

EDMONDS CITY COUNCIL APPROVED MINUTES

February 3, 2015

The Edmonds City Council meeting was called to order at 6:30 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Adrienne Fraley-Monillas, Council President
Diane Buckshnis, Councilmember
Kristiana Johnson, Councilmember
Lora Petso, Councilmember
Joan Bloom, Councilmember
Thomas Mesaros, Councilmember

ALSO PRESENT

Noushyal Eslami, Student Representative

STAFF PRESENT

Jim Lawless, Assistant Police Chief
Phil Williams, Public Works Director
Carrie Hite, Parks, Rec. & Cult. Serv. Dir.
Scott James, Finance Director
Shane Hope, Development Services Director
Rob English, City Engineer
Renee McRae, Recreation Manager
Jeff Taraday, City Attorney
Scott Passey, City Clerk
Jerrie Bevington, Camera Operator
Jeannie Dines, Recorder

1. **CONVENE IN EXECUTIVE SESSION TO DISCUSS A REAL ESTATE MATTER PER RCW 42.30.110(1)(C) AND POTENTIAL LITIGATION PER RCW 42.30.110(1)(I)**

At 6:30 p.m., Mayor Earling announced that the City Council would meet in executive session to discuss a real estate matter per RCW 42.30.110(1)(c) and potential litigation per RCW 42.30.110(1)(i). He stated that the executive session was scheduled to last approximately 30 minutes and would be held in the Jury Meeting Room, located in the Public Safety Complex. No action was anticipated to occur as a result of meeting in executive session. Elected officials present at the executive session were: Mayor Earling, and Councilmembers Johnson, Fraley-Monillas, Buckshnis, Petso, Bloom and Mesaros. Others present were City Attorney Jeff Taraday, Parks, Recreation & Cultural Services Director Carrie Hite, Recreation Manager Renee McRae, and City Clerk Scott Passey. Councilmember Bloom left the executive session at 6:48 p.m. and returned at 7:01 p.m. Councilmember Mesaros left the executive session at 6: 59 p.m. The executive session concluded at 7:03 p.m.

Mayor Earling reconvened the regular City Council meeting at 7:06 p.m. and led the flag salute.

2. **ROLL CALL**

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

3. **APPROVAL OF AGENDA**

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER. MOTION CARRIED UNANIMOUSLY.

4. **APPROVAL OF CONSENT AGENDA ITEMS**

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

- A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF JANUARY 27, 2015**
- B. APPROVAL OF CLAIM CHECKS #212618 THROUGH #212722 DATED JANUARY 29, 2015 FOR \$700,446.27**
- C. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM AMANDA BOSAW (AMOUNT UNDETERMINED) AND THE CITY OF EDMONDS (AMOUNT UNDETERMINED)**
- D. AUTHORIZATION FOR MAYOR TO SIGN A SUPPLEMENTAL AGREEMENT WITH SHANNON & WILSON FOR THE FINAL FEASIBILITY STUDY OF THE WILLOW CREEK DAYLIGHT PROJECT, TO PERFORM ADDITIONAL WORK FOR THE EDMONDS MARSH RESTORATION PROJECT, AND TO REDUCE THE FLOODING AT DAYTON ST. AND SR104**

5. AUDIENCE COMMENTS

Alvin Rutledge, Edmonds, thanked Mayor Earling for speaking at the Kiwanis Club today. Mayor Earling will make a State of the City Address at the Edmonds Theater on February 12 at 8:30 a.m. He noted there are a lot of issues in the City which Mayor Earling will explain.

6. PUBLIC HEARING ON DRAFT UTILITIES ELEMENT FOR THE 2015 COMPREHENSIVE PLAN UPDATE

Development Services Director Shane Hope provided background on Comprehensive Plans:

- Provide long term community planning and public process
- Required under State GMA
- Cannot be amended more than once/year (with certain exceptions)
- Must be implemented by local government through budget and other activities

Edmonds Existing Comprehensive Plan:

- Has multiple elements
- Required by State law to have major review and updated by mid-2015
- Reviewed in spring 2014 for consistency with current State law
 - Found mostly to be in compliance, with need for some updating

She reviewed the update process:

- Moving forward with draft updates, element by element
 - Public meetings of Planning Board, followed by City Council, for each element
- Proposed Comprehensive Plan changes are mainly aimed toward cleanup and updating, not major policy changes
- No final decision until whole Comprehensive Plan can be consider
- City Council makes final decision on adoption Comprehensive Plan update – summer 2015

Ms. Hope described the draft utilities element:

- Addresses City utilities
 - Water
 - Sewer

- Stormwater
- Solid waste
- References City's water, sewer and stormwater plans
- Provides a brief background and goals and policies for solid waste
 - Solid waste handled differently because it does not have its own plan

She provided a summary of the proposed changes:

- Description added about water, sewer and stormwater utilities with reference to adopted utility plans
- Update proposed to storm and surface water goals and policies
- Updated language proposed for:
 - Solid waste section
 - "Other utilities" section

Ms. Hope described the Planning Board's involvement:

- Reviewed utilities element information
 - December 10, 2014
 - January 2014
- Discussed draft and recommended minor changes be brought to Council (included in draft being considered now)
- Acknowledged some fine-tuning may still be needed

Next steps include:

- February 3 public hearing for the draft Utilities Element
- February 10 City Council Study session on draft utilities element
- Other public input, including
 - February 25 open house, 5 to 7 p.m., City Hall 3rd floor
- Continuing work and public meetings on various draft Comprehensive Plan element
- Refinement of draft language on all elements
- Public hearing on full draft Comprehensive Plan updated scheduled for June

Councilmember Bloom referred to language on page 1, "The Edmonds City Council made a decision after the approval of the 2010 Water System Plan to adopt a rate structure that has been designed to fund from current rate revenues a very long range program of replacing its aging network of water mains rather than using debt financing to fund that program. As a result rates have been adjusted in each of three recent years to get closer to that goal. The plan is to examine the utility's financial capacity after the third year of this effort and make a decision whether or not to continue that rate adjustment for the remaining three years." She suggested for transparency including the date of that decision, the amount of the rate increase, when the rate increases will be imposed and the date it will be reviewed. Ms. Hope advised that information is outdated and needs to be updated.

Public Works Director Phil Williams advised the first of the three rate increases occurred January 2014, the second occurred January 2015 and the third will occur January 2016. When the 2016 budget is developed, staff will return to Council to discuss the policy, report on how it has worked and provide the Council an opportunity to revisit it. Ms. Hope advised a general idea of the timing will be included. Councilmember Bloom asked whether the rate increases would be included. Mr. Williams relayed the rate increases adopted by Council were approximately 8-9% on water and sewer and 4.3% for stormwater.

Councilmember Bloom referred to solid waste goal B.1, "Investigate the requirement for city-wide mandatory garbage collection, combined with recycling services." Mr. Williams responded typically in dense urban environment mandatory service of some type service would be expected. It could be a very

reduced service; many cities have a mini can rate to make the service very affordable, but no one has the option of not having garbage service. Not having garbage service often leads to code enforcement issues, hoarding, odors, vermin, etc. To avoid those issues it is worthwhile to re-examine whether there should be a mandatory service level for solid waste similar to water and sewer.

Councilmember Bloom referred to Storm and Surface Water Management Goal A which includes “preserve and enhance critical areas” and asked if there would be a definition of enhance critical areas. Ms. Hope answered probably not in the Comprehensive Plan. Other sections talk about enhancing critical area and the code and code update will also address it. Councilmember Bloom asked if there would be reference to the definition. Ms. Hope advised types of enhancement could be referenced.

Councilmember Petso requested staff take a second look at Solid Waste Goal C.1 which states the City will continue the Waste Prevention and Recycling Program. She recalled that program was jointly funded with another jurisdiction and has significant budgetary implications. She preferred to change “the” Waste Prevention and Recycling Program to “a” program to provide some budget flexibility and so that a Comprehensive Plan amendment would not be required.

Councilmember Buckshnis suggested clarifying Solid Waste Goal 3.D, “Establish a city-wide Buy Recycled policy.” Ms. Hope suggested changing “establish” to “consider” in that goal and some others. Mr. Williams clarified the intent of city-wide was City government wide; City facilities and operations would have a policy regarding purchasing choices.

Mayor Earling opened the public participation portion of the public hearing. There was no one present who wished to provide testimony and Mayor Earling closed the public hearing.

Mayor Earling advised Council review of the draft Utilities Element is scheduled on next week’s study session. He encouraged Councilmembers to submit questions to staff prior to the study session.

7. PUBLIC HEARING AND POTENTIAL ACTION ON DRAFT ORDINANCES TO CONSOLIDATE AND MODIFY ANIMAL REGULATIONS

Development Services Director Shane Hope recalled the City Council had a study session last week to review the proposed changes. The Planning Board reviewed the ordinances and recommend approval.

Assistant Chief of Police Lawless recalled he reviewed the proposed changes with Council at last week’s study session and described the intent of the changes to consolidate all animal regulations in a single place. The packet also includes responses to questions the Council raised at the January 27 meeting.

Council President Fraley-Monillas said it appears in reading the ordinance, the same regulations apply if an animal barks for 20 minutes in an hour at night and or during the day. ACOP Lawless agreed, explaining other portions of the noise ordinance address hours. The goal was to keep things as consistent as possible in applying the ordinance as it relates to hours, fines, etc. Council President Fraley-Monillas said there is a difference between noises at night and during the day because of the potential to disturb sleep.

Councilmember Buckshnis relayed she spoke with Dr. Bernstein at lengthy about his issue. She noted a neighbor could call the police for a dog barking intermittently for 20 minutes or continuously for 10 minutes.

Councilmember Petso referred to staff’s suggestion to delete “within one hour” as it applied to intermittent barking. She asked whether that would allow intermittent barking of 20 minutes to be potentially actionable whether it occurred within one hour or not. ACOP Lawless said that was correct.

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

Gerald Bernstein, Edmonds, said this was an opportunity to balance the rights of pet owners and their neighbors. He spoke in favor of the proposal, but pointed out a problem in Section 5.05.115, allowing dogs to bark 10 minutes continuously or 20 minutes intermittently. He recognized all dogs bark and they should but 10-20 minutes of howling, yelping, whining, crying, screaming was very intrusive and interferes with the neighbors' ability to enjoy their homes. A reasonable solution would be to define what constitutes barking, howling and yelping. That would allow everyone to enjoy their pets and their environment without intrusion and in peace and tranquility. He provided a recording of dogs barking at 9:45 p.m. He summarized continuous howling and barking was not the same as a dog occasionally barking.

Alvin Rutledge, Edmonds, suggested contacting the King County Sheriff and Shoreline who have experienced barking problems in neighborhoods where dogs bark at all hours.

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

Council President Fraley-Monillas referred to the Dr. Bernstein's recording of dogs barking and asked how the policy addressed that sort of ruckus occurring during the night. ACOP Lawless referred to Section 5.05.115.B.5, "Any animal which howls, yelps, whines, barks or makes any noises in such a manner as to disturb any person or neighborhood to an unreasonable degree, taken to be continuous noise for a period of ten (10) or more minutes or intermittent noise that totals a period of twenty (20) or more minutes in one (1) hour..." He explained there is a common understanding of howl, yelp, win and bark; other sounds are addressed by the language "any noise in such a manner." With regard to the length of time, he pointed out that is an "or" statement, a situation does not need to meet both thresholds. The goal is to address situations that occur throughout the City, not just one particular situation or neighborhood and to balance the regulations with the rights of dog owners. Several other jurisdictions' ordinances were researched in the process of drafting the proposed language and staff worked closely with the City Attorney's office to develop language that works for pet owners and the neighbors as well as is enforceable and pass judicial muster and not be so ambiguous as to be overthrown.

Council President Fraley-Monillas asked how the excessiveness of the barking is determined, recognizing an officer may not be able to stay at a home waiting for a dog to bark. She asked whether a citizen needed to make a recording. ACOP Lawless answered it will be situational; sometimes when officers arrive, the dogs are still barking. Ninety-nine percent of the time knocking on the neighbor's door and telling them their dogs are disturbing the neighbor is effective. Unfortunately there are certain situations where that does not work. Citizens have made recordings which would provide evidence.

Council President Fraley-Monillas asked whether the proposed language would tighten up the code regarding what is considered a nuisance. ACOP Lawless answered yes. Council President Fraley-Monillas asked whether a citizen should make a recording of an animal making excessive noise before calling the police. ACOP Lawless agreed a recording would be beneficial. Animal control officers handle the majority of these calls as officers are handling emergencies. Animal control may have more time to observe and hear the noise before taking enforcement action. The current code does not afford that opportunity; the revisions will.

Councilmember Buckshnis recalled the Council discussed the keeping of poultry and covered animals at the study session. She referred to Resolution 3655 and asked whether that language will need to be rescinded. ACOP Lawless answered no, that is old language; the definition of poultry still remains.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCIL PRESIDENT FRALEY-MONILLAS, TO APPROVE ORDINANCE NO. 3988, (ATTACHMENT 1), AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE CHAPTERS 5.05 , 5.30, 16.20, 16.30 AND 17.35, TO CONSOLIDATE EDMONDS CITY CODE SECTIONS DEALING WITH ANIMAL CONTROL INTO CHAPTER 5.05, TO AMEND THE ANIMAL NOISE PROVISION OF SECTION 5.05.115, AND TO AMEND THE SYSTEM OF PENALTIES FOR VIOLATIONS OF SECTION 5.05.115; PROVIDING FOR SEVERABILITY; AND SETTING AN EFFECTIVE DATE.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO AMEND THE MOTION TO REMOVE “WITHIN ONE HOUR” FROM SECTION 5.05.115.B.5.

Councilmember Petso explained when the citizen email was forwarded to staff, ACOP Lawless suggested one possible way to tighten the concern about intermittent barking was to delete “within one hour” so that intermittent barking that occurred over 70 minutes would still be considered a nuisance and enforcement could be pursued. ACOP Lawless explained one of concerns with the “within one hour” language was when the hour starts.

Councilmember Bloom expressed concern with the removal of “within one hour” as there would be no limit. ACOP Lawless agreed there could be a concern with not having a time period for intermittent. The one hour language was found in other jurisdictions’ ordinances.

Councilmember Petso was not concerned about not specifying a time period as she doubted anyone would complain if a dog barked intermittently for 20 minutes over a 2 week period.

Councilmember Buckshnis commented a dog typically is a problem or not. It is obvious in talking with Dr. Bernstein that he has a problem neighbor. Most people get upset with a dog’s continuous barking, even dog owners. If a dog is continuously barking, there is something wrong with the dog or the situation.

Councilmember Bloom thanked Councilmembers for their clarifications as she does not have a dog or a barking dog in her neighborhood.

AMENDMENT CARRIED (5-1), COUNCILMEMBER JOHNSON VOTING NO.

MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.

COUNCILMEMBER PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE ORDINANCE NO. 3989 (ATTACHMENT 2), AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING EDMONDS CITY CODE 5.30 TO DEFINE “FREQUENT, REPETITIVE OR INTERMITTENTLY CONTINUOUS” IN SECTION 5.30.020, TO AMEND LANGUAGE REGARDING CITIZEN COMPLAINTS IN SECTION 5.30.140, AND TO AMEND THE SYSTEM OF PENALTIES FOR VIOLATIONS OF CHAPTER 5.30 IN SECTION 5.30.150; PROVIDING FOR SEVERABILITY; AND SETTING AN EFFECTIVE DATE.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETSO, TO AMEND ITEM E TO REMOVE “IN ONE HOUR.” MOTION CARRIED (5-1), COUNCILMEMBER JOHNSON VOTING NO.

MAIN MOTION AS AMENDED CARRIED UNANIMOUSLY.

8. DISCUSSION AND POTENTIAL ACTION ON AN ORDINANCE AMENDING THE 2015 BUDGET FOR CARRYFORWARD ITEMS PREVIOUSLY DISCUSSED AND APPROVED BY COUNCIL DURING THE 2014 BUDGET YEAR

Finance Director Scott James reviewed the proposed Carryforward Budget Amendment:

- 2015 Carryforward Budget Amendment is for items not completed in 2014
- 27 decision packages describing each carryforward item
- The Carryforward Budget Amendment will roll the unexpended 2014 budget into the 2015 budget
- All items were previously approved by Council

He summarized the 2015 Carryforward Budget Amendments:

- Revenues increased \$1,198,124
- Expenditures increased \$3,558,360
- Ending fund balance decreased \$0

Mr. James recommended Council approval of the 2015 Carryforward Budget Amendment.

Mayor Earling advised there is one amendment that was not included in packet. Mr. James explained not all the information was finalized in time to bring it to Council as part of this amendment. The amendment is related to the Pavement Preservation Program. Last year staff anticipated spending \$940,000 in 2014; approximately \$194,000 was left over. That amendment will be presented to the Council at next week's study session.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON TO APPROVE ORDINANCE NO. 3990, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ORDINANCE NO. 3985 AS A RESULT OF UNANTICIPATED TRANSFERS AND EXPENDITURES OF VARIOUS FUNDS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE. MOTION CARRIED UNANIMOUSLY.

9. POTENTIAL ACTION ON EXECUTION OF GROWING TRANSIT COMMUNITIES COMPACT AND APPOINTMENT OF COMMITTEE REPRESENTATIVE

Development Services Director Shane Hope recalled the Council recently reviewed information related to Growing Transit Communities (GTC) Program, a regional program that operates through the Puget Sound Regional Council (PSRC), comprised of cities, counties, agencies and organizations to work on implementing over a longer term a GTC strategy. The GTC strategy is a plan in a broad sense of how to provide for better transit access, make areas where transit is an option more walkable, etc. A lot of work has already been done; Edmonds did not participate initially because the focus in the early stage was communities with a planned light rail stations. Joining the GTC compact is a nonbinding, good faith agreement to carry forward some of the goals. There is a great deal of opportunity for individual community decisions and it is not a mandate for planning for transit but recognizing opportunities for transit in the future. By signing onto the GTC compact, the City is able to be a voting member on the committee.

She recommended the Council authorize the Mayor to sign the GTC Compact and appoint a representative and alternate to the Regional Transit-Oriented Development Advisory Committee. The next meeting is February 6.

COUNCILMEMBER JOHNSON MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AUTHORIZE THE MAYOR TO SIGN THE GROWING TRANSIT COMMUNITIES COMPACT. MOTION CARRIED UNANIMOUSLY.

Council President Fraley-Monillas requested any Councilmembers interested in serving contact her and she will provide that information to Ms. Hope tomorrow.

10. DISCUSSION ON POTENTIAL UPDATE OF COUNCIL VACANCY INTERVIEWS AND APPOINTMENT PROCESS

Council President Fraley-Monillas explained she developed the proposed process using Council consensus from the previous study session. She reviewed the Candidate Interview and Voting Process in Attachment 1:

Prior to the Interview Meeting:

Staff will provide either a paper or electronic copy of all application materials for each candidate, along with a list of candidates and their interview times. At least 2 business days prior to the scheduled interview meeting, Councilmembers will submit two questions each to the Council President, who may also submit a question for a total of 12 questions.

Process to determine the interview order of candidates

The applicants' order of appearance is determined by random selection by the Council Executive Assistant and City Clerk. Council may call applicants with independent questions prior to interview.

Councilmember Bloom asked the rationale for submitting two questions in advance. She recalled when the Council interviewed over 20 candidates last time, Councilmembers were good about stating the same question each time. Council President Fraley-Monillas answered it was so everyone would have an opportunity to ask questions. During the last process former Councilmember Peterson and she felt some Councilmembers asked numerous questions and other Councilmembers did not have time to ask questions. This process allows everyone to participate. If Councilmembers have questions for individual candidates, those can be asked as time permits. Councilmembers are encouraged to contact applicants with independent questions.

Councilmember Bloom asked if the intent was a questionnaire that would be submitted to candidates prior to the interview. Council President Fraley-Monillas answered no, the candidates had already answered a questionnaire. This would be a list of questions provided to each Councilmember for the purpose of asking questions during the interview. Councilmember Bloom did not recall that was a problem during the last interviews. She understood the rationale for having questions well-formed and stating the same question each time but did not understand why they needed to be submitted prior to the interviews. Council President Fraley-Monillas reiterated it was to give everyone an opportunity.

In response to Councilmember Bloom's question, Councilmember Mesaros said it would be helpful to know what questions other Councilmembers plan to ask so Councilmembers did not ask the same question.

Council President Fraley-Monillas did not understand the objection to submitting questions. Councilmember Bloom explained she spends a lot of time forming the questions she most wants answered. She did not think there would be duplicate questions. Councilmember Buckshnis remarked there were no duplicate questions last time. Councilmember Bloom commented even when there are duplicate questions on the same issue, Councilmembers ask in different ways because Councilmembers have different interests. She saw no reason for having a questionnaire prepared in advance. The Council is considering not taping the interviews to prevent applicants from watching in advance and being prepared. Not having a list of questions prepared in advance protects the privacy of questions.

Council President Fraley-Monillas clarified she did not say Councilmembers would get the list of questions in advance. Her intent was to distribute the questions the evening interviews are conducted. Former Councilmember Peterson and she were attempting to address the problem with the process that resulted in 57 votes last time. She recommended giving this proposal a try.

Councilmember Petso requested the following wordsmithing which was acceptable to the Council:

- At least 2 business days prior to the scheduled interview meeting, Councilmembers will submit two questions each to the Council President, who may also submit a two questions for a total of 12 questions.
- Council may ~~each~~ contact applicants with independent questions prior to interview.

Councilmember Johnson suggested deleting the sentence, “Council may contact applicants with independent questions prior to interview,” finding it an unnecessary statement. Councilmember Buckshnis said it was common sense that Councilmember would contact applicants. Councilmember Petso clarified no one would object if she met with and/or emailed candidates. It was the consensus of the Council to delete the sentence.

Councilmember Bloom reserved her right not to submit questions in advance.

Councilmember Johnson did not think it was necessary to submit questions in advance.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO REMOVE THE SENTENCE RELATED TO SUBMITTING QUESTIONS IN ADVANCE.

COUNCILMEMBER MESAROS OFFERED A FRIENDLY AMENDMENT WHICH WAS AGREEABLE TO COUNCILMEMBER BLOOM AND COUNCILMEMBER JOHNSON, TO CHANGE THE SENTENCE TO READ “...COUNCILMEMBERS ~~WILL~~ MAY SUBMIT TWO QUESTIONS...”

MOTION CARRIED UNANIMOUSLY.

Council President Fraley-Monillas reviewed Attachment 1, page 2 and Councilmembers made revisions as follows:

Open Public Interview Meeting:

For fair and open process the interviews will not be live streamed but will be played after interviews are completed. Interviews for a vacant City Council position will be conducted in an open public meeting. Each interview of an applicant/candidate will be no longer than 40 minutes in length as follows:

1. Only the applicant being interviewed will be allowed in Council chambers; the other applicants ~~will be~~ may waiting in an area to be determined by the City Clerk. After completing their interview, each applicant may remain in Council Chambers.
2. The applicant may make an opening statement to the City Council.
3. ~~The City Council will ask a predetermined set of questions which must be responded to by the applicant.~~ Each applicant will be asked and will answer the same set of questions.
4. After ~~pre-determined~~ questions are asked, and as time permits, Councilmembers may engage in an informal question and answer period in which they may ask and receive answers to miscellaneous questions. (each councilmember will ask question and applicant will have 2 minutes for response)
5. Applicant will have the opportunity for a closing statement.
6. ~~The City Council may reduce the 40 minute interview time if the number of applicants exceeds six (6) candidates, or alternatively, the Council may elect not to interview all of the applicants if the number exceeds six (6) candidates. The decision as to which applicants to interview will be based on the information contained in the application and/or supporting materials, which may include endorsements, letters of reference, etc.~~
7. At the conclusion of the interviews, the City Council may adjourn into an Executive Session to discuss the qualifications of the applicants. However, all interviews, deliberations, nominations and votes taken by the City Council shall be in an open public session.

Councilmember Buckshnis expressed concern with the wording of Paragraph 7, suggesting the Council may wish to adjourn to executive session on another day. Council President Fraley-Monillas said the intent was to explain the Council could adjourn into executive session. City Attorney Jeff Taraday said the Council could adjourn into executive session at the conclusion of the interviews or at another time.

Councilmember Johnson commented there is no privilege afforded the Council for the discussion in executive session. Mr. Taraday clarified there is no Public Records Act exemption the covers the notes taken in such an executive session.

Council President Fraley-Monillas reviewed Attachment 1, page 3:

Executive Session

The City Attorney should facilitate the discussion of determining each candidate's strengths and weaknesses to determine qualifications. Councilmembers may share their individual rankings of candidates. The Council shall not conduct any straw polls or voting during the Executive Session. At the completion of the discussion, Council adjourns the Executive Session and reconvenes the public meeting.

Councilmember Johnson was not comfortable with Councilmembers sharing individual ranking of candidates during the Executive Session as that seems to contradict straw poll or voting during the Executive Session. Mr. Taraday agreed that was a fair point; the Council can use the Executive Session to point out candidates' strengths and candidates they found particularly qualified without providing ranking. It was agreed to delete that sentence.

Council President Fraley-Monillas began reviewing Reconvening the Public Open Meeting for Voting – Option A.

1. Each Councilmember shall submit a signed written ballot nominating their top five candidates to the City Clerk. Once all ballots are submitted, the Clerk will read aloud the Councilmember's name and their selections. The Council will, by consensus, agree to eliminate 5 candidates receiving the fewest votes.

Councilmember Petso recalled there was not a consensus at the study session to use this process. She was opposed to this form of voting, recalling she provided the City Attorney selection process as an example where the Council began eliminating firms and reached a point where Councilmembers were required to choose between Lighthouse and Ogden Murphy Wallace only to find a significant number preferred the third choice. She preferred Option B.

Councilmember Buckshnis preferred Option B, recalling Councilmember Mesaros was not one of the top 5 candidates.

Councilmember Bloom strongly supported Option B. She did not agree with limiting Councilmembers to the top 5 candidates as there may be less than 5 top candidates. This process is different than the last time as there are only 10 candidates to interview this time.

It was the consensus of the Council to utilize Rules for Nomination/Election to Fill Council Vacancy (current rules) - Option B. Council President Fraley-Monillas reviewed Option B:

Nominations

Each Councilmember may nominate one candidate from the list of applicants by placing an "X" beside the name of the applicant of his or her choice on the form supplied for that purpose by the City Clerk, and by signing the nomination form. The City Clerk will announce and maintain a permanent record of the nominations and of the Councilmember nominating each candidate.

The Election

Each Councilmember may vote for one candidate by placing an “X” beside the name of the candidate of his or her choice on the ballot supplied for that purpose by the City Clerk, and by signing the ballot. The City Clerk will announce and maintain a permanent record of each ballot and who voted for each candidate.

A Deadlock

A deadlock occurs after each Councilmember votes the same way on three consecutive ballots. In the event the City Council should deadlock, then previous nominations are declared null and void and the Council may begin a new round of nominations.

- Nothing in this policy shall prevent the City Council from reconvening into Executive Session to further discuss the applicant/candidate qualifications.
- The Mayor shall declare the nominee receiving the majority vote as the new Councilmember and he or she shall be sworn into office by the City Clerk at the earliest opportunity or no later than the next regularly scheduled City Council meeting and will complete the unexpired term for the Position.
- If the City Council does not appoint a qualified person to fill the vacancy within 90 days of the declared vacancy, the Revised Code of Washington delegates appointment powers to Snohomish County. (RCW 42.12.070(4))

At Mr. Taraday suggestion, the Council agreed to delete the above three bullets as they are matters of State law.

Council President Fraley-Monillas summarized there are 10 applicants; 2 interview dates have been scheduled, February 17 and 18; and deliberations are scheduled on March 3. There are other items scheduled on the February 17 agenda.

Councilmember Mesaros preferred to do all interviews in one evening. He suggested 30 minute interviews starting at 5:00 p.m. on February 17 would only take 2½ hours. Council President Fraley-Monillas suggested 30 minutes did not allow much time for questions and answers or opening/closing. She preferred 40 minute interviews on 2 days.

Councilmember Bloom also preferred to conduct all the interviews on one day. If the interviews are conducted on two days, she did not support allowing candidates to sit in on other interviews when they have completed their own.

Council President Fraley-Monillas observed 30 minute interviews for 10 applicants would take 5 hours.

As there is other business on the February 17 agenda, Councilmember Petso suggested having 4 interviewing on February 17 and 6 on February 18.

Councilmember Johnson recalled when she was appointed the interviews were 30 minutes which seemed sufficient. Councilmember Mesaros recalled the interviews were 30 minutes last time. Council President Fraley-Monillas advised 30 minute interviews would only allow Councilmembers 5 minutes for questions and answers and no time for the candidates to make opening and closing statements.

Councilmember Buckshnis observed some people talk a lot. She suggested 40 minute interviews in 2 nights or 30 minute interviews in 1 night. She preferred to conduct all the interviews one day even if it was a Saturday.

Council President Fraley-Monillas preferred 40 minute interviews. She said interviews on two nights had already been advertised and could not be changed.

It was the consensus of the Council to conduct 40 minutes with 4 interviews on February 17 beginning at 5:00 p.m. and 6 interviews on February 18 beginning at 6:00 p.m. City Clerk Scott Passey pointed out the Court will be using the room until 4:30 p.m. on February 18.

COUNCIL PRESIDENT FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER MESAROS, TO DO 40 MINUTE INTERVIEWS ON FEBRUARY 17 AND 18 AS HAS BEEN PUBLISHED AT A TIME THAT MEETS WITH THE COURT AND COUNCIL.

Councilmember Bloom reiterated her preference to conduct all the interviews on one night. She felt that could be accomplished with 30 minute interviews, particularly with Councilmembers contacting candidates prior to the interviews. Councilmember Johnson agreed.

MOTION ENDED IN A TIE VOTE (3-3), AND THE MOTION FAILED.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO DO 30 MINUTE INTERVIEWS OF ALL CANDIDATES ON FEBRUARY 17. MOTION CARRIED UNANIMOUSLY.

Council President Fraley-Monillas asked if the interviews could be changed to one night when it has already been advertised that they will be held on two nights. Mr. Taraday answered yes, this is the Council's process.

Councilmember Johnson asked whether former Councilmember Peterson and Council President Fraley-Monillas had discussed how to avoid 30-50+ ballots. Council President Fraley-Monillas answered the method they proposed was intended to streamline the previous process but the Council chose to use the current process.

11. MAYOR'S COMMENTS

Mayor Earling reminded of his State of City Address on February 12 at 8:30 a.m. in the Edmonds Theater. There will be two guest presenters, Diana White, President of the Edmonds School Board; and Rick Steves, a prominent business owner.

12. COUNCIL COMMENTS

Student Rep Eslami thanked the Council for their discussion regarding the voting process; he enjoyed watching it. He was bummed the Seahawks lost.

Councilmember Bloom asked when Council Committee Reports would be on the agenda. She recalled it had been scheduled on the last Council meeting of the month. Council President Fraley-Monillas said she will work with the City Clerk.

Councilmember Buckshnis suggested Mayor Earling be out of town and on vacation for the Super Bowl like he was last year.

Councilmember Johnson advised the February 25 open house for the Comprehensive Plan at City Hall will include the preliminary transportation report for the SR 104 study at Westgate.

Councilmember Mesaros commented it was disheartening to watch the Seahawks game on TV. On his flight from Phoenix this morning, a majority of passengers attended the Super Bowl and were also disheartened.

Council President Fraley-Monillas commented she spent the Super Bowl in San Francisco with 49er fans. The Super Bowl will be held in San Francisco next year and she has already reserved a room. Her flight this morning was also full of Seahawk fans and was not a joyful flight.

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

This item was not needed.

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

This item was not needed.

15. **ADJOURN**

With no further business, the Council meeting was adjourned at 8:37 p.m.