Call to Order / Roll Call

The meeting was called to order by Chair Wright at 7:00 p.m. Todd Hall gave the roll call noting that Commissioner Jones had informed staff he would be absent.

Approval of Minutes

1. Approval of the Minutes of the January 8, 2015 Meeting

Motion made by Commissioner Braithwaite, seconded by Commissioner Ambalada, to approve the minutes as presented. Motion passed unanimously (6-0).

2. Approval of the Minutes of the January 22, 2015 Meeting

Motion made by Chair Wright, seconded by Commissioner Hurst, to approve the minutes as presented. Motion passed unanimously (6-0).

Chair Wright stated he has reviewed the Public Hearing testimony from the January 22 meeting.

Citizen Comments

None.

Public Hearing

Chair Wright restated he had reviewed the minutes and the Public Hearing testimony from the January 22 meeting.

Community Development Director Krauss explained that this hearing started at the previous Planning Commission meeting. Staff had recommended that it be continued to tonight primarily because the City received substantial written comments during the hearing from the Alderwood Water and Sewer District. He explained that there is a slightly modified version of the Essential Public Facility Code in the Commission's packet with an annotated copy of the letter received from Alderwood Water and Sewer District. Staff continues to recommend that the Planning Commission recommend the City Council adopt the draft ordinance.

Director Krauss mentioned that at the January 22 meeting Mr. Ted Hikel voiced concern over the lack of a formal “script” being read prior to the meeting. He claimed that this invalidated the process. Mr. Krauss mentioned that the City Attorney was asked to comment. In a written response handed out to the Commission it was indicated that neither Commission Rules of Procedure nor code require that a script be read nor was it warranted given the Commission's role.

Director Krauss pointed out that there were comments in writing received tonight from Mr. Ted Hikel who seems to be raising a point about sponsored and unsponsored Essential Public Facilities. Director Krauss confirmed that governmental agencies can come forward with Essential Public Facilities as well as for-profit or non-profit companies. State Law specifically says that rehab facilities are an EPF and must be considered regardless of who the sponsor or owner is. Regarding Mr. Hikel's comment that hearings are better noticed in front of the City Council instead of the Hearing Examiner, Director Krauss disagreed. He noted that the same level of notice would be provided for either hearing. If there is a site-specific proposal, written notice would be mailed to property owners and tenants within a 600-foot radius and a sign would be posted onsite.

Public Testimony:

Lauren Balisky, Utility Planner, Alderwood Water and Waste Water District (District), 3626 – 156th Street SW, Lynnwood, WA 98087, stated the District submitted a letter dated January 22, 2015 with its concerns about the Draft EPF Ordinance. The District also testified at the January 22 Planning Commission Public Hearing. By that time the Community Development Department had made some changes to the Draft Ordinance which resolved some, but not all of their issues. She summarized some of the District’s concerns, namely that the ordinance covers a broad range of facilities and does not provide specificity for each type of facility. She agreed that many utility facilities are already allowed
by the City’s zoning code, often as conditional uses, but it is still unclear whether the EPF regulations are intended to be placed on top of the existing zoning code regulations for such facilities. Director Krauss’s memo appears to indicate that they are not, but the code appears to apply to all EPFs whether they are permitted elsewhere or not.

Director Krauss stated that the City would only be using the EPF code to address major utility facilities, but that is not reflected in the code itself.

Ms. Balisky suggested that making clear what constitutes a major facility might alleviate much of the District’s concern. Ms. Balisky noted that Director Krauss also stated the District believes locational decisions should be largely dictated by engineering decisions made by the proponent. What the District tried to explain is that water reservoirs are nearly always placed on or near topographic high points in order to provide adequate water pressure while most wastewater treatment plants are at low points to minimize how much pumping is needed. This minimizes maintenance and replacement costs and helps keep rates affordable.

She stated that the District recognizes that the primary decision tool will not be the same for all applicants; however, having the Hearing Examiner order a utility to find an alternate site without strong concerns about impacts on the proponent’s ability to serve the community is problematic. The EPF regulations as drafted place the burden on the applicant to prove that there is no feasible location for the facility other than a site in a residential zone. If the EPF rules do not apply to facilities permitted elsewhere by the code as conditional uses in the residential zone and reservoirs are clearly included in the definition of a public utility facility then the District has no concerns about this item. However, if the EPF rules apply on top of the existing regulations, they are concerned that a Hearing Examiner would force them out of residential zones if there is any feasible alternative. Doing so would have significant financial and operational impacts on the ratepayers, including Lynnwood citizens. She hopes the final code will provide the clarity they are looking for. The District is looking forward to working closely with the City as a partner when they are ready to come forward with a proposal to continue to provide high quality, cost effective water and sewer service to the Lynnwood community.

Commission Questions and Comments:

Commissioner Wojack noted that the majority of time, the City will not want to put an EPF in a residential zone. He asked how far away notices are sent when the Hearing Examiner hears a hearing. Director Krauss replied that it is generally 600 feet. Commissioner Wojack expressed concern about that limited notification area. He also expressed concern
about the reliability of putting the burden of proof on the applicant to say
that there are no other sites available. If the City is only going to send out
a notice to a 600-foot area, an EPF could quietly slip in the neighborhood
with the majority of the neighborhood not knowing about it until it is too
late.

Director Krauss explained that Lynnwood Place had exactly the same
notice as is being proposed here. The City has an incentive to keep its
citizens in the loop. He referred to the Sound Transit rail yard which the
City managed to defeat before it was even proposed as an EPF. The City
fought this through the political process and the environmental review
process. He pointed out that Sound Transit did a huge analysis with the
rail yard and the light rail alignment of the different options they looked at.
The City would ask that a proponent to make similar analyses available.
He commented that the proposed EPF draft is simple compared to what
has been in use for years with other jurisdictions. Other codes are often
more cumbersome and result in a very difficult review process for the
proponent and leave cities in a position where they are more likely to get
sued. He emphasized that essentially, the City can’t say no to the idea of
an EPF, but they may be able to modify it somewhat. Regarding keeping
them out of single-family neighborhoods, he noted that the rail yard was in
an industrial zone, but it was directly across the street from hundreds of
single-family homes. Regarding the notification process, he commented
that the City often notifies larger areas than they are required by Code if
they think the issue warrants it.

Commissioner Wojack referred to a situation where the City might enter
into a development agreement with an EPF applicant and asked if this
could make the City liable for any costs or legal actions. Director Krauss
clarified that there are two ways of processing EPF’s. One would be
through the Hearing Examiner and processed as a Conditional Use
Permit. The bigger ones would be processed through the City Council
using the Development Agreement process. A Development Agreement is
a contractual agreement between the parties which defines what the
proponent’s obligations are to the City and what the City’s obligations are
(if applicable). This is what the City did with Lynnwood Place. There is no
expectation that the City would become co liable or co responsible for
costs associated with the EPF.

Commissioner Braithwaite asked who decides if it goes to the Hearing
Examiner or the City Council. Director Krauss said there is a definition of
state and regional EPF’s. Hopefully, those give enough guidance to make
that interpretation. If all else fails, the Community Development Director
makes an interpretation, and that interpretation is subject to review by the
Hearing Examiner.
Commissioner Braithwaite referred to the last paragraph of 21.73.020 on page 26 and asked if there is ever a basis for a city saying no. Director Krauss explained that a city does have some latitude. The proponent may not get to site their EPF in their desired location if there are other more realistic locations. Commissioner Braithwaite thought the paragraph he referred to states that the City “may not preclude siting.” Director Krauss noted that under state law the City cannot preclude, but it does give latitude. He acknowledged that this is not the most clearly written state law that the City is trying to follow.

Commissioner Braithwaite then referred to the changes that were made in section 21.73.030 and noted that it seems like the rules for locating EPFs in residential zones were less clear since specific mitigation measures were stricken. Director Krauss explained that there are catch-all statements in the preceding section which states that the EPF has to meet all provisions of the code for development in the zoning district in which it is located. Elsewhere it talks about mitigation of all impacts and not just singling out certain types of impacts. He commented that not all impacts can be mitigated. For example, an airport would not be able to mitigate all impacts, but they still must be dealt with. Commissioner Braithwaite commented that it seems like it gives residents fewer tools with which to argue against the impact that a proposed EPF might have. Director Krauss stated that it refers back to all the provisions of the code which would apply. Director Krauss stated that he would be resubmitting this to the City Attorney to make sure it is enforceable.

Commissioner Larsen referred to page 25, section 21.73.010, and asked about listing water and sewer as major public facilities. Director Krauss commented that the issue for the District is not to be defined as an EPF; in fact, they would prefer more often than not to be minor. He referred to the table within the packet that showed where public facilities are already allowed in Lynnwood as permitted uses or conditional uses. Ms. Balisky had asked if the EPF code overlays the other sections of the code making them irrelevant. That is not staff’s intention. Director Krauss commented that they could add language indicating that an Essential Public Facility Local means an EPF not already permitted by LMC. That would clarify that if it is already permitted by the code then the EPF section would have no bearing on the siting process.

Commissioner Hurst referred to page 27 where the language saying that “the necessary infrastructure is or will be made available to ensure safe transportation access and concurrency” has been struck and asked staff if they feel that is covered by paragraph 4. Director Krauss confirmed that it does, but noted they could ask the City Attorney to make sure that sections 3 and 4 cover adequate mitigation. He commented that there is a
presumption that the EPF creates an increase in traffic or something else
which would need to be mitigated, but often that is not the case.

Commissioner Ambalada expressed concern about the impact of EPFs on
affordable housing. She believes that the existing EPFs should be studied
before moving forward to create more. She expressed concern that more
citizens are not attending public hearings. She noted that in more than
50% of families, both mother and father are working. Additionally, many
single-family rental homes are owned by business people. She thinks the
other reason they are not attending public meetings is the perception that
the City will do what it wants to do anyway. She commented that in King
County in four areas they are asking for a moratorium on rezoning of
single family zones. She urged the City to protect single-family homes.
She expressed concern about losing the desired ratio of single-family to
multi-family homes.

Commissioner Braithwaite pointed out that most of the language that
Commissioner Hurst was referring to was actually moved over to the prior
page in the more general section on page 26, section 2.

Commissioner Wojack referred to page 26, line 172, and asked if there is
any minimum-sized consideration for applications. Director Krauss replied
that EPF’s refers to larger facilities.

Motion made by Commissioner Braithwaite, seconded by Commissioner
Larsen, to approve the Code Amendment: Siting Process for Essential
Public Facilities and forward to Council with a recommendation for
approval.

Commissioner Braithwaite stated it is important to get this in place so they
have a process for dealing with these types of facilities. He encouraged
staff to have the City Attorney look at the last sentence in section 4 on
page 27 and how it relates to the approval within residential zones to
make sure it doesn’t weaken it substantially.

Motion passed by a vote of 5-1, with Commissioner Ambalada voting nay.

Commissioner Larsen moved to add a section that says that, “Public
Facilities currently permitted in the Lynnwood Municipal Code are
exempted from this ordinance.” The motion was seconded by
Commissioner Braithwaite. Motion passed unanimously (6-0).

Commissioner Wojack requested that staff give a report back to the
Commission after consulting with the City Attorney.
**Work Session**

1. **Comprehensive Plan: Draft Capital Facilities Element**

   Senior Planner Todd Hall presented the first reading of the Draft Capital Facilities Element which contains a summary of all the capital facilities and utilities that provide service within the City of Lynnwood. This refers to both city utilities and outside agencies that provide services within city limits. Some text has been removed for clarity and readability. Instead, an inventory has been provided that refers to other facility infrastructure plans. The goals and policies have also been updated to be more relevant to today’s language.

   Commissioner Larsen asked about the “CC” before the policy number. Senior Planner Hall noted that it should be corrected to “CF” for Capital Facilities.

   Commissioner Braithwaite commended the editing.

   Commissioner Wojack referred to the first line on page 60 of the Track Change version and noted that some parts of the transportation system are controlled by the state. He wondered if this should be clarified.

   Commissioner Hurst then referred to page 62 where it talks about extensions of utilities outside of city limits. He asked for an example of when that would be allowed. Senior Planner Hall noted that the City’s partnership with Alderwood Water District is a good example because there are fringe properties outside the City where it makes sense for Lynnwood to be the service provider because of topography and access.

   Commissioner Larsen stated that this is a good draft, but recommended adding an overarching objective to the beginning of this and every section of the Comprehensive Plan for clarity.

   Commissioner Braithwaite referred to the section on Essential Public Facilities that might need to be edited and updated as this moves along. Senior Planner Hall said he would work together with staff to make sure it is consistent. Deputy Director Corbett Loch commented that they are planning to move most of the Essential Public Facility language into the Land Use Element.

   There were no further comments or questions on this item.
2. Comprehensive Plan: College District land use regulations

Senior Planner Gloria Rivera commented that this matter involves the area surrounding the community college. She reviewed maps of the area including an overlay showing an extension of the mixed use around the college. The proposal is to extend the mixed use zoning further to the north and the east. She explained that the College District Master Plan gives interesting insight into the area around the campus. It was hoped that the Plan would see increased growth opportunities for the campus and for the neighborhoods in the area. She discussed increased activity around the college. Also this year the City will be constructing an extension of 204th Street from Highway 99 into the campus. The college population continues to grow; right now it is at about 12,000 students.

There has been quite a bit of growth in and around the college area.

There are a number of zones involved in the current College District Master Plan. She discussed issues associated with the current plan. Staff is proposing to eliminate the overlay zone entirely and extend the mixed use north to 196th and east to 68th and properties adjacent to the General Commercial zone on Highway 99. Ms. Rivera reviewed some of the changes to Land Uses on pages 111-113.

Staff is recommending that:

1. The College District Overlay Zone be eliminated from the Comprehensive Plan, Future Land Use Map and the Zoning Map.
2. The zoning regulations and standards for the College District Mixed Use Zone be updated and that the zone be amended to incorporate more of the uses currently allowed in the Overlay Zone.
3. The Comprehensive Plan Map be amended to apply the Mixed Use designation to additional properties to the north and east.
4. The Zoning Map be amended to apply the College District Mixed Use Zone to these additional properties.

Chair Wright referred to the legend at the bottom of the Future Land Use Map and Zoning Map and asked why there is a Jolly Roger near the directional arrow. Staff was not sure. Chair Wright then asked about impacts on single-family neighborhoods. Ms. Rivera replied that the proposed amendments would benefit the single family property owners because under the current Overlay Zone, single-family uses were not allowed. This revision would allow people to continue to use their property and gives them more protection. Deputy Director Loch added that since this is just a first discussion working toward a draft, the City has not yet notified property owners about proposed changes.

Chair Wright asked what was happening at the corner of 68th and 196th. Senior Planner Rivera stated that it is going to be a sign that says
“Edmonds Community College”. The college owns that property and is hoping to call more attention to the area. Chair Wright asked how much of the property in the College District is owned by Edmonds Community College. Senior Planner Rivera pointed out which properties the College owns.

Commissioner Braithwaite asked why 4,000 square feet was used for retail uses. Senior Planner Rivera stated that it was in the current code for retail uses. Staff is recommending increasing restaurants and eating establishments from 2,000 to 4,000 square feet. Commissioner Braithwaite thought they should even consider increasing the number. Director Krauss said they could consider that. Commissioner Braithwaite recommended 5,000 or even higher.

Commissioner Wojack referred to page 2 of 6 under Land Uses, under Principal Uses Permitted and asked why there was the limit of 13 children for child care centers. Deputy Director Loch thought that this was an existing standard and is intended to have day care centers of a neighborhood scale, not larger facilities that typically are associated with high volumes of drive-by traffic. Commissioner Wojack referred to the new zoning map on the west side of 68th and asked about the Planned Unit Development (PUD). Director Krauss explained that these were in areas where the zoning was less flexible and the only way they could do what they wanted to do was through a PUD.

Commissioner Ambalada asked if Gold Park is owned by the college. Director Krauss replied it is owned by the City.

Commissioner Larsen said he likes the way this is written. It brings things together and looks like it will work out well. He commented that an Overlay District sends a powerful message on the part of a city. While the College is in its planning process for the College’s Master Plan Update, he has concerns about giving up the notion of an overlay. He commented that there are a lot of little properties on the east side of 68th that over time will probably coalesce into bigger properties. A driving force in that would be a change in the parking standards. He asked what the City can do to encourage that change to happen. He commented that there are a lot of pedestrians in that area. This has a way of slowing traffic down. He spoke against having any kind of drinking establishment in an area where young people accumulate and where there will be residential uses. He spoke in support of having smaller business establishments (2,000 square feet) as well as allowing larger ones to go along with the neighborhood feel. He asked if the City has been in contact with the City of Edmonds about the area south of the college to see if Edmonds has any plans for that area. Director Krauss replied staff has not talked to the City of Edmonds specifically about that area. He explained that the Seattle Heights Mobile
Home Park, south of 208\textsuperscript{th} St SW, is in terrible shape and staff has looked at dropping the College District over that corner to see if that would promote its redevelopment. Senior Planner Rivera discussed conversations she has had with the College. She is hopeful about this area becoming a nice area not only for the College, but also the residents in the area with mixed use and shops.

Commissioner Braithwaite expressed concern about pedestrian traffic in the area. He recommended looking at how they can better manage pedestrian traffic at intersections along Highway 99. This is something that needs to be considered when developing and redeveloping the area. Director Krauss concurred. He commented that one of the things staff hoped would happen in the Highway 99 Plan was connections across Highway 99. He commented that the City is planning a widening of 196\textsuperscript{th} St SW with medians that have landscaping and a "refuge island" for pedestrians. This might be a possibility for Highway 99 as well. He noted that Highway 99 was designed by engineers to move cars and not necessarily sensitive to the community it went through. He commented that the area will change dramatically this summer when 204\textsuperscript{th} St SW is improved. Community Transit will install a new SWIFT stop at 204\textsuperscript{th} St SW, southbound, but the northbound stop requires that pedestrians go across Highway 99 and up a block so pedestrian traffic across Highway 99 will happen even more.

Commissioner Wojack said he thinks having a theater in that area is a really good idea. A lot of performing arts groups in the area go to Edmonds, Everett, and Shoreline because there are not small theaters here. He referred to the neighborhoods at 202\textsuperscript{nd} and 68\textsuperscript{th} which are currently zoned single-family. He asked for confirmation that they will still be single-family residences after the College District Mixed Use zoning is applied, and that market forces will dictate the growth of the area. Staff affirmed this. Senior Planner Rivera commented that the City has had many inquiries about new construction in this area. The overlay requires that developers have at least an acre which has been very difficult for developers. The way the proposed amendment is written, there isn’t a minimum. It would also allow single-family residences to make additions or modifications.

Commissioner Larsen asked if zero setbacks are a problem. Director Krauss noted that even if a code allows for zero setbacks, the Building Code has requirements that are different. For example, the Building Code requires at least a ten foot separation between structures.

There were no further comments or questions.
Other Business

Council Liaison Report

Chair Wright commented that Councilmember AuBuchon had notified him that he was ill tonight.

Director’s Report

Director Krauss had the following comments:

- He sent the Planning Commission notice earlier in the week about permits that had been issued. He commented that the City typically does about $50-55 million of new construction on average per year. The City did that much on just Tuesday, and the year is still very young. He commented that it is quite likely that they will see two or three construction cranes in City Center this summer.

- Chair Wright asked whether over-the-counter permitting will be restored and staffing levels increased. Director Krauss agreed that this is a big issue. Staff is extraordinarily short-handed. The Council and Mayor understand that. He has been given authorization to open the hiring process for another plan reviewer, but it is unclear exactly where the funds will come from to pay for that. The Council is going to be considering an Economic Development Fund where funds received from large development projects, construction sales tax, and permit fees are put into an investment fund. The City would then be in a position to do things like start building the City Center Park, make shared payments on road projects, or acquire necessary property. This could potentially generate a couple million dollars a year for a while.

Commissioners’ Comments

Chair Larsen said he has noticed a hawk in the alley behind his house and thinks it is due to chickens in the neighborhood. He expressed concern about hawks potentially going after other small animals in the neighborhood.

Commissioner Ambalada commented on a pizza restaurant at the corner of 64th and 200th which has delicious pizza. They close at 3:00 and if there is any leftover it goes for $1 apiece.

Commissioner Wojack recalled when the first applicants came in and combined two properties to put in a restaurant. He hopes the College District redevelops in a manner that is nice and conscientious.

Commissioner Hurst thanked Deputy Director Loch for adding the Planning Commission meeting to the City Calendar. He then asked staff if there was a way to fund another employee out of an Economic Development Fund.
Krauss explained that was one of the purposes of the Fund. They also plan to put in some contracting provisions with consulting firms so that when additional bodies are needed for inspections or plan reviews they have the ability to hire them.

Adjournment

The meeting was adjourned at 8:52 p.m.

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Richard Wright, Chair