



**PACIFIC CITY COUNCIL AGENDA**  
**Council Chambers - City Hall. 100 3<sup>rd</sup> Ave. SE**

**February 3, 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**
  - A. AB 14-017: Vending Machine Presentation** (5 min.)  
(Darcie Thach)
  - B. AB 14-018: Ordinance No. 14-1856: Stormwater Rate Increase** (10 min.)  
(Ken Barnett)
  - C. AB 14-019: Resolution No. 14-104: Water Rate Increase** (10 min.)  
(Ken Barnett)
  - D. AB 14-020: Resolution No. 14-105: Sewer Rate Increase** (10 min.)  
(Ken Barnett)
  - E. AB 14-021: Resolution No. 14-106: Approving the Park Board's participation** (10 min.)  
in the 2014 Earth Day Event;  
**and Resolution No. 14-107: Approving Park Board participation**  
in Pacific Days.  
(Paula Wiech)
  - F. AB 14-022: Resolution No. 14-108: Purchase of replacement Public Works** (5 min.)  
vehicle.  
(Ken Barnett)
  - G. AB 14-023: Resolution No. 14-109: Hiring of a temporary file clerk.** (5 min.)  
(Amy Stevenson-Ness)
  - H. AB 14-012: Sound Cities Association position on the formation of a** (10 min.)  
Transportation Benefit District by the King County Council.  
(Mayor Guier)
  - I. AB 14-016: Ordinance 14-1855: Interim zoning ordinance related to recreational** (10 min.)  
and medical marijuana.  
(Paula Wiech)
- 5. ADJOURN**

***Council may add and take action on other items not listed on this agenda unless specific notification period is required.***

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.

Meeting materials are available on the City's website at: [www.cityofpacific.com](http://www.cityofpacific.com) or by contacting the City Clerk's office at (253) 929-1105.



**Agenda Bill No. 14-017**

**TO:** Mayor Guier and City Council Members  
**FROM:** Darcie Thach, Assistant Director Community Services  
**MEETING DATE:** February 3, 2014  
**SUBJECT:** Tummy Yummies LLC. Vending Machines

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**ATTACHMENTS:** Contract

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**Previous Council Review Date:** none

**Summary:** Accept Contract for Tummy Yummies LLC, for vending machines. To be possibly located in the Senior Center, and in City Hall by Court.

**Recommendation/Action:** Recommend to accept contract for Tummy Yummies LLC.

**Motion for Consideration:** I move to approve the contract for Tummy Yummies LLC, to locate vending machines in the Senior Center and in City Hall.

**Budget Impact:**

**Alternatives:**

**AGENDA ITEM NO. 4A**

## Service Agreement

Date \_\_\_\_\_

Operator: Tummy Yummies LLC

Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Service Address: \_\_\_\_\_

### Terms

1. Exclusive Vending Right

Company hereby grants, during the term hereof, including any extension terms, the right to Tummy Yummies LLC to sell and dispense, by coin-operated vending machines, or otherwise, food, candy, non-alcoholic beverages at Company's premises, identified above, or such other premises to which Company may subsequently move its business operations.

2. Terms/Extension of Term

a. The term of this Agreement shall be for a period of \_\_\_\_ years, beginning on the \_\_\_\_ day of \_\_\_\_, and ending on the \_\_\_\_ day of \_\_\_\_\_. However, the term shall automatically be extended for a similar period of time unless either party gives to the other party ninety (90) days written notice of intent to terminate prior to the end of the initial term or the end of an extended term, as the case may be.

b. Tummy Yummies LLC has agreed to pay 10% of profit from the vending machine installed at the Company premises to be made payable to the

\_\_\_\_\_  
This payment shall be made on a quarterly basis.

3. Obligation of Tummy Yummies LLC

As the vendor, Tummy Yummies LLC shall be responsible to:

a. Furnish vending machines and related apparatus, as Tummy Yummies LLC determines appropriate and necessary, to adequately and properly service the needs of the Company.

- b. Install, service and maintain the vending machines and apparatus and to regularly keep the machines stocked with current, fresh, and marketable products.
- c. Pay, when due, all governmental licenses fees or permits resulting from the placement or use of the vending machines or apparatus on Company's premises,

4. Obligation of Company

Company shall be responsible to:

- a. Allow the installation and placement of the vending machines and apparatus in prominent locations inside Company's premises, and further, to allow the replacement and removal of the said machines or apparatus as determined appropriate from time to time by Tummy Yummies, LLC.
- b. Provide utility services (electricity and/or water) connections to the place where the vending machines and/or apparatus is to be situated, and to pay current, all utility charges arising from the use and operation of the said machines and apparatus on Company's premises.

5. Ownership of Vending Machines and Apparatus

All vending machines, related apparatus, product, and coin/cash in the machines or apparatus shall be owned exclusively by Tummy Yummies LLC and the Company shall have no right of ownership, claim of lien, or other ownership right of the said machines and apparatus on Company's premises.

6. Default-Termination

If either party fails to perform its obligations under this contract, the other party shall have the right to give to the party who has failed to perform its obligations thirty (30) days written notice of the breach by registered mail. If the breach, as specified in the notice, is not cured within the said 30 day period, then the party sending the notice shall have the right to terminate this contract.

Tummy Yummies LLC

By: \_\_\_\_\_

Title: \_\_\_\_\_

Company \_\_\_\_\_

Title \_\_\_\_\_



**Agenda Bill No. 14-018**

**TO:** Mayor Guier and City Council Members

**FROM:** Public Works

**MEETING DATE:** February 3, 2014

**SUBJECT:** Stormwater Rates

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**ATTACHMENTS:** Ordinance 14 - 1856

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**Previous Council Review Date:** N/A

**Summary:** The City Council last increased the Water Rates effective January 1, 2011. Due to projected inflation of cost of expenditures, planned capital projects, it is necessary to raise the City sewer rates. The proposed Ordinance would make the rates effective March 1, 2014

**Recommendation/Action:** Staff recommends Council approve Ordinance No. 2014-1856

**Motion for Consideration:** Move to approve Ordinance No.14 - 1856 , AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON AMENDING PMC 24.16 RELATING TO STORMWATER UTILITY RATES.

**Budget Impact:** The proposed rate increase would increase the Sewer Fund revenues by an estimated \$45,000 each year.

**Alternatives:** Modify the rates or deny the ordinance. City Council choosing either alternative will require scheduling special meetings to begin making decisions on modifications to the 2014 Budget.

**AGENDA ITEM NO. 4B**

**CITY OF PACIFIC  
WASHINGTON**

**ORDINANCE NO. 14-1856**

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON AMENDING  
ORDINANCE NO. 1709 RELATING TO STORMWATER UTILITY RATES**

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**WHEREAS**, Ordinance No. 1527 amended Ordinance No. 1497, which amended Ordinance No. 1441, that established Pacific Municipal Code 24.16 Stormwater Utility Rates and Charges; and

**WHEREAS**, City of Pacific Storm Water rates were last adjusted by City Council in 2009; and

**WHEREAS**, the City of Pacific is now mandated by its Western Washington Phase II Storm Water Permit (issued by the WA Department of Ecology) to implement and demonstrate compliance with 14 Stormwater Program Elements; and

**WHEREAS**, the Pacific City Council recognizes that an increase of the Storm Water Utility rates are necessary to meet compliance with the permit and provide funding for operation and future capital improvements, based upon the results of the study and;

**WHEREAS**, a public hearing on the proposed rate increase was held before City Council on January 27, 2014,

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

Section 1. Pacific Municipal Code Section 24.16.050 is amended as follows:

A. For all detached single-family residences and mobile homes (One Equivalent Residential Unit), the monthly Service Charge shall be ~~\$10.71~~ **\$13.00** per month.

B. For all other developed properties, the monthly Service Charge shall be ~~\$10.71~~ **\$16.00** per month for the first Equivalent Residential Unit per account plus the number of additional Equivalent Residential Units determined by the Utility to be contained in such parcel pursuant to Section 3 hereof multiplied by ~~\$5.71~~ **\$5.75** for those properties with approved stormwater facilities or ~~\$10.71~~ **\$16.00** for those properties without approved facilities.

C. Reduced Rates for Low Income Senior Citizens and/or Low Income Disabled Customers. Any full-time occupant responsible for the payment of a monthly stormwater charge shall be granted a 15 percent discount from the otherwise applicable rate if the person is at least 62 years of age, and/or is 18 years of age or older and has been awarded in writing a 50 percent or higher disability rating from any state of Washington and/or federal agency/program, and meets the low-income guidelines as determined by the U.S. Department of Housing and Urban Development (HUD) for taxable household income and has properly filled out an application as required requesting such reduction. Staff is directed to establish and implement a review/re-application process to ensure the integrity of those accounts receiving the discount.

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

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five days after the date of publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PACIFIC AT A REGULAR MEETING THEREOF ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

APPROVED:

\_\_\_\_\_  
LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
AMY STEVENSON-NESS, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
KEN LUCE, CITY ATTORNEY



**Agenda Bill No. 14-019**

**TO:** Mayor Guier and City Council Members

**FROM:** Public Works

**MEETING DATE:** February 3, 2014

**SUBJECT:** Water Rates

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**ATTACHMENTS:** Resolution 14 - 104

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**Previous Council Review Date:**

**Summary:** The City Council last increased the Water Rates effective January 1, 2011. Due to projected inflation of cost of expenditures, planned capital projects, and a projected slow down in revenues it is necessary to raise the City water rates. The proposed Resolution would make the rates effective March 1, 2014

**Recommendation/Action:** Staff recommends Council approve Resolution No. 14-104.

**Motion for Consideration:** Move to approve Resolution No.14 - 104, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON ESTABLISHING NEW WATER RATES.

**Budget Impact:** The proposed rate increase would increase the Water Fund revenues by an estimated \$15,000 each year.

**Alternatives:** Modify the rates or deny the resolution. City Council choosing either alternative will require scheduling special meetings to begin making decisions on modifications to the 2014 Budget.

**AGENDA ITEM NO. 4C**

**CITY OF PACIFIC, WASHINGTON  
RESOLUTION NO. 14-104**

**A RESOLUTION OF CITY OF PACIFIC, WASHINGTON,  
ESTABLISHING NEW WATER RATES**

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**WHEREAS**, Ordinance No. 1528 established a water fee schedule and provided that the City Council may amend or replace the fee schedule included therein by means of Resolution; and

**WHEREAS**, it is necessary for the City to increase its water rates to cover future treatment, system maintenance and operations charges; and

**WHEREAS**, the Department of Health requires the City to promote water conservation. The City charges it's customers on an inclining block rate system in which, the amount paid per unit increases when larger amounts of water is consumed ; and

**WHEREAS**, a public hearing on the proposed rate increase was held before City Council on January 27, 2014,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AS FOLLOWS:**

**Section 1.** A. The monthly rate for water supplied by meter inside the City Limits shall be as follows:

**IN CITY CHARGES**

<b>Meter Size (inches)</b>	<b>Base Rate</b>	<b>Tier 1</b> \$2.00/CCF	<b>Tier 2</b> \$3.00/CCF	<b>Tier 3</b> \$4.00/CCF
5/8	\$ 12.00	1 - 7	7.1 - 14	> 14.1
1	\$ 24.00	1 - 14	14.1 - 28	> 28.1
1.5	\$ 51.00	1 - 31	31.1 - 73	> 73.1
2	\$ 79.00	1 - 49	49.1 - 98	> 98.1
3	\$147.00	1 - 91	91.1 - 182	> 182.1
4	\$248.50	1 - 154	154.1 - 308	> 308.1
6	\$497.00	1 - 308	308.1 - 616	> 616.1

Multi-Family units are charged a base rate for each living unit on the receiving side of the meter. Tier rates are multiplied by the number of base units charged (i.e. a triplex will be charged the first tier rate for 1 – 21 CCF, second tier rates for 21.1 – 42 CCF, etc.).

B. The monthly rates for water supplied by meter outside the City Limits shall be as follows:

**OUTSIDE CITY CHARGES**

<b>Meter Size (inches)</b>	<b>Base Rate</b>	<b>Tier 1</b> \$2.20/CCF	<b>Tier 2</b> \$3.30/CCF	<b>Tier 3</b> \$4.40/CCF
5/8	\$ 13.20	1 - 7	7.1 - 14	> 14.1
1	\$ 26.40	1 - 14	14.1 - 28	> 28.1
1.5	\$ 56.10	1 - 31	31.1 - 73	> 73.1
2	\$ 86.90	1 - 49	49.1 - 98	> 98.1
3	\$161.70	1 - 91	91.1 - 182	> 182.1
4	\$273.35	1 - 154	154.1 - 308	> 308.1

6            \$546.70    1 - 308            308.1 - 616    > 616.1

C. The following surcharges shall continue in effect for those customers of the City formerly served by the Webstone Water District:

<b>USER CATEGORY</b>	<b>BASE CHARGE</b>	<b>USE CHARGE</b>
RESIDENTIAL (5/8"meter)	\$5.00	\$0.50
COMMERCIAL (5/8" meter)	\$5.00	\$0.50
COMMERCIAL (1" meter)	\$10.00	\$0.50
COMMERCIAL (1 1/2" meter)	\$25.00	\$0.50
COMMERCIAL (2" meter)	\$35.00	\$0.50
COMMERCIAL (3" meter)	\$65.00	\$0.50
COMMERCIAL (4" meter)	\$110.00	\$0.50
COMMERCIAL (6" meter)	\$220.00	\$0.50

**Section 2.** This Resolution shall be published in the official newspaper of the City and shall take effect March 1, 2014.

APPROVED BY THE CITY COUNCIL ON \_\_\_\_\_, 2014.

\_\_\_\_\_  
LEANNE GUIER, MAYOR

ATTEST:

\_\_\_\_\_  
AMY STEVENSON-NESS, CITY CLERK

Approved as to form:

\_\_\_\_\_  
KEN LUCE, CITY ATTORNEY

Filed with the City Clerk: January 29, 2014  
Passed by the City Council:  
Date Posted:



**Agenda Bill No. 14-019**

**TO:** Mayor Guier and City Council Members

**FROM:** Public Works

**MEETING DATE:** February 3, 2014

**SUBJECT:** Sewer Rates

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**ATTACHMENTS:** Resolution 14 - 105

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**Previous Council Review Date:** N/A

**Summary:** The City Council last increased the Water Rates effective January 1, 2011. Due to projected inflation of cost of expenditures, planned capital projects, and a projected slow down in revenues it is necessary to raise the City sewer rates. The proposed Resolution would make the rates effective March 1, 2014.

**Recommendation/Action:** Staff recommends Council approve Resolution No. 14-105

**Motion for Consideration:** Move to approve Resolution No.14 - 105, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON ESTABLISHING NEW SEWER RATES.

**Budget Impact:** The proposed rate increase would increase the Sewer Fund revenues by an estimated \$50,000 each year.

**Alternatives:** Modify the rates or deny the resolution. City Council choosing either alternative will require scheduling special meetings to begin making decisions on modifications to the 2014 Budget.



**CITY OF PACIFIC, WASHINGTON  
RESOLUTION NO. 14-105**

**A RESOLUTION OF CITY OF PACIFIC, WASHINGTON,  
ESTABLISHING NEW SANITARY SEWER RATES**

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**WHEREAS**, The City of Pacific operates and maintains a wastewater collection system which is conveyed to King County for treatment; and

**WHEREAS**, King County has increased the rate it charges the City of Pacific for wastewater treatment; and

**WHEREAS**, it is necessary for the City to increase its sewer charges to cover King County's treatment charges and additional costs for system maintenance and operations; and

**WHEREAS**, a public hearing on the proposed rate increase was held before City Council on January 27, 2014; and

**WHEREAS**, Pacific Municipal Code Ordinance #1515 set forth the process for changing future sanitary sewer rates by resolution;

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AS FOLLOWS:**

**Section 1.** Monthly Sanitary Sewer Rate

A. Single Family Residential: Single-Family Residences, Manufactured Homes, Mobile Homes:  
\$59.79 for each residential unit (\$39.79 Metro Charge and \$20.00 City of Pacific charge)

B. Non-Residential and Multiple Residential Uses:

Charges will be based on water usage as determined by water meter readings with a basic unit price of \$59.79 charged for the first 700 cubic feet of water consumption. Fractions of cubic feet over 700 cubic feet will be charged at \$8.54 per 100 cubic feet. A minimum \$59.79 will be charged for non-residential and multi-family residential use (duplexes, apartments, mobile home parks, etc.).

**Section 2.** This Resolution shall be published in the official newspaper of the City and shall take effect March 1, 2014.

APPROVED BY THE CITY COUNCIL ON \_\_\_\_\_, 2014.

\_\_\_\_\_  
LEANNE GUIER, MAYOR

ATTEST:

\_\_\_\_\_  
AMY STEVENSON-NESS, CITY CLERK

Approved as to form:

\_\_\_\_\_  
KEN LUCE, CITY ATTORNEY





**Agenda Bill No. 14-021**

**TO:** Mayor Guier and City Council Members  
**FROM:** Paula Wiech, Planner  
**MEETING DATE:** February 3, 2014  
**SUBJECT:** **Park Board Earth Day and Pacific Days Events**

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**ATTACHMENTS:**

Draft Resolution No. 14-106, Approving Park Board participation in 2014 Earth Day events.  
Draft Resolution No. 14-107, Approving Park Board participation in 2014 Pacific Days events.

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**Previous Council Review Date:**

**Summary:** Park Board duties are established by Pacific Municipal Code Chapter 2.38.050 Powers and Duties; and 2.38.050 (D) provides that the Board shall perform such other services and studies as may be requested by the City Council.

Earth Day Event, Resolution No. 14-106: To engage the community with their parks, open space and trails, the Park Board has co-sponsored (with other organizations such as Friends of the Lower White River and Pacific Partnerships) an annual “Earth Day” Clean Up for many years. This year’s Earth Day event will be based on the Green Cities Campaign for Earth Day 2014, which is focused on three key elements: buildings, energy and transportation. No trash pickup contest will be held in Pacific. The Pacific event is planned to include an Informational Fair with vendor displays, recycling/trash drop off, a lunch, and other activities to involve all members of the community. It is scheduled for April 26, 2014.

Pacific Days Event, Resolution No. 14-107: Pacific Partnerships has annually hosted “Pacific Days” for several years. This event provides community building, tourism and participation in the City Parks. The Park Board would like to co-sponsor 2014 events with Pacific Partnerships in Pacific City Park. The event is slated to be held July 11<sup>th</sup> – 13<sup>th</sup> 2014.

**Recommendation/Action:**

Discussion of current City insurance issues, including the Pacific Days Parade and other events.  
Discussion of City funds available for Earth Day, Pacific Days, and other community events.  
Approval of both Resolutions, as necessarily amended.

**Motions for Consideration:** Approve Resolution No 14-106: Pacific Park Board Participation in an April 26, 2014 Earth Day event; Approve Resolution No 14-107: Pacific Park Board Participation in the 2014 Pacific Days events.

**Budget Impact:**

**Alternatives:**

Revised 09/26/13



**CITY OF PACIFIC  
WASHINGTON**

**RESOLUTION NO. 14-106**

**A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, APPROVING THE  
PARK BOARD'S PARTICIPATION IN THE 2014 EARTH DAY EVENT**

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**WHEREAS**, the Park Board duties are established by Pacific Municipal Code Chapter 2.38.050 Powers and duties; and

**WHEREAS**, 2.38.050 (D) provides that the Board shall perform such other services and studies as may be requested by the City Council; and

**WHEREAS**, as a mechanism to engage the community of Pacific to take pride in their city, the Park Board would like to co-sponsor (with other organizations such as Friends of the Lower White River and Pacific Partnerships) the annual "Earth Day" event. The event, which will include a lunch and other activities to educate and involve all members of the community, is slated to be held on April 26, 2014; and

**WHEREAS**, as a result of this "sponsorship" and the benefit to City facilities, fees associated with the use of the City Hall Campus facilities, will be gratis in accordance with the terms of the most recently adopted City Fee Schedule; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF PACIFIC, WASHINGTON:**

**Section 1.** The Pacific City Council hereby requests the Park Board to co-sponsor, assist in the planning and to participate in the annual Earth Day event, to be held on April 26, 2014.

**Section 2.** This Resolution shall take effect and be in force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING THEREOF  
ON THE 10th DAY OF FEBRUARY 2014.**

CITY OF PACIFIC

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Leanne Guier, Mayor

FILED WITH THE CITY CLERK: January 29, 2014  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO. 14-106

ATTEST:

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Amy Stevenson-Ness, City Clerk

Approved as to Form

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Kenyon Luce, City Attorney

FILED WITH THE CITY CLERK: 12.10.12  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO. 12-1222

**CITY OF PACIFIC  
WASHINGTON**

**RESOLUTION NO. 14-107**

**A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, APPROVING  
THE PARK BOARD'S PARTICIPATION IN THE 2014 PACIFIC DAYS EVENT**

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**WHEREAS**, the Park Board duties are established by Pacific Municipal Code Chapter 2.38.050 Powers and duties; and

**WHEREAS**, 2.38.050 (D) provides that the Board shall perform such other services and studies as may be requested by the City Council; and

**WHEREAS**, Pacific Partnerships annually hosts "Pacific Days" that provides community building, tourism and participation in the City Parks; and

**WHEREAS**, the Park Board would like to co-sponsor with Pacific Partnerships the 2014 annual "Pacific Days" event, held in Pacific's River Park. The event is slated to be held July 11<sup>th</sup> – 13<sup>th</sup> 2014; and

**WHEREAS**, as a result of this "sponsorship" and the benefit to the City and its' facilities, fees associated with the use of the City facilities will be gratis in accordance with the terms of the most recently adopted City Fee Schedule; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF PACIFIC, WASHINGTON:**

**Section 1.** The Pacific City Council hereby requests the Park Board to co-sponsor, assist in the planning and to participate in the annual Pacific Days event.

**Section 2.** This Resolution shall take effect and be in force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING  
THEREOF ON THE 10TH DAY OF FEBRUARY 2014.**

CITY OF PACIFIC

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Leanne Guier, Mayor

FILED WITH THE CITY CLERK: January 29, 2014  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO. 14-107

ATTEST:

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Amy Stevenson-Ness, City Clerk

Approved as to Form

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Kenyon Luce, City Attorney

FILED WITH THE CITY CLERK: 12.10.12  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO. 12-1222

**AGENDA ITEM NO. 4F**



**Agenda Bill No. 14-022**

**TO:** Mayor Guier and City Council Members  
**FROM:** Ken Barnett, Public Works Director  
**MEETING DATE:** February 3, 2014  
**SUBJECT:** Replacement Public Works Vehicle

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**ATTACHMENTS:** Resolution No. 14- 108

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**Previous Council Review Date:** N/A

**Summary:**

The current Public Works staff vehicle is a 1998 Chevrolet Astro Van that is in poor condition with 90,977 miles.

**Recommendation/Action:**

Authorize up to \$15,000.00 for purchase of a used Vehicle

**Motion for Consideration:**

Move to authorize the Public Works Director to purchase a used vehicle not to exceed \$15,000.00 as per Resolution No. 14- 108

**Budget Impact:**

\$15,000.00 from Equipment Replacement. Water, and Stormwater Fund

**Alternatives:**

**AGENDA ITEM NO. 4F**

**City of Pacific  
Washington**

**RESOLUTION NO. 14 - 108**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON  
AUTHORIZING THE PURCHASE OF A NEW OR USED VEHICLE FOR PUBLIC WORKS.**

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**WHEREAS**, the Public Works Department does have an Equipment Replacement Fund, and

**WHEREAS**, the Public Works Department does have a need for a new vehicle, and

**WHEREAS**, the vehicle to be replaced is a 1998 Chevrolet Astro Van in poor condition with 90,977 miles, and

**WHEREAS**, City Public Works staff need authorization and a budget amount to negotiate, and

**WHEREAS**, funds are available in the 2014 budget in the Water and Stormwater fund to purchase the vehicle,

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC,  
WASHINGTON**

**Section 1.** The Pacific City Council hereby authorizes the purchase of a used vehicle not to exceed \$15,000.00, and to be of low mileage.

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

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE XX<sup>th</sup> DAY OF  
FEBRUARY, 2014.**

CITY OF PACIFIC

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Leanne Guier, Mayor

Attest:

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Amy Stevenson-Ness, City Clerk

Approved as to form:

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Kenyon Luce, City Attorney





**Agenda Bill No. 14-023**

**TO:** Mayor Guier and City Council Members  
**FROM:** Amy Stevenson-Ness, City Clerk/Personnel Manager  
**MEETING DATE:** February 3, 2014  
**SUBJECT:** Hiring of temporary file clerk

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**ATTACHMENTS:** Resolution No. 14-109

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**Previous Council Review Date:** N/A

**Summary:** Due to the staff shortage over the past year, a backlog of items needing to be filed has occurred. Staff is requesting the hire of a temporary file clerk to assist in the reduction of a backlog of filing for Public Works, Finance, and City Clerk Departments.

The position will be for 20 hours per week for a total of three months and will pay \$10.00 per hour.

Mayor Guier has spoken with the union representative and a draft letter of agreement from the union has been received.

**Recommendation/Action:** Move forward for approval at the February 10, 2014, meeting.

**Motion for Consideration:** I move to authorize the mayor to hire a temporary employee to perform clerical duties under the direction of the City Clerk.

**Budget Impact:**

**Alternatives:**

**AGENDA ITEM NO. 4G**

**CITY OF PACIFIC, WASHINGTON**  
**RESOLUTION NO. 14 – 109**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC,  
WASHINGTON, AUTHORIZING THE MAYOR TO HIRE A TEMPORARY  
EMPLOYEE TO PERFORM CLERICAL DUTIES UNDER THE DIRECTION  
OF THE CITY CLERK.**

**WHEREAS**, several departments in the City of Pacific have been understaffed for many months; and

**WHEREAS**, during that time a large backlog of paperwork and filing has accumulated; and

**WHEREAS**, it is vital that documents be filed to create easier accessibility and location of documents,

**WHEREAS**, staff finds they are unable to bring the existing files up to date while performing other essential functions of their jobs; and

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON:**

**Section 1.** The Mayor is authorized to hire a file clerk to provide support to staff in the City Clerk, Finance, and Public Works Departments on a limited, temporary basis.

**Section 2.** The rate of pay for this temporary position will be \$10.00 per hour without insurance, retirement or the accrual of leave time due to the temporary status of the position.

**Section 3.** This temporary position is not expected to exceed 240 hours. The Mayor will provide a progress report at the regular council meeting on May 5, 2014.

**Section 2.** This Resolution shall take effect and be in force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING THEREOF ON THE xTH DAY OF FEBRUARY 2014.**

CITY OF PACIFIC

\_\_\_\_\_  
Leanne Guier, Mayor

ATTEST:

\_\_\_\_\_  
Amy Stevenson-Ness, City Clerk

Approved as to Form

\_\_\_\_\_  
Kenyon Luce, City Attorney

FILED WITH THE CITY CLERK: 12.10.12  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO. 12-1220



**AGENDA ITEM NO. 4H**

**Agenda Bill No. 14-012**

**TO:** City Council Members

**FROM:** Mayor Leanne Guier

**MEETING DATE:** February 3, 2014

**SUBJECT:** Sound Cities Association Position regarding the formation of a Transportation Benefit District in King County

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**ATTACHMENTS:** SCA PIC Agenda Item

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**Previous Council Review Date:** January 21, 2014 Workshop

**Summary:** Does the City Council want to support the County Council position regarding the formation of a county-wide transportation benefit district for King County?

**Recommendation/Action:**

**Motion for Consideration:**

**Budget Impact:**

**Alternatives:**

**AGENDA ITEM NO. 4H**



January 8, 2014  
SCA PIC Meeting

**Item 9:**  
Transportation Funding  
**Potential Future Action Item**

*Do you want to support  
the County Council position  
Benefit  
district*

**SCA Staff Contact**

Deanna Dawson, Executive Director, office 206-433-7170, [Deanna@soundcities.org](mailto:Deanna@soundcities.org)  
Monica Whitman, Senior Policy Analyst, office 206-433-7169, [monica@soundcities.org](mailto:monica@soundcities.org)

**Potential future action:**

**To bring the following policy position back for adoption at the next PIC meeting:**  
In order to address the critical transportation needs facing King County and cities throughout the County, the Sound Cities Association supports the formation of a countywide Transportation Benefit District (TBD) with 60% of the funds going to Metro for transit funding and 40% being distributed to the County and cities based on population for other transportation needs including local roads, sidewalks, bike paths, additional transit, and other transportation purposes as determined by the particular needs of the local jurisdiction. In order to ensure that dollars can be used as effectively and efficiently as possible to address the pressing transportation needs of each individual jurisdiction and to avoid the creation of additional burdensome bureaucracies, the funding raised should be provided to local jurisdictions through a direct distribution.

**Background**

On June 19, 2013 the Sound Cities Association Board unanimously adopted a position of support for passage of a statewide transportation package in order to address our state's critical transportation infrastructure needs. The Board also adopted a position of support for additional local options to address the transportation needs of counties and cities. Specifically, SCA urged the legislature to give local jurisdictions an additional funding mechanism in the form of authority to enact an up to 1.5% Motor Vehicle Excise Tax. SCA also supported the legislature designate that in King County, 60% of revenues raised by this funding mechanism be allocated to transit, with 40% allocated to cities and the county (distributed based on population) for local transportation needs.

Despite numerous negotiating sessions, the legislature was unable to come to agreement on a package in 2013. (See attachment A, Joint Statement from the Governor and bipartisan House and Senate transportation negotiators on transportation revenue package negotiations.)

Meanwhile, our cities and King County face significant transportation needs. While sales tax projections and labor negotiations with Amalgamated Transit Union (ATU) Local 587 have been encouraging, King County still faces the need for significant cuts to service at Metro Transit without additional funding sources. These cuts would be particularly devastating to residents of SCA member cities. As noted in past discussions, the bus is the family car for many residents in our cities. Substantial cuts to bus service would make it difficult or impossible for residents to get to their jobs, and needed community services.

The need for additional transportation funding for local roads and other local transportation infrastructure is similarly critical. Cities in King County maintain five thousand five hundred miles of streets plus bridges, sidewalks, drainage systems, traffic signals, bicycle and pedestrian facilities and trails. Revenue sources currently available to cities are not keeping pace with the costs of replacement and expansion to meet growth. King County cities have experienced a substantial downturn in revenues in the past decade. Many cities in King County have been forced to supplement their road funds with general fund dollars, which have themselves not been keeping pace with inflation. Using general fund dollars to maintain roads and other transportation infrastructure means that there are fewer dollars available to fund public safety, parks, human services, and other critical city services.

A lack of dedicated funding for transportation projects has made it increasingly difficult for King County cities to raise matching funds to compete for State and Federal transportation grant dollars, and State and Federal transportation grant opportunities have dwindled. King County cities are beset by failing roads and bridges, congested corridors and bottlenecked interchanges, which undermine the mobility of vehicles, buses and freight carriers to transport people and goods.

Cities in King County have over \$1.3 billion in maintenance and preservation needs alone over the next six years, and have identified a need of over \$3 billion for mobility projects over the next six years. Cities in King County are responsible for the repair and replacement of 22 bridges in King County with a sufficiency rating of fifty or less, equating to more than \$775 million in bridge repair/replacement costs over the next six years. The lack of adequate transportation funding for Cities is a public safety crisis in King County.

In 2013, the State Legislature balanced its operating budget in part by transferring all available funds from the Public Works Trust Fund, and directed most of the future tax revenues for the Public Works Trust Fund into K-12 education for the next six years. The Public Works Trust Fund provided grants and low-interest loans to local governments for the repair and maintenance of infrastructure. This action by the Legislature has resulted in a substantial reduction of funds available for King County cities, and has been a particular blow to smaller cities in King County.

Without an additional source of revenue, many transportation infrastructure projects planned by cities will not be able to move forward.

Many member cities have indicated that they cannot afford to wait for additional funding to maintain their transportation infrastructure.

Due to these needs, the King County Council is looking at moving forward with a ballot measure in 2014 to provide additional funding for transit, roads, and other transportation infrastructure. Existing State law would enable the King County Council to create a Transportation Benefit District (TBD), and (with voter approval) to raise revenues through funding sources including a sales tax, and a vehicle license fee. The County Council and Executive have proposed bringing this forward to the voters as a ballot measure as early as April 2014. Prior to going on recess in 2013, the County Council introduced two ordinances which would (if approved) establish a countywide TBD (see attachments B and C). The language is very similar in both ordinances. The second ordinance, attachment C, includes a resolution (see attachment D) authorizing the TBD to impose a sales tax and vehicle license fee with voter approval.

Existing State law enables a County to form a TBD and to enact (with voter approval) a sales tax of up to .2% and a vehicle license fee of up to \$100. Many cities in King County have formed their own TBD and enacted a vehicle license fee of \$20. A vehicle license fee of \$80 or less would not interfere with these already enacted TBDs, or cities that may wish to create a TBD within their cities in the future.

A .1% sales tax would raise approximately \$50 million annually, and a \$60 vehicle license fee would raise approximately \$80 million annually. Combined, these sources would raise over \$130 million, which is similar in scope to the approximately \$140 million that would have been raised by the local option sought by SCA from the legislature in 2013. (According to recent estimates, the total allocation to King County cities based on this funding source and the 60/40 revenue sharing proposal would amount to over \$53,000,000 in 2015.)

The proposal before the PIC is to bring forward a public policy position similar to that approved by SCA in 2013, and to support formation of a countywide TBD, with 60% of the funds going to Metro for transit funding and 40% being distributed to the County and cities based on population for other transportation needs. These would include local roads, but may also include sidewalks, bike paths, additional transit, or other transportation purposes, as determined by the particular needs of the local jurisdiction. In order to ensure that dollars can be used as effectively and efficiently as possible to address the pressing transportation needs of each individual jurisdiction and to avoid the creation of additional burdensome bureaucracies, it is proposed that the funding raised be provided to local jurisdictions through a direct distribution.

The proposal supported by SCA in 2013 was born of much collaboration and compromise between SCA's member cities, the City of Seattle, and King County, who worked together to come up with a package that could serve the needs of citizens and jurisdictions throughout our county. It is a balanced package that ensures that transportation needs are addressed holistically, with a healthy mix of funding for transit, rural roads, city streets, and other transportation needs in cities. We recognize that we cannot view our infrastructure needs in isolation, and that we need to partner together to make strategic investments now as a region in order to keep our economy growing.

The proposal has been supported by a broad coalition of local leaders, and SCA has been working in close partnership with a countywide coalition of regional community, business and labor leaders, and environmental, transit, education, social services, and social justice advocates known as Move King County Now. Due to the fact that the legislature did not pass a statewide transportation package or give local jurisdictions new tools to address their transportation needs in 2013, this coalition is now focused on moving forward with using existing tools to solve the transportation funding crisis in King County.

The County Council is on recess until January 13, 2014, and may move quickly upon returning if an April ballot date is chosen. PIC Chair Bernie Talmas, SCA Vice President John Marchione, and SCA Executive Director Deanna Dawson will keep SCA members informed of ongoing developments and need for possible action between the January 8, 2014 PIC meeting date and our next regularly scheduled PIC meeting on February 12, 2014.

#### **Attachments**

- A. Joint Statement from the Governor and bipartisan House and Senate transportation negotiators on transportation revenue package negotiations
- B. TBD Ordinance 2013-0527
- C. TBD Ordinance 2013-0526
- D. Resolution authorizing sales tax and vehicle license fee

JAY INSLEE  
Governor



STATE OF WASHINGTON  
Office of the Governor

Dec. 18, 2013

**Contacts:**

David Postman, Governor Inslee's Communications Office | 360-902-4136,  
[david.postman@gov.wa.gov](mailto:david.postman@gov.wa.gov)

**Joint Statement issued tonight from Governor Jay Inslee and the bipartisan House and Senate transportation negotiators on the next phase of transportation revenue package negotiations**

"Through 12 negotiating sessions we made progress on finding a compromise package of statewide transportation improvements. But today it has become clear this phase of the process has run its course and we have not reached an agreement.

"We agree that transportation infrastructure is important to our state and we remain committed to finding a solution in the regular legislative session that works for everyone.

"The next step in this process will be to continue this dialogue in the legislative process."

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[www.governor.wa.gov](http://www.governor.wa.gov) | [@GovInslee](https://twitter.com/GovInslee) [@WaStateGov](https://twitter.com/WaStateGov) | [www.facebook.com/WaStateGov](https://www.facebook.com/WaStateGov)

Date Created:	12-16-13
Drafted by:	jr
Sponsors:	Rod Dembowski, Kathy Lambert, Larry Phillips
Attachments:	

1 ..title

2 AN ORDINANCE creating a countywide transportation

3 benefit district as authorized by chapter 36.73 RCW.

4 ..body

5 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

6 **SECTION 1. Findings:**

7 A. The 2008 recession had a deep and enduring impact to the economy in King  
8 County, causing property and sales tax revenues that fund government transportation  
9 services to drop unexpectedly.

10 B. As the largest labor market in the state, failure of the transportation system in  
11 King County will have far reaching economic impacts across Washington.

12 C. The King County transit division ("Metro") is vital to the region's economic  
13 health. Metro provided over one hundred fifteen million passenger trips in 2012 with  
14 ridership expected to grow, more than one thousand five hundred companies provide  
15 transit passes to their employees, over half of Metro's passengers are commuters and  
16 current service levels keep approximately one hundred seventy-five thousand cars off our  
17 roads every weekday.

18 D. Sales tax currently provides for sixty percent of Metro's operating fund, and  
19 reductions in property tax revenue and the lack of growth in gas tax revenue will limit  
20 key funding sources for city and unincorporated King County transportation projects.

21 E. The twenty-dollar congestion reduction charge authorized in 2011 was a  
22 temporary measure while sustainable funding solutions were developed. The authority  
23 for this implemented funding source expires at the end of May 2014.

24 F. In 2011, the King County council adopted the landmark King County Metro  
25 Transit Strategic Plan for Public Transportation and Service Guidelines that established a  
26 new course that prioritizes productivity, social equity and geographic value in the  
27 ongoing development of the Metro system.

28 G. To respond to decreased revenues during the recession, Metro undertook a  
29 number of measures to preserve service. Metro implemented system-wide reforms,  
30 including restructuring the transit system to improve productivity and effectiveness and  
31 discontinuing the Ride Free Area in downtown Seattle, saving nearly eight hundred  
32 million dollars over five years. Metro has also increased revenue for transit through  
33 property tax changes, through the implementation of the temporary congestion reduction  
34 charge and through multiple fare increases raising fares by eighty percent since 2008.

35 H. Metro still faces an ongoing annual revenue shortfall up to seventy-five  
36 million dollars to maintain existing service levels. Without new revenue, Metro will face  
37 up to a seventeen-percent cut in service, or approximately six hundred thousand annual  
38 hours of service cuts beginning in fall 2014.

39 I. The King County road services division ("road services") is responsible for an  
40 unincorporated area road system that supports more than one million trips per day. The  
41 system consists of about one thousand five hundred miles of county roads and one  
42 hundred eighty bridges, plus numerous sidewalks and pathways, traffic signs and signals,  
43 drainage pipes and culverts and other critical transportation infrastructure.

44 J. Road services' funding for maintenance of roads and bridges has declined by  
45 more than one-third since 2009 due to annexations, declining property values, less state  
46 and federal grant support and lower gas tax revenue. At the same time, the volume of  
47 county road miles has not dropped proportionally while transportation safety,  
48 preservation and other needs are increasing due to aging infrastructure, population  
49 growth, development and changing travel patterns.

50 K. Property tax is road services's primary funding source, and property values in  
51 unincorporated King County have declined significantly since the start of the recession.  
52 The ability of property tax revenue to recover from its depressed levels is impeded by  
53 statutory constraints limiting growth in tax collections to one percent per year, lower than  
54 the rate of inflation.

55 L. Gas tax revenues, another major source of funding for road services, will not  
56 increase with the rate of inflation as gasoline consumption stagnates due to more fuel  
57 efficient cars and fewer vehicle miles travelled and because the tax rate per gallon is  
58 fixed and does not adjust with inflation.

59 M. Future grant funding for capital projects is also uncertain as federal and state  
60 decision-makers choose between competing interests for limited dollars.

61 N. The Strategic Plan for Road Services was approved by the council in 2010 to  
62 provide key guidance to the agency about work priorities, including infrastructure service  
63 and investment decisions. The plan gives top priority to basic goals: comply with legal  
64 requirements; meet critical safety needs; and maintain and preserve the existing road  
65 network.

66 O. Road services is reducing costs through reductions in management and  
67 administrative costs, space consolidation and reductions to fleet equipment, and has  
68 already reduced division staff by forty percent and implemented changes to service  
69 priorities.

70 P. It is the county's responsibility to maintain, preserve and operate the  
71 unincorporated area road system, and without dedicated funding to stabilize the declining  
72 road system, roads services expects to close thirty-five bridges before they become  
73 unsafe, restrict access to seventy-two miles of failing roadways and reduce storm service  
74 on snowy and icy roads.

75 Q. Cities in King County maintain five thousand five hundred miles of streets  
76 plus bridges, sidewalks, drainage systems, traffic signals, bicycle and pedestrian facilities  
77 and trails. Existing facilities are aging.

78 R. King County cities have experienced a substantial downturn in revenues in the  
79 past decade. Many cities in King County have been forced to supplement roads funds  
80 with general fund dollars, which have themselves not been keeping pace with inflation.  
81 Using general fund dollars to maintain roads and other transportation infrastructure  
82 means that there are fewer dollars available to fund public safety, parks, human services,  
83 and other critical city services.

84 S. A lack of dedicated funding for transportation projects has made it  
85 increasingly difficult for King County and King County cities to raise matching funds to  
86 compete for State and Federal transportation grant dollars, and State and Federal  
87 transportation grant opportunities have dwindled.

88 T. King County cities are beset by failing roads and bridges, congested corridors  
89 and bottlenecked interchanges, which undermine the mobility of vehicles, buses and  
90 freight carriers to transport people and goods.

91 U. Cities in King County have over \$1.3 billion in maintenance and preservation  
92 needs alone over the next six years, and have identified a need of over \$3 billion for  
93 mobility projects over the next six years. Cities in King County are responsible for the  
94 repair and replacement of 22 bridges in King County with a sufficiency rating of fifty or  
95 less, equating to more than \$775 million in bridge repair/replacement costs over the next  
96 six years. The lack of adequate transportation funding for Cities is a public safety crisis in  
97 King County.

98 V. In 2013, action by the State Legislature related to the Public Works Trust  
99 Fund resulted in a substantial reduction of funds available for King County cities,  
100 including a greater relative impact on smaller cities in King County. Without an  
101 additional source of revenue, many transportation infrastructure projects planned by cities  
102 will not be able to move forward.

103 W. With new funding for transportation investments throughout King County,  
104 there is an opportunity to catalyze construction jobs, enhance freight mobility for our  
105 ports and create a pathway for retaining and growing new jobs for key industry sectors.

106 X. It is in the best interest of the citizens of the county to establish a  
107 transportation benefit district to work together and regionally fund, acquire, construct,  
108 operate, maintain and preserve roadway, public transportation or other mobility facilities,  
109 services and programs, and any other project or program contained in the transportation  
110 plan of the state, a regional transportation planning organization, a city or a county, and

111 to exercise any other functions or fund any other transportation improvements authorized  
112 by chapter 36.73 RCW. Such a transportation benefit district should focus its  
113 investments in local mobility and connecting within the district.

114 SECTION 2. There is created a transportation benefit district, to be known as the  
115 King County transportation district, with geographical boundaries comprised of the limits  
116 of the county, which shall have the authority to exercise the statutory powers in chapter  
117 36.73 RCW.

118 SECTION 3.

119 A. The governing board of the transportation district shall be the King County  
120 council acting in an ex officio and independent capacity, which shall have the authority to  
121 exercise the statutory powers in chapter 36.73 RCW.

122 B. The King County treasurer shall be the treasurer of the transportation district.

123 C. The board shall develop and implement a material change policy for projects  
124 that the district is implementing. The material change policy shall address major plan  
125 changes that affect project delivery or the ability to finance the plan, in accordance with  
126 RCW 36.73.160(1).

127 D. The board shall issue an annual report, in accordance with chapter 36.73 RCW.

128 SECTION 4. The district shall be dissolved in accordance with RCW 36.73.050.

129 SECTION 5. The district shall fund, acquire, construct, operate, maintain and  
130 preserve public transportation facilities, services and programs, roads and any other  
131 project contained in the transportation plan of the state, a regional transportation planning  
132 organization, a city or the county, and exercise any other functions or fund any other  
133 transportation improvement authorized by chapter 36.73 RCW. When authorized by

134 statute or by the voters in accordance with chapter 36.73 RCW, the board may impose any  
135 one of or a combination of taxes, fees, charges and tolls, for purposes consistent with  
136 chapter 36.73 RCW.

137 SECTION 6. For the purposes of defining a “transportation plan” under chapter  
138 36.73 RCW and section 5 of this ordinance:

139 A. The transportation plan of the county includes the Transportation Element of  
140 the King County Comprehensive Plan, the King County Metro Transit Strategic Plan for  
141 Public Transportation, the King County Metro Transit Service Guidelines, the King  
142 County Department of Transportation Strategic Plan for Road Services, the Transportation  
143 Needs Report, the King County Roads Services CIP and any other plan concerning  
144 transportation that is adopted by the metropolitan King County council; and

145 B. The transportation plan of the state, a regional transportation planning  
146 organization or a city shall be as defined by each such entity.

147 SECTION 7. As authorized under chapter 36.73 RCW, this ordinance shall be  
148 liberally construed to permit the accomplishment of its purposes.

149 SECTION 8. Severability. If any provision of this ordinance or its application to  
150 any person or circumstance is held invalid, the remainder of this ordinance or the  
151 application of the provision to other persons or circumstances is not affected.

Date Created:	December 13, 2013
Drafted by:	Wes Edwards, Transportation Planner, Regional Transportation Planning
Sponsors:	
Attachments:	<b>None</b>

1 ..title

2 AN ORDINANCE creating a countywide transportation  
 3 benefit district in King County, Washington, in order to  
 4 finance the acquisition, construction, operation,  
 5 maintenance and preservation of public transportation  
 6 facilities, services and programs, roads and any other  
 7 projects authorized by chapter 36.73 RCW.

8 ..body

9 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

10 SECTION 1. Findings:

11 A. The 2008 recession had a deep and enduring impact to the economy in King  
 12 County, causing property and sales tax revenues that finance government transportation  
 13 services to drop unexpectedly.

14 B. As the largest labor market in the state, failure of the transportation system in  
 15 King County will have far reaching economic impacts across Washington.

16 C. The King County transit division ("Metro") is vital to the region's economic  
 17 health. Metro provided over one hundred fifteen million passenger trips in 2012 with  
 18 ridership expected to grow; more than one thousand five hundred companies provide  
 19 transit passes to their employees; over half of Metro's passengers are commuters; and  
 20 current service levels keep approximately one hundred seventy-five thousand cars off our  
 21 roads every weekday.

22           D. Sales tax currently provides for sixty percent of Metro's operating budget, and  
23 reductions in property tax revenue and the lack of growth in gas tax revenue will limit  
24 key funding sources for city and unincorporated King County transportation projects.

25           E. The twenty-dollar congestion reduction charge authorized in Ordinance 17169  
26 in 2011 was a temporary measure while sustainable funding solutions were developed.  
27 King County's authority for this implemented funding source expires May 31, 2014.

28           F. In 2011, the King County council adopted the landmark King County Metro  
29 Transit Strategic Plan for Public Transportation and Service Guidelines that established a  
30 new course that prioritizes productivity, social equity and geographic value in the  
31 ongoing development of the Metro transit system.

32           G. To respond to decreased revenues during the recession, Metro undertook a  
33 number of measures to preserve service. Metro implemented system-wide reforms,  
34 including restructuring the transit system to improve productivity and effectiveness and  
35 discontinuing the Ride Free Area in downtown Seattle. Metro has also increased revenue  
36 for transit through property tax changes, through the implementation of the temporary  
37 congestion reduction charge and through multiple fare increases raising fares by eighty  
38 percent since 2008. As a result, Metro realized nearly eight hundred million dollars in  
39 savings and new revenues combined to support the system.

40           H. Metro still faces an ongoing annual revenue shortfall up to seventy-five  
41 million dollars to maintain existing service levels. Without new revenue, Metro will face  
42 up to a seventeen percent cut in service, or approximately six hundred thousand annual  
43 hours of service cuts beginning in fall 2014.

44 I. The King County road services division is responsible for an unincorporated  
45 area road network that supports more than one million trips per day. The system consists  
46 of about one thousand five hundred miles of county roads and one hundred eighty  
47 bridges, plus numerous sidewalks and pathways, traffic signs and signals, drainage pipes  
48 and culverts and other critical transportation infrastructure.

49 J. The road services division's funding for maintenance of roads and bridges has  
50 declined by more than one-third since 2009 due to annexations, declining property  
51 values, less state and federal grant support and lower gas tax revenue. At the same time,  
52 the volume of county road miles has not dropped proportionally while transportation  
53 safety, preservation and other needs are increasing due to aging infrastructure, population  
54 growth, development and changing travel patterns.

55 K. Property tax is the road services division's primary funding source, and  
56 property values in unincorporated King County have declined significantly since the start  
57 of the recession. The ability of property tax revenue to recover from its depressed levels  
58 is impeded by statutory constraints limiting tax collections.

59 L. Gas tax revenues, another major source of funding for the road services  
60 division, will not increase with the rate of inflation as gasoline consumption stagnates due  
61 to more fuel efficient cars and to fewer vehicle miles travelled, and because the tax rate  
62 per gallon is fixed and does not adjust with inflation.

63 M. Future grant funding for capital projects is also uncertain as federal and state  
64 decision-makers choose between competing interests for limited dollars.

65 N. The Strategic Plan for Road Services was approved by the council in 2010 to  
66 provide key guidance to the agency about work priorities, including infrastructure service

67 and investment decisions. The plan gives top priority to basic goals: meet critical safety  
68 needs, comply with legal requirements, and maintain and preserve the existing road  
69 network.

70 O. The road services division is reducing costs through reductions in  
71 management and administrative costs, space consolidation and reductions to fleet  
72 equipment, and has already reduced division staff by forty percent and implemented  
73 changes to service priorities.

74 P. Without funding to stabilize the declining road system, the roads services  
75 division expects to close thirty-five bridges before they become unsafe, restrict access to  
76 seventy-two miles of failing roadways and reduce storm service on snowy and icy roads  
77 by two-thirds during the winter season.

78 Q. Cities in King County maintain five thousand five hundred miles of streets  
79 plus bridges, sidewalks, drainage systems, traffic signals, bicycle and pedestrian facilities  
80 and trails. Existing facilities are aging. Revenue sources currently available to cities are  
81 not keeping pace with the costs of replacement and expansion to meet growth.

82 R. King County cities also are beset by failing roads and bridges, congested  
83 corridors and bottlenecked interchanges, which undermine the mobility of cars, buses and  
84 freight carriers to transport people and goods.

85 S. With new funding for transportation investments throughout King County,  
86 there is an opportunity to catalyze construction jobs, enhance freight mobility for our  
87 ports and create a pathway for retaining and growing new jobs for key industry sectors.

88 T. It is in the best interest of the citizens of the county to establish a  
89 transportation benefit district to finance any transportation improvement authorized by

90 chapter 36.73 RCW, including but not limited to, the acquisition, construction, operation,  
91 maintenance and preservation of public transportation facilities, services and programs,  
92 roads and any other project contained in the transportation plan of the state, a regional  
93 transportation planning organization, a city or the county.

94 U. The transportation benefit district is intended solely to finance transportation  
95 improvements authorized by chapter 36.73 RCW, and is not intended to directly acquire,  
96 construct, operate, maintain, preserve or otherwise provide transportation improvements.  
97 It is further intended that local jurisdictions receiving funding from the transportation  
98 benefit district will directly acquire, construct, operate, maintain, preserve or otherwise  
99 provide any transportation improvement authorized by chapter 36.73 RCW.

100 V. The King County council anticipates that, in an effort to provide an efficient  
101 operation of the transportation benefit district and avoid the potential for creating  
102 duplicative staffing functions, the transportation benefit district will contract with King  
103 County to utilize existing King County staff to provide administrative functions required  
104 by the district to the extent allowed by applicable law.

105 SECTION 2. There is created a transportation benefit district, to be known as the  
106 King County transportation district, with geographical boundaries comprised of the limits  
107 of the county. The district shall have the authority to exercise the statutory powers in  
108 chapter 36.73 RCW.

109 SECTION 3. A. The King County council shall be the governing board of the  
110 transportation district, acting in an ex officio and independent capacity, which shall have  
111 the authority to exercise the statutory powers in chapter 36.73 RCW.

112 B. The King County executive services finance director shall be the treasurer of  
113 the transportation district.

114 C. The board shall develop and implement a material change policy for projects  
115 that the district is implementing. The material change policy shall address major plan  
116 changes that affect project delivery or the ability to finance the plan, in accordance with  
117 RCW 36.73.160(1).

118 D. The board shall cause to be issued an annual report, in accordance with chapter  
119 36.73 RCW.

120 SECTION 4. The district shall be dissolved in accordance with RCW 36.73.050.

121 SECTION 5. The transportation district is formed to finance, but not directly carry  
122 out, any transportation improvement authorized by chapter 36.73 RCW, including, but not  
123 limited to, the acquisition, construction, operation, maintenance and preservation of public  
124 transportation facilities, services and programs, roads and any other project contained in  
125 the transportation plan of the state, a regional transportation planning organization, a city  
126 or the county. When authorized by statute or by the voters in accordance with chapter  
127 36.73 RCW, the board may impose taxes, fees, charges or tolls, or any combination  
128 thereof, for the purposes consistent with chapter 36.73 RCW.

129 SECTION 6. For the purposes of chapter 36.73 RCW and section 5 of this  
130 ordinance:

131 A. "Transportation plan" includes the Transportation Element of the King County  
132 Comprehensive Plan, the King County Metro Transit Strategic Plan for Public  
133 Transportation, the King County Metro Transit Service Guidelines, the annual King  
134 County Metro Transit Service Guidelines Report, the King County Department of

135 Transportation Strategic Plan for Road Services, the Transportation Needs Report, the  
136 King County Roads Services CIP and any other plan concerning transportation that is  
137 adopted by the King County council; and

138 B. The transportation plan of the state, a regional transportation planning  
139 organization or a city shall be as identified by each entity.

140 SECTION 7. As authorized under chapter 36.73 RCW, this ordinance shall be  
141 liberally construed to permit the accomplishment of its purposes.

142 SECTION 8. Severability. If any provision of this ordinance or its application to  
143 any person or circumstance is held invalid, the remainder of this ordinance or the  
144 application of the provision to other persons or circumstances is not affected.

Date Created:	December 13, 2013
Drafted by:	Wes Edwards, Transportation Planner, Regional Transportation Planning
Sponsors:	
Attachments:	

1 ..title

2 A RESOLUTION of the King County Transportation District;  
3 submitting a ballot measure regarding transportation funding to the  
4 qualified electors of the King County Transportation District at a  
5 special election to be held on (DATE) and submitting a  
6 proposition to district voters to authorize the district to fix and  
7 impose a (RATE) sales and use tax within the district and a  
8 (AMOUNT) dollar vehicle fee on all vehicles within the district to  
9 finance the King County transit division (“Metro Transit”) and city  
10 and unincorporated county transportation improvements in the  
11 district; requesting that the King County Prosecutor prepare a ballot  
12 title for the proposition; and appointing committees to prepare the  
13 pro and con statements for the local voters’ pamphlet.

14 ..body

15 WHEREAS, in the last several years, new transportation challenges have emerged  
16 affecting the funding of transportation improvements for King County Metro transit and all King  
17 County cities and unincorporated King County, including a prolonged recession, and declined  
18 gas-tax, property tax, and sales tax revenues; and

19 WHEREAS, the Revised Code of Washington (RCW), Chapter 36.73, provides for the  
20 establishment of transportation benefit districts by cities and counties and authorizes those  
21 districts to levy and impose various taxes and fees to generate revenues to support transportation

22 improvements that benefit the district and that are consistent with state, regional or local  
23 transportation plans and necessitated by existing or reasonably foreseeable congestion levels; and

24 WHEREAS, King County Ordinance (#####) established the King County  
25 Transportation District to finance, but not directly carry out, any transportation improvement  
26 authorized by RCW chapter 36.73, including but not limited to, public transportation facilities,  
27 services and programs, roads, and any other project contained in the transportation plan of the  
28 state, a regional transportation planning organization, a city, or the county; and

29 WHEREAS, the King County Transportation District is intended solely to finance  
30 transportation improvements authorized by RCW chapter 36.73, and is not intended to directly  
31 acquire, construct, operate, maintain, preserve or otherwise provide any transportation  
32 improvements. It is further intended that local jurisdictions receiving funding from the  
33 transportation benefit district will directly acquire, construct, operate, maintain, preserve, or  
34 otherwise provide any transportation improvement authorized by RCW chapter 36.73.

35 WHEREAS, the King County Transportation District may fix and impose up to a one  
36 hundred dollar vehicle fee pursuant to RCW 82.80.140 with approval of a majority of district  
37 voters; and

38 WHEREAS, the King County Transportation District may fix and impose up to a two-  
39 tenths of one percent (0.2%) sales and use tax within the district pursuant to RCW 82.14.0455  
40 with approval of a majority of district voters; and

41 WHEREAS, a vehicle fee up to eighty dollars imposed by the King County  
42 Transportation District does not preclude individual cities and unincorporated King County from  
43 continuing to collect or authorize future collection of a twenty dollar councilmanic vehicle fee  
44 pursuant to RCW 82.80.140; and

45 WHEREAS, it is the intent of the Board of the King County Transportation District to  
46 distribute revenues, less administration costs, to jurisdictions in the district's boundaries by  
47 providing sixty percent of the combined revenues from the vehicle fee and sales and use tax  
48 revenues to support King County Metro Transit; and the remaining forty percent of combined  
49 revenues to be distributed to cities and unincorporated King County in a share equal to their  
50 percentage of countywide population; and

51 WHEREAS, the King County Transportation District cannot impose a voter approved  
52 sales and use tax that exceeds a period of ten years, unless extended by an affirmative public vote  
53 per RCW 82.14.0455.

54 BE IT RESOLVED BY THE KING COUNTY TRANSPORTATION DISTRICT:

55 SECTION 1. Fee and tax submittal to voters. To provide necessary financing for the  
56 purposes identified in section 3 of this resolution, the King County Transportation District shall  
57 submit to the qualified electors of the district a proposition authorizing the district to fix and  
58 impose a (AMOUNT) dollar vehicle fee to be added to any existing fees and to fix and impose a  
59 (RATE) of one percent (0. \_\_%) to the sales and use tax.

60 SECTION 2. Distribution of revenues. The district sales and use tax and vehicle fee  
61 revenue shall first pay any administrative costs to the state Department of Licensing, state  
62 Department of Revenue, and any other administrative costs associated with the district's  
63 operations. The remaining combined revenue will be distributed in the following manner: sixty  
64 percent to King County Metro Transit; and forty percent to the cities within King County that  
65 enter into agreements with the district to participate and to unincorporated King County in shares  
66 equal to each entity's respective percentage of countywide population.

67            SECTION 3. Use of revenues. If approved by the qualified electors of the district, the  
68 sales and use tax and vehicle fee revenue, less the administrative costs identified in section 2 of  
69 this resolution, shall be used consistent with RCW chapter 36.73 to finance, but not directly carry  
70 out, any transportation improvement authorized by RCW chapter 36.73, including but not limited  
71 to, the acquisition, construction, operation, maintenance, and preservation of public  
72 transportation facilities, services and programs, roads, any other project contained in the  
73 transportation plan of the state, a regional transportation planning organization, a city or the  
74 county. Further, the activities carried out with the sales and use tax and vehicle fee revenue will  
75 include, but not be limited to:

- 76            A. the operation, maintenance and capital needs of Metro Transit;
- 77            B. the provision of Metro Transit public transportation services;
- 78            C. the acquisition, operation, maintenance and repair of Metro Transit vehicles and  
79 equipment;
- 80            D. the implementation of transportation demand management programs;
- 81            E. the planning associated with transit service operations, technologies, and public  
82 engagement to improve performance and reduce costs when possible;
- 83            F. the planning, design and implementation of capital improvement and preservation  
84 projects for road system facilities, including facilities such as roads, bridges, signals, guardrails,  
85 drainage systems, and pedestrian and bicycle pathways;
- 86            G. the operation, maintenance, repair, preservation and restoration of road system  
87 facilities;
- 88            H. the provision of emergency responses to protect road system facilities and public  
89 health and safety;

90 I. the enhancement of user safety while also maintaining existing safety standards and  
91 legal requirements;

92 J. the management of intelligent transportation systems in including traffic cameras,  
93 control equipment, and new technologies to optimize the existing transportation system;

94 SECTION 4. For the purposes of defining a transportation plan under RCW chapter  
95 36.73 and section 3 of this resolution:

96 A. the transportation plan of King County includes the Transportation Element of the  
97 King County Comprehensive Plan, the King County Metro Transit Strategic Plan for Public  
98 Transportation, the King County Metro Transit Service Guidelines, the annual King County  
99 Metro Transit Service Guidelines Report, the King County Department of Transportation  
100 Strategic Plan for Road Services, the Transportation Needs Report, the King County Roads  
101 Services CIP and any other plan concerning transportation that is adopted by the Metropolitan  
102 King County Council; and

103 B. the transportation plan of the state, a regional transportation planning organization or  
104 a city shall be as identified by each such entity.

105 SECTION 5. Call for special election. The King County Transportation District hereby  
106 requests that the King County director of elections call a special election on (DATE), to  
107 consider a proposition authorizing the district to fix and impose a vehicle fee in the amount of  
108 (AMOUNT) dollars and to fix and impose a sales and use tax in the amount of (RATE) of one  
109 percent (0. \_\_%) for the purposes described in this resolution. The King County director of  
110 elections shall cause notice to be given of this resolution in accordance with the state constitution  
111 and general law and to submit to the qualified electors of the district, at the said special county  
112 election, the proposition hereinafter set forth, in the form of a ballot title substantially as follows:

113 KING COUNTY TRANSPORTATION DISTRICT

114

115 PROPOSITION NO. \_\_\_\_

116

117 The Board of the King County Transportation District passed Resolution No. (###) concerning  
118 funding for public transportation, roads and other transportation improvements. If approved, this  
119 proposition would provide funding for King County Metro Transit, and city and unincorporated  
120 King County transportation improvements. It would authorize the district to fix and impose a  
121 sales and use tax of (RATE) of one percent (0. \_\_%) to be collected from all taxable retail sales  
122 and uses within the district under RCW 82.14.0455 for a term of ten years, and an annual vehicle  
123 fee of (AMOUNT) (\$\_\_.00) dollars per registered vehicle under RCW 82.80.140.

124

125 Should this vehicle fee and sales tax increase be approved?

126

127 Yes

128 No

129

130 SECTION 6. RCW 29A.32.280 provides that for each measure from a jurisdiction that is  
131 included in a local voters' pamphlet, the legislative authority of that jurisdiction shall formally  
132 appoint a committee to prepare arguments advocating voter approval of the measure and a  
133 committee to prepare arguments advocating voter rejection of the measure.

134

135            SECTION 7. Pursuant to RCW 29A.32.280, the following individuals are appointed to  
136 serve on the voters' pamphlet committees, each committee to write a statement for or against the  
137 proposed measure.

138

- |     |     |  |         |
|-----|-----|--|---------|
| 139 | FOR |  | AGAINST |
| 140 | 1.  |  | 1.      |
| 141 | 2.  |  | 2.      |
| 142 | 3.  |  | 3.      |

143

144            SECTION 8. Ratification. Certification of the proposition by the clerk of the district to  
145 the King County director of elections in accordance with law before the election on (DATE),  
146 and any other act consistent with the authority and before the effective date of this resolution are  
147 hereby ratified and confirmed.

148            SECTION 9. Severability. If any provision of this resolution or its application to any  
149 person or circumstance is held invalid, the remainder of the resolution or the application of the  
150 provision to other persons or circumstances is not affected.



**Agenda Bill No. 14-016**

**TO:** Mayor Guier and City Council Members  
**FROM:** Paula Wiech, Planner  
**MEETING DATE:** February 3, 2014, Special Meeting  
**SUBJECT:** Marijuana and Recreational Marijuana Regulations

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**ATTACHMENTS:**

**Draft proposed Ordinance No. 14-1855, an interim zoning ordinance regarding medical and recreational marijuana;**

**Opinion of the Attorney General of Washington;**

**Proposed House Bills 2144 and 2322.**

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**Previous Council Review Date:** January 13, 2014, January 21, 2014, January 30, 2014

**Summary:** Medical Marijuana use has been legal in the State of Washington since 1998. Recreational Marijuana use was approved by voters in November 2012. Cities and counties are charged with regulating the use of both in their jurisdictions and there have been legal challenges to those that do not allow the processing, production and dispensing of marijuana. Since August 8, 2011, the City of Pacific has adopted four Moratoriums relating to Medical Marijuana. The Planning Commission reviewed draft zoning regulations for Medical and Recreational Marijuana at their December 30, 2012 Meeting.

The City of Pacific medical marijuana moratorium expires February 12, 2014. Marijuana use is still illegal on a federal level, and the City of Pacific will not issue business licenses for activities that are illegal on a city, state or federal level.

On January 16<sup>th</sup>, the State Attorney General issued an opinion regarding whether local governments are preempted from banning the location of a Washington State Liquor Control Board licensed producer, processor, or retailer within their jurisdictions; or from making it impractical for them to locate through land use regulations or business license requirements. His Opinion states that "cities, towns, and counties derive their police power from article XI, section 11 of the Washington Constitution, not from statute."

According to another attorney, proposed House Bill 2322 would prohibit any municipality from "preventing or impeding the establishment of a recreational marijuana business."

In other news: House Bill 2144, first read on January 13, 2014, is proposing that a share of the 25% marijuana excise taxes be passed along to local jurisdictions.

## **AGENDA ITEM NO. 4I**

**Recommendation/Action:** Council adoption of an interim zoning ordinance regulating Recreational Marijuana and Medical Marijuana then, after six months, an ordinance banning Medical Marijuana processing, production and dispensing due to health and safety issues; among possible alternatives.

**Motion for Consideration:** "I move to adopt Ordinance 14-1855, relating to the recreational and medical use of marijuana, adopting an interim zoning ordinance prohibiting the siting, establishment and operation of any structures, property or uses relating to recreational or medical marijuana production, processing, cultivation, storage, sale, delivery, exchange or bartering, to be in effect until the city adopts permanent zoning regulations on the same subject, which includes a prohibition on the submission of business license applications for such uses, this interim ordinance to be effective immediately, setting six months as the effective period of the interim zoning ordinance, and establishing the date of a public hearing on the interim zoning ordinance."

**Budget Impact:**

**Alternatives:**

**CITY OF PACIFIC, WASHINGTON  
ORDINANCE NO. 14-1855**

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO THE RECREATIONAL AND MEDICAL USE OF MARIJUANA, ADOPTING AN INTERIM ZONING ORDINANCE PROHIBITING THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES, PROPERTY OR USES RELATING TO RECREATIONAL OR MEDICAL MARIJUANA PRODUCTION, PROCESSING, CULTIVATION, STORAGE, SALE, DELIVERY, EXCHANGE OR BARTERING, TO BE IN EFFECT UNTIL THE CITY ADOPTS "PERMANENT" ZONING REGULATIONS ON THE SAME SUBJECT, WHICH INCLUDES A PROHIBITION ON THE SUBMISSION OF BUSINESS LICENSE APPLICATIONS FOR SUCH USES, THIS INTERIM ORDINANCE TO BE EFFECTIVE IMMEDIATELY, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE INTERIM ZONING ORDINANCE, AND ESTABLISHING THE DATE OF A PUBLIC HEARING ON THE INTERIM ZONING ORDINANCE.

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**Medical Marijuana**

WHEREAS, since 1970, federal law has prohibited the manufacture and possession of marijuana as a Schedule I drug, based on the federal government's categorization of marijuana as having a "high potential for abuse, lack of any accepted medical use, and absence of any accepted safety for use in medically supervised treatment." *Gonzales v. Raich*, 545 U.S. 1, 14 (2005), Controlled Substance Act (CSA), 84 Stat. 1242, 21 U.S.C. 801 et seq; and

WHEREAS, the voters of the State of Washington approved Initiative 692 (codified as RCW 69.51A in November 1998); and

WHEREAS, the intent of Initiative 692 was that qualifying "patients with terminal or debilitating illnesses who, in the judgment of their physicians, would benefit from the medical use of marijuana, shall not be found guilty of a crime under state law," (RCW 69.51A.005), but that nothing in the law "shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes" (RCW 69.51A.020); and

WHEREAS, the Washington State Legislature passed ESSSB 5073 in 2011, which directed employees of the Washington State Departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis; and

WHEREAS, this bill required that the Department of Health develop a secure registration system for licensed producers, processors and dispensers, but these

provisions, together with many others relating to dispensaries and definitions, were vetoed by the Governor; and

WHEREAS, ESSSB 5073 provided that a qualifying patient or his/her designated care provider are presumed to be in compliance, and not subject to criminal or civil sanctions/penalties/consequences, under certain defined circumstances (possession of a limited number of plants or usable cannabis, cultivation of a limited number of plants in the qualifying patient or designated care provider's residence or in a collective garden); and

WHEREAS, Washington's Governor vetoed all of the provisions relevant to medical marijuana dispensaries in ESSSB 5073 but left the provisions relating to cultivation of marijuana for medical use by qualified patients individually within their residences and in collective gardens; and

WHEREAS, ESSSB 5073 was codified in chapter 69.51A RCW; and

WHEREAS, RCW 69.51A.130 allows local jurisdictions to adopt zoning requirements, business license requirements, health and safety requirements, and to impose business taxes on the production, processing or dispensing of medical cannabis or cannabis products; and

## **RECREATIONAL MARIJUANA**

WHEREAS, the Washington voters approved Initiative 502 (I-502) in 2012, which "authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and adds a new threshold for driving under the influence of marijuana"; and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana producers "to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers" (I-502, Sec. 4(1)); and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license marijuana processors to "process, package and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers" (I-502, Sec. 4(2)); and

WHEREAS, I-502 allows the Washington State Liquor Control Board to license a marijuana retailer to "sell usable marijuana and marijuana-infused products at retail in retail outlets" (I-502, Sec. 4(3)); and

WHEREAS, I-502 establishes certain siting limitations on the Washington State Liquor Control Board's issuance of such licenses for any premises that are within 1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center or library,

or any game arcade, admission to which is not restricted to persons aged twenty-one years or older (I-502, Section 8); and

WHEREAS, I-502 decriminalizes, for purposes of state law, the production, manufacture, processing, packaging, delivery, distribution, sale or possession of marijuana, as long as such activities are in compliance with I-502; and

WHEREAS, the Washington State Liquor Control Board has adopted rules to implement I-502, which include, among other things: the state licensing of premises where marijuana is produced and processed, and the inspection of same; methods of producing, processing, and packaging the marijuana and marijuana products; security requirements at such establishments; retail outlet locations and hours of operation; labeling requirements and restrictions on advertising of such products; licensing and licensing renewal rules; the manner and method to be used by which licensees may transport and deliver marijuana and marijuana products (among other things); and

WHEREAS, on August 29, 2013, the U.S. Department of Justice (DOJ) issued a Memorandum to all United States Attorneys, acknowledging that several states had adopted laws authorizing marijuana production, distribution and possession by establishing a regulatory scheme for these purposes; and

WHEREAS, in this Memo, the DOJ advised that in recent years, the DOJ has “focused its efforts on certain law enforcement priorities that are particularly important to the federal government,” such as: (a) preventing the distribution of marijuana to minors; (b) preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (c) preventing the diversion of marijuana from states where it is legal under state law in some form to other states; (d) preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; (e) preventing violence and the use of firearms in the cultivation and distribution of marijuana; (f) preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use; (g) preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and (h) preventing marijuana possession or use on federal property; and

WHEREAS, in this Memo, the DOJ warned that “[i]f state enforcement efforts are not sufficiently robust to protect against the harms [identified above] the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms”; and

WHEREAS, in this Memo, the DOJ warned that a regulatory system adequate to this task “must not only contain robust controls and procedures on paper, it must also be effective in practice”; and

WHEREAS, in this Memo, the DOJ advised that “in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department’s enforcement priorities [listed above]” and that federal prosecutors “should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong but effective state regulatory system”; and

WHEREAS, on January 16, 2013, the Washington State Attorney General’s Office issued an opinion, which determined that local governments may decide to either zone or ban recreational marijuana uses within their jurisdictions; and

WHEREAS, while the LCB adopted one report on the environmental impacts associated with the cultivation of marijuana, the City is not aware of any other analyses performed by the State of Washington to determine the environmental or secondary land use impacts that a proliferation of medical and recreational marijuana uses would have on towns, cities and counties in Washington; and

WHEREAS, nothing indicates that the LCB will perform any analyses under the State Environmental Policy Act (SEPA) to determine the significant adverse environmental impacts associated with any individual licensee’s operation of a marijuana business; and

WHEREAS, the City plans under the Growth Management Act (“GMA,” chapter 36.70A RCW), and is required to perform SEPA prior to adopting any comprehensive plan or development regulations; and

WHEREAS, given that the City has no environmental information upon which to make any determinations relating to marijuana uses, the City must collect the same from either the experiences of other areas or by empirical knowledge (after the use has located in the City and the impacts are known); and

WHEREAS, the City intends to take careful, deliberate steps to evaluate marijuana uses, and to perform the environmental analysis that the State omitted; and

WHEREAS, the City passed Ordinance 1804, 1823, 1843 and 1848, all of which adopted a moratorium on medical marijuana, which acknowledged marijuana’s uncertain legal status and the lack of information available to the City; and

WHEREAS, the City acknowledges that it has not budgeted any funds for the implementation of any medical marijuana enforcement scheme that could satisfy the DOJ’s enforcement priorities; and

WHEREAS, the City Council therefore believes that the adoption of an interim zoning and business licensing ordinance temporarily banning all marijuana uses, is

necessary to preserve the status quo, until the City Council can study, draft, hold public hearings and adopt the appropriate regulations (if any) to address these new uses; and

WHEREAS, Section 36.70A.390 of the Revised Code of Washington authorizes the City Council to adopt an interim zoning ordinance for a period of up to six months proposal provided that a public hearing is held within at least sixty days of its adoption; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF PACIFIC DOES ORDAIN AS FOLLOWS:

**Section 1.** Definitions. The following definitions apply to the terms used in this Ordinance:

A. "Cannabis" or "Marijuana" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. For the purposes of this ordinance, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted there from, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term "cannabis" includes cannabis products and useable cannabis.

B. "Cannabis products" means products that contain cannabis or cannabis extracts, have a measurable THC concentration greater than three-tenths of one percent, and are intended for human consumption or application, including, but not limited to, edible products, tinctures, and lotions. The term "cannabis products" does not include useable cannabis. The definition of "cannabis products" as a measurement of THC concentration only applies to the provisions of this ordinance and shall not be considered applicable to any criminal laws related to marijuana or cannabis.

C. "Child Care Center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington State Department of Early Learning, under chapter 170-295 WAC.

D. "Collective Garden" means those gardens authorized under RCW 69.51A.085, which allows Qualifying Patients to create and participate in Collective Gardens for the purpose of producing, processing, transporting and delivering cannabis for medical use, subject to certain limited conditions, including:<sup>1</sup>

(1) No more than ten Qualifying Patients may participate in a single collective garden at any time;

(2) A Collective Garden may contain no more than fifteen plants per Qualifying Patient, up to a total of forty-five plants;

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<sup>1</sup> Additional definition appears in RCW 69.51A.085(2).

(3) A Collective Garden may contain no more than twenty-four ounces of usable cannabis per patient up to a total of seventy-two ounces of usable cannabis; and

(4) A copy of each Qualifying Patient's valid documentation or proof of registration with the registry established in state law (now or in the future), including a copy of the Qualifying Patient's proof of identity, must be available at all times on the premises of the Collective Garden;

(5) No Usable Cannabis from the Collective Garden may be delivered to anyone other than one of the Qualifying Patients participating in the Collective Garden; and

(6) A business license must be obtained for the Collective Garden through the City.

E. "Cultivation" means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

F. "Deliver or Delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

G. "Designated care provider" means a person who:

(1) Is eighteen years of age or older;

(2) Has been designated in writing by a patient to serve as a designated provider under chapter 69.51A RCW; and

(3) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(4) Is the designated provider to only one patient at any one time.

H. "Dispensary, Medical Marijuana" means: any location that does not meet the definition of a "Collective Garden" and does not have a license from the Liquor Control Board of the State of Washington for a marijuana producer, processor or retailer pursuant to I-502, where medical cannabis or marijuana is processed, dispensed, selected, measured, compounded, packaged, labeled or sold to a qualified patient, designated provider or any other member of the public. It also includes any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, sell or give away medical cannabis or marijuana to a qualified patient, designated provider or any other member of the public.

I. "Dispense" means the interpretation of a prescription or order for medical cannabis, and pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare the prescription or order for delivery.

J. "Elementary School" means a school for early education that provides the first four to eight years of basic education and is recognized by the Washington State Superintendent of Public Instruction.

K. "Game Arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

L. "Indoors" means within a fully enclosed and secure structure that complies with the Washington State Building Code, as adopted by the City, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, and a foundation, slab, or equivalent base to which the floor is securely attached. The structure must be secure against unauthorized entry, accessible only through one or more lockable doors, and constructed of solid materials that cannot easily be broken through, such as 2" by 4" or thicker studs overlain with 3/8" or thicker plywood or equivalent materials. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

M. "Legal parcel" means a parcel of land for which one legal title exists. Where contiguous legal parcels are under common ownership or control, such legal parcels shall be counted as a single parcel for purposes of this ordinance.

N. "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

O. "Manager" means any person to whom a medical marijuana collective garden has delegated discretionary powers to organize, direct and carry on or control its operations. Authority to control one or more of the following functions shall be prima facie evidence that such a person is a manager of the business: (a) to hire, select, or supervise employees or staff, including volunteers; (b) to acquire facilities, furniture, equipment or supplies other than the occasional replenishment of stock; (c) to disburse funds of the business other than for the receipt of regularly replaced items of stock; or (d) to make, or participate in making, policy decisions relative to operations of the business.

P. "Marijuana processor" means a person licensed by the State Liquor Control Board to process marijuana into useable marijuana and marijuana-infused products, package and label usable marijuana and marijuana-infused products for sale in retail outlets, and sell usable marijuana and marijuana-infused products as wholesale to marijuana retailers.

Q. "Marijuana producer" means a person licensed by the State Liquor Control Board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

R. "Marijuana-infused products" means products that contain marijuana or marijuana extracts and are intended for human use. The term "marijuana-infused products" does not include useable marijuana.

S. "Marijuana retailer" means a person licensed by the State Liquor Control Board to sell usable marijuana and marijuana-infused products in a retail outlet.

T. "Marijuana, Usable" means dried marijuana flowers. The term "usable marijuana" does not include marijuana-infused products.

U. "Medical (or medicinal) use of cannabis or marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(r), for the exclusive benefit of a Qualifying Patient in the treatment of his or her terminal or debilitating illness.

V. "Outdoors" means any location that is not "indoors" within a fully enclosed and secure structure as defined herein.

X. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision of agency or any other legal or commercial entity.

Y. "Personally identifiable information" means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a Qualifying Patient or Designated Provider.

Z. "Plant" means an organism having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system shall be considered part of the same single plant.

AA. "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides and other playground equipment, owned and/or managed by a city, county, state or federal government.

BB. "Process" means to handle or process cannabis in preparation for medical or recreational use.

CC. "Produce or Production" means to manufacture, plant, grow or harvest cannabis or marijuana.

DD. "Public Park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government or metropolitan park district. Public park does not include trails.

EE. "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school

purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

FF. "Public Transit Center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

GG. "Qualifying Patient" means a person who:

1. Is a patient of a health care professional;
2. Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;
3. Is a resident of the state of Washington at the time of such diagnosis;
4. Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;
5. Has been advised by that health care professional that he or she may benefit from the medical use of marijuana; and
6. Is otherwise in compliance with the terms and conditions established in chapter 69.51A RCW.

HH. "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under twenty-one years of age, owned and/or managed by a charitable nonprofit organization, city, county, state or federal government.

II. "Residential treatment facility" means a facility providing for treatment of drug and alcohol dependency;

JJ. "Retail outlet" means a location licensed by the State Liquor Control Board for the retail sale of useable marijuana and marijuana-infused products.

KK. "Secondary School" means a high and/or middle school: A school for students who have completed their primary education, usually attended by children in grades seven to twelve and recognized by the Washington State Superintendent of Public Instruction.

LL. "Terminal or debilitating medical condition" means:

1. Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or
2. Intractable pain, limited for the purpose of this ordinance to mean pain unrelieved by standard medical treatments and medications; or
3. Glaucoma, either acute or chronic, limited for the purpose of this ordinance to mean increased intraocular pressure unrelieved by standard treatments and medications; or
4. Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or
5. Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or
6. Diseases, including anorexia, which result in nausea, vomiting, cachexia, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or
7. Any other medical condition duly approved by the Washington State Medical Quality Assurance Commission in consultation with the Board of Osteopathic Medicine and Surgery as directed in chapter 69.51A RCW.

MM. "THC concentration" means percent of tetrahydrocannabinol content per weight or volume of useable cannabis or cannabis product.

NN. "Useable cannabis or usable marijuana" means dried flowers of the *Cannabis* plant. The term "usable cannabis or usable marijuana" does not include marijuana-infused products or cannabis products.

OO. "Valid documentation" means:

1. A statement signed and dated by a Qualifying Patient's Health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of cannabis/marijuana;
2. Proof of identity such as a Washington state driver's license or identicard, as defined in RCW 46.20.035; and
3. In the case of a Designated Provider, the signed and dated document valid for one year from the date of signature executed by the Qualifying Patient who has designated the Provider.

**Section 2: Findings.** The Council adopts all of the "whereas" sections of this Ordinance as findings to support this interim zoning ordinance, as well as the following:

A. The purpose of this interim zoning ordinance is to maintain the status quo while the City drafts and considers a new ordinance on the subject of medical cannabis/marijuana and recreational marijuana. Based on the information available to the City today, it is predicted that this draft ordinance will (1) explicitly prohibit medical marijuana dispensaries, medical marijuana collective gardens (including those defined

in RCW 69.51A.085); and (2) explicitly prohibit recreational marijuana retailers, producers and processors, including those licensed by the State of Washington.

B. The City will consider adoption and enforcement of such an ordinance during the next six months, while this interim zoning ordinance is in effect. During this time, if the Washington State Legislature acts to adopt laws addressing medical and/or recreational marijuana, the City shall evaluate these new laws to determine whether this position should change. In addition, the City will consider whether there is any information (whether on the environmental, secondary land use and/or economic impacts) associated with marijuana uses that can be used for purposes of drafting regulations addressing such uses.

C. During the period of time that this interim zoning ordinance is in effect, the City will also consider the manner in which the negative impacts and secondary effects associated with the marijuana uses (on-going or predicted) in the City can be ameliorated, including but not limited to, the demands that will be placed upon scarce City policing, legal, policy and administrative resources; neighborhood disruption, increased transient visitors and intimidation; the exposure of school-age children and other sensitive residents to marijuana, illegal sales to both minors and adults; fraud in issuing, obtaining or using medical marijuana prescriptions, murders, robberies, burglaries, assaults, drug trafficking and other violent crimes.

D. The State of Washington has adopted a strict regulatory and enforcement system for the cultivation, processing and sale of recreational marijuana, but no licenses have yet issued, and there is no way to determine whether (or the manner in which) the State will enforce these rules. The Council also acknowledges that the State has not performed any environmental analyses that will assist cities, towns and counties in the adoption of local regulations addressing marijuana uses, and that municipalities must therefore either develop their own analyses or observe these impacts after-the-fact (or, *after* these marijuana uses locate and begin operation in cities, towns and counties throughout Washington.) Then, the municipalities will be required to “fix” the problems stemming from these uses with their already scarce resources.

E. In sum, the City Council believes that it cannot adopt legislation to address the negative environmental impacts and secondary land use effects of medical and recreational marijuana uses until the extent of these impacts are known, new laws are adopted to bridge the gap between recreational and medical marijuana uses, and there is strict enforcement of these laws.

F. No part of this interim ordinance is intended to or shall be deemed to conflict with federal law, including but not limited to, the Controlled Substances Act, 21 U.S.C. Section 800 *et seq.*, the Uniform Controlled Substances Act (chapter 69.50 RCW) nor to otherwise permit any activity that is prohibited under either Act, or any other local, state or federal law, statute, rule or regulation. This interim ordinance is not intended to address or invite litigation over the question whether the State of Washington’s medical or recreational marijuana laws (or this City’s laws) satisfy the

federal government's enforcement priorities. Nothing in this interim ordinance shall be construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of medical cannabis or recreational marijuana in any manner not authorized by chapter 69.51A RCW or chapter 69.50 RCW. Nothing in this interim ordinance shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or that creates a nuisance, as defined herein. It is the intention of the City Council that this interim ordinance be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass.

**Section 3. Interim Ordinance Adopted.** This interim ordinance is immediately adopted for a period of six months in order to provide the City adequate time to:

A. Study the secondary land use impacts associated with the location and siting of structures and uses in which medical and recreational marijuana production, marijuana processing or marijuana retailing may take place. This includes, but is not limited to, all activities associated with medical marijuana, including individual cultivation, collective gardens, transfer, bartering, exchange and delivery of marijuana between qualified patients and designated providers. This work will begin upon adoption of this ordinance and is expected to take 4 months.

B. Allow the City adequate time to study the effects of state licensed marijuana uses as they operate in other areas (throughout Washington, Colorado and other states adopting similar laws). This work will begin upon adoption of this ordinance and is expected to take 4 months.

C. Await the Legislature's adoption of any new legislation on the subject of marijuana uses in Washington. The Council shall continue monitoring the Legislature's activity while this ordinance is in effect, or for the next six months.

D. Draft ordinances addressing marijuana uses in the City. This work will begin immediately after the activities described in A and B of this Section are complete.

E. Hold a public hearing(s) on the draft ordinances, obtain public input on such ordinances, allow the Planning Commission to make recommendations to the City Council, for the City Council to review the draft ordinance and, if desired, to adopt new regulations or prohibitions on marijuana uses. This work will begin immediately after the activities described in A, B and D are complete.

Ordinance 1848, which adopted a moratorium on marijuana uses, is hereby repealed as of the effective date of this interim zoning ordinance.

**Section 4. Effect of Interim Zoning Ordinance.** The City Council imposes an immediate six-month prohibition on the acceptance of all development permit and business license applications for any structure, use or operation involving marijuana production, marijuana processing or marijuana retailing, as the same are defined in this Ordinance. All such

development permit and business license applications shall be rejected and returned to the applicant.

**Section 5. Duration of Interim Zoning Ordinance.** This interim zoning ordinance shall commence on the effective date set forth in Section 10 herein. As long as the City holds a public hearing on the interim zoning ordinance and adopts findings and conclusions in support of the interim zoning ordinance (as contemplated by Section 6 herein), the interim zoning ordinance shall not terminate until six (6) months after the date of adoption, or at the time all of the events described in Section 3 have been accomplished, whichever is sooner. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.

**Section 6. Public Hearing on Interim Zoning.** Pursuant to RCW 36.70A.390 and RCW 35.63.200, the City Council shall hold a public hearing on this interim zoning ordinance within sixty (60) days of its adoption, or before *April 3, 2014*. The Council hereby schedules this hearing for *March 10, 2014*. During the next Council meeting immediately following, the City Council shall adopt findings of fact on the subject of this interim zoning ordinance and either justify its continued imposition or repeal this ordinance.

**Section 7. Declaration of Emergency.**<sup>2</sup> The City Council hereby declares that an emergency exists necessitating that this interim zoning ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council, and that the same is not subject to a referendum.<sup>3</sup> If this interim zoning ordinance is not adopted immediately, applications for marijuana uses and business licenses could be submitted to the City and arguably become vested, leading to development that could be incompatible with the regulations eventually adopted by the City (after the process described herein). Therefore, the interim zoning ordinance must be adopted immediately as an emergency measure to protect the public health, safety and welfare, and to prevent the submission of applications to the City in an attempt to vest rights for an indefinite period of time.

**Section 8. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful 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 9. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

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<sup>2</sup> If the City does not have sufficient votes to pass this ordinance on an emergency basis, this section should be deleted. Without a majority plus one of the full membership of the Council, the ordinance would go into effect at the usual time. See, RCW 35A.12.130 for code cities.

<sup>3</sup> RCW 35A.12.130 for code cities.

**Section 10. Effective Date**(without the vote of a majority plus one of the entire council).  
This Ordinance shall take effect and be in full force and effect five days after publication,  
as provided by law.

(Alternative Effective Date provision if the Council desires immediate adoption and there  
is a vote of a majority plus one of the entire council: This Ordinance shall take effect and  
be in full force immediately upon passage, having received the vote of a majority plus one  
of the entire Council.)

PASSED by the City Council of Pacific this \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
\_\_\_\_\_, Mayor

AUTHENTICATED:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk.

APPROVED AS TO FORM:  
Office of the City Attorney

\_\_\_\_\_  
City Attorney

PUBLISHED:  
EFFECTIVE DATE:

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HOUSE BILL 2322

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Sawyer, Condotta, Appleton, Kirby, Fey, Farrell, Fitzgibbon, Hunt, Reykdal, Springer, and Ryu

Read first time 01/15/14. Referred to Committee on Government Accountability & Oversight.

1 AN ACT Relating to prohibiting local governments from taking  
2 actions preventing or impeding the creation or operation of commercial  
marijuana businesses licensed by the liquor control board; amending RCW  
4 66.08.170, 82.08.170, and 66.08.050; adding a new section to chapter  
5 69.50 RCW; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW  
8 to read as follows:

9 (1) Cities, counties, and towns must cooperate with the liquor  
10 control board with respect to the establishment within their  
11 jurisdictional boundaries of businesses involved in the production,  
12 processing, or sale of recreational marijuana where such businesses are  
13 licensed under RCW 69.50.325. Subject to the regulatory requirements  
14 of this chapter, licensed marijuana businesses attempting to locate  
15 within the jurisdictional boundaries of a municipality must be treated  
16 the same as other businesses within that jurisdiction with respect to  
17 ordinances or regulations that include, but are not limited to, those  
pertaining to local business licensing, zoning, and land use.

1 (2) Cities, counties, and towns are prohibited from enacting any  
2 ordinance or other regulation pertaining to business licensing, zoning,  
3 or land use that has the effect of preventing or impeding the  
4 establishment of a recreational marijuana business licensed under RCW  
5 69.50.325. In the event the liquor control board determines that a  
6 municipality has engaged in regulatory practices that impede the  
7 establishment of such businesses in violation of this section, the  
8 liquor control board may:

9 (a) Penalize the offending municipality by making it ineligible to  
10 receive any funds from the liquor revolving fund established in RCW  
11 66.08.170 and the liquor excise tax fund established under RCW  
12 82.08.170. Upon the determination that a municipality is ineligible to  
13 receive moneys from such funds under this section, the liquor control  
14 board may direct the state treasurer to withhold the revenues to which  
15 a county, city, or town would otherwise be entitled from the liquor  
16 revolving fund and the liquor excise tax fund. In the event the liquor  
17 control board later determines that the offending municipality has  
18 become compliant with the requirements of this section, it shall direct  
19 the state treasurer to resume distributing revenues from these funds to  
20 the municipality; and

21 (b) Bring legal action in superior court against the offending  
22 municipality for injunctive relief for violations of this section. The  
23 municipality shall pay all court costs and other litigation-related  
24 expenses for legal actions brought under this section.

25 **Sec. 2.** RCW 66.08.170 and 2011 1st sp.s. c 50 s 959 are each  
26 amended to read as follows:

27 (1) There shall be a fund, known as the "liquor revolving fund",  
28 which shall consist of all license fees, permit fees, penalties,  
29 forfeitures, and all other moneys, income, or revenue received by the  
30 board. The state treasurer shall be custodian of the fund. All moneys  
31 received by the board or any employee thereof, except for change funds  
32 and an amount of petty cash as fixed by the board within the authority  
33 of law shall be deposited each day in a depository approved by the  
34 state treasurer and transferred to the state treasurer to be credited  
35 to the liquor revolving fund. During the 2009-2011 fiscal biennium,  
36 the legislature may transfer funds from the liquor revolving (~~account~~  
37 ~~fund~~) fund to the state general fund and may direct an additional

1 amount of liquor profits to be distributed to local governments.  
2 Neither the transfer of funds nor the additional distribution of liquor  
3 profits to local governments during the 2009-2011 fiscal biennium may  
4 reduce the excess fund distributions that otherwise would occur under  
5 RCW 66.08.190. During the 2011-2013 fiscal biennium, the state  
6 treasurer shall transfer from the liquor revolving fund to the state  
7 general fund forty-two million five hundred thousand dollars for fiscal  
8 year 2012 and forty-two million five hundred thousand dollars for  
9 fiscal year 2013. The transfer during the 2011-2013 fiscal biennium  
10 may not reduce the excess fund distributions that otherwise would occur  
11 under RCW 66.08.190. Sales to licensees are exempt from any liquor  
12 price increases that may result from the transfer of funds from the  
13 liquor revolving fund to the state general fund during the 2011-2013  
14 fiscal biennium. Disbursements from the revolving fund shall be on  
15 authorization of the board or a duly authorized representative thereof.  
16 In order to maintain an effective expenditure and revenue control the  
17 liquor revolving fund shall be subject in all respects to chapter 43.88  
18 RCW but no appropriation shall be required to permit expenditures and  
19 payment of obligations from such fund.

20 (2) Transfers of funds to local governments from the liquor  
21 revolving fund are subject to the provisions of section 1 of this act.  
22 Local governments are ineligible to receive such funding if the liquor  
23 control board determines that the local government is noncompliant with  
24 the requirements of section 1 of this act.

25 **Sec. 3.** RCW 82.08.170 and 2012 2nd sp.s. c 5 s 4 are each amended  
26 to read as follows:

27 (1) Except as provided in subsection (4) of this section, during  
28 the months of January, April, July, and October of each year, the state  
29 treasurer must make the transfers required under subsections (2) and  
30 (3) of this section from the liquor excise tax fund and then the  
31 apportionment and distribution of all remaining moneys in the liquor  
32 excise tax fund to the counties, cities, and towns in the following  
33 proportions: (a) Twenty percent of the moneys in the liquor excise tax  
34 fund must be divided among and distributed to the counties of the state  
35 in accordance with the provisions of RCW 66.08.200; and (b) eighty  
percent of the moneys in the liquor excise tax fund must be divided

1 among and distributed to the cities and towns of the state in  
2 accordance with the provisions of RCW 66.08.210.

3 (2) Each fiscal quarter and prior to making the twenty percent  
4 distribution to counties under subsection (1)(a) of this section, the  
5 treasurer shall transfer to the liquor revolving fund created in RCW  
6 66.08.170 sufficient moneys to fund the allotments from any legislative  
7 appropriations for county research and services as provided under  
8 chapter 43.110 RCW.

9 (3) During the months of January, April, July, and October of each  
10 year, the state treasurer must transfer two million five hundred  
11 thousand dollars from the liquor excise tax fund to the state general  
12 fund.

13 (4) During calendar year 2012, the October distribution under  
14 subsection (1) of this section and the July and October transfers under  
15 subsections (2) and (3) of this section must not be made. During  
16 calendar year 2013, the January, April, and July distributions under  
17 subsection (1) of this section and transfers under subsections (2) and  
18 (3) of this section must not be made.

19 (5) All transfers of funds to local governments from the liquor  
20 excise tax fund are subject to the provisions of section 1 of this act.  
21 Local governments are ineligible to receive such funding if the liquor  
22 control board determines that the local government is noncompliant with  
23 the requirements of section 1 of this act.

24 **Sec. 4.** RCW 66.08.050 and 2012 c 2 s 107 are each amended to read  
25 as follows:

26 The board, subject to the provisions of this title and the rules,  
27 must:

28 (1) Determine the nature, form and capacity of all packages to be  
29 used for containing liquor kept for sale under this title;

30 (2) Execute or cause to be executed, all contracts, papers, and  
31 documents in the name of the board, under such regulations as the board  
32 may fix;

33 (3) Pay all customs, duties, excises, charges and obligations  
34 whatsoever relating to the business of the board;

35 (4) Require bonds from all employees in the discretion of the  
36 board, and to determine the amount of fidelity bond of each such  
37 employee;

1 (5) Perform services for the state lottery commission to such  
2 extent, and for such compensation, as may be mutually agreed upon  
3 between the board and the commission;

4 (6) Accept and deposit into the general fund-local account and  
5 disburse, subject to appropriation, federal grants or other funds or  
6 donations from any source for the purpose of improving public awareness  
7 of the health risks associated with alcohol consumption by youth and  
8 the abuse of alcohol by adults in Washington state. The board's  
9 alcohol awareness program must cooperate with federal and state  
10 agencies, interested organizations, and individuals to effect an active  
11 public beverage alcohol awareness program;

12 (7) Perform all other matters and things, whether similar to the  
13 foregoing or not, to carry out the provisions of this title and chapter  
14 69.50 RCW regarding the production, processing, and sale of  
15 recreational marijuana, and has full power to do each and every act  
16 necessary to the conduct of its regulatory functions, including all  
17 supplies procurement, preparation and approval of forms, and every  
18 other undertaking necessary to perform its regulatory functions  
19 whatsoever, subject only to audit by the state auditor. However, the  
20 board has no authority to regulate the content of spoken language on  
21 licensed premises where wine and other liquors are served and where  
22 there is not a clear and present danger of disorderly conduct being  
23 provoked by such language or to restrict advertising of lawful prices.

24 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of the  
26 state government and its existing public institutions, and takes effect  
27 immediately.

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HOUSE BILL 2144

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State of Washington

63rd Legislature

2014 Regular Session

By Representative Condotta

Prefiled 01/06/14.

1 AN ACT Relating to the establishment of a dedicated local  
2 jurisdiction marijuana fund and the distribution of a specified  
3 percentage of marijuana excise tax revenues to local jurisdictions;  
4 amending RCW 69.50.530, 69.50.535, and 69.50.540; and providing an  
5 effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 69.50.530 and 2013 c 3 s 26 (Initiative Measure No.  
8 502) are each amended to read as follows:

9 (1) (~~There shall be~~) (a) Except as otherwise provided in (b) of  
10 this subsection, there must be a fund, known as the dedicated marijuana  
11 fund, which (~~shall~~) consists of all marijuana excise taxes, license  
12 fees, penalties, forfeitures, and all other moneys, income, or revenue  
13 received by the state liquor control board from marijuana-related  
14 activities. The state treasurer (~~shall~~) must be custodian of the  
15 fund.

16 (b) There must be a fund, known as the dedicated local jurisdiction  
17 marijuana fund, which consists of marijuana excise taxes collected  
18 under RCW 69.50.535(3). The state treasurer must be custodian of the  
19 fund.

1 (2) All moneys received by the state liquor control board or any  
2 employee thereof from marijuana-related activities (~~(shall)~~) must be  
3 deposited each day in a depository approved by the state treasurer and  
4 transferred to the state treasurer to be credited to the dedicated  
5 marijuana fund or the dedicated local jurisdiction marijuana fund.

6 (3) Disbursements from the dedicated marijuana fund (~~(shall)~~) or  
7 the dedicated local jurisdiction marijuana fund must be on  
8 authorization of the state liquor control board or a duly authorized  
9 representative thereof.

10 **Sec. 2.** RCW 69.50.535 and 2013 c 3 s 27 (Initiative Measure No.  
11 502) are each amended to read as follows:

12 (1) There is levied and collected a marijuana excise tax equal to  
13 twenty-five percent of the selling price on each wholesale sale in this  
14 state of marijuana by a licensed marijuana producer to a licensed  
15 marijuana processor or another licensed marijuana producer. This tax  
16 is the obligation of the licensed marijuana producer.

17 (2) There is levied and collected a marijuana excise tax equal to  
18 twenty-five percent of the selling price on each wholesale sale in this  
19 state of useable marijuana or marijuana-infused product by a licensed  
20 marijuana processor to a licensed marijuana retailer. This tax is the  
21 obligation of the licensed marijuana processor.

22 (3) There is levied and collected a marijuana excise tax equal to  
23 twenty-five percent of the selling price on each retail sale in this  
24 state of useable marijuana and marijuana-infused products. This tax is  
25 the obligation of the licensed marijuana retailer, is separate and in  
26 addition to general state and local sales and use taxes that apply to  
27 retail sales of tangible personal property, and is part of the total  
28 retail price to which general state and local sales and use taxes  
29 apply.

30 (4) All revenues collected from the marijuana excise taxes imposed  
31 under subsections (1) through (3) of this section (~~(shall)~~) must be  
32 deposited each day in a depository approved by the state treasurer and  
33 transferred to the state treasurer (~~(to be credited to the dedicated~~  
34 ~~marijuana fund))~~ as follows:

35 (a) All revenue collected from the marijuana excise tax imposed  
36 under subsections (1) and (2) of this section and seventy percent of

1 revenue collected from the marijuana excise tax imposed under  
2 subsection (3) of this section must be credited to the dedicated  
3 marijuana fund.

4 (b) Thirty percent of revenue collected from the marijuana excise  
5 tax imposed under subsection (3) of this section must be credited to  
6 the dedicated local jurisdiction marijuana fund.

7 (5) The state liquor control board (~~shall~~) must regularly review  
8 the tax levels established under this section and make recommendations  
9 to the legislature as appropriate regarding adjustments that would  
10 further the goal of discouraging use while undercutting illegal market  
11 prices.

12 **Sec. 3.** RCW 69.50.540 and 2013 c 3 s 28 (Initiative Measure No.  
13 502) are each amended to read as follows:

14 (1) All marijuana excise taxes collected from sales of marijuana,  
15 useable marijuana, and marijuana-infused products under RCW 69.50.535,  
16 and the license fees, penalties, and forfeitures derived under chapter  
17 3, Laws of 2013 from marijuana producer, marijuana processor, and  
18 marijuana retailer licenses (~~shall~~) deposited in the dedicated  
19 marijuana fund must every three months be disbursed by the state liquor  
20 control board as follows:

21 (~~(1)~~) (a) One hundred twenty-five thousand dollars to the  
22 department of social and health services to design and administer the  
23 Washington state healthy youth survey, analyze the collected data, and  
24 produce reports, in collaboration with the office of the superintendent  
25 of public instruction, department of health, department of commerce,  
26 family policy council, and state liquor control board. The survey  
27 (~~shall~~) must be conducted at least every two years and include  
28 questions regarding, but not necessarily limited to, academic  
29 achievement, age at time of substance use initiation, antisocial  
30 behavior of friends, attitudes toward antisocial behavior, attitudes  
31 toward substance use, laws and community norms regarding antisocial  
32 behavior, family conflict, family management, parental attitudes toward  
33 substance use, peer rewarding of antisocial behavior, perceived risk of  
34 substance use, and rebelliousness. Funds disbursed under this  
35 subsection may be used to expand administration of the healthy youth  
36 survey to student populations attending institutions of higher  
37 education in Washington;

1       ~~((2))~~ (b) Fifty thousand dollars to the department of social and  
2 health services for the purpose of contracting with the Washington  
3 state institute for public policy to conduct the cost-benefit  
4 evaluation and produce the reports described in RCW 69.50.550. This  
5 appropriation ~~((shall))~~ ends after production of the final report  
6 required by RCW 69.50.550;

7       ~~((3))~~ (c) Five thousand dollars to the University of Washington  
8 alcohol and drug abuse institute for the creation, maintenance, and  
9 timely updating of web-based public education materials providing  
10 medically and scientifically accurate information about the health and  
11 safety risks posed by marijuana use;

12       ~~((4))~~ (d) An amount not exceeding one million two hundred fifty  
13 thousand dollars to the state liquor control board as is necessary for  
14 administration of chapter 3, Laws of 2013;

15       ~~((5))~~ (e)(i) Of the funds remaining after the disbursements  
16 identified in subsections ~~((1))~~ (a) through ~~((4))~~ (d) of this  
17 ~~((section))~~ subsection:

18       ~~((a))~~ (A) Fifteen percent to the department of social and health  
19 services division of behavioral health and recovery for implementation  
20 and maintenance of programs and practices aimed at the prevention or  
21 reduction of maladaptive substance use, substance-use disorder,  
22 substance abuse or substance dependence, as these terms are defined in  
23 the Diagnostic and Statistical Manual of Mental Disorders, among middle  
24 school and high school age students, whether as an explicit goal of a  
25 given program or practice or as a consistently corresponding effect of  
26 its implementation; PROVIDED, That:

27       ~~((i))~~ (I) Of the funds disbursed under ~~((a))~~ (e)(i)(A) of this  
28 subsection, at least eighty-five percent must be directed to evidence-  
29 based and cost-beneficial programs and practices that produce  
30 objectively measurable results; and

31       ~~((ii))~~ (II) Up to fifteen percent of the funds disbursed under  
32 ~~((a))~~ (e)(i)(A) of this subsection may be directed to research-based  
33 and emerging best practices or promising practices.

34       (ii) In deciding which programs and practices to fund, the  
35 secretary of the department of social and health services ~~((shall))~~  
36 must consult, at least annually, with the University of Washington's  
37 social development research group and the University of Washington's  
38 alcohol and drug abuse institute;

1       ~~((b))~~ (B) Ten percent to the department of health for the  
2 creation, implementation, operation, and management of a marijuana  
3 education and public health program that contains the following:

4       ~~((i))~~ (I) A marijuana use public health hotline that provides  
5 referrals to substance abuse treatment providers, utilizes evidence-  
6 based or research-based public health approaches to minimizing the  
7 harms associated with marijuana use, and does not solely advocate an  
8 abstinence-only approach;

9       ~~((ii))~~ (II) A grants program for local health departments or  
10 other local community agencies that supports development and  
11 implementation of coordinated intervention strategies for the  
12 prevention and reduction of marijuana use by youth; and

13       ~~((iii))~~ (III) Media-based education campaigns across television,  
14 internet, radio, print, and out-of-home advertising, separately  
15 targeting youth and adults, that provide medically and scientifically  
16 accurate information about the health and safety risks posed by  
17 marijuana use;

18       ~~((e))~~ (C) Six-tenths of one percent to the University of  
19 Washington and four-tenths of one percent to Washington State  
20 University for research on the short and long-term effects of marijuana  
21 use, to include but not be limited to formal and informal methods for  
22 estimating and measuring intoxication and impairment, and for the  
23 dissemination of such research;

24       ~~((d))~~ (D) Fifty percent to the state basic health plan trust  
25 account to be administered by the Washington basic health plan  
26 administrator and used as provided under chapter 70.47 RCW;

27       ~~((e))~~ (E) Five percent to the Washington state health care  
28 authority to be expended exclusively through contracts with community  
29 health centers to provide primary health and dental care services,  
30 migrant health services, and maternity health care services as provided  
31 under RCW 41.05.220;

32       ~~((f))~~ (F) Three-tenths of one percent to the office of the  
33 superintendent of public instruction to fund grants to building bridges  
34 programs under chapter 28A.175 RCW; and

35       ~~((g))~~ (G) The remainder to the general fund.

36       (2) All marijuana excise taxes from sales of marijuana, useable  
37 marijuana, and marijuana-infused products that are collected and  
38 deposited under RCW 69.50.535 in the dedicated local jurisdiction

1 marijuana fund must be disbursed every three months by the state liquor  
2 control board to the local jurisdiction where the retail sale  
3 originated. Each local jurisdiction with retail sales must receive  
4 revenue distributions based on their proportional amount of the total  
5 revenues in the dedicated local jurisdiction marijuana fund from sales  
6 within their jurisdiction.

7 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2014.

--- END ---