CITY OF LANGLEY DRAFT COUNCIL AGENDA

**Tuesday, September 6, 2016, 5:30 PM**

1. CALL TO ORDER
   a. Flag Salute
   b. Roll Call

2. APPROVAL OF AGENDA

3. CONSENT AGENDA
   The CONSENT AGENDA consists of routine items that normally do not require further Council discussion. A council member may ask questions about an item before the vote is taken, or request that an item be removed from the Consent Agenda and placed on the regular agenda for more detailed discussion. A single vote is taken to approve all items remaining on the Consent Agenda.
   
   a. Approval of council meeting minutes of 8/15/16.................................................1-4
   b. Approval of claims warrants Nos ____ and EFT's in the amount of $37,893.02........5-9

4. RECOGNITION/APPRECIATION

5. COMMISSION AND BOARD REPORTS
   Langley Library Report
   Parks and Open Space Commission – semi annual report

6. CITIZEN COMMENTS *

7. PUBLIC HEARING – 6 year Street Improvement Program 2017-2022

7. MAYOR’S REPORT

8. UNFINISHED BUSINESS
   Park closing times discussion
   Comp Plan review update

9. NEW BUSINESS
   Resolution adopting the 2017-2022 Six Year TIP – 1st reading .............................10-11
   Confirmation of appointment of Mike Kenyon of Kenyon & Disend as city attorney..12-24

10. COUNCIL REPORTS

11. DISCUSSION ITEMS

12. ADJOURNMENT

*Citizen Comments: We welcome comments on subjects of concern or interest that are not on the agenda. Please state your name and address so this can be recorded, and limit your comments to 5 minutes. Questions will be answered immediately if the answer is brief, and the information is available. Otherwise, answers will be provided as soon as possible. Thank you for participating! If reasonable accommodation of a disability is needed please contact Debbie Mahler at (360) 221-4246 at least 48 hours prior to this meeting.
Langley City Council Meeting Minutes
August 15, 2016

Mayor Callison called the meeting to order at 5:35 PM. Present were City Council Members Bruce Allen, Rene Neff and Dominique Emerson. Councilmember Thomas Gill was detained until 5:55 PM. Ursula Shoudy was absent. Also present were Stan Berryman, Public Works Director; Dave Marks, Police Chief; Brigid Reynolds, Community Planner and Debbie Mahler, Clerk/Finance Director. Mayor Callison led the flag salute.

MOTION: To approve the agenda as amended. The Dog Park discussion was moved up in the agenda following citizen comments. Motion - Allen, 2nd - Emerson. Motion carried.

MOTION: To approve the consent agenda. Motion - Neff, 2nd - Allen. Motion was approved.

CONSENT AGENDA
   a. Approval of council meeting minutes of 8-01-16
   b. Approval of claims warrants Nos. 34898-34935 and EFT 8/2 in the amount of $41,221.80
   c. Approval of payroll warrants Nos. 34650-34669 (7/15/16) in the amount of $39,392.09 and Nos. 34861-34884 (7/29/16) in the amount of $71,010.75

RECOGNITION/APPRECIATION
Mayor Callison presented John Lawson with a Mayor’s Award for his community service as President of the Community Club, his involvement with the Men’s Club, the Soup box Derby and his many other volunteer activities.

COMMISSION AND BOARD REPORTS
Cheryn Weiser and Chasity Smith of Island County Senior Services were present to review all the services they performed for our seniors this year. The kitchen staff prepared 76,256 meals last year and 43,186 meals were home delivered. They provided individual information and assistance to 8,902 people and provided 2,752 hours of respite care for unpaid family caregivers. Volunteers drove 91,716 miles in medical transports and 275 volunteer provided 37,885 hours of work. 450 classes, trips and wellness activities were provided. Island County also has a greater percentage of seniors than the state average.

CITIZEN COMMENTS
There were no comments from citizens at this time.

Dog Park Discussion – Rick Foxworthy, a resident of the Cedars, stated that the proposed dog park within the Cedars development is only 110’ x 60’ and is too small for a dog park. Doug Shuster asked why the City feels it needs a dog park in such a small city with other dog parks in close proximity. Council member Emerson stated that she feels we have many visitors in Langley who bring their dogs with them and have no place to walk them. Mr. Shuster pointed out that Double Bluff is an off leash dog park, is nearby and much bigger. Jonathon Moss stated that adding a dog park to the Cedars would add traffic congestion and noise and there is no available parking. Janet ** stated that the designated area is too close to the children’s playground to be safe for kids and is not big enough. Erin Rodriguez stated that the park is used for recreational purposes for families and picnics and to add an area for a dog park would concentrate dog noise. Dog waste could collect in the storm drainage area that is proposed and would not be good for the water shed, would add traffic and other problems. She feels there are other areas that would be more
appropriate and the Cedars Park should be kept for human activities and is currently used by responsible dog owners. Jan Becker feels a black chain link fence is inappropriate and ugly. Karen Wyceff has concerns. She stated that the island has three dog parks already, we are in the top 10 communities of dog parks per residents. She asked how it would be maintained over time. She stated that it is not currently being maintained by the City and she has safety and traffic concerns. Allison Hepner stated that the area is too small, the dogs would erode the grass and it would become muddy and unattractive. Diane Foxworthy agreed.

**Arts Commission report** – Frank Rose reported that the Arts Commission plans to have dedication for the Post Office sculpture on the Labor Day weekend in September. An RFP has gone out for the Second Street sculpture competition. Proposals are due September 30th with installation to happen in December. Callahan McVay stated that the Arts Commission has some proposals for the budget they would like to bring forward.

**STAFF REPORTS**
Community Planning – Brigid Reynolds reported that the owners of the Doghouse are working with consultants, and did a property survey last week. The PAB has been discussing housing options and are tentatively planning to hold an open housing forum on October 19th. The forum for Langley residents will discuss where the gaps in housing types are, the barriers, needs, etc. and how to bridge those. The Arts Commission FRP for Second Street artwork is out. There will be no DRB meeting this month, as they have no pending applications. Brigid has been working with staff and Vision, our software provider, to establish a new permitting software for the city. She has issued a few Shoreline exemptions recently for Nichols Brothers and the Lind’s Building.

Public Works – Stan Berryman reported that he submitted the 1st Street sidewalk grant application earlier today. It is for Park to Anthes and Debruyyn for $242,000. We will also apply to the county for the same project. The Decker waterline contract is scheduled for approval tonight. New trashcans were purchased for Second Street. The townhomes being built on Cascade are currently putting their utilities and we will be doing new paving there after they are in.

Police – Chief Marks reported that his department has been very busy with the Whidbey Triathlon, the Fair, and the Pride Parade. The Tour de Whidbey, Dockstock and the Soupbox Derby are next weekend. Chief Marks stated that he would like to have the City’s code restrict alcohol use in City parks so that it can be posted. He would also like to have City code that establishes closing times for city parks. Park closing times will be a discussion item on the next council agenda.

Finance – Debbie Mahler distributed a packet of information on the budget including fund types and budget development, revenue sources, current financial reports and graphs, the City’s fiscal goals and policies, Capital needs, reserve fund and budget timeline. She gave a brief review of budget procedures and asked that Council review the goals and policies for any changes and to start setting their priorities for next year’s budget. The first budget workshop is scheduled for September 13, from 11AM to 1 PM.

**Mayor’s report**
Mayor Callison attended the first CHIP workshop session at the county on the health improvement plan. They have identified four main elements that affect health. Mayor Callison is on the affordable housing committee. It is a big problem on the Island, particularly in the rental market. Housing stock is extremely limited. On August 6th at the Island County Fair, the Mayor was dunked several times in the dunk tank as a fund raiser for Ryan’s House. He was dunked 15 to 18 times and they raised $200. Rene Neff added that she attended the WINN auction last weekend to raise money for their programs to feed kids. The national average of kids requiring food assistance is 20%. It is 40% in Island County.
On the 10th of August, the Mayor attended the Langley Chamber of Commerce meeting. It is a very lively group. New businesses are being added, had a speaker from the back to school supply program. The Mayor also met with Sherrye Wyatt of Island County-wide Tourism and she is putting together a program to try and stimulate filming in Island County. Tomorrow he, Fred Lundahl and Lorinda are meeting with Representative Norma Smith regarding additional Main Street funding.

UNFINISHED BUSINESS
Comp Plan Review update – Brigid Reynolds reported that the utilities and capital facilities elements of the comp plan will be on line very soon. The Housing element seems to be in good shape, so it should be a quick review and then the sustainability element is last to review. The PAB is working on implementation and developing regulations consistent with the plan.

MOTION: To approve the contract with Island County Senior Services in the amount of $7,500 and authorize the Mayor to sign it. Motion - Neff, 2nd - Allen. Motion passed without opposition.

MOTION: To waive the two reading requirement and pass Resolution No. 779 establishing the Seawall Park Improvement Ad Hoc Committee. Motion - Gill, 2nd - Allen. Motion carried with all in favor.

NEW BUSINESS

MOTION: To approve the contract with C. Johnson Construction, Inc. of Oak Harbor for Decker Avenue Water Main extension in the amount of $218,769.62 and authorize the Mayor to sign same. Motion - Allen, 2nd - Neff. Motion was unanimously approved.

Establishing a GIS system for the city – Brigid Reynolds explained that in the past the city has relied on consultants to prepare specific maps for projects using GIS (geographic information system). This has been costly and piece meal. It would be very beneficial to the city to have a functioning GIS program, but very costly. The AWC has partnered with FLO Analytics to provide GIS services to provide GIS services to local governments at an affordable cost. Brigid recommended that the City enter into an agreement with the AWC to complete a needs assessment for the City and take the steps to establish a simple GIS program. Council consensus was to go ahead.

COUNCIL REPORTS

Rene Neff reported that Island Shakespeare has been very busy and the season will be going just a few weeks longer. Dominique Emerson reported that the Port will have a meeting tomorrow where they will continue to discuss how they will manage the fairgrounds. Thomas Gill reported that the Substance Abuse Coalition has a meeting next week and they are just completing their Island County Substance Abuse Disorder Services Needs Assessment. Thomas is taking a trip to Hawaii at the end of the month and will miss the next meeting.

The meeting was adjourned at 7:27 PM.
Respectfully submitted,

Debbie L. Mahler, Director of Finance/Clerk
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CITY OF LANGLEY

RESOLUTION NO. 781

A RESOLUTION OF THE CITY OF LANGLEY, WASHINGTON, adopting the 2017-2022 Six Year Transportation Improvement Plan.

WHEREAS, it is the desire of the City of Langley, Washington to adopt a program for transportation within the City; and

WHEREAS, the City Council at a duly advertised public hearing held September 06, 2016, received public input on the needs of the Street Department; and

WHEREAS, the City Council, at a regular public meeting, considered such a transportation program;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Langley, that the City does hereby adopt the Six-Year Transportation Improvement Program for 2017-2022, a copy of which is attached hereto and by reference made a part hereof.

PASSED by the City Council of the City of Langley, Washington, at a regularly scheduled meeting held this ___ day of September, 2016.

_____________________________
Tim Callison, Mayor

ATTEST:

_____________________________
Debbie L. Mahler, Director of Finance/Clerk
CITY OF LANGLEY

Transportation Improvement Program
2017 – 2022

2016
Cascade Avenue milling and overlay (6th to Wharf) $310,000 ($42,000 local match)
STP-R grant awarded

2017
Overlay Second Street (Anthes to Debruyyn) $650,000
Walkway improvements
STP-R grant eligible
DeBruyn Avenue and First Street Sidewalk $245,000
TIB SCSP grant applied for
TA grant will be applied for 9/30

2018
First Street (Wharf to Park Ave) $577,500
Milling, overlay, sidewalk and ADA improvements
Not Eligible for STP-R grant
TIB Complete Streets grant possibility

2019
Anthes Reconstruction (1st Street to 2nd Street) $630,000
STP-R grant eligible

2020
Park Avenue milling and overlay (1st Street to 3rd Street) $330,000
STP-R grant eligible

2021
Third Street Overlay (Debruyn to Brooks Hill Road) $402,500
STP-R eligible

2022
Edgecliff Reconstruction and widening (Decker West to Camano) $880,000

Out Years
Saratoga Road Reconstruction (guardrail and widening) $1,250,000
Sandy Point Reconstruction (widening) $1,200,000
Edgecliff Reconstruction and widening (Decker to city limits) $500,000
Trail System Improvements various $500,000
Noble Creek, Middle School, Highlands to 6th Street
AGREEMENT FOR LEGAL SERVICES

I.
PARTIES

This Agreement is made on this ___ day of August, 2016, between the City of Langley, a Washington municipal corporation ("the City"), and Kenyon Disend, PLLC ("the Attorneys").

II.
SERVICES OF THE ATTORNEYS

The Attorneys shall provide the legal services set forth in this Agreement and shall work for the City at the pleasure of and under the direction of the Mayor. Michael Kenyon will serve as the City Attorney and will direct the services provided under this contract.

III.
QUALITY OF SERVICES

The Attorneys shall perform all legal services covered by this Agreement in a capable and efficient manner, and in accordance with the professional standards of the Washington State Bar Association. The Attorneys shall be available at all times for consultation and advice, including on weekends and holidays if needed, directly or through telephone, e-mail, or other forms of communication.

IV.
SERVICES PROVIDED

The City Attorney shall be principally responsible for performing all legal work for the City, except prosecution of criminal cases, where defense is provided through insurance coverage, matters in which a conflict of interest exists, or as may otherwise be assigned to other counsel by the Mayor. The following list of duties is illustrative, but is not necessarily inclusive, of the services to be performed by the Attorneys:

(1) Review or draft City ordinances, agreements, resolutions, interlocal agreements, and other legal documents as requested by the City;

(2) Represent the City in all lawsuits and other contested administrative proceedings commenced by or against the City, except where defense is provided through insurance coverage;

(3) Consult with and advise the Mayor, City Councilmembers and staff members in person, by telephone, e-mail, or by written memo on City business; and

(4) Attend regular City Council meetings and other meetings, as requested by the Mayor.
V. FEES AND COSTS

A. The City shall be billed for legal services described above at the Attorneys’ and paralegals’ regular hourly rates as set forth in Exhibit A. The Attorneys will also charge the City fifteen cents per page for photocopying and facsimile transmissions, twenty-one cents per page for color photocopying, and shall be reimbursed for travel time, legal messenger services, computerized legal research charges, filing fees advanced on behalf of the City, and other direct expenses without markup.

B. The Attorneys shall not charge the City for mileage reimbursement, ferry fares, or long-distance telephone charges.

C. The Attorneys’ current rates expressly account for any taxes or related charges (“charges”) imposed on professional service providers by the City and State of Washington. In the event that any such additional charges are imposed during the term of this Agreement, the Attorneys shall be entitled to recover any such additional charges as a reimbursable cost item on the Attorneys’ monthly billing statements.

VI. PAYMENT TERMS

Fees and costs are due in full from the City upon billing by the Attorneys. A service charge shall accrue at the rate of 12% per annum, but shall only be added to any balance remaining unpaid sixty (60) days after the statement date.

VII. TIME RECORDS

The Attorneys will maintain accurate time records describing the services performed and the dates upon which said services were performed, and shall provide a monthly statement to the City setting forth the time expended for such services.

VIII. AGREEMENT PERIOD

After City Council approval, this Agreement shall be in effect as of ____________, 2016, and shall remain in effect unless terminated as set forth herein. The Attorneys’ hourly rates for 2016 are reflected on the attached Exhibit A. The Attorneys’ hourly rates for subsequent calendar years shall be provided to the City on or before November 1 of the immediately preceding calendar year. Each party shall have the right to terminate this Agreement upon thirty days written notice.
IX.
INDEMNIFICATION/HOLD HARMLESS

The Attorneys shall defend, indemnify and hold the City and its officers and employees harmless from any suits brought against the City, and damages awarded as a result of such suits, arising out of or resulting from the fault of the Attorneys in performance of this Agreement, except to the extent of any fault of the City or its officers or employees.

X.
INSURANCE

The Attorneys shall maintain for the protection of the City a professional errors and omissions insurance policy with minimum coverage of one million dollars per claim and three million dollars annual aggregate.

CITY OF LANGLEY

By: 
Tim Callison, Mayor

KENYON DISEND, PLLC

By: 
Michael R. Kenyon
EXHIBIT A

KENYON DISEND, PLLC
HOURLY RATE SCHEDULE FOR YEAR 2016

ATTORNEYS:

Partners and Senior Attorneys:
Michael R. Kenyon $305.00
Bruce L. Disend $305.00
Kim Adams Pratt $270.00
Robert F. Noe $270.00
David A. Linehan $270.00

Associate Attorneys:
Rachel B. Turpin $175.00
Ann Marie Soto $170.00
Charlotte A. Archer $165.00
Amy S. Mill $150.00
Alexandra L. Kenyon $135.00

PARALEGALS:

Margaret C. Starkey $125.00
Sheryl A. Loewen $110.00
Pam M. Odegard $110.00
Kathy I. Swoyer $110.00
Terry T. Curran $110.00
Antoinette M. Mattox $100.00
STATEMENT OF QUALIFICATIONS

I. GENERAL INFORMATION

We founded Kenyon Disend, PLLC in 1993 for the express purpose of serving Washington cities. We now serve well over fifty cities, counties, and other public agencies as city attorneys and special counsel in litigation and other matters.

- We are the only firm in the state with a practice devoted to municipal law services, to the virtual exclusion of all other areas of law. We do not represent developers or others who take positions adverse to cities.

- Our firm currently serves as city attorneys for the cities of Black Diamond, Cle Elum, Duvall, Friday Harbor, Gold Bar, Lake Forest Park, Moxee, North Bend, Orting, Roslyn, Sammamish, Selah, Sultan, and Tukwila, and for the Town of Hunts Point.

- Our special counsel services, including litigation, tort defense, eminent domain, land use, code enforcement, labor and employment, telecommunications and cable, public records, open meetings, public contracting, and a wide variety of other legal services, are or have been provided to cities including Auburn, Bainbridge Island, Bellevue, Bellingham, Bothell, Burien, Covington, Des Moines, Everett, Federal Way, Kalama, Kelso, Kennewick, Kent, Kirkland, Lakewood, Longview, Mattawa, Olympia, Pullman, Puyallup, Renton, Richland, Ridgefield, Seattle, Shoreline, Spokane, Sunnyside, Tacoma, Toppenish, Union Gap, University Place, and West Richland, and to Lewis, Mason, and Pend Oreille Counties.

In providing municipal legal services, our firm is dedicated to the following three core values: Access, Timeliness of Response, and Value.

Access. Our accessibility, when you need it, has always been a hallmark of our service excellence.

Timeliness of Response. We provide timely, thorough responses to legal issues facing our clients. We move quickly to solve problems efficiently.

Value. Simply stated, no other municipal law firm compares to us with respect to value and service level received, in exchange for fees earned.
As proof of our commitment to these core values, we happily stand on our impeccable reputation for first-class municipal legal services at highly competitive rates. Our rates directly reflect the savings to our clients realized by foregoing extraneous marketing costs, downtown Seattle skyscraper office rent, and other easily controllable expenses.

We likewise invite you to review our website (www.KenyonDisend.com) for further information about our firm, our practice philosophy, and our clients. In particular, our clients will provide information far more useful than anything concocted in a marketing department about the firm’s people and services.

II. QUALIFICATIONS & EXPERIENCE

This firm exists solely to provide timely, professional, and comprehensive legal services to Washington cities and counties. The following briefly describes a portion of our more recent experience:

A. Municipal Legal Advice. We currently provide these services on an exclusive basis to fifteen cities as city attorneys, and to many others as special counsel. Our experience includes advice and counsel to mayors, city councils, planning commissions, civil service commissions, and many other advisory bodies. In addition, our service regularly entails advice and counsel to all city departments and managers.

B. Litigation. In addition to our regular general counsel services, please consider the following representative sampling of recent cases involving general municipal issues in which we have served as counsel:

- **Fury v. City of North Bend.** We successfully upheld the City’s right to conduct a reassessment for certain parcels within a Utility Local Improvement District, after the objecting property owners challenged the validity of the City ordinance creating the UILID and the amount of the assessments imposed on their properties for extension of a gravity sewer system.

- **Tukwila School District v. Tukwila,** 139 Wn. App. 1011 (2007). We successfully defended Tukwila in a matter challenging the validity of the City’s stormwater utility. Until the Court of Appeals affirmed Tukwila’s position, this case had been widely viewed as a precursor to challenges state-wide to the continued existence of stormwater utilities of many other cities.

- **Burns, et al. v. Seattle, et al.**, 161 Wn.2d 129, 164 P.3d 475 (2007). As lead counsel in superior court and on direct review in the Washington Supreme Court, we successfully defended the cities of Burien and Tukwila, and coordinated the joint defense efforts of all other suburban cities named in the suit, in a class action attempt to invalidate fees paid by Seattle City Light to suburban cities pursuant to a franchise fee agreement. Specifically, the class representatives sought entry of a declaratory judgment that payments made by Seattle City Light to each of the suburban cities pursuant to franchise agreements between them constituted an illegal utility tax and, accordingly, were void and unenforceable, as well as an injunction enjoining any future payments
by Seattle City Light to the suburban cities. In August 2007, the Supreme Court ruled in our favor, affirming the Superior Court's summary judgment order of dismissal.

- **Primm v. Medina**, 160 Wn.2d 430 (2006). In another Supreme Court victory for Washington cities, we successfully resisted a challenge to the authority of cities to conduct municipal court services by interlocal agreement.

- **New Cingular Wireless Litigation.** We represented a consortium of over 20 jurisdictions in Washington State, in an action filed against 132 municipal defendants seeking refunds of utility tax payments. After significant motion practice in federal court, this matter settled on very favorable terms.

- **Clear Channel v. Tacoma.** We defended the constitutionality of the City’s billboard removal program, assisted the City in policy development and code drafting to ban digital billboards, and successfully negotiated the removal of a substantial number of billboards City-wide.

C. **Land Use.** A substantial portion of our practice involves land use matters, including drafting ordinances, permit processing, administrative hearings, negotiating development agreements, and litigation. We regularly provide advice and guidance to city councils, planning agencies, and staff throughout the review and adoption process. We have significant knowledge and experience working with SEPA, the Growth Management Act, the Shoreline Management Act, zoning codes, and other key statutes and regulations. The firm has successfully handled numerous matters before the Growth Management Hearings Board, the Shoreline Hearing Board, the Pollution Control Hearings Board, and other state appellate boards, as well as LUPA cases in counties around the state. Mike Kenyon, Kim Adams Pratt, David Linehan and Ann Marie Soto lead our land use team.

The firm has been responsible for the conduct of more than 75 contested land use matters over the past several years. A representative - but by no means exhaustive - sampling includes:

- **City of Federal Way v. Town & Country Real Estate, LLC**, 161 Wn. App. 17, 252 P.3d 382 (Div. II 2011). In this case the developer appealed a SEPA Mitigated Determination of Nonsignificance ("MDNS") issued by the City of Tacoma, arguing that an MDNS condition requiring payment of traffic and stormwater mitigation fees to the City of Federal Way exceeded permissible SEPA mitigation. We assisted the City at the SEPA appeal hearing. The Hearing Examiner affirmed as to the stormwater fees, but ruled that traffic mitigation fees were improper. We filed a land use petition on behalf of Federal Way, and the Pierce County Superior Court reversed the Hearing Examiner and reinstated the traffic mitigation fees. We then also successfully defended the Superior Court's decision on appeal, and obtained a published opinion saving Federal Way over $250,000 in traffic mitigation fees.

- **National Wildlife Federation v. Federal Emergency Management Agency.** In this litigation brought under the Endangered Species Act ("ESA"), we represent Federal Way and thirteen other cities in support of the Federal Emergency Management Agency ("FEMA").
case brought just prior to Christmas, 2011, the National Wildlife Federation ("NWF") alleged that FEMA was violating the ESA's requirements to avoid taking listed salmon species, and was failing to properly "consult" with the agency with jurisdiction (here, the National Marine Fisheries Service, or "NMFS"), with respect to FEMA's National Flood Insurance Program. When new city councils were seated, we helped organize a coalition, filed a successful motion to intervene, and along with FEMA and a property owners' coalition, helped persuade the Court to deny NWF's requested preliminary injunction, which risked barring issuance of new flood insurance policies in most western Washington cities.

- **BD Lawson Partners, LP et al. v. Central Puget Sound Growth Management Hearings Board**, 165 Wn. App. 677, 689-90, 269 P.3d 300 (Div. I 2011); rev. denied 173 Wn.2d 1036 (2012). In this complex land use decision, we represented the City of Black Diamond when it issued two Master Planned Development ("MPD") Permit approvals for a total of 6,000 residential units and over one million square feet of commercial space. A citizen group challenged the MPD Permit approvals before both the Growth Management Hearings Board and in superior court (see TRD v. Black Diamond, below). After the Growth Management Hearings Board initially ruled that it had jurisdiction over the case, the Court of Appeals reversed, ruling that the MPD Permit was a permit and that project opponents may not collaterally attack prior legislative policy decisions during a permit appeal. The Supreme Court denied review.

- **Toward Responsible Development v. City of Black Diamond.** In this companion case to BD Lawson Partners, we also defended a citizen group's LUPA petition challenging the City of Black Diamond's approval of two MPD Permits and the adequacy of the Final Environmental Impact Statements on which they were based. The LUPA petition included civil rights claims under 42 U.S.C. §1983, alleging denial of Petitioners' First Amendment rights to petition their elected officials. The case was removed to federal court, but the state law (LUPA and SEPA) claims were subsequently remanded to superior court with the federal court retaining jurisdiction over the federal civil rights claims. The federal law claims were dismissed on motion without opposition following the Court of Appeals' decision in BD Lawson Partners (above). On August 27, 2012, after receiving over 200 pages of briefing from Petitioners alone, the Superior Court denied the land use petition.

- **Jones v. Hunts Point.** We defended the Town of Hunts Point's decision to reject a short plat application due to language on the face of the underlying, recorded plat effectively barring reduction in the size of the lots. The Town's Hearing Examiner affirmed, and the property owners filed a LUPA petition. We successfully defended the Town's decision before the Superior Court and the Court of Appeals, and the Supreme Court denied review. Both the Court of Appeals and the Supreme Court awarded the Town attorney fees; the Court of Appeals' decision also awards the Town its consultant and hearing examiner expenses incurred at the administrative level.

- **Heller v. Bellevue**, 147 Wn. App. 46 (Div. I 2008). We defended a City stop-work order issued to halt work on a commercial remodel in excess of that allowed by the applicable building code. We assumed the City's defense after the trial court granted the property owner's LUPA petition. On appeal, we persuaded the Court of Appeals to reverse...
the trial court’s erroneous ruling, and obtained a published decision reaffirming cities’ rights to invalidate improperly granted building permit amendments.

- **R.D. Manning v. Kenmore.** Here, the City hearing examiner invalidated City permit conditions requiring the developer of a large multi-family development to acquire private property from adjacent landowners for subsequent dedication to the City as road right-of-way to serve the project. We represented the City in its LUPA appeal, and the examiner’s decision was reversed on the merits.

- **Heller, et al. v. City of Sammamish and John F. Buchan Homes, Inc.** We defended Sammamish in this multi-week, multi-party challenge to the City’s approval of a 132-lot subdivision located on 56 acres. Issues raised in the matter included SEPA and transportation concurrency. We successfully defended the City’s SEPA determination and plat approval at hearings conducted before the City hearing examiner and in King County Superior Court.

- **Maple Valley Citizens for Responsible Growth v. City of Maple Valley and Brown Family.** A citizen group challenged the City’s approval of the subdivision of a former equestrian center into 65 residential lots on 16 acres of land. We successfully defended the subdivision approval before the City hearing examiner, the City Council, and the State Shorelines Hearings Board.

D. **Eminent Domain.** Mike Kenyon, Kim Adams Pratt, and David Linehan lead our firm in this area. Over the recent past, we have been involved in the successful negotiation or litigation of literally dozens of cases in eminent domain. Representative recent cases include:

- **Bellevue NE 4th Extension Improvements.** We represented the City of Bellevue regarding this important transportation improvement project that involved acquisitions from several significant commercial property owners, including Best Buy, Home Depot, the Port of Seattle and Burlington Northern Railroad.

- **Bellevue 120th Avenue NE Improvements.** We successfully represented the City of Bellevue in completing the Phase 1 acquisitions, including three petitions in eminent domain involving operating commercial and retail properties. We have also been retained to begin work on Phase 2, which involves more than 10 additional acquisitions.

- **Kenmore Flood Reduction Improvements.** We represented the City in its acquisition of a total of six parcels by pre-condemnation negotiation and successful mediation.

- **Puyallup – 39th Avenue Extension.** We successfully negotiated with five commercial property owners for multi-million dollar total acquisitions necessary for construction of a new five lane street in the heart of the South Hill retail corridor, and obtained a highly favorable verdict after trial with the sixth property owner. The project involved complex negotiations with WSDOT and private property owners in order to resolve multi-million dollar claims by the property owners that the project substantially impaired access to and from a state
route and city streets. Our services also resulted in the successful relocation and retention within the City of an operating bank and large home improvement center.

- **Newcastle – Coal Creek Parkway and Transit Center Projects.** We represented Newcastle in this regionally significant project involving the completion of a four-lane arterial, which provides substantial congestion relief for traffic that would otherwise use Interstate 405.

- **Sammamish – 244th Avenue Extension Project.** We represented Sammamish in the acquisition by both voluntary negotiation and eminent domain of four parcels to complete this important new north-south arterial necessary to relieve significant peak hour traffic congestion.

E. **Labor and Employment Law.** Our firm has substantial experience with employment litigation, employment investigations (e.g., workplace harassment complaints), union negotiations, grievance and disciplinary matters, PERC hearings, and Civil Service Commission matters. Ann Marie Soto and Rachel Turpin lead our practice in this area. We have served as bargaining representative for Duvall, DuPont, North Bend, Orting, and Union Gap in collective bargaining with police, fire and general bargaining units.

F. **Code Enforcement.** As city attorneys, our firm has extensive experience in code enforcement, both at the district court and superior court levels. We negotiate resolutions to code enforcement issues with literally dozens of property owners every year. In unusual cases, where negotiations are unsuccessful, we are well equipped to litigate these issues. Three recent cases include:

- **Burien v. Lipscomb.** The City brought lawsuit for nuisance abatement against the property owners of an apartment complex for multiple violations of the municipal code, housing code, and building code. We obtained an injunction requiring the evacuation and relocation of the apartment tenants, and also recovered $200,000 for the City in costs and penalties.

- **Burien v. Traut.** After attempting to work cooperatively with property owners who had constructed a garage and living quarters in the right-of-way, the City obtained a judgment and injunction requiring removal of the structure and reimbursement of the City’s legal and other fees.

- **Bothell v. Suarez and Flanagan.** Similar to the Burien v. Lipscomb matter, the City brought lawsuit for nuisance abatement against the property owners of an apartment complex for multiple violations of the municipal code, housing code, and building code. The City obtained an injunction and other relief, including the evacuation and relocation of the apartment tenants. The apartment complex was then rehabilitated in compliance with all applicable code provisions. The City prevailed on summary judgment, and the Court entered a Judgment in favor of the City and against the property owners for almost $90,000 in costs and penalties. The Court of Appeals affirmed the Judgment in the City’s favor.
G. Telecommunications, Cable, Open Video, and Private Communications Issues as Applied to Municipal Governments. David Linehan and Charlotte Archer lead our practice in this area. We have advised multiple cities on telecommunications, cable, and private communication issues and related right-of-way management issues. We have drafted and negotiated franchise agreements and agreements for use of a city’s institutional network. We are regularly involved in negotiation of cable and telecommunication franchise agreements and site lease agreements for placement of wireless communication facilities, as well as other common carrier public rights-of-way issues.

H. Public Construction Law. Given the breadth of our municipal practice, we are regularly involved with the pre-design, design, construction, and maintenance of public works projects of many sizes and types. Bob Noe and Rachel Turpin lead our firm in this area. Our experience includes large and small street and sidewalk projects, water and sewer LIDs, waste water treatment plant reconstruction and expansion, acquisition and construction of several city halls, and much more.

A few representative examples of the firm’s experience include:

- **Titan Earthwork, LLC v. City of Federal Way.** After a subcontractor struck a PSE powerline while excavating as part of a City of Federal Way intersection improvement project, the City’s general contractor sued the City seeking to recover the money that it paid to PSE as damages. We represented the City and prevailed at summary judgment. We also obtained an award of attorney fees in the City’s favor for having to defend against the lawsuit.

- We were instrumental in the multi-million dollar property acquisitions and street improvements on SR 522 along the northern shore of Lake Washington, and assistance with multi-million dollar acquisitions and property assemblages for significant downtown redevelopment projects in Burien, Tukwila, and Kenmore.

- **Sound Transit Light Rail.** We served as lead attorney for the City of Tacoma and the City of Tukwila on this $80,000,000 project which involved the construction of a 1.6 mile light rail line by Sound Transit in Tacoma, and over one mile of line and a light rail station in Tukwila. The project required development of multiple agreements for the use and occupancy of the public right of way for construction and operation of the light rail line and related relocation of public utilities.

I. Open Public Meetings Act and Public Records Act. Ann Marie Soto and Mike Kenyon lead our practice here. Given the exclusive municipal nature of our practice, we advise clients on a routine basis regarding the application of the OPMA and the PRA, and their exceptions and exemptions. Our firm provides regular training to public agencies and public officials regarding these Acts, and members of our firm frequently serve as guest lecturers on these issues. A few representative examples include:
- Block v. City of Gold Bar, Court of Appeals Case No. 68163-0-1 (2013). Plaintiff alleged that the City violated the PRA by failing to properly respond to her requests for public records. The case was dismissed on the City’s motion to dismiss for Plaintiff’s failure to comply with the Court’s order for sanctions. The trial court’s dismissal was affirmed by Division One of the Court of Appeals.

- Block, et al. v. City of Gold Bar and Gold Bar City Council, Court of Appeals Case No. 70321-8-1 (2014). Plaintiffs claimed that the City Council violated the OPMA by unlawfully voting during an executive session. This case was dismissed on the City’s motion for summary judgment and the dismissal was upheld by Division One of the Court of Appeals.

- Block v. City of Gold Bar, 189 Wn. App. 262 (Div. 1 2015). Plaintiff claimed the City violated the PRA by failing to adequately search for public records, improperly redacting and withholding records under the attorney-client and work product privileges, and failing to adequately identify exempt records on the City’s exemption logs. The case was dismissed on the cross-motions for summary judgment. Division One of the Court of Appeals upheld the dismissal in its recently published opinion.

- Block v. City of Gold Bar, Snohomish County Case No. 15-2-04786-6. Plaintiff claimed the City violated the PRA by failing to properly respond to eleven public records requests. The case was dismissed on the City’s motion to dismiss based on Plaintiff’s failure to comply with an earlier order issued by the Court under CR 12(e) in September of 2015.

- Block v. City of Gold Bar, Snohomish County Case No. 11-2-04307-8. Plaintiff claimed the City violated the PRA by failing to timely respond to her requests for public records. Plaintiff also alleged that purely personal e-mails of the City’s elected officials maintained in personal e-mail accounts were subject to disclosure under the PRA. The case was dismissed on the City’s motion for summary judgment in September of 2015.

- Forbes v. Gold Bar, 171 Wn. App. 857, 288 P.3d 384 (2012). Citizen alleged violations of the Public Records Act, claiming the City of Gold Bar failed to timely respond to her requests for public records. Plaintiff also alleged that purely personal e-mails of the City’s elected officials maintained in personal e-mail accounts were subject to disclosure under the PRA. The superior court entered summary judgment in the City’s favor, plaintiff appealed, and the Court of Appeals affirmed that dismissal.

- Clawson v. Corman. A sitting City Councilmember (and practicing attorney) filed suit against fellow Councilmembers, alleging violations of the OPMA. We successfully moved to dismiss this case on summary judgment. The plaintiff Councilmember appealed the dismissal, and the Court of Appeals affirmed the superior court’s order of summary judgment in favor of our Councilmember clients.
III. HOURLY RATES

In limiting our practice to municipal law, we have developed efficiencies and economies of scale that provide substantial value to our clients. Our substantial experience usually allows us to perform a task in less time than attorneys who represent cities on a less than full-time basis. In many instances, our paralegal staff can initially prepare a document or otherwise undertake certain services for which other firms would assign attorneys at substantially higher rates. For a list of our firm’s current hourly rates, please contact us.

IV. REFERENCES

We invite you to contact any of our clients, including the following references, to discuss our services:

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