

FILED

FEB 05, 2014

Court of Appeals
Division III
State of Washington

No. 318877

**COURT OF APPEALS OF THE STATE OF
WASHINGTON, DIVISION III**

SPOKANE ENTREPRENEURIAL CENTER, ET AL.,

Respondents.

v.

ENVISION SPOKANE,

Appellant,

and

SPOKANE MOVES TO AMEND THE CONSTITUTION, VICKY
DALTON, SPOKANE COUNTY AUDITOR, in her official capacity,

Defendants,

and

THE CITY OF SPOKANE,

Respondents.

Appeal from the Superior Court for Spokane County
Cause No. 13-02-02495-5

RESPONSE BRIEF OF THE CITY OF SPOKANE

Michael K. Ryan, WSBA # 32091
Thaddeus O'Sullivan, WSBA #37204
Special Counsel
K&L GATES LLP
925 Fourth Ave., Suite 2900
Seattle, WA 98104-1158
Telephone: (206) 623-7580
Facsimile: (206) 623-7022
michael.ryan@klgates.com
thad.o'sullivan@klgates.com

Nancy L. Isserlis, WSBA # 11623
Nathaniel J. Odle, WSBA #39602
OFFICE OF THE CITY ATTORNEY
808 W. Spokane Falls Blvd.
5th Floor Municipal Building
Spokane, WA 99201-3326
Telephone: (509) 625-6225
Facsimile: (509) 626-6277
nisserlis@spokanecity.org
nodle@spokanecity.org

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INTRODUCTION AND BACKGROUND

This case involves the City of Spokane's local initiative process. Spokane's local initiative process is important to the City and to its citizens, and the City submits this brief to inform the Court of its views on several issues raised by Envision Spokane ("Envision").

Unlike the statewide power of initiative, the City's local initiative process is a creature of statute and of the Spokane City Charter. Given this difference in origin, courts necessarily analyze preelection challenges to local initiatives differently than they do similar challenges to statewide initiatives. Also, Envision presents a new argument on appeal regarding the people's inherent right to self government, which if accepted raises several practical concerns for the City and municipalities throughout the State. Although the City takes no position on the underlying merits of this appeal, *i.e.*, whether the Envision Initiative ("Initiative") is outside the scope of the City's initiative power; the City respectfully requests that *if* this Court determines any portion of the Initiative is invalid that it affirm the trial court's decision that the Initiative should not be placed on the ballot. Doing so protects the City, its initiative process, and avoids confusing, frustrating and fatiguing the voters.

RESTATEMENT OF THE FACTS

While the City generally agrees the facts Envision presents, it adds the following to illuminate several of the issues presented on appeal.

A. The City of Spokane and Its Charter-Created Initiative.

The City is a municipal corporation of the first class. *Walker v. City of Spokane*, 62 Wash. 312, 315, 113 P. 775 (1911). As such, the City has the authority under the Washington State Constitution to frame its own charter, which is “subject to and controlled by general laws.” *Id.* (citing Wash. Const. art. XI, § 10). The City exercised that power and adopted the Spokane City Charter, which has been in effect for over one hundred years and been amended numerous times.¹

While the legislative authority of the City is “vested in a mayor and city council,” a charter city such as Spokane “*may provide* for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city.” RCW 35.22.200 (emphasis added); *accord Hartig v. City of Seattle*, 53 Wash. 432, 435, 102 P.2d 408 (1909) (“under the power of the Constitution . . . there can be no question of *the right of the city* to adopt and carry into effect the initiative and referendum plan of government[.]”).

¹ The current version of the Spokane City Charter is available at <http://www.spokanecity.org/services/documents/charter/> (last visited Feb. 4, 2014).

(emphasis added). Spokane has exercised that discretionary right, and Spokane's Charter provides for an initiative process. *See* Spokane City Charter, art. IX, §§ 81-82 & art. XIV, § 125. Chapter 02.02 of the Spokane Municipal Code ("SMC") governs the procedures relating to how Spokane residents may exercise their charter-granted rights of initiative and referendum.² Thus, while Spokane has chosen to provide its citizens with the ability to directly legislate, it controls the methods and means of how such legislation may be presented to the people.

B. Submission of the Initiative.

On April 12, 2012, Envision submitted the Initiative under the former "direct filing" process established by the SMC to the Spokane City Clerk, who assigned the Initiative a number (2012-3). CP 39-41. On April 10, 2013, Envision filed with the City Clerk the petition signatures. *Id.* at 108. As required by SMC 2.02.080, the City Council held a hearing and a first reading on April 22, 2013. *Id.* At that point, the City Council had the option of (1) granting the petition and passing the Initiative into law; (2) accepting the petition but declining to pass it and requesting that the signatures be validated; (3) proposing an alternative measure; or (4) determining whether the petition was legally invalid. Appendix A at §

² The current version of the SMC is available at <http://www.spokanecity.org/services/documents/smc/?Chapter=02.02> (last visited Feb. 4, 2014).

02.02.080.³ The City Council chose the second option. On May 2, the Spokane County Auditor (“Auditor”) verified that the Initiative proponents collected a sufficient amount of valid signatures. CP 108.

On May 20, as required by the SMC, the Council held another hearing and the Initiative was given a second and final reading. *Id.* The SMC requires that upon a final reading “(B) *Unless a motion is made and passed to grant the petition and pass the measure* as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election.” Appendix A at § 02.02.100(B) (emphasis added). In addition, the City Council was also required to “adopt[] a ballot title and summary of the measure.” *Id.* at (C). The City Council declined to adopt the Initiative into law and passed the resolution required by SMC 02.02.100; thus, requesting that the Auditor schedule a special election in November 2013. CP 108-09. Based on the requirements of the SMC and Spokane Charter, any suggestion that the Council endorsed the Initiative or that it was exercising any “law-making

³ Appendix A contains the relevant SMC provisions that govern the Envision Initiative, portions of which have since been amended.

rights” by following the required procedures mischaracterizes the nature of what actually occurred. *See* Envision Brief at 40.⁴

On June 12, 2013, the Spokane City Clerk forwarded the resolution to the Auditor, requesting that the Initiative be placed on the November 5, 2013 ballot. CP 104-109. The “ballot title” for the Initiative reads:

Shall the City Charter be amended to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood residents to reject development which violates the City Charter or the City’s Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations?

CP 111. Thus, the ballot title is not simply the “Community Bill of Rights,” as Envision claims. *See* Envision Brief at 43.

In June 2013, several businesses, individuals and Spokane County filed a lawsuit, naming (among others) the City as a defendant. CP 1-66.

In the proceedings below, the City took no position on whether the Initiative was within the scope of the local initiative power. The City did,

⁴ The Council also considered a nonbinding resolution requesting that Spokane’s Mayor pursue a legal challenge regarding the validity of the Initiative, which was rejected in a 4-3 vote. *See* Vol. 103 *Official Gazette, City of Spokane, Washington*, Issue 22 at 591. The resolution also addressed another initiative that is not at issue here. It was advisory because the ultimate decision to file preelection lawsuit rested within the discretion of the Mayor. For ease of reference, a copy of the relevant *Official Gazette* is attached hereto as Appendix B.

however, take the position that *if* the Initiative was declared invalid that it should not appear on the ballot. In the City's view, placing an invalid initiative on the ballot (1) wastes taxpayer dollars and (2) harms the City's initiative process and voters. CP 251-55. During the initial appellate proceedings where Envision requested a stay, the City filed a brief noting that the Initiative should not be placed on the ballot unless and until a court declared it valid. The City also requested that Envision post a bond to cover any costs associated with an election given that the election would be nothing more than a nonbinding expression of public opinion unless a court declared the Initiative valid.⁵

ARGUMENT

A. The Local Initiative Power is Not Coextensive With the State Initiative Power.

Envision's attempts at equating the City's initiative process with the statewide initiative power should be rejected. *See* Envision Brief at 8 (citing *Coppernoll v. Reed*, 155 Wn.2d 290, 119 P.3d 318 (2005)); *see also* Envision Brief at 14 (citing Wash. Const. art. II, § 1). The two are not coextensive because they derive from different sources. Put simply, the local initiative power is more limited than the statewide initiative

⁵ Envision did not ask the Commissioner to reverse the ruling that the Initiative was outside the scope of the local initiative power. Rather, it only requested that the Initiative be placed on the ballot. The City's Brief on that Motion was filed with this Court on August 30, 2013.

power. This key distinction, which Envision refuses to acknowledge, must be kept in mind when evaluating Envision's arguments because it impacts the level of scrutiny courts apply when assessing a preelection challenge such as this.

The City's initiative process is authorized by State statute and the City Charter, and does not derive from the Washington State Constitution. *City of Port Angeles v. Our Water-Our Choice*, 170 Wn.2d 1, 8, 239 P.3d 589 (2010) ("However, Amendment 7 does not apply to municipal governments, which under our constitution are not fully sovereign."). The Court of Appeals recently emphasized:

The initiative power here does not derive from our state constitution; rather it has been authorized by statute. Thus, the constitutional preeminence of the right of initiative discussed in *Coppernoll* is not a concern in the present case, and *the local powers of initiative do not receive the same vigilant protection as the constitutional powers addressed in Coppernoll.*

City of Longview v. Wallin, 174 Wn. App. 763, 790, 301 P.3d 45 (2013) (emphasis added; internal citations & quotations omitted), *rev. denied*, 178 Wn.2d 1020 (2013). As a result of this difference in origin, courts will scrutinize more closely the substance of a local initiative when evaluating a preelection challenge. *Coppernoll*, 155 Wn.2d at 299 ("we have allowed limited preelection review of the third type of challenge" and "[t]hese challenges usually address *the more limited powers of initiatives under*

city or county charters, or enabling legislation.”) (emphasis added); *see also City of Port Angeles v. Our Water-Our Choice*, 145 Wn. App. 869, 879-80, 188 P.3d 533 (2008) (“Where substantive review of a state-wide initiative is inappropriate, a similar review for a local initiative is warranted given the greater restrictions placed upon them.”), *aff’d in relevant part*, 170 Wn.2d 1, 8 (2010). These cases make clear that the local initiative power does not stand on equal footing with the statewide initiative power because one derives from the Washington Constitution, while the other is a matter of grace by local governments.

While article II, section 1(a) (aka Amendment 7) of the Washington Constitution “reserve[s]” the power of direct statewide legislation to the people, the power of direct legislation at the local level is one that first class cities pursuant article XI, section 10 and RCW 35.22.200 “may provide” to the people. *See also Hartig*, 53 Wash. at 435. In other words, the local initiative power does not inhere in the people, nor has it been reserved to them vis-à-vis the State Constitution; rather it is only provided when a local government chooses to provide such a process. Thus, Envision’s attempt to engraft the jurisprudence regarding statewide initiatives, which recognizes the constitutional solicitude courts apply when assessing a preelection challenge to a statewide initiative, onto similar challenges regarding local initiatives must be rejected.

B. If This Court Considers Envision’s New Arguments on Appeal, There are Several Practical Concerns It Should Consider.

In the trial court, Envision argued that the local initiative process was constitutionally protected based on numerous provisions of the Washington State Constitution. *See, e.g.*, CP 124 at ¶ 4. Envision has abandoned these claims on appeal. In their place, however, is a new argument: That the local initiative process is merely an extension of the *people’s* “constitutionally-guaranteed right to local self government” and that such a right would be violated by not placing the Initiative on the ballot or by ruling on whether the Initiative is within the scope of the local initiative power. Envision Brief at 7; *see also id.* at 29-43.⁶

Because this argument is being raised for the first time on appeal, this Court should not consider it. *See, e.g., Eyman v. McGehee*, 173 Wn. App. 684, 699, 294 P.3d 847 (2013) (refusing to address contention that local initiative was constitutionally protected because it was raised for the first time on appeal); *State v. Kirkman*, 159 Wn.2d 918, 926, 155 P.3d 125 (2007) (“The general rule is that appellate courts will not consider issues raised for the first time on appeal.”).

⁶ Although unclear, Envision appears to claim that such a right exists under the Federal and State Constitutions. *Compare* Envision Brief at 37 (“the inherent right to self-government recognized by the state and federal constitutional frameworks”), *with id.* at 30 (“Washington Constitution guarantees the people’s inherent right to local self government.”).

While the City will not spend time debating the merits of Envision's unique view of the law, it is sufficient to say that no such right *expressly* exists in either the United States or Washington State Constitutions.⁷ In assessing Envision's claim, this Court should consider several practical concerns because Envision's theory would convert an otherwise discretionary decision to allow for a local initiative process into one that is required by either (or both) the Federal and State Constitutions. The recognition of such a right would have unsettling consequences for municipalities throughout the State, including Spokane.

According to the Municipal Research and Services Center, as of January 2006, "[o]f the 281 incorporated cities in the state, less than 50 have adopted the powers of initiative and referendum." *Initiative and Referendum Guide for Washington City and Charter Counties, Report No. 28*, Municipal Research and Services Center, at Preface (Jan. 2006), available at <http://www.mrsc.org/publications/irg06.pdf> (last visited Feb. 4, 2013).⁸ Thus, if this Court were to adopt Envision's position, and

⁷ See, e.g., Philip A. Trautman, *Initiative and Referendum in Washington: A Survey*, 49 Wash. L. Rev. 55, 76 (1973) ("the state constitution contains nothing relating specifically to initiatives or referendums at the local level government.").

⁸ In fact, certain local governments "lack the authority to establish initiative and referendum powers," and, at most, can have processes for voting on non-binding advisory ballots. *Id.* at 3 (discussing second class cities and towns).

recognize a constitutional right to local self government and determine that the local initiative power is merely an extension of that right, it would require the vast majority of Washington's local governments to adopt procedures allowing for local initiative processes, lest they be in violation of the United States and Washington Constitutions.

Moreover, the recognition of such a right would create the potential for a flood of litigation surrounding how local initiative processes are run and administered. As noted above, the SMC provides a detailed set of rules and regulations regarding Spokane's initiative process. If that process was constitutionally protected in the manner asserted by Envision, then those regulations would be subject to constitutional restrictions potentially akin to those employed by courts when addressing First Amendment and Equal Protection challenges. For example, would such regulations be subject to strict scrutiny, intermediate scrutiny or rational basis review? Would they be protected by 42 U.S.C. § 1983, and therefore subject offending local governments to attorney's fees under 42 U.S.C. § 1988? Envision's brief, while asking this Court to recognize a constitutional right that does not expressly exists, addresses none of these practical concerns. Accepting Envision's entreaty to recognize such a right has the potential to upset historical practices and years of how our government, at both the State and local level, has been structured and

administered. Before recognizing any such right, this Court should consider the practical implications of such recognition.

C. If the Court Determines the Initiative is Outside the Scope of the Local Initiative Power, It Should Not Be Placed on the Ballot.

Envision argues that even if this Court determines that the Initiative is outside the scope of the local initiative process, it should nevertheless be placed on the ballot. *See* Envision Brief at 44. This argument should be rejected.

As an initial matter, the trial court did not enter a preliminary injunction barring the Initiative from being placed on the ballot. Rather, after denying the plaintiffs' injunctive request, the court later granted declaratory relief declaring that the Initiative "shall not appear on the November 5, 2013 ballot," directing the Auditor to not place the Initiative on the ballot. CP 460-64.⁹ Thus, Envision must be claiming that the trial court's declaratory judgment was a *de facto* permanent injunction. In light of the procedural history of this case, this view is simply incorrect.

In the trial court (and during the initial appellate proceedings), the City expressly argued that *if* the Initiative was declared invalid, it should not be placed on the ballot given the financial harm to the City and the

⁹ In rejecting Envision's request for an emergency stay, Commissioner McCown recognized that the order being reviewed was one for declaratory relief and not injunctive relief. CP 466.

harm to the local initiative process. *See, e.g.*, CP 251-55. For this reason, Envision's reliance on *American Traffic Solutions, Inc. v. City of Bellingham*, 163 Wn. App. 427, 260 P.3d 245 (2011), is misplaced.

There, the court expressly noted that it was not granting injunctive relief because the City of Bellingham, "which will bear" the cost of an election "has not participated in this action and has not requested injunctive relief." *Id.* at 435 n.4. Unlike that case, the City of Spokane has consistently maintained that *if* the Initiative was declared invalid, that it should not be placed on the ballot. The fact that the City has participated in this case from the outset, and is here now asking this Court to keep the Initiative off the ballot if it determines that the Initiative is invalid takes this case outside of the rule Envision extracts from *American Traffic Solutions*.

From a practical perspective, the rule advanced by Envision is unsound because such a bright-line rule would be harmful to municipalities and to the local initiative power itself. The reason for this is twofold.

First, elections cost money. There will be costs to City taxpayers to place the Initiative on the ballot and to hold a special election on the Initiative. If the Court affirms the trial court and determines that the Initiative is outside the scope of the local initiative power, but agrees with Envision that the Initiative must nonetheless be placed on the ballot, the

City will have to unnecessarily spend taxpayers' dollars on an election that is without any legal force or effect. This is contrary to settled authority. *See, e.g., Philadelphia II v. Gregoire*, 128 Wn.2d 707, 718, 911 P.2d 389 (1996) (noting pre-election review of statewide initiative was proper "to prevent public expense on measures that are not authorized by the constitution"); *City of Yakima v. Huza*, 67 Wn.2d 351, 360, 407 P.2d 815 (1965) ("We are holding only that the city cannot be ordered to hold an election in this instance because it would be requiring the city to perform a useless act, and to expend funds uselessly."); *Wallin*, 174 Wn. App. at 782 ("We have recognized that requiring a city to place an invalid initiative on the ballot would result in an undue financial burden on local government."); *Save Our Park v. Hordyk*, 71 Wn. App. 84, 92, 856 P.2d 734 (1993) (recognizing "public funds should not be expended needlessly to place an initiative that violates the county code on the ballot."); *State ex rel. Brant v. Beermann*, 350 N.W.2d 18, 22 (Neb. 1984) ("Government should be spared the burdensome cost of election machinery as a straw vote on the electorate's opinions, sentiments, or attitudes on public issues."); *cf. Eyman*, 173 Wn. App. at 696 (affirming denial of writ of mandamus where "transmission of [invalid] initiative would have been a useless act").

Second, placing an invalid initiative on the ballot and having the voters vote on such an initiative undermines the integrity of the local initiative process, by turning the process into a vehicle requiring an election on what amounts to nothing more than a nonbinding expression of public opinion. In fact, the Spokane City Charter specifically requires “the initiative shall be exercised in the following manner,” requiring that the “proposed legislation or measure [must be] in the form of a proposed ordinance.” Spokane City Charter, art., IX, § 82(A). The Spokane City Charter also says that if a majority of voters vote in favor of the “proposed ordinance” then it shall “become effective as a law or as a mandatory order to the council.” *Id.* at art. IX, § 87. Thus, the City Charter does not contemplate the voters voting on nonbinding expressions of public opinion; rather, it only addresses the voters voting on laws that will become effective upon a majority vote of the people.

The City (and presumably other local governments throughout the State) has significant concerns regarding the integrity of its own initiative process and the prospect of voter confusion. Not every individual who votes on an invalid initiative will necessarily understand that what they are voting for will have no legal force and effect. As the California Supreme Court said:

Although real party in interest recites the principles of popular sovereignty which led to the establishment of the initiative and referendum in California, those principles do not disclose any value in putting before the people a measure which they have no power to enact. The presence of an invalid measure on the ballot steals attention, time and money from numerous valid propositions on the same ballot. It will confuse some voters and frustrate others, and an ultimate decision that the measure is invalid, coming after the voters have voted in favor of the measure, tends to denigrate the legitimate use of the initiative procedure.

AFL-CIO v. Eu, 206 Cal. Rptr. 89, 95, 686 P.2d 609 (1984). Thus, a blanket rule requiring the placement of an invalid initiative on the ballot and having the voters vote on such an initiative undermines the integrity of the local initiative process and leads to voter frustration, confusion and fatigue.

Also, the local initiative power is not a forum in which every individual or group has the legal right to place before the voters any initiative that meets the procedural requirements of the City Charter and the SMC. *See, e.g., Philadelphia II*, 128 Wn.2d at 718 (rejecting notion that once procedural requirements are met an initiative must be placed on the ballot); *Wallin*, 174 Wn. App. at 786-87 (holding advisory vote was beyond the scope of the local initiative power); *see also Angle v. Miller*, 673 F.3d 1122, 1133 (9th Cir. 2012) (“There is no First Amendment right to place an initiative on the ballot.”); *Protect Marriage III. v. Orr*, 463 F.3d 604, 606 (7th Cir. 2006) (“A state no more has a federal

constitutional obligation to permit advisory questions on its ballot than it has to permit them to be painted on the walls of the state capitol.”); *Proulx v. Salt Lake City Recorder*, 297 P.3d 573, 576 (Utah 2013) (“the initiative power is limited, and its limitations do not encompass resolutions that are purely advisory.”); *In re Initiative Petition No. 364*, 930 P.2d 186, 193 (Okla. 1996) (“The people have no reserved authority to propose nonbinding resolutions by the initiative process.”); *Beermann*, 350 N.W.2d at 21-22 (“a measure seeking an advisory vote of the electorate or a nonbinding expression of public opinion on a question is not a proper subject for the initiative.”) (citing and discussing cases). Put simply, no one’s rights will be implicated, let alone harmed, by not placing an invalid initiative on the ballot.

The local initiative power is designed to pass laws, not to serve as a forum for political expression or as a method of taking a public opinion poll. *Cf. Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 453 n.7, 128 S. Ct. 1184, 170 L. Ed. 2d 151 (2008) (“Ballots serve primarily to elect candidates, not as forums for political expression.”) (quotation omitted). As Judge Posner aptly explained:

The submission of binding questions to the electorate--the initiative, as in this case, or the referendum--is a technique of direct, as distinct from representative, democracy. It allows the people to vote directly for a law rather than indirectly by voting for the lawmaker. We do not think that

by opting for a measure of direct democracy a state obliges itself to allow the ballot also to be used as a means for pure advocacy. Such an obligation would have no basis in the logic of the First Amendment. Direct democracy is not an interference with the marketplace of ideas; it therefore does not put the state under an obligation to compensate for such interference by taking measures to promote or enlarge that marketplace, as by allowing the ballot to be used to take official polls on controversial issues of public policy.

[* * *] But the ballot in DuPage County, Illinois is in fact not a vehicle for communicating messages; it is a vehicle only for putting candidates and laws to the electorate to vote up or down.

Georges v. Carney, 691 F.2d 297, 300-01 (7th Cir. 1982).

Spokane's local initiative belongs to every citizen in Spokane, not just those groups or individuals seeking placement of initiatives on the ballot. The integrity of the local initiative process is therefore important to the public as a whole and the City is here defending its process. Using the local initiative process to have citizens vote on nonbinding expressions of public opinion is not only prohibited by the City Charter, but it also creates the very real possibility of confusing, frustrating and fatiguing the voters of Spokane. Consequently, the local initiative power is enhanced, not hurt, by protecting the initiative process from futile elections.

D. Voter Confusion Must Be Considered in Assessing Severability.

Envision's view of severability is too narrow and fails to take into account the possibility of voter confusion. Ballot titles must be clear and

should not confuse the voters. *Municipality of Metro. Seattle v. City of Seattle*, 57 Wn.2d 446, 357 P.2d 863 (1960) (“A ballot title must apprise a voter of the proposal being considered.”). This rule “has particular importance in the context of initiatives since voters will often make their decision based on the title of the act alone, without ever reading the body of it.” *Citizens for Responsible Wildlife Mgmt. v. State*, 149 Wn.2d 622, 639, 71 P.3d 644 (2003); *see also Wash. Assoc. for Substance Abuse & Violence Prevention v. State*, 174 Wn.2d 642, 667, 278 P.3d 632 (2012) (“when laws are passed, people should know what is in them, especially those voting on the laws.”) (Wiggins, J., dissenting). Courts assess ballot titles when conducting a severability analysis in a preelection challenge. *City of Seattle v. Yes for Seattle*, 122 Wn. App. 382, 394-95, 93 P.3d 176 (2004).¹⁰

Envision claims that the ballot title is “Community Bill of Rights;” thus, severing certain portions of the Initiative would not be misleading to the voters. *See* Envision Brief at 43. This is not true for two reasons.

First, the actual “ballot title” is:

Shall the City Charter be amended to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood

¹⁰ The fact that the Initiative contains a severability clause is not dispositive. *McGowan v. State*, 148 Wn.2d 278, 295, 60 P.3d 67 (2002).

residents to reject development which violates the City Charter or the City's Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations?

CP 111. Thus, if this Court were to determine, for example, that only the "neighborhood rights" provision was invalid, the citizens of Spokane would be reading (and voting on) a ballot title that was wholly misleading because the title itself would contain provisions that are not going before the voters. The voters of Spokane should not be given a false choice. Given this possibility, if this Court declares any portion of the Initiative invalid, it should not sever the valid portions of the Initiative because the ballot title cannot be changed at this point. *See* RCW 29A.36.090 (providing procedures for challenging local ballot titles).

Second, there is no way to know whether Envision would have been able to garner a sufficient amount of signatures to even place the Initiative on the ballot if certain portions of the Initiative were not part of the petition when it was circulated for signature gathering. *Yes for Seattle*, 122 Wn. App. at 394 ("Additionally, the ballot title, which described the initiative to those signing the proposal, characterizes the initiative as primarily concerning development."). Envision chose to attempt to place before the voters an initiative containing at least five different subjects,

which arguably have no rational relation to one another: land use development, water rights, constitutional rights for all workers, rights to collective bargaining, and a subordination of corporate rights. Having made that choice, no one can ever know whether a person signed the petition to place the Initiative on the ballot because she agreed with one, two, three, four or all five of the substantive provisions of the Initiative. *Cf. Leonard v. City of Spokane*, 127 Wn.2d 194, 201, 897 P.2d 358 (1995) (noting severability cannot be accomplished when it is unknown whether legislative “would have passed” the constitutional provisions without the unconstitutional provisions) (quotation omitted).

The City’s concerns regarding the effect severability would have on the ballot title are similar to those that courts routinely look at when assessing whether an initiative violates the “single-subject rule” and the “subject-in-title” requirements of the State Constitution, which both apply to initiatives. *See, e.g., Washington Assoc. for Substance Abuse*, 174 Wn.2d at 654 (citing Wash. Const. art. II, § 19). Under the single-subject rule, courts are concerned with “logrolling,” that is, when a bill contains one or more subject in order to garner as many votes as possible. *Id.* at 655. Likewise, the subject-in-title requirement is meant to “notify . . . the public of the subject matter of a measure.” *Id.* at 660. These same concerns apply with equal force here, given the structure of the Initiative

and the requirements of the Spokane City Charter.¹¹ Plainly stated, no one has any idea whether absent a particular provision the voters of Spokane would have signed the petition that enabled Envision to seek the Initiative's placement on the ballot. *See, e.g., City of Burien v. Kiga*, 144 Wn.2d 819, 825, 31 P.3d 659 (2001) ("When an initiative embodies two unrelated subjects, it is impossible for the court to assess whether either subject would have received majority support if voted on separately."); *see also id.* at 828 ("I-722 necessarily required the voters who supported one subject of the initiative to vote for an unrelated subject *they might or might not have supported.*") (emphasis added). As a result, if this Court declares any portion of this Initiative invalid, it should not be placed on the ballot. *See id.* ("Because we cannot know if either subject of I-722 would have garnered popular support standing alone, we must declare the entire initiative void.").¹²

At the end of the day, the City's primary concern is that its residents know what they are voting for, that they vote for what they signed-on for and that they are not confused by an erroneous ballot title.

¹¹ The Charter contains similar single-subject and subject-in-title requirements. *See* Spokane City Charter art. III, § 13 ("The subject of every ordinance shall be set out clearly in the title thereof, and no ordinance . . . shall contain more than one subject.").

¹² This does not mean Envision cannot later attempt to bring those valid portions (if any) to a vote of the people in a new and separate initiative.

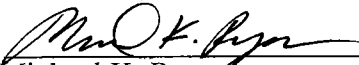
Given the structure of the ballot title, and that the title contains references to several unrelated goals of the Initiative, even if only one portion of the Initiative is declared invalid, the entire Initiative should not appear on the ballot. Alternatively, unless this Court can determine that severability can occur without creating voter confusion *and* that it can ascertain the intent of the signers of the Initiative petition on the evidence before it, the City requests that this Court remand the issue of severability so that the record supporting severability can be more fully developed and to allow the trial court to conduct a severability analysis in the first instance.

CONCLUSION

For the reasons stated above, the City respectfully requests that if this Court determines that the Initiative is outside the scope of the local initiative power that this Court affirm the trial court's declaratory judgment that the Initiative should not appear on the ballot.

Respectfully submitted this 5th day of February, 2014.

K&L GATES LLP

By 
Michael K. Ryan, WSBA # 32091
Thaddeus O'Sullivan, WSBA # 37204
Special Counsel to the City of
Spokane

OFFICE OF THE CITY ATTORNEY
Nancy L. Isserlis, WSBA # 11623
Nathaniel J. Odle, WSBA #39602

DECLARATION OF SERVICE

I declare, under penalty of perjury, that on February 5, 2014, I sent a true and correct of the foregoing document by email, per counsels' prior agreement to such electronic service:


Robert J. Maguire [XX] Via Email
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2900
Seattle, WA 98101-3045
robmaguire@dwt.com

Nancy L. Isserlis [XX] Via Email
Nathaniel J. Odle
Office of the City Attorney
808 W. Spokane Falls Blvd.
5th Floor Municipal Building
Spokane, WA 99201-3326
nodle@spokanecity.org
nisserlis@spokanecity.org

Dan Catt [XX] Via Email
Spokane County
1100 W Mallon Ave
Spokane, WA 99260
dcatt@spokanecounty.org

Lindsey Schromen-Wawrin [XX] Via Email
Community Environmental Legal
Defense Fund
306 West Third Street
Port Angeles, WA 98362
lindsey@world.oberlin.edu
Whipple@whiplawgroup.com

Dated this 5th day of February, 2013 at Seattle, Washington.



Michael K. Ryan

APPENDIX A

Chapter 02.02 Initiative and Referendum

Section 02.02.010 Findings and Purpose

- A. The citizens of the City of Spokane have reserved the right to directly legislate through the use of initiative and referendum as provided in the Charter of the City of Spokane.
- B. The purpose of this chapter is to establish procedures for the exercise of the right of initiative and referendum consistent with the Charter of the City of Spokane.
- C. It is intended that this chapter will establish within the City of Spokane a uniform system for the exercise of the reserved right of initiative and referendum.

Section 02.02.020 In General

A legal resident of the City of Spokane or a political committee as defined in RCW 41.17.020(33) may petition the city council, under the authority of the Spokane City Charter, Article IX, Section 82, to ordain a proposed measure, either an ordinance or a charter amendment.

Section 02.02.030 Optional Preliminary Filing of Initiative Measure

- A. In order to facilitate the processing of a proposed initiative measure, a petitioner may file a preliminary version of the proposed measure with the city clerk.
- B. The proposed measure must contain the mailing address of the petitioner and telephone number of the petitioner or petitioner's representative.
- C. The city clerk must immediately transmit a copy of the proposed measure to the city attorney.
- D. Within two weeks after receiving the measure the city attorney prepares, after consultation with the petitioner(s), a ballot title and summary of the measure and files them with the city clerk.
 - 1. The ballot title is a concise statement posed as a question, not to exceed seventy-five words, bearing the number of the measure, giving a true and impartial statement of the purpose of the measure. When practicable, the question posed by the ballot title is written in such way that an affirmative answer to the question and an affirmative vote on the measure would result in a change in the law.

2. The summary of the measure should be a clear and concise statement not to exceed one hundred fifty words.
 3. Neither the ballot title nor the summary of the measure is intentionally an argument or likely to create prejudice for or against the measure.
- E. Upon receipt of the ballot title and summary from the city attorney, the city clerk assigns a number by which the measure is identified. The city clerk affixes the ballot title and summary to the original of the proposed measure, inscribes the identifying number upon it and retains it in the official file.
- F. The city clerk must immediately furnish a copy of the proposed measure with its ballot title and summary to the sponsor and prepare a report to the city council for the next agenda. The city council sets a date for hearing. The hearing is held one week hence unless circumstances dictate otherwise.

Section 02.02.040 Optional Council Action on Preliminary Initiative Measure

At the hearing the city council may decide to:

- A. pass the measure as proposed or submit the initiative measure to the voters on its own motion;
- B. provide for legal review of the procedural and substantive validity of the proposed measure by the city attorney, if requested by the sponsor; or
- C. approve a ballot title and summary of the measure.

Section 02.02.050 Optional Review of Preliminary Measure by City Attorney

- A. If directed by the city council, the city attorney reviews the proposed measure for such matters as form and style, appropriate subject matter and legal validity and effect.
- B. The city attorney may edit the measure as necessary to correct obvious typographical errors, conform the language to Spokane Municipal Code format and style, or eliminate ambiguity. Any such editorial revisions are made on a separate sheet from the measure as submitted and clearly identified. The city attorney sends a copy of any editorial revisions to the sponsor and the city clerk.
- C. Within ten calendar days the city attorney files a written report of review with the city clerk and the city council expressing a formal opinion as to the legal validity and effect of the measure being proposed and at the same

time provides a copy of the report of review to the filer of the proposed measure.

- D. If the report of review suggests significant changes in the text of the proposed measure, the city attorney may prepare an alternate version of the ballot title and summary of the measure to be used in the event the sponsor elects to modify the proposal in accordance with the city attorney's report.

Section 02.02.055 Petition Signatures

- A. Prior to circulation for signatures, an initiative petition shall either have been filed under the optional preliminary filing method as set forth in SMC 2.02.030 through SMC 2.02.050 and have received approval of the ballot title and summary of the measure or the sponsor of the initiative shall have filed the initiative petition with the city clerk who shall have assigned an initiative number to the petition.
- B. Signed petitions must be filed with the city clerk within three hundred sixty-five days after the approval of the ballot title and summary of the measure under the optional preliminary filing method as set forth in SMC 2.02.040 or the assignment of an initiative number by the city clerk. If the three hundred sixty-fifth day lands on a Saturday, Sunday, or a legal holiday, the petitions may be filed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday.
- C. The sponsor of the initiative may submit additional petition signatures at any time during the three hundred sixty-five day period until a sufficient number of signatures have been validated to place the measure on a ballot; however, if the additional petition signatures are submitted later than one-hundred twenty calendar days prior to the next election, the measure, if otherwise valid, will be placed on the ballot at the next appropriate election.
- D. Petition signatures collected after the three hundred sixty-five day period will not be counted towards a previously filed initiative.
- E. A voter may withdraw his or her signature from an initiative petition by submitting to the city clerk a written request for the withdrawal of the signature up to the time the city clerk is directed by the city council to validate the signatures.

Section 02.02.060 Form of Initiative Petition

- A. It is the obligation of the sponsor of the measure to print petitions for circulation of the proposed initiative measure. The sponsor is responsible to conform the petition to the requirements of this chapter as to form and

content, to determine the number of signatures required, and to print enough petition sheets to accommodate sufficient signatures.

- B. The paper used for the petition sheets must be of sufficient weight and quality to accommodate printing and writing on both sides. Paper size should be between eight and twelve inches wide and between eleven and eighteen inches long. Printing should be no smaller than ten-point face, except that the text of the measure may be in smaller type if necessary to allow the entire petition to be on a single sheet of paper. For reasons of length of text or other practical necessity, the specifications of this section may be adjusted as the sponsor and city clerk may agree.
- C. The measure must be typed or printed and be in the form of an ordinance, with a title and the entire text of the section(s) proposed to be added, amended or repealed. When the proposed measure would amend existing law, the text shall be in the following format:
1. Language to be deleted is set forth in full and enclosed in double parentheses or brackets and may be lined out by hyphens.
 2. New language to be added is underlined, unless an entire new section or subsection is being added; and
 3. Deletions of existing language precede additions of new language.
- D. The mandatory elements of the petition sheet are:
1. a warning to potential signers regarding possible election law violations;
 2. a heading;
 3. horizontal lines for the entry of data under four vertical columns (or four boxes);
 4. the full text of the measure;
 5. the name and address of the sponsor (political committee or individual); and
 6. the number of the measure.
- E. If the procedures specified in SMC 2.02.030 through SMC 2.02.050 have been used, then additional mandatory elements of the petition sheet are:
1. the ballot title; and

2. the summary of the measure.

F. The warning, heading, number, body of the petition containing the ballot title (if any), and signature lines must appear in that order on the front of each petition sheet. The other elements may be located on the front or the back of the petition sheet as the sponsor determines.

G. Each sheet of the petition must be in substantially the following form:

WARNING

Under Washington State law every person who signs an initiative or referendum petition with any other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter; or signs a petition when he or she is otherwise not qualified to sign, or who makes any false statement on such petition may be guilty of a misdemeanor.

INITIATIVE PETITION TO THE SPOKANE CITY COUNCIL

[INITIATIVE NO. _____]

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that this proposed ordinance [known as Initiative No. _____], a full, true and correct copy of which is printed herein, be passed without alteration by the Spokane City Council, or be submitted to the electors of the City of Spokane for their approval or rejection at the next available special or general municipal elections. [If submitted to election the proposed ordinance shall appear as the following proposition:

(ballot title)]

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE as on voter registration	PRINTED NAME	RESIDENCE ADDRESS (street number)	CHECK IF REGISTERED ADDRESS IS DIFFERENT

(etc.)

[(summary of measure)]

(full text of measure)

Section 02.02.070 Filing of Initiative Petition

- A. The sponsor of the initiative measure must file or cause to be filed with the city clerk the sheets of the petition no later than one hundred twenty calendar days prior to the date of the next general or special election upon which the initiative measure is to be placed.
- B. The city clerk must immediately file a copy of the proposed measure with the city attorney.
- C. The city clerk must immediately tally the signatures on the petition submitted to determine if it appears to bear the requisite number of signatures of registered voters of the City of Spokane as required by the Charter.
- D. At the next meeting the city clerk makes a report to the city council on the petition and the preliminary tally of signatures, stating what percentage of the votes cast at the last preceding general municipal election the tallied signatures represent. The city clerk also files with the council members a sample sheet of the petition.

Section 02.02.080 Council Action on City Clerk's Report on Initiative Petition

- A. If the number of signatures on the petition as reported by the city clerk is sufficient, the city council sets a date for hearing on the matter of the petition. The hearing is held one week hence unless circumstances dictate otherwise.
- B. At the hearing on the petition the city council determines whether:
 - 1. to grant the petition and pass the measure as requested;

2. to accept the petition but decline to pass the measure as requested and direct the city clerk to validate the signatures;
 3. to propose an alternative measure; or
 4. in its opinion, the petition is legally invalid.
- C. Unless the city council determines by five votes to reject the petition as legally invalid, the proposed ordinance is given first reading.
- D. If the council, as provided in subsection (C) of this section, determines to place the petition on file because of its legal invalidity, and if litigation to challenge that determination is commenced, then the city clerk shall proceed to validate the petition signatures to the end that the litigation not delay the validation process.

Section 02.02.090 Validation of Signatures

- A. If directed by the city council, the city clerk without delay makes arrangements with the county auditor, as ex-officio supervisor of elections, to gain access to the voter registration rolls to determine if the petition bears the minimum number of valid signatures of registered voters of the City of Spokane as required by City charter.
- B. For the purpose of determining the validity of the signatures on the petition, the city clerk employs the following criteria:
1. If the surname and signature are the same, a signature is passed even if the signature varies from the official record because of the substitution or omission of an initial or because of the interchange of a given and married first name.
 2. If the address given on the petition does not agree with the official registration record but is within the City limits, if, consistent with the regulations of the superintendent of registrations and elections, the signer can be considered a registered voter, the signature is passed.
 3. If a name is signed more than once, only one signature is passed.
- C. The city clerk immediately tallies the number of signatures as revealed by the process of validation. At the next meeting the city clerk makes a report to the city council concerning the number of validated signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.

Section 02.02.100 Council Action on Validated Initiative Petition

- A. At the hearing on the validated initiative petition the initiative ordinance is given final reading.
- B. Unless a motion is made and passed to grant the petition and pass the measure as requested in the initiative petition, the city council adopts a resolution to place the measure on the ballot at the next available election.
- C. If a preliminary version of the proposed initiative measure was not previously filed with the city clerk, as permitted by SMC 2.02.030, then the city council adopts a ballot title and summary of the measure as provided in SMC 2.02.040(C).
- D. Unlike a referendum petition, the mere filing of which operates to suspend the referred ordinance, as provided in Charter Section 83, the filing of an initiative petition has no legal effect unless, and until, the measure is passed by the city council or by a majority of the City electors.

Section 02.02.110 Publicity

- A. If the city council votes to grant an initiative petition and enact the proposed ordinance, the ordinance is published in the *Official Gazette* upon passage in the ordinary course. If the city council determines an initiative petition is, in its opinion, legally invalid, the decision to place the petition on file is reported in a newspaper of general circulation.
- B. In case the measure would amend the Charter or adopt a new or revised Charter, then, in addition, the measure is published in the newspaper having the largest general circulation within the City once each week for four weeks next preceding the day of the election.
- C. In addition to the summary of the proceedings of the city council, which appears weekly in the *Official Gazette*, Washington law requires that notices of municipal elections be given by the county auditor.

Section 02.02.120 Special Referendum Procedures

- A. The provisions of this chapter apply to both the initiative and the referendum, except to the extent that SMC 2.02.120 through SMC 2.02.170 make special provisions for the referendum.
- B. Because the referendum petition must be circulated and filed before the ordinance takes effect, no procedures for preliminary filing or review by the city attorney are required.

Section 02.02.130 Commencement of Referendum

A legal resident or political committee begins the referendum process by requesting from the city clerk the assignment of a referendum number and identifying the ordinance, or section(s) thereof, sought to be referred. If the clerk is satisfied that the person is entitled to sponsor the petition and if the ordinance has not yet taken effect, then the clerk assigns the measure a number and furnishes to the sponsor a copy of the ordinance.

Section 02.02.140 Form of Referendum Petition

A. The elements of a referendum petition are the same as for an initiative petition as set forth in SMC 2.02.060 except that:

1. there need not be a ballot title; and
2. the full text of the measure is the full text sheet that accompanied the ordinance when it passed the city council.

B. Each sheet of the referendum petition must be in substantially the following form:

WARNING

Under Washington State law, every person who signs an initiative or referendum petition with other than his or her true name, knowingly signs more than once, or signs when he or she is not a legal voter or who makes any false statement on such petition may be punished by fine or imprisonment or both.

REFERENDUM PETITION TO THE SPOKANE CITY COUNCIL

REFERENDUM NO. _____

We, the undersigned citizens and legal voters of the City of Spokane, Washington, respectfully direct that (the entirety) (designated sections) of Ordinance No. _____, passed by the City Council on _____, 20____, and entitled

(title of ordinance)

a concise summary of which is printed herein, be repealed, or be submitted to the electors of the City of Spokane for their approval or rejection at the next municipal election. I understand that should this petition be sufficient and timely filed, the ordinance, or designated section(s) thereof, will be suspended from taking effect until approved by the voters.

Each of us for himself or herself says: I have personally signed this petition; I am a legal voter of the City of Spokane; my residence address is correctly stated; and I have knowingly signed this petition only once.

PETITIONER'S SIGNATURE as on voter registration	PRINTED NAME	RESIDENCE ADDRESS (street number)	CHECK IF REGISTERED ADDRESS IS DIFFERENT

(etc.)

[full text of measure (optional)]

Section 02.02.150 Filing of Referendum Petition

- A. The sponsor must, before the ordinance sought to be referred takes effect, file with the city clerk a petition bearing the signatures of registered voters in number at least equal to ten percent of the total number of votes cast at the last preceding general municipal election.
- B. The city clerk must immediately transmit a page of the petition to the city attorney and tally the signatures on the petition to determine if it appears to bear the requisite number of signatures. At the next meeting the clerk must make a report to the city council concerning the number of signatures so tallied and what percentage that number is of the votes cast at the last preceding general municipal election.
- C. As soon as practical, but no later than ten calendar days after the filing of the petition, the city attorney files a report of review expressing a formal opinion whether the petition is legally valid.

Section 02.02.160 Council Action on Referendum Petition

- A. If the petition has sufficient signatures and has been filed before the subject ordinance has taken effect, the city council sets a date for hearing on the matter of the petition. The hearing is held within two weeks following filing of the report by the city clerk, unless circumstances dictate otherwise.

B. Upon the hearing the city council determines whether:

1. to approve the petition and repeal the ordinance;
2. to accept the petition but decline to repeal the ordinance or parts thereof and direct the city clerk to validate the signatures on the petition in accordance with the procedures set forth in SMC 2.02.090; or
3. in its opinion, the petition is legally invalid.

C. If the city council, as provided in subsection (B)(3) of this section, determines by five votes to place the petition on file, and if litigation to challenge that determination is commenced, then the city clerk shall proceed to validate the petition signatures to the end that the litigation not delay the validation process.

Section 02.02.170 Council Action on Validated Referendum Petition

A. Following validation of the signatures on the referendum petition, the city clerk must immediately tally the number of signatures and make a report to the city council at the next available meeting.

B. At the hearing on the validated referendum petition the city council determines whether:

1. to grant the petition and repeal the ordinance as requested; or
2. the referendum measure should go to the electors either at:
 - a. the next municipal election (the September primary or November general election in odd-numbered years); or
 - b. some earlier special election called as provided in RCW 29.13.020.

Section 02.02.180 Public Funding of Litigation

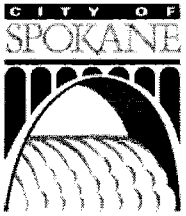
A. Disputes may arise between proponents of a measure and the city council. Because of the nature and subject matter of the potential disputes, they may not be amenable to resolution other than by order of a court of competent jurisdiction.

B. The City of Spokane has no power to confer, deny or alter the jurisdiction of the superior court of the State of Washington or of the United States district court, or to specify procedures for the commencement of actions.

C. In recognition that a petitioner, having a cause of action against the city council or against whom the City must institute legal proceedings, may be unable to pay the costs of suit, the city council will provide up to two thousand dollars per petition to advance litigation costs on behalf of a petitioner in connection with the:

1. approval of a ballot title or summary of the measure, as provided in SMC 2.02.040 or SMC 2.02.100; and/or
2. rejection of a petition on the ground of invalidity, as provided in SMC 2.02.080 or SMC 2.02.160.

APPENDIX B



Official Gazette

City of Spokane, Washington

Statement of City Business, including a Summary of the Proceedings of the City Council

Volume 103

MAY 29, 2013

Issue 22



MAYOR AND CITY COUNCIL

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBERS:

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MIKE FAGAN (DISTRICT 1)

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STEVE SALVATORI (DISTRICT 3)

JON SNYDER (DISTRICT 2)

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The Official Gazette

(USPS 403-480)

Published by Authority of City Charter Section 39

The Official Gazette is published weekly by the Office of the City Clerk
5th Floor, Municipal Building, Spokane, WA 99201-3342

Official Gazette Archive:

<http://www.spokanecity.org/services/documents>

To receive the Official Gazette by e-mail, send your request to:
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 0% Advertising
 Periodical postage paid at
 Spokane, WA

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 Office of the Spokane City Clerk
 808 W. Spokane Falls Blvd.
 5th Floor Municipal Bldg.
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Subscription checks made payable to:

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Minutes

MINUTES OF SPOKANE CITY COUNCIL

Monday, May 20, 2013

BRIEFING SESSION

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:30 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

Roll Call

On roll call, Council President Stuckart and Council Members Allen, Fagan, Salvatori, Snyder, and Waldref were present. Council Member McLaughlin was absent. Gerry Gemmill, Director of Local Government and Labor Relations, Assistant City Attorney Mike Piccolo, and City Clerk Terri Pfister were also present on the dais.

Advance Agenda Review

There was no Advance Agenda Review as the regularly scheduled City Council meeting for Tuesday, May 28, 2013, has been canceled.

ADMINISTRATIVE SESSION

Current Agenda Review

Council reviewed items on the May 20, 2013, Current Agenda for any changes and/or additions.

CONSENT AGENDA

Upon motion of Council Member Allen, seconded by Council Member Salvatori, Council unanimously (Council Member McLaughlin absent) approved Staff Recommendations for the following:

Low Bid of N & N Excavation (Spokane, WA) for Euclid Avenue from Mayfair Street to Crestline Street Water Main Replacement—\$1,988,746.20 (plus tax). An administrative reserve of \$198,874.62 (plus tax), which is 10% of the contract price (plus tax), will be set aside. (PRO 2013-0010 / ENG 2012086)

Low Bid of Halme Construction, Inc. (Davenport, WA) for Crestline Street from 37th Avenue to 57th Avenue Water Main Replacement—\$2,692,785.98 (plus tax). An administrative reserve of \$269,278.60 (plus tax), which is 10% of the contract price (plus tax), will be set aside. (PRO 2013-0011 / ENG 2012104)

Increase allotted amount for Value Blanket Order with San Diego Police Equipment, Inc. (San Diego, CA) to purchase additional ammunition needed to keep up with ammunition shortages—\$150,000. Total amount—\$300,000. (OPR 2011-0770 / BID 3791-11)

Value Blanket Order with Special Asphalt Products, Inc. (Spokane, WA) for approximately 140,000 pounds of Rubberized Asphalt Crack Sealant using Washington State Contract #012111—estimated annual expense \$124,500 (including tax). (OPR 2013-0396)

Multiple Family Housing Property Tax Exemption Agreement with North Gorge Residential Partners, LLC for 32 townhome/condominium units located at 2101 West Bridge Avenue, 2100 West Ide Avenue, 2301 West Bridge Avenue, 2300 West Ide Avenue and 2300 West Ohio Avenue; parcel numbers 25133.0901, 25133.0903, 25133.1001, 25133.1003 and 25133.2301. (OPR 2013-0397)

Annual Software Maintenance Contract with Mitchell Humphrey & Company (St. Louis, MO) for the Financial Management System from July 1, 2013 through June 30, 2014—\$86,685. (OPR 2013-0398)

Report of the Mayor of pending:

- a. Claims and payments of previously approved obligations, including those of Parks and Library, through May 13, 2013, total \$4,542,034.47 (Warrant Nos. 468072-468605; ACH Payment Nos. 10436-10525), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$4,459,135.78. (CPR 2013-0002)
- b. Payroll claims of previously approved obligations through May 11, 2013: \$5,970,094.46 (Payroll Check Nos. 512759-513081). (CPR 2013-0003)

Executive Session/Council Recess

The City Council adjourned to an Executive Session at 3:33 p.m. for approximately 45 minutes to discuss pending and potential litigation matters. Assistant City Attorney Pat Dalton, Mike Piccolo, and Sam Faggiano were present during the Executive Session. The Council reconvened at 6:00 p.m. for the Legislative Session, with Council President Stuckart and Council Members Allen, Fagan, Salvatori, Snyder, and Waldref present. Council Member McLaughlin was absent; however, she joined the meeting via telephone at 6:35 p.m. Assistant City Attorney Mike Piccolo and City Clerk Terri Pfister were also present.

LEGISLATIVE SESSION**Words of Inspiration**

There were no Words of Inspiration.

Pledge of Allegiance

The Pledge of Allegiance was led by Council President Stuckart.

MAYORAL PROCLAMATION

May 19-25, 2013 *EMS One Mission One Team Week*

Council Member Allen read the proclamation and presented it to Deputy Fire Chief Dave Leavenworth who was accompanied by Jerry Lueck.

The proclamation calls upon the citizens to join in this special recognition of all members in the emergency medical services and their continued dedication in providing outstanding service to our community.

Roll Call

Council President Stuckart and Council Members Allen, Fagan, Salvatori, Snyder, and Waldref were present. Council Member McLaughlin joined the meeting at 6:35 via telephone.

CITY ADMINISTRATION REPORT**Monthly Police Ombudsman Report**

Police Ombudsman Tim Burns presented the highlights of the Office of Police Ombudsman for April 2013. During this time, the Office of Police Ombudsman was contacted 86 times. Since January, the Office has been contacted 369 times. That's up from 297 times through April of 2012, for an increase in contacts of 24 percent. During the reporting period, the Office was contacted and received 13 complaints. For the year, through April, the Office has received a total of 37 complaints. This is a reduction of six complaints, or 14 percent. Of the 13 complaints during the month of April, 7 were for inadequate response, 3 were for excessive force, 1 was for demeanor, 1 was for selective enforcement, and 1 was for a procedural issue. Three additional complaints received were outside the scope of the jurisdiction and were referred to the appropriate agency.

During the reporting period, Mr. Burns noted he certified eight completed Internal Affairs investigations as timely, thorough, and objective. There were no appealed or declined certifications during the reporting period. During the month of April, Mr. Burns participated with the Internal Affairs staff in the interviewing of five officers, one complainant and two witnesses. Through the Office of Police Ombudsman, Mr. Burns noted he independently interviewed nine complainants and two witnesses. During the month of April, there were no critical incidents, and no complaints resolved through the mediation process. There were also no recommendations to the Police Chief or Office of the Mayor during the reporting period.

Mr. Burns advised during the month of April, he had the opportunity to attend the Native Project Youth Leadership Camp, which he stated was absolutely incredible and reinforced his opinion of youth in the community in that Spokane will be in good shape as they become adults and move into positions of leadership. He also advised that his assistant Melissa attended the YWCA Stand Against Racism luncheon. In addition, Mr. Burns and Melissa had the opportunity to attend the Gonzaga School of Law Pursuit of Justice Conference, which he noted was incredible as well. He thanked the City Council for its continuous support of the Office of Police Ombudsman, and he recognized specifically Council Members Allen and Salvatori for their work that relates to discussion that will be held later tonight (on Resolution 2013-0033).

Subsequent to his report, Mr. Burns responded to Council Member Snyder's inquiry as to whether the complaints of inadequate response are indicative of the heightened calls for service and the desire for more police presence in the City. Mr. Burns stated that absolutely the lack of adequate resources would be the number one driver, and in some cases just a failure to effectively communicate with the clients that we serve.

COUNCIL COMMITTEE REPORTS

Planning, Community, and Economic Development (PCED) Committee

Council President Stuckart reported on the PCED Committee meeting held earlier today (May 20). Minutes of the PCED Committee meetings are filed with the City Clerk's Office and are available for review following approval by the PCED Committee.

Public Safety Committee

Council Members Fagan and Snyder reported on the Public Safety Committee meeting held earlier today (May 20). Minutes of the Public Safety Committee meetings are filed with the City Clerk's Office and are available for review following approval by the Public Safety Committee.

OPEN FORUM

Mr. Rick Bocook commented on an incident involving Police and commented on a letter from the Police Chief regarding the matter.

Mr. Tom Weaver spoke in opposition of the relocation of Miller's Tavern near Kaiser-Mead into the heart of the Historic Hillyard District.

Mr. Don Walsdorf commented that he is working to put together a strip of a city street into art, and he noted he needs to obtain the signature of the Art Commissioner. Council President Stuckart noted there is an executive director search going on right now, but he asked that Mr. Walsdorf contact him after the meeting to obtain contact information.

Mr. Tim Eyman commented on an initiative that will be on the November ballot called Initiative 517. He stated Initiative 517 says that any initiative that qualifies for the ballot should be voted on.

Mr. Gabriel Elliott commented on religion. He stated he meditates for peace, unity, and love under will. He made other remarks regarding the U.S. government.

Mr. George McGrath remarked against President Barack Obama's (purported) recommendation of Jane Fonda as one of the 100 Women of the Century.

Ms. Brandy Morris expressed opposition to the possibility of another bar being placed in Hillyard at 5112 North Market and feels the area where she lives will not be as safe.

Mr. Paul Hamilton noted he is a small business owner in Hillyard and has been a civic activist his entire life. He commented on 5112 (North Market) and also expressed opposition of the possibility of a bar being moved to that location.

Mr. Kyle Murakami commented on the photo red program. He noted he was recently convicted of running one of the (red) lights and feels the City had zero proof of him doing so. He remarked on the photo enforcement sign at Sprague and Browne. He also remarked on the court process and stated there are a lot of issues in the process that are not fair.

COUNCIL APPOINTMENTS

Motion by Council Member Fagan, seconded by Council Member Waldref, **to approve** (and thereby confirm) the following appointments; carried unanimously (Council Member McLaughlin absent):

Arts Commission (CPR 1981-0043):

- Appointment of David Buesher to serve a three-year term to begin immediately and expire December 31, 2015.
- Appointment of Jean Klundt to serve a three-year term to begin immediately and expire December 31, 2015.
- Appointment of Mariesa Stokes to serve a three-year term to begin immediately and expire December 31, 2015.
- Appointment of Dean Davis to complete an uncompleted term to begin immediately and expire December 31, 2013, and then serve a three-year term to begin immediately and expire December 31, 2016.
- Appointment of Melissa Parker to complete an uncompleted term to begin immediately and expire December 31, 2013, and then serve a three-year term to begin immediately and expire December 31, 2016.

Bicycle Advisory Board (CPR 1992-0059)

- Appointment of Elijah Johnson to serve a two-year term to begin immediately and expire December 31, 2014.

(Council Member McLaughlin joined the meeting at 6:35 p.m. via telephone).

LEGISLATIVE AGENDA**EMERGENCY BUDGET ORDINANCES****Emergency Budget Ordinance C34985**

Subsequent to the opportunity for public testimony and Council comment, with no individuals requesting to speak, the following action was taken:

Upon Unanimous roll Call Vote, the City Council **passed Emergency Budget Ordinance C34985** amending Ordinance No. C34947 passed the City Council December 10, 2012, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Street Fund

FROM: Unappropriated Reserves, \$35,000;

TO: Repairs/Maintenance, same amount.

(This action will allow for needed traffic signal safety and functional enhancements.)

Emergency Budget Ordinance C34986

The City Council considered Emergency Budget Ordinance C34986. Subsequent to an opportunity for public testimony, with no individuals requesting to speak; Council inquiry and debate; and response by Andrew Schenk, Street Operations Engineer, the following action was taken:

Upon 5-2 Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone and Council President Stuckart and Council Member Snyder voting "no"), the City Council **passed Emergency Budget Ordinance C34986** amending Ordinance No. C34947 passed the City Council December 10, 2012, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Street Fund

FROM: Various Accounts, \$60,000

TO: Various Accounts, same amount

(This action will allow the Street Department to restripe downtown parking stalls and other street markings.)

There were no **Emergency Ordinances**.

RESOLUTIONS**Resolutions 2013-0034, 2013-0035, 2013-0036, and 2013-0037**

Following remarks by Police Chief Frank Straub regarding the individuals being considered for appointment, Council comment, and public testimony from one individual, the following action was taken:

Upon Unanimous Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone), the City Council adopted the following resolutions:

- RES 2013-0034** Confirming the appointment of Carly E. Cortright as the Director of the Police Business Services Department.
- RES 2013-0035** Confirming the appointment of Monique R. Cotton as the Director of the Police Public Information Department.
- RES 2013-0036** Confirming the appointment of Joseph J. Walker as Commander of the Police Tactical Operations Department.
- RES 2013-0037** Confirming the appointment of Bradley G. Arleth as Commander of the Police Field Operations Department.

Resolution 2013-0033 Regarding the Office of Police Ombudsman

The City Council considered Resolution 2013-0033 regarding the Office of Police Ombudsman, the Police Ombudsman Commission and the implementation of amendments to the City Charter related to both the Ombudsman and Commission. Accompanying the resolution is a draft ordinance regarding the Office of Police Ombudsman. Council Member Salvatori requested a proposed amendment to the draft ordinance attached to the resolution so that it [SMC Section 4.32.035(D)(4)(a)] goes back to the original language. He noted the intent of proposed amendments to the section was to provide clarification; however, it created more confusion. Council Member Salvatori advised the original sentence that the ordinance would be reverted back to says simply: "Whenever a complaint is filed with the OPO, the OPO shall produce a closing report." He continued with providing remarks and an overview of Resolution 2013-0033 and the accompanying draft ordinance. Public testimony was received and the following action was taken:

Motion by Council Member Allen, seconded by Council Members Waldref and Fagan, to so move to amend (the draft ordinance attached to Resolution 2013-0033 as presented by Council Member Salvatori); **carried unanimously (with Council Member McLaughlin voting in the affirmative via telephone).**

Council comment ensued, after which the following action was taken:

Upon Unanimous Roll Call Vote, the City Council **adopted Resolution 2013-0033** (with the accompanying draft ordinance, as amended) regarding the Office of Police Ombudsman, the Police Ombudsman Commission and the implementation of amendments to the City Charter related to both the Ombudsman and Commission.

There were no **Final Reading Ordinances**.

FIRST READING ORDINANCES

The following Ordinances were read for the First Time with further action deferred:

- ORD C34987** Relating to adult bookstores, adult video stores, and sex paraphernalia stores; amending SMC Sections 17A.020.010, 17A.020.060, 17A.020.180, 17A.020.190, 17C.305.010 and 17C.305.020; adopting a new SMC Section 17C.305.030 to Chapter 17C.305 of the Spokane Municipal Code; and adopting a new Section 17C.210.100 to Chapter 17C.210 of the Spokane Municipal Code.
- ORD C34988** Relating to the business licensing process; amending SMC Sections 8.01.020, 8.01.090, 8.01.130, 8.01.180, 8.01.190, 8.01.230, 8.01.280, 8.02.0206 and 8.02.0207.
- ORD C34989** Relating to the Parking System Fund; amending SMC Section 7.08.130 of the Spokane Municipal Code.

There were no **Special Considerations**.

HEARINGS

Hearing on Validated Initiative 2012-3 Petitions Filed by Envision Spokane (LGL 2012-0045) and Related Final Reading Ordinance C34979 and Resolution 2013-0038

The City Council held a hearing on Validated Initiative 2012-3 petitions filed by Envision Spokane pertaining to an amendment to the City Charter to add a Community Bill of Rights, which secures the right of neighborhood residents to approve re-zonings proposed for major new development, recognizes the right of neighborhood residents to reject development which violates the City Charter or the City's Comprehensive Plan, expands protections for the Spokane River and Spokane Valley-Rathdrum Prairie Aquifer, provides constitutional protections in the workplace, and elevates Charter rights above rights claimed by corporations. In conjunction with the hearing, Final Reading Ordinance C34979 amending the City Charter to establish a Community Bill of Rights was provided a final reading (A first reading of the ordinance was held on April 22, 2013.) No individuals requested to speak during the hearing.

The City Council then considered Resolution 2013-0038, and the following action was taken:

Upon Unanimous Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone), the City Council adopted Resolution 2013-0038 requesting the Spokane County Auditor to hold a special election on November 5, 2013, to submit to the voters of the City of Spokane a proposition in regards to amending the Spokane City Charter.

Hearing on Validated Initiative 2012-4 Petitions Filed by Spokane Moves to Amend (SMAC) (LGL 2012-0049) and Related First Reading Ordinance C34978 and Resolution 2013-0039

The City Council held a hearing on Validated Initiative 2012-4 petitions filed by Spokane Moves to Amend (SMAC) pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights for clean and fair elections and government ordinance that prohibits corporate lobbying, corporate involvement in initiatives, and corporate donations to candidates for elected office. In conjunction with the hearing, Final Reading Ordinance C34978 was provided a final reading. (A first reading of the ordinance was held on April 22, 2013.) Public testimony was received from two individuals.

The City Council then considered Resolution 2013-0039, and the following action was taken:

Upon Unanimous Roll Call Vote (with Council Member McLaughlin voting in the affirmative via telephone), the City Council adopted Resolution 2013-0039 requesting the Spokane County Auditor to hold a special election on November 5, 2013, to submit to the voters of the City of Spokane a proposition pertaining to a Spokane Municipal Code amendment to add a Voter Bill of Rights.

Resolutions 2013-0040 and 2013-0041 Requesting the Mayor to Pursue a Legal Challenge of Initiative 2012-3 and Initiative 2012-4

The City Council considered Resolution 2013-0040 requesting the Mayor to pursue a legal challenge regarding the constitutionality and legal validity of Initiative 2012-3 (Community Bill of Rights) and Resolution 2013-0041 requesting the Mayor to pursue a legal challenge regarding the constitutionality and legal validity of Initiative 2012-4 (Voter Bill of Rights). Council Member Allen provided an overview of both resolutions. President Stuckart requested a motion to postpone Resolutions 2013-0040 and 2013-0041 indefinitely. He commented that both of the initiatives only ask the Mayor to take a specific action. He further stated that both resolutions are non-binding; the Council has no authority over the Legal Department and the actions that it takes; and no matter how the council members vote, the Mayor still has the final call. Subsequent to Council debate, the following action was taken:

Motion by Council Member Snyder, seconded by Council Member Waldref, to postpone Resolution 2013-0040 and Resolution 2013-0041 indefinitely; **rejected 2-5 [Council President Stuckart and Council Member Snyder voting "aye" and Council Members Allen, Fagan, McLaughlin (via telephone), Salvatori, and Waldref voting "no"]**.

Considerable public testimony was then received on the matters.

(Following public testimony, Council took a recess at 8:50 p.m. and reconvened at 8:56 p.m.)

Council debate then ensued, after which the following action was taken:

Upon 3-4 Roll Call Vote [Council Members Allen, Salvatori and McLaughlin (via telephone) voting "aye" and Council President Stuckart and Council Members Fagan, Snyder, and Waldref voting "no"], the City Council rejected Resolution 2013-0040 and Resolution 2013-0041 (both as described above).

(Council Member McLaughlin left the meeting via telephone at approximately 9:34 p.m.)

SECOND OPEN FORUM

Mr. Gary Garberg noted he owns a building at 5220 North Market which is historically recognized as the Family Treasures Building and noted he is President of the Hillyard Heritage Museum and President of the Hillyard Kiwanis. He noted he has a direct concern about the development of the property at 5112 North Market, and he would like to see a quality building that would fit into the historic district.

Mr. Jack Beaver noted he owns a commercial property at 5028 North Market, and he expressed opposition to the relocation of the Miller Tavern to 5112 North Market in Hillyard.

Ms. Kim Smith presented remarks also in opposition to the relocation of the Miller Tavern to Hillyard.

ADJOURNMENT

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 9:40 p.m. (Note: The regularly scheduled City Council meeting for Tuesday, May 28, 2013, has been canceled. There is no meeting on Monday, May 27, 2013, due to the recognized Memorial Day holiday.)

PCED COMMITTEE MINUTES
Monday, April 15, 2013

Council President Ben Stuckart called the meeting to order at 11:02 a.m.

Members in Attendance: Ben Stuckart, Jon Snyder, Amber Waldref, Nancy McLaughlin, Mike Fagan, Mike Allen, and Steve Salvatori

Staff present: Debra Robole, Mike Taylor, Katherine Miller, Jerry Allard, Mark Serbousek, Ray Lynn Barden, Susan King, Sheryl McGrath, Mark Papich, Allen Schmelzer, and Kristine Williams

Recording Secretary: Brenda Corbett

I. APPROVAL OF MINUTES

Meeting minutes for the April 8 & March 18, 2013 meetings were approved as presented.

II. COUNCIL UPDATE

Smoking Ordinance: This item was presented by Council Member Allen. Background information related the lack of Police enforcement authority has negatively impacted the enforcement of the smoking laws enacted in 2005 which include no smoking within 25-feet of building entrances. Police being able to cite the public would provide business owners a tool to address persistent offenders. Council voiced concerns regarding the impacts to Police force to enforce the ordinance. This item will be moved forward for City Council's consideration and action.

III. STAFF UPDATE

Planned Arterial Network Discussion: Mark Serbousek provided background information regarding the numerous requests from citizens to implement portions of the Planned Arterial Network, which would upgrade a proposed arterial to an official arterial. No action will be considered at this time, the status of those streets will be considered during the update of Chapter 4 of the Comprehensive Plan process.

2014-2019 City-wide Capital Improvements Program: Katherine Miller presented the annual update to the Committee members outlining the anticipated schedule. Capital facilities analysis is composed of a series of questions by a points system and financial validation on how projects are assessed. Council can expect to see this item for consideration in June. Ms. Miller will provide copies of the power point presentation to the City Council.

Community, Housing & Human Services 2013 Action Plan Component of the Consolidate Plan: Presented by Jerry Allard for Council consideration on April 22, 2013, this item is an annual planning and performance review and once adopted will be submitted to HUD by May 15, 2013. Final funding approval and grant agreements are expected to be received from HUD in July or August.

Respectfully submitted by:
Brenda Corbett, Planning and Development

**PCED COMMITTEE MINUTES
MONDAY, MAY 6, 2013**

Council President Ben Stuckart called the meeting to order at 11:00 a.m.

Members in Attendance: Ben Stuckart, Jon Snyder, Amber Waldref, Mike Fagan, Nancy McLaughlin, Mike Allen, and Steve Salvatori

Staff present: Debra Robole, Ken Brown, Katherine Miller, Brandon Blankenagel, Mark Serbousek, Mike Taylor, Eldon Brown, Ray Lynn Barden, Susan King, Sheryl McGrath, Mark Papich, Allen Schmelzer, and Kristine Williams

Recording Secretary: Brenda Corbett

I. APPROVAL OF MINUTES

Meeting minutes for the April 15, 2013 meetings were approved as presented.

II. COUNCIL UPDATE

None

III. STAFF UPDATE

1. Administrative Reserve Increase for Columbia Residential Street Bond Project: Ken Brown provided an update on the new standards for ADA ramps needs and the requirements which created overages for the project. We could expect to see this with like projects. ADA cannot exceed the 8% grade increase; future design will adjust to reflect these requirements/specifications.
2. 2013 Blanket Order for Rubberized Asphalt Crack Sealant: Mark Serbousek provided information regarding funding for the material to crack seal, as recommend by the Citizens' Transportation Advisory Board and approved by the TBD Board. This allocation will allow expansion from prior only arterial work to included residential crack sealing. The crack sealing is programmed into the 2013 Street Department budget.
3. Parking Meter System Improvement Fund Transfer: Mark Serbousek updated the Committee on the need for temp seasonal workers to paint downtown parking stalls in preparation for smart meters installment. Parking meter funds can only pay for CBD zones; therefore, Street Department reserves would be allocated to address three-quarters of the City-wide backlog in crosswalks painting, which will bring the City into Federal compliance. Temp seasonal staff has traditionally been hired to address these issues; since 2009 budget constraints have prevented the hiring of seasonal staff. Council President spoke of support using reserves this time, but advises to see this allocated in the budget next year, as it is supportable long-term. Council would like to see the prioritization/completion of painting of all crosswalks this year.

STAFF ACTION: Performance measures will be provided to the Council by Jan Quintrall.

4. Signal System Upgrades: Signal system upgrades of Francis Avenue/Monroe Street and Francis Avenue/Wall Street to be removed from "island" to new overhead signal and longer mast arms. The contractor was awarded this WSDOT project bid; the City items are at a cost of approximately 55% over the estimated cost. This project will improve traffic operations, ADA compliance, enhance safety and reduce maintenance. A request to approve the EBO for \$3500 from Street Department reserves.
5. Water Policy and Fees: Jan Quintrall provided background information on the waiving GFCs for development outside of the City's boundaries which is currently determined by the Utilities Director. Staff is requesting a policy with defined criteria to provide Staff and Citizens clear direction. Council Member Waldref is interested in serving on a sub-committee, representing PCED. City Council provided possible conditions for consideration for thresholds for waivers: Inclusion of Empowerment Zones; geography considered a factor; size of footprint; and recouping larger payback dollar amounts.
6. Business Developer Services Staff update: Jan Quintrall presented information on the need for two new positions; Julie Happy as Business and Developer Services Communications Manager and Kyle Twohig, Engineering Services Manager. Mike Taylor and Marlene Feist are assigned the CSO tanks; as Spokane will be the first to go ahead without a consent order; as such, is a model. Their prior job functions need to be back filled. Julie Happy will be doing all of the construction reporting and managing relationships in a proactive manner, primary for communications regarding economic development within the community. Currently Planning does not have professional staff to send out the necessary notifications/press releases. As Mike Taylor has moved to the CSO tanks with his perspective and experience, a replacement is required; Kyle Twohig will be Engineering Services professional manager. This will require confirmation from City Council.

STAFF ACTION: Provide resumes & biographies to Council

7. Six-Year Improvement Plan: Brandon Blankenagel provided background information regarding the Six-Year Comprehensive Plan 2014-2019 and outlined the new projects and the short term projects lists that did not hit the system cycle. Specific projects/funding was included in the presentation regarding: public safety; curb ramps; pedestrian facilities; City-wide crosswalk markings; Safe Routes to School; sidewalks; bridge rehabilitation program; congestion management/integrated strategy; economic development elements; trails & bikeway programs; Transportation Impact Fees projects; and U-District facilities. Will present to City Council end of June for Hearing.

STAFF ACTION: Provide to City Council: map/details of Safe Routes to School Project information regarding Hamblen Elementary School, and the list of applications for the CMAQ& Transportation Alternative call for projects.

Respectfully submitted by:

Brenda Corbett, Planning and Development

PUBLIC SAFETY COMMITTEE MINUTES

April 15, 2013

Attendees: Council President Stuckart, Council Member Snyder, Council Member Fagan, Council Member McLaughlin, Council Member Salvatori, Council Member Allen, Council Member Waldref, SPD Chief Straub, SFD A/C Schaeffer, Tim Burns, Debra Robole, Ellen O'Hara, Mike Reinken, Max Hewitt, Teresa Fuller, Carly Cortright, Erin Jacobson, Angela Golden, Susan King, Rae-Lynn Conger, Tim Conner, Sue Raymon, Carla Stamatoplos.

PSC Chair Nancy McLaughlin called the meeting to order at 1:32 p.m.

Approval of Minutes

Chair McLaughlin asked for one correction on the minutes, "Council Member Fagan led the meeting in Chair McLaughlin's absence". Minutes were then approved as published.

ADMINISTRATION REQUESTS

Ombudsman Report – Tim Burns

Mr. Burns highlighted the attached report of the Office of the Police Ombudsman for March, 2013. He reviewed complaints, referrals, contacts, investigations certified, interviews, critical incidents, cases resolved through mediation, and recommendations. During the first quarter in 2013, complaints were down 31% from last year at this time and contacts were up about 26%.

Mr. Burns noted one of the goals for 2013 was to expand outreach efforts. They've taken satellite office hours to two of the COP shops in addition to attending meetings on a regular basis with OutSpokane, NAACP and SPARK. Additionally, the OPO made five formal presentations to neighborhood council meetings regarding the 2012 annual report in March.

Also from the attached report, Mr. Burns highlighted other meetings, conferences and activities attended. The OPO recently hired a new intern, Patrick Smith; a senior at Eastern Washington University. In addition, the OPO did a preliminary Taser usage report (attached) and is working to get benchmarks for Seattle, Boise and Eugene for comparison. Mr. Burns met with two members of SKILS'KIN staff and believes they have a role on a limited basis in crisis intervention training. After attending training in May, he will make more in-depth recommendations.

Mr. Burns attached a letter from Center for Justice on how to move forward with Proposition 1. He would like the Council to ask the Administration to consider requiring a precondition of employment to be established for the hiring of new police officers pending the resolution of Prop 1. Those employees would be required to submit to an interview by the OPO as it related to conduct or professional standards complaints received. Discussion on this topic followed.

In closing, Mr. Burns shared that the OPO is soliciting to bring the 2014 National NACOL Conference to Spokane. The Spokane Police Department has agreed to be a partner and he has approached the Center for Justice, Gonzaga School of Law and PJALS to see if they would be interested in partnering as well. The Office of the Mayor has agreed to a letter of support, and he will also be approaching the Council to solicit support.

SPOKANE POLICE DEPARTMENT

SPD Fleet Purchase – Carly Cortright

Ms. Cortright advised that SPD just sent the fleet purchase out to bid. The annual fleet purchase allows us to keep the police fleet safe and reliable with minimized repairs and maintenance. This also allows for a higher value when the vehicles are taken out of service and sold at auction. Ms. Cortright advised that Gene Jakubczak with City Fleet Services will be making this purchase and will give a full briefing to the Public Works Committee. The final numbers may be different but the estimated purchase price of the 20 vehicles will be approximately \$628,550.71. We will also purchase

two motorcycles estimated at \$53,149.74. The Washington Traffic Safety Commission will reimburse SPD for the cost of one motorcycle after the purchase has been made. The funds to purchase the vehicles are encumbered in the 2013 Police Department Budget. Council President Stuckart had questions regarding the Fleet funding and was advised it was coming out of the Capital budget and was directed to Finance to answer further questions.

SPD – DOT Federal Motor Carrier Grant – Carly Cortright

Ms. Cortright reported that SPD was recently awarded a DOT Federal Motor Carrier Grant for commercial vehicle inspectors. We wrote a proposal to start an aggressive ticket issuing campaign for cars and trucks. SPD Commercial Vehicle Inspectors have reduced collisions involving commercial vehicles in Spokane County since the inception of the program. However, there has been an increase in collisions involving commercial vehicles and passenger vehicles where the passenger vehicle is at fault. Just over 75% of commercial vehicle collisions involve passenger vehicles for recent years (77% in both 2010 and 2011; 78% for 2012 through 8/2/12). Since 2010 the trend has been increasing where the passenger vehicle is at fault. In 2010, the passenger vehicle was at fault 62% of the time. In 2011, the passenger vehicle was at fault 63% of time. Through August 2012, passenger vehicles were at fault 66% of the time. SPD will launch a DOT sponsored Ticketing Aggressive Cars and Trucks (TACT) campaign to conduct enforcement and public awareness to reduce the behavior that results in collisions with commercial vehicles. The grant will provide overtime for enforcement, funding for new equipment, and funding for a public awareness campaign regarding aggressive driving. The goal of the grant is to reduce commercial vehicle collisions involving passenger vehicles in Spokane County. The SPD Commercial Vehicle Inspectors provide support to all of Spokane County for commercial vehicle enforcement. The increased enforcement and public awareness campaign will reduce aggressive driving and decrease collisions between passenger vehicles and commercial vehicles, specifically those collisions where the passenger vehicle was at fault. This is a grant from Department of Transportation and requires a 20% match. The grant will provide \$53,581 and the Spokane Police Department will contribute \$13,396 for a total project cost of \$66,977. The grant will fund two new vehicles (Tahoe's), some overtime, and PSA campaigns. SPD is seeking approval of the grant and acceptance by City Council. Council questions and discussion followed.

SPD Ammo Purchase – Carly Cortright

Mr. Cortright advised that SPD has a Value Blanket increase with San Diego Police Equipment, Inc. for the 2013-2014 ammunition purchases (Value Blanket 300333). The nation has seen ammunition and gun shortages, due to recent shootings all over the country. The 2012 order has not been completely filled. In order to keep up with the lag time and shortages of ammunition it is critical to increase the current Value Blanket by \$150,000 before it expires in September. The approximate annual expenditure is \$150,000.00. In May 2011, the Purchasing Department sent out a Bid (3791-11) for the purchase of ammunition. The bid was sent to seventeen suppliers and only one vendor bid on the ammunition. A value blanket purchase order was set up in 2011 in order to purchase from San Diego. The value blanket is allowed 4-one year extensions for a maximum of five years. This will allow the Police Department to put in their annual order early to keep up with long order time frames. The ammo purchase supports operations out in the field for Police Officers and training and keeps up with ammunition shortage and supply while utilizing current pricing from 2012. SPD is seeking Council approval of the Value Blanket Increase. Funding is from the existing budget.

Taxi Cab Ordinance – Officer Max Hewitt

Officer Hewitt advised that when the City did away with the Weights & Measures department and repealed SMC 10.46., it affected enforcement and licensing requirements under SMC 10.34 for taxis to have a valid and calibrated taxi meter – a measuring device that calculates and measures the cost of a taxi trip by mileage/time traveled. Repealing the Weights & Measures ordinance removed the penalty schedule from SMC 1.05.170 which eliminates the ability to issue citations for taxi violations related to licensing and taxi meter requirements. This is a revision to Spokane Municipal Code 10.34 adding section 10.34.200 for taxi meter violations, and SMC 1.05.170 to correct the penalty schedule for issuing a class 1 civil infraction for a taxi meter violation. The revision allows continued enforcement of taxi ordinance and licensing requirements. Complaints can either be filed with the police department or the Taxi Cab Company. SPD is seeking Council approval and passing the above listed revisions to these ordinances. There are no funding issues or expenditures associated with the revisions to this ordinance. Council questions and discussion followed.

Photo Red Briefing Paper – Officer Fuller

1303 violations were issued in March. A total of 49,709 citations have been issued since the beginning of the program, Nov. 1, 2008 through today (April 10, 2013). There were 15,750 tickets issued in 2012. Payment statistics are 71.2% so far for 2012 and continuing to rise. The program has collected over \$4,444,880 from November 1, 2008 through today. Out of 11,177 citations that have gone to hearing in front of a commissioner, only 1760 have been found not committed. SPD is moving forward with the contract with Thinking Cap for the anti-red light running campaign.

SPD is also reviewing and editing the current contract for renewal with ATS in November. When the Council approves the new contract, the ordinance will also have to be adjusted as it is set to expire with the contract. We hope to come to Council with the contract in July or August 2013. Council questions and discussion followed.

SPOKANE FIRE DEPARTMENT**Upcoming Council Agenda Items – AMR Extension – Assistant Chief Schaeffer**

At the last PSC meeting, direction from the Public Safety Committee was to extend AMR's contract one additional year to allow the Fire Task Team to meet and discuss the next generation of fire service. AMR accepted the City's proposal and it will be presented for Council's signature today.

Deputy Chief Recruitment – Assistant Chief Schaeffer

The Mayor has given hire-ahead approval for the position of Deputy Chief over Operations, as Chief Hanna is retiring in December but will be leaving the office sometime in August or September due to accumulated leave. Advertising and a nationwide search has commenced and there are currently four applications. Today, Civil Service contacted Chief Schaeffer notifying him that due to the change in appointment of the Deputy Chief position, the responsibility for recruitment will be transferred to the Human Resource Department after the ordinance becomes effective in 30 days. This will most likely extend the recruitment process two or three weeks.

CARES National Attention – Assistant Chief Schaeffer

Chief Schaeffer reported Community Assistance Response Team (CARES) has been such a success that he was asked to speak at a national conference in Chicago, which has in turn generated many records requests and information about the program. The International Association of Fire Chiefs has also asked him to speak about the CARES program in Las Vegas. The Cities of Seattle and Tacoma are in the process of designing their own programs and Bellevue has already created a funded working CARES team. The idea that started in Spokane has gone nationwide. Chief Schaeffer thanked the Council for their support of the CARES program.

CARES consists of EWU Master of Social Work students in their final year performing their internship with the Fire Department. They are selected through an interview process, trained, and then provide supervised social work for the Fire Department in areas where firefighters recognize a need for their service. The program has been successful in reducing the number of calls for service.

The budget for CARES is approximately \$60,000 - \$70,000 which pays for .5 FTE and fuel. As a customer, the Spokane Valley Fire Department contributes \$10,000. They are not a heavy user but many clients cross the jurisdictional boundary.

Council Member Waldref asked if there would be a cost benefit to increasing the 2014 CARES budget to work with more frequent users of 9-1-1. Perhaps more of a difference can be made with a small investment. Chief Schaeffer replied the Fire Department has been looking at it, and would like a full-time FTE, but does not have the budget for it for next year. He would like to secure a grant from the medical society and is also looking at Hotspotters as a possible jointly funded position if other funding isn't available.

Council Member Snyder asked about coordination of efforts between the CARES program, which focuses on 9-1-1 diversion, and the group Hotspotters. Chief Schaeffer explained Hotspotters is comprised of people from Sacred Heart, Deaconess, Spokane Mental Health and a couple State agencies including Department of Aging. The group meets at the Fire Department's Training Center monthly to discuss clients who have frequent experience with all the different disciplines. Resources are then focused on taking care of one client at a time.

Council Member Allen asked if the City had ever given CARES recognition such as a proclamation of gratitude. Council President Stuckart suggested a council salutation and asked for Chief Schaeffer's assistance with a write-up.

Fire Task Team Update – Assistant Chief Schaeffer

The Fire Task Team met for the first time and meetings have been set for every Tuesday at 1:00 p.m. at Fire Station 1 in Conference Room B. The meetings are open and public. If needed, contact Chief Schaeffer to arrange handicap access.

Council Member Salvatori mentioned appointed members of the committee include Chief Williams, Assistant Chief Schaeffer, Local 29 representative Don Waller, SAFO representative Dave Haworth, a representative from the insurance agency, and several community members. Along with several objectives handed down from Mayor Condon, the resolution asks for a strategic 20 year look at how emergency services, including transport, are delivered without deteriorating fire response times.

COURT REQUESTS**Relicensing Interlocal – Ellen O'Hara**

The Relicensing Interlocal is essentially the same contract as last year with updated dates and statistics. Ms. O'Hara stated it has been working very well in terms of generating funds for the City and getting people relicensed.

Committee Chair McLaughlin asked about the delay in bringing forth the renewal. In the future the committee would like to see the renewal by December or January. Council Member Snyder suggested lengthening the term of the contract. The committee agreed to extend both the Relicensing Interlocal and Mental Health Court Interlocal two to three years. Ms. O'Hara will check to see if there is time to get them changed this year.

2013 Mental Health Court Interlocal – Ellen O'Hara

There is one change to the Mental Health Court Interlocal. The City is contributing the same as last year but the County's amount changed slightly. They received money elsewhere and added the language in attachment A, "or for either of the above so long as the funding is used only for either item, etc." which doesn't say anything legally, it just says to do what you're supposed to be doing according to the agreement. The City's portion is paid by the City's Mental Health tax with no additional money coming from the General Fund.

COUNCIL REQUESTS**Citations for Public Marijuana Consumption – Officer Hewitt**

In response to Council Member Snyder's request of how the City will deal with enforcement of the new provisions of I-502, Officer Hewitt reported the Police Department would propose the City create an Ordinance and a licensing or permit process where business permits are issued for marijuana; for retail, processor, or producer. It would be similar to entertainment facility or taxi licenses where there is some control of location through zoning, hours of operation, making them available for inspection, and security. Also, create a civil infraction class for violations. By doing so, there will be a process in place of documenting illegal activity or violations in the event the City wants to object to the renewal of a license due to continuous problems, similar to liquor licenses.

Mike Piccolo added the City needs to watch to see what the liquor control board does. They will be covering all regulations and may pre-empt the entire field of regulations on recreational marijuana use. The City would follow those regulations, similar to what we do with liquor licenses.

Discussion followed, including issues of odor and disposing of waste product.

Council President Stuckart left meeting at 2:21 p.m.

Council Member Fagan left the meeting at 2:32 p.m.

Vehicle Interference Ordinance

This topic was tabled as AV/Chief Meidl is looking into it.

Additional Topics

Council Member Fagan inquired on the status of the Police Chaplain.

Carly Cortright replied the two chaplains, Beth Wilson and Ed Hoffman, are given office space and equipment but are funded entirely through donations. There are also volunteer chaplains that fill in as they have time. Mr. Fagan suggested a Police Chaplain presence at some of the City's gateways. Reaching out to the homeless and addicted would tend to put a different face on the Police Department. Ms. Cortright will have Chaplain Wilson get in touch with Mr. Fagan to discuss the program.

Adjournment

The meeting was adjourned at 2:39 p.m.

Attachments:

SPD Fleet Purchase Briefing Paper
SPD – DOT Federal Motor Carrier Grant Briefing Paper
SPD Ammo Purchase Briefing Paper
Taxi Cab Ordinance Briefing Paper
Photo Red Briefing Paper
AMR Contract Extension
Contract Renewal for FD Software Maintenance
March OPO Report
Center for Justice Letter
OPO March Chart
Taser Information
New OPO Ordinance
Interlocal Court System

Respectfully submitted by:

Sue Raymon, Fire Administrative Secretary

Carla Stamatoplos, Police Administrative Secretary

(Attachments are on file for review in the Office of the City Clerk.)

Ordinances

These ordinances are published in this issue of the *Official Gazette* pursuant to passage by the Spokane City Council. It should be noted that these ordinances may be subject to veto by the Mayor. If an ordinance is vetoed by the Mayor, the Mayoral veto will be published in a subsequent issue of the *Official Gazette*.

ORDINANCE NO. C34985

An ordinance amending Ordinance No. C-34947, passed the City Council December 10, 2012, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2013 budget Ordinance No. C-34947, as above entitled, and which passed the City Council December 10, 2012, it is necessary to make changes in the appropriations of the Street Fund and Parking Meter Revenue Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Street Fund and the budget annexed thereto with reference to the Street Fund, the following changes be made:

FROM:	1100-99999	Street Fund	
	99999-	Unappropriated Reserves	<u>\$ 35,000</u>
TO:	1100-21300	Street Fund	
	28800-54801	Repairs/Maintenance	<u>\$ 35,000</u>

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to coordinate with a Washington State DOT road project to make upgrades to the signals at Francis and Monroe and at Francis and Wall to make needed safety improvements, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

PASSED by the City Council on May 20, 2013.

(Delivered to the Mayor on the 23rd of May 2013.)

ORDINANCE NO. C34986

An ordinance amending Ordinance No. C-34947, passed the City Council December 10, 2012, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2013, making appropriations to the various funds, departments, and programs of the City of Spokane government for the fiscal year ending December 31, 2013, and providing it shall take effect immediately upon passage", and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2013 budget Ordinance No. C-34947, as above entitled, and which passed the City Council December 10, 2012, it is necessary to make changes in the appropriations of the Street Fund and Parking Meter Revenue Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Parking Meter Revenue Fund, and the budget annexed thereto with reference to the Parking Meter Revenue Fund, the following changes be made:

FROM:	1460-21200 99999-34471	Parking Meter Revenue Fund Parking Meters	<u>\$ 30,000</u>
TO:	1460-21200 42650-59801	Parking Meter Revenue Fund Interfund Repairs/Maintenance	<u>\$ 30,000</u>

Section 2. That in the budget of the Street Fund and the budget annexed thereto with reference to the Street Fund, the following changes be made:

FROM:	1100-21400 99999-34942 1100-99999 99999-	Street Fund Interfund Street Maintenance Street Fund Unappropriated Reserves	30,000 30,000 <u>\$ 60,000</u>
TO:	1100-21400 42640-08490 42640-52110 42640-52400 42640-51230 42640-54850	Street Fund Temporary Seasonal Social Security/Medicare Industrial Insurance Shift Differential Premium Other Repairs/Maint Supplies	40,000 3,500 120 2,700 13,680 <u>\$ 60,000</u>

Section 3. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to hire temporary seasonal employees for the Signs and Markers program in the Street fund and to create additional budget in the Parking Meter Revenue Fund for maintenance of on-street parking stalls and related markings to be performed by Street Fund employees, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

PASSED by the City Council on May 20, 2013.

(Delivered to the Mayor on the 23rd of May 2013.)

Job Opportunities

The City of Spokane is an Equal Employment Opportunity Employer

COMMUNITY PROGRAMS COORDINATOR SPN 058 OPEN ENTRY EXAMINATION

- DATE OPEN:** Monday, June 3, 201
- DATE CLOSED:** Applications will be accepted until the close of business on Friday, June 14, 2013. Applicants who have filed a basic application will have until the close of business on Monday, June 17, 2013, to return the Training and Experience Evaluation form.
- SALARY:** \$45,288 annual salary, payable bi-weekly, to a maximum of \$55,206
- OFFICE HOURS:** 8:00 a.m. to 5:00 p.m. – Monday through Friday, except holidays

APPLICATION PACKETS: Submit the following documents to Civil Service when applying:

- ✓ Completed Civil Service Application
- ✓ Copy of DD 214 (Member 4) for Veterans Preference
- ✓ Copy of required college transcripts
- ✓ Copy of valid driver's license

DUTIES:

Performs community organization and outreach work in initiating and managing community based programs. Organizes, schedules and/or facilitates a variety of meetings and events. Reviews applications for special events; coordinates with applicants and agencies on approval of permits. Develops and implements public education and outreach. Develops and disseminates informational materials. Requires knowledge of the principles and practices of community engagement, ability to communicate well both verbally and in writing, ability to interpret general directions and develop them into specific programs. Performs related work as required.

OPEN REQUIREMENTS: (All requirements must be met at the time of application.)

Bachelor's degree from an accredited four-year college or university in public administration or related field; AND one year of experience in the implementation of community involvement.

EXAMINATION:

The examination will consist of a Training and Experience Evaluation form. Weight is assigned as follows: Training and Experience Evaluation form 100%.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

NOTE: Under continuous testing policy, additional examinations may be scheduled with results merged into one eligibility list according to final ratings.

TO APPLY:

To apply online or download and print an application, go to www.spokanecity.org. To request an application packet be mailed to you, call the Civil Service office at (509) 625-6160. If mailing your application, submit to Civil Service Commission, 808 W. Spokane Falls Blvd., Spokane, WA 99201-3315, post marked no later than the closing date stated above.

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 21st day of May 2013.

MARY DORAN
Chair

GLENN KIBBEY
Chief Examiner

**WASTE WATER TREATMENT PLANT OPERATOR I SPN 641
OPEN & PROMOTIONAL EXAMINATION**

DATE OPEN: Monday, June 3, 2013

DATE CLOSED: Friday, June 14, 2013

SALARY: \$37,416 annual salary, payable bi-weekly, to a maximum of \$59,633

OFFICE HOURS: 8:00 a.m. to 5:00 p.m. – Monday through Friday, except holidays

APPLICATION PACKETS: Submit the following documents to Civil Service when applying:

- ✓ Completed Civil Service Application
- ✓ Copy of DD 214 (Member 4) for veteran's preference
- ✓ Copy of required course work, if applicable
- ✓ Copy of valid driver's license

DUTIES:

Performs semi-skilled to skilled work in the operation and maintenance of a Secondary Waste Water Treatment Plant. Assists in the operation of sludge pumps and other plant equipment. Performs routine tests on various plant processes. Monitors and maintains primary clarifiers; services the grease collection system; washes machines and floors. Operates computers and other electronic equipment. Work is heavy in nature and occasionally performed under adverse weather conditions. Performs related work as required.

OPEN REQUIREMENTS: (All requirements must be met at the time of application.)

High School diploma or equivalent AND one year of experience in the operation, maintenance, or repair of pumps, electric motors, or related equipment. Satisfactory completion of a recognized school for sewage and water plant operators may be substituted for the experience requirement. Applicants must obtain certification by the WA State Dept. of Ecology as a Water Pollution Control Plant Operator I, or as an Operator In Training, within the probationary period. Both open and promotional candidates must possess a valid driver's license.

PROMOTIONAL REQUIREMENTS: (All requirements must be met by date of examination.)

Completion of one year of experience with the City in the classification of Laborer I (SPN 501) or Laborer II (SPN 502) in the Advanced Waste Water Treatment Plant AND must obtain a valid WA State Dept. of Ecology certification as a Water Pollution Control Plant Operator I, or as an Operator In Training, within the probationary period.

EXAMINATION:

The examination will be conducted on the 4th floor of City Hall in the Civil Service Test Room on Monday, June 24, 2013, at 9:00 a.m. Approximate duration of the test is 2 hours, 15 minutes. The examination will consist of a written test and, for promotional applicants, a promotional evaluation. Weights are assigned as follows: for open applicants, written test 100%; for promotional applicants, written test 80% and promotional evaluation 20%.

The written test may include such subjects as: Number Checking; Technical Knowledge and Aptitude; Mathematics; and Safety.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

TO APPLY:

To apply online or download and print an application, go to www.spokanecity.org. To request an application packet be mailed to you, call the Civil Service office at (509) 625-6160. If mailing your application, submit to Civil Service Commission, 808 W. Spokane Falls Blvd., Spokane, WA 99201-3315, post marked no later than the closing date stated above.

Current City employees who apply promotionally may send an e-mail to: civilservice@spokanecity.org, no later than 5:00 p.m. on the closing date, requesting your name be added to the Promotional Examination list. **Please include:** 1) your full name, 2) present classification, 3) department and phone number, 4) driver's license number and expiration date, if required; **OR** go to the Civil Service office on the 4th floor of City Hall during office hours to sign up on the Promotional Examination list.

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 22nd day of May 2013.

MARY DORAN
Chair

GLENN KIBBEY
Chief Examiner

**POLICE CAPTAIN SPN 917
PROMOTIONAL ONLY EXAMINATION**

DATE OPEN: Monday, June 3, 2013

DATE CLOSED: Applications will be accepted until the close of business on Friday, June 14, 2013. Applicants who have filed a basic application will have until the close of business on Monday, June 17, 2013, to return the Training and Experience Evaluation form.

SALARY: \$129,539 annual salary, payable bi-weekly, to a maximum of \$142,652

OFFICE HOURS: 8:00 a.m. to 5:00 p.m. – Monday through Friday, except holidays

DUTIES:

Performs responsible command-level work in directing the activities of a major division of the Police Department.

PROMOTIONAL REQUIREMENTS: (All requirements must be met by date of examination.)

Two years of service with the City in the classification of Police Lieutenant. Must obtain the Washington State Criminal Justice Training Commission Mid-Management Career Level Certification within the probationary period. Certified by the police physician as physically fit to perform such duty. Applicants must possess a valid driver's license.

Note: Per MOU dated 8/2/10, scoring for Police Captain no longer includes the 20% normally awarded to the promotional evaluation. Per MOU dated 1/1/13, the classification of Police Captain shall be governed by the same certification and appointment procedures outline in Civil Service Rule V, Section 5 for Senior Administrative Assistant (i.e. Rule of the List).

EXAMINATION:

The examination will consist of a Training and Experience Evaluation form. Weight is assigned as follows: Training and Experience Evaluation form 100%.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

TO APPLY:

Because this is a promotional only recruitment, it is not posted on the City's website. **Current City employees** who apply promotionally may send an e-mail to: civilservice@spokanecity.org, no later than 5:00 p.m. on the closing date, requesting your name be added to the Promotional Examination list. Please include: 1) your full name, 2) present classification, 3) department and phone number, 4) driver's license number and expiration date, if required; OR go to the Civil Service office on the 4th floor of City Hall during office hours to sign up on the Promotional Examination list.

By order of the SPOKANE CIVIL SERVICE COMMISSION, dated at Spokane, Washington, this 21st day of May 2013.

MARY DORAN
Chair

GLENN KIBBEY
Chief Examiner

Notice for Bids

Paving, Sidewalks, Sewer, etc.

CALL FOR BIDS

DOWNTOWN BICYCLE NETWORK COMPLETION

Engineering Services File No. 2011074

This project consists of the construction of approximately 490 linear feet of 8-ft wide trail and 320 lineal feet of 10-ft wide trail, 540 lineal feet of curb, 12,370 square feet of pavement markings, Traffic signal retrofit, 410 square yards of pavement and pavement patch, sundry utility adjustments, and other related miscellaneous items.

The City of Spokane Purchasing Department, Fourth floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201-3316, will receive sealed bids **until 1:00 p.m., June 10, 2013** for the above project located in Spokane, Washington, in accordance with the Contract Documents on file in the office of the Director, Engineering Services Department. The bids will be publicly opened and read at 1:15 p.m. in the City Council Chambers.

Copies of the Contract Documents are available at www.cityofspokaneplans.com. The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: www.spokaneengineering.org/bid-information.

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

A certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within TEN (10) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

The City has a new policy regarding addenda. Refer to the Notice to Prospective Bidders Regarding Bid Phase Questions.

Note regarding new specifications: The City of Spokane is using WSDOT's 2012 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2012 specifications prior to bidding the project.

Publish: May 22, 29 and June 5, 2013

CALL FOR BIDS

RIVERSIDE AVENUE FROM ALTAMONT STREET TO COOK STREET COOK STREET FROM SPRAGUE AVENUE TO RIVERSIDE AVENUE

Engineering Services File No. 2012049

This project consists of the construction of approximately 1,160-cubic yards of excavation and embankment, 4-drainage structures, 725-square yards of 4-inch thick concrete sidewalk, 136-square yards of 6-inch thick concrete driveways, 1,260-linear feet of concrete curb and gutter, 280-ft of concrete curb wall, 3,267-square yards of 4-inch thick hot-mix asphalt (HMA) pavement over 6-inches of crushed rock, sundry utility adjustments, and other related miscellaneous items.

The City of Spokane Purchasing Department, Fourth floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201-3316, will receive sealed bids **until 1:00 p.m., June 17, 2013** for the above project located in Spokane, Washington, in accordance with the Contract Documents on file in the office of the Director, Engineering Services Department. The bids will be publicly opened and read at 1:15 p.m. in the City Council Chambers.

Copies of the Contract Documents are available at www.cityofspokaneplans.com. The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: www.spokaneengineering.org/bid-information.

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

A certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within TEN (10) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

The City has a new policy regarding addenda. Refer to the Notice to Prospective Bidders Regarding Bid Phase Questions.

In accordance with SMC 7.06.500 and RCW 39.04.350(1), the low bidder shall complete the Supplemental Bidder Responsibility Criteria form located in Appendix C. Failure to promptly submit the form including supporting documentation if required may delay award of the Contract.

Note regarding new specifications: The City of Spokane is using WSDOT's 2012 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2012 specifications prior to bidding the project.

Publish: May 29, June 5 and 12, 2013

CALL FOR BIDS**NEBRASKA AVENUE FROM LINCOLN STREET TO POST STREET****Engineering Services File No. 2012059**

This project consists of the construction of approximately 340-cubic yards of excavation and embankment, 3-drainage structure, 280-square yards of 4-inch thick concrete sidewalk, 84-square yards of 6-inch thick concrete driveways, 125-linear feet of concrete curb, 50-linear feet of concrete curb and gutter, 1,000-square yards of 3-inch thick hot-mix asphalt (HMA) pavement, sundry utility adjustments, and other related miscellaneous items.

The City of Spokane Purchasing Department, Fourth floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201-3316, will receive sealed bids **until 1:00 p.m., June 17, 2013** for the above project located in Spokane, Washington, in accordance with the Contract Documents on file in the office of the Director, Engineering Services Department. The bids will be publicly opened and read at 1:15 p.m. in the City Council Chambers.

Copies of the Contract Documents are available at www.cityofspokaneplans.com. The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: www.spokaneengineering.org/bid-information.

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

A certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within TEN (10) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

The City has a new policy regarding addenda. Refer to the Notice to Prospective Bidders Regarding Bid Phase Questions.

In accordance with SMC 7.06.500 and RCW 39.04.350(1), the low bidder shall complete the Supplemental Bidder Responsibility Criteria form located in Appendix C. Failure to promptly submit the form including supporting documentation if required may delay award of the Contract.

Note regarding new specifications: The City of Spokane is using WSDOT's 2012 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2012 specifications prior to bidding the project.

Publish: May 29, June 5 and 12, 2013

CALL FOR BIDS**SHILOH HILLS ELEMENTARY SIDEWALKS****Engineering Services File No. 2012135**

This project consists of the construction of approximately 720 linear feet of concrete curb, 1,000 square yards of concrete sidewalk, concrete curb and sidewalk removal, sundry utility adjustments, and other related miscellaneous items.

The City of Spokane Purchasing Department, Fourth floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201-3316, will receive sealed bids **until 1:00 p.m., June 17, 2013** for the above project located in Spokane, Washington, in accordance with the Contract Documents on file in the office of the Director, Engineering Services Department. The bids will be publicly opened and read at 1:15 p.m. in the City Council Chambers.

Copies of the Contract Documents are available at www.cityofspokaneplans.com. The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: www.spokaneengineering.org/bid-information.

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

A certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within TEN (10) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

The City has a new policy regarding addenda. Refer to the Notice to Prospective Bidders Regarding Bid Phase Questions.

In accordance with SMC 7.06.500 and RCW 39.04.350(1), the low bidder shall complete the Supplemental Bidder Responsibility Criteria form located in Appendix C. Failure to promptly submit the form including supporting documentation if required may delay award of the Contract.

Note regarding new specifications: The City of Spokane is using WSDOT's 2012 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2012 specifications prior to bidding the project.

Publish: May 29, June 5 and 12, 2013

CALL FOR BIDS

2013 COMMUNITY DEVELOPMENT SIDEWALK PROJECT

Engineering Services File No. 2013039

This project consists of the construction of approximately 2,300 linear feet of concrete curb, 4,500 square yards of concrete sidewalk, concrete curb and sidewalk removal, sundry utility adjustments, and other related miscellaneous items.

The City of Spokane Purchasing Department, Fourth floor, City Hall, 808 West Spokane Falls Boulevard, Spokane WA 99201-3316, will receive sealed bids **until 1:00 p.m., June 3, 2013** for the above project located in Spokane, Washington, in accordance with the Contract Documents on file in the office of the Director, Engineering Services Department. The bids will be publicly opened and read at 1:15 p.m. in the City Council Chambers.

Copies of the Contract Documents are available at www.cityofspokaneplans.com. The Planholders list is also available at this website. Additional project information including the Engineer's estimated cost range for the project, bid results (after bid opening), as well as information about other City projects are available by following the appropriate links at the following website: www.spokaneengineering.org/bid-information.

The City of Spokane, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulation, Department of Transportation, subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin, or sex in consideration for an award.

Bids shall be submitted on the forms provided in accordance with the provisions of the Specifications. Irregular bid proposals will be rejected in accordance with the specifications.

A certified check or surety bond in the sum of five percent (5%) of the Total Project Bid must accompany the copy of the bid filed with the City Clerk. Successful bidder shall execute the Contract within TEN (10) calendar days after receiving the Contract. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated herein, the bid proposal deposit shall be forfeited to the City of Spokane.

The City of Spokane will normally award this Contract or reject bids within FORTY FIVE (45) calendar days after the time set for the bid opening. If the lowest responsible Bidder and the City of Spokane agree, this deadline may be extended. If they cannot agree on an extension by the 45-calendar day deadline, the City of Spokane reserves the right to Award the Contract to the next lowest responsible Bidder or reject all Bids.

The City has a new policy regarding addenda. Refer to the Notice to Prospective Bidders Regarding Bid Phase Questions.

In accordance with SMC 7.06.500 and RCW 39.04.350(1), the low bidder shall complete the Supplemental Bidder Responsibility Criteria form located in Appendix C. Failure to promptly submit the form including supporting documentation if required may delay award of the Contract.

Note regarding new specifications: The City of Spokane is using WSDOT's 2012 Standard Specifications. Bidders should allow sufficient time to familiarize themselves with the WSDOT 2012 specifications prior to bidding the project.

Publish: May 15, 22 and 29, 2013

Notice for Bids

Supplies, Equipment, Maintenance, etc.

REQUEST FOR PROPOSALS

BOND COUNSEL SERVICES
City of Spokane Finance Division

RFP #3915-13

Sealed Proposals will be acknowledged at the 1:15 p.m. public bid opening on **MONDAY, JUNE 3, 2013**, in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for **BOND COUNSEL SERVICES** for the City of Spokane Finance Division.

The Request for Proposals document is available by contacting Connie Wahl, City of Spokane Purchasing, 4th Floor, City Hall, 808 West Spokane Falls Blvd, Spokane, WA 99201 at purchasinghelp@spokanecity.org.

Proposal documents should be submitted to City of Spokane Purchasing **no later than 1:00 p.m. on Monday, June 3, 2013**. Proposals must be sent sufficiently ahead of time to be received by the required date and time. The City of Spokane is not responsible for Proposals delivered late. **Only firm Proposals with signatures will be evaluated.**

Submit one (1) paper original, one (1) paper copy, and one (1) reproducible digital copy (CD or thumb drive) of the Proposal to:

City of Spokane - Purchasing
4th Floor - City Hall
808 W. Spokane Falls Blvd.
Spokane, Washington 99201

The right is reserved to reject any and all Proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the Proposer when considering this contract.

All response packages are to be clearly marked with: **"RFP #3915-13, BOND COUNSEL SERVICES, DUE 6/3/13"**.

Connie Wahl, C.P.M., CPPB
City of Spokane Purchasing

Publish: May 22 and 29, 2013

STREET FLUSHER SYSTEM
Fleet Services Department

BID #3942-13

Sealed bids will be opened at 1:15 p.m., **MONDAY, JUNE 3, 2013** in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for **ONE (1) STREET FLUSHER SYSTEM** for the City of Spokane Fleet Services Department.

Detailed specifications and proposal forms are available from the City of Spokane Purchasing, by contacting Thea Prince at purchasinghelp@spokanecity.org.

Bid proposal forms may be submitted to City Purchasing **until 1:00 p.m. on the date of opening**. Proposals must be sent sufficiently ahead of time to be received by the opening date and time. City of Spokane is not responsible for proposals delivered late.

Submit one (1) original to:

Purchasing
4th Floor - City Hall
808 W. Spokane Falls Blvd.
Spokane WA 99201

The right is reserved to reject any and all proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the proposer when considering this contract. **Only firm proposals with signatures will be tabulated.**

Envelopes containing proposals are to be marked: **"STREET FLUSHER SYSTEM, BID #3942-13 DUE 6/3/13"**.

Thea Prince
Purchasing Division

Publish: May 22 and 29, 2013

TRUCK MOUNTED PAINT STRIPING EQUIPMENT
Fleet Services Department

BID #3943-13

Sealed bids will be opened at 1:15 p.m., **MONDAY, JUNE 3, 2013** in the Council Chambers, 808 West Spokane Falls Boulevard, Spokane, Washington 99201, for **ONE (1) TRUCK MOUNTED PAINT STRIPING EQUIPMENT** for the City of Spokane Fleet Services Department.

Detailed specifications and proposal forms are available from the City of Spokane Purchasing, by contacting Thea Prince at purchasinghelp@spokanecity.org.

Bid proposal forms may be submitted to City Purchasing **until 1:00 p.m. on the date of opening**. Proposals must be sent sufficiently ahead of time to be received by the opening date and time. City of Spokane is not responsible for proposals delivered late.

Submit one (1) original and one (1) copy to:

Purchasing
4th Floor – City Hall
808 W. Spokane Falls Blvd.
Spokane WA 99201

The right is reserved to reject any and all proposals and to waive any informalities in the bidding. Special attention will be directed to the qualifications of the proposer when considering this contract. **Only firm proposals with signatures will be tabulated.**

Envelopes containing proposals are to be marked: **“TRUCK MOUNTED PAINT STRIPING EQUIPMENT, BID #3943-13 DUE 6/3/13”**.

Thea Prince
Purchasing Division

Publish: May 22 and 29, 2013
