

EDMONDS CITY COUNCIL APPROVED MINUTES

March 2, 2010

At 6:00 p.m., Mayor Haakenson announced that the City Council would meet in executive session regarding pending and threatened litigation. He stated that the executive session was scheduled to last approximately one hour and would be held in the Police Training 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 Haakenson, Councilmembers Orvis, Plunkett, Fraley-Monillas, Bernheim, Buckshnis, Peterson and Wilson. Others present were City Attorney Scott Snyder, Attorney Stephanie Croll, Attorney Grant Weed, Community Services/Economic Development Director Stephen Clifton and City Clerk Sandy Chase. The executive session concluded at 7:00 p.m.

The regular City Council meeting was called to order at 7:05 p.m. by Mayor Haakenson in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Gary Haakenson, Mayor
Steve Bernheim, Council President
D. J. Wilson, Councilmember
Michael Plunkett, Councilmember
Dave Orvis, Councilmember
Adrienne Fraley-Monillas, Councilmember
Strom Peterson, Councilmember
Diane Buckshnis, Councilmember

ALSO PRESENT

Graham Marmion, Student Representative

STAFF PRESENT

Al Compaan, Police Chief
Noel Miller, Public Works Director
Rob Chave, Planning Manager
Frances Chapin, Cultural Services Manager
Rob English, City Engineer
Scott Snyder, City Attorney
Sandy Chase, City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. APPROVAL OF AGENDA

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

2. CONSENT AGENDA ITEMS

Mayor Haakenson relayed City Clerk Sandy Chase's request to remove Item B from the Consent Agenda.

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

A. ROLL CALL

C. APPROVAL OF CLAIM CHECKS #117328 THROUGH #117509 DATED FEBRUARY 25, 2010 FOR \$1,552,949.43.

D. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM ROLAND YEN (\$150.00) AND HELEN BELVIN (AMOUNT UNDETERMINED).

- E. **AUTHORIZATION TO SURPLUS CITY VEHICLES AND TO CONTRACT WITH JAMES G. MURPHY AUCTIONEERS.**
- F. **AUTHORIZATION TO EXPEND BUDGETED CONFERENCE REGISTRATION FUNDS FOR EDMONDS ARTS COMMISSIONERS.**
- G. **AUTHORIZATION FOR THE MAYOR TO SIGN AN INTERLOCAL AGREEMENT WITH SNOHOMISH COUNTY TO SURPLUS AND TRANSFER TITLE FOR ONE (1) TOTALED POLICE VEHICLE.**
- H. **PROPOSED SNOHOMISH COUNTY PUD DISTRIBUTION EASEMENT FOR THE FIVE CORNERS BOOSTER PUMP STATION UPGRADE IMPROVEMENTS PROJECT.**
- I. **CITY ATTORNEY ANNUAL REPORT.**
- J. **ACCEPTANCE OF LIST OF BUSINESSES APPLYING FOR RENEWAL OF THEIR LIQUOR LICENSES WITH THE WASHINGTON STATE LIQUOR CONTROL BOARD, FEBRUARY 2010.**

ITEM B: APPROVAL OF CITY COUNCIL MEETING MINUTES OF FEBRUARY 23, 2010.

Mayor Haakenson referred to a memo from City Clerk Sandy Chase with several corrections to the minutes.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO APPROVE THE FEBRUARY 23, 2010 MINUTES AS AMENDED. MOTION CARRIED UNANIMOUSLY. The amendments are as follows:

- **Page 1: Under “Staff Present,” Scott Snyder’s name is now removed.**
- **Page 9: Last paragraph, changed the date “1980” to “1890” (the city’s incorporation date)**
- **Page 10: Fifth paragraph, changed the date March 17, 2009 to September 16, 2008**
- **Page 11: Fifth paragraph, changed “35-foot wide lots” to “30-foot wide lots.”**

3. CLIMATE SOLUTIONS PRESENTATION.

Councilmember Peterson explained he was introduced to Climate Solutions when they made a presentation at a Sustainable Edmonds meeting. Climate Solutions has worked with cities throughout the Northwest via the creation of New Energy Cities. This is an opportunity for the Council and the community to learn about clean energy, green building design, and other environmental efforts.

Eilene Quigley, Climate Solutions, New Energy Cities Program Director, explained Climate Solutions is a northwest-based non-profit organization created over ten years ago with a mission of accelerating practical and profitable solutions to global warming. Climate Solutions launched the New Energy Cities program in 2009 to help pioneering northwest cities and counties lead the nation in an economic strategy that creates jobs, saves money on energy, contributes to the nation’s energy independence and furthers a robust, clean energy economy. New Energy Cities is about transforming the way energy is delivered and used at the local level. Their systemic, non-incremental approach asks communities to take charge of their energy destiny and think holistically about its energy consumption and transition to a clean, renewable, super efficient energy system.

Climate Solutions works with elected leaders, the local business community, local non-profit organizations, universities, community colleges and local utilities. They ask these key stakeholders to invest in a 20-year vision that will achieve deep energy efficiency, deploy distributive renewable energy and smart grid technology, pave the way for electric vehicles, incorporate a district energy approach and secure capital, both public and private, that will finance these efforts over a 20-30 year period. She asked

city leaders to think of energy in the same way they do roads, sewer and water and other amenities that local jurisdictions provide to residents. Climate Solutions works with city leaders to craft a vision, roadmap, action plan, financing model and implementation strategy.

Climate Solutions is seeking 6-10 pioneering cities throughout the four northwest states with a diverse set of characteristics that will provide examples for similar cities and counties to emulate. She anticipated success among the early innovators would translate into expansion to numerous cities through the Northwest and potentially the United States. While they believe in the positive environmental benefits that the clean energy economy will bring, they are equally excited about the potential for long term economic development throughout the region and the country.

In 2008 Climate Solutions issued a report, "Carbon Free Prosperity," that identified the case for how the Northwest can create 41,000 – 63,000 direct jobs by 2025 in only 5 of the clean energy sectors. They are also interested in supporting and growing a base of skilled workers and creating jobs that will last for at least 20 years. As a non-profit organization, Climate Solutions raises money from foundations to support their program which in turn enables them to offer their services at significantly discounted rates. For example, they offer their workshop and road mapping exercise as well as their action plan for \$15,000 when the actual cost of the hours spent is approximately \$33,000.

The co-founder of Climate Solutions, Rhys Roth, and she met with a group of Edmonds citizens assembled by Sustainable Edmonds to address efforts underway in the Puget Sound area to address climate change. They are impressed with Edmonds citizens' efforts to date with regard to sustainability.

Councilmember Peterson asked what other cities Climate Solutions has worked with. Ms. Quigley explained the first city was Jackson Hole, Wyoming. Jackson wants to be the first destination resort in the country to have at least an 80% reduction in greenhouse gas emissions in the next 20 years. Jackson has completed the workshop, action plan, and road mapping. Climate Solutions is working on financing, and Jackson has already selected their first three pilot projects. They plan to begin with deep energy efficiency and are considering wind, solar and other applications. Jackson created a tri-party council between the City of Jackson Hole, Teton County and Lower Valley Energy and a 7-member steering committee with membership from each agency that oversees the work of three taskforces.

Climate Solutions is also working with Spokane; Albany, Oregon; and Olympia, Lacey and Tumwater in Thurston County. Albany has suffered during recent resource booms/busts; metal producers have expressed interest in using their plant for energy generation; berry producers are interested in converting their waste stream to energy; and Target's distribution center is interested in using their flat roof for solar. Albany also has a historic district where energy efficiency efforts are complex. A pulp mill in Albany recently closed; consideration is being given to making that plant a co-generation plant. Thurston County received approximately \$1.5 million in a combination of Energy and Efficiency Community Development Block Grant money from the Department of Energy and other competitive funds. They have identified an energy efficiency project, hired a coordinator and formed the Thurston County Climate Action Team. She explained applying for DOE grants requires very specific project plans; because Thurston has done that exercise, they have a clear, critical path over the next 18 months. Climate Solutions will soon publish a Financing Clean Energy white paper which she offered to provide to Edmonds when it was complete.

Councilmember Wilson commented the Council was interested in adopting sustainability policies that are practical, impactful and progressive. The Council adopted a Sustainability Agenda last year. He asked how a suburban, residential community such as Edmonds could take a leadership role. For example Edmonds has fiber optic cable but does not yet have a plan for implementing that asset in a commercially viable manner. Ms. Quigley agreed energy efficiency can be more challenging in residential areas than in commercial. In the communities where pilot projects have been done in residential areas, they have found that as soon as residents learn their neighbors are involved, they also want to be involved. They typically

take a district-wide approach, an area of a community that is willing and interested and help with identifying financing to make the retrofit a good economic investment for a homeowner. With regard to fiber optics, she explained Climate Solutions would conduct an analysis of the community assets and the workshop would address tying those assets to their vision and identifying options. She explained they do not tell cities what to do; they facilitate the city creating a vision. They are seeking communities with a diverse set of characteristics to provide examples for other cities. A community without industrial assets that is primarily residential is very attractive to Climate Solutions.

Councilmember Wilson referred to Climate Solutions' efforts to identify funding for Jackson Hole, noting deploying fiber optics into commercial and residential areas was a matter of finances. Ms. Quigley explained the Jackson Hole/Teton County area has 30,000-40,000 residents and 100,000-150,000 visitors and their primary revenue source is sales tax. Financing in Jackson Hole was anticipated to be \$5 million from the government, \$5 million via a special purpose excise tax and \$2-3 million raised in the community. She noted Jackson Hole was somewhat of an anomaly; most of the other communities would not raise money from its citizens, they would ask citizens to invest in a program and gain the benefit of improvements over time. She noted there were a wide variety of models for financing energy efficiency including property taxes via a loan for financing, on-bill (utility) financing, and solar project financing.

Councilmember Buckshtnis inquired about tidal power. Ms. Quigley answered they are having discussions with Lincoln City, Oregon and other coastal cities. Tidal power is experimental at this point; their focus in the initial stages of the program particularly in non-coastal cities is energy efficiency and then adding solar as a renewable energy source. Their work plan includes studying tidal power and its applicability in the Northwest. She noted turbines in the Spokane River have been discussed. She provided further documentation regarding Climate Solutions to City Clerk Sandy Chase.

Councilmember Peterson urged the Council to consider becoming a New Energy City, noting there was likely to be competition from other cities after the White Paper is published and Climate Solutions begins more aggressively marketing the program. He suggested adding Climate Solutions to the March Community Services/Development Services Committee meeting.

Councilmember Plunkett asked the cost and what services would be provided. Councilmember Peterson responded it was similar to Cascade Land Conservancy; for \$15,000 Climate Solutions would develop a program. Ms. Quigley explained if Edmonds was interested, she would write a proposal for the Council's consideration. The proposal would outline the deliverables, scope of work, costs, hours, how hours are spent, examples of what they have done, etc. She noted the materials she provided include frequently asked questions and an outline of the workshop.

Mayor Haakenson concluded further discussion would occur at the March 9 Community Services/Development Services Committee meeting and then return to the Council for further consideration.

4. REPORT OF COMMUNITY SERVICE ANNOUNCEMENTS

Councilmember Plunkett explained at the retreat, the Council agreed to again allow community service announcements at the beginning of Council meetings. Non-profit organizations that meet the standards for using public microphones (standards available from Community Services/Economic Development Director Stephen Clifton), may contact Senior Executive Council Assistant Jana Spellman to schedule a 5 minute presentation on a future agenda.

Councilmember Wilson invited the Edmonds Public School Foundation to make a presentation.

Debbie Bodal, President, Edmonds Public Schools Foundation, formerly the Public Education Foundation for the Edmonds School District, explained they changed their name to align with the other foundations in Washington State.

Becky Tilbury, Co-Vice President, Edmonds Public Schools Foundation, invited the Council and the community to the EPSF's fundraising luncheon honoring Hal Reasby, founder of the Edmonds Public Schools Foundation, on Friday, March 5 from 11:00 – 1:30 at the Lynnwood Convention Center. The keynote speaker will be Dr. Laura Kastner, Clinical Associate Professor of Psychiatry and Behavior Sciences at the University of Washington, who will speak on Getting to Calm, Coolheaded Strategies for Parenting Tweens and Teens. Individual tickets are \$40 individually or \$400 to host a table for 10. The EPSF's work is to enrich and enhance the education of all students in the Edmonds School District. The money they raise returns to classrooms via grants to staff.

Ms. Bodal explained the EPSF is a community-based, non-profit organization committed to creating opportunities for all students in the district to maximize their personal, creative and academic potential. Since its foundation in 1984 by then superintendent Hal Reasby, the privately funded foundation supports all students and schools in the Edmonds School District which serves Edmonds, Lynnwood, Brier, Mountlake Terrace and Woodway. The EPSF consists of parents, educators and community members committed to public education and work in concert with the Edmonds School District. The Foundation is dedicated to the philosophy that by encouraging and equipping teachers, staff and educators with supplemental funding, they create an enhanced learning environment for all students. They strive to fill the gap for projects not covered by state and federal monies by funding unique and creative projects that align with the Edmonds School District curriculum.

As a result of the Washington State budget crisis, the District no longer has funds to purchase basic educational needs such as textbooks and paper. The District has a greater need for the Foundation to assist with funding these basic needs and fundraising for schools has taken on a sense of urgency. Over the past 25 years the EPSF serving a District of over 20,000 students and 34 schools has awarded over \$750,000 in the form of \$500 idea classroom grants and \$3000 learning environment grants to enhance and supplement student learning. The EPSF is seeing the need to change their focus from a grant award program to supporting the District in providing basic educational needs for all students.

Edmonds School District is the largest district in Snohomish County, the tenth largest in the State, serves 20,000 students, 14,000 families and 34 schools, 28.9% of students qualify for free/reduced lunch, and 48.7% of the student population is multicultural. Without a strong educational community, young families will not be attracted to the community which ultimately devalues properties. The cities of Mountlake Terrace, Edmonds, Woodway, Lynnwood and Brier must come together to realize the value of educating all students. She urged the community to support public education, noting her three children graduated from Edmonds-Woodway High School and have become successful, caring adults.

5. **PUBLIC HEARING ON INTERIM ORDINANCE NO. 3779 - AMENDING THE PROVISIONS OF ECDC 20.110.040(F) MONETARY PENALTIES IN THE CIVIL ENFORCEMENT PROCESS, CLARIFYING THE IMPACT OF THE AMENDMENT ON EXISTING CODE ENFORCEMENT ACTIONS.**

City Attorney Scott Snyder explained interim ordinances require a public hearing within 60 days of passage. Edmonds is a constitutional code city and has the broadest authority and powers available to cities. The establishment of civil infractions is an inherent part of the exercise of its police powers. The specific authority to establish a civil enforcement process is recognized in RCW 7.80.010(5).

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

Al Rutledge, Edmonds, referred to an appeal of the Hearing Examiner's decision.

Roger Hertrich, Edmonds, questioned how a code enforcement matter became an infraction. He noted in some code enforcement matters, no infractions were ever issued but the file was never closed. He asked whether there was a length of time a file could remain open before an infraction was issued. He agreed with establishing an appeal process following an infraction.

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

Mr. Snyder referred to the matrix provided to the Council during discussions of Title 18 that illustrates how engineering issues come forward. Civil infractions can also arise via enforcement of the zoning ordinance or the building permit process. He summarized there were a variety of sources of infraction. He agreed the Code Enforcement Officer often works with citizens on code enforcement issues for a lengthy period of time.

Mr. Snyder explained the code enforcement process was initiated via a Notice to Correct where the individual is provided with notice that a code provision has been violated. They have a right to appeal depending on the issue. Staff is in the process of clarifying a variety of Title 18 provisions; different code sections have different initiating processes. Once the Notice of Correction is issued and if it is not appealed, the individual has a certain number of days to correct the problem. If the problem is not corrected, a Notice of Violation is issued which can be appealed to the Hearing Examiner. The Hearing Examiner has the authority to levy fines or order abatement.

Mayor Haakenson advised no further action was required on this item.

6. **PUBLIC HEARING ON INTERIM ORDINANCE NO. 3780 - ADOPTING CERTAIN PROCEDURES WITH RESPECT TO THE ABANDONMENT, CONSTRUCTION AND AUTHORIZATION OF PUBLIC PROJECTS AND STREET VACATIONS AND DEDICATIONS**

City Attorney Scott Snyder explained interim ordinances require a public hearing within 60 days of passage. He explained this interim ordinance was the result of staff's suggestion to provide a procedure in the zoning code to implement the Comprehensive Plan's requirement that the Hearing Examiner make a recommendation to the City Council. The Hearing Examiner recently held the first hearing on the City's Capital Improvement Plan/Capital Facilities Plan. Whether this procedure should remain in the Comprehensive Plan will be reviewed as a part of the 2010 Comprehensive Plan amendment docket. This and the prior interim ordinance have been referred to the Planning Board. Interim ordinances are effective for six months; because this interim ordinance will be in effect for the remainder of 2010, the Council can expect staff to request an extension.

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

Al Rutledge, Edmonds, referred to property at 220th and Hwy. 99 where development has been delayed due to the economy. He commented Stevens Hospital's plans to partner with Swedish Hospital may result in decreased revenue.

Roger Hertrich, Edmonds, asked why the Council did not take action on the previous item. Mayor Haakenson advised no action was required. Mr. Hertrich asked whether there was a decision by the Hearing Examiner that the abandonment of the Hickman Park property met the Comprehensive Plan.

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

Mr. Snyder explained the Council passed the interim ordinances in January; these are the required public hearings. The Council may amend, repeal or take other action but no action is required. If the Council does not take action, the ordinance remains in effect for six months. Both interim ordinances have been referred to the Planning Board for review.

In response to Mr. Hertrich's question, Mr. Snyder explained the Hearing Examiner's recommendation was the abandonment was consistent with the Comprehensive Plan. Lora Petso requested a compliance hearing before the Growth Management Hearings Board to determine whether the City's actions were sufficient and compliant and the Hearings Board held that they were.

7. AUDIENCE COMMENTS

Barbara Tipton, Edmonds, referred to the Council's January 26, 2010 discussion regarding a proposal to limit contributions for City Council campaigns to either \$250 or \$750. Utilizing the Public Disclosure Commission's (PDC) query capability she downloaded and graphed C3 contribution information for one candidate. She displayed pie charts that illustrated the candidate's contribution represented 50% of the total, 54 citizen contributions represented 33%, 4 realtors contributions represented 9% and 1 developer represented 8%. She displayed a second pie chart that illustrated the percentage of the candidate's, citizen, realtor and developer contributions related to the average contribution. If a \$250 limit were imposed, the number of donors contributing at or above the limit totaled 4 including the candidate, the developer and 2 realtors. At the \$750 limit, the number of donors contributing at or above the limit was 2, the candidate and the developer. She summarized both alternatives validate Councilmember Peterson's point that limiting donations would not impact a wealthy candidate's ability to finance his/her own campaign as the City cannot limit self-funding of campaigns. She suggested the Council consider the following alternatives: 1) restrict spending by placing a cap on total campaign spending, or 2) implement public funding of campaigns. She did not recommend the second alternative due to complexities and legal issues with successfully implementing public funding. Whatever limit the Council adopted, she strongly suggested that adhering to the limit be on the honor system; citizen watchdogs who monitor the PDC database during the election could write letters to the editor regarding any violations. She volunteered to create a tip sheet regarding how to submit a query to the PDC database and download the information into an Excel spreadsheet.

Dale Hoggins, Edmonds, stated his opposition to the current effort to limit contributions to City Council campaigns based on his experience as a candidate and as a participant in campaigns. Although this seemed fair on the surface and improved a challenger's chance of beating an incumbent, limiting contributions actually protects the incumbent. The most important factor in a successful campaign is name familiarity; Councilmember's name and face appears on Channel 21/39 daily and Councilmembers are invited to events. He assumed Councilmembers utilized their salaries to pay back previous campaign expenses or save for the next campaign. He urged the Council to abandon the idea of campaign contribution limits because although well meaning, the proposed limits had the unintended consequence of protecting the incumbent. He pointed out there were several new Councilmembers which illustrated challengers were successful without limits on campaign contributions.

Al Rutledge, Edmonds, announced the annual Easter food drive at Top Foods on March 24-28 to benefit the Edmonds Food Bank. Food can also be dropped off at the Edmonds United Methodist Church, phone number 425-778-5833. He is the director of the community drive and his phone number is 425-776-6713. Next he reported the Planning Board is discussing homeless shelters and tent cities. He also announced he had proposed to the State several amendments to the State Ethics Code.

Don Fiene, Edmonds, Chair of the Transportation Committee, relayed the Committee's concerns with Community Transit's proposed cuts to routes throughout the region and particularly the cuts that will

affect commuter and local routes in Edmonds. He expressed concern with Community Transit's priorities and that Edmonds did not have a voting member on the Community Transit Board. As the second largest city in Snohomish County, Edmonds residents needed a voice on the Community Transit Board.

Kevin Morrison, Edmonds, expressed concern with the Council's action last week to limit information provided on Council web pages. With regard to campaign financing limits, he pointed out limits were not fair to a challenger who would need to spend at least five times as much as the incumbent because a Councilmember already has name recognition. With regard to Climate Solutions' presentation, he referred to a recent United Nations scientist's report that disputes global warming. He objected to the City spending \$15,000 of the taxpayers' money on the "fairy tale of climate change."

Roger Hertrich, Edmonds, asked whether the City had increased its water rates this year and if so, how much and did the City conduct a study to justify the increase. If the City did not conduct a study, he requested his rate be rescinded and a credit issued for the increase. With regard to Climate Solutions' presentation, he questioned the cost to be involved and how much staff time would be required, noting there were few governmental grants available. He suggested the City support grants for Hanford where there are real problems. He urged the Council develop a theme for the City for future economic development.

8. CAMPAIGN CONTRIBUTIONS REFORM PROPOSAL.

Council President Bernheim referred to comments that limits on campaign contributions would increase the power of the independently wealthy, pointing out the independently wealthy could currently contribute unlimited amounts to their campaign. He preferred to deal with the possible corruption of candidates who give lavishly to themselves than the possible corruption of candidates who receive lavishly from others. He agreed with the suggestion to cap total campaign expenditures but did not believe it was legally possible. He did not propose public campaign financing at this time because it was much more complex and required a public referendum. He also did not support using taxpayers' money to finance political campaigns. He summarized the intent of limiting campaign contributions was to limit the influence of corrupt individuals and although limiting the potential influence of large campaign contributions was not perfect reform, it was real reform against potentially outrageously large contributions.

Council President Bernheim referred to the comment that the current Council illustrated that challengers have been successful, pointing out none of the newer Councilmembers have been elected due to unlimited campaign contributions. Most of the successful challengers on the Council collected larger numbers of small contributions. With regard to the comment that his proposal would increase the power of the incumbent, he explained the incumbents, because of name recognition, have the ability to attract large contributions. Limiting the ability of incumbents to raise large contributions represented real campaign reform. He preferred his proposed system that permitted candidates to spend unlimited amounts of their own money rather than the present system that permitted candidates to spend unlimited amounts from wealthy individuals, companies and unions and other special interest conglomerations.

Council President Bernheim relayed that he planned to amend the proposed contribution limit to \$500. The primary objective was not to make campaigns fair; it was to avoid potential corruption. He assured he was not referring to the past but he wanted to prevent a \$5,000 - \$10,000 contribution in the future.

Councilmember Peterson agreed unlimited campaign funding was not an ideal situation. He learned today from Representative Marko Liias that both the Senate and House have passed a bill to include all municipalities in the State limits, \$800 per election and \$1600 total for the general and primary election. All the Edmonds representatives voted in favor of the bill. He suggested allowing that process to

conclude during the next 11 days of the session. If the Council took no action, the State's limits would apply.

Councilmember Buckshnis expressed support for Council President Bernheim's proposal, specifically a \$250 limit. She ran a grassroots campaign and received only one \$500 contribution. She preferred Council campaigns be about issues, who the person running was and their platform, and not about the money.

Councilmember Wilson pointed out the State infrastructure, the PDC, was rated the number one public disclosure mechanism in the United States and is without question the best. He recognized the well intentioned effort to limit campaign contributions to an amount lower than the State limit; however, in practice it did not remove money from campaigns. If a corrupt individual wanted to write a \$10,000 check to influence an election, they could still do so via a Political Action Committee (PAC). By law PACs can say very limited things of a positive nature about a candidate but can say anything negative they wanted even if it is untruthful. Limiting campaign contributions redirects money from candidates to PACs which increases negative campaigns. He summarized it therefore did not protect against corrupt donors and clearly increased the power of the groups Council President Bernheim sought to limit – corporations, unions, developers, etc.

City Attorney Scott Snyder advised a memo regarding a cap on contributions was not included in the packet. His research found the federal courts have struck down total campaign expenditure caps. With regard to publicly funded campaigns, he pointed out individuals can opt out of the publicly funded campaign process.

Councilmember Plunkett found being an incumbent a disadvantage because Councilmembers have to say no to people at every Council meeting. He commented a person could not legally give \$10,000 to a PAC and request it be spent on a specific candidate. Under the proposed limit, if an individual wanted to make a large contribution to a candidate, they would be required to publish an advertisement themselves and place their name on the advertisement.

Councilmember Orvis supported a \$250 campaign contribution and if that was not successful, he could also support a \$500 limit. With regard to the fear that the wealthy would take over if a cap were imposed, he pointed out under the current process the wealthy can influence multiple campaigns versus a cap where they would have to become a candidate themselves. He disagreed that someone challenging an incumbent needed to outspend the incumbent, noting in the last primary two incumbents were defeated by citizens with less funding than the incumbent. For example, Councilmember Wambolt was defeated by Lora Petso who spent less than he and when Councilmember Wambolt was elected, he spent less than the incumbent Jeff Wilson. He summarized during the last few elections, approximately one incumbent has lost during each election.

Councilmember Fraley-Monillas expressed her interest in real campaign finance reform. She was disappointed that the process for enacting publicly financed campaigns was so difficult because if all candidates could spend the same amount the campaigns would not be so outrageous. She explained she beat the incumbent in the primary although she raised less money. The two people she ran against, one was the incumbent and the other was a former Councilmember, both who had signs and likely a better understanding of the process. No matter what limit was established, candidates could self-finance their campaign and nothing could be done about that. She agreed with Councilmember Peterson's suggestion to delay action until the legislature made a decision regarding campaign limits.

COUNCIL PRESIDENT BERNHEIM MOVED, SECONDED BY COUNCILMEMBER ORVIS, TO ADOPT THE DRAFT ORDINANCE CHANGING \$250 IN THE SECOND WHEREAS CLAUSE TO \$500, AND CHANGING \$750 IN SECTIONS 1.99.040(A) AND 1.99.060 TO \$500.

Councilmember Wilson asked about the mechanism for determining a violation had occurred and enacting fines. Mr. Snyder answered there were two forms of civil violation, 1) enforcement via City staff, and 2) enforcement via the Municipal Court. A violation of this ordinance would be reviewed by the Municipal Court, similar to a parking ticket. Councilmember Wilson asked if any other city sent violations committed by candidates for elected office to their Municipal Court which is overseen by another elected official or should they be sent to Superior Court or another jurisdiction's Municipal Court to avoid a conflict of interest. Mr. Snyder answered there was the potential for more conflict of interest if a judge hired via a contract was used. The Municipal Court Judge, who is elected, is an independent body. The Council cannot create a state crime and municipal infractions are typically reviewed by the Municipal Court Judge.

Councilmember Wilson asked whether that was a common practice. Mr. Snyder answered he was aware of two cities in Washington that utilized this practice; the proposed ordinance is based on Issaquah's ordinance. Council President Bernheim clarified he proposed a civil violation at Mr. Snyder's suggestion; he had originally proposed a criminal violation. Councilmember Wilson relayed his concern how enforcement would occur.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER WILSON, TO TABLE THIS ITEM TO THE MARCH 16 COUNCIL MEETING. UPON ROLL CALL, MOTION FAILED (3-4); COUNCILMEMBERS WILSON, PETERSON AND FRALEY-MONILLAS VOTING YES; AND COUNCILMEMBERS PLUNKETT, ORVIS, AND BUCKSHNIS AND COUNCIL PRESIDENT BERNHEIM VOTING NO.

For Councilmember Plunkett, Mr. Snyder advised the action being considered by the legislature would not preempt the Council's efforts to establish campaign contribution limits. Councilmember Plunkett pointed out the State legislature's limit was \$850; he did not view that or a \$500 limit as a campaign reform. He pointed out a \$500 limit was equal to \$1000 per household; a \$1000 limit would have eliminated only about 4-5 contributions to his campaign.

COUNCILMEMBER PLUNKETT MOVED, SECONDED BY COUNCILMEMBER WILSON, TO AMEND THE MOTION TO LIMIT CAMPAIGN CONTRIBUTIONS TO \$80.

Councilmember Plunkett explained an \$80 limit was not arbitrary; it was approximately the average contribution. He pointed out the City of Akron has had a \$25 limit on campaign contributions and recently increased it to \$100.

Mr. Snyder relayed their research indicated \$250 was an amount approved by the Washington courts in a challenge. The Council must be able to defend the reasonableness of its cap; if the Council wants to establish a cap on contributions that is less than \$250, the reason such as was stated by Councilmember Plunkett should be in the record. The whereas clauses in the ordinance address all the legislative findings approved by federal courts upholding caps. He also included a provision in the ordinance for periodic review of the cap.

Councilmember Plunkett pointed out the City of Akron's cap was upheld by a federal court. Mr. Snyder agreed, noting that was some years ago and it had recently been increased. The \$250 cap was upheld by a Washington court. He reiterated the importance of establishing a record for the \$80 cap such as the average campaign contribution.

Councilmember Peterson commented he would support the amendment because it was as ridiculous as a \$250 limit.

COUNCILMEMBER WILSON MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO AMEND THE AMENDMENT TO LIMIT CAMPAIGN CONTRIBUTIONS TO 80 CENTS PER ELECTION CYCLE.

Councilmember Wilson explained there were approximately 21,000 voters in Edmonds and according to the PDC, the average campaign raised approximately \$16,200. Therefore, if every voter in the City contributed 80 cents to the candidate of their choice, it would amount to \$16,200. He suggested if grassroots campaigns could convince voters to donate 80 cents to the candidate of their choice, it would limit the corrupting influence of large donors.

Councilmember Fraley-Monillas commented this was getting foolish. The intent of the proposal was to start campaign finance reform. If the Council could not agree to a sensible solution, she encouraged the Council to table the matter. She reiterated establishing a limit did not impact candidates who wanted to self-finance their campaigns. If an unreasonable limit were imposed, only the wealthy would run for election.

Councilmember Wilson commented all Councilmembers want some limits established on campaign contributions and a majority may support the PDC's campaign limits if the proposed ordinance was not approved. He remarked the Council was playing a game, admitting he was playing a game by proposing an 80 cent limit. He summarized either an \$80 or \$250 limit were ridiculous.

Councilmember Plunkett explained his proposed \$80 limit was based on a city four times larger than Edmonds where campaign contribution limits have been successful. He referred to Akron Councilmember Bob Otterman who said the hardest part about a limit on campaign contributions was returning contributions that exceeded \$100. The limit requires that he have more community meetings because limited funding prevents him from doing large mailings.

THE VOTE ON THE AMENDMENT TO THE AMENDMENT FAILED (2-5), COUNCILMEMBER WILSON AND PETERSON IN FAVOR.

UPON ROLL CALL, THE VOTE ON THE AMENDMENT FAILED (3-4), COUNCILMEMBERS PETERSON, WILSON AND PLUNKETT VOTING YES; AND COUNCIL PRESIDENT BERNHEIM, AND COUNCILMEMBERS BUCKSHNIS, FRALEY-MONILLAS, AND ORVIS VOTING NO.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO AMEND THE MOTION TO CHANGE THE LIMIT FROM \$500 TO \$250.

Councilmember Buckshnis commented \$250 was an appropriate limit. She received only one \$500 contribution.

Councilmember Plunkett reminded a \$250 limit equated to a \$500 per household limit.

Councilmember Peterson commented his wife and he do not always agree on their contributions and unmarried people make contributions; a \$250 limit was not necessarily a \$500 per household limit. He reiterated Edmonds has an incredibly well educated and enthusiastic electorate with a 60% voter turnout every year even in off elections; the County average is in the low 40%. It is important to have well funded campaigns in order to educate the citizenry. He agreed in an ideal world public financing would be best but disagreed that limiting campaign contributions would keep money out of politics. Limiting campaign contributions would only hide money because as Councilmember Wilson said, if someone wanted to contribute \$10,000, they would find a way, likely a way that was less transparent than the current method. He acknowledged PACs could not make direct contributions to campaigns but they could get fairly nasty. If there were "bogymen" buying elections by donating more than \$250, he

anticipated they would figure out a way to circumvent the contribution limit. He preferred to wait 11 days until the legislature's decision regarding campaign contributions rather than establishing a limit that would require enforcement by the City and involve the Municipal Court.

Councilmember Fraley-Monillas advised she would not support a \$250 limit because she did not think it was enough. She preferred a \$500 limit as it was more reasonable, noting it could be changed in the future.

Student Representative Marmion asked the range of contributions that resulted in an average of \$80. Councilmember Plunkett commented if the \$1000 - \$3000 contributions were removed from the calculation, the average was much lower. He summarized the intent of campaign contribution reform was to reduce contributions to make it fair for all candidates.

UPON ROLL CALL, THE VOTE ON THE AMENDMENT FAILED (3-4), COUNCILMEMBERS BUCKSHNIS, PLUNKETT AND ORVIS VOTING YES; AND COUNCIL PRESIDENT BERNHEIM, AND COUNCILMEMBERS WILSON, FRALEY-MONILLAS, AND PETERSON VOTING NO.

Councilmember Wilson inquired about the definition of volunteer services, assuming it meant in-kind services. He inquired whether providing printed signs or polling services would be considered volunteer services, noting those services would exceed the proposed contribution limit. State law addresses the definition of volunteer services but it is not addressed in the proposed ordinance.

Councilmember Plunkett assumed volunteer services were volunteer activities and contributions were in-kind and monetary donations. He asked whether that was Council President Bernheim's intent. Council President Bernheim answered the English language did not precisely convey every idea without ambiguity. He envisioned a monetary or material contribution would be subject to the campaign contribution limit; a person's muscle or brain power would not be subject to the limit. Councilmember Plunkett asked if that needed to be clarified in the ordinance. Mr. Snyder referred to Section 1.99.020 that states the terms used shall be afforded definitions found in 42.17.020, the PDC provisions except as listed. There are exceptions such as rendering of personal services of the sort commonly performed by campaign workers or incidental expenses personally incurred by volunteer campaign workers not in excess of \$50. He summarized all the PDC definitions had been incorporated except for the specific exclusions. Mr. Snyder referred to Section 15A which includes transfer of funds, pledges or anything of value including personal and professional services for less than full consideration.

For Councilmember Wilson, Mr. Snyder explained the ordinance incorporated the state statutory definitions except for the five exceptions. In-kind contributions are contributions and volunteer services are capped at, 1) the normal sort of volunteer services provided and 2) not more than \$50 in value.

Councilmember Wilson clarified the ordinance stated the limitations in the section apply to all contributions except a campaign contribution of his/her own resources, the value of volunteer services, and publicly donated funds. Mr. Snyder explained his reading was a total source, individual volunteer services for a campaign was limited to \$50. He suggested eliminating Section 1.99.040(B)(2). Councilmember Wilson pointed out another way to read the section was there was no limit on volunteer services. Mr. Snyder agreed. He explained campaign contributions exclude volunteer services under the definition. The state definition excludes reimbursable services up to \$50. He suggested deleting Section 1.99.040(B)(2). Council President Bernheim explained his intent was that volunteer services be unlimited.

THE VOTE ON THE MAIN MOTION TO ADOPT ORDINANCE NO. 3785 CARRIED (6-1), COUNCILMEMBER PETERSON VOTING NO.

Mr. Snyder recommended the Council review the campaign contribution limit periodically such as every 5-10 years. Councilmember Wilson commented the PDC updates the cap annually and the legislature adopts it annually with typically a \$25/year increase.

9. **MAYOR'S COMMENTS**

Mayor Haakenson had no report.

10. **COUNCIL COMMENTS**

Council President Bernheim reminded the Council would be taking public comment on recommended budget cuts at the March 16 and 23 meetings.

Council President Bernheim announced an opportunity to contribute to Haiti earthquake relief via "Support the Children and Family." In addition to monetary contributions, they are requesting contributions of tents and ordinary living equipment. He planned to donate some tents, water bottles, and stoves that he no longer used to Franz Jocelyn who can be contacted at 425-329-9760. Mayor Haakenson advised tents could also be donated via the local Rotary Club.

Councilmember Buckshnis reported seven citizens attended the first Town Hall meeting. Discussion included tourism, economic development; the largest complaint was the day of the meeting. Future Town Hall meetings will be held the last Thursday of each month. She thanked the community members who attended.

Councilmember Peterson apologized for missing last week's meeting; he was out of town visiting family.

COUNCILMEMBER ORVIS MOVED, SECONDED BY COUNCIL PRESIDENT BERNHEIM, TO EXCUSE COUNCILMEMBER PETERSON FROM THE FEBRUARY 23 COUNCIL MEETING. MOTION CARRIED UNANIMOUSLY.

Councilmember Fraley-Monillas reported the first Town Hall meeting went well; citizens identified several unusual ways to bring visitors to the City. She planned to escort the Edmonds-Woodway Special Olympics Team including her son to the basketball tournament in Wenatchee this weekend. Two other Edmonds teams will also be participating.

Student Representative Marmion reported he would inform the leadership students and clubs of the opportunity to make public service announcements at Council meetings.

11. **ADJOURN**

With no further business, the Council meeting was adjourned at 9:23 p.m.