

1. 05/04/2016 - Snohomish County Charter Review Commission Updated Agenda

Documents: [2016_0504 AGENDA.PDF](#)

2. 05/04/2016 - Snohomish County Charter Review Commission Agenda

**Snohomish County
Charter Review Commission**

8th Floor Robert J. Drewel Building
Jackson Board Room
Wednesday, May 4, 2016
7:00 p.m. – 9:00 p.m.
AGENDA

7:00 p.m. Call to Order

Flag Salute/Roll Call

Agenda Order

Guest:

Public Comments (7:20 p.m.)

Approval of the Minutes:

Report from Chair

Business Items

1. Charter Amendment Study Items

1. Proposal 2016-31 - Require Appeals of Hearing Examiner to go to Superior Court

2. Proposal 2016-24 - Evaluate Governance Structure for Paine Field

3. Proposal 2016-30 - Evaluate Status of Human Rights Commission

4. Proposal 2016-38 - Change Date of County Elections

2. Review of Charter Amendment Language

1. Proposal 2016-02 - Revisions to Districting Timeline and Procedures

2. Proposal 2016-04 - Adding Office of Ombudsman to Charter

Old Business

New Business

9:00 p.m. Adjournment

Next meeting is currently scheduled for May 18 at the Robert J. Drewel Building

Agenda Topics

Study Items

Proposal 2016-29 - Campaign Finance Reform

Proposal 2016-39 - Proposal to Eliminate Certain Independent Executives

Proposal 2016-40 - Coordination of Public Safety Services

Review of Amendment Language

Proposal 2016-18 - Timing of Budget Submission

Proposal 2016-10 - Confirmation of Department Heads

Proposal 2016-08 - Schedule of Council Meetings

[NOTE: Times shown on Agenda are approximate]

Documents: [2016_0504 AGENDA.PDF](#)

3. 05/04/2016 - Snohomish County Charter Review Commission Appeals

- Documents: [2016-33 APPEALS.PDF](#)
4. 05/04/2016 - Snohomish County Charter Review Commission - Paine Field
- Documents: [2016-34 PAINE FIELD.PDF](#)
5. 05/04/2016 - Snohomish County Charter Review Commission Human Rights
- Documents: [2016-35 HUMAN RIGHTS.PDF](#)
6. 05/04/2016 - Snohomish County Charter Review Commission - Date Of County Elections
- Documents: [2016-36 DATE OF COUNTY ELECTIONS.PDF](#)
7. 05/04/2016 - Snohomish County Charter Review Commission - Ballot Language
- Documents: [2016-37 BALLOT LANGUAGE.PDF](#)
8. 05/04/2016 - Snohomish County Charter Review Commission - Draft Minutes 3-30-2016
- Documents: [DRAFT MINUTES 3-30.PDF](#)
9. 05/04/2016 - Snohomish County Charter Review Commission - Draft Minutes 4-6-2016
- Documents: [DRAFT MINUTES 4-6.PDF](#)
10. 05042016- Charter Review Commission Extended Agenda

*** May 4**

- Study Items
1. New issues
- Review of preliminary charter language
1. Districting Timeline

Ombudsman

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SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-33	
SUBJECT TITLE: Require Appeals of Hearing Examiner to go to Superior Court	Meeting Date: May 4, 2016
Estimated Presentation Time: 20 minutes	Exhibits: 1) Background Paper: Hearing Examiner Appeals and the County Council 2) Understanding Quasi-Judicial Actions

RECOMMENDATION: The Commission should discuss Charter Amendment Proposal 2016-31, Require Appeals of the Hearing Examiner to go to Superior Court. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

At the March 30, 2016 meeting of the Commission, the Commission decided to move forward with further analysis and discussion of Charter Amendment Proposal 2016-31, Require Appeals of the Hearing Examiner to go to Superior Court. The proposal was initially proposed by Commissioner Liias.

The 2006 Charter Review Commission considered the issue but did not advance the proposal to the voters. Exhibit 1 contains the background material presented to the 2006 Commission on this issue.

Question for Discussion:

Does the Commission wish to require that appeals of the Hearing Examiner go to Superior Court?

BACKGROUND:

At the March 30 meeting of the Commission, Commissioners unanimously voted to move the process forward for further analysis. During the discussion, Commissioners stated that many times the parties to an appeal know they will also appeal to the Superior Court.

Hearing Examiner

From the Municipal Research and Services Center (MRSC): “Cities and counties in Washington State have statutory authority to establish a hearing examiner system. Under a hearing examiner system, a city or county hires or contracts with a hearing examiner to conduct quasi-judicial hearings, usually in place of local bodies such as the planning commission, the board of adjustment, the board of county commissioners, or the city council. The basic purpose of having a hearing examiner conduct these hearings is to have a professionally trained individual, typically an attorney, make objective quasi-judicial decisions that are supported by an adequate record and that are free from political influences. Using a hearing examiner system allows local legislative and advisory bodies that might otherwise conduct these hearings to bet-

ter concentrate on policy-making. It can also potentially reduce local government liability exposure through what should be more consistent and legally sustainable quasi-judicial decisions.”¹

Quasi-judicial Hearings

A quasi-judicial hearing is when a council member acts as a judge, evaluating an individual case that comes before the legislative body. Individual cases involve a single individual, family, or corporation, but not the larger community.² Council members are held to a high standard of integrity and are prohibited from engaging in “ex parte” communications about the proposal.³

“Quasi-judicial hearings involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the “record” developed at the hearing. Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings. Most quasi-judicial hearings held by local government bodies involve land use matters, including site-specific rezones, preliminary plats, variances, and conditional uses.”⁴

Quasi-judicial actions often involve “approving plats, shoreline permits, special use permits, and related actions. Quasi-judicial actions may be taken by hearing examiners, planning commissions, city councils, and county commissions.”⁵

An illustration of the rules regarding quasi-judicial actions is found in Exhibit 2.

Use of the Hearing Examiner

The county’s hearing examiner has jurisdiction over a wide range of subjects, including, sight specific rezones, subdivisions, planned residential developments, conditional use permits, code enforcement appeals, administrative permit appeals, State Environmental Policy Act appeals, false alarm notice appeals and business and animal license appeals.⁶ Table 1 illustrates the use of the hearing examiner and appeals of the hearing examiner.

¹ “Hearing Examiner System.” MRSC. <http://mrsc.org/Home/Explore-Topics/Planning/Land-Use-Administration/Hearing-Examiner-System.aspx>

² “Public Hearings.” MRSC. <http://mrsc.org/Home/Explore-Topics/Governance/Legislative-Organization,-Meetings-and-Process/Public-Hearings-When-and-How-to-Hold-Them.aspx>

³ A Short Course on Planning: Resource Guide. 2009. Department of Commerce. <http://www.commerce.wa.gov/Documents/GMS-Short-Course-Guidebook-5-1.pdf>

⁴ “Public Hearings.”

⁵ A Short Course on Planning: Resource Guide.

⁶ <http://www.snohomishcountywa.gov/189/Hearing-Examiner>

Table 1 - Use of Hearing Examiner

Year	Number of Hearings	Number of Decisions	Appeals to the Council	Appeals to Superior Court
2006	335	272	14	4
2007	383	198	11	7
2008	259	105	12	6
2009	53	35	4	4
2010	77	61	5	1
2011	59	51	5	2
2012	58	30	2	3
2013	37	45	1	0

Some notes about the use of the hearing examiner are in order. In 2008, the county adopted changes to code enforcement and procedures, leading to fewer cases requiring a decision by the Hearing Examiner. In addition, land use permit activity slowed significantly by 2010.

Currently, most decisions of the hearing examiner can be appealed to the council. If an appeal is filed with the council, it must be filed within fourteen days of the date of the decision accompanied by a filing fee of \$500.

An appeal to Superior Court must be filed within twenty-one days of a final decision of the council accompanied by a filing fee of \$230. Appeals to the council do not preclude an appeal to Superior Court.

Considerations for the Commission

Supporters of eliminating the council from the land use appeals process believe:

- There is reduced liability relating to land use decisions and or procedural challenges to decisions
- The entire process is handled by appointed professionals
- It removes politics from a quasi-judicial process.

Supporters of keeping the process as-is state:

- There is direct accountability to the voters
- Less costly to appeal to county council
- Provides the council the opportunity to correct errors.

An incomplete list cities which require appeals of hearing examiner decisions to go to Superior Court include Bremerton (2.13.130), Edmonds (2.06.010 J), Granite Falls (19.04.110 C), Lynnwood (2.22.230), Marysville (22G.010.540), Mountlake Terrace (19.110.090), and Mukilteo (17.13.090 H).

What types of appeals should go to Superior Court?

If the Commission believes that appeals of the Hearing Examiner should go directly to Superior Court, then the Commission should provide direction to staff what type of decisions should go to Superior Court.

The Hearing Examiner hears land use permit (Type 2, SCC 30.72) and administrative (Type 1, SCC 30.71) appeals, code enforcement appeals (SCC 30.85) and Auditor appeals (SCC 9.0).⁷

In 2006, the Commission expressed interest in only land use appeals being sent to Superior Court, bypassing the council. Although the issues are different in issues brought before the hearing examiner, the arguments supporting either keeping existing procedures or changing the procedures are similar.

ALTERNATIVES:

The Commission delays discussion of the issue to a future meeting.

⁷ Auditor appeals involve enforcement actions related to animal control.

BACKGROUND PAPER
HEARING EXAMINER APPEALS AND THE COUNTY COUNCIL

Prepared by
Stephen Reing; Administrative Analyst

Background

Commissioner Kelly requested staff to provide the commission with background information related to the Hearing Examiner, County Council and Superior Court related to land use decision appeals. This paper provides background related to the current process and the issue the Charter Review Commission may debate.

The Issue

All Hearing Examiner appeals, land use permit applications, SEPA and rezones shall go directly to Superior Court and bypass county council as part of the process.

The Current Process

Snohomish County is authorized and uses a professional Hearing Examiner. "A Hearing Examiner is an appointive officer who acts in a manner similar to a judge and typically is an attorney. The basic purposes of having a hearing examiner conduct these hearings is to have professionally trained individual make objective quasi judicial decisions that are supported by an adequate record and that are free from political influences. Using a hearing examiner system allows local legislative and advisory bodies that might otherwise conduct these hearing to better concentrate on policy making and it can reduce local government liability exposure."¹

In Snohomish County citizens may directly appeal a decision by the Hearing Examiner to the County Council who will render a decision. Council decisions can then be directly appealed in Superior Court.

Focus of the Issue

Marysville Public Works Director Paul Roberts and City of Edmonds Director of Development Duane Bowman concur with Commissioner Kelly that the current process mixes judicial and legislative processes. As stated earlier the Hearing Examiner process is quasi-judicial while the legislative process is policy and political brokering to reach compromises on complex issues. "It may be difficult for elected local government officials to entirely eliminate political considerations from their quasi-judicial decision making. Professional hearing examiners should be immune from political pressures."²

This has the potential of creating liability for the County as well as Council members personally. Duane Bowman cited Mission Springs versus the City of Spokane as a case

¹ Use of Hearing Examiners by Cities and Counties in Washington MRSC Focus, page 1, May 1999,

² Ibid, page 7

where the court held the city council members personally liable for a land use decision. "Mr. Bowman stated this was because their decision was arbitrary and capricious."³ Once the Council enters into the appeals process, they must act in a judicial manner, following strict rules of procedure. Any deviation from the process can invite further appeal and litigation whereby taxpayers could ultimately be liable.

The Judicial process determines compliance with law rule and regulation as passed by legislative authorities. Mr. Bowman states that appropriate areas for decision making by Hearing Examiners are, Planned Residential Communities, Variances, Conditional Use Permits etc. The Hearing Examiner process is governed by their rules of procedure. That 34 page document can be accessed on the Hearing Examiner's web site.

Appropriate areas for focus of Legislative Authorities are, Land Use Plans, Zoning Regulations, and other long range plans and policy issues.

Furthermore the issue of impartiality has been raised. It may be difficult for Council members, who meet with constituents as part of their job to re-main impartial and unbiased if a known constituent appeals a hearing examiner decision to the County Council. On the other side some council members say they can be impartial in this very narrowly defined process.

Those in favor of eliminating the County Council from the land use appeals process believe:

- There is reduced liability relating to land use decisions and or procedural challenges to decisions.
- The entire process is handled by appointed professionals
- It removes politics from a quasi judicial process.

Those who believe having the county council involved believe:

- There is direct accountability to the voters
- Less costly to appeal to County Council than Superior Court.

By the Numbers

Deputy Prosecuting Attorney Millie Judge provided the attached chart showing how many cases ruled by the Hearing Examiner were appealed to the County Council and then of those how many went to Superior Court. 2006 appears to be seeing both an increase in the number of cases heard by the Hearing Examiner as well as the number of cases being appealed to the County Council.

³ Telephone call with Duane Bowman

Attachments

- **Hearing Examiner System in Washington**
- **Use of Hearing Examiners by Cities and Counties in Washington State**
- **Snohomish County Hearing Examiner Web Page**
- **Snohomish County Hearing Examiner Administrative Appeals 2002-2006**

Use of Hearing Examiners by Cities and Counties in Washington

What is a Hearing Examiner and Hearing Examiner System?

Local governments in Washington State have the option of hiring or contracting with a hearing examiner to conduct required quasi-judicial hearings, usually in place of local bodies such as the planning commission, the board of adjustment, the board of county commissioners, or the city council. A hearing examiner is an appointive officer who acts in a manner similar to a judge and typically is an attorney. The basic purpose of having a hearing examiner conduct these hearings is to have a professionally-trained individual make objective quasi-judicial decisions that are supported by an adequate record and that are free from political influences. Using a hearing examiner system allows local legislative and advisory bodies that might otherwise conduct these hearings to better concentrate on policy-making, and it can reduce local government liability exposure.

A board of county commissioners or a city council has considerable discretion in drafting an ordinance creating a local hearing examiner system. The position of hearing examiner, the type of issues the hearing examiner is authorized to consider and decide, the effect of the hearing examiner's decision, and whether an appeal of any final decision is provided should all be determined by the local legislative body and set out in the enabling ordinance. A hearing examiner's decision, as defined by the local legislative body, can have the effect of either a recommendation to or a decision appealable to the ultimate decision-maker (typically the board of county commissioners or the city council), or it can be a final decision (appealable to superior court).

Counties and cities use hearing examiners, often in place of planning commissions, primarily for hearing and deciding land development project applications and/or administrative appeals of land use decisions. Hearing examiners are particularly useful where the rights of individual property owners and the concerns of citizens require formal hearing procedures and preparation of an official record. State land use planning and growth management laws provide cities and counties with specific

authority to establish a hearing examiner system to conduct hearings and make recommendations or decide a variety of land use issues. Hearing examiners may also conduct hearings and make recommendations or decisions on other local matters.

This focus paper describes the use of a hearing examiner, the pros and cons of such systems, and options available to Washington counties and cities. References are provided for further information available from the MRSC library and through our Web site.

Establishing a Hearing Examiner System

The office or position of hearing examiner must be established by ordinance. That ordinance should identify what matters the examiner is empowered to hear and what will be the effect of the examiner's decision on those matters. A common approach in such an ordinance is to establish the framework for the hearing examiner system, while leaving it to the examiner to adopt specific, detailed rules for the conduct of hearings. Hearing examiner ordinances typically address: the appointment and term of the hearing examiner; qualifications of the examiner; conflicts of interest and freedom from improper influence; powers and duties, including matters heard; hearing requirements; effect of decisions; reconsideration of decisions, if allowed; and appeals. MRSC has many examples of hearing examiner ordinances and has a compilation of articles and ordinances relating to the hearing examiner system in this state. See <http://www.mrsc.org/library/compil/cphearex.htm>.

Use of the Hearing Examiner System for Land Use, Environmental, and Related Decisions

Most commonly, hearing examiners are used to hear and decide land use project permit applications where a hearing is required, such as in the case of applications for subdivisions, shoreline permits, conditional use permits, rezones, and variances. The recent trend in state law, particularly in conjunction with regulatory reform, has been to allow local governments to give more authority to the hearing examiner to make final decisions on quasi-judicial project permit applications. For example, RCW 58.17.330, as amended by 1995 regulatory reform legislation, provides that the local legislative body can specify that the legal effect of a hearing examiner's decision on a preliminary plat approval is that of "a final decision of the legislative body."

The hearing examiner's role in the project permit process can include:

- open record hearings on project permit applications;

- appeals of administrative SEPA determinations, which in most cases are combined with the open record hearing on the application;
- closed record appeals of administrative decisions made by the local planning staff, including appeals of SEPA determinations where an administrative appeal is provided;
- land use code interpretations to satisfy the statutory requirement that cities and counties planning under the Growth Management Act adopt procedures for such "administrative interpretations" (RCW 36.70B.110(11));
- land use code enforcement proceedings.

Other Issues Assigned to Hearing Examiners

The local legislative body may, by ordinance, authorize a hearing examiner to hear other types of contested matters, in addition to land use permit applications and code enforcement. Examples of other types of decisions and/or administrative appeals that could be handled by a local hearing examiner include:

- discrimination complaints under local personnel policies;
- employment decisions and personnel grievances;
- ethics complaints by citizens or employees;
- local improvement districts – formation hearing and/or assessment roll determinations;
- public nuisance complaints;
- civil infractions;
- property forfeiture hearings under the Uniform Controlled Substances Act (RCW 69.50.505(e));
- tax and licensing decisions and appeals;
- whistleblower retaliation claims.

of the business to be transacted. You will be limited in making final decisions to those announced business items at the special meeting.

6. I've been on the planning commission for a while now, and I'm still not clear on the difference between our "legislative" and "quasi-judicial" activities.

Everything you do as a planning commissioner will fall into one of these two categories. It's important to be clear on the difference, because when you're operating in a quasi-judicial mode, you're subject to the Appearance of Fairness Act.

Some basic definitions:

First, a **legislative action** is one which will affect the entire community, not just an individual property owner or single piece of land. Examples include updating or revising your community's comprehensive plan and adopting zoning code text amendment ordinances. When you change the community's comprehensive plan or zoning code, the rules change for everyone. No one is seeking or being granted special consideration.

A **quasi-judicial action** is one in which you're sitting "like a judge," evaluating a specific case or proposal submitted to you by individual parties. Examples include applications for variances, special use permits, and subdivisions. In each case, you are being asked to make a decision that affects an individual (or family, partnership, or corporation), but not the entire community. You are acting like a judge, weighing the merits of an individual case before the court. Guilty or not guilty? Grant the variance or deny it?

When you're dealing with these individual applications and project proposals, you are held to very high levels of scrutiny. These are contained in the **Appearance of Fairness Doctrine** (see Chapter 2 for a detailed discussion). Basically, all of your actions when you are in your quasi-judicial role must not only be fair in fact, but must appear fair to the average person.

The question you must ask yourself is: Would a disinterested person, apprised of the totality of your personal interest or involvement in the matter which the planning commission is considering, be reasonably justified in thinking that your involvement might affect your judgment in reaching a decision?

The place where most planning commissioners get into trouble on this one is a direct result of their well-intentioned attempts to be open and accessible to their friends and neighbors. Its really difficult to cut someone off when they call you up at home, or approach you on the street or at the coffee shop and start to tell you what they think about a particular proposal which you're considering, or are about to consider, at the planning commission.

But when you listen to their thoughts outside a regular meeting of the planning commission, regardless of whether they are for or against the proposed project, you are engaging in what the law calls an **“ex parte” communication**. Ex parte communications are forbidden, because they violate the intent of the Appearance of Fairness Doctrine: Regardless of whether any single “off the record” conversation influenced your final vote on a proposed project or application, it just doesn't look right. The law says your actions must appear fair as well as be fair in fact.

So what do you do if you get *a letter at home*, and read it through before you realize it's an attempt to lobby you to approve a new 80-home subdivision? Or what if *a friend grabs your arm* at the post office and blurts out his deeply held thoughts that the thus-and-so project, if approved, is going to change forever the rural character of your town? (He knows this because he worked for years as a real estate appraiser in a very similar community in California, and he can tell you as a real estate professional exactly what a proposal like this one did to that town and its tax base.)

When a situation like one of these occurs, you need to take immediate action at the next planning commission meeting. You'll need to announce and place on the record at the beginning of the discussion of that item the substance of any written or oral ex parte communication which you've received. If you feel that, regardless of this contact, you'll still be able to render a fair decision, you need to state that for the record as well.

At this point in the meeting, you've opened yourself up for a challenge from anyone who feels that you've been tainted by the ex parte communication. If you're challenged, and don't step down for the duration of the discussion and decision on the proposal under consideration, you've left yourself and the commission wide open for a legal challenge after you've rendered your recommendation.

Our advice if you're challenged? Consult with your city attorney or county prosecutor, if that person is available: You may be able to stay and participate. But in the absence of legal advice to the contrary, step down and leave the room. Don't take a seat in the audience, from where you can later be accused of sending "baseball signals" to the remaining members of the commission to influence their votes on the proposal. Instead, go home and take a well-deserved evening off.

After the Doctrine of Appearance of Fairness was first enacted, it didn't take long for clever applicants to figure out that if they could just taint those members of the commission who would probably oppose their application, they could then challenge them on the grounds of having received an ex parte communication. These planning commissioners would then be forced to step down and—bingo! an approved application.

The problem with this sneaky strategy is that if enough members are disqualified, the planning commission lacks a quorum, and can't do business. A clever legal solution called the **Doctrine of Necessity** was enacted to counter this lack of a quorum. Basically, if enough members of the planning commission are challenged to make it impossible to obtain either a quorum or a majority vote, *then those challenged members can return to their seats and participate fully in the debate and the decision. All they have to do is disclose publicly the reason for their disqualification before they render their decision.*

A simple three step ounce-of-prevention strategy is definitely worth a pound of cure on this one. We recommend that the Chair inquire at the beginning of the discussion of each agenda item if any member of the planning commission has any ex parte oral or written contacts to report for the record. The Chair should then ask if any member of the planning commission is aware of any appearance of fairness violations which would prevent his or her participation on the quasi-judicial matter before the commission. Once these have been reported, the Chair should solicit from members of the audience any challenges they wish to pose to individual commissioners based on what the commissioners have just said. These three steps should take place before testimony on the project or proposal begins.

It's worth noting at this point that if no one in the audience raises any challenges right here, then they've waived their right to challenge the participation of any member of the commission later on. This is their one opportunity. If they're silent, they're agreeing to let all unchallenged members of the commission hear the testimony and render a decision.

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-34	
SUBJECT TITLE: Evaluate Governance Structure for Paine Field	Meeting Date: May 4, 2016
Estimated Presentation Time: 30 minutes	Exhibits: 1) Ordinance 87-063 2) RCW 14.08.120

RECOMMENDATION: The Commission should discuss Charter Amendment Proposal 2016-24, Evaluate Governance Structure for Paine Field. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

The county established the Paine Field Community Council in 1979 and subsequently reaffirmed the Mediated Role Determination at least six times. The Community Council is composed of ten voting members and reviews, assesses, and makes recommendations to the Airport Director and the county.

In the discussion on March 30, Chair Gregerson mentioned expanding the oversight authority of the Community Council and the addition of a requirement of an advisory vote before any sale or transfer of assets of the airport facility.

Options to amend the Charter might include limiting the Council’s power in Section 2.10 and the creation of an airport commission in the Charter.

Questions for Discussion:

- 1) Should the Charter address Paine Field governance?
 - A. Should an Airport Commission be re-established, to include representation from each Council District, or,
 - B. Should the Paine Field Community Council be expanded in some way?
 - C. Should the Charter include a requirement for an advisory (or binding) vote regarding sale or transfer of the airport?
- 2) Should the Commission instead make a recommendation to the County Council:
 - A. To place the Community Council in the code, or
 - B. To re-establish the Airport Commission?

BACKGROUND:

The county received back the title of the airport property, subject to certain deed restrictions, in 1948. In 1979, the council adopted a resolution adopted the mediation panel’s recommendations. This resolution is known as the Mediated Role Determination (MRD).¹

¹ <http://snohomishcountywa.gov/DocumentCenter/View/8335>

Among the findings of the council in the resolution, two directly relate to the ongoing governance structure of the airport.

8. The needs and interests of the municipalities surrounding Paine Field, including Everett (sic), Mukilteo, Lynnwood, and Edmonds, must be given full consideration by the County in determining the future use of this facility.

11. Citizen confidence in the commitment of the Airport staff, Airport Commission, and elected County officials to aggressively pursue programs to make the airport and surrounding community comparable must be created to avoid long-ten major confrontations that will poorly serve the airport, County, and community.

The council approved a recommendation to expand the airport commission by two members, “one to represent the residents in the immediate area of the airport and the other to represent the Airport’s pilots.” The council also approved a recommendation that a committee reviewing the Paine Field Community plan, “be constituted in such a manner as to involve local citizens, airport users, qualified technical staff and an advisory committee; and be patterned along the lines of the Citizens’ Advisory Committee which drafted the Snohomish County Shoreline Master Program.”

Airport Commission

In 1959 the county established an airport commission.² The provisions were amended in 1978,³ and completely revised in 1987.⁴⁵ In 1992, the commission was abolished.⁶

From 1987 - 1992, the airport commission had the power to:

- 1) Plan, prepare and recommend to the executive for submittal to the council proposed rules and regulations for the management and control of airport property and activities...
- 2) Plan and recommend improvements on airport property...
- 3) Formulate, develop and recommend to the executive for submittal to the council comprehensive airport, industrial, and/or commercial development plans and promotional material.
- 4) Recommend contracts for consultant services...
- 5) Recommend to the executive contracts for materials, equipment and services...
- 6) Prepare and submit to the executive for executive approval airport grants in aid.
- 7) Recommend to the manager leases of any airport property, space, or equipment to any private party, municipality, state or national government or department thereof...
- 8) Recommend to the executive ordinances and regulations...

² Ordinance adopted 9-21-1959

³ Ordinance adopted 6-07-78

⁴ Ordinance 87-063 <http://www.codepublishing.com/WA/SnohomishCounty/ords/1987/Ord%2087-063.pdf>

⁵ Ordinance 88-006 <http://www.codepublishing.com/WA/SnohomishCounty/ords/1988/Ord%2088-006.pdf>

⁶ Ordinance 92-132 <http://www.codepublishing.com/WA/SnohomishCounty/ords/1992/Ord%2092-132.pdf>

- 9) Recommend to the executive the acquisition and terms thereof of any real property to be used for airport purposes...
- 10) Participate in the development of and recommend the approval of the annual airport budget... (The complete ordinance is found in Exhibit 1)

In addition to the powers found in Snohomish County Code 15.04.030, the commission would make recommendations of the appointment of the airport manager, deny airport privileges to violators of airport rules and regulations, and approve all revenue-producing businesses.

The commission included members from each council district, a pilot representing aviation users, and one member representing residential communities surrounding the airport.

In 1992, the commission was abolished.

Paine Field Community Council

A Paine Field Community Council formed in 1980. The mediation panel recommended that the Community Council should be appointed by the Airport Commission. The mediation panel specifically recommended, "public awareness of airport activities will mutually benefit the airport management and the surrounding residential community." The panel recommended "that mechanisms be set up to keep the general public aware of airport activities."⁷ The Community Council is not established as part of the county code.

A primary purpose of the Community Council is to review, assess, and make recommendations to the Airport Director and/or affected governmental entities with regard to the Airport.

The Community Council currently consists of 10 members representing a.) community residents b.) qualified pilots c.) aviation business operators and d.) representatives from the off-airport business community. The Council meets three times a year to review, assess, and make recommendations to the Airport Director.

The bylaws of the Council state its purposes as:

- a. The Council provides a forum to disseminate airport information to the community and a forum for the community to provide comment.
- b. The Council should review, assess and make recommendations to the Airport Director and/or affected governmental entities with regard to the Airport, especially items impacting the spirit and letter of the mediated role determination.
- c. The Council should promote mutual cooperation and understanding between the Airport, residential communities and airport users.

Options for the Charter

At the March 30 meeting of the Commission Chair Gregerson put forward two proposals to add to the Charter. The first would be to require an advisory vote before any sale or transfer of the airport. The second proposal was to expand oversight authority of the Community Council.

Advisory Vote

⁷ Mediated Role Determination. <http://snohomishcountywa.gov/DocumentCenter/View/8335>

The sale, exchange, transfer, or lease of public property is described in RCW 39.33, where the disposal of surplus property requires a public hearing. Chapter 4.46 of the county code describe the procedures for management and disposition of county-owned real property.

An advisory vote is simply a non-binding poll of a jurisdiction's citizen population. If the advisory vote were the only county-wide election in an even numbered year, the costs to the county to conduct an advisory vote would be about \$280,000. If the advisory vote were held in an odd-numbered year, there would only be marginal increased costs.⁸

The proposal to add an advisory vote to the Charter would place limits on the authority of the county council.

Expand Oversight Authority

The Community Council could be empowered to perform the duties the airport commission had from 1987-1992 (as seen in Exhibit 1) or the Commission could direct the county to establish a metropolitan airport commission as described in RCW 14.08.120.

Expanding the authority of the Community Council would provide additional opportunities to the public to comment on the management of the airport as most policy decisions would need approval of the airport commission, the airport manager, and the county council, while the day to day operations of the airport would presumably remain with the airport manager.

The Commission may decided to create a board with the authority over all airport operations. RCW 14.08.120 provides that the county may “vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation” in a “municipal airport commission.” (See Exhibit 2).

In 1992, the county council abolished the airport commission and placed more authority in the airport manager, leaving the Community Council as a body to review noise monitoring and operations summaries, and as a body to provide feedback on capital projects and other airport programs. The minutes of this meeting are currently in the archives.

Other Options

The voters in the county are empowered to create an airport district (RCW 14.08.290). One hundred registered voters may petition to create an airport district and the voters of the district would vote on the creation of the district. Once created, officers of the airport district would be elected and the district would be empowered to levy not more than seventy-five cents per thousand dollars of assessed value within the airport district. The airport district and the county would still need to negotiate the sale or transfer of the airport.

Another option short of amending the Charter would be to include language in the Charter's transmittal letter that the county council should empower the Community Council and place the Council in the county code.

ALTERNATIVES:

⁸ The county auditor bills each jurisdiction on a particular ballot, regardless of how many questions or candidates are on the ballot from that jurisdiction. For the November 2015 election, the county assigned itself the cost of about \$137,000. For the November 2016 election, the county estimates that its share of the election will be about \$280,000.

The Commission delays discussion to a future meeting.

RECEIVED
SNOHOMISH COUNTY
EXECUTIVE OFFICE

AUG 20 1987



CO00027487

WDT GW PCK
UAM KJB WBD
ORDINANCE NO. 87 - 063
RELATING TO THE SNOHOMISH
COUNTY AIRPORT

BE IT ORDAINED:

Section 1. SCC Sections 15.04.010 through 15.04.060 and Sections 15.04.100 and 15.04.110 as adopted by resolution on September 21, 1959, and 15.12.010 and 15.12.020 as adopted by resolution on July 31, 1967, are each repealed.

Section 2. New sections of the SCC are adopted as follows:

15.04.010 Definitions.

- (1) "Airport" means the Snohomish county airport.
- (2) "Airport commission" or "commission" means the county airport commission.
- (3) "Airport property" means any property within the boundary of the Snohomish county airport.
- (4) "Airport purposes" or "aeronautical purposes" means the same as when used in Ch. 14.08 RCW and includes all aeronautical uses and uses related thereto, including management and control of landing areas and air navigation facilities.
- (5) "Council" means the Snohomish county council.
- (6) "Executive" means the Snohomish county executive.
- (7) "Manager" or "airport manager" means the manager of the Snohomish county airport.

15.04.020 Airport Commission. The airport commission shall be composed of seven members of whom one shall reside in each council district, one shall be a pilot representing aviation users, and one shall represent the residential communities surrounding the airport. Their general qualifications and terms of appointment shall be in conformance with SCC 2.03.050 through 2.03.080. The selection of the member representing residential communities shall be made after considering recommendations of various organized community groups. The selection of the member representing aviation users shall be made after considering recommendations of

various organized aviation groups. The terms of members of the commission shall be staggered so that the terms of not more than two members of the commission expire in any one year. The provisions of this section shall be implemented as the terms of present members of the commission expire or they are otherwise replaced.

15.04.030 Powers and duties. The airport commission is hereby directed, authorized and empowered, with the advice and assistance of the manager, to do the following:

(1) Plan, prepare and recommend to the executive for submittal to the council proposed rules and regulations for the management and control of airport property and activities thereon with respect to aeronautical purposes, including air traffic control necessary to protect property, the public, airport users, patrons and guests.

(2) Plan and recommend improvements on airport property, including buildings and other facilities for any aeronautical purpose, including takeoffs, landings, taxiing, storage of aircraft, building for the management, servicing, or assembling aircraft, aircraft parts or any other service incidental to the handling of aircraft, passengers, freight, or other normal aircraft operations, for industrial or commercial purposes, or for the purpose of providing protection of persons and/or property, subject to limitations as stated elsewhere in this section.

(3) Formulate, develop and recommend to the executive for submittal to the council comprehensive airport, industrial, and/or commercial development plans and promotional programs.

(4) Recommend contracts for consultant services for approval by council.

(5) Recommend to the executive contracts for materials, equipment and services, except consultant service contracts, required to perform the duties stated herein in accord with the provisions of SCC Ch. 3.04, and amendments.

(6) Prepare and submit to the executive for executive approval airport grants in aid.

(7) Recommend to the manager leases of any airport property, space, or equipment to any private party, municipality, state or national government or department thereof, upon terms and conditions which it deems appropriate: PROVIDED, That, any such

lease shall be subject to the approval of the executive and on forms and in conformity with rental rates and policies approved by the council and the provisions of SCC 2.10.010(14) and amendments.

Any such lease shall be in accord with the requirements of RCW 14.08.120: PROVIDED, That, such lease may provide for rental adjustments in shorter periods than provided in said statute.

(8) Recommend to the executive ordinances and regulations, including penalties, controlling activities on airport roads, parking areas, runways, taxi and storage areas and any other public area of the airport, which the commission deems appropriate and necessary to safeguard the public and property and for the proper management of the airport and any airport property.

(9) Recommend to the executive the acquisition and terms thereof of any additional real property to be used for airport purposes, and to recommend to the council the disposition of any airport real property which the commission deems surplus.

(10) Participate in the development of and recommend the approval of the annual airport budget, together with financial plans and airport organization and staffing proposals, to the executive and the council in accordance with established guidelines.

The executive may forward any recommendation by the commission to the council (including majority and minority reports) with a recommendation to approve or disapprove or with no recommendation, or the executive may propose an alternative to all or part of the recommendation submitted.

15.04.040 Authority - Manager. Subject to the Snohomish county charter, the authority for the construction, enlargement, improvement, maintenance, management, operation and regulation of the airport and airport property is vested in the executive. The airport manager shall be the executive manager of the airport and shall be responsible, in consultation with the commission as provided in SCC 15.04.030, for the management and operation of the airport, including the powers to:

(1) Employ and manage such employees as are necessary to the operation of the airport, including fire protection and security personnel as specified under federal, state and local requirements: PROVIDED, That the council shall approve all collective bargaining agreements between the county and unions representing airport employees.

(2) Perform all acts necessary and incidental to the powers of the manager as stated in this title.

The foregoing powers of the airport manager and those of the commission shall be exercised subject to the following additional conditions:

(a) All expenditures and incurring of obligations to pay money, including all wages, salary, compensation, and price paid for any materials, equipment, services or otherwise, shall be made in accord with the budget approved by the council and all applicable budgetary laws and regulations of the state of Washington and Snohomish county.

(b) All rules and regulations adopted and enforced and other acts performed shall conform to and be consistent with the laws of the state of Washington, including Ch. 14.08 RCW, and the laws and regulations of the state department of transportation, division of aeronautics, and shall be kept in conformity, and nearly as may be, with the then current federal legislation and regulations governing aeronautics and the rules or standards issued from time to time pursuant thereto.

(c) Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used in the expense of operation to the airport fund and the county.

15.04.050 Appointment of Manager. The executive, after considering but not being limited to the recommendations of the commission, shall with the advice and consent of the council appoint the airport manager. The manager shall be confirmed by a majority of the council and shall be removable at the will of the executive.

15.04.104 Loading and unloading areas and vehicles for hire. Vehicles for hire or car rentals agencies shall only be operated on the airport grounds with the airport manager's approval and under the terms and conditions that he may prescribe. The airport reserves the right to designate areas for loading and unloading passengers. Taxicabs operating on the airport grounds must conform to proper governmental authority which has jurisdiction over their operations.

Section 3. SCC sections enacted by resolutions on September 21, 1959 and June 24, 1979, are amended as follows:

15.04.070 Organization--Meetings--Records. The airport commission shall ((7 within 10 days after its appointment)) meet and organize by selecting a chairman, vice chairman and secretary, and shall adopt rules, policies and procedures as may be necessary and consistent with this chapter in order to accomplish the purpose the airport commission. Thereafter, the airport commission shall meet as may be necessary to properly discharge the airport commission's duties, and shall maintain accurate minutes of all airport commission proceedings. Copies of the above referred to minutes and all other official actions taken by the airport commission shall be furnished to the county ((commissioners)) council and placed on file in any manner the county ((commissioners)) council may deem appropriate.

15.04.080 Financing. Estimated airport revenues, receipts from the sale of bonds, tax levies, any other authorizations and estimated expenditures to be made or anticipated by the airport ((commission)) manager in connection with the operation, maintenance, development or improvement of the airport for airport or industrial or commercial purposes, shall be set forth and included in a preliminary airport budget for the ensuing calendar year, and submitted by the airport manager after review by the airport commission to the county ((commissioners prior to the second Monday in August of each year)) executive by the time specified in the charter. When approved by the county ((commissioners)) council, the airport budget shall become effective and all expenditures or bond issues included therein shall become duly appropriated or authorized and available for expenditure or issuance by the county ((commissioners)) executive for the purposes stated, subject to the conditions and limitations set forth ((in ~~see 15-04-110~~) above.

15.04.090 Execution of documents. All contracts, leases, agreements, subleases, and other documents proposed and submitted by the airport ((commission)) manager and which have been reviewed by as required in ((Section 15-04-060)) this chapter, subject to the other provisions and limitations of this chapter, and chapter 14.08 ((of the "Revised Airport Act")) RCW referred to herein, shall be valid and binding upon Snohomish county when executed by the ((chairman and secretary of the airport commission)) executive.

15.08.602 Establishment of Rates and Charges. The airport manager, or as recommended by the commission, with approval of the ((council)) executive, may establish charges or rates not covered by the schedule of fees.

PASSED this 19th day of August, 1987.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Charles Bartholomew
Chairperson

Approved as to form:

Ed Sewal
Deputy Prosecuting Attorney

ATTEST:

Sheila McCallister
asst. Clerk of Council

- () APPROVED
() VETOED
() EMERGENCY

DATE: 8-21-87

Willis D. Tucker
County Executive

~~JOHN MARTINIS~~
~~Deputy Executive~~

PUBLISHED _____ AND _____

Exhibit 2
RCW 14.08.120

Specific powers of municipalities operating airports.

In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

(1) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to be appointed by the governing board of the municipality by an ordinance or resolution that includes (a) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, (b) the method of appointment and filling vacancies, (c) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, (d) the powers and duties of the commission, and (e) any other matters necessary to the exercise of the powers relating to industrial and commercial development. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, and regulation are the responsibility of the municipality.

(2) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

(3) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

(4) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements,

or equipment of such airports; to authorize its lessees to construct, alter, repair, or improve the leased premises at the cost of the lessee and to reimburse its lessees for such cost, provided the cost is paid solely out of funds fully collected from the airport's tenants; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: PROVIDED, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(5) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under subsection (1) of this section, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission. Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed seventy-five years, but any such lease of real property made for a longer period than ten years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least thirty days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

(6) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and conditions under which such properties may be used: PROVIDED, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

(7) To impose a customer facility charge upon customers of rental car companies accessing the airport for the purposes of financing, designing, constructing, operating, and maintaining consolidated rental car facilities and common use transportation equipment and facilities

which are used to transport the customer between the consolidated car rental facilities and other airport facilities. The airport operator may require the rental car companies to collect the facility charges, and any facility charges so collected shall be deposited in a trust account for the benefit of the airport operator and remitted at the direction of the airport operator, but no more often than once per month. The charge shall be calculated on a per-day basis. Facility charges may not exceed the reasonable costs of financing, designing, constructing, operating, and maintaining the consolidated car rental facilities and common use transportation equipment and facilities and may not be used for any other purpose. For the purposes of this subsection (7), if an airport operator makes use of its own funds to finance the consolidated rental car facilities and common use transportation equipment and facilities, the airport operator (a) is entitled to earn a rate of return on such funds no greater than the interest rate that the airport operator would pay to finance such facilities in the appropriate capital market, provided that the airport operator establish the rate of return in consultation with the rental car companies, and (b) may use the funds earned under (a) of this subsection for purposes other than those associated with the consolidated rental car facilities and common use transportation equipment and facilities.

(8) To make airport property available for less than fair market rental value under very limited conditions provided that prior to the lease or contract authorizing such use the airport operator's board, commission, or council has (a) adopted a policy that establishes that such lease or other contract enhances the public acceptance of the airport and serves the airport's business interest and (b) adopted procedures for approval of such lease or other contract.

(9) If the airport operator has adopted the policy and procedures under subsection (8) of this section, to lease or license the use of property belonging to the municipality and acquired for airport purposes at less than fair market rental value as long as the municipality's council, board, or commission finds that the following conditions are met:

(a) The lease or license of the subject property enhances public acceptance of the airport in a community in the immediate area of the airport;

(b) The subject property is put to a desired public recreational or other community use by the community in the immediate area of the airport;

(c) The desired community use and the community goodwill that would be generated by such community use serves the business interest of the airport in ways that can be articulated and demonstrated;

(d) The desired community use does not adversely affect the capacity, security, safety, or operations of the airport;

(e) At the time the community use is contemplated, the subject property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future;

(f) At the time the community use is contemplated, the subject property would not reasonably be expected to produce more than de minimis revenue;

(g) If the subject property can be reasonably expected to produce more than de minimis revenue, the community use is permitted only where the revenue to be earned from the community use would approximate the revenue that could be generated by an alternate use;

(h) Leases for community use must not preclude reuse of the subject property for airport purposes if, in the opinion of the airport owner, reuse of the subject property would provide greater benefits to the airport than continuation of the community use;

(i) The airport owner ensures that airport revenue does not support the capital or operating costs associated with the community use;

(j) The lease or other contract for community use is not to a for-profit organization or for the benefit of private individuals;

(k) The lease or other contract for community use is subject to the requirement that if the term of the lease is for a period that exceeds ten years, the lease must contain a provision allowing for a readjustment of the rent every five years after the initial ten-year term;

(l) The lease or other contract for community use is subject to the requirement that the term of the lease must not exceed fifty years; and

(m) The lease or other contract for community use is subject to the requirement that if the term of the lease exceeds one year, the lease or other contract obligations must be secured by rental insurance, bond, or other security satisfactory to the municipality's board, council, or commission in an amount equal to at least one year's rent, or as consistent with chapter 53.08 RCW. However, the municipality's board, council, or commission may waive the rent security requirement or lower the amount of the rent security requirement for good cause.

(10) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section.

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-35	
SUBJECT TITLE: Evaluate Status of Human Rights Commission	Meeting Date: May 4, 2016
Estimated Presentation Time: 15 minutes	Exhibits: 1) Snohomish County Code

RECOMMENDATION: The Commission should discuss Charter Amendment Proposal 2016-30, Evaluate Status of Human Rights Commission. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

At the March 16, 2016 meeting of the Commission, the Commission decided to move forward with further analysis and discussion of Charter Amendment Proposal 2016-35, Evaluate Status of Human Rights Commission. The proposal was initially proposed by Commissioner Liias.

The county council established the Human Rights Commission by ordinance in June 2010.¹ The ordinance contained a clause, sunsetting the ordinance six years after enactment, as provided by section 2.115 of the Charter.²

Addition of the Human Rights Commission to the Charter would make the commission permanent, not subject to other charter language that limits funding for a program for six years.

Questions for discussion:

- 1) Does the Commission wish to add the Human Rights Commission to the Charter?
- 2) If so, what details of the Commission does the Commission wish to add into the Charter?

BACKGROUND:

The county council established the Human Rights Commission by ordinance in June 2010 (Ordinance 10-021). At the time of adoption, it was estimated that it would cost the county about \$700,000 annually. The council adopted the ordinance by a 4-1 vote, with councilmember Koster voting in opposition.

Prior to adoption, a committee for human rights met in 2007 and 2008 and recommended the adoption of a human rights ordinance and the creation of a human rights commission.

¹ Ordinance 10-021. June 7, 2010.

² Section 2.115 of the Charter states, "All ordinances which establish programs requiring funding shall provide for repeal on the date six years following enactment unless re-enacted prior to that date."

The Snohomish County Human Rights Commission (SCHRC) serves as an advisory body to the county executive, county council, Office of Human Rights, and other county officers and agencies in matters concerning human rights. The Commission consists of nine members appointed by the county executive and confirmed by the council. The Commission meets the third Thursday of every month. Twice in 2016, the Commission did not have a quorum to conduct its business.

No other county has an office of human rights in their charter.

Level of detail

If the Commission wishes to place the Human Rights Commission in the Charter, Commissioners will need to decide the level of detail about the commission would exist in the charter.

Chapter 2.460 of the county code is the Snohomish County Human Rights ordinance. Section 2.460.010 describes the statement of policy. Section 2.460.020 creates a commission on human rights. Section 2.460.030 describes the powers and duties of the commission (Sections 2.460.010-2.460.040 are listed in Exhibit 1).

In its charter, King County establishes three regional committees to advise the council (Section 270). The charter has three sections, .010 establishing the committees, .020, describing the composition of the committees, and .030 describing the power and duties of the committees (See Exhibit 2).

As a starting place, the basic creation of the Human Rights Commission in the Charter may look like this: “The council shall establish a human rights commission to provide advocacy and advice on the need to combat the effects of bias and bigotry, consistent with this charter and budget constraints.”³ Additional features of an amendment could include the size of the commission and a more detailed description of the powers and duties of the commission.

ALTERNATIVES:

The Commission delays discussion to a future meeting.

³ Language from Ordinance 10-021. <http://www.codepublishing.com/WA/SnohomishCounty/ords/2010/Ord%2010-021.pdf>

Exhibit 1
Snohomish County Code

2.460.010 Statement of policy.

Prejudice, intolerance, bigotry, and discrimination occasioned thereby threaten the rights and privileges of the county's inhabitants and menace the institutions and foundation of a free democratic state. It is the policy of the county to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, as provided in the law against discrimination, Chapter 49.60 RCW, and this chapter. This ordinance is adopted to assure that persons within unincorporated Snohomish county are protected in the enjoyment of their civil rights and to promote mutual understanding and respect among all who live or work within the county. This chapter shall be liberally construed to accomplish its purpose. Nothing in this chapter shall be construed to limit rights granted under the laws of the state of Washington or the United States.

(Added Amended Ord. 10-021, June 7, 2010, Eff date Aug. 21, 2010)

2.460.020 Commission on human rights created.

There is hereby created the Snohomish county commission on human rights consisting of nine members appointed by the county executive and confirmed by the county council pursuant to the county charter and this chapter. The commission shall have the powers and duties set out in this chapter, except that implementation of this chapter shall be phased as provided in SCC 2.460.290. Members of the commission shall serve without compensation but may be reimbursed for mileage and other reasonable expenses approved by the county executive or office of human rights as provided in SCC 2.03.070.

(Added Amended Ord. 10-021, June 7, 2010, Eff date Aug. 21, 2010; Amended by Ord. 13-110, Dec. 18, 2013, Eff date Dec. 30, 2013)

2.460.030 Powers and duties of commission.

(1) The commission shall serve in an advisory capacity to the county executive, county council, office of human rights, and other county officers and agencies in matters concerning human rights. The commission shall have authority to:

(a) Advise and consult with the county executive and council on all matters involving unlawful discrimination, including discrimination in the form of sexual harassment, and recommend executive or legislative action when needed to effectuate the policy of this chapter;

(b) Advise and consult with the county executive and council and other county officers and agencies on assuring and improving equality of county services to all eligible persons;

(c) Advise and consult with the department of human resources and other county officers and agencies on the development and implementation of programs to train county employees in methods of dealing with intergroup relations in order to develop respect for equal rights and to achieve equality of inhabitants regardless of race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability;

(d) Advise and consult with the office of human rights and hearing examiner on adoption of rules as may be needed to implement this chapter;

(e) Advise and consult with the county executive and council on preparation and implementation of affirmative action plans required by chapter 3.57 SCC;

(f) Apply for grants and conduct research, public forums, and educational programs relating to tensions between or practices of unlawful discrimination affecting racial, ethnic, religious, cultural, and social groups within the county: PROVIDED, That acceptance of grants requires county council approval;

(g) Conduct public hearings to ascertain the status and treatment of racial, ethnic, religious, cultural, and social groups within the county; means of alleviating unlawful discrimination within the county; and means of improving human relations within the county;

(h) Issue such publications as may assist in the performance of its functions, subject to appropriation of necessary funds; and

(i) Propose to the county executive and council written agreements between the county and any municipal government within the county, or any state or federal agency, providing for joint processing, transfer, or referral for processing and investigation of complaints alleging unlawful discrimination within the meaning of this chapter.

(2) The commission shall submit annual reports to the county executive and council on the activities and any recommendations of the commission, which reports shall be published by the county executive.

(Added Amended Ord. 10-021, June 7, 2010, Eff date Aug. 21, 2010)

2.460.040 Appointment to commission - qualifications, terms, organization.

(1) The commission shall consist of nine members to include one member who resides in each council district and four at-large members. Out of the four at-large members, one at-large member shall represent the law enforcement community. The second at-large member shall represent the county executive. With the exception of the law enforcement at-large member, there can be no more than two at-large commissioners from any single council district. Notwithstanding, SCC 2.03.060(3), any at-large member may be a county employee. Appointments shall be made in accordance with chapter 2.03 SCC, except that nominations of at-large members representing law enforcement shall be made in consultation with the county sheriff, and nominations for the other two general at-large members shall be made after providing an opportunity for commission members to recommend potential nominees based on recommendations made from sitting commissioners and/or community recommendations. Nominations of other than at-large members shall be made after providing an opportunity for the council member representing the district for which the nomination is made to recommend potential nominees.

(2) In addition to meeting the requirements of SCC 2.03.060, each member of the commission must reside within the county. In nominating and confirming members of the commission the county executive and council shall take into account the diversity of communities and conditions protected by this chapter, and shall seek input from the affected communities.

(3) All terms shall be for three years and shall be based on the following initial expiration dates for each position:

District 1: July 1, 2015

District 2: July 1, 2016

District 3: July 1, 2014

District 4: July 1, 2014
District 5: July 1, 2016
Executive: July 1, 2015
Law Enforcement: July 1, 2016
General Position 1: July 1, 2015
General Position 2: July 1, 2017

(4) Vacancies on the commission shall be filled in the same manner as original appointments. Members may be removed by the county council for incompetence, substantial neglect of duty, gross misconduct, violation of law, or as authorized by SCC 2.03.080: PROVIDED, That the member is provided written notice stating with particularity the grounds for removal and an opportunity to respond prior to final council action.

(5) At its first meeting after July 1st of each year the commission shall elect from its membership a chairperson and a vice-chairperson. The chairperson shall preside at all meetings of the commission, except that the vice-chairperson shall preside in the absence of the chairperson.

(Added Amended Ord. 10-021, June 7, 2010, Eff date Aug. 21, 2010; Amended by Ord. 13-110, Dec. 18, 2013, Eff date Dec. 30, 2013; Amended by Amended Ord. 15-068, Mar. 23, 2016, Eff date Mar. 30, 2016)

Exhibit 2
King County Charter

Section 270 Regional Committees.

270.10 Regional Committees.

Three regional committees shall be established by ordinance to develop, recommend and review regional policies and plans for consideration by the metropolitan county council: one for transit, one for water quality and one for other regional policies and plans. (Ord. 10530 § 1, 1992).

270.20 Composition of regional committees.

Each regional committee shall consist of nine voting members. Three members shall be metropolitan county councilmembers appointed by the chair of the council, and shall include councilmembers from districts with unincorporated residents. Each county councilmember vote shall be weighted as two votes. The remaining six members of each committee except the water quality committee shall be local elected city officials appointed from and in proportion to the relative populations of: (i) the city with the largest population in the county and (ii) the other cities and towns in the county. Committee members from the city with the largest population in the county shall be appointed by the legislative authority of that city. Committee members from the other cities and towns in the county shall be appointed in a manner agreed to by and among those cities and towns representing a majority of the populations of such cities and towns, provided, however, that such cities and towns may appoint two representatives for each allocated committee membership, each with fractional (1/2) voting rights.

The special purpose districts providing sewer service in the county shall appoint two members to serve on the water quality committee in a manner agreed to by districts representing a majority of the population within the county served by such districts. The remaining four local government members of the water quality committee shall be appointed in the manner set forth above for other regional committees. The council may by ordinance authorize the appointment to the water quality committee of additional, nonvoting members representing entities outside of the county that receive sewerage treatment services from the county. Allocation of membership of each committee's members who are city and town representatives shall be adjusted January 1 of each even-numbered year beginning in 1996 based upon current census information or, if more recent, official state office of financial management population statistics.

In the event any areas are annexed pursuant to powers granted to metropolitan municipal corporations under state law, the populations of any cities and towns in such annexed areas shall be considered as if they were within the county for purposes in this section with regard to regional committee participation on policies and plans which would be effective in such annexed areas.

Members representing six and one-half votes constitute a quorum of a regional committee. In the absence of a quorum, the committee may perform all committee functions except for voting on legislation or a work program. Each committee shall have a chair and a vice-chair with authority as specified by ordinance. The chair shall be a county councilmember appointed by the chair of the county council. The vice-chair shall be appointed by majority vote of those committee members who are not county councilmembers, in accordance with voting rights that are apportioned as provided in this section. (Ord. 16205 § 1, 2008; Ord. 10530 § 1, 1992).

270.30 Powers and Duties.

Each regional committee shall develop, propose, review and recommend action on ordinances and motions adopting, repealing, or amending transit, water quality or other regional countywide policies and plans within the subject matter area of the committee. The

subject matter area of the regional policies committee shall consist of those countywide plans and policies included in the committee's work program by a majority of the members present and voting, with no fewer than three and one-half affirmative votes.

The county council shall refer each such proposed ordinance or motion, except those developed and proposed by a regional committee, to a regional committee for review. The regional committee shall complete review and recommend action within one hundred twenty days or such other time as is jointly established by the county council and the committee, which shall be confirmed in the form of a motion by the metropolitan county council. If the committee fails to act upon the proposed ordinance or motion within the established time limit, the county council may adopt the proposed ordinance or motion upon six affirmative votes. The committee may request, by motion to the county council, additional time for review.

A proposed ordinance or motion that has been reviewed and recommended or developed and proposed by a regional committee may be adopted, without amendment, by the county council by five affirmative votes. If the county council votes prior to final passage thereof to amend a proposed ordinance or motion that has been reviewed or recommended or proposed by a regional committee, the proposed ordinance or motion, as amended, shall be referred back to the appropriate committee for further review and recommendation. The committee may concur in, dissent from, or recommend additional amendments to the ordinance or motion. After the regional committee has had the opportunity to review all county council amendments, final action to adopt any proposed ordinance or motion that differs from the committee recommendation shall require six affirmative votes of the county council.

Each regional committee may develop and propose directly to the council an ordinance or motion adopting, amending or repealing a countywide policy or plan within the subject matter area of the committee. Such proposals must be approved by a majority of the members present and voting, with no fewer than three and one-half affirmative votes. Within one hundred twenty days of introduction or such other time as is jointly established by the county council and the committee, which shall be confirmed in the form of a motion by the county council and the committee, which shall be confirmed in the form of a motion by the county council, the council shall consider the proposed legislation and take such action thereon as it deems appropriate, as provided by ordinance.

The council shall not call a special election to authorize the performance of an additional metropolitan municipal function under state law unless such additional function is recommended by a regional policy committee, notwithstanding the provisions of Section 230.50.10 of this charter. Such recommendation shall require an affirmative vote of at least two-thirds of the membership of each of: (1) metropolitan councilmembers of the committee; (2) members from the city with the largest population in the county; and (3) other city or town members of the committee. Nothing in this section prohibits the metropolitan county council from calling a special election on the authorization of the performance of one or more additional metropolitan functions after receiving a valid resolution adopted by city councils as permitted by RCW 35.58.100(1)(a) and RCW 35.58.100(1)(b), or a duly certified petition as permitted by RCW 35.58.100(2). (Ord. 16205 § 1, 2008: Ord. 14767 § 1, 2004: Ord. 10530 § 1, 1992).

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-36	
SUBJECT TITLE: Change Date of County Elections	Meeting Date: May 4, 2016
Estimated Presentation Time: 20 minutes	Exhibit: 1) Clark County Charter

RECOMMENDATION: The Commission should discuss Charter Amendment Proposal 2016-38, Change Date of County Elections. If the Commission wishes to move forward with the proposal, the Commission should direct staff to prepare a draft proposition.

SUMMARY:

At the April 20, 2016 meeting of the Commission, the Commission decided to move forward with further analysis and discussion of Charter Amendment Proposal 2016-38, Change Date of County Elections. The proposal was initially proposed by Commissioner Barton.

The County currently conducts elections on a staggered schedule in odd-numbered years, with judges and the prosecuting attorney in even-numbered years. Most counties across the state elect their county officials in even numbered years.

Moving to elections in even-numbered years should save the county money and increase turnout for county officers.

When Clark County expanded its council, it placed in its Charter language that provided for a transition to a new election cycle. The Charter provided that council members would be elected to a shortened term of office. The full effective date of the new cycle is four years after adoption of the charter.

Questions for Discussion:

- 1) Does the Commission wish to switch to holding all county office elections in even-numbered years?
- 2) If so, should the transition to even-numbered year elections begin with the 2017 elections?

BACKGROUND:

RCW 36.32.030 states the term of office of county commissioners shall be four years and that the terms shall be staggered, and they will be elected at a general election held in an even numbered year. Counties with a home rule charter may specify the dates of elections for its elected officials.

Currently, officers are elected in Snohomish County on the schedule described in Table 1. The Charter states that elections for the executive, assessor, auditor, county clerk, sheriff, treasurer and the council occur in odd-numbered years. During every general election, there is at

least one county position on the ballot, as the prosecuting attorney, superior court and district court judges are elected in even-numbered years.

Table 1 - Election Dates of County Officials

Presidential Election year	e.g. 2016	Superior Court Judges
Year following Presidential Election	e.g. 2013	Council Positions 1, 3 and 5
Midterm Election year	e.g. 2014	County Prosecuting Attorney, District Court Judges
Year before Presidential Election	e.g. 2015	Executive, Council Districts 2 and 3, Assessor, Auditor, County Clerk, Sheriff, Treasurer
Years Ending in a 5	e.g. 2015	Charter Review Commission

Voter Turnout

Voter turnout is higher in even numbered years. In 2003, Zoltan Hajnal and Paul Lewis published in *Urban Affairs Review*, “holding city elections on the same day as national or statewide contests could essentially double voter turnout over existing rates in off-cycle city elections. Thus, if expanded participation is the primary goal, the best tool for the job is peak-cycle elections.”¹

They continue:

Historically there have been real objections to holding local elections concurrently with national contests, and many of these normative concerns remain today. In particular, a move to concurrent elections raises, for some observers, several concerns about voter attentiveness and knowledge. On-cycle local elections might mean that more citizens with only limited knowledge of and interest in local elections would vote in local contests. The coupling of local elections with national or statewide contests would also lead to longer, more complex ballots that might increase voter confusion. Yet another worry is that on-cycle elections would draw attention away from local politics. Finally, by coupling local elections with national contests, political parties might begin to play a larger role in local elections—a potential change that would likely draw both strongly positive and negative reactions, depending on the observer.

Overall, these concerns are solid arguments for civic education, voter outreach campaigns, higher quality media coverage of local races, and intensive campaigning by candidates for mayor and council. They are, in our view, not good arguments for scheduling local elections so as to knowingly reduce public participation.

These conclusions are echoed in the current literature. “Moving mayoral elections so they coincide with presidential or congressional midterm elections would go a long way toward increasing voter turnout,” write Thomas Holbrook and Aaron Weinschenk. “Most elected officials are probably not interested in better-financed opponents or other mechanisms that

¹ Zoltan Hajnal and Paul Lewis. 2003. “Municipal Institutions and Voter Turnout in Local Elections.” *Urban Affairs Review*. <http://www.sarasotagov.com/InsideCityGovernment/Content/CAC/PDF/UofCalifornia.pdf>

would increase electoral competition; and in the case of Progressive reforms that result in low turnout (nonpartisan and off-cycle elections), the potential ills of low turnout need to be balanced against gains that are realized as a result of insulating local politics from national and partisan politics. There are clear trade-offs for policymakers to consider.”²

A study of mayoral elections in California shows “where mayoral elections coincide with the presidential elections, voter turnout is more than double that of cities where mayoral elections are conducted off cycle.” Melissa Marschall and John Lappie conclude for the Center for Local Elections in American Politics, “Municipalities that want to include as many residents as possible in this important decision would clearly do best to hold their mayoral elections concurrently, during presidential elections.”³ Their findings show that cities which on an even-numbered year cycle had similar levels of competitiveness, and similar levels of incumbents winning election, but a slight decrease in the number of candidates running for election.⁴

Recent research indicates that even-numbered year elections may better reflect the demographics of the community than in odd-numbered year elections. A 2015 report from researchers at Portland State suggests that voter turnout in Portland is more consistent across precincts than cities that hold elections in odd-numbered years.⁵

² Thomas Holbrook and Aaron Weinschenk. 2013. “Campaigns, Mobilization and Turnout in Mayoral Elections. *Political Research Quarterly*. <http://prq.sagepub.com/content/early/2013/07/15/1065912913494018>

³ Melissa Marschall and John Lappie. 2016. “Mayoral Elections in California: 1995-2014.” <https://pdfs.semanticscholar.org/5913/cf06ac24cb25f98be972247b2626d75414dc.pdf>

⁴ The authors hypothesis that the difference could be based on city size. Larger cities in California were more likely to hold elections in odd-numbered years and had more candidates running in those cities.

⁵ In comparison with Charlotte, North Carolina, Detroit, and St. Paul, Minnesota, voter turnout in Portland varies less across precincts. This suggests that in odd-numbered year elections, the demographics of who typically votes may play a larger role in the outcome of elections. Jason Jurjevich et. al. 2015. “Who Votes For Mayor.” *PDXScholar* http://pdxscholar.library.pdx.edu/cgi/viewcontent.cgi?article=1007&context=publicservice_pub&sei-redir=1

Local Effects on Turnout

Table 2 - Snohomish County Voter Turnout

Year	Turnout
2006	62.28%
2007	51.18%
2008	87.00%
2009	48.61%
2010	71.65%
2011	52.09%
2012	80.54%
2013	41.53%
2014	51.31%
2015	34.76%

There is some evidence in Snohomish County that the amount of undervotes decreases when elections are held in even-numbered years, further boosting participation. Between 2006 and 2015, the cities of Everett (twice), Marysville, Lynnwood, Mill Creek, Monroe (twice), Mukilteo, and Mountlake Terrace each held an election in an even-numbered year. In every case except the City of Everett, the undervote in the even-numbered year was below the average of the undervote of that jurisdiction of the top elected position on the ballot in odd-numbered years.⁶

Staff has not found research to indicate if the lack of a county-wide race has an effect on turnout on other jurisdictions. The literature suggests that candidate quality, voter education and mobilization efforts play significant roles on turnout.

Costs

Holding county elections in even-numbered years would save the county money. In the current method of allocating costs to each municipality and district holding elections, the county allocated itself the cost of \$137,431.17 for the general election in 2015. For comparative purposes, the county's estimated cost for the 2016 general election is \$279,118.64.

⁶ As examples, the undervote on a 2012 measure in Mukilteo was 5.11%. Comparatively, the undervote for Mayor in 2013 was 3.08% and in 2009, 3.59%. The undervote for council position 4 in 2007, 2011, and 2015 was 29.35%, 11.73% and 10.84%, respectively. The undervote on a 2010 measure in Mountlake Terrace was 8.20%. The undervote for Mayor in 2009 was 14.55% and in 2013 was 25.28%. The undervote for council position 5 in 2007, 2011, and 2013 was 9.84%, 14.23% and 25.52%, respectively.

Unlike the other jurisdictions, the even-year elections in Everett were elections to fill the remainder of a council term, rather than a ballot measure or advisory vote which was the case in the other jurisdictions.

If the county were to move its elections to county offices to even-numbered years, the county would save approximately \$548,000 in costs over a ten year period, and save additional money for not conducting elections for primaries in an odd-numbered year.⁷

Moving to county elections in even-numbered years would likely lead to increases in costs on city and special purpose districts. Cities and special purpose districts elect their officers in odd-numbered years in accordance with state law. If the county no longer conducts elections in odd-numbered years, then the proportionate share of the election costs in those years would increase in those jurisdictions.

Transitioning to a new cycle

If the Commission were to move forward to changing to even-numbered year elections, there would need to be a transitional period to adjust to a new cycle.

When Clark County switched to new, five member districts, their charter provided, as an interim measure, certain council members would serve initial terms of three years (as shown in Exhibit 1). Similar transition provisions would need to take place in the Snohomish County Charter. As an example, a transition period could look like those shown in Table 3.

Table 3 - Potential Transitions

	Next Election	Term Length	Subsequent Election
Executive	2019	3 years	2022
Assessor	2019	3 years	2022
Auditor	2019	3 years	2022
Clerk	2019	3 years	2022
Sheriff	2019	3 years	2022
Treasurer	2019	3 years	2022
Council Position 1	2017	3 years	2020
Council Position 2	2019	3 years	2022
Council Position 3	2019	3 years	2022
Council Position 4	2017	3 years	2020
Council Position 5	2017	3 years	2020

⁷ The auditor develops a cost factor for each jurisdiction that has an election on the ballot. The current practice is for the auditor to charge each jurisdiction the same rate if it had one issue or race on the ballot or multiple issues or races.

Unless changed, members of the Charter Review Commission would still be elected in years ending in 5.

If the county were to add additional council members following the 2020 census, additional adjustments may be necessary.

Term Limits

The Charter states, “No person shall be eligible to be elected to more than three consecutive full terms for any office (emphasis added).” A term of office is defined in Charter sections 2.40, 3.30 and 3.100, but may be modified as part of a transitional provision.

If a transitional provision states that the term of office for a position elected in 2017 was for three years, a full term would, therefore, be three years. The effect, absent additional modifications, would mean that an individual elected during this transitional period could only serve eleven years consecutively in that office.

ALTERNATIVES:

The Commission delays discussion to a future meeting.

Exhibit 1
Clark County Charter

Section 10.6 Transition to council districts, elections and terms of office

- A. On the effective date, the county council shall be three (3) members, with council districts being the same as existing county commissioner districts. Members shall elect a chair. Transition to a five (5) member council shall occur on January 1, 2016.
- B. On the effective date, each county commissioner whose position was filled by election in 2012 shall continue in office as a county council member for the remainder of the term to which he or she was elected. The person elected in the 2014 general election for Commissioner District 3 shall serve as a county council member until December 31, 2018, when the term of that position shall expire.
- C. In the 2015 primary and general elections, the voters of the county shall elect two (2) council members to take office January 1, 2016. One (1) council member shall be nominated and elected countywide. The council member elected countywide shall be the chair of the council beginning January 2016. The other member shall be elected from either Council District 1 or District 2, whichever is the vacant council seat remaining after the November 2014 election. These two (2) council members shall serve initial terms of three (3) years, which shall expire December 31, 2018. Subsequently, the full term of office for county council members shall be four (4) years.
- D. On January 1, 2016, former county commissioners serving on the three (3) member council shall transition to represent a district established under this charter as follows : 1. Commissioner District 1 representative shall represent Council District 4. 2. Commissioner District 2 representative shall represent Council District 3 subject to the exception under 4. of this section. 3. Commissioner District 3 representative shall represent either Council District 1 or District 2, depending on the residence of the candidate winning the November 2014 county commissioner election . 4. If two council members reside in the same district, the council member residing closest to another council district, other than their district in common, shall represent the other district for the remainder of the term for which they are elected. The council member residing further from any other district shall represent the district in which the council member resides.
- E. In the event of a vacancy in a county council position between the effective date and the January 2016 assignments to council districts, the person appointed to fill the vacancy shall reside in the same council district as the original council member.

SNOHOMISH COUNTY CHARTER REVIEW COMMISSION AGENDA ITEM 2016-37	
SUBJECT TITLE: Review of Charter Amendment Language	Meeting Date: May 4, 2016
Estimated Presentation Time: 20 minutes	Exhibits: 1. Revisions to Districting Timeline and Procedures 2. Adding Office of Ombudsman to Charter

RECOMMENDATION: The Commission should review proposed amendments to the Charter for Charter Amendment Proposals 2016-02, Revisions to Districting Timeline and Procedures and 2016-04, Adding Office of Ombudsman to Charter.

SUMMARY:

At the March 16, 2016 meeting of the Commission, the Commission moved to review potential amendments to the Charter on two proposals. 2016-02, Revisions to Districting Timeline and Procedures and 2016-04, Adding Office of Ombudsman to Charter.

Exhibits 1 and 2 contain potential amendments to the Charter that reflect the intent of the Commission.

The Commission should review the potential amendments and, if necessary direct staff to conduct additional analysis on each proposal.

The proposed ballot titles in each exhibit will be drafted by the Prosecuting Attorney, not the Commission. The ballot title in each exhibit is illustrative of what the ballot title may look like.

A final vote on each proposition to send it to the voters will occur at a future meeting of the Commission.

BACKGROUND:

Revisions to Districting Timeline and Procedures

On March 16, the Commission held a discussion on Charter Amendment Proposal 2016-02, Revisions to Districting Timeline and Procedures.

Exhibit 1 shows potential language for amending the Charter.

Discussion

At the March 16 meeting, the Commission directed staff to come back with revisions to the procedures of the districting committee and come back with options of the role the county council may play in the adoption of the districting plan.

On April 28, Commission staff met with the county auditor with the draft language as prepared by the Commission attorney. The auditor found no problems with the proposed language.

Exhibit 1 shows five different options for the role the council would play in adoption of the districting plan. Each option includes the same language requiring the districting master to submit the plan to the districting committee by November 1 and setting the adoption date of the districting plan eight months after the receipt of federal decennial census data or other such period established by state law.

Option 1 provides timing and terminology changes only. The council adopts the districting plan recommended by the districting committee.

Option 2 provides that the districting committee plan adopts the final plan and files the plan with the county auditor. The auditor would need to develop policies for acceptance of the districting plan. In discussions with the auditor, the auditor would also need to develop policies to resolve minor errors in the plan.

Option 3 provides that the council adopts the districting plan, but cannot amend the plan submitted by the districting committee by more than two percent of the population in any council district.

Option 4 provides that the council adopts the districting plan, but can only amend the plan submitted by the districting committee through the affirmative vote of four members of the council.

Option 5 provides that the council adopts the districting plan, but can only amend the plan submitted by the districting committee through the affirmative vote of four members of the council but cannot amend the plan submitted by the districting committee by more than two percent of the population in any council district.

In order to proceed, the Commission will need to select which option for the role the council would play in the adoption of the districting plan.

Adding Office of Ombudsman to Charter

On March 16, the Commission held a discussion on Charter Amendment Proposal 2016-04, Adding Office of Ombudsman to Charter. During the discussion, the Commission asked for the Charter to be amended to include the office as part of the Charter.

Exhibit 2 shows potential language for amending the Charter.

Based on the Commission's decision to move forward with gender-neutral language, Commission staff suggests that the office be entitled "Office of Citizen Complaints" in the Charter. This is the title of the office found in the King County Charter. The state generally and in state law refers to the office as the Office of the Ombud or Ombuds.

The language also includes a provision stating that the office would monitor certain whistleblower, ethics, and human rights proceedings.

ALTERNATIVES:

The Commission may delay a vote to a subsequent meeting or elect to consider combining a proposal with another proposal.

Exhibit 1
Proposal 2016-02 Revisions to Districting Timeline and Procedures

PROPOSITION NO. ____

Redistricting Process

A. Proposed Ballot Title:

The Snohomish County Charter Review Commission has proposed amendments to the Snohomish County Charter concerning the redistricting process for county council districts. This proposition would revise deadlines for appointing the districting committee and districting master and _____ [to be completed following review of options below] _____. Should this proposition be:

Approved

Rejected

B. Charter Amendments Required:

Section 4.60 Districting Committee

~~((Within thirty days after each federal decennial census data is received from the state redistricting commission or its successor))~~ During the month of January 2021, and by January 31 of each tenth year thereafter, a five-member districting committee shall be appointed. The county council shall appoint four persons to the committee, two members from each major political party from a list of five submitted by the party's central committee, the four members to appoint the fifth member who shall be chair. Members of the districting committee shall serve without salary but shall be compensated for reasonable-out-of-pocket expenses. The districting committee shall ~~((within thirty days of its appointment, meet and))~~ appoint a districting master who shall be qualified by education, training and experience to draw a redistricting plan. If the districting committee is unable to agree upon the appointment of a districting master ~~((within thirty days))~~ by April 1, the county council shall appoint a districting master.

Section 4.60 Districting Plan

Option 1 - Timing/Terminology Changes Only

~~((Within one month after appointment, the districting master shall draw a districting plan for the county which shall be submitted to the committee for adoption.))~~

The districting master shall draw a districting plan for the county which shall be submitted to the districting committee by November 1. Following public hearing at least ~~((one week))~~ seven days in advance, the districting committee shall adopt the districting plan within thirty days as submitted or as amended by at least four affirmative votes of the committee members. Upon adoption, the plan shall be filed with the county council by the districting committee. No later than ~~((the first day of June))~~ eight months following the county's receipt of ((the)) federal decennial census data from the state, or within such other period as may be established by state law, the county council shall adopt by ordinance a districting plan.

Option 2 – Districting Committee Adopts Final Plan (No Council Action), plus Timing/Terminology

~~((Within one month after appointment, the districting master shall draw a districting plan for the county which shall be submitted to the committee for adoption.))~~
The districting master shall draw a districting plan for the county which shall be submitted to the districting committee by November 1. Following public hearing at least ~~((one week))~~ seven days in advance, the districting committee shall adopt the districting plan ~~((within thirty days))~~ as submitted or as amended by at least four affirmative votes of the committee members. Upon adoption, the plan shall be filed with the county council by the districting committee. ~~((No later than the first day of June following the receipt of the census data from the state, the county council shall adopt by ordinance a districting plan.))~~ The districting plan shall be adopted and filed no later than eight months following the county's receipt of federal decennial data from the state, or within such other period as may be established by state law, and shall take effect upon filing.

Option 3 – Council Adopts Final Plan with Two Percent Limitation on Amendments, plus Timing/Terminology

~~((Within one month after appointment, the districting master shall draw a districting plan for the county which shall be submitted to the committee for adoption.))~~
The districting master shall draw a districting plan for the county which shall be submitted to the districting committee by November 1. Following public hearing at least ~~((one week))~~ seven days in advance, the districting committee shall adopt the districting plan within thirty days as submitted or as amended by at least four affirmative votes of the committee members. Upon adoption, the plan shall be filed with the county council by the districting committee. No later than ~~((the first day of June))~~ eight months following the county's receipt of ((the)) federal decennial census data from the state, or within such other period as may be established by state law, the county council shall adopt by ordinance a districting plan, provided that if the council amends the plan adopted by the districting committee the area amended may not include more than two percent of the population of any council district.

Option 4 - Council Adopts Final Plan with Supermajority Requirement for Amendments, plus Timing/Terminology

~~((Within one month after appointment, the districting master shall draw a districting plan for the county which shall be submitted to the committee for adoption.))~~
The districting master shall draw a districting plan for the county which shall be submitted to the districting committee by November 1. Following public hearing at least ~~((one week))~~ seven days in advance, the districting committee shall adopt the districting plan within thirty days as submitted or as amended by at least four affirmative votes of the committee members. Upon adoption, the plan shall be filed with the county council by the districting committee. No later than ~~((the first day of June))~~ eight months following the county's receipt of ~~((the))~~ federal decennial census data from the state, or within such other period as may be established by state law, the county council shall adopt by ordinance a districting plan, provided that any amendment to the plan adopted by the districting committee must be approved by at least four affirmative votes.

Option 5 - Council Adopts Plan with Both Two Percent Limitation and Supermajority Requirement, plus Timing/Terminology

~~((Within one month after appointment, the districting master shall draw a districting plan for the county which shall be submitted to the committee for adoption.))~~
The districting master shall draw a districting plan for the county which shall be submitted to the districting committee by November 1. Following public hearing at least ~~((one week))~~ seven days in advance, the districting committee shall adopt the districting plan within thirty days as submitted or as amended by at least four affirmative votes of the committee members. Upon adoption, the plan shall be filed with the county council by the districting committee. No later than ~~((the first day of June))~~ eight months following the county's receipt of ~~((the))~~ federal decennial census data from the state, or within such other period as may be established by state law, the county council shall adopt by ordinance a districting plan, provided that any amendment to the plan adopted by the districting committee must be approved by at least four affirmative votes and the area amended may not include more than two percent of the population of any council district.

Exhibit 2
Proposal 2016-04, Adding Office of the Ombudsman to the Charter

PROPOSITION NO. ____

Office of Citizen Complaints

A. Proposed Ballot Title:

The Snohomish County Charter Review Commission has proposed an amendment to the Snohomish County Charter concerning creation of an office to investigate complaints about county government. This proposition would direct the County Council to establish an Office of Citizen Complaints to investigate and make recommendations on complaints concerning county government, and monitor certain whistleblower, ethics, and human rights proceedings. Should this proposition be:

Approved

Rejected

B. Charter Amendment Required:

New Section:

Section 2.160 Office of Citizen Complaints

The county council shall establish by ordinance within the legislative branch an office of citizen complaints for the purpose of receiving, investigating, and making recommendations to the council and appropriate county agencies on complaints concerning the operation of county government. The office shall have appropriate legal authority and adequate funding, as determined by the council, and shall use generally accepted standards for similar offices. In addition to other duties prescribed by ordinance, the office shall monitor and report to the council on the nature and disposition of all whistleblower, ethics, and human rights complaints filed pursuant to other county ordinances or procedures.

Snohomish County
Charter Review Commission
Edmonds Public Safety Complex
250 5th Avenue North, Edmonds WA 98020
Wednesday, March 30, 2016
7:00 p.m.
MINUTES

PRESENT:

Chair Gregerson
Vice-Chair Terwilliger
Commissioner Barton
Commissioner Chase
Commissioner Fior
Commissioner Koster
Commissioner Lias
Commissioner Matthews
Commissioner O'Donnell
Commissioner Stanford
Commissioner Roulstone
Commissioner Valentine
Chris Roberts, Commission Analyst

CALL TO ORDER

Chair Gregerson called the meeting to order at 7:01 p.m.

FLAG SALUTE

ROLL CALL

Vice Chair Miller, Commissioners Donner and Kelly absent.

GUESTS

Councilmember Stephanie Wright addressed the Commission. She spoke in support for moving the date of the submission of the council's budget to September 1. She wondered if the timing of enlarging the council was right and if it was a resource the council wanted to expend. She stated most counties have seven councilmembers and would like to have additional voices and outreach on the council.

She addressed the idea of nonpartisan elections. She said that voters like the information on a partisan ballot. She supported the proposal of cleaning up the charter of gender-neutral language. She opposed the proposal of eliminating the performance auditor.

She expressed her opinion that she wanted flexibility in the budget process and not impose the requirement the council use a biennial budget. She spoke in support of having evening meetings. She stated that the day meetings are scheduled around the schedules of county staff.

She answered questions from the Commissioners about proposals to have meetings outside the county seat and labor negotiations, and the human rights commission. She stated that the process of labor negotiations works fine now. If a change were made, the council would need

additional resources to handle labor negotiations.

Councilmember Wright described her workload as a council member. In response to a question about the human rights commission, she stated that new additions to the charter should be kept simple and clear in the intent.

PUBLIC COMMENTS

Kathy Christensen of Everett stated that she serves on the human rights commission and hopes it becomes part of the Charter. She also stated that the council should remain a partisan body. Partisanship gives the entire community additional information. She spoke in support of enlarging the council.

Tia Peycheff of Mill Creek spoke in opposition to a proposal to changing the qualifications of an elected official. She stated the Founders thought people should have experience before becoming an elected official. She said that if the Commission does move the proposal to the voters, it should not be bundled with changes in the residency requirement.

Mario Brown of Edmonds said he was the chair of the Edmonds Diversity Commission. He spoke in favor of placing the Human Rights Commission in the Charter. He said that expansion of the council should not come at the expense of cutting services. He spoke in support of keeping partisan elections.

REPORT FROM CHAIR

Chair Gregerson noted that there will be two meetings in April.

BUSINESS ITEMS

1. CHARTER AMENDMENT PROPOSAL PRELIMINARY DISCUSSIONS

Chair Gregerson summarized the proposal.

Commissioner Liias stated that he would like to see lower limits for campaign corporations. He expressed interest in prohibiting solicitations of county employees. He likes the idea of public financing for all offices, especially for the auditor.

Commissioner Barton spoke in support of lower contribution limits and the prohibition of soliciting county employees. He stated he was not supportive of public financing, but preferred the Arizona model of public financing to the model developed in Seattle.

Commissioner Koster stated that it costs more to campaign in rural districts. He would prefer the state to limit campaign contributions before the county does.

Commissioner O'Donnell spoke in opposition to public financing.

Commissioner Roulstone stated he likes contribution limits on who could contribute to campaigns. His proposal would limit campaign contributions from citizens in their jurisdiction.

Commissioner Liias stated his preference to the Arizona or Maine system of public financing.

Commissioner Valentine stated that campaign finance reform would come at the local level.

Commissioner Barton stated that he felt Commissioner Roulstone's proposal would not be constitutional. He stated that limiting contributions would achieve the same result.

Vice Chair Terwilliger spoke in favor of limiting contribution limits.

Commissioner Chase expressed support for further discussion but was not sure that the Commission was the best place to address the campaign finance reform.

Commissioner Chase moved Charter Amendment Proposal 2016-29, Public Financing for County Offices, forward for further analysis. Commissioner Roulstone seconded the motion.

The motion passed 11-1. Chair Gregerson, Vice Chair Terwilliger and Commissioners Barton, Chase, Fior, Koster, Liias, Matthews, Stanford, Roulstone, and Valentine in support. Commissioner O'Donnell in opposition.

Commissioner Liias stated the Human Rights Commission was set to expire and it should be in the Charter.

Commissioner Barton stated that there are no other commissions in the Charter. He stated that there is no reason to elevate this Commission into the Charter without a review of other county commissions.

Commissioners discussed the process of creating the Human Rights Commission and expressed support for simple statements establishing the Commission in the Charter.

Commissioner Koster expressed that the reason to place the ombudsman in the Charter was to depoliticize the office.

Commissioner Chase stated that the Human Rights Commission is vitally important. It works to eliminate discrimination and educate the community. She spoke in favor of placing the Commission in the Charter.

Commissioner Valentine expressed a concern that the county council may not reauthorize the Commission. She agreed that there is a need to send a strong message to the council. She wondered if there were other examples of commissions in other charters.

Commissioner Barton stated that he would be shocked if the county council did not reauthorize the Human Rights Commission. However, the Commission does not belong in the Charter.

Commissioner Liias stated the nature of the Human Rights Commission addresses the sensitive issues in the County. He mentioned that the salary commission and the districting commission exist in the Snohomish County Charter.

Commission Roulstone moved Charter Amendment Proposals 2016-30, Evaluate Status of the Human Rights Commission, forward for further analysis. Commissioner Liias seconded the motion.

The motion passed 10 - 2. Chair Gregerson, Vice Chair Terwilliger and Commissioners Chase, Fior, Koster, Liias, Matthews, O'Donnell, Stanford, Roulstone, and Valentine in support. Commissioner Barton and Koster in opposition.

Chair Gregerson summarized the appeal process of decisions of the hearing examiner and

stated that the City of Mukilteo changed the process of appeals, so appeals of the hearing examiner go to Superior Court.

Commissioner Liias stated this was an issue worth studying.

Commissioner Koster stated that the council does not like to play a quasi-judicial role. Appeals to Superior Court can save time. However, there are costs involved in requiring appeals of the hearing examiner going to Superior Court.

Commission Koster moved Charter Amendment Proposals 2016-31, Require Appeals of the Hearing Examiner go to Superior Court, forward for further analysis. Commissioner Liias seconded the motion. The motion passed unanimously.

Chair Gregerson discussed two ideas about the governance of Paine Field. She stated the county could transfer assets to another party. She proposed that the Charter contain a requirement that the county conduct a public advisory vote before any sale of transfer. She discussed the history and role of the Paine Field Community Council. She spoke in favor of expanding the oversight authority of the Community Council.

Commissioners discussed the possibility of transferring the airport to the port authority, the costs involved in conducting an advisory vote, and asked about legal issues involved with airport operations.

Commissioner Liias stated support for a requirement that county voters vote before any disposition of the airport. He also supported an additional oversight role of the Paine Field Community Council.

Vice Chair Terwilliger spoke in opposition of an advisory vote on leases. He spoke in favor in expanding the authority of the Community Council.

Commissioner Fior asked about the role the county plays in airport operations. Chair Gregerson stated that there lots of policy decisions made by the county.

Commissioner Barton wondered whether this proposal was a Charter issue.

Commissioner Matthews stated that this issue is a governance issue. He stated he was not convinced that the county council is the most capable to deal with all the issues involved with the airport. He wondered if the Commission could create a county port commission.

Commission Matthews moved Charter Amendment Proposals 2016-24, Evaluate Governance Structure for Paine Field, forward for further analysis. Commissioner Barton seconded the motion.

Commissioner Koster stated the need to have all parties at the table, since lots of federal grants come to the airport.

Commissioners discussed a desire for seek legal council on this issue, and whether there is time to address the issue involving the airport.

Vice Chair Terwilliger stated the issue about the airport has been ongoing since 1978 and wondered whether the issue is in the purview of the Charter. He proposed that the Commission send a letter of intent to the county council.

Commissioner Roulstone stated that Paine Field is the largest asset in the county and some-

thing should be placed in the Charter dealing with the airport.

The motion passed 9-3. Chair Gregerson and Commissioners Barton, Chase, Fior, Liias, Matthews, Stanford, Roulstone, and Valentine in support. Vice Chair Terwilliger and Commissioners Koster and O'Donnell in opposition.

2. ENLARGE COUNCIL FROM 5 TO 7 MEMBERS

Chair Gregerson summarized the proposal.

Commissioner Roulstone stated it would be unwise to expand the council until the county comes up with a funding source.

Commissioner Koster discussed the Sheriff's need for more deputies and expansion of the council is not a priority.

Commissioner Barton stated the most compelling argument against the proposal is that the money is not there. He expressed support for the proposal if it were deferred until 2021 after the next census and to give the county five years to find a funding source.

Commissioner Matthews stated that it was the wrong priority for the Commission and that the public would opposed the proposal.

Commissioner O'Donnell expressed that it was not the right time to expand the council. He asked what services would be cut to expand the council.

Commissioner Liias mentioned that Snohomish County is larger than several states and the budget is over a billion dollars. He spoke in support of Commissioner Barton's idea to put it off to 2021 where the districting committee can draw the maps and give the county time to find funding for expansion. He mentioned that Pierce and King counties have larger councils than Snohomish County. He stated democracy requires investment.

Commissioner Valentine stated that expansion of the council was a viable option ten years ago. She mentioned that the county grew significantly over the past ten years and expressed support for the giving the county time to find the money to pay for expansion.

Commissioner Koster stated that the state population grew, but the legislature did not change. He mentioned that there is not enough money to pay for existing services. He stated that the council will expand to seven members at some point.

Commissioner Liias moved to direct staff to prepare a draft proposition increasing the size of the county council from 5 to 7 members after the next redistricting. Commissioner Valentine seconded the motion.

Commissioner Valentine stated this motion gives notice to the county and increases representation in the county.

Vice Chair Terwilliger mentioned that the county will grow.

The motion passed 8-4. Chair Gregerson, Vice Chair Terwilliger, and Commissioners Barton, Chase, Fior, Liias, Stanford, and Valentine in support. Commissioners Koster, Matthews, O'Donnell and Roulstone in opposition.

3. NON PARTISAN ELECTIONS

Chair Gregerson summarized the staff report.

Commissioner Fior spoke in opposition to the proposal. She expressed her support for the current structure of elections and that moving to nonpartisan elections would deny voters information about candidates. She stated that nonpartisan elections are a masquerade.

Commissioner Liias stated that the administrative role of the auditor and other offices are nonpartisan. He spoke in support in changing the prosecuting attorney to nonpartisan. He stated that the system works well for the council and the executive.

Commissioner Koster stated that having a R or D behind their name does not define one's values. He mentioned that most votes on the county council are unanimous, and when they are not, they do not break on party lines. He stated that partisanship means less at the local level and that voters can easily find information about a candidate's positions.

Commissioner Barton spoke in favor of the proposal. He stated that people are sick of the political parties.

Commissioner Valentine stated that voters should be smart enough to know the background of the representatives. She mentioned that the county council did not listen to local representation on filling the recent vacancy on the council.

Chair Gregerson mentioned that there are partisan issues relating to mental health funding, budget priorities and land use.

Commissioner O'Donnell stated voters are smart and party politics are powerful in the county. He thinks voters would support the proposal.

Commissioner Roulstone mentioned the question before the Commission is whether the voters should decide.

Commissioner Chase talked about transparency and accountability are very important in running for election. She stated that lots of issues have partisan implications. She also mentioned that nonpartisan elections can suppress turnout.

Commissioner Liias stated that there might be consensus around making the prosecuting attorney nonpartisan.

Commissioner Liias moved to direct staff to prepare an amendment to make the prosecuting attorney nonpartisan. Commissioner Roulstone seconded the motion.

Vice Chair Terwilliger stated that the executive and council are policy-makers while the other offices are primarily administrative. He stated that the prosecuting attorney makes policy decisions daily.

Commissioner Liias stated that there is not much of a difference between Mark Roe, a Democrat, and Dan Battenberg a Republican. He stated that the prosecutor primarily implements the law.

The motion failed 7-5. Chair Gregerson and Commissioners Barton, Koster, Liias, O'Donnell, Roulstone, and Valentine in support. Vice Chair Terwilliger and Commissioners Chase, Fior, Matthews, and Stanford in opposition.

Commissioner Koster moved to direct staff to prepare an amendment to make all offices nonpartisan. Commissioner Barton seconded the motion.

Commissioner Barton stated the public would support the proposal.

Commissioner Liias stated that not all offices should be nonpartisan.

Commissioner Fior discussed the impact on voter turnout and nonpartisan elections.

Commissioner O'Donnell expressed that voters should have a choice.

The motion failed 5-7. Commissioners Barton, Koster, O'Donnell, Roulstone and Valentine in support. Chair Gregerson, Vice Chair Terwilliger, and Commissioners Chase, Fior, Matthews, and Stanford in opposition.

4. ELIMINATE TERM LIMITS

Commissioner Liias moved to table the discussion on eliminating term limits to April 6, 2016. Commissioner Fior seconded the motion. The motion passed 11-1. Chair Gregerson, Vice Chair Terwilliger, and Commissioners, Chase, Fior, Koster, Liias, Matthews, O'Donnell, Stanford, Roulstone and Valentine in support. Commissioner Barton in opposition.

OLD BUSINESS

Chair Gregerson stated she would not be in attendance on April 6 and expressed support for keeping term limits.

Commissioner Valentine stated that the subcommittee on rural and unincorporated representation would meet at 6 pm on April 6.

Commissioner Koster expressed his support for eliminating term limits.

Commissioner Roulstone moved to change the cutoff date for new proposals to April 20. Commissioner Liias seconded the motion, The motion passed unanimously.

NEW BUSINESS

Commissioner Roulstone described a proposal to create a committee to review the county code and regulations.

ADJOURNMENT

Chair Gregerson declared the meeting adjourned at 8:57 pm.

Snohomish County
Charter Review Commission
Mukilteo City Hall
11930 Cyrus Way, Mukilteo, WA 98725
Wednesday, April 6, 2016
7:00 p.m.
MINUTES

PRESENT:

Vice-Chair Terwilliger
Commissioner Barton
Commissioner Chase
Commissioner Donner
Commissioner Fior
Commissioner Kelly
Commissioner Liias
Commissioner Matthews
Commissioner O'Donnell
Commissioner Stanford
Commissioner Roulstone
Commissioner Valentine
Chris Roberts, Commission Analyst

CALL TO ORDER

Vice Chair Terwilliger called the meeting to order at 7:02 p.m.

FLAG SALUTE

ROLL CALL

Chair Gregerson, Commissioner Koster absent.

GUESTS

Councilmember Brian Sullivan addressed the Commission. He spoke about his background and history in Mukilteo.

Commissioner Chase arrived at 7:06 pm

Councilmember Sullivan encouraged the Commission to strengthen the office of the executive. He observed the executive is weak and can be crippled by the council.

He stated that public safety, including the sheriff and courts, account for 75% of the county's budget. Twenty-five to thirty years ago, public safety accounted for about 50% of the county's budget. He suggested the creation of a public safety cabinet and better coordination and planning between public safety agencies.

Commissioner Kelly discussed staffing levels with Councilmember Sullivan. Councilmember Sullivan expressed support for prohibiting council staff from making contributions to incumbents running for reelection.

Commissioner Roulstone asked about enlargement of the council. Councilmember Sullivan

stated that he was ambivalent about recommending the proposal, but enlargement of the council should be considered as a question about representation, not a question of cost. If the council were enlarged, the council would be more dynamic.

Commissioner Liias asked about moving labor negotiations to the council and thoughts about governance of Paine Field. Councilmember Sullivan stated that labor negotiations by committee is not a good thing and not productive. He stated the council sets the parameters of labor negotiations and must ratify labor agreements. Councilmember Sullivan stated he was not opposed to giving more power to the Paine Field Community Council. He stated that the airport staff has been independent for quite some time and can be difficult to work with.

Commissioner Valentine asked about scheduling evening council meetings. Councilmember Sullivan responded that evening meetings are appropriate. He stated the county was diverse and decentralized and liked the idea of joint meetings with city councils and across the county.

Commissioner Matthews asked about a requirement to use a biennial budget. Councilmember Sullivan discussed the state of the current budget and responded that biennial budgets can be a great planning and financial tool.

PUBLIC COMMENTS

Barbara Bush of Mukilteo spoke on behalf of the League of Women Voters. She complemented the Commission for the civility of its discussions. She spoke in support for updating the nondiscrimination section of the Charter, the need to update transitional provisions, especially Section 11.30, gender-neutral language, and 2016-08, the schedule of county council meetings. She stated the League promotes open government.

Pat Thompson of Everett spoke on behalf of the Washington State Council of County and City Employees in opposition to moving labor negotiations to the council. He observed that the Charter was changed to address the real problem when the negotiations were handled by council.

Roberta Jonnet of Mill Creek stated her opposition to lowering the age to run for office. She stated the science does not support 18 year olds reaching maturity and that most people do not fully mature until the mid 20s. She also expressed her opposition to changing the residency requirement.

Terry Losh of Bothell proposed the Commission decertify labor unions in the Charter. He stated that unions give campaign contributions, which lead to financial corruption and corruptions of public service programs. He mentioned that the government has lots of liabilities over retirement plans and wondered what services the government would cut.

Jim Jonnet of Mill Creek spoke in opposition to changes to the residency requirement. He stated that term limits should be tightened rather than eliminated. He proposed that the Assessor's, Treasurer's and Auditor's offices be appointed rather than elected. Those positions are professional.

Mike Moore of Mukilteo spoke on behalf of Save Our Communities. He stated the governance structure of Paine Field needs to be changed in include citizen engagement. Commissions

asked if he supported Chair Gregerson's proposal and whether the issue should be resolved in the Charter. Mr. Moore answered in the affirmative.

Rosemarie Kelly of Mukilteo stated her opposition to an airport. She stated that property values will decrease.

Mike Shea of Mukilteo supported Chair Gregerson's proposal regarding the airport.

CHAIR'S REPORT

Vice Chair Terwillger did not have a report.

BUSINESS ITEMS

1. CHARTER AMENDMENT PROPOSAL PRELIMINARY DISCUSSIONS

Commissioner Kelly stated that permit fees go Fund 193, which is separate from the general fund. This fund pays for much of the staffing of the planning department. She stated there is a perception that an unfair advantage is given to the development community.

Commissioner Fior wondered where in the Charter would this proposal go. She stated the budget is under the purview of the council.

Commissioner Roulstone asked if there are other funds in the county which have a particular purpose. He stated that the Commission could propose that all funds go into the general fund.

Vice Chair Miller stated the permit process pays for itself. Commissioner Kelly responded that this process leads to the county being in the business of development rather than the public good.

Commissioner Barton stated the government should not use its regulatory powers as a source of income. He stated that user fees are not part of the county's enforcement powers.

Vice Chair Terwilliger stated that certain funds are enterprise funds with strict rules on how those funds are used.

Commissioner Liias mentioned that the underlying issue are conflicts of interests and the appearances of fairness. He suggested the Commission look at the county's ethics code. He mentioned that the state mandates segregated funds.

Commissioner O'Donnell stated that permit processing is a slow process, but this is not a Charter issue.

Commissioner Valentine stated she would like to know how other counties are doing.

Commissioner Valentine moved Charter Amendment Proposal 2016-32, Require Permit Fees to Stay in the General Fund, and direct staff to conduct a cursory review of surrounding counties of how permit fees are used, forward for further analysis. Commissioner Kelly seconded the motion.

The motion failed 4-7. Commissioners Barton, Kelly, Roulstone, and Valentine in support. Vice Chairs Terwilliger and Miller and Commissioners Chase, Fior, Liias, O'Donnell, and

Stanford in opposition.

Commissioner Kelly stated that county officials are paid very well. She stated that there is a conflict of their time if a county official is employed by another entity or active in a business they own. The council is a full-time, demanding job, and it looks bad when a county official is running a business on the side.

Commissioner Matthews opposes the proposal. He stated this should be an issue for voters to decide. Instead the Commission should focus on ethics in government.

Commissioner Liias expressed support for prohibiting outside employment, but not opposition to owning a business. He mentioned that elected officials are required to file regular F1 reports with the state that contains lots of information about their finances.

Commissioner Chase stated that there are lots of assumptions in the proposal.

Commissioner Kelly mentioned that she was a small business owner and small businesses required lots of time by the owner.

Vice Chair Terwilliger wondered if there are loopholes in the county's ethics code.

Commissioner Liias stated that a campaign finance proposal is moving forward and expressed support for a discussion on the county's ethics code.

Commissioners Chase, Fior, and Roulstone agreed to serve on a committee to review the ethics code.

Commissioners discussed whether to make a motion to move forward the proposal for further analysis. Commissioner Matthews asked whether the proposals would apply to service in the national guard.

Commission Kelly moved Charter Amendment Proposals 2016-33, County Elected Officials and Conflict of Interest, forward for further analysis. Commissioner Barton seconded the motion.

The motion failed 3-9. Commissions Barton, Kelly, and Valentine in support. Vice Chairs Terwilliger and Miller and Commissioners Chase, Fior, Liias, Matthews, O'Donnell, Roulstone and Stanford in opposition.

Commissioner Liias stated that state law would trump the Charter.

Commission Roulstone moved Charter Amendment Proposals 2016-34, Decertify Civil Service Labor Unions, forward for further analysis. Commissioner Valentine seconded the motion. The motion failed unanimously.

2. ELIMINATE TERM LIMITS

Commissioner Donner arrived at 8:30 pm.

Vice Chair Miller stated that it is the citizen's responsibility to determine who is doing a good job and that knowledge and experience are lost with term limits.

Commissioner O'Donnell observed that money usually flows to the incumbents. Vice Chair

Miller reminded the Commission that the incumbent county executive just lost.

Commissioner Valentine stated that in some of professional positions in the county where term limits probably do not apply. Incumbents usually get money regardless of party. She stated that term limits serve a purpose and are popular.

Commissioner Barton expressed that his is not concerned with losing experience. He stated that open seats created by term limits bring in new blood.

Commissioners discussed whether term limits were part of the original charter.

Commissioner Roulstone mentioned that term limits create opportunities for people to serve.

Commissioner Kelly expressed support for keeping things the way they are.

Commissioner Donner stated it is nice to cleanse the slate once in a while.

Commissioner Chase discussed her faith in the voters and the electoral system.

Vice Chair Miller moved to direct staff to prepare a draft proposition eliminating term limits. Commissioner Chase seconded the motion.

The motion failed 2-11. Vice Chair Miller and Commissioner Chase in support. Vice Chair Terwilliger, and Commissioners Barton, Donner, Fior, Kelly, Liias, Matthews, O'Donnell, Roulstone, Stanford, and Valentine in opposition.

3. REQUIRE BIENNIAL BUDGET

Vice Chair Terwilliger stated that the key term in the proposal is requiring biennial budgets. summarized the staff report.

Commission Liias reminded the Commission that Councilmember Wright said there are reasons for annual budgets. He expressed support for drafting a letter to the council supporting biennial budgets.

Commissioner Roulstone moved to direct staff to prepare a draft proposition requiring biennial budgets. Commissioner O'Donnell seconded the motion.

The motion failed 2-11. Commissioners Barton and Matthews in support. Vice Chairs Terwilliger and Miller and Commissioners Chase, Donner, Fior, Kelly, Liias, O'Donnell, Roulstone, Stanford, and Valentine in opposition.

Commissioner Valentine moves to include the proposal in the cover letter to the council. Commissioner Roulstone seconded the motion.

The motion passed unanimously.

4. CHANGE DATE OF SUBMISSION OF EXECUTIVE'S BUDGET FROM OCTOBER 1 TO SEPTEMBER 1

Vice Chair Terwilliger introduced the topic.

Commissioner Liias stated this may be a housekeeping amendment.

Commissioner Barton moved to direct staff to prepare a draft proposition changing the date of submission of the executive's budget from October 1 to September 1. Commissioner Liias seconded the motion. The motion passed unanimously.

5. SCHEDULE OF COUNCIL MEETINGS

Commissioner Valentine read the 2006 ballot proposal. She stated the council is not following the intent of the proposal.

Vice Chair Terwilliger asked if the language needed to be more specific.

Commissioner Roulstone stated the Charter needed to be more prescriptive.

Commissioner Liias states that the council should meet outside the county seat quarterly and in the evening at least monthly. He expressed support that there should be an evening meeting on the budget and comprehensive plan.

Commissioners discussed the need for the council to hold meeting in a variety of districts accessible to diverse populations in the county and how strongly the language needs to be in the Charter.

Commissioner Liias moved to direct staff to prepare a draft proposition on the schedule of council meetings to include quarterly regular meetings, geographically diverse, at least one evening meeting every month, and at least one evening public hearings on major items. Commissioner Roulstone seconded the motion.

Commissioner Roulstone would prefer the motion to include meetings in all five council districts.

Commissioner Liias would like to see the council go to all twenty-two cities.

Commissioner Matthews expressed support for the language in the Pierce County Charter.

Commissioner Liias wants to clarify state law on scheduling meetings outside the county seat.

Commissioner Matthews mentioned there will be a budget impact of the proposal.

Commissioner Roulstone called for the previous question. Commissioner Valentine seconded the motion. The motion passed unanimously.

The main motion passed unanimously.

OLD BUSINESS

NEW BUSINESS

Commissioner Liias introduced propositions to better coordinate public safety in the county and whether the treasurer and assessor should be appointed offices.

Commissioner Barton introduced a proposal to move election of county offices to even years.

Vice Chair Terwilliger stated that the next meeting would be April 20 in Monroe.

ADJOURNMENT

Commission Barton moved to adjourn. Commissioner Valentine seconded the motion. The motion passed unanimously.

Vice Chair Terwilliger declared the meeting adjourned at 9:02 pm.