



PACIFIC CITY COUNCIL AGENDA
Council Chambers - City Hall. 100 3rd Ave. SE

August 18, 2014
Monday

Workshop
6:30 p.m.

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL OF COUNCIL MEMBERS**
- 3. ADDITIONS TO/APPROVAL OF AGENDA**
- 4. DISCUSSION ITEMS**
 - (3) A. AB 14-142: Ordinance No. 2014-1868:** Amending Pacific Municipal Code Chapter 20.82 regarding code enforcement. (10 min.)
(Carol Morris)
 - (17) B. AB 14-144: Ordinance No. 2014-1870:** Authorizing an amendment to the Waste Management franchise agreement extending the franchise from August 28, 2014 to June 30, 2015, to negotiate a new agreement. (15 min.)
(Richard Gould)
 - (23) C. AB 14-145: Ordinance No. 2014-1871:** Authorizing an amendment to the Murrey's Disposal franchise agreement extending the franchise from August 28, 2014 to June 30, 2015. (15 min.)
(Richard Gould)
 - (29) D. AB 14-146:** Discussion regarding speed limit on Frontage Road (10 min.)
(Council Member Walker)
 - (31) E. AB 14-147:** Discussion regarding parliamentary training for boards and commissions (10 min.)
(Council Member Walker)
- 5. EXECUTIVE SESSION** for collective bargaining per RCW 42.30.140(4)(a) for 20 minutes
- 6. ADJOURN**



Agenda Bill No. 14-142

TO: Mayor Guier and City Council Members
FROM: Carol Morris, City Attorney
MEETING DATE: August 18, 2014
SUBJECT: Code Enforcement

ATTACHMENTS: Ordinance No. 2014-1868

Previous Council Review Date: August 4, 2014 Workshop, August 11, 2014 Meeting

Background:

UPDATE: Council has requested that this item be brought back for further discussion and clarification with the city attorney.

The City's Zoning Code enforcement procedures are included in chapter 20.82 of the Pacific Municipal Code. These procedures are very confusing. For example, if a notice of violation issues, it may be appealed to the hearing examiner under Section 20.82.070, and the hearing examiner's decision may be appealed to superior court (Section 20.82.070(D)). However, if the City issues a notice of "infraction," under Section 20.82.090 (rather than a notice of "violation"), it is filed in municipal court under Section 20.82.100. (I am not sure when a notice of violation would be used as opposed to a notice of infraction.) There is a hearing in municipal court if it is "contested," and there is a totally different manner of determining the procedure for an appeal (Section 20.82.140(E)). In addition, Section 20.82.210 must be repealed as duplicative of the procedure for abatement that the City already has (through the adoption by reference of the Uniform Code for the Abatement of Dangerous Buildings).

Summary of Proposed Ordinance:

The proposed ordinance describes a procedure for enforcement of Zoning and Subdivision Code violations. It defines "violations," the procedure for investigation of complaints, the contents of a notice of violation, the procedure for service, appeals of the notice of violation, penalties, issuance of the hearing examiner's decision on appeal, etc.

The Council needs to decide what the civil penalty will be in Section 20.82.010 on page 11. Some cities may make the penalty \$50.00 (which will be imposed each day the violation exists) or as high as \$500.00.

Recommendation/Action: Consider and subsequently adopt the proposed ordinance.

Motion for Consideration: "I move to approve Ordinance No. 2014-1868"

AGENDA ITEM NO. 4A

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO ZONING AND SUBDIVISION CODE ENFORCEMENT, REPEALING CURRENT CODE ENFORCEMENT PROCEDURES AND PENALTY PROVISIONS AND ADOPTING NEW, COMPREHENSIVE ZONING AND SUBDIVISION ENFORCEMENT PROCEDURES, DESCRIBING VIOLATIONS, EXPLAINING THE PROCESS FOR INVESTIGATIONS AND ENFORCEMENT, LISTING THE ELEMENTS OF A NOTICE OF VIOLATION, DESCRIBING THE PROCEDURES FOR NOTICE, ISSUANCE AND SERVICE OF NOTICES OF VIOLATION, STOP WORK ORDERS AND EMERGENCY ORDERS, PROVIDING FOR HEARINGS ON APPEALS, DESCRIBING THE HEARING PROCESS, LISTING PENALTIES, REPEALING CHAPTER 20.82 OF THE PACIFIC MUNICIPAL CODE AND ADDING A NEW CHAPTER 20.82 TO THE PACIFIC MUNICIPAL CODE.

Budget Impact: If the previous code (chapter 20.82) was enforced to issue notices of violation that could be appealed to the Hearing Examiner, then no budget impact. If the previous code (chapter 20.82) was enforced to issue notices of infraction that were processed through municipal court, there may be a difference in cost.

Alternatives: None.

ORDINANCE NO. 2014-1868

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO ZONING AND SUBDIVISION CODE ENFORCEMENT, REPEALING CURRENT CODE ENFORCEMENT PROCEDURES AND PENALTY PROVISIONS AND ADOPTING NEW, COMPREHENSIVE ZONING AND SUBDIVISION ENFORCEMENT PROCEDURES, DESCRIBING VIOLATIONS, EXPLAINING THE PROCESS FOR INVESTIGATIONS AND ENFORCEMENT, LISTING THE ELEMENTS OF A NOTICE OF VIOLATION, DESCRIBING THE PROCEDURES FOR NOTICE, ISSUANCE AND SERVICE OF NOTICES OF VIOLATION, STOP WORK ORDERS AND EMERGENCY ORDERS, PROVIDING FOR HEARINGS ON APPEALS, DESCRIBING THE HEARING PROCESS, LISTING PENALTIES, REPEALING CHAPTER 20.82 OF THE PACIFIC MUNICIPAL CODE AND ADDING A NEW CHAPTER 20.82 TO THE PACIFIC MUNICIPAL CODE.

WHEREAS, the City has no Subdivision Code enforcement procedures; and

WHEREAS, the City has decided to update its Zoning Code enforcement procedures because they are inconsistent; and

WHEREAS, the City State Environmental Policy Act (SEPA) Responsible Official has determined that this Ordinance is categorically exempt from SEPA as affecting only procedural and no substantive standards, pursuant to WAC 197-11-800(19); and

WHEREAS, the City Council considered this Ordinance during their regular meeting on August 11, 2014, Now, Therefore,

THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Chapter 20.82 of the Pacific Municipal Code is hereby repealed.

Section 2. A new Chapter 20.82 is hereby added to the Pacific Municipal Code, which shall read as follows:

**Chapter 20.82
ENFORCEMENT**

Sections:

- 20.82.001 Intent.**
- 20.82.002 Violations.**
- 20.82.003 Responsibility to Enforce.**
- 20.82.004 Investigation and Notice of Violation.**
- 20.82.005 Time to Comply.**
- 20.82.006 Stop Work Order.**
- 20.82.007 Emergency Order**
- 20.82.008 Appeals.**
- 20.82.009 Appeal Hearing.**
- 20.82.010 Civil Penalty.**
- 20.82.011 Criminal Penalties.**
- 20.82.012 Additional Relief.**
- 20.82.013 Penalties for Subdivision Violations.**

20.82.001 Intent. This chapter shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of the Zoning Code, Title 20 and the Subdivision Code, Title 19. No provision of, or any term used in this chapter, is intended to impose any duty to enforce, or any other duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

20.82.002 Violations.

A. It is a violation of the Zoning Code, Title 20 and the Subdivision Code, Title 19, for any person to initiate, maintain or cause to be initiated or maintained, the use of any structure, land or property within the City, in a manner inconsistent with the underlying zone, or without first obtaining the permits or authorizations required for the use by the aforementioned codes.

B. It is a violation of the Zoning Code, Title 20 and the Subdivision Code, Title 19, for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the City, in any manner that is not permitted by the terms of any permit or authorization issued pursuant to the aforementioned Titles; provided, that the terms or conditions are explicitly stated on the permit or the approved plans.

C. In addition to the above, it is a violation of Titles 20 and 19 of the Pacific Municipal Code to:

1. Remove or deface any sign, notice, complaint or order required by or posted in accordance with the aforementioned Titles; and

2. To misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization.

20.82.003 Responsibility to enforce.

A. The Community Development Director shall have the responsibility to enforce this Chapter. The Director may call upon the police, fire, building, public works or other appropriate City departments to assist in enforcement. As used in this chapter, “Community Development Director” or “Director” shall also mean his or her duly authorized representative.

B. Upon presentation of proper credentials, the Director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant, in order to perform the responsibilities imposed by this Chapter.

20.82.004 Investigation and Notice of Violation.

A. Investigation. The Director is authorized to investigate any structure or use which he/she reasonably believes does not comply with the standards and requirements of the Zoning Code, Title 20 or the Subdivision Code, Title 19.

B. Notice of Correction. If, after investigation, the Director determines that the standards or requirements of the Zoning Code, Title 20, and the Subdivision Code, Title 19 or the provisions of this chapter have been violated, the Director may serve a Notice of Correction upon the owner, tenant or other person responsible for the condition using the service procedure set forth in subsection G herein. The Notice of Correction shall contain the following information:

1. The name and address of the person to whom it is directed;
2. The location and specific description of the violation;
3. A specific identification of each standard, code provision or requirement violated;
4. A specific description of the actions required to correct, remedy or avoid the violation or to comply with the standards, code provision or requirements, including but not limited to, replacement, repair, supplementation, re-vegetation or restoration;
5. The date by which compliance is required in order to avoid the imposition of monetary penalties. This date will be no less than 24 hours from the date and time that the notice is posed on the property or no less than three days from the date that the Notice of Correction is placed in the U.S. Mail addressed to the person identified in subsection (B)(1) above; and
6. A statement that failure to comply with the Notice of Correction may result in further enforcement actions, including the issuance of a Notice of Violation, civil fines and criminal penalties.

C. Notice of Violation. After issuance of the Notice of Correction and expiration of the deadline established therein, the Director shall investigate to determine whether a violation still exists. If so, the Director may serve a Notice of Violation upon the owner, tenant or other person responsible for the condition of the property, using the service procedure set forth in subsection G herein. The Notice of Violation shall contain the following information:

1. The name and address of the person to whom it is directed;
2. The location and specific description of the violation;
3. A statement that the Notice (or Order, in the case of a Stop Work or Emergency Order) is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;
4. The Notice of Violation may include or reference a Stop Work Order or Emergency Order requiring that the violation immediately cease, or that the potential violation be avoided;
5. The Notice of Violation may include or reference a Stop Work or Emergency Order requiring that the person cease all work on the premises until correction and/or remediation of the violation as specified in the Order;
6. A specific identification of each standard, code provision or requirement violated;
7. A specific description of the actions required to correct, remedy or avoid the violation or to comply with the standards, code provision or requirements, including but not limited to, replacement, repair, supplementation, re-vegetation or restoration;
8. A reasonable time for compliance;
9. A statement that the violation may result in the imposition of penalties, and if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in Section 20.82.011 (or 20.82.013 for subdivision violations);
10. A statement that failure to comply with the Notice of Violation may result in further enforcement actions, including issuance of additional Notices of Violation, civil fines and criminal penalties; and
11. A statement that the Notice of Violation represents a determination that a violation has been committed by the person named in the Notice of Violation, and that the determination shall be final unless appealed as provided in Section 20.82.008, and that the appeal must be timely filed under the procedures set forth in 20.82.008(E) (within 15 calendar days of service of the Notice of Violation).

D. Each Day a Separate Violation. Each day a person or entity fails to comply with the code provision cited in the Notice of Violation may be considered a separate violation for which a penalty may be imposed. However, no additional penalty for a continuing violation may

be assessed without the provision of an additional Notice of Violation and an opportunity for an appeal.

E. Service. The Notice of Violation shall be served on the owner, tenant or other person responsible for the condition in the manner set forth in RCW 4.28.080 for service of a summons, or personally, as set forth in RCW 4.28.080(15). In lieu of service under RCW 4.28.080(15), where the person cannot with reasonable diligence be served as described, the Notice of Violation may be served as provided in RCW 4.28.080(16).

F. Posting. A copy of the Notice of Violation shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.

G. Other Actions May Be Taken. Nothing in this chapter shall be deemed to limit or preclude any action or proceeding pursuant to Sections 20.82.006 (Stop Work Order), 20.82.007 (Emergency Order), 20.82.010 (Civil Penalty), 20.82.011 (Criminal Penalties), 20.82.012 (Additional Relief), or 20.82.013 (Subdivision Violations).

H. Additional Notice to Others. The Director may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure, or post at a conspicuous place on the property, a notice which informs each recipient or resident about the Notice of Violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.

I. Recording. A copy of the Notice of Violation may be filed with the County Auditor when the responsible party fails to correct the violation and no appeal is filed, or the Director requests that the City Attorney take appropriate enforcement action. The Director may choose not to file a copy of the Notice or Order if the Notice or Order is directed only to a responsible person other than the owner of the property.

J. Amendment. A Notice or Order may be amended at any time in order to:

1. Correct clerical errors; or
2. Cite additional authority for a stated violation.

20.82.005 Time to comply. When calculating a reasonable time for compliance in the Notice of Correction or Notice of Violation, the Director shall consider the following criteria:

- A. The type and degree of violation cited in the Notice;
- B. The stated intent, if any, of a responsible party to take steps to comply;
- C. The procedural requirements for obtaining a permit to carry out corrective action;
- D. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and
- E. Any other circumstances beyond the control of the responsible party.

20.82.006 Stop Work Order.

A. Whenever a continuing violation of Titles 20 or 19 will materially impair the Director's ability to secure compliance, or when the continuing violation threatens the health or safety of the public, the Director has the authority to issue a Stop Work Order prohibiting any work or other activity at the site. The Stop Work Order shall be in writing and served upon persons engaged in doing such work or causing such work to be done. The Stop Work Order shall be immediately posted on the property. Failure to comply with a Stop Work Order shall constitute a violation of this chapter.

B. The Stop Work Order shall include the information in Section 20.82.004(B)(1) through (6). In addition, the Stop Work Order shall include a statement that the person to whom the Stop Work Order is directed or the property owner may file an appeal and request an expedited hearing with the Hearing Examiner within seven (7) calendar days after service of the Stop Work Order. If no appeal is filed and compliance is not achieved within the compliance date, the Director may ask the City Attorney to seek additional relief under Section 20.82.012 and/or the Director may file a Notice of Violation for the violation pursuant to 20.82.004, seeking compliance and describing penalties.

C. Expedited appeal. The Hearing Examiner shall hold the expedited appeal hearing on a Stop Work Order according to the applicable procedures in Section 20.82.009. If the Hearing Examiner finds that a violation has occurred which has not been corrected by the deadline established for compliance, the Director may ask the City Attorney to seek additional relief under Section 20.82.012 and/or the Director may issue a Notice of Violation for the violation pursuant to 20.82.004, describing penalties.

20.82.007 Emergency order.

A. Whenever any use or activity in violation of Title 20 or Title 19 threatens the health and safety of the occupants of the premises or any member of the public, the Director has the authority to issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall be immediately posted on the property and served on the person(s) responsible. Failure to comply with an Emergency Order shall constitute a violation of this Chapter.

B. The Emergency Order shall include all of the information in Section 20.82.004(B)(1) through (6). In addition, the Emergency Order shall include a statement that the person to whom the Emergency Order is directed may file an appeal and request an expedited hearing with the Hearing Examiner within seven (7) calendar days after service or posting of the Emergency Order. If no appeal is filed and compliance is not achieved, the Director may ask the City Attorney to seek additional relief under Section 20.82.012 and/or the Director may issue a Notice of Violation pursuant to 20.82.004, seeking compliance and penalties.

C. Expedited appeal. The Hearing Examiner shall hold the expedited appeal hearing on an Emergency Order according to the applicable procedures in 20.82.009. If the Hearing Examiner finds that the violation described in the Emergency Order occurred or exist, any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Director may ask that the City Attorney take

action to obtain a warrant of abatement for the property in Superior Court. The owner or person responsible (or both) shall be responsible for the costs associated with the abatement, in the manner provided by law.

20.82.008 Appeals and Mediation.

A. No appeal of a Notice of Violation citing criminal penalties. There is no administrative appeal of a Notice of Violation issued pursuant to 20.82.004 for violations which would subject the violator to criminal prosecution and/or the imposition of criminal penalties. A Notice of Violation or citation for a violation that subjects the violator to criminal penalties is enforced in municipal court.

B. Expedited Appeal Hearings on Stop Work and Emergency Orders. An expedited public hearing shall be held by the Hearing Examiner, according to the procedures in this Section, on an appeal of a Stop Work or Emergency Order, regardless of whether the violations described in the Stop Work Order or Emergency Order would eventually subject the violator to civil or criminal prosecution and/or the imposition of civil or criminal penalties. The expedited appeal hearing shall be for the sole purpose of determining whether the Stop Work or Emergency Order was correctly issued and/or whether a violation occurred.

C. Appeal Hearings on Notices of Violations Citing Civil Penalties. Unless an appeal of a Notice of Violation is filed with the Director in accordance with this Section, or an appeal involving an expedited hearing is filed, the Notice of Violation shall become the Final Order of the Director. The Final Order, including the collection of penalties, may be enforced by the City Attorney in Superior Court.

D. Standing to file appeal.

1. *Notice of Violation.* Only parties of record have standing to file an appeal of a Notice of Violation. Parties of record are defined to mean:

- a. The property owner or the person responsible for the condition of the property;
- b. Any person who can demonstrate that he/she is aggrieved by the decision; and
- c. The City Council.

2. *Stop Work Order and Emergency Order.* Only the property owner or the person responsible for the condition of the property may request an expedited appeal hearing for a Stop Work Order or Emergency order.

E. Time to file appeal.

1. Notice of Violation under 20.82.004. The party of record must file an appeal with the Director within fifteen (15) calendar days of service of the Notice of Violation.

2. Stop Work or Emergency Orders under 20.82.006 or 20.82.007. The property owner or the person responsible for the condition of the property may request an expedited appeal hearing within seven (7) calendar days after service of the Stop Work or Emergency Order.

3. Computing deadline for filing appeal. For purposes of computing the time for filing an appeal, the day the decision issued shall not be counted. If the last day of the deadline for filing the appeal is a Saturday, Sunday or holiday designated by RCW 1.16.050 or city ordinance, then the appeal must be filed on the next business day. Appeals shall be delivered to the Director by mail, by personal delivery or by fax before 5:00 p.m. on the last business day of the appeal period. Appeals received by mail after 5:00 p.m. on the last day of the appeal period will not be accepted, no matter when such appeals were mailed or postmarked.

E. Content of appeal. Appeals shall be in writing, be accompanied by the required appeal fee, and contain the following information:

1. Appellant's name, address and phone number;
2. A statement describing appellant's standing to appeal;
3. Appellant's statement of grounds for appeal and the facts upon which the appeal is based with specific references to the facts in the record;
4. The specific relief sought;
5. A statement that the appellant has read the appeal and believe the contents to be true, followed by the appellant's signature.

F. Effect. The timely filing of an appeal shall stay any enforcement action based on a Stop Work Order, Emergency Order or Notice of Violation until the Hearing Examiner's decision issues unless the Director finds that the violation causes an immediate threat to public health or safety.

G. Mediation. After an appeal is filed, either party (the appellant or the City) may contact the other party to request mediation. If mediation is desired by both parties, and they are in agreement on all mediation issues (whether a mediator will be hired to mediate the dispute, who will pay the cost of the mediator, when mediation will take place, where mediation will occur, etc.) scheduling of the appeal hearing shall be held in abeyance. The appellant's willful or negligent failure to appear at the mediation will terminate the mediation procedure, and the City will proceed to schedule the appeal hearing.

20.82.009 Appeal Hearing.

A. The public hearing on an appeal shall include the following elements and be conducted as follows:

1. The Hearing Examiner shall set the time and place of the hearing, and arrange for notice of the public hearing to be provided, except in cases involving an expedited

hearing. For expedited hearings, notice of the hearing shall be provided to the appellant and every reasonable effort shall be made to schedule the hearing within one week after receipt of the appeal.

2. A party to the appeal may participate personally or by an attorney.

4. The Hearing Examiner shall, at the appropriate stage in the proceeding, give all parties full opportunity to submit and respond to motions and file briefs and objections.

5. If the person requesting the hearing fails to attend or participate in the hearing (other than filing the timely request for an appeal hearing as provided in this chapter), the Hearing Examiner may issue a default order of dismissal.

6. To the extent necessary for full disclosure of all relevant facts and issues, the Hearing Examiner shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence.

7. The Hearing Examiner shall cause the hearing to be recorded by a method chosen by the City, which shall allow preparation of a verbatim transcript.

8. The hearing shall be open to public observation.

9. All testimony of parties and witnesses shall be made under oath or affirmation.

10. Ex parte communications shall be addressed as set forth in chapter 42.36 RCW.

11. The scope and standard of review shall be de novo. The City shall have the initial burden of proof in cases involving notices of violation, stop work orders, emergency orders or penalties, to demonstrate by a preponderance of the evidence the existence of a violation or that the legal standard for imposing the penalty has been met. The Examiner shall grant substantial weight or otherwise accord deference whenever directed by ordinance or statute.

12. After the conclusion of the public hearing, the Hearing Examiner may allow the parties a designated time for the submission of memos, briefs or proposed findings, as long as the Hearing Examiner can still issue his/her final decision according to any applicable deadline established by this chapter.

13. At or after the appeal hearing on a Notice of Violation, the Hearing Examiner may:

(a) Sustain the notice of violation;

(b) Withdraw the notice of violation;

(c) Continue the review to a date certain for receipt of additional information;

(d) Modify the notice of violation, which may include an extension of the compliance date.

D. Except with regard to expedited hearings, the Hearing Examiner shall issue written findings of fact and conclusions of law within 10 calendar days of the date of the completion of the hearing and shall cause the same to be mailed by regular first class mail to the person(s) named on the notice of violation, mailed to the complainant, if possible. A copy of the final decision may be recorded against the property in the County Auditor's office. The decision on expedited hearings shall issue within five (5) business days after the completion of the hearing.

E. The decision of the Hearing Examiner shall be final on a Notice of Violation, and no further administrative appeal may be filed. In order to appeal the decision of the Hearing Examiner on a Notice of Violation, a person with standing to appeal must file an appeal of the decision to superior court as provided under Chapter 36.70C RCW within the deadline set forth in RCW 36.70C.040. Following a finding of the Hearing Examiner of the existence of a violation at the appeal hearing, continuing penalties may be imposed by the provision of additional Notices of Violation and an opportunity for an appeal hearing. No additional penalty for a continuing violation may be imposed without the provision of additional Notices and opportunity for a hearing.

20.82.010 Civil Penalty.

A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of this chapter relating to the Zoning Code (Title 20), shall be subject to a penalty in the amount of two hundred fifty dollars (\$250.00).

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty. Each day of noncompliance with any of the provisions of the Zoning Code (Title 20) shall constitute a separate offense.

C. The violator may show as full or partial mitigation of liability:

1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another; or
2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

20.82.011 Criminal penalties.

A. Any person violating or failing to comply with any of the provisions of this chapter or the Zoning Code (Title 20) who has had a judgment entered against him or her pursuant to 20.82.010 or 20.82.011 for the same violation within the past five years shall be

subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding five thousand dollars (\$5,000) or be imprisoned for a term not exceeding one year or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this chapter or the Zoning Code, Title 20, shall constitute a separate offense.

B. The above criminal penalty may also be imposed:

1. For any other violation of the Zoning Code, Title 20, for which corrective action is not possible; and

2. For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of the Zoning Code, Title 20.

20.82.012 Additional relief.

The Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Zoning Code, Title 20 or Title ___, the Subdivision Code, when civil or criminal penalties are inadequate to effect compliance.

20.82.013 Penalties for Subdivision Violations.

A. Any person, firm, corporation or association or any agency or any person, firm, corporation or association who violates any provision of Subdivisions, Title 19, relating to the sale, offer for sale, lease or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor and each sale, offer for sale, lease or transfer of each separate lot, tract or parcel of land in violation of any provision of Subdivisions, Title 19, shall be deemed a separate and distinct offense and subject to a separate citation. Continuing fines may be imposed by the provision of additional Notice of Violations and an opportunity for hearing. No additional fine for a continuing violation may be imposed without the provision of notice and the opportunity for hearing.

B. Whenever land within a subdivision granted final approval is used in a manner or for a purpose which violates any provision of Subdivisions, Title 19, or any condition of plat approval prescribed for the plat by the city, the City Attorney may commence an action to restrain and enjoin such use and compel compliance with the provisions of Subdivisions, Title 19, or with such terms and conditions. The costs of such action shall be taxed against the violator.

Section 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or

unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Effective Date. This Ordinance shall become effective within five days after publication as provided by law.

ADOPTED by the City Council of the City of Pacific, signed by the Mayor and attested by the City Clerk in authentication of such passage on this 11th day of August, 2014.

Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

FILED WITH THE CITY CLERK: 08/01/14
PASSED BY THE CITY COUNCIL: 08/xx/14
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO: 2014-1868



Agenda Bill No. 14-144

TO: Mayor Guier and City Council Members
FROM: Richard Gould, City Administrator
MEETING DATE: August 18, 2014
SUBJECT: Waste Management Contract Extension and New Contract Service Options

ATTACHMENTS: **Franchise Agreement Extension Ordinance No. 2014-1870**
Third Amendment to Franchise Agreement
Pacific Contract Options

Previous Council Review Date: None

Summary: The current agreement with Waste Management expires on August 28, 2014. The city intends to negotiate a new franchise agreement with Waste Management that will start on July 1, 2015. In order to allow time for the City and Waste Management to negotiate a new agreement, an extension to the franchise agreement is suggested for August 28, 2014 through June 30, 2015.

Recommendation/Action: Enter into the amendment to the franchise agreement with Waste Management to ensure uninterrupted service.

Motion for Consideration: "I move to adopt Ordinance 2014-1870 authorizing the mayor to enter into an amendment of the franchise agreement with Waste Management of Washington, Inc. for solid waste collection services to extend the agreement from August 28, 2014 through June 30, 2015 to allow for a new franchise agreement to be negotiated."

Budget Impact:

Alternatives:

**CITY OF PACIFIC
WASHINGTON**

ORDINANCE NO. 2014-1870

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON,
AUTHORIZING THE MAYOR TO ENTER INTO THE THIRD
AMENDMENT OF THE FRANCHISE AGREEMENT WITH WASTE
MANAGEMENT OF WASHINGTON, INC. FOR SOLID WASTE
COLLECTION SERVICES TO EXTEND THE FRANCHISE UNTIL JUNE
30, 2015.**

WHEREAS, in 2007 the City entered into a Franchise with Waste Management for collection and disposal of solid wastes, collected within the King County portion of the City of Pacific (the “Franchise Agreement”) and the City extended the Agreement by letter dated March 5, 2012 until August 28, 2014; and

WHEREAS, the City intends to negotiate a new Franchise Agreement with Waste Management of Washington, Inc. to commence on July 1, 2015; and

WHEREAS, to allow sufficient time for the City and Waste Management of Washington, Inc. to negotiate a new Franchise Agreement, it is in the best interests of the citizens of Pacific to amend and extend the current Franchise Agreement to ensure uninterrupted solid waste collection services for the period from August 28, 2014 through June 30, 2015;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. The Pacific City Council hereby authorizes the Mayor to enter into the Third Amendment to the Franchise Agreement with Waste Management of Washington, Inc. (which is attached as Exhibit A) for collection and disposal services of solid wastes for the King County portion of the City of Pacific.

Section 2. This Ordinance shall be published in the official newspaper of the City of Pacific and shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE
____TH DAY OF AUGUST, 2014.

CITY OF PACIFIC

By: _____
Name: Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

Carol Morris, City Attorney

**THIRD AMENDMENT TO FRANCHISE AGREEMENT
BETWEEN THE CITY OF PACIFIC
AND
WASTE MANAGEMENT OF WASHINGTON, INC.**

This AMENDMENT TO FRANCHISE AGREEMENT (“Amendment”) is made and entered into by and between the City of Pacific, a Washington municipal corporation (“Franchisor”) and Waste Management of Washington, Inc. dba Waste Management South Sound (“Franchisee”). Franchisor and Franchisee may be collectively referred to herein as the “Parties” and individually as a “Party”, unless specifically identified otherwise. This Agreement shall be effective upon the Effective Date as defined below.

RECITALS

WHEREAS in 2007, the Parties entered into the *Franchise Agreement Between The City of Pacific and Waste Management of Washington, Inc.* (the “Franchise”) for the for the collection, transportation, and disposal of Solid Waste, Recyclables, and Compostables within the portions of the City of Pacific located in King County, Washington;

WHEREAS by letter dated March 5, 2012, Franchisor requested, and Franchisee agreed to, a two-year extension of the Franchise for the period August 28, 2012 until August 28, 2014; and

WHEREAS the Parties wish to further extend the Franchise until June 30, 2015 in order to allow sufficient time for the Parties to negotiate a new franchise agreement for the collection of solid waste, recyclables, and compostables within the entire city limits of the City of Pacific, including those portions of the City located within King County and Pierce County;

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties mutually agree, represent, and warrant as follows:

1. **Extension of Franchise.** Section 3 of the Franchise is revised in its entirety to read as follows:

*3. **Term of Agreement.** The term of this Agreement shall commence on the Effective Date and, unless sooner terminated in accordance with the provisions of this Agreement, and shall expire on June 30, 2015, unless the Parties mutually agree in writing to extend the term of the Agreement.*

2. **Other Terms Unaffected.** Except as expressly provided herein, all other terms and conditions of the Franchise shall remain in full force and effect.

3. **Effective Date.** The Effective Date of this Amendment shall be August 28, 2014.

* * *

IN WITNESS WHEREOF, the Parties enter into this Agreement. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Agreement by the Party on whose behalf it is indicated that the person is signing.

CITY OF PACIFIC

By: _____
Name: Mayor Leanne Guier
Date: _____

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

Carol Morris, City Attorney

**WASTE MANAGEMENT OF
WASHINGTON, INC.**

By: _____
Name: Jason Rose
Title: President
Date: _____



Agenda Bill No. 14-145

TO: Mayor Guier and City Council Members

FROM: Richard Gould, City Administrator

MEETING DATE: August 18, 2014

SUBJECT: Murrey's Disposal Contract Extension

ATTACHMENTS: **Franchise Agreement Extension Ordinance No. 2014-1871
Second Amendment to Franchise Agreement**

Previous Council Review Date: None

Summary: The current agreement with Murrey's Disposal expires on August 28, 2014. The city intends to negotiate a new franchise agreement with Waste Management that will start on July 1, 2015. In order to allow time for the City and Waste Management to negotiate a new agreement, an extension to the franchise agreement for solid waste collection in the Pierce County portion of the city is suggested for August 28, 2014 through June 30, 2015.

Recommendation/Action: Enter into the amendment to the franchise agreement with Murrey's Disposal to ensure uninterrupted service.

Motion for Consideration: "I move to adopt Ordinance 2014-1871 authorizing the mayor to enter into an amendment of the franchise agreement with Murrey's Disposal. for solid waste collection services."

Budget Impact:

Alternatives:

CITY OF PACIFIC
WASHINGTON

ORDINANCE NO. 2014-1871

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING THE MAYOR TO ENTER INTO AMENDMENT NO. 2 TO THE FRANCHISE AGREEMENT DATED NOVEMBER 6, 2007 WITH MURREY'S DISPOSAL COMPANY, INC. FOR SOLID WASTE AND RECYCLABLES COLLECTION SERVICES, EXTENDING THE FRANCHISE UNTIL JUNE 30, 2015.

WHEREAS, the franchise agreement with Murrey's Disposal Company, Inc. ("Murrey's Disposal") for collection and disposal of solid wastes collected within the Pierce County portion of the City of Pacific (the "City"), dated November 6, 2007, (the "Franchise Agreement") as extended by that certain Amendment No. 1 to Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific dated May 22, 2012 (the "Franchise Amendment No. 1"), expires August 28, 2014; and

WHEREAS, the City intends to negotiate a new Franchise Agreement with Murrey's Disposal to commence July 1, 2015; and

WHEREAS, to allow sufficient time for the City and Murrey's Disposal to negotiate a new Franchise Agreement, it is in the best interests of the citizens of the City to amend and extend the Franchise Agreement to ensure uninterrupted solid waste and recyclables collection services for the period from August 28, 2014 through June 30, 2015.

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

Section 1. The Pacific City Council hereby authorized the Mayor to enter into Amendment No. 2 to the Franchise Agreement with Murrey's Disposal (which is attached as Exhibit A) for collection and disposal services of solid wastes and recyclables for the Pierce County portion of the City of Pacific, to extend the Franchise Agreement until June 30, 2015.

Section 2. This Ordinance shall be published in the official newspaper of the City of Pacific and shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ____ DAY OF AUGUST, 2014.

CITY OF PACIFIC

By: _____
Name: Leanne Guier, Mayor

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

Carol Morris, City Attorney

AMENDMENT NO. 2
TO
FRANCHISE AGREEMENT FOR COLLECTION OF SOLID WASTE AND
RECYCLABLES WITHIN ANNEXED AREAS IN THE CITY OF PACIFIC

This AMENDMENT TO FRNACHISE AGREEMENT (“Amendment”) is made and entered into by and between the City of Pacific, a Washington municipal corporation (“Franchisor”) and Murrey’s Disposal Company, Inc., a Washington corporation (“Franchisee”). Franchisor and Franchisee may be collectively referred to herein as the “Parties” and individually as a “Party”, unless specifically identified otherwise. This Amendment shall be effective upon the Effective Date as defined below.

RECITALS

WHEREAS, on November 6, 2007, the Parties entered into the *Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific* (the “Franchise”) for the collection, transportation, and disposal of Solid Waste and Recyclables within the portions of the City of Pacific located in Pierce County, Washington; and

WHEREAS, by that certain *Amendment No. 1 to Franchise Agreement for Collection of Solid Waste and Recyclables Within Annexed Areas in the City of Pacific*, dated May 22, 2012, Franchisor requested, and Franchisee agreed to, a two year extension of the Franchise for the period of August 28, 2012 through August 28, 2014; and

WHEREAS, the Parties wish to further extend the Franchise until June 30, 2015 in order to allow sufficient time for the Parties to negotiate a new franchise agreement for the collection of solid waste, recyclables and compostables within the entire city limits of the City of Pacific, including those portions of the City located within King County and Pierce County.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the Parties mutually agree, represent and warrant as follows:

1. **Extension of Franchise.** Section 3 of the Franchise is revised in its entirety to read as follows:

3. Term of Agreement. The term of this Agreement shall commence on the Effective Date and, unless sooner terminated in accordance with the provisions of this Agreement, and shall expire on June 30, 2015, unless the Parties mutually agree in writing to extend the term of the Agreement.

2. **Other Terms Unaffected.** Except as expressly provided herein, all other terms and conditions of the Franchise shall remain in full force and effect.

3. **Effective Date.** The Effective Date of this Amendment shall be August 28, 2014.

* * *

IN WITNESS WHEREOF, the Parties enter into this Amendment. Each person signing this Agreement represents and warrants that he or she has been duly authorized to enter into this Amendment by the Party on whose behalf it is indicated that the person is signing.

CITY OF PACIFIC

By: _____
Name: Leanne Guier, Mayor
Date: _____

ATTEST/AUTHENTICATED:

Amy Stevenson-Ness, City Clerk

Approved as to form:

Carol Morris, City Attorney

MURREY'S DISPOSAL COMPANY, INC.

By: _____
Name: _____
Title: _____
Date: _____



Agenda Bill No. 14-146

TO: Mayor Guier and City Council Members
FROM: Council Member Walker
MEETING DATE: August 18, 2014
SUBJECT: Discussion regarding speed limit on Frontage Road

ATTACHMENTS:

Previous Council Review Date:

Summary: While West Valley Highway was closed due to landslide activity, traffic was detoured onto Frontage Road. The speed limit on Frontage was reduced to 25 mph for safety reasons during the detour.

Council Member Walker has requested a discussion regarding the reduction of the speed limit on Frontage Road.

Recommendation/Action:

Motion for Consideration: "I move to. approve"

Budget Impact:

Alternatives:

AGENDA ITEM NO. 4D



AGENDA ITEM NO. 4E

Agenda Bill No. 14-147

TO: Mayor Guier and City Council Members
FROM: Council Member Walker
MEETING DATE: August 18, 2014
SUBJECT: Parliamentary Training for Boards and Commissions

ATTACHMENTS:

Previous Council Review Date:

Summary: Council Member Walker requested a discussion regarding possible parliamentary training for advisory boards and commissions.

Recommendation/Action:

Motion for Consideration: "I move to. approve"

Budget Impact:

Alternatives:

AGENDA ITEM NO. 4E