

I. INTRODUCTION AND PURPOSE

The City of Edmonds has made a public characterization of the City Attorney's role in municipal governance in the Edmonds Beacon. This memorandum examines whether that characterization is supported by the record surrounding the adoption of **Ordinance No. 4400**, which comprehensively rewrote the City's street-vacation code.

In addition to analyzing the structure and effects of Ordinance No. 4400, this memorandum incorporates **the City Attorney's own statements**, made during a **2019 Planning Board meeting**, which provide insight into how the City Attorney understands his role in identifying, advancing, and framing policy options.

Specifically, this memorandum evaluates:

1. The City's stated claim regarding the City Attorney's non-directive role;
2. The substantive policy effects of Ordinance No. 4400;
3. The City Attorney's expressed view of his professional obligation to advance revenue-maximizing options; and
4. The absence of legal advice to the City Council regarding a material statutory limitation—namely, that a city may not condition a street vacation on the conveyance of easements between third parties.

II. THE CITY'S STATED POSITION ON THE CITY ATTORNEY'S ROLE

The City has stated that the City Attorney:

- Is an appointed official whose role is to provide legal advice regarding what the law permits and the legal risks of available options;
- Represents the City in litigation; and
- Does not direct policy outcomes or operational decisions, which are instead developed by City staff and elected officials acting within their respective roles.

This description presents the City Attorney as a neutral legal technician who explains legal boundaries but does not influence the substantive direction of municipal policy.

III. SUBSTANTIVE POLICY EFFECTS OF ORDINANCE NO. 4400

Ordinance No. 4400 did not merely clarify existing law. It repealed the City’s prior street-vacation framework and replaced it with a newly structured code that:

- Reorganized the street-vacation process into a different title of the City Code;
- Rewrote procedural sequencing, notice requirements, and appeal timelines;
- Established new criteria for determining whether a vacation is in the public interest;
- Changed appraisal timing and required the use of city-selected appraisers paid by applicants; and
- Embedded compensation mechanisms aligned with the upper limits of state statutory authority.

Each of these elements reflects an affirmative selection among legally permissible alternatives. Such selections are policy choices, not neutral explanations of law.

IV. THE CITY ATTORNEY’S STATED VIEW OF HIS ROLE: ADVANCING THE CITY’S INTEREST AND IDENTIFYING REVENUE OPTIONS

The City Attorney’s own statements during an **August 14, 2019 Planning Board meeting**—made in connection with a proposed amendment to increase street-vacation compensation—provide direct insight into how he understands his role.

At that meeting, City Attorney **Jeff Taraday** stated:

“I represent the City of Edmonds. I’m here to advance the interest of the City of Edmonds, not individual property owners.”

He further explained:

“So, if I see that State Law allows the City of Edmonds to collect more money for a street vacation than it is currently collecting, it is my job as the City Attorney to make that option available to the Policy Makers and let them decide whether they want to adopt that into their Code or not.... but we are leaving money on the table right now... that is the bottom line.”

He continued:

“Now, Policy Makers may decide that it is good to leave money on the table – that’s a policy decision – but I’m telling you we are leaving money on the table. So, I feel an obligation to bring that forward and let the Policy Makers make a decision about whether that is a good thing or not.”

These statements are significant for several reasons.

First, they reflect an understanding of the City Attorney’s role as **affirmatively identifying and advancing revenue-maximizing legal options**, rather than merely answering questions posed by policymakers.

Second, they demonstrate that the act of *selecting which legal options to highlight*—particularly those that increase municipal revenue—is itself viewed by the City Attorney as part of his professional obligation.

Third, while final adoption decisions are left to elected officials, the framing of options as “leaving money on the table” exerts substantive influence over the policy conversation and the range of outcomes considered.

This articulated role aligns closely with the approach taken in Ordinance No. 4400, which embeds compensation, appraisal timing, and leverage-enhancing mechanisms at the upper edge of what state law permits.

V. MATERIAL LEGAL LIMITATION NOT DISCLOSED TO THE CITY COUNCIL

A. Scope of Authority Under State Law

Washington’s street-vacation statute, **Chapter 35.79 RCW**, authorizes cities to relinquish the public’s interest in a right-of-way, reserve easements for public purposes, and require limited monetary compensation.

However, the statute does **not** authorize a city to condition approval of a street vacation on private easement arrangements between third parties.

A street vacation extinguishes a *public* easement. It does not confer authority to rearrange or compel **private property relationships**, which must arise through voluntary agreement or separate legal authority.

B. Absence of Legal Advice Warning the Council

Despite the City Attorney’s stated obligation to inform policymakers when the City is “leaving money on the table,” the record surrounding Ordinance No. 4400 does **not** reflect corresponding advice alerting the City Council when it was **approaching or exceeding a statutory boundary**.

Specifically, the Council was not advised that:

- Conditioning street vacations on third-party easement conveyances is beyond the City’s authority under Chapter 35.79 RCW; or
- Such conditions would require independent legal instruments and voluntary consent, not legislative imposition.

This omission is notable given the ordinance’s otherwise detailed enumeration of permissible conditions and procedures, which reasonably signals to decision-makers that the codified framework reflects the full scope of lawful authority.

VI. IMPLICATIONS FOR THE CITY’S CLAIM ABOUT THE CITY ATTORNEY’S ROLE

Taken together, the record demonstrates that:

- The City Attorney has publicly articulated a role that includes identifying and advancing revenue-enhancing legal options;
- Ordinance No. 4400 reflects that approach through its structure and embedded incentives; and
- A clear statutory limitation—one that would have constrained Council discretion—was not disclosed prior to adoption.

Providing legal advice necessarily includes explaining not only what the law allows, but also **what it forbids**, particularly where silence may lead policymakers to assume authority that does not exist.

VII. CONCLUSION

The City Attorney’s own statements confirm that his role is not limited to passive legal explanation, but includes actively bringing forward options that advance the City’s financial and institutional interests. Ordinance No. 4400 reflects that approach through its policy structure and emphasis on revenue and leverage.

At the same time, the absence of advice regarding a known statutory limitation—conditioning street vacations on private easement conveyances—undermines the City’s claim that the City Attorney’s function was confined to explaining “what the law permits.”

Accordingly, the record does not support the City’s categorical assertion that the City Attorney does not direct or influence policy outcomes. Instead, it demonstrates policy direction in effect—through option framing, structural code design, and selective legal emphasis.