



# Meeting Agenda

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8244

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**Tuesday, June 7, 2016**

**7:00 PM**

**Council Chambers**

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**1. ROLL CALL**

**1.A ANNOUNCEMENTS**

**1.B APPROVAL OF AGENDA**

**2. SPECIAL RECOGNITION**

**2.A** [16-0711](#) Special Recognition - Olympia Police Department Community Partner Award

**2.B** [16-0724](#) Special Recognition - Hands on Children's Museum Annual Report

**3. PUBLIC COMMUNICATION**

*(Estimated Time: 0-30 Minutes) (Sign-up Sheets are provided in the Foyer.)*

*During this portion of the meeting, citizens may address the City Council regarding items related to City business, including items on the Agenda. In order for the City Council to maintain impartiality and the appearance of fairness in upcoming matters and to comply with Public Disclosure Law for political campaigns, speakers will not be permitted to make public comments before the Council in these three areas: (1) on agenda items for which the City Council either held a Public Hearing in the last 45 days, or will hold a Public Hearing within 45 days, or (2) where the public testimony may implicate a matter on which the City Council will be required to act in a quasi-judicial capacity, or (3) where the speaker promotes or opposes a candidate for public office or a ballot measure.*

*Individual comments are limited to three (3) minutes or less. In order to hear as many people as possible during the 30-minutes set aside for Public Communication, the City Council will refrain from commenting on individual remarks until all public comment has been taken. The City Council will allow for additional public comment to be taken at the end of the meeting for those who signed up at the beginning of the meeting and did not get an opportunity to speak during the allotted 30-minutes.*

**COUNCIL RESPONSE TO PUBLIC COMMUNICATION (Optional)**

**4. CONSENT CALENDAR**

*(Items of a Routine Nature)*

**4.A** [16-0664](#) Approval of May 17, 2017 Study Session Meeting Minutes

**Attachments:** [Minutes](#)

**4.B** [16-0665](#) Approval of May 17, 2016 Council Meeting Minutes

- Attachments:** [Minutes](#)
- 4.C [16-0722](#) Bills and Payroll Certification  
**Attachments:** [Bills and Payroll Certification](#)
- 4.D [16-0723](#) Approval of Location, Time, Facilitator, and Agenda for the City Council's Mid-Year Retreat - June 11, 2016  
**Attachments:** [AGENDA 2016 City Council Mid-Year Retreat draft](#)
- 4.E [15-1198](#) Approval of Development of a Poet Laureate Program  
**Attachments:** [Poet Laureate Referral](#)  
[Poetry Reading by Natasha Tretheway](#)  
[Spoken Word by Brian McCracken](#)
- 4.F [16-0532](#) Approval of Appointments to the Heritage Commission and Bicycle & Pedestrian Advisory Committee to Fill Vacancies  
**Attachments:** [Kelly Application](#)  
[Kelly Resume](#)  
[Vleck Application](#)  
[Vleck Resume](#)
- 4.G [16-0623](#) Approval to Grant Utility Easements Over City-Owned Property to Astound Broadband, LLC  
**Attachments:** [MC Easement](#)  
[South I5 Easement](#)  
[Vicinity Map](#)
- 4.H [16-0686](#) Approval of Hawthorne Land Acquisition  
**Attachments:** [Proposed Purchase & Sale Agreement](#)  
[Location Map & Aerial Photo](#)
- 4.I [16-0659](#) Approval of Resolution Recommending Setting Aside Right of Way for Future City Owned Ashton Woods Property  
**Attachments:** [Resolution](#)
- 4.J [16-0638](#) Approval of a Right-of-Way Donation Dedication Deed from Mr. Jay Kobza for the Boulevard Road and Morse-Merryman Road Roundabout Project  
**Attachments:** [Dedication Deed](#)  
[Vicinity Map](#)
- 4.K [16-0710](#) Approval of Application for the 2016 Department of Justice Assistance Grant (JAG)  
**Attachments:** [2016 JAG Program Narrative](#)

[Budget Narrative](#)**4. SECOND READINGS**

- 4.L**     [16-0606](#)     Approval of Ordinance Amending Rezone Hearing Body
- Attachments:**   [Ordinance](#)  
                  [City Council Minutes 10.27.15](#)  
                  [City Council Staff Report 10.27.15](#)  
                  [Factors List](#)  
                  [WCIA Guidance](#)  
                  [Planning Commission Minutes 9.23.13](#)
- 4.M**     [16-0607](#)     Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text
- Attachments:**   [Ordinance](#)  
                  [Map](#)
- 4.N**     [16-0642](#)     Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170
- Attachments:**   [Ordinance](#)  
                  [RCW 9A.52.100](#)  
                  [RCW 9A.56.050](#)  
                  [RCW 9A.56.170](#)
- 4.O**     [16-0643](#)     Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Supplying Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270
- Attachments:**   [Ordinance](#)  
                  [RCW 66.44.270](#)
- 4.P**     [16-0644](#)     Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant
- Attachments:**   [Ordinance](#)
- 4.Q**     [16-0645](#)     Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010
- Attachments:**   [Ordinance](#)  
                  [RCW 9A.88.010](#)

#### 4. FIRST READINGS

- 4.R [16-0660](#) Approval of Appropriation of Transportation Impact Fees for Right-of-Way Acquisition  
Attachments: [Ordinance](#)

#### 5. PUBLIC HEARING - None

#### 6. OTHER BUSINESS

- 6.A [16-0688](#) Approval of Ordinance and Interlocal Agreement Regarding Transportation Network Companies  
Attachments: [Ordinance](#)  
[Interlocal Agreement](#)  
[March 9 TNC Public Meeting Comments](#)

- 6.B [16-0533](#) Public Process for the Community Development Block Grant (CDBG) Program Year 2016 Action Plan  
Attachments: [CDBG Program Milestones](#)  
[Attachment #1 PY 2016 CDBG Recommendations](#)

#### 7. CONTINUED PUBLIC COMMUNICATION

*(If needed for those who signed up earlier and did not get an opportunity to speak during the allotted 30 minutes)*

#### 8. REPORTS AND REFERRALS

#### 8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS

#### 8.B CITY MANAGER'S REPORT AND REFERRALS

#### 9. EXECUTIVE SESSION

- 9.A [16-0721](#) Executive Session Pursuant to RCW 42.30.110(1)(b) - Real Estate Matter and RCW 42.30.110(1)(i) - Litigation Matter

#### 10. ADJOURNMENT

*The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.*



## City Council

### Special Recognition - Olympia Police Department Community Partner Award

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 2.A  
**File Number:** 16-0711

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**Type:** recognition **Version:** 1 **Status:** Recognition

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#### **Title**

Special Recognition - Olympia Police Department Community Partner Award

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Receive the presentation of the Community Partner Award

#### **Report**

##### **Issue:**

Recognizing the Castlewood Neighborhood Block Watch for their partnership with the Olympia Police Department in promoting public safety.

##### **Staff Contact:**

Laura Wohl, Administrative Services Manager, 360.753.8214

##### **Presenter(s):**

Ronnie Roberts, Chief of Police

##### **Background and Analysis:**

The Olympia Police Department recently awarded its 2016 Annual Awards. One of the most important awards is the Community Partnership Award. This award is presented to a member, or members, of the community for outstanding service and assistance to the Olympia Police Department. The 2016 Community Partnership Award is being presented to the Castlewood Neighborhood Block Watch.



## City Council

### Special Recognition - Hands on Children's Museum Annual Report

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 2.B  
**File Number:** 16-0724

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**Type:** recognition **Version:** 1 **Status:** Recognition

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**Title**

Special Recognition - Hands on Children's Museum Annual Report

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Receive the annual report from the Hands On Children's Museum. Briefing only, no action requested

**Report**

**Issue:**

Whether to receive the annual report on the Hand On Children's Museum

**Staff Contact:**

Jay Burney, Assistant City Manager, Executive Director 360.753.8740

**Presenter(s):**

Patty Belmonte, Executive Director, Hands On Children's' Museum



City Hall  
601 4th Avenue E.  
Olympia, WA 98501  
360-753-8244

**City Council**  
**Bills and Payroll Certification**

**Agenda Date: 6/7/2016**  
**Agenda Item Number: 4.C**  
**File Number: 16-0722**

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**Type:** decision **Version:** 1 **Status:** Passed

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**Title**  
Bills and Payroll Certification

CITY OF OLYMPIA  
EXPENDITURE SUMMARY

"I THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT CLAIMS FOR EMPLOYEE AND OFFICER EXPENSES ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO CERTIFY SAID CLAIMS".

FOR PERIOD 4/24/2016 THROUGH 4/30/2016  
 FOR A/P CHECK NUMBERS 3673202 THROUGH 3673443  
 FOR ELECTRONIC PAYMENTS \_\_\_\_\_ THROUGH \_\_\_\_\_

INCLUSIVE IN THE AMOUNT TOTALING

DATED

ADMINISTRATIVE SERVICES DIRECTOR

May 3, 2016

Jane Kirkemo

TOTAL APPROVED FOR PAYMENT

FUND		
\$329,789.86	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$34,761.00	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$1,884.74	025	WASHINGTON CENTER
\$113.14	026	MUNICIPAL ARTS FUND
\$1,068.75	029	EQUIP & FACIL REPLACE RES
\$0.00	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$107.91	134	PARKS AND REC SIDEWALK UT TAX
\$0.00	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$3,632.78	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$0.00	331	FIRE EQUIPMENT REPLACEMENT FUND
\$56,617.79	401	WATER
\$8,997.38	402	SEWER
\$872.54	403	SOLID WASTE
\$21,915.38	404	STORM AND SURFACE WATER
\$71,569.30	434	STORM AND SURFACE WATER CIP
\$19,888.79	461	WATER CIP FUND
\$13,234.50	462	SEWER CIP FUND
\$11,105.87	501	EQUIPMENT RENTAL
\$12,530.50	502	C. R. EQUIPMENT RENTAL
\$47,780.81	503	UNEMPLOYMENT COMPENSATION
\$0.00	504	INS TRUST FUND
\$32,664.04	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$0.00	720	SCHOOLS

\$668,535.08 GRAND TOTAL FOR WEEK



CITY OF OLYMPIA  
EXPENDITURE SUMMARY

"I THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

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FOR PERIOD 5/1/2016 THROUGH 5/7/2016  
 FOR A/P CHECK NUMBERS 3673444 THROUGH 3673726  
 FOR ELECTRONIC PAYMENTS 4/1/2016 THROUGH 4/30/2016

INCLUSIVE IN THE AMOUNT TOTALING

DATED

ADMINISTRATIVE SERVICES DIRECTOR

May 10, 2016

Jane Kukeme

TOTAL APPROVED FOR PAYMENT  
FUND

\$1,433,469.75	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$3,935.07	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$73.98	025	WASHINGTON CENTER
\$7,376.11	026	MUNICIPAL ARTS FUND
\$0.00	029	EQUIP & FACIL REPLACE RES
\$10,504.82	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$0.00	134	PARKS AND REC SIDEWALK UT TAX
\$13.94	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$20.00	138	TRANS BENEFIT DISTRICT
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$198,381.74	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$448.88	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$0.00	331	FIRE EQUIPMENT REPLACEMENT FUND
\$57,183.37	401	WATER
\$1,047,042.91	402	SEWER
\$54,347.93	403	SOLID WASTE
\$17,495.04	404	STORM AND SURFACE WATER
\$11,666.67	434	STORM AND SURFACE WATER CIP
\$0.00	461	WATER CIP FUND
\$0.00	462	SEWER CIP FUND
\$21,540.99	501	EQUIPMENT RENTAL
\$0.00	502	C. R. EQUIPMENT RENTAL
\$250.00	503	UNEMPLOYMENT COMPENSATION
\$0.00	504	INS TRUST FUND
\$22,927.04	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$0.00	720	SCHOOLS

\$2,886,678.24 GRAND TOTAL FOR WEEK

CITY OF OLYMPIA  
EXPENDITURE SUMMARY

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FOR PERIOD 5/8/2016 THROUGH 5/14/2016  
 FOR A/P CHECK NUMBERS 3673727 THROUGH 3674018  
 FOR ELECTRONIC PAYMENTS \_\_\_\_\_ THROUGH \_\_\_\_\_

INCLUSIVE IN THE AMOUNT TOTALING

DATED

ADMINISTRATIVE SERVICES DIRECTOR

May 17, 2016

Jane Kukimo

TOTAL APPROVED FOR PAYMENT

FUND		
\$217,844.26	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$20,189.80	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$25,705.99	025	WASHINGTON CENTER
\$4,555.48	026	MUNICIPAL ARTS FUND
\$4,494.20	029	EQUIP & FACIL REPLACE RES
\$0.00	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$1,323.21	134	PARKS AND REC SIDEWALK UT TAX
\$5,250.00	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	208	LID OBLIGATION CONTROL
\$556,979.82	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$52,456.51	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$540.45	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$4,210.56	331	FIRE EQUIPMENT REPLACEMENT FUND
\$35,235.03	401	WATER
\$102,977.90	402	SEWER
\$26,839.16	403	SOLID WASTE
\$4,239.18	404	STORM AND SURFACE WATER
\$0.00	434	STORM AND SURFACE WATER CIP
\$25,182.64	461	WATER CIP FUND
\$26,257.09	462	SEWER CIP FUND
\$42,265.80	501	EQUIPMENT RENTAL
\$72,084.44	502	C. R. EQUIPMENT RENTAL
\$0.00	503	UNEMPLOYMENT COMPENSATION
\$949.02	504	INS TRUST FUND
\$1,692.23	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$5,481.34	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$0.00	720	SCHOOLS
<b>\$1,236,754.11</b>		<b>GRAND TOTAL FOR WEEK</b>

CITY OF OLYMPIA  
EXPENDITURE SUMMARY

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

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FOR PERIOD 5/15/2016 THROUGH 5/21/2016  
 FOR A/P CHECK NUMBERS 3674019 THROUGH 3674249  
 FOR ELECTRONIC PAYMENTS \_\_\_\_\_ THROUGH \_\_\_\_\_

INCLUSIVE IN THE AMOUNT TOTALING

DATED

5-24-16

ADMINISTRATIVE SERVICES DIRECTOR, *Acting*

*Heidi Wal*

TOTAL APPROVED FOR PAYMENT  
FUND

\$735,136.67	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$15,269.01	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$895.72	025	WASHINGTON CENTER
\$0.00	026	MUNICIPAL ARTS FUND
\$1,694.40	029	EQUIP & FACIL REPLACE RES
\$8,341.74	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$98.54	134	PARKS AND REC SIDEWALK UT TAX
\$2,715.00	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$5,398.75	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$7,646.46	331	FIRE EQUIPMENT REPLACEMENT FUND
\$7,168.31	401	WATER
\$40,487.22	402	SEWER
\$296,488.60	403	SOLID WASTE
\$11,401.59	404	STORM AND SURFACE WATER
\$1,459.95	434	STORM AND SURFACE WATER CIP
\$65,867.34	461	WATER CIP FUND
\$135.00	462	SEWER CIP FUND
\$2,406.14	501	EQUIPMENT RENTAL
\$0.00	502	C. R. EQUIPMENT RENTAL
\$0.00	503	UNEMPLOYMENT COMPENSATION
\$0.00	504	INS TRUST FUND
\$38.81	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$0.00	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$72,872.00	720	SCHOOLS

\$1,275,521.25 GRAND TOTAL FOR WEEK

CITY OF OLYMPIA  
EXPENDITURE SUMMARY

"I THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED HEREIN, THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIMS ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIMS", AND,

"I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT CLAIMS FOR EMPLOYEE AND OFFICER EXPENSES ARE JUST, DUE AND UNPAID OBLIGATIONS AGAINST THE CITY OF OLYMPIA, AND THAT I AM AUTHORIZED TO CERTIFY SAID CLAIMS".

FOR PERIOD 5/22/2016 THROUGH 5/28/2016  
 FOR A/P CHECK NUMBERS 3674250 THROUGH 3674498  
 FOR ELECTRONIC PAYMENTS \_\_\_\_\_ THROUGH \_\_\_\_\_

INCLUSIVE IN THE AMOUNT TOTALING

DATED

May 31, 2016

ADMINISTRATIVE SERVICES DIRECTOR

Jane Kiteko

TOTAL APPROVED FOR PAYMENT  
FUND

\$159,208.51	001	GENERAL FUND
\$0.00	002	SHOP FACILITIES
\$337.27	003	REVOLVING ACCOUNT FUND
\$0.00	004	URBAN ARTERIAL FUND
\$0.00	025	WASHINGTON CENTER
\$0.00	026	MUNICIPAL ARTS FUND
\$2,030.15	029	EQUIP & FACIL REPLACE RES
\$0.00	107	HUD
\$0.00	108	HUD
\$0.00	127	IMPACT FEES
\$0.00	130	SEPA MITIGATION FUND
\$0.00	132	LODGING TAX FUND
\$0.00	133	ARTS AND CONFERENCE FUND
\$0.00	134	PARKS AND REC SIDEWALK UT TAX
\$0.00	135	PARKING BUSINESS IMP AREA
\$0.00	136	FARMERS MRKT REPAIR/REPLC
\$0.00	137	CHILDREN'S HANDS ON MUSEUM
\$0.00	138	TRANS BENEFIT DISTRICT
\$0.00	208	LID OBLIGATION CONTROL
\$0.00	216	4th/5th AVE PW TRST
\$0.00	223	LTGO BOND FUND '06-PARKS
\$0.00	224	UTGO BOND FUND 2009 FIRE
\$0.00	225	CITY HALL DEBT FUND
\$0.00	226	2010 LTGO BOND-STREETPROJ
\$0.00	227	LOCAL DEBT FUND
\$0.00	228	2010B LTGO BONDS-HOCM
\$62,077.94	317	CIP
\$0.00	322	4/5th AVE CORRIDOR/BRIDGE
\$0.00	323	CIP CONSTR FUND - PARKS
\$0.00	324	FIRE STATION 4 CONSTRUCT
\$0.00	325	CITY HALL CONST
\$0.00	326	TRANSPORTATION CONST
\$0.00	329	GO BOND PROJECT FUND
\$0.00	331	FIRE EQUIPMENT REPLACEMENT FUND
\$71,490.28	401	WATER
\$2,280.38	402	SEWER
\$1,425.89	403	SOLID WASTE
\$38,671.49	404	STORM AND SURFACE WATER
\$21,919.98	434	STORM AND SURFACE WATER CIP
\$4,747.21	461	WATER CIP FUND
\$11,506.98	462	SEWER CIP FUND
\$10,125.99	501	EQUIPMENT RENTAL
\$127,092.20	502	C. R. EQUIPMENT RENTAL
\$0.00	503	UNEMPLOYMENT COMPENSATION
\$361.87	504	INS TRUST FUND
\$0.00	505	WORKERS COMPENSATION
\$0.00	604	FIREMEN'S PENSION FUND
\$0.00	605	CUSTOMERS WATER RESERVE
\$17,025.53	621	WASHINGTON CENTER ENDOW
\$0.00	631	PUBLIC FACILITIES
\$0.00	682	LAW ENFORCEMENT RECORD MGNTSYS
\$0.00	701	PARKS-NEIGHBORHOOD
\$0.00	702	PARKS-COMMUNITY
\$0.00	703	PARKS-OPEN SPACE
\$0.00	707	PARKS-SPECIAL USE
\$0.00	711	TRANSPORTATION
\$0.00	720	SCHOOLS

\$530,301.67 GRAND TOTAL FOR WEEK

**CITY OF OLYMPIA  
PAYROLL CERTIFICATION**

The Administrative Services Director of the City of Olympia, Washington, hereby certifies that the payroll gross earnings, benefits, and LEOFF I post-retirement insurance benefits for the pay cycle ending **4/30/2016** have been examined and are approved as recommended for payment.

Employees Net Pay:	<u>\$ 1,272,317.48</u>
Fire Pension Net Pay:	<u>\$ 26,910.14</u>
Employer Share of Benefits:	<u>\$ 675,565.69</u>
Employer Share of LEOFF I Police Post-Retirement Benefits:	<u>\$ 26,126.26</u>
Employer Share of LEOFF I Fire Post-Retirement Benefits:	<u>\$ 22,971.64</u>
<b>TOTAL</b>	<u><u>\$ 2,023,891.21</u></u>

Payroll Check Numbers	_____	_____	Manual Checks
And	<u>88847</u>	<u>88851</u>	Fire Pension Checks
And	<u>88852</u>	<u>88852</u>	Manual Checks
And	<u>88853</u>	<u>88884</u>	Semi Payroll Checks

and Direct Deposit transmission.

May 3, 2016  
DATE

*Jane Kiskemo*  
ADMINISTRATIVE SERVICES DIRECTOR



**CITY OF OLYMPIA  
PAYROLL CERTIFICATION**

The Administrative Services Director of the City of Olympia, Washington, hereby certifies that the payroll gross earnings, benefits, and LEOFF I post-retirement insurance benefits for the pay cycle ending **5/31/2016** have been examined and are approved as recommended for payment.

Employees Net Pay:	<u>\$ 1,305,770.23</u>
Fire Pension Net Pay:	<u>\$ 27,531.87</u>
Employer Share of Benefits:	<u>\$ 682,593.68</u>
Employer Share of LEOFF I Police Post-Retirement Benefits:	<u>\$ 26,126.26</u>
Employer Share of LEOFF I Fire Post-Retirement Benefits:	<u>\$ 22,971.64</u>
<b>TOTAL</b>	<u><u>\$ 2,064,993.68</u></u>

Payroll Check Numbers	<u>88914</u>	<u>88914</u>	Manual Checks
And	<u>88915</u>	<u>88919</u>	Fire Pension Checks
And	<u>88915</u>	<u>88915</u>	Manual Checks
And	<u>88916</u>	<u>88946</u>	Semi Payroll Checks

and Direct Deposit transmission.

June 1, 2016  
DATE

*Janet Lapard Kitekemo*  
ADMINISTRATIVE SERVICES DIRECTOR



## City Council

### Approval of Location, Time, Facilitator, and Agenda for the City Council's Mid-Year Retreat - June 11, 2016

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.D  
**File Number:** 16-0723

---

**Type:** decision **Version:** 1 **Status:** Passed

---

#### **Title**

Approval of Location, Time, Facilitator, and Agenda for the City Council's Mid-Year Retreat - June 11, 2016

#### **Recommended Action**

##### **General Government Committee Recommendation:**

Approve recommendations for the upcoming Mid-Year Retreat. Recommendation includes a proposed location, time, facilitator, and agenda.

##### **City Manager Recommendation:**

Approve the mid-year retreat recommendations for location, time, facilitator, and agenda.

#### **Report**

##### **Issue:**

Approve the details for the June 11 Mid-Year Retreat.

##### **Staff Contact:**

Steve Hall, City Manager, 360-753-8447

##### **Presenter(s):**

Steve Hall, City Manager

#### **Background and Analysis:**

The Council holds a mid-year retreat to review its goals and/or focus on other items of interest. The LOTT Board Room has been used in the past and is available on Saturday, June 11, 2016 (the date selected by the City Council). The General Government Committee asked staff to explore several other locations for the retreat. Unfortunately, those locations were either unavailable or not workable for the event.

The Mid-Year Retreat is normally four to five hours, usually Saturday morning. The City used a facilitator for past retreats. And the General Government Committee expressed an interest in using a facilitator this retreat as well. A facilitator generally costs \$3,000 - \$7,000 for the retreat, depending on prep work and follow-up.



At its May 18, 2016 meeting, members of the General Government Committee discussed and recommended a location, time, facilitator, and agenda for the upcoming City Council Mid-Year Retreat. The Committee's proposal is as follows:

Location: LOTT Board Room (it is available and reserved)

Time: 9:00 a.m. - 1:00 p.m. (working lunch included)

Facilitator: Kendra Dahlen, the Athena Group (General Government Committee recommends Kendra because she is familiar with Councilmembers, City issues, and City processes.)

Proposed Agenda Topics:

- Follow-up on Council's Annual Retreat in January
  - Core Values
  - Ground Rules
  - Application of Gracious Space
    - What is needed to support the success of the Council and fellow Councilmembers
- Mid-Year Councilmember Check in
  - How it is going so far for the Council
  - Committee Reports
  - Committee Assignments
- Considerations for Council Public Engagement
- Update on Major Projects, Programs or Issues

**Neighborhood/Community Interests (if known):**

N/A

**Options:**

Consider other options regarding the agenda, location, and facilitator.

**Financial Impact:**

Funding to cover the costs is in the City Council 2016 budget.

**Attachments:**

Kendra Dahlen's Proposed Agenda

# PROPOSED AGENDA

## 2016 OLYMPIA CITY COUNCIL MID-YEAR RETREAT

June 11, 2016

9:00 a.m. - 1:00 p.m.

LOTT Clean Water Alliance

500 Adams St NE

Olympia, WA

8:45 am – 9:00 am	CONVENE	Select Your Card (s)
9:00 am – 9:20 am	<p>Welcome and Opening Comments</p> <ul style="list-style-type: none"> <li>• Check In</li> <li>• Greeting from LOTT</li> <li>• Retreat Overview</li> <li>• What card did you select and why?</li> </ul>	Kendra Dahlen, Facilitator The Athena Group LOTT Representative
9:20 am – 10:40 am	<p>Strengthening the Foundation</p> <ul style="list-style-type: none"> <li>• Appreciative Inquiry <ul style="list-style-type: none"> <li>▪ What has worked well for you this year?</li> <li>▪ What have you enjoyed?</li> <li>▪ Is there an area or process that you would identify for continued improvement?</li> </ul> </li> <li>• Core Values and Ground Rules <ul style="list-style-type: none"> <li>▪ Still resonating and relevant?</li> <li>▪ Potential enhancements?</li> </ul> </li> <li>• Sustaining the Foundation of Gracious Space <ul style="list-style-type: none"> <li>▪ Relationships with one another, staff and public</li> <li>▪ Acknowledge the challenges</li> <li>▪ Value your strengths</li> <li>▪ Aspirations</li> </ul> </li> <li>• Considerations for your public engagement</li> </ul>	Kendra Dahlen, Facilitator
10:40 am – 10:50 am	BREAK	

10:50 am – 11:30 am	<ul style="list-style-type: none"> <li>• Perspectives on the Work So Far <ul style="list-style-type: none"> <li>▪ Committee Assignments and Reports</li> <li>▪ Interjurisdictional Committees</li> <li>▪ Advisory Committee Liaison</li> <li>▪ Improvements, changes, challenges and suggestions?</li> </ul> </li> </ul>	Kendra Dahlen, Facilitator
11:30 am – 11:45 am	LUNCH	
11:45 am – 12:45 pm	<p>Planning Ahead</p> <ul style="list-style-type: none"> <li>• Major Projects and Schedule</li> <li>• What are your priorities?</li> <li>• What are the challenges?</li> <li>• Allocation of time, what is the greatest need?</li> <li>• What are you looking forward to?</li> </ul>	Steve Hall, City Manager; Kellie Purce Braseth, Strategic Communications Director; Kendra Dahlen, Facilitator
12:45 pm – 1:00pm	Summary of Accomplishments Closing Comments	Kendra Dahlen, Facilitator ALL
	<p><i>~ Thank you ~</i></p> <p><i>Enjoy Your Afternoon!</i></p>	



## City Council

### Approval of Development of a Poet Laureate Program

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.E  
**File Number:** 15-1198

---

**Type:** decision **Version:** 5 **Status:** Passed

---

#### **Title**

Approval of Development of a Poet Laureate Program

#### **Recommended Action**

##### **Committee Recommendation:**

The General Government Committee recommends the development of a Poet Laureate Program.

##### **City Manager Recommendation:**

Move to approve the development of a Poet Laureate Program for the City of Olympia.

#### **Report**

##### **Issue:**

Whether to approve the development of a Poet Laureate Program for the City of Olympia.

##### **Staff Contact:**

Stephanie Johnson, Arts & Events Program Manager, Olympia Parks, Arts & Recreation,  
360.709.2678

##### **Presenter(s):**

None - consent calendar item.

#### **Background and Analysis:**

On Tuesday, May 18, Marygrace Jennings, Chair and Stacy Hicks, Vice-Chair of the Olympia Arts Commission, met with the General Government Committee to respond to a referral by Council to consider a Poet Laureate program for Olympia. Commissioners shared what they had learned at a retreat exploring Poet Laureate programs in Tacoma WA, Fresno CA and Reno NV and in speaking with members of the Olympia Poetry Network. The retreat was facilitated by Suzanne Simons, faculty at The Evergreen State College.

If supported, the intention of the Arts Commission would be to have a Poet Laureate approved before the first Council meeting of 2017:

**June 9** - Poet Laureate DRAFT policy/Call for Artists to Arts Commission

**June 22** - Poet Laureate policy/ Call for Artists to General Government

**July 12** - Poet Laureate policy/ Call for Artists to City Council

**July 22** - Poet Laureate Applications out

**September 2** - Poet Laureate Applications/Nominations due

**Week of September 26** - Poet Laureate jury

**October 13** - Poet Laureate recommendation goes to Arts Commission

**November 15** - Poet Laureate approval to Council

**January 3, 2017** - Poet Laureate present at the first Council meeting of the year

Committee member Gilman moved, seconded by Committee member Bateman, to forward a recommendation to City Council at the June 7, 2016 Council meeting to direct staff to move forward with the development of a Poet Laureate Program as recommended by the Arts Commission, for Council review and approval. The motion passed unanimously.

In the exploration of Poet Laureate programs that follow, **Commission recommendations offered in bold.**

### What is a Poet Laureate? Statement of Purpose.

According to Wikipedia:

*A "poet laureate" (plural: "poets laureate") is a poet officially appointed by a government or conferring institution, who is often expected to compose poems for special events and occasions. The Italians Albertino Mussato and Francesco Petrarca were the first to be crowned poets laureate after the classical age, respectively in 1315 and 1342.*

The best known examples of the traditional role are the National Poets Laureate, who often (but not exclusively) provide and recite poems for Presidential inaugurations.

Among the 35 cities that currently have a Poet Laureate, the role is expanded to also include poets who have embraced the "Spoken Word" movement, which addresses social equity, community building and creative expression.

Sometimes referring to themselves as "artists" (artist + activist), these poets see their work as empowering others through arts and advocacy, addressing concerns of social injustice and discrimination, in an attempt to provide a voice to these issues.

While literary poetry and spoken word poetry can be written and read, (also known as "page" and "stage" poetry, respectively), the former is primarily read, while the latter is primarily heard.

Of the three poetry organizations currently active in Olympia, the *Olympia Poetry Network* and *Grey Skies* lean toward traditional poetry, and the *Old Growth Collective* toward the spoken word.

**The Arts Commission recommends a model such as Tacoma's that includes both literary poetry and spoken word poetry.**

**Some early concepts for a Statement of Purpose include:**

- **Promote poetry as an art form**
- **Expand access to the literary arts**
- **Connect the community to poetry resources**
- **Promote poetry as a community voice that contributes to sense of place.**

Eligibility, Nominations and Submissions

Some cities only allow nominations, others allow applications (self-nomination) and others accept either. Many require that a poet be published. Typically eligibility is limited to residence in a relevant geographic area.

**The Arts Commission recommends allowing the broadest opportunity for candidates to participate in the process. For this reason the Commission would:**

- **Set broad submission requirements, considering applicants who can offer a resume of published work, self-published volumes and/or taped readings and performances, in lieu of the more exclusive requirement of commercially published work.**
- **Accept both nominations and applications from working poets 18 years or older.**
- **Extend eligibility to poets who live in Olympia.**
- **Offer a free workshop to prospective applicants, clarifying the application and selection process. In future years this panel will include former Olympia Poets Laureate, who can share their individual experiences.**
- **Recommends a jury that is representative of both literary and spoken word poetry communities.**

**The Commission recommends that Olympia's Poet Laureate be selected biennially in odd years, to start service on January 1, 2017.**

Length of Term and Stipend

Our research shows that cities with Poets Laureate offer a stipend to support the work of the artist and terms typically run a minimum of two years, allowing the individual time to shape and deliver a program and develop relationships.

**The Arts Commission recommends a two-year term with a total stipend of \$2,000 (from the Municipal Art Fund), which is commensurate with both Tacoma and Reno.**

Scope of Work

Generally speaking, Poet Laureate programs offer a degree of flexibility that allows each individual poet to shape a program that reflects their interests, skills, and abilities. Once selected, the poet refines and develops a two-year program for the City's approval, arriving at an agreed scope of work. Poets make their own arrangements and manage administrative

duties and reporting with a minimum of City staff support.

**The Arts Commission recommends that selected poets each propose their own two-year program, to be approved by Council, which meets the following minimum requirements:**

- **Offer a minimum of 2 free public workshops in Olympia each year relating to poetry.**
- **Participate in Arts Walk spring or fall each year.**
- **Actively contribute and advance Olympia's literary community in meaningful ways through readings, performances, workshops, presentations, publications, special projects, City events, etc., with a minimum of six (6) hours of additional contact time with the public each year as determined with the City's Arts Program staff.**
- **Manage administrative duties including being the point of contact for all Poet Laureate programming inquiries from the public, managing a schedule, arranging details for programs, and coordinating press releases with the City's Arts Program staff.**
- **Help to choose and transition the successor Poet Laureate, including assistance producing an event that announces the selected poet for the following term.**

### Commissioned Works for Special Events

The traditional role of Poet Laureate, as with our National Poets Laureate, includes the periodic preparation of works on request for events and occasions. This practice is not consistently seen at the city level. Not every artist's style is a good match for formal occasions, and differences of opinion on what is appropriate become more pronounced when the work is specially commissioned. Even traditional Poets Laureate may have the option of selecting and presenting poetry by others to read at events and special occasions.

**The Arts Commission recommends that Olympia's Poet Laureate have the option to pen special poem(s) for City occasions, but may also read one of their existing works or propose to read an appropriate work by another poet.**

#### **Options:**

1. Direct the Arts Commission to go forward and develop a Poet Laureate program as recommended, for Council review and approval.
2. Do not direct the Arts Commission to create a Poet Laureate program.
3. Recommend an alternative approach to creating a Poet Laureate.

#### **Attachments:**

- Poet Laureate Referral from Council
- Poetry Reading by Natasha Tretheway, National Poet Laureate (video)
- Spoken Word Performance by Brian McCracken of Olympia's Old Growth Poetry Collective (video)



# Olympia City Council Referral Request

Date of Referral	Nov. 10, 2015
Originator	Mayor Stephen Buxbaum
Referral To	The Arts Commission and a subsequent report and recommendation to the General Government Committee in early 2016.
Request	<p>Investigate the creation of a City of Olympia Poet Laureate.</p> <p>There is interest on the part of local poetry societies and the Library to support the designation of a City of Olympia Poet Laureate. This would be an unpaid, honorary designation. Volunteers in the community are willing to step forward to assist in helping research the development of such a position and a process for applications. In particular, the Olympia Poetry Network (OPN), has expressed their commitment and attention to the following issues and interests:</p> <ul style="list-style-type: none"><li>• A poet laureate for the city of Olympia</li><li>• Diversifying the poetry community, both in terms of poets and listeners/supporters. This could include doing outreach and events at schools, and various community organizations, such as CIELO, Nisqually NWR, etc.</li><li>• Connecting the various poetry groups in Olympia and doing some joint events, such as a city-wide poetry festival (in addition to OPN's monthly readings at Traditions, the Evergreen State College affiliated Old Growth Collective has weekly spoken word events and <i>poetry slams</i> at Ben Moore's that attracts a mostly younger crowd. There's beginning to be a little cross-pollination of the groups, which is hopeful in terms of fostering a wider poetry presence in Olympia)</li></ul> <p>Other cities, including Tacoma, have a poet laureate program. The Arts Commission, as reflected in our Comprehensive Plan, has interest and intent to expand interest in the arts - moving into performing arts was one of the expressed goals. Tapping into the interest and commitment of local associations, such as the members of the OPN and faculty from local colleges and universities is appropriate to help meet this goal.</p> <p>Any initial appointment of a poet laureate should have a clear vision for the position and plan for implementation. This is an exciting time for poets and poetry, ignited by the youth-driven spoken word movement and enlivening traditional literary poetry. Poetry has taken to the streets, the classroom, coffee houses and living rooms - it would be wonderful to see a more formal expansion and support of these developments in the State's Capital City.</p>



Options	<ol style="list-style-type: none"><li>1. Investigate and recommend the creation of a honorary, unpaid City of Olympia Poet Laureate</li><li>2. Investigate and recommend not creating a Poet Laureate</li><li>3. Investigate and recommend an alternative approach to creating a Poet Laureate</li></ol>
Timing	Creation of a report and recommendation to the General Government Committee in early 2016.
Attachments	None

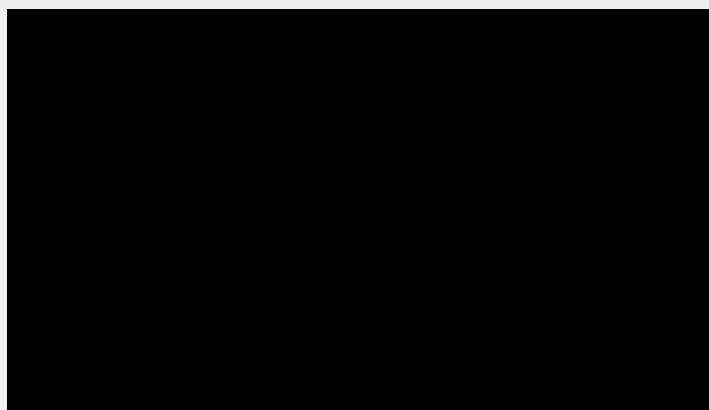
Poet laureate readings natasha trethewey vido



Weekly Poem by U.S. Poet Laureate Natasha Trethewey

YouTube · 549 views · 9/16/2012 · HD

Feedback



## Brian McCracken - "Origin Story" (Olympia Grand Slam 2015)



Old Growth Poetry Collective



114

344 views



6 0

Published on Jul 10, 2015  
Subscribe to Old Growth Poetry Collective!

Help Team Olympia get to the National Poetry Slam:

SHOW MORE

### Up next

Autoplay



#### Brian McCracken - "Serenity" & "Avoiding Straitjackets"

Old Growth Poetry Collective  
261 views



#### Kina Wolfenstein - "You're So Pretty" (Olympia Grand Slam 2015)

Old Growth Poetry Collective  
517 views



#### Can a computer write poetry? | Oscar Schwartz

TED  
56,804 views



#### CABA 2015 - Dylan Garity - Poetry Slam

ITCABA  
503 views

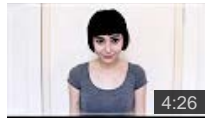


#### Kina Wolfenstein - "Angler Fish" (Olympia Grand Slam 2015)

Old Growth Poetry Collective  
198 views

#### Hi, I'm a Slut - A Slam Poem

Savannah Brown  
1,166,605 views



Tucker Bryant - "Facts About Myself" (NPS 2015)

Button Poetry  
158,722 views



Chasing Away the Big Black Bird | Jeff Simmermon at The Moth GrandSlam

Jeff Simmermon  
1,640 views



Jon Jay Read Moth GrandSLAM winner

Jon Read  
972 views



Smile: An Origin Story | Dante Basco & Shihan Van Clief | TEDxVeniceBeach

TEDx Talks  
1,052 views

Tara Hardy - "Sand" (Olympia Grand Slam 2015)

Old Growth Poetry Collective  
118 views

3:27

Moth GrandSlam winning story on April 6, 2011

bklynrob11201  
58,021 views

8:05

Brian McCracken - "Ripple Effect in Nine Degrees" (Olympia Grand Slam 2015)

Old Growth Poetry Collective  
82 views

2:53

Kavindu "Kavi" Ade performing IT

VerbaLInfluencE  
353,161 views

3:00

"Concentration Closets" by Clutch (CUPS1 2015)

Lindsey Michelle Williams  
3,217 views

3:05

Send Olympia to the National Poetry Slam!!!

Old Growth Poetry Collective  
103 views

2:03

When I Was Thirteen || A "Slam" Poem

vicariouslyvirginia  
164,549 views

4:25

Brian McCracken - "Serenity" (Olympia Grand Slam 2015)

Old Growth Poetry Collective  
51 views

3:05

James McCracken "I Hear You Calling Me"

Addiobelpassato  
977 views

3:32

Adam Wade The Moth StorySlam GrandSlam  
Winning Story #1

Adam Wade

27,370 views

8:35

SHOW MORE



Language: English ▾

Country: Worldwide ▾

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History



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## City Council

### Approval of Appointments to the Heritage Commission and Bicycle & Pedestrian Advisory Committee to Fill Vacancies

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.F  
**File Number:** 16-0532

---

**Type:** decision **Version:** 2 **Status:** Passed

---

#### **Title**

Approval of Appointments to the Heritage Commission and Bicycle & Pedestrian Advisory Committee to Fill Vacancies

#### **Recommended Action**

##### **Committee Recommendation:**

The General Government Committee recommends approval of the appointments listed below.

##### **City Manager Recommendation:**

Move to approve the General Government Committee recommendation to approve Katherine Kelly to the Heritage Commission with a term ending March 31, 2018 and Jan Vleck to the Bicycle and Pedestrian Advisory Committee with a term ending March 31, 2017 to fill vacancies.

#### **Report**

##### **Issue:**

Whether to make the recommended appointments.

##### **Staff Contact:**

Kellie Purce Braseth, Strategic Communications Director, 360.753.8361

##### **Presenter(s):**

None - Consent Calendar Item

#### **Background and Analysis:**

The General Government Committee interviewed Ms. Kelly at its May 18, 2016, meeting and recommends appointment to fill a vacancy on the Heritage Commission with a term ending March 31, 2018. The Heritage Commission chair joined the General Government Committee for the interview.

Earlier this year the General Government Committee also interviewed Jan Vleck to possibly serve on the Bicycle and Pedestrian Advisory Committee (BPAC). While not appointed initially, a vacancy has occurred on BPAC, so the Committee recommends appointing Mr. Vleck at this time.

The applicants' applications and resumes are attached.

**Neighborhood/Community Interests (if known):**

N/A

**Options;**

1. Approve the appointments as recommended.
2. Do not approve the appointments and send the issue back to the General Government Committee. This would delay the appointment schedule and leave the Commission and Committee not operating at full strength.

**Financial Impact:**

None

**Attachments:**

Kelly Application  
Kelly Resume  
Vleck Application  
Vleck Resume



**APPLICATION FOR MEMBERSHIP CONSIDERATION  
CITY OF OLYMPIA VOLUNTEER ADVISORY COMMITTEES**

**2016 APPOINTMENT APPLICATION**

**Name:** Katherine M. Kelly

**Residence Address:** 336 Foote Street Olympia, WA

**Zip:** 98502

**Home Phone:** 360 – 570 - 9019

**Work Phone** (optional)

**Email:** kmkelly2003@gmail.com

**Please place a check mark in front of the committee you are applying for with this application. Individual applications are required if you wish to apply for more than one committee.**

<input type="checkbox"/>	Arts Commission	<input type="checkbox"/>	Utility Advisory Committee
<input type="checkbox"/>	Planning Commission		
<input type="checkbox"/>	Design Review Board		
<input checked="" type="checkbox"/>	Heritage Commission		

Applications filed by **4:00 p.m., Friday, February 12, 2016** will be considered in the first round of screening. Please keep answers concise and informative. You are introducing yourself to the Olympia City Council and sharing with them why you are interested in being considered for appointment. Olympia residency is not required; however, it is a primary consideration. You may use this form or another sheet of paper for your answers. You may attach a resumé. **An Olympia map with your residence clearly marked MUST BE SUBMITTED with your completed application. Yahoo, Google, or other similar web maps are acceptable.**

Once filed with the City, your completed application is a public record, potentially eligible for release.

**1. Briefly describe why you wish to serve on this advisory committee.**

In the past, I have served whatever community I've lived in by volunteering with community-based nonprofit organizations. I see working on the citizen advisory board as a way to contribute in a meaningful way, with my professional expertise and experience, to the community that has been so welcoming and nurturing to me and my family.

**2. Describe your qualifications and/or skills which would benefit this advisory committee.**

The Heritage Commission needs four professionals from the fields of architecture, historic preservation, anthropology, history, and law. As a professional archaeologist, I would be able to fulfill one of the requisites. My experience working with a variety of cultures and ethnicities, my familiarity with federal, state, and local regulatory contexts, my experience in identifying, evaluating and protecting historic places, and my level of comfort with Olympia (and Washington State) history and prehistory would be of benefit to the Commission. I have presented projects to local historical societies and historic commissions and am very comfortable reading project plans and both environmental and cultural technical reports. I am a strong advocate of public outreach in historic preservation and have developed outreach programs for adult avocational archaeologists, volunteer programs for students, and smaller scale outreach programs for grade school students.

**3. Describe your involvement in the Olympia community.**

I have lived and worked in Olympia for the past 15 years. When I first moved here, I worked at the Downtown YMCA. My years at the Y and the fact that my partner is a 3<sup>rd</sup> generation Olympian helped me swiftly integrate into the community and has given me a deep appreciation for Olympia's past. I live in a vibrant Westside neighborhood, within



walking distance of the Downtown. We have block parties, lean over the fence for a chat in the afternoons, and keep an eye out for each others' pets and children. One of the things I love about my adopted hometown is this sense of community (with a capital C) my neighborhood so well represents. Working Downtown and having relatives that live in the Marina has helped me see that the "small town" quality of Olympia is present outside of the Westside. I love this about Olympia and would like to continue to find ways to create more opportunities for inclusiveness and community pride.

**4. Please state your current occupation.**

I am a professional archeologist. I work for the Washington State Department of Fish & Wildlife in Olympia.

**5. List your educational and professional background and area of study.**

I am a professional archeologist. I work for the Washington State Department of Fish & Wildlife and have worked for South Puget Sound Community College, USACE, and in the private sector. My undergraduate work focused on shoreline resources (shell middens); my graduate research (at Evergreen State College) focused on landscape archaeology (the study of people's interaction with the landscape) and environmental restoration. As a professional, I have worked on both historic and prehistoric archaeological site excavation and recordation, as well as the review of projects with the context of various federal, state, and local regulations. I have attached a resume.

**6. Appointment to this committee will require your attendance at evening meetings. How many hours per month are you willing to commit as a volunteer?**

12 – 15 during the summer; more in the fall and winter

**7. If you are not appointed to this committee at this time:**

Do you wish to be considered for appointment to another advisory board?	Yes _____	No <u> X </u>
Do you wish to be considered for future appointment to this board?	Yes <u> X </u>	No _____
Would you be willing to volunteer for other City activities?	Yes <u> X </u>	No _____

**8. Some appointments require that applicants reside within the City's limits. Even though your mailing address may be Olympia, you may possibly reside in the County or another jurisdiction. Are you a resident of the City of Olympia?**

Yes  X  No \_\_\_\_\_

**9. Citizens appointed to advisory committees are assigned and required to use a City email address for all advisory committee business; can you comply with this expectation?**

Yes  X  No \_\_\_\_\_

**10. How did you learn about this advisory committee recruitment?**

A former Historic Commission member mentioned that he was leaving and suggested I look into applying for a position. When I investigated, I learned from Michelle Sadlier that there is still an open position. Michelle encouraged me to apply.

**The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources.**

**AN OLYMPIA MAP WITH YOUR RESIDENCE CLEARLY MARKED MUST BE SUBMITTED WITH THIS APPLICATION. A resumé may be submitted IN ADDITION to the application. **When filed with the City, your application and attachment documents are public records, and may be subject to public release.****

Applications are accepted for the calendar year only. Submit by: Friday, February 12, 2016, 4:00 p.m. to be considered in the first round of screening.

POSTAL MAIL TO: Susan Grisham, Executive Assistant, PO Box 1967, Olympia, WA 98507-1967  
HAND DELIVERY TO: Susan Grisham, Executive Assistant Olympia City Hall, 601 4<sup>th</sup> Avenue East, Olympia, WA

EMAIL TO: Susan Grisham, Executive Assistant [sgrisham@ci.olympia.wa.us](mailto:sgrisham@ci.olympia.wa.us)

The Olympia Council's General Government Committee recommends appointments to the full Council. The recommendations are made following review of applications and an interview of qualified candidates. For further information, contact:

Susan Grisham, Executive Assistant  
360.753.8244  
[sgrisham@ci.olympia.wa.us](mailto:sgrisham@ci.olympia.wa.us)

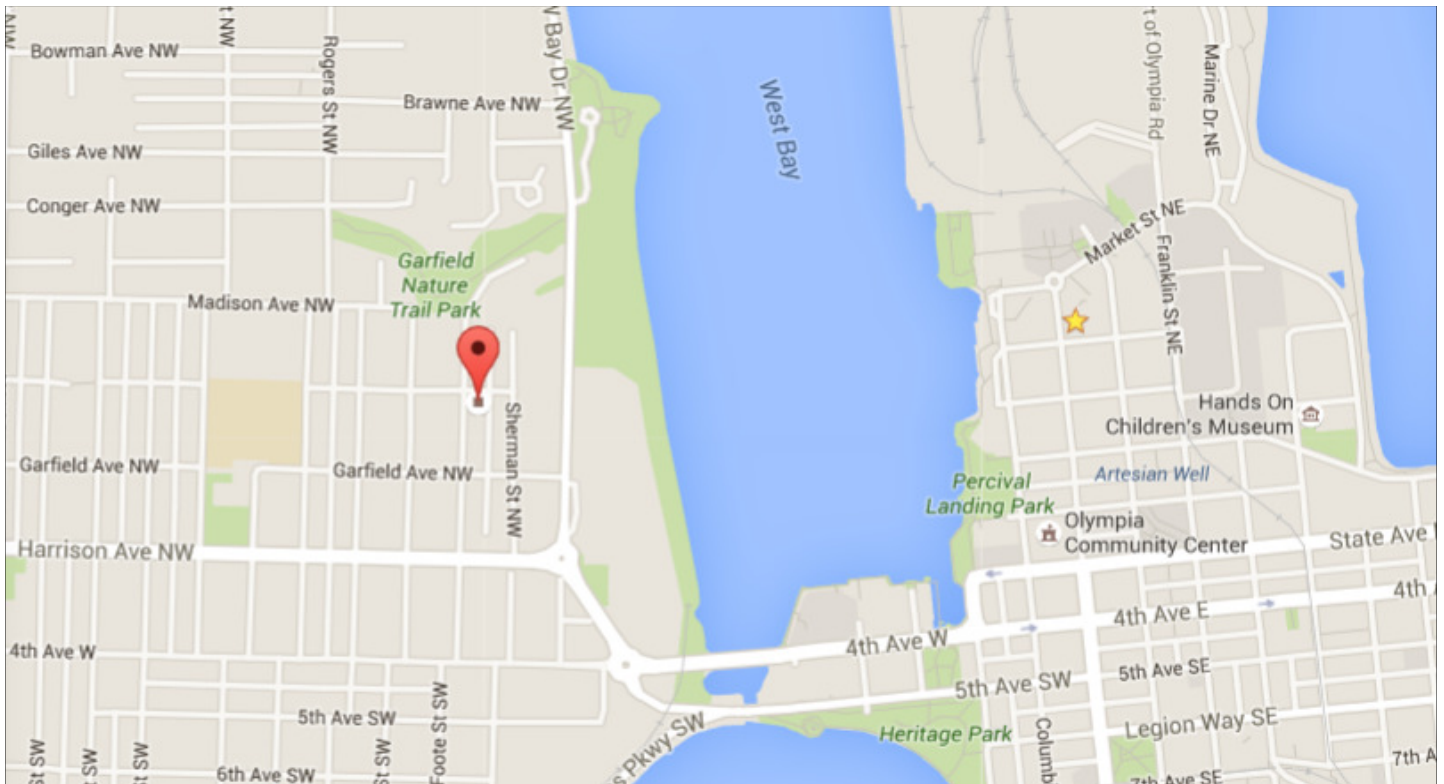


Figure 1. Location of my house, near the Garfield Nature Trail Park.

**KATHERINE M. KELLY**

336 Foote Street NW • Olympia, WA 98502  
(cell) 360 951 0941 • kmkelly2003@gmail.com

**EDUCATION**

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- 2007** **The Evergreen State College** **Olympia, WA**  
*MES Environmental Studies*
- 2005** **The Evergreen State College** **Olympia, WA**  
*Bachelor of Arts*

**PROFESSIONAL EXPERIENCE**

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**March 2014 to present** **Washington Department of Fish & Wildlife**  
*Department Archaeologist - Principal Investigator (historic and prehistoric archaeology)*

Design and implement cultural resource strategies addressing Department responsibilities under a variety of regulatory contexts, including Executive Order 0505, SEPA, and Section 106 of the National Historic Preservation Act. Manage and supervise background research using Washington State Department of Archaeology and Historic Preservation (DAHP) database and other sources, survey, excavation fieldwork, data analysis, and report preparation. Coordinate project design and review with local, state, federal, and tribal agency personnel. Budget and proposal preparation. Contract management.

**July 2013 to March 2014** **Tierra Right of Way**  
*Principal Investigator (historic and prehistoric archaeology)*

Designed and implemented cultural resource strategies addressing client responsibilities under a variety of regulatory contexts, including Executive Order 0505, SEPA, and Section 106 of the National Historic Preservation Act. Managed and supervised background research using Washington State Department of Archaeology and Historic Preservation (DAHP) database and other sources, survey, excavation fieldwork, data analysis, and report preparation. Coordinated project design and review with clients, local, state, federal and tribal agency personnel. Budget and proposal preparation. All projects delivered on time and on/under budget.

**February 2009 to March 2014** **Cultural Resource Consultants, Inc.**  
*Project Archaeologist*

Supervised crews conducting evaluative testing for Grant County PUD FERC Re-Licensing. Conducted cultural resources surveys to locate, identify, and evaluate archaeological and historic properties. Conducted archaeological monitoring of construction projects. Prepared technical reports for state and federal compliance.

- 2011 - Present Central Washington University - Ellensburg, WA *Special Faculty*
- 2005 – 2009 US Army Corps of Engineers-Seattle District *Project Archaeologist*
- 2005 Paragon Research Associates - Seattle, WA *Lab Technician*
- 2004 - 2005 Cultural Resource Consultants - Bainbridge Island, WA *Field-Lab Technician*
- 2002 - 2004 South Puget Sound Community College - Olympia, WA *Anthropology Lab Manager*
- 2002 - 2004 South Puget Sound Community College - Olympia, WA *Qwu?qwes Field School TA*

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**RESEARCH INTERESTS**

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GIS Applications (ethnohistoric modeling)  
Lithic Tool Typology (re-assessment of Pacific Northwest stone tool types)  
Precontact rock features (cognitive landscapes, regulatory significance)  
Community-driven watershed restoration projects  
World War II oral history (Women's Auxiliary Ferrying Squadron– Women Air Force Service Pilots)  
Impacts of aquaculture on precontact littoral sites (Puget Sound)

**REPORTS**

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*All my reports, archaeological site and historic property inventory forms are archived with the Washington State Department of Archaeology and Historic Preservation. These reports may be reviewed through DAHP's web portal (Washington Information System for Architectural and Archaeological Records Data).*

**PUBLICATIONS**

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*Cairn Complexes in the Channeled Scablands of Eastern Washington: New Approaches to Evaluating Cultural Landscapes.* [TESC MES Thesis]

Qwu?gwes: a Squaxin Island tribal heritage wet site, Puget Sound, USA. In *Archaeology from the Wetlands: Recent Perspectives*. WARP Occasional Paper 18: Proceedings of the 11th WARP Conference, Edinburgh 2005. Society of Antiquaries of Scotland, Edinburgh. [with D. Croes, R. Foster, L. Ross, M. Diedrich, N. Hubbard, M. McCullough, T. McCullough, K. Myers, C. Sharron, B. Vargo and R. Wigen]

Cultural Historical Context of Qwu?gwes (Puget Sound, USA): a Preliminary Investigation. In *Journal of Wetland Archaeology*, 5, 2005, 137–149. [with D. Croes and M. Collard]

Re-Cultivating God's Country: A survey of the archaeological evidence for precontact land management practices in the Pacific Northwest. (TESC)

Analysis of the Stone, Bone-Antler, and Shell Artifacts from the Qwe?gwes Site (45TN240), South Puget Sound. (January 1, 2005)

**RECENT PAPERS PRESENTED**

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*Looting: An Inside Perspective to the Legal Process, Damage Assessment, and Mitigation Symposium.* Facilitator and Discussant. 69<sup>th</sup> Northwest Anthropological Conference (NWAC), Tacoma, WA. 2016

Report from the Hot Tin Roof: Post-fire Fieldwork on the Methow. In *Fire!* Symposium. 68<sup>th</sup> Northwest Anthropological Conference (NWAC), Eugene, OR. 2015

The Meta of Mining: the Search for Data and Meaning on a Shifting Landscape. In *Reconstructing Monte Cristo: Research in a Historic Mining District in Snohomish County, Washington* Symposium. 67<sup>th</sup> Northwest Anthropological Conference (NWAC), Bellingham, WA 2014

Wicked Problems: Framing the Discussion. In *Archaeology and Environmental Restoration (Wicked Problems, Unintended Consequences, and Righteous Solutions Symposium)*. 67<sup>th</sup> Northwest Anthropological Conference (NWAC), Bellingham, WA 2014

Extending our (out) Reach – Promoting Stewardship, Public Awareness, and Education. In *Mission Possible: Salvage at the Mission Spit Site, Olympia, Washington* Symposium. 67<sup>th</sup> Northwest Anthropological Conference (NWAC), Bellingham, WA 2014

APPLICATION FOR MEMBERSHIP CONSIDERATION  
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2016 APPOINTMENT APPLICATION  
**Bicycle & Pedestrian Advisory Committee**

Jan P. Vleck  
504 17<sup>th</sup> Av SE  
Olympia, WA 98501-2329

home: 360-705-2527  
email: [vleckjan@gmail.com](mailto:vleckjan@gmail.com)

**Why I wish to serve on the BPAC**

Service and community have been important personal values for me since my teen years. Now that I am retired, I have more time and energy to devote to formal, ongoing community service activities, and the BPAC fits within my interests and ability to commit to the structure.

Before moving into Olympia in 1999, our family lived in rural Thurston County (on Johnson Point) and one reason we moved into town was to decrease our reliance on automotive transportation with its attendant adverse effects on the environment, public health, and community quality of life. I was able to switch at that time to commuting to my job primarily by foot or bicycle, and continued that pattern until I retired in late 2013. This of course made me very aware of the importance of safe, convenient infrastructure for cyclists and pedestrians, and gave me the opportunity to observe and consider the planning and maintenance of our streets, trails, and sidewalks from the micro level (reporting dangerous potholes, clearing leaves out of drains to mitigate flooded street crossings, etc.) to the macro level (neighborhood connections, arterial bottlenecks, etc.).

I am also an avid recreational distance runner averaging around 1500 miles/year primarily within 10 miles of downtown. Although this includes many trips along Capitol Blvd or the Olympia Woodland Trail, I also make an effort to explore the quiet neighborhoods, dead ends, and trail connections. I "run" many errands on foot or by bicycle. I'm plugged in to the local running community, and have some professional knowledge of issues like environmental health and safety, special needs related to physical and cognitive disabilities. I also see the BPAC as one small piece of the problems caused by population growth and over-reliance on the automobile.

In short, I am an informed user who is motivated to help make things better, and the BPAC seems like an effective way to make a difference.

**Qualifications and skills which would benefit the BPAC**

In addition to the avocational qualifications above, I have an extensive work background in analyzing and responding to complex information sets and working in committee settings. While I was with Western Institutional Review Board, I spent several years as a staff physician member of the human subject protection boards ("IRB"), working with community members who were typically lay (non-medical) volunteers, applying Federal regulations and international guidelines while evaluating regulatory and ethical aspects of medical research using humans subjects. I also spent about 8 years managing the unit overseeing biological safety of recombinant DNA research in humans. This of course is also subject to Federal regulation via the NIH, and involved chairing institutional biosafety committees (IBCs) in communities all over the US and in other countries (which often had their own regulations). To add to the challenge of the IBC meetings, they were conducted telephonically or by computer conferencing, often with members I hadn't personally met. We made it work well!

I'm an avid daily reader of both The Olympian and the New York Times, so I have a good familiarity with the last 35 years of local history, issues, politics and personalities. I have read the documents about Volunteer Advisory Committees on the City of Olympia website, and do not foresee having any difficulty complying with the letter and spirit of this type of work. I'm computer literate, love maps and geography, and enjoy finding creative solutions to problems--in my experience, good ideas very often arise from conversations among a diverse group of interested, caring people.

### **Involvement in the Olympia Community**

I've run the Capital City Marathon most years since 2004, and had friendly connections with the current and previous Race Directors. Last year I worked with the Capitol City Marathon Association committee planning the new course, which of course drew on an intimate knowledge of the roads and traffic patterns. Last year I also dipped my toe into volunteering for the parks (ivy at Priest Point Park—need I say more?) and hope to continue this. I currently serve as volunteer treasurer for two local non-profits, and have held other non-profit Board-level positions. My wife and I direct some of our charitable giving to local social justice and environmental organizations. In the early 1980s I was active in the local Thurston County Nuclear Weapons Freeze Campaign, and once served as a precinct delegate to a Thurston County political party convention. In 2015 was on the local steering group for the I-732 signature gathering campaign. Not only did we do well with signature totals in Thurston County, but I got to spend plenty of time working the (pedestrian) crowds for signatures at the Farmers Market, Lakefair, the Pride Parade, Evergreen, etc. By the way, this provided great experience in engaging strangers in a civic topic, and hearing opinions and feedback of all sorts.

### **Current occupation**

Retired!

### **Educational and Professional background**

I spent my professional career as a family physician. I attended Deep Springs College and Cornell University, the UCLA School of Medicine, and did my residency at Northridge Hospital in the LA area. After training, I practiced at Group Health Cooperative in Olympia, practiced and taught at the Providence St. Peter Hospital Family Medicine Residency, and spent a dozen years at WIRB (described above). While at the PSPH Residency, I had the opportunity to work 2 half-days per month at the Nisqually Tribal Clinic.

### **Commitment as a volunteer**

Being retired, I would not expect any difficulty in spending in the neighborhood of 3-4 hours per week, and would like to hear if the requirement routinely exceeds this. Also, the meeting schedule seems very workable to me. Although there could be occasional times when I may miss a meeting due to travel, I expect I would mostly be able to schedule around meetings.

### **If not appointed to the BPAC at this time**

If I were not appointed to the BPAC at this time, I would consider a future appointment. The other group that appeals to me is the Heritage Commission. (You could ask Heather Lockman about me...)

### **Residency**

I am a resident of the City of Olympia.

### **City email address**

I am able to comply with the expectation about using city email for Advisory Committee

Business. In fact I am very curious to learn about open meetings rules because it seems to (regrettably) come up so often in the news, and would hope to be trained right away if I were appointed.

**How did I learn about BPAC recruitment?**

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**JAN P. VLECK**  
504 Seventeenth Avenue, SE  
Olympia, Washington 98501  
(360) 705-2527

## **EDUCATION**

Faculty Development Fellowship, Dept of Family Practice, UW School of Medicine	1997-1998
Family Practice Residency, Northridge Hospital, Northridge, CA	1978-1981
M.D., UCLA School of Medicine, Los Angeles, CA	1978
B.A., Biology, Cornell University, Ithaca, NY	1974

## **CURRENT LICENSURE and CERTIFICATION**

State of Washington, Physician and Surgeon	Active
American Board of Family Medicine	Diplomat

## **PROFESSIONAL EXPERIENCE**

**Western Institutional Review Board, Olympia, WA** **2003-2013**  
Positions included Vice President of IBC and DSM Services (2012-2013); Chief Medical Officer (2012-2013); Director of IBC Services (2006-2012); Director of Data and Safety Monitoring Services (2008-2012), and IRB Member (2003-2012)

**Providence St. Peter Family Medicine Residency Program, Olympia, WA** **1997-2003**  
Faculty

**Group Health Cooperative of Puget Sound, Olympia, WA** **1981-1997**  
Family Physician with obstetrics  
Administrative positions included Family Practice Clinic Chief; member of GHC Medical Staff Executive Council; member of GHC Finance Committee

**Providence St. Peter Hospital, Olympia, WA** **1981-2003**  
Active Staff (family practice with obstetrics)

## **VOLUNTEER ACTIVITIES**

### **City of Olympia**

Volunteers in Parks (current)

### **Local Non-Profits**

Capital City Marathon (group to design new marathon course, volunteer pacer, both 2015)

The Nalanda Institute (currently Treasurer and Board of Directors)

Community for Interfaith Celebration (currently Benevolence Treasurer)

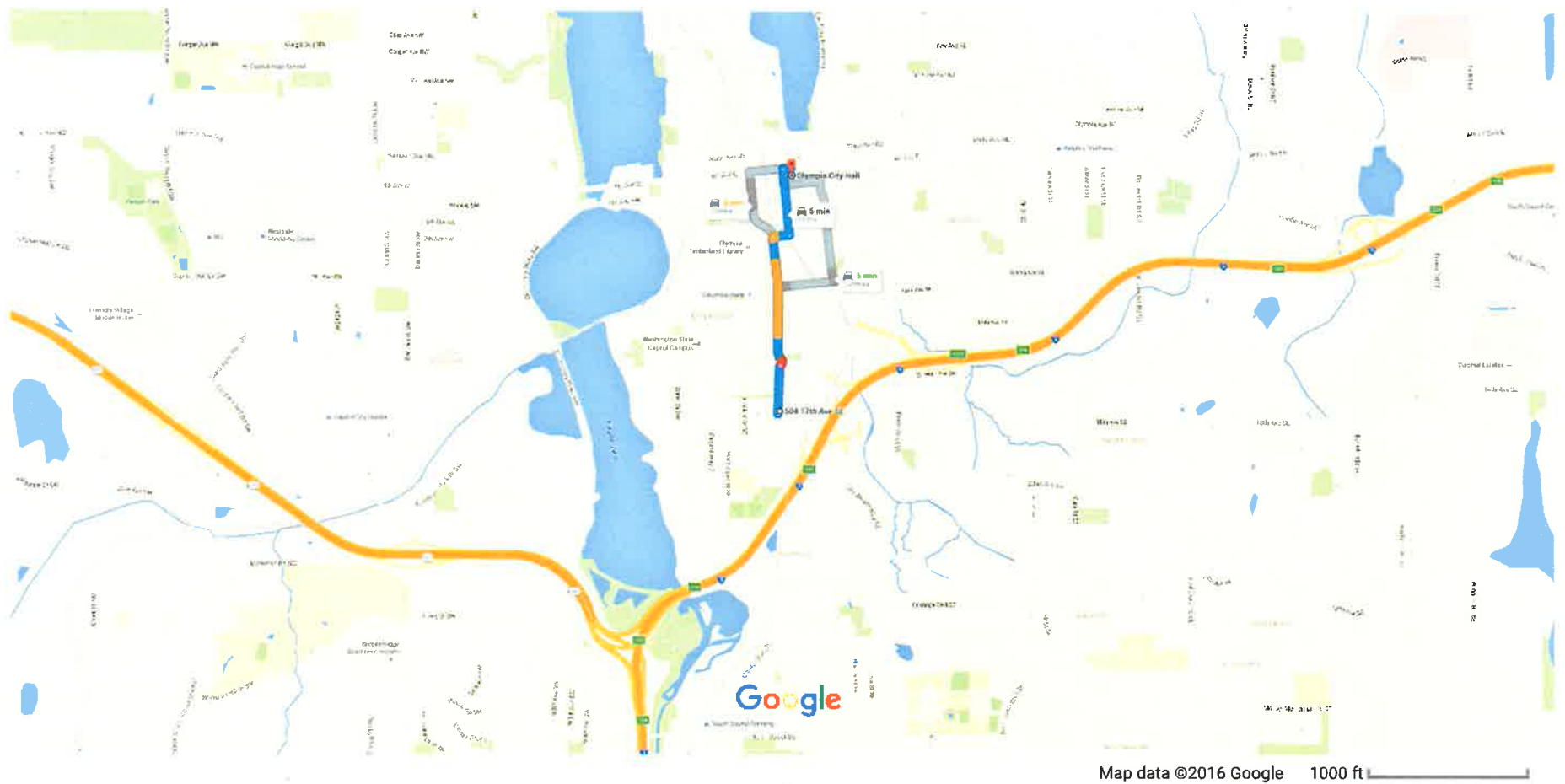
### **Providence St. Peter Hospital Medical Staff**

Medical Education Committee (ongoing); Pharmacy & Therapeutics, Cancer Committees (past)

### **Others in past (partial list)**

South Bay School PTA Board; Washington Academy of Family Physicians (officer and Board member)





504 17th Ave SE  
Olympia, WA 98501

↑ 1. Head northwest on 17th Ave SE

0.0 mi

↗ 2. Turn right onto Jefferson St SE

0.2 mi





## City Council

### Approval to Grant Utility Easements Over City-Owned Property to Astound Broadband, LLC

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.G  
**File Number:** 16-0623

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**Type:** decision **Version:** 1 **Status:** Passed

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#### **Title**

Approval to Grant Utility Easements Over City-Owned Property to Astound Broadband, LLC

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee

##### **City Manager Recommendation:**

Move to approve granting utility easements at the Maintenance Center and a Triangle-Shaped Parcel at the Southwest Corner of Interstate 5 and Eastside Street SE to Astound Broadband, LLC, and authorize the City Manager to execute all necessary easement documents.

#### **Report**

##### **Issue:**

Whether to grant utility easements over Maintenance Center property and a nearby triangle shaped parcel at the southwest corner of Interstate 5 and Eastside Street SE to Astound Broadband, LLC.

##### **Staff Contact:**

Ladd F. Cluff, PLS, City Surveyor, Public Works Engineering, 360.753.8389

##### **Presenter(s):**

None - Consent Calendar Item.

#### **Background and Analysis:**

Astound Broadband plans to expand their fiber optic service area. In order to do this, they need to install an underground conduit along Eastside Street and along the south side of Interstate 5. The depth of the Eastside Street bridge abutments prevents them from installing the conduit within the City right-of-way. The utility easements allow the conduit to be placed on the City Maintenance Center property, avoiding the bridge abutments.

Astound Broadband has requested an easement as described in the Utility Easement documents Exhibit A and shown on Exhibit B.

#### **Neighborhood/Community Interests (if known):**



None

**Options:**

1. Approve the granting of a utility easement to Astound Broadband, LLC, and authorize the City Manager to execute all necessary easement documents.
  - a. Will allow Astound Broadband, LLC to move forward as planned with their project.
  - b. City receives revenue for the easement.
  - c. Will avoid potential damage to bridge abutments.
  
2. Do not approve the granting of easements.
  - a. Will require Astound Broadband to develop a new plan, or stop the project.
  - b. Could affect Astound Broadband's ability to provide service.

**Financial Impact:**

If approved, the City will receive a one-time fee from Astound Broadband, LLC in the amount of \$11,179.

**Attachments:**

Easement Documents with Exhibits

Vicinity Map

After recording return document to:  
City of Olympia  
Attention: Legal Department  
P.O. Box 1967  
Olympia, WA 98507-1967

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**Document Title:** UTILITY EASEMENT  
**Grantor(s):** CITY OF OLYMPIA, a Washington municipal corporation  
**Grantee(s):** ASTOUND BROADBAND, LLC, a Washington limited liability company  
**Legal Description:** Ptn. NE ¼, Sect. 23, Twp. 18N, Rge. 2W, W.M.  
**Assessor's Tax Parcel Number:** 78207201300; 78306000600

### UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned Grantor(s), City of Olympia, a municipal corporation, does give and grant to ASTOUND BROADBAND, LLC, a Washington limited liability company, hereinafter called Grantee, a perpetual non-exclusive easement for the purpose of installation, construction, repair, maintenance and operation of network infrastructure, including conduit, fiber optic cable, coaxial cable, drops, taps, and associated equipment and facilities (collectively, the "**Network Facilities**"), over, under, and across the following described real property situated in the City of Olympia, County of Thurston, State of Washington, legally described as follows:

See attached Exhibits "A" and "B" depicting the "Easement Area" by reference made a part hereof.

Said easement shall include the right of ingress and egress to, upon, and over said land at all times, to construct, maintain, operate, repair, and replace said Network Facilities.

Grantee agrees that, in performing the installation, construction, maintenance, operation, and/or repair of the Network Facilities on the above-described property, it will, at its own expense and to the extent reasonably practicable, restore the surface of land to the same conditions that existed prior thereto.

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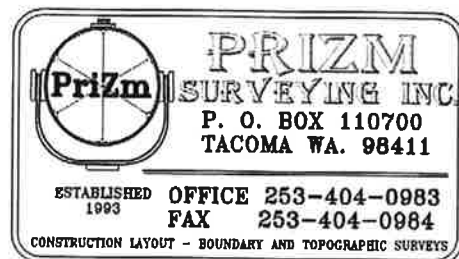
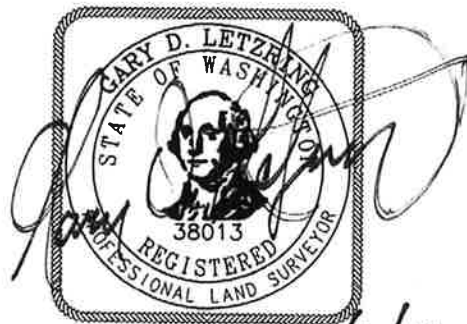


**EASEMENT DESCRIPTION**

A STRIP OF LAND 10 FEET WIDE IN THE SOUTHEAST QUARTER OF BLOCK 60, PLAT OF SWAN'S ADDITION TO THE TOWN OF OLYMPIA ACCORDING TO PLAT RECORDED IN VOLUME 1 OF PLATS AT PAGE 37, RECORDS OF THURSTON COUNTY, LYING WITHIN THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 2 WEST, W.M., WASHINGTON STATE, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WEST MARGIN OF EASTSIDE STREET AS SHOWN ON WASHINGTON STATE DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY PLAT AT ENGINEER STATION ES16+41.07; SR5 RIGHT-OF-WAY PLAN SHEET 10 OF 17, TROSPER ROAD TO MARTIN WAY; THENCE SOUTH 04°41'53" EAST, ALONG SAID WEST MARGIN OF EASTSIDE STREET, 127.19 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 06°13'26" WEST, 166.59 FEET TO THE NORTHERLY MARGIN OF SR-5 AND THE TERMINAL POINT OF SAID DESCRIBED CENTERLINE.

THE LATERAL LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT SAID WEST MARGIN OF EASTSIDE STREET AND AT THE NORTHERLY MARGIN OF SR-5.



JOB NO. 2015-144

EXHIBIT B

SHEET 2 OF 2

I-5 ON/OFF RAMP  
N 69°14'11" W GR. LINE

I-5 ON/OFF RAMP (OVERPASS)

STA 16+81.03 (POT)  
STA GR 10+79.40 (POC)

S 59°05'18" E  
36.50'

EASTSIDE ST. SE

ES-STA 16+41.07

POINT OF COMMENCEMENT

STA 51+13.67 (PT MON)

Δ=06°00'00"  
L=73.22  
R=700.00

A.P.N.  
7330300030

P.O.B.

S 06°13'26" W  
166.59'

STA 50+40.37 (PC MON)

A.P.N.  
73207201300

PROPOSED 10' WIDE EASEMENT

127.19'

S 04°41'53" E  
165.75'

STA 48+03.27 (PC MON)

Δ=59°59'58"  
L=73.30  
R=700.00

STA 48+29.96 (PC MON)

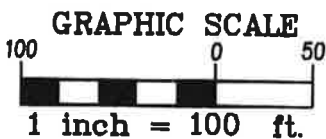
S 51°40'21" W

N 89°15'06" E  
63.42'

SR5-STA 1044+09.67

S 04°04'07" E

I-5 R/W



**PRIZM SURVEYING INC.**  
 P. O. BOX 110700  
 TACOMA WA. 98411

ESTABLISHED 1993 OFFICE 253-404-0983  
 FAX 253-404-0984

CONSTRUCTION LAYOUT - BOUNDARY AND TOPOGRAPHIC SURVEYS

1/6/16

JOB NO. 2015-144

After recording return document to:  
City of Olympia  
Attention: Legal Department  
P.O. Box 1967  
Olympia, WA 98507-1967

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**Document Title:** UTILITY EASEMENT  
**Grantor(s):** CITY OF OLYMPIA, a Washington municipal corporation  
**Grantee(s):** ASTOUND BROADBAND, LLC, a Washington limited liability company  
**Legal Description:** Ptn. Lot 5, Blk 66 Swan's Add.  
**Assessor's Tax Parcel Number:** 78306000500

### UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned Grantor(s), City of Olympia, a municipal corporation, does give and grant to ASTOUND BROADBAND, LLC, a Washington limited liability company, hereinafter called Grantee, a perpetual non-exclusive easement for the purpose of installation, construction, repair, maintenance and operation of network infrastructure, including conduit, fiber optic cable, coaxial cable, drops, taps, and associated equipment and facilities (collectively, the "**Network Facilities**"), over, under, and across the following described real property situated in the City of Olympia, County of Thurston, State of Washington, legally described as follows:

See attached Exhibit "A" depicting the "Easement Area" by reference made a part hereof.

Said easement shall include the right of ingress and egress to, upon, and over said land at all times, to construct, maintain, operate, repair, and replace said Network Facilities.

Grantee agrees that, in performing the installation, construction, maintenance, operation, and/or repair of the Network Facilities on the above-described property, it will, at its own expense and to the extent reasonably practicable, restore the surface of land to the same conditions that existed prior thereto.

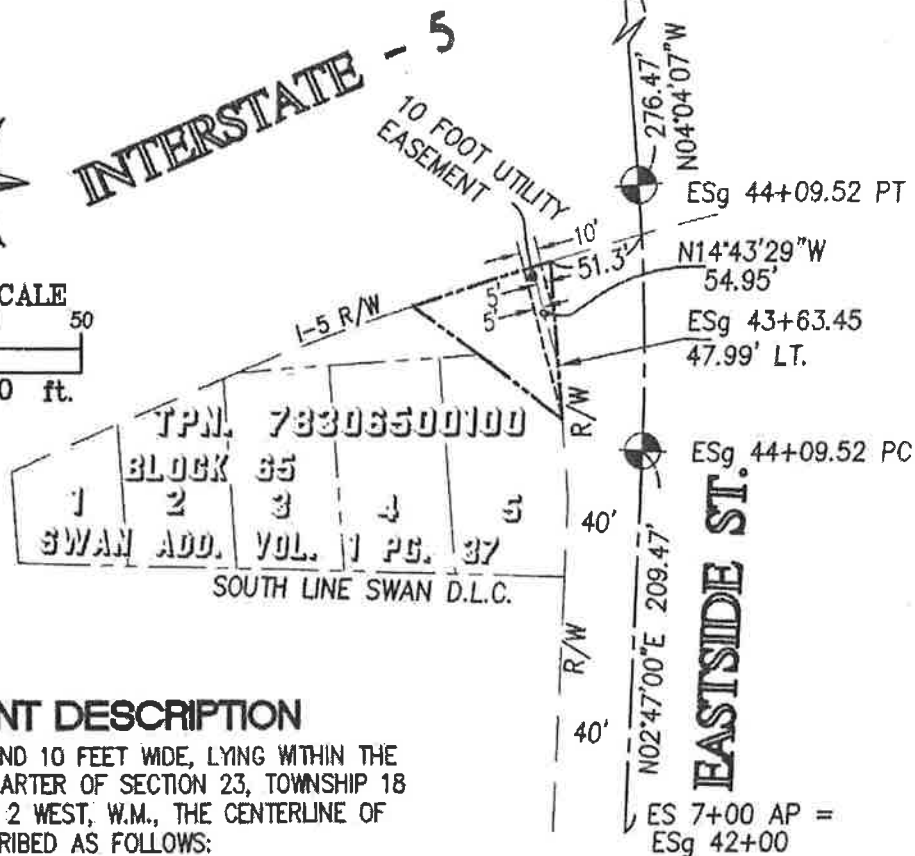
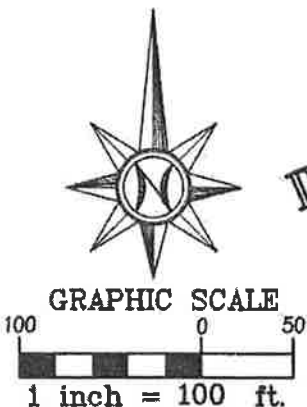
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EXHIBIT A

SHEET 1 OF 1



TPN. 78306500100  
 BLOCK 35  
 SWAN ADD. VOL. 1 PG. 37  
 SOUTH LINE SWAN D.L.C.

**EASEMENT DESCRIPTION**

A STRIP OF LAND 10 FEET WIDE, LYING WITHIN THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 18 NORTH, RANGE 2 WEST, W.M., THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

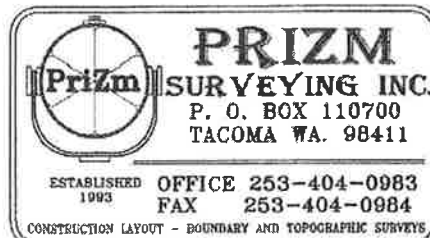
BEGINNING AT A POINT ON THE WEST MARGIN OF EASTSIDE STREET AS SHOWN ON WASHINGTON STATE DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY PLAT AT ENGINEER STATION ESg 43+63.45, LEFT 47.99 FEET, SR5 RIGHT-OF-WAY PLAN SHEET 10 OF 17, TROSPER ROAD TO MARTIN WAY; THENCE NORTH 14°43'29" WEST, 54.95 FEET, MORE OR LESS TO THE SOUTHERLY MARGIN OF SR-5 AND THE TERMINAL POINT OF SAID DESCRIBED CENTERLINE.

THE LATERAL LINES OF SAID STRIP TO BE LENGTHENED OR SHORTENED TO TERMINATE AT SAID WEST MARGIN OF EASTSIDE STREET AND AT THE SOUTHERLY MARGIN OF SR-5.

SITUATE IN THE CITY OF OLYMPIA, THURSTON COUNTY, WASHINGTON STATE,



*[Handwritten signature]*  
 5/20/2016



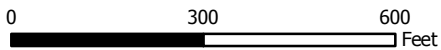
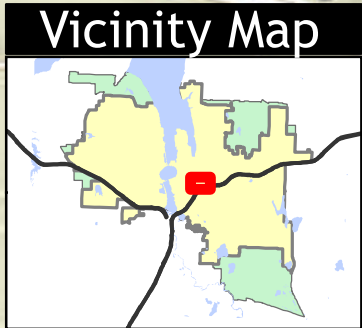
JOB NO. 2015-144B





# ASTOUND BROADBAND UTILITY EASEMENT

City of Olympia Maintenance Center



1 inch = 300 feet

Map printed 5/17/2016

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





## City Council

### Approval of Hawthorne Land Acquisition

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.H  
**File Number:** 16-0686

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**Type:** contract   **Version:** 1   **Status:** Passed

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**Title**

Approval of Hawthorne Land Acquisition

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to authorize the City Manager to sign the necessary documents to purchase the Hawthorne property subsequent to the liens being worked out by the owner during closing.

**Report**

**Issue:**

Whether to purchase the Hawthorne Parcel.

**Staff Contact:**

David Hanna, Associate Director, Parks, Arts and Recreation, 360.753.8020

Dave Okerlund, Program & Planning Supervisor, Parks, Arts and Recreation, 360.570.5855

**Presenter(s):**

None - Consent Calendar Item.

**Background and Analysis:**

The Hawthorne parcel is in northeast Olympia and is 2.98 acres in size. It is located in the 1800 block of Yew Ave. NE., and extends north to Pine Ave. The parcel is comprised of four undeveloped lots, surrounded by single-family residences to the east, south and west. The property encompasses a shallow ravine formed by the headwaters of Mission Creek and is totally covered by dense, native vegetation. The entire property is within a critical area (stream) buffer. Mission Creek flows north from this property to and through Mission Creek Nature Park. At that point, Mission Creek flows northwest to Budd inlet, via a small estuary within Priest Point Park. The potential exists in the future to link this property to Mission Creek Nature Park via the acquisition of several intervening, undeveloped properties.

This acquisition is supported by the following goals and policies of the Olympia Comprehensive Plan:

- GN4- The waters and processes of Budd Inlet and other marine waters are protected from degrading impacts and significantly improved through upland and shoreline preservation and restoration.
- PN2.1- Acquire and preserve land by a set of priorities that considers environmental benefits, such as stormwater management, wildlife habitat, or access to recreation opportunities.
- PN2.2- Preserve land when there are opportunities to make connections between healthy systems; for example land parcels in a stream corridor.

The purchase price is \$60,000, which is the fair market value determined by an appraisal prepared by R.F. Duncan and Associates on 10/16/15. City Legal staff has reviewed the title report for the property and has identified several liens against the property that will need to be worked out by the owner during closing. City Legal staff has also reviewed and approved the Purchase and Sale Agreement as to form.

**Neighborhood/Community Interests (if known):**

None identified.

**Options:**

1. Move to authorize the City Manager to sign the necessary documents to purchase the Hawthorne property subsequent to the liens being worked out by the owner during closing.
  - a. The City will have more control over the headwaters of Mission Creek.
2. Do not authorize the City Manager to purchase the Hawthorne property.
  - a. The City will have less control over the headwaters of Mission Creek.
  - b. The headwaters will be protected solely by the critical area (stream) buffer.

**Financial Impact:**

As the property will provide open space, wildlife habitat and water resources benefits, the purchase price of \$60,000 will be equally shared by the Parks, Arts and Recreation and Public Works Departments.

**Attachments:**

1. Purchase and Sale Agreement
2. Location Map and Aerial Photo

## REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is between **John C Hawthorne**, as his separate estate ("Seller") and the **City of Olympia**, a municipal corporation organized under the laws of the State of Washington ("Buyer"), jointly referred to as "the Parties."

### Recitals

Seller is the owner of certain real property commonly located at **1860 Yew Avenue NE, Olympia, Thurston County, Washington**, consisting of approximately 2.98 acres, more or less, and legally described on **Exhibit A** (legal description) and shown on **Exhibit B** (sketch of property), both of which are attached hereto and by this reference incorporated herein.

The signatories to this Agreement are authorized to execute associated documents, to correct legal descriptions if need be, and to correct scrivener's errors and other errors or omissions that are otherwise in substantial conformance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

1. **Property.** Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

1.1 **Land.** That certain real property located in Olympia, Thurston County, Washington, comprising tax parcel numbers 52103900600, 52101000800, 52103900100, 52101000100, and legally described on **Exhibit A** attached hereto (the "Land").

1.2 **Appurtenances.** All rights, privileges and easements appurtenant to the Land, including without limitation all minerals, oil, gas and other hydrocarbon substances on and under the Land, all development rights, air rights, water, water rights and water stock relating to the Land, and any and all easements, rights-of-way and other appurtenances used in connection with the beneficial use and enjoyment of the Land (all of which are collectively referred to as the "Appurtenances");

1.3 **Improvements.** All improvements and fixtures located on or under the Land.

1.4 **Personal Property.** Not applicable.

1.5 **Abandoned Property.** Any of Seller's personal property left on the Land, including but not limited to any furniture and fixtures owned by Seller, shall be considered abandoned property, and at Closing title to such abandoned property shall pass to Buyer as if it had been conveyed by a bill of sale.

All of the items described in **Paragraphs 1.1, 1.2, 1.3, 1.4, and 1.5** above are herein collectively referred to as the "Property."

2. **Purchase Price.** The purchase price to be paid by Buyer to Seller for the Property (the "Purchase Price") is **Sixty Thousand and 00/100 Dollars, U.S. (\$60,000.00)**.

3. **Payment of Purchase Price.** On the Closing Date, Buyer shall deposit with Escrow Agent the amount of the Purchase Price, less any amounts to be credited against the Purchase Price pursuant to this Agreement. Within five (5) days following the execution and delivery of this Agreement, Buyer shall open escrow with Thurston County Title Insurance Company (the "Escrow Agent"), by depositing with Escrow Agent a copy of this executed Agreement.

**4. Closing Date.** The Closing (the "Closing") shall be held at the offices of the Escrow Agent, on or before August 12, 2016, or unless otherwise agreed by the Parties. Closing shall occur when the Deed (as hereinafter defined) to Buyer is recorded and the Purchase Price is delivered to the Escrow Agent for delivery to Seller or to pay any lienholders of the Property.

**5. Title and Survey Matters.**

**5.1 Title Binder.** Buyer has ordered a preliminary commitment for an ALTA owner's standard coverage title insurance policy issued by Thurston County Title Insurance Company ("Title Company") describing the Property, showing all matters of record pertaining to the Property and listing Buyer as the prospective named insured. Following the mutual execution of this Agreement, if necessary, Buyer shall obtain from Title Company a written supplemental report to such preliminary commitment, in a form acceptable to Buyer, updating the preliminary commitment to the execution date of the Agreement. Such preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the "Title Binder."

**5.2 Title Review.** Within fifteen (15) business days of mutual execution hereof, Buyer shall review the Title Binder and any surveys of the Property, and shall notify Seller what exceptions to title, if any, affect the marketability or insurability of the title to the Property or which adversely affect the use of the Property. If Seller shall fail to remove any such exceptions objected to by Buyer from title prior to the Closing date, and Buyer is unwilling to take title subject thereto, Buyer may elect to either terminate this Agreement, or take title despite the existence of such exception. If Buyer elects to terminate, neither Buyer nor Seller shall have any further liabilities, obligations or rights with regard to this Agreement which shall then become null and void and of no further force or effect.

**5.3 Title Policy.** At Closing, Seller and Buyer shall cause Title Company to issue a standard ALTA owner's policy ("Title Policy") to Buyer, at Buyer's cost. The Title Policy shall (a) be satisfactory to Buyer, (b) be issued in the amount of the total Purchase Price and (c) insure fee simple, indefeasible title to the Property in Buyer. The Title Policy shall contain endorsements as Buyer may require. Buyer's obligation to close this transaction shall be contingent on Buyer's approval, in its sole and absolute discretion of the Title Policy required under this **Paragraph 5**.

**6. Conditions to Buyer's Obligations.**

**6.1 Documents and Reports.** Within fifteen (15) calendar days after the execution and delivery of this Agreement (the "Document Delivery Date"), Seller shall deliver to Buyer copies of the documents and reports listed on attached **Exhibit C** to this Agreement and in Seller's possession. Seller shall certify to Buyer, as of the Document Delivery Date, as to any documents listed on **Exhibit C** not in Seller's possession. All existing leases or occupancy agreements for the Property shall be referred to herein as the "Leases." All existing service contracts for the Property shall be referred to herein as the "Contracts." Buyer shall inform Seller, prior to the expiration of the Contingency Period (defined in **Paragraph 6.5**), which Contracts, if any, Buyer desires to assume at Closing (the "Assumed Contracts").

**6.2 Inspection of the Property.** Buyer and its employees, representatives, consultants and agents shall have the right and permission from the date Seller signs this Agreement through the Closing Date (or earlier termination of this Agreement) to enter upon the Property or any part thereof at all reasonable times and from time to time for the purpose, at Buyer's cost and expense, of making all tests and/or studies of the Property that Buyer may wish to undertake, including, without limitation, soils tests (including borings), toxic and hazardous waste studies, surveys, structural studies and review of zoning, fire, safety and other compliance matters; provided, however, Buyer shall indemnify and hold harmless Seller from and against any mechanic's or other liens or claims that may be filed or asserted against the Property or Seller as a direct result of any actions taken by Buyer in connection with the Property, including but not limited to permitting Seller to review a written description of Buyer's proposed testing and work to ensure same is properly done and will not exacerbate any existing condition of contamination on the property. Buyer shall also provide Seller with a copy of all soil or environmental

test results for the property upon request. Buyer shall reasonably restore the Property to its condition immediately prior to any invasive testing. Buyer shall hold harmless and indemnify Seller from injury, damages or loss due to the negligence of Buyer, or Buyer's agents, employees or representatives, while upon Seller's Property. The effect of the representations and warranties made by Seller in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Buyer or its agents.

**6.3 Appraisal of the Property.** Buyer shall have the right to obtain an appraisal. Buyer's appraiser may enter onto the Property as is necessary to appraise the Property.

**6.4 Approval of the Property.** Buyer's obligation to purchase the Property shall be subject to and contingent upon Buyer's approval, in its sole and absolute discretion, prior to the expiration of the Contingency Period, of all aspects of the Property, including, without limitation, the physical condition of the Property, Buyer's financing, and all of the information delivered by Seller pursuant to **Paragraph 6.1** above or otherwise obtained by Buyer regarding the Property.

**6.5 Contingency Period.** As used herein, the term "Contingency Period" means the period ending at 5:00 p.m. on July 29, 2016.

**6.6 Buyer's Right to Terminate.** If Buyer's conditions set forth in **Paragraph 6.4** above are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement by sending written notice to Seller and Escrow Agent (such notice referred to as a "Termination Notice") prior to the expiration of the Contingency Period. If Buyer gives its Termination Notice to Seller, this Agreement shall terminate and neither Buyer nor Seller shall have any further liability to the other under this Agreement.

**6.7 Additional Closing Conditions.** Buyer's obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of Closing.

(i) Prior to Closing, all Contracts (whether written or oral), with respect to the Property shall be terminated in writing, except for the Assumed Contracts. Seller shall provide Buyer, prior to Closing, with written termination agreements with respect to all Contracts, except for the Assumed Contracts, in a form acceptable to Buyer;

(ii) All representations and warranties of Seller contained herein, to the best of Seller's knowledge, shall be true, accurate and complete at the time of the Closing as if made again at such time;

(iii) Seller shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

(iv) At Closing, title to the Property shall be in the condition required by **Paragraph 5** of this Agreement and Escrow Agent shall deliver the Title Policy to Buyer; and

(v) At Closing, the physical condition of the Property shall be substantially the same as on the date hereof, ordinary wear and tear excepted.

If the conditions set forth in this **Paragraph 6** are not satisfied as of Closing and Buyer does not waive the same, Buyer may terminate this Agreement, and thereafter neither Buyer nor Seller shall have any further liability to the other under this Agreement.

**7. Seller's Representations and Warranties.** Seller hereby makes the following representations and warranties, to the best of Seller's knowledge, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

**7.1 Title.** Seller is the sole owner of the Property, except for reservations of record. At Closing, Seller shall convey the entire fee simple estate and right, title and interest in and to the Property by statutory warranty deed, free and clear of unapproved encumbrances of record.

**7.2 Compliance with Law; Compliance with Property Restrictions.** The Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property related to zoning, building, subdivision, and engineering.

**7.3 Bankruptcy, etc.** No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Seller.

**7.4 Taxes and Assessments.** Other than amounts disclosed by the Title Binder, no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed or imposed on or against the Property.

**7.5 Foreign Person.** Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

**7.6 Mechanics' Liens.** No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise.

**7.7 Underground Storage Tanks.** Seller has no knowledge of (a) subterranean storage or underground storage tanks that exist on the Property, and (b) any previously existing underground storage tanks that have been removed or filled by the Seller in compliance with applicable law.

**7.8 Leases and Other Agreements.** Seller represents that there are no leases, occupancy agreements, service agreements, licenses, easements, or option agreements with regard to the Property.

**7.9 Assumption of Liabilities.** Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date. Other than such obligations expressly assumed by Buyer or any liens or other obligations with respect to the Property that result from any action or activities by or on behalf of Buyer before the Closing Date, Seller, at Closing will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Closing Date, and shall indemnify, defend and hold Buyer harmless therefrom.

**7.10 Defaults.** Seller is not in default and there has occurred no uncured event which, with notice, the passage of time or both would be a default, under any contract, agreement, lease, encumbrance, or instrument pertaining to the Property.

**7.11 Utilities.** The Property is served by water, storm and sanitary or septic sewer, electricity, and telephone supplied directly to the Property by facilities of public utilities. All such utilities are located within the boundaries of the Property or within lands dedicated to public use or within recorded easements for the same.

**7.12 Public Improvements.** Seller has no knowledge of any federal, state, county, municipal or other governmental plans to change the road system in the vicinity of the Property.

**7.13 Subdivision.** The conveyance of the Property will not constitute a violation of any subdivision ordinance. The Improvements on the Property comply in all material respects with all applicable subdivision ordinances and statutes.

**7.14 Due Authority.** Seller and Buyer have all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and Buyer and constitute their legal, valid and binding obligation enforceable against Seller and Buyer in accordance with its terms.

**7.15 No Omissions.** The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

**7.16 Litigation.** There is no litigation or threatened litigation which could now or in the future in any way constitute a lien, claim, or obligation of any kind on the Property, affect the use, ownership or operation of the Property or otherwise adversely affect the Property. For purposes of this provision, litigation includes lawsuits, actions, administrative proceedings, tax claims or liens, governmental investigations and all other proceedings before any tribunal having jurisdiction over the Property. If any such litigation exists affecting the Property, Seller shall give notice to Buyer and Escrow Agent and Seller shall remove any such litigation by settlement and release, dismissal, payment or other full and complete resolution on or before the Closing Date.

**8. Covenants of Seller.** Seller covenants and agrees as follows:

**8.1 Perform Obligations.** From the date of this Agreement to the Closing Date, Seller will perform any monetary and non-monetary obligations it has regarding the Property.

**8.2 No Liens.** Seller will not allow any lien to attach to the Property, nor will Seller grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained.

**8.3 Provide Further Information.** From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

**9. Closing.**

**9.1 Time and Place.** Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in **Paragraph 4** of this Agreement.

**9.2 Documents to be Delivered by Seller.** For and in consideration of, and as a condition precedent to the payment to Seller of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(i) **Title Documents.** Such other documents, including, without limitation, lien waivers or releases, indemnity bonds, indemnification agreements, and certificates of good standing as shall be required by Buyer, or by the Title Company as a condition to its insuring Buyer's good and marketable fee simple title to the Property.

(ii) **Authority.** Such evidence as the Title Company shall require as to authority of Seller to convey the Property to Buyer.



(iii) **Surveys and Drawings.** All surveys, site plans and plans and specifications relating to the Property as are in the possession or control of Seller, if any.

(iv) **General Assignment.** A general instrument of transfer in the form set forth on attached **Exhibit D**, pursuant to which Seller shall convey and assign to Buyer all of Seller's right, title and interest in and to (a) all Leases, (b) the Assumed Contracts, if any, and (c) all other rights of Seller relating to the Property, (the "General Assignment") to the extent such items exist.

(v) **Warranty Deed.** A statutory warranty deed ("Deed") conveying to Buyer a good, marketable and indefeasible title in fee simple absolute to the Property, in substantially the same form as attached **Exhibit E**.

**9.3 Payment of Costs.** At Closing, Buyer shall pay all charges for its title insurance, one-half of the escrow fee, the recording fee, and the technology fee. Seller shall pay one-half of the escrow fee.

**9.4 Taxes.** Buyer is exempt from payment of real property excise taxes for the Property pursuant to WAC 458-61A-205.

**9.5 Monetary Liens.** Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements, except where Seller is exempt by statute or administrative rule or regulation.

**9.6 Possession.** Possession of the Property shall be delivered to Buyer at Closing. The Property, including without limitation the Improvements, shall be delivered to Buyer in good order.

**9.7 Prorations.** All amounts required to be prorated hereunder as of Closing, shall be calculated as if Buyer was in possession of the Property as of the date of Closing.

**10. Environmental Compliance.** In addition to and without limiting **Paragraphs 6, 7 and 8**, Seller warrants, represents, covenants and agrees:

**10.1 Hazardous Substances.** Seller has not used, generated, manufactured, produced, stored, released, discharged or disposed of upon, under, above or about the Property (or off-site of the Property that might affect the Property) or transported to or from the Property, any Hazardous Substance or allowed any other person or entity to do so. Seller has no knowledge nor has Seller observed any questionable practice or conduct indicating that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or above Property (or off-site of the Property that might affect the Property) or transported to or from the Property by any entity, firm or person, or from any source whatsoever.

**10.2 Pre-closing Covenant.** Seller will not use, generate, manufacture, produce, store, release, discharge or dispose of upon, under, above or about the Property (or off-site of the Property that might affect the Property), or transport to or from the Property, any Hazardous Substance or authorize any other person or entity to do so, prior to the Closing.

**10.3 Definitions.** The term "Hazardous Substance" includes without limitation (a) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or "solid waste" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; and (d) chlorinated solvents. The term "Environmental Law" includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions or hazardous substances.

**10.4 Environmental Indemnity.** Seller shall protect, indemnify, hold harmless and defend Buyer and its officers, directors, elected officials, contractors, employees, agents, representatives, successors and assigns, from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to a breach of any representation, warranty, covenant or agreement contained in this **Paragraph 10** including, without limitation, (a) all consequential damages, and (b) the costs of any required or necessary repairs, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans. This indemnity does not apply to actions of Buyer, its agents or independent contractors.

**11. Indemnification.** Seller shall pay, protect, pay the defense costs of, indemnify and hold Buyer and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of Seller set forth in this Agreement, (b) the failure of Seller to perform any obligation required by this Agreement to be performed by Seller, (c) the ownership, maintenance, and/or operation of the Property by Seller prior to the Closing, not in conformance with this Agreement, or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Seller, its representatives, employees, contractors or suppliers that occurred before Closing; provided, however, that nothing in this **Paragraph 11** applies to Losses arising out of the presence of Hazardous Substance on, under, above, or about the Property, including Hazardous Substances that migrate or migrated to or from the Property.

**12. Condemnation.** In the event of any commenced, to be commenced or consummated proceedings in eminent domain or condemnation (collectively "Condemnation") respecting the Property or any portion thereof, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement neither Buyer nor Seller shall have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Seller shall, prior to the Closing date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to any condemnation award or settlement made or to be made in connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

**13. Casualty.** If any fire, windstorm or casualty occurs and materially affects all or any portion of the Property on or after the date of this Agreement and prior to the Closing, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement neither Buyer nor Seller have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing date, this Agreement shall continue in effect, the Purchase Price shall be reduced by the amount of loss or damage occasioned by such casualty not covered by insurance, and Seller shall, prior to the Closing date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to all insurance claims and proceeds to which Seller may be entitled in connection with such casualty. Buyer shall have the right at all times to participate in all negotiations and other dealings with the insurance carrier providing such coverage and to approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such casualty respecting the Property.

**14. Notices.** Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, "Notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express, UPS, USPS or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such Notice is personally delivered, it shall be conclusively deemed given at the time of such

delivery. If such Notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty four (24) hours after the deposit thereof with such delivery service. If such Notice is mailed as provided herein, such shall be deemed given forty-eight (48) hours after the deposit thereof in the United States mail. Each such Notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Buyer: Attn: Dave Okerlund, Parks, Arts & Recreation Department  
City of Olympia  
601 4<sup>th</sup> Avenue East  
PO Box 1967  
Olympia, WA 98507-1967

With a copy to: City Attorney  
City of Olympia  
601 4<sup>th</sup> Avenue East  
PO Box 1967  
Olympia, WA 98507-1967

To Seller: John C. Hawthorne  
c/o Kaaleen Gassin  
~~Burger Professionals~~ *RE/MAX PROFESSIONALS*  
~~2607 Martin Way E, #102~~ *3009 PACIFIC AVE SE*  
Olympia, WA 98506 *Olympia WA 98501*

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

**15. Event of Default.** In the event of a default under this Agreement by Seller (including a breach of any representation, warranty or covenant set forth herein), Buyer shall be entitled, in addition to all other remedies, to seek monetary damages and specific performance of Seller's obligations hereunder.

**16. Miscellaneous.**

**16.1 Applicable Law.** This Agreement shall in all respects, be governed by the laws of the State of Washington.

**16.2 Further Assurances.** Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

**16.3 Modification or Amendment, Waivers.** No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the Parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

**16.4 Successors and Assigns.** All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns.

**16.5 Entire Agreement and No Third Party Beneficiaries.** This Agreement constitutes the entire understanding and agreement of the Parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The Parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the Parties.

**16.6 Attorneys' Fees.** Should either party bring suit to enforce this Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

**16.7 Construction.** Captions are solely for the convenience of the Parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. If the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

**16.8 Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**16.9 Survival.** The covenants, agreements, obligations to indemnify, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

**16.10 Finders' or Brokers' Fees.** Any broker, agent or finder commission or other fee due in connection with any of the transactions contemplated by this Agreement, shall be the sole responsibility of the Seller. Seller agrees to indemnify, defend and hold harmless Buyer against any loss, liability, damage, cost, claim or expense, including interest, penalties and reasonable attorneys' fees, that Buyer shall incur or suffer by reason of a breach by Seller of the representation and warranty set forth above.

**16.11 Time.** Time is of the essence of every provision of this Agreement.

**16.12 Risk of Loss.** All of Seller's personal property of any kind or description whatsoever on the Property shall be at Seller's sole risk. Buyer shall not be liable for any damage done to or loss of such personal property, injury to person or damage or loss suffered by the business or occupation of Seller caused in any manner whatsoever, unless and to the extent the damage is caused by the gross negligence or willful misconduct of Buyer.

**16.13 Force Majeure.** Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

**16.14 Recitals.** The Recitals set forth above are incorporated by this reference into this Agreement.

**17. Expiration.** This offer will expire if not executed by Seller and Buyer on or before 5:00 p.m. on June 24, 2016.

[Signatures appear on the following page]

**BUYER:**

City of Olympia, a Washington municipal corporation

By: \_\_\_\_\_

Name: Steven R. Hall, City Manager

Date: \_\_\_\_\_

Approved as to form:



City Attorney

**SELLER:**

John C. Hawthorne, as his separate estate

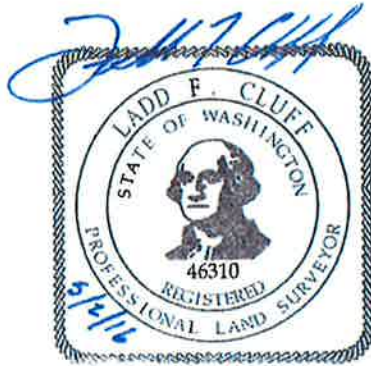
By: 

Date: 5/5/16

**EXHIBIT "A"**

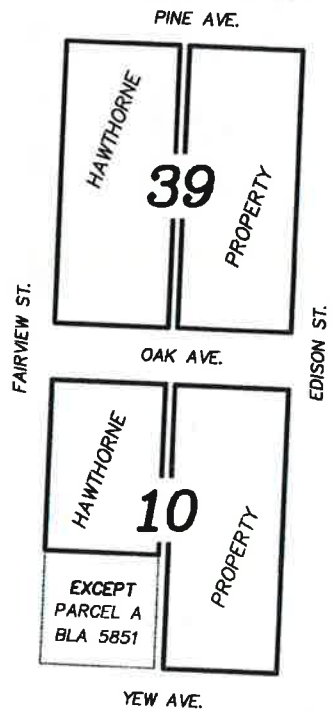
BLOCK 10 AND BLOCK 39 OF P.C.HALE'S SUBDIVISION OF C.H.HALE'S ADDITION TO OLYMPIA, AS RECORDED IN VOLUME 5 OF PLATS, PAGES 14 AND 15; EXCEPT THAT PORTION OF BLOCK 10 NOW KNOWN AS PARCEL A OF BOUNDARY LINE ADJUSTMENT NO. BLA-5851, AS RECORDED SEPTEMBER 29, 1994 UNDER AUDITORS FILE NUMBER 9409290295.

IN THURSTON COUNTY, WASHINGTON





FIR ST.



WILSON ST.

	PROJECT NO.	CITY OF OLYMPIA	DRAWING NAME
DRAWN MRW		EXHIBIT "B"	Sketch Block 10&39.dwg
QC REVIEW LFC	DATE	BLOCK 10 & 39 OF P.C.HALES SUB. OF C.H.HALES ADD.	
SCALE N.T.S.	5-2-16	V. 5 PG. 14 SECTION 13, T 18 N, R 2 W, W.M.	SHEET 1 OF 1

## **EXHIBIT C**

### **Documents and Reports**

1. Copies of all of leases or other occupancy agreements relating to the Property, with originals to be delivered at Closing.
2. Copies of all licenses, permits and approvals issued by governmental authorities for the use and occupancy of the Property or any facility located thereon.
3. Any other information about the Property reasonably requested by Buyer if in the possession or control of Seller.
4. Any service contracts or other similar agreements related to the Property.
5. Reports of environmental conditions related to the Property.
6. Surveys.
7. Soils reports.



**EXHIBIT D**  
**General Assignment**

**ASSIGNMENT AND ASSUMPTION**

THIS ASSIGNMENT AND ASSUMPTION (the "Assignment") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2016 (the "Transfer Date") by JOHN C. HAWTHORNE, as his separate estate ("Assignor"), in favor of THE CITY OF OLYMPIA, a municipal corporation organized under the laws of the State of Washington ("Assignee").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby assigns and transfers to Assignee, as of the Transfer Date, all of the following relating to the real property legally described on attached EXHIBIT A (the "Property"), to the extent assignable:

1. Any and all of Assignor's right, title and interest, as lessor, in, to and under all leases, licenses and occupancy agreements together with any security deposits, affecting the Property (the "Leases");
2. Any and all of Assignor's right, title and interest in, to and under the contracts and agreements relating to the leasing, operation, maintenance and repair of Property set forth on EXHIBIT B (the "Contracts");
3. Any and all assignable governmental licenses, permits, certificates (including certificates of completion and certificates of occupancy), authorizations and approvals held by Assignor in connection with the current occupancy, use and operation of, and construction upon, the Property (collectively, the "Permits"); and
4. Any and all assignable warranties and guaranties including, without limitation, contractor's, architect's and manufacturer's warranties and guaranties held by Assignor and given by third parties with respect to the Property (collectively, the "Warranties").

Assignor hereby agrees to indemnify Assignee against and hold Assignee harmless from any and all cost, liability, loss, damage or expense, including without limitation, reasonable attorneys' fees, originating prior to the Transfer Date and arising out of the lessor's obligations under the Leases.

Assignee accepts this Assignment and hereby assumes and agrees to perform from and after the Transfer Date all of the covenants, agreements and obligations of the lessor under the Leases, as may be amended, and all of Assignor's covenants, agreements and obligations under the Contracts, Permits, and Warranties, and agrees to indemnify Assignor against and hold Assignor harmless from any and all cost, liability, loss, damage or expense, including without limitation, reasonable attorneys' fees, originating subsequent to the Transfer Date and arising out of the lessor's obligations under the Leases.

IN WITNESS WHEREOF, this Assignment and Assumption is made as of the day and year first above written.

ASSIGNOR:

JOHN C. HAWTHORNE, as his separate estate

By: 

ASSIGNEE:

THE CITY OF OLYMPIA, a municipal corporation organized under the laws of the State of Washington

By: \_\_\_\_\_

Name: Steven R. Hall

Its: City Manager



GRANTEE:

City of Olympia, a Washington municipal corporation

ACCEPTED AND APPROVED:

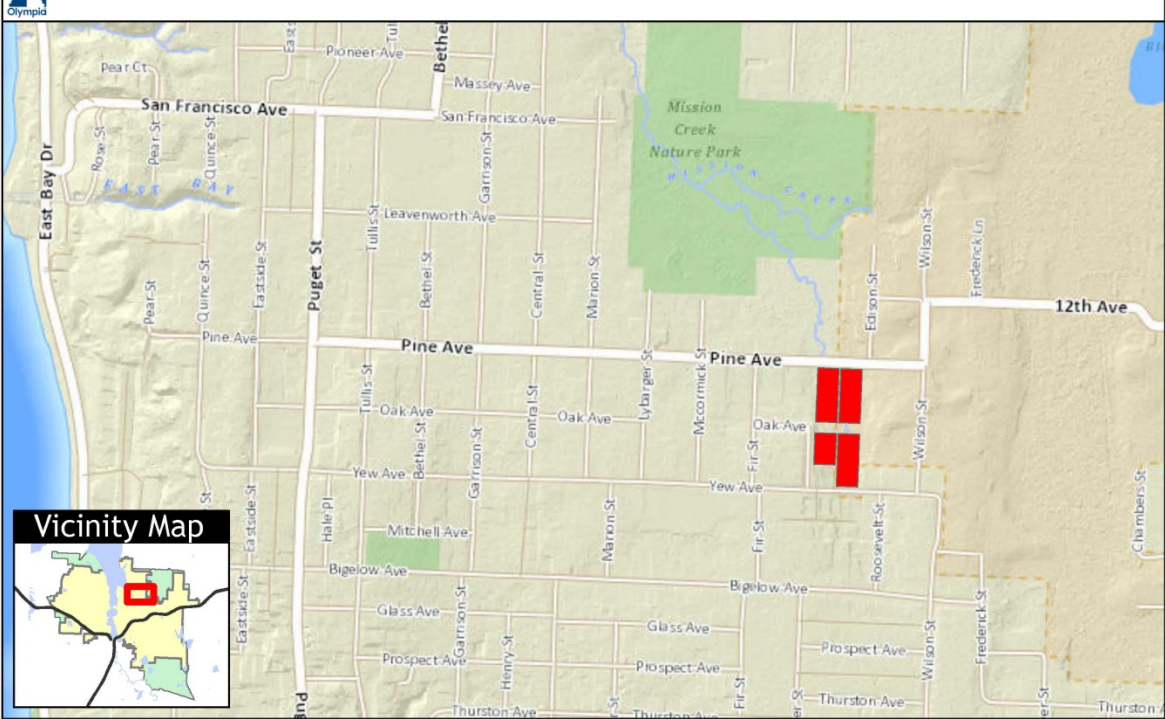
By: \_\_\_\_\_  
Steven R. Hall, City Manager

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

# Hawthorne Parcels - 2.98 acres



0 0.075 0.15 Miles 1 inch = 650 feet

Map printed 2/29/2016  
 For more information, please contact:  
 Olympia Parks, Arts and Recreation  
 olyparks@ci.olympia.wa.us  
 (360) 753.8380

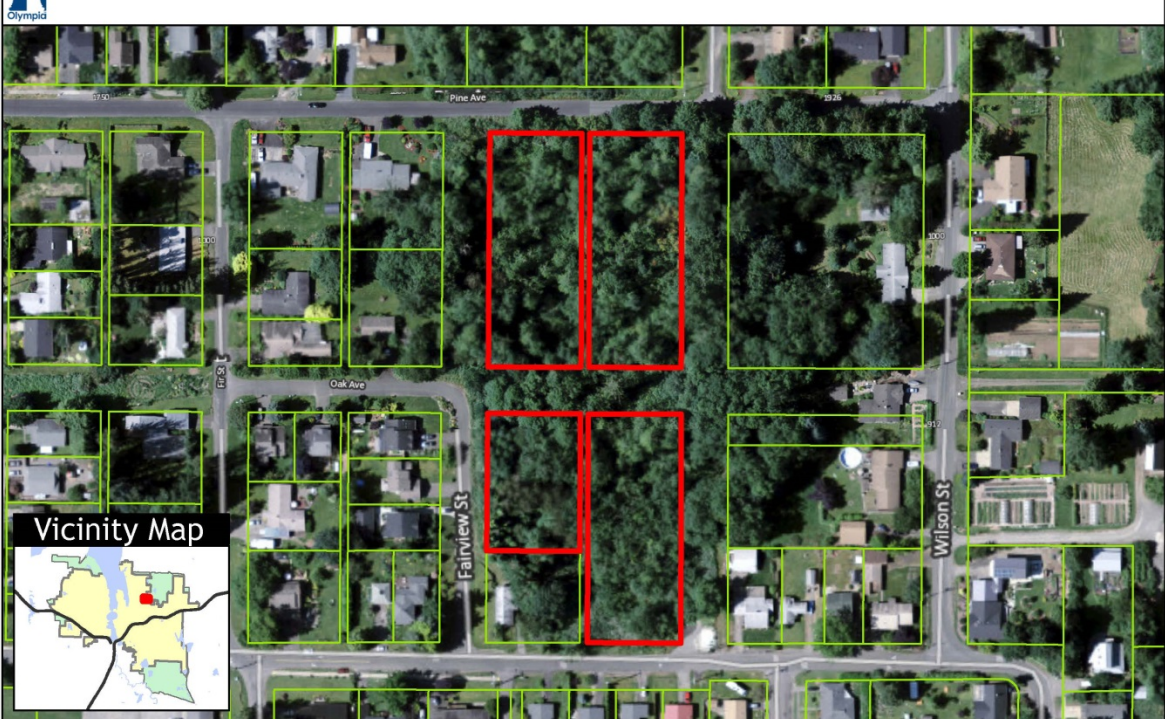
This map is intended for 8.5x11" landscape printing.

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.



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# Hawthorne Parcels - 2.98 acres



0 0.0175 0.035 Miles 1 inch = 150 feet

Map printed 2/29/2016  
 For more information, please contact:  
 Olympia Parks, Arts and Recreation  
 olyparks@ci.olympia.wa.us  
 (360) 753.8380

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## City Council

### Approval of Resolution Recommending Setting Aside Right of Way for Future City Owned Ashton Woods Property

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.1  
**File Number:** 16-0659

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**Type:** resolution **Version:** 1 **Status:** Passed

---

#### **Title**

Approval of Resolution Recommending Setting Aside Right of Way for Future City Owned Ashton Woods Property

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve a Resolution Authorizing the Purchase and Dedication of Real Estate for Right of Way Purposes in Conjunction with the Purchase of the Trillium/Ashton Woods Property from SSHI, LLC dba D.R. Horton Seattle Division.

#### **Report**

##### **Issue:**

Whether to approve a Resolution authorizing the purchase and dedication of right of way across and through the Trillium/Ashton Woods property for the future Log Cabin Road Extension.

##### **Staff Contact:**

Mark Barber, City Attorney, 360.753.8223

##### **Presenter(s):**

None - Consent Calendar Item.

#### **Background and Analysis:**

The City of Olympia has entered into a Purchase and Sale Agreement to acquire the Trillium/Ashton Woods property from SSHI, LLC dba D.R. Horton Seattle Division for public open space. On April 19, 2016, Council received a briefing on the need for the Log Cabin Road Extension. Public Works staff presented computer visualizations of different widths to show how a future road might look. The most narrow road width, sixty (60) feet, would have the least impact upon the property being acquired from D.R. Horton in an area commonly referred to as LBA Woods (Trillium/Ashton Woods).

The right of way needed for the future Log Cabin Road Extension is 1.91 acres, more or less, through

the property being acquired by the City from D.R. Horton. Public Works staff recommends using transportation impact fees in the amount of \$129,142 towards the City's purchase of the Trillium/Ashton Woods property for purchase of the portion of property needed for future public right of way.

**Neighborhood/Community Interests (if known):**

There is community interest in preserving and acquiring the area commonly referred to as LBA Woods (Trillium/Ashton Woods) as open space and for parks use. The future Log Cabin Road Extension project would build a road through a portion of this property. Community reaction was positive to a narrower roadway option.

**Options:**

1. Approve the Resolution to use transportation impact fees to purchase a portion of the Trillium/Ashton Woods property for future right of way required for the Log Cabin Road Extension. Upon acquiring title to the property, the City will promptly file and record with the Thurston County Auditor a Deed for Right of Way Dedication for future roadway purposes.

2. Do not approve the use of transportation impact fees to purchase a portion of the Trillium/Ashton Woods property for future right of way required for the Log Cabin Road Extension. Purchasing right of way in the future will be more expensive and require a more complicated real estate transaction.

**Financial Impact:**

Per Public Works there is currently \$10,958 of mitigation fees in the Log Cabin Road Extension project for the right of way purchase, which must be supplemented with additional funding from transportation impact fees in the sum of \$118,184 to provide the \$129,142 necessary for the required right of way at closing.

**Attachments:**

Resolution with EXHIBIT "A" attached.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, AUTHORIZING THE PURCHASE AND DEDICATION OF REAL ESTATE FOR RIGHT OF WAY PURPOSES IN CONJUNCTION WITH THE PURCHASE OF THE TRILLIUM/ASHTON WOODS PROPERTY FROM SSHI, LLC DBA D.R. HORTON SEATTLE DIVISION.**

**WHEREAS**, on April 26, 2016, the City Council approved Resolution No. M-1834, authorizing the exercise of an Option to Purchase Real Estate from SSHI, LLC dba D.R. Horton Seattle Division (the D.R. Horton Option) for the property commonly known as Trillium/Ashton Woods, consisting of 74 acres more or less; and

**WHEREAS**, pursuant to the terms of the D.R. Horton Option, the City sent a letter dated May 5, 2016, to SSHI, LLC dba D.R. Horton Seattle Division, exercising the option to purchase the Trillium/Ashton Woods property; and

**WHEREAS**, the City of Olympia subsequently entered into a Real Estate Purchase and Sale Agreement with an effective date of May 23, 2016, to purchase the aforesaid real property on or before June 30, 2016, for \$5,000,000.00, minus \$500,000.00 in total option payments previously made by the City; and

**WHEREAS**, there is a future need for a sixty-foot (60) wide right of way over and across the Trillium/Ashton Woods property for transportation purposes based upon projections of significant growth in the southeast Olympia area over the next twenty years; and

**WHEREAS**, the necessary right of way needed for the future extension of Log Cabin Road from Boulevard Road to Wiggins Road through the Trillium/Ashton Woods property will require the City to dedicate right of way for this public purpose which will consist of about 1.91 acres, more or less; and

**WHEREAS**, based upon a cost per acre of \$67,613 and the need for right of way consisting of 1.91 acres more or less, the cost for right of way is \$129,142, and this amount should be paid by using transportation impact fees and be paid into escrow as part of the acquisition costs for purchase of the property from SSHI, LLC dba D.R. Horton Seattle Division; and

**WHEREAS**, the City Council has determined that upon the City of Olympia coming into title of the Trillium/Ashton Woods property, the City should promptly record a Deed of Right of Way Dedication for a public transportation purpose with the Thurston County Auditor for the right of way described in EXHIBIT "A" attached hereto;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL DOES HEREBY RESOLVE** as follows:

1. The City shall fund a portion of the purchase of the Trillium/Ashton Woods property by use of \$129,142 of transportation impact fees for a sixty-foot (60) wide right of way over and through said property for future transportation purposes for the Log Cabin Road Extension.

2. Upon receiving title to the Trillium/Ashton Woods property from SSHI, LLC dba D.R. Horton Seattle Division, the City of Olympia shall cause to be filed with the Thurston County Auditor a Deed of Right of Way Dedication for public transportation purposes as legally described and shown on the sketch attached hereto as EXHIBIT "A."

3. The City Manager is directed and authorized to execute all documents necessary to file and record the aforesaid Deed of Right of Way Dedication with the Thurston County Auditor once the City of Olympia receives title to the Trillium/Ashton Woods property from SSHI, LLC dba D.R. Horton Seattle Division.

**PASSED BY THE OLYMPIA CITY COUNCIL** this \_\_\_\_\_ day of June, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
CITY ATTORNEY



PROJECT NAME: Log Cabin Extension Right-of-Way  
PROJECT NO: 1612G  
DATE: May 3, 2016

**EXHIBIT "A"**

**RIGHT-OF-WAY DEDICATION LEGAL DESCRIPTION**

A sixty foot wide(60) Right-of-Way dedication over and across the NW ¼ of the SE ¼ and the SW ¼ of the SE ¼ of Section 30, Township 18 North, Range 1 West, Willamette Meridian, Washington, the centerline of said Right-of-Way dedication is more particularly described as follows:

**COMMENCING** at the West ¼ corner of said Section, thence along the East-West Center Section line, South 87°35'05" East, 2579.33 feet to the Center ¼ corner of said Section, thence along the North-South Center Section line, South 2°10'25" West, 1414.03 feet to the centerline of said Right-of-Way dedication, being the **POINT OF BEGINNING**;

Thence along a non-tangent curve to the left 483.00 feet, said curve having a radius of 623.09 feet, a delta angle of 44°24'51", and a chord bearing and distance of North 79°22'41" East, 471.00 feet to a point of reverse curvature;

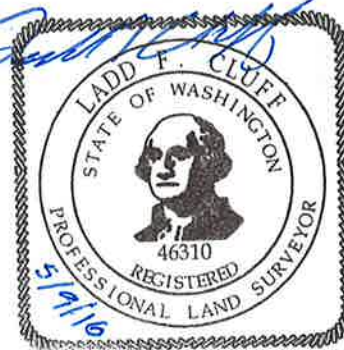
Thence along a curve to the right 671.04 feet, said curve having a radius of 600.00 feet, a delta angle of 64°04'48", and a chord bearing and distance of North 89°12'39" East, 636.61 feet to a point of reverse curvature;

Thence along a curve to the left 234.68 feet, said curve having a radius of 500.00 feet, a delta angle of 26°53'33", and a chord bearing and distance of South 72°11'43" East 232.53 feet to the East line of the NW ¼ of the SE ¼ of said Section, being the **POINT OF TERMINUS** of said centerline;

Said **POINT OF TERMINUS** bears South 87°35'05" East, 3900.16 feet along the East West Center Section line; Thence South 2°15'07" West 1333.90 feet along the East line of the NW ¼ of the SE ¼ of said Section, from the W ¼ corner of Said Section.

Said Right-Of-Way being thirty feet (30) feet each side of the above described centerline, the sidelines are to be lengthened or shortened to create a consistent sixty foot wide Right-of-Way.

Said dedication contains 1.91 acres (83,350) square feet.

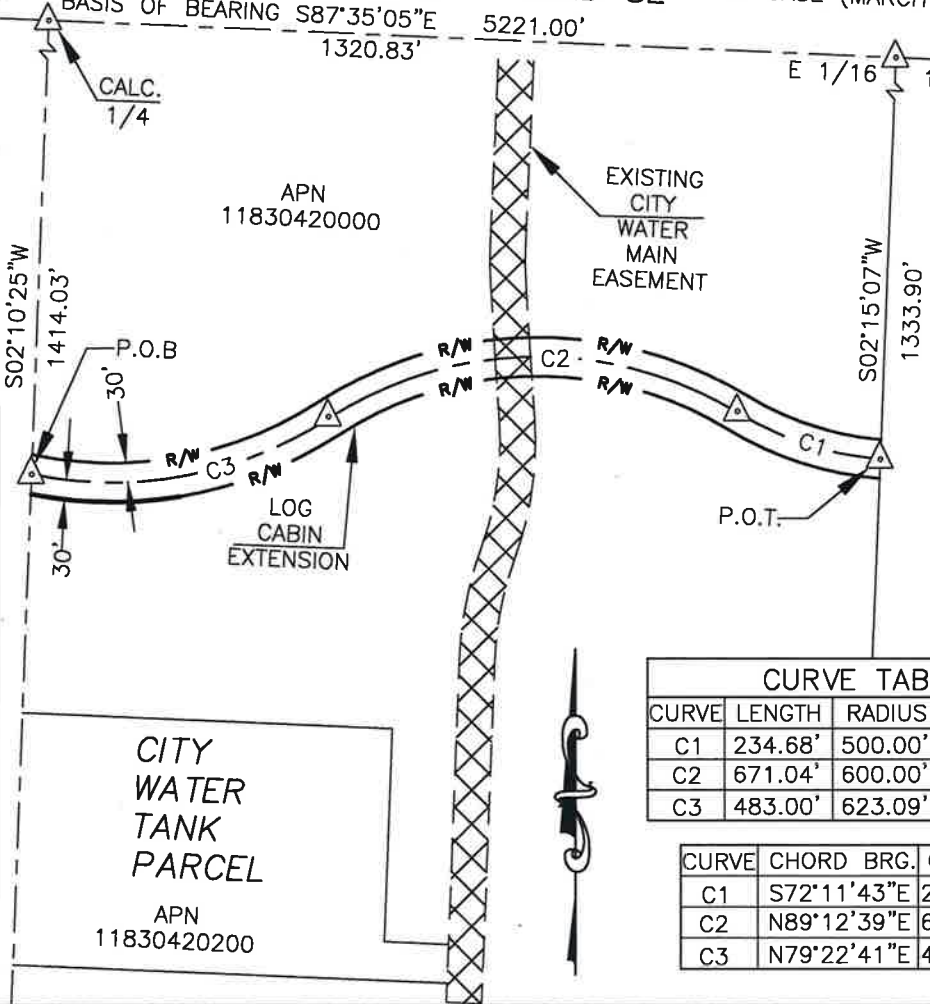


FOUND BRASS DISC MONUMENT  
IN CASE (MARCH 2014)  
W 1/4 30  
2579.33'



MORSE-MERRYMAN ROAD SE

FOUND BRASS DISC MONUMENT  
IN CASE (MARCH 2014)  
E 1/16 30  
1320.84'  
E 1/4 30  
1320.83'



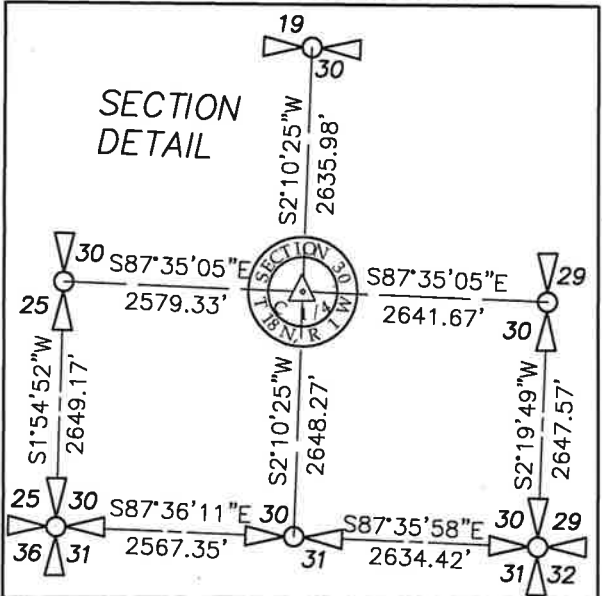
APN 11830420000

EXISTING CITY WATER MAIN EASEMENT

CITY WATER TANK PARCEL

APN 11830420200

SECTION DETAIL



CURVE TABLE			
CURVE	LENGTH	RADIUS	DELTA
C1	234.68'	500.00'	26°53'33"
C2	671.04'	600.00'	64°04'48"
C3	483.00'	623.09'	44°24'51"

CURVE	CHORD BRG.	CHORD
C1	S72°11'43"E	232.53'
C2	N89°12'39"E	636.61'
C3	N79°22'41"E	471.00'

DRAWN	TCM	PROJECT NO.	1612G
QC REVIEW	LFC	DATE	MAY 2016
SCALE	N.T.S.		

**CITY OF OLYMPIA**  
**EXHIBIT "B"**  
**LOG CABIN EXTENSION RIGHT-OF-WAY DEDICATION**  
**SE 1/4 OF SECTION 30, T. 18 N., R. 1 W., W.M.**

DRAWING NAME	LogCabinExhibit
SHEET 1 OF 1	



## City Council

### Approval of a Right-of-Way Donation Dedication Deed from Mr. Jay Kobza for the Boulevard Road and Morse-Merryman Road Roundabout Project

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.J  
**File Number:** 16-0638

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**Type:** decision **Version:** 1 **Status:** Passed

---

#### **Title**

Approval of a Right-of-Way Donation Dedication Deed from Mr. Jay Kobza for the Boulevard Road and Morse-Merryman Road Roundabout Project

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve the Kobza donation dedication deed necessary to complete the Boulevard Road and Morse-Merryman Road project, and authorize the City Manager to execute all necessary closing documents.

#### **Report**

##### **Issue:**

Whether to accept a right-of-way donation deed for the Boulevard Road and Morse-Merryman Road Roundabout Project.

##### **Staff Contact:**

Ladd F. Cluff, PLS, City Surveyor, Public Works Engineering, 360.753.8389

##### **Presenter(s):**

None - Consent Calendar Item

#### **Background and Analysis:**

Olympia City Council adopted the Boulevard Road Corridor Study on April 18, 2006. The Study made several recommendations to improve safety along the Corridor. The roundabout at Boulevard Road and Morse-Merryman Road is one of those safety improvements. The City is on schedule to build the roundabout starting in 2017. Before construction can start, the right-of-way and utility easement acquisitions need to be complete.

The original project limits did not include improvements along the property at 3437 Boulevard Road SE. In early discussions Mr. Kobza stated that he would be willing to donate the necessary right-of-way and easements if the City expanded the project to include his frontage. His motivation for making the donation of land was to ensure that there would not be a gap in the sidewalk. The option to expand the project limits became viable once Puget Sound Energy (PSE) made the decision to expand their project limits, at their cost, through Mr. Kobza's property.

The design team evaluated the cost of frontage improvements across Mr. Kobza's property. The team also considered what the benefit to the citizens of Olympia would be. They determined that the benefit exceeds the cost. Expanding the project limits will provide a continuous sidewalk on the north side of Boulevard Road from the Log Cabin Roundabout to Washington Middle School. The design team, Transportation Director, and the City Engineer support this option.

The design team contacted Mr. Kobza to confirm that the City is willing to accept the donation and expand the project limits to include the additional frontage improvements. Mr. Kobza has agreed, and has signed all necessary documents.

**Neighborhood/Community Interests (if known):**

The Boulevard Road Study reflects the community's expectations for this major north-south corridor. Property acquisition consistent with this study is an important step in carrying out the project as planned to meet vehicle, bicycle, and pedestrian needs.

**Options:**

1. Approve the Kobza donation dedication deed necessary to complete the Boulevard Road and Morse-Merryman Road project, and authorize the City Manager to execute all necessary closing documents.
  - a. Will allow the project to move forward as planned.
  - b. Is consistent with the project that has been discussed with the neighborhood.
  - c. Implements the Boulevard Road Corridor Study recommendations.
  - d. Provides continuous sidewalk on the north side of Boulevard Road to Washington Middle School.
2. Do not approve the donation of property.
  - a. Would require the project to be redesigned.
  - b. Would eliminate continuous sidewalk from Log Cabin roundabout to Washington Middle School and forcing pedestrians to cross Boulevard Road several times.

**Financial Impact:**

There is no cost to City to accept the right of way. This Roundabout project is funded by City funds and a grant from the Federal Highway Administration.

**Attachments:**

Dedication Deed  
Vicinity Map

After recording return document to:  
City of Olympia  
Attention: Legal Department  
P.O. Box 1967  
Olympia, WA 98507-1967

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**Document Title:** RIGHT-OF-WAY DEDICATION DEED  
**Grantor:** Jay Kobza, as his separate estate  
**Grantee:** City of Olympia  
**Legal Description:** Ptn NE 1/4 SE 1/4 25-18-2W  
**Assessor's Tax Parcel Number:** 12825410201

### RIGHT-OF-WAY DEDICATION DEED

The Grantor, Jay Kobza, as his separate estate, for and in consideration of mutual benefit, hereby grants unto the Grantee, **CITY OF OLYMPIA**, a municipal corporation, and its assigns, a public highway right-of-way easement, to be used for all lawful right-of-way purposes, surface and subsurface, including but not limited to right-of-way uses as well as sidewalks, plantings, right-of-way beautification improvements where deemed appropriate by the City of Olympia, installation, operation and maintenance of utilities, stormwater and such other uses that municipalities may make of rights-of-way from time to time, now or in the future, for the use and benefit of the public, over, under, upon and across the hereinafter described lands. All such uses are unrestricted in location within the right-of-way and shall not be limited in any way whatsoever by the state of being, condition, or location of the street.

Said lands being situated in the City of Olympia, County of Thurston, State of Washington, legally described as follows:

See attached Exhibits "A" and "B" by reference made a part hereof.

Also, the undersigned hereby requests the Assessor and Treasurer of said County to set-over to the remainder the lien of all unpaid taxes, if any, affecting the property hereby conveyed, as provided by RCW 84.60.070.

It is understood and agreed that delivery of this Deed is hereby tendered and that the



Accepted and Approved:  
CITY OF OLYMPIA

Approved as to form:

By: \_\_\_\_\_  
Steven R. Hall, City Manager

  
\_\_\_\_\_  
City Attorney

Date: \_\_\_\_\_

PROJECT NAME: Boulevard & Morse-Merryman Roundabout  
PROJECT NO: 1340G  
OWNER AND PARCEL NUMBER: Kobza - 12825410201  
DATE: March 11, 2016

**EXHIBIT "A"**

**RIGHT-OF-WAY DEDICATION DESCRIPTION**

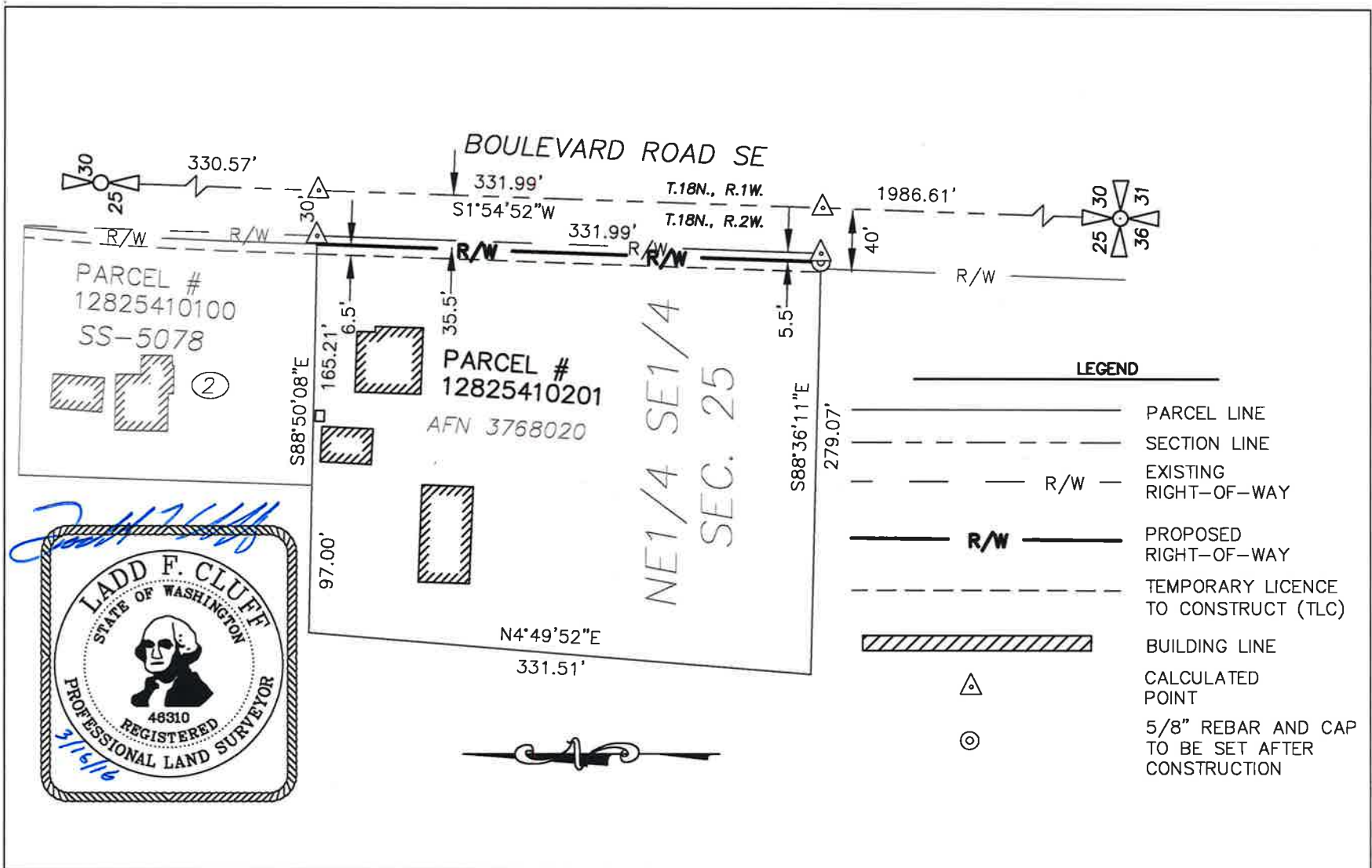
A Right-of-Way dedication over and across a Tract of land described in Statutory Warranty Deed, recorded under Auditor's File Number 3768020, records of Thurston County, Washington, situated in the NE ¼ of the SE ¼ of Section 25, Township 18 North, Range 2 West, Willamette Meridian, said dedication described as follows:

All that portion of said Tract lying East of a line being 35.5 feet West of and parallel with the East line of said section 25

Said dedication containing 1826 square feet.





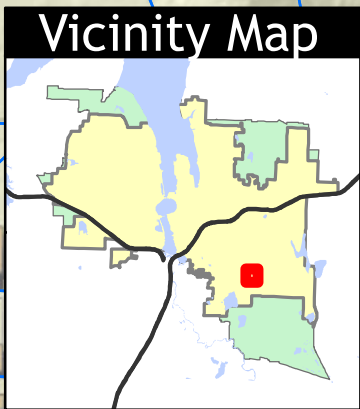
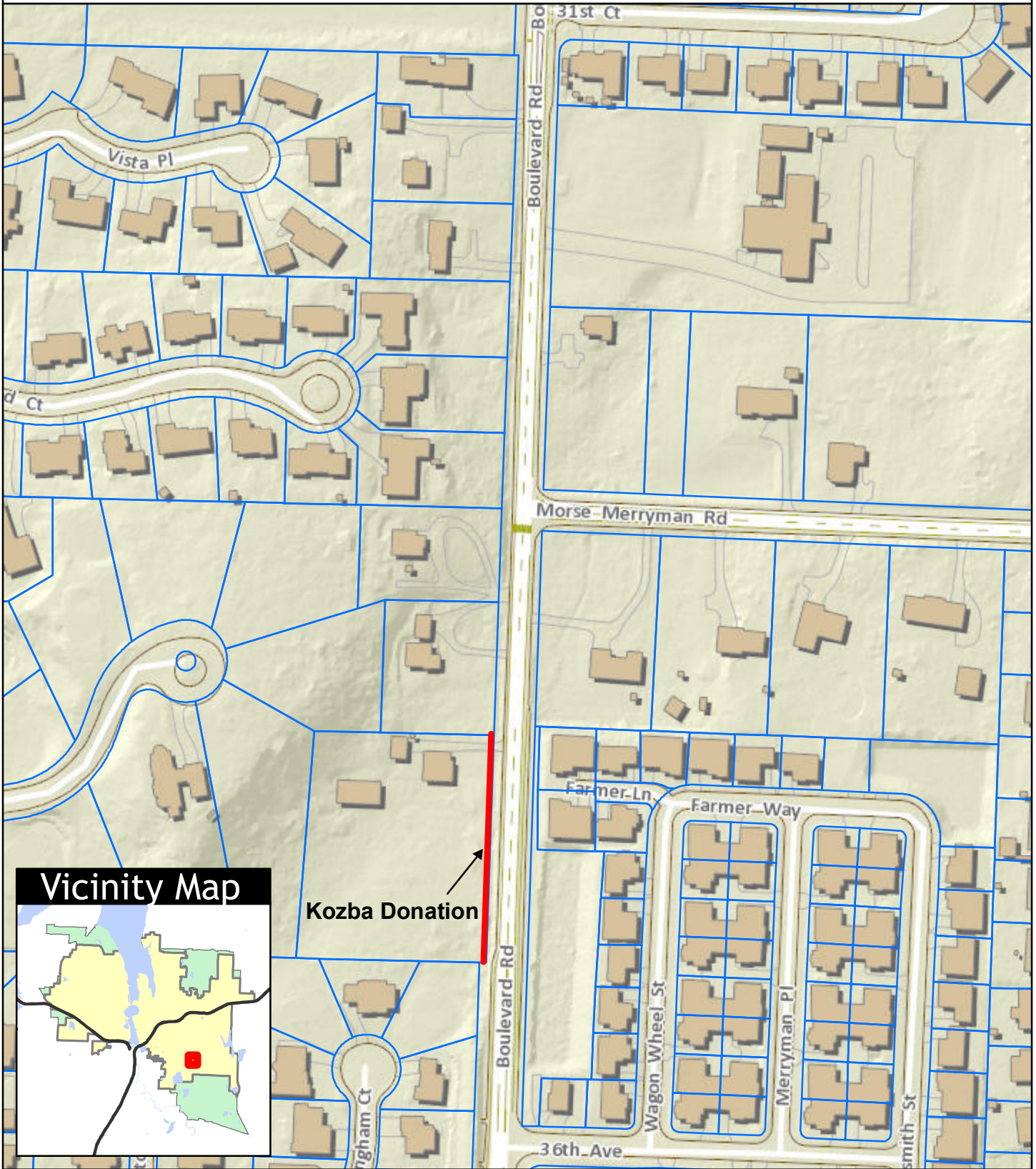


		PROJECT NO.	<b>CITY OF OLYMPIA</b> <b>EXHIBIT "B"</b> <b>BOULEVARD RD. &amp; MORSE-MERRYMAN ROUNDABOUT</b> <b>SECTION 25, T. 18 N., R. 2 W., W.M.</b>	DRAWING NAME
DRAWN	TCM	1340G		KOBZA
QC REVIEW	LFC	DATE		SHEET 1 OF 1
SCALE	N.T.S.	MARCH 2016		

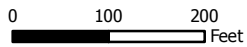


# 1340G- Boulevard and Morse Merryman Roundabout

## Kozba Donation



Kozba Donation



1 inch = 200 feet

Map printed 5/26/2016

The City of Olympia and its personnel cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. The parcels, right-of-ways, utilities and structures depicted hereon are based on record information and aerial photos only. It is recommended the recipient and/or user field verify all information prior to use. The use of this data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may not assert any proprietary rights to this information. The City of Olympia and its personnel neither accept or assume liability or responsibility, whatsoever, for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.





## City Council

### Approval of Application for the 2016 Department of Justice Assistance Grant (JAG)

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.K  
**File Number:** 16-0710

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**Type:** decision   **Version:** 2   **Status:** Passed

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**Title**

Approval of Application for the 2016 Department of Justice Assistance Grant (JAG)

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to approve the application for the 2016 Justice Assistance Grant.

**Report**

**Issue:**

Whether to approve making an application to receive funding from the Department of Justice for management and leadership training.

**Staff Contact:**

Laura Wohl, Administrative Services Manager, Olympia Police Department, 360-753-8214

**Presenter(s):**

None - Consent Calendar Item

**Background and Analysis:**

Annually, the Department of Justice offers cities and states grant funding through the Justice Assistance Grant (JAG). This year, the City of Olympia has been allocated \$17,168 through the JAG program. The Police Department has prepared a grant application to use the funding for essential management and leadership training. The Department has experienced a significant turn-over in mid- and senior-level managers due to a large number of retirements. The Department proposes sending the new incumbents to nationally-recognized training to quickly increase their knowledge base and provide them with important tools to lead the Department into the future.

**Neighborhood/Community Interests (if known):**

NA

**Options:**

1. Approve the application for the JAG grant for funding management and leadership training.
2. Do not approve the application for the JAG grant and do not pursue additional training for police leadership.
3. Direct the City Manager to apply for the JAG grant for another purpose.

**Financial Impact:**

\$17,168 from the federal Department of Justice

\$ 677 of City funds

**Attachments:**

2016 JAG Program Narrative

2016 JAG Budget and Budget Narrative

**2016 JAG PROGRAM – LOCAL SOLICITATION**

**CITY OF OLYMPIA, WASHINGTON**

**MANAGEMENT & LEADERSHIP TRAINING**

**PROGRAM NARRATIVE**

Applicant: City of Olympia (WA) Police Department

Grant Number: BJA-2016-9020

Project Title: Management & Leadership Training

Project Identifier: Law Enforcement Leadership

Project Goals: To provide training opportunities for mid- and senior-level managers to increase their expertise in specific areas and in general leadership development

Program Narrative:

The City of Olympia Police Department has experienced an unprecedented wave of retirements at the mid- and senior-management levels of the organization that began in 2011. By August 2016, the Department will have replaced all its senior level managers. The promotion of internal candidates to these senior level positions has necessitated the promotion of mid-level managers. The Department anticipates additional mid-level retirements in early 2017. After this occurs, only 22% of the mid-level management team will have more than 3 years of management experience. In addition to staffing management positions, the Department has replaced more than half of its patrol officers. The replacement of so many personnel is both a positive and a negative: while we are losing experience as people retire, new staff bring fresh ideas and enthusiasm. It is essential that the Department's managers quickly develop strong leadership management skills to capitalize on this opportunity and to develop a community-oriented, ethical, and knowledgeable police department.

The Department seeks to use the funding available to provide critical training and leadership development opportunities for management staff:

- **Senior Management Institute for Police:** One of the most respected leadership training courses within law enforcement is the Police Executive Research Forum (PERF) Senior Management Institute for Police (SMIP). The SMIP is highly regarded for its innovative and evidence-based curriculum. The opportunity to interact with other senior law enforcement staff, while learning from some of the best minds in policing, will provide a senior manager with an excellent foundation for providing leadership throughout his or her career. The Department intends to provide one senior manager with this opportunity.
- **3CMA Conference:** The Department has steadily been increasing its communication with the community over the last two years. One division is dedicated to community outreach, public

information, social media, and strategic marketing. The City-County Communications and Marketing Association (3CMA) is at the forefront of government communication. The annual conference offers an opportunity to both learn about effective communication tools and to network with other communication professionals. The senior manager responsible for the Communications division will attend.

- **Police Training Officer (PTO) School:** The Department continues to hire between 5-10 new officers per year. We have an effective training program that includes the State of Washington Basic Law Enforcement Academy followed by a robust PTO program. In order for the PTO program to be successful, it must be well-understood and well-managed. The Department will send one of the new mid-managers to PTO management school, such as that offered by the Southern Police Institute.
- **Internal Affairs Investigation Training:** The Department has promoted a new senior level manager to oversee the Professional Standards Office, which includes the Department's Internal Affairs investigations. The Olympia Police Department is committed to building public trust and an important aspect of our mission is ensuring that officers and staff are accountable for their actions. The Professional Standards manager must have excellent investigative skills, interview skills, and a strong foundation in employment law. The Professional Standards manager will attend Internal Affairs Investigation training to enhance these skills and knowledge base.

The Olympia Police Department will use the Justice Assistance Grant funding to further its mission of building public trust by ensuring that its management team has the tools available to them to lead the Department effectively. Training is essential to growing new leaders in the Department.

**2016 JAG GRANT – LOCAL SOLICITATION**  
**CITY OF OLYMPIA, WASHINGTON**  
**MANAGEMENT & LEADERSHIP TRAINING**  
**BUDGET SUMMARY & NARRATIVE**

**Budget Summary**

<b>COST DESCRIPTION</b>	<b>AMOUNT</b>
<b>A. Personnel/Salary Costs</b>	
<b>B. Fringe Benefits</b>	
<b>C. Travel</b>	\$ 6,720.00
<b>D. Equipment</b>	
<b>E. Supplies</b>	
<b>F. Construction</b>	
<b>G. Consultants/Contracts</b>	
<b>H. Other Costs</b>	\$ 11,125.00
<b>I. Indirect Costs</b>	
<b>TOTAL PROJECT COSTS</b>	<u>\$ 17,845.00</u>
	-
<b>Federal Request</b>	\$ 17,168.00
<b>Applicant funds, if any, to be applied to this project</b>	\$ 677.00

**Budget Narrative**

- A. Personnel:**  
This section is not applicable.
  
- B. Fringe Benefits:**  
This section is not applicable.
  
- C. Travel:**

The Department will send four, new mid- and senior-level managers to training that builds their leadership and management skills. The courses and conferences are located in various parts of the United States necessitating travel for 3 days to 3 weeks. The Department is choosing the highest caliber courses that are offered at the least amount of expense. Wherever possible, the Department will seek to reduce travel costs by making travel arrangements in advance and taking advantage of any discounts available for course attendees. The travel amount includes airfare and mileage, per diem, and lodging costs for four training courses.

- Police Executive Research Forum Senior Management Institute for Police (3 weeks):
  - Airfare: \$700
  - Meals: \$975
  - Lodging: Included in registration fee
- 3CMA Conference (3 days):
  - Airfare: \$700
  - Meals: \$325
  - Lodging: \$1,000
- Southern Police Institute Police Training Officer School
  - Airfare: \$700
  - Meals: \$325
  - Lodging: \$1,000
- Public Agency Training Council Internal Affairs Training
  - Mileage: \$200
  - Meals: \$195
  - Lodging: \$600

**D. Equipment:**

This section is not applicable

**E. Supplies:**

This section is not applicable

**F. Construction:**

This section is not applicable.

**G. Consultants/Contracts:**

This section is not applicable.

**H. Other Costs:**

The Department has identified four management training opportunities that are highly regarded in the law enforcement field. The “other costs” comprise registration for the courses.

- Police Executive Research Forum Senior Management Institute for Police:
  - Registration fee: \$9,250
- 3CMA Conference:
  - Registration: \$820-870



- Southern Police Institute Police Training Officer School
  - Registration: \$725
- Public Agency Training Council Internal Affairs Training
  - Registration: \$395

I. **Indirect Costs:**

This section is not applicable



## City Council

### Approval of Ordinance Amending Rezone Hearing Body

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.L  
**File Number:** 16-0606

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**Type:** ordinance **Version:** 2 **Status:** Passed

---

#### **Title**

Approval of Ordinance Amending Rezone Hearing Body

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to adopt the Ordinance in clarifying procedures for review of site-specific rezone applications on second reading.

#### **Report**

##### **Issue:**

Whether to adopt the attached ordinance clarifying procedures for review of site-specific rezone applications and affirming that the Hearing Examiner should continue to be the hearing body to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications.

##### **Staff Contact:**

Leonard Bauer, Deputy Director, Community Planning & Development, (360) 753-8206,  
[lbauer@ci.olympia.wa.us](mailto:lbauer@ci.olympia.wa.us) <<mailto:lbauer@ci.olympia.wa.us>>

##### **Presenter(s):**

Leonard Bauer, Deputy Director, Community Planning & Development

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

During the update of the Comprehensive Plan, some members of the public suggested that if the Plan were to allow for more rezone applications, the City's Development Code should be amended to provide that rezone hearings would be held by the Planning Commission instead of the Hearing Examiner. On September 23, 2013, the Commission held a public hearing regarding this proposal and, following deliberation on October 21, 2013, the Commission unanimously recommended that the City Council amend the Development Code accordingly. This proposal was placed on hold until

the Council approved the updated Plan in December of 2014. On May 19, 2015, the Council referred the rezone-hearing-body issue to the Land Use and Environment Committee for review.

The Committee considered the issue on July 16, 2015. Following discussion, which included Planning Commission Chair Carole Richmond and Commissioner Roger Horn, the Committee recommended continuing the current practice and recommended that staff report back to the Committee at the end of 2016 regarding public hearings on rezone proposals held by the Hearing Examiner.

At its October 27, 2015 meeting, the City Council affirmed the Committee's recommendation and directed staff to prepare an ordinance to remove process ambiguities in the Municipal Code and clarify that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications (See attached meeting minutes).

A detailed analysis of the legal framework and history of rezones in Olympia is included in the October 27, 2015, staff report to the City Council (Attached). Note the attached guidance from the Washington Cities Insurance Authority (WCIA), which recommends that all quasi-judicial matters, including site specific rezones, be heard by a Hearing Examiner.

Per the City Council's direction, the attached ordinance clarifies the Municipal Code in three respects:

- To the \$3,200 rezone application fee of Title 4, add "plus \$1,500 Hearing Examiner deposit" to clarify that site-specific rezone applicants are subject to reimbursing the City for Examiner costs
- Amend OMC 18.58 and 18.59 to clarify that site-specific rezone applications are forwarded to the Planning Commission for recommendation without holding a public hearing, and then to the Hearing Examiner for public hearing and recommendation to City Council.
- Amend OMC 18.82.240 to clarify that the evidence, record and arguments considered by the City Council are solely those provided at the public hearing before the Hearing Examiner, and that no new evidence may be introduced before the City Council.

**Neighborhood/Community Interests:**

Rezoning may be considered for any site within the City, so this issue is of interest city-wide.

**Options:**

1. Adopt the Ordinance clarifying procedures for review of site-specific rezone applications
2. Do not adopt the Ordinance clarifying procedures for review of site-specific rezone applications
3. Direct staff to make specific amendments to the Ordinance and bring back to City Council.
4. Refer to a Committee for further consideration.

**Financial Impact:**

No direct impact; Examiner's hearing costs are borne by rezone applicants. As discussed above, increases in secondary costs could result from the proposed change.

**Attachments:**

1. Draft ordinance

2. City Council minutes 10.27.15
3. City Council staff report 10.27.15
4. Factors list
5. WCIA Guidance
6. Planning Commission minutes excerpts

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, CLARIFYING PROCEDURES FOR REVIEW OF SITE-SPECIFIC LAND USE ZONING CHANGES; AND AMENDING CHAPTER 18.58 AND SECTIONS 18.59.050, 18.59.060, AND 18.82.240 OF THE OLYMPIA MUNICIPAL CODE**

WHEREAS, during 2013, the Olympia Planning Commission (the Planning Commission) considered and on December 2014, the City Council adopted updates to the Olympia Comprehensive Plan that provide more opportunities for site-specific changes in land use zoning; and

WHEREAS, the Planning Commission received a briefing on August 19, 2013, and on September 23, 2013, held a public hearing regarding the possibility of amending the City's development code to provide that all rezone applications would be subject to review and public hearing by the Planning Commission; and

WHEREAS, following a public hearing and deliberations on October 7, 2013, the Planning Commission recommended such amendments; and

WHEREAS, following the City Council's adoption of the updated Comprehensive Plan in December 2014, the Land Use and Environment Committee considered the Planning Commission's recommendation regarding rezone applications on June 23, 2015, and instead formulated a recommendation that the current rezone review procedure be retained and the development code be clarified with regard to those procedures; and

WHEREAS, on October 27, 2015, the City Council reviewed the recommendations of the Planning Commission, the Land Use and Environment Committee, and the Washington Cities Insurance Authority on this topic and directed staff to prepare an ordinance amending the development code to clarify certain aspects of the current rezone review procedure; and

WHEREAS, this Ordinance is consistent with the direction of the City Council and with the City of Olympia Comprehensive Plan; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, Chapters 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, including but not limited to documents of Community Planning and Development File No. 13-0125; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC Chapter 18.58. Olympia Municipal Code Chapter 18.58 is hereby amended as follows:**

**Chapter 18.58  
REZONES AND TEXT AMENDMENTS**

18.58.000 Chapter Contents

Sections:

- 18.58.020 Authority.
- 18.58.040 Site-Specific Rezone procedures.
- 18.58.060 Collection of rezone applications.

**18.58.020 Authority**

The City Council may, upon its own motion, amend, supplement or change by ordinance, any of the provisions, use district boundaries or use district classifications herein established; provided, that in the case of ~~privately initiated~~ site-specific rezones, which do not require a Comprehensive Plan Amendment, the Council shall first review the recommendation of the Hearing Examiner, and that in the case of all other non-ministerial changes, including text amendments and privately initiated rezones which require a Comprehensive Plan Amendment, the Council shall first review the recommendation of the Planning Commission. Accordingly, the Department shall forward all proposed text amendments and rezone, i.e., zoning map amendment, proposals to the Planning Commission for review and recommendation, all site-specific rezone proposals to the Hearing Examiner for public hearing and recommendation, and to the City Council for consideration, review and action.

**18.58.040 Site Specific Rezone procedures**

In the case of ~~privately initiated~~ site-specific rezones which do not require a Comprehensive Plan Amendment, the rezone application review shall follow the procedures outlined in this Chapter, in Sections 18.82.140 through 18.82.280-18.59.050 and 18.59.055, and in Chapter 18.82, Hearing Examiner.

**18.58.060 Collection of rezone applications**

Site-specific rezone applications may be submitted at any time. However, for review purposes, such proposals will be collected into two (2) sets in each calendar year. Unless otherwise specifically authorized by the City Council:

- A. Proposals submitted between April 1st and September ~~31st~~ 30<sup>th</sup> shall be considered collectively and voted upon by the City Council by March 31st of the following year.
- B. Proposals submitted between October 1st and March 31st shall be considered collectively and voted upon by the City Council by September ~~31st~~ 30<sup>th</sup> of the same year.

- C. Proposals will be considered no more than twice each year.
- D. Time limits for review shall be as established in OMC 18.72.120, provided that the review period shall start on the latest submittal dates established under (A) and (B) of this section and not the date of application.

**Section 2. Amendment of OMC Section 18.59.050. Section 18.59.050 of the Olympia Municipal Code is hereby amended to read as follows:**

**18.59.050 Decision criteria for rezone requests**

~~The Department shall forward rezone, i.e., zoning map amendment, requests to the Planning Commission for review and recommendation and to the City Council for consideration for review and action. The following~~ criteria will be used to evaluate each rezone request. A zoning map amendment shall only be approved if the Council concludes that at minimum the proposal complies with subsections A through C. To be considered are whether:

- A. The rezone is consistent with either the Comprehensive Plan including the Plan's Future Land Use map as described in OMC 18.59.055 or with a concurrently approved amendment to the Plan.
- B. The rezone will maintain the public health, safety, or welfare.
- C. The rezone is consistent with other development regulations that implement the comprehensive plan.
- D. The rezone will result in a district that is compatible with adjoining zoning districts; this may include providing a transition zone between potentially incompatible designations.
- E. Public facilities and services existing and planned for the area are adequate and likely to be available to serve potential development allowed by the proposed zone.

**Section 3. Amendment of OMC 18.59.060. Section 18.59.060 of the Olympia Municipal Code is hereby amended to read as follows:**

**18.59.060 Planning Commission and City Council review and adoption process**

- A. Following one or more public hearings the Planning Commission shall forward its written recommendation regarding each Comprehensive Plan amendment, including and any text amendments or rezones, to the Council; provided that the Commission may forward any recommendation regarding a site-specific rezone to the Hearing Examiner without holding a public hearing.
- B. The Council shall review the recommendations of the Planning Commission, may hold a public hearing, and shall decide whether to adopt, modify and adopt, reject or defer to a later date, each proposed amendment, ~~including rezones.~~
- C. Each proponent shall be notified by mail of all public hearings and of the Council's final decision.

**Section 4. Amendment of OMC 4.40.010. Section 4.40.010 of the Olympia Municipal Code is hereby amended to read as follows:**

**4.40.010 Land use application review fees**

A. Commencing January 1, 2013, the following fee schedule shall be in full force and effect.

<b>Certifications and Appealable Letters</b>	<b>Land Use and Planning Applications<sup>1</sup></b>
Independent Confirmation of Critical Areas Report	\$520 plus any consultant costs
Wetland Report prepared by City staff	\$800 plus any consultant costs
Zoning, Occupancy Status, Flood Hazard, and other staff confirmations	\$100
Staff-Researched Letter, Shoreline Permit Exemption, Discretionary Time Extension, or Appealable Opinion <sup>2</sup>	\$360 plus any consultant costs
<b>Actions Independent of Development Review</b>	
Presubmission Conference	\$240
SEPA Review (only)	\$480
Variance (staff level)	\$240
Variance and/or Reasonable Use Exception (by Examiner)	\$480 + \$1,000 Hearing Examiner deposit <sup>3</sup>
<b>Code and Plan Amendments</b>	
Comprehensive Plan Amendment (post-screening without rezone)	\$240
Shoreline Program	\$3,200
Original Master Plan (Villages & Centers) (See OMC Chapter 18.05)	\$3,200 + \$ 140 per acre or part thereof + \$2,500 Hearing Examiner deposit <sup>3</sup>
Master Plan Revision	\$1,600 + \$1,500 Hearing Examiner deposit <sup>3</sup>
Development Agreement	\$3,200 + \$2,000 Hearing Examiner deposit if referred to examiner <sup>3</sup>
Zoning and Development Code Maps or Text	\$3,200 <del>200</del> + <u>if a site-specific rezone, a \$1,500 Hearing Examiner deposit<sup>5</sup></u>
<b>Annexations</b>	
Notice of Intent to Annex	\$320
Petition to Annex	\$2,880



**Temporary Uses**

Temporary Use Permit for three or less consecutive days \$50

Temporary Uses for four or more consecutive days \$200

**Subdivision Actions**

Lot Consolidation \$360

Boundary Line Adjustment \$320 plus \$160 per boundary line

Preliminary Short or Large-Lot Plat \$600 + \$ 300 per lot

Final Short or Large-lot Plat \$600

Preliminary Full (ten or more lots) Plat \$ 3,600+ \$ 600 per acre, or part thereof + \$2,500  
Hearing Examiner deposit<sup>5</sup>

Final Full (ten or more lots) Plat<sup>3</sup> \$2,600

Binding Site Plan Any land use review fee; plus sum equivalent to platting  
fee - latter reduced by 1/2 if concurrent with initial  
development

Improvements deferral review by Examiner (OMC 17.44.020(E)) \$1,800+ \$2,000 Hearing Examiner deposit<sup>5</sup>

**Land Use (Site Plan) Review<sup>3</sup>**

No new structure to 5,000 square feet new gross floor area \$2,600

5,001 to 8,000 square feet of new gross floor area \$4,700

8,001 to 16,000 square feet of new gross floor area \$6,800

16,000 to 24,000 square feet of new gross floor area \$9,200  
area

24,001 or more square feet of new gross floor area \$11,500

Wireless Communication Facility \$3,700, plus any consultant costs of City

**Supplemental Actions**

Traffic modeling or distribution by City staff No charge, except any consultant fees

Additional SEPA Review (WAC 197-11-335) No charge, except any consultant fees

Environmental Impact Statement \$3,200+ preparation at contract rate to be determined

Design Concept Review --Board Level \$900

Design Details Review-- Board Level \$900

Design Review--Staff Level	\$240
Sign (Design) Review	\$55 per sign to \$330 maximum per occupancy
Examiner Review--Project Subject to SEPA	\$1,200 + \$2,000 Hearing Examiner deposit <sup>5</sup>
Wireless Communication Facility -- Subject to SEPA	\$4,600+ \$2,000 Hearing Examiner deposit <sup>5</sup> plus any consultant costs of City
Examiner Review--Project SEPA Exempt	\$900 + \$750 Hearing Examiner deposit <sup>5</sup>
Wireless Communication Facility -- SEPA Exempt	\$3,700 + \$750 Hearing Examiner deposit <sup>5</sup> plus any consultant costs of City
Modification of an approved application	50% of standard fee plus any Examiner deposit
Consolidated Review (RCW 36.70B.120) <sup>4</sup>	\$5,000
Impact Fee Appeal to Examiner	\$1,000 + \$500 Hearing Examiner deposit <sup>5</sup>
Other Appeal to Examiner	\$1,000
Appeals to Council (only if authorized)	\$500
Request for Reconsideration or Clarification by Examiner (OMC 18.75.060 and 070)	\$240 + \$500 Hearing Examiner deposit <sup>5</sup>
<b>Historic Rehabilitation Tax Exemption</b>	
Commercial	\$880
Residential	\$260

NOTES:

1. Additional fees may be applicable, including tree plan and engineering fees.
2. Staff certification or researched letter fees, and need for third-party consultation are at the discretion of the Planning Manager.
3. There is no extra charge for Planned Residential Development Approval.
4. The Consolidated Review Fee is an additional fee that applies to requests to merge review of preliminary development applications with construction permit applications, such as land use review and engineering permits.
5. Where Examiner deposit is required, applicant is responsible and required to pay actual Hearing Examiner costs, which may be higher or lower than the deposit amount.

**Section 5. Amendment of OMC 18.82.240.** Section 18.82.240 of the Olympia Municipal Code is hereby amended as follows:

**18.82.240 Rezones –Recommendations**

Any decision of the Hearing Examiner regarding a rezone, or a Master Plan Development, with or without conditions, shall be in the form of a recommendation to the City Council. Said recommendation shall be considered by the Council at a regular public meeting. In the alternative, the Council may consider the recommendation at a public hearing with notice given as provided by this Chapter. In either case, the scope of Council review shall be as provided in Sections 18.75.080 and 18.75.100 of this Chapter. The evidence, record and arguments before the Council shall be limited solely to those brought before the Hearing Examiner. A copy of documents will be provided to the Council by paper or on the internet. A copy of arguments will be presented to the Council or provided on the internet. No new evidence, record or arguments of any type is allowed before Council. The staff report, recordings if any, and attachments, including those on the internet, to Council will solely provide the evidence, record and argument that was presented to the City Hearing Examiner on the proposed rezone that does not require a Comprehensive Plan amendment.

**Section 6. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 7. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 8. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

*Darren Nienaber, DCA*

\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**



# Meeting Minutes

## City Council

City Hall  
601 4th Avenue E  
Olympia, WA 98501

Information: 360.753.8447

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**Tuesday, October 27, 2015**

**7:00 PM**

**Council Chambers**

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### 1. ROLL CALL

**Present:** 7 - Mayor Stephen H. Buxbaum, Mayor Pro Tem Nathaniel Jones, Councilmember Jim Cooper, Councilmember Julie Hankins, Councilmember Steve Langer, Councilmember Jeannine Roe and Councilmember Cheryl Selby

### 1.A ANNOUNCEMENTS

Mayor Buxbaum noted the Council met earlier in the evening to discuss the minimum wage in Olympia. He called attention to November 3 being election night and encouraged citizens to vote.

### 1.B APPROVAL OF AGENDA

The agenda was approved.

### 2. SPECIAL RECOGNITION - None

### 3. PUBLIC COMMUNICATION

The following people spoke: Max Nelson, Nicola Purpura, Bobby Snyder, Christina Balsom, Ray Guerra, Brian Huseby, Caro Gonzalez, Nani Nguyen, Bridget Drager, Kieran Shell, Ronald Nesbitt, Dylan Carlson, Austin Lind, and Arthur West.

### 4. CONSENT CALENDAR

4.A [15-1002](#) Approval of October 13, 2015, City Council Meeting Minutes

The minutes were adopted.

4.B [15-1019](#) Approval of October 20, 2015 Study Session Meeting Minutes

The minutes were adopted.

4.C [15-0966](#) Approval of Community Development Block Grant (CDBG) Annual Report for Program Year 2014

The decision was adopted.

4.D [15-0946](#) Approval of the Village at Mill Pond Phase I Final Plat

**The decision was adopted.**

- 4.E [15-1015](#) Approval of Interlocal Agreement With the Washington Traffic Safety Commission (WTSC) for Traffic Safety Emphasis Patrols

**The decision was adopted.**

- 4.F [15-1016](#) Approval of Interlocal agreement with the Washington Traffic Safety Commission (WTSC) for Local Liaison for Traffic Safety Emphasis Patrols

**The decision was adopted.**

### **Approval of the Consent Agenda**

**Councilmember Langer moved, seconded by Councilmember Hankins, to adopt the Consent Calendar. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

## **6. OTHER BUSINESS**

- 6.A [15-1011](#) Potential Code Amendment Regarding Rezone Hearing Body

Principal Planner Todd Stamm discussed a potential code amendment that would provide for the Planning Commission, instead of the Hearing Examiner, to hold public hearings related to site specific rezone applications. He shared three options on how to proceed.

**Councilmember Cooper moved, seconded by Councilmember Selby, to retain the existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct City staff to present an ordinance amending the Code to remove process ambiguities as described in the staff report. The motion carried by the following vote:**

**Aye:** 7 - Mayor Buxbaum, Mayor Pro Tem Jones, Councilmember Cooper, Councilmember Hankins, Councilmember Langer, Councilmember Roe and Councilmember Selby

- 6.B [15-1014](#) Presentation of the 2016 Preliminary Operating Budget

City Manager Steve Hall shared data about the City and services provided to the community. He and Administrative Services Director Jane Kirkemo presented the 2016 Preliminary Operating Budget. Councilmembers asked clarifying questions.

**The information was provided.**

**7. CONTINUED PUBLIC COMMUNICATION - None****8. REPORTS AND REFERRALS**

Councilmember Cooper requested a referral to the Planning Commission regarding an adjustment of zoning recreational marijuana dispensaries. Mayor Buxbaum requested further information be included in the referral before it is moved forward. The referral will be brought back at the November 10 Council Meeting.

**8.A COUNCIL INTERGOVERNMENTAL/COMMITTEE REPORTS AND REFERRALS**

Councilmembers reported on meetings and events they attended.

**8.B CITY MANAGER'S REPORT AND REFERRALS**

Mr. Hall discussed a funding request of \$9,000 from the Ambassador Program. He would like to bring this item to the Consent Calendar on November 10. The Council agreed.

**9. ADJOURNMENT**

The meeting adjourned at 9:25 p.m.

**Title**

Potential Code Amendment Regarding Rezone Hearing Body

**Recommended Action****Planning Commission Recommendation:**

Move to direct staff to prepare an ordinance amending the Development Code to provide that the Planning Commission, instead of the Hearing Examiner, will hold public hearings related to site-specific rezone applications. (Option 3)

*Note: City staff did not provide a recommendation when this issue was considered by the Planning Commission.*

**Recommended Action****Land use and Environment Committee Recommendation:**

Move to retain existing Development Code provision so that the Hearing Examiner continues to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct staff to report to the Land Use and Environment Committee in 2016 regarding the experience with this approach. (Option 2)

**City Manager Recommendation:**

Move to retain existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site specific rezone applications and direct City staff to prepare an ordinance amending the Code to remove ambiguities as described below with regard to that process.(Option 1)

**Report****Issue:**

Whether Olympia's Hearing Examiner or the Planning Commission should hold public hearings before making a recommendation to the City Council regarding proposed changes in the land use zoning of individual properties.

**Staff Contact:**

Todd Stamm, Principal Planner, Community Planning and Development Department, 360.753.8597

**Presenter:**

Todd Stamm, Principal Planner

**Background and Analysis:**

During the recent update of the Comprehensive Plan, some members of the public suggested that if the Plan were to allow for more rezone applications, the City's Development Code should be amended to provide that rezone hearings would be held by the Planning Commission instead of the Hearing Examiner. On September 23, 2013, the Commission held a public hearing regarding this proposal and following deliberation on October 21, 2013, the Commission unanimously recommended that the City Council

amend the Development Code accordingly. (See attached minutes' excerpts.) This proposal was placed on hold until the Council approved the updated Plan in December of 2014. On May 19, 2015, the Council referred the rezone-hearing-body issue to the Land Use and Environment Committee for review.

The Committee considered the issue on July 16, 2015. Following discussion, which included Planning Commission Chair Carole Richmond and Commissioner Roger Horn, the Committee recommended continuing the current practice and recommended that staff report to the Committee in 2016 after the City has more experience with Examiner-led reviews of rezone proposals.

### Legal Framework

Land use zoning, i.e., limiting land uses in each part of the community, is one of the primary means by which most cities seek to implement their Comprehensive Plans. Changes in the zoning map, commonly referred to as "rezones," may be proposed for individual properties or large areas of the City. As required by State law, the City Council makes the final decision for the City regarding all such zoning and Development Code amendments.

However, a series of court decisions have outlined that the process for reviewing '**site-specific**' zoning changes should be different than for '**area-wide**' zoning changes. (Although these terms are commonly used by the courts and in State law, they do not have specific definitions.) Olympia's current Development Code provides that **area-wide** zoning changes and any proposed rezone that would be inconsistent with the City's Comprehensive Plan are to be the subject of a Planning Commission public hearing and recommendation prior to a decision by the City Council. In contrast, the Code provides that the 'open record' public hearing regarding a proposed '**site specific**' rezone is to be held by the Olympia Hearing Examiner prior to the Examiner making a recommendation to the Council. Such **site-specific** rezone proposals are first referred to the Commission for review and recommendation prior to the Examiner's consideration, but because State law allows only one such hearing, the Commission does not hold a public hearing.

### History of Olympia's Rezone Process

Olympia first adopted land use zoning during the 1930s. For about fifty years, all rezone hearings were held by the Planning Commission. However, in the 1980s Olympia and many other cities instituted a 'Hearing Examiner system' in response to court directives requiring that certain land use actions conform with 'quasi-judicial' procedures. The courts noted that certain actions, including site specific rezones, determined the property rights of a few individuals and accordingly that these proceedings should be more akin to judicial processes.

These 'quasi-judicial' practices -- intended to achieve a fair hearing and result -- include specific review criteria, sworn testimony, the opportunity for cross-examining witnesses, limited contact outside the hearing, and ultimately specific written findings of fact and conclusions of law. These proceedings differ greatly from the more common "legislative" processes to which the courts give much greater deference to local government



decisions and thus the City has broader discretion with regard to procedures.

To ensure compliance with these strict quasi-judicial procedural requirements, Olympia's Code was amended and for about ten years the Olympia Hearing Examiner held hearings regarding site-specific rezone proposals. However, in the mid-1990s Olympia's Comprehensive Plan became more specific, with the result that rezone applications were routinely joined with 'legislative' Plan amendments, and as a result subject to Planning Commission hearings.

The revised Comprehensive Plan adopted by the City in December of 2014 is less specific with regard to the zoning of each parcel of land. As a result, the staff anticipates that a few (maybe 2 or 3) site-specific rezone applications will be received each year hereafter. The first such request, submitted by the Medela Group in January of 2015, was recently preliminarily decided by the Council. Another rezone application has been received and pursuant to the City's 'twice each year' review process will be presented to the Council early in 2016.

State law requires that one and only one 'open record' public hearing be held by a city when considering a proposed site-specific rezone. The question now presented for the Council's consideration is whether the public hearing for these types of proposals should be heard by a Hearing Examiner or the Planning Commission. Neither Olympia's Comprehensive Plan nor State law designates whether the Commission or the Examiner should hold such hearings and make recommendations to the Council - so ultimately this choice of processes is at the Council's discretion. Some of the factors to consider in making this determination are listed in the attached document.

### Conclusions

A survey of Olympia's peer cities (over a dozen similarly sized Washington cities plus Tumwater and Salem) revealed a broad range of approaches. For example, in Richland, Lacey, Longview, and Edmonds all rezones are reviewed by their Planning Commissions. In contrast, in Salem and Bremerton all rezones are reviewed by Hearing Examiners. Puyallup and Sammamish have split processes similar to Olympia. Many cities responded that they have tried or considered alternatives and each approach has advantages and disadvantages. As noted above, except for the Medela rezone, Olympia has little recent experience with site-specific rezone applications independent of Comprehensive Plan amendments. Review of another rezone application began on October 1.

The Washington Cities Insurance Authority (WCIA) recommends that all quasi-judicial matters, including site specific rezones, be heard by a Hearing Examiner. (See attached WCIA guidance.) On balance, it is the staff's opinion that, given the procedural complexity similar to other development proposals, the Examiner is the more appropriate officer to hold site-specific rezone hearings.

If the Examiner is to continue to hold site-specific rezone hearings, the staff recommends that the relevant code be clarified in three respects:

- To the \$3200 rezone application fee of Title 4, add “plus \$1,000 Hearing Examiner deposit” to clarify that site-specific rezone applicants are subject to reimbursing the City for Examiner costs
- Amend OMC 18.58.060 by inserting the clause “not associated with a Comprehensive Plan amendment” to clarify that only those types of site-specific rezones are subject to the twice-each-year process; others are limited to once each year
- Amend OMC 18.59.050 to clarify that site-specific rezone applications shall be forwarded to both the Planning Commission and Hearing Examiner for review and recommendation; and to clarify that any Planning Commission recommendation is to be issued prior to the Examiner’s public hearing

Note, these process clarifications were not considered by the Land Use and Environment Committee.

**Neighborhood/Community Interests (if known):**

Public interest in this topic has been minimal, but those citizens who have commented have generally favored the Planning Commission holding hearings regarding site-specific rezones.

**Options:**

1. Move to retain the existing Development Code provision so that the Hearing Examiner holds public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct City staff to present an ordinance amending the Code to remove process ambiguities as described above.
2. Move to retain the existing Development Code provision so that the Hearing Examiner continues to hold public hearings and makes recommendations to the City Council regarding site-specific rezone applications; and direct staff to report to the Land Use and Environment Committee in 2016 regarding experience with this approach.
3. Move to direct staff to present an ordinance amending the Development Code to provide that the Planning Commission, instead of the Hearing Examiner, will hold public hearings related to site-specific rezone applications.
4. Schedule a public hearing regarding this topic.

**Financial Impact:**

No direct impact; Examiner’s hearing costs are borne by rezone applicants. As discussed above, increases in secondary costs could result from the proposed change.



## **FACTORS CONSIDERED BY PLANNING COMMISSION AND LAND USE & ENVIRONMENT COMMITTEE**

1. Both the Hearing Examiner and Planning Commission membership are selected by the City Council. If the regular Examiner is unable to hear a particular matter, a temporary Examiner is selected by the Community Planning and Development Director from a list pre-approved by the Council.
2. Unlike a voting body such as the Commission, an Examiner's decision cannot result in a tie vote. Similarly, conflicting statements or opinions expressed by different commissioners can result in greater legal risk when quasi-judicial decisions, such as site-specific rezones, are reviewed on appeal.
3. Since the Commission's review must occur at public meetings with due notice, review and recommendation; reaching a decision generally requires more time for a Commission than if review is conducted by an Examiner. (Examiners are generally limited to a 14-day review period.)
4. The Planning Commission's work program is typically very full throughout the year. Adding site-specific rezone requests likely would affect the timeliness for completing consideration of other items on their meeting agendas. The Hearing Examiner is available as needed to address site-specific rezones.
5. Unlike a single Examiner, the recommendation of a Planning Commission can turn on the particular members who participate in the proceeding, and especially who attends the meeting where the final vote occurs.
6. Site-specific rezones are 'quasi-judicial' matters subject to extraordinary procedural requirements. Among these are requirements to ensure that the process is not only fair in fact, but that it appears fair to a reasonable person; contact with interested parties outside of the hearing is generally prohibited; and specific findings and conclusions supporting the decision are usually needed. In general, professional Hearing Examiners are better trained in complying with these requirements than lay Planning Commissioners. In addition, the higher number of commissioners can lead to greater opportunity for inappropriate contact with interested parties.
7. Hearing Examiners usually are responsible for reviewing development proposals, while Planning Commissions generally address broader policy questions. Site-specific rezones include aspects of both types of decisions. Like development proposals, they must be decided based on specific criteria, but like broader code amendments they are a regulation change and not approval to construct a specific development.
8. Hearing Examiners are trained professionals accustomed to the quasi-judicial format and process required for site-specific rezone reviews, while Planning Commissioners are generally appointed based on other considerations.
9. Although site-specific rezones must be reviewed according to court-mandated and

adopted legal criteria, both proponents and opponents will often seek to have reviewing parties consider factors outside these standards.

10. Site-specific rezones not associated with a Comprehensive Plan amendment are subject to the Washington Local Project Review Act. Thus any appeal is to Superior Court instead of the Growth Hearings Board, and the Court's review is different in form and substance from that of the Board. For instance, the Court will generally review the City's decision for consistency with the Comprehensive Plan but not for consistency with the Growth Management Act. The Court's review will usually be based on the City's hearing record and written decision.
11. Site-specific rezones can be the subject of only one 'open-record' (evidentiary) hearing and, pursuant to a recently adopted City code, are reviewed in two sets each year and must be decided within 180 days.
12. The direct cost to a rezone applicant is greater when review is conducted by a Hearing Examiner since the City requires the applicant to reimburse the City for the cost of employing an Examiner.
13. Unlike a Comprehensive Plan amendment proposal, any application for a site-specific rezone is to be considered on its merits; i.e., unlike Plan amendments, there is no 'screening' step by which the City can decline to consider a rezone application. It is difficult to predict how many such applications will be received each year. In general the Hearing Examiner can adapt more readily than the Commission's calendar to workload surges.
14. The proposed amendment would not be applicable to the 'master planned development' approvals of 'centers and villages' which are a hybrid of development approval and zoning map amendment. Such master plans are reviewed by both the Hearing Examiner and the Design Review Board and subject to final action by the Council. Unlike 'pure' rezones such map amendments simply add a note referencing the master plan approval consistent with the zoning. (Some citizens have suggested that the Commission, instead of the Examiner, should also hold the hearings related to these types of developments.)
15. Although rezone proposals must be judged against specific criteria including those in Olympia Municipal Code 18.59.050, these criteria are much broader in nature than the prescriptive measurements and criteria usually applicable to specific development proposals. Olympia's rezone criteria set forth more specifically in Olympia Municipal Code 18.59.050 and 18.59.055 can be summarized as whether:
  - The rezone is consistent with the Comprehensive Plan and its Future Land Use Map
  - The rezone will maintain the public health, safety, or welfare
  - The rezone is consistent with other development regulations
  - The rezone will result in a zoning district that is compatible with adjoining district
  - Existing and planned public facilities are adequate and likely available to serve the potential development

# Are you using your land use hearing examiner to the fullest extent possible?

by Tanya Crites

While many WCIA member cities and towns are using hearing examiners for various land use and code enforcement matters, some may not be utilizing a hearing examiner to the fullest extent provided by law. RCW 35A.63.170 authorizes a local government's legislative body to adopt a hearing examiner system under which the hearing examiner may hear and decide on various types of issues, including but not limited to:

- (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- (b) Appeals of administrative decisions or determinations; and
- (c) Appeals of administrative decisions or determinations pursuant to, RCW 43.21C, State Environmental Policy.

The legislative body prescribes the procedures to be followed by the hearing examiner and provides the authority for the hearing examiner to conduct open record hearings and decide applications for all types of permits and land use approvals.

The only two instances in which the legislative body must make decisions on land use permits and approvals are:

- (a) decisions on final plats (subdivisions), and
- (b) area-wide/general application zoning decisions/rezones.

There are many compelling arguments in favor of using a hearing examiner system. By using a politically neutral, specially trained professional hearing examiner to the greatest extent possible, the legislative body and planning commission have more time for other important planning, goal setting and law-making functions, in addition to reducing the risk of political influence and pressure. WCIA recommends that all members adopt a hearing examiner system that allows the hearing examiner to make final quasi-judicial decisions on land use permits and decide administrative appeals, and that hearing examiner decision appeals go to superior court.

Here is how WCIA can help members adopt or expand a hearing examiner system. Typically, the first step is educating the council on the benefits of a comprehensive

hearing examiner system. Through the legal consultation program, WCIA can provide information on the legal, political and community benefits of using a hearing examiner to the fullest extent. WCIA can provide this guidance in a written document specifically prepared for the member's council or with an on-site presentation. Contact your assigned Risk Management Representative to arrange for assistance.

## Site-Specific Rezone Hearing Body

### Planning Commission Minutes Excerpts

#### **September 23, 2013:**

Code Amendment to Change Rezone Hearing Body

Principal Planner Todd Stamm provided an overview of a potential code change to make the Planning Commission the hearing body on all rezones. A more comprehensive overview is in the agenda packet. Mr. Stamm gave examples of property owner feedback regarding the amendment, and responded to questions about the decision-making and appeal process, costs, timing, and public comment opportunities.

Chair Parker opened the public hearing:

Bob Jacobs of 720 Governor Stevens spoke about the role of the Planning Commission.

Walt Jorgenson of 823 North Street spoke about the hearing examiner and Planning Commission decision-making processes. He supports the continuation of rezoning issues being handled by the Planning Commission.

Chair Parker closed the public hearing.

#### **October 21, 2013:**

Code Amendment to Change Rezone Hearing Body

Commissioner Horn moved, seconded by Commissioner Hoppe, that the proposed language beginning on page 14 of 50 be approved.

#### **Discussion:**

- Expand the scope of review for urban villages and put request on future work plan.
- Retain the current responsibility or authority for rezoning.
- It is likely that similar rezones will come to the Commission without amendment.
- Process or easing of workload should be considered.
- Concern about changing the protocol when the current Hearing Examiner is competent and meetings are open to the public.
- Hearing Examiner may be a better fit for these hearings.
- Planning Commission is tasked with big picture decisions and Hearing Examiner can attend to smaller matters of policy.
- Policy issues should come to the Commission and are more appropriate for their oversight.
- The Commission can reliably decide rezone questions.
- 9 member Commission could help decisions be more diverse and protective of policy.
- Difference between site specific and regional process decisions.

**Commissioner Horn moved, seconded by Commissioner Hoppe, to approve the recommendation. The motion carried by the following vote:**

Chair Parker, Vice Chair Bardin, Commissioner Andresen, Commissioner Bateman, Commissioner Brown, Commissioner Hoppe, Commissioner Horn, Commissioner Richmond and Commissioner Watts





## City Council

### Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.M  
**File Number:** 16-0607

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**Type:** ordinance **Version:** 2 **Status:** Passed

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#### **Title**

Approval of Ordinance Amending High-Density Corridor-1 Zoning District Text

#### **Recommended Action**

##### **Planning Commission Recommendation:**

The Planning Commission recommends approval of the Ordinance to amend the text in Subsection 18.06.100A of the Olympia Municipal Code relating to building heights in High Density Corridor Zones.

##### **City Manager Recommendation:**

Move to approve the Ordinance as referred by the Land Use and Environment Committee and recommended by the Planning Commission on second reading.

#### **Report**

##### **Issue:**

Whether to amend Subsection 18.06.100A of the Olympia Municipal Code to not allow a 'bonus' residential floor in the High Density Corridor-1 (HDC-1) and High Density Corridor-2 (HDC-2) zones within 100 feet of historic districts.

##### **Staff Contact:**

Linda Bentley, Senior Planner, Community Planning and Development Department, 360.753.8046

##### **Presenter:**

None - Consent Calendar Item.

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

Residents in the Bigelow Heights neighborhood brought to staff's attention that the City's development code allowed building heights they believed were incompatible with their neighborhood along its south edge and inconsistent with the City's comprehensive plan. Specifically, Olympia's development regulations state that building heights in the HDC-1 and HDC-2 zones within 100 feet of low-density residential zones are limited to 35 feet, but also state that a 'bonus' residential floor is available. City staff brought the issue to the August 27, 2015, Land Use and Environment Committee

meeting, proposing an amendment to the regulations which would state that such a 'bonus' is not available within 100 feet of historic districts - consistent with the newly-adopted Comprehensive Plan.

The Land Use and Environment Committee referred the issue to the Planning Commission for a recommendation.

On October 19, 2015, the Commission held a public hearing regarding this proposal. Two parties commented at the hearing, and others submitted written comments prior to close of the record on October 23.

On November 2, 2015, the Planning Commission made a recommendation to the City Council to approve the amendment proposed by City staff with this additional proviso: "the Olympia Planning Commission believes that while the revised code will bring the code into compliance with the Comprehensive Plan, it raises concerns regarding the general policies of the Comprehensive Plan for a compact, walkable city. Therefore, the Commission strongly recommends the City explore Comprehensive Plan policies regarding density along high density corridors."

#### Consistency with Comprehensive Plan

The Olympia Comprehensive Plan adopted in December 2014 includes Land Use and Urban Design policy 13.7, applicable to the areas zoned as HDC-1 and HDC-2. That policy reads, in part:

Designate different categories of corridors generally as follows:

- Areas nearest downtown along Harrison Avenue east of Division Street and the upper portions of the State Street/Fourth Avenue corridor to the intersection of Fourth Avenue and Pacific Avenue should blend travel modes with priority for pedestrian, bicycle and transit systems. These areas should provide for a mix of low-intensity professional offices, commercial uses and multifamily buildings forming a continuous and pedestrian-oriented edge along the arterial streets. *There will be a 35 feet height limit if any portion of the building is within 100' from a single-family residential zone, provided that the City may establish an additional height bonus for residential development except in areas adjacent to a designated historic district.* [Emphasis added.]

The Comprehensive Plan policy quoted above states that the bonus floor provision may be available in all portions of the HDC-1 and HDC-2 zones, except near a historic district. About two blocks of HDC-1 zoned property along the north side of State Avenue between Eastside and Tullis Streets abuts a designated historic district. (See attached map.)

The attached Ordinance specifies that the bonus floor is not available near historic districts. If adopted, this amendment would immediately apply to only a few properties along State Avenue but it would also be applicable to any similarly situated properties if other historic districts are created.

#### **Neighborhood/Community Interests (if known):**

Residents in the vicinity of the Olympia Avenue historic district and the Bigelow neighborhood in general expressed interest in this issue.

#### **Options:**

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**Type:** ordinance **Version:** 2 **Status:** Passed

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1. Approve the Ordinance as recommended by Planning Commission;
2. Refer back to a Committee or the Planning Commission for further consideration;
3. Not approve the amendment as recommended by Planning Commission.

**Financial Impact:**

No substantial impact to the City.

**Attachments:**

Ordinance

Map

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO BUILDING HEIGHTS IN HIGH DENSITY CORRIDOR ZONES AND AMENDING SUBSECTION 18.06.100.A OF THE OLYMPIA MUNICIPAL CODE.**

WHEREAS, the Land Use & Environment Committee of the City Council received a briefing on the proposed zoning text amendment relating to building heights in high density corridor zones on August 27, 2015 and referred the matter to the Olympia Planning Commission; and

WHEREAS, the Olympia Planning Commission received a briefing on the proposed zoning text amendment and held a public hearing on October 19, 2015, and deliberated on November 2, 2015; and

WHEREAS, following the public hearing and deliberations, the Planning Commission recommended amending Subsection 18.06.100A of the Olympia Municipal Code; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), the City issued a Determination of Non-significance on the proposed zoning text amendment on March 16, 2016; and

WHEREAS, no appeal of the SEPA Determination of Non-significance was submitted; and

WHEREAS, this Ordinance is consistent with the City of Olympia Comprehensive Plan, Land Use and Urban Design policy 13.7, applicable to the areas zoned as HDC-1 and HDC-2; and

WHEREAS, this Ordinance meets the goals and requirements of the Growth Management Act; and

WHEREAS, Chapter 35A.63 and 36.70 RCW and Article 11, Section 11 of the Washington State Constitution authorize and permit the City to adopt this Ordinance; and

WHEREAS, this Ordinance is supported by the staff report and materials associated with this Ordinance, along with other documents on file with the City of Olympia, including but not limited to documents relating to Community Development and Planning file 15-0131; and

WHEREAS, this Ordinance is also supported by the professional judgment and experience of the City staff who have worked on this proposal; and

WHEREAS, City Staff are known to the City Council, and staff's curriculum vitae shall be part of the record in support of this Ordinance;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

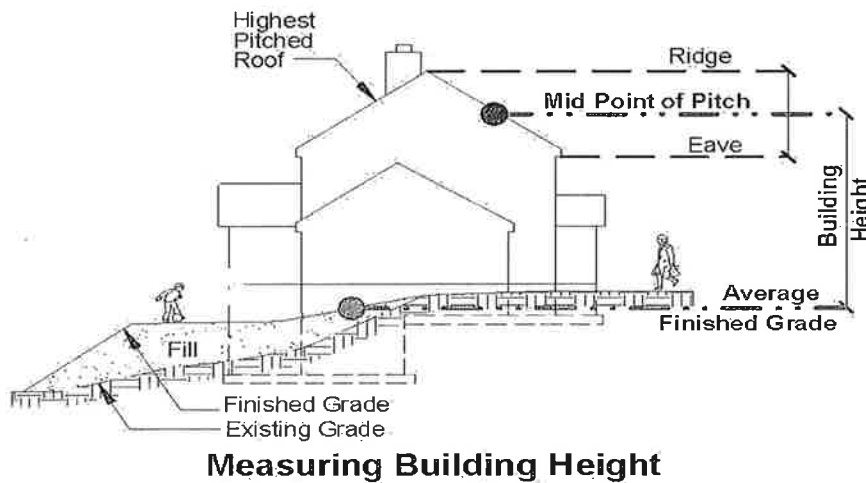
**Section 1. Amendment of OMC 18.06.100. Olympia Municipal Code subsection 18.06.100.A is hereby amended to read as follows:**

**18.06.100 Commercial districts' development standards--Specific**

A. Height.

1. Roof structures for the housing of elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building, fire or parapet walls, skylights, towers,

flagpoles, chimneys, smoke stacks, wireless masts, T.V. antennas, steeples and similar structures may be erected above the height limits prescribed in this Title, provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space. This height exception does not apply to the additional story provision for residential development described in OMC 18.06.100.A.6. Provided, further, that no roof structure or architectural feature shall be erected more than eighteen (18) feet above the height limit of the district, whether such structure is attached to it or free-standing.



**FIGURE 6-1A**

2. Urban Waterfront (UW) District.
  - a. Allowed building heights in the Urban Waterfront (UW) District are specified in Figure 6-2.
  - b. Bonus for residential development.
    - i. In the area labeled sixty-five (65) feet on Figure 6-2, up to two additional stories may be built, if the project is located in the downtown, if the added stories are stepped back from the street wall at least eight (8) feet, and if floor area equal to the amount from the added stories is provided for residences:
      - (a) In the same building--i.e., it is a residential or a mixed use building; or

(b) With commercial and residential uses in separate buildings on the same site;  
or

(c) With commercial and residential uses on separate sites within the Urban Waterfront (UW) district.

ii. Occupancy. Housing provided under this bonus provision as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.

iii. Conversion. Housing provided under this bonus provision shall not be converted to commercial use.

iv. Source of housing units. Housing provided under this bonus provision may be:

(a) New construction,

(b) Adaptive reuse of a formerly non-residential structure, or

(c) Rehabilitation of existing housing.

c. West Bay Drive building height and view blockage limits.

i. In order to retain public and private view access to Budd Inlet from hillside sites above West Bay Drive, the maximum building height in the West Bay Drive portion of the Urban Waterfront (UW) District labeled " 42'-65' " on Figure 6-2 shall be up to a maximum of 42 feet, except as provided in subsections (iii) and (iv) below.

ii. In order to retain public view access of Budd Inlet from street level in the West Bay Drive portion of the Urban Waterfront (UW) District labeled " 42'-65' " on Figure 6-2, view blockage shall be limited as follows:

(a) Views of the water will be defined as area without obstruction by buildings or major structures measured between 45 and 90 degrees to West Bay Drive, as illustrated in Figure 6-2A.

(b) Said view blockage shall be limited to 45 percent of the views of the water from West Bay Drive by buildings or major structures located between West Bay Drive and the mean high water line.

(c) Exceptions are provided in subsections (iii) and (iv) below.

iii. Development shall be subject to the alternate standards for building height and view blockage, if alternate waterfront view access is provided through public amenities as follows:

<b>Amenity Provided</b>	<b>Limits on Horizontal View Blockage and Height</b>
Waterfront Trail	70% up to 42 ft., OR 45% up to 65 ft.
Expanded Waterfront Trail Corridor Facility (or small waterfront park area).	50% up to 42 ft., OR 45% up to 50 ft.
Both	70% up to 65 ft.

Any development over 42 feet shall be required to include a minimum of 20% of the usable building area for residential purposes.

iv. Criteria for approval of alternate waterfront view access.

(a) Waterfront Trail.

(1) Trail right-of-way consistent with City trail standards shall be dedicated to the City.

(2) The trail shall be designed consistent with City standards and requirements, or as otherwise approved by the Olympia Parks, Arts and Recreation Department. Because the trail passes by different land uses, it may take a different character in different locations, for reasons of safety, privacy, or environmental protection.

(3) The developer shall design, build, and dedicate the facility to the City.

(4) An analysis of recreation needs shall be provided by the Olympia Parks, Arts and Recreation Department. An analysis of environmental impacts, hazardous waste risks, and engineering issues sufficient to determine the design and location for the trail facility shall be approved by the Olympia Parks, Arts and Recreation Department but provided by the developer. All analysis shall be complete prior to approval.

(b) Expanded Waterfront Trail Corridor Facility or Small Waterfront Park.

(1) The developer shall build and dedicate the facility and its site to the City.

(2) The expanded waterfront trail corridor facility or small park area shall be designed consistent with City and other applicable government standards and requirements, or as otherwise approved by the Olympia Parks, Arts and Recreation Department. The expanded waterfront trail corridor facility or small park may vary in size from City park standards and could include additional right-of-way for the expanded trail, landscaping, habitat enhancement, benches, lighting, parking, restrooms, garbage receptacles, telephones, interpretive signs and other park facilities.

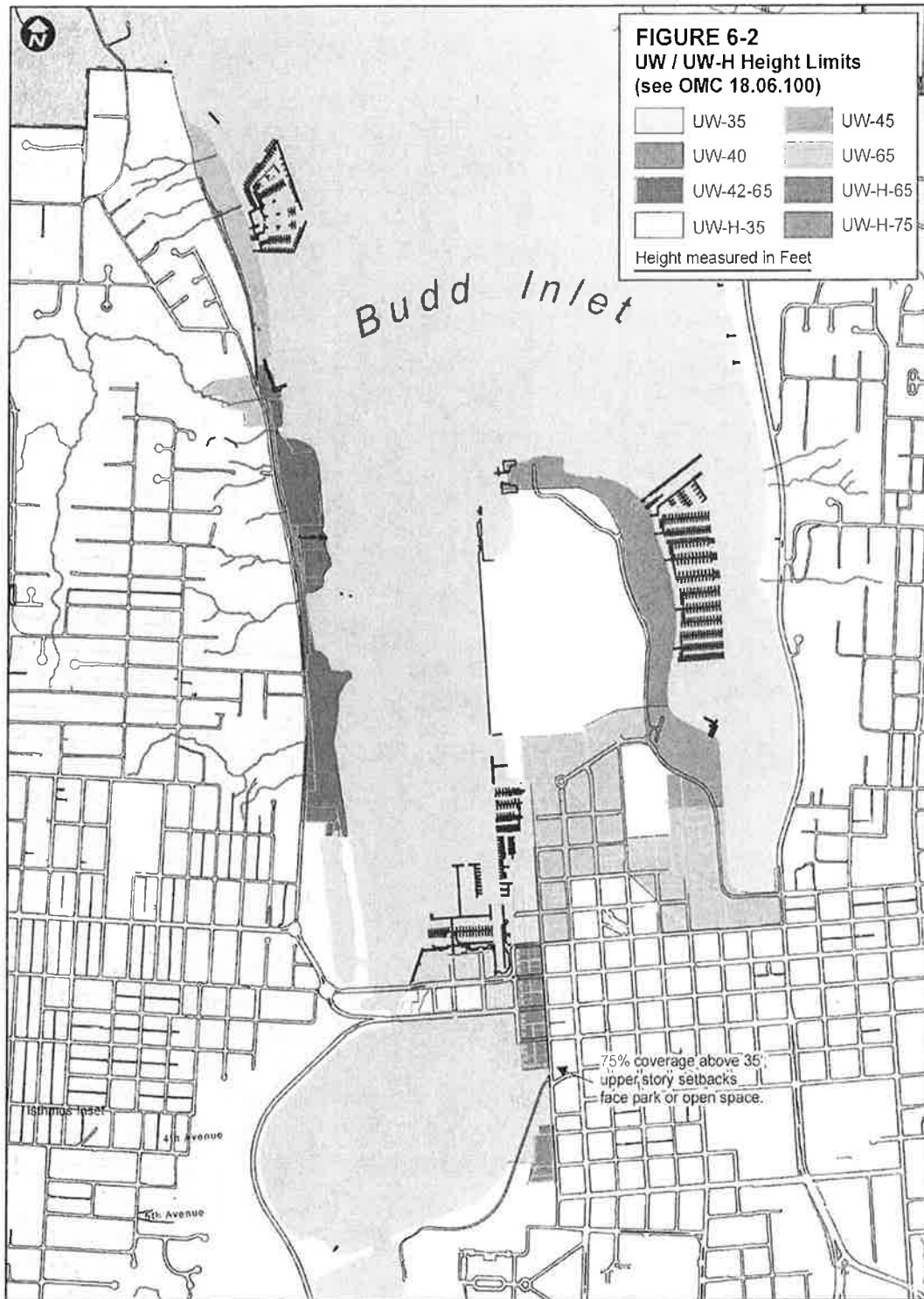
(3) An analysis of environmental impacts, hazardous waste risks, trail improvements, and engineering issues sufficient to design the expanded waterfront trail corridor facility or small park area shall be approved by Olympia Parks, Arts and Recreation Department but provided by the developer. All analysis shall be complete prior to approval.

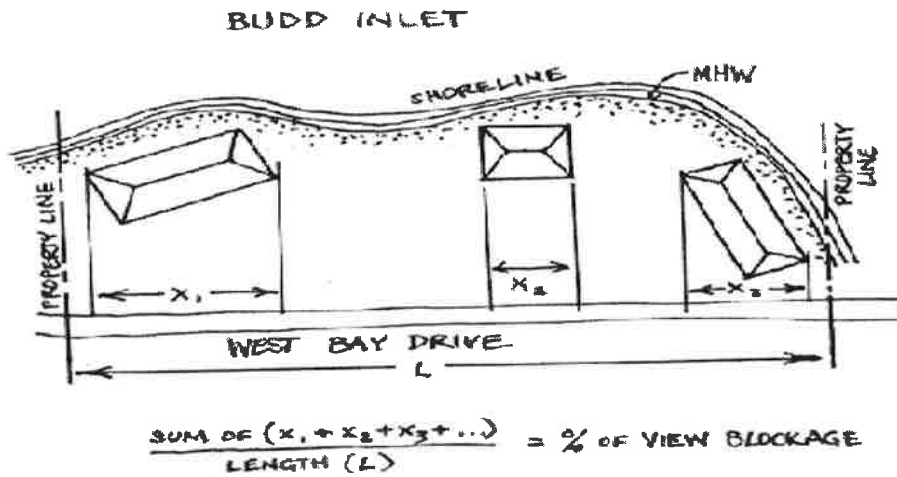
(4) The expanded waterfront trail corridor facility or small park shall have a publicly accessible connection to West Bay Drive, designed, constructed, and dedicated for public use by the developer.

v. The view blockage rules shall be applied on a project-wide basis and not for each lot or parcel in a project, thus allowing projects providing more views on some lots to have more view blockage on other lots as long as the overall project meets the view blockage requirements.



**Figure 6-2 Urban Waterfront and Urban Waterfront Height Limits**





**FIGURE 6-2A**

**Calculating View Blockage in a portion of the Urban Waterfront District along West Bay Drive.**

3. Commercial Services-High Density. The maximum building height allowed is one hundred (100) feet. Provided, however, that no building or structure may exceed seventy-five (75) feet in height without conditional review and approval by the Hearing Examiner. Approval of structures exceeding seventy-five (75) feet in height shall meet the following criteria:

- a. The building design shall be compatible with or enhance the physical characteristics of the site, the appearance of buildings adjacent to the site and the character of the district.
- b. The site plan shall facilitate efficient and convenient circulation, shall include landscaping that creates a pleasing appearance from both within and off the site and shall be an asset to the community at large.
- c. Enhancement of public view access or direct public access to usable open space areas shall offset any potential upland view loss which may occur as a result of the proposal.

4. Downtown Business District.

- a. Building height allowed outright in the DB zone is seventy-five (75) feet.

- b. Bonus for residential development.
  - c. Enhancement of public view access or direct public access to usable open space areas shall offset any potential upland view loss which may occur as a result of the proposal.
    - i. Buildings may exceed the height allowed outright (75 feet) by up to two (2) stories, if the added stories are stepped back from the street wall at least eight (8) feet, and if floor area equal to the amount from the added stories is provided for residences:
      - (a) In the same building--i.e., it is a residential or a mixed use building; or
      - (b) With commercial and residential uses in separate buildings on the same site; or
      - (c) With commercial and residential uses on separate sites within the Downtown Business (DB) zone.
    - ii. Occupancy. Housing provided under this bonus provision as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.
    - iii. Conversion. Housing provided under this bonus provision shall not be converted to commercial use.
    - iv. Source of housing units. Housing provided under this bonus provision may be:
      - (a) New construction,
      - (b) Adaptive reuse of a formerly non-residential structure, or
      - (c) Rehabilitation of existing housing.
5. Urban Waterfront - Housing.
- a. Allowed building heights in the Urban Waterfront-Housing District are specified in Figure 6-2.
  - b. Required step backs and placement of step backs over 35 feet on specific blocks are specified in Figure 6-2.
6. High Density Corridor (HDC - 1 and HDC - 2).

- a. Building height allowed outright in the HDC-1 and HDC-2 zones as outlined in OMC 18.06.080, Table 6.02.
- b. Additional story for residential development.
  - i. Additional story can only be allowed for those development that do not provide a mechanical "penthouse" room as allowed under the provisions of OMC 18.06.100.A. However, the additional story can be occupied with both residential development and mechanical equipment.
  - ii. Buildings may exceed the height allowed outright in OMC 18.06.080, Table 6.02, by one (1) story. The additional story cannot exceed fourteen (14) feet above the maximum allowable height requirement as specified in OMC 18.06.080, Table 6.02.
  - iii. The additional story must be stepped back at least eight (8) feet from any abutting street or any abutting residential zoning district. See OMC 18.06.100.B.2.
  - iv. Housing provided under this additional story as part of a mixed use project must receive an occupancy permit at the same time as, or in advance of, issuance of an occupancy permit for non-residential portions of the project.
  - v. Housing provided under this additional story provision shall not be converted to commercial use. Except that the residential units may conduct business activities under the provision for home occupations. See OMC 18.04.060.I.
  - vi. Housing provided under this bonus provision may be:
    - (a) New construction;
    - (b) Adaptive reuse of a formerly non-residential structure, or
    - (c) Rehabilitation of existing housing.
  - vii. This additional story is not available and will not be approved within 100 feet of a designated historic district.

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

*Darren Nienaber DCA*

\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

# State Avenue Location

Olympia



**Affected Properties: North side of State from Eastside to Tullis**



## City Council

### **Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170**

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.N  
**File Number:** 16-0642

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**Type:** ordinance **Version:** 2 **Status:** Passed

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#### **Title**

Approval of Ordinance amending Olympia Municipal Code (OMC) Chapter 9.40 Relating to Offenses Against Property by Adopting by Reference Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading the attached ordinance amending OMC Chapter 9.40 Relating to Vehicle Prowling in the Second Degree Pursuant to RCW 9A.52.100, Theft Third Degree Pursuant to RCW 9A.56.050 and Possessing Stolen Property Third Degree Pursuant to RCW 9A.56.170.

#### **Report**

##### **Issue:**

Whether to approve the proposed ordinance.

##### **Staff Contact:**

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

##### **Presenter(s):**

None - Consent Calendar Item.

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

The City of Olympia has seen an increase in the arrest of offenders for vehicle prowling, especially repeat convicted offenders. Adopting Vehicle Prowling Second Degree pursuant to RCW 9A.52.100 will permit an enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future upon a third and subsequent conviction.

Additionally, the criminal offenses for Theft and Receiving Stolen Property currently listed in the OMC do not accurately reflect the correct valuation of property for a misdemeanor charge due to past amendments of the corresponding state statutes. To avoid having our ordinances become outdated by statutory amendments, the City of Olympia should adopt the corresponding state statutes by reference.

**Neighborhood/Community Interests (if known):**

There is an inherent interest in protecting the public's safety and appropriately holding offenders accountable who engage in acts of vehicle prowling, theft, and possession of stolen property.

**Options:**

1. Approve the attached ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the ordinance.

**Financial Impact:**

None.

**Attachments:**

Proposed ordinance  
RCW 9A.52.100  
RCW 9A.56.060  
RCW 9A.56.170



Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING CHAPTER 9.40 OF THE OLYMPIA MUNICIPAL CODE RELATING TO PROPERTY CRIMES; SPECIFICALLY REPEALING SECTIONS 9.40.040 AND 9.40.050 OF THE OLYMPIA MUNICIPAL CODE AND ADOPTING BY REFERENCE SECTIONS 9A.52.100, 9A.56.050, AND 9A.56.170 OF THE REVISED CODE OF WASHINGTON**

**WHEREAS**, there is an inherent interest in protecting the public's property; and

**WHEREAS**, vehicle prowling, theft, and receiving stolen property are outdated provisions within the City's code, which do not allow enhanced sentencing for subsequent crimes of the same type and fail to appropriately value property for a misdemeanor charge; and

**WHEREAS**, adopting the state statutes will correct such deficiencies; and

**WHEREAS**, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 9.40. Olympia Municipal Code Chapter 9.40 is hereby amended to read as follows:**

**Chapter 9.40  
OFFENSES AGAINST PROPERTY**

9.40.000 Chapter Contents

Sections:

- 9.40.010 Definitions.
- 9.40.020 Theft. State statutes adopted by reference.
- 9.40.030 Theft on mercantile premises--Reasonable detention.
- ~~9.40.040 Receiving stolen property.~~
- ~~9.40.050 Vehicle prowling.~~
- 9.40.060 Unlawful issuance of bank check.
- 9.40.070 Criminal impersonation.
- 9.40.080 Criminal trespass.
- 9.40.090 Property damage.
- 9.40.095 Graffiti.
- 9.40.100 Bill posting and distribution--Commercial advertising.
- 9.40.115 Unlawful Balloon Releasing.
- 9.40.110 Disposal of litter--Penalty for violation.

9.40.120 Interfering with utility apparatus or public fountains.

9.40.130 Auction sales.

9.40.140 False advertising.

#### **9.40.010 Definitions**

For the purpose of this chapter certain words and terms are defined as follows:

A. "Building" means any structure, vehicle, railway car, aircraft or watercraft used for overnight lodging of persons or for carrying on of business therein.

B. "Credit card" means any instrument or device, whether incomplete, revoked or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guaranteed by the issuer.

C. "Damage," for the purpose of Section 9.40.090, in addition to its ordinary meaning, includes cutting, marring, injuring, defacing, spoiling, breaking or destroying any fence, sidewalk, house, building, tree, plant or other property, public or private, within the city, whether real or personal property, by any means, including the attachment of any handbills, posters or newspapers thereto; or without municipal authority, to deface, mutilate, tear down, rearrange, or destroy any signboard, street sign, public notice, poster, or post within the corporate limits of the city. Damage also includes any diminution in the value of property as a consequence of an act.

D. "Deception" occurs when an actor knowingly:

1. Creates or confirms another's false impression which the actor does not believe to be true; or
2. Fails to correct another's false impression which the actor previously has created or confirmed; or
3. Prevents another from acquiring information material to the disposition of the property involved; or
4. Promises performance which the actor does not intend to perform or knows will not be performed;  
or
5. Uses a credit card without authorization or which he knows to be stolen, forged, revoked or canceled.

E. "Obtained" means:

1. In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

2. In relation to labor or service, to secure performance thereof for the benefit of the obtainer or another.

F. "Owner" means a person, other than the actor, who has possession of or any other interest in the property involved, and without whose consent the actor has no authority to exert control over the property.

G. "Service" includes but is not limited to labor, professional service, transportation service, the supplying of hotel or motel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

H. "Stolen" means property obtained by theft, robbery, or extortion.

I. "Wrongful obtains" or "exerts unauthorized control" means to take the property or services of another and includes but is not necessarily limited to conduct known as "common law larceny."

#### **9.40.020 Theft**

A. ~~A person is guilty of theft if, with regard to property or services of two hundred fifty dollars or less in value, he:~~

~~1. Wrongfully obtains or exerts unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or~~

~~2. By aid of deception, he obtains control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or~~

~~3. Appropriates lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.~~

~~B. In any prosecution under this section, it is an affirmative defense that the property or services were openly obtained under a claim of title made in good faith, even though the claim be untenable.~~

~~C. Theft is a gross misdemeanor.~~

#### **9.40.020 State statutes adopted by reference.**

The following sections of the Revised Code of Washington (RCW), as they appear now or are hereafter amended, are hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.52.100 – Vehicle Prowling in the Second Degree

RCW 9A.56.050 – Theft in the Third Degree

RCW 9A.56.170 – Possessing Stolen Property in the Third Degree

**~~9.40.030 Theft on mercantile premises—reasonable detention~~**

~~In any criminal action brought by reason of any person having been detained on or in the immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it is a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer, by the owner of the mercantile establishment, or by the owner's authorized employee or agent, and that such peace officer, owner, employee, or agent has reasonable grounds to believe that the person so detained was committing or attempting to commit theft or shoplifting on such premises of such merchandise. As used in this section, "reasonable grounds" includes, but is not limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a "reasonable time" means the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise.~~

**9.40.040 Receiving stolen property**

- A. A person is guilty of theft if he receives, possesses, retains or disposes of property of another, having value of two hundred fifty dollars or less, knowing that it has been stolen or consciously disregarding a substantial risk that it has been stolen, unless the property is received, retained or disposed of with purpose to restore to the owner.
- B. The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of receiving stolen property.
- C. Receiving stolen property is a gross misdemeanor.

**~~9.40.050 Vehicle prowling~~**

- ~~A.—A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters or remains in a vehicle not his own.~~
- ~~B.—Vehicle prowling is a gross misdemeanor.~~

**9.40.060 Unlawful issuance of bank check**

- A. Any person who, with intent to defraud, makes, or draws, or utters or delivers any check, draft or order for the payment of money in an amount of two hundred fifty dollars or less upon any bank or other depository, knowing at the time of such drawing or delivery that the maker or drawer has not sufficient funds in, or credit

with such bank or depository, in full upon its presentation, is guilty of unlawful issuance of a bank check. The word "credit" as used in this section shall be construed to mean an arrangement or understanding with the bank for the payment of such check or draft or order. The uttering or delivery of such a check, draft or order to another person, firm or corporation without such funds or credit to meet the same shall be prima facie evidence of an intent to defraud.

B. Unlawful issuance of a bank check is a gross misdemeanor.

#### **9.40.070 Criminal impersonation**

A person is guilty of criminal impersonation if he:

A. Assumes a false identity and does an act in his assumed character with the intent to defraud another or for any other unlawful purpose; or

B. Pretends to be a representative of some person or organization and does an act in his pretended capacity with the intent to defraud another or for some other unlawful purpose.

#### **9.40.080 Criminal trespass**

A. A person is guilty of criminal trespass if he or she knowingly enters or remains unlawfully in or upon the premises of another.

B. "Enter or remain unlawfully" means an unlicensed, uninvited or otherwise unprivileged entry into or remaining in or upon premises. A license or privilege to enter or remain in public premises which are only partly open to the public is not a license or privilege to enter or remain in that part of the premises which are not open to the public.

C. In any prosecution under this section, it is an affirmative defense that:

1. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him or her to enter or remain; or

2. The actor was attempting to serve legal process, which includes any document required or allowed to be served upon persons or property by any statute, ordinance, governmental rule or regulation, or court order, excluding delivery by the mails of the United States. This defense is available only if the actor did not enter into a private residence or other building not open to the public and the entry onto the premises was reasonable and necessary for service of the legal process.

D. If the court finds that the accused committed criminal trespass pursuant to the provisions of this section and if the court receives sufficient evidence that the acts committed leading to that finding were intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability, or

the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

E. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (D) above shall be guilty of a gross misdemeanor.

#### **9.40.090 Property damage**

A. A person is guilty of property damage if the person intentionally causes physical damage to the property of another.

B. If the court finds that the accused committed criminal trespass pursuant to the provisions of this section and if the court receives sufficient evidence that the acts committed leading to that finding were intentionally targeted against the victim or victims in substantial part because of the victim's or victims' race, color, religion, ancestry, national origin, gender, sexual orientation, or his/her/their mental, physical or sensory disability, or the accused's perception thereof, the court shall impose a minimum fine of not less than five hundred dollars and a minimum jail sentence of not less than five days for each such offense. Neither the mandatory minimum jail sentence nor the mandatory minimum fine shall be suspended or deferred, nor shall the jail sentence be served by alternative means.

C. Any person convicted under this section where the court receives sufficient evidence that the person's acts were targeted as described in subsection (B) above shall be guilty of a gross misdemeanor.

D. "Physical damage," in addition to its ordinary meaning, includes the total or partial alteration, damage, obliteration or erasure of records, information, data, computer programs or their computer representation, which are recorded for use in computers or the impairment, interruption or interference with the use of such records, information, data or computer programs; or the impairment, interruption or interference with the use of any computer or services provided by computers. "Physical damage" also includes any diminution in the value of any property, real or personal, as a consequence of an act.

E. Property damage is a gross misdemeanor punishable as described in OMC 9.64.010.

#### **9.40.095 Graffiti.**

A. A person is guilty of graffiti if, without prior consent of the owner or owner's agent, the person intentionally writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person.

B. Graffiti is a gross misdemeanor punishable as described in OMC 9.64.010.

#### **9.40.100 Bill posting and distribution –Commercial advertising**

It is unlawful for any person to post or attach any bills, handbills, posters, newspapers or other papers of a purely commercial advertising nature on any post, fence, tree, building or other structure, except upon billboards or other structures erected for that purpose. It is further unlawful to hand out, distribute, or scatter any such commercial advertising upon the streets, alleys or other public places of the city, or to throw them in the yards of the city, or to place them in or upon automobiles without the consent of the owner.

#### **9.40.110 Disposal of litter –Penalty for violation**

No person shall throw, drop, deposit, discard, or otherwise dispose of litter, as that term is defined in RCW 70.93.030 (4), upon any public property within the city or upon private property within the city not owned by him or in the waters of the city whether from a vehicle or otherwise, including but not limited to any sidewalk, street, alley, highway or park, except:

- A. When such property is designated by the city for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;
- B. Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of such private or public property or waters;
- C. Any person violating any provisions of this section is guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars for each offense, and, in addition thereto, in the sound discretion of the judge, such person may be directed by the judge to pick up and remove from any public place or private property, with prior permission of the legal owner, upon which it is established by competent evidence that such person has deposited litter.

#### **9.40.115 Unlawful Balloon Releasing**

It is unlawful to intentionally release or cause to be released any balloon, with or without attachments, any part of which balloon or its attachments are made from a non biodegradable material, and which balloon is filled with a lighter-than-air gas. Anyone convicted of this misdemeanor shall be punished by a fine of no more than \$100.

#### **9.40.120 Interfering with utility apparatus or public fountains**

A. It is unlawful for any person to cut, alter, change, remove, disconnect or connect with, or in any manner interfere, meddle or tamper with any water main, pipe, stopcock on a meter hydrant, pump or conduit, or any gas pipe, main or meter, or any electrical wire, cable or conduit owned or used by the city or by any private owner, without the permission or consent of the proper city officials or of the private owner or owners.

B. It is unlawful to obstruct, divert, hinder, tamper with, pollute, or interfere with any public spring or fountain within the city.

#### **9.40.130 Auction sales**

A. Record of Facts. In addition to the requirements of RCW Chapter 18.12, before an auction sale is held within the city, the auctioneer or the owner of the merchandise to be sold shall provide the city clerk-treasurer a full and complete record in ink of the following facts concerning such property:

1. A description of each and every article of goods, wares and merchandise to be sold;
2. The name and the address of the owner of such property, together with the name and residence of the person, firm or corporation from whom such property was purchased;
3. As and when such property is sold at auction, a complete and detailed list shall be kept showing the date, article, and price paid for such article, and to whom it was sold;
4. Such records shall be kept at the place of business of any auctioneer conducting a sale within the city for a period of at least two years after the date of holding such sale, and shall be subject to inspection by the police of the city.

B. False Representation Unlawful. No auctioneer shall make any false representation, or permit to be made any false representation over his name or by those within his employ, as to the character, condition, value, or present or previous ownership of any property offered for sale, nor substitute any other article for an article sold, nor make any false statement as to the name and amount for which any article is sold, and shall not permit any person to act as his accomplice or capper for the purpose of making mock bids at any auction.

C. Time Limit. All auction sales shall close not more than ten days from the date of the beginning of such sale, and no auction shall be held by any merchant more often than once a year within the city.

D. Exceptions. The provisions of this section shall not apply to auctions of real estate, livestock, perishable fruits and produce, nor to the auction of a complete stock as a whole, nor to sales by judicial officers or by public officers held in the manner prescribed by law, nor to sales of used household furniture and effects, nor to sales by an executor, administrator, or guardian.

E. Notice that Purchases may be Returned. With regard to the sale of jewelry or appliances as those terms are defined in RCW 18.12.010, the auctioneer shall cause to be displayed in a prominent place on the premises where the auction is being conducted a notice allowing the return of an item in the same condition as when purchased, for the amount paid, if returned within forty-eight hours from the time of purchase. The notice shall be of sufficient size as to be readily discernible by the bidders.



**9.40.140 False advertising**

A. The publishing, circulating or placing before the public, or causing directly or indirectly to be made, published or circulated, or placed before the public in the city, in a newspaper, handbill, poster, circular, pamphlet, or other notice or publication, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, which advertising contains any assertion, representation, or statement of fact which is untrue, deceptive or misleading, with the intent to increase the consumption of, or to induce the public in any manner to enter into any obligation relating to, or to acquire any interest or title in such merchandise, securities or services shall be considered false advertising.

B. It is unlawful for any person, firm or corporation to do or carry on, or to permit to be done or carried on, any false advertising in the city; provided, however, that this shall not apply to the owner or publisher of a newspaper publishing such advertisements in good faith and without knowledge of the falsity thereof.

**Section 3. Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 4. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 5. Effective Date.** This ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

**RCW 9A.52.100****Vehicle prowling in the second degree.**

(1) A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a vehicle other than a motor home, as defined in RCW **46.04.305**, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

(2) Except as provided in subsection (3) of this section, vehicle prowling in the second degree is a gross misdemeanor.

(3) Vehicle prowling in the second degree is a class C felony upon a third or subsequent conviction of vehicle prowling in the second degree. A third or subsequent conviction means that a person has been previously convicted at least two separate occasions of the crime of vehicle prowling in the second degree.

(4) Multiple counts of vehicle prowling (a) charged in the same charging document do not count as separate offenses for the purposes of charging as a felony based on previous convictions for vehicle prowling in the second degree and (b) based on the same date of occurrence do not count as separate offenses for the purposes of charging as a felony based on previous convictions for vehicle prowling in the second degree.

[ **2013 c 267 § 1**; **2011 c 336 § 376**; **1982 1st ex.s. c 47 § 14**; **1975 1st ex.s. c 260 § 9A.52.100.**]

**NOTES:**

**Severability—1982 1st ex.s. c 47:** See note following RCW **9.41.190**.

**RCW 9A.56.050****Theft in the third degree.**

(1) A person is guilty of theft in the third degree if he or she commits theft of property or services which (a) does not exceed seven hundred fifty dollars in value, or (b) includes ten or more merchandise pallets, or ten or more beverage crates, or a combination of ten or more merchandise pallets and beverage crates.

(2) Theft in the third degree is a gross misdemeanor.

[ **2009 c 431 § 9; 1998 c 236 § 4; 1975 1st ex.s. c 260 § 9A.56.050.**]

**NOTES:**

**Applicability—2009 c 431:** See note following RCW **4.24.230**.

*Civil action for shoplifting by adults, minors:* RCW **4.24.230**.

*Property crime database, liability:* RCW **4.24.340**.

**RCW 9A.56.170****Possessing stolen property in the third degree.**

(1) A person is guilty of possessing stolen property in the third degree if he or she possesses (a) stolen property which does not exceed seven hundred fifty dollars in value, or (b) ten or more stolen merchandise pallets, or ten or more stolen beverage crates, or a combination of ten or more stolen merchandise pallets and beverage crates.

(2) Possessing stolen property in the third degree is a gross misdemeanor.

[ **2009 c 431 § 14; 1998 c 236 § 2; 1975 1st ex.s. c 260 § 9A.56.170.**]

**NOTES:**

**Applicability—2009 c 431:** See note following RCW **4.24.230**.

*Property crime database, liability:* RCW **4.24.340**.



## City Council

### Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Supplying Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.O  
**File Number:** 16-0643

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**Type:** ordinance **Version:** 2 **Status:** Passed

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#### **Title**

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.44 by Adopting the Crime of Minor in Possession or Consumption of Alcohol, Supplying Liquor to Minor, and Minor Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading the attached ordinance amending OMC Chapter 9.44 relating to Minors in Possession or Consumption of Alcohol, Supplying Liquor to Minors, and Minors Exhibiting the Effects of Having Consumed Liquor Pursuant to RCW 66.44.270.

#### **Report**

##### **Issue:**

Whether to approve the proposed ordinance.

##### **Staff Contact:**

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

##### **Presenter(s):**

None - Consent Calendar Item.

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

Currently the OMC only prohibits possession, consumption, and acquisition of alcohol by minors.

However, if a minor is intoxicated but a police officer is unable to establish when and where consumption occurred or does not establish possession of alcohol, enforcement action may not be permitted. Adoption of RCW 66.44.270 will provide law enforcement better tools for early intervention and enforcement.

**Neighborhood/Community Interests (if known):**

There is an inherent interest in protecting minors from the effects and consequences of intoxication.

**Options:**

1. Approve the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the proposed ordinance.

**Financial Impact:**

None.

**Attachments:**

Proposed ordinance  
RCW 66.44.270

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.44 RELATING TO OFFENSES BY OR AGAINST JUVENILES; SPECIFICALLY ADOPTING BY REFERENCE SECTION 66.44.270 OF THE REVISED CODE OF WASHINGTON**

**WHEREAS**, the City has an interest in protecting minors from the harmful effects and consequences of intoxication; and

**WHEREAS**, the City's current code provision does not adequately address circumstances where a minor is intoxicated but is not in possession of alcohol; and

**WHEREAS**, RCW 66.44.270 sets forth in greater detail the behavior that the City wishes to prohibit;

**WHEREAS**, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 9.44. Chapter 9.44 of the Olympia Municipal Code is hereby amended to read as follows:**

**Chapter 9.44  
OFFENSES BY OR AGAINST JUVENILES**

9.44.000 Chapter Contents

Sections:

- 9.44.010 Definitions.
- 9.44.020 Offenses in taverns.
- 9.44.030 Person under twenty-one prohibited where intoxicants are served.
- 9.44.040 ~~Intoxicating liquor—Possession by and sale to person under twenty-one.~~  
State statutes adopted by reference.
- 9.44.050 False identification to obtain liquor.
- 9.44.060 Firearms.
- 9.44.070 Tobacco to minor.

**9.44.010 Definitions**

For the purpose of this chapter, certain words and terms are defined as follows:

- A. "Liquor" means liquor as defined in the Washington State Liquor Act (RCW 66.040.010(16)).
- B. "Minor" means any person less than eighteen years of age, unless otherwise specifically designated.

C. "Tavern" means any establishment with special space and accommodations for sale by the glass, and for consumption on the premises, of beer; except, that bona fide restaurants, dining rooms and cafes serving commercial food to the public shall not be classified as a tavern during the hours such food service is made available to the public.

**9.44.020 Offenses in taverns**

It is unlawful for any person, firm or corporation within the city:

- A. To serve or to allow to remain on the premises in a tavern any person under twenty-one;
- B. For any person under twenty-one to enter or remain on the premises of any tavern.

**9.44.030 Person under twenty-one prohibited where intoxicants are served**

- A. It is unlawful for any person having charge of a public place in the city where intoxicating liquors are served to admit or to allow any person under twenty-one to remain on the premises contrary to the laws of the state.
- B. It is unlawful for any person under the age of twenty-one to enter or remain in any public place where intoxicants are served.

~~**9.44.040 Intoxicating liquor—Possession by and sale to person under twenty-one**~~

~~A.— It is unlawful for any person under twenty one to acquire in any manner, consume or have in his possession any intoxicating liquor; provided that the foregoing shall not apply in the case of liquor given or permitted to be given to such person under twenty one by his parents or guardians for beverage or medicinal purposes, or administered to him by his physician or dentist for medicinal purposes.~~

~~B.— It is unlawful for any person to give, sell, or otherwise supply intoxicating liquor to any person under twenty one or permit any person under twenty one to consume intoxicating liquor on his premises or on any premises under his control, except as exempted in subsection A of this section.~~

**9.44.040 State statute adopted by reference**

The following section of the Revised Code of Washington (RCW), as it appears now or is hereafter amended, is hereby adopted by reference as though fully set forth in this chapter:

RCW 66.44.270- Furnishing Liquor to Minors - Possession, use – Penalties – Exhibition of effects – Exceptions

**9.44.050 False identification to obtain liquor**

It is unlawful for anyone knowingly to transfer any identification of age to a person under the age of twenty-one years for the purpose of permitting such person to obtain liquor, or for such person to use such



identification or make false representation as to his age for the purpose of obtaining liquor or gaining admittance to a tavern.

**9.44.060 Firearms**

A. It is unlawful for anyone to sell, give, furnish or cause to be furnished, or permit to be sold, given, furnished or cause to be furnished to a minor a pistol, rifle, shotgun or similar firearm, or any ammunition for the same.

B. It is unlawful for a minor to purchase, possess, or use any firearm or any ammunition for the same.

C. In any prosecution under this section it is an affirmative defense that the firearm is being used or is about to be used immediately at a rifle range or that such minor is to immediately embark on a lawful animal hunt and such minor possesses a lawful hunting license and is accompanied by a person over the age of eighteen years.

**9.44.070 Tobacco to minor**

It is unlawful for any person to sell, give, furnish or cause to be furnished to any minor any cigarette, cigar or tobacco in any form, or for a minor to possess same.

**Section 2. Severability.** The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances, shall be unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

**RCW 66.44.270****Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.**

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter **9A.20** RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter **9A.20** RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4), (5), or (7) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter **66.24** RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6) This section does not apply to liquor provided to students under twenty-one years of age in accordance with a special permit issued under RCW **66.20.010**(12).

(7)(a) A person under the age of twenty-one years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twenty-one years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

(8) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of

that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

[ **2015 c 59 § 2**; **2013 c 112 § 2**; **1998 c 4 § 1**; **1993 c 513 § 1**; **1987 c 458 § 3**; **1955 c 70 § 2**.  
Prior: 1935 c 174 § 6(1); 1933 ex.s. c 62 § 37(1); RRS § 7306-37(1); prior: Code 1881 § 939;  
**1877 p 205 § 5.**]

**NOTES:**

**Intent—2013 c 112:** "The legislature intends to save lives by increasing timely medical attention to alcohol poisoning victims through the establishment of limited immunity from prosecution for people under the age of twenty-one years who seek medical assistance in alcohol poisoning situations. Dozens of alcohol poisonings occur each year in Washington state. Many of these incidents occur because people delay or forego seeking medical assistance for fear of arrest or police involvement, which researchers continually identify as a significant barrier to the ideal response of calling 911." [ **2013 c 112 § 1.**]

**Severability—1987 c 458:** See note following RCW **48.21.160**.

*Minors, access to tobacco, role of liquor and cannabis board: Chapter **70.155** RCW.*



## City Council

### Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.P  
**File Number:** 16-0644

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**Type:** ordinance **Version:** 2 **Status:** Passed

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#### **Title**

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading the proposed ordinance amending OMC Chapter 9.08 Relating to Obstructing a Public Servant or Officer and Making a False or Misleading Statement to a Public Servant.

#### **Report**

##### **Issue:**

Whether to approve the proposed ordinance.

##### **Staff Contact:**

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

##### **Presenter(s):**

None - Consent Calendar Item

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

The Olympia Municipal Code relating to Obstructing a Public Servant or Officer currently combines two separate criminal acts into OMC 9.08.020. The behavior of obstructing an officer by hindering or delaying an investigation and the behavior of making a false statement to a public servant are

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**Type:** ordinance **Version:** 2 **Status:** Passed

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separate criminal acts, yet court records from Olympia cases do not currently distinguish the criminal behavior that was charged.

**Neighborhood/Community Interests (if known):**

There is an inherent interest in having court records accurately identify criminal behavior.

**Options:**

1. Approve the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not approve the proposed ordinance.

**Financial Impact:**

None.

**Attachments:**

Proposed ordinance.

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.08 RELATED TO OFFENSES AGAINST GOVERNMENT; SPECIFICALLY AMENDING SECTION 9.08.020, OBSTRUCTING A PUBLIC SERVANT OR OFFICER, AND ADDING A NEW SECTION 9.08.025 RELATED TO MAKING A FALSE STATEMENT TO A PUBLIC SERVANT**

**WHEREAS**, the Olympia Municipal Code (OMC) section related to Obstructing a Public Servant should be bifurcated to more clearly identify the conduct being charged; and

**WHEREAS**, by amending OMC Section 9.08.020 (Obstructing) and adding Olympia Municipal Code Section 9.08.025 (False Statement), charging documents and criminal history records will more clearly identify the criminal behavior; and

**WHEREAS**, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 9.08. Chapter 9.08 of the Olympia Municipal Code is hereby amended to read as follows:**

**Chapter 9.08  
OFFENSES AGAINST GOVERNMENT**

9.08.000 Chapter Contents

Sections:

- 9.08.010 Definitions.
- 9.08.020 Obstructing a public servant or officer.
- 9.08.025 Making a false or misleading statement to a public servant.
- 9.08.030 Hindering a law enforcement official.
- 9.08.040 Resisting arrest.
- 9.08.050 Rescue from official detention
- 9.08.055 Introducing contraband into jail.
- 9.08.060 Escape.
- 9.08.065 Bail Jumping.
- 9.08.070 False reporting.
- 9.08.080 Refusing to summon aid for a police officer.
- 9.08.090 Misrepresentation as policeman.

### **9.08.010 Definitions**

For the purposes of this chapter "Official detention" means:

- A. Restraint pursuant to a lawful arrest for an offense; or
- B. Lawful confinement in the city jail; or
- C. Custody for purposes incident to the foregoing, including but not necessarily limited to:
  - 1. Transportation, or
  - 2. Medical diagnosis or treatment, or
  - 3. Court appearances, or
  - 4. Work and recreation.

### **9.08.020 Obstructing a public servant or officer**

A person is guilty of obstructing a public servant or officer if he/she intentionally resists, delays or obstructs a person whom he/she knows is a public servant or officer and such servant or officer is acting in a governmental function capacity. ~~This section includes intentionally making untrue or misleading statements or reports to a public servant or officer.~~

### **9.08.025 Making a false or misleading statement to a public servant**

A person who knowingly makes a false or misleading material statement to a public servant is guilty of a gross misdemeanor. "Material statement" means a written or oral statement reasonably likely to be relied upon by a public servant in the discharge of his or her official powers or duties.

### **9.08.030 Hindering a law enforcement official**

A person is guilty of hindering a law enforcement official if he/she intentionally:

- A. Prevents, hinders or delays the apprehension or prosecution of a suspected violator who the person knows or has probable cause to suspect:
  - 1. Has committed a crime or juvenile offense; or
  - 2. Is being sought by law-enforcement officials for the commission of a crime or juvenile offense; or
  - 3. Has escaped from official detention; or
- B. Harbors or conceals a suspected violator; or

- C. Warns a suspected violator of impending discovery or apprehension; or
- D. Provides a suspected violator with money or transportation, disguise or other means of avoiding discovery or apprehension or a weapon; or
- E. Conceals, alters or destroys any physical evidence that might aid in the discovery or apprehension of a suspected violator; or
- F. Interferes with, hinders or delays a police dog while it is being used to track, pursue, detain, or apprehend a suspected violator as defined in subsection A of this section.

**9.08.040 Resisting arrest**

A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from arresting him.

**9.08.050 Rescue from official detention**

It is unlawful for any person to rescue or attempt to rescue any person from official detention or aid or attempt to aid the escape of any person from any such detention or to advise or encourage any such escape, or to supply any person being subject to such detention with any weapon or any implement or means of escape.

**9.08.055 Introducing contraband into jail**

- A. A person is guilty of introducing contraband if he or she knowingly and unlawfully:
  - 1. Provides contraband to any person detained in a detention facility; or
  - 2. Introduces contraband into a detention facility for his or her own use.
- B. "Contraband" as used in this section means any intoxicating substances, tobacco, matches, lighters or drug paraphernalia.
- C. Introducing contraband is a misdemeanor.

**9.08.060 Escape**

A person is guilty of escape if, without lawful authority, he intentionally removes himself from official detention or fails to return to official detention following temporary leave granted for a specified purpose of a limited period.



#### **9.08.065 Bail Jumping**

- A. Any person having been released by court order or released on bail with knowledge of the requirement of a subsequent personal appearance before the Municipal Court, and who fails to appear is guilty of bail jumping.
- B. Any person having been released by court order or released on bail with knowledge of the requirement to report as directed by the court for service of sentence, and who fails to appear or to surrender for service of sentence as required is guilty of bail jumping.
- C. It is an affirmative defense to a prosecution under this section, that the defendant must prove by a preponderance of the evidence, that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in disregard of the requirement to appear or surrender, and that the person appeared or surrendered without delay as soon as such circumstances ceased to exist.
- D. Bail jumping is a misdemeanor punishable by up to 90 days in jail and a fine of \$1,000.

#### **9.08.070 False reporting**

Every person who knowingly initiates or circulates a false report or warning of an alleged or impending occurrence of a fire, explosion, crime, catastrophe or other emergency is guilty of false reporting.

#### **9.08.080 Refusing a summon aid for a police officer**

It is unlawful for a person to refuse to summon aid for a police officer of the city if, upon request by a person he knows, or should reasonably know, to be a peace officer, he unreasonably refuses or fails to summon aid for such officer.

#### **9.08.090 Misrepresentation as policeman**

It is unlawful for any person, not being a member of the police force of the city or a special policeman appointed in accordance with the ordinances of the city, to willfully or knowingly represent to any person that he is a policeman, police officer, city detective or any other member of the police force of the city.

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**



## City Council

### Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 4.Q  
**File Number:** 16-0645

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**Type:** ordinance **Version:** 2 **Status:** Passed

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#### **Title**

Approval of Ordinance Amending Olympia Municipal Code (OMC) Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading the proposed ordinance amending OMC Chapter 9.24 Relating to Crimes Against Public Decency by Adopting the Crime of Indecent Exposure Pursuant to RCW 9.88.010.

#### **Report**

##### **Issue:**

Whether to approve the proposed ordinance.

##### **Staff Contact:**

Rocio D. Ferguson, Chief Prosecutor, 360.753.8449

##### **Presenter(s):**

None - Consent Calendar Item.

##### **Background and Analysis:**

Background and analysis have not changed from first to second reading.

The City of Olympia has seen an increase in the arrest of offenders for lewd conduct whose actions would constitute indecent exposure pursuant to RCW 9A.88.101. The creation of a municipal ordinance for indecent exposure which mirrors RCW 9A.88.101 will permit a potential enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future.

Those who engage in indecent exposure often have higher risks of reoffending and triggers of sexual deviance so as to justify an enhanced sentence upon second and subsequent convictions of indecent exposure.

**Neighborhood/Community Interests (if known):**

There is an inherent interest in protecting the public's safety and appropriately holding accountable sexual offenders who engage in acts of public indecency.

**Options:**

1. Adopt the proposed ordinance.
2. Direct staff to modify the proposed ordinance.
3. Do not adopt the proposed ordinance.

**Financial Impact:**

None.

**Attachments:**

Proposed ordinance  
RCW 9.88.010

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON AMENDING OLYMPIA MUNICIPAL CODE CHAPTER 9.24 RELATING TO CRIMES AGAINST PUBLIC DECENCY BY ADOPTING BY REFERENCE SECTION 9A.88.010 OF THE REVISED CODE OF WASHINGTON**

**WHEREAS**, there is an inherent interest in protecting the public's safety and appropriately sentencing repeat offenders who engage in acts of public indecency; and

**WHEREAS**, there has been an increase in the arrest of offenders for lewd conduct whose actions would constitute indecent exposure pursuant to RCW 9A.88.010; and

**WHEREAS**, those who engage in acts of indecent exposure have higher risks of recidivism and sexual deviancy so as to justify an enhanced sentence for repeat offenders; and

**WHEREAS**, adoption of RCW 9A.88.010 will permit a potential enhanced sentence if the person is again arrested and subsequently convicted of similar conduct in the future; and

**WHEREAS**, this Ordinance is adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other applicable authority;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1. Amendment of OMC 9.24. Chapter 9.24 of the Olympia Municipal Code is hereby amended to read as follows:**

**Chapter 9.24  
OFFENSES AGAINST PUBLIC DECENCY**

9.24.000 Chapter Contents

Sections:

- 9.24.010 Definitions.
- 9.24.020 Prostitution.
- 9.24.030 Prostitution loitering.
- 9.24.040 Promoting prostitution.
- 9.24.050 Patronizing a prostitute.
- 9.24.060 Prostitution and patronizing a prostitute –No defense.
- 9.24.070 Permitting prostitution.
- 9.24.080 Body studios and on-premises dating services.
- 9.24.090 Urinating in public.
- 9.24.100 Displaying erotic material.
- 9.24.110 Lewd conduct.
- 9.24.120 State statute adopted by reference.

### 9.24.010 Definitions

For the purpose of this chapter, certain words and terms are defined as follows:

- A. Commit prostitution means to engage in sexual conduct for a fee but does not include sexual conduct engaged in as part of any stage performance, play or other entertainment open to the public.
- B. "Erotic material" means motion pictures, photographs, pictures, printed material and other such objects depicting:
1. Human sexual intercourse;
  2. Masturbation;
  3. Sodomy (i.e., bestiality or oral or anal intercourse);
  4. Direct physical stimulation of unclothed genitals;
  5. Flagellation or torture in the context of sexual relationships; or
  6. An emphasized depiction of bare adult human genitals; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.
- C. "Known prostitute or panderer" means a person who within one year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been convicted of an offense involving prostitution.
- D. Lewd act means public:
1. Exposure of one's anus, genitals or female breasts; or
  2. Touching, caressing or fondling of the anus, genitals or female breasts; or
  3. Sexual conduct, as defined by subsection F of this section; provided, however, that this definition applies only to those works which, applying the average standards of the city, taken as a whole appeal to the prurient interest of persons and which lack serious literary, artistic, political or scientific value.
- E. Public place means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the public, whether or not limited to persons over a specified age, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them.

F. "Sexual conduct" means:

1. Sexual intercourse within its ordinary meaning, occurring upon any penetration, however slight; or
2. Any penetration of the vagina or anus, however slight, by an object, when committed by one person on another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; or
3. Any contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex; or
4. Masturbation, manual or instrumental, of one person by another; or
5. Flagellation or torture in the context of a sexual relationship.

**9.24.020 Prostitution**

A. A person is guilty of prostitution if he engages in or agrees or offers to engage in sexual conduct with another person in return for a fee.

B. This section shall not apply to sexual conduct engaged in as part of a stage performance, play or other entertainment open to members of the public.

**9.24.030 Prostitution loitering**

A. A person is guilty of prostitution loitering if he remains in a public place and intentionally solicits, induces, entices, or procures another to commit prostitution.

B. Among the circumstances which may be considered in determining whether the actor intends such prohibited conduct are that he:

1. Repeatedly beckons to, stops or attempts to stop, or engages a passerby in conversation; or
2. Repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or other bodily gestures; or
3. Is a known prostitute or panderer.

**9.24.040 Promoting prostitution**

A person is guilty of promoting prostitution if:

A. Acting other than as a prostitute or as a customer thereof, he knowingly:

1. Causes or aids a person to commit or engage in prostitution, or
2. Procures or solicits customers for prostitution, or
3. Provides persons or premises for prostitution purposes, or
4. Operates or assists in the operation of a house of prostitution or a prostitution enterprise, or
5. Engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution; or

B. Acting other than as a prostitute receiving compensation for personally rendered prostitution services, he accepts or receives money or other property pursuant to an agreement or understanding with a person whereby he participates or is to participate in the proceeds of prostitution activity.

#### **9.24.050 Patronizing a prostitute**

A person is guilty of patronizing a prostitute if:

- A. Pursuant to prior understanding, he pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him;
- B. He pays or agrees to pay a fee to another person pursuant to an understanding that, in return therefor, such person will engage in sexual conduct with him;
- C. He solicits or requests another person to engage in sexual conduct with him in return for a fee.

#### **9.24.060 Prostitution and patronizing a prostitute –No defense**

In any prosecution for prostitution or patronizing a prostitute, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that:

- A. Such persons were of the same sex;
- B. The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.

#### **9.24.070 Permitting prostitution**

A person is guilty of permitting prostitution if, having possession or control of premises which he knows are being used for prostitution purposes, he fails to make reasonable effort to halt or abate such use.



#### **9.24.080 Body studios and on-premises dating services**

A. Prohibited. It is unlawful for any person to operate, conduct, maintain, participate in or advertise a body studio or on-premises dating service, as defined in this section, or to knowingly be employed, participate in or conduct any business on the premises of a body studio or on-premises dating service.

B. Body Studio Defined. As used in this section, a "body studio" is any premises, other than a massage parlor as defined in Chapter 5.44 of this code, and licensed as such, upon which is furnished for a fee or charge the opportunity to paint, massage, feel, handle or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe or photograph any such activity. This includes any such premises which is advertised or represented to be a body painting studio, model studio, sensitivity awareness studio, communications center or any other such characterization and which leads to a reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to paint, massage, feel, handle, or touch the unclothed body or an unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so painted, massaged, felt, handled or touched by another person, or to observe, view or photograph any such activity.

C. On-premises Dating Service Defined. "On-premises dating service" means any premises which is advertised or represented as, or is, a dating service or studio or any other expression or characterization which conveys the same or similar meaning, and which renders its services on its premises, and leads to the reasonable belief that there will be furnished on such premises for a fee or charge the opportunity to massage, feel, handle, caress or touch the unclothed body or unclothed portion of the body of another person with intent to arouse the prurient interest of any person, or to be so massaged, felt, handled, touched or caressed by another person.

#### **9.24.090 Urinating in public**

It is unlawful for any person to urinate or defecate in a public place other than a washroom or toilet room or other facility specifically designated and intended for that use.

#### **9.24.100 Displaying erotic material**

A person who, having knowledge of the contents thereof, knowingly places, or causes another to place, for sale or otherwise, erotic material upon display in a public place or knowingly fails to take prompt action to remove such public display from property in his possession after learning of its existence is guilty of displaying erotic material; provided, however, the display of written material depicting the activity enumerated in subsection B1 of Section 9.24.010 will not by itself constitute an offense.

#### **9.24.110 Lewd conduct**

A. A person is guilty of lewd conduct if he intentionally performs a lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public.

B. The owner, manager or operator of premises open to the public is guilty of permitting lewd conduct if he intentionally permits or causes any lewd act on the premises.

C. A violation of this section is a gross misdemeanor.

**9.40.120 State statute adopted by reference**

The following section of the Revised Code of Washington, as it appears now or is hereafter amended, is hereby adopted by reference as though fully set forth in this chapter:

RCW 9A.88.010- Indecent Exposure

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 5. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**



\_\_\_\_\_  
CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

**RCW 9A.88.010****Indecent exposure.**

(1) A person is guilty of indecent exposure if he or she intentionally makes any open and obscene exposure of his or her person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm. The act of breastfeeding or expressing breast milk is not indecent exposure.

(2)(a) Except as provided in (b) and (c) of this subsection, indecent exposure is a misdemeanor.

(b) Indecent exposure is a gross misdemeanor on the first offense if the person exposes himself or herself to a person under the age of fourteen years.

(c) Indecent exposure is a class C felony if the person has previously been convicted under this section or of a sex offense as defined in RCW **9.94A.030**.

[ **2003 c 53 § 92; 2001 c 88 § 2; 1990 c 3 § 904; 1987 c 277 § 1; 1975 1st ex.s. c 260 § 9A.88.010.**]

**NOTES:**

**Intent—Effective date—2003 c 53:** See notes following RCW **2.48.180**.

**Acknowledgment—Declaration—Findings—2001 c 88:** See note following RCW **43.70.640**.

**Index, part headings not law—Severability—Effective dates—Application—1990 c 3:** See RCW **18.155.900** through **18.155.902**.



## City Council

### Approval of Appropriation of Transportation Impact Fees for Right-of-Way Acquisition

**Agenda Date:** 6/14/2016  
**Agenda Item Number:** 4.R  
**File Number:** 16-0660

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**Type:** ordinance **Version:** 1 **Status:** 1st Reading-Consent

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**Title**

Approval of Appropriation of Transportation Impact Fees for Right-of-Way Acquisition

**Recommended Action**

**Committee Recommendation:**

Not referred to a committee.

**City Manager Recommendation:**

Move to approve the appropriation of transportation impact fees for acquiring right-of-way for the Log Cabin Road Extension.

**Report**

**Issue:**

Whether to appropriate transportation impact fees for acquiring right-of-way.

**Staff Contact:**

Mark Russell, P.E., Director of Transportation, Public Works, 360.753.8762

**Presenter(s):**

None - Consent Calendar Item

**Background and Analysis:**

Projections indicate significant growth in southeast Olympia over the next 20 years. The City needs to plan for a transportation system that accommodates this growth. The Regional Transportation Plan includes a future extension of Log Cabin Road from Boulevard Road to Wiggins Road. The Log Cabin Road Extension will pass through a portion of the area known as the LBA Woods.

On April 19, 2016, Council received a briefing on the need for the Log Cabin Road Extension. Staff presented computer visualizations of different widths to show how a future road might look. The most narrow road width, 60 feet, would have the least impact to LBA Woods.

The right-of-way needed for the future Log Cabin Road is 1.91 acres and it goes through the Ashton Woods property. The City Parks Department intends to purchase this parcel. Staff recommends using transportation impact fees in the amount of \$129,142 to purchase the portion of property

needed for right-of-way.

**Neighborhood/Community Interests (if known):**

There is community interest in preserving the area known as LBA Woods as open space and for parks use. The future Log Cabin Road Extension project would build a road through a portion of this area. Community reaction was positive to a narrower roadway option.

**Options:**

1. Approve the appropriation to use transportation impact fees for acquiring right-of-way for the Log Cabin Road Extension. This preserves the right-of-way for a road when it is needed in the future using transportation impact fees.
2. Do not approve the appropriation to use transportation impact fees for acquiring right-of-way for the Log Cabin Road Extension. Purchasing it in the future will be more expensive and require a more complicated real estate transaction.

**Financial Impact:**

There is currently \$10,958 of mitigation fees in the Log Cabin Road Extension project for the purchase, resulting in an additional funding need of \$118,184. There are existing transportation impact fees available to provide \$118,184 for the purchase.

**Attachments:**

Appropriation Ordinance

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO THE 2016 BUDGET, AND APPROPRIATING \$118,184 TO THE LOG CABIN ROAD EXTENSION PROJECT TO BE FUNDED BY TRANSPORTATION IMPACT FEES.**

WHEREAS, there is a need to acquire land for the Log Cabin Road Extension project at a cost of \$129,142 and;

WHEREAS, \$10,958 of mitigation fees exists within the Log Cabin Road Extension project fund for the purchase, resulting in an additional funding need of \$118,184, and;

WHEREAS, there are existing transportation impact fees available to provide \$118,184 to the project, and;

**NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:**

**Section 1.** That the following appropriations are hereby made:

**CAPITAL IMPROVEMENT FUND**

<b>Resources:</b>	Transfer in from transportation impact fee account	\$118,184
	<b>TOTAL RESOURCES</b>	<b>\$118,184</b>
<b>Appropriations:</b>	Log Cabin Road Extension Project	\$118,184
	<b>TOTAL APPROPRIATIONS</b>	<b>\$118,184</b>

**TRANSPORTATION IMPACT FEE ACCOUNT**

<b>Resources:</b>	Fund Balance	\$118,184
	<b>TOTAL RESOURCES</b>	<b>\$118,184</b>
<b>Appropriations:</b>	Transfer to Capital Improvement Fund	\$118,184
	<b>TOTAL APPROPRIATIONS</b>	<b>\$118,184</b>

**Section 2. Severability.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 3. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 4. Effective Date.** This Ordinance shall take effect five (5) days after publication, as provided by law.

\_\_\_\_\_  
MAYOR

**ATTEST:**

\_\_\_\_\_  
CITY CLERK

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
CITY ATTORNEY  
(scs)

**PASSED:**

**APPROVED:**

**PUBLISHED:**



## City Council

### Approval of Ordinance Regarding Transportation Network Companies

**Agenda Date:** 6/14/2016  
**Agenda Item Number:** 6.A  
**File Number:** 16-0688

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**Type:** ordinance **Version:** 1 **Status:** Other Business

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#### **Title**

Approval of Ordinance and Interlocal Agreement Regarding Transportation Network Companies

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve ordinance regulating Transportation Network Companies in Olympia on first reading and forward to second reading and approve the Interlocal Agreement allowing Olympia to administer TNC licensing on behalf of Lacey, Tumwater, and Yelm.

#### **Report**

##### **Issue:**

Whether to adopt an ordinance and approve an Interlocal Agreement to allow Transportation Network Companies to operate in Olympia.

##### **Staff Contact:**

Jay Burney, Assistant City Manager, Executive Department, 360.753.8740

##### **Presenter(s):**

Jay Burney, Assistant City Manager

#### **Background and Analysis:**

Uber, Lyft and Sidecar are what are called Transportation Network Companies (TNCs) who utilize a smart phone application to access an online marketplace where drivers and riders are connected. The marketplace then manages the scheduling, rates, fare calculation and pricing, payment, customer communication, rider and driver ratings, and the actual connecting drivers with riders.

Uber has requested approval to operate in Thurston County, specifically in Olympia, Lacey, Tumwater and Yelm. Local organizations and businesses, particularly those related to tourism have supported TNC expansion into the area. When Uber arrives, other TNCs typically follow.



Olympia, Lacey, Tumwater, and Yelm have been working cooperatively over the past year to craft a new ordinance to regulate TNCs in our communities. While TNCs could operate under the existing taxi regulations, Uber has stated they need a faster review process for drivers and want to do their own background checks. They estimate that 40-50 drivers would operate in north County with 10-15 new ones per week. Uber drivers are frequently college students and retirees whose hours fluctuate considerably. Drivers set their own times ranging from full-time to part-time. As a result, there is a high turnover of drivers and high frequency of new drivers entering the system. Staff from the four cities decided to write a new ordinance to regulate TNCs that allows TNCs to operate and protects the health and safety of our citizens, rather than update the existing Occupational Permit process. A re-write of the Occupational Permit ordinance would impact existing taxi cab companies already operating in our community, posing new regulations on them. Rather than impact those companies, the new TNC ordinance would allow for TNCs to operate in our communities without impacting the existing rules for taxi cab companies.

Staff performed a comprehensive review of other cities in Washington and throughout the United States that have adopted new ordinances for allowing TNCs to operate in their communities. The ordinance before Council for consideration includes “best of” language from several cities, and closely mirrors ordinances already passed in the State of Washington. Key components of the new ordinance (attached) include:

- 1) All TNC Companies must be licensed to operate in Olympia and pay a fee of \$1,000 to cover the costs of administering the license.
- 2) The TNC and all TNC drivers will be required to obtain a business license in each jurisdiction they operate it.
- 3) TNCs must administer 3<sup>rd</sup> Party background checks on all TNC drivers.
- 4) TNCs must implement a zero tolerance policy for drug and alcohol use.
- 5) TNCs must ensure that all drivers meet the requirements outlined in the ordinance before granting them access to their digital network to accept rides.
- 6) TNCs must sign an Affidavit of Compliance and submit to twice yearly audit of TNC and TNC driver records.
- 7) TNC drivers must pass a background check.
- 8) TNC drivers must be 21 years of age and possess a valid Driver’s License.
- 9) TNC drivers must carry insurance as required by State law to operate as a TNC and must not have committed three or more moving violations in the last three years.
- 10) Must pass TNC required vehicle inspections

11) TNC drivers must pay the appropriate B&O Tax

12) TNC drivers cannot accept street hails.

The audit process built into the ordinance will ensure compliance with the ordinance requirements. TNCs or TNC drivers who fail to follow the requirements set forth in the ordinance are subject to penalties.

Staff from the four cities held a Public Meeting on March 9<sup>th</sup>, 2016 at which time they outlined the proposed requirements of the new ordinance. Staff incorporated input from this meeting into the final draft. A list of attendees from the public meeting along with meeting minutes and written comments received is attached. The General Government Committee was also briefed on Transportation Network Companies and the need for licensing at its November 18<sup>th</sup>, 2015 meeting.

Staff from the four cities is also proposing an Interlocal Agreement (attached) that will allow for one city to administer the TNC licensing on behalf of the others. Olympia staff has capacity to administer the licensing and have been asked by the other jurisdictions to take the lead. The \$1,000 TNC license fee will cover our costs to do so.

Council approval of the attached TNC Ordinance will allow TNCs to operate in Olympia. Approval of the Attached Interlocal Agreement allows Olympia to administer TNC licensing and auditing on behalf of all four jurisdictions.

**Neighborhood/Community Interests (if known):**

Allowing TNCs to operate in Olympia will provide more transportation options for our residents. They will also create competition for traditional taxi companies that does not currently exist.

**Options:**

1. Move to approve ordinance regulating Transportation Network Companies in Olympia on first reading and forward to second reading and approve the Interlocal Agreement allowing Olympia to administer TNC licensing on behalf of Lacey, Tumwater, and Yelm.
2. Provide direction to staff to amend the ordinance and/or Interlocal Agreement and move to adopt as amended.
3. Do not adopt the ordinance or Interlocal Agreement regarding Transportation Network Companies and provide direction to staff on next steps.

**Financial Impact:**

The cost to administer the licensing and auditing of TNC's through the proposed regional approach is \$1,000, which will be recovered through the TNC licensing fee.

**Attachments:**

- 1) TNC Ordinance
- 2) TNC March 9<sup>th</sup> Public Meeting Materials
- 3) TNC Interlocal Agreement

Ordinance No. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, REGARDING TRANSPORTATION NETWORK COMPANIES, AMENDING OLYMPIA MUNICIPAL CODE SECTION 5.10.020, AND ADOPTING A NEW CHAPTER 5.11 OF THE OLYMPIA MUNICIPAL CODE**

WHEREAS, Olympia Municipal Code Chapter 5.10 regulates for-hire vehicle driver/operator services in the City of Olympia; and

WHEREAS, new technology-based companies, known as transportation network companies, offer a new model of commercial transportation service using online-enabled digital platforms to connect passengers with drivers using personal vehicles; and

WHEREAS, transportation network company services are sufficiently distinct from taxicabs and for-hire vehicle services as to warrant separate regulation; and

WHEREAS, the Olympia City Council desires to amend Olympia Municipal Code Section 5.10.020, regarding Occupational Permits for taxicabs and for-hire vehicles, and adopt a new Olympia Municipal Code Chapter 5.11 in order to regulate the operations of transportation network companies in the City of Olympia for the purpose of promoting the safety and welfare of the general public;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

**Section 1. Amendment of OMC 5.10.020. Olympia Municipal Code Section 5.10.020 is hereby amended to read as follows:**

**5.10.020 Definitions.**

For the purpose of this chapter, the following definitions apply:

- A. "Chief of Police" means the City of Olympia Chief of Police.
- B. "City" means the City of Olympia.
- C. "Department" or "Police Department" means the Olympia Police Department.
- D. "Driver" or "Operator" means the person physically engaged in driving a for-hire vehicle, whether or not said person is the owner of or has any financial interest in said vehicle.
- E. "For-hire vehicle" includes all vehicles used for the transportation of passengers for compensation, except chartered and scheduled buses, vehicles not for hire by the general public (such as vans operated by hotels, employers, churches, schools and retirement facilities) and ride share vehicles, and transportation network company vehicles as defined and regulated in OMC Chapter 5.11. The term refers primarily to taxicabs and limousines.
- F. "Limousine" means a chauffeur-driven, unmetered, unmarked luxury motor vehicle pre-arranged for transportation meeting the definition in RCW 46.04.274. Limousines differ from "taxis" in that they are for the exclusive use of the person(s) paying the pre-arranged fare, are unmetered, unmarked, and are not available for spontaneous hire.

G. "Locksmith" means any person who, for hire, is engaged in the installation, removal, adjustment or repair of any locking or security device of any type used for doors, safes, windows or other similar purpose, and performs such service on a customer's premises.

H. "New application" means an application submitted by a person who did not possess a permit for the same occupation issued by the City in the immediate prior year.

I. "Person" means any natural person of either sex, firms, corporations, partnerships and associations either acting by themselves or by servant, agent or employee. The singular shall include the plural and the masculine pronoun shall include the feminine and neuter.

J. "Renewal application" means an application submitted by a person who possessed a permit for the same occupation issued by the City in the immediate prior year.

K. "Solicitor" within the meaning of this chapter, is any person who, either as a principal or agent, goes from door to door, or from place to place and enters upon any private property within the City and thereon engages in any of the following activities:

- a. Sells, takes orders for, or offers to sell or take orders for, any goods, wares or merchandise whether or not collecting in advance for such goods, wares or merchandise; and/or
- b. Sells, takes orders for, or offers to sell or take orders for services, whether or not collecting in advance for the performance of such services; and/or
- c. Sells, takes orders for, or offers to sell or take orders for the making, manufacturing, or repairing of any article or thing whatsoever, whether or not collecting in advance for the performance of such services; and/or
- d. Seeks contributions or donations.

L. "Taxicab," "Taxi" or "Cab" means a vehicle used for the transportation of passengers for-hire, where the route traveled, destination and number of passengers is controlled by the customer(s) and the fare is based on an amount recorded and indicated on a taximeter, or on a special fare rate or contracted agreement.

M. "Taximeter" means any instrument or device by which the charge for hire of a passenger carrying vehicle is measured or calculated either for the distance traveled by such vehicle or for waiting time, or for both, and upon which such calculated charges are indicated by means of figures.

**Section 2. Amendment of OMC 5.00.000. Olympia Municipal Code Section 5.00.000 is hereby amended to read as follows:**

**5.00.000 Title Contents**

**Title 5  
BUSINESS TAXES, LICENSES AND REGULATIONS**

Chapters:

- 5.02 Business Licenses
- 5.04 Business and Occupations Tax
- 5.05 Administrative Provisions for Certain Taxes
- 5.10 Occupational Permits

- 5.11 Transportation Network Companies
- 5.15 Cable Communications Franchises
- 5.16 Adult Oriented Businesses
- 5.17 Community Events
- 5.18 Farmers Market
- 5.20 Gambling Activities
- 5.24 Garage Sales
- 5.48 Occult Arts
- 5.50 Pet Shops
- 5.52 Locksmiths
- 5.55 Security Alarm Businesses
- 5.60 Secondhand Dealers
- 5.64 Solicitors
- 5.68 For-Hire Vehicles
- 5.72 Towing Services
- 5.76 Miscellaneous Businesses
- 5.80 Unfair Housing Practices
- 5.84 Utility Services Tax
- 5.86 Multi-Family Dwelling Tax Exemptions

**Section 3. Adoption of OMC 5.11. A New Chapter 5.11, Transportation Network Companies, is hereby added to the Olympia Municipal Code to read as follows:**

**Chapter 5.11**  
**TRANSPORTATION NETWORK COMPANIES**

5.11.00 Chapter Contents

Sections:

- 5.11.010 Purpose
- 5.11.020 Definitions
- 5.11.030 Olympia business license required
- 5.11.040 TNC license required
- 5.11.050 TNC driver requirements
- 5.11.060 TNC requirements
- 5.11.070 Vehicle inspection and maintenance
- 5.11.080 Insurance requirements
- 5.11.090 Registered agents required
- 5.11.100 Audit
- 5.11.110 Operational requirements
- 5.11.120 Non-Discrimination; Accessibility
- 5.11.130 Revocation, suspension, or denial of TNC license
- 5.11.140 Enforcement
- 5.11.150 Penalty

**5.11.010 Purpose**

The purpose of this chapter is to provide for and promote the safety and welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms. Nothing contained in this chapter is intended, nor shall be construed, to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of the licensee or driver to comply with the provisions of this chapter, or by the city's or its employees' enforcement or failure to enforce any part of this chapter.

### **5.11.020 Definitions**

For the purpose of this chapter, the following definitions apply:

- A. "Transportation Network Company" or "TNC" means an entity that uses a digital network to connect passengers to TNC drivers who use personal vehicles to transport passengers for compensation between geographical points chosen by the passenger.
- B. "Digital network" means an Internet-enabled platform or application used to connect passengers with TNC drivers.
- C. "TNC driver" means an individual who uses a personal vehicle to provide transportation services arranged through a TNC's digital network.
- D. "TNC vehicle" means a personal vehicle used by a TNC driver to provide transportation services arranged through a TNC's digital network.
- E. "Operate a TNC in the City of Olympia" means a TNC uses its digital network to connect a TNC driver to a passenger for a trip originating in the City of Olympia.
- F. "Operate as a TNC driver in the City of Olympia" means a TNC driver accepts a trip request over a TNC's digital network that originates in the City of Olympia.
- G. "Person" means any natural person of either sex, firms, corporations, partnerships and associations either acting by themselves or by servant, agent or employee. The singular shall include the plural and the masculine pronoun shall include the feminine and neuter.
- H. "Director" means the Director of the City of Olympia's Administrative Services Department.

### **5.11.030 Olympia business license required**

- A. It is a violation of this chapter for any TNC to operate in the City of Olympia without a current and valid City of Olympia business license.
- B. It is a violation of this chapter for any driver, who is an independent contractor affiliated with a TNC, to operate as a TNC driver in the City of Olympia without a current and valid Olympia business license. It is the responsibility of the TNC to communicate this requirement to TNC drivers.
- C. TNC drivers must keep a copy of their business license in their vehicle when logged on and accepting rides from the TNC's digital network. It is the responsibility of the TNC to communicate this requirement to TNC drivers.
- D. Except as described in subsections B and C, the TNC shall have no obligations as to TNC driver business license requirements.

### **5.11.040 TNC license required**

- A. It is a violation of this chapter for any TNC to operate in the City of Olympia without a current and valid City of Olympia TNC license.
- B. The Director or designee may issue a TNC license provided that the TNC applicant submits an affidavit sworn under penalty of perjury, on a form provided by the City, that to the best of the

applicant's knowledge, formed after a diligent inquiry into the facts, the TNC is in full compliance with this chapter, including, but not limited to, all driver, vehicle, insurance, and operational requirements.

C. The TNC license shall be effective for one year.

D. The annual TNC license fee shall be \$1,000 and shall be paid in full at the time of submitting all initial and renewal applications.

#### **5.11.050 TNC driver requirements**

A. TNC drivers shall certify that they have no known physical or mental infirmity which jeopardizes their ability to safely operate as a TNC driver transporting the public.

B. TNC drivers shall be at least twenty-one (21) years of age.

C. TNC drivers shall possess a valid Washington State driver's license and shall have been continuously licensed as a driver by the State of Washington and/or another state for at least one (1) year immediately prior to operating as a TNC driver in Olympia. A home state Driver's License with active Military ID or Student ID with proof of full-time enrollment and nonresident status may be an acceptable alternative, subject to review and approval.

D. TNC drivers shall certify that they have insurance that meets the minimum liability requirements for the State of Washington, including insurance coverage for use of the vehicle for transportation of passenger for-hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

E. TNC drivers shall not have been convicted or found to have committed three or more moving violations during any twelve (12) month period during the three (3) years prior to operating as a TNC driver in Olympia.

F. TNC drivers shall possess proof of motor vehicle registration and proof of current automobile liability insurance. The TNC shall certify that all drivers have insurance that meets the requirements of this chapter, including insurance coverage for use of the vehicle for transportation of passengers for-hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

#### **5.11.060 TNC requirements**

A. The TNC or its agent shall maintain accurate and up-to-date records for all TNC drivers accessing its digital network to provide TNC services in the City of Olympia. Said records shall include the driver's name, age, address, social security number, criminal history, driver's license, motor vehicle registration, vehicle safety inspection records, and proof of at least the minimum automobile liability insurance coverage required by the State of Washington, including insurance for use of the vehicle for transportation of passengers for-hire as required by RCW Chapter 48.177 as enacted or subsequently amended.

B. Prior to permitting a person to act as a TNC driver on its digital network, and annually thereafter, the TNC shall obtain and review a criminal background check report for such person. The criminal background check shall include a search of no less than five (5) years of database history, unless prohibited by law, in which case the duration of the search shall be the maximum number of years permitted by law. The criminal background check shall include local, state, and national criminal history databases and national and state sex offender registries. Any person who is on a sex offender registry or who has a criminal conviction, within the past five (5) years, of crimes involving driving under the influence of alcohol or controlled substances, felony fraud, sexual offenses, felony property damage or theft, acts of violence, acts of terror, reckless driving or negligent driving, or use of a motor vehicle to

commit a felony, shall not be permitted to act as a TNC driver on the TNC's digital network. The TNC or its agents shall maintain records of such criminal background checks for a period of two (2) years. For purposes of this section, the term "criminal conviction" includes a "conviction or other disposition adverse to the subject" as defined under RCW 10.97.030, and bail forfeitures.

C. The TNC shall only permit an individual to act as a TNC driver on its digital network if it finds that the standards set forth in this section are met by such individual. The TNC shall revoke a driver's authority to act as a TNC driver on its digital network if the standards set forth in this section are not met.

#### **5.11.070 Vehicle inspection and maintenance**

A. TNC vehicles operating in the City of Olympia shall be no more than ten (10) years old.

B. The TNC shall inspect or cause to be inspected annually and every year thereafter, every motor vehicle used by a TNC driver before allowing the driver to use the motor vehicle to provide transportation services.

C. The inspection required in subsection B must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, tail lights, turn indicator lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, steering system, muffler, exhaust, tires, rear view mirrors, and safety belts. The inspection must ensure that all of the components listed are in proper functioning order.

D. The TNC shall maintain vehicle safety inspection records for a minimum of three (3) years.

#### **5.11.080 Insurance requirements**

The TNC shall comply with the automobile liability insurance requirements contained in RCW Chapter 48.177 as enacted or subsequently amended.

#### **5.11.090 Registered agent required**

The TNC shall maintain a registered agent for service of process in the State of Washington. The name, telephone number, and physical address of the registered agent shall be submitted to the City of Olympia at the time of license application. The TNC shall notify the City of Olympia in writing of any changes to its registered agent during the term of the license.

#### **5.11.100 Audit**

A. No more than twice per license year, the City may audit the TNC's records to review compliance with this chapter. Each audit shall be limited to records relating to no more than twenty randomly selected TNC drivers operating in the City of Olympia. In the event the audit reveals discrepancies in the records reviewed, the City reserves the right to audit all of the TNC's records related to TNC drivers operating in the City of Olympia.

B. The audit shall occur at City Hall, 601 4<sup>th</sup> Avenue E, Olympia, Washington; provided that the City may in its discretion agree to an alternative location.

C. Notwithstanding the foregoing, the City may require the TNC to produce records at any time to investigate a specific complaint regarding compliance with this chapter.



### **5.11.110 Operational Requirements**

- A. While in service in the City, TNC drivers shall only transport passengers who have arranged transportation through a TNC's digital network and shall not solicit or accept street hails by persons seeking transportation.
- B. While in service in the City, each TNC vehicle shall display removable trade dress or marks which is visible from fifty (50) feet and clearly associates the vehicle with a licensed TNC company.
- C. The TNC's digital network or website shall display for the passenger the first name and photograph of the TNC driver as well as the make, model, and license plate number of the TNC vehicle.
- D. The TNC's digital network or website shall display for the passenger the applicable rates being charged and the option to receive an estimated fare before the passenger enters the TNC vehicle.
- E. The TNC shall implement a zero tolerance policy on the use of drugs or alcohol applicable to any TNC driver on its digital network. The TNC shall provide notice of the zero tolerance policy on its website, as well as the procedures to report a complaint about a TNC driver with whom the passenger was matched and for whom the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride. The TNC shall immediately suspend a driver upon receipt of a passenger complaint alleging a violation of the zero tolerance policy. The suspension shall last the duration of the investigation.

### **5.11.120 Non-Discrimination; Accessibility**

- A. The TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity with respect to riders and potential riders and notify TNC drivers of such policy
- B. TNC drivers shall comply with all applicable laws regarding non-discrimination against riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation, or gender identity.
- C. TNC Drivers shall comply with all applicable laws relating to accommodation of service animals.
- D. A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

### **5.11.130 Revocation, suspension, or denial of TNC license**

- A. A TNC license may be revoked, suspended, or denied by the Director for any of the following reasons:
  - 1. Failure to meet or maintain any of the requirements or qualifications set forth in this chapter for obtaining a TNC license.
  - 2. A materially false statement contained in the application for the license.
  - 3. Any violation of this chapter.
- B. Prior to any revocation, suspension or denial of any TNC license, the City shall inform the TNC of their right to a hearing thereon. Such hearing, if requested, shall be conducted before the City prior to the implementation of any revocation, suspension or denial.

### **5.11.140 Enforcement**

The Director shall have the administrative authority to implement and enforce this ordinance. The Director may adopt rules and regulations for its administration, not inconsistent with this chapter. This provision shall not be construed to abrogate or limit the jurisdiction of the Olympia Police Department to enforce any provisions of this chapter or of any other city ordinance relating to motor vehicles or the operation of taxicabs or TNC vehicles.

### **5.11.150 Penalty**

A. In addition to all other provisions and standards of this ordinance, the acts or omissions set forth in this section are prohibited. Any TNC or TNC driver who shall fail to comply with any provision or standard of this ordinance shall be in violation of this ordinance. A TNC may be held responsible for violations by TNC drivers if the TNC is provided notice of the violation and fails to cure it within a reasonable period. Any special license granted to a TNC may be suspended or revoked by the Director or designee for such violation.

B. Submitting a materially false affidavit or attestation. Any TNC submitting a materially false affidavit as provided for under OMC 5.11.040 shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-four (364) days or both such fine and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

C. Operating without a TNC license. Any TNC affiliating with a driver who is picking up a passenger in the City of Olympia without having first obtained a TNC license shall be subject to a civil infraction as provided in OMC Chapter 4.50 and the penalties in OMC 4.50.060.

D. While in service, any TNC driver picking up a passenger in the City of Olympia without having a current contract with a special licensed TNC shall be subject to a civil infraction as provided in OMC Chapter 4.50 and the penalties in OMC 4.50.060.

E. Any independent contractor TNC driver who picks up a passenger in the City of Olympia and who has not obtained a business license under OMC 5.02.005 or determination of exemption under OMC 5.02.040 shall be subject to penalties as stated in OMC 5.02.070.

**Section 4. Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

**Section 5. Ratification.** Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

**Section 6. Effective Date.** This ordinance shall take effect five (5) days after publication, as provided by law.

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MAYOR

**ATTEST:**

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CITY CLERK

**APPROVED AS TO FORM:**



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CITY ATTORNEY

**PASSED:**

**APPROVED:**

**PUBLISHED:**

**INTERLOCAL AGREEMENT  
BETWEEN  
THE CITIES OF LACEY, OLYMPIA, TUMWATER AND YELM  
REGARDING JOINT REGULATION OF  
TRANSPORTATION NETWORK COMPANIES**

THIS INTERLOCAL AGREEMENT is entered into by and between the cities of Lacey, Olympia, Tumwater, and Yelm, collectively referred to as “the Parties,” for the purpose of joint regulation of transportation network companies.

WHEREAS, RCW 39.34.030(2) permits any two or more public agencies to enter into agreements with one another for joint and cooperative action; and

WHEREAS, new technology-based companies, known as transportation network companies (“TNCs”) or commercial transportation services providers, offer a new model of commercial transportation service using online-enabled digital platforms to connect passengers with drivers using personal vehicles; and

WHEREAS, the Parties currently have regulations providing reciprocity to honor occupational permits issued by any of the Parties to for-hire vehicle drivers; and

WHEREAS, RCW 48.177 defines commercial transportation services providers and commercial transportation services provider drivers as distinct from taxicabs and for-hire vehicle companies creating the need for separate regulations; and

WHEREAS, the Parties have adopted nearly identical ordinances to provide for and protect the safety and welfare of the general public by creating regulations and enforcement provisions applicable to TNCs and TNC drivers; and

WHEREAS, by this Interlocal Agreement, the Parties seek to streamline these new regulations by authorizing the delegation of the administration and enforcement of TNCs and TNC drivers to one jurisdiction;

NOW, THEREFORE, in consideration of the term and conditions contained herein, the Parties agree as follows:

Section 1. Scope of Services.

a. The Parties have adopted nearly identical ordinances regarding the administration and enforcement of TNCs and TNC drivers which authorizes the delegation of administration and enforcement to another city that is a party to this Agreement.

b. The City of Olympia is hereby designated as the agency with authority and responsibility for providing any and all administrative services required for the licensing of TNCs. The administrative services to be performed by the City of Olympia include but are not limited to the following:

1. Create application forms for the licensing of a TNC, to include a sworn affidavit that the TNC is in full compliance with Olympia's TNC ordinance, codified as Chapter 5.11 of the Olympia Municipal Code (OMC), including driver, vehicle, insurance and operational requirements.

2. Review the application, confirm compliance, collect the license fee, and issue the annual license.

3. Perform audits of the TNC's continued compliance with OMC Chapter 5.11.

4. Enforcement of the rules and regulations consistent with OMC Chapter 5.11, including the conduct of hearings pursuant to OMC 5.11.120.

c. In exchange for Olympia's performance, the license fees paid by a TNC will be retained by Olympia and the Parties will honor valid TNC licenses issued by Olympia.

d. The Parties retain the right to supplement audit and/or enforcement activities at any time.

e. The delegation of licensing of TNCs does not apply to business license requirements of TNC drivers. TNC drivers are independent contractors and must obtain a business license from each Party.

Section 2. Duration. The terms and performance of this Agreement shall commence after the approval by the governing body of each Party and following the recording of this Agreement with the Thurston County Auditor or posting it on each Party's website as provided in RCW 39.34.040. This Agreement will terminate on January 1, 2020, unless amended by agreement of the Parties.

Section 3. Withdrawal from Agreement. Any Party may withdraw from this Agreement at any time. Withdrawal shall be effective immediately upon receipt of written notice by the other Parties.

Section 4. Changes. Any party may request changes to this Agreement, however, no change or addition to this Agreement shall be valid or binding upon

any Party unless such change or addition be in writing and signed by the Parties. Such amendments shall be attached to and made part of this Agreement.

Section 5. Administration. Each Party shall be responsible for administering the terms of this Agreement. No separate legal entity is created by reason of entering into this Agreement. No joint organization is created. No common budget is to be established. No personal or real property is to be jointly acquired or held.

Section 6. Entire Agreement. The Parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Further, any modification of this Agreement shall be in writing and signed by the Parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. The Parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the Parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

Section 7. Notice. Notices required to be given by any Party shall be deemed given when served on the respective City Clerks of each Party.

Section 8. Governing Law. This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The exclusive jurisdiction and venue for any lawsuit between the Parties arising out of this Agreement shall be in Thurston County Superior Court.

Section 9. Counterparts. This Agreement may be executed in counterparts, each of which shall be considered for all purposes as an original.

Section 10. Remedies. In addition to the remedies provided by law, this Agreement shall be specifically enforceable by any Party.

Section 11. Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be invalid, such invalidity shall not affect the other provisions of this Agreement, which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

[Signatures on following page.]

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of the date set forth below.

**CITY OF LACEY**

**CITY OF OLYMPIA**

\_\_\_\_\_  
Andy Ryder, Mayor

\_\_\_\_\_  
Cheryl Selby, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

ATTEST:

\_\_\_\_\_  
Carol Litten, City Clerk

\_\_\_\_\_  
Jane Kirkemo, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
David Schneider, City Attorney

  
\_\_\_\_\_  
Mark Barber, City Attorney

**CITY OF TUMWATER**

**CITY OF YELM**

\_\_\_\_\_  
Pete Kmet, Mayor

\_\_\_\_\_  
Ron Harding, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

ATTEST:

\_\_\_\_\_  
Melody Valiant, City Clerk

\_\_\_\_\_  
Janine Schnepf, City Clerk

APPROVED AS FORM:

APPROVED AS TO FORM:

\_\_\_\_\_  
Karen Kirkpatrick, City Attorney

\_\_\_\_\_  
Brent Dille, City Attorney





Public Meeting  
Proposed Ordinance Ride Sharing Services  
Olympia, Lacey, Tumwater, Yelm  
March 9, 2016 6:00 p.m.

Staff Present:

Olympia Assistant City Manager Jay Burney  
Tumwater City Administrator John Doan  
Yelm Community Development Director Grant Beck  
Lacey Public Affairs Manager Steve Kirkman

Mr. Burney welcomed attendees and gave an overview of the ordinance the four jurisdictions are proposing. He noted there are no proposed changes to the existing occupational permit that governs taxi companies.

Mr. Burney indicated comments would be accepted through 5:00 p.m. on Monday, March 14.

**QUESTIONS AND COMMENTS**

1. If individual drivers will have to pay for a business license with each of the four cities, how much is it?

Fees: Olympia's initial fee is currently \$80 but may be reducing to \$30. The renewal fee is currently \$30. Tumwater's initial fee is \$40; renewal is \$20. Lacey's initial fee is \$60; renewal is \$30. Yelm's initial fee is \$35; renewal fee is \$25.

2. Do third party background checks include fingerprinting?

The third party background checks used by the Transportation Network Companies (TNCs) go a step further than City background checks do. The cities go by what is reported to the FBI in the NCIC system. The TNCs look at the history in any place a driver has lived in addition to what is in the NCIC system.

3. Has Washington Senate Bill SB-5550, which deals with insurance requirements for TNCs been ratified?

Yes, it is current state law, as of last session.

4. If TNCs are not allowed to accept hails, what recourse do cab companies have if TNC drivers are parked in spots where cab companies typically wait for fares to hail them for a ride or if TNC drivers are observed picking up hails?

Get as much information as possible, such as license plate number, vehicle and driver details, and report it to the jurisdiction it's witnessed in so that the incident can be investigated.

5. Are there parking places designated just for cabs?

There are no designated parking spots for cabs. They shouldn't be parking in short-term or loading zones.

6. Who will have oversight regarding business license and ordinance concerns?

The Admin Services Director in each jurisdiction currently oversees business licenses and will also manage ordinance concerns.

7. A Tacoma Uber driver spoke about the benefits of Uber in her community and commented she has never felt unsafe while driving for Uber.

8. Is the background check the 10-point fingerprint check?

Again, the TNCs background check goes a step deeper than the City's current process.

9. Will the ordinance require physicals to determine whether a person is medically qualified to drive?

All drivers must certify they are able to drive, but no medical examination is required. The TNCs have a zero tolerance for drugs or alcohol. The first time a driver is caught, they will no longer be able to drive for the TNC.

10. Any specific skills required to qualify as a TNC driver?

No.

11. If the audit finds a number of repeat violations, will a more in-depth audit be done on a company?

Yes, the jurisdiction will then audit all drivers.

12. Will vehicle inspections be required?

Most TNCs have vehicle requirements for their drivers, which will be included in the ordinance.

13. All of us would like to see a level playing field. What is the required liability insurance?

Under State law, insurance requirements for TNC drivers with no riders are \$50,000 per person, accident coverage \$100,000 per person, uninsured motorist coverage that meets state law, and personal injury protection. Insurance requirements for TNC drivers with riders are combined single limit liability coverage \$1,000,000, uninsured motorist \$1,000,000 and personal injury protection.

14. There have been allegations Uber has dropped rates to drive competitors out of business. Has there been any consideration for basic fare rates?

No, not in the current ordinance, but drivers display rates within the app so customers know what the rate will be up front.

15. Is there going to be a standard of how many drivers can operate in a given area at any one time? Any auditing process about that?

There is nothing in the ordinance that limits the number of drivers who can drive. In an audit, the first thing that will be asked for is a list of all drivers driving in the City. From that list a random number will be selected for the audit. If there are concerns with those, the City has the option to audit all the drivers. Audits will occur twice a year.

16. Will TNC drivers be required to have a company designation on the vehicle at all times?

TNC vehicles will need to have company designation visible at all times while driving for the TNC, but not when they are on personal time.

17. The Visitor and Convention Bureaus thanked the cities for work on transportation needs downtown.

18. If a TNC driver picks up a rider in Tacoma and drives them to Olympia, will a business license be required for both the original pick up city and the destination city?

A business license will be required for each city a rider is picked up in. If a rider is picked up in Yelm and driven to Olympia, but no passenger is picked up in Olympia, only a business license in Yelm is required. However, if a driver picks up a rider in Yelm, drives them to Olympia, picks up another rider in Olympia and drives them to Tumwater, a business will be required for Olympia and Yelm.

19. A current Uber driver said she is very impressed with the safety systems Uber has built into the network. After each ride, the driver & rider both rate each other. If a driver doesn't get enough reviews, they won't be able to continue to drive.

20. When will TNC drivers know what the driving boundaries are for having to get a business license in each jurisdiction?

TNC companies are watching the cities actions. After the ordinance is enacted in each jurisdiction, TNC companies will notify drivers they are allowed to service the community and will need a business license there.

21. Once the ordinance is complete, will there be a public hearing before it's ratified?

Yelm will hold a public hearing before taking action on the proposed ordinance. The other cities will not hold a public hearing but the public will be allowed to comment when the item is on the agenda prior to action being taken on it.

22. Does a consent agenda mean a decision has already been made?

No. An item on a consent agenda means the item is one of several items that will be voted on with one motion. However, any Councilmember may pull any item from the consent agenda for discussion or to request more information or staff work before considering an action. Nothing on a consent agenda is decided upon until it is voted on.

23. The owner of Capital Aeroporter stated his drivers have to submit an abstract driving record, go through a 4-day training session, meet driver qualification standards annually, get a medical exam every 2 years, have shift limitations and insurance requirements, get a pre-employment drug test and are subject to random drug

testing while employed as a driver. He asked the cities to take a harder look at some of these things before finalizing the ordinance.

24. The Washington Uber Operations Manager said Uber drivers typically drive 11 to 14 hours a week and undergo nationally accredited background and driving record checks. He noted the networks rating system also works well.

25. Is there a way to make the business license fee countywide instead of for each city? It seems like it could be streamlined.

At this time each City has its own business license process. When the ordinance is enacted, drivers will need to obtain a business license in each City they will pick up riders in. However, at some point in the future, the cities may elect to look at changing the process to a more regional approach.

26. If Thurston County won't consider one business license, is there a way to have one location for a driver to get a business license for each of the four jurisdictions?

Each of the cities uses the State's website for business applications, so a driver may apply for a number of different city business licenses at one time from the convenience of their computer.

The meeting ended at 7:12 p.m.

## Jay Burney

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**From:** Joe L <uber1olympia@gmail.com>  
**Sent:** Wednesday, March 09, 2016 8:18 PM  
**To:** Jay Burney  
**Subject:** Email address

Hello Jay,

Just incase you can't read my writing on the sign in log tonight

Remember I get the first license !

If I can be of any help to you in this process please let me know, including all the complaints you will be receiving from the local cab drivers

If needed I can explain the drivers app to you in detail and how I use the rider app for positioning

This might help you when you get complaints

Thanks for your time tonight

Sincerely

Joe Lambrix  
(360) 701-3264

## Jay Burney

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**From:** Joshua Miller <aeonblues@gmail.com>  
**Sent:** Wednesday, March 09, 2016 8:12 PM  
**To:** Jay Burney  
**Subject:** TNC comments

I was at the 3/9/16 meeting, and I wanted an opportunity to better articulate a comment.

First off, I can barely make a living as a taxi driver now, working with a 24 hour cab company. On Friday and Saturday nights I can average \$20/hour, but then on Monday and Tuesday nights, I average about \$5/hour after expenses.

RediCab uses an industry standard rate for Thurston county, \$2.50 / mile, and \$0.50/ minute wait time.

In regards to rates, when uber lowered their base rate across the US to \$1 per mile, they were effectively dumping on the for hire economy. I work with a local company RediCab, and even though I am an independent contractor, the owner of RediCab has an invested interest in ensuring that I make a living wage. She needs reliable drivers to maintain a 24 hour cab company. Uber has no such concern. They have a proven high record of turn over, which I am sure you are aware.

Being a company worth 14 billion dollars, they can drop rates for the sole purpose of driving out competition. In Thurston county, this means small taxi companies and their drivers.

The people who are not able to use an app, could be left with out a viable alternative for transportation.

I strongly believe a response of "We don't regulate rates for taxi" is not sufficient in this matter. No taxi company in Thurston county could drop their rate to \$1/mile with out going out of business.

Please consider the possibility that Thurston county has never needed a rule for taxi fare rates before now.

No taxi company worth 14 billion dollars has ever moved in with the intention of putting their competition out of business. Most likely, Uber intends at a later date to raise rates when they have a monopoly on the industry.

If the city of Olympia and other cities in Thurston county need to create rate rules for both TNC and taxi's, I would greatly support this.

Please add my email [aeonblues@gmail.com](mailto:aeonblues@gmail.com) to your contact list for information, also please add the owner of redicab, Kathy Haugen <[kathyhaugen7@gmail.com](mailto:kathyhaugen7@gmail.com)> to your list.

Joshua Miller  
360-584-9997





## City Council

### Public Process for the Community Development Block Grant (CDBG) Program Year 2016 Action Plan

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 6.B  
**File Number:** 16-0533

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**Type:** recommendation   **Version:** 2   **Status:** Passed

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#### **Title**

Public Process for the Community Development Block Grant (CDBG) Program Year 2016 Action Plan

#### **Recommended Action**

##### **Committee Recommendation:**

Accept the recommendation from General Government Committee in the Recommendations for Program 2016 (see Attachment) and direct staff to commence the PY 2016 CDBG public process.

##### **City Manager Recommendation:**

Accept General Government Committee recommendation for the Community Development Block Grant (CDBG) Program Year 2016 Action Plan (see Attachment) and direct staff to commence the public process.

#### **Report**

##### **Issue:**

Whether to accept the General Government Committee recommendation for CDBG funding in Program Year 2016 (September 2016 - August 2017) and commence the PY 2016 CDBG public process.

##### **Staff Contact:**

M. Anna Schlecht, CDBG Program Manager, Community Planning & Development Department  
360.753.8183

##### **Presenter(s):**

M. Anna Schlecht, CDBG Program Manager, Community Planning & Development Department

#### **Background and Analysis:**

Each year the General Government Committee reviews options and develops goals for the coming CDBG Program Year. As identified in the attached CDBG Annual Cycle, this process starts in October or November of the prior program year and concludes with the CDBG Annual Action Plan

that is submitted to the federal Housing and Urban Development (HUD) regional office by July 15 of the subject year. CDBG Program Year 2016 will be September 1, 2016 - August 31, 2017.

The City's CDBG allocation for Program Year 2016 will be \$340,892 with an estimated \$150,000 in program income from prior year projects for a total of \$490,892 in CDBG funds. Of this amount, staff estimates that there will be approximately \$392,714 available for programs and projects during PY 2016.

**CDBG Regulatory Guidelines:** Federal regulations limit flexibility in project spending in several primary ways:

1. CDBG funds must be allocated for clearly identified, specific projects (i.e., the Isthmus Park Building Demolition in 2015) or for defined programs with clear guidelines for activities (i.e., the CPTED Program).
2. Federal regulations require the timely expenditure of funds to ensure that tax monies are not "banked" indefinitely for the future.
3. Funds for direct social services are capped at 15% of total CDBG expenditures.
4. Over each 3-year period, at least 70% of the City's CDBG expenditures must provide benefit to low-to-moderate income people.

The PY2016 Action Plan project list recommended by General Government Committee (Attachment 1) meets these requirements.

**Committee Recommendation:**

After considering other options, the General Government Committee recommends the projects in Attachment 1 for the CDBG Program Year 2016 Action Plan. Additionally, the committee recommends a revision of the Five-Year CDBG Consolidated Plan strategies to prioritize housing rehabilitation and social services, a change from the original priority of economic development established in the initial plan.

The recommendations include the following:

- 1) **\$98,178 Program Administration** essential to continue the City's CDBG program in a compliant manner with federal requirements.
- 2) **\$55,397 CRC Downtown Ambassador Program** Street outreach portion of the walking Ambassador Program that provides referrals and limited services to homeless, mentally ill and other street dependent people. ***Please note:*** *this contains 10% Activity Delivery Costs for staffing. (continuing existing program)*
- 3) **\$27,500 Crime Prevention Through Environmental Design (CPTED)** Program intended to provide loan funds to projects that increase safety and reduce crime downtown. ***Please note:***

*this contains 10% Activity Delivery Costs for staffing. (continuing existing program)*

- 4) **\$200,000 Providence Community Care Center** in downtown Olympia, offering one-time funding for improvements in an existing building to establish this community center intended to serve homeless, mentally ill and other street dependent people. While the primary beneficiaries of this facility will be the street dependent people who reside in downtown, it is anticipated that there will be significant ancillary benefits for the businesses as well as the cultural and economic environment of downtown.
- 5) **\$44,817 Micro-Enterprise or small business training programs** for low and moderate income entrepreneurs and business owners. ***Please note:*** *this contains 10% Activity Delivery Costs for staffing.*
- 6) **\$65,000 - Housing Rehabilitation:** Funding for housing rehabilitation projects that improve the quality of existing housing for low and moderate income people. ***Please note:*** *These funds were originally proposed for the annual debt service payment on the City's Section 108 Loan Guarantee Program, however, an amendment to the current PY 2015 CDBG Annual Action Plan funded the pre-payment of this annual obligation. Contains 10% Activity Delivery Costs for staffing.*

#### **CDBG Public Process:**

Tonight the Council will consider starting the CDBG public process required by our CDBG Citizen Participation Plan, which calls for a 30-day period to allow review of the specific activities and locations where the City proposes to invest CDBG funds in PY 2016. Staff recommends the following public process:

#### **June 10, 2016: Commencement of CDBG Public Process**

The City will prepare the draft PY 2016 CDBG Annual Action Plan and release it broadly for review and public comment on Friday, June 10, 2016. This plan will be presented in the full HUD required format as well as an auxiliary four-page "**CDBG Citizens Summary**" for easier citizen access to the information. The 30 day public comment period (June 10, 2016 - July 11, 2016) will be announced through a legal notice; City website notice; direct email notice to stakeholders; and, announcements at appropriate community meetings of stakeholders. Citizens will be advised as to how to submit their comments.

#### **June 21, 2016: Public Hearing**

Council will hold a public hearing during the 30-day public comment period on the draft PY 2016 CDBG Annual Action Plan in order to receive public comments.

#### **July 11, 2016: Closure of Public Process:**

After 30 days, the City will close the CDBG public process, collect all public comments and

incorporate them into the final draft PY 2016 Annual Action Plan. The City will finalize the draft PY 2016 CDBG Action plan for review and submittal.

**July 12, 2016: Council Approval**

Council to review and approve the draft PY 2016 CDBG Annual Action Plan, and direct staff to submit the full document to HUD on or before July 15, 2016.

**July 15, 2016: Submission of Annual Action Plan:** The City will submit the PY 2016 CDBG Annual Action plan to HUD.

**Neighborhood/Community Interests:**

All Olympia residents have an interest in how CDBG funds are allocated. A 30-day public comment process, including a public hearing, is required before the City Council adopts the PY 2016 CDBG Action Plan.

**Options:**

1. Accept recommendation from General Government Committee in Attachment 1 and direct staff to commence the PY 2016 CDBG public process.
2. Modify the proposed PY 2016 Action Plan consistent with HUD requirements.
3. Direct staff to conduct further research on one or more potential projects for CDBG PY 2016 Action Plan for further consideration. Please note this option may risk loss of funding by delayed submittal to HUD.

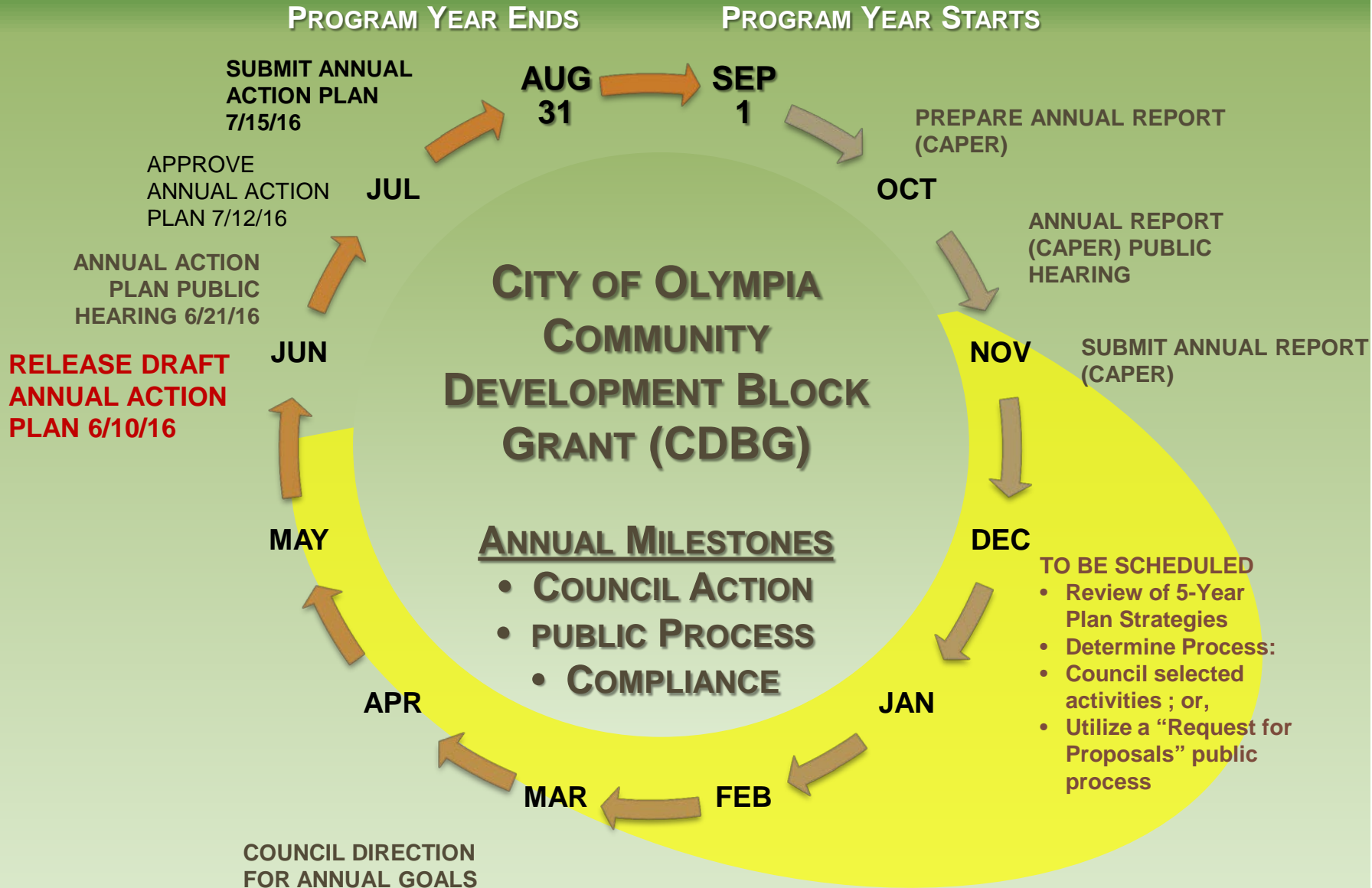
**Financial Impact:**

The City will receive \$340,892 in PY 2016 CDBG funds along with an estimated \$150,000 in prior year program income for a total of \$490,892.

**Attachments**

PY2016 CDBG Recommendations  
CDBG Program Milestones

# OLYMPIA CDBG PROGRAM – ANNUAL CYCLE



**RECOMMENDATIONS FOR PROGRAM YEAR 2016 COMMUNITY DEVELOPMENT BLOCK GRANT**

<b>Project</b>	<b>Options / Comments</b>	<b>70% LMI</b>	<b>Recommended Allocation Amount</b>
<b>General Administration</b>	Minimum staff levels to run a compliant program wit complex regulations	N/A	\$98,178
<b>Housing Rehabilitation</b>	Funds to be made available via <i>Request for Proposals</i> for improving housing stock for low and moderate income people.	N/A	\$65,000
<b>CRC Ambassadors – Street Outreach Only</b>	Continued Funding for the Street Outreach services for homeless, mentally and other street dependent people.	YES	\$55,397
<b>Crime Prevention Thru Environmental Design (CPTED)</b>	Funding for key projects that will increase safety and reduce crime in the downtown core.	Potentially	\$27,500
<b>Providence Community Care Center</b>	Funding to support facility improvements to a community center that serves homeless, mentally ill and other street dependent people.	YES	\$200,000
<b>Business Training Programs</b>	2 Phase Approach with business training and assistance for start-up micro-businesses and Tune-up training and assistance for existing small businesses – all for low and moderate income people.	YES	\$44,817
	<b>TOTAL PY 2016 ALLOCATED FUNDS</b>		<b>\$490,892</b>



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## City Council

### **Executive Session Pursuant to RCW 42.30.110 (1)(b) - Real Estate Matter and RCW 42.30.110 (1)(i) - Litigation Matter**

**Agenda Date:** 6/7/2016  
**Agenda Item Number:** 9.A  
**File Number:** 16-0721

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**Type:** executive session   **Version:** 1   **Status:** Filed

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#### **Title**

Executive Session Pursuant to RCW 42.30.110(1)(b) - Real Estate Matter and RCW 42.30.110(1)(i)  
- Litigation Matter