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Supreme Court No. 84921-8

Snohomish County Superior Court No. 10-2-06342-9

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

Mukilteo Citizens for Simple Government,

Appellant,

v.

City of Mukilteo, Christine Boughman, Snohomish County,
Carolyn Weikel, Nicholas Sherwood, Alex Rion, Tim Eyman,

Respondents.

APPELLANT'S REQUEST FOR JUDICIAL NOTICE

Vanessa S. Power, WSBA #30777
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Attorneys for Appellant Mukilteo
Citizens for Simple Government

I. IDENTITY OF MOVING PARTY

The moving party is Appellant Mukilteo Citizens for Simple Government (“Mukilteo Citizens”), plaintiff in the Superior Court.

II. STATEMENT OF RELIEF SOUGHT

Mukilteo Citizens requests that the Court take judicial notice of relevant portions of the following three documents:

- (a) **Ballot:** General Election Sample Ballot – November 2, 2010 for Snohomish County, Washington (the “Ballot”);
- (b) **Voters’ Pamphlet:** Snohomish County Local Voters’ Pamphlet, General Election November 2, 2010 (the “Voters’ Pamphlet”); and
- (c) **Election Results:** official Snohomish County Election Results for the November 2, 2010 general election.

Each of these documents were created and/or reflect events that occurred after the close of briefing in this matter. True and correct copies of these documents (from the Snohomish County Auditor’s website) are attached as Exhibits A, B, and C, respectively.

III. FACTS RELEVANT TO MOTION

This case involves the Court’s direct review of an order of the Snohomish County Superior Court denying Mukilteo Citizens’ motion for declaratory and injunctive relief. Mukilteo Citizens sought a declaration

that the Initiative exceeds the scope of the local initiative power, and is therefore invalid, and an injunction precluding inclusion of the Initiative on the ballot. On August 6, 2010, the Superior Court denied the relief sought by Mukilteo Citizens. On September 10, 2010, this Court denied Mukilteo Citizens' emergency motion for accelerated review, but granted Mukilteo Citizens' request for direct review. Briefing on appeal closed on August 25, 2010.

Following the close of briefing, the Snohomish County Auditor distributed the Voters' Pamphlet. As will be discussed more fully in Section VI below, the Voters' Pamphlet reflects inclusion of two local propositions (including the Initiative) on the ballot in Mukilteo. The Ballot reflects the same. Finally, the Election Results show that the general election took place on November 2, 2010, and that the Initiative passed.

IV. GROUNDS FOR RELIEF AND ARGUMENT

Under RAP 9.11, the Court may take judicial notice of additional evidence if:

(1) additional proof of facts is needed to fairly resolve the issues on review, (2) the additional evidence would probably change the decision being reviewed, (3) it is equitable to excuse a party's failure to present the evidence to the trial court, (4) the remedy available to a party through postjudgment motions in the trial court is inadequate or unnecessarily expensive, (5) the appellate

court remedy of granting a new trial is inadequate or unnecessarily expensive, and (6) it would be inequitable to decide the case solely on the evidence already taken in the trial court.

Washington law is equally clear that judicial notice is allowed at any stage of a case, including on appeal. ER 201(f). *Spokane Research v. City of Spokane*, 155 Wn.2d 89, 98, 117 P.3d 1117 (2005).

Each of the requirements for granting a request for judicial notice is satisfied here. Starting with the first requirement – “additional proof of facts is needed to fairly resolve the issues on review” – the above-referenced documents are clearly relevant to the Court’s decision in this appeal. The Ballot, Voters’ Pamphlet, and Election reflect that the Initiative was included on the ballot and passed. As a result, this matter is not moot because the Court may still grant an effective remedy holding that the Initiative was invalid.

In addition, the documents are relevant to a threshold issue before the Court: whether the City of Mukilteo may properly characterize the Initiative as merely “advisory” in nature and whether, as a matter of fact, the Initiative was just that, an initiative. The Ballot reflects inclusion of the Initiative in the City of Mukilteo as “Proposition No. 1,” an “Initiative Measure.” *See* Exhibit A, p. 3. The Ballot also reflects inclusion of City of Mukilteo “Proposition No. 2,” an “Advisory Vote.” *Id.* The Voters’

Pamphlet likewise reflects inclusion of the Initiative (Proposition No. 1) and an advisory vote (Proposition No. 2) on the ballot, along with their corresponding ballot titles and explanatory statements. *See* Exhibit B. The Ballot and Voters' Pamphlet thus show that the City of Mukilteo distinguishes between initiatives and advisory votes, and in fact did so on the November 2, 2011 ballot that included two local propositions: (1) an initiative (the Initiative at issue in this case), and (2) an advisory vote on a separate matter.

The second and sixth requirements for granting a request for judicial notice – “the additional evidence would probably change the decision being reviewed” and “it would be inequitable to decide the case solely on the evidence already taken in the trial court” – are also satisfied. As noted above, the documents reflect that the election has already occurred, and that the City of Mukilteo included the Initiative on the ballot under the title “Initiative Measure” alongside a separately titled “Advisory Vote.” Had the City wanted to include the measure as an “advisory vote,” it could have done so, just as it did with the second measure on the same ballot. But it did not. This additional evidence is highly relevant to the Court's review of the City's argument that the Initiative at issue was “advisory” in nature only. It would be manifestly inequitable to decide the case without properly considering such evidence.

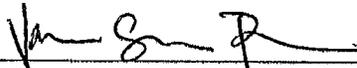
Finally, the remaining requirements – “it is equitable to excuse a party’s failure to present the evidence to the trial court,” “the remedy available to a party through postjudgment motions in the trial court is inadequate or unnecessarily expensive,” and “the appellate court remedy of granting a new trial is inadequate or unnecessarily expensive” – are likewise satisfied. Mukilteo Citizens cannot properly be faulted for failing to present the Ballot, Voters’ Pamphlet, and Election Results to the trial court because as of the date of the trial court’s ruling, and indeed as of the close of briefing on appeal, the documents were not yet available. Nor is there an adequate remedy available to Mukilteo Citizens before the trial court, as the case is pending before this Court and briefing has closed. For similar reasons, it is far too late and wholly inadequate to grant a new trial – particularly because the issues before the Court are purely legal.

V. CONCLUSION

For all the foregoing reasons, Mukilteo Citizens’ Request for Judicial Notice should be granted.

Respectfully submitted this 25th day of April, 2011.

STOEL RIVES LLP



Vanessa S. Power, WSBA #30777
Leonard J. Feldman, WSBA #20961

Attorneys for Appellant Mukilteo
Citizens for Simple Government

CERTIFICATE OF SERVICE

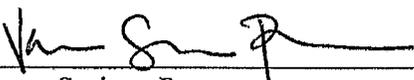
I, Vanessa Power, certify under penalty of perjury under the laws of the State of Washington that, on April 25, 2011, I caused the foregoing document to be served on the persons listed below in the manner shown:

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Vanessa Soriano Power

EXHIBIT A

General Election Sample Ballot – November 2, 2010

Snohomish County, Washington

How to vote

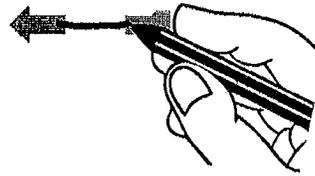
Use a single line to mark your vote.
Do not use a felt pen. Please use a pencil or pen.
Voting more than once per race or question will cancel that vote.

How to change a vote

Draw a line through your choice like this: ~~George Washington~~.
You have the option of making another choice.

How to vote a write-in

To vote for a person not on the ballot, connect the arrow and write in the name of the person on the line provided.



Proposed by Initiative Petition

Initiative Measure No. 1053

Initiative Measure No. 1053 concerns tax and fee increases imposed by state government. This measure would restate existing statutory requirements that legislative actions raising taxes must be approved by two-thirds legislative majorities or receive voter approval, and that new or increased fees require majority legislative approval. Should this measure be enacted into law?

Yes
No

Initiative Measure No. 1082

Initiative Measure No. 1082 concerns industrial insurance. This measure would authorize employers to purchase private industrial insurance beginning July 1, 2012; direct the legislature to enact conforming legislation by March 1, 2012; and eliminate the worker-paid share of medical-benefit premiums. Should this measure be enacted into law?

Yes
No

Initiative Measure No. 1098

Initiative Measure No. 1098 concerns establishing a state income tax and reducing other taxes. This measure would tax "adjusted gross income" above \$200,000 (individuals) and \$400,000 (jointfilers), reduce state property tax levies, reduce certain business and occupation taxes, and direct any increased revenues to education and health. Should this measure be enacted into law?

Yes
No

Initiative Measure No. 1100

Initiative Measure No. 1100 concerns liquor (beer, wine and spirits). This measure would close state liquor stores; authorize sale, distribution, and importation of spirits by private parties; and repeal certain requirements that govern the business operations of beer and wine distributors and producers. Should this measure be enacted into law?

Yes
No

Proposed by Initiative Petition

Initiative Measure No. 1105

Initiative Measure No. 1105 concerns liquor (beer, wine and spirits). This measure would close all state liquor stores and license private parties to sell or distribute spirits. It would revise laws concerning regulation, taxation and government revenues from distribution and sale of spirits. Should this measure be enacted into law?

Yes
No

Initiative Measure No. 1107

Initiative Measure No. 1107 concerns reversing certain 2010 amendments to state tax laws. This measure would end sales tax on candy; end temporary sales tax on some bottled water; end temporary excise taxes on carbonated beverages; and reduce tax rates for certain food processors. Should this measure be enacted into law?

Yes
No

Proposed to the People by the Legislature

Referendum Bill No. 52

The legislature has passed Engrossed House Bill No. 2561, concerning authorizing and funding bonds for energy efficiency projects in schools. This bill would authorize bonds to finance construction and repair projects increasing energy efficiency in public schools and higher education buildings, and continue the sales tax on bottled water otherwise expiring in 2013. Should this bill be:

Approved
Rejected

Amendment to the State Constitution Senate Joint Resolution No. 8226

The legislature has proposed a constitutional amendment concerning the limitation on state debt. This amendment would require the state to reduce the interest accounted for in calculating the constitutional debt limit, by the amount of federal payments scheduled to be received to offset that interest. Should this constitutional amendment be:

Approved
Rejected

Proposed to the People by the Legislature

Amendment to the State Constitution Engrossed Substitute House Joint Resolution No. 4220

The legislature has proposed a constitutional amendment on denying bail for persons charged with certain criminal offenses. This amendment would authorize courts to deny bail for offenses punishable by the possibility of life in prison, on clear and convincing evidence of a propensity for violence that would likely endanger persons. Should this constitutional amendment be:

Approved
Rejected

READ: Each candidate for partisan office may state a political party that he or she prefers. A candidate's preference does not imply that the candidate is nominated or endorsed by the party, or that the party approves of or associates with that candidate

Federal Partisan Office

U.S. SENATOR (EARTH TERM VOTE FOR ONE)

Patty Murray
(Prefers Democratic Party)

Dino Rossi
(Prefers Republican Party)

U.S. REPRESENTATIVE DIST. 1 (EARTH TERM VOTE FOR ONE)

Jay Inslee
(Prefers Democratic Party)

James Watkins
(Prefers Republican Party)

U.S. REPRESENTATIVE DIST. 2 (EARTH TERM VOTE FOR ONE)

John Koster
(Prefers Republican Party)

Rick Larson
(Prefers Democratic Party)

**Legislative
Partisan Office**

1st DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Derek Stanford
(Prefers Democratic Party)

Dennis Richter
(Prefers Republican Party)

1st DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Heidi Munson
(Prefers Republican Party)

Luis Moscoco
(Prefers Democratic Party)

10th DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Norma Smith
(Prefers Republican Party)

Laura Lewis
(Prefers Democratic Party)

10th DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Barbara Bailey
(Prefers Republican Party)

Tom Riggs
(Prefers Democratic Party)

21st DISTRICT SENATOR
2 YEAR TERM (VOTE FOR ONE)

Paul Shin
(Prefers Democratic Party)

David Preston
(Prefers Republican Party)

21st DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Mary Helen Roberts
(Prefers Democratic Party)

Ed Borey
(Prefers Republican Party)

21st DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Marko Liias
(Prefers Democratic Party)

Elizabeth Scott
(Prefers Republican Party)

**Legislative
Partisan Office**

32nd DISTRICT SENATOR
4 YEAR TERM (VOTE FOR ONE)

Maralyn Chase
(Prefers Democratic Party)

David Baker
(Prefers Republican Party)

32nd DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Cindy Ryu
(Prefers Democratic Party)

Art Coday
(Prefers Republican Party)

32nd DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Ruth Kagi
(Prefers Democratic Party)

Gary (G) Gagliardi
(Prefers Republican Party)

38th DISTRICT SENATOR
4 YEAR TERM (VOTE FOR ONE)

Nick Harper
(Prefers Democratic Party)

Rod Rieger
(Prefers Conservative Party)

38th DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

John McCoy
(Prefers Democratic Party)

Hugh Fleet
(Prefers Republican Party)

38th DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Mike Sells
(Prefers Democratic Party)

Iris Lilly
(Prefers Republican Party)

39th DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Dan Kristiansen
(Prefers Republican Party)

Eleanor Walters
(Prefers Democratic Party)

39th DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Kirk Pearson
(Prefers Republican Party)

**Legislative
Partisan Office**

44th DISTRICT SENATOR
4 YEAR TERM (VOTE FOR ONE)

Dave Schmidt
(Prefers Republican Party)

Steve Hobbs
(Prefers Democratic Party)

44th DIST REPRESENTATIVE POS 1
2 YEAR TERM (VOTE FOR ONE)

Hans Dunshee
(Prefers Democratic Party)

Bob McCaughan
(Prefers Republican Party)

44th DIST REPRESENTATIVE POS 2
2 YEAR TERM (VOTE FOR ONE)

Mike Hope
(Prefers Republican Party)

John Boerger
(Prefers Democratic Party)

**County
Partisan Office**

PROSECUTING ATTORNEY
SHORT 4 YEAR TERM (VOTE FOR ONE)

Mark Roe
(Prefers Democratic Party)

Jim Kenny
(Prefers Democratic Party)

**Judicial
Nonpartisan Office**

STATE SUPREME COURT POS 4
6 YEAR TERM (VOTE FOR ONE)

Jim Johnson

STATE SUPREME COURT POS 5
6 YEAR TERM (VOTE FOR ONE)

Barbara Madsen

STATE SUPREME COURT POS 6
6 YEAR TERM (VOTE FOR ONE)

Richard B. Sanders

Charlie Wiggins

APPEALS COURT DIV 1 DIST 2 POS 1
6 YEAR TERM (VOTE FOR ONE)

Steve Dwyer

**District Court
Nonpartisan Office**

GASCADE DISTRICT JUDGE POS 1
6 YEAR TERM (VOTE FOR ONE)

Jay F. Wisman

**District Court
Nonpartisan Office**
EVERETT DISTRICT JUDGE POS 1
4 YEAR TERM (VOTE FOR ONE)

Roger Fisher

EVERETT DISTRICT JUDGE POS 2
4 YEAR TERM (VOTE FOR ONE)

Tam T. Bul

EVERGREEN DIST JUDGE POS 1
4 YEAR TERM (VOTE FOR ONE)

Steve Clough

EVERGREEN DIST JUDGE POS 2
4 YEAR TERM (VOTE FOR ONE)

Patricia Lyon

NE ELECTORAL DIST JUDGE POS 1
4 YEAR TERM (VOTE FOR ONE)

Janet E. Garrow

NE ELECTORAL DIST JUDGE POS 2
4 YEAR TERM (VOTE FOR ONE)

Frank V. LaSalata

NE ELECTORAL DIST JUDGE POS 3
4 YEAR TERM (VOTE FOR ONE)

Linda Jacke

NE ELECTORAL DIST JUDGE POS 4
4 YEAR TERM (VOTE FOR ONE)

Peter L. Nault

NE ELECTORAL DIST JUDGE POS 5
4 YEAR TERM (VOTE FOR ONE)

David A. Steiner

NE ELECTORAL DIST JUDGE POS 6
SHORT TERM (VOTE FOR ONE)

John OBrien

Michael Finkle

NE ELECTORAL DIST JUDGE POS 7
SHORT TERM (VOTE FOR ONE)

Donna Tucker

Larry Mitchell

**District Court
Nonpartisan Office**
SOUTH DISTRICT JUDGE POS 1
4 YEAR TERM (VOTE FOR ONE)

Timothy P. Ryan

SOUTH DISTRICT JUDGE POS 2
4 YEAR TERM (VOTE FOR ONE)

Jeffrey D. Goodwin

SOUTH DISTRICT JUDGE POS 3
4 YEAR TERM (VOTE FOR ONE)

Carol A. McRae

**Public Utility District
Nonpartisan Office**
PUD DIST 1 COMMISSIONER DIST 3
4 YEAR TERM (VOTE FOR ONE)

Tanya (Toni) Olson

Brian McMahan

City & Town
City of Arlington
Proposition No. 1

Permanent Levy for Emergency Medical Services

Shall the City of Arlington be authorized to impose a PERMANENT regular property tax levy of \$.50 or less per thousand dollars of assessed valuation for emergency medical services?

YES
NO

City of Mountlake Terrace
Proposition No. 1

Civic Campus Bonds

The City Council of the City of Mountlake Terrace adopted Ordinance No. 2537 concerning a proposition for financing a new civic campus and other community improvements. If approved, this proposition would authorize the City to issue bonds for the construction of a new civic campus and other improvements as listed in Ordinance No. 2537. It would authorize issuance of not more than \$37,500,000 of general obligation bonds maturing within 30 years or less, and authorize the annual levy of excess property taxes to pay and retire such bonds, all as provided in Ordinance No. 2537. Should this proposition be approved?

YES
NO

City & Town
City of Mukilteo
Proposition No. 1

Initiative Measure

Mukilteo Initiative No. 2 concerns automatic ticketing machines. This measure would prohibit Mukilteo from using camera surveillance to impose fines unless two-thirds of the Council and a majority of the voters approve, limit fines, repeal Ordinance 1246 allowing the machines, and mandate an advisory vote. Should this measure be enacted into law?

YES
NO

City of Mukilteo
Proposition No. 2

Advisory Vote on South Mukilteo Annexation

The Mukilteo City Council is considering annexation of the area commonly referred to as the South Mukilteo Annexation Area. This annexation would add approximately 11,000 residents and approximately double the City's commercial acreage. What is your position on the proposed South Mukilteo Annexation?

SUPPORT ANNEXATION
OPPOSE ANNEXATION
NO OPINION

City of Stanwood
Proposition No. 1

Property Tax Levy for Fire Protection and Related Costs

The City of Stanwood has adopted Resolution 2010-1 concerning funding for fire protection services. If approved, this proposition shall fund firefighting staffing and related costs for fire protection services. This proposition would allow the City to increase its current expense levy to two dollars and sixty-seven cents (\$2.67) per one thousand dollars of assessed value for collection in 2011 and increase the levy each year thereafter as allowed by chapter 84.55 RCW. Should this proposition be:

APPROVED
REJECTED

City of Stanwood
Proposition No. 2

Emergency Medical Services Levy

The City of Stanwood has adopted Resolution 2010-2 concerning funding for emergency medical services. If approved, this proposition shall fund delivery of 24-hour basic life support and advanced life support services. This proposition would allow the City to increase its current expense levy to fifty cents (\$.50) per one thousand dollars of assessed value for collection in 2011 and increase the levy each year thereafter as allowed by chapter 84.55 RCW. Should this proposition be:

APPROVED
REJECTED

School District

Monroe School District No. 103 Proposition No. 1

Replacement Educational Technology and Capital Projects Levy

The Board of Directors of Monroe School District #103 adopted Resolution No. 9-2010 concerning a Replacement Educational Technology and Capital Projects Levy. This proposition would authorize the modernization, renovation and improvement of existing facilities and the acquisition of technology and equipment; and authorize the District to levy following excess taxes on all taxable property within the District

Collection Years	Approximate Rate/\$1,000 Assessed Value	Levy Amount
2011	\$0.64	\$2,440,000
2012	\$0.64	\$2,500,000
2013	\$0.63	\$2,985,000
2014	\$0.64	\$3,075,000

all as provided in District Resolution No. 9-2010. Should this proposition be approved?

YES
NO

Fire District

Fire Protection District No. 7 Proposition No. 1

Authorizing Additional Property Tax Levy for Emergency Medical Services

Will Snohomish County Fire Protection District No. 7 be authorized to impose a PERMANENT regular property tax levy of \$0.50 or less per thousand dollars of assessed valuation for emergency medical and paramedic services?

YES
NO

Fire Protection District No. 19 Proposition No. 1

Emergency Medical Service Levy

Will Snohomish County Fire Protection District No. 19 be authorized to impose a PERMANENT regular property tax levy of \$.50 cents or less per thousand dollars of assessed valuation to pay for emergency medical care and related services?

YES
NO

Fire Protection District No. 21 Proposition No. 1

Permanent Levy for Emergency Medical Services

Will Snohomish County Fire District 21 be authorized to impose a PERMANENT regular property tax levy of \$.50 or less per thousand dollars of assessed valuation for emergency medical services?

YES
NO

Fire District

Fire Protection District No. 22 Proposition No. 1

Proposition Authorizing Restoration of Previous Property Tax Levies

The Board of Commissioners of Snohomish County Fire Protection District No. 22 adopted Resolution No. 2010-1 concerning the District's regular property tax levy for maintenance and operations. This proposition would restore the District's regular property tax levy for maintenance and operations to an amount not to exceed \$1.50 per \$1,000 of assessed valuation to be levied in 2010 for collection in 2011. The dollar amount of the 2010 levy shall serve as the base for the purpose of computing subsequent levies as provided by chapter 84.55 RCW. Should this proposition be:

APPROVED
REJECTED

Fire Protection District No. 24 Proposition No. 1

Permanent Levy for Emergency Medical Services

Will Snohomish County Fire Protection District No. 24 be authorized to impose a PERMANENT regular property tax levy of \$.50 or less per thousand dollars of assessed valuation for emergency medical services?

YES
NO

Fire Protection District No. 25 Proposition No. 1

Permanent Levy for Emergency Medical Services

Will Snohomish County Fire Protection District 25 be authorized to impose a PERMANENT regular property tax levy of \$.50 or less per thousand dollars of assessed valuation for emergency medical services?

YES
NO

Port District

Port of Everett Proposition No. 1

Number of Port Commissioners

The Commissioners of the Port of Everett adopted Resolution No. 934-A concerning a proposition to increase the number of port commissioners. This proposition would increase the number of commissioners of the Port District from three (3) commissioners to five (5) commissioners. Should this proposition be:

APPROVED
REJECTED

Port of Everett Proposition No. 2

New Port Commissioner Districts

The Commissioners of the Port of Everett adopted Resolution No. 935-A concerning the districts of new port commissioners. In the event that the number of port commissioners of the Port of Everett is increased from three port commissioners to five port commissioners, this proposition would direct that the districts for the two new commissioners include the entire port district. Should this proposition be:

APPROVED
REJECTED

Transportation District

Edmonds Transportation Benefit District Proposition No. 1

The Board of Directors of the Edmonds Transportation Benefit District adopted Ordinance No. 2 concerning financing specified transportation improvements by an increase in vehicle fee. This proposition would authorize an additional vehicle fee under RCW 82.80.140 of \$40, for a total of \$60 per vehicle, in order to fund transportation improvements specifically described and prioritized in the ordinance, which would include walkways, bicycle loop signage, signalization, intersection improvements, lighting, corridor enhancements, and roadway improvements, all as provided in Ordinance No. 2. Should this proposition be:

APPROVED
REJECTED

EXHIBIT B

City of Mukilteo

Proposition 1

Ballot Title

Initiative Measure

Mukilteo Initiative No. 2 concerns automatic ticketing machines. This measure would prohibit Mukilteo from using camera surveillance to impose fines unless two-thirds of the Council and a majority of the voters approve limit fines, repeal Ordinance 1246 allowing the machines, and mandate an advisory vote. Should this measure be enacted into law?

Explanatory Statement

Chapter 10.05 of the Mukilteo Municipal Code authorizes use of automated traffic safety cameras to detect stoplight violations and school speed zone violations. That chapter also sets forth standards and restrictions regarding use of the cameras, and sets a fine of \$112 for each violation.

If approved, this measure would repeal chapter 10.05 of the Mukilteo Municipal Code. In addition, the measure would add a new chapter 10.06 to the Mukilteo Municipal Code prohibiting the City and any contractor from installing or using automated traffic safety cameras unless the system is approved by a two-thirds vote of the City Council and a majority vote of the people at an election and limiting the fine for infractions to no more than the least expensive parking ticket imposed within the city limits of Mukilteo. An advisory vote of the people at the next general election would be required prior to adoption of an ordinance that authorizes use of automated traffic safety cameras.

Statement For

Statement by: *Tim Eyman, Alex Rion, Nick Sherwood*

VOTING 'YES' GIVES THE PEOPLE THE RIGHT TO DECIDE

Amazingly, nearly half of active registered voters in Mukilteo signed petitions for our initiative. Why? Because it simply requires the government to ask the voters' permission before it installs for-profit camera surveillance on the citizenry. Voting 'yes' gives the voters the right to decide – voting 'no' means you trust the politicians.

Mukilteo's citizens oppose this Big Brother, profit-making policy and the process by which it was adopted. Our initiative reverses the city council's controversial split-vote, requires they get voter approval if they try again, and removes the profit-motive by limiting fines to the amount set in state law.

INITIATIVE #2 GIVES CITIZENS THE CHANCE TO DECIDE

After voters OK our initiative, the government can then implement more effective (albeit less profitable) strategies like more public education, posted signs, flashing warning lights, speed indicator signs, etc. Those approaches are much more in line with the way we do things in Mukilteo.

We like Mukilteo's small town feel. Slapping up red-light cameras and speed cameras and treating citizens like ATM machines takes that away – it hurts our community.

Having the government conduct camera surveillance on its citizens to impose fines is obnoxious and violates fundamental constitutional rights like due process (here are 17 reasons why they're a really bad idea: www.BanCams.com/17reasons).

Let the people decide. Vote YES.
"Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety."

Benjamin Franklin

For more information:

www.BanCams.com,
BanCams@gmail.com, 425.493.9127

Statement Against

Statement by: *Linda Grafer, Randy Lord, Joe Marine*

A limited one-year pilot program was planned to see if camera systems could help address the speeding problem at Olympic View Middle School on State Highway 525, the main ferry traffic route through your city. A recent study showed there were over **85% school zone speeders** while children were present; a tough place to provide a police presence. In addition, the program addressed the red-light runners and high-speed (10+ mph) right-turn violators at Harbour Pointe North and Mukilteo Speedway.

A Tim Eyman-led group has descended on the city for their state-wide goals. Without caring about your safety, they have declared all camera systems are bad, based on faulty implementations in other cities. Instead of experimenting for a year to see if it can be a fair, labor-saving technology, they want to take away your option forever.

We have no issue with the initiative process, but this one ties our hands forever. The initiative's highly restrictive language is quite different from what they've told you. A \$20 ticket wouldn't even cover the cost of the equipment; effectively killing any future chances for this technology. **Let the violators pay the cost, not our citizens.** This initiative kills the idea before it ever has a chance to be tested.

Your city leaders have shown they are responsive. **Don't take away a potential solution** before it's been explored.

Show Tim Eyman that Mukilteo will use facts, not fear, to decide your future. Vote NO on this initiative.

more arguments statements for this proposition on the next page

City of Mukilteo

Proposition 1 (continued)

Rebuttal of Statement Against

Opponents aren't telling the truth - our initiative doesn't prevent automatic ticketing cameras forever, it simply requires politicians to ask our permission first. Voting 'yes' lets the people decide and removes the profit motive by setting fines at the amount set in state law. Voting 'yes' also ensures they'll explore other options that don't violate fundamental constitutional rights.

Mukilteo is a small, polite bedroom community - let's keep it that way.

Let the people decide: vote YES.

Rebuttal of Statement For

Warning lights are already installed at school zones; **clearly not working!** There is nothing more effective for changing behavior than a monetary consequence. A \$20 ticket for endangering children is ludicrous.

Cameras don't violate 'due process' or constitutional rights; individuals have more rights versus Officer issuing the ticket. Innocence is proven with the video. Does a camera in a bank violate due process of a bank robber caught in a crime?

City of Mukilteo

Proposition 2

Ballot Title

Advisory Vote on South Mukilteo Annexation

The Mukilteo City Council is considering annexation of the area commonly referred to as the South Mukilteo Annexation Area. This annexation would add approximately 11,000 residents and approximately double the City's commercial acreage. What is your position on the proposed South Mukilteo Annexation?

Explanatory Statement

The City of Mukilteo is considering annexation of the area commonly referred to as the South Mukilteo Annexation Area. If annexed, this area would add approximately 11,000 residents and approximately double the City's commercial acreage. The City Council has placed Proposition No. 2 on the ballot in order to formally solicit Mukilteo voters' input on the potential annexation. Proposition No. 2 is a non-binding advisory proposition. The final decision on whether to proceed with annexation of the South Mukilteo Annexation Area will be made by the City Council.

Statement For

Statement by: Dan Gray, Jennifer Gregerson, Emily Vanderwielen

Annexation unites our community.

The city's boundaries today are arbitrary in places; going all the way to Highway 99 unites families that send their kids to Mukilteo schools, shop at Mukilteo business and consider themselves part of our community.

Annexation will save us all money.

Adding more businesses, especially retail locations, creates a **stronger and broader tax base** for city services. Adding more people creates **economies of scale** that help deliver city services to existing neighborhoods at lower cost.

Annexation allows us to control our future. Nearly half of the commercial land along the Mukilteo Speedway is not in city limits today. That is why there are billboards and bikini baristas there. Annexation will allow Mukilteo **to make better, smarter decisions** about how our community will look in the future. As these areas develop, the revenues and taxes should come to Mukilteo, not the County.

Annexation protects our environment. The county has allowed massive development in critical habitat areas, like steep slopes and adjacent to salmon-bearing streams. Adding these areas to the city means **better and more rigorous environmental protection**, just like the protection our neighborhoods enjoy today.

Mukilteo's 2009 **annexation plans were approved** by the State, Snohomish County, Lynnwood and unanimously by the Boundary Review Board.

Our neighbors in Wind and Tide, Picnic Point, and Serene Lake have asked to join the city: your vote allows our friends and neighbors to have a voice on their neighborhoods' future.

Vote Yes for a Better, Stronger Mukilteo; Vote Yes on Annexation.

Statement Against

Statement by: B. Jon Boyce, Steve Schmalz

Voting "NO" saves Mukilteo.

Annexation will bring reduced city services, higher taxes, and lower your property values. Do you like Mukilteo's small-town atmosphere? It's quality of life? These will be history. Visit SaveMukilteo.org for updated information, yard signs, and the Save Mukilteo event schedule.

- Door-to-door canvassing of you and your neighbors reveals 80% to 90% of Mukilteo residents strongly oppose annexation. Verify this? Just ask five neighbors.
 - Bogus accountability: Over ONE MILLION dollars of your tax money is already wasted on three failed annexation efforts. It gets worse: Every request for a dollar-cost accounting of untracked city employee hours spent on annexation has been refused.
 - Those wasted ONE MILLION dollars could have built miles of sidewalks, or improved 5th Street, or built a soccer field, or purchased park land for you and your family.
 - There will be a higher demand for police and fire services in the trouble-prone annexed area.
 - The costs of annexation are vastly understated. Take a drive for yourself in the proposed annexation area. Bringing all that up to Mukilteo standards will cost you millions.
 - For the past three years the city has got the numbers on both income and expenditures wrong. And now these same folks want you to believe they've got the annexation costs right? Wanna buy a bridge?
- Be sure to vote "NO". Any "No Opinion" vote will be counted as a "yes" vote. Vote NO. The city you save will be your own. Visit SaveMukilteo.org now.

more argument statements for this proposition on the next page

City of Mukilteo

Proposition 2 (continued)

Rebuttal of Statement Against

Mukilteo is prepared: plans approved by the State Boundary Review Board **ensure everyone receives excellent public services**. Don't accept fear tactics; Mukilteo would never endanger public safety. This is the best time to annex: the strip club on 99 was demolished: let our standards take effect! You will notice very few changes after annexation: our "Welcome to Mukilteo" sign will move a few blocks and **more residents will help share city service costs**. Vote Yes.

Rebuttal of Statement For

Super-Size Mukilteo? VOTE NO

- Annexation will divide us, decrease property values, and dilute City services.
- Annexation will increase your cost of living and the costs of doing business. There are too many empty storefronts already.
- Annexation will degrade our tax base. In larger cities, taxes are not lower; the services and quality of life are not better.
- Annexation passed the BRB despite a clear conflict-of-interest. This was appealed, and successfully overturned.

EXHIBIT C

Snohomish County General Election Results

Snohomish County, WA

Voting results and ballot return numbers for the November 2nd, 2010 General Election**Official Results****Number of ballots issued: 377,739****Number of ballots counted to date: 270,662 -- Approximately 71.65% voter turnout****General Election Proposition Titles and Validation Information****Last Updated: November 22, 2010 4:18 PM****Registration & Turnout**

377,739 Voters

	Vote Count	Percent
AVU Turnout	1,055	0.28%
MAIL IN Turnout	269,607	71.37%
Total	270,662	71.65%

Initiative Measure No. 1053

750/750 100.00%

	Vote Count	Percent
YES	173,548	66.01%
NO	89,360	33.99%
Total	262,908	100.00%

Initiative Measure No. 1082

750/750 100.00%

	Vote Count	Percent
YES	110,480	42.82%
NO	147,519	57.18%
Total	257,999	100.00%

Initiative Measure No. 1098

750/750 100.00%

	Vote Count	Percent
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YES	88,480	33.19%
NO	178,125	66.81%
Total	266,605	100.00%

Initiative Measure No. 1100

750/750 100.00%

	Vote Count	Percent
YES	131,666	49.31%
NO	135,374	50.69%
Total	267,040	100.00%

Initiative Measure No. 1105

750/750 100.00%

	Vote Count	Percent
YES	99,097	37.18%
NO	167,437	62.82%
Total	266,534	100.00%

Initiative Measure No. 1107

750/750 100.00%

	Vote Count	Percent
YES	169,453	63.58%
NO	97,070	36.42%
Total	266,523	100.00%

Referendum Bill 52

750/750 100.00%

	Vote Count	Percent
APPROVED	115,716	44.36%
REJECTED	145,145	55.64%
Total	260,861	100.00%

Senate Joint Resolution 8225

750/750 100.00%

	Vote Count	Percent
APPROVED	121,809	50.02%
REJECTED	121,711	49.98%
Total	243,520	100.00%

Engrossed Substitute House Joint Resolution 4220

750/750 100.00%

	Vote Count	Percent
APPROVED	225,674	86.09%
REJECTED	36,476	13.91%
Total	262,150	100.00%

US SENATOR

750/750 100.00%

	Vote Count	Percent
Patty Murray (Prefers Democratic Party)	137,365	51.49%
Dino Rossi (Prefers Republican Party)	127,531	47.81%
Write-In	1,876	0.70%
Total	266,772	100.00%

US REPRESENTATIVE DIST 1

374/374 100.00%

	Vote Count	Percent
Jay Inslee (Prefers Democratic Party)	76,687	55.64%
James Watkins (Prefers Republican Party)	60,855	44.16%
Write-In	276	0.20%
Total	137,818	100.00%

US REPRESENTATIVE DIST 2

376/376 100.00%

	Vote Count	Percent
John Koster (Prefers Republican Party)	63,996	50.68%
Rick Larsen (Prefers Democratic Party)	61,780	48.93%
Write-In	492	0.39%
Total	126,268	100.00%

1st DIST REP POS 1

124/124 100.00%

	Vote Count	Percent
Derek Stanford (Prefers Democratic Party)	24,179	52.65%
Dennis Richter (Prefers Republican Party)	21,635	47.11%
Write-In	112	0.24%
Total	45,926	100.00%

1st DIST REP POS 2

124/124 100.00%

	Vote Count	Percent
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Heidi Munson (Prefers Republican Party)	22,417	49.12%
Luis Moscoso (Prefers Democratic Party)	23,076	50.57%
Write-In	142	0.31%
Total	45,635	100.00%

10th DIST REP POS 1

43/43 100.00%

	Vote Count	Percent
Norma Smith (Prefers Republican Party)	8,909	60.60%
Laura Lewis (Prefers Democratic Party)	5,736	39.02%
Write-In	57	0.39%
Total	14,702	100.00%

10th DIST REP POS 2

43/43 100.00%

	Vote Count	Percent
Barbara Bailey (Prefers Republican Party)	8,744	59.50%
Tom Riggs (Prefers Democratic Party)	5,896	40.12%
Write-In	56	0.38%
Total	14,696	100.00%

21st DIST SENATOR

128/128 100.00%

	Vote Count	Percent
Paull Shin (Prefers Democratic Party)	30,369	63.14%
David Preston (Prefers Republican Party)	17,637	36.67%
Write-In	91	0.19%
Total	48,097	100.00%

21st DIST REP POS 1

128/128 100.00%

	Vote Count	Percent
Mary Helen Roberts (Prefers Democratic Party)	26,612	56.22%
Ed Borey (Prefers Republican Party)	20,633	43.59%
Write-In	91	0.19%
Total	47,336	100.00%

21st DIST REP POS 2

128/128 100.00%

	Vote Count	Percent
Marko Lias (Prefers Democratic Party)	25,491	54.11%

Elizabeth Scott (Prefers Republican Party)	21,519	45.68%
Write-In	103	0.22%
Total	47,113	100.00%

32nd DIST SENATOR

27/27 100.00%

	Vote Count	Percent
Maralyn Chase (Prefers Democratic Party)	5,624	56.51%
David Baker (Prefers Republican Party)	4,314	43.34%
Write-In	15	0.15%
Total	9,953	100.00%

32nd DIST REP POS 1

27/27 100.00%

	Vote Count	Percent
Cindy Ryu (Prefers Democratic Party)	5,702	57.46%
Art Coday (Prefers Republican Party)	4,208	42.40%
Write-In	14	0.14%
Total	9,924	100.00%

32nd DIST REP POS 2

27/27 100.00%

	Vote Count	Percent
Ruth Kagi (Prefers Democratic Party)	5,808	58.80%
Gary (G) Gagliardi (Prefers Republican Party)	4,057	41.08%
Write-In	12	0.12%
Total	9,877	100.00%

38th DIST SENATOR

123/123 100.00%

	Vote Count	Percent
Nick Harper (Prefers Democratic Party)	22,089	58.85%
Rod Rieger (Prefers Conservative Party)	14,892	39.68%
Write-In	551	1.47%
Total	37,532	100.00%

38th DIST REP POS 1

123/123 100.00%

	Vote Count	Percent
John McCoy (Prefers Democratic Party)	21,875	57.68%
Hugh Fleet (Prefers Republican Party)	15,910	41.95%

Write-In	139	0.37%
Total	37,924	100.00%

38th DIST REP POS 2

123/123 100.00%

	Vote Count	Percent
Mike Sells (Prefers Democratic Party)	22,043	58.35%
Iris Lilly (Prefers Republican Party)	15,602	41.30%
Write-In	135	0.36%
Total	37,780	100.00%

39th DIST REP POS 1

126/126 100.00%

	Vote Count	Percent
Dan Kristiansen (Prefers Republican Party)	25,302	59.53%
Eleanor Walters (Prefers Democratic Party)	17,062	40.14%
Write-In	139	0.33%
Total	42,503	100.00%

39th DIST REP POS 2

126/126 100.00%

	Vote Count	Percent
Kirk Pearson (Prefers Republican Party)	33,608	95.98%
Write-In	1,407	4.02%
Total	35,015	100.00%

44th DIST SENATOR

179/179 100.00%

	Vote Count	Percent
Dave Schmidt (Prefers Republican Party)	29,505	49.08%
Steve Hobbs (Prefers Democratic Party)	30,441	50.64%
Write-In	172	0.29%
Total	60,118	100.00%

44th DIST REP POS 1

179/179 100.00%

	Vote Count	Percent
Hans Dunshee (Prefers Democratic Party)	31,339	51.99%
Bob McCaughan (Prefers Republican Party)	28,823	47.81%
Write-In	121	0.20%
Total	60,283	100.00%

44th DIST REP POS 2

179/179 100.00%

	Vote Count	Percent
Mike Hope (Prefers Republican Party)	38,816	65.10%
John Boerger (Prefers Democratic Party)	20,673	34.67%
Write-In	135	0.23%
Total	59,624	100.00%

PROSECUTING ATTORNEY

750/750 100.00%

	Vote Count	Percent
Mark Roe (Prefers Democratic Party)	155,030	68.48%
Jim Kenny (Prefers Democratic Party)	68,389	30.21%
Write-In	2,952	1.30%
Total	226,371	100.00%

STATE SUPREME COURT POS 1

750/750 100.00%

	Vote Count	Percent
Jim Johnson	191,690	98.00%
Write-In	3,907	2.00%
Total	195,597	100.00%

STATE SUPREME COURT POS 5

750/750 100.00%

	Vote Count	Percent
Barbara Madsen	184,747	98.04%
Write-In	3,702	1.96%
Total	188,449	100.00%

STATE SUPREME COURT POS 6

750/750 100.00%

	Vote Count	Percent
Richard B. Sanders	112,145	51.36%
Charlie Wiggins	104,581	47.89%
Write-In	1,632	0.75%
Total	218,358	100.00%

APPEALS COURT DIV 1 DIST 2 POS 1

750/750 100.00%

	Vote Count	Percent
Steve Dwyer	183,703	98.44%
Write-In	2,914	1.56%
Total	186,617	100.00%

CASCADE DISTRICT JUDGE POS 1

96/96 100.00%

	Vote Count	Percent
Jay F. Wisman	22,934	96.47%
Write-In	839	3.53%
Total	23,773	100.00%

EVERETT DISTRICT JUDGE POS 1

206/206 100.00%

	Vote Count	Percent
Roger Fisher	48,407	97.71%
Write-In	1,134	2.29%
Total	49,541	100.00%

EVERETT DISTRICT JUDGE POS 2

206/206 100.00%

	Vote Count	Percent
Tam T. Bui	48,149	98.05%
Write-In	960	1.95%
Total	49,109	100.00%

EVERGREEN DISTRICT JUDGE POS 1

166/166 100.00%

	Vote Count	Percent
Steve Clough	41,456	98.33%
Write-In	702	1.67%
Total	42,158	100.00%

EVERGREEN DISTRICT JUDGE POS 2

166/166 100.00%

	Vote Count	Percent
Patricia Lyon	40,476	98.35%
Write-In	678	1.65%
Total	41,154	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 1

17/17 100.00%

	Vote Count	Percent
Janet E. Garrow	4,439	98.73%
Write-In	57	1.27%
Total	4,496	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 2

17/17 100.00%

	Vote Count	Percent
Frank V. LaSalata	4,413	98.50%
Write-In	67	1.50%
Total	4,480	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 3

17/17 100.00%

	Vote Count	Percent
Linda Jacke	4,400	98.72%
Write-In	57	1.28%
Total	4,457	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 4

17/17 100.00%

	Vote Count	Percent
Peter L. Nault	4,367	98.78%
Write-In	54	1.22%
Total	4,421	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 5

17/17 100.00%

	Vote Count	Percent
David A. Steiner	4,434	98.80%
Write-In	54	1.20%
Total	4,488	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 6

17/17 100.00%

	Vote Count	Percent
John OBrien	2,216	44.01%
Michael Pinkle	2,795	55.51%

Write-In	24	0.48%
Total	5,035	100.00%

NORTHEAST ELECTORAL DISTRICT JUDGE POS 7

17/17 100.00%

	Vote Count	Percent
Donna Tucker	3,109	61.91%
Larry Mitchell	1,889	37.61%
Write-In	24	0.48%
Total	5,022	100.00%

SOUTH DISTRICT JUDGE POS 1

265/265 100.00%

	Vote Count	Percent
Timothy P. Ryan	67,451	98.68%
Write-In	901	1.32%
Total	68,352	100.00%

SOUTH DISTRICT JUDGE POS 2

265/265 100.00%

	Vote Count	Percent
Jeffrey D. Goodwin	65,886	98.66%
Write-In	898	1.34%
Total	66,784	100.00%

SOUTH DISTRICT JUDGE POS 3

265/265 100.00%

	Vote Count	Percent
Carol A. McRae	64,062	98.40%
Write-In	1,039	1.60%
Total	65,101	100.00%

CITY OF ARLINGTON

16/16 100.00%

	Vote Count	Percent
YES	3,400	59.29%
NO	2,335	40.71%
Total	5,735	100.00%

CITY OF MOUNTLAKE TERRACE

19/19 100.00%

	Vote Count	Percent
YES	3,083	47.00%
NO	3,477	53.00%
Total	6,560	100.00%

CITY OF MUKILTEO PROP 1

21/21 100.00%

	Vote Count	Percent
YES	6,396	70.71%
NO	2,649	29.29%
Total	9,045	100.00%

CITY OF MUKILTEO PROP 2

21/21 100.00%

	Vote Count	Percent
SUPPORT ANNEXATION	2,924	32.39%
OPPOSE ANNEXATION	5,663	62.73%
NO OPINION	441	4.88%
Total	9,028	100.00%

CITY OF STANWOOD PROP 1

7/7 100.00%

	Vote Count	Percent
APPROVED	1,382	60.38%
REJECTED	907	39.62%
Total	2,289	100.00%

CITY OF STANWOOD PROP 2

7/7 100.00%

	Vote Count	Percent
APPROVED	1,610	70.49%
REJECTED	674	29.51%
Total	2,284	100.00%

MONROE SCHOOL DISTRICT

36/36 100.00%

	Vote Count	Percent
YES	6,174	43.50%
NO	8,020	56.50%
Total	14,194	100.00%

FIRE DISTRICT 7

62/62 100.00%

	Vote Count	Percent
YES	13,900	66.62%
NO	6,966	33.38%
Total	20,866	100.00%

FIRE DISTRICT 19

10/10 100.00%

	Vote Count	Percent
YES	907	62.12%
NO	553	37.88%
Total	1,460	100.00%

FIRE DISTRICT 21

16/16 100.00%

	Vote Count	Percent
YES	2,070	59.38%
NO	1,416	40.62%
Total	3,486	100.00%

FIRE DISTRICT 22

11/11 100.00%

	Vote Count	Percent
APPROVED	1,032	51.47%
REJECTED	973	48.53%
Total	2,005	100.00%

FIRE DISTRICT 24

3/3 100.00%

	Vote Count	Percent
YES	610	60.40%
NO	400	39.60%
Total	1,010	100.00%

FIRE DISTRICT 25

2/2 100.00%

	Vote Count	Percent
YES	255	64.23%

NO	142	35.77%
Total	397	100.00%

PORT OF EVERETT PROP 1

105/105 100.00%

	Vote Count	Percent
APPROVED	12,937	42.37%
REJECTED	17,595	57.63%
Total	30,532	100.00%

PORT OF EVERETT PROP 2

105/105 100.00%

	Vote Count	Percent
APPROVED	14,475	48.51%
REJECTED	15,362	51.49%
Total	29,837	100.00%

PUD DISTRICT 1 COMM DIST 3

750/750 100.00%

	Vote Count	Percent
Tanya (Toni) Olson	135,972	65.69%
Brian McMahan	69,400	33.53%
Write-In	1,616	0.78%
Total	206,988	100.00%

EDMONDS TRANSPORTATION DISTRICT

51/51 100.00%

	Vote Count	Percent
APPROVED	5,934	30.17%
REJECTED	13,737	69.83%
Total	19,671	100.00%