

APPROVED JUNE 10TH

CITY OF EDMONDS PLANNING BOARD MINUTES

May 27, 2015

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

BOARD MEMBERS PRESENT

Neil Tibbott, Chair
Philip Lovell, Vice Chair
Carreen Rubenkönig
Daniel Robles
Matthew Cheung
Evan Zhao, Student Representative

STAFF PRESENT

Shane Hope, Development Services Director
Rob Chave, Planning Division Manager
Kernen Lien, Senior Planner
Jeanie McConnell, Engineering Program Manager
Karin Noyes, Recorder

BOARD MEMBERS ABSENT

Todd Cloutier
Valerie Stewart

READING/APPROVAL OF MINUTES

VICE CHAIR LOVELL MOVED THAT THE MINUTES OF MAY 13, 2015 BE APPROVED AS SUBMITTED. BOARD MEMBER RUBENKONIG SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.

ANNOUNCEMENT OF AGENDA

The agenda was accepted as presented.

AUDIENCE COMMENTS

Roger Hertrich, Edmonds, observed that he has spoken to the City Council and Planning Board on a number of occasions in the 25 years since he served on the City Council, and he has never seen such a large turnout at a public hearing before the Planning Board. He said it appears that all those in attendance are present to address the same issue.

Alvin Rutledge, Edmonds, reported that he has attended several meetings related to the new fields at the old Woodway High School site, including meetings before the Hearing Examiner, the Edmonds School District and the Edmonds Swedish Hospital Board. He announced that citizens have until June 3rd to appeal the proposed turf materials. The fields cannot be constructed until the courts have settled appeals.

Jim Wassell, Edmonds, voiced concern that he is not able to use all of the property he owns because the property line goes to within two feet of the curb on the east side of Sunset Avenue. A decision has never been made about this situation. His neighbor's home will be set back 15 feet from the front property line, which means the house will extend out quite a ways to the west. He summarized that the situation is unacceptable, yet neither the City Council nor the Planning Board have addressed it. He also voiced concern that the City's sidewalk is located on his property and he is responsible for maintaining it.

DEVELOPMENT SERVICES DIRECTOR REPORT TO PLANNING BOARD

Ms. Hope referred the Board to the written report provided in their packets. There were no questions.

PUBLIC HEARING ON DRAFT TREE CODE

Chair Tibbott reminded everyone that the Planning Board is in the very early stages of collecting public comment with regard to the Tree Code. The hearing is an opportunity for citizens to speak and the Planning Board to hear and understand the level of passion people have with regard the issue. He reviewed the rules and procedures for the public hearing and invited Mr. Lien to present the Staff Report.

Ms. Hope explained that the issue before the Board is how the City should regulate trees in the future. In particular, should a permitting system, as has been proposed, be adopted and applied to all residential properties in the City? The subject of trees generates a lot of emotion, and it impacts every household more than most any other code amendment the Planning Board would consider. Nearly everyone loves trees, especially the right trees in the right places. The question is who should decide when they can be removed and on what basis. Solar access, property rights, personal landscape decisions, and safety factors should all be part of the equation.

Ms. Hope reviewed that a board of citizens (Tree Board) appointed by the City Council has been working hard to come up with a recommendation that reflects a lot of thought and their concern for trying to conserve more tree cover in Edmonds. The Board will hear a lot of information, starting with the staff presentation by Kernen Lien. His presentation will include how the idea of tree regulations, as being proposed, came about; what tree regulations apply now; some key facts about the proposed permitting system; and a recommendation relative to the proposal that will be based on staff's recommendation of the many good things that are being proposed, as well as concerns about some parts of the proposal. Staff feels a need for a broad public policy discussion and a basis in an Urban Forestry Management Plan (UFMP) before significant changes are considered communitywide. She advised that, during the hearing, the Board will hear from citizens who are passionate about the subject in one way or another. After hearing from the public and deliberating further, the Board could make a recommendation tonight or they could postpone their decision to a future meeting.

Mr. Lien provided a brief history of the Tree Code. Edmonds was first incorporated in 1890, and its first Tree Ordinance was adopted in 1928. The Tree Ordinance has been updated a number of times over the years, and most of the City's current tree regulations are found in the Land Clearing and Tree Cutting Ordinance that was adopted in 1990 and spelled out in Edmonds Community Development Code (ECDC) 18.45. However, other City regulations apply to tree removal, as well, including the Critical Area Ordinance (ECDC 23.40-23.90), Shoreline Master Program (ECDC 23.10), Landscaping Requirements (ECDC 20.13), Street Trees (ECDC 18.85), and the Right-of-Way Tree Removal and Trimming Policy that was updated and adopted by the City Council in November of 2014. There are also policies related to trees in the City's Comprehensive Plan.

Mr. Lien reviewed that the City Council established the Tree Board in 2010 via Edmonds City Code (ECC) 10.95.030, and one of the Board's duties was *"Developing a tree ordinance designed to preserve and protect existing trees, encourage planting of additional trees, safeguard trees on parcels where construction or renovation is occurring or planned to occur, and encouraging the Edmonds citizenry to become active stewards of the urban forest."* Because the current regulations related to trees are spread throughout the City's code, the intent was for the Tree Board to develop a more comprehensive tree code with clear vision and provisions that are easier for citizens to understand and more efficient for staff to implement.

Mr. Lien explained that the existing code has a number of exemptions, particularly for single-family properties. A developed, single-family property that has no critical areas and is not subdividable into more than one additional lot is exempt from the permit requirements. Routine maintenance and hazard/emergency tree removal is also an allowed activity without a permit. If a single-family property does not fall under one of the exemptions, a Type II Permit is required, which is a staff decision with public notice. The current application fee for the permit is \$820 (\$795 plus a \$25 City surcharge.)

Mr. Lien said there is currently some disparity between the requirements for commercial and multi-family residential properties versus the requirements for single-family properties, and the update is intended to make the requirements more fair and balanced. Many of the current multi-family and commercial properties were developed with an approved landscape plan.

When a property owner wants to remove trees, it is considered a landscape modification, which is a Type I Staff Decision with a \$225 permit fee. A separate tree removal permit is not required for new construction of commercial, multi-family, or single-family. Instead, tree removal would be reviewed with the underlying development permit, and there may be landscape plan and street tree requirements.

Mr. Lien explained that, as per the draft Tree Code, the permit fees for multi-family, single-family and commercial development would be the same. A permit would be required for the removal of any tree not associated with a development, so many of the exemptions in the existing code would be eliminated. The City's current policy related to right-of-way trees would be incorporated into the Tree Code. The proposed new tiered approach identifies the following permit types:

- An **Administrative Staff Review Permit** would be required for the removal of no more than two significant trees within a 36-month period. A significant tree is defined as 6-inch diameter at breast height (4.5 feet off the ground).
- A **Type I Arborist Consult Permit** would be required for the removal of a nuisance tree; hazard tree; protected tree; any number of significant trees on multi-family, commercial or industrial property; or more than two significant trees within a 36-month period.
- A **Type II Arborist Consult Permit** would be required for the removal of landmark trees or trees located within critical areas. A landmark tree is defined as a tree that is 24-inches in diameter, and a Type II Permit is a staff decision with public notice.
- A **Right-of-Way Permit** would be required for the removal or pruning of any tree within the City's right-of-way (ROW).

Mr. Lien said another major change in the draft Tree Code is the establishment of a minimum tree density on single-family lots. He referred to the two tables included in the draft code and explained that a tree unit would be based on the diameter of the tree. As an example, he said an RS-8 zone would have a density requirement of four tree units; and one, 24-inch tree on the lot would meet the requirement because one, 24-inch tree would equal four tree units. A member of the audience asked how the City would enforce the tree-density requirement. Mr. Lien explained that staff would not drive through the City, checking the tree density on properties. The tree density would be considered as part of any development permit review.

Ms. McConnell explained that existing Tree Code does not have a specific right-of-way (ROW) section. Instead, the City follows a policy that was established by the Public Works Director and recently revised and adopted by the City Council. The proposal is to pull the existing policy into the Tree Code, which would provide efficiency in administration and use of definitions. She continued to explain that ROW trees are located in the undeveloped portions of the ROW, between the road/sidewalk and the private property, unopened alleys, etc. As per ECC 9.20, abutting property owners have the responsibility and duty to maintain the ROW areas. Although many people think of ROW areas as private property, there is typically a significant portion of land that is ROW.

Ms. McConnell clarified that street trees are different than ROW trees. Street trees are located in the downtown core and key gateways, typically between the sidewalk and street to provide a buffer between pedestrians and vehicles. The draft Tree Code does not address street trees. However, the Comprehensive Plan Update that is currently in progress includes some provisions related to street trees, and there may be some updates to the Street Tree Code as part of the ECDC update. She noted that the City does not currently have an arborist on staff. When citizens approach the City with a request to remove a ROW tree, an arborist review and determination may be required. In these situations, the City will ask the applicant to provide the necessary information, including an arborist report.

Mr. Lien advised that many of the written public comments related to the draft Tree Code have to do with the application fees. He recalled that as part of his presentation of the draft Tree Code to the Planning Board, he prepared a number of scenarios for tree cutting permits. He emphasized that the application fees that were provided in the scenarios for illustrative purposes were based on the City's current fee schedule, which was adopted under Resolution 1308. Generally, permit application fees are established to cover the cost of processing and issuing permits. As part of an updated Tree Code, the City Council could update the fee schedule. They could decide to continue to establish fees commensurate with the amount of work necessary to process various tree cutting permits. However, other options include establishing lower fees to reward good stewardship (subsidizing) or increasing fees to discourage removal of larger trees (punitive). Policies on fees could also be established as part of an Urban Forestry Management Plan.

Mr. Lien said citizens have also raised a number of concerns about what maintenance would be allowed based on the draft code. He explained that tree maintenance (pruning consistent with the American National Standards Institute (ANSI) A300 Standard) would be an allowed activity on private property. However, topping is not generally considered routine maintenance. Under both the existing and draft code, new topping is considered tree removal and a tree cutting permit would be required, but pruning to a previously topped level would be considered ordinary maintenance. Based on the current ROW Tree Policy, which is proposed to be incorporated into the draft Tree Code, a permit would be required for: pruning of a tree over a height of 8 feet above ground, pruning of a tree requiring or using equipment other than non-powered handheld tools, or pruning or removal that will result in any branches or portions of the tree falling within the traveled way.

Mr. Lien recalled that the Board has discussed the concept of an Urban Forestry Management Plan (UFMP) on several occasions. He explained that an UFMP is a comprehensive plan for the City's trees. In addition to goals, policies and objectives for forest management, it could include an inventory of the existing forest cover, goals for the overall forest cover throughout the City, policies concerning view protection and solar access, and tree protection and regulation on both private and public property. It could also address differences in goals or approaches in different parts of the City.

Mr. Lien noted that questions have come up about why the City is moving forward with a draft Tree Code prior to the adoption of an UFMP. He reminded the Board that one of the objectives of the update is to consolidate the Tree Code to be more understandable for citizens and more efficient for staff to implement. When the update started, the intent was to develop the code under the existing policy framework. However, as the update progressed, the Tree Board discovered that some of the provisions did not have the policy to back them up. The Tree Board added a "Findings" section at the beginning of the draft Tree Code that is intended to address the expanded policy calls. The "Findings" section could be included in the ordinance if adopted by the City Council. He reminded the Board that the draft Comprehensive Plan Update already includes a recommendation that an UFMP be completed by the end of 2017.

Mr. Lien reviewed some options the Planning Board could consider as follows:

- A. The Planning Board could recommend to the City Council that an UFMP be developed prior to adopting any significant changes to the existing tree regulations.
- B. The Planning Board could recommend that an UFMP be developed and that existing Tree Code sections be consolidated during the broader development code re-write process (near-term), rather than adopting the proposed tree code now. Then, following the development of an UFMP, the tree code could be re-written, as necessary, consistent with the policy direction provided in an UFMP.
- C. The Planning Board could recommend that the draft Tree Code be adopted, with any specific modifications from the Planning Board.
- D. The Planning Board could recommend the draft Tree Code, with any modifications from the Planning Board, be adopted now while an UFMP is being developed. The interim Tree Code could then be revisited following the development of the UFMP.

Mr. Lien said staff is recommending Option B. He explained that the City is currently working on a code re-write, and one of the primary goals is to consolidate the existing code. Option B would allow the staff to consolidate the existing Tree Code policies and regulations as part of the code update. This effort could be followed by an UFMP to address the concerns and comments that have been brought forward thus far.

Mr. Lien advised that all of the written comments submitted to date relative to the draft Tree Code have been provided to the Planning Board. He reviewed that, as per the extended agenda, the Planning Board is scheduled to make a recommendation to the City Council on the draft Tree Code at their June 10th meeting. The draft Tree Code is tentatively scheduled to be introduced to the City Council on July 7th.

Chair Tibbott observed that those present will likely hear comments that will mirror their own thoughts. Rather than repeating the comments, members of the audience could simply note that they agree with previous statements and then present their additional thoughts. He also asked that those in the audience show respect for others who may have different points of view. The Planning Board is interested in hearing from all members of the public, and his hope is that they can all learn from each other. Once again, he briefly reviewed the rules and procedures for the public hearing, and then opened the public hearing.

Steve Hatzenbeler, Tree Board Chair, thanked everyone for coming to the public hearing to provide comments on the draft Tree Code. He explained that the draft Tree Code is intended to address communitywide issues. The discussion specifically focused on how the relatively significant loss of tree canopy over the past several years has impacted the environment. He asked that members of the audience consider the issue as a communitywide concern.

Swan Seaberg, Edmonds, said he has lived in Edmonds since 1970 and in the same house since 1971, and he does not need the government telling him how to landscape his property, as long as it does not endanger the public. He commented that examples shown on My Edmonds News illustrate why some trees need to be removed if they are too close to the road, interfere with utilities, have been topped to clear the cables or are unsightly. Asking adjoining property owners to plant trees on their property to replace those that are removed from the right-of-way would be a simple solution. He said he respects the City and the Snohomish County Public Utility District (PUD) for removing trees that are past their useful life so the community is safer and has less chance of losing power when storms hit. He provided pictures of Edmonds in the “good old days,” and noted that it looks better now without the clear cut. He commented that every living thing on earth, including humans, will eventually die, and the goal should be to leave something better for the future. Citizens should practice permaculture that will make the City beautiful and safe for everyone in perpetuity. Requiring expensive permits will not only make it more difficult for most people to do the right thing, it will endanger everyone. He questioned who would be held responsible if a property owner can’t afford a permit and a tree falls down and kills someone. He provided a picture of his home when it was listed for sale in 1966. The cedar tree fell down in 1981, making a mess of the front yard. Its mate fell down and hit his home in 1997. He was able to fix the damage, but for most people it is very expensive. He has a large number of trees that are near the end of their useful life and are a danger to people and property. This includes his neighbor’s tree, which she cannot afford to take down.

Gary Nelson, Edmonds, said he has lived in Edmonds for more than 50 years and is very troubled by the direction the draft Tree Code is taking. He referred to the findings on Page 1 of the ordinance, which attempts to rationalize the need for the legislation. He specifically noted:

- Finding 1 states that trees will “*improve the value of properties.*” He expressed his belief that this is not an accurate statement if a tree impedes the view of a property owner or a neighboring property owner.
- Finding 10 states that trees will “*increase consumer patronage for commercial properties and boost occupancy rates for well-treed shopping areas.*” In his research with a large number of commercial property managers, he was unable to find a basis for this claim.
- Finding 13 states that trees will “*encourage better neighbor relations and better coping skills for its residents.*” He pointed out this is only correct if the property owner removes, scales up, or tops the trees so the neighbors can have their view restored. There are several plats in the City that have covenants and conditions to maintain the view of properties behind them.

Mr. Nelson referred to ECDC 23.20.010.E, which implies that the draft Tree Code is intended to protect private property rights. After reading the proposal, he doubts this statement is true. In fact, he suggested the ordinance could earn the City the “Pinocchio Award.” He observed that the ordinance does not differentiate between the number and type of trees (evergreen and deciduous). For example, alder trees have always been considered a weed tree in the State of Washington. In the past several years, he has had to remove from his property a 40-foot holly tree and a 20-foot hawthorn tree to protect children and pedestrians from the dangerous, thorny growth that the trees provide. The ordinance would require him to obtain a permit to accomplish this protective activity. He said he is concerned that the term, “heritage tree” has yet to be defined. He is also concerned that Section 23.20.025 continues the language of authorizing the staff to promulgate rules and regulations to carry out enforcement of the draft Tree Code. In addition, Sections 23.20.050 and 23.20.060 leaves the applications requiring fees open ended, mandating that the citizen property owner pay all the cost to the City for the tree professional. Section 23.20.090 states that the replacement tree fee will be determined by the City professional, and that the type of tree will be selected by the City. This certainly doesn’t appear to be in concert with the declaration that the proposal protects private property rights. He referred to the options laid out by staff for Planning Board action and suggested they consider adding another option—that the Board not pass the draft Tree Code on to the City Council.

Shelly Sessler, Edmonds, agreed with the comments provided by Mr. Nelson. She said she purchased her property on Olympic View Drive about 10 years ago when the property values were very high. She lives in a neighborhood of a lot of

retired people, and they have always worked together to remove trees that impede view. She asked how the money that is collected from permits would be allocated. She suggested the City should weed their own garden before attempting to weed private properties. The property owners pay property taxes that are almost as high as the east side (Redmond, Bellevue and Kirkland), but these cities actually use the taxpayer money to replace storm drain, improve roadways, and place utilities underground. There are a lot of trees on Olympic View Drive and in Perrinville that hang into the power lines. Every time there is a storm, trees fall and the power goes out. She estimated that requiring a permit and an arborist review would increase the cost of tree removal by about 40%.

Janet Henry, Edmonds, indicated her support for the previous speakers.

Doc Daugherty, Edmonds, said he finds it dubious that the City wants to make the rules before outlining what it wants to have in its plan. He said he has had the opportunity to live in Haiti and has seen the devastating results of complete deforestation. However, Edmonds is far from Haiti, and the City is not becoming deforested. He expressed his belief that the proposed ordinance is a gross overstep of the City government. He lives on the west side of Edmonds, with a moderate view of Puget Sound and the Olympic Mountains. He paid dearly for this view in the price of his home and the taxes he pays annually. He voiced concern that his view would be threatened with adoption of the overreaching proposed ordinance. He voiced concern that the proposed ordinance would impact the value of properties, and the majority of homeowners would eventually have their views disappear. He suggested Edmonds should be working to adopt a view ordinance and not a tree ordinance. He observed that homeowners in Edmonds are not removing trees in an overwhelming manner. Hence, the City should not be in the business of having to regulate privately-owned trees on privately-owned property. Nearly every property owner he encounters has taken the greatest amount of pride in planting an overabundant amount of vegetation on their property to keep it green and lush. Edmonds already has an urban forest, and it does not require gargantuan trees, which are not old, original growth.

Regarding the carbon and CO₂ aspect of the ordinance, Mr. Daugherty said it is commonly accepted that a mature tree will store about 48 pounds of CO₂ per year and make approximately 260 pounds of oxygen annually. A 40-year-old tree will have sequestered around one ton of carbon. Conversely, an acre of grass will store around 920 pounds of carbon annually, or about 3,400 pounds of CO₂. There is a positive offset that exists between trees, plants, shrubs, and grass that indicates they are not jeopardizing the local environment. He referred to a recent article written by the Woodland Manager of Clackamas County, Oregon, which states that urban forest tree ordinances, such as the one being proposed by the City, *“will see fewer new trees planted on private property. Those trees that are planted will be the type that will not grow large and mature in any way. The sustainability of the urban forest must be met with encouraging private landowners to continue to be green and promote green landscaping.”* Mr. Daugherty submitted written comments for inclusion in the public record, as well.

Stephen Fry, Edmonds, said he has lived in Edmonds for more than 25 years. He expressed his belief that the UFMP should be developed before making changes to the existing tree regulations. The proposed permit fees are way too high, especially for single-family homeowners. He suggested that the City produce a table to exactly spell out the permit costs to remove significant and landmark trees, as well as what the civil penalty amount would be for such trees. He is guessing it would be an approximately \$5,000 fine for illegally cutting down a 1-foot wide tree. He expressed his belief that trees should be measured by width not by diameter. A 2-inch wide tree equals approximately 6 inches in diameter, which is what the proposed ordinance considers a significant tree. He proposed that “significant trees” be defined as greater than 6 inches wide, and “landmark trees” as greater than 4 feet wide. Although he preserves tall trees in his yard, at some point they will become a danger to him and his neighbors, as well as a nuisance to his property. A citywide tree program surcharge should be assessed to all property owners so citizens with trees won’t be overregulated. Trees are great in many ways, but they also require a lot of work, especially after storms when branches fall on driveways and roofs. They also create a lot of needles, leaves and pollens on roofs, yards and vehicles. He expressed his belief that there would be at least 1 million regulated trees under the current proposal.

Brian Potter, Edmonds, said he owns a home in Edmonds, and he is also a research scientist working in forestry. One of his strengths is taking technical material and writing it in non-technical, easily understood ways. For 20 years, he has been asked to do this as an editor for multiple research and non-technical journals, educational curricula, and administrative documents. His experience is relative because the proposed ordinance fails in terms of clarity. It is poorly organized in places and contains ambiguous text in others. He said the proposed ordinance feels like it is meant to penalize property owners. He pointed out that the well was poisoned early on when Mr. Hatzemberger commented that the proposed language

provides some teeth related to tree removal, whereas the existing code does not. This suggests that residents are not going to do it if they aren't bitten. He voiced concern that the proposed ordinance does not include any incentives for tree planting because as soon as a homeowner plants a new tree, it brings with it new obligations and permit fees. The opportunity cost of planting may quickly exceed the benefits to the property owner. He asked if the City Council or Planning Board has considered incorporating some explicit incentives or benefits property owners could gain from planting and maintaining trees in the present context.

Mr. Potter observed that the ordinance reflects a belief that trees provide societal benefits, as laid out explicitly in the findings. He specifically referred to Finding 14, which states that trees will “*provide a valuable asset to the community as a whole,*” and said it fails to acknowledge the tension that exists between private responsibility, the rights of the property owners, and community benefits. He suggested that successful resolution of the tension requires first that it be acknowledged, and then measures must be taken to acknowledge the interest and rights of the property owners so they see the personal benefits comparable to the responsibilities and costs associated with maintaining trees. Failure to do this will result in resentment towards public officials and representatives and ill will among neighbors, which is exactly opposite of the qualities the City claims to promote.

Tim Hovde, Edmonds, agreed with the comments provided by those who spoke before him. He asked how many people were present from the Tree Board, and several people raised their hand. He said he does not agree with the City being able to regulate private properties. He works throughout the Puget Sound region. While the City of Seattle has an UFMP that requires him to replace the trees that are removed, no permit is required. He questioned why property owners should be responsible for trimming trees in the ROW. He suggested the City needs to step up and prune the ROW trees on a regular basis. He assumes the draft Tree Code was created with funding from a federal grant. Chair Tibbott clarified that it was actually funded by a state grant. Mr. Hovde pointed out that, either way, the taxpayers funded the effort. He expressed his belief that it is a poor decision to regulate trees on private property, and those present appear to agree. He suggested that Edmonds clean up its own backyard before looking at his.

Beverly Shelton, Edmonds, agreed with everything that has been said so far. She urged the Board to consider low-income seniors and citizens. She questioned how the City can hire two additional employees to implement the new requirements when it cannot do the projects that are now needed because of lack of funding. She questioned if that is why the suggested fees are so high. She said she and her husband have lived in their home in Edmonds for 55 years. There were no trees on the property when they purchased it, but they planted them and cared for them properly. When they became too big, a nuisance or dangerous they removed them themselves, and the world did not come to an end. She suggested that the draft ordinance does not take Mother Nature into account. A stand of old growth fir and pine trees near her home has reached the point where the trees need to be pruned or removed. The owners of the properties cannot afford to have them taken care of, let alone pay for permits, etc. She suggested the City could do more good by educating people about what trees to plant and where to plant them.

Jim McKeon, Edmonds, said he has lived in Edmonds for 25 years and most of his concerns have already been raised by previous speakers. He said the proposed ordinance is an example of how government keeps expanding. While he respects the goals the Tree Board wants to achieve, the recommendation should have the City take care of its own trees before telling private property owners how to manage theirs. For example, he noted that English ivy is growing up many of the trees along Olympic View Drive, and it will eventually kill them. The City should be doing normal maintenance to preserve trees. His house has been hit twice by falling trees, but he has no intention of cutting down his trees because he likes them. However, no one should be telling him how to manage his property.

John Frame, Edmonds, indicated that he agreed with the previous speakers.

Julie Johnson, Edmonds, said she has lived in Edmonds for 34 years as a property owner and taxpayer. She has enjoyed its beauty and freedoms without government intrusion, and she became alarmed when she learned of the proposed Tree Code. She said she distributed information to her neighborhood and 97% of the 40 households she contacted had never heard of the proposal. She suggested this is a serious communication gap. She said she was present to speak about stopping the control of private property by government. The proposal would impose layers of bureaucracy with costly permits and arborist reviews. The cost of a professional to remove a tree is cause enough for serious consideration by a property owner. She observed that, sometimes, trees can be detrimental to property and health, and property owners expect to be treated

respectfully as people who know how to use commonsense. There are an abundance of trees nearly everywhere in Edmonds except the bowl where views and high density are valued to the extent that many trees have been removed. The Tree Board is offering an egregious proposal, and she urged the Board to recommend denial of the proposed ordinance and dissolution of the Tree Board, itself.

Mary Hovde, Edmonds, agreed with the comments provided by previous speakers. She said she has lived in Edmonds for 67 years, and her husband for 77 years. They raised their family and made a living in Edmonds, and they love the City. However, she does not appreciate a handful of people on a Tree Board or City Council telling her what she can and cannot do with her property. Because she lives in a very wooded area, she has a lot of junk from neighbors' trees in her yard all the time. The neighbors love their trees, and she loves looking at them. She does not believe the tree canopy has gone away; but trees have a typical life span and then they die. They won't be alive forever regardless of what the Tree Board says. She questioned how the City would enforce the proposed ordinance and why it should punish people for wanting to maintain their properties. She recalled the cat leash law that was adopted a few years ago, and she questioned how many people have seen a cat on a leash.

Stephen Clifton, Edmonds, said he has a Bachelor of Science in Landscape Architecture and has written landscape ordinances for a few cities. He has also worked on tree canopy and urban forestation regulations. He said does not support many of the provisions with the draft Tree Code, and he is particularly concerned about adopting it prior to an UFMP. Any person involved in the planning field or government in general knows that that a comprehensive plan serves as an overall framework or guide, and typically proceeds the adoption of regulations that that might help implement it. An UFMP, if adopted, could contain City policies, objectives and goals for Edmonds' urban forest, as well as policies concerning view protection, solar access and tree protection and regulations both on private and public properties. It could also address differences in the goals and/or approaches in different parts of the City.

Mr. Clifton noted that the agenda packet highlights that the existing tree regulations are fragmented, difficult for citizens to understand, and conflicting and cumbersome for staff to implement. He expressed his belief that citizens would support the need to develop a more effective and comprehensive Tree Code that is easier to understand and more efficient to implement, but doing so prior to adoption of the UFMP is putting the cart before the horse. As noted in the Staff Report, the Tree Board and consultant were aware that the draft code stretched beyond the existing policies. Therefore, he questioned why the draft Tree Code has been allowed to proceed ahead of adopting the kinds of policies that would serve as a framework for studying the need for new regulations related to trees. He asked that the Planning Board not even consider issuing a recommendation on any substantive language of the draft Tree Code until such time as the Council has established a process, considered public input on, and adopted an overall framework containing policies, goals and concepts related to trees.

Jack Bevan, Edmonds, said he is also a forester. He asked if the draft Tree Code would apply to the City, the Port and the PUD, as well. He disagreed with the finding that the draft Tree Code is user friendly, as an \$800 permit fee is not user friendly. He questioned who would determine the qualifications of the arborist, and what their charge would be.

Mike Echelbarger, Edmonds, said he was present the night the Tree Board presented the draft Tree Code to the Planning Board. At that time, members of the Tree Board acknowledged that while they considered the urban cover for the City, they had not resolved anything about views. He commented that if you take the views away from Edmonds, it is no different than Woodway with a strip along the Sound that has views, and everyone else is looking at trees. The proposed plan would be more appropriate for Lake Forest Park or Lynnwood; but in Edmonds, there is potential to see more than just trees. For the ordinance to get in the way of view is wrong. He commented that the Tree Board did the job based on their interest in saving trees, which is probably what the majority of the City Council had in mind. However, a broad spectrum of City residents did not have an opportunity to review the plan prior to the public hearing. Mr. Echelbarger urged the Board to forward the draft Tree Code to the City Council and let them vote now rather than waiting until 2018 when the UFMP has been completed. He would like the Council to vote on the matter prior to the November election.

Brian Borofka, Edmonds, noted that he would submit his written comments. He agreed with the comments provided by Mr. Nelson and Mr. Clifton. He said his strongest angst with the draft Tree Code is that it shifts the determination of reasonable use of private property from the owners to the City staff. However skilled and well intended their actions are, he does not believe it is appropriate to move in that direction. He suggested it is a simple question of whether the government exists for the benefit of the citizens or the citizens exist for the benefit of the government. He expressed concern about the

direct cost to homeowners, as well as costs associated with extra City staff (health insurance, benefits, etc.) He also voiced concern that although the goals and objectives seek to preserve trees and enhance the urban environment, the on-site replacement section reads that the administrator may waive the on-site replacement requirement provided the applicant pays an amount determined by the City's Tree Protection Professional into a City account that is equivalent to the total cost for the purchase, installation and maintenance of the trees. He said it appears that property owners would be able to write a check to the City rather than planting a tree. He questioned if they are looking at tree protection or revenue enhancement. While he does not believe that is staff's intent, the proposed language needs to be improved or removed. He agreed with previous speakers that the ordinance should not go forward to the City Council before an UFMP is in place.

Dawna Lahti, Edmonds, said she has lived in the City for 30 years. She acknowledged all of the hard work the Tree Board has done to create the draft Tree Code. She commented that for two centuries, the City has slavishly imitated the English-manner lawn because it means ownership and gentility. Early Edmondites cut down all the trees. It was their livelihood, and the wilderness was the enemy of the pioneer. Later came incorporation and someone's artistic version that trees were needed for a proper downtown and for one's own little bit of property. She sees that culture changing everyday as majestic trees as old as the town are felled. She shared the example of Sainte-Chapelle, the oldest cathedral near Paris where the oldest stained glass is to be seen. In its life since 1900, artistic tastes have swayed widely, but at the iconoclastic moment when religious fervor would have had the glass smashed, a city administration was in place that succeeded in convincing the community that the cathedral was their heritage and that they should protect it instead. A cathedral takes 100s of years to build, as do many northwest trees. It is her hope that the City will administer wisely and preserve the heritage against the whim of fashion. The draft Tree Code is an attempted first step. It limits almost irreparable losses until more thought and study can be given. She supports the staff's recommendation for Option B, which allows the City more time to think about what they may gain and lose of things that cannot be replaced.

Bob Hovde, Edmonds, expressed his belief that the Planning Board has more important things to do than worry about trees. He asked if the PUD would also be required to pay \$800 for a permit to cut a tree. He suggested the City focus instead on enforcing and implementing the current code. For example, they need to keep the vegetation from extending out into the sidewalks. The City could require private property owners to clear the shrubbery from sidewalks, or it could do it and then charge the property owners via their water bill. Public restrooms should also be a priority for the City if they want to encourage tourism. Every other town in the area has public restrooms, except Edmonds. Again, he expressed his belief that the draft Tree Code is a waste of the City's time. He said he constructs houses and has cut down a lot of trees. If you leave certain trees standing, they will likely blow over onto someone's home at some point in the future. He asked if the City would pay for the damages caused by falling trees.

Steve Date, Edmonds, said he lives in a small house on a small lot in downtown Edmonds that has a huge maple tree that he planted 40 years ago. He said he has had to remove very tall trees from his property, and he has also topped a tree to protect his neighbor's view. He said he does not appreciate the City telling him what he can and can't do with his trees. He congratulated the City on its innovative new tax scheme. He reported that, just this afternoon, a huge spruce tree was cut down on Maple Street, and his neighbor recently hired someone to cut down his tree. He suggested that the proposed Tree Code has already woken up a lot of citizens who are taking a preemptive strike on the new laws. He suggested they carefully consider the unintended consequences. He said he recently hired an arborist to teach him how to trim the Japanese maple he planted 40 years ago. It was guaranteed to not exceed 10 feet in height, and it is now about 35 feet high. He has been taking good care of his trees over the years, and he wants to keep doing so. As per the new code, he would be required to obtain a permit to trim one of his trees because the limbs might fall onto the sidewalk. There are a lot of McMansions and condominiums being developed in the City, and he doesn't see a lot of trees being planted in these locations. He recalled that an Edmonds Beautification Project took place about 20 years ago on 228th Street from 76th Avenue to 84th Avenue. The project resulted in a beautiful canopy over 228th Street, but the City has since cut all the trees down. He does not want that to happen in other locations in Edmonds.

Fred Gouge, Commissioner, Port of Edmonds, expressed concern as a citizen and taxpayer, as well as a Port Commissioner. The Port is concerned that the draft Tree Code would result in additional expense for the Port given the large number of trees that are located at Harbor Square, along Admiral Way, etc. Because of their size, each would require a permit. The cost could become so onerous that the Port would have to increase property taxes. He urged those present to also share their concerns at the public hearing before the City Council. He said he lives in the Seaview Neighborhood on a ¾-acre lot that is considered subdividable. He recently received a quote for \$5,000 to remove a large cedar tree from his

property, and that did not include permits. He has also asked the PUD to remove a number of trees. He noted that his property was previously a rhododendron and lilac farm. If he wants to plant rhododendrons instead of trees that grow to significant size, that is what he is going to. He said he was born in Canada and became a citizen under the constitution of the United States, and that's what he will uphold as his property rights. He hopes other citizens will too.

Gerald Bernstein, Edmonds, said it appears that the proposed ordinance would be intrusive, punitive and outrageous. In no way will it improve the existing situation, which seems quite good. Because the proposal says that permits on private property are for trees and vegetation, it would include mowing his lawn, pruning his rhododendrons and trimming his bushes. He also cautioned against the unintended consequences, besides the high cost to the City. He expressed his belief that the draft Tree Code would result in widespread cheating that the City would have to follow up on. Secondly, he said neighbors would be encouraged to report on neighbors, which does not foster a good community presence. The proposed code is discriminatory against people with limited incomes and cannot afford to cover the fees. It is also discriminatory against the elderly who would not be allowed to prune except with hand tools. They should not have to hire someone to use power tools. He pointed out that people are cutting their trees down left and right to beat the proposal to finality. He concluded that the City already has a good system in place, and he would rather they not fix it. He referred to Mr. Hatzenbeler's earlier suggestion that citizens consider the Tree Code from a community rather than personal standpoint. He does not appreciate the sense of arrogance that somehow the community has got this one right, after getting so many other things wrong. He is strongly opposed to the draft Tree Code.

Roger Hertrich, Edmonds, observed that the Board has heard a lot of very candid remarks from the citizens, and he hopes that staff also has the impression that the course they are headed for is not the course they want to be on. The public is in total objection to the proposed ordinance. You have to wonder whether government is your friend or your enemy, and the ordinance pits the neighborhoods against the staff and Tree Board. He reminded the Board that the proposed ordinance was created by a small committee appointed by the City Council, with the help of a consultant. If the Board is thinking correctly, they will say it is time to end it without sending it on to the City Council. It is certainly not representative of how the citizens feel. They don't want to have their rights tread upon.

Robert Swerk, Edmonds, agreed with the previous speakers. He encouraged those present to download and read the proposed 18-page ordinance. He particularly referred to ECDC 23.20.030(A), which appears to require a permit to remove or prune any heritage, landmark (24-inch diameter), significant (6-inch diameter) or protected tree on private property or within the City's right-of-way. He also voiced concern that, as per ECDC 23.20.060.B.3.e, the removal of more than two significant trees on a single-family resident lot in a 36-month period would require a management report prepared by a qualified tree professional explaining how the removal improves the health and safety of the remaining trees and does not result in the site falling below the minimum tree density. It appears this provision would require a property owner to plant trees to bring a property up to the required tree density. He expressed concern about the costs associated with staffing, enforcement and hiring arborists. He questioned how many new employees the City would have to hire to manage the proposed requirements. He said he recently topped a tree on his property when he learned that it was disrupting his neighbor's view. He stressed that the ordinance must address the numerous view easements that exist in the City so they are not in conflict with what the City wants.

James Martin, Edmonds, observed that Edmonds is a City and not an urban forest. He likes trees and sees Edmonds as a beautiful, unique area, with views of snow-covered mountains, Puget Sound, and ships passing by. He suggested the Tree Board should be called a "Balance Committee," where you have a balance between trees, views, mountains, City government, etc. It is inappropriate to create a Tree Board, which is pitted against the people who are very upset about their views. The title of the Tree Board should be broader. He said he is not in favor of the draft Tree Code and stated that it is not a proven fact that the City government can do the job of managing the situation any better than the property owners. He said he was disappointed that the City staff and/or Planning Board did not make provisions for a larger meeting room that could accommodate all of the citizens who wished to attend the hearing. He noted that people left in frustration because they were unable to get into the room. He said he is not willing to trust the issue of "tree management" to the Planning Board. He cautioned that property owners have certain rights, and they do not need the government to tell them what to do with their trees. The draft Tree Code suggests that what property owners have done to date is inadequate, and yet Edmonds is a beautiful place. He observed that the draft ordinance may actually prevent some people from planting trees because they do not want to deal with the bureaucracy associated with maintaining them against the very complicated set of code

requirements. He concluded that enforcement of the draft code would be costly, and the City has better ways to spend its money (i.e. sidewalks, street maintenance, and public safety) than hiring consultants and developing a tree code.

Bill Phillips, Edmonds, said he has lived in Edmonds since 1951 and owns several properties within the City. He built his current residence along Shell Creek in 1973, and his wife actually received an award from Edmonds in Bloom for her beautiful yard. They have planted a lot of trees over the years, and he has had to prune them and cut some down as they became harmful to his home. They have at least 100 trees in their yard, and he does not support the City telling him how to care for them. Property owners know how to best care for their trees.

Jeff Scherrer, Edmonds, said he has lived in Edmonds for 10 years and enjoys the relationship he has with his trees. Besides drawing a large crowd, he observed that the draft Tree Code achieves three things: it makes government bigger and more powerful; it creates regulations and penalties that will lead to litigation; and it puts the value of trees before the value of people. He commented that it would cost hundreds of thousands of dollars to hire two or more government employees (salaries, benefits, pension funds, and administrative costs) to administer the code. He suggested this cost is not how property owners want their tax dollars to be used. Some people believe that the draft code can curb global warming, while scientists disagree whether global warming even exists. Many believe global warming and cooling is natural. He questioned why the City is proposing to grow government and impose regulations and penalties on everyone in Edmonds just because some want to solve a global problem. He observed that the entire globe is 197 million square miles, while Edmonds is only 18.43 square miles. To think the City can solve global problems in Edmonds is like running the entire worldwide web on a single desktop computer.

Mr. Scherrer suggested the City begin a campaign to build community awareness and increase people's value in trees. The campaign could include social and print media, as well as seminars, that encourage the people of Edmonds to understand the desired impact of the Tree Code. Instead of spending money to grow government, the City could contract with private marketing firms to inform the public of the value of trees and how to maintain them. He explained that while growing up in Seattle, litter was a big problem. A public awareness campaign in the 1970s (Give a Hoot, Don't Pollute) was very effective in reducing the amount of litter in the streets and making people more aware. The draft Tree Code assumes people do not know what they are doing and are already at fault by requiring permits to care for trees, shrubs and vegetation on their private properties. He encouraged the City to educate the citizens, not penalize them, by adopting a more people-friendly approach to trees in Edmonds.

Brett Gaspers, Edmonds, said he has owned his home in Meadowdale for 20 years, and he also owns an adjacent undeveloped lot. He estimated there are between 12 to 24 significant trees on the two properties, as well as about 6 landmark trees. As an example of how the draft Tree Code would apply he said that his neighbor just removed a dead pine tree that had started developing brown needles last fall. Yesterday, the tree was brown from top to bottom. Under the tree code, the tree would be defined as a hazard tree, and removal would require a Type I Arborist Consultant Permit. He questioned why an arborist is needed to determine a tree is completely dead when it is brown from top to bottom. He noted that, as proposed, ECDC 23.20.060.B.2 would require a *"site plan showing the approximate location of significant trees, their size, their species, and the location of structures, driveways, access ways, easements, and utilities within the critical root zone of the tree."* His interpretation of this provision is that a property owner would have to map out everything on his/her property in order to obtain a permit to remove the hazardous tree, and there is no exemption for the situation he described. The cost of the report and the permit fee would result in a disincentive for property owners to remove dead trees that do nothing but attract pests.

Mr. Gaspers said another neighbor removed a landmark tree when it proved to be diseased. Being a professional engineer, his neighbor had a gauge on the tree and found that it was leaning more and more each year. An arborist found that the tree was suffering from heart rot. Under the draft Tree Code, his neighborhood would have to pay thousands of dollars in excess of what they paid in order to get the tree removed. The last thing he wants is for the City's code to discourage property owners from removing diseased and dangerous trees. He said the previous owner of his vacant lot planted an apple tree that was not pruned appropriately. Although the tree was a disaster, it was still growing apples. In the interest of being a good citizen, he cut down the tree because he felt it was a haven for apple maggots and moths, which could spread to other trees throughout the State. The draft code would require him to pay hundreds of dollars to remove the tree.

Dawn Runyan, Edmonds, said she has lived in Edmonds for about 40 years. Being in the real estate business, she said trees can often devalue a property physically by overhanging roofs, ruining foundations, etc. The draft Tree Code would create an additional cost for people who find themselves in these situations. She said she does not see a denuded community, but a community where there are a lot trees and people are proud of their yards. While she is not proud of the draft Tree Code, she is proud that the citizens have come to voice their concerns about such an important part of the wonderful community. No one has had to tell them how to do it; they have done it all by themselves.

Vivian Olsen, Edmonds, said she has been a resident of Edmonds for 14 years. She said she submitted written comments which support Mr. Nelson's previous comments related to the findings that the draft Tree Code was based upon. She thanked the Tree Board for caring and showing compassion for trees. Whether or not the citizens agree with it, the draft Tree Code is comprehensive and required a lot of time from Tree Board Members while the rest of the citizens stood by and did nothing. When Edmonds was named a Tree City USA in 2012, she had a feeling of what that meant, and she noticed when the City received a grant to rewrite the Tree Code. She had feeling the City was expected to come up with something that would protect the trees. She even noticed when the Tree Board was formed in 2010. She agreed with earlier statements that the Tree Board should have balanced membership. Shame on her and shame on all of those who care about the beautiful views of Puget Sound for not coming forward and making sure their voices were heard as proponents of the Puget Sound views. The ordinance does not represent those who support views. She said she does not want the government to tell her what to do on her private property. However, when and if the City decides to regulate trees, the citizens should be asking them to keep the views of Puget Sound clear for everyone to enjoy. There has been so much mitigation over beautiful views going in and out of every neighborhood in the City. She previously lived in the Seaview Neighborhood where there was an awe-inspiring view every time she left her neighborhood. This view no longer exists. While she cannot demand that the private property owner must cut his/her trees, the City should find ways to support instead of get in the way of people who want to protect views. She concluded that view proponents need a leader, and she can be that person or she will gladly follow. They must be represented in the City government, and she asked people to step up and fill that role.

Chair Tibbott thanked those who have commented thus far. The hearing has provided a great opportunity for the Board to hear from a cross section of the City. They have heard different ways of expressing similar views, and they have heard from people who have lived in the City for a long time. This level of activism can help everyone understand ways to govern themselves better as a people. He suggested the Board take a short break and then reconvene the hearing.

THE BOARD TOOK A BREAK FROM 9:00 P.M. TO 9:10 P.M.

Alvin Rutledge, Edmonds, said he attended Planning Board Meetings for a number of years. He noted the large number of citizens who have expressed opposition to the draft Tree Code and suggested that it would not be hard to obtain the required 1,600 signatures to move a petition forward that would place the draft ordinance on a ballot. Rather than the City Council making the final decision, the citizens would be asked to vote on the matter.

Nicholas Kappes, Edmonds, said he spent the first 20 years of his life in a very heavily treed area in Ohio that was surrounded by forests of black walnut, hickory, etc. He spent the next 21 years in Los Angeles, enjoying the beach and the water view. He came to Washington to get away from the heat and pollution, moving into a home in Northgate with a lot of trees. After looking at 250 homes in the area, he purchased his home in Edmonds because of the trees. His property is backed up by Pine Ridge Park, with a treed right-of-way area on one side. He is also acquiring the lot on the other side, which is heavily treed. He loves trees and recognizes that tree management is important. He was sitting in a local coffee shop when he first learned of the draft ordinance, and he originally thought it was a joke for the City to legislate trees on private property. He said he currently has a property transaction in process, and he questioned how the proposed code would impact ongoing real estate transactions. Failure to disclose the tree code requirements could result in liability. He noted that lots in the view area are \$500,000 or more. When talking about global warming, it is important to have a geological perspective. For example, 13,000 years ago there was 3,500 feet of ice above Edmonds and there were no people.

Mr. Kappes referred to a theory put forward by the father of sociology, Emile Durkheim from France, in the 1840s that civilizations grow organically and develop an overarching bureaucracy to manage themselves until they crush civilization. He suggested the draft Tree Code might be an example of that theory. He encouraged the Board to think about the true cost of implementing the draft Tree Code, which could affect more than 1 million trees that will continue to grow. It would take an army of employees to manage all of these trees, as well as manage the people who are managing the trees, etc. The

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numbers are mind boggling, with an army of 10,000 people over 100 years. He estimated the true cost per employee would be \$5 million over the next 50 years.

Ken Peirce, Edmonds, said he has lived in Edmonds for 28 years and agrees with nearly everything that has already been said. He voiced concern that the draft Tree Code considers all trees equal. He said he runs the Rotary Club of Lynnwood's house project, which has provided property and materials for the teacher and students in the Edmonds School District to construct a house every year since 1975. They teach them to follow the codes, their projects are inspected, and they make corrections. These are the kids who will be building homes in the future. They were practically given a double lot that had about 50 trees on it. Most of the trees were douglas fir, and many were more than 20-inches in diameter. The plan was to construct two houses, and they are currently building one. However, they have not been allowed to remove the trees on the other half of the lot. The property must be re-subdivided in order to obtain a building permit. Because there is no appeal or exemption, they tried to follow the code requirements exactly. It cost about \$7,000 more to bring the logging company back on site again, and they were present when the company arrived to remove the trees. However, in the middle of the subdivision process, it was discovered that seven alders were removed without a permit and they were fined \$7,500. He suggested the City's tree code should exclude some trees such as alders and cottonwoods. He pointed out that, although the draft code repeatedly states that the City is not liable for trees with its ROW, many issues that have gone to court in other jurisdictions have shown that the City would be held liable yet the City does not have a program to manage its risks.

Jeffrey Carlock, Edmonds, said his wife has lived in Edmonds her entire life, and he moved into the home she purchased 2007 before leaving for Iraq. He is happy to be a citizen of Edmonds, as he loves the trees. He said he may be more in favor of the proposal, which would provide for better seclusion, if he were young and unmarried, recently married with no children, or an empty nester. But he wants to play with his children in grassy fields at parks or in his own backyard. He does not want his daughter going alone to the park near his home where there is a wooded area with a number of homeless people. He drove by three elementary schools, two fire stations, and a police station, and none of them had large trees on site. All of the significant trees were on private property rather city-owned property. He urged the City not to make it a financial burden for private property owners to create sunny, grassy areas for their children to play. He said he loves the trees in Edmonds, but he believes the draft Tree Code is over burdensome. He agreed that the tree code should follow an UFMP and not the other way around. He recalled that a few years ago he had to replace a side sewer on his property that was damaged by tree roots. While the work met the code requirements, the City would not sign off on the project until he provided access at the end of his driveway and within a foot of the City's access. He fears that the draft Tree Code could head down that same path.

Kimberly Bailey, Edmonds, said she has lived in Edmonds for over 23 years and has spent the majority of her career working with environmental groups, including non-profit organizations and the Federal Government. She has worked in environmental protection and environmental education. She emphasized that her property has no view and no chance of ever having a view. She vehemently expressed opposition to the draft Tree Code, as it does not reflect the values of the community as a whole and is a gross overreach of power. She cautioned that when a government singles out something specific for protection or attack, whether it is a plant, animal or people group, there are negative consequences, intended and unintended, environmental and cultural. The policy is not a balanced approach to City planning. It is not a balanced environmental approach or a balanced community approach, and it does not even attempt to balance the value of its residents. She said most would agree that trees are a valuable part of any community, but so are the sun-filled gardens and the pollinators, birds and insects that they attract. All of these elements are equally as sacred as trees. Diversity in ecosystems and neighborhoods applies to the canopy cover, as well. There is no reason to single out trees for this level of protection. If anything, they need more pollinators. She observed that some residents appreciate being surrounded by large trees, but others enjoy the sunlight in their yards, natural light in their homes, and the type of landscaping and gardening that requires sunlight. There is nothing criminal or immoral about wanting to grow vegetable in your yard, yet these types of gardens require sunlight. They also support a diverse array of animals, insects, birds and plants, that the understory does not support.

Ms. Bailey said she is outraged at the level of control the City is proposing to personal property. She has worked for 23 years to pay off the mortgage and pay property taxes. She has and will continue to be a good steward of the land she tends. She invited people to come see her worm bin, as she makes her own organic soil. Her greatest joy is to sit on her deck in the light and radiant heat of the sun and admire the garden. She no longer has sunlight on her deck and it is a challenge to grow vegetables in her yard. She questioned if this is how the City wants to treat the community it works for. She said the City promotes the waterfront, Edmonds in Bloom, the farmer's market, beautiful flower baskets in downtown, and increased outdoor seating. All of these are representative of a light, sun-filled environment, and the notion that we should have an

urban forest is absurd. Other communities would love to have the natural resources that Edmonds has. When people say, "Have an Edmonds kind of day," they do not mean go sit in the cool damn shade. She concluded that the City needs a balanced Tree Code that takes in the values of all its citizens.

Mark Bailey, Edmonds, said he does not live on a view property and has no potential for a view. He is disturbed about the talk of urban forest. Edmonds is not an urban forest, and he does not personally know any resident that wants it to become such. People visit Edmonds for the quaint and unique downtown, the beach, and good restaurants. Anthony's does not have a forest café, they have a Beach Café. Putting Edmonds in the shadow of an urban forest will never bring people into the town. There are ample locations for people who love forest living very close by (Woodway and Lake Forest Park). Whether to have trees or not should be an individual choice, and he resents the City thinking it can make that choice for the property owners.

Mike O'Malley, Edmonds, said he has lived in Edmonds for 30 years and supports everything that has been previously said. He urged the City to consider creating a view ordinance. A view ordinance would likely receive more positive support than the draft Tree Code. He said he is totally against the ordinance, as proposed.

Denis O'Malley, Edmonds, observed that most people would say they moved to Edmonds for the million dollar view of the water. The ordinance praises trees and talks about how good they are, but there are negative aspects, as well. One of the most important things to Edmonds residents is their water views, and trees can and do devastate the values of houses in Edmonds. The City has a height ordinance that limits homes to no taller than 25 feet, and commercial buildings can be no greater than 35 feet. He questioned why this same height limit does not apply to trees, as well. Instead, the City is proposing to tell people what they can and cannot do with trees on private property. He said he has lived in Edmonds for more than 30 years, and there are more, not less trees. This has been done by private citizens without City or government control. He suggested that a view ordinance would increase the home values in Edmonds, but the tree ordinance is very wrong for Edmonds and would destroy the million dollar view for a lot of people.

Jenny Anttila, Edmonds, said she has lived in the City for 30 years. While the discussion has centered around trees, the larger issue is about freedom and property rights. She referred to a book titled, *Escape from Freedom*, written by Eric Fromm, which talks about how people can acquiesce and let government take over and eventually wonder what on earth happened. Freedoms are lost and there are more taxes, yet citizens have lost their voice because there is too much government control.

CHAIR TIBBOTT CLOSED THE PUBLIC PORTION OF THE HEARING.

Chair Tibbott summarized the public comments as follows:

- A more balanced approach is needed.
- The draft code is way too complicated.
- The draft code is overreaching
- The draft code imposes a loss of freedom and property rights.
- There was fear of how the draft code could impact neighborliness.
- There was fear of the unintended results of the draft code.
- The draft code creates a disincentive to do the right thing.
- The draft code could incentivize cheating.
- The draft code is too punitive and overreaching in the area of imposing additional fees.

Chair Tibbott thanked the public for participating in the hearing. He explained that, typically during deliberations, the Planning Board will ask clarifying questions of staff and make observations. At the conclusion of their deliberation, they may make a recommendation to the City Council. Another option would be to postpone a decision and continue the hearing to a future date.

From the audience, **Cynthia Carlock, Edmonds**, asked if the Board has thought about how the draft Tree Code might affect home sales in Edmonds.

Vice Chair Lovell asked staff to summarize the process that got the Tree Board started on the draft ordinance. He also asked about the funding sources for the draft Tree Code. Mr. Lien explained that the City Council allocated \$25,000 in the 2014 budget for the Tree Code update, and the City also received a \$10,000 Urban and Community Forestry Grant from the Department of Natural Resources. He said that, from the staff's perspective, there are still insufficient policies in place to support the draft ordinance, and that is why staff is suggesting that the Board recommend that an Urban Forestry Management Plan (UFMP) be developed and that the existing tree code sections be consolidated during the broader development code re-write process rather than adopting the tree code now. Once an UFMP is in place, the tree code could be re-written, as necessary, consistent with the policy direction provided in the UFMP. He explained that, without specific goals in mind, it is difficult to spell out the density requirement. The lack of policy was discussed by the Tree Board, and the findings on page one of the draft ordinance are intended to address the issue.

Vice Chair Lovell noted that several members of the audience indicated they have experience in the tree business. He asked if the Tree Board ever considered looking amongst the great amount of talent and experience in the City before hiring a consultant to help draft the tree code. Mr. Lien explained that the City followed the standard process for selecting a consultant by first sending out a request for qualifications. None of the respondents lived in Edmonds, and the consultant selected lives in Mount Vernon. There are arborists and tree professionals on the Tree Board, and the President of the Tree Board is an engineer who deals with development. Vice Chair Lovell said it appears it was determined early on that an outside consultant would be needed, and Mr. Lien concurred.

Vice Chair Lovell observed that a number of comments were made about the fact that Edmonds is not an urban forest and there was other commentary about the urban forestry concept, in general. He read the following from State published resources with respect to the subject: *“State and local officials work with parks and recreation departments, land-use planners, utilities and citizen organizations to promote and manage urban forestry resources. Urban forestry is the management of urban forest ecosystems. These ecosystems may be varied or complex in the form of city parks, watersheds, public rights-of-way and other public lands. These ecosystems include trees, street trees, plants, animals, natural landmarks, and waterways. The urban forest can be thought of as an infrastructure system. Investment in trees provides aesthetic benefits and much more. A well planned and managed forest can partially replace built infrastructure systems such as stormwater drain systems. Most communities lack clear goals and objectives for tree care and are not readily able to state the purposes of their work. Having a management plan helps a local government communicate goals to the public and provide for consistent actions across city departments. Washington cities have adopted code and ordinances that address trees, but inadequate or unknowledgeable staff limits enforcement. This is why we need plans such as an Urban Forestry Management Plan to provide adequate goals and policies, which would be subsequently supported by applicable codes and provisions.”*

Vice Chair Lovell commented that had the City gone through the UFMP thought process before starting rewriting the Tree Code, the Board would not be sitting in a room with 300 people who are opposed. A member of the audience commented that the above statement is the most important thing said at the hearing.

A member of the audience asked if the grant funding came from the Federal or State Government. Mr. Lien said the grant money initiated through the forest service and was filtered through the State Department of Natural Resources.

Board Member Rubenkonig observed that the idea of an UFMP means different things to different cities. For example, Lake Forest Park has chosen for their UFMP to focus on tree cover. Just because the City talks about an UFMP does not mean they are advocating this same approach. She asked how many elements could be included in the UFMP. Mr. Lien said the City would decide the number of elements to include in the plan. For example, the plan could address solar access, private property rights, view protection, different policies for different areas in the City, canopy coverage, tree maintenance within City parks and ROW, and policy guidance for tree regulations on public and private property. Board Member Rubenkonig summarized that although most people attended the meeting to react the draft Tree Code, many of the comments could be addressed as part of an UFMP. Mr. Lien agreed and noted that, given public awareness regarding the issue, there would likely be a good public process if the City were to embark on an UFMP.

Board Member Rubenkonig reviewed that the Board has already discussed the need for a UFMP, and it appears as though they support the concept. However, funding is needed for the plan to move forward. If the Comprehensive Plan mandates

that such a plan will be completed by the end of 2017, does that mean it will be a budgeted item. Ms. Hope emphasized that completion of a UFMP by 2017 is identified as a policy in the draft Comprehensive Plan, but it has not been adopted by the City Council. This is still an open decision that needs to be made. Board Member Rubenkonig suggested the Board could recommend that an UFMP be completed by 2017, without identifying where the money will come from.

Board Member Cheung said it seems like the entire tree ordinance assumes that the citizens want to protect the tree canopy on both private and public property. Based on the public comments, he is not sure that is the case. He said it is important to consider the potential harm of tree canopy. Some people have raised concern about sunlight, which is needed to grow vegetables. More tree canopy will require more electricity to be used. Also, if there are more trees on private and public property, there is more likelihood of crimes such as car burglaries. The City should not simply assume that canopy is good in all cases. Sunlight and views should be considered as part of a UFMP, as well.

Board Member Robles commented that the City cannot assess what it cannot measure. Since the beginning of the discussion, he has asked if the UFMP would give a measurement of how many trees there are in the City and assess how fast they are growing. From there, they could determine how many trees could be cut down before the net canopy is affected. Trees can be measured remotely with lidar data, and the State is currently doing a study. Before they reach into the hands of the public, they should at least look at every other possible option, and he does not believe the draft Tree Code covers every possible option for protecting trees.

Board Member Robles asked if consolidating the existing tree code would require a lot of money or upset the current balance the City apparently has. Ms. Hope answered that there would be no additional cost associated with consolidating the existing code without changing the policies, since the City is already in the process of updating the existing code to clarify and consolidate. Board Member Robles asked if the existing code could be preserved while the City goes forward with an UFMP. Mr. Lien reminded the Board that staff is recommending Option B, which calls for developing an UFMP before doing a major re-write of the Tree Code. In the meantime, the existing Tree Code could be consolidated as part of the development code rewrite that is in progress. Board Member Robles expressed support for Option B, with the addition of providing all of the public comments to the City Council so they understand the issues.

Vice Chair Lovell commented that if the Board recommends Option B, he anticipates that either the existing Tree Board or a new Tree Board would be tasked with moving the UFMP forward. He is confident that the comments and concerns raised by the public would be considered and addressed in the plan. He is not sure the Board should provide a specific list of items to include in the UFMP. Ms. Hope noted that comments from the hearing will be part of the public record and reviewed by the City Council. She reviewed the options outlined by staff. If the Board recommends the City Council move forward with an UFMP, it could address any or all of the issues raised by the public. In the meantime, the existing tree code could be consolidated as part of the code rewrite.

Chair Tibbott asked staff to describe the benefits of consolidating the current code. Ms. Hope said consolidation would make it easier for property owners and residents to find the parts of the code that apply to trees. It would also be easier for staff to implement. The current tree code is found in several different chapters, and it is sometimes confusing. Having it all in one chapter would be helpful. Chair Tibbott asked the downside of maintaining the existing code. Ms. Hope said it is a bit challenging for people to find the parts of the code that apply. Chair Tibbott said that, as currently organized, it is possible that someone could violate the code and be subject to punitive measures simply because they could not find the code provisions that apply.

Board Member Rubenkonig pointed out that two of the Board's long-standing members are absent. She suggested the Board could direct staff to provide language for recommending Option B to the City Council, but postpone its final recommendation to the City Council until a future meeting. Chair Tibbott said Board Member Cloutier asked him to recall his earlier comments that he does not have any trees on his property in preference for gardening and solar energy. Board Member Stewart asked him to recall that she has a deep interest in recognizing the variety of trees and vegetation around Edmonds. She wants to make sure that whatever the Board considers would bring some appreciation to the diversity of sections of the City and the kinds of development that people desire in those neighborhoods. He felt that was adequate feedback to allow the Board to move forward with a recommendation.

BOARD MEMBER LOVELL MOVED THAT THE PLANNING BOARD RECOMMEND THE FOLLOWING TO THE CITY COUNCIL WITH RESPECT TO THE TREE BOARD'S RECOMMENDED DRAFT TREE CODE (ECDC 23.20):

- a. DEFER ANY ACTION ON THE CURRENTLY PREPARED DRAFT. COMPLETE DEVELOPMENT AND ADOPTION OF AN URBAN FORESTRY MANAGEMENT PLAN FOR EDMONDS AS PROPOSED WITHIN THE COMPREHENSIVE PLAN.**
- b. CONSOLIDATE THE EXISTING TREE CODE SECTIONS UNDER EXISTING POLICY GUIDELINES DURING THE ECDC REWRITE PROCESS CURRENTLY IN PROGRESS.**
- c. FOLLOWING DEVELOPMENT OF A URBAN FORESTRY MANAGEMENT PLAN, CONSOLIDATION OF POTENTIAL REVISED TREE CODE COULD BE WRITTEN CONSISTENT WITH POLICY DIRECTIONS PROVIDED WITHIN THE URBAN FORESTRY MANAGEMENT PLAN.**

BOARD MEMBER ROBLES SECONDED THE MOTION.

Board Member Rubenkonig pointed out that once the Planning Board forwards a recommendation to the City Council, it will be the City Council's purview to decide how to address the Urban Forestry Management Plan. At this point, the Board does not need to provide additional direction.

Chair Tibbott suggested that the motion be amended to include a recommendation that, if the Tree Board continues, its members should be made up of a cross section of the community. Board Member Rubenkonig suggested that this recommendation would be a duplication of what is already the City's policy for any board. The City Council is responsible for the makeup of the Tree Board. The majority of the Board indicated support for the motion, as currently on the floor. Chair Tibbott said he would support the motion, with the understanding that the Tree Board was created for a purpose, and the City Council is responsible for assuring that the Tree Board remains viable.

Board Member Robles commented that the motion on the floor would put the draft Tree Code away, and it would require considerable weight to bring it back to life. By approving the motion, the Board will speak to the intentions of the majority of the audience.

Vice Chair Lovell emphasized that with resources from both the City and State, there are plenty of programs to help the City staff and Board undertake the task of creating a UFMP. Board Member Rubenkonig clarified that the Board does not currently have an agenda for the UFMP, but they would like the plan to represent what the public has said and will continue to say. The UFMP should address many more issues than just tree canopy.

From the audience, Mr. Kappes observed that Vice Chair Lovell's earlier comment pointed out that private property is not part of Urban Forestry Management. However, the motion on the floor does not specifically address this concept. Board Member Rubenkonig pointed out that the Board is not in a position to address what an UFMP will include at this time. Vice Chair Lovell reviewed that the purpose of an UFMP is to help local government communicate government goals to the public and provide for consistent actions across city departments. His intention is not to say that an UFMP would only deal with public property. Instead, the plan should incorporate everything that was discussed at the hearing. It is possible that the UFMP would only address public and not private properties. The fact is that the City needs a vision and goals that all citizens can support.

THE MOTION CARRIED UNANIMOUSLY.

REVIEW OF PROPOSED 2015 COMPREHENSIVE PLAN UPDATE

This item was postponed to a future meeting.

CONTINUED REVIEW OF DRAFT CODE FOR THE CRITICAL AREA ORDINANCE UPDATE

This item was postponed to a future meeting.

REVIEW OF EXTENDED AGENDA

Mr. Chave reminded the Board that the Comprehensive Plan Update is scheduled for a public hearing on June 10th. Staff will provide additional background information in the Board's packets.

PLANNING BOARD CHAIR COMMENTS

Chair Tibbott commented that the process for the previous public hearing worked well. He is proud of the level of citizen involvement, and he thanked the Planning Board Members for their investment in the process, as well.

PLANNING BOARD MEMBER COMMENTS

Board Member Robles announced that Sno-Isle Regional Library is sponsoring a Ted X Conference on November 6th at the Edmonds Art Center. The topic of the event is "Creating the Future."

ADJOURNMENT

The Board meeting was adjourned at 10:20 p.m.

APPROVED