



CITY COUNCIL

ANDY RYDER

Mayor

MALCOLM MILLER

Deputy Mayor

LENNY GREENSTEIN

MICHAEL STEADMAN

CAROLYN COX

ED KUNKEL

ROBIN VAZQUEZ

INTERIM CITY MANAGER

RICK WALK

LACEY CITY COUNCIL AGENDA

JANUARY 19, 2023

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_QD_WqKJeQ9OS147OETbIBg

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 **872 3035 9082**

CALL TO ORDER:

1. PLEDGE OF ALLEGIANCE

2. APPROVAL OF AGENDA & CONSENT AGENDA ITEMS:

- A. [Council minutes of January 5, 2023](#)
- B. [A motion to approve payment of claims, wages, and transfers for December 12, 2022, through January 6, 2023.](#)

**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. Public Service Award to Dennis Reed - CAR-PFD Board (*Mayor Ryder*)
- B. Public Service Award to Trent Grantham - CAR-PFD Board (*Mayor Ryder*)
- C. Director's Award of Excellence for College Street and Yelm Highway Super T Pavement Rehab Project (*Jay Drye, Director of WSDOT Highways & Local Programs*)
- D. Honor Dave Weber - Board of Park Commissioner (*Jennifer Burbidge, Director of Parks, Culture & Recreation*)
- E. Lacey Youth Council Report (*Justin Begley, Nathan Miller, Alanis Blackburn, Ayiana Young*)
- F. Lacey Loves to Read Bookmark Winners (*Jeannette Sieler, Recreation Supervisor II*)

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 January 19, 2023:***

https://us02web.zoom.us/webinar/register/WN_QD_WqKJeQ9OS147OETbIBq

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 January 19, 2023.***

5. PUBLIC HEARING:

6. PROCLAMATIONS:

A. [Lacey Loves to Read](#) (Jeannette Sieler, Recreation Supervisor II)

B. [Jonathan Stewart Day](#) (Jonathan Stewart)

7. REFERRAL FROM PLANNING COMMISSION:

8. REFERRAL FROM HEARINGS EXAMINER:

A. [Project # 19-309: Joyner/Gusta Shoreline CUP, SDP, and Variance](#) (Samra Seymour, Senior Planner)

9. RESOLUTIONS:

10. ORDINANCES:

A. [Ordinance No. 1633 - Update Language to LMC Chapter 7 Animals](#) (Sarah Hock, Executive Director, Joint Animal Services)

B. [Ordinance No. 1634 - Board of Park Commissioners Name Change](#) (Jennifer Burbidge, Director of Parks, Culture & Recreation)

11. MAYOR'S REPORT:

A. Appoint Spencer Zeman to the CAR-PFD Board of Directors (Mayor Andy Ryder)

B. Reappointment of Sharla Desy to the Lacey Library Board (Mayor Andy Ryder)

12. CITY MANAGER'S REPORT:

A. [Memorandum of Agreement - Brewery Wellfield Asset Transfer](#) (Peter Brooks, Water Resources Manager)

B. [Award Contract PW 2019-29 - Beachcrest Wellfield pH Improvements](#) (Puna Clarke, Utility Engineer)

13. STANDING GENERAL COMMITTEES:

A. [Community Relations & Public Affairs Committee](#) (12.05.2022)

B. [Utilities Committee](#) (12.05.2022)

C. [Transportation Committee](#) (12.06.2022)

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 A REGULAR MEETING OF THE
LACEY CITY COUNCIL
THURSDAY, DECEMBER 15, 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://www.youtube.com/watch?v=a5LoEn6uZvk>

CALL TO ORDER

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

1. PLEDGE OF ALLEGIANCE

Deputy Mayor Miller led the Pledge of Allegiance.

Council Present:

Deputy Mayor Malcolm Miller
Councilmember Lenny Greenstein
Councilmember Michael Steadman
Councilmember Ed Kunkel
Councilmember Robin Vazquez

Council Excused:

Mayor Andy Ryder
Councilmember Carolyn Cox

Staff Present:

Rick Walk, Interim City Manager
Robert Almada, Chief of Police
Jen Burbidge, Parks, Culture & Recreation Director
Scott Egger, Public Works Director
Shannon Kelley-Fong, Assistant City Manager
Dave Schneider, City Attorney
Troy Woo, Finance Director
Peri Edmonds, City Clerk

2. APPROVAL OF AGENDA AND CONSENT AGENDA

Consent Agenda Items:

- A. Council meeting minutes of November 17, 2022.
- B. Council meeting minutes of December 1, 2022.

- C. A motion to approve payment of claims, wages and transfers for November 23, 2022, through December 2, 2022.

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

3. PUBLIC RECOGNITIONS AND PRESENTATIONS

- A. **Lacey Youth Council Report:** Nathaniel Clay, Rianna Joseph, Nathan Miller, and Sarah Towne provided highlights on current and upcoming projects and events at their high schools.

4. PUBLIC COMMENT

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

The following people commented on the shortage of nurses and nursing crisis at St. Peters Providence Hospital, and encouraged Council to support the Safe Staffing Law:

5 – people signed up to speak at the meeting:

Erica Schuman (Olympia resident)
Elizabeth Hendersen (Lacey resident)
Skye Hendersen (Lacey resident)
Katrina Zimmerman (Lacey resident)
Ann Staley (unknown residence)

1 – person signed up to speak via Zoom:

Emily Cisneros (unknown residence)

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.

0 - written public comments were received.

5. PUBLIC HEARING

6. PROCLAMATIONS

7. REFERRAL FROM PLANNING COMMISSION

8. REFERRAL FROM HEARINGS EXAMINER

9. RESOLUTIONS

10. ORDINANCES

- A. **Ordinance No. 1631 – Reserve Designation:** Troy Woo, Finance Director, presented Ordinance No. 1631 to establish fund balance designations committed for specific purposes. Amendments or modifications of the committed fund balances will require formal action by the City Council.

COUNCILMEMBER GREENSTEIN MOVED TO ADOPT ORDINANCE NO. 1631 ESTABLISHING THE COMMITTED FUND RESERVE DESIGNATIONS. COUNCILMEMBER KUNKAL SECONDED. MOTION CARRIED.

- B. **Ordinance No. 1632 – 2023 Budget:** Troy Woo, Finance Director, presented Ordinance No. 1632 to adopt the 2023 Budget, which includes changes to the Proposed 2023 Budget presented at the October 20, 2022, City Council meeting.

COUNCILMEMBER KUNKEL MOVED TO APPROVE ORDINANCE NO. 1632 TO ADOPT THE ANNUAL BUDGET OF THE CITY OF LACEY FOR THE 2023 FISCAL YEAR. COUNCILMEMBER VAZQUEZ SECONDED. MOTION CARRIED.

11. MAYOR'S REPORT

- A. **Reappoint Gail Madden to the Planning Commission:** Deputy Mayor Miller recommended the reappointment of Gail Madden to a second term on the Planning Commission.

COUNCILMEMBER GREENSTEIN MOVED TO REAPPOINT GAIL MADDEN TO A SECOND TERM ON THE PLANNING COMMISSION. COUNCILMEMBER STEADMAN SECONDED. MOTION CARRIED.

12. CITY MANAGER'S REPORT

- A. **Approve Nisqually Jail Contract:** Robert Almada, Chief of Police, presented the Nisqually Jail contract for Council consideration.

COUNCILMEMBER STEADMAN MOVED TO AUTHORIZE THE INTERIM CITY MANAGER TO SIGN THE NISQUALLY JAIL CONTRACT. COUNCILMEMBER GREENSTEIN SECONDED. MOTION CARRIED.

- B. **Approve Interlocal Agreement for Municipal Court Services:** Shannon Kelley-Fong, Assistant City Manager, presented the Interlocal Agreement between the City of Lacey and Thurston County District Court for court services.

COUNCILMEMBER GREENSTEIN MOVED TO AUTHORIZE THE INTERIM CITY MANAGER TO SIGN THE FOUR-YEAR INTERLOCAL AGREEMENT FOR COURT SERVICES WITH THURSTON COUNTY DISTRICT COURT. COUNCILMEMBER STEADMAN SECONDED. MOTION CARRIED.

- C. **Adopt Amended 2023 Federal Legislative Agenda:** Shannon Kelley-Fong, Assistant City Manager, presented the amended 2023 Federal Legislative Agenda with additional language incorporated to support the Homes for Every Local Protector, Educator, and Responder (HELPER) Act.

Council proceeded with a vote without a formal motion. Therefore, the vote was not recorded. The Amended 2023 Federal Legislative Agenda will be added to a future City Council meeting for Council to take official action by motion, second, and vote.

13. STANDING COMMITTEES

- A. Finance & Economic Development Committee:
Deputy Mayor Miller reported on the November 22, 2022, meeting.
- B. General Government & Public Safety Committee:
Councilmember Kunkel reported on the November 22, 2022, meeting.
- C. Land Use & Environment Committee
The Committee met on November 22, 2022. Councilmember Cox, Committee Chair, was excused from the Council meeting and unable to provide a report.

14. OTHER BUSINESS

15. 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) – **made 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 – **no report**

D. Councilmember Greenstein

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

E. Councilmember Steadman

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

F. Councilmember Kunkel

1. Joint Animal Services Commission (JASCOM) – **made report**
2. Lacey South Sound Chamber – **no 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 – **made report**
2. Olympic Region Clean Air Agency – **made report**
3. Thurston Regional Planning Council – **made report**
4. Thurston County Board of Health – **made report**

16. ADJOURN

Deputy Mayor Miller adjourned the Council Meeting at 7:25 p.m.

MAYOR: _____

ATTESTED BY CITY CLERK: _____

DATE APPROVED: _____



LACEY CITY COUNCIL MEETING January 19, 2023

SUBJECT: Disbursement Approval

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

STAFF CONTACT: Troy Woo, Finance Director 

ORIGINATED BY: Troy Woo, Finance Department

BACKGROUND:

The action requested of the City Council is by motion to approve payment of claims, wages and transfers for 12/12/2022 through 1/6/2023. The disbursements consist of the following:

Checks:	<u>Week of</u>	<u>Beg. Check No.</u>	<u>End. Check No.</u>	<u>Amount</u>
	12/30/2022	268194	268259	236,540.13
	*12/30/2022	268260	268263	2,077.36
	1/6/2023	268264	268325	4,439,003.10

Electronic Transfers:	<u>Week of</u>	<u>Amount</u>
	12/12/2022	50,933.34
	12/29/2022	61,356.62
	12/30/2022	241,768.50
	12/30/2022	192,513.66
	12/30/2022	738.00
	*12/30/2022	17,910.61
	12/30/2022	1,586,259.78
	1/6/2023	305,899.83

Payroll:	<u>Month Ended:</u>	<u>Wages</u>
	*12/30/2022	1,748,707.92

Significant Disbursements:

Conсор North America, Inc.	\$ 50,779.88	Utility Construction Engineering
Elcon Corporation	\$ 116,853.69	EV Charging Stations
LOTT Wastewater Alliance	\$3,621,888.64	ERU/LOTT Reserve Cap Fees
North Thurston Pub. Sch.	\$ 610,617.39	School Impact Fees

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

CITY OF LACEY

Official Proclamation

WHEREAS, literacy is a top school and community concern and is integral to success in school, business, and daily living; and

WHEREAS, providing opportunities for citizens of all ages to discuss the cultural and literary merits of common reading will help create a culture of "20 minutes a day" family literacy and civic pride in Lacey; and

WHEREAS, a community-wide reading program such as "Lacey Loves to Read" month will support both students and community members in understanding the power of writing and literacy in their lives; and

WHEREAS, a partnership between North Thurston Public Schools, the City of Lacey and the Lacey Timberland Regional Library has made this program possible and

WHEREAS, reading literature that explores diversity, global and social issues can help increase tolerance and unity within a community; and

WHEREAS, reading informs us, empowers us and teaches us the lessons of history; and

WHEREAS, Lacey residents can read and discuss a variety of works by award-winning author Dan Gemeinhart, who will visit our community February 9 & 10, 2023.

NOW, THEREFORE, I, Andy Ryder, Mayor of the City of Lacey, on behalf of the Lacey City Council, do hereby proclaim February 2023, as

Lacey Loves to Read Month

in the City of Lacey and encourage citizens of all ages to acknowledge and celebrate the importance of reading and to discuss works by author Dan Gemeinhart.



Mayor Andy Ryder
January 19, 2023

CITY OF LACEY

Official Proclamation

WHEREAS, Jonathan Creon Stewart was born on Fort Lewis in 1987 and grew up in the greater Thurston County area, and remains to this day the career leading rusher in Washington prep football history having rushed for 7,755 yards and 105 touchdowns for Timberland High School in Lacey, Washington from 2001 to 2004, in addition to excelling at track and field; and

WHEREAS, Jonathan Stewart was rated the top running back in the country by many scouts, and had offers from a number of universities around the United States to play football, but elected to stay in the pacific northwest and attend the University of Oregon; and

WHEREAS, at the University of Oregon, Jonathan Stewart was a first-team all-American, unanimous all-Pac-10 selection, Sun Bowl MVP, and NCAA leader in kick returns, while also setting the university's single-season records with 1,722 rushing yards and 2,481 all-purpose yards; and

WHEREAS, in the 2008 National Football League draft, Jonathan Stewart was selected 13th overall by the Carolina Panthers and played 10 years for the Carolina Panthers, and remains the team's all-time leading rusher with 7,318 yards and 51 touchdowns, in addition to leading the team in rush attempts, yards per carry, rushing touchdowns, total touchdowns per playoff game, and most all-purpose yards per season; and

WHEREAS, during this time in the NFL, Jonathan Stewart continued to give back to the Thurston County community by hosting a number of football camps at South Sound Stadium in Lacey that was attended by around 300 youths, ages 7 to 18, and in partnership with the South Sound YMCA, provided scholarships to disadvantaged youth to attend these camps; and

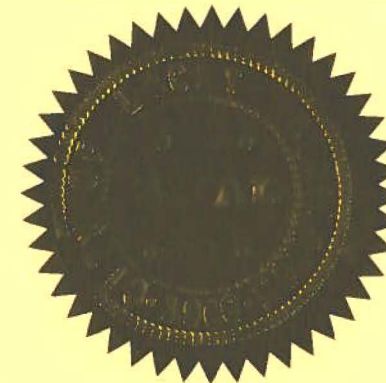
WHEREAS, Jonathan Stewart remained connected with the greater Thurston County community through public safety programs with the Lacey Police Department and other philanthropic ventures, for example working with City Gates Ministry to give away nearly 500 pairs of free shoes and socks in downtown Olympia; and

WHEREAS, Jonathan Stewart hung up his cleats and retired in 2018 after 11 seasons in the NFL, with the Carolina Panthers and the New York Giants, finishing his career with a total of 7,335 career rushing yards and 51 career rushing touchdowns, Superbowl 50 appearance, and a pro-bowl selection.

NOW, THEREFORE, I, Andy Ryder, Mayor of the City of Lacey, on behalf of the Lacey City Council, do hereby proclaim January 28, 2023, after his jersey number, as

Jonathan Stewart Day

in the City of Lacey, and I urge all community members to reflect on the football adage that "champions play as one" here in our community, with a focus on the values of courage, commitment, and public service.



Mayor Andy Ryder
January 19, 2023

HEARINGS EXAMINERS REPORT & RECOMMENDATION TO CITY COUNCIL
JOYNER GUSTA SHORELINE PERMITS 19-309
SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT, SHORELINE CONDITIONAL USE
PERMIT, SHORELINE VARIANCE

Background

The Lacey Community & Economic Development Department received an application for a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit, and Shoreline Variance to allow for the retention of an installed concrete patio, repaired or replaced bulkhead, and gravel fill, and to allow for the installation of a second dock, on a 3.08-acre property located at 2603 Carpenter Road SE.

Mr. Andrew Reeves from Sound Law Center, acting in his capacity as a Hearings Examiner for the City of Lacey, conducted an open-record public hearing on October 18, 2022. The hearing was held as a Zoom webinar that allowed for public testimony.

All hearing notices provided information necessary for the public and interested parties to attend the virtual hearing. City staff and the applicant provided testimony and exhibits relating to the project for the Examiner's consideration.

The record before the Hearings Examiner includes:

- Community & Economic Development staff analysis.
- Application materials, technical reports, and studies.
- Comments from City staff and other Public Agencies.
- Testimony from the open-record public hearing, including reports from City staff, the applicant and their representatives.

The full record is posted on the City website, including a recording of all testimony from the public hearing. The full record can be found at the following link:

<https://cityoflacey.org/projects/18-0130-joyner-shoreline-permits/>.

Council Role

In the matter of Shoreline Substantial Development, Conditional Use, and Variance Permits, the Examiner creates the record and makes a recommendation to the City Council based on that record. The Council, acting in its quasi-judicial role, reviews the record and the Examiner's recommendation and may approve, modify, or reverse the recommendation of the Examiner.

If the Council approves the recommendation the Council, by default, adopts the Examiners findings of fact and conclusions of law in support of the decision and no further action is required.

If the Council modifies or reverses the recommendation, the Council must adopt findings of fact and conclusions of law which support the decision. Adopted findings of fact and conclusions of law must be based on the record created by the Examiner and must be articulated by the Council. The adopted findings and conclusions would be subsequently transcribed by the City Attorney's office for consideration at a future Council meeting.

Staff Role – In the matter of a Hearing Examiner recommendation to the City Council regarding a quasi-judicial land use application, the record is closed at the conclusion of the public hearing held by the Hearing Examiner. As such, staff is limited to transferring the hearing examiner recommendation and complete record to the City Council and respond only to procedural questions or clarifications of the record. Staff cannot introduce new information, testimony or offer advice to council on a decision or supportive findings.

Appearance of Fairness

The Washington State Appearance of Fairness Doctrine is a rule of law which requires government decision-makers to conduct non-court hearings and proceedings in a manner that is fair and unbiased in both appearance and fact.

The doctrine prohibits any decision-making body acting in a quasi-judicial role from ex-parte (off the record) contact. Councilmembers that have engaged in ex-parte communication are required to: 1) place the substance of any oral or written communication concerning the decision on the record; and 2) allow involved parties to rebut the substance of the communication.

Councilmembers should consider:

1. Whether they have any personal interests (financial, property, employment, membership, family/social) that would be affected by denying or approving the requested conditional use;
2. Whether they have had any "ex-parte" communications (off-the-record), either written or oral, concerning the requested conditional use with any proponents or opponents while this matter was before the Council; and

3. Whether there is any reason they cannot consider the requested conditional use application in a fair and impartial manner.



LACEY CITY COUNCIL MEETING January 19, 2023

SUBJECT: Community Cat Program and Animal Cruelty Language Updates

RECOMMENDATION: Approve Ordinance No. 1633 to update the Lacey Municipal Code (LMC) Chapter 7 to support the Community Cat Program and the prosecution of animal cruelty.

STAFF CONTACT: Rick Walk, Interim City Manager *RW*
Shannon Kelley-Fong, Assistant City Manager *SKF*
Sarah Hock, Executive Director *SH*

ORIGINATED BY: Joint Animal Services and the Joint Animal Services Commission

ATTACHMENTS: 1. [JASCOM Ordinance Recommendation Letter](#)
2. [Draft Ordinance No. 1633 pertaining to CCP and Animal Cruelty](#)

FISCAL NOTE: None

WORK PLAN GOAL AND STRATEGY: None

JAS STRATEGIC PLAN: Goal 2: Expand and improve animal care and programming to support our community's pets and people.

PRIOR REVIEW: Lacey City Council Worksession - September 22, 2022

BACKGROUND:

Last year, Joint Animal Services Commission (JASCOM) adopted a 5-year Strategic Plan for 2022-2026. Goal 2 of the Strategic Plan is to:

“Expand and improve animal care and programming to support our community’s pets and people.”

Within this goal, the Strategic Plan identifies the following strategy:

“2. Review, identify, and recommend changes to local ordinances that impede or limit live-saving programs and services within Thurston County.”

In alignment with this goal, JAS and JASCOM recommend updating definitions and language to the City of Lacey municipal code to support the prosecution of animal cruelty and a new program at Joint Animal Services (JAS), called the Community Cat Program (CCP).

The first recommended change, which was not previously reviewed by the City Council, pertains to cruelty to animals. Current language only allows for the prosecution of owners in regards to cruelty and fails to include language for a person who knowingly inflicts unnecessary suffering or pain upon an animal. This language closes that gap.

Language change:

7.04.052 Cruelty to animals

The provisions of this section shall apply to the various forms of cruelty to animals as set forth herein:

A. Animal Cruelty.

1. ~~An owner of an animal~~ **A person** is guilty of animal cruelty if the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon the animal.
2. ~~An owner of an animal~~ **A person** is guilty of animal cruelty if the owner knowingly, recklessly, or with criminal negligence:
 - a. Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or
 - b. Abandons the animal.

It shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

3. If ~~An owner of~~ **A person** commits the crime of animal cruelty by using or trapping to use domestic dogs or cats as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, law enforcement officers or animal control officers shall seize and hold the animals being trained. The seized animals shall be disposed of by the court pursuant to provisions of LMC 7.04.052(E)(2).

The second change recommended is updating definitions and language to the City of Lacey municipal code to support a new, lifesaving cat program at JAS, called the community cat program (CCP), which was previously reviewed at the September 22, 2022 Worksession.

With this program, staff will proactively work to educate the public regarding humane and responsible co-existence and care of pet and community cats, to include:

- Education on the benefits and resources for spay/neuter and vaccination;
- Responsible feeding and management practices for those choosing to care for community cats; and
- Effective methods to humanely deter and exclude animals from homes, structures and targeted areas.

JAS will be partnering with Best Friends Animal Society (Best Friends) on the implementation of the CCP across all jurisdictions in Thurston County. Specifically, Best Friends will be supporting JAS with funding and training for this program.

The following changes are being requested by JASCOM and JAS to aid in our life-saving community cat program.

Adding definitions:

7.04.030 Definitions.

Community cat means any free roaming cat that may be cared for by one or more residents in the area, known or unknown. Community cats with ears-tipped were sterilized and vaccinated against rabies at least one time. Community cats are not considered pet animals.

Community cat caregiver means a person who provides care to a community cat in the form of food, water, shelter and veterinary care, while not being considered the owner, custodian, harborer, possessor, or keeper of a community cat.

Language change:

7.04.040 Licensing and registration requirements.

A. Failure to License ~~a Dog or Cat a pet animal~~. Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat **considered a pet animal** in the city of Lacey unless the person has procured a license. Failure to license a pet animal is a civil infraction. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces within fourteen days of the date of issuance proof of licensing or registering of the subject dog or cat under this subsection to either the court clerk or Lacey violations bureau. The court or violations bureau at the direction of the court may assess court administrative costs of \$25.00 at the time of dismissal.

ADVANTAGES:

1. Enhances cruelty to animal prosecution efforts.
2. Community Cat Program Supports:
 - Effective population control
 - Preferred alternative to euthanasia
 - Decrease in nuisance complaints
 - Foster better relationships between local government and residents

DISADVANTAGES:

1. None foreseen.



3120 Martin Way E, Olympia, WA 98506-4950
Phone (360) 352-2510, x1006 Fax (360) 352-2782

www.jointanimalservices.org

September 1, 2022

Mayor Ryder and Lacey City Council
City of Lacey
420 College Street SE
Lacey, WA 98503

Re: Ordinance Change to Support Live Saving Community Cat Program

Dear Mayor Ryder and Lacey City Councilmembers,

Last year, Joint Animal Services Commission (JASCOM) adopted a 5-year Strategic Plan for 2022-2026. Goal 2 of the Strategic Plan is to:

“Expand and improve animal care and programming to support our community’s pets and people.”

Within this goal, the Strategic Plan identifies the following strategy:

“2. Review, identify, and recommend changes to local ordinances that impede or limit live-saving programs and services within Thurston County.”

Under this goal and strategy, JASCOM recommends updating definitions and language to the City of Lacey municipal code to support a new, lifesaving cat program at Joint Animal Services (JAS), called the Community Cat Program (CCP).

What is a community cat and community cat program?

Community cats (sometimes referred to as “free-roaming,” “stray,” “feral” or “at-large” cats) can be found just about everywhere that people live. These outdoor, free-roaming cats live in and are cared for by the community, hence the term “community cats.” Notably, while cared for by individuals, community cats are not pets; no one individual owns a community cat. For decades, community cats have been trapped and removed in a failed attempt at population management. Using this approach, shelters have struggled with resources, staffing, and space, including JAS, to keep up with the number of cats coming in.

There are two approaches for managing community cats. Over the past century the most common approach has been the “Catch-and-Kill” which relies on an ineffective and expensive model where animal

Thurston County • City of Olympia • City of Lacey • City of Tumwater



3120 Martin Way E, Olympia, WA 98506-4950
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control officers round up cats (typically in response to nuisance complaints), attempt to adopt out the small number as appropriate, and then euthanize the remaining cats at the local animal shelter. However, the data continues to demonstrate that the catch-and-kill approach does not work to control cat populations. Cats reproduce faster than a typical animal control department can catch them, which is why more and more municipalities across the United States have adopted alternative options.

To address the failures of the catch-and-kill model, communities have increasingly turned to Trap-Neuter-Vaccinate-Return (TNVR), which has proven itself effective for managing community cat populations. TNVR is a non-lethal, decentralized technique employed by community members for managing community cats. The cats are humanely trapped, spayed or neutered by a licensed veterinarian, ear-tipped (the universal sign that they have been sterilized and vaccinated for rabies), and returned to where they were trapped. TNVR empowers the community to take action in their neighborhoods. In addition to being a more humane option, TNVR can also reduce the costs required for animal control and sheltering.

Many TNVR programs, in addition to vaccinating against rabies, also vaccinate cats against three other common viruses (feline viral rhinotracheitis, calicivirus, and panleukopenia virus) using the FVRCP vaccine. In addition, some TNVR programs will find homes for adoptable cats and kittens (when doing so is feasible and appropriate) and coordinate with designated cat caregivers who provide ongoing care (e.g., food, water, shelter, veterinary care), avoiding the costs of sheltering and care usually borne by the local government in the Catch-and-Kill model. These programs will also relocate a cat from the place it was trapped if doing so is required or in the best interest of the cat and/ or community.

Brick and mortar municipal animal shelters (and private shelters with government contracts) also commonly implement this type of programming, calling it Return-to-Field (RTF), Shelter-Neuter-Return, Shelter-Neuter-Vaccinate-Return, or some variation on these terms. The major difference between TNVR and RTF is that TNVR programs are community-based (with residents typically bringing community cats to a local clinic) whereas RTF programs are shelter-based (i.e., for community cats brought to a shelter by residents or animal control officers).

The places that have most successfully controlled their community cat populations implement and support both TNVR and RTF. Both programs operate best when the shelter and the community work hand-in-hand as partners with a shared goal.

In addition to its effectiveness at population control, communities turn to TNVR and RTF because when confronted with a choice to euthanize the majority of these cats, or to return them to the community where they have been thriving (after being vaccinated and spayed or neutered), the public will choose the latter. In two recent national surveys, respondents preferred TNVR over catch and kill by a 3-to-1 or 4-to-

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1 margin. Since many community cats are not socialized and not adoption-eligible, impounded community cats often end up being euthanized in shelters. Successfully community cat programs also lead to a dramatic decrease in nuisance complaints. Community cat programs also foster better relationships between local government and residents. This type of model is centered on the idea of community members partnering with their government agencies and partner entities to achieve a shared goal.

Given all of these positive reasons, it's no surprise that so many people prefer the community cat program approach to the Cat-and-Kill model.

Recommendations from JASCOM

Align with the Strategic Plan, JASCOM recommends updating definitions and language to the City of Lacey municipal code to support a new, lifesaving cat program at Joint Animal Services (JAS), called the community cat program.

With this program, staff will proactively work to educate the public regarding humane and responsible co-existence and care of pet and community cats, to include:

- Education on the benefits and resources for spay/neuter and vaccination;
- Responsible feeding and management practices for those choosing to care for community cats; and
- Effective methods to humanely deter and exclude animals from homes, structures and targeted areas.

JAS will be partnering with Best Friends Animal Society (Best Friends) on the implementation of the Community Cat Program across all jurisdictions in Thurston County. Specifically, Best Friends will be supporting JAS with funding and training for this program.

The following changes are being requested by JASCOM and JAS to aid in our life-saving community cat program.

Adding definitions:

7.04.030 Definitions.

Community cat means any free roaming cat that may be cared for by one or more residents in the area, known or unknown. Community cats with ears-tipped were sterilized and vaccinated against rabies at least one time. Community cats are not considered pet animals.

Community cat caregiver means a person who provides care to a community cat in the form of food, water, shelter and veterinary care, while not being considered the owner, custodian, harbinger, possessor, or keeper of a community cat.

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Language change:

7.04.040 Licensing and registration requirements.

*A. Failure to License ~~a Dog or Cat~~ a pet animal. Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat **considered a pet animal** in the city of Lacey unless the person has procured a license. Failure to license a pet animal is a civil infraction. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces within fourteen days of the date of issuance proof of licensing or registering of the subject dog or cat under this subsection to either the court clerk or Lacey violations bureau. The court or violations bureau at the direction of the court may assess court administrative costs of \$25.00 at the time of dismissal.*

JASCOM thanks you in advance for considering this reasonable and effective measure to not only benefit the community but to save the lives of community cats in the City of Lacey.

Respectfully,

Joint Animal Services Commission

Chair Lisa Parshley, City of Olympia

Vice Chair Carolina Mejia, Thurston County

Ed Kunkel, City of Lacey

Peter Agabi, City of Tumwater

Richard Blinn, Thurston County Humane Society

Jo MacGugan, Feline Friends of Olympia

ORDINANCE NO. 1633

CITY OF LACEY

AN ORDINANCE RELATED TO ANIMAL SERVICES AND COMMUNITY CATS, AMENDING SECTIONS 7.04.030, 7.04.040, AND 7.04.052, ALL TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, Joint Animal Services has developed a new, lifesaving cat program called the “Community Cat Program;” and

WHEREAS, the Joint Animal Services Commission has recommended updating certain sections of the Lacey Municipal Code to support the Community Cat Program; and

WHEREAS, Joint Animal Services staff have identified an opportunity to update Section 7.04.052 of the Lacey municipal code to better conform to analogous state law; and

WHEREAS, the City Council finds that adoption of the proposed amendments would be in the interest of the citizens of Lacey.

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

Section 1. Section 7.04.030 of the Lacey Municipal Code is hereby amended as follows:

7.04.030 Definitions.

The following definitions shall apply in this chapter:

A. “Abandon” means:

1. The act of leaving a pet animal without humane care in such a way that the health or safety of the animal is imperiled, or
2. Failure to respond to notification of impoundment of an animal.

B. “Animal” means any nonhuman mammal, bird, reptile, or amphibian.

C. “Animal Services” means the agency designated to enforce this ordinance and operate a

shelter facility designated or recognized by the cities of Lacey, Olympia and Tumwater and Thurston County for the purpose of impounding, caring for, placing through adoption, returning to owners and euthanizing pet animals.

D. “At large” means any pet animal that is not in the physical presence and control of an owner or keeper; provided that the following animals shall be considered at large only under the following circumstances:

1. When a dog, licensed or not, is found off the property or outside the vehicle of the owner and not under control of a person by means of a leash, carrier or demonstrated voice command wherein the person purporting to exercise control of a dog can cause the dog to immediately heel by giving an appropriate voice command; or
2. When an unleashed dog interferes with pedestrian, bicycle or vehicular movement or causes reasonable affront or alarm to a person or if injury, or damage has been caused by the dog, or trespass has occurred; or
3. When a cat, licensed or not, is on property where the property owner or tenant objects to the presence of the cat and has humanely trapped or otherwise contained the cat.

E. “Cattery” means an establishment kept for the purpose of breeding, owning, selling, or boarding of cats, and having current certification by a nationally recognized cattery registration group that formulates and applies their own standards for appropriate care, such as Cat Fanciers Association, the American Cat Fanciers Association, the International Cat Association, or the United Feline Organization.

F. “Community Cat” means any free roaming cat that may be cared for by one or more residents in the area, known or unknown. Community cats with ears-tipped were sterilized and vaccinated against rabies at least one time. Community cats are not considered pet animals.

G. “Community cat caregiver” means a person who provides care to a community cat in the form of food, water, shelter and veterinary care, while not being considered the owner, custodian, harborer, possessor, or keeper of a community cat.

FH. “Dangerous Dog” means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in LMC 7.04.070.

GI. “Director” means the Director of Animal Services or his/her designee.

HJ. “Domestic animal” means an animal other than a pet animal which may or may not be used as a food source such as, but not limited to, a rabbit, chicken, goat, sheep, cow or horse.

IK. “Euthanasia” means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

JL. “Exotic animal” means an animal, such as, but not limited to, venomous or constrictor type reptiles, or primates.

KM. “Feral” means a wild animal, or a domestic animal that is wild.

LN. “Harbors, keeps, possesses, or maintains a pet animal” means providing care, shelter, protection, refuge, food, or nourishment in such manner as to influence the behavior of the animal; or, treating the animal as living at one’s property.

MO. “Humane care” means care of an animal that includes providing necessary food, water, shelter, rest, sanitation, ventilation, space and medical attention in a way that the health and safety of the animal is not imperiled.

NP. “Impound” means to seize or take control of any animal pursuant to the terms of this chapter, whether by an Animal Services officer, a police officer, or other commissioned person, for purposes of impoundment and further administrative or judicial action. This includes animals brought to the shelter by members of the general public.

OQ. “Kennel” means a place where adult dogs or cats are kept by persons providing facilities for breeding and the offspring thereof are sold for profit, or where such dogs or cats are received for care, training and boarding for compensation, but not including a small animal hospital, clinic or pet shop. An adult dog or cat is one of either sex, altered, or unaltered, that has reached the age of six months.

PR. “Leash” means a cord, thong or chain by which a dog is controlled by the person accompanying it.

QS. “License” means the dog, cat or other pet animal license issued for registration and identification.

RT. “Menacing” means when an animal engages in threatening behavior on public or private property which is not the property of the animal’s owner and which reasonably places a person in fear of immediate physical harm to him or herself or to an animal under the immediate control of such person. Such behavior shall include but is not limited to growling, snarling, barking, snapping of teeth or any other behavior that restricts or controls a person’s movements.

SU. “Necessary food” means the provision at suitable intervals of wholesome foodstuff suitable for the animal’s age and species and sufficient to provide a reasonable level of nutrition for the animal.

TV. “Nuisance pet animal” means a pet animal that:

1. Damages or destroys landscaping or property of another person, including destruction of wildlife that has been purposefully attracted to the person’s property, or

2. Soils or defecates on public or private property other than the owner's, unless such waste is immediately removed and properly disposed of by the owner of the pet animal, or
3. Causes unsanitary, dangerous, or offensive conditions, or
4. Is a female dog or cat in heat not confined within a structure to prevent access of male dogs or cats except for planned breeding, or
5. Chases people including but not limited to cyclists or vehicles, or molests or interferes with persons or other animals on public or private property, other than the owner's property, or
6. Habitually or continually disturbs the peace and quiet of any individual or neighborhood by barking, whining, howling or making any other noise; or
7. Trespasses on private property and the property owner or tenant supplies a written complaint to Animal Services, and, in the case of a cat, physically contains the cat.

UW. "Officer" means any Animal Services officer, police officer, or other commissioned person designated by the city of Lacey to issue citations, pick up, restrain, impound, place, or dispose of animals or give notice for any other acts, duties or functions prescribed by this chapter or other chapters relating to pet animals.

VX. "Owner" means any person who has a right, claim, title, legal share or right of possession to an animal or who harbors, keeps, possesses or maintains a pet animal, or who encourages a pet animal to remain about their property or premises for a period of fourteen consecutive days or more, or the person named on the license/registration record of any animal as the owner. The parent or guardian of an owner under eighteen years of age shall be deemed the owner for the purposes of this chapter.

WY. "Pet animal" means any species of animal sold or retained for the purpose of being kept for pleasure, companionship or utilitarian purposes and not kept as a food source.

XZ. "Potentially dangerous dog" means a dog that according to the records of Animal Services has committed serious offenses as more fully set forth in LMC 7.04.070.

YAA. "Quarantine" means to maintain an animal within a structure so that it cannot approach or be approached by humans or other animals outside the owner's immediate family.

BBZ. "Restrained" means secured by a leash and under physical control of a person with the strength and judgment to handle the animal, or tethered to a stationary object which keeps the animal confined to the pet owner's property or premises.

AACC. "Severe injury" means any physical injury that results in broken bones or lacerations requiring sutures or cosmetic surgery.

~~BBDD~~. “Sterilized” means the animal is surgically rendered incapable of reproduction by means of castration or an ovariectomy.

~~CCFF~~. “Stray animal” means a domestic or pet animal at large.

~~DDFF~~. “Substantial bodily harm” means substantial bodily harm as defined in RCW 9A.04.110, incorporated herein by reference.

Section 2. Section 7.04.040 of the Lacey Municipal Code is hereby amended as follows:

7.04.040 Licensing and registration requirements.

A. Failure to License a ~~Dog or Cat~~pet animal. Except as otherwise provided in this chapter, it is unlawful for any person to own, keep or have control of any dog or cat considered a pet animal in the city of Lacey unless the person has procured a license. Failure to license a pet animal is a civil infraction. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces within fourteen days of the date of issuance proof of licensing or registering of the subject dog or cat under this subsection to either the court clerk or Lacey violations bureau. The court or violations bureau at the direction of the court may assess court administrative costs of \$25.00 at the time of dismissal.

B. Issuance of License Tag. Animal services or agents thereof shall provide an appropriate identification tag for each dog or cat licensed to persons applying, upon payment of the appropriate license fee. It shall be the responsibility of the owner of a dog to keep a collar or harness on the animal with the license tag attached if the animal is off the owner’s property. For cats only, a microchip may substitute if a collar is considered a hazard.

C. Supplemental Identification. Tattooing or microchip implantation are acceptable auxiliary means of identification but do not replace the license.

D. Lack of Authorized and Current Tag. A dog or cat without an authorized and current license tag may be impounded, except as otherwise set forth in this chapter.

E. Annual License Fees. License fees shall be adopted by reference as established annually by the joint animal services commission (JASCOM).

F. Date Due. All licenses granted under this chapter shall be valid for one year. All renewed licenses shall be valid for a period of twelve months following their assigned renewal date, and the renewal date shall be not less than twelve months subsequent to the issuance of the new license.

G. Licenses Nontransferable. Licenses shall not be transferable from one pet animal to another.

H. Tag Removal Unlawful. It is unlawful for any person to remove a tag from any dog or cat,

or to obliterate any tattoo or microchip registered under this section without the permission of the owner or issuing authority other than in a medical emergency. A violation of this provision shall be a gross misdemeanor.

I. Kennel or Cattery Permit. A permit for a kennel or cattery may be granted for those land use zones where such use is not prohibited.

J. Exotic Animals. Owners of constrictor type reptiles over eight feet in length, venomous reptiles, and primates that are not otherwise prohibited, are required to comply with all state and federal laws for the keeping of such animals and annually register such animals with animal services by completing a form provided by animal services. Failure to register such animals shall be a misdemeanor and shall subject the animal to immediate impoundment.

Section 3. Section 7.04.052 of the Lacey Municipal Code is hereby amended as follows:

7.04.052 Cruelty to animals.

The provisions of this section shall apply to the various forms of cruelty to animals as set forth herein:

A. Animal Cruelty.

1. ~~An owner of an animal~~A person is guilty of animal cruelty if the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon the animal.

2. ~~An owner of an animal~~A person is guilty of animal cruelty if the owner knowingly, recklessly, or with criminal negligence:

a. Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

b. Abandons the animal.

It shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

3. If ~~an owner~~ a person commits the crime of animal cruelty by using or trapping to use domestic dogs or cats as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, law enforcement officers or animal control officers shall seize and hold the animals being trained. The seized animals shall be disposed of by the court pursuant to provisions of LMC 7.04.052(E)(2).

4. Animal cruelty is a misdemeanor.

5. Nothing in this section may prohibit the following:

- a. The use of dogs in the management of livestock, as defined by Chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of livestock;
- b. The use of dogs in hunting as permitted by law; or
- c. The training of animals or the use of equipment in the training of animals for any purpose not prohibited by law.

B. Poisoning Animals.

- 1. Except as provided in subsections (B)(2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree as defined in RCW 16.52.205.
- 2. Subsection (B)(1) of this section shall not apply to euthanizing by poison an animal in a lawful and humane manner by the animal's owner, or by a duly authorized servant or agent of the owner, or by a person acting pursuant to instructions from a duly constituted public authority.
- 3. Subsection (B)(1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term "rodent" includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in Chapter 17.16 RCW. The term "pest" as used in this section includes any pest as defined in RCW 17.21.020.
- 4. A person violating this subsection B is guilty of a gross misdemeanor.

C. Unlawful use of a hook. A person is guilty of unlawful use of a hook if the person utilizes, or attempts to use, a hook with intent to pierce the flesh or mouth of a bird or mammal. Unlawful use of a hook is a gross misdemeanor.

D. Removal of animals for feeding, examination, notice and euthanasia.

- 1. If a law enforcement officer or an animal control officer has probable cause to believe that an owner of a domestic animal has violated this section and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a suitable place for feeding and care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove an animal under this section without a warrant only if the animal is in an immediate life-threatening condition.

2. If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of a domestic animal allegedly neglected or abused in violation of this section by a veterinarian to determine whether the level of neglect or abuse in violation of this section is sufficient to require removal of the animal.

3. Any owner whose domestic animal is removed pursuant to this section shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the officer shall make a good faith effort to contact the animal's owner before removal.

4. The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. The custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by:

a. Petitioning Thurston County District Court for the immediate return subject to court imposed conditions, or

b. Posting a bond or security in the amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care.

5. If no criminal case is filed within fourteen business days of the animal's removal, the owner may petition the district court where the animal was removed for the animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal services agency responsible for removing the animals and to the prosecuting authority. If the court grants the petition the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

6. In a motion or petition for the animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

7. Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

E. Sentences, forfeiture of animals, liability of costs, education and counseling.

1. In the case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive.

2. In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal services under the provisions of this section if any one of the animals dies as a result of violation of this chapter or if the defendant has a prior conviction under this section. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the animal's treatment to have been severe and likely to reoccur. If the forfeiture is ordered, the owner shall be prohibited from owning or caring for any similar animal for a period of two years.

3. In addition to the fines and court costs, the defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by law enforcement agencies, Animal Services, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

4. As a condition of the sentence imposed under this chapter, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

F. Limitations and exclusions.

1. No part of this section shall be deemed to interfere with any of the law of this state known as "game laws", nor deemed to interfere with the right to destroy any venomous reptile or any animal known as dangerous to life, limb, or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States Department of Agriculture and regulated by 7 U.S.C. Section 2131 et seq.

2. Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or the use of animals in the normal and usual course of rodeo events or to the customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

Section 4. 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 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, at a regularly-called meeting thereof, held this 19th day of
January, 2023.

CITY COUNCIL

By: _____
Mayor

Approved as to form:

City Attorney

Attest:

City Clerk

SUMMARY FOR PUBLICATION
ORDINANCE NO. 1633
CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on January 19, 2023, Ordinance No. 1633, entitled “AN ORDINANCE RELATED TO ANIMAL SERVICES AND COMMUNITY CATS, AMENDING SECTIONS 7.04.030, 7.04.040, AND 7.04.052, ALL TO THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.”

The main points of the Ordinance are described as follows:

1. The Ordinance amends sections 7.04.030, 7.04.040, and 7.04.052 of the Lacey Municipal Code, all related to animal services.
2. 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: January 23, 2023



LACEY CITY COUNCIL MEETING

January 19, 2023

SUBJECT: Board of Park Commissioners Name Change

RECOMMENDATION: Adopt Ordinance No. 1634 approving name change from Board of Park Commissioners to Parks, Culture and Recreation Board

STAFF CONTACT: Rick Walk, Interim City Manager *RW*
Jen Burbidge, Parks, Culture & Recreation Director *JB*

ORIGINATED BY: Parks, Culture & Recreation Department

ATTACHMENTS: [Proposed Ordinance No. 1634](#)

FISCAL NOTE: N/A

PRIOR REVIEW: April 6, 2022 and November 2, 2022 Board of Park Commissioners meetings.

BACKGROUND:

At the April 6, 2022 Board of Park Commissioners meeting, board members inquired about changing the Board of Park Commissioners official name to the Parks, Culture and Recreation Board and using “Parks Board” informally to refer to themselves.

There were two main reasons brought up for the change. First, and most importantly, the board name change would mirror the recent Parks and Recreation Department name change to Parks, Culture and Recreation Department providing consistency and a better representation of what the board supports (culture and recreation in addition to parks).

Secondly, the name Board of Park Commissioners is the only City board that has both “board” and “commissioners” in the title. Parks, Culture and Recreation Board fits better with other City board titles, and also lends itself better to the shortened name “Parks Board”.

At the November 2, 2022 Board of Park Commissioners meeting, the board made a formal motion which was unanimously approved to recommend the new name to City Council for approval.

ADVANTAGES:

1. New name better reflects the scope of the department the board supports.
2. New name provides consistency.
3. New name fits better with other City board titles.

DISADVANTAGES:

1. None

ORDINANCE NO. 1634

CITY OF LACEY

AN ORDINANCE RELATED TO THE PARKS, CULTURE AND RECREATION BOARD, AMENDING SECTIONS 2.44.010 – 2.44.060, ALL OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, at the November 2, 2022 Board of Park Commissioners meeting, the board unanimously approved a motion to recommend changing the Board of Park Commissioners official name to the “Parks, Culture and Recreation Board”; and

WHEREAS, the board name change would mirror the recent Parks and Recreation Department name change to Parks, Culture and Recreation Department providing consistency and a better representation of what the board supports; and

WHEREAS, the name “Board of Park Commissioners” is the only City board that has both “board” and “commissioners” in the title. Parks, Culture and Recreation Board fits better with other City board titles, and also lends itself better to the shortened name “Parks Board”; and

WHEREAS, the City Council finds that adoption of the proposed changes would be in the interest of the citizens of Lacey.

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

Section 1. Section 2.44.010 of the Lacey Municipal Code is hereby amended as follows:

2.44.010 Created.

There is hereby created a board to be known as the Parks, Culture and Recreation ~~b~~Board ~~of~~ ~~park commissioners~~ of the city of Lacey, which shall perform all of the duties and shall have all of the authorities hereinafter set out.

Section 2. Section 2.44.020 of the Lacey Municipal Code is hereby amended as follows:

2.44.020 Membership--Terms.

A. The board shall consist of seven general commissioners and one youth commissioner. Commissioners shall be appointed by the mayor, which appointment shall be subject to confirmation by the city council. At least five of the general commissioners shall be residents of the city of Lacey. The remaining two general commissioners may either be residents of the city of Lacey or reside in Lacey's urban growth management area. However, if a position to be held by a city resident has been vacant for more than three months, a third commissioner who resides in Lacey's urban growth management area may be appointed. Terms for general members shall be for three years. An appointment to fill a vacancy occurring otherwise than through the expiration of a term shall be for the remainder of the unexpired term. General membership on the commission shall be limited to two consecutive terms; provided, however, if there are no applicants for a vacant position one month prior to the expiration of a term, the incumbent may be reappointed to an additional three-year term.

B. The youth commissioner shall be at least sixteen years of age (when appointed), enrolled as a junior or senior in the North Thurston public schools, homeschooled or enrolled in a private school, and be a resident of the city of Lacey or reside in Lacey's urban growth area. The youth commissioner shall be appointed to serve for a term of one year. The incumbent youth commissioner may be reappointed to an additional one-year term. Except as outlined in

this section, the youth commissioner shall have the same rights and responsibilities of the general commissioners.

C. A majority of the general members of the board ~~of park commissioners~~ shall constitute a quorum for the transaction of business. The youth commissioners shall not be included in the count to constitute a quorum. Any action taken by a majority of those present when those present constitute a quorum, at any regular or special meeting of the board ~~of park commissioners~~, shall be deemed and taken as the action of the commission.

D. The commission members shall not receive any salary or other compensation for services rendered on the commission, but necessary expenses actually incurred and within the budget as set by the annual budget ordinance shall be paid.

E. General or youth members may be removed from the parks board prior to the expiration of their term of office by the mayor with approval of the city council, pursuant to the city of Lacey policy procedure manual and boards and commissions standards, protocols, and ground rules handbook.

Section 3. Section 2.44.030 of the Lacey Municipal Code is hereby amended as follows:

2.44.030 Organization--Records.

A. The commission shall select its own chairperson from within its membership and may create such other offices as it may deem necessary and shall adopt all necessary rules for the transaction of its business and the keeping of its own records. A recording secretary shall also be appointed from within its membership or be the parks, culture and recreation director.

B. An accurate record shall be kept of the proceedings of all meetings, including all motions, resolutions, transactions, findings and determinations. These records shall be public and a copy thereof shall be transmitted to the city clerk after each meeting.

Section 4. Section 2.44.040 of the Lacey Municipal Code is hereby amended as follows:

2.44.040 Employees.

In the appointment of the parks, culture and recreation director the city manager may seek the advice of the members of the board ~~of park commissioners~~ prior to making such appointment, and may ask the board to serve as an interview panel to consider applicants for the position.

Section 5. Section 2.44.050 of the Lacey Municipal Code is hereby amended as follows:

2.44.050 Authority--Powers and duties.

The Parks, Culture and Recreation ~~b~~Board of park commissioners shall have the following powers and duties, subject to such rules and regulations as may from time to time be prescribed by ordinance:

- A. To make investigations and surveys concerning the future park, playground and recreation resources of the city;
- B. To formulate plans for the proper future development of the parks and playgrounds system of the city;
- C. To recommend to the city council through the city manager regarding planning, promotion, management, acquisition, construction, development, maintenance and operation of public recreational facilities and recreational programs, including restrictions on and compensation to be paid for concessions or privileges in the public parks within the city;
- D. To submit to the city manager an annual budget for the operation and maintenance and acquisition of public recreational facilities of the city;

E. To cooperate with any and all departments of the city and with public school authorities, Thurston County, the state of Washington, and other cities in the surrounding area in the furtherance of a well-rounded parks, culture and recreation program;

F. To make such rules and regulations in regard to the use of the parks, culture and other recreational facilities as shall best serve the interests of the public;

G. To receive in the name of the city all moneys or other properties donated for the purpose of acquisition of parks or the improvement of the parks, culture or recreation system of the city, and to expend and use the same in such manner as shall best carry out the interests of the donors, provided that all moneys so received shall be forthwith paid into the city treasury and the same shall be placed in a fund to be known as the parks and recreation fund, except that all donations made for special purposes shall be placed in a separate fund to be known as the parks and recreation donation fund and shall be paid out by the city finance director only in payment of the special purpose for which the donation is made;

H. To do any and all of the things necessary and proper to secure for the public a parks, culture and recreation program and the free use and enjoyment of the parks, culture and other recreational facilities of the city.

Section 6. Section 2.44.060 of the Lacey Municipal Code is hereby amended as follows:

2.44.060 Rules and regulations.

The Parks, Culture and Recreation ~~b~~Board-of-park-commissioners, after making any rules or regulations or set of rules and regulations, or amendments thereto, shall file a copy of the same with the city clerk, certified by the secretary of the board ~~of park commissioners~~ to be a true copy of rules and regulations, and when so certified and approved by the city council, the

same shall become effective as rules and regulations under this chapter, as if they were set forth in full herein.

Section 7. 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 8. 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 9. 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 19th day of
January, 2023.

CITY COUNCIL

By: _____
Mayor

Approved as to form:

City Attorney

Attest:

City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE NO. 1634

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on January 19, 2023, Ordinance No. 1634, entitled “AN ORDINANCE RELATED TO THE PARKS, CULTURE AND RECREATION BOARD, AMENDING SECTIONS 2.44.010 – 2.44.060, ALL OF THE LACEY MUNICIPAL CODE AND APPROVING A SUMMARY FOR PUBLICATION.”

The main points of the Ordinance are described as follows:

1. The Ordinance amends sections of the Lacey Municipal Code, all related to changing the name of the board of park commissions to the “Parks, Culture and Recreation Board.”
2. 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: January 23, 2023



LACEY CITY COUNCIL MEETING

January 19, 2023

SUBJECT: MOA for Transfer of Assets Between Olympia, Tumwater, and Lacey Related to the Brewery Wellfield

RECOMMENDATION: Council Authorizes the Interim City Manager to Sign the MOA

STAFF CONTACT: Rick Walk, Interim City Manager *RW*
David Schneider, City Attorney *DS*
Scott Egger, P.E., Public Works Director *SE*
Peter C. Brooks, P.E., Water Resources Manager *PCB*

ORIGINATED BY: Public Works Department

ATTACHMENTS: [Memorandum of Agreement](#)

FISCAL NOTE:

**WORK PLAN GOAL
AND STRATEGY:** None

**OTHER POLICY
DOC. ALIGNMENT:** Water Rights Mitigation Management?

PRIOR REVIEW: Lacey City Council Worksession on March 11, 2021

BACKGROUND:

In November of 2008, the cities of Olympia, Tumwater, and Lacey agreed to jointly purchase the water rights and some tangible assets, e.g. land, wells, a water reservoir, from the former brewery in Tumwater. At the time it was unclear of the quantity of water right that had not been relinquished and could thus be transferred to the cities, the quality of water produced from the wells, and the condition of the appurtenant wells. Assessments of the purchased property were conducted, and the Department of Ecology rendered its determination of the amount of water right which could be transferred to the cities. The general conclusion is that the brewery would be an expensive source of water supply for Lacey to develop due to location, logistics and amount of water produced in comparison with Lacey's other water supply options.

During the course of the aforementioned assessments, the three cities also learned that 30 wells on the brewery property need to be decommissioned at a cost to be shared by the partners. In addition, the consultant for the three cities invoiced Tumwater, managing the contract on behalf of the cities, for the consulting fees. Finally, although the brewery property is jointly owned by the three cities, Tumwater temporarily covered the stormwater utility charges for all three cities. Lacey needs to reimburse Tumwater for these expenses.

During the City Council worksession of March 11, 2021, the Lacey City Council was briefed on the status of the brewery water rights and property. Staff requested direction from the Council on whether to pursue an option allowing for Lacey to divest itself of all or some of the brewery assets. The Lacey City Council directed staff to prepare a legal means to accomplish that end. This MOA provides the legal means, as well as, enabling Olympia and Lacey to reimburse Tumwater for costs it has incurred on behalf of the three cities. It also prescribes the abandonment of wells on the brewery property which are no longer useful and pose a risk of groundwater contamination.

ADVANTAGES:

1. Approving the MOA will provide Lacey the flexibility to divest itself of brewery assets. But, it does not obligate Lacey to do so.
2. Approving the MOA will provide the legal authority for Lacey to reimburse Tumwater for costs incurred on Lacey's behalf.

DISADVANTAGES:

1. None apparent.

**MEMORANDUM OF AGREEMENT BETWEEN THE CITIES OF OLYMPIA,
LACEY, AND TUMWATER FOR TRANSFER OF ASSETS RELATED TO THE
BREWERY WELLFIELD**

This Memorandum of Agreement (MOA) is entered into in triplicate by and between the City of Olympia, a Washington non-charter code city, the City of Tumwater, a Washington non-charter code city, and the City of Lacey, a Washington non-charter code city. The three cities are Washington municipal corporations and are referred to herein collectively as the “Cities”.

RECITALS

WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, pursuant to RCW 39.34.080, each City is authorized to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform: provided, that such contract shall be authorized by the governing body of each City to the contract and shall set forth its purposes, powers, rights, objectives and responsibilities of the contracting Cities; and

WHEREAS, the Cities each operate a water utility to provide water for municipal use and consumption for residential and nonresidential needs within their water service areas; and

WHEREAS, under a prior interlocal agreement signed in March 2006 the Cities jointly worked to condemn, purchase, and transfer to their joint ownership certain water rights, wells, water system appurtenances, and land formerly belonging to the Olympia Brewery (Currently Thurston County Tax Parcel Nos. 09470019001, 09470045001, and 09470003001), and in that interlocal agreement the Cities agreed to develop additional agreements to evaluate and develop a water supply at the site; and

WHEREAS, in 2009 the Cities successfully transferred 6,515 gallons per minute and 2,283.53 acre-feet per year of water rights formerly owned by the Olympia Brewery to their joint ownership, with each City having a right to one-third of the aggregate water rights instantaneous rate and annual volume, the water rights being held by the Cities jointly owned, which total 6,515 gallons per minute and 2,283.53 acre-feet per year. This amount of water right is the aggregate of transfers: THUR-08-02 (Ground Water Certificate (GWC) 785-D and Certificate of Change 621), THUR-08-03 (GWC 784-D and Certificate of Change 622), THUR-08-04 (GWC 34-A and Certificate of Change 620), THUR-08-05 (GWC 453-A and Certificate of Change 623), THUR-08-06 (GWC 4587-A), THUR-08-

07 (G2-01073C), THUR-08-08 (G2-01072C), THUR-08-09 (G2-20844C), and THUR-08-11 (G2-26058C). In addition to the water rights, the Cities also purchased, and jointly own, wells, water system appurtenances and land formerly owned by the Olympia Brewery; and

WHEREAS, each City owns an undivided one-third share of the Brewery Wellfield water rights, wells, water system appurtenances. This ownership includes not only assets, but also liabilities; and

WHEREAS, the Cities previously reached agreement to allow the City of Tumwater to construct a stormwater facility on one of the jointly owned parcels (Thurston County Parcel No. 09470003001) and decommission Well Nos. 16 and 17 as well as a valve vault. The Cities agreed that the City of Tumwater would decommission those wells at its own expense in exchange for the easement from the other Cities to construct the stormwater facility on the property; and

WHEREAS, it is the intention of the Cities that the Olympia Brewery water rights be used for municipal water supply to meet the needs of one or more of the Cities, within the Cities' water service areas, to the full extent of the water rights; and

WHEREAS, some Cities have identified future development scenarios through joint and independent planning efforts that outline more efficient and cost-effective water production alternatives than the use of the Olympia Brewery water rights; and

WHEREAS, the Cities intend to define and implement a process that allows for one partner to permanently transfer its Brewery Wellfield water rights and other related assets and liabilities to one or more of the Cities; and

WHEREAS, the Cities need to move forward and show due diligence on re-perfecting the water rights, consistent with the extended water right change authorization development schedule, which requires completion of construction by **April 1, 2041**, and full beneficial use for municipal supply of both the water rights' instantaneous rate and annual volume by **April 1, 2046**; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Cities agree as follows:

I. PURPOSE AND OBJECTIVE

The purpose and objective of this MOA is to set forth the process by which one or more of the Cities may transfer ownership interest, including water rights, land, wells, water system appurtenances, and associated liabilities, such as but not limited to, well decommissioning, to another City or Cities. The processes outlined herein shall be implemented following written notice by one City to transfer its interest to another City or Cities.

In addition, this MOA provides for reimbursement to the City of Tumwater for stormwater utility fees and consultant costs previously incurred for jointly held properties and management of the Brewery Wellfield project, as noted in Section II.

II. OUTSTANDING PAYMENTS

A. Stormwater Fee Payment on Jointly Owned Parcels

The City of Tumwater has paid the stormwater fees on behalf of the Cities on the jointly owned properties since October 2006. **Table 1** identifies the parcel, account number, and stormwater fees paid for the jointly owned parcels.

Table 1. City of Tumwater Paid Stormwater Fee Information on Jointly Owned Parcels (October 2006 through December 2022)

Parcel Number	Account Number	Stormwater Fees Paid
09470003001	80-104004-000	\$36,037.22
09470019001	80-104002-000	\$18,052.48
09470045001	80-104003-000	\$15,157.88
Combined Total		\$69,247.58
Each Cities' 1/3 Share		\$23,082.53

The City of Lacey and the City of Olympia agree to pay the City of Tumwater their respective one-third prorated share of the stormwater fees.

B. Consultant Fees

Since 2018, RH2 Engineering, Inc. has been assisting the Cities with development of language for an Interlocal Agreement and this MOA. The total authorized contract amount for this effort is \$57,000, of which the cost for each City is \$19,000. The City of Tumwater has paid RH2 Engineering, Inc. for these services under a service provider agreement.

The City of Lacey and the City of Olympia agree to pay the City of Tumwater their respective one-third share of the consultant fees.

C. Total Outstanding Payments

The City of Tumwater will send invoices to the City of Lacey and City of Olympia identifying their proportionate share of the stormwater fees and consultant fees following execution of this MOA.

The City of Lacey and the City of Olympia shall pay the City of Tumwater the outstanding stormwater and consultant fees no later than 60 days after full execution of this MOA, or after being invoiced, whichever is later.

Following the initial invoicing, the City of Tumwater shall routinely invoice each Partner City monthly for utility fees for the jointly owned properties, and no less than quarterly for any consultant fees related to the development of Brewery Wellfield partnership agreements. The cost will be proportional to each City's interest in the Brewery Wellfield at the time of invoice preparation.

III. TRANSFER OF OWNERSHIP BETWEEN CITIES

Section III and its associated subsections identify how assets may be transferred from one City to another City.

A. Intent to Transfer Ownership

If a City is interested in transferring its interest in the Brewery Wellfield water rights, other related assets and liabilities, it shall contact the other Cities and determine if there is an interested transferee. If interested parties have been identified the process of transferring ownership can proceed following written notice to the Cities. Objections to the transfer by a partner City must be received within 15 calendar days of receipt of the notice to transfer, noting reason for objection and potential remedy.

B. Water Right and Property Valuation

Two different entities will be used for arriving at the total valuation. One will be responsible for valuing the water rights and the second will be responsible for valuing the other related assets and liabilities.

The Cities agree to use WestWater Research LLC, who performed the original water right valuation for the condemnation proceedings, to provide a present-day value of the Brewery Wellfield water rights. If a suitable contract with WestWater Research LLC cannot be reached, the Cities must agree on another entity as carried out by the City Manager/Administrator or their delegates.

The Cities agree to use R.F. Duncan & Associates Inc., to provide a present-day value of the Brewery Wellfield properties, (currently Thurston County Tax Parcel Nos. 09470019001, 09470045001, and 09470003001), including any structures, wells, and water system appurtenances associated with the Olympia Brewery water rights occurring both on the jointly owned parcels and off. If a suitable contract with R.F. Duncan & Associates Inc., cannot be reached, the Cities must agree on another entity as carried out by the City Manager/Administrator or their delegates.

The net property valuation will consist of the following elements:

- Present-day value of the three jointly owned Thurston County tax parcels (09470019001, 09470045001, and 09470003001).
- Deduction for cost of decommissioning existing unused wells (both production and test). Due to the specialty nature of this work, this cost shall

be based on a current estimate provided by a well driller, licensed in the state of Washington, that is capable of performing the work. Estimated deduction of approximately \$1.50M.

- Deduction or credit for demolition and removal of the reservoir. Due to the specialty nature of this work, this cost shall be based on a current estimate provided by a contractor, licensed in the state of Washington, that is capable of performing the work. Estimated deduction of approximately \$1.27M.
- Deduction or credit for demolition and removal of existing well buildings and the valve house located near the reservoir. Due to the specialty nature of this work, this cost shall be based on a current estimate provided by a contractor, licensed in the state of Washington, that is capable of performing the work. Estimated deduction of approximately \$0.24M.
- Design, project management, and inspection costs for well, reservoir, and building demolition/decommissioning. Estimated deduction of \$0.05M.

Costs for the total valuation will be split evenly by the transferring Cities.

If either City involved in the transfer disputes the valuation provided for either the water right or property, the disputing City shall be solely responsible for paying for any additional valuation.

Any difference between the values used in the valuation and the actual cost of decommissioning, demolition, and removal will be proportionally assigned to the remaining Cities, whether beneficial or detrimental.

C. Mutual Agreement

Once the transferring Cities agree on the valuation, the transferor shall present the transferee with a “Right to Use in Perpetuity Certificate” of its increment of the Brewery Water Rights.

The transferor shall retain ownership of its increment of the Brewery water rights until such time as the transferee has re-perfected the use of that increment of water.

Payment for the Right to Use in Perpetuity Certificate shall be made by the transferee to the transferor within 90 days through a Transfer of Brewery Assets agreement prepared by the transferee.

Once the transferee holds the Right to Use in Perpetuity Certificate and payment has been made to the transferor, the transferee will immediately assume all of the transferor’s interest in the assets and liabilities and the transferor foregoes any future involvement in decision-making regarding redevelopment of the Brewery Wellfield or jointly held assets and liabilities. **Table 2** shows the breakdown in rights and responsibilities after payment is made.

Table 2. Example Rights and Responsibility Breakdown After Payment

City	Role	Percentage
City 1	Transferor	0
City 2	Transferee	2/3
City 3	Not Part of Transaction	1/3
Total		1

Once the transferee re-perfects the use of the transferor's increment of water, as demonstrated through source metering data, the transferor shall provide the transferee with a Quit Claim Deed transferring ownership of the increment of water to the transferee.

IV. MISCELLANEOUS TERMS

A. Indemnification & Insurance

Each City agrees to defend, indemnify, and hold the other Cities, their officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including reasonable attorney fees, arising out of or in connection with the indemnifying City's performance of this Agreement, including injuries and damages caused by the negligence of the indemnifying City's officers, officials and employees.

B. No Separate Entity Created

This Agreement creates no Joint Board and no separate legal entity.

C. Duration of Agreement

This Agreement shall be effective on the date of the last signature affixed hereto and shall terminate upon completion of the tasks necessary to accomplish the purpose of the Agreement, unless sooner terminated by the Cities in writing, as provided herein.

D. Dispute Resolution

a. Step One – Negotiation. In the event of a dispute concerning any matter pertaining to this Agreement, the Cities involved shall attempt to adjust their differences by informal negotiation. The City perceiving a dispute or disagreement persisting after informal attempts at resolution shall notify the other Cities in writing of the general nature of the issues. The letter shall be identified as a formal request for negotiation and shall propose a date for representatives of the Cities to meet. The other Cities shall respond in writing within ten (10) business days. The response shall succinctly and directly set out that City's view of the issues or state that there is no disagreement. The

Cities shall accept the date to meet or shall propose an alternate meeting date not more than ten (10) business days later than the date proposed by the City initiating dispute resolution. The representatives of the Cities shall meet in an effort to resolve the dispute. If a resolution is reached the resolution shall be memorialized in a memorandum signed by all Cities which shall become an addendum to this Agreement. Each City will bear the cost of its own attorneys, consultants, and other Step One expenses. Negotiation under this provision shall not exceed 90 days. If a resolution is not reached within 90 days, the Cities shall proceed to mediation.

b. Step Two – Mediation. If the dispute has not been resolved by negotiation within ninety (90) days of the initial letter proposing negotiation, any City may demand mediation. The mediator shall be chosen by agreement. Each City will bear the cost of its own attorneys, consultants, and other Step Two expenses. The Cities to the mediation will share the cost of the mediator. A successful mediation shall result in a memorandum agreement which shall become an addendum to this Agreement. Mediation under this provision shall not exceed 90 days. If the mediation is not successful within 90 days, the Cities may proceed to litigation.

c. Step Three – Litigation. Unless otherwise agreed by the Cities in writing, Step One and Step Two must be exhausted as a condition precedent to filing of any action in Thurston County Superior Court. A City may initiate an action without exhausting Steps One or Two if the statute of limitations is about to expire and the Cities cannot reach a tolling agreement, or if either City determines the public health, safety, or welfare is threatened.

E. Termination of Agreement

This Agreement may be terminated upon written mutual agreement of the Cities that hold an ownership interest in the water rights.

F. Interpretation and Venue

This Agreement shall be governed by the laws of the State of Washington as to interpretation and performance. The Cities hereby agree that venue for enforcement of any provisions shall be in the Superior Court of Washington for Thurston County.

G. Entire Agreement

This Agreement sets forth all terms and conditions agreed upon by the Cities and supersedes any and all prior agreements oral or otherwise, with respect to the specific subject matter addressed herein.

H. Recording

This Agreement shall be filed with the Thurston County Auditor's Office or posted upon the Cities' websites as provided by RCW 39.34.040.

I. Notice

Any notice required under this Agreement shall be to the Cities at the address listed below by United States Postal Service, First Class mail, postage prepaid, and shall become effective three days following the date of deposit with the United States Postal Service.

CITY OF OLYMPIA:

Attn: Rich Hoey, Public Works Director
PO Box 1967
Olympia, WA 98507-1967

CITY OF LACEY:

Attn: Peter Brooks, Water Resource Manager
P.O. Box 3400
Lacey, WA 98509-3400

CITY OF TUMWATER:

Attn: Dan Smith, Director of Water Resources and Sustainability
555 Israel Road SW
Tumwater, WA 98501

This MOA may be executed in counterpart and/or by electronically transmitted signature (.pdf or similar). This Agreement is hereby entered into between the Cities and shall take effect on the date of the last authorizing signature affixed hereto:

CITY OF OLYMPIA

Steven J. Burney, City Manager

Date: _____

Approved as to form:

Mark Barber, City Attorney

CITY OF LACEY

Rick Walk, Interim City Manager

Date: _____

Approved as to form:

David Schneider, City Attorney

CITY OF TUMWATER

Debbie Sullivan, Mayor

Date: _____

Approved as to form:

Karen Kirkpatrick, City Attorney



LACEY CITY COUNCIL MEETING

January 19, 2023

SUBJECT: Beachcrest Wellfield pH Improvements Project

RECOMMENDATION: Motion to award Lacey Contract number PW 2019-29 to low bidder McClure & Sons, Inc from Mill Creek, WA in the amount of \$4,088,846.07.

STAFF CONTACT: Rick Walk, Interim City Manager *RW*
Scott Egger, P.E., Public Works Director *SE*
Peter Brooks, P.E., Water Resources Manager *PCB*
Teri O'Neal, P.E., Senior Utility Engineer *TSO*
Lisa Hull, Project Admin *LH*
Puna Clarke, P.E., Utility Engineer *LC*

ORIGINATED BY: Public Works Department

ATTACHMENTS: NONE

FISCAL NOTE: NONE

WORK PLAN GOAL AND STRATEGY: Quality Transportation & Infrastructure - (H)

WATER SYSTEM PLAN: Infrastructure Improvements

PRIOR REVIEW: Council approved the Water Capital Funds as part of the 2023 Budget. The Beachcrest Wellfield Improvement project is listed as a 2023 Water Capital Fund project-also known as the S17 Wellhouse and Treatment project. Funding for the project is provided through the fund source WA1917 410-3418.534-90.

BACKGROUND:

The Washington State Department of Health (DOH) required Lacey to conduct a corrosion control study and recommend treatment for optimizing the water system for corrosion control.

DOH approved The *City of Lacey Corrosion Control Study and Treatment Recommendations* (CC Study) in February 2019. The CC Study recommended treatment for optimizing corrosion control, and outlined an action plan. To achieve this water treatment goal, three new pH adjustment treatment facilities will be constructed at wellfield/sources S17, S01/S18, and S23/S28.

In 2018, a new well (S15R) was drilled and will replace S15. The existing S16 well house was constructed in the 1970s, upgraded in 2005/2006. These are located at the S17 wellfield (Beachcrest) site.

This project is for the pH treatment facility for the wellfield S17 (Beachcrest) site. A predesign study including pilot testing recommended packaged aeration for treatment. The project will include a new treatment facility, equipping a new well, installing a new well building, decommissioning an existing well, stormwater facility, demolishing existing buildings, and site piping and improvements and landscaping.

The project was advertised for approximately 5 weeks and bids were opened January 6, 2023. Seven (7) bids were received. The seven bids ranged from a low of \$4,088,846.07 to a high of \$4,715,688.96. McClure & Sons, Inc from Mill Creek, WA is the low bidder at \$4,088,846.07. The Engineer's Estimate is \$4,499,738.25. A Bid Summary Sheet is below.

McClure & Sons is qualified and capable of performing the work. Start date is anticipated to be around the beginning of March and there are 240 working days allotted.

ADVANTAGES:

1. The new Beachcrest Wellfield pH Improvement project is the first water treatment facility in the City of Lacey utilizing aeration technology, specifically packaged aeration treatment.
2. This project is mandated by the Washington State Department of Health for water treatment pH optimization.
3. McClure & Sons has experience with water treatment projects of similar size.

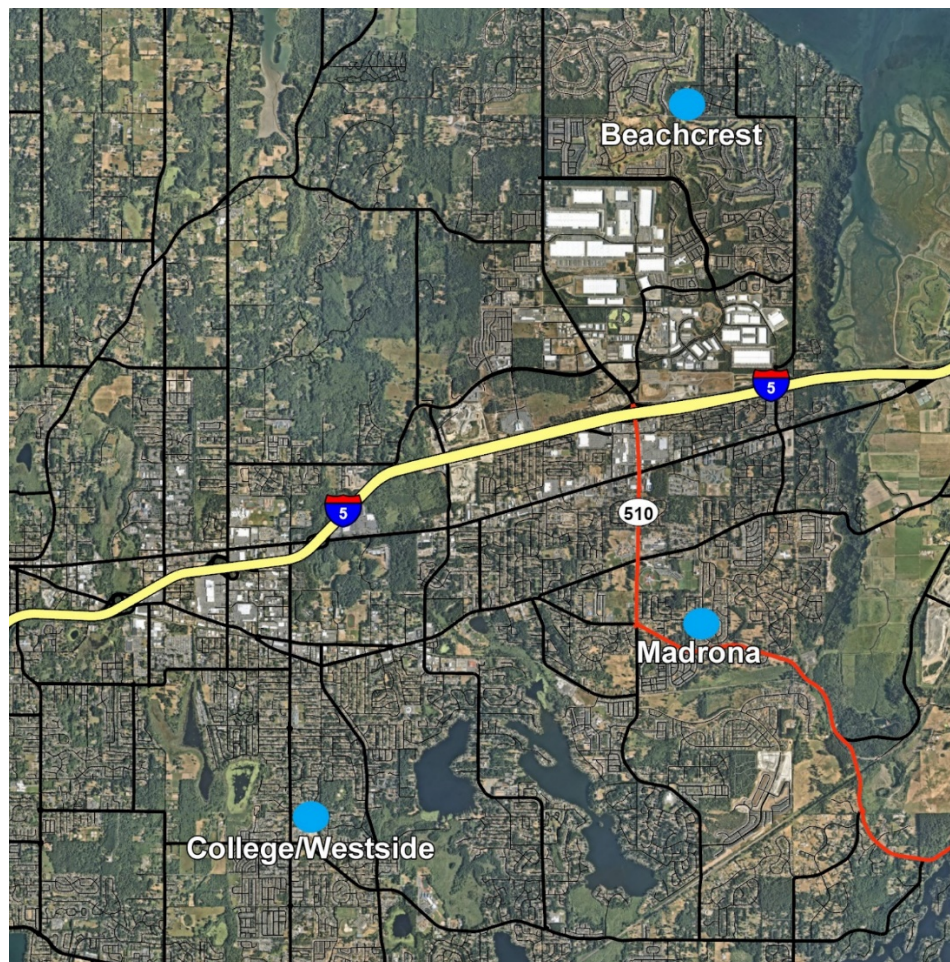
DISADVANTAGES:

1. None.

BID SUMMARY TABLE

City of Lacey BEACHCREST WELLFIELD PH IMPROVEMENTS PW 2019-29		
Contractor	Bid Amount	Pos
McClure & Sons, Inc	\$4,088,846.07	1
Rognlin's Inc	\$4,291,488.96	2
Boss Construction, Inc	\$4,506,068.26	3
Pacific Civil Infrastructure	\$4,668,752.60	4
Rotschy, Inc	\$4,672,175.57	5
Prospect Construction, Inc	\$4,705,844.89	6
Pease & Sons, Inc	\$4,715,688.96	7
Engineer's Estimate: \$4,499,738.25		

PROJECT LOCATION MAP



COMMUNITY RELATIONS & PUBLIC AFFAIRS COMMITTEE MINUTES

DECEMBER 5, 2022

11:00 A.M. – 11:44 A.M.

REMOTE AND IN PERSON ATTENDANCE

The recorded meeting is available on the City of Lacey's YouTube Channel:

<https://youtu.be/iEQxB4f8mDw>

COUNCIL PRESENT: COUNCILMEMBERS STEADMAN (CHAIR), COUNCILMEMBER COX, AND
COUNCILMEMBER KUNKEL

STAFF PRESENT: SCOTT SPENCE, SHANNON KELLEY-FONG, PERI EDMONDS, DONNA
FELICIANO, KELLY ADAMS, JENNY BAUERSFELD, TABETHA RESTOULE

ACTION: APPROVE COMMUNITY RELATIONS & PUBLIC AFFAIRS COMMITTEE AGENDA

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

2022-23 COMPASSIONATE COMMUNITY PROJECT

STAFF: JENNY BAUERSFELD, COMMUNITY RELATIONS SPECIALIST
AMY BLONDIN, ASSISTANT DIRECTOR OF COMMUNICATIONS, NORTH
THURSTON PUBLIC SCHOOLS

ACTION: INFORMATION ONLY

Staff provided an overview of the Compassionate Community Project. The City is in its sixth year for partnering with North Thurston Public Schools and Lacey South Sound Chamber for compassionate community efforts.

The annual Compassionate Community Projects include Fundraising for the Lacey Food Bank (2017-2018), 100,000 Compassionate Acts (2018-2019), Seasons of Compassion (2019-2020), Fundraising for the Lacey Food Pantry (2020-2021), and the Spirit of Giving Back – Part 1 (2021-2022) and Part 2 (2022-2023).

Businesses and groups may participate by creating or finding a project to engage in.

CITY BANNERS

STAFF: DONNA FELICIANO, COMMUNICATION SPECIALIST

ACTION: INFORMATION ONLY

The pole banner project is part of the City's Public Art Plan, which includes the following objectives and themes.

Objectives:

- Define City boundaries or entryways into the community
- Create a sense of community, identify, and character
- Reflect Lacey's history, heritage, community values, and culture
- Provide interactive opportunities for the general public
- Provide a pleasing living, working, and playing environment
- Enhance economic development and attract visitors
- Provide sustainable maintenance and operation costs
- Create opportunities for civic engagement
- Evoke a sense of fun

Themes:

- The natural beauty of the City as reflected in its trees and lakes
- A history of the community as reflected in historic buildings, founding families, and event of historical significance
- The importance of family and youth in our community
- Northwest artifacts, signs, and symbols, including Native American Art, salmon, orcas, fishing, and timber
- Historic reproduction lighting, ornamental poles, landscape furnishings, entry signs, park signs, clocks, bell towers, and fountains
- The rich diversity of the community
- Exceptional military service and the community's military connection

Lodging tax funds were awarded for the pole banner project. Staff anticipates 15-20 banners will be displayed throughout the City in the spring of 2023.

LEGISLATIVE AGENDA MANAGEMENT SYSTEM

STAFF: PERI EDMONDS, CITY CLERK
KELLY ADAMS, SPECIAL PROJECTS ADMINISTRATOR
ACTION: INFORMATION ONLY

The City has been using a legacy version of Granicus Media Manager to process live meetings and display meeting materials since 2011. This current system no longer meets the needs of the City as it continues to grow.

CivilClerk has been selected for the new legislative agenda management system. Staff anticipates implementation will be complete by the second quarter of 2023.

UTILITIES COMMITTEE MINUTES
DECEMBER 5, 2022
12:00 P.M. – 12:31 P.M.
REMOTE AND IN PERSON ATTENDANCE

The recorded meeting is available on the City of Lacey's YouTube Channel:
<https://youtu.be/mQej1jgYtlo>

COUNCIL PRESENT: COUNCILMEMBERS KUNKEL (CHAIR), COX (REMOTE), AND STEADMAN (REMOTE)

STAFF PRESENT: SCOTT SPENCE, SHANNON KELLEY-FONG, SCOTT EGGER, PETER BROOKS, ERIK IVERSON, TABETHA RESTOULE

ACTION: APPROVE UTILITIES COMMITTEE AGENDA

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

BUDD INLET/DESCHUTES WATERSHED COALITION

STAFF: PETER BROOKS, WATER RESOURCES MANAGER

ACTION: INFORMATION ONLY

In the summer of 2007, the Squaxin Island Tribe collaborated with the cities of Lacey, Olympia, and Yelm on the Deschutes water rights acquisition strategy. The Department of Ecology agreed to work with the three cities on expedited concurrent review of water rights applications in the winter of 2008/2009.

In 2011, a Memorandum of Understanding (MOU) was signed between the Squaxin Island Tribe and the three cities to improve the biological health of the watershed. The MOU is contingent on "Final Water Rights." Once that is achieved, they will collectively provide \$500,000 for the project.

Implementation of bylaws are currently being developed. Staff may have the completed bylaws by early 2023 and will present to the full City Council.

UCMR-5

STAFF: ERIK IVERSON, WATER QUALITY ANALYST

ACTION: INFORMATION ONLY

The Unregulated Contaminant Monitor Rules (UCMR) is issued to collect data for contaminants that are suspected to be present in drinking water and do not have health-based standards set under the Safe Drinking Water Act.

Between 5-30 contaminants are selected for each cycle.

The City's responsibilities for UCMR-5 include the following:

- Submitting a monitoring plan demonstrating 12 sampling locations that represent all the City's groundwater sources.
- Conduct two rounds of testing at each site for a total of 29 PFAS chemicals and Lithium.
- is tentatively scheduled in December 2023 and July 2024.
- Cost is estimated at \$20,000 if no detections
- Cost may be up to \$30,000 if there are detections at each site.

The data collected in UCMR-5 will be used by EPA to make future decisions on actions to protect public health.

TRANSPORTATION COMMITTEE MINUTES
DECEMBER 6, 2022
11:00 A.M. – 11:35 A.M.
REMOTE AND IN PERSON ATTENDANCE

The recorded meeting is available on the City of Lacey's YouTube Channel:
<https://youtu.be/LGLwZaeHk7k>

COUNCIL PRESENT: DEPUTY MAYOR MILLER (CHAIR), COUNCILMEMBERS STEADMAN (REMOTE) AND VAZQUEZ (REMOTE)

STAFF PRESENT: SCOTT SPENCE, SCOTT EGGER, SHANNON KELLEY-FONG, DAVE SCHNEIDER, RICK WALK, AUBREY COLLIER, TABETHA RESTOULE

RIGHT-OF-WAY VACATION

STAFF: AUBREY COLLIER, CITY ENGINEER

ACTION: INFORMATION ONLY

Staff discussed a proposed vacation of the Rainier Road 40-ft unnamed right-of-way (ROW).

A ROW vacation occurs when a government relinquishes its interest in a public ROW on a piece of property. If the ROW is vacated by the City, the property within the limits vacated shall belong to the abutting property owners, one-half each.

The 40-ft unnamed ROW was dedicated in a 1921 plat for future roadways. Portions of the ROW from the original plat were vacated when the area was further subdivided to create Indian Summer and The Links subdivisions. Development of The Links subdivision eliminated the need for a roadway in the location of the existing unnamed ROW.

This ROW is not maintained by the City and serves no public purpose. Since the City did not pay for the ROW it would not be appropriate to charge the property owners to vacate the ROW.

Property owners have been notified of the City's interest in vacating the ROW, and staff plans to hold additional outreach prior to the resolution being brought to Council.

Next Steps:

- Present a resolution to the full City Council in January 2023.
- Set a public hearing date no more than 60 days from the resolution date.
- Provide a minimum of 20-day notice to property owners of the intent to vacate and hearing date.

- If property owners object, they would need to file a written protest prior to the hearing.
- If 50% of property owners object, the City will be prohibited from vacating.
- After the public hearing, Council will decide whether to pass an ordinance to vacate the unnamed ROW.
- If the ordinance is approved by Council, the City Manager will sign quit-claim deeds for each property abutting the unnamed ROW.
- The signed quit claim-deeds will be recorded at the Thurston County Auditor's Office and a copy mailed to each property owner.