
CITY OF KIRKLAND

CITY COUNCIL



Joan McBride, Mayor • Penny Sweet, Deputy Mayor • Dave Asher • Jessica Greenway
Doreen Marchione • Bob Sternoff • Amy Walen • Marilynne Beard, Interim City Manager

Vision Statement

*Kirkland is an attractive, vibrant, and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.*

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AGENDA

KIRKLAND CITY COUNCIL MEETING

City Council Chambers
Tuesday, June 1, 2010
6:00 p.m. – Study Session – Peter Kirk Room
7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.ci.kirkland.wa.us, or at the Public Resource Area at City Hall on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (587-3190) or the City Manager's Office (587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION, Peter Kirk Room*
 - a. City Hall / Facilities Planning
4. *EXECUTIVE SESSION*
 - a. To Review Qualifications of an Applicant for Public Employment
5. *HONORS AND PROCLAMATIONS*
 - a. Honoring Youth Council Senior Class of 2010
 - b. Relay for Life Proclamation
6. *COMMUNICATIONS*
 - a. *Announcements*
 - b. *Items from the Audience*
 - c. *Petitions*
 - (1) Residents of Lake Avenue West Petition the City Not to Implement Construction of Steps Joining Heritage Park to the Small Park at the North End of Lake Ave West

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

P - denotes a presentation
from staff or consultant

7. *SPECIAL PRESENTATIONS*

- a. Green Tips

8. *CONSENT CALENDAR*

- a. *Approval of Minutes:*
 - (1) May 14, 2010 Special Meeting
 - (2) May 18, 2010
 - (3) May 25, 2010 Special Meeting
 - (4) May 25, 2010 Special Meeting

b. *Audit of Accounts:*

Payroll \$

Bills \$

c. *General Correspondence*

d. *Claims*

- (1) Zhida Anees
- (2) Henry HC Huang
- (3) Viera Lee
- (4) Debra Lewis

e. *Award of Bids*

f. *Acceptance of Public Improvements and Establishing Lien Period*

g. *Approval of Agreements*

h. *Other Items of Business*

- (1) Ordinance No. 4241, Amending Section 11.84A.030 of the Kirkland Municipal Code, Entitled "Disorderly Conduct" and Amending Provisions Relating to the Crime of Disorderly Conduct
- (2) Report on Procurement Activities

9. *PUBLIC HEARINGS*

- a. Ordinance No. 4242, Relating to Land Use and Zoning, Providing Interim Official Controls Regarding Land Use Permit Extensions, File No. MIS09-00022, as Adopted by Ordinance 4219, and Extending Ordinance 4219 through December 1, 2010.

GENERAL CORRESPONDENCE

Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land use public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

10. *UNFINISHED BUSINESS*

- a. Eastside Rail Corridor Process Update

11. *NEW BUSINESS*

- a. Annexation Area School Construction Project Permits
- b. Ordinance No. 4243 and its Summary, Relating to Impact Fees, Establishing Impact Fee Credits for Residential Subdivisions in Certain Situations, Providing the Option for Deferral of Payment of Impact Fees for Single Family Residences to the Initial Sale of the Residence, and Making Other Miscellaneous Changes
- c. Ordinance No. 4244 and its Summary, Relating to Street Cut Fees and Amending Sections 5.74.040 and 19.12.090 of the Kirkland Municipal Code
- d. Potential Property Acquisition for a Public Safety Facility

12. *REPORTS*

- a. *City Council*
 - (1) Regional Issues
- b. *City Manager*
 - (1) Calendar Update

13. *ITEMS FROM THE AUDIENCE*

14. *ADJOURNMENT*

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

ITEMS FROM THE AUDIENCE
Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

**CITY OF KIRKLAND****Department of Public Works****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.ci.kirkland.wa.us**

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Donna Burris, Internal Services Manager

Date: May 20, 2010

Subject: CITY HALL / FACILITIES PLANNING

RECOMMENDATION:

City Council review this update on facility needs and options and provide direction to staff regarding the recommended actions.

BACKGROUND DISCUSSION:

This memo summarizes the needs and details of three key facility elements for the City:

- City Hall
- Public Safety Campus
- Maintenance Center

Staff has looked into a number of factors and options for providing additional space for City staff, particularly for public safety staff that will be hired as a result of annexation. At this time, staff is proposing recommendations and seeking feedback from the City Council.

City Hall/Public Safety

As the annexation implementation proceeds, additional facilities are necessary to accommodate staff and equipment that will be added to serve the area. In November 2007, staff presented preliminary findings for the additional facilities that envisioned an expansion to City Hall, a new, independent, Public Safety Building, and an expansion of the Maintenance Center; however costs were trending significantly above the original estimates. The Public Safety Building alone was estimated to cost in the neighborhood of \$50 million. On March 2, 2010, City Council asked staff to identify alternatives to the original facilities plan which could accommodate the annexation but reduce costs of the overall facilities. Staff was directed to develop more complete plans and projected costs for the expansion at City Hall and prepare a financing plan. Since that time two separate options have been explored and costs have been assembled:

Option A - City Hall/Public Safety Expansion ("Hybrid Option")

This option includes a City Hall Expansion primarily to accommodate Police Department space needs. The option reallocates the remaining space to other City functions currently housed in City Hall. Human Resources and Parks Administration would remain at 505 Market Street. The size of this facility which would include an adjacent three level parking structure south of the existing City Hall is as follows:

City Hall/Public Safety ("Hybrid Option")	
Total Current Square Footage	70,258 sf
<u>Expansion Square Footage (Approx.)</u>	
Additional Square Footage in City Hall:	28,884 sf
Parking Garage Square Footage:	79,900 sf
Police Support Areas in Parking Garage:	40,100 sf
Total Gross SF (City Hall w/Expansion):	99,142 sf
Parking Garage SF w/Police Support Areas:	120,900 sf

Under this option, additional actions would be required to meet interim and intermediate needs:

- Secure on or off-site parking space to accommodate additional police and staff vehicles to meet interim needs:
 - Opportunity 1: Utilize an existing parking agreement with the First Baptist Church of Kirkland (southeast corner of 1st Street and 7th Ave) to accommodate additional police and staff vehicles for annexation through the City Hall construction period.
 - Opportunity 2: Construct a temporary parking lot on the Carter House property (vacant City-owned lot south of City Hall) that would be removed upon the start of construction of the parking garage.

Due to the cost of constructing temporary parking, staff recommends using the Baptist church parking lot for staff parking and put new police and staff vehicles in the City Hall parking lot until a new facility is constructed.

- Lease space to relocate current police evidence storage from the Municipal Court building to another location until the City Hall/Public Safety Expansion is completed (the Municipal Court needs expansion to accommodate annexation also);
- Remodel the Municipal Court in space vacated by Police for additional court room(s) and staff space; and
- Temporarily relocate staff at City Hall including Police Department to an off-site facility during construction period.

The cost of the Hybrid Option City Hall expansion project, temporary parking and the Municipal Court remodel are estimated at approximately \$60 million excluding the cost of temporarily relocating all City Hall operations during construction of the expansion.

Option B – Separate Public Safety Building

Subsequent to the March study session, an opportunity arose for the City to pursue purchase of an existing building situated on property in the Totem Lake area that would allow the Police and Municipal Court functions to be incorporated into one centrally-located facility. The City received an estimated cost for this option in early May and determined that this alternative was less costly and less disruptive. Based on this information, the City provided a letter of intent to negotiate a Purchase and Sale Agreement with representatives of the property owners. If the City Council decides to pursue this option, staff is requesting City Council authorization for the City Manager to execute a purchase and sales agreement subject to a 60 day feasibility period (see separate agenda item under "New Business" during the regular meeting. Staff is also working with the Planning and Community Services Department on review of potential land use issues that is described in a separate memo (Attachment A to this memo).

Under this Option, City Hall facilities would not need to be expanded immediately, however a remodel of the City Hall facility would be necessary to provide efficiency, both functionally and energy-wise, and to return functions now at 505 Market Street and the recently renovated City Hall Annex to City Hall. For comparison, the size of the facility envisioned is:

Separate Public Safety Building (incl Municipal Court)	
Total Current Square Footage	102,429 sf
Additional Police Support Building (to be added)	21,000 sf
Total Gross Square Footage:	123,429 sf

Additional actions needed to pursue a separate public safety building include:

- Secure on or off-site parking space to accommodate additional police and staff vehicles to meet interim needs:
 - Opportunity 1: Utilize an existing parking agreement with the First Baptist Church of Kirkland (southeast corner of 1st Street and 7th Ave) to accommodate additional police and staff vehicles for annexation through the City Hall construction period.
 - Opportunity 2: Construct a temporary parking lot on the Carter House property (vacant City-owned lot south of City Hall) that would be removed upon the start of construction of the parking garage.

Due to the cost of constructing temporary parking, staff recommends using the Baptist church parking lot for staff parking and put new police and staff vehicles in the City Hall parking lot until a new facility is constructed.

- Remodel City Hall after the Public Safety Building is completed;
- Return 505 Market and City Hall Annex functions to remodeled City Hall

The estimated costs to remodel an existing building for Public Safety with a new separate auxiliary building for Police support functions, remodel the current City Hall space, and remodel areas of the Maintenance Center would be approximately \$50M.

Maintenance Center

In lieu of a major expansion at the Maintenance Center Yard, Council approved the exploration of the following recommended strategies to meet potential interim and intermediate needs for the Maintenance Center:

- Add storage mezzanines to Buildings B, C, and E
- Enclose the covered mechanic bays and add lifts on the south side of Building B.
- Add parking stalls to the east side of Building E and expand surface parking spaces at Administration Building to accommodate additional visitor, staff, and city pool vehicle parking
- Lease additional warehouse space with minimal office space to provide more shop space and parking in a facility close to current Maintenance Center
- Lease space central to the City (post-annexation City limits) and relocate Parks Operations & Maintenance

Preliminary review, further discussion with end users, and early concepts for the Maintenance Center has resulted in the following options:

- Add storage mezzanines to Building B and C only; Mezzanines at Building E is not necessary
- Enclose the covered mechanic bays and add lifts on the south side of Building B. However, constructing two vehicle maintenance bays at a separate Public Safety Building may be an option in lieu of expanding Building B. This would allow for more productive staff time performing vehicle maintenance and less time spent transporting police vehicles back and forth for maintenance needs (further study is needed for this option which is not currently included in the estimated cost of the Public Safety Building).
- Conceptually, fifteen (15) parking spaces may be added to the Administration Building parking lot; dependent on City code requirements. Parking stalls to the east side of Building E is not being pursued due to continued vandalism of vehicles when parked in that area overnight; Additionally, the area is currently used for storage of materials
- In lieu of leasing additional warehouse space adjacent to the current Maintenance Center or an off-site space dedicated to Parks, pursue a fallow lot for use as a satellite facility for storage of materials and equipment in the north end of the future City limits accommodating both Public Works and Parks Operations and Maintenance.

Comparison of Options

The following table compares the cost of the two options presented above.

	Option A "Hybrid"	Option B Public Safety Building
City Hall Expansion/Remodel*	61,214,155	10,000,000
Temporary Parking**	152,600	152,600
Public Safety Building	0	37,869,517
Municipal Court	1,200,000	0
Maintenance Center	1,910,000	1,910,000
Total	64,476,755	49,932,117

*Assumes two year relocation lease and operating costs

**Only needed if temporary parking constructed on Carter property

Based on the significant cost difference and degree of potential disruption for Option A, staff recommends pursuing Option B and executing a purchase and sale agreement pending a sixty day feasibility period.

Financing Plan

The following table summarizes actions recommended by staff, which will be discussed in more detail at the Council Study Session and as summarized in an accompanying memo by Finance Director Tracey Dunlap.

	2010	2011	2012	2013	2014	Total
Public Safety Building	11,500,000	3,000,000	20,696,517	2,400,000	0	37,869,517
Temporary Parking*	152,600	0	0	0	0	152,600
Remodel City Hall	0	0	0	3,000,000	7,000,000	10,000,000
Maintenance Center	50,000	420,000	1,440,000	0	0	1,910,000
Total Costs	11,702,600	3,420,000	22,409,517	5,400,000	7,000,000	49,932,117

**Only needed if temporary parking is constructed on Carter property.*

Recommendations and Direction Needed

In summary, Staff recommends pursuing the following course of action to address space needs for City Hall, Municipal Court, and the Maintenance Center:

1. Move forward with a separate Public Safety Building to accommodate the Police Department and Municipal Court functions.
2. Authorize the City Manager to enter into a purchase and sale agreement for the purchase of property for a public safety building
3. Remodel City Hall and relocate Human Resources and Parks Administration back to City Hall.
4. Update parking agreement with First Baptist Church of Kirkland for weekday use of their parking lot located at the southeast corner of 1st Street and 7th Avenue for an extended period in lieu of construction of a temporary parking lot at the "Carter House" property.
5. Surplus 505 Market and Municipal Court buildings to provide a portion of the financing for new and remodeled facilities.
6. Build storage mezzanines in Maintenance Center Buildings B and C to accommodate new staff and materials storage.
7. Enclose the covered mechanic bays and add lifts to the south side of Maintenance Center Building B or add two vehicle bays to the Public Safety Building location to accommodate increased vehicle maintenance needs.
8. Expand surface parking spaces at Maintenance Center Administration Building to accommodate additional visitor, staff, and city pool vehicle parking.

**CITY OF KIRKLAND**

Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Donna Burris, Internal Services Manager

From: David Barnes, Project Planner

Date: May 20, 2010

Subject: Zoning Requirements for TL4B

The Planning Department has begun internal review of a property under consideration by the City for purchase with the intent of using the site for a new public safety building. The site is located in Totem Lake neighborhood's TL4B Zone. A government facility is an allowed use in this zone. The general regulation of Kirkland Zoning Code 55.31.4, which applies to all uses within the TL4B zone, requires that 50% of the ground floor areas of existing and new buildings be used for retail establishments, restaurants, taverns, hotels and motels. The proposed use of a government facility without the retail component does not meet this requirement.

However, the Planning Department believes that the regulations were not intended to require retail uses on the ground floor of government facilities. A Planning Director's interpretation will be prepared to exclude government facilities from the above referenced requirement. This will allow the subject site to be considered for a new public safety building without ground floor retail.

We are aware this issue is time sensitive and will work quickly to resolve it.

If you have any questions please contact me at 425-587-3250.

cc: Eric Shields
Nancy Cox



CITY OF KIRKLAND
Department of Finance & Administration
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
 www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Tracey Dunlap, Director of Finance and Administration
Date: May 19, 2010
Subject: Facilities Financing Analysis

RECOMMENDATION:

City Council review the facilities financing analysis and provide direction to staff on related policy issues.

BACKGROUND DISCUSSION:

The purpose of this analysis is to identify financial resources that could be available to finance the City's facilities needs, particularly a Public Safety Campus and remodels at the Maintenance Center and City Hall¹. This analysis is based on the following facilities configuration and project cost estimates:

Summary of Facilities Cost Estimates

	2010	2011	2012	2013	2014	Total
Public Safety Building - Police/Court	\$ 11,500,000	\$ 3,000,000	\$ 20,969,517	\$ 2,400,000	\$ -	\$ 37,869,517
Temporary Parking	152,600	-	-	-	-	152,600
Remodel City Hall	-	-	-	3,000,000	7,000,000	10,000,000
Maintenance Center Improvements	50,000	420,000	1,440,000	-	-	1,910,000
Total Estimated Costs	\$ 11,702,600	\$ 3,420,000	\$ 22,409,517	\$ 5,400,000	\$ 7,000,000	\$ 49,932,117

*Parking on Carter House Property and NE 188th Signage for Court

Potential Sources:

Cash Resources

Available capital reserves: There are three capital-related reserves that could be made available for the identified projects:

- The City collects a ½% Real Estate Excise Tax (REET) on real estate transactions. Half of the tax (¼%) is dedicated for transportation projects (REET 2). The other ¼% is available for other types of municipal capital projects (REET 1), including facilities. The projected 2010 REET 1 ending balance is \$6.3 million, of which \$1.65 million is set aside as a minimum balance based on one year's worth of planned REET 1 use in the CIP. REET 1 is also the source of Parks debt service payments in the event that Parks Impact Fee revenues fall short of meeting those payments. Due to the decline in impact fee receipts, staff recommends reserving an additional \$1 million for potential interest backfill. If not needed for interest backfill, these funds could also

¹ If the separate public safety facility project does not materialize, the cost estimate for the alternative of building out the City Hall site is \$60.5 million and involves significant operating disruption and costs associated with relocating existing City staff. The financing plan would need to be updated in this event and the higher cost would represent a significant additional financial drain on City resources.

be used for land acquisition, consistent with prior practice. This leaves approximately \$3.6 million available toward the facilities needs.

- The Building and Property Reserve balance of \$1.9 million is available as a funding source for facility needs. This reserve does not have a target and has been used for such projects in the past as land acquisition and building improvements. Examples of past projects include all or partial funding for the Carter house, McAuliffe property, 505 Market building and Heritage Hall.
- The Facilities Expansion Reserve does not have a predetermined target and has a projected 2010 ending balance of \$800,000. These funds were set aside for the specific purpose of funding facilities needs.

These cash resources total \$6.4 million (as summarized below) and are available to provide a source for a portion of the upfront design and acquisition costs, prior to issuing long-term debt.

Reserves	REET 1	Building & Property Reserve	Facilities Expansion Reserve (157)	TOTAL
2010 Estimated Ending Cash Balance	6,287,181	1,934,669	800,000	9,021,850
LESS: Target	(1,653,500)	-	-	(1,653,500)
LESS: Set aside for debt service backfill	(1,000,000)	-	-	(1,000,000)
Potential Available towards Facilities	3,633,681	1,934,669	800,000	6,368,350

Grant Funding: The City has received a \$750,000 state grant for Phase I planning and design funding for a public safety campus that would provide a wide range of services to citizens that are engaged in the criminal justice system. Of this amount, \$9,375 is retained by the state for administration and \$322,056 was used toward purchase of the existing Municipal Court building. The remaining \$418,569 is available toward the design of the public safety improvements.

Potential sale of 505 Market St. building and the Municipal Court: When the remodel of City Hall and the Public Safety building are completed, the City could sell the 505 Market St. building and the Municipal Court. The City paid \$1.75 million for the 505 Market St. building in 2001. The Municipal Court building was purchased in 2009 for \$2.7 million. The intent would be that the sale price of these buildings would at least recover the original purchase prices, although the current market might not support those prices. These funds would only be available once the projects are completed and the buildings could be sold, but they could repay interfund loans that could be used for cash flow to fund the City Hall improvements. The timing of the sale would also be impacted if the market would not support recovery of the purchase costs.

NEC Funds: The Northeast King County Cities (NEC) had been evaluating potential regional jail sites using funds from the proceeds of the sale of the Bellevue site. That evaluation process has ended and Kirkland's share of the remaining proceeds (\$293,000) is available for use toward securing additional jail beds, which is part of the planned public safety facility.

Project Sinking Fund Balances: The City finances on-going major maintenance requirements of facilities through contributions to a facilities sinking fund. Since improvements to City Hall have been expected to occur in the near future, selected projects have been deferred, such as carpet replacement. In addition, there are planned projects that will be incorporated into the renovations, so the sinking fund payments can be diverted to those needs. The Facilities Division has identified \$1.04 million in deferred or planned projects that will not be needed and those balances can be made available for financing of the projects.

Previously Funded CIP Project: In anticipation of upcoming facilities projects, the unspent portion of previously funded police facilities projects (about \$957,000) had been set aside for use on a new public safety facility. A portion of these funds (\$650,000) was returned to the General Fund as part of the

funding for the early hiring of police officers for annexation, leaving \$307,000 available toward the public safety facility. If all of the \$650,000 is not needed to finance the annexation hiring, a portion of those funds could be returned to the facilities CIP.

The table below summarizes the known and potential cash resources available toward the projects.

Summary of Cash Resources	TOTAL
Reserves	6,368,350
CTED Grant	418,569
NEC Funds	293,000
Facilities Sinking Fund	1,043,747
Deferred CIP Project	307,000
Subtotal Available Cash	8,430,666
Potential 505 Market/Court Sale	4,450,000
Total Available and Potential Cash	12,880,666

In total, identified cash resources fall in the \$8.4-12.9 million range, assuming that no other expenditures are authorized against these balances.

Types of Debt Financing Available

In the absence of cash resources to finance major facilities projects, the use of debt financing is the main alternative.

The two most common types of tax supported debt issued by cities to fund capital projects are Limited Tax and Unlimited Tax General Obligation Bonds. General Obligation bonds are the most secure type of debt a City can issue because they pledge the "full faith and credit" of the City based on the ability to levy taxes to repay the debt. As a result of the low risk nature of general obligation debt, it has a lower cost of borrowing than other types of debt (i.e. can be issued at lower interest rates).

Unlimited Tax General Obligation (UTGO) Bonds provide new revenue to fund the debt service as they represent debt that is approved by voters for a specific purpose. Citizens must vote by a supermajority (60%) to levy property taxes to repay the debt over a period of years.

Limited Tax General Obligation (LTGO) Bonds (Councilmanic or non-voted bonds) can be issued with approval of the City Council. The debt is repaid from general revenues of the City. It is still based on the City's ability to tax citizens to repay debt, however, it does not provide any additional revenue to fund debt service payments and must be paid from existing revenue sources.

Attachment A summarizes the City's current General Obligation debt outstanding (LTGO of \$6.1 million and UTGO of \$7.0 million). The legal limits on the City's remaining debt capacity are quite large (\$194 million for LTGO and \$779 million for UTGO). However, there are practical limits in terms of affordability (for LTGO which is paid for from existing revenues) and political realities (for UTGO which requires a 60% majority vote).

If voted (UTGO) debt is considered for this project, there are several factors to consider in scheduling the election:

- If a successful election is held before the effective date of annexation, the excess property tax levy imposed would only apply in the existing City limits. The first feasible election date would be the November 2, 2010 General Election. The Council would need to take action to place the question on the ballot no later than August 10, 2010. The City does not have any positions or questions on the General Election ballot, which means that adding this question would increase election costs by an estimated \$75,000-\$95,000.

- For the debt to apply to the entire new City, the election would need to be held after June 1, 2011. The first election date is the August 16, 2011 Primary Election, which means Council action to place the question on the ballot must be taken no later than May 24, 2011. Since the City will likely have positions on the primary ballot, the incremental costs of adding this question would be less than \$2,000.
- Note that, in either case, a supermajority of 60% approval is required. For each \$1 million in voted debt issued, the excess levy rate would be \$0.088/\$1,000 of assessed valuation (AV) if it applies to the existing City only and \$0.063/\$1,000 AV if applied to the existing City and annexation area (based on 2009 AV). For each \$1 million in voted debt issued, the owner of a home assessed at \$500,000 would pay \$44 per year if the tax applied only to the existing City or \$31.50 per year if it applied to the existing City and annexation area.
- Given the uncertainty associated with a voted bond issue, this financing analysis assumes that non-voted debt supported by existing revenues would be used.

Due to the timing of expenditures and the lead time to issue bonds, the option of using interfund loans is available for meeting short-term cash flow needs. An interfund loan is a short-term mechanism to borrow from a fund that has cash balances that are not needed in the near-term, but must be repaid for use by that fund. For example, the utility funds have cash balances that are planned for future use (and can only be used for utility purposes), but are not needed for activities such as system replacement until sometime in the future. The State of Washington defines the minimum acceptable procedures for making and accounting for interfund loans are as follows:

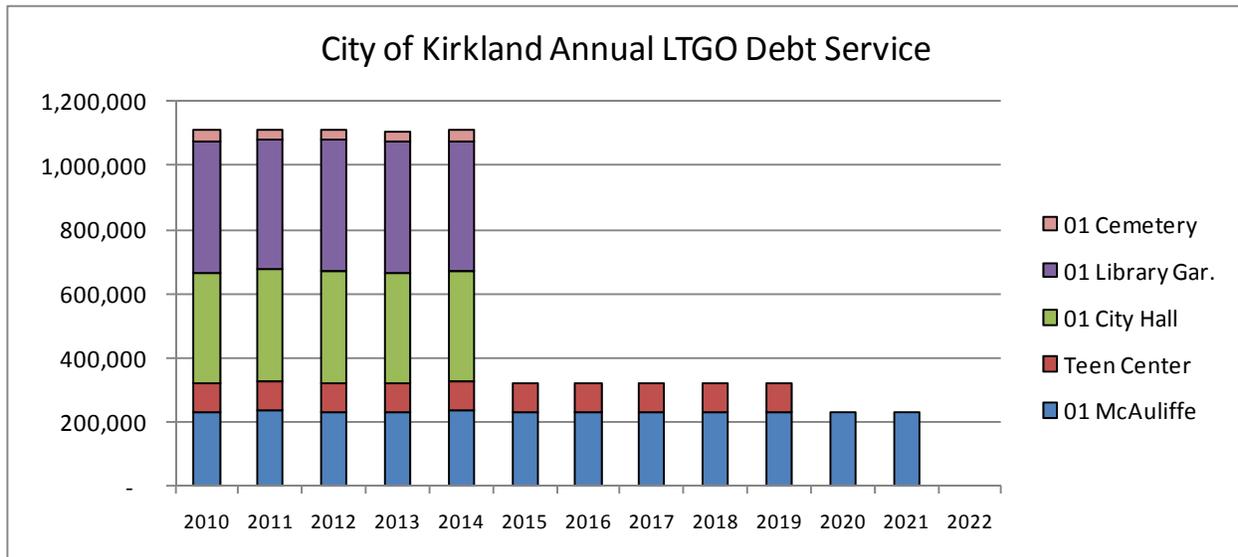
1. The legislative body of a municipality must, by ordinance or resolution, approve all interfund loans, indicating the lending fund, and provide in the authorization a planned schedule of repayment of the loan principal as well as setting a reasonable rate of interest (based on the external rate available to the municipality) to be paid to the lending fund.
2. Interest should be charged in all cases, unless:
 - a. The borrowing fund has no other source of revenue other than the lending fund; or
 - b. The borrowing fund is normally funded by the lending fund.
3. The borrowing fund must anticipate sufficient revenues to be in a position over the period of the loan to make the specified principal and interest payments as required in the authorizing ordinance or resolution.
4. The term of the loan may continue over a period of more than one year, but must be "temporary" in the sense that no permanent diversion of the lending fund results from the failure to repay by the borrowing fund. A loan that continues longer than three years will be scrutinized for a permanent diversion of moneys. (Note: these restrictions and limitations do not apply to those funds which are legally permitted to support one another through appropriations, transfers, advances, etc.)
5. Appropriate accounting records should be maintained to reflect the balances of loans in every fund affected by such transactions.

Specific uses of interfund borrowing will be brought forward to the City Council for approval as they are identified. For example, if the purchase of property for the Public Safety building occurs within the next 90 days, an interfund loan from the utilities will be used until it can be repaid from a General Obligation bond issue.

Revenues to Support Debt

Existing City revenues supporting current debt: The graphic below shows the annual debt service on LTGO (councilmanic) bonds by year, which is currently being paid from a variety of general revenue

sources. As this debt is retired, the revenue streams currently dedicated to pay the debt service can be used for new debt without impacting General Fund operating revenues.



The current outstanding principal balance on this debt is \$6.15 million. As this debt is retired, the revenue streams currently dedicated to pay the debt service can be used for new debt without impacting General Fund operating revenues. In 2015, \$750,000 becomes available as the parking garage and City Hall expansion debt is retired. By 2021, all of the outstanding non-voted G.O. debt will be retired. The City has the ability to structure debt and/or to combine the use of reserves and debt in order to take advantage of these revenue streams as they become available. By “wrapping” new debt service around the existing debt service resources as the debt retires, the City could issue up to \$15.0 million² in new bonds, using \$2.6 million in reserves to make interest only payments until the existing debt retires. An example of this strategy is included as Attachment B.

Court lease payments: With the purchase of the Municipal Court building in 2009, the City ceased to make lease payments averaging about \$210,000 per year (base rent) and payments of other costs, for an average annual savings of about \$250,000 per year. This savings was used as a one-time budget balancing strategy in 2010, but the intent is that the revenue stream freed up by the savings could be available to service additional debt (either related to purchase of the Court or the Public Safety building project). Since the Court building would be sold in the event a separate Public Safety building is constructed, this revenue stream could support an additional \$3.4 million in borrowing.

Contribution/Participation of City utilities: A portion of the planned projects benefits the City’s utilities by providing additional space. The Maintenance Center improvements are mostly related to annexation and therefore only the Surface Water Utility (and the Street, Fleet, and Facilities funds) will benefit. However, some utility staff will be added to City Hall. The specific share of the facilities costs that could be allocated to the utilities will need to be developed on more detailed space planning than that currently available. A very rough estimate is that 31% of the Maintenance Center could be allocated to the Surface Water Utility and perhaps 3% of City Hall could be attributed to utilities. These estimates could support an additional \$930,000 in borrowing.

Annexation area revenues: The annexation area financial analysis assumed that the incremental facilities related to providing service in the potential annexation area would be eligible cost for inclusion in the 10-year annexation sales tax credit calculation.

² Debt calculations assume 30 year bonds at 4.4% interest.

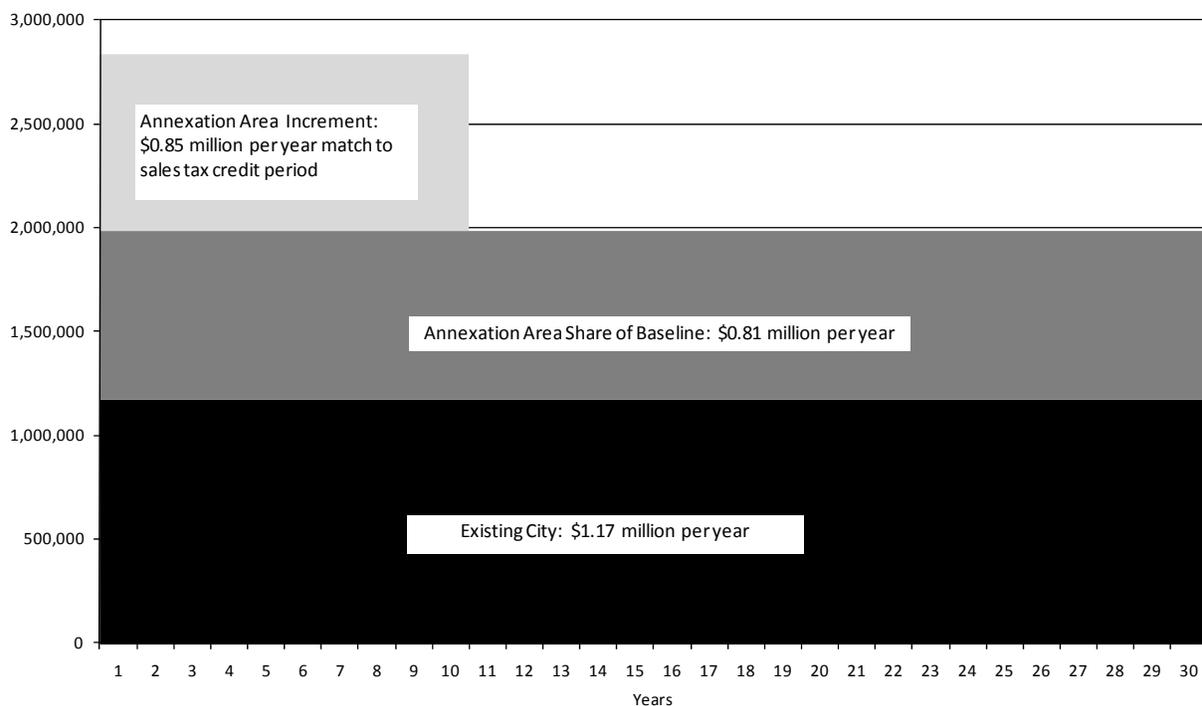
The table that follows summarizes the Facilities Division estimates of the annexation area share of the project costs, based on planned full-time equivalent employees (for all but the maintenance center, all of which are allocable to annexation).

Summary of Facilities Cost Estimates

	Total	Annexation Area %	Annexation Area \$
Public Safety Building - Police/Court	\$ 37,869,517	40%	\$ 15,147,807
Temporary Parking	152,600	30%	45,780
Remodel City Hall	10,000,000	30%	3,000,000
Maintenance Center Improvements	1,910,000	100%	1,910,000
Total Estimated Costs	\$ 49,932,117		\$ 20,103,587

A total of \$20.1 million of the project is allocable to the annexation area, all of which is assumed to be funded with debt. Consistent with the assumptions from the annexation financial analysis, a share of the debt consistent with the per capita debt issued in the existing City will be amortized over the 30-year term, and the amount in excess will be amortized over a 10-year term to coincide with the annexation sales tax credit period. The existing City's portion of the facility debt will be supported by three sources: sources for retiring GO debt service, Court lease savings, and the portion contributed by Utilities. These sources total \$19.36 million. At the City's current population of 49,010, this translates to a per capita debt of \$395. Applying this per capita debt rate to the annexation area population of 33,800 yields \$13.35 million. The remainder, \$6.75 million will be amortized over 10 years. This methodology allows for an equitable allocation of the debt service over the long-term and also matches the annexation area's incremental facilities costs with the anticipated 10-year stream of State sales tax credit. The annexation area's total amount of debt service for the first 10 years is estimated to be \$1.66 million per year. The anticipated debt service payments supported by the annexation area are illustrated in the graph below.

Annual Debt Service for Facilities



The final structure of the debt issue will be determined in consultation with the City's bond advisors, to recognize the "wrap around" scenario for existing City debt, the two different terms to be applied in the annexation area, and the fact that no revenues will be received from the annexation area until later in 2011.

Other Sources: There may be additional financing options that can be pursued, but specific dollar amounts cannot be sized at this time, such as:

- **Additional grants:** Given the public safety and emergency preparedness focus of many of the identified improvements, it is likely that there may be additional grant opportunities that the City can pursue. Staff will continue to work to identify and pursue these sources.
- **Public Safety sales tax:** There is a voted option for King County to impose a 0.3% sales tax increment for public safety purposes that the King County Council is currently considering placing on the ballot. If that tax passes, the City would receive a third of the tax collected in the City (0.1%). If the tax is not imposed by the County, the City has the option of placing the 0.1% increase before the voters.

Total debt that could be supported from identified revenues is in the range of \$39.5 million, assuming use of \$2.6 million in reserves to make initial interest only payments. The timing of debt issues will be dependent on a variety of factors including:

- The projected month-by-month cash flow needs,
- The lead time to issue debt,
- How the debt will be structured to recognize the revenues of the annexation area, which the City will not begin receiving until late 2011.

Since this bond issue will be somewhat unique given the annexation, the City may opt to use a competitive process to select the financial advisor and underwriter for the bond issue. Traditionally, the City has negotiated with the firm that had handled the City's previous debt issues.

Other Considerations:

Early estimates of operating and maintenance (O&M) costs for the remodeled City Hall and the proposed new Public Safety building are approximately \$1.5 million per year. Sinking fund charges for major maintenance for these two buildings is estimated to average about \$320,000 per year. Any increases in operating costs associated with new or expanded facilities will need to be factored into the operating budget.

Draft revisions to the City's debt management policy have been reviewed by the Finance Committee and were submitted for review by the Association of Public Treasurers of the United States & Canada (APT US&C) on April 5, 2010. We hope to receive feedback in June and plan to bring the recommended changes forward for consideration by the full City Council in advance of any potential debt issues.

Summary:

The potential sources identified in this memorandum approach the amount required to finance the \$49.9 million estimated project cost, as summarized in the table that follows. As month-by-month cost estimates are developed, the specific timing of the use of interfund borrowing, cash resources, and long-term debt issues will be identified and brought forward to the City Council. Project scopes (and therefore costs) will be modified and bids structured to stay within available funding.

Potential Resources for Project	Total
Available Capital Reserves	6,368,350
CTED Grant	418,569
NEC Funds	293,000
Facilities Sinking Fund	1,043,747
Deferred CIP Project	307,000
Proceeds from Sale of Property	3,500,000
Debt Supported by Retiring GO Sources	15,030,000
Less: Reserves for Interest Only Payments	(2,590,000)
Debt Supported by Court Lease Savings	3,400,000
Debt Supported by Utilities	930,000
Debt Supported by Annexation Area	20,100,000
Potential Available towards Facilities	48,800,666

City of Kirkland Outstanding General Obligation Debt

Limited GO Bonds Retirement Schedule

Issue	Outstanding 12/31/2009	Scheduled Retirement (Last Payment)	Annual* Payment
¹ 2001 Cemetery Refund	130,000	12/1/2014	29,930
¹ 2001 City Hall Refund	1,515,000	12/1/2014	348,200
¹ 2001 Parking Garage Refund	1,780,000	12/1/2014	408,055
¹ 2001 McAuliffe	2,065,000	12/1/2021	235,383
1999 Teen Center	660,000	12/1/2019	90,328
Fund Total	6,150,000		1,111,896

UnLimited GO Bonds Retirement Schedule

Issue	Outstanding 12/31/2009	Scheduled Retirement (Last Payment)	Annual* Payment
2001 Public Safety Refund	520,000	12/1/2012	186,253
1995 Forbes Creek	380,000	12/1/2014	82,528
2003 Parks Bond	6,105,000	12/1/2022	640,205
Fund Total	7,005,000		908,986

Total GO Debt

13,155,000

2,020,881

¹ These four issues were refunded with one issue in 2001 and consolidated to one org key.

* Annual Payment is the annual payment for 2011, actual payments fluctuate from year to year.

CITY OF KIRKLAND, WASHINGTON**Limited Tax General Obligation Bonds****\$1,100,000 Overall Debt Service Target After 2014****Net Debt Service Schedule**

Fiscal Year	Principal	Interest ⁽¹⁾	Total P+I	Existing D/S	Net New D/S	Net D/S vs Target ⁽²⁾
12/01/2010	-	-	-	1,108,010.00	1,108,010.00	
12/01/2011	-	648,692.50	648,692.50	1,111,895.00	1,760,587.50	660,587.50
12/01/2012	-	648,692.50	648,692.50	1,108,122.50	1,756,815.00	656,815.00
12/01/2013	-	648,692.50	648,692.50	1,101,475.00	1,750,167.50	650,167.50
12/01/2014	-	648,692.50	648,692.50	1,107,235.00	1,755,927.50	655,927.50
12/01/2015	130,000.00	648,692.50	778,692.50	319,605.00	1,098,297.50	(1,702.50)
12/01/2016	130,000.00	645,962.50	775,962.50	322,667.50	1,098,630.00	(1,370.00)
12/01/2017	135,000.00	642,582.50	777,582.50	319,822.50	1,097,405.00	(2,595.00)
12/01/2018	135,000.00	638,667.50	773,667.50	321,397.50	1,095,065.00	(4,935.00)
12/01/2019	140,000.00	634,482.50	774,482.50	322,137.50	1,096,620.00	(3,380.00)
12/01/2020	235,000.00	630,002.50	865,002.50	232,037.50	1,097,040.00	(2,960.00)
12/01/2021	245,000.00	622,012.50	867,012.50	231,275.00	1,098,287.50	(1,712.50)
12/01/2022	485,000.00	611,600.00	1,096,600.00	-	1,096,600.00	(3,400.00)
12/01/2023	505,000.00	590,987.50	1,095,987.50	-	1,095,987.50	(4,012.50)
12/01/2024	530,000.00	569,525.00	1,099,525.00	-	1,099,525.00	(475.00)
12/01/2025	550,000.00	547,000.00	1,097,000.00	-	1,097,000.00	(3,000.00)
12/01/2026	575,000.00	523,625.00	1,098,625.00	-	1,098,625.00	(1,375.00)
12/01/2027	600,000.00	499,187.50	1,099,187.50	-	1,099,187.50	(812.50)
12/01/2028	625,000.00	473,687.50	1,098,687.50	-	1,098,687.50	(1,312.50)
12/01/2029	650,000.00	447,125.00	1,097,125.00	-	1,097,125.00	(2,875.00)
12/01/2030	680,000.00	419,500.00	1,099,500.00	-	1,099,500.00	(500.00)
12/01/2031	705,000.00	390,600.00	1,095,600.00	-	1,095,600.00	(4,400.00)
12/01/2032	740,000.00	358,875.00	1,098,875.00	-	1,098,875.00	(1,125.00)
12/01/2033	770,000.00	325,575.00	1,095,575.00	-	1,095,575.00	(4,425.00)
12/01/2034	805,000.00	290,925.00	1,095,925.00	-	1,095,925.00	(4,075.00)
12/01/2035	845,000.00	254,700.00	1,099,700.00	-	1,099,700.00	(300.00)
12/01/2036	880,000.00	216,675.00	1,096,675.00	-	1,096,675.00	(3,325.00)
12/01/2037	920,000.00	177,075.00	1,097,075.00	-	1,097,075.00	(2,925.00)
12/01/2038	960,000.00	135,675.00	1,095,675.00	-	1,095,675.00	(4,325.00)
12/01/2039	1,005,000.00	92,475.00	1,097,475.00	-	1,097,475.00	(2,525.00)
12/01/2040	1,050,000.00	47,250.00	1,097,250.00	-	1,097,250.00	(2,750.00)
Total	\$15,030,000.00	\$14,029,235.00	\$29,059,235.00	\$7,605,680.00	\$36,664,915.00	

Notes:

(1) Average coupon rate at 4.40% (current market on May 12, 2010)

(2) Debt service over/under \$1,100,000.



CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Regula Schubiger, Youth Services Coordinator
Carrie Hite, Deputy Director
Jennifer Schroder, Director

Date: May 19, 2010

Subject: City Council Presentation - Honoring the Youth Council Class of 2010

RECOMMENDATION

City Council recognizes the Kirkland Youth Council Class of 2010 for all their efforts.

BACKGROUND

This year has been another busy and successful year for the 2009-10 Youth Council. As the school year comes to a rapid close, we would like to have the Kirkland City Council recognize our graduating seniors for all their hard work and dedication to the Youth Council and the City of Kirkland. As in previous years, the names of our graduating seniors have been engraved on a plaque that hangs at the Parks and Community Services Offices at 505 Market. We would like to ask that the Mayor and the City Council present this plaque to our graduating seniors at the June 1st Council meeting.

The following four KYC members are a part of the Class of 2010:

Charlie Cowin, Interlake High School (five year member)
Jessica Gutierrez, BEST High (one year member)
Kevin Lemme, Lake Washington High School (six year member)
Jeremiah Surface, Christ Church Academy (one year member)



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Marie Stake, Communications Program Manager

Date: May 24, 2010

Subject: Relay for Life Proclamation

RECOMMENDATION:

It is recommended that Mayor Joan Mc Bride proclaim June 19-20, 2010 *Relay for Life Days*.

BACKGROUND DISCUSSION:

The Redmond-Kirkland Relay for Life event coordinators have requested a joint proclamation with the cities of Kirkland and Redmond to recognize the June 2010 event. It is an overnight community event team fund-raiser for the American Cancer Society held at Redmond High School.

The participants are teams of runners and walkers who have at least one team member on the track at all time. They start at noon on Saturday and go continuously until 9 a.m. Sunday. The theme this year is "Decades of Hope" to honor survivors and those who lost their battle with cancer. Many in our community are participating including Kirkland City Staff member Janet Jonson.

Attending the June 1st City Council meeting to accept the proclamation will be members of the 'Kick Cancer's Butt' team.

Relay for Life event information can be found at www.relayforlife.org



PROCLAMATION

WHEREAS, Relay for Life is the signature fund-raising activity for the American Cancer Society and honors cancer survivors (anyone who has ever been diagnosed with cancer) and remembers those lost to the disease; and

WHEREAS, money raised during the American Cancer Society Relay for Life of Redmond-Kirkland helps support research, education, advocacy, and patient services; and

WHEREAS, Relay for Life helps fund more than \$100 million in cancer research each year;

NOW, THEREFORE, I, JOAN MCBRIDE, Mayor of the City of Kirkland,
AND I, JOHN MARCHIONE, Mayor of the City of Redmond,
do hereby proclaim Saturday and Sunday, June 19 and 20, 2010, as

“RELAY FOR LIFE DAYS”

in the cities of Kirkland and Redmond and encourage citizens to participate in the Relay for Life of Redmond-Kirkland at Redmond High School on June 19 and 20, 2010.

Joan McBride, Mayor
City of Kirkland

John Marchione, Mayor
City of Redmond

Date

Date

PETITION

We, the Citizens of the City of Kirkland, and residents of Lake Ave West, Kirkland Washington, petition the City of Kirkland not to implement the construction of steps that would join Heritage Park to the small Park at the north end of Lake Ave West, now, or in the future. We believe that it would compromise the safety of the residents from vandalism, thefts, and increased Drug activity that is currently a nuisance at night, on Lake Ave West. We have seen vehicles parked with non residents that appear to be involved in illegal activity, and have serious concerns for our safety and the safety of our children.

We believe that what is needed more, is better street lighting and patrols from the local police departments so that we do not have to face a situation that is certainly likely to escalate with the access from the Park above. In addition, we wish to point out that a soils test needs to be conducted first where the proposed stairway is to be located to determine whether the bank would give way in a severe storm such as we have had in times past, where there was a previous mudslide in that location and in other locations north and south along the bank.

1. NAME SHARON AGAN DATE 4-18-10 - 181 LAKE AVE. WEST.
2. NAME KAY E. SEIN DATE 4-18-10 157 LAKE AVE WEST
3. NAME Kathy Jusk DATE 4/18-10 175 Lake Ave West *Eagles! Erosion!*
4. NAME Catherine S. Reed DATE 4/18/10 115 Lake Ave West #302
5. NAME Rebecca Bratton DATE 4/18/10 115 Lake Ave W # 101
6. NAME Judy Kretke DATE 4/18/10 115 Lake Ave W #102 *NESTING EAGLES*
7. NAME Marilyn Fiedel DATE 4/18/10 149 Lake Ave. W.
8. NAME Carol Underm DATE 4/18/10 125 Lake Ave W. - 98033
9. NAME Sandra Anderson DATE 4-18-10 301 Lake Ave W, 98033 - *Eagles!*
10. NAME Agnas Anstett DATE 4-18-10 309 Lake Ave W. 98033
11. NAME Nancy Nelson DATE 04/18/10 299 Lake Ave W 98033
12. NAME Lilli Marsh DATE 4/18/10 305 - LAKE AVE WOOD CROSS
13. NAME Patty Tasti DATE 4/18/10 245 Lake Ave. West
14. NAME Marilyn Rafn DATE 4/18/10 167 Lake Ave West
15. NAME Nancy Hartu DATE 4/18/2010 407 Lake Ave West
16. NAME Talora Davidson DATE 4/19/10 303 Lake Ave W. West
17. NAME Barry Ball DATE 4/20/10 191 Lake Ave. West
18. NAME Bob Wally DATE 4/18/10 221 LAKE AVE WEST
19. NAME Tal Bailey DATE 4/20/10 295 LAKE AVE W.
20. NAME Lisa Bailey DATE 4/20/10 295 Lake Ave W.
21. NAME Ray Johnson DATE 4-20-10 311 Lake Ave W



KIRKLAND CITY COUNCIL SPECIAL MEETING MINUTES
May 14, 2010

1. CALL TO ORDER

The meeting was called to order at 8:00 a.m.

2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway,
Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember
Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: None.

3. REPORT FROM EXECUTIVE SEARCH CONSULTANT BOB MURRAY

Consultant Murray reviewed the sample questions for the candidates and the day's
schedule of interviews.

4. EXECUTIVE SESSION

a. City Manager Candidate Interviews

Council entered executive session at 8:30 a.m. and reconvened in open meeting at 4:40
p.m.

5. OPEN SESSION

a. Selection of City Manager Candidate Semi-finalists

Applicants numbered 11 and 7 were selected to move on to the next stage of the
process as semi-finalists and to be interviewed at Council's special meeting at 2
p.m. on May 25, 2010.

Motion to select applicant number 11 to move to the next stage of the process as a
semi-finalist.

Moved by Councilmember Doreen Marchione, seconded by Councilmember Amy
Walen

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway,
Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob
Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Motion to select applicant number 7 to move to the next stage of the process as a

semi-finalist.

Moved by Councilmember Dave Asher, seconded by Councilmember Amy Walen

Vote: Motion carried 5-2

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Mayor Joan McBride, Councilmember Bob Sternoff, and Councilmember Amy Walen.

No: Councilmember Doreen Marchione, and Deputy Mayor Penny Sweet.

Motion to select applicant number 5 to move to the next stage of the process as a semi-finalist.

Moved by Councilmember Amy Walen, seconded by Councilmember Dave Asher

Vote: Motion failed 2 - 5

Yes: Councilmember Dave Asher, and Councilmember Amy Walen.

No: Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, and Deputy Mayor Penny Sweet.

Motion to select applicant number 4 to move to the next stage of the process as a semi-finalist.

Moved by Councilmember Jessica Greenway, seconded by Councilmember Bob Sternoff

Vote: Motion failed 2 - 5

Yes: Councilmember Jessica Greenway, and Councilmember Bob Sternoff.

No: Councilmember Dave Asher, Councilmember Doreen Marchione, Mayor Joan McBride, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

6. ADJOURNMENT

The Kirkland City Council special meeting of May 14, 2010 was adjourned at 5 p.m.

City Clerk

Mayor



KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
May 18, 2010

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway,
Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember
Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: None.

3. STUDY SESSION

a. Joint Meeting with Kirkland Youth Council Leadership

Joining Councilmembers for this discussion in addition to Interim City Manager Marilynne Beard were Youth Council leadership Nathan Brand, Jasmine Clark, Charles Cowin, Sam Jackel, Kevin Lemme, Chris Norwood, Marley Olson and Youth Services Coordinator Regi Schubiger.

b. 2011-2016 Capital Improvement Program (CIP)

Joining Councilmembers for this discussion in addition to Interim City Manager Marilynne Beard were Director of Finance and Administration Tracey Dunlap, Financial Planning Manager Sri Krishnan, Park Planning and Development Manager Michael Cogle, Interim Public Works Director Ray Steiger and Public Works Senior Project Engineer Dave Snider.

4. EXECUTIVE SESSION

None.

5. HONORS AND PROCLAMATIONS

a. 2010 Eileen Trentman Memorial Scholarship Recipient

Youth Coordinator Regi Schubiger and Lt. Mark Buenting provided background on the KFFBA and the Scholarship program, and introduced Kevin Lemme, the 2010 recipient.

b. Honoring Jennifer Schroder, Parks and Community Services Director

Deputy Parks and Community Services Director Carrie Hite reviewed Ms. Schroder's career and accomplishments which merited receipt of the

Washington Recreation and Parks Association Honor Fellow Award.

c. Public Works Week Proclamation

Mayor McBride and Councilmember Asher presented the proclamation to Interim Public Works Director Ray Steiger.

d. Ray Steiger, 20 year Service Recognition

6. COMMUNICATIONS

a. Announcements

b. Items from the Audience

Joe Castleberry
Andy Loos
Dogan Subaykan
Randy Bannecker
Jeff Cole
Gary Franz
Crosby Grindle
Ken Davidson
Eric Campbell
Todd Short
A.P. Hurd

c. Petitions

(1) Citizens Requesting NE 69th Place Cul-de-Sac be Restored from Private Road to Public Road

7. SPECIAL PRESENTATIONS

None.

8. CONSENT CALENDAR

a. Approval of Minutes:

- (1) May 4, 2010 Special Meeting
- (2) May 4, 2010
- (3) May 8, 2010 Special Meeting
- (4) May 11, 2010 Special Meeting

b. Audit of Accounts:

Payroll \$ 2,032,916.71
Bills \$ 2,118,464.02
run #915 checks #517126 - 517267
run #916 check #517269
run #917 checks #517270 - 517437

c. General Correspondence

(1) Vladimir Zayshlyy, Regarding Permit Fees

d. Claims

(1) Puget Sound Energy

e. Award of Bids

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

h. Other Items of Business

(1) Energy Efficiency and Conservation Block Grant Project Update and Redirecting Funds

Council approved the reprogramming of \$54,000 in 2009 Grant funds from the City Hall parking lot light upgrades to upgrades of the public street lights in Juanita Village and additional traffic signal conversions.

(2) Civil Service Commission Resignation

Commissioner Robert Wahl's resignation was acknowledged.

(3) Report on Procurement Activities

(4) Resolution R-4816, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND SETTING FORTH THE CURRENT RULES OF PROCEDURE FOR THE CONDUCT OF KIRKLAND CITY COUNCIL MEETINGS."

Motion to Approve the Consent Calendar with the exception of item 8.h.(4)., which was pulled for discussion under Unfinished Business, item 10.b.

Moved by Councilmember Dave Asher, seconded by Deputy Mayor Penny Sweet

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

9. PUBLIC HEARINGS

None.

10. UNFINISHED BUSINESS

- a. N.E. 85th Street Corridor Improvements Update
- b. Resolution R-4816, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND SETTING FORTH THE CURRENT RULES OF PROCEDURE FOR THE CONDUCT OF KIRKLAND CITY COUNCIL MEETINGS."

Motion to Approve Resolution R-4816 A, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND SETTING FORTH THE CURRENT RULES OF PROCEDURE FOR THE CONDUCT OF KIRKLAND CITY COUNCIL MEETINGS" as amended.

Moved by Councilmember Bob Sternoff, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Motion to Amend R-4816 A, section 7, subsection 3, to indicate that copies of direct replies made by the City Manager be given to City Councilmembers.

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Motion to Amend R-4816 A, Section 7, item 5, to change "letters" to "written correspondence."

Moved by Councilmember Jessica Greenway, seconded by Councilmember Dave Asher

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Councilmember Sternoff proposed adding the pledge of allegiance to the conduct of meetings. The Council agreed to consider the issue at it's next regular meeting.

11. NEW BUSINESS

a. Proposed Wild Glen Annexation

Laurel Mitzel, representing the petitioning Homeowner's association, presented their request to be annexed to the City of Kirkland. Senior Planner Joan Lieberman-Brill responded to Council questions.

Motion to Approve the request to annex the Wild Glen condominium complex without modification, and, further that the area be zoned RMA 5.0, and that the assumption of indebtedness will not be required.

Moved by Councilmember Doreen Marchione, seconded by Councilmember Amy Walen

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

b. Fire Sprinklers in All New Single Family Homes

Fire Marshal Grace Steuart reviewed the background and issues for Council consideration.

Motion to authorize the Fire/Building Department to move forward with the adoption of Appendix S of the International Residential Code, thus requiring fire sprinklers in all new single family homes effective July 1, 2010.

Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway

Vote: Motion failed 3 - 4

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, and Mayor Joan McBride.

No: Councilmember Doreen Marchione, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Council recessed for a short break.

c. Parkplace Development Agreement

Motion to authorize staff to enter into discussions with Touchstone Corporation and its consultants regarding a development agreement for the redevelopment of Parkplace, seeking input from Council as the process moves forward and authorize funding in the amount of \$20,000 for specialized legal and financial consulting services.

Moved by Councilmember Bob Sternoff, seconded by Councilmember Amy Walen

Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

d. Association of Washington Cities Annual Business Meeting Delegates

Motion to Approve designate Councilmember Walen as voting delegate to represent the City at the Association of Washington Cities Annual Business Meeting.

Moved by Councilmember Dave Asher, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Councilmember Doreen Marchione, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

e. Downtown Retail Zoning

Planning Supervisor Jeremy McMahan reviewed the background and issues for Council discussion and received Council direction in response to Mr. Loos' request.

12. REPORTS

a. City Council

(1) Regional Issues

City Councilmembers shared information regarding the recent Neighborhood Council Meeting; Portland public transportation; Public Works Week; meeting and tour of Kirkland with the King County Executive; Cultural Council and community foundation work; Suburban Cities Association Public Issues Committee meeting; recent news conference regarding regional jail site selection; Puget Sound Regional Council Growth Management Planning Board meeting and Councilmember Walen expressed thanks to Interim City Manager Marilynne Beard and Economic Development Manager Ellen Miller-Wolfe for their recent assistance to a local business. Councilmember Sternoff has been appointed to the Regional Transit Committee.

Mayor McBride requested Council support for a letter to the Mayor of Bellevue requesting support for transit oriented development co-signed by King County Councilmember Jane Hague, which was approved. Mayor McBride also announced that the City Council has selected Kurt Triplett and Dave Zabell as the two City Manager candidate finalists.

b. City Manager

Interim City Manager Marilynne Beard provided an update on Animal Control Services options and discussions.

(1) Calendar Update

13. ADJOURNMENT

The Kirkland City Council regular meeting of May 18, 2010 was adjourned at 10:29 p.m.

City Clerk

Mayor



KIRKLAND CITY COUNCIL SPECIAL MEETING MINUTES
May 25, 2010

1. CALL TO ORDER
2. ROLL CALL

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: Councilmember Doreen Marchione.

Councilmember Doreen Marchione was absent/excused due to a family emergency.

3. REPORT FROM EXECUTIVE SEARCH CONSULTANT BOB MURRAY
4. EXECUTIVE SESSION
 - a. City Manager Candidate Interviews

City Council announced that they would return from Executive Session at 4:30 p.m.; at 4:30 p.m. it was announced that the Executive Session would be extended to 4:45 p.m.

5. OPEN SESSION

Council reconvened from Executive Session at 4:45 p.m.

- a. Selection of City Manager Finalist

Motion to direct Consultant Bob Murray and Associates to conduct background checks on candidate number 11 and to begin to frame terms of an agreement for employment.

Moved by Councilmember Dave Asher, seconded by Councilmember Bob Sternoff

Vote: Motion carried 6-0

Yes: Councilmember Dave Asher, Councilmember Jessica Greenway, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

6. ADJOURNMENT

The Kirkland City Council Special Meeting of May 25, 2010 was adjourned at 4:47 p.m.

City Clerk

Mayor



KIRKLAND CITY COUNCIL SPECIAL MEETING MINUTES
May 25, 2010

1. Call to Order

2. Roll Call

ROLL CALL:

Members Present: Councilmember Dave Asher, Councilmember Jessica Greenway, Mayor Joan McBride, Councilmember Bob Sternoff, Deputy Mayor Penny Sweet, and Councilmember Amy Walen.

Members Absent: Councilmember Doreen Marchione.

Councilmember Doreen Marchione was absent/excused due to a family emergency.

3. Welcome and Introduction

Redmond Mayor Pro Tem Richard Cole and Councilmembers Kimberly Allen, David Carson, Hank Margeson, John Stilin, Hank Meyers and Pat Vache joined the Kirkland City Council and Interim City Manager Marilynne Beard for the Special Joint Meeting. Redmond Mayor John Marchione was absent due to a family emergency.

4. Metropolitan Parks District

Kirkland Parks and Community Services Director Jennifer Schroder provided an instructional overview on creating a Metropolitan Park District and reviewed local examples.

5. Human Services and Funding Needs

Kirkland Deputy Parks and Community Services Director Carrie Hite and Redmond Human Services Manager Colleen Kelly reviewed the current status of human services funding, challenges, trends and collaborative efforts.

6. Partnership Opportunities

The Councils discussed a number of ideas for partnering to both Cities' benefit.

7. Adjourn

The Kirkland and Redmond City Councils Special Joint Meeting was adjourned at 8:36 p.m.

City Clerk

Mayor



CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager
From: Kathi Anderson, City Clerk
Date: May 20, 2010
Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION

It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS

This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.(040)).

BACKGROUND DISCUSSION

The City has received the following Claim(s) for Damages from:

- (1) Zahida Anees
10802 103rd Ave NE
Kirkland, WA 98033

Amount: Unspecified Amount

Nature of Claim: Claimant states damages to light post resulted from being hit by street sweeper.

- (2) Henry HC Huang
15210 NE 13th Place #2606
Bellevue, WA 98007

Amount: \$1451.53

Nature of Claim: Claimant states damages to vehicle resulted from being hit by a City vehicle.

- (3) Viera Lee
114 17th Place
Kirkland, WA 98033

Amount: Unspecified Amount

Nature of Claim: Claimant states damages to vehicle resulted from being hit by a City vehicle.

- (4) Debra Lewis
9719 116th Avenue NE
Kirkland, WA 98033

Amount: \$180.68

Nature of Claim: Claimant states damages resulted from loss of water pressure.



CITY OF KIRKLAND

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Oskar Rey, Assistant City Attorney

Date: May 20, 2010

Subject: Ordinance Amending Disorderly Conduct Provisions (KMC 11.84A.030)

RECOMMENDATION:

City staff recommends that the Council adopt the attached Ordinance amending Kirkland Municipal Code ("KMC") 11.84A.030 relating to the crime of disorderly conduct.

BACKGROUND:

The Kirkland Municipal Court ("Court") recently invalidated the City's disorderly conduct ordinance. The Court did so in part because the City's disorderly conduct ordinance is broader than the corresponding state law provision (RCW 9A.84.030). The attached Ordinance responds to the Court's concerns in several respects. First, it clarifies that disorderly conduct requires an intentional act, which corresponds with the state definition of disorderly conduct. The previous ordinance did not specify the mental state required for disorderly conduct.

Second, the attached Ordinance clarifies that disorderly conduct only applies to the use of "unlawful" force. This revision makes it clear that a person using lawful force, such as self-defense, could not be prosecuted for disorderly conduct. Finally, the attached Ordinance makes disorderly conduct a misdemeanor (which is consistent with state law) instead of a gross misdemeanor.

This office has consulted with the Kirkland Police Department and the Kirkland Prosecutor about these changes. City staff is of the opinion that the recommended changes to the Ordinance address the concerns raised by the Court while preserving the ability of the City's officers to effectively enforce the disorderly conduct ordinance.

ORDINANCE NO. 4241

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING SECTION 11.84A.030 OF THE KIRKLAND MUNICIPAL CODE, ENTITLED "DISORDERLY CONDUCT" AND AMENDING PROVISIONS RELATING TO THE CRIME OF DISORDERLY CONDUCT.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Chapter 11.84A.030 is amended to read as follows:

Kirkland Municipal Code Section	Section caption	RCW Section adopted by reference
(S)11.84A.010	Riot.*	9A.84.010(1)
(S)11.84A.020	Failure to disperse.*	9A.84.020(1)
(S)11.84A.030	Disorderly conduct.*	9A.84.030(1)

* Serious crime (S); see Section [1.04.010](#).

~~**(S)11.84A.030(2) Disorderly conduct.***~~

~~A person is guilty of disorderly conduct if he:~~

- ~~(1) Engages in a fight in a public place or way open to the public;~~
- ~~(2) Uses force or violence on the person of another;~~
- ~~(3) Conducts himself in a manner which disturbs the public peace, provokes disorder, or endangers the safety of others.~~

~~* Serious crime (S); see Section [1.04.010](#).~~

11.84A.030 Disorderly conduct.

RCW 9A.84.030 is hereby adopted by reference. In addition, a person is guilty of disorderly conduct if he or she:

- (1) Intentionally engages in a fight in a public place or way open to the public;
- (2) Intentionally uses unlawful force or violence on the person of another; or
- (3) Intentionally conducts himself or herself in a manner which disturbs the public peace, provokes disorder or endangers the safety of others.

Disorderly conduct under this Section is a misdemeanor.

Section 2. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2010.

Signed in authentication thereof this _____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney



CITY OF KIRKLAND
Department of Finance & Administration
 123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
 www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Barry Scott, Purchasing Agent

Date: May 19, 2010

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF JUNE 1, 2010

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of \$50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated May 6, 2010, are as follows:

	Project	Process	Estimate/Price	Status
1.	2010 Annual Striping Program	Small Works Roster	\$60,000 - \$196,000 (Cost is dependent on schedules selected.)	Notice to Small Works Roster on 5/17. Bids due on 5/27.

Please contact me if you have any questions regarding this report.



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Eric Shields, Planning Director
Nancy Cox, Development Review Manager

Date: May 20, 2010

Subject: RENEWAL OF AN INTERIM ORDINANCE TO EXTEND LAND USE PERMIT APPROVALS DURING THE ECONOMIC DOWNTURN

RECOMMENDATION

Staff recommends that the City Council hold a public hearing and consider renewing an Interim Ordinance that extends approval periods for land use permits. The extension opportunity is available to applicants with pending zoning permits and plats. The Interim Ordinance has been in effect for 180 days. Staff recommends that the Council consider renewing it for another 180 days.

BACKGROUND DISCUSSION

Early in 2009, the Master Builders Association addressed the MyBuildingPermit.com management committee requesting that cities and counties adopt temporary ordinances to extend building and land use permits to address the severe hardship due to the local and national economy. Kirkland's Economic Development staff heard the same comments when they spoke with developers and commercial brokers on a different occasion. In April 2009 the City Council passed an ordinance extending the timeframes for building and grading permits.

Economic Development Committee Review

The idea of land use permit extensions came up again during a City Council meeting in September, 2009 and subsequently was brought to the Economic Development Committee. After reviewing information about what other jurisdictions were doing, the Economic Development Committee directed staff to take a land use permit extension ordinance to the full Council for consideration.

Zoning Permits

The Interim Ordinance extends the time by one year an applicant has to: 1) start construction or submit a complete building permit, or 2) complete construction. The Interim Ordinance does not allow an applicant to extend both periods. It does not apply to permits that have expired.

Subdivision Permits

The Interim Ordinance addresses Kirkland Municipal Code provisions related to increasing the time an applicant has to get a plat recorded from 4 years to 6 years. It does not apply to permits that have expired.

Use in First Six Months

Seven (7) short plat applicants and two (2) zoning permit applicants have taken advantage of the extension opportunity.

cc: File MIS09-00022

ORDINANCE NO. 4242

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING LAND USE PERMIT EXTENSIONS, FILE NO. MIS09-00022, AS ADOPTED BY ORDINANCE 4219, AND EXTENDING ORDINANCE 4219 THROUGH DECEMBER 1, 2010.

WHEREAS, the City Council has the authority to adopt interim regulations pursuant to RCW35A.63.220 AND 36.70A.390; and

WHEREAS, by Ordinance No. 4219 passed on December 1, 2009 after holding a public hearing, the City Council adopted interim regulations that extend land use approvals; and

WHEREAS, on June 1, 2010, the City Council held a public hearing on renewal of Ordinance No. 4219 through December 1, 2010; and

WHEREAS, the City Council desires to renew Ordinance No. 4219 through December 1, 2010;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Findings of Fact. The City Council hereby adopts the findings of fact made in Ordinance No. 4219 by reference. The City Council further finds that renewal of Ordinance No. 4219 through December 1, 2010 is necessary in order to help mitigate the impacts of the current economic downturn.

Section 2. Extension of Ordinance 4219. Ordinance 4219 is hereby renewed, to remain in effect through December 1, 2010. Ordinance 4219 thereafter may be renewed for one or more six month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 3. Houghton Community Council. To the extent the subject of this Ordinance, pursuant to Ordinance No. 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this Ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this Ordinance within 60 days of the date of passage of this Ordinance.

Section 4. Effective Date. Except as provided in Section 3, this Ordinance shall be in effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017.

PASSED by majority vote of the Kirkland City Council in regular, open meeting this first day of June, 2010 and approved by the City Council as required by law.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2010.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

**CITY OF KIRKLAND****Department of Public Works****123 Fifth Avenue, Kirkland, WA 98033 425.587.3800****www.ci.kirkland.wa.us**

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, P.E., Interim Public Works Director
David Godfrey, P.E., Transportation Engineering Manager
Marie Stake, Communications Program Manager
Kari Page, Neighborhood Outreach Coordinator

Date: May 20, 2010

Subject: EASTSIDE RAIL CORRIDOR PUBLIC PROCESS

RECOMMENDATION

It is recommended that the City Council review the proposed public participation techniques and outline and give direction to the Transportation Commission and staff.

BACKGROUND

On April 6, 2010, the City Council directed the Transportation Commission to develop a public process that would culminate in a statement describing the City's interests in development of the Eastside Rail Corridor. The Commission was to report back to the Council once it had developed such a proposal.

At its April 28 and May 19 meetings the Commission worked with staff members Marie Stake and Kari Page to develop a potential process. Following a process developed by the International Association for Public Process (IAP2), Ms. Stake and Ms. Page conducted a number of stakeholder interviews and then recommended certain process techniques and a participation outline with timeline. The memo that was prepared for the Transportation Commission is Attachment 1 to this memo and includes more background on the IAP2 process.

Common issues reflected in the key stakeholder interviews include (not listed in any specific order):

- Use of corridor: rail use, trail use, dual use
- Timing of development of corridor
- Public safety concerns
- Rail operations
- Trail design
- Other development along corridor
- Future, long-term use of the corridor
- Connection with regional transportation system
- Funding of corridor development
- Overcoming "Not In My Back Yard" sentiment

Participation techniques

Based on the stakeholder interviews and the IAP2 methodology, the techniques shown in Table 1 were developed by staff and are subsequently being recommended to the City Council by the Transportation Commission. The techniques correspond to various levels of participation. Attachment 2 describes the IAP2 levels of participation.

Based on Council's comments at the April 6 Council meeting, the Commission sees itself as the primary convener of the public process activities, however many of the proposed techniques allow for direct Council participation as requested by Council. In addition to the City Council, special consideration will be given to the Planning Commission, the Houghton Community Council, and the Park Board to ensure their interests are clearly incorporated.

Process Outline

The process outline shown in Figure 1 is intended to be a road map of steps in the City's public participation process. The timeline is adjusted from the original timeline presented to the Council in April. However, the City should be flexible with this timeline in case King County and Sound Transit initiate their public participation efforts sooner than expected.

The Interest Statement

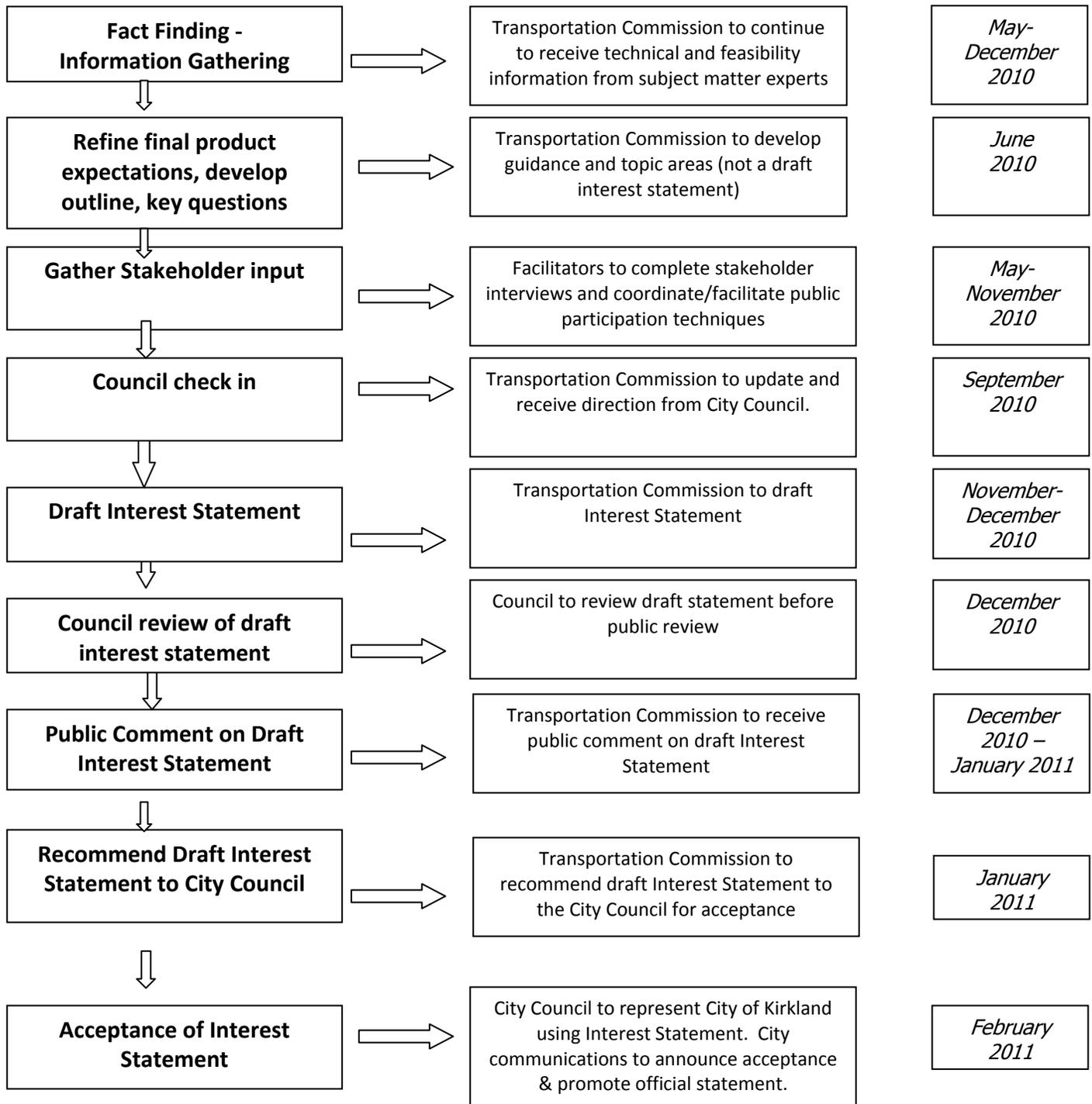
The Commission will use the principles of *Move People, Be Sustainable, Be an Active Partner and Link to Land Use* to guide the content and structure of the statement. These are the principles that were developed as part of the Transportation Conversations document that has been reviewed with the Council and the public.

The Transportation Commission currently views the interest statement as a document that will be fairly detailed and that will address issues such as the timing of various opportunities. For example, it may discuss interests in the near, mid and long term. Since certain opportunities could be foreclosed by the decisions of other agencies, it may have several different paths to account for different possibilities. It will cover the issues expressed by the key stakeholders, as listed above.

Table 1 Involvement techniques proposed for various participation levels			
Level of Participation	Proposed Techniques	Description	Stakeholders to Engage
Inform	<ol style="list-style-type: none"> 1. Webpage (exists) 2. Fact Sheet 3. List Serv (exists) 4. City newsletter 5. Video tour 	<ol style="list-style-type: none"> 1. www.ci.kirkland.wa.us/depart/Public Works/Transportation Streets/Eastside Rail Corridor 2. To be created for public distribution 3. Email updates sent to subscribers (30 current subscribers) 4. Published quarterly, 1 printed, 4 online (March, June, September, December) 5. Video of the corridor that could be viewed at different playback speeds 	1-5. All stakeholders
Consult	<ol style="list-style-type: none"> 1. Survey (statistically valid) 2. Comment Card (not statistically valid) 3. Focus Group 	<ol style="list-style-type: none"> 1. Develop a statistically valid survey with help from consultant.* Not a technique to be used until perhaps later in the process. 2. Have comment cards available at public facilities and community & special events (e.g. Farmers Markets) Comment cards can also be web-based 3. Work with trained facilitator with representatives of all stakeholder groups.* 	<ol style="list-style-type: none"> 1. General public 2. Corridor property & business owners + general public 3. Representative sample of all stakeholders
Involve	<ol style="list-style-type: none"> 1. Tour/Field Trip 2. Open Space Meeting 3. World Café 	<ol style="list-style-type: none"> 1. On-site informational meeting/tour 2. Self-directed meeting, break out groups, address issues & concerns of a large group 3. A meeting process featuring a series of simultaneous conversations in response to predetermined questions. 	<ol style="list-style-type: none"> 1. Available to all 2. Special interest groups 3. Available to all

**Costs associated with hiring a survey and public involvement firm*

FIGURE 1 Process/Timeline for public involvement and interest statement development



This memo has been reviewed and edited by the Transportation Commission.



CITY OF KIRKLAND

City Manager's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.ci.kirkland.wa.us

MEMORANDUM

To: Kirkland Transportation Commission

From: Marie Stake, Communications Program Manager
Kari Page, Neighborhood Services Coordinator

Date: May 17, 2010

Subject: Update: Planning Process for Eastside Rail Corridor Public Participation

Background

The purpose of this memo is to update the Transportation Commission on the public participation planning process being coordinated by facilitation staff Marie Stake, Communications Program Manager and Kari Page, Neighborhood Outreach Coordinator for the Eastside Rail Corridor and to receive direction from the Commission on the following:

- Proposed public participation techniques
- Public participation outline and adjusted timeline

Based on discussions at the City April 6, 2010 City Council meeting, the Transportation Commission is interested in conducting the public participation process to help guide the development of a community "Interest Statement" about the short term and long term vision of the corridor. The Commission desires that the Interest Statement be based upon public input as well as other practical considerations of rail and trail uses along the corridor. The Commission intends to forward its recommended Interest Statement to the City Council for the Council's consideration.

Key Stakeholder Interviews & Issues

Interviews have been conducted with several internal and external stakeholders. A key internal stakeholder is an individual or group associated with the City of Kirkland such a city commission or agency involved or interested in the ownership rights of the corridor, such as King County and Sound Transit. A key external stakeholder is an individual or group who has been actively involved in or may be impacted by the uses of the Eastside Rail Corridor, such as a property owner or business along the portion of the corridor that lies within Kirkland city limits.

In Kirkland there is great public interest in the Eastside Rail Corridor which was affirmed in the key stakeholder interviews. Eighteen (18) interviews have been completed to-date. The interviews resulted in identifying common and diverse perspectives about the corridor, additional stakeholders to contact in the future and a basis to evaluate the levels of concerns about various issues associated with the corridor.

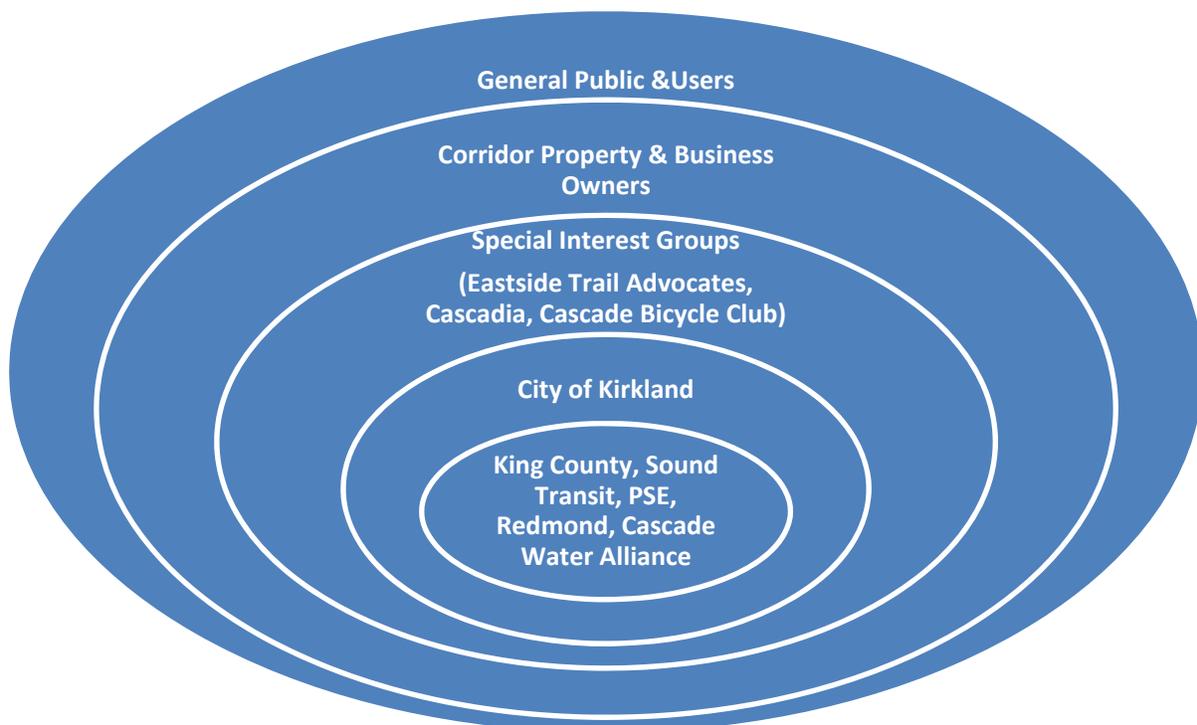
Interviews were conducted with some Transportation Commissioners; many reflected that for Kirkland's public participation process to be credible and successful:

- The City should first educate stakeholders with factual information
- All voices should be heard and understood throughout the process (reach the “unbiased”)
- The City should constantly communicate feedback received to all stakeholders
- The City’s process will be credible if based upon real data (not just gut feelings)
- That whatever use(s) is decided for the corridor, we will know success when it’s being used and is accepted by the community

Common issues reflected in the key stakeholder interviews include (not listed in any specific order):

- Use of corridor: rail use, trail use, dual use
- Timing of development of corridor
- Public safety concerns
- Rail operations
- Trail design
- Other development along corridor
- Future, long term use of the corridor
- Connection with regional transportation system
- Funding of corridor development
- Overcoming “Not In My Back Yard” sentiment

Based upon key stakeholder interviews, facilitation staff views the following stakeholders in the “orbits of public participation” below. The “orbit” graphic is an IAP2 method to depict stakeholders’ involvement at a particular time in the process. Stakeholders will move closer to the decision makers throughout the City’s process depending on their level of interest or concern.



Level of Participation

Using analysis techniques adopted by the International Association of Public Participation (IAP2), stakeholder issues (see above section) were rated at a level of concern (none, low, moderate, high, unknown). Using pre-determined assessment questions about the level of difficulty to address the issue, potential impacts to the public and how much do major stakeholders care about the issue, a rating (score) was calculated. The score places the issue on the IAP2 Spectrum (Attachment A). The score fell within the "involve" level.

Several commonly known public participation techniques that support the "involve" level include: advisory groups, workshops, and tours/field trips. The City has used several of the "involve" techniques in recent years with environmental sustainability issues, climate protection goals, and, most recently, neighborhood plan updates.

Recommended Techniques

Request: Staff seeks direction from the Commission as to which techniques it is interested in engaging various stakeholders.

There are complex issues around the current and future ownership of the corridor and existing and potential easement rights of the corridor. These issues make the public participation planning complex. There are major decisions yet to be finalized about the corridor. There are many individual stakeholders and stakeholder groups that would appreciate being involved in Kirkland's public participation efforts. Although the analysis emphasizes the "involve" level, staff recommends some activities for the "inform" and "consult" levels.

Level of Participation	Proposed Techniques	Description	Stakeholders to Engage
Inform	<ol style="list-style-type: none"> 1. Webpage (exists) 2. Fact Sheet 3. List Serv (exists) 4. City newsletter 	<ol style="list-style-type: none"> 1. www.ci.kirkland.wa.us/depart/Public Works/Transportation Streets/Eastside Rail Corridor 2. To be created for public distribution 3. Email updates sent to subscribers (30 subscribers) 4. Published quarterly, 1 printed, 4 online (March, June, September, December) 	1-4. All
Consult	<ol style="list-style-type: none"> 1. Survey (statistically valid) 2. Comment Card (not statistically valid) 3. Focus Group 	<ol style="list-style-type: none"> 1. Develop a statistically valid survey with help from consultant.* 2. Have comment cards available at public facilities and community & special events (e.g. Farmers Markets) 3. Work with trained facilitator with representatives of all stakeholder groups.* 	<ol style="list-style-type: none"> 1. General public 2. Corridor property & business owners + general public 3. Representative sample of all stakeholders

*Costs associated with hiring a survey and public involvement firm

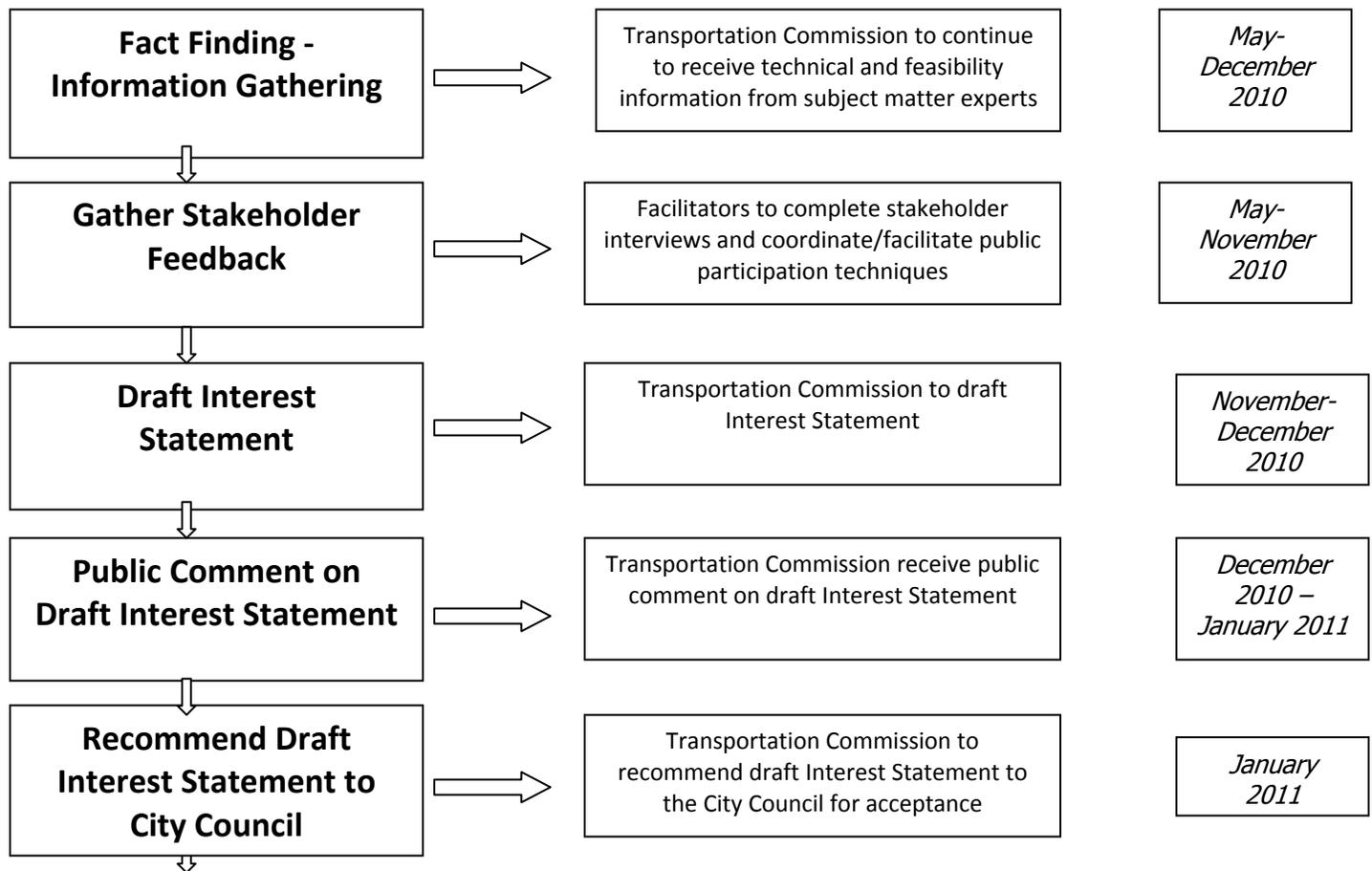
Level of Participation	Proposed Techniques	Description	Stakeholders to Engage
Involve	<ol style="list-style-type: none"> Tour/Field Trip Open Space Meeting World Café 	<ol style="list-style-type: none"> On-site informational meeting/tour Self-directed meeting, break out groups, address issues & concerns of a large group A meeting process featuring a series of simultaneous conversations in response to predetermined questions. 	<ol style="list-style-type: none"> Available to all Special interest groups Available to all

Process Outline

Request: Staff seeks direction from the Commission about the proposed outline and adjusted timeline. Does the Commission prefer to accept public input through the IAP2 techniques, draft an Interest Statement and forward it to the Council or does it prefer to include an opportunity for public comment prior to forwarding it to the Council?

The following process outline intended to be a road map of steps in the City’s public participation process. The timeline is adjusted from the original timeline presented to the Commission. Summertime is a difficult time to engage the stakeholder in public participation. By engaging the public in early fall, all subsequent action steps will be delayed from the original proposal. However, the City should be flexible with this timeline should King County and Sound Transit initiate their public participation efforts sooner than expected.

Process for Developing Kirkland’s Interest Statement in the Eastside Rail Corridor





Summary

The City of Kirkland seeks to be an active partner when King County and Sound Transit begin their public planning process for the Eastside Rail Corridor. The Kirkland Transportation Commission seeks to develop an Interest Statement for Kirkland that will identify the community’s needs and vision of the future development of the corridor. It further seeks to present the Interest Statement and pertinent background information to the City Council so that the Council can represent Kirkland’s interest in the corridor.

The public participation techniques recommended in this memo are presented for the Commission’s review and direction to staff. Please contact Marie Stake, Communications Program Manager at 425-587-3021 or mstake@ci.kirkland.wa.us or Kari Page, Neighborhood Outreach Coordinator at 425-587-3011 or kpage@ci.kirkland.wa.us with any questions.

Attachment A: IAP2 Participation Spectrum

IAP2 Spectrum of Public Participation

Increasing Level of Public Impact

Public participation goal

Inform

To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.

Consult

To obtain public feedback on analysis, alternatives and/or decisions.

Involve

To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.

Collaborate

To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.

Empower

To place final decision-making in the hands of the public.

Promise to the public

We will keep you informed.

We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.

We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.

We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

We will implement what you decide.

Example techniques

- Fact sheets
- Web sites
- Open houses

- Public comment
- Focus groups
- Surveys
- Public meetings

- Workshops
- Deliberative polling

- Citizen advisory committees
- Consensus-building
- Participatory decision-making

- Citizen juries
- Ballots
- Delegated decision

**CITY OF KIRKLAND**123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Eric Shields, Planning Director

Date: May 13, 2010

Subject: City Review of School District Building Permits

RECOMMENDATION

City Council provides direction to staff to prepare an interim ordinance and schedule a public hearing to allow the reconstruction of two new elementary schools in the annexation area to be processed through the City, rather than through King County.

BACKGROUND

The Lake Washington School District is preparing to rebuild three new elementary schools in the annexation area – Muir, Sandburg and Keller. The schedules for the projects involve beginning the permitting process and some initial grading and construction activity prior to annexation, with most of the construction continuing after annexation.

On March 31, 2010, Superintendent Kimball submitted a letter to City Manager David Ramsay and Deputy County Executive Fred Jarrett requesting that the District, City and County enter into an interlocal agreement to provide for the City to review building permit applications, issue permits and oversee construction for the schools based on the County building and zoning codes, with permitting to begin prior to annexation.

Since receipt of the letter, City staff has had numerous conversations about this proposal with District and County officials. While all parties have expressed general support of the idea, it now appears that legal and labor concerns on the part of the County are unlikely to be resolved in time to meet the District's schedule. In fact, permits for Muir will soon be or may have already been submitted to the County Department of Development and Environmental Services.

The District's original proposal sought to have the permits reviewed under County codes because of a difference in the review process required by County and City zoning for the annexation area. The County requires only a building permit, while City RSA zoning incorporates a Process IIA or IIB review (depending on the size of the site), as required in other City single family zoning districts. The School District would be unable to meet its desired construction schedule if an additional four to six months for processing the zoning permit were required.

In a recent conversation with Grace Yuan, legal counsel of the District, another approach was discussed in which the permit applications for Sandberg and Keller Elementary Schools could be reviewed by the City under City codes. The School District would submit applications to the City in advance of the effective date of annexation, but the City would not issue permits until after the City assumes legal

jurisdiction on June 1, 2011. The applications would be submitted far enough in advance for the City to complete the review and issue permits to allow construction of the schools to begin in the summer of 2011, as desired by the District. However, in order for the timing of this process to work, the City would have to remove the Process IIA/ IIB zoning permit requirements. As is the case under the existing County zoning, zoning compliance would then occur through the building permit process.

Earlier this year the City Council discussed the possibility of considering changes to other aspects of annexation zoning related to building heights and concluded that such changes would be premature, in part because the zoning was presented to voters as part of the annexation ballot proposition. The same concern could be made of changing the review process for schools. However, there are two significant differences.

- The proposed change affects review process only, not substantive zoning standards. The approved zoning designations would remain in effect as approved by the voters.
- If the District were to apply for permits with King County (as they could at any time prior to annexation), a zoning permit would not be required. Removal of the zoning permit requirement from the City's rules would not change the actual review process for the two schools in question if the applications were to be reviewed and administered by the County which requires only a building permit review. By amending the annexation zoning, the City would be allowing the District to proceed with the same review process it is now entitled to, but with City review of the applications and administration of the permits. If the City did not amend the zoning, the District would apply for permits under King County's rules and no zoning review process would take place.

Staff proposes that the zoning process change be done on an interim basis so that it would apply only within the annexation transition period. In addition to the "School or Day-Care Center" use, we propose that the ordinance also apply to the "Government Facility/ Community Facility" use so that it covers the proposed new fire station on Finn Hill. An interim ordinance would allow the Council to proceed expeditiously and provide certainty in the review process for the Fire District. We have discussed this idea with the City Attorney and she indicated there are no legal obstacles. She noted that an interim ordinance requires a hearing before the City Council but adoption could be considered at the same meeting. The ordinance would have a maximum duration of six months and could be renewed for subsequent six month periods if desired.

By having City staff review applications and administer permits for the Sandburg and Keller Elementary School reconstruction projects, a more seamless transition between County and City jurisdiction would occur for the benefit of both the City and District. The City could be assured that the addition to our community of these important institutions would be up to City standards. The City would also benefit from significant building permit fee revenues, estimated at approximately \$300,000. Staff recommends that the City Council direct staff to prepare an interim ordinance eliminating the requirement for a zoning permit for the "School or Day-Care Center" and "Government Facility/ Community Facility" uses within the RSA zone.

**CITY OF KIRKLAND****Public Works Department****123 Fifth Avenue, Kirkland, WA 98033 425.587-3225**www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, PE, Interim Public Works Director
Rob Jammerman, Development and Environmental Services Engineering Manager

Date: June 1, 2010

Subject: Deferred Payment of Traffic and Park Impact Fees

RECOMMENDATION:

City Council approves the attached Interim Ordinance amending Title 27 of the Kirkland Municipal Code to allow applicants for certain New Single Family Residential Building Permits to defer the payment of the Traffic and Park Impact fee until the home is sold.

BACKGROUND DISCUSSION:

On March 22, 2010, Mr. Mike Miller, with Murray Franklyn Homes, gave a presentation to the Economic Development Committee (EDC) about a deferred impact fee payment program. The program would allow traffic and park impact fees for new single-family homes to be paid when the home is sold instead of when the Building Permit is issued and this is one way to assist developers during these difficult economic times. Mr. Miller was involved when the City of Sammamish set up their Deferred Impact Fee Payment Program and suggested that our process could be similar to theirs. The EDC discussed the program and directed staff to study the City of Sammamish program and present an interim ordinance to the City Council.

Following the EDC meeting, Public Works staff contacted staff at the City of Sammamish to discuss their Deferred Impact Fee Payment Program and found that the program is working well with no significant issues or problems; they did point out that the program does add administration staff time to the permitting process.

Given that the City of Sammamish program is working well, Public Works staff is recommending that Kirkland's program mirror their program. The following are the key elements to the program:

1. The program is available to new single-family Building Permit applicants that are building a home to be sold. The applicant must sign an affidavit stating that the home will be sold upon completion.
2. Prior to issuance of the Building Permit, the applicant must record a lien against the property for the impact fees.
3. The applicant is responsible for payment of the impact fees within 30 days of escrow closing. In most cases, the escrow company will wire the impact fee payment to us.
4. Because the program has been developed to help builders and developers during these difficult economic times, the program should have a sunset date. Staff is recommending that the program cease on May 31, 2011. This 11-month duration will give ample time to developers and builders to take advantage of the program and

discontinues the program before the effective date of annexation. The City of Sammamish's program is set to end on December 31, 2010.

5. The Public Works Department will be responsible for the administration of this program. After discussing the program in detail with staff from the City of Sammamish and with our Finance Department staff that will assist with the wire transfers and lien releases, we developed the following program administration cost estimates:

City Department	Estimated Hours/Deferred Payment	Full Cost Recovery
Finance – Admin Staff	1 Hrs	\$50
Public Works Eng. Staff*	3 Hrs	\$188
Total	4 Hrs	\$238 (round to \$240)

*2-hours per lien for Engineering Technician and 1-hour per lien for Development Plans Examiner

Given these cost estimate, staff recommends that a \$240 administration fee be applied to each Building Permit participating in the deferred impact fee payment program.

Other Impact Fee Language Changes

While making the proposed amendments to Title 27 of the KMC, it also provides a good opportunity to make a few clarification amendments to the code. The attached ordinance also includes amendments that address the following:

- Deleted the terms “**single**” and “**multifamily**” since the City charges a fee based on the housing type and not whether there is one detached unit on one lot or multiple detached units on one lot.
- Made the definition for “**residential**” the same in both the transportation and parks impact fee sections.
- Added a new subsection for **new subdivisions** in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home which is how the City has been administering the credit. The applicant of a subdivision may allocate the credit differently if the allocation is stated in the application and made a condition of the subdivision.
- Clarified that the fee schedules in the impact fee ordinances are based on the 2007 rate studies and that the **fees may be increased each January 1* based on the index** stated in Chapter 27.04.120 and 27.06.120. The Public Works fee schedule has the most current impact fee rate.
- Clarified and changed the **Park Impact Fee schedule** to match the Transportation Impact Fee Schedule for residential housing units which is the intent of the Park Impact fee ordinance. Multiple detached units on one lot are charged the same as one detached unit on one lot. This is stated currently in the definition for “residential” (Section 27.06.020 (x)). Senior housing is not charged the detached rate even if the units are detached structures, similar to assisted living units.

Attachment 1 – Ordinance to amend Title 27 of the KMC

ORDINANCE NO. 4243

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO IMPACT FEES, ESTABLISHING IMPACT FEE CREDITS FOR RESIDENTIAL SUBDIVISIONS IN CERTAIN SITUATIONS, PROVIDING THE OPTION FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENCES TO THE INITIAL SALE OF THE RESIDENCE, AND MAKING OTHER MISCELLANEOUS CHANGES.

WHEREAS, pursuant to the provisions of state law, Chapter 35A.63 of the Revised Code of Washington (RCW) and Chapter 36.70A RCW, the Kirkland City Council has adopted the Kirkland Municipal Code (KMC), including Title 27, which regulates impact fees; and

WHEREAS, as a result of the current downturn in the local economy, a diminishing number of new residential units are being built, which adversely impacts the City's housing stock, local economy and revenue for governmental services; and

WHEREAS, unless the City acts, the housing market may continue to languish and adverse consequences of decreased revenues, abandoned projects, and underutilized land will occur; and

WHEREAS, a need exists to amend Title 27 to afford more flexibility to applicants on the timing of street impact fee and parks and recreational facilities impact fee payments; and

WHEREAS, the ordinance amendments are procedural in nature, and therefore exempt from State Environmental Policy Act (SEPA) review; and

WHEREAS, the City Council finds the proposed amendments to the Kirkland Municipal Code to be consistent with and to implement the intent of the Comprehensive Plan; and

WHEREAS, the City Council has concluded that it is in the interest of the public health, safety and welfare to adopt this ordinance;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 27.04.020 concerning transportation impact fees is hereby amended to read as follows:

27.04.020 Definitions.

The following words and terms shall have the following meanings unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

(1) "Act" means the Growth Management Act, Chapter 36.70A RCW.

(2) "Applicant" means the owner of real property according to the records of the King County department of records and elections, or the applicant's authorized agent.

(3) "Building permit" means the official document or certification that is issued by the building division of the fire and building department and that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure.

(4) "Capital facilities" means the facilities or improvements included in the capital facilities plan.

(5) "Capital facilities plan" means the capital facilities plan element of the city's comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as amended.

(6) "City" means the city of Kirkland, Washington.

(7) "Council" means the city council of the city.

(8) "Department" means the public works department.

(9) "Director" means the director of the public works department, or the director's designee.

(10) "Encumbered" means to reserve, set aside or otherwise earmark the impact fees in order to pay for transportation planning, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting, financing, administrative expenses, construction of roads and related facilities, and any other commitments, contractual obligations or other liabilities incurred for public facilities.

(11) "Gross floor area" is the total square footage of all floors in a structure as defined in Chapter 5 of Title 23 of this code (zoning code).

(12) "Hearing examiner" means the person who exercises the authority of Chapter 3.34 of this code.

(13) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit or a change in land use when no building permit is required pursuant to this chapter as a condition of granting a building permit, or as a requirement for a change in use in order to pay for the public facilities needed to serve new growth and development. "Impact fee" does not include a reasonable permit fee or application fee.

(14) "Impact fee account" or "account" means the account established for the system improvement for which impact fees are collected. The account shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

(15) "Independent fee calculation" means the study or data submitted by an applicant to support the assessment of an impact fee other than the fee in the schedule in Section 27.04.150.

(16) "Interest" means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.

(17) "Interlocal agreement" or "agreement" means a roads interlocal agreement, authorized in this chapter, by and between the city and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the city and another municipality, public agency or governmental body to implement the provisions of this chapter.

(18) "Low-income housing" means (A) an owner-occupied housing unit affordable to households whose household income is less than eighty percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the household income is paid for housing expenses, or (B) a renter-occupied housing unit affordable to households whose income is less than sixty percent of the King County median income, adjusted for household size, as determined by HUD, and no more than thirty percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents which meet the affordability requirements of this section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer or a private developer.

(19) "Owner" means the owner of real property according to the records of the King County department of records and elections; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.

(20) "Prior use" means the use with the highest impact fee per unit, based on the schedule in Section 27.04.150, in existence since January 1, 2006, as documented by city records.

(21) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of a project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.

(22) "Public facilities" means the public streets and roads of the city or other governmental entities.

(23) "Rate study" means the Transportation Impact Fee Rate Study, City of Kirkland, by Mirai, Associates, dated April 10, 2007.

(24) "Residential" means housing, such as detached, attached or stacked dwelling units (includes cottage, carriage and two/three unit homes approved under Chapter 113 of Title 23), single-family dwellings, senior and assisted dwelling units accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes, intended for occupancy by one or more persons and not offering other services. For the purpose of this chapter, an accessory dwelling unit, as defined in Chapter 5 and regulated in Chapter 115 of

Title 23 (zoning code) of this code (~~zoning code~~), is considered an adjunct to the associated primary structure ~~single family dwelling unit~~ and is not charged a separate impact fee. ~~For the purpose of this chapter, single family dwellings include one or more detached dwelling units on one lot.~~

(25) "Road" means a right-of-way which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, street, and other thoroughfare, except an alley.

(26) "Square footage" means the square footage of the gross floor area of the development as defined in Chapter 5 of Title 23 of this code (zoning code).

(27) "System improvements" means public facilities included in the capital facilities plan and designed to provide service to service areas within the community at large, in contrast to project improvements.

Section 2. Kirkland Municipal Code Section 27.04.030 concerning park impact fees is hereby amended to read as follows:

27.04.030 Assessment of impact fees.

(a) The city shall collect impact fees, based on Section 27.04.150, from any applicant seeking a building permit from the city, or any person or entity seeking a change in land use based on the land use categories on the schedule in Section 27.04.150 when no building permit is required. The public works department is authorized to determine what land use category found in the rate schedule applies to the application.

(b) All impact fees shall be collected from the applicant prior to issuance of the building permit or prior to occupancy for a change in land use when no building permit is required based on the land use categories on the schedule in Section 27.04.150. Unless the use of an independent fee calculation has been approved, or unless a development agreement entered into pursuant to RCW 36.70B.170 provides otherwise, the fee shall be calculated based on impact fee schedule in effect at the time a complete building permit application is filed. For a change in use for which no building permit is required, the fee shall be calculated based on the impact fee schedule in effect on the date of payment of the impact fee.

(c) The department shall establish the impact fee rate for a land use that is not listed on the rate schedule in Section 27.04.150. The applicant shall submit all information requested by the department for purposes of determining the impact fee rate pursuant to Section 27.04.040. The adopted cost per trip in Section 27.04.150 shall be the basis for establishing the impact fee rate.

(d) For a change in use of an existing building or dwelling unit, or portion thereof, the impact fee shall be the applicable impact fee for the land use category of the new use, less the impact fee for the land use category of the prior use. For any change in use that includes an alteration, expansion, replacement or new accessory building, the

impact fee shall be the applicable impact fee for the land use category of the new gross floor area (or if applicable, gross leasable area), less the impact fee for the land use category of the prior gross floor area (or if applicable, gross leasable area).

(e) For mixed use buildings or developments, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in Section 27.04.150.

(f) For building permits within new subdivisions approved under Title 22 (subdivisions) in this code, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the City subsequent to demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

(g) For complete building permit applications received on or prior to May 31, 2011, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against the title to the property that requires payment of the impact fees due and owing, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. Applicants electing to use this process shall pay a \$240 administration fee for each individual lien filed.

(fh) The building division of the fire and building department shall not issue any building permit unless and until the impact fee has been paid. For a change in land use when a building permit is not required, an applicant shall not occupy or permit a tenant to occupy the subject property unless and until the impact fee has been paid.

Section 3. Kirkland Municipal Code Section 27.04.050 is hereby amended to read as follows:

27.04.050 Exemptions.

(a) The following building permit applications shall be exempt from impact fees:

(1) Replacement of a structure with a new structure of the same gross floor area and use at the same site or lot when such replacement occurs within five years of the demolition or destruction of the prior structure. For replacement of structures in a new subdivision, see Chapter 27.04.030(f).

(2) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.

(3) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (Zoning Code) as it is considered part of the single-family use associated with this fee.

Section 4. Kirkland Municipal Code Section 27.04.150 is hereby amended to read as follows:

27.04.150 Transportation impact fee schedule

The impact fee schedule below is based on the City's 2007 rate study. As authorized under Section 27.04.120(b), the schedule may automatically increase each January 1st based on the Washington State Department of Transportation Construction Cost Index. See the Public Works Department's fee schedule for the current impact fee.

Land Uses	Unit of Measure	ITE Land Use Code	Fee Per Unit
Cost per Trip End >			\$3,398.20
Residential			
Detached Housing	dwelling	210	\$3,432.00
Attached and Stacked Housing	dwelling	220, 221, 230, 233; See Note 2	\$2,012.00
Senior Housing	dwelling	See Note 1	\$1,006.00
Nursing Home	bed	620	\$598.00
Congregate Care/Assisted Living	dwelling	253, 254	\$462.00
Commercial – Services			
Drive-In Bank	sq. ft./GFA	912	\$39.97
Walk-In Bank	sq. ft./GFA	911	\$38.62
Day Care Center	sq. ft./GFA	565	\$19.20
Library	sq. ft./GFA	590	\$8.78
Post Office	sq. ft./GFA	732	\$13.48
Hotel/Motel	room	310	\$2,291.00
Extended Stay Motel	room	311	\$1,553.00
Service Station	VFP	944	\$9,151.00
Service Station/Minimart	VFP	945	\$6,625.00
Service Station/Minimart/Car Wash	VFP	946	\$9,901.00
Car Wash	stall	947	\$5,594.00
Movie Theater	seats	445	\$550.00
Health Club	sq. ft./GFA	492	\$9.14
Racquet Club	sq. ft./GFA	491	\$4.12

Marina	berth	420	\$512.00
Commercial – Institutional			
Elementary School/Jr. High School	student	520	\$435.00
High School	student	530	\$272.00
University/College	student	550	\$553.00
Church	sq. ft./GFA	560	\$2.37
Hospital	sq. ft./GFA	610	\$4.58
Commercial – Restaurant			
Restaurant	sq. ft./GFA	931	\$19.78
Fast Food Restaurant w/o Drive-Through	sq. ft./GFA	933	\$25.39
Fast Food Restaurant w/ Drive-Through	sq. ft./GFA	934	\$33.63
Tavern	sq. ft./GFA	936	\$19.32
Industrial			
Light Industry/High Technology	sq. ft./GFA	110	\$5.29
Industrial Park	sq. ft./GFA	130	\$4.64
Warehousing/Storage	sq. ft./GFA	150	\$2.54
Commercial – Retail			
Shopping Center	sq. ft./GLA	820	\$4.02
Auto Parts Sales	sq. ft./GFA	943	\$5.15
Auto Care Center	sq. ft./GLA	942	\$3.91
Car Sales – New/Used	sq. ft./GFA	841	\$9.43
Convenience Market	sq. ft./GFA	851	\$29.77
Discount Club	sq. ft./GFA	861	\$11.53
Electronics Superstore	sq. ft./GFA	863	\$6.42
Freestanding Discount Store	sq. ft./GFA	815	\$7.22
Furniture Store	sq. ft./GFA	890	\$0.46
Hardware/Paint Store	sq. ft./GFA	816	\$5.59
Home Improvement Superstore	sq. ft./GFA	862	\$3.50
Other Retail Sales	sq. ft./GFA	814	\$3.13
Nursery/Garden Center	sq. ft./GFA	817	\$4.39

Pharmacy (with Drive-Through)	sq. ft./GFA	881	\$7.11
Quick Lubrication Vehicle Shop	service bay	941	\$3,427.00
Video Rental	sq. ft./GFA	896	\$7.72
Supermarket	sq. ft./GFA	850	\$15.98
Tire Store	service bay	849	\$4,379.00
Commercial – Office			
General Office Building	sq. ft./GFA	710	\$6.64
Medical Office/Clinic	sq. ft./GFA	720	\$13.00

VFP = Vehicle Fueling Positions (maximum number of vehicles that can be fueled simultaneously)

GLA = Gross Leasable Area

GFA = Gross Floor Area

Note 1. Senior Housing rate is one-half of attached and stacked housing rate.

Note 2. Includes cottage, carriage and two-/three-unit homes approved under Chapter 113 of Title 23.

Section 5. Kirkland Municipal Code Section 27.06.020 is hereby amended to read as follows:

27.06.020 Definitions.

The following words and terms shall have the following meanings unless the context clearly requires otherwise. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

(a) "Act" means the Growth Management Act, Chapter 36.70A RCW.

(b) "Applicant" means the owner of real property according to the records of the King County department of records and elections, or the applicant's authorized agent.

(c) "Building permit" means the official document or certification that is issued by the building division of the fire and building department and that authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, tenant improvement, demolition, moving or repair of a building or structure.

(d) "Capital facilities" means the facilities or improvements included in the capital facilities plan.

(e) "Capital facilities plan" means the capital facilities plan element of the city's comprehensive plan adopted pursuant to Chapter 36.70A RCW, and such plan as amended.

(f) "City" means the city of Kirkland, Washington.

(g) "Council" means the city council of the city.

(h) "Department" means the parks and community service department.

(i) "Director" means the director of the parks and community service department, or the director's designee.

(j) "Encumbered" means to reserve, set aside or otherwise earmark the impact fees in order to pay for park planning, design, land surveys and acquisition, engineering, permitting, financing, administrative expenses, construction of parks and related facilities and any other commitments, contractual obligations or other liabilities incurred for public facilities.

(k) "Hearing examiner" means the person who exercises the authority of Chapter 3.34.

(l) "Impact fee" means a payment of money imposed by the city on an applicant prior to issuance of a building permit or a change in land use when no building permit is required as a condition of granting a building permit or as a requirement for a change in use in order to pay for the public facilities needed to serve new residential growth and development. "Impact fee" does not include a reasonable permit fee or application fee.

(m) "Impact fee account" or "account" means the account established for the system improvement for which impact fees are collected. The account shall be established pursuant to this chapter, and shall comply with the requirements of RCW 82.02.070.

(n) "Independent fee calculation" means the study or data submitted by an applicant to support the assessment of an impact fee other than the fee in the schedule set forth in Section 27.06.150 of this chapter.

(o) "Interest" means the interest rate earned by local jurisdictions in the State of Washington Local Government Investment Pool, if not otherwise defined.

(p) "Interlocal agreement" or "agreement" means a park interlocal agreement, authorized in this chapter, by and between the city and other government agencies concerning the collection and expenditure of impact fees, or any other interlocal agreement entered by and between the city and another municipality, public agency or governmental body to implement the provisions of this chapter.

(q) "Low-income housing" means: (1) an owner-occupied housing unit affordable to households whose household income is less than eighty percent of the King County median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and where no more than thirty percent of the household income is paid for housing expenses, or (2) a renter-occupied housing unit affordable to households whose income is less than sixty percent of the King County median income, adjusted for household size, as determined by HUD, and where no more than thirty percent of the household income is paid for housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to

determine the King County median income, adjusted for household size. The director will make a determination of sales prices or rents which meet the affordability requirements of this section. An applicant for a low-income housing exemption may be a public housing agency, a private nonprofit housing developer or a private developer.

~~(r) "Multifamily dwelling" means an attached, stacked, duplex, or assisted living unit as defined in Chapter 5 of Title 23 of this code (Zoning Code) and cottage, carriage and two-/three unit homes approved under Chapter 113 of Title 23 of this code (Zoning Code).~~

~~(sr) "Owner" means the owner of real property according to the records of the King County department of records and elections; provided, that if the real property is being purchased under a recorded real estate contract, the purchaser shall be considered the owner of the real property.~~

~~(ts) "Parks" means parks, open space, and recreational facilities.~~

~~(ut) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development or users of a project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.~~

~~(vu) "Public facilities" means the public parks, open space, and recreational facilities.~~

~~(wv) "Rate study" means the "Rate Study for Impact Fees for Parks and Recreational Facilities," city of Kirkland, by Henderson, Young and Company, dated March 27, 2007.~~

~~(xw) "Residential" means housing, such as single-family dwellings (detached), multifamily dwellings (attached or stacked units (includes cottage, carriage and two-/three-unit homes approved under Chapter 113 of Title 23), accessory dwelling units, apartments, condominiums, mobile homes and/or manufactured homes or, senior and assisted living units, intended for occupancy by one or more persons. For the purpose of this chapter, an accessory dwelling unit, as defined in Chapter 5 and regulated in Chapter 115 of Title 23 (zoning code) of this code (Zoning Code), is considered an adjunct to the associated primary structure single-family dwelling unit and is not charged a separate impact fee. For the purpose of this chapter, single-family dwellings include one or more detached dwelling units on one lot.~~

~~(y) "Single family dwelling" means a detached living unit as defined in Chapter 5 of Title 23 of this code (Zoning Code).~~

~~(zx) "System improvements" means public facilities included in the capital facilities plan and designed to provide service to service areas within the community at large, in contrast to project improvements.~~

Section 6. Kirkland Municipal Code Section 27.06.030 is hereby amended to read as follows:

27.06.030 Assessment of impact fees.

(a) The city shall collect impact fees, based on the schedule in Section 27.06.150 of this chapter, from any applicant seeking a building permit from the city, or any person or entity seeking a change in land use to one of the land use categories in Section 27.06.150 when no building permit is required.

(b) All impact fees shall be collected from the applicant prior to issuance of the building permit, or prior to occupancy for a change in land use when no building permit is required based on the land use categories in Section 27.06.150. Unless the use of an independent fee calculation has been approved, or unless a development agreement entered into pursuant to RCW 36.70B.170 provides otherwise, the fee shall be calculated based on impact fee schedule in effect at the time a complete building permit application is filed. For a change in use for which no building permit is required, the fee shall be calculated based on the impact fee schedule in effect on the date of payment of the impact fee.

(c) The department shall establish the impact fee rate for a land use that is not listed on the rate schedule set forth in Section 27.06.150 of this chapter. The applicant shall submit all information requested by the department for purposes of determining the impact fee rate pursuant to Section 27.06.040.

(d) For a change in use, the impact fee shall be the applicable impact fee for the land use category of the new use, less the impact fee for the land use category of the prior use.

(e) For building permits for mixed use developments, impact fees shall be imposed on the residential component of the development found on the schedule in Section 27.06.150 of this chapter.

(f) For building permits within new subdivisions approved under Title 22 (subdivisions) in this code, a credit shall be applied for any dwelling unit that exists on the land within the subdivision prior to the subdivision if the dwelling unit is demolished. The credit shall apply to the first complete building permit application submitted to the City subsequent to the demolition of the existing dwelling unit, unless otherwise allocated by the applicant of the subdivision as part of approval of the subdivision.

(g) For complete building permit applications received on or prior to May 31, 2011, at the time of issuance of any single family residential building permit for a dwelling unit that is being constructed for resale, the applicant may elect to record a covenant against the title to the property that requires payment of the impact fees due and owing, less any credits awarded, by providing for automatic payment through escrow of the impact fee due and owing to be paid at the time of closing of sale of the lot or unit. Applicants electing to use this process shall pay a \$240 administration fee for each individual lien filed.

(fh) The building division of the fire and building department shall not issue any building permit unless and until the impact fee has been paid. For a change in land use when a building permit is not required, an applicant shall not occupy or permit a tenant to occupy the subject property unless and until the impact fee has been paid.

Section 7. Kirkland Municipal Code Section 27.06.050 is hereby amended to read as follows:

27.06.050 Exemptions.

(a) The following building permit applications shall be exempt from impact fees:

(1) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed. Replacement must occur within five years of the demolition or destruction of the prior structure. For replacement of structures in a new subdivision, see Chapter 27.06.030(f).

(2) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (Kirkland Zoning Code).

Section 8. Kirkland Municipal Code Section 27.06.150 is hereby amended to read as follows:

27.06.150 Fee schedule.

Park Impact Fee Schedule

The impact fee schedule below is based on the City's 2007 rate study. As authorized under Section 27.06.120(b), the schedule may automatically increase each January 1st based on the CPI-W Index. See the Public Works Department's fee schedule for the current impact fee.

Type of Land Use	Impact Fee	Per Unit
Single-family dwelling (d) Detached unit)	\$3,621	Dwelling unit
Multifamily dwelling (a) Attached, stacked, and senior or assisted living unit) <u>development, and cottage, carriage and two-/three-unit homes approved under chapter 113 of title 23 (zoning code) of this code.</u>	\$2,368	Dwelling unit

Section 9. Applicability.

(1) Public notice given prior to the effective date of this Ordinance for any pending development permit application shall remain valid for such permit application.

(2) This Ordinance shall not otherwise affect the vesting date for any application as provided for under the state law vesting doctrine.

Section 10. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 11. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2010.

Signed in authentication thereof this _____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4243

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO IMPACT FEES, ESTABLISHING IMPACT FEE CREDITS FOR RESIDENTIAL SUBDIVISIONS IN CERTAIN SITUATIONS, PROVIDING THE OPTION FOR DEFERRAL OF PAYMENT OF IMPACT FEES FOR SINGLE FAMILY RESIDENCES TO THE INITIAL SALE OF THE RESIDENCE, AND MAKING OTHER MISCELLANEOUS CHANGES.

SECTION 1. Updates the definition of "Residential" housing.

SECTION 2. Adds a new language to KMC 27.04.030 for new subdivisions in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home and adds new language to KMC 27.04.030 allowing impact fees to be paid upon sale of the property.

SECTION 3. Updates the exemptions for replacement of a structure with a new structure clarifying where to locate information on replacement in a new subdivision.

SECTION 4. Updates the transportation impact fee schedule clarifying where to locate the indexed fee schedule adjustments.

SECTION 5. Removes the definition of "Multifamily dwelling" and "Single family dwelling" and updates the definition of "Residential" housing.

SECTION 6. Adds a new language to KMC 27.06.030 for new subdivisions in which the credit for an existing dwelling unit is given to the first building permit following demolition of the existing home and adds new language to KMC 27.06.030 allowing impact fees to be paid upon sale of the property.

SECTION 7. Updates the exemptions for replacement of structures in a new subdivision clarifying where to locate information on replacement in a new subdivision.

SECTION 8. Updates the park impact fee schedule clarifying where to locate the indexed fee schedule adjustments.

SECTION 9. Provides that vesting and public notice requirements are not affected by this Ordinance.

SECTION 10. Provides a severability clause for the ordinance.

SECTION 11. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2010.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk

**CITY OF KIRKLAND****Public Works Department****123 Fifth Avenue, Kirkland, WA 98033 425.587-3225****www.ci.kirkland.wa.us**

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Rob Jammerman, Development and Environmental Services Engineering Manager

Date: June 1, 2010

Subject: Street Cut Fee

RECOMMENDATION:

City Council approves the attached Ordinance amending the sections 19.12 and 5.74 of the Kirkland Municipal Code establishing a Street Cut Fee for all new street cuts within the public right-of-way.

BACKGROUND DISCUSSION:

On February 14, 2009, Public Works Staff presented the 2008 State of the Streets report to the City Council outlining the funding deficiencies in our Street Preservation Program and recommending several options to provide additional funding to the program; one such fee was a Street Cut Fee. Ray Steiger, Interim Public Works Director presented a Street Preservation Strategy report to the City Council. After reviewing and discussing the report, Council recommended that Staff bring back more information regarding the Street Cut Fee and other funding sources; this follow up was presented to Council on February 16th, 2010 (Attachment A).

At their February 16th meeting, Council approved the elements outlined in the "yellow" column. Detailed information regarding the Street Cut Fee has now been developed, and an ordinance to adopt the fee is included with this memo. Components of the fee are as follows:

1. Utility street cuts (patches) are one of the major causes of Pavement Condition Index (PCI) decline. Simply put, an asphalt street that is not cut and patched will have a slower declining PCI than a street with that has been cut and patched; the faster the PCI declines, the sooner the street has to be overlaid.
2. Staff studied permit data from the last 10 years and estimated that between 700 and 1000 new asphalt patches occur in our public streets each year. The majority of these asphalt patches are either associated with franchise utility work such as gas, electric, phone cable, or fiber-optics, or with new development projects. The Public Works Department does have an asphalt overlay policy

for major utility work in the right-of-way and any patches that were overlaid were not counted in these study numbers; the patches are counted for this exercise only if they don't trigger an overlay.

3. Both the City of Bellevue and Bothell have had Street Cut Fees for many years. The City of Bellevue's Street Cut Fee is \$59 per 100 sq. ft. and is being reviewed for a fee increase. The City of Bothell's Street Cut Fee is \$14 per lineal foot of trench which equates to approximately \$140 per 100 sq. ft of patch (trench widths vary).
4. When developing the Street Cut Fee, staff found that the most equitable approach is to base the fee on the actual costs to provide an asphalt overlay over the subject street cut. In 2009, the City paid approximately \$4/square foot to overlay our streets. Because patch sizes vary and are subject to adjustment in the field, it is recommended that the Street Cut Fee be set at \$200 for every 50 sq. ft. of patch size (\$4 per sq. ft. overlay cost X 50 sq. ft. =\$200) The following table outlines the recommended fee schedule:

Street Cut Size⁽¹⁾	Street Cut Fee⁽²⁾
1 – 50 sq. ft.	\$200
51-100 sq. ft.	\$400
100 sq. ft or greater	\$400 plus \$400 each additional 100 sq. ft. of patch area

⁽¹⁾Multiple patches that are within the vicinity of each other will be measured collectively to determine the fee.

⁽²⁾Any permit applicant that is required to overlay the street as a condition of their project will not pay the Street Cut Fee for any street cuts in the overlay area.

With this fee adoption, it is estimated that between \$100,000 and \$150,000 will be generated annually for the Street Preservation Program.

5. There will be additional time required by the Public Works Development Engineers and Engineering Technicians to administer the new fee. To account for this new work, it is recommended that each Street Cut Fee have an additional \$25 administration fee added to it. The administration fee has been included in the attached fee ordinance.
6. On May 21st, a notice was sent to the Kirkland Developers Partnership Forum and all Utility Franchise Holders regarding the proposed Street Cut Fee and the presentation of the fee to Council at the June 1, 2010 Council meeting.

If the Council approves the recommended Street Cut Fee, staff recommends that further analysis be done to assess whether utility patches caused by our own utility work should also be assessed a Street Cut Fee and contribute to the Street Preservation Program accordingly. As an example, if the Surface Water Utility repaired a storm line failure and patched the street, the utility would be "charged" for the patch and funds would be transferred from the Surface Water Utility to the Street Preservation fund. Moving forward with this policy may result in a slight increase to the utility rates.

Other Fee Administration Change

One other Public Works fee administration change has been included with this Ordinance. The existing fee for Engineering Review and Inspection of major street and utility improvements is 10% of the value of the improvements. The existing code requires this fee to be paid at the time of permit issuance. If the permit is not picked up, the Public Works Department is not reimbursed for the time to review the permit.

The proposed amendment requires applicants to pay up to half of their Public Works Engineering Review and Inspection fee (up to 5% of the value of the improvements) *at the time of permit application*. In doing so, the Public Works Engineering review time will be covered even if a permit is not picked up after processing. This methodology is consistent with the process used by the Building Department which charges an intake fee to cover their review time before the permit is issued.

Attachment 1 - February 16, 2010 Street Preservation Strategies Report.

Attachment 2 – Ordinance to amend 5.74 of the KMC

**CITY OF KIRKLAND****Department of Public Works**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3800

www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Ray Steiger, P.E., Interim Public Works Director
Andrea Mast, P.E., Project Engineer

Date: February 10, 2010

Subject: STREET PRESERVATION STRATEGIES

RECOMMENDATION:

It is recommended that the City Council review and discuss the proposed street preservation strategies.

BACKGROUND AND DISCUSSION:

This memo summarizes the work of the Transportation Commission, the Council Finance Committee, and Public Works Staff over the last year to develop a proposal to stabilize and/or increase the overall pavement quality in the City of Kirkland. Staff has included a number of options for consideration and is seeking additional comment, feedback, and direction from the Council.

Pavement Condition Index and Deferred Maintenance

In 2002, 2005, and 2009, Staff presented Council with reports that summarized the City's Pavement Management System (PMS), the roadway network pavement condition, and made recommendations for funding of the City's Annual Street Preservation Program based on a ten year projection of the street system condition. Using information presented in the reports, and after discussions with Staff, Council established budgets for the Annual Street Preservation Program in the Capital Improvement Program. Additionally, based on the 2005 report, Council approved the purchase of a commercial grade asphalt paving machine for use by City maintenance personnel to supplement the Annual Preservation Program.

In the 2009 report to Council, Staff indicated that the overall Pavement Condition Index (PCI) for the City's street network had declined to 65 and was trending downward; this compared to an overall PCI of 70 and 67 in the 2005 and 2002 reports respectively. As a point of reference, a newly paved roadway has a PCI of 100, and over time, the PCI decreases depending on environmental exposure, traffic volumes, and other factors (Figure A). The PCI of the overall City street network is a combination of *all* individual roadways (150 miles of City streets) and their respective PCI's; it is this overall PCI that is used to summarize the "health" of the network. This measure is utilized for objective comparisons over time, with other agencies, and in grant funding applications. Other factors also need to be considered when assessing the complete picture of street network health such as the type of road vs. the PCI (for example, maintaining higher PCI's on the arterials helps commerce and transit in addition to cars; neighborhood street speeds are lower and PCI for driver comfort is not as crucial), however the PCI is a good benchmark to use for comparisons.

Besides sufficient funding, optimizing the investment level for a street network over its lifetime requires two considerations: 1) determining the best treatment measure for given conditions (the PCI rating among those conditions), and 2) determining the correct time to apply the measure. To start with, Kirkland has identified a

number of acceptable treatment measures for pavement repair ranging in cost and applicability; they include: slurry seal, patching, overlay, and total reconstruction. An *unacceptable* treatment measure, tried in the mid 1990's, is called "chip seal", and this measure is not used in Kirkland; the materials used in chip seal were incompatible with the urban nature of Kirkland and community feedback took that measure off the list of options. Slurry seal on the other hand (also a low cost preventative maintenance measure) is used on certain roads with good PCI's (typically above 80), and it allows for the roadway's life to be extended a number of years at a low cost (Figure B). Slurry seal cannot be applied indefinitely, since over time the structure of the underlying asphalt will break down, but it can be applied on repeating cycles (say every 5 – 8 years) thereby saving the cost of the more expensive overlay treatment. As graphically shown in Figure B, a number of low costs slurry seals can be applied to keep the pavement in the "good" range rather than immediately overlaying at the early signs of degradation. On the other end of the cost spectrum is total reconstruction.

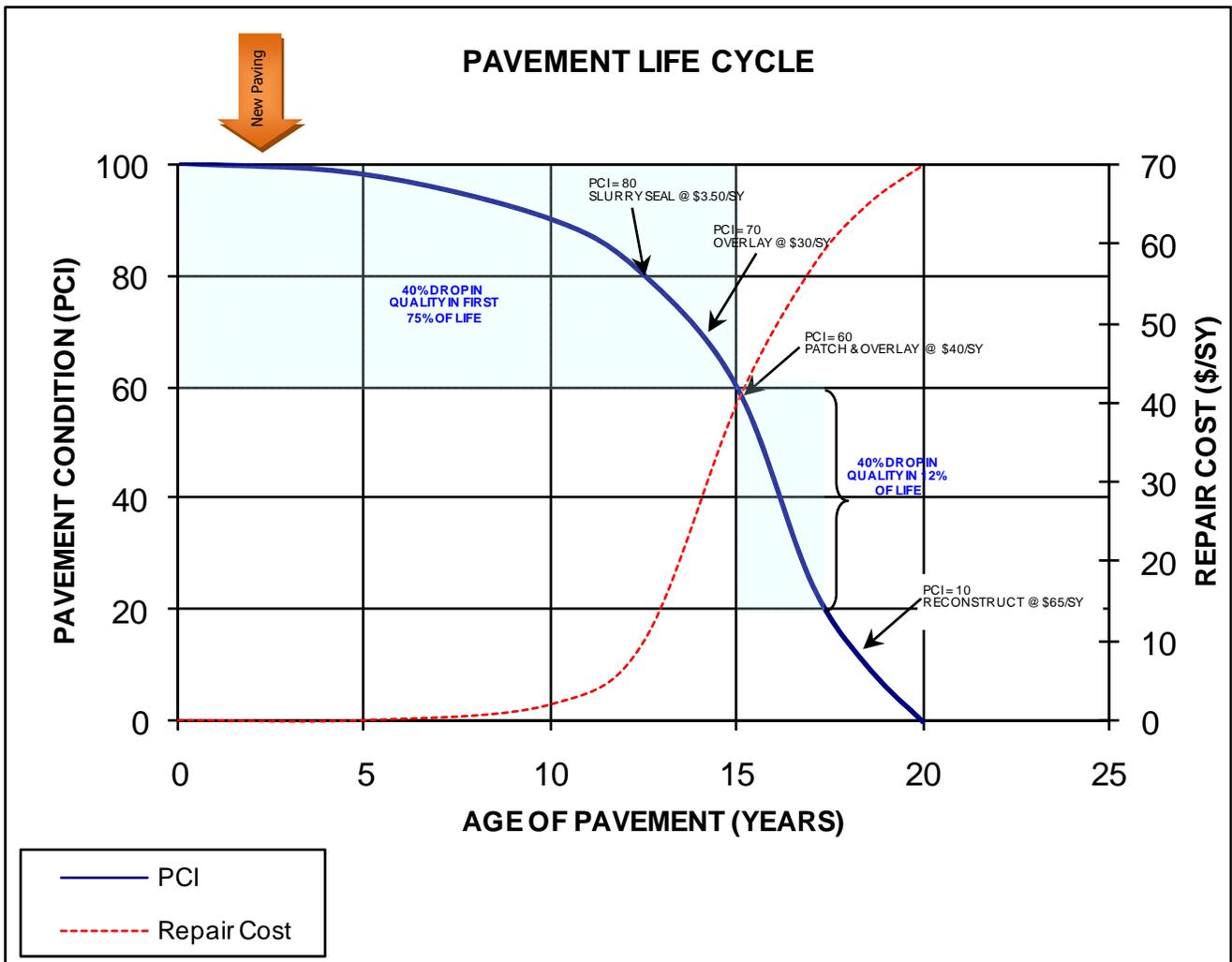


Figure A – Typical asphalt degradation curve over time

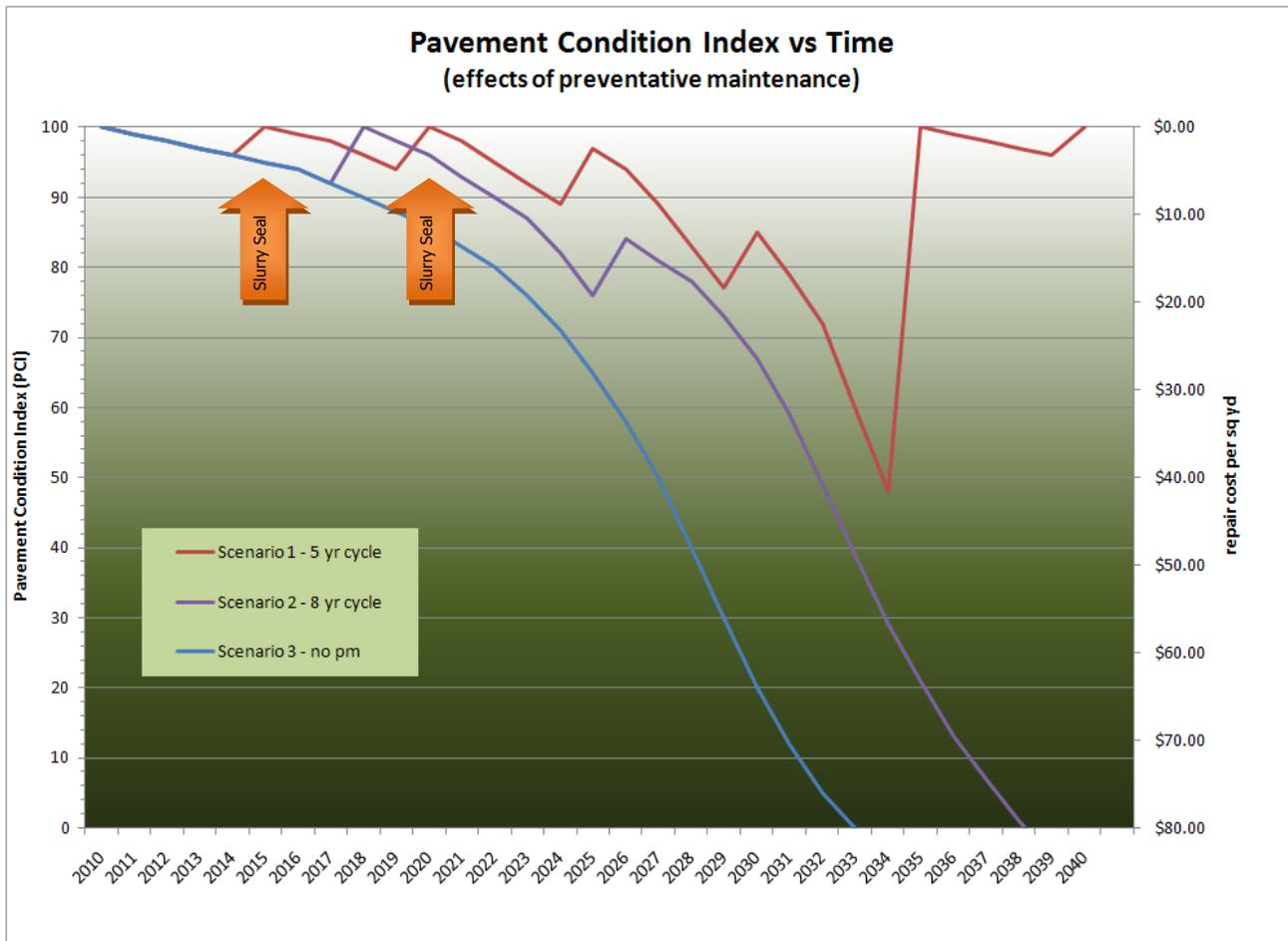


Figure B – lifecycle cost comparison of asphalt treatment measures

Reconstruction involves complete removal of the roadway section down to the native soil, and then the road is reconstructed with excellent materials using appropriate construction methods under good weather conditions; this is the most expensive measure and represents the largest impact to residents, commuters, and other users during the construction activities. This measure is typically used once a roadway has degraded below the 20 PCI range. The direct cost of reconstruction does not increase significantly as the road degrades further than this PCI range, but the indirect cost, tire damage, complaints, and general community dissatisfaction, will continue to go up. Most of the roadways under Kirkland’s current funding level and overall PCI fall within the more moderately priced overlay treatment measure.

Along with the PCI, a second attribute that can be looked at globally with the PMS is the deferred maintenance of the network – the estimated repair cost in current dollars to bring the whole system to a PCI of 85. A PCI of 85 for the entire network represents the optimum investment in the system. At this level, repair costs are minimized since the low cost treatment measures are applicable at that level. An overall PCI of 100 as a target would not consider the useful life of the pavement and is virtually impossible to attain for a large roadway system. A typical roadway will function completely well between the PCI 85 and 100 level without any maintenance. On the other hand, a PCI that slips into the “steeper” portion of the degradation curve, not only costs more to repair but degrades at an accelerated rate. Thus, industry wide a PCI at 85 is recognized to optimize investment over the life of a system; this sweet spot on the degradation curve balances expenditures and amount of useful life of the pavement. For comparison, Figure C shows a number of comparable agencies.

Questions	Mill Creek	Marysville	Kent	Olympia	Bellevue	Redmond	Bothell
Network PCI	NA	76	81	78	83 (OCI)	85 (estimated)	68 (OCI)

						OCI)	
Year of Survey	2008	2008	2009	2007	2007	2008	
Annual Investment	\$400K in 2010 \$500K in 2013	\$800K in CIP + \$80K in-house annually \$0 spent 2009 & 2010 due to budget	\$5.4M annually \$0 spent 2008 & 2009 due to budget	\$2,225,000 annually	\$5.5M annually	\$1M annually	\$630K annually
Centerline Miles	50	196		206	390	135	118
Lane Miles	104	411		500	942	332	264

Figure C – Puget Sound comparable agency Street System report

In 2005, the deferred maintenance of the City’s street network was approximately \$9,000,000; in the 2009 report, replacement of the network would cost an estimated \$15,500,000 (2008 \$). The cost per ton of asphalt increased from approximately \$42 in 2005 to \$80 in 2008. If no repairs had been conducted on the system and if there were no degradation (i.e. a static system), a doubling of the cost of repair would have doubled the deferred maintenance – this however was not the case. Repairs were done and the system did degrade further. However, since the system deferred maintenance did not double, using this as one more measuring attribute suggests that the backlog was being somewhat mitigated with spending during that timeframe. However, significantly more remains to be done.

The annual street preservation program is one category of the City’s transportation program. Other categories are building the capacity network to comply with concurrence under GMA, other maintenance programs, and building the non-capacity (or non-motorized) network. Approximately \$7.4 million of funding is annually available for the transportation system from a number of sources and for the 2009-2014 CIP were targeted as shown in Figure D.

Average Annual Transportation funding 2009 through 2014:		
Current revenue:	Gas Tax	\$ 544,000
	Sales Tax	\$ 270,000
	REET 1	\$ 567,000
	REET 2	\$ 1,701,000
	Impact fees	\$ 2,104,000
	Surface Water	\$ 950,000
	Subtotal	\$ 6,136,000
	REET 2 (grant match reserve)	\$ 480,000
	Grants (avg '93-'03)	\$ 792,500
Total annual funding		\$ 7,408,500

Target allocation per Category	Concurrence (94% of "req'd")	\$ 3,860,000
	Sidewalk Maintenance	\$ 200,000
	Street Maintenance	\$ 2,000,000
	Striping Program	\$ 250,000
	Non-capacity (target)	\$ 1,098,500

Figure D – transportation funding components and allocation (per 2009 report)

In light of the 10-year projections of the street network under the 2009-2014 CIP budgeted amounts (a PCI=54 and a deferred maintenance of \$142 million) and after presentation of the 2009 report, the Council asked staff to review any and all possible innovations and funding sources to increase Kirkland’s PCI. The alternatives were to examine both the revenue and expenditure side of the issue. In addition, we were asked to work with the Finance Committee and the Transportation Commission and return with a plan to enhance our overall street maintenance program.

Since the 2009 report

Staff has worked on this issue for the last several months. In addition, we presented draft proposals at three Transportation Commission meetings during 2009, and each time were provided with useful feedback and direction. In July, 2009 Staff updated the Finance Committee with information on the components and requirements of a Transportation Benefit District (TBD). At that time, the Finance Committee asked that Staff present the TBD option in context of the full array of funding options. Staff was asked to continue to work with the Transportation Commission on developing options.

The recommendations in this memo are a result of feedback from the Transportation Commission. There were several recommendations the Transportation Commission noted which are incorporated in this summary. It should be noted the Transportation Commission also reviewed our recommendations in light of the recently developed 'Transportation Conversation' document and with consideration of the recent Council Goal on 'Dependable Infrastructure.' In addition, Staff has attended pavement management workshops, researched practices in other cities, and evaluated our internal procedures and processes in order to develop this set of recommendations.

A detailed presentation of our recommendations is included as Figure E, and staff is prepared to review in detail each of the proposals. Below are two summaries of the information on the spreadsheet, and are most easily understood read alongside the information on Figure E.

Summary of the Current Situation and Proposed Strategy

1. The annual revenue required to attain and sustain a PCI of 70, Council's adopted LOS, is highly dependent upon the prevailing inflation rate. In general terms, staff estimates approximately \$5-7 M/year, depending on the rate of inflation. Given the long-term nature of investment in the street network, the inflation rates dramatically change the annual cost requirements.
2. Currently the city has \$2.7 M available in annual preservation funds. This includes \$2.0 M for the Annual Preservation program, \$400 K for the Street Maintenance Division's pavement program, and an estimated \$300 from other various roadway restoration projects (i.e. grant projects).
3. The gap, therefore, is between \$2.3 M and \$4.3 M/yr.
4. We are assuming there will be no single source of revenue in the near future to close that gap.
5. Therefore, we have developed a four-tiered strategy for increasing funding levels. The details of each tier are included in the attached spreadsheet. The Tiers are:
 - a. Efficiencies
 - b. Regulatory and Policy Changes
 - c. Partnerships
 - d. New Revenue Sources
6. In addition, we have reviewed each of the strategies and placed them in four somewhat additive alternatives based on their relative ease of implementation. These are color-coded on the attached spreadsheet. The alternatives are:
 - a. Base Program (existing 2009-2014 CIP)
 - b. Administrative Changes made with Council knowledge (recommended in the 2011-2016 CIP)
 - c. Changes requiring Council decisions and/or financial impacts to third parties
 - d. Changes requiring State Legislative Action or third party agreements
7. Staff is recommending we proceed with the administrative changes (Alternative B) and are currently developing a community outreach/involvement program for pursuing Alternative C (upon input from the Council Finance Committee). Primary among the strategies requiring Council action is community feedback regarding the Transportation Benefit District (explanation later in this memo). Input gained from the community feedback would also be applicable in the event legislation is passed for the Street Utility also.

Street Maintenance Strategy

Element	Annual Investment Alternatives			Annual cost or notes	
	Base	1	2		3
	2009-2014 CIP	Administrative changes (implement in 2011-2016 CIP)	Council decisions or potential impacts to other parties	State legislature or 3rd Party agreements required	
Current Budget					
Overlay	\$ 1,800,000	✓	✓	na	CIP - Phase I
Preventative Maintenance (i.e. slurry seal)	\$ 200,000	✓	✓	na	CIP - Phase II
Operating Fund for Street Maint crews	\$ 400,000	✓	✓	na	TIF
1. Efficiencies					
a. More aggressive crack sealing	\$ (10,000)	✓	✓	✓	deprec., materials
b. Increased utilization of Paver	\$ (11,500)	✓	✓	✓	deprec., materials
c. Acquisition of Milling machine			\$ (31,667)	✓	deprec., materials
2. Regulatory and Policy Changes					
a. Past Improvements to paving standards	\$ 57,600	✓	✓	✓	
b. Utilize more CDF in backfill			\$ 20,000	✓	
c. Expand standard street patch width			\$ 20,000	✓	
d. Implement Street Cut Fee (researched other cities)			\$ 38,000	\$ 195,000	
e. Water, Sewer, Storm contribution for pavement impacts	\$ 190,000	✓	✓	✓	
f. Modify PCI from 70 to 70 for arterials and 65 for neighborhood streets	\$ 50,000	✓	✓	na	
3. Be an active partner					
a. Prior grants and 3rd party contributions	\$ 350,000	✓	✓	✓	
b. Additional third party contributions beyond 3.a	\$ 20,000	✓	✓	✓	
c. Eliminate studded tires				\$ 100,000	\$5000 for lobby
d. Regional partnerships - efficiencies in joint contracts with other cities					
e. Gas Tax Increase - statewide			\$ 50,000	\$ 50,000	
4. Pursue new revenues					
a. Additional \$500K in 2011					Milling machine?
b. Reallocate funds from Capacity to Street Maintenance and Overlay			\$ 50,000	na	
c. Solid Waste haulers fee - new contract discussion				\$ 300,000	(Bothell's #)
d. Transportation Benefit District, 2011			\$ 750,000	na	\$20/vshicle/yr
e. Proposed Street Utility Legislation				\$ 4,700,000	\$5/month/SF
Total Annual Funding Level	\$ 2,827,600	\$ 3,067,600	\$ 4,055,600	\$ 6,400,600	

		2008 \$'s				
by end of 2020 @ 4% inflation	PCI	Arterials	55 -	70 +	70 +	70 +
		Non-arterial	70 +	50 -	58 -	62
	Optimum one time investment \$ million		15.5	54.8 -	48.9	43.8 -
		2008 \$'s				
by end of 2020 @ 6% inflation	PCI	Arterials	55 -	68 +	70 +	70 +
		Non-arterial	70 +	47 -	54 -	60
	Optimum one time investment \$ million		15.5	69.1 +	62.1 +	57.1 +

Notes:
 ✓ Indicates that element is included in the Alternative
 na Indicates that element is not included in the Alternative
 - value is decreasing
 + value is increasing

Figure E – Street Maintenance Strategies and projected outcomes

Summary Discussion of Figure E

1. The current total annual investment for pavement maintenance and preservation, shown in beige, is \$2.8 Million. This alternative includes existing City funding and also considers existing third party funding such as TIB grants, WSDOT paving of City streets, and franchise paving.
2. By including the additional elements, identified as Administrative in the green column, the annual investment increases to \$3.0 Million. This requires City utilities (water, sewer, storm) to pay into the

- street preservation fund if roads are impacted by utility projects; past practice has allowed utilities to patch sufficiently well if roads were in good condition and paving contribution was "waived" if the road was in poor condition. This cost will be reflected in utility estimates in the CIP.
3. The third column includes areas requiring Council direction. This column, shown in **yellow**, includes the Transportation Benefit District (TBD) and purchase of a commercial grade asphalt milling machine. Staff is recommending Council consider implementing a TBD in 2011. Essentially, cities can create a Transportation Benefit District for all or part of their jurisdiction. The process is
 - a. Governing Body determines need, creates boundary, and establishes revenue source
 - b. Projects must be in state or regional plan, street maintenance projects are allowable
 - c. Four funding mechanisms are available; only one, a vehicle license fee of \$20 per vehicle or less, are available without public vote. This would generate between \$750-850 K annually in pre-annexation Kirkland. If post-annexation Kirkland is included, it would generate approximately \$1.3 M annually.
 - d. Six cities in Washington have implemented TBD's with a \$20 vehicle license fee
 - e. The Transportation Commission supported a TBD after careful debate, and included the following comments.
 - i. It is important to consider this in light of annexation, specifically, whether to include the annexation area or not.
 - ii. If the PCI in the annexation area is higher than existing Kirkland's, consider use of TBD for other projects like sidewalks, active transportation projects, or other efforts; and continue to use TBD in existing Kirkland for annual overlay
 - iii. If the Street Utility ever becomes a viable option, consider the TBD as a temporary measure for street maintenance purposes. If a Street Utility was approved and utilized, the City could sunset the TBD, or utilize it for specific beneficial transportation projects.
 - f. If Council provides direction to proceed, staff could return with a report on the schedule, issues, and process for a Kirkland Transportation Benefit District
 4. The fourth column in **red** includes items beyond the City to implement. Primary among these is the proposed Street Utility currently under discussion in the state legislature. Specifically, the proposed legislation eliminates the past legal barriers and replaces a flat per parcel fee with a fee directly tied to land use and estimated travel patterns and system usage. These are very preliminary numbers, but some estimates are that, for single-family homes, the monthly fees would range from \$2 to \$8. Small retail would be \$11.17, and large retail \$83.20. In addition, the way a Street Utility would operate; the cost of maintaining the entire street system (pavement, signals, markings) would be paid by the users. Therefore, if we estimated our annual need at \$7 M, the rates would be set to generate that amount. Consequently, the maintenance needs of the city would be fully funded. There is still much debate to come on this bill, but it does have the potential to resolve urban street maintenance needs. As the Transportation Commission suggested, the TBD, if implemented, could be redirected or eliminated with use of the Street Utility. This option is the only that fully funds our needs.
 5. Other recommendations of the Transportation Commission.
 - a. The Commission also suggested that sometime in the future, Kirkland staff develop a quantitative measure for the active transportation network. They believed that sidewalks, paths and trails and bike lanes could benefit from a measure similar to the PCI for pavement. They recognized this was potentially a difficult and time-consuming effort, but urged staff to consider a low-cost way to measure that network, particularly the sidewalk network.
 - b. The Commission reviewed the information for the Deferred Maintenance figures as presented in the staff recommendation. They urged us to find a more straightforward and understandable way to present that information. Specifically, they suggested we look at whether deferred maintenance is simply increasing or decreasing; rather than focus on the total dollar amount of the backlog or of deferred maintenance.

Summary Policy Issues

1. Does Council support staff implementation of the Administrative Changes in the Green column?
2. Does Council support implementation of the recommendations in the Yellow Column regarding third parties (excluding TBD)

3. Does Council support a TBD in Kirkland in 2011, and if so, what are the boundaries?
4. Council supports the Street Utility in the 2010 Legislative Agenda, consistent with Association of Washington Cities priorities

<p>incomplete actions Penalty—Nonmaintenance of FOG systems Penalty—Inaccurate or incomplete report</p>	<p>\$1,000.00 total. \$100.00/day for 60 days max. \$500.00 + city maintenance costs. Second year: \$1,000.00 + city maintenance costs \$100.00 for first offense</p>
<p>Sewer—Billing Sewer service <u>call</u> (customer problem)</p>	<p>\$20.00</p>
<p>Right-of-Way Permit to work in ROW—Standard Permit to work in ROW—Basic <u>Street Cut Fee 1-50 sq. ft.</u> <u>Street Cut Fee 51-100 sq. ft.</u> <u>Street Cut fee 101 sq. ft. or larger</u> <u>Street Cut Administration Fee</u></p>	<p>\$372.00 \$106.00 <u>\$200.00</u> <u>\$400.00</u> <u>\$400 + 400 for each additional 100 sq. ft.</u> <u>\$25 per street cut</u></p>
<p>Storm Drainage (Surface Water) Surface water drainage plan check fees (see PW pre-approved plans and policies for description of review types): (a) Small—Type I review (b) Small—Type II review (c) Targeted review (d) Full review (e) Roof/driveway drain connection inspection (f) Surface water adjustment process (see PW pre-approved plans and policies for full description)</p>	<p>\$375.00 \$905.00 \$1,580.00 \$3,160.00 \$637.00 \$150.00 for up to 2 hours of process, and then \$75/hour thereafter</p>
<p>Miscellaneous Review and Inspection Fees When the public works department provides engineering review or inspections services, and a fee for such service is not published, the applicant shall pay the following rate for such services Impact fee—Independent fee review Right-of-way nonuser relinquishment review fee</p>	<p>\$75.00 per hour \$200.00, plus \$75.00 per hour of review \$375.00 for up to 5 hours' process, and \$75.00/hour thereafter</p>
<p>City trees Civil penalties for violations, per day</p>	<p>1st violation—\$200.00 2nd violation—</p>

	\$400.00
	3rd violation—\$600.00

(b) Whenever any construction work, public improvement or other activity is required or permitted to be performed upon any public right-of-way, or within or upon any property which, upon completion of said work or activity, is to be conveyed or dedicated as public right-of-way or public easement, the city shall not accept for maintenance or otherwise such work, improvement, facility or activity until there has been paid to the city by the person required or permitted to perform such work or activity an amount equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. In addition, prior to the release of any permit for construction of storm drainage collection and conveyance on private property the permit applicant shall pay a fee equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. Estimated cost of construction shall be determined by the director of the department of public works. Whenever such a review and inspection fee is required, the Public Works Department is authorized to collect up to one half of the fee at permit application with the remainder being due at permit issuance.

(c) This section shall not apply to:

(1) Work performed under public works construction contracts let by the city pursuant to Chapter 3.85 of this code; or

(2) So much of such work performed under a developer's extension agreement (Chapter 35.91 RCW facilities agreement) as is determined by the director of public works to be for the benefit of the Kirkland water or Kirkland sewer system rather than for the benefit of the property being concurrently subdivided, developed or improved by the signors to the developer extension agreement.

(d) The director is authorized to interpret the provisions of this chapter and may issue rules for its administration. This includes, but is not limited to, correcting errors and omissions and adjusting fees to match the scope of the project. The fees established here will be reviewed annually, and, effective January 1st of each year, may be administratively increased or decreased by an adjustment, rounded to the nearest dollar, to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain the cost recovery objectives established by the city council.

Section 2. Section 19.12.090 of the Kirkland Municipal Code is hereby amended to read as follows:

19.12.090 Permit fee required.

(a) The fee for a permit to disrupt a street surface, curb or sidewalk or place a utility in the right-of-way and the fee for a street cut that will not be overlaid by the applicant causing the street cut is set forth in Section 5.74.040.

(b) Also, a street security deposit shall be paid. The street security deposit shall be in an amount determined by the director of public works to be sufficient to pay for the cost to the city to restore the street surface, curb or sidewalk in event of failure. At least annually, the director shall prepare and maintain schedules for street security deposits, which reflect the current actual cost to the city as determined by the most recent Engineering News Record Construction Cost Index. Such schedules shall at all times be available to the general public.

(c) If the work is performed by jacking or boring under the street, the entire street security deposit shall be refunded.

(d) If the street surface is disturbed and properly repaired and restored, the portion of the street security deposit as is established for refund in the schedule provided for in subsection (b) of this section shall be refunded after ninety days from the date of repair.

(e) Inspections shall be requested by the contractor at least two hours prior to backfill, in order to receive a refund.

(f) No refund of a street security deposit shall be made until sufficient time has elapsed following the completion of the disruption work to assure the fact of "nonfailure" of the restoration.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2010.

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4244

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STREET CUT FEES AND AMENDING SECTIONS 5.74.040 AND 19.12.090 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 5.74.040 by adding a street cut fee to the fee schedule for permit and administrative fees charged by the public works department.

SECTION 2. Amends KMC Section 19.12.090 by adding a reference as to where the fee schedule for street cuts is located in the KMC.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2010.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk

**CITY OF KIRKLAND**

City Attorney's Office

123 Fifth Avenue, Kirkland, WA 98033 425.587.3030

www.ci.kirkland.wa.us

MEMORANDUM

To: Marilynne Beard, Interim City Manager

From: Oskar Rey, Assistant City Attorney

Date: May 24, 2010

Subject: Proposed Purchase of Real Property—11830 – 120th Avenue NE

RECOMMENDATION:

The City Council authorize the Interim City Manager to enter into a Purchase and Sale Agreement for acquisition of the property commonly known as 11831 – 120th Avenue NE, Kirkland, Washington ("Property").

BACKGROUND:

The City entered into a non-binding Letter of Intent with the seller of the Property on May 6, 2010. The Letter of Intent established a 30 day period for negotiation of a Purchase and Sale agreement between the parties. City staff and its commercial real estate broker have been negotiating a draft Purchase and Sale Agreement with the Seller and its real estate broker. City staff anticipates that the draft agreement will be finalized in the next few days and staff will provide copies of the agreement to the Council as soon as it is ready. City staff further anticipates that it will recommend that the Council authorize the City Manager to enter into the Purchase and Sale Agreement on behalf of the City.

Upon signing of the Purchase and Sale Agreement, a 60 day feasibility period will begin. The purpose of the feasibility period is to allow the City to conduct "due diligence" with respect to the property and the structures on the property. If the City successfully completes the due diligence process and still desires to purchase the property the parties would have an additional 30 days in which to close the transaction.

A copy of the Letter of Intent, which sets forth the basic parameters of the proposed transaction, is attached to this memo. If necessary, staff can make a more detailed presentation at the June 1, 2010 City Council Meeting, based on the finalized Purchase and Sale Agreement. In addition, this proposed acquisition can be discussed during the Study Session portion of the June 1, 2010 meeting, which relates to City Hall facility planning.



CB Richard Ellis, Inc.
Brokerage Services

10885 NE 4th Street
Suite 500
Bellevue, WA 98004-5579

May 4, 2010

425 455 8500 Tel
425 462 6966 Fax

www.cbre.com

Susie Detmer
Steven Brunette
Cushman & Wakefield - Commerce
1420 5th Avenue, Ste 2900
Seattle, WA 98101

**RE: LETTER OF INTENT TO PURCHASE
Former Costco Home Store
11831 120th Avenue NE
Kirkland, WA**

Dear Susie & Steven:

Please accept this proposal on behalf of the City of Kirkland, hereinafter referred to as "Buyer," to enter into a Real Estate Purchase and Sale Agreement ("Agreement") on the subject property mutually acceptable to both parties.

1. Buyer. City of Kirkland
2. Property. The subject property known as the Former Costco Home Store and current My Home Wholesale, consisting of approximately 102,442 rentable square feet, together with all fixtures and personal property owned by Seller and located on the Property. The physical address is 11831 120th Avenue NE Kirkland, WA and the parcel number is 620930-0010-08.
3. Purchase Price and Payment. The total purchase price for the property is Ten Million Six Hundred Thousand and No/100 Dollars (\$10,600,000) paid all cash at closing.
4. Deposit. Upon execution of the Agreement, Buyer will make an earnest money deposit in the form of a Promissory Note in the amount of Two Hundred and Fifty Thousand and No/100 Dollars (\$250,000) to be converted to cash under conditions outlined in Section 5.b herein.
5. Feasibility Period. Buyer shall be allowed Sixty (60) days from mutual execution of the Agreement to complete, to its own satisfaction, a feasibility analysis of the subject property which will include, but not limited to, the Buyer's review of the following:
 - a. Within Seven (7) days of the date of execution of the Agreement by both parties, Seller shall deliver to Buyer the documents listed below as is in their possession:
 1. A current legal description of the Property.
 2. An existing ALTA survey, if available
 3. Copy of Tenants Lease

M. Blaud
Ⓡ
as is in their
possession

4. Copies of all monthly operating statements for the Property for the past 3 years, certified as accurate by Seller, setting forth all income and expenses.
5. Copies of utility bills
6. Copies of the service agreements and other agreements pursuant to the Property.
7. Phase I Environmental Assessment, if available.
8. Copy of current years real estate tax bill
9. Building plans, if available
10. List of capital improvements for the last 5 years
11. Copies of Certificates of Occupancy, if available
12. Soils report.
13. Structural Drawings, if available.
14. Copy of documentation regarding existing encumbrances on the property.
15. Tax assessments and notices.
16. Title Report, if available.

b. Buyer must notify Seller in writing within the Sixty (60) day Feasibility Period of its approval of the specified documents and of its satisfactory determination of project feasibility. Additionally, Buyer must notify Seller of its intent to close upon the terms and times so designated in this Letter. If Buyer elects to continue with this transaction, the deposit held by Buyer will be deposited with Escrow in the form of cash. The deposit will be applied and credited toward the purchase price and will become non-refundable. If Buyer terminates this transaction during the Feasibility Period or fails to notify Seller of its intent to close, the Promissory Note will be returned to Buyer and the Agreement will become null and void and Buyer will return all materials related to this transaction to Seller or its agent.

6. Title. Seller will provide Buyer with a preliminary commitment for title insurance, along with copies of all documentation referred to therein within five (5) days after mutual execution of the Agreement. Buyer will have fifteen (15) days after receipt of the preliminary commitment to review the commitment and documentation. Buyer will provide written notice to Seller within said fifteen (15) days of its approval, or in the event of disapproval, of the items disapproved. Seller would have ten (10) days to advise Buyer of its intent to remove items disapproved by Buyer, or to convey title subject to those items. Buyer may elect to waive its objections or terminate the Agreement.

Title will be conveyed by statutory warranty deed, free and clear of all encumbrances and defects (including all assessments levied and of record at closing) except those accepted by Buyer. An extended form Owner's policy of title insurance will be issued by a title company acceptable to Buyer and paid by Seller at closing. Seller to pay all closing costs, except that Buyer will pay one-half (1/2) of any escrow fee.

7. Right of Entry. Buyer may enter onto the subject property during the term of the Feasibility Period for the purpose of conducting its analyses. Buyer will hold Seller harmless from any liens which might arise from such activities.

8. Survey. Within thirty (30) days of the execution of the Agreement, Seller will, *if they so passes,* submit for approval to Buyer a metes and bounds legal description and ALTA survey from a

licensed surveyor on the subject property showing boundary line, dimensions, setback lines, utilities, easements, and encroachments.

9. Sale/Lease Disclosures. To the best of Seller's knowledge, Seller represents and warrants to Buyer that there are no hazardous materials in, on, or around the property. Seller shall provide any and all information regarding: the existence or nonexistence of asbestos, PCB transformers, any other toxic, hazardous or contaminated substances, and underground storage tanks; structural, mechanical and soil conditions; flood zoning; and compliance with the Americans with Disabilities Act (ADA) and the Residential Lead Paint Hazard Reduction Act. Attached is the Sale/Lease Disclosures Form for review. (Double click on icon to review and print attachment.)



11831 120th Ave
NE.doc

10. Seller Cooperation. Seller shall cooperate with Buyer in the satisfaction or removal of contingencies to closing. Such cooperation shall include execution of all applications, lot line adjustments, plans or other required submissions, as well as support of all matters with any public or private agency.

11. Liquidated Damages. In the event of Buyer's breach of the Agreement or failure to perform its obligations under the Agreement, Seller's exclusive remedy shall be receipt of the funds deposited by Buyer described in Section 4 hereof.

12. Closing. The closing of this transaction will be Thirty (30) days from the removal of contingencies or sooner at Buyer's option.

13. Escrow Holder. Escrow to be held with Old Republic Title & Escrow.

14. Agency Disclosure. Cushman & Wakefield - Commerce represents the Seller and CB Richard Ellis represents the Buyer in this transaction. In accordance with Washington State Law, attached is the "The Law of Real Estate Agency" pamphlet for review. (Double click on icon to view and print attachment.)



"AGENCY
PAMPHLET(CBA) 7-pi

15. Commission. Seller will pay a commission at closing in the amount of two percent (2%) of the gross sales price to CB Richard Ellis. Said Commission shall be payable as of the date the sale closes and shall be paid out of escrow.

16. Binding Effect. With the exception of Section 16 below, it is understood that this proposal is non-binding and is intended solely and exclusively as a preliminary expression of general intentions. The parties mutually intend that neither shall have any binding contractual obligations to the other with respect to the matters referred to herein unless and until a formal written Agreement has been prepared with adequate opportunity for review by legal counsel and has been fully executed and delivered by the parties.

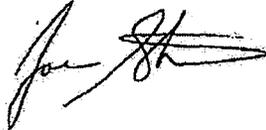
17. Exclusivity. During the thirty (30) day period Seller and Buyer are negotiating and documenting this Agreement, Seller covenants and agrees that it will refrain from soliciting or accepting offers for the property from any person other than Buyer.

18. Acceptance. Seller shall have until 5:00 p.m. on Thursday May 6th, 2010 to accept this proposal, and so indicate that by signing both original copies of this letter and returning one to the Buyer. In the event of Seller's acceptance, Buyer shall proceed with the preparation of the Agreement which must be executed by both parties within Ten (10) days after Seller's acceptance of this proposal.

This letter/proposal is intended solely as a preliminary expression of general intentions and is to be used for discussion purposes only. The parties intend that neither shall have any contractual obligations to the other with respect to the matters referred herein unless and until a definitive agreement has been fully executed and delivered by the parties. The parties agree that this letter/proposal is not intended to create any agreement or obligation by either party to negotiate a definitive lease/purchase and sale agreement and imposes no duty whatsoever on either party to continue negotiations, including without limitation any obligation to negotiate in good faith or in any way other than at arm's length. Prior to delivery of a definitive executed agreement, and without any liability to the other party, either party may (1) propose different terms from those summarized herein, (2) enter into negotiations with other parties and/or (3) unilaterally terminate all negotiations with the other party hereto.

Sincerely,

CB RICHARD ELLIS



Joe Steele
Senior Vice President
(425) 462-6925



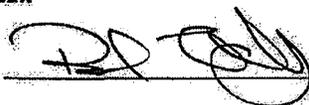
Brian Biege
Associate
(425) 462-6914

cc: Donna Burris (Buyer), w/attachments

ACCEPTED AND AGREED:

this 6 day of MAY, 2010.

BUYER City of Kirkland
By: Marilynne Beard
Its: City Manager

SELLER
By: 
Its: CHIEF OPERATING OFFICER