

EDMONDS CITY COUNCIL APPROVED MINUTES

January 26, 2016

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

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Kristiana Johnson, Council President
Michael Nelson, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember
Dave Teitzel, Councilmember
Thomas Mesaros, Councilmember
Neil Tibbott, Councilmember

STAFF PRESENT

Jim Lawless, Assistant Police Chief
T. Dreyer, Police Officer
J. Burrell, Police Officer
D. Borst, Police Officer
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.
Patrick Doherty, Econ. Dev & Comm. Serv. Dir.
Shane Hope, Development Services Director
Scott James, Finance Director
Rob English, City Engineer
Kernen Lien, Senior Planner
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. ROLL CALL

City Clerk Scott Passey called the roll. All elected officials were present.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE AGENDA IN CONTENT AND ORDER WITH ONE EXCEPTION, MOVING ITEM 5K, RESOLUTION DESIGNATING AGENT AND ALTERNATE AGENT TO APPLY FOR DISASTER ASSISTANCE FUNDS, TO FOLLOW ITEM 5A. MOTION CARRIED UNANIMOUSLY.

3. APPROVAL OF CONSENT AGENDA ITEMS

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

- A. APPROVAL OF DRAFT CITY COUNCIL MEETING MINUTES OF JANUARY 19, 2016**
- B. APPROVAL OF CLAIM CHECKS #218193 THROUGH #218224 AND REISSUED CHECK #218225 DATED JANUARY 20, 2016 FOR \$383,596.38 AND CHECKS #218226 THROUGH #218273 DATED JANUARY 21, 2016 FOR \$177,972.16. APPROVAL OF PAYROLL DIRECT DEPOSIT AND CHECKS #62038 THROUGH #62047 AND CHECKS #62053 THROUGH #62054 FOR \$499,044.96, BENEFIT CHECKS #62048 THROUGH**

#62052 AND WIRE PAYMENTS OF \$539,764.98 FOR THE PAY PERIOD JANUARY 1, 2016 THROUGH JANUARY 15, 2016

- C. ACKNOWLEDGE RECEIPT OF A CLAIM FOR DAMAGES FROM TRACY JAY (\$1,285.55)**
- D. CONSIDERATION AND POTENTIAL ACTION ON PROPOSED UPDATE TO ECC 8.50 RELATING TO PARKING ON PUBLIC RIGHT-OF-WAY**
- E. ADOPTION OF ORDINANCE TO AMEND REGULATIONS FOR PARKING AND MOTOR VEHICLE REPAIR IN RESIDENTIAL ZONES**

4. AUDIENCE COMMENTS

John Reed, Edmonds, speaking on behalf of Alliance of Citizens for Edmonds (ACE), relayed their concern about the discussion and possible outcome of the amendments related to reconsideration of the Critical Areas Ordinance (CAO), specifically Chapter 19.00.025 International Building Code, adding item 16.12.4.1 lowest flood elevation and Chapter 21.40.030.d height exceptions Item 1. He requested Council consideration of the following suggested revisions and concerns:

1. Height limit on properties located within the coastal high hazard areas and coastal A flood zones should continue to be bound by the existing height limits of either 30 feet or 35 feet for Harbor Square, as measured using the existing four corners methodology.
2. Whatever footage is established for the ground floor distance above base flood elevation as identified from the applicable FEMA Flood Hazard Map currently stated to be two feet in the proposed amendments should be included, not in addition to, total building height controlled by existing methodology.

Action taken at December 15, 2015 Council meeting deleting the height exception 21.40.030 effectively accomplishes the combined effect of the first 2 recommendations; however, they are concerned the 2 feet included in the amendments may not be adequate based on observation of the combined effects of high tides and winds seen during king tides which approached the intermediate 2-foot rise anticipated in the next 100 years. This concern is apparently shared by the senior center planners who they understand are planning to allow three feet for the first floor and voluntarily forfeiting one foot of building height. They are also aware that the Corp of Engineers Corp provided guidance in 2015 to Seattle that in 2090, the end of the senior center's design life, the intermediate and high sea level rise might range from 1.6 feet to 3.9 feet. The City should evaluate how using the estimate of two feet in the amendments in light of the Corp of Engineer's guidance might affect the level of liability it is exposed to if sea level rise exceeds two feet and significant property damage and loss of life occurs as a result. He summarized the changes and concerns and the associated potential risks and liabilities should be carefully and completely considered before finalizing the IBC and height exception amendments. Existing building heights and view protection should not be changed in as sensitive an area as the waterfront simply to accommodate the potential hazards to the ground floor of the area in which the building is located.

Roger Tucker, Environmental Works, architect for the senior/community center project, presented several slides to illustrate building consideration related to floodplain and sea level rise considerations at the senior center city as well as other potential new buildings along the waterfront. He displayed:

1. Drawing illustrating base case; height limit measured from average existing grade which allows a 2-story building with 11 foot ceilings on the first floor and 10 foot ceilings on the second floor, allowing for mechanical space and structural space in between, noting 11 feet is shy for multipurpose room in a public building.
2. Same building, first floor elevation brought up 2 feet above the flood plain elevation which is 14 feet on the senior center site. He identified area at the top of the building that would be out of conformance, which would require ceiling heights be reduced to 10 feet and 9 feet which is minimal for a large multipurpose room.

3. Same building, measuring height limit 2 feet above floodplain and 30 foot building, explaining it is virtually the same diagram as Slide 1 where the building is conforming, ceiling heights are adequate.
4. Specific to senior center site, based on sea level rise consultant's recommendation to set the finished floor at 15 feet versus 14 feet. Even with that proposed amendment, some reductions in ceiling height will be required.
5. Photograph of the king tide elevation

Farrell Fleming, Executive Director, Edmonds Senior Center, advised his remarks reflect the input of Phil Lovell, volunteer technical advisor for the project. When considering the CAO, he encouraged the Council to be guided by the latest Comprehensive Plan and the 2004 Best Available Science (BAS) Report. He referenced a section in the Comprehensive Plan regarding sustainability and implementation, Keep in mind a number of important principles when linking sustainability, plans and its implementation. 1) integrate: seek to expand problem solving and solutions beyond traditional or institutional boundaries, 2) innovate: go beyond conventional approaches, be experimental, 3) be adaptive, be flexible. Rigid rules will not always work or result in the most effective solution, and 4) be a leader. He quoted from the 2004 BAS Report, "Consider the following when designing and classifying frequently flooded areas: 1) effect of flooding on human health and safety and on public facilities and services, 2) available documentation including federal, state and the like, and 3) potential effective high tides with strong winds, sea level rise resulting from global climate change." With regard to the new community center, the facilities will be sustainable in all technical aspects to the benefit of current and future generations. It will be built and maintained well beyond the normal 50 year life expectancy of a building like other heavily utilized City building such as Frances Anderson Center, Edmonds Center for the Arts, and City Hall.

The original draft CAO recommended accommodation of anticipated applicable federal guidelines, the FEMA FIRM map and provides that any new building in the zone should be elevated a minimum of 2 feet above the revised 100 year floodplain. Thus the first floor elevation of the new senior center would either be 14.0 or 15.0 whichever FEMA zone is adopted and applied by the City based on floodplain at 12 or 13. A November 25 report by a member of their design team, Jeff Parson, a geomorphologist with Herrera Environment, recommends the first floor elevation of the new community center be at elevation 15 in recognition of potential sea level hazards associated with high tides, strong winds and resulting storm surge. A 30-foot building is optimal for a public facility such as this because, 1) program uses, particularly the first floor ballroom and the second floor exercise rooms, dictate higher ceilings to accommodate large, active gatherings, 2) the free-span of the second floor over the large open first floor ballroom requires significant structural steel, deep girders and end beams with no internal columns, and 3) roof structure needs to be sloped higher to the west and lower to the street to provide adequate runoff of rainwater. He, Mr. Tucker and Mr. Lovell are present to answer questions.

Joe Scordino, Edmonds, suggested the Council consider returning the CAO to the Planning Board so that a full public process can convene and consider not only the Council amendments but all the changes so that the implications of each can thoroughly reviewed and the public can understand what all the changes mean. Concerns arise with each iteration with regard to the implications of the changes. He noted there are now inconsistencies in the document where changes have been in one place and not in others. He summarized it would be helpful for the Council and the public to have the COA reviewed in a Planning Board format to allow the public and the Planning Board to engage. There are too many details and implications for the Council to take action quickly.

5. STUDY ITEMS

A. DIVERSITY COMMISSION 2016 WORK PLAN

Economic Development & Community Services Director Patrick Doherty provided background on the Diversity Commission:

- April 2015 – Diversity Commission Ordinance passed by City Council
- October 27, 2015 Mayor and City Council appointed total of 9 members:
 - George Basioli
 - Tung Bui
 - Gayle Ketzell
 - Maria Montalvo
 - Denise White
 - Mario Brown, Chair
 - Ed Dorame, Vice Chair
 - Adam Khan
 - Patricia Valle
- Michele Rastovich was engaged as professional contracted staff to the Diversity Commission
- Commission met four times since appointment
- Regular meetings were established as first Wednesday of each month 6:30-7pm in Council Chambers (unless unavailable)

Michele Rastovich reviewed accomplishments to date:

- Commissioners met three times between the appointment in October 2015 and end of 2015, and once in January 2016, focused on developing the structure that will be crucial to the success of the work of the DC including:
 - Creating internal operating principles
 - Electing a chair and vice chair
 - Establishing regular meetings
 - Visioning successful work by the Commission by November 2020
 - Drafting a preliminary work plan for 2016

Ms. Rastovich reviewed the 2016 Work Plan:

- Mission Statement
 - Promote and embrace diversity through action, education, and guidance; foster an understanding that includes, accepts, respects and appreciates each individual member of our community by:
 - Providing information, education, and communication that facilitates understanding of diversity and to celebrate and respect individual differences;
 - Recommending to the Mayor and City Council opportunities to promote diversity programs, and providing guidance to ensure an accessible, safe, welcoming and inclusive government and community; and
 - Supporting, challenging, and guiding government and the community to eliminate and prevent all forms of discrimination.

Vice Chair Ed Dorame thanked Mr. Doherty, Ms. Rastovich, and Ms. Cruz for their assistance with the Commission and Mayor Earling and Council for their selections to Commission. It is a very diverse group that will serve the community well. The Commission includes individuals from various ethnic, race, age, gender identity, physical ability, religious beliefs, and socioeconomic backgrounds. He introduced Commissioners Tung Bui and Pat Valle in the audience. He shared a definition of diversity that Ms. Rastovich provided at one of their meetings: “Diversity is recognition of individual differences. These differences can be along the dimensions of race, ethnicity, age, gender, gender identity, gender expression, sexual orientation, physical abilities, nationality, language, religious beliefs and socioeconomic background.” Having a good understanding of what diversity means will help them work

toward their goal of Edmonds being perceived as safe and welcoming with an inclusive government and community for everyone.

Vice Chair Dorame reviewed the 2016 Work Plan:

- 2016 objectives.
 - Issues associated with an increasingly diverse community are complex and interrelated. In 2016, the Diversity Commission will focus on increasing our understanding of these issues and of the most pressing challenges currently facing our community. In order to develop long-term strategies, with measurable outcomes, and to fulfill the mission of the Commission, we will first concentrate on building relationships, actively engaging and reaching out to the community and broadening our own perspectives. We will document our learnings with a report to Council by January 2017.
- Goal 1: Increase the capacity of Commissioners
 - To ensure that we are well prepared to serve the Council and the community, Commissioners will:
 - Participate in listening forums, or learning opportunities, to develop a common understanding of issues related to diversity.
 - Develop a common understanding of typically used phrases and words like diversity, culture, accessibility, privilege, and inclusion.
 - Increase our awareness of best practices that support diverse communities.
 - Examine current community demographics.
 - Assess community services for underrepresented populations.
 - Identify public policies, both formal and informal, that support diverse communities or create barriers
- Goal 2: Strive to develop a common community understanding of diversity and related issues
 - In order to develop a community understanding of local issues associated with diversity, including our challenges and our assets, the Commission will engage and involve the community in the following ways:
 - Coordinate a minimum of four learning opportunities for the Commission, the community, and local leaders to hear from each other regarding current challenges, barriers and existing efforts. These opportunities may include community forums, guest speakers to the regularly scheduled Commission meetings, or facilitated small group dialogues.
 - Develop a community survey, and/or work with existing survey efforts to include diversity questions.
 - Consider key leader interviews
- Goal 3: Create a public presence for the work of the Commission
 - To further engage the community in the work of the Commission, the Commission will:
 - Establish a subcommittee to determine how to best utilize the City website, local media and social media.
 - Outreach to underrepresented groups, local business, service clubs, public institutions and the faith community.
 - Build partnerships with existing efforts.
 - Enhance relationships with public leaders and with community leaders.
 - Consider how to create an ‘eye-popping’ event
- Budget
 - The budget approved by City Council will be utilized as follows:
 - \$6,000 for contracted staff support for Commission
 - \$3,000 community engagement, outreach and educational activities to be determined

Vice Chair Dorame acknowledged there had been two very unsettling incidences occur in the community in recent months. Through outreach, education and guidance, the Diversity Commission hopes to do its part to make Edmonds a safe, welcoming and inclusive community for everyone.

Councilmember Fraley-Monillas said bravo to the Commission's efforts, noting it is well thought out and their community outreach project is fabulous. She envisioned they would be able to reach out to residents who are not in the inner circle of Edmonds. She is the Diversity Commission's Council liaison and will be attending their meetings.

Councilmember Tibbott complimented the team and looked forward to the work they will do. He asked whether the Commission had considered having a presence during other activities and events such as the Arts Festival. Vice Chair Dorame answered the Commission has discussed that briefly such as participating in 4th of July parade, the Taste of Edmonds, the Business Expo, etc. They will try to partner with other events in the community to make ethnic groups in Edmonds more visible.

Councilmember Nelson asked whether the community survey would ask questions of the community as well as invite further dialogue. Vice Chair Dorame answered there have only been preliminary discussions but the hope is to determine demographics and issues in the community and how to address them. He noted a 2015 survey found 83% of the community is white but there are many other ethnic groups in the community. Councilmember Nelson expressed support for including diversity questions in existing surveys. Mr. Doherty commented the Council approved funds in the 2016 budget for a community survey by the National Citizens Survey Organization. That survey includes questions regarding discrimination and a customized question could be added.

Councilmember Buckshnis said bravo for the Commission's work, noting they had a very eye popping schedule. She noted the \$3,000 for events may not be adequate which is why she supported increasing the City Council contingency fund. Vice Chair Dorame commented he is excited by the Diversity Commission, views it as very good for the community and expects they will do good things.

Councilmember Teitzel commented he had an opportunity to attend one of the Commission's meetings; he was very impressed with the commissioners who are very engaged and passionate about the issue. It is a great team and he looked forward to great things. He asked if the Commission had had an opportunity to reach to Diversity Commissions in other communities. Mr. Doherty said he and Ms. Rastovich have looked into some others Diversity Commissions in the area; it is on the work plan to bring back information about best practices.

Councilmember Mesaros expressed his thanks and appreciation for the Commission's great start. He foresaw one problem; now they need to do all the things in the work plan. He requested Vice Chair Dorame provide the Council the definition of diversity that he read. Vice Chair Dorame commented what he found interesting about that definition was many people think diversity is just about race; it is actually about many other parts of the culture.

Council President Johnson thanked the Diversity Commission for the work they have done. Vice Chair Dorame summarized the Diversity Commission is a great group of people.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ACCEPT THE DIVERSITY COMMISSION'S 2016 WORK PLAN AS PRESENTED. MOTION CARRIED UNANIMOUSLY.

K. RESOLUTION DESIGNATING AGENT AND ALTERNATE AGENT TO APPLY FOR DISASTER ASSISTANCE FUNDS

Assistant Police Chief Jim Lawless explained as a result of the August windstorm, the City incurred significant direct costs to mitigate damage and clean-up, most borne by the Public Works Department. With the formal federal disaster declaration made in October, the City has the opportunity to apply for federal and state emergency funds which require a resolution by the legislative body designating a disaster coordinator and an assistant disaster coordinator.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE RESOLUTION 1346, DESIGNATING AN AGENT AND ALTERNATE AGENT TO APPLY FOR DISASTER ASSISTANCE FUNDS. MOTION CARRIED UNANIMOUSLY.

B. CONSIDERATION OF PROPOSAL FOR NEW ECONOMIC DEVELOPMENT COMMISSION

Economic Development & Community Services Director Patrick Doherty background provided background:

- On June 2, 2009, the Edmonds City Council passed Ordinance 3735, creating a Citizens Economic Development Commission (CEDC), arising from the Citizens' Levy Review Committee, which had been tasked with reviewing the financial situation of the City of Edmonds, and its recommendation to develop a broad vision and long-term strategies to make the City's fiscal situation sustainable without recurring to votes of the public for increased property taxes.
 - The Council at that time stated that it found "it to be in the public interest to establish an Economic Development Commission in order to take advantage of the large number of highly qualified citizens who are interested in serving their community as it addresses this problem (fiscal sustainability)."
- The original EDC was approved with a sunset date of December 31, 2010.
- Ordinance 3808, passed on October 5, 2010, the sunset date was extended till December 31, 2011.
- Ordinance 3868, passed on December 20, 2011, the sunset date was extended till April 29, 2012.
- Ordinance No. 3876, passed on March 20, 2012, the sunset date was established as December 31, 2015.
- Over time the mission statement for the EDC, as enshrined in ECC Section 10.75.030 Powers and Duties, was revised slightly to read ultimately as follows:
 1. Determining new strategies for economic development within the city of Edmonds
 2. Identifying new sources of revenue as a direct result of economic development projects for the consideration of the city council.
- At the 2015 City Council Retreat a study subgroup was called for to study and discuss the CEDC, its purpose, usefulness, meeting format, subgroups, and whether to extend the Commission or allow it to sunset.
 - The subgroup, comprised of Councilmembers Bloom, Mesaros and Petso, met informally in October 2015 to discuss these issues, offering several observations and/or recommendations which were shared with full Council in November.
 - City Council considered the recommendations and chose to take no action, allowing the EDC to sunset on December 31, 2015, as set out in the corresponding Code provisions.

He relayed Mayor Earling's proposal to create a new ECDC, to be established and seated as soon as possible, and in accordance with the code structure of Chapter 10.75 ECC:

- Membership
 - Nine members. Each Councilmember appoints one; Mayor appoints two.
 - Members must be residents and should exhibit experience in fields such as private or nonprofit business, economics, real estate, finance, development, education, or other similar fields.

- Ultimately two-year terms, initially staggered by two- and three-year terms
- No term limits
- No sunset.
- Officers, meetings, forum
 - Commission shall elect Chair and Vice-Chair, with similar duties as in previous code
 - Quorum is a simple majority of filled positions
 - Regular meeting days, times and place shall be established to avoid “special meeting” status and extra notice requirements every time
 - All meetings open to public
- Powers and duties
 - Advise and make recommendations to Mayor and City Council, and as appropriate to other boards or commissions of the City, on matters independently generated or specifically referred to it by the Mayor or City Council related to:
 - Strategies, programs or activities intended to generate economic development and consequently increase jobs and municipal revenue
 - Annual report to Council and Mayor
 - Commission may work in conjunction with other boards or commissions on proposals, recommendations or projects of common interest, which may be presented to Mayor or Council jointly

Mr. Doherty recommended the Council discuss and forward this to the February 2, 2016 Council business meeting for further discussion and approval of a corresponding ordinance establishing an EDC.

Councilmember Buckshnis expressed support for establishing an EDC. She recalled when the EDC first began there was one Councilmember which later changed to two Councilmembers. There were also members who represented the Port and the Planning Board. She asked whether the Commission would include a Councilmember, Port Commissioner and a Planning Board Member. Mr. Doherty answered it would be up to the Council President to determine there would be one or two liaisons; that is not outlined code. He suggested the new EDC determine the most efficient/productive way of involving the Chamber, who was not involved previously, the Port and the Planning Board or others, perhaps via five minute reports at each meeting. The proposal does not anticipate they would be seated as commissioners.

Councilmember Fraley-Monillas referred to the membership requirements and asked what type of individuals other than non-residents would be excluded from participating. Mr. Doherty recalled comments last year by Councilmembers that there were no qualifications to be a commissioner. He said the inclusion of the language “or other similar fields” made the requirements quite broad. He envisioned candidates’ applications would address how they met this expectation. If they did not have that background, they likely would not be appointed by Councilmembers or Mayor Earling. The intent is to encourage people with backgrounds, education or expertise related to the economy or economic development to apply.

Councilmember Fraley-Monillas asked whether someone who had stayed home raising children for the past five years would be turned down. Mr. Doherty said the selection would be the appointers’ choice. He noted someone who stayed home raising children may have a great deal of education in economics or business.

Councilmember Fraley-Monillas referred to the language “experience in fields such as private and nonprofit business,” noting most everyone has some level of experience if they have worked in a private or nonprofit business. She asked whether the intent was administrative experience. Mr. Doherty answered it would be up to the applicant to describe in their application how they met the qualifications.

Councilmember Fraley-Monillas said there was no language regarding removing a commissioner who is not working out. Mr. Doherty said that was not currently addressed in the code; a general provision could be added related to boards and commissions. Councilmember Fraley-Monillas recalled there was a process for removing based on non-attendance. City Attorney Jeff Taraday there is currently no general provision but if the Council was interested he could draft a chapter regarding the ability to unappoint or remove appointees for all boards and commissions. Councilmember Fraley-Monillas asked if the Councilmember that appointed the person could unappoint them. Mr. Taraday answered the ordinance was silence on that issue; an argument could be made that that is inherent in the authority but it was not clear.

Councilmember Fraley-Monillas referred to language in the proposal that the EDC would work on matters specifically referred to it by the Mayor or City Council. Mr. Doherty explained the EDC would work on issues referred by the Mayor and City Council as well as matters they independently generated as a think tank. Councilmember Fraley-Monillas recalled some of things the EDC considered in the past 10 years included casinos, increasing emergency transport fees, and potentially taxing marijuana stores. She pointed out citizens voted against casinos in the past. Mr. Doherty envisioned the Council liaison could report to the Council on issues the Commission was discussing. If the majority of Council disagreed with an issue they were discussing, the liaison could report that to the Commission.

Councilmember Fraley-Monillas recalled the Councilmember liaison was not allowed to vote at Commission meetings. Council President Johnson relayed liaisons have never voted. Councilmember Fraley-Monillas asked if the liaison was allowed to participate in the meeting. Council President Johnson answered yes. Councilmember Fraley-Monillas advised the liaison could state their opinion to the Commission as well as report to the Council. Mr. Doherty acknowledged the difficult for one Councilmember to represent the entire Council. The Council liaison is encouraged to participate at EDC meetings.

Councilmember Nelson said he was generally supportive of nimbler, smaller EDC. He referred to the ability to work in conjunction with other boards and commissions and asked if that was unique to the EDC. Mr. Doherty acknowledged it may not be expressly stated for other boards and commissions. The purpose is recognizing issues that affect economy and economic development cross with other boards and commission. For example the Westgate Plan, both the EDC and the Planning Board had roles. There may be other area of the City where both are involved such as the Highway 99 subarea plan; the EDC may want to offer its observations with regard to that plan, hold a joint open house, etc. The intent was to recognize economics and economic development is very broad and can overlap with other areas.

Councilmember Mesaros referred to the qualifications that require members be residents, recalling a previous Councilmember thought this meant a resident of the United States and tried to appoint someone who lived outside Edmonds. He suggested adding "resident of Edmonds." Mr. Doherty answered his presentation was a summary and the code will include that language.

Councilmember Teitzel supported the concept of a EDC and looked forward to having it reinstated. He asked whether there was a statutory requirement that a commissioner must be a resident of Edmonds. For example, could a long time business owner who is a member of the Chamber with extensive business expertise be a commissioner. Mr. Doherty said the current proposal is that commissioners be residents, the Council could decide otherwise. Councilmember Teitzel asked if there was any precedent for having non-Edmonds residents on a commission or board. Councilmember Mesaros pointed out the Architectural Design Board includes non-Edmonds residents.

Councilmember Teitzel referred to the language, "the commission may work in conjunction with other board and commissions on proposals," suggesting that language also include other entities in the City

such as the Port, Chamber, BID, etc. Mr. Doherty said that bullet is related to other City boards and commissions. Another bullet could be added regarding engaging with other entities, organizations and agencies that are involved in similar issues.

Councilmember Fraley-Monillas asked whether residents of unincorporated Edmonds could serve on the EDC. Mr. Doherty said under the current proposal they would be excluded. Mayor Earling said the intent was residents who live within the City limits. He wanted the commission comprised of residents within the City limits because it is a smaller group and otherwise it may begin to wander afield.

Councilmember Buckshnis recalled when she was Council President and a Councilmember attempted to appoint a resident of Seattle, it was a fiasco. The intent was residents of Edmonds who are dedicated to the economic development of Edmonds. Business owners who live outside the City can support the EDC.

Councilmember Tibbott relayed his understanding commissioners would have connections with other area of the northwest and the nation and bring those connections to the EDC. They could also invite friends and others outside the City to engage in the EDC's activities. Even a very qualified person who lives in a neighboring city could participate but just not as a board member. He asked whether any skill sets sought such as marketing, economics, etc. Mr. Doherty said those skill sets would fall under the fields of business, economics, finance, etc. The intent was to be as broad as possible, but provide the message that people with education, experience or background in areas and skills sets related to the economy or economic development are the most sought after.

Council President Johnson recalled one of questions that has been raised is the appropriate role for the EDC with regard to the City's Strategic Action Plan (SAP). The EDC was very involved in that process and she questioned their role in monitoring and guiding the SAP in the future. Mr. Doherty explained much of the heavy-lifting has been done; the Council approved an updated SAP last April, recognizing that more public process and possibly updates could occur this year. Monitoring is primarily done by staff or leads from other agencies who "own" action items. This is an issue for the Council when the new EDC is in place, to determine whether they want the EDC to take leadership of the SAP. Approximately 20 of the 85 action items are related to economic development; at a minimum it would make sense for the EDC to monitor and take some ownership of those items. In establishing a new EDC with a conduit to Council via the liaison, there will be an ability for the Council to inform the EDC what they would like done rather than including that in the code.

Council President Johnson asked how the Council would communicate their desire for the EDC to research a topic such as a new car dealership on Highway 99. Mr. Doherty anticipated via the liaison there would be regular interaction with the Council and if a Councilmember wanted to introduce a topic, referring it to the EDC could be approved by the Council.

Mayor Earling said he would like to move this quickly. He anticipated passing the ordinance next week, followed by two weeks for application submittal, give the Council and him one week to make appointments and have the EDC up and running by the end of February.

C. PRESENTATION OF THE COMMUTE TRIP REDUCTION AGREEMENT

City Engineer Rob English explained the City is involved in the Community Trip Reduction (CTR) Program. The grant agreement will provide \$2500 to the City for incentives for the program. The City, as an employer of over 100 people, is one three work sites within Edmonds that participate in CTR; the other two are Swedish Hospital and Edmonds Family Medical Clinic. Staff applied for the grant late fall and was awarded the funds. The \$1,000 budgeted for the program in 2016 will be used as a match. Staff recommends the grant agreement be approved on next week's Consent Agenda.

Councilmember Nelson complimented staff on applying for the grant and the goal of a 50% increase in employee ridership.

It was the consensus of the Council to schedule this item for approval on the February 2 Consent Agenda.

D. PRESENTATION OF A SUPPLEMENTAL AGREEMENT WITH DAVID EVANS AND ASSOCIATES FOR THE 76TH AVE AT 212TH ST. INTERSECTION IMPROVEMENT PROJECT

City Engineer Rob English explained this project has been in design since 2012 and is nearing 90% design. Staff has been working on the right-of-way acquisition for over a year. The goal is to finish both phases and go out for bid in spring 2016. Before that can be done, additional work needs to be completed. He highlighted tasks in the scope of work of the supplemental agreement:

- Provide a \$20,000 on-call budget for the appraisers to support the City Attorney during ongoing right-of-way negotiations and potentially mediation with property owners on the northeast and northwest corners of the intersection. The property owners signed a stipulated possession and use agreement which provides the right-of-way to build the project but they have not agreed to the valuation of the properties.
- Design plans for property restoration on the four corners of the intersection
- Additional work related to utility undergrounding
 - Temporary traffic signal
 - Waterline revision
 - Add streetlights

The total cost is \$107,550; all the design funds in the design phase have been expended. He was hopeful there may be surplus funds when the right-of-way and construction phases are complete as a result of, 1) final valuation of properties, 2) bid price, and/or 3) potentially not using all of 10% management reserve. He advised a budget amendment may be necessary at the completion of the project.

Councilmember Mesaros expressed support for the supplemental agreement. He pointed out the mileage reimbursement rate has been reduced from \$0.54 in 2015 to \$0.51 in 2016.

Councilmember Teitzel observed the narrative states bike lanes will also be added on all approaches extending approximately 300 feet from the intersection. He asked how bicycles will be protected especially from traffic turning right. Mr. English described the lane configuration that will include a right turn lane, a through lane and a left turn lane; he believed the bike lanes will go through the intersection but there is no physical separation. Councilmember Teitzel asked if the bike lanes will be clearly marked. Mr. English answered yes, they will be striped.

Councilmember Mesaros commented on bike lane improvements in Seattle, some with separate traffic signals for bikes and dedicated bike lanes that cross the right turn lane. Mr. English commented the Verdant grant will add bike lanes from 220th to Olympic View Drive.

It was the consensus of the Council to schedule this item for approval on the Consent Agenda.

E. SECONDARY CLARIFIER NO. 3 STRUCTURAL REPAIR PROJECT FOR THE WASTEWATER TREATMENT PLANT

Public Works Director Phil Williams explained this is authorization to go to bid to repair the secondary clarifier. The costs listed are totals; Edmonds' share of the \$429,000 construction cost is about half and the City's partners pay the remainder. He explained there were originally three secondary clarifiers, large concrete tanks buried in the ground. He described how the clarifiers work, separating water from the

solids. Shortly after the treatment plant was built, the bottom of clarifier #3 began to crack; it has been repaired several times. Two consultants were hired, a geotech and designer to evaluate the situation. They prepared options for repairing the floor and eventually recommended replacing the floor and the structural slab. Brown and Caldwell designed the project and it is ready to go to bid. The construction cost estimate is \$845,000 which includes a 10% construction contingency. The actual cost of the project will be determined by the bids.

It was the consensus of the Council to schedule this item for approval on the Consent Agenda.

F. DISCUSSION AND POTENTIAL ACTION ON AN ORDINANCE AMENDING THE 2016 BUDGET FOR CARRYFORWARD ITEMS PREVIOUSLY DISCUSSED AND APPROVED BY COUNCIL DURING THE 2015 BUDGET YEAR

Finance Director Scott James presented the 2016 Carryforward budget amendment:

- 2016 Carryforward Budget Amendment Is For Items Not Completed in 2015
- There are 35 carryforward requests
- The carryforward budget amendment will roll the unexpended 2015 budget into the 2016 budget
- All these items were previously approved by Council
- Three of the carryforwards had some additional budget added:
 - Court/Council Chambers A/V upgrades project. Council added \$20,000 on January 5, 2016
 - Frances Anderson Center bandshell replacement not fully completed in 2015. Requesting an additional \$80,000 to complete the project as construction cost estimates were \$80,000 higher than approved in the 2015 budget
 - Purchase of Civic Field property which will close in February 2016; Council approved an additional \$100,000 on November 20, 2015.
- Summary of the 2016 carryforward budget amendment
 - Revenues increased \$3,805,257
 - Expenditures increased \$7,754,831
 - Change in Beginning Balance +\$3,890,579
 - Ending Fund Balance decreased \$58,995

Councilmember Buckshnis asked Mr. James to explain in layman's terms why the beginning balance was being changed to add \$3.9 million. Mr. James explained when the 2016 budget was built, it was anticipated some projects would be completed in 2015 so the beginning fund balances were lower. Since the funds were not expended, the beginning balance needs to be updated to reflect the unexpended amount.

It was the consensus of the Council to schedule this item for approval on the Consent Agenda.

G. HOURLY EQUIPMENT RENTAL RATES FOR EXTERNAL AGENCIES AND THE TRANSPORTATION BENEFIT DISTRICT

Finance Director Scott James explained staff occasionally recommends updating the equipment rental rates based on the FEMA equipment rate schedule. The City began using this rate schedule in 2009 and it was last adjusted in 2011. The rate schedule is used to charge external agencies such as renters, the Transportation Benefit District and private contractors. Staff recommends establishing a policy where equipment rates are based on FEMA's rates which will avoid periodically updating equipment rental rates.

Councilmember Nelson asked why use the FEMA rental rates. Mr. James said the rate is set by the federal government; a lot of grants the City receives are federal so the federal rate schedule would be acceptable to them.

It was the consensus of the Council to schedule this item for approval on the Consent Agenda.

H. SNOHOMISH COUNTY ILA AMENDMENT NO.2

Parks & Recreation Director Carrie Hite explained this is an amendment to the ILA with Snohomish County for the purchase of Civic Field. The City is receiving \$500,000 of Conservation Futures funds from Snohomish County to assist with the purchase. One of Snohomish County's requirements is to file and record a conservation easement once the property closes to limit the ability to do any recreational buildings on the easement property. The packet contains a survey that redraws the legal description for Civic Field, concentrating the unvacated streets on the northwest portion of the property. The legal description for the easement is called the parent parcel (identified in green) which would be restricted by deed from development in that area and the area identified in blue would be available for whatever the City wants such as rebuilding the Boys & Girls facility, siting of another facility, etc.

Due to her and the City Attorney's concern with language in Section 4 of the draft conservation easement, she recommended they negotiate with Snohomish County and bring the agreement back next week for approval on the Consent Agenda. The language of concern is the use of RCWs to define the conservation easement as no active recreation. In Washington, the RCWs allow active recreation. They want to clarify the language so when development of Civic Field is planned with the community, there is opportunity to have tennis courts, grass athletic fields, etc. on the deed-restrict land. She noted artificial turf would not be allowed in a conservation easement.

Councilmember Teitzel observed the grandstands are in the area with the conservation easement and asked if that meant the grandstands could not be rebuild. Ms. Hite responded in accordance with the Recreation Conservation Office, grandstands would be allowed; she was not certain with Snohomish County. Existing uses can remain but she will confirm whether the grandstands could be rebuilt or expanded. She commented the existing grandstands are in bad shape; if there was interest by the community in retaining the grandstands, they would need to be rebuilt.

Council President Johnson preferred to schedule the agreement as an action item on the agenda. Ms. Hite said she could make a report on the language change at next week's meeting. She requested the Council take action next week and not forward it to the Consent Agenda due to the timeline to close by February 9.

It was the consensus of the Council to schedule this item for approval on the February 2 Consent Agenda.

I. REVIEW PARK CONCESSION AGREEMENT WITH DOG DAY AFTERNOON FOR AN ATM AT RICHARD F. ANWAY PARK

Parks & Recreation Director Carrie Hite reported there has been an ATM on this site for several years. By code the Parks Department can make decisions on seasonal concessions but year round concessions require Council approval. The proposal is a five year agreement that would expire December 31, 2020. There have been no problems and there have been several compliments about the location.

It was the consensus of the Council to schedule this item for approval on the February 2 Consent Agenda.

J. FISHING PIER REHABILITATION PROJECT CONTRACT AWARD

Public Works Director Phil Williams reported this is the result of several years of discussion, design work and grant writing. He requested Council award the Fishing Pier Rehabilitation Project to Razz Construction. Following this project, there may be a request by the State for City to take over ownership

of the fishing pier. The pier is currently owned by the State; \$1.3 million of the \$1.4 million of available funds are from the State. Edmonds committed approximately \$100,000 to the project. The low bid was approximately \$1.004 million; approximately \$1.26 million is available for construction. The engineer's estimate was \$1.248 million. There was a protest of the low bidder's paperwork which staff determined was incorrect and the protest was withdrawn.

Councilmember Fraley-Monillas asked about the protest of the low bid. Mr. Williams explained one of the bidders, not the low bidder, was hopeful there were defects in the paperwork submitted by the apparent low bidder. The City evaluated whether there were material defects in the submittal and determined there were not. The protest was also not timely. He advised \$1.26 million was included in the budget; the request is \$1.004 million plus a \$100,500 management reserve, bringing the total cost to \$1.104 million. There is still \$160,000 in the budget in the event the 10% management reserve is not enough.

Council President Johnson commented this is a very popular fishing pier and asked the projected closure for the repairs. Mr. Williams commented it will depend on the contractor's sequence of activities. The schedule was designed to occur at the lowest point in the season. Mr. English said the project will occur during March to June. Mr. Williams advised the closure dates will be announced as the start date gets closer.

It was the consensus of the Council to schedule this item for approval on the Consent Agenda.

Mayor Earling declared a brief recess.

L. CONSIDERATION OF THE CRITICAL AREAS ORDINANCE

Senior Planner Kernen Lien providing background on the CAO update:

- Update started in fall 2014 with review of existing code and BAS
- Planning Board and City Council review in 2015
- Eight Council amendments at the December 15, 2015 meeting
- Two ordinances in Council packet
 - Exhibit 1: Ordinance with all eight Council amendments
 - Exhibit 2: Administration recommended ordinance (maintaining Council amendments 5, 6 and 7)

Staff recommends Council forward Exhibit 1, 2 or a 3rd ordinance for a decision next week.

COUNCILMEMBER MESAROS MOVED, SECONDED BY COUNCILMEMBER TEITZEL, THAT THE COUNCIL REVIEW AMENDMENT BY AMENDMENT.

Councilmember Buckshnis asked if the motion was reconsideration. Councilmember Mesaros answered no, it was to review the amendments in consideration of the Mayor's letter and his indication he would be forced to veto the ordinance.

Councilmember Buckshnis observed the motion is not to reconsider but rather to review the ordinance created by the administration without any legislative direction. She asked whether that was appropriate under Roberts Rules of Order. City Attorney Jeff Taraday said under Roberts Rules, reconsideration only occurs at the same meeting. Councilmember Buckshnis commented those rule have been bent before. Mr. Taraday clarified this is technically not reconsideration because reconsideration must occur at the same meeting. There have been instances in the past where the Council directed the City Attorney to prepare an ordinance; the City Attorney prepared the ordinance and amendments were made to the ordinance before

adoption by the City Council. In this instance, the Council has more or less that same opportunity; two ordinances have been prepared, 1) Council requested and 2) Mayor's request. He assured there was nothing procedurally improper about discussing the eight amendments one by one if the Council wished.

Councilmember Buckshnis recalled with Highway 99, the amendments were driven by Councilmember Fraley-Monillas who was not present at the meeting where direction was given. She expressed concern the public has not had an opportunity to weigh in on the ordinance in Exhibit 2. Mr. Taraday explained although the GMA requires robust public participation in development of the CAO, he did not read the GMA to require that every amendment requires another public hearing; that would be beyond robust to burdensome. The two versions of the ordinance in the packet are the same from a public hearing standpoint because a public hearing has not been held on either Exhibit 1 or 2. Councilmember Buckshnis recalled one if not two public hearings were held on Exhibit 1. Mr. Taraday said public hearings were held on the original staff recommendation at the Planning Board but eight Council amendments were made at the last meeting of 2015 and no public hearing has been held. He clarified he did not think a public hearing was required but one ordinance would not be preferable over the other due to having held a public hearing.

Councilmember Fraley-Monillas relayed her concern with the process. The Council directed the City Attorney to return with an ordinance that was passed by a majority of the Council present on December 15, 2015. Along with that ordinance, the packet includes another ordinance because the administration didn't like what the Council passed. She asked whether it was normal to draft an ordinance because the administration dislikes what the Council passed. Mr. Taraday did not recall being asked to do it before; however, if the Council does not like that ordinance, the Council will not adopt it.

Councilmember Fraley-Monillas clarified her issue was not with the content of the ordinance. The legislative branch determines the laws, ordinances, zoning and rules; the administrative branch determines how to implement that and the two shall not cross. Council should not tell staff what to do and administration should not tell the Council what to do. Having the administration request preparation of another ordinance because they did not like what the Council approved flies in the face of the Council's job. Mr. Taraday disagreed, assuring the Council's legislative authority had not been usurped in any way. The City Council has the ability to do exactly what it directed be done on December 15, 2015, have staff prepare an ordinance and that ordinance is in the packet and the Council can adopt it if they choose. One of the concerns is the City is past the deadline for adoption of the CAO by about six months. Given the potential of a veto, it made more sense to streamline the process and include two versions of an ordinance in the packet so if the Council wanted to avoid a veto, it could simply approve the "veto-free" version of the ordinance instead of adopting the ordinance the Council asked for on December 15, having the ordinance vetoed and going back through the process. From his perspective, the goal was to adopt the CAO as soon as possible given that the deadline has been missed.

Councilmember Fraley-Monillas disagreed, pointing out because there are new Councilmembers, if there are changes to the COA, it should be a new process and not a pieced together process. Mr. Taraday said while the Council President sets the agenda, the administration assembles the packet. In Edmonds and in most cities it is pretty common for the executive to propose legislation. Obviously the executive cannot adopt legislation but he/she does not lose the ability to propose legislation which is essentially what has been done with the second version of the ordinance.

Councilmember Fraley-Monillas pointed out the Council President sets agenda. Mr. Taraday agreed, explaining it was completely within the Council President's discretion to determine at which meeting this item is on the agenda. But the Council President does not determine which attachments will be included in the packet; that has always been done by staff. Generally staff defers to what they know the Council has asked for. He paraphrased Councilmember Fraley-Monillas' objection that staff should not be allowed

to include things in the packet that the Council has not asked for. Councilmember Fraley-Monillas said she did not say that. Mr. Taraday summarized he was not aware of any restriction on what staff included in the packet.

Councilmember Mesaros recalled the Council has made changes to an ordinance it directed the City Attorney to prepare. The Mayor has made it clear to the Council that if they approve the first ordinance, he will veto it. Rather than create conflict he preferred to review the amendments individually in an effort to reach common agreement instead of going through the veto process.

Councilmember Teitzel commented he was not on the Council on December 15, 2015 when this issue was considered. He has reviewed a lot of material and new facts have arisen that compel a different decision on some of the amendments. In good conscience he could not vote in favor of the CAO as amended in December.

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

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCIL PRESIDENT JOHNSON, TO PASS ORDINANCE NO. 4017, THE ORDINANCE OF DECEMBER 15, 2015 WITH COUNCIL AMENDMENTS.

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

Mayor Earling asked Mr. Taraday how soon he could get the ordinance to him. Mr. Taraday said the ordinance is in the packet as Exhibit 1; he can sign it, not sign it or veto it as soon as tomorrow. Mayor Earling said he will need to make a decision relatively soon as he will be out of town tomorrow and Thursday.

6. REPORTS ON OUTSIDE BOARD AND COMMITTEE MEETINGS

Councilmember Fraley-Monillas reported the Snohomish County Health District approved a clean air zone; prohibiting smoking or vaping within 25 feet of entryways, doors and windows.

Councilmember Teitzel reported the Historic Preservation Commission voted at its last meeting to add the North Sound Church building at 4th & Bell to the local register. A recognition event is being planned.

Councilmember Teitzel reported the Port of Edmonds meeting included a presentation from John Monroe, Economic Alliance of Snohomish County, who described the work they are doing and advocacy in Lynnwood on behalf of cities in Snohomish County as well as development of programs to attract businesses to Snohomish County. The Port meeting included discussion about non-working street lights on Admiral Way; the Port energized the street lights this week although the issue of who pays for the electricity remains. The Port reported they have only 60 available slips The public is encouraged to attend the Seattle Boat Show January 29 – February 6 where Port will have a booth.

Councilmember Mesaros reported he was unable attend the SNOCOM meeting but ACOP Don Anderson attended in his place. Chief Compaan is also a SNOCOM board member so the City was well represented at the meeting. He will attend his first Public Facilities District Board meeting on Thursday.

Councilmember Tibbott reported the Tree Board meeting selected officers, made a few plans for events and discussed how to engage a consultant. He encouraged interested residents to apply for the vacancies

on the Tree Board. He will attend the Affordable Housing Alliance meeting next month; he has received several letters from residents interested in affordable housing issues and was interest in hearing from others.

7. MAYOR'S COMMENTS

Mayor Earling reported he has been in Olympia the last couple days; he met with 6-7 legislators on Friday along with AWC's Government Affairs Director. He was in Olympia this morning for breakfast with the governor and 20 other leaders from Snohomish County. He will be in Olympia for the next two days, returning on Friday.

Mayor Earling invited Councilmembers to a signing at Civic Field on February 3. He reported on plans to form a task force in the next week regarding pedestrian safety and auto conflicts.

Mayor Earling reported elections were held for the Community Transit Board; the Mayor of Mukilteo and a Councilmember from Arlington were elected and the remaining seated members were reappointed. Sound Transit 3 is progressing; the City submitted its letter as have several other subareas. It is hoped a draft alignment will be identified for further staff analysis in March. That will be followed by further refinement and hopefully a ballot measure this fall.

8. COUNCIL COMMENTS

Council President Johnson reported five Edmonds Councilmembers attended the last Snohomish County Cities meeting where the Economic Alliance of Snohomish County made a presentation.

Council President Johnson thanked everyone who participated in discussions, wrote letters and testified regarding the CAO. By its action tonight, the Council decided to adopt the recommendations made at the December 15, 2015 meeting and Mayor Earling intends to veto the ordinance. The Council will then begin the review again. She commented this was a necessary step to bridge between the 2015 Council decision and the 2016 new Council makeup. Although it may seem torturous to some, Councilmembers want to respect the comments and contributions from everyone who has worked on the CAO for the past two years. The CAO is a very complex ordinance and the Council wants to ensure the ordinance will serve the City well in the future.

Councilmember Tibbott thanked City staff for their response to a lot of questions this week and requested the questions and answers be included in the packet to assist the public. Although he is new to the City Council, the topic of the CAO is not new to him due to the work he did while on the Planning Board. He also took additional time to read the information the Council provided. Based on that, he thought the Council could have discussed the amendments tonight. He looked forward to a robust discussion and encouraged the public to get involved as the issues are complex and multilayered.

Councilmember Fraley-Monillas reported at the South County Cities dinner she was reelected as the alternate to the PSRC Executive Board, to the Snohomish County Law and Justice Council and to the Snohomish County Transportation Coalition that looks at transportation choices for those with disabilities.

Councilmember Nelson reminded of tomorrow's Waterfront Access Study Open house from 4:30 to 7:30 p.m. at the Edmonds Library.

Councilmember Buckshnis commended the Task Force for the materials they have produced and their transparency. She reported she was selected by WRIA 8 to be on their funding committee which considers and awards grants.

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

This item was not needed.

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

This item was not needed.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 9:08 p.m.