

**CITY COUNCIL**

ANDY RYDER

Mayor

MALCOLM MILLER

Deputy Mayor

LENNY GREENSTEIN

MICHAEL STEADMAN

CAROLYN COX

ED KUNKEL

ROBIN VAZQUEZ

CITY MANAGER

SCOTT SPENCE

LACEY CITY COUNCIL AGENDA**NOVEMBER 17, 2022****6:00 P.M.****REMOTE AND IN-PERSON ATTENDANCE**

The Lacey City Council meeting will be conducted both remote and in person.

The public may attend the meeting in person in the Council Chambers at Lacey City Hall, 420 College Street SE, Lacey, Washington, or you may view or listen to the meeting by using one of the following platforms:

[Live Meetings](#), [YouTube](#), [Facebook](#), Thurston Community Media, Channel 3 with your local cable provider, or Zoom https://us02web.zoom.us/webinar/register/WN_oim0Zp49RA2QqzBtPPQGww

The public may listen to the meeting via telephone by dialing toll-free: (888) 788-0099 or (877) 853-5247 - when prompted enter Webinar ID 852 7953 3258

CALL TO ORDER:**1. PLEDGE OF ALLEGIANCE****2. APPROVAL OF AGENDA & CONSENT AGENDA ITEMS:**

- A. [Council Worksession minutes of October 27, 2022](#)
- B. [Council meeting minutes of November 3, 2022](#)
- C. [A motion to approve payment of claims, wages, and transfers for October 26, 2022, through November 8, 2022.](#)

**Items listed under the consent agenda are considered to be routine and will be enacted by one motion and one vote. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

3. PUBLIC RECOGNITIONS AND PRESENTATIONS:

- A. Lacey Youth Council Report (Rory Line, Zury Ramirez-Plasencia, Alanis Blackburn, Nathan Miller)
- B. John Paul II High School Students Named Commended Students in the 2023 National Merit Scholarship Program (John Grossman, Director of Advancement JPPI)
- C. Employee Recognitions (Scott Spence, City Manager)

4. PUBLIC COMMENT:**VERBAL PUBLIC COMMENT**

Those wishing to provide verbal public comment may do so in-person or by Zoom:

In-Person: Use the sign-up sheet located in the Council Chambers.

By Zoom: Preregister using the following Zoom link no later than **4:00 p.m. on November 17, 2022:**

https://us02web.zoom.us/webinar/register/WN_oim0Zp49RA2QqzBtPPQGww

Instructions and access details will be provided once registration is complete.

WRITTEN PUBLIC COMMENT

Public comments may also be submitted by email to publiccomment@ci.lacey.wa.us. Written comments will be provided to the City Council electronically prior to the meeting. Comments will not be addressed during the Council meeting; however, comments received will be added to the official record. The commenting period will close at **4:00 p.m. on November 17, 2022.**

5. PUBLIC HEARING:

HOW TO TESTIFY AT THE PUBLIC HEARING

VERBAL TESTIMONY

*Persons wishing to provide verbal testimony on the 2023 Revenue Source Hearing in-person or by Zoom:
In-Person: Use the sign-up sheet located in the Council Chambers.*

*By Zoom: Preregister using the following Zoom link no later than **4:00 p.m. on November 17, 2022:***

https://us02web.zoom.us/webinar/register/WN_oim0Zp49RA2QqzBtPPQGww

Instructions and access details will be provided once registration is complete.

WRITTEN TESTIMONY

*Persons wishing to provide written testimony may send their comments to cityclerk@ci.lacey.wa.us no later than **4:00 p.m. on November 17, 2022.***

- A. [First 2023 Budget Hearing](#) (Troy Woo, Finance Director)

6. PROCLAMATIONS:

- A. [Native American Heritage Month](#) (Mayor Ryder)
B. [Small Business Saturday](#) (Blake Knoblauch, Executive Director, Lacey South Sound Chamber)

7. REFERRAL FROM PLANNING COMMISSION:

8. REFERRAL FROM HEARINGS EXAMINER:

9. RESOLUTIONS:

- A. [Resolution No. 1122 – Authorize 2023 Property Tax Increase](#) (Troy Woo, Finance Director)

10. ORDINANCES:

- A. [Ordinance No. 1625 – 2023 Property Tax Levy](#) (Troy Woo, Finance Director)
B. [Ordinance No. 1626 – 2023 Water Rates](#) (Troy Woo, Finance Director)
C. [Ordinance No. 1627 – 2023 Wastewater Rates](#) (Troy Woo, Finance Director)
D. [Ordinance No. 1628 – 2023 Stormwater Rates](#) (Troy Woo, Finance Director)
E. [Ordinance No. 1629 – Hearings Examiner Review Process for Quasi-Judicial Land Use Permits](#) (Grant Beck, Planning & Development Services Manager)

11. MAYOR'S REPORT:

12. CITY MANAGER'S REPORT:

- A. [Award Contract PW 2022-36 - Carpenter Road Improvements](#) (Scott Egger, Public Works Director)

13. STANDING GENERAL COMMITTEES:

14. OTHER BUSINESS:

15. BOARDS, COMMISSIONS AND COMMITTEE REPORTS:

- A. Mayor Andy Ryder:
 - 1. Mayors' Forum
 - 2. Thurston Chamber Shared Legislative Committee
 - 3. Transportation Policy Board (TPB)
- B. Deputy Mayor Malcolm Miller:
 - 1. Economic Development Council (CDC)
 - 2. Lodging Tax Advisory Committee (LTAC)
 - 3. Thurston County Coalition Against Trafficking (TCCAT)
 - 4. Thurston Thrives
- C. Councilmember Carolyn Cox:
 - 1. Climate Action Steering Committee
 - 2. LOTT Clean Water Alliance
 - 3. Regional Housing Council
- D. Councilmember Lenny Greenstein:
 - 1. Emergency Medical Services (EMS)
 - 2. TCOMM911
- E. Councilmember Michael Steadman:
 - 1. Community Action Council
 - 2. Nisqually River Council
 - 3. Thurston County Law & Justice Council
- F. Councilmember Ed Kunkel:
 - 1. Joint Animal Services Commission (JASCOM)
 - 2. Lacey South Sound Chamber
 - 3. Olympia-Lacey-Tumwater Visitor & Convention Bureau (VCB)
 - 4. Solid Waste Advisory Committee (SWAC)
- G. Councilmember Robin Vazquez:
 - 1. Intercity Transit Authority
 - 2. Olympic Region Clean Air Agency (ORCAA)
 - 3. Thurston Regional Planning Council (TRPC)
 - 4. Thurston County Board of Health

16. ADJOURN

MINUTES OF THE JOINT WORKSESSION
LACEY CITY COUNCIL
AND
NORTH THURSTON PUBLIC SCHOOLS BOARD OF DIRECTORS
THURSDAY, OCTOBER 27, 2022
6:00 P.M. – 7:04 P.M.
REMOTE AND IN-PERSON

To hear the full discussion of a specific topic, or the complete meeting, watch the recorded meeting available on YouTube – <https://youtu.be/AT9n6LXKQtE>

COUNCIL PRESENT: DEPUTY MAYOR MILLER, COUNCILMEMBERS COX, KUNKEL, AND VAZQUEZ

COUNCIL EXCUSED: MAYOR RYDER, COUNCILMEMBERS STEADMAN AND GREENSTEIN

CITY STAFF PRESENT: SCOTT SPENCE, JEN BURBIDGE, SHANNON KELLEY-FONG, RICK WALK, PERI EDMONDS

NTPS BOARD PRESENT: DAVE NEWKIRK (PRESIDENT), GRETCHEN MALISKA (VICE PRESIDENT), TIFFANY SEVRUK, GRAEME SACKRISON

NTPS BOARD EXCUSED: DR. JENNIFER THOMAS

NTPS STAFF PRESENT: DEBRA CLEMENS, SUPERINTENDENT, TROY OLIVER, ASSISTANT SUPERINTENDENT OF OPERATIONS

ACTION: APPROVE WORKSESSION AGENDA

MOTION: MOTION MADE, SECONDED AND CARRIED BY COUNCILMEMBER COX AND COUNCILMEMBER KUNKEL

NTPS YOUNG CHILD AND FAMILY CENTER UPDATE

PRESENTERS: TROY OLIVER, ASSISTANT SUPERINTENDENT OF OPERATIONS
JEN BURBIDGE, PARKS, CULTURES, AND RECREATION DIRECTOR

ACTION: INFORMATION ONLY

Troy Oliver, Assistant Superintendent of Operations, and Jen Burbidge, Parks, Culture and Recreation Director, provided an update on the Young Child and Family Center.

The project is a partnership between NTPS, the City, and YMCA. The facility would be a place for early learning classrooms, which could serve up to 600 students annually, family-friendly parenting and nutrition classes, an on-site medical partners/mental health services, family-oriented pool, indoor playground outdoor spray park, and outdoor adventure playground.

Next steps include continuing community conversation on youth and family needs in the community, continue engaging with military, medical providers, EDC, and other essential partners, update the Lacey Parks Comprehensive Plan, and review potential funding sources.

DEVELOPMENT UPDATE – LACEY COMMUNITY

PRESENTER: RICK WALK, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR

ACTION: INFORMATION ONLY

Rick Walk, Community & Economic Development Director, provided an update on residential and commercial development in the City:

Residential Development

- Serenity Apartments – 82 units in 5 buildings; some live/work units
- Modera Apartments – 346 units in 14 apartment buildings; 16 units in 8 carriage houses; 23 single family dwellings
- Griffin Apartments – 183 units in 12 buildings
- South Bay Village Apartments – 144 units in 6 buildings
- Britton Place North – 552-unit apartment complex on 30 acres
- Homes on Martin – 5 story mixed use building with ground floor retail and 96 dwelling units
- Carpenter Road Apartments – 3 buildings, 78-unit garden apartment project
- Hicks Lake Apartments – 178-unit apartment complex
- Gayteway Hicks Lake – 132 units in 16 buildings

Commercial Development

- Tec Equipment – truck dealership and service facility
- Hogum Bay Town Center – mixed use 350 residential units with some ground floor retail and over 60,000 sq. ft. of retail, food service, and commercial entertainment.
- At Home – furniture and home furnishings at the previous Sears building at South Sound Center
- MultiCare Off Campus Emergency Department – 10,000 sq. ft. emergency medical office building

- Olympia Orthopedics at the Hickory – 86,000 sq. ft. medical building and office/retail pads
- Marriott Hotel at Britton Plaza – 136 room, 5 story hotel

NTPS UPDATE – SCHOOL CONSTRUCTION

PRESENTER: TROY OLIVER, ASSISTANT SUPERINTENDENT OF OPERATIONS

ACTION: INFORMATION ONLY

Troy Oliver, Assistant Superintendent of Operations, provided highlights on the following NTPS construction projects:

- River Ridge High School Modernization
- Komachin Middle School Modernization
- Secure entrances in design or completed at 7 sites
- Mechanical System Upgrades at Meadows, Seven Oaks, and Horizons
- Roof Replacements at Meadows, Seven Oaks, and Horizons
- Service Center Roof Replacement in 2023
- Raj Manhas Activity Center South Improvements
- CTE Greenhouse at Nisqually Middle School
- Envision Career Academy Classroom and Site Improvements
- CTE Auto Lifts at North Thurston High School and River Ridge High School
- River Ridge High School Portable Design and Purchase
- City of Lacey and North Thurston Public Schools EVC Station Grant
- KPAC Heating Upgrade
- Stadium Lighting Design
- Timberland High School Lighting Fixture and Control Design
- Parking Lot Improvements at River Ridge High School, Aspire Performing Arts Academy, Komachin Middle School, and Nisqually Middle School

CLOSING REMARKS

PRESENTER: DEPUTY MAYOR MILLER

ACTION: INFORMATION ONLY

Deputy Mayor Miller and President Newkirk thanked NTPS and the City for providing the updates.



**MINUTES OF A REGULAR MEETING OF THE
LACEY CITY COUNCIL
THURSDAY, NOVEMBER 3, 2022,
IN PERSON AND REMOTE ATTENDANCE**

To hear Council's full discussion of a specific topic, or the complete meeting, watch the video-stream available on YouTube – <https://youtu.be/oy8zvWL4ils>

CALL TO ORDER

Mayor Ryder called the meeting to order at 6:00 p.m.

1. PLEDGE OF ALLEGIANCE

Mayor Ryder led the Pledge of Allegiance.

Council Present:

Mayor Andy Ryder
Deputy Mayor Malcolm Miller
Councilmember Carolyn Cox
Councilmember Lenny Greenstein
Councilmember Michael Steadman
Councilmember Ed Kunkel

Council Excused

Councilmember Robin Vazquez

Staff Present:

Scott Spence, City Manager
Robert Almada, Chief of Police
Jen Burbidge, Parks, Culture & Recreation Director
Shannon Kelley-Fong, Assistant City Manager
Dave Schneider, City Attorney
Rick Walk, Community & Economic Development Director
Troy Woo, Finance Director (*remote*)
Peri Edmonds, City Clerk

2. APPROVAL OF AGENDA AND CONSENT AGENDA

Consent Agenda Items:

- A. Council Worksession minutes of October 13, 2022.
- B. Council Meeting minutes of October 20, 2022.
- C. A motion to approve payment of claims, wages and transfers for October 13, 2022, through October 25, 2022.
- D. 2022 Property Retained by Police Department

Mayor Ryder requested an amendment to the agenda to move Agenda Item 6 – Proclamations to follow Agenda Item 2 – Approval of Agenda & Consent Agenda.

COUNCILMEMBER GREENSTEIN MOVED TO APPROVE THE AMENDED AGENDA AND CONSENT AGENDA. COUNCILMEMBER STEADMAN SECONDED. MOTION CARRIED.

6. PROCLAMATIONS (moved under Agenda Item 2)

- A. **Veterans Appreciation Month Proclamation:** Mayor Ryder and Council proclaimed November 2022 as Veterans Appreciation Month. US Army Lt. Col. David Stalker accepted the proclamation.

3. PUBLIC RECOGNITIONS AND PRESENTATIONS

- A. **Present Ruth Weigelt with the Spirit of Lacey Award:** Mayor Ryder presented the Spirit of Lacey Award for her 35 years of community service in the City of Lacey.

Mayor Ryder convened to a ten (10) minute recess at 6:15 p.m.

At 6:25 p.m., Mayor Ryder extended the recess for an additional 5 minutes, until 6:30 p.m.

Mayor Ryder reconvened the Council meeting at 6:30 p.m.

4. PUBLIC COMMENT

Verbal Public Comments: The deadline to pre-register to speak was 4:00 p.m. the day of the meeting.

0 – people signed up to speak via Zoom.

0 – people signed up to speak at the meeting.

Written Public Comments: The deadline to submit written public comments was 4:00 p.m. the day of the meeting. Written comments are not addressed during the meeting; however, they are added to the official record.

One (1) written public comment was received and will be made part of the record.

5. PUBLIC HEARING

- A. **2023 Revenue Source Hearing:** Troy Woo, Finance Director, presented the 2023 Revenue Sources and highlighted projected property tax revenues, year-to-date sales tax comparison, new building permits and new construction valuation, transportation revenue sources, utility rate proposed increases for residential accounts, and utility rate comparison for commercial and residential.

Mayor Ryder opened the 2023 Revenue Source Public Hearing at 6:42 p.m. to accept public testimony and provide staff guidance or direction on revenue sources.

Verbal Public Testimony: The deadline to pre-register to speak and provide public testimony was 4:00 p.m. the day of the meeting.

0 – people signed up to provide public testimony via Zoom.

0 – people signed up to speak at the meeting.

Written Public Comments: The deadline to submit written public testimony was 4:00 p.m. the day of the meeting. Written comments are not addressed during the meeting; however, they are added to the official record.

0 - written public testimony was received.

Mayor Ryder closed the 2023 Revenue Source Public Hearing at 7:35 p.m.

6. PROCLAMATIONS

- A. **Veterans Appreciation Month Proclamation:** Moved item under Agenda Item 2 – Approval of Agenda and Consent Agenda.

7. REFERRAL FROM PLANNING COMMISSION

8. REFERRAL FROM HEARINGS EXAMINER

- A. **Lift Station #3 Replacement - #21-383:** Reace Fant, Associate Planner, presented the Hearings Examiner's recommendation for a Conditional Use Application for Lift Station #3 Replacement Project #21-383.

Dave Schneider, City Attorney, asked the City Council the following questions relating to this quasi-judicial matter and the Appearance of Fairness Doctrine:

1. Do any Councilmembers have any personal interests that would be affected by either the approval or denial of this application?

Mayor Ryder, Deputy Mayor Miller, and Councilmembers Cox, Steadman, Kunkel, and Vazquez: No

2. Has any Councilmember had any ex parte communications about this particular project?

Mayor Ryder, Deputy Mayor Miller, and Councilmembers Cox, Steadman, Kunkel, and Vazquez: No

3. Is there any reason any Councilmember could not be fair and impartial in rendering a decision on this matter?

Mayor Ryder, Deputy Mayor Miller, and Councilmembers Cox, Steadman, Kunkel, and Vazquez: No

COUNCILMEMBER GREENSTEIN MOVED TO APPROVE THE HEARINGS EXAMINER'S RECOMMENDATION FOR LIFT STATION #3 REPLACEMENT #21-383. COUNCILMEMBER KUNKEL SECONDED. MOTION CARRIED.

9. RESOLUTIONS

10. ORDINANCES

11. MAYOR'S REPORT

- A. **Appointment of Judith Doyle and Cathy Murcia to the Planning Commission:** Mayor Ryder recommended the appointments of Judith Doyle and Cathy Murcia to the Planning Commission.

MAYOR RYDER MOVED TO APPOINT JUDITH DOYLE AND CATHY MURCIA TO THE PLANNING COMMISSION. COUNCILMEMBER STEADMAN SECONDED. MOTION CARRIED.

Mayor Ryder noted the Recruitment Committee for a new City Manager have met and interviewed three recruitment firms. The Committee unanimously decided to enter into a contract with J&P Consultants.

MAYOR RYDER MOVED TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH J&P CONSULTANTS FOR RECRUITMENT AND HIRING OF THE NEXT CITY MANAGER. DEPUTY MAYOR MILLER SECONDED. MOTION CARRIED.

12. CITY MANAGER'S REPORT

13. STANDING COMMITTEES

- A. Finance & Economic Development Committee
Mayor Ryder reported on the September 27, 2022, meeting.

- B. Land Use & Environment Committee
Councilmember Cox reported on the September 27, 2022, meeting.
- C. Transportation Committee
Deputy Mayor Miller reported on the October 4, 2022, meeting.

14. EXECUTIVE SESSION

- A. **Evaluate the Qualifications of an Applicant for Public Employment or Performance of a Public Employee (RCW 42.30.110(1)(g)).**

Mayor Ryder convened to an Executive Session at 7:55 p.m. for 20 minutes and will reconvene at 8:15 p.m.

Mayor Ryder reconvened the regular Council meeting at 8:15 p.m.

Mayor Ryder noted the City Council evaluated the qualifications of an applicant for public employment during the Executive Session.

COUNCILMEMBER GREENSTEIN MOVED TO AUTHORIZE MAYOR RYDER AND THE HUMAN RESOURCES DEPARTMENT TO NEGOTIATE A CONTRACT WITH RICK WALK, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR, TO SERVE AS THE CITY'S INTERIM CITY MANAGER. COUNCILMEMBER KUNKEL SECONDED. MOTION CARRIED.

15. OTHER BUSINESS

16. BOARDS, COMMISSIONS AND COMMITTEE REPORTS

- A. Mayor Ryder
 - 1. Mayor's Forum – **no report**
 - 2. Thurston Chamber Shared Legislative Committee – **no report**
 - 3. Transportation Policy Board – **no report**
- B. Deputy Mayor Miller
 - 1. Economic Development Council (EDC) – **no report**
 - 2. Lodging Tax Advisory Committee (LTAC) – **no report**
 - 3. Thurston County Coalition Against Trafficking (TCCAT) – **no report**
 - 4. Thurston Thrives – **no report**
- C. Councilmember Cox
 - 1. Climate Mitigation Steering Committee – **no report**
 - 2. LOTT Clean Water Alliance – **no report**
 - 3. Regional Housing Council – **made report**
 - 4. Intercity Transit (*as alternate*) – **made report**

D. Councilmember Greenstein

1. Emergency Medical Services (EMS) – **no report**
2. TCOMM911 – **no report**

E. Councilmember Steadman

1. Community Action Council – **no report**
2. Nisqually River Council – **no report**
3. Thurston County Law & Justice – **no report**

F. Councilmember Kunkel

1. Joint Animal Services Commission (JASCOM) – **no report**
2. Lacey South Sound Chamber – **made report**
3. Olympia-Lacey-Tumwater Visitor & Convention Bureau (VCB) – **no report**
4. Solid Waste Advisory Committee (SWAC) – **made report**

G. Councilmember Vazquez

1. Intercity Transit – *(Councilmember Cox made report as alternate)*
2. Olympic Region Clean Air Agency – **no report**
3. Thurston Regional Planning Council – **no report**
4. Thurston County Board of Health – **no report**

16. ADJOURN

Mayor Ryder adjourned the Council Meeting at 8:35 p.m.

MAYOR: _____

ATTESTED BY CITY CLERK: _____

DATE APPROVED: _____



LACEY CITY COUNCIL MEETING November 17, 2022

SUBJECT: Disbursement Approval

RECOMMENDATION: By motion, approve payment of claims, wages, and transfers.

STAFF CONTACT: Troy Woo, Finance Director

ORIGINATED BY: Troy Woo, Finance Director *TW*
Kristy Wolf, Financial Services Manager *KW*
Chelsea Yarwood, Accounting Manager *CY*

BACKGROUND:

The action requested of the City Council is by motion to approve payment of claims, wages and transfers for 10/26/2022 through 11/8/2022. The disbursements consist of the following:

Checks:	<u>Week of</u>	<u>Req. Check No.</u>	<u>End. Check No.</u>	<u>Amount</u>
	10/28/2022	266811	266931	232,413.99
	*10/31/2022	266932	266935	2,074.13
	11/4/2022	266936	267005	1,507,163.15

Electronic Transfers:	<u>Week of</u>	<u>Amount</u>
	10/12/2022	44,421.57
	10/28/2022	140,284.48
	10/31/2022	64,269.84
	10/31/2022	17,273.01
	11/1/2022	493,662.50
	11/3/2022	216.00
	11/4/2022	296,477.40

Payroll:	<u>Month Ended:</u>	<u>Wages</u>
	*10/31/2022	1,697,036.22

* Disbursements for employee out-of-pocket deductions and employee benefits.

Significant Disbursements:

<u>Vendor</u>	<u>Amount</u>	<u>Description</u>
City of Olympia	\$ 64,269.84	CARPFD Distribution
US Bank	\$ 493,662.50	Annual Debt Payment
Active Construction	\$ 58,896.50	Capitol City Golf Course
LOTT Wastewater Alliance	\$1,232,391.49	ERU/LOTT Reserve Cap Fees
Proforce Law Enforcement	\$ 81,561.21	Tactical Vests, Pistols, Optics, Holster
Thurston Co. District Court	\$ 94,052.00	Violations



LACEY CITY COUNCIL MEETING

November 17, 2022

SUBJECT: 2023 Budget Hearing

RECOMMENDATION: Conduct Budget Hearing, accept public comment, and recommend budget changes.

STAFF CONTACT: Scott Spence, City Manager *SS*
Troy Woo, Finance Director *TW*

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS:

FISCAL NOTE: Total Proposed 2023 Budget - \$178,569,133
Total Proposed 2023 General Fund Budget - \$60,659,814

PRIOR REVIEW:

BACKGROUND:

On November 17, 2022, the City Council is scheduled to conduct the first of two public hearings on the proposed 2023 Budget. The purpose of these hearings is to accept public comment and to provide staff with any guidance or direction regarding the proposed 2023 Budget. Any City Council direction will be incorporated into the budget, which is scheduled for adoption on December 15, 2022.

A great deal of time has been invested by the City Council and staff to prepare the 2023 Budget. During late July, the department directors submitted their budget proposals. During late August and early September, City Manager Spence met individually with each department director to review the budget proposals. The Finance and Economic Development Committee received a budget update on September 27, 2022. The full Council discussed and provided guidance on key 2023 Budget issues at a budget workshop on October 6, 2022. City Manager Spence presented a balanced 2023 Budget to the City Council on October 20, 2022.

The total Proposed 2023 Budget is \$178,569,133, which is a decrease of \$16,865,451 compared to the amended 2022 Budget. Increasing labor costs and additional workforce considerations are offset by reductions to capital expenditures and one-time transfers.

Revenue growth, attributed to recent new construction and annexations, is positively impacting property tax with the increase to assessed valuation, which is helping fund the growing costs required to maintain service levels. Unexpectedly, sales taxes have been a source of strength in the local economy during the COVID-19 public health emergency, which is also a major contributor to maintaining service levels and in certain areas enhancing service levels and delivery.

The total proposed General Fund Budget is \$60,659,814. This is a decrease of \$6,416,097 or 9.6 percent compared to the amended 2022 General Fund Budget.

The decrease to the General Fund Budget expenditures is mostly attributed lower capital purchases and reserve transfers for significant projects (Police Station property acquisition and design, Greg Cuoio Phase 1A design, park property acquisition, Regional Athletic Complex parking lot, and fewer one-time transfers out to other funds for one-time capital purchases and projects). Offsetting the decreases are the aforementioned increases to the workforce and inflationary impacts.

The proposed 2023 Budget maintains all services and provides funding for a number of capital projects and improvements such as the Woodland Creek Community Park Bridge replacement, Police virtual trainer, initial electric vehicle fleet conversion replacement, College Street and 16th Avenue/29th Avenue roundabout designs, 2023 expanded street overlay program, LED street light upgrades, Terry Cargil Water Reservoir, water pH treatment projects, well improvements and rehabilitation, water transmission line replacements, wastewater lift station rehabilitations, wastewater main improvements, and stormwater future facility acquisition.

Subsequent to the City Manager's October 20 budget presentation, the 2023 proposed budget has been adjusted to include the following changes:

- Property tax adjustments for the 2022 refund levy and slight decreases due to adjustments to new construction and annexation. These adjustments decreased the property tax projection and total budget by \$345.
- The Parks Comprehensive Planner/Coordinator position was a late addition to the proposed 2023 Budget. Reductions to other budget line items within the Parks, Culture, and Recreation will offset the salaries and benefits for the proposed position. No net change will be made to the department's proposed 2023 budget.
- A new 2022 employee enhancement and investment program, Tuition Reimbursement, was inadvertently left out of the Proposed 2023 Budget. This \$10,000 program will be added to the 2023 Budget.

- An error was made when adjusting the 2023 Legal Services Budget. An additional \$33,529 will be requested within the Proposed 2023 Budget.

The City Council is scheduled to conduct a second and final budget hearing on December 1, 2022. Budget adoption is scheduled for December 15, 2022.

CITY OF LACEY *Official Proclamation*

WHEREAS, since time immemorial, Native Americans, Alaska Natives, Native Hawaiians, and Indigenous peoples have built vibrant and diverse cultures — safeguarding land, language, spirit, knowledge, and tradition across generations; and

WHEREAS, Indigenous people have played a vital role in every stage of our nation's history and their contributions have enhanced the social, political, environmental, and economic well-being of the United States of America and local communities, like Lacey; and

WHEREAS, we acknowledge the Indigenous People who called this land home before the arrival of settlers and have been here since time immemorial; and

WHEREAS, the City would like to recognize that we are on the lands of the Tribal People of the Medicine Creek Treaty and other indigenous communities, and acknowledge the history of dispossession that allowed for the growth of our community; and

WHEREAS, the City offers respect to the Tribal People of the Medicine Creek Treaty and their Elders, past, present, and emerging, as well as all indigenous communities in Thurston County, Washington State, and across the nation; and

WHEREAS, our community reaffirms its commitment to respect and preserve the traditions and culture and to honor the unique heritage of our first inhabitants;

NOW, THEREFORE, I, Andy Ryder, Mayor of the City of Lacey, on behalf of the City Council, do hereby proclaim the month of November 2022, as

Native American Heritage Month

in the City of Lacey, and I encourage all community members to commemorate this month with appropriate programs and activities.




Mayor Andy Ryder
November 17, 2022

CITY OF LACEY
Official Proclamation

WHEREAS, the City of Lacey celebrates and supports our local small businesses and the contributions they make to our local economy and community; and

WHEREAS, according to the United States Small Business Administration, there are 32.5 million small businesses in the United States, small businesses represent 99.7% of firms with paid employees, small businesses are responsible for 62% of net new jobs created since 1995; and

WHEREAS, small businesses employ 46.8% of the employees in the private sector in the United States; and

WHEREAS, 79% of consumers understand the importance of supporting the small businesses in their community on Small Business Saturday, 70% report the day makes them want to encourage others to Shop Small, independently-owned retailers, and 66% report that the day makes them want to Shop Small all year long; and

WHEREAS, 58% of shoppers reported they shopped online with a small business and 54% reported they dined or ordered takeout from a small restaurant, bar, or café on Small Business Saturday in 2021; and

WHEREAS, the City of Lacey supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

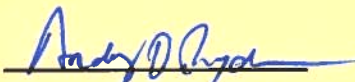
WHEREAS, advocacy groups, as well as public and private organizations, across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday; and

NOW, THEREFORE, I, Andy Ryder, Mayor of the City of Lacey, on behalf of the Lacey City Council, do hereby proclaim Saturday November 26, 2022, as

Small Business Saturday

in the City of Lacey and urge all residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.




Mayor Andy Ryder
November 17, 2022



LACEY CITY COUNCIL MEETING

November 17, 2022

SUBJECT: Resolution authorizing the 2022 Ad Valorem Tax increase

RECOMMENDATION: Motion to adopt resolution relating to the 2022 Ad Valorem Tax increase

STAFF CONTACT: Scott Spence, City Manager *SS*
Troy Woo, Finance Director *W*

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS: 1. [Resolution No. 1122](#)

FISCAL NOTE: Projected 2023 General Levy Collections \$8,493,252

PRIOR REVIEW: Budget Workshop on October 6, 2022
Finance Committee on October 25, 2022
Revenue Hearing on November 3, 2022

BACKGROUND:

RCW 84.55.005(2)(c) sets the property tax limit factor for a taxing jurisdiction with a population over 10,000 as the lesser of 101 percent or 100 percent plus inflation.

The Thurston County Assessor's Office suggests the adoption of a separate resolution or ordinance to satisfy the provisions of RCW 84.55.120 (3)(a), which states:

Except as provided in (b) of this subsection (3), no increase in property tax revenue may be authorized by a taxing district, other than the state, except by adoption of a separate ordinance or resolution, pursuant to notice, specifically authorizing the increase in terms of both dollars and percentage. The ordinance or resolution may cover a period of up to two years, but the ordinance must specifically state for each year the dollar increase and percentage change in the levy from the previous year.

The exceptions referenced above relate to new construction, improvements to property, newly constructed wind turbines, annexation, and state-assessed utility property.

The inflation factor to be used for the 2023 property taxes is 6.457 percent.

The proposed resolution includes provisions to comply with this requirement, which will allow the County Assessor's Office to assess the City's 2023 property tax as authorized. The resolution authorizes an increase of one percent, which is equal to \$80,466.

It is requested that the City Council review and adopt the resolution relating to the 2023 property taxes.

ADVANTAGES:

1. The adopted property tax levels will help balance the proposed 2023 Budget, which preserves current service levels.
2. Exercising 101 percent revenue limit will help address the rising costs of the City's service delivery.

DISADVANTAGES:

1. Increasing property tax collections by the 1.0 percent revenue limit is challenging regardless of the economic conditions. However, this modest increase allows the City of Lacey to preserve its current and future service levels.

RESOLUTION NO. 1122

CITY OF LACEY

A RESOLUTION OF THE CITY OF LACEY, WASHINGTON, AUTHORIZING THE INCREASE OF THE 2023 AD VALOREM TAX LEVY BY ONE PERCENT OVER THE TAX LEVY OF 2022.

WHEREAS, a public hearing was held before the City Council of the City of Lacey on November 3, 2022, for purposes of considering revenue sources to fund the City's 2023 Current Expense Budget which consists of expenditures to provide ongoing services exclusive of capital expenditures, utility and other enterprise funds and special assessment funds of the City, and

WHEREAS, the City of Lacey actual levy amount from the previous year was \$8,046,612, and

WHEREAS, the population of the City of Lacey is more than 10,000.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, that an increase in the regular property tax levy is hereby authorized for the levy to be collected in the 2023 tax year. The dollar amount of the increase over the actual levy amount from 2022 shall be \$80,466, which is an increase of 1.0 percent from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, newly constructed wind turbines, solar, biomass, and geothermal facilities, and any increase in the value of state assessed property within the City and allowed adjustments for annexation and refunds.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 17th day of November, 2022.

CITY COUNCIL

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney



LACEY CITY COUNCIL MEETING November 17, 2022

SUBJECT: Ad Valorem Tax Ordinance

RECOMMENDATION: Motion to adopt Ad Valorem Tax Ordinance No. 1625

STAFF CONTACT: Scott Spence, City Manager 
Troy Woo, Finance Director 

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS: 1. [Ordinance No. 1625](#)

FISCAL NOTE: 2023 General Levy Collections \$8,493,252
2023 Excess Bond Levy Collections (Parks) \$687,050

PRIOR REVIEW: Budget Workshop on October 6, 2022
Finance Committee on October 25, 2022
Revenue Hearing on November 3, 2022

BACKGROUND:

Each year the taxing districts must certify their budgets and property tax levies by November 30, or the County Assessor must use the previous year's certified levy amounts.

There are a number of adjustments to the City's property tax levy. The proposed 2023 levy will be increased by the refund levy, revenue limit, annexation value, and new construction.

The refund levy represents adjustments that were made to property assessments based on property owner assessment appeals, technical errors, or the granting of exemptions. These adjustments were made during the period of October 1, 2021, through September 30, 2022. The refunds did not change the legal property tax levy limit during that period, so the City is allowed to recover the refunded tax dollars in the following year.

The property tax revenue limit for jurisdictions with populations greater than 10,000 is 101 percent or 100 percent plus inflation, whichever is less. Increases resulting from new

construction and improvements to property, newly constructed wind turbines, and state-assessed utility property are exempt from the revenue limit. The revenue limit is challenging for the City of Lacey because property tax is a significant source of revenue for the General Fund. 14.1 percent of all proposed 2023 General Fund budgeted revenues are from property taxes. It is typical for inflation to be in excess of one percent, so the 101 percent property tax limit normally does not keep pace with the City's rising expenditures.

The inflation factor to be used to determine 2023 property tax collections is 6.457 percent, so the City Council is authorized to increase property taxes by the 101 percent property tax limit.

While the 101 percent revenue limit is challenging, the City of Lacey has been able to address growing service demands and inflationary growth to expenditures with strong property tax growth from new construction. The 2023 additions from new construction were higher than the historical projections. New construction valuing \$195,069,150 will be added to next year's assessed value. This will result in a property tax increase of \$171,868. Also, \$205,367,314 of annexation valuation will be added to Lacey's total assessed valuation. The result of the annexation valuation is a property tax increase of \$180,941.

The overall assessed value for Lacey is increasing \$3,426,972,904. After removing the impacts of new construction and annexation additions, existing assessed valuation increased \$3,231,903,754. Increasing valuations result in lower overall levy rates. Properties, which experienced increases in assessed valuation at a similar rate as the overall Lacey valuation will not experience any significant increase to the City of Lacey property tax. Due to the 101 percent revenue limit, levy rates change inversely to the changes to assessed values. The following table illustrates the impact of a 10.0 percent increase to property assessments with the one-percent revenue limit in effect.

<u>Tax District - City of Lacey</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Change</u>
Revenue Limit (1%)	\$ 1,000,000	\$ 1,010,000	1.0%
Total District Assessed Value	100,000,000	110,000,000	10.0%
Levy Rate per \$1,000 Assessed Value	\$ 10.00	\$ 9.18	-8.2%

<u>House in Lacey</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Change</u>
Assessed Value	\$ 100,000	\$ 110,000	10.0%
Taxes Due (Assessed Value x Levy Rate)	\$ 1,000	\$ 1,010	1.0%

The table illustrates that a house in Lacey that is appreciating in value at the same rate (10.0 percent) as the average appreciation rate for Lacey, and without considerations of statewide levies or other taxing districts, will have taxes due increased by one percent or the revenue limit.

The proposed ad valorem tax ordinance sets the 2023 general property tax at \$8,493,252. This will result in an estimated levy rate of \$0.6762 per \$1,000 of assessed valuation. This is an increase of \$446,640 or 5.55 percent compared to the 2022 general property tax

collections. The adjustments to next year's levy include a \$171,868 increase due to new construction, a \$180,941 increase from annexation, an \$80,466 increase due to exercising the 1.0 percent revenue limit adjustment, and a \$13,365 increase from the 2022 refund levy.

The proposed ordinance also sets the voter-approved GO Bond redemption property tax levies. The total 2023 property tax levy collection for GO Bond redemption is \$687,050. The total estimated GO Bond redemption levy rate is \$0.05522 per \$1,000 of assessed valuation. The outstanding GO Bonds and their portion of the property tax levies are listed below.

	<u>Date Issued</u>	<u>Original Amount</u>	<u>Outstanding Balance</u>	<u>2023 Principal & Int.</u>	<u>Rate/ \$1,000 AV</u>
Parks Imp. GO Refunded Bonds 2012	December 19, 2012	\$ 2,845,000	\$ 315,000	\$ 324,450	\$ 0.02608
Parks Imp. GO Refunded Bonds 2015	May 20, 2015	2,995,000	1,315,000	362,600	0.02915
				\$ 687,050	\$ 0.05522

It is requested that the City Council review and adopt the ordinance setting the 2023 property tax levies.

ADVANTAGES:

1. The proposed property tax levels will help balance the proposed 2023 Budget, which preserves current service levels.
2. Exercising 101 percent revenue limit will help offset the rising costs of the City's service delivery.

DISADVANTAGES:

1. Increasing property tax collections by the 1.0 percent revenue limit is challenging regardless of the economic conditions. However, this modest increase allows the City of Lacey to preserve its service levels.

ORDINANCE NO. 1625

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, FIXING THE AMOUNT OF THE ESTIMATED EXPENDITURES, LESS THE ESTIMATED REVENUES FROM SOURCES OTHER THAN AD VALOREM TAXATION, NEEDED FOR THE CURRENT EXPENSE BUDGET AND FOR THE PAYMENT OF PRINCIPAL AND INTEREST UPON THE GENERAL BONDED INDEBTEDNESS OF THE CITY OF LACEY FOR THE FISCAL YEAR 2023; LEVYING THE ANNUAL AD VALOREM TAXES OF THE CITY OF LACEY FOR THE FISCAL YEAR 2023 AND APPROPRIATING SAME TO CERTAIN FUNDS FOR CERTAIN PURPOSES AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, a public hearing was held before the City Council of the City of Lacey on November 3, 2022, for purposes of considering revenue sources to fund the City's 2023 Current Expense Budget which consists of expenditures to provide ongoing services exclusive of capital expenditures, utility and other enterprise funds and special assessment funds of the City, and

WHEREAS, the assessed valuation of all taxable property within the City as determined by the Thurston County Assessor is \$12,559,839,594 for the General Levy and \$12,441,169,273 for the park improvement general obligation levies, and

WHEREAS, under RCW 84.55.005(2)(c), the limit factor for a taxing jurisdiction with a population of 10,000 or more is the lesser of 101 percent or 100 percent plus inflation, and

WHEREAS, RCW 84.55.005(1) defines "inflation" as the percentage change in the implicit price deflator for personal consumption expenditures for the United States as published for the most recent twelve-month period by the Bureau of Economic Analysis of the federal Department of Commerce by September 25 of the year before the taxes are payable, and

WHEREAS, "inflation" to be used for 2023 is 6.457 percent and the limit factor is therefore 101 percent, meaning the taxes levied in the City of Lacey in 2022 for collection in 2023 will increase an amount equal to one percent over the amount collected in 2022 except for the amounts resulting from new construction and improvements to property, adjustments for annexation, newly constructed wind turbines, and any increase in the value of state-assessed utility property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. The property tax levy, together with all adjustments thereto is shown below:

	<u>Adjustment Amount</u>	<u>% Increase/ Decrease</u>
2022 Property Tax Levy	\$ 8,046,612	
2023 General Levy Increase	80,466	1.00%
2023 New Construction Levy	171,868	2.13%
2023 Annexation Levy	180,941	2.25%
2023 Net Refund Levy	<u>13,365</u>	<u>0.17%</u>
2023 General Property Tax Levy	\$ 8,493,252	5.55%

Section 2. The levies to raise \$687,050 from property tax for bond redemption and interest on voted general obligation bond indebtedness for the City of Lacey are as follows:

	<u>Total Assessed Valuation</u>	<u>\$ Amount per \$1,000 Assessed Value</u>	<u>\$ Amount of Levy</u>
2012 Refunded Parks Imp.	12,441,169,273	0.02608	324,450
2015 Refunded Parks Imp.	12,441,169,273	0.02915	362,600

Section 3. The taxes herein provided for are levied for the purpose of raising revenue sufficient to pay the principal and interest upon the general bonded indebtedness, if any, of the City of Lacey, for a portion of the General Fund, and for the operation of the different departments of the municipal government of the City of Lacey for the fiscal year beginning January 1, 2023, and ending December 31, 2023 (current expense budget); and are hereby levied upon all the real and personal property as shown by the assessment in the County of Thurston as finally fixed by the County and State Board of Equalization, and as extended upon the books of the County Assessor showing the property within said City subject to taxation for municipal purposes and upon the amount of real and personal property as certified by the County Assessor, all pursuant to and under and by virtue of the laws of the State of Washington.

Section 4. That the taxes collected from the levies hereby fixed and made are hereby appropriated and this appropriation, together with the estimated revenues from all sources other than ad valorem taxation shall, when the annual budget for the fiscal year 2023 is finalized and adopted by ordinance, constitute the appropriations of the City of Lacey for the fiscal year 2023.

Section 5. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 6. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON,
this 17th day of November, 2022.

CITY COUNCIL

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney

Publish: November 21, 2022

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1625

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 17, 2022, Ordinance No. 1625, entitled "AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, FIXING THE AMOUNT OF THE ESTIMATED EXPENDITURES, LESS THE ESTIMATED REVENUES FROM SOURCES OTHER THAN AD VALOREM TAXATION, NEEDED FOR THE CURRENT EXPENSE BUDGET AND FOR THE PAYMENT OF PRINCIPAL AND INTEREST UPON THE GENERAL BONDED INDEBTEDNESS OF THE CITY OF LACEY FOR THE FISCAL YEAR 2023; LEVYING THE ANNUAL AD VALOREM TAXES OF THE CITY OF LACEY FOR THE FISCAL YEAR 2023 AND APPROPRIATING SAME TO CERTAIN FUNDS FOR CERTAIN PURPOSES AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance sets the 2023 general property tax levy to be in the sum of \$8,493,252.00 and sets the amount of ad valorem tax levies for the payment of outstanding bonded indebtedness.
2. The Ordinance declares that the taxes levied, together with estimated revenues from all other sources other than ad valorem taxation shall constitute the appropriations of the City for the 2023 fiscal year budget.
3. Provides provisions for corrections.
4. The Ordinance approves this Summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: November 21, 2022.



LACEY CITY COUNCIL MEETING

November 17, 2022

SUBJECT: 2023 Water Rate Ordinance

RECOMMENDATION: Upon review and concurrence, adopt water rate ordinance setting the 2023 water rates

STAFF CONTACT: Scott Spence, City Manager *SS*
Troy Woo, Finance Director *TW*

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS: 1. [Ordinance No. 1626](#)

FISCAL NOTE:

PRIOR REVIEW: 2023 Budget Workshop on October 6, 2022
2023 City Council Meeting on October 20, 2022
2023 Finance Committee on October 25, 2022
2023 Revenue Hearing on November 3, 2022

BACKGROUND:

The next update of the water comprehensive plan is in its final form, but will not be considered until the next City Comprehensive Plan update process in 2023. The draft water comprehensive plan financial chapter recommends 5.25 percent increases for the years 2022 through 2027. Staff recommends adopting the 5.25 percent increase in anticipation of the adoption of the water comprehensive plan in 2023.

The proposed 2023 Budget assumes adoption of the second-year rate increase (5.25 percent) of the six-year rate recommendation included in the draft water comprehensive plan. While both the water customers and utility have benefitted from past multi-year rate schedules, the scheduled water comprehensive plan adoption during 2023 will provide an opportunity to discuss the adoption of a multi-year rate schedule. Predictable and stable rates have helped the utility mitigate cashflow risk and lowered debt requirements and the

customers have avoided rate shock because revenue increase requirements have been spread over a longer period.

A 5.25 percent increase to the 2023 residential water service charge is equal to \$1.63 per month (700 cubic feet). The following table illustrates the impact of a 5.25 percent increase for 2023:

	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Base Rate	\$ 16.62	\$ 17.45	\$ 18.37	\$ 19.33
Consumption	<u>11.55</u>	<u>12.13</u>	<u>12.76</u>	<u>13.43</u>
Total Monthly Charges	\$ 28.17	\$ 29.58	\$ 31.13	\$ 32.76

It is requested that the City Council review and adopt the ordinance setting the 2023 water rates.

ADVANTAGES:

1. Rate adjustments are required to address future capital needs and the growing costs to produce and deliver quality water.
2. Adoption of the second-year rate increase maintains consistent and predictable rate increases for the customers' planning purposes.
3. Deferring needed capital improvements or maintenance and ignoring operational and maintenance costs can occur when rates are kept artificially low. This can result in rate spikes to adjust future rates to the correct levels.

DISADVANTAGES:

1. Increasing water rates can be challenging to customers regardless of the economic conditions. However, this increase will help offset potentially larger future rate increases and allows the City of Lacey to maintain service levels and the protection of its clean water.

ORDINANCE NO. 1626

CITY OF LACEY

AN ORDINANCE RELATING TO WATER SERVICE RATES, AMENDING SECTION 13.32.030 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, additional requirements and significant capital improvements to the City's water system have greatly impacted the operating costs of such system, and

WHEREAS, it is necessary to increase the water service rates in order to provide for the additional maintenance costs to meet system requirements and provide funding for scheduled capital improvements; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 13.32.030 of the Lacey Municipal Code is hereby amended to read as follows:

13.32.030 Service charge--Metered.

Water service charges for metered connections to the city water system shall be determined and the revenues received there from utilized as follows:

- A. The customers of the water system shall be divided into two groups. Group 1 shall consist of single family residences, duplex residences and irrigation accounts. Group 2 shall consist of multi-family residential structures, mobile home parks and commercial buildings.
- B. The monthly base rate and monthly consumption rate for each one hundred cubic feet of water consumed by Group 1 customers effective ~~January 1, 2022~~January 1, 2023 and thereafter until amended shall be as follows:

In-City Rates	2022 Rates	2023 Rates
Base Rate	\$18.37	\$19.33
1 st 600 c.f.	\$1.5289	\$1.6092
601 – 1200 c.f.	\$3.5886	\$3.7770
1201 – 2400 c.f.	\$4.5866	\$4.8274
Over 2400 c.f.	\$6.1245	\$6.4460

Out-of-City Rates	2022 Rates	2023 Rates
Base Rate	\$22.05	\$23.21
1 st 600 c.f.	\$1.8346	\$1.9309
601 – 1200 c.f.	\$4.3064	\$4.5325
1201 – 2400 c.f.	\$5.5039	\$5.7929
Over 2400 c.f.	\$7.3494	\$7.7352

- C. The monthly base rate and monthly consumption rate for each one hundred cubic feet of water consumed by Group 2 customers effective ~~January 1, 2022~~ January 1, 2023 and thereafter until amended shall be as follows:

In-City Rates	2022 Rates	2023 Rates
Base Rate	\$18.37	\$19.33
1 st 600 c.f.	\$1.5289	\$1.6092
Over 601 c.f.	\$3.5886	\$3.7770

Out-of-City Rates	2022 Rates	2023 Rates
Base Rate	\$22.05	\$23.21
1 st 600 c.f.	\$1.8346	\$1.9309
Over 601 c.f.	\$4.3064	\$4.5325

- D. Irrigation accounts shall be those accounts developed from the use of water for irrigation through a meter or meters separate from the metering of other water use upon such property. Group 2 customers who connect to the water system after passage of this ordinance will be required to use a separate meter or meters for irrigation purposes and the water usage through such separate meter or meters shall be considered as an irrigation account. If such a new Group 2 customer is assuming an existing Group 2 account, the requirement to install a separate meter or meters for irrigation purposes shall not apply.
- E. Publicly owned recreation property such as city or county parks and school district playfields shall be billed pursuant to the schedule for Group 2 customers. Provided, however, that to qualify for such billing, the facility must first receive

an irrigation audit by the city water department and demonstrate that a good faith effort is being made to remedy deficiencies and conserve water.

F. The billing rate to those customers utilizing water directly from water hydrants, with the consent of the city, shall be charged at a rate equivalent to the charges applicable to In-city Group 1 customers for consumption in excess of two thousand four hundred cubic feet.

G. An amount equal to fifteen percent of the revenues received from service charges as set forth herein shall be set aside by the city separately for the purpose of accumulating a depreciation reserve for the replacement of equipment and plant in place of the water system. The balance of the income received from said charges shall be used for maintenance and operation, construction and debt service requirements of said system.

Section 2. This Ordinance shall be effective as of January 1, 2023.

Section 3. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, on this 17th day of November, 2022.

CITY COUNCIL

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney

SUMMARY FOR PUBLICATION
ORDINANCE NO. 1626
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 17, 2022, Ordinance No. 1626, entitled “**AN ORDINANCE RELATING TO WATER SERVICE RATES, AMENDING SECTION 13.32.030 AND APPROVING A SUMMARY FOR PUBLICATION.**”

A section by section summary of this ordinance is as follows:

Section 1 amends section 13.32.030 establishing water rates effective January 1, 2023 for purposes of providing revenue for increased maintenance and capital expenditures for the water utility system.

Section 2 establishes the effective date of January 1, 2023.

Section 3 provides provisions for corrections.

Section 4 approves this summary.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

City Clerk

Published: November 21, 2022



LACEY CITY COUNCIL MEETING November 17, 2022

SUBJECT: 2023 Sewer Rate Ordinance

RECOMMENDATION: Upon review and concurrence, adopt sewer rate ordinance setting the 2023 sewer rates

STAFF CONTACT: Scott Spence, City Manager 
Troy Woo, Finance Director 

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS: 1. [Ordinance No. 1627](#)

FISCAL NOTE:

PRIOR REVIEW: 2023 Budget Workshop on October 6, 2022
2023 City Council Meeting on October 20, 2022
2023 Finance Committee on October 25, 2022
2023 Revenue Hearing on November 3, 2022

BACKGROUND:

The next scheduled update of the sewer comprehensive plan is anticipated to commence during 2023. The plan update requirement for the sewer comprehensive plan (2015) was extended beyond the last multi-year sewer rate schedule. As a result, the City's rate consultant prepared a sewer revenue requirement model, which recommended rates for the years 2022 to 2027.

The updated sewer rate model recommends a 9.5 percent annual increases. The proposed increase has the following impact on the basic sewer service or equivalent residential unit charge:

	2018 Rate	2019 Rate	2020 Rate	2021 Rate	2022 Rate	2023 Rate
Basic Sewer Service Charge	\$20.43	\$21.30	\$21.94	\$23.04	\$25.23	\$27.62

It is requested that the City Council review and adopt the ordinance setting the 2023 sewer rates.

ADVANTAGES:

1. Rate adjustments are required to address future capital needs and the growing costs to convey wastewater and maintain the region's water quality.
2. Adoption of the second-year rate increase maintains consistent and predictable rate increases for the customers' planning purposes.
3. Deferring needed capital improvements or maintenance and ignoring operational and maintenance costs can occur when rates are kept artificially low. This can result in rate spikes to adjust future rates to the correct levels.

DISADVANTAGES:

1. It is a challenging time to increase rates and a 9.5 percent seems significant. However, compared to many other consumer products and services, a \$2.40 per month increase is reasonable for this important community service.

ORDINANCE NO. 1627

CITY OF LACEY

AN ORDINANCE RELATING TO SEWER SERVICE RATES, AMENDING SECTION 13.16.060 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, additional requirements and significant capital improvements to the City's water system have greatly impacted the operating costs of such system, and

WHEREAS, it is necessary to increase the sewer service rates in order to provide for the additional maintenance costs to meet system requirements and provide funding for scheduled capital improvements; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 13.16.060 of the Lacey Municipal Code is hereby amended to read as follows:

13.16.060 Service charge - Designated.

- A. The "basic sewer service charge" of Lacey for each equivalent residential unit for all utility billings effective ~~January 1, 2022~~ January 1, 2023 and thereafter until amended shall be as follows:

	2022 Rate	2023 Rate
Basic Sewer Service Charge	\$25.23	\$27.63

- B. The "wastewater service charge" shall be an amount equal to that set by the LOTT Alliance Board of Directors pursuant to the LOTT Alliance Intergovernmental Agreement.

Section 2. This Ordinance shall be effective as of January 1, 2023.

Section 3. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, on this 17th day of November, 2022.

CITY COUNCIL

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney

SUMMARY FOR PUBLICATION
ORDINANCE NO. 1627
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 17, 2022, Ordinance No. 1627, entitled “**AN ORDINANCE RELATING TO SEWER SERVICE RATES, AMENDING SECTION 13.16.060 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.**”

A section by section summary of this ordinance is as follows:

Section 1 amends section 13.16.060 establishing sewer rates for 2023 for purposes of providing revenue for increased maintenance and capital expenditures for the sewer utility system.

Section 2 establishes the effective date of January 1, 2023.

Section 3 provides provisions for corrections.

Section 4 approves this summary.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

City Clerk

Published: November 21, 2022



LACEY CITY COUNCIL MEETING

November 17, 2022

SUBJECT: 2023 Stormwater Rate Ordinance

RECOMMENDATION: Upon review and concurrence, adopt stormwater rate ordinance setting the 2023 stormwater rates

STAFF CONTACT: Scott Spence, City Manager 
Troy Woo, Finance Director 

ORIGINATED BY: Troy Woo, Finance Department

ATTACHMENTS: 1. [Ordinance No. 1628](#)

FISCAL NOTE:

PRIOR REVIEW: 2023 Budget Workshop on October 6, 2022
2023 City Council Meeting on October 20, 2022
2023 Finance Committee on October 25, 2022
2023 Revenue Hearing on November 3, 2022

BACKGROUND:

The most recent stormwater comprehensive plan update was completed and adopted by the City Council on November 19, 2020, as a part of the City's comprehensive plan update. The stormwater comprehensive plan financial chapter assumes 4.5 percent annual increases for the years 2021 through 2025.

The proposed 2023 Budget assumes adoption of the 4.5 percent stormwater rate increase consistent with the six-year rate recommendation.

The proposed increase has the following impacts to stormwater rates:

Rate Category	Percent of Impervious Surface	2020	2021	2022	2023
		Monthly Service Charge Per Gross Acre	Monthly Service Charge Per Gross Acre	Monthly Service Charge Per Gross Acre	Monthly Service Charge Per Gross Acre
1 Single Family Residence	N/A	11.87	12.40	12.96	13.54
2 Duplex Family Residence	N/A	23.74	24.80	25.92	27.08
3 Very Light	0% to 10%	5.45	5.69	5.95	6.22
4 Moderate Light	>10% to 25%	19.69	20.58	21.51	22.47
5 Light	>25% to 40%	38.12	39.83	41.62	43.51
6 Moderate	>40% to 55%	58.11	60.72	63.45	66.31
7 Moderately Heavy	>55% to 70%	79.11	82.67	86.39	90.28
8 Heavy	>70% to 85%	102.05	106.64	111.44	116.45
9 Very Heavy	>85% to 100%	126.26	131.94	137.88	144.08

It is requested that the City Council review and adopt the ordinance setting the 2023 stormwater rates.

ADVANTAGES:

1. Rate adjustments are required to address future capital needs and the growing costs of stormwater services.
2. Maintaining consistent rate increases provides customers consistent and predictable rate increases for planning purposes.
3. Deferring needed capital improvements or maintenance and ignoring operational and maintenance costs can occur when rates are kept artificially low. This can result in rate spikes to adjust future rates to the correct levels.

DISADVANTAGES:

1. It is a challenging time to increase rates and a 4.50 percent seems significant. However, compared to many other consumer products and services, a \$0.58 per month increase is reasonable for this important community service.

ORDINANCE NO. 1628

CITY OF LACEY

AN ORDINANCE RELATING TO STORMWATER SERVICE RATES, AMENDING SECTION 13.70.030 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, the City of Lacey is committed to comply with the Phase II Western Washington Municipal Stormwater Permit, which provides for the requirements necessary to preserve water quality and resources, and

WHEREAS, it is necessary to increase the stormwater service rates in order to provide for the additional maintenance costs to meet system requirements and provide funding for scheduled capital improvements; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 13.70.030 of the Lacey Municipal Code is hereby amended to read as follows:

13.70.030 Service charge rate.

Subject to the rate adjustments provided in LMC 13.70.035, the storm and surface water utility charges shall be levied upon the basis of a flat monthly rate for all developed single-family residential parcels and two-family residential parcels and a sliding rate for all other parcels. The sliding rate shall be determined by measuring the amount of impervious surface area on each parcel and dividing that figure by the total area of the parcel to determine the percent of impervious surface and therefore the rate category. The monthly charge shall be that amount resulting from multiplying the service charge for the rate category applicable to the parcel by the total area of the parcel. The rate categories, the parameters of impervious surface for said rate categories and the monthly service charge applicable to each category shall be as follows:

Rate Category	Percent of Impervious Surface	2022 Monthly Service Charge Per Gross Acre	2023 Monthly Service Charge Per Gross Acre
1 Single Family Residence	N/A	12.96	13.54
2 Duplex Family Residence	N/A	25.92	27.09
3 Very Light	0% to 10%	5.95	6.22
4 Moderate Light	>10% to 25%	21.51	22.48
5 Light	>25% to 40%	41.62	43.49
6 Moderate	>40% to 55%	63.45	66.31
7 Moderately Heavy	>55% to 70%	86.39	90.28
8 Heavy	>70% to 85%	111.44	116.45
9 Very Heavy	>85% to 100%	137.88	144.08

The rates set forth above shall be effective for all stormwater utility billings beginning ~~January 1, 2022~~ January 1, 2023 and thereafter until further amended.

Section 2. This Ordinance shall be effective as of January 1, 2023.

Section 3. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, on this 17th day of November, 2022.

CITY COUNCIL

Mayor

Attest:

Approved as to form:

City Clerk

City Attorney

SUMMARY FOR PUBLICATION
ORDINANCE NO. 1628
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 17, 2022, Ordinance No. 1628, entitled “**AN ORDINANCE RELATING TO STORMWATER SERVICE RATES, AMENDING SECTION 13.70.030 OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.**”

A section by section summary of this ordinance is as follows:

Section 1 amends section 13.70.030 establishing stormwater rates for 2023 for purposes of providing revenue for increased maintenance and capital expenditures for the stormwater utility system.

Section 2 establishes the effective date of January 1, 2023.

Section 3 provides provisions for corrections.

Section 4 approves this summary.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

City Clerk

Published: November 21, 2022



LACEY CITY COUNCIL MEETING
November 17, 2022

SUBJECT: Hearings Examiner Review Process for Quasi-Judicial Land Use Permits

RECOMMENDATION: Motion to adopt Ordinance No. 1629. This action would make the decision of the Hearings Examiner final. Appeals would be submitted to Superior Court or the Shorelines Hearings Board. Further, City Council would not be subject to the Appearance of Fairness doctrine under this system and could engage with constituents without limitation.

STAFF CONTACT: Scott Spence, City Manager *SS*
Rick Walk, Community & Economic Development Director *RW*
Grant Beck, Planning & Development Services Manager *GB*

ORIGINATED BY: City Council
Community & Economic Development Department

ATTACHMENTS: 1. [Ordinance No. 1629](#)
2. [Presentation from August 25, 2022, Worksession](#)

FISCAL NOTE: None

PRIOR REVIEW: September 27, 2022, Land Use Committee
August 25, 2022, City Council work session
April 24, 2021, City Council work session
January, 2020, City Council WCIA Training
September, 2012, City Council WCIA Training
June, 2009, City Council WCIA Training

BACKGROUND:

The Lacey City Council adopted the Hearings Examiner system for review of quasi-judicial land use permits in 1979 by Ordinance 549 and 560 to replace the Board of Adjustment system pursuant to Section 35A.63.170 RCW.

At that time, the Council gave final decision authority to the Examiner for short plat modifications and variances, appeals of short plats, site plan reviews, shoreline variances, administrative zoning decisions, and preliminary subdivision approval extension requests.

Other land use permits, such as rezones, preliminary subdivisions, subdivision modifications, shoreline permits, planned residential developments, and conditional use permits were a recommendation to Council.

PERMIT AUTHORITY IN 1979

In 1979, the City Council could legally hold an open record hearing and take evidence before taking final action on the Examiner's recommendation. The Council at that time specified that new evidence could be provided up to 3 days before the scheduled Council action and that the Council could publicly request additional specific information from the applicant, the examiner, or staff. Further, if the Council determined that additional public testimony was warranted, it could remand the matter to the Examiner or hold its own public hearing.

The standard for the Council's final decision at that time was that the decision is supported by substantial evidence.

PERMIT AUTHORITY AFTER 1995

In 1995, the Regulatory Reform Act was adopted and codified in part at Chapter 36.70B RCW. Some of the new limitations on the local land use review and approval process include:

Project decisions must be based on development regulations.

Limits a review process to one (1) open record and one (1) closed record hearing.

At that time, the only open public hearing allowed on projects in which the Examiner made a recommendation to Council was before the Hearings Examiner and the Council was limited to a review of the record created by the Examiner. No longer could additional evidence or testimony be considered by Council as in the past.

The standard of review for Council also changed to reviewing the Examiner's recommendation to determine if the recommendation was supported by substantial evidence and was not contrary to law.

Finally, the ability to condition or deny project based on adopted goals and policies when a development regulation clearly addressed the proposed use or potential adverse impact became very limited.

The Council adopted Ordinance 1035 in 1996, which amended the Lacey Municipal Code to be consistent with the requirements of the Regulatory Reform Act.

CURRENT SITUATION

The new regulatory framework imposed in 1995 and codified in Lacey in 1996 created a situation where the City Council receives a recommendation from the Hearings Examiner and has a very limited opportunity to modify or reject the recommendation.

This situation is made more difficult by the operation of the Appearance of Fairness Doctrine, which has long been the law in Washington State but did not impact the Council as severely when it could collect evidence and testimony even after the Examiners recommendation prior to the adoption of Chapter 36.70B RCW.

Today, the Council has limited ability to change a recommendation and can not have contact with its constituents during a pending quasi-judicial land use permit.

Council involvement in land use matters under the Hearing Examiner system are:

1. The Hearings Examiner makes a recommendation to Council (current system).
2. The Hearings Examiner makes a final decision that can be appealed to Council. This option would subject the Council to the Appearance of Fairness doctrine throughout the permit process and appeal period.
3. The Hearings Examiner makes a final decision that can be appealed to Superior Court or the Shorelines Hearings Board. The Council would not be subject to the Appearance of Fairness doctrine under this system and could engage with constituents without limitation.

Based on Council direction, staff is recommending option 3—Hearings Examiner makes a final decision that can be appealed to Superior Court or the Shorelines Hearings Board. The Council would not be subject to the Appearance of Fairness doctrine under this system and could engage with constituents without limitation.

ADVANTAGES:

1. Separates quasi-judicial and legislative functions.
2. Frees policy-makers to act on long term planning and law-making functions.
3. Decision-maker protected from political pressure.
4. Policy-makers free to engage public at all times.

DISADVANTAGES:

1. The public could perceive a loss of control over specific land use actions related to development by the City Council.

ORDINANCE NO. 1629

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY RELATED TO DECISIONS BY THE HEARINGS EXAMINER AND THE CITY COUNCIL'S ROLE IN THE QUASI-JUDICIAL PROCESS, AMENDING SECTIONS 2.30.010-030, 2.30.060, 2.30.070, 2.30.090, 2.30.100, 2.30.150, 2.30.160, 14.32.072, 15.10.090, 15.10.100, 15.10.120, 15.10.130, 15.20.020, 16.66.070 and 16.66.100, REPEALING SECTIONS 2.30.110-140, 2.30.170, 2.30.180, 2.30.210, 15.10.110, AND 15.20.040, ALL OF THE LACEY MUNICIPAL CODE, AMENDING SECTIONS 1C.050, 1D.010, 1D.030(H), 1D.070 AND REPEALING SECTION 1D.060, ALL OF THE CITY OF LACEY DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, in 1979 the Lacey City Council implemented a land use permitting system authorized by Chapter 35A.63 RCW in which a Hearings Examiner replaced the Board of Adjustment as the hearings body for most land use permits; and

WHEREAS, when adopting the Hearings Examiner system, the City Council chose a process in which the Examiner made a recommendation to City Council on certain project permits. The Council could decide the matter on the record before the Examiner or create its own record by requesting additional evidence or holding a public hearing before the Council; and

WHEREAS, in 1995 the Regulatory Reform Act was enacted into law at Chapter 36.70B RCW; and

WHEREAS, the Regulatory Reform Act established limitations on how local governments could process project permits including a requirement that the decision be based on development regulations and the allowance of a single open record (public) hearing, and

WHEREAS, the Lacey City Council incorporated the requirements of Chapter 36.70B RCW into the Lacey Municipal Code (Ordinance 1035) in part by having the Examiner hold the open record (public) hearing and making a recommendation for Council's final action; and

WHEREAS, Council's role for final action is similar to an appellate court with a closed record hearing in which no new testimony or evidence can be considered; and

WHEREAS, the Appearance of Fairness Doctrine limits any decision maker in this quasi-judicial project permit process from ex-parte contact during the pendency of the process; and

WHEREAS, this current project permit process therefore significantly limits the Council's ability to interact with their constituents during the project review process; and

WHEREAS, the City Council recognizes that Hearings Examiners are professionally trained in reviewing and making objective decisions in land use matters; and

WHEREAS, the City Council desires to separate itself from the project review process so that it can be more responsive to the concerns of its constituents and spend more time concentrating on policymaking.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, AS FOLLOWS:

Section 1. Section 2.30.010 of the Lacey Municipal Code is hereby amended as follows:

2.30.010 Creation of land use hearings examiner.

Pursuant to Chapter 35A.63 RCW, the office of land use hearings examiner, hereinafter referred to as "examiner," is created. The examiner shall interpret, review and implement land

use regulations as provided ~~in this chapter or by other ordinance~~ in the Lacey Municipal Code. In addition, the examiner shall hear appeals relating to potentially dangerous or dangerous dogs pursuant to Chapter 7.04 LMC 7.04.070, ~~and~~ the city's construction codes as described in Chapter 14.18 LMC 14.18.030, ~~and other matters as authorized under the Lacey Municipal Code~~. Unless the context requires otherwise, the term "examiner," as used in this chapter, shall include deputy examiner and examiners ~~pro-~~tem.

Section 2. Section 2.30.020 of the Lacey Municipal Code is hereby amended as follows:

2.30.020 Appointment and term.

The examiner and any deputy examiners shall be appointed by the mayor and confirmed by the city council ~~after receipt of recommendation from the joint hearings examiner committee established by interlocal agreement between the cities of Lacey and Olympia and Thurston County for terms which shall initially expire one year following the date of original appointment and thereafter expire four years following the date of each reappointment. for a four (4) year term which includes a one (1) year probation period after which either party may end the term of office.~~ The mayor may also, by professional service contract, appoint in the same manner for terms and functions deemed appropriate, examiners ~~pro-~~tem to serve in the event of absence or inability to act of the examiner and deputy examiners.

Section 3. Section 2.30.030 of the Lacey Municipal Code is hereby amended as follows:

2.30.030 Qualifications.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. ~~Examiners shall hold no other elective or appointive office or position in the governmental structure of Thurston County or the cities of Lacey or Olympia.~~

Section 4. Section 2.30.060 of the Lacey Municipal Code is hereby amended as follows:

2.30.060 Conflict of interest.

No examiner shall conduct or participate in any hearing, decision or recommendation in which the examiner has a direct or indirect substantial financial or familial interest, or concerning which the examiner has had substantial prehearing contacts with proponents or opponents. ~~No member of the city council or planning commission who has such an interest or has had such contacts shall participate in the consideration of an appeal from or a review of an examiner's decision.~~

Section 5. Section 2.30.070 of the Lacey Municipal Code is hereby amended as follows:

2.30.070 Organization.

The operation of the hearings examiner's office shall be under the administrative supervision of the examiner and said office shall be separate and not a part of the community and economic development department or any other department providing staff planning services.

Section 6. Section 2.30.090 of the Lacey Municipal Code is hereby amended as follows:

2.30.090 Powers of the examiner.

The examiner shall receive and examine all available information, conduct public hearings and prepare a record thereof and enter decisions as provided for herein and throughout the Lacey Municipal Code. The decision of the hearings examiner on all matters shall be final.

~~A. The decision of the hearings examiner on the following matters shall be final unless such decision is appealed to the city council pursuant to LMC 2.30.160:~~

- ~~1. Appeals of decisions made pursuant to limited administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;~~
- ~~2. Appeals of decisions made pursuant to full administrative review as defined in Section 1.030 of the City of Lacey Development Guidelines and Public Works Standards;~~
- ~~3. Variance requests;~~
- ~~4. Preliminary plat approval extension requests;~~

~~B. The decision of the hearings examiner on the following matters shall constitute a recommendation to the city council:~~

- ~~15. Preliminary plat applications;~~
- ~~26. Preliminary plat modification requests;~~
- ~~37. Shoreline substantial development, shoreline variance and shoreline conditional use permits and permit revisions;~~
- ~~48. Planned residential development applications;~~

~~59. Conditional use permit applications.~~

~~C. The decision of the hearings examiner on any matters relating to potentially dangerous or dangerous dogs pursuant to LMC 7.04.070 or the duties described in LMC 14.18.030 for the building construction and life safety codes shall be final. Appeals of such determinations by the city hearings examiner shall be appealable to Thurston County superior court. An appeal of the hearings examiner decision must be filed with Thurston County superior court within twenty calendar days from the date the hearings examiner decision was mailed to the person to whom the notice of civil penalty was directed.~~

Section 7. Section 2.30.100 of the Lacey Municipal Code is hereby amended as follows:

2.30.100 Applications for permits or approvals.

Applications for permits or approvals within the jurisdiction of the hearings examiner shall be presented to the community and economic development department for review as set forth in Chapter 1 of the City of Lacey Development Guidelines and Public Works Standards. ~~The department shall accept such applications only if applicable filing requirements set forth in Section 1B.050 of the City of Lacey Development Guidelines and Public Works Standards are met. The department shall be responsible for assigning a date for and assuring due notice of public hearing for each application, which date and notice shall be in accordance with Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards.~~

Section 8. Section 2.30.110 of the Lacey Municipal Code is hereby repealed.

Section 9. Section 2.30.120 of the Lacey Municipal Code is hereby repealed.

Section 10. Section 2.30.130 of the Lacey Municipal Code is hereby repealed.

Section 11. Section 2.30.140 of the Lacey Municipal Code is hereby repealed.

amended as follows:

Section 12. Section 2.30.150 of the Lacey Municipal Code is hereby amended as follows:

2.30.150 Notice of examiner's decision.

Not later than three working days following the rendering of a written decision, copies thereof shall be ~~mailed-provided~~ to the applicant and to other parties of record in the case. "Parties of record" shall include the applicant and all other persons who specifically request notice of ~~the~~ decision ~~by signing a register provided for such purpose at the public hearing. If the effect of the decision is a recommendation to the city council or planning commission, the original thereof shall be transmitted to that body.~~

Section 13. Section 2.30.160 of the Lacey Municipal Code is hereby amended as follows:

2.30.160 Appeal from examiner's decision.

The decision of the examiner ~~as to those applications listed in LMC 2.30.090(A)~~ shall be final and conclusive unless a Land Use Petition is timely filed with the Thurston County Superior Court ~~within fourteen days following rendering of such decision an appeal therefrom is filed with the office of the examiner by the applicant, the city council, a department of the city or county, or other interested person or agency~~ in accordance with Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards and applicable state laws.

Provided:

A. Appeals from the examiner's decision on shoreline permits shall be governed by the provisions of Chapter 90.58 RCW; and

B. Appeals from the examiner's decision on any matters relating to potentially dangerous or dangerous dogs pursuant to LMC 7.04.070, the duties described in LMC 14.18.030 for the building construction and life safety codes and related to civil violations and abatement under LMC 14.40 shall be to Thurston County Superior Court. Such appeals must be filed with Thurston County Superior Court within twenty calendar days from the date the hearings examiner decision was mailed to the person to whom the notice of civil penalty was directed.

Section 14. Section 2.30.170 of the Lacey Municipal Code is hereby repealed.

Section 15. Section 2.30.180 of the Lacey Municipal Code is hereby repealed.

Section 16. Section 2.30.210 of the Lacey Municipal Code is hereby repealed

Section 17. Section 14.32.072 of the Lacey Municipal Code is hereby amended as follows:

14.32.072 Historical tree(s).

A. Purpose. The purpose of the historical tree designation is to protect trees with a historical significance and to establish a register of these trees. Historical trees require protection due to their special value in that they are irreplaceable. They may be associated with historic figures, events, or properties; or be rare or unusual species; or they may have aesthetic value worthy of protection for the health and general welfare of the residents of this city.

Therefore, the purpose of this section is:

1. Protection and maintenance. To provide for the protection and proper maintenance of historical trees, to minimize disturbance to the trees, and to prevent other environmental damage from erosion or destruction of wildlife habitat;
2. Health, safety, welfare. To protect the health, safety and general welfare of the public;

3. Goals and objectives. To implement the goals and objectives of the city's Urban Forest Management Plan.

B. Historical Tree Registration. The city shall prepare and thereafter maintain a list of historical trees within the city limits. The inventory may include a map identifying the location of the trees and a brief narrative description of each historical tree. The historical tree inventory shall be prepared and amended at any time following the procedures established below.

1. Nomination. A tree may be nominated for historical tree status by the property owner, a neighborhood organization, or any person by submitting a map, a photograph, and a narrative description including the location, species, approximate age, and the characteristics on which the nomination is based;

2. Review. The director, upon receipt of a nomination, shall review the nomination and confer with the city tree protection professional and other city staff as may be appropriate. Notice of the nomination shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days. The director shall inspect the tree, consider public comments, and decide in each case whether or not the tree is to be designated a historical tree. The city shall place each designated historical tree on the historical tree register. In the event the owner of the tree does not approve of its designation as a historical tree, the nomination will be disapproved;

3. Notification of the director's decision. Notice of the director's decision shall be mailed to the property owner and shall be posted by the city on the subject site for a period of ten days;

4. Appeal. Any person may appeal the director's decision to the hearing examiner pursuant to [section 1D of the City of Lacey Development Guidelines and Public Works Standards](#);

~~5. Hearing examiner. The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1.C.050 (Quasi-Judicial Review of Applications) of the City of Lacey Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting;~~

56. Notification of registration. Each property owner who has one or more registered historical trees shall be notified by first class mail of the designation within thirty days of designation;

67. Recording of historical tree covenant. Each property owner who has one or more registered historical trees shall execute a historical tree covenant in a form agreeable to the city. The historical tree covenant shall require that the tree be maintained in a manner which is consistent with the provisions of this chapter. The historical tree covenant shall be recorded by the county auditor. Recording fees shall be paid by the applicant;

78. Duration of covenant. The historical tree covenant shall be effective from the date of recording until such a time that a tree removal permit has been issued by the director pursuant to this section;

89. Education benefits. From time to time the city may prepare public information programs on historical trees and provide qualified professional tree care advice to owners of the historical trees;

C. Limitation on removal. Subject to the exceptions enumerated in subsection D of this section, no person shall remove, or cause to be removed, any historical tree.

D. Removal Procedures. Historical trees shall not be removed except through the procedures established in this section.

1. Permit Required. No Historical tree shall be removed without first applying for and receiving a land clearing permit. The applicant for the permit shall be the property owner or the city. An application for a tree removal permit shall be submitted on a form provided by the city. The applicant must state the justification for removal on the tree removal application;

2. Review. If justification for removal is based upon health of the tree, and a visual inspection by the director cannot establish that the tree is dead, diseased, or hazardous, the applicant shall pay for the city tree protection professional to make a determination. If it is determined by the tree protection professional that the tree is dead, diseased, or otherwise hazardous and cannot be saved, the director may approve the removal. If the tree is determined to be healthy, or with treatable infestation or infection, the director may deny the permit.

If justification is due to reasons other than health of the tree, the director shall confer with other city personnel as may be appropriate in evaluating the justification and make a decision pursuant to the procedures and requirements of section 1E.030 (Limited Administrative Review of Applications) of the Development Guidelines and Public Works Standards;

3. Notification. If the director decides that a permit is justified, notice of the director's decision shall be mailed to the applicant, all parties of record, and posted by the city on the subject site for a period of ten days, during which no work shall commence. No work shall commence during the notice periods or when appeals are pending disposition;

4. Appeal. The property owner or any person residing or owning property within three hundred feet of the tree may appeal the director's decision to the hearing examiner pursuant to section 1D of the City of Lacey Development Guidelines and Public Works Standards, ~~whether that decision is positive or negative. Appeals must be submitted in writing within ten days of the posting of the director's decision;~~

~~5. Hearing examiner. The hearing examiner shall hold a public meeting on the appeal pursuant to the procedures specified in section 1K.050 (Quasi-Judicial Review of Applications) of the Development Guidelines and Public Works Standards. The hearing examiner will make a decision which will constitute a recommendation to the city council. All recommendations of the hearing examiner will be considered by the city council at the next available council meeting. The city council decision shall be final. No work shall commence during the notice periods or when appeals are pending disposition;~~

56. Permit for tree removal timing. Any tree removal permit granted under this chapter shall be valid for one year. In addition to the permit, the property owner will execute a revocation of covenant in a form agreeable to the city. The revocation of covenant shall be recorded by the county auditor. Recording fees shall be paid by the property owner.

Section 18. Section 15.10.090 of the Lacey Municipal Code is hereby amended as follows:

Preliminary plat hearings examiner review procedure.

At the public hearing the hearings examiner shall consider all relevant evidence to determine whether to ~~recommend that the approve or disapprove the~~ preliminary plat ~~be approved or disapproved by the city council~~. Any hearing may be continued at the discretion of the hearings examiner within the time limits allowed by law. The hearings examiner's obligation to review the preliminary plat shall be as follows:

A. To assure conformance of the proposed subdivision to the general purposes of this chapter, all elements of the Comprehensive Plan and implementing legislation including the Zoning Code (LMC Title [16](#)), the Development Guidelines and Public Works Standards, and other applicable planning standards, specifications and policies adopted by the city council shall be considered;

B. To inquire into the public use and interest proposed to be served by the establishment of the subdivision and/or dedication, the examiner shall determine if appropriate provisions are made for, but not limited to, the following:

1. *Prevention of overcrowding.* Consideration shall be given to designations of the Comprehensive Plan and Zoning Code, and the requirements of the Development Guidelines and Public Works Standards in consideration of the physical characteristics of the land in relation to the number of persons, buildings or sites proposed to be located thereon, and also to the availability of public facilities such as water, sewers, fire protection, streets, schools, parks, etc., if not adequately provided for within the subdivision.
2. Conformance with the Transportation Plan and Development Guidelines and Public Works Standards to facilitate traffic circulation on the streets and highways. Proposed streets must be aligned or built in such a way as to best facilitate the movement of pedestrians and vehicles and reduce the possibility of crashes. Traffic calming techniques and other standards of the Development Guidelines and Public Works Standards will be required. Key pedestrian intersection improvements for pedestrians will be considered where so designated on the Comprehensive Plan Map.
3. Meeting requirements of the Zoning Code (LMC Title [16](#)) and Design Review (Chapter [14.23](#) LMC) to provide adequate light air and privacy by meeting setbacks, dimensional standards, yard areas and design principles. Assurance that the plat is arranged in such a way that all lots have adequate light, air, and opportunity for privacy.

4. Satisfying principles, goals and policies of the Comprehensive Plan and Parks and Recreation Comprehensive Plan for proper arrangement and provision of easements and pathways and other bicycle-pedestrian paths, etc. Adequate provisions for pathways, sidewalks and other pedestrian features connecting various parts of a subdivision shall be an emphasis of design. Goals and policies of the Comprehensive Plan for key pedestrian intersections and improvements shall be used when designing pedestrian movement and circulation. Consideration shall be given to key focus areas in every neighborhood, particularly considering local grade schools and open space, and how each subdivision relates to these areas and provides connectivity to key sites within each neighborhood. Provisions for trail systems in areas conducive to such (along creeks, rivers, scenic areas, etc.) shall also be considered.

5. Conformance with goals, policies and standards of the Parks and Recreation Comprehensive Plan and standards of this title for provision of adequate recreation and open space and buffers. Sufficient guaranteed open space and recreational areas shall be designed and provided to adequately serve the subdivision. Plans for connectivity between subdivisions and throughout neighborhood areas shall be provided to residents of the subdivision and shall be implemented in the design of each subdivision. This shall include trail systems, key pedestrian intersection concepts, sensitive area buffers and corridors with trails systems and other global circulation concepts (including more than just the local circulation of the individual subdivision) for the neighborhood and community.

C. To consider the physical characteristics of the proposed subdivision site. The hearings examiner may recommend disapproval because of flood, inundation or wetland or other sensitive area conditions pursuant to the standards of LMC Title [14](#). The examiner may recommend the construction of protective improvements be required as a condition of approval, with such improvements to be noted on the final plat in order to assure that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage;
3. Adequate drainage is provided so as to reduce exposure to flood hazards; and

4. Other purposes as described in the implementing legislation of LMC Title [14](#) are achieved.

The hearings examiner shall give due consideration to all of the above items. ~~Written findings of fact on each item considered shall be submitted to the city council with the preliminary plat.~~

Section 19. Section 15.10.100 of the Lacey Municipal Code is hereby amended as follows:

15.10.100 Preliminary plat hearings examiner decisionreport to city council.

~~The hearings examiner shall prepare a recommendation to the city council according to the process outlined in Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards. The hearings examiner shall submit such~~issue a written decision ~~and which contains~~ findings of fact and ~~conclusions of law~~recommendations to the city council. The hearings examiner may approve, approve with conditions, or disapprove the proposed subdivision. ~~recommend that the proposed plat be approved, conditionally approved or disapproved. In the event that a decision cannot be reached by the hearings examiner, the preliminary plat shall be forwarded to the city council with no recommendation.~~

Section 20. Section 15.10.110 of the Lacey Municipal Code is hereby repealed.

Section 21. Section 15.10.120 of the Lacey Municipal Code is hereby amended as follows:

15.10.120 Preliminary plat council record.

A record of all public meetings of the ~~council~~hearings examiner shall be kept by the city clerk and shall be made available to the public upon request.

Section 22. Section 15.10.130 of the Lacey Municipal Code is hereby amended as follows:

15.10.130 Preliminary plat notice of final decision.

Upon approval, disapproval or modification of the preliminary plat by the [hearings examiner](#)~~council~~, the assigned planner shall so notify the applicant ~~by mail~~ pursuant to the notice requirements of the Development Guidelines and Public Works Standards Section 1C.070 within ten days of said action. The action of the ~~council~~[hearings examiner](#) shall be noted on two copies of the preliminary plat, including reference to any attached documents describing conditions imposed ~~by the council~~. The planner shall return one copy to the subdivider and retain one copy for the permanent file.

Section 23. Section 15.20.020 of the Lacey Municipal Code is hereby amended as follows:

15.20.020 Variance--Determination.

A. The hearings examiner may grant ~~conditional~~ variances to the requirements of this title. Application for a variance to this title shall be made by petition by the subdivider, stating fully the necessity of the variance based on LMC [16.90.005](#) and the specific requirements for which the variance is requested;

B. If a variance is in conjunction with a preliminary plat, binding site plan, or short subdivision it shall proceed in accordance with Chapter 1B of the City of Lacey Development Guidelines and Public Works Standards. A separate hearing shall be held for all other requests for variances.

Section 24. Section 15.20.040 of the Lacey Municipal Code is hereby repealed.

Section 25. Section 16.66.070 of the Lacey Municipal Code is hereby amended as follows:

16.66.070 When granted.

A conditional use permit may be granted by the ~~city council~~[hearings examiner](#), after public hearing and review, for those uses requiring such permits as provided for in this title.

Section 26. Section 16.66.100 of the Lacey Municipal Code is hereby amended as follows:

16.66.100 Action by hearings examiner.

In reviewing a conditional use permit, the hearings examiner shall impose all requirements for such use, as prescribed in this title and other conditions and safeguards as are necessary to secure adequate protection for the locality in which the use is to be permitted. The hearings examiner shall ~~recommend~~establish a time limit, within which, action for which the conditional use is required shall be begun, completed, or both.

Section 27. Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards is hereby amended as follows:

1C.050 Quasi-Judicial Review of Applications

The review procedure under Quasi-Judicial Review shall be as follows:

- A. If the proposed development is subject to the State Environmental Policy Act (SEPA), the threshold determination shall be made after the closing of the public comment period associated with the Notice of Application.
- B. The community development department shall distribute copies of the complete application to agencies and departments affected by the proposal or with review authority. The community development department shall set a date for return of findings and recommendations from each commenting agency or department.
- C. Upon the completion of the application comment period, the issuance of an environmental determination and of the environmental appeal period, the department shall schedule a hearing with the City of Lacey Hearing Examiner, when applicable.
- D. At least ten (10) days before the date of a public hearing the department shall issue public notice of the date, time, location and purpose of the hearing by posting the subject site and the nearest intersection, posting at city hall, publishing notice in the official city newspaper and mailing notice to property owners of record located within a minimum of 300 feet of the subject property. If the applicant owns adjoining land, the

distance of notification shall be measured from outside of the applicant's ownership. Failure to receive a public hearing notice shall not invalidate the hearing.

- E. At least ten (10) days before the date of the public hearing, the department shall issue a written staff report, integrating the SEPA review and threshold determination and recommendation regarding the application(s), shall make available to the public a copy of the staff report for review and inspection, and shall ~~mail~~ provide a copy of the staff report and recommendation to the applicant or the applicant's designated representative. The department shall make available a copy of the staff report, subject to payment of a reasonable charge, to other parties who request it.
- F. Public hearings shall be conducted in accordance with the rules of procedure adopted by the hearing examiner. A public hearing shall be recorded on either audio or audio-visual tape. If for any reason the hearing cannot be completed on the date set in the public notice, it may be continued during the public hearing to a specified date, time and location without further public notice required.
- G. ~~Within ten (10) working days after the date the public record closes, the hearing examiner shall issue a written recommendation to the city council regarding the application(s).~~
- H. ~~The~~ The ~~hearings~~ hearing examiner may ~~recommend~~ approve ~~approval~~ approval with conditions or ~~denial~~ denial of the application ~~to the Lacey City Council~~ and shall provide written notice of its ~~recommendation~~ decision to the council, department, applicant, the applicant's designated representative, the property owner(s), and any other parties of record. The final decision of the hearing examiner shall include:
 - 1. A statement of the applicable criteria, standards and law;
 - 2. A statement of the findings the hearing examiner made showing the proposal does or does not comply with applicable approval criteria and assurance of compliance with applicable standards;
 - 3. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for review. The notice shall list the place, days and times when the case file is available for review and the name and telephone number of the department representative to contact to arrange for a review.

- ~~I. Following the public hearing and in accordance with RCW 36.70A.035, the recommendation of the Hearing Examiner shall be forwarded to the City Council. Upon receiving the recommendation of the Hearing Examiner, the City Council shall set a public meeting to consider the proposal. This meeting shall take place no later than 30 days from the date of the Hearing Examiner decision. The Council may accept, modify or reject the recommendation. Village Center projects require mailings to property owners within 1000feet of the subject project.~~
- ~~J. The City Council may accept, modify or deny the project.~~
- ~~K. The final decision of the City Council shall be in writing and include:~~
 - ~~1. A statement of applicable criteria and law;~~
 - ~~2. A statement of the findings indicating the application's or proposed development's compliance or non-compliance with each applicable approval criteria;~~
 - ~~43. A statement that the decision is final unless appealed, pursuant to Section 1D "Appeals", to Superior Court within twenty-one days of the issuance of the decision. The appeal closing date shall be listed.~~
 - ~~54. A statement that the complete case file, including findings, conclusions and conditions of approval, if any, is available for inspection. The notice shall state the place, days and times when the case file is available for inspection and the name and telephone number of the department's representative to contact to arrange inspection.~~

Section 28. Section 1D.010 of the City of Lacey Development Guidelines and

Public Works Standards is hereby amended as follows:

1D.010 Appeals

- A. An administrative appeal of a decision of the department after Limited and Full Administrative Review shall be filed with the department by the applicant or any party of record pursuant to Section 1D.030. The Hearing Examiner at a public hearing shall hear the administrative appeal as an open record appeal.
- B. An appeal of a quasi-judicial-final decision by the Hearing Examiner shall be timely filed as a judicial appeal pursuant to Section

~~1D.070 with the department, by the applicant or any party of record pursuant to Section 1D.060. The appeal shall be heard as a closed record appeal by the City Council.~~

- C. An appeal of a final decision of the City Council shall be timely filed as a judicial appeal pursuant to Section 1D.070.
- D. The City shall have no obligation to the applicant or to any party to defend an appeal of a decision of the department, Hearing Examiner or the City Council.
- E. An aggrieved person, agency or department with standing may appeal a decision made by the City of Lacey. A person, agency or department with standing is one who is a party of record, as defined in Section 1D.030.

Section 29. Section 1D.030(H) of the City of Lacey Development Guidelines and Public Works Standards is hereby amended as follows:

- H. Building Code Appeals. All appeals filed in accordance with LMC 14.18.030 shall be heard by the Hearing Examiner. Such appeals shall follow the procedures contained herein ~~except that the decision of the Hearing Examiner shall be final pursuant to LMC 2.30.090 (C).~~

Section 30. Section 1D.060 of the City of Lacey Development Guidelines and Public Works Standards is hereby repealed.

~~1D.060 — Appeals to City Council~~

- ~~A. — All decisions of the Hearing Examiner which have been timely appealed pursuant to this chapter and Section 2.30.160 shall come before the City Council for consideration in an open public meeting no longer than thirty days from the date an appeal is filed. The City Council shall consider the matter based upon the written record before the Examiner, the Examiner's decision and the written appeal. The written appeal shall contain the information required in 1D.030 (B) and shall be accompanied by the appropriate fee submitted to the Department.~~
- ~~B. — The City Council may accept, modify or reject the Examiner's decision, or any findings or conclusions therein. A decision by the City Council to modify or reject shall be supported by findings and~~

~~conclusions. The Council's decision shall be rendered within twenty-one days after consideration in open public meeting unless all parties affected agree to an extension of such date.~~

~~C. The action of the Council approving, modifying, or rejecting a decision of the Hearing Examiner shall be conclusive, unless within twenty-one (21) calendar days from the date of the final Council action an aggrieved party or person files a land use petition with the Superior Court of Washington for Thurston County for the purpose of review of the action taken.~~

Section 31. Section 1D.070 of the City of Lacey Development Guidelines and

Public Works Standards is hereby amended as follows:

1D.070 Judicial Appeals of ~~City Council~~Final Decisions

- A. Appeals of an action of the City, with respect to an application for which all administrative appeals specifically authorized have been timely exhausted, shall be filed in the Thurston County Superior Court and served on all necessary parties within twenty-one (21) days after the date of issuance of the Notice of Final Decision, as determined pursuant to RCW 36.70C.040.
- B. Notice of the appeal and any other pleadings required to be filed with the Superior Court shall be served on the City Manager, the City Attorney, and the Director of Community Development within the twenty-one (21) day time period.
- C. The appellant may arrange for transcription of any hearings held on the application and copies from the file. All costs of transcribing the record, copying the file, and preparing the record on appeal shall be paid by the appellant. The appellant shall, prior to the department's preparation of the record, pay an advance deposit to the department in an amount determined by the department's fee schedule for copying materials. The fee schedule shall represent the department's reasonable costs of duplicating the record. Any excess advance deposit shall be promptly refunded to the appellant.
- D. The action of the City Council approving Comprehensive Plan amendments shall be final and conclusive, unless appealed to the Growth Management Hearings Board as provided under the Revised Code of Washington. The cost of preparing and certifying the transcript of records ordered by the Board shall be borne by appellant.

- E. Appeals of a decision to grant, deny or rescind a shoreline permit shall be governed by the provisions of Chapter 90.58 of the Revised Code of Washington.

Section 32. SEVERABILITY. If any section, sentence, clause or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 33. CORRECTIONS. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 34. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this _____ day of
_____, 2022.

CITY COUNCIL

By: _____
Mayor

Approved as to form:

City Attorney

Attest:

City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO 1629

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on November 17, 2022, Ordinance No. 1629, entitled AN ORDINANCE OF THE CITY OF LACEY RELATED TO DECISIONS BY THE HEARINGS EXAMINER AND THE CITY COUNCIL'S ROLE IN THE QUASI-JUDICIAL PROCESS, AMENDING SECTIONS 2.30.010-030, 2.30.060, 2.30.070, 2.30.090, 2.30.100, 2.30.150, 2.30.160, 14.32.072, 15.10.090, 15.10.100, 15.10.120, 15.10.130, 15.20.020, 16.66.070 and 16.66.100, REPEALING SECTIONS 2.30.110-140, 2.30.170, 2.30.180, 2.30.210, 15.10.110, AND 15.20.040, ALL OF THE LACEY MUNICIPAL CODE, AMENDING SECTIONS 1C.050, 1D.010, 1D.030(H), 1D.070 AND REPEALING SECTION 1D.060, ALL OF THE CITY OF LACEY DEVELOPMENT GUIDELINES AND PUBLIC WORKS STANDARDS AND APPROVING A SUMMARY FOR PUBLICATION.

The main points of the Ordinance are described as follows:

1. The Ordinance amends Chapter 2.30 of the Lacey Municipal Code related to the Land Use Hearings Examiner.
2. The Ordinance amends Chapter 14.32 of the Lacey Municipal Code related to Hearings Examiner decisions for Historical Trees.
3. The Ordinance amends Chapter 15.10 of the Lacey Municipal Code related to Hearings Examiner decisions for Preliminary plats.
4. The Ordinance amends Chapter 15.20 of the Lacey Municipal Code related to Hearings Examiner decisions for Variances.
5. The Ordinance amends Chapter 16.66 of the Lacey Municipal Code related to Hearings Examiner decisions for Conditional Use Permits.
6. The Ordinance amends Section 1C.050 of the City of Lacey Development Guidelines and Public Works Standards related to Quasi-Judicial review of land use applications.
7. The Ordinance amends Chapter 1D of the City of Lacey Development Guidelines and Public Works Standards related to Appeals of land use decisions.
8. The Ordinance approves this summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: _____, 2022.



The Lacey City Council Role in the Quasi-Judicial Process

Rick Walk, AICP
Community & Economic
Development Department

August 25, 2022

First a Recap of Past Briefings

June 2009 – WCIA Training

The Quasi-Judicial Process

Jeff Myers, Attorney at Law

Law, Lyman, Daniel, Kamerrer & Bogdanovich, PS

September 2012 – WCIA Training

Council Liability and the Land Use Process

Lewis Leigh, Executive Director

Washington City Insurance Authority

January 2020 - WCIA Training

Pro's & Cons of the Hearing

Examiner System

Jeff Myers, Attorney at Law

Law, Lyman, Daniel, Kamerrer & Bogdanovich, PS

April 24, 2021 -Council Worksession

The Council Role in the Quasi-Judicial Process

Rick Walk, AICP

Director of Community & Economic Development

Past briefings focused on Liability traps for City Councils

- Community Sentiment is not a basis for deciding land use issues (case law)

- Buckets of Liability

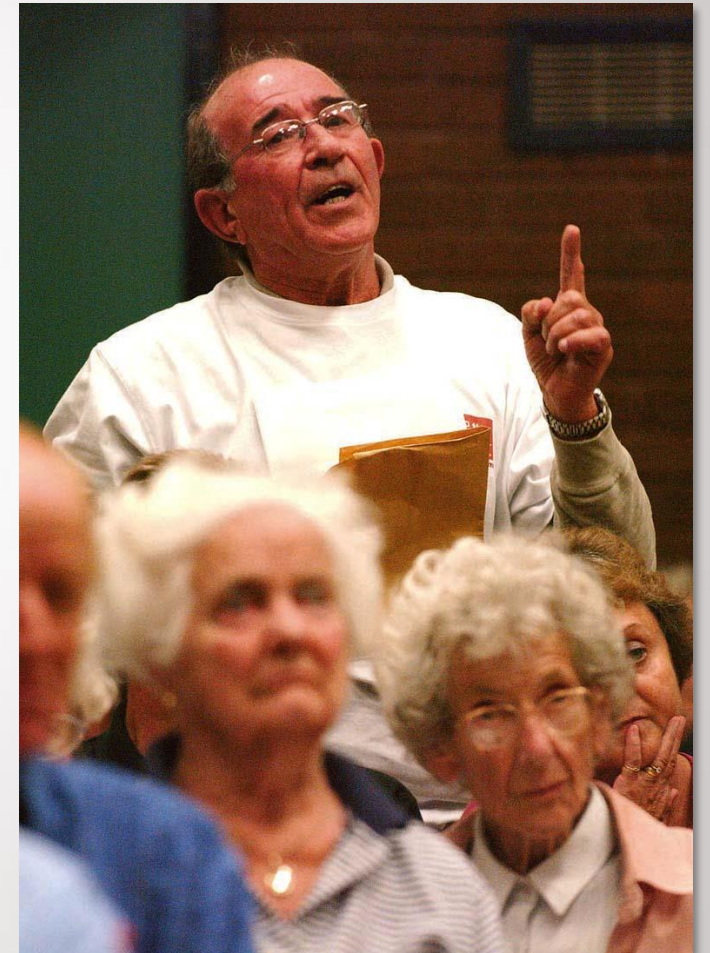
RCW 64.40.020

Arbitrary and Capricious | Knowingly Unlawful | Delay
Damages

42 USC 1983

Due Process Violations | Equal Protection | First
Amendment

- Cost of Liability



Policy

vs.

Implementation Rules

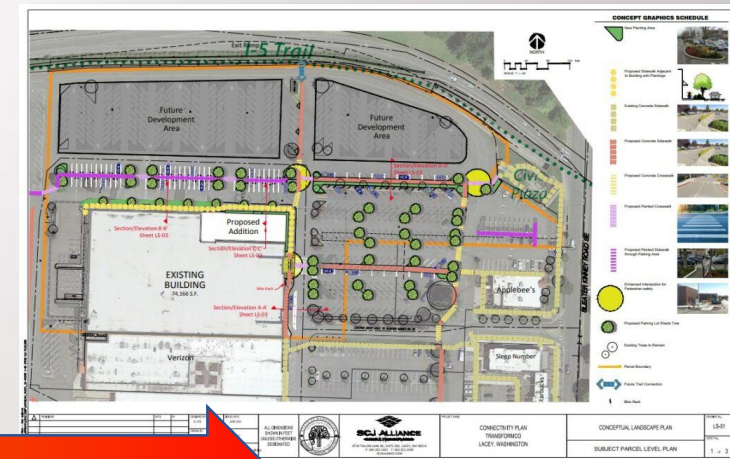
City of Lacey
Shoreline Master Program
March 18, 2021

DISCRETION TO DEVIATE
FROM OVERALL GOALS



CITY OF LACEY & LACEY URBAN
GROWTH AREA
LAND USE ELEMENT
OF THE COMPREHENSIVE PLAN
2016
Adopted August 11, 2016

ABILITY TO ADDRESS
NEIGHBORHOOD CONCERNS



LACEY'S DEVELOPMENT REVIEW PROCESS

Current Project Review Cycle



Land Use Permit Review Details

Pre Submission

Application

- Application & Site Plan
- Environmental Checklist
- Wetland Report
- Tree Report
- Preliminary Landscape Plans
- Shoreline & Wetland Assessment
- Preliminary Civils
- Traffic Study
- Preliminary Stormwater Report & Protection Plan
- Geotechnical Report

Review

- Public
- C&ED Planning
- C&ED Building
- C&ED Fire
- C&ED Storm
- C&ED Arborist
- PW Development Review
- PW Transportation
- PW Stormwater
- Notice to all City Departments
- Thurston County Traffic
- PSE
- Comcast
- Intercity Transit
- North Thurston Public Schools
- ORCAA
- WA Ecology
- WA Revenue
- WA Archeology & Historic Resources
- Nisqually Tribe
- Squaxin Island Tribe

Stop Clock

- Transportation
- Stormwater

Analysis

Hearing

BACKGROUND ON QUASI-JUDICIAL REVIEW AUTHORITY

State Authority on Quasi-Judicial Process

Section 35A.63.110 RCW

Requires code cities over 2,500 to create a board of adjustment to hear and decide appeals, variances, conditional use permits, other quasi-judicial and administrative determinations.

Board of Adjustment decisions are final unless appealed to court.

Section 35A.63.170 RCW

Authorizes the matters otherwise heard by the BOA to be heard by a hearings examiner.

Section 58.17.217 RCW

Authorizes subdivisions be heard by the hearings examiner rather than the planning commission.

State Authority for Permits & Appeals

Chapter 36.70B RCW

Requires project decisions be based on development regulations.

Limits a review process to 1 open record and 1 closed record hearing.

Chapter 36.70C RCW

Establishes a judicial review process for local permit decisions.

Any party with standing can appeal.

Review limited to the record created by the local government.

Examiner Options - RCW 35A.63.170 & 58.17

A hearing examiner may hear and decide

- Amendments to the zoning code when the amendment is not of general applicability;
- Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use;
- Appeals of administrative decisions or determinations; or
- Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW.

The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following

- A. The decision may be given the effect of a recommendation to the legislative body;
- B. The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or
- C. Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

City Adopts Hearing Examiner Process

- Ord. 549 – Council Establishes Hearing Examiner Office (1979)
- Ord. 560 – Transfer variances & admin appeals to H.E., Repeals Board of Adjustment. (1979)
- Ord. 880 – H.E. to review appeal of building code decisions (1990)
- Ord. 1035 – Incorporate provisions of RCW 36.70B (1996)
- Ord. 1208 – H.E. final decision on appeal of building code decisions, appeal to superior court instead of Council. (2003)
- Ord. 1447 – H.E. final decision on nuisance dogs with appeal to superior court. (2014)

WHY HEARING EXAMINERS?

Professionally Trained to Administer Land Use Decisions

Legal & land use training enhances quality of decisions.

Separates quasi-judicial and legislative functions.

Frees policy-makers to act on long term planning and law-making functions.

Decisions focused on code requirements & site specific issues (as required by RCW 36.70B).

Decision-maker protected from political pressure.

What are other cities doing?

A quick review of about half the 175 (85) Washington cities that use Code Publishing.

Lacey and Bremerton were the only where the hearings examiners makes a recommendation to Council.



WASHINGTON

City of Aberdeen CPC-21

Adams County

City of Airway Heights

Alderwood Water and Wastewater District

City of Algona CPC-21

City of Anacortes CPC-21

City of Asotin

City of Auburn CPC-21

City of Bainbridge Island

City of Battle Ground

Town of Beaux Arts Village

City of Bellevue CPC-21

City of Bellingham CPC-21

City of Blaine

City of Bonney Lake

City of Bothell CPC-21

City of Bremerton

City of Brewster

City of Bridgeport

City of Brier

City of Buckley

City of Burien

Town of Friday Harbor

Town of Garfield CPC-21

City of George CPC-21

City of Gig Harbor CPC-21

City of Goldendale

City of Grand Coulee

City of Grandview

City of Granger

City of Granite Falls

City of Harrington

City of Hoquiam

Town of Hunts Point

City of Ilwaco

Town of Index

City of Issaquah

Jefferson County

City of Kelso

City of Kenmore

City of Kent

City of Kettle Falls CPC-21

City of Kirkland

Kitsap County

City of Poulsbo

City of Prosser

PUD No. 2 Pacific County

City of Pullman CPC-21

City of Puyallup

City of Quincy

City of Rainier

City of Raymond

Town of Reardan CPC-21

City of Redmond CPC-21

City of Renton

City of Richland

City of Ritzville

City of Rock Island

Town of Rosalia

City of Roslyn

City of Roy

City of Sammamish

San Juan County

City of SeaTac

City of Sedro-Woolley

City of Selah CPC-21

Options

1. No change – Hearing Recommendation to Council
Retain City Council role in reviewing Hearing Recommendation
[Council Involved subject to appearance of fairness rules]
2. Board of Adjustment
Create a citizen Board of Adjustment to hear and decide land use permit applications with LUPA appeal [Council not involved]
3. Hearing Examiner Final Decision with local appeal
Amend process to have H.E. final decision on all Quasi-judicial matters subject to appeal to Council [Council involved and subject to appearance of fairness rules]
4. Hearing Examiner Final Decision with LUPA appeal
H.E. final decision on all Quasi-judicial matters subject to appeal to Superior Court [Council not involved- Council can engage with constituents]

Procedural Steps if Council Considers Change in Role

Amend Chapter 2.32 LMC

Land Use Hearings Examiner

Amend Various Code Sections in Titles 14, 15, and 16

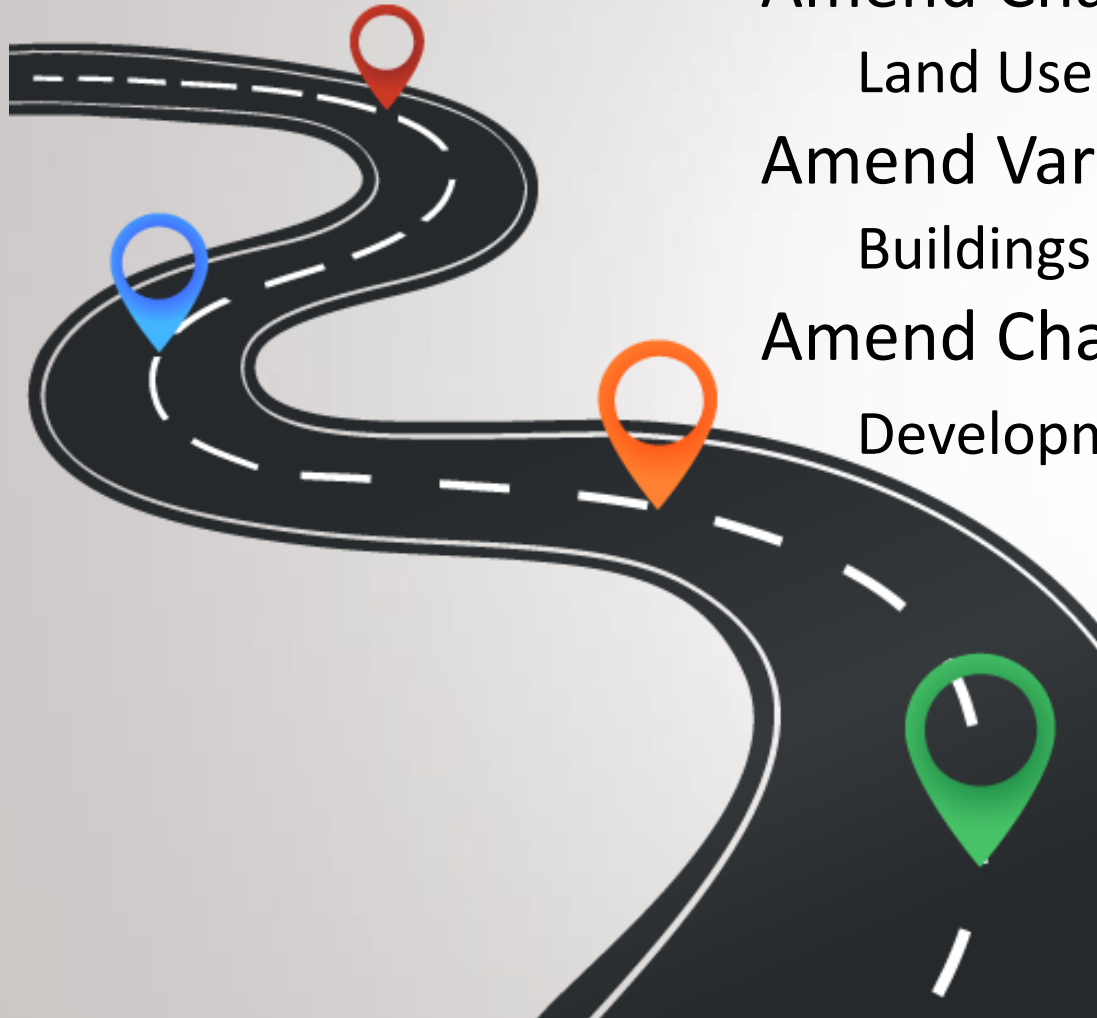
Buildings & Construction, Land Division, and Zoning

Amend Chapter 1 D.G.P.W.S.

Development Permit Procedures & Administration

Council Action at Council Meeting

Amend Contract with Hearing Examiner



QUESTIONS

DISCUSSION

DIRECTION



LACEY CITY COUNCIL MEETING

November 17, 2022

SUBJECT: 2022 Carpenter Rd Improvements Project

RECOMMENDATION: Motion to award Lacey Contract Number PW 2022-36 to low bidder Miles Resources, LLC from Puyallup, Washington in the amount of \$3,355,568.97.

STAFF CONTACT: Scott Spence, City Manager *SS*
Scott Egger, P.E., Public Works Director *SE*
Aubrey Collier, P.E., S.E., City Engineer *AC*
Peter Brooks, P.E., Water Resources Manager *PCB*
Teri O'Neal, P.E., Senior Utilities Engineer *TSO*
Lisa Hull, Project Administrator *LH*
Justin Knox, P.E., Design Engineer *JK*

ORIGINATED BY: Public Works Department

ATTACHMENTS: NONE

FISCAL NOTE: 2022 Carpenter Rd Improvements was anticipated and included in Lacey's 2022 Budget. Funding for the project is provided under the fund code WA22OL and ST22OL, Water Budget 410-3418-534-90 and Transportation Benefit District Funds, 103-4301-595.90-03, respectively.

WORK PLAN GOAL: Quality Transportation & Infrastructure

PRIOR REVIEW: N/A

BACKGROUND:

This contract provides for the installation of approximately 4,100 LF of 6-inch, 8-inch, 12-inch, 16-inch, and 18-inch diameter water main and street reconstruction with fiber reinforced hot mix asphalt on Carpenter Rd. SE and nearby streets. Work to include

pavement removal, paving, adjustment of utility appurtenances, striping, water service line, meters, valves, transfer of water services, connections to existing water system, water main abandonments, sewer stub, pavement and lawn restoration and other work.

The project was advertised for three weeks and bids were opened November 3, 2022. Twelve (12) bids were received. The bids ranged from a low of \$3,355,568.97 to a high of \$4,142,833.95. Miles Resources, LLC from Puyallup, Washington, is low bidder at \$3,355,568.97. The Engineer's Estimate is \$3,394,500.00. A Bid Summary Sheet is attached.

Miles Resources, LLC is qualified and capable of performing the work. Start date of the project is anticipated to be Spring 2022, and there are 100 working days allotted.

ADVANTAGES:

1. Provides new asphalt wearing surface.
2. With these improvements, transmission and water quality will improve.

DISADVANTAGES:

1. Typical traffic delays can be expected during construction.

**CITY OF LACEY
2022 Carpenter Rd Improvements
PW 2022-36**

CONTRACTOR	LOCATION	BID	POS.
Miles Resources, LLC	Puyallup, WA	\$3,355,568.97	1
Reed Trucking & Excavating, Inc.	Puyallup, WA	\$3,432,414.37	2
Pacific Civil & Infrastructure	Tacoma, WA	\$3,536,791.96	3
Hoffman Construction, Inc.	Pacific, WA	\$3,576,270.00	4
Ceccanti	Tacoma, WA	\$3,611,384.46	5
R.W. Scott Construction	Auburn, WA	\$3,647,997.87	6
Tucci & Sons, Inc.	Tacoma, WA	\$3,748,989.83	7
Rognlin's, Inc.	Aberdeen, WA	\$3,784,602.51	8
HCON Inc.	Puyallup, WA	\$3,842,721.82	9
Pape & Sons Construction, Inc.	Gig Harbor, WA	\$3,911,939.51	10
Northwest Cascade, Inc.	Puyallup, WA	\$4,038,017.26	11
Rodarte Construction, Inc.	Auburn, WA	\$4,142,833.95	12
ENGINEER'S ESTIMATE \$3,394,500.00			

