



**City Council Meeting
September 2, 2014 - 7:30 PM
Auburn City Hall
AGENDA**

[Watch the meeting LIVE!](#)

[Watch the meeting video](#)

Meeting videos are not available until 72 hours after the meeting has concluded.

I. CALL TO ORDER

A. Flag Salute

B. Roll Call

C. Announcements, Appointments, and Presentations

1. Constitution Week Proclamation
Mayor Backus to proclaim the week of September 17-23, 2014 as "Constitution Week" in the City of Auburn.

D. Agenda Modifications

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

1. Public Hearing for Franchise Agreement No. 13-28 for Electric Lightwave, LLC* (Osborne/Snyder)

City Council to hold a public hearing on the application of Electric Lightwave, LLC, for a non-exclusive franchise for the right of entry, use and occupation of certain public right(s)-of way within the city, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, upon, along and/or across those right(s)-of-way. The purpose of the public hearing is to determine public benefit and impact, applicant compliance, public right-of-way capacity to accommodate the telecommunication system, potential disruption of public right-of way, and present and future use of the public right-of-way.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

C. Correspondence

There is no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

1. **August 25, 2014 Minutes* (Peloza)**
- B. **Planning & Community Development**
 1. **August 25, 2014 Minutes* (Holman)**
- C. **Public Works**
 1. **August 18, 2014 Minutes* (Osborne)**
- D. **Finance**
 1. **August 18, 2014 Minutes* (Wales)**
- E. **Les Gove Community Campus**
- F. **Council Operations Committee**
 1. Council Operations Committee will meet again on September 22, 2014
- G. **Junior City Council**
 1. Junior City Council will meet again on September 22, 2014

IV. **CONSENT AGENDA**

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

- A. **Minutes of the August 6, 2014 Special Council Meeting***
- B. **August 18, 2014 Regular Meeting Minutes***
- C. **Claims Vouchers (Wales/Coleman)**

Claims voucher 430217 through 430384 in the amount of \$2,064,146.34 and 3 wire transfers in the amount of \$262,043.27 and dated September 2, 2014.
- D. **Payroll Vouchers (Wales/Coleman)**

Payroll check numbers 534920 through 534950 in the amount of \$271,413.58, electronic deposit transmissions in the amount of \$1,321,772.30 for a grand total of \$1,593,185.88 for the period covering August 14, 2014 to August 28th 2014.
- E. **Public Works Project No. CP1308* (Osborne/Snyder)**

City Council to grant permission to advertise for bids for Project No. 1308, BNSF Utility Crossings

(RECOMMENDED ACTION: City Council approve the Consent Agenda.)

V. **UNFINISHED BUSINESS**

There is no unfinished business.

VI. **NEW BUSINESS**

There is no new business.

VII. **ORDINANCES**

A. **Ordinance No. 6525* (Holman/Snyder)**

An Ordinance of the City Council of the City of Auburn, Washington, amending sections 1.04.060, 5.10.040, 9.22.010, 18.02.020 and 18.07.010 of the City of Auburn Code, relating to enforcement of the State regulations regarding production, processing, and /or retail outlets and sales of marijuana, and terminating the moratorium implemented pursuant to Resolution No. 4992, passed on September 16, 2013

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6525.)

B. **Ordinance No. 6529* (Peloza/Heid)**

An Ordinance of the City Council of the City of Auburn, Washington, amending sections 6.01.050, 6.01.070 and 6.01.100 of the Auburn City Code, relating to animal control

(RECOMMENDED ACTION: City Council introduce and adopt Ordinance No. 6529.)

VIII. **RESOLUTIONS**

A. **Resolution No. 5094* (Holman/Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, extending the moratorium established by Resolution No. 4992 on acceptance or processing of applications for business licenses and other licenses, permits and approvals for marijuana/cannabis related businesses and uses

(RECOMMENDED ACTION: City Council adopt Resolution No. 5094.)

B. **Resolution No. 5095* (Osborne/Snyder)**

A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and jurisdiction over the South 277th Street Corridor

(RECOMMENDED ACTION: City Council adopt Resolution No. 5095.)

IX. **REPORTS**

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. **From the Council**

B. **From the Mayor**

X. **ADJOURNMENT**

Agendas and minutes are available to the public at the City Clerk's Office, on the City website (<http://www.auburnwa.gov>), and via e-mail. Complete agenda packets are available for review at the City Clerk's Office.

*Denotes attachments included in the agenda packet.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Hearing for Franchise Agreement No. 13-28 for
Electric Lightwave, LLC

Date:

July 10, 2014

Department:

Public Works

Attachments:

[Draft Ordinance No. 6513](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to hold a Public Hearing in consideration of Franchise Agreement No. 13-28.

Background Summary:

Per Auburn City Code Chapter 20.06.030 a public hearing shall be held to consider the proposed Franchise Agreement No. 13-28 for Electric Lightwave LLC to operate and a telecommunications system within the City's rights of way. The date of the public hearing was set by Resolution No. 5078 on July 21, 2014.

Reviewed by Council Committees:

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 2, 2014

Item Number: PH.1

ORDINANCE NO. 6513

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, GRANTING TO ELECTRIC LIGHTWAVE, LLC, A WHOLLY OWNED SUBSIDIARY OF INTEGRA TELECOM HOLDINGS, INC, A DELEWARE CORPORATION, A FRANCHISE FOR TELECOMMUNICATIONS TYPE OF UTILITY

WHEREAS, Electric Lightwave LLC ("ELI") ("Grantee") has applied to the City of Auburn ("City") for a non-exclusive Franchise for the right of entry, use, and occupation of certain public right(s)-of-way within the City, expressly to install, construct, erect, operate, maintain, repair, relocate and remove its facilities in, on, over, under, along and/or across those right(s)-of-way; and

WHEREAS, following proper notice, the City Council held a public hearing on Grantee's request for a Franchise, at which time representatives of Grantee and interested citizens were heard in a full public proceeding affording opportunity for comment by any and all persons desiring to be heard; and

WHEREAS, from information presented at such public hearing, and from facts and circumstances developed or discovered through independent study and investigation, the City Council now deems it appropriate and in the best interest of the City and its inhabitants that the franchise be granted to Grantee,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, DO ORDAIN as follows:

Section 1. Grant of Right to Use Franchise Area

A. Subject to the terms and conditions stated herein, the City grants to the Grantee general permission to enter, use, and occupy the right(s)-of-way and/or other public property within the City of Auburn (the "Franchise Area").

B. The Grantee is authorized to install, remove, construct, erect, operate, maintain, relocate and repair the types of facilities specified in Exhibit "B," attached hereto and incorporated by reference, and all necessary appurtenances thereto, ("Grantee Facilities") for provision of those services set forth in Exhibit "C" ("Grantee Services") in, along, under and across the Franchise Area.

C. At the time of initial application Grantee represented that it did not currently own, lease, or have indefeasible rights of use for any facilities that would be defined as Grantee Facilities under this Franchise. This Franchise does

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 1 of 19

not authorize the use of the Franchise Area for any facilities or services other than Grantee Facilities and Grantee Services, and it extends no rights or privilege relative to any facilities or services of any type, including Grantee Facilities and Grantee Services, on public or private property elsewhere within the City. If Grantee intends to install, construct, erect, operate, or maintain new Grantee Facilities, it shall submit an application to amend this Franchise, which amendment may be approved by the City administratively.

D. This Franchise is non-exclusive and does not prohibit the City from entering into other agreements, including Franchises, impacting the Franchise Area, unless the City determines that entering into such agreements interferes with Grantee's right set forth herein.

E. Except as explicitly set forth herein, this Franchise does not waive any rights that the City has or may hereafter acquire with respect to the Franchise Area or any other City roads, rights-of-way, property, or any portions thereof. This Franchise shall be subject to the power of eminent domain, and in any proceeding under eminent domain, the Grantee acknowledges its use of the Franchise Area shall have no value.

F. The City reserves the right to change, regrade, relocate, abandon, or vacate any right-of-way within the Franchise Area. If, at any time during the term of this Franchise, the City vacates any portion of the Franchise Area containing Grantee Facilities, the City shall reserve an easement for public utilities within that vacated portion, pursuant to RCW 35.79.030, within which the Grantee may continue to operate any existing Grantee Facilities under the terms of this Franchise for the remaining period set forth under Section 3.

G. The Grantee agrees that its use of Franchise Area shall at all times be subordinated to and subject to the City and the public's need for municipal infrastructure, travel, and access to the Franchise Area, except as may be otherwise required by law.

Section 2. Notice

A. Written notices to the parties shall be sent by certified mail to the following addresses, unless a different address shall be designated in writing and delivered to the other party.

City: Engineering Aide,
 Community Development and
 Public Works Department - Transportation
 City of Auburn
 25 West Main Street

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 2 of 19

Auburn, WA 98001-4998
Telephone: (253) 931-3010; Fax: (253) 931-3048

with a copy to: City Clerk
City of Auburn
25 West Main Street
Auburn, WA 98001-4998

Grantee: Electric Lightwave LLC, (ELI)
1201 NE Lloyd Blvd, Suite 500
Portland, OR 97232
Attn: Contract Administration
Telephone: 503-453-8000
Fax: 503-453-8221

B. Any changes to the above-stated Grantee information shall be sent to the City's Engineering Aide, Community Development and Public Works Department – Transportation Division, with copies to the City Clerk, referencing the title of this agreement.

C. The above-stated Grantee voice and fax telephone numbers shall be staffed at least during normal business hours, Pacific time zone.

Section 3. Term of Agreement

A. This Franchise shall run for a period of five (5) years, from the date of execution specified in Section 5.

B. Renewal Option of Term: The Grantee may renew this Franchise for an additional five (5) year period upon submission and approval of the application specified under ACC 20.06.130, as it now exists or is amended, within the timeframe set forth therein (currently 240 to 180 days prior to expiration of the then-current term). Any materials submitted by the Grantee for a previous application may be considered by the City in reviewing a current application, and the Grantee shall only submit those materials deemed necessary by the City to address changes in the Grantee Facilities or Grantee Services, or to reflect specific reporting periods mandated by the ACC.

C. Failure to Renew Franchise – Automatic Extension. If the Parties fail to formally renew this Franchise prior to the expiration of its term or any extension thereof, the Franchise automatically continues month to month until

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 3 of 19

renewed or either party gives written notice at least one hundred and eighty (180) days in advance of intent not to renew the Franchise.

Section 4. Definitions

For the purpose of this agreement:

“ACC” means the Auburn City Code.

"Emergency" means a condition of imminent danger to the health, safety and welfare of persons or property located within the City including, without limitation, damage to persons or property from natural consequences, such as storms, earthquakes, riots, acts of terrorism or wars.

“Maintenance or Maintain” shall mean examining, testing, inspecting, repairing, maintaining and replacing the existing Grantee Facilities or any part thereof as required and necessary for safe operation.

“Relocation” means permanent movement of Grantee facilities required by the City, and not temporary or incidental movement of such facilities, or other revisions Grantee would accomplish and charge to third parties without regard to municipal request.

“Rights-of-Way” means the surface and the space above and below streets, roadways, highways, avenues, courts, lanes, alleys, sidewalks, easements, rights-of-ways and similar public properties and areas.

Section 5. Acceptance of Franchise

A. This Franchise, and any rights granted hereunder, shall not become effective for any purpose unless and until Grantee files with the City Clerk (1) the Statement of Acceptance, attached hereto as Exhibit “D,” and incorporated by reference, (2) all verifications of insurance coverage specified under Section 15, and (3) the financial guarantees specified in Section 16 (collectively, “Franchise Acceptance”). The date that such Franchise Acceptance is filed with the City Clerk shall be the effective date of this Franchise.

B. Should the Grantee fail to file the Franchise Acceptance with the City Clerk within 30 days after the effective date of the ordinance approving the Franchise, the City’s grant of the Franchise will be null and void.

Section 6. Construction and Maintenance

A. The Grantee shall apply for, obtain, and comply with the terms of all permits required under ACC Chapter 12.24 for any work done within the City. Grantee shall comply with all applicable City, State, and Federal codes, rules, regulations, and orders in undertaking such work, which shall be done in a thorough and proficient manner.

B. Grantee agrees to coordinate its activities with the City and all other utilities located within the public right-of-way within which Grantee is under taking its activity.

C. The City expressly reserves the right to prescribe how and where Grantee Facilities shall be installed within the public right-of-way and may from time to time, pursuant to the applicable sections of this Franchise, require the removal, relocation and/or replacement thereof in the public interest and safety at the expense of the Grantee.

D. Before commencing any work within the public right-of-way, the Grantee shall comply with the One Number Locator provisions of RCW Chapter 19.122 to identify existing utility infrastructure.

E. Tree Trimming. Upon prior written approval of the City and in accordance with City ordinances, Grantee shall have the authority to reasonably trim trees upon and overhanging streets, public rights-of-way, and places in the Franchise Area so as to prevent the branches of such trees from coming in physical contact with the Grantee Facilities. Grantee shall be responsible for debris removal from such activities. If such debris is not removed within twenty-four (24) hours of completion of the trimming, the City may, at its sole discretion, remove such debris and charge Grantee for the cost thereof. This section does not, in any instance, grant automatic authority to clear vegetation for purposes of providing a clear path for radio signals. Any such general vegetation clearing will require a land clearing permit.

Section 7. Repair and Emergency Work

In the event of an emergency, the Grantee may commence such repair and emergency response work as required under the circumstances, provided that the Grantee shall notify the City Engineering Aide in writing as promptly as possible, before such repair or emergency work commences, or as soon thereafter as possible, if advance notice is not practical. The City may act, at any time, without prior written notice in the case of emergency, but shall notify the Grantee in writing as promptly as possible under the circumstances.

Section 8. Damages to City and Third-Party Property

Grantee agrees that if any of its actions under this Franchise impairs or damages any City property, survey monument, or property owned by a third-party, Grantee will restore, at its own cost and expense, said property to a safe condition. Such repair work shall be performed and completed to the satisfaction of the City Engineer.

Section 9. Location Preference

A. Any structure, equipment, appurtenance or tangible property of a utility, other than the Grantee's, which was installed, constructed, completed or in place prior in time to Grantee's application for a permit to construct or repair Grantee Facilities under this Franchise shall have preference as to positioning and location with respect to the Grantee Facilities. However, to the extent that the Grantee Facilities are completed and installed prior to another utility's submittal of a permit for new or additional structures, equipment, appurtenances or tangible property, then the Grantee Facilities shall have priority. These rules governing preference shall continue in the event of the necessity of relocating or changing the grade of any City road or right-of-way. A relocating utility shall not necessitate the relocation of another utility that otherwise would not require relocation. This Section shall not apply to any City facilities or utilities that may in the future require the relocation of Grantee Facilities. Such relocations shall be governed by Section 11.

B. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water, sanitary sewer and storm sewer facilities and ten (10) feet from above-ground City water facilities; provided, that for development of new areas, the City, in consultation with Grantee and other utility purveyors or authorized users of the Public Way, will develop guidelines and procedures for determining specific utility locations.

Section 10. Grantee Information

A. Grantee agrees to supply, at no cost to the City, any information reasonably requested by the City Engineering Aide to coordinate municipal functions with Grantee's activities and fulfill any municipal obligations under state law. Said information shall include, at a minimum, as-built drawings of Grantee Facilities, installation inventory, and maps and plans showing the location of existing or planned facilities within the City. Said information may be requested either in hard copy or electronic format, compatible with the City's data base system, as now or hereinafter existing, including the City's geographic information Service (GIS) data base. Grantee shall keep the City Engineering

Aide informed of its long-range plans for coordination with the City's long-range plans.

B. The parties understand that Washington law limits the ability of the City to shield from public disclosure any information given to the City. Accordingly, the City agrees to notify the Grantee of requests for public records related to the Grantee, and to give the Grantee a reasonable amount of time to obtain an injunction to prohibit the City's release of records.

Grantee shall indemnify and hold harmless the City for any loss or liability for fines, penalties, and costs (including attorneys fees) imposed on the City because of non-disclosures requested by Grantee under Washington's open public records act, provided the City has notified Grantee of the pending request.

Section 11. Relocation of Grantee Facilities

A. Except as otherwise so required by law, Grantee agrees to relocate, remove, or reroute its facilities as ordered by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Pursuant to the provisions of Section 14, Grantee agrees to protect and save harmless the City from any customer or third-party claims for service interruption or other losses in connection with any such change, relocation, abandonment, or vacation of the Pubic Way.

B. If a readjustment or relocation of the Grantee Facilities is necessitated by a request from a party other than the City, that party shall pay the Grantee the actual costs thereof.

Section 12. Abandonment and or Removal of Grantee Facilities

A. Within one hundred and eighty days (180) of Grantee's permanent cessation of use of the Grantee Facilities, or any portion thereof, the Grantee shall, at the City's discretion, either abandon in place or remove the affected facilities.

B. The parties expressly agree that this Section shall survive the expiration, revocation or termination of this Franchise.

Section 13. Undergrounding

A. The parties agree that this Franchise does not limit the City's authority under federal law, state law, or local ordinance, to require the undergrounding of utilities.

B. Whenever the City requires the undergrounding of aerial utilities in the Franchise Area, the Grantee shall underground the Grantee Facilities in the manner specified by the City Engineer at no expense or liability to the City, except as may be required by RCW Chapter 35.99. Where other utilities are present and involved in the undergrounding project, Grantee shall only be required to pay its fair share of common costs borne by all utilities, in addition to the costs specifically attributable to the undergrounding of Grantee Facilities. Common costs shall include necessary costs for common trenching and utility vaults. Fair share shall be determined in comparison to the total number and size of all other utility facilities being undergrounded.

Section 14. Indemnification and Hold Harmless

A. The Grantee shall defend, indemnify, and hold the City and its officers, officials, agents, employees, and volunteers harmless from any and all costs, claims, injuries, damages, losses, suits, or liabilities of any nature including attorneys' fees arising out of or in connection with the Grantee's performance under this Franchise, except to the extent such costs, claims, injuries, damages, losses, suits, or liabilities are caused by the negligence of the City. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

B. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee Facilities caused by maintenance and/or construction work performed by, or on behalf of, the City within the Franchise Area or any other City road, right-of-way, or other property, except to the extent any such damage or loss is directly caused by the negligence of the City, or its agent performing such work.

C. The Grantee acknowledges that neither the City nor any other public agency with responsibility for fire fighting, emergency rescue, public safety or similar duties within the City has the capability to provide trench, close trench or confined space rescue. The Grantee, and its agents, assigns, successors, or contractors, shall make such arrangements as Grantee deems fit for the provision of such services. The Grantee shall hold the City harmless from any liability arising out of or in connection with any damage or loss to the Grantee for the City's failure or inability to provide such services, and, pursuant to the terms of Section 14(A), the Grantee shall indemnify the City against any and all third-

party costs, claims, injuries, damages, losses, suits, or liabilities based on the City's failure or inability to provide such services.

D. Acceptance by the City of any work performed by the Grantee shall not be grounds for avoidance of this section.

E. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

Section 15. Insurance

A. The Grantee shall procure and maintain for the duration of this Franchise, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Grantee, its agents, representatives, or employees in the amounts and types set forth below:

1. Automobile Liability insurance covering all owned, non-owned, hired, and leased vehicles with a minimum combined single limit for bodily injury and property damage of \$1,000,000.00 per accident. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance with limits no less than \$1,000,000.00 each occurrence, \$2,000,000.00 general aggregate and a \$2,000,000.00 products-completed operations aggregate limit. Coverage shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, and personal injury and advertising injury and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide the Aggregate Per Project Endorsement ISO form CG 25 03 11 85 or an equivalent form. There shall be no endorsement or modification of the Commercial General Liability insurance for liability arising from explosion, collapse, or underground property damage. The City shall be named as an additional insured under the Grantee's Commercial General Liability insurance policy with respect to the work performed under this Franchise using ISO Additional Insured Endorsement CG 20 10 10 01 and Additional Insured-

Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing equivalent coverage.

3. Professional Liability insurance with limits no less than \$1,000,000.00 per claim for all professional employed or retained Grantee to perform services under this Franchise.

4. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

B. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

1. The Grantee's insurance coverage shall be primary insurance as respects the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be in excess of the Grantee's insurance and shall not contribute with it.

2. The Grantee's insurance shall be endorsed to state that coverage shall not be cancelled by the insurers except after thirty (30) days' prior written notice has been given to Grantee. Upon receipt of such notice, Grantee shall immediately notify by certified mail, return receipt requested, the City.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

D. Verification of Coverage. Grantee shall furnish the City with documentation of insurer's A.M. Best rating and with original certificates and a copy of amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of Grantee before commencement of the work.

E. Grantee shall have the right to self-insure any or all of the above-required insurance. Any such self insurance is subject to approval by the City.

F. Grantee's maintenance of insurance as required by this Franchise shall not be construed to limit the liability of Grantee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 16. Performance Security

The Grantee shall provide the City with a financial guarantee in the amount of Fifty Thousand Dollars (\$50,000.00) running for, or renewable for, the term of this Franchise, in a form and substance acceptable to the City. In the event Grantee shall fail to substantially comply with any one or more of the provisions of this Franchise, then there shall be recovered jointly and severally from the principal and any surety of such financial guarantee any damages suffered by City as a result thereof, including but not limited to staff time, material and equipment costs, compensation or indemnification of third parties, and the cost of removal or abandonment of facilities hereinabove described. Grantee specifically agrees that its failure to comply with the terms of Section 19 shall constitute damage to the City in the monetary amount set forth therein. Such a financial guarantee shall not be construed to limit the Grantee's liability to the guarantee amount, or otherwise limit the City's recourse to any remedy to which the City is otherwise entitled at law or in equity.

Section 17. Successors and Assignees

A. All the provisions, conditions, regulations and requirements herein contained shall be binding upon the successors, assigns of, and independent contractors of the Grantee, and all rights and privileges, as well as all obligations and liabilities of the Grantee shall inure to its successors, assignees and contractors equally as if they were specifically mentioned herein wherever the Grantee is mentioned.

B. This Franchise shall not be leased, assigned or otherwise alienated without the express prior consent of the City by ordinance.

C. Grantee and any proposed assignee or transferee shall provide and certify the following to the City not less than sixty (60) days prior to the proposed date of transfer: (a) Complete information setting forth the nature, term and conditions of the proposed assignment or transfer; (b) All information required by the City of an applicant for a Franchise with respect to the proposed assignee or transferee; and, (c) An application fee which shall be set by the City, plus any other costs actually and reasonably incurred by the City in processing, and investigating the proposed assignment or transfer.

D. Prior to the City's consideration of a request by Grantee to consent to a Franchise assignment or transfer, the proposed Assignee or Transferee shall file with the City a written promise to unconditionally accept all terms of the Franchise, effective upon such transfer or assignment of the Franchise. The City is under no obligation to undertake any investigation of the transferor's state of compliance and failure of the City to insist on full compliance prior to transfer

does not waive any right to insist on full compliance thereafter.

Section 18. Dispute Resolution

A. In the event of a dispute between the City and the Grantee arising by reason of this Agreement, the dispute shall first be referred to the operational officers or representatives designated by Grantor and Grantee to have oversight over the administration of this Agreement. The officers or representatives shall meet within thirty (30) calendar days of either party's request for a meeting, whichever request is first, and the parties shall make a good faith effort to achieve a resolution of the dispute.

B. If the parties fail to achieve a resolution of the dispute in this manner, either party may then pursue any available judicial remedies. This Franchise shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees and costs of suit, which shall be fixed by the judge hearing the case, and such fees shall be included in the judgment.

Section 19. Enforcement and Remedies

A. If the Grantee shall willfully violate, or fail to comply with any of the provisions of this Franchise through willful or unreasonable negligence, or should it fail to heed or comply with any notice given to Grantee under the provisions of this agreement, the City may, at its discretion, provide Grantee with written notice to cure the breach within thirty (30) days of notification. If the City determines the breach cannot be cured within thirty days, the City may specify a longer cure period, and condition the extension of time on Grantee's submittal of a plan to cure the breach within the specified period, commencement of work within the original thirty day cure period, and diligent prosecution of the work to completion. If the breach is not cured within the specified time, or the Grantee does not comply with the specified conditions, the City may, at its discretion, either (1) revoke the Franchise with no further notification, or (2) claim damages of Two Hundred Fifty Dollars (\$250.00) per day against the financial guarantee set forth in Section 16 for every day after the expiration of the cure period that the breach is not cured.

B. Should the City determine that Grantee is acting beyond the scope of permission granted herein for Grantee Facilities and Grantee Services, the City reserves the right to cancel this Franchise and require the Grantee to apply for, obtain, and comply with all applicable City permits, franchises, or other City

permissions for such actions, and if the Grantee's actions are not allowed under applicable federal and state or City laws, to compel Grantee to cease such actions.

Section 20. Compliance with Laws and Regulations

A. This Franchise is subject to, and the Grantee shall comply with all applicable federal and state or City laws, regulations and policies (including all applicable elements of the City's comprehensive plan), in conformance with federal laws and regulations, affecting performance under this Franchise. Furthermore, notwithstanding any other terms of this agreement appearing to the contrary, the Grantee shall be subject to the police power of the City to adopt and enforce general ordinances necessary to protect the safety and welfare of the general public in relation to the rights granted in the Franchise Area.

B. The City reserves the right at any time to amend this Franchise to conform to any hereafter enacted, amended, or adopted federal or state statute or regulation relating to the public health, safety, and welfare, or relating to roadway regulation, or a City Ordinance enacted pursuant to such federal or state statute or regulation upon providing Grantee with thirty (30) days written notice of its action setting forth the full text of the amendment and identifying the statute, regulation, or ordinance requiring the amendment. Said amendment shall become automatically effective upon expiration of the notice period unless, before expiration of that period, the Grantee makes a written call for negotiations over the terms of the amendment. If the parties do not reach agreement as to the terms of the amendment within thirty (30) days of the call for negotiations, the City may enact the proposed amendment, by incorporating the Grantee's concerns to the maximum extent the City deems possible.

C. The City may terminate this Franchise upon thirty (30) days written notice to the Grantee, if the Grantee fails to comply with such amendment or modification.

Section 21. License, Tax and Other Charges

This Franchise shall not exempt the Grantee from any future license, tax, or charge which the City may hereinafter adopt pursuant to authority granted to it under state or federal law for revenue or as reimbursement for use and occupancy of the Franchise Area.

Section 22. Consequential Damages Limitation

Notwithstanding any other provision of this Agreement, in no event shall either party be liable for any special, incidental, indirect, punitive, reliance, consequential or similar damages.

Section 23. Severability

If any portion of this Franchise is deemed invalid, the remainder portions shall remain in effect.

Section 24. Titles

The section titles used herein are for reference only and should not be used for the purpose of interpreting this Franchise.

Section 25. Implementation.

The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 26. Effective date.

This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____
PASSED: _____
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 14 of 19

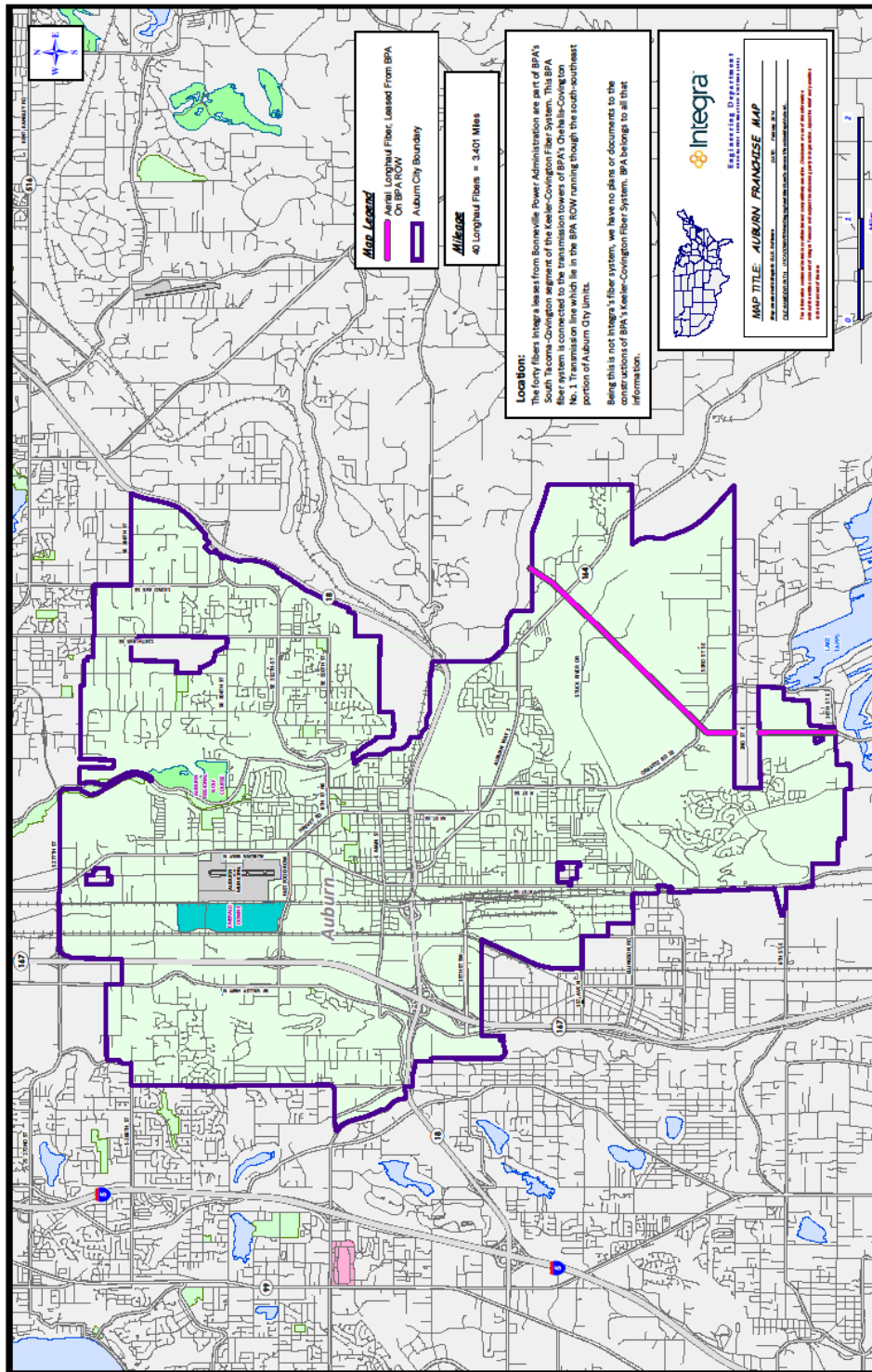
APPROVED AS TO FORM:

Daniel B. Heid, City Attorney

Published: _____

Exhibit A

Franchise Area



Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 16 of 19

Exhibit B

Grantee Facilities

Leased and owned telecommunication and communication conduit and fiber facilities within the Right of Ways. As of the date of this Ordinance ELI does not own facilities but may at a future date install ELI owned facilities at and pursuant to the lawful permitting process of the City.

Exhibit C

Grantee Services

Telecommunications and communication services.

EXHIBIT "D"

STATEMENT OF ACCEPTANCE

Electric Lightwave, LLC. (ELI), for itself, its successors and assigns, hereby accepts and agrees to be bound by all lawful terms, conditions and provisions of the Franchise attached hereto and incorporated herein by this reference.

Electric Lightwave LLC (ELI)

By: _____ Date: _____
Name:
Title:

STATE OF _____)
)ss.
COUNTY OF _____)

On this ____ day of _____, 2014, before me the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared, _____ of _____, the company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the date hereinabove set forth.

Signature

NOTARY PUBLIC in and for the State of _____, residing at _____

MY COMMISSION EXPIRES: _____

Ordinance No. 6513
Franchise Agreement No. 13-28
June 9, 2014
Page 19 of 19



AGENDA BILL APPROVAL FORM

Agenda Subject:

August 25, 2014 Minutes

Date:

August 27, 2014

Department:

Police

Attachments:

[August 25, 2014 Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Municipal Services

Councilmember: Peloza

Staff:

Meeting Date: September 2, 2014

Item Number: MS.1



**Municipal Services Committee
August 25, 2014 - 3:30 PM
City Hall Conference Room 3
MINUTES**

I. CALL TO ORDER

Chair Peloza called the meeting to order at 3:30 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

A. Roll Call

Members present: Chair Bill Peloza, Vice Chair Wayne Osborne and Member Claude DaCorsi.

Staff present: Mayor Nancy Backus, Chief of Police Bob Lee, Assistant Chief of Police Bill Pierson, City Attorney Dan Heid, Community Development and Public Works Director Kevin Snyder, Public Works Assistant Director Randy Bailey, Planning Services Manager Elizabeth Chamberlain and Police Secretary/Scribe Heather Shaw.

Others present: Auburn Reporter representative Robert Whale.

B. Announcements

C. Agenda Modifications

II. CONSENT AGENDA

A. August 11, 2014 Minutes

Vice Chair Osborne moved to accept the Minutes as presented. Member DaCorsi seconded. Chair Peloza concurred.

III. ACTION

A. Ordinance No. 6529 (Heid)

City Attorney Dan Heid briefed the committee on the requested amendments to sections 6.01.050, 6.01.070 and 6.01.100 of the Auburn City Code, relating to animal control. Vice Chair Osborne reminded the committee of what the suggested revisions were. Chair Peloza questioned the wording in the code regarding reasonable notice. Dan Heid explained that additional language was added to both sections 6.01.050 and 6.01.070 as to what reasonable notice would be but he would follow up to clarify that notice would be as a written notice to the animal owner.

Vice Chair Osborne moved to forward Resolution No. 6529 to full council for consideration. Member DaCorse seconded. Chair Peloza concurred.

B. Resolution No. 5093 (Heid)

City Attorney Dan Heid provided Resolution No. 5093 which declared a certain item of property as surplus and authorized its disposal.

Vice Chair Osborne Osborne moved to forward Resolution No. 5093 to full council for consideration. member DaCorsi seconded. Chair Peloza concurred.

IV. DISCUSSION ITEMS

A. Ordinance No. 6525 (Chamberlain/Heid)

Planning Services Manager Elizabeth Chamberlain briefed the committee on City of Auburn Ordinance No. 6525. The city's Planning Commission voted in favor of (5-1) to recommend to the City Council the Ordinance allowing the city the ability to enforce State marijuana regulations without the City being the licensing or approving agency. This proposal would amend Auburn City Code sections 1.04.060, 5.10.060, 5.10.040, 9.22.010, 18.02.020 and 18.07.010, relating to production, processing and/or retail outlet and sales of marijuana, and terminating the moratorium implemented pursuant to Resolution No. 4992, which was passed on September 16, 2013. As part of the work plan as established in Section 5B of the moratorium, Planning and Legal staff have engaged in a collaborative research and analysis effort and prepared Options for Planning Commission to consider. After careful considerations, the Planning Commission voted to recommend Option 2 of three total Options provided.

Vice Chair Osborne questioned whether it would be beneficial to extend the moratorium pending the outcome of City of Fife's pending litigation with the Attorney General due to their city's decision to outlaw marijuana sales/production. Dan Heid commented that City of Fife's case will take an extended period of time due to the case being just recently filed. He strongly recommended that the city not extend the moratorium too far into the future as there is a history of the State Supreme Court coming down harshly on local jurisdictions that have extended moratoriums that could be considered an unduly delay of the issues. Committee discussions followed concerning the option for an extension of the moratorium and what conditions would have to be in place in order to extend the moratorium. Member Claude DaCorsi recommended that the city extend the moratorium for six months to allow for the full council to discuss at length the

options and how the city would like to proceed. Chair Peloza was in agreement with DaCorsi.

B. Shopping Carts (Bailey)

Assistant Director of Public Works, Randy Bailey provided a proposed update to Ordinance No 6530 that was previously requested by the committee. Suggested changes were made to Section 8.18.040 (B), allowing the City the option to choose whether to impound carts or dispose of carts if deemed necessary after reasonable notice is provided. Committee discussion followed.

Vice Chair Osborne moved to forward Ordinance No. 6530 to full Council for consideration. Member DaCorsi seconded. Chair Peloza concurred.

C. Auto Thefts (Lee)

Chief of Police, Bob Lee reported on auto theft statistics for the city from 2005 through 2014, year to date. Statistics provided were for both the city alone as well as a comparison between the City of Auburn and other local cities in South King County. City of Auburn's average amount of auto thefts over the period provided are reportedly higher than the other local cities provided in the report. Also provided were the most frequently stolen vehicles in the city.

In addition to the report provided, Chief Lee provided additional statistics for the department. City of Auburn's Police Department has one officer completely designated to an auto theft task force based out of Des Moines. This task force is funded through traffic ticket revenue in the state. January through June of 2014, the task force opened 66 cases and recovered 89 stolen vehicles at a value of approximately \$625,000.00.

D. Project Matrix

The Project Matrix was reviewed but no changes were identified.

V. **ADJOURNMENT**

The meeting was adjourned at 4:25 p.m. The next regular meeting of the Municipal Services Committee is scheduled for Monday, September 8, 2014 at 3:30 p.m. in Conference Room 3 of City Hall, 25 West Main Street, Auburn, WA.

Signed this _____ day of September, 2014.

Bill Pelozza, Chair

Heather Shaw, Police Secretary/Scribe



AGENDA BILL APPROVAL FORM

Agenda Subject:

August 25, 2014 Minutes

Date:

August 27, 2014

Department:

Planning and Development

Attachments:

[August 25, 2014 Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Councilmember: Holman

Staff:

Meeting Date: September 2, 2014

Item Number: PCD.1



**Planning and Community
Development
August 25, 2014 - 5:00 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chair Holman called the meeting to order at 5:00 p.m. in Annex Conference Room 2 located on the 2nd floor of One Main Professional Plaza, One East Main Street, Auburn, Washington.

A. Roll Call

Chair John Holman, Vice-Chair Largo Wales, and Member Yolanda Trout were present. Also present were Mayor Nancy Backus, Director of Community Development and Public Works Kevin Snyder, City Attorney Dan Heid, Assistant Police Chief William Pierson, Assistant Community Development Services Director Jeff Tate, Planning and Design Services Manager Elizabeth Chamberlain, and Community Development Secretary Tina Kriss.

Members of the Audience present: Robert Whale of the Auburn Reporter; Chad Lorentz, AIA of Urbal Architecture, PLLC; John Walker of Teutsch Partners LLC; and Evan Lawler of Pillar Properties for Merrill Gardens.

B. Announcements

1. Presentation - Police Patroll Efforts Update (Pierson)

Assistant Police Chief William Pierson reported on the City's enhanced police patrol efforts in the Auburn Les Gove Park and downtown areas. On around June 1, 2014 bicycle patrol efforts emphasizing on changing the behavior of certain individuals and changing the perception of safety began. During the period from June 1 through the end of July 2014 the Auburn Police experienced an increase in incidents due to the enhanced police presence. With arrests, the issuance of citations, traffic stops, and other incidents the department believes the perception of safety will continue to improve.

The Committee and staff discussed any additional efforts on the part of Council that could assist the police with their efforts. Assistant Chief Pierson stated that he would look into other tools that may be helpful to the department but

that "boots on the ground" are a component that will increase the perception of safety in these areas.

C. Agenda Modifications

II. CONSENT AGENDA

A. Minutes - July 28, 2014 (Tate)

Member Trout moved and Vice-Chair Wales seconded to recommend Planning and Community Development Committee approve the July 28, 2014 minutes as written.

Motion unanimously approved. 3-0

III. ACTION

A. Ordinance No. 6525 (Chamberlain/Heid)

Planning and Design Services Manager Elizabeth Chamberlain provided the staff report on Ordinance No. 6525. On August 6, 2014 staff brought forward Ordinance No. 6525 (Option 1 and Option 2) before the Planning Commission for Public Hearing. After hearing public testimony from the public, the Planning Commission recommended moving forward Ordinance No. 6525, Option 2 to full Council for approval. Option 2 is for the City of Auburn to enforce the State marijuana regulations only.

At the August 25, 2014 Municipal Services Committee meeting, the Committee requested that the Council extend the moratorium currently in place for an additional six months while the Council continues to explore and discuss I-502 options.

Staff reviewed the map showing the potential state licensed locations for cannabis uses. The Committee and staff discussed various active court cases and options for extending the moratorium. After discussion, the Commission expressed support of Ordinance No. 6525, Option 2. This would include the termination of the moratorium, implemented pursuant to Resolution No. 4992, upon the date this Ordinance becomes effective.

Vice-Chair Wales moved and Member Trout seconded to recommend moving Ordinance No. 6525 to full Council for approval, with termination of moratorium upon the date Ordinance No. 6525 becomes effective.

Motion unanimously carried. 3-0

IV. DISCUSSION ITEMS

A. Amendment to the Downtown Urban Center Design Standards and Auburn Junction Design Guidelines (Chamberlain)

Planning and Design Services Manager Elizabeth Chamberlain presented the staff report and reviewed the proposed amendments to the Downtown Urban Center (DUC) Design Standards and the Auburn Junction Design Guidelines. After review of the proposed amendments, the Committee determined that they were supportive of the proposed amendments.

Vice-Chair Wales moved and Member Trout seconded to recommend staff amend the DUC Design Standards to change Division Street from a Pedestrian I Street to a Pedestrian II Street and amend the Auburn Junction Design Guidelines to change the core downtown streets to be in line with the Downtown Urban Center (DUC) Design Standards so that both documents are consistent.

Motion unanimously approved. 3-0

Chair Backus invited representatives from Teutsch Partners, LLC. to come forward for comment:

John Walker, Teutsch Partners, LLC., 2001 Western Ave., Suite 330, Seattle

Mr. Walker thanked City staff for their collaboration in bringing forward the project, Merrill Gardens. This is a "U-shaped building" with a central courtyard, the courtyard will provide public and private use. Mr. Walker introduced Architect Chad Lorentz to the Committee.

Chad Lorentz, AIA, 1938 Fairview Ave E., #100, Seattle

Mr. Lorentz stated that Merrill Gardens is a very community based and family run organization; there is a lot of active space designed into the project to embrace the community. Active space will be located at the street front and the corners of Division Street, to create a store front look the space was designed with to draw people outside, benefiting the residents and the City.

Evan Lawler, of Pillar Properties, 1938 Fairview Avenue East, Suite 300, Seattle was also present.

B. "Investing in Place" Discussion (Tate/Snyder)

Assistant Director Tate provided background information on "Investing in Place", focusing on old and new amenities, beautification, and design to support short-term and long-term economic development efforts. Staff provided a PowerPoint presentation. "Investing in Place" can be achieved through small or large investments. As the downtown buildings become activated

and occupied, it would be beneficial to update other areas of the City. Awning improvements, new paint, updated door fronts, and other improvements would aesthetically improve the City at a small cost.

These low cost improvements in the area of A Street off Main and Auburn Way may provide attributes to Auburn that would encourage visitors to return.

The Committee took a break at 6:23 p.m. Chair Holman did not resume the meeting due to an emergency.

C. Director's Report (Tate)

This item did not go forward, staff will provide an update at the next Planning and Community Development Committee meeting.

D. PCDC Status Matrix (Tate)

This item did not go forward, staff will provide an update at the next Planning and Community Development Committee meeting.

V. **ADJOURNMENT**

There being no further business to come before the Planning and Community Development Committee, the meeting was adjourned at 6:43 p.m.

Approved this ____ day of _____, 2014.

John Holman - Chair

Tina Kriss - Community Development Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

August 18, 2014 Minutes

Date:

August 27, 2014

Department:

Public Works

Attachments:

[Draft Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:**

See attached draft minutes.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff:

Meeting Date: September 2, 2014

Item Number: PW.1



**Public Works Committee
August 18, 2014 - 3:30 PM
Annex Conference Room 2
MINUTES**

I. CALL TO ORDER

Chairman Wayne Osborne called the meeting to order at 3:30 p.m. in Conference Room #2, located on the second floor of Auburn City Hall, One East Main Street, Auburn, Washington.

A. Roll Call

Chairman Wayne Osborne, Vice-Chair Bill Peloza, and Member Claude DaCorsi were present. Also present during the meeting were: Mayor Nancy Backus, Community Development & Public Works Director Kevin Snyder, Assistant Director of Engineering/City Engineer Ingrid Gaub, Assistant City Engineer Jacob Sweeting, Acting Utilities Engineer Susan Fenhaus, Transportation Manager Pablo Para, Storm Drainage Engineer Tim Carlaw, Project Engineer Luis Barba, Project Engineer Joel Chalmers, Street Systems Engineer Jai Carter, Capital Projects Manager Ryan Vondrak, Financial Planning Manager Bob Brooks and Public Works Secretary Molly Mendez.

B. Announcements

There were no announcements.

C. Agenda Modifications

There was one agenda modification adding Discussion Item I, S 277th Street Corridor Project – Agreement with City of Kent, to the agenda.

II. CONSENT AGENDA

A. Approval of Minutes

Public Works Committee to approve the minutes of the August 4, 2014 Public Works Committee meeting

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee approve the Public Works Committee Meeting minutes for date, August 4, 2014.

Motion carried 3-0.

III. ACTION

- A. Public Works Project No. CP1322 (Barba)
Grant permission to advertise Project No. CP1322, Annual Traffic Signal Improvements

Project Engineer Barba explained staff is asking for permission to advertise Project No. CP1322, Annual Traffic Signal Improvements. Barba provided a brief overview of the project.

Project Engineer Barba clarified the number of specific locations on the vicinity map following a question asked by Chairman Osborne.

In response to a question asked by Vice-Chair Peloza, Project Engineer Barba and Transportation Manager Para explained the vehicle detection system.

It was moved by Vice-Chair Peloza, seconded by Member DaCorsi, that the Committee grant permission to advertise Project No. CP1322, Annual Traffic Signal Improvements.

Motion carried 3-0.

IV. DISCUSSION ITEMS

- A. 2014 Second Quarter Financial Report (Coleman)

For the purpose of these minutes, this item was discussed after Discussion Item C.

Financial Planning Manager Brooks introduced himself to the Committee.

The Committee members had a discussion regarding the Cemetery net operating loss following a comment made by Vice-Chair Peloza.

Financial Planning Manager Brooks and Community Development & Public Works Director Snyder responded to a question asked by Member DaCorsi regarding the Real Estate Excise Tax chart on page 29 of the packet.

In response to a question asked by Chairman Osborne, Financial Planning Manager Brooks indicated the Criminal Costs on page 27 of the packet is revenue, not an expense.

Financial Planning Manager Brooks will follow up on a question asked by Vice-Chair Peloza on page 17 of the packet regarding the sentence which states "General Fund Expenditures are running 1.0% higher than the same period the prior year" and page 32 of the packet regarding the operating loss. Vice-Chair Peloza has requested an explanation on these items. Financial Planning

Manager Brooks will follow up with the Committee providing answers.

Vice-Chair Peloza also had questions regarding the Airport funds. Financial Planning Manager will research this and report back.

B. Street Selection - 2015 Local Street Reconstruction Project (Carter)

For the purpose of these minutes, this item was discussed prior to Discussion Item A.

Street System Engineer Carter provided the Committee with a brief overview of this program.

Street System Engineer Carter clarified which streets are remaining on this program in response to a question asked by Chairman Osborne.

There was a brief discussion regarding 107th on Lea Hill following a comment made by Vice-Chair Peloza.

Responding to a question asked by Member DaCorsi, Street System Engineer Carter clarified the utility work on the selected streets.

C. Carwash Program (Carlaw)

For the purpose of these minutes, this item was discussed after Discussion Item B.

Storm Drainage Engineer Carlaw provided an overview of the Carwash Program. Carlaw also brought a carwash kit to demonstrate to the Committee.

There was a group discussion regarding the possibility of a designated carwash location or locations in the City.

Storm Drainage Engineer Carlaw will investigate whether the City has brochures for this program following a comment made by Vice-Chair Peloza.

D. System Development Charges (Fenhaus)

For the purpose of these minutes, this item was discussed after Discussion Item A.

There was a group discussion regarding different recommendations pertaining to the proposed System Development Charge increase.

Staff will prepare and provide a longer term phase in approach to the Committee based on the discussion.

E. Stewart Road (Lake Tapps Parkway) Corridor Improvements (Para)

For the purpose of these minutes, this item was discussed after Discussion Item I.

Transportation Manager Para distributed a map which illustrates the Stewart Road (Lake Tapps Parkway) Corridor. Para also provided an overview of this item.

Transportation Manager Para informed the Committee what jurisdictions are helping fund this project following a question asked by Chairman Osborne.

Committee expressed their support for the proposed City of Auburn commitment to Pacific's project.

F. Capital Project Status Report (Sweeting)

Item 7 – CP1024 – AWS and M Street SE Intersection

Improvements:

Assistant City Engineer Sweeting explained that most of the work from Puget Sound Energy is complete in response to a question asked by Chairman Osborne.

Item 8 – CP1104 – 104th Street & 8th Street NE Intersection

Improvements:

Following a question asked by Vice-Chair Peloza, Assistant City Engineer Sweeting provided brief overview of the work that will be completed with this project.

Item 10 – CP1208 – Sewer Pump Station Improvements (Repair & Replacement Program):

In response to a question asked by Chairman Osborne, Assistant City Engineer Sweeting indicated the design phase has not had any issues.

Item 13 – CP0915 – Well 1 Improvements – Well Replacement:

Chairman Osborne asked if it has been decided whether this project will rehabilitate or replace Well 1. Acting Utilities Engineering Fenhaus responded stating the plan is to rehabilitate.

G. Significant Infrastructure Projects by Others - Public Works Status Report (Gaub)

Item 2 – Reddington Levee:

Assistant Director of Engineering/City Engineer Gaub provided an explanation of the remaining project work in response to a question asked by Vice-Chair Peloza.

Item 5 – 124th Avenue SE Half Street Road Improvements:
Responding to a question asked by Chairman Osborne, Assistant Director of Engineering/City Engineer Gaub indicated that the majority of the improvements are complete.

Item 7 – Auburn Way South and M Street SE/Howard Road:
Assistant Director of Engineering/City Engineer Gaub provided an overview of this item following a question asked by Chairman Osborne.

H. Action Tracking Matrix (Gaub)

Chairman Osborne asked that System Development Charges be updated on the matrix.

I. S 277th Street Corridor Project - Agreement with City of Kent (Vondrak)

For the purpose of these minutes, this item was discussed after Discussion Item D.

Capital Projects Manager Vondrak explained this is a draft agreement between the City of Kent and the City of Auburn as it relates to the cities South 277th Street Corridor Capacity and Non Motorized Trail Improvement Project.

Using an aerial map, Capital Projects Manager Vondrak indicated the portion that would change from the City of Kent's jurisdiction to the City of Auburn's jurisdiction with this agreement.

V. **ADJOURNMENT**

There being no further business to come before the Public Works Committee, the meeting was adjourned at 5:03 p.m.

Approved this 2nd day of September, 2014.

Wayne Osborne
Chairman

Molly Mendez
Public Works Department Secretary



AGENDA BILL APPROVAL FORM

Agenda Subject:

August 18, 2014 Minutes

Date:

August 26, 2014

Department:

Administration

Attachments:

[08-18-2014 Finance Committee Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:**

Councilmember: Wales

Staff:

Meeting Date: September 2, 2014

Item Number: FN.1



**Finance Committee
August 18, 2014 - 5:00 PM
Annex Conference Room 1
MINUTES**

I. CALL TO ORDER

Chair Largo Wales called the meeting to order at 5:00 p.m. in Annex Conference Room 1 located on the second floor of the City Hall Annex at 1 East Main Street in Auburn.

A. Roll Call

Chair Wales, Vice Chair John Holman, and Member Yolanda Trout were present.

Officials and staff members present included: Mayor Nancy Backus, City Attorney Daniel B. Heid, Director of Community Development and Public Works Kevin Snyder, Risk Management and Human Resources Director Rob Roscoe, Finance Director Shelley Coleman, and Deputy City Clerk Shawn Campbell.

B. Announcements

There was no announcement.

C. Agenda Modifications

There was no change to the agenda.

II. CONSENT AGENDA

A. August 4, 2014 Minutes

Member Trout moved and Vice Chair Holman seconded to approve the August 4, 2014 minutes.

MOTION CARRIED UNANIMOUSLY. 3-0

B. Claims Vouchers (Coleman)

Claims voucher numbers 430043 through 430216 in the amount of \$4,216,047.01 and four wire transfers in the amount of \$2,595.93 and dated August 18, 2014.

Committee members reviewed the claims vouchers.

Vice Chair Holman moved and Member Trout seconded to approve the claims and payroll vouchers.

MOTION CARRIED UNANIMOUSLY. 3-0

- C. Payroll Vouchers (Coleman)
Payroll check numbers 534883 through 534919 in the amount of \$837,910.67 and electronic deposit transmissions in the amount of \$1,331,476.52 for a grand total of \$2,169,387.19 for the period covering July 31, 2014 to August 13, 2014.

See claims vouchers above for approval of payroll vouchers.

III. ORDINANCES

- A. Ordinance No. 6527 (Roscoe)
An Ordinance of the City Council of the City of Auburn, Washington, including the Mayor in the City's Management Leave Program

Director Roscoe introduced Ordinance No. 6527. He explained the ordinance would add the Mayor to the Management Leave Program. This practice is in line with surrounding jurisdictions.

Member Trout moved and Vice Chair Holman seconded to approve and forward Ordinance No. 6527 to the full Council for consideration.

MOTION CARRIED UNANIMOUSLY. 3-0

IV. DISCUSSION ITEMS

- A. 2014 Second Quarter Financial Report (Coleman)

Director Coleman presented the 2nd Quarter Financial Report. Revenues are higher than expected and expenditures are less than budgeted. The investment portfolio is small, the City will be looking for investment opportunities in the future.

Member Trout asked what the miscellaneous sales tax revenue consisted of. Director Coleman explained any funds that do not have a set designation provided by the State are considered miscellaneous sales tax revenue, such as the interest paid on sales tax held by the State.

Chair Wales asked why the cemetery is showing such a large loss. Director Coleman explained the cemetery is being backed billed for a malfunctioning water meter.

- B. Status Report on Councilmember Compensation - Independent Salary Commission

Mayor Backus reported letters to prospective candidates of the Salary Commission have been sent. She has received two letters

declining the position. She requested the Committee send her names of additional candidates.

C. State Auditors Exit Conference

Vice Chair Holman requested Director Coleman report on the State Auditors Exit Conference. Director Coleman explained the City received a clean audit. The Auditors did not issue any administrative letters or finding. The auditor's office suggested the City require third party vendors to deposit cash receipts every three to five days.

V. **ADJOURNMENT**

There being no further business to come before the Committee, the meeting adjourned at 5:24 p.m.

APPROVED this _____ day of September, 2014.

LARGO WALES, CHAIR
Clerk

Shawn Campbell, Deputy City



AGENDA BILL APPROVAL FORM

Agenda Subject:

Minutes of the August 6, 2014 Special Council Meeting

Date:

August 15, 2014

Department:

Administration

Attachments:

[Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: September 2, 2014

Item Number: CA.A



**Special City Council Meeting
August 6, 2014 - 2:00 PM
Executive Conference Room
MINUTES**

I. CALL TO ORDER

The meeting was called to order at 2:00 p.m. in the Executive Conference Room located in the Mayor's Office area on the second floor of Auburn City Hall, 25 West Main Street in Auburn. Councilmembers present were Bill Peloza and John Holman; there was not a quorum of the Council; however, the meeting with the representatives of the State Auditor's Office proceeded for informational purposes.

Also present were Mayor Nancy Backus, Finance Director Shelley Coleman, Accounting Manager Janice Davies, and City Clerk Danielle Daskam.

Members of the Auditor's Office present included: Audit Manager Renee Meyer, Audit Supervisor Janise Hansen, and Audit Lead Moriah Banasick.

Members of the public were also in attendance.

II. DISCUSSION ITEMS

A. Washington State Auditor's Office Annual Audit

The purpose of the special meeting was to review the annual audit conducted by the Washington State Auditor's Office. Audit Lead Banasick distributed the audit exit conference agenda and reviewed the results of the audit.

Audit Lead Banasick noted that preliminary audit results and recommendations were shared in detail with City management and personnel as they were developed during the audit.

The accountability audit report summarizes the results of the risk-based audit work related to safeguarding of public resources and legal compliance and covered the following areas: cash receipting, safeguarding of small and attractive assets, procurement, and contracts and agreements. The report did not include any findings.

The financial statement report includes the State Auditor's opinion on the financial statements and report on internal control over financial reporting and on noncompliance and other matters as

required by Government Auditing Standards. There were no uncorrected misstatements in the audited financial statements; there were no material misstatements in the financial statements corrected by management during the audit; no significant deficiencies in internal control over financial reporting were identified; and no instances of noncompliance were identified that could have a direct and material effect on the determination of financial statement amounts.

The audit report on Federal grant compliance and internal controls over Federal grant programs included no findings. This year's audit included review of the Highway Planning and Construction Cluster, CFDA 20.205.

Exit recommendations were provided for management's consideration, and they are not referenced in the audit report.

Audit Lead Banasick reported that last year's audit recommendations were reviewed and all issues were resolved.

The audit report will be available on the State Auditor's website in approximately two weeks.

Ms. Banasick briefly reviewed the audit costs. The auditors also provided an estimated cost for next year's audit as a budgeting tool.

The auditors thanked Mayor Backus and Finance Director Coleman for their cooperation and assistance throughout the audit process.

III. **ADJOURNMENT**

The meeting with the auditors concluded at 2:40 p.m.

APPROVED this _____ day of September, 2014.

NANCY BACKUS, MAYOR

Danielle Daskam, City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

August 18, 2014 Regular Meeting Minutes

Date:

August 26, 2014

Department:

City Attorney

Attachments:

[August 18, 2014 Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:**Background Summary:****Reviewed by Council Committees:****Councilmember:****Staff:**

Meeting Date: September 2, 2014

Item Number: CA.B



**City Council Meeting
August 18, 2014 - 7:30 PM
Auburn City Hall
MINUTES**

I. CALL TO ORDER

A. Flag Salute

Mayor Nancy Backus called the meeting to order at 7:30 p.m. and led those in attendance in the Pledge of Allegiance.

B. Roll Call

City Councilmembers present: Deputy Mayor Rich Wagner, Bill Peloza, Largo Wales, Wayne Osborne, John Holman, Claude DaCorsi, and Yolanda Trout.

Department Directors and staff members present: Innovation and Technology Support Supervisor Reba Stowe, City Attorney Daniel B. Heid, Community Development and Public Works Director Kevin Snyder, Police Commander Mark Caillier, Director of Administration Michael Hursh, Finance Director Shelley Coleman, Parks, Arts and Recreation Director Daryl Faber, Risk Management and Human Resources Director Rob Roscoe, and Deputy City Clerk Shawn Campbell.

C. Announcements, Appointments, and Presentations

There was no announcement, appointment or presentation.

D. Agenda Modifications

There was no change to the agenda.

II. CITIZEN INPUT, PUBLIC HEARINGS & CORRESPONDENCE

A. Public Hearings

No public hearing was scheduled for this evening.

B. Audience Participation

This is the place on the agenda where the public is invited to speak to the City Council on any issue. Those wishing to speak are reminded to sign in on the form provided.

Denise Cobden, 2943 76th Ave SE , Mercer Island
Ms. Cobden works for Professional and Technical Employees Local

17 Union. Many of their members work at the Public Health Clinic in Auburn. King County is planning to close the Public Health Clinic in Auburn. She requested the City assist in the funding of the Public Health Clinic.

Angie Dire, 722 3rd Ave NE, Pacific

Ms. Dire works with low income, needy and sometimes vulnerable citizens at the Public Health Clinic in Auburn. She stated the City of Auburn needs to have a health department and maintain the services that are currently provided by the Public Health Clinic. She asked Council to consider the impact to approximately 10 thousand citizens if the Public Health Clinic closes. She requested the Auburn City Council hold a special meeting to consider how to fund public health.

Elam Anderson, 301 23rd St SE, Auburn

Mr. Anderson discussed economy recovery, poverty and how it affects the citizens in the area.

Virginia Haugen, 2503 R ST SE, Auburn

Ms. Haugen commented the City is in the process of the budget review. She asked if the City Council was getting a salary increases. Mayor Backus responded the City has created a Salary Commission. The Salary Commission will set the Council's wages.

Kathy Paul, 1825 33rd ST SE, Auburn

Ms. Paul stated when she was 16 she had her first child. She was very grateful and appreciative of her Public Health nurse. She noted the Public Health Clinic in Kent cannot absorb the residents from Auburn that will need assistance. With the decreases to public transportation traveling between the cities of Auburn and Kent will be very difficult.

Chiristina Enriquez, 4027 So. 340th ST, Auburn

Ms. Enriquez is a Public Health nurse at the Public Health Center in Auburn. She has relatives who would not be able to feed their children without the services provided by the Public Health Clinic. She stated accessing services can be very difficult without the Pubic Health Center it would be nearly impossible for some citizens. She is looking for both short and long term funding to ensure the long-term success of the Public Health Clinic.

Mayor Backus thanked the Public Health workers for their service to the community. She noted Councilmember Wales is an advocate for Public Health. She serves on both King and Pierce County Board of Health boards. The Council is currently looking at ways to maintain the Public Health facility or how the City can mitigate a closure.

Elam Anderson, 301 12rd ST SE, Auburn
Mr. Anderson asked how the Salary Commission will work. Mayor Backus responded the Salary Commission is comprised of five volunteer commissioners that must be registered voters. The Commission will determine annually if there should be an adjustment to the compensation for City Councilmembers and the Deputy Mayor. The Mayor's wages are set by the same standard as the City's non union employees.

C. Correspondence

There was no correspondence for Council review.

III. COUNCIL COMMITTEE REPORTS

A. Municipal Services

Chair Peloza reported the Municipal Services Committee met on August 11, 2014. The Committee reviewed Resolution No. 5089 regarding data service changes. The Committee had a discussion on animal control with the Director of the Auburn Valley Humane Society. The Committee also discussed the shopping cart program, the Auburn Municipal Cemetery and the pet licensing program. The next regular meeting of the Municipal Services Committee is scheduled for August 25, 2014 at 3:30 p.m.

B. Planning & Community Development

The Planning and Community Development Committee has not met since the last Council meeting.

C. Public Works

Chair Osborne reported the Public Works Committee met earlier today. The Committee reviewed a proposal to grant permission to advertise for annual traffic signal improvements. The Committee discussed the second quarter financial report, the Save Our Streets Program, the car wash fundraiser kits, System Development Charges, the Stewart Road Improvement Project, the Stewart Road (Lake Tapps Parkway) Corridor Improvement Project, capital project status report, infrastructure projects by others, and the action tracking matrix. The next regular meeting of the Public Works Committee is scheduled for September 2, 2014 at 3:30 p.m.

D. Finance

Chair Wales reported the Finance Committee met this evening at 5:00. The Committee reviewed claims vouchers in the amount of \$6.7 million and payroll vouchers in the amount of \$2.2 million. The Committee also reviewed Ordinance No. 6527. The Committee

discussed the second quarter financial report and the Salary Commission.

E. Les Gove Community Campus

Chair Wagner reported the Les Gove Community Campus Committee met on August 14, 2014. The Committee received a presentation on the proposed Teen Community Center and security patrols at the park. The next regular Les Gove Community Campus meeting is September 24, 2014.

F. Council Operations Committee

Deputy Mayor Wagner reported the Council Operations Committee met on August 11, 2014. The Committee is working on the transition from standing Council committees to Study Sessions and reviewing the Council Rules and Procedures. The Committee reviewed Ordinance No. 6528 relating to the contracting authority of the Mayor. The next meeting of the Council Operations Committee is scheduled for September 22, 2014.

G. Junior City Council

Deputy Mayor Wagner reported the Junior City Council met this evening at 5:00. The Junior City Council received training on parliamentary procedures. The next regular meeting of the Junior City Council is scheduled for September 15, 2014.

IV. CONSENT AGENDA

All matters listed on the Consent Agenda are considered by the City Council to be routine and will be enacted by one motion in the form listed.

- A. Minutes of the August 4, 2014 Regular City Council Meeting
- B. Minutes of the July 9, 2014 Special City Council Meeting
- C. Claims Vouchers (Wales/Coleman)
Claims voucher numbers 430043 through 430216 in the amount of \$4,216,047.01 and four wire transfers in the amount of \$2,595.93 and dated August 18, 2014.
- D. Payroll Vouchers (Wales/Coleman)
Payroll check numbers 534883 through 534919 in the amount of \$837,910.67 and electronic deposit transmissions in the amount of \$1,331,476.52 for a grand total of \$2,169,387.19 for the period covering July 31, 2014 to August 13, 2014.
- E. Call for Public Hearing on Preliminary 2015-2016 Biennial Budget (Wales/Coleman)
City Council to call for a public hearing to be held September 15,

2014 to receive public comments and suggestions with regard to development of the preliminary 2015-2016 Biennial Budget, including revenue estimates and possible increases in property taxes.

- F. Public Works Project No. CP1322 (Osborne/Snyder)
City Council grant permission to advertise Project No. CP1322, Annual Traffic Signal Improvements.

Deputy Mayor Wagner moved and Councilmember Pelosa seconded to approve the Consent Agenda.

MOTION CARRIED UNANIMOUSLY. 7-0

V. **UNFINISHED BUSINESS**

There was no unfinished business.

VI. **NEW BUSINESS**

There was no new business.

VII. **ORDINANCES**

- A. Ordinance No. 6527 (Wales/Roscoe)
An Ordinance of the City Council of the City of Auburn, Washington, including the Mayor in the City's Management Leave Program

Councilmember Wales moved and Councilmember Holman seconded to adopt Ordinance No. 6527.

Councilmember Wales stated Ordinance No. 6527 would bring the City in line with surrounding jurisdictions regarding flex time, vacation and sick leave for the Mayor.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Ordinance No. 6528 (Wagner/Heid)
An Ordinance of the City Council of the City of Auburn, Washington, amending Chapter 3.10 of the City Code relating to the contracting authority of the Mayor and administrative staff

City Attorney Heid requested direction from Mayor Backus regarding presenting the ordinance included in the agenda packet or modifying the agenda with a new version of the ordinance. Mayor Backus requested the agenda be modified with the new version of Ordinance No. 6528.

ORDINANCE NO. 6528

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 3.10.010 AND 3.10.020 OF THE CITY CODE RELATING TO THE CONTRACTING

AUTHORITY OF THE MAYOR AND ADMINISTRATIVE STAFF

Deputy Mayor Wagner moved and Councilmember Pelosa seconded to adopt Ordinance No. 6528.

Deputy Mayor Wagner stated this ordinance only relates to the Mayors contracting authority. Any reference to the potential change to the Council format has been removed.

Councilmember Wales explained this will give the Mayor more authority to handle the day to day business of the City.

MOTION CARRIED UNANIMOUSLY. 7-0

VIII. RESOLUTIONS

- A. Resolution No. 5089 (Pelosa/Tiedeman)
A Resolution of the City Council of the City of Auburn, Washington, authorizing the Mayor to execute an agreement between the City of Auburn and Comcast Enterprise Services for communications services

Councilmember Pelosa moved and Councilmember Osborne seconded to adopt Resolution No. 5089.

Councilmember Pelosa stated this will streamline the internet access within the City.

MOTION CARRIED UNANIMOUSLY. 7-0

- B. Resolution No. 5091 (Wagner/Snyder)
A Resolution of the City Council of the City of Auburn, Washington, supporting a new Youth/Teen Center and Community Center

Deputy Mayor Wagner moved and Councilmember Wales seconded to adopt Resolution No. 5091.

Councilmember DaCorsi thanked the City staff for providing Council with an alternate proposal.

Councilmember Trout stated she has heard from many citizens who are in favor of a teen center.

MOTION CARRIED UNANIMOUSLY. 7-0

IX. REPORTS

At this time the Mayor and City Council may report on significant items associated with their appointed positions on federal, state, regional and local organizations.

A. From the Council

Deputy Mayor Wagner reported he attended the Regional Access Mobility Partnership Pierce County Transportation forum, the Muckleshoot Indian Tribe Multicultural Festival and the Senior Center Coffee Hour.

Councilmember Trout reported she attended the Association of Washington Cities Budget Workshop.

Councilmember Osborne had no report.

Councilmember Pelozo reported he attended National Night Out events, the King County Water Pollution Advisory Committee meeting, King County Solid Waste Committee meeting, the Environmental Protection Agency Local Government Advisory Committee meeting and the Water Resource Inventory Area No. 9 (WRIA 9) meeting.

Councilmember Holman reported he attended several National Night Out events, the State Auditor Exit Conference and a symposium on exporting.

Councilmember Wales stated the Pierce County Public Health Department eliminated their private clinics approximately three years ago. They created partnerships with local clinics for public health services. The private clinics are able to receive reimbursement at the actual rate of the claim for Title 19 billing. King County has Public Health Clinics and when they bill for Title 19 services the reimbursement is greatly discounted. King County has a \$28 million short fall that is leading to cutting clinics in South King County. She noted the citizens of South King County need services in both healthcare and transportation.

Councilmember DaCorsi reported he attended National Night Out events and a telephone conference call with the Association of Washington Cities Legislative Priorities Committee.

B. From the Mayor

Mayor Backus reported she attended National Night Out events, the Washington State Auditor Exit Conference, an Exporting 101 Conference, the Boeing Employees Credit Union (BECU) ribbon cutting, the City hosted Tamba Youth Ambassadors, a Special City Council meeting on the 2015 - 2016 Biennial Budget, the Valley Regional Fire Authority Board of Governance meeting and the Sound Cities Transit Authority meeting.

X. ADJOURNMENT

There being no further business to come before the Council, the meeting adjourned at 8:50 p.m.

APPROVED this ____ day of _____, 2014.

NANCY BACKUS, MAYOR Shawn Campbell, Deputy City Clerk



AGENDA BILL APPROVAL FORM

Agenda Subject:

Claims Vouchers

Date:

August 27, 2014

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

Approve Claims Vouchers

Background Summary:

Claims voucher 430217 through 430384 in the amount of \$2,064,146.34 and 3 wire transfers in the amount of \$262,043.27 and dated September 2, 2014.

Reviewed by Council Committees:

Councilmember: Wales

Staff: Coleman

Meeting Date: September 2, 2014

Item Number: CA.C



AGENDA BILL APPROVAL FORM

Agenda Subject:

Payroll Vouchers

Date:

August 27, 2014

Department:

Administration

Attachments:

No Attachments Available

Budget Impact:

\$0

Administrative Recommendation:

Approve payroll vouchers.

Background Summary:

Payroll check numbers 534920 through 534950 in the amount of \$271,413.58, electronic deposit transmissions in the amount of \$1,321,772.30 for a grand total of \$1,593,185.88 for the period covering August 14, 2014 to August 28th 2014.

Reviewed by Council Committees:

Councilmember: Wales

Staff: Coleman

Meeting Date: September 2, 2014

Item Number: CA.D



AGENDA BILL APPROVAL FORM

Agenda Subject:

Public Works Project No. CP1308

Date:

August 27, 2014

Department:

Public Works

Attachments:

[Budget Status Sheet](#)
[Vicinity Map](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council grant permission to advertise for bids for Project No. 1308, BNSF Utility Crossings.

Background Summary:

This project will design and construct utility improvements required by Burlington Northern Santa Fe Railway (BNSF) to accommodate the new BNSF 3rd rail line that will extend from Ellingson Road to South 277th Street along the west side of the existing north-south tracks. BNSF requires that all utilities are constructed in casings to protect them from train loadings and to allow maintenance and replacement without impacting rail traffic. Several City utilities that cross the rail alignment were constructed prior to the implementation of BNSF's casing requirement and are not encased adequately to address the proposed 3rd rail. This project will replace these utilities in casings that meet BNSF requirements and construct the associated roadway and other surface restoration.

Construction is anticipated to begin in September 2014 and be complete in March 2015.

The estimated total project cost for water improvements is \$780,001.00, which is equal to the amount budgeted within the Water Fund for the project.

The estimated total project cost for sewer improvements is \$441,000.00, which is equal to the amount budgeted within the Sewer Fund for the project.

The estimated total project cost for storm improvements is \$546,101.00, which is equal to the amount budgeted within the Storm Fund for the project.

A project increase of \$220,000.00 within the Arterial Streets Fund will be necessary, however it will not require a budget adjustment since it is anticipated that the budgeted expenditures in the Transportation Funds will not be exceeded this year.

Reviewed by Council Committees:

Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 2, 2014

Item Number: CA.E

BUDGET STATUS SHEET

Project No: CP1308	Project Title: BNSF Utility Crossings
---------------------------	--

Project Manager: Kim Truong

Date: 8/26/14

Initiation Date: 5/13/13

Advertisement Date: _____

Award Date: _____

- ☒ **Permission to Advertise**
- ☐ **Contract Award**
- ☐ **Change Order Approval**
- ☐ **Contract Final Acceptance**

The "Future Years" column indicates the projected amount to be requested in future budgets.

Funds Budgeted (Funds Available)

Funding	Prior Years	2013 (actual)	2014	Total
430 Fund - Water (Bond Proceeds)		51,357	728,644	780,001
431 Fund - Sewer		14,440	426,560	441,000
432 Fund - Storm Drainage (Bond Proceeds)		42,328	503,773	546,101
102 Fund - Arterial Streets			150,000	150,000
Total	0	108,125	1,808,977	1,917,102

Activity	Prior Years	2013 (actual)	2014	Total
City Design	0	26,683	39,516	66,199
Consultant Design	0	85,341	170,896	256,237
Construction Contract	0	0	1,436,913	1,436,913
Authorized Contingency	0	0	292,182	292,182
BNSF Permits	0	0	44,469	44,469
Construction Engineering	0	0	45,000	45,000
Total	0	112,024	2,028,976	2,141,000

430 Water Budget Status

	Prior Years	2013 (actual)	2014	Total
*430 Funds Budgeted ()	0	(51,357)	(728,644)	(780,001)
430 Funds Needed	0	51,357	728,644	780,001
*430 Fund Project Contingency ()	0	0	(0)	(0)
430 Funds Required	0	0	0	0

431 Sewer Budget Status

	Prior Years	2013 (actual)	2014	Total
*431 Funds Budgeted ()	0	(14,440)	(426,560)	(441,000)
431 Funds Needed	0	14,440	426,560	441,000
*431 Fund Project Contingency ()	0	0	(0)	(0)
431 Funds Required	0	0	0	0

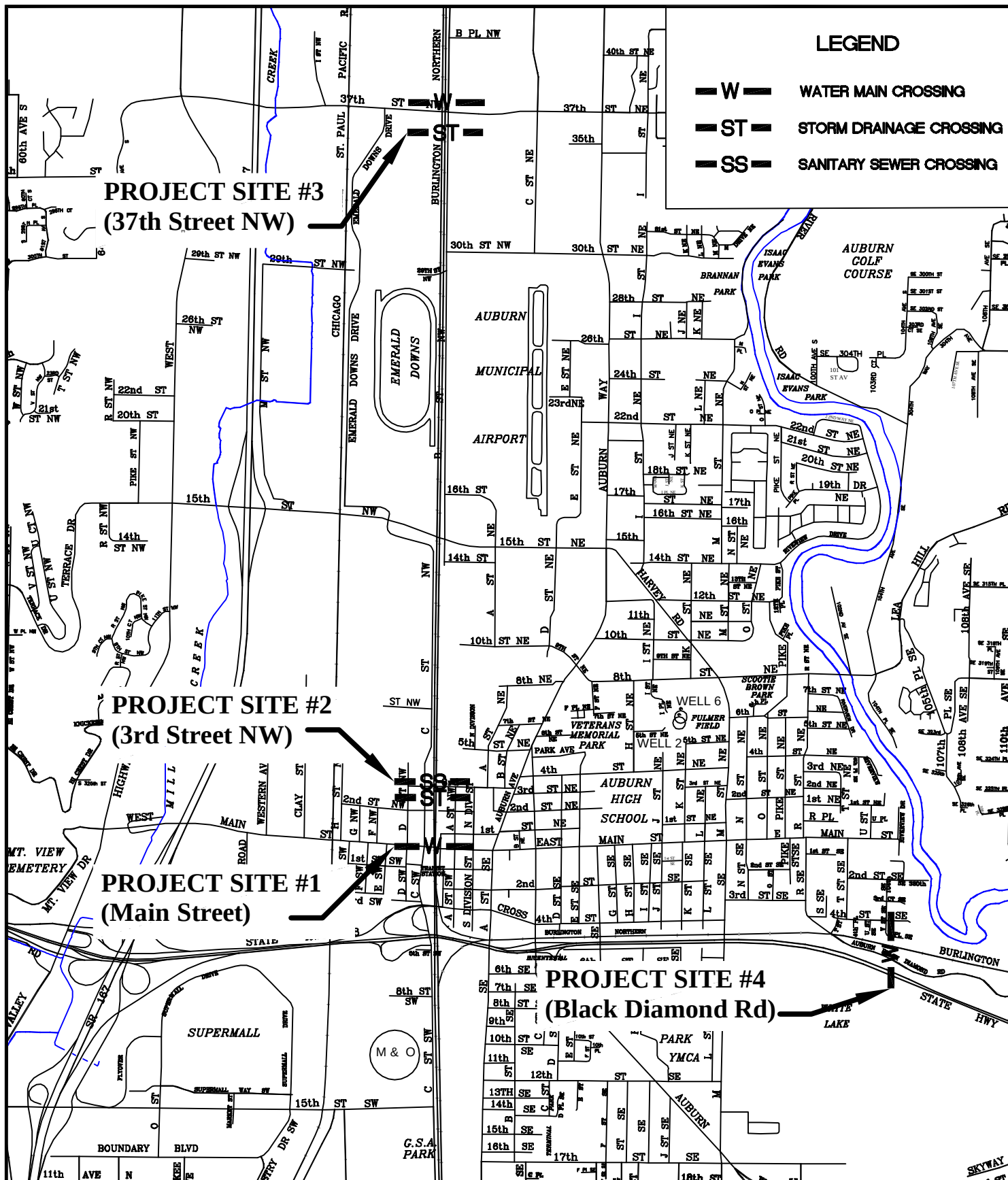
432 Storm Budget Status

	Prior Years	2013 (actual)	2014	Total
*432 Funds Budgeted ()	0	(42,328)	(503,773)	(546,101)
432 Funds Needed	0	42,328	503,773	546,101
*432 Fund Project Contingency ()	0	0	(0)	(0)
432 Funds Required	0	0	0	0

102 Arterial Streets Budget Status

	Budget Status	2013 (actual)	2014	0
*102 Funds Budgeted ()	0	0	(150,000)	(150,000)
102 Funds Needed	0	0	370,000	370,000
*102 Fund Project Contingency ()	0	0	0	0
102 Funds Required	0	0	220,000	220,000

*(#) in the Budget Status Sections indicates Money the City has available.





AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6525

Date:

August 27, 2014

Department:

Community Development &
Public Works

Attachments:

[Ordinance No. 6502](#)
[Map](#)
[August 6, 2014 Draft Planning Commission](#)
[Minutes](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to adopt Ordinance No. 6525

Background Summary:

A majority of the Planning Commission voted (5-1) on August 6, 2014 to recommend to the City Council an Ordinance that would allow for City enforcement of State marijuana regulations without the City being the licensing or approving agency. This proposal would amend Auburn City Code sections 1.04.060, 5.10.040, 9.22.010, 18.02.020, and 18.07.010 to enforce State regulations regarding production, processing and/or retail outlets and sales of marijuana, and terminating the moratorium pursuant to Resolution No. 4992 (File No. ZOA14-0003).

On November 6, 2012, the people of the State of Washington voted to pass State Initiative 502 (I-502) allowing the State to license and regulate recreational marijuana production, distribution, and possession for persons over 21. On September 16, 2013, the City Council passed its Resolution No. 4992 imposing an initial one-year moratorium on the acceptance or processing of applications for business licenses and other licenses, permits, and approvals for marijuana/cannabis related businesses or uses.

This moratorium was established to act as a stop-gap measure in order to 1) provide the City with an opportunity to study the issues concerning the siting of such State licensed related businesses and prepare appropriate revisions to the City's codes and regulations, and 2) to protect the health, safety, and general welfare of the citizens of Auburn by ameliorating negative impacts of marijuana related businesses/uses.

As part of the Work Plan as established in Section 5B of the moratorium, Planning and Legal staff have engaged in a collaborative research and analysis effort and prepared

Options for Planning Commission to consider. Those Options were to construct amendments to the City Code that would either, 1) prohibit all marijuana related businesses/uses in the City; 2) ensure compliance with State regulations whereby the City would be the enforcing entity but not the permitting or licensing agent for marijuana related uses; or 3) City place additional regulations on top of the State regulations making the City both the enforcing entity as well as a permitting and licensing agent for marijuana related uses.

The Planning Commission reviewed the issue over several meetings and held a public hearing on August 6, 2014 to review and make a final recommendation to move forward to City Council. By a 5-1 vote, the Commission voted to recommend Option 2 as written to Council for approval. The amendments were also presented to the Municipal Services Committee on August 25, 2014 for discussion and were in favor of extending the moratorium up to six months for the City Council to review the issue.

At the August 25, 2014 Planning and Community Development Committee meeting and after discussion of the Planning Commission's recommendation and options presented, the Committee recommended approval of Ordinance No. 6525, Option 2 version, which ensures compliance with State regulations whereby the City would be the enforcing entity but no the permitting or licensing agent for marijuana related uses.

Reviewed by Council Committees:

Municipal Services, Planning And Community Development Other: Legal, Planning Commission

Councilmember: Holman

Staff: Snyder

Meeting Date: September 2, 2014

Item Number: ORD.A

ORDINANCE NO. 6 5 2 5

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AMENDING SECTIONS 1.04.060, 5.10.040, 9.22.010, 18.02.020 AND 18.07.010 OF THE AUBURN CITY CODE, RELATING TO ENFORCEMENT OF STATE REGULATIONS REGARDING PRODUCTION, PROCESSING AND/OR RETAIL OUTLETS AND SALES OF MARIJUANA, AND TERMINATING THE MORATORIUM IMPLEMENTED PURSUANT TO RESOLUTION NO. 4992, PASSED ON SEPTEMBER 16, 2013

WHEREAS, the City of Auburn has in its City Code a provision that precludes enactment of City ordinances that are in conflict with state or federal law, as follows:

1.04.060 Conflict of ordinances with state or federal law.

All ordinances and city code provisions, and regulations therein, shall not be in conflict with all other regulations and/or requirements of state and federal law, insofar as not permitting or allowing any action, use or conduct which is in violation of or prohibited by any state or federal laws, regulations or codes. Any such provisions that cannot be implemented or enforced because of provisions of state or federal law, or that cannot be reconciled with any state or federal law, shall be deemed to be in conflict therewith. Any provisions of city ordinances or of the city code deemed by the city council to be in conflict with state or federal law shall be null and void. This provision does not allow any action, use or conduct which is in violation of any local, state or federal laws, regulations, codes and/or ordinances. Any action, use or conduct which is not permitted or allowed is prohibited;

and

WHEREAS, on November 6, 2012, the voters of the State of Washington approved Initiative Measure No. 502 ("Initiative 502"), now codified within Chapters 69.50, 46.04, 46.20, 46.21 and 46.61 of the Revised Code of Washington (RCW), which Initiative (a) decriminalized possession and use of certain amounts of marijuana and marijuana paraphernalia; (b) amended state laws pertaining to driving under the influence of intoxicants to include driving under the influence of marijuana; and (c) authorized promulgation of regulations and issuance of licenses by the Washington

State Liquor Control Board ("WSLCB") for the production, processing and retailing of marijuana; and

Whereas, the Attorney General of Washington issued an opinion, AGO 2014 No. 2, concluding that under Washington law there is a strong presumption against finding that state law preempts local ordinances, and although Initiative 502 established a licensing and regulatory system for marijuana producers, processors and retailers in Washington state, it includes no clear indication that it was intended to preempt local authority to regulate such businesses, and the Attorney General, therefore, concluded that Initiative 502 left in place the normal powers of local government to regulate within their jurisdictions; and the Attorney General also concluded that local governments have broad authority to regulate within their local jurisdictions and nothing in the initiative limits that authority with respect to licensed marijuana businesses; and

WHEREAS, the United States Congress passed the Comprehensive Drug Abuse Prevention and Control Act of 1970 [Pub.L. No. 91-513, 84 Stat. 1236], creating a comprehensive drug enforcement regime called the Controlled Substances Act, codified as 21 USC § 801-971; and

WHEREAS, under the Controlled Substances Act, Congress established five "schedules" of controlled substances whereby controlled substances are placed in specific schedules based upon their potential for abuse, their accepted medical use in treatment, and the physical and psychological consequences of abuse of the substance [See 21 USC § 812(b)]; and

WHEREAS, marijuana is currently listed as a "Schedule I" controlled substance in 21 USC § 812(c), Schedule I(c)(10); and

WHEREAS, for a substance to be designated a Schedule I controlled substance under the Controlled Substances Act, it must be found that the substance: (1) has a high potential for abuse, (2) has no currently accepted medical use in treatment in the United States; and (3) that there is a lack of accepted safety for use of the substance under medical supervision [See 21 USC § 812(b)(1)]; and

WHEREAS, the Controlled Substances Act sets forth procedures by which the schedules may be modified [See 21 USC § 811(a)]; and

WHEREAS, under the Controlled Substances Act, it is unlawful to knowingly or intentionally "manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance," except as otherwise provided in the statute [21 U.S.C. § 841(a)(1)]; and

WHEREAS, possession of a controlled substance, except as authorized under the Controlled Substances Act, is also unlawful; and

WHEREAS, the United States Supreme Court held in *Gonzales v. Raich*, 545 U.S. 1, 125 S.Ct. 2195, 162 L.Ed. 2d 1 (2005), that Congress was within its rights and powers under the Commerce Clause to regulate marijuana as a Schedule I controlled substance pursuant to the Controlled Substances Act, and that, under the Supremacy Clause of the U.S. Constitution, the federal Controlled Substances Act will prevail over any conflicting state law; and

WHEREAS, Paragraph 11 of Section 314-55-020 of the Washington Administrative Code (WAC), promulgated by the WSCLB under the authority of Initiative 502, describes the license permit process and includes the following limitation:

(11) The issuance or approval of a license shall not be construed as a license for, or an approval of, any violations of local rules or ordinances including, but not limited to: Building and fire codes, zoning ordinances, and business licensing requirements;

and

WHEREAS, pursuant to Article 11, § 11 of the Constitution of the State of Washington, the general police powers granted to cities empower and authorize the City of Auburn to adopt land use controls to provide for the regulation of land uses within the city and to provide that such uses shall be consistent with applicable law; and

WHEREAS, the City Council finds and determines that documented secondary effects associated with analogous medical marijuana dispensaries in other cities and counties include murders, robberies, burglaries, drug dealing, sales to minors, loitering,

heavy foot and vehicle traffic, increased noise, odors, health hazards such as proliferation of molds [See, "White Paper on Marijuana Dispensaries," issued by the California Police Chiefs Association's Task Force on Marijuana Dispensaries on April 22, 2009, ("CAPCA White Paper"); *City of Riverside v. Inland Empire Patients Health and Welfare Center*, 56 Cal.4th 729, 756, 300 P.3d 494 (2013)], however, the City Council finds that the State licensing and regulatory scheme, if enforced by the City and the State, may adequately mitigate these secondary effects; and

WHEREAS, the Planning Commission of the City of Auburn has held and conducted various public meetings and authorized a public workshop to address marijuana production, processing and retailing, as defined in Initiative 502 and its implementing regulations, and has held an open public hearing on the 6th day of August 2014, all pursuant to required notice and applicable procedures of the City of Auburn, and has adopted findings of fact and conclusions of law in support of its recommendation for adoption of the above-described amendments, which Findings of Fact and Conclusions of Law are of record and incorporated herein by this reference; and

WHEREAS, illustrative of an area of concern is the fact that in relationship to the Washington state legislatures passage of Engrossed Second Substitute Senate Bill 5073, then Governor Christine Gregoire vetoed portions of the bill that would have legalized use of marijuana for medical purposes out of concern that the vetoed portions of the bill would authorize state employees to issue licenses for marijuana related activities and would thus open public employees to federal prosecution as the United States attorneys have made it clear that state law would not provide an automatic safe harbor from federal prosecution, and because of her concern that no state employee should be required to violate federal criminal law in order to fulfill the duties under state law [See Governor Gregoire's letter of April 29, 2011 to the Washington state legislature/Senate]; and

WHEREAS, because a majority of the voters of the City of Auburn voted in support of Initiative 502, expressing support for legalization/decriminalization of

marijuana activities, the City Council of the City of Auburn faces a dilemma of potentially having to choose between supporting a citizen-approved state law that legalize/decriminalize marijuana related activities or supporting the federal law under which marijuana is illegal; and

WHEREAS, the dilemma would be exacerbated if the City of Auburn were to be the governmental entity responsible for the licensing and permitting of those marijuana related activities that are illegal under federal law; and

WHEREAS, the City Council finds that the state law and the accompanying regulations promulgated by the WSLCB essentially, adequately address the issues and impacts that would be involved by licensing and permitting activities if handled by the City, so that the City of Auburn could restrict its activity in connection with such businesses to enforcing and ensuring compliance with state law without the City having to be the licensing and permitting agency; and

WHEREAS, the City Council has considered the recommendation of the Planning Commission, the record herein, and all evidence and testimony presented; and

WHEREAS, the City Council finds and determines that approval of such amendments is in the best interests of the City of Auburn.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows

Section 1. Recitals Adopted. The City Council hereby adopts the recital clauses contained in this Ordinance as Findings of Fact or Conclusions, as may be appropriate given the context of each recital.

Section 2. Amendment To City Code. That Section 1.04.060 of the Auburn City Code be, and the same hereby is, amended to read as follows:

1.04.060 Conflict of ordinances with state or federal law.

A. All ordinances and city code provisions, and regulations therein, shall not be in conflict with all other regulations and/or requirements of state and federal law, insofar as not permitting or allowing any action, use or conduct which is in violation of or prohibited by any state or federal laws, regulations or codes. Any such provisions that cannot be implemented or enforced because of provisions of state or federal law, or that cannot be reconciled with any state or federal law, shall be deemed to be in conflict therewith. Any provisions of city ordinances or of the city code deemed by the city council to be in conflict with state or federal law shall be null and void. This The provisions of this Section does-do not allow any action, use or conduct which is in violation of any local, state or federal laws, regulations, codes and/or ordinances, and the city is not authorized to permit, or license such action, use or conduct.

B. Any action, use or conduct which is not permitted or allowed is prohibited. It is provided, however, that the provisions of this Subsection B do not apply to any person or persons who has/have a valid, lawful license issued by the State of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana-infused products and is acting in full conformity with the requirements of the state of Washington related to such license pursuant to Sections 69.50.301 – 369 RCW, and Sections 314-55-005 – 540 WAC. In such instances, the State of Washington, not the city, is the permitting and licensing entity. It is provided, however, that this provision does not preclude the city from taking enforcement action in instances where conduct or activity that is licensed or permitted under Sections 69.50.301 – 369 RCW, and Sections 314-55-005 – 540 WAC occurs within the City of Auburn but is not in compliance with or violates the requirements of such state licensing or permitting. For the purposes of this Section only, the provisions of Sections 69.50.325 – 369 RCW, and Sections 314-55-515 – 535 WAC are hereby adopted by reference and Incorporated herein. (Ord. 6416 § 3, 2012.)

Section 3. Amendment To City Code. That Section 5.10.040 of the Auburn City Code be, and the same hereby is, amended to read as follows:

5.10.040 General business license required - Exception.

A. Any person desiring to establish or conduct any business enterprise or undertaking as defined in ACC 5.10.020 within the corporate limits of the city, shall first apply to the business license clerk, as designated by the mayor, for a license to conduct such business and obtain such license as approved by the city. The application shall be upon a form furnished by the business license clerk on which the applicant shall state the business name, address, and telephone number; the nature of the business activity or activities in which the applicant desires to engage; the place where the business will be conducted; the number of employees, and the name of the contact person along with an address and telephone number, and the business identification number issued by the state of

Washington; and the IRS letter testifying to nonprofit status or the copy of the application to the IRS.

B. It is unlawful for any person to operate or physically conduct any business within the city without having first obtained a general business license for the current business year or portion thereof. The applicant for a business license required under this title shall be over the age of 18 years. If any person required to pay a license fee, by the terms and provisions of this chapter, for any period fails or refuses to do so, they shall not be granted a license for the current period until such delinquent license fee, together with penalties, has been paid in full.

C. Specific businesses identified in Chapters 3.80, 3.84, 3.88, 5.20, 5.30, 5.84 ACC or elsewhere in this title or other titles of the Auburn City Code will be required to obtain an individual business license as otherwise indicated.

D. Any business within the city jurisdiction on any project requiring a permit must have a business license.

E. Exception to city business licensing requirement. A business license is not required by the city of any person or persons who has/have a valid, lawful license issued by the state of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana-infused products in conformity with the requirements of the state of Washington related to such license pursuant to Sections 69.50.301 – 369 RCW, and Sections 314-55-005 – 540 WAC. (Ord. 5897 § 3, 2005; Ord. 5814 § 2, 2004; Ord. 5754 § 1, 2003; Ord. 4012 § 2, 1984.)

Section 4. Amendment To City Code. That Section 9.22.010 of the Auburn City Code be, and the same hereby is, amended to read as follows:

9.22.010 Marijuana prohibited.

A. Except as authorized under United States Code (USC) Title 21: Controlled Substances Act by the Revised Code of Washington, it is unlawful for any person or persons to grow, manufacture, process, deliver, grow, or possess sell marijuana.

B. Except as authorized by the Revised Code of Washington, it is unlawful for any person to possess marijuana.

C. “Marijuana,” also known as “marihuana” means all parts of the plant of the genus cannabis—Cannabis sativa L., whether growing or not; the seeds thereof; the resins extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the such plant, its seeds or resin, and includes all marijuana concentrates, useable marijuana, and marijuana-infused products. It—Such term does not include the mature stalks of the such plant, fiber produced from the such stalks, oil or cake made from the seeds of the such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the such mature stalks (except the resins extracted

therefrom), fiber, oil, or cake, or the sterilized seed of the such plant which is incapable of germination.

D. It is unlawful for any person or persons who has/have a license issued by the state of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana-infused products to fail to comply with or violate any of the requirements of the state of Washington related to such license issued by the state of Washington, including, but not limited to the requirements of Sections 69.50.325 – 369 RCW, and Sections 314-55-515 – 535 WAC. For the purposes of this Section only, the provisions of Sections 69.50.325 – 369 RCW, and Sections 314-55-515 – 535 WAC are hereby adopted by reference and Incorporated herein.

E. Violation of the provisions of this Section shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine. (Ord. 6300 § 1, 2010; Ord. 5682 § 1, 2002.)

Section 5. Amendment To City Code. That Section 18.02.020 of the Auburn City Code be, and the same hereby is, amended to read as follows:

18.02.020 Authority to adopt code.

A. The City of Auburn comprehensive zoning ordinance is adopted by City of Auburn ordinance, pursuant to Article XI, Section 11 of the Washington State Constitution, the State Growth Management Act, RCW Title 35A, Optional Municipal Code, and Chapter 36.70B RCW. In accordance with ACC 1.04.060, and

B. ~~notwithstanding~~ Notwithstanding any provisions otherwise, this title does not permit or allow any action, use or conduct which is in violation of or prohibited by any state or federal laws, regulations or codes. Any action, use or conduct which is prohibited by state or federal law is prohibited hereby. It is provided, however, that the provisions of this Subsection B do not apply to any person or persons who has/have a valid, lawful license issued by the State of Washington to produce, process or sell marijuana, marijuana concentrates, usable marijuana and/or marijuana-infused products and is acting in full conformity with the requirements of the state of Washington related to such license pursuant to Sections 69.50.301 – 369 RCW, and Sections 314-55-005 – 540 WAC. In such instances, the State of Washington, not the city, is the permitting and licensing entity. It is provided, however, that this provision does not preclude the city from taking enforcement action in instances where conduct or activity that is licensed or permitted under Sections 69.50.301 – 369 RCW, and Sections 314-55-005 – 540 WAC occurs within the City of Auburn but is not in compliance with or violates the requirements of such state licensing or permitting. For the purposes of this Section only, the provisions of Sections 69.50.325 – 369 RCW, and Sections 314-55-515 – 535 WAC are hereby adopted

| by reference and Incorporated herein. (Ord. 6416 § 4, 2012; Ord. 6245 § 2, 2009.)

Section 6. Amendment To City Code. That Section 18.07.010 of the Auburn

City Code be, and the same hereby is, amended to read as follows:

18.07.010 Intent.

A. General. This section describes the intent for each of the city's residential zones. These intent statements may be used to guide the interpretation of the regulations associated with each zone.

B. (RC) Residential Conservancy Zone – One Dwelling Unit per Four Acres. The RC residential conservancy zone is intended primarily to provide for low-intensity single-family residential uses with characteristics of an agricultural environment; provided, that the agricultural uses are secondary to the single-family uses. These areas allow for a lifestyle similar to that of rural areas that includes allowance of farm animals and streets without sidewalks. This zone is intended to protect areas with significant environmental constraints or values from impacts typically associated with urban levels of development while allowing low-intensity development designed to minimize impacts on the natural environmental features designated for conservation.

Public improvements required within the R-C zone will be less than is normally required for the higher intensity residential zones within the city.

This zone shall only be applied in areas designated as residential conservancy on the comprehensive plan. This zone shall allow one dwelling unit per four acres minimum lot area.

C. R-1 Residential Zone – One Dwelling Unit per Acre. The intent of the R-1 residential zone is to provide areas for estate-type residential development on large lots. This zone would normally be located in the areas particularly suited for such development.

Appropriate development standards required of other urban areas shall be required to serve this zone.

D. R-5 Residential Zone – Five Dwelling Units per Acre. The R-5 single-family residential zones are intended to create a living environment of optimum standards for single-family dwellings. It is further intended to achieve development densities of four to five dwelling units per net acre. This zone will provide for the development of single-family detached dwellings and for such accessory uses as are related, incidental and not detrimental to the single-family residential environment.

E. R-7 Residential Zone – Seven Dwelling Units per Acre.

The R-7 single-family residential zones are intended to create a living environment of optimum standards for single-family dwellings. It is further intended to achieve development densities of five to seven dwelling units per net acre. This zone will provide for the development of single-family detached

dwelling and for such accessory uses as are related, incidental and not detrimental to the residential environment.

F. R-10 Residential Zone – 10 Dwelling Units per Acre. The R-10 residential zones are intended to permit some increase in population density in those areas to which this classification applies by permitting single-family dwellings and duplexes on a minimum size lot while at the same time, by means of the standards and requirements set forth in this chapter, maintaining a desirable family living environment by establishing minimum lot areas, yards and open spaces. A related consideration is to provide a transition between single-family areas and other intensive designations or activities which reduce the suitability for single-family uses.

G. R-16 Residential Zone – 16 Dwelling Units per Acre. The R-16 zone is intended to provide for medium density multiple-family residential development as designated in the comprehensive plan, and is further intended as a residential zone of single, duplex and multiple-family residences, except as specifically provided elsewhere in this chapter.

H. R-20 Residential Zone – 20 Dwelling Units per Acre. The R-20 zone is intended to provide for multiple-family residential development and is further intended as a residential zone primarily of multiple-family residences, except as specifically provided elsewhere in this chapter. A related consideration is to make it possible to more efficiently and economically design and install all physical public service facilities in terms of size and capacity to adequately and permanently meet needs resulting from a defined intensity of land use.

I. Except as specifically provided in the city code, no business or commercial use shall be allowed in a residential district of the city that does not have a city of Auburn business license. (Ord. 6245 § 5, 2009.)

Section 7. Termination of Moratorium. The Moratorium implemented pursuant to City of Auburn Resolution No. 4992, passed on September 16, 2013, shall terminate upon the date this Ordinance becomes effective in accordance with the provisions of Section 10, below.

Section 8. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 9. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision,

section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 10. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

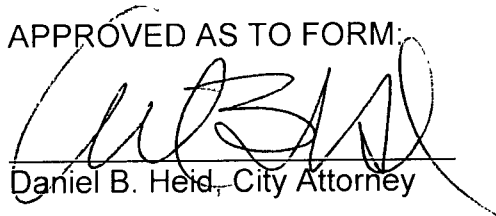
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

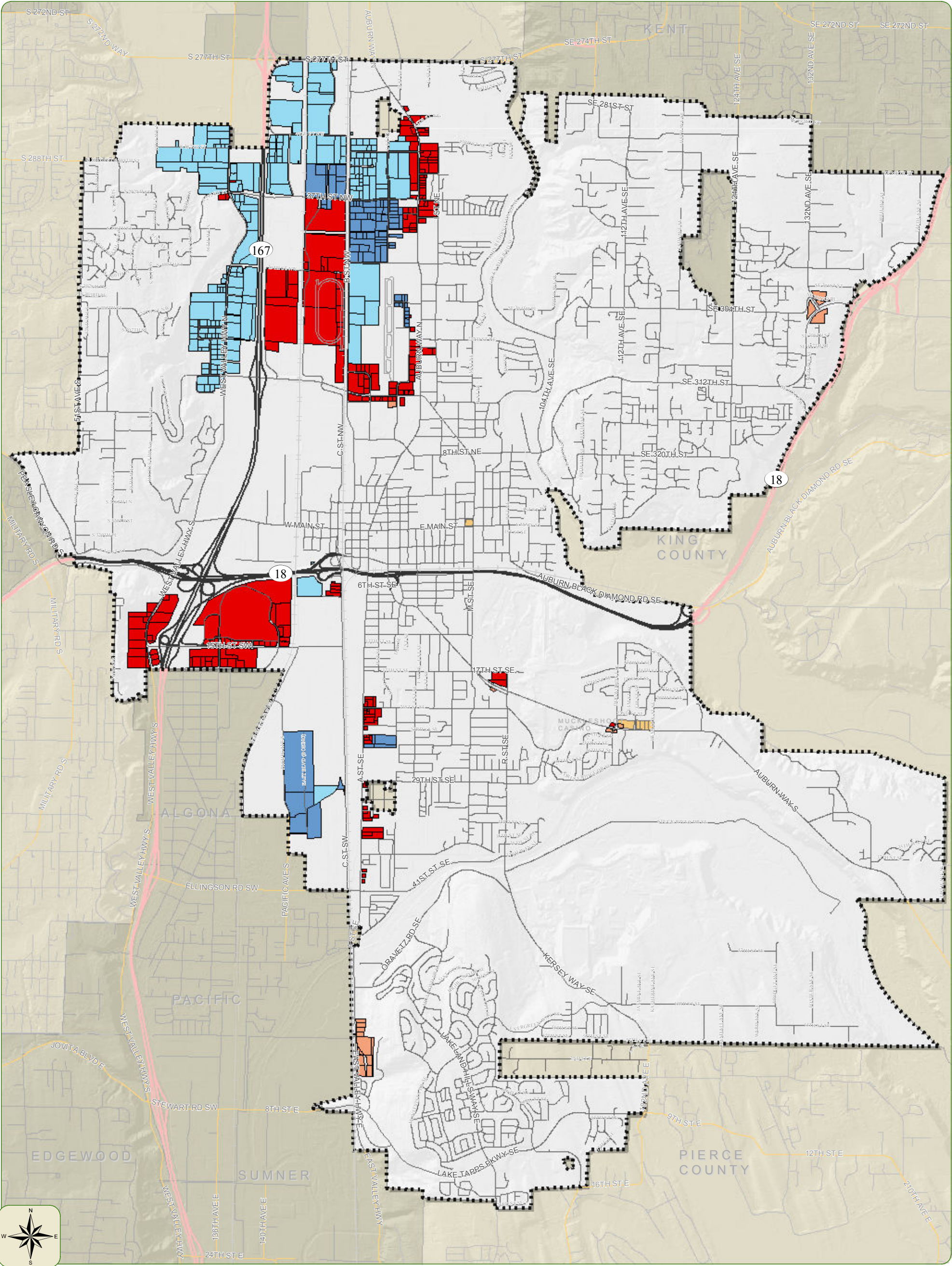
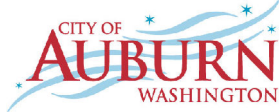
APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

PUBLISHED: _____

Potential State Licensed Locations for Cannabis Uses
(After 1,000 foot Buffer Requirement)



-  City of Auburn
-  C3 Heavy Commercial District
-  M1 Light Industrial District
-  C1 Light Commercial District
-  CN Neighborhood Shopping District
-  M2 Heavy Industrial District

Printed On: 3/20/2014
Map ID: 4313



August 6, 2014

MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:01 p.m. in the Council Chambers located on the first floor of Auburn City Hall, 25 West Main Street, Auburn, WA.

II. ROLL CALL/ESTABLISHMENT OF QUORUM

Planning Commission Members present were: Chair Judi Roland, Vice-Chair Copple, Commissioner Couture, Commissioner Mason, Commissioner Baggett, and Commissioner Smith. Commissioner Pondelick is excused.

Staff present included: Planning and Design Services Manager Elizabeth Chamberlain, City Attorney Dan Heid, Senior Planner David Jones, and Community Development Secretary Tina Kriss.

Members of the public present: Suzanne Cheney, Darren and Melanie Capps, Doyle and Gina Beckley, Glenna Smith, D.H. Woolf, Tim Edwards, Jeff Anderson, James Blankinship, Arne Nelson, and Eric Gaston.

III. APPROVAL OF MINUTES

A. July 8, 2014

Commissioner Copple moved and Commissioner Smith seconded to approve the minutes from the July 8, 2014 meeting as written.

Motion carried. 5-0

Commissioner Baggett did not vote due to his absence at the last meeting.

IV. PUBLIC COMMENT

There were no public comments on any item not listed on the agenda for discussion or public hearing.

V. PLANNING DEPARTMENT REPORT

Planning and Design Services Manager Elizabeth Chamberlain reported that the Auburn School District will be seeking a Certificate of Occupancy on Phase 1 of the new Auburn high School building during the week of August 25, in order to obtain occupancy August 28, 2014; the demolition of the old building has begun.

Merrill Gardens, a senior housing facility with 127 units (the block south of the Trek Apartment project) has submitted their plans for design review and staff expects additional submittals to follow.

At the City Council meeting Monday, August 4, 2014, staff brought forward Ordinance No. 6526, a traffic impact fee extension for the downtown catalyst blocks. Council extended the exemption through December 31, 2016 by adopting Ordinance No. 6526.

In 2002 the State Legislature modified the definition of short subdivisions to allow City's planning under the State Growth Management Act to increase their threshold from 4 to 9 or fewer lots. The City would like to bring forward a proposed amendment to increase the City's threshold to 9 or fewer lots.

VI. PUBLIC HEARINGS

A. ZOA14-0003 – Proposed Amendment to Auburn City Code

Chair Roland opened the public hearing on the proposed amendments to Auburn City Code relating ZOA14-0003, Option 1 or Option 2, at 7:06 p.m.

City Attorney Dan Heid provided background information on the proposed amendments, ZOA14-0003. Option 1 is a prohibition of State licensed marijuana uses and Option 2 is a proposal that would not have the City as the permitting agency of any marijuana activities, but would put the City in the position of enforcing State licensed marijuana businesses.

City Attorney Heid explained the State law is currently opposite to the Federal law. A discussion was held regarding various legal cases that have been and may be brought for those jurisdictions prohibiting the use of recreational marijuana. The Commission and staff discussed the voters' choice to support the initiative, potential future legal issues, and the City not receiving any direct tax dollars from the State collection of taxes on I-502 sales.

Senior Planner David Jones asked the Commission if they had any questions regarding ZOA14-0003, a proposed code amendment to Auburn City Code (ACC). Option 1 (amending ACC 9.22.010) and Option 2 (amending ACC 1.04.060, 5.10.040, 9.22.010, 18.02.020 and 18.07.010). No questions were asked at this time.

Chair Roland invited anyone for or against the proposed options to come forward for testimony:

Eric Gaston, 4423 193rd Ave. SE, Issaquah

Mr. Gaston explained that he and his partners are stakeholders who hold an I-502 retail license in Auburn. Mr. Gaston emphasized that the citizens of the State voted in favor of recreational marijuana. Mr. Gaston provided background information on his family, the I-502 industry, and his desire to bring marijuana "out of the shadows". He believes as businesses move forward to provide recreational marijuana through sales, cities will benefit from the taxes, and more jobs will be created. Mr. Gaston emphasized that he is in favor of Option 2.

James Blankinship, 39307 Auburn-Enumclaw Road SE, Auburn
Mr. Blankinship stated that he is an I-502 retail lottery winner to do business in Auburn. He emphasized that he believes the City will receive benefits through the 25% excise tax collected on marijuana sales. These benefits may come indirectly through the State Basic Health Plan, the Department of Social and Health Services Community Block Grant program, and the allocations to the State's general fund which provides funding to local schools. He is excited to provide employment opportunities to Auburn and feels extra property tax revenue will be generated by allowing I-502 growers and processors to operate within the City. Mr. Blankinship provided statistics on the reduction of Colorado crime due to the legalization of recreational marijuana. Mr. Blankinship is in favor of Option 2.

Darren Capps, 35220 172nd Ave. SE, Auburn
Mr. Capps explained that he has been an aerospace business owner for 17 years in Auburn. He reminded the Commission that the State and City voters said "yes" to recreational marijuana and other states are approving the use of medical marijuana. He believes recreational marijuana is soon to follow. Mr. Capps emphasized that there will be a large amount of money generated for the State, City, and others. He would like the City to approve Option 2 as the state holds struck regulations and would be carrying the majority of the burden.

Suzanne Cheney, 20914 SE 358th Street, Auburn
Ms. Cheney told the Commission that she is a retired postal worker who lives on land zoned as agriculture. She would like to take part in a marijuana growing operation since she has been unable to grow other types of agriculture on her property. Her experience working with the State Liquor Control Board has been positive; she would like to begin a marijuana growing operation and would like the City to select Option 2.

Arnie Nelson, 4423 193rd Ave. SE, Issaquah
Mr. Nelson stated that he drew the second retail lottery license in the City of Auburn. Mr. Nelson emphasized that prohibition has been a massive failure and asked the City to side with the voters and select Option 2 which will bring jobs, tourism, and more people into the community.

Doyle Beekley, 16018 SE 267th Ct., Covington
Mr. Beekley stated that he and Mr. Capps are partners in a business called Hydro Empire Pharmaceuticals which focuses on the medical benefits. He stated that approximately 30 states currently are allowing medical marijuana and that recreational marijuana should not be far behind. He is in favor of Option 2.

Jeff Andersen, 1816 James Busis Rd. NW, Issaquah
Mr. Andersen explained that the company he and his partners will operate will be providing good compliance and cooperation with the City Police Department. He states that they will be providing good paying jobs that are respectful which will benefit the City. He would like the City to select Option 2.

Del Woolf, Bonney Lake

Mr. Woolf is in favor of Option 2, and believes this issue is time sensitive for the stakeholders. He stated Option 2 would suite the stakeholders the best while being the safest route with the least liability for the City.

Chair Roland invited the Commission to ask questions of staff, no additional questions were asked. The Commission and staff discussed indirect benefits the City may receive from the tax the State would receive on I-502. City Attorney Dan Heid emphasized that no direct tax dollars would be provided to the City under the current I-502 provisions the State would receive.

With no further questions from the public, Chair Roland closed the public hearing at 7:54 p.m. on ZOA14-0003. The Commission deliberated.

Commissioner Copple moved and Commissioner Mason seconded to recommend moving Option 2, Ordinance No. 6525, forward to City Council for approval.

Vice-Chair Copple moved and Commissioner Mason seconded to recommend City Council adopt Option 2, to include the Proposed Planning Commission Findings and Conclusions and Recommendation – Option 2.

Motion approved. 5-1

Staff confirmed that the next Planning Commission meeting will be held Wednesday, September 3, 2014.

VII. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 7:58 p.m.



AGENDA BILL APPROVAL FORM

Agenda Subject:

Ordinance No. 6529

Date:

August 26, 2014

Department:

Legal

Attachments:

[Ordinance No. 6529](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council approve Ordinance No. 6529.

Background Summary:

Animal control regulations located in Title 6 of the Auburn City Code provide for licensing of animals (dogs and cats) and also provide for the impounding of animals running at large. When animals are impounded on successive occasions, the City Code provides that the animal may be spayed or neutered is a requirement for redemption of the animal from impound.

The current provisions of the City Code, however, do not give as much detail as could be given regarding the notice to be given to the owner of an impounded animal. It is appropriate for the city code to be amended to provide greater specificity in terms of the notice to owners. It is also appropriate that, as a preliminary step to spaying or neutering an impounded animal, the animal should be microchipped, so that the identity of the animal can be determined with certainty, should the animal subsequently be impounded.

With these other changes, it is also appropriate for the City Code to be amended to identify an appeal process, should the owner of an animal that has been impounded objects to an order calling for the animal to be microchipped or spayed or neutered.

Reviewed by Council Committees:

Municipal Services

Councilmember: Pelosa

Staff: Heid

Meeting Date: September 2, 2014

Item Number: ORD.B

ORDINANCE NO. 6 5 2 9

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF AUBURN, WASHINGTON, AMENDING SECTIONS
6.01.050, 6.01.070 AND 6.01.100 OF THE AUBURN CITY
CODE, RELATING TO ANIMAL CONTROL**

WHEREAS, the current provisions of the Auburn City Code provide for animal control, including impoundment of animals running at large; and

WHEREAS, the city code also provides for spaying and neutering of animals as a condition of release where the animals have been impounded on multiple occasions; and

WHEREAS, in connection with the impoundment of animals and the potential spaying or neutering of these impounded animals, it is appropriate that the City take steps to provide reasonable notice to the owners of the consequences that could occur with respect to their animals; and

WHEREAS, and it is also appropriate to clarify what opportunities exist for an owner to appeal an order to spay or neuter an impounded animal; and

WHEREAS, as a preliminary step to spaying or neutering an impounded animal, it would be valuable for animal control purposes to have the animal microchipped so that, should the animal be subsequently impounded, its identity could be determined with certainty.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DO ORDAIN as follows

Section 1. AMENDMENT TO CITY CODE. Section 6.01.050 of the Auburn City code be, and the same hereby is, amended:

6.01.050 Notice of impounding animal.

Upon the impoundment of any animal under the provisions of this title, the animal control officer or shelter shall ~~notify~~ give written notice to the owner, if the owner is known, of the impounding of such animal and the terms upon which said animal can be redeemed. The notifying of any person over the age of 18 who resides at the owner's domicile or mailing the notice to the address given to the city at the time the animal was licensed shall constitute actual notice to the owner. If the owner of said animal so impounded is unknown, ~~then the animal control officer or shelter shall make a reasonable effort to locate and notify the owner of the animal and cannot be reasonably determined or located~~, no notice of impound shall be required, and the city and/or the animal shelter shall be entitled to take such action allowed under the city code as if notice were given. There shall be no obligation to determine the owner of such animal if the animal is not wearing a license or other identification or is not microchipped. (Ord. 6424 § 1, 2012.)

Section 2. AMENDMENT TO CITY CODE. Section 6.01.070 of the Auburn

City code be, and the same hereby is, amended:

6.01.070 Redemption of animals.

A. Unless otherwise specifically provided in this title, the owner of any animal impounded under this title ~~may~~ shall redeem said animal within 72 hours from time of ~~impounding notice of impound~~ pursuant to Section 6.01.050 of the City Code by paying the appropriate redemption fee as well as any applicable boarding charge for the caring and keeping of such animal. All fees and charges must be paid and the owner must sign an acknowledgment that he/she is aware of the obligations and responsibilities of animal owners pursuant to Title 6 of the city code prior to redeeming the animal. A dog or cat may not be redeemed unless it is properly licensed.

B. If an impounded animal is not redeemed by the owner within ~~48 hours~~ 72 hours from time of impounding notice of impound pursuant to Section 6.01.050 of the City Code, then the animal shall become the property of the animal shelter, and any person may purchase-adopt it within the next 48 hours by complying with the animal shelter's purchase-adoption provisions. In case the event that such animal is not redeemed or adopted within 120 hours after notice of impoundment, it may be humanely euthanized or otherwise disposed of within the discretion of the animal shelter. It is provided, however, that if the animal control officer and/or the animal shelter deem(s) the impounded animal to be dangerous and/or unadoptable, the animal may be humanely euthanized after 72 hours from time of impounding notice of impound pursuant to Section 6.01.050 of the City Code. (Ord. 6424 § 1, 2012.)

Section 3. AMENDMENT TO CITY CODE. Section 6.01.100 of the Auburn

City code be, and the same hereby is, amended:

6.01.100 Mandatory microchip/spay/neuter for impounded dogs and cats – Exception.

A. No unaltered–un-microchipped impounded dog or cat that is–has previously been impounded more than once in anywithin the preceding 12–24-month period may be redeemed by any person until the animal is spayed–or neuteredmicrochipped pursuant to an order of the animal control officer directing the microchipping. The alteration–microchipping shall be accomplished by the shelter or by any duly licensed veterinarian. In all cases, the veterinarian fees and costs shall be paid at the time of redemption by the animal's owner or person redeeming the animal.

B. No unaltered impounded dog or cat that has previously been impounded twice within the preceding 24-month period may be redeemed by any person until the animal is spayed or neutered pursuant to an order of the animal control officer directing the alteration. The alteration shall be accomplished by the shelter or by any duly licensed veterinarian. In all cases, the veterinarian fees and costs shall be paid at the time of redemption by the animal's owner or person redeeming the animal.

C. Exceptions to mandatory microchipping or alteration. The alteration shall not be required upon a showing of proof of alteration from a licensed veterinarian. The microchipping or alteration shall not be required if the owner or other person redeeming the animal provides a written statement from a licensed veterinarian stating that and explaining why the microchip, spay or neuter procedure would be harmful to the animal.

D. Appeal of order for microchipping or alteration. If the owner of the animal objects to the order directing microchipping or alteration of the animal, the owner may submit a written appeal of the order within 72 hours of notice of the impound, which appeal shall be heard by the police chief or designee. The owner shall, at the same time, pay \$100.00 as a non-refundable appeal fee, and shall post a cash deposit of \$250.00 to cover the additional costs incurred by the city and/or the animal shelter related to the impound, including but not limited to impound charges and costs of microchipping and alteration. It is further provided that, regardless of the outcome of the appeal, the owner shall be responsible for the costs of or related to the impound and any resulting microchipping and/or alteration. The decision of the police chief or designee on the appeal shall be final, unless the owner seeks injunctive relief from the King County Superior Court. (Ord. 6424 § 1, 2012.)

Section 4. Implementation. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

Section 5. Severability. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 6. Effective Date. This Ordinance shall take effect and be in force five days from and after its passage, approval and publication as provided by law.

INTRODUCED: _____

PASSED: _____

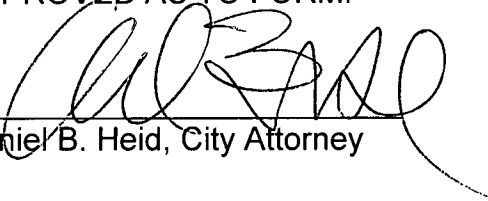
APPROVED: _____

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

| PUBLISHED: _____



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5094

Date:

August 27, 2014

Department:

Community Development &
Public Works

Attachments:

[Resolution No. 5094](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council to adopt Resolution No. 5094.

Background Summary:

On November 6, 2012, the people of the State of Washington voted to pass State Initiative 502 (I-502) allowing the State to license and regulate recreational marijuana production, distribution, and possession for persons over 21 (56% YES to 44% NO statewide; 53% YES to 45% NO Auburn). On September 16, 2013, the City Council passed its Resolution No. 4992 imposing an initial one-year moratorium on the acceptance or processing of applications for business licenses and other licenses, permits, and approvals for marijuana/cannabis related businesses or uses.

This moratorium was established to act as a stop-gap measure in order to 1) provide the City with an opportunity to study the issues concerning the siting of such State licensed related businesses and prepare appropriate revisions to the City's codes and regulations, and 2) to protect the health, safety, and general welfare of the citizens of Auburn by ameliorating negative impacts of marijuana related businesses/uses.

As part of the Work Plan as established in Section 5B of the moratorium, Planning and Legal staff have engaged in a collaborative research and analysis effort and prepared Options for Planning Commission to consider. Those Options were to construct amendments to the City Code that would either, 1) prohibit all marijuana related businesses/uses in the City; 2) ensure compliance with State regulations whereby the City would be the enforcing entity but not the permitting or licensing agent for marijuana related uses; or 3) City place additional regulations on top of the State regulations making the City both the enforcing entity as well as a permitting and licensing agent for marijuana related uses.

The Planning Commission reviewed the issue over several meetings and held a public hearing on August 6, 2014 to review and make a final recommendation to move forward to City Council. By a 5-1 vote, the Commission voted to recommend Option 2 as written to Council for approval.

If the City Council elects not to enact Ordinance No. 6525 then the existing moratorium will need to be extended up to an additional six months through Resolution No. 5094. According to the terms of the moratorium extension, it would automatically expire (conceivably sooner than at the end of six months) upon the effective date of an ordinance addressing I-502 marijuana regulations. A public hearing on the moratorium extension will need to be held within 60 days of passing Resolution No. 5094 if the City Council takes that action; scheduled for October 20, 2014.

Reviewed by Council Committees:

Other: Legal

Councilmember: Holman

Staff: Snyder

Meeting Date: September 2, 2014

Item Number: RES.A

RESOLUTION NO. 5094

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, EXTENDING THE MORATORIUM ESTABLISHED BY RESOLUTION NO. 4992 ON ACCEPTANCE OR PROCESSING OF APPLICATIONS FOR BUSINESS LICENSES AND OTHER LICENSES, PERMITS AND APPROVALS FOR MARIJUANA/CANNABIS RELATED BUSINESSES AND USES

WHEREAS, Washington State's Initiative 502 (I-502) was an initiative to the Washington State Legislature seeking reform of the laws in this state on marijuana, which Initiative appeared on the November 2012 general election ballot, and was passed by a margin of approximately 56 percent to 44 percent; and

WHEREAS, notwithstanding the State Initiative, the City of Auburn has in its City Code a provision that precludes enactment of city ordinances that are in conflict with state or federal law, as follows:

1.04.060 Conflict of ordinances with state or federal law.

All ordinances and city code provisions, and regulations therein, shall not be in conflict with all other regulations and/or requirements of state and federal law, insofar as not permitting or allowing any action, use or conduct which is in violation of or prohibited by any state or federal laws, regulations or codes. Any such provisions that cannot be implemented or enforced because of provisions of state or federal law, or that cannot be reconciled with any state or federal law, shall be deemed to be in conflict therewith. Any provisions of city ordinances or of the city code deemed by the city council to be in conflict with state or federal law shall be null and void. This provision does not allow any action, use or conduct which is in violation of any local, state or federal laws, regulations, codes and/or ordinances. Any action, use or conduct which is not permitted or allowed is prohibited. (Ord. 6416 § 3, 2012.)

and

WHEREAS, notwithstanding the State Initiative, there are clear conflicts between the State and Federal law on marijuana/cannabis, as cannabis is still classified as a

schedule I controlled substance under federal law and subject to federal prosecution under the doctrine of dual sovereignty; and

WHEREAS, in addition to the conflict between the State Initiative and Federal law, the practices of those involved in marketing marijuana/cannabis products are changing, so that how certain things would be addressed by the State of Washington is in flux and fraught with uncertainties; and

WHEREAS, following the passage of I-502, the State of Washington has moved forward with the development of processes and regulations for marijuana licenses, requirements for an application process and for reporting, and other requirements for marijuana/cannabis related businesses; and

WHEREAS, Chapter 69.51A of the Revised Code of Washington (RCW), most recently amended by Laws of the State of Washington, Chapter 181 in 2011, contains provisions regarding medical cannabis that are not addressed in the State Initiative. These most recent amendments, combined with the State Initiative, appear to create a “two tiered” system regarding marijuana/cannabis, depending on whether the use is recreational or medical. There continues to be uncertainty as to how to reconcile the differences between recreational and medical cannabis

WHEREAS, it is appropriate that the (currently “draft”) provisions of the Washington Administrative Code (WAC) – Chapter 314-55 WAC – be thoroughly evaluated in terms of what they mean for the City of Auburn, how the City should address these State regulations and the possible effect on Chapter 69.51A RCW; and

WHEREAS, the City of Auburn does not currently have a specific provision in its zoning and land use codes addressing the use of property for marijuana/cannabis related businesses or medical marijuana; and

WHEREAS, in conformity with the responsibilities of the City of Auburn to provide for zoning and land use regulations pursuant to state law, and the City's authority to regulate land use activity within its corporate limits, the City intends to explore and evaluate how it can develop appropriate zoning and land use regulations for marijuana/cannabis related businesses and medical marijuana related activities; and

WHEREAS, the City Council understands, based on information compiled by other jurisdictions and publicly available, that the secondary impacts associated with marijuana/cannabis related businesses and medical marijuana related activities could include crimes against the businesses themselves as a result of the products maintained on the site, increased criminal activity in areas around the businesses, loss of revenue for neighboring businesses, and exposure of marijuana/cannabis products to minors; and

WHEREAS, the City Council further understands, based on information compiled by other jurisdiction and publicly available, that indiscriminately and inappropriately allowing state licensed marijuana/cannabis related businesses to be located within the City may result in diminution of real estate property values, and may, as well, result in adverse impacts to the affected neighborhoods; and

WHEREAS, to avoid or minimize the potential negative impacts of any future use of property for such marijuana/cannabis related businesses in the City of Auburn, it will be necessary for there to be City regulations in place to 1) properly review and assess

the impacts a marijuana/cannabis related business may have on the City and the immediate neighborhood; and 2) determine reasonable and appropriate measures to be taken to mitigate those identified negative impacts; and

WHEREAS, in order to fully consider all the options and alternatives for such regulations, including evaluation of State regulations, and to fully investigate and review all of the factors involved in developing potential appropriate regulation of marijuana/cannabis related businesses, the City needs time to complete such reviews and put into place such regulations prior to accepting applications for siting State licensed marijuana/cannabis related businesses and medical marijuana related activities; and

WHEREAS, RCW Sections 35A.63.220 and 36.70A.390 authorize cities to adopt moratoria; and

WHEREAS, consistent with the provisions of RCW 35A.63.220, it is appropriate for the City Council to hold public hearings and to authorize the holding of public hearings and/or other means to gather information and adopt findings of fact supporting and justifying the moratorium, and to implement a work plan for review of the issues related to marijuana/cannabis related businesses in the development of the City's business and land use regulations; and

WHEREAS, in accordance therewith, the City Council passed, on September 16, 2013, its Resolution No. 4992 establishing a Moratorium, with a work plan to be effective for an initial one-year period of time; and

WHEREAS, the Planning Commission has completed its review of the issues and has developed recommendations for action to the City Council, however, the City

Council, likewise, needs time to evaluate and consider the issues involved in connection with I-502; and

WHEREAS, it is appropriate that the initial moratorium be extended for a period of up to an additional six months to give the City Council time to consider its position with respect to the recommendation received by the planning commission and ultimate adoption of an ordinance related thereto.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. Moratorium Extended. Pursuant to RCW 35A.63.220, the Moratorium established pursuant to Resolution Number 4992, prohibiting the City from receiving and/or processing any applications for any marijuana/cannabis related business in any and all zoning districts in the City of Auburn, is extended for a period of up to six months. The extension of the Moratorium shall become effective on the date hereof, and shall continue in effect for an initial period of six months from the effective date of this Resolution, unless repealed, further extended or modified by the City Council pursuant to RCW 35A.63.220, provided that the moratorium shall automatically expire upon the effective date of regulations adopted by the City Council to address the implementation of the State's licensing of any marijuana/cannabis related business to be located in the City of Auburn.

Section 2. Public Hearing. A public hearing shall be scheduled for 7:30 p.m. or as soon thereafter as the matter may be heard, on the 20th day of October, 2014, in City Council Chambers, 25 West Main Street, Auburn, Washington 98001, to hear and

consider the comments and testimony of those wishing to speak at such public hearing regarding the moratorium.

Section 3. Severability. If any sections, sentence, clause or phrase of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, or its application held inapplicable to any person, property or circumstance, such invalidity or unconstitutionality or inapplicability shall not effect the validity or constitutionality of any other section, sentence, clause or phrase of this Resolution or its application to any other person, property or circumstance.

Section 4. Effective Date. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2014.

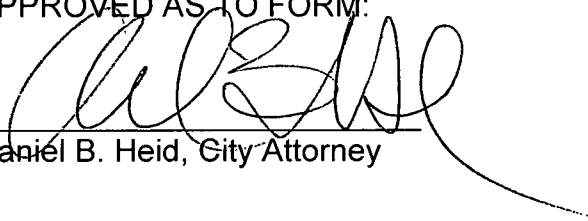
CITY OF AUBURN

NANCY BACKUS, MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney



AGENDA BILL APPROVAL FORM

Agenda Subject:

Resolution No. 5095

Date:

August 27, 2014

Department:

Public Works

Attachments:

[Resolution No. 5095 and Exhibit A](#)

Budget Impact:

\$0

Administrative Recommendation:

City Council adopt Resolution No. 5095.

Background Summary:

Resolution No. 5095 authorizes the Mayor to execute an agreement with the City of Kent regarding Auburn's S 277th Street Corridor Project and jurisdiction over the S 277th St Corridor.

Portions of S 277th St are currently within the jurisdictions of Auburn, Kent, and King County. This results in issues with coordination of maintenance responsibilities, permitting requirements, and development review. Bringing the entire roadway right-of-way from Auburn Way South to approximately 723 feet east of the L St NE intersection into Auburn's jurisdiction will improve the ability of the City to effectively manage the facility as well as the City's S 277th St Corridor Capacity and Non-Motorized Trail Improvement project. This agreement with the City of Kent defines where the future jurisdictional boundaries and maintenance responsibilities of the two Cities along S 277th St will be, and defines the future intent for the L St NE signal and coordination of the City of Auburn's S 277th St Corridor Project.

Staff is preparing a resolution for action later this year which will revise the corporate boundary of the City of Auburn along S 277th St based on this agreement with the City of Kent.

Reviewed by Council Committees:

Finance, Public Works

Councilmember: Osborne

Staff: Snyder

Meeting Date: September 2, 2014

Item Number: RES.B

RESOLUTION NO. 5095

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF AUBURN, WASHINGTON, AUTHORIZING
THE MAYOR TO EXECUTE AN AGREEMENT WITH
THE CITY OF KENT REGARDING AUBURN'S S
277TH STREET CORRIDOR PROJECT AND
JURISDICTION OVER THE SOUTH 277TH STREET
CORRIDOR

WHEREAS, the City's of Auburn and Kent desire to work together for the mutual and overall benefit of the S 277th Street Corridor; and

WHEREAS, the City of Auburn intends to construct its project, commonly known as the South 277th Street Corridor Capacity & Non-motorized Trail Improvement project, and has obtained complete funding to design and construct its project; and

WHEREAS, portions of Auburn's project abut properties located within Kent's corporate boundaries; and

WHEREAS, Auburn's project will require widening to the south of the existing South 277th Street roadway and Auburn does not anticipate requiring any right of way from properties within Kent's jurisdiction; and

WHEREAS, both cities intend to annex – and correspondingly de-annex – portions of the South 277th Street Corridor to clearly define ownership and maintenance responsibilities of the corridor; and

WHEREAS, the City of Kent and the City of Auburn are authorized to enter into this Agreement under the authority of their respective enabling

legislation and under the authority of Chapter 39.34 of the Revised Code of Washington.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor is hereby authorized to execute an agreement with the City of Kent, in substantial conformity with the agreement attached hereto, marked as Exhibit "A" and incorporated herein by this reference

Section 2. The Mayor is authorized to implement such other administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2014.

CITY OF AUBURN

ATTEST:

NANCY BACKUS, MAYOR

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

Resolution No. 5095
August 25, 2014
Page 2

EXHIBIT "A"

AGREEMENT REGARDING S 277TH STREET CORRIDOR ROADWAY

THIS AGREEMENT is entered into between the City of Kent, a Washington Municipal Corporation, located and doing business at 220 Fourth Avenue South, Kent, Washington 98032 ("Kent") and the City of Auburn, a Washington Municipal Corporation, located and doing business at 25 West Main Street, Auburn, Washington 98001 ("Auburn").

RECITALS

277TH STREET CORRIDOR CONSTRUCTION

WHEREAS, both cities desire to work together for the mutual and overall benefit of the S 277th Street Corridor; and

WHEREAS, Kent has constructed a roadway improvement project, commonly known as the S 277th Street Corridor Project, which commences generally from the intersection of SE 277th Street and 83rd Avenue S. (a/k/a East Valley Highway or Central Avenue or Auburn Way North) and runs generally east across the Green River, then along SE 274th Street in Kent, and then north along 116th Avenue SE and terminating at Kent-Kangley Road in Kent. Kent's project included a 2-lane roadway with a left turn between Auburn Way North and L St NE, a 5-lane roadway between L St NE. and 108th Ave. SE, a 4-lane roadway with a left-turn lane between 108th Ave. SE and Kent-Kangley Road, and a non-motorized trail between L St NE and 108th Ave. SE along with a pedestrian bridge over the Green River; and

WHEREAS, Auburn, as the lead agency on its project, commonly known as the South 277th Street Corridor Capacity & Non-motorized Trail Improvement project, has obtained complete funding to design and construct its project; and

WHEREAS, Auburn has commenced environmental review and design on its project and intends to construct the only remaining 2 lane segment on the S 277th Street Corridor between SR-99 and SR-18, which generally commences at the intersection of Auburn Way North and runs east to L St NE; and

WHEREAS, Kent completed all required wetland mitigation for its previous S 277th St

Corridor Project as well as advanced wetland mitigation for Auburn's project; and

WHEREAS, Kent concurs that Auburn may utilize the advanced wetland mitigation completed as credit towards any wetland mitigation as may be required by the regulating agencies for completion of Auburn's S 277th St Corridor Project; and

WHEREAS, the project is a part of the S 277th St Corridor (from I-5 to SR 516) and the cities will restrict private access to the extent possible; and

WHEREAS, Kent allowed a temporary traffic signal to be installed at L St NE to facilitate development of the Trail Run residential plat, and the cities agree the intent was for the signal to be removed in the future; and

WHEREAS, portions of Auburn's project abut properties located within Kent's corporate boundaries; and

WHEREAS, Auburn's project will require widening to the south of the existing S 277th St roadway and Auburn does not anticipate requiring any right of way from properties within Kent's jurisdiction; and

WHEREAS, both cities intend to annex portions of the S 277th St Corridor to clearly define ownership and maintenance responsibilities; and

WHEREAS, an interlocal agreement exists between the Valley Communications Center and Auburn and Kent for the establishment and use of fiber optic cable and equipment along S 277th St/SE 274th Way between Auburn Way North and 108th Ave SE; and

WHEREAS, Kent intends to maintain ownership of existing conduits in the roadway and plans for possible future water line extension through the S 277th St Corridor;

NOW, THEREFORE, Kent and Auburn hereby agree as follows:

AGREEMENT

A. AUBURN'S S. 277TH STREET CORRIDOR PROJECT

1. Auburn will be the lead agency for the overall funding, design, right of way acquisition, permitting, construction and completion of its proposed S 277th Street Corridor Capacity & Non-motorized Trail Improvement Project which includes, but is not limited to:

- A five lane arterial with left-turn lanes, curb, gutter, storm drainage, landscaping, one traffic signal, street lighting and mixed use non-motorized trail from Auburn Way North to L St NE.
 - Repair of the existing pavement from Auburn Way North to approximately 260 feet east of the L St NE intersection, and provide a minimum 2-inch asphalt concrete overlay over the existing pavement.
2. Auburn will continue to coordinate its design and construction efforts to match Kent's S 277th Street Project.
 3. Kent and Auburn agree that it is their mutual intent for there to be only one traffic signal between Auburn Way North and 108th Avenue SE and that said signal should be located at the future I St NE intersection. Once funding becomes available for an alternate roadway connection for the Trail Run residential development and the temporary L St NE signal is no longer needed, it is the intent that Auburn removes the temporary signal at L St NE and any remaining temporary pavement channelization along S 277th St./ S 274th Way.

B. KENT AND AUBURN CITY LIMIT REVISIONS

1. Kent will revise its corporate boundaries per RCW 35A.21.210 to convey its complete jurisdiction of S. 277th St. corridor from Auburn Way North to approximately 723 feet east of the L St NE intersection to the City of Auburn as per the applicable portions of the attached exhibit maps "A" and "B" and the attached legal descriptions Exhibits A-1, and B-1, B-2, B-3, B-4, and B-5.
2. Auburn will revise its corporate boundaries per RCW 35A.21.210 to incorporate the complete jurisdiction of S. 277th St. corridor from Auburn Way North to approximately 723 feet east of the L St NE intersection into the City of Auburn as per the applicable portions of the attached exhibit maps "A" and "B" and the attached legal descriptions Exhibits A-1, and B-1, B-2, B-3, B-4, and B-5.
3. Kent will retain ownership of Kent's existing conduits within the S. 277th St. Auburn agrees to cooperate with Kent on Kent's application for a Franchise

Agreement from Auburn for its facilities, including a future water main, along S. 277th St. from Auburn Way North to approximately 723 feet east of the L St NE intersection in the City of Auburn.

4. Kent will have jurisdiction over the S. 277th Street corridor facilities within its corporate boundaries.
5. Auburn will have jurisdiction over the S. 277th Street corridor facilities within its corporate boundaries.
6. Kent will retain ownership and continue to maintain the pedestrian bridge over the Green River.

D. MISCELLANEOUS

1. Termination. This agreement shall terminate on the date that Auburn completes construction of its S 277th Corridor Project.
2. Governing Law. This agreement shall be governed and construed in accordance with the laws of the State of Washington. If any dispute arises between the cities under any of the provisions of this agreement, resolution of that dispute shall be available only through the jurisdiction, venue and rules of the King County Superior Court, King County, Washington.
3. Modification. No waiver, alteration, or modification of any of the provisions of this agreement shall be binding unless in writing and signed by a duly authorized representative of each city.
4. Severability. If any one or more sections, subsections or sentences of this agreement are held to be unconstitutional or invalid, that decision shall not affect the validity of the remaining portions of this agreement and the remainder shall remain in full force and effect.

5. Entire Agreement. Written provisions and terms of this agreement, together with any attached exhibits, supersede all prior verbal statements by any representative of either city, and those statements shall not be construed as forming a part of or altering in any manner this agreement. This agreement and any attached exhibits contain the entire agreement between the parties. Should any language in any exhibit to this agreement conflict with any language contained in this agreement, the terms of this agreement shall prevail.

THE CITY OF KENT

THE CITY OF AUBURN

SUZETTE COOK, MAYOR

NANCY BACKUS, MAYOR

APPROVED BY KENT CITY COUNCIL MOTION ON _____, 2014.

APPROVED BY AUBURN CITY COUNCIL MOTION ON _____, 2014

ATTEST:

ATTEST:

_____(SEAL)
RONALD MOORE
KENT CITY CLERK

_____(SEAL)
DANIELLE E. DASKAM
AUBURN CITY CLERK

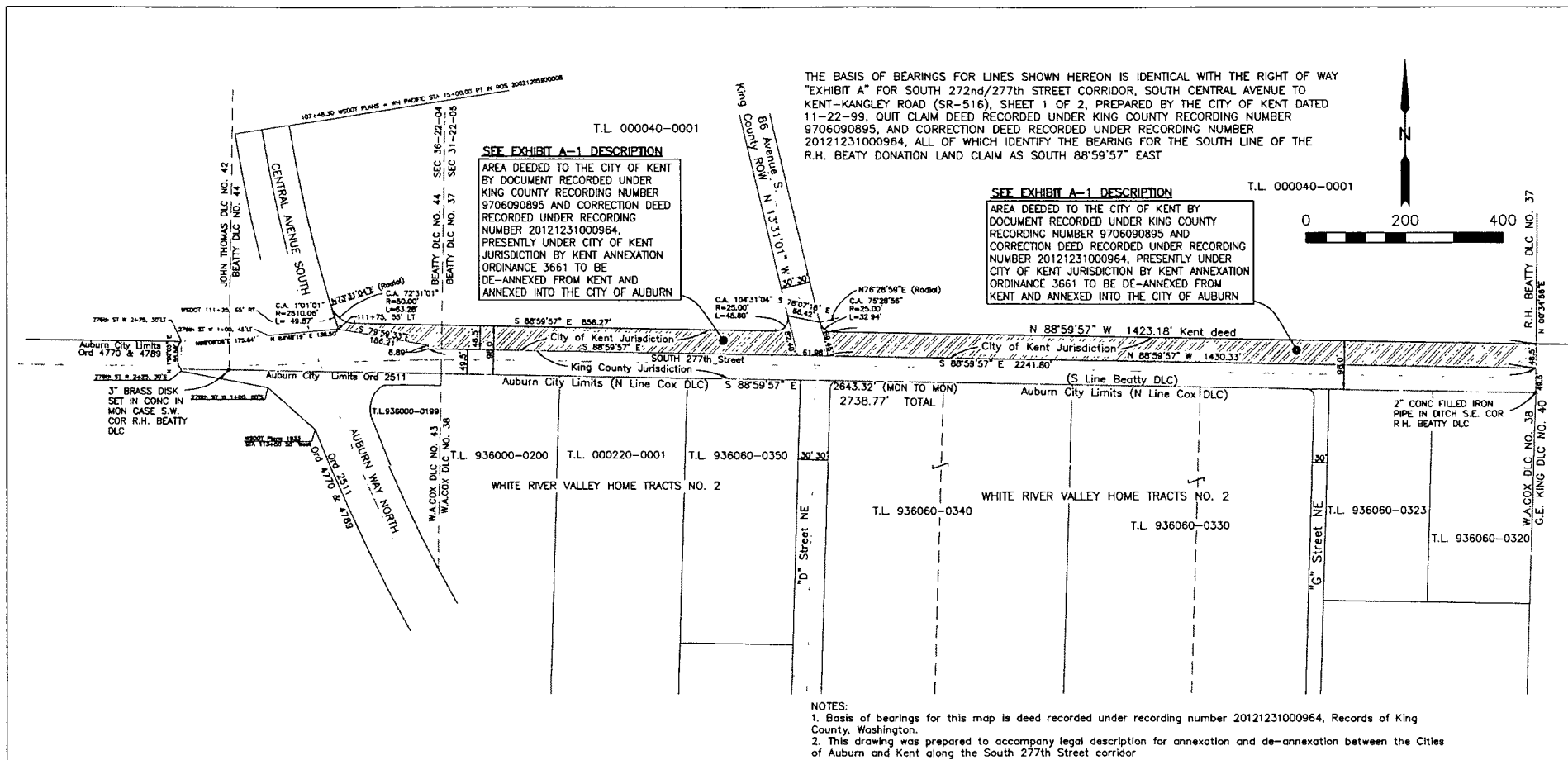
APPROVED AS TO FORM:

APPROVED AS TO FORM:

ARTHUR FITZPATRICK
KENT CITY ATTORNEY



DANIEL B. HEID
AUBURN CITY ATTORNEY



C:\SURVEY\PROJECTS\C222A-277thStreet(EastofAUM)\Annexation\Kent Annex near 0602 - Aug 2014 Exhibit.dwg



CITY OF AUBURN
 PUBLIC WORKS DEPARTMENT

EXHIBIT "A" MAP
 AUBURN - KENT ANNEXATION EXHIBIT
 SOUTH 277TH STREET CORRIDOR

PROJ: C222A0
 August 6, 2014
 SCALE: 1"=200'
 DRAWN BY: RRB

EXHIBIT A-1

AUBURN WAY NORTH AND S. 277TH STREET DESCRIPTION

(AREA CURRENTLY UNDER KENT JURISDICTION IN THE VICINITY OF 86TH AVENUE
SOUTH TO BE DE-ANNEXED FROM KENT AND ANNEXED TO THE CITY AUBURN)

THOSE PORTIONS OF THE R.H. BEATTY DONATION LAND CLAIMS, NUMBERS 37
AND 44, WITHIN SECTION 36, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., AND
SECTION 31, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY,
WASHINGTON, DESCRIBED AS FOLLOWS:

EXHIBIT A LEGAL DESCRIPTION CONTAINED IN CORRECTION QUIT CLAIM DEED
RECORDED DECEMBER 31, 2012 UNDER RECORDING NUMBER 20121231000964,
RECORDS OF KING COUNTY, WASHINGTON.

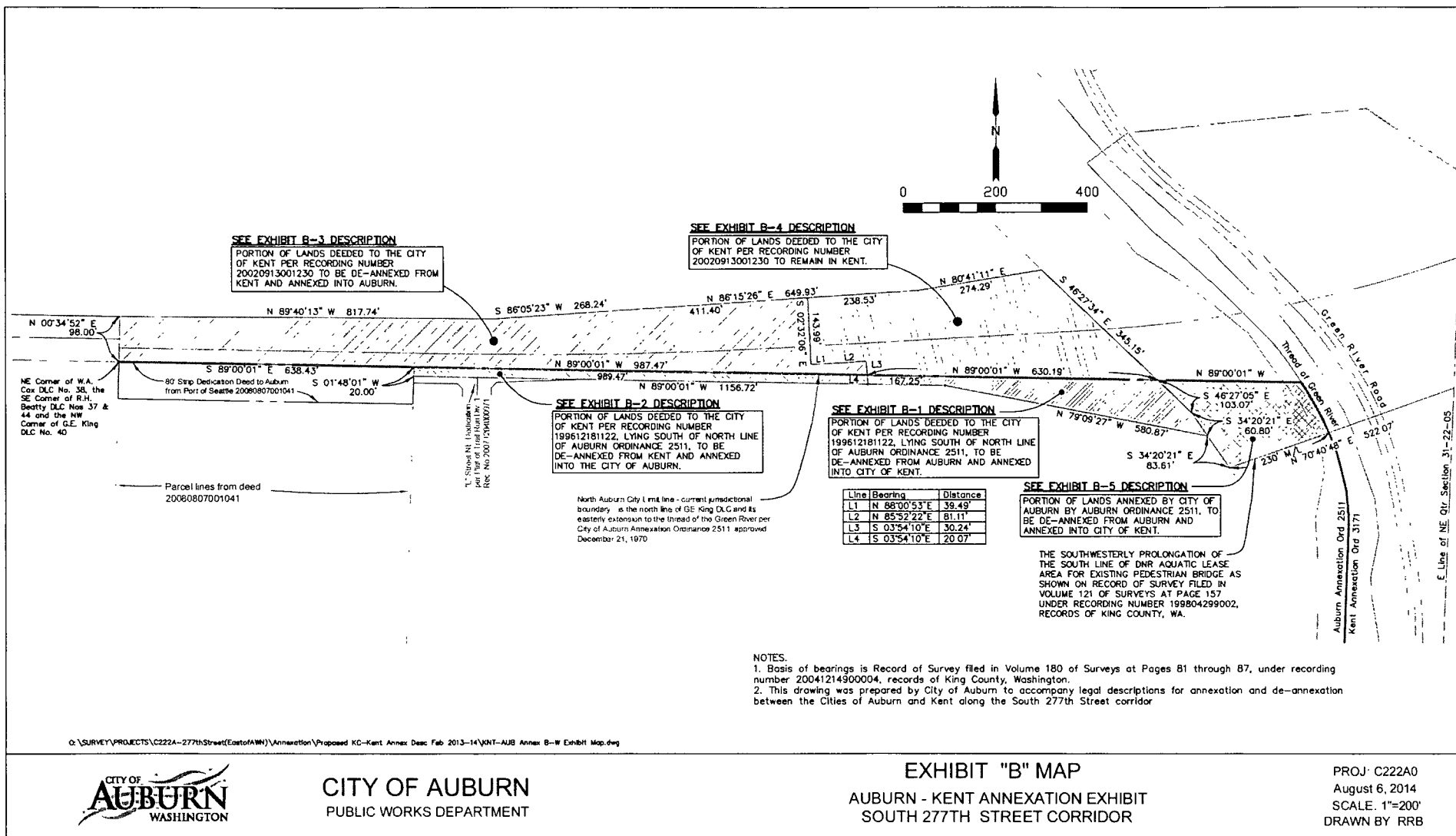


EXHIBIT B-1
AUBURN WAY NORTH AND S. 277TH STREET ANNEXATION

(PORTION OF LANDS CURRENTLY UNDER AUBURN JURISDICTION, DEEDED TO KENT BY BRISTOL PROPERTY, LLC, IN 1996 AND TO BE DE-ANNEXED FROM AUBURN AND ANNEXED INTO KENT)

THAT PORTION THE LANDS DESCRIBED IN DEED, RECORDED UNDER RECORDING NUMBER 199612181122, LOCATED IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE W. A. COX D.L.C. NUMBER 38, WHICH POINT IS ALSO THE SOUTHEAST CORNER OF THE R.H. BEATTY D.L.C. NUMBERS 37 AND 44 AND THE NORTHWEST CORNER OF THE G.E. KING D.L.C. NUMBER 40;

THENCE ALONG THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40 SOUTH 89°00'01" EAST A DISTANCE OF 638.43 FEET TO THE NORTHWEST CORNER OF THE LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 199612181122;

THENCE CONTINUING ALONG THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40 AND THE NORTH LINE OF SAID LANDS SOUTH 89°00'01" EAST A DISTANCE OF 987.47 FEET TO THE **POINT OF BEGINNING**;

THENCE LEAVING SAID NORTH LINE SOUTH 03°54'10" EAST A DISTANCE OF 20.07 FEET TO THE SOUTH LINE OF SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 199612181122, ALSO BEING THE NORTH LINE OF TRAIL RUN DIVISION 1 AS RECORDED IN VOLUME 244 OF PLATS AT PAGES 7 THROUGH 15, INCLUSIVE, UNDER RECORDING NUMBER 20071204000971, RECORDS OF KING COUNTY, WASHINGTON;

THENCE ALONG SAID SOUTH LINE AND THE NORTH LINE OF TRAIL RUN DIVISION 1 SOUTH 89°00'01" EAST A DISTANCE OF 167.25 FEET;

THENCE CONTINUING ALONG SAID SOUTH LINE AND THE NORTH LINE OF TRAIL RUN DIVISION 1 SOUTH 79°09'27" EAST A DISTANCE OF 580.87 FEET TO THE SOUTHEAST CORNER OF SAID LANDS;

THENCE ALONG THE EASTERLY LINE OF SAID LANDS NORTH 34°20'21" WEST A DISTANCE OF 60.80 FEET;

THENCE CONTINUING ALONG THE EASTERLY LINE OF SAID LANDS NORTH 46°27'05" WEST A DISTANCE OF 103.07 FEET TO THE NORTHEAST CORNER OF SAID LANDS AND THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40;

THENCE ALONG LAST SAID NORTH LINE NORTH 89°00'01" WEST A DISTANCE OF 630.19 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS NAD83-91 AS DEFINED IN RECORD OF SURVEY FILED IN VOLUME 180 OF SURVEYS AT PAGES 81 THROUGH 87, INCLUSIVE AND RECORDED UNDER RECORDING NUMBER 20041214900004, RECORDS OF KING COUNTY, WASHINGTON, WITH THE BEARING OF THE NORTH LINE OF G.E. KING D.L.C. NUMBER 40 SHOWN AS NORTH 89°00'01" WEST.

EXHIBIT B-2

AUBURN WAY NORTH AND S. 277TH STREET ANNEXATION

(PORTION OF LANDS CURRENTLY UNDER AUBURN JURISDICTION, DEEDED TO KENT BY BRISTOL PROPERTY, LLC, IN 1996 AND TO BE DE-ANNEXED FROM KENT AND ANNEXED INTO CITY OF AUBURN)

THAT PORTION THE LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 199612181122, LOCATED IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE W. A. COX D.L.C. NUMBER 38, WHICH POINT IS ALSO THE SOUTHEAST CORNER OF THE R.H. BEATTY D.L.C. NUMBERS 37 AND 44 AND THE NORTHWEST CORNER OF THE G.E. KING D.L.C. NUMBER 40;

THENCE ALONG THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40 SOUTH 89°00'01" EAST A DISTANCE OF 638.43 FEET TO THE NORTHWEST CORNER OF THE LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 199612181122 AND THE **POINT OF BEGINNING**;

THENCE CONTINUING ALONG THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40 AND THE NORTH LINE OF SAID LANDS SOUTH 89°00'01" EAST A DISTANCE OF 987.47 FEET;

THENCE LEAVING SAID NORTH LINE SOUTH 03°54'10" EAST A DISTANCE OF 20.07 FEET TO THE SOUTH LINE OF SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 199612181122;

THENCE ALONG SAID SOUTH LINE NORTH 89°00'01" WEST A DISTANCE OF 989.47 FEET TO THE SOUTHWEST CORNER OF SAID LANDS;

THENCE ALONG THE WEST LINE OF SAID LANDS NORTH 01°48'01" EAST A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS NAD83-91 AS DEFINED IN RECORD OF SURVEY FILED IN VOLUME 180 OF SURVEYS AT PAGES 81 THROUGH 87, INCLUSIVE AND RECORDED UNDER RECORDING NUMBER 20041214900004, RECORDS OF KING COUNTY, WASHINGTON, WITH THE BEARING OF THE NORTH LINE OF G.E. KING D.L.C. NUMBER 40 SHOWN AS NORTH 89°00'01" WEST.

EXHIBIT B-3

AUBURN WAY NORTH AND S. 277TH STREET ANNEXATION (AREA CURRENTLY UNDER KENT JURISDICTION TO BE ANNEXED BY AUBURN)

THAT PORTION THE LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 20020913001230, LOCATED IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE W. A. COX D.L.C. NUMBER 38, WHICH POINT IS ALSO THE SOUTHEAST CORNER OF THE R.H. BEATTY D.L.C. NUMBERS 37 AND 44 AND THE NORTHWEST CORNER OF THE G.E. KING D.L.C. NUMBER 40;
THENCE ALONG THE EAST LINE OF SAID BEATTY D.L.C. NORTH 00°34'52" EAST A DISTANCE OF 98.00 FEET TO THE NORTHWEST CORNER OF SAID LANDS;
THENCE ALONG THE NORTHERLY LINE OF SAID LANDS SOUTH 89°40'13" EAST A DISTANCE OF 817.74 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY LINE NORTH 86°05'23" EAST A DISTANCE OF 268.24 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY LINE NORTH 86°15'26" EAST A DISTANCE OF 411.40 FEET;
THENCE LEAVING SAID NORTHERLY LINE SOUTH 02°32'06" EAST A DISTANCE OF 143.99 FEET TO THE EXISTING TOP BACK OF CONCRETE CURB;
THENCE ALONG SAID EXSITING TOP BACK OF CONCRETE CURB NORTH 88°00'53" EAST A DISTANCE OF 39.49 FEET;
THENCE ALONG SAID EXSITING TOP BACK OF CONCRETE CURB NORTH 85°52'22" EAST A DISTANCE OF 81.11 FEET;
THENCE LEAVING SAID CURB SOUTH 03°54'10" EAST A DISTANCE OF 30.24 FEET TO THE SOUTH LINE OF SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 20020913001230, ALSO BEING THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40;
THENCE ALONG SAID SOUTH LINE NORTH 89°00'01" WEST A DISTANCE OF 1625.90 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS NAD83-91 AS DEFINED IN RECORD OF SURVEY FILED IN VOLUME 180 OF SURVEYS AT PAGES 81 THROUGH 87, INCLUSIVE AND RECORDED UNDER RECORDING NUMBER 20041214900004, RECORDS OF KING COUNTY, WASHINGTON, WITH THE BEARING OF THE NORTH LINE OF G.E. KING D.L.C. NUMBER 40 SHOWN AS NORTH 89°00'01" WEST.

EXHIBIT B-4
AUBURN WAY NORTH AND S. 277TH STREET ANNEXATION
(AREA CURRENTLY UNDER KENT JURISDICTION TO REMAIN IN KENT)

THAT PORTION THE LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 20020913001230, LOCATED IN SECTION 31, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE W. A. COX D.L.C. NUMBER 38, WHICH POINT IS ALSO THE SOUTHEAST CORNER OF THE R.H. BEATTY D.L.C. NUMBERS 37 AND 44 AND THE NORTHWEST CORNER OF THE G.E. KING D.L.C. NUMBER 40;
THENCE ALONG THE EAST LINE OF SAID BEATTY D.L.C. NORTH 00°34'52" EAST A DISTANCE OF 98.00 FEET TO THE NORTHWEST CORNER OF SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 20020913001230;
THENCE ALONG THE NORTHERLY LINE OF SAID LANDS SOUTH 89°40'13" EAST A DISTANCE OF 817.74 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY LINE NORTH 86°05'23" EAST A DISTANCE OF 268.24 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY LINE NORTH 86°15'26" EAST A DISTANCE OF 411.40 FEET TO THE **POINT OF BEGINNING**;
THENCE LEAVING SAID NORTHERLY LINE SOUTH 02°32'06" EAST A DISTANCE OF 143.99 FEET TO THE EXISTING TOP BACK OF CONCRETE CURB;
THENCE ALONG SAID EXSITING TOP BACK OF CONCRETE CURB NORTH 88°00'53" EAST A DISTANCE OF 39.49 FEET;
THENCE ALONG SAID EXSITING TOP BACK OF CONCRETE CURB NORTH 85°52'22" EAST A DISTANCE OF 81.11 FEET;
THENCE LEAVING SAID CURB SOUTH 03°54'10" EAST A DISTANCE OF 30.24 FEET TO THE SOUTH LINE OF SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER 20020913001230 ALSO BEING THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40;
THENCE ALONG SAID SOUTH LINE SOUTH 89°00'01" EAST A DISTANCE OF 630.19 FEET TO THE SOUTHEAST CORNER OF SAID LANDS, ALSO BEING ON THE SOUTHWESTERLY PROPERTY LINE OF THE LANDS CONVEYED TO KING COUNTY AND SHOWN IN SURVEY RECORDED UNDER KING COUNTY RECORDING NUMBER 8003079002;
THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 46° 27'34" WEST A DISTANCE OF 345.15 FEET TO THE NORTHEAST CORNER OF SAID LANDS;
THENCE ALONG THE NORTHERLY LINE OF SAID LANDS SOUTH 80°41'11" WEST A DISTANCE OF 274.29 FEET;
THENCE CONTINUING ALONG SAID NORTHERLY LINE SOUTH 86°15'26" WEST A DISTANCE OF 238.53 FEET TO THE POINT OF BEGINNING.

THE BASIS OF BEARING FOR THIS DESCRIPTION IS NAD83-91 AS DEFINED IN RECORD OF SURVEY FILED IN VOLUME 180 OF SURVEYS AT PAGES 81 THROUGH 87, INCLUSIVE AND RECORDED UNDER RECORDING NUMBER 20041214900004, RECORDS OF KING COUNTY, WASHINGTON, WITH THE BEARING OF THE NORTH LINE OF G.E. KING D.L.C. NUMBER 40 SHOWN AS NORTH 89°00'01" WEST.

O:\SURVEY\PROJECTS\C222A-277thStreet(EastofAWN)\Annexation\Proposed KC-Kent Annex Desc Feb 2013-14\EXHIBIT B-4.doc 08/06/2014

EXHIBIT B-5
AUBURN WAY NORTH AND S. 277TH STREET ANNEXATION

(PORTION OF LANDS CURRENTLY UNDER AUBURN JURISDICTION, LYING EAST OF THE LANDS
DEEDED TO KENT BY BRISTOL PROPERTY, LLC, IN 1996, TO BE DE-ANNEXED FROM AUBURN AND
ANNEXED INTO CITY OF KENT)

THAT PORTION OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 22
NORTH, RANGE 5 EAST, W.M. IN KING COUNTY, WASHINGTON LOCATED
EASTERLY OF THE LANDS DESCRIBED IN DEED RECORDED UNDER
RECORDING NUMBER 199612181122, SAID PORTION DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE W. A. COX D.L.C. NUMBER
38, WHICH POINT IS ALSO THE SOUTHEAST CORNER OF THE R.H. BEATTY
D.L.C. NUMBERS 37 AND 44 AND THE NORTHWEST CORNER OF THE G.E. KING
D.L.C. NUMBER 40;

THENCE ALONG THE NORTH LINE OF SAID G.E. KING D.L.C. NUMBER 40 SOUTH
89°00'01" EAST A DISTANCE OF 638.43 FEET TO THE NORTHWEST CORNER OF
SAID LANDS DESCRIBED IN DEED RECORDED UNDER RECORDING NUMBER
199612181122;

THENCE CONTINUING ALONG THE NORTH LINE OF SAID G.E. KING D.L.C.
NUMBER 40 AND THE NORTH LINE OF SAID LANDS SOUTH 89°00'01" EAST A
DISTANCE OF 1617.66 FEET TO THE NORTHEAST CORNER OF SAID LANDS AND
THE **POINT OF BEGINNING**;

THENCE ALONG THE EASTERLY LINE OF SAID LANDS SOUTH 46°27'05" EAST A
DISTANCE OF 103.07 FEET;

THENCE CONTINUING ALONG THE EASTERLY LINE OF SAID LANDS SOUTH
34°20'21" EAST A DISTANCE OF 60.80 FEET TO THE SOUTHEAST CORNER OF
SAID LANDS;

THENCE SOUTH 34°20'21" EAST A DISTANCE OF 83.61 FEET TO THE
SOUTHWESTERLY PROLONGATION OF THE SOUTH LINE OF THE DNR AQUATIC
LEASE AREA FOR EXISTING PEDESTRIAN BRIDGE AS SHOWN ON RECORD OF
SURVEY FILED IN VOLUME 121 OF SURVEYS AT PAGE 157, UNDER RECORDING
NUMBER 199804299002, RECORDS OF KING COUNTY, WASHINGTON;

THENCE ALONG SAID SOUTHWESTERLY PROLONGATION NORTH 70°40'48"
EAST A DISTANCE OF 230 FEET, MORE OR LESS, TO THE EASTERLY LINE OF
CITY OF AUBURN ANNEXATION ORDINANCE 2511 APPROVED DECEMBER 21,
1970 AND THE THREAD OF THE GREEN RIVER;

THENCE NORTHERLY ALONG LAST SAID EASTERLY LINE AND THE THREAD OF
THE GREEN RIVER TO THE EASTERLY EXTENSION OF SAID NORTH LINE OF THE
G.E. KING D.L.C. NUMBER 40 AND THE NORTHEAST CORNER OF SAID
ANNEXATION ORDINANCE 2511;

THENCE ALONG SAID EASTERLY EXTENSION, ALONG SAID NORTH LINE OF THE
G.E. KING D.L.C. NUMBER 40 AND ALONG THE NORTH LINE OF SAID
ANNEXATION ORDINANCE 2511 TO THE POINT OF BEGINNING.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS NAD83-91 AS DEFINED IN
RECORD OF SURVEY FILED IN VOLUME 180 OF SURVEYS AT PAGES 81
THROUGH 87, INCLUSIVE AND RECORDED UNDER RECORDING NUMBER
20041214900004, RECORDS OF KING COUNTY, WASHINGTON, WITH THE
BEARING OF THE NORTH LINE OF G.E. KING D.L.C. NUMBER 40 SHOWN AS
NORTH 89°00'01" WEST.

O:\SURVEY\PROJECTS\C222A-277thStreet(EastofAWN)\Annexation\Proposed KC-Kent Annex Desc Feb 2013-14\EXHIBIT B-5 doc 08/06/2014