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**Sent:** Friday, July 12, 2024 7:00 AM

**To:** Mike Rosen <[Mike.Rosen@EdmondsWa.Gov](mailto:Mike.Rosen@EdmondsWa.Gov)>; Vivian Olson <[Vivian.Olson@edmondswa.gov](mailto:Vivian.Olson@edmondswa.gov)>

**Subject:** Re: Special Meetings for Executive Sessions (including Planning Board's February 28, 2024 Special Meeting for an Executive Session)

The following is documentation of my Public Comments during the June 25, 2024 Council Meeting:

**Ken Reidy, Edmonds**, said for years he has pointed out the city council has been provided false, misleading, inaccurate or incomplete information. An email from Councilmember Tibbott to two fellow councilmembers dated November 19, 2023 stated, "I can affirm that Will and I were stonewalled and given false or misleading information when we asked for it." He encouraged the council not to vote on anything tonight under the influence of false, misleading, inaccurate or incomplete information related to both red light camera business items.

With regard to the city attorney's annual report, he focused on executive session, relaying on February 28, 2024, the planning board convened in executive session to discuss pending or potential litigation, something he had never seen before. He requested the council ask the city attorney how that works, whether the planning board can convene their own executive session to discuss pending or potential litigation.

Mr. Reidy continued, on June 27, 2023, then-Council President Tibbott stated shortly before 10 pm that he wanted to call for an executive session for 10 minutes. It was his understanding for council to go into executive session during a council meeting, a councilmember must make a motion, the motion must be seconded and the motion is debatable; none of that happened. Council did not vote to conduct an executive session or amend its meeting agenda. Instead the presiding officer, former Mayor Nelson simply stated very well then, we will adjourn.

Before he could finish speaking City Attorney Jeff Taraday interrupted and declared the executive session was to consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price. Mr. Taraday is not the presiding officer of the governing body and he questioned what gave him the authority to make this public announcement.

Neither the former mayor nor Mr. Taraday disclosed the time the executive session would be concluded. He questioned the likelihood of increased price in this situation when the purchase price of \$37 million, all cash at closing, had been known for days and as such the RCW regarding executive session did not apply to that acquisition of real estate. He requested the council ask the city attorney whose duty it is to see that all laws and ordinances are faithfully enforced and what must happen when that duty is not met.

Later during the June 25th, the following exchange took place:

Councilmember Tibbott recognized the stability of the Lighthouse team, noting the institutional knowledge they have developed over a decade benefits the City and allows them to bring that experience and expertise to issues that arise. He asked Mr. Taraday to comment on the council's use of executive session such as reasons for executive sessions, how executive sessions are noticed to the public, and his role in ensuring the council stays on topic. Mr. Taraday answered the Open Public Meetings Act (OPMA) identifies various permissible topics for an executive session. The two most common in Edmonds are potential litigation and real estate acquisition. Although probably intuitive, there are certain things where it is not in the City's best interest to have those conversations publicly. For example, if all of his advice to the council concerning legal disputes were provided publicly, the City's position in those legal disputes would be compromised.

Executive sessions are allowed for the benefit of the City and ultimately for the benefit of the taxpayers because if the City is able to successfully defend litigation, ultimately the taxpayers also benefit.

Mr. Taraday continued, with regard to the mechanics of executive sessions, there are times when the mechanics do not go exactly as scripted. When those instances arise, it is appropriate to insert himself into the moment to ensure the right things are said so the executive session is OPMA compliant even though he is not usually tasked with saying those things. It doesn't happen often, but in comparing the lesser of two evils, it is better for him to say something and keep the City out of trouble than not to say something.

The laws governing Executive Sessions found in RCW 42.30.110 are not mechanics. They are also not rules, policies, procedures, or suggestions. They are laws and they must be complied with.

RCW 42.30.110(2) states: ***Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded.***

The word ***shall*** means that what RCW 42.30.110(2) states is mandatory. What state law says is mandatory did not take place during the June 27, 2023 Council Meeting when the Council suddenly entered Executive Session during the middle of a Council Meeting.

What state law says is mandatory did not take place during the July 9, 2024 Council Meeting either.

It is the Mayor's DUTY to see that all laws and ordinances are faithfully enforced and that law and order is maintained in the [city](#)

Ken Reidy

Citizen of Edmonds