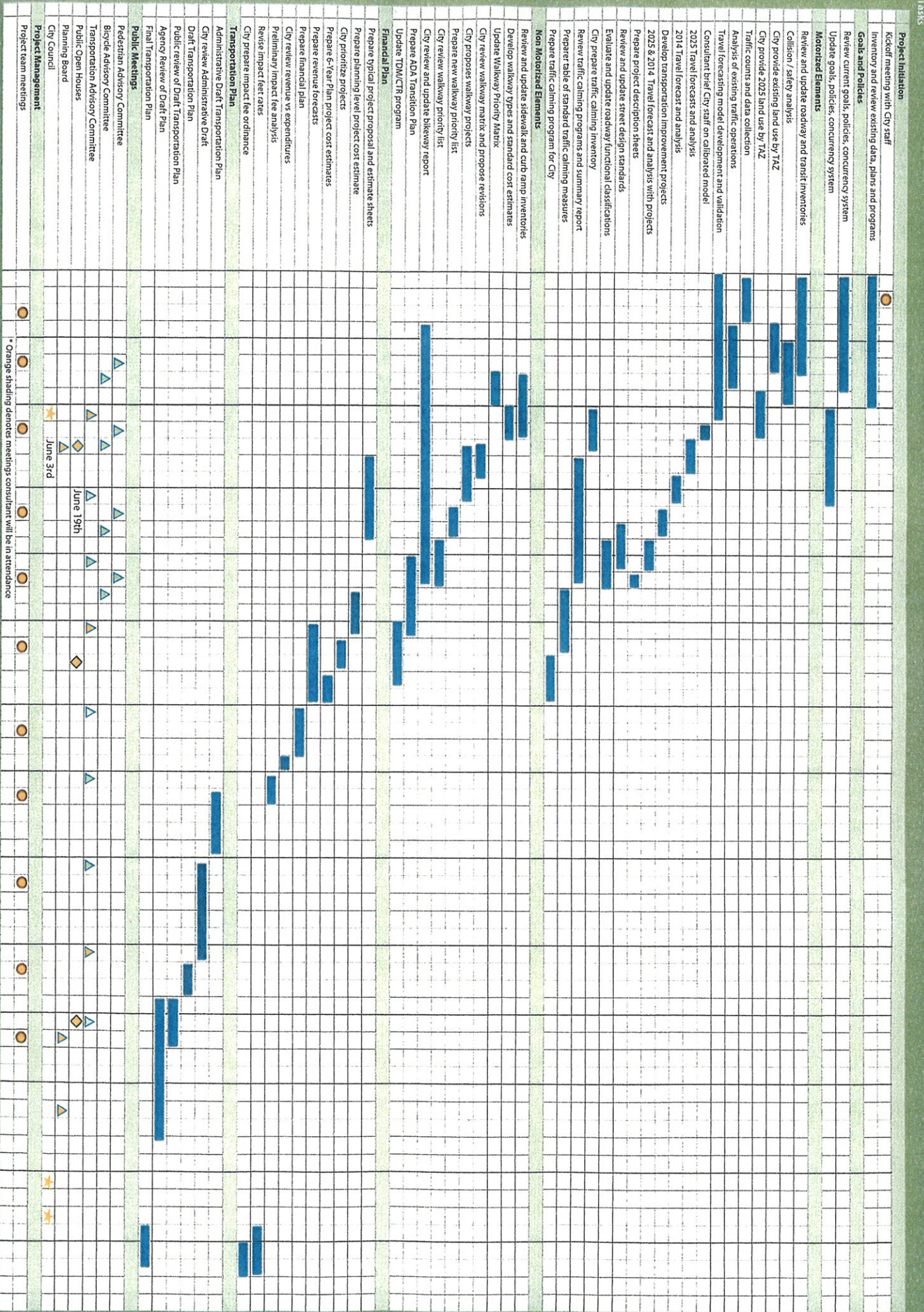
Route Seq	Inbox	Approved By	Date	Status
1	Public Works	Noel Miller	05/28/2008 05:23 PM	APRV
2	City Clerk	Linda Hynd	05/29/2008 10:13 AM	APRV

3 Mayor Gary Haakenson 05/29/2008 11:11 AM APRV

4 Final Approval Linda Hynd 05/29/2008 11:52 AM APRV

Form Started By: Conni Started On: 05/28/2008 08:13
Curtis AM

Final Approval Date: 05/29/2008



* Orange shading denotes meetings consultant will be in attendance

**Sound Transit Update by Joni Earl, Chief Executive Officer
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Stephen Clifton
Submitted For: Stephen Clifton **Time:** 30 Minutes
Department: Community Services **Type:** Information
Review Committee:
Action:

Information

Subject Title

Sound Transit Update by Joni Earl, Chief Executive Officer. *Public comment will be accepted.*

Recommendation from Mayor and Staff

Previous Council Action

Narrative

Joni Earl, Sound Transit Chief Executive Officer will present an update on Sound Transit activities with a focus on Sound Transit 2.

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 04:12 PM	APRV
2	Mayor	Gary Haakenson	05/29/2008 04:15 PM	APRV
3	Final Approval	Linda Hynd	05/30/2008 09:11 AM	APRV
Form Started By: Stephen Clifton			Started On: 05/28/2008 10:23 AM	
Final Approval Date: 05/30/2008				

AM-1590

Public Hearing on proposed amendments to ECDC Chapter 17.40 regarding non-conforming regulations.

Edmonds City Council Meeting

<u>Date:</u>	06/03/2008	<u>Time:</u>	45 Minutes
<u>Submitted By:</u>	Duane Bowman	<u>Type:</u>	Action
<u>Department:</u>	Development Services		
<u>Review Committee:</u>			
<u>Action:</u>			

Information

Subject Title

Public Hearing on proposed amendments to ECDC Chapter 17.40 regarding non-conforming regulations.

Recommendation from Mayor and Staff

After taking public testimony, direct the City Attorney to prepare an ordinance for approval that includes any changes directed by the City Council.

Previous Council Action

On February 26, 2008, the City council held a work session on the code rewrite update. A briefing regarding the nonconforming regulations occurred at the meeting. A copy of the minutes from that meeting is attached as Exhibit 4.

Narrative

As part of the ongoing code rewrite process the Planning board has forwarded to the City Council a recommendation on revisions to Edmonds Community Development Code (ECDC) Chapter 17.40 regarding nonconforming regulations.

Some key issues included in the proposed ordinance (Exhibit 1) are:

- * Change the damage percentage from 50% to 75% - under current regulations, if a building is damaged more than 50%, it must be brought into compliance.
- * Exceptions to the 75% rule – if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner’s agent or the building is damaged or destroyed do to the ongoing neglect or gross negligence of the owner or the owner’s agent.
- * Historic Buildings/Structures – addition of clarifying language and reference to the Edmonds Register of Historic Places
- * New Section regarding residential buildings in commercial zones – existing non-conforming buildings in commercial zones in use solely for residential purposes or structures attendant to such residential use may be remodeled or reconstructed without regard to the limitations of ECDC 17.40.2020(B), (E) and (F) but only if several conditions listed in the ordinance are met.

Two issues have come to light since the Planning Board review. One deals with nonconforming lots. There is a table found in ECDC 17.40.030 (D) which identifies the percentage of lot area needed to be considered a legal lot. Unfortunately it does not include the new RS-10 zone that was created to comply with the Growth Management Act (GMA). Staff proposes the following addition (bold and underlined) to that table:

Lot Area Table

Zone	% Needed for Lot Size Needed	Legal Lot for Legal Lot
(1) RS-20	60%	12,000
(2) RS-12	70%	8,400
<u>(3) RS-10</u>	<u>75%</u>	<u>7,500</u>
(4) RS-8	80%	6,400
(5) RS-6	90%	5,400

The second issue deals with minor architectural improvements to a nonconforming building. Current code allows eaves and chimneys to project into a required setback up to 30 inches. Sometimes the additional of architectural features can improve the appearance of a nonconforming building. As an example, the city issued a building permit to allow a nonconforming multiple family apartment building to change the exterior siding. The permit applicant decided to add bay windows on one side of the building to improve the look of the building and help break up the flat wall appearance. Unfortunately, the windows were not included in the permit approval and project into the nonconforming setback. The windows do however add visual improvement to the building.

If the City council is so inclined to allow such architectural improvements, the following wording could be added to ECDC 17.40.020:

D. Maintenance and Alterations.

1. Ordinary maintenance and repair of a nonconforming building or structure shall be permitted.
2. Alterations which otherwise conform to the provisions of the zoning ordinance, its site development and bulk standards, and which do not expand any nonconforming aspect of the building, shall be permitted. **Minor architectural improvements which, in an effort to allow for more creative design and a better overall appearance such as bay windows, eaves, and chimneys may encroach into a nonconforming setback not more than 30 inches.**

3. Alterations required by law or the order of a public agency in order to meet health and safety regulations shall be permitted.

Fiscal Impact

Attachments

Link: [Exhibit 1 - Draft Ordinance](#)

Link: [Exhibit 2 - City Attorney memo](#)

Link: [Exhibit 3 - Planning board minutes Extract](#)

Link: [Exhibit 4 - CC Minutes 2-26-08](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 10:13 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 11:11 AM	APRV
3	Final Approval	Linda Hynd	05/29/2008 11:52 AM	APRV

Form Started By: Duane
Bowman

Started On: 05/28/2008 10:29
AM

Final Approval Date: 05/29/2008

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WSS/gjz
8/9/06
R:9/12/06gjz
R:6/5/07gjz
R;6/22/07gjz
R:7/30/07gjz
R:11/1/07rwc

D R A F T

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE COMMUNITY DEVELOPMENT CODE BY THE REPEAL AND REENACTMENT OF CHAPTER 17.40 NONCONFORMING USES, BUILDINGS, SIGNS AND LOTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, existing Chapter 17.40 Nonconforming Uses, Buildings, Signs and Lots was enacted in 1980 with the goal of achieving strict compliance with the City's zoning code; and

WHEREAS, significant changes have occurred including but not limited to the enactment of Historic Preservation provisions, changes in the state regulatory structure and the City's Comprehensive Plan designed to encourage mixed use development, preserve affordable housing and permit reuse and reconstruction of buildings within the City; and

WHEREAS, in order to encourage annexations to the City, the City wishes to provide for greater flexibility in the preservation of existing legally non-conforming uses, buildings and structures; and

WHEREAS, the City Council finds that the business environment and economic development can be stimulated by allowing greater flexibility regarding the reuse of nonconforming signs, NOW, THEREFORE,

ORDAIN AS FOLLOWS:

Section 1. _____

Chapter 17.40

**NONCONFORMING USES, BUILDINGS,
SIGNS AND LOTS**

Sections:

- 17.40.000 Purpose.**
- 17.40.010 Nonconforming uses.**
- 17.40.020 Nonconforming buildings.**
- 17.40.030 Nonconforming accessory dwelling units.**
- 17.40.040 Nonconforming lots.**
- 17.40.050 Nonconforming signs.**
- 17.40.060 Nonconforming community facilities**

17.40.000 Purpose.

The purpose of this chapter is to allow certain nonconforming uses, buildings, signs and lots to continue while limiting the continuation of certain aspects of nonconformity. Other nonconforming uses, buildings, signs and lots, which are declared to be nuisances, are required to be eliminated.

17.40.010 Nonconforming uses.

A. Definition. A nonconforming use is one which was once allowed by applicable land use regulations, but is no longer allowed, due to the passage or later change of this or a prior ordinance.

B. Continuation. A nonconforming use may continue, unless required to be abated by subsection C of this section, but it may not be expanded in any way, including additional lot area, floor area, height, number of employees, equipment, or hours of operation except as otherwise provided in ECDC 17.40.060.

C. Lapse of Time.

1. If a nonconforming use ceases for a period of six continuous months, any later use of the property occupied by the former nonconforming use shall conform to this zoning ordinance.

Uses such as agricultural uses, which vary seasonally, shall be deemed abandoned if the seasonal use is not utilized during one full season consistent with the traditional use.

2. If a nonconforming residential use ceases because its building is damaged in excess of ~~seventy-five (75)~~ percent of its replacement cost, the use may be reestablished if, but only if, an application for a building permit which vests as provided in ECDC 19.00.015, et seq. is filed within 18 months of the date such damage occurred. After the application has been filed, only one 180-day extension may be granted.

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3. The right of reestablishment of use described in ECDC 17.040.10.C.2, above, shall not apply if:

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(a) The building or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent;
or

(b) The building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent.

In the event that 17.40.010.C.3(a) or (b) apply, the nonconforming use shall be abated if damage exceeds twenty-five (25) percent of replacement cost. "Replacement cost" shall be determined as provided in ECDC 17.40.020(F).

Deleted: only if construction of a new or repaired building is begun by the filing of a fully completed building permit application with all fees paid within one year of the date the damage occurred by the filing of a building permit which vests in accordance with ECDC 19.00.015, et seq. within the one-year period. This provision shall not apply if the damage was caused by the unlawful act, gross negligence or ongoing neglect of the owner or the owner's agent.

D. Conditional Uses. A legal use does not become nonconforming because the zone in which it is located is changed to a zone district which requires a conditional use permit for the use. However, the use may not be expanded, as provided for in subsection B of this section, without obtaining a conditional use permit.

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17.40.020 Nonconforming building and/or structure.

A. Definition. A nonconforming building or a nonconforming structure is one which once met bulk zoning standards and the site development standards applicable at the date of its permitted construction, but which no longer conforms to such standards due to the enactment or amendment of the zoning ordinance of the city of Edmonds or the application of such ordinance in the case of a building or structure annexed to the city.

B. Continuation. A nonconforming building or structure may be maintained and continued, unless required to be abated elsewhere in this chapter or section, but it may not be changed or

altered in any manner which increases the degree of nonconformity of the building except as expressly provided in subsection C through F.

C. Historic Buildings and Structures. Nothing in this section shall prevent the full restoration by reconstruction of a building or structure which is either listed on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, ~~the Edmonds Register of Historic Places, or is listed in a city-approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation.~~ “Restoration” means reconstruction of the historic building or structure with as nearly the same visual design appearance and materials as is consistent with full compliance with the State Building Code and consistent with the requirements of Chapter 20.45 ECDC Edmonds Register of Historic Places. ~~The reconstruction of all such historic buildings and structures shall comply with the life safety provisions of the State Building Code.~~

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D. Maintenance and Alterations.

1. Ordinary maintenance and repair of a nonconforming building or structure shall be permitted.

2. Alterations which otherwise conform to the provisions of the zoning ordinance, its site development and bulk standards, and which do not expand any nonconforming aspect of the building, shall be permitted.

3. Alterations required by law or the order of a public agency in order to meet health and safety regulations shall be permitted.

E. Relocation. Should a nonconforming building or structure be moved horizontally for any reason for any distance, it shall thereafter come into conformance with the setback and lot coverage requirements for the zone in which it is located. Provided, however, that a building or structure may be moved on the same site without full compliance if the movement reduces the degree of nonconformity of the building or structure. Movement alone of a nonconforming building or structure to lessen an aspect of its nonconformity shall not require the owner thereof to bring the building or structure into compliance with other bulk or site development standard of the city applicable to the building or structure.

F. Restoration. If a nonconforming building or structure is destroyed or is damaged in an amount equal to seventy-five (75) percent or more of its replacement cost at the time of destruction, said building shall not be reconstructed except in full conformance with the provisions of the Edmonds Community Development Code. Determination of replacement costs and the level of destruction shall be made by the building official and shall be appealable as a staff decision under the provisions of ECDC 20.105.030. Damage of less than 75 percent of replacement costs may be repaired, and the building returned to its former size, shape and lot location as existed before the damage occurred, if, but only if, such repair is initiated by the filing of an application for a building permit which vests as provided in ECDC 19.00.015, et seq, within one year of the date such damage occurred. This right of restoration shall not apply if:

1. The building or structure was damaged or destroyed due to the unlawful act of the owner or the owner's agent; or
2. The building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agents.

G. Residential buildings in commercial zones. Existing nonconforming buildings in commercial zones in use solely for residential purposes – or structures attendant to such residential use – may be remodeled or reconstructed without regard to the limitations of ECDC 17.40.020(B), (E) and (F), if, but only if the following conditions are met:

1. The remodel or reconstruction takes place within the footprint of the original building or structure. "Footprint" shall mean an area equal to the smallest rectangular area in a plane parallel to the ground in which the existing building could be placed, exclusive of uncovered decks, steps, porches, and similar features and provided that the new footprint of the building or structure shall not be expanded by more than ten (10) percent and is found by the City Staff to be substantially similar to the original style and construction after complying with current codes.

2. All provisions of the state building and electrical code can be complied with entirely on the site. No nonconforming residential building may be remodeled or reconstructed if, by so doing, the full use under state law or city ordinance of a conforming neighboring lot or building would be limited by such remodel or reconstruction.

3. These provisions shall apply only to the primary residential use on site and shall not apply to nonconforming accessory buildings or structures.

4. A nonconforming residential single-family building may be rebuilt within the defined building envelope if it is rebuilt with materials and design which are substantially similar to the original style and structure after complying with current codes. "Substantial compliance" shall be determined by the City Staff as a Staff Decision – Notice Required under the provisions of ECDC 20.95.050, except that any appeal of the Staff Decision shall be to the ADB rather than to the Hearing Examiner. The decision of the ADB shall be final and appealable only as provided in ECDC 20.105.070.

17.40.025 Vested nonconforming or illegal accessory dwelling units.

A. Illegal or nonconforming accessory dwelling units which registered with the City during the registration period which ended October 16, 2000, at 5:00 p.m. are hereby declared to be legal nonconforming detached and attached accessory dwelling units (ADU). Accessory dwelling unit (ADU) is defined in Chapter 20.21 ECDC.

B. Once registered, a formerly illegal or nonconforming ADU shall enjoy all the protections and privileges afforded to a nonconforming building under the provisions of ECDC 17.40.020; provided, however, that such ADU shall be subject to the permit review requirement of ECDC 20.100.040 to the end that the city council reserves the right to impose additional conditions on the continued use and occupancy of the formerly illegal ADU if it is found to constitute a nuisance or present a hazardous condition, or to revoke such registration and permit if a nuisance or hazardous condition relating to the ADU is not abated.

C. Legal nonconforming units which received a permit certificate confirming such status and listing the physical dimensions and other characteristics of the structure may be continued in accordance with such permit certificate; provided, however, that the registration and permit of a formerly illegal ADU may be revoked and/or conditioned in accordance with the provisions of ECDC 20.100.040.

D. Failure to register a structure within the time period established by the provisions of this section shall be considered to be presumptive proof that such a unit is an illegal unit and subject

Deleted: 1. The remodel or reconstruction takes place within the footprint of the original building or structure. "Footprint" shall mean an area equal to the smallest rectangular area in a plane parallel to the ground in which the existing building could be placed, exclusive of uncovered decks, steps, porches, and similar features and provided that the new footprint of the building or structure shall not be expanded by more than ten (10) percent and is found by the ADB to be substantially similar to the original style and construction after complying with current codes. Nothing herein shall prohibit reconstruction in conformance with current setback requirements. ¶

2. All provisions of Chapter 19.05 ECDC can be complied with entirely on the site. No nonconforming residential building may be remodeled or reconstructed if, by so doing, the full use under state law or city ordinance of a conforming neighboring lot or building would be limited by such remodel or reconstruction. ¶

3. These provisions shall apply only to the primary residential use on site and shall not apply to nonconforming accessory buildings or structures. ¶

4. Nonconforming residential single-family buildings may be rebuilt within the defined building envelope if: ¶

(a) it is rebuilt with materials and design which are substantially similar to the original style and structure after complying with current codes. Compliance with the "substantially similar" requirement shall be determined by the Architectural Design Board and appealable to the hearing examiner in a closed record appeal, and ¶

(b) The provisions of subsection 4 and its subparagraphs shall be appealable in the following zones:

_____.

¶

G. The determination of the ADB shall be based upon an open record hearing held under the notice procedures of ECDC 20.91.010(B). A closed record appeal may be taken to the Hearing Examiner under the procedures applicable to a staff decision. ECDC 20.105.020. The decision of the Hearing Examiner shall be final and appealable only as provided in ECDC 20.105.070. [Alternative: ADB with appeal to City Council.] ¶

to abatement. The owner of such structure may overcome such a presumption only by presentation of substantial and competent evidence which establishes the legal nonconforming nature of such building by clear and convincing evidence that the structure was permitted by Snohomish County or the city of Edmonds, was permitted by such agency and was in complete compliance with the applicable provisions of state law and county or city ordinance, at the date such construction was initiated and was completed.

17.40.030 Nonconforming lots.

A. Definition. A nonconforming lot is one which met applicable zoning ordinance standards as to size, width, depth and other dimensional regulations at the date on which it was created but which, due to the passage of a zoning ordinance, the amendment thereof or the annexation of property to the city, no longer conforms to the current provisions of the zoning ordinance. A lot which was not legally created in accordance with the laws of the local governmental entity in which it was located at the date of the creation is an illegal lot and will not be recognized for development.

B. Continuation. A nonconforming lot may be developed for any use allowed by the zoning district in which it is located, even though such lot does not meet the size, width, depth and other dimensional requirements of the district, so as long as all other applicable site use and development standards are met or a variance from such site use or development standards has been obtained. In order to be developed a nonconforming lot must meet minimum lot size standards established by the provisions of this code, subject to the provisions of subsection D of this section.

C. Combination. If, since the date on which it became nonconforming due to its failure to meet minimum lot size or width criteria, an undeveloped nonconforming lot has been in the same ownership as a contiguous lot or lots, the nonconforming lot is and shall be deemed to have been combined with such contiguous lot or lots to the extent necessary to create a conforming lot and thereafter may only be used in accordance with the provisions of the Edmonds Community Development Code, except as specifically provided in subsection D of this section.

D. Exception for Single-Family Dwelling Units. An applicant may build one single-family residence consisting of no more than one dwelling unit on a lot or parcel regardless of the size of the lot or parcel if, but only if, one of the following exceptions applies:

1. In an RS zone, such nonconforming lot may be sold or otherwise developed as any other nonconforming lot pursuant to the following conditions and standards:

a. The lot area of the nonconforming lot is not less than the minimum lot area specified in the table below for the zoning district in which the subject property is located, and

b. Community facilities, public utilities and roads required to serve the nonconforming lot are available concurrently with the proposed development, and

c. Existing housing stock will not be destroyed in order to create a new buildable lot.

Lot Area Table

	Zone	% Needed for Legal Lot	Lot Size Needed for legal Lot
(1)	RS-20	60%	12,000
(2)	RS-12	70%	8,400
(3)	RS-8	80%	6,400
(4)	RS-6	90%	5,400

2. An applicant applies for necessary permits to construct the unit within five years to the date the lot or parcel is annexed into the city and the lot or parcel was lawfully created under provisions of Snohomish County subdivision and zoning laws as well as the laws of the state of Washington; or

3. An applicant may remodel or rebuild one residence on a nonconforming lot without regard to the seventy-five (75) percent destruction requirement of ECDC 17.40.020(F) if a fully completed building permit application is submitted within one year of the destruction of the residence and all other development requirements of this code are complied with; or

4. The lot lines defining the lot or parcel were recorded in the Snohomish County recorder's office prior to December 31, 1972, and the lot or parcel has not at any time been simultaneously owned by the owner of a contiguous lot or parcel which fronts on the same access right-of-way subsequent to December 31, 1972, and the lot or parcel has access to an access right-of-way which meets the minimum requirements established by this code; or

5. The owner of a lot which was lawfully created under the Snohomish County subdivision and zoning laws and which was annexed to the city of Edmonds on or after December 16, 1958, may file a fully completed building permit application for a development lot in accordance with the provisions of this chapter and develop the lot if a fully completed building application to develop said lot was filed with the city on or before the date established by Ordinance No. 3024. This paragraph (D)(5) shall sunset and be removed from the code two years after the effective date of the passage of Ordinance No. 3024 and is intended to provide a window of opportunity for those persons who comply with the provisions of subsection D of this section but who are barred due to the passage of time an equal opportunity to develop a lot in accordance with the provisions of the code.

17.40.040 Nonconforming signs.

Nonconforming signs are injurious to the health, safety and welfare and destructive of the aesthetic and environmental living conditions which this zoning ordinance is intended to preserve and enhance. Nonconforming signs shall be brought into compliance with the provisions of Chapter 20.60 ECDC under the following terms and conditions:

A. No nonconforming sign shall be expanded, extended, rebuilt, reconstructed or altered in any way, except as provided below. The following acts are specifically permitted and shall not in and of themselves require conformance with the provisions of Chapter 20.60 ECDC:

1. Normal maintenance of the sign;
2. A change in the name of the business designated on the sign; or
3. Any action necessary to preserve the public safety in the event of damage to the sign brought about by an accident or an act of God.

B. Any nonconforming sign shall be brought into immediate compliance with the code in the event that it is expanded in violation of subsection A above.

C. None of the foregoing provisions relating to permitted maintenance, name change or preservation of the sign under paragraph A of this section shall be construed so as to permit the continuation or preservation of any nonconforming off-premises sign.

17.40.050 Nonconforming local public facilities.

A. Local Public Facilities. Existing legal nonconforming local public facility uses, buildings, and/or signs, owned and/or operated by local, state, or federal governmental entities, public service corporations, or common carriers (including agencies, districts, governmental corporations, public utilities, or similar entities) may be expanded, enlarged, altered, or modified, subject to review under the Essential Public Facilities provisions of this code.

Section 2. 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 GARY HAAKENSON

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
W. SCOTT SNYDER

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 _____, 2008, 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 COMMUNITY DEVELOPMENT CODE BY THE REPEAL AND REENACTMENT OF CHAPTER 17.40 NONCONFORMING USES, BUILDINGS, SIGNS AND LOTS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this ____ day of _____, 2008.

CITY CLERK, SANDRA S. CHASE



MEMORANDUM

DATE: June 8, 2006

TO: Edmonds City Council Members
City of Edmonds

CC: Rob Chave, Planning Manager
City of Edmonds

FROM: W. Scott Snyder, Office of the City Attorney

RE: Nonconforming Uses

As the City Council discusses amendments to the City's nonconforming use provisions, it might be helpful to review the basic legal concepts behind nonconforming uses and their status under the Washington law. As we have discussed, the City's nonconforming use section is one which badly needs revision. There have been a wide variety of changes over the years. There are gaps between the existing categories (nonconforming lots, nonconforming buildings and nonconforming uses). In some cases, the City has lightened the burden for property owners regarding nonconforming uses by creating exceptions. The best example is the decision to permit flexibility regarding construction on nonconforming lots (lots which are below the minimum lot size in a particular zone.)

At other times, the past City Councils have been extremely restrictive. An example, the City has abated or phased out nonconforming commercial uses in residential areas acquired through certain annexations.

NONCONFORMING USES

A nonconforming use is defined by the Washington Supreme Court in this way:

A nonconforming use is a use which lawfully existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated.

Rhod-A-Zalea and 35th, Inc. 136 Wn.2d at 6 (citing *One Robert M. Anderson, American Law of Zoning*, § 601 (Kenneth H. Young edition, 4th Ed. 1996); *University Place v. McGuire*, 144 Wn.2d 640, 648, 30 P.3d 453 (2001).

Nonconforming uses are “not favored in law...” *Andrew v. King County*, 21 Wash. App. 566, 579, 586 P.2d 509 (1978). As the Washington Supreme Court discussed in the *Open Door Baptist Church v. Clark County* case:

Nonconforming uses are disfavored under the law. The policy of zoning legislation is to phase out a nonconforming use. Where a nonconforming use is in existence at the time that a zoning ordinance is enacted, and thus allowed to continue, it “cannot be changed into some other kind of a nonconforming use.”

140 Wn.2d 143, 9995 P.2d 33 (2000) (Citations omitted.)

The policy reasons behind phasing out nonconforming uses were noted with approval in *Anderson v. Island County*:

It has been pointed out in several cases that the ultimate purpose of a zoning ordinance is to confine certain classes of buildings and uses to certain localities; but since the continued existence of those which are nonconforming is inconsistent with that object, it is contemplated the conditions should be reduced to conformity as completely and speedily as possible with due regard to the special interests of those concerned, and that where suppression is not feasible without working a substantial injustice, there shall be accomplished the greatest possible amelioration of the offending use which justice permits; and that the generally accepted method of accomplishing this result is to prevent any increase in the nonconformity and, when changes in the premises are contemplated by the owner, to compel, as far as is expedient, a lessening or complete suppression of the nonconformity.

81 Wn.2d 323.

To summarize the current state of Washington law:

1. Nonconforming uses are those which were legally established prior to regulation by a zoning code.
2. Although nonconforming uses (buildings, lots, etc.) may be continued, the use, building or other regulated facet of property may not be expanded in any way. A person who expands a nonconforming use can lose the right to continue it.

3. Cities have the right to abate uses, that is, to require that they be phased out over a period of time.

POLICY CHOICES

The original provisions of the City's nonconforming use section as established in 1980 were clearly aimed at phasing out nonconforming uses. Over time, the City ordinances have been amended in a number of respects to provide flexibility for the reconstruction of nonconforming properties damaged in fires or other similar disasters, to permit the use of undersized building lots if they are within the range deemed appropriate by the City Council, and to permit renovation of nonconforming buildings so long as the degree of nonconformity is not expanded. The latter provision means that a property owner with a home that is too close to the west side yard property, can renovate the home by expanding in other areas (such as the rear front or east setback) so long as the nonconforming aspect is not expanded.

That having been said, rewriting the current nonconforming use provisions does not mean that the City Council is limited in its policy approach. The City Council could:

1. maintain strict nonconforming use provisions;
2. provide for more flexible nonconforming use provisions that would permit some expansion or reuse of nonconforming properties (see, for example, your current nonconforming lot provisions); or
3. adopt different nonconforming use standards for different neighborhoods, or categories of uses.

As we have discussed, the City has certain buildings or housing stock which do not qualify for historic status. The City Council would find that these buildings, whether commercial or residential, are worthy of preservation for cultural or other reasons, such as a desire to preserve affordable housing stock. Therefore, the City Council is not obligated to adopt a one-size-fits-all category.

Remember however, that if you choose to permit continuation of expansion of nonconforming uses, those regulations will need to be equally applicable to "good" and "bad" buildings. That is, subjective determinations that one property with a use category could be expanded or continued and another in the same category abated would be difficult to justify legally.

One commentator has observed that the basic rationale behind prohibiting the expansion of nonconforming uses is to preserve the overall integrity of the zoning code. The commentator analyzed the problem in terms of "spot zoning." A "spot zone" refers to an illegal zoning decision by a City Council which inserts one particular use or property in a zone or area where other properties do not enjoy the same privileges. The commentator analogized allowing expansion of nonconforming uses to allow individuals to spot zone their properties. He noted

Edmonds City Council Members

June 8, 2006

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that nonconforming uses can be the basis for variance applications by others under the rationale that they should enjoy the same privileges as their neighbors. That a nonconforming use, rather than being disfavored and abated, could become the basis for an expansion of the use throughout a neighborhood undercuts the entire purpose of the zoning code: it would allow the exception to gradually swallow the rule.

That having been said, the City Council has a number of policy options. We look forward to your direction.

WSS:gjz

Mr. Hertrich referred to the blue circles on the proposed new park map and noted that the map should be changed to make it clear that the old Woodway Elementary School should no longer be considered as a possible site for a regional park because the City Council decided only to retain a large enough area of land to develop a smaller neighborhood park. He considered it ironic that the updated plan identifies a need for a regional park in the southwest portion of Edmonds because the City already passed up their opportunity to acquire sufficient space for this purpose.

Mr. Hertrich reported that he attended a good number of the Waterfront Redevelopment Project meetings that were sponsored by the Port of Edmonds and other private property owners. There has been a lot of public money spent in the process, and the final preferred alternative was a six-story building with approximately 700 condominiums. However, the public in attendance at the final meeting questioned why they would want 700 condominiums and the associated traffic on the waterfront. The public indicated their desire for more open space. He suggested that when the Parks, Recreation and Open Space Comprehensive Plan is revised, it should take into account the concept put forth by the citizens that this area be used as an events park. He said there is sufficient literature available to show that once created, this type of park would draw people to the City and benefit the community more than a 700-unit condominium development. He suggested the Board review the public comments related to the Waterfront Redevelopment Plan.

Chair Guenther invited the Board to review the draft documents and provide comments to Mr. McIntosh by December 21st. This would allow staff sufficient time to incorporate the Board's comments prior to a public hearing in January.

Board Member Reed asked Mr. McIntosh to provide a status report on the Old Mill Town Park. Mr. McIntosh answered that this park is still under negotiations. His part was to get an appraisal to the City Council, which he completed.

EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 17 (NUISANCE) (FILE NUMBER AMD-07-6)

Mr. Bowman advised that the City Attorney is now recommending that nuisance standards related to the public's health, safety and welfare would be better placed in Section 6 of the Edmonds Municipal Code (EMC). Those nuisance standards that relate to land use and development could remain in Section 17.60 of the Edmonds Community Development Code (ECDC). The City Attorney has agreed to review the Planning Board discussions and draft new language for both the ECDC and EMC. The new language for ECDC Section 17.60 would be presented to the Board for review on December 12th. The proposed amendments to EMC Section 6 would be forwarded directly to the City Council for review and final approval. He noted that no public hearing is required for changes to the EMC, and the Planning Board would not be involved in the process. However, the City Council usually holds public hearings when considering major policy changes.

Vice Chair Dewhirst inquired if the two draft documents would be forwarded to the City Council together. Mr. Bowman answered that they would be presented to the City Council at the same time, along with minutes of the Planning Board's discussion related to the topic.

Mr. Bowman advised that if the nuisance standards are adopted as part of EMC Section 6, the City Council would be able to quickly address proposed amendments as problems present themselves. If they are adopted as part of the ECDC, the amendments would be subject to GMA requirements and a public hearing process would be necessary.

Board Member Reed noted that the Board did not take action after the public hearing on October 10th regarding the proposed changes to ECDC 17.60. He suggested they be prepared to do so on December 12th, when the new draft language is presented to them for review.

CODE RE-WRITE PROJECT UPDATE AND TOPICAL INFORMATION

Mr. Bowman reported that the City Attorney would provide an updated draft of Title 20 (Procedures) for the Board to consider on December 12th.

Mr. Bowman referred the Board to ECDC Section 17.40 (nonconforming) and advised that staff worked with the City Attorney to incorporate the changes recommended by the Board at their last meeting. He invited the Board Members to review the document and identify any additional changes before forwarding a recommendation to the City Council.

APPROVED

Board Member Henderson referred to Sections 17.40.010.C.2 and 17.40.030.D.3 and noted that there are conflicting time constraints. Mr. Bowman noted that one section applies to nonconforming uses and the other applies to nonconforming structures. However, he agreed that the two should be consistent and identify an 18-month time period.

Board Member Freeman referred to Sections 17.40.010.C.3.a and 17.40.010.C.3.b and noted that the terms “agent” and “agents” are both used. Mr. Bowman agreed to make this consistent throughout the document.

Vice Chair Dewhirst referred to Section 17.40.020.C and suggested the first seven words in the last sentence be deleted. The remainder of the Board concurred.

VICE CHAIR DEWHIRST MOVED THAT THE BOARD RECOMMEND APPROVAL OF THE PROPOSED AMENDMENTS TO ECDC SECTION 17.40 (NONCONFORMING) AS AMENDED. BOARD MEMBER YOUNG SECONDED THE MOTION.

Vice Chair Dewhirst pointed out that the Board has spent a considerable amount of time reviewing the document and making major changes. It is the Board’s consensus that they have crafted language they are all comfortable with.

THE MOTION CARRIED UNANIMOUSLY.

REVIEW OF EXTENDED AGENDA

Chair Guenther reviewed that the December 12th agenda would include an update on the code re-write project and a review of the proposed amendments to ECDC Sections 17.60 (nuisance) and 20 (procedures). Staff would also provide an update on the Design Standards for the Downtown Retail Core. The Board would elect their 2008 officers on December 12th, too.

Chair Guenther advised that a public hearing regarding the updated Parks, Recreation and Open Space Comprehensive Plan and Cultural Plan would be scheduled for January 23rd.

Chair Guenther said he has communicated via email with a representative from Stevens Hospital, who indicated her willingness to present their new master plan to the Planning Board. He suggested this presentation be scheduled for early 2008. The Board agreed to schedule the presentation on the January 9th meeting agenda.

Board Member Freeman suggested that the hospital master plan should go beyond the actual campus boundaries to consider opportunities for affordable housing so that employees can afford to live within walking distance of the hospital. Mr. Bowman pointed out that the hospital owns property along Highway 99, which could be developed into a mixed use facility that could include high rise residential units. In addition, the hospital has expressed the need to improve 216th Street as more of a boulevard to provide a better entrance to the hospital. Board Member Henderson said the Board should also keep in mind that the hospital is acquiring various medical clinics in the vicinity so the campus boundaries have changed significantly over the years.

Mr. Bowman pointed out that bus rapid transit service is expected to be available along Highway 99 in 2009. Board Member Young suggested it would be helpful for the hospital to provide a transportation plan to indicate how they plan to take advantage of this new service. He would also like them to provide information about whether or not they plan to take advantage of opportunities for affordable housing.

Mr. Bowman reminded the Board that the hospital’s master plan must eventually be reviewed by the Planning Board and approved by the City Council for adoption into the City’s Comprehensive Plan.

APPROVED

APPROVED
October 10th

**CITY OF EDMONDS
PLANNING BOARD MINUTES
September 26, 2007**

Chair Guenther called the regular meeting of the Planning Board to order at 7:02 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Cary Guenther, Chair
Janice Freeman
Jim Young
Don Henderson
Judith Works
Michael Bowman
John Reed

STAFF PRESENT

Duane Bowman, Development Services Director
Rob Chave, Planning Division Manager
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

John Dewhirst, Vice Chair

READING/APPROVAL OF MINUTES

BOARD MEMBER YOUNG MOVED THAT THE MINUTES OF SEPTEMBER 12, 2007 BE APPROVED AS AMENDED. BOARD MEMBER HENDERSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The agenda was approved as presented.

AUDIENCE COMMENTS

Harold Huston, Edmonds, thanked the Board for all the work they do on behalf of the community. He has been a volunteer for the City for the past 17 years and he has worked in construction his whole life, so he knows the difficult load the Board carries for the citizens of Edmonds. He provided two maps for the Board to review; both artist renderings of what Edmonds looked like in 1991. He asked the Board to review the maps and then get them back to him.

CONTINUED PUBLIC HEARING REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17.40 (NON-CONFORMING) (FILE NUMBER AMD-07-12)

Mr. Bowman reminded the Board that the public hearing on File Number AMD-07-12 was opened on September 12, 2007. Because of time constraints, the Board continued the hearing to September 26, 2007. He noted that, at the September 12th meeting, Board Member Works pointed that a subsection was left out of the draft language for Section 17.40.020.G, and the proposed ordinance has been updated to include this language. The Board also received a copy of the suggested changes submitted by the Historic Preservation Commission. He reminded the Board of their request to hear from the Historic

Preservation Commission regarding the proposed ordinance before forwarding a recommendation to the City Council. He introduced Steve Waite, Historic Preservation Commissioner, who was present to review the comments that were submitted.

Board Member Henderson pointed out that Item G at the bottom of Page 6 should be changed to Item H. Board Member Works noted that something was missing at the end of the first paragraph on Page 5. Mr. Bowman agreed to correct these two mistakes.

Commissioner Waite reported that the Historic Preservation Commission formed a subcommittee to review the draft ordinance. The subcommittee consisted of Commissioner VanTassell, Council Member Plunkett and himself. He briefly described the purpose of the Historic Preservation Commission. They are neither pro nor anti development, and their goal is to encourage preservation of the City of Edmonds' cultural and historic assets. By ordinance, the Commission is charged with listing historic places on the Edmonds Register of Historic Places and advising the City on matters related to historic preservation. He reviewed the Commission's recommendations as follows:

- **Section 17.40.010.C.2:** Commissioner Waite said the Historic Preservation Commission recommends the words "one year of the date the damage occurred" be replaced with "18 months of the date of the damage, with further extensions of 180 days each granted, if requested in writing and justifiable cause is demonstrated." He explained that the Commission felt that if a catastrophic event were to happen in Edmonds, one year may not be sufficient time for property owners to sort through all of the issues related to insurance, permitting, etc.
- **Section 17.40.020.C:** Commissioner Waite explained that this section would exempt historic structures that are listed on the National, State and Edmonds Register of Historic Places. The Commission also recommended the exemption include historic places identified on a professionally prepared historic inventory list or surveys done on behalf of the City. He reported that the Commission worked with City Staff to obtain a historic inventory list from a private consultant (the BOLA Report), which identifies all structures in the downtown that could contribute significantly to the historic character of the City. While some buildings might not be on a Register, they are identified on the list as potential candidates the Commission would like included.
- **Section 17.40.020.E:** Commissioner Waite said the Commission recommends that a graphic illustration be provided in this section to explain the rules and requirements associated with the relocation of nonconforming structures.
- **Section 17.40.020.F:** Commissioner Waite noted that two alternatives were provided for this section, and the Commission has expressed a preference for Alternative 2, which would take catastrophic disasters into account. This would give assurance to property owners that historic structures that contribute to the historic value of the City could be reconstructed.

Board Member Freeman noted that if Alternative 2 were used instead of Alternative 1, property owners would be allowed to replace all non-conforming buildings, regardless of the amount of damage that occurs. Commissioner Waite said the Commission believes all nonconforming structures that are damaged or completely destroyed by natural disasters, etc. should be allowed to rebuild. He pointed out that the City's current building codes would address fire and life safety issues as part of any redevelopment project, even those that would be nonconforming. The Commission is interested in retaining the historic structures and allowing their historic nature to carry forward without restrictions.

- **Section 17.40.020.G.4.a:** Commissioner Waite pointed out that the proposed language suggests that an age limitation be identified for historic structures. Rather than 50 years, the Commission is recommending that buildings that are at least 40 years old be considered historic, as well. He pointed out that buildings that are less than 50 years old may qualify as historic for a variety of reasons. He said it is important to recognize that these buildings would eventually represent the City's stock of historic structures and should not be penalized for being a few years short of 50 years.
- **Land Consolidation:** Commissioner Waite said the Commission also raised concern about the City's current regulations related to land consolidation. He recalled that the City Attorney has cautioned about allowing properties to consolidate to accommodate large structures. While this issue does not fall within the jurisdiction of the Historic Preservation

APPROVED

Commission, they believe the current land consolidation regulations are such that it is easy for historic structures to be removed and replaced with larger homes.

Board Member Reed asked if the Historic Preservation Commission reviewed the proposed ordinance from the perspective of just the BD1 zone. Commissioner Waite said they also considered the residential zones since most of the historic structures are found in the residential areas that surround the downtown. There are also some significant historic structures in the BD1 zone.

Board Member Reid pointed out that Section 17.40.020.F, Alternative 2, provides a blank space that indicates the provision would only apply to certain zones in the City. He asked if the Commission discussed which zones the proposed ordinance should apply to. Commissioner Waite answered that the Commission did not have a strong feeling either way.

Board Member Freeman asked if a map was provided as part of the BOLA Report to identify the location of all of the properties included on the list. She noted that the historic properties identified on the list are scattered throughout a wide area, and it would be helpful to know where they all are. Mr. Chave clarified that the BOLA Report identifies historic properties in the downtown area between Casper Street, 9th Avenue, 2nd Avenue, Pine Street and the Waterfront. This area is consistent with the area identified in the Comprehensive Plan as the Downtown Activity Center. Commissioner Waite added that the Commission is anticipating additional funding to expand the survey.

Chair Guenther suggested that the City might have to codify the BOLA Report if it is going to be referenced in the draft ordinance. Mr. Chave agreed that staff would need direction from the City Attorney about whether these types of surveys must be formally adopted or approved in order to be recognized in the code. He emphasized that the BOLA Report was presented to the City Council, but they did not take formal action to adopt it. If the Board wants to include and expand the list of historic structures, they would have to give formal recognition to the report.

Board Member Works said she can't picture homes that are 40 years old as being historic. Commissioner Waite said that while houses that were built in the 1970's may not be considered appealing to some, they do represent a particular movement and design style so they do have some historic significance. He suggested that 40-year-old buildings are close enough that the Commission does not want to eliminate them as potential historic structures in the future.

Board Member Freeman agreed that many structures built in the 1970's represent a true northwest style of architecture, and there are some beautiful structures that should be preserved. She commented that every era has something that is worth preserving, but sooner or later all buildings would become historic and typical of the period in which they were built. She suggested the purpose of historic preservation is to preserve good examples of the architecture from each era, whether people like the style or not. She reminded the Commission that historic preservation is a voluntary program in the City of Edmonds, and people can choose whether or not to list their historic properties on the Edmonds Register of Historic Places. However, property owners were not given an opportunity to exclude their historic property from the BOLA Report. She asked if including the list in the proposed ordinance would result in negative repercussions for the property owners on the list. Commissioner Waite answered that no encumbrances would be placed on the property owners. The properties would merely be identified as contributing to the historic value of the City. No restrictions would be applied by including the list as part of the ordinance. However, the change would provide the property owners with an opportunity that would not normally be available to them.

Board Member Young asked how the proposed exemption for properties that are more than 40 years old would impact the City's capacity to enforce the nonconformance ordinance. He said he is not against historic preservation and feels it is a good idea, but he expressed concern that allowing an exemption for all properties that are more than 40 years old could make the ordinance very difficult to enforce citywide. He agreed with Board Members Works and Freeman that while some of the structures that are more than 40 years old represent the historic character of Edmonds, others do not and they should not be exempted from the ordinance. He cautioned against making too many exemptions to address historic preservation if the changes would weaken the enforceability of the vast majority of the building stock that does not fall under the category of historic. The changes could end up creating loopholes just to address a small percentage of the properties in the City. He cautioned that age does not necessarily represent historic significance.

APPROVED

Chair Guenther said it is important to note the ordinance only applies to nonconforming structures, which includes a very low percentage of properties in Edmonds. The Commission is proposing numerous changes to address a very small percentage of the existing housing stock, and the changes could possibly open loopholes that make it difficult for the staff to apply the nonconformance requirements citywide.

Board Member Works asked how many buildings that are more than 50 years old are nonconforming. Commissioner Waite answered that many of the buildings that are 50 or more years old are also nonconforming. Mr. Bowman agreed there are a substantial number of nonconforming properties in the southern portion of the City that were developed as part of the County using different setback requirements. These were later annexed into the City. Board Member Young agreed it is important to address these situations, but he would like some assurance from staff that the nonconformance regulations could still be enforced. The City's development standards were set for a reason, and he is concerned that the proposed changes would allow property owners of structures more than 40 years old to find loopholes that allow them to preserve nonconforming structures that do not really represent the historic character of Edmonds.

Mr. Chave clarified that Item G on Pages 8 and 9 of the draft ordinance only applies to nonconforming buildings in commercial zones that are used for residential purposes. It would not apply to residential zones throughout the City. He concluded that this section would really only apply to a very small class of structures. He shared an example of a property owner who was not allowed to remodel his home in a commercial zone because the existing structure did not meet the City's current setback requirements. However, if the property owner decided to tear the structure down and replace it with a commercial use, the structure would be allowed up to the sidewalk, with no setback requirements. Because the building was used for residential purposes, the owner was required to abide by all of the current setback requirements. Mr. Chave explained that the intent of this section is to allow property owners to remodel nonconforming residential structures that are located in commercial zones because they represent part of the historic character of the downtown. This section would not be a citywide residential exception. He summarized that this is a narrowly crafted exception that is intended to give property owners incentive for retaining the houses that currently exist in the downtown commercial area.

Mr. Chave referred to language in the middle of Page 9 of the draft ordinance, which was crafted to address design issues and prevent a property owner from tearing down an existing home and replacing it with a large structure that doesn't comply with the setback and other zoning requirements. Any replacement structure would have to comply with the style and size of the existing structure.

Mr. Bowman expressed staff's belief that extending the time period for replacing nonconforming structures that are damaged would be appropriate. The Commission's proposal to change the time period to 18 months (Section 17.40.010.2) would be reasonable from an enforcement standpoint, particularly in the case of a natural disaster that requires insurance, permits, etc. Board Member Reed noted that the Board had previously agreed to add language to this section that was not identified in the Historic Preservation Commission's draft. Mr. Bowman agreed and suggested that if the Board agrees with the Historic Preservation Commission's recommended change for this section, staff would be responsible for incorporating this change into the draft language that was already agreed to by the Board. He noted that any change the Board makes would likely require staff to update other sections for consistency.

Mr. Bowman referred to Section 17.40.020.G and suggested that when the formatting changes were made, it appears some language was left out. He agreed to review the previous drafts and reinsert the missing language.

Chair Guenther referred to the Commission's proposed change to Section 17.40.010.2 and asked if the number of 180 day extensions would be limited to one. Mr. Bowman answered that while it would be reasonable for the City to allow for one 180-day extension beyond the 18-month time period, he did not feel additional extensions would be appropriate. Allowing more than one extension could result in someone getting into a cycle of filing one extension after another. The Board discussed how staff would determine whether or not an extension request was justifiable, and suggested that this term was too arbitrary. Mr. Bowman agreed and noted that if only one extension were allowed, there would really be no need for staff to make a judgment call on whether or not an extension request is justified. He summarized that staff would support a change to grant property owners up to 18 months, plus an additional 6 months (180 days), to start the reconstruction project. He felt this would allow ample time for property owners to resolve outstanding issues and start their projects.

APPROVED

Commissioner Waite said the Historic Preservation Commission would support the allowance of additional extensions if a property owner could demonstrate justifiable cause. He noted the current situation in the south that resulted from Hurricane Katrina. While the event took place two years ago, many people are still trying to get their reconstruction projects going. The city of New Orleans is having a difficult time replacing their historic structures. Mr. Bowman suggested that perhaps it would not be necessary for the nonconformance section to address catastrophic situations that might occur in the City. He said it is important to understand that through its recovery program, the City Council could adopt a completely different direction for nonconforming structures if a catastrophic event such as an earthquake were to occur in Edmonds. Board Member Freeman agreed and said she could support a 2-year time frame but would not be in support of allowing additional extensions.

The Board agreed that this section could be changed to identify a time period of 18 months, with one 180-day extension only. The majority concurred with Mr. Bowman that this time frame would cover the typical situations and leave catastrophic events as another issue. They emphasized that it would be impossible for the nonconforming ordinance to address every type of situation that could arise in the future.

Mr. Bowman referred to the Commission's recommendation for Section 17.40.020.C, which would add language to recognize buildings that are on professionally prepared historic inventory lists or surveys done on behalf of the City (i.e. BOLA Report). He said it would be appropriate to obtain feedback from the City Attorney before incorporating this change to see if the City must take formal action regarding the BOLA Report before it could be referenced in this section. If the City Attorney indicates it would be appropriate, he said staff would not be opposed to incorporating the Commission's proposed language. The majority of the Board Members concurred. Mr. Chave pointed out that expanding the number of eligible properties beyond those that are identified on local, state and federal registers to include those that are listed on officially recognized surveys, could give more credence to a structure being preserved and restored.

Mr. Bowman agreed with the Historic Preservation Commission that a graphic illustration should be provided in Section 17.40.020.E to make the rules for moving nonconforming structures clearer. The Board agreed. Mr. Bowman agreed to work on a graphic illustration for this section to show examples of what can and cannot be done.

BOARD MEMBER REED LEFT THE MEETING.

Board Member Henderson said the language should also be clearer about what it means to improve the nonconformance. Mr. Bowman shared an example of an older home in the City that needed a new foundation. The current code states that moving a structure would require a property owner to bring the structure into compliance with the existing code requirements and address the nonconformance. The proposed language would allow a property owner to lift a building up to put a new foundation under it. It would also allow a property owner to move the building in one direction or another, as long as the move would improve the nonconforming situation. Board Member Henderson expressed concern that the proposed language does not address situations where a property owner might propose to improve the nonconformance on one side, but make it worse on the other. Mr. Bowman pointed out that the proposed language was meant to address situations where property owners would be unable to correct the full nonconformance by the move. Mr. Bowman agreed that the language could be changed to provide a better explanation of how the degree of nonconformity would be determined. The language should make it clear that a property owner would not be allowed to make one side of the property more nonconforming in order to make the other side more conforming. He said he would give the section more thought to address the Board's concerns.

Board Member Young expressed his belief that the nonconformance ordinance should not carve out exceptions for situations that could be made conforming. If it is possible for a property owner to correct a nonconforming situation, he/she should be required to so.

The Board discussed the two alternatives for Section 17.40.020.F. Commissioner Waite said the Commission believes that because Alternative 1 would only allow replacement of a nonconforming structure if it is damaged no more than 75%, Alternative 2 would more adequately address catastrophic situations in which structures are completely damaged. While he agreed the City Council could change the ordinance if a catastrophic event were to occur, he suggested it would be better to address the issue now by adopting Alternate 2, including the changes proposed by the Commission.

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Board Member Young expressed his concern that Alternative 2 would allow an owner of nonconforming property to rebuild, regardless of where the property is located and how much the property is damaged. Mr. Bowman explained that Alternative 2 provides a blank space that would allow the Board to recommend specific zones for which the section would apply. He pointed out that Item F appears to have been designed to apply to commercial buildings in commercial zones, and Item G would apply only to residential structures in commercial zones. Alternative 1 would limit the replacement of nonconforming structures to those that are damaged 75% or less. Alternative 2 would allow any nonconforming structure to be replaced, regardless of the amount of damage, but the Board could recommend limiting this provision to certain zones in the City.

Board Member Young said that if the City feels there are certain historically viable commercial structures that should be maintained, they should identify these properties. However, he would be opposed to allowing all nonconforming property owners in the City to rebuild a structure if it is damaged. He suggested that perhaps the language in this section tries to address too many different situations.

Mr. Chave suggested it would be appropriate to separate the two paragraphs of Alternative 2. The first paragraph could describe the intent of the restoration provision, and the second could provide a broader policy statement to address how the concept would be applied. He said that while the proposed language appears to apply to all nonconforming structures in the City, it is important to note that historic structures would be exempt from the requirements of the nonconformance ordinance.

Board Member Works questioned why the City would want to allow property owners to totally rebuild nonconforming structures that are not deemed historic. Board Member Henderson expressed his belief that any property owner should be allowed to restore a home that has been damaged, as long as the nonconformity is not increased. He suggested that Alternative 1 would address these situations adequately.

Commissioner Waite pointed out that the Critical Areas Ordinance has resulted in increased setback requirements, and there are a significant number of properties in the City that have been encumbered by the changes. If these properties are destroyed, the property owners would not be allowed to reconstruct in their current location and size. Even with buffer averaging and reductions, there is often not enough building space left on the lot. He said that in the event of a catastrophe, it would be bad enough that a property owner would lose their home, but in many cases they would be extremely encumbered as to what they would be allowed to rebuild, too. While this doesn't have anything to do with historic preservation, it does provide another example in support of Alternative 2.

Board Member Freeman recalled that the City must allow property owners reasonable use of their properties, but she agreed that the City could get into a debate about what is considered reasonable. Mr. Chave said there is a provision in the Critical Areas Ordinance that says that under certain situations, a property owner would be allowed to build in a critical area. Therefore, he did not think the nonconformance standards would conflict with the Critical Areas Ordinance. He explained that critical areas provisions are different and have different thresholds. He summarized that there are a variety of ways for allowing property owners to build within the critical areas, so Commissioner Waite's concern would be adequately addressed by the Critical Areas Ordinance.

Board Member Bowman suggested that the issue is really related to City policy. When someone is faced with a catastrophe and their house suffers significant damage, does the City want to grant them the ability to rebuild the house or force them to redesign and bring the building into compliance? Board Member Young agreed that this is really a policy decision that must ultimately be made by the City Council. However, he expressed his belief that if a nonconforming building is totally destroyed, any replacement structure should be required to comply with current zoning and building code requirements. He suggested it would be impossible to create language that would cover every possible situation, but it is important to remember that the ordinance does not need to address critical areas, historic buildings, or natural disasters. Board Member Henderson agreed with Board Member Young that if a nonconforming structure is damaged more than 75% the City should require any new structure to meet all of the code requirements of the existing zone.

Mr. Bowman referred the Board to Section 17.40.020.G.4, which states that "substantial compliance" shall be determined by the Architectural Design Board and appealable to the Hearing Examiner. He suggested that perhaps it would be more appropriate to allow staff to make decisions regarding "substantial compliance" with an appeal to the ADB or Hearing Examiner instead of requiring an upfront ADB review. However, he noted that, regardless of who is responsible for making

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these decisions, the term “substantial compliance” must be clearly defined and review criteria must be established. Board Member Young pointed out that this section is intended to apply only to nonconforming residential single-family structures in the commercial zones, not the residential zones. Therefore, he suggested it would be appropriate for staff to make the initial decision, and any appeals could be directed towards the Historic Preservation Commission.

Board Member Young said he would prefer to remove any reference to building age from Section 17.40.020.G.4, since any specific number would be arbitrary. He noted that some buildings could be considered historic even though they are not yet 40 years old. He suggested that this section should apply to all nonconforming residential structures in commercial zones, and not just those that are older than 40 years.

Board Member Freeman recalled that the Historic Preservation Commission has often talked about the town being eclectic, and they are trying to preserve examples of each era. She noted that structures that are built today could become good examples of the current era. Therefore, it should be emphasized that not only should the City encourage the preservation of old structures, they should be interested in preserving good architecture from all of the various time periods. Commissioner Waite agreed. Mr. Bowman reminded the Board that this section only applies to residential structures or houses in commercial zones. There is a range of different styles of house from older to newer, and much of the concern raised by the City Council had to do with preserving some of the residential uses in the downtown commercial area. The City Council is not likely looking for a specific age of buildings, but more of a mixture of uses and styles in the downtown.

The Board agreed that Alternative 1 would be their preference for Section 17.40.020.F. They further agreed that the language proposed by the Historic Preservation Commission regarding nonconforming single-family houses in commercial zones (Section 17.40.020.G) should be incorporated into Alternative 1. However, they concurred that no specific reference to age of a structure should be provided.

THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

Mr. Bowman suggested staff be allowed time to update the draft based on the suggestions made by the Planning Board and Historic Preservation Commission. He said he would work with Mr. Chave and the City Attorney to discuss the best way to incorporate each of the changes. An updated draft could be presented to the Board for final review at their November 14th meeting.

BOARD MEMBER YOUNG MOVED THAT THE BOARD DIRECT STAFF TO PREPARE AN UPDATED DRAFT OF THE NONCONFORMANCE ORDINANCE THAT INCORPORATES ALL THE CHANGES AND DISCUSSION THAT HAS TAKEN PLACE THUS FAR AND PRESENT IT TO THE BOARD FOR FINAL REVIEW ON NOVEMBER 14, 2007. BOARD MEMBER WORKS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

THE BOARD TOOK A BREAK AT 8:50 P.M. THEY RECONVENED THE MEETING AT 9:02 P.M.

CODE RE-WRITE PROJECT UPDATE AND TOPICAL DISCUSSION

Mr. Chave reported that Mr. Bowman is working with the City Attorney to prepare draft language for Title 20 of the Edmonds Community Development Code. In addition, the Hearing Examiner provided a report to the City Council, along with some recommended code changes that have already been integrated into the proposed code language. However, the Hearing Examiner also recommended some changes to the City’s Planned Residential Development (PRD) Regulations, and these changes could have an impact on Title 20, as well. Mr. Bowman would continue to work with the City Attorney to address both the Title 20 changes, as well as the recommended changes to the PRD Ordinance. The draft ordinance should be ready for Board’s review by the end of October or first of November.

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Board Member Henderson expressed his belief that the application adequately addresses all of the rezone criteria, and he plans to support the proposed change. Board Member Works agreed the application meets all of the rezone criteria as outlined by the applicant and in the Staff Report.

Board Member Reed said he would support the rezone application, but he has some concerns. He recalled that when the Board forwarded their recommendation on the BC-EW zoning classification to the City Council, he voted against it because it would create the potential of a 45-foot tall building on the Edmonds Way street front. He felt this height would be too great. He noted that the subject property has 434 feet of street frontage along Edmonds Way, and it is difficult for him to tell how the average grade would be calculated and what the impact of the potential height would be. However, he said he is confident the Architectural Design Board could work this issue out.

Board Member Reed noted the property is adjacent to single-family residential properties. While the residential development close to Highway 99 would likely be redeveloped in the near future, the developer must be sensitive to the single-family development located on the top of the hill across from 228th Street.

Vice Chair Dewhirst said he plans to support the proposal. However, he suggested two additional conditions. First he proposed that the applicant be required to provide a mix of uses, including both residential and commercial. He noted that the current zoning designation would allow an all commercial development, and this would not be appropriate in this location. Second, he suggested the applicant be required to provide a minimum 25-foot landscape buffer along 228th Street, which would be equal to the setback requirements of an RS-8 zone. Mr. Chave explained that the Board does not have the ability to impose additional conditions on a rezone application unless the applicant offers them as part of a contract rezone.

Board Member Freeman said she would support the proposed rezone because it meets all of the conditions and criteria as outlined by the applicant and the Staff Report. In addition, she noted that the proposal would also provide a relative gain to the public health, safety and welfare. She recalled that at the last City Council Meeting, Council Member Marin talked of his concern about having enough housing for elderly people who can no longer drive. The subject property is located close and within easy walking distance to many of the services that people who can't drive need. Chair Guenther said he would support the proposed rezone application, as well, for the same reasons previously stated and based on the analysis provided in the Staff Report.

BOARD MEMBER HENDERSON MOVED THAT THE BOARD FORWARD FILE R-2007-35 TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL BASED ON THE ANALYSIS OF THE REZONE CRITERIA PROVIDED IN THE STAFF REPORT AND BY THE APPLICANT. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 17.40 (NONCONFORMANCE STANDARDS)

City Attorney, Scott Snyder, said he originally intended to provide a presentation to the public regarding the proposed changes to the nonconformance standards (Chapter 17 of the Edmonds Community Development Code). However, because there was no one in the audience to participate in the hearing, he suggested they dispense with the lengthy presentation since the Board heard the report previously. The Board agreed to skip the presentation and begin their review and discussion of the proposed draft language.

Board Member Works referred to Item C (Lapse of Time) on Page 5 of the draft ordinance and suggested the proposed language is confusing. Mr. Snyder explained that, as proposed, any property that is damage less than 75% could be reestablished as a matter of right. He referred to Item B (Continuation) on Page 3 of the draft ordinance, which states the general rule that nonconforming uses may continue unless required to be abated by Item C on Page 5. **He suggested, and the Board concurred, that the word “only” should be inserted between “reestablished” and “if.”** This would help make the section more clear. Board Member Works suggested it would also be helpful to have a clean copy of the proposed new language, as well as a document that identifies all of the changes that are being proposed.

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Vice Chair Dewhirst referred to Item C.2 (Lapse of Time) on Page 5 and suggested that one year may not be enough for property owners to begin reconstruction when a building has been significantly damaged. Mr. Snyder recalled the Board discussed this issue at their last meeting, and Section F on Page 8 of the draft ordinance was changed to require that the repair be initiated by filing an application for a building permit within one year of the date such damage occurs. He suggested the same type of language could be incorporated into Item C.2 on Page 5 and in other sections of the document to address Vice Chair Dewhirst's concern. Board Member Young pointed out that this change would give property owners one year plus the time it takes to process a building permit. **The Board agreed that the last sentence of Item C.2 on Page 5 should be changed to read, "The use may be reestablished only if construction of a new or repaired building is begun within one year of the date damage occurred by the filing of a building permit in accordance with the requirements of the vesting ordinance (*specific reference would be provided*)."** They further agreed that this language should be applied uniformly throughout the document.

Mr. Chave suggested that a third item be added to Item F (Restoration) on Page 9 to read, "If the building permit is allowed to expire, a property owner's right to restore would be extinguished." The Board agreed with this change. Vice Chair Dewhirst noted that this is a common requirement for any building permit.

Vice Chair Dewhirst referred to the underlined words on the last line of Item B (Continuation) on Page 6. Mr. Snyder said this was meant to refer to the remainder of the section. **To make Item B on Page 6 more clear, Mr. Snyder suggested the last line be changed to read, "except as provided in the remaining subparagraphs in the section."** The remainder of the Board concurred with the proposed change.

Board Member Henderson referred to the two alternatives for the restoration section on Pages 8 and 9 of the draft document. He indicated he would prefer Alternative 1. He expressed his belief that Alternative 1 would be the simplest, and Alternative 2 would be more complex and probably unnecessary. Board Member Freeman inquired if Alternative 1 would ensure that a use such as the movie theater would be allowed to rebuild without having to meet the current parking requirements. Mr. Snyder cautioned that the two alternatives relate to nonconforming buildings, not nonconforming uses. He noted that while the City could permit the reconstruction of a nonconforming building, they would not be able to limit its future use. Mr. Chave reminded the Board that there is no longer a parking requirement for commercial uses in the BD1 zone. However, if an existing nonconforming building is reconstructed and converted from a commercial to a residential use, a parking requirement would be imposed.

Board Member Reed explained that Item C (Historic Buildings and Structures) on Page 6 would protect buildings such as the movie theater and allow them to be restored to their existing form if they are listed on the Edmonds Register of Historic Places. Mr. Chave said the Historic Preservation Commission is in favor of encouraging the adaptive reuse of historic properties in their original form. He cautioned that while the Commission might regret the loss of a particular use, they are more interested in retaining the historic buildings.

Board Member Freeman said Item C on Page 6 refers to properties that are on the Edmonds Register of Historic Places. Mr. Snyder emphasized that property owners must voluntarily place their properties on the Register. The Historic Preservation Commission has suggested that including provisions for the adaptive reuse of nonconforming structures might provide incentive for more people to list their properties on the Register. Vice Chair Dewhirst explained that the City cannot protect historic properties that are not on the Register because they do not have a mandatory preservation program. Again, Board Member Henderson explained that Item C on Page 6 offers rights for property owners to rebuild structures, but there would be no requirement that the property owner rebuild the building to its original form.

Vice Chair Dewhirst recalled that the Board previously requested feedback from the Historic Preservation Commission regarding the two alternatives for the restoration section. Board Member Works recalled that the two alternatives were included in the draft to allow the public to comment on their preferred choice. Mr. Chave said the Board could still ask the Historic Preservation Commission to comment on the two alternatives. Mr. Snyder explained that Alternative 2 would require an Architectural Design Board review to make sure the reconstructed building would be similar in design to the building that was destroyed. Board Member Works said she would not be in favor of requiring people to rebuild to a certain style. Mr. Chave noted that a property owner would still be allowed to choose between rebuilding based on the nonconformance standards or rebuilding based on the current zoning standard.

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Vice Chair Dewhirst expressed his belief that forwarding a recommendation to the City Council without soliciting feedback from the Historic Preservation Commission regarding the two alternatives could result in the City Council remanding the issue back to the Board for further review. Mr. Snyder agreed it would be appropriate to solicit feedback from the Historic Preservation Commission regarding this section, but the Board could still review the remainder of the document.

Board Member Reed referred to Item C (Historic Buildings and Structures) on Page 6 of the draft document and inquired if it would be possible for the City to require people to place historic properties on the Edmonds Register of Historic Places. Mr. Snyder answered that some cities have mandatory historic districts, but applying this concept in Edmonds could be difficult because there is no standard architectural type or style of buildings. To this point, the City's preservation program has been voluntary. Making the program mandatory could run into significant constitutional issues because the majority of the buildings in the downtown are not historic. Therefore, the property owners would likely be opposed to having limitations placed on their ability to reuse their properties. Mr. Chave added that the Historic Preservation Commission has discussed the option of creating a historic district in the downtown, but they agreed that would not be appropriate for Edmonds. He expressed his belief that Alternative 1 would be the simplest, and Alternative 2 would be more complex and probably unnecessary. Because the Commission was not confident they could create a mandatory historic district, they decided it would be more appropriate to create specific design standards for the BD1 zone that could require that building design within the zone be consistent with the character of the district.

The Board directed Mr. Chave to invite representatives from the Historic Preservation Commission to the Board's August 8th meeting to provide input regarding the two alternatives for the restoration section. It was noted that this would require a continuation of the public hearing to that date, as well. Mr. Chave agreed to provide the standard advertising for the continued hearing, as well as a display ad in the local newspapers. He also agreed to contact local reporters to encourage them to write an article about the issues that are currently being considered by the Board.

Mr. Snyder said it is important to understand that the nonconforming use section is intended to be a bridge between historic preservation and reconstruction, and the goal is to offer owners of nonconforming historic structures a way to continue the uses that are beneficial to the neighborhood in terms of their ambiance, size, etc. Staff is interested in creating a tool that is somewhere between the existing nonconformance standards that have a very strict abatement process and a mandatory historic preservation program.

Board Member Young expressed his belief that the proposed new language would meet this goal as stated above by Mr. Snyder, and he plans to recommend approval of Alternative 1. He reminded the Board that they are only responsible for making a recommendation, and the City Council would make the final decision. The Board has talked about historic preservation and whether or not the City could compel a property owner to place a building on the Register. Allowing a structure to be rebuilt if it is on the Register would provide a significant incentive to property owners. He said he is ready to forward a recommendation to the City Council without waiting for additional comments from the Historic Preservation Commission. Board Member Henderson agreed that the Board should not wait to forward their recommendation to the City Council.

Mr. Snyder referred to Section 17.40.025 (vested nonconforming or illegal accessory dwelling units) on Page 11 of the draft document. He explained that this section was originally set up to encourage property owners to register nonconforming accessory dwelling units. The time period set in the ordinance has expired, so this language is no longer necessary.

Next, Mr. Snyder referred to Section 17.40.030 (nonconforming lots) on Page 15 of the draft document. He explained that the current language works well, but he recommended they delete Item D at the bottom of Page 17. He advised that requiring a lot to be consistent with the character of the surrounding area could run into legal challenges based on the Anderson versus Issaquah case. He noted that no substantive changes were proposed for Section 17.40.040 (nonconforming signs).

Mr. Snyder referenced the memorandum he prepared to provide an update on the constitutional limitations on the application of land use regulations to religious structures. He said that based on the information he provided in the memorandum, he is recommending that Item A (local churches) in Section 17.40.050 (nonconforming local public facilities) on Page 21 of the

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document be deleted. He also recommended that Item B (schools) on Page 22 be deleted. He explained that from a policy point of view, staff feels the school district is responsible for determining the use of their buildings. In addition, the Essential Public Facilities Ordinance renders much of the language in Item C (local public facilities) on Page 23 unnecessary. Lastly, Mr. Snyder advised that Item D (parks) on Page 24 of the document would no longer be necessary. He suggested that this language was added when parks were treated different in the zoning code. Now the City's structure for designating parks in the Comprehensive Plan has been changed so that they cannot be nonconforming.

Mr. Chave expressed his belief that it would be worthwhile to continue the public hearing to August 8th to allow the Historic Preservation Commission and members of the public to comment further on the proposed ordinance, particularly the two alternatives discussed earlier for restoration. He suggested they invite the public and Commission to provide specific wording recommendations rather than general points of discussion. Board Member Dewhirst agreed and noted that this could become a politically charged issue, and a two-week delay would not be a significant problem. He suggested that staff send a letter to the Historic Preservation Commission offering them an opportunity to comment at the next meeting before the draft language is forwarded to the City Council. Mr. Snyder asked the Board to provide additional direction to allow him to bring back an updated draft ordinance that is close to its final form at the next meeting.

BOARD MEMBER HENDERSON MOVED THAT THE BOARD DIRECT THE CITY ATTORNEY TO UPDATE THE DRAFT ORDINANCE AS PER THE BOARD'S DISCUSSION, USING ALTERNATIVE 1 AS THE PREFERRED LANGUAGE FOR THE RESTORATION SECTION. BOARD MEMBER WORKS SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

BOARD MEMBER HENDERSON MOVED THAT THE HEARING ON ECDC 17.40 BE CONTINUED TO AUGUST 8, 2007. BOARD MEMBER YOUNG SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

THE BOARD TOOK A BREAK AT 8:50 P.M. THEY RECONVENED THE MEETING AT 9:02 P.M.

DISCUSSION ON EDMONDS COMMUNITY DEVELOPMENT CODE TITLE 20 MATERIAL

Mr. Snyder explained that staff's intent is to rewrite Chapter 20 of the Edmonds Community Development Code (ECDC) to combine all of the procedures into a logical format and to use a grid to make the processes more clear. He referred to Page 2 of the draft document, which provides an example of a uniform provision that is easier for staff to apply and the development community and citizens to understand. He emphasized that staff is trying to make as few substantive changes as possible as they rewrite the chapter. He recalled that at the last meeting the Board discussed two of the more substantial changes, which were related to the role of the City Council in quasi-judicial decisions and shifting the mailing notification burden to the applicant rather than City staff. He said staff intends to highlight significant policy changes and invite the public and Board to comment on them at the public hearing.

Mr. Chave advised that there are a number of decisions where a notice of application is sent out prior to a staff decisions. **Staff recommends adding a new column to the tables on Pages 2 and 3 to identify Type II staff decisions that require notice. The Board agreed that would be appropriate.** Mr. Snyder recalled that at their last meeting, the Board asked staff to collect information from other jurisdictions that place the burden of sending out notices on the applicants. He referred the Board to information from the City of Bothell, which was provided by staff as part of the Board's packet.

Board Member Works inquired if the comments provided by the Hearing Examiner regarding the reconsideration section were incorporated into the draft language. Mr. Snyder explained that the Hearing Examiner recommendations related to problems in the current code were changed. However, he was hesitant to incorporate the suggestions that would significantly change the City's current process for reconsideration. He cautioned against creating public controversy by changing the rules. Instead, the goal is to make the existing rules more clear.

Board Member Works noted the time limitations for reconsideration were not updated as recommended by the Hearing Examiner. Mr. Snyder explained that the Hearing Examiner's proposed change would be appropriate in situations where

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CODE RE-RITE PROJECT UPDATE AND TOPICAL DISCUSSION

Mr. Bowman referred the Board to the latest version of Title 17, which was last updated on May 9, 2007. He reported that he received comments from Board Members Freeman, Dewhirst and Works, and many of them were incorporated into the new draft document. He said the purpose of this meeting is to review each of the changes that have been made since the Board's last meeting.

Mr. Bowman advised that the Historic Preservation Commission has requested an opportunity to meet with the Planning Board to report on their work on the historic preservation aspects of the code. He suggested that either the entire Commission or a subcommittee of the Commission could be invited to participate in a workshop discussion with the Board at their May 23rd meeting regarding the non-conformance standards and the regulations pertaining to adaptive reuse of properties. He noted that the City Attorney would be invited to participate in the discussion, as well. He suggested that, in light of this future discussion, it would be appropriate for the Board to focus their attention tonight on the other code sections.

Mr. Bowman recommended that when the Board reaches the public hearing stage, it would be helpful to split Title 17 into three separate hearings. One could focus on the nuisance regulations and another on the non-conformance standards. The third public hearing could focus on all other sections of Title 17. He noted that the non-conformance standards and nuisance regulations would likely cause the most public concern and comment.

Section 17.50 – Parking Requirements

Mr. Bowman recalled that the Board made several suggestions at their last meeting related to parking. He said he has completed research to help the Board consider options for revising the parking standards, especially those related to the Highway 99 Corridor. He reminded the Board of Community Transit's plans to provide bus rapid transit on Highway 99, as well as a number of other transportation improvements. Therefore, now is an excellent time for the City to rework their parking standards and move away from the more prescriptive standards that currently exist.

Section 17.60.010 – Definitions

Mr. Bowman reported that he discussed the Board's concerns regarding the organization of the definition section. The City Attorney has recommended all definitions in the code be placed in one section rather than floating the definitions throughout the document. Staff supports that recommendation.

Section 17.60.010.M -- Junk

Mr. Bowman advised that Board Member Freeman recommended a definition be provided for the term "junk." She correctly noted that the definition should include the terms "boxes" and "cartons." This section was changed to read, "Junk means discarded, broken or disabled material including but not limited to: "household items; house or lawn furniture; boxes, cartons, appliances; toys; construction items; hot tubs; trampolines; vehicle parts; or other items that are not in functioning condition."

Section 17.60.020.G – Waste Disposal

Mr. Bowman advised that Board Member Freeman suggested the word "rodents" be added to this section. In addition, she recommended that "compost bins" be excluded from the requirement, since they can be designed to keep rodents out. Board Member Freeman noted that Snohomish County does not require that compost bins have bottoms to keep out rodents, but King County does. She suggested the Board consider making rodent-proof compost bins a requirement in the City of Edmonds, as well. Chair Guenther expressed his belief that rodent-proof compost bins should be recommended, but not a requirement. Board Member Freeman agreed the City should at least encourage people to use compost bin that are distributed by the County, since they have a model that is rodent proof.

Section 17.60.020H – Open Storage

At the suggestions of Board Members Freeman and Dewhirst, Mr. Bowman said he revised the language in this section to clearly indicate that it only applies to commercial properties. He noted that residentially zoned districts are covered in Section 17.60.030. In addition, Mr. Bowman advised that he replaced "heavy wire fence" with "sight obscuring fence," and "hedge" with "vegetation." He also deleted the words "board fence." While Vice Chair Dewhirst also recommended the

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Board consider prohibiting open storage containers within 20 feet of the property line or the minimum setback, whichever is greater, Mr. Bowman questioned if this strict requirement would be appropriate for commercial zones.

Section 17.60 – General Organization

Board Member Henderson objected to the way the nuisance section was organized. For example, he noted that a person would have to look in three separate sections of the code to find out if, where and how trailers could be stored in residential zones. He suggested that nuisances and permitted uses should be covered in the same section to clearly indicate what is and is not allowed. Anything that is permitted in certain areas on a property should be addressed as to proper storage in the same section. Mr. Bowman explained that, from a code enforcement standpoint, staff directs the citizens to the sections of the code that apply to their particular situation. However, he agreed with Board Member Henderson’s concern and suggested that the language in Sections 17.60.030.E and 17.60.040.E could be combined into one section.

Public Education

Board Member Works asked how staff plans to educate the public about future amendments to the nuisance section of the code. Mr. Bowman advised that the City already has a pamphlet describing the nuisance laws, and the document would be updated to incorporate the approved amendments. Board Member Works suggested that perhaps a notice could be added to the utility bills to notify the public that a pamphlet is available for their information. Mr. Bowman agreed and added that it would also be appropriate to publish a code enforcement article in *THE EDMONDS UPDATE*, that is sent out to all households in the City. He noted that prior to the public hearings related to Title 17, staff plans to talk with local newspaper reporters in an effort to get articles published in the newspapers so people can be made aware of the issues that are being considered and invited to participate.

Board Member Young suggested that the public advertisement emphasize that many of the changes are being considered because of enforcement problems associated with the existing code. He felt that if the public has a clear understanding of these problems, they will know why the City is reviewing all of the details of this section of the code. Mr. Bowman said that while he typically favors simplifying the code, it is important to have clear and concise language in this section so that people understand what they can and cannot do.

Section 17.60.030.B – Attractive Nuisances Dangerous to Children

Mr. Bowman recalled that at their last meeting the Board discussed the importance of prohibiting the storage of items that pose a danger to children. At the request of the Board, this section was changed to read, “Attractive nuisances dangerous to children including but not limited to the following items when located on any developed or vacant lot.”

Board Member Freeman questioned about the safety of portable toilets that are used by construction companies while working in residential areas. She pointed out that if these facilities are left unlocked, they could be accessed by children and an accident could occur if a child were to fall in. Mr. Bowman said this has never been a problem for the City, but he agreed to research the issue further to see if it needs to be addressed in the code.

Section 17.60.040 – Recreational Vehicles

Mr. Bowman said Board Member Freeman raised concern about the size of Recreational Vehicles (RV’s) that are allowed to be stored on residential properties and whether or not they should be prohibited in side and front yards. In addition, Vice Chair Dewhirst suggested that storage of vehicles such as personal watercraft, should be prohibited in the front and side yards. Mr. Bowman said the Board could decide to regulate RV’s based on size, but the standard would have to be clear and concise.

Board Member Henderson noted that Sections 17.60.040.E.2.1 and 17.60.040.E.2.m both address the size of RV’s. Board Member Reed noted that the language proposed in Section 17.60.040.E.2.1 would allow almost all of the front yard to be used as a parking space for an RV. Mr. Bowman agreed. He noted that most of the concerns related to RV’s are associated with the large size and the blue tarp coverings. The City also receives numerous complaints about people living in RV’s in residential neighborhoods.

Mr. Bowman advised that if the Board decides they want to regulate the storage of RV’s, staff could come up with some language for them to consider. He noted that regulating the storage of RV’s would likely create a stir amongst the

community both pro and con. He agreed that staff could contact the City of Redmond to find out how they regulate RV's. He would forward the document to the Board members, highlighting those sections that are directly related to RV's. He also agreed to obtain information from other jurisdictions in the region.

Board Member Freeman recalled the Board's previous discussion about the need to keep the setback areas clear for emergency access. She noted that storing large RV's in the side setback areas could present a safety hazard. She further noted that permanent structures are not allowed in the setbacks, so perhaps they should prohibit the storage of large RV's, as well. Mr. Bowman noted that RV's can be moved in case of emergency, so they should not be treated the same as permanent structures within setbacks.

Section 17.60.020 .J – Storage Containers and Tents

Mr. Bowman explained that staff is proposing this new section to address the more than 85 outstanding complaints the code enforcement officer has on file related to storage containers and tent structures. The current code prohibits temporary structures of this size if they are larger than 120 square feet. However, this particular code regulation has been suspended until the City's code has been updated.

Vice Chair Dewhirst said he doesn't see the difference between a storage container and a butler building. He questioned why one should be allowed and not the other. Mr. Bowman said he believes there is a significant difference between metal storage buildings and surplussed cargo containers, which are typically very large. The majority of the Board agreed they did not want to allow shipping or cargo containers to be used for storage in residential areas. Mr. Bowman said issues related to cargo and shipping containers are coming up more often, and he suggested the City consider being ahead of the curve in regulating this use.

Board Member Freeman asked if staff has ever had difficulty enforcing the nuisance code requirements based on cultural issues. Mr. Bowman said that as long as the standards are applied uniformly and community wide, there should be no problems of this type. The City should avoid standards that are directed towards a specific cultural area.

Section 17.60.050 – Habitation Uses Prohibited

Mr. Bowman said the language proposed by staff would allow habitation of RV's in the case of family or visitors staying temporarily for a period not to exceed 30 days. Vice Chair Dewhirst suggested that this use be limited to 30 days per year to prevent a property owner from moving the RV for a period of time and then bringing it back for another 30 days.

Section 17.60.030.N -- Garbage Stored Outside

Board Member Henderson asked if this proposed language would apply to containers that are left at the street for garbage pick up. Mr. Bowman said this would not be considered storage of garbage containers, but he agreed the language should clarify the matter. He said the City has received complaints about people who leave their garbage containers out at the street for days after the garbage has been collected.

Section 17.60. 030.I – Accumulation of Construction Supplies

Vice Chair Dewhirst noted that, originally, a provision was added to this section that required a property owner to begin a project in five business days. He expressed his belief that this would be irrational since a host of things could keep a property owner from completing a project. Mr. Bowman pointed out that this language is really targeted at potential code violators who like to hoard or store buildings materials on their property that they never get around to using. He suggested it would be appropriate to have some type of time limit.

Board Member Henderson suggested that a 30-day time limit be established for the project to be started. They should also identify a project completion time limit. He noted that this section only applies to projects that do not require a building permit. Chair Guenther expressed his concern about requiring someone who is landscaping his/her property to complete the project in a certain amount of time. While he understands the need to keep the project active, he questioned if a time limit language would accomplish this goal. Mr. Bowman agreed to talk with the code enforcement officer about whether they should include a time limit for project completion.

Section 17.60.040.E.2.f – Storage of Vehicles on Vacant Residential Property

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Mr. Bowman said Vice Chair Dewhirst raised a concern that this proposed language would prohibit a person who owns adjoining property from parking a vehicle on a property that does not have a dwelling unit. He said he agrees with this concern. There are situations in the City where a single property owner owns two lots, and the proposed language would prohibit the property owner from parking cars on the vacant lot. He explained that the language is intended to prevent people from parking cars on residential vacant lots, but he agreed to come up with new language for the Board to consider that would exclude adjacent lots that are under common ownership.

Conclusion

Mr. Bowman summarized that staff would work to obtain sample regulations for RV's from other jurisdictions in the region and forward them to the Board as soon as possible. He asked that the Board review the samples and forward their ideas to him prior to the next meeting. Staff would work to finalize the draft code amendments for the Board's review prior to the public hearing. In addition to the updated language for Title 17, Mr. Bowman advised that he would provide draft language to address the parking standards, particularly as they relate to Highway 99. If the City is going to support the concept of bus rapid transit, they should do their part to encourage less parking and more transit use.

Board Member Freeman referred the Board and staff to a recent article in *THE SEATTLE POST INTELLIGENCER*, which provides information about the average number of cars per dwelling unit in various areas of Seattle. She noted that in some of the more populated areas of Seattle, there are only .9 parking spaces per unit.

Vice Chair Dewhirst referred the Board to the Victoria Transportation Website, which provides helpful information related to the issue of parking. He expressed his belief that the site is valid to the issues that are being raised by the City now.

Board Member Freeman questioned how the Board and staff could educate the City Council about the need to change the City's parking requirements. Mr. Bowman replied that the Board needs to make it clear in their recommendation to the City Council why they want to change the parking standards on Highway 99 to encourage rapid transit and higher density development. He said the Board's job is to do the necessary research and due diligence and then forward their best recommendations to the City Council. He noted that the City Council is very supportive of Community Transit's bus rapid transit service on Highway 99, which should be operational some time next year.

REVIEW OF EXTENDED AGENDA

Mr. Bowman announced that two rezone public hearings have been scheduled on the Board's May 23rd meeting. He suggested the Board considering starting their meeting earlier to allow time for them to meet with the City Attorney and Historic Preservation Commission as previously discussed.

Board Member Young suggested that rather than meeting for one hour prior to the next regular meeting, perhaps it would be appropriate for the Historic Preservation Commission to provide a brief report outlining the issues they want the Board to consider as they review the non-conformance section of the code. Mr. Bowman expressed his belief that it would be helpful for the Board to meet with the Historic Preservation Commission and allow them an opportunity to share their thoughts and recommendations so that the Commission's work could be blended into the Board's review of the code. He also reminded the Board that the City Attorney would be in attendance for this discussion.

The Board agreed to start their joint discussion with the Historic Preservation Commission at 6:30 p.m. The regular meeting would follow at 7:30 p.m.

PLANNING BOARD CHAIR COMMENTS

Chair Guenther reminded the Board that they have been invited to a Short Course in Public Planning that would be hosted by the City of Lynnwood later in May.

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Board Member Freeman suggested that perhaps the Board should provide additional comments to strengthen their reasons for supporting the proposed rezone application. Vice Chair Dewhirst clarified that his motion would recommend approval of the application based on the points made on Pages 4 and 5 of the Staff Report.

THE MOTION CARRIED UNANIMOUSLY.

THE BOARD TOOK A 5-MINUTE BREAK AT 8:25 P.M. THEY RECONVENED THE MEETING AT 8:30 P.M.

DISCUSSION ON POSSIBLE AMENDMENTS TO CHAPTER 17 AND 20 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC)

Mr. Bowman referred the Board to the draft documents that were provided related to Chapters 17 and 20 of the Edmonds Community Development Code (ECDC). He said the purpose of the discussion is to allow the Board an opportunity to provide feedback regarding the proposed language before it is prepared for a public hearing. The Board and staff reviewed and discussed the following sections of Chapter 17:

- **Section 17.05.020 – Reasonable Accommodations.** Mr. Bowman pointed out that the Development Services Director makes decisions related to reasonable accommodations. Therefore, the language should be amended to make it clear that these decisions would not be made by the Community Services Director.
- **Section 17.05.050 -- Appeal.** Mr. Bowman said this language would be amended to make it easier to read and clearer about who can appeal a reasonable accommodations request. No substantive changes have been proposed.

Board Member Reed pointed out that once the Development Services Director has made a determination, the only recourse is to appeal the decision to the court. He questioned whether or not this would be wise. Mr. Bowman pointed out that this is a building code question, and building code questions can only be appealed to Superior Court.

- **Section 17.10.000 – Bond Required.** Mr. Bowman said that in the past 30 years, he has never seen the City cash a performance bond on a building project. However, bonds have been cashed for not completing landscaping or public improvements. He said that, in his opinion, the City should only require bonds for public improvements that are required or when someone wants occupancy before everything is done. He noted that the current requirement creates unnecessary paperwork for the staff and added costs for the developer. However, the City doesn't really receive a significant value from the requirement. When an occupancy is requested and required non-life safety improvements such as landscaping have not been installed, the proposed new language would authorize the Development Services Director to allow a developer or owner to post a performance bond or similar security to ensure that improvements would be installed within a specified time period.
- **Section 17.30.035 – Trellises and Arbors.** Mr. Bowman recalled the Board's 2004 discussion regarding trellises, arbors and fences. He expressed his belief that it doesn't make sense to restrict plantings on a trellis when they are intended to potentially allow such plantings. Site distance is already regulated. He pointed out that the proposed language would delete Item 2 because it is not necessary.
- **Definitions** – Vice Chair Dewhirst pointed out that the definitions are scattered throughout the document. Mr. Bowman said all of the definitions would be taken from the back of the code and placed at the front of the code. Staff is attempting to cross reference terms and find definitions for those that are not yet defined. Then they would all be pulled together into one section.
- **Section 17.35 – Animals.** Mr. Bowman suggested it would be appropriate for the Development Services Department to get out of the business of regulating animals. He noted that there is an animal control arm of the City, so these regulations really should be moved into Chapter 5 of the Edmonds Municipal Code. He emphasized that he has not discussed this change with the Animal Control staff, but it seems it would make more sense to put this in the specific section in the

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Municipal Code that talks about animals. He said he would work with the Police Department staff regarding this potential change.

- **Section 17.50 – Off-Street Parking.** Mr. Bowman said staff would be working to update the off-street parking regulations to incorporate the new downtown zone (BD-1). He particularly referred to Item B22 on Page 17-22 and noted that the regulations do not currently address the issue of what to do with outdoor vehicle sales. He suggested that because there are a number of car dealerships on Highway 99, the City must have regulations to deal with their parking requirements. Staff has discussed the concept of treating parking requirements for Highway 99 much like they did for the downtown zones. They could identify a parking standard for commercial uses and another for residential uses. He noted that there would likely be more mixed-use developments along Highway 99 in the future, and having a standard parking requirement for both commercial and residential uses would make it easier for developers to make decisions on what to do with their properties. Mr. Chave added that, currently, the City must track and recalculate the parking requirements when uses are changed. This creates a significant problem when tenants change frequently.

If the Board is interested in pursuing this new concept for parking requirements along Highway 99, Mr. Bowman said staff could research various options further and provide direction to the Board at their next meeting. He noted that another option would be to establish both a minimum and a maximum parking standard for zones along Highway 99.

Board Member Freeman expressed her belief that the City should try to reduce the parking requirement to discourage people from using their cars instead of the public transportation that is readily available on Highway 99. Mr. Bowman said that establishing a maximum parking standard would force developers to look at other options such as encouraging public transit opportunities. Board Member Freeman also suggested the City establish a maximum standard for the size of a parking stall so that people are encouraged to use smaller cars. In addition, the City should consider whatever options are available to reduce greenhouse gases and encourage people to utilize the public transportation system.

Vice Chair Dewhirst agreed it would be appropriate to consider a maximum parking requirement, particularly for developments that are located close to rapid transit opportunities. He suggested it would be helpful to review the bubble diagrams created by Makers to identify the districts. The Board and staff could consider the concept of tailoring the parking requirements to accommodate the types of uses they envision in the various areas.

Board Member Henderson emphasized the importance of maintaining flexibility. For example, a Costco type business would require someone to drive to the store rather than ride a bus. He noted that Costco parking lots are often maximized, and the City must allow enough flexibility for these types of businesses to potentially located along Highway 99 and still meet their customers' needs. Chair Guenther agreed and suggested that perhaps the parking requirement could be based on the type of use that is being proposed. Mr. Chave cautioned that it would be more straightforward to come up with an average that works for the vast majority of commercial uses and then identify some exceptions.

Board Member Young recalled a retreat discussion that rather than having a prescriptive parking requirement, a developer should be allowed to figure out how many parking spaces would be needed, depending on the nature of the business. Mr. Bowman noted that the impervious surface limitations would play a significant role in deciding the number of parking spaces that could be provided and what materials would be used.

Board Member Bowman noted that in some zones, there are no parking requirements for new construction. Board Member Young pointed out that only the BD-1 zone has no parking requirement. Board Member Bowman suggested the City allow the market to sort out the number of parking spaces that would be required. Mr. Bowman explained that if there were no parking standards for Highway 99, a developer would have to conduct a market analysis to determine the amount of parking that would be necessary to support the businesses and then decide how they could comply with the impervious surface, landscape and stormwater detention requirements. Vice Chair Dewhirst expressed his concern that allowing the market to decide the parking requirement would favor the large developer over the small developer. In his experience, this concept could also result in a developer significantly overbuilding the parking area. Therefore, placing a cap on the maximum number of parking spaces allowed would be important.

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Board Member Young said he likes the idea of capping the number of parking spaces a developer could provide, but he would like to see some ideas about how this concept could be implemented. Perhaps a developer could be allowed additional parking spaces if low-impact development techniques are incorporated into the design. Board Member Young said the Board should also discuss whether it is more important to limit the number and size of parking spaces and encourage low-impact development or encourage economic development. He noted that the City does not have control over whether people use smaller cars or the public transit system.

Mr. Bowman agreed to come back to the Board with two or three alternatives for them to consider for potential parking requirements. Mr. Chave pointed out that the ITE Manual is a supply driven model for parking, and there are other manuals that talk about demand for parking. The demand standards are almost always significantly lower than the supply driven standards.

- **Section 17.50.090 – Temporary Parking Lots.** Mr. Bowman questioned why someone would want to pay for a conditional use permit to construct a temporary parking lot, when it would only be good for one year. He suggested it would be better to allow a property owner to apply for a conditional use permit for a time period that is consistent with the regulations.

Vice Chair Dewhirst asked why temporary parking lots permits could not be an administrative decision rather than require a conditional use permit. Mr. Bowman answered that would be one option the Board could consider. However, a conditional use permit would require a public process to let people know what is being proposed. Another option would be to make it an administrative decision with a notice requirement to all property owners within 300 feet. Mr. Chave added that the notices could be sent out up front so the public would have an opportunity to comment before a decision has been issued by staff.

- **Section 17.50.100 – Commercial Vehicle Regulations.** Mr. Bowman explained that staff is proposing an additional clause in this section that would allow night parking of authorized towing vehicles under contract to provide services to the City. He explained that sometimes tow truck drivers who live in the City are required to park their vehicle at home when they are on call, and the current regulations would not allow this to occur.
- **Section 17.60 – Property Performance Standards.** Mr. Bowman advised that Mr. Thies, the City’s Code Enforcement Officer has been working to gather information from other jurisdictions in the Puget Sound area to learn how they address issues that are common to the City of Edmonds. Mr. Thies invited the Board Members to share their ideas on the draft language that was provided for their review.

Board Member Henderson said he does not like the way the performance standards are divided up. For examples, parking of trailers on residential property is addressed in two different sections. He suggested it would be helpful to have all regulations related to a single issue in the same section. Board Member Freeman agreed that it is difficult to go back and forth from section to section to see what is and is not allowed.

Board Member Freeman noted that the proposed language does not differentiate between a small trailer and a large recreational vehicle, and she felt there should be distinctly separate regulations for each, depending on the size and bulk of the vehicle. Property owners should not be encouraged to store large recreational vehicles in residential neighborhoods. She said the proposed language also fails to differentiate between setbacks and yards and what is allowed in each.

- **Section 17.60.020.H.1 – Open Storage.** Vice Chair Dewhirst asked if the proposed language includes a definition for the terms “lumber,” “coal,” and “other combustible materials.” Mr. Thies explained that this language came from the existing code, and the purpose of the update is to eliminate language that is ambiguous. Mr. Chave further explained that Mr. Thies collected numerous regulations from various jurisdictions for the Board to consider. At this time, Mr. Thies is seeking feedback from the Board regarding the concepts the Board wants staff to pursue.
- **Section 17.60.030.B – Attractive Nuisances.** Board Member Freeman noted that the intent of the proposed language is to protect children. Therefore, property owners should not be allowed to store any of the listed items on their property

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where children have access. The Board agreed to change the last part of the section to read, “. . . located outside an enclosed building.”

- **Section 17.60.030.J – Unconventional Construction.** Vice Chair Dewhirst questioned why the City should prohibit shipping and cargo containers, but allow storage buildings. Mr. Bowman said the City has received numerous complaints about shipping and cargo containers on adjacent properties. The Board must decide whether these should be considered structures and/or buildings and whether or not they should be allowed in residential neighborhoods. He noted that tents, tarps and canopy structures are a significant issue, as well. The City currently has 85 complaints of this type.
- **Section 17.60.030 – Nuisance.** Board Member Works asked if any consideration has been giving to forcing people to cut down their blackberries. Mr. Thies said the City Council discussed this issue and raised the idea that “one person’s nuisance could be another person’s garden. They indicated they would not be interested in having a vegetation regulation.
- **Section 17.60.030.D – Graffiti.** Board Member Bowman pointed out this section would require property owners to take care of graffiti on their property immediately. He pointed out that his building on 5th Avenue has been vandalized multiple times, and graffiti has occurred more and more around town. The proposed language would require the victims of graffiti to resolve the problem. Mr. Bowman advised that the City Council recently discussed the issue of graffiti. While business owners are not really happy about being required to paint their buildings, it has been demonstrated that leaving the graffiti in place encourages the situation to grow. Taking care of graffiti right away tends to detract future situations. Unless they catch the person responsible, the only recourse the City has is to require property owners to take care of the problem.
- **Section 17.60.030 – Nuisance.** Board Member Reed suggested that if he were to apply the list of nuisances to properties along his street, he would find numerous violations. He suggested that while there are some issues that must be addressed, some of the items in this section are common occurrences. While they might not be the most attractive situations, he questioned whether or not the City should try to regulate them all.
- **Section 17.60.040 – Vehicles.** Vice Chair Dewhirst suggested there needs to be some leeway for people to use trailers when guests are visiting. Mr. Thies said the only complaints the City has received on this matter have come from people who are concerned about grown children being allowed to live in trailers for long, extended periods of time.
- **Section 17.95 – Commute Trip Reduction Plan.** Mr. Bowman advised that this section must be updated and submitted to the state by the end of June, 2007. However, the City’s new Traffic Engineer would not be on staff until mid May. It is likely staff would request an extension from the State, but sometime in the near future staff would provide new language for this section that would meet the new State laws.
- **Outdoor Dining.** Board Member Works suggested that staff review the outdoor dining section of the ECDC to make sure there are as many outdoor dining opportunities as possible in the City, particularly in light of the new arts corridor. Perhaps the City should expand the outdoor dining use to other zones in the City.
- **Section 17.40 – Nonconforming Uses, Buildings, Signs and Lots.** Mr. Bowman referred the Board to the written comments provided by the City Attorney regarding this section. The City Attorney attempted to incorporate all of the comments provided previously by the Board. At some point, the Board must also have a discussion with the Historic Preservation Commission about how to integrate historic preservation and nonconformance elements together.

Mr. Bowman explained that the current nonconformance regulations are very restrictive and won’t allow a nonconformity to expand. He said the Board must hold an in-depth discussion about whether or not it would be appropriate to allow nonconforming structures to be expanded if the expansion would further encroach into the setback area. Board Member Young questioned why the City should allow anyone to encroach into a setback. Mr. Chave said staff works with many situations related to nonconforming structures. In addition, the Historic Preservation Commission has expressed concern about the small historic buildings that are located in the downtown. Many of these structures protrude into the setback. If the City wants to encourage historic preservation, they must consider options that would provide some flexibility to

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address nonconforming issues. He concluded that while this may seem like a simple situation, a lot of issues must be considered.

Mr. Chave pointed out that there is an interaction between the nonconforming provisions and the variance provisions. If the City's nonconforming regulations are extremely tight and the rules on variances are strictly enforced, many property owners would be left with no options for resolving difficult situations.

The Board agreed it would be appropriate to meet with the Historic Preservation Commission as soon as possible. Staff agreed to find out where the Commission is in their process and arrange a meeting date, possibly May 9th.

Mr. Bowman requested that Board Members forward their additional comments to him as soon as possible. He said he would compile the comments and prepare a written response for the Board's review. The Board could continue their review of the proposed code amendments at their May 9th meeting. He pointed out that staff intends to leave the definitions in this section. When dealing with chronic code violators, it is easier to show them the rules and regulations when the definitions are readily available.

Mr. Bowman advised that comments from the Hearing Examiner related to Title 20 should be available soon. Once they are received, staff would forward a copy to each of the Board Members. In addition, Mr. Bowman said he would meet with the City Attorney to draft language for the Board's consideration.

REVIEW OF EXTENDED AGENDA

Board Member Freeman recalled that at their retreat, the Board talked about tightening up some odds and ends in the Comprehensive Plan. Mr. Chave suggested the Board could discuss possible Board initiated code amendments at their May 9th meeting.

Mr. Chave announced that another rezone application is scheduled to come before the Board for a public hearing on June 13th.

PLANNING BOARD CHAIR COMMENTS

Chair Guenther announced that a memorial service for Police Chief David Stern has been scheduled for Tuesday, May 1st, at 11 a.m. at the Westgate Chapel.

Chair Guenther reported that he and Vice Chair Dewhirst met with the Mayor, Council President, and Chair of the Architectural Design Board, where they reviewed the items discussed by the Board at their retreat. He noted that the Mayor's Climate Committee meets the first Thursday of every month, and Board Member Freeman has agreed to represent the Board on this committee.

Vice Chair Dewhirst said the Mayor recommended the Board and City Council meet together on a quarterly basis. Chair Guenther said the Mayor's intent was to give the Board an opportunity to talk to the City Council on a more regular basis about policy issues that are coming before them.

PLANNING BOARD MEMBER COMMENTS

None of the Board Members provided comments during this portion of the meeting.

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ELECTION OF PLANNING BOARD OFFICERS

BOARD MEMBER WORKS NOMINATED CARY GUENTHER AS CHAIR OF THE PLANNING BOARD FOR 2007. BOARD MEMBER DEWHIRST SECONDED THE NOMINATION. BOARD MEMBER YOUNG MOVED THAT NOMINATIONS BE CLOSED. BOARD MEMBER REED SECONDED THE MOTION. THE NOMINATION WAS APPROVED UNANIMOUSLY.

Board Member Guenther assumed the role of Chair for the remainder of the meeting.

BOARD MEMBER FREEMAN NOMINATED BOARD MEMBER DEWHIRST AS THE VICE CHAIR OF THE PLANNING BOARD FOR 2007. BOARD MEMBER YOUNG SECONDED THE MOTION. BOARD MEMBER BOWMAN MOVED THAT NOMINATIONS BE CLOSED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE NOMINATION WAS APPROVED UNANIMOUSLY.

OVERVIEW OF CODE REWRITE PROJECT

Mr. Bowman explained the process for accomplishing the code rewrite project. He recalled that the City Council indicated their desire for the code amendments to be presented to them section by section. He advised that the code rewrite project would start with the non-conforming regulations found in Chapter 17, and the City Attorney has prepared a draft ordinance for the Board’s consideration. He said staff’s goal is to obtain feedback from the Board regarding the non-conforming regulations, and then the entire Chapter 17 would be brought before the Board for review, public hearing and a recommendation to the City Council on March 14th. After the Board has forwarded a recommendation to the City Council for Chapter 17, they could begin their review of the process and procedures section, and then the definitions and nuisance sections.

Mr. Bowman explained that staff intends to bring one code section per month to the Board for review so that a public hearing could be scheduled the next month. While staff does not anticipate the City Council would adopt the code amendments by the end of the year, they would like the Board to get through their review by the end of December. The City Council could adopt all of the amendments sometime in early 2008.

CODE REWRITE PROJECT: REVIEW OF NON-CONFORMING REGULATIONS (ECDC 17.40) (FILE NUMBER CDC-06-5)

Mr. Snyder advised that, with the exception of the non-conforming regulations, most of the amendments to the code provisions would be minor changes. He noted there have been significant changes in the law in the community, which highlight the need to review the City’s current non-conforming use provisions and identify what the City wants to accomplish and what changes could be made.

Mr. Snyder explained that in 1980 the City enacted its last major re-codification of its zoning ordinances. This involved an extensive community process and the product reflected the philosophy of the time. The City’s non-conforming use provisions were extremely narrow and restrictive, and this philosophy has also been reflected in the way the City deals with variances. In both cases, non-conforming uses were intended to be phased out or abated over time, and specific abatement provisions were established for annexation areas. A variance provision was created to deal with deviations to the zoning ordinance. However, if the City’s variance ordinance was strictly applied, there would be no variances issued.

Mr. Snyder advised that changes have occurred since 1980 that warrant amendments to the City’s non-conforming use regulations. First, the annexation climate has changed entirely. People are not anxious to be annexed into the City of Edmonds, and those areas within the City’s urban growth area contain pockets of people who are very opposed to being part of Edmonds. Unlike times in the past when neighborhoods sought to annex into the City, current districts contain people who have uses they want to continue.

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Mr. Snyder explained that since the Growth Management Act was enacted, the City has been pressured to accept or make provisions over time to accommodate more density. The Growth Management Act also emphasizes mixed-use development. There is also interest within the City to preserve affordable housing in an increasingly difficult market and to preserve historic and near historic buildings and neighborhoods. To encourage historic reuse or preserve existing neighborhoods, he suggested the City review their non-conforming use provisions to avoid unintended consequences. He noted that many citizens feel it would be better to preserve the existing housing stock and charm of the neighborhoods by finding ways to permit the homes to be reused and rebuilt overtime instead of providing economic incentives that encourage their replacement with structures that utilized the entire lot coverage permitted.

Vice Chair Dewhirst referred to Mr. Snyder's memorandum that mentions the provisions of the Federally Religious Land Uses and Institutionalized Person Act of 2000. He said he had no idea that cities no longer had the ability to enforce health and safety provisions of the building code on existing church facilities. Mr. Snyder explained that an existing case in the State of Washington involves a church school that had a preschool in the basement of a building with no viable fire exits. The City of Renton was prohibited from closing the school down based on this act. However, the act only applies to existing facilities, and new facilities would have to comply with the State building codes. Vice Chair Dewhirst asked if a city would be liable if a fire were to occur in such a facility. Mr. Snyder said a City would probably not be held liable assuming they actively pursues remedies and inspections. A city's failure to attempt to deal with a violation could lead to liability.

Mr. Snyder cautioned that as the Board considers policies and what they want to encourage and what they want to end, they should remember that once a policy has been established, the rules would be applicable to all building in Edmonds. He also cautioned that there is really no way to inject aesthetic sense into the non-conforming use provisions. He suggested the Board work with the staff to come up with examples of how the provisions would apply to certain structures they want to preserve or that should be abated to test how it would work.

Mr. Snyder and the Board Members reviewed the following proposed changes:

- **Section 17.40.000:** Mr. Snyder explained that the intent of the existing code is to prohibit further non-conformity. Rather than permit non-conformity, this section was changed in order to establish greater flexibility in the preservation of non-conforming buildings. Limiting the continuation of certain aspects of non-conformity, such as historic reuse or encouraging existing housing stock, may be appropriate.
- **Section 17.40.010.C.1:** Mr. Snyder explained that Washington State Law provides for an agricultural exemption for certain seasonal uses such as Christmas tree lots and pumpkin farms. A provision was added to Subparagraph C to acknowledge that there are certain uses that fall outside the "six months of continuous use" rule.
- **Section 17.40.010.C.2:** Mr. Snyder explained that, currently, this non-conforming use provision states that if a residential use ceases because it is damaged in excess of 50% of the value, the use may be reestablished. The proposed ordinance would change the threshold for damage from 50% to 75%. Chair Guenther questioned how this change would impact the thresholds in other City regulations. For example, the Building Code has sections with a 50% threshold. Mr. Snyder pointed out that there is no grandfathering of life safety provisions under the Building Code. Section 17.40.010.C deals with issues such as use, setback requirements, etc. Mr. Chave pointed out that the Comprehensive Plan talks about preservation of residential development, and a 75% threshold would be a little more lenient. He cautioned that this section would only apply to non-conforming residential uses. Mr. Snyder explained that, with many properties in Edmonds, the structure has little value in relation to the value of the land.

Board Member Reed noted that Section 17.40.010.F includes a statement that determination of replacement costs and the level of destruction shall be made by the building official. He asked if this same language should be included in Section 17.40.010.C, as well. Mr. Snyder agreed that is something to consider. He explained that the International Building Code contains tables of value and a more standard way of applying value to structures.

Vice Chair Dewhirst recalled that he has worked in jurisdictions where a non-conforming building that was destroyed could be reconstructed using the building code at the time it was constructed rather than the current code. He pointed out that, particularly with historic structures, there are requirements of a building code, other than life safety concerns, that

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could make or break a property owner's ability to rebuild a structure. Mr. Snyder agreed. He suggested they invite the Building Official to attend a future meeting to talk about the building codes, but there are certain life safety provisions that the Board will probably not want to lighten up on. Mr. Chave suggested a representative from the Historic Preservation Commission be invited to meet with the Board, as well, since they have a keen interest in the non-conforming provisions relative to the building codes and historic buildings. In addition to provisions in the building codes, Mr. Snyder said the Board might also want to consider the State Energy Code requirements.

Board Member Works noted that some sections of the proposed language use the term "building and/or structure" and other sections only use the term "structure." Mr. Snyder answered that a structure is defined as any combination of materials attached to the ground, and a building is a structure with a roof. He said he had intended to use the term "building and/or structure" consistently throughout the document. Chair Guenther pointed out that the International Building Code defines a structure as anything that is built and attached to the ground, and a building is defined as any structure used or intended for supporting or sheltering any use or occupancy.

- **Section 17.40.010.C:** Mr. Snyder explained that, currently, the City has no buildings to abate. This section was aimed at a series of annexations that occurred in the early 1980's, and all of these structures have been abated. He recommended that this section of the code be eliminated. A new abatement process would have to be adopted if an annexation occurred or the Board and/or City Council decided there were uses they wanted abate. Board Member Reed asked if problems could arise if the City were to annex property in the future without having an abatement process in place. Mr. Snyder answered negatively. He explained that whether or not the City decides to abate or continue non-conforming uses is going to be a large part of the sales pitch to the audience in the annexation area. If the annexation area had a use they wanted to abate, the City could design and enact zoning as a part of the annexation process to address their problem. Rather than have an out-of-date abatement process, a new abatement process could be crafted as part of pre-annexation zoning.
- **Section 17.40.010.D:** Mr. Snyder explained that the expansion provisions in this section were tweaked slightly. The goal was to tie this section back to the continuation provisions so that the terms are better defined.
- **Section 17.40.020.C:** Mr. Snyder suggested that because the Historic Preservation Commission is becoming more active, it might be appropriate for the Board to craft a provision in conjunction with their recommendations. He attempted to list the two issues: compliance with the building code and consistency with the Register of Historic Places. He noted that while the ordinance, as drafted, would require full compliance and consistency with the Register of Historic Places, the Board may want to provide greater flexibility.

Board Member Reed asked which section would be modified to deal with near historic buildings and structures, as discussed earlier by Mr. Snyder. Mr. Snyder answered that this issue would be dealt with in the reuse section starting on Page 5. The goal would be to provide more flexibility for existing structures.

Board Member Freeman asked if this section would distinguish between buildings that are on the Register and those that are candidates for the Register. She noted that there are not many buildings on the Register to date, but quite a few have been designated as candidates. Mr. Snyder advised that placing a property on the Register is a voluntary process, and the requirements are very specific. Mr. Snyder suggested the Board work with the Historic Preservation Commission to consider how best to handle historic buildings that are not yet on the Register. Offering non-conforming use rights might encourage people to add their properties to the Register. Mr. Chave said that if the City were to offer all of the benefits to historic properties that are not on the Register, there would be no incentive for people to place their properties on the Register.

- **Section 17.40.020.E:** Board Member Freeman requested clarification about the proposed provision related to moving a non-conforming building horizontally any distance. Mr. Snyder explained that, currently, the provision is very onerous and would prevent someone from jacking up a building to put a new foundation under it. When moving buildings from one location to another, the building would have to come into compliance with lot coverage and setback requirements. The proposed language in this section would allow buildings to be jacked up for new foundations. In addition, it would permit a building to be moved if it would improve the degree of non-conformity.

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- **Section 17.40.020.F:** Mr. Snyder noted that two alternatives were proposed for this section. Alternative 1 would increase the amount of loss that a structure must sustain before coming into full compliance from 50% to 75%. Alternative 2 would allow full reconstruction if a casualty occurs without the unlawful action of the owner. These options are intended to encourage reuse of existing housing and commercial stock. Board Member Works asked if the term “75% replacement costs” in Section 17.40.020.F would be different than the term “75% of its value” in Section 17.40.010.C.2. Mr. Snyder agreed that these two sections should be made consistent. Board Member Freeman pointed out that if the theater were destroyed, the owners would be unable to rebuild it if they had to meet the City’s current parking requirement. She said she would support an alternative that would enable the City to protect historic structures such as the movie theater. Mr. Snyder said this section was aimed at addressing bulk requirements, but addressing the parking requirement would also be appropriate. Mr. Chave noted that the new zoning the City Council recently approved for the downtown does not include any commercial parking requirement. Board Member Freeman agreed, but she noted that the parking requirements change from time to time. Mr. Bowman summarized that Alternative 2 would allow the theater building to be reconstructed using the same footprint and square footage, regardless of the parking requirement. Mr. Snyder pointed out that the non-conforming provisions refer to legal non-conformity, or uses that complied with all codes in effect at the time it was established.

Mr. Snyder advised that the non-conforming use provisions do not have to be uniform throughout the City. For example, the Board may want to hear from residents who live along Highway 99. If they like the current look and feel in downtown Edmonds, they might want to encourage reuse. But that might not be the case for other neighborhoods in the City. Particularly along Highway 99, the City might want to encourage redevelopment. He suggested that they may want to retain the current 50% threshold for areas where they want to encourage change.

- **Section 17.40.020.G:** Mr. Snyder explained that this section has to do with residential structures in the downtown area and allows buildings in commercial zones that are used for residential purposes to be remodeled or reconstructed, ignoring the requirement that they be brought into conformity. This issue was raised by the City Council, so the Board should consider on an area-by-area basis whether or not this policy would maximize the use of the City’s limited commercial areas. Mr. Bowman explained that the City Council was very concerned about the residential uses that were scattered throughout the downtown BD-1 zone.
- **Section 17.40.025:** Mr. Snyder explained that this current code provision was designed to establish a registration period for non-conforming or illegal accessory dwelling units. Given that the period has passed, this section could be greatly reduced. The draft language recognizes that registered accessory dwelling units, whether detached or attached, may be continued.
- **Section 17.40.030:** Mr. Snyder advised that this section was changed about 10 years ago and has been a resounding success. Rather than having a rigid structure that prevented the reuse of existing lots, this section used a sliding scale that allowed lots that were non-conforming to be developed rather than combined. It allowed properties to be developed to look like the rest of the neighborhood. The provisions in this section encouraged infill development, encouraged the retention of the look and feel of existing neighborhoods, and allowed people to get value out of property they had owned and held for many years.

Board Member Works noted that in this section the terms “dwelling units” and “residence” are both used. Mr. Snyder agreed that the terms should be made consistent. Board Member Reed referred to Item 3 on Page 12 and noted that the term 50% should be changed to 75% to be consistent with changes made earlier in the document.

Mr. Chave referred to Section D.1.c at the bottom of Page 11. He explained that the intent of this provision was to avoid situations where the character of an existing neighborhood would be altered. However, it could create some interesting situations. For example, one individual owned two, platted lots, with a house straddling the center lot line. He wanted to tear the house down and sell the property as two lots, but this particular provision that prohibits existing housing stock from being destroyed would not allow the change to occur. The Board must consider whether or not this is a policy they want to retain, and if so, is the language constructed the right way. Mr. Chave said that if the Board is happy with the sliding scale table, then the provision related to preserving the existing housing stock might become moot. Mr. Snyder

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recalled that the current language comes from an era where the City Council was taking a bold initiative by creating the sliding scale, and they weren't sure how it would be used.

- **Section 17.40.040:** Mr. Snyder explained that the proposed changes to this section would allow greater flexibility in the reuse of existing signs. Mr. Bowman said the existing language is problematic for business owners who want to do tenant improvements inside the building. Board Member Reed noted that while the last sentence in this section refers to Subparagraph D, there is actually no Subparagraph D in the existing language. Mr. Snyder agreed to clear up this typographical error. He noted that the numbering on Page 13 should also be corrected.

Mr. Chave said the proposed new language is intended to allow a property owner to change a non-conforming sign to reflect new information without changing the sign's structure. Mr. Snyder agreed but noted that a property owner would not be allowed to expand a non-conforming sign. Mr. Chave suggested the language in Subparagraph A be changed because it says a non-conforming sign shall not be altered in any way. Perhaps it would be appropriate to provide a few examples to indicate what is included in this section. Mr. Snyder agreed.

- **Section 17.40.050.A:** Because of changes in the law, Mr. Snyder advised that this provision is virtually unenforceable and should be removed from the code.
- **Section 17.40.050.B:** The Board may get some public feedback in terms of schools and uses in neighborhoods. While the City may regulate certain aspects by zoning and the building code, the school district is vested with the right to determine what programs are offered at their schools. He suggested that this provision would add little to the discussion.
- **Section 17.40.050.C:** Mr. Snyder explained that the City Council has a lot of discretion over whether to reuse, change or remodel City facilities. Therefore, rather than have a specific provision relating to the expansion of existing legal non-conforming public uses, Mr. Snyder suggested the issue be handled under the City's essential public facilities ordinance.
- **Section 17.40.050.D:** Mr. Snyder noted that the City Council adopts annual changes to the City's Comprehensive Park, Recreation and Open Space Plan, and the facilities that are constructed or maintained must be in compliance. Because the City Council has the full authority to end, continue or expand any use, this provision is redundant and unnecessary.

Board Member Henderson referred to Alternative 2 on Page 7, which states that if an old, architecturally interesting building that didn't have sufficient setbacks for the current zone was destroyed by fire, the owner would be able to reconstruct the building using the same footprint and the same degree of non-conformity, but it does not say it must be the same style of building. If the City allows this flexibility to restore with the same footprint, perhaps the new building should be of similar architecture. Mr. Snyder explained that non-conforming uses typically relate to bulk requirements such as setback, height, etc., and that is the current focus of this section. He suggested that Board Member Henderson's point be considered zoning district by zoning district. Perhaps the Board could work with the Architectural Design Board to create design guidelines to make sure any new buildings would look the same. Mr. Bowman and Mr. Chave both emphasized the importance of having clear code language to indicate whether or not a building design could be changed when a non-conforming building is reconstructed, particularly if the new design would increase the building's non-conformance.

Mr. Snyder commented that when people come to the City with hard questions, it is often because they want to spend the least amount of money. He cautioned that the City should not go overboard in order to give people an economic break. Because of the high value of properties, the hardships are often not as great as they are presented.

Vice Chair Dewhirst said that while working in other jurisdictions, a few situations have come up where fire has destroyed a home. During this traumatic time, property owners come to the City to find their structure is non-conforming. It has been his experience that cities try to do everything possible to allow the house to be rebuilt.

Vice Chair Dewhirst inquired how the non-conforming use regulations would apply to animals. Mr. Bowman said that when the entire chapter is presented to the Board, they will find there is already language to deal with the regulation of animals.

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Board Member Works requested that staff provide some picture of some of the non-conforming situations that already exist in the City. Mr. Bowman said he would provide some examples. He agreed this would make it easier for the public to understand what is being proposed. Mr. Chave pointed out that non-conforming situations exist throughout the City, but most people do not recognize them as such. Mr. Bowman referred to the properties that were annexed in the southern portion of the City. He explained that when the properties were annexed, the County's setback requirement was 5 feet for an 8,400 zone, and the City's set back requirement is 7½ feet for an RS-8 zone.

Mr. Chave reminded the Board of the interaction between the non-conforming provisions, bulk provisions, and the rules for variances. The tighter the City makes one, the more pressure it places on the others. For example, if the setback rules and non-conforming provisions are very tight, it would place a tremendous amount of pressure on the variance rules. He urged the Board to review all of these provisions in relation to each other to understand how they interact and achieve the overall goals. Mr. Snyder agreed and emphasized that in discussions with the City Council, he has detected very little interest in lightening up on the variance rules. This makes sense because the City of Edmonds is an infill community that is nearly built out. If the City wants to preserve the current look and feel of Edmonds, they should lighten up on the non-conformance regulations to allow the existing housing stock and uses to be retained. He noted that some areas of the City are underutilized, such as the Highway 99 area where they might want to encourage change. Mr. Chave agreed that the City Council is interested in clamping down tough on variances. Therefore, the only opportunity to provide flexibility in the code would come via the non-conforming provisions, setbacks, etc.

Board Member Young asked if the documents presented to the Board for review represent the City Council's entire policy guidance, or would the City Council be open to suggestions. He pointed out that the purpose of revising the non-conformance regulations is to encourage annexations into the City and to allow greater flexibility regarding the reuse of non-conforming sites. Mr. Snyder said that, up to this point, the City Council has not participated in drafting the document currently before the Board for consideration. The document was created by the staff and City Attorney to identify policy concerns that have come up over the years. However, the Board and the City Council are ultimately responsible for directing policy.

Mr. Snyder suggested that staff work with the City Attorney to clean up the document based on the comments provided by the Board. Once a new draft has been created, the Board could meet with the Historic Preservation Commission to discuss whether the provisions would be better or more applicable to certain areas of the City than others. Board Member Reed asked if the meeting with the Historic Preservation Commission should take place before the public hearing. Mr. Snyder answered that would be up to the Board. However, he suggested it is usually better to provide concrete language for the public to comment on. Hearing policy input from the Planning Board and Historic Preservation Commission would allow the staff to do a better job of drafting language. Mr. Bowman suggested the draft document be presented to the Historic Preservation Commission soon so that their comments could be incorporated into a new draft for the public hearing.

Board Member Young said that rather than just asking the Historic Preservation Commission to propose changes to the draft language, he would be more interested in learning what their specific issues and concerns are. They must identify the problems before they can come up with appropriate solutions. Mr. Bowman said the draft document was presented to the Board to illustrate some of the issues staff is struggling with and to solicit feedback from the Board. He suggested the same document could be presented to the Historical Preservation Commission, and their comments and concerns could be incorporated into the next draft prior to the public hearing. The Historic Preservation Commission could also send a representative to the hearing to state their views. Mr. Snyder pointed out that many of the changes the Board has discussed represent ways to preserve buildings long enough to become historic. He said that when drafting the document, he tried to focus on areas in the City that have patina. The goal should be to preserve these areas long enough for them to be historic.

Again, Board Member Young said he would like the Historic Preservation Commission to first identify the issues they would like to resolve by changing the non-conforming regulations. Mr. Snyder explained that, unlike other recent issues that have come before the Board, the City Council did not provide specific direction regarding the non-conforming. However, because of the Board's recent work with the design guidelines, historic reuse, and preservation of the downtown area, staff believes the Board could play a significant role in the rewrite process.

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The Board discussed that age is not the only criteria used to identify structures of historic significance. Mr. Snyder explained that in order to encourage the preservation of truly historic structures, the City must offer incentives to owners who place their properties on the Edmonds Register of Historic Places. Rather than just addressing the preservation of historic structures, most of the staff's comments have been about the reuse of structures in a way that preserves the existing fabric of the community, such as the size of homes, the scale, and the way neighborhoods are put together. He advised that the 1980 code changed a variety of zoning and setback standards by using a cookie-cutter approach. It was assumed that through abatement and very strict non-conforming provisions, things would be get homogenized to look like the conceptual plan. However, because the City is fully built out, the philosophy must be different. They must now consider opportunities for preserving the look, texture and feel of the City as opposed to achieving specific setback requirements.

Chair Guenther said they must also consider opportunities to replace existing uses within residential areas with other uses that are vital to the neighborhood. Mr. Snyder said he lives in the central district of Seattle, where many of the structures were previously used for commercial purposes. Now the commercial uses are coming back to the neighborhood.

The Board took a break at 9:00 p.m. They reconvened at 9:05 p.m.

REVIEW OF PROPOSED ORDINANCE TO AMEND ECDC CHAPTER 20.60 SIGN CODE (FILE NUMBER AMD-2007-2)

Mr. McIntosh thanked Chair Guenther for participating on the selection committee for the 6-Year Parks, Recreation and Open Space Comprehensive Plan. Four consulting firms were interviewed. He advised that staff would provide updates to the Board periodically as the project progresses.

Mr. McIntosh explained that for several years the community has expressed interest in having a third location to publicize community events. He noted that the City used to have five locations, but now they have only two as a result of the new PUD restrictions. Staff has identified a suitable new site for installing poles for pole-mounted community event banners on the Public Works property on the north side of 212th Street. However, installation has been delayed because the current sign code does not address special situations where poles are located on City property.

Mr. McIntosh referred the Board to Page 2 of the proposed ordinance. He advised that, as proposed, the first paragraph of Section 20.60.005 would be added to address community event banners. He explained that the City's current policy for street banners is about 25 years old, so updates would likely be necessary to match the proposed amendment.

Board Member Works questioned why "cloth, fabric and canvas" must all be used to describe the types of materials that could be utilized for the banners. Mr. McIntosh said the intent was to include all of the different types of materials that could be used. He agreed that cloth, fabric and canvas are synonymous. He noted that most of the current banners are plastic, with cloth for reinforcement.

Mr. McIntosh noted that the proposed sign code amendment requires a public hearing before the Board and a recommendation to the City Council. He requested the Board conduct the public hearing on February 14th, and the Board agreed.

CONTINUED DELIBERATIONS ON CODE UPDATES REQUIRED TO INTEGRATE GUIDELINES AND REVISED DESIGN REVIEW PROCESS INTO THE DEVELOPMENT CODE (FROM PUBLIC HEARING HELD ON DECEMBER 13, 2006)

Mr. Chave referred the Board to the documentation that was attached to memorandums from staff dated January 10th and January 24th. He reminded the Board that when they previously held a public hearing and discussed this issue on December 13th, they agreed to have further discussion on the suggestions made by ADB Board Member Utt regarding monotonous buildings. They also agreed to consider applicant submission requirements that could be incorporated into the code.

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Councilmember Wilson inquired about the impact on the City's fiber optics. Mr. Snyder answered the rules that were established would apply to all franchises because a level playing field was required.

For Councilmember Wilson, Mr. Snyder assured the Council would approve a franchise agreement for Edmonds and would be the ultimate arbiter of the terms. The intent of negotiating together was to have greater leverage with the cable company. Because Verizon would have hundreds of franchises in Washington and thousands nationally, there was an advantage for them to have consistent requirements. He hoped their desire for consistency could be leveraged to get a better economic deal, better technical requirements or better customer service standards for citizens.

Councilmember Wilson referred to options in Mr. Snyder's memo which included the City entering into an informal process with Verizon. Mr. Snyder commented detail regarding negotiating strategies should be conducted in Executive Session. The conundrum was the City had a 15-year old cable franchise; Verizon was guaranteed a level playing field by federal law. Therefore the City's competitive franchise for Verizon by itself could be no better than what Comcast was providing. However, much had changed in 15 years and the City would like to develop a better franchise template. An ordinance adopted last year provided that any competitive franchise ordinance would have the same length as the longest franchise the City let; therefore, Verizon's franchise would expire at the same time as Comcast. Verizon would rather have a longer franchise and via an informal process they should be willing to provide more to the City than would otherwise be available. The difficulty was the City was setting the bar for Comcast in the upcoming renegotiation process. He hoped the consortium and an informal process with Verizon could be used to draw Comcast into the discussion and negotiate their franchise renewal at the same time. He anticipated having a draft Interlocal Agreement available for Council consideration in 1-2 weeks.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO DIRECT THE CITY ATTORNEY TO CONTINUE WITH THE SCHEDULE HE IDENTIFIED. MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson declared a brief recess.

Work Session
on Code
Rewrite

8. WORK SESSION ON THE UPCOMING CODE REWRITE

Development Services Director Duane Bowman explained the Planning Board made two specific recommendations to the Council with regard to issues related to nuisance regulations and non-conforming regulations. The Planning Board will hold a public hearing tomorrow night on potential amendments to Chapter 20 regarding processing and procedures. He advised tonight's work session was an opportunity to present information regarding the Planning Board's two recommendations, identify the Chapter 20 issues that will be addressed in the Planning Board's public hearing and allow the Council to ask questions and express comments/concerns.

Councilmember Wilson asked whether the Council could attend tomorrow's Planning Board meeting. Mr. Bowman answered yes, advising the code rewrite was legislative and there were no other quasi judicial matters on the Planning Board's agenda.

Mr. Bowman identified the key revisions to the Nonconforming Regulations in Chapter 17.40:

- Change the damage percentage from 50% to 75% - under current regulations, if a building is damaged more than 50%, it must be brought into compliance.
- Exceptions to the 75% rule - if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner's agent or the building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent.

- Historic Buildings/Structures - addition of clarifying language and reference to the Edmonds Register of Historic Places.
- New section regarding residential buildings in commercial zones - existing non-conforming buildings in commercial zones in use solely for residential purposes or structures attendant to such residential use may be remodeled or reconstructed without regard to the limitations of ECDC 17.40.2020(B), (E) and (F) but only if several conditions listed in the ordinance are met.

City Attorney Scott Snyder recalled one of the lessons learned from the past 4-5 years of discussions regarding the downtown area was Edmonds citizens liked the existing downtown. However, the City's non-conforming use provisions are very restrictive and are designed to abate or eliminate buildings that are significantly damaged. Staff's goal was to preserve existing features that citizens liked and lighten provisions that require abatement and conformance with current zoning standards. Mr. Bowman noted this was the most difficult section of the code, particularly when owners are interested in adaptive reuse of buildings. If the Council believed in rehabilitation/reuse of buildings, the code should encourage that.

Councilmember Wilson recalled the Planning Board minutes cited a recommendation from the Historic Preservation Commission to expand what was considered historical to over 40-years old, and asked if the language regarding being listed in a city-approved historical survey was in response to that recommendation. Mr. Bowman stated the language regarding a building or structure that was listed in a city-approved historical survey meeting the standards of the State Department of Archeology and Historic Preservation was intended to encourage reuse of historic structures. The building must comply with the life safety standards of the building code. Mr. Snyder noted the intent of that language was to broaden the category of buildings to those that may not be registered but were contained on the City's inventory.

Planning Manager Rob Chave acknowledged the Planning Board discussed 40-year old buildings in broad terms and ultimately agreed to expand the language to include buildings not only on a formal register but that were identified on the survey recognizing its historic value. Councilmember Wilson observed the survey seemed vague. Mr. Chave advised a survey was conducted and was reviewed by the Council but not formally approved; the City may want to establish a more formal approval process. Mr. Snyder advised that could be included in the Comprehensive Plan.

Councilmember Wambolt inquired whether Old Milltown was classified as a conforming building. Mr. Bowman answered because of the zone district, Old Milltown had zero setbacks. Councilmember Wambolt asked how the code could be revised to prevent what was happening to Old Milltown. Mr. Snyder answered that type of process would actually be encouraged and may be necessary to meet modern health safety requirements. It would be difficult to provide fire walls, sprinkler systems, etc. in a building such as Old Milltown without removing the floors. Historic buildings could be reconstructed but must be brought up to modern health safety standards. The intent was to provide alternatives to demolition. Without an historic district or prohibitions on demolition it was often an economic decision by the property owner. He noted there were a number of historic homes nearby on very valuable property that existed by the grace of the owners. Without a mandate, the intent was to provide economic incentive to preserve historic structures. Mr. Bowman commented the restoration of Old Milltown was a choice pursued by the owner.

Council President Plunkett referred to the exception to the 75% damage percentage - if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner's agent or the building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent. He commented that he could understand the requirement for gross negligence but questioned whether it was too stringent for simple, ongoing neglect. Mr. Snyder referred to the Meadowdale Marina as an example, a structure that had been neglected for years and was an attractive nuisance/danger but if allowed to be rebuilt as condominiums could be very valuable. Mayor Haakenson emphasized there were

no plans to construct condominiums on the Meadowdale Marina. Mr. Snyder clarified he was using that structure as an example; if it were grandfathered and allowed to be reconstructed as part of another structure, there were many valuable development options. He cautioned Council regarding the law of unintended consequences, noting there were many examples of structures Council would like to have preserved but opening a loophole could allow preservation of structures the Council may not want preserved.

Council President Plunkett questioned the definition of neglect, envisioning a building could be neglected but would not be grossly neglected. Mr. Snyder commented the Council may want to have input from the Building Official regarding a damage percentage. Council President Plunkett summarized his concern was the definition of neglect. Mr. Bowman acknowledged it was difficult to draw the line at a certain percentage. He anticipated there would be testimony regarding this issue at the Council public hearing.

Mr. Bowman assured condominiums, restaurants, retail, etc. could not be constructed on the Meadowdale Marina as the retail uses on that site ceased to exist and have not existed for a long time.

Council President Plunkett suggested 90 or 100% versus 75%. Mr. Snyder explained non-conforming use provisions were intended over time to bring structures into compliance with the code. There may be structures the Council would like to have preserved but others that if damaged 75% they would prefer be replaced. He noted 100% did not provide a tool for long term compliance with the zoning code. Council President Plunkett suggested allowing structures damaged 100% in the BD1 zone or eligible for historic registry to be allowed to be reconstructed. Mr. Snyder advised that was a policy issue for the Council.

Council President Plunkett asked whether the Planning Board discussed 100% for the BD1 zone or on the list of historic structures. Mr. Bowman advised structures on the historic list were identified by the language, pointing out language in this section, shall prevent the full restoration and reconstruction of a building or structure which is either on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, the Edmonds Register of Historic Places or is listed in a city approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. The Planning Board wanted to recognize that buildings were valuable and property owners may want to retain the existing buildings and that was why they increased the percentage from 50 to 75. He noted the Planning Board acknowledged if a building was totally destroyed, it should be rebuilt in compliance with the code.

Council President Plunkett asked whether the paragraphs on Maintenance and Alternation, Relocation, and Restoration applied to historic structures. Mr. Bowman answered no.

Council President Plunkett referred to the section regarding residential buildings in commercial zones and asked whether that applied to single family and multi family. Mr. Bowman answered it was directed toward single family structures in B districts in the downtown area but could be expanded to include multi family. Council President Plunkett was interested in as much flexibility in the BD1 zone as possible including for multi family buildings. Mr. Bowman advised he would relay the issues raised by the Council at the Planning Board public hearing. Mr. Snyder suggested giving consideration to how many of the multi family structures in commercial zones were non-conforming. Council President Plunkett summarized his interest was ensuring older structures remained economically viable including being allowed to expand slightly. Mr. Bowman commented the policy decision for the Council was whether to encourage adaptive reuse of buildings and if so, what type of improvements should be allowed. Mr. Snyder commented it may be appropriate to establish different regulations for certain zones.

With regard to buildings damaged/destroyed due to neglect or gross negligence, Councilmember Wilson could envision an old building that burned to the ground due to old wiring that would not have been

perceived to have been neglected. Mr. Bowman answered it would be nearly impossible to pursue a building owner for neglect in that instance when there was no obvious signs of neglect. The intent of the language was a property owner who allowed a building to visibly deteriorate to the point it was beyond repair. Councilmember Wilson commented not updating 60-year old wiring could be viewed as neglect.

Mr. Bowman explained the intent was to provide a property owner with an historic structure on the list the ability to fully restore the structure if they desired. It may also be an incentive for some property owners to be included on the list. Mr. Chave advised the list was the result of a survey that used established standards and anticipated there would always be a very small number of properties on the survey as it required compliance with state and national standards. For example the survey that was done of downtown identified 82 buildings in the entire downtown bowl area. He noted a larger issue was 75% versus 100%. Mr. Bowman commented the percentage policy was related to whether the Council wanted buildings brought into compliance; if the answer was yes, there should be fairly strict requirements. If the City wanted to be more liberal, it should adopt a higher percentage which may result in allowing virtually everything to be rebuilt.

Councilmember Dawson observed these issues would be presented to the Council at the public hearing.

Mr. Bowman referred to the nuisance regulations, noting the original intent was to remove all nuisance regulations from the code and place them in Title 17 of the zoning code. The City Attorney's office pointed out nuisance regulations should be part of the City's police powers which are contained in the Municipal Code. Therefore performance standards would be included in Chapter 17.60 of the zoning code and nuisance regulations would be in the Municipal Code. He noted further changes needed to be made to Chapter 17.60 and another public hearing held by the Planning Board.

He identified the key revisions to the Nuisance Regulations Chapter 6 of the Edmonds Municipal Code (EMC):

- Clarifying the role of the Health Officer - under the current ordinance the Snohomish County Health Office addressed nuisances which was actually not the case. The Development Services Director was responsible for code enforcement
- Eliminating obsolete regulations
- Linking nuisance enforcement to the civil remedy process
- Expanding the types of nuisances
- Clarifying enforcement procedures
- Establishing a separate junk vehicle proceedings consistent with State law

Mr. Bowman observed Mr. Hertrich's comment that a paved road to a woodpile was incorrect, noting he may be referring to performance standards in Chapter 17.60. He referred to a list of nuisances in Section 6.20.040, noting the list represented issues frequently encountered by the code enforcement officer. The current language in Chapter 6 was very broad with regard to what constituted a nuisance. He referred to Section 6.20.045, protective coverings, that stated a nuisance covered by a tarp did not eliminate the nuisance. Mr. Snyder commented the list of nuisances represented the things people complain about; the question was whether these were the things the Council wanted staff involved in.

Mr. Bowman pointed out another advantage of having nuisances in the Municipal Code was the Council could change them without a public hearing although he acknowledged the Council rarely did that. Mr. Snyder clarified having nuisances in the Municipal Code avoided the requirement for Planning Board review and public hearing before a recommendation was forwarded to the Council.

Council President Plunkett read from unidentified materials, "in the case of open storage of lumber, coal or other combustible material, a roadway shall be provided, graded, surface maintained from the street to the rear storage...fire trucks." Mr. Bowman answered that was not in this section of the code, commenting it was likely an old version of Chapter 17.60. Council President Plunkett acknowledged it was a draft dated October 3, 2007. Mr. Bowman advised that was not part of the Chapter 6 recommendations from the Planning Board.

Council President Plunkett asked why a tarp could not be used to cover a nuisance and whether a person had a right to store something on their property as long as it was covered. Mr. Snyder anticipated public comment would determine whether that was appropriate. He noted many citizens would not appreciate a neighbor covering piles of debris with tarps.

Council President Plunkett asked about boats and RV storage. Mr. Bowman answered that issue was covered in Chapter 17.60 and would remain in the zoning code. He acknowledged an earlier version merged issues and the City Attorney recommended zoning code issues be separated from nuisance issues. Council President Plunkett asked why boats and RVs were not considered a nuisance. Mr. Snyder explained a public nuisance referred to items that were a danger to the public versus use of property which was a zoning issue.

Councilmember Orvis observed nuisances were enforced on a complaint basis. He asked how long a person receiving a complaint had to bring the issue into compliance. Mr. Bowman answered the code enforcement officer made an initial contact and worked with the property owner to establish a reasonable compliance schedule. Only after a property owner did not comply with the compliance schedule was the more formal process begun. Mr. Snyder commented there was also a process to request a hearing.

Councilmember Wilson pointed out Section 6.20.020(C) should refer to the Development Services Director rather than the Community Services Director.

Mr. Bowman advised the Planning Board would be conducting a public hearing on February 26 to consider possible amendments to Chapter 20 with regard to permit process and procedures. Key issues under review include the following:

- Establish new tables identify categories of permit types and processing procedures for each,
- Create new posting and mailing procedures requiring permit applicants to assume the responsibility for providing notice for permit applications,
- Remove the City Council from most quasi-judicial land use decisions or, in the alternative, require only written closed record reviews,
- Create language for development agreements,
- Clarify procedures for reconsideration requests,
- Clarify how the State Environmental Policy Act (SEPA) integrates into the land use process, including planned actions, and
- Provide for regulations allowing staff determinations that an application has lapsed due to lack of response for additional information.

Mr. Bowman advised following their public hearing, the Planning Board would forward a recommendation to the Council and the Council would hold another public hearing.

Council President Plunkett commented he was not overly enthused about the proposal to remove the Council from most quasi judicial land use decision or requiring only written closed record reviews.

Councilmember Orvis observed the issue of removing the Council from quasi judicial land use decisions was controversial and he did not want that issue to delay adoption of other revisions.

9. **COUNCIL REPORTS ON OUTSIDE COMMITTEE AND BOARD MEETINGS.**

Lodging Tax
Advisory
Committee

Council President Plunkett reported the Lodging Tax Advisory Committee, who distributes funds collected via lodging taxes, reviewed their budget. The Committee distributed funds in 2007 to advertise Edmonds in a brochure in the Korean Times in Seattle, Snohomish Visitors Guide, Greater Seattle Information Guide, Washington Visitors Guide and Sunset Magazine. Funds were also used to advertise Bird Fest and \$20,000 was distributed to the Arts Commission for allocation.

Community
Outreach
Committee

Council President Plunkett reported Carl Nelson, the City's Information Manager, made a presentation to the Outreach Committee regarding a radio frequency station for ferry users, advising the cost would be approximately \$20,000 for hardware plus ongoing maintenance and management. The Outreach Committee agreed not to pursue the radio frequency. The Outreach Committee was also opened for new members and received five applications.

SeaShore
Transportation
Forum

Councilmember Olson reported the SeaShore Transportation Forum was rescheduling its meetings to the third Friday so that King County Councilmember Ferguson could attend. Sound Transit reported they were considering a fall 2008 or 2010 ballot measure that would be smaller, less costly and have less light rail, likely only light rail to Northgate and more buses, bus rapid transit lanes and Park & Rides in Snohomish County. She relayed Councilmember Dawson's suggestion to have Sound Transit make a presentation to the Council.

Sound Transit

Port of
Edmonds
Commission

Councilmember Wambolt reported on the February 11 and 25 Port of Edmonds Commission meetings, advising the Port experienced \$125,000 in damage from the December storm; their insurance has a \$100,000 deductible but FEMA will cover \$75,000. Attendance at the Seattle Boat Show, the largest boat show on the west coast, dropped from 77,000 in 2006 to 62,000 in 2007. The Port passed a drug free workplace policy and a policy preventing workplace violence. They reviewed their 2007 financial results; their 2007 net income was \$401,000. The yacht club completed plans for a new building; they expect to have the plans submitted to the City in May and occupy the new building in December 2009.

Health District
Board

Councilmember Orvis reported the Snohomish County Health District Board allocated State funds to the communicable disease program, primarily for vaccinations and additional personnel. He stated vaccinations were the best way to control communicable diseases. The Board also approved a policy to increase the pay rate for Health District employees fluent in a foreign language, recognizing that the ability to communicate with the people the District serves was very important and the inability to communicate raised potential liability issues. He concluded it would also assist the District in controlling translators' costs.

Disability
Board

Councilmember Orvis reported on the Disability Board, noting their financial situation was unchanged. He referred to HB 3292 regarding recording of Executive Sessions, noting the Disability Board recorded its meetings on a small recording device. Although it appeared the Legislature would not act on HB 3292, he suggested the use of a small recording device to record the Council's Executive Sessions.

SnoCom Board

Councilmember Dawson reported after serving as the Chair of the SnoCom Board for the past three years, she decided not to seek the chairmanship this year. She was hopeful Lynnwood Councilmember Ruth Ross who has served as Vice Chair would be elected Chair, noting Mountlake Terrace Councilmember Jerry Smith had expressed interest in serving as Vice Chair. She planned to continue to be actively involved on the Board particularly with regard to the purchase of the CAD system.

Public Hearing on proposed amendments to ECC Title 6 regarding property nuisances.

Edmonds City Council Meeting

Date: 06/03/2008
Submitted By: Duane Bowman **Time:** 30 Minutes
Department: Development Services **Type:**
Review Committee:
Action:

Information

Subject Title

Public Hearing on proposed amendments to ECC Title 6 regarding property nuisances.

Recommendation from Mayor and Staff

Continue the public hearing to July 15, 2008 to allow the public to review the draft ordinance in more detail.

Previous Council Action

On February 26, 2008, the City Council held a work session on the code rewrite update. A briefing regarding the nuisance regulations occurred at that meeting. A copy of the minutes from that meeting is attached as Exhibit 3.

Narrative

The Planning Board initially began work on the performance standards found in Edmonds Community Development Code (ECDC) Chapter 17.60. Staff was proposing to add additional nuisance regulations when the City Attorney advised that nuisance regulations really did not belong in the zoning code. Staff and the City attorney reviewed Edmonds Municipal Code (EMC) Chapter 6 which included the city's nuisance regulations and discovered a number of outdated code sections. The Planning board concurred that nuisance regulations should not be in the zoning code.

The proposed ordinance (Exhibit 1) cleans up outdated sections of the code and adds new nuisance regulations. A key changes is the expanded list of nuisances found in EMC6.20.040. The purpose for these changes is to allow the code enforcement officer clear regulations to help resolve the types of complaints that are submitted to the city.

Because these regulations potentially affect private property, staff was requested by the Council President to allow the public additional time to review the proposed ordinance. Accordingly, the public hearing should be opened, allow public testimony and then the hearing should be continued to July 15, 2008.

Fiscal Impact

Attachments

Link: [Exhibit 1 - Draft Nuisance Ordinance](#)

Link: [Exhibit 2 - Planning Board Minute Extracts](#)

Link: [Exhibit 3 - City Council Minute Extract 2-26-08](#)

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 10:13 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 11:11 AM	APRV
3	Final Approval	Linda Hynd	05/29/2008 11:52 AM	APRV

Form Started By: Duane
Bowman

Started On: 05/28/2008 10:30
AM

Final Approval Date: 05/29/2008

0006.900000
JZL/
12/05/07

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 6.10 ECC, CHAPTER 6.20 ECC, CHAPTER 6.30 ECC AND CHAPTER 20.110 ECDC; AMENDING THE CITY'S REGULATIONS GOVERNING PUBLIC NUISANCE ABATEMENT; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City currently addresses public nuisance abatement through various regulations codified throughout the Edmonds City Code and the Edmonds Community Development Code; and

WHEREAS, the City desires to update, overhaul and streamline its public nuisance regulations; and

WHEREAS, the amendments effected by this ordinance will serve the public interest by establishing a clear, uniform and efficient set of standards and procedures for designating and abating public nuisances; NOW, THEREFORE,

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

Section 1. Findings. The City Council hereby adopts the above recitals as findings in support of the code amendments effected by this ordinance. The Council further makes the following additional findings:

A. The code amendments contained in this ordinance are consistent with and will implement applicable policies of the Edmonds Comprehensive Plan.

B. The code amendments contained in this ordinance satisfy all applicable criteria for adoption.

C. The substantive provisions of this ordinance have been processed by the City in material compliance with all applicable procedures, including but not limited to public notice and the opportunity for public comment.

D. All applicable SEPA requirements have been satisfied with respect to the adoption of this ordinance.

E. The code amendments contained in this ordinance will protect, promote and benefit the public health, safety and welfare.

Section 2. Amendment of ECC 6.10.020. Section 6.10.020 of the Edmonds City Code is hereby amended to provide in its entirety as follows:

6.10.020 General duties.

The health officer of the City of Edmonds shall look after and superintend all matters pertaining to the health of the city.

Section 3. Repealer — ECC 6.10.030. Section 6.10.030 of the Edmonds City Code is hereby repealed in its entirety.

Section 4. Repeal and Reenactment — Chapter 6.20 ECC. Chapter 6.20 of the Edmonds City Code is hereby repealed in its entirety and reenacted as provided in Exhibit A, attached hereto and incorporated herein by this reference as if set forth in full.

Section 5. Amendment of ECC 6.30.040. Section 6.30.040 of the Edmonds City Code is hereby amended to provide in its entirety as follows:

6.30.040 Refusal or failure to abate; penalties.

If the owner, lessee, occupant, agent or other person in charge of property on which noxious weeds, thistles or nettles exist fails or refuses to destroy the same within the time set forth in the notice, said person shall be subject to the penalties and remedies for public nuisances set forth in Chapter 6.20 ECC.

Section 6. Repealer — ECC 6.30.050. Section 6.30.050 of the Edmonds City Code is hereby repealed in its entirety.

Section 7. Amendment of ECDC 20.110.010. Section 20.110.010 of the Edmonds Community Development Code is hereby amended to provide in its entirety as follows:

20.110.010 Purpose.

The purpose of this chapter is to establish an efficient system of enforcing the Edmonds Community Development Code and such other city regulations as may adopt the procedures set forth herein by reference; to provide an opportunity for a prompt hearing and decision regarding alleged violations; to establish monetary penalties; and to provide for abatement of uncorrected violations. This chapter shall coordinate with Chapter 6.20 ECC, Chapter 8.50 ECC and such other code provisions as may expressly or by implication utilize the enforcement procedures set forth herein.

Section 8. Amendment of ECDC 20.110.020. Section 20.110.020 of the Edmonds Community Development Code is hereby amended to provide in its entirety as follows:

20.110.020 Definition section.

A. “City” means the city of Edmonds, Washington.

B. “Civil violation” means a violation of a provision of the Edmonds Community Development Code for which a monetary penalty may be imposed under this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation.

C. “Person” means any natural person, any corporation, or any unincorporated association or partnership.

Section 9. Repealer — ECDC 20.110.030. Section 20.110.030 of the Edmonds Community Development Code is hereby repealed in its entirety.

Section 10. Repealer — ECDC 20.110.050. Section 20.110.050 of the Edmonds Community Development Code is hereby repealed in its entirety.

Section 11. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 12. 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 GARY HAAKENSON

ATTEST/AUTHENTICATED:

CITY CLERK, SANDRA S. CHASE

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
CITY ATTORNEY, SCOTT SNYDER

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 _____, 2008, 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 CHAPTER 6.10 ECC, CHAPTER 6.20 ECC, CHAPTER 6.30 ECC AND CHAPTER 20.110 ECDC; AMENDING THE CITY'S REGULATIONS GOVERNING PUBLIC NUISANCE ABATEMENT; PROVIDING FOR SEVERABILITY; AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

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

DATED this ____ day of _____, 2008.

CITY CLERK, SANDRA S. CHASE

Exhibit A

Chapter 6.20

PUBLIC NUISANCES

Sections:

- 6.20.010 Purpose.
- 6.20.020 Definitions.
- 6.20.030 Public nuisances prohibited.
- 6.20.040 Types of nuisances.
- 6.20.045 Protective coverings.
- 6.20.050 Enforcement and abatement.
- 6.20.060 Separate abatement proceedings for junk vehicles.

6.20.010 Purpose.

The purpose of this chapter is to protect and serve the public health, safety and welfare by deterring and preventing conditions which constitute a public nuisances, and providing for the prompt, efficient and permanent abatement of public nuisances. It is also the purpose of this chapter to ensure that the persons responsible for creating, maintaining and/or allowing such nuisances bear the costs of any necessary enforcement and abatement action to fullest extent legally permissible. The provisions of this chapter shall be reasonably construed in furtherance of these purposes.

6.20.020 Definitions.

The following definitions shall apply for purposes of this chapter:

- A. “Antique vehicle” means a vehicle that is at least 40 years old and as qualified pursuant to WAC 308-96A-073.
- B. “Driveway” means an improved surface per City engineering standards designed and used for accessing a parking area and/or for vehicle parking.
- C. “Emergency” means a situation in which the community services director reasonably determines that immediate abatement or other action is necessary in order to prevent, reduce or eliminate an immediate threat to health, safety or property.
- D. “Front yard” means a space on the same lot as a principal building, extending the full width of the lot, and situated between the street right-of-way and the front line of the building projected to the side lines of the lot. In the case of a double frontage lot, both spaces with street frontage shall be considered front yards.
- E. “Junk vehicle” means a vehicle meeting any three of the following criteria:

1. Is three years old or older;
2. Is extensively damaged, including but not limited to any of the following conditions: a broken or missing windshield or missing wheels, tires, motor or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

F. "Inoperable" with respect to a vehicle means that the vehicle is incapable of being legally operated on a public roadway due to the condition of the vehicle or the status of the ownership, registration, or license of the vehicle.

G. "Junk" means discarded, broken or disabled material including but not limited to household items, house or lawn furniture, appliances, toys, construction items, hot tubs, trampolines, vehicle parts, or other items that are not neatly stored or in a functioning condition.

H. "Litter" means discarded waste materials, including but not limited to paper, wrappings, packaging material and discarded or used containers.

I. "Motor vehicle" means a vehicle that is self-propelled but not operated upon rails, and includes neighborhood electric vehicles as defined in RCW 46.04.357. An electric personal assistive mobility device is not considered a motor vehicle. A power wheelchair is not considered a motor vehicle.

J. "Operable" with respect to a vehicle means that the vehicle is a licensed motorized or non-motorized vehicle which in its current condition is legally and physically capable of being operated on a public roadway.

H. "Rear yard" means a space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

I. "Salvage" means an item that would otherwise be destroyed, rejected or discarded but is or may be recycled or put to further use.

J. "Side yard" means a space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

K. "Stagnant" means water or liquid that has become foul, stale or impure through lack of agitation, flow or movement.

L. "Trash" means waste food products and other household garbage.

M. "Vehicle" means any motorized or non-motorized conveyance that includes, but is not limited to, an automobile, recreational vehicle, truck, any type of trailer, van, motorcycle,

watercraft, farm equipment, construction equipment and antique vehicles (i.e., cars, trucks, vans, motorcycles, carriages, or motorized buggies).

6.20.030 Public nuisances prohibited.

It is a violation of this chapter for any person to permit, create, maintain, or allow upon any premises any of the actions or conditions declared in ECC 6.20.040 to be a public nuisance except to the extent expressly authorized by law.

6.20.040 Types of nuisances.

The actions and conditions enumerated as public nuisances pursuant to Chapter 7.48 RCW are hereby designated as public nuisances for purposes of this chapter. Each of the following actions and conditions, unless otherwise permitted by law, is additionally declared to constitute a public nuisance:

A. Any junk, trash, litter, boxes, salvage materials or lumber not neatly stacked in any front yard, side yard, rear yard or vacant lot.

B. Any attractive nuisances dangerous to children, including but not limited to the following items when located outside of a fully enclosed building:

1. Abandoned, broken or neglected equipment;
2. Rusted, jagged, sharp or otherwise potentially dangerous machinery;
3. Household or commercial appliances, including but not limited to refrigerators, freezers, washers, dryers, dishwashers, ovens, hot water tanks or toilets;
4. Unpermitted excavations; and/or
5. Unprotected or open wells or shafts.

C. Any broken, soiled or discarded furniture, household equipment or furnishings.

D. Any graffiti on the exterior of any building, fence or other structure in any front yard, side yard, rear yard or on any object in a vacant lot.

E. Any vehicle parts or other articles of personal property which are stored, discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard or vacant lot.

F. Any hazardous trees, or any other vegetation which is dangerous to the general public health, safety and welfare, located in any front yard, side yard, rear yard, or vacant lot.

G. Any structure or other constructed object not governed by the International Building Code that is decayed, damaged, or in disrepair and poses a substantial threat of collapse, structural failure or falling.

H. Any accumulation, stack or pile of building, landscaping or construction materials which are exposed to the elements or are in disarray and which are not directly associated with a project on the premises for which a current building permit has been obtained; or, with respect to

a project which does not require a permit, that is in progress or which is scheduled to begin within ten (10) business days. Construction materials include but are not limited to metal, wood, wire, drywall, electrical components, and any supplies, equipment or other items utilized for painting, landscaping, logging, roofing, masonry or plumbing.

I. Any stacks or accumulations of newspapers, cardboard, or other paper, cloth, plastic, or rubber left or stored in a manner which poses a substantial risk of combustion, a threat of fire, or that may harbor, serve as an attraction for or promote the infestation of mold, insects and/or vermin.

J. Any storage or keeping of any toxic, flammable, or caustic substance or material except in compliance with applicable requirements of state or federal law.

K. Any accumulations of perishable matter, including but not limited to food stuffs, that may harbor or attract the infestation of mold, insects and/or vermin.

L. Any stagnant, pooled water in which mosquitoes, flies or other insects may reproduce.

M. Any garbage stored outdoors that is not kept in a fully contained receptacle with a tight-fitting lid.

N. Any recyclable materials which are stored outside and which are not regularly disposed of on a scheduled disposal cycle not to exceed thirty (30) days.

O. Any compost kept in a manner which attracts infestations of insects or which emits foul odors detectable at or beyond the boundary of the underlying property.

P. Any shopping carts located in any front yard, side yard, rear yard, vacant lot, or rights-of-way, except where such shopping carts are owned and/or utilized for their designated purpose upon the underlying premises.

Q. Any uncultivated berry vines and Class B or Class C Noxious weeds (as classified by the Washington State Noxious Weed Control Board) which exceed an average of three feet in height within five feet of an adjacent property.

R. Any violation of the noxious weed regulations contained in Chapter 6.30 ECC.

S. Any unpermitted obstruction of any street, alley, crossing or sidewalk, and any unpermitted excavation therein or thereunder.

T. Any garbage receptacle, recycling bin or compost container located within the front yard setback unless screened from view.

6.20.045 Protective coverings.

Except as otherwise expressly provided by applicable city ordinance or a valid regulatory permit, any condition enumerated in ECC 6.20.040 shall constitute a public nuisance irrespective of whether such condition is covered in whole or in part by a tarpaulin, vapor barrier, canvas or plastic sheeting, or other temporary covering.

6.20.050 Enforcement and abatement.

A. Responsibility for enforcement. The provisions of this chapter shall be enforced by the community services director or his/her designee.

B. Responsibility for violation. The provisions of this chapter shall be enforceable against any person who causes, permits, creates, maintains or allows upon any premises, any of the actions or conditions designated as public nuisances under ECC 6.20.040, including but not limited to any person or entity owning, leasing, renting, occupying, or possessing the underlying premises.

C. Penalties. Any person violating this chapter shall be subject to civil enforcement proceedings pursuant to Chapter 20.110 ECDC and/or criminal misdemeanor prosecution.

D. Abatement. The City may seek a warrant of abatement from Snohomish County Superior Court authorizing City personnel and/or contractors to enter any premises containing a public nuisance and abate said nuisance at the violator's expense. Prior to obtaining such a warrant, the City shall provide written notice to the responsible party by posting upon the subject premises, mailing and/or personal delivery. Such notice may be combined with a Notice of Civil Violation issued pursuant to Chapter 20.110 ECDC, and shall contain: (1) a description of the public nuisance; (2) a reasonable deadline by which the responsible party must eliminate the public nuisance; (3) a warning that the City may abate the nuisance at the responsible party's expense; and (4) a statement that the notice shall become a final order of the City if not appealed to the hearing examiner within the time period specified in Chapter 20.110 ECDC. All costs incurred by the City in abating a public nuisance, including but not limited to attorneys' fees, staff time and contractor expenses, shall be recovered from the responsible party. Abatement may be exercised concurrently with or alternatively to the imposition of civil and/or criminal penalties pursuant to subsection (C) of this section.

E. Summary Abatement. Notwithstanding any other provision of this chapter, the City may, to the fullest extent legally permissible, summarily abate and/or take any action necessary to eliminate any condition constituting an immediate threat to public health or safety.

6.20.060 Separate abatement proceedings for junk vehicles.

- A. Statutes Adopted by Reference.
1. RCW 46.55.010(2), (3), (4), (6), (7), (8), (9), (10), (11) and (12) only;
 2. RCW 46.55.070, Posting requirements – Exception;
 3. RCW 46.55.090, Storage, return requirements – Personal belongings – Combination endorsement for tow truck drivers – Authority to view impounded vehicle;
 4. RCW 46.55.100, Impound notice – Abandoned vehicle;
 5. RCW 46.55.110, Notice to legal and registered owners;

6. RCW 46.55.120, Redemption of vehicle – Sale of unredeemed vehicles;
7. RCW 46.55.130, Notice requirements public auction accumulation of storage charges;
8. RCW 46.55.140, Operator's lien, deficiency claim, liability; and
9. RCW 46.55.230, Junk vehicles – Certification, notification, removal, sale.

C. Administrative Hearing Officer. All abatement hearings required under this section shall be conducted by the hearing examiner. A decision made by the hearing examiner under this section regarding abatement shall be final as to abatement. Any abatement hearing under this section shall be considered a separate matter from any hearing regarding the underlying violation outlined in the previous sections of this chapter. Provided, however, that the hearing examiner may in his/her discretion combine such hearings if two separate rulings are issued.

D. Abatement and Removal of Unauthorized Junk Motor Vehicles or Parts Thereof from Private Property.

1. The storage or retention of an unauthorized junk motor vehicle or parts thereof, as defined herein, on private property is hereby declared a public nuisance subject to removal and impoundment. The community services director shall inspect and investigate complaints relative to unauthorized junk motor vehicles, or parts thereof on private property. Upon discovery of such nuisance, the community services director shall give notice in writing to the last registered owner of record if identifiable and the property owner, of the violation of the nuisance provisions and demand that both abate the nuisance or the vehicle will be removed and costs will be assessed against them. The notice shall also inform both that a hearing before the hearing examiner may be requested in writing, directed to the city clerk within 10 days of said notice, and that if no hearing is requested within 10 days, the vehicle will be removed at their expense.

2. If a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or parts thereof as a public nuisance shall be mailed, by certified mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that the identification numbers are not available to determine ownership.

3. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with reasons for the denial and that she/he has not given consent for the vehicle to be located there. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that she/he has not subsequently acquiesced in its presence, then the hearing examiner shall not assess costs of administration or removal of the vehicle against the owner of the property upon which the vehicle is located or otherwise order recoupment of such costs from the owner of the property.

4. Costs of removal of vehicles or parts thereof under this section shall be assessed against the last registered owner of the vehicle or automobile hulk if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle or automobile hulk complied with RCW 46.12.101, or the costs may be assessed against the owner

of the property on which the vehicle is stored, unless the property owner establishes the facts set forth subsection 3 of this section.

5. This section shall not apply to:

a. A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

b. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is screened according to RCW 46.80.130.

6. After notice has been given of the city's intent to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or parts thereof shall be removed at the request of the community services director and disposed of to a licensed motor vehicle wrecker or hulk hauler with written notice being provided to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked or otherwise lawfully disposed of.

E. Owner of Record Presumed Liable for Costs when Vehicle Abandoned – Exceptions.

1. The abandonment of any junk vehicle or hulk shall constitute a prima facie presumption that the last owner of record is responsible for such junk vehicle and thus liable for any costs incurred in removing, storing and disposing of said vehicle.

2. A registered owner transferring a vehicle shall be relieved from personal liability under this chapter if within five days of the transfer she/he transmits to the planning division a seller's report of sale on a form prescribed by the planning manager to show that the vehicle had been transferred prior to the date notice was given to him/her of the need to abate.

F. Owner or Agent Required to Pay Charges – Lien.

1. Any costs incurred in the removal and storage of an impounded shall be a lien upon the vehicle. All towing and storage charges on such vehicle impounded shall be paid by the owner or his/her agent if the vehicle is redeemed. In the case of abandoned vehicles, all costs of removal and storage shall be paid by the owner or his/her agent if the vehicle is redeemed, but if not redeemed, such costs shall be received from the proceeds of sale.

2. Either a registered or legal owner may claim an impounded vehicle by payment of all charges that have accrued to the time of reclamation. If the vehicle was impounded at the direction of a law enforcement agency, the person in possession of the vehicle prior to the time of reclamation shall notify such agency of the fact that the vehicle has been claimed, and by whom.

G. Written Impound Authorization Form. Whenever the community services director impounds a vehicle pursuant to the provisions of this chapter, the director shall complete an authorization form approved by the chief of police which specifies the section of this chapter or Chapter 46.55 RCW authorizing the impound. In the alternative, a law enforcement notice of infraction or citation for an offense which authorized the impound may be substituted at the director's discretion.

Approved January 9, 2008

CITY OF EDMONDS PLANNING BOARD MINUTES

December 12, 2007

Chair Guenther called the meeting of the Edmonds Planning Board to order at 7:00 p.m. in the Council Chambers, Public Safety Complex, 259 – 5th Avenue North.

BOARD MEMBERS PRESENT

Cary Guenther, Chair
John Dewhirst, Vice Chair
Janice Freeman
Judith Works
Don Henderson
Michael Bowman

STAFF PRESENT

Rob Chave, Planning Division Manager
Duane Bowman, Development Services Director
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Jim Young (excused)
John Reed (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER HENDERSON MOVED THAT THE BOARD APPROVE THE MINUTES OF NOVEMBER 28, 2007 AS SUBMITTED. BOARD MEMBER FREEMAN SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The Board agreed to switch Item 7a (File Number AMD-07-13) and Item 7b (File Number AMD-07-6). The remainder of the agenda was accepted as presented.

AUDIENCE COMMENTS

There was no one in the audience who expressed a desire to address the Commission during this portion of the meeting.

CODE RE-WRITE PROJECT UPDATE AND TOPICAL DISCUSSION

Mr. Bowman advised that after discussions with the City Attorney, staff determined the best course of action is for him to finish with the amendments to Chapter 20, and then they will go out for a contract for a consultant to help them complete the remainder of the updates. He reported that the City Attorney, Scott Snyder, will be having surgery that would require him to be immobilized for 23 hours a day for the next four to seven weeks. However, he anticipates that after a few weeks, he should be able to resume his work on the code language. In the meantime, Zach Lell, an attorney from Mr. Snyder's Office, would work with the staff.

DISCUSSION REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 17 (NUISANCE)
(FILE NUMBER AMD-07-6)

Mr. Bowman advised that he and Mike Theis, the City's Code Enforcement Officer, met with Mr. Lell to review the work the Planning Board previously completed for amendments to Chapter 17.60. Mr. Lell strongly recommended the nuisance standards be removed from the Edmonds Community Development Code (ECDC) and placed in the Edmonds City Code (ECC) since they are related more to public safety than to land use issues.

Mr. Bowman explained that many of the nuisance items that were originally proposed for ECDC 17.60 were moved to ECC 6. However, those that are related to land use issues would be moved to ECDC 20 as part of the performance standards. He referred the Board to the updated language for ECC 6 and noted that the City Council would most likely hold a public hearing on the proposed amendments since they are substantive. The Planning Board is not required to review the amendments and provide a recommendation to the City Council.

Board Member Henderson referred to ECC 6:30.040, which would require property owners to eliminate noxious weeds and thistles. He pointed out that if the language is approved as written, the City's Parks Department could be required to remove all the noxious weeds and thistles from park property if someone were to complain. He suggested this could utilize a significant amount of the park maintenance budget.

Board Member Works referenced ECC 6.10.020 and asked who the City's health officer is. Mr. Bowman answered that the City contracts with the Snohomish County Health Department for this service. He explained that this section was modified to clearly define who the health officer is. It was also cleaned up so the health officer would no longer be responsible for dealing with nuisances.

Mr. Bowman said the Mr. Lell recommended that standards related to vehicles in residential zones and abatement issues could be addressed in ECDC 17.60. Another option would be to put this information in the zoning code, which could make the zoning code a bit messy. Staff recommends the standards be placed in ECDC 17.60.

Vice Chair Dewhirst referred to Section 17.60.010.B and inquired if the language in this section would also address concerns related to light pollution in the sky. Mr. Bowman noted that the language in this section was taken from the current code, and it would not address the issue of light pollution in the sky. Vice Chair Dewhirst reminded the Board that many people have expressed concern about minimizing light pollution. Chair Guenther recalled that he previously provided information to the Board regarding the topic of dark skies and light pollution. Board Member Freeman suggested this issue should be addressed by the City as they consider opportunities for requiring green and sustainable development.

Mr. Bowman recommended the Commission place this topic on their work list for the future. However, he encouraged them to not postpone the currently proposed language while they work through the issue. Board Member Freeman suggested that even if the City of Edmonds has to lead the way, they should move forward to address the concerns. Chair Guenther agreed with Mr. Bowman that the Board should wrap up their review of ECDC 17.60 with the changes proposed by staff and then consider the light issue at a future time. Mr. Bowman agreed to pass the concern on to the Mayor's Climate Control Committee as a topic of future discussion.

Vice Chair Dewhirst referred to Section 17.60.010.H.1 and noted that a heavy wire fence would not obscure storage materials from view. Mr. Bowman pointed out that this language is from the current code. Vice Chair Dewhirst suggested the language be changed to read, "All storage shall be located more than 20 feet and be screened from the street right-of-way line and shall be enclosed with a . . ."

Next, Vice Chair Dewhirst requested clarification of Section 17.60.040.C. Mr. Bowman explained that if a property owner cannot park a recreation vehicle as per the other standards in the section, then it must be parked off site, except when loading, etc. Vice Chair Dewhirst asked if the term "side or rear yard" actually means within the setbacks or just the side and rear yard. Mr. Bowman clarified that the purpose of this section is to get recreational vehicles out of the setback areas. Vice

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Chair Dewhirst suggested the third sentence be changed to read, "If the recreational vehicle cannot be stored as described in 17.60.040.E.1 or in a side or rear yard setback due to site constraints, the recreational vehicle shall be parked off-site during those extended times when not in use.

Board Member Works referenced Section 17.60.010.A and asked if the City has always allowed noise up to 60 decibels until 11:30 p.m. at night. Mr. Bowman answered that these are adopted standards that are measurable and regulated by the Puget Sound Clean Air Act. Board Member Works suggested these standards be reviewed again when the Board considers clean and sustainable options.

Board Member Freeman referred to Section 17.60.010.G, which states that no waste products shall be exposed to view from eye level from any property line. She suggested this might be difficult to enforce. Mr. Bowman concurred and suggested the last sentence be eliminated.

Board Member Henderson referred to Section 17.60.010.F and asked if this standard is monitored by the Puget Sound Air Quality Board, too. Mr. Bowman explained that if a complaint is filed related to smoke, the City calls in the Puget Sound Air Quality Board to investigate. Board Member Henderson suggested that perhaps the words, "in accordance with standards from the Puget Sound Air Quality Board." Should be added. That way, if the standards are made stricter at some point in the future, the City won't have to revise their code language. Mr. Bowman agreed to work with Mr. Lell to insert this language.

Mr. Bowman referred the Board to Section 17.70, which includes a new section related to temporary storage units. He explained that while temporary storage units can become nuisances to some people, they are valid uses that people need and the City's code must provide for them.

Mr. Bowman explained that the City's current code requires a property owner to obtain a conditional use permit in order to place a temporary structure on site, and the permits are only good for two years. He expressed his belief that the fees to the Hearing Examiner exceed the value of what the property owner is typically trying to do. He said staff believes permits for temporary structures could be handled administratively, and this would allow the costs to be more in scale with what an applicant is trying to do. Staff is proposing a change to Section 17.70 to allow staff to administratively review and approve temporary structure permits. If someone wants to appeal the permit, they could do so to the Hearing Examiner of the City Council. The Board concurred with staff's recommendation.

Mr. Bowman agreed to bring back an updated draft of Section 17.60, incorporating all the changes identified by the Board, prior to scheduling a public hearing.

DISCUSSION REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 20 (PROCEDURES) (FILE NUMBER AMD-07-13)

Mr. Bowman referred the Board to the matrix he and Mr. Chave prepared to outline the City's current list of project permit applications and the review, decision making, and appeal process for each. He invited the Board to review the document and provide feedback and guidance to staff as they prepare to write new code language for ECDC 20.

Mr. Bowman recalled that when the Board discussed ECDC 20 on a previous occasion, the majority appeared to be in favor of moving towards a process where the Hearing Examiner would handle the majority of quasi-judicial applications, with closed record reviews and appeals going straight to Superior Court. He pointed out that there are certain permit applications in which the City Council must make the final decision, but most of the other quasi-judicial permit applications could be handled by the Hearing Examiner. He advised that final plat applications cannot be handled by the Hearing Examiner because the City Council has to accept the dedications and easements associated with the final plat approval. While development agreements could be reviewed by the appropriate body, the final decision must also be made by the City Council.

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Mr. Hertrich referred to the blue circles on the proposed new park map and noted that the map should be changed to make it clear that the old Woodway Elementary School should no longer be considered as a possible site for a regional park because the City Council decided only to retain a large enough area of land to develop a smaller neighborhood park. He considered it ironic that the updated plan identifies a need for a regional park in the southwest portion of Edmonds because the City already passed up their opportunity to acquire sufficient space for this purpose.

Mr. Hertrich reported that he attended a good number of the Waterfront Redevelopment Project meetings that were sponsored by the Port of Edmonds and other private property owners. There has been a lot of public money spent in the process, and the final preferred alternative was a six-story building with approximately 700 condominiums. However, the public in attendance at the final meeting questioned why they would want 700 condominiums and the associated traffic on the waterfront. The public indicated their desire for more open space. He suggested that when the Parks, Recreation and Open Space Comprehensive Plan is revised, it should take into account the concept put forth by the citizens that this area be used as an events park. He said there is sufficient literature available to show that once created, this type of park would draw people to the City and benefit the community more than a 700-unit condominium development. He suggested the Board review the public comments related to the Waterfront Redevelopment Plan.

Chair Guenther invited the Board to review the draft documents and provide comments to Mr. McIntosh by December 21st. This would allow staff sufficient time to incorporate the Board's comments prior to a public hearing in January.

Board Member Reed asked Mr. McIntosh to provide a status report on the Old Mill Town Park. Mr. McIntosh answered that this park is still under negotiations. His part was to get an appraisal to the City Council, which he completed.

EDMONDS COMMUNITY DEVELOPMENT CODE CHAPTER 17 (NUISANCE) (FILE NUMBER AMD-07-6)

Mr. Bowman advised that the City Attorney is now recommending that nuisance standards related to the public's health, safety and welfare would be better placed in Section 6 of the Edmonds Municipal Code (EMC). Those nuisance standards that relate to land use and development could remain in Section 17.60 of the Edmonds Community Development Code (ECDC). The City Attorney has agreed to review the Planning Board discussions and draft new language for both the ECDC and EMC. The new language for ECDC Section 17.60 would be presented to the Board for review on December 12th. The proposed amendments to EMC Section 6 would be forwarded directly to the City Council for review and final approval. He noted that no public hearing is required for changes to the EMC, and the Planning Board would not be involved in the process. However, the City Council usually holds public hearings when considering major policy changes.

Vice Chair Dewhirst inquired if the two draft documents would be forwarded to the City Council together. Mr. Bowman answered that they would be presented to the City Council at the same time, along with minutes of the Planning Board's discussion related to the topic.

Mr. Bowman advised that if the nuisance standards are adopted as part of EMC Section 6, the City Council would be able to quickly address proposed amendments as problems present themselves. If they are adopted as part of the ECDC, the amendments would be subject to GMA requirements and a public hearing process would be necessary.

Board Member Reed noted that the Board did not take action after the public hearing on October 10th regarding the proposed changes to ECDC 17.60. He suggested they be prepared to do so on December 12th, when the new draft language is presented to them for review.

CODE RE-WRITE PROJECT UPDATE AND TOPICAL INFORMATION

Mr. Bowman reported that the City Attorney would provide an updated draft of Title 20 (Procedures) for the Board to consider on December 12th.

Mr. Bowman referred the Board to ECDC Section 17.40 (nonconforming) and advised that staff worked with the City Attorney to incorporate the changes recommended by the Board at their last meeting. He invited the Board Members to review the document and identify any additional changes before forwarding a recommendation to the City Council.

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**CITY OF EDMONDS
PLANNING BOARD MINUTES
October 10, 2007**

Chair Guenther called the regular meeting of the Planning Board to order at 7:03 p.m. in the Council Chambers, Public Safety Complex, 250 – 5th Avenue North.

BOARD MEMBERS PRESENT

Cary Guenther, Chair
John Dewhirst, Vice Chair
Janice Freeman
Jim Young
Don Henderson
Judith Works
John Reed

STAFF PRESENT

Duane Bowman, Development Services Director
Mike Thies, Code Enforcement Officer
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Michael Bowman (excused)

READING/APPROVAL OF MINUTES

BOARD MEMBER YOUNG MOVED THAT THE MINUTES OF SEPTEMBER 26, 2007 BE APPROVED AS SUBMITTED. BOARD MEMBER HENDERSON SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY, WITH BOARD MEMBERS DEWHIRST AND REED ABSTAINING.

ANNOUNCEMENT OF AGENDA

No changes were made to the agenda.

AUDIENCE COMMENTS

There was no one in the audience who expressed a desire to address the Board during this portion of the meeting.

PUBLIC HEARING REGARDING EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC) CHAPTER 17 (NUISANCE) (FILE NUMBER AMD-07-6)

Mr. Bowman recalled that on April 25, 2007 the Planning Board reviewed a draft of potential changes to Chapter 17.50 of the Edmonds Community Development Code (ECDC) regarding property performance standards. He noted that the proposed amendments were driven by the types of complaints the City's Code Enforcement Officer has receive over the past several years. He advised that the draft ordinance was updated to reflect the comments provided by the Board on April 25th. The following changes were made:

- Section 17.60.030.B was modified to prohibit attractive nuisances dangerous to children from be located outside an enclosed building or on a vacant lot.
- Section 17.60.030.H was modified to allow up to 10 days to begin a construction project.

- In order to consolidate vehicle regulations, provisions related to prohibiting trailers and canopies were moved to a new Section 17.60.040.E.2.n.

Mr. Bowman emphasized that the proposed changes to Chapter 17.60 are representative of the types of complaints the staff gets from the community regarding nuisance situations. The Board must review the proposed document and determine whether or not they are appropriate to move forward to the City Council for final approval. He suggested that when reviewing the proposed code language, the Board members should ask themselves whether or not the nuisances are something they would like to have located near their property. He noted that a number of jurisdictions are working to clear up their nuisance regulations. Mountlake Terrace and Yakima are both actively pursuing more enforceable nuisance codes.

Mr. Thies explained that in the draft document, staff attempted to identify the types of issues they deal with on a regular basis via citizen complaints. He noted that the definition section was updated to provide a clear definition for what is meant by the term “vehicle.” He provided pictures to illustrate examples of the following situations that currently exist in the City:

- Vegetation growing around junk vehicles.
- Over abundance of recreational vehicles parked on a single-property.
- Recreational vehicles that are so large they overpower the neighborhood.
- Recreational vehicles that are covered by blue tarps.
- Too many vehicles parked in front yards or on the street in front.
- Containers and plywood and/or plastic buildings.
- Overgrown and unkempt vegetation in yards.
- Canopies and tarps.
- Outdoor storage units
- People living in recreational vehicles on single-family residential properties.

Mr. Thies advised that the City has received 85 complaints about canopies and tarps that are used to cover vehicles. These situations are usually located in areas where the City would not allow permanent structures, typically within the setback areas.

Mr. Bowman advised that staff attempted to put together suggested code language for property performance standards that address the issues that are raised on a regular basis. He referred to the pictures that were shown by Mr. Thies and suggested the Board consider whether or not they represent situations that are desirable in the City’s residential neighborhoods. The proposed ordinance should represent the community’s desires and not necessarily what staff wants.

CHAIR GUENTHER NOTED THAT NO ONE WAS PRESENT IN THE AUDIENCE TO PARTICIPATE IN THE PUBLIC HEARING.

The Board reviewed draft language and made the following observations and suggestions:

- **Section 17.60.030.F:** Board Member Henderson questioned if the City has a definition for “hazardous trees.” Mr. Bowman answered that this term refers to trees that show obvious signs of distress. Board Member Henderson suggested that including the phrase “any other vegetation” could open up a can of worms. Mr. Thies pointed out that this language already exists in the code and would not really apply to vegetation on public property. It is more related to vegetation that extends into the public rights-of-way. Board Member Henderson suggested the language be made clearer.
- **Storage Containers:** Board Member Henderson said he supports the proposed language related to storage containers. However, he pointed out that property owners can request that large dumpsters be delivered to their home, and they are not charged extra to leave them there for extended periods of time. Mr. Thies said staff has only received two complaints related to this type of situation in the last five years, so he does not see it as a significant problem.
- **Sections 17.60.030.M and 17.60.030.N:** Board Member Henderson pointed out that the proposed language states that garbage and recycling containers cannot be stored in front yards. However, it should be noted that everyone puts these

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containers out in front of their homes on garbage days. He suggested the language be changed to either define the term “stored” or provide a specific exception for garbage days. Mr. Thies said the City has only received six to ten complaints of this type over the past five years; and typically, they are related to situations where property owners do not move their containers after the garbage has been picked up. Mr. Bowman agreed with Board Member Henderson’s concern and said staff would update the language as per his recommendation.

Vice Chair Dewhirst pointed out that Section M would prohibit property owners from storing garbage containers in their front yards. However, in some situations, homes are further back on the property and there is no other place to store the containers except in the front yard against the house. The Board agreed the language should be changed to allow containers to be stored in front yards as long as they are screened from the public’s sight and not within the public rights-of-way.

Board Member Freeman pointed out that some properties have steep slopes that make it difficult to move the garbage containers from the back of a property to the street front. She suggested the language allow staff to take the actual configuration and topography of the lot into consideration when regulating these situations. Mr. Bowman agreed to review the language to consider difficult storage factors

- **Overgrown Vegetation:** Board Member Works expressed concern about allowing vegetation to become significantly overgrown in residential neighborhoods. She noted that invasive plants tend to spread onto neighboring properties. Board Member Reed questioned if there is anything in the proposed language to regulate vegetation on residential properties. Mr. Bowman said there are no significant provisions in the current draft to deal with overgrown vegetation. Board Member Freeman suggested the ordinance should address all noxious weeds and invasive vegetation and not single out certain types. Mr. Thies said overgrown vegetation is a difficult subject to address, but other jurisdictions in the area have attempted to do so. Mr. Bowman agreed to discuss this concept with the City Attorney to identify the City’s options for regulating overgrown vegetation and noxious weeds.

Mr. Thies said the City receives numerous complaints related to vegetation and noxious weeds. Vice Chair Dewhirst questioned if the City’s fire code would address situations that occur within the public rights-of-way and setback areas. Mr. Thies said the fire code would only address these situations if there are drought conditions. Mr. Bowman said the City does have some authority to regulate these situations if they present a danger to the public’s health and safety. He suggested the Board carefully consider what the public wants. He noted that most property owners would be against allowing these situations to occur in their neighborhood because they often result in decreased property values for surrounding property owners.

Board Member Young recalled that a few years ago, the Board agreed the City did not have the right or authority to guarantee a property owner’s view. He suggested there could be repercussions if the City were to regulate noxious weeds, but not other situations that could have a significant impact on property values. He questioned if the City should be responsible for these situations if they do not present health or safety hazards to the public.

Board Member Young agreed that the majority of property owners in the City would be in favor of keeping nuisance situations out of the setback and right-of-way areas. However, instead of creating codes to accomplish this task, the City could address these situations as public health and safety issues. He suggested it would be more appropriate to encourage property owners to work together to resolve issues rather than expecting the City to take care of their problems. Mr. Bowman countered that sometimes a property owner is unwilling to work with neighbors to resolve problems.

Chair Guenther suggested that perhaps vegetation could be regulated by the degree of nuisance. If a situation only impacts an adjacent property owner, the City could require both parties to work the problem out on their own. However, if a situation reaches the point that it impacts the character of the entire neighborhood, the City could get involved. He pointed out that many of the City’s current zoning codes are intended to preserve the character of the neighborhoods.

Board Member Freeman expressed her belief that all property owners have the right to enjoy their properties, and they have a right to expect the City to protect them from situations that impact their ability to enjoy their properties. Board Member Works agreed. She noted that while most property owners are reasonable and problems can be worked out

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through compromise without the City getting involved, some situations involve property owners who are unwilling to work with their neighbors.

Board Member Young questioned the harm of allowing citizens to do whatever they want on their properties as long as it does not present harm to the surrounding property owners. Vice Chair Dewhirst suggested that this decision must be made by the community. He recommended the Board forward the draft language to the City Council. Hopefully, the public would participate in the hearing before the City Council and indicate whether or not they want the City to regulate noxious weeds and/or invasive vegetation. He questioned if there is a definition for the term “noxious weeds.” Chair Guenther answered that the State has a definition for this term.

Vice Chair Dewhirst suggested the City Council would likely find there is public interest in keeping invasive species off of private property. Board Member Henderson pointed out that many noxious weeds are so prevalent in neighborhoods that it is very difficult for property owners to get rid of them. He expressed his belief that it would not be practical to adopt code language that would allow the City to penalize property owners who have these species present on their properties. Vice Chair Dewhirst pointed out that the code enforcement officer would only become involved in these situations if a complaint were filed. Board Member Henderson questioned if it would even be appropriate for the City to regulate noxious weeds if it is impossible to get rid of them. Vice Chair Dewhirst suggested it would be appropriate for the City to start addressing the problem of noxious weeds by prohibiting them in the setbacks and rights-of-way.

- **Section 17.60.040.C:** Board Member Henderson noted that the section reference should actually be 17.50.040.E.
- **Sections 17.60.020.G and 17.60.030.K:** Board Member Reed noted that both of these sections deal with the storage of waste which attracts insects or rodents. He said some people might argue that compost piles attract rodents, so the proposed language should make it clear that composting would not be prohibited. Mr. Bowman pointed out that Section 17.60.030.O talks about composting and requires that it be kept in a manner that does not attract insects and/or animals. However, he agreed to review the draft language to make sure that composting would not be prohibited.
- **Sections 17.60.030.I and 17.60.030.J:** Board Member Reed suggested that it might be appropriate to include fire wood in these two sections that talk about the storage of combustible or flammable materials or substances. Mr. Bowman agreed to change the language to include firewood.
- **Section 17.60.030:** Board Member Reed expressed his opinion that the introduction to this section was unclear. He suggested the words “any of the following” be moved to just after the word “maintained.” In addition, he suggested the term “maintained” be defined in the code.
- **Section 17.60.040.D:** Board Member Reed pointed out that the proposed language would prohibit all vehicle oriented businesses. He questioned if the real intent of the language is to prohibit business that require the actual storage of vehicles on site. Mr. Thies said this section is intended to apply to property owners who sell or repair cars in residential neighborhoods as a business. Mr. Bowman added that the intent of the proposed language is to avoid situations where vehicles are allowed to accumulate. Board Member Reed again stated his opinion that the term “vehicle oriented businesses” is broader than the intent of this section.
- **Section 17.60.040.E.2.d:** Board Member Reed said this section places limitations on a property owner’s ability to work on vehicles outside an enclosed structure. He questioned if this prohibition would prohibit a property owner from renovating or overhauling a bus or boat if he/she were unable to place the vehicle within an enclosed structure. He suggested that if the language is not intended to prohibit this type of activity, then the wording should be changed to make it clearer.
- **Section 17.60.040.E.2.f:** Vice Chair Dewhirst recalled that the Board previously agreed it would be inappropriate to not allow a property owner of two adjacent lots to park recreational vehicles on one of the lots. He noted there are several situations in Edmonds where this type of use occurs, and it should be allowed to continue. The remainder of the Board agreed this would be appropriate as long as the properties are adjacent to each other. Mr. Bowman agreed to make the change as recommended by the Board.

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- **Section 17.60.050:** Vice Chair Dewhirst recalled the Board’s earlier decision that the language in this section be changed to allow some leeway for people to use recreational vehicles when guests are visiting. The Board agreed that this change should be made, and Mr. Bowman agreed to make the change.
- **Section 17.60.030.L:** Board Member Dewhirst pointed out that, as currently proposed, the language in this section infers that the City would be allowed to have stagnant water, but no one else would. Mr. Bowman agreed to rework the language in this section to make its intent clear.
- **Section 17.60.040:** Board Member Reed pointed out that the formatting must be updated in this section because it currently skips h, i, j, and k.

Mr. Bowman invited the Board to provide feedback about whether or not they are in favor of updating the code to make it more aggressive in addressing nuisance situations. Board Member Young agreed that the nuisance ordinance is necessary in order to protect the general public from things that are nuisances. However, in his opinion, most of the pictures shown by Mr. Thies represent situations that would not qualify as any other nuisance than visual annoyance.

Board Member Freeman said she moved to Edmonds from a Columbia, Maryland, a community that was well regulated. When looking for a home, she immediately walked away from a property that was located across the street from property where numerous junk cars were stored. She suggested that if they want to have community standards, the City must go beyond regulating just those nuisances that represent public safety and health concerns.

Based on the number of complaints the staff has received, Board Member Works said it is apparent the community would be in favor strengthening the nuisance section of the code. She agreed with Vice Chair Dewhirst that it would be appropriate to forward the draft ordinance to the City Council so they can solicit public input regarding the issue. Board Member Henderson said he would support the draft ordinance, with the exception of the comment he made earlier that the City should not regulate vegetation.

Board Member Reed noted that most of the pictures provided by staff illustrate situations where nuisances infringe in the setback areas or onto other properties and public rights-of-way. He suggested that perhaps the ordinance should protect the setback areas and public rights-of-way and then not worry so much about what people do on the rest of their property. He expressed his belief that property owners must have the right to use their property however they want. He summarized there are certain things that should be regulated because they represent a common vision of what citizens of Edmonds want to see, but the City should not go overboard in this effort. He expressed his belief that the draft language represents a good compromise for regulating nuisances.

Board Member Freeman suggested they approach the issue from the standpoint of requiring property owners to respect their neighbors’ rights rather than allowing them the right to do whatever you want on your own property, regardless of its impact to neighboring property owners. She expressed her belief that government should be utilized to help people live in harmony with each other. Mr. Bowman suggested that the proposed ordinance would provide a basis for property owners to work together to resolve conflicts. If a property owner doesn’t want to cooperate with the neighbors, a complaint could be filed and the City could step in to address the problem. Vice chair Dewhirst noted there are many neighborhood situations that make it difficult for property owners to work together, and the City must have codes in place to deal with the chronic offenders who are difficult to work with. He summarized there is a community expectation that the City should help property owners address significant situations. He expressed his opinion that the language proposed in the draft ordinance would be appropriate and on the right course for accomplishing this goal.

Board Member Young inquired if the proposed ordinance would be enforceable, as written. Mr. Thies answered affirmatively. Board Member Young said that if the proposed ordinance would be enforceable, he would be in favor of moving it forward to the City Council.

CHAIR GUENTHER CLOSED THE PUBLIC HEARING.

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Mr. Bowman advised that he would invite the City Attorney to review the changes and provide feedback, particularly related to the noxious weed language, and attempt to have a new draft before the Board for consideration at their November 14th meeting. At that time the Board could decide if they want to add language related to vegetation.

Mr. Bowman emphasized that it is important to find out what the community wants and this would likely become evident when the draft language is presented to the City Council for review and a public hearing. He explained he would present the draft ordinance to the City Council's Community Services Committee first. The Committee would likely schedule the ordinance as a work session before the entire City Council as a whole prior to the actual public hearing.

CODE RE-WRITE PROJECT UPDATE AND TOPICAL DISCUSSION

Mr. Bowman announced that there has been some recent controversy regarding the Planned Residential Development (PRD) regulations found in ECDC 20.35 that requires the City to move this section up in the code rewrite process. He advised that the Hearing Examiner recently issued two decisions regarding PRD's that were contrary to the way the City has processed and interpreted the PRD Ordinance in the past. Specifically, the Hearing Examiner raised issues regarding perimeter buffering requirements. In addition, staff has raised concerns over criteria for tree retention and what is meant by the term. Staff recommends the Board consider the impact of the critical area and common useable open space requirements. At this time, there is confusion about whether or not the required critical area space can be credited as open space.

Mr. Bowman reminded the Board that the City Attorney has drafted language (Title 20) that would consolidate the preliminary subdivision and PRD review process to just the Hearing Examiner, and this language would likely be presented to the Board on November 28th. However, the City Council has expressed their desire that the Board address issues related to the PRD ordinance as soon as possible.

Board Member Reed recalled that in addition to their recommendations to the City Council related to the PRD Ordinance, the Hearing Examiner also raised other concerns related to the development code and offered to help staff rewrite sections of the code to address the concerns they raised. Mr. Bowman summarized that the Hearing Examiner has offered possible amendments to clarify certain sections of the code language, particularly the PRD Ordinance.

Vice Chair Dewhirst pointed out that the initial approach staff gave for the code rewrite project is long gone. Mr. Bowman agreed that the work is being driven by the importance of issues. Vice Chair Dewhirst asked for a timeline for sequencing the rewrite of each of the code sections. Mr. Bowman reviewed that the Board has already worked through the nonconforming and nuisance sections, and staff would bring back the nuisance section for final review before moving it on to the City Council. Meanwhile, the City Attorney would continue preparing draft language for the procedures section (Title 20). The Board must also deal with the PRD ordinance as soon as possible and then move into the sign and zoning regulations. They must also review the definitions section. He said staff's goal is for the Board to get through all of the sections by early 2008 so the changes could be adopted by the City Council in the spring.

REVIEW OF EXTENDED AGENDA

Chair Guenther asked staff to contact Mr. MacIntosh to schedule an update on the Parks, Recreation and Open Space Programs.

Vice Chair Dewhirst asked when the Waterfront Redevelopment Plan would come before the Board for review. Board Member Reed reported that a public meeting was conducted on October 5th, where the consultant presented five alternatives, and an additional public meeting has been scheduled for October 18th for this same purpose. The group intends to announce the preferred alternative at a public meeting on October 25th. He advised that Chris Keuss, Port of Edmonds Executive Director, is currently making presentations before several different groups in the City and information regarding the plan is also available via the Port's website. Mr. Bowman advised that once a preferred alternative has been selected, the group would work with the City on the public process for getting a final plan adopted.

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CODE RE-RITE PROJECT UPDATE AND TOPICAL DISCUSSION

Mr. Bowman referred the Board to the latest version of Title 17, which was last updated on May 9, 2007. He reported that he received comments from Board Members Freeman, Dewhirst and Works, and many of them were incorporated into the new draft document. He said the purpose of this meeting is to review each of the changes that have been made since the Board's last meeting.

Mr. Bowman advised that the Historic Preservation Commission has requested an opportunity to meet with the Planning Board to report on their work on the historic preservation aspects of the code. He suggested that either the entire Commission or a subcommittee of the Commission could be invited to participate in a workshop discussion with the Board at their May 23rd meeting regarding the non-conformance standards and the regulations pertaining to adaptive reuse of properties. He noted that the City Attorney would be invited to participate in the discussion, as well. He suggested that, in light of this future discussion, it would be appropriate for the Board to focus their attention tonight on the other code sections.

Mr. Bowman recommended that when the Board reaches the public hearing stage, it would be helpful to split Title 17 into three separate hearings. One could focus on the nuisance regulations and another on the non-conformance standards. The third public hearing could focus on all other sections of Title 17. He noted that the non-conformance standards and nuisance regulations would likely cause the most public concern and comment.

Section 17.50 – Parking Requirements

Mr. Bowman recalled that the Board made several suggestions at their last meeting related to parking. He said he has completed research to help the Board consider options for revising the parking standards, especially those related to the Highway 99 Corridor. He reminded the Board of Community Transit's plans to provide bus rapid transit on Highway 99, as well as a number of other transportation improvements. Therefore, now is an excellent time for the City to rework their parking standards and move away from the more prescriptive standards that currently exist.

Section 17.60.010 – Definitions

Mr. Bowman reported that he discussed the Board's concerns regarding the organization of the definition section. The City Attorney has recommended all definitions in the code be placed in one section rather than floating the definitions throughout the document. Staff supports that recommendation.

Section 17.60.010.M -- Junk

Mr. Bowman advised that Board Member Freeman recommended a definition be provided for the term "junk." She correctly noted that the definition should include the terms "boxes" and "cartons." This section was changed to read, "Junk means discarded, broken or disabled material including but not limited to: "household items; house or lawn furniture; boxes, cartons, appliances; toys; construction items; hot tubs; trampolines; vehicle parts; or other items that are not in functioning condition."

Section 17.60.020.G – Waste Disposal

Mr. Bowman advised that Board Member Freeman suggested the word "rodents" be added to this section. In addition, she recommended that "compost bins" be excluded from the requirement, since they can be designed to keep rodents out. Board Member Freeman noted that Snohomish County does not require that compost bins have bottoms to keep out rodents, but King County does. She suggested the Board consider making rodent-proof compost bins a requirement in the City of Edmonds, as well. Chair Guenther expressed his belief that rodent-proof compost bins should be recommended, but not a requirement. Board Member Freeman agreed the City should at least encourage people to use compost bin that are distributed by the County, since they have a model that is rodent proof.

Section 17.60.020H – Open Storage

At the suggestions of Board Members Freeman and Dewhirst, Mr. Bowman said he revised the language in this section to clearly indicate that it only applies to commercial properties. He noted that residentially zoned districts are covered in Section 17.60.030. In addition, Mr. Bowman advised that he replaced "heavy wire fence" with "sight obscuring fence," and "hedge" with "vegetation." He also deleted the words "board fence." While Vice Chair Dewhirst also recommended the

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Board consider prohibiting open storage containers within 20 feet of the property line or the minimum setback, whichever is greater, Mr. Bowman questioned if this strict requirement would be appropriate for commercial zones.

Section 17.60 – General Organization

Board Member Henderson objected to the way the nuisance section was organized. For example, he noted that a person would have to look in three separate sections of the code to find out if, where and how trailers could be stored in residential zones. He suggested that nuisances and permitted uses should be covered in the same section to clearly indicate what is and is not allowed. Anything that is permitted in certain areas on a property should be addressed as to proper storage in the same section. Mr. Bowman explained that, from a code enforcement standpoint, staff directs the citizens to the sections of the code that apply to their particular situation. However, he agreed with Board Member Henderson’s concern and suggested that the language in Sections 17.60.030.E and 17.60.040.E could be combined into one section.

Public Education

Board Member Works asked how staff plans to educate the public about future amendments to the nuisance section of the code. Mr. Bowman advised that the City already has a pamphlet describing the nuisance laws, and the document would be updated to incorporate the approved amendments. Board Member Works suggested that perhaps a notice could be added to the utility bills to notify the public that a pamphlet is available for their information. Mr. Bowman agreed and added that it would also be appropriate to publish a code enforcement article in *THE EDMONDS UPDATE*, that is sent out to all households in the City. He noted that prior to the public hearings related to Title 17, staff plans to talk with local newspaper reporters in an effort to get articles published in the newspapers so people can be made aware of the issues that are being considered and invited to participate.

Board Member Young suggested that the public advertisement emphasize that many of the changes are being considered because of enforcement problems associated with the existing code. He felt that if the public has a clear understanding of these problems, they will know why the City is reviewing all of the details of this section of the code. Mr. Bowman said that while he typically favors simplifying the code, it is important to have clear and concise language in this section so that people understand what they can and cannot do.

Section 17.60.030.B – Attractive Nuisances Dangerous to Children

Mr. Bowman recalled that at their last meeting the Board discussed the importance of prohibiting the storage of items that pose a danger to children. At the request of the Board, this section was changed to read, “Attractive nuisances dangerous to children including but not limited to the following items when located on any developed or vacant lot.”

Board Member Freeman questioned about the safety of portable toilets that are used by construction companies while working in residential areas. She pointed out that if these facilities are left unlocked, they could be accessed by children and an accident could occur if a child were to fall in. Mr. Bowman said this has never been a problem for the City, but he agreed to research the issue further to see if it needs to be addressed in the code.

Section 17.60.040 – Recreational Vehicles

Mr. Bowman said Board Member Freeman raised concern about the size of Recreational Vehicles (RV’s) that are allowed to be stored on residential properties and whether or not they should be prohibited in side and front yards. In addition, Vice Chair Dewhirst suggested that storage of vehicles such as personal watercraft, should be prohibited in the front and side yards. Mr. Bowman said the Board could decide to regulate RV’s based on size, but the standard would have to be clear and concise.

Board Member Henderson noted that Sections 17.60.040.E.2.1 and 17.60.040.E.2.m both address the size of RV’s. Board Member Reed noted that the language proposed in Section 17.60.040.E.2.1 would allow almost all of the front yard to be used as a parking space for an RV. Mr. Bowman agreed. He noted that most of the concerns related to RV’s are associated with the large size and the blue tarp coverings. The City also receives numerous complaints about people living in RV’s in residential neighborhoods.

Mr. Bowman advised that if the Board decides they want to regulate the storage of RV’s, staff could come up with some language for them to consider. He noted that regulating the storage of RV’s would likely create a stir amongst the

community both pro and con. He agreed that staff could contact the City of Redmond to find out how they regulate RV's. He would forward the document to the Board members, highlighting those sections that are directly related to RV's. He also agreed to obtain information from other jurisdictions in the region.

Board Member Freeman recalled the Board's previous discussion about the need to keep the setback areas clear for emergency access. She noted that storing large RV's in the side setback areas could present a safety hazard. She further noted that permanent structures are not allowed in the setbacks, so perhaps they should prohibit the storage of large RV's, as well. Mr. Bowman noted that RV's can be moved in case of emergency, so they should not be treated the same as permanent structures within setbacks.

Section 17.60.020 .J – Storage Containers and Tents

Mr. Bowman explained that staff is proposing this new section to address the more than 85 outstanding complaints the code enforcement officer has on file related to storage containers and tent structures. The current code prohibits temporary structures of this size if they are larger than 120 square feet. However, this particular code regulation has been suspended until the City's code has been updated.

Vice Chair Dewhirst said he doesn't see the difference between a storage container and a butler building. He questioned why one should be allowed and not the other. Mr. Bowman said he believes there is a significant difference between metal storage buildings and surplussed cargo containers, which are typically very large. The majority of the Board agreed they did not want to allow shipping or cargo containers to be used for storage in residential areas. Mr. Bowman said issues related to cargo and shipping containers are coming up more often, and he suggested the City consider being ahead of the curve in regulating this use.

Board Member Freeman asked if staff has ever had difficulty enforcing the nuisance code requirements based on cultural issues. Mr. Bowman said that as long as the standards are applied uniformly and community wide, there should be no problems of this type. The City should avoid standards that are directed towards a specific cultural area.

Section 17.60.050 – Habitation Uses Prohibited

Mr. Bowman said the language proposed by staff would allow habitation of RV's in the case of family or visitors staying temporarily for a period not to exceed 30 days. Vice Chair Dewhirst suggested that this use be limited to 30 days per year to prevent a property owner from moving the RV for a period of time and then bringing it back for another 30 days.

Section 17.60.030.N -- Garbage Stored Outside

Board Member Henderson asked if this proposed language would apply to containers that are left at the street for garbage pick up. Mr. Bowman said this would not be considered storage of garbage containers, but he agreed the language should clarify the matter. He said the City has received complaints about people who leave their garbage containers out at the street for days after the garbage has been collected.

Section 17.60. 030.I – Accumulation of Construction Supplies

Vice Chair Dewhirst noted that, originally, a provision was added to this section that required a property owner to begin a project in five business days. He expressed his belief that this would be irrational since a host of things could keep a property owner from completing a project. Mr. Bowman pointed out that this language is really targeted at potential code violators who like to hoard or store buildings materials on their property that they never get around to using. He suggested it would be appropriate to have some type of time limit.

Board Member Henderson suggested that a 30-day time limit be established for the project to be started. They should also identify a project completion time limit. He noted that this section only applies to projects that do not require a building permit. Chair Guenther expressed his concern about requiring someone who is landscaping his/her property to complete the project in a certain amount of time. While he understands the need to keep the project active, he questioned if a time limit language would accomplish this goal. Mr. Bowman agreed to talk with the code enforcement officer about whether they should include a time limit for project completion.

Section 17.60.040.E.2.f – Storage of Vehicles on Vacant Residential Property

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Mr. Bowman said Vice Chair Dewhirst raised a concern that this proposed language would prohibit a person who owns adjoining property from parking a vehicle on a property that does not have a dwelling unit. He said he agrees with this concern. There are situations in the City where a single property owner owns two lots, and the proposed language would prohibit the property owner from parking cars on the vacant lot. He explained that the language is intended to prevent people from parking cars on residential vacant lots, but he agreed to come up with new language for the Board to consider that would exclude adjacent lots that are under common ownership.

Conclusion

Mr. Bowman summarized that staff would work to obtain sample regulations for RV's from other jurisdictions in the region and forward them to the Board as soon as possible. He asked that the Board review the samples and forward their ideas to him prior to the next meeting. Staff would work to finalize the draft code amendments for the Board's review prior to the public hearing. In addition to the updated language for Title 17, Mr. Bowman advised that he would provide draft language to address the parking standards, particularly as they relate to Highway 99. If the City is going to support the concept of bus rapid transit, they should do their part to encourage less parking and more transit use.

Board Member Freeman referred the Board and staff to a recent article in *THE SEATTLE POST INTELLIGENCER*, which provides information about the average number of cars per dwelling unit in various areas of Seattle. She noted that in some of the more populated areas of Seattle, there are only .9 parking spaces per unit.

Vice Chair Dewhirst referred the Board to the Victoria Transportation Website, which provides helpful information related to the issue of parking. He expressed his belief that the site is valid to the issues that are being raised by the City now.

Board Member Freeman questioned how the Board and staff could educate the City Council about the need to change the City's parking requirements. Mr. Bowman replied that the Board needs to make it clear in their recommendation to the City Council why they want to change the parking standards on Highway 99 to encourage rapid transit and higher density development. He said the Board's job is to do the necessary research and due diligence and then forward their best recommendations to the City Council. He noted that the City Council is very supportive of Community Transit's bus rapid transit service on Highway 99, which should be operational some time next year.

REVIEW OF EXTENDED AGENDA

Mr. Bowman announced that two rezone public hearings have been scheduled on the Board's May 23rd meeting. He suggested the Board considering starting their meeting earlier to allow time for them to meet with the City Attorney and Historic Preservation Commission as previously discussed.

Board Member Young suggested that rather than meeting for one hour prior to the next regular meeting, perhaps it would be appropriate for the Historic Preservation Commission to provide a brief report outlining the issues they want the Board to consider as they review the non-conformance section of the code. Mr. Bowman expressed his belief that it would be helpful for the Board to meet with the Historic Preservation Commission and allow them an opportunity to share their thoughts and recommendations so that the Commission's work could be blended into the Board's review of the code. He also reminded the Board that the City Attorney would be in attendance for this discussion.

The Board agreed to start their joint discussion with the Historic Preservation Commission at 6:30 p.m. The regular meeting would follow at 7:30 p.m.

PLANNING BOARD CHAIR COMMENTS

Chair Guenther reminded the Board that they have been invited to a Short Course in Public Planning that would be hosted by the City of Lynnwood later in May.

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Board Member Freeman suggested that perhaps the Board should provide additional comments to strengthen their reasons for supporting the proposed rezone application. Vice Chair Dewhirst clarified that his motion would recommend approval of the application based on the points made on Pages 4 and 5 of the Staff Report.

THE MOTION CARRIED UNANIMOUSLY.

THE BOARD TOOK A 5-MINUTE BREAK AT 8:25 P.M. THEY RECONVENED THE MEETING AT 8:30 P.M.

DISCUSSION ON POSSIBLE AMENDMENTS TO CHAPTER 17 AND 20 OF THE EDMONDS COMMUNITY DEVELOPMENT CODE (ECDC)

Mr. Bowman referred the Board to the draft documents that were provided related to Chapters 17 and 20 of the Edmonds Community Development Code (ECDC). He said the purpose of the discussion is to allow the Board an opportunity to provide feedback regarding the proposed language before it is prepared for a public hearing. The Board and staff reviewed and discussed the following sections of Chapter 17:

- **Section 17.05.020 – Reasonable Accommodations.** Mr. Bowman pointed out that the Development Services Director makes decisions related to reasonable accommodations. Therefore, the language should be amended to make it clear that these decisions would not be made by the Community Services Director.
- **Section 17.05.050 -- Appeal.** Mr. Bowman said this language would be amended to make it easier to read and clearer about who can appeal a reasonable accommodations request. No substantive changes have been proposed.

Board Member Reed pointed out that once the Development Services Director has made a determination, the only recourse is to appeal the decision to the court. He questioned whether or not this would be wise. Mr. Bowman pointed out that this is a building code question, and building code questions can only be appealed to Superior Court.

- **Section 17.10.000 – Bond Required.** Mr. Bowman said that in the past 30 years, he has never seen the City cash a performance bond on a building project. However, bonds have been cashed for not completing landscaping or public improvements. He said that, in his opinion, the City should only require bonds for public improvements that are required or when someone wants occupancy before everything is done. He noted that the current requirement creates unnecessary paperwork for the staff and added costs for the developer. However, the City doesn't really receive a significant value from the requirement. When an occupancy is requested and required non-life safety improvements such as landscaping have not been installed, the proposed new language would authorize the Development Services Director to allow a developer or owner to post a performance bond or similar security to ensure that improvements would be installed within a specified time period.
- **Section 17.30.035 – Trellises and Arbors.** Mr. Bowman recalled the Board's 2004 discussion regarding trellises, arbors and fences. He expressed his belief that it doesn't make sense to restrict plantings on a trellis when they are intended to potentially allow such plantings. Site distance is already regulated. He pointed out that the proposed language would delete Item 2 because it is not necessary.
- **Definitions** – Vice Chair Dewhirst pointed out that the definitions are scattered throughout the document. Mr. Bowman said all of the definitions would be taken from the back of the code and placed at the front of the code. Staff is attempting to cross reference terms and find definitions for those that are not yet defined. Then they would all be pulled together into one section.
- **Section 17.35 – Animals.** Mr. Bowman suggested it would be appropriate for the Development Services Department to get out of the business of regulating animals. He noted that there is an animal control arm of the City, so these regulations really should be moved into Chapter 5 of the Edmonds Municipal Code. He emphasized that he has not discussed this change with the Animal Control staff, but it seems it would make more sense to put this in the specific section in the

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Municipal Code that talks about animals. He said he would work with the Police Department staff regarding this potential change.

- **Section 17.50 – Off-Street Parking.** Mr. Bowman said staff would be working to update the off-street parking regulations to incorporate the new downtown zone (BD-1). He particularly referred to Item B22 on Page 17-22 and noted that the regulations do not currently address the issue of what to do with outdoor vehicle sales. He suggested that because there are a number of car dealerships on Highway 99, the City must have regulations to deal with their parking requirements. Staff has discussed the concept of treating parking requirements for Highway 99 much like they did for the downtown zones. They could identify a parking standard for commercial uses and another for residential uses. He noted that there would likely be more mixed-use developments along Highway 99 in the future, and having a standard parking requirement for both commercial and residential uses would make it easier for developers to make decisions on what to do with their properties. Mr. Chave added that, currently, the City must track and recalculate the parking requirements when uses are changed. This creates a significant problem when tenants change frequently.

If the Board is interested in pursuing this new concept for parking requirements along Highway 99, Mr. Bowman said staff could research various options further and provide direction to the Board at their next meeting. He noted that another option would be to establish both a minimum and a maximum parking standard for zones along Highway 99.

Board Member Freeman expressed her belief that the City should try to reduce the parking requirement to discourage people from using their cars instead of the public transportation that is readily available on Highway 99. Mr. Bowman said that establishing a maximum parking standard would force developers to look at other options such as encouraging public transit opportunities. Board Member Freeman also suggested the City establish a maximum standard for the size of a parking stall so that people are encouraged to use smaller cars. In addition, the City should consider whatever options are available to reduce greenhouse gases and encourage people to utilize the public transportation system.

Vice Chair Dewhirst agreed it would be appropriate to consider a maximum parking requirement, particularly for developments that are located close to rapid transit opportunities. He suggested it would be helpful to review the bubble diagrams created by Makers to identify the districts. The Board and staff could consider the concept of tailoring the parking requirements to accommodate the types of uses they envision in the various areas.

Board Member Henderson emphasized the importance of maintaining flexibility. For example, a Costco type business would require someone to drive to the store rather than ride a bus. He noted that Costco parking lots are often maximized, and the City must allow enough flexibility for these types of businesses to potentially located along Highway 99 and still meet their customers' needs. Chair Guenther agreed and suggested that perhaps the parking requirement could be based on the type of use that is being proposed. Mr. Chave cautioned that it would be more straightforward to come up with an average that works for the vast majority of commercial uses and then identify some exceptions.

Board Member Young recalled a retreat discussion that rather than having a prescriptive parking requirement, a developer should be allowed to figure out how many parking spaces would be needed, depending on the nature of the business. Mr. Bowman noted that the impervious surface limitations would play a significant role in deciding the number of parking spaces that could be provided and what materials would be used.

Board Member Bowman noted that in some zones, there are no parking requirements for new construction. Board Member Young pointed out that only the BD-1 zone has no parking requirement. Board Member Bowman suggested the City allow the market to sort out the number of parking spaces that would be required. Mr. Bowman explained that if there were no parking standards for Highway 99, a developer would have to conduct a market analysis to determine the amount of parking that would be necessary to support the businesses and then decide how they could comply with the impervious surface, landscape and stormwater detention requirements. Vice Chair Dewhirst expressed his concern that allowing the market to decide the parking requirement would favor the large developer over the small developer. In his experience, this concept could also result in a developer significantly overbuilding the parking area. Therefore, placing a cap on the maximum number of parking spaces allowed would be important.

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Board Member Young said he likes the idea of capping the number of parking spaces a developer could provide, but he would like to see some ideas about how this concept could be implemented. Perhaps a developer could be allowed additional parking spaces if low-impact development techniques are incorporated into the design. Board Member Young said the Board should also discuss whether it is more important to limit the number and size of parking spaces and encourage low-impact development or encourage economic development. He noted that the City does not have control over whether people use smaller cars or the public transit system.

Mr. Bowman agreed to come back to the Board with two or three alternatives for them to consider for potential parking requirements. Mr. Chave pointed out that the ITE Manual is a supply driven model for parking, and there are other manuals that talk about demand for parking. The demand standards are almost always significantly lower than the supply driven standards.

- **Section 17.50.090 – Temporary Parking Lots.** Mr. Bowman questioned why someone would want to pay for a conditional use permit to construct a temporary parking lot, when it would only be good for one year. He suggested it would be better to allow a property owner to apply for a conditional use permit for a time period that is consistent with the regulations.

Vice Chair Dewhirst asked why temporary parking lots permits could not be an administrative decision rather than require a conditional use permit. Mr. Bowman answered that would be one option the Board could consider. However, a conditional use permit would require a public process to let people know what is being proposed. Another option would be to make it an administrative decision with a notice requirement to all property owners within 300 feet. Mr. Chave added that the notices could be sent out up front so the public would have an opportunity to comment before a decision has been issued by staff.

- **Section 17.50.100 – Commercial Vehicle Regulations.** Mr. Bowman explained that staff is proposing an additional clause in this section that would allow night parking of authorized towing vehicles under contract to provide services to the City. He explained that sometimes tow truck drivers who live in the City are required to park their vehicle at home when they are on call, and the current regulations would not allow this to occur.
- **Section 17.60 – Property Performance Standards.** Mr. Bowman advised that Mr. Thies, the City’s Code Enforcement Officer has been working to gather information from other jurisdictions in the Puget Sound area to learn how they address issues that are common to the City of Edmonds. Mr. Thies invited the Board Members to share their ideas on the draft language that was provided for their review.

Board Member Henderson said he does not like the way the performance standards are divided up. For examples, parking of trailers on residential property is addressed in two different sections. He suggested it would be helpful to have all regulations related to a single issue in the same section. Board Member Freeman agreed that it is difficult to go back and forth from section to section to see what is and is not allowed.

Board Member Freeman noted that the proposed language does not differentiate between a small trailer and a large recreational vehicle, and she felt there should be distinctly separate regulations for each, depending on the size and bulk of the vehicle. Property owners should not be encouraged to store large recreational vehicles in residential neighborhoods. She said the proposed language also fails to differentiate between setbacks and yards and what is allowed in each.

- **Section 17.60.020.H.1 – Open Storage.** Vice Chair Dewhirst asked if the proposed language includes a definition for the terms “lumber,” “coal,” and “other combustible materials.” Mr. Thies explained that this language came from the existing code, and the purpose of the update is to eliminate language that is ambiguous. Mr. Chave further explained that Mr. Thies collected numerous regulations from various jurisdictions for the Board to consider. At this time, Mr. Thies is seeking feedback from the Board regarding the concepts the Board wants staff to pursue.
- **Section 17.60.030.B – Attractive Nuisances.** Board Member Freeman noted that the intent of the proposed language is to protect children. Therefore, property owners should not be allowed to store any of the listed items on their property

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where children have access. The Board agreed to change the last part of the section to read, “. . . located outside an enclosed building.”

- **Section 17.60.030.J – Unconventional Construction.** Vice Chair Dewhirst questioned why the City should prohibit shipping and cargo containers, but allow storage buildings. Mr. Bowman said the City has received numerous complaints about shipping and cargo containers on adjacent properties. The Board must decide whether these should be considered structures and/or buildings and whether or not they should be allowed in residential neighborhoods. He noted that tents, tarps and canopy structures are a significant issue, as well. The City currently has 85 complaints of this type.
- **Section 17.60.030 – Nuisance.** Board Member Works asked if any consideration has been giving to forcing people to cut down their blackberries. Mr. Thies said the City Council discussed this issue and raised the idea that “one person’s nuisance could be another person’s garden. They indicated they would not be interested in having a vegetation regulation.
- **Section 17.60.030.D – Graffiti.** Board Member Bowman pointed out this section would require property owners to take care of graffiti on their property immediately. He pointed out that his building on 5th Avenue has been vandalized multiple times, and graffiti has occurred more and more around town. The proposed language would require the victims of graffiti to resolve the problem. Mr. Bowman advised that the City Council recently discussed the issue of graffiti. While business owners are not really happy about being required to paint their buildings, it has been demonstrated that leaving the graffiti in place encourages the situation to grow. Taking care of graffiti right away tends to detract future situations. Unless they catch the person responsible, the only recourse the City has is to require property owners to take care of the problem.
- **Section 17.60.030 – Nuisance.** Board Member Reed suggested that if he were to apply the list of nuisances to properties along his street, he would find numerous violations. He suggested that while there are some issues that must be addressed, some of the items in this section are common occurrences. While they might not be the most attractive situations, he questioned whether or not the City should try to regulate them all.
- **Section 17.60.040 – Vehicles.** Vice Chair Dewhirst suggested there needs to be some leeway for people to use trailers when guests are visiting. Mr. Thies said the only complaints the City has received on this matter have come from people who are concerned about grown children being allowed to live in trailers for long, extended periods of time.
- **Section 17.95 – Commute Trip Reduction Plan.** Mr. Bowman advised that this section must be updated and submitted to the state by the end of June, 2007. However, the City’s new Traffic Engineer would not be on staff until mid May. It is likely staff would request an extension from the State, but sometime in the near future staff would provide new language for this section that would meet the new State laws.
- **Outdoor Dining.** Board Member Works suggested that staff review the outdoor dining section of the ECDC to make sure there are as many outdoor dining opportunities as possible in the City, particularly in light of the new arts corridor. Perhaps the City should expand the outdoor dining use to other zones in the City.
- **Section 17.40 – Nonconforming Uses, Buildings, Signs and Lots.** Mr. Bowman referred the Board to the written comments provided by the City Attorney regarding this section. The City Attorney attempted to incorporate all of the comments provided previously by the Board. At some point, the Board must also have a discussion with the Historic Preservation Commission about how to integrate historic preservation and nonconformance elements together.

Mr. Bowman explained that the current nonconformance regulations are very restrictive and won’t allow a nonconformity to expand. He said the Board must hold an in-depth discussion about whether or not it would be appropriate to allow nonconforming structures to be expanded if the expansion would further encroach into the setback area. Board Member Young questioned why the City should allow anyone to encroach into a setback. Mr. Chave said staff works with many situations related to nonconforming structures. In addition, the Historic Preservation Commission has expressed concern about the small historic buildings that are located in the downtown. Many of these structures protrude into the setback. If the City wants to encourage historic preservation, they must consider options that would provide some flexibility to

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Councilmember Wilson inquired about the impact on the City's fiber optics. Mr. Snyder answered the rules that were established would apply to all franchises because a level playing field was required.

For Councilmember Wilson, Mr. Snyder assured the Council would approve a franchise agreement for Edmonds and would be the ultimate arbiter of the terms. The intent of negotiating together was to have greater leverage with the cable company. Because Verizon would have hundreds of franchises in Washington and thousands nationally, there was an advantage for them to have consistent requirements. He hoped their desire for consistency could be leveraged to get a better economic deal, better technical requirements or better customer service standards for citizens.

Councilmember Wilson referred to options in Mr. Snyder's memo which included the City entering into an informal process with Verizon. Mr. Snyder commented detail regarding negotiating strategies should be conducted in Executive Session. The conundrum was the City had a 15-year old cable franchise; Verizon was guaranteed a level playing field by federal law. Therefore the City's competitive franchise for Verizon by itself could be no better than what Comcast was providing. However, much had changed in 15 years and the City would like to develop a better franchise template. An ordinance adopted last year provided that any competitive franchise ordinance would have the same length as the longest franchise the City let; therefore, Verizon's franchise would expire at the same time as Comcast. Verizon would rather have a longer franchise and via an informal process they should be willing to provide more to the City than would otherwise be available. The difficulty was the City was setting the bar for Comcast in the upcoming renegotiation process. He hoped the consortium and an informal process with Verizon could be used to draw Comcast into the discussion and negotiate their franchise renewal at the same time. He anticipated having a draft Interlocal Agreement available for Council consideration in 1-2 weeks.

COUNCILMEMBER WAMBOLT MOVED, SECONDED BY COUNCILMEMBER OLSON, TO DIRECT THE CITY ATTORNEY TO CONTINUE WITH THE SCHEDULE HE IDENTIFIED. MOTION CARRIED UNANIMOUSLY.

Mayor Haakenson declared a brief recess.

Work Session
on Code
Rewrite

8. WORK SESSION ON THE UPCOMING CODE REWRITE

Development Services Director Duane Bowman explained the Planning Board made two specific recommendations to the Council with regard to issues related to nuisance regulations and non-conforming regulations. The Planning Board will hold a public hearing tomorrow night on potential amendments to Chapter 20 regarding processing and procedures. He advised tonight's work session was an opportunity to present information regarding the Planning Board's two recommendations, identify the Chapter 20 issues that will be addressed in the Planning Board's public hearing and allow the Council to ask questions and express comments/concerns.

Councilmember Wilson asked whether the Council could attend tomorrow's Planning Board meeting. Mr. Bowman answered yes, advising the code rewrite was legislative and there were no other quasi judicial matters on the Planning Board's agenda.

Mr. Bowman identified the key revisions to the Nonconforming Regulations in Chapter 17.40:

- Change the damage percentage from 50% to 75% - under current regulations, if a building is damaged more than 50%, it must be brought into compliance.
- Exceptions to the 75% rule - if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner's agent or the building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent.

- Historic Buildings/Structures - addition of clarifying language and reference to the Edmonds Register of Historic Places.
- New section regarding residential buildings in commercial zones - existing non-conforming buildings in commercial zones in use solely for residential purposes or structures attendant to such residential use may be remodeled or reconstructed without regard to the limitations of ECDC 17.40.2020(B), (E) and (F) but only if several conditions listed in the ordinance are met.

City Attorney Scott Snyder recalled one of the lessons learned from the past 4-5 years of discussions regarding the downtown area was Edmonds citizens liked the existing downtown. However, the City's non-conforming use provisions are very restrictive and are designed to abate or eliminate buildings that are significantly damaged. Staff's goal was to preserve existing features that citizens liked and lighten provisions that require abatement and conformance with current zoning standards. Mr. Bowman noted this was the most difficult section of the code, particularly when owners are interested in adaptive reuse of buildings. If the Council believed in rehabilitation/reuse of buildings, the code should encourage that.

Councilmember Wilson recalled the Planning Board minutes cited a recommendation from the Historic Preservation Commission to expand what was considered historical to over 40-years old, and asked if the language regarding being listed in a city-approved historical survey was in response to that recommendation. Mr. Bowman stated the language regarding a building or structure that was listed in a city-approved historical survey meeting the standards of the State Department of Archeology and Historic Preservation was intended to encourage reuse of historic structures. The building must comply with the life safety standards of the building code. Mr. Snyder noted the intent of that language was to broaden the category of buildings to those that may not be registered but were contained on the City's inventory.

Planning Manager Rob Chave acknowledged the Planning Board discussed 40-year old buildings in broad terms and ultimately agreed to expand the language to include buildings not only on a formal register but that were identified on the survey recognizing its historic value. Councilmember Wilson observed the survey seemed vague. Mr. Chave advised a survey was conducted and was reviewed by the Council but not formally approved; the City may want to establish a more formal approval process. Mr. Snyder advised that could be included in the Comprehensive Plan.

Councilmember Wambolt inquired whether Old Milltown was classified as a conforming building. Mr. Bowman answered because of the zone district, Old Milltown had zero setbacks. Councilmember Wambolt asked how the code could be revised to prevent what was happening to Old Milltown. Mr. Snyder answered that type of process would actually be encouraged and may be necessary to meet modern health safety requirements. It would be difficult to provide fire walls, sprinkler systems, etc. in a building such as Old Milltown without removing the floors. Historic buildings could be reconstructed but must be brought up to modern health safety standards. The intent was to provide alternatives to demolition. Without an historic district or prohibitions on demolition it was often an economic decision by the property owner. He noted there were a number of historic homes nearby on very valuable property that existed by the grace of the owners. Without a mandate, the intent was to provide economic incentive to preserve historic structures. Mr. Bowman commented the restoration of Old Milltown was a choice pursued by the owner.

Council President Plunkett referred to the exception to the 75% damage percentage - if a building or structure is damaged or destroyed due to the unlawful act of the owner or owner's agent or the building is damaged or destroyed due to the ongoing neglect or gross negligence of the owner or the owner's agent. He commented that he could understand the requirement for gross negligence but questioned whether it was too stringent for simple, ongoing neglect. Mr. Snyder referred to the Meadowdale Marina as an example, a structure that had been neglected for years and was an attractive nuisance/danger but if allowed to be rebuilt as condominiums could be very valuable. Mayor Haakenson emphasized there were

no plans to construct condominiums on the Meadowdale Marina. Mr. Snyder clarified he was using that structure as an example; if it were grandfathered and allowed to be reconstructed as part of another structure, there were many valuable development options. He cautioned Council regarding the law of unintended consequences, noting there were many examples of structures Council would like to have preserved but opening a loophole could allow preservation of structures the Council may not want preserved.

Council President Plunkett questioned the definition of neglect, envisioning a building could be neglected but would not be grossly neglected. Mr. Snyder commented the Council may want to have input from the Building Official regarding a damage percentage. Council President Plunkett summarized his concern was the definition of neglect. Mr. Bowman acknowledged it was difficult to draw the line at a certain percentage. He anticipated there would be testimony regarding this issue at the Council public hearing.

Mr. Bowman assured condominiums, restaurants, retail, etc. could not be constructed on the Meadowdale Marina as the retail uses on that site ceased to exist and have not existed for a long time.

Council President Plunkett suggested 90 or 100% versus 75%. Mr. Snyder explained non-conforming use provisions were intended over time to bring structures into compliance with the code. There may be structures the Council would like to have preserved but others that if damaged 75% they would prefer be replaced. He noted 100% did not provide a tool for long term compliance with the zoning code. Council President Plunkett suggested allowing structures damaged 100% in the BD1 zone or eligible for historic registry to be allowed to be reconstructed. Mr. Snyder advised that was a policy issue for the Council.

Council President Plunkett asked whether the Planning Board discussed 100% for the BD1 zone or on the list of historic structures. Mr. Bowman advised structures on the historic list were identified by the language, pointing out language in this section, shall prevent the full restoration and reconstruction of a building or structure which is either on the National Register of Historic Places, the Washington State Register of Historic Places, the Washington State Cultural Resource Inventory, the Edmonds Register of Historic Places or is listed in a city approved historical survey meeting the standards of the State Department of Archaeology and Historic Preservation. The Planning Board wanted to recognize that buildings were valuable and property owners may want to retain the existing buildings and that was why they increased the percentage from 50 to 75. He noted the Planning Board acknowledged if a building was totally destroyed, it should be rebuilt in compliance with the code.

Council President Plunkett asked whether the paragraphs on Maintenance and Alternation, Relocation, and Restoration applied to historic structures. Mr. Bowman answered no.

Council President Plunkett referred to the section regarding residential buildings in commercial zones and asked whether that applied to single family and multi family. Mr. Bowman answered it was directed toward single family structures in B districts in the downtown area but could be expanded to include multi family. Council President Plunkett was interested in as much flexibility in the BD1 zone as possible including for multi family buildings. Mr. Bowman advised he would relay the issues raised by the Council at the Planning Board public hearing. Mr. Snyder suggested giving consideration to how many of the multi family structures in commercial zones were non-conforming. Council President Plunkett summarized his interest was ensuring older structures remained economically viable including being allowed to expand slightly. Mr. Bowman commented the policy decision for the Council was whether to encourage adaptive reuse of buildings and if so, what type of improvements should be allowed. Mr. Snyder commented it may be appropriate to establish different regulations for certain zones.

With regard to buildings damaged/destroyed due to neglect or gross negligence, Councilmember Wilson could envision an old building that burned to the ground due to old wiring that would not have been

perceived to have been neglected. Mr. Bowman answered it would be nearly impossible to pursue a building owner for neglect in that instance when there was no obvious signs of neglect. The intent of the language was a property owner who allowed a building to visibly deteriorate to the point it was beyond repair. Councilmember Wilson commented not updating 60-year old wiring could be viewed as neglect.

Mr. Bowman explained the intent was to provide a property owner with an historic structure on the list the ability to fully restore the structure if they desired. It may also be an incentive for some property owners to be included on the list. Mr. Chave advised the list was the result of a survey that used established standards and anticipated there would always be a very small number of properties on the survey as it required compliance with state and national standards. For example the survey that was done of downtown identified 82 buildings in the entire downtown bowl area. He noted a larger issue was 75% versus 100%. Mr. Bowman commented the percentage policy was related to whether the Council wanted buildings brought into compliance; if the answer was yes, there should be fairly strict requirements. If the City wanted to be more liberal, it should adopt a higher percentage which may result in allowing virtually everything to be rebuilt.

Councilmember Dawson observed these issues would be presented to the Council at the public hearing.

Mr. Bowman referred to the nuisance regulations, noting the original intent was to remove all nuisance regulations from the code and place them in Title 17 of the zoning code. The City Attorney's office pointed out nuisance regulations should be part of the City's police powers which are contained in the Municipal Code. Therefore performance standards would be included in Chapter 17.60 of the zoning code and nuisance regulations would be in the Municipal Code. He noted further changes needed to be made to Chapter 17.60 and another public hearing held by the Planning Board.

He identified the key revisions to the Nuisance Regulations Chapter 6 of the Edmonds Municipal Code (EMC):

- Clarifying the role of the Health Officer - under the current ordinance the Snohomish County Health Office addressed nuisances which was actually not the case. The Development Services Director was responsible for code enforcement
- Eliminating obsolete regulations
- Linking nuisance enforcement to the civil remedy process
- Expanding the types of nuisances
- Clarifying enforcement procedures
- Establishing a separate junk vehicle proceedings consistent with State law

Mr. Bowman observed Mr. Hertrich's comment that a paved road to a woodpile was incorrect, noting he may be referring to performance standards in Chapter 17.60. He referred to a list of nuisances in Section 6.20.040, noting the list represented issues frequently encountered by the code enforcement officer. The current language in Chapter 6 was very broad with regard to what constituted a nuisance. He referred to Section 6.20.045, protective coverings, that stated a nuisance covered by a tarp did not eliminate the nuisance. Mr. Snyder commented the list of nuisances represented the things people complain about; the question was whether these were the things the Council wanted staff involved in.

Mr. Bowman pointed out another advantage of having nuisances in the Municipal Code was the Council could change them without a public hearing although he acknowledged the Council rarely did that. Mr. Snyder clarified having nuisances in the Municipal Code avoided the requirement for Planning Board review and public hearing before a recommendation was forwarded to the Council.

Council President Plunkett read from unidentified materials, "in the case of open storage of lumber, coal or other combustible material, a roadway shall be provided, graded, surface maintained from the street to the rear storage...fire trucks." Mr. Bowman answered that was not in this section of the code, commenting it was likely an old version of Chapter 17.60. Council President Plunkett acknowledged it was a draft dated October 3, 2007. Mr. Bowman advised that was not part of the Chapter 6 recommendations from the Planning Board.

Council President Plunkett asked why a tarp could not be used to cover a nuisance and whether a person had a right to store something on their property as long as it was covered. Mr. Snyder anticipated public comment would determine whether that was appropriate. He noted many citizens would not appreciate a neighbor covering piles of debris with tarps.

Council President Plunkett asked about boats and RV storage. Mr. Bowman answered that issue was covered in Chapter 17.60 and would remain in the zoning code. He acknowledged an earlier version merged issues and the City Attorney recommended zoning code issues be separated from nuisance issues. Council President Plunkett asked why boats and RVs were not considered a nuisance. Mr. Snyder explained a public nuisance referred to items that were a danger to the public versus use of property which was a zoning issue.

Councilmember Orvis observed nuisances were enforced on a complaint basis. He asked how long a person receiving a complaint had to bring the issue into compliance. Mr. Bowman answered the code enforcement officer made an initial contact and worked with the property owner to establish a reasonable compliance schedule. Only after a property owner did not comply with the compliance schedule was the more formal process begun. Mr. Snyder commented there was also a process to request a hearing.

Councilmember Wilson pointed out Section 6.20.020(C) should refer to the Development Services Director rather than the Community Services Director.

Mr. Bowman advised the Planning Board would be conducting a public hearing on February 26 to consider possible amendments to Chapter 20 with regard to permit process and procedures. Key issues under review include the following:

- Establish new tables identify categories of permit types and processing procedures for each,
- Create new posting and mailing procedures requiring permit applicants to assume the responsibility for providing notice for permit applications,
- Remove the City Council from most quasi-judicial land use decisions or, in the alternative, require only written closed record reviews,
- Create language for development agreements,
- Clarify procedures for reconsideration requests,
- Clarify how the State Environmental Policy Act (SEPA) integrates into the land use process, including planned actions, and
- Provide for regulations allowing staff determinations that an application has lapsed due to lack of response for additional information.

Mr. Bowman advised following their public hearing, the Planning Board would forward a recommendation to the Council and the Council would hold another public hearing.

Council President Plunkett commented he was not overly enthused about the proposal to remove the Council from most quasi judicial land use decision or requiring only written closed record reviews.

Councilmember Orvis observed the issue of removing the Council from quasi judicial land use decisions was controversial and he did not want that issue to delay adoption of other revisions.

9. **COUNCIL REPORTS ON OUTSIDE COMMITTEE AND BOARD MEETINGS.**

Lodging Tax
Advisory
Committee

Council President Plunkett reported the Lodging Tax Advisory Committee, who distributes funds collected via lodging taxes, reviewed their budget. The Committee distributed funds in 2007 to advertise Edmonds in a brochure in the Korean Times in Seattle, Snohomish Visitors Guide, Greater Seattle Information Guide, Washington Visitors Guide and Sunset Magazine. Funds were also used to advertise Bird Fest and \$20,000 was distributed to the Arts Commission for allocation.

Community
Outreach
Committee

Council President Plunkett reported Carl Nelson, the City's Information Manager, made a presentation to the Outreach Committee regarding a radio frequency station for ferry users, advising the cost would be approximately \$20,000 for hardware plus ongoing maintenance and management. The Outreach Committee agreed not to pursue the radio frequency. The Outreach Committee was also opened for new members and received five applications.

SeaShore
Transportation
Forum

Councilmember Olson reported the SeaShore Transportation Forum was rescheduling its meetings to the third Friday so that King County Councilmember Ferguson could attend. Sound Transit reported they were considering a fall 2008 or 2010 ballot measure that would be smaller, less costly and have less light rail, likely only light rail to Northgate and more buses, bus rapid transit lanes and Park & Rides in Snohomish County. She relayed Councilmember Dawson's suggestion to have Sound Transit make a presentation to the Council.

Sound Transit

Port of
Edmonds
Commission

Councilmember Wambolt reported on the February 11 and 25 Port of Edmonds Commission meetings, advising the Port experienced \$125,000 in damage from the December storm; their insurance has a \$100,000 deductible but FEMA will cover \$75,000. Attendance at the Seattle Boat Show, the largest boat show on the west coast, dropped from 77,000 in 2006 to 62,000 in 2007. The Port passed a drug free workplace policy and a policy preventing workplace violence. They reviewed their 2007 financial results; their 2007 net income was \$401,000. The yacht club completed plans for a new building; they expect to have the plans submitted to the City in May and occupy the new building in December 2009.

Health District
Board

Councilmember Orvis reported the Snohomish County Health District Board allocated State funds to the communicable disease program, primarily for vaccinations and additional personnel. He stated vaccinations were the best way to control communicable diseases. The Board also approved a policy to increase the pay rate for Health District employees fluent in a foreign language, recognizing that the ability to communicate with the people the District serves was very important and the inability to communicate raised potential liability issues. He concluded it would also assist the District in controlling translators' costs.

Disability
Board

Councilmember Orvis reported on the Disability Board, noting their financial situation was unchanged. He referred to HB 3292 regarding recording of Executive Sessions, noting the Disability Board recorded its meetings on a small recording device. Although it appeared the Legislature would not act on HB 3292, he suggested the use of a small recording device to record the Council's Executive Sessions.

SnoCom Board

Councilmember Dawson reported after serving as the Chair of the SnoCom Board for the past three years, she decided not to seek the chairmanship this year. She was hopeful Lynnwood Councilmember Ruth Ross who has served as Vice Chair would be elected Chair, noting Mountlake Terrace Councilmember Jerry Smith had expressed interest in serving as Vice Chair. She planned to continue to be actively involved on the Board particularly with regard to the purchase of the CAD system.

**Authorization to Contract for Environmental Services with Landau & Associates
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Duane Bowman
Submitted For: City Attorney **Time:** 10 Minutes
Department: Development Services **Type:**
Review Committee:
Action:

Information

Subject Title

Authorization to Contract for Environmental Services with Landau & Associates.

Recommendation from Mayor and Staff

Authorize staff to contract with Landau & Associates to conduct environmental work for \$6,500.

Previous Council Action

The City Council authorized the Mayor to negotiate for the purchase of the plaza area in front of Old Milltown on the east side of 5th Avenue South.

Narrative

As part of the City's due diligence efforts, it has been determined that additional environmental investigation should be undertaken prior to purchasing the plaza area in front of the Old Milltown building on 5th Avenue South. The additional investigation is based upon the fact that the subject property was once the site of a former gasoline service station. The additional work includes adding a ground penetrating radar (GPR) test to see if there are any tanks underground. The cost of additional soil/water sample is \$5000 and the GPR test another \$1500. Landau & Associates will conduct the investigation.

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 02:47 PM	APRV
2	Mayor	Gary Haakenson	05/29/2008 03:09 PM	APRV
3	Final Approval	Linda Hynd	05/29/2008 04:12 PM	APRV

Form Started By: Duane Bowman

Started On: 05/29/2008 02:32 PM

Final Approval Date: 05/29/2008

AM-1597

13.

**Selection of Voting Delegates for the Association of Washington Cities Conference
Edmonds City Council Meeting**

Date: 06/03/2008
Submitted By: Linda Hynd **Time:** 5 Minutes
Department: City Clerk's Office **Type:** Action
Review Committee:
Action:

Information

Subject Title

Selection of Voting Delegates for the Association of Washington Cities Conference.

Recommendation from Mayor and Staff

Previous Council Action

Narrative

Fiscal Impact

Attachments

No file(s) attached.

Form Routing/Status

Route Seq	Inbox	Approved By	Date	Status
1	City Clerk	Linda Hynd	05/29/2008 10:18 AM	APRV
2	Mayor	Gary Haakenson	05/29/2008 11:11 AM	APRV
3	Final Approval	Linda Hynd	05/29/2008 11:52 AM	APRV

Form Started By: Linda Hynd
Started On: 05/29/2008 10:16 AM
Final Approval Date: 05/29/2008