City Council, Regular Meeting

AGENDA

6:30 pm – 9:30 pm

July 7, 2015

Call to Order

Roll Call

Pledge of Allegiance

Approval of Agenda and Consent Agenda

Presentations/Proclamations

Public Comment

Note: *This is an opportunity for the public to address the Council. Three-minutes limit per person or five-minutes if representing the official position of a recognized community organization***.** *If you would like to show a video or PowerPoint, it must be submitted or emailed by 5 pm, the end of the business day, to the City Clerk, Melonie Anderson at manderson@sammamish.us*

Consent Agenda

- Payroll for period ending June 15, 2015 for pay date June 19, 2015 in the amount of $ 327,879.31
- Payroll for period ending June 30, 2015 for pay date July 3, 2015 in the amount of $ 345,478.39

1. Approval: Claims for period ending July 7, 2015 in the amount of $1,589,259.49 for Check No. 40663 through 40837
2. Resolution: Appointing One Member To The Beaver Lake Management District Advisory Board
3. Resolution: Establishing A Klahanie-Area Annexation Transition Committee
4. Resolution: Final Acceptance 2014 Stormwater Repairs/Iron Creek
5. Bid Rejection: Big Rock Park Phase 1
6. Authorization: Bid Award: Sammamish Parking Lot
7. Authorization: Agreement/Lake Washington School District/Safety Net Installation Project at Eastlake High School
8. Approval: Notes for June 9, 2015 Study Session
9. Approval: Notes for June 15 Committee of the Whole

10. Approval: Minutes for June 16, 2015 Regular Meeting

Public Hearings

11. **Resolution**: Adopting An Updated Six-Year Transportation Improvement Plan For 2016-2021

12. **Ordinance:** First Reading Repealing The Sammamish Comprehensive Plan; Adopting The 2015 Sammamish Comprehensive Plan; Providing For Severability; And Establishing An Effective Date

Unfinished Business

13. **Ordinance**: Second Reading Annexing Certain Property Known As The Klahanie Potential Annexation Area (Klahanie PAA) To The City Of Sammamish; Establishing An Effective Date As Set Forth In Section 4; And Providing For Severability.

New Business

14. **Resolution:** Declaring The Intent Of The City Council To Provide For The Exercise Of The Powers Of Initiative And Referendum

Council Reports

City Manager Report

Executive Session – Personnel pursuant to RCW 42.30.110(1)(g)

Adjournment

City Council meetings are wheelchair accessible. American Sign Language (ASL) interpretation is available upon request. Please phone (425) 295-0500 at least 48 hours in advance. Assisted Listening Devices are also available upon request.

AGENDA CALENDAR

July 2015			
Tues 7/14	6:30 pm	Special Meeting/Study Session	Ordinance: First Reading Initiative & Referendum Stormwater Program and Culvert Crossings for Salmon Spawning Update
Mon 7/20	6:30 pm	COW Meeting	Planning Commission Recommendation – Tree Regulations Duthie Hill Update
Tues 7/21	6:30 pm	Regular Meeting	Public Hearing: First Reading Tree Regulations Ordinance: Second Reading Comprehensive Plan Update Ordinance: Second Reading Initiative & Referendum Powers Interlocal Agreement: Automated Fingerprint Identification System (consent)
August 2015			NO MEETINGS
Sept 2015			
Tues 9/1	6:30 pm	Regular Meeting	Proclamation: National Recovery Month Proclamation: Mayor's Month of Concern Food Drive
Tues 9/8	6:30 pm	Study Session	YMCA Property Development Discussion
Mon 9/14	6:30 pm	COW Meeting	
Tues 9/15	6:30 pm	Regular Meeting	
Oct 2015			
Tues 10/6	6:30 pm	Regular Meeting	Presentation: LWSD STEM School/Big Rock Park Project
Tues 10/13	6:30 pm	Study Session	
Mon 10/19	6:30 pm	COW Meeting	
Tues 10/20	6:30 pm	Regular Meeting	
Nov 2015			
Tues 11/3	6:30 pm	Regular Meeting	
Tues 11/10	6:30 pm	Study Session	Facility Rental Fees
Mon 11/16	6:30 pm	COW Meeting	
Tues 11/17	6:30 pm	Regular Meeting	
Dec 2015			
Tues 12/1	6:30 pm	Regular Meeting	
Tues 12/8	6:30 pm	Study Session	
Tues 12/15	6:30 pm	Regular Meeting	
Mon 12/21	6:30 pm	COW Meeting	

To Be Scheduled	Parked Items	Parked Items
• Ordinance: Second Reading Puget Sound Energy Franchise • Economic Development Plan	• Comprehensive consideration of Capital projects • Design Standards	• Intra-City Transit Services • Mountains to Sound Greenway • Sustainability/Climate Change • Off Leash Dog Areas

If you are looking for facility rentals, please click **here**.

<< June

July 2015

August >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 4 p.m. **Farmer's Market** 6:30 p.m. **Parks and Recreation Commission Meeting**	**2**	**3** **Independence Day - Observed** **City offices closed**	**4** 6 p.m. **Fourth on the Plateau**
5	**6**	**7** 1 p.m. **KidsFirst!** 5 p.m. **City Council Office Hour** 6:30 p.m. **City Council Meeting**	**8** 4 p.m. **Farmer's Market**	**9** 10 a.m. **Family Volunteering: Native Plant Garden** 2 p.m. **Finance Committee Meeting** 6:30 p.m. **Planning Commission Meeting** **Canceled** 6:30 p.m. **Concerts in the Park**	**10** 8:30 a.m. **"The Trees of the Wood"**	**11** 9 a.m. **Volunteer at Lower Commons Park**
12	**13**	**14** 8:30 a.m. **Trail Work at Soaring Eagle** 1 p.m. **KidsFirst!** 6:30 p.m. **City Council Study Session**	**15** 8:30 a.m. **Trail Work at Soaring Eagle** 4 p.m. **Farmer's Market**	**16** 8:30 a.m. **Trail Work at Soaring Eagle** 6:30 p.m. **Concerts in the Park**	**17** 8:30 a.m. **Trail Work at Soaring Eagle**	**18** 10 a.m. **Sammamish Walks - East Lake Sammamish History** 7 p.m. **Shakepeare in the Park**
19	**20** 6:30 p.m. **Committee of the Whole**	**21** 1 p.m. **KidsFirst!** 6:30 p.m. **City Council Meeting**	**22** 4 p.m. **Farmer's Market**	**23** 10 a.m. **Family Volunteering: Native Plant Garden** 6:30 p.m. **Planning Commission Meeting** 6:30 p.m. **Concerts in the Park**	**24**	**25** 7 p.m. **Shakepeare in the Park**
26	**27** 6:30 p.m. **Arts Commission Meeting**	**28** 1 p.m. **KidsFirst!**	**29** 8:30 a.m. **Trail Work at Big Rock Park** 4 p.m. **Farmer's Market**	**30** 8:30 a.m. **Trail Work at Big Rock Park** 6:30 p.m. **Concerts in the Park**	**31** 8:30 a.m. **Trail Work at Big Rock Park**	

If you are looking for facility rentals, please click **here**.

<< July

August 2015

September >>

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 8:30 a.m. **Trail Work at Big Rock Park**
2	**3**	**4** 1 p.m. **KidsFirst!**	**5** 4 p.m. **Farmer's Market** 6:30 p.m. **Parks and Recreation Commission Meeting**	**6** 10 a.m. **Family Volunteering: Native Plant Garden** 6:30 p.m. **Concerts in the Park**	**7**	**8**
9 7 a.m. **Obiteride - Fred Hutchinson Cancer Research Center Benefit Bike Ride**	**10**	**11** 1 p.m. **KidsFirst!**	**12** 4 p.m. **Farmer's Market**	**13** 6:30 p.m. **Concerts in the Park**	**14** 10 a.m. **Household Hazardous Wastemobile**	**15** 10 a.m. **Household Hazardous Wastemobile** 10 a.m. **Sammamish Walks - Evans Creek Preserve**
16 10 a.m. **Household Hazardous Wastemobile**	**17**	**18** 1 p.m. **KidsFirst!**	**19** 4 p.m. **Farmer's Market**	**20** 10 a.m. **Family Volunteering: Native Plant Garden** 6:30 p.m. **Concerts in the Park**	**21**	**22** 7 a.m. **Sammamish Rotary Club Challenge Race / Soap Box Derby** 10 a.m. **Sammamish Day's Celebration** 6 p.m. **Sammamish Nights**
23	**24** 6:30 p.m. **Arts Commission Meeting**	**25** 1 p.m. **KidsFirst!**	**26** 4 p.m. **Farmer's Market**	**27** 6:30 p.m. **Concerts in the Park**	**28**	**29**
30	**31**					

Bill # 1

MEMORANDUM

TO: Melonie Anderson/City Clerk

FROM: Marlene/Finance Department

DATE: July 2, 2015

RE: Claims for July 7, 2015

$	199,160.03
	125.60
	23,827.56
	131,432.08
	300.00
	429,235.67
	182,351.18
	622,827.37

Over $10,000 Payments

Eastside Fire	$477,715.75	Fire Services - July 2015
Puget Sound Title	$131,432.08	Brackmann Property Purchase
Osborn Consulting	$65,317.34	Inglewood Drainage Project
Kenyon Disend	$56,442.12	Attorney Services - May 2015
Barker Rinker Seacat	$27,250.67	Community & Aquatic Center - May 2015
Transportation Solutions	$27,048.75	Trans Comp Plan Update
NW Landscape	$24,065.96	Landscape Maintenance - May 2015
Global Contractors	$23,202.67	Retainage - 2014 Sidewalk Repairs
Conner Homes	$21,193.85	Refund Cash deposit
Plantscapes	$20,936.52	Retention Pond Mowing

TOTAL $ 1,589,259.49

Checks # 40663 – 40837

199,160.03 +
125.60 +
23,827.56 +
131,432.08 +
300.00 +
429,235.67 +
182,351.18 +
622,827.37 +
008
1,589,259.49G+

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/18/2015 - 3:27 PM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40663	06/19/2015	CENTLIN2	Century Link	48.82	40,663
40664	06/19/2015	FLEXPLAN	Flex-Plan Services Inc	1,702.66	40,664
40665	06/19/2015	ICMA401	ICMA 401	40,932.54	40,665
40666	06/19/2015	ICMA457	ICMA457	10,743.65	40,666
40667	06/19/2015	IDHW	Idaho Child Support Receipting	326.50	40,667
40668	06/19/2015	IRONCREE	Iron Creek Construction, LLC	124,784.02	40,668
40669	06/19/2015	NESAM	NE Sammamish Sewer & Water	208.80	40,669
40670	06/19/2015	PSE	Puget Sound Energy	12,814.63	40,670
40671	06/19/2015	ROBERTST	Steve Roberts	3,938.10	40,671
40672	06/19/2015	SAM	Sammamish Plateau Water Sewer	3,169.81	40,672
40673	06/19/2015	WASUPPOR	Wa State Support Registry	490.50	40,673
			Check Total:	199,160.03	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/23/2015 - 8:53 AM

Check	Date	Vendor No	Vendor Name		Amount	Voucher
40674	06/23/2015	JOBANPUT	Rahul		125.60	40,674
			VOID	Check Total:	125.60	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/23/2015 - 9:08 AM

Check	Date	Vendor No	Vendor Name		Amount	Voucher
40675	06/23/2015	JOBANPUT	Rahul Jobanputra		125.60	40,675
				Check Total:	125.60	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/24/2015 - 8:29 AM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40676	06/24/2015	GLENNON	Christian Glennon	1,158.75	40,676
40677	06/24/2015	US BANK	U. S. Bank Corp Payment System	22,668.81	40,677
			Check Total:	23,827.56	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/29/2015 - 10:25 AM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40678	06/29/2015	PSTITLE	Puget Sound Title Company	131,432.08	40,678
			Check Total:	131,432.08	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 6/30/2015 - 11:42 AM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40679	06/30/2015	SAM	Sammamish Plateau Water Sewer	300.00	40,679
			Check Total:	300.00	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 7/1/2015 - 10:27 AM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40680	07/07/2015	3SQUARE	3 Square Blocks	5,775.70	40,680
40681	07/07/2015	ALDWORTH	Kurt Aldworth	7.29	40,681
40682	07/07/2015	ALLTRAFF	All Traffic Solutions	5,056.72	40,682
40683	07/07/2015	ANDERMEL	Melonie Anderson	47.15	40,683
40684	07/07/2015	APP	Associated Petroleum Products	1,208.58	40,684
40685	07/07/2015	BADGLEY	Badgley Landscape LLC	3,085.98	40,685
40686	07/07/2015	BEST	Best Parking Lot Cleaning, Inc	1,029.30	40,686
40687	07/07/2015	BHC	BHC Consultants, LLC	325.00	40,687
40688	07/07/2015	BMC	BMC West Corp	1,553.12	40,688
40689	07/07/2015	BOYSANDG	Boys and Girls Clubs of King County	400.00	40,689
40690	07/07/2015	BRAUNS	Jeff Brauns	960.00	40,690
40691	07/07/2015	BUILDERS	Builders Exchange of WA	6.35	40,691
40692	07/07/2015	CENTLIN2	Century Link	174.16	40,692
40693	07/07/2015	CODEPUB	Code Publishing Inc	614.95	40,693
40694	07/07/2015	COMERTIM	Tim Comer	2,510.30	40,694
40695	07/07/2015	CONNER	Conner Homes at Tremont LLC	21,193.85	40,695
40696	07/07/2015	DEERE	John Deere Landscapes	715.15	40,696
40697	07/07/2015	DELL	Dell Marketing L.P.	1,382.15	40,697
40698	07/07/2015	ECO3	ECO3 Associates LLC	1,550.00	40,698
40699	07/07/2015	FASTENAL	Fastenal Industrial Supplies	731.15	40,699
40700	07/07/2015	GILLES	Gilles Consulting	500.00	40,700
40701	07/07/2015	GLOBALCO	Global Contractors LLC	23,202.67	40,701
40702	07/07/2015	GOODSELL	Goodsell Power Equip Inc	1,616.41	40,702
40703	07/07/2015	GRAINGER	Grainger	6,114.40	40,703
40704	07/07/2015	GRAYOS	Gray & Osborne, Inc.	12,450.72	40,704
40705	07/07/2015	GRUEBER	James Grueber	480.00	40,705
40706	07/07/2015	HOMEDE	Home Depot	2,337.08	40,706
40707	07/07/2015	ICC	NWC Chapter International Code Cou	135.00	40,707
40708	07/07/2015	ICOP	ICOP	69.00	40,708
40709	07/07/2015	INTEGRA	Integra Telecom	1,684.37	40,709
40710	07/07/2015	IRELAND	Jed Ireland	360.00	40,710
40711	07/07/2015	ISSAQ1	Issaquah Press, Inc.	670.50	40,711
40712	07/07/2015	ISSCITY	City Of Issaquah	9,691.00	40,712
40713	07/07/2015	KCBLANK	King County Finance	6,092.33	40,713
40714	07/07/2015	KENYON2	Kenyon Disend PLLC	56,442.12	40,714
40715	07/07/2015	KINGFI	King County Finance A/R	15,123.82	40,715
40716	07/07/2015	KLEINFEL	Kleinfelder, Inc.	6,893.81	40,716
40717	07/07/2015	Krauss	Justin Krauss	50.00	40,717
40718	07/07/2015	LESSCHWA	Les Schwab Tire Center	33.42	40,718
40719	07/07/2015	maren	Marenekos Rock Center	698.41	40,719
40720	07/07/2015	Meischke	Heidi Meischke	141.91	40,720
40721	07/07/2015	MINUTE	Mike Immel	791.14	40,721
40722	07/07/2015	MMCOMFOR	MM Comfort Systems	88.00	40,722
40723	07/07/2015	MOBERLY	Lynn Moberly	1,300.00	40,723
40724	07/07/2015	NAPA	Genunine Parts Company/Issaquah	22.97	40,724
40725	07/07/2015	NC MACH	NC Machinery Co	4,246.71	40,725
40726	07/07/2015	NELSON	Lola Nelson-Mills	580.00	40,726
40727	07/07/2015	NWASPHAL	NW Asphalt, Inc	2,506.72	40,727
40728	07/07/2015	NWLSVC	NW Landscape Services of WA LLC	24,065.96	40,728
40729	07/07/2015	ODELL	Thomas Odell	1,552.78	40,729

Bill # 1

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40730	07/07/2015	OILCAN	Oil Can Henry's	100.72	40,730
40731	07/07/2015	OSBORN	Osborn Consulting, Inc	65,317.34	40,731
40732	07/07/2015	PACAIR	Pacific Air Control, Inc	936.85	40,732
40733	07/07/2015	PACPLANT	Pacific Plants	1,029.30	40,733
40734	07/07/2015	PAPE	Pape Machinery Exchange	5,767.81	40,734
40735	07/07/2015	PAULNWIN	Paul Northwest Investments LLC	465.30	40,735
40736	07/07/2015	PIEDMONT	Piedmont Directional Signs	525.00	40,736
40737	07/07/2015	PIONEERC	Pioneer Cable, Inc.	856.75	40,737
40738	07/07/2015	PLANTSCA	Plantscapes, Inc	20,936.52	40,738
40739	07/07/2015	PNWHOLDI	PNW Holding, LLC	7,500.00	40,739
40740	07/07/2015	PSCLEAN	Puget Sound Clean Air Agency	10,288.75	40,740
40741	07/07/2015	QBS	Quality Business Systems Inc.	488.81	40,741
40742	07/07/2015	RUIZ	Kevin Ruiz	45.43	40,742
40743	07/07/2015	SAM	Sammamish Plateau Water Sewer	2,464.11	40,743
40744	07/07/2015	SAMPRES	Sammamish Presbyterian Church	183.00	40,744
40745	07/07/2015	SB&MAC	Stewart MacNichols & Harmell Inc	15,580.00	40,745
40746	07/07/2015	SOUNDPUB	Sound Publishing, Inc	449.70	40,746
40747	07/07/2015	STAPLES	Staples Advantage	3,044.76	40,747
40748	07/07/2015	TAGS	Tags Awards & Specialties	20.81	40,748
40749	07/07/2015	TILL	Brad Till	210.00	40,749
40750	07/07/2015	TMOBILEU	T Mobile	240.00	40,750
40751	07/07/2015	TRANSOLU	Transportation Solutions, Inc	27,048.75	40,751
40752	07/07/2015	TRIANGLE	Triangle Associates, Inc	6,251.95	40,752
40753	07/07/2015	ULINE	ULINE	2,351.16	40,753
40754	07/07/2015	VOYAGER	Voyager	5,416.52	40,754
40755	07/07/2015	WAAUDIT	Wa State Auditor's Office	9,810.40	40,755
40756	07/07/2015	WATRACTO	Washington Tractor	338.60	40,756
40757	07/07/2015	WAWORK	Washington Workwear Stores Inc	629.50	40,757
40758	07/07/2015	WED	Western Equipment Distributors	553.48	40,758
40759	07/07/2015	WERRE	Lisa Werre	62.85	40,759
40760	07/07/2015	WHITEKAR	Karen White	326.58	40,760
40761	07/07/2015	WINDWARD	Windward Environmental LLC	11,524.68	40,761
40762	07/07/2015	WRIGHTST	Steve Wright	202.09	40,762
			Check Total:	429,235.67	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 7/1/2015 - 1:51 PM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40763	07/02/2015	AWCMED	AWC Employee BenefitsTrust	118,151.13	40,763
40764	07/02/2015	FLEXPLAN	Flex-Plan Services Inc	1,702.66	40,764
40765	07/02/2015	ICMA401	ICMA 401	42,823.49	40,765
40766	07/02/2015	ICMA457	ICMA457	10,697.11	40,766
40767	07/02/2015	IDHW	Idaho Child Support Receipting	326.50	40,767
40768	07/02/2015	LASTELLA	La Stella Foundation	1,200.00	40,768
40769	07/02/2015	LIVESOU	Live Sound & Stage LLC	3,723.00	40,769
40770	07/02/2015	PREPAIDL	LegalShield	109.60	40,770
40771	07/02/2015	PSE	Puget Sound Energy	1,127.19	40,771
40772	07/02/2015	WASUPPOR	Wa State Support Registry	490.50	40,772
40773	07/02/2015	WINGSNTH	Arnold W. Bailey	2,000.00	40,773
			Check Total:	182,351.18	

Bill # 1

Accounts Payable

Check Register Totals Only

User: mdunham
Printed: 7/2/2015 - 9:57 AM

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40774	07/07/2015	LOUISIAN	Richard Allen	700.00	40,774
40775	07/07/2015	AMIREH	Ibtesam Amireh	250.00	40,775
40776	07/07/2015	BACKGROU	Background Source Intl	138.00	40,776
40777	07/07/2015	BADGLEY	Badgley Landscape LLC	3,823.74	40,777
40778	07/07/2015	BRS	Barker Rinker Seacat Architecture	27,250.67	40,778
40779	07/07/2015	CADMAN	Cadman, Inc.	617.65	40,779
40780	07/07/2015	CLOVERDA	Cloverdayle LLC	1,500.00	40,780
40781	07/07/2015	DEJONG	Cory de Jong & Son Inc	398.58	40,781
40782	07/07/2015	DAILY	Daily Journal of Commerce	717.60	40,782
40783	07/07/2015	EVANS	David Evans & Associates, Inc	3,020.39	40,783
40784	07/07/2015	EASTFIRE	Eastside Fire & Rescue	477,715.75	40,784
40785	07/07/2015	ELM	ELM Environments	12,344.19	40,785
40786	07/07/2015	EPICENTE	Epicenter Services LLC	3,341.25	40,786
40787	07/07/2015	EVSAN	Evergreen Sanitation, Inc	755.55	40,787
40788	07/07/2015	EWINGIRR	Ewing Irrigation	1,570.97	40,788
40789	07/07/2015	FASTSIGN	Fastsigns Bellevue	2,929.13	40,789
40790	07/07/2015	FIREPROT	Fire Protection, Inc.	431.43	40,790
40791	07/07/2015	FLEXPLAN	Flex-Plan Services Inc	147.00	40,791
40792	07/07/2015	FLINT	William Flint	9.91	40,792
40793	07/07/2015	HDFOWL	H. D. Fowler Company	939.38	40,793
40794	07/07/2015	HALLORAN	Phillip Halloran	173.26	40,794
40795	07/07/2015	HEGAZY	Mohamed Hegazy	133.50	40,795
40796	07/07/2015	HERMANSO	Hermanson Co LLP	683.02	40,796
40797	07/07/2015	HONEY	Honey Bucket	2,662.98	40,797
40798	07/07/2015	MINUTE	Mike Immel	54.76	40,798
40799	07/07/2015	LACROSSE	Issaquah Lacrosse Club	1,134.00	40,799
40800	07/07/2015	ISSIGNS	Issaquah Signs	416.10	40,800
40801	07/07/2015	JIRSA	Barbara Jirsa	216.54	40,801
40802	07/07/2015	DEERE	John Deere Landscapes	1,072.87	40,802
40803	07/07/2015	JONESELB	Dylan L.B. Jones	61.53	40,803
40804	07/07/2015	KCBLANK	King County Finance	536.00	40,804
40805	07/07/2015	KINGFI	King County Finance A/R	930.00	40,805
40806	07/07/2015	KCRADIO	King Cty Radio Comm Svcs	526.69	40,806
40807	07/07/2015	KLEINFEL	Kleinfelder, Inc.	8,471.43	40,807
40808	07/07/2015	LIVESOU	Live Sound & Stage LLC	1,040.25	40,808
40809	07/07/2015	LIVESOU	Live Sound & Stage LLC	1,040.25	40,809
40810	07/07/2015	MALLORY	Mallory Paint Store	130.69	40,810
40811	07/07/2015	MARSHALL	Marshall Austin Prod, Inc	5,245.00	40,811
40812	07/07/2015	MILLERPA	Pam Miller	850.00	40,812
40813	07/07/2015	PACAIR	Pacific Air Control, Inc	3,435.09	40,813
40814	07/07/2015	PACPLANT	Pacific Plants	1,587.20	40,814
40815	07/07/2015	PACPLUMB	Pacific Plumbing Supply Co. LLC	699.00	40,815
40816	07/07/2015	PACRIM	Pacific Rim Equipment Rental	474.65	40,816
40817	07/07/2015	PACSOIL	Pacific Topsoils, Inc	2,311.00	40,817
40818	07/07/2015	PLANTSCA	Plantscapes, Inc	14,121.00	40,818
40819	07/07/2015	PSE	Puget Sound Energy	42.60	40,819
40820	07/07/2015	REDSIGNS	Redmond Signs	95.13	40,820
40821	07/07/2015	PLATT	Rexel, Inc.	154.29	40,821
40822	07/07/2015	SAMCHAMB	Sammamish Chamber of Commerce	5,000.00	40,822
40823	07/07/2015	Sam	Sammamish Plateau Water Sewer	1,336.29	40,823

Bill # 1

Check	Date	Vendor No	Vendor Name	Amount	Voucher
40824	07/07/2015	SAMSYMPH	Sammamish Symphony Orchestra	3,750.00	40,824
40825	07/07/2015	SEASHAKE	Seattle Shakespeare Company	1,800.00	40,825
40826	07/07/2015	SEQUOYAH	Sequoyah Electric, LLC	2,424.47	40,826
40827	07/07/2015	DUOFINEL	Molly Shannon	500.00	40,827
40828	07/07/2015	SOUNDPUB	Sound Publishing, Inc	503.25	40,828
40829	07/07/2015	SPRAGUE	SPRAGUE	178.21	40,829
40830	07/07/2015	TAGS	Tags Awards & Specialties	32.30	40,830
40831	07/07/2015	TOPTOBOT	Top To Bottom Janitorial, Inc	10,687.06	40,831
40832	07/07/2015	TUFTS	Hollye Tufts	30.50	40,832
40833	07/07/2015	UPROAR	Uproar, Inc.	5,100.00	40,833
40834	07/07/2015	WAWILD	Wa Wildlife & Recreation Coalition	300.00	40,834
40835	07/07/2015	WAWORK	Washington Workwear Stores Inc	50.85	40,835
40836	07/07/2015	WATSONSE	Watson Security	1,631.82	40,836
40837	07/07/2015	WILBUREL	Wilbur-Ellis Company	2,602.60	40,837
			Check Total:	622,827.37	

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: June 22, 2015

Originating Department: Admin Services

Clearances:

☑	Attorney	☑	Community Development	☐	Parks & Recreation
☑	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☐	Public Works

Subject: Resolution: Appointing one member to the Beaver Lake Management Board

Action Required: Approve resolution appointing one member to the Beaver Lake Management Board

Exhibits:
1. Resolution

Budget: N/A

Summary Statement: Currently, there are two vacancies on the Beaver Lake Management District's five-member Board. Recruitment for these positions has been on-going. Dr. Bassem Bejjani has submitted an application for the board. He lives within the Beaver Lake Management District and is a resident of the City of Sammamish. Staff recommends appointing Mr. Bejjani to the board without going through the usual interview process since the board has been operating with only three members for several months. The term will expire in 2017. Recruitment will continue to fill the last remaining position.

Background: On June 19, 2006 the City Council created the Beaver Lake Management District. RCW 36.61 requires the Council to establish a non-paid Advisory Board of watershed property owners. The members should be representative of the diversity among property owners within the Beaver Lake watershed. They are expected to oversee the implementation of the Lake Management District (LMD) program and to assist the City of Sammamish in establishing annual budgets and work plans for the use of LMD revenues and expenditures. Terms for the management district are five years in length.

Financial Impact:

Recommended Motion: Adopt resolution appoint one member to the Beaver Lake Management District Board.

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO. R2015-_____

A RESOLUTION OF THE CITY OF SAMMAMISH CITY COUNCIL APPOINTING ONE MEMBER TO THE BEAVER LAKE MANAGEMENT DISTRICT ADVISORY BOARD

WHEREAS, the Beaver Lake Management District began operating in 2007 for a period of ten (10) years; and

WHEREAS, the City Council finds that the District would benefit from a citizen advisory board working in conjunction with the King County Water and Land Resource Division and City staff; and

WHEREAS, there are currently two vacant Commission positions; and

WHEREAS, the City Council solicited applications for the vacant Commission positions; and

WHEREAS, the City Council has received and reviewed 1 qualified application;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO RESOLVE AS FOLLOWS:

Section 1. Appointment of Members. The following individuals are appointed to the Beaver Lake Management District Advisory Board:

Bassem Bejjani, Term expires December 31, 2017

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Resolution be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Resolution or its application to other persons or circumstances.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF JULY, 2015

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

Exhibit 1

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

_____

Approved as to form:

_____
Michael R. Kenyon, City Attorney

Filed with the City Clerk:	June 22, 2015
Passed by the City Council:	July 7, 2015
Resolution Number	R2015-_____

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: 6/16/2015

Originating Department: City Manager

Clearances:

☑ Attorney	☐ Community Development	☐ Parks & Recreation
☐ Admin Services	☐ Eastside Fire and Rescue	☐ Police
☑ City Manager	☐ Finance & IT	☐ Public Works

Subject: Resolution Establishing Klahanie Annexation Transition Committee

Action Required: Pass resolution establishing Transition Committee

Exhibits: 1. Resolution

Budget: There is no impact on the budget

Summary Statement:
The city is proposing to form a Klahanie-Area Annexation Transition Committee ("Committee") made up of residents from the annexation area. The Committee is expected to meet approximately once per month, beginning in August, 2015, and then to dissolve after the Klahanie-area is officially annexed to Sammamish. The purpose of the committee is to provide feedback to the City as the annexation process continues, and to convey information from the City to the residents of the annexation area.

Background:
After residents in the Klahanie-area annexation area voted in favor of annexation to Sammamish in the April 28, 2015, election, the idea of a transition committee was proposed. City staff was assigned the task of organizing the committee. Following discussions with senior City staff and Klahanie-area residents, staff suggested the following:

- That the homeowner's association (HOA) for Klahanie proper, with approximately 80 percent of the annexation area's population, should have four representatives on the committee
- That the other, smaller HOAs within the annexation area should each have one representative
- That all resident representatives should be selected by their respective HOAs
- That a business owner from the annexation area should also serve on the committee

In further discussions with senior City staff and a number of Klahanie-area residents, there appeared to be a consensus that this would be a reasonable approach. Staff then proceeded with efforts to notify all the HOAs within the annexation area. In addition to emailing all known HOA contacts, staff visited neighborhoods, knocked on doors and tried to identify HOAs that weren't present on the available HOA

lists. Staff also put an item in the City newsletter asking all HOAs in the annexation area to contact the city if they wanted to be part of the transition committee. Although not all neighborhoods responded, staff estimates that the HOA representatives who've agreed to be on the committee represent approximately 95% of the annexation area residents.

Financial Impact:
There is no impact to the budget.

Recommended Motion:
Motion to adopt the attached resolution, which establishes the Klahanie-area Annexation Transition Committee and identifies its members, all of whom have been put forward by their respective HOAs.

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO. R2015-____

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF SAMMAMISH, WASHINGTON, ESTABLISHING A KLAHANIE-AREA ANNEXATION TRANSITION COMMITTEE

WHEREAS, the City of Sammamish, Washington, will soon be welcoming the residents of the Klahanie-area annexation area into the City; and,

WHEREAS, the City wishes to stay well informed regarding the wishes and concerns of said residents as the annexation process continues; and,

WHEREAS, the City would very much like to keep said residents up to date regarding City policies, practices and information; and,

WHEREAS, a transition committee made up of said residents would appear to be an excellent vehicle for accomplishing both of these worthy goals; and,

WHEREAS, it seems reasonable to have asked Klahanie-area homeowners associations to identify appropriate representatives from their respective neighborhoods; and,

WHEREAS, it would also be valuable to include a representative of the Klahanie-area business community as part of this committee

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Klahanie-Area Transition Committee Established. The City Council hereby establishes the Klahanie-Area Transition Committee, effective July 7, 2015.

Section 2. Membership. The members of the Klahanie-Area Transition Committee shall be as set forth in Attachment A hereto.

Section 3. Term. The Klahanie-Area Transition Committee shall remain in existence until the Klahanie-area is officially annexed to the City, and for such additional amount of time as the Council may determine.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 7th DAY OF JULY, 2015.

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

_____
Melonie Anderson, City Clerk

Approved as to form:

_____
Michael R. Kenyon, City Attorney

Filed with the City Clerk: June 16, 2015
Passed by the City Council:
Resolution No.: R2015 –

Attachment A – Klahanie-Area Transition Committee Members

Brent Marshall	Klahanie Association
Brian Garvey	Klahanie Association
Stephanie Page-Lester	Klahanie Association
Jan Christian	Klahanie Association
Mike Foss	Brookshire Estates
Jay Sak	Brookshire Crest
John Gunn	Livingston
Ray Edmonds	Summer Meadows
Gerda Franc	Glenwood
Lorrie Schleg	Summer Pond
Jenny Bedell	Rainbow Lake
Julie Pai	Pine Lake Meadows
Leland Gordon	Jacob’s Meadow
Dennis Helppie	Plateau Music

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: July 1, 2015

Originating Department: Public Works

Clearances:

☑	Attorney	☐	Community Development	☐	Parks & Recreation
☐	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☑	Public Works

Subject: Final Project Acceptance, 2014 STORMWATER REPAIRS – Overlays
Contract #C2015-150
Final Project Acceptance

Action Required: Adopt the resolution accepting the "2014 Stormwater Repairs" project as complete.

Exhibits:
1. Final Contract Voucher Certificate
2. Resolution of Project Acceptance

Budget: $156,044.50 budgeted in 2015

Summary Statement:
All work for the above referenced contract has been completed in accordance with the project specifications. The recommended action approves the final contract amount and constitutes the final acceptance of the work. There were no contractor claims filed against the City and no liquidated damages were assessed against the contractor.

Background:
Council authorized the City Manager to award and execute a contract with the lowest responsive and responsible bidder, Iron Creek Construction, LLC, for the construction of the "2014 Stormwater Repairs" project in an amount not to exceed $156,044.50. The project was initially bid in 2014, but no bids were received. The project was then re-bid in 2015. The design and construction management for this project was completed in house by City staff.

Financial Impact:
None.

Recommended Motion:
Approve the resolution for acceptance of the 2014 Stormwater Repairs as complete by Iron Creek Construction, LLC.

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO. R2015-

A RESOLUTION OF THE CITY OF SAMMAMISH, WASHINGTON, ACCEPTING THE "2014 STORMWATER REPAIRS" PROJECT AS COMPLETE.

WHEREAS, at the Council meeting of April 7, 2015 the City Council authorized the City Manager to enter into a contract with the lowest responsible and responsive bidder for the "2014 Stormwater Repairs Project; and

WHEREAS, the City Manager entered into Contract C2015-150 with Iron Creek Construction, LLC on April 28, 2015; and

WHEREAS, the project was substantially completed by the contractor on June 1, 2015;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Project Acceptance. The City of Sammamish hereby accepts the "2014 Stormwater Repairs" Project as complete.

Section 2. Authorization of Contract Closeout Process. The City of Sammamish Director of Public Works and City Clerk are hereby authorized to complete the contract closure process upon receiving appropriate clearances from the Department of Revenue, and the Department of Employment Security.

Section 3. Effective Date. This resolution shall take effect immediately upon signing.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 7TH DAY OF JULY 2015.

CITY OF SAMMAMISH

_____

Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

_____
Melonie Anderson, City Clerk

Approved as to form:

_____
Michael R. Kenyon, City Attorney

Filed with the City Clerk:	July 1, 2015
Passed by the City Council:	July 7, 2015
Resolution No.:	R2015-

Exhibit 2

City of Sammamish Washington

Final Contract Voucher Certificate

Contractor Iron Creek Construction , LLC			
Street Address 22525 SE 64th Pl.			
City Issaquah	State WA	Zip 98027	Date 7/1/2015
City Project Number NA	Federal Aid Project Number NA		City Contract Number C2015-150
Contract Title 2014 Stormwater Repairs			
Date Work Physically Completed 6/5/2015	Final Amount $ 124,784.02		

Contractor's Certification

I, The undersigned, having first been duly sworn, certify that I am authorized to sign for the claimant; that in connection with the work performed and to the best of my knowledge no loan, gratuity or gift in any form whatsoever has been extended to any employee of the City of Sammamish nor have I rented or purchased any equipment or materials from any employee of the City of Sammamish; I further certify that the attached final estimate is a true and correct statement showing all the monies due me from the City of Sammamish for work performed and material furnished under this contract; that I have carefully examined said final estimate and understand the same and that I hereby release the City of Sammamish from any and all claims of whatsoever nature which I may have arising out of the performance of said contract, which are not set forth in said estimate.

NATHAN DODSON
COMMISSION EXPIRES
NOTARY PUBLIC
5-3-2016
STATE OF WASHINGTON

X _____
Contractor Authorized Signature Required

PAUL TRAVERSO
Print Signature Name

Subscribed and sworn to before me this 1ST day of JULY 20 15

X _____ Notary Public in and for the State of WA

residing at MAPLE VALLEY.

City of Sammamish

I, certify the attached final estimate to be based upon actual measurement, and to be true and correct.

Approved Date 7/1/15

X _____
Project Engineer/Project Administrator

X _____
City Engineer

This Final Contract Voucher is to be prepared by the Project Engineer or Project Administrator. Contractors Claims, if any, must be included and the Contractors Certification must be labeled indicating a claim attached.

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: 6/30/2015

Originating Department: Parks and Recreation

Clearances:

- ☑ Attorney
- ☐ Community Development
- ☐ Public Safety
- ☐ Admin Services
- ☐ Finance & IT
- ☐ Public Works
- ☑ City Manager
- ☑ Parks & Recreation

Subject: Reject the bid for the Big Rock Park Phase I project

Action Required: Authorize the City Manager to reject the bid submitted for the Big Rock Park Phase I project.

Exhibits: 1. Bid Tab

Budget: $545,000 is allocated in the 2015-2016 Parks CIP for the Big Rock Park Phase I project.

Summary Statement:
The project was bid on June 3, 2015 after obtaining all required permits from local and state jurisdictions. Two potential bidders attended the pre-bid walk through on June 9, 2015, but only one bid was received on the date of bid opening. The base bid received from Zemek Construction Company, LLC was in the amount of $640,500. This is significantly higher than the Engineer's estimate of $375,000 and exceeds the appropriated funding for this project. Staff recommends that the bid submitted be rejected and the project be re-bid.

Background:
Big Rock Park (Site A) opened to the public in October 2011 after being transferred to the City as part of a phased land donation by Mary Pigott. Shortly after the "soft opening" of Big Rock Park, the Park Planning team began work on the master plan. The master plan was adopted by the City Council on July 1, 2014.

Phase I development encompasses the north meadow adjacent to SE 8th Street. The project development area is 2 acres. This includes a portion of an existing driveway accessing the site, an expansive meadow with rolling slopes and a large wetland with a stream flowing along much of the wetland's southern boundary. The varying topography of the open meadow provides an excellent

opportunity for habitat restoration and enhancement along with integrating a natural playscape into the existing park setting.

The Big Rock Park Phase I project consists of demolition, clearing and grading, installation of a new asphalt parking lot with curb, gutters and stormwater facilities. The project also includes a flagstone park entrance and overlook, accessible trails, stone walls, natural and manufactured play features, a sani-can enclosure, site furniture, buffer plantings, and meadow seeding and irrigation.

On December 2, 2014, City Council approved a design contract with ELM Environments, a landscape architecture firm, for Phase I design, permitting and construction administration services.

Financial Impact:
There will be a minor expense to re-advertise and re-bid the project, likely in the amount of a few hundred dollars.

Recommended Motion:
Authorize the City Manager to reject the bid submitted for the Big Rock Park Phase I project.

Exhibit 1

City of Sammamish **BID OPENING** 3:00 PM

Parks and Recreation Department

Big Rock Park Phase I

June 23, 2015

BIDDER	SIGNED PROPOSAL	STATEMENT OF BIDDERS QUALIFICATIONS	BID BOND	RESPONSIBLE BIDDER CRITERIA	NON-COLLUSION AFFIDAVIT	SCHEDULE A: BASE BID	SCHEDULE B: BOARDWALK	SCHEDULE C: SKYVIEW DISCOVERY	SCHEDULE D: EARTH CUT BOULDERS	SCHEDULE E: UNANTICIPATED UNSUITABLE MATERIAL	SCHEDULE F: UNANTICIPATED SELECT FILL	TOTAL
Zemek Construction	X	X	X	X	X	$640,500	$54,000	$27,000	$12,750	$2,275	$2,100	$738,625

Construction Allowance: $375,000

A contract will be awarded, if at all, based on the lowest responsible bidder for the **Total Bid Price** for all schedules. Bid alternative schedules may or may not be awarded. Award date anticipated June 7, 2015.

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: July 1, 2015

Originating Department: Public Works

Clearances:

☑	Attorney	☐	Community Development	☑	Parks & Recreation
☐	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☑	Public Works

Subject: Sammamish Landing Parking Lot Paving

Action Required: Authorize the City Manager to award and execute a contract for paving the parking lot at Sammamish Landing

Exhibits: Project Estimate

Budget: The Council authorized amount for this project is $2,257,183, of which $588,279 is remaining. This project is funded through the Parks CIP.

Summary Statement:
This contract authorization is to complete the parking lot at Sammamish Landing. The scope of the project includes approximately 125,000 square feet of asphalt paving and 540 linear feet of concrete curb. Once paving is complete, our maintenance crews will stripe the parking lot and King County will install the crosswalk. The project calls for 35 parking stalls and we estimate this remaining work will take approximately two weeks to complete.

Quotes are currently being solicited for this project and will not be available in time for the July 7, 2015 Council meeting. Rather than delay this contract award until the next Council meeting, staff are recommending that the City Council authorize the City Manager to award the contract to the lowest responsible bidder in an amount not to exceed $35,000. The cost estimate for the project is attached.

Background:
The City recently relieved the contractor of their construction obligations at Sammamish Landing and as a result we are left with several unfinished items at the park site. Completing the parking lot was identified as the highest priority item as the warm weather is drawing large crowds to the park each day. The remaining work, including construction of the park entry ramp and installation of the restroom building, will take place this fall.

Additional Project Background:
The first phase of improvements at Sammamish Landing Park consisted of two picnic shelters, a trail head, enhancements to existing trails, a portable restroom, site furnishings, mitigation plantings and

access to existing pocket beaches. The two existing docks were also replaced with floating docks for year-round use.

Currently, primary access to the park is from the East Lake Sammamish Trail or by vehicle with parking on the shoulders of East Lake Sammamish Parkway. There have been safety concerns, particularly in the summer when park usage is at its peak. Previously, many Sammamish Landing users would utilize street parking along 187th Ave NE, approximately 1/3 mile to the north. Unfortunately there is no longer any street parking on 187th Ave NE due to a recent restriping of the roadway. The City of Redmond reconfigured 187th Ave NE to add bike lanes and eliminated on-street parking due to the recent opening of 188th Ave NE to Union Hill Road.

Financial Impact:
A financial summary of the Sammamish Landing Phase II project is provided below:

Council Authorized Amount	$2,257,183
Expenditures to date	$1,668,904
Balance Remaining	$ 588,279

The cost to complete the parking lot paving project is not to exceed $35,000 and is within the amount previously authorized by the City Council.

Recommended Motion:
Authorize the City Manager to award and execute a construction contract with the lowest responsive bidder for the Sammamish Landing paving project in an amount not to exceed $35,000.

Exhibit 1

Sammamish Parking Lot Estimate

Based on Contractor Quotes

Scope: 2" Asphalt Surface for Samamish Landing Parking Lot. Extruded Concrete Curb Placement

Estimate Date: 1-Jul-15

Estimate By: AWZ

Item	Qty	Unit	Unit Price	Total
Asphalt Pavement	12500	SF	2	$25,000.00
Extruded Concrete Curb	540	LF	9	$4,860.00

Subtotal	$29,860.00
Tax	$2,836.70
Constrtuction Estimate	$32,696.70
5% Contigency	$1,634.84
Total:	$34,331.54

Exhibit 1

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: 7/1/2015

Originating Department: Parks and Recreation

Clearances:

- ☑ Attorney
- ☐ Community Development
- ☐ Public Safety
- ☐ Admin Services
- ☐ Finance & IT
- ☐ Public Works
- ☑ City Manager
- ☑ Parks & Recreation

Subject: Safety Net Installation Project at the Eastlake High School Community Sports Fields

Action Required: Authorize the City Manager to execute an agreement with the Lake Washington School District for the completion of the Safety Net Installation Project at the Eastlake High School Community Sports Fields for an amount not to exceed $75,000.

Exhibits: A. Site Plan

Budget: $80,000 is allocated in the 2015-16 Parks Capital Replacement Budget for the Safety Net Installation Project.

Summary Statement:
The Safety Net Installation Project at the Eastlake High School (EHS) Community Sports Fields consists of modifying an existing fence between the Community Sports Field and the EHS Football Stadium. This work includes removal of the existing chain link fence posts and replacement with new posts and ball control netting. Minor demolition and replacement of asphalt paving and concrete footings is required to complete the work.

This work was originally planned to be completed as part of the EHS Community Sports Field turf replacement project scheduled for the summer of 2016. The Lake Washington School District (LWSD) is currently underway with a turf replacement project for the football stadium field and agreed to include this additional work in their construction contract. The City will reimburse LWSD for the portion of costs associated with the safety net installation. It is anticipated that this work will be completed early this fall.

Background:
In early 2014, community user groups and school sports teams requested that the existing fence between the community sports fields and the football stadium be upgraded to improve safety in the spectator seating area, training facilities and running track. Staff observed existing conditions (lacrosse balls flying over the fence) and concurred with the recommendation. The EHS community fields are the highest used artificial turf fields in the Sammamish parks system, with resulting high use and crowding in

the spectator area. The field is in use all year by soccer, lacrosse, baseball, softball and football community user groups and school sports teams.

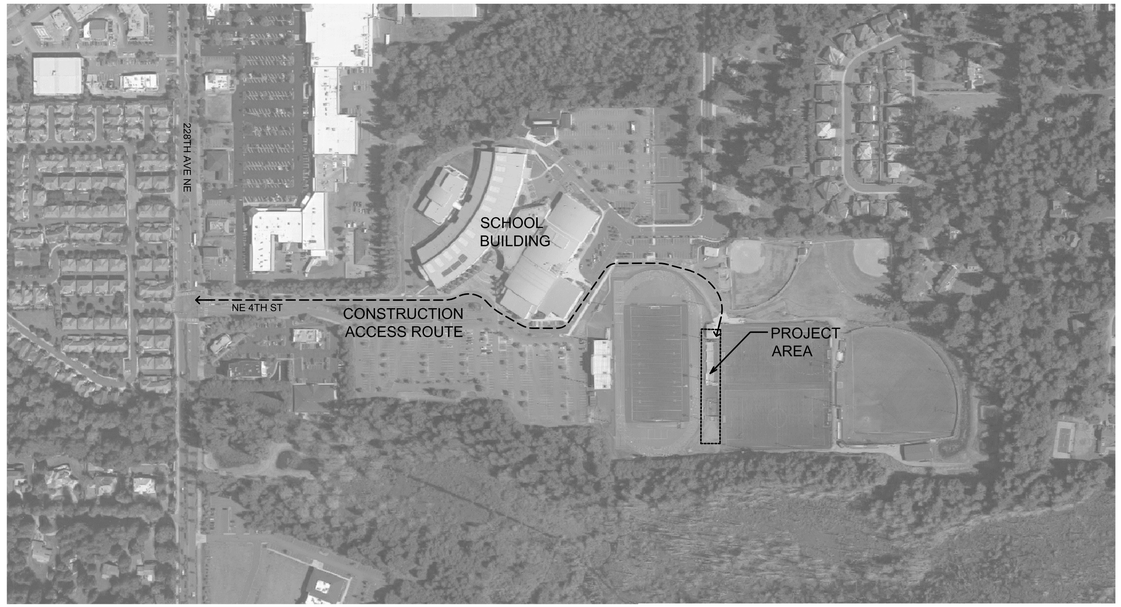
Exhibit A (see attached) provides a layout of the planned improvements. The design includes installation of 10 new 30' netting posts along the fence line and 300 linear feet of new netting material, extending 22' above the existing 8' chain link fence. A considerable cost saving is associated with utilizing the existing chain link fence.

For comparison, this netting system is consistent with what we've installed on the west end of the EHS Community Sports Fields, Skyline High School and East Sammamish Park. It is also the industry standard for all new backstops.

Financial Impact:
$80,000 is allocated in the 2015-16 Parks CIP for the Safety Net Installation project. The final costs are still being negotiated, therefore we are requesting a not-to-exceed amount of $75,000 to complete the work

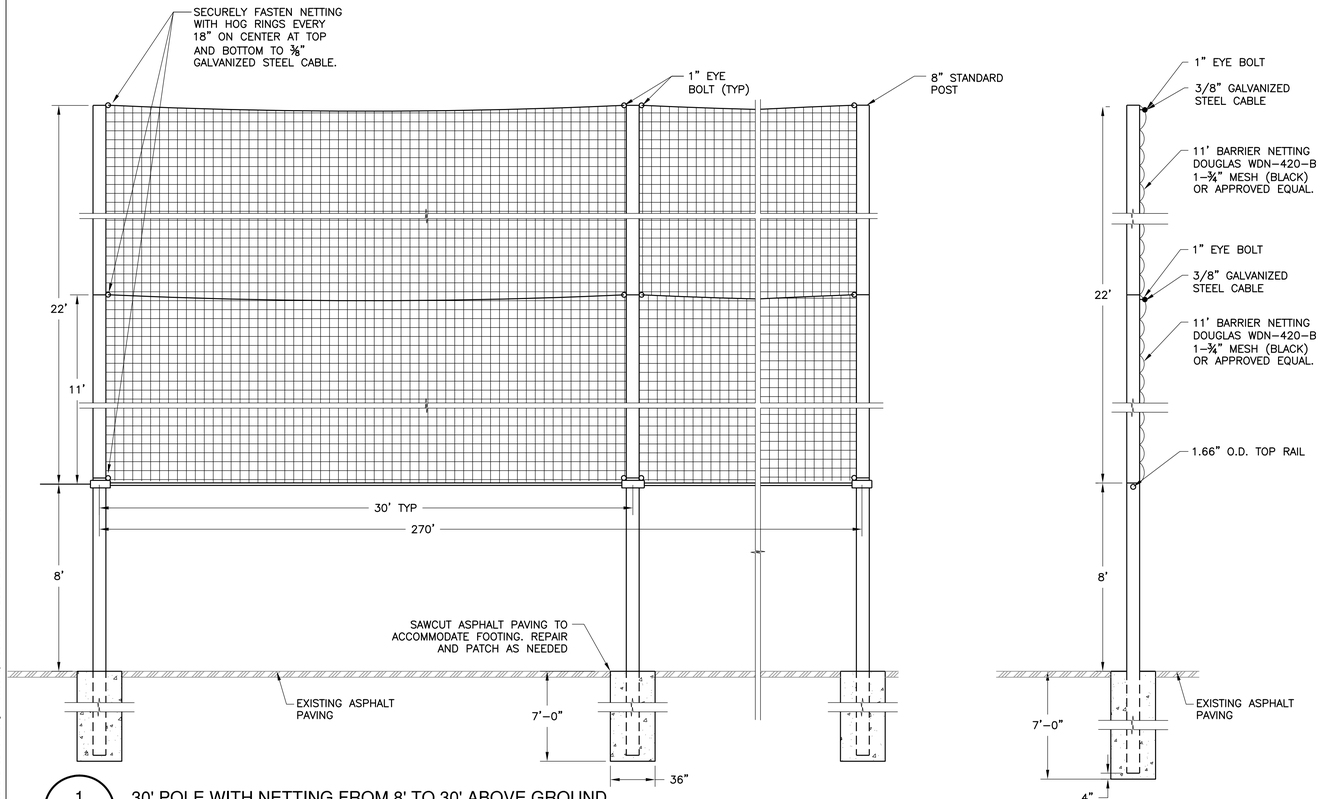
Recommended Motion:
Authorize the City Manager to execute an agreement with LWSD for the completion of the Safety Net Installation Project at the EHS Community Sports Fields for an amount not-to-exceed $75,000.

Exhibit 1



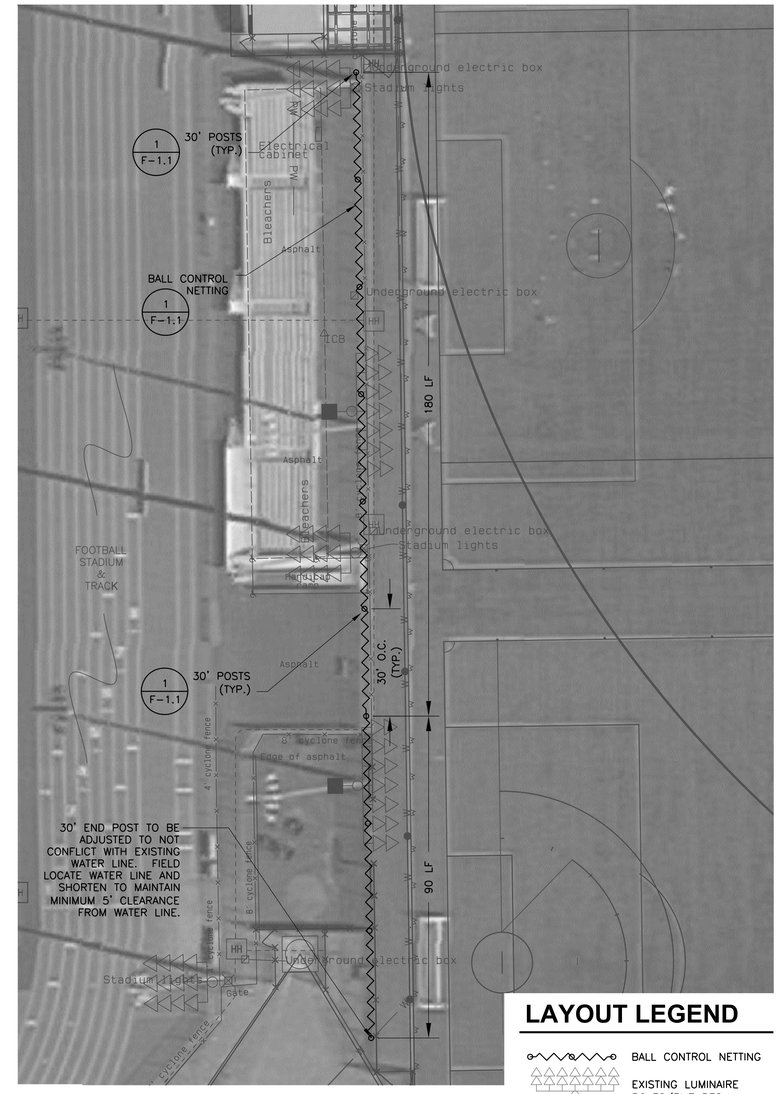
SITE CONTEXT AND ACCESS

NOT TO SCALE



1 / F-1.1 30' POLE WITH NETTING FROM 8' TO 30' ABOVE GROUND

NOT TO SCALE



LAYOUT PLAN

SCALE 1"= 20'

LAYOUT LEGEND

- BALL CONTROL NETTING
- EXISTING LUMINAIRE POLES/FIXTURES

AXONOMETRIC PROJECTION

REVISION	DATE

Lake Washington School District

COMMUNITY SPORTS FIELD AT EASTLAKE HIGH SCHOOL

DA HOGAN
119 1st Avenue South, Suite 110
Seattle, Washington 98104
p. 206.285.0400
f. 206.285.0480

NORTH

0 20' 40'

SCALE: 1" = 20'

DATE	06-26-15
SCALE	1" = 20'
DRAWN	JNM/ CPW
CHECKED	RSH

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BALL CONTROL NET LAYOUT PLAN

SHEET

F-1.1

File: F-0 Eastlake Current.dwg Plotted by: corneliaw Date: 26-Jun-15 9:04:53am

Exhibit 1

STUDY SESSION NOTES

Study Session

June 9, 2015

Mayor opened the study session of the Sammamish City Council at 6:30 p.m.

Public Comment

*This is an opportunity for the public to address the Council. Three-minutes limit per person or 5 minutes if representing the official position of a recognized community organization***.**

Christie Malchow, 20920 SE 8th Place, She spoke regarding the Klahanie annexation date. She feels it should be August 1, 2015

Topics

- 2015 Comprehensive Plan Update
  - Housing Element

Adjournment 9:10 pm

STUDY SESSION NOTES

Committee of the Whole

June 15, 2015

Mayor opened the study session of the Sammamish City Council at 6:30 p.m.

Public Comment

*This is an opportunity for the public to address the Council. Three-minutes limit per person or 5 minutes if representing the official position of a recognized community organization***.**

Harry Shedd, 2313 Sahalee Drive E., He questioned why the Council was delaying in bringing forth an ordinance regarding initiative and referendum powers.

Topics

- Initiative & Referendum Discussion
- Comprehensive Plan Update
  - Environment Element Discussion

Executive Session - Personnel pursuant to RCW 42.30.110(1)(g) and Litigation pursuant to RCW 42.30.110(1)(i)

Council retired to Executive Session at 8:30 pm and returned at 9:15 pm. No action was taken.

Adjournment 9:15 pm

COUNCIL MINUTES

Regular Meeting

June 16, 2015

Mayor Tom Vance called the regular meeting of the Sammamish City Council to order at 6:30 pm.

Councilmembers present:
Mayor Tom Vance
Deputy Mayor Kathy Huckabay
Councilmember Don Gerend
Councilmember Bob Keller
Councilmember Tom Odell (arrived at 7:02 pm)
Councilmember Ramiro Valderrama
Councilmember Nancy Whitten

Staff present:
Ben Yazici, City Manager
Lyman Howard, Deputy City Manager
Laura Philpot, Assistant City Manager/Public Works Director
Jeff Thomas, Community Development Director
Joe Guinasso, Finance and Technical Services Director
Beth Goldberg, Director of Administrative Services
Mike Kenyon, City Attorney
Melonie Anderson, City Clerk

Roll Call/Pledge of Allegiance

Roll was called. Boy Scout Den 7 Troop 682 led the pledge.

Approval of Agenda and the Consent Agenda

Deputy Mayor Huckabay moved to amended the June 2, 2015 Council minutes to include that Denise Darnell also spoke about her high school class being in favor of a plastic bag ban. Councilmember Valderrama seconded. Motion carried 6-0.

MOTION: Councilmember Keller moved to approve the agenda including the Consent Agenda as amended. Deputy Mayor Huckabay seconded. Motion carried unanimously 6-0.

Public Comment

Jim Berry, 1420 NW Gilman Blvd, Representing Mountains to Sound Greenways, He invited every to attend the 25th Anniversary Trek. July 11-19, 2015. For more information go to mtsgreenway.org/trek.

Jill Loveland, 25710 SE 32nd Place, She spoke in favor of the Initiative & Referendum powers and urged Council to grant them.

Mary Wickter, 408 208th Avenue NE, She showed a PowerPoint presentation regarding technology for drainage options.

Tom Harmon, 4369 243rd Avenue SE, He spoke in favor of an August 1 annexation date for Klahanie.

City Manager Ben Yazici responded to Mr. Harman's public comment. He explained that the reasons to delay the annexation until 2016 were to allow enough time to hire police and city staff, as well to as to make sure that the current residents of the City do not experience a decrease in services as a result of the annexation.

Consent Agenda

- Payroll for period ending May 31, 2015 for pay date June 5, 2015 in the amount of $ 325,750.89

Approval: Claims for period ending June 16, 2015 in the amount of $ 3,414,910.99 for Check No. 40536 through 40662

Interlocal Agreement: 2015 Pavement Management Program-Overlays/Sammamish Plateau Water & Sewer

Interlocal Agreement: 2015 Pavement Management Program-Overlays/Northeast Sammamish Sewer & Water

Contract: 2015 Pavement Management Program-Overlays Project Management/KBA, Inc.

Approval: May 5, 2015 Regular Meeting Minutes

Approval: May 12, 2015 Study Session Notes

Approval: May 18, 2015 Committee of the Whole Notes

Approval: May 19, 2015 Regular Meeting Minutes

Approval: June 1, 2015 Special Study Session Notes

Approval: June 2, 2015 Regular Meeting Minutes

Public Hearing - None

Unfinished Business - None

New Business - None

Council Reports

MOTION: Councilmember Whitten suggested the following changes be considered to the Environmental Element of the Comprehensive Plan update: In addition to existing policy and regulations, the Erosion Hazard Near Sensitive Water Body and Wetland Management Area overlays, as well as small lake basins, are entitled to additional protections by the City such as seasonal clearing and grading restrictions, tree retention, reduced impervious surface limits, open space dedication requirements, reduced lot dimensions as well as density credit limitations. Councilmember Valderrama seconded. Motion carried unanimously 6-0.

Councilmember Whitten believes that the Community Development Director's discretion is too broad. She would ask council approval to seek expedited review in Fall 2015. She requested the Mayor and Deputy Mayor to set specific meeting dates for scheduling of such review of the following two matters:

1.1 Possible deletion from the Overlay Code, SMC 21A.50.225(2)(c) of the director's discretion to create exceptions to the overlay requirements.

1.2. Possible repeal of our Low Impact Development Code for reasons that it is becoming obsolete because of the NPDES permitting requirements and it now grants to grants such things as density credits for things like tree retention required under our critical areas code, double dipping.

Mr. Yazici said he would check with Community Development staff regarding their work load to determine if these topics could be added to the fall calendar.

Councilmember Whitten also believes the comprehensive plan process has shown that some of the previous provisions unique for the protection of our overlay areas and our small lake basins (Pine and Beaver) have been changed without policy discussion by council. The changes were likely a result of broader changes in our general city-wide code and/or rules and regulations (e.g., to our Surface Water Drainage manual or in our NPDES permit papers), and without an understanding of the changes they were causing to the overlay and small lake protective provisions. Possible example: Except for in critical areas, seasonal clearing and grading restrictions for our small lake basins was eliminated. The 35% impervious surface limitation in the overlays is reportedly being interpreted to apply differently than it did before, and the 45% impervious surface limitation in the small lake basins can now increase up to 75% in certain cases.

Council was supportive of these items being looked at and perhaps discussed at a study session.

Councilmember Keller reported on the EF & R Board meeting. He reported on the Sound Cities Association (SCA) Public Involvement Committee and reported that the SCA did not agree to support the plan to end homelessness. He expressed concerns about parking and street crossings at Sammamish Landing Park.

Councilmember Gerend reported on the National League of Cities steering committee meetings.

Deputy Mayor Huckabay reported on the EF & R budget.

Councilmember Valderrama requested that Council consider funding options for the Issaquah Pine Lake Road project at a future Council meeting. He also asked when the City Council will meet with County legislators to discuss the Eastlake Sammamish Trail issues.

Councilmember Odell reported on the Transportation Committee meeting for the National League of Cities.

Mayor Vance attended the first graduation ceremony for students from the Tesla STEM High School and Eastlake High School graduation ceremony.

City Manager Report

- **Update:** Solid Waste Request for Bid - Administrative Services Director Beth Goldberg gave the staff report and showed a PowerPoint presentation (available on the city's website at www.sammamish.us).

- **Update:** Habitat for Humanity Project – Deputy City Manager Lyman Howard gave the staff report and showed a PowerPoint presentation (available on the city's website at www.sammamish.us). Council asked staff to check on the access to the development. They would like to see ingress/egress at SE 20th Street. Councilmember Valderrama requested the total value of the project had it not been subsidized and what the median income of residents would be. Councilmember Whitten inquired about any monetary donation the city is giving to the project.

Executive Session – Executive Session regarding the evaluation of an applicant for public employment pursuant to RCW 42.30.110(1)(g).

Council retired to Executive Session at 8:11 am and returned at 8:36 pm.

MOTION: Councilmember Whitten moved to authorize the Mayor to sign an employment contract for Lyman Howard as the next City Manager with a salary of $181,158.25 and under the terms of the agreement. Deputy Mayor Huckabay seconded. Motion carried unanimously 7-0.

Meeting adjourned at 8:52 pm

_____ _____

Melonie Anderson, City Clerk Thomas E. Vance, Mayor

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: July 1, 2015

Originating Department: Public Works

Clearances:

☑	Attorney	☐	Community Development	☐	Parks & Recreation
☐	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☑	Public Works

Subject: 2016-2021 Six-Year Transportation Improvement Plan (TIP)

Action Required: Conduct Public Hearing and Adopt Resolution

Exhibits:
1. Resolution adopting the 2016-2021 6-year TIP
2. 2016-2021 TIP Project List
3. Project Map

Budget: N/A

Summary Statement:
All cities are required by state law (RCW Chapter 35.77) to have a Six-Year Transportation Improvement Program (TIP) and to adopt an update of the TIP annually. These updates must be pursuant to one or more public hearings and shall be consistent with the City's Comprehensive Plan. Lastly, the annual TIP must be filed with the Secretary of Transportation within 30 days after adoption.

The TIP is a planning document that identifies transportation capital improvement programs and projects the City foresees undertaking over the next 6 years. The TIP by itself does not authorize projects to move forward nor provide funding for any of its listed projects; for that to occur requires that individual projects be funded through the City's normal budget adoption process.

Background:
This is an annual adoption that is required by State law. Resolution R2014-589 adopting the 2015-2020 TIP was approved at the June 17, 2014 City Council Meeting and included $50.36 million in transportation improvements. The 2016-2021 TIP includes $90.2 million in transportation improvements.

This update to the TIP is continuing the annual progression of the 18-year TIP that was developed in collaboration with the new road impact fee adopted by the City Council in 2006 (and recently updated on May 6, 2014). Notable changes to this update of the TIP include the following:

<u>Project Additions</u>

- Issaquah-Fall City Rd: Klahanie Dr SE to Issaquah-Beaver Lake Road
- Issaquah-Pine Lake Rd – Klahanie Blvd to SE 32nd (Programmed the funds)

Project Deletions

- Local Improvement Districts

Please note that Issaquah-Pine Lake Road Improvements between SE 48th St – Issaquah-Fall City Road are not included in the 2016-2021 TIP because the project is contingent on Issaquah de-annexing the road.

Financial Impact:
There is no financial impact at this time. The 6-year TIP is a planning document and as such does not commit the City to any financial obligations. Council will encounter and address the financial impacts in the future as they appropriate funding for the various projects listed in the 6-year TIP. Listing a project on the TIP allows it to be eligible for grant funding.

Recommended Motion:
Move to approve the resolution adopting the 2016-2021 Transportation Improvement Plan.

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO.

A RESOLUTION OF THE CITY OF SAMMAMISH, WASHINGTON, ADOPTING AN UPDATED SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN FOR 2016-2021

WHEREAS, state law requires the legislative body of each city to prepare and adopt a comprehensive transportation improvement plan for the ensuing six years; and

WHEREAS, the purpose of such plan is to ensure that each city shall have plans looking to the future, for not less than six years, as a guide in carrying out a coordinated transportation program; and

WHEREAS, if a city has adopted a comprehensive plan, state law provides that the transportation improvement plan shall be consistent with the comprehensive plan; and

WHEREAS, the adoption of a transportation improvement plan will allow the City to coordinate planning efforts, mitigate certain transportation impacts, and pursue grant funding for transportation projects; and

WHEREAS, the updated plan is consistent with recent changes to RCW 35.77.010 and incorporates urban planning approaches that promote physical activity and non-motorized and transit oriented projects; and

WHEREAS, the City Council has conducted a public hearing to receive comments on the proposed plan;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Adoption of Transportation Improvement Plan. The City hereby adopts the Six-Year Transportation Improvement Plan, 2016 - 2021, attached hereto as Exhibit "A" and incorporated herein by reference.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 7th DAY OF JULY, 2015.

Exhibit 1

CITY OF SAMMAMISH

APPROVED

_____

Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

_____

Melonie Anderson, City Clerk

Approved as to form:

_____

Michael R. Kenyon, City Attorney

Filed with the City Clerk:

Passed by the City Council:

Resolution No.:

Exhibit 2

EXHIBIT A

2016 - 2021 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM - DRAFT

Project List and Total Project Expenditure Summary (subject to City Council budget decisions)

		#	Project Title	2016	2017	2018	2019	2020	2021	6-Year Total	Prior Years	Future Years	Total Project Costs
CONCURRENCY PROJECTS	CAPITAL PROJECTS	1	**SE 4th St - 218th Ave SE to 228th Ave SE** Widen to 3 lanes with bike lanes, curb, gutter and sidewalk	725,000	9,446,000	5,000,000				15,171,000	725,000		15,896,000
		2	**Issaquah-Pine Lake Rd - Klahanie Blvd to SE 32nd** Widen to 3 lanes with bike lanes, curb, gutter, sidewalk and roundabout				1,200,000	2,000,000	4,800,000	8,000,000		4,900,000	12,900,000
		3	◙ **Issaquah-Pine Lake Rd - SE 48th St to Klahanie Blvd** Widen to 5 lanes with bike lanes, curb, gutter and sidewalk		800,000	2,500,000	7,159,000	7,159,000		17,618,000			17,618,000
		4	**East Lake Sammamish Parkway SE / SE 24th St Intersection** Construct traffic signal, turn lanes, curb, gutter and sidewalk							0		3,698,000	3,698,000
		5	**Sahalee Way NE - NE 25th Way to North City Limits** Widen to 3 lanes with bike lanes, curb, gutter and sidewalk	1,600,000	5,200,000	7,788,000				14,588,000	1,100,000		15,688,000
		6	**228th Ave SE - SE 32nd St to Issaquah-Pine Lake Rd** Provide additional southbound through lane	675,000						675,000	125,000		800,000
		7	**Issaquah-Fall City Rd - SE 48th St to Klahanie Dr SE** Widen to 5 lanes with bike lanes, curb, gutter and sidewalk	800,000	1,000,000	6,100,000	6,100,000			14,000,000			14,000,000
		8	**Issaquah-Fall City Rd - Klahanie Dr SE to Issaquah-Beaver Lk Rd** Widen to 3 lanes with bike lanes, curb, gutter and sidewalk			600,000	1,200,000	3,600,000	3,600,000	9,000,000			9,000,000
		9	**Public Works Trust Fund Loan Repayment** 228th Ave NE Improvements	549,333	546,667	544,000	541,333	538,667	536,000	3,256,000	7,290,410		10,546,410
NON-MOTORIZED		10	**212th Ave SE Gap Project - SE 24th St to Crossings Subdivision** Provide non-motorized facilities	600,000						600,000	50,000		650,000
		11	**Non-motorized Transportation Projects** Sidewalks, trails, bikeways and paths, etc.	750,000	750,000	750,000	750,000	750,000	750,000	4,500,000			
	PROGRAMS	12	**Sidewalk Projects** Various sidewalk projects, includes gap projects, extensions, safety improvements.	160,000	160,000	160,000	160,000	160,000	160,000	960,000			
		13	**Intersection and Safety Improvements** Various intersection and other safety improvements as needed, including channelization, signing, signalization, and/or other traffic control devices.	200,000	200,000	200,000	200,000	200,000	200,000	1,200,000			
		14	**Neighborhood CIP** Various capital improvements including safety improvements, gap projects, bike routes, pedestrian safety enhancements and school zone safety improvements.	100,000	100,000	100,000	100,000	100,000	100,000	600,000			
TOTAL TRANSPORTATION EXPENDITURES				**6,159,333**	**18,202,667**	**23,742,000**	**17,410,333**	**14,507,667**	**10,146,000**	**90,168,000**			

◙ Add $3M if Issaquah deannexes the intersection

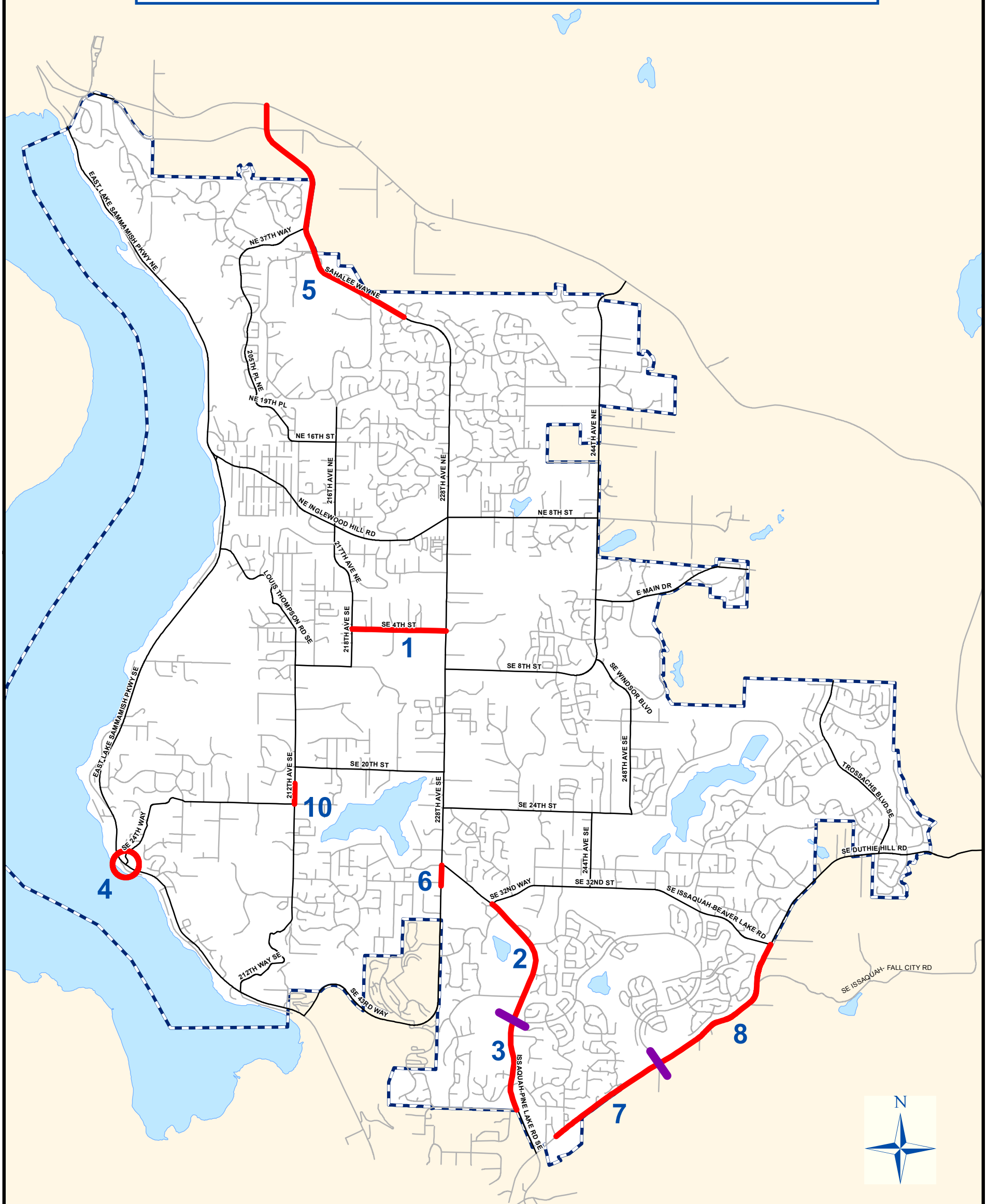
TIP REVENUE	2016	2017	2018	2019	2020	2021	TOTAL
Beginning Fund Balance	13,186,423	16,262,423	15,568,790	10,469,323	4,237,323	114,489	13,186,423*
Investment Interest	45,000	45,000	30,000	15,000	6,500	500	142,000
Transportation Fund Revenue (REET)	2,450,000	2,450,000	2,450,000	2,200,000	2,200,000	2,200,000	13,950,000
Road Impact Fees	4,662,000	4,662,000	5,000,000	4,000,000	3,500,000	3,500,000	25,324,000
Klahanie Capital Revenue	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	7,200,000
Mitigation & Settlement Agreement Fees		1,354,500	1,250,000				2,604,500
Anticipated grants	650,000	6,000,000	6,000,000	2,500,000	2,500,000	2,500,000	20,150,000
Revenue to be paid by the Surface Water Fund	228,333	1,797,533	2,712,533	1,263,333	978,333	738,333	7,718,400
TOTAL TIP REVENUE	**22,421,756**	**33,771,456**	**34,211,323**	**21,647,656**	**14,622,156**	**10,253,323**	**90,275,323**
ENDING FUND BALANCE	**16,262,423**	**15,568,790**	**10,469,323**	**4,237,323**	**114,489**	**107,323**	

*2016 Beginning Fund Balance

Exhibit 2

Exhibit 3

2016 - 2021
Six Year Transportation Improvement Program



Project List

1. SE 4th St - 218th Ave SE to 228th Ave SE
2. Issaquah-Pine Lake Rd - Klahanie Blvd to SE 32nd
3. Issaquah-Pine Lake Rd - SE 48th to Klahanie Blvd
4. East Lake Sammamish Parkway SE/SE 24th St Intersection
5. Sahalee Way NE - NE 25th Way to North City Limits
6. 228th Ave SE - SE 32nd St to Issaquah-Pine Lake Rd.
7. Issaquah-Fall City Rd - SE 48th St to Klahanie Dr SE
8. Issaquah-Fall City Rd - Klahanie Dr SE to Issaquah-Beaver Lake Rd
10. 212th Ave SE Gap Project - SE 24th St to Crossings Subdivision

8 Project Location & TIP Number

City Limits

0 0.5 1
Miles

City of Sammamish Washington

BM: 2016-2021_TIPmap.mxd 6-30-2015

Exhibit 3

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: June 30, 2015

Originating Department: Community Development

Clearances:

☑ Attorney	☑ Community Development	☐ Parks & Recreation
☐ Admin Services	☐ Eastside Fire and Rescue	☐ Police
☑ City Manager	☐ Finance & IT	☐ Public Works

Subject: 2015 Comprehensive Plan Update

Action Required: Complete Public Hearing and First Reading of Ordinance

Exhibits:
1. Draft Ordinance
2. Draft Comprehensive Plan Volume I
3. Background Information Volume II

Budget: N/A

Summary Statement:

The City has been working on the 2015 Comprehensive Plan update since the spring of 2013. City Council has been reviewing the recommendations of the Planning Commission and discussing proposed amendments since early March 2015. All proposed amendments discussed by the Committee of the Whole have been included in a track change version of the draft Comprehensive Plan, which was made available electronically on June 26. On July 7, City Council will complete a public hearing on the 2015 Comprehensive Plan update and the first reading of the adopting ordinance. A copy of the draft Comprehensive Plan is available on the City's website:

http://www.sammamish.us/departments/communitydevelopment/ComprehensivePlan.aspx?Show=CCDraft2015CP

Background:
The 2015 Comprehensive Plan update is intended to meet the Growth Management Act (GMA) requirement for periodic plan updates. It addresses local priorities as well as state and regional requirements. Examples include: updated population and job targets, land capacity inventory, sustainability strategy, annexation issues, critical areas, lake management, basin planning and drainage protection policies as well as shoreline policies, and other related policy issues. An early and continuous public involvement program was executed with the development of the draft Comprehensive Plan and numerous public comments were submitted throughout the process.

Financial Impact: N/A

Recommended Motion: Conduct Public Hearing and first reading of the ordinance

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2015 - ____

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, REPEALING THE 2003 SAMMAMISH COMPREHENSIVE PLAN AS AMENDED; ADOPTING THE 2015 SAMMAMISH COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the Sammamish City Council initially adopted the City's Comprehensive Plan on September 16, 2003, and has amended it cyclically thereafter; and

WHEREAS, pursuant to the schedule provided in RCW 36.70A.130, each Washington city and county must periodically review and, if needed, revise its Comprehensive Plan and development regulations to ensure that they comply with the Growth Management Act ("GMA"); and

WHEREAS, the City conducted a public scoping process to review its Comprehensive Plan, and on June 17, 2013, approved a scope of work for amendments, including revisions needed to comply with Chapter 36.70A RCW; and

WHEREAS, these revisions include a new Shoreline element, which element is consistent with the adopted City of Sammamish Shoreline Master Program; and

WHEREAS, in accordance with WAC 365-195-620, a notice of intent to adopt the proposed Comprehensive Plan amendments was sent to the State of Washington Department of Commerce on January 22, 2015, to allow for a 60-day review and comment period; and

WHEREAS, an environmental review of the proposed Comprehensive Plan amendments has been conducted in accordance with the requirements of the State Environmental Policy Act ("SEPA"), and a SEPA threshold determination of non-significance and notice of adoption was issued on January 22, 2015, and sent to state agencies and interested parties; and

WHEREAS, consistent with RCW 36.70A.035, RCW 36.70A.130(2), and RCW 36.70A.140, the City established and broadly disseminated to the public a public participation program for the review and revision of its Comprehensive Plan; and

WHEREAS, the public process for the proposed amendments has provided for early and continuous public participation opportunities, including inviting public comment on the City's website from November 2013 through June 2015; at the City's Farmers Market from September 2013 through September 2014; at the City library; in local store displays and at other City events

occurring between October 2013 and December 2013, and between June 2014 and September 2014; at meetings of business groups and civic organizations from October 2013 through December 2013; at local middle schools and high schools; at a City Hall Youth Board meeting in December 2013, and at the Call to Artists between May 2014 and August 2014; and

WHEREAS, the City also held two public open houses on January 20, 2015, and on May 28, 2015; and

WHEREAS, the Planning Commission also considered the proposed amendments at over 30 open public meetings from September 2013 through February 2015, and which included public hearings held on January 22, 2015 and February 5, 2015; and

WHEREAS, on February 5, 2015, the Planning Commission considered the public comments received and other information presented at various public meetings and public hearings and voted to recommend adoption of an amended Comprehensive Plan to the City Council; and

WHEREAS, the City Council's Committee of the Whole considered amendments to the Comprehensive plan on April 20, 2015; May 18, 2015; and June 15, 2015; and

WHEREAS, the of City Council considered amendments to the Comprehensive Plan at study sessions on April 14, 2015; May 12, 2015; June 1, 2015; and June 9, 2015; and at public hearings held on March 17, 2015; July 7, 2015; and July 21, 2015; and

WHEREAS, the City Council has considered the goals of the GMA as set forth in RCW 36.70A.020 and determined that the Comprehensive Plan amendments attached hereto reflect the City's balancing of the public interests under the planning goals of the GMA;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sammamish Comprehensive Plan Repealed. The 2003 Sammamish Comprehensive Plan as amended is hereby repealed in its entirety.

Section 2. 2015 Sammamish Comprehensive Plan Adopted. The 2015 Sammamish Comprehensive Plan, which is comprised in its entirety of Volumes 1 and 2 attached hereto, is hereby adopted as if fully set forth herein.

Section 3. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

Exhibit 1

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____DAY OF _____ 2015.

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

_____
Melonie Anderson, City Clerk

Approved as to form:

_____
Mike Kenyon, City Attorney

Filed with the City Clerk:	June 30, 2015
Public Hearing:	July 7, 2015
First Reading:	July 7, 2015
Public Hearing:	
Passed by the City Council:	
Date of Publication:	
Effective Date:	

Exhibit 1

City Council Agenda Bill

Meeting Date: July 7, 2015 Date Submitted: 6/30/2015

Originating Department: City Manager

Clearances:

☑	Attorney	☑	Community Development	☐	Parks & Recreation
☐	Admin Services	☐	Eastside Fire and Rescue	☐	Police
☑	City Manager	☐	Finance & IT	☐	Public Works

Subject: Klahanie Annexation

Action Required: 2nd reading and adoption of the Ordinance

Exhibits:
1. Ordinance with Attachments A and B thereto (legal description and map)
2. Abstract of the vote/findings of the King County Council

Budget: Reference Fiscal Analysis by Butkus Consulting, July 2014 and November 2014

Summary Statement:
In a special election held on April 28th, 2015 the voters of the Klahanie Potential Annexation Area (PAA)overwhelmingly approved annexation to the City of Sammamish. This ordinance finalizes the annexation process for the Klahanie PAA and sets the effective date of annexation as January 1, 2016.

Background:
The City Council passed a resolution in January of 2014 (R2014-563) expressing the intention to expedite processing and a vote on the annexation of the Klahanie PAA. After review by the King County Boundary Review Board (BRB), the special election was held for the voters to decide on annexation to the City of Sammamish. Transmitted with the ordinance is the abstract of the vote and the findings of the King County Council as required by RCW 35A.14.090.

The City has adopted contingent land use designations and zoning (O2014-383 and O2014-384) to be effective upon annexation.

Opportunities for public review, comment and information to date have included three open houses held in August, September and October 2014, as well as two public hearings related to the PAA and Land Use/Zoning in October and November 2014. A public hearing was also held on the resolution initiating the annexation process (R2014-563) in November 2014.

Financial Impact: The budget impact of annexation is described in a financial analysis completed for the City by Butkus Consulting in July and November 2014.

Recommended Motion: Motion to adopt the Ordinance

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SAMMAMISH ANNEXING CERTAIN PROPERTY KNOWN AS THE KLAHANIE POTENTIAL ANNEXATION AREA (KLAHANIE PAA) TO THE CITY OF SAMMAMISH; ESTABLISHING AN EFFECTIVE DATE AS SET FORTH IN SECTION 4; AND PROVIDING FOR SEVERABILITY.

WHEREAS, located contiguous to the boundaries of the City of Sammamish is an unincorporated territory comprised of approximately 1,243 acres and known commonly as the Klahanie Potential Annexation Area ("Klahanie PAA"); and

WHEREAS, the Klahanie PAA is located entirely within the City's Urban Growth Area, is designated for future potential annexation by Sammamish, and is identified and legally described as set forth in Exhibit A, attached hereto and fully incorporated herein by this reference; and

WHEREAS, to the best of the City's knowledge and belief, there are currently 6,161 active registered voters as of January 22, 2015 residing within the Klahanie PAA as verified by King County Records and Elections; and

WHEREAS, numerous opportunities for public participation for the residents of the Klahanie PAA and for current City residents have been provided regarding the annexation of the Klahanie PAA to Sammamish, including three open houses held on August 6, September 10, and October 15, 2014, a public hearing held on November 17, 2014, as well as meetings with residents and homeowners' associations; and

WHEREAS, the City Council adopted Ordinances Nos. O2014-383 and O2014-384 on November 17, 2014, which adopted contingent comprehensive plan land use designations and zoning for the Klahanie PAA, to be effective upon annexation; and

WHEREAS, on November 17, 2014, the City Council adopted Resolution No. R2014-602 which declared the City's intent to annex the Klahanie PAA; and

WHEREAS, copies of Resolution No. R2014-602 were filed with the King County Council and with the Washington State Boundary Review Board for King County ("BRB") on December 8, 2014, in accordance with RCW 35A.14.015; and

WHEREAS, the jurisdiction of the BRB was not invoked by any party, and the City Council accordingly determined it to be in the best interest of the City and the Klahanie PAA to conduct a special election on April 28, 2015, to submit to the voters the question of annexation of the Klahanie PAA to Sammamish pursuant to RCW 35A.14.085; and

WHEREAS, the findings of the King County Council related to the results of the April 28, 2015 special election and a certified copy of the abstract of the vote (Exhibit 2) was transmitted to the City on June 2, 2015 by King County; and

WHEREAS, the voters of the Klahanie PAA voted overwhelmingly for annexation and the adoption of City land use designations and zoning; and

WHEREAS, the City Council accordingly desires to annex the Klahanie PAA into the City of Sammamish; and

WHEREAS, the City has determined that it is in the public interest and general welfare to provide for the annexation of the Klahanie PAA, in accordance with chapter 35A.14 RCW;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above recitals in support of the annexation of the Klahanie PAA. The City Council further finds that the best interests and general welfare of the City of Sammamish would be served by such annexation.

Section 2. Annexation. The City of Sammamish hereby annexes the Klahanie PAA, which is legally described in Attachment A and depicted on the map in Attachment B, which are attached hereto and fully incorporated herein by this reference.

Section 3. Conditions Upon Annexation.

A. Comprehensive Plan and Zoning Designations. All properties within the Klahanie PAA shall be subject to the Comprehensive Plan and zoning designations previously adopted and set forth in City of Sammamish Ordinance Nos. 2014-0383 and 2014-0384.

B. Assessment and Taxation. All property within the Klahanie PAA shall be assessed and taxed at the same rate and on the same basis as property in the City of Sammamish is assessed and taxed to pay for the portion of outstanding City indebtedness contracted for, incurred prior to, or existing at the effective date of the annexation of the Klahanie PAA as set forth herein. As of such annexation date, the City of Sammamish had no indebtedness approved by the voters.

Section 4. Effective Date. For purposes of property taxation and the levy of property taxes in calendar year 2016 under RCW 84.09.030, this Ordinance shall be effective and the boundaries of the City shall include the Klahanie PAA as of July 31, 2015. For all other purposes, including but not limited to the purposes set forth in RCW 35.13.110, this Ordinance shall be effective and the boundaries of the City shall include the Klahanie PAA as of January 1, 2016.

Section 5. Certification of Ordinance to King County. Pursuant to RCW 35A.14.140,

upon passage the City Clerk is directed to file a certified copy of this Ordinance with the King County Council.

Section 6. Authorizations. The proper City officials are authorized to perform such duties as are necessary or required by law to ensure that a census of the Klahanie PAA is completed and proper information submitted to the Washington State Office of Financial Management ("OFM"), the Washington State Department of Revenue ("DOR"), and such other entities as is required or appropriate.

Section 7. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF JULY, 2015

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

_____

Approved as to form:

_____
Michael R. Kenyon, City Attorney

Filed with the City Clerk: May 27, 2015
First Reading: June 2, 2015
Passed by the City Council:
Date of Publication
Effective Date

Exhibit 2
ATTACHMENT A

ANNEXATION

KLAHANIE

Legal Description

Those portions of Sections 10, 11, 12, 13, 14, 15, 22 and 23 Township 24 North, Range 6 East, W.M., King County, Washington, described as follows:

Beginning at the intersection of the West line of the East half of the Northeast quarter of said Section 22, and the Easterly line of the Plat of Vaughn Hill Addition as recorded in Volume 102 of Plats, Pages 99-100, records of King County, Washington, said intersection being on the Issaquah city limits as annexed under Ordinance No. 2255; thence, along said Issaquah city limits, Southeasterly along said Easterly line to the Southeasterly margin of Issaquah-Fall city Road as conveyed to King County under King County recording number 9807070554; thence continuing Southeasterly along said Easterly line to the southeast corner of said Plat; thence Northeasterly, along the southerly line of that parcel of land conveyed by Deed recorded under Recording Number 20040813000399 to the southeast corner of said parcel; thence Northwesterly, along the easterly line of said parcel, to the intersection with the westerly extension of the southerly line of that parcel of land described as Parcel A as conveyed by Deed recorded under Recording Number 20020306001321; thence Northeasterly, along the southerly lines of said Parcel A and Parcel B of said Deed, to the east line of the Northeast quarter of said Section 22; thence northerly, along said east line, to said Southeasterly margin of Issaquah-Fall city Road;

Thence Northeasterly along said Southeasterly margin to its intersection with the Southwesterly extension of the Southeasterly margin of SE Duthie Hill Road;
Thence Northeasterly along said Southeasterly margin to its intersection with the Southeasterly extension of the Southwesterly margin of Issaquah-Beaver Lake Road, said intersection being on the Sammamish city limits as established by the incorporation of the city of Sammamish;

Thence along said Sammamish city limits the following courses:

Thence Northwesterly along said extension and said Southwesterly margin to its intersection with the South margin of SE 32nd Street;
Thence Westerly along said South margin to its intersection with the Southeasterly margin of SE 32nd Way;
Thence Southwesterly along said Southeasterly margin to its intersection with the Easterly margin of Issaquah-Pine Lake Road (also known as Gobel Road, King County Road No. 558) as established by deed recorded under King County recording number 7807130727;

Thence Southeasterly, Southwesterly, Southerly and Southeasterly along said Easterly margin to its intersection with the Easterly extension of the South margin of SE 48th Street, said intersection being on the Issaquah city limits as annexed under said Ordinance No. 2255;

Thence leaving said Sammamish city limits and following said Issaquah city limits the following courses:

Thence continue Southeasterly along said Easterly margin to its intersection with the Northwesterly margin of said Issaquah-Fall city Road as conveyed to King County under King County recording numbers 9807070556 and 9807070557;
Thence Northeasterly along said Northwesterly margin to the West line of the East Half of the Northeast quarter of said Section 22;
Thence Southerly along said West line to the **Point of Beginning.**

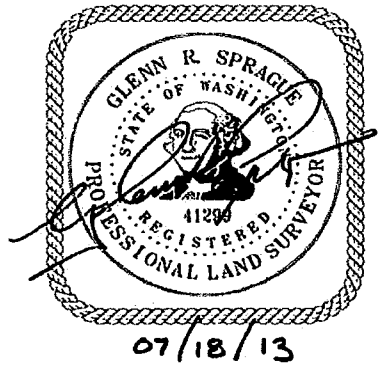


Exhibit 2
ATTACHMENT B

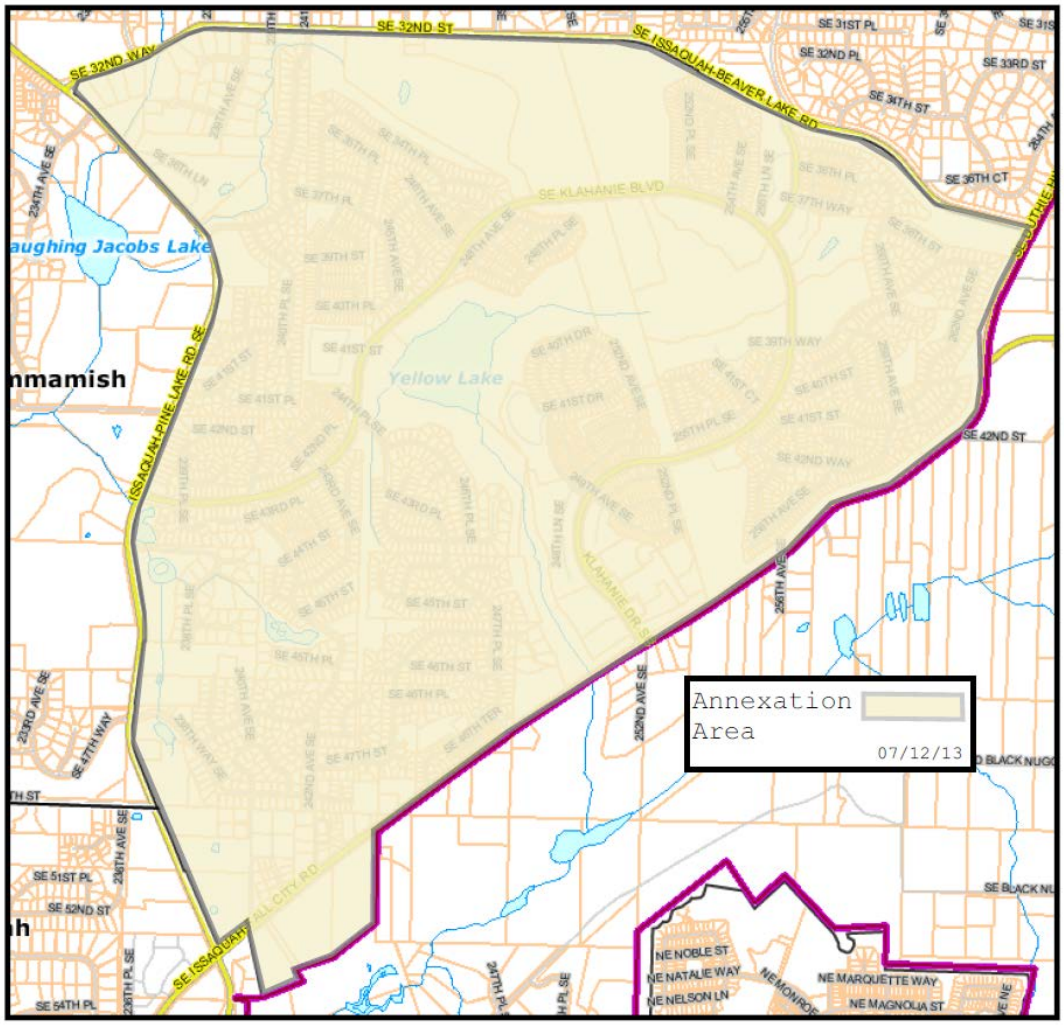


Exhibit 2

Exhibit 3

King County

Department of Elections
Sherril Huff, Director

STATE OF WASHINGTON)
) SS.
COUNTY OF KING)

This is to certify that on April 28, 2015, there was held a special election in the Proposed Klahanie Annexation Area, King County, Washington, for the submission of a ballot measure to the voters for their approval or rejection;

That the results of the election were duly canvassed by the King County Canvassing Board on May 12, 2015, and the results of said canvass are as follows:

Proposition No. 1
Klahanie Annexation

For annexation and adoption of proposed zoning regulations	2,467	86.05%	Passed
Against annexation and adoption of proposed zoning regulations	400	13.95%	

Validation requirements
Proposition No. 1 required a simple majority to pass. With an approval rate of 86.05% the measure passed.

Dated at Renton, King County, Washington, this 19th day of May 2015.

Sherril Huff, Director

cc: Melonie Anderson, City Clerk, City of Sammamish

Exhibit 3

Exhibit 3

King County

1200 King County
Courthouse
516 Third Avenue
Seattle, WA 98104

Meeting Minutes

Metropolitan King County Council

Councilmembers: Larry Phillips, Chair;
Joe McDermott, Vice Chair of Policy Development and Review;
Jane Hague, Vice Chair of Regional Coordination;
Rod Dembowski, Reagan Dunn, Larry Gossett, Kathy Lambert,
Dave Upthegrove, Pete von Reichbauer

1:30 PM | **Tuesday, May 26, 2015** | **Room 1001**

1. Call to Order

The meeting was called to order at 1:36 p.m.
The meeting recessed at 1:38 p.m.
The meeting reconvened at 1:46 p.m.

2. Roll Call

Present: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer

Excused: 2 - Ms. Hague and Mr. Phillips

3. Flag Salute and Pledge of Allegiance

Councilmember Gossett led the flag salute and Pledge of Allegiance.

4. Approval of Minutes of May 18, 2015

Councilmember Gossett moved to approve the minutes of the May 18, 2015 meeting as presented. Seeing no objection, the Chair so ordered.

5. Additions to the Council Agenda

Councilmember Dembowski introduced new Seattle City Councilmember John Okamoto. Councilmember Okamoto made remarks and thanked the Council.

6. Public Comment

The following people spoke:
Alex Zimerman
Randolf
James Rasmussen

The Clerk of the King County Council does hereby certify that the attached is a true and correct copy of the original.

Witness my hand and official seal this

2d **day** June **, 20**15

Clerk of the King County Council

By [signature]

Exhibit 3

7. Plat Tracing

Overlook at Brookshire - Council District 3

Councilmember Dembowski moved to adopt the DPER finding of fact that the final plat of Overlook at Brookshire complies with the conditions of preliminary plat approval and other applicable laws, and that the Chair is authorized to signify Council approval by signing the final plat at the end of the meeting. Seeing no objection, the Chair so ordered.

Hearing and Second Reading of Ordinances from Standing Committees and Regional Committees

Consent Item 8

8. Proposed Ordinance No. 2015-0175

AN ORDINANCE authorizing the Harborview Medical Center Board of Trustees to execute an amendment to the Management and Operations Contract between the Harborview Medical Center Board of Trustees and the University of Washington, dated December 19, 1995, to extend the duration of that contract.

Sponsors: Mr. Phillips, Ms. Hague and Mr. Dembowski

On 5/26/2015, a public hearing was held and closed.

The enacted number is 18044.

Councilmember Gossett made a motion to remove Proposed Ordinance 2015-0175 from the Consent Calendar. Seeing no objection, the Chair so ordered.

Councilmember Dembowski moved amendment 1. The motion carried by the folllowing vote:
Votes: Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer
No: 0
Excused: 2 - Ms. Hague and Mr. Phillips

A motion was made by Councilmember Gossett that this Ordinance be Passed as Amended. The motion carried by the following vote:

Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, and Mr. von Reichbauer

Excused: 2 - Ms. Hague, and Mr. Phillips

Exhibit 3

Hearing Examiner Consent Agenda Items 9-19

9. Proposed Substitute Ordinance No. 2015-0129.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Daniel and Yvonne Hall, Dana Moore and Geoff Rosen for property located at 31103 SE 58th Street and 31132 SE 60th Street, Preston, WA, designated department of natural resources and parks, water and land resources division file no. E14CT038.

Sponsors: Mr. Phillips

The enacted number is 18045.

This matter passed on the Consent Agenda.

10. Proposed Substitute Ordinance No. 2015-0130.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by William and Paula Lee Fairchild for property located at 9804 178th Avenue SE, Renton, WA, designated department of natural resources and parks, water and land resources division file no. E14CT041.

Sponsors: Mr. Phillips

The enacted number is 18046.

This matter passed on the Consent Agenda.

11. Proposed Substitute Ordinance No. 2015-0131.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Joseph and Roberta Poff and Timothy and Sheryl Laughlin for property located at 35100 179th Avenue SE, Auburn, WA, designated department of natural resources and parks, water and land resources division file no. E14CT044.

Sponsors: Mr. Phillips

The enacted number is 18047.

This matter passed on the Consent Agenda.

12. Proposed Substitute Ordinance No. 2015-0132.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Donald Canfield and Linda Mather for property located at 21402 Westside Highway SW, Vashon, WA, designated department of natural resources and parks, water and land resources division file no. E14CT045.

Sponsors: Mr. Phillips

The enacted number is 18048.

This matter passed on the Consent Agenda.

Exhibit 3

13. Proposed Substitute Ordinance No. 2015-0133.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Julie Jacobson and Jonathan Bell and William and Deborah Avery for property located at 18631 Sunset Road SW, Vashon, WA, designated department of natural resources and parks, water and land resources division file no. E14CT053.

Sponsors: Mr. Phillips

The enacted number is 18049.

This matter passed on the Consent Agenda.

14. Proposed Substitute Ordinance No. 2015-0134.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Robert and Denette Sinclair for property located at East of and adjacent to 5728 Tolt Highlands Road NE, Carnation, WA, designated department of natural resources and parks, water and land resources division file no. E14CT056.

Sponsors: Mr. Phillips

The enacted number is 18050.

This matter passed on the Consent Agenda.

15. Proposed Substitute Ordinance No. 2015-0135.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Meechai Cha and Chee Thor for property located at 2908 Fall City-Carnation Road SE, Fall City, WA, designated department of natural resources and parks, water and land resources division file no. E14CT059.

Sponsors: Mr. Phillips

The enacted number is 18051.

This matter passed on the Consent Agenda.

16. Proposed Substitute Ordinance No. 2015-0136.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by William and Catherine Everett for property located at south and adjacent to 23220 SE 392nd Street, Enumclaw, WA, designated department of natural resources and parks, water and land resources division file no. E15CT001.

Sponsors: Mr. Phillips

The enacted number is 18052.

This matter passed on the Consent Agenda.

Exhibit 3

17. Proposed Substitute Ordinance No. 2015-0137.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Jessup and Katie Wolny for property located at Southwest 171st Street, Vashon, WA, designated department of natural resources and parks, water and land resources division file no. E15CT002.

Sponsors: Mr. Phillips

The enacted number is 18053.

This matter passed on the Consent Agenda.

18. Proposed Substitute Ordinance No. 2015-0138.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Patterson Family Trust for property located at 19929 Southeast Green Valley Road, WA, designated department of natural resources and parks, water and land resources division file no. E15CT003.

Sponsors: Mr. Phillips

The enacted number is 18054.

This matter passed on the Consent Agenda.

19. Proposed Substitute Ordinance No. 2015-0139.2

AN ORDINANCE concurring with the recommendation of the hearing examiner to approve, subject to conditions, the application for public benefit rating system assessed valuation for open space submitted by Roger Thorson for property located at 31523 NE 40th Street, Carnation, WA, designated department of natural resources and parks, water and land resources division file no. E15CT004.

Sponsors: Mr. Phillips

The enacted number is 18055.

This matter passed on the Consent Agenda.

Passed On The Consent Agenda

A motion was made by Councilmember Dembowski that the Consent Agenda be passed. The motion carried by the following vote:

Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, and Mr. von Reichbauer

Excused: 2 - Ms. Hague, and Mr. Phillips

Exhibit 3

Motions, from Standing Committees and Regional Committees, for Council Action

Consent Items 20 and 21

20. Proposed Substitute Motion No. 2015-0147.2

A MOTION relating to accepting Metro's mobile ticketing pilot project work plan, as required by the 2015/2016 Biennial Budget Ordinance, Ordinance 17941, Section 129, Proviso P2.

Sponsors: Mr. Dembowski

The enacted number is 14364.

This matter passed on the Consent Agenda.

21. Proposed Substitute Motion No. 2015-0153.2

A MOTION approving the preliminary report in response to the 2015/2016 Biennial Budget Ordinance, Ordinance 17941, Section 24, Proviso P2, executive services - administration.

Sponsors: Mr. von Reichbauer

The enacted number is 14365.

This matter passed on the Consent Agenda.

Passed On The Consent Agenda

A motion was made by Councilmember Gossett that the Consent Agenda be passed. The motion carried by the following vote:

Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, and Mr. von Reichbauer

Excused: 2 - Ms. Hague, and Mr. Phillips

Budget and Fiscal Management

The Chair indicated that Items 22 and 23 would be consider together as a Consent Agenda.

22. Proposed Motion No. 2015-0183

A MOTION confirming the executive's appointment of Carl Gasca, who resides in council district nine, to the King County economic opportunity and empowerment program advisory board.

Sponsors: Mr. Dembowski

The enacted number is 14366.

This matter passed on the Consent Agenda.

Exhibit 3

23. Proposed Motion No. 2015-0192

A MOTION confirming the executive's appointment of Sean Bagsby, who resides in council district five, to the King County economic opportunity and empowerment program advisory board.

Sponsors: Mr. Dembowski

The enacted number is 14367.

This matter passed on the Consent Agenda.

Passed On The Consent Agenda

A motion was made by Councilmember Lambert that the Consent Agenda be passed. The motion carried by the following vote:

Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, and Mr. von Reichbauer

Excused: 2 - Ms. Hague, and Mr. Phillips

Transportation, Economy and Environment

24. Proposed Motion No. 2015-0167

A MOTION related to the Lower Duwamish waterway cleanup and the health of communities adjacent to the Lower Duwamish waterway.

Sponsors: Mr. Upthegrove, Mr. McDermott, Mr. Dembowski and Mr. von Reichbauer

The enacted number is 14368.

A motion was made by Councilmember Dembowski that this Motion be Passed. The motion carried by the following vote:

Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove, and Mr. von Reichbauer

Excused: 2 - Ms. Hague, and Mr. Phillips

Employment and Administration Committee Consent Agenda Item 25

25. Hire a Director of Communications

The Chair indicated that Item 25 would be deferred one week to the June 1, 2015 Council meeting agenda.

Exhibit 3

First Reading and Referral of Ordinances

26. Proposed Ordinance No. 2015-0193

AN ORDINANCE authorizing the county executive to execute revised interlocal agreements for electronic fingerprint capture equipment services, between King County and the cities in King County, the Port of Seattle, the University of Washington and Sound Transit.

Sponsors: Ms. Lambert

This matter had its first reading and was referred to the Law, Justice and Emergency Management Committee.

27. Proposed Ordinance No. 2015-0202

AN ORDINANCE relating to the annexation of approximately 15 acres of land into the Midway sewer district, known as the Argus Annexation, for the purpose of sewer service.

Sponsors: Mr. Upthegrove

This matter had its first reading and was referred to the Transportation, Economy and Environment Committee.

28. Proposed Ordinance No. 2015-0203

AN ORDINANCE relating to the annexation of approximately 5.5 acres of land into the North City water district, known as Ridgecrest Annexation 14-1, for the purpose of water service.

Sponsors: Mr. Dembowski

This matter had its first reading and was referred to the Transportation, Economy and Environment Committee.

29. Proposed Ordinance No. 2015-0205

AN ORDINANCE approving the Sammamish Plateau Water and Sewer District 2013 Wastewater Comprehensive Plan.

Sponsors: Mr. Dembowski

This matter had its first reading and was referred to the Transportation, Economy and Environment Committee.

30. Proposed Ordinance No. 2015-0206

AN ORDINANCE approving the Union Hill Water Association's Comprehensive Water System Plan.

Sponsors: Mr. Dembowski

This matter had its first reading and was referred to the Transportation, Economy and Environment Committee.

Exhibit 3

31. Proposed Ordinance No. 2015-0207

AN ORDINANCE approving the Mirrormont Water System Individual Water System Plan.

Sponsors: Mr. Dembowski

This matter had its first reading and was referred to the Transportation, Economy and Environment Committee.

First Reading and Referral of Motions

32. Proposed Motion No. 2015-0114

A MOTION authorizing the department of public health to accept the donation of five thousand dollars to be used to support disaster preparedness education for vulnerable populations.

Sponsors: Mr. Upthegrove

This matter had its first reading and was referred to the Health, Housing and Human Services Committee.

33. Proposed Motion No. 2015-0208

A MOTION requesting that the executive develop and transmit a report identifying milestones for oversight of the implementation of the Puget Sound Emergency Radio Network.

Sponsors: Ms. Lambert

This matter had its first reading and was referred to the Law, Justice and Emergency Management Committee.

Exhibit 3

34. Reports on Special and Outside Committees

No reports were given.

Other Business

Certification of Elections

Proposition No. 1
Klahanie Annexation

For annexation and adoption of proposed zoning regulations 2,467
86.05% Passed
Against annexation and adoption of proposed zoning regulations 400
13.95%

Proposition No. 1
Regular Property Tax Levy for Emergency Public Safety Radio Network Replacement Project

Approved	**191, 532**	**65.41%**	**Passed**
Rejected	**101, 268**	**34.59%**	

Councilmember Gossett moved to accept the certification of election returns of April 28, 2015. The motion carried by the following vote:
Votes: Yes: 7 - Mr. Dembowski, Mr. Dunn, Mr. Gossett, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. von Reichbauer
No: 0
Excused: 2 - Ms. Hague and Mr. Phillips

Adjournment

The meeting adjourned at 2:25 p.m.

Approved this 1st day of June, 2015.

Clerk's Signature

City Council Agenda Bill

Meeting Date: **July 7, 2015** Date Submitted: June 30, 2015

Originating Department: City Manager

Clearances:

☑ Attorney	☐ Community Development	☐ Parks & Recreation
☐ Admin Services	☐ Eastside Fire and Rescue	☐ Police
☑ City Manager	☐ Finance & IT	☐ Public Works

Subject: Resolution Declaring the Intent of the City Council to Provide for the Exercise of the Powers of Initiative and Referendum

Action Required: Passage of the Resolution

Exhibits:

1. Resolution
2. Presentation from June 15, 2015 Committee of the Whole
3. Memo from City Attorney, dated Jan. 5, 2012
4. Memo from City Attorney, dated Jan. 22, 2015
5. Draft I&R Ordinance for 1st Reading on Jul. 21, 2015
6. League of Women Voters I&R Report
7. MRSC Initiative and Referendum Guide

Budget: Not Applicable

Summary Statement:

The powers of Initiative and Referendum (I&R) would allow the citizens of Sammamish to directly exercise the authority to enact and repeal laws for a limited set of allowable subject areas or topics. The resolution expresses the City Council's intent to provide the powers of I&R to the citizens of Sammamish.

Background:

The City Council has studied the issue of granting the powers of Initiative and Referendum to the Citizens of Sammamish. The City Council placed an advisory ballot measure on the April 28th, 2015 election to determine the level of support among the voters for this authority. A majority of the voters (55.46%) participating in the election voted for the advisory proposition expressing their desire to be able to exercise the powers of I&R.

The attached resolution, sets the stage for consideration of a subsequent ordinance establishing the City's Municipal Code to provide for the powers of I&R for Sammamish citizens.

If no timely petition is received requiring a vote of the citizens to implement the powers of I&R as outlined in the attached resolution, the Council intends to consider the 1st reading of the enabling ordinance on July 21st, 2015 and the 2nd reading of the enabling ordinance on September 1st, 2015.

The Draft Ordinance includes an outline of suggested procedures and format, to lend structure to a lightly defined process as set by state RCWs.

Financial Impact:
It is estimated that a potential ballot measure would cost the City's taxpayers between $30,000 and $40,000 under normal circumstances. Additional estimated potential costs could be $10,000 to $20,000 to defend the City in a disputed I&R case

Recommended Motion:
"I recommend passage of Resolution No. R2015-____, declaring the intent of the City Council to provide for the exercise of the powers of initiative and referendum."

Exhibit 1

CITY OF SAMMAMISH
WASHINGTON
RESOLUTION NO. R2015-_____

A RESOLUTION OF THE CITY OF SAMMAMISH, WASHINGTON, DECLARING THE INTENT OF THE CITY COUNCIL TO PROVIDE FOR THE EXERCISE OF THE POWERS OF INITIATIVE AND REFERENDUM

WHEREAS, the City Council has chosen to extend the powers of initiative and referendum to the voters of the City of Sammamish; and

WHEREAS, RCW 35A.11.080 specifies that such process shall be done pursuant to RCW 35A.02.020 - .035;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. Best Interests and General Welfare. Pursuant to RCW 35A.02.030, the City Council finds that the best interests and general welfare of the City would be served by providing the citizens with the powers of initiative and referendum to the extent allowed by law.

Section 2. Publication of Resolution in Full. Within ten days of the passage of this resolution, the City Clerk shall cause the same to be published in full in a newspaper of general circulation within the City.

Section 3. Implementing Ordinance. If, upon the expiration of the ninetieth day from, but excluding the date of first publication, of this resolution, no timely or sufficient referendum petition has been filed pursuant to RCW 35A.02.035 as determined by RCW 35A.29.170, the City Council shall effect the intent of the resolution by adopting an ordinance at its next regular meeting thereafter, providing for the powers of initiative and referendum in the City of Sammamish.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF _____, 2015.

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

_____
Melonie Anderson, City Clerk

DRAFT

Approved as to form:

_____
Michael R. Kenyon, City Attorney

Filed with the City Clerk: June 30, 2015
Passed by the Council:
Resolution No: R2015-_____

DRAFT

Exhibit 2

Initiative & Referendum Powers – Follow-Up Discussion

Presented to the Sammamish City Council

City Council Meeting of June 15, 2015

City of Sammamish Washington

Exhibit 2

Background

- There was increasing interest by Sammamish citizens to directly exercise the authority to enact and repeal laws.
- This authority is exercised through the powers of initiative and referendum.
- Council approved putting an Advisory Ballot measure on the April 28th Election to determine if the voters desired this authority.

Exhibit 2

April 28, 2015 Advisory Ballot

Election Results

Special Election

Updated: 5/12/2015 9:26:46 AM

King County Elections

April 28, 2015

Official Final

City		
City of Sammamish		
Ballots counted: 6,972		
*Registered voters: 28,655		24.33%
Advisory Proposition No. 2		
For provision	3,830	55.46%
Against provision	3,076	44.54%

Exhibit 2

Text of Advisory Ballot

Advisory Proposition No. 2
Powers of Local Initiative and Referendum

The Sammamish City Council is calling for an advisory election whether to provide for the exercise of the powers of local initiative and referendum, to the extent provided by law.

If provided, voters within the City would have the ability to initiate and enact certain types of legislation, and also to repeal or approve certain types of ordinances adopted by the City Council.

Shall these powers of initiative and referendum be provided?

The results of Advisory Proposition No. 2 will inform the city council as to the desire of the voters regarding the powers of local initiative and referendum.

Exhibit 2

What is an Initiative vs Referendum?

- An **initiative** is the ability of the voters in a City to initiate and enact legislation directly, without passage by the City Council.

- A **referendum** is the right of the City's voters to have an ordinance that has been passed by the City Council submitted to the voters for their approval or disapproval before it becomes effective (30 days after passage).

Exhibit 2

Types of legislation not subject to I & R

- **Ordinances only**
  - I & R powers do not apply to resolutions or motions.
- **State statute excludes** the following ordinances from the power of referendum:
  - Emergency ordinances necessary for the immediate preservation of public peace, health, safety or for the support of city government and its public institutions;
  - Ordinances providing for local improvement districts;
  - Ordinances providing for or approving collective bargaining;
  - Ordinances providing for the compensation of or working conditions of city employees;
  - Ordinances authorizing or repealing the levy of taxes;
  - Ordinances initiated by petition; and
  - Ordinances appropriating money.

Exhibit 2

Types of legislation not subject to I & R

- **Washington court decisions exclude** the following ordinances from the powers of I & R:
  - When the state legislature explicitly grants the **authority to the City Council** (the "corporate authorities" of the city) an ordinance is not subject to I & R.
  - When the authority was granted to the **City as a "corporate entity"** the ordinance is subject to I & R.

Exhibit 2

Types of legislation not subject to I & R (continued)

- **Washington court decisions exclude** the following ordinances from the powers of I & R:
  - When an ordinance is **administrative** in nature is it not subject to I & R, but when an ordinance is **legislative** it is subject to I & R.
  - An ordinance is considered legislative when it relates to subjects of a permanent and general character, when it prescribes a new policy or plan.
  - An ordinance is considered administrative when it relates to subjects of a temporary and special character, when it merely pursues a plan that has already been adopted.

Exhibit 2

Questions

- Question: May a city adopt the power of referendum without the power of initiative or visa versa?

  Answer: No, the powers of initiative and referendum are exercised together.

- Question: May an initiative adopted by city voters be later repealed by the city council without voter approval?

  Answer: No, an initiative may only be repealed or amended by a vote of the people.

- Question: If a code city Council passes an initiative without alteration, rather than submitting the ordinance to a vote of the people, can the council thereafter amend or repeal the ordinance?

  Answer: No, any subsequent repeal or amendment must be approved by the voters.

- Question: How do the topics subject to the power of Initiative differ from those subject to referendum?

  Answer: The subject matter or topics of initiative is the same as for referendums.

Exhibit 2

Questions - Continued

- Question: Does a City have options to chose features of Initiative & Referendum they desire to implement and deny others?

Answer: Yes to some extent…the powers of initiative and referendum may be exercised with local options to ensure the procedural integrity of the voter-driven ordinances. The most common option that has been adopted is to have a preliminary draft of a proposed initiative sent to the City Clerk and reviewed by the City Attorney prior to its circulation for signatures. Cities have also mandated the referendum language to be used to challenge an ordinance. Additionally, "restrictions" to the initial language enacting the powers of I & R would likely require a vote of the people.

- Question: May an Ordinance repealed by city voters be later reenacted by the city council without voter approval?

Answer: Yes, nothing in the statute prohibits the council from re-adopting a previously repealed ordinance.

Exhibit 2

Questions - Continued

- Question: Are the guidelines/legal requirements the same for initiatives and referendums?

Answer: They are very close. An important referendum distinction is that they have a deadline: Once I & R powers have been authorized by a city, all non-exempt ordinances will take effect in 30 days unless sufficient signatures are collected within 29 days after adoption. State law is silent on this point, but it appears the all exempt ordinances could take effect in the current 5 days. Emergency ordinances may take effect immediately whether or not they meet the criteria for referendum.

Exhibit 2

How the powers are exercised

- Initiative.
  - Voters may initiate an ordinance using the powers of initiative by filing a petition with the City Clerk.
  - The petition requires signatures of registered voters equal to **15%** of the number of registered voters in the city (4331 or 5255 with Klahanie voters).
  - Those signatures must be verified by the County Auditor.
  - The City Council must either pass the ordinance within 20 days of the clerk's certification of the petition, or submit the ordinance to the voters at a general or special election.

Exhibit 2

How the powers are exercised (continued)

- Referendum.
  - Voters may have an ordinance that has been passed by the City Council referred to the voters for affirmation or rejection at an election by filing a petition with the signatures of registered voters equal to **15%** of the number of registered voters in the city.
  - The petition must be filed within 30 days of City Council passage
  - The signatures must be verified by the County Auditor.
  - If a valid petition is filed seeking a referendum, the ordinance passed by the City Council does not go into effect until it has received a majority of the votes cast at the election.

Exhibit 2

Costs

- Question: Who pays for the verification of signatures by the County Auditor?

  Answer: Thus far King County has not charged for their work to validate the signatures associated with a petition related to initiatives or referendums.

- Question: What is the typical cost to defend the city in a disputed I & R case?

  Answer: Our City Attorney estimates the typical cost to be between $10,000 and $20,000.

- Question: What is the cost of an initiative or referendum placed before the voters?

  Answer: The cost will be the same as any other ballot item placed on a ballot. It is dependent upon the number of items on the ballot and the number of entities placing items on the ballot. A rough figure would be $30,000 to $40,000.

Exhibit 2

Petition Timelines for Elections?

- Question: What timelines must the city follow for ballot placement – can the city consolidate and do one I & R submittal per year to the voters?

Answer: If a procedurally proper initiative or referendum is not acted upon by the City Council within 20 days of certification of the signatures, it must be submitted to the voters in the next allowable special or general election.

- I & R elections may only be held on Specific Dates

  - Second Tuesday in Feb: Requesting Resolution to KC Elections 46 days prior

  - Fourth Tuesday in Apr: Requesting Resolution to KC Elections 46 days prior

  - Primary Election Day as specified in RCW 29A.04.311 with Requesting Resolution due to KC Elections no later than Friday immediately before the first day of candidate filing

  - General Election Day – first Tuesday after the First Monday in Nov: Requesting Resolution to KC Elections no later than the day of the Primary Election

Exhibit 2

Role of the King County Elections Dept in regards to the I & R Petitions

- Determine whether or not the number of valid signatures on the petition are sufficient.
  - Petition initially filed with the jurisdiction
  - Petition Forwarded to King County Elections for verification
  - King County verifies signatures
  - KC determines sufficiency of the petition with a letter or certification of results

Exhibit 2

How may Powers of I &R be abandoned by a code city?

- Powers of I & R may be repealed 6 years after they were adopted
  - Step 1. Two Ways….
    - One Way: City Council passes a resolution of intention, proposing the abandonment of the powers of I & R.
    - Second Way: Petition by the citizens to abandon the powers of I & R with at least 10% of the votes cast in the last general election.
  - Step 2. After successfully completing one of the two ways of step 1., an election must be held at the next general election
  - Step 3. If a majority of the general election voters vote to repeal the powers of I & R, then they are repealed.

- NO CODE CITY HAS EVER ABANDONED THE POWERS OF I & R ONCE ADOPTED

Exhibit 2

Questions & Discussion

Exhibit 3

Memorandum

DATE: January 5, 2012

TO: City Council
City Manager

FROM: Bruce Disend, City Attorney

RE: Initiatives and Referenda

The City Council has indicated an interest in discussing the topics of initiatives and referenda. In brief, the power of initiative is used to propose new legislation and the power of referendum is used to review previously adopted legislation. The purpose of this memorandum is to provide Council with an overview of these topics.

This memorandum consists of two sections: Section "A" sets forth Frequently Asked Questions concerning the initiative and referendum processes; and Section "B" is a report prepared by the League of Women Voters, dated October 2002, entitled "Direct Democracy: the Initiative and Referendum Process in Washington State." The report provides a useful description of the various issues related to the exercise of these powers.

A. FREQUENTLY ASKED QUESTIONS*

1. Question:

What are the powers of initiative and referendum?

Answer:

An initiative is the means, established by charter or statute, for the enactment of municipal legislation by the direct action of the voters of the city.

A referendum is the right of the people, established by charter or statute, to have an ordinance which has been enacted by the local legislative body submitted to the voters of the city for their approval or rejection.

* Source: Municipal Research and Services Center website.

2. Question:

What are the methods for acquiring the powers of initiative and referendum by a code city?

Answer:

The code city statutes indicate that the powers of initiative and referendum are to be acquired through use of the process used to reclassify under the optional municipal code. RCW 35A.11.080.

The first method, under RCW 35A.02.020, is by direct petition which requires a petition signed by qualified electors equal in number to not less than 50 percent of the votes cast at the last general municipal election. This petition is then filed with the city clerk who must then determine whether the petition is sufficient. If it is, the petition is filed with the legislative body, which then must pass a resolution declaring that the inhabitants of the city or town have decided to provide for the powers of initiative and referendum. The resolution must be published in a newspaper of general circulation within 10 days of its adoption. Thereafter, there is a 90-day waiting period during which a second "referendum" petition can be filed to force an election on the issue. The second petition is sufficient if it has been signed by qualified electors equal in number to not less than 10 percent of the votes cast at the last general municipal election. If a sufficient second (or referendum) petition is filed, there must be an election on the issue at the next general municipal election, if that election will be held within 180 days after the filing of the referendum, or otherwise at a special election. If there is an election on the issue, the powers would only be adopted if a majority of those voting on the issue favor adoption of the powers. If there is no referendum (or second) petition filed within 90 days of the council resolution, the council must adopt the powers of initiative and referendum by ordinance.

The second method, provided for in RCW 35A.02.030, is by resolution. Under this method, the city council may pass a resolution to provide for the powers of initiative and referendum. This resolution, like the direct petition method resolution, is subject to a referendum if, within 90 days after publication of the resolution, a timely 10 percent petition is filed, as provided for in RCW 35A.02.035.

3. Question:

How are the powers of initiative and referendum exercised?

Answer:

The powers of initiative and referendum are not universally available. In fact, the powers of initiative and referendum are only available in first class cities (RCW 35.22.200 and the charters), code cities (RCW 35A.11.080 - .100), and cities organized under the commission form of government (RCW 35.17.240 - .360). Code cities, such as Sammamish, do not automatically have the powers of initiative and referendum, but may adopt them, either by citizen resolution or by resolution of a majority of the city council.

Exhibit 3

Voters of a code city which has acquired the powers of initiative and referendum may initiate ordinances or have certain ordinances which have been passed by the legislative body referred to them for affirmation or rejection at an election. In either instance, the process is begun by petition. In a code city, the petition requires signatures of registered voters equal to 15 percent of the number of registered voters in the city as of the date of the last preceding city general election.

Certain ordinances are not subject to referendum. The following ordinances are excepted from the process in both commission and code cities:

- Ordinances initiated by petition;
- Ordinances necessary for the immediate preservation of public peace, health, and safety, or for the support of city government and its existing public institutions, which contain a statement of urgency and are passed by a unanimous vote of the commission or council; and
- Ordinances providing for local improvement districts.

In addition, the following types of ordinances are exempt from referendum in a code city:

- Ordinances appropriating money;
- Ordinances providing for or approving collective bargaining;
- Ordinances providing for the compensation of or working conditions of city employees; and
- Ordinances authorizing or repealing the levy of taxes.

If a valid petition is filed seeking a referendum, the ordinance does not go into effect until it has received a majority of the votes cast at the election. If a valid initiative petition is filed (accompanied by a proposed ordinance), the council shall either pass the ordinance within 20 days of the clerk 's certification of the petition, or else submit the ordinance to the voters at a general or special election called for that purpose. (RCW 35.17.260).

4. Question:

What are the limitations on the powers of initiative and referendum in a code city?

Answer:

There are certain statutory limitations placed upon the referendum power in code cities and city charter limitations upon those powers in first class cities. RCW 35A.11.090 excepts the following:

1. Ordinances necessary for the immediate preservation of public peace, health, safety or for the support of city government and its public institutions which contain a statement of urgency and are passed by unanimous vote of the council;
2. Ordinances providing for local improvement districts;
3. Ordinances providing for or approving collective bargaining;
4. Ordinances providing for the compensation of or working conditions of city employees; and
5. Ordinances authorizing or repealing the levy of taxes.

In addition to the above statutory exceptions, our courts have carved out various other actions which are not subject to initiative and referendum. The courts have maintained "that direct legislation by the people, acting through the power of initiative or referendum, may not interfere with the exercise of any power delegated, by state law, to the mayor and city council as the governing body of the city." In other words, where the grant of power by the state legislature is to the "corporate authorities" of the city, that is, to the mayor and city council, and not to the city as a "corporate entity", or the electorate, an ordinance which does no more than exercise the power granted by state law is not subject to the referendum provisions.

Another distinction made by our courts is the difference between legislative policy, which falls within the scope of the powers of initiative and referendum; and administrative action which does not. (See, e.g., *Ruano v. Spellman*, 81 Wn.2d 820, 505 P.2d 447 (1973).)

5. Question:

How does one determine whether an issue is legislative or administrative in order to determine if it is subject to initiative and referendum?

Answer:

Two tests have been suggested for determining whether an issue is legislative or administrative. First, actions relating to subjects of a permanent and general character are usually regarded as "legislative" and thus subject to the powers of initiative and referendum. Those actions taken on subjects of a temporary and special character are usually regarded as "administrative" and are not subject to the powers. *Citizens v. Spokane*, 99 Wn.2d 339, 662 P.2d 845 (1983). A second test suggests that a matter is legislative if it prescribes a new policy or plan, and administrative if it merely pursues a plan that has already been adopted.

6. Question:

Have most code cities adopted the powers of initiative and referendum?

Answer:

No. The majority of the 189 code cities have never adopted the powers of initiative and referendum. MRSC counted 49 as of October, 2008 that had done so.

7. Question:

Can the powers of initiative and referendum, once adopted, ever be abandoned by a code city?

Answer:

Yes, they can be. RCW 35A.11.080 provides that the exercise of the powers "may be restricted or abandoned" through use of the procedures that are followed to abandon the plan of government of a noncharter code city, RCW 35A.06.030 - .060. No code city has ever abandoned the powers once adopted.

8. Question:

Can the powers of initiative and referendum be used to amend a city's zoning ordinance and impose a moratorium on rezones for a limited time period?

Answer:

The courts in this state have indicated previously that amendments to the zoning code are not a proper subject for an initiative. See the cases of *Lince v. Bremerton*, 25 Wn. App. 309 (1980) and *Leonard v. Bothell*, 87 Wn.2d 847 (1976).

Part of the rationale for these decisions is the doctrine that the powers of initiative and referendum do not apply to actions which have been delegated by the state legislature to the governing body (city council) of a city or town as opposed to the city or town as a corporate entity. RCW 35A.63.100 appears to indicate that the power to enact land use zones has been granted to the city councils in noncharter code cities. Since this is a power which has been specifically granted to the city council by the state legislature, it is not an appropriate subject for the initiative process.

RCW 35A.63.220 (for code cities) specifically indicates that it is the legislative body which has the authority to adopt a moratorium.

9. Question:

Is a budget ordinance subject to a referendum?

Answer:

RCW 35A.11.090 outlines the exceptions to the initiative and referendum powers of a code city. Among those exceptions are ordinances appropriating money and ordinances providing for the compensation of city employees. The budget ordinance would encompass both of these exceptions and consequently is not subject to a referendum.

Exhibit 3

B. DIRECT DEMOCRACY:

THE INITIATIVE AND REFERENDUM PROCESS IN WASHINGTON STATE

Exhibit 4

Memorandum

DATE: January 22, 2015

TO: City Council
City Manager

FROM: Mike Kenyon, City Attorney and Kim Adams Pratt, Assistant City Attorney

RE: Follow up - Initiatives and Referenda

During the December 9, 2014, City Council Study Session questions were asked by Councilmembers regarding the topic of initiatives and referenda that required additional investigation and research. Below are the questions asked and the information obtained by City Staff and Kenyon Disend in response.

1. The City Council requested a copy of the list compiled by Municipal Research and Service Center (MRSC) of the statutory topics not subject to initiative and referendum.

Attached is **Appendix H** from MRSC's Initiative and Referendum Guide, which is the list of topics that are not likely subject to initiative and referendum powers. Attached as **Appendix I** is the list of topics that is likely subject to initiative and referendum powers.

2. Provide a comparison of the subjects that are prohibited to be addressed by initiative as compared to the subjects that are prohibited to be addressed by referendum.

In addition to the subjects in Appendix H, neither initiative nor referendum powers may be used when the statutory authority is explicitly granted to the City Council (rather than the City as an entity) and when the ordinance is administrative (merely pursues a plan already adopted) rather than legislative (permanent, general character).

The following is a comparison of topics for which referendums are specifically prohibited and a reference as to whether initiative petitions are also prohibited:

- Referendum prohibited for emergency ordinances necessary for the immediate preservation of public peace, health, safety or for the support of city government and its public institutions. Whether an initiative petition was prohibited would depend on the specific topic of the emergency ordinance.
- Referendum prohibited for ordinances providing for local improvement districts. An initiative petition is also likely prohibited on this topic. Appendix H, RCW 35.43.042, 35.43.010.

- Referendum prohibited for ordinances providing for or approving collective bargaining. Recent trial court cases have held that an initiative on this topic is prohibited because the power is granted specifically to the City Council, not to the City in general.
- Referendum prohibited for ordinances providing for the compensation of or working conditions of city employees. Whether an initiative was to be allowed likely depends on whether the authority is specifically given to the City Council and whether the topic of the initiative is legislative rather than administrative.
- Referendum prohibited for ordinances authorizing or repealing the levy of taxes. Initiatives are prohibited for several funding and taxing mechanisms. See Attachment H.
- Referendum prohibited for ordinances appropriating money. Initiatives are prohibited for several funding and taxing mechanisms. See Attachment H.

3. Provide examples, from cities near Sammamish that have adopted initiative and referendum powers, of the types of regulations that have been the subject of either an initiative or a referendum.

Redmond: A petition was filed (by Tim Eyman) against red-light cameras. The City Clerk determined that red-light cameras fall under the jurisdiction of police regulations, which sits solely with the City Council. The City Council agreed and the petition was rejected. The petitioner appealed this decision to superior court and the court agreed with the City of Redmond. Redmond adopted these powers in 1982 and this is the first petition it has received.

Issaquah: An unsuccessful initiative petition was received in 2012 regarding the ban on plastic bags. However, efforts continued into 2013 until a valid petition was received. The City Council directed the initiative for a vote of the people. Ultimately, at the special election in February of 2014 the item was not successful with voters and Issaquah retained the plastic bag ban. The City Clerk recalls that this is the only petition Issaquah has received in at least twenty (20) years. Issaquah City staff explained that this was a very labor intensive process – for both the petitioner and the City; however, it is not something that is done frequently.

Lynnwood: On December 10, 2014 a group submitted 336 pages of petitions totaling approximately 4740 signatures for an initiative to appeal an ordinance banning fireworks. The number of signatures required to validate the petition is 2,708. The County Elections Office certified and accepted 2,195 signatures, the balance (2,556) were stricken. On December 18th the City sent a Certificate of Insufficiency to the petitioning group and explained that they had 10 days to submit additional signatures. Additional signatures were submitted and have been submitted to the County Elections Office for validation. The City Clerk believes this is the only petition filed with the city in the last fifteen (15) years.

North Bend: No petitions filed.

4. If a petition to adopt initiative and referendum powers is submitted to the City Clerk, who pays for the County Auditor/King County Elections Office to verify that the required 50% of signatures has been obtained?

The King County Elections Office has told us that it does not currently charge for verifying signatures.

5. Please provide the information the Council was provided with in 2012 regarding past abuses or unintended consequences of initiative and referendum powers.

City Attorney Bruce Disend provided Council with the 2002 *Direct Democracy: The Initiative and Referendum Process in Washington State* from the League of Women Voters. The full report is attached and below is an excerpt from the introduction.

> This revised and updated study of the initiative and referendum process dates from the League research done in 1994 to a book published in 2002. Although a clear majority of Washington citizens support keeping the initiative process, there is a growing frustration over some aspects: the increasing use of the process, its encroachment into areas some previously thought to be the prerogative of the legislature, the use of paid signature gatherers, and the growing willingness of the Washington State Supreme Court to rule voter-passed initiatives unconstitutional. Some, who have always supported the initiative process, have come to wonder if it isn't time to make changes in the process. Others believe the fewer restrictions the better, and that nothing should interfere with the right of the people to exercise this constitutionally protected form of "direct democracy." Concerns range from the large number of initiative petitions circulated to the impact on the budget process, and for some voters, the recognition after-the-fact of the unintended consequences of undercutting services they actually want. Many legislators find it increasingly difficult to manage a budget that is impacted by the passage of ballot measures that can increase spending and reduce revenue in the same election . . . We hope this report helps readers draw their own conclusions as to which is which.

6. Is it possible for a City to adopt the power of initiative, but not to adopt the power of initiative?

No, RCW 35A.11.080 allows for a noncharter code city like Sammamish to "provide for the exercise in their city of the powers of initiative and referendum." The use of the conjunction "and" in the statute would most likely be interpreted to mean that the power of initiative and referendum must be adopted together, and that a city is not allowed to adopt one power without adopting the other.

7. If a petition to adopt the powers of initiative and referendum were presented to the City Council, what would the timeline be for King County Elections Office to verify the signatures on the petition? Passage of a resolution by Council? Vote by the electorate?

RCW 35A.02.020 provides that the county auditor "shall promptly proceed to determine the sufficiency of the petition." There is no specific timeframe for the City Council to then adopt a resolution declaring the intention of the City to adopt the powers of initiative and referendum,

but the City is required to publish the resolution not more than ten days after its passage. RCW 35A.20.020.

If in response to the Council's resolution a referendum petition is filed within 90 days after publication of the resolution (signed by 10% of votes cast in last general election) an election must be held at the next general election if there is one within 180 days of the filing of the petition. Otherwise, the vote will be held at a special election called for that purpose. RCW 35A.02.025. Special elections in 2015 are scheduled for February 10th, April 28th, and August 4th.

8. What was the cost to the City of defending the Clallam County Superior Court case, cause number 14-2-00771-2 that dealt with an initiative that would have required all union negotiations be done in public?

We contacted the cities of Sequim and Shelton regarding the fees that they have incurred as a result of the initiative on union negotiations. Neither city was able to provide a dollar figure for the attorney's fees incurred. In general, it is difficult to accurately predict the cost of potential future litigation involving initiative and referendum matters. In most cases, however, the litigation would be relatively straightforward and would be limited to pure legal issues, which would eliminate the need for depositions and other discovery (and their attendant expense). The City's litigation expense would probably fall between $10,000 and $20,000.

9. Has a City with the powers of initiative and referendum ever passed either an initiative or referendum? MRSC researched this issue for us, and found that in the past two years the following is the only initiative that went to a vote of the city's citizens:

2014 Issaquah Proposition 1. This initiative ordinance to the Council of the City of Issaquah, Washington deals with retail carryout bags. Currently, City law prohibits retail establishments from providing lightweight plastic carryout bags to customers, requires a minimum 5 cent charge for paper carryout bags, and encourages use of other reusable bags. The proposed initiative ordinance would repeal this law. In addition, the proposed initiative ordinance would require future regulations of retail carryout bags be approved by a majority vote of the City Council and a majority vote of the citizens at an election.

The initiative failed (47.68% to 52.32%).

10. Provide the terms of Article I, section 1 of the Washington State Constitution.

> **Article I, Declaration of Rights, Section 1 Political Power.** All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.

11. If a state initiative or referendum is passed by the electorate, is the legislature authorized to amend or repeal the enactment after two years? Yes.

> **Washington State Constitution, Article II, section 1(c)** No act, law, or bill subject to referendum shall take effect until ninety days after the adjournment of the session at which it was enacted. No act, law, or bill approved by a majority of the electors voting thereon shall be amended or repealed by the legislature within a period of two years following such enactment: *Provided,* That any such act, law, or bill may be amended within two years after such enactment at any regular or special session of the legislature by a vote of two-thirds of all the members elected to each house with full compliance with section 12, Article III, of the Washington Constitution, and no amendatory law adopted in accordance with this provision shall be subject to referendum. But such enactment may be amended or repealed at any general regular or special election by direct vote of the people thereon. (Emphasis added)

12. Provide the process by which the powers of initiative and referendum may be repealed six (6) years after being adopted.

The following is a summary of the procedure authorized in RCW 35A.11.080: is as follows:

- Two ways exist to initiate the repeal of initiative and referendum powers: The first is for the city council to pass a resolution of intention, proposing abandonment of initiative and referendum powers. The second is for the citizens to petition for abandonment of the powers. The petition must be signed by not less than 10 percent of the votes cast at the last general municipal election.
- Once the petition has been determined to be sufficient by the county auditor/King County elections office or the resolution of intention has been approved by the council, an election must be held at the next general election.
- If a majority of the voters voting at the election vote to repeal the powers of initiative and referendum, then they are repealed.

13. What form does an initiative or referendum take on the City's records after passed by the voters?

An initiative that is passed would become part of the City's official ordinance records. The City Clerk is to write on the margin of the ordinance "ordinance by petition No." or "ordinance by vote of the people." If a referendum is passed the ordinance that is the subject of the referendum would be shown in the City's records as having been repealed. Below is how the City of Bellevue has codified these requirements in its municipal code ("BMC").

> **BMC section 1.12.180 Initiative – Effective date – Record.**
>
> If a majority of the number of votes cast thereon favor the proposed ordinance, it shall become effective immediately and shall be made a part of the record of ordinances of the city.

BMC 1.12.200 Initiative – Repeal or amendment – Method.

The council may by means of an ordinance submit a proposition for the repeal or amendment of an ordinance, initiated by petition, by submitting it to a vote of the people at any general election and if a majority of the votes cast upon the proposition favor it, the ordinance shall be repealed or amended accordingly.

A proposition of repeal or amendment must be published before the election thereof as in an ordinance initiated by petition when submitted to election.

BMC 1.12.210 Initiative – Repeal or amendment – Record.

Upon the adoption of a proposition to repeal or amend an ordinance initiated by petition, the city clerk shall write upon the margin of the record of the ordinance "repealed (or amended) by ordinance No.____," or "repealed (or amended) by vote of the people."

BMC 1.12.260 Referendum – Effective date – Record.

If a majority of the number of votes cast thereon oppose the ordinance subject to the referendum, such ordinance shall be deemed repealed immediately.

14. What are the City Council's options if the City Council believes that an initiative that has passed needs to be amended or repealed?

The City Council cannot by its own vote amend or repeal an ordinance that has been adopted by initiative. RCW 35.17.340 provides that an ordinance adopted by a vote of the people cannot be amended or repealed except by a vote of the people. This limitation on repeal or amendment applies even if the City Council decides to pass the proposed ordinance without alteration pursuant to RCW 35.17.260(1), because the ordinance was "initiated by petition."

RCW 35.17.350 does allow the City Council to submit a proposition to amend or repeal an ordinance initiated by petition, by submitting same to a vote of the people at any general election. If a majority of the votes cast are in favor of the Council proposition, then the ordinance shall be amended or repealed accordingly.

Exhibit 5

CITY OF SAMMAMISH
WASHINGTON

ORDINANCE NO. O2015-_____

AN ORDINANCE OF THE CITY OF SAMMAMISH, WASHINGTON, ESTABLISHING A NEW SAMMAMISH MUNICIPAL CODE CHAPTER 1.15 RELATING TO THE POWERS OF INITIATIVE AND REFERENDUM; PROVIDING FOR SEVERABILILTY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council has chosen to extend the powers of initiative and referendum to the voters of the City of Sammamish; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New SMC Chapter 1.15 Established. A new Sammamish Municipal Code Chapter 1.15 ("Initiative and Referendum") is hereby established and adopted to read as follows:

Chapter 1.15
INITIATIVE AND REFERENDUM

Sections:

1.15.010 Purpose.
1.15.020 Ordinances not subject to initiative and referendum.
1.15.030 Initiative – Procedures.
1.15.040 Initiative – Sufficiency of the petition – Determination.
1.15.050 Initiative – City council action – Calling election.
1.15.060 Initiative – Ballot title – Ballot statement.
~~1.15.070 Initiative – Notice of election.~~
~~1.15.080 Initiative – Conduct of election.~~
1.15.0~~9~~70 Initiative – Effective date – Recording.
1.15.~~1~~080 Initiative – Appeal to court.
1.15.~~11~~090 Initiative – Repeal or amendment.
1.15.1~~2~~00 Referendum – Procedures.
1.15.1~~3~~10 Referendum – Filing suspends ordinance – City council action.
1.15.1~~4~~20 Referendum – Effective date – Record.
1.15.1~~5~~30 Referendum – Other initiative provisions to apply.
1.15.1~~6~~40 Restriction or abandonment of powers.
1.15.1~~7~~50 Ordinances restricting or abandoning powers – Effective date.

1.15.010 Purpose.

The purpose of this chapter is to provide to the qualified electors of the City of Sammamish the powers of initiative and referendum in accordance with Chapters 35.17 and 35A.11 RCW.

1.15.020 Ordinances not subject to initiative and referendum.

Ordinances of the City of Sammamish which shall not be subject to the powers of initiative and referendum and which shall become effective five days following their passage and legal publication, or as otherwise provided by the general law or by applicable sections of RCW Title 35A, as now or hereafter amended, are as follows:

1. Ordinances initiated by petition;

2. Ordinances necessary for immediate preservation of public peace, health, and safety or for the support of city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the city council;

3. Ordinances providing for local improvement districts;

4. Ordinances appropriating money;

5. Ordinances providing for or approving collective bargaining matters;

6. Ordinances providing for the compensation of or working conditions of city employees;

7. Ordinances authorizing or repealing the levy of taxes;

8. Any other ordinance or subject matter exempted now or hereafter by state law from initiative and referendum processes; and

9. Ordinances enacted under authority delegated exclusively to the legislative body of the city by the state.

1.15.030 Initiative – Procedures.

Ordinances may be initiated by petition of electors of the city of Sammamish only in accordance with the provisions of this chapter:

1. Recommended Filing. Persons or groups desiring to initiate an ordinance by petition are strongly encouraged to submit to the city clerk copies of the petition and proposed ordinance by initiative prior to seeking or obtaining signatures. Upon receipt of any such petitions or ordinances, the city clerk shall forward the same to the city attorney. Within 15 business days of receipt of the petition and proposed ordinance by initiative, the city attorney shall determine and report to the city council whether the proposed ordinance by petition is subject to the initiative process, and, if so, shall thereafter formulate an initiative statement, as described in subsection (B)(2) of this section, and shall transmit the initiative statement to the city clerk, city council, city manager, and the petitioner.

2. Initiative Petition – Requirements – Form. All initiative petitions submitted to the city clerk for validation shall contain the following:

   a) Title of the Proposed Ordinance. The petition shall indicate the title of the proposed ordinance. The title shall be subject to change by the city as may be necessary to comply with state law or city code.

   b) Initiative Statement. Every petition page shall contain an initiative statement, not exceeding 100 words, phrased in the form of a question that can be answered only with an affirmative or negative response. The initiative statement may be distinct from the petitioner's title of the measure, and shall express and give an impartial statement of the purpose of the measure.

3. Petition Page(s). An initiative petition may include any number of pages; provided, that each page shall contain the initiative statement defined in subsection (2)(b) of this section.

4. A copy of the proposed ordinance shall be attached to the petition and shall be made available to every person signing a petition.

5. Signature Lines. Every petition page shall contain consecutively numbered lines for signatures and shall include space for the printed name of the person signing, his or her address, and the date of signing. Signature lines shall be in substantially the following format:

	Petitioner's Signature	Petitioner's Printed Name	Address	Date
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

7. Warning. Every petition page shall contain the following warning directly above the signature lines:

WARNING

Any person who signs this petition with a name other than his/her true and legal name, or who knowingly signs more than one petition page, or who signs a petition when he/she is not a qualified elector of Sammamish, or who signs a petition when he/she is otherwise not qualified to sign, or who otherwise makes herein any false statement, shall be guilty of a misdemeanor.

1.15.040 Initiative – Sufficiency of the petition – Determination.

1. Signatures. To be sufficient, an initiative petition submitted for validation to the city clerk must contain valid signatures of not less than 15 percent of the number of persons registered to vote at the last preceding general city election.

2. Determination of Sufficiency. Within 10 business days, or such additional time as may reasonably be necessary, from the filing of the petition for validation, the city clerk or the city clerk's designee shall determine the sufficiency of the signatures and shall either accept the petition and issue a certificate of sufficiency, or reject the petition for insufficiency and issue a certificate of insufficiency. For purposes of this section, the city clerk or

designee shall use the registration records and returns of the preceding general city election.

3. Basis for Determination of Sufficiency. The following bases shall apply to determinations of sufficiency:

   a) There shall be signatures of not less than 15 percent of the number of persons registered to vote in the last, preceding general city election;

   b) Variations in signatures between the petition and the voter's permanent registration caused by a substitution of initials instead of the voter's first or middle name, or both, shall not invalidate the signature if it is otherwise valid;

   c) Signatures, excluding the first time, of any person who has signed a petition two or more times shall be stricken; and

   d) Petitions shall also include the printed name of the person signing, his or her address, and the date signed.

1.15.050 Initiative – City council action – Calling election.

1. If the petition accompanying the proposed ordinance is determined to be sufficient by the city clerk, the city council shall, within 20 days after the city clerk's certification of sufficiency, pass the proposed ordinance without alteration, or reject the proposed ordinance.

2. The city council may, after rejection of any initiative measure, propose and pass an alternative ordinance dealing with the same subject; provided, that if the city council rejects any initiative measure, or fails to pass an initiative measure without alteration within 20 days of certification of sufficiency, or passes a different measure dealing with the same subject, then the initiative measure without alteration and the council's alternative measure, if any, shall be submitted to the qualified electors of the city for approval or rejection.

3. If the initiative and/or any alternative council measure are to be submitted to the voters, the city council shall call an election to be held pursuant to state law.

1.15.060 Initiative – Ballot title – Ballot statement.

1. When any initiative petition is determined to be sufficient by the city clerk and is to be submitted to the voters, the city clerk shall forward the initiative statement and summary to the city attorney.

2. The city attorney shall prepare, within 10 business days of receipt of the initiative statement and summary:

   a) A ballot title to permit the voters readily to identify the proposition and distinguish it from other propositions on the ballot; and

   b) A ballot statement, not to exceed 100 words, containing the essential features of the initiative as expressed in the initiative statement and summary. The ballot statement shall accompany the ballot title on the ballot.

1.15.070 Initiative – Effective date – Recording.

1. If a majority of the number of votes cast in an election on an initiative favor the initiative, it shall become effective and shall be made a part of the record of ordinances of the city.

2. In case the city council, after rejection of the initiative measure, has passed an alternative measure, the alternative measure shall be submitted at the same election with the initiative measure. If both the initiative and the council's alternative measure are approved by a majority vote, and if they are conflicting in any substantive manner, then the measure receiving the highest number of affirmative votes shall thereby be adopted, and the other shall be deemed rejected.

1.15.080 Initiative – Appeal to court.

If the city clerk finds the initiative petition insufficient or if the city council refuses either to pass an initiative ordinance or to order an election thereon, any aggrieved person may commence an action in the superior court against the city seeking to order an election to be held in the city for the purpose of voting upon the proposed ordinance. Any such action shall be filed with the court within 10 calendar days of such refusal by the city council or finding of insufficiency by the city clerk.

1.15.090 Initiative – Repeal or amendment.

1. Upon the adoption of an ordinance by initiative, the city clerk shall write on the margin of the record thereof "Ordinance by Petition No. _____" or "Ordinance by Vote of the People."

2. The city council may, by ordinance, submit to a vote of the people at any general election a proposition for the repeal or amendment of an ordinance initiated by a petition. If a majority of the votes cast upon the proposition favor it, the ordinance by petition shall be repealed or amended accordingly. Propositions for repeal or amendment of an ordinance by petition shall meet the notice, publication and voting requirement of initiatives.

3. Upon the adoption of a proposition to repeal or amend an ordinance by petition, the city clerk shall write upon the margin of the record of the ordinance "Repealed (or Amended) by Ordinance No. _____" or "Repealed (or Amended) by Vote of the People."

1.15.100 Referendum – Procedures.

1. A petition for referendum may be timely filed with the city clerk within 30 days from the adoption of an ordinance by the city council, petitioning the council to reconsider an ordinance which is subject to referendum, or to submit the same to a vote of the people for their approval.

2. Referendum Petition – Requirements – Form. All referendum petitions submitted to the city clerk for validation shall contain the following:

   a. Referendum Statement. The petition for referendum shall contain a referendum statement that shall be phrased substantially in the following language:

      Should City of Sammamish Ordinance No. _____ relating to _____, enacted by the Sammamish City Council on _____, be repealed in its entirety? Your signature on this petition indicates your vote in favor of repeal of the attached ordinance in its entirety.

   b) A copy of the challenged ordinance in the form adopted by the city council shall be attached to each referendum petition for the information of the parties requested to sign such petition and shall be made available to every person signing a petition.

c) Petition Pages. A referendum petition may contain any number of pages; provided, that each page contains the referendum statement described in subsection (B)(1) of this section.

d) Signature Lines. Every petition page shall contain consecutively numbered lines for signatures, and shall include space for the printed name of the person signing, his or her address and the date of signing. Signature lines shall be in substantially the following format:

	Petitioner's Signature	Petitioner's Printed Name	Address	Date
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

e) Warning. Every petition page shall contain the following warning directly above the signature lines:

WARNING

> Any person who signs this petition with a name other than his/her true and legal name, or who knowingly signs more than one petition page, or who signs a petition when he/she is not a qualified elector of Sammamish, or who signs a petition when he/she is otherwise not qualified to sign, or who otherwise makes herein any false statement, shall be guilty of a misdemeanor.

1.15.110 Referendum – Filing suspends ordinance – City council action.

Upon the timely filing of a referendum petition determined to be sufficient by the city clerk, the city council shall reconsider the challenged ordinance and upon reconsideration shall defeat it in its entirety or shall submit it to a vote of the people. The operation of an ordinance timely challenged by referendum shall be suspended from the time a referendum petition is submitted for validation until the referendum petition is finally found insufficient or until the ordinance

challenged has received a majority of the votes cast thereon at the election held for the purposes of the referendum.

1.15.120 Referendum – Effective date – Record.

If a majority of the number of votes cast thereon oppose the ordinance subject to the referendum, such ordinance shall be deemed repealed immediately.

1.15.130 Referendum – Other initiative provisions to apply.

The following provisions of this chapter relating to initiatives shall also apply to every referendum:

1. Sufficiency of the petition (SMC 1.15.040);

2. Ballot title and ballot statement (SMC 1.15.060); and

3. Appeal to court (SMC 1.15.080).

1.15.140 Restriction or abandonment of powers.

The exercise of the initiative and referendum powers governed by this chapter may be restricted or abandoned upon passage of a resolution by the city council declaring the council's intent to put a vote to the people calling for restriction or abandonment of the initiative and referendum powers, or by the filing of a petition meeting the sufficiency requirements of SMC 1.15.040, and seeking the abandonment or restriction of the initiative and referendum powers. The council resolution or the petition shall be submitted to the voters at the next general municipal election if one is to be held within 180 days from the date of filing of the petition or passage of the resolution, or at a special election to be called for that purpose not less than 90 days nor more than 180 days after the passage of the resolution or the certification of sufficiency of the petition. The ballot title and ballot statement of the proposition shall be prepared by the city attorney as provided in SMC 1.15.060.

1.15.150 Ordinances restricting or abandoning powers – Effective date.

If a majority of votes cast at the election favor restriction or abandonment, such powers of initiative or referendum shall be deemed so restricted or abandoned.

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section sentence, clause or phase of this ordinance.

Section 3. Effective Date. This Ordinance is not subject to referendum as provided by law and shall take effect and be in full force five (5) days after this Ordinance or a summary thereof consisting of the title is published in the official newspaper of the City.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF JULY, 2015.

CITY OF SAMMAMISH

_____
Mayor Thomas E. Vance

ATTEST/AUTHENTICATED:

Melonie Anderson, City Clerk

_____

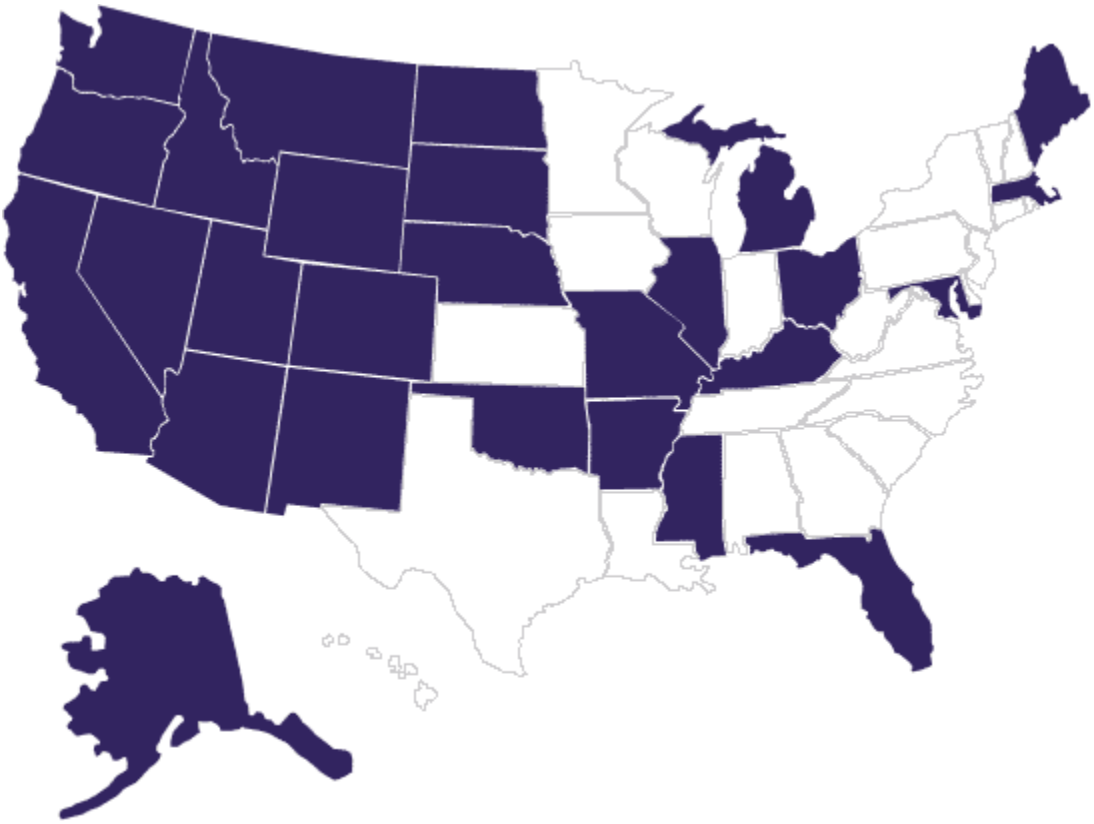
Approved as to form:

_____
Mike Kenyon, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance Number

Exhibit 6

DIRECT DEMOCRACY:
THE INITIATIVE AND REFERENDUM PROCESS IN WASHINGTON STATE



States with Initiative and/or Referendum Process
Map courtesy of the Initiative and Referendum Institute

League of Women Voters
October 2002

Direct Democracy:
The Initiative and Referendum Process in Washington State

League of Women Voters
October 2002

Introduction

This revised and updated study of the initiative and referendum process dates from the League research done in 1994 to a book published in 2002.

Although a clear majority of Washington citizens support keeping the initiative process, there is a growing frustration over some aspects: the increasing use of the process, its encroachment into areas some previously thought to be the prerogative of the legislature, the use of paid signature gatherers, and the growing willingness of the Washington State Supreme Court to rule voter-passed initiatives unconstitutional. Some, who have always supported the initiative process, have come to wonder if it isn't time to make changes in the process. Others believe the fewer restrictions the better, and that nothing should interfere with the right of the people to exercise this constitutionally protected form of "direct democracy."

Concerns range from the large number of initiative petitions circulated to the impact on the budget process, and for some voters, the recognition after-the-fact of the unintended consequences of undercutting services they actually want. Many legislators find it increasingly difficult to manage a budget that is impacted by the passage of ballot measures that can increase spending and reduce revenue in the same election.

What follows is a look at what has happened since 1994. Although many of the ideas for change voiced in 1994 are included, a few new ones have been added. Law Professor Kris Kobach notes some suggestions are "sincere efforts to improve the legitimacy of the process, while others have been thinly-disguised attempts to hobble it." We hope this report helps readers draw their own conclusions as to which is which. You will find references to recent court decisions, comparisons to other states that have the initiative process, and updated charts. A bibliography and other references are also provided.

The Initiative And Referendum in the United States

The initiative and referendum (I/R) process is called "direct democracy" by political scientists. Direct democracy is an old concept, practiced in Ancient Greece and in the town meetings of colonial New England. Our founding fathers however, concluded that direct democracy was impractical in a country containing 13 states with 13 different sets of attitudes and interests and chose to establish a representative form of government with a system of checks and balances ("indirect democracy").

Author David Magleby sees direct democracy (the initiative process) as valuing participation, open access and political equality, while tending to de-emphasize compromise, continuity and consensus. It encourages conflict and competition and attempts to expand the base of participants. On the other hand, indirect democracy (the legislative process), he says, values stability, consensus and compromise, and seeks to insulate fundamental principles from momentary passions and fluctuations of opinion.

There is no provision for enacting laws directly by the people (our initiative process) in the Constitution of the United States. Nor is there a provision for referenda at the federal level.

While the Constitution leaves to the states all legislative powers not granted to Congress, it also guarantees to every state a republican (representative) form of government. It is based on this "guarantee clause" that some legal scholars have argued that the use of initiatives and referenda is unconstitutional. The United States Supreme Court, however, has held in a case challenging their use that the issue is a political question, not properly before the Court, and must be left to congress.

Conceived as an innovation in modern government, which would allow citizens to act when their elected representatives lost sight of the "public will," Switzerland adopted the initiative/referendum system in 1874. It was 1898 before any of the U.S. states adopted the concept.

Near the turn of the century, populist, progressive and reform groups were agitating for more citizen control over their government. The populist I&R movement grew out of a general distrust of government. Many western voters believed that their legislators were only representing railroad, bank and timber interests. This led to the formation of chapters of The Direct Legislation League in many states.

Through the years both the populist and progressive movements supported the initiative process but from different perspectives. Modern commentators make this distinction, as expressed by Dr. Kenneth Miller: "[N]eo-Progressives still seek to use the initiative to enhance the responsiveness, professionalism, and expertise of government, whereas neo-Populists seek to substitute the wisdom of the people for deliberations of elected officials." In other words, populists distrust government; progressives seek to improve government.

The move toward direct citizen legislation started at the end of the nineteenth century. South Dakota led the "revolution" in 1898, with Oregon following in 1901. In Washington, after 10 years of lobbying and campaigning, a farm/labor coalition led by the Washington State Grange finally succeeded in getting the proposed I&R constitutional amendment on the ballot in 1912 and it passed. Montana included I&R in its first constitution – the first and only state until Alaska in 1959 - to include the process in its original constitution. Most of the I&R states are in the West and Southwest.

Today, 27 states have either or both an initiative and referendum process. Twenty-three states have referendum measures, 17 states have initiatives to the people, 7 states have initiatives to the legislature, but the requirements differ from state to state. Kentucky, Maryland and New Mexico allow referenda but not initiatives. Illinois and Mississippi allow initiatives but not referenda. Twelve states, including Washington, limit initiatives to a single subject only and nine states limit them to legislative matters only as does Washington. However, some have less and some have many more subject restrictions. Idaho has none at all while Alaska permits no revenue measures, no appropriations, no acts affecting the judiciary, or any local or special legislation and no laws affecting peace, health or safety.

Eighteen states allow their constitutions to be amended by initiative. Nine states, including Washington, do not allow constitutional amendments by initiative. Florida allows initiatives only for constitutional amendments.

Women gained the right to vote by initiative in Oregon and Arizona. Interestingly, several attempts failed because liquor and saloon interests feared that women would vote for prohibition, which they did. The adoption and then the repeal of prohibition were an initiative concern in many states for years.

Massachusetts adopted I&R at a state constitutional convention in 1913. Amendments by the legislature, however, have made it the nation's most cumbersome and complicated procedure. Nevertheless, in 2001, 16 initiatives were filed. 57,100 signatures were required by December 1 to have the state legislature consider

each one. If the legislature did not act by May, 2002 on petition proposing laws, the proponents had to gather another 9,517 signatures by July 5 for placement on the November, 2002 ballot. These issues deal with

universal health care, the MA Port Authority, recall of county sheriffs, an end to the personal income tax and sales tax and repeal of bilingual education.

Washington is one of the five states relying heavily on the initiative process. California and Oregon and Colorado are the highest users; Arizona is the fifth. Between 1990 and 2000 there were 458 initiatives nationwide – over three times the rate of the 40's, 50's, and 60's. In the 2000 election cycle: 90% of the initiative petitions failed; 350 were submitted in the 24 states; 76 made it onto the ballot and, of those, 36 were adopted, some of which were then challenged in court.

Oregon holds the record for the most initiatives on the ballot. Oregon was the first state to adopt, by initiative, the popular election of U.S. Senators (1908) and to provide for a Presidential Primary (1910). In the election of 2000, it had 26 issues on the ballot. Also many cities had local initiatives. One might surmise that with so many issues on the ballot, voter turnout would be low. In this election, however, 81% of those eligible to vote were registered and 79% voted. How could this happen with so many issues on the ballot? It happened because Oregon utilized the "vote by mail"(VBM). This method was created by the initiative process, spearheaded by the League of Women Voters of Oregon, AAUW and AARP using 11,000 unpaid signature gatherers. It passed by more than a 2 – 1 margin in 1998, an "off year" election with voter turnout similar to a Primary.

In the 2002 election Washington voters will have 2 initiatives and 2 referenda on the ballot. Oregon voters will have 7 initiatives and 5 legislative referrals. The reduction in initiatives on Oregon's ballot matches a decrease nationally, according to M. Dane Waters of the Initiative and Referendum Institute in Washington, D.C. Nationally there were 55 statewide initiatives in 1998 and more than 65 in 2000, but Waters predicts as few as 40 in 2002. "This will probably be the least number of initiatives on the ballot in about 15 years," he said. "Oregon is probably going to see the sharpest drop-off."

Creating Initiatives and Referenda

Initiatives

Any registered voter in Washington, acting individually or on behalf of an organization, may file an initiative with the Secretary of State. There is a five-dollar filing fee for each initiative filed. In practice, the Secretary of State's office often assists the petitioner with the language and organization of the document.

Washington State's Public Disclosure law, adopted by initiative in 1972, stipulates that any individual or organization, which expects to receive funds or make expenditures in an effort to support or oppose an initiative, must register with the Public Disclosure Commission and file certain financial reports. The sponsor of an initiative should contact the Public Disclosure Commission in conjunction with the preliminary filing of the measure.

A copy of the text of every proposed initiative is then sent to the Legislative Code Reviser who reviews the draft for technical errors and style. He advises the sponsor of any potential conflicts between the proposal and existing statutes and puts the petition into legal language. The proposal is then returned to the sponsor with a "certificate of review" and any recommended changes. All changes recommended by the Code Reviser are advisory and subject to approval by the sponsor. The sponsor has 15 working days after submission to the Code Reviser to file the final draft with the Secretary of State.

The final draft is then sent to the Attorney General. Legislation passed in 2000 requires the measure be given a ballot title of no more than ten words, a concise description of the measure, not to exceed 30 words and a summary not to exceed 75 words. The title question inquiring whether the measure should be approved or

rejected must clearly define the intent of the initiative sponsor(s). Any person may challenge the ballot title or summary in Thurston County Superior Court within five days, and the court has another five days to announce its decision. Fewer than 25 percent of the initiatives filed at the beginning of the process are ever printed or circulated by the sponsors. The sponsors pay the full cost of printing and circulating petitions.

Initiatives to the people must be filed not more than ten months prior to the next general election, and the signed petitions must be returned to the Secretary of State's office at least four months before the date of the election. To qualify for the ballot, the number of valid signatures must equal a minimum of eight percent of the votes cast for Governor in the last election. Approval by a simple majority of voters is required for passage unless it concerns gambling or lottery measures, which require 60 percent approval.

An initiative to the legislature must be filed within ten months of the next regular session of the legislature, and the signed petitions must be returned at least ten days before that session. If the signatures equal eight percent of the votes cast for Governor in the last election, the legislature must take one of the following actions.

- Adopt the initiative as proposed, in which case it becomes law without a vote of the people
- Reject or refuse to act on it, in which case the initiative must be placed on the ballot at the next general election.
- Approve an amended version, in which case both the new version and the original initiative must be placed on the next general election ballot.

Information about initiatives to be voted on is included in the state voters' pamphlet, along with arguments from the sponsoring committee and opponents. Once approved by the voters, initiatives cannot be changed by the legislature in the first two years, except by a 2/3rds majority in both houses.

The Referendum

There are two types of referenda: the referendum bill and the referendum measure. The primary purpose of each is to give voters an opportunity to approve or reject laws either proposed or enacted by the Legislature.

Referendum bills are laws proposed by the legislature which it chooses to refer to the electorate for approval or rejection. Most often these bills ask voter approval for new projects which will cost more money than the state has budgeted. Sometimes the bills represent "hot" issues such as a state position on transportation funding, nuclear waste repositories, expansion of public disclosure requirements, or changes in state abortion laws. Referendum bills have had a high success rate, with 38 of the 47 submitted to voters having passed. (Appendix C)

Referendum measures are laws recently passed by the legislature that are placed on the ballot because of voter petition. The purpose of such a referendum is to stop a recently passed state law from going into effect. Of the 49, which have been filed, 28 have succeeded in nullifying legislation. (Appendix D)

Referendum measures are similar to initiatives except for the following differences:

- A referendum may be filed after the Governor has signed the act that the sponsor wants referred to the ballot. Signed petitions must be filed no later than 90 days after the final adjournment of the legislative session at which the act was passed. Once certified, the referendum is submitted at the next state general election.
- Petitions may be certified with a minimum of 4% of the votes cast for Governor in the last election.
- Emergency Clause

  The power of referendum is given and partially taken away in the same sentence of Article II of the State Constitution:

> "The second power reserved by the people is the referendum, and it may be ordered on any act, bill, law or any part thereof passed by the legislature, *except such laws as may be necessary for the immediate preservation of the public peace, health or safety;* (or) *support of the state government and its existing institutions..."* (italics ours, the (or) above has been assumed by courts to have been inadvertently omitted by the framers.)

The italicized part of the above sentence is commonly known as the emergency clause. This clause is included in state legislation where there is a genuine emergency, or when the legislature wants the legislation to take effect at the start of the new fiscal year, July 1. An emergency clause provides a date certain for legislation to take effect. It is the only constitutional authority to deviate from the mandate of the seventh amendment, which provides that "no act, law, or bill subject to referendum shall take effect until ninety days after the adjournment of the session at which it was enacted." For many years no one knew when the Legislature would finally adjourn. With the passage of a constitutional amendment in 1979, special sessions, as well as regular sessions, now have a time certain for adjournment.

There is a growing belief that the emergency clause is often included in a bill to discourage a voter-initiated referendum. As early as 1945 in Kennedy v. Reeves, 22 Wn.2nd 677,683-84, the State Supreme Court chided the legislature for what it perceived was an attempt to thwart the people's right of referendum.

> "With all due respect, and with the earnest desire not to seem either censorious or facetious, we feel that we must say frankly and in all seriousness that the custom of attaching emergency clauses to all sorts of bills, many of which cannot by any stretch of the imagination be regarded as actually emergent…has become so general as to make it appear, in the light of recent experience, that a number of (formerly established presumptions indulged in favor of legislative declarations of emergencies) can no longerbe deemed controlling. It of course, will never be presumed that the legislature deliberately intended to infringe upon a constitutional right."

Although in the past courts have ruled that the presence of the emergency clause would not protect legislation from referendum, increasing weight is being given to its existence. The emergency clause has been credited for the lack of any successful citizen -initiated referenda since 1977. Some believe 90 days leaves too little time to collect signatures, even though only half as many are required as for an initiative, however the change in court attitude is thought to have made the biggest difference.

Here is how attorney Shawn Newman reacted to the Washington Supreme Court's acceptance of the emergency clause to thwart the referendum on funding the Mariners baseball stadium.

> "In memory of the citizen referendum. On December 20, 1996, the citizen's referendum power, age 84, suffered an untimely death with the State Supreme Court's decision in CLEAN et al v. State (the Mariners stadium case). The majority of the court, citing such learned authorities as Vincent "New York Vinnie" Richichi, a Seattle sports radio talk show host, on the 'value of M's' was not only in the public interest (despite the fact the people of King County voted against it) but that it was also a constitutional 'emergency' (necessary for the 'public peace, health or safety') thereby avoiding the people's right to Referendum. The citizen referendum process is essentially a check and balance on the legislature……The majority opinion means the death of citizen initiated referenda. Memorial services to be announced."

Fiscal Impact Statement

Recent legislation, applying to both initiatives and referenda, requires the Office of Financial Management (OFM) to prepare a fiscal impact statement for each of the following state ballot measures:

- an initiative to the people that is certified to the ballot;
- an initiative to the legislature that will appear on the ballot because the legislature did not pass it;
- an alternative measure appearing on the ballot that the legislature proposes as an alternative initiative to the legislature;
- a referendum bill referred to voters by the legislature; and
- a referendum measure certified to the ballot by petition.

A fiscal impact statement must describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure is approved. Where appropriate, the statement may include both estimated dollar amounts and a description placing those amounts in context. The statement must include a summary of not more than 100 words, and a more detailed statement that includes the assumptions that were made to develop the fiscal impacts. These statements must be available online and included in the state Voters' Pamphlet.

Requirements for passage are the same for both the initiative and referendum.

At The Local Level

Cities and counties in Washington do not automatically have initiative or referendum powers. It takes action on the part of each jurisdiction to grant its citizens these powers. The kind of action depends on the size and class of the city as well as the city or county's form of government. The State authorizes Cities and Counties to have the initiative by legislation that allows them to adopt their own charter, sometimes referred to as home rule.

Ten of Washington's thirty-nine counties have home rule charters, as do five cities but that does not necessarily mean that they have chosen to adopt I&R or extend the process to Charter changes. For example, the city of Seattle has included the right to amend its charter by initiative but King County has not. Limited purpose governments, such as school districts, do not have the power of initiative or referendum at all.

The Role of Money

One element of concern raised by many is the role money may play in an election. The arguments, proposed remedies and constitutional issues surrounding campaign finance are similar for candidates and ballot issues. Many studies have been done in other states attempting to find a statistical relationship between the money spent on a ballot issue and the percentage of votes gained in victory or defeat. Conflicting conclusions have been reached. In Washington, of the thirty-seven initiated measures enacted since 1975, seven passed even though advocates were outspent by opponents.

In his book, Democracy Derailed: Initiative Campaigns and the Power of Money, David S. Broder writes, "Money does not always prevail in initiative fights, but it is almost always a major – even dominant factor. Like so much else in American politics, the costs of these ballot battles have escalated enormously in the past decade. To a large extent, it is only those individuals and interest groups with access to big dollars who can play in the arena the Populists and Progressives created in order to balance the scales against the big-bucks

operators." He goes on to say, "…millionaires have …found the initiative handy for 'empowering' voters to endorse the initiatives' sponsors' agendas".

Perhaps the most striking example of "empowerment" occurred in Washington State in 1997. The owner of the Seattle Seahawks football team wanted a new football stadium for his team, and he wanted the taxpayers to pay some of the estimated $425 million cost. He spent $6,321,832 securing the signatures and campaigning for a ballot referendum for its construction. He also provided the $3,998,284 cost of running the special election at which voters across Washington approved the expenditure. It passed with 51% of the votes, in June of 1997.

The California Commission on Campaign Financing, a high profile, private, non-profit, bi-partisan organization produced a two-year study of the initiative process in the early nineties called, "Democracy by Initiative-Shaping California's Fourth Branch of Government". The study commented that a very large campaign fund for opposing an initiative seemed to be more effective than a large fund supporting a measure. In other words, there is some evidence that it may be possible to "buy" a "No" vote, but little evidence that it may be possible to "buy" a "Yes" vote. The rationale is that a very large war chest may be used either to circulate a competing initiative or to conduct a last minute negative advertising blitz, either of which could be designed to confuse the voter. The more unbalanced the campaign spending between the two sides, the easier it was to draw statistical relationships. However, the report was careful to say a multitude of other factors can intervene and create exceptions to these generalities.

Since 1990, states have increasingly regulated and restricted the use of the initiative process. According to M. Dane Waters, President, Initiative and Referendum Institute: "These regulations and restrictions have made the process only accessible to groups and individuals with access to money. This has forced citizens in the various states who seek reform to reach out to national groups for financial and organizational support, as well as seek the help of the "initiative industry."

No state restricts the flow of dollars into ballot measure campaigns. Several have tried to limit contributions or impose spending ceilings, but in each case the courts have declared such laws unconstitutional. The U.S. Supreme Court ruled that the expenditure of money was tantamount to "speech" and, therefore, restrictions on campaign expenditures violate the First Amendment to the Constitution. (Buckley v. Valeo, 424 U.S.1, 1976).

Signature Gathering

Ten states, including Washington, place no geographical requirements on signature gathering; eleven states do. Requirements vary widely, from Nebraska's requirement of five percent of the voters in 38 of 93 counties, to 10 percent in 20 of 29 counties in Vermont. Wyoming's strenuous petition requirement of 15 percent of the votes cast in the last governor's election, from two-thirds of the counties, effectively keeps the process from being used very often.

The number of signatures required to qualify varies from 3.5 to 15 percent of the votes cast for Governor in the last election -- Washington's is eight percent. One state requires ten percent of the registered voters and another, four percent of the population; Alaska requires at least one signature in two-thirds of the election districts.

Paying for collecting signatures has become more common in recent years. While the use of unpaid signature gatherers is still possible, qualifying for the ballot is not as likely. Extensive organization and paid staff usually are required to be successful. Often a campaign that began as a volunteer effort has had to add paid petitioners as the deadline approached. Between 1992 and 2000, thirty Washington initiatives were on the ballot. Only six

reached the ballot without paid signature gatherers. The six issues were an anti-tax measure, a ban on partial-birth abortions, a raise in the minimum wage, a roll-back of the motor vehicle tax and voter requirement for any tax or fee increase (later ruled unconstitutional because it covered more than one issue), a ban on bear or cougar hunting with dogs or bait, and a ban on certain animal traps.

In Washington in 2002, the rate for collecting signatures ranged from .60 to $2.00 per signature depending on how much time was available before the deadline. In some states the rate has been known to go as high as $4.00.

In 1976 qualifying a ballot measure in California cost $69,000. That figure grew as high as 2 million in the '90's. However, spending a lot of money to "qualify" a ballot issue does not necessarily guarantee its success on Election Day. "Voters are smarter than you think," said Dr. Todd Donovan, a Western Washington University Political Science Professor, speaking at a meeting of the League of Women Voters in Bellingham. "If they see special interests supporting an issue, they will vote against it. Also, too many initiatives on a ballot turns people off, and they tend to vote against everything or not vote at all."

Legal Efforts to Restrict Usage

Efforts have been made in this state and others to place restrictions on signature gatherers. Many have been found to violate the United States Constitution. When a state gives its citizens the right to the initiative process, the United States Supreme Court regards this right as falling under the protections of the first amendment. That is, it is "core political speech," and any restrictions are subject to strict scrutiny by the Court. Meyer v. Grant, 486 U.S. 414 (1988). In Meyer, the Court held Colorado's prohibition against payment to signature gatherers to be unconstitutional. The Court did observe that a state's interest in preventing fraud could be accomplished in other less restrictive ways.

1993, the Washington Legislature passed a law making it a gross misdemeanor to pay signature gatherers by the signature, but did permit payment by the hour. Relying on the Meyer case, this statute was challenged in Federal District Court. Limit v. Maleng, 874 F. Supp. 1138 (W.D. Wash.). The Court concluded on the evidence presented that the law was not necessary to prevent fraud – there was no significant difference between the validity of signature campaigns which used paid gatherers and those that relied on volunteers.

A more recent attempt by the Colorado Legislature to place restrictions on signature gatherers also ran afoul of first amendment protections. Buckley v. American Constitutional Law Foundation, Inc., 525 U.S. 182 (1998). The Supreme Court held that a state cannot require (1) that a signature gatherer be a registered voter, (2) that a signature gatherer wear an identification badge while soliciting signatures, and (3) that proponents of an initiative report the names and addresses of the signature gatherers and the money paid to each. Despite the state's argument that these restrictions were necessary to prevent fraud, the Court held that they were "undue hindrances to political conversations and the exchange of ideas."

A recent case out of North Dakota upheld state restrictions, but this case was not reviewed by the U.S. Supreme Court. Initiative & Referendum Institute v. Jaeger, 241 F.,3d 614 (8th Cir., 2001). The Court of Appeals held that the requirement that (1) signature gatherers be residents of the state and (2) that they not be paid by the signature did not violate the constitution. The court based its decision on clear evidence that fraud had occurred, and the requirements were necessary to prevent future fraud and to give the state subpoena powers over signature gathers. Further, the requirements were narrowly drawn to accomplish the state's goals. The Eighth Circuit distinguished the North Dakota case from the Washington case based on the latter's lack of evidence of fraud.

It is always chancy to try to predict how a future court would respond to specific limitations on the initiative process. Past opinions have emphasized the significance of unfettered political speech to the democratic process. Any interference with the free exchange of ideas between signature gatherers and potential signers would be viewed with suspicion. However, based on the cases to date, some believe it might be possible to place some restrictions.

The Supreme Court has not ruled on the specific issue of payment per signature, or on a residency requirement. Some people believe that a provision for a geographical distribution might survive a constitutional challenge. The geographical distribution, of course, would have to comply with the one-person-one-vote mandate of earlier decisions. Moore v. Ogilve, 394 U.S. 814 (1969). The use of counties for example, would not comply because Washington's counties vary dramatically in size and population.

Where Signatures Can Be Gathered

A major factor in initiative and referendum campaigns is where signatures can be collected legally. In a series of cases, the Washington Supreme Court has affirmed the right to collect signatures on private commercial property which has the earmarks of a town center, community business block or other public forum, subject to reasonable time, place and manner restrictions.* The court uses a balancing test to determine the right of a property owner to exclude signature gatherers against the right to collect signatures as provided in the state constitution. This test relies on such factors as the nature and use of the property, the scope of the invitation that the owner has made to the public, and the impact that denial will have on the initiative process. Under this test, shopping malls are generally accessible for signature gatherers, but grocery stores are not.

*See e.g.Waremart v. Progressive Campaigns, Inc., 139 Wash.2d 623 (1999) and cases cited therein. Previously, the U.S. Supreme Court recognized that a state's constitutional provision for free speech and the initiative as extended to a shopping center did not violate the U. S. constitution's protection of private property. Pruneyard Shopping Center v. Robbins, 447 U. S. 74 (1980).

Some petition gatherers complain that requirements of long lead time to sign up for space and million dollar bonds are not reasonable restrictions. One example cited was a rule used by the Bellevue Square Mall: Petitioners are assigned a "box" outlined by red tape. They must stay within these boundaries and are not allowed to attract potential signers with a greeting such as inquiring if passer-bys were registered voters. That would be deemed "hawking" which is not allowed.

One of the reasons given for the substantial drop in the number of initiatives on the 2002 ballots has been the increasing number of prohibitions at popular spots for circulators to meet potential signers. In recent years tighter restrictions have also been placed on "public spaces". A recent regulation by the U.S. Postal Service which prohibits signature gathering on Postal Service property has been challenged by the Initiative & Referendum Institute and is scheduled to be tried before the U.S. District Court in October 2002.

Constitutional Issues After Passage

Laws passed by initiative or referendum must comply with the federal and state constitutions, as must laws passed by the legislature. The recent application of the single subject rule has generated considerable criticism.

The Single Subject Rule

The Washington Constitution provides in Art.II, sec.19. that "no bill shall embrace more than one subject and that shall be expressed in the title." Up until recently, the single subject rule challenge to initiatives has been

rare in Washington and other states, but its use has been growing. In 1995, the Washington Supreme Court concluded that the single subject rule would apply to initiatives as well as laws passed by the legislature, but held in the case of I-134 (campaign reform) that it complied with the rule.
Washington Federation of State Employees v. State of Washington, 90l P.2d 1028 (Wa. 1995).

The first time the court applied the single subject rule to strike down an initiative was in 2000 when I-695 was invalidated. The court concluded that the two parts of the initiative - (1) reduction of motor vehicle taxes and (2) requirement of a public vote on most tax and fee increases – were not rationally related and thus covered two distinct subjects. The court also held that the initiative violated the title requirement in sec.19 as well as two other provisions of the state constitution. Amalgamated Transit v. State, 11P.3d 762 (Wa.2000).

One local scholar James Bond, former Dean of the University of Puget Sound and Seattle University School of Law, criticizes the Washington Supreme Court for its decisions on the constitutionality of I-695 . He contends that in these decisions the court has applied a more stringent test of constitutionality than to bills passed by the legislature. He takes the court to task for what he sees as a failure to develop a coherent rationale for the different standards it applies. He notes the likely political fallout from the court's invalidation:

> "Progressives will doubtless applaud the court's decision as preserving the government's authority to tax so that it can generate revenues, which they believe are desperately needed to fund government programs. Populists will simply wonder who they need to throw out—the justices or the legislators [speaking of the second decision on I-695]—if they are ever going to get control of what they (quaintly?) think of as "their" government."

Another legal scholar, Richard J. Ellis, expresses a contrary point of view in arguing that there is justification for applying a stricter rule to initiatives than bills passed by the legislature:

> Without a strict single-subject rule, it is generally impossible to know which if any parts of a successful initiative express the majority view. The rationale behind a law produced by the legislature is more complex than simple majority rule. Legislatures are designed to produce compromises among competing interests. The final law may well be nobody's first choice yet be preferable because it represents a consensual second choice with which most everybody can live.

Appropriation Clause

It has been suggested that initiatives with a fiscal impact could be challenged under the Appropriation Clause – Article 8, Section 4 of the Washington State Constitution . It provides as follows: " No moneys shall ever be paid out of the treasury of this state, or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law . . . ." The Washington Supreme Court has affirmed that the object of the appropriation article is to preclude expenditures without legislative direction. State ex rel Peel v. Clausen, 94 Wa. 166, 173 P. 1 (1917).

Limitations Governing Public Officials

Public Officials enjoy free speech when it comes to ballot issues as long as they are not using public resources. As a general rule, the Washington State Ethics Law of 1994 prohibits the use of public resources by state officers or state employees to support or oppose a ballot measure. However, since ballot measures are matters

of public policy, legislators are provided several exceptions which permit them to comment on ballot measures using public resources in certain circumstances.

Legislators may:

- make a statement in support of or in opposition to any ballot proposition at an open press conference provided the press conference was not called to launch or actively and directly assist or oppose the initiative;
- respond to a specific inquiry regarding a ballot proposition;
- make incidental remarks concerning a ballot proposition in an official communication or may otherwise comment on a ballot proposition if done without the actual, measurable expenditure of public funds;
- make very minimal use of public facilities to initiate "permissible" communications, written or verbal, concerning ballot propositions that fall within their statutory or constitutional responsibilities;
- respond to questions about their view of an initiative and provide their positions to staff who can, with the legislator's permission, pass them on to people who inquire;
- choose how to address an initiative in a newsletter by either encouraging people to vote and including a balanced and objective description of the initiative, **or** including direct comment on the merits making no reference to voting provided there was a bill on the same subject matter in the preceding session. If legislators choose to comment on the merits of the initiative in a newsletter, those comments must be within the context of a larger message. Therefore, it would not be proper to devote all or most of the newsletter to advocacy;
- prepare a guest editorial on the initiative using factual, non-partisan information, which does not take the form of an argument for or against the measure;

These restrictions and allowances apply to state officers and employees of both the executive and legislative branches of government. The governor, however, has a unique role under the Constitution, which allows him/her to communicate with the Legislature and to recommend measures as shall be deemed expedient for their action. This mandate allows the governor to communicate with the people, so long as the expense is for a reasonable communication and not an extensive lobbying campaign.

Ideas for Change

Many proposals have been made that would change the initiative process in response to the concerns of its critics and supporters. These include changes to signature gathering procedures, providing more information to voters, restrictions as to the subjects that can be addressed by initiative and a proposal which would wed the advantages of a direct initiative process (initiatives to the people) with an indirect initiative process (initiatives to the legislature) which would include the advantages of a representative form of government.

- **Require review of Constitutionality**

  To avoid later invalidation of an initiative passed by the voters, suggestions have been made for constitutional review prior to collecting signatures. Such consideration could be performed by a court, the attorney general, or a special agency or commission. Several states require such reviews. The Florida Supreme Court, for example, reviews initiatives for constitutionality

(including compliance with the single subject rule) after petitioners gather 10% of the signature requirements.

Courts in Washington are generally averse to making any decision until an issue is ripe. That is, until the issues are fully developed and argued by plaintiff and defendant, which can occur only after an initiative is adopted by the voters. A further argument against any court review prior to submission is that the courts are the ultimate decision maker on the legality of law. This could put them in conflict with an earlier advisory opinion. In Washington, the attorney general is responsible for defending an initiative once passed. Thus it could present a conflict were she or her office designated to review an initiative prior to submission.

- **Require that an initiative be reviewed** by a court as to its constitutionality before it is placed on the ballot. A negative opinion would not block an initiative but the opinion would appear in the Voters' Pamphlet.

- **Create a commission for non-binding review**. Hugh Spitzer, attorney in private practice and an affiliate professor at the University of Washington School of Law, argues against any advisory opinion by the courts—either early or late in the initiative process. Rather, he proposes creation of a small, non-partisan, unpaid commission, with a paid staff. Commissioners would be appointed by the governor and confirmed by the senate—possibly utilizing former judges. The commissioners would be available to review draft initiatives and offer non-binding advice on potential legal problems. [S]uch a commission might give both proponents and voters an earlier perspective on constitutional issues that could later cause an initiative's demise." The findings would be advisory only and could be published in the voters pamphlet.

- **Provide for Citizen Initiative Review**

After certification submit initiatives to a representative citizen review panel whose views would appear in the Voters' Pamphlet .A citizen review concept, called Citizens Jury, developed by political scientist Ned Crosby and the Minneapolis based Jefferson Center for New Democratic Processes has been used to provide an informed citizen process on public policy matters, including ballot measures. As proposed for Washington State in a program called Citizens Initiative Review this technique could be used with a panel made up of Washington "jurors" selected from around the state to reflect the state population in terms of gender, race, age, education, geographic location and political identification. The panel of citizens would be convened for a five-day period to review a proposed initiative. Panelists would be paid for their time (average Washington wage, currently $130 per day), transportation, and housing. They would take testimony from expert witnesses and initiative advocates pro and con, ask questions, seek additional information if needed and deliberate carefully. At the end of the review, the panelists would indicate how they would vote on the initiative if the election were held that day and the reasons for their decisions. Panelists would also oversee publication of a report outlining their reasons for supporting or opposing the initiative or remaining undecided. The report would then be published in the state voters pamphlet.

The estimated cost of this program is between $700,000 and $1,450,000 per year, depending on the number of initiatives to be reviewed, and is estimated to cost a maximum of 25 cents a year per Washington resident. Proposers recommend that the funds come from interest earned by the state's general fund.

Those in favor of the project see it as a source of sound information for voters about the possible effects of initiatives, and a way to insert an informed citizen voice into a highly politicized discussion.

Although some media do attempt to analyze these measures objectively, others do not but inundate voters with campaign sound bites that deliver contradictory messages. The state voter's pamphlet offers pro and con statements written by the campaigns with no comment on the veracity of the information.

Some people are opposed to publicizing any "special group's" judgment or opinion at State expense, (this jury process as well as the Voters' Pamphlet). Others challenge the concept that a representational panel could be assembled. The group could be influenced by any bias of the paid staff as they arranged the pro and con presentations and chose the participants. Their report would not reflect new information developed during the campaign. Other people oppose the idea because of the high cost. The interest from the general fund is already being used.

- **Allow for public hearings by the legislature and/or forums held by the Secretary of State.**
  Initiatives often reflect the narrow self-interest of their sponsors that is not always apparent to the public. Public hearings would provide an opportunity for comment from various sectors of society and from various regions of the state on the broader effects of an initiative. Some people worry that this would infringe on the peoples' independence to propose legislation as provided in Article II Section I of the Washington State Constitution which states that the people reserve to themselves the power to propose laws independent of the legislature. The Supreme Court has never considered this issue.

- **Allow perfection of the text at some point in the campaign.** The California Commission recommended that a public hearing be conducted on the merits of an initiative once 25% of the necessary signatures have been obtained and that the proponents be allowed to amend their proposal within seven days after the hearing as long as the changes are consistent with the initiative's original purposes and intent.

- **Encourage Public Officials to comment on ballot issues.**
  All legislators do not take a uniform view of the allowances and restrictions on their speech which can be subjective in terms of what is objective, balanced, de minimis, measurable, etc. Therefore, legislators have different levels of comfort about communicating on ballot measures. Real or perceived infractions can be the subject of complaints to the Legislative Ethics Board, in which case the Board will make a determination as to whether the legislator has overstepped the boundaries of the law. Legislators would wish to avoid such complaints, and some would use the law to avoid making comments on the measure.

- **Relax restrictions on public officials.**
  Allow state and local elected officials to use public facilities to prepare and deliver self-initiated communications of information on the impact that any ballot proposition foresee ably may have on matters that fall within their responsibilities. The exception could apply to all ballot measures, not just those that go through the Legislature.

- **Require the full text** of laws or parts of laws to be repealed to be displayed in the initiative.
  It is very confusing not to know just what change in an existing law is being proposed. Such a requirement should make it clear. It might, however make the initiative excessively long and considerably more expensive to print and circulate.

  - **Require personal financial disclosure** by initiative and referendum sponsors. This would be similar to the disclosure required by candidates and public officials. It could clarify the intent and interest behind the proposed law, but some feel it would be an unacceptable deterrence.

Restrict Subject Matter

Prohibit initiatives that require the use of public funds.

Require that a source of revenue be identified in the initiative, either an increase in an existing state revenue source or a new tax or fee if a proposed initiative needs public funds for its implementation.

Require that specific language be included specifying how reductions are to be reflected in state budgets, either direct reductions for a specific function or agency or amend a current budget if an initiative repeals or restricts taxes or fees.

Washington's Legislature has the responsibility of approving a balanced budget to run the state government and provide the services required and desired by the state's citizens. According to Marty Brown, Director of the Office of Financial Management, "89% of the current budget goes to educate, medicate, and incarcerate. Initiatives that remove or limit sources of revenue or expand demands undermine the ability of the legislature to carry out this primary duty.

Those opposed to such restrictions believe that restricting revenue by initiative has become the only way to force the legislature to reign in state spending. One of the Legislatures most important functions is to formulate a balanced budget. They expect legislative compromise in making hard choices between the many competing interests. Many people believe the legislatures hands are already tied too much with "ear marked" taxes. Some of these suggestions would further remove legislative flexibility.

- **Increase the cost of filing an initiative.** The filing fee has been $5 ever since 1912. Since there are costs borne by the state to process initiatives from the moment they are filed, some believe the fee should be increased. Suggestions run from $100 to $500. The Secretary of State has urged that the fee be $100 in order to discourage frivolous filings. Some people, however, believe that processing initiatives is a normal function of state government and citizen participation shouldn't be discouraged by raising the fee.

- **Provide that the filing fee be refunded** if enough signatures are collected to certify the initiative for the ballot.

- **Require that signatures be collected** on a proportional geographical basis in order to qualify for the ballot. This could be done in several ways: 1) an equal number from each Congressional or Legislative district, or 2) a minimum number from each district. This could also increase the difficulty (and expense) of gathering enough signatures depending upon the requirements. It might also give a disproportionate number of voters veto power over a ballot issue depending on the specific requirements.

- **Amend the Constitution** to provide for only initiatives to the legislature. In order to take advantage of the opportunity to deliberate, debate and compromise when tackling a governmental issue, direct initiatives would be abolished and all initiatives would be initiatives to the legislature. Some people believe this change would combine the advantages of both types of initiative. It would protect an individual's right to propose legislation and provide a way of adjusting for unintended consequences if necessary. Thus a certified initiative would be either passed into law by the legislature without the need for an election or it would be put on the ballot either alone or along with a legislative alternative. Voters' choices would not be diminished and the sponsors of an initiative would still be assured that their initiative would be on the ballot unless passed by the legislature without change.

Several suggestions have been made that might build support for this proposal. One is to reduce the number of signatures required to qualify an initiative to the legislature, perhaps to 4% of those voting in the last gubernatorial election, or perhaps 6%, somewhere between the requirement for referenda and the current initiative requirement. Another is to limit this restriction only to those initiatives dealing with expenditures and revenue. In other words, those initiatives that bump up against the legislature's constitutional directive to appropriate funds. A third suggestion is to incorporate a dollar limit. An initiative increasing or reducing revenue by a specified amount could only be an initiative to the legislature. A fourth is to lengthen the time allowed for collecting signatures when an initiative is one to the legislature. Each of these suggestions could be adopted as an incentive to persuade initiative sponsors to use the indirect initiative procedure.

Law making by the people provides an opportunity for the public to address issues which the legislature cannot or will not address. While some people feel that it encourages the legislature to tackle problems it otherwise would not address, others contend that it permits legislators to dodge dealing with hard divisive issues. Law making by the legislature involves a deliberative process that includes committee work, often times public hearings, often compromises and checks and balances. Initiatives that undergo both processes would benefit from both, but it would require lengthening the time needed for an initiative to become a law.

Opponents point out that it would remove the most popular type of initiative. Up until now 774 Initiatives to the People have been filed as opposed to 258 Initiatives to the Legislature. At a recent symposium on I&R, attorney Shawn Newman explained why most initiative filers have chosen not to use the indirect method: "It provides for de facto use of state resources to fight the initiative as it makes its way through the legislative sausage machine. Historically, the reason behind direct initiatives in this state was because the people distrusted the legislature and the special interests that controlled it. Those reasons remain true today as they did nearly 100 years ago. Anything that dilutes, reduces or burdens the I&R power should be opposed."

- **Require a higher percentage** of voter approval for Initiatives to the People to compensate for the lack of involvement by any elected body.

- **Change the number of signatures** required to qualify any initiative. Those interested in making the process easier to get on the ballot suggest a lower signature requirement. Those interested in making the process more difficult would support increasing the signature requirement.

- **Lengthen the time allowed** for collecting signatures. Most states allow more time than does Washington. An owner of a signature gathering firm suggests that reducing the number of necessary signatures to 4-5% and allowing a year to collect signatures could almost eliminate the need for professional signature gathers.()

- **Allow constitutional amendment by initiative**. Most, 2/3's of the 27 I&R states allow constitutional changes. Supporters argue that since the legislature has this power, the people should also. Right now the people can only institute such changes by calling a constitutional convention. Those opposed, consider the constitution too basic to our freedoms to be changed by a simple majority of the voters. As it stands now, the legislature requires a super-majority to pass and then must submit to a vote of the people.

- **Extend the I&R process** to single purpose governments. The people should have the same ability to exert change in the legislation of bodies such as port and school districts. Opponents say that initiatives are not needed for single purpose districts since they are so close to the people already.

Conclusion

Washington State voters have used the initiative system for many issues since its advent in 1912. It's been used for issues such as creation of the Public Disclosure Commission and redistricting. It's been used to bring about social change with the passage of the state Equal Rights Amendment and attempts both to expand and take away abortion rights. It's also been used to influence tax policy and restrict government spending. Following research done by Stuart Elway in 2000, he made the following comments in his monthly publication The Elway Poll: "The public debate about the initiative process – reinvigorated by the passage of I-695 – is largely about trust. Critics of the process don't trust the voters to know what they are doing, and defenders of the process don't trust elected representatives to always act in the best interests of 'the people'."

Large majorities of those who were polled favored more disclosure, not barriers. For instance, they wanted the state attorney general to review initiatives for constitutionality, the budget office to review financial impacts and initiative campaigns to disclose if they are using paid signature gatherers. At the same time, they opposed raising the number of signatures required to qualify a measure for the ballot. Elway concluded: "Successful reform strategies would therefore look first to making more information available to voters before trying to make it more difficult to qualify initiatives for the ballot. Washington voters are not in any mood to give up political power."

Several initiatives have been on the ballot and passed since 2000, resulting in increasingly difficult budget decisions for lawmakers. At the same time the economy has weakened and government surpluses have disappeared. Are voters ready to take another look at reforming the initiative process? Is it possible, or even desirable to try to bridge the gap between the initiative process and the legislative process?

League members, through this study, have an opportunity to decide if the system is working as it should, or if change might make it work better.

Exhibit 6

States with Direct (DA)[i] and In-direct (IDA)[ii], Initiative Amendments; Direct (DS)[iii] and In-direct (IDS)[iv] Initiative Statutes and Popular (PR)[v] Referendum[vi]

Table: 1.1

States where some form of Initiative or Popular Referendum is available	Date process was adopted	Type of process available		Type of Initiative process available		Type of Initiative process used to propose Constitutional Amendments		Type of Initiative process used to propose States (Laws)	
		Initiative	Popular Referendum	Constitutional Amendment	Statute	Direct(DA)	In-direct(IDA)	Direct(DS)	In-direct(IDS)
Alaska	1956	x	x	o	x	o	o	x	o
Arizona	1911	x	x	x	x	x	o	x	o
Arkansas	1910	x	x	x	x	x	o	x	o
California vii	1911/66	x	x	x	x	x	o	x	o
Colorado	1912	x	x	x	x	x	o	x	o
Florida	1972	x	o	x	o	x	o	o	o
Idaho	1912	x	x	o	x	o	o	x	o
Illinoisviii	1970	x	o	x	o	x	o	o	o
Kentucky	1910	o	x	o	o	o	o	o	o
Maine	1908	x	x	o	x	o	o	o	x
Maryland	1915	o	x	o	o	o	o	o	o
Massachusetts	1918	x	x	x	x	o	x	o	x
Michigan	1908	x	x	x	x	x	o	o	x
Mississippi	1914/92	x	o	x	o	o	x	o	o
Missouri	1908	x	x	x	x	x	o	x	o
Montanaix	1904/72	x	x	x	x	x	o	x	o
Nebraska	1912	x	x	x	x	x	o	x	o
Nevada	1905	x	x	x	x	x	o	o	x
New Mexico	1911	o	x	o	o	o	o	o	o
North Dakotax	1914	x	x	x	x	x	o	x	o
Ohio	1912	x	x	x	x	x	o	o	x
Oklahoma	1907	x	x	x	x	x	o	x	o
Oregon	1902	x	x	x	x	x	o	x	o
South Dakotaxi	1898/72/88	x	x	x	x	x	o	x	o
Utah	1900/17	x	x	o	x	o	o	x	x
Washington	1912	x	x	o	x	o	o	x	x
Wyoming	1968	x	x	o	x	o	o	x	o
Totals	27 states	24 states	24 states	18 states	21 states	16 states	2 states	16 states	7 states

Legend
o = process not currently allowed by the state constitution.
x = process currently allowed by the state constitution.

Exhibit 6

Signature, Geographic Distribution and Single-Subject Requirements for Direct (DA)[i] and In-direct (IDA)[ii] Initiative Amendments; Direct (DS)[iii] and In-direct (IDS)[iv] Initiative Statutes

Table: 3.1

State	Type	SS[v]	Net Signature Requirement for Constitutional Amendments	Net Signature Requirement for Statutes	Geographic Distribution	Deadline for Signature Submission	Circulation Period
AK	DS	Yes	Not allowed by state constitution	10% of votes cast in last general election.	At least 1 signature in 2/3 of Election Districts	Prior to the convening of the legislature[vi]	1 year
AZ	DA/DS	Yes	15% of votes cast for Governor	10% of votes cast for Governor	No geographical distribution	Four months prior to election	20 months
AR	DA/DS	No	10% of votes cast for Governor	8% of votes cast for Governor	5% in 15 of 75 counties	Four months prior to election	Unlimited
CA	DA/DS	Yes	8% of votes cast for Governor	5% of votes cast for Governor	No geographical distribution	To be determined by state each year[vii]	150 days
CO	DA/DS	Yes	5% of votes cast for SOS	5% of votes cast for SOS	No geographical distribution	Three months prior to election	6 months
FL	DA	Yes	8% of ballots cast in the last Presidential election	Not allowed by state constitution	8% in 12 of 23 Congressional Districts	90 days prior to election[viii]	4 years
ID	DS	No	Not allowed by state constitution	6% of registered voters	6% in each of the 22 counties	Four months prior to election	18 months
ME	IDS	No	Not allowed by state constitution	10% of votes cast for Governor	No geographical distribution	To be determined by state each year[ix]	1 year
MA	IDA/IDS	No	3% of votes cast for Governor	3½% of votes cast for Governor[x]	No more than 25% from a single county	To be determined each year by state[xi]	64 days
MI	DA/IDS	No	10% of votes cast for Governor	8% of votes cast for Governor	No geographical distribution	Constitutional amendment[xii] Statute[xiii]	180 days
MS	IDA	No	12% of votes cast for Governor	Not allowed by state constitution	20% from each Congressional District	90 days prior to the convening of the legislature	1 year
MO	DA/DS	Yes	8% of votes cast for Governor	5% of votes cast for Governor	5% in 6 of 9 Congressional Districts	Eight months prior to election	18 months
MT	DA/DS	Yes	10% of votes cast for Governor	5% of votes cast for Governor	Statute: 5% in 34 of 50 Legislative Districts Amendment: 10% in 40 of 50 Legislative Districts	Second Friday of the fourth month prior to election	1 year
NE	DA/DS	Yes	10% of registered voters	7% of registered voters	5% in 38 of 93 counties	Four months prior to election	1 year
NV	DA/IDS	No	10% of registered voters	10% of votes cast in last general election.	10% in 13 of 17 counties	Constitutional amendment[xiv] Statute [xv]	CA: 11 months[xvi] Statute: 10 months[xvii]
ND	DA/DS	No	4% of population	2% of population	No geographical distribution	90 days prior to election	1 year
OH	DA/IDS	Yes	10% of votes cast for Governor	6% of votes cast for Governor[xviii]	Statute: 1½% in 44 of 88 counties Amendment: 5% in 44 of 88 counties	Constitutional amendment[xix] Statute[xx]	Unlimited
OK	DA/DS	Yes	15% of votes cast for Governor	8% of votes cast for Governor	No geographical distribution	Eight months prior to election [xxi]	90 days
OR	DA/DS	Yes	8% of votes cast for Governor	6% of votes cast for Governor	No geographical distribution	Four months prior to election	Unlimited
SD	DA/DS	No	10% of votes cast for Governor	5% of votes cast for Governor	No geographical distribution	Constitutional amendment[xxii] Statute[xxiii]	1 year
UT	DS/IDS	No	Not allowed by state constitution	Direct statute: 10% of votes cast for Governor In-direct statute: 10% of votes cast for Governor [xxiv]	10% in 20 of 29 counties	Direct statute[xxv] In-direct statute[xxvi]	Direct: Unlimited In-direct: Unlimited
WA	DS/IDS	No	Not allowed by state constitution	8% of votes cast for Governor	No geographical distribution	Direct: statute[xxvii] In-direct statute[xxviii]	Direct: 6 months In-direct: 10 months
WY	DS	No	Not allowed by state constitution	15% of votes cast in the last general election.s	15% of total votes cast in the last election from at least 2/3 of the counties	One day prior to the convening of the legislature[xxix]	18 months

(Footnotes are located on reverse)

(Footnotes for Table: 3.1)

[i] Direct Initiative amendment (DA) is when constitutional amendments proposed by the people are directly placed on the ballot and then submitted to the people for their approval or rejection.

[ii] In-direct Initiative amendment (IDA) is when constitutional amendments proposed by the people must first be submitted to the state legislature during a regular session.

[iii] Direct Initiative statute (DS) is when statutes (laws) proposed by the people are directly placed on the ballot and then submitted to the people for their approval or rejection.

[iv] In-direct Initiative statute (IDS) is when statutes (laws) proposed by the people must first be submitted to the state legislature during a regular session.

[v] This column denotes whether or not a state has a requirement that every Initiative or Referendum be limited to one subject.

[vi] In Alaska, signatures must be submitted prior to the convening of the legislative session in the year in which the initiative is to appear on the ballot. The lieutenant governor shall place the initiative on the election ballot of the first statewide general, special, or primary election that is held after (1) the petition and any supplementary petition have been submitted, (2) a legislative session has convened and adjourned, and (3) a period of 120 days has expired since the adjournment of the legislative session.

[vii] In California, each year the Secretary of State will set a complete schedule showing the maximum filing deadline and the certification deadline by the counties to the Secretary of State. There is a recommended submission date for "full check" and "random check". These dates are only recommended. Notwithstanding any other provision of law, no initiative shall be placed on a statewide election ballot which qualifies less than 131 days before the date of the election.

[viii] In Florida, certification must be received by the Secretary of State from the county supervisors stating the number of valid signatures submitted by the initiative proponent no later than 90 days prior to the general election ballot for the initiative to be considered for that ballot. However, there are several additional criteria that must be met prior to the certification of an initiative for the ballot. This includes the requirement that the proposed initiative has been approved for the ballot by the state supreme court. An initiative can only be submitted to the court for review after 10% of the required number of signatures have been collected and certified to the Secretary of State by the county supervisors. The court is under no statutory time frame to render a decision. Therefore, there is no precise date in which the signatures must be submitted in order to insure that you qualify for any specific general election ballot.

[ix] In Maine, signatures must be submitted on or before the 50th day after the convening of the Legislature in the first regular session or on or before the 25th day after the convening of the Legislature in the second regular session.

[x] In Massachusetts, the initial petition must include three percent of the total votes cast for Governor. If the legislature has not passed an initiated statute by the first Wednesday in May, petitioners must file a supplementary petition with petitions equal in number to one-half of one percent of the total votes cast in the previous gubernatorial election to place the issue on the ballot.

[xi] In Massachusetts, the initial petition signatures shall be submitted no later than the first Wednesday in December in the year in which the Initiative was submitted. If the legislature has not passed the initiated statute by the first Wednesday in May, petitioners must file a supplementary petition with petitions equal in number to one-half of one percent of the total votes cast in the previous gubernatorial election no sooner than the first Wednesday in June and no later than the first Wednesday in July in order for the initiative statute to be placed on the ballot.

[xii] In Michigan, signatures for constitutional amendments must be submitted not less than 120 days prior to the general election.

[xiii] In Michigan, signatures for statutes must be submitted ten days prior to the start of the legislative session.

[xiv] In Nevada, signatures for constitutional amendments must be submitted 90 days prior to the election.

[xv] In Nevada, signatures for statutes must be submitted 30 days prior to the convening of the legislature.

[xvi] In Nevada, petition language for constitutional amendments can be filed no sooner than September 1 of the year preceding the election and all signatures are due 90 days prior to the election.

[xvii] In Nevada, petition language for statutes can be filed no sooner than January 1st of an even number year and signatures must be submitted no later than November 1st of that same even numbered year.

[xviii] In Ohio, the initial petition must include three percent of the total votes cast for Governor. A supplementary petition containing an additional three percent is required in the event the proposed statute is defeated, amended or left idle by the legislature.

[xix] In Ohio, signatures for amendments must be submitted 90 days prior to the election.

[xx] In Ohio, signatures for statutes must be submitted 10 days prior to the convening of legislature.

[xxi] In Oklahoma, an initiative must be submitted to the state Supreme Court for review before it can be certified for the ballot by the Secretary of State. Due to the fact that there is no statutory deadline for the court to make this determination, the state recommends that you submit your signatures eight months prior to the election that you desire the measure to be considered for.

[xxii] In South Dakota, signatures for amendments must be submitted at least one year prior to the election.

[xxiii] In South Dakota, signatures for statutes must be submitted by the first Tuesday in May in the general election year.

[xxiv] In Utah, direct statutes require signatures equal in number to 10 percent of the votes cast for all candidates for Governor in the next preceding gubernatorial election for the statute to be placed on the ballot. In-direct statutes must contain signatures from five percent of the votes cast for all candidates for Governor in the next preceding gubernatorial election. If the legislature rejects or does not enact the proposed statute, a supplemental petition contacting additional signatures equal in number to 5 percent of the votes cast for all candidates for Governor in the next preceding gubernatorial election for the statute to be placed on the ballot.

[xxv] In Utah, signatures for direct statutes must be submitted at least four months prior to the election.
[xxvi] In Utah, signatures for in-direct statutes must be submitted at least 10 days before the commencement of the annual general legislative session.
[xxvii] In Washington, signatures for direct statutes must be submitted four months prior to the election.
[xxviii] In Washington, signatures for in-direct statutes must be submitted ten days prior to the convening of the regular session of the legislature.
[xxix] In Wyoming, signatures must be submitted prior to the convening of the legislature. The state constitution states that the legislature shall convene at noon on the second Tuesday in January.

Both tables courtesy of the Initiative and Referendum Institute

Exhibit 7

Initiative and Referendum Guide

for Washington Cities and Charter Counties

MRSC

April 2015

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MRSC
2601 Fourth Avenue, Suite 800
Seattle, WA 98121-1280
(206) 625-1300
(800) 933-6772

www.MRSC.org

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Preface

There is increasing interest in the power of the people at both the state and local level to directly exercise authority to enact and repeal laws. This authority is exercised through the powers of initiative and referendum. This publication provides an overview of these powers as they may be exercised at the local level - in the cities and charter counties of the state of Washington.

Most cities and counties in Washington do not have these powers available at this time. Of the 281 incorporated cities in the state, less than 50 have adopted the powers of initiative and referendum. Of the 39 counties in the state, only the six counties that have adopted local charters have available the powers of initiative and referendum. These statistics may, however, be somewhat misleading. The more populated cities and counties have adopted these powers either in their charters or by city council action, so the powers are available to the many Washington citizens at the local level who live in these larger jurisdictions.

This publication provides an overview of the powers of initiative and referendum in local government. It reviews which cities and counties have the powers available and, when legally permitted, how the powers may be adopted in cities and counties that have not already done so. It also reviews in some detail which types of actions are subject to the initiative and referendum process, since there are limitations on the exercise of the power even when it is available.

We hope this publication will be helpful to officials in cities and counties that already have the powers of initiative and referendum, as well as to officials in cities and counties that are considering adopting the powers.

Special acknowledgment is given to Patrick Mason, Senior Legal Consultant, who prepared the original publication and to Bob Meinig, Legal Consultant, who prepared this revision. Thanks is also given to Holly Stewart, Desktop Publishing Specialist, for her excellent work in preparing this guide for publication.

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Initiative and Referendum Powers

Basically, the power of initiative as applied to municipalities refers to the authority of the voters of a city or charter county to directly initiate and enact legislation (hereafter the term "municipality" will include cities, towns, and counties). The process involves an initial petition containing a specified number of signatures that proposes an ordinance for adoption. If the proper form and the number of signatures is sufficient, the issue must either be adopted by the city or charter county council or submitted to the entire electorate of the city or charter county for adoption or rejection at an election.

The power of referendum in a municipality is the right of the people to have an ordinance that has been enacted by the city or charter county council submitted to the voters for their approval or rejection. The process also includes the filing of a petition, with a required minimum number of registered voters, prior to the effective date of the ordinance. If the required number of signatures in the proper form are obtained on the petition, the ordinance is suspended from becoming effective until it has either been repealed by the city or charter county council or is submitted to the voters for approval or rejection at an election.

Briefly, the power of initiative is used to propose new legislation and the power of referendum is used to review previously adopted legislation. These powers exist at the state level also, but this publication deals exclusively with the powers as applied to government at the local level, specifically to cities and charter counties.

Arguments for and against

The use of initiative is direct democracy at its most fundamental level. It is favored by those who value widespread voter participation both in choosing candidates and in drafting and deciding upon legislation. It is an attempt to enlarge the role of the electorate while at the same time diminishing the power of the elected representatives, in this case the city or charter county councilmembers.

The classic arguments for initiative powers have changed little since the initiative and referendum process was introduced in its present form in this country in the early twentieth century. Proponents argued that the initiative process would neutralize special interest groups, curtail corruption, provide a vehicle for civic education, and put pressure on public officials to act in the public interest. Supporters claimed that the initiative process was the culmination of the steady advance of the broadened franchise and direct democracy in this century.

Those opposed to the use of initiative power are basically supporters of representative democracy. They stress the need for knowledge and deliberation in the drafting of legislation and the daily business of governing. While those favoring this position are often accused of being undemocratic and lacking faith in the people, they assert that the most important democratic act is the selection of representatives.

Critics of the initiative process argue that it is a dangerous device that undercuts representative government by taking lawmaking out of the hands of the legislators elected to do the job. Complex issues are reduced to fast “yes” or “no” decisions by voters who may be swayed by misleading television or other commercials paid for by special interest groups. Initiatives may be crudely drafted and no allowance made for the usual give and take of the legislative process, which often results in the kind of compromises that make laws more workable.

Both sides agree that most of the business of governing cannot be decided directly by the people but must be decided by elected representatives. Therefore, the power of initiative is always recognized as a supplement to the normal legislative process.

The same basic philosophical arguments apply to the power of referendum as apply to the initiative power.

Municipalities that have the powers of initiative and referendum available

The powers of initiative and referendum are not available to all classes of municipalities. These powers are not automatically included in the powers granted to cities, towns, or counties. The authority for use of these powers is found either in the state constitution or in enabling legislation adopted by the state legislature, or both.

In Washington, the only cities that have been granted the powers of initiative and referendum are the first class cities, code cities that have formally adopted these powers, and cities with the commission form of government.

The only counties that may exercise these powers are counties that have formally adopted them by charter. Of the 39 counties in Washington, 33 retain the commission structure as outlined in Title 36 RCW; six counties have established themselves as charter counties by drafting a charter and submitting it to a vote of the people. Counties that have not taken steps to become charter counties are hereafter referred to as "commission counties."

First class cities

The state constitution specifically grants the authority to adopt a charter to first class cities, and RCW 35.22.200 specifically provides that a first class city charter may provide for direct legislation by the people through the initiative and referendum process. All of the ten first class cities in Washington have adopted the powers of initiative and referendum, and the procedures for exercising these powers are set out in the city charter of each city. (A brief review of the procedures exercised in each city is contained in Appendix M.)

Second class cities and towns

Second class cities and towns do not have the authority to establish initiative and referendum powers; consequently, voters in these two classes of municipalities may not exercise either power. In second class cities and towns, the council may submit an issue to the voters on an advisory ballot basis. This means that the voters may vote on an issue or an ordinance, but the results of the vote are not legally binding. While a city or town council may consider the vote of the people in an advisory ballot in deciding whether to enact or repeal an ordinance, the council is not bound to follow the majority vote.

Commission cities

A city that has the commission form of government automatically has the powers of initiative and referendum. These powers are set out in the enabling authority for commission cities in RCW 35.17.220 - 35.17.360. Only one city in the state, Shelton, still operates under the commission form, as of February 2014.

Code cities

While initiative and referendum powers are available to code cities, they are not automatic powers either at the time of incorporation or reclassification as a code city. Code cities must formally adopt these powers. The procedures for adoption are

outlined on pages 11-12 of this publication. As of February 2014, approximately 46 code cities in Washington have formally adopted these powers. (See Appendix A for a list of these code cities.) Citizens in other code cities do not have these powers available. All code cities have authority to submit issues to the public on an advisory basis, but the results of an advisory election are not binding on the city council.

Commission counties

Commission counties are granted their authority under the state constitution and Title 36 RCW. If a county does not go through the charter process, then it remains a commission form of government. Counties with the commission form of government do not have the powers of initiative and referendum available to them.

Charter counties

The state constitution grants counties the option of adopting a charter for their own form of government, and that charter may provide for direct legislation by the people through the initiative and referendum process. Seven counties have adopted a charter: Clallam, Clark, King, Pierce, San Juan, Snohomish, and Whatcom. Each has adopted the powers of initiative and referendum. Procedures for the exercise of these powers are set out in the charter of each county. (A brief review of the procedures as exercised in each charter county is contained in Appendix N.)

Types of legislation subject to the initiative and referendum process

Even if the citizens of a city or county have the powers of initiative and referendum available to them, this does not mean that every type of legislation is subject to these powers. There are a number of statutory limitations on these powers, at least in code cities, and additional limitations have been imposed by the courts. First class city and charter county charters also contain restrictions, and these can differ from city to city and county to county (the specific charter for each jurisdiction must be checked). This section will review the various limitations on the types of legislation which are subject to the initiative and referendum powers.

Only ordinances may be enacted by initiative or repealed by referendum. The powers of initiative and referendum are not applicable to any other type of legislative enactment by a city or county council, such as a motion, order, or resolution.

Statutory limitations placed on a code city

The statutes granting the power of referendum to code cities contain a list of the types of ordinances that are not subject to that power. This means that the 30-day waiting period for ordinances to go into effect, which applies in code cities that have adopted the powers of initiative and referendum, does not apply to these ordinances, since they are not subject to referendum. The list of exempt ordinances contained in RCW 35A.11.090 is as follows:

1. Ordinances initiated by petition;
2. Emergency ordinances necessary for the immediate preservation of public peace, health and safety or for the support of the city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council;
3. Ordinances providing for local improvement districts;
4. Ordinances appropriating money;
5. Ordinances providing for or approving collective bargaining;
6. Ordinances providing for the compensation of or working conditions of city employees;
7. Ordinances authorizing or repealing the levy of taxes.

These types of ordinances take effect as provided in general law - five days after publication, unless a later date is specified in the ordinance.

Statutory limitations placed on a commission city

The statutes that grant the power of referendum to commission cities also contain a limitation on the exercise of that power. RCW 35.17.240 indicates that most ordinances adopted in a commission city do not take effect for 30 days after adoption to allow the citizens an opportunity to file

a referendum petition. However, under RCW 35.17.230, the following types of ordinances are not subject to the 30-day waiting period or the referendum process:

1. Ordinances initiated by initiative;

2. Ordinances necessary for the immediate preservation of public peace, health and safety which contain a statement of urgency and are passed by unanimous vote of all the commissioners;

3. Ordinances providing for local improvement districts.

Other limitations

In addition to the above statutory limitations, the courts in Washington have recognized other limitations on the use of the powers of initiative and referendum. Basically, the courts have recognized two tests to determine if an ordinance is beyond the scope of direct legislation by the people either through the exercise of the initiative power or the referendum power.

The first test is whether the underlying action is legislative or administrative in nature. If the action is administrative, then it is not subject to the power of initiative or referendum. If it is legislative, then it may be subject to initiative and referendum, depending upon the outcome of the second test.

The second test is whether the power is one that has been granted by the legislature to the legislative authority of a city or county or whether it is a power that has been granted to the corporate entity as a whole. If it is a power that has been granted to the legislative authority (city or county council), then it is not subject to the powers of initiative and referendum. If it is a power that has been granted to the city as a corporate entity, then it may be subject to initiative and referendum.

Both of these powers will be explained in more detail, but it is important to note that the action must pass both tests to be subject to initiative or referendum. If the action is administrative in nature or if the subject of the proposed legislation is a power that has been granted by the state legislature to the city or county council, it is ***not*** subject to the power of initiative and referendum. Citizens may exercise these powers only if the action is legislative in nature and the subject of the legislation is not one that has been granted to the city or county council.

Administrative/legislative distinction

The courts in this state have noted that the power of direct legislation by citizens is not an inherent power of the people. The right did not exist until granted by the state constitution in 1912. There is an inherent limitation on this right in that it only extends to matters legislative in character, as compared to administrative matters. Therefore, the scope of the powers of initiative or referendum is restricted to ordinances adopting legislative policy and is not extended to ordinances effecting administrative actions.

This, of course, raises the question of what is an administrative action and what is a legislative action. The courts have applied two tests in making this determination. First, actions relating to subjects of a permanent and general character are usually regarded as legislative matters, and actions taken on subjects of a temporary and special character are usually regarded as administrative matters. Second, the power

to be exercised is legislative in nature if it prescribes a new policy or plan, whereas it is administrative in its nature if it merely pursues a plan already adopted by the legislative body or some power superior to it.

Even with these tests as guides, it may not always be clear whether a matter is legislative, and subject to initiative and referendum, or administrative. One way to help understand this test is to review some court cases in which the courts have characterized various actions as being either legislative or administrative in nature. The following cases provide some guidance:

1. The decision to fluoridate the city water supply is administrative in nature. *City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1 (2010).

2. An ordinance amending a comprehensive street name ordinance is administrative in nature since it is enacted pursuant to a plan already adopted by the legislative body. *Heider v. Seattle*, 100 Wn.2d 874 (1984).

3. The enactment of a business and occupation tax is legislative in nature. *Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983).

4. Implementation of a punch card ballot system is legislative in nature. *Ballasiotes v. Gardner*, 97 Wn.2d 191 (1982).

5. The setting of rates is a legislative act. *Earle M. Jorgensen Co. v. Seattle*, 99 Wn.2d 861 (1983), and *Scott Paper Company v. Anacortes*, 90 Wn.2d 19 (1978).

6. A site specific rezone amendment is administrative in nature since it implements the zoning code or comprehensive plan already enacted. *Leonard v. Bothell*, 87 Wn.2d 847 (1976)

7. The selection of a contractor and the numerous other conditions incident to a building contract are administrative in nature. *Ruano v. Spellman*, 81 Wn.2d 820 (1973).

8. The granting of an unclassified use permit is administrative. *Durocher v. King County*, 80 Wn.2d 139 (1972).

9. A decision concerning where to locate a multipurpose stadium is legislative in nature. *Paget v. Logan*, 78 Wn.2d 349 (1970).

Limitations on initiative and referendum: corporate entity vs. legislative body distinction

The other test used by the courts to determine if an issue is subject to initiative or referendum is the distinction between a grant of authority by the state legislature to the city or county as a corporate entity or to its legislative authority (the city or county council). If the statutory grant of authority is to the city or county as a corporate entity, direct legislation by the people is permissible in the form of initiative or referendum. On the other hand, if the grant of power is to the legislative authority of the city or county, then initiative and referendum are prohibited.

When applying this test, it is necessary to determine the statutory grant of authority underlying the action involved. Appendix H contains a list of examples of specific statutory grants of authority to a city council (legislative authority). Presumably, these actions are not subject to initiative and referendum. Appendix I contains a list of examples of specific statutory grants to the city corporate entity. These may be subject to initiative and referendum, although it is necessary to review the other limitations on these powers to make that determination. And finally, Appendix J contains a selected list of specific grants of authority to county legislative authorities.

As an example of how this determination is made, consider the issue of whether citizens may pass an initiative rezoning an area of a city. It is first necessary to determine if there is a specific statutory grant of power to rezone property to either the legislative body or to the city as a whole. There is such a grant of authority for code cities in RCW 35A.63.100 and for other classes of cities in RCW 35.63.080. These statutes provide the legislative body with the authority to divide the city into zones. Therefore, this power is not subject to the power of initiative. This is also the holding of the Washington State Supreme Court, as noted below.

Another example of this determination is the question of whether the initiative process applies to a decision of whether a city should acquire and operate a water utility. Again, the first step is to determine if there is a specific statute that contains a grant of authority to the city as a whole or to the city council to operate a water utility. In this case, there is such a statutory grant in RCW 35.92.010. That statute indicates that a city or town may acquire and operate a water utility system. Therefore, the grant of authority is not limited to the city council but is a grant to the city as an entity. This issue then, because it is also not an administrative matter, would be subject to the initiative power.

Similarly, this analysis would apply to charter counties as well. An example would be a zoning regulation adopted pursuant to the Planning Enabling Act, chapter 36.70 RCW. Under this statute, the legislature clearly granted the authority to adopt zoning ordinances ("official controls") and a comprehensive plan to the county legislative authority and not the county as a whole. This effectively invalidates any attempts to use initiative or referendum powers for county comprehensive plans or zoning regulations.

There have been a number of court decisions examining specific issues to determine if the underlying action is subject to initiative and referendum based on this test. A brief summary of the holdings in some of these cases may also help illustrate how this test is applied:

1. In RCW 46.63.170(1), the legislature granted to local legislative bodies the exclusive power to legislate on the subject of the use and operation of automated traffic safety cameras. Therefore, an initiative to expressly restrict the authority of a city's legislative body to enact red light cameras by requiring a two-thirds vote of the electorate for approval and by limiting the amount of traffic fines is invalid. *Mukilteo Citizens for Simple Gov't v. City of Mukilteo*, 174 Wn.2d 41 (2012).

2. An initiative that would restrict or limit the authority of a city to issue revenue bonds under chapter 35.41 RCW, the Municipal Revenue Bond Act, exceeds the initiative power and is invalid. The legislature unambiguously granted the legislative body of the city the authority over revenue bonds under multiple provisions in chapter 35.41 RCW. *City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006).

3. The power to amend the county charter was not exclusively delegated to the legislative authority of the county by either article 11 of the state constitution or the King County Charter. Under article 11, amending a county charter is no different than proposing an ordinance. Therefore, an amendment to a county charter may be subject to the powers of initiative and referendum, but repealing a charter is beyond the powers of initiative granted to the people under article 11. *Maleng v. King County Corrections Guild*, 150 Wn.2d 325 (2003).

4. An ordinance adopting a zoning regulation under chapter 36.70 RCW, the Planning Enabling Act, is not subject to the initiative or referendum power because that power has been specifically delegated to the county legislative authority. *Save Our State Park v. County Commissioners*, 74 Wn. App. 637 (1994).

5. An ordinance extending the business and occupation tax is subject to a referendum in a first class city because neither the constitution nor the state legislature restricted that taxing power to the city council. *Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983).

6. An initiative that amended the city zoning code was invalid because the zoning power has been granted by the state legislature to the city council and not to the city as a corporate entity. *Lince v. Bremerton*, 25 Wn. App. 309 (1980).

7. The legislature granted to the city council the authority to adopt and modify the zoning code. Therefore, a referendum challenging a rezone was not allowed by the court. *Leonard v. Bothell*, 87 Wn.2d 847 (1976).

8. An ordinance providing for annexation is not subject to a referendum because the powers of annexation have been granted by the legislature to the mayor and city council. *State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965).

9. An ordinance setting utility rates for a municipal-owned water system, which is being financed by revenue bonds, is not subject to referendum because the authority to set utility rates has been given to the city council when revenue bonds are utilized. *State ex rel. Haas v. Pomeroy*, 50 Wn.2d 23 (1957).

Legislative body distinction and the Growth Management Act

The power to enact regulations under the Growth Management Act (GMA), chapter 36.70A RCW, is specifically granted to the

legislative authority of cities and counties. As summarized in the following cases, the courts have addressed the use of initiative and referendum when related to the GMA in a number of cases and have found that the powers are invalid when pertaining to a regulation adopted under the Act:

1. The GMA places considerable power and responsibility in local hands, but it is still a state power that is being exercised to further state mandates. It is for the legislature, not the courts, to amend GMA procedures to provide for local referenda. Until such an amendment is enacted, the court will continue to hold that ordinances such as these that designate and protect critical areas are not subject to local referenda. *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165 (2006).

2. A citizen's initiative to require development restrictions and creek restoration activities was held invalid because development regulations were adopted under the GMA and the authority to adopt them is specifically granted to the city legislative authority. *City of Seattle v. Yes for Seattle*, 122 Wn. App. 382 (2004), *review denied*, 153 Wn.2d 1020 (2005).

3. A critical areas ordinance adopted under the GMA was not subject to the referendum power of the citizens of Whatcom County even though the power of referendum was granted to the people in the Whatcom County Charter. The power to enact critical areas ordinances under the GMA is specifically granted to the legislative authority of a city or county. *Whatcom County v. Brisbane*, 125 Wn.2d 345 (1994).

4. An ordinance that adopted a county-wide planning policy under the requirements of the Growth Management Act was held beyond the power of referendum even though that power was specifically granted to the citizens of Snohomish County in the Snohomish County Charter. The adoption of a county-wide planning policy under the GMA is specifically granted to the legislative authority of a city or county. *Snohomish County v. Anderson*, 123 Wn.2d 151, and 124 Wn.2d 834 (1994).

As these cases make clear, the powers of initiative and referendum do not apply to ordinances adopted pursuant to the Growth Management Act.

Summary of legislation subject to the process

A multistep approach is necessary in order to determine if a specific ordinance can be subject to the powers of initiative or referendum. First, it must be determined if the ordinance is an administrative or legislative act of the city or charter county. Second, it must be determined if the underlying issue, which is the subject of the initiative or referendum petition, has been granted by the legislature to the city or charter county as a corporate entity or to the legislative authority of the city or charter county. Finally, for a referendum in a code city, the statutory exceptions from the referendum process in RCW 35A.11.090 must be checked.

How the powers are acquired by a code city

As previously indicated, not all code cities have the powers of initiative and referendum. These powers must be formally adopted to be available in a code city.

Two methods exist by which a code city may adopt the powers of initiative and referendum:

1. **Petition Method.** The adoption of the powers of initiative and referendum may be initiated by registered voters of the city filing a petition with the city requesting their adoption. To be valid, the petition must contain signatures equal in number to 50 percent of the votes cast at the last general municipal election. The petitions with signatures must then be transmitted by the city to the county auditor for verification of the signatures.

   If the petition is found to be sufficient by the county auditor, the city council must adopt a resolution declaring the intention of the city to adopt the powers of initiative and referendum. The city must publish the resolution in a newspaper of general circulation within the city not more than 10 days after passage of the resolution.

   If no referendum petition is filed within 90 days after publication of the resolution, the city council must enact an ordinance formally adopting the powers of initiative and referendum.

   If a referendum petition is filed within the 90 days after publication of the resolution that is signed by qualified electors of the city equal to not less than 10 percent of the votes cast at the last general municipal election, an election must be held on the issue of whether to adopt these powers for the city. The vote will be held at the next general municipal election if there is one within 180 days of the filing of the petition. Otherwise, the vote will be at a special election called for that purpose pursuant to RCW 29A.04.330.

2. **Resolution Method.** The second method for acquiring these powers is for a majority of the city council to initiate the process by enacting a resolution declaring the intention to provide for initiative and referendum powers. This resolution must be published in a newspaper of general circulation within the city not more than 10 days after passage of the resolution.

   If no referendum petition is filed within 90 days after publication of the resolution, then the city council must enact an ordinance formally adopting the powers of initiative and referendum.

   If a referendum petition is filed within the 90 days after publication of the resolution and is signed by qualified electors of the city equal to

not less than 10 percent of the votes cast at the last general municipal election, an election must be held on the issue of whether to adopt these powers for the city. The vote will be held at the next general municipal election if there is one within 180 days or otherwise at a special election called for that purpose pursuant to RCW 29A.04.330.

How the powers are exercised

Powers exercised in a noncharter code city

As indicated, the power of initiative is only available in those code cities that have formally adopted that power. If a code city adopts this power, it is exercised primarily in the same manner as established for the commission form of government in RCW 35.17.240 - 35.17.360. When the Optional Municipal Code was adopted in 1969, rather than set out a new and different procedure for the initiative and referendum powers, the drafters merely provided that code cities use the same basic procedure that already existed for commission cities. The one exception is in the number of signatures required for a successful petition for code cities, as specified by RCW 35A.11.100.

Only ordinances may be adopted by initiative. It is not possible to adopt resolutions by initiative. Restrictions on the types of ordinances that may be adopted by initiative have been imposed by the legislature and the courts and are reviewed on pages 5-10 of this publication.

Assuming that a code city has formally adopted the power of initiative and that the subject of an ordinance is an appropriate one for an initiative, the initiative process is basically as follows:

1. The proponent of the initiative must obtain signatures on the petition equal in number to 15 percent of the total number of registered voters within the city as of the date of the last preceding city general election. RCW 35A.11.100.

2. Everyone who signs the initiative petition must add to their signature his or her place of residence, giving the street and the number. Petitions must also be printed in the form required by RCW 35A.01.040. These requirements are outlined in detail in Appendix K.

3. The signed petition must be filed with the officer designated to receive the petition (usually the city clerk), who then has three working days to transmit it to the county auditor who will review and determine the validity and adequacy of the signatures on the petition. After review, the county auditor must attach a certificate to the petition indicating whether or not it has been signed by a sufficient number of registered voters. This written certificate is then transmitted to the city officer with whom the petition was originally filed.

4. If the number of signatures is found to be insufficient, the petitioners have 10 additional days to amend the petition by supplying additional signatures. The amended petition is then resubmitted to the receiving officer who retransmits the petition to the county auditor. If the county auditor finds the number of signatures insufficient a second time, then the petition is returned to the person filing it. Any taxpayer then has the option of filing an action in

superior court to determine if the petition is sufficient.

5. If the county auditor determines that the number of signatures is sufficient, then the city council has two options. The first is for the city council to pass the proposed ordinance, without alteration, within 20 days after the county auditor's certificate of sufficiency has been received by the council. The second is to submit the measure to a vote of the people.

6. The ballot title of any initiative is to be composed of three elements: (a) an identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; (c) a question asking the voters whether the enactment should be approved or rejected by the voters. The concise statement must be prepared by the city attorney and may not exceed 75 words. RCW 29A.36.071.

7. Once the ballot title is filed, the county auditor will notify the proponents of the initiative of the exact language of the ballot title. If the persons filing the initiative are dissatisfied with the ballot title formulated by the city attorney, they may file an appeal within 10 days to the superior court of the county where the issue is to appear on the ballot. They must indicate their objections and ask for amendment. The court will hold a hearing and render a decision certifying the correct ballot title. The decision of the superior court is final. RCW 29A.36.090.

8. The election will be held by special election not less than 45 days after the certificate of sufficiency is received by the council. The special election dates are listed in RCW 29A.04.330. (See Appendix L.) If a general election is scheduled within 90 days, the election on the initiative will take place on that date instead of on the next special election date (assuming that the general election date is at least 45 days after sufficiency of the petitions is certified).

9. The city clerk must cause the ordinance that will be submitted to the voters at an election to be published at least once in each of the daily newspapers in the city between five and 20 days before the election. If there are no daily newspapers, then publication must be in each of the weekly newspapers.

10. If a majority of the number of votes cast favor the proposed measure, it is adopted and will become effective upon certification of the election results.

An ordinance that has been adopted by means of the initiative process after an election of the people may be repealed or amended only by a vote of the people. This means that the city council may not merely amend or repeal such an ordinance, as is usually the case. However, the city council may initiate the amendment or repeal of the ordinance and then submit the proposition to a vote of the people.

Powers exercised in a noncharter code city

The objective of the referendum process is to submit an ordinance that has been

formally adopted by the city council to a vote of the people. The process is mainly the same as set out in RCW 35.17.240 - 35.17.360 for the exercise of the referendum power in commission cities.

The referendum power may be exercised only in regard to ordinances. Restrictions as to which types of ordinances are subject to the referendum are reviewed on pages 5-10 of this publication.

An ordinance that is subject to the referendum process does not go into effect for 30 days after enactment so that the citizens will have an opportunity to petition for referendum. (Ordinances that are not subject to referendum are usually effective five days after publication.)

Assuming that a code city has formally adopted the power of referendum and that the ordinance is one of the types that is subject to the referendum power, then the following basic procedures apply to exercise of the referendum power:

1. The proponent of the initiative must submit a petition with attached signatures equal to 15 percent of the number of persons listed as registered voters within the city on the day of the last preceding city general election.

2. Everyone who signs the referendum petition must add to their signature his or her place of residence, giving the street and number. The petitions must also be in the form required by RCW 35A.01.040. These requirements are outlined in detail in Appendix K.

3. The petition must be filed with the officer designated to receive the petition (usually the city clerk). That officer has three working days after the filing of a petition to transmit it to the county auditor, who determines the validity and adequacy of the signatures on the petition. The county auditor must attach a certificate to the petition indicating whether or not it has been signed by a sufficient number of registered voters and transmit the written certificate back to the city officer with whom the petition was originally filed.

4. If the number of signatures is insufficient, then the petitioners have 10 additional days to amend the petition by supplying additional signatures. The amended petition is then resubmitted to the receiving officer who retransmits the petition to the county auditor. If the county auditor finds the number of signatures insufficient a second time, then the petition is returned to the person filing it. Any taxpayer then has the option of filing an action in superior court to determine if the petition is sufficient.

5. If the county auditor determines that the number of signatures is sufficient, then the city council has two options. The first option is to reconsider the ordinance within 20 days and repeal it in its entirety. The second option is to submit the measure for approval or disapproval to a vote of the people.

6. The ballot title of any referendum is to be composed of three elements:

(a) an identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; (c) a question asking the voters whether the enactment should be approved or rejected by the voters. The concise statement must be prepared by the city attorney and may not exceed 75 words. RCW 29A.36.071.

7. Once the ballot title is filed, the county auditor will notify the persons proposing the referendum of the exact language of the concise statement. If the proponents are not satisfied with the concise statement formulated by the city attorney, they may file an appeal within 10 days to the superior court of the county where the question will appear on the ballot. They must indicate their objections and ask for an amendment. After a hearing, the superior court will certify the final ballot title. The decision of the superior court on the wording is final. RCW 29A.36.090.

8. The election will be at a special election to be held not less than 45 days after the certificate of sufficiency is received by the council. The special election dates are listed in RCW 29A.04.330. (See Appendix L.) If there is a general election being held within 90 days, the election on the referendum will take place on that date instead of on the next special election date (assuming that the general election date is at least 45 days after sufficiency of the petitions is certified).

9. The city clerk must cause the ordinance that will be submitted to the voters to be published at least once in each of the daily newspapers in the city between five and 20 days before the election. If there are no daily newspapers, then publication must be once in each of the weekly newspapers.

10. If a majority of the number of votes cast is in favor of the repeal of the proposed ordinance, then the ordinance is deemed repealed and does not become effective.

If a timely referendum petition is filed, the effective date of the ordinance is suspended until the referendum petition is found to be insufficient or the ordinance is approved by the voters at the election. This means that the ordinance does not take effect until the referendum process is complete, in one way or the other.

Powers exercised in a commission city

Basically, the same procedures apply to the exercise of the powers of initiative and referendum in a commission city as apply in a code city, since the code city drafters utilized the statutory procedures which already existed for initiative and referendum in the commission statutes, RCW 35.17.240 - 35.17.360.

However, there is one significant difference. In a commission city, for an initiative or referendum petition to be sufficient, the petition must be signed by registered voters in the city equal in number to 25 percent of the votes cast for all candidates for mayor at the last preceding city election. This number applies to both initiative and referendum petitions. It is significantly

higher than the signature requirement for code cities.

Other than this difference in the number of signatures for a successful petition, the procedure previously outlined for code cities applies.

Powers exercised in a first class city

All of the first class cities have adopted the powers of initiative and referendum in their charters. The exact procedure for the exercise of these powers is outlined in each city charter and varies from city to city. See Appendix M for a short summary of initiative and referendum procedures in each of these cities.

Powers exercised in a charter county

All of the charter counties have adopted the powers of initiative and referendum in their charters. The exact procedure for the exercise of these powers is outlined in each county charter and varies from county to county. See Appendix N for a short summary of initiative and referendum procedures in each of these counties.

How the powers are abandoned

Code cities, first class cities, and charter counties that have acquired the powers of initiative and referendum may repeal or abandon those powers. It is not possible for a commission city to abandon those powers unless the city changes to another plan of government.

All first class cities and charter counties in Washington have adopted the powers of initiative and referendum in their respective charters. If a first class city or charter county desires to relinquish or abandon its initiative and referendum powers, it must amend its charter. This is accomplished in the same manner as any other charter amendment, which requires a vote of the citizens. No first class city or charter county has ever attempted to repeal charter provisions that contain initiative and referendum powers.

State statutes do provide for the repeal or abandonment of the powers of initiative and referendum in a noncharter code city. However, those powers may not be repealed until at least six years has elapsed since they were adopted. To date, no code city that has acquired initiative and referendum powers has ever repealed them or attempted to do so.

The procedure for a code city desiring to abandon or repeal initiative and referendum powers is the same procedure as is provided for abandonment of a plan of government by a code city. RCW 35A.11.080. A summary of the procedure is as follows:

1. Two ways exist to initiate the repeal of initiative and referendum powers. The first is for the city council to pass a resolution of intention, proposing abandonment of initiative and referendum powers. The second is for the citizens to petition for abandonment of the powers. The petition must be signed by qualified electors equal in number to not less than 10 percent of the votes cast at the last general municipal election.

2. Once the petition has been determined to be sufficient by the county auditor or the resolution of intention has been approved by the council, an election must be held at the next general election in accordance with RCW 29A.04.330.

3. If a majority of the voters voting at the election vote to repeal the powers of initiative and referendum, then they are repealed.

Process and requirements for petition signature gatherers

The U.S. Supreme Court held unconstitutional a Colorado law that prohibited the payment of individuals who solicit petition signatures because it was a burden on political expression that the state could not justify. *Meyer v. Grant*, 486 U.S. 414 (1988). In response, the Washington State Legislature in 1993 enacted a law that was more limited than Colorado's and that prohibited paying a signature gatherer only on the basis of how many signatures the gatherer obtains. Paying on the basis of how many signatures are obtained may be considered an incentive for fraud in the signature-gathering process.

In 1994, the U.S. District Court for the Western District of Washington found the Washington law to be an unconstitutional restriction on the First Amendment rights of citizens by limiting payment to gatherers on a per signature basis, absent a legislative finding based on "actual evidence" of fraud. *LIMIT v. Maleng*, 874 F.Supp. 1138 (1994).

Although the Washington law (RCW 29A.84.250 and RCW 29A.84.280) has not been repealed, it is no longer enforceable, based on *LIMIT v. Maleng*. (It remains to be seen, however, if the law would be enforceable if a finding based on actual evidence of fraud is made.) In sum, a county or city may not prohibit signature gatherers from being paid, either by a flat rate or per signature gathered.

Exhibit 7

Appendix A

Cities and counties that have powers of initiative and referendum

As of February 2014, the following cities and counties in Washington State possess the powers of initiative and referendum:

First Class Cities
All ten first class cities have the powers of initiative and referendum.

Aberdeen	Bremerton	Richland	Spokane	Vancouver
Bellingham	Everett	Seattle	Tacoma	Yakima

Commission Cities
The one commission city has these powers automatically.

Shelton

Code Cities
The following code cities have adopted the powers of initiative and referendum.

Battle Ground	Clarkston	Kent Lake	Ocean Shores	Shelton
Bellevue	Des Moines	Forest Park	Olympia	Shoreline
Blaine	Edgewood	Longview	Port Angeles	Tukwila
Bonney Lake	Edmonds	Lynnwood	Rainier	Tumwater
Bothell	Ellensburg	Mercer Island	Raymond	Walla Walla
Brier	Federal Way	Mill Creek	Redmond	Wenatchee
Burien	Ferndale	Monroe	Renton	Woodinville
Camas	Goldendale	Mountlake Terrace	Ridgefield	
Chelan	Issaquah	Mukilteo	SeaTac	
Cheney	Kelso	North Bend	Sequim	

Charter Counties
All six charter counties have adopted the powers of initiative and referendum.

Clallam	Pierce	San Juan	Snohomish	Whatcom
King				

Exhibit 7

Appendix B

Sample resolution declaring intent of code city to adopt powers of initiative and referendum

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF _____, WASHINGTON, DECLARING THE INTENT OF THE CITY COUNCIL TO ADOPT THE RIGHT OF INITIATIVE AND REFERENDUM FOR THE REGISTERED VOTERS OF THE CITY; PROVIDING FOR PUBLICATION OF THIS RESOLUTION; AND PROVIDING THAT UPON THE EXPIRATION OF THE NINETIETH DAY AFTER THE DATE OF PUBLICATION THAT AN ORDINANCE ADOPTING THE INITIATIVE AND REFERENDUM PROCESS FOR THE REGISTERED VOTERS OF THE CITY SHALL BE PRESENTED UNLESS A TIMELY AND SUFFICIENT REFERENDUM PETITION HAS BEEN FILED REFERRING THE QUESTION TO THE REGISTERED VOTERS OF THE CITY FOR APPROVAL OR REJECTION.

The CITY COUNCIL OF THE CITY OF _____, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Pursuant to RCW 35A.11.080, which permits the legislative body of a noncharter code city, such as the City of _____, to provide for the exercise in the City of the powers of initiative and referendum in accordance with the provisions of state law set forth in RCW 35A.02.020 et seq, the City Council of the City of _____, Washington, a noncharter optional municipal code city, hereby declares its intention to adopt for the City the powers of initiative and referendum.

Section 2. Within ten (10) days following the passage of this resolution the City clerk is instructed to cause this resolution to be published at least once in a newspaper of general circulation within the City to wit: (NEWSPAPER TITLE).

Section 3. Notice is given that upon the expiration of the ninetieth day after the date of first publication of this resolution, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition is filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in this resolution shall, at the next regular meeting of the City Council, be effected by an ordinance adopting for the City the powers of initiative and referendum.

RESOLVED this _____ day of (month/year).

CITY OF _____

_____
MAYOR, (name)

ATTEST/AUTHENTICATED:

_____
CITY CLERK, (name)

FILED WITH THE CITY CLERK: (date)
PASSED: (date)
PUBLISHED: Published in the (newspaper) on (date).

Exhibit 7

Appendix C

Sample ordinance of code city adopting powers of initiative and referendum

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF _____, WASHINGTON, ADOPTING A POWER OF INITIATIVE AND REFERENDUM FOR THE REGISTERED VOTERS OF THE CITY.

WHEREAS, the City Council of the City of _____, Washington, passed Resolution No. ____ on (date), stating its intent to adopt the powers of initiative and referendum for the registered voters of the City as provided in RCW Chapter 35A.11, now, therefore,

THE CITY COUNCIL OF THE CITY OF _____, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 1.12 entitled "Initiative and Referendum" is hereby added to the _____ Municipal Code to read as follows:

Section 1.12.010 Power of Initiative and Referendum Adopted

The City of _____ hereby adopts the power of initiative and referendum for the registered voters of the city as provided pursuant to RCW 35A.11.080 through 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

Section 2. This ordinance will be in full force and effect five days after passage and publication by posting as provided by law.

CITY OF _____

_____
MAYOR, (name)

ATTEST/AUTHENTICATED:

_____
CITY CLERK, (name)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY

FILED WITH THE CITY CLERK:(date)
PASSED BY THE CITY COUNCIL: (date)
SIGNED BY THE MAYOR: (date)

POSTED: (date)
EFFECTIVE DATE: (date)

Appendix D

Sample initiative petition format for code cities

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

INITIATIVE PETITION FOR SUBMISSION TO THE _____ CITY COUNCIL

TO: The City Council of the City of _____:

We, the undersigned registered voters of the City of _____, State of Washington, residing at the addresses set forth opposite our respective names, being equal to fifteen percent (15%) of the total number of names of persons listed as registered voters within the City on the day of the last preceding City general election, respectfully request that the following ordinance be enacted by the City Council or, if not so enacted, be submitted to a vote of the residents of the City. The title of the said ordinance is as follows:

(Here insert the title, ensuring that the proposed ordinance does not contain more than one subject and that the subject is clearly expressed in the title, and then insert one of the two sentences shown below.)

(The full text of the ordinance is as follows:] or (A full, true and correct copy of the ordinance is attached to this Petition.)

Each of us for himself or herself says:

I have personally signed this petition; I am a registered voter of the City of _____, State of Washington; and my residence address is correctly stated.

Signature Printed Name Street and Number City Date

1. _____

20. _____

Appendix E

Sample referendum petition format for code cities

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

PETITION FOR REFERENDUM

TO: The City Council of the City of _____:

We, the undersigned registered voters of the City of _____, State of Washington, residing at the addresses set forth opposite our respective names, being equal to fifteen percent (15%) of the total number of names of persons listed as registered voters within the City on the day of the last preceding City general election, respectfully request that Ordinance No. _____ enacted by the City Council on the _____ day of _____, 20_____, be repealed by the Council or, if not so repealed, be referred to a vote of the residents of the City for their approval or rejection. The title of the said ordinance is as follows:

(Here insert the title of the Ordinance as enacted, and then insert one of the two sentences shown below.)

(The full text of the ordinance, as enacted by the City Council, is as follows:) or (A full, true and correct copy of the ordinance as enacted by the City Council is attached to this Petition.)

Each of us for himself or herself says:

I have personally signed this petition; I am a registered voter of the City of _____, State of Washington; and my residence address is correctly stated.

Signature Printed Name Street and Number City Date

1. _____

20. _____

Appendix F

Some common questions relating to initiative and referendum powers

1. **What is the power of initiative?**
   The power of initiative is the ability of the voters of the city or charter county to initiate and enact legislation directly, with or without the consent of their elected representatives, the city or county legislative authority.

2. **What is the power of referendum?**
   The power of referendum is the ability of the citizens of the city or charter county to have an ordinance that has been enacted by the city or county legislative authority submitted to the voters for approval or disapproval before it becomes effective.

3. **Have all first class cities adopted the powers of initiative and referendum?**
   Yes. All ten first class cities have adopted these powers in their charters. The exact procedures vary for each city as provided in their charter (See Appendix M).

4. **Do all counties have the powers of initiative and referendum?**
   No. Only the six counties that have adopted a charter have the ability to adopt the powers of initiative and referendum. Each of those counties has adopted the powers of initiative and referendum in their charters. The exact procedures vary for each county as provided in their charters (See Appendix N).

5. **Do all code cities have the powers of initiative and referendum?**
   No. The powers of initiative and referendum are available to all code cities, but they must be specifically adopted. Most of the code cities in the state have not adopted these powers.

6. **Do second class cities or towns have these powers available?**
   No. A statutory grant of authority from the state legislature is necessary for the powers of initiative and referendum to be available. There is no such grant of authority for second class cities or towns to adopt these powers.

7. **May the legislative authority of a city or county that does not have the powers of initiative and referendum available submit an issue to the voters in an advisory ballot?**
   Yes. All cities and counties in the state have the ability to submit an issue to the public on an advisory basis at an election. However, the results of the election are not binding on the city or county legislative authority, as they are for an initiative or referendum; they merely serve to reflect the mood of the electorate.

8. **How may a code city adopt the powers of initiative and referendum?**
   There are two methods by which a code city may adopt these powers. One method is initiated by a resolution of the city council and the other by a voter petition. The exact procedure for each of these methods is outlined in on pages 11-12 of this publication.

9. **How many signatures are required to initiate a referendum or initiative in a code city?**
For an initiative or referendum petition to be valid in a code city, the petition must contain the signatures of registered voters consisting of at least 15 percent of the total number of persons listed as registered voters within the city on the day of the last preceding city general election.

10. **Does the referendum power apply to resolutions of the city or county legislative authority?**
No. The power of referendum only applies to ordinances adopted by the city or county legislative authority. Resolutions are not subject to the referendum power and the initiative process may not be applied to a resolution.

11. **Are all types of ordinances subject to the initiative and referendum process?**
No. There are a number of limitations on the exercise of initiative and referendum powers. Some of these limitations arise out of the state statutes that grant the right of initiative and referendum. Other limitations arise from court decisions concerning the extent of these powers.

12. **What statutory limitations are placed on the right of referendum in code cities?**
RCW 35A.11.090 contains a list of types of ordinances that are not subject to the power of referendum in a code city. This list includes emergency ordinances, ordinances providing for local improvement districts, ordinances appropriating money, ordinances providing for collective bargaining, ordinances for compensation or other working conditions of city employees, and ordinances authorizing or repealing the levy of taxes.

13. **What other limitations are placed on the exercise of the powers of initiative and referendum?**
The courts in Washington have imposed two tests to determine if a specific ordinance is subject to the powers of initiative and referendum. The first test is whether the underlying action is administrative or legislative. Only legislative actions are subject to initiative and referendum; administrative actions are not. The second test is to determine if the power is one that has been granted to the legislative authority of the city or county or whether it is a power that has been granted to the corporate entity as a whole. If it is a power that has been granted to the legislative authority or city council specifically, then it is not subject to initiative and referendum.

14. **What is an administrative action and what is a legislative action for purposes of determining if an action is subject to initiative and referendum?**
The courts have established two tests to determine this. Actions relating to subjects of a permanent and general character are usually regarded as legislative in nature, and actions relating to subjects of a temporary and special character are usually regarded as administrative in nature. Secondly, the power to be exercised is legislative in nature if it prescribes a new policy or plan, while it is administrative in nature if it merely pursues a policy or plan already adopted by the city or county council.

15. **Is a rezone ordinance subject to the referendum process in a code city?**
No. This specific issue was the subject of a court case, *Leornard v. Bothell*, 87 Wn.2d 847 (1976). Although the court considered a site-specific rezone to be an administrative action, it held that the authority to adopt and modify the zoning code in a code city had been given by the state legislature to the city council, and so a site-specific rezone is not subject to the power of referendum.

16. **Is the power to annex property subject to the initiative or referendum process?**
No. The power to annex property has been granted by the state legislature specifically to the city council and so it is not subject to the initiative process. This is the holding in *State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965).

17. **May the powers of initiative and referendum be abandoned once they have been adopted?**
Yes, first class cities, code cities, and charter counties may abandon these powers after they have been adopted. First class cities and charter counties must amend their charters to abandon these powers. A code city may abandon these powers so long as at least six years have elapsed since their adoption. The process is described on page 18 of this publication. Only commission cities have no authority to abandon these powers since they are a part of the commission form of government and are contained in the state enabling legislation for that form of government.

18. **Can petition signature gatherers be paid?**
Yes, petition signature gatherers can be paid either a flat fee or on a per signature gathered basis. Cities and counties do not have the authority to ban signature gatherers from being paid on either basis.

19. **Are ordinances enacted pursuant to the Growth Management Act (GMA) subject to the power of referendum?**
No. Any ordinance adopted pursuant to the GMA is not subject to the power of referendum, because the legislature specifically delegated the power to act under GMA to the legislative authority of a city or county and not to the corporate entity.

20. **Can ordinances that pertain to the Growth Management Act be enacted by initiative?**
No. Any ordinance related to the GMA is not subject to the powers of initiative as well, because the legislature specifically delegated the power to act under GMA to the legislative authority of a city or county and not to the corporate entity.

Appendix G

Selected Washington cases that relate to initiative and referendum powers of cities and counties

Most of the case law authority in Washington regarding initiative and referendum powers relate to whether a particular issue is subject to those powers or not. The following are some of the leading cases on this issue:

***Mukilteo Citizens for Simple Gov't v. City of Mukilteo*, 174 Wn.2d 41 (2012)**
The legislature granted to local legislative bodies the exclusive power to legislate on the subject of the use and operation of automated traffic safety cameras. Therefore, an initiative to expressly restrict the authority of a city's legislative body to enact red light cameras by requiring a two-thirds vote of the electorate for approval and by limiting the amount of traffic fines is invalid.

***City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1 (2010)**
The decision to fluoridate the city water supply is administrative in nature, and so is beyond the scope of the local initiative power and is subject to preelection challenge.

***1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165 (2006)**
Ordinances enacted under the GMA that designate and protect critical areas are not subject to local referenda.

***City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006)**
An initiative that would restrict or limit the authority of a city to issue revenue bonds under chapter 35.41 RCW, the Municipal Revenue Bond Act, exceeds the initiative power and is invalid. The legislature unambiguously granted the legislative body of the city the authority over revenue bonds under multiple provisions in chapter 35.41 RCW.

***City of Seattle v. Yes for Seattle*, 122 Wn. App. 382 (2004), *review denied*, 153 Wn.2d 1020 (2005)**
A local initiative that related to development restrictions over creeks or their buffers and required certain creek restoration activities was invalid because the initiative concerned a development regulation under the Growth Management Act and the statutory grant of power to enact such regulations is to the legislative authority of the city.

***King County v. Taxpayers of King County*, 133 Wn.2d 584 (1997)**
An ordinance authorizing the issuance of bonds to build a new baseball stadium as permitted under the Stadium Act (RCW 82.14.0485) was not subject to initiative.

***Bidwell v. Bellevue*, 65 Wn. App. 43, *review denied*, 119 Wn.2d 1023 (1992)**
An initiative that restricted the authority of the Bellevue Convention Center Authority to issue negotiable bonds or notes to finance construction of the convention center without prior voter approval was not appropriate because the initiative dealt with administrative matters and would

have unconstitutionally impaired contract rights.

***Heider v. Seattle*, 100 Wn.2d 874 (1984)**
Changing the name of a street is an administrative action not subject to the initiative process.

***Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983)**
The enactment by a first class city of a business and occupation tax is subject to referendum because it is legislative in nature and the power to enact such taxes is shared with the electorate because of provisions in the Spokane city charter.

***Seattle Building and Construction Trades Council v. Seattle*, 94 Wn.2d 740 (1980)**
A proposed initiative that would have prohibited further work on the I-90 construction project across Lake Washington was held invalid because the actions of the city were administrative in nature and not subject to the initiative process.

***Lince v. Bremerton*, 25 Wn. App. 309 (1980)**
An initiative is not an appropriate measure to amend the zoning code of a first class city because that is a power that has been given to the legislative body of the city.

***Leornard v. Bothell*, 87 Wn.2d 847 (1976)**
A site-specific rezone ordinance is not subject to the referendum power because it is administrative in nature and also because the power to amend the zoning code has been granted to the legislative body of the city.

***Ruano v. Spellman*, 81 Wn.2d 820 (1973)**
An attempt to prevent construction of the Kingdome by repealing the resolution authorizing the project and the bonds to finance it and to prohibit spending of funds for further development was improper because the decisions remaining were held to be administrative in nature and the passage of the initiative would also result in the impairment of existing contract rights.

***State ex rel. Guthrie v. Richland*, 80 Wn.2d 382 (1972)**
Initiative and referendum powers can only be invoked at the local level if their exercise is not in conflict with state law. In this case, an ordinance providing for extensions to the municipally-owned waterworks, financed by revenue bonds, was held not subject to a referendum.

***Durocher v. King County*, 80 Wn.2d 139 (1972)**
Action by the county in granting an "unclassified use permit" was not subject to referendum because it is administrative in nature.

***Ford v. Logan*, 79 Wn.2d 147 (1971)**
The repeal of a county home rule charter is not within the initiative powers granted to the voters of a county.

***Paget v. Logan*, 78 Wn.2d 349 (1970)**
An initiative that prohibited location of a multipurpose stadium at the Seattle Center was held to be appropriate because the issue was legislative and the power was one that had been granted to the county as a corporate entity.

***State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965)**

An annexation ordinance is not subject to referendum power because the authority to annex property has been given to the city council.

***State ex rel. Haas v. Pomeroy*, 50 Wn.2d 23 (1957)**
The action of a city council in setting water utility rates, where the system is financed by revenue bonds, is not subject to referendum because the grant of power to set rates when revenue bonds have been used to create the utility is to the city council.

Cases that relate to other aspects of the local initiative and referendum process:

***Eyman v. McGehee*, 173 Wn. App. 684 (2013)**
The city clerk had a mandatory duty under RCW 35A.01.040(4) and RCW 35A.29.170 to transfer to the county auditor the initiative petition to prohibit the city's using automatic ticketing cameras, but the issuance of writ of mandamus the issuance of a writ would have been improper as a vain and useless act, because the initiative exceeded the local initiative power.

***City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006)**
The city had standing to bring a postelection challenge to an initiative approved by the voters. The question of whether the initiative was beyond the scope of the initiative power was not mooted by the election because the election did not alter or expand the scope of the initiative power. The sponsor of a local initiative can be the proper defendant in a preelection declaratory action to determine whether the initiative exceeds the initiative power of the people.

***Maleng v. King County Corrections Guild*, 150 Wn.2d 325 (2003)**
A county initiative changing the number of councilmembers was valid. The state supreme court held that the initiative was not beyond the initiative powers under the state constitution or the King County Charter because amending a charter is no different that proposing an ordinance.

***Priorities First v. City of Spokane*, 93 Wn. App. 406 (1998), *review denied*, 137 Wn.2d 1035 (1999)**
An action against the city for refusing to put an initiative on the ballot that sought voter approval before it created a public development authority (PDA) to provide off-street parking facilities was invalid. The court of appeals ruled that the city was correct in declaring the initiative invalid because it conflicted with a state statute (chapter 35.41 RCW) in which the legislature has delegated authority to the city council.

***CLEAN v. City of Spokane*, 133 Wn.2d 455 (1997)**
A referendum challenging an ordinance to support an off-street parking garage for a private retail development under the emergency clause of the Spokane City Charter was invalid. The court ruled that the city had an interest in preventing economic loss to the downtown area.

***Whatcom County v. Brisbane*, 125 Wn.2d 345 (1994)**
A critical areas ordinance enacted under the Growth Management Act was not subject to the referendum power. The court stated that where a statutory grant of authority is given to the legislative body of a city or county then that grant of authority supersedes the county or city charter.

***Snohomish County v. Anderson*, 123 Wn.2d 151 (1994), also 124 Wn.2d 834 (1994)**
A citizen's referendum to the county council adopting a county-wide planning policy ordinance as required under the Growth Management Act (GMA) was invalid. The court ruled that the GMA requires the legislative authority of counties to adopt a county-wide planning policy and a referendum regarding that policy is beyond the referendum power of the citizens.

***Save Our State Park v. County Commissioners*, 74 Wn. App. 637 (1994)**
An initiative to repeal a zoning regulation adopted by the county commissioners pursuant to the Planning Enabling Act, chapter 36.70 RCW, was invalid. The court of appeals ruled that the legislature has clearly delegated the authority to approve a comprehensive plan, adopt official controls, and engage in zoning under chapter 36.70 RCW to the county legislative authority.

***LIMIT v. Maleng*, 874 F.Supp. 1138 (1994)**
The U.S. District Court found that, based on the U.S. Supreme Court's interpretation, the Washington law that made it a gross misdemeanor to pay signature gatherers per signature was an unconstitutional prohibition on freedom of political speech guaranteed by the First Amendment.

***State ex rel. Uhlman v. Melton*, 66 Wn.2d 157 (1965)**
Petitions for referendums in municipalities must strictly comply with procedural requirements, such as the time for filing petitions, since these requirements are mandatory and jurisdictional.

***State ex. rel. O'Connell v. Meyers*, 51 Wn.2d 454 (1957)**
The presumption in favor of constitutionality of legislation also applies to statutes enacted by initiative.

Exhibit 7

Appendix H

Examples of specific statutory grants of power to municipal legislative authority

These topics are not likely to be subject to initiative and referendum powers.

Statutory Grants	RCW
Consolidation/Annexation of One City to Another	Ch.35.10
Annexation of Unincorporated Areas to City	Ch.35.13
Assumption of Water-Sewer Districts	35.13A.020
Power to Acquire Auditoriums, Art Museums, Swimming Pools, etc.	35.21.020
Power to Create Special Funds: Payroll & Claims	35.21.085
Authority to Designate Streets as Parkways Transfer of Maintenance Responsibilities	35.21.190
Power to Establish Residency Qualifications for Appointed Officials/ Preference in Employment	35.21.200
Power to Purchase Liability and Workman's Compensation Insurance	35.21.209
Power to Establish Transportation Benefit Districts	35.21.225
Power to Participate in Economic Opportunity Act Programs	35.21.680
Authority to Promote Tourism	35.21.700
Authority to Establish Public Ambulance Utility	35.21.766
Authority to Establish B & O Tax on Ambulance Businesses	35.21.768
Authority to Revise Corporate Boundary Street Center Lines	35.21.790
Authority to Create Park Board Commissioners	35.23.170
Authority to Create Special Funds, Sell Revenue Bonds, Warrants & Set Rates Municipal Bond Revenue Act	Ch.35.41
Authority to Order Local Improvements	35.43.040
Authority to Create Utility Local Improvement Districts (ULID)	35.43.042
Authority to Issue LID Bonds	35.45.010
Authority to Create Pedestrian Malls	35.71.030
Authority to Contract for Street Projects	35.72.010
Authority to Create Comprehensive (6-year) Street Plan	35.77.010
Authority to Classify Streets	35.78.010
Authority to Vacate Streets	35.79.030
Authority to Regulate Unfit Dwellings, Buildings, Structures	35.80.030
Authority to Enable Local Housing Authority	35.82.030

Exhibit 7

Statutory Grants	RCW
Authority to Acquire, Construct, Maintain, etc., Out-of-State Property, Plant and Equipment for Municipal Utilities	35.92.014
Authority to Appropriate Funds, Levy Tax for Transportation System	35.95.030
Authority to Annex Property Code Cities	35A.14.015
Authority to Establish a Planning Agency	35A.63.020
Authority to Approve Comprehensive Plan	35A.63.072 35.63.100
Authority to Adopt Land Use Regulations (Zoning Code)	35A.63.100 35.63.110
Authority to Establish Short Plat/Subdivision Regulations	58.17.060
Authority to Approve Plats	58.17.100 58.17.110 58.17.170

Appendix I

Examples of specific statutory grants of power to municipal corporate entity

These topics may be subject to initiative and referendum powers if the other statutory and judicial limitations on the powers are satisfied.

Statutory Grants	RCW
Petition for Reduction of City Limits	35.16.010
Power to Provide Auxiliary Water System for Fire Protection	35.21.030
Power to Create Equipment Fund	35.21.088
Power to Establish, Construct and Maintain Dikes and Levees	35.21.090
Power to Accept Donations of Property	35.21.100
Authorization to Construct, Acquire and Maintain Ferries	35.21.110
Power to Establish Solid Waste Handling System	35.21.120
Power to Establish Sewers, Drainage and Water Supplies	35.21.210
Power to Regulate Sidewalks	35.21.220
Authority to Require Removal of Debris/Plants	35.21.310
Authority to Establish Lake Management Districts	35.21.403
Authority to Establish Youth Agencies	35.21.630
Authority to Assist Development of Low Income Housing	35.21.685
Authority to Own/Operate Professional Sports Franchise	35.21.695
Authority to Acquire/Construct Multi-Purpose Community Center	35.59.030
Authority to Participate in World Fairs and Expositions	35.60.030
Authority to Construct Sidewalks, Gutters, Curbs, etc.	35.68.010
Authority to Erect/Maintain Draw Bridges	
Authority to Regulate and License Bicycles	35.75.010
Authority to Provide Off-Street Parking Facilities	35.86.010
Authority to Acquire and Operate Municipal Utilities Generally	35.92.010
Authority to Require Conversion to Underground Utilities	35.96.030
Authority to Establish Heating Systems	35.97.020
Power to Adopt Code City Status	35A.02.010
Power to Adopt Charter Code City Status	35A.07.010
Authority for Library, Museum and Historical Activities	35A.27.010
Authority for Joint Acquisition of Land for Schools	35A.28.010
Authority for Joint Facilities and Agreements Intergovernmental Relations Civic Center, Jails, Armories	35A.35.010

Exhibit 7

Statutory Grants	RCW
Authority for Emergency Services Participation	35A.38.010
Authority for Granting of Property for Highways and Streets	35A.47.010
Authority for Local Regulatory Option on Sale of Liquor	Ch.35A.66
Authority to Acquire Recreational Facilities	Ch.35A.67
Authority to Acquire Cemeteries/Morgues	Ch.35A.68
Authority to Regulate Food and Drugs	Ch.35A.69
Authority to Regulate Health and Safety	Ch.35A.70
Authority to Provide for the General Welfare	Ch.35A.74
Power to Acquire, Use and Manage Property and Materials	Ch.35A.79
Authority to Provide Public Utilities	Ch.35A.80
Authority to Regulate Harbors and Navigation	Ch.35A.88

Appendix J

Examples of specific statutory grants of power to the county legislative authority

Under RCW 36.32.120, the legislature has granted specific powers to the legislative authority of counties. Specifically those powers are:

1. The erection and repairing of public buildings for use by the county.

2. Laying out, discontinuing, or altering county roads or highways within the county.

3. License and fix rates of ferriage.

4. Fix the amount of taxes to be assessed.

5. Allow all accounts legally chargeable and audit, manage, collect and disburse any money belonging to the county or appropriated to its benefit.

6. Care of the county property and management of the county funds and business as well as prosecute and defend all actions for and against the county.

7. Make and enforce all such police and sanitary regulations as are not in conflict with state law and may adopt building codes for unincorporated areas.

8. The power to compound or release in whole or part any debt due the county.

9. Administer oaths or affirmations necessary to discharge their duties and commit for contempt any witness refusing to testify.

10. The power to declare what shall be deemed a nuisance within the county.

Appendix K

Rules for petitions in cities

Specific statutory rules apply to petitions in cities, including referendum and initiative petitions. RCW 35.21.005, 35A.01.040. The most important of these rules relating to petitions signed by voters are as follows:

1. The petition may include any page or group of pages which contain an identical text intended by the circulators to be considered as one petition. The following are essential elements of the petition:

    a. The text of the petition must be a concise statement of the action or relief desired by the petitioners;

    b. All initiative and referendum petitions must contain an attached copy of the full ordinance;

    c. The petition must contain numbered lines for signatures with space provided beside each signature for the date of signing and the address of the signer;

    d. The warning statement that is outlined below must be contained on each page of the petition having a space for signatures;

    e. Any petition that seeks the annexation, incorporation, withdrawal or reduction of city limits must contain an accurate legal description of the area proposed for such action and a map if practical.

2. The petitions must be printed or typed on single sheets of white paper of good quality. Each sheet of petition paper that has a space of signatures must contain the text of the petition and the following warning language:

    WARNING

    Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

    Each signature must be signed in ink or indelible pencil and must be followed by the date of signing and the address of the signer.

3. In code cities, the petition must contain the valid signatures of 15 percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election. RCW 35A.11.100.

4. The signatures do not have to all be attached to one sheet of paper.

5. Petitions that contain the required number of signatures are to be ac-

cepted as valid until their invalidity has been proved.

6. A variation between the signature on the petition and that on the voter's permanent registration which is caused by use of initials instead of the first or middle names, or both, does not invalidate the signature on the petition if the last name and handwriting are the same.

7. Signatures that are followed by a date of signing that is more than six months prior to the date of filing the petition are also to be stricken. This means, in effect, that signatures are valid only for six months after the date of signing.

8. Within three working days after the filing of the petition with the city, the officer with whom the petition is filed shall transmit the petition to the county auditor, who must proceed with the determination of whether the signatures are sufficient. The office of the county auditor must notify the officer who received the petition of the date on which this determination was begun, and this date is to be known as the terminal date.

9. Any signer of a filed petition may withdraw his or her signature by filing a written request for withdrawal with the receiving officer prior to the terminal date. The name of the person seeking to withdraw must be signed exactly as the signature on the initial petition. After the filing of the request for withdrawal, the signature of the person seeking to withdraw is to be considered withdrawn.

10. Additional pages of one or more signatures may be added to the petition by filing with the receiving officer such pages prior to the terminal date.

11. The officer responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

Appendix L

Special election dates

Initiative and referendum elections may be held only on specific dates. These dates are set out in RCW 29A.04.330 and apply to all classes of cities and to all counties. The following are the dates on which an initiative or referendum election may be held:

1. The second Tuesday in February;
2. The fourth Tuesday in April;
3. The third Tuesday in May;
4. The day of the primary election as specified by RCW 29A.04.311;
5. The first Tuesday after the first Monday in November (this is the same date as the general election date in November).

If a sufficient initiative and referendum petition is filed, the election on the ordinance must be held on one of the above listed dates.

Appendix M

Brief review of initiative and referendum powers of first class cities as established in their charters

The following is a brief synopsis of the initiative and referendum powers of each of the first class cities. However, for complete details of the procedures and limitations on these powers, the specific charters of each of the cities must be carefully reviewed.

Aberdeen

Initiative – An ordinance may be initiated by a petition of 25 percent of the qualified registered voters of the city voting at the last preceding general municipal election. The proposed ordinance and initiative must be filed with the finance director at least 60 days before the next municipal general election. If the signatures are sufficient, the measure must be placed on the ballot at the next general municipal election.

Referendum – The citizens have 45 days after the final publication of an ordinance to circulate a petition and obtain the signatures of registered voters equal to at least 25 percent of the total number of persons voting at the last preceding regular municipal election. The election may be at a special election or a general municipal election. If the ordinance is repealed, the council may not reenact it for at least one year.

Bellingham

Initiative – An ordinance may be initiated on petition of a number of qualified voters equal to not less than 20 percent of the total number of votes cast for the office of mayor at the last preceding municipal general election. The initiative petition is to be filed with the finance director. The election will be at the next municipal general election, although the council may provide for a special election on the initiative.

Referendum – An ordinance may be referred to a referendum election if a petition is filed signed by qualified voters equal in number to not less than 8 percent of the total number of votes cast for the office of mayor at the last preceding municipal general election. The petition must be filed with the finance director at least 30 days following the effective date of such ordinance. Any ordinance initiated or referred and approved at an election may not be amended or repealed within two years after the effective date.

Bremerton

Initiative – An ordinance may be initiated on petition signed by registered voters equal in number to at least 20 percent of the votes cast at the last municipal general election for all candidates for the office of mayor. The initiative must be filed with the city clerk. The election may be at a special election. No ordinance initiated by this process and voted on favorably by the people may be amended or repealed by the city council unless submitted to the citizens for a vote.

Referendum – An ordinance may be referred to a referendum election if a petition is filed before the effective date of the ordinance signed by qualified electors of the city equal in number to not less than 25 percent of the votes cast at the last municipal general election for all candidates

for the office of mayor. The petition must be filed with the city clerk and the election may be at a special or general election.

Everett
Initiative – An ordinance may be initiated by a petition signed by qualified electors equal in number to at least 15 percent of the total number of votes cast at the last preceding municipal general election. The petition must be filed with the clerk and the election may be at a special or general election. No ordinance passed by this process may be amended or repealed except by popular vote of the people.

Referendum – An ordinance may be referred to a referendum election if a petition is filed before the effective date signed by qualified electors equal in number to 10 percent of the entire vote cast at the last preceding general municipal election. It must be filed with the clerk and the election may be at a general or special election.

Richland
Initiative – An ordinance may be initiated by a petition signed by a number of registered voters equal to at least 20 percent of the total vote cast at the last preceding regular general election. The petition must be filed with the city clerk and the election may be at a special or general election. An initiative ordinance may not be amended or repealed within one year of its enactment.

Referendum – An ordinance may be referred to a referendum election if a petition is filed within 30 days of first publication of the ordinance. The petition must be signed by a number of registered electors equal to at least 25 percent of the total votes cast at the last preceding regular general election. The petition must be filed with the clerk and the election may be at a general or special election. No ordinance repealed by such an election may be reenacted by the council within one year of the effective date of the repeal.

Seattle
Initiative – An ordinance may be initiated by a petition signed by a number of registered voters equal to not less than 10 percent of the total number of votes cast for the office of mayor at the last preceding municipal election. The petition must be filed with the city comptroller. The election may be at a special or general election.

Referendum – An ordinance may be referred to a referendum election if a petition is filed signed by a number of registered voters equal to not less than 8 percent of the total number of votes cast for the office of mayor at the last preceding municipal election. The petition must be filed with the city comptroller and the election may be at a special or general election. No ordinance so initiated or referred and approved by the voters may be amended or repealed by the council for at least a two-year period.

Spokane
Initiative – An ordinance may be initiated by a petition signed by registered and qualified electors equal in number to at least 15 percent of the total number of votes cast at the last preceding general municipal election. The petition must be filed with the clerk and submitted at the next available special or general election. No ordinance adopted by this process may be amended by the council within three years without a vote of the people. After three years, the council may amend or repeal the ordinance if passed by vote of a majority

plus one and the ordinance is subject to referendum.

Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to at least 10 percent of the total number of votes cast at the last preceding general municipal election. The petition must be filed with the clerk and voted upon at a general or special election.

Tacoma

Initiative – An ordinance may be initiated by a petition signed by registered voters equal in number to at least 10 percent of the total votes cast at the last preceding council-manic election. The petition must be filed with the city clerk and submitted to a vote at the next general municipal election or at a special election. No ordinance enacted in this manner may be amended or repealed by the council within two years unless the amendment or repeal is submitted to a vote of the people.

Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to at least 10 percent of the total vote cast in the last preceding council-manic election. The petition must be filed with the city clerk and submitted to a vote at the next general municipal election or at a special election.

Vancouver

Initiative – An ordinance may be initiated by a petition signed by registered voters equal in number to at least 15 percent of the number of votes cast at the last preceding municipal general election. The petition must be filed with the city clerk and submitted at a general or special election. No ordinance enacted by this process may be amended or repealed within one year by the city council.

Referendum – An ordinance may be referred to a referendum election if within 30 days after enactment a petition is filed signed by registered voters of the city equal in number to at least 10 percent of the number of votes cast at the last preceding municipal general election. The petition must be filed with the city clerk and may be submitted at a general or special election.

Yakima

Initiative – An ordinance may be initiated by a petition signed by qualified electors equal in number to 20 percent of the total number of votes cast at the last preceding general city election. The petition must be filed with the city clerk and the election may be at a special or general election.

Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to 10 percent of the entire vote cast at the last preceding general city election. It must be filed with the city clerk and submitted at a general or special election.

Appendix N

Brief review of initiative and referendum powers of charter counties as established in their charters

Clallam County

Initiative – A sponsor must submit the proposed ordinance to the county auditor for the petition to become registered. The sponsor has 90 days from the date of registration to collect the signatures of not less than 10 percent of the number of voters who voted in the last gubernatorial election. The county commissioners will call for a public hearing within 30 days after receipt of the proposed ordinance and, after the public hearing, the county commissioners have 30 days to adopt or reject the proposed ordinance. If rejected, then the commissioners must set a date for the election of the proposed ordinance and any possible substitute ordinance within 240 days of the rejection but not before 105 days after rejection.

Mini-Initiative – The process for a mini-initiative is the same set forth for an initiative but the sponsor need only get signatures of three percent of the number of those that voted in the last gubernatorial election in the county. The commissioners have 60 days to hold a public hearing on the proposed ordinance and have 30 days after the public hearing to adopt or reject the proposed ordinance in whole or in part.

Referendum – A sponsor may submit a petition for registration requesting the referral of an adopted ordinance to the people for acceptance or rejection in the form of a referendum proposal. The proposed petition for registration must be within 10 days of the adoption of the ordinance that is the subject of the proposed referendum. Once the petition is registered, the ordinance referred to in the petition is suspended without force. The format for signatures is the same as for initiative and mini-initiative but the time allowed to gather the signatures of 10 percent of those that voted in the last gubernatorial election is 60 days instead of 90. The commissioners will then place the proposed referendum on the ballot for the next election but not before 45 days has elapsed since the petitions were validated.

Referendum by the Commissioners – The commissioners may, by ordinance, refer any proposed or adopted ordinance to the voters for their approval or rejection in the next regular or special election. If a proposed ordinance is approved by the majority of voters then it shall become effective 10 days after the election results are certified.

Clark County

Initiative – Any registered county voter may file an initiative petition with the county auditor. Within 10 business days of the filing date, the prosecuting attorney must formulate a ballot title. The auditor then gives the proposed initiative an identifying number. Within 5 business days, the auditor must then confer with the initiative sponsor and establish the form and style of the initiative petition. The sponsor then has 120 days to collect valid signatures from registered county voters equaling no less than 10 percent of the number of votes cast in the county in the last gubernatorial election. The signatures must be submitted to the auditor no less

than 150 days before the date of the next general election. If a sufficient number of valid signatures has been submitted, the auditor then places the proposed initiative on the ballot for the next general election.

Mini-Initiative – An initiative proposal can be put directly to the county council if a sponsor gets the valid signatures of county voters totaling at least 3 percent of the number of votes cast in the county in the last gubernatorial election. The auditor has 30 business days to validate signatures. If a sufficient number of signatures is verified, the county council must hold a public hearing on the initiative petition within 60 days. After the hearing, the county council has 30 calendar days to enact, reject, or modify the proposed ordinance.

Referendum – Within 10 days after an ordinance is passed by the county council, a county voter may submit to the county auditor a referendum petition signed by 100 registered county voters against all or any portion of the ordinance. The auditor has 10 calendar days to verify the signatures. If 100 signatures are validated, the relevant portions of the ordinance are suspended. Within five business days, the auditor must confer with the referendum sponsor to review the proposal and give the referendum an identifying number. Within 10 business days, the prosecuting attorney must issue a title to the referendum. The sponsor then has 120 calendar days to collect valid signatures from county voters totaling no less than 10 percent of the total votes cast in the county in the last gubernatorial election. If the appropriate number of valid signatures was received by the auditor, the referendum is submitted to the voters at the next general election.

King County

Initiative – Proposed ordinances may be enacted by initiative of the people if petitions bearing not less than 10 percent of the voters of the county that voted in the last election for county executive are filed with the county council. If sufficient, the council has 90 days to adopt the ordinance as petitioned or place the proposed ordinance on the ballot not less than 135 days after the petitions were filed. The council may also reject the proposed ordinance and adopt a substitute ordinance. Both ordinances are then placed on the ballot and the voters are given the choice of rejecting both or choosing one over the other.

Referendum – An ordinance may be subject to referendum if the ordinance petitions have signatures of no less than eight percent of voters in the county that voted in the last election for county executive, and they are filed prior to the effective date of the ordinance. The full text of the ordinance to be referred must be on each petition. If sufficient, the referendum will be put on the ballot at the next special or general election occurring more than 45 days after the petitions are filed.

Institutional Initiative – Any city or town within the county boundaries may, after securing consent by motion or resolution of at least half of the cities within the county, petition the council directly with a proposed ordinance. The proposed ordinance must have county-wide significance and be of a subject matter not already prohibited by referendum.

Pierce County

Initiative – Any voter can propose an initiative to be filed with the filing officer. The filing officer must confer with the sponsor as to the form and style and the prosecuting attorney gives the initiative a ballot

title. The petitioner has 120 days to get the signatures of not less than 10 percent of the registered voters who voted in the last election for county executive. After the filing officer verifies the sufficiency of the signatures, the council can adopt the proposed ordinance without amendment or reject the ordinance and adopt a substitute ordinance. Both ordinances will then be put on the same ballot at the next general election not less than 120 days before validation.

Referendum – Any voter has 15 days after an ordinance is passed by the council to file a referendum proposal. The filing officer confers with the petitioner as to the style and form as well as give the referendum proposal a number. The prosecuting attorney then gives the referendum proposal a ballot title and petitioner has 120 days to gather signatures of at least eight percent of the registered voters in the last election for county executive. The filing officer verifies the sufficiency of the signatures and submits the measure to the people in the next general election not less than 120 days after validation.

Snohomish County

Initiative – An initiative proposal must be filed with the officer charged with holding elections. The prosecuting attorney then drafts the ballot title and the filing officer confers with the petitioner to review and establish the form and substance of the petitions. The petitioner has 90 days to collect the signatures of at least seven percent of the registered voters who voted in the last gubernatorial election. If the sufficiency of petitions is validated then the proposal will be submitted to the people not less than 60 days after validation. Or the council can adopt the proposed ordinance without change or adopt a substitute ordinance. If a substitute ordinance is adopted then both ordinances will be put on the ballot for the voters.

Mini-Initiative – An initiative proposal can be put directly to the council if a sponsor gets the signatures of at least three percent of the voters in the last gubernatorial election. The council then holds a public hearing on the proposed ordinance and can enact, reject, or modify the proposed ordinance within 30 days.

Referendum – Within 10 days after an ordinance is passed by the council, a voter may submit a referendum petition with at least 100 signatures of those that are opposed to the ordinance with the filing officer. After the form and style of the petitions is confirmed and the ballot title is issued, the petitioner has 45 days to get the signatures of at least five percent of the number of votes that voted in the last gubernatorial election. After validation of the petitions the measure is put to the voters in the next general election not less than 60 days from the time the petitions are validated.

San Juan County

Initiative – Any voter or organization of voters may file an initiative proposal with the county auditor. After the form and style of the petitions are reviewed and the initiative is given a ballot title by the prosecuting attorney, then the petitioner has 120 days to collect the signatures of at least 15 percent of the number of votes in the county from the last gubernatorial election. After the sufficiency of the petitions is verified the measure is to be put to the voters at the next general election not less than 120 days after validation of the petitions. The council can adopt the initiative measure without change or adopt a substi-

tute measure concerning the same subject matter and both will be put on the ballot.

Mini-Initiative – Any voter can propose an ordinance to the council if they collect at least 3 percent of the number of qualified voters who voted in the last gubernatorial election. The council will then hold a public hearing and has 60 days to enact or reject the proposed ordinance.

Referendum – Any voter has 45 days after an ordinance is passed by the council to file a referendum proposal. After the form and style of the petitions is reviewed by the auditor and the prosecuting attorney gives the proposal a ballot title, the petitioner has 120 days to collect the signatures of registered voters of the county not less than 15 percent of those that voted in the last gubernatorial election. If the sufficiency of the petitions is verified, the proposal will be submitted to the voters at the next general election not less than 120 days after verification.

Whatcom County

Initiative – Any voter may file an initiative proposal with the county auditor. After the form and style of the petitions are reviewed and the initiative is given a ballot title by the prosecuting attorney, then the petitioner has 120 days to collect the signatures of at least 15 percent of the number of votes in the county from the last general election. After the sufficiency of the petitions is verified the measure is to be put to the voters at the next general election not less than 120 days after validation of the petitions. The council can adopt the initiative measure without change or adopt a substitute measure concerning the same subject matter and both will be put on the ballot.

Mini-Initiative – Any voter can propose an ordinance to the council if they collect at least 3 percent of the number of qualified voters who voted in the last gubernatorial election. The council will then hold a public hearing and has 60 days to enact or reject the proposed ordinance.

Referendum – Any voter has 45 days after an ordinance is passed by the council to file a referendum proposal. After the form and style of the petitions is reviewed by the auditor and the prosecuting attorney gives the proposal a ballot title, the petitioner has 120 days to collect the signatures of registered voters of the county not less than 15 percent of those that voted in the last general election. If the sufficiency of the petitions is verified, the proposal will be submitted to the voters at the next general election not less than 120 days after verification.