

City of Lake Stevens Mission Statement



The City of Lake Stevens' mission is not only to preserve the natural beauty that attracted so many of its citizens, but to enhance and harmonize with the environment to accommodate new people who desire to live here. Through shared, active participation among Citizen, Mayor, Council, and City Staff, we commit ourselves to quality living for this and future generations.

Growth in our community is inevitable. The City will pursue an active plan on how, when, and where it shall occur to properly plan for needed services, ensure public safety, and maintain the unique ambience that is Lake Stevens.



REGULAR CITY COUNCIL MEETING AGENDA
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street NE, Lake Stevens
Monday, August 22, 2011 - 7:00 p.m.

NOTE: **WORKSHOP ON VOUCHERS AT 6:45 P.M.**

CALL TO ORDER: 7:00 p.m.
Pledge of Allegiance

ROLL CALL:

GUEST BUSINESS:

CONSENT AGENDA: *A. Approve August 2011 vouchers. Barb

PUBLIC HEARING:

PUBLIC HEARING FORMAT:

1. Open Public Hearing
2. Staff presentation
3. Council's questions of staff
4. Proponent's comments
5. Comments from the audience
6. Close public comments portion of hearing
7. Discussion by City Council
8. Re-open the public comment portion of the hearing for additional comments (optional)
9. Close Hearing
10. COUNCIL ACTION:
 - a. Approve
 - b. Deny
 - c. Continue

*A. Public Hearing in consideration of adopting Resolution No. 2011-11, providing findings of fact pertaining to a six-month medical marijuana moratorium and related work plan. Russ

Lake Stevens City Council Regular Meeting Agenda

August 22, 2011

- ACTION ITEMS:**
- *A. Approve minutes of August 8, 2011 regular Council meeting. Norma
 - *B. Approve Resolution No. 2011-10, Public Records Act Rules Policy. Norma

**DISCUSSION
ITEMS:**

**COUNCIL
PERSON'S
BUSINESS:**

MAYOR'S BUSINESS:

STAFF REPORTS:

**INFORMATION
ITEMS:**

**EXECUTIVE
SESSION:**

ADJOURN:

-
- * ITEMS ATTACHED
 - ** ITEMS PREVIOUSLY DISTRIBUTED
 - # ITEMS TO BE DISTRIBUTED
-

THE PUBLIC IS INVITED TO ATTEND

Special Needs

The City of Lake Stevens strives to provide accessible opportunities for individuals with disabilities. Please contact Steve Edin, City of Lake Stevens ADA Coordinator, (425) 377-3227, at least five business days prior to any City meeting or event if any accommodations are needed. For TDD users, please use the state's toll-free relay service, (800) 833-6384, and ask the operator to dial the City of Lake Stevens City Hall number.

**BLANKET VOUCHER APPROVAL
 2011**

We, the undersigned Council members of the City of Lake Stevens, Snohomish County, Washington, do hereby certify that the merchandise or services hereinafter specified have been received and that the following vouchers have been approved for payment:

Payroll Direct Deposits	904627-904685	\$137,678.28
Payroll Checks	32219-32223	\$7,760.00
Claims	32224-32289	\$120,279.69
Electronic Funds Transfers	363-366	\$4,751.26
Void Checks	32188	(\$41.50)
Tax Deposit(s)	8/15/2011	\$52,116.32
Total Vouchers Approved:		\$322,544.05

This 22nd day of August 2011:

 Mayor

 Councilmember

 Finance Director

 Councilmember

 Councilmember

 Councilmember



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Direct Deposit Register

16-Aug-2011

Wells Fargo - AP

Lake Stevens

Direct Deposits to Accounts

16-Aug-2011	<u>Vendor</u>	<u>Source</u>	<u>Amount</u>	<u>Draft#</u>	<u>Bank Name</u>	<u>Transit</u>	<u>Account</u>
9407	Department of Retirement (Pers	C	\$3,558.50	363	Wells Fargo	121000248	4159656917
9362	Department of Revenue	C	\$66.01	364	Wells Fargo	121000248	4159656917
9408	NATIONWIDE RETIREMENT SOL	C	\$698.25	365	Wells Fargo	121000248	4159656917
9405	Wash State Support Registry	C	\$428.50	366	Wells Fargo	121000248	4159656917
Total:			\$4,751.26		Count:	4.00	

Direct Deposit Summary

<u>Type</u>	<u>Count</u>	<u>Total</u>
C	4	\$4,751.26

Pre-Note Transactions

Detail Check Register

17-Aug-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
32224	22-Aug-11	13695	Aabco Barricade & Sign Co		\$314.94
89390	Signs			\$314.94	\$0.00
101016542004800	Street Fund - Repair & Mainten			\$314.94	
32225	22-Aug-11	13328	ACES		\$289.00
8301	Training			\$289.00	\$0.00
001003517620000	Admin. Safety program			\$68.20	
101016517620000	safety program			\$128.32	
410016517620000	safety program			\$92.48	
32226	22-Aug-11	12540	ALLIED WASTE SERVICES #197		\$343.84
0197-001369975	Dumpster services			\$343.84	\$0.00
101016542003102	Street Fund Operating Costs			\$332.43	
101016542004500	Street Fund - Rentals/Leases			\$11.41	
32227	22-Aug-11	12540	ALLIED WASTE SERVICES #197		\$247.00
0197-001369727	Dumpster services			\$247.00	\$0.00
001010576803100	Parks - Operating Costs			\$234.74	
001010576804500	Parks - Equipment Rental			\$12.26	
32228	22-Aug-11	12540	ALLIED WASTE SERVICES #197		\$103.30
0197-001370382	Dumpster services			\$103.30	\$0.00
001013519903100	General Government - Operating			\$90.97	
001013519904500	General Government-Equip Renta			\$12.33	
32229	22-Aug-11	13846	AquaTechnex		\$695.04
3109	4th Herbicided sampling			\$695.04	\$0.00
410016531503105	DOE - Milfoil Solution			\$695.04	
32230	22-Aug-11	13820	Aquatest Inc		\$228.60
31468	senior center septic inspection			\$228.60	\$0.00
001013555506400	New Senior Center			\$228.60	
32231	22-Aug-11	179	Blumenthal Uniforms		\$975.91
887467-01	hudson uniform			\$142.55	\$0.00
001008521002600	Law Enforcment Clothing			\$142.55	
887467-02	hudson uniform shoes			\$141.86	\$0.00
001008521002600	Law Enforcment Clothing			\$141.86	
887621	Collar Brass			\$96.17	\$0.00
001008521002600	Law Enforcment Clothing			\$96.17	
890164	hudson name badge			\$35.84	\$0.00

Detail Check Register

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Check No	Check Date	VendorNo	Vendor	Check Amount	
001008521002600			Law Enforcment Clothing	\$35.84	
890228			celori uniform items	\$334.04	\$0.00
001008521002600			Law Enforcment Clothing	\$334.04	
892148			Nik test kits	\$225.45	\$0.00
001008521003104			Law Enforcement-Operating Cost	\$225.45	
32232	22-Aug-11	969	Business Card		\$2,443.92
08/04 1411			Clothing/Travel/Operating	\$161.44	\$0.00
001008521002600			Law Enforcment Clothing	\$69.45	
001008521003104			Law Enforcement-Operating Cost	\$28.46	
001008521004300			Law Enforce - Travel & Mtgs	\$63.53	
08/11 1324			Operating/advert/staff dev/printing	\$397.65	\$0.00
001007558003200			Planning-Operating Costs	\$27.67	
001007558004400			Planning - Advertising	\$42.90	
001007558004902			Planning - Printing and Bindin	\$52.08	
001007558400001			Planning - Staff Development	\$275.00	
08/11 4949			Boat/Repair/Travel/Operations	\$340.53	\$0.00
001008521003104			Law Enforcement-Operating Cost	\$23.29	
001008521004300			Law Enforce - Travel & Mtgs	\$54.30	
001008521004800			Law Enforcement - Repair & Mai	\$72.00	
001008521004802			LE - Boating R&M	\$195.43	
001008521004900			Law Enforcement - Miscellaneou	(\$4.49)	
08/11 7750			Travel	\$406.00	\$0.00
101016542004300			Street Fund - Travel & Mtgs	\$406.00	
08/11 8109			Postage/Travel/Operating/Repair	\$1,138.30	\$0.00
001008521003104			Law Enforcement-Operating Cost	\$646.26	
001008521004200			Law Enforcement - Communicatio	\$400.00	
001008521004300			Law Enforce - Travel & Mtgs	\$50.54	
001008521004800			Law Enforcement - Repair & Mai	\$41.50	
32233	22-Aug-11	11952	Carquest Auto Parts Store		\$24.43
2421-162527			Fan belt - Aerator	\$51.70	\$0.00
410016542405101			Storm Water - Aerator O & M	\$51.70	
2421-162531			Fan belts	(\$27.27)	\$0.00
410016542405101			Storm Water - Aerator O & M	(\$27.27)	
32234	22-Aug-11	13314	Cash		\$10.00

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
Cash Short			Over/Short correction	\$10.00	\$0.00	\$10.00
001000369810000			Cash Overages/(Shortages)	\$10.00		
32235	22-Aug-11	12404	CDW GOVERNMENT INC			\$1,358.59
ZFC9976			AG Panda Antivirus	\$1,358.59	\$0.00	\$1,358.59
001003518103101			IT - License Renewals/Subsript	\$1,358.59		
32236	22-Aug-11	12954	CIRCLE-N-LAUNDRY			\$608.16
116			Uniform cleaning	\$608.16	\$0.00	\$608.16
001008521002600			Law Enforcment Clothing	\$608.16		
32237	22-Aug-11	274	City of Everett			\$2,635.00
I11002226			Animal shelter services June 2011	\$2,635.00	\$0.00	\$2,635.00
001008539004100			Code Enforcement - Professiona	\$2,635.00		
32238	22-Aug-11	12004	CITY OF MARYSVILLE			\$27,585.83
11-013			Court Citations July 2011	\$9,391.50	\$0.00	\$9,391.50
001013512500001			Municipal Court Fees	\$9,391.50		
POLIN11-0090			Prisioner Housing July 2011	\$18,194.33	\$0.00	\$18,194.33
001008523005100			Law Enforcement - Jail	\$18,194.33		
32239	22-Aug-11	13870	Claudia M Hewitt			\$45.00
MEC2011-79			Refund Permit MEC2011-79	\$45.00	\$0.00	\$45.00
001000322001000			Building Permits	\$45.00		
32240	22-Aug-11	296	Code Publishing Co.			\$1,780.31
38620			Municipal Code updates	\$1,780.31	\$0.00	\$1,780.31
001003514104100			City Clerks-Professional Servi	\$1,780.31		
32241	22-Aug-11	13030	COMCAST			\$64.90
07/11 0630988			Internet services	\$64.90	\$0.00	\$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90		
32242	22-Aug-11	13030	COMCAST			\$64.90
07/11 0692756			Internet services	\$64.90	\$0.00	\$64.90
001008521004200			Law Enforcement - Communicatio	\$64.90		
32243	22-Aug-11	13841	Comcast			\$109.90
07/11 0827887			Traffic signal control	\$109.90	\$0.00	\$109.90
101016542640000			Street Fund - Traffic Control	\$109.90		

Detail Check Register

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Check No	Check Date	VendorNo	Vendor	Check Amount	
32244	22-Aug-11	13757	Comdata Corporation		\$11,970.67
20144353	Fuel			\$8,484.40	\$0.00
001008521003200	Law Enforcement - Fuel			\$8,484.40	
20144354	Fuel			\$3,486.27	\$0.00
001003518103200	IT - Fuel			\$58.92	
001007559003101	Building Department - Operatin			\$110.48	
001010576803200	Parks - Fuel Costs			\$298.52	
101016542003200	Street Fund - Fuel			\$1,956.95	
410016542403200	Storm Water - Fuel			\$1,061.40	
32245	22-Aug-11	91	Corporate Office Supply		\$125.36
119523i	Supplies			\$76.54	\$0.00
001007558003100	Planning - Office Supplies			\$48.65	
101016542003101	Street Fund Office Supplies			\$27.89	
i19409	Stamp			\$48.82	\$0.00
001008521003100	Law Enforcement - Office Suppl			\$48.82	
32246	22-Aug-11	9386	Crystal and Sierra Springs		\$323.36
5249844080111	Bottled water			\$323.36	\$0.00
001007559003101	Building Department - Operatin			\$67.18	
001008521003104	Law Enforcement-Operating Cost			\$54.65	
001013519904900	General Government - Miscellan			\$67.18	
101016542003102	Street Fund Operating Costs			\$67.18	
410016542403102	Storm Water - Operating Costs			\$67.17	
32247	22-Aug-11	13545	DataQuest LLC		\$56.50
CILKSTEVENS-201107	Background check			\$56.50	\$0.00
001003516104100	Human Resources-Professional S			\$56.50	
32248	22-Aug-11	418	Department Of Labor and Indust		\$98.50
212250	Certification fee			\$98.50	\$0.00
101016543504802	Facilities R&M (City Shop)			\$98.50	
32249	22-Aug-11	13027	DEPARTMENT OF LICENSING		\$129.00
08/08/11	Weapons permits			\$129.00	\$0.00
633008586000000	Gun Permit - State Remittance			\$129.00	
32250	22-Aug-11	13866	Donnie Lords		\$75.00
2nd place	Chalk it Up - 2nd place			\$75.00	\$0.00
001010575304900	Arts Commission			\$75.00	
32251	22-Aug-11	456	Dunlap Industrial Hardware		\$48.86

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Check No	Check Date	VendorNo	Vendor		Check Amount	
1264632-01			Chokers	\$48.86	\$0.00	\$48.86
101016542004800			Street Fund - Repair & Mainten	\$48.86		
32252	22-Aug-11	13867	Emily Vandergrift and			\$50.00
3rd Place			Chalk it Up - 3rd place	\$50.00	\$0.00	\$50.00
001010575304900			Arts Commission	\$50.00		
32253	22-Aug-11	13500	HB Jaeger Co LLC			\$1,209.80
123373/1			220 of 12 N-12 Pipe	\$1,209.80	\$0.00	\$1,209.80
410016542404800			Storm Water - Repairs & Maint.	\$1,209.80		
32254	22-Aug-11	13038	HEALTHFORCE OCCMED BILLING DEP			\$47.00
08/04/11			OccMed services	\$47.00	\$0.00	\$47.00
001008521004100			Law Enforcement - Professional	\$47.00		
32255	22-Aug-11	13509	Industrial Supply, Inc			\$630.30
483400			Gloves - disposable	\$17.55	\$0.00	\$17.55
101016542003102			Street Fund Operating Costs	\$17.55		
483553			sweeper slide shoe	\$612.75	\$0.00	\$612.75
410016542404800			Storm Water - Repairs & Maint.	\$612.75		
32256	22-Aug-11	13869	Ink It Your Way			\$173.65
2770			Polo shirts	\$173.65	\$0.00	\$173.65
001008521002600			Law Enforcment Clothing	\$173.65		
32257	22-Aug-11	12648	IRON MOUNTAIN QUARRY LLC			\$284.65
0195344			20 yards of gravel	\$284.65	\$0.00	\$284.65
101016542004800			Street Fund - Repair & Mainten	\$284.65		
32258	22-Aug-11	13868	Jeanne Petershagen			\$124.81
Damage claim			refund damages	\$124.81	\$0.00	\$124.81
101016542003102			Street Fund Operating Costs	\$124.81		
32259	22-Aug-11	13327	Jennifer Anderson			\$450.00
August 2011			Dep Care Reimb	\$450.00	\$0.00	\$450.00
001000281000000			Payroll Liabilities	\$450.00		
32260	22-Aug-11	13239	Karen Watkins			\$200.21
08/2/11			Wellness event	\$200.21	\$0.00	\$200.21
001003517400000			Admin. Wellness program	\$200.21		

Detail Check Register

17-Aug-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
32261	22-Aug-11	11777	Lake Stevens Fire		\$2,600.00
Q2.2011		Q2.2011 Fire Fees		\$2,600.00	\$0.00
633000589500000		Fire Dept Fee Remittance		\$2,600.00	
32262	22-Aug-11	854	Lake Stevens Mini Mart		\$457.31
07/2011		Fuel		\$457.31	\$0.00
001008521003202		Boating - Fuel		\$409.50	
001013519903200		General Government - Fuel		\$47.81	
32263	22-Aug-11	12751	LAKE STEVENS POLICE GUILD		\$876.00
08/15/11		Union dues		\$876.00	\$0.00
001000281000000		Payroll Liabilities		\$876.00	
32264	22-Aug-11	860	Lake Stevens Sewer District		\$585.00
08/11		Utilities - sewer		\$585.00	\$0.00
001008521004700		Law Enforcement - Utilities		\$65.00	
001010576804700		Parks - Utilities		\$130.00	
001012572504700		Library - Utilities		\$65.00	
001013519904700		General Government - Utilities		\$260.00	
101016542004700		Street Fund - Utilities		\$32.50	
410016542404700		Storm Water-Aerat. Utilities		\$32.50	
32265	22-Aug-11	12841	Law Offices of Weed, Graafstra		\$6,469.88
91		Prof Services		\$6,469.88	\$0.00
001005515204100		Legal - Professional Service		\$3,440.33	
101016542004100		Street Fund - Professional Ser		\$1,720.16	
401070535004102		Sewer Utility - Professional (\$736.00	
410016542404101		Storm Water - Professional Ser		\$573.39	
32266	22-Aug-11	12603	LES SCHWAB TIRE CENTER		\$51.65
329852		Flat repair		\$51.65	\$0.00
410016542404800		Storm Water - Repairs & Maint.		\$51.65	
32267	22-Aug-11	13404	LexisNexis		\$54.30
20110630		Investigational searches		\$54.30	\$0.00
001008521004100		Law Enforcement - Professional		\$54.30	
32268	22-Aug-11	13774	Maltby Container & Recycling		\$45.00
20423		Dump fees		\$45.00	\$0.00
101016542004800		Street Fund - Repair & Mainten		\$45.00	
32269	22-Aug-11	12684	NORTHWEST CASCADE INC.		\$218.00
1-329327		Equipment rental		\$218.00	\$0.00

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001010576804500			Parks - Equipment Rental	\$218.00	
32270	22-Aug-11	13044	PAKOR, INC - NW8935	\$227.09	
886705			passport printer ink	\$227.09	\$0.00
001008521003100			Law Enforcement - Office Suppl	\$227.09	
32271	22-Aug-11	1128	PILCHUCK VETERINARY HOSPITAL	\$168.50	
07/2011			Vet services for Stray	\$168.50	\$0.00
001008539004100			Code Enforcement - Professiona	\$168.50	
32272	22-Aug-11	12450	PITNEY BOWES	\$176.00	
2815967-JY11			Postage machine rental	\$176.00	\$0.00
001013519904500			General Government-Equip Renta	\$176.00	
32273	22-Aug-11	11869	PUGET SOUND ENERGY	\$108.66	
08/11 1294748676			Utilities - gas	\$34.10	\$0.00
001010576804700			Parks - Utilities	\$11.37	
101016542004700			Street Fund - Utilities	\$11.36	
410016542404701			Storm Water Utilities	\$11.37	
08/11 8866053005			Utilities - gas	\$74.56	\$0.00
001010576804700			Parks - Utilities	\$24.85	
101016542004700			Street Fund - Utilities	\$24.86	
410016542404701			Storm Water Utilities	\$24.85	
32274	22-Aug-11	1181	Puget Sound Regional Council	\$8,565.00	
201240			Membership 7/2011-20112	\$8,565.00	\$0.00
001013519900000			General Government - P.S.R.C.	\$8,565.00	
32275	22-Aug-11	13706	Robert Guertin	\$81.00	
08/15/11			Travel - WSSO Guertin	\$81.00	\$0.00
001008521004300			Law Enforce - Travel & Mtgs	\$81.00	
32276	22-Aug-11	13628	Samantha Mardock	\$100.00	
Chalk it Up 1st place			Chalk it Up - 1st place	\$100.00	\$0.00
001010575304900			Arts Commission	\$100.00	
32277	22-Aug-11	13836	SCCFOA	\$14.00	
08/25 mtg			08/25 SCCFOA mtg	\$14.00	\$0.00
001004514234300			Finance - Travel & Mtgs	\$14.00	
32278	22-Aug-11	13715	Sno Co Sherrifs Office	\$8,530.33	
2011-757			Prisoner Housing July 2011	\$8,530.33	\$0.00

Detail Check Register

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Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount	
001008523005100			Law Enforcement - Jail	\$8,530.33	
32279	22-Aug-11	13715	Sno Co Sherrifs Office		\$98.36
July Medical			Prisoner Medical July 2011	\$98.36	\$0.00
001008523005100			Law Enforcement - Jail	\$98.36	
32280	22-Aug-11	1379	Snohomish County Human Service		\$1,819.07
I000281885			Q2.2011 Liquor Excise Taxes	\$1,819.07	\$0.00
001013567005100			General Government - Alcoholis	\$1,819.07	
32281	22-Aug-11	12961	SNOHOMISH COUNTY PUD		\$12,817.41
103769701			Utilities - electric	\$366.91	\$0.00
001013519904700			General Government - Utilities	\$366.91	
107083300			Utilities - electric	\$241.86	\$0.00
001013519904700			General Government - Utilities	\$241.86	
110403028			Utilities - electric	\$643.14	\$0.00
001012572504700			Library - Utilities	\$501.71	
001013519904700			General Government - Utilities	\$141.43	
123683112			Utilities - electric	\$788.29	\$0.00
101016542630000			Street Fund - Street Lighting	\$788.29	
123683113			Utilities - electric	\$1,101.11	\$0.00
101016542630000			Street Fund - Street Lighting	\$1,101.11	
130319024			Utilities - electric	\$8,938.57	\$0.00
101016542630000			Street Fund - Street Lighting	\$8,938.57	
133625742			Utilities - electric	\$338.65	\$0.00
101016542630000			Street Fund - Street Lighting	\$338.65	
136860620			Utilities - electric	\$398.88	\$0.00
001013555504700			Community Center - Utilities	\$398.88	
32282	22-Aug-11	12961	SNOHOMISH COUNTY PUD		\$910.91
103768537			Utilities - electric	\$130.11	\$0.00
001013519904700			General Government - Utilities	\$130.11	
107083301			Utilities - electric	\$189.63	\$0.00

Detail Check Register

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Check No	Check Date	VendorNo	Vendor	Check Amount	
001013519904700			General Government - Utilities	\$189.63	
120365528			Utilities - electric	\$68.17	\$0.00 \$68.17
001010576804700			Parks - Utilities	\$22.72	
101016542004700			Street Fund - Utilities	\$22.72	
410016542404701			Storm Water Utilities	\$22.73	
127001589			Utilities - electric	\$46.91	\$0.00 \$46.91
001013519904700			General Government - Utilities	\$46.91	
127004005			Utilities - electric	\$85.67	\$0.00 \$85.67
101016542630000			Street Fund - Street Lighting	\$85.67	
136859950			Utilities - electric	\$104.36	\$0.00 \$104.36
001010576804700			Parks - Utilities	\$104.36	
156749749			Utilities - electric	\$115.31	\$0.00 \$115.31
101016542630000			Street Fund - Street Lighting	\$115.31	
160052421			Utilities - electric	\$170.75	\$0.00 \$170.75
101016542630000			Street Fund - Street Lighting	\$170.75	
32283	22-Aug-11	12961	SNOHOMISH COUNTY PUD		\$118.08
117041457			Utilities - electric	\$34.60	\$0.00 \$34.60
001010576804700			Parks - Utilities	\$34.60	
120366494			Utilities - electric	\$38.31	\$0.00 \$38.31
001010575304901			Historical Museum	\$19.16	
001010575304905			Grimm House Expenses	\$19.15	
123683544			Utilities - electric	\$45.17	\$0.00 \$45.17
001010576804700			Parks - Utilities	\$45.17	
32284	22-Aug-11	1356	SNOPAC		\$16,082.57
4922			Dispatch Services	\$16,082.57	\$0.00 \$16,082.57
001008528005100			Law Enforcement - Snopac Dispa	\$16,082.57	
32285	22-Aug-11	13821	Terminix Commercial		\$59.51
306963476			Pest Control	\$59.51	\$0.00 \$59.51
001010576803101			Parks-Eagle Ridge Pk Exp	\$59.51	
32286	22-Aug-11	1491	The Everett Herald		\$126.92
1743769			Advertising - legal	\$27.52	\$0.00 \$27.52

Detail Check Register

17-Aug-11

Lake Stevens

Check No	Check Date	VendorNo	Vendor	Check Amount		
001013514304400			General Government - Advertisin	\$27.52		
1745125			Advertising - legal	\$99.40	\$0.00	\$99.40
001007558004400			Planning - Advertising	\$99.40		
32287	22-Aug-11	13045	UPS			\$45.92
74Y42311			Evidence shipping	\$22.46	\$0.00	\$22.46
001008521004200			Law Enforcement - Communicatio	\$22.46		
74Y42321			Evidence shipping	\$23.46	\$0.00	\$23.46
001008521004200			Law Enforcement - Communicatio	\$23.46		
32288	22-Aug-11	1579	VILLAGE ACE HARDWARE			\$1,633.73
07/31/11			Supplies	\$1,633.73	\$0.00	\$1,633.73
001008521004800			Law Enforcement - Repair & Mai	\$190.22		
001010576804800			Parks - Repair & Maintenance	\$182.13		
001012572504800			Library - Repair & Maint.	\$23.36		
001013519904800			General Government - Repair/Ma	\$163.90		
001013531008000			General Government-Aquafest	\$154.35		
101016542004800			Street Fund - Repair & Mainten	\$490.85		
101016543504802			Facilities R&M (City Shop)	\$329.23		
410016542405101			Storm Water - Aerator O & M	\$99.69		
32289	22-Aug-11	13860	Woods Creek Wholesale Nursery			\$1,313.25
888840			Plantings for Roundabout	\$1,313.25	\$0.00	\$1,313.25
101016542004104			Prof Srvc- Roundabout Landscap	\$1,313.25		
Total Of Checks:						\$120,279.69



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: August 22, 2011

Subject: Medical Marijuana Moratorium (Ordinance No. 858)/ Resolution 2011-11

Contact Person/Department: Russ Wright, Planning &
Community Development

Budget Impact: none

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: **Adopt Resolution 2011-11** providing Findings of Fact (Exhibit A) to uphold Ordinance 858 – a six-month moratorium related to the establishment of medical marijuana dispensaries and collective gardens and providing a Work Plan/Draft Regulations Schedule (Exhibit B) to establish land use regulations for medical marijuana (cannabis) dispensaries and/or collective gardens prior to the expiration of the moratorium.

SUMMARY:

Pursuant to RCW 36.70A.390, the Lake Stevens City Council adopted a six-month moratorium (Ordinance No. 858) July 11, 2011, temporarily restricting the establishment of medical marijuana (cannabis) facilities and setting a public hearing date. Moratoria are affective for six months. However, jurisdictions can extend moratoria for one or more additional six-month period, if it holds another public hearing prior to the renewal and provides reasons for the extension. The scope of the public hearing is limited to public comment on the adopted moratorium restricting the establishment of collective gardens and dispensaries. The larger issue related to the use of medical cannabis is beyond the scope of this public hearing. RCW 36.70A.390 states:

“A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control 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.”

In compliance with RCW 36.70A.390, the City is holding this public hearing to receive public testimony and the Council will consider Resolution 2011-11 to adopt Findings immediately after this public hearing.

BACKGROUND and FINDINGS:

In 1998, Washington voters passed Initiative 692, the Medical Marijuana Act, which allows qualifying patients suffering a terminal or debilitating medical conditions to use medical marijuana to treat medical conditions. The State Legislature recently passed ESSB 5073, in part, to address the proliferation of medical marijuana dispensaries. The legislation adopted regulations related to the legal possession and distribution of medical cannabis (marijuana) by qualifying patients and designated providers. The Legislature envisioned that the regulations would include provisions for state licensing and distribution through dispensaries and collective gardens for medical cannabis. On April 29, 2011, Governor Gregoire issued a partial veto of ESSB 5073 based on legal opinion from the US Attorney's office that found portions of the bill would conflict with federal drug law and consequently puts producers and approving officials in jeopardy of prosecution. The Governor vetoed sections dealing with the state licensing of production and licensed dispensing of medical cannabis. This means dispensaries are illegal because the sale of cannabis is illegal and therefore cities cannot issue business licenses for them. Further, dispensaries cannot become "grandfathered"; as only legal uses can benefit from nonconforming use rights.

The codified portions of ESSB 5073 allow qualified patients and designated providers to create and participate in collective gardens to produce medical cannabis. A qualifying patient is a Washington resident 18 or older, with a diagnosed terminal or debilitating medical condition, who may benefit from the medical use of cannabis, as advised by a health care professional. A copy of the patient's proof of identity must be available at the collective garden. The following state rules apply to collective gardens:

- 10 qualifying patients may participate in a single garden;
- 15 plants per patient, up to a maximum of 45 plants in a single garden; and
- 24 ounces of usable medical cannabis per patient, up to a total of 72 ounces at a single garden.

ESSB 5073 provides limited land use guidance for regulating collective gardens other than explicitly stating cities may impose regulations, as they deem necessary. Following the Governor's veto, producers cannot presumably sell cannabis through dispensaries; therefore, cities cannot require a business license or collect taxes. The City recognizes that Governor Gregoire's veto of certain sections of ESSB 5073 presently precludes the lawful establishment and operation of medical marijuana (cannabis) dispensaries; however, it is likely that future legislation may authorize such dispensaries; therefore, it is prudent that the City of Lake Stevens consider such uses at this time. Long-term, the city could outright prohibit the formation of dispensaries and/or collective gardens for the production of medical cannabis, allow them with no regulations, or allow them with established zoning regulations. The six-month moratorium will provide staff with time to research and prepare draft regulations for the city to consider and adopt appropriate zoning regulations for the production and/or distribution of medical cannabis in dispensaries and/or collective gardens, before any interested parties seeks to establish such facilities. Because collective gardens are currently the only legal way for most qualifying patients to obtain medical cannabis, they have the potential to become very popular in the near future. Therefore, imposing some zoning regulations on them is advisable. Types of zoning regulation that staff may propose include:

- Limiting garden locations to certain zoning districts;
- Requiring gardens to be indoor gardens only;
- Requiring minimum spacing between gardens;
- Requiring minimum distances from schools, daycares and other similar uses; and
- Requiring a permit for establishing the garden.

The process to establish permanent zoning regulations will require Planning Commission review, a public hearing, and a recommendation to the City Council like any land use regulation. In addition, given the uncertainty created by the lack of a State medical cannabis registry, it is possible staff could bring back a moratorium renewal proposal for an additional six-month period.

APPLICABLE CITY POLICIES: Chapters 14.40 Permissible Uses of the Lake Stevens Municipal Code (LSMC)

BUDGET IMPACT: There is not an immediate budget effect other than staff and attorney time; however, the City may need to look at permitting fees in the future.

ATTACHMENTS:

1. Resolution 2011-11 Adopting Findings In Support of the Moratorium Enacted by Ordinance 858 Relating to Medical Marijuana Dispensaries and Collective Gardens.
2. Ordinance 858
3. WCIA Risk Management Bulletin Administration #46, dated June, 2011 (with attachments)

**CITY OF LAKE STEVENS
Lake Stevens, Washington**

RESOLUTION 2011-11

A RESOLUTION OF THE CITY OF LAKE STEVENS ADOPTING FINDINGS OF FACT IN SUPPORT OF THE MORATORIUM ENACTED BY ORDINANCE 858 RELATED TO ESTABLISHING MEDICAL MARIJUANA DISPENSARIES AND COLLECTIVE GARDENS.

WHEREAS, with the approval of Ordinance 858, the City Council enacted a six-month moratorium on the establishment of medical marijuana dispensaries and collective gardens within the City of Lake Stevens, on July 11, 2011; and

WHEREAS, RCW 36.70A.390 requires that the City Council conduct a public hearing and adopt findings of fact supporting the moratorium enacted by Ordinance 858, within 60 days of adoption; and

WHEREAS, following public notice as prescribed by applicable law, the City Council conducted a public hearing on August 22, 2011 and all persons wishing to be heard were heard; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON HEREBY RESOLVES TO:

Section 1. Adopt Findings of Fact. The Findings of Fact attached hereto as Exhibit A are incorporated herein and are hereby adopted.

Section 2. Adopt a Work Plan. The Work Plan/Draft Regulations Schedule attached hereto as Exhibit B is incorporated herein and is hereby approved.

PASSED by the City Council and **APPROVED** by the Mayor this 22nd day of August, 2011.

CITY OF LAKE STEVENS

By _____
Vern Little, Mayor

Attest:

By _____
Norma Scott, City Clerk/Admin Asst.

Approved as to form:

By _____
Grant K. Weed, City Attorney

Exhibit A - Resolution 2011-11

**Findings of Fact Supporting Moratorium on Medical Marijuana Dispensaries
and Collective Gardens**

1. The Revised Code of Washington (Chapter 69.51A RCW) authorizes qualifying patients to possess and use marijuana for medicinal purposes, and allows qualifying patients to propagate marijuana individually and through collective gardens.
2. Engrossed Second Substitute Senate Bill (ESSB) 5073, signed into law on April 29, 2011 and effective July 22, 2011, did not provide sufficient time for the City of Lake Stevens to research, prepare, and adopt land use, business, and/or licensing controls for medical marijuana (cannabis) dispensaries and collective gardens in a manner that protects the public's health, safety and welfare, while also allowing for broad public participation throughout the legislative process.
3. The City recognizes that Governor Gregoire's veto of certain sections of ESSB 5073 presently precludes the lawful establishment and operation of medical marijuana (cannabis) dispensaries; however, it is likely that future legislation may authorize such dispensaries; therefore, it is prudent that the City of Lake Stevens consider such uses at this time.
4. Because marijuana is a controlled substance, with a high monetary value in illicit markets, it is in the interest of qualifying patients and the public's general health, safety, and welfare that the City Council carefully and thoughtfully prepare and enact land use and/or licensing controls for medical marijuana dispensaries and collective gardens.
5. By unanimous vote, during the July 11, 2011 regular council meeting, the City Council approved Ordinance 858 enacting a six-month moratorium prohibiting the licensing, permitting, establishment, maintenance, or continuation of any use consisting of or including the sale, provision, and/or dispensing of medical marijuana, the establishment of medical marijuana dispensaries, or creation of or participation in "collective gardens" within the corporate limits of the City of Lake Stevens.
6. The City of Lake Stevens has not taken any position in support of, or in opposition to, the use of marijuana (cannabis) for medical purposes. By enacting the moratorium, it is the objective of the City to take reasonable measures to protect the public's health, safety, and welfare in response to Federal and State laws regarding the possession, use, propagation, and distribution of marijuana.
7. On August 22, 2011, following notice as required by applicable law, the City Council conducted a public hearing on the moratorium enacted by Ordinance 858 and all persons wishing to be heard were heard
8. RCW 36.70A.390 requires that findings of fact be adopted within 60 days of the enactment of a moratorium.

9. Ordinance 858 specifies that City staff prepare for the City Council's consideration a work plan, attached as Exhibit B of Resolution 2011-11, to identify a process for review of medical marijuana (cannabis) dispensaries and/or collective gardens for potential regulation and inclusion in the Lake Stevens Municipal Code.
10. As outlined by the Work Plan/Draft Regulations Schedule, attached as Exhibit B of Resolution 2011-11, the City Council anticipates that it can develop and adopt appropriate controls for medical marijuana (cannabis) dispensaries and/or collective gardens prior to the expiration of the moratorium enacted by Ordinance 858.
11. No applications or written requests for medical marijuana (cannabis) dispensaries or collective gardens are presently under consideration or review by the City of Lake Stevens.
12. In the meantime, it is in the best interest of the City and its citizens that the moratorium, enacted by Ordinance 858, remains in effect for at least its stated term.

Exhibit B
 Resolution 2011-11

**City of Lake Stevens
 Medical Marijuana Moratorium
 Work Plan/ Draft Regulations Schedule**

ACTIVITY	Moratorium		Draft Regulations				
	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	JANUARY
Research			9/2011				
Draft Code Amendments				10/2011			
Draft Ordinances					11/2011	12/2011	
Staff Review				10/2011			
Attorney Review				10/2011			
Prepare & Issue SEPA (comment/appeal)				10/2011			
Commerce Review				10/2011		12/2011 45-day review up	
Notice Planning Commission Public Hearing in LSJ				10/2011			
Planning Commission Review (B-briefing; PH-public hearing)			9/6/11(B)	10/2011	11/1/11(PH)		
Notice City Council Public Hearing in LSJ					11/2011	12/2011	
City Council Briefings & Workshops (B-briefing; PH-public hearing)		8/22/11(PH)		10/3/11(B)		12/2011(PH)	
City Council Public Hearing, 1 st Reading							1/2012 (PH)
City Council Public Hearing, 2nd & Final Reading							
Effective date	7/11/2011 Moratorium adopted						1/2012 Moratorium expires / New regulations in effect

Note: The moratorium enacted by Ordinance 858 expires on January 11, 2012.

**CITY OF LAKE STEVENS
Lake Stevens, Washington**

ORDINANCE NO. 858

AN INTERIM ORDINANCE OF THE CITY OF LAKE STEVENS, WASHINGTON, ADOPTING A MORATORIUM ON THE ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES, COLLECTIVE GARDENS, AND THE LICENSING AND PERMITTING THEREOF; DEFINING “MEDICAL MARIJUANA DISPENSARY;” PROVIDING FOR A PUBLIC HEARING; ESTABLISHING AN EFFECTIVE DATE; AND PROVIDING THAT THE MORATORIUM, UNLESS EXTENDED, WILL SUNSET WITHIN SIX (6) MONTHS OF THE DATE OF ADOPTION

WHEREAS, Initiative Measure No. 692, approved November 3, 1998, created an affirmative defense for “qualifying patients” to the charge of possession of marijuana; and

WHEREAS, the initiative and current Chapter 69.51A RCW are clear that nothing in its provisions are to be “construed to supersede Washington state law prohibiting the acquisition, possession, manufacture, sale or use of marijuana for non-medical purposes;” and

WHEREAS, the Washington State Department of Health opines that it is “not legal to buy or sell” medical marijuana and further opines that “the law [Chapter 69.51.A RCW] does not allow dispensaries,” leaving enforcement to local officials; and

WHEREAS, the City Council finds that the sale of marijuana, no matter how designated by dispensaries, is prohibited by federal and state law; and

WHEREAS, ESSB 5073 – Chapter 181, Laws of 2011 (“the bill”) was adopted with a partial veto of the Governor, and becomes effective July 22, 2011; and

WHEREAS, Section 404 of the bill effectively eliminates medical marijuana dispensaries as a legally viable model of operation under state law; and

WHEREAS, Section 403 of the bill provides that qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to compliance with specific statutory conditions; and

WHEREAS, the City acknowledges the right of qualified health care professionals to prescribe the medical use of marijuana as well as the right of patients to designate a “designated provider” who can “provide” rather than sell marijuana to “only one patient at any one time;” and

WHEREAS, the City Council finds that the secondary impacts associated with marijuana dispensaries and collective gardens include, but are not limited to, the invasion of the business, burglary, and robbery associated with the cash and drugs maintained on the site; and

WHEREAS, pursuant to Section 1102 of the bill and under their general zoning and police powers cities are authorized to adopt and enforce zoning requirements, business licensing requirements, health and safety requirements, and business taxes on the production, processing, or dispensing of cannabis or cannabis products; and

WHEREAS, a public hearing will be held on August 22, 2011 before the Lake Stevens City Council;

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

Section 1. Pursuant to the provisions of RCW 36.70A.390, a zoning moratorium is hereby enacted in the City of Lake Stevens prohibiting licensing, permitting, establishment, maintenance, or continuation of any use consisting of or including the sale, provision, and/or dispensing of medical marijuana to more than one person, the establishment of a medical marijuana dispensary, or creation of or participation in a “collective garden” as referenced and defined in Section 403 of ESSB 5073—Chapter 181, Laws of 2011.

Section 2. “Medical marijuana dispensary” is hereby defined as any person, business, corporation, partnership, joint venture, organization, association, and/or other entity which: 1) sells, provides, and/or otherwise dispenses marijuana to more than one “qualifying patient” in any sixty (60) day period, or to any person who does not meet the definition of “qualifying patient” under the terms of Chapter 69.51A RCW; and/or 2) maintains and/or possesses more than one sixty-day supply of marijuana for one qualifying patient at any time. The receipt of cash or other legal tender in exchange for, contemporaneously with or immediately following the delivery of marijuana to a qualifying patient shall be presumed to be a sale. Any person, business, corporation, partnership, joint venture, organization, association, and/or entity which sells, provides, and/or otherwise dispenses marijuana to more than one qualifying patient in any sixty (60) day period should be presumed to be a “medical marijuana dispensary.”

Section 3. Until such time as the Lake Stevens Municipal Code may be amended to authorize such land uses, medical marijuana dispensaries and collective gardens are hereby designated as prohibited uses in the City of Lake Stevens, in accordance with the provisions of RCW 35A.82.020 and the Land Use Development Code, codified as Title 14 LSMC. No business license, permit, zoning, or development approval shall be issued to a medical marijuana dispensary or collective garden.

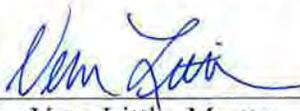
Section 4. The City Council hereby directs that a work plan be developed by City staff to identify a process for review of medical marijuana dispensaries and collective gardens for potential regulation and inclusion in the Lake Stevens Municipal Code. Said work plan will be presented to the City Council for review before the sunset of this ordinance.

Section 5. Ordinance to be Transmitted to Department. Pursuant to RCW 36.70A.106, a copy of this interim ordinance shall be transmitted to the Washington State Department of Commerce,

Section 6. Effective Date. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title, PROVIDED, HOWEVER, that unless extended by the act of the Lake Stevens City Council, this ordinance shall automatically expire six (6) months following its adoption.

ADOPTED by the City Council and **APPROVED** by the Mayor this 11th day of July, 2011.

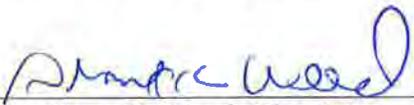
CITY OF LAKE STEVENS

By: 
Vern Little, Mayor

ATTEST/AUTHENTICATED:

By: 
Norma Scott, City Clerk/Admin. Asst.

APPROVED AS TO FORM:

By: 
Grant K. Weed, City Attorney

Date of Publication: July 14, 2011
Effective Date: July 19, 2011

Risk Management Bulletin
Administration #46
June, 2011

Medical Marijuana Law: Post 2011 Washington Legislative Session

By Mark R. Bucklin, WCIA General Counsel
Keating Bucklin & McCormack, Inc. P.S.

A WCIA Risk Management Bulletin was issued 12/28/2010 addressing the then existing state of the law regarding medical marijuana in Washington and the rise of business license applications for medical marijuana “Dispensaries” across the state. In short, the Bulletin concluded that such “dispensaries” were not legal under the law at that time as they inevitably involved the possession and sale of marijuana not allowed by law. It was recommended that business license applications for dispensaries be denied or revoked. The Bulletin predicted that the topic would be addressed in the 2011 Washington State Legislative Session and changes could occur. The topic did arise, legislation was passed and then the legislation was partially vetoed by the Governor. This Bulletin Supplement will address the law as it now exists, post 2011 Legislative Session.

In April 2011, the Washington State Legislature passed Engrossed Second Substitute Senate Bill 5073 through both houses amending Initiative 692 and sent it on to the Governor for signature into law. The bill, as passed, offered sweeping changes to the medical marijuana law in Washington and would have put in place a regulatory licensing scheme for the growth and distribution of medical marijuana through licensed dispensaries to “qualified patients” who had been designated as such by their “health care professionals.” The production and sale of medical cannabis and the dispensing standards would have been under regulation by the State Department of Health. Dispensers could sell seeds, plants, usable cannabis, and cannabis products directly to qualifying patients. The bill also provided for optional “collective gardens” where individuals who were qualified patients, or their individual providers, could grow for their own use medical marijuana collectively so long as the participants did not exceed 10 in number or more than 15 plants per person and up to 45 plants total.

Before the Governor could sign the bill, the U.S. Attorney’s in Seattle and Spokane sent the Governor an advisory letter, (which she had solicited) approved by U.S. Attorney General Holder, warning and advising the Governor that substantial portions of the bill approved by the Legislature was in direct conflict with Federal Drug Laws and that state employees could be at risk of federal prosecution for aiding and abetting illegal drug possession and sale if they processed licenses for production and sale of medical cannabis under the proposed new bill. The letter of April 14, 2011 to Governor Gregoire signed by U.S Attorney Jenny Durkin and U.S. Attorney Michael Ormsby stated, in part:

“The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government’s efforts to regulate the possession, manufacturing and trafficking of controlled substance. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up

marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the action of the licensees, including property owners, landlords, and financier should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA (controlled substances act).” (emphasis added).¹

Citing this letter, Governor Gregoire issued a partial veto of ESSSB 5073 on April 29, 2011. The Governor vetoed all the new sections dealing with the state licensing of production and licensed dispensing of medical marijuana.² The portions of the bill not vetoed and signed by Governor Gregoire amend the original medical marijuana Initiative 692 passed by the people. So, the question becomes: What is left of ESSSB 5073 after the line item veto of the Governor?

What Are the Significant Changes in the Law Under ESSSB 5073 as Signed?

1. New stronger protections to qualified medical marijuana users and providers from criminal arrest, prosecution and conviction.

Previously qualified users and providers were given an affirmative defense to assert at trial if they were charged with a marijuana crime. Now, sec. 401 of the new act provides:

“Sec. 401 The medical use of cannabis in accordance with the terms and conditions of this chapter **does not constitute a crime** and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter **may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences, for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, cannabis under state law**, or have real or personal property seized or forfeited ...”

Section 101 of the new act states:

“(a) Qualifying patients with terminal or debilitating ((illnesses)) medical conditions who, in the judgment of their health care professionals, may benefit from the medical use of ((marijuana)) cannabis, **shall not be ((found guilty of a crime under state law for their possession and limited use of marijuana)) arrested, prosecuted, or subject to other criminal sanctions or civil consequences** under state law based solely on their medical use of cannabis, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be ((found guilty of a crime under state law for)) arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of ((marijuana)) cannabis;...”

¹ Letter attached

² Partial veto letter attached

- 2. Health Care Professionals are given greater protection but with greater restrictions regarding issuing “valid documentation” to qualifying patients authorizing medical use of cannabis.**
- a. Health Care Professionals have been given the same protections as qualifying patients and providers as noted above. (Sec 301(1))
 - b. The new act states:
“Sec. 301(2)(a) A health care professional may only provide a patient with valid documentation authorizing the medical use of cannabis or register the patient with the registry established in section 901 of this act if he or she has a newly initiated or existing documented relationship with the patient, as a primary care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition, and only after:
 - (i) Completing a physical examination of the patient as appropriate, based on the patient's condition and age;
 - (ii) Documenting the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of cannabis;
 - (iii) Informing the patient of other options for treating the terminal or debilitating medical condition; and
 - (iv) Documenting other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of cannabis.
 - (b) A health care professional shall not:
 - (i) Accept, solicit, or offer any form of pecuniary remuneration from or to a licensed dispenser, licensed producer, or licensed processor of cannabis products;
 - (ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular licensed dispenser, licensed producer, or licensed processor of cannabis products;
 - (iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where cannabis is produced, processed, or dispensed;
 - (iv) **Have a business or practice which consists solely of authorizing the medical use of cannabis;**
 - (v) **Include any statement or reference, visual or otherwise, on the medical use of cannabis in any advertisement for his or her business or practice; or**
 - (vi) **Hold an economic interest in an enterprise that produces, processes, or dispenses cannabis if the health care professional authorizes the medical use of cannabis.**
- (3) A violation of any provision of subsection (2) of this section constitutes unprofessional conduct under chapter 18.130 RCW.”
- 3. Use of medical cannabis at work or in jails requires no accommodation and may be prohibited. Drug free work places may be continued. Medical insurance is not required to cover medical cannabis. Medical cannabis may not be smoked in public**

but it is now an infraction, not a crime. Persons under supervised probation or parole may be prohibited from the use medical cannabis. The use of medical cannabis is not a defense to Driving Under the Influence.

“**Sec. 501.** RCW 69.51A.060 and 2010 c 284 s 4 are each amended to read as follows:

(1) It shall be a ((misdemeanor)) **class 3 civil infraction to use or display medical ((marijuana)) cannabis in a manner or place which is open to the view of the general public.**

(2) Nothing in this chapter ((requires any health insurance provider)) establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of ((marijuana)) cannabis. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical cannabis in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of ((medical marijuana)) cannabis for a patient.

(4) Nothing in this chapter requires any accommodation of any on- site medical use of ((marijuana)) cannabis in any place of employment, in any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking ((medical marijuana)) cannabis in any public place ((as that term is defined in RCW 70.160.020)) or hotel or motel.

(5) Nothing in this chapter authorizes the use of medical cannabis by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

(6) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of cannabis if an employer has a drug-free work place.”

“**Sec. 1105.** (1)(a) The arrest and prosecution protections established in section 401 of this act may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative defenses established in sections 402, 405, 406, and 407 of this act may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) The provisions of RCW 69.51A.040 and sections 403 and 413 of this act do not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

(3) A person may not be licensed as a licensed producer, licensed processor of cannabis products, or a licensed dispenser under section 601, 602, or 701 of this

act if he or she is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that licensure is inconsistent with and contrary to his or her supervision.”

“Sec. 501(8) (8) No person shall be entitled to claim the ((affirmative defense provided in RCW 69.51A.040)) protection from arrest and prosecution under RCW 69.51A.040 or the affirmative defense under section 402 of this act for engaging in the medical use of ((marijuana)) cannabis in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.”

4. **A “designated provider” who has been terminated by a “qualified patient” cannot become a designated provider for another qualified patient until 15 days have elapsed.**

“Sec. 404. (1) A qualifying patient may revoke his or her designation of a specific provider and designate a different provider at any time. A revocation of designation must be in writing, signed and dated. The protections of this chapter cease to apply to a person who has served as a designated provider to a qualifying patient seventy-two hours after receipt of that patient's revocation of his or her designation.

(2) A person may stop serving as a designated provider to a given qualifying patient at any time. **However, that person may not begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated him or her to serve as a provider.”**

5. **Qualifying patients may, under restrictions, create “collective gardens” to produce medical cannabis.**

“Sec. 403. (1) **Qualifying patients** may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering cannabis for medical use subject to the following conditions:

- (a) **No more than ten qualifying patients may participate in a single collective garden at any time;**
- (b) A collective garden may **contain no more than fifteen plants per patient up to a total of forty-five plants;**
- (c) A collective garden may contain **no more than twenty-four ounces of useable cannabis per patient up to a total of seventy-two ounces of useable cannabis;**
- (d) A copy of each qualifying patient's valid documentation or proof of registration with the registry established in section 901 of this act, including a **copy of the patient's proof of identity, must be available at all times on the premises of the collective garden;** and

- (e) No useable cannabis from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.
- (2) For purposes of this section, the creation of a "collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest cannabis; cannabis plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of cannabis plants.
- (3) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections of this chapter.”

(Author’s Note: Sec 501(1) makes the public display of medical cannabis a civil infraction and this would presumably apply to the display of medical cannabis in a collective garden hence some sort of screening from public view seems to be built into the act.)

6. **Cities and Counties may, but are not required to, zone, license, regulate and tax the production, processing and dispensing of cannabis. This would appear to be now limited to collective gardens since that is the only new activity allowed under the act and individual single production of medical cannabis by a qualified user or provider.**

“**Sec. 1102.** (1) Cities and towns may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction: Zoning requirements, business licensing requirements, health and safety requirements, and business taxes. Nothing in this act is intended to limit the authority of cities and towns to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.

(2) Counties may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction in locations outside of the corporate limits of any city or town: Zoning requirements, business licensing requirements, and health and safety requirements. Nothing in this act is intended to limit the authority of counties to impose zoning requirements or other conditions upon licensed dispensers, so long as such requirements do not preclude the possibility of siting licensed dispensers within the jurisdiction. If the jurisdiction has no commercial zones, the jurisdiction is not required to adopt zoning to accommodate licensed dispensers.”

(Author’s Note: The Governor vetoed all other sections of the act that would have created legal licensed dispensers of medical cannabis so presumably the language in this section addressing the zoning of licensed dispensers is null and void.)

7. Police and local jurisdictions are given limited immunity under the act for good faith actions.

“Sec. 1101. (1) No civil or criminal liability may be imposed by any court on the state or its officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.

(2) No civil or criminal liability may be imposed by any court on cities, towns, and counties or other municipalities and their officers and employees for actions taken in good faith under this chapter and within the scope of their assigned duties.”

Challenges and Issues for Local Government Under the New Act

1. What to do with existing medical marijuana/cannabis dispensaries and business license applications for the same?

As previously noted, the Governor’s line item veto took out all provisions of the law that would have made dispensaries licensed and legal. Hence the law remains the same as before and there is no credible argument that medical cannabis dispensaries that sell cannabis are legal under state or federal law. (See prior WCIA Bulletin of 12/28 /2010-Medical Marijuana Dispensaries-Are They Legal?). **The sale of marijuana in the State of Washington remains illegal and subject to criminal prosecution. (RCW 69.50.401 & 410.)** Nothing in the new act makes the sale of medical marijuana/cannabis legal.

Existing dispensaries that are selling marijuana/cannabis are subject to police investigation, arrest and prosecution. Priority of enforcement is up to the local jurisdictions and decisions on resource allocation.

Pending or new applications for business licenses dispensaries of medical cannabis should be denied as illegal businesses if there is any evidence that the sale of cannabis is part of the operational scheme or business plan.

2. Should local governmental entities do zoning or zoning moratoriums regarding medical marijuana/cannabis dispensaries?

There does not appear to be any current urgency to do so as the legislation that would have allowed legal dispensaries starting in 2012 has been vetoed. However, the political backers of ESSSB 5073 have vowed they will come back with a new proposal in the next legislative session. Preemptive zoning in anticipation that someday dispensaries may become legal under state law is a consideration for local jurisdictions that may be concerned about a future applicant becoming vested to a site that is inconsistent with the overall zoning scheme of the jurisdiction.

3. **Should local jurisdictions get involved in the zoning, regulation or licensing of “collective gardens”?**

This is a difficult issue. The new act does not require any local action but does allow it under Sec. 1102. The possession of marijuana for any reason under federal law may be a crime and the federal law does not recognize exceptions for medical use of cannabis and marijuana except in authorized clinical situations. Hence, an argument can be made that if local jurisdictions specifically allow, license and regulate collective marijuana gardens they and the employees executing the laws could run a fowl of the U.S. Attorney warnings expressed in letter of April 14, 201 delivered to Governor Gregoire. They could be viewed as aiding and abetting a violation of the federal controlled substances act. Some may argue the threat is remote but no one can say it is impossible.

The other side of the argument is that unregulated and uncontrolled collective gardens could become a public safety threat and therefore regulation and licensing is a means of reducing the threat. Under the new law collective gardens may be planted and marijuana grown by qualified patients of up to ten in number. There are no provisions in the state law as to where in a local jurisdiction such gardens may be started nor is there any provisions for fencing, screening, security or safety. It is easy to envision that such collective gardens could become the locus of thefts of marijuana plants and finished product and potentially violent confrontations could occur. Collective gardens could be started next to schools and churches. Some citizens may not appreciate relatively large scale open marijuana cultivation next to their back yards, businesses, churches or schools. There could be political pressure on local elected officials to regulate and license cannabis production via “collective gardens.” They may demand regulation and licensing under the authority of Sec. 1102 – **“Cities and towns may adopt and enforce any of the following pertaining to the production, processing, or dispensing of cannabis or cannabis products within their jurisdiction: Zoning requirements, business licensing requirements, health and safety requirements, and business taxes.”**

(Author’s Note: Business taxes on collective gardens is likely not legal as “sales” of medical cannabis is not authorized by the partially vetoed act.)

Local police authorities may feel that zoning, licensing and regulation of collective gardens would assist them in tracking and distinguishing legal grow operations from illegal ones.

There does not appear to be any express authority or provision in the new act that would allow the outright banning of collective gardens by local jurisdictions. Sec. 401 of the act directly empowers qualified users to start and maintain collective gardens. This would appear to preempt local authorities from doing outright bans on collective gardens on private property. Likewise, local jurisdictions could not ban individual qualified patients or their providers from

cultivation of medical marijuana/cannabis on private property or at their homes so long as they have the proper documentation and limit their possession to 15 plants or 24 ounces of useable cannabis.

If the decision is made to zone, license and regulate collective gardens by the local jurisdiction care will be need to make sure that an appropriate legislative history is developed to document the negative impacts of unregulated collective gardens and to narrowly fashion regulations tailored to address those negative impacts. Failure to do so could lead to challenges that the regulations or zoning violated substantive due process protections under the Constitution. Members are advised to work closely with their legal counsel on these issues.

If Members think that zoning regulation and licensing of collective gardens is in their best interest they may wish to quickly impose a moratorium prohibiting their establishment for a **brief** period of time **to develop the necessary legislative history and to adopt appropriate ordinances for zoning, licensing and regulating collective gardens.**

WCIA strongly advises against Members allowing use of public property or public “pea patches” for use as “collective gardens” where medical marijuana/cannabis is grown. It would expose the jurisdiction to unnecessary liability claims as a landlord under premises liability law if other legal users of the public lands were injured due to criminal activity/thefts potentially associated with the production of the cannabis products.

Conclusion

The truncated and partially vetoed version of ESSSB 5073 signed into law by Governor Gregoire becomes **effective on July 22, 2011**. Medical marijuana/cannabis dispensaries that sell cannabis products remain illegal. The fact that the Legislature went to great lengths to try and make them legal and then failed by virtue of the Governor’s veto; re-enforces the argument that they were never legal. Nevertheless, proponents of medical cannabis will continue to argue to the contrary and will continue to urge novel schemes and models for the distribution of medical cannabis to local jurisdictions in hopes of obtaining business licenses and therefore apparent legitimacy. It is suggested that any such new model be closely analyzed to determine where the profit may be made in the business model. If it ultimately involves a sale of marijuana or cannabis products it is likely illegal under both state and federal law.

The political battle promises to be carried on in the future. Governor Gregoire’s signing letter partially vetoing ESSSB 5073 states she remains open to legislation that would exempt qualifying patients and their providers from criminal penalties when they join a cooperative to distribute medical marijuana. The proponents of ESSSB 5073 promise to return in the next legislative session to have another go at it. It is not clear how any future effort will have success as long as the federal law remains intact and continues to criminalize possession and sale of marijuana regardless of its designation as for medical treatment. Future case law may also

clarify or further obscure the picture. It appears the only certainty is more uncertainty as to what future law in this area may develop.



U.S. Department of Justice

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Eastern District of Washington

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Honorable Christine Gregoire
Washington State Governor
P.O. Box 40002
Olympia, Washington 98504-0002

April 14, 2011

Re: Medical Marijuana Legislative Proposals

Dear Honorable Governor Gregoire:

We write in response to your letter dated April 13, 2011, seeking guidance from the Attorney General and our two offices concerning the practical effect of the legislation currently being considered by the Washington State Legislature concerning medical marijuana. We understand that the proposals being considered by the Legislature would establish a licensing scheme for marijuana growers and dispensaries, and for processors of marijuana-infused foods among other provisions. We have consulted with the Attorney General and the Deputy Attorney General about the proposed legislation. This letter is written to ensure there is no confusion regarding the Department of Justice's view of such a licensing scheme.

As the Department has stated on many occasions, Congress has determined that marijuana is a controlled substance. Congress placed marijuana in Schedule I of the Controlled Substances Act (CSA) and, as such, growing, distributing, and possessing marijuana in any capacity, other than as part of a federally authorized research program, is a violation of federal law regardless of state laws permitting such activities.

The prosecution of individuals and organizations involved in the trade of any illegal drugs and the disruption of drug trafficking organizations is a core priority of the Department. This core priority includes prosecution of business enterprises that unlawfully market and sell marijuana. Accordingly, while the Department does not focus its limited resources on seriously ill individuals who use marijuana as part of a medically recommended treatment regimen in compliance with state law as stated in the October 2009 Ogden Memorandum, we maintain the authority to enforce the CSA vigorously against individuals and organizations that participate in unlawful manufacturing and distribution activity involving marijuana, even if such activities are permitted under state law. The Department's investigative and prosecutorial resources will continue to be directed toward these objectives.

Honorable Christine Gregoire
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Consistent with federal law, the Department maintains the authority to pursue criminal or civil actions for any CSA violations whenever the Department determines that such legal action is warranted. This includes, but is not limited to, actions to enforce the criminal provisions of the CSA such as:

- 21 U.S.C. § 841 (making it illegal to manufacture, distribute, or possess with intent to distribute any controlled substance including marijuana);
- 21 U.S.C. § 856 (making it unlawful to knowingly open, lease, rent, maintain, or use property for the manufacturing, storing, or distribution of controlled substances);
- 21 U.S.C. § 860 (making it unlawful to distribute or manufacture controlled substances within 1,000 feet of schools, colleges, playgrounds, and public housing facilities, and within 100 feet of any youth centers, public swimming pools, and video arcade facilities);
- 21 U.S.C. § 843 (making it unlawful to use any communication facility to commit felony violations of the CSA); and
- 21 U.S.C. § 846 (making it illegal to conspire to commit any of the crimes set forth in the CSA).

In addition, Federal money laundering and related statutes which prohibit a variety of different types of financial activity involving the movement of drug proceeds may likewise be utilized. The Government may also pursue civil injunctions, and the forfeiture of drug proceeds, property traceable to such proceeds, and property used to facilitate drug violations.

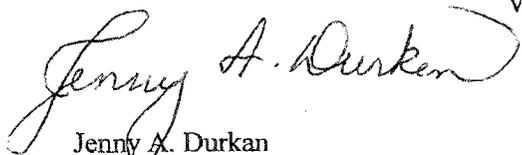
The Washington legislative proposals will create a licensing scheme that permits large-scale marijuana cultivation and distribution. This would authorize conduct contrary to federal law and thus, would undermine the federal government's efforts to regulate the possession, manufacturing, and trafficking of controlled substances. Accordingly, the Department could consider civil and criminal legal remedies regarding those who set up marijuana growing facilities and dispensaries as they will be doing so in violation of federal law. Others who knowingly facilitate the actions of the licensees, including property owners, landlords, and financiers should also know that their conduct violates federal law. In addition, state employees who conducted activities mandated by the Washington legislative proposals would not be immune from liability under the CSA. Potential actions the Department could consider include injunctive actions to prevent cultivation and distribution of marijuana and other associated violations of the CSA; civil fines; criminal prosecution; and the forfeiture of any

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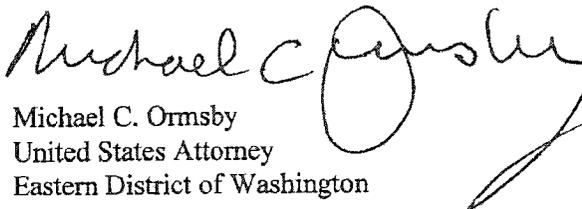
property used to facilitate a violation of the CSA. As the Attorney General has repeatedly stated, the Department of Justice remains firmly committed to enforcing the CSA in all states.

We hope this letter assists the State of Washington and potential licensees in making informed decisions regarding the cultivation, manufacture, and distribution of marijuana.

Very truly yours,



Jenny A. Durkan
United States Attorney
Western District of Washington



Michael C. Ormsby
United States Attorney
Eastern District of Washington

CHRISTINE O. GREGOIRE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR

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April 29, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

“AN ACT Relating to medical use of cannabis.”

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients’ physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient’s use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

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However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers, processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers, processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

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Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved.

Sincerely,

/s/

Christine O. Gregoire
Governor

**CITY OF LAKE STEVENS
REGULAR CITY COUNCIL MEETING MINUTES**

Monday, August 8, 2011
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Mark Somers, Kim Daughtry, Kathy Holder, Suzanne Quigley, Neal Dooley and John Spencer

COUNCILMEMBERS ABSENT: Marcus Tageant

STAFF MEMBERS PRESENT: Planning Director Becky Ableman, City Administrator Jan Berg, City Attorney Cheryl Beyer, Public Works Director/City Engineer Mick Monken, Finance Director/Treasurer Barb Lowe, Human Resource Director Steve Edin, Police Chief Randy Celori, Senior Planner Russ Wright, and City Clerk/Admin. Asst. Norma Scott

OTHERS:

Excused Absence. Councilmember Somers moved to excuse Councilmember Tageant, seconded by Councilmember Holder; motion carried unanimously. (6-0-0-1)

Guest Business. None

Consent Agenda. Councilmember Dooley moved to approve the Consent Agenda (A. Approve August 2011 vouchers, Payroll Direct Deposits 904560-904626 for \$119,397.87, Payroll Checks 31267-32170 for \$5,427.09, Claims 32171-32218 for \$113,072.52, Electronic Funds Transfer 356-362 for \$146,856.15, Tax Deposits 8.1.11 for \$41,881.52 for total vouchers approved of \$426,635.15), seconded by Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

Public Hearing in consideration of first and final reading of Ordinance No. 859, traffic mitigation fees code amendment. City Clerk Scott read the public hearing procedure. Principal Planner Watkins reported the County had 25 subdivisions in the review process during annexation and the County needs to complete their review. This ordinance will allow the City to take the lead and complete 20th Street SE improvements. The code is also written for future annexations. Ms. Watkins reviewed the following: pre-annexation traffic mitigation fees, concurrency of projects vested in the County pre-annexation, and adoption of County Code.

Public Comment. Tom Matlack, 2504 112th Drive NE, asked if all 25 subdivisions are located along 20th Street. Planning Director Ableman responded it includes those that impact 20th Street.

MOTION: Councilmember Holder moved to close the public comment portion, seconded by Councilmember Somers; motion carried unanimously. (6-0-0-1)

Councilmember Quigley asked what are the impacts of passing or not passing this ordinance. City Administrator Berg possibly collection of \$2,000,000 in mitigation fees.

MOTION: Councilmember Somers moved to close the public hearing, seconded by Councilmember Spencer; motion carried unanimously. (6-0-0-1)

MOTION: Councilmember Holder moved to approve Ordinance 859 collection of pre-annexation mitigation fees and first and final reading, seconded by Councilmember Daughtry; motion carried unanimously. (6-0-0-1)

Approve minutes of July 25, 2011 regular meeting. Councilmember Spencer moved to approve July 25 minutes, seconded by Councilmember Dooley; motion carried with Councilmember Quigley abstaining. (5-0-1-1)

Approve Amendment No. 1 to 20th Street SE Interlocal Agreement with Snohomish County. Public Works Director/Engineer Monken commented because of the financial state of County, the City will take the lead on 20th Street. The City will be able to look at reevaluating and phasing the project.

Councilmember Holder mentioned “responsibilities” was incorrectly spelled on Page 2 of the contract.

MOTION: Councilmember Somers moved to approve Amendment No. 1 to 20th Street Interlocal Agreement with Snohomish County, seconded by Councilmember Holder; motion carried unanimously. (6-0-0-1)

Approve 20th Street SE Professional Services Agreement with Perteet. Public Works Director/Engineer Monken stated Perteet will look at whether this is the best design for 20th. They will look at the centerline profiles and two cross sections. Perteet was the engineer of record for the County in Phase I. Using most of the existing pavement will be a cost saving without affecting safety. Will look at the road and how it will work with the subarea planning.

Councilmember Holder noted that the word “analysis” in Article I. Purpose needs additional language. Public Works Director/Engineer Monken added the word “provide” to read “provide analysis.”

MOTION: Councilmember Spencer moved to approve Professional Services Agreement with Perteet for 20th Street SE design evaluation and vertical analysis, seconded by Councilmember Somers; motion carried unanimously. (6-0-0-1)

FEMA/ESA Compliance. Senior Planner Wright noted that FEMA is requiring local jurisdictions to evaluate and/or amend their floodplains regulations by September 22 to comply with the National Marine Fisheries Service biological opinion on endangered species. The following are the three primary compliance methods: 1. Adopt the newly revised model ordinance (produced by FEMA); 2. Demonstrate that existing plans and regulations provide protection for listed species; or 3. Comply project by project (by consulting with the federal services and preparing a habitat assessment). The city has two flood areas: the Lake and Catherine Creek.

If the City does not adopt the Shoreline Master Plan by mid September we would default to Method 3 and if adopted in September we would be under Method 2.

Second Quarter Financial Summary. Finance Director/Treasurer Lowe reviewed the general, street, surface/storm water, and REET revenue and expenditure funds.

Councilmembers Quigley, Daughtry and Dooley volunteered for the Budget Subcommittee.

Councilmembers Spencer, Somers and Holder volunteered for the Labor Subcommittee.

Councilmember Tageant could be alternate.

Graffiti. Police Chief Celori explained graffiti vs. tagging through a PowerPoint presentation. Both are commonly committed by gangs. Property owners are responsible for removing the graffiti.

Council Person's Business: Councilmembers reported on the following: Holder – Fire District meeting; Quigley – will not be in attendance the rest of August; and Daughtry – Ironman is on the 14th.

Mayor's Business: Mayor Little reported on the following: Aquafest and National Night Out.

Staff Reports: Staff reported on the following: City Administrator Berg – thanked everyone for helping in the City's Aquafest booth; Planning Director Ableman – next Tuesday citizen meeting on Shoreline and next week a debriefing with Aquafest group; and Police Chief Celori – Aquafest had no serious incidents and a month ago the Police Department was involved in a huge drug find.

Executive Session. Mayor Little called for an executive session on pending litigation for 10 minutes with no action to follow at 8:28 p.m. A two minute break was taken with the executive session beginning at 8:30 p.m. and reconvening into regular session at 8:39 p.m.

Adjourn. Councilmember Spencer moved to adjourn at 8:39 p.m., seconded by Councilmember Somers; motion carried unanimously. (6-0-0-1)

Vern Little, Mayor

Norma J. Scott, City Clerk/Admin. Asst.



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LAKE STEVENS CITY COUNCIL
STAFF REPORT

Council Agenda Date: August 22, 2011

Subject: Public Records Act Policy – Resolution No. 2011-10

Contact Person/Department: Norma Scott, City Clerk/Admin. Asst. **Budget Impact:** N/A

RECOMMENDATION(S)/ACTION REQUESTED OF COUNCIL: Approve Resolution No. 2011-10, adopting the City's Public Records Act Policy.

SUMMARY/BACKGROUND: Under Washington State's Public Records Act, RCW 42.56, cities are required to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. The rules are to be consistent with the intent of the State Public Records Act to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with essential City functions. The City's new policy is generally consistent with how we currently handle public record requests. Since the rules may change from time to time due to new State laws or changes in City procedures, the resolution sets forth that the rules may be amended administratively.

The main sections of the policy address the following:

Section 1. Defines what a public record is.

Section 2. Description of where the Central Office is for requesting records and organization chart (Appendix A).

Section 3. Who the public records officer is and various locations where public records may be requested.

Section 4. Hours/times where public records may be inspected, electronic access to records, and use of the State's Retention Schedules for records requests.

Section 5. Format (oral, written, in person) for making the public records request and how the City may seek clarification on a request.

Section 6. How the City processes a public record request, addresses exempted records, inspection of records by the public, cost of copying records, and protection of the records.

Section 7. Processing of electronic records.

Section 8. Exempt and prohibited disclosure of certain public records.

Section 9. Copying costs and method of payment.

Section 10. Petitioning Process for denial of a request.

If the Public Records Act Policy is approved, a City Web page will be created specifically addressing public disclosure rules, procedures and contact information.

The City's insurance carrier, WCIA, has reviewed the policy. The City's attorney has reviewed the policy and resolution.

APPLICABLE CITY POLICIES: The City Council adopts policies.

BUDGET IMPACT: N/A

ATTACHMENTS:

- ▶ Exhibit A: Resolution 2011-10 and Public Records Act Policy

**CITY OF LAKE STEVENS
LAKE STEVENS, WASHINGTON**

RESOLUTION NO. 2011 - 10

A RESOLUTION OF THE CITY OF LAKE STEVENS TO ESTABLISH A POLICY TO ENSURE COMPLIANCE WITH AND SETTING THE POLICY FOR IMPLEMENTING THE LAWS OF THE STATE OF WASHINGTON WITH REGARD TO PUBLIC RECORDS AND DISCLOSURE THEREOF

WHEREAS, the Public Records Act, Chapter 42.56 of the Revised Code of Washington requires cities to adopt rules of procedure consistent with the intent of the Public Records Act (PRA), to provide full public access to public records, to protect public records from damage or disorganization, and to prevent excessive interference with essential City functions; and

WHEREAS, the Public Records Act requires the City to make public records available for inspection and copying, subject to certain exemptions; and

WHEREAS, the City Council supports the policy of the Public Records Act, to provide citizens with broad access to public records; and

WHEREAS, the City Council desires to establish public disclosure policies consistent to and in conformity with state law; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE STEVENS AS FOLLOWS:

SECTION 1. The City of Lake Stevens hereby adopts and incorporates by reference, the Public Records Act Policy attached as Exhibit "A."

SECTION 2. The City of Lake Stevens recognizes that public records laws can rapidly change, necessitating a policy update, therefore the Council authorizes the City's Public Records Act Policy to be updated administratively as needed to be consistent with the law.

PASSED by the City Council of the City of Lake Stevens on this _____ day of _____ 2011.

CITY OF LAKE STEVENS

By _____
Vern Little, Mayor

APPROVED AS TO FORM:

ATTEST:

By _____
Grant K. Weed, City Attorney

By _____
Norma J. Scott, City Clerk/Admin. Asst.

RESOLUTION NO. 2011-10

LS-11-033/Public disclosure draft resolution 7-29-11 CLB

 <p>CITY OF LAKE STEVENS</p>	PUBLIC RECORDS ACT RULES
EFFECTIVE DATE:	APPROVED: Resolution No. 2011-10

The Public Records Act (The Act), RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. Pursuant to Resolution No. 2011-10 the following Rules for responding to public records/disclosure requests are established.

The purpose of these rules is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our City government. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the City will be guided by the provisions of the Act describing its purposes and interpretation. Failure to comply with any provision of these rules shall not result in any liability imposed upon the City other than that required in The Act.

Section 1. Definitions/Explanations

a. Public record. A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the City. Even if the City does not possess a particular document, a document may be "used" by the City if it was used in any decision making process.

b. Writing. Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated. An email is a writing.

c. Identifiable record. An identifiable record is one in existence at the time the records request is made and that City staff can locate after an objectively reasonable search.

d. Exempt record. All agency records are available for review by the public unless they are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes. For information related to Public Record Exemptions please see Municipal Research Service Center's (MRSC) publication "Public Records Act for Washington Cities, Counties and Special Purpose Districts" on the City's website under Public Records Requests.

e. Counter document. A frequently requested document retained by the City or within departments that is known to be public information and may be released without need to file a written public disclosure request.

f. E-mail. Electronic mail is an informational transfer system which uses computers for sending and receiving messages. It is comprised of individual units of information divided into an "envelope" and the message contents. The envelope, or message header, contains the mailing address, routing instructions, transmission and receipt information, and other information the system needs to deliver the mail item correctly. Classification of emails as public records is dependent on the content of the message. Email messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions. A record of the existence of an email is a public record regardless of the content of the email.

Section 2. Description of City Services and Central Office

The City of Lake Stevens is a Washington municipal corporation that provides the full range of traditional municipal services through its various departments. These functions include but are not limited to maintaining public records. The Public Records Officer shall maintain descriptions of the City's organization (Appendix A) and the process through which the public may obtain information from the City. The City of Lake Stevens' central office is located at 1812 Main Street. The City also has several field offices located throughout the City.

Section 3. Public Records Officer

Any person wishing to request access to public records or seeking assistance in making a request should contact the City's Public Records Officer. The City Clerk has been designated by the City Council as the City's Public Records Officer. The Public Records Officer will oversee compliance with the Public Records Act, but may designate other City staff members who may process requests for public records. The Public Records Officer or his or her designees will provide the fullest assistance to requestors, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with the essential functions of the City. When using these Rules, references to the Public Records Officer should be interpreted to also include his or her designees.

a. Requests for records other than Police records. Except as set forth in Section 3(b) requests to inspect or copy any records maintained by the City, shall be made to the Public Records Officer at:

Public Records Officer
City Clerk
City of Lake Stevens
1812 Main Street, PO Box 257

Lake Stevens, WA 98258
Telephone: 425-334-1012
FAX: 425-334-0835
E-mail: nscott@lakestevenswa.gov

b. In order to provide for a more efficient response to requests for public records, the City has designated various records coordinators throughout the City as described in

subsections (1) and (2) of this subsection who may receive and respond to public records requests directly. If a requestor is unsure of where to file a request, the request shall be filed with the Public Records Officer.

- 1) For requests from the Police Department:
Lake Stevens Police Department
Attention: Records
2211 Grade Road
Lake Stevens, WA 98258
Telephone: 425-334-9537
FAX: 425-334-9842
E-mail: pdrecords@lakestevenswa.gov
- 2) For requests from the Department of Public Works and Department of Planning and Community Developments:
City of Lake Stevens
Attention: Permit Specialist
12209 North Lane
P.O. Box 257
Lake Stevens, WA 98258
Telephone: 425-377-3235
FAX: 425-212-3328
E-mail: jeilert@lakestevenswa.gov

c. Internet access to records. Many records are also available on the City of Lake Stevens' website at: www.lakestevenswa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

Section 4. Availability of Public Records

a. Hours for inspection. Public records are available for inspection and copying during the City's customary office hours: Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding legal holidays. City staff and the requestor may make mutually agreeable arrangements for times of inspection and copying. However, the City shall have final say regarding hours for inspection.

b. Place of inspection. Records will be made available for inspection as determined by the Public Records Officer. City staff and the requestor may make mutually agreeable arrangements for inspection if the particular records being sought are maintained at field offices of the City. A requestor shall not take City records from City offices.

c. Electronic access to records. A variety of records are available on the City's web site at: www.lakestevenswa.gov. To the extent practical, the City will store, maintain, and make its records available electronically. For those seeking responsive records in electronic format, the City may provide access to public records by providing links to the web site containing an electronic copy of the record, provide records on disk, or

transmit the responsive record via e-mail. The Public Records Officer will work with the requestor to determine the most appropriate method for providing electronic copies of responsive records. All electronic responses are subject to fees as established by the City's Fees Resolution.

d. Records index. Resolution No. 2004-16, adopted by City Council on October 11, 2004, determined that maintaining a central index of City records is unduly burdensome, costly, and would interfere with City operations due to the number and complexity of records generated as a result of the wide range of City activities. The City Clerk may, however, index and maintain general administrative records.

Other records that relate to the specific function or responsibility of a particular department shall be maintained in the offices of the particular department. The Public Records Officer will coordinate responses to public records requests with the departments, and responsive records shall be made available for public inspection and copying at the Public Records Center in accordance with Chapter 42.56 RCW.

e. Organization of records. City departments will maintain records in a reasonably organized manner and the City will take reasonable actions to protect records from damage and disorganization.

f. Retention of records. The City will retain its records in accordance with retention schedules available at www.secstate.wa.gov. (Retention schedules vary based on the content of the record.) Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

Section 5. Making a Request for Public Records

a. Reasonable notice that the request is for public records. There is no required format for a valid public records request. A requestor must provide the City with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requestor should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.

b. Form. Any person wishing to inspect or copy identifiable public records of the City should make the request in writing in one of the following ways:

- On the provided request form (available online at www.lakestevenswa.gov); or
- By letter, fax, or e-mail addressed to the Public Records Officer; or
- Online at www.lakestevenswa.gov.

The following information should be included in the request:

- Name and address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the requested records adequate for the Public Records Officer to locate the records; and

- The date and time of day of the request.

c. Prioritization of records. The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first. A requestor need not prioritize a request.

d. Copies. If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to make a deposit or pay for the copies, as further discussed in Section 9 below. Costs for copies are set out by the City's Fees Resolution and is available through a link on the City's web site (located on the Public Disclosure Request Form), or may be obtained by contacting the City Clerk.

e. Oral Requests. The Public Records Officer may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer will complete a City Public Records Request form and confirm receipt of the information and the substance of the request in writing.

f. Requests made directly to City departments. Copies of requests for public records other than identified "counter documents" that are made directly to departments shall be delivered to the Public Records Officer immediately upon receipt. When request is fulfilled by a City Department, the final disposition will be provided to the Public Records Officer, who will maintain an index of requests as set forth in the records retention schedule.

g. Purpose of request. A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the Public Records Officer may ask the requestor if her/she intends to use the records for a commercial purpose. The City is not authorized to provide lists of individuals for commercial purposes. The Public Records Officer may also seek sufficient information to determine if another statute may prohibit disclosure.

h. Overbroad requests. The City may not deny a request for identifiable public records solely because the request is overbroad. However, the City may seek clarification, ask the requestor to prioritize the request so that the most important records are provided first, and/or communicate with the requestor to limit the size and complexity of the request. The City may also provide the responsive records in installments over time. When a request uses an inexact phrase such as "all records relating to", the Public Records Officer may interpret the request to be for records which directly and fairly address the topic. When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.

i. The Public Records Act (PRA) RCW 42.56 requires Public Records Requests to be for existing, identifiable, public records. Requests asking for explanations or asking questions are not requests for existing, identifiable public records under the PRA.

Section 6. Processing Public Records Requests

a. Providing “fullest assistance.” These Rules and related policies and procedures identify how the City will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors and provide the timeliest possible action on public records requests. All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably disrupt the essential functions and or daily operations of the City, City Clerk or other duties of any assisting employee(s) in other City departments.

b. Order for processing requests. The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.

c. Acknowledging receipt and fulfilling requests. Within five business days of receipt of the request, the Public Records Officer will do one or more of the following:

- 1) Make the record available for inspection or copying;
- 2) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
- 3) Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
- 4) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone; or
- 5) Deny the request.

The City may respond to a request to provide access to a public record by providing the requestor with a link to the City’s web site containing an electronic copy of that record if it can be determined that the requestor has internet access and the requestor agrees that the request has been satisfied.

d. Reasonable estimate of time to fully respond. If not able to respond within the five business-day period, the Public Records Officer must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare a withholding index, notify third party persons or agencies affected by the request and/or consult with the City Attorney about whether the records are exempt from disclosure. The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain the changed circumstances that make it necessary.

e. Notification that records are available. If the requestor has sought to inspect the records, the Public Records Officer will notify him or her that the entire response or an installment is available for inspection and ask the requestor to contact the City to arrange a mutually agreeable time for inspection. If the requestor seeks copies, the

Public Records Officer should notify him or her of the projected costs and whether a deposit is required before making the copies.

f. Consequences of failure to respond. If the City does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for failure to respond.

g. Consequences of failure to clarify a request. If the requestor does not respond to the City's request for clarification within 30 days of the City's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.

h. Consequences of disclosing a record in error. The City and its officials or employees are not liable for loss or damage based on release of a public record if the City, official or employee acted in good faith in attempting to comply with the Public Records Act.

i. Searching for records. The City must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located and involve Records Coordinators in other departments, as needed, to assemble the records. After the records are located, the Public Records Officer should take reasonable steps to narrow down the number of records assembled to those that are responsive. The City will not "bury" a requestor with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requestor to select the ones he or she wants, particularly if the requestor is unable or unwilling to help narrow the scope of the documents being sought.

j. Preserving requested records. If a requested record is scheduled shortly for destruction under the City's records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record in accordance with the retention schedule.

k. Records exempt from disclosure. Some records are exempt from disclosure, in whole or in part (see Section 8). If the City believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of the record is determined to be exempt, the Public Records Officer will redact the exempt portions and provide the non-exempt portions [See Section 6(m) below].

l. Protecting the rights of others. If the requested records contain information that may affect rights of others and may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to those whose rights may be affected by the disclosure. Generally two weeks notice will be given in order to make it possible to contact the requestor and ask him or her to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request.

m. Redactions. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions,

provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. For example, the Public Records Officer shall redact identifying details such as social security numbers when he or she makes available or publishes any public record. In each case, the justification for the deletion shall be explained in writing.

n. Personal privacy and vital government interests. The privacy exemption does not apply if the information that might violate personal privacy or vital government interests can be redacted from the records being sought.

o. Inspection of records. To the extent possible due to other demands, the Public Records Officer shall promptly provide space to inspect public records. The requestor must claim or review the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. Other public records requests can be processed before a subsequent request by the same person for the same or almost identical records, which will be processed as a new request. The Act does not allow a requestor to search through the City's files for records which cannot be identified or described to the City. Members of the public may not remove documents from the viewing area or disassemble or alter any document.

p. Providing copies of records. The requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. The City may, in its sole discretion, require City personnel to remain physically present with the requestor during the record inspection process. After inspection is complete, the Public Records Officer will arrange for copying. Making a copy of an electronic record is considered copying and not creation of a new record.

q. Providing records in installments. When a request is for a large number of records, the Public Records Officer will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If the requestor fails to inspect the entire set of records or one or more of the installments within 30 days, the Public Records Officer may stop searching for the remaining records and close the request.

r. Completion of inspection. When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that the City has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

s. Closing withdrawn or abandoned requests. If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the Public Records Officer will close the request and indicate to the requestor that the City has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.

t. Later discovered documents. If, after the Public Records Officer has informed the requestor that the City has provided all available records, the City becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.

u. No duty to create records. The City is not obligated to create a new record to satisfy a records request; however, the City may, in its discretion, create such a new record to fulfill the request where it may be easier for the City to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request. However, the requestor must agree in writing that the new record will satisfy the request.

v. No duty to supplement responses. The City is not obligated to hold current records requests open to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of the City after a request is received by the City, it is not responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

Section 7. Processing Requests for Electronic Records

The Preservation of Electronic Records requirements are outlined in WAC 434-662. An “electronic record” includes those public records which are stored on machine readable file format. If a record is created in an electronic format, the electronic record is the primary record and is subject to provisions of RCW 42.56, the Public Records Act. Electronic records must be retained in electronic format and remain usable, searchable, retrievable and authentic for the length of the designated retention period. Printing and retaining a hard copy is not a substitute for the electronic version. Responses to public record requests for electronic records other than those in common file formats such as pdf or similar formats will be coordinated through the Public Records Officer.

Section 8. Exempt and Prohibited Disclosure of Public Records

The City is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation.

a. The City of Lake Stevens is prohibited by statute from disclosing lists of individuals for commercial purposes.

b. The Public Records Act, RCW 42.56, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer and or see Municipal Research Service Center's (MRSC) publication “Public Records Act for Washington Cities, Counties and Special Purpose Districts” on the City’s website under Public Records Requests.

c. In addition, other statutes may exempt or prohibit disclosure of other documents and information. Alternatively, the requestor may review a list of other statutes outside

the Public Records Act that may prohibit or exempt disclosure of certain information please see Municipal Research Service Center's (MRSC) publication "Public Records Act for Washington Cities, Counties and Special Purpose Districts" on the City's website under Public Records Requests.

d. The City's failure to list an exemption shall not affect the effectiveness of the exemption.

Section 9. Costs of Providing Copies of Public Records

Per state law, the City is not allowed to charge for locating a public record or for making records available for review or inspection. The City may charge, however, for the actual costs of copying public records, including the staff time spent making the copies. This provision includes responses to public records requests for electronic records.

a. Fee schedule. The charge for standard black-and-white photocopies is fifteen cents per page with exceptions listed in the City's Fees Resolution. The City Clerk will periodically update and post a fee schedule for various other nonstandard public records or those in other formats or media. The fee schedule may be found online at www.lakestevenswa.gov on the City Clerk's Public Records Requests webpage. A statement of the factors and manner used to determine the specific fees will be provided upon request to the Public Records Officer. If the City has to pay an outside firm for duplicating records in non-routine formats such as photographs, blueprints or tape recordings, the actual cost will be passed along to the requestor.

b. Certified copies. Where the request is for a certified copy, an additional charge may be applied to cover the additional expense and time required for certification. Charges for certification may be found on the City's Public Records Request Form online at www.lakestevenswa.gov on the City Clerk's Public Records Requests webpage.

c. Faxing and mailing charges. The City may also charge actual costs of long distance facsimile transmission and/or mailing, including the cost of the shipping container.

d. Sales tax. The City will not charge sales tax on copies of records.

e. Use of other copying services. The City is not required to copy records at its own facilities and may determine to use a commercial copying center. The City will bill the requestor for the amount charged by the vendor.

f. Deposit or payment by installments. Before beginning to copy records, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying the records selected by a requestor. The Public Records Officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

g. Method of payment. Payment may be made by cash, check, or money order to the City of Lake Stevens.

h. Waiver of copying charges. The Public Records Officer has the discretion to waive copying charges for small requests, or for individuals or government agencies

doing business with the City if the Public Records Officer determines that this action is in the best interest of the City.

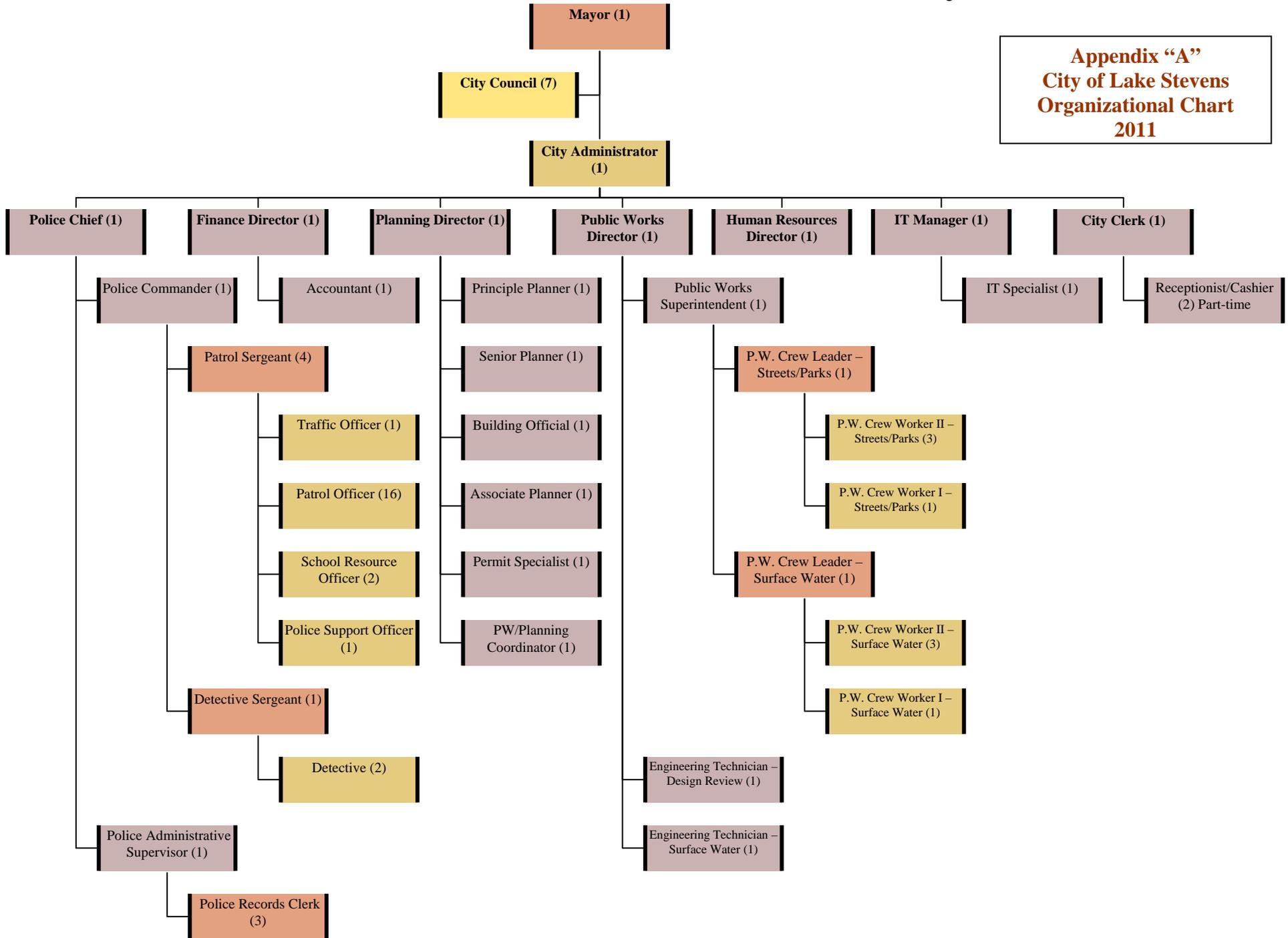
Section 10. Denials of Requests for Public Records

a. Petition for internal administrative review of denial of access. Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.

b. Consideration of petition for review. The Public Records Officer shall promptly provide the petition and any other relevant information to the City Attorney or his or her designee to conduct the review. The City Attorney or his or her designee will promptly consider the petition and either affirm or reverse the denial within two business days following the City's receipt of the petition, or within such other time to which the City and the requestor mutually agree.

c. Judicial review. Any person may obtain court review of denials of public records requests pursuant to RCW 42.56 after the initial denial regardless of any internal administrative appeal.

Appendix "A"
City of Lake Stevens
Organizational Chart
2011





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