

City of Kenmore



City of Kenmore - 18120 68th Avenue NE - PO Box 82607, Kenmore WA 98028 - Phone: 425-398-8900 - Fax: 425-481-3236

REVISED ON 11/10/11

City of Kenmore
City Council Regular Meeting Agenda
7:00 p.m., Monday, November 14, 2011
Kenmore City Hall
18120 68th Ave. NE, Kenmore, WA 98028

AGENDA ITEMS ARE SUBJECT TO CHANGE up to and including the time of the meeting; items may be added or dropped. Please call the City Clerk if you have any questions or to confirm the agenda items prior to the meeting at (425) 398-8900, or stop by City Hall at 18120 68th Avenue NE, Kenmore. The agendas are also available on our website at: www.kenmorewa.gov. Our public meetings are accessible to all members of the public. If you require special accommodations, please call the City Clerk at least three (3) days prior to the mtg.

I. CALL TO ORDER REGULAR MEETING

II. ROLL CALL

III. FLAG SALUTE

IV. AGENDA APPROVAL

V. CONSENT AGENDA

- A. Minutes of the September 29, 2011 Executive Session/Regular Council Meeting; October 3, 2011 Special Regular Council Meeting; and October 10, 2011 Regular Council Meeting.
- B. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.
- C. Accept September 2011 Financial Reports for the City of Kenmore - Joanne Gregory, Finance Director
- D. Adopt Ordinance No. 11-0325 Extending the Franchise Agreement for Cable Services Between the City of Kenmore and Comcast of Washington IV, Inc. and Comcast of California/Texas/Washington, Inc. and Jointly Known as Comcast Cable, Inc. to June 30, 2012 and Establishing an Effective Date – Nancy Ousley, Assistant City Manager

V. CONSENT AGENDA

- E. Resolution No. 11-192 of the City of Kenmore, Washington, Sponsoring the Suburban Cities Association Request to Join the Association of Washington Cities Employee Benefit Trust - Joanne Gregory, Finance Director

VI. CITIZEN COMMENTS

This is an opportunity to express your views on issues that are important to you and to the community. Please limit your comments to three (3) minutes.

VII. PRESENTATION

- A. Present Pancreatic Awareness Proclamation to Kenmore Resident Jennifer Donahue.

VIII. BUSINESS AGENDA

- A. Review of, and Possible Direction of, Kenmore City Manager Recruitment Profile and Schedule - Lynn Stokesbary, Prothman & Associates
- B. Review and Discussion of 2011-2012 Mid Biennium Budget Amendments - Fred Stouder, City Manager and Joanne Gregory, Finance Director
- C. Continuation of Discussion and Possible Direction of the City's Review of the Department of Ecology's Proposed Changes to the Shoreline Master Program (SMP) as Proposed by the Department of Ecology - Debbie Bent, Director of Planning and Community Development

IX. COUNCILMEMBER COMMENTS/REPORTS

X. ADJOURNMENT

Upcoming Meetings:

November 21, 2011 7:00 Regular Council Meeting
November 28, 2011 7:00 Regular Council Meeting

City of Kenmore, Washington
City Council EXECUTIVE SESSION Meeting
Minutes
September 29, 2011

CALL MEETING TO ORDER – Mayor David Baker called the meeting to order at 6:30 p.m.

EXECUTIVE SESSION – Mayor David Baker adjourned the regular meeting at 6:31 p.m. to an executive session to discuss Potential Litigation pursuant to RCW 42.30.110(1)(i). He stated that the executive session will last for approximately 30 minutes and that no action is anticipated when the meeting is reconvened back to regular session.

At 7:00 p.m. the Executive Session was extended an additional 30 minutes.

RECONVENE BACK TO REGULAR SESSION – Mayor David Baker reconvened the meeting back to regular session at 7:30 p.m.

ADJOURNMENT

Mayor David Baker adjourned the special executive session meeting at 7:31 p.m.

Mayor David Baker

ATTEST:

Lynn Suskin, City Clerk

City of Kenmore
City Council Special Regular Meeting
Study Session
Minutes
October 3, 2011

CALL MEETING TO ORDER - Mayor David Baker called the meeting to order at 6:30 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Milton Curtis, Councilmembers Bob Hensel, John Hendrickson, Laurie Sperry, Allan Van Ness, and Glenn Rogers.

Staff present: Fred Stouder, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance Director; Debbie Bent, Director of Community Development; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Lynn Suskin, City Clerk

FLAG SALUTE

Mayor David Baker led the flag salute.

AGENDA APPROVAL

The agenda was approved as submitted.

BUSINESS AGENDA

Authorize the City Manager to File a Growth Management Hearings Board Appeal of the City of Brier's Critical Areas Ordinance, Ordinance No. 389 – Mayor David Baker read the motion.

Councilmember Glenn Rogers moved to Authorize the City Manager to File a Growth Management Hearings Board Appeal of the City of Brier's Critical Areas Ordinance, Ordinance No. 389. Councilmember Laurie Sperry seconded the motion. The motion passed 6-1 with Councilmember John Hendrickson voting no.

Presentation: Robert's Rules of Order on Council Discussion and Public Comment - Ann Macfarlane, Jurassic Parliament, was present to review Robert's Rules of Order with Council. She was also available to answer any questions they had.

ADJOURNMENT

Mayor David Baker adjourned the special regular meeting at 8:35 p.m.

City of Kenmore - Special Regular & Council Meeting Minutes
October 3, 2011

CITY OF KENMORE

Mayor David Baker

ATTEST:

Lynn Suskin, City Clerk

City of Kenmore
City Council Regular Meeting
DRAFT Minutes
October 10, 2011

CALL TO ORDER - Mayor David Baker called the meeting to order at 7:00 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Milton Curtis, Councilmembers Bob Hensel, John Hendrickson, Laurie Sperry, Allan Van Ness, and Glenn Rogers.

Staff present: Fred Stouder, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance Director; Ron Loewen, City Engineer; Debbie Bent, Director of Community Development; Jennifer Gordon, Public Works Operations Manager; Bryan Hampson, Director of Land Use and Permitting; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Lynn Suskin, City Clerk

FLAG SALUTE

The Honorable, former Kenmore Councilmember, Chip Davidson led the flag salute.

AGENDA APPROVAL

Deputy Mayor Milton Curtis moved to add a motion to the consent agenda to cancel the October 17, 2011 Council Meeting due to the lack of agenda items. Mayor David Baker seconded the motion. The motion passed 6-1 with Councilmember John Hendrickson voting no.

Councilmember Glenn Rogers moved to approve the consent agenda as amended. Councilmember Laurie Sperry seconded the motion. The motion passed 6-1 with Councilmember John Hendrickson voting no.

CONSENT AGENDA

Councilmember Bob Hensel moved to approve the consent agenda as submitted. Councilmember Glenn Rogers seconded the motion to approve the Minutes of the September 12, 2011 Regular Council Meeting and September 19, 2011 Regular Council Meeting; Claim Nos. 24581 - 24675 in the Amount of \$592,040.15 for the Period Ending September 28, 2011; Accept August 2011 Financial Reports for the City of Kenmore; Authorize the City Manager to Execute a Local Agency Agreement, Contract No. 11-C965, for SR 522 Phase 1, Stage 2 Project Property Acquisition with the Washington Department of Transportation (WSDOT) in the Amount of \$2,890,174; Authorize the City Manager to Execute an Amendment 'C' to the Existing Conservative Futures Interlocal Cooperation Agreement, Contract 04-C363, with King County for the Receipt of Conservative Futures Tax (CFT) Funds Associated with the Acquisition of 18546 73rd Avenue NE; and motion to cancel the October 17, 2011, Council Meeting due to the lack of agenda items. The motion passed unanimously.

CITIZEN COMMENTS

Dave Crawford, 7534 NE 175th St., Kenmore, was present to discuss Swamp Creek and the sign he had made and showed to the Council.

Barbara Fuentes, 19206 Kenlake Pl. NE, Kenmore, was present to state her concerns relating to the numerous coyote sightings at Northshore Summit Park.

David Maehren, 6316 NE 196th, Kenmore, was present to state that he feels that as long as KGM leaves LakePointe as it is, he does not see a problem.

Elizabeth Mooney, 5934 NE 201st St., Kenmore, was present to invite everyone to participate in this year's Streamfest. She also stated her concerns about the proposed project at LakePointe.

Patrick O'Brien, 6330 NE 181st St., Kenmore, was present to state concerns about the Fire Department response time.

Bob Greene, 6250 NE 182nd, Kenmore, was present to state that he needs to better understand the City's Noise Ordinance.

Janet Hays, 6303 NE 181st St., Kenmore, was present to state her concerns relating to the proposed construction project at LakePointe.

PRESENTATION

Economic Benefits of Bastyr University - Dr. Daniel Church, President, and Greg Goode, Chief of Staff, Bastyr University, were present to provide a presentation. They were also available to answer any questions.

Initial Discussion of Proposed Use of LakePointe Site for SR 520 Project Support - Fred Stouder, City Manager, was present to provide a report in which he reviewed that this is the initial discussion for the benefit of the public and City Council, as the permitting process with the City begins. He stated that the permitting and approval process are administrative. He announced that the City Manager's office and KGM are scheduling a community meeting for 6:30 p.m. Thursday, October 20, 2011, in the Kenmore City Council Chambers for a more in-depth presentation, and questions and answer opportunities for the public. He was also available to answer any questions.

Representatives from Kiewit-General-Manson (KGM); Jack McCullough, Legal Counsel for Pioneer Towing; Gary Sargeant, Pioneer Towing Representative, were in attendance to present to the City Council and the community a summary of the proposed three-year temporary use of part of the LakePointe property for the support of the SR 520 Bridge Replacement and HOV program. They were also available to answer any questions.

COUNCILMEMBER COMMENTS/REPORTS

Councilmember John Hendrickson stated his concerns relating to the City Manager not responding to his letter and answering his financial questions. He stated that tonight the City Manager provided him with a 50-page response to his financial questions and that the 50-page response still does not answer his questions. He also said he had concerns regarding the presentation on Robert's Rules on October 3rd that he has a conflict with.

Councilmember Bob Hensel thanked staff for such a good audit.

City of Kenmore - Regular Council Meeting Minutes
October 10, 2011

Councilmember Laurie Sperry stated that she found the presentation at the October 3rd Council meeting on Robert's Rules to being very informative and she said it is always good to have an opportunity to get a refresher on Robert's Rules.

Councilmember Glenn Rogers discussed traffic impact fees and how they affect developers and residents. He stated that he would like to see the City use twitter and Facebook to provide even further ways to communicate with our citizens.

Councilmember Allan Van Ness provided an update on a recent Radio Executive Policy Commission meeting he attended.

Deputy Mayor Milton Curtis stated that he found the recent Jurassic Parliament discussion on Robert's Rules to be very informative.

Mayor David Baker stated that those that have questions on Northshore Summit Park to get your questions in by the 17th.

ADJOURNMENT

Mayor David Baker adjourned the regular meeting at 8:35 p.m.

Mayor David Baker

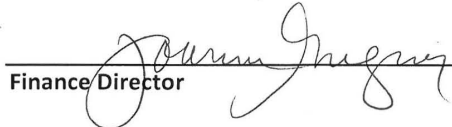
ATTEST:

Lynn Suskin, City Clerk

City of Kenmore
Voucher Certification and Approval

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the following claims, paid by checks 24763- 24873 which total \$885,500.51 are just, due, and unpaid obligations against the City of Kenmore/King County/Washington, and that I am authorized to authenticate and certify to said claims.


 City Manager 4 Nov 2011
 Date


 Finance Director 11-4-11
 Date

Check	Name	Description	Net amount
24763	KING COUNTY RECORDER'S OFFICE	USPS Lease Agreement Recording	132.00
24764	KING COUNTY RECORDER'S OFFICE	St. Edward Park Recording Fee	84.00
24765	NATIONWIDE FINANCIAL 401a	Payroll Entry	9,603.64
24766	NATIONWIDE RETIREMENT SOLUTIONS 457	Payroll Entry	1,570.00
24767	ICMA RETIREMENT TRUST 457 - 304745	Payroll Entry	2,219.22
24768	DRS 457	Payroll Entry	1,706.66
24769	AFLAC	Payroll Entry	742.87
24770	CITY OF KENMORE FS	Payroll Entry	176.96
24771	BANK OF AMERICA 941	Payroll Entry	11,065.78
24772	WA GUARANTEED EDUCATION TUITION	Payroll Entry	207.50
24773	DEPARTMENT OF RETIREMENT SYSTEMS	Payroll Entry	8,899.24
24774	DEPARTMENT OF LABOR AND INDUSTRIES	Payroll Entry	1,498.00
24775	UNITED WAY OF KING COUNTY	Payroll Entry	46.00
24776	NATIONAL LIFE OF VERMONT	Payroll Entry	328.34
24777	AMERICAN GENERAL	Payroll Entry	451.77
24778	STATE OF FLORIDA DISBURSEMENT UNIT	Payroll Entry	275.00
24779	AWC EMPLOYEE BENEFITS	Payroll Entry	33,130.16
24780	BAKER, DAVID	Oct. Business Meetings	102.92
24781	VAN NESS, ALLAN	October Business Meetings	114.87
24782	ANDERSON, LAURI	Conference Meals & Hotel Reimbursement	165.25
24783	SOUND PUBLISHING, INC.	Bi-monthly ad in Kenmore Reporter	720.00
24784	KING COUNTY SHERIFF	OT Chgs Aug. 2011 - Concerts	595.89
24785	KING COUNTY SHERIFF	Police Services - Sept. 2011	225,121.50
24786	KING COUNTY TREASURY	Prop Tax 18704 73rd Ave. NE	13.67
24787	KING COUNTY TREASURY	Prop Tax - 7321 NE 192nd St	331.38
24788	PEOPLES STORAGE	Rent 11/1-11/30/11 C304	177.00
24789	US POSTAL SERVICE (HASLER)	Postage Meter Refill 3/9-10/17/11	3,777.50
24790	BANNER BANK CS	Supplies, 12V Car Adapters	101.91
24791	BANNER BANK DB	APA Conference Registration	300.00
24792	BANNER BANK JG	Diamond Traffic Products/ WSP	200.36

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

24793	BIS	Website Hosting - Oct. 2011	175.00
24794	INTEGRA TELECOM	City Hall Phone 10/8-11/7/11	743.40
24795	GATES, JANICE	UPS Shipping Reimbursement	71.96
24796	BANNER BANK NO	Bus. Mtg. Parking, Econ Development	271.70
24797	JORVE CORPORTATION	Sr. Center Re-Roof - Deposit	13,129.16
24798	BANNER BANK JGORDON	Roofing Deposits, Supplies, To	3,800.30
24799	BAKER, DAVID	Oct. Business Mtgs. & Travel	179.34
24800	BANNER BANK LB	Printing for Lakepointe Project	264.98
24801	BANNER BANK KENMORE	Logding - Meeting & Copying Exp.	920.32
24802	BANNER BANK KENMORE	Sept Chgs - Lodging/ Transport	1,698.17
24803	ESA ADOLFSON	Prof Svc Squires Landing 8/20-10/7/11	760.00
24804	BRAVO ENVIRONMENTAL SERVICE	Decant Tank Cleaning/ Disposal	12,366.80
24805	CASCADE PEST CONTROL	Oct. 2011 Pest Control Kenmore	142.35
24806	CATHOLIC COMMUNITY SERVICES	Q3 2011 (EAP) Program	1,500.00
24807	CENTER FOR HUMAN SERVICES	Q3 2011 Northshore Family Center	7,900.00
24808	CITY OF BELLEVUE	Q3 Human Svcs Pooled Program	22,279.00
24809	CITY OF LAKE FOREST PARK	Oct. Billing, Backhoe & Materials	58,432.15
24810	COASTWIDE LABORATORIES	Facility Maintenance Supplies	462.69
24811	CONSEJO COUNSELING & REF	Q1 & Q3 2011 Domestic Violence	1,750.00
24812	DAILY JOURNAL OF COMMERCE	Advertising - Banner Fabric. Svcs	950.40
24813	ALLIED WASTE SERVICES #172	City Hall Service September, 2011	714.68
24814	FERGUSON ENTERPRISES INC	Materials - CB Improvement Zone 3	335.47
24815	FULL MAINTENANCE GARDENING	6700 Bldg. Maintenance	373.40
24816	GEOENGINEERS INC	Eng. Svcs 9/3-10/7 Feasel Stairs	481.25
24817	GRAY & OSBORNE, INC	Prof Svc 9/18-10/15 Tributary 057	13,401.61
24818	H.W. LOCHNER, INC.	522 PH 1 ST 2 & 61st/ 181st Signal	10,151.68
24819	HOPELINK	Q3 2011 Emergency Services	8,671.25
24820	HOPELINK	Q3 2011 Emergency Feeding Svcs	630.00
24821	INSTITUTE FOR FAMILY DEVELOPMENT	Q1 2011 Parents & Children Together	6,000.00
24822	JET CITY PRINTING	Printing - Posters	24.64
24823	KING COUNTY FINANCE	Sept. 2011 Adult Detention	289,146.77
24824	KING COUNTY FLEET ADMIN	Park Rules Signs - Sept. 2011	441.31
24825	KING COUNTY PUBLIC DEFENSE	Public Defense Screening - Sep	735.94
24826	LIGHTHOUSE CONSULTING INC	Sept. 2011 IT Services	1,270.20
24827	NORTHSHORE SENIOR CENTER	Q3 2011 - Transportation Program	6,000.00
24828	NORTHSHORE UTILITY DIST	Fleet Maintenance Sept. 2011	4,437.81
24829	NORTHSHORE YOUTH & FAMILY SERVICES	Q3 2011 Youth & Family Counseling	7,500.00
24830	OLYMPIC ENVIRONMENTAL RESOURCES	Fall Recycling Event - Oct. 8th	18,648.95
24831	OTAK	Period ending 10/7 SR522 Const. Eng.	132.68
24832	PACIFIC TOPSOILS	9/26-10/22 Materials & Dumping	725.74
24833	PUGET SOUND ENERGY	Tree Illumination 18120 68th NE	6,501.45
24834	CEMEX	Patch Materials 15113 65th NE	288.80
24835	ST EDWARD STATE PARK	Summer 2011 Concert Rental	9,465.22
24836	STATE AUDITOR'S OFFICE	09/11 Audit Svcs for 2010	1,187.78
24837	TOTAL LANDSCAPE CORP	Oct. Landscaping Parks, CH, SR 522	6,404.21
24838	UNITED STATES POSTMASTER	12 Month PO BOX Fee	250.00
24839	COLUMBIA RIDGE LANDFILL	10/3-10/14 Rental & Dump Fees	1,315.82
24840	WONDERLAND DEVELOPMENT	Q3 2011 Developmental Center	2,875.00
24841	ANDONIADIS INC	Pizza for Dance @ Kenmore Jr. High	440.46

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

24842	VAN NESS, ALLAN	Airfare Reimbursement 11/8-11/12/11	287.40
24843	PROTHMAN COMPANY	City Manager Recruitment	6,166.67
24844	MAIL FINANCE	Lease 11/14/11 - 12/13/11	250.76
24845	SOUND LAW CENTER	Prof Svcs - Thompson Short Plat	1,998.50
24846	KELLY PRINTING & GRAPHICS	4,000 #10 Envelopes	643.86
24847	OUSLEY, NANCY	Aug-Sep 2011 Exp. Reimbursement	60.73
24848	QUALITY BUSINESS SYSTEMS	Copier Svc. 9/3-10/3/11	51.39
24849	PERKINS COIE	Svcs thru 9/30/11 Re: Urban Partners	1,377.00
24850	COMMERCIAL SOUND, INC.	Retractable Monitors - City Council	16,095.41
24851	UNIVERSAL FIELD SERVICES	Sept. 2011 Abagobez Property ROW	1,241.11
24852	SHRED-IT	Shredding Svc. 10/26/11	49.50
24853	ALLIANCE OF PEOPLE W/ DISABILITIES	QTR 1 2011 Youth in Transition	2,250.00
24854	SUNBELT	Winterizing, Parks/ ROW Materials	128.23
24855	PRUDENTIAL	Premium 11/21/11-2/20/12 City Engineer	373.13
24856	HERO HOUSE	Q3 2011 HERO House	387.50
24857	COMCAST	City Hall Internet - October	109.90
24858	GORDON DERR	Legal Services - Sept. 2011	1,800.00
24859	IWORQ SYSTEMS	Computer Software Nov '11 - Oct '12	3,800.00
24860	TOWNE CENTRE HARDWARE	Materials Purchased 9/1, 9/6 & 9/7/11	34.55
24861	ESPRESSO WORKS	Coffee for City Event	75.00
24862	SARAH ROBERTS	Prosecution Svcs - October, 2011	9,300.00
24863	COX PRINTING & SIGNS	NCR - Printing	134.14
24864	AM TEST, INC	Sample Testing	100.00
24865	SUSSMAN/PREJZA & CO, INC	Professional Svcs September, 2011	880.00
24866	PAWS	Sept. 2011 Animal Sheltering Svcs	640.00
24867	MATRIX CONSULTING GROUP	Sept. 2011 Police Svcs Study	1,873.00
24868	HOPKINS, CRAIG	Mileage Reimbursement Oct. 201	69.38
24869	STEPHENS, MARY	Sno. County Sept Public Defense	1,250.00
24870	JURASSIC PARLIAMENT	Services - Sept. 2011	218.75
24871	JACOBSON, BETTS & COMPANY	10/1-10/15 Job Desc. Comp. Study	1,664.00
24872	MICHAEL TERRY'S TRAPPING	Trapping Service July, 2011	960.00
24873	NORTH COAST ELECTRIC	Facility Maintenance Supplies	1,021.37

\$ 885,500.51

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

PRIOR VENDOR ACTIVITY	Previous YTD
3CMA	375.00
A+ CONFERENCING	203.79
AA PARTY RENTALS	3,070.92
ABBOTT, CARRIE	250.00
ACTION ENTERTAINMENT	1,090.00
ACTIVE SHOOTER TRAINING LLC	815.90
ADT SECURITY SERVICES	1,092.76
ADVANCE TESTING & SERVICE INC	459.00
AFLAC	8,859.73
ALCALDE & FAY	60,503.01
ALLIANCE OF PEOPLE W/ DISABILITIES	386.25
ALLIED WASTE SERVICES #172	7,850.31
ALPHA COURIER SERVICES	33.60
AM TEST, INC	1,395.00
AMERICAN ASSOC OF CODE ENFORCEMENT	75.00
AMERICAN GENERAL	4,192.20
AMERICAN PLANNING ASSOCIATION	1,501.00
AMERICAN PUBLIC WORKS ASSOCIATION	503.42
AMERICAN REPROGRAPHICS COMPANY	127.43
AMERICAN SOCIETY OF COMPOSERS	305.00
AMES2BFIT	50.00
ANDERSON, LAURI	27.94
ANDONIADIS INC	1,302.44
APPLIED PROFESSIONAL SERVICES INC	1,536.93
ARGENS	15.88
ARTS OF KENMORE	500.00
ASP, ANGELA	210.00
ASSOCIATION OF WA CITIES	13,970.00
AT WORK	1,855.25
AURORA RENTS	2,518.04
AWC EMPLOYEE BENEFITS	333,848.79
BABB, MICHELLE	186.92
BADGLEY'S LANDSCAPE LLC	2,190.00
BAKER, DAVID	2,503.20
BANK OF AMERICA 941	248,867.66
BANNER BANK BH	463.61
BANNER BANK CS	5,480.71
BANNER BANK DB	930.49
BANNER BANK JG	7,370.57
BANNER BANK JGORDON	9,569.66
BANNER BANK KENMORE	29,072.14
BANNER BANK LB	1,855.30
BANNER BANK LD	6,021.80
BANNER BANK NO	5,249.15
BARCLAY DEAN ARCHITECTUAL PRODUCTS	711.75
BASTYR UNIVERSITY	220,783.70

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

BAYLES, GREGORY	50.00
BEEGEE TOLPA	700.00
BEKINS NORTHWEST	303.45
BENNETT, STUART	29.36
BIG BUBBA DOG LLC	1,500.00
BIS	4,160.00
BLACKBAUD	4,956.23
BLUE WAVE CONSTRUCTION, INC	24,671.83
BODINE CONSTRUCTION SERVICES, INC	383.25
BOTHELL SKI & BIKE	120.44
BOWHEAD ENVIRONMENTAL & SAFETY	414.59
BRABEC, MARY	3,500.00
BRADY, DAVID	84.00
BRAVO ENVIRONMENTAL SERVICE	122,488.07
BULGER SAFE & LOCK, INC.	98.55
C. ANDERSON & CO.	1,209.98
CALIBRE HOMES, INC	7,500.00
CALPORTLAND COMPANY	4,740.98
CANOPIES BY FRED	647.15
CARLSON, THOMAS G.	1,193.31
CASCADE PEST CONTROL	1,669.91
CATHOLIC COMMUNITY SERVICES	4,512.75
CEMEX	7,081.25
CENTER FOR HUMAN SERVICES	24,040.00
CHAMPION COURIER	78.25
CHILDERS, MARK	1,069.96
CITY OF BELLEVUE	428,831.65
CITY OF CLYDE HILL	583.00
CITY OF KENMORE FS	3,788.03
CITY OF LAKE FOREST PARK	605,538.57
CITY OF RENTON	980.00
CITY OF SHORELINE	993.76
CLARITY SIGNS	2,602.28
CLUB NORTHWEST	30.00
CLYDE/WEST	1,215.87
COASTAL WEAR PRODUCTS INC	2,701.02
COASTWIDE LABORATORIES	5,443.89
CODE 4 PUBLIC SAFETY EDUCATION	198.00
CODE PUBLISHING COMPANY	547.50
COFFMAN, JON	183.00
COLUMBIA BANK	11,099.56
COLUMBIA FORD	26,352.28
COLUMBIA RIDGE LANDFILL	17,619.41
COMCAST	1,208.90
COMMERCIAL SOUND, INC.	1,444.26
CONSEJO COUNSELING & REF	2,125.00
CONSOLIDATED PRESS	5,043.08
CONTECH STORMWATER SOLUTIONS, INC	15,444.98
CORNERSTONE ROOFING	98.50

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

COSTCO RETAIL SERVICES	27.62
COX PRINTING & SIGNS	399.68
CPSWQ	100.00
CROWN PRODUCTS	2,042.85
CSAT, LLC	1,600.00
CURRY, ROSS	183.00
CUSTER SPORTSMEN'S CLUB, INC	150.00
DAILY JOURNAL OF COMMERCE	821.80
DANSOUND INC	6,487.89
DAS MANUFACTURING, INC.	10,413.75
DBM CONTRACTORS, INC	215,717.62
DELL MARKETING L.P.	4,275.06
DEPARTMENT OF ECOLOGY	5,082.52
DEPARTMENT OF LABOR AND INDUSTRIES	29,286.12
DEPARTMENT OF LICENSING	10.00
DEPARTMENT OF RETIREMENT SYSTEMS	165,046.24
DEVRIES, DENIS	159.95
DIAMOND TRAFFIC PRODUCTS	190.36
DIGITAL REPROGRAPHICS SERVICES INC.	1,591.79
DISSTON, GALEN	1,500.00
DOWL HKM	12,595.00
DRS 457	34,881.36
DUNN LUMBER COMPANY	1,759.14
DURRANT, JEFF	879.25
EARTHCORPS	15,204.18
EAST JORDAN IRON WORKS	1,152.48
EDGE CONCRETE CONSTRUCTION, LLC	1,250.00
EFFICIENCY INC	949.37
EMERGENCY FEEDING PROGRAM	3,125.00
EMERGENCY SERVICE COORDINATING AGCY	56,137.00
EMPLOYMENT SECURITY DEPT	1,602.62
ENTERTAINMENT FIREWORKS INC	12,025.00
ENVIRONMENTAL SYSTEMS RESEARCH INST	2,554.01
ESA ADOLFSON	11,624.89
EVANS, C. WILLIAM	5,247.00
EVERGREEN PRINT SOLUTIONS	655.54
EVERGREEN SAFETY COUNCIL	175.00
EVER-MARK, LLC	1,320.33
EXTREME PROMOTIONS	522.00
FAZZARI MARKETING	1,689.29
FEARON, CLINTON	2,000.00
FEASEL, ROBERT	665.00
FEDEX OFFICE	26.61
FERGUSON ENTERPRISES INC	18,869.17
FIRE PROTECTION, INC	3,506.16
FRONTIER	60,845.31
FRUHLING SAND & TOPSOIL	2,128.31
FULL MAINTENANCE GARDENING	3,807.50
GEOENGINEERS INC	40,372.05

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

GIBBONS & RIELY, PLLC	750.00
GORDON DERR	4,266.00
GORDON THOMAS HONEYWELL	33,973.06
GOVERNMENT FINANCE OFFICERS ASSOC	190.00
GRAHAM CONTRACTING LTD.	443,599.44
GRAINGER	6,478.57
GRAY & OSBORNE, INC	4,304.27
GREGORY, JOANNE	1,021.66
GREYSTONE COMMERCIAL SERVICE LP	174.79
GRIESEL, LEONARD	5,849.50
H.W. LOCHNER, INC.	249,272.28
HAMMOND COLLIER WADE LIVINGSTONE	1,050.00
HANSON CONSULTING SERVICES	1,269.00
HARRIS COMPUTER SYSTEMS	6,317.06
HARRIS, LESLIE	864.67
HDR	198,947.75
HEARTLAND	22,920.97
HEATERMEALS	1,193.21
HESSLER, ANDREW	1,800.00
HERO HOUSE	1,161.25
HICKS, KATHLEEN	97.64
HOME DEPOT	893.20
HONEY BUCKET	1,020.40
HOPELINK	42,804.00
HOPKINS, CRAIG	364.16
HORIZON DISTRIBUTORS INC	680.48
HULQUIST HOMES	7,500.00
ICMA RETIREMENT TRUST 457 - 304745	48,072.84
ICOMPASS TECHNOLOGIES, INC.	16,600.00
INDEPENDENT STATIONERS	5,730.38
INFRASOURCE CONTRACTING LLC	29.36
INGLEWOOD GOLF COURSE	2,475.00
INSLEE, BEST, DOEZIE & RYDER, P.S.	231,813.01
INSTITUTE FOR FAMILY DEVELOPMENT	6,938.00
INSTRUMENTATION NORTHWEST INC.	1,560.58
INTEGRA TELECOM	8,193.84
INTERNATIONAL CITY/CNTY MGMT ASSOC	2,154.43
INTERNATIONAL INST OF MUNI CLERKS	560.00
IRIS WINDOW COVERINGS NW, INC.	1,382.81
iWORQ SYSTEMS	4,800.00
J&K ASSOCIATES	10,789.04
J. MURPHEY CONSTRUCTION	42.67
JBS INSTRUMENTS	3,360.75
JET CITY PRINTING	4,390.37
JOHN E. REID & ASSOCIATES	580.00
JONES & STOKES	129.31
JRW ENTERPRISES	413.36
JURASSIC PARLIAMENT	2,202.60
KCDA PURCHASING COOP	9,328.55

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

KEEP POSTED INC	173.00
KELLY PRINTING & GRAPHICS	6,156.11
KELLY THOMAS, INC.	11,587.29
KENMORE ELEMENTARY PTA	5,666.67
KENMORE HERITAGE SOCIETY	25.00
KENYON DISEND, PLLC	14,104.37
KEY EQUIPMENT FINANCE	2,697.00
KING COUNTY	1,672.65
KING COUNTY W.L.R.D.	274,487.30
KING COUNTY ANIMAL SVCS	4,835.00
KING COUNTY ARCHIVES	82.90
KING COUNTY DEPT OF CONST PROP SVCS	1,503.57
KING COUNTY DISTRICT COURT	35,497.00
KING COUNTY FINANCE	985,511.04
KING COUNTY FIRE DISTRICT	850.00
KING COUNTY LIBRARY SYS	33,440.00
KING COUNTY PARKS	5,339.21
KING COUNTY PUBLIC DEFENSE	8,594.00
KING COUNTY RADIO COMM SERVICES	9,463.52
KING COUNTY RECORDER'S OFFICE	470.00
KING COUNTY SHERIFF	2,294,769.39
KING COUNTY TREASURY	38,465.70
KONICA MINOLTA BUSINESS SOLUTIONS	7,876.41
KUKER-RANKEN INC	536.98
KUSTOM SIGNALS, INC.	500.33
LACHAPELLE, NATALIE	300.00
LEE, MYUNG	2,252.00
LIGHTHOUSE CONSULTING INC	31,034.82
LOEWEN, RON	76.00
LONGFELLOW, JONATHAN	420.00
LORBIECKI, GLENN	50.00
LYONS, KEN	6,687.40
MAACO	368.96
MAAS, NORMAN	2,520.00
MAIL FINANCE	2,770.90
MATRIX CONSULTING GROUP	38,127.00
McKEE & SCHALKA	5,500.00
MIDMOUNTAIN CONTRACTORS, INC	82,850.60
MILNE ELECTRIC, INC	24,991.83
MINZGHOR, NICHOLAS	1,411.92
MOBILE ELECTRICAL DISTRIBUTORS INC	35.30
MR. T'S TROPHIES	1,136.14
NAMI EASTSIDE	400.00
NATIONAL ALLIANCE ON MENTAL ILLNESS	1,481.50
NATIONAL ASSOC OF PARLIAMENTARIANS	85.00
NATIONAL BARRICADE CO	2,943.91
NATIONAL LEAGUE OF CITIES	5,439.00
NATIONAL LIFE OF VERMONT	3,833.79
NATIONWIDE FINANCIAL 401a	209,935.46

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

NATIONWIDE RETIREMENT SOLUTIONS 457	25,790.00
NEBC	195.00
NetVersant	9,959.70
NEXTEL COMMUNICATIONS	8,962.36
NEXXPOST	287.31
NORTH CREST DEVELOPMENT CORP.	1,794.00
NORTHSHORE FIRE DEPT	8,042.60
NORTHSHORE PAVING INC	537.90
NORTHSHORE SENIOR CENTER	12,250.00
NORTHSHORE UTILITY DIST	92,255.34
NORTHSHORE YOUTH & FAMILY SERVICES	25,000.00
OAC SERVICES, INC	44,469.71
OAKSTONE WELLNESS	128.07
OFFICE CLEANING CREW	7,862.85
OFFICE DEPOT	917.01
OFFICE TEAM	12,813.71
OLYMPIC ENVIRONMENTAL RESOURCES	27,627.94
OM WORKSPACE	5,418.58
OSTROM DRUGS	557.40
OTAK	143,293.12
OUSLEY, NANCY	1,179.63
PACE ENGINEERS, INC.	3,057.50
PACIFIC NW TITLE CO OF WA, INC	1,171.00
PACIFIC TOPSOILS	8,470.94
PASSPORT TRAVEL AND TOURS	5,130.80
PAWS	8,105.00
PENDLETON CONSULTING LLC	10,044.47
PEOPLES STORAGE	1,891.00
PERKINS COIE	9,428.59
PETTY CASH CUSTODIAN	1,566.83
PHOTOTAINMENT	876.00
PHSI PURE WATER FINANCE	1,207.56
PLATT	506.41
PRIME PACIFIC BANK	60.00
PRO-VAC	15,817.98
PRSA	277.00
PRUDENTIAL	1,119.39
PUGET SOUND BUSINESS JOURNAL	94.00
PUGET SOUND CLEAN AIR AGENCY	10,989.00
PUGET SOUND ENERGY	683,890.09
PUGET SOUND FINANCE OFFICERS ASSOC	50.00
PUGET SOUND REFRIGERATION	2,207.52
PUGET SOUND REGIONAL COUNCIL	7,390.00
PURDY, MICHAEL E.	150.00
PURE WATER TECH OF PUGET SOUND	136.88
QUALITY BUSINESS SYSTEMS	15,221.77
RANDALL, BRIAN	296.37
RICHARD & SHARON ARKLEY LIVING TRUS	2,300.00
RODGERS, MICHAEL	184.00

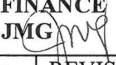
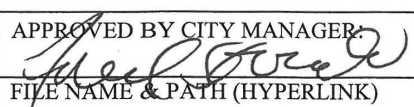
VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

ROGERS, GLENN	2,512.74
RON KASPRISIN AIA	902.29
ROUNDY, CASSANDRA	50.00
S & S UPHOLSTERY	2,135.25
SAFRIN, PATTY	979.57
SARAH ROBERTS	92,100.00
SCHINDLER ELEVATOR CORPORATION	1,243.37
SCHLOTZHAUER FIRM PS	13,080.00
SEATTLE TIMES	5,699.98
SECRETARY OF STATE	55.00
SEES TREES AND EXCAVATION INC	3,131.70
SEMAIHMÖO RESORT	520.56
SERVICE ELECTRIC	869.08
SHARAM FAMILY	19,444.40
SHATTUCK, NANCY	8,000.00
SHORELINE PUBLIC SCHOOLS	450.00
SHRED-IT	544.50
SMITH, JARRETT	50.35
SNOHOMISH COUNTY	78,742.06
SNOHOMISH COUNTY SHERIFF'S OFFICE	42,274.39
SOUND LAW CENTER	12,131.00
SOUND PUBLISHING, INC.	4,539.30
SPECIAL ASPHALT PRODUCTS	5,996.09
SPERRY, LAURIE	250.00
STAPLES ADVANTAGE	7,273.19
STAR NORTHWEST, INC	56,941.47
STARLIGHT CHILDRENS FOUNDATION	190.00
STATE AUDITOR'S OFFICE	19,091.44
STATE OF FLORIDA DISBURSEMENT UNIT	1,100.00
STEPHENS, MARY	8,750.00
STEWART BEALL MACNICHOLS	38,300.00
STOUDER, FRED	1,359.01
STRIPE RITE, INC.	1,215.45
SUBURBAN CITIES ASSOC	11,829.87
SUNBELT	4,361.00
SUSKIN, LYNN	804.10
SUSSMAN/PREJZA & CO, INC	50,788.59
TACOMA SCREW PRODUCTS, INC.	159.70
TELESYSTEMS WEST	914.33
THE KIPLINGER TAX LETTER	89.00
THE PIN CENTER	920.00
THE WILDERS	2,000.00
TIGER CONSTRUCTION & EXCAVATION	5,950.00
TIMEMARK INCORPORATED	106.76
TITAN OUTDOOR, LLC	862.00
TOTAL LANDSCAPE CORP	74,410.21
TOWN & COUNTRY FENCE, INC	427.05
TOWNE CENTRE HARDWARE	788.32
TRAFFIC COUNT CONSULTANTS, INC	5,250.00

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

TRAN, SHAUN & DINH LIEU	415.80
T-TRAN LANDSCAPING & CONCRETE	8,760.00
ULI/SEATTLE DISTRICT CNCL	45.00
UNITED STATES POSTMASTER	1,548.44
UNITED WAY OF KING COUNTY	1,219.00
UNIVERSAL FIELD SERVICES	18,640.24
UNIVERSITY OF WASHINGTON	1,210.00
URBAN LAND INSTITUTE	225.00
US POSTAL SERVICE (HASLER)	4,450.82
VAN NESS, ALLAN	2,707.62
VAUGHAN, KENT	76.00
W.S.S.R.O.A.	450.00
WA ASSOC FOR FLOODPLAIN MANAGEMENT	100.00
WA ASSOC OF CODE ENFORCEMENT	40.00
WA CITIES INSURANCE AUTHORITY	124,502.00
WA FINANCE OFFICERS ASSOCIATION	450.00
WA GUARANTEED EDUCATION TUITION	4,565.00
WA RECREATION & PARK ASSOCIATION	129.00
WA STATE DEPARTMENT OF AGRICULTURE	33.00
WA STATE DEPT OF LABOR & INDUSTRIES	120.20
WA STATE DEPT OF RETIREMENT SYS	154.70
WA STATE DEPT OF TRANSPORTATION	5,472.01
WA STATE PARKS & RECREATION	2,700.00
WARDS NATURAL SCIENCE	1,237.95
WARNER, LOUIS	1.02
WASHINGTON CITY/COUNTY MGMT ASSOC	160.00
WASHINGTON ENERGY SERVICES	120.70
WASHINGTON MILITARY DEPARTMENT	5,009.34
WASHINGTON MUNICIPAL CLERKS ASSOC	75.00
WASHINGTON STATE DEPT OF INFO SERV	14,276.91
WASHINGTON STATE DEPT OF REVENUE	5,003.62
WASHINGTON STATE OFFICE CASH MGMT	769.50
WASHINGTON TREE SERVICE INC	2,847.00
WEINSTEIN AU	22,005.11
WELLS FARGO BANK	803.43
WELLS FARGO FINANCIAL	4,435.70
WONDERLAND DEVELOPMENT	11,415.00
YAKIMA COUNTY DEPT. OF CORRECTIONS	59,400.05
YAMASATO, JON	1,750.00
YAZDIDOOST, KAMRAN	4,305.60
ZESBAUGH, INC.	423.77
ZONAR SYSTEMS	525.33
ZORNES, GARY	230.00
ZUMAR	456.90
	10,777,209.36

VB. Approval of Claim Nos. 24763 - 24873 in the Amount of \$885,500.51 for the Period Ending November 2, 2011.

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Accept September 2011 Financial Reports for the City of Kenmore, Washington			November 14, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Finance	Joanne Gregory	Joanne Gregory	425-398-8900
COST OF PROPOSAL: N/A		ACCOUNT NUMBER: Various	
AMOUNT BUDGETED: 2011-2012 Adopted City Budget \$37,128,075		NAME AND FUND #: All Funds	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1. September 2011 Financial Reports for the City of Kenmore, Washington			
SUMMARY STATEMENT: The September monthly financial report is submitted for Council review and adoption. This provides the opportunity for the City Council and the community to receive information on the City of Kenmore's year to date revenues and expenditures in comparison to the City's 2011-2012 adopted biennial budget. It also provides an early opportunity to identify any potential variances or fluctuations from the adopted budget. September is the ninth month (38%) of the current biennium. Sales tax and real estate excise tax (REET) revenues remain low, especially when compared to already low results in 2009 and 2010. In the General Fund, sales tax revenue is about \$100,000 below projections at this point in the year. Development revenues overall, including impact fees, and gas taxes are not showing any improvement; property tax collections are on target. On the national level, the unemployment rate remained at 9.1% in September for the third month in a row. The Dow Jones closed in September at 10,913, another decrease from 11,613 reported in August.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Kenmore Budget Policy 9a: A revenue/expenditure report will be produced monthly so that it can be directly compared to the actual results of the fiscal year to date. Kenmore Budget Policy 9b: All budget amendments, both revenues and expenditures, will be noted in the monthly report.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Accept September 2011 Financial Report for the City of Kenmore, Washington			
REVIEWED BY FINANCE DIRECTOR: JMG 		REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: November 4, 2011	REVISION DATE(S):		FILE NAME & PATH (HYPERLINK)

I:\Admin & Finance\Monthly Reports\2011\Sept AB Summary.docx

VC. Accept September 2011 Financial Reports for the City of Kenmore - Joanne Gregory,
Finance Director



The City of Kenmore

PO Box 82607
KENMORE, WASHINGTON 98028

MEMORANDUM]

TO: Frederick C. Stouder, City Manager
FROM: Joanne Gregory, Finance Director
DATE: November 3, 2011
RE: September 2011 Financial Reports for the City of Kenmore, Washington

September 2011 financial information is presented for your review and delivery to the City Council. Attached you will find the following reports:

- General Fund Summary
- General Fund Revenue Graphs
- General Fund Expenditure Graphs
- All Funds Cash Summary
- Other Funds Monthly Activity
- Cash and Investment Report
- Schedule of Investments
- Sales Tax Receipts by Business Type
- Retail Sales and Use Tax Distribution
- Real Estate Excise Tax Report
- Monthly Report for Kenmore Village
- SR 522 Phase I Revenue and Expenditure History
- SR 522 Phase II Revenue and Expenditure History

If you would like additional information or have any questions regarding the financial reports, please feel free to contact me.

GENERAL FUND

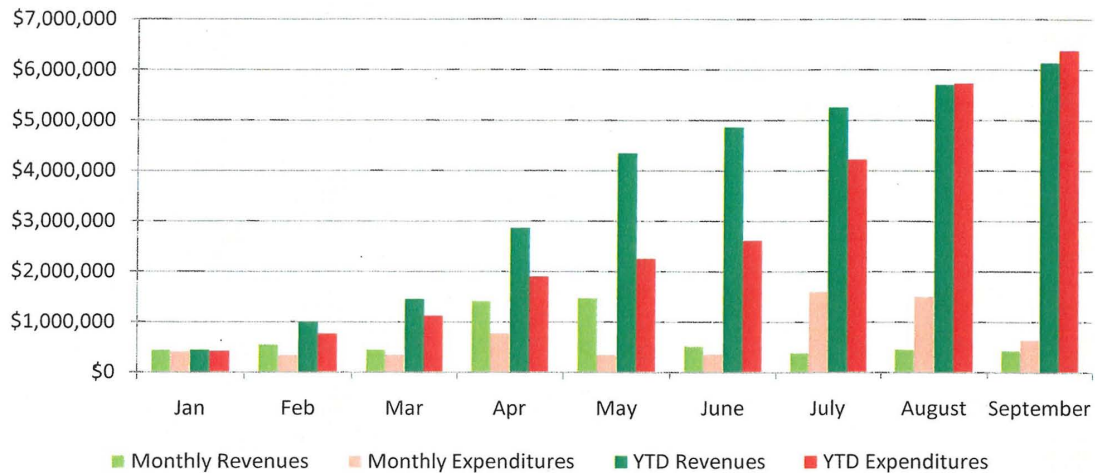
The first section of the monthly financial report is a review of the General Fund. This fund accounts for operational activities and includes all financial resources except those required or elected to be accounted for in another fund. Revenues include various taxes, per capita distributions from the State, fines and forfeitures, permits and licenses, and fees for service.

In the context of the biennial budget, September is the ninth month (37.5%) of the 2011-2012 biennial budget period.

For the month of September, expenditures exceeded revenues in the General Fund by **\$219,366**.

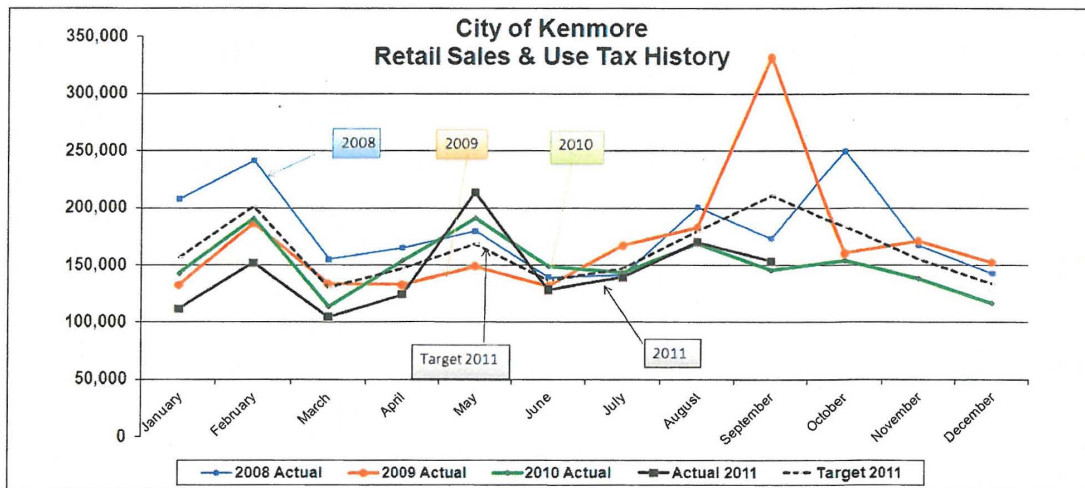
The following chart illustrates the monthly revenue and expenditure activity in the General Fund through September, 2011.

City of Kenmore, Washington
Monthly Financial Report
September 2011

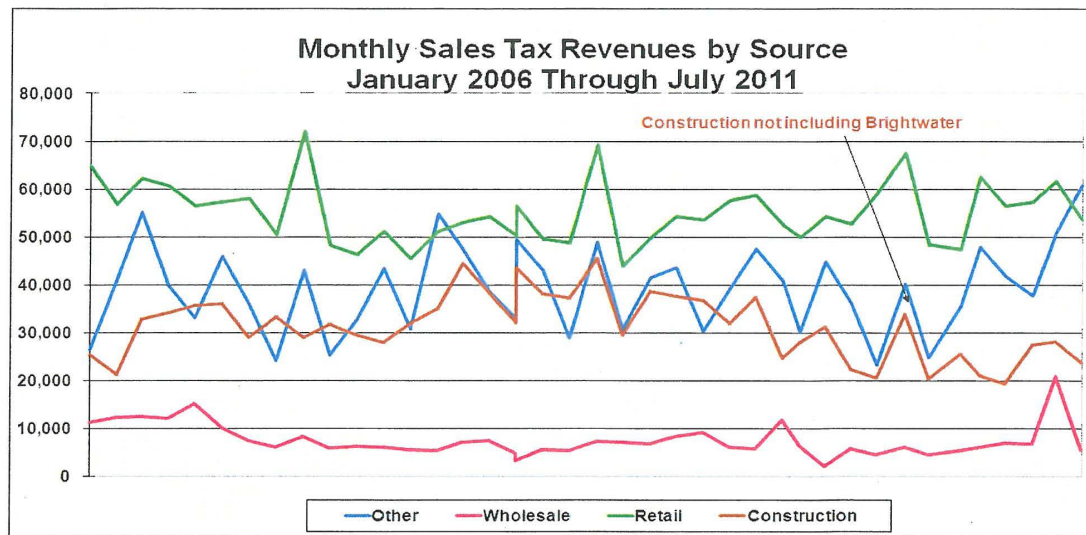


Total **revenues** for the month were **\$430,393**. Year to date the revenues are \$6,143,167 which is 32.6% of the biennial budgeted revenues of \$18,833,596. Primary sources of revenue for the month included retail sales and use taxes in the amount of \$153,526 and utility taxes in the amount of \$96,790. Note that year to date franchise fees are unusually high because two of the 2010 quarterly payments (total of \$121,674) were remitted to the City in early 2011.

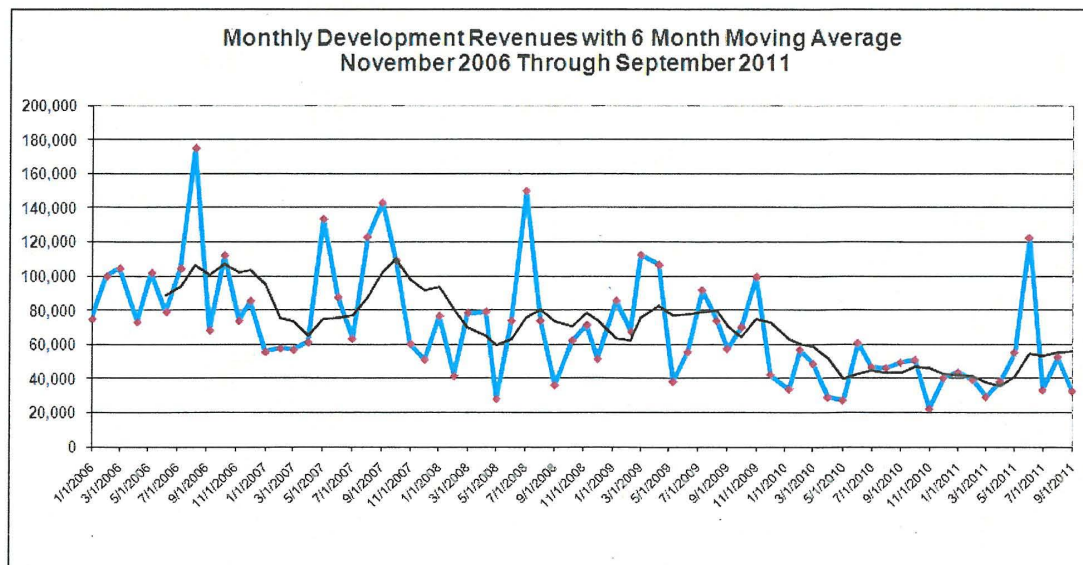
A summary of sales tax revenues received in September is attached. These receipts are based on July sales activity and have been tracking lower each month than the previous three years. The chart below gives a historical perspective of monthly sales tax receipts over the last several years. The black dotted Target 2011 line is a monthly average of actual receipts by month during 2008, 2009, and 2010. The solid black line represents 2011 actual receipts.



The following chart illustrates the historical trends of sales tax receipts from the major segments: construction, retail, wholesale, other (agriculture, services, manufacturing, transportation and utilities) from January 2006 through July 2011. Construction sales taxes are shown without the benefit of the Brightwater construction project and are declining. This category previously had the benefit of the city hall, Bastyr dorms, fire station and library construction projects which have been completed. Other segments have not yet experienced significant, prolonged downturns; however wholesale and manufacturing receipts have definitely fallen off.



Development revenues are also declining noticeably. The following chart illustrates the revenue activity over the last four and a half years.



September 2011 expenditures were \$649,759. Year to date expenditures are \$6,380,191 which is 33.1% of the biennial budget expenditures of \$19,256,668. During this month, no unusual transactions were noted.

The General Fund 2011-2012 budgeted beginning fund balance is \$4,941,884. This is a substantial reserve and represents 53% of the budgeted 2011 expenditures. The City's Financial Policy 3) Contingent Accounts prescribes that the minimum General Fund balance reserve should be \$1,876,990 for 2011. The City Council will provide policy direction regarding the additional reserve of \$3,064,894.

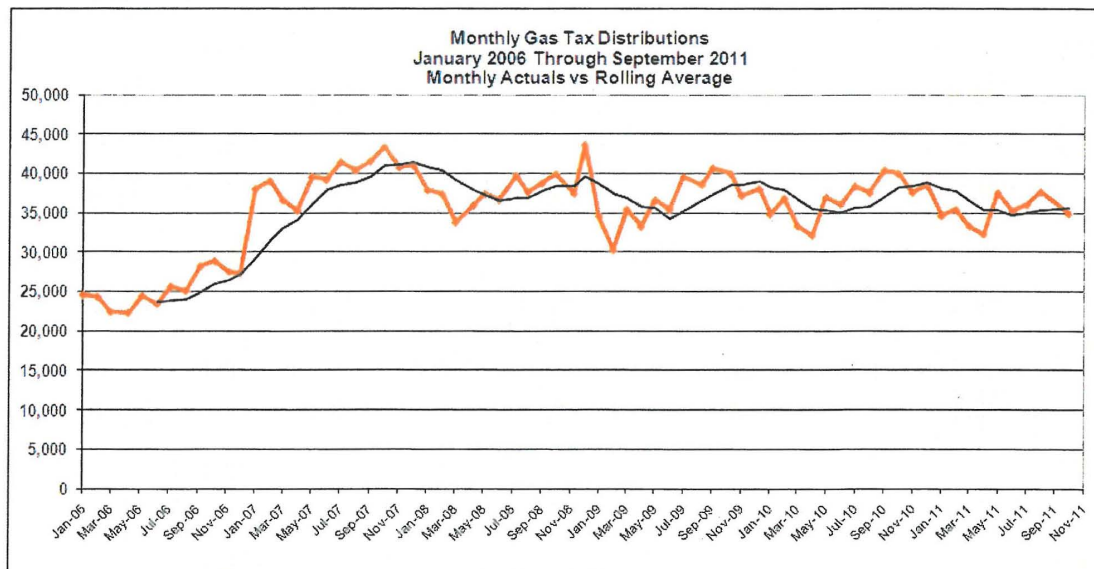
OTHER FUNDS

The September cash activity for all funds is presented on the attached All Funds Cash Summary. Total City cash and investments, at the end of September, totaled \$15,936,282. The Other Funds Monthly Activity graphs compare biennium to date revenues and expenditures to the 2011-2012 biennial budget.

Other than the following, there were no significant transactions or unusual activities noted during the month of September. Total other fund (non General Fund) revenues were \$233,052 and total other fund (non-General Fund) expenditures were \$626,849.

In the **Street Fund** revenue from gas tax distributions was \$34,959.

The following chart shows recent gas tax receipts through September, 2011. The price of gas seems to have stabilized although revenues are not expected to rise due to economizing by the public and increased use of fuel efficient vehicles.



City of Kenmore, Washington
Monthly Financial Report
September 2011

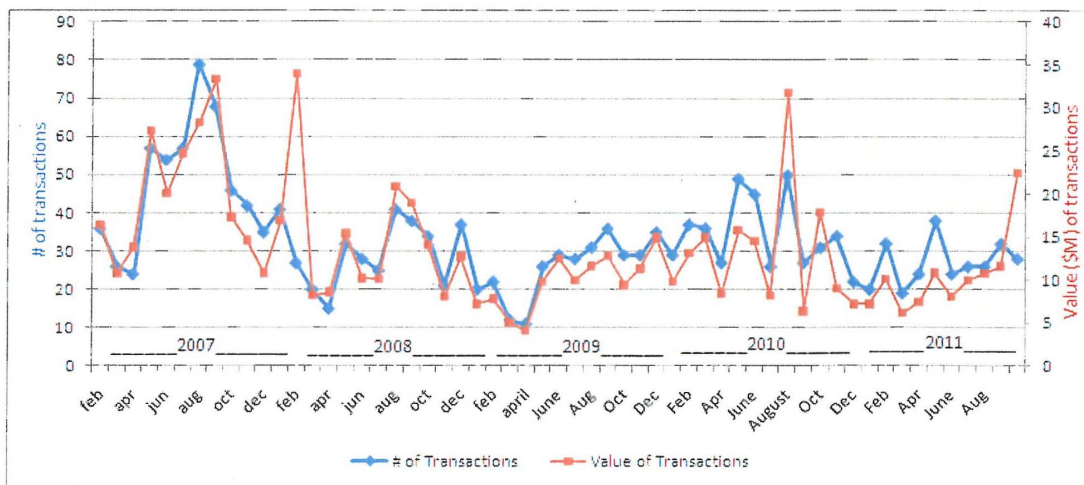
In the **Arterial Street Fund**, \$20,659 was expended on SR 522 Phase I and Phase II; \$78,145 was spent on various other transportation projects including the slide repair on 61st Place NE.

In the **Street Fund**, \$369,197 was expended. Of that amount, \$302,880 was expended on Street Overlay services.

Park impact fees of \$586 were received and **transportation impact fees** of \$11,392 were received in September.

The **Municipal Capital Fund** received \$111,107 of real estate excise taxes (REET) in September from sales activity that occurred in August. 28 transactions were reported this month.

The attached Real Estate Excise Tax Report shows the monthly activity since 2007. Below is a chart that shows both the number of real estate transactions and the value of those transactions for the years 2007, 2008, 2009, 2010, 2011. It is evident that there are a stable number of monthly transactions but not at the peak level experienced in 2007.



SUMMARY

This concludes the financial report for the City of Kenmore as of **September 30, 2011**. Thank you for taking the time to review the materials. I appreciate your feedback and encourage you to contact the City Manager if you have any questions prior to the City Council meeting.

City of Kenmore, Washington
General Fund Summary Report
September 30, 2011



	CURRENT PERIOD 2011-2012				PRIOR PERIOD 2009-2010		
	MONTH	YEAR TO DATE	% of	BIENNIUM BUDGET	CURRENT	YEAR TO DATE	BIENNIUM BUDGET
	September	2011	BUDGET	2011-2012	September-2010	2010	2009-2010
REVENUES							
Beginning Fund Balance		4,941,884		4,941,884			3,683,966
Property Taxes	69,088	2,290,582	27.7%	8,254,387	55,192	2,218,301	7,870,521
Sales and Use Taxes	188,303	1,608,830	37.1%	4,339,202	179,124	1,694,289	4,486,179
Utility Taxes	96,790	1,103,199	36.7%	3,002,082	95,652	1,096,274	3,001,932
Other Taxes	0	21,411	20.6%	104,104	0	22,015	145,900
Development Fees & Permits	32,797	447,787	31.1%	1,439,095	49,556	399,520	1,803,313
Franchise Fees	0	330,421	61.3%	538,588	0	190,068	466,900
Intergovernmental and Grants	35,398	265,224	34.8%	761,476	45,677	329,481	760,841
Investment Interest	5,706	59,071	105.5%	56,000	4,386	2,098	180,000
Fines and Forfeitures	0	664	0.0%	0	0	-13,622	0
Transfers and Other Revenues	2,311	15,978	4.7%	338,662	0	145,125	235,220
Total Revenues	430,393	6,143,167	32.6%	18,833,596	429,587	6,083,550	18,950,806
Total Revenues & Beginning Fund Balance		11,085,051		23,775,480			22,634,772

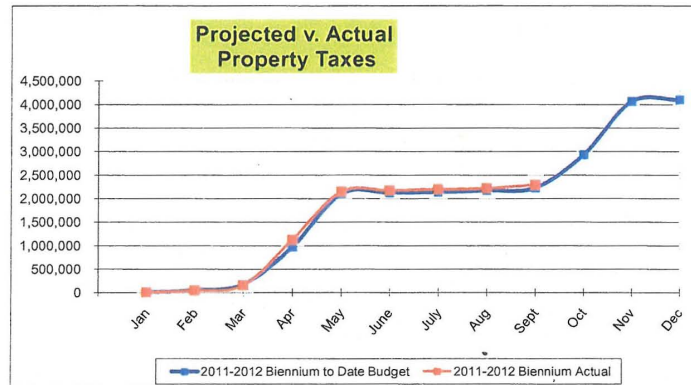
	CURRENT PERIOD 2011-2012				PRIOR PERIOD 2009-2010		
	MONTH	YEAR TO DATE	% of	BIENNIUM BUDGET	CURRENT	YEAR TO DATE	BIENNIUM BUDGET
	September	2011	BUDGET	2011-2012	September-2010	2010	2009-2010
EXPENDITURES							
Cost Center							
City Council	6,929	82,181	37.8%	217,644	7,687	107,263	184,307
City Manager	66,248	674,097	40.0%	1,684,600	80,001	681,444	1,576,240
City Clerk	27,828	189,160	35.3%	536,261	17,590	179,691	503,323
Finance	24,009	196,974	30.8%	639,213	18,715	190,045	484,516
Legal	19,042	204,280	49.6%	412,000	35,795	205,775	415,000
Non-Departmental	44,659	533,037	34.8%	1,532,818	15,274	673,475	1,774,827
Interfund Transfers	0	600,000	37.0%	1,623,013	0	0	3,296,095
Public Safety	304,511	2,286,667	29.8%	7,664,363	82,581	2,262,345	6,969,090
Engineering	44,098	361,705	33.6%	1,074,935	31,099	322,761	1,197,788
Planning & Community Dev	26,448	241,931	32.4%	747,632	85,814	1,033,458	3,358,755
Land Dev & Permitting	46,570	406,195	25.9%	1,571,147		0	0
Parks & Facility Maintenance	39,417	603,964	38.9%	1,553,042	28,148	418,522	1,001,942
Total Expenditures	649,759	6,380,191	33.1%	19,256,668	402,704	6,074,778	20,761,883
Ending Fund Balance		4,704,861		4,518,812			1,872,888
Total Expenditures and Ending Fund Balance		11,085,051		23,775,480			22,634,771

**City of Kenmore, Washington
General Fund Revenue Graphs
September 30, 2011**

PROPERTY TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	10,862	10,090
Feb	53,674	48,396
Mar	178,078	158,944
Apr	977,365	1,129,979
May	2,104,307	2,148,453
June	2,128,886	2,176,581
July	2,141,268	2,199,227
Aug	2,178,622	2,221,494
Sept	2,234,210	2,290,582
Oct	2,939,254	
Nov	4,071,083	
Dec	4,106,660	
2011	4,106,660	

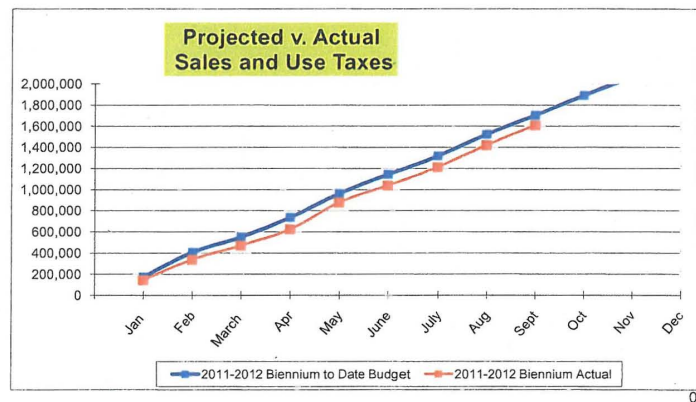
Year To Date
Actual v. Projected 102.52%



SALES, USE, CRIM JUSTICE TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	174,792	143,734
Feb	408,586	337,267
March	552,562	470,750
Apr	738,057	624,068
May	964,931	877,898
June	1,145,610	1,039,289
July	1,320,155	1,212,465
Aug	1,526,322	1,420,527
Sept	1,706,765	1,608,830
Oct	1,894,218	
Nov	2,069,709	
Dec	2,219,601	
2011	2,219,601	

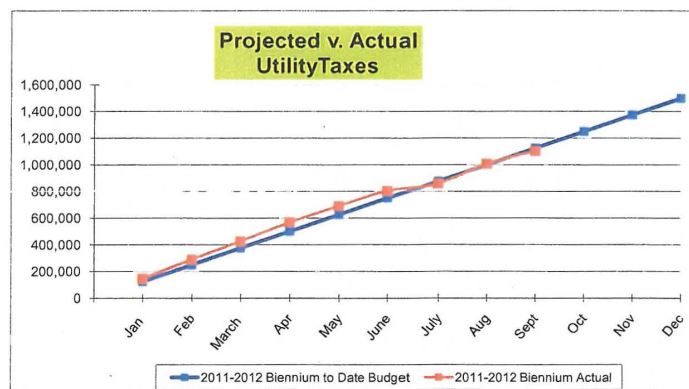
Year To Date
Actual v. Projected 94%



UTILITY TAXES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	125,087	145,824
Feb	250,173	289,238
March	375,260	425,114
Apr	500,347	567,667
May	625,433	690,623
June	750,520	803,249
July	875,607	858,371
Aug	1,000,693	1,006,409
Sept	1,125,780	1,103,199
Oct	1,250,867	
Nov	1,375,953	
Dec	1,501,040	
2011	1,501,040	

Year To Date
Actual v. Projected 98%

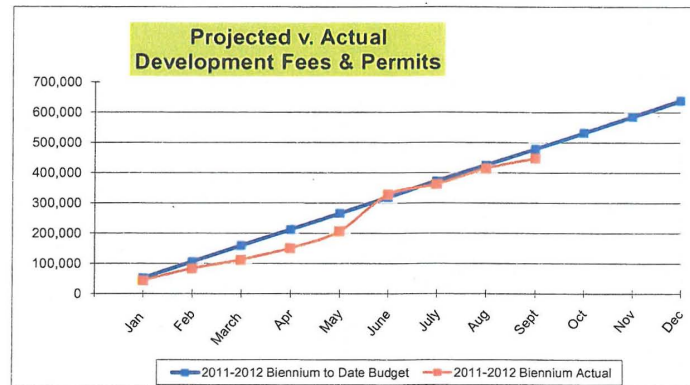


**City of Kenmore, Washington
General Fund Revenue Graphs
September 30, 2011**

DEVELOPMENT FEES & PERMITS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	53,274	43,730
Feb	106,549	83,138
March	159,823	112,539
Apr	213,097	151,023
May	266,372	206,368
June	319,646	328,915
July	372,920	362,254
Aug	426,195	414,990
Sept	479,469	447,787
Oct	532,743	
Nov	586,018	
Dec	639,292	
2011	639,292	

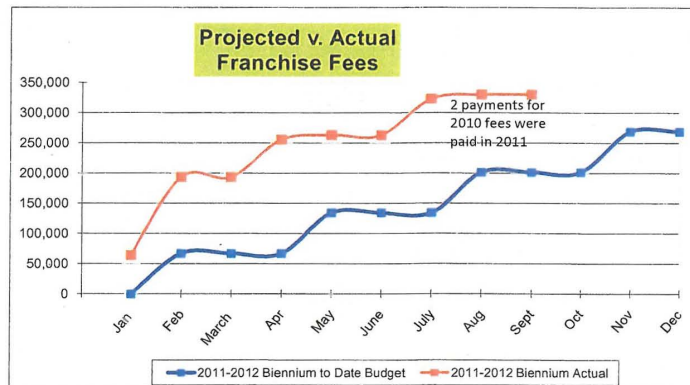
Year To Date
Actual v. Projected 93%



FRANCHISE FEES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	0	64,328
Feb	67,324	193,553
March	67,324	193,553
Apr	67,324	255,526
May	134,647	263,275
June	134,647	263,275
July	134,647	323,165
Aug	201,971	330,421
Sept	201,971	330,421
Oct	201,971	
Nov	269,294	
Dec	269,294	
2011	269,294	

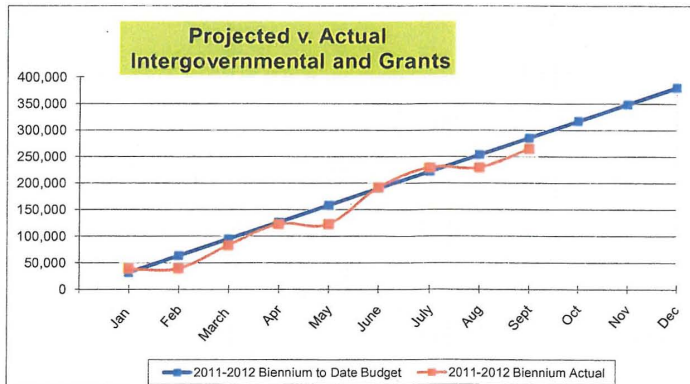
Year To Date
Actual v. Projected 164%



INTERGOVERNMENTAL & GRANTS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	31,728	39,034
Feb	63,456	39,034
March	95,185	83,130
Apr	126,913	122,950
May	158,641	122,950
June	190,369	191,908
July	222,097	229,826
Aug	253,825	229,826
Sept	285,554	265,224
Oct	317,282	
Nov	349,010	
Dec	380,738	
2011	380,738	

Year To Date
Actual v. Projected 93%

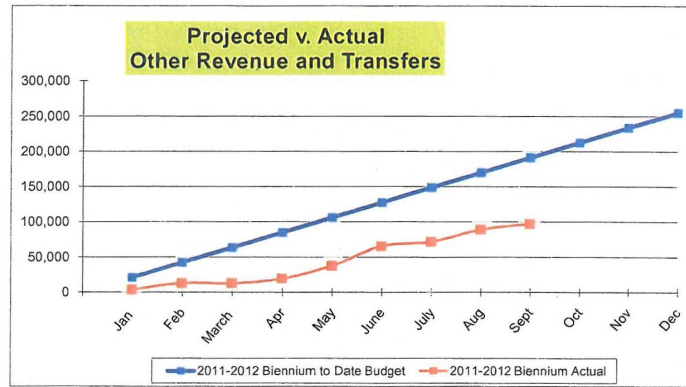


**City of Kenmore, Washington
General Fund Revenue Graphs
September 30, 2011**

OTHER REVENUES AND TRANSFERS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	21,279	3,527
Feb	42,558	12,958
March	63,836	12,742
Apr	85,115	19,440
May	106,394	37,647
June	127,673	65,709
July	148,951	71,702
Aug	170,230	89,107
Sept	191,509	97,124
Oct	212,788	
Nov	234,066	
Dec	255,345	
2011	255,345	

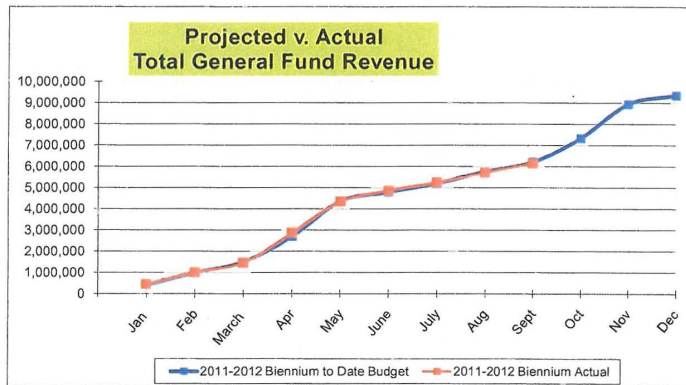
Year To Date
Actual v. Projected 51%



TOTAL GENERAL FUND REVENUE

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	417,023	450,267
Feb	992,321	1,003,584
March	1,492,068	1,456,772
Apr	2,708,218	2,870,653
May	4,360,726	4,347,214
June	4,797,351	4,868,926
July	5,215,646	5,257,010
Aug	5,757,859	5,712,774
Sept	6,225,257	6,143,167
Oct	7,349,123	
Nov	8,955,134	
Dec	9,371,971	
2011	9,371,971	

Year To Date
Actual v. Projected 98.68%

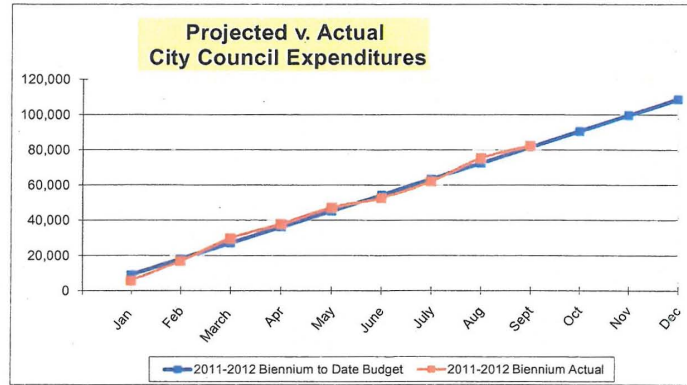


**City of Kenmore, Washington
General Fund Expenditure Graphs
September 30, 2011**

CITY COUNCIL

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	9,066	5,667
Feb	18,133	16,802
March	27,199	29,707
Apr	36,266	37,836
May	45,332	47,279
June	54,399	52,709
July	63,465	62,098
Aug	72,531	75,252
Sept	81,598	82,181
Oct	90,664	
Nov	99,731	
Dec	108,797	
2011	108,797	

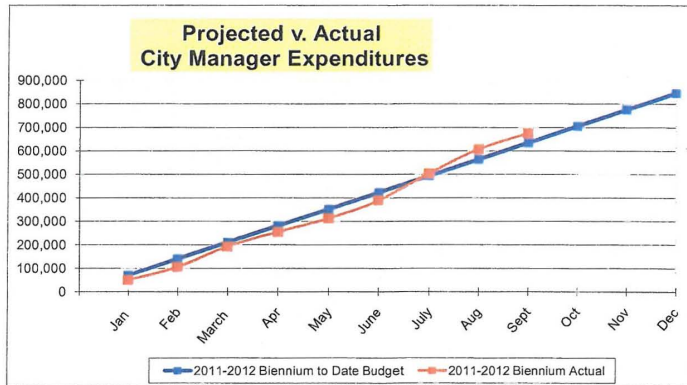
Year To Date
Actual v. Projected 101%



CITY MANAGER

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	70,645	50,407
Feb	141,289	105,614
March	211,934	193,272
Apr	282,578	255,744
May	353,223	313,496
June	423,867	389,432
July	494,512	504,572
Aug	565,156	607,849
Sept	635,801	674,097
Oct	706,445	
Nov	777,090	
Dec	847,734	
2011	847,734	

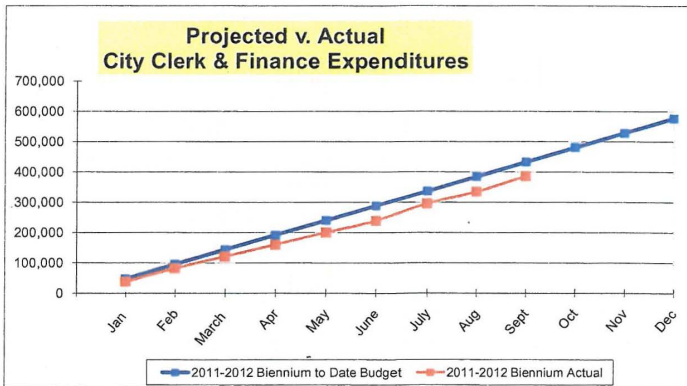
Year To Date
Actual v. Projected 106%



CITY CLERK & FINANCE

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	48,098	38,133
Feb	96,197	82,263
March	144,295	121,368
Apr	192,394	160,428
May	240,492	200,582
June	288,591	239,473
July	336,689	295,925
Aug	384,787	334,297
Sept	432,886	386,134
Oct	480,984	
Nov	529,083	
Dec	577,181	
2011	577,181	

Year To Date
Actual v. Projected 89%

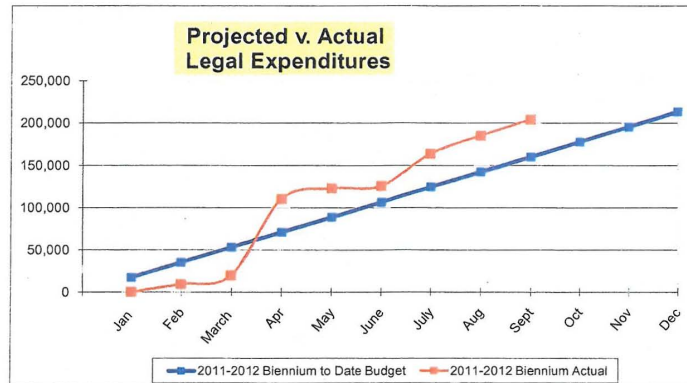


**City of Kenmore, Washington
General Fund Expenditure Graphs
September 30, 2011**

LEGAL

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	17,792	0
Feb	35,583	9,472
March	53,375	19,947
Apr	71,167	110,349
May	88,958	122,937
June	106,750	125,740
July	124,542	163,560
Aug	142,333	185,238
Sept	160,125	204,280
Oct	177,917	
Nov	195,708	
Dec	213,500	
2011	213,500	

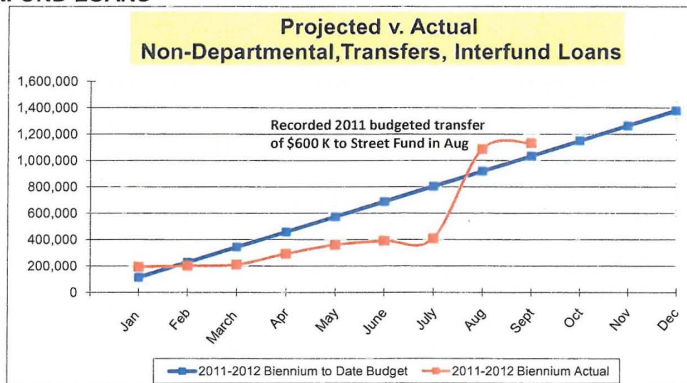
Year To Date
Actual v. Projected 128%



NON-DEPARTMENTAL, TRANSFERS, INTERFUND LOANS

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	115,185	194,427
Feb	230,369	203,114
March	345,554	211,943
Apr	460,738	293,277
May	575,923	361,357
June	691,107	392,134
July	806,292	409,875
Aug	921,476	1,088,378
Sept	1,036,661	1,133,037
Oct	1,151,845	
Nov	1,267,030	
Dec	1,382,214	
2011	1,382,214	

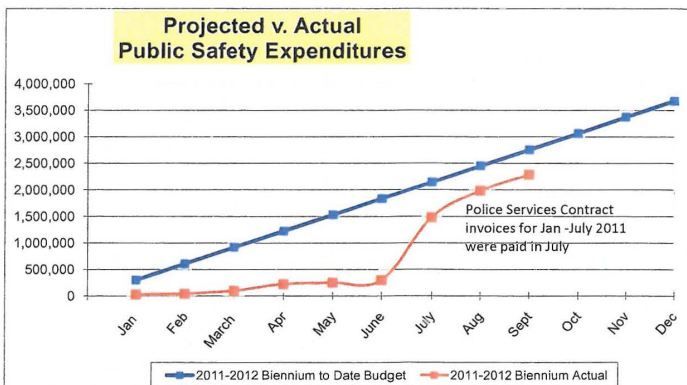
Year To Date
Actual v. Projected 109%



PUBLIC SAFETY

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	306,742	30,467
Feb	613,484	45,647
March	920,227	101,426
Apr	1,226,969	225,914
May	1,533,711	253,770
June	1,840,453	303,077
July	2,147,195	1,482,515
Aug	2,453,937	1,982,156
Sept	2,760,680	2,286,667
Oct	3,067,422	
Nov	3,374,164	
Dec	3,680,906	
2011	3,680,906	

Year To Date
Actual v. Projected 83%

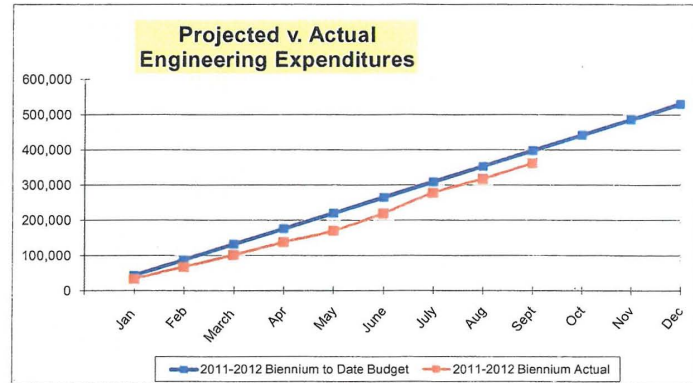


**City of Kenmore, Washington
General Fund Expenditure Graphs
September 30, 2011**

ENGINEERING

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	44,213	33,890
Feb	88,426	67,607
March	132,639	101,292
Apr	176,852	137,709
May	221,065	170,320
June	265,278	219,589
July	309,490	277,509
Aug	353,703	317,607
Sept	397,916	361,705
Oct	442,129	
Nov	486,342	
Dec	530,555	
2011	530,555	

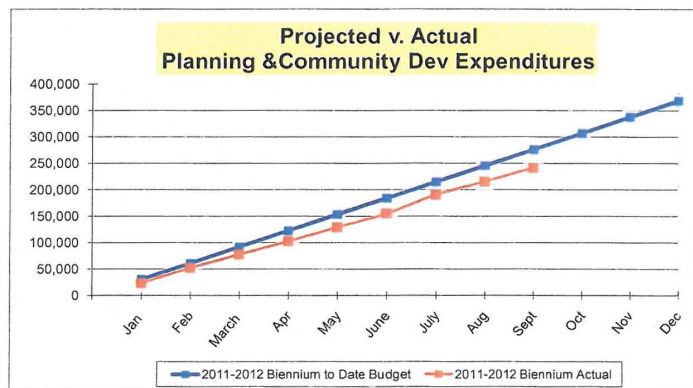
Year To Date
Actual v. Projected 91%



PLANNING & COMMUNITY DEV

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	30,740	23,392
Feb	61,480	52,442
March	92,220	77,462
Apr	122,959	102,864
May	153,699	128,864
June	184,439	155,152
July	215,179	190,246
Aug	245,919	215,483
Sept	276,659	241,931
Oct	307,398	
Nov	338,138	
Dec	368,878	
2011	368,878	

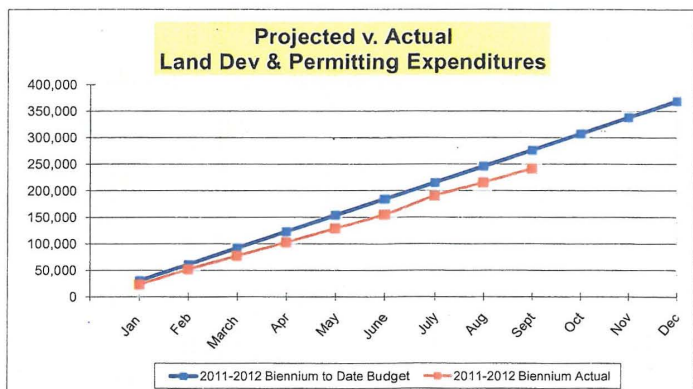
Year To Date
Actual v. Projected 87%



LAND DEV & PERMITTING

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	64,315	39,962
Feb	128,630	81,679
March	192,946	122,785
Apr	257,261	163,379
May	321,576	203,960
June	385,891	260,010
July	450,206	318,402
Aug	514,521	359,625
Sept	578,837	406,195
Oct	643,152	
Nov	707,467	
Dec	771,782	
2011	771,782	

Year To Date
Actual v. Projected 70%

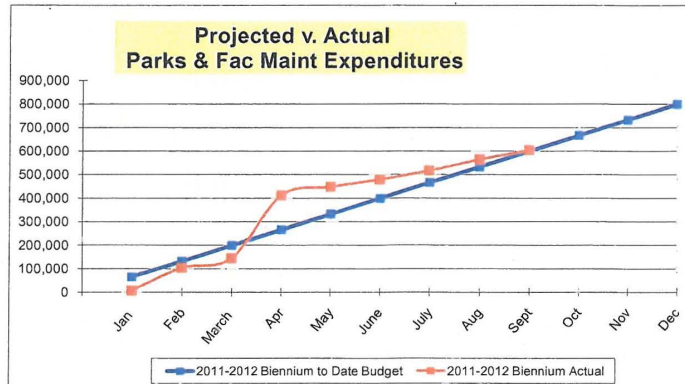


**City of Kenmore, Washington
General Fund Expenditure Graphs
September 30, 2011**

PARKS & FACILITY MAINT

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	66,665	6,230
Feb	133,329	103,546
March	199,994	144,923
Apr	266,659	411,504
May	333,323	448,660
June	399,988	479,517
July	466,653	517,159
Aug	533,317	564,547
Sept	599,982	603,964
Oct	666,647	
Nov	733,311	
Dec	799,976	
2011	799,976	

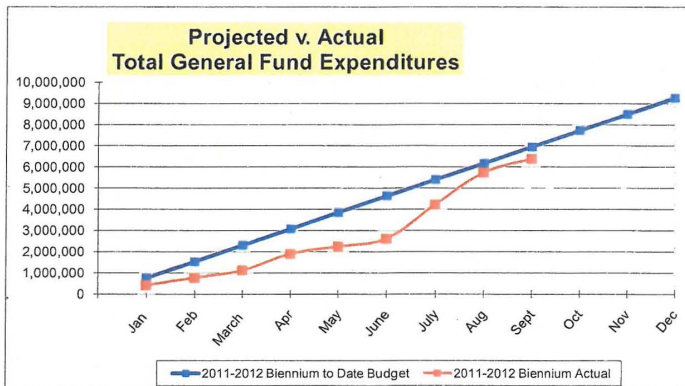
Year To Date
Actual v. Projected 101%

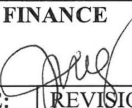
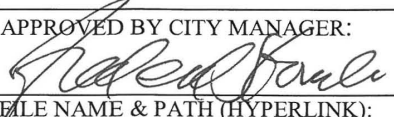


TOTAL GENERAL FUND EXPENDITURES

	2011-2012 Biennium to Date Budget	2011-2012 Biennium Actual
Jan	773,460	422,575
Feb	1,546,921	768,186
March	2,320,381	1,124,125
Apr	3,093,841	1,899,004
May	3,867,301	2,251,225
June	4,640,762	2,616,833
July	5,414,222	4,221,861
Aug	6,187,682	5,730,432
Sept	6,961,142	6,380,191
Oct	7,734,603	
Nov	8,508,063	
Dec	9,281,523	
2011	9,281,523	

Year To Date
Actual v. Projected 92%



CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Approve Ordinance No. 11-0325 extending the Franchise Agreement for Cable Services Between the City of Kenmore and Comcast of Washington IV, Inc. and Comcast of California/Colorado/Texas/Washington, Inc., and jointly known as Comcast Cable, Inc. to June 30, 2012 and Establishing an Effective Date			14 November 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Executive	Frederick Stouder	Nancy Ousley	425-398-8900
COST OF PROPOSAL: Staff and City Attorney time		ACCOUNT NUMBER: 01.19.5507	
AMOUNT BUDGETED: \$0—funds were allocated from Contingency Account		NAME AND FUND #: General Fund 01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1) Proposed Ordinance No. 11-0325			
SUMMARY STATEMENT: The City of Kenmore joined ten other jurisdictions to form a Consortium to negotiate a new franchise agreement with Comcast of Washington IV Inc. The template agreement was completed in March 2010, leaving each jurisdiction to complete negotiations on issues that are specific to local franchise authorities. Kenmore and Comcast are completing negotiations, but it is necessary to extend the current agreement, which expires December 31, 2011, to allow for Comcast internal review of the proposed agreement. The proposed Ordinance extends the current franchise agreement to June 30, 2012 or until a new franchise agreement is approved, whichever date occurs sooner. Staff anticipates bringing the proposed franchised agreement to the Council for action in the 1st Quarter of 2012. The City Attorney prepared the proposed Ordinance.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Council approved Ordinances No. 98-0014, No. 05-0232, No. 09-0297, No.09-0303, No. 10-0308, No. 10-0316 and No. 11-321 adopting and extending the franchise agreement for cable services with Comcast. Council authorized the City Manager to execute Contract No. 08-C371 in October 2008, an interlocal agreement establishing the Consortium for the Negotiation of Cable Television Franchising and approved Amendment No. 1 to the Contract to add the City of Sammamish to the Consortium in June 2009.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Approve Ordinance No. 11-0325 Extending the Franchise Agreement for Cable Services between the City of Kenmore and Comcast of Washington IV, Inc. and Comcast of California/Colorado/Texas/Washington, Inc., and jointly known as Comcast Cable, Inc. to June 30, 2012 and Establishing an Effective Date.			
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:	
			
TODAY'S DATE: 28 Oct 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): See below	

I:\ACM\ACM NKO\Agenda Bill Drafts\AB 14 Nov 2011 Comcast extention.doc

VD. Adopt Ordinance No. 11-0325 Extending the Franchise Agreement for Cable Services Between the City of Kenmore and Comcast of Washington IV, Inc. and Comcast of

**CITY OF KENMORE
WASHINGTON**

ORDINANCE NO. 11- 325

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, EXTENDING ITS CABLE TELEVISION
FRANCHISE WITH COMCAST OF WASHINGTON IV, INC.,
AND COMCAST OF CALIFORNIA/COLORADO/WASHINGTON I, INC., AND
JOINTLY KNOWN AS COMCAST CABLE, INC. TO JUNE 30,
2012, AND FIXING AN EFFECTIVE DATE.**

WHEREAS, in 1998 the City Council of the City of Kenmore (City) adopted Ordinance No. 98-0014 approving and granting a cable franchise agreement with Comcast of California/Colorado/Texas/Washington, Inc. and Comcast of Washington IV, Inc., formerly known as Tele-Vue Systems Inc. and TCI Cablevision of Washington, Inc., and Comcast of California/Colorado/Texas/Washington, Inc., and jointly known as Comcast Cable, Inc. (Comcast), for a period of seven years; and

WHEREAS, the franchise agreement adopted through Ordinance No. 98-0014 was originally executed by King County and TCI of Seattle, Inc.; TCI of Auburn, Inc.; and TCI of Southwest Washington, Inc. in 1996 as enacted pursuant to King County Ordinance No. 12132; and

WHEREAS, the franchise held by Comcast of Washington IV, Inc. is the controlling document operations within the City; and

WHEREAS, on July, 25, 2005 the City Council adopted Ordinance No. 05-0232, which granted a four year extension of the franchise to Comcast, through August 31, 2009; and

WHEREAS, the City entered into an Interlocal Agreement with nine other jurisdictions in October, 2008 to establish a consortium (known as the Cable Franchise Consortium) for the purpose of negotiating a franchise agreement template with Comcast; and

WHEREAS, on June 15, 2009 the City Council adopted Ordinance 09-0297, which granted an extension of the franchise to Comcast through December 31, 2009 in order to allow negotiations on a new franchise agreement template to continue; and

WHEREAS, on December 7, 2009 the City Council adopted Ordinance No. 09-0303 which granted an extension of the franchise to Comcast through May 31, 2010 to allow completion of negotiations on a new franchise agreement template; and

F:\ACM\ACM NKO\Agenda Bill Drafts\Ordinance 11-325-Comcast_Franchise_Extension Nov 2011.DOC

WHEREAS, Comcast and the Cable Franchise Consortium engaged in negotiations in accordance with the provisions of 47 U.S.C. § 546 and the franchise agreement template was completed in March, 2010; and

WHEREAS, on May 24, 2010 the City Council adopted Ordinance No. 10-0308, which granted an extension of the franchise to Comcast through December 31, 2010 to allow completion of negotiations on a new franchise agreement; and

WHEREAS, on November 22, 2010 the City Council adopted Ordinance No. 10-0316, which granted an extension of the franchise to Comcast through March 31, 2011 to allow completion of negotiations on a new franchise agreement; and

WHEREAS, the City Council adopted Ordinance No. 11-0321, which granted an extension of the franchise to Comcast through December 31, 2011 to allow completion of negotiations on a new franchise agreement; and

WHEREAS, the City and Comcast are near the conclusion of negotiations on provisions of the franchise agreement that are specific to the City; and

WHEREAS, it is in the public interest to extend the existing franchise agreement for an additional period of time to allow the City and Comcast to complete negotiations for a new cable television franchise agreement; and

WHEREAS, neither party under the existing franchise agreement waives any right which it enjoys under law as a result of agreeing to this extension;

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

Section 1. Amend Ordinance No. 98-0014. Section 1 of Ordinance No. 98-0014 is hereby amended to read as follows:

The City Council hereby grants to Comcast of Washington IV, Inc., and Comcast of California/Colorado/Washington I, Inc., and jointly known as Comcast Cable, Inc. formerly known as Comcast of California/Colorado/Texas/Washington, Inc., and TCI Cablevision of Washington, Inc., a franchise to operate a cable television system within the city limits of Kenmore. The terms and conditions of said franchise shall be as set forth in Ordinance No. 12132 enacted by King County to TCI Cablevision of Washington, Inc. which is attached hereto and incorporated herein by this reference. Said franchise with the City of Kenmore shall expire on June 30, 2012, or until such time as the City of Kenmore adopts a new franchise ordinance that supersedes this ordinance, whichever occurs sooner.

Section 2. Repealer. Section 1 of Ordinance No. 11-0321 is hereby repealed.

Section 3. Compliance with Franchise Agreement. As a condition of the franchise extension granted by this Ordinance, Comcast shall provide its written and acknowledged unconditional acceptance and promise to comply with all provisions, terms and conditions of the existing Comcast cable franchise agreement during this extension period. By the adoption of this Ordinance the City of Kenmore agrees to comply with all provisions, terms and conditions of the existing Comcast cable franchise agreement during the extension period. Except as provided in Section 2 of this Ordinance, all provisions of Ordinance No. 98-0014, Ordinance No. 05-0232, Ordinance No. 09-0297, Ordinance 09-0303, Ordinance No. 10-0308, Ordinance No. 10-0316 and Ordinance No. 11-0321 shall remain in effect throughout the duration of the franchise extension provided by this Ordinance, except the provision for the duration of the Franchise shall be June 30, 2012.

Section 4. Performance Review and Needs Ascertainment. The City is pursuing a Performance Review of Comcast and Needs Ascertainment pursuant to 47 U.S.C. § 546.

Section 5. Performance Bond and Insurance. The performance bond and insurance policy provided by Comcast pursuant to the franchise agreement shall remain in effect during the extension period.

Section 6. Nonwaiver and Acceptance. The City and Comcast agree that by extending the franchise, neither is waiving any rights under federal law. The rights and privileges granted pursuant to this Ordinance shall not become effective until its terms and conditions are accepted by Comcast.

Acceptance shall be accomplished by the submission of a written instrument, executed and sworn to by a corporate officer of Comcast before a Notary Public, and filed with the City within forty-five (45) days after the effective date of this Ordinance. Such instrument shall evidence the unconditional acceptance of the terms hereof and a promise to comply with and abide by the provisions, terms and conditions hereof.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED by the City Council this ____ day of _____, 2011.

David Baker, Mayor

ATTEST/AUTHENTICATED:

Lynn Suskin, City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY _____
Rod Kaseguma, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO. 11-325

SUMMARY OF ORDINANCE NO. 11-325
of the City of Kenmore, Washington

On the _____ day of _____, 2011, the City Council of the City of Kenmore, Washington, passed Ordinance No. 11-325. A summary of the content of said Ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, EXTENDING ITS CABLE TELEVISION FRANCHISE AGREEMENT WITH COMCAST OF WASHINGTON IV, INC., AND COMCAST OF CALIFORNIA/COLORADO/WASHINGTON I, INC. AND JOINTLY KNOWN AS COMCAST CABLE, INC. TO JUNE 30, 2012, AND FIXING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this _____ day of _____, 2011.

Lynn Suskin, City Clerk

ACKNOWLEDGEMENT OF FRANCHISE EXTENSION

This Acknowledgement of Franchise Extension is made this _____ day of _____, 2011, by and between Comcast of Washington IV, Inc. and Comcast of California/Colorado/Washington I, Inc. and jointly known as Comcast Cable, Inc. ("Comcast") and the City of Kenmore, Washington, a Washington municipal corporation ("City").

Whereas, the City granted Comcast a franchise in Ordinance No. 98-0014 ("Cable Franchise") and has since extended that franchise in Ordinance No. 05-0232, Ordinance 09-0297, Ordinance No. 09-303, Ordinance No. 10-0308, Ordinance No. 10-0316, Ordinance No. 11-0321 and Ordinance No. 11-0325; and

Whereas, the parties wish to agree to and acknowledge the continued effect of the Cable Franchise until June 30, 2012;

Now, Therefore, Comcast and the City acknowledge and agree as follows:

1. Term. The Cable Franchise is hereby acknowledged and agreed to be extended until June 30, 2012.

2. Ratification. All terms and conditions of the Cable Franchise are hereby ratified and confirmed, except the provision for the duration of the Franchise which is hereby acknowledged to be June 30, 2012. Comcast hereby unconditionally accepts and promises to comply with all provisions, terms and conditions of the Cable Franchise during the extension period.

3. Nonwaiver. Comcast and the City agree that by extending the Cable Franchise, neither is waiving any rights under federal law.

Counterparts. This Franchise Extension may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

CITY OF KENMORE

By: _____
David Baker, Mayor

Dated: _____

COMCAST

By: _____

Its: _____

Dated: _____

I:\ACM\ACM NKO\Agenda Bill Drafts\Ordinance 11-325-Comcast_Franchise_Extension Nov 2011.DOC

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Pass A Resolution Of The City of Kenmore, Washington, Sponsoring the Suburban Cities Association Request to Join the Association of Washington Cities Employee Benefit Trust			November 14, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Executive	Fred Stouder, City Manager	Fred Stouder, City Manager	425-398-8900
COST OF PROPOSAL: N/A		ACCOUNT NUMBER:	
AMOUNT BUDGETED: N/A		NAME AND FUND #:	
ATTACHMENT(S) TO AGENDA PACKET ITEM:			
Draft Resolution No. 11-192 Adopting the City of Kenmore, Washington Sponsoring the Suburban Cities Association Request to Join the Association of Washington Cities Employee Benefit Trust			
SUMMARY STATEMENT:			
The City of Kenmore is a member of the Suburban Cities Association which provides education, information and representation of regional boards and committees for the City of Kenmore. The Suburban Cities Association would like to participate in the Association of Washington Cities Employee Benefit Trust benefits program as a quasi-municipal entity and has asked The City of Kenmore to sponsor their request to be allowed membership into the Association of Washington Cities (AWC) Employee Benefit Trust as a non-city entity.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:			
Pass Resolution No. 11-192, of the City of Kenmore, Washington, Sponsoring the Suburban Cities Association Request to Join the Association of Washington Cities Employee Benefit Trust			
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:	
			
TODAY'S DATE:	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):	
November 4, 2011			

VE. Resolution No. 11-192 of the City of Kenmore, Washington, Sponsoring the Suburban Cities Association Request to Join the Association of Washington Cities Employee Benefit Trust - Joanne

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 11-192**

**A RESOLUTION OF THE CITY OF KENMORE, WASHINGTON,
SPONSORING THE SUBURBAN CITIES ASSOCIATION
REQUEST TO JOIN THE ASSOCIATION OF WASHINGTON
CITIES EMPLOYEE BENEFIT TRUST**

WHEREAS, The City of Kenmore is a member of the Suburban Cities Association which is a 501(c)(4) organization serving the suburban cities of King County, Washington; and

WHEREAS, The Suburban Cities Association provides education, information and representation on regional boards and committees for the City of Kenmore; and

WHEREAS, The Suburban Cities Association would like to participate in the Association of Washington Cities (AWC) Employee Benefit Trust benefits program as a quasi-municipal entity; and

WHEREAS, The Association of Washington Cities (AWC) Employee Benefit Trust requires that a city member of the Association of Washington Cities (AWC) Employee Benefit Trust sponsor a non-city entity's request before the non-city entity can participate in the Association of Washington Cities (AWC) Employee Benefit Trust benefit programs;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

1. The City of Kenmore sponsors the Suburban Cities Association of King County's request for application to join the Association of Washington Cities (AWC) Employee Benefit Trust as a non-city entity.
2. The City of Kenmore requests that the Suburban Cities Association of King County be allowed membership into the Association of Washington (AWC) Employee Benefit Trust.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, AT A REGULAR MEETING THEREOF THIS 14TH DAY OF NOVEMBER, 2011.

CITY OF KENMORE

Mayor David Baker

ATTEST/AUTHENTICATED:

Lynn Suskin, City Clerk

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Review and Provide Direction Regarding City Manager Recruitment Profile and Schedule			November 14, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Finance	Joanne Gregory	Lynn Stokesbary, Prothman	425-398-8900
COST OF PROPOSAL: \$16,500 plus estimated expenses of \$3,500		ACCOUNT NUMBER: 01 13 5501	
AMOUNT BUDGETED: \$21,000		NAME AND FUND #: General Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: - Proposed Recruitment Schedule, City of Kenmore - Contract No. 11-C963			
SUMMARY STATEMENT: On September 26, 2011, the City Council authorized the City Manager to execute Contract No. 11-C963 with Prothman to assist in the recruitment of the next City Manager. After meeting with the members of the City Council and the Department Directors, Prothman developed a recruitment profile and schedule for the City Manager position which will be presented to the City Council for review and acceptance. Lynn Stokesbary of the Prothman firm will be present for the discussion.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Consistent with Adopted 2011-2012 Budget and Contract No. 11-C963.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Review and Provide Direction Regarding City Manager Recruitment Profile and Schedule			
REVIEWED BY FINANCE DIRECTOR: JMG		REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: November 9, 2011	REVISION DATE(S):		FILE NAME & PATH (HYPERLINK) i:\city clerk\agenda items\finance\2011 council meeting agenda items\november 14, 2011\ab summary cm recruitment sch.docx

I:\City Clerk\AGENDA ITEMS\Finance\2011 Council Meeting Agenda Items\November 14, 2011\AB Summary CM Recruitment Sch.docx

VIIIA. Review of, and Possible Direction of, Kenmore City Manager Recruitment Profile and Schedule - Lynn Stokesbary, Prothman & Associates

Proposed Recruitment Schedule, City of Kenmore

Date	Day	Topic	Meeting	Time
October 26, 2011	Wednesday	Councilmember and Department Director Interviews	Yes	All day
November 14, 2011	Monday	Review profile with Council - First Item of Business on Agenda	Yes; Council Meeting	7:00 pm(.5 to 1 hr)
November 21, 2011	Monday	Post Profile & Start Advertising	NONE	N/A
January 8, 2012	Sunday	Application Close Date	NONE	N/A
January 12, 2012	Thursday	Receive applications from Prothman for distribution for review	NONE	N/A
January 17, 2012	Tuesday	1st work session to review applications & choose semi-finalists for Prothman to interview	Yes: Executive Session	6:30 pm (1 to 1.5 hrs)
January 23, 2012	Monday	2nd work session to review results of Prothman interviews and choose finalists for Final Interviews	Yes: Executive Session	6:30 pm (.5 to 1 hr)
February 9 & 10, 2012	Thursday & Friday	Final Interviews - day interviews All	Interviews	TBD

Blue highlighted areas are proposed and need confirmation

PROTHMAN



Contract No.11-C963

September 15, 2011

Mr. David Baker
Mayor
City of Kenmore
18120 68th Ave NE
Kenmore, WA 98028

Dear Mayor Baker,

Thank you for your confidence in Prothman to assist the City of Kenmore in the recruitment for its next City Manager. The following represents a scope of work for this search and associated professional fees and expenses.

SCOPE OF SERVICES

Project Review

The first step will be to review the following topics with the City:

- ◆ Review the scope of work and amend as needed
- ◆ Review the project schedule
- ◆ Identify the geographic scope of the search (local, regional or national)
- ◆ Review the compensation package and review the market rate
- ◆ Identify key stakeholders

Information Gathering and Research

Our goal is to thoroughly understand the preferred candidate qualifications, as well as the values and culture of the organization. To accomplish this we will:

- ◆ Meet with City Personnel
 - City Council
 - Retiring City Manager
 - Department Directors
 - Other as directed by the City
- ◆ Review all documents related to the city manager position and the City of Kenmore

Position Profile Development

Once we have a firm understanding of the preferred candidate qualifications and the values, culture and challenges of the organization, we can begin to develop a profile of your ideal candidate. Once the Position Profile is written and approved by the City, it will serve as the foundation for our determination of a candidate's fit within the organization and community. Profiles include the following:

- ◆ A description of the ideal candidate's qualifications
 - Work experience
 - Education

206 368 0050 • 371 NE Gilman Blvd. Suite 200 • Kenmore, WA 98028

- Personality traits
- Work habits
- ♦ Organization-specific information
 - Description of the position and key responsibilities
 - Description of the City of Kenmore and services summary
 - Number of employees and budget size
 - Priorities and current challenges facing the department
- ♦ Community-specific information
 - Overview of the city and the surrounding region
 - Description of the environment and quality of life details
 - Industry, services and tourist activities
- ♦ Compensation package details
- ♦ Information on how to apply

Recruitment and Advertising Strategy

We will design an effective advertising strategy to identify and reach the candidates who are best suited for the position. Our recruitment strategy involves the following:

- ♦ Print and internet-based ads placed in professional publications, journals and on related websites
- ♦ Recruitment brochures sent directly to hundreds of highly qualified managers who may not be actively searching
- ♦ Phone calls placed directly to administrators that we personally know
- ♦ Posting the Position Profile on the Prothman website, which receives over 10,000 hits per month

Candidate Screening

Once the application deadline has passed, we will screen the applicants in order to find the most outstanding candidates. The screening process has 5 key steps:

- 1) **Initial Application Review:** Using the Position Profile as our guide, we will screen the candidates based on the application materials they have provided. These materials include resumes, a Prothman application, and supplemental questions (to determine a candidate's writing skills, analytical abilities and communication style). We will then send all relevant application materials to the City for review.
- 2) **First Work Session (on-site):** We will meet with the City to review the most promising candidates and jointly identify the top 10 to 15 semifinalists. We will also begin discussions on the final interview design.
- 3) **Semifinalist Interviews:** We will conduct telephone, videoconference or in-person interviews with each of the chosen semifinalists. We will conduct a preliminary publication and internet search on these candidates.
- 4) **Second Work Session (on-site):** We will present our findings from the interviews and internet checks, make recommendations and work with you to pick the top 4 to 6 candidates to invite to the final interviews. We will complete the final interview design.
- 5) **Structured References and Background Checks:** We ask each applicant to provide 9 references comprised of supervisors, subordinates and peers from their last 3 jobs and we then conduct 5 to 6 references per candidate from this list. We also provide publication and internet research and we contract with

PROTHMAN

ABSO to provide education verification, criminal history, sex offender and driving record checks

Final Interviews

The final interview process is designed so that you can learn as much as possible about each candidate and best assess how each candidate will "fit" into your organization. This is done by giving you several opportunities to observe the candidates in various settings, as well as providing thorough background and reference details.

- ♦ **Final Interviews:** We will provide complete application and supplemental information on final candidates to the City who will schedule the interviews and prepare the interview materials including copying and notebooks.
- ♦ **Facilitate Employment Agreement:** Once the top candidate has been selected, we will offer any assistance the City requests in developing a letter of offer and negotiating terms of the employment agreement.

PROFESSIONAL SERVICE FEE & GUARANTEE

Professional Fee

Our fee for professional services is \$16,500 plus expenses.

Expenses

Expenses are the responsibility of the City and will be discussed with the City prior to expenditure. Expense items include but are not limited to:

- ♦ Newspaper, trade journal websites and other advertising
- ♦ Direct mail announcements and regret letters
- ♦ Delivery expenses
- ♦ Printing of documents and materials
- ♦ Consultant mileage
- ♦ Background checks performed by ABSO
- ♦ Any client-required licenses, fees or taxes

A 3% charge will be added to all expenses which reflect City and State B&O tax obligations. Professional fees are billed in three equal installments during the course of the search. Expenses are billed monthly.

Candidate Site Visits and Candidate Travel

If approved in advance by the City, visits to candidate sites will be billed at \$350 per site, plus expenses. The City may choose to conduct the site visits.

The City will arrange candidate travel, if necessary, and directly reimburse the candidates for travel related expenses.

Guarantee

Our record of success in placing highly qualified candidates provides that Prothman will guarantee the placement of a qualified candidate. If the selected finalist candidate is terminated for cause or resigns within **two years** from the employment date, we will conduct a replacement search with no additional professional fee.



Cancellation

You have the right to cancel the search at any time. Your only obligation would be the fees and expenses incurred prior to cancellation.

Accepted by:

CITY OF KENMORE

Mr. David Baker
Mayor

Date

PROTHMAN

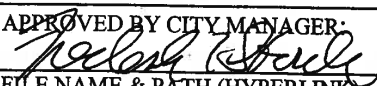
Greg Prothman
President

Date

At the Direction of the Kenmore City Council

I:\city clerk\contracts\prothman city manager recruitment.docx



CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Review and Discussion of City of Kenmore 2011-2012 Mid Biennium Budget Amendments			November 14, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Finance	Joanne Gregory	Joanne Gregory	425-398-8900
COST OF PROPOSAL: \$4,324,036 Increase in Budgeted Expenditures \$3,165,172 Increase in Projected Revenues		ACCOUNT NUMBER: Various	
AMOUNT BUDGETED: All Funds Expenditure Budget: \$37,128,077 All Funds Projected Revenues: \$33,682,086		NAME AND FUND #: All Funds	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1. Memorandum of October 31, 2011 Regarding Recommended Mid Biennium Budget Amendments			
SUMMARY STATEMENT: On November 22, 2010, the City of Kenmore adopted the 2011-2012 biennial budget. The budget included revenue (\$33,682,086) and expenditure (\$37,128,077) estimates for both years which support the City Council priorities, departmental work programs, various municipal obligations, as well as Federal and State mandates. This is the mid biennial review of the biennial budget as prescribed by State law which includes adjustments resulting from proposed and Council authorized changes to the adopted budget. Per RCW 35A.34.130, cities that budget on a biennial basis must adopt an ordinance providing for a mid biennial review and any modifications of the biennial budget. This must occur no sooner than eight months after the start (September 1, 2011) and no later than the end of the first year of the biennium (December 31, 2011). Another requirement of the mid biennial review process is a public hearing at a City Council meeting, which is scheduled for November 21, 2011. There will be an additional hearing on November 28 at which time a budget amendment ordinance will be presented for approval by the City Council. The content of this discussion on November 14 is to request initial questions or comments from the City Council, regarding the amendments, prior to the public hearing and November 28 adoption by the City Council.			
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Per RCW 35A.34.130, cities that budget on a biennial basis must adopt an ordinance providing for a mid-biennial review and any modifications of the biennial budget.			
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Review and Discussion of City of Kenmore 2011-2012 Mid Biennium Budget Amendments			
REVIEWED BY FINANCE DIRECTOR: JMG		REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE November 3, 2011	REVISION DATE(S):		FILE NAME & PATH (HYPERLINK)



The City of Kenmore

PO Box 82607
KENMORE, WASHINGTON 98028

MEMORANDUM

TO: Mayor, Members of the City Council

FROM: Frederick Stouder, City Manager;
Joanne Gregory, Finance Director

DATE: October 31, 2011

RE: Recommended 2011-2012 Mid Biennium Budget Amendments

On November 22, 2010, the City of Kenmore adopted the 2011-2012 biennial budget. The budget included revenue (\$33,682,086) and expenditure (\$37,128,077) estimates for both years which support the City Council priorities, departmental work programs, various municipal obligations, as well as Federal and State mandates. This is the mid biennial review of the biennial budget as prescribed by State law. Per RCW 35A.34.130, cities that budget on a biennial basis must adopt an ordinance providing for a mid biennial review and any modifications of the biennial budget. This must occur no sooner than eight months after the start (September 1, 2011) and no later than the end of the first year of the biennium (December 31, 2011). Another requirement of the mid biennial review process is a public hearing at a City Council meeting, which is scheduled for November 21, 2011. There will be an additional hearing on November 28 at which time a budget amendment ordinance will be presented for approval by the City Council.

Even in these uncertain economic times, the City is able to add \$257,528 to the fund balance reserves, bringing the projected General Fund cash reserve balance at the end of 2012 to \$4,776,748. This does not include the \$1,264,465 Strategic Reserve Fund balance which is at the statutory maximum. In all funds, the proposed expenditure adjustments represent an increase of \$4,324,036 to the 2011-2012 adopted biennial expenditure budget of \$37,128,077, bringing the total amended expenditure budget to \$41,452,113. The proposed revenue adjustments represent an increase of \$3,165,172 from the 2011-2012 projected revenues of \$33,682,086, bringing the total adjusted revenues, for all funds, to \$36,847,258. The difference between adjusted expenditures and adjusted revenues is \$4,604,855 which is supported and funded by accumulated reserves in the street maintenance, surface water, and various capital project funds.

A result of the biennial budget is the time and resources conserved by not preparing two annual budgets. The budgetary outcomes would probably not have been much different if two independent budgets had been prepared, yet significant time savings allows concentration on the many municipal responsibilities.

The management team has reviewed the budgets and recommends the adjustments outlined below. During the course of the current year, the City Council has discussed and authorized certain actions, including acknowledgement of the costs, not yet budgeted, which should now be

adopted as budget amendments. The recommended adjustments will be reviewed at the November 14 meeting. At that time discussion, questions, and direction can be provided prior to the public hearings later in the month.

General Fund revenues, budgeted at \$18,833,595, have not shown dramatic declines and have been stable and close to projections due to conservative estimates. Pressures from the recession, and particularly unemployment, remain a threat to the local economy, and may for several years; therefore, the City must continue to be conservative, vigilant, and prepared to make reductions in services and expenditures. General Fund expenditures, budgeted at \$19,256,668, have increased in some unanticipated areas, but reductions in other areas, due to conservative budget estimates as well as careful spending, offset these increases.

At adoption, the General Fund budget was balanced with \$18,833,595 in budgeted revenues and \$19,256,668 in budgeted expenditures, the only difference being \$423,073 budgeted as a potential transfer, if needed, to the SR522 Transportation capital project. New federal funds approved for the project will make that transfer unnecessary and it is recommended to be removed from the budget. With the recommended \$112,000 adjustment, General Fund budgeted revenues will be \$18,945,595. General Fund budgeted expenditures, with the recommended decrease of \$145,528, will be \$19,111,140. Overall, the total of the proposed adjustments to the General Fund has a positive net impact to the budgeted ending fund balance, increasing the reserves by \$257,528. Most of this is a result of savings and cost reductions in the Police budget and contract services with the King County Sheriffs Office.

Throughout the year, the City Council has been advised that the economic climate, and particularly the depressed real estate market, have had an adverse effect on the capital funds, which have experienced prolonged declines in park and transportation impact fee revenues and real estate excise tax revenues. As currently budgeted, no revenue adjustments are proposed at this time to those capital funds.

The 2011-2012 biennial budget will continue to be closely monitored as the City moves into the second year of the biennium. With the continued uncertainty of an economic recovery and the nature of the ongoing projects and work programs, additional budget adjustments may be required or proposed in 2012.

All adjustments recommended at this time are presented in the tables that follow. The adjustments are grouped by fund, beginning with the General Fund, and followed by the Arterial Street Fund, the Street Fund, the Transportation Impact Fee Fund, the Municipal Capital Fund, the Capital Projects Fund, and the Surface Water Management Fund.

Those adjustments already authorized for action at a City Council meeting are identified by an asterisk * and 22 of the 52 noted adjustments proposed below fall into this category. This formal adoption process at the mid biennium period just completes, for municipal accounting and budgeting purposes, actions presented to the Council that the Council has already discussed and approved. Also, each adjustment indicates if the item is a one-time or ongoing adjustment. A one-time adjustment means the expenditure is not expected to occur or affect future budgets; an ongoing adjustment generally means the increase or decrease will have a lasting impact on future

budgets (as an example: ongoing salaries and benefits). For each fund, the effect on the budgeted ending fund balance is noted.

GENERAL FUND

Proposed adjustments to the General Fund are as follows. The numbers provide a reference to the notes and explanations in the table. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. \$112,000 in cable franchise fees, due in 2010, was received in 2011. Therefore the revenue budget for franchise fees may be increased to recognize the additional revenue in this budget period.
2. *In 2009 the City Council adopted an Economic Development Plan and Strategy which included the Wayfinding Signage and Banner project. The City entered into a contract (10-C891) with Sussman Prejza in the amount of \$73,000 of which only \$14,657 was spent by the end of the budget period. The 2011-2012 budget did not anticipate the balance to be carried forward to 2011; therefore a budget amendment is proposed in the amount of \$62,000 for the balance of the contract (\$57,000) plus marketing and site selection strategy work (\$5,000) toward developing a business incubator with UW Bothell.
3. An increase in the City Manager General Consulting budget is proposed in the amount of \$50,000 to provide for core sampling and materials analysis in anticipation of potential dredging of the Kenmore commercial channel by the Army Corps of Engineers. This proposal is a result of recent discussions with the District US Army Corps staff.
4. An increase in the Legal budget is proposed to recognize the final costs and disbursements associated with the Star Northwest litigation which included a refund of legal fees to Star Northwest in the amount of \$56,941 (paid in April, 2011, US District Court Case No. C05-2133 MJP Order on Attorney's Fees) and associated city attorney expenditures of \$25,344 for a total of \$82,285.
5. The City has a contract with King County District Court. Annually a reconciliation of court costs versus court fees and expenses is performed which generally results in a payment due to the Court. In the prior biennium, the reconciliation payments (\$209,917) were significantly higher than previous years therefore the 2011-2012 budget was prepared with a cautiously high estimate of \$300,000. The 2011 reconciliation payment was \$35,497, not as high as expected. Allowing for a 2012 reconciliation payment of up to \$70,000 would indicate that the budget could be lowered by \$204,800 to \$100,000.
6. The Police Services Contract budget may be lowered by \$315,000 to \$5,815,030 as the reconciled costs were not as significant as anticipated, considering the addition of one deputy. A proposed adjustment to reduce the budget by \$315,000 is recommended.
7. Due to cost saving measures implemented by the King County Sheriff Department, the local precinct office will close and the officers will be housed in the City Hall building. Tenant improvements and furniture are estimated to be \$35,000 and a proposed adjustment is included below.
8. Land use expenditures have been reduced significantly due to the economic conditions as well as reviews performed in house. It is recommended that this budget be reduced by \$75,000.
9. Abatement actions have become desirable on some private properties in the City. No funds have been budgeted for this work and a budget of \$50,000 is recommended. The

nature of this program would also allow the funds used to ultimately be returned to the City by placing liens on the properties.

10. *A lease for the use of ballfields was entered into with Bastyr University in 2009 (C09-824). According to the terms of the lease, \$135,000 was to be paid to Bastyr upon completion of the fields. This was expected to occur prior to the close of the 2010 budget; however this final payment was not made until May, 2011. The 2011-2012 budget did not include an appropriation for this expenditure and an adjustment in the amount of \$135,000 is recommended.
11. *Estimated costs for reroofing the senior center building are \$37,000. This expenditure was not provided for in the 2011-2012 budget and a proposed amendment is included. The City Council approved the \$32,068 bid on September 26, 2011 (see minutes at Exhibit A attached). An additional \$5,000 budget appropriation is recommended due to the discovery of additional work on the Center's ceilings that was not foreseen when the bid documents were prepared.
12. *On March 8, 2010, the City entered into an amended and restated interlocal agreement with ARCH (Contract 10-C866). One outcome of the agreement was that the City of Bellevue would keep in trust and administer the accumulated funds annually set aside by the City which totaled \$317,000. ARCH and the City of Bellevue did not request these funds until 2011 and the transaction was not provided for in the adopted 2011-2012 budget. The proposed amendment transfers the cash from the General Fund to the Capital Projects Fund where the ARCH contributions are recorded.
13. * On June 27, 2011, the City Council reviewed and accepted Project T26 for Wayfinding Signage and Banners as part of the Capital Improvement Program (attached as Exhibit B, page v). This project would be funded with General Fund reserves transferred to the Street Fund in the amount of \$104,000.
14. A transfer of \$423,013 from the General Fund to the Arterial Street Fund was included in the adopted 2011-2012 budget to complete the budgeted SR522 transportation projects nearing completion. Further analysis and additional federal allocations have made this transfer unnecessary.

Note	General Fund Revenues:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.	Cable Franchise Fees	\$538,588	\$112,000	One-time	\$650,588
	Net Revenue Increase		\$112,000		
2.*	City Manager Economic Development	\$24,800	\$62,000	One-time	\$86,800
3.	City Manager General Consulting	\$210,000	\$50,000	One-time	\$260,000
4.	Legal: Star Northwest	\$0	\$82,285	One-time	\$82,285
5.	King County Court	\$304,800	(\$204,800)	Ongoing	\$100,000
6.	Police Services Contract	\$6,130,030	(\$315,000)	Ongoing	\$5,815,030
7.	Public Safety Furniture and Equipment	\$0	\$35,000	One-time	\$35,000
8.	Land Use Review	\$115,000	(\$75,000)	Ongoing	\$40,000
9.	Abatement	\$0	\$50,000	Ongoing	\$50,000
10.*	Bastyr Ballfields Lease	\$100,000	\$135,000	One-time	\$235,000

I:\Admin & Finance\BUDGET\2011-2012\Mid Biennium\RecommendAmendMemo.doc

11.*	Senior Center Facility Repair	\$46,000	\$37,000	One-time	\$83,000
12.*	Transfer to Capital Projects Fund	\$0	\$317,000	One-time	\$317,000
13.*	Transfer to Street Fund	\$1,200,000	\$104,000	One-time	\$1,304,000
14.	Transfer to Arterial Street Fund	\$423,013	(\$423,013)	One-time	\$0
	Net Expenditure Decrease		(\$145,528)		
	Ending Fund Balance	\$4,519,220	\$257,528		\$4,776,748

ARTERIAL STREET FUND

Adjustments are also proposed for the Arterial Street Fund. The adjustments are the result of the analysis and budget refinements recommended during the City Council review and adoption of the Capital Improvement Program on June 27, 2011 and subsequent notification of a federal allocation of \$2,500,000 for right of way acquisition. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. *Revenue (reimbursements) of \$55,000 from the Northshore Utility District, regarding the 145th Street Signal project is proposed to be added to the budget. This represents work performed on behalf of NUD which will be fully reimbursed and offsets a \$55,000 increase in the project budget below. This was reviewed by the City Council at the June 27, 2011 meeting (Exhibit H) and the September 12, 2011 meeting (Exhibit F).
2. *The adopted budget included an estimate of a federal allocation of \$600,000 for the 61st Ave NE/NE 181st St. Signal Project T7. The actual federal funds are estimated to increase \$50,000 to \$650,000 per the Local Agency Agreement with the Department of Transportation authorized by the City Council on September 26, 2011 (attached as Exhibit E).
3. *The adopted budget did not anticipate a federal allocation of \$2,500,000 for SR522. This new revenue will be programmed for purchase of right of way for Phase I Stage 2 of the SR 522 Transportation Project T34 (see attached Exhibit G).
4. Due to the federal allocation of \$2,500,000 noted in item 3 above, the project budgets for the right of way acquisition and the 61st Ave NE/NE 181st St. Signal have been amended which results in a decrease of \$146,277 (from \$1,367,532 to \$1,221,255) to be transferred from transportation impact fees.
5. Due to the federal allocation of \$2,500,000 noted in item 3 above, the project budgets for the right of way acquisition and the 61st Ave NE/NE 181st St. Signal have been amended which results in eliminating the transfer from the General Fund of \$423,013.
6. Due to the federal allocation of \$2,500,000 noted in item 3 above, the project budgets for the right of way acquisition and the 61st Ave NE/NE 181st St. Signal have been amended which results in a reduction of \$18,124 (from \$2,271,018 to \$2,252,894) to be transferred from real estate excise taxes in the Municipal Capital Fund.
7. *A review of the project budget for T2 SR 522 Phase I Stage II Design indicates the budget may be reduced by \$161,000 (from \$261,000 to \$100,000). This amendment was accepted as part of the Capital Improvement Program review by the City Council on June 27, 2011 (attached as Exhibit B, page iv).
8. *A review of the project budget for T3 SR 522 Phase II indicates the budget needs to be increased by \$672,775 to \$1,526,775. This amendment was accepted as part of the Capital Improvement Program review by the City Council on June 27, 2011 (attached as Exhibit B, page ii).

9. *A review of the project budget for T33 181st Street Frontage Improvements indicates the budget may be reduced by \$57,000 to \$250,000. This amendment was accepted as part of the Capital Improvement Program review by the City Council on June 27, 2011 (attached as Exhibit B, page ii).
10. *A review of the project budget for T12 145th Street Traffic Signal indicates the budget needs to be increased \$105,000 to \$420,000. The projected increase includes \$55,000 of reimbursable work for Northshore Utility District, as described in the note above, and \$50,000 due to an increase in scope for improvements such as sidewalks, revisions to storm drainage facilities, as discussed at the June 29, 2011 meeting (Exhibit H) and the September 12, 2011 City Council meeting (attached as Exhibit F).
11. *A review of the project budget for T7 61st Ave NE/NE 181st Traffic Signal indicates the budget may be reduced by \$72,350 to \$1,976,200. This amendment was due to actions discussed and accepted by the City Council on June 27, 2011 (attached as Exhibit C), September 12, 2011 (attached as Exhibit D), and September 26, 2011 (Exhibit E).
12. *A review of the project budget for T27 Sidewalk Program indicates the budget should be reduced by \$650,000 to \$100,000. This amendment was accepted as part of the Capital Improvement Program review by the City Council on June 27, 2011 (attached as Exhibit B, page v).
13. *The adopted budget did not anticipate the 61st Place NE slide (project T32) brought on by last winter's storms. The project was discussed and approved by the City Council as part of the Capital Improvement Program review on June 27, 2011 (attached as Exhibit B, page iii). The current project cost estimate is \$410,000 which would be funded from real estate excise tax.
14. *Due to the federal allocation of \$2,500,000 noted in item 3 above, the City will be able to purchase right of way for the SR522 Phase I Stage 2 Project T34 with a total estimated cost of \$2,890,174. This project was reviewed and accepted by the City Council at the October 10, 2011 Council meeting.

Note	Arterial Street Fund Revenues:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.*	Reimbursement from Northshore Utility District Project T12 145 th Street Signal	\$0	\$55,000	One-time	\$55,000
2.*	Federal Allocation: Project T7 61 st Ave NE/181 st St Signal	\$600,000	\$50,000	One-time	\$650,000
3.*	Federal Allocation: Project T34 Right of Way SR522 Ph I Stage II	\$0	\$2,500,000	One-time	\$2,500,000
4.	Transfer from Transportation Impact Fee Fund	\$1,367,532	(\$146,277)	One-time	\$1,221,255
5.	Transfer from General Fund	\$423,013	(\$423,013)	One-time	\$0
6.	Transfer from Municipal Capital Fund	\$2,271,018	(\$18,124)	One-time	\$2,252,894
	Net Revenue Increase		\$2,017,586		
	Arterial Street Fund Expenditures:				

7.*	Project T2, SR522 Phase I Stage II Design	\$261,000	(\$161,000)	One-time	\$100,000
8.*	Project T3, SR 522 Phase II	\$854,000	\$672,775	One-time	\$1,526,775
9.*	Project T33, 181 st St Frontage Improvements	\$307,000	(\$57,000)	One-time	\$250,000
10.*	Project T12, 145 th Street Traffic Signal	\$315,000	\$105,000	One-time	\$420,000
11.*	Project T7, 61 st Ave NE/181 st Traffic Signal	\$2,048,550	(\$72,350)	One-time	\$1,976,200
12.*	Project T27, Sidewalk Program	\$750,000	(\$650,000)	One-time	\$100,000
13.*	Project T32, 61 st Place Slide	\$0	\$410,000	One-time	\$410,000
14.*	Project T34, SR522 Phase I Stage II Right of Way	\$0	\$2,890,174	One-time	\$2,890,174
	Net Expenditure Increase		\$3,137,599		
	Ending Fund Balance	\$1,483,134	\$1,120,013		\$363,121

STREET FUND

Proposed adjustments to the Street Fund are as follows. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. * On June 27, 2011, the City Council reviewed and accepted Project T26 for Wayfinding Signage and Banners as part of the Capital Improvement Program (attached as Exhibit B, page v). This project would be funded with General Fund reserves in the amount of \$104,000.

This adjustment to both the revenue and the expenditure budget has no impact on the budgeted ending fund balance of \$1,274,515.

Note	Street Fund Revenues:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.*	Transfer from General Fund	\$0	\$104,000	One-time	\$104,000
	Street Fund Expenditures:				
1.*	Project T26, Wayfinding Signage and Banners	\$0	\$104,000	One-time	\$104,000
	Ending Fund Balance	\$1,274,515	\$0		\$1,274,515

TRANSPORTATION IMPACT FEE FUND

The proposed adjustment to the Transportation Impact Fee Fund is as follows:

1. Due to the federal allocation of \$2,500,000, the project budgets for the right of way acquisition and the 61st Ave NE/NE 181st St. Signal have been amended which results in a decrease of \$146,277 (from \$1,367,532 to \$1,221,255) to be transferred from transportation impact fees

This revenue adjustment increases the projected ending fund balance by \$146,277 to \$268,362.

Note	Transportation Impact Fee Fund Expenditures:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.	Transfer to Arterial Street Fund	\$1,367,532	(\$146,277)	One-time	\$1,221,255
	Ending Fund Balance	\$122,085	\$146,277		\$268,362

MUNICIPAL CAPITAL FUND

Proposed adjustments to the Municipal Capital Fund are as follows. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. Due to the federal allocation of \$2,500,000 the project budgets for the right of way acquisition and the 61st Ave NE/NE 181st St. Signal have been amended which results in a reduction of \$18,124 (from \$2,271,018 to \$2,252,894) to be transferred from real estate excise taxes in the Municipal Capital Fund to the Arterial Street fund.
2. Project P16, the 0056 Outfall and Restoration Project, is nearly complete with a cost of \$85,000 therefore the budget may be reduced by \$65,000.

These adjustments increase the \$558,638 budgeted ending fund balance by \$83,124 resulting in an adjusted ending fund balance of \$641,762.

Note	Municipal Capital Fund Expenditures:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.	Transfer to Arterial Street Fund	\$2,271,018	(\$18,124)	One-time	\$2,252,894
2.	P16, 0056 Outfall and Restoration Project	\$150,000	(\$65,000)	One-time	\$85,000
	Ending Fund Balance	\$558,638	\$83,124		\$641,762

CAPITAL PROJECT FUND

Proposed adjustments to the Capital Project Fund are as follows. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. *On March 8, 2010, the City entered into an amended and restated interlocal agreement with ARCH (Contract 10-C866). One outcome of the agreement was that the City of Bellevue would keep in trust and administer the accumulated funds annually set aside by the City which totaled \$317,000. ARCH and the City of Bellevue did not request these funds until 2011 and the transaction was not provided for in the adopted 2011-2012 budget. The \$317,000 that had been set aside for this purpose by the City has now been transferred to the ARCH Housing Trust Fund at the City of Bellevue.

This adjustment to both the revenue and the expenditure budget has no impact on the budgeted ending fund balance of \$60,981.

Note	Capital Projects Fund Revenues:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
------	---------------------------------	---------------------------	--------------------------------	---------------------	---------------------------

1.*	Transfer from General Fund	\$0	\$317,000	One-time	\$317,000
	Capital Projects Fund Expenditures:				
1.*	ARCH Contribution	\$150,000	\$317,000	One-time	\$467,000
	Ending Fund Balance	\$60,981	\$0		\$60,981

SURFACE WATER MANAGEMENT FUND

Proposed adjustments to the Surface Water Management Fund are as follows. An asterisk * identifies adjustments already authorized for action at a City Council meeting.

1. *King County Conservation Futures Grants have been awarded for the purchase of the Simons property (\$130,000) (Exhibit I) and are likely to be awarded for the Schmitt and Longfellow property purchases.
2. *Funds were awarded for Squires Landing Restoration in the prior biennium from King County Conservation Futures and King County Flood District, in the total amount of \$100,000. In 2010, \$90,000 was received and the remaining \$10,000 is proposed to be added to the 2011-2012 budget and will be remitted to the City when the restoration project is complete.
3. A Department of Ecology Stormwater Capacity Grant was awarded for 2011 in the amount of \$124,586 (see attached Exhibit J).
4. The City's Surface Water staff performed an analysis of King County's surface water billing calculations which revealed errors that, when corrected, are expected to result in a net increase of approximately \$50,000 in fee revenue per year.
5. A new Surface Water Technician position is requested pending completion of the position description and compensation study currently underway. The position would be funded by a reduction in services performed by King County such as public and private facility inspections.
6. A budget amendment for \$10,000 for additional inspection tools is requested due to the additional inspection functions performed by City staff.
7. An increase in the King County system maintenance budget is proposed due to an unexpected bill in early 2011 for \$85,700 which the County explained was a result of their accounting error in 2010 (the charges were from 2010). A portion was for the Swamp Creek sediment pond and the rest was for King County system maintenance.
8. An increase in the Swamp Creek Maintenance budget is proposed due to unanticipated costs and additional work performed.
9. *An increase in the property acquisitions budget is proposed to provide for recently acquired (Schmitt, Longfellow) and potential future property acquisitions.
10. An increase in the property demolition budget is proposed to provide for demolition and clean up of acquired properties.
11. An increase in the property utility budget is proposed to provide for utility and other property charges associated with acquired properties.
12. A reduction in King County Engineering Services for 2012 is anticipated with the approval of the City Surface Water Technician position.
13. A reduction in King County Private Facility Inspections for 2012 is anticipated with the approval of the City Surface Water Technician position.
14. A reduction in King County Public Facility Inspections for 2012 is anticipated with the approval of the City Surface Water Technician position.

15. Project P5 was included in the Capital Improvement Program, in the amount of \$50,000, to continue the restoration work begun at Squire's Landing and funded with King County Conservations Futures and Flood District funds which totaled \$100,000. A budget of \$50,000 is requested which represents the amount not spent in the prior biennium.
16. A budget of \$50,000 is proposed to purchase asset management software for the surface water system. This purchase would be funded with Department of Ecology grant funds.
17. A budget of \$20,000 is proposed for aerial imaging. This purchase would be funded with Department of Ecology grant funds.

These adjustments reduce the budgeted ending fund balance of \$992,919 by \$525,780 resulting in an adjusted ending fund balance of \$467,139.

Note	Surface Water Management Fund Revenues:	Original 2011-2012 Budget	Change: Increase or (Decrease)	One Time or Ongoing	Proposed 2011-2012 Budget
1.*	King County Conservation Futures Grants; Property Purchases	\$0	\$430,000	One-time	\$430,000
2.*	King County Conservation Futures and Flood District Grant for Squires Landing Restoration	\$0	\$10,000	One-time	\$10,000
3.	Department of Ecology Grant	\$0	\$124,586	One-time	\$124,586
4.	Surface Water Billings	\$3,060,878	\$50,000	Ongoing	\$3,110,878
	Net Revenue Increase		\$614,586		
	Surface Water Management Fund Expenditures:				
5.	New Surface Water Technician Position Salaries, Wages, Benefits	\$257,440	\$85,582	Ongoing	\$343,022
6.	Small Tools and Equipment	\$0	\$10,000	One-time	\$10,000
7.	King County System Maintenance	\$150,000	\$58,184	One-time	\$208,184
8.	Swamp Creek Maintenance	\$110,000	\$75,000	One-time	\$185,000
9.	Property Acquisition	\$74,000	\$804,000	One-time	\$878,000
10.	Property Demolition	\$0	\$75,000	One-time	\$75,000
11.	Property Utilities	\$0	\$11,000	One-time	\$11,000
12.	King County Engineering Services	\$28,000	(\$13,000)	Ongoing	\$15,000
13.	King County Private Inspections	\$50,800	(\$25,400)	Ongoing	\$25,400
14.	King County Public Inspections	\$100,000	(\$60,000)	Ongoing	\$40,000
15.	Project P5; Swamp Creek Park Restoration	\$0	\$50,000	One-time	\$50,000
16.	Surface Water Asset Management Software	\$0	\$50,000	One-time	\$50,000
17.	Aerial Imaging	\$0	\$20,000	One-time	\$20,000

	Net Expenditure Increase		\$1,140,366		
	Ending Fund Balance	\$992,919	(\$525,780)		\$467,139

The proposed expenditure adjustments, for all funds, represent an increase of \$4,324,036 to the 2011-2012 adopted biennial expenditure budget of \$37,128,077, bringing the total amended expenditure budget to \$41,452,113.

Interfund transactions of (\$166,414) are included in the proposed expenditure adjustments.

The proposed revenue adjustments represent an increase of \$3,165,172 from the 2011-2012 projected revenues of \$33,682,086, bringing the total adjusted revenues, for all funds, to \$36,847,258.

Interfund transactions of (\$166,414) are included in the proposed revenue adjustments.

This represents the first amendment to the adopted 2011-2012 biennial budget. Going forward into 2012, the budget will continue to be closely monitored, and additional adjustments to the budget may be required or recommended. If economic conditions do not improve, revenues may decline further than projected and expenditures may need to be reduced. It is not unusual to modify a biennial budget at least once during the second year of the biennium, prior to closing the period as the City did in 2010.

Please let me know if there are questions that can be addressed prior to the November 14, 2011 City Council meeting.

**City of Kenmore
City Council Regular Meeting
Minutes
September 26, 2011**

CALL MEETING TO ORDER – Mayor David Baker called the meeting to order at 6:30 p.m.

EXECUTIVE SESSION – Mayor David Baker adjourned the regular meeting at 6:30 p.m. to an executive session to discuss Property Acquisition pursuant to RCW 42.30110(1)(b). He stated that the executive session will last for approximately 30 minutes and that no action is anticipated when the meeting is reconvened back to regular session.

EXECUTIVE SESSION WAS EXTENDED FOR AN ADDITIONAL 15 MINUTES.

RECONVENE BACK TO REGULAR SESSION – Mayor David Baker reconvened the meeting back to regular session at 7:15 p.m.

Councilmembers present: Mayor David Baker, Deputy Mayor Milton Curtis, Councilmembers Bob Hensel, John Hendrickson, Glenn Rogers, and Laurie Sperry.

Councilmembers excused: Councilmember Allan Van Ness

Staff present: Fred Stouder, City Manager; Nancy Ousley, Assistant City Manager; Joanne Gregory, Finance Director; Debbie Bent, Director of Community Development; Lauri Anderson, Senior Planner; Ron Loewen, City Engineer; Cliff Sether, Police Chief; Rod Kaseguma, City Attorney; and Janice Gates, Acting City Clerk.

FLAG SALUTE

Mayor David Baker led the flag salute.

AGENDA APPROVAL

The agenda was approved as submitted.

CONSENT AGENDA

Councilmember John Hendrickson moved to pull Item E from the consent agenda for separate consideration.

Councilmember Laurie Sperry moved to approve the consent agenda as amended. Councilmember Glenn Rogers seconded the motion to Approve the Minutes of the August 15, 2011 Special Regular Council Meeting; August 22, 2011 Special Council Meeting and September 7, 2011 Special Council Meeting; Approve Claim Nos. 24493 – 24580 in the Amount of \$404,359.87 for the period ending September 13, 2011; Set a Special Council Meeting/Workshop on Meeting Procedures and Robert's Rules of Order for Monday, October 3, 2011, 6:30 p.m.; and Authorize the City Manager to Execute Contract No. 11-C963 with Prothman to Assist in

the Recruitment of the Next City Manager. Motion passed 5 – 1, with Councilmember John Hendrickson voting no.

CONSENT AGENDA ITEM E: Authorize City Manager to Execute Contract No. 11-C964 with the Jorve Corporation in the Amount of \$32,068.32 for the Roofing and Gutter Replacement Project at the Senior Center.

Discussion followed.

Councilmember Laurie Sperry moved to Authorize City Manager to Execute Contract No. 11-C964 with the Jorve Corporation in the Amount of \$32,068.32 for the Roofing and Gutter Replacement Project at the Senior Center. Councilmember Glenn Rogers seconded the motion. The motion passed 5 – 1, with John Hendrickson voting no.

CITIZEN COMMENTS

Gareth Jeffers, Kenmore Senior Center, 6910 NE 170th, Kenmore, was present to thank the City Council for the approval of the new roof for the Senior Center.

Dean Phillips, 7112 NE 168th Street, Kenmore, was present to state that the LakePointe site would make a good park and that the City should build a Community Center on the Kenmore Village property.

Mayor David Baker summarized the citizen comments.

BUSINESS AGENDA

Authorize the City Manager to Execute Local Agency Agreement No. 11-C962 for 61st Avenue NE and NE 181st Traffic Signal Construction Funding with the Washington Department of Transportation in the Amount of \$650,000 - Ron Loewen, City Engineer, and Fred Stouder, City Manager, were all present to discuss and answer any questions.

Discussion followed.

Councilmember Glenn Rogers moved to Authorize the City Manager to Execute Local Agency Agreement No. 11-C962 for 61st Avenue NE and NE 181st Traffic Signal Construction Funding with the Washington Department of Transportation in the Amount of \$650,000. Councilmember Bob Hensel seconded the motion. The motion passed unanimously.

Consideration of Amendments to the Shoreline Master Program (SMP) as Required and Suggested by the Department of Ecology – Debbie Bent, Director of Community Development, and Lauri Anderson, Senior Planner, were present to discuss and answer any questions.

Discussion followed

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Review and Discussion of the Adopted 2011-2016 Capital Improvement Program with Emphasis on the Transportation Element			June 27, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering & Finance	Ron Loewen Joanne Gregory	Fred Stouder City Manager	
COST OF PROPOSAL: Previous Development Costs: Staff Time 256 hours Contracted \$1,000 Additional Development Costs: Staff Time 15 hours 2011-2016 Program Costs: \$26,191,773		ACCOUNT NUMBER: Various	
AMOUNT BUDGETED 2011-2012: \$7,565,998		NAME AND FUND #: Various	
ATTACHMENT(S) TO AGENDA PACKET ITEM:			
• Memo from City Engineer and Finance Director to the City Manager • Adopted 2011-2016 Transportation portion of the Capital Improvement Program • April 11, 2011 CIP Adoption Agenda Bill			
SUMMARY STATEMENT:			
During the adoption of the 2011-16 Capital Improvement Program (CIP) several issues were discussed that may need clarification, particularly the transportation element, in order to be sure of City Council's understanding of the next steps in implementing the Capital Improvement Program decisions in the immediate future. Capital improvement programs serve at least two basic objectives: first, it is the document that implements the City's vision and comprehensive plan; second, it guides budgetary and financial decisions and allocations. A third objective or purpose, it places on the official document, for State and Federal financing eligibility, the potential of grant and loan awards. Any state or federal funding always requires any project to be consistent with a jurisdiction's plans, needs, and priorities. While the CIP is not necessarily a final budget document, it is also not just a "wish list" or a statement of good intentions, although in many communities historically the CIP has never been more than just a "wish list" more or less consistent with a Comprehensive Plan that can't be fully implemented because of lack of funding. City Management's objective is to be sure the City Council understands, and management is clear, of what dollars are here today and tomorrow, at least in the two year adopted budget period, and what dollars for Transportation Projects are depending on revenue forecasts this year and next, and what projects are in later years even more dependent on revenues coming in, or federal or state funds. Of course, future City Council's can make decisions at that time and such sources as bond issues, local improvement districts, and other financing tools can be considered. A two year CIP consistent with a two year budget document approval, should reflect cash in hand. The attached memo describes which projects are on hold, which have appropriations included in the 2011 - 2012 Budget, and which projects require significant grant or other monies to be completed. Some projects would require budget amendments and transfers, but the dollars are or will be in place. As the City Council knows, the City has increased the cash reserves, and the City Council of course can use the cash reserves to fund or accelerate the implementation of a transportation project. The City can also "loan" money from one fund to another, then allocate General Fund or other revenues			

back to the fund that is the source of the loan. City management is focused on a conservative approach to build and maintain the unrestricted cash reserve during the continuing economic uncertainties. The Council has also indicated interest in setting criteria for the use of the new cash reserves which are estimated to be as noted in the adopted budget in the amount of \$4,941,884.

The management recommendation is to proceed only with projects that are FULLY FUNDED as identified in the attached memorandum.

The attached memo from the City Engineer and Finance Director describes which projects are currently on hold, which have appropriations included in the 2011-12 City Budget and which projects require significant grant money to be completed.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

City of Kenmore 2011 City Council Goals:

- To seek funds and move forward on the 522 project.
- To implement the Economic Development Plan
- To implement a parks improvement and financing plan
- To establish a 20 to 30 year sidewalk plan
- To address Swamp Creek flooding and restoration (inter-jurisdictional relationships, purchasing property, diagnosis and treatment)
- To address watershed issues affecting the City
- To establish a six year financial plan

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:

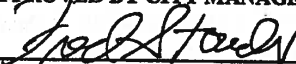
Review and Discussion of the Adopted 2011-2016 Capital Improvement Program with Emphasis on the Transportation Element

REVIEWED BY FINANCE
DIRECTOR:



REVIEWED BY CITY
ATTORNEY:

APPROVED BY CITY MANAGER:



TODAY'S DATE
June 16, 2011

REVISION DATE(S):

FILE NAME & PATH (HYPERLINK):
S:\TIP\February 2011 CIP\City Council\June
2011\110523_Agenda Bill.doc



The City of Kenmore

18120 68TH AVENUE NE, KENMORE, WA 98028

MEMORANDUM

To: Fred Stouder

From: Joanne Gregory and Ron Loewen

Date: June 7, 2011

Subject: Capital Improvement Program – Transportation Programs

As requested the following provides a more detailed description of the activities to be performed on Transportation projects included in the recently approved Capital Improvement Program (CIP). Additionally, as requested, we have recommended a means of funding each of the 2011-12 budgeted projects, where required, with other cash resources rather than relying on future REET collections or Traffic Impact Fees as was contemplated in the adopted 2011-16 CIP. The projects are listed in priority order.

The CIP should be considered a programming document with the City of Kenmore adopted Budget being the document that actually appropriates funds for project activities. Since the projects in the last four years of the CIP will not be funded until subsequent budget years we have concentrated on those projects funded in the current budget. Table A of the attachments is a summary of anticipated project expenditures over 2011 and 2012 showing current cost estimates and transportation program revenues. This sheet shows that anticipated expenditures for the two year period have been reduced by \$2,049,900 through project deferrals and updated cost estimates. All 2011-12 budgeted projects are funded with available cash.

The following attached documents are the documents prepared for the CIP discussion and adoption on April 11, 2011 with some revisions. Table B of the attachments is a revised summary of the Transportation Capital Improvement Program with anticipated project expenditures, transportation program revenue and anticipated additional maintenance expenditures with completion of the projects. The subsequent pages are the individual project description sheets.

1. T 1 SR 522 Phase I Stages 1 & 3 (65th Avenue NE to 73rd Avenue NE and the Burke-Gilman Trail underpass at 73rd Avenue) **FULLY FUNDED** – The CIP planned expenses are \$578,798 for 2011. The CIP anticipated revenue sources included \$157,468 of REET funds, \$267,532 of Traffic Impact Fees and \$153,798 from various utilities as reimbursement for work performed for them on the project which totals \$578,798.

The 2011-12 Budget appropriated \$578,798. This project is fully funded.

The remaining construction activities on this project include: completing the punch list, restoration of landscaping that was lost this past winter, modifications to wheel chair ramps, reimbursement of Puget Sound Energy (PSE) for undergrounding of aerial lines, and restoration of sidewalks where utility poles have been removed. Once this is done we need to complete the administrative close out process and invoice utilities and other jurisdictions that participated in the project. The project close out should be completed by November 2011. The project manager is Ron Loewen and construction observation services are being provided by HDR Inc, a consultant. See Pages 2 and 3 for project details.

2. **T 3 SR 522 Phase II (73rd Avenue NE to 83rd Avenue NE) – FULLY FUNDED WITH COUNCIL APPROVED BUDGET AMMENDMENT-** The CIP programmed expenses are \$854,000 for 2011 however recent contractor claim settlement discussions have increased the anticipated expenditure to \$1,054,000. The CIP anticipated revenue sources included \$414,000 of REET funds, \$400,000 of Traffic Impact Fees and \$40,000 from various utilities as reimbursement for work performed for them on the project which totaled \$854,000. An additional \$200,000 would be required to meet anticipated expenditures as a result of the settlement. In addition, the 2009-10 Budget provided for reimbursing PSE for their costs however this payment was not made until 2011. This will require a budget amendment in the amount of \$472,775 by the City Council from REET funds carried over from 2010. This amendment of \$472,775, plus the additional \$200,000 above, increases the total project cost to \$1,526,775. The 2011-12 Budget appropriated \$854,000.

The recommended funding has been revised as follow: \$472,775 of REET funds, \$775,000 of Traffic Impact Fees, \$40,000 from various utilities as noted above, and \$239,000 from the General Fund cash reserves.

The project would be fully funded if the City Council approves a budget amendment to this effect.

The remaining construction activities on this project include completing the punch list, resolution of disputes with the contractor and one adjustment to the Burke-Gilman Trail. Once this is done we need to complete the administrative close out process and invoice utilities and other jurisdictions that participated in the project. The project close out process, assuming resolution of contractor disputes in June, should be completed in November 2011. The project manager is Ron Loewen and construction observation services are being provided by HDR Inc, a consultant. See Pages 6 and 7 for project details.

3. **T 33 NE 181st Street Frontage (Between the King County Library and 67th Avenue NE)** **FULLY FUNDED** - The CIP programmed expenses are \$307,000 for 2011, however the project is nearly complete and actual expenses are anticipated to be \$250,000. The CIP anticipated using \$307,000 of REET funds for this project.

The 2011- 12 Budget appropriated \$307,000 for this project. This project is fully funded.

This project would construct curb, gutter and sidewalk along the south side of NE 181st Street between the King County Library and 67th Avenue NE and underground the overhead aerial utilities in the same location and along 67th Avenue NE from NE 181st Street to SR 522. The project manager is Kent Vaughan and the City is providing construction observation. See Pages 24 and 25 for project details.

4. **T 32 61st Place Landslide – FULLY FUNDED WITH A CITY COUNCIL APPROVED USE OF OTHER CASH RESOURCES AND BUDGET AMENDMENT** - The CIP programmed expenses are \$665,500 for 2011 however a more current estimate anticipates total expenses will be \$500,000. The recently adopted CIP anticipated REET funds would be used to fund this project however we recommend that General Fund Cash Reserve be used to the fund the project.

The 2011-12 Budget did not appropriate funds for this project. A budget amendment will be required. This project will be fully funded with a City Council approval of a budget amendment to use General Fund Cash Reserve.

This project was not anticipated when the draft CIP was prepared last summer or the 2011 –12 Budget as it was adopted in December 2010. Thus the CIP and the 2011-12 Budget did not provide a project or design engineer or program funds. The City Council has subsequently declared it an emergency. Design is 100% complete and bids have been received. Construction would take place in June of 2011. The project manager is Kent Vaughan with design services being provided by a HDR Inc., consultant. See Pages 22 and 23 for project details.

5. **T 7 61st Ave NE & NE 181st Traffic Signal – FULLY FUNDED WITH A CITY COUNCIL APPROVED USE OF OTHER CASH RESOURCES AND BUDGET AMMENDMENT** - The CIP programmed expenses are \$3,338,300 for 2011 and 2012, a more recent cost estimate projects expenditures of \$2,771,900. The CIP anticipated revenue sources included \$1,348,550 of REET funds, \$1,389,750 of Traffic Impact Fees and \$600,000 of a State or Federal grant which totals \$3,338,300. The City recently learned that the Federal grant amount will be \$650,000.

The 2011- 12 Budget appropriated \$2,048,550. To provide the total estimated project costs this will require a budget amendment in the amount of \$723,350 by the City Council. We recommend that the anticipated Sidewalk Program project for 2011-12 be deferred and the REET programmed funds be used for this project. Assuming the City Council approves the budget amendment and delay to the sidewalk project this project would be fully funded with \$1,675,645 of REET, \$446,255 of Traffic Impact Fees and \$650,000 from the grant. *see*

This project is currently being designed and right of way is being acquired. The project will be advertised for bids in January 2012, under construction by April 2012 and will be completed by the end of 2012. The project costs have increased, from the draft CIP of last summer from \$1,200,000 to \$2,771,900 a \$2,138,300 increase. The increases have been for additional right of way acquisitions along SR 522 that would provide for

future improvements and make projects T 6 and T 8 "shovel ready". The acquisition of additional right of way, \$795,700, was approved by the City Council in September. The right of way cost estimate was also increased to provide a more conservative contingency value based on preliminary discussions with property owners. \$324,327 and the construction costs were increased to include a retaining wall and a more conservative contingency value, \$955,323. Recent cost evaluations suggest the construction estimate is very conservative and actual costs could be significantly less, approximately \$500,000. However if the project includes undergrounding of aerial utility lines the amount would likely be only a \$200,000 reduction. The City Council will be presented with options at the meeting in June to discuss budget reduction options. The project manager is Phil Thordarson and will become Kent Vaughan when Phil leaves. The design services are being provided by H W Lochner, a consultant. See Pages 10 and 11 for project details.

6. **T 2 SR 522 Phase I Stage 2 (60th Avenue NE to 65th Avenue NE) – FULLY FUNDED WITH A CITY COUNCIL APPROVED USE OF OTHER CASH RESOURCES** - The CIP programmed expenses are \$261,000 for 2011, however the 2011 funding need is only anticipated to be \$100,000. The CIP programmed \$261,000 of REET funds for this project.

The 2011-12 Budget appropriated \$261,000. Funding of this project would require the use of other available cash of \$100,000. We recommend that the proposed Sidewalk Program project for 2011-12 be deferred and the programmed funds be used for this project. Assuming the City Council approves the deferral of the Sidewalk Program project this project would be fully funded.

The project has reached 95% design completion. The remaining design tasks include right of way negotiations and plan revisions. The project has been placed on hold except for some specific tasks until right of way acquisition funds and/or construction funds have been identified. The specific tasks include plan revisions requested by King County Parks in conjunction with obtaining a permit to use the Burke-Gilman Trail during construction and right of way negotiation for 3 parcels: King County Parks, Jack and the Box and Uplake Town Center. The property compensation costs for these three parcels have been budgeted as part of Project T 7 61st Avenue NE and NE 181st Street Traffic Signal. The project manager has been Phil Thordarson however when Phil leaves no project manager will be assigned as the project has been placed on hold. The design services are being provided by H W Lochner, a consultant. See Pages 4 and 5 for project details.

7. **T 12 NE 145th Street Signal – FULLY FUNDED** - The CIP programmed expenses are \$365,000 for 2011 and 2012. The CIP anticipated revenue sources included \$29,000 of REET funds and the remainder will be funds provided by Bastyr University. \$159,500 has been received thus far.

The 2011-12 Budget appropriated \$315,000 for this project with \$50,000 having been spent in 2010. This project is fully funded.

This project is at 60% design with advertising for bids scheduled for September 2011. Construction will be completed by April of 2012. The project manager is Kent Vaughan. The design services are being provided by H W Lochner, a consultant. See Pages 16 and 17 for project details.

8. **T 26 Wayfinding Signage and Banners – FULLY FUNDED WITH COUNCIL APPROVED BUDGET AMMENDMENT** - The CIP programmed expenses are \$199,000 for 2011 through 2016. The CIP anticipated \$199,000 of General Fund Cash Reserve would be used as the revenue source.

The 2009-2010 Budget appropriated \$73,000 for design of which \$58,343 was not spent. The 2011-12 Budget did not carryover these funds nor did it appropriate funds for activities in 2011 and 2012. This will require a budget amendment of \$104,000 by the City Council using General Fund cash reserve. Assuming the City Council approves the budget amendment the project would be fully funded.

Design has been completed on this project and bid specifications are being prepared. The CIP anticipates installation of some signs and banners in 2011 with annual expenditures of \$20,000 over the next 6 years for additional signs and banners. The project manager is Nancy Ousley and design services are being provided by a consultant in combination with the City. See Pages 18 and 19 for project details.

9. **T 27 Sidewalk Program – FULLY FUNDED WITH FUTURE REET COLLECTIONS** - The CIP planned expenses are \$1,140,000 for two projects one in 2012 and the other in 2016. The CIP anticipated REET funds set aside in previous years for a sidewalk program would be used along with future REET collections for this project. We are recommending that most of the programmed 2011-12 project be deferred and the remaining existing accumulated REET funds be used to fund other 2011-12 projects.

The 2011-12 Budget appropriated \$650,000 for this project. Only \$100,000 of the appropriation would be used to repair a sidewalk on 61st Avenue NE and a stairway on NE 190th Street. REET funds may be available under current revenue projections when the next project is scheduled in 2015. The decision to appropriate funds would be considered as part of the 2015-16 Budget.

This program would construct sidewalks in prioritized locations throughout the City. The City Council will be presented with a priority array in late June to discuss project selection. The program will also include repair of sidewalks or stairways in several locations throughout. Kent Vaughan is the project manager and design services will be provided by the City. See Pages 20 and 21 for project details.

10. **T 8 SR 522 57th to 61st with BGT Wall – FULLY FUNDED WITH FUTURE REET COLLECIONS, TRAFFIC IMPACT FEES AND GRANTS** -The CIP programmed expenses are \$12,479,800 for 2013, 2014, and 2015. The CIP anticipated revenue sources included \$675,970 of REET funds, \$523,698 in Traffic Impact Fees and the remainder in grant funds.

This project has not been included in the 2011-12 Budget and there has been no appropriation of funds. The REET and Traffic Impact Fees may be available under current revenue projections when the project is scheduled to begin again 2013. The decision to appropriate the funds would be considered as part of the 2013-14 Budget.

This project is currently at 95% design completion and on hold until additional funding is secured. The CIP anticipated completing design and initiating right of way activities in 2013 with construction in 2015. The project manager has been Phil Thordarson however when Phil leaves no project manager will be assigned as the project has been placed on hold, the design services are being provided by H W Lochner, a consultant. See Pages 12 and 13 for project details.

11. **T 6 SR 522 61st Ave NE (175th to NE 181st) – FULLY FUNDED WITH FUTURE REET COLLECIONS, TRAFFIC IMPACT FEES AND GRANTS** -The CIP programmed expenses are \$2,666,300 for 2015 and 2016. The CIP anticipated revenue sources included \$510,250 of Traffic Impact Fees and the remainder in grant funds.

This project has not been included in the 2011-12 Budget and there has been no appropriation of funds. The local funds may be available under current revenue projections when the project is scheduled to begin again 2015. The decision to appropriate the funds would be considered as part of the 2015-16 Budget.

The project reached 95% design under project T 2. The project has been put on hold until additional right of way and construction funds have been secured. As the project is on hold there is no assigned project manager. The project manager has been Phil Thordarson however when Phil leaves no project manager will be assigned as the project has been placed on hold. The design services are being provided by a consultant. See Pages 8 and 9 for project details.

12. **T 10 SR 522 from 61st to 63rd Avenue NE – FULLY FUNDED WITH FUTURE REET COLLECIONS, TRAFFIC IMPACT FEES AND GRANTS** -The CIP programmed expenses are \$3,808,200 in 2014, 2015, and 2016. The CIP anticipated revenue sources included \$579,700 of REET funds and the remainder in grant funds.

This project has not been included in the 2011-12 Budget and there has been no appropriation of funds. The local funds may be available under current revenue projections when the project is scheduled to begin again in 2014. The decision to appropriate the funds would be considered as part of the 2013-14 Budget.

This project is currently at 95% design completion and on hold until additional funding is secured. The CIP anticipated completing design and initiating right of way activities in 2013 with construction in 2015. The project manager has been Phil Thordarson however when Phil leaves no project manager will be assigned as the project has been placed on hold, the design services are being provided by H W Lochner, a consultant. See Pages 14 and 15 for project details.

S:\TIP\February 2011 CIP\Transp Proj _Fred_060311.doc

CITY OF KENMORE, WASHINGTON
TRANSPORTATION CAPITAL IMPROVEMENT PROGRAM
FOR THE YEARS 2011-2016 **Table B**

Project Description	2011 Proposed	2012 Proposed	2013 Proposed	2014 Proposed	2015 Proposed	2016 Proposed	2011-2016 Totals
T 1 SR 522 Phase I Stages I & 3	\$578,798	\$0	\$0	\$0	\$0	\$0	\$578,798
T 2 SR 522 Phase I Stage II Design	100,000	0	0	0	0	161,000	261,000
T 3 SR 522 Phase II	1,526,775	0	0	0	0	0	1,526,775
T 6 SR 522 61st Ave NE (NE 175 to NE 181)	0	0	0	0	165,700	2,500,600	2,666,300
T 7 61st Ave NE & 181st Traffic Signal and NB Left turn Lane	1,607,600	1,164,300	0	0	0	0	2,771,900
T 8 SR 522 57th to 61st with BGT Wall	0	0	523,000	421,100	11,535,700	0	12,479,800
T 10 SR 522 61st to 63rd	0	0	0	100,000	366,700	3,341,500	3,808,200
T 12 NE 145th St Traffic Signal	315,000	0	0	0	0	0	315,000
T 26 Wayfinding Signage and Banners	84,000	20,000	20,000	20,000	20,000	20,000	184,000
T 27 Sidewalk Program	100,000	0	0	0	100,000	650,000	850,000
T 32 61st Pl NE Landslide	500,000	0	0	0	0	0	500,000
T 33 NE 181st St Frontage Improvements	250,000	0	0	0	0	0	250,000
Total Project Costs	\$5,062,173	\$1,184,300	\$543,000	\$541,100	\$12,188,100	\$6,673,100	\$26,191,773
Funding:							
Real Estate Excise Tax	\$1,840,938	\$0	\$20,000	\$100,000	\$746,170	\$550,500	\$3,257,608
Real Estate Excise Tax - Set Aside Sidewalks	200,000	743,950	0	0	100,000	650,000	1,693,950
Impact Fee Revenue	1,488,787	0	200,000	200,000	123,698	510,250	2,522,735
State/TIB	0	0	303,000	221,100	1,475,900	0	2,000,000
General Fund	823,000	20,000	20,000	20,000	20,000	20,000	923,000
Other Agencies	193,798	0	0	0	0	0	193,798
Contributions	18,500	18,500	18,500	18,500	18,500	18,500	111,000
Federal STP	0	0	0	0	5,208,200	0	5,208,200
SR 520 Tolling Mitigation	0	0	0	0	2,444,200	3,076,156	5,520,356
SR 522 Federal Allocation	0	650,000	0	0	2,071,932	1,864,194	4,586,126
Total Project Funding	\$4,565,023	\$1,432,450	\$561,500	\$559,600	\$12,208,600	\$6,689,600	\$26,016,773
Estimated Annual Maintenance on Completed Projects:							
T 1 SR 522 Phase I Stages I & 3	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$22,000	\$132,000
T 3 SR 522 Phase II	22,000	12,000	12,000	12,000	12,000	12,000	82,000
T 7 61st Ave NE & 181st Traffic Signal	0	0	600	1,600	1,600	1,600	5,400
T 8 SR 522 57th to 61st with BGT Wall	0	0	0	0	0	19,750	19,750
T 12 NE 145th St Traffic Signal	0	1,100	1,100	1,100	1,100	1,100	5,500
T 26 Wayfinding Signage and Banners		13,000	20,000	20,000	20,000	20,000	93,000
Total Annual Maintenance	\$44,000	\$48,100	\$55,700	\$56,700	\$56,700	\$76,450	\$337,650

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Discussion of 61 st Avenue NE and NE 181 st Street Signal Improvement Project scope of work and right-of-way requirements.			June 27, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Staff Cost:</u> Preparing agenda bill 5hours Administering design agreement 240 hours <u>Contract Services:</u> Design, Right of Way, Construction: \$2,771,900		ACCOUNT NUMBER: 09 00 7097 61 st Ave/NE 181 st Signal	
AMOUNT BUDGETED: Adopted 2011-12 Budget \$2,048,550 Approved 2011-16 CIP \$3,338,300		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Table: 61st Avenue and NE 181st Street Signal Project Options • September 27, 2010 Agenda Bill • July 26, 2010 Agenda Bill • February 8, 2010 Agenda Bill			
SUMMARY STATEMENT: The City Council approved this project on September 27, 2010 with the acquisition of additional right of way and modified the budget as part of the 2011-16 Capital Improvement Program (CIP) adoption in April. During the CIP adoption City staff suggested the project scope be discussed in further detail as the cost estimate had increased from \$2,048,550 to \$3,338,300. Staff is recommending Alternative 4 as described below which is estimated to cost \$2,771,900. The funds are available from Real Estate Excise Tax (REET) in the amount of \$1,675,645, Traffic Impact Fees in the amount of \$446,255, and a Federal Grant in the amount of \$650,000 (not yet received). The adopted 2011-2012 budget appropriated \$2,048,550 for this project, therefore Council action to amend and increase the budget in the amount of \$723,350 would be required. The additional REET funds would be borrowed from existing cash set aside for the sidewalk program which would result in the sidewalk program being delayed for at least two years. Where funds are noted as available, this assumes that the revenue as budgeted in the adopted 2011-2012 biennial budget will be realized. The following is a discussion of the project scope and cost estimates. BACKGROUND The proposed SR 522 Phase I Stage 2 Corridor Improvement Project, from 57th Avenue NE to 65th Avenue NE (the last section) was divided into segments in February 2010, to allow more favorable			

funding proposals. In July of 2010 the Council received word that Senator Murray intended to sponsor the direct allocation of \$600,000 to the SR 522 project. On July 26th the Council authorized the design of the signal improvements at NE 181st Street and 61st Avenue NE with the provision that right-of-way acquisition and improvements be consistent with the overall SR 522 project. The City has also now learned that a Federal Grant allocation has been made by the Washington State Legislature in the amount of \$650,000.

DISCUSSION

During the City Council discussion authorizing the project in September, the City Council decided to pursue the additional right of way. During revisions to the 2011-16 CIP, concern arose over the increase in project cost estimates from the approved \$2,058,550 to \$3,338,300. Since then more detailed cost estimates for the retaining wall and updated right of way estimates have been received. This has resulted in reductions to the 2011-16 CIP estimate, however the project cost estimate remains higher than previously approved. Additionally an estimate for undergrounding aerial facilities has been provided for consideration. The alternatives presented in this agenda bill provide the City Council with 4 distinct project scopes of work with increasing right-of-way acquisition and improvements.

ALTERNATIVES

City staff have prepared 4 alternative project scopes of works and cost estimates for discussion. These are very similar to the project alternatives discussed in September of last year. Several of the alternatives have the same right-of-way acquisition but all vary the extent of construction.

Alternative 1 - This alternative would construct only the traffic signal at 61st Avenue NE and NE 181st Street and acquire right of way at the intersection for future improvements. Under this alternative, right of way would be acquired from 4 parcels and construction would only include the traffic signal and ADA ramps. Total cost is estimated at \$975,400 and would be funded with the Federal Grant of \$650,000 and Traffic Impact Fee funds of \$325,400 which are available. The cost of this Alternative is less than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and does not require Council action to amend or increase the project budget.

In summary, **Alternative 1** is a minimal project and would provide a traffic signal but no left turn pockets. This would improve circulation and use of NE 181st Street and possibly allow the closure of the 60th Avenue NE left turn from SR 522.

Alternative 2 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE. Aerial facilities would remain. Under this alternative right of way would be acquired from 4 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, and pavement. Total cost is estimated at \$1,675,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$579,645 of REET of which \$200,000 would be "borrowed" from the sidewalk program funds set aside and which are available. The cost of this Alternative is less than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and does not require Council action to amend or increase the project budget. This estimate is higher than the September Alternative 2 estimate due to revised right of way estimates and updated costs for the retaining wall.

In summary, **Alternative 2** matches the City Council's stated project scope. Circulation along NE 181st Street would be improved and the left turn at 60th Avenue NE on SR 522 could be eliminated.

Alternative 3 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE. Aerial facilities would remain.

Under this alternative right of way would be acquired from 8 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps and pavement. Total cost is estimated at \$2,471,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,375,645 of REET of which \$650,000 would be "borrowed" from the sidewalk program funds set aside and which are available. The cost of this Alternative is \$423,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and would require Council action to amend and increase the project budget. This alternative was chosen by the City Council in September. The additional costs, (the September cost estimate was \$2,058,550), are the result of updated right of way and retaining wall estimates. The additional right of way acquisition would secure several significant pieces of right of way for a portion of the last segment of the SR 522 project.

In summary, **Alternative 3** matches the City Council's stated project scope and direction at the September meeting of including right of way for future SR 522 projects.

Alternative 4 - This alternative would construct the traffic signal and left turn pockets at NE 181st Street and some curbs along 61st Avenue NE and underground aerial facilities. Under this alternative right of way would be acquired from 8 parcels and construction would include the traffic signal, storm drainage, sidewalks, landscaping, ADA ramps, undergrounding of aerial facilities and pavement. Total cost is estimated at \$2,771,900 and would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,675,645 of REET of which \$950,000 would be "borrowed" from the sidewalk program funds set aside and which are available. The cost of this Alternative is \$723,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and would require Council action to amend and increase the project budget. This alternative is new as previous alternatives did not consider undergrounding aerial facilities.

In summary, **Alternative 4** matches the City Council's stated project scope and direction at the September meeting of including right of way for future SR 522 projects. In addition it provides undergrounding of aerial facilities at the intersection.

RECOMMENDATION

City staff recommends **Alternative 4** which is consistent with the previous City Council direction and provides for undergrounding at the intersection. Undergrounding would allow for the removal of wood poles and aerial facilities now rather than waiting until a future SR 522 project.

The cost of this Alternative is \$723,350 greater than the adopted 2011-2012 biennial budgeted amount of \$2,048,550 and will require Council approval to amend and increase the project budget from \$2,058,000 to \$2,771,900. The project would be funded with the Federal Grant of \$650,000, Traffic Impact Fee funds of \$446,255, and \$1,675,645 of REET of which \$950,000 would be "borrowed" from the sidewalk program funds set aside and which are available.

2011-16 CIP provides adequate financial resources for the project by delaying other SR 522 project segments.

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:

Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2.

City Council action on July 26th, authorizing the design and right of way acquisition for the 61st Avenue NE and NE 181st Street signal.

City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61st Avenue and NE 181st signal project.

RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize City staff to proceed with 61 st Avenue NE and NE 181 st Street Signal Improvement Project scope of work and right-of-way acquisition as described in Alternative 4.		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: June 8, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\110620_agenda_bill.doc

City of Kenmore

Washington

SR 522 Phase I Stage 2

61st Avenue NE and NE 181st Street Signal Project Options

Alternative	Description	City Funds	Grant Funds	Total
Alternative 1	Signal only	\$ 325,400	\$ 650,000	\$ 975,400
Alternative 2	Signal and widening	\$ 1,025,900	\$ 650,000	\$ 1,675,900
Alternative 3	Signal, widening and additional right of way	\$ 1,821,900	\$ 650,000	\$ 2,471,900
Alternative 4	Signal, widening, additional right of way and undergrounding	\$ 2,121,900	\$ 650,000	\$ 2,771,900
Approved CIP	Signal, widening and additional right of way	\$ 2,738,300	\$ 600,000	\$ 3,338,300

June 7, 2011

S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\110620_Table Project Options.docx

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Adopt Ordinance No 11-0324 authorizing by condemnation or negotiation of real property interests necessary for the 61st Avenue NE & NE 181st Street Traffic Signal Project			September 12, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen 	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Right of Way Activities</u> <u>Staff Cost:</u> Preparing agenda bill: 6 hours Administering right of way acquisition: 40 hours <u>Contract Services:</u> Design/Legal Description: \$ 27,200 Appraisals: \$ 37,400 Negotiations: \$ 39,900 <u>Compensation:</u> <u>\$204,800</u> Total \$309,300		ACCOUNT NUMBER: 09 00 7097 61 st Ave/NE 181 st Signal	
AMOUNT BUDGETED: <u>Right of Way Budget:</u> \$1,105,000 <u>Overall Project Budget:</u> Project Budget: \$2,771,900 Expended Budget as of July 22: \$ 131,354 Obligated ¹ Budget as of July 31: \$ 226,815 Remaining Budget ² as of July 31: \$2,435,085 Estimated Remaining Expenditures \$1,639,385 (Over) / Under Budget ³ : \$ 795,700 ¹ Obligated includes funds spent and obligated through signed agreements. ² Remaining Budget is the total budget less the obligated amount. ³ See explanation in Summary Statement		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: Exhibit A - Ordinance No 11-0324 Exhibit B - Right of Way Graphic Exhibit C - Example Notification Letter Exhibit D - June 27, 2011 Agenda Bill Exhibit E - September 27, 2010 Agenda Bill			

S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\Agenda Bill - Condemnation Ord..doc

SUMMARY STATEMENT:

The City has initiated right of way activities on the 61st Avenue NE and NE 181st Street traffic signal project. Appraisals have been completed and formal offer letters have been submitted to all property owners. Each property owner has been contacted multiple times and negotiations are proceeding on an amicable basis on all. However in order to meet our schedule of starting construction early next year we may need to proceed with condemnation on one or more properties. The condemnation ordinance, see Exhibit A, authorizes the City Manager to pursue condemnation if negotiations are at an impasse.

A public hearing has been scheduled to hear public testimony prior to considering the adoption of the ordinance. Notice has been provided on the City's web site, in the official paper and certified letters sent to the affected property owners.

DISCUSSION:

The 61st Avenue NE and NE 181st Street traffic signal project will be acquiring street right of way from 4 parcels, see Exhibit B, at an estimated cost of \$309,300. Parcel acquisitions areas and locations have been identified based on design drawings and are included in a right of way map. Appraisals are completed and the acquisition will include the following real property rights: fee simple, right of way easement, permanent utility easements, and temporary construction easements. The right of way process for this project must comply with State and Federal regulations. The process is as follows:

- Preparation of a right of way plan based on design plans.
- Preparation of either appraisals or administrative offer worksheets in lieu of an appraisal, based on market research. Administrative offer worksheets are completed when the value of the acquisition, during the project funding estimate phase, is anticipated to be less than \$25,000. This is typically the case for very small acquisitions or easements. If the property owner requests a full appraisal, then one will be prepared.
- An independent review appraiser reviews the appraisals. The reviewer will either agree or recommend a revised amount. Based on the reviewer's recommendation, the City approves the amount of just compensation to the property owner.
- Offers to property owners are made in person. All offers are explained in detail including the legal instruments that need to be signed. The initial offer is followed by several additional contacts to resolve issues and answer questions. We will make every reasonable effort to negotiate settlement of the acquisition.
- Upon settlement, the City will reimburse property owner's expenses for evaluating offers, up to \$750 upon submission of a bill or paid receipt.
- During negotiations, and if necessary, we will ask for voluntary possession and use of property to be acquired for the project. This will allow the City to construct the project while we continue to discuss the value of the real property rights needed.
- If we are unable to reach a settlement then the City will file a condemnation action in King County Superior Court. The proposed condemnation ordinance will give the City Manager the authority to file the condemnation action.
- Prior to trial we will once again request a possession and use agreement. The condemnation process will be in two parts, first a court hearing of "Use and Necessity" and secondly a court trial to determine the value of the property acquisition.
- Once the court case is resolved or if the property owner signs the agreements closing and escrow

S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\Agenda Bill - Condemnation Ord..doc

will proceed and the City will deposit a check for the agreed upon amount.

- Prior to construction, the Washington State Department of Transportation will review right of way property acquisition files and certify the process. The Department of Transportation certification is required before bid advertising.

During the negotiations we will make every reasonable effort to reach agreement on acquisition. The right of way consultants understand Federal and State acquisition requirements and the need to provide property owners with the time to consider offers and ask questions. They are available on short notice and prepared to answer questions. If issues arise the project designers are also available to discuss modifications or explain design decisions. We will also share appraisal information with property owners upon request. However there are times when negotiations reach an impasse and condemnation is necessary.

We are recommending the City Council authorize the City manager to file a condemnation action if acquisition negotiations reach an impasse. Authorizing condemnation now avoids delays to the project and demonstrates the City's intent to acquire land and proceed with the project. Without the condemnation ordinance at this time we would wait until the impasse and then schedule consideration of an ordinance. This process would interject several months into the project schedule and delay the bid advertising date. In addition the ordinance would likely be repeated several times for each parcel as negotiations reach an impasse adding expense to the project and consuming Council agenda time.

As part of the legal requirements each property owner was sent a letter, see Exhibit C, advising them of the City Council's consideration of the condemnation ordinance. These letters were sent two weeks prior to the hearing date certified mail. Additionally each property owner or their representatives were verbally advised of the condemnation process and the hearing.

During the City Council discussion authorizing the project in September 2010, the City Council decided to pursue the additional right-of-way needed for the SR522 Phase I, Stage 2 project (Jack in the Box, Uplake Town Center, and Burke-Gilman Trail). The right-of-way budget for those 3 parcels and the 4 required for the 61st Avenue NE and NE 181st Street Signal Project totaled \$1,105,000 of which \$795,700 was allocated for the 3 Stage 2 parcels. Since then the City was awarded a \$2.5 million Federal Surface Transportation grant for acquisition of Stage 2 right of way. If we were to proceed with acquisition on these parcels, make an offer or authorize condemnation the acquisition costs would not be eligible for Federal grant reimbursements. Therefore the acquisition process for these 3 parcels has been placed on hold until an agreement for the Federal grant can be executed sometime in late September. This will reduce the signal project budget by \$795,700.

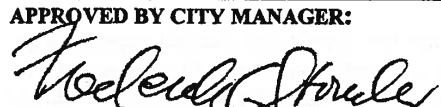
As a footnote, the \$2.5 million grant requires a match amount \$337,500 saving the City \$458,200 while allowing the acquisition of all right of way for the Stage2 project.

Since the last time the City Council reviewed the right of way acquisition requirements there have been some changes:

- The parcel on the northeast corner of the intersection is a condominium. In order to acquire fee title for the right of way all condominium owners would be required to authorize acquisition. However the Home Owners Association has the authority to grant easements. We are therefore requesting a right of way easement rather than fee title which will reduce the acquisition time and project costs.
- Based on discussions with the owner of the parcel on the southwest corner of the intersection the acquisition requirements have been reduced to reduce the impacts on their business and existing improvements. This will also reduce the project costs.

With respect to the overall project, the City issued a SEPA determination of non-significance (DNS) on August

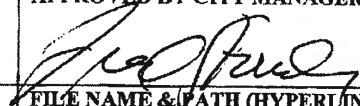
S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\Agenda Bill - Condemnation Ord..doc

24, 2011.		
RECOMMENDATION: City staff recommends the adoption of Ordinance 11-0324 authorizing the acquisition by negotiation or condemnation of real property interests needed for the 61 st Ave NE and NE 181 st Street traffic signal project.		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2. City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61 st Avenue and NE 181 st signal project. City Council action on June 27, 2011 selecting an alternative authorizing the design and right of way acquisition for the 61 st Avenue and NE 181 st signal project.		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Adopt Ordinance No 11-0324 authorizing by condemnation or negotiation of real property interests necessary for the 61 st Avenue NE & NE 181 st Street Traffic Signal Project		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: August 24, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\Agenda Bill - Condemnation Ord..doc

S:\0159 61st Ave NE and NE 181st St Traffic Signal\Council\Agenda Bill - Condemnation Ord..doc

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to execute an interlocal agreement with the Washington State Department of Transportation for the construction of the 61 st Ave NE and NE 181 st Street Traffic Signal in the amount of \$650,000			September 26, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Ron Loewen	425 398 8900
COST OF PROPOSAL: <u>Staff Cost</u> Preparing Agenda Bill 2 hours Grant preparation and administration 80 hours <u>WSDOT Reimbursable Costs</u> Providing a CA Engineer \$ 5,000 Construction Costs Complying with Federal Specifications <u>\$15,000</u> Total \$20,000		ACCOUNT NUMBER: 09 00 7097 – 61 st Ave/NE 181 st Signal	
AMOUNT BUDGETED: <u>Construction Budget:</u> \$1,501,000 <u>Overall Project Budget:</u> Project Budget: \$2,771,900 Expended Budget as of July 22: \$ 131,354 Obligated ¹ Budget as of July 31: \$ 226,815 Remaining Budget ² as of July 31: \$2,435,085 Estimated Remaining Expenditures \$1,639,385 (Over) / Under Budget: \$ 795,700 ¹ Obligated includes funds spent and obligated through signed agreements. ² Remaining Budget is the total budget less the obligated amount.		NAME AND FUND #: Arterial Street Fund No. 09	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Local Agency Agreement • Kenmore's 2011-13 Transportation Budget Request for the 61st Ave NE & NE 181st Street signal project. • WSDOT letter dated May 16, 2011 informing the City of project selection for funding. • September 12, 2011 Agenda Bill • June 27, 2011 Agenda Bill			

S:\0159 61st Ave NE and NE 181st St Traffic Signal\WSDOT\AgendaBill - WSDOT Local Agency Agreement.doc

SUMMARY STATEMENT:		
As part of the City's efforts to secure funding for the SR 522 Corridor projects the State Legislature was approached regarding a smaller improvement that would both begin corridor improvements and ease the burden of SR 520 tolling on the citizens of Kenmore. A grant proposal was made for \$650,000 to assist with the construction funding of the 61st Avenue NE and NE 181st Street Traffic Signal. The City was successful and received a \$650,000 federal funding grant from the States 2011-13 Transportation Budget. These funds are available at 100 percent and require no local match. In order for the City to receive these funds and the State to obligate them the City must enter into a Local Agency Agreement and agree to adhere to the "Local Agency Guidelines".		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:		
Council action on June 27, 2011, discussion of 61st Avenue NE and NE 181st Street Signal Improvement Project scope of work and right-of-way requirements. City Council action on September 27, 2010 selecting an alternative authorizing the design and right of way acquisition for the 61st Avenue and NE 181st signal project.		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:		
Authorize the City Manager to execute an interlocal agreement with the Washington State Department of Transportation for the construction of the 61st Ave NE and NE 181st Street Traffic Signal in the amount of \$650,000		
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:
		
TODAY'S DATE:	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):
9.15.2011		S:\0159 61st Ave NE and NE 181st St Traffic Signal\WSDOT\AgendaBill - WSDOT Local Agency Agreement.doc

S:\0159 61st Ave NE and NE 181st St Traffic Signal\WSDOT\AgendaBill - WSDOT Local Agency Agreement.doc



Local Agency Agreement

Agency City of Kenmore
 Address 18120 68th Avenue NE
P.O. Box 82607
Kenmore, WA 98028

CFDA No. **20.205**

(Catalog of Federal Domestic Assistance)

Project No. _____

Agreement No. _____

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102, A-87 and A-133, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name 61st Avenue NE & NE 181st Street Traffic Signal Project Length 0.09 miles

Termini 61st Avenue NE from 200 feet south of NE 181st Street to 300 feet north of NE 181st Street

Description of Work

Installation of a traffic signal at the intersection and the widening of 61st Avenue NE approaches to facilitate opposing left-turn lanes. Work will also include sidewalk and illumination improvements for pedestrians and upgraded drainage improvements. The right-of-way will be acquired by Agency forces and the project is expected to go out for bid in January 2012

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE ____ % Federal Aid Participation Ratio for PE	a. Agency			
	b. Other			
	c. Other			
	d. State			
	e. Total PE Cost Estimate (a+b+c+d)			
Right of Way ____ % Federal Aid Participation Ratio for RW	f. Agency			
	g. Other			
	h. Other			
	i. State			
	j. Total R/W Cost Estimate (f+g+h+i)			
Construction 100 % Federal Aid Participation Ratio for CN	k. Contract	1,005,563.00	355,563.00	650,000.00
	l. Other Construction Management	177,041.00	177,041.00	
	m. Other Utility Undergrounding	300,000.00	300,000.00	
	n. Other Public Art	9,288.00	9,288.00	
	o. Agency			
	p. State	10,000.00	10,000.00	
	q. Total CN Cost Estimate (k+l+m+n+o+p)	1,501,892.00	851,892.00	650,000.00
	r. Total Project Cost Estimate (e+j+q)	1,501,892.00	851,892.00	650,000.00

Agency Official

Washington State Department of Transportation

By _____

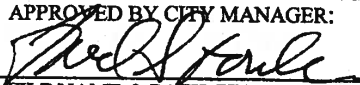
By _____

Title Frederick Stouder, City Manager

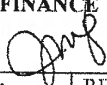
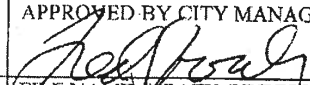
Director of Highways and Local Programs

Date Executed _____

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to Execute Interlocal Agreement No.11-C958 with Washington State Parks for Saint Edward State Park Perpetual Easement for Ingress, Egress and Traffic Light Signal, and Temporary Construction Easement (#E687000CIT1).			September 12 th , 2011
DEPARTMENT	DIRECTOR	MEETING ATTENDEES	PHONE
Engineering	Ron Loewen <i>RL</i>	Ron Loewen	(425) 398-8900
COST OF PROPOSAL: <u>Preparation of Agenda Bill:</u> Staff Time 3 hours \$300 <u>Agreement Costs:</u> State Application Fee \$2,700 Staff Time 20 hours \$2,000 City Attorney \$525 Exhibit Preparation - Consultants \$300 Total \$5,825		ACCOUNT NUMBER: 0900 7095	
AMOUNT BUDGETED: Right-of-way Budget: \$10,000 Overall Project Budget: Project Budget: \$365,000 Expended Budget as of July 31: \$ 60,408 Obligated ¹ Budget as of July 31: \$ 81,135 Remaining Budget ² as of July 31: \$283,865 Estimated Remaining Expenditures: \$422,155 (Over) / Under Budget ³ : (\$138,290) ¹ Obligated includes funds spent and obligated through signed agreements. ² Remaining Budget is the total budget less the obligated amount. ³ See explanation in Summary Statement		NAME AND FUND #: Arterial Street Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: City of Kenmore – Washington State Parks Easement Agreement (11-C958) Agenda Bill from May 24 th , 2010 City Council Meeting			
SUMMARY STATEMENT: A permanent easement over the private access road entrance to Saint Edward State Park and Bastyr University is necessary to construct and maintain the new traffic signal at NE 145 th Street and Juanita Drive NE. Proposed signal improvements within the permanent easement area include new curb & gutter, sidewalk, ADA ramps, pavement widening, traffic detection loops, traffic signal pole, traffic control cabinet, electric service cabinet, and pedestrian pole. The temporary construction easements outside the permanent easement will allow the contractor some flexibility in grading slopes behind the sidewalk to match existing conditions.			

Staff has worked with the Washington State Parks Lands Program over the past year to acquire the necessary easements (including temporary construction easements) to construct the new traffic signal. The State Parks Commission Board approved the easements on May 19th, 2011. State Parks waived their application fee (\$125) and the easement acquisition costs. The City however did pay a non-refundable \$2,700 processing fee. The easement agreement has been reviewed and approved by the City Attorney's office. Staff requests that City Council authorize the City Manager to execute the proposed easement agreement with Washington State Parks (Contract 11-C958) at this time. The current project estimate exceeds the project budget. The increase in the estimate is the result of \$55,000 of reimbursable work for the Northshore Utility District and an increase in the project scope including the addition of sidewalks and landing areas for pedestrians, a retaining wall on the east side of Juanita Drive to provide a landing area for pedestrians and placement of the signal pole consistent with future improvements, and revisions to storm drainage facilities. Once construction bids have been submitted a budget amendment will be proposed along with a funding source as part of the awarding of the construction contract.		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: City of Kenmore Capital Improvement Program Bastyr's Settlement and Release Agreement with the City of Kenmore (July 2009)		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize the City Manager to Execute Interlocal Agreement No. 11-C958 with Washington State Parks for Saint Edward State Park Perpetual Easement for Ingress, Egress and Traffic Light Signal, and Temporary Construction Easement (#E687000CIT1).		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: August 24, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0148 NE 145th ST-Juanita Drive Traffic Signal\City Council\110809-NE145th-Traffic Signal AB-Easement Agreement with WA State Parks.doc

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to execute a local agency agreement (Contract No. 11-C965) for the SR522 Phase 1 Stage 2 project property acquisition with Washington State Department of Transportation in the amount of \$2,890,174.			October 10, 2011
DEPARTMENT	DIRECTOR	MEETING ATTENDEES	PHONE
Engineering	Ron Loewen	Ron Loewen	(425) 398-8900
COST OF PROPOSAL: <u>Staff Cost:</u> Administering right of way acquisition \$ 53,750 <u>Contract Services:</u> Design/Legal Description: \$ 30,500 Appraisals: \$ 216,000 Negotiations: \$ 318,750 WSDOT \$ 6,250 Compensation: \$2,264,924 Total \$2,890,174		ACCOUNT NUMBER: New project: SR522 Ph 1 Stage 2 Right of Way	
AMOUNT BUDGETED: 2011-12: \$795,700 (in the Right of Way Acquisition Budget for T-7: 61 st Avenue NE and NE 181 st Street Signal Project. See Agenda Bill dated September 12, 2011). Mid Biennium Budget Amendment will update the Project Budget.		NAME AND FUND #: Arterial Street Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: Local Agency Agreement Puget Sound Regional Council Letter to the City of Kenmore dated August 4 th , 2011 Agenda Bill September 12, 2011			
SUMMARY STATEMENT: On August 4 th , 2011 the City received notification from the Puget Sound Regional Council (PSRC) that the City was awarded \$2,500,000 in grant funds for the SR522 Phase 1 Stage 2 right of way acquisition. In order for the City to receive the grant funds and the State to obligate them, the City must enter into a Local Agency Agreement with WSDOT and agree to adhere to the "Local Agency Guidelines." The total right of way acquisition costs have been estimated at \$2,890,174. The match requirement is 13.5%, making the City's contribution \$390,174. During the City Council discussion in September 2010, the City Council elected to pursue a portion of the right of way needed for the SR522 Phase 1, Stage 2 project (Jack in the Box, Uplake Town Center, and Burke-Gilman Trail), as part of the 61 st Avenue NE and NE 181 st Street Signal Project. The updated right of way budget for right of way was \$1,105,000 of which \$309,300 was allocated for the four parcels needed for the Signal Project. The balance remaining for the three SR522			

parcels was \$795,700 which would use Real Estate Excise Tax (REET) revenues. With a match requirement of only \$390,174, the City will spend \$405,526 less of REET funds than anticipated at that time. A budget amendment will be presented during the Mid Biennium Budget Review to adjust the budgets for both the 61st Avenue Signal Project and this SR 522 Phase I Stage II Right of Way Acquisition. Staff recommends that City Council authorize the City Manager to execute the attached Local Agency Agreement with WSDOT.		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Council set a priority for SR 522 in 2008 and reaffirmed in 2009 with council action on December 1, 2008 - Agenda title: Consider Projects for Federal Stimulus Package and Potential Action for Authorization to Design and Right of way Acquisition for SR 522 Phase I Stage 2. 2011-2012 City Council Goal "To seek funds and move forward on the SR522 Transportation Project"		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize the City Manager to execute a local agency agreement for the SR522 Phase 1 Stage 2 project property acquisition with Washington State Department of Transportation in the amount of \$2,890,174.		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: September 26, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0050.51 SR 522 Phase 1, Stage 2 Right-of-Way\110913-Agenda Bill.doc



Local Agency Agreement

Agency City of Kenmore
 Address 18120 68th Avenue NE
P.O.Box 82607
Kenmore, WA 98028

CFDA No. 20.205
 (Catalog of Federal Domestic Assistance)

Project No. _____

Agreement No. _____

For OSC WSDOT Use Only

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) Office of Management and Budget Circulars A-102, A-87 and A-133, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description

Name SR522 Multimodal Corridor Improvements Ph 1 Stg 2 57th-65th Ave NE Length 0.69 Miles
 Termini Mile Post 6.30 - Mile Post 6.99 (SR522 from 57th Avenue NE to 65th Avenue NE)

Description of Work

Right-of-way acquisition for SR 522 Phase I, Stage 2 project improvements (57th Avenue NE – 65th Avenue NE). Future project improvements will include widened travel and Business Access and Transit (BAT) lanes, additional turning lanes at the key intersection, signal improvements, illumination, access management, medians, sidewalks, retaining walls, drainage improvements, landscaping, and over head utility conversion to underground.

Type of Work		Estimate of Funding		
		(1) Estimated Total Project Funds	(2) Estimated Agency Funds	(3) Estimated Federal Funds
PE	a. Agency			
%	b. Other			
	c. Other			
Federal Aid	d. State			
Participation	e. Total PE Cost Estimate (a+b+c+d)			
Ratio for PE				
Right of Way	f. Agency	53,750.00	7,256.25	46,493.75
86.5 %	g. Other Acquisition & Relocation	2,830,174.00	382,074.00	2,448,100.00
	h. Other			
Federal Aid	i. State	6,250.00	843.75	5,406.25
Participation	j. Total R/W Cost Estimate (f+g+h+i)	2,890,174.00	390,174.00	2,500,000.00
Ratio for RW				
Construction	k. Contract			
	l. Other			
	m. Other			
	n. Other			
%	o. Agency			
Federal Aid	p. State			
Participation	q. Total CN Cost Estimate (k+l+m+n+o+p)			
Ratio for CN				
	r. Total Project Cost Estimate (e+j+q)	2,890,174.00	390,174.00	2,500,000.00

Agency Official

Washington State Department of Transportation

By _____

By _____

Title Frederick Stouder

Director of Highways and Local Programs

City Manager

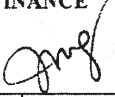
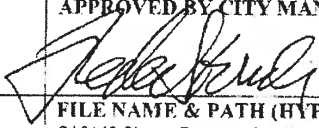
Date Executed _____

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to execute an interlocal agreement (Contract 11-C951) with Northshore Utility District with an estimated value of \$55,000 for sewer improvements to be completed as part of the NE 145th Street Signal project.			June 27, 2011
DEPARTMENT	DIRECTOR	MEETING ATTENDEES	PHONE
Engineering	Ron Loewen	Ron Loewen	(425) 398-8900
COST OF PROPOSAL: Preparation of Agenda Bill and Agreement: Staff Time 8 hours Agreement Costs: Professional Services \$ 7,320 Construction Contract <u>\$47,680</u> Total \$55,000		ACCOUNT NUMBER: 0900 7095	
AMOUNT BUDGETED: 2011-2012 Traffic Signal Budget: \$315,000 Expended Budget as of April 30: \$12,951 Remaining Balance: \$302,048 Budget to design and construct the new sanitary sewer line: \$55,000 Design and Construction costs incurred by the City will be reimbursed by Northshore Utility District		NAME AND FUND #: Arterial Street Fund	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • City of Kenmore – Northshore Utility District Interlocal Agreement (11-C951) • Contract 10-C878 Amendment #2 with HW Lochner, Inc.			
SUMMARY STATEMENT: An existing Northshore Utility District (NUD) sanitary sewer pipe was recently discovered within the City's NE 145th Street traffic signal project limits. This sanitary sewer line passes underneath a proposed rockery wall that will be constructed along Juanita Drive NE. NUD would like to replace the sanitary sewer line under the new rockery and has requested that this work be administered through an interlocal agreement between the two public agencies and included in the City's NE 145th Street traffic signal project. The proposed interlocal agreement between NUD and the City (attached) requires NUD to reimburse the City for the additional design and construction costs incurred by the City as a result of the sanitary sewer pipe replacement work. To complete the sewer design, the City will execute Amendment #2 in the amount of \$7,320 with HW Lochner, Inc., which will increase the overall contract amount with HW Lochner, Inc. from \$59,849 to \$67,079.			

The 2011-12 Budget will increase from \$315,000 to \$370,000. This will require a budget amendment to be submitted at a future date. City Staff recommends approval of the proposed interlocal agreement with NUD (Contract 11-C951) and Contract 10-C878 Amendment #2 at this time.		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Revised Code of Washington, RCW Chapter 39.34 Interlocal Cooperation Act; Bastyr's Settlement and Release Agreement with the City of Kenmore (July 2009)		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: Authorize the City Manager to execute an interlocal agreement (Contract 11-C951) with Northshore Utility District with an estimated value of \$55,000 for sewer improvements to be completed as part of the NE 145th Street Signal project.		
REVIEWED BY FINANCE DIRECTOR: 	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER: 
TODAY'S DATE: June 9, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK): S:\0148 NE 145th ST-Juanita Drive Traffic Signal\City Council\110608-NE145th-Traffic Signal AB-Amendment 2 and Interlocal Agreement with NUD.doc

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Authorize the City Manager to execute an Amendment 'C' to the existing Conservation Futures Interlocal Cooperation Agreement (Contract 04-C363) with King County for the receipt of Conservation Futures Tax (CFT) funds associated with the acquisition of 18546 73 rd Avenue NE.			October 10, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Engineering	Ron Loewen	Zack Richardson	425 398 8900
COST OF PROPOSAL: Staff Cost Preparing Agenda Bill 2 hours Grant preparation and administration 4 hours		ACCOUNT NUMBER: 41 00 6347 Simon Property	
AMOUNT BUDGETED: <u>2010 Overall Project Expenditures:</u> Project Expenditures in 2010: \$ 250,218 Expected Project Costs Remaining: \$ 0 Expected CFT Funds: \$ (120,549) Total Project Cost: \$ 129,669 The City was approved for up to \$130,000 in CFT funds; however the project costs were below initial estimates additionally only eligible expenses are reimbursable. The amount shown is the estimated amount of CFT funds the City expects to receive.		NAME AND FUND #: Surface Water Management Fund No. 41	
ATTACHMENT(S) TO AGENDA PACKET ITEM: • Conservation Futures Interlocal Cooperation Agreement (Contract No. 04-C363) • Amendment 'C' to the Interlocal Cooperation Agreement • June 21, 2010 Agenda Bill • November 15, 2010 Agenda Bill • Aerial map of 18546 73rd Avenue NE			
SUMMARY STATEMENT: As a continuation of the Swamp Creek Flood Reduction Improvement Project policy of acquiring properties along 73 rd Avenue NE under certain conditions the City acquired the property at 18546 73 rd Avenue NE. To assist in funding the property acquisition the City applied for and received a King County Conservation Futures Tax grant for up to \$130,000. An addendum to an existing interlocal agreement with King County is required in order to receive the funds that the City has been awarded. In 2010, the City expended \$250,218 associated with this project, and the grant will reimburse the City for up to half of the acquisition cost. Because the project was completed for less than originally estimated and additionally only eligible expenses are reimbursable, the City will not receive the full \$130,000 in CFT funds. We estimate the actual funds to be received at \$120,549.			

S:\0149 Simon Property Acquisition\City Council\Agenda Bill 091311.doc

CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION:		
Council action on June 21, 2010 approved the acquisition of the property at 18546 73rd Ave NE for \$234,300 with a total project budget of \$345,000. Council action on November 15, 2010 approved an additional \$52,800 to be used for demolition and removal of all structures on the property with an updated total project budget of \$339,900.		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION:		
Authorize the City Manager to execute an Amendment 'C' to the existing Conservation Futures Interlocal Cooperation Agreement (Contract 04-C363) with King County for the receipt of Conservation Futures Tax (CFT) funds associated with the acquisition of 18546 73rd Avenue NE.		
REVIEWED BY FINANCE DIRECTOR:	REVIEWED BY CITY ATTORNEY:	APPROVED BY CITY MANAGER:
		
TODAY'S DATE:	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):
		S:\0149 Simon Property Acquisition\City Council\Agenda Bill 091311.doc

S:\0149 Simon Property Acquisition\City Council\Agenda Bill 091311.doc

ATTACHMENT C

**2011 CONSERVATION FUTURES LEVY
CITY OF KENMORE ALLOCATION**

<u>Jurisdiction</u>	<u>Project</u>	<u>Allocation</u>
Kenmore	Swamp Creek Acquisition	\$130,000
TOTAL		\$130,000

Project Description:**315803 City of Kenmore - Swamp Creek Acquisition**

This is a two parcel, 4.12 acre open space acquisition project located on 73rd Avenue NE near NE 185th Street in Kenmore. The property is located near the Kenmore Heronry and contains wetlands and a portion of Swamp Creek.

Amendment C
Annual CFT Interlocal Kenmore-King County
2006 CFT proceeds

**MUNICIPAL STORMWATER CAPACITY GRANTS PROGRAM
FUNDING AGREEMENT BETWEEN
THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY
AND
CITY OF KENMORE**

THIS is a binding agreement entered into, by, and between the state of Washington Department of Ecology (DEPARTMENT), and the City of Anacortes (RECIPIENT). The purpose of this agreement is to provide funds to the RECIPIENT to carry out the requirements described herein.

PART I. GENERAL INFORMATION

Project Title:	Municipal Stormwater Capacity Grant Program
State Fiscal Year:	FY2011
Grant Number:	G1100052
RECIPIENT Name:	City of Kenmore
Mailing Address:	18120 68th Ave. NE Kenmore, WA 98028
RECIPIENT Federal ID Number:	91-1912254
Total Eligible Cost (\$70,000 plus per capita calculated amount): \$124,586	
DEPARTMENT Funding Sources:	
State Toxics Control Account:	\$54,586
Local Toxics Control Account:	\$70,000
Referendum ##:	\$
Referendum ##:	\$
DEPARTMENT Share:	\$124,586
DEPARTMENT Maximum Percentage:	100%

CITY OF KENMORE, WASHINGTON			
AGENDA BILL SUMMARY			
AGENDA TITLE			MEETING DATE
Continuation of the City's Review of the Department of Ecology's Required and Suggested Changes to the Shoreline Master Program (SMP)			November 14, 2011
DEPARTMENT	DIRECTOR	CONTACT PERSON	PHONE
Community Development	Debbie Bent	Debbie Bent	425-398-8900
COST OF PROPOSAL: ESA Adolfson consultant contract \$188,900 (Contract 07-C632 with amendments #1, 2, and 3). Planning Commission and Citizen Advisory Committee volunteer time to attend approximately 18+ meetings from 2007 through January 2010. Community Development staff support for project management, review of materials, meeting attendance, and mailings.		ACCOUNT NUMBER: 01 58 5506	
AMOUNT BUDGETED: Consultant costs (\$188,900) are reimbursed from the Department of Ecology Shoreline Grant (\$146,200). Consultant costs not reimbursed from the DOE grant are reimbursed from the City's General Fund (\$42,700). The 2007 budget included \$25,000; the 2008 budget included \$38,000; the 2009 budget included \$38,000; the 2010 budget included \$11,000; and the 2011-2012 budget includes \$5,000.		NAME AND FUND #: General Fund No. 01	
ATTACHMENT(S) TO AGENDA PACKET ITEM: 1. Memo dated 10/28/11 from Debbie Bent and Lauri Anderson providing responses to Council questions on the Department of Ecology's required and suggested changes to the 2010 SMP. This memo includes 8 attachments, including the letter sent to property-owners and residents in the H3 and H4 height increase areas.			
SUMMARY STATEMENT: At the November 14, 2011 Council meeting, staff recommends that Council pass a motion authorizing staff to prepare a letter for transmittal to the Department of Ecology (Ecology) describing alternative proposals to Ecology's required and suggested changes. Ecology's required and suggested changes were provided as part of Ecology's July 25, 2011 letter to the City (see Attachment 1 to the attached 10/28/11 staff memo). Staff also provided a response to Council questions regarding Ecology's changes raised at the 9/26/11 Council meeting (see attached 10/28/11 staff memo).			
The Council must either provide written notice to Ecology that the City agrees to the required changes in which case no further action is required by Ecology and the Council then proceeds to adopt an ordinance that reflects the changes, or, alternatively, the City may provide alternative proposals to the required or suggested changes for Ecology's review and approval. Ecology needs to approve alternative proposals before the City can proceed to adopt an ordinance that reflects changes. Ecology granted an extension of the October 31 st deadline to the end of November 2011 for the City to provide a written response.			
The staff recommendation (see attached staff memo dated 10/28/11) includes four alternative proposals to Ecology's changes:			
• Staff recommends that Council accept twelve of the fourteen required Ecology changes and eight of the eleven suggested changes. • Staff recommends that Council consider an alternative proposal for Required Change #6, KMC 16.55.050.C, Alternative Pier Design (described as Alternative Proposal #1 in the staff memo). • Staff recommends that Council consider an alternative proposal for Required Change #9 KMC			

18.55.330.G.1, Wetland Mitigation Ratios (described as Alternative Proposal #2 in the staff memo). - Staff recommends that Council consider an alternative to Suggested Change #10, KMC 16.75.050.C, nonconforming uses and structures. Staff further recommends that if Ecology does not accept the alternative proposal, then staff recommends that Council reject the suggested change (described as Alternative Proposal #3 in the staff memo). - Staff recommends an alternative proposal for KMC18.55.530.A.1 to be consistent with recent changes to development regulations adopted by Council July 2011 (described as Alternative Proposal #4 in the staff memo).		
CONSISTENT WITH OR COMPARISON TO PAST COUNCIL POLICIES, ORDINANCES, DIRECTION: Council included the update of the SMP on the 2008 and 2009 dockets and forwarded the docket work program item to the Planning Commission for review and recommendation. At the 2/25/10 Council meeting, the Planning Commission presented their final recommendation on the SMP to the Council. The Council opened a public hearing on the draft SMP on 3/29/10, continued it to 5/27/10, and then agreed to continue it to 9/13/10. The Council considered amendments to the Planning Commission's recommendation at several meetings (July 8, July 13 and July 26). The Council adopted two ordinances (10-0312 and 10-0313) approving the City's Shoreline Master Program on 9/13/10—to be effective upon Department of Ecology's approval. The approved ordinances were sent to the Department of Ecology (Ecology) for their review and approval as they must give final approval to the Shoreline Master Program before it can become effective. In a letter dated July 25, 2011, Ecology provided a list of fourteen required changes to the SMP that would make it "approvable" along with eleven recommended changes. The City Council initially considered possible "alternative proposals" to Ecology's changes on September 26, 2011, and requested additional information from staff. Council will be continuing discussion of Ecology's required and suggested changes at the 11/14/11 Council meeting. The City must provide a written response to Ecology prior to the 11/30/11 deadline.		
RECOMMENDED CITY COUNCIL ACTION/SUGGESTED MOTION: At the November 14, 2011 Council meeting, staff recommends that Council pass a motion authorizing staff to prepare a letter for transmittal to the Department of Ecology (Ecology) describing alternative proposals to Ecology's required and suggested changes.		
REVIEWED BY FINANCE DIRECTOR: <i>[Signature]</i>	REVIEWED BY CITY ATTORNEY: <i>[Signature]</i>	APPROVED BY CITY MANAGER: <i>[Signature]</i>
TODAY'S DATE: October 28, 2011	REVISION DATE(S):	FILE NAME & PATH (HYPERLINK):



The City of Kenmore

18120 68TH AVENUE NE PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Frederick Stouder, City Manager

FROM: Debbie Bent, Director of Planning & Community Development *DB*
Lauri Anderson, Senior Planner *LWA*

DATE: October 28, 2011

SUBJECT: Continuation of the City's Review of the Department of Ecology's
Required and Suggested Changes to the Shoreline Master Program
(SMP)

Summary: At the November 14, 2011 Council meeting, staff recommends that Council pass a motion authorizing staff to prepare a letter for transmittal to the Department of Ecology (Ecology) describing alternative proposals to Ecology's required and suggested changes. Ecology's required and suggested changes were provided as part of Ecology's July 25, 2011 letter (Attachment #1) to the City. The deadline for the City's response to Ecology's changes is November 30, 2011.

Staff recommends the following responses to Ecology's changes, which includes four alternative proposals:

- Staff recommends that Council accept twelve of the fourteen required Ecology changes and eight of the eleven suggested changes.
- Staff recommends that Council consider an alternative proposal for Required Change #6, KMC 16.55.050.C, Alternative Pier Design (described as Alternative Proposal #1 below).
- Staff recommends that Council consider an alternative proposal for Required Change #9 KMC 18.55.330.G.1, Wetland Mitigation Ratios (described as Alternative Proposal #2 below).
- Staff recommends that Council consider an alternative to Suggested Change #10, KMC 16.75.050.C, nonconforming uses and structures. Staff further recommends that if Ecology does not accept the alternative proposal, then staff recommends that Council reject the suggested change (described as Alternative Proposal #3 below).
- Staff recommends an alternative proposal for KMC18.55.530.A.1 to be consistent with recent changes to development regulations adopted by Council July 2011 (described as Alternative Proposal #4 below).

Staff Recommended Alternative Proposals to Ecology's Required and Suggested Changes:

1. **Alternative Proposal 1 – Alternative to Required Change #6, KMC 16.55.050.C, Alternative Pier Design.** Staff requests this change to clarify that subsection C applies to any non-residential dock, not just commercial docks. This change was brought to the City's attention by CalPortland, an industrial user of Kenmore's shoreline, as it was unclear that "commercial" use included their manufacturing operation. The proposed change is shown in yellow highlighting.

C. Proposals that do not meet the requirements of subsections B.6, 8, 9 or 15 of this section and that are designed to support a commercialnon-residential water-dependent use, or to provide public access, or to serve residential uses, may be considered by the director. For any alternative proposal, the applicant must demonstrate that the proposed deviation is the minimum necessary to meet the needs of the specific use proposed, and provides an equal or greater degree of protection of ecological functions and anadromous species habitat than would strict adherence to the standards. For purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective.

2. **Alternative Proposal 2 – Alternative to Required Change #9, KMC 18.55.330.G.1, Wetland Mitigation Ratios.** The proposed alternative affects both Municipal Code Title 18 and the new shoreline regulations, and relates to wetland mitigation ratios. The alternative proposal clarifies that the increased mitigation ratios per required Change #9 are only applicable to wetlands located within the shoreline jurisdiction. The amended text is shown in yellow highlighting.

Amend KMC 16.65.010.C as follows:

- C. For development in critical areas and critical area buffers, the applicable provisions of SectionChapter 18.55 KMC apply unless a specific exception is provided in the shoreline code.
 1. Because Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.
 2. Within the shoreline jurisdiction, the required acreage replacement ratios for wetlands shall be as follows:

Wetland Mitigation Ratios:

Category and Type of Wetland	Creation or Reestablishment (C/R)	Creation (C) or Reestablishment (R) plus Enhancement (E)	Enhancement (E) Only
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1

Amend KMC Section 18.55.330.G.1 to provide cross-referencing as follows:

G. Mitigation Ratios.

1. Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same class, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply on a case-by-case basis. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered.

Class 1	3 to 1
Class 2	2 to 1
Class 3	1 to 1

The required acreage replacement ratios for wetlands within the jurisdiction of the Kenmore Shoreline Master Program are different from these standards. See KMC 16.65.010.C for required wetland mitigation ratios in the shoreline jurisdiction.

3. Alternative Proposal 3 -- Alternative to Suggested Change #10, KMC 16.75.050.C, nonconforming uses and structures. The highlighted text reflects the staff recommended change. If Ecology does not wish to approve this alternative proposal, Staff recommends that the Council reject Ecology's suggested change and retain the existing text without subsection C.3.

C. Expansion of a nonconforming use or structure may be approved through the provisions of KMC 16.75.040 when the applicant demonstrates the following.

1. The project would substantially reduce the impacts of the existing use or structure on shoreline ecological functions, and
2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.
3. A nonconforming structure shall not be expanded closer to the shoreline. For a nonconforming structure located on land, any waterward expansion of the structure into the required setback would be offset by removal of another nonconforming structure of equal or greater footprint area in the shoreline setback, and the shoreline setback area would be restored with native riparian vegetation.

4. **Alternative Proposal 4 – Alternative to KMC 18.55.530.A.1 as adopted into the Shoreline Master Program.** In September 2010, the City Council approved Ordinance No. 10-0313 which adopted the SMP Update, and forwarded it to Ecology for review. In July 2011, the Council adopted a minor change to KMC 18.55.530. Ecology staff indicated that this change should be brought forward as an alternative proposal since 18.55.530 is adopted into the SMP by reference. The revised language clarifies that development could occur within a fish and wildlife habitat of importance or buffer through procedures outlined in Chapter 18.55, such as a variance or reasonable use exception. The text continues to make a distinction for lands regulated under the SMP. Staff recommends the following change as shown in yellow highlighting:

18.55.530 Performance standards — Specific habitats.

- A. Endangered, Threatened, and Sensitive Species.
 1. No development shall be allowed within a fish and wildlife habitat of importance or buffer with which state or federally endangered, threatened, or sensitive species have a primary association except as otherwise approved through this chapter, except that, for fish habitat of importance on lands regulated under the Kenmore Shoreline Master Program, development that meets the use and development requirements of the Kenmore Shoreline Master Program may be allowed.

Background and Next Steps: On September 13, 2010, the City Council adopted two ordinances (10-0312 and 10-0313) approving the City's Shoreline Master Program. These ordinances are not effective until approval by the Department of Ecology (Ecology). In a letter dated July 25, 2011 (Attachment #1), Ecology provided a response including fourteen required changes and eleven recommended changes. The next step in the City Council's review of the Shoreline Master Program is for the Council to provide a written response to Ecology's fourteen Required and eleven Suggested Changes as outlined in Ecology's July 25, 2011 letter.

The Council must provide written notice to Ecology that the City agrees to the changes in which case no further action is required by Ecology and the Council then proceeds to adopt an Ordinance that reflects the changes. Alternatively, the City may propose alternative amendments to the required or suggested changes for Ecology's review and approval. Ecology needs to approve alternatives before the City can proceed to adopt an ordinance that reflects changes. Ecology granted an extension of the October 31st deadline to the end of November 2011 for the City to provide a written response.

Response to Council Comments and Questions from the September 26, 2011

Council Meeting: At the September 26, 2011 Council meeting, several Council members asked staff to respond to questions and provide information with regard to Ecology's required changes (Required Changes #1, 3, 5, and 9). In addition, at the September 26, 2011 Council meeting, Council also directed staff to send a letter to property owners adjacent to Swamp Creek and the Sammamish River (within the H3 and H4 height areas) to provide information regarding changes in shoreline height regulations (Required Change #2). That information follows:

- Provide information on the location of the Channel Migration Zone (CMZ) for Swamp Creek in relation to property boundaries (Required Change #1)

Attachment #2 is a map showing the location of the Channel Migration Zone (as defined by Ecology in Required Change #1, see Attachment #1) and property boundaries. The CMZ includes the area within 112.5' of Swamp Creek (correlates to the smallest allowable buffer in the City's critical area regulations), as well as the 500-year floodplain within shoreline jurisdiction. As the map shows, almost this entire area is located within the Swamp Creek associated wetlands, so the impact of the new CMZ regulations will be negligible on property owners.

Within the CMZ, no subdivision would be allowed (except to create open space tracts). Fill would be restricted if it impaired channel migration, and no new development would be allowed where future stabilization would be necessary. Existing legal non-conforming uses could be repaired and maintained as long as no significant ecological impacts or increased flood hazards to other uses were created. If an applicant provided a study demonstrating that the property was outside the CMZ then these requirements would not apply.

In the course of mapping the CMZ, the city's consultant determined that an error had been made in earlier mappings of the shoreline jurisdiction. The maps presented to date have included areas in the 100-year floodplain that are not actually covered by the shoreline rules as described in the text of the Shoreline Master Program. Attachment #3 shows the areas in pink that should not have been included in the map. Attachment #4 is the revised shoreline jurisdiction map that corrects this mapping error and which will be attached to the final ordinance.

- Communication with property owners in the H3 and H4 height increase areas (Required Change #2).

Attachment #5 is a copy of the letter mailed to 121 property owners on October 17, 2011. Seventeen response letters were received by October 27. None of the responses dealt with the shoreline height issue; most responses (15 of the 17) had no comments or questions at all. A summary of additional communications received after October 27 will be presented at the November 14 Council meeting.

Staff also contacted three major property-owners in the H3 and H4 height increase areas to be certain they had received the notification letter and to answer their questions, if any. Len Griesel (Kenmore Square) had received the letter and had no comments or concerns. Craig Hopkins (parcels to the west of Plywood Supply) had not received the letter. Staff e-mailed the letter to him and provided background on the height issue. Mr. Hopkins agreed to provide comments/concerns, if any, after further review of the materials. Donald Swanson (Plywood Supply) had received the letter and staff discussed the height issue with him. He may provide written comments/concerns by November 14.

In the H3 and H4 shoreline areas adjacent to Swamp Creek and the Sammamish River, Ecology's required change would limit allowed maximum height to 35 feet up to a distance of 112.5 feet from the ordinary high water mark of the shoreline and a maximum height of 65 feet between 112.5 feet to 200 feet in the shoreline. The 112.5' distance correlates to the smallest allowable stream buffer in the City's critical area regulations without a variance. As no new development is expected in the critical area buffer, the actual impact would to property owners would be relatively minor.

- Possible alternative to Required Change #3, expansion of non-conforming docks

A council member asked that an alternative be developed to Required Change #3. The Ecology required change eliminated the incentive of increased dock size for a nonconforming dock in exchange for ecological improvements. In discussions with Ecology, staff presented a variety of possible alternative proposals: a more limited size increase (maybe 10% instead of 25%), a maximum size in terms of square feet, specific requirements for improvement (increased light penetration, removal of skirting or treated wood pilings), and/or a graduated size increase for specific amounts of benefit provided. After discussions with other staff at Ecology, David Radabaugh, Shoreline Planner, concluded that the agency would not consider any alternative allowing a nonconforming dock to be expanded beyond its current size (or the maximum allowable size, if that were greater). See Attachment #6. Staff still recommends approval of Required Change #3 as other incentives still exist for other dock standards and for replacing non-conforming bulkheads when a pocket cove or beach is provided.

- Additional information on Required Change #5, shoreline designation change of two parcels north of St. Edward State Park

Attachment #7 contains a summary of the differences between the Natural and Urban Conservancy environmental designations. As discussed previously, the two parcels in question are quite large (6 and 9+ acres) and these changes would impact only the 200' closest to the shoreline. These properties have significant access and environmental constraints beyond the shoreline that will likely limit future development. The Natural

designation would mean that construction of a single-family residence within the 200 foot shoreline jurisdiction would require a conditional use permit, rather than being allowed outright as the Urban designation would allow.

- Explanation of “best available science” in the context of wetland mitigation ratios (Required Change #9).

Best available science is the standard used in developing critical areas rules under the Growth Management Act. As with any science, “best available science” is evolving. In 2006, when Kenmore’s critical area rules were adopted, best available science was used to establish mitigation ratios. Near the end of that process in 2006, the Department of Ecology developed a handbook that included an extensive compilation of “best available science” and concluded that a four-tier wetland classification system with associated mitigation ratios should be used. This information was received too late in Kenmore’s process to adequately evaluate it with regard to local conditions. However, with adoption of the SMP, Ecology initially asked that the city use the new 4-tier classification and mitigation ratios. After an analysis of city conditions, best available science and the application of the City’s adopted critical area regulations, the city’s environmental consultant presented information to Ecology that resulted in agreement that the 3-tier wetland classification system could continue to be used for the shoreline. After information was prepared by the City’s environmental consultant regarding wetland mitigation ratios (see Attachment #8), Ecology agreed to a modified mitigation ratio proposal reflecting the city’s 3-tier classification system. This proposal, while it does not conform to Ecology’s template, is scientifically justifiable and will result in adequate protection of wetlands in Kenmore. Ecology’s Required Change #9 is a compromise between using mitigation ratios from the state’s 4-tier classification system and using ratios developed for the city’s adopted 3-tier classification system. The alternative proposal to Required Change #9 provides clarification that the modified mitigation proposal is only applicable to wetlands within the shoreline jurisdiction.

- Information on whether other communities are sending their reviews back to committees/commissions

Staff contacted the cities of Burien, Kirkland, Redmond, Renton, Sammamish, and Tukwila as all either had approved SMPs or were at a point similar to Kenmore’s in the review process. In five of the six communities (Burien, Kirkland, Renton, Sammamish, and Tukwila), the discussion of required and suggested changes remained with the City Council, in some cases because the changes were viewed as technical corrections or were not major policy changes. In Redmond, the changes were referred back to the Planning Commission to hold a public hearing as the Redmond Planning Commission is the designated hearing body for their City Council.

Attachments

Attachment 1: Letter dated July 25, 2011 from the Department of Ecology to the City of Kenmore.

Attachment 2: Map of the Channel Migration Zone

Attachment 3: Map of shoreline jurisdiction showing areas included in error

Attachment 4: Map of shoreline jurisdiction that would be attached to final ordinance

Memo to Fred Stouder
Page 8
October 28, 2011

Attachment 5: Letter mailed to H3 and H4 property-owners

Attachment 6: October 6, 2011 e-mail from David Radabaugh, Department of Ecology,
regarding alternatives to Required Change #3

Attachment 7: Information on differences between the Natural and Urban Conservancy
shoreline designations

Attachment 8: June 20, 2011 memorandum from ESA Adolfson to City staff



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

July 25, 2011

The Honorable David Baker, Mayor
City of Kenmore
18120 68th Avenue NE
Kenmore, WA 98028

**Re: City of Kenmore Comprehensive Shoreline Master Program Update
Ordinance Number 10-312 and 10-313**

Dear Mayor Baker:

I would like to take this opportunity to commend the city of Kenmore (City) for its efforts in developing the proposed comprehensive Shoreline Master Program (SMP) Update.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) approves this comprehensive SMP update, subject to required changes detailed in Attachment B. Recommended changes are proposed in Attachment C. The findings and conclusions that support Ecology's decision are enclosed as Attachment A. Also enclosed is a Responsiveness Summary for Public Comments as Attachment D.

Because required changes are involved in this proposed SMP, the amendment will not become effective until Ecology receives written notice that the City agrees to the changes¹. Receipt of the City's written agreement to the required changes will constitute final action by Ecology approving the Kenmore SMP comprehensive update.

If you do not agree to the changes listed in Attachment B, then pursuant to WAC 173-26-120(7)(b)(ii), you may propose to Ecology alternative amendments consistent with the scope of the original submittal, SMA policy, and the applicable guidelines. At that point, Ecology will need to review and approve the alternative amendment(s) before they become effective.

¹ WAC 173-26-120(7)(b)(i)

The Honorable David Baker
July 25, 2011
Page 2

To summarize, please advise us whether the required and recommended changes are acceptable. If the City agrees with the changes, it must notify Ecology in writing by sending the notice to the Director's Office at the following address:

WA State Department of Ecology
Attention: Director's Office
PO Box 47600
Olympia, WA 98504-6700

Thank you again for your efforts. If you have any questions, please contact our Regional Planner, David Radabaugh, at David.Radabaugh@ecy.wa.gov (425) 649-4260.

Sincerely,



Ted Sturdevant
Director

Enclosures

By certified mail [7003 1010 0005 0569 1598]

cc: Debbie Bent, Director, Kenmore DCD
Laurie Anderson, Senior Planner, Kenmore DCD
David Radabaugh, Department of Ecology
Peter Skowlund, Department of Ecology
Geoff Tallent, Department of Ecology

**ATTACHMENT A
FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENTS TO THE CITY OF KENMORE
SHORELINE MASTER PROGRAM**

SMP Submitted November 8, 2010, and Complete on February 14, 2011, Ordinance Numbers
10-312 and 10-313

Prepared by David Radabaugh, on June 23, 2011

Brief Description of Proposed Amendments:

The City of Kenmore is proposing a comprehensive update to their Shoreline Master Program (SMP). The City has requested that the Department of Ecology approve the following:

- Shoreline Policies,
- Shoreline Regulations (including incorporated ordinances), and
- Shoreline Restoration Plan.

The updated SMP will reside as a chapter in the Kenmore Comprehensive Plan, a chapter in the Kenmore Municipal Code with many provisions of the Kenmore Critical Areas Ordinance incorporated by reference.

FINDINGS OF FACT

Need for Amendment: The proposed amendments are needed to comply with the statutory deadline for comprehensive update of the local Shoreline Master Program pursuant to RCW 90.58.100.

Amendment History, Review Process: The record indicates the proposed SMP amendments originated from a local planning process that began in 2007. The City started its shoreline planning process in 2007 with a grant from the Department of Ecology (Grant No. G0800032). The City established a Technical Advisory Committee (TAC) in January, 2008. The TAC met with the Planning Commission until April 29, 2009. The Kenmore Planning Commission considered the SMP between December, 2007 and February 3, 2010. The Planning Commission held a public hearing on the SMP on September 21, 2009.

The Kenmore City Council considered the SMP from February 25, 2010 to September 13, 2010. The City Council opened a public hearing on the SMP on March 29, 2010. The public hearing was held open for public comment until September 13, 2010.

During the development of it SMP, the City received comments from property owners and their representatives, environmental organizations, government agencies, consultants, and various individuals.

The Department of Ecology provided comments on the Draft SMP on September 14, 2009, November 20, 2009, April 26, 2010, June 7, 2010, and July 20, 2010.

RECEIVED
JUL 28 2011

CITY OF KENMORE

The City issued a Determination of Nonsignificance for the SMP on August 25, 2009. With passage of Ordinances 10-312 and 10-313, on September 13, 2010, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on November 5, 2010. The submittal was found incomplete on January 21, 2011. Submittal of additional information was made on February 2, 2011 and February 11, 2011. The SMP submittal was verified as complete on February 11, 2011. The state comment period began on March 15, 2010 and continued through April 15, 2011. On March 31, 2011, Ecology held a public hearing in Kenmore to seek input on the proposed amendments. Notice of the hearing, including a description of the proposed amendment and the authority under which the action is proposed, the times and locations of the hearing/s and the manner in which interested persons may obtain copies and present their views was provided in the March 10, 2011 edition/s of the Seattle Times, the City official newspaper of record. Notices were mailed to interested parties identified by the City on March 11, 2011. Eighteen individuals or organizations submitted comments on the proposed amendments. Ecology sent all oral and written comments it received to the City on April 25, 2011. On May 3, 2011, the City submitted to Ecology its responses to issues raised during the state comment period. Ecology's own responses to issues raised during the comment period are available as part of the SMP amendment process record.

Consistency with Chapter 90.58 RCW: The proposed amendments have been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3),(4) and (5). The City has also provided evidence (see above) of its compliance with SMA procedural requirements for amending an SMP contained in RCW 90.58.090.

Consistency with "applicable guidelines" (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program guidelines (WAC 173-26-171 through 251 and -020 definitions). This included review of a SMP Submittal Checklist, which was completed by the city.

Ecology reviewed SMP Inventory and Characterization Report, the Restoration Plan, and Cumulative Impacts Analysis for consistency with the Guidelines. Ecology reviewed the SMP goals, policies, regulations, environment designations, maps, administrative provisions, definitions, and legal provisions for consistency with the Guidelines.

The Inventory and Characterization Report and Chapters 4 and 7 of the SMP provide a foundation for the environment and buffer system contained in the SMP. The SMP contains provisions for shoreline environments, archaeological and historic resources, critical areas, flood hazard reduction, public access, shoreline vegetation conservation, shoreline stabilization, piers and docks, fill, and dredging, breakwaters, jetties, groins, and weirs. Shoreline habitat and natural systems enhancement is addressed through the restoration plan, and buffer requirements.

The SMP addresses uses that could be relevant to the Kenmore shoreline including

aquaculture, boating facilities, commercial development, manufacturing, recreational development, residential development, transportation, and utilities. The SMP is also addresses shorelines of statewide significance. The SMP contains procedures for administering the shoreline regulations. Kenmore's Lake Washington and Sammamish River shorelines are shoreline of statewide significance.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance for the proposed SMP amendments on August 25, 2009. Ecology did not comment on the DNS

Other Studies or Analysis supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared for the City/County in support of the SMP amendment:

- Draft Inventory of Data Sources dated November 5, 2007
- Draft Shoreline Inventory and Characterization Report dated July 3, 2008
- Shoreline Inventory and Characterization Report dated April 2008
- Shoreline Restoration Plan dated June 24, 2009
- Shoreline Restoration Plan dated November 2010
- Public Access Memorandum dated June 30, 2009
- Cumulative Impacts Analysis dated February 4, 2010
- Cumulative Impacts Analysis revised November 5, 2010
- SEPA Checklist dated August 2009
- Draft Shoreline Master Program dated June 30, 2009
- Draft Shoreline Master Program dated February 2010
- Shoreline Master Program dated September 13, 2010
- Shoreline master program Checklist dated November 5, 2010

Summary of Issues Raised During The Public Review Process: There was on-going public interest expressed during the City's SMP amendment drafting/public review process. Ecology conducted a formal public comment period and public hearing during its review of the SMP. Issues raised during the Ecology comment period have been addressed in a responsiveness summary. Considerable debate centered on the following topics:

Pier and Dock Standards

One individual advocated for less strict pier and dock standards. The standards adopted by the City substantially follow the standards articulated in the United States Army Corps of Engineers, Seattle District, Regional General Permit 3. This is an appropriate method to achieve no net loss of ecological function in this subject area.

Environment Designation of Log Boom Park

One individual advocated for designating Log Boom Park as a Natural environment. Given the level of development at the park, including a pier, parking and walkways, the Urban Conservancy designation adopted by the City seems appropriate.

Restoration Plan

Concern was raised that the Restoration Plan was not detailed enough and did not adequately identify priorities and funding. It is a suggested change that additional information regarding restoration priorities and funding be added.

Industrial Activities in Shoreline Areas

One individual raised concerns regarding the operation for water-dependent industrial uses. The City noted that water-dependent uses can be located on the shoreline, including within buffers, so long as the use achieves no net loss of ecological function.

Height Limits- H-3 and H-4 Areas

During the City adoption process, building height limits were somewhat relaxed in two areas where redevelopment is anticipated or advocated. These were identified as the H-3 and H-4 areas. Building heights could be up to 45 feet in the building is at least 50 feet from the Ordinary High water mark and 65 feet if the building is at least 100 feet from the Ordinary High Water Mark.

Most of Area H-3 is in a floodway. Within a floodway, commercial buildings cannot cause any rise in the flood elevation and residences are prohibited. The increased height limits are inconsistent with other provisions for this area and inconsistent with recognizing the statewide interest of limiting development in floodways. This provision does not protect a statewide interest as discussed in WAC 173-26-181. A proposal is being made to reduce the area of the floodway in this area. A change to the SMP is required to ensure that increased building heights are not located in floodways or critical area buffers.

Most of Area H-4 is in a floodway, floodplain or critical area. The standard buffer for a Class 1 stream (as the Sammamish River is classified) is 150 feet. The necessary critical area buffers largely render the provision for increased height limits meaningless. As drafted, this provision is inconsistent with critical area provisions for this area as articulated in WAC 173-26-221. A change is required to ensure that increased building heights are not located in floodways or buffers.

Accessory uses counted as part of a water-dependent use

While accessory uses may be necessary for certain water-dependent uses to function, a focus on accessory uses should not be allowed to minimize the water-dependent uses in shoreline jurisdiction. Concern was raised that nonwater-dependent uses could be counted as water-dependent uses in this portion of the SMP. A change is required to ensure that a nonwater-dependent accessory uses are associated with a water-dependent use and are the minimum necessary to support the water-dependent use. This change provides a limit for how much an accessory use can encumber a site dedicated to a water -dependent use consistent with WAC 173-26-201(2)(d).

Shoreline Designations

During the review of the Draft SMP, we noted that:

The southern portion of Reach Lake WA – 2 is designated Urban Conservancy in the SMP. This area appears to have much in common with Reach Lake WA – 1, which is designated Natural. Why is this area designated Urban Conservancy rather than Natural?

The Planning Commission did not believe that private property should be placed in a Natural designation. After reviewing this rationale, Ecology believes that private property can be designated Natural if it meets that designation criteria for doing so. The designation of the property immediately north of St. Edwards Park on Lake Washington should be based on the designation criteria at WAC 173-26-211(5)(a) and (e) and the Natural and Urban Conservancy designation criteria in the SMP. This change is consistent with WAC 173-26-211(5)(a)(iii).

Alternative Pier Design

Concern was expressed regarding the SMP's allowance for piers serving commercial or industrial uses. While the SMP allows for alternative pier design so long as the pier achieves no net loss of ecological function, it is not a well defined provision. The required changes make it clear that commercial piers can be proposed that are the documented minimum necessary to accomplish the water dependent for which they are designed and that the meets or exceeds the specific ecological protective measures in the remainder of the pier and dock section. This change provides consistency with WAC 173-26-231(3)(b) and WAC 173-26-201(2)(c).

Commercial Uses in Urban Conservancy Environment Designation

Concern was expressed regarding commercial uses in the Urban Conservancy environment. While the Kenmore SMP does allow for commercial uses in the Urban Conservancy environment, it is required that any such project demonstrate ecological enhancement. Given that the standard buffer from Lake Washington for commercial uses is a minimum of 115 feet. The standard buffers on the Sammamish River and Swamp Creek are 150 feet in the Urban

Conservancy environment, the environment designation is consistent with the Urban Conservancy management policies found at WAC 173-26-211(5)(e).

Summary of Issues Identified by Ecology as Relevant To It's Decision:

Channel Migration Zone on Swamp Creek

In order to meet the requirements of WAC 173-26-221(3)(c) provision for a channel migration zone on Swamp Creek has been added as a required change. As adopted by the City Council, the Kenmore SMP relies on a future administrative policy will regulate channel migration zones. This is insufficient to be compliant with the Shoreline Guidelines. In order to be consistent with WAC 173-26-221(3)(c), a required change identifies the channel migration area for Swamp Creek and provides regulations to be minimally compliant with the Guideline requirements.

Expansion of Nonconforming Piers and Docks

The SMP has a strong set of design standards for new piers and docks that include a requirement for 3 foot wide ramps, 4 foot wide piers, deck grating, size limits on the first set of piles near shore, and a 150 foot overall limitation. The adopted SMP allows for an expansion of a legally existing dock of 25 percent of the existing size so long as there is a demonstration that the proposal would reduce the impacts to critical fish habitat and cause no harm to adjacent uses of the shoreline. The required change incorporates many of the design standards for new piers and docks and requires that expanded docks be no larger than the minimum necessary to accomplish their water dependent use. This change is necessary to address public comments while still providing an incentive to improve the environmental performance of docks consistent with WAC 173-26-231(3)(b).

Definition of Critical Areas

Rather than simply make a reference to another section of the Kenmore Municipal Code the definition of "critical areas" should be within, or incorporated into, the SMP. The definition of critical areas is being added to the SMP.

Wetland Definition

The definition of wetland is being changed to ensure that wetland definition is current.

Wetland Mitigation Ratios

The SMP incorporates the following wetland mitigation ratios:

Table 1
Adopted Mitigation Ratios

<u>Wetland Class</u>	<u>Mitigation Ratio</u>
Class 1	3 to 1
Class 2	2 to 1
Class 3	1 to 1

Current Department of Ecology guidance calls for the following mitigation ratios:

Table 2
Ecology Recommended Mitigation Ratios

<u>Category and Type of Wetland</u>	<u>Creation or Re-establishment</u>	<u>Rehabilitation</u>	<u>Enhancement</u>	<u>Preservation</u>
<u>Category I:</u> <u>Bog,</u> <u>Natural</u> <u>Heritage</u> <u>site</u>	<u>Not considered possible</u>	<u>6:1</u>	<u>Case by case</u>	<u>10:1</u>
<u>Category I:</u> <u>Mature</u> <u>Forested</u>	<u>6:1</u>	<u>12:1</u>	<u>24:1</u>	<u>24:1</u>
<u>Category I:</u> <u>Based on</u> <u>functions</u>	<u>4:1</u>	<u>8:1</u>	<u>16:1</u>	<u>20:1</u>
<u>Category II</u>	<u>3:1</u>	<u>6:1</u>	<u>12:1</u>	<u>20:1</u>
<u>Category III</u>	<u>2:1</u>	<u>4:1</u>	<u>8:1</u>	<u>15:1</u>

The mitigation ratios found in the adopted KMC 18.55.330(G) compare unfavorably with Table 8C-11 from *Wetlands in Washington State, Volume 2 – Protecting and Managing Wetlands, April 2005 – Ecology Publication #05-06-008*. The city has not demonstrated that the inclusion of the standards for mitigation ratios in KMC 18.55.330(G) meets current BAS and will not result in a net loss of functions within the shoreline jurisdiction. The submittal of a single page (Page 10 of “Draft BAS Technical Memorandum” – Section 2.6.2 Mitigation Ratios) does not demonstrate that the proposed mitigation replacement ratios would assure no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. The proposed ratios are not consistent with BAS which Ecology utilized in the creation of Table 8C-11 from *Wetlands in Washington State, Volume 2 – Protecting and Managing Wetlands, April 2005 – Ecology Publication #05-06-008*.

After additional discussion, the City and Ecology agreed to the following mitigation ratios:

Table 3
Ecology/City of Kenmore Agreed Mitigation Ratios

<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1

The City provided supplemental analysis on June 21, 2011 supporting the revised mitigation ratios. The analysis noted that:

This proposed mitigation ratios are similar to Ecology’s recommended ratios, except with regard to the creation-plus-enhancement ratio recommended by Ecology for Category II. The slightly smaller enhancement component (6:1 proposed versus 8:1 in the Ecology system) still more than mitigates for wetland impacts in the City’s shoreline, and provides sufficient disincentive to prevent most wetland impacts. The mitigation sequencing and prohibition on impacts to Class 1 wetlands, which represents the majority of wetlands in Kenmore’s shoreline, has proven effective in the five years since the Kenmore CAO was adopted.

Ecology has concluded that the memo adequately explains the City of Kenmore’s proposed wetland mitigation ratios for the city’s 3-tier wetland rating system relative to Ecology’s

recommended ratios based on a 4-tier system and Ecology's wetland functional rating system. Ecology is prepared to accept the alternative proposal for the City of Kenmore's SMP update for wetland mitigation ratios as presented in Table 3.

Ecology has noted its strong preference to see the city adopt Ecology's 4-tier wetland ratings system and the corresponding mitigation ratios. Ecology has also noted that any proposed impacts to wetlands within shoreline jurisdiction that require state or federal authorization will also require the use of Ecology's 4-tier wetland rating system and corresponding mitigation ratios.

Measurement of Wetland Buffers

A change within the incorporated critical area ordinance is necessary to ensure that wetlands are delineated correctly and that wetland buffers are measured correctly. Wetland buffers shall be measured from the wetland edge as delineated and marked in the field using the Washington State Wetland Delineation Manual (1997) or as may be revised in WAC 173-22-035 and WAC 173-22-080.

This minor change will allow the SMP to stay current with state law.

Mitigation Standards

Change is necessary to ensure that wetland standards are current. This section in the adopted SMP references outdated mitigation guidelines for developing freshwater wetland mitigation plans. While it does say "as revised" it is not clear whether this means that applicants should be using the most current Ecology guidance on developing wetland mitigation plans. Adopting the current language found in KMC 18.55.330(A) within the SMP update would not be consistent with BAS. This section of code should be amended

Mitigation Sequencing

A change is necessary to make the mitigation sequencing requirements in the SMP consistent with the mitigation sequencing requirements in the Guidelines. The required change clarifies that mitigation sequencing is a requirement for all projects consistent with WAC 173-26-201(2)(e)(i). The incorporated mitigation sequencing section was missing the requirement to monitor the impact of compensation projects and take appropriate corrective action, if necessary.

Buffers for the Urban Conservancy Environment

The shoreline density and dimensions table at KMC 16.65.020 does not have buffer dimensions for commercial development in the Urban conservancy environment. This was an oversight. The intended buffers are 115 feet for water-dependent related commercial development and 150 feet for nonwater-dependent and nonwater-related commercial development.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP proposal, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology's approved SMP amendments.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in WAC 173-26-120.

Ecology concludes that the City has chosen not to exercise its option pursuant to RCW 90.58.030(2)(f)(ii) to increase shoreline jurisdiction to include buffer areas of all critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those

designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the City's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes, is effective on the date at which Ecology receives written notice that the City has agreed to the required changes.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action on the amendment.

Attachment B:
Kenmore Shoreline Master Program
Ecology Required Changes –

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

ITEM	DRAFT SMP Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE	SUGGESTED ALTERNATIVE BY LOCAL GOVERNMENT
1		Channel Migration Zone on Swamp Creek	ADD Section 16.50.100 to read: <u>A. The Channel Migration Zone shall include:</u> <u>1. The 500-year floodplain of Swamp Creek within shoreline jurisdiction, and</u> <u>2. All area within 112.5 feet of Swamp Creek.</u> <u>B. Within the Channel Migration Zone:</u> <u>1. There shall be no subdivision of land within the channel migration zone except for the purpose of creating permanent, non-buildable open space tracts.</u> <u>2. Fill shall not be allowed that impairs channel migration within the channel migration zone.</u> <u>3. No new development is allowed where future stabilization, including bank stabilization as well as structural flood hazard reduction would be necessary.</u> <u>4. Existing structures can be protected but must use natural stabilization unless proven a</u>	Necessary to meet the requirements of WAC 173-26-221(3)(c) provision for a channel migration zone.	

			<u>scientifically and technically valid study that the natural stabilization measures will not work.</u> <u>5. Existing legal uses in the Swamp Creek floodplain can be repaired and maintained, provided that such actions do not cause significant ecological impacts, increase flood hazards to other uses, and is consistent with other relevant laws.</u> <u>6. Before new structural flood hazard reduction measures in shoreline jurisdiction can be approved, it must be demonstrated by a scientific and engineering analysis that they are necessary to protect existing development, that nonstructural measures are not feasible, that impacts on ecological functions and priority species and habitats can be successfully mitigated so as to assure no net loss of ecological function, and that appropriate vegetation conservation actions are undertaken.</u> <u>C. A project proponent may have a channel migration zone study completed by a qualified professional hydrogeologist to be reviewed by the City. If the study demonstrates that the entirety of the development property is outside of the channel migration zone, then this section will not further apply to the project.</u> <u>Modify subsection KMC 16.45.010.B.12:</u> All development activities shall be located and designed to minimize or prevent the need for shoreline defense and stabilization measures and flood protection works such as bulkheads, other bank stabilization, landfills, levees, dikes, groins, jetties or substantial site regrades. All development in the floodplain shall also include an assessment of potential effects the project would have on channel migration, and incorporate measures to mitigate any adverse impacts on channel migration.		
2		Height Limits- H-3 and H-4 Areas KMC 16.65.020.B.7	Modify KMC 16.65.020.B.7 to read: Additional height may be permitted under the following conditions: a. The structures would not obstruct the view of a substantial number of residences, and b. The structures are located in an area designated area on Map 1(Shoreline Environment Designations) as allowing these additional heights, and	Most of Area H-3 is in a floodway. Commercial buildings cannot cause any rise in the	

	c. The structure height complies with the allowable height of the underlying zone and the following additional height limits within the shoreline, and d. <u>The additional height of the structures would not impair the ecological functions of the stream, lake, wetland, or the required buffer. In particular, the effects of shading and light impacts on the viability of vegetation in the buffer shall be considered when making this determination, and</u> e. <u>Be outside of the floodway in effect at the time of permit application, and</u> f. <u>Not be within a wetland or wetland buffer as regulated by 18.55 KMC.</u>	flood elevation and residences are prohibited. This provision is inconsistent with other provisions for this area and inconsistent with recognizing the statewide interest of limiting development in floodways. This provision does not protect a statewide interest as discussed in WAC 173-26-181. Most of Area H-4 is in a floodway, floodplain or critical area. The standard buffer for a Class 1																				
	<table><tr><th>Distance from Structure to Ordinary High Water Mark</th><th>Maximum Height Allowed Area H-1</th><th>Maximum Height Allowed Area H-2</th><th>Maximum Height Allowed Areas H-3 and H-4</th></tr><tr><td>Less than 50 feet</td><td>35 feet</td><td>35 feet</td><td>35 feet</td></tr><tr><td>50 to 100 feet</td><td>50 feet</td><td>45 feet</td><td><u>35-45 feet</u></td></tr><tr><td>100 to 112.5 200 feet</td><td>50 feet</td><td>75 feet</td><td><u>35-65 feet</u></td></tr><tr><td><u>112.5 to 200 feet</u></td><td><u>50 feet</u></td><td><u>75 feet</u></td><td><u>65 feet</u></td></tr></table>	Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed Area H-1	Maximum Height Allowed Area H-2	Maximum Height Allowed Areas H-3 and H-4	Less than 50 feet	35 feet	35 feet	35 feet	50 to 100 feet	50 feet	45 feet	<u>35-45 feet</u>	100 to 112.5 200 feet	50 feet	75 feet	<u>35-65 feet</u>	<u>112.5 to 200 feet</u>	<u>50 feet</u>	<u>75 feet</u>	<u>65 feet</u>	
Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed Area H-1	Maximum Height Allowed Area H-2	Maximum Height Allowed Areas H-3 and H-4																			
Less than 50 feet	35 feet	35 feet	35 feet																			
50 to 100 feet	50 feet	45 feet	<u>35-45 feet</u>																			
100 to 112.5 200 feet	50 feet	75 feet	<u>35-65 feet</u>																			
<u>112.5 to 200 feet</u>	<u>50 feet</u>	<u>75 feet</u>	<u>65 feet</u>																			
	<u>The burden to demonstrate that the proposal meets the criteria of this section is on the applicant. The director may require technical studies as necessary to demonstrate compliance.</u> The Director has the authority to require a person seeking additional structure require a person seeking additional structure height to submit an analysis performed by a qualified expert which																					

			demonstrates compliance with subsection 7.a.	stream is 150 feet. The necessary critical area buffers largely render this provision meaningless. As drafted, this provision is inconsistent with critical area provisions for this area as articulated in WAC 173-26-221.	
3	KMC 16.75.050.D	Expansion of Nonconforming Dock	KMC 16.75.050.D shall be modified to read: 16.75.050 Alteration or reconstruction of nonconforming use or development. D. Expansion of a nonconforming dock may be allowed by the director when the applicant demonstrates the following: 1. The expansion would not increase the existing overwater coverage of the dock by more than 25 percent, and <u>1. The existing nonconformance results from noncompliance with the standards in KMC 16.55.050 B6, B8, B9 or B15, and</u> <u>2. The proposed expansion meets all other applicable standards in KMC 16.55.050, and</u> <u>3. The proposed expansion would not increase the existing overwater coverage of the dock to more than the existing condition or by the limits established in KMC 16.55.050.F, whichever is greater, and</u> 24. The expanded dock project would reduce the impacts of the existing dock on critical fish habitat as demonstrated through the habitat management plan for the development, and <u>35. The proposed expansion would not cause adverse impacts on adjacent shoreline uses.</u>	This change is necessary to address public comments while still providing an incentive to improve the environmental performance of docks consistent with WAC 173-26-231(3)(b).	

4	KMC 16.50.030.B.2.i	Accessory uses counted as part of a water- dependent use	KMC 16.50.030.B.2.i shall be modified to read: Part of a mixed-use development that includes a water-dependent use and in which at least fifty percent of the land area within the shoreline jurisdiction on the project site is in a water-dependent use <u>or water-related use (including uses accessory to a water dependent use that are fully incidental and subordinate to the water-dependent use)</u>, dedicated public access, or substantial shoreline habitat enhancement consistent with KMC 16.60.010;	While accessory uses may be necessary for certain water-dependent uses to function, a focus on accessory uses should not be allowed to minimize the water-dependent uses in shoreline jurisdiction. This change provides a limit for how much an accessory use can encumber a site dedicated to a water - dependent use consistent with WAC 173-26-	
---	------------------------	--	---	---	--

5	Shoreline Designations	Shoreline Designations North of St Edwards Park	King County Tax Parcels 1426049013 and 1426049014 shall be designated Natural on the shoreline environment designation map.	201(2)(d). This change is consistent with WAC 173-26-211(5)(a)(iii).	
6	KMC 16.55.050	Alternative Pier Design	KMC 16.55.050 shall be modified to read: 16.55.050 Docks, piers, moorage, buoys, floats or launching facilities. <u>A.</u> Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall not interfere with navigation and. <u>B.</u> Any dock, pier, moorage, buoy, float or launching facility authorized by this chapter shall be subject to the following requirements; or must demonstrate that the project provides an equal or greater degree of protection of ecological functions and anadromous species habitat. For the purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective. Docks, piers, moorage, buoys, floats or launching facilities serving more than four single family residences must also meet the standards in KMC 16.50.050. <u>1.</u> Docks, piers, moorage, buoys, floats or launching facilities shall not exceed the minimum size necessary to serve the use for which they are designed (see 16.55.030.B.4). <u>2.</u> Docks, piers, moorage, buoys, floats or launching facilities serving more than four single family residences must also meet the standards in KMC 16.50.050. <u>A3.</u> Only joint use boat lift, dock, pier, moorage, buoys, float or launching facilities may be permitted for multiple family dwelling unit development proposals. <u>B4.</u> Only one boat lift, dock, pier, moorage, buoy, float and launching facility may be permitted for each parcel developed with a single detached residential unit and only if the applicant demonstrates there is no other feasible option for shared use	This change is necessary to provide consistency with WAC 173-26-231(3)(b) and WAC 173-26-201(2)(c).	

			facilities. However, installation or retention of additional watercraft lifts beyond one, without a canopy, at a single residential use waterfront structure is allowed. A maximum of three lifts are allowed at a single residential use overwater structure. However, only two lifts can be ground-based, all other lift(s) must be floating or suspended lift(s). <u>G5.</u> Only joint use docks or piers are allowed on lots with less than 50 feet of waterfront except when lots abutting both sides of the subject lot already have a dock or pier. <u>D6.</u> The only structures permitted in the first 30 feet waterward of the ordinary high water mark are piers and ramps. All floats and ells must be at least 30 feet waterward of the ordinary high water mark. <u>E7.</u> No skirting is allowed on any structure. <u>F8.</u> Surface coverage (includes all overwater portions of the floats, ramps, and ells) shall be limited as follows: <u>4a.</u> Moorage facilities serving only one residential waterfront lot shall not exceed 480 square feet; <u>2b.</u> Moorage facilities serving two residential waterfront lots shall not exceed 700 feet; and <u>3c.</u> Moorage facilities serving three or more residential waterfront lots shall not exceed 1,000 square feet. <u>G9.</u> To protect anadromous salmon habitat, the following shall apply: <u>4a.</u> Docks with configurations that do not include any or all of the following elements shall be subject to the overall length and square footage limitations of this section and no portion of the dock shall exceed four feet in width, unless allowed in this subsection;		
--	--	--	--	--	--

			2b. Piers shall not exceed four feet wide and shall be fully grated; 3c. Ramps shall not exceed three feet wide and shall be fully grated; 4d. Ells are allowed only over water with depths of nine feet or greater at the landward end of the ell; ells may be up to 6 feet wide by 20 feet long with a 2-foot-wide strip of grating down the center; or ells may be up to 6 feet wide by 26 feet long with grating over the entire ell; 5e. Floats are allowed only over water with depths of 10 feet or greater at the landward end of the float; and floats may be up to 6 feet wide by 20 feet long with a 2-foot-wide strip of grating down the center; 6f. In no case may any moorage facility extend more than 150 feet waterward of the ordinary high water mark; 7g. The first (nearest shore) piling shall be steel, 4-inch piling and at least 18 feet waterward of the ordinary high water mark. Piling sets beyond the first are not required to be steel, shall be spaced at least 18 feet apart and shall not be greater than 12 inches in diameter; 8h. Piles shall not be treated with pentachlorophenol, creosote, chromated copper arsenate or comparably toxic compounds. If ammoniacal copper zinc arsenate pilings are proposed, the applicant will meet all of the Best Management Practices, including a post-treatment procedure, as outlined in the amended Best Management Practices of the Western Wood Preservers; and 9j. When steel piles are installed, approved sound attenuation measures must be used. H10. Existing habitat features (e.g., large and small woody debris, substrate material, etc.) shall be retained and new or expanded moorage facilities placed to avoid		
--	--	--	--	--	--

			disturbance of such features. I11. Invasive aquatic weeds may be removed with nonchemical means only, except that milfoil may be removed using chemicals provided that the chemicals are applied by a licensed applicator and approved for aquatic use. J12. In order to mitigate the impacts of new or expanded commercial moorage facilities, the applicant shall plant emergent vegetation (if site-appropriate) and a buffer of vegetation a minimum of ten feet wide along the entire length of the lot immediately landward of the ordinary high water mark. Planting shall consist of native shrubs and trees and, when possible, emergent vegetation. At least five native trees will be included in a planting plan containing one or more evergreen trees and two or more trees that like wet roots (e.g., willow species), per every 100 lineal feet of shoreline. Such planting shall be monitored for a period of five years according to an approved monitoring plan. This subsection is not intended to prevent reasonable access through the shoreline critical area buffer to the shoreline, or to prevent recreational use of the shoreline critical area. This requirement may be waived or reduced for water-dependent transportation uses where it is demonstrated that vegetation could result in safety or navigation hazards. K13. No private moorage or other structure waterward of the ordinary high water mark, including structures attached thereto, shall be closer than twelve feet to any adjacent property line except when there is a mutual agreement of adjoining property owners. Excepted from the requirements of this section are boat lifts or portions of boat lifts that do not exceed thirty inches in height measured from ordinary high water mark. L14. Proposals to repair existing legally established moorage facilities where the nature of the repair is not described in KMC 16.55.030 of this section shall be considered minor repairs and are permitted, consistent with any applicable standards of this		
--	--	--	---	--	--

			Title, Title 18 and any other applicable codes or regulations. M15. No covered boat lift, dock, pier, covered moorage, covered float, or other covered structure is permitted waterward of the ordinary high water mark, except as provided below: 4a. Submerged, free-standing mechanical boat lifts associated with single detached residential docks or piers and recreational watercraft may be covered with a canopy, provided: aj. No canopy shall be more than twenty-five feet in length or wider than fifteen feet; bii. No portion of the canopy shall exceed a height of twelve feet above the ordinary high water mark; ei. The canopy shall at no time have any side partly or wholly enclosed; d. The highest portion of the canopy shall be located below the lowest grade point on the waterward side of the existing homes on surrounding properties; ey. Canopies shall be made out of canvas or other such non-toxic materials; fvi. Canopies shall be of a translucent material to allow light transmission; gvii. The total overwater coverage of the piers, floats, ramps, ells, and canopy for a single family residence with a single-use moorage shall not exceed 600 square feet ; and hvi. Only one boat lift canopy per single detached residence shall be allowed.		
--	--	--	---	--	--

			2b. Covered moorage may be provided for commercial boat repair facilities. N16. No dwelling unit may be constructed on a dock or pier. O17. Buoys shall meet the following conditions: 4a. Buoys shall not impede navigation; 2b. The use of buoys for moorage of recreational and commercial vessels is preferred over pilings or float structures; 3c. Buoys shall be located and managed in a manner that minimizes impacts to aquatic habitat; 4d. No more than four buoys per acre are allowed. <u>C. Proposals that do not meet the requirements of subsections B.6, 8, 9 or 15 of this section and that are designed to support a commercial water-dependent use, or to provide public access, or to serve residential uses, may be considered by the director. For any alternative proposal, the applicant must demonstrate that the proposed deviation is the minimum necessary to meet the needs of the specific use proposed, and provides an equal or greater degree of protection of ecological functions and anadromous species habitat than would strict adherence to the standards. For purposes of meeting this requirement, the director will review the required habitat management plan to determine whether the project is adequately protective.</u>		
7	KMC 16.10.110	Definition of Critical Areas	KMC 16.10.110 shall be revised as follows: 16.10.110 Critical areas. The definitions for "critical areas" in KMC 18.20 shall apply in shorelines. "Critical areas" means any of the following areas or ecosystems: aquifer recharge areas, fish	The definition of "critical areas" should be in the SMP.	

			and wildlife habitat areas of importance, frequently flooded areas, geologically hazardous areas, streams, and wetlands, as defined in Chapter 36.70A RCW and this chapter. [Ord. 06-0244 § 21.]		
8	KMC 16.10.640	Wetland Definition	KMC 16.10.640 shall be modified as follows: 16.10.640 Wetlands. "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas to mitigate the conversion of wetlands. For identifying and delineating a wetland, local government shall use the Washington State Wetland Identification and Delineation Manual (1997)	Change is necessary to ensure that wetland definition is current.	
9	KMC 18.55.330.G.1	Wetland Mitigation Ratios	KMC 18.55.330.G.1 shall be modified as follows: Acreage Replacement Ratios. The following ratios shall apply to creation or restoration that is in-kind, on-site, the same class, timed prior to or concurrent with alteration, and has a high probability of success. These ratios do not apply to remedial actions resulting from unauthorized alterations; greater ratios shall apply on a case-by-case basis. These ratios do not apply to the use of credits from a state-certified wetland mitigation bank. The first number specifies the acreage of replacement wetlands and the second specifies the acreage of wetlands altered. Class 1 — 3 to 1 Class 2 — 2 to 1 Class 3 — 1 to 1	Change is necessary to ensure that wetland mitigation ratios are current.	

			<u>Wetland Mitigation Ratios:</u> <table><tr><th><u>Category and Type of Wetland</u></th><th><u>Creation or Reestablishment (C/R)</u></th><th><u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u></th><th><u>Enhancement (E) Only</u></th></tr><tr><td>Class 1</td><td>3:1</td><td>1:1 C/R plus 6:1 E</td><td>Not Allowed</td></tr><tr><td>Class 1 (Mature Forested)</td><td>6:1</td><td>1:1 C/R plus 20:1 E</td><td>Not Allowed</td></tr><tr><td>Class 2</td><td>2:1</td><td>1:1 C/R plus 4:1 E</td><td>Not Allowed</td></tr><tr><td>Class 3</td><td>1.5:1</td><td>1:1 C/R plus 2:1 E</td><td>6:1</td></tr></table>	<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>	Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed	Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed	Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed	Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1		
<u>Category and Type of Wetland</u>	<u>Creation or Reestablishment (C/R)</u>	<u>Creation (C) or Reestablishment (R) plus Enhancement (E)</u>	<u>Enhancement (E) Only</u>																						
Class 1	3:1	1:1 C/R plus 6:1 E	Not Allowed																						
Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not Allowed																						
Class 2	2:1	1:1 C/R plus 4:1 E	Not Allowed																						
Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1																						
10	KMC 18.55.320.F.2	Measurement of Wetland Buffers	KMC 18.55.320.F.2 shall be modified as follows: Measurement of Wetland Buffers. Wetland buffers shall be measured from the wetland edge as delineated and marked in the field using the <u>1987 1997 U.S. Army Corps of Engineers Wetland Delineation Manual</u> and current Regional Supplements <u>Washington State Wetland Identification and (Ecology)</u> or as may be revised in WAC 173-22-035 and WAC 173-22-080 or the most recent approved federal manual and regional supplements.	Change is necessary to ensure that wetland standards are current.																					
11	KMC 18.55.330.A	Mitigation Standards	KMC 18.55.330.A shall be modified as follows: Mitigation Shall Achieve Equivalent or Greater Ecological Functions. Mitigation for alterations to wetlands and buffers shall achieve equivalent or greater ecologic functions than exist in the impacted wetland and buffer. Mitigation plans shall be generally consistent with the Department of Ecology Guidelines found <u>in Wetland Mitigation in Washington State - Part 1, Version 1, March 2006, Publication #06-060-011a and Wetland Mitigation in Washington State - Part 2, Version 1, March 2006, Publication #06-060-011b.</u> for Developing Freshwater Wetlands	Change is necessary to ensure that wetland standards are current.																					

12	KMC 18.55.210	Mitigation Sequencing	Mitigation Plans and Proposals, 1994, as revised. KMC 18.55.210 shall be modified as follows: Applicants shall demonstrate that all reasonable efforts have been examined with the intent to avoid and minimize impacts to critical areas. When an alteration to a critical area is proposed, such alteration shall be avoided, minimized, or compensated for as outlined by WAC 197-11-768, in the following order of preference: A. Avoiding the impact altogether by not taking a certain action or parts of actions; B. Minimizing impacts by limiting the degree or magnitude of the action and its implementation; <u>by using appropriate technology or by taking affirmative steps to avoid or reduce impacts.</u> C. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment; D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; <u>and/or</u> E. Compensating for the impact by replacing or providing substitute resources or environments; <u>and/or</u> F. <u>Monitoring the impact and the compensation projects and taking appropriate corrective measures.</u>	Change is necessary to make the mitigation sequencing requirements in the SMP consistent with the mitigation sequencing requirements in the Guidelines.	
----	------------------	--------------------------	--	---	--

			Mitigation for individual actions may include a combination of the above measures. [Ord. 06-0244 § 59 (Exh. 1).]		
13	KMC 16.65.010	Clarification of applicable standards	KMC 16.65.010 shall be modified as follows: 16.65.010 Interpretation of shoreline density and dimensions table. A. The shoreline density and dimensions table in KMC 16.65.020 establishes the shoreline standards within each of the shoreline environments. The shoreline environment is located on the vertical column and the density and dimensions standard is located on the horizontal row of the table. The table should be interpreted as follows: 1. If the cell is marked with a Z in the box at the intersection of the column and the row, the shoreline does not impose a specific buffer requirement on that use, although the standards for the underlying zoning apply. In some cases, no standard is provided because the use is prohibited under KMC 16.450. 2. If the cell has a number in the box at the intersection of the column and the row, that number is the density or dimension standard for that shoreline environment. 3. If the cell has a parenthetical number in the box at the intersection of the column and the row, that parenthetical number identifies specific conditions listed in KMC 16.65.020.B that are related to the density and dimension standard for that environment. B. The density and dimensions enumerated in this section apply to any lot within the shoreline jurisdiction. If there is a conflict between the density and dimension standards in this section and the underlying zoning regulations, the more restrictive standard shall apply. C. For development in critical areas and critical area buffers, the applicable provisions of Section 18.55 apply unless a specific exception is provided in the shoreline code. Because	Corrects a code citation within the SMP	

			Lake Washington, the Sammamish River, and Swamp Creek are all fish and wildlife habitats of importance, a habitat management plan is required for any in-water or overwater development or activity, per KMC 18.55.520.																																												
14	KMC 16.65.020.A	Buffers listed in shoreline modification table	KMC 16.65.020.A shall be modified as follows: 16.65.020 Shoreline density and dimensions table and development conditions. A. Shoreline Density And Dimensions Table <table> <tr> <th></th><th>DOWNTOWN WATERFRONT</th><th>SHORELINE RESIDENTIAL</th><th>URBAN CONSERVANCY</th><th>NATURAL</th><th>AQUATIC</th></tr> <tr> <td colspan="6">Standards</td></tr> <tr> <td colspan="6">Shoreline Buffers from OHWM on Lake Washington</td></tr> <tr> <td>Water-dependent commercial development</td><td>20 ft (1)</td><td>Z</td><td><u>115 ft (1)</u>Z</td><td>Z</td><td>0</td></tr> <tr> <td>Water-related commercial development</td><td>20 (1) ft</td><td>Z</td><td><u>115 ft (1)</u>Z</td><td>Z</td><td>0</td></tr> <tr> <td>Non-water-dependent and non-water-related commercial development</td><td>50 ft (1)</td><td>Z</td><td>150 ft</td><td>Z</td><td>Z</td></tr> <tr> <td>Government services</td><td>20 ft (6)</td><td>20 ft (6)</td><td>20 ft (6)</td><td>20 ft (6)</td><td>0</td></tr> </table>		DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC	Standards						Shoreline Buffers from OHWM on Lake Washington						Water-dependent commercial development	20 ft (1)	Z	<u>115 ft (1)</u> Z	Z	0	Water-related commercial development	20 (1) ft	Z	<u>115 ft (1)</u> Z	Z	0	Non-water-dependent and non-water-related commercial development	50 ft (1)	Z	150 ft	Z	Z	Government services	20 ft (6)	20 ft (6)	20 ft (6)	20 ft (6)	0	This corrects an oversight in the buffer standards.	
	DOWNTOWN WATERFRONT	SHORELINE RESIDENTIAL	URBAN CONSERVANCY	NATURAL	AQUATIC																																										
Standards																																															
Shoreline Buffers from OHWM on Lake Washington																																															
Water-dependent commercial development	20 ft (1)	Z	<u>115 ft (1)</u> Z	Z	0																																										
Water-related commercial development	20 (1) ft	Z	<u>115 ft (1)</u> Z	Z	0																																										
Non-water-dependent and non-water-related commercial development	50 ft (1)	Z	150 ft	Z	Z																																										
Government services	20 ft (6)	20 ft (6)	20 ft (6)	20 ft (6)	0																																										

			Single family residential development	Z	25 ft (2)	115 ft (2)	150 ft (2)	Z				
			Multifamily residential development	50 ft	75 ft	115 ft	Z	Z				
			Water-dependent and water-related manufacturing and industrial use	20 ft (1) (3)	Z	<u>115 ft (1) (3)</u> Z	Z	0				
			Non-water-related manufacturing and industrial use	50 ft	Z	Z	Z	Z				
			Parks and recreation	50 ft (4)	75 ft (4)	115 ft (4)	115 ft (4)	0				
			Accessory Surface Parking	100 ft	100 ft	115 ft	<u>150 ft</u> Z	0				
			Utilities and regional land uses	50 ft (5)	75 ft (5)	115 ft (5)	115 ft (5)	Z				
			Building Setback from the Shoreline Buffer									
			Single Family uses	15 ft	25 ft (2)	15 ft	15 ft	Z				

			All uses except Single Family uses	15 ft	15 ft	15 ft	15 ft	Z		
			Building Height							
			Base height	35 ft	35 ft	35 ft	30 ft	35 ft		
			Additional height allowed when permitted in underlying zoning	Yes (7)	Yes (7)	Yes (7)	No	No		

Attachment C:

Kenmore Shoreline Master Program

Ecology Suggested Changes –

The following changes are recommended to create a more effective SMP:

ITEM	DRAFT SMP Provision (Cite)	TOPIC	BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)	RATIONALE	SUGGESTED ALTERNATIVE BY LOCAL GOVERNMENT
1	KMC 16.50.060	Land Divisions	Modify Section 16.50.60 (first paragraph) to read: Public access, shall be required for public projects and development on public lands (KMC 16.45.010.B.16), commercial and manufacturing uses (KMC 16.50.030.B2), boating facilities and marinas (KMC 16.50.050), multifamily development (KMC16.50.090.A.1), and subdivisions <u>land divisions</u> of more than four lots (KMC16.50.090.A.2). For development on private property, public access shall be required when such development would either generate or increase demand for public access and/or would impair existing legal access opportunities or rights.	This changes is to avoid confusion. Kenmore may have 9 lot short plats. This makes it clear that nay land division of greater than 4 lots is subject to public access requirements.	
2	KMC16.65.020.B.2.a	Minimum building setback	Modify KMC16.65.020.B.2.a to read: 2. Single family residential development shall provide buffers and setbacks as follows: a. On Lake Washington in Shoreline Residential areas:	This would maintain a minimum separation between buildings and the shoreline buffer for maintenance purposes.	

			i. A minimum shoreline buffer of 25 feet from the ordinary high water mark shall be provided as a vegetation conservation area. ii. The minimum building setback of 25 feet from the shoreline buffer may • be reduced to <u>five (5)</u> zero (0) feet if vegetation in the required buffer is reestablished or enhanced, according to the standards in KMC 16.60.010.0.		
3	Restoration Plan, Chapter 4	Identification of Restoration Priorities	Identify the relative priority for restoration activities listed in Chapter 4, Restoration Actions. This can include applying the Restoration Plan priorities to activities listed in Table 3, beginning on page 25 and expansion of the discussion in the implementation section on pages 32 and 33.	This is suggested by public comments.	
4	Restoration Plan Map No. 4	Identification of Swamp Creek Wetland #4 as high quality habitat	Identify Swamp Creek Wetland No. 4 as high quality habitat on Map 4 of the Restoration plan	This is suggested by public comments.	
5	KMC 18.55.120.B	Minor grammatical correction.	Modify KMC 18.55.120.B to read: First sentence of subsection, the word "association" should be replaced with "associated".	This is a minor grammatical correction.	
6	KMC 16.50.060	Public access	Modify KMC 16.50.060 to read:	Vegetation management	

			16.50.060 Public Access. Public access shall be required for public projects and development on public lands (KMC 16.45.010.B.16), commercial and manufacturing uses (KMC 16.50.030.B2), boating facilities and marinas (KMC 16.50.050), multifamily development (KMC 16.50.090.A.1), and subdivisions of more than four lots (KMC 16.50.090.A.2). For development on private property, public access shall be required when such development would either generate or increase demand for public access and/or would impair existing legal access opportunities or rights. A. Where public access is required, it shall: 1. Connect to other public and private public access and recreation facilities on adjacent parcels along Lake Washington and the Sammamish River shorelines whenever feasible; 2. Be sited to ensure public safety; 3. Be open to the general public and accessible directly from a public right-of-way or by an easement granted to the City for public access; 4. Enhance access and enjoyment of the shoreline and provide features in scale with the development such as, but not limited to: a. View points; b. Places to congregate in proportion to the scale of the development;	standards application to public access	
--	--	--	---	--	--

			c. Benches and picnic tables; d. Beach or water access for boats; and e. Pathways for pedestrians and bicycles. B. Where public access is required, the area dedicated and improved for public access shall be roughly proportional to the scale and character of the proposed development and its impacts. C. Where public access is required, the Director shall prepare written findings demonstrating that the conditions imposed are consistent with the principles of nexus and rough proportionality, the Act and all relevant constitutional and other legal limits on regulation of private property. D. Public access improvements shall be designed to be compatible with the purpose and intent of the shoreline environment in which they are constructed. E. Trails and other public access improvements are subject to the standards for recreational uses in section KMC 16.65.020 and the <u>vegetation management standards in KMC 16.60.020.B.</u> F. The provisions of this section do not apply to the following: 1. Short plats of four or fewer lots; 2. Where public access is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline		
--	--	--	---	--	--

			environment; or 3. Where constitutional or other legal limitations apply.		
7	KMC 16.60.020.B and KMC 16.65.020.B.4	Vegetation management	Modify KMC 16.60.020.B to read: B. Vegetation management standards established in KMC 18.55.420 for streams and their buffers shall apply within Sammamish River and Swamp Creek shorelines. <u>In addition to Pprovisions for recreational uses in KMC 16.65.020 allowing limited modifications to critical area buffers for the purposes of public access improvements, the following standards shall apply in shorelines:</u> 1. <u>In Swamp Creek Park, public access trails may be located within critical areas and required buffers, when planned along with a habitat restoration project and it is demonstrated that the ecological functions of the overall standard stream buffer area would be substantially improved. Trails in Swamp Creek Park roughly paralleling the shoreline of the Sammamish River or Swamp Creek shall generally be located at least 50 feet from the ordinary high water mark, but trails may extend closer to the water if necessary to reduce impacts on critical areas or adjacent properties, or access a pedestrian bridge across Swamp Creek. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the stream buffer</u>	Vegetation management standards application to public access	

			and wetlands. <u>B2. When public access is being provided as a part of mixed use development allowed in the Urban Conservancy environment under KMC 16.50.030.B.2.a.ii, the director may allow public access trail development within the buffer in order to link with adjacent shoreline access, provided any new trail is farther from the shoreline than the waterward extent of existing development on the site and the proposed trail plan is accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.</u> Modify KMC 16.65.020.B.4 to read: 4. New public access improvements shall comply with the requirements of KMC 18.55, provided that new public access improvements may be allowed within critical areas, or shoreline or critical area buffers if impacts are mitigated consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions, and the public access improvements meet the following standards: a. In order to encourage public access improvements and improved shoreline habitat in the Downtown Waterfront shoreline, a public access trail may be		
--	--	--	--	--	--

			located within the stream buffer required in KMC 18.55.420, when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. Trails paralleling the shoreline of the Sammamish River in the Downtown Waterfront environment shall be located at least 50 feet from the ordinary high water mark. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the buffer. b. In order to allow for a waterfront promenade area along the inner harbor area of the Downtown Waterfront environment, public access improvements may extend to the water's edge when accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved. c. In Swamp Creek Park, public access trails may be located within critical areas and required buffers, when planned along with a habitat restoration project and it is demonstrated that the ecological functions of the overall standard stream buffer area would be substantially improved. Trails in Swamp Creek Park roughly paralleling the shoreline of the Sammamish River or Swamp Creek shall generally be located at least 50 feet from the ordinary high water mark, but trails may extend closer to the water if		
--	--	--	--	--	--

			necessary to reduce impacts on critical areas or adjacent properties, or access a pedestrian bridge across Swamp Creek. Spur trails may be extended to the water's edge but such access areas should be limited in order to protect ecological functions of the stream buffer and wetlands. d. When public access is being provided as a part mixed use development allowed in the Urban Conservancy environment under KMC 16.50.030.B.2.a.ii, the director may allow public access trail development within the buffer in order to link with adjacent shoreline access, provided any new trail is farther from the shoreline than the waterward extent of existing development on the site and the proposed trail plan is accompanied by a plan demonstrating that the ecological functions of the overall required buffer area on a project site would be substantially improved.		
8	KMC 16.65.020.B.1	Standards for water dependent uses	Modify KMC 16.65.020.B.1 to read: Development conditions (Footnotes to Shoreline Density And Dimensions Table KMC 16.65.020.A). 1. New water-dependent uses may be allowed within a shoreline buffer only if impacts are mitigated consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions. The director may allow non-water-dependent uses within the shoreline buffer along	Clarifying that all parts of subsection are applicable	

			the inner harbor portion of the Downtown Waterfront area at the northeast end of Lake Washington, <u>only</u> if: a. The uses are developed in conjunction with a public access promenade adjacent to the water; <u>and</u> b. The uses do not interfere with public access or preclude the use of the shoreline for water dependent uses; <u>and</u> c. Mitigation is provided consistent with the requirements in KMC 18.55.190-220, 18.55.330 and 18.55.430 such that there is no net loss of shoreline ecological processes or functions.		
9	KMC 16.65.020.B.3	Standards for water dependent uses	Modify KMC 16.65.020.B.3 to read: 3. Outdoor storage for water-dependent manufacturing and industrial uses must be at least 20 feet from the ordinary high water mark in the <u>Downtown Waterfront environment and is prohibited in all other environments.</u>	Clarifying location of outdoor storage.	
10	KMC 16.75.050.C	Nonconforming uses and structures	Modify KMC 16.75.050.C to read: C. Expansion of a nonconforming use or structure may be approved through the provisions of KMC 16.75.040 when the applicant demonstrates the following.	Clarifying the limits on expansion of nonconforming structures.	

			1. The project would substantially reduce the impacts of the existing use or structure on shoreline ecological functions, and 2. The proposed expansion would not cause adverse impacts on adjacent shoreline uses. 3. <u>A nonconforming structure shall not be expanded closer to the shoreline.</u>		
11	Shoreline Environment Designations Map	Mapping of H-4 Special Height Area to exclude wetlands	The H-4 area on the Shoreline Environment Designations Map shall be revised to exclude mapped wetlands.	Removing areas from the H-4 Special Height Area where increased building heights are inappropriate.	

Attachment D Summary of Public Comments - City of Kenmore SMP Update

June 23, 2011

The Department of Ecology (Ecology) held a comment period for the Kenmore Shoreline Master Program (SMP) update from March 15, 2011 through April 15, 2011 and a public hearing on March 31, 2011. Testimony was provided by 7 individuals at the public hearing and 17 written comment letters submitted during the comment period. With one exception, individuals that testified at the public hearing also provided written comment.

City of Kenmore responses to the public comment summaries are provided below in italics. Some of the issues raised during Ecology's public comment period--mitigation ratios, for example--were not identified during the local public process preceding City Council adoption of the SMP. Staff will be working with Ecology on any issues they identify as needing attention, and may present additional recommendations to the City Council in response.

1. Dave Douglas, Integrity Shoreline Permitting, testimony at the public hearing on March 31, 2011 and comment letter received March 31, 2011.

Douglas is of the view that the City of Council and the Planning Commission were not appropriately advised by the City's SMP consultant or the Department of Ecology (Ecology). Douglas also believes that Regional General Permit (RGP) 1 was not appropriately emphasized and that Ecology misapplied RGP 3.

- a. 16.55.030 Shoreline modification table and conditions
B2 on page 40: How does a property owner wishing to repair and maintain an existing shoreline stabilization structure document that work will be conducted in a manner that does not cause a net loss of ecological functions to the satisfaction of the City?

City Response: The property owner would submit a report to the city prepared by a qualified professional addressing impacts to ecological functions and how those impacts are avoided or mitigated.

Ecology Conclusion: An exempt activity must meet the standards of an SMP even though a SSDP is not required. It is within the authority of the city to require a No Net Loss assessment for pier repair activities.

- b. 16.55.040 Shoreline stabilization
C on page 40: Where is the 4 foot maximum height of a shoreline stabilization structure measured from? Please clarify and reconsider changing this standard to a height that will provide adequate protection to property, dwellings and authorized uses.

City Response: This height is intended to be measured from average existing grade at the lake bottom. We are not aware of any circumstance where this height of structure located at the ordinary high water mark (OHWM) would not be adequate to protect any structure or authorized use in Kenmore.

Ecology Conclusion: It is within the authority of the City to regulate bulkhead height.

- c. 16.55.050 Docks, piers, moorage, buoys, floats or launching facilities
Opening paragraph on page 41: How does a property owner demonstrate that a project provides an equal or greater degree of protection of ecological functions and anadromous fish habitat without the need of a very expensive Habitat Management Plan? Why can't an experienced planner or the City's Planning Director evaluate projects, especially for replacement of an existing structure, based on reasonable comparison or accept a permit from the Army Corps of Engineers as proof that the project results in a "not likely to adversely affect" (NLAA) listed species or critical habitat? By requiring a Habitat Management Plan the City is placing a financial burden on property owners that the federal agencies charged with protecting threatened and endangered species and their critical habitat do not require. Please explain the City's position for requiring a Habitat Management Plan when state (WDFW) and federal (Army Corps, USFWS and NMFS) regulatory agencies with qualified fish and habitat biologists will review projects to ensure they result in a NLAA or "no net loss" determination?

City Response: The habitat management plan is not a new regulation in Kenmore and is currently required under the City's critical areas ordinance for all shorelines of the state. The plan is to be prepared by a qualified professional in consultation with the state Department of Fish and Wildlife (WDFW). WDFW approves the plan. If a habitat management plan approved by WDFW is submitted to the City, the City will accept the plan as adequate. Ecology, in an email dated June 8, 2010, advised the City that inserting language that would accept an issued permit from the Corps as proof of habitat protection would not be approvable by Ecology.

Ecology Conclusion: The City is obligated to ensure that projects achieve no net loss of ecological function pursuant to its SMP. While the City has discretion in how it accomplishes this, it cannot simply abdicate its responsibility. The city may or may not have the expertise on its staff to conduct the technical planning and review that the commenter suggests. Ecology finds that the City's approach is acceptable.

- d. B on page 41: Why must the owner of a single family detached unit (single family residence) demonstrate there is no other feasible option for shared use facilities? Piers accessory to a single family residence are considered water dependent uses and WAC 173-26-231(3)(b) states, "Where new piers or docks are allowed, master programs should contain provisions to require new residential development of two or more dwellings to provide joint use or community dock facilities, when feasible, rather than allow individual docks for each residence. Did the City leaders understand that this

was not required under the WAC or SMP Update Requirements? Can the City reconsider its position to align with the WAC? How does a person demonstrate no other "feasible" option?

City Response: The requirement for shared use facilities is applied only to projects of two or more dwelling units, not single-family residences. The applicant for a pier or dock accessory to a single-family residence may investigate other feasible options for sharing facilities by asking adjacent waterfront neighbors if joint development or use of a dock would be a possibility, and it is understood that the neighbors may decline. Since the City cannot force a neighbor to share a dock, if the adjacent neighbors decline the City would accept this as evidence of infeasibility. For new development containing more than one proposed single family detached residence, the City may require that docks be shared.

Ecology Conclusion: This provision does not preclude single family piers; but rather requires an alternatives analysis. This provision is part of a reasonable approach to minimize the impacts of piers and docks.

- e. G3 on page 42: Although ramps are rarely used for projects on fresh water lakes when they are the standard requiring them to be no wider than 3 feet must be clarified or changed. The City should allow the walking surface to be 3 feet wide and not the overall ramp width which is typically 3'-8" wide to allow for engineered rails. If this standard is retained the walking surface will only be 2'-4" which greatly limits access. Can the City change this to state, "The walking surface of ramps shall not be wider than 3 feet and shall be fully grated?" If not, please explain why since ramps actually promote more light penetration that a standard pier section so they should be encouraged.

City Response: The use of this standard (taken from the Corps of Engineers RGP-3 standards) was deliberate because there were consultations with federal fish and wildlife services on the RGP-3 standards, reflecting best available science. Flexibility is allowed (see 16.55.050 first paragraph, page 41) and it is anticipated that alternative designs could be developed and approved. For example, if a qualified biologist preparing a habitat management plan for the proposal determined that a 3'-8" ramp would not have any greater impacts than a 3' wide ramp, or that the marginal impact could be mitigated, such a ramp could be allowed. Handrails installed outboard of the ramp surface instead of in-line with the ramp surface would not be considered in the overall width of the ramp, since the concern is shading of nearshore habitat.

Ecology Conclusion: The purpose of this section is to provide nearshore habitat for migrating juvenile Chinook salmon. The City's utilization of standards taken from the USACE RGP-3 is appropriate.

- f. G4 and G5 on page 42: By requiring ells to be over 9 feet of water and floats to be over 10 feet of water it is likely to require longer piers to attain such depths. Please remove these standards from the Kenmore SMP and allow WDFW and the Corps to determine if an ell or float needs to be over the water depths prescribed on a project-by-project basis.

City Response: The use of this RGP-3 standard was deliberate because there were consultations with federal fish and wildlife services on the standard reflecting best available science. Flexibility is allowed (see 16.55.050 first paragraph, page 41) and it is anticipated that alternative designs could be developed and approved.

Ecology Conclusion: Ecology concurs with the City response. Locating active use areas of piers to water deep enough to avoid nearshore habitat and prop wash is positive and fully within the City's discretion.

- g. G7 on page 42. The size of the first set (nearest shore) piling should be determined by the contractor, structural engineer, and local building department and not by the SMP. Please remove this standard from the Kenmore SMP and allow the Corps to determine the size of the first set of inwater piles or direct the City to allow a maximum pile diameter of 8" for the first set. If not, please explain why?

City Response: While we recognize the concern that in some instances 4-inch piles would not be appropriate for structural reasons, the code allows for flexibility as long as the alternative would not have greater impacts. The purpose for this standard is to minimize impacts to nearshore habitat, since larger piles provide areas for predators of small fish. If the structural engineer demonstrates that a larger size is necessary for stability, it may be possible to also establish that the location or design of the piles is such that they would not provide any greater predator cover than smaller piles.

Ecology Conclusion: The size and location of the first set of piles is an important environmental concern. It is appropriately regulated by the SMP. Ecology concurs with the City response.

- h. L on page 43. Most if not all of Kenmore's existing overwater structures are likely to become legally nonconforming when the updated SMP goes into effect. Can existing legally conforming and nonconforming structures be maintained, repaired and replaced within the existing footprint, and even expanded in some cases without being brought into conformity?

City Response: Nonconforming structures are regulated in 16.75.050, where standards discuss nonconforming bulkheads, expansion of a nonconforming use or structure, and expansion of a nonconforming dock.

Ecology Conclusion: The SMP allows for maintenance and expansion of existing piers and docks.

- i. At section M.1.g on page 43, the SMP restricts the total overwater coverage of the piers, floats, ramps, ells, and canopy to 600 square feet. This may be the most restrictive and onerous regulation in any Lake Washington or Lake Sammamish waterfront community and was generated as a result of the biological consultant comingling, misinterpreting and misapplying the development standards in the Corps RGP-3 and RGP-1 combined with an old regulation from the previous King County SMP. Douglas requests that Ecology recommend to the City that it eliminate regulation in 16.55.050(M)(1)(g) limiting total overwater coverage to 600sqft including the canopy from the Kenmore SMP.

City Response: This standard is over and above the RGP standards but was retained in order to limit the extent of canopies over water.

Ecology Conclusion: This provision is within the City's discretion. Ecology concurs with the City response.

2. Elizabeth Mooney, comment emails received April 15, 2011.

- a. Mooney advocates for the strictest plan for us to protect the ecological functions of the shoreline.

Mooney asks that Ecology increase paths and protect the habitat by making landowners increase buffers and decrease height so that we do what is best for future generations. Mooney believes that there should be lower heights at the site of the existing plywood supply and that the buffer and setbacks should be maximum widths to protect the highest degree of ecological function, utilizing best available science, not best available economic profit. Kenmore and the surrounding area will prosper if the standard is high for ecological protection, salmon recovery, natural habitat enhancements and environmental education. We need the widest buffers, the best trees, the wisest ecological plans for building plans. We must protect our clean water and make it cleaner than it is presently.

City Response: Comments noted. The SMP requires 150' buffers plus 15' building setbacks from Swamp Creek, the Sammamish River and associated wetlands. These standards were based on the best available science at the time the critical area regulations were adopted and are consistent with current guidance for wetland protection. On the Plywood Supply site, the maximum

allowable height under the SMP in the area outside of the critical area buffer and building setback but within the shoreline jurisdiction (between 165' and 2009 would be 65' if consistent with underlying zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: One of the required changes addresses the H-3 height area. Ecology is concerned that much of this area is within a floodway, rendering it inappropriate for intensive development.

- b. Mooney would rather see the eastern shoreline of Log Boom Park, where Stream 08.0056 enters Lake Washington, be designated "natural" instead of "urban conservancy" since, the city's phase 1 park "improvements" already caused significant adverse environmental impacts by adding too much concrete, creosote posts and irrigation pipes- all actions that did not reflect high standards for protection of ecological function.

City Response: The purpose of the Natural Environment is to protect public shoreline areas that include ecologically intact or minimally altered shorelines. Only low intensity uses are to be allowed in this environment. Log Boom Park is a developed park, with parking and a play area inside the shoreline jurisdiction. For this reason, the Urban Conservancy Environment designation was applied. The purpose of the Urban Conservancy Environment is to protect and restore ecological functions of open space, floodplain, and other sensitive lands where they exist in urban and developed settings, while allowing a variety of compatible uses.

Ecology Conclusion: Ecology is of the view that the Log Boom Park site best fits the designation criteria for Urban Conservancy. The important criteria, at WAC 173-26-211(5)(e)(iii), states

(iii) Designation criteria. Assign an "urban conservancy" environment designation to shoreline areas appropriate and planned for development that is compatible with maintaining or restoring of the ecological functions of the area, that are not generally suitable for water-dependent uses and that lie in incorporated municipalities, urban growth areas, or commercial or industrial "limited areas of more intensive rural development" if any of the following characteristics apply:

(A) They are suitable for water-related or water-enjoyment uses;

(B) They are open space, flood plain or other sensitive areas that should not be more intensively developed;

(C) They have potential for ecological restoration;

(D) They retain important ecological functions, even though partially developed; or

(E) They have the potential for development that is compatible with ecological restoration.

By comparison, the Natural criteria at WAC 173-26-21(5)(a)(iii) does not fit this partially developed park site as well.

3. Rudy Hillinga, comment email received April 15, 2011.

Hillinga is opposed to Kenmore's Shoreline Management Plan for the high rise building project on the River, request that the Department of Ecology deny the plan and send it back to the Kenmore City Council for revision.

City Response: The SMP does not authorize a high rise building project on the Sammamish Rivet; rather it establishes a critical area buffer of 150' plus a 15' building setback from the river and would allow a height limit of from 65' to 75' upland of this buffer and building setback, if permitted by underlying zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: One of the required changes addresses the H-3 height area. Ecology is concerned that much of this area is within a floodway, rendering it inappropriate for intensive development.

4. Joan Hardy, comment email received April 15, 2011.

a. Hardy supports a plan that would incorporate natural areas, in particular waterfront areas, into the design for Kenmore's shoreline. Parks are a valuable asset to a community and this plan provides an opportunity to incorporate parks for use by local and other citizens.

- As part of a parks system, Hardy supports more public access to the waterfront.

City Response: The plan requires public access for all public projects and development on public lands, as well as for multifamily and commercial projects and subdivisions of more than 4 lots, unless safety concerns require limited access.

Ecology Conclusion: Ecology concurs with comment and the City's response.

b. Hardy supports Kenmore in raising funds needed to buy land for more parks and open space.

City Response: Comment noted.

Ecology Conclusion: Ecology supports parks and open space acquisition. Ecology notes that capital budgeting for parks is a local prerogative.

- c. Hardy would like to see a public access area for kayaks, canoes, and other non-powered boats incorporated into the plan.

City Response: Public boat launches are permitted by the SMP in the Downtown Waterfront, Urban Conservancy, and Aquatic designations. In the Urban Conservancy designation, a boat launch that accommodates motorized vehicles for launching vessels is a conditional use. Facilities for hand launching of non-motorized vessels are allowed.

Ecology Conclusion: Ecology concurs with the City response.

- d. Hardy supports lower building heights and bigger set back areas to keep the waterfront areas open and views accessible for the largest number of Kenmore citizens.

City Response: Comment noted.

Ecology Conclusion: The City has local discretion regarding building heights and setbacks within the limits of the SMA. Ecology is proposing to modify the H-3 and H-4 Special Building Height Areas (SBHA).

5. Valerie Nygaard, comment email received April 15, 2011.

The Department of Ecology needs to send Kenmore's Shoreline Management Plan back to the city for revision. How is it that a plywood company can put an office, with tall buildings so close to the shoreline. Nygaard understands this would include disturbing the wetlands along Swamp Creek.

Nygaard believes that Ecology needs to make sure that as many residents as possible understand the consequences of the SMP provisions.

City Response: The SMP requires 150' buffers plus 15' building setbacks from Swamp Creek, the Sammamish River and associated wetlands. On the Plywood Supply site, the maximum allowable height under the SMP between 165' and 200' (outside of the critical area buffer and building setback but within the shoreline jurisdiction) would be 65' if permitted by underlying zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: Ecology has included a required change modifying the H-3 SBHA due to much of its location being in a floodway. Development in the floodway must meet floodway development standards which are extremely limiting.

6. Tom Fitzpatrick, comment email received April 15, 2011.

Fitzpatrick endorses Eric Adman's comments on the City of Kenmore's update of its SMP. Fitzpatrick believes that the flaws in Kenmore's effort as pointed out by Mr. Adman are fatal. Ecology should direct Kenmore's elected officials and staff to direct their efforts toward truly protecting what little natural shoreline environment we have left in our part of urban King County.

City Response: See responses to Mr. Adman's comments, page 13.

Ecology Conclusion: Ecology is requiring a number of changes to the SMP to address various concerns. Some of those concerns were cited by Mr. Adman.

7. Victoria Rhoades, comment email received April 15, 2011.

Rhoades agrees with Eric Adman's expressed objections to the Kenmore Shoreline Management Plan. Swamp Creek floods regularly. Rhoades questions Swamp Creek's suitability for development. Additionally, the heron rookery behind the Park-and-Ride is well-known to birders in the area. The SMP allows too much change in sensitive areas, when there are plenty of better-suited empty spaces in Kenmore for building either residential or commercial structures. Rhoades advocates sending the SMP back to the City of Kenmore for revision.

City Response: See responses to Mr. Adman's comments, page 13. The SMP incorporates the City's existing critical area rules for the Sammamish River, Swamp Creek and the heron rookery. These rules require 150' buffers plus 15' building setbacks from the river; Swamp Creek and associated wetlands. The rookery has a 900' protected buffer area, with requirements for a habitat management plan if any activity is proposed.

Ecology Conclusion: In addition to the standards cited by the City, the required changes will include a provision for limiting development in the channel migration area of swamp Creek.

8. Manny Mankowski, comment email received April 14, 2011.

- a. The City of Kenmore appears to have added some special height zones, designated H-1 through H-4 on the Shoreline Environment Designations map.

The H-3 area is currently occupied by Plywood Supply and a mobile home park. This area would be allowed to have heights up to 65 feet, depending on setback. Until there is a specific analysis and plan for these possible impacts, Mankowski does not support the increased heights for this area.

City Response: The SMP requires 150' buffers plus 15' building setbacks from the Sammamish River and associated wetlands. On the Plywood Supply site, the maximum allowable height would be 65' upland of this buffer and building setback if permitted by underlying zoning and if structures would not obstruct the view of a substantial number of residences. H-3 properties are currently developed with commercial and mobile home park uses. The existing mobile home park extends to the edge of the river. The Cumulative Impacts Analysis takes into account the fact that areas affected by the height increases are already developed and were developed under less stringent standards for shoreline, habitat, and water quality protection than would apply to redevelopment. As such, although buildings could be taller in the shoreline jurisdiction outside of the wetland/stream buffers and building setbacks than at present the shoreline environment would be better protected after redevelopment than it is currently.

In one limited area, where area H-3 abuts Swamp Creek Park, the additional height could have a limited shading effect on the park, which is designated Natural. However, because this location at just west of Swamp Creek Park, contains both the mouth of Swamp Creek and is shown to contain wetlands on the NWI data set, setbacks and buffers would restrict any new structures to the area furthest from the shoreline, and any impacts would likely be small. Specific review of such impacts would occur with any permit application on that site.

Ecology Conclusion: Ecology has included a required change eliminating the H-3 SBHA because it is located primarily in a floodway.

- b. Area H-4 is an area of greater question and concern for Mankowski. Area H-4 appears to be the area along Swamp Creek from Bothell Way north to NE 185 St. The area encompassed is a large area of what is also known as, and identified in the Shoreline Inventory as, Swamp Creek Wetland # 3. This is identified as "highest quality wetland" by description in the inventory. The area is designated Urban Conservancy. Setting aside "H-4" as an area allowing increased heights suggests a plan for increased density of development.

City Response: The City recognizes the large wetland areas along Swamp Creek and the SMP includes regulations to protect them. The shoreline jurisdiction extends from Swamp Creek to the edge of the protected associated wetlands. In most of the residential portion of the H-4 area, the boundaries were

drawn to follow property lines and include large parcels that are partially in the wetlands and partially outside of them. In those limited cases where the shoreline jurisdiction extends beyond the associated wetlands (when the 200' distance from Swamp Creek extends beyond the associated wetlands), increased height could only occur outside of the wetland/stream buffers and building setbacks. Analysis shows that only one parcel appears to have area outside of the associated wetland and within the shoreline jurisdiction. This parcel is located in the R- 18 zone north of the commercial zone and adjacent to the main stem of Swamp Creek. Like the commercially zoned lots to the south of it, this one lot is already developed within the required stream buffer and would be subject to the nonconformance standards of the SMP.

In the commercial zoned portion of H-4, on the north side of NE Bothell Way, the wetland/stream buffers and building setbacks apply, as would the nonconformance sections of the SMP for those developed portions of the site inside those buffers/setbacks. The standards of 16.50.030.B.2 prevent new non-water-dependent development in the 200' shoreline jurisdiction unless accompanied by enhancement of existing buffers, and the only water-dependent uses allowed would be low intensity uses like public access trails. For redevelopment to occur on any lots in the commercial area of H-4 outside of the wetland/stream buffers and building setbacks, the buffer areas would have to be restored substantially, which would offset any minor impacts from shading that might result from 65-foot tall buildings at the outer edge of the shoreline jurisdiction.

Ecology Conclusion: Ecology has included a required change that makes it clear that the increased height limits are only allowed outside of the critical area buffer, and in no case closer than 112.5 feet from the OHWM.

- c. Mankowski does not believe that the Cumulative Impacts Analysis, or its Future Shoreline Ecological Function Performance Analysis provide an adequate analysis of the impact of allowing increased heights in this area. The impacts which could be reasonably foreseen include increased impervious surface, the need for increased infrastructure, increased runoff, decreased vegetation, impaired water quality, decreased habitat function, decreased flood storage capacity, and increased flooding. It would require a very detailed and persuasive analysis to support increased heights and density in the area designated H-4, analysis which has not been presented.

City Response: The Cumulative Impacts Analysis takes into account the fact that areas affected by the height increases in H-4 are already developed and were developed under less stringent standards for shoreline, habitat, and water quality protection than would apply to redevelopment. As such, although buildings could be taller in the shoreline jurisdiction outside of the wetland/stream buffers and building setbacks than at present, the shoreline environment would be better protected after redevelopment than it is currently.

The analysis does acknowledge that some shading to the buffer could occur as a result of taller buildings in the outer portion of the shoreline jurisdiction. However within the shoreline jurisdiction, in the commercial area of H-4 along NE Bothell Way and the residential zone immediately north of it, commercial or mixed use redevelopment would result in buffer enhancement, reduced runoff rates, reduced impervious surface area and would not impact flood storage capacity.

Ecology Conclusion: Ecology has included a required change that makes it clear that the increased height limits are only allowed outside of the critical area buffer, and in no case closer than 112.5 feet from the OHWM. With the change, Ecology believes that the issue has been adequately addressed.

- d. The measures suggested as “Recommended restoration and protection actions” in Table 3 are very general, not project-specific, and not prioritized. The Restoration Plan needs to list specific discrete projects, prioritize them, and set in motion a process where action is taken on them.

City Response: The City Council did not change the Planning Commission’s recommendation which did not prioritize the restoration plan projects. The restoration projects will be considered individually as opportunities arise.

Ecology Conclusion: While the Restoration Plan does list certain projects, it only prioritizes more general categories of actions. It is noted in the restoration Plan, at Page 32, that:

During the 7-year interim period between SMP updates, it is valuable to develop implementation and monitoring programs for the individual restoration actions. Due to the nature of restoration actions (i.e., diverse project or site- specific factors that influence their implementation), performance standards and monitoring plans should be developed for individual projects or actions once the City has determined priorities and identified funding sources.

While the Restoration Plan is not specific about individual restoration activity timing, it does infer that the City needs to engage in identified restoration programs and activities in order to implement the SMP. A clear description and listing of project priorities could be a suggested change.

- e. The table on page 20 listing Restoration Opportunities on reaches of Swamp Creek omits reaches 01 and 02 as opportunities for “Restoration and preservation of floodplain wetlands” and “preservation of remaining natural areas”. These activities seem appropriate for these reaches. These should be added to the table.

City Response: In general, the table indicates opportunities that were identified in previous plans and through the public outreach process. It does not include every possible action that could be undertaken in every reach. The suggestions in this comment were not received during the plan development and are not specific enough to understand what opportunities are implied. The table identifies restoration opportunities in these reaches, just not in these specific categories.

Ecology Conclusion: On Page 20 of the Restoration Plan "attenuation of storm water lows" is listed for Swamp Creek reaches 3 and 4. It is unclear what restoration or preservation activities are intended by the comment.

- f. Map # 4 in the Restoration Plan identifies a number of wetlands by map legend as "Protect High Quality Habitat". However, none of Swamp Creek Wetland # 4 (Reach "SWAM_CK_03") is designated as such, despite its having been described as "some of the highest quality wetlands in the Kenmore area" on p. 11 of the plan. The map should be modified to show the status of the wetlands and their priority.

City Response: This is a good suggestion and the change could readily be made to the map, as it does reflect what the text already states.

Ecology Conclusion: Ecology will recommend this as a suggested change.

- g. The two parcels on the shore of Lake Washington north of St. Edwards State Park have characteristics associated with the Natural environment designation and should be designated as such. The City has failed to provide a better rationale as to why this parcel not be designated Natural.

City Response: The Natural Environment designation is to protect public shoreline areas that include ecologically intact or minimally altered shoreline. One of the characteristics for Natural Environment designation is that the shoreline is in public ownership. The two parcels in question are not in public ownership and were, therefore, designated Urban Conservancy. Urban Conservancy management policy LU-I 7.3.13 states that, "Because the parcels located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City should consider redesignating those parcels as Natural if they meet applicable criteria."

Ecology Conclusion: Ecology is including a required change to designate these parcels as Natural. Besides being part of a larger ecologically intact area primarily in public ownership, the area may be difficult to develop without impacting ecological functions.

- h. With regard to the area designated as H-4 on the Shoreline Area Designations map, if the intention is to re-develop already paved and developed areas with the possibility of environmental enhancement, the area should be re-drawn so that it does not encompass a large area of wetland, but rather just the already-developed area adjacent to the wetland.

City Response: The boundaries of the H-4 area were chosen to follow property lines and incorporate large parcels that are partially in the associated wetlands and partially outside of those wetlands. As previously discussed no new development can occur in the wetland, or in the 150' wetland/stream buffers plus 15' building setbacks.

Ecology Conclusion: The required changes include a modification to the H-4 SBHA to exclude Swamp Creek wetlands and buffers from the increased height allowances.

- i. The ratios (presumably for wetland mitigation) specified in the KMC (3:1 for Class 1, 2:1 for Class 2, 1:1 for Class 3) are much less specific, and are require vastly lower amounts of replacement than the ranges specified in the guidance documents provided to the City by the Department of Ecology.

City Response: The adopted mitigation ratios come from the City's existing critical areas ordinance.

Ecology Conclusion: A required changes increases the wetland mitigation ratios to be consistent with Ecology standards.

9. Ann Hurst, comment email received April 14, 2011.

- a. The steep slope hazard areas that have native growth protection easements in place are not protected by City enforcement. A solution would be to designate these lands as Natural.

City Response: Steep slope areas in the shoreline are regulated by the city's critical areas regulations (KMC Chapter 18.55) which have been incorporated into the SMP.

Ecology Conclusion: Ecology concurs with the City response. Many factors go into environment designations such as ecological function and existing development. Steep slope areas may not be appropriate for the Natural designation.

- b. The Kenmore shoreline over and adjacent to the Kenmore Dump looks to be up for major development no matter what lies beneath the site. If Kenmore won't protect the Lake, Hurst believes that Ecology can require protection.

City Response: Assuming that the "Kenmore Dump" is the Lakepointe property, there are shoreline regulations applicable to the site. These regulations encourage water-dependent uses, but acknowledge that the area is degraded and that restoration and public access may be appropriate tradeoffs for allowing additional development on the site if impacts are mitigated such that there is no net loss of shoreline ecological processes or functions.

Ecology Conclusion: As part of an agreement separate from the SMP, hazardous materials must be cleaned up on the LakePointe property prior to any new development occurring.

- c. Hurst believes that the City should address the upland wetlands directly associated with Kenmore's major bodies of water, such as the upland wetland of Saint Edward State Park where Stream #0226 originates.

City Response: The Shoreline Master Program regulates only 'associated' wetlands. Associated wetlands to the shoreline include only those directly adjacent to the shoreline. The upland wetland of Saint Edward State Park is not an associated wetland and is not, therefore, part of the shoreline discussion.

Ecology Conclusion: Ecology concurs with the City response.

- d. Hurst believes that the City should utilize inter-local agreements with other cities to protect Lake Washington.

City Response: Comment noted.

Ecology Conclusion: While interlocal agreements may be excellent tools to accomplish certain tasks, such agreements are not typically part of an SMP.

10. Matthew Hinck, Cal Portland, comment letter received April 15, 2011.

CalPortland owns and operates a major water-dependent barge-offloading operation in Kenmore, at the north end of Lake Washington. Hinck states that the operation is a critical component of CalPortland's business, and is essential to its continued ability to supply affordable aggregate materials and concrete products throughout King County and Snohomish County.

The facility is in an area that would be designated Downtown Waterfront. The barge-offloading facility appears to come within the definition of "pier" in the SMP.

- a. KMC 16.55.050(G)(2). It is not clear how the four-foot limitation on the width of piers applies to an offloading facility that has multiple components, including pilings. Hinck suggests this regulation be revised to clarify that the limitation applies to "pier walkways," not the facility as a whole.

City Response: The standards were developed primarily to address residential docks. There were no specific standards adopted for commercial or industrial piers, but flexibility was included to allow for alternative designs for other uses (see 16.55.050 first paragraph, p. 41). The cement plant appears to use a retractable gangway system, which would not be regulated in the same manner as a permanent overwater pier or ramp, since it would only be over water during loading and unloading activities. At least at present, it appears that the old piers at the cement plant site have been abandoned and are in disrepair.

Ecology Conclusion: A required change is included to clarify that commercial piers are allowed in Kenmore so long as they are built to only serve their intended use and achieve project specific no net loss of ecological function. Specific design features of commercial docks need to serve the water dependent use and achieve non net loss of ecological function.

- b. KMC 16.55.050(G)(3) The three-foot limitation on ramps is not realistic for vehicular ramps, such as those serving our offloading facility. Hinck suggests that this regulation be revised to apply to "pedestrian ramps."

City Response: The retractable gangway ramp would not be regulated in the same manner as a permanent overwater pier or ramp, since it would only be over water during loading and unloading activities.

Ecology Conclusion: A required change is included to clarify that commercial piers are allowed in Kenmore so long as they are built to only serve their intended use and achieve project specific no net loss of ecological function. Specific design features of commercial docks need to serve the water dependent use and achieve non net loss of ecological function.

- c. KMC 16.55.050(G)(7) The limitations on piling widths might be feasible for residential structures, but they are inadequate for pilings serving other types of water-dependent structures. We suggest this regulation be modified to take into account the loads created by larger vessels (such as barges) using piers. At a minimum, pilings that are at least 24 inches in diameter should be allowed in the first 18 feet waterward of the Ordinary High Water Mark.

City Response: The standards were developed primarily to address residential docks. There were no specific standards adopted for commercial or industrial piers, but flexibility was included to allow for alternative designs for other uses (see 16.55.050 first paragraph, p. 41). The standards are designed to result in no net loss of ecological functions, so any design that can demonstrate that it meets that standard could be approved.

Ecology Conclusion: A required change is included to clarify that commercial piers are allowed in Kenmore so long as they are built to only serve their intended use and achieve project specific no net loss of ecological function. Specific design features of commercial docks need to serve the water dependent use and achieve non net loss of ecological function.

- d. The buffer standards should allow for adjustments when areas that are already intensively developed, or contain impervious surface, up to the OHWM. We see no ecological benefit to imposing buffers that would only leave asphalt surfaces bare rather than potentially used in a productive manner.

City Response: Water-dependent and water-related uses may be allowed within shoreline buffers if impacts are mitigated and there is no net loss of shoreline ecological processes or functions. Non-water-dependent uses may also be allowed along the inner harbor if the uses are developed in conjunction with public access and mitigation is provided. Otherwise, a 20' buffer applies.

Ecology Conclusion: Ecology concurs with the City response.

- e. Hinck suggests that the word "or" be added at the end of KMC 16.65.020(B)(1)(b) to clarify that buffer uses within the specified shoreline locations are allowed if any (as opposed to all) of the three specified standards are met.

City Response: The provision of flexibility for non-water-dependent facilities in the shoreline was discussed extensively through the public process, and the provisions described in this section were expressly indicated as being necessary as a package, not as alternatives. Water dependent uses are not subject to these limitations.

Ecology Conclusion: Ecology concurs with the City response.

- f. It is unclear why outdoor storage for water-dependent use is singled out in KMC16.65.020(A)(B)(3). In many cases such storage would have no adverse effect at all on shoreline ecological processes or functions, especially when a site is already intensively developed. Hinck suggests that B(3) be deleted, and that outdoor storage

be treated like any other use related to a water-dependent activity. Alternatively, B(B) should be revised to allow outdoor storage within the buffer if there is not net loss of ecological function or value.

City Response: Outdoor storage carries risks of spills, generally requires impervious surfaces and removal of vegetation, and often includes lighting, all of which adversely affect ecological functions. Outdoor storage is not water-dependent in and of itself, therefore a minimal setback has been added to provide a small buffer from the shoreline, while still allowing continued operation of a water-dependent use. This standard would make already developed areas nonconforming, which means they could continue to be used as in the past provided there is no expansion of the nonconformity, and subject to all other limits on nonconforming uses. Any redevelopment would be required to provide the required setbacks for outdoor storage.

Ecology Conclusion: Ecology concurs with the city response.

11. Lauralya Feetham, comment email received April 15, 2011.

- a. Provision should be made to retain the vibrant liveaboard community at Harbour village Marina within the guidelines specified in their DNR Lease.

City Response: The new regulations would allow live-aboard communities if they meet certain standards. Other city regulations, including P-suffix conditions on the Harbour Village Marina site, currently prohibit live-aboards and would require a change to the Municipal Code, separate from the shoreline regulations.

Ecology Conclusion: The City has elected to make live-aboards a permitted use with reasonable environmental safeguards.

- b. Feetham is concerned that the changes in plans for the Lake Pointe project which increase building heights and reduce the square footage of public access to the waterfront.

City Response: The shoreline regulations do not change the components of the approved Lakepointe Master Plan and Commercial Site Development Permit. The project would have to obtain a new shoreline permit before it could proceed as the shoreline permit has expired. The new regulations focus on continued provision of public access, encourage water-dependent uses, and, in fact, reduce the height limits for a portion of the project within shoreline jurisdiction.

Ecology Conclusion: The SMP sets out minimum standards for public access, water dependent uses, and restoration areas. Half of the area within shoreline jurisdiction within the LakePointe project must be used for these purposes. Ecology concludes that public access, restoration, and water-dependent uses are adequately addressed for this area in the SMP.

12. Eric Adman, testimony at the public hearing on March 31, 2011 and comment letter received March 31, 2011.

Special Height Areas

- a. The City appears to have added some special height zones, designated H-1 through H-4 on the Shorelines Environment Designations map.

The Cumulative Impacts Analysis or its future shoreline Ecological function Performance Analysis do not provide an adequate analysis for allowing increased heights in the H-3 area. A number of impacts which could be reasonably foreseen include increased impervious surface, the need for increased infrastructure, increased runoff from the site, decreased vegetation, and impaired water quality. Until there is a specific analysis and a plan for addressing these possible impacts, Adman does not support the increased heights for this area.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the Sammamish River and associated wetlands and would allow a height limit of up to 65' only in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning. Separate city regulations control stormwater impacts and protect water quality.

H-3 properties are currently developed with commercial and mobile home park uses. The existing mobile home park extends to the edge of the river. The Cumulative Impacts Analysis takes into account the fact that areas affected by the height increases are already developed and were developed under less stringent standards for shoreline, habitat, and water quality protection than would apply to redevelopment. As such, although buildings could be taller in the shoreline jurisdiction outside of the wetland/stream buffers and building setbacks than at present the shoreline environment would be better protected after redevelopment than it is currently.

In one limited area, where area H-3 abuts Swamp Creek Park, the additional height could have a limited shading effect on the park, which is designated Natural. However because this location at just west of Swamp Creek Park contains both the mouth of Swamp Creek and is shown to contain wetlands on the NWI data set setbacks and buffers would restrict any new structures to the

area furthest from the shoreline, and any impacts would likely be small. Specific review of such impacts would occur with any permit application on that site.

Ecology Conclusion: A required change is to modify the H-3 SBHA. Much of this area is within a floodway and is not suitable for residential development for floodway encroachments.

- b. The H-4 area encompassed is a large area of what is also known as, and identified in the Shoreline Inventory as Swamp Creek Wetland #3. This is identified as a "highest quality wetland" by description in the inventory. This is one of the largest remaining wetlands on Swamp Creek, about 90 acres. It provides wildlife habitat and flood attenuation functions. Most of the area shown on the map is undeveloped wetland. This area is within the 100-year floodplain on FEMA maps. Urban flooding has increased dramatically in this area, and is expecting to worsen. The city of Kenmore continues to have to acquire properties along the perimeter of this wetland because they get flooded so much.

The H-4 area is designated Urban Conservancy. Designating an area H-4 suggests a plan for increased density of development. To quote the regulations, "The purpose of the Urban conservancy Environment is to protect and restore ecological functions of open space, streams, wetlands, and floodplain, including areas below the ordinary high water mark in Swamp Creek.

The cumulative impacts Analysis does not provide an adequate analysis of the impact of allowing increased heights in this area, the impacts which would be reasonably foreseen include increased impervious surface, the need for increased infrastructure, increased runoff, decreased vegetation, impaired water quality, decreased habitat function, decreased flood storage capacity, and increased flooding. It would require a very detailed and persuasive analysis to support increased heights and density in the area designated H4. Such analysis has not been provided.

City Response: The City recognizes the large wetland areas along Swamp Creek, and the SMP includes regulations to protect them. The shoreline jurisdiction extends from Swamp Creek to the edge of the protected associated wetlands. In most of the residential portion of the H-4 area, the boundaries were drawn to follow property lines and include large parcels that are partially in the wetlands and partially outside of them. In those limited cases where the shoreline jurisdiction extends beyond the associated wetlands (when the 200' distance from Swamp Creek extends beyond the associated wetlands), increased height could only occur outside of the wetland/stream buffers and building setbacks. Analysis shows that only one parcel appears to have area outside of the associated wetland and within the shoreline jurisdiction. This parcel is located in the R- 18 zone north of the commercial zone and adjacent to the main stem of Swamp Creek. Like the commercially zoned lots to the south

of it, this one lot is already developed within the required stream buffer and would be subject to the nonconformance standards of the SMP.

In the commercial zoned portion of H-4, on the north side of NE Bothell Way, the wetland/stream buffers and building setbacks apply, as would the nonconformance sections of the SMP for those developed portions of the site inside those buffers/setbacks. The standards of 16.50.030.B.2 prevent new non-water-dependent development in the 200' shoreline jurisdiction unless accompanied by enhancement of existing buffers, and the only water-dependent uses allowed would be low intensity uses like public access trails. For redevelopment to occur on any lots in the commercial area of H-4 outside of the wetland/stream buffers and building setbacks, the buffer areas would have to be restored substantially, which would offset any minor impacts from shading that might result from 65-foot tall buildings at the outer edge of the shoreline jurisdiction.

The Cumulative Impacts Analysis takes into account the fact that areas affected by the height increases in H-4 are already developed and were developed under less stringent standards for shoreline, habitat, and water quality protection than would apply to redevelopment. Within the shoreline jurisdiction, in the commercial area of H-4 along NE Bothell Way and the residential zone immediately north of it, commercial or mixed use redevelopment would result in buffer enhancement reduced runoff rates, reduced impervious surface area and would not impact flood storage capacity.

Ecology Conclusion: A required change will only allow the H-4 height to be increased at least 112.5 feet from the OHWM of Swamp Creek. The change will make this provision consistent with the critical area protections.

Restoration Plan

- c. The measures suggested as "Recommended restoration and protection actions" in table 3 of the Restoration Plan are very general, not project -specific, and not prioritized. The Restoration Plan should list discrete projects.

City Response: The City Council did not change the Planning Commission's recommendation which did not prioritize the restoration plan projects. The restoration projects will be considered individually as opportunities arise.

Ecology Conclusion: While the Restoration Plan does list certain projects, it only prioritizes more general categories of actions. It is noted in the restoration Plan, at Page 32, that:

During the 7-year interim period between SMP updates, it is valuable to develop implementation and monitoring programs for the individual restoration actions. Due to the nature of restoration actions (i.e., diverse project or site- specific factors that influence their implementation), performance standards and monitoring plans should be developed for individual projects or actions once the City has determined priorities and identified funding sources.

While the Restoration Plan is not specific about individual restoration activity timing, it does infer that the City needs to engage in identified restoration programs and activities in order to implement the SMP. A clear description and listing of project priorities could be a suggested change.

- d. The table on page 20 listing Restoration Opportunities on reaches of Swamp Creek omit reaches 01 and 02 as opportunities for "restoration and preservation of floodplain wetlands" and "preservation of remaining natural areas." These activities seem appropriate for these reaches.

City Response: In general, the table indicates opportunities that were identified in previous plans and through the public outreach process. It does not include every possible action that could be undertaken in every reach. The suggestions in this comment were not received during the plan development and are not specific enough to understand what opportunities are implied. The table identifies restoration opportunities in these reaches, just not in these specific categories.

Ecology Conclusion: On Page 20 of the Restoration Plan "attenuation of stormwater lows" is listed for Swamp Creek reaches 3 and 4. It is unclear what restoration or preservation activities are intended by the comment.

- e. Map #4 in the Restoration Plan identifies a number of wetlands by map legend as "Protect High Quality Habitat". However, none of Swamp Creek Wetland #4 is designated as such, despite its having been described as "some of the highest quality wetlands in the Kenmore area" on p. 11 of the plan.

City Response: This is a good suggestion and the change could readily be made to the map, as it does reflect what the text already states.

Ecology Conclusion: This is included as a suggested change.

Area Designations

- f. The two parcels on the shore of Lake Washington, immediately north of St. Edwards Park, have characteristics associated with Natural Environment Designation and should be designated as such. The City has failed to provide a better rationale as to why this parcel is not being designated Natural.

City Response: The Natural Environment designation is to protect public shoreline areas that include ecologically intact or minimally altered shoreline. One of the characteristics for Natural Environment designation is that the shoreline is in public ownership. The two parcels in question are not in public ownership and were, therefore, designated Urban Conservancy. Urban Conservancy management policy LU-I 7.3.13 states that, "Because the parcels located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City should consider redesignating those parcels as Natural if they meet applicable criteria."

Ecology Conclusion: Ecology is including a required change to designate these parcels as Natural. Besides being part of a larger ecologically intact area primarily in public ownership, the area may be difficult to develop without impacting ecological functions.

- g. With regard to the area designated as H4 on the Shoreline Area Designations map, if the intention is to redevelop already paved areas with the possibility of environmental enhancement, the area should be redrawn so that it does not encompass a large area of wetland, but rather just the already-develop area adjacent to the wetland.

City Response: The H-4 boundaries were chosen to follow property lines and incorporate parcels that are partially in the wetland and wetland/stream buffers and partially outside those buffers. As previously discussed no new development can occur in the 150' wetland/stream buffers plus 15' building setbacks.

Ecology Conclusion: A required change will refine the H-4 standards to not allow increased building heights within 112.5 feet of Swamp Creek.

Mitigation Ratios

- h. The Kenmore Municipal Code should be modified so that its rating system (3 classes) is consistent with department of Ecology's 4 category system. The mitigation ratios provide vastly lower amounts of replacement than ranges specified in the guidance documents provided by the department of Ecology. Wetland mitigation, while allowed, is generally considered, by environmental professionals, to be ineffective. This portion of the plan should not be approved until the mitigation ratios are consistent with Department of Ecology guidelines.

City Response: The adopted wetland classes are from the City's existing critical areas ordinance. The Department of Ecology has approved use of the City's 3-tier wetland classification system as it is based on the jurisdiction's best available science. The adopted mitigation ratios also are from the City's existing critical areas ordinance.

Ecology Conclusion: The City has adequately demonstrated that the 3-tier wetland classification system in the critical area ordinance adequately protects wetlands. Ecology is requiring a change to the mitigation ratios to ensure adequate mitigation. The mitigation ratios will still reflect the city's 3-tier wetland system, but requires additional mitigation to be similar to Ecology's wetland mitigation ratio guidance.

13. Karen McFadden, testimony at the public hearing on March 31, 2011 and comment letter received April 6, 2011.

- a. McFadden is concerned that the Cumulative Impact Analysis does not cite specific standards and regulations to address the No Net Loss of Ecological Functions. Increasing the density development in H-3 and H-4, without the specifics and regulations, renders the Shoreline Master Plan incapable of mitigation of impacts required in WAC 1762762013D, including, but not limited to impacts of building heights, parking requirements, and additional roads.

DOE Guidelines direct that existing urban areas, such as Kenmore Village, should be utilized before expanding into other areas, such as development by any water bodies. The infrastructure is in place in existing urban areas and they need to operate at full capacity before leapfrogging into undeveloped areas. There are other adjacent urban areas that are already planned with existing infrastructure that should be utilized first. I request that you not adopt H3 and H4 density standards.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the Sammamish River Swamp Creek and associated wetlands and would allow development in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: Ecology agrees that the Cumulative Impacts Analysis is not specific as to which potential ecological impact will be addressed by which regulation. While such specificity is desirable, it is not a requirement. Changes to the SMP required by Ecology will significantly alter the H-3 and H-4 SBHAs. The policy to develop in established urban areas before non-urban areas is a GMA principle - not an SMA principle.

- b. The small map provided in the proposal made it difficult to identify the specific locations. Swamp Creek is in a flood plain that would require building to FEMA standards, which do not address No Net Loss of Ecological Functions.

City Response: The city has prepared a full-size map of the shoreline environments showing underlying property boundaries. Most of the Swamp Creek floodplain is within the buffers protecting Swamp Creek.

Ecology Conclusion: In response to Ecology concerns, the City has prepared a map adequate to show the shoreline environment for each individual parcel.

- c. The two parcels north of St. Edward State Park should be designated Natural. State Senator Marilyn Chase has applied for funds to buy these two parcels under a Wildlife Grant.

City Response: The Natural Environment designation is to protect public shoreline areas that include ecologically intact or minimally altered shoreline. One of the characteristics for Natural Environment designation is that the shoreline is in public ownership. The two parcels in question are not in public ownership and were, therefore, designated Urban Conservancy. Urban Conservancy management policy LU-I 7.3.13 states that, "Because the parcels located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City should consider redesignating those parcels as Natural if they meet applicable criteria."

Ecology Conclusion: A required change is to designate these parcels Natural.

14. Diane Bates, testimony at the public hearing on March 31, 2011 and comment letter received April 6, 2011.

- a. How can it be legal to increase the heights along Swamp Creek? There is a heron rookery in that area that is a very sensitive area. A few people have had to move their houses out of that area because of flooding from Swamp Creek because so many of the floodways have been developed on the Snohomish County side of Swamp Creek.

City Response: The new height limits would not apply within the wetlands or buffers associated with Swamp Creek. The city's critical area rules continue to apply in the area (they are adopted into the SMP), including the protections for the heron rookery. The SMP height change does not change existing zoning, which already allows these heights on portions of the property outside of the wetlands and buffers.

Ecology Conclusion: Ecology has included a required change that makes it clear that the increased height limits are only allowed outside of the critical area buffer, and in no case closer than 112.5 feet from the OHWM.

- b. Bates asks that Ecology send the Kenmore Shoreline Management Plan back to the city to remove the H-1, H-2, H-3, and H-4 height areas over the shoreline and wetland areas.

City Response: Comment noted.

Ecology Conclusion: The H-1 and H-2 SHBA does not create an obvious conflict with the SMA. However, a required Ecology change to the SMP will require that proposals for taller buildings demonstrate that they will not block view of a substantial number of residents, not cause environmental degradation or net loss of ecological function. The H-3 and H-4 areas have been significantly altered and minimized.

- c. For the portion of area H-4 that is over Swamp Creek, Bates has concerns because that area is essentially a flood plain that is continually flooded at this point.

Due to the overdevelopment over the north end of Swamp Creek, a lot of the water has been forced to the lower part of the creek. Wetland #3, which is between 73rd, Bothell Way, and 80th, is the one area where there is enough undeveloped land for the creek to spread out. The creek has taken over this wetland over the last few years. The water has caused continuous flooding for houses along 73rd street and the city has had to buy a few properties along Swamp Creek.

The Mayor has indicated that no buildings would be built within the buffer of the wetland. But the H-4 area overlays class 1 wetland and part of Swamp Creek itself. If there is no intention of building over this area, then take the height overlay out of the plan completely.

On 73rd, Bates is concerned that at least one property owner is planning to put tall buildings on his land which overlays wetland buffers. This development will cause further water problems for properties that surround wetland #3 as water is directed away from the new buildings.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the creek and associated wetlands and would allow a height limit of up to 65' only in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: The H-4 area is being significantly minimized to eliminate any potential impact to Swamp Creek or its associated wetlands.

15. Ann Aagaard, testimony at the public hearing on March 31, 2011 and comment letter received April 15, 2011.

Plywood Supply

- a. In 1991, when Plywood Supply proposed storage structures, there was supposed to be a 100 foot setback. In addition, there was a permanent bio-filtration swale, a 50-foot landscape buffer and a 30-foot river protection easement and public access easement. The outfall was to be total vegetated. Aagaard asks that Kenmore's compliance officer go back and double-check to be sure that the 100 foot setback is being met.

City Response: Comment noted.

Ecology Conclusion: This comment relates to compliance with previous permit conditions rather than the current SMP proposal.

- b. The geotechnical report indicated that peat ranged from 18 to 23 feet deep on this site. Ground water table was up to the surface to 3 feet deep on the site. The ecological function so the site cannot be replicated. Aagaard is opposed to the H-3 height limits. The revised height limits have not been addressed in the Cumulative Impacts Analysis. Increase height limits would impose impacts on the park across the street and the natural area which is Swamp Creek Park. The H-3 area also includes a portion of the Shoreline Residential area as well. SMP policies 17.2.1.2 and 17.2.1.3 talk about how this is for multi-family with recreational and community recreational facilities and adequate utilizes and public services. None of these things are currently planned for the area.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the Sammamish River and associated wetlands and would allow a height limit of up to 65' only in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: A required change is to modify the H-3 SBHA. Much of this area is within a floodway and is not suitable for residential development for floodway encroachments.

Restoration Plan

- c. The City should prepare a memo to supplement their Restoration Plan.

City Response: Comment noted.

Ecology Conclusion: While the Restoration Plan does list certain projects, it only prioritizes more general categories of actions. It is noted in the restoration Plan, at Page 32, that:

During the 7-year interim period between SMP updates, it is valuable to develop implementation and monitoring programs for the individual restoration actions. Due to the nature of restoration actions (i.e., diverse project or site-specific factors that influence their implementation), performance standards and monitoring plans should be developed for individual projects or actions once the City has determined priorities and identified funding sources.

While the Restoration Plan is not specific about individual restoration activity timing, it does infer that the City needs to engage in identified restoration programs and activities in order to implement the SMP. A clear description and listing of project priorities could be a suggested change.

Parcels Located North of St. Edward State Park

- d. The two parcels of private land located north of St. Edward State Park in Lake Washington Reach WA-2 have proposed designations of Urban Conservancy in the Kenmore Shoreline Master Program. (KSMP). These two parcels appear to have much in common with Reach Lake WA-1, which is designated Natural. This area meets all the criteria of a Natural Environment designation "ecologically intact or minimally altered shorelines" and the designation criteria of WAC 173-26-211(5)(a) and (e)

Low intensity uses are allowed in this environment [with a setback of 150']. In order to develop the area i.e. to provide access, adverse impacts to the ecological functions of the naturally vegetated, minimally altered, intact steep shoreline would occur. Policy language of LU-17.3.13 and the designation in the KSMP of Urban Conservancy is not consistent with Ecology's Guidelines. The Policy Language and Urban Conservancy designation should not be approved as proposed in the KSMP.

City Response: The Natural Environment designation is to protect public shoreline areas that include ecologically intact or minimally altered shoreline. One of the characteristics for Natural Environment designation is that the shoreline is in public ownership. The two parcels in question are not in public ownership and were, therefore, designated Urban Conservancy. Urban Conservancy management policy LU-I 7.3.13 states that, "Because the parcels

located to the north of Saint Edward State Park and designated Urban Conservancy are largely ecologically intact, if one or more of those parcels are acquired by a public agency for open space purposes, the City should consider redesignating those parcels as Natural if they meet applicable criteria.”

Ecology Conclusion: the required changes include changing the environment designation of these parcels to Natural.

Expansion of Nonconforming Uses and Structures

- e. KSMP proposed language in 16.75.050 D would allow expansion of a nonconforming dock by up to 25%. While there are requirements to reduce the impacts to critical fish habitat and not cause adverse impacts on adjacent shoreline uses, this provision would allow a pre-existing dock that exceeds the new standards in the SMP to further expand. The regulation language 16.75.050 D together with the policy language of LU-23.2.8 and LU-24.1.6 would make a non-conforming dock larger than the standards for a new or conforming dock. That is a current non-conforming dock could expand an additional 25%. A new or conforming dock would not be able to expand 25%. The current cumulative impact analysis does not address expansion of non-conforming docks by 25%.

Please do not adopt section 16.75.050D allowing 25% expansion of non-conforming docks or associated policy sections.

City Response: The allowance for increased size was intended as an incentive to improve habitat quality. The expansion could be allowed by the director when the applicant demonstrates that the expanded dock would reduce the impacts of the existing dock on critical fish habitat. If the applicant chooses not to meet this standard, expansion would only be allowed through a conditional use permit.

Ecology Conclusion: Ecology is requiring a change that modifies this standard. While an incentive to improve the ecological performance of existing piers is appropriate, the allowance for expansion and lack of specific criteria has been a concern.

Public Access

- f. The concept of rough proportionality is not explained or defined in the KSMP. If this is a requirement for public access, then the terms should be defined and referenced so that the public and the applicant understands how the public access requirement will be implemented.

City Response: “Rough proportionality” is an evolving legal concept established through court cases and is itself an interpretation of the U.S. Constitution. It refers to the fact that the City must consider whether the burden

placed on the particular owner is roughly proportional to the impact of that owner's proposed development. The City is required under the U. S. Constitution to consider this principal in making its decisions, and will always need to be aware of the evolving legal precedents related to this concept.

Ecology Conclusion: Ecology concurs with the City response.

Accessory Uses Associated with Mixed Use Development.

- g. Shoreline Use Criteria Footnote to Shoreline Use Table KMC 16.50.030.A. Section B.2.a. Development that is part of a mixed use project is required to include a water dependent use in which at least fifty percent of the land area (including uses accessory to the water dependent use). An accessory use is defined to include outdoor storage, offices, and parking incidental to the principal use. Parking can be over-water if the lot is constricted. The amount of site use incidental to the principal use is not specified and could vary from 1% to 49% of the "mixed-use". To ensure that mixed use development in the Waterfront Environment is committed to 50% water dependent uses, the regulation as written should be denied. Please require KSMP to rewrite the criteria footnote of Shoreline Use Table KMC 16.50.030.A. Section B 2.a. to assure that the intent of the SMA to give preference to water dependent uses is followed so that 50% water dependency of the mixed use does not allow incidental accessory uses to be counted towards this requirement.

City Response: Including uses accessory to water-dependent uses in the calculation supports the inclusion of water-dependent uses—which may not be able to efficiently operate without those accessory uses. If the restrictions on water-dependent uses are too great, an applicant might simply provide public access or restoration instead, thus defeating the purpose of encouraging water-dependent uses in already developed shoreline areas.

Ecology Conclusion: A required change limits uses accessory to a water-dependent use so that which is fully incidental and subordinate to the water-dependent use.

Critical Areas

- h. Mitigation in the Kenmore Sensitive Areas Ordinance (KSAO) is for creation or restoration that is in-kind, on-site, the same class. It does not include ratios for unauthorized alterations, and use of wetland mitigation banks.

The KSAO ratios are 3:1 for Class I, 2:1 for class 2, and 1:1 for Class 3 and do not compare favorably with Ecology and Corps of Engineers Classification system or the acreage replacement ratios. The Ecology recommended ratios used in the

recommended table are dependent on the hydrogeomorphic setting of the site not being altered and use a four tier category system. Category IV for establishment or creation is 1.5:1 and rehabilitation is 3:1, enhancement only is 6:1. Category III creation is 2:1, rehabilitation 4:1 and enhancement only 8:1. Category II is higher if forested 6:1 (all others 3:1) rehabilitation 12:1 and 8:1 and enhancement only is 12:1. In addition, Ecology and the Corps Use a 4 tier rating system and a functional analysis rating system.

The standards referenced in the cumulative impact analysis table Attachment 1 in the KSMP utilize general references to KSAO to conclude that there will be no net loss of shoreline ecological functions to those wetlands associated with shoreline jurisdiction. An example is found in the cumulative impact analysis in reference to the Lakepointe Development in reach Lake-WA.-03. The functions of these associated wetlands (significant areas which are in floodplain) include hydrological hyporheic, and water quality functions as well as vegetation and habitat. These additional functions are not addressed in 16.65.020 which address only vegetation and habitat.

Because the rating systems are different and ratios for creation (and indeed enhancement) significantly different, it is not possible to determine whether the KSAO that is adopted by reference into the KSMP is adequate to provide no-net-loss of ecological functions.

I request that Ecology not adopt the KSAO as regulations for the KSMP and that they require the City of Kenmore to provide critical area regulations for the KSMP that are adequate to evaluate for no-net-loss of ecological functions.

City Response: The adopted wetland classes and mitigation ratios are from the City's existing critical areas ordinance. The Department of Ecology has approved use of the City's 3-tier wetland classification system as it is based on the jurisdiction's best available science.

Ecology Conclusion: The City has adequately demonstrated that the 3-tier wetland classification system in the critical area ordinance adequately protects wetlands. Ecology is requiring a change to the mitigation ratios to ensure adequate mitigation. The mitigation ratios will still reflect the city's 3-tier wetland system, but requires additional mitigation to be similar to Ecology's wetland mitigation ratio guidance.

Special Height Standards for Lakepointe H-1 and H-2

- i. The September 2, 1998 Shoreline Permit (SDP) issued to Pioneer Towing Co. addressed the necessary shoreline conditions for development at Lakepointe.

Page 13 of the SDP (which has expired) gives the heights of the structures within the Lake Washington jurisdiction, a 100' vegetated buffer with public access and view points. The 100-200' area allowed 45'. Near the Sammamish River no higher than 35'.

The Lake Washington shoreline is a Shoreline of Statewide Significance. Therefore, the statewide interest over local interest is the first use priority. The CSDP and Master Plan are the same as that proposed in the SDP in 1998, (and covered in the EIS) there can be no justification now reducing the shoreline setback to 50' and allowing the height to be 45' within the first 100' and 75' within the 100-200'. The required re-establishment of the vegetation and riparian habitat for mitigation is the same as required in 1998. I request that Ecology require a minimum 100' setback along the Lake Washington Waterfront in the City of Kenmore, and within the 100-200' jurisdiction the height be limited to 45' in order that there be no-net-loss of ecological functions.

City Response: The approved Lakepointe plans provide for a 35' height limit along the Sammamish River. The adopted SMP contains the same limitation. The buffer against the river is 150', plus a 15' building setback.

New shoreline regulations along the west end of the site and along the inner harbor have been crafted to match the approved CSDP and Master Plan to a large degree, although the height limits have actually been reduced from the height proposed by the applicant in one portion of the site, and there is added emphasis on water-dependent uses, public access, and restoration on the site. The buffers from Lake Washington have not been reduced. Current standards are 0' buffers for water-dependent uses and 20' buffers for water-related uses that can be reduced to 10' if public access is provided. Non-water-dependent uses have a 50' buffer that can be reduced to 20' if public access is provided. The standards adopted by the City Council require 20' buffers for water-dependent and water-related uses and 50' buffers for non-water-dependent and non-water-related commercial development. This buffer can go to 0' for water-dependent uses if impacts are mitigated such that there is no net loss of shoreline ecological processes or functions. For non-water-dependent uses, the buffer can only be reduced if a public access promenade is provided and if impacts are mitigated.

Ecology Conclusion: The question that needs to be addressed as part of the SMP review is what buffers are necessary at LakePointe to achieve no net loss of ecological function. The characterization noted that there is extensive shoreline armoring and historic and existing industrial uses. Given the existing ecological condition of the site, the proposed buffers and restoration will likely achieved no net loss of ecological function within the reach.

Area H-3 Waterfront and Suburban Residential

- j. The Kenmore SMP area H-3 allow buildings to exceed the 35 height limit to 45' (50-100') and 65' (100-200'). The area outlined is the same as the Citizen task force recommended TOD Transportation Oriented Development overlay which would give incentives to increase density over the planned density.

Flood plain is shown on the map for both Plywood Supply and the neighboring S.R. property. The designation of this property as H-3 allowing 65' height within 100' of the current structural setback line, and 45' within 50'-100' is not adequately addressed in the cumulative impact analysis. The current SDP for the light industrial development required a 100' and a vegetated shoreline buffer.

It is difficult to justify a reduction in the setback to 50', and increased height from 0-45' and from 100-200' a 65' (30' increase in height) —all with significantly increased density and impacts from the current SDP requirements.

I request that Ecology deny the height standards proposed in H-3 Waterfront and instead implement 35' height limit throughout the 200' Sammamish Shoreline jurisdictional area with a 100' setback as is currently implemented in the Plywood Supply existing SDP for low impact storage –industrial use. This will protect the ecological functions.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the Sammamish River and associated wetlands and would allow a height limit of up to 65' only in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning and if structures would not obstruct the view of a substantial number of residences.

Ecology Conclusion: A required change is to modify the H-3 SBHA. Much of this area is within a floodway and is not suitable for residential development for floodway encroachments.

The Shoreline Residential portion of the H-3 overlay is addressed in the KSMP policies LU-17.2.1, LU-17.2.2 and 2.3.

- k. Shoreline Residential policies apply to single-family or multi-family properties planned and platted for residential development. The height of 45' within 50'-100' and the 65' height within 100-200' is not consistent with these policies. LU-17.2.1 states that Density and minimum frontage width, setbacks lot coverage, buffers, critical areas protection and water quality shall be set considering the environmental limitations and sensitivity of the shoreline area and the level of infrastructure and services available. LU-17.2.2 Multi-family and multi-lot residential and recreational development should provide public access and community recreational facilities. LU-17.2.3 Access, utilities, and public services should be available and adequate to serve existing needs and planned future development. The height limits of H-3 discussed in the revised

cumulative impact analysis do not adequately address their policy criteria and will result in a net- loss of ecological functions.

City Response: The SMP establishes critical area buffers of 150' plus 15' building setbacks from the Sammamish River and associated wetlands and would allow a height limit of up to 65' only in areas outside of these buffers and building setbacks on the upland portions of these properties, consistent with existing zoning. The residential portion of H-3 is an existing mobile home park which extends all the way to the shoreline of the river.

Ecology Conclusion: A required change is to modify the H-3 SBHA. Much of this area is within a floodway and is not suitable for residential development for floodway encroachments.

- l. Aagaard concurs with Eric Adman's comments regarding Swamp Creek.

City Response: See responses to Mr. Adman's comments, p. 13.

Ecology Conclusion: A required change will only allow the H-4 height to be increased at least 112.5 feet from the OHWM of Swamp Creek. The change will make this provision consistent with the critical area protections.

- m. Aagaard believes that Urban Conservancy should not include commercial development. Including commercial development is inconsistent with the Department of Ecology guidelines for Urban Conservancy.

Attachment 1 of the Cumulative Impact Analysis states that public access and habitat restoration could be provided with the mixed-use commercial area of H-4. This does not address "no-net-loss" particularly the loss of wetlands should they be impacted by future commercially zoned development.

Please require that the current Urban Conservancy be redefined to eliminate commercial development and require that the H-4 designation height overlay be removed from the Urban Conservancy Swamp Creek area.

City Response: The Urban Conservancy designation allows commercial development only where it is allowed in the underlying zone which is in only one area, immediately north of Bothell Way on Swamp Creek. No net loss is ensured as this area is already degraded and additional development is permitted only when ecological restoration and public access enhancement is provided.

Ecology Conclusion: For uses allowed in Swamp Creek Urban Conservancy Area - the commercial portion of this area is developed with a shopping center.

The shopping center portion of the site may be better suited with a greater intensity environment. However, protection of Swamp Cree and its associated wetlands is necessary. The H-4 SHBA has been significantly modified to ensure no conflict with Swamp Creek or its associated wetlands.

16. Janet Hayes, testimony at the public hearing on March 31, 2011 and comment letter received April 15, 2011.

Hayes expresses concern that neither the City of Ecology has adequately addressed clearing on the Lakepointe site. Hayes believes that a weak SMP will be poorly implemented. Hayes wants the SMP to have every T crossed and every I dotted. Ecology needs to ensure that the SMP accomplishes no net loss of ecological function.

City Response: Comment noted.

Ecology Conclusion: As a historic industrial site, the LakePointe site has a minimal amount of vegetation that will be outside of areas that are wetland or shoreline buffers. Because a toxics clean-up is required prior to development, clearing and grading on the site are likely. No net loss of ecological function is a project level requirement of the LakePointe project.

17. Patrick O'Brien, testimony at the public hearing on March 31, 2011.

- a. Kenmore has a large flyway corridor with many species of birds utilizing the Sammamish Slough. Ecology should consider what the increased building heights will do to these birds.

City Response: Comment noted.

Ecology Conclusion: Ecology concurs with the comment.

- b. Kenmore Air has been in the same location for many years. The FAA code enforces maximum building heights in landing corridors. The planes make every effort to land within the key, which is designated area H1.

City Response: The height restrictions associated with Kenmore Air are unaffected by adoption of the SMP.

Ecology Conclusion: A change is included that requires projects consider ecological impacts of increased building heights.

- c. We have seen what liquefaction will do. This should be a consideration in areas H1 and H2.

City Response: The city's critical area standards for seismic hazard areas have been adopted into the SMP and apply within the shoreline jurisdiction.

Ecology Conclusion: Ecology concurs with the City response.

- d. Previous excavations have found a considerable amount of gas from the old landfill.

City Response: Comment noted.

Ecology Conclusion: The Site is under a legal agreement called a Consent Decree signed in 2001 to conduct the proposed site cleanup combined with a proposed development called the Lakepointe Development Proposal.

To prepare a Consent Decree and Cleanup Plan, there needs to be a remedial investigation completed at the site. The remedial investigation is to identify and characterize the extent of contamination in soil, groundwater, air, and surface water at the site. For the KIP Site the remedial investigation was conducted in steps.

The final Remedial Investigation (RI) was completed by AMEC Earth and Environmental Inc and dated June 22, 2001. The RI includes a section on Air and Landfill Gas (section 5.0) and states "Landfill gas exists in the subsurface due to on-going decomposition of the underlying peat soils and demolition debris." The report goes on to say that AMEC has no knowledge that landfill gas accumulations have been reported." See page 12 in attachment from AMEC Earth & Environmental Inc., 2001, Remedial Investigation/Feasibility Study – Kenmore Industrial Park. Also attached are the AMEC conclusions and they do not list anything about landfill issues nor landfill gases.

An earlier remedial investigation report by AGRA Earth & Environmental Inc in July 1998 mentioned that landfill records listed that wood, stumps and demolition debris and restaurant wastes were deposited at the site as an unlicensed landfill.

The review of the KIP Site files and extensive soil and groundwater sampling results, has not noted any indication of landfill gases or landfill related substances in the soil and groundwater sampling results at this site.

This site does include peat underlying the surface soils as shown in geologic borings. Peat is common in the subsurface at Mercer Slough, Marymoor Park, the KIP site, and other areas associated with lake and river confluences, and as the peat compacts it may give off gases –a natural process.

- e. Tannins from leaf fall can be a concern for fish. This can be addressed by carefully choosing the trees being planted. O'Brien supports planting evergreens. O'Brien believes that this would reduce tannins entering shoreline waters.

City Response: While it is acknowledged that some trees produce tannins, and that evergreen trees have been removed from Kenmore shorelines in greater extent than deciduous trees, it is also true that deciduous trees are native to shoreline areas and can be compatible. Consideration of appropriate trees for shoreline areas can be accomplished on a project specific basis, and consideration of excessive tannin inputs to the shoreline can be considered in developing and approving landscape plans.

Ecology Conclusion: Ecology concurs with the City response.

- f. The building heights that would be allowed in the H1 and H2 areas are a concern. While O'Brien wants the area to develop successfully, he is concerned about buildings with heights above 35 feet. O'Brien would like to see fertilizers and pesticides restricted near shorelines. O'Brien would like to look at the height limits in Woodinville and Redmond.

City Response: Comments noted. The general shoreline development regulations include standards to prevent contamination of land or water.

Ecology Conclusion: A required change is being added to emphasize that new projects must not impair shoreline ecological functions.

- g. O'Brien is comfortable with single family development in the SR designation.

City Response: Comment noted.

Ecology Conclusion: Ecology concurs with the City response.

- h. O'Brien expressed concern about the stability of the dam structure at the outlet of Lake Sammamish if there is a major earthquake. O'Brien expressed concern regarding the possible debris created by water released from Lake Sammamish if the outlet structure were to fail.

City Response: Comment noted.

Ecology Conclusion: There is a weir at the outlet of Lake Sammamish. It is not what is commonly understood to be a dam. The weir structure is of minimal

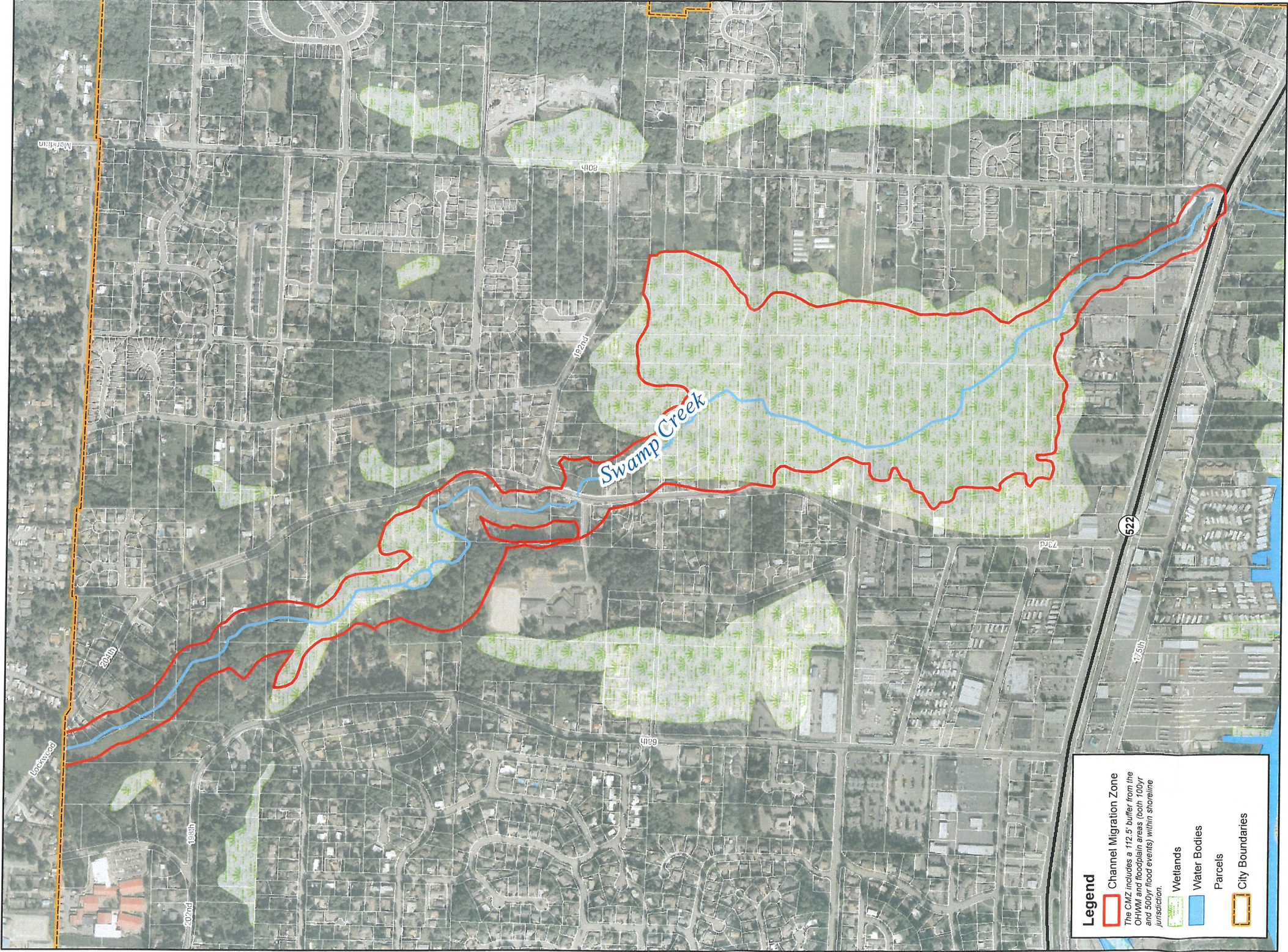
height. The Sammamish River has a mapped floodplain and floodway below Lake Sammamish.

18. Macy Ratliff, Email received April 15, 2011

The citizens of Kenmore need more public access to the lakeshore . The wetlands and the shoreline needs to have wider buffers, less impervious surfaces and careful protection of the wildlife that calls our area home. The current shoreline master plans needs to be revised in order to do what is best for the wetland ecology and wildlife habitat while providing greater public access to the shoreline.

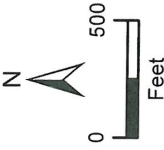
City Response: The SMP buffers mirror those in the City's existing critical areas ordinance. Public access is required for all multifamily and commercial developments, and subdivisions of more than four lots, if not precluded by public safety concerns.

Ecology Conclusion: Ecology concurs with the City response.









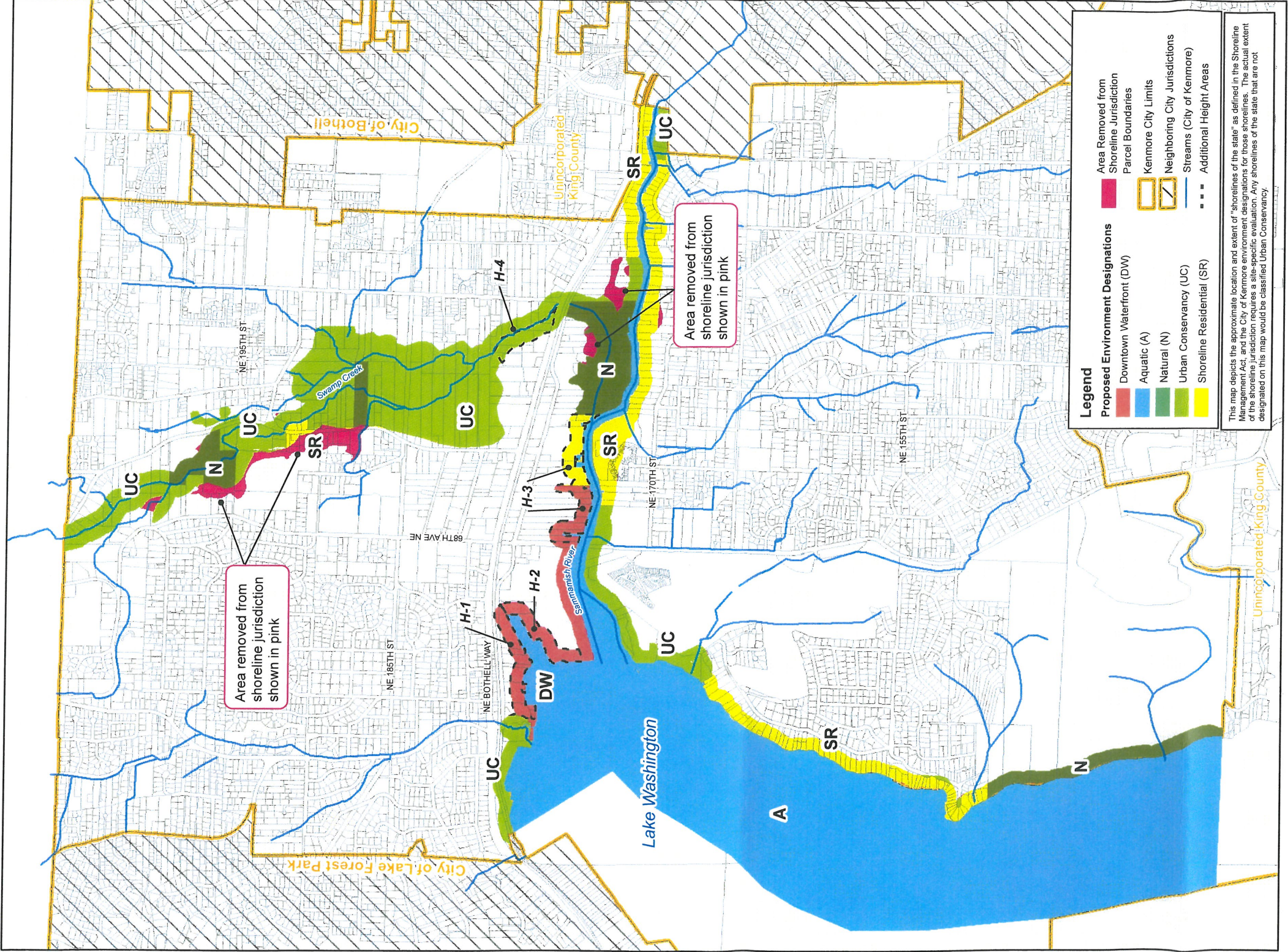
0 500 Feet

Map 1
Swamp Creek - Channel Migration Zone Areas

SOURCE: King County, 2009; FEMA, 2007; Department of Ecology, 2008; USFWS, 2009; Adolfson and Assoc, 2001.

Shoreline Master Program Update

City of Kenmore



Shoreline Master Program Update City of Kenmore			
Map 1 - Supplemental Version Shoreline Environment Designations		SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfson, 2008	

G:\ENVIR\IMPACTS\2007 Projects\207204_Kenmore\SMPO5_GRAPHICS_GIS_MODELING\GIS\Shoreline_Environment_Designations.mxd (M.J.L. 10/14/2011)



City Of Kenmore, Washington

October 17, 2011

Re: City of Kenmore Shoreline Master Program

Dear property owner:

The City of Kenmore, in order to comply with the State of Washington regulatory requirements as well as protect the City's shorelines and waterways, is bringing current and revising the City's Shoreline Master Program. In order to notify property owners that could be affected or have special interest in commenting on the proposed revisions and new State of Washington requirements, the City is mailing this information to property owners adjacent to the Sammamish River and Swamp Creek (property located within areas shown as H-3 and H-4 on the attached map) and providing details of the height and stream setbacks within the 200-foot shoreline jurisdiction and the critical area regulations. The attached table and illustration provides information on these height and setback regulations.

Additional information about the City's Shoreline Master Program (SMP) is available on the City's website www.cityofkenmore.com. If you have questions or comments about the new shoreline regulations or how these regulations or stream regulations affect your property, please contact Lauri Anderson, Senior Planner at 425 398 8900 or landerson@kenmorewa.gov before November 14th, 2011. Any questions or comments received by this date will be provided to Council for the November 14, 2011 Council meeting and continuation of the discussion regarding the Shoreline Master Program.

The Shoreline Master Program includes the goals, policies, regulations, shoreline environment designations, and administrative procedures and definitions for Kenmore's shorelines, which include, over 3.8 miles of Lake Washington, 1.8 miles of Sammamish River, and 2.5 miles of Swamp Creek. The shoreline jurisdiction regulates the use and development of the shoreline for 200 feet horizontal distance from these water bodies including associated wetlands.

18120 68th Ave NE • PO Box 82607 • Kenmore, WA 98028

Office: (425) 398-8900 • Fax: (425) 481-3236 • cityhall@kenmorewa.gov • www.kenmorewa.gov

On September 13, 2010 the City Council approved two ordinances (Ordinance 10-0312 and Ordinance 10-0313) adopting a revised SMP which were then mailed to the Department of Ecology for their review and approval. Ecology must give final approval to the SMP before it becomes effective. In a letter dated July 25, 2011, the Department of Ecology approved with required and suggested changes, the City of Kenmore's SMP. The Department of Ecology required and suggested changes are currently being considered by the City Council. Council will continue discussion of Ecology's required and suggested changes at the November 14, 2011 Council meeting, 7:00 p.m. at Kenmore City Hall. The new shoreline rules will not take effect until the Council reaches agreement with Ecology on required changes and then adopts a new ordinance that reflects the required changes and any other amendments to the SMP adopted September 13, 2010.

The City requests that you fill in the attached sheet and return it in the return addressed stamped envelope, acknowledging that you did receive this letter, and have questions or comments, or do not have any questions or comments. This helps us to know we have been successful in reaching all the property owners in the areas shown as H-3 and H-4 on the map, adjacent to the Sammamish River and Swamp Creek. As noted above, the City Council at their meeting on November 14, 2011 will be reviewing the questions, comments, and responses received.

Thank you for your consideration and we look forward to hearing your questions and comments with respect to the new shoreline regulations.

Sincerely,

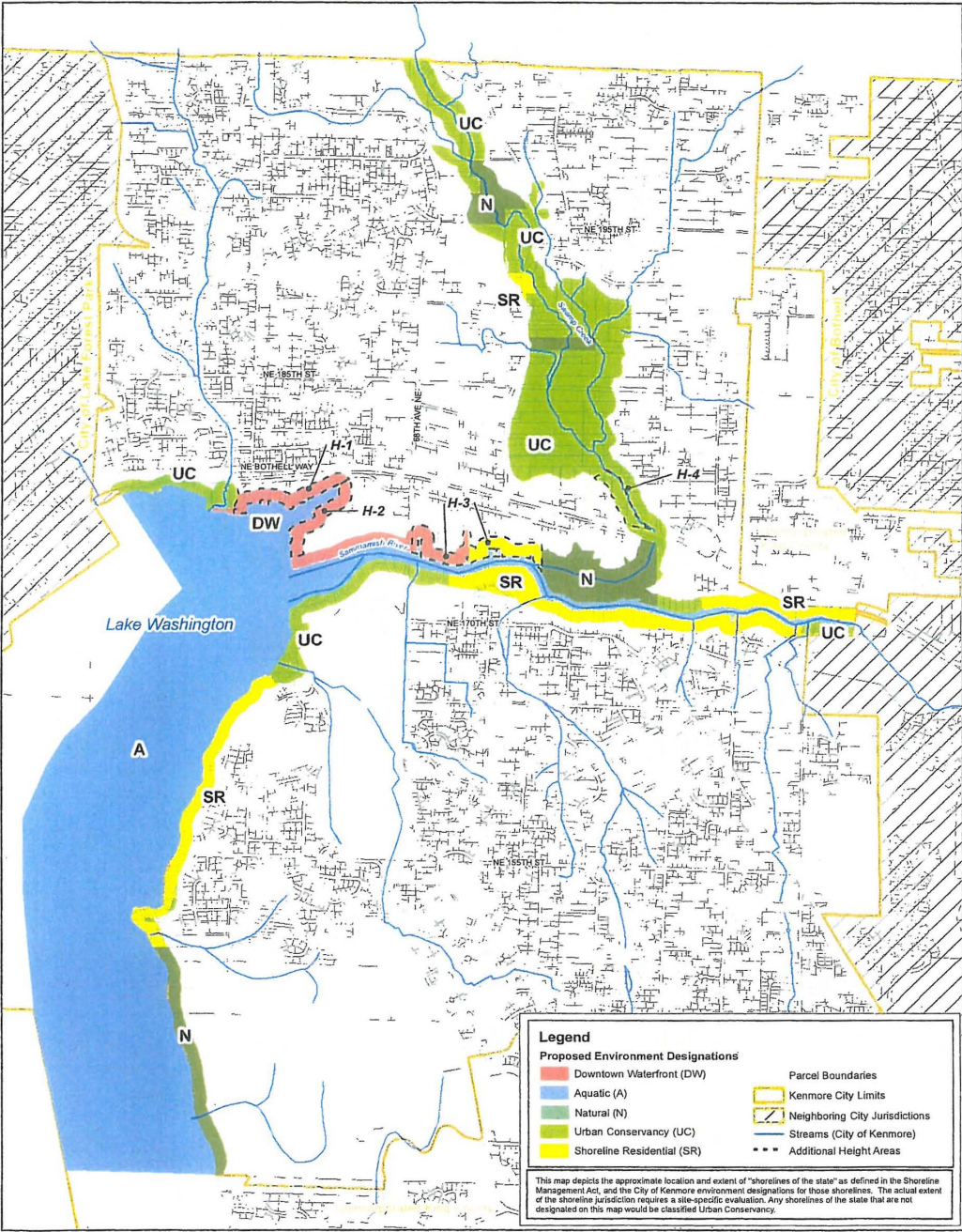


Frederick Stouder
City Manager

cc: Mayor and Councilmembers

Attachments:

- Attachment #1: Shoreline designations map showing areas H3 and H4
- Attachment #2: Shoreline height comparison
- Attachment #3: Comment sheet with return envelope



Shoreline Master Program Update City of Kenmore

			Map 1 Shoreline Environment Designations SOURCE: King County, (2002)2007; City of Kenmore, 2007; ESA Adolfsen, 2008
---	---	---	--

G:\ENVIR IMPACTS\2007 Projects\207204_Kenmore\SMP\05_GRAPHICS_GIS_MODELING\GIS\Shoreline_Environment_Designations.mxd (M.J., 10/14/2011)

Attachment 2

SHORELINE HEIGHT COMPARISON

The base structure height in the shoreline is 35'. This height may be increased by the city if certain conditions are met, including view preservation. This height may be affected by underlying zoning regulations which may set out different allowable heights. In the event of a conflict between the shoreline height regulations and the zoning height regulations, the most restrictive standard applies.

New development also must comply with the city's stream setback regulations and wetland protection rules. These regulations require a 150' buffer along the Sammamish River and Swamp Creek and would not allow development in a wetland. The rules allow for a reduction in the stream buffer to 112.5' if a degraded buffer is improved.

SHORELINE HEIGHT STANDARDS ADOPTED BY CITY OF KENMORE

In September 2010, the city adopted the following height regulations for the H3 and H4 areas in the shoreline (along the Sammamish River and Swamp Creek):

1. Additional height (over 35') may be permitted under the following conditions:
 - a. The structures would not obstruct the view of a substantial number of residences, and
 - b. The structures are located in an area designated on Map 1 (Shoreline Environment Designations) as allowing these additional heights, and
 - c. The structure height complies with the allowable height of the underlying zone and the following additional height limits within the shoreline:

Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed Areas H-3 and H-4
Less than 50 feet	35 feet
50 to 100 feet	45 feet
100 to 200 feet	65 feet

These height increases do not allow new development within the stream buffer or a wetland even though heights are identified for these areas.

SHORELINE HEIGHT STANDARDS REQUIRED BY DEPARTMENT OF ECOLOGY

After review of the city's adopted height standards, Ecology requested clarification for areas H3 and H4 to make it clear that no new development could occur in the stream buffer or a wetland. Ecology's requested changes are as follows (shown in yellow text):

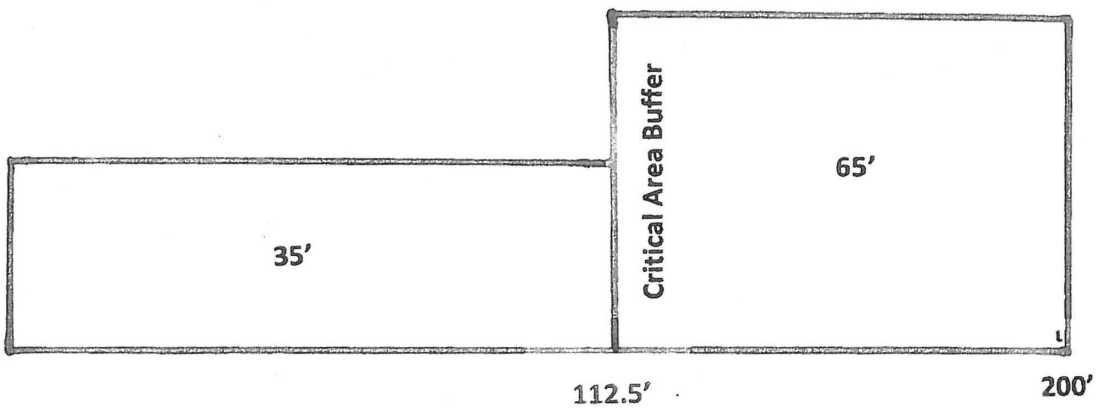
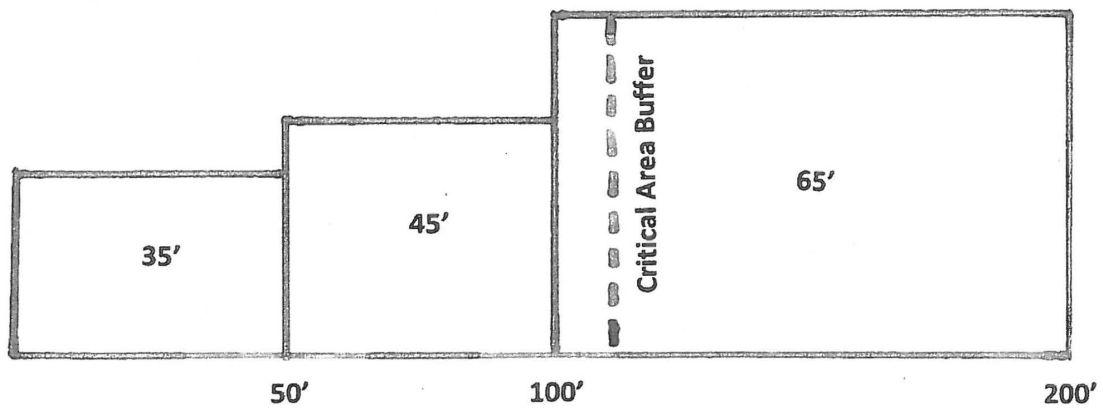
1. Additional height (above 35') may be permitted under the following conditions:
 - a. The structures would not obstruct the view of a substantial number of residences, and
 - b. The structures are located in an area designated on Map 1 (Shoreline Environment Designations) as allowing these additional heights, and
 - c. The structure height complies with the allowable height of the underlying zone and the following additional height limits within the shoreline; and
 - d. The additional height of the structures would not impair the ecological functions of the stream, lake, wetland, or the required buffer. In particular, the effects of shading and light impacts on the viability of vegetation in the buffer shall be considered when making this determination, and
 - e. Be outside of the floodway in effect at the time of permit application, and
 - f. Not be within a wetland or wetland buffer as regulated by 18.55 KMC.

Distance from Structure to Ordinary High Water Mark	Maximum Height Allowed	Maximum Height Allowed	Maximum Height Allowed
	Area H-1	Area H-2	Areas H-3 and H-4
Less than 50 feet	35 feet	35 feet	35 feet
50 to 100 feet	50 feet	45 feet	45 35 feet
100 to 112.5 200 feet	50 feet	75 feet	65 35 feet
112.5 to 200 feet	50 feet	75 feet	65 feet

Ecology's changes leave the height limit at 35' within the minimum stream buffer, even though new development still would not be allowed there. Criterion "f" clarifies that the additional height is not allowed in a wetland or wetland buffer, even though new development would not be allowed there.

An illustration comparing the two height proposals is shown on the following page.

COUNCIL-ADOPTED HEIGHT LIMITS



ECOLOGY REQUIRED CHANGE

Lauri Anderson

From: Radabaugh, David (ECY) [DRAD461@ECY.WA.GOV]
Sent: Thursday, October 06, 2011 5:16 PM
To: Lauri Anderson
Cc: Debbie Bent; 'Mark Johnson'
Subject: Kenmore SMP

I'm sorry that I was unable to give you a call today to address the concern about incentives to rebuild nonconforming piers. We will not be able to approve an expansion provision for nonconforming piers. The provision that we included in the required change allows nonconforming piers to be rebuilt up to their nonconforming area if they meet the other design standards. This is consistent with the current Corps approach. While not, strictly speaking, an incentive, at least the provision allowing for rebuilding piers up to their preexisting area is not a disincentive for creating an ecological improvement.

We will consider other ideas for incentives. However, pier area expansion above the prescriptive standards is not going to be workable.

David Radabaugh, AICP, CFM
Environmental Planner
Department of Ecology
Northwest Regional Office
3190 - 160th Avenue SE
Bellevue, WA 98008-5452
(425) 649-4260
david.radabaugh@ecy.wa.gov

COMPARISON OF SHORELINE DESIGNATIONS

In September 2010, the City Council assigned the "Urban Conservancy" designation to Parcels 1426049013 and 1426049014. In July 2011, Department of Ecology (Ecology) requested a change in this shoreline designation to "Natural" for these two parcels.

Following is a comparison of standards which differ between these two shoreline designations:

	Urban Conservancy Designation	Natural Designation
Single-family residential use (underlying zoning is residential)	Permitted use	Conditional use
Shoreline buffer for single-family residence	115'	150'
Maximum height	35'	30'



5309 Shilshole Avenue NW
Suite 200
Seattle, WA 98107
206.789.9658 phone
206.789.9684 fax

www.esassoc.com

memorandum

date June 20, 2011
to Lauri Anderson and Deborah Bent, City of Kenmore
from Teresa H Vanderburg, PWS
subject Kenmore SMP - Wetland Mitigation Ratios

Environmental Science Associates, Inc (ESA) is assisting the City of Kenmore in its Shoreline Master Program (SMP) update. As part of that assistance, we have prepared this technical memorandum in response to comments from the Washington State Department of Ecology (Ecology) on the SMP adopted by the City in September 2010. Specifically, this memorandum provides additional background information and scientific analysis from the local level to address questions related to the City's wetland mitigation ratios from the critical areas ordinance, Kenmore Municipal Code(KMC) 18.55. The wetland mitigation ratios, along with other parts of the wetland regulations, have been integrated into the SMP to provide continuing protection of wetlands within the City's shoreline jurisdiction. The information in this memo is based on ESA's professional experience working in the City of Kenmore as the City's on-call environmental consultant between 1998 and 2010. During that time frame, ESA wetlands staff provided peer review for approximately 280 permit applications that contained streams, wetlands, or their buffers. In addition, we assisted the City in its critical areas ordinance update using "best available science", which was approved in 2006. To understand the mitigation ratio first requires understanding the rating system.

Wetland Rating System

The City of Kenmore uses a three-tiered wetland rating system that has been tailored to the local environment. This system was developed by ESA during the critical areas ordinance update. The Kenmore rating system stratifies wetlands into 3 classes as follows:

Class 1 wetlands are the highest value wetlands in the City and are defined as:

1. Documented habitat for federal or state listed endangered or threatened fish, animal, or plant species; or
2. Wetlands listed as high quality habitats in the Natural Heritage Information System; or
3. Wetlands with irreplaceable ecological functions, including sphagnum bogs and fens or natural forested swamps; or
4. Wetlands of exceptional local significance, specifically those wetlands proximal to and influenced by the main stem of Swamp Creek, the Sammamish River, or Lake Washington.

Class 2 wetlands are:

1. Wetlands that have significant functions that may not be adequately replicated through creation or restoration; or
2. Wetlands associated with Type 2 or 3 streams; or
3. Wetlands greater than one acre in size; or
4. Wetlands equal to or less than one acre having three or more classes of wetland vegetation (as defined in Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, et al., 1979)); or
5. Wetlands containing a forested wetland class.

Class 3 wetlands are the lowest value and are defined as: "...those wetlands not rated as Class 1 or 2 wetlands, but are greater than 1,000 square feet in size."

Based on our experience in Kenmore, I anticipate that the vast majority of the wetlands within the City's shoreline jurisdiction will be rated as Class 1 wetlands using the City's rating system. Wetlands associated with Lake Washington, Swamp Creek and Sammamish River are, by definition, considered Class 1 wetlands. The City's wetland inventory shows that most of the wetland areas along these waterbodies are known and documented as Class 1 according to both the wetland inventory and Shoreline Inventory and Characterization Report (ESA Adolfson 2010). The likelihood that Class 2 or 3 wetlands exist within the shoreline jurisdiction is very low and limited to specific cases where: a) non-shoreline streams enter directly into Lake Washington or Sammamish River and wetlands are associated with those streams, or b) small, isolated wetlands areas of low value exist that have not yet been identified. For example, the two known wetlands at LakePointe (described in the LakePointe EIS) are both adjacent to and associated with Lake Washington and are therefore Class 1. If there are other wetlands on that site, as has been testified to but as yet not confirmed through a wetland report prepared by a wetland biologist, they are likely Class 2 or 3, depending on their specific habitats and size..

The Washington State Wetland Rating System was developed to provide a system that spans the entire range of wetlands in western Washington; however, the entire range of wetlands found in the state does not occur within the City. Wetlands rated as Class 1 wetlands in the City of Kenmore are roughly equivalent to Category II wetlands as determined under the Washington State Wetland Rating System for Western Washington (Ecology, 2004; revised 2006). To verify this assumption, Sara Noland and I rated the largest wetland within the City – Swamp Creek No. 3 – using the state rating system. This rating was done in the office without field investigations but based upon our 12 years of experience working in the City.

Swamp Creek No.3 has been identified by both King County and the City as a significant wetland feature. This wetland is an approximately 92-acre associated wetland lying within the floodplains of Swamp Creek and Little Swamp Creek. According to the point system in the state wetland rating forms, Swamp Creek No. 3 scored a total of 51 points – at the lower end of the Category II. This wetland scored 16 points for Water Quality, 16 points for Hydrology, and 19 points for Habitat. Using the Kenmore wetland rating system, Swamp Creek No. 3 is considered Class 1 due to its association with Swamp Creek, a shoreline of the state.

There are no known wetlands of Special Consideration in the City, such as coastal lagoons, estuarine wetlands, old growth forested swamps, or bogs. However, occurrences of "mature forested" wetland could be present in areas of the City, although I am not aware of any such wetland within the shoreline jurisdiction based on my experience. Should "mature forested" wetlands be present, they would automatically be considered Class 1 wetlands under Kenmore's rating system. Mature forested wetlands would be the only potential Category I wetland in the City according to the state rating system.

Wetland Mitigation Ratios

The wetland mitigation ratios proposed by the City in its SMP have been questioned by Ecology staff. Ecology has requested that the City's ratios be revised to match the ratios outlined in state guidance as documented in the Wetland Mitigation in Washington State – Part 1, Version 1 (Ecology, March 2006). Table 1a in Chapter 6 (Determining Appropriate and Adequate Compensatory Mitigation) provides the guidance on mitigation ratios for western Washington. The following table outlines the state guidance on mitigation ratios for wetlands that could possibly occur within the City of Kenmore.

Table 1. Mitigation Ratios for Western Washington (Ecology, 2008).

Category and Type of Wetland Impact	Creation or Re-establishment	Creation or Re-establishment and Enhancement	Enhancement Only
Category I Forested	6:1	1:1 C/R and 20:1 E	24:1
Category I based on score for functions	4:1	1:1 C/R and 12:1 E	16:1
Category II	3:1	1:1 C/R and 8:1 E	12:1
Category III	2:1	1:1 C/R and 4:1 E	8:1
Category IV	1.5:1	1:1 C/R and 2:1 E	6:1

Based upon my professional experience in Kenmore and training in the state rating system, Kenmore Class 1 wetlands are roughly equivalent to Category II wetlands in the state rating system. Kenmore Class 2 wetlands are equivalent to Category III wetlands using the state system, whereas Kenmore Class 3 wetlands are roughly Category IV state rated wetlands. Mature forested wetlands are the only type of wetland that could potentially occur in the City that would be rated Category I. Table 1 also includes the ratios recommended for wetlands that would be Category I based on functions, as a point of comparison only. As noted above, such wetlands are unlikely to exist in Kenmore, as demonstrated by the rating that would be assigned to Swamp Creek #3.

The Kenmore Critical Areas ordinance is generally designed to deter development within wetlands by requiring mitigation sequencing first (demonstrated avoidance and then minimization, then compensation). Further, work within Class 1 wetlands is prohibited under KMC 18.55.320.C with few exceptions as described in KMC 18.55. Therefore, the majority of the wetlands that are found in the shoreline jurisdiction will fall under this prohibition for fill with exceptions only for the public agency utility exception and shoreline variance processes.

Given comments from Ecology staff, we reviewed the mitigation ratio system and considered Ecology guidelines and recommendations for wetlands in the shoreline jurisdiction. ESA recommends that the current mitigation ratios for wetlands require only minor revision to bring the system into alignment with the state rating system for the type of wetlands that could potentially occur in Kenmore shorelines. This revised mitigation ratio system was developed using best available science and considering local information. This is consistent with the guidance in Wetland Mitigation in Washington State – Part 1 (page 72), which states:

The ratios provided as guidance in this document represent what a permit applicant should expect as requirements for compensation, thereby providing some predictability for applicants. However, regulatory agencies may deviate from the guidance. They must make an individual determination on the mitigation ratios required for specific wetland impacts to ensure that the compensation is proportionate to the proposed loss or degradation of wetland area and/or functions. In other words, the required

compensation represents a roughly proportional exchange for the proposed impacts (Dolan v. City of Tigard...(1994)) to provide and ensure the adequate compensation of wetland area and functions.

The following revised mitigation ratios are proposed for the Kenmore SMP (Table 2). These reflect the specific type and value of wetlands observed within Kenmore shoreline jurisdiction.

Table 2. Proposed Wetland Mitigation Ratios for Kenmore SMP

Category and Type of Wetland Impacts	Creation or Re-establishment (C/R)	Creation (C) or Re-establishment (R) plus Enhancement (E)	Enhancement (E) Only	Notes	Comparison to Ecology Wetland Rating System
Kenmore Class 1	3:1	1:1 C/R plus 6:1 E	Not allowed	KMC 18.55.320.C prohibits all activities and uses in Class 1 wetlands, except as provided through the public agency and utility exception or RUE (now shoreline variance).	Kenmore Class 1 is roughly equivalent to Ecology Category II. No known Category I wetlands in Kenmore. Largest significant wetland is Swamp Creek No. 3 which rates as Ecology Category II.
Kenmore Class 1 (Mature Forested)	6:1	1:1 C/R plus 20:1 E	Not allowed	Not known in City	Not known to occur but if present could be Ecology Category I.
Kenmore Class 2	2:1	1:1 C/R plus 4:1 E	Not allowed	Not likely in the Shoreline jurisdiction.	Kenmore Class 2 is roughly equivalent to Ecology Category III.
Kenmore Class 3	1.5:1	1:1 C/R plus 2:1 E	6:1	Not likely in the Shoreline jurisdiction	Kenmore Class 3 is roughly equivalent to Ecology Category IV.

Based on the requirement to ensure “no net loss” of wetland function, we have required that re-habilitation or creation be provided in all cases for Kenmore Class 1 and 2 wetlands. There is no option to allow for enhancement only for these types of wetlands. Enhancement-only is accepted for lower quality wetlands (Class 3). Therefore, no overall loss of wetland area will occur except with the lowest value wetlands.

We have included a provision for mature forested wetlands should these be located within the City. These would already be classified as Kenmore Class 1 wetlands. Since mature forested wetlands are rated Category I in the state system, we have revised the mitigation ratios for these wetlands to be identical to Ecology guidelines. Applicants with requests for alterations to Class 1 mature forested wetland habitats would need to go through a Shoreline Variance process in order to impact these specific wetland areas.

This proposed mitigation ratios are similar to Ecology’s recommended ratios, except with regard to the creation-plus-enhancement ratio recommended by Ecology for Category II. The slightly smaller enhancement component (6:1 proposed versus 8:1 in the Ecology system) still more than mitigates for wetland impacts in the City’s shoreline, and provides sufficient disincentive to prevent most wetland impacts. The mitigation

sequencing and prohibition on impacts to Class 1 wetlands, which represents the majority of wetlands in Kenmore's shoreline, has proven effective in the five years since the Kenmore CAO was adopted.

Permit History for Kenmore's Critical Areas Regulations

In response to Ecology's request for review, City staff evaluated the permit history for proposals affecting streams, wetlands and buffers under the new critical area regulations in KMC 18.55. City staff prepared a summary of stream, wetland and buffer-related permits issued since the adoption of the new critical area regulations on May 18, 2006 to see how the wetland mitigation provisions have been working across the city. This information is attached for reference.

The summary data indicate that there have been 64 applications for development since adoption of the new critical areas regulations in 2006. The majority of those have been short plat developments. Of the total 64 applications, 15 included a request to alter wetlands, streams, or buffers as part of the proposal. Only one of the 64 applications requested wetland fill, and that request was granted. The fill approved was for 25 square feet in a Class 3 wetland and mitigation through wetland and buffer enhancement was provided, which met the mitigation ratio. Only two of the 64 permits were located within shoreline jurisdiction and each of these were related to impacts to wetland or stream buffers only. Based on this permit data, it appears that the Kenmore critical area regulations, even with existing mitigation ratios, are working to protect wetlands in the City by requiring the demonstration of avoidance and minimization, prior to compensatory mitigation.

SUMMARY OF STREAM/WETLAND/BUFFER-RELATED PERMIT ACTIVITIES SINCE 5/18/06 ADOPTION OF CRITICAL AREA RULES:

Short plats

Total applications:	37
Wetland/stream/buffer alteration requests:	2 (0 in shoreline)
Wetland fill requests:	0

Long plats

Total applications:	9
Wetland/stream/buffer alteration requests:	3 (1 in shoreline)
Wetland fill requests:	1 (not in shoreline)

Description of wetland fill approval:

25 sq.ft. wetland filled (Class 3). Enhanced other wetland (939 sq.ft.) on-site, as well as buffer.

Commercial site development permits

Total applications:	11
Wetland/stream/buffer alteration requests:	3 (2 in shoreline)
Wetland fill requests:	0

Additional variances to wetland/stream buffers

Total applications:	7 (2 in shoreline)
---------------------	--------------------

Reasonable use reduction requests (wetlands/streams)

Total applications:	0
---------------------	---

Public agency/utility exceptions (wetlands/streams)

Total applications:	0
---------------------	---

TOTAL APPLICATIONS:	64
TOTAL WETLAND/STREAM/BUFFER ALTERATION REQUESTS:	15 (23%)
TOTAL WETLAND FILL REQUESTS:	1 (1.6%)
WETLAND FILL APPROVALS:	1

Description of wetland fill approval:

25 sq.ft. wetland filled (Class 3). Enhanced other wetland (939 sq.ft.) on-site, as well as buffer.