

DON G. DANIEL
JOHN E. JUSTICE*
W. DALE KAMERRER
AMANDA BLEY KUEHN
ELIZABETH A. MCINTYRE*
JEFFREY S. MYERS
MATTHEW T. SONNEBY
MICHAEL J. THROGMORTON
*Admitted in WA & OR

GUY BOGDANOVICH, *retired*
DONALD L. LAW, *retired*
JOCELYN LYMAN, 1951-2020

***LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.***

ATTORNEYS AT LAW
(360) 754-3480 FAX (360) 357-3511

Mailing Address:
P.O. BOX 11880
OLYMPIA, WA 98508

Street Address:
2674 RW JOHNSON BLVD SW
TUMWATER, WA 98512

May 16, 2023

Public Disclosure Commission
Attn: Kurt Young
711 Capitol Way S. #206
P.O. Box 40908
Olympia, WA 98504-0908

Re: PDC Complaint #124392 – Alleged violations of RCW 42.17A.555 concerning
informational mailer on Regional Fire Authority involving Olympia & Tumwater Fire
Departments

Dear Mr. Young:

Attached please find the Response of the Cities of Olympia and Tumwater to the complaints filed by Arthur West, Robert Shirley and Walt Jorgensen with the Commission arising from the Informational Mailer discussing the Regional Fire Authority Proposition 1. You will find the Cities' Response, along with Exhibits A-I thereto. This is in addition to the materials previously provided to the Commission on April 25, 2023.

Please feel free to contact me if you have any questions about the contents of this response.

Very truly yours,

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.



Jeffrey S. Myers

Cc: Clients

STATUTORY BACKGROUND – THE RFA PROCESS

The laws of the State of Washington allow cities, including the Cities of Olympia and Tumwater (collectively “the Cities”), to propose, consider, support and ultimately to send measures to the voters for approval of a regional fire authority (“RFA”). The statutory framework for such proposals is set forth in Chapter 52.26 RCW.

The process for considering approval of an RFA begins with the formation of a planning committee. The Planning Committee must include three elected members of each city’s council. RCW 52.26.030(2). Members of the planning committee may receive compensation of seventy dollars per day, or portion thereof, not to exceed seven hundred dollars per year. *Id.* The Planning Committee is an advisory entity that is created, convened, and empowered consider and adopt a regional fire protection service authority plan (“the Plan”) providing for the governance, design, financing, and development of fire protection and emergency services. RCW 52.26.040(1).

The Planning Committee is authorized to receive and expend public funds for the start-up costs associated with considering adopting and proposing the Plan. The Plan must consider and include provisions for governance, design, financing, and development of fire protection and emergency service facilities and operations, including maintenance and preservation of facilities or systems and recommend sources of revenue authorized by RCW 52.26.050, RCW 52.26.040(3).

Once the Planning Committee has adopted the Plan, it must refer the matter to the governing bodies for each participating city. RCW 52.26.040(4). The governing bodies initiate an election process set forth in RCW 52.26.060. The first step in the City Councils’ consideration is for each council to approve or disapprove the Plan, as each such Council “may” certify the Plan to the ballot. The governing bodies may draft a ballot title, giving notice as required by law for ballot measures, and perform other duties as required to put the Plan before the voters of the proposed authority for their approval or rejection as a single ballot measure that both approves formation of the authority and approves the Plan. *Id.*

These statutory procedures place the Cities in a unique statutory position because the Cities are statutorily placed in the position of advocating adoption of the ballot measure to approve the proposed RFA. The Cities, pursuant to RCW 52.26.060 entered into an interlocal agreement to consider the RFA, passed joint resolutions approving the RFA and referred the matter to the voters.

The PDC has acknowledged that “it is not only the right, but the responsibility of local governments to inform the general public of the operational and maintenance responsibilities facing local agencies”. PDC Interpretation 04-02. Under the statutory scheme set forth in RCW 52.26, it is more than just a general responsibility but is a specific statutory mandate for the Cities to communicate about the RFA proposal to the public, in order to fulfill the duty to “put the plan before the voters for their approval or rejection.” RCW 52.26.060.

In considering the complaints concerning the Informational Mailer about the Olympia-Tumwater RFA proposal, it is important to keep this mandate in mind and analyze the communications from the Cities within this unique statutory context. This is not the same situation as posed by communications about candidates for elective office, or state-wide ballot initiatives which are not

proposals that necessarily are to be approved by the Cities and submitted to the voters. Instead, the law requires that the participating agencies act as proponents before any measure to approve an RFA is ever submitted to the voters. None of the complaints made concerning the Cities' Informational Mailer acknowledge the statutory process for consideration or approval of the RFA prior to submittal to the voters.

THE CITIES' RFA ADOPTION PROCESS AND REFERRAL TO THE VOTERS

In May 2021, the Cities entered into an interlocal agreement to establish the RFA Planning Committee. The Planning Committee included three elected officials from each city, as well as each city's fire chief, and union representatives from each city's fire department. Although allowed by statute, the members of the Cities' Planning Committee served without compensation.

The Planning Committee held its first meeting in August 2021 and conducted a series of 24 public meetings from January 2022 to January 2023. This process included two remote town hall meetings in May and August 2022, prior to formal public hearings to consider the proposed Plan. During these meetings and in multiple public hearings, staff from both Cities prepared multiple PowerPoint presentations to outline the rationale for considering the RFA and its financing recommendations. The PowerPoint Presentation for the August 15, 2022 Town Hall is attached as **Exhibit A**. A link to the PowerPoint presentation used at the December 6, 2023 public hearing before the City Council is posted on the OlympiaTumwaterRFA.com website (**Exhibit B**), as are all the detailed minutes and agenda packets for the Planning Committee.

These presentations conveyed information to the Planning Committee and to the public about the challenges faced by the Cities to provide fire and emergency response services. This included discussion of a 2019 study showing that regionalization could improve or enhance service delivery by the participating fire departments. **Exhibit A at 6**. Additionally, the Planning Committee considered the inability of either city to meet service target response times and increases in volume of calls for service. **Exhibit A at 4**. The proposed RFA Plan would regionalize the services, and thereby enhance the ability of the Cities to improve services by restoring capacity for fire and emergency medical calls and reducing response times. These presentations also documented the link between response time and survival of cardiac arrest, noting that longer response times are associated with higher probabilities of brain damage and death, as well as substantial increase in growth of the size of fires. **See Exhibit A at 10**. the Planning Co

The RFA Plan relied on four dedicated sources of funding for the RFA: 1) the Fire Levy: a property tax; 2) EMS Levy Revenues; 3) Fees for Service: including revenue from permits and service contracts with other governments; and 4) a new Fire Benefit Charge (FBC). **Exhibit B at 10**. The FBC would be offset by a reduction of property taxes levied, so that in terms of property taxes, the RFA proposal was revenue neutral. **Id. at 12**. The new FBC would fund up to 60% of the operating budget of the RFA and is required to be renewed by the voters after 6 years. Governance of the RFA was provided by phasing in a new seven-member board by 2028. **Id. at 14-15**.

The Planning Committee held a public hearing on November 14, 2022, after which it voted to approve the Plan for its operation, governance, and financing including a reasonable fire benefit charge for consideration and legislative action by the Olympia and Tumwater City Councils on

December 6, 2022. Both Councils adopted a joint resolution approving the Plan and sending it to the April 25, 2023 ballot for consideration by the voters in both cities.

After the Councils approved the joint resolution sending the RFA measure to the ballot, Olympia's City Manager, Jay Burney sent an email to the City's Executive staff and Council members, with PDC Interpretation 04-02 to remind them of PDC guidelines on ballot measures. **Exhibit C.**

After the approval of the joint resolutions, on January 9, 2023, the Cities also held an additional public hearing on the Plan's proposal to impose benefit charges for the support of the authority's legally authorized activities that will maintain or improve fire protection and emergency medical services afforded in the authority. Olympia City Manager Jay Burney presented the financing components of the Plan which relied on multiple revenue sources for the proposed RFA. He further explained the fire benefit charge, how it was calculated and how the public could identify the amounts that each property owner would be charged by using a calculator accessible on the Planning Committee website at www.ci.tumwater.wa.us/FBC. A copy of the PowerPoint Presentation at the January 9 2023 public hearing is attached as **Exhibit D.**

Following the adoption of the joint resolutions, the matter was referred to the ballot. Following the guidance of the County Auditor's office, the Olympia city attorney drafted an explanatory statement to be included in the local voters' pamphlet for the special election. The Planning Committee approved members of the FOR and AGAINST Committees to draft statements for and against the RFA Proposition for the voter's pamphlet as provided by RCW 29A.32.280.

PUBLICATION OF JOINT CITY INFORMATIONAL MAILER

In February 2023, both cities began planning to send an informational mailer to the public concerning the RFA ballot measure, which was now designated as Proposition 1. Both Cities have normally sent informational mailers for ballot measures as part of the regular activities of each city. Olympia took the lead on drafting and production of the mailer. Since the bulk of the mailing would be directed to Olympia addresses, the parties agreed to a split where Olympia paid 2/3 of the cost of the mailer.

Olympia's Strategic Communications Director Kellie Braseth drafted the RFA Mailer using a previous mailer sent concerning a proposed sales tax increase to fund a cultural access program. (**Exhibit E**). That template used a FAQ section to explain key points about the measure, and used four boxes to discuss the priorities for the program to be funded and reasons why the measure was proposed by the City. The mailer also included photographs to identify the types of activities that would be funded by the ballot proposition. A section was devoted to setting out the ballot language, but the mailer did not contain any instructions on how the public should vote. Rather, it included an express disclaimer indicating that it was **"FOR INFORMATION PURPOSES ONLY Not intended to support or oppose the proposition"**. Since the Cultural Access Program mailer had received no complaints about its format or content or any allegations of a violation of RCW 42.17A.555, Olympia used this same format to produce a draft informational mailer.

The Cities used the information generated during the Planning Committee process to generate the content of the informational mailer. Much of the information was drafted from the PowerPoint

presentations to the Planning Committee and City Councils during the year-long consideration of the RFA and reasons for regionalizing the services provided by the cities' respective fire departments. The ballot language approved by the Auditor was included.

The City made a concerted effort to select photographs that communicated the services that the fire departments provide to the public without relying on emotional appeals. Stock photographs of fire departments were used but were edited to remove identifying content as to the departments. For example, the identity of the department was removed from the helmet of the firefighter holding a ladder, which was placed next to the ballot language in the mailer. Similarly, photographs of firefighters with animals were not used, such as a firefighter with a kitten or dalmatian.

One photo shows an ambulance, and another depicts a gurney being wheeled by an employee. The photos are important to convey the message that the departments respond to medical emergencies, not merely fires. A photograph of an investigation at a fire scene was included which shows the investigative function of the fire departments. A stock photograph from fire training was used to show response to an active fire with oxygen tanks and use of Halligan bar, a forcible entry tool used by firefighters. Stock photographs of firefighters' protective equipment hanging on a wall and firefighters climbing stairs were also included. Finally, a photograph from a recent large regional fire response was included which showed firefighters and a hook and ladder truck in the foreground, with a fire behind the truck. This showed a response by City of Olympia and Tumwater personnel to a fire at an apartment construction site in downtown Olympia on December 15, 2021.

An initial draft was circulated internally to Olympia staff on February 21. Legal review was provided by City Attorney Mark Barber, who had also been acting as counsel to the Planning Committee and had drafted the explanatory statement. A draft was then forwarded to the City of Tumwater staff for review on February 28, 2023. It was reviewed principally by Tumwater's Communications Director Ann Cook, as well as Fire Chief Brian Hurley. Tumwater City Administrator John Doan did not assist in the preparation of the mailer, nor did he review or approve the mailer. Although Mr. Doan has final approval of expenditures for Tumwater that exceed \$1000, Ms. Cook reviewed the invoices to check for accuracy and processed them for payment in keeping with the cost share agreement between the Cities.

A final draft proof of the mailer was circulated on March 9, 2023, and the final copy was sent to the printer on March 10, 2023. It was printed and delivered to a contractor for mailing on March 17, 2023. The mailer was sent to all mailbox addresses within Olympia and Tumwater on March 28, 2023.

RESPONSE TO COMPLAINTS

As an initial matter, the complaints were received only after opponents of the RFA sought media attention to the alleged violations and solicited complaints about the content of the mailer. Complaints were initially the subject of one-sided media reports in JOLT on April 7, 2023 authored by an RFA opponent to accuse the Cities of misconduct for political advantage. (**Exhibit F**). The complaints were designed to deflect attention from the merits of the RFA proposition to whip up a frenzy against the RFA because of the false claim that the Cities' mailer violated the law. Not everyone agreed, however. One comment stated:

 JW

You're troubled; the other writer yesterday was not only troubled but also "saddened" by the flier.

Slightly melodramatic. You'd think the vote was to defund an orphanage.

Should they have sent a blank paper with only text instead of pictures accurately representing the contents? If they sent a similar flier for the parks or arts special elections in years past, did they have pictures of parks or arts on them? Wouldn't that also be "trying to influence" the voters with pictures?

And what about the text? How else are they supposed to describe the proposition except by describing what it is and the goal of the proposition is intended to be? Unlike the opposition, they're sticking to what it is and not spinning out scare language.

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2359&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

The attempts to whip up anti-RFA sentiment by making these complaints was a successful political tactic. Soon after the anti-RFA article in the JOLT, a complaint was filed by Arthur West on April 7, 2023 (“the West Complaint”). On April 12, 2023, a second complaint was filed by Robert (Bob) Shirley, a former Olympia attorney who represented some of the opponents of the RFA. (“the Shirley Complaint”). This was immediately republished by the JOLT on April 14, and again in The Olympian on April 19, 2023. (**Exhibits G, H**). A third complaint was filed by Walt Jorgensen, on April 28, 2023, which largely relied upon Shirley’s complaint, but accused two Tumwater officials of violating the law (“the Jorgensen Complaint”), again without providing specific evidence of what they did.

The RFA issue was decided by the voters on April 25, 2023. The measure failed to pass with a vote of:

Yes 6,580 36.34%

No 11,528 63.66%

This response will begin by focusing on the issues raised in the Shirley Complaint which is relied upon by the Jorgensen Complaint. The West Complaint raises similar issues, but in a more general manner and the responses to the Shirley complaint largely apply to the West Complaint as well.

SHIRLEY COMPLAINT – INTRODUCTORY COMMENTS

Mr. Shirley begins with a false premise by trying to base his complaint on matters previously addressed by the PDC in its complaint against former Olympia City Manager Steve Hall, arising from a mailer that repeated the City Council’s resolution opposing Initiative 976. Mr. Hall retired in 2019 and had nothing to do with the RFA Mailer. To the extent that Shirley makes this comparison, it is based on a misunderstanding of the facts that led to Mr. Hall’s Stipulation. The two are highly dissimilar and the contrast is striking.

- The RFA Mailer does not state support or opposition to Proposition 1.
- The RFA Mailer does not urge the public to “Vote No”, as the I-976 Mailer did.

- The RFA Mailer contains an express statement that it is informational only and does not support or oppose the ballot measure. The I-976 Mailer did not have such a statement, which was cited as an aggravating factor in the Hall matter.
- The RFA Mailer was sent to all postal mailboxes in Olympia and Tumwater and did not obtain addresses from lists of voters. This was cited as an aggravating factor in the Hall matter.

Additionally, the Cities did not have the opportunity to consult with PDC staff about the contents of the RFA Informational Mailer, which was previously available to agencies to safeguard against possible violations of RCW 42.17A.555. After the Hall matter, the City of Olympia was informed that the PDC no longer had staff to review proposed mailers. Thus, a city publishes the contents of its mailers solely at the risk of large, after-the-fact penalties imposed if the PDC believes that the content of the city's speech crosses the line from "information" to "promotion" or "opposition". Such threatened sanctions have a chilling effect on the ability of municipal corporations to communicate to the public because of the threat of sanctions if the PDC does not approve of their speech.

In considering the public discourse allowed, the PDC should consider an email received by the City of Tumwater from Leslie Owen, a voter who ultimately voted against the RFA measure. **(Exhibit I)**. That voter explained that the reason was that she believed the Cities needed to mount a significant education campaign regarding the need for the RFA and the finance system supporting it. In other words, the Cities needed to send more informational mailers, not less. However, the Cities are curtailed by PDC Interpretation 04-02 which allows only a single jurisdiction-wide mailer with an "objective and fair presentation of the facts" per ballot measure. This appears plainly inadequate to meet the needs of the public which is seeking more information on why cities are approving and referring matters to the ballot for their concurrence. The restrictions on the public discourse of cities who are required by law to approve matters and obtain voter approval is plainly inconsistent with the values of full and robust public discussion of matters of public concern embodied in the First Amendment to the U.S. Constitution.

SHIRLEY COMPLAINTS REGARDING PHOTOGRAPHS (#1-3)

The Cities chose to show pictures of firefighters doing their job, not photos designed to evoke emotional responses. The Cities did not conduct a "photo shoot" for the Mailer but used stock photographs of firefighters to illustrate their activities. The Mailer did not show firefighters rescuing children, with kittens or with the firehouse dalmatian. (See examples of photographs not used in the RFA Mailer below). Specifically, the photograph of the firefighter with the kitten was removed from initial drafts of the Mailer. Instead, the photos selected and included in the Mailer accurately showed photos of firefighters' normal activities including responding to fires or medical calls.



Mr. Shirley is critical of a photograph that he claims shows a house “exploding in flames.” The photograph used in the mailer is an actual regional response by firefighters to a fire in Olympia on December 15, 2021. The photograph used in the Informational Mailer is similar to photos used by news organizations reporting the fire but focuses on the firefighters and apparatus in the foreground, rather than the fire in the background. (See below). This 3-alarm arson fire at a construction site for new apartments generated a response from multiple fire departments in the region (including both Olympia and Tumwater), consistent with the proposal to regionalize fire services through the RFA. It certainly does not show the massive fireball explosions that occurred at that fire in a way that would gratuitously appeal to fear or other emotional reactions.

KIRO-TV images:



KOMO TV images:



Mr. Shirley also claims that the mailer contains a photograph of a gurney with a body on it. This is false. There is a photograph of a gurney covered by a grey blanket which is being wheeled by an employee who is not wearing any PPE or gloves. Firefighters or EMTs routinely place equipment on gurneys and cover them with blankets. No body is depicted or is otherwise visible in the photograph used. There is no body bag, toe tag, or even a white sheet commonly used to cover dead bodies. This allegation relies on conjecture and Mr. Shirley’s imagination as to what

is under the blanket. If Olympia wanted to appeal to emotions by showing a gurney with a body, it certainly could have selected a photo that actually has a body visible on the gurney. See below.



Mr. Shirley relies on 2015 “guidance” that he claims proscribes this photograph as “gratuitous” and appealing to emotion. This “guidance” is not part of the statute, is not adopted by the PDC as a rule and does not have the force of law. Mr. Shirley is simply wrong. The photograph does not depict a body on the gurney. Instead, Mr. Shirley’s allegation relies on three degrees of conjecture to reach a possible violation. First, he conjectures that there is a body under the blanket in the photograph, rather than firefighters’ equipment. Second, he engages in the conjecture that the photo can only be understood as an appeal to emotion by showing a body. Third, he conjectures that such an emotional response would generate support for the RFA by members of the public who would react emotionally.

Gratuitous is defined by Merriam-Webster Dictionary as: not called for by the circumstances; not necessary, appropriate, or justified. The photographs are in no way “gratuitous”. Instead, the photographs in the Mailer depict the normal and customary activity of firefighters and EMTs responding to a call for service. These images are important to depict the activities of fire departments and convey to the public that Fire Departments do more than fight fires, and that an important, if not dominant part of their responsibilities is responding to health-related calls. The Cities had choices and selected measured, accurate depictions of the activities of firefighters. The examples of photographs not used by the Informational Mailer above demonstrate the availability of photographs that could be considered “gratuitous”. The Cities did not use such photographs and the content of the Mailer complied with the law.

SHIRLEY COMPLAINT – CITY PRIORTIES (#4-12)

Much of the Shirley Complaint is focused on his disagreement with facts stated by the Informational Mailer and its description of the reasons that the City approved the RFA and sent the measure to the ballot for voter approval. As an initial matter, Shirley’s complaint reads as if the year-long consideration of the measure by the Cities’ Planning Committee did not even occur and must be ignored. That process formed the basis for the factual descriptions of the priorities that led to the adoption of the RFA plan, the enhancements that could be accomplished under the regional approach embodied by the RFA Plan and funded by the Fire Benefit Charge.

Given the limited space available in this Informational Mailer, the Cities were able to distill the Planning Committee’s consideration and priorities that are the reasons why the RFA was approved by the Planning Committee and each of the City’s Councils and subsequently referred to the ballot.

COMPLAINTS ABOUT FAILURE TO INCLUDE THE PLAN (#13)

Mr. Shirley accuses the Informational Mailer of failing to provide its recipients with a “fair and objective presentation of the facts” because it does not incorporate the plan referenced in the ballot language. He incorrectly alleges that the Informational Mailer did not include a website address where the reader could locate a copy of the plan. In fact, the Informational Mailer includes the URL for the webpage (OlympiaTumwaterRFA.com) which directly links to the website that contains a direct link to the full RFA Plan:

<https://www.ci.tumwater.wa.us/home/showpublisheddocument/25033/638188137572407871>.

Below is a screenshot of the webpage maintained by the Cities clearly indicating a link to the Plan, as well as the materials considered by the RFA Planning Committee, the Committee’s Charter, a Power Point Presentation on the proposal and the Joint Resolution adopted by the Cities to approve the measure and send it to a public vote.

Agendas & Minutes					
The Planning Committee held its first meeting on August 16, 2021. Planning Committee Meetings are conducted remotely on a web-based platform and are open to the public.					
DATE	TIME	MEETING TYPE	AGENDA PACKET	MINUTES	VIDEO
January 23, 2023	6:00 p.m.	Online via Zoom and In Person	Agenda Packet	Minutes	01/23/2023
January 9, 2023	6:00	Online via Zoom and In Person	Agenda Packet	Minutes	01/09/2023
December 12, 2022	5:30	Online via Zoom and In Person	Agenda Packet	Minutes	12/12/2022
December 6, 2022	7:00	Online via Zoom and In Person	Agenda Packet	Minutes	12/06/2022
November 28, 2022		Cancelled			
November 14, 2022	5:30	Online via Zoom and In Person	Agenda Packet	Minutes	11/14/2022
October 10, 2022	5:30	Online via Zoom and In Person	Agenda Packet	Minutes	10/10/2022
October 3, 2022	5:30 p.m.	Online via Zoom and In Person	Agenda Packet	Minutes	10/03/2022
September 26, 2022	5:30p.m.	Remote	Agenda/Packet	Minutes	09/26/2022
September 12, 2022	5:30p.m.	Remote	Agenda/Packet	Minutes	09/12/2022
August 22, 2022		Cancelled			
August 15, 2022	6:00 p.m.	Remote Town Hall	Agenda/Packet		08/15/2022
August 8, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	08/08/2022
July 25, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	07/25/2022
July 11, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	07/11/2022
June 27, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	06/27/2022
June 13, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	06/13/2022
May 23, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	05/23/2022
May 19, 2022	5:30 p.m.	Remote Town Hall	Agenda/Packet		05/19/2022
May 9, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	05/09/2022
April 25, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	04/25/2022
April 11, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	04/11/2022
March 28, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	03/28/2022
March 14, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	03/14/2022
February 28, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	02/28/2022
January 24, 2022	5:30 p.m.	Remote	Agenda/Packet	Minutes	01/24/2022
December 20, 2021		Cancelled			
November 15, 2021		Cancelled			
October 18, 2021		Cancelled			
September 20, 2021		Cancelled			
August 16, 2021	5:30 p.m.	Remote	Agenda/Packet	Minutes	08/16/2021
Accessibility & Accommodations					
The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an accommodation or alternate format of communication, please contact the City Clerk by calling (360) 252-5488 or email cityclerk@ci.tumwater.wa.us . For vision or hearing impaired services, please contact the Washington State Relay Service at 7-1-1 or 1-(800)-833-6384. To contact the City ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us .					
RFA Plan Fire Authority Town Hall Meeting Charter Tumwater-Olympia Fire Authority 2021Tumwater Olympia Interlocal Agreement					

It is not the Cities' fault that Mr. Shirley could not find the links to the Plan and other information at the bottom of the cities' website for the RFA. However, his statements are indicative of an apparent hostility to the Cities (particularly Olympia) and the RFA proposal, demonstrating first a political motivation in making the complaint and secondly, a predisposition to interpret the Cities' informational mailer to suit the opposition's political ends.

SHIRLEY COMPLAINT RE OVERVIEW SECTION (#14)

Shirley concludes his Complaint by addressing the Overview section which contains a neutral set of responses to frequently asked questions that arose during the Planning Committee's consideration. Shirley strains to find something to cast aspersions about in this section of the Informational Mailer, alleging that there is a violation because the answer said "Yes" to the FAQ "Can I count on the same level of service?" He cites a portion of the RFA Plan that verifies the correctness of this response, refuting his own position.

The Shirley Complaint about the Cities' answer is really that the Cities said that the regional approach will "enhance" service levels. That is a complicated matter that he is free to disagree about but was the product of the Committee's year-long consideration of what the regional approach would accomplish and what measures could be undertaken and funded with the RFA Fire Benefit Charge. Shirley complains that the Cities allegedly knew that it would not add firefighters or paramedics but fails to identify anywhere that the Informational Mailer actually claims that the RFA will add more firefighters or paramedics. Shirley is simply reading into the mailer words and an intent that are not there, again to suit a preferred political narrative. This predisposition to infer intent leads to the incorrect conclusion that the Mailer was intended as "promotional" even though the Mailer expressly says it is not intended to support or oppose the ballot proposition.

He then attacks the inclusion of the disclaimer that states the mailer is not intended to support or oppose the measure. He claims this is false, again because he disagrees with the factual material presented about the impact of the RFA and why it was sent to the ballot for the voter's approval. This accusation is speculative and rings hollow. Indeed, the inclusion of the disclaimer shows that the Cities were mindful of the violations from the I-976 mailer and changed the content because of that experience in order to maintain a fair and objective tone.

Shirley's position is that an informational mailer that does not suit the positions of opponents is therefore not "factual and objective". Shirley simply wants the Cities to slant their discussion of the facts to those that fit his viewpoint. That is contrary to the law and antithetical to the First Amendment. Of course, he can write his own version, as the opponents of Proposition 1 did. But neither Shirley nor the Commission is free to dictate the speech of others. These are matters of facts that reasonable minds can disagree with, but the remedy is not to seek after-the-fact sanctions against information placed into the public's hands, but to take one's case to the voters. Indeed, if the City's intent here was to promote the RFA measure, it certainly would have earned more than 36.64% of the vote. Given that outcome, it can hardly be argued that the content of the RFA Informational Mailer had a material impact on the outcome of the election. Indeed, because the PDC's Interpretation is so restrictive, it gave opponents fodder for arguing against Proposition 1 merely by making the complaint and allegations mere weeks before the vote.

ACTION REQUESTED

The complaints fail to show any violation of RCW 42.17A.555. The RFA Informational Mailer was a single jurisdiction-wide publication that is expressly permitted as part of the normal and regular conduct of the office or agency. See RCW 42.17A.555(3); WAC 390-05-271(2); PDC Interpretation 04-02. PDC Interpretation (General Principle 7) notes that agencies have historically been advised that with respect to election related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate.

PDC Interpretation 04-02 (General Principle 8) further instructs that the PDC attributes publications or other informational activity of a department or subdivision as the product of the local agency as a whole. The Informational Mailer is a joint publication of the Cities, not the actions of any one individual. This general principle rebuts the allegations made by the Shirley and Jorgensen Complaints against individual employees against whom complainants demand be individually and personally assessed fines of \$20,000.

Shirley has no knowledge of the facts alleged concerning the role of legal counsel in suggesting that the City's legal advisers should be held responsible for the alleged violations. His 14-page complaint is devoid of any factual allegation of what the Assistant City Attorney or City Attorney actually did. He demands that they be "fined substantially" for giving legal advice. There is no basis for this demand. His allegations are entirely speculative and should be disregarded.

The Shirley Complaint further asks that the Commission target Mayor Selby, who was one of the proponents appointed to draft the PRO statement on the voters' pamphlet. Mayor Selby had no role in drafting, reviewing, or disseminating the RFA Informational Mailer. These requests show the vindictive, retributive intent behind the Shirley Complaint. The Commission should not take the bait and pursue such vindictive allegations.

Such a fine would be entirely inconsistent with the responsibility for city publications placed on the municipal corporation itself by PDC Interpretation 04-02, which recites that it is not only the right of agencies to speak to the public, but is their duty. *Id.* (General Principle 2). It would also be inconsistent with the PDC's regulations concerning imposition of sanctions. WAC 390-37-182.

IN THIS CONTEXT, APPLICATION OF RCW 42.17.555 TO THE CITIES IS CONTRARY TO FIRST AMENDMENT PRINCIPLES

Finally, the imposition and threat of after-the-fact sanctions for improperly speaking to the public on matters of public concern raises significant First Amendment concerns in this context. Here the Legislature has required the cities seeking to form a regional fire authority to first approve a measure providing for financing, governance, and other critical measures and to then take that approved Plan to the voters for their consideration and approval. Having been placed in the unique position of being required to endorse the RFA measure and then being required to place it on the ballot, the prohibition of certain types of speech to the public that are deemed "promotional" would result in a chilling of the public discussion and debate over that ballot measure that is at the core of the protections provided by the First Amendment.

Corporations and other associations, like individuals, contribute to the “discussion, debate, and the dissemination of information and ideas” that the First Amendment seeks to foster. *See First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 776–84, 98 S.Ct. 1407, 1415–20, 55 L.Ed.2d 707 (1978); *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 342, 130 S. Ct. 876, 899–900, 175 L. Ed. 2d 753 (2010). A municipal corporation, like any corporation, is protected under the First Amendment in the same manner as an individual. *See Cnty. of Suffolk v. Long Island Lighting Co.*, 710 F. Supp. 1387, 1390 (E.D.N.Y. 1989), *aff'd*, 907 F.2d 1295 (2d Cir. 1990); *Santiago Collazo v. Franqui Acosta*, 721 F. Supp. 385, 393 (D.P.R. 1989); *Mosdos Chofetz Chaim, Inc. v. Vill. Of Wesley Hills*, 701 F. Supp. 2d 568, 598–99 (S.D.N.Y. 2010); see also, *New West, L.P. v. City of Joliet*, 491 F.3d 717, 722 (7th Cir. 2007) (“As far as the national government is concerned, a municipality has a right to speak...”)

The threat of sanctions based on the content of a city’s speech as being “promotional” instead of what the Commission considers “objective” and “fair” is a direct censorship of speech. It will chill the ability of any city to present information or its views to the public. It certainly curtails the ability of a city to express why it approved a ballot measure and is seeking approval from the voters. In this unique context, because Mr. Shirley, Mr. West, and Mr. Jorgensen disapprove of the content of the City’s speech and seek sanctions, it would chill and prevent the voters from getting the information that voters like Leslie Owen seek.

The Commission should be cautious about the chilling effect on public discourse that comes with the threat of sanctions for sending information to the public. Municipalities should be given latitude to determine the facts as they see them and communicate to the public. That is precisely what the Cities did here after engaging in a year-long process to consider the potential benefits of regionalization of the fire departments and enhancements that it could bring. To be frank and up front with the Commission, if these informational mailers bring legal sanction, the Commission should anticipate that cities will no longer use them to communicate with the public as it is too risky to send what they believe to be an objective factual mailer. This is hardly what a democracy needs. It is hardly what the public needs. But the threats of fines against the Cities will certainly result in cutting off this avenue of communication with the public.

CONCLUSION

The Commission should dismiss the Complaints against the City and its employees. The Informational Mailer did not violate RCW 42.17A.555 because it was an objective and fair statement of the factual basis for why Olympia and Tumwater approved the RFA Plan and sent the matter to the voters seeking their concurrence. It was issued as part of the normal and regular conduct of the Cities in seeking to inform the public about ballot measures. As such, there is no basis for the Complaints from Mr. West, Mr. Shirley, or Mr. Jorgensen.

DATED this 16th day of May, 2023.

LAW, LYMAN, DANIEL,
KAMERRER & BOGDANOVICH, P.S.



Jeffrey S. Myers, WSBA #16390

Olympia Tumwater Regional Fire Authority

Town Hall | August 15, 2022

Karen Meyer, Moderator

Jay Burney, City Manager, Olympia

John Doan, City Administrator, Tumwater

Brian Hurley, Fire Chief, Tumwater

Todd Carson, Interim Fire Chief, Olympia

James Osberg, IAFF Local 2409, Tumwater

Steven Busz, IAFF Local 468, Olympia

Karen Reed, Consultant

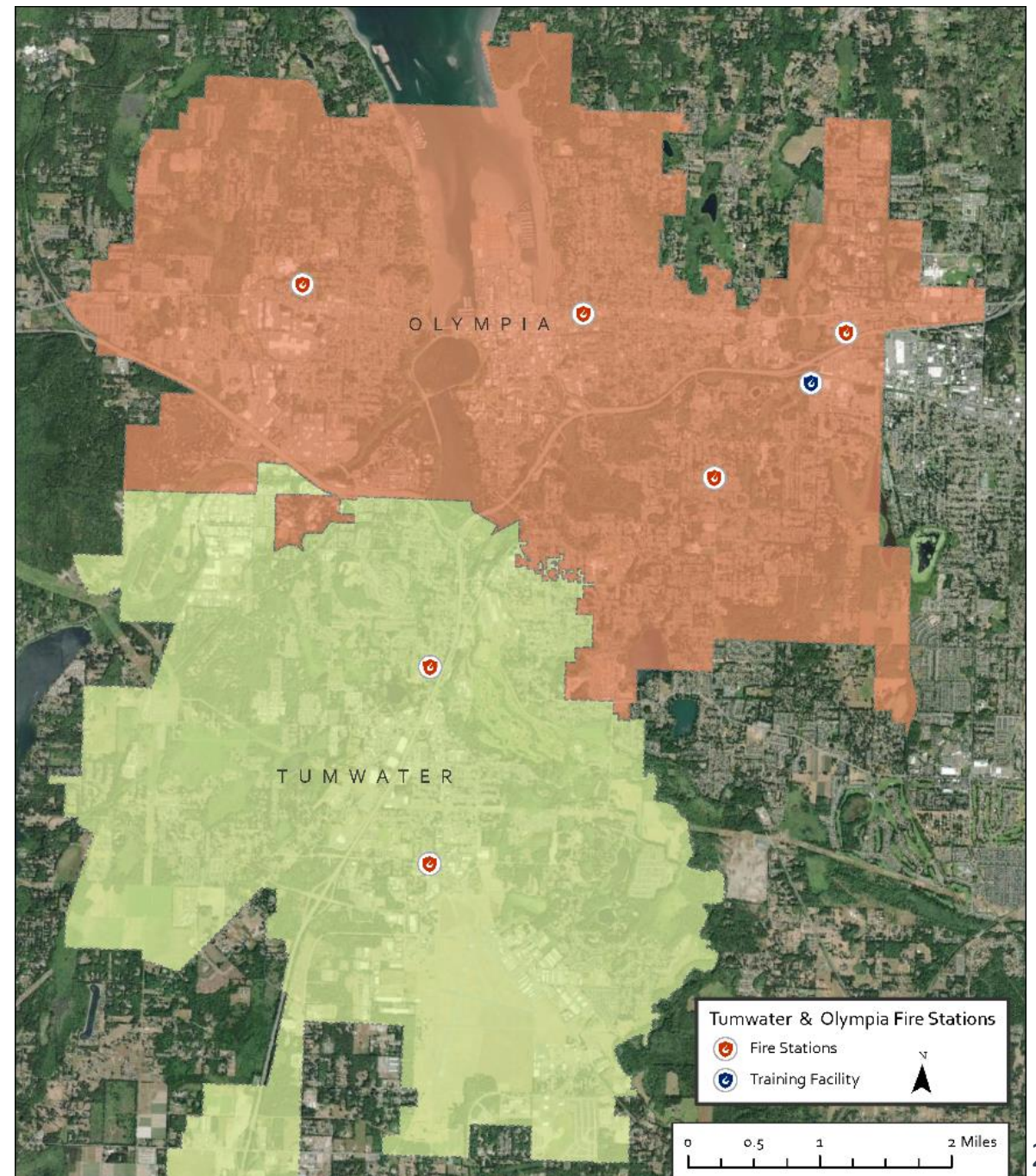


Cities of Olympia and Tumwater



Fire & Emergency Medical Services

- 6 Stations
- 150 FD Staff (FTE)
- 38 square miles
- 81,000+ population



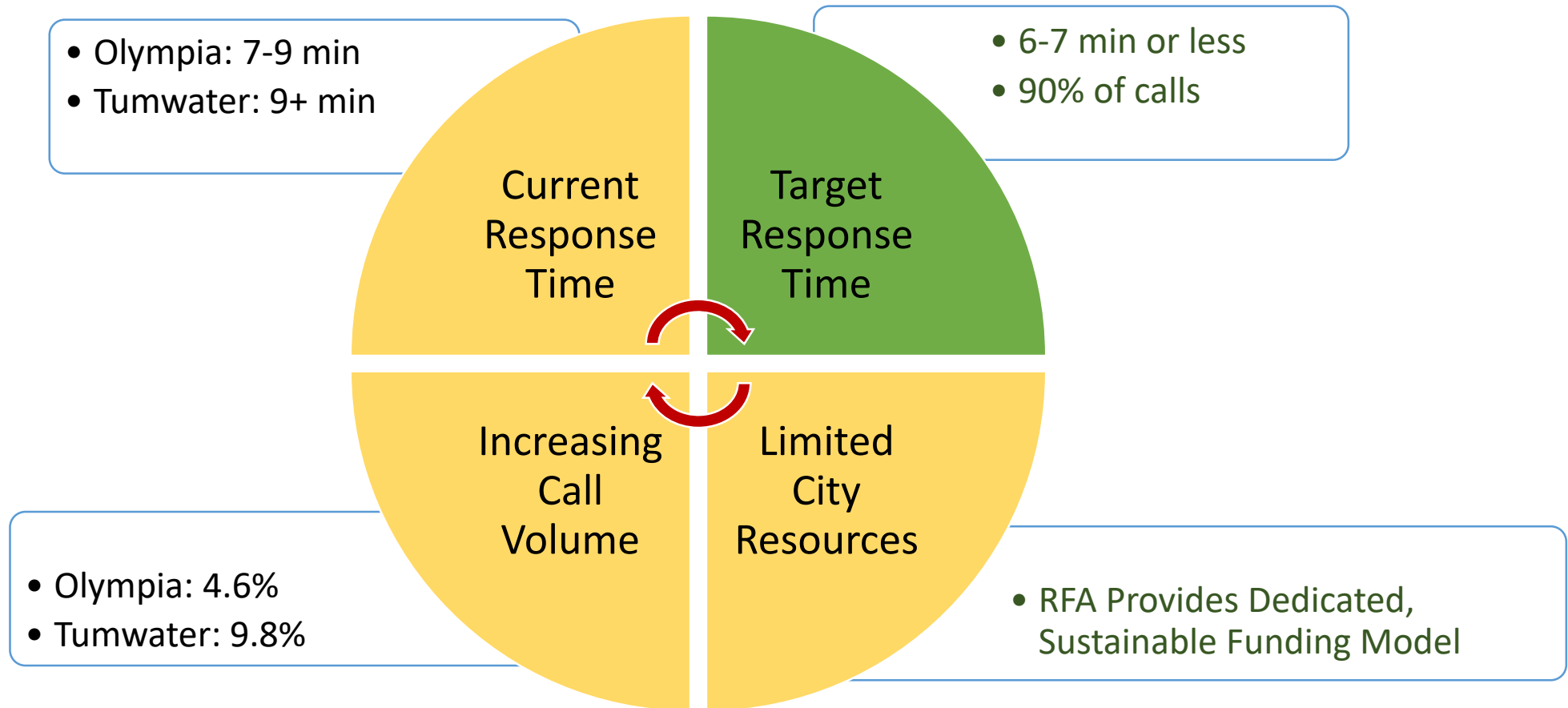
Fire & EMS Challenges Identified by both Cities

2019 Fire & Emergency Services Study: *Explore Regionalization of Fire & EMS*

- ✓ Limited City Resources
- ✓ Growing Demand on our Fire Departments
- ✓ Average Fire/EMS Response Times Declining over Time
- ✓ The need to maintain Fire/EMS service needs of our Growing Communities

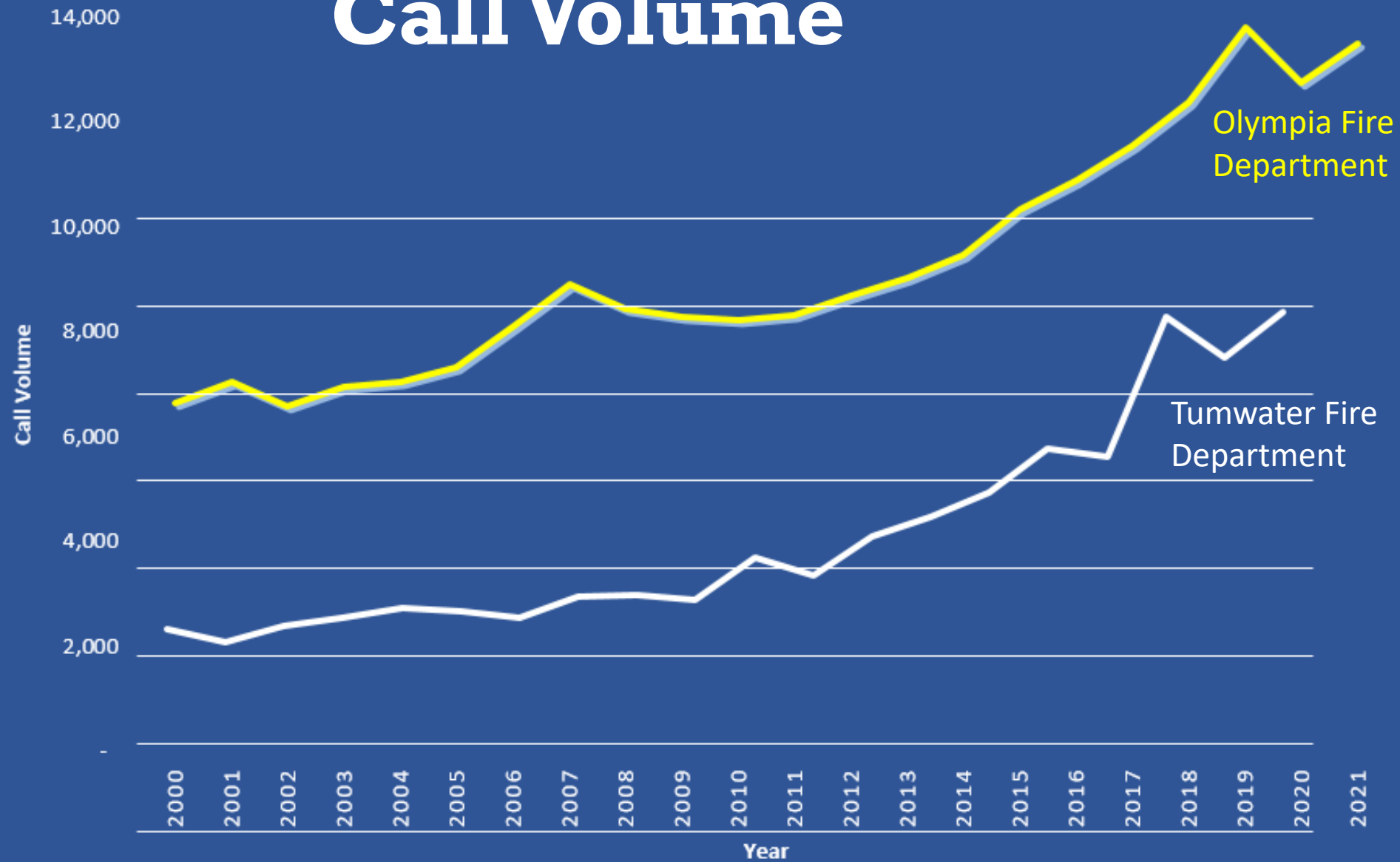


City Challenges in Fire & EMS Service



Annually, 5-year average

Call Volume



A Regional Fire Authority is the way to address these challenges together.

2019 Study with Tumwater and Other Agencies

■ Opportunities to Improve Emergency Services in Olympia and Tumwater:

- ☐ More Investment in Equipment, Facilities, and Personnel Needed
- ☐ More Efficient and Effective Models Like FD Cares and Crisis Response may be easier to Implement Through an RFA
- ☐ Basic Life Support Response Times May Be Improved
- ☐ An RFA Can Ensure Long-Term Funding Sustainability For Fire and Emergency Services

Olympia and Tumwater Councils Approved Interlocal Agreement May '21



WHAT'S A REGIONAL FIRE AUTHORITY

- Separate, independent unit of local government
- Created by the voters
- Same powers, revenues as a fire district
- Governance flexibility - Elected
- 13 RFAs in the state, including 2 in Thurston County (West Thurston RFA, Southeast Thurston RFA)



How does the RFA make a difference?

- **More efficient organization.**
 - Dispatch, deployment, shared equipment, facilities, training
- **Ability to stabilize and improve response times and enhance services**
 - Restore capacity for fire and emergency medical calls and reduce response times
- **Dedicated resources to support fire and emergency medical.**
 - Minimizes competition with other city services.

What are the Service Enhancements?

- 2 Basic Life Support (BLS) Transport Units
- Community Assistance Referrals and Education Services (CARES) Unit
- Unified service area gets the closest response vehicle to you faster



Why Response Time Matters

Cardiac Arrest Survival



0 Minutes

BREATHING STOPS; THE HEART
WILL SOON STOP BEATING

4-6 Minutes

POSSIBILITY OF LONG-TERM
BRAIN DAMAGE

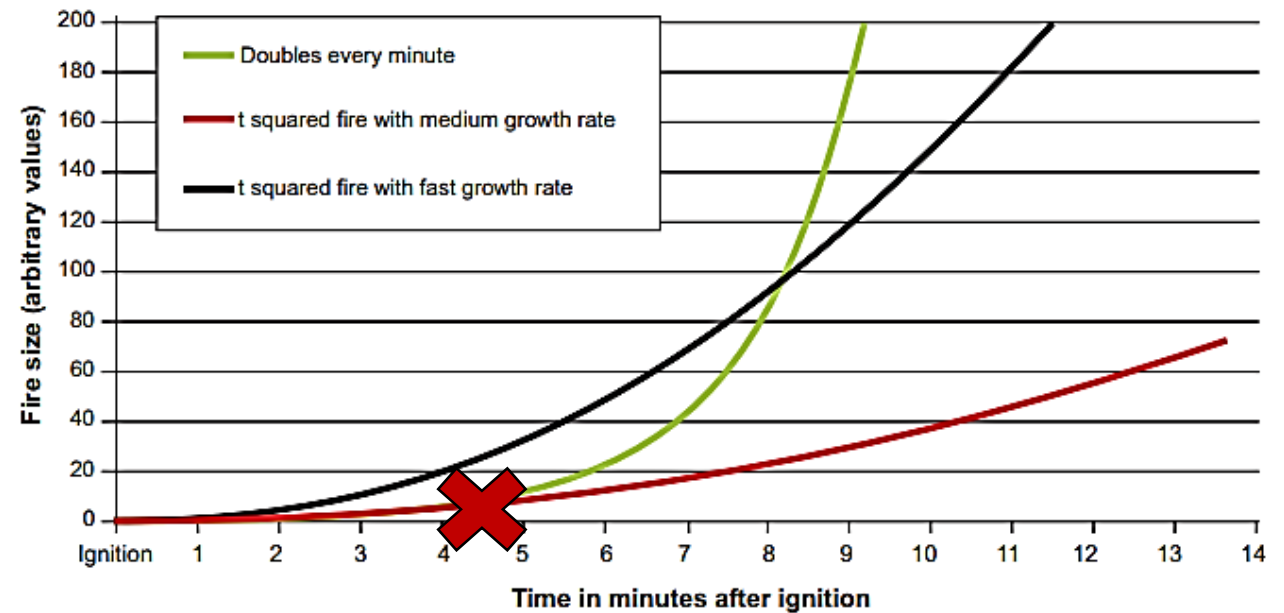
6-10 Minutes

HIGH PROBABILITY OF
LONG-TERM BRAIN DAMAGE

Over 10-15 Minutes

CERTAIN IRREVERSIBLE BRAIN
DAMAGE RESULTING IN DEATH

Fire Growth



American Heart Assn.

"It's About Time"

How will the RFA be Funded?

- Share of current countywide **EMS levy revenues**
- **Grants, contract revenues, fees for service**
- **Property tax levy** (“Fire Levy”) of up to \$1.00/\$1,000 Assessed Value
- **Fire Benefit Charge** an annual fee on structures based on the estimated fire-fighting resources needed to combat a fire.



Property Tax

	Olympia	Tumwater
Projected 2024 City General Levy Rate before reduction	\$2.05/\$1,000 AV	\$2.09/\$1,000 AV
Minus \$1.00/\$1,000 AV = Resulting City Levy Rate in 2024	\$1.05/\$1,000 AV	\$1.09/\$1,000 AV

- In 2024, Olympia's projected property tax rate will be \$2.05/\$1,000 AV and Tumwater's will be \$2.09/\$1,000 AV
- If the voters approve the RFA, cities will reduce their levies in 2024 by the same amount of property tax authority that the RFA will gain: \$1.00/\$1,000 AV.

Fire Benefit Charge (FBC)



Based on the calculation of the “fire flow” needed to put out a fire at a given structure.



Fire flow increases with fire load.



The principal is the basic unit of public fire service is delivery of water to a fire.



The size, type and use of physical structures are key factors in calculating FBC.

What will RFA cost?

Property Tax



**No change in current
property tax in 2024.**

Fire Benefit Charge



\$380 - \$450 / year est.

Questions?

Timeline & Next Steps

Per Councils' concurrence from April 2022, the schedule calls for an April 2023 election and establishing the RFA by August 1, 2023.

Recommended Timeline	
September RFA Town Hall	Date TBD
RFA Planning Committee submits RFA Plan to City Councils	October 2022
City Councils deliberate	Oct 2022- Feb 2023
Councils decide whether to approve RFA Plan and place RFA measure before voters	Deadline: Late February 2023
Election	April 2023
RFA Effective Date	By August 1, 2023
RFA taxes, charges imposed	January 2024



Thank You!

www.OlympiaTumwaterRFA.com

Item C

Public Hearing

Olympia/Tumwater

Regional Fire Authority

December 6, 2022

John Doan, City Administrator
Brian Hurley, Fire Chief



Cities of Olympia and Tumwater

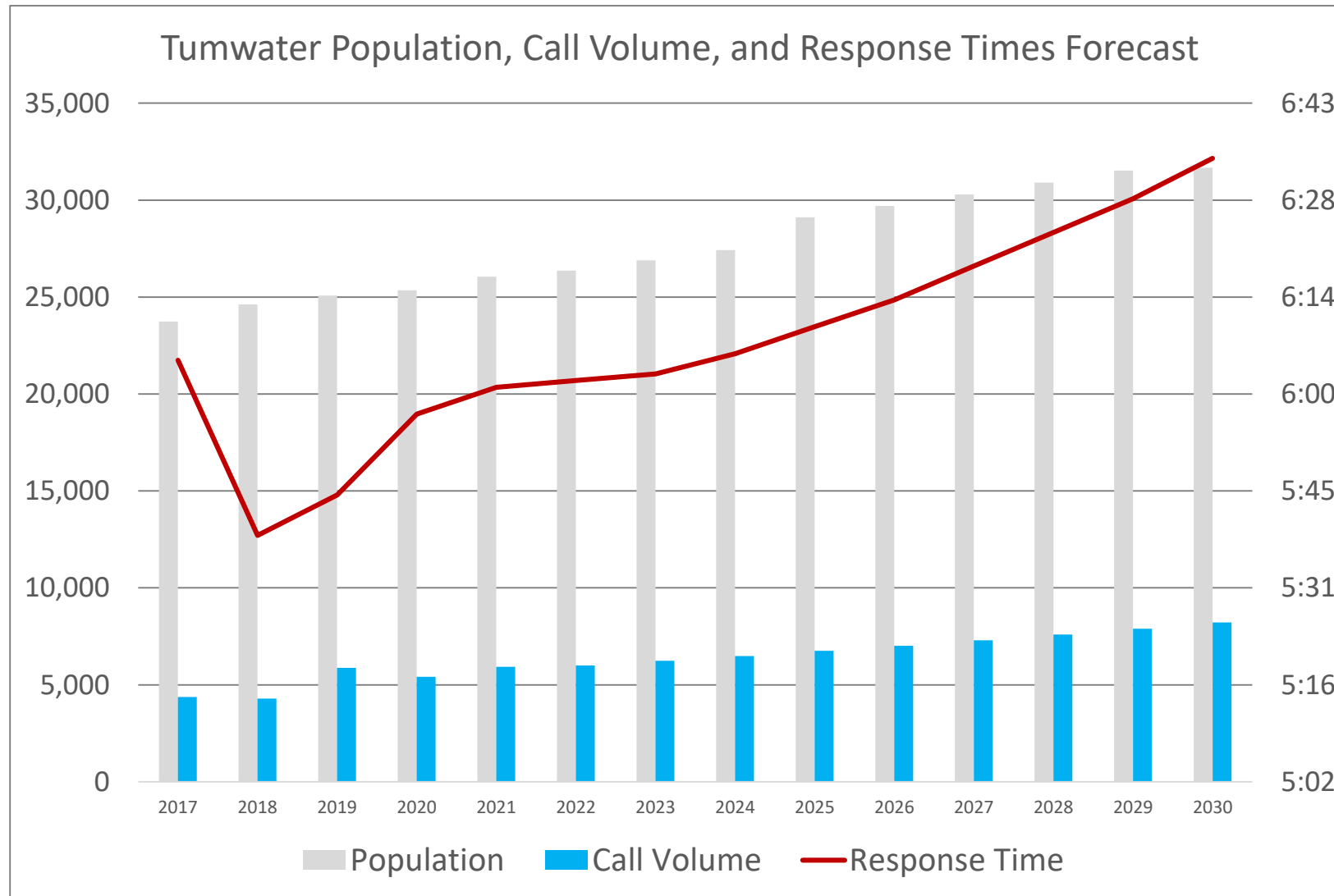


I. Why Are We Considering an RFA?

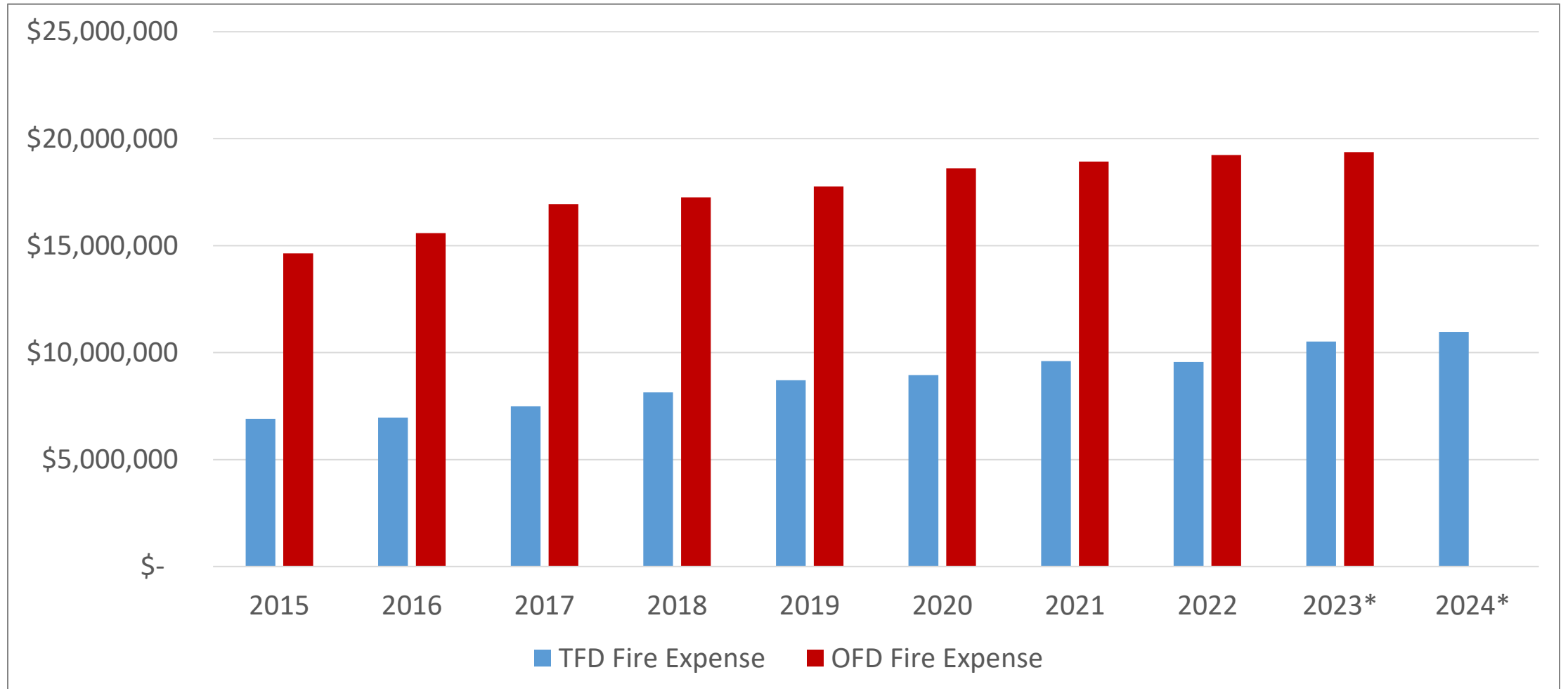
2019 Fire & Emergency Services Study

- Limited city resources
- Growing demand on our fire departments
- Average fire/EMS response times declining over time
- Maintain fire/EMS service levels to meet growing community needs

Tumwater Trends



Fire Department Budgets



RFA Operational Enhancements

- Basic Life Support Transport / CARES
- 2 Battalion Chief Model
- Dropping Borders (Olympia High School, South Puget Sound CC)
- Ladder Truck stationed in Tumwater
- Fire/EMS training
- Community Risk Reduction
- Reserve Apparatus

RFA Planning Committee Members

Tumwater	Olympia
Voting Members	
Councilmember Eileen Swarthout	Councilmember Jim Cooper
Councilmember Leatta Dahlhoff	Councilmember Lisa Parshley
Councilmember Michael Althausen	Councilmember Yến Huỳnh
Ex-Officio Non-Voting Members	
Tumwater Fire Chief Brian Hurley	Olympia Fire Chief Todd Carson
IAFF Local 2409 James Osberg	IAFF Local 468 Steven Busz

Work Accomplished & Work Ahead

Accomplished

- ✓ Committee Charter and Workplan
- ✓ Values & Principles statement
- ✓ Committee Website
- ✓ 2 Council briefings
- ✓ 4 Community meetings
- ✓ Fire Department Employee Briefings
- ✓ Governance Options
- ✓ Operations Plan & Org. Chart
- ✓ Finance Plan
- ✓ DRAFT RFA Plan Developed
- ✓ Union Votes of Support
- ✓ Joint Meeting – Olympia/Tumwater – Draft RFA Plan

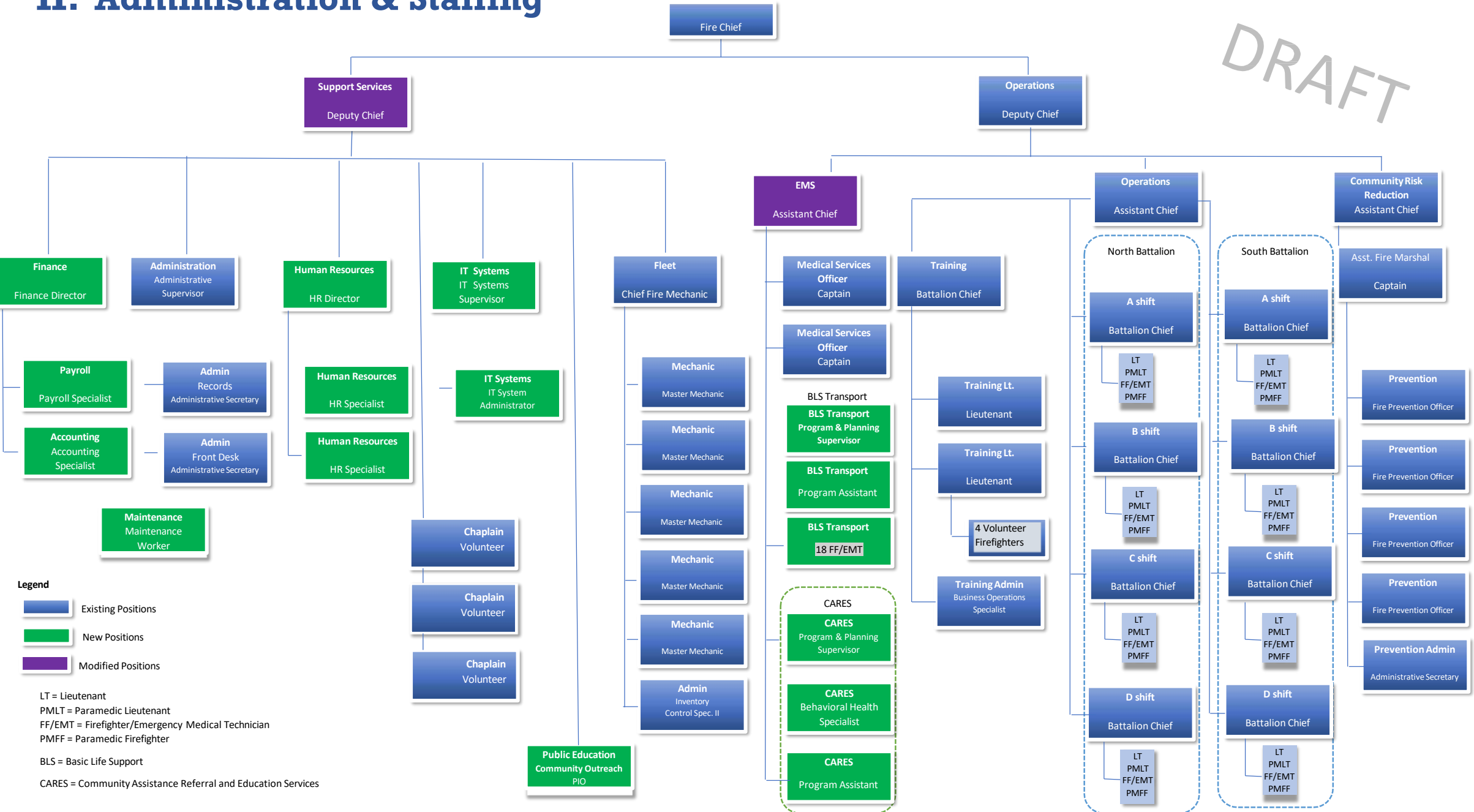
- ✓ November 14: RFA Committee Public Hearing
- ✓ Finalize RFA Plan

Work Ahead

- Tumwater City Council Public Hearing – RFA Approval (Tonight)
- Tumwater City Council Public Hearing – Fire Benefit Charge
- April: Election

II. Administration & Staffing

DRAFT



III. RFA Governance

- An initial 6-member board will serve from the RFA Effective Date (October 1, 2023) through December 2025, comprised of 3 elected officials from Olympia and 3 elected officials from Tumwater
- Thereafter, the Board will transition as shown below:
 - 7-member Board of Commissioners beginning in 2026, mix of appointed and directly elected At-Large Commissioners
 - Term lengths vary during transition (2026-2027) – 2, 4 or 6 years – to ensure a permanent board in which turnover can be minimized at elections (every 2 years)
 - From 2028 and beyond, Council reps. serve 4-year terms, elected Commissioners 6-yr)

2023-2025	2026-2027 (2 years)	2028 and beyond
Initial Board: 3 Olympia Councilmembers 3 Tumwater Councilmembers	Phase-in to Option 4: 2 Olympia Councilmembers 2 Tumwater Councilmembers 3 At-Large RFA Commissioners	Option 4 fully implemented: 1 Olympia Councilmember 1 Tumwater Councilmember 5 At-Large RFA Commissioners

IV. RFA Funding Recommendation

Four Funding Sources:

- **Fire Levy:** a property tax
- **EMS Levy Revenues**
- **Fees for Service:** including revenue from permits and service contracts with other governments
- **Fire Benefit Charge (FBC):** Fee based on the fire risk associated with the size and type of structures.



RFA Funding: 2 Options

Option 1: Fire Levy up to \$1.50 *

- Share of County Emergency Medical Services (EMS) Levy Revenue
- Fees for service

50% + 1 voter approval needed

Option 2: Fire Levy of up to \$1.00 *

- Fire Benefit Charge (FBC)
- Share of County EMS Levy Revenue
- Fees for Service

60% voter approval needed

Option 2 can generate more revenue than Option 1.

Option 2 - Planning Committee Recommendation

*Fire Levy is a property tax

Property Tax Implications With RFA Creation

- The RFA will gain \$1.00/\$1,000 AV of property tax capacity
- The cities will each lose \$1.00/\$1,000 AV of property tax capacity (shifted to RFA)
- The cities must reduce their actual property tax levy by \$1.00/\$1,000 AV calculated from the highest levy that each city could impose at the time.
- Revenue Neutral in Terms of Property Tax Impacts on Cities

How does the FBC work?

Everyone uses the **same basic formula**; what changes are the **structure categories** and the **weights for each category**. Some RFAs add additional factors to consider staffing requirements relative to fires at different structures.

FORMULA

FBC = Fire Flow* x Building Category Factor x Cost per Gallon Factor x Balancing Factor x Sprinkler Discount x Exemption Factors

*Fire Flow = $\sqrt{\text{Total Square Feet}} \times 18$

1. Identify classifications of structures	2. Identify square footage and classification of each structure	3. Determine the weighting for each structure classification	4. Identify any discounts/ exemptions or surcharges	5. Do the math
Mobile Home Single Family Residential Multifamily Small commercial Med. Commercial Large Commercial Etc.	County assessor records provide this information.	Weights increase with the size and complexity of the structure. The weighting reflects the additional resources needed to put out a fire at these different types of structures.	Some discounts/ exemptions are required by law-e.g. low-income senior citizen/disabled discounts. Other discounts are policy decisions., e.g., sprinkler sprinklers	Determine the bill for each parcel / structure

How does the FBC relate to the RFA budget?

- FBC collections in any year cannot exceed 60% of RFA operating budget
- Each Year the RFA Board will determine expenditure and revenue needs

FBC Process

- Formula and collection amount set annually by RFA Board of Commissioners
- All fire agencies with an FBC use a very similar formula
- Annual appeals process required
- Bill is sent with property tax bill by the County assessor/treasurer and paid like property tax
- FBC must be reauthorized by voters after 6 years or it will lapse
- FBC reauthorization can be for another 6 or 10 years (50%+1 approval required), or a permanent authorization can be requested from voters (60% approval)

A benefit charge imposed must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the authority. RCW 52.26.180(5)

V. 7-YEAR RFA FINANCE PLAN

- A 7-year financial plan has been approved by the Planning Committee to support the RFA:
 - Operations
 - Fire suppression, EMS services
 - Maintenance
 - Administration
 - Utilities, etc.
 - Capital, facilities and equipment needs
 - Staffing for service enhancements
 - 2 transport units
 - CARES unit
 - 2-Battalion model
 - Reserves
 - Cash flow



Key Finance Assumptions

- Both Cities retain their **LEOFF 1 Liabilities** (for retired firefighters)
- Remaining Tumwater **fire levy lid lift** revenues transferred to RFA for apparatus purchase so commitment to voters is kept (\$2M)
- Some planned capital acquisitions (equipment, apparatus) will be deferred by a year or two in the interest of smoothing the RFA budget from year to year – no operational impact anticipated
- City obligations for fire department employee accrued sick leave, vacation leave, retirement pay-out are transferred to the RFA

7-Year RFA Financial Plan Summary

(October 2022 update)

	2023	2024	2025	2026	2027	2028	2029	2030
Total Expenditures		39,905,137	41,666,295	44,849,117	47,070,794	48,839,162	50,541,315	52,303,547
% Change Year-to-Year			4.4%	7.6%	5.0%	3.8%	3.5%	3.5%
Transfer to Reserves		1,260,000	1,324,000	1,947,218	2,021,989	1,988,973	2,070,781	2,156,538
Beginning Cash Balance		10,000,000	9,713,543	11,476,973	11,348,791	11,861,202	12,038,737	11,990,537
Fire Levy Collections		19,320,881	19,803,903	20,299,001	23,338,651	23,922,118	24,520,170	25,133,175
Fire Levy Rate		\$ 1.00	\$ 0.96	\$ 0.93	\$ 1.00	\$ 0.96	\$ 0.93	\$ 0.89
Other Revenues		9,797,799	13,758,322	14,174,072	14,603,016	15,045,588	15,502,238	15,973,431
FBC Collections		10,500,000	10,867,500	11,247,863	11,641,538	12,048,992	12,470,706	n 12,907,181
Fire Levy and FBC Collections combined as a property tax rate equivalent in the two city area		\$ 1.54	\$ 1.49	\$ 1.44	\$ 1.50	\$ 1.45	\$ 1.40	\$ 1.35

Proposed FBC Classifications and Weights

Structure Classification	# of Tiers in this Classification	Proposed Weights	Number of Parcels in this Classification
Residential	3		20,246
	Residential 1 ($\leq 2,000$ sq. ft)	0.45	
	Residential 2 (2,001-3,000 sq. ft.)	0.55	
	Residential 3 ($\geq 3,001$ sq. ft.)	0.64	
Mobile Home	1	0	454
Apartments (5 unit or more)	1	1.5	354
Commercial	6 (See next slide)		2,142

The FBC increases as the weight and square footage increases.

Proposed FBC Classifications & Weights Commercial

Tier	Max Sq. Ft in this Tier	Weight	# of parcels in this category
Commercial 1	5,000	0.8	1300
Commercial 2	20,000	1.5	611
Commercial 3	50,000	2.7	145
Commercial 4	100,000	4.1	53
Commercial 5	200,000	5.5	29
Commercial 6	No Max	6.5	4

Summary of the FBC proposed structure & cost shares by sector—if the RFA were created in 2022

Fire Benefit Charge Factors and Totals for 2022

Fire District	OT	Factor	Max Sq Ft	Factor	Max Sq Ft	Commercial Subtotals					
Residential 1		0.45	2,000	Commercial - 1	0.8	5,000	1,300	Commercial 1	\$569,996.56	3,197,380	
Residential 2		0.55	3,000	Commercial - 2	1.5	20,000	611	Commercial 2	\$965,456.25	5,691,774	
Residential 3		0.64	No Max	Commercial - 3	2.7	50,000	145	Commercial 3	\$736,081.84	4,607,705	
Apartments		1.5		Commercial - 4	4.1	100,000	53	Commercial 4	\$588,620.48	3,595,337	
Mobile Homes		0		Commercial - 5	5.5	200,000	29	Commercial 5	\$600,780.63	3,743,373	
Balancing Factor		0.01		Commercial - 6	6.5	No Max	4	Commercial 6	\$139,446.37	998,374	
Cost Per Gallon		64.44									
Sprinkler		0.9									
		# Parcels	FBC \$	Square Feet							
		20,246	Residential	\$6,321,927.51	51,887,243						
		2,142	Commercial	\$3,600,382.14	21,833,943						
		454	Mobile Home	\$0.00	527,061						
		354	Multi Unit	\$579,872.12	4,318,633						
		23,196	Total District	\$10,502,181.77	78,566,880						
		# Parcels	FBC \$	Square Feet							
							Residential Subtotals				
		5,708	Residential 1	\$1,128,546.32	9,034,043						
		9,292	Residential 2	\$2,852,815.34	22,932,423						
		5,246	Residential 3	\$2,340,565.85	19,920,777						

Olympia Tumwater Both

Both

Olympia Tumwater Both

Both

Each row is
a sample property.

Sample FBCs		
Sample	Structure Sq Ft	Estimated FBC in 2024
Residential		
R3	1500	\$202
R4	2000	\$233
R6	2500	\$318
R8	3255	\$423
R10	4466	\$496
R11	6220	\$585
Apartments		
A3	2,724	\$817
A4	5,100	\$1,242
A5	10,250	\$1,585
A6	21,120	\$2,528
A7	103,401	\$5,035

The FBC Estimates are just that – estimates. Actual FBC charges will change depending on the RFA adopted 2024 budget and the final property assessed values for 2023

Sample FBCs		
Sample	Structure Sq Ft	Estimated FBC in 2024
Mobile Homes		
M1	576	\$0.0
M2	600	\$0.0
M3	432	\$0.0
M4	440	\$0.0
M5	952	\$0.0
M6	1572	\$0.0
Sample Commercial 1- (400-5,000SqFt)		
C1.1	450	\$196
C1.2	1500	\$359
C1.3	2140	\$429
C1.4	3000	\$508

Sample FBCs		
Sample	Structure Sq Ft	Estimated FBC in 2024
Sample Commercial 2 (5,001-20,000SqFt)		
C2.1	5000	\$656
C2.2	9000	\$1,540
C2.3	15000	\$1,917
C2.4	19540	\$2,188
Sample Commercial 3 (20,001-50,000SqFt)		
C3.1	20035	\$3,989
C3.2	36000	\$5,347
C3.3	44200	\$5,925
C3.4	49056	\$6,292

Sample FBCs		
Sample	Structure Sq Ft	Estimated FBC in 2024
Sample Commercial 4 (50,001-100,000SqFt)		
C4.1	50333	\$9,602
C4.2	65834	\$10,981
C4.3	77369	\$11,905
C4.4	90804	\$12,897
Sample Commercial 5 (100,001-200,000SqFt)		
C5.1	100778	\$18,227
C5.2	121671	\$20,027
C5.3	130094	\$20,709
C5.4	147156	\$22,025
Sample Commercial 6 (200,001+SqFt)		
C6.1	214476	\$31,424
C6.2	247656	\$33,768

RFA – Why Now?

- Fire and emergency medical are among the most critical services we provide.
- Increases in demand have and are increasing call volume and response times to unacceptable levels.
- The time for action is now, not after the system is broken.
- Built on a 2019 study that articulated the problem, the Regional Fire Authority is the best-fit solution.
- Fellow elected officials, staff, and consultants have worked on a best possible plan to address the issues within the constraints of the law.
- It supports fire and emergency medical without competing with other City services.
- It calls on the electorate to authorize the RFA, to select the governance, and to authorize taxes and the fire benefit charges.
- It provides dedicated, adequate, diverse, and sustainable funding to ensure the provision of quality fire and emergency medical services into the future.

Questions?

From: Jay Burney <jburney@ci.olympia.wa.us>

Sent: Tuesday, December 13, 2022 5:31 PM

To: Councilmembers <Councilmembers@ci.olympia.wa.us>; Mark Barber <mbarber@ci.olympia.wa.us>

Cc: Rich Hoey <rhoey@ci.olympia.wa.us>; Debbie Sullivan <dsulliva@ci.olympia.wa.us>; Todd Carson <tcarson@ci.olympia.wa.us>; Susan Grisham <sgrisham@ci.olympia.wa.us>; Kellie Braseth <kbraseth@ci.olympia.wa.us>

Subject: ATTORNEY-CLIENT AND WORK PRODUCT PRIVILEGES - Fair Campaign Practices Act

Councilmembers

Now that we have the RFA headed to the ballot, I wanted to send around the latest PDC Guidance on what is allowed in terms of presentations, communication, information sharing, etc. The attached is a really helpful matrix for just about any circumstance you can think of. Any questions, let me know. Thanks.

Jay

Jay Burney, ICMA-CM

City Manager | City of Olympia WA

He/Him/His Pronouns

PO Box 1967 | Olympia WA 98507-1967

Phone: 360.753.8740

Cell: 360.790.3703

Email: jburney@ci.olympia.wa.us

Web: olympiawa.gov

Our Mission: Working Together to Make a Difference

Connect With Us!



All email to and from this address is a public record.

Regional Fire Authority Planning Committee



OLYMPIA TUMWATER REGIONAL FIRE AUTHORITY PLANNING COMMITTEE MEETING AGENDA

Online via Zoom and In Person at
Olympia City Hall, Council Chambers,
601 4th Avenue East Olympia,
Washington 98501

**Monday, January 09, 2023
6:00 PM**

1. Call to Order
2. Roll Call
3. Remarks from Chair
- [4.](#) Staff Presentation, City Manager Jay Burney
5. Public Hearing on RFA Benefit Charge
6. Adjourn

Hybrid Meeting Information

The public are welcome to attend in person, by telephone or online via Zoom.

This meeting will be broadcast and livestreamed on cable television and the internet. This meeting can be viewed on Comcast Channel 3 & 26 or on the TCMedia website.

Watch Online:

<https://tcmmedia.org/stream.php>, select "Watch, Streaming Now, Channel 3 & 26."

OR

Go to <http://www.zoom.us/join> and enter the Webinar ID 819 8365 0712 and Passcode 227043.

Listen by Telephone:

Call (253) 205 0468, listen for the prompts and enter the Webinar ID 819 8365 0712 and Passcode 227043.

Public and Written Comment

Attend in person to give public comment or register by 4:00 p.m. the day of the meeting to provide public comment using the web-based meeting platform:

https://us02web.zoom.us/webinar/register/WN_DQcPtrwMTOuONs0MUJSghA

After registering, you will receive a confirmation email with a login to join the online meeting.

As an alternative you may also submit written comments by mail to: Tumwater City Hall, Attn: City Clerk, 555 Israel Rd. SW, Tumwater, WA 98501 or via email to: communications@ci.tumwater.wa.us. Written comments should be sent prior to January 5, 2023, to be included in the agenda packet for the January 9, 2023, public hearing or via email to the above referenced email address by 4:00 p.m. on January 9, 2023. Comments received after January 5, 2023, will be distributed to the Planning Committee, but not included in the published packet.

Post Meeting

Video recording of this meeting will be available within 24 hours of the meeting.
<https://tcmedia.org/channels.php>

Accommodations

The City of Tumwater and City of Olympia takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. If you require accommodation for your attendance at the Olympia City Council meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.

Public Hearing

Olympia/Tumwater Regional Fire Authority Fire Benefit Charge

January 9, 2023

Jay Burney, Olympia City Manager

RFA Funding

Four Funding Sources:

- Fire Levy: a property tax
- Fire Benefit Charge (FBC): Fee based on the fire risk associated with the size and type of structures.
- EMS Levy Revenues
- Fees for Service: including revenue from permits and service contracts with other governments



What is a Fire Benefit Charge?

- Formula based on fire flow – Fee assessed based on risk of fighting fire and personnel needed
 - Based on Square Footage and Weighted Risk
- Formula and collection amount set annually by RFA Board of Commissioners
 - Cannot Exceed 60% of RFA Operating Budget
- Bill is sent with property tax bill by the County assessor/treasurer and paid like property tax
 - Annual appeals process
- FBC must be reauthorized by voters after 6 years
- FBC reauthorization can be for another 6 or 10 years (50%+1 approval required), or a permanent authorization can be requested from voters (60% approval)

A benefit charge imposed must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the authority. RCW 52.26.180(5)

Proposed FBC Classifications and Weights

Structure Classification	# of Tiers in this Classification	Proposed Weights	Number of Parcels in this Classification
Residential	3		20,246
	Residential 1 ($\leq 2,000$ sq. ft)	0.45	
	Residential 2 (2,001-3,000 sq. ft.)	0.55	
	Residential 3 ($\geq 3,001$ sq. ft.)	0.64	
Mobile Home	1	0	454
Apartments (5 unit or more)	1	1.5	354
Commercial	6 (See next slide)		2,142

The FBC increases as the weight and square footage increases.

Proposed FBC Classifications & Weights Continued

Tier	Max Sq. Ft in this Tier	Weight	# of parcels in this category
Commercial 1	5,000	0.8	1300
Commercial 2	20,000	1.5	611
Commercial 3	50,000	2.7	145
Commercial 4	100,000	4.1	53
Commercial 5	200,000	5.5	29
Commercial 6	No Max	6.5	4

FBC CALCULATOR

www.ci.Tumwater.wa.us/FBC



FBC CALCULATOR

Font Size: [+](#) [-](#) [+ Share & Bookmark](#) [Feedback](#) [Print](#)

FBC Calculator

Fire Benefit Charge

State law RCW 52.18 allows fire districts, with the approval of the voters in their district, to collect a benefit charge from residential and commercial property owners. Once voters approve the benefit charge collection, the normal property tax collection rate authorized by State Law drops from \$1.50 per thousand to \$1.00 per thousand of assessed value.

The Fire Benefit Charge is not a per-call charge, and it is not based on the assessed value of property. It is a fee that will apply only to the structures on properties, based on how the property is used and the size of the structures. There is no charge for undeveloped land. Under the FBC, those who benefit more from fire protection services, such as large structures and structures that pose higher fire risk – pay more for that service.

Online Calculator

Please enter your tax parcel number to get an estimated cost of your FBC.

Don't know your parcel number? You can [look it up](#) on the Thurston County website.



Cultural Access Program Proposition No. 1

Frequently Asked Questions

Overview

The City of Olympia Cultural Access Program Fund would provide funding for public education and economic support for cultural organizations to provide access to arts, science, culture, and heritage programs for Olympia's residents, including economically and geographically underserved populations. Access to these programs will advance and promote equity, diversity, and opportunity for Olympia's residents and communities, invest in Olympia's youth, and provide opportunity to minority cultural and ethnic groups and underserved populations.

How much will this cost?

The measure would implement a sales and use tax increase of one-tenth of one percent which would raise approximately \$2,300,000 per year.

Who will pay for this?

The Olympia Cultural Access Program Fund would be supported by consumers (Olympia residents, visitors, and tourists) who make certain purchases and use an array of goods and services in the City.

Will this tax expire?

Yes. The sales and use tax increase would be in effect for seven consecutive years if approved by voters. The tax may be reimposed for one or more additional periods of seven consecutive years only if approved by a majority of voters at a special or general election.

When will the tax go into effect?

If the Olympia Cultural Access Program Fund is approved by voters on April 26, 2022, funds would begin being received by the City of Olympia in the summer or fall of 2022.

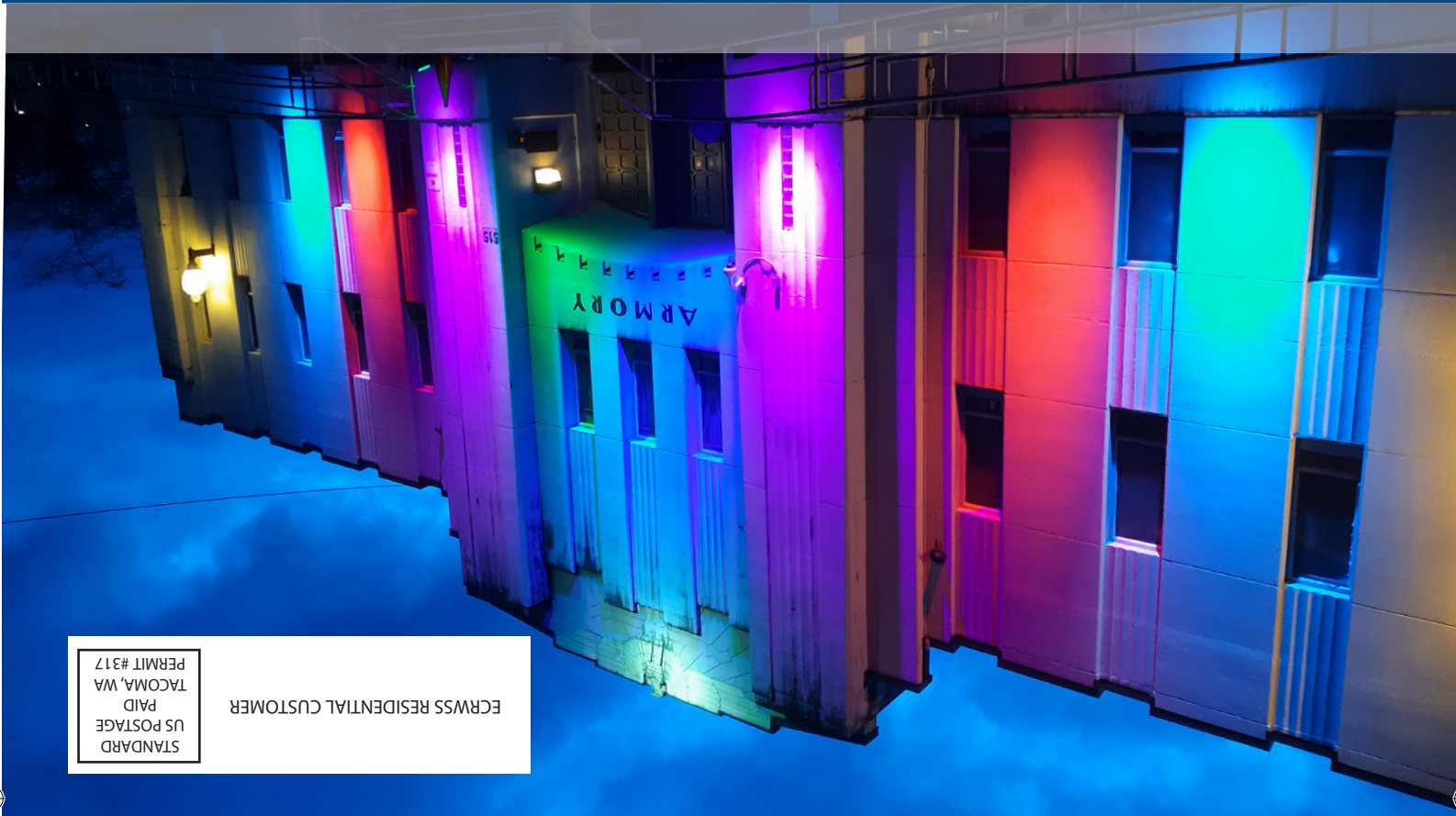
Will the funds be used for other City needs?

No. Taxes collected for the Olympia Cultural Access Program Fund would be held in a separate account created by an ordinance from the City's general fund. By state law, the money may be spent only on eligible uses and cannot be diverted to cover other City expenses.

How will the tax revenue be spent?

By law (RCW 36.160.110), the taxes collected may be used for funding of public school cultural access programs and activities for students, including funding transportation to activities. In addition, funds may be distributed to eligible organizations offering arts, science, cultural, and heritage programs to Olympia residents. The City Council will determine the guidelines and criteria necessary for eligibility of appropriate cultural organizations to receive funding.

Funds may also be distributed to cultural organizations to support educational activities, programs, public benefits, communications, and basic operations. The law also permits such funds to be used for capital expenditures, property, technology, equipment, and supplies, reasonably related to a program eligible for funding.



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Special Election April 26, 2022

City of Olympia
PO Box 1967
Olympia, WA 98507-1967



Cultural Access Program
Proposition No. 1



Ballot Language
City of Olympia Proposition
No. 1

The Olympia City Council passed Resolution No. M-2280 concerning a sales and use tax increase to support cultural programs.

If approved, this proposition authorizes the City of Olympia to impose an additional sales and use tax of 0.1% beginning July 1, 2022, and expiring in seven years. The revenue generated shall be used to provide free and discounted access to arts, science, cultural, and heritage programs for Olympia's residents, free transportation to programs for Olympia public school children, and capital improvements. It would also expand services to Olympia's diverse, underserved and low-income populations.

Should this proposition be approved?
Yes
No



Cultural Access Program Priorities

Cultural Organization Funding

Increased funding for arts, science, culture, and heritage organizations would allow such organizations to expand open public hours, offer discounted and free admission for Olympia's residents, award scholarships, participate in public school access programs, and make more programs available to Olympia's residents.

Community Access

Funding would foster creation and development of new cultural organizations throughout the City, reducing geographic barriers, and facilitate access to arts, science, culture, and heritage for all Olympia residents.

Public School Education

Funding will provide increased financial support for arts, science, culture, and heritage organizations in Olympia to ensure public school students will have greater access to these programs in classrooms, before and after school programs, during the summer, and opportunities for free visits to cultural attractions.

Diversity, Equity & Inclusion

Funding will provide support for cultural activities, events, or projects reflecting diverse lifestyles, interests, and cultures, including learning about Native American heritage of Olympia and its environment.

Who will make the decisions on funding programs?

If the Olympia Cultural Access Program is approved by voters, the Olympia City Council will create an advisory board of community members to make recommendations to Council for funding arts, science, cultural, and heritage programs.

The advisory board will be tasked with ensuring a minimum of 80% of all funds will be dedicated to providing public and educational benefits and economic support for arts, science, cultural and heritage organizations, and for programming for youth, neighborhood and community activities, capital expenditures, acquisitions, or construction improvements to real property, as permitted by law.

The advisory board will also ensure up to 10% of funds may be used for youth transportation for such activities, and 10% may be used for administrative costs.



Cultural Access Program Proposition No. 1 | April 26, 2022





Olympia, WA

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The Journal of
Olympia, Lacey
& Tumwater

(/)

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READER OPINION

Olympia-Tumwater RFA Flier Doesn't Measure Up



(/uploads/original

/20230406-143443-Cities RFA mailer IMG_7652.jpg)

This is a copy of the mailer sent to residents in Olympia and Tumwater during the week that ended March 31, 2023.

JOLT STAFF PHOTO

Posted Friday, April 7, 2023 6:25 pm

By Lisa Ornstein

I am deeply troubled by the flier recently sent by the City of Olympia (and the City of Tumwater) regarding the Regional Fire Authority ballot measure Proposition No 1.

As a resident of Olympia, I rely on my City to be a trustworthy source of information about issues affecting Olympia residents, including ballot measures. However, the recent flier has violated my sense of trust.

While the RFA flier claims to be "for Information only: not intended to support or oppose the ballot proposition," it is clearly intended to promote the RFA proposal. A balanced informational flier about the proposed RFA would evenly address its pros and cons.

This flier only presents the point of view of the proposition's proponents. It fails, for example, to mention that the RFA will impose a new, historically large increase in fees associated with property tax bills for citizens in both Tumwater and Olympia and will not fund a single new firefighter, fire engine, or fire station in the RFA seven-year Strategic Plan.



(<https://myolympiaagent.com/>)

I have no objection to proponents or opponents of the RFA ballot measure using private funding to influence voters to support their point of view. However, the 24" x 9" four-fold full-color fliers in question cost \$22,242.38 to print and mail, and we taxpayers in Olympia and Tumwater will shoulder this cost.

As a citizen who believes in transparency and good governance, this really rubs me the wrong way.

~ Lisa Ornstein, Olympia

The opinions above are, of course, those of the writer and not of The JOLT. Got something you want to get off your chest? Post your comment below, or write it up and send it to us. We'll likely run it the same day we get it.

Editor's Note: To see the March 29, 2023, debate between proponents and opponents of Proposition 1, [please click here](https://www.youtube.com/watch?v=SybskA9u7vo&t=221s) (<https://www.youtube.com/watch?v=SybskA9u7vo&t=221s>).

Comments

6 COMMENTS ON THIS ITEM PLEASE LOG IN TO COMMENT BY CLICKING HERE (/LOGIN.HTML?REFERER=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 LarryJz

Thank you. Your points are well taken.

FRIDAY, APRIL 7 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2354&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 JohnGear

Amen, Lisa. Ever since it arrived I have had that flyer sitting by my computer, waiting for a chance to write City Hall to express my dismay to see such a slick (as in slippery) and grossly biased piece being presented with a straight face as "not intended to support or oppose the ballot proposition." Trying to label that piece as neutral suggests one of two things about

the person who approved that piece of propaganda:

- (a) either they were fine with making flat misrepresentation about neutrality and they don't care how the voters respond, or
- (b) they have no business in a position that requires good judgment.

I started out a few months ago completely ignorant of the RFA issue, but since then a lot of reading and the tactics of the "pro" campaign -- tactics like sending out a clearly "pro" mailpiece at taxpayer expense and claiming that it's neutral -- have convinced me to vote no and to encourage others to do the same.

In my day job, I help people who have been ripped off by con men and shady businesses. It's striking to see a political campaign like the yes campaign here use so many of the same sales tactics that the worst used car dealers and high-pressure sales folks use: lots of appeals to emotions, a false sense of urgency being pushed, and an absolute refusal to discuss weaknesses and alternatives to the proposal being pushed on the marks (in this case, us, the voters). I hope the proposal fails so that we can get past the false binary of this one proposal and go back to the drawing board and really look at our options.

The no camp's website, SaveOurFD.org, is a wealth of information, and it's all pretty carefully sourced and footnoted. I urge any voter to review it before voting.

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2355&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 JW

You're troubled; the other writer yesterday was not only troubled but also "saddened" by the flier.

Slightly melodramatic. You'd think the vote was to defund an orphanage.

Should they have sent a blank paper with only text instead of pictures accurately representing the contents? If they sent a similar flier for the parks or arts special elections in years past, did they have pictures of parks or arts on them? Wouldn't that also be "trying to influence" the voters with pictures?

And what about the text? How else are they supposed to describe the proposition except by describing what it is and the goal of the proposition is intended to be? Unlike the opposition, they're sticking to what it is and not spinning out scare language.

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2359&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 ElaineLouise

This is so contrary to goals in both cities. This will cause a ripple effect for homeowners and renters who are already struggling to make ends meet. Every month all our utilities keep rising. All of our services keep rising and we seem unable to stop the flow. Olympia is already unaffordable with Tumwater not far behind. We don't need another agency to oversee an already burdened and complex system. Lacey opted not to participate and that should send a message right there.

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2361&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 sherndon

Thank you, Lisa. I have submitted a short letter to The Olympian expressing my concern about the obvious bias in the flyer from the City purporting to be only "informational." I expected better. Fortunately, the Forum (sponsored by the JOLT and the League of Women Voters) offered multiple perspectives so voters could decide for themselves. But I fear not everyone will have had the opportunity to see that event.

Sandra Herndon, Olympia

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2362&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

 bouscouleuse

If you are interested in seeing an example of presenting genuinely balanced pro and con perspectives about the Regional Fire Authority Ballot Proposition No. 1, visit Olympia Indivisible's voter education webpage:

<https://www.olympiaindivisible.org/regional-fire-authority.html>.

Democracy is strengthened when voters are well informed about the issues on which they are asked to vote. However, the ballot for Proposition 1 which Olympia and Tumwater affords only 250 words each for the Vote For/Against statements and only 75 words for rebuttal statements.

Because the proposed RFA merger proposition is a complex issue with very significant consequences for residents of Olympia and Tumwater, Olympia Indivisible reached out to the authors of the Vote For/Against ballot statements in late February, 2023 to ask if they would be willing to provide us with 1000-word statements and 250-word rebuttals (along with related charts and tables) to be posted on Olympia Indivisible's website, in an effort to give Olympia and Tumwater voters vital information which might otherwise be unavailable.

The authors kindly agreed, and the Thurston County Auditor Election Office kindly made available the ballot title and explanatory statement. You can read their statements and rebuttals at <https://www.olympiaindivisible.org/regional-fire-authority.html>.

SATURDAY, APRIL 8 REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10102&COMMENT_ID=2367&REFERRING_URL=%2FSTORIES%2FOLYMPIA-TUMWATER-RFA-FLIER-DOESNT-MEASURE-UP%2C10102)

OTHER ITEMS THAT MAY INTEREST YOU

Olympia seeks community participation in its Comprehensive Plan 2045 update (/stories/olympia-wants-community-members-participation-in-comprehensive-plan-2045-update,10489)

What's lined up for the third week of May? (/stories/whats-lined-up-for-the-third-week-of-may,10486)

Educators lambast OSD on giving unemployment notices during Teacher Appreciation Week (/stories/educators-lambast-osd-on-giving-unemployment-notices-during-teacher-appreciation-week,10512)

Tumwater City Council confirms Lisa Parks' appointment (/stories/tumwater-city-council-confirms-lisa-parks-appointment,10510)



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Olympia resident accuses city staff of producing biased RFA mailer, files complaint with Public Disclosure Commission



(/uploads/original/20230406-143443-Cities RFA

mailer IMG_7652.jpg)

This is a copy of the mailer sent to residents in Olympia and Tumwater during the week that ended March 31, 2023.

JOLT STAFF PHOTO



Posted Friday, April 14, 2023 7:51 pm

By Jerome Tũaño

Robert Shirley, a private citizen of Olympia, filed a complaint against Olympia's city staff with the Public Disclosure Commission (PDC) on Wednesday, April 12, for using city resources to promote a ballot measure, a violation of Revised Code of Washington (RCW) [42.17A.555](https://apps.leg.wa.gov/rcw/default.aspx?cite=42.17A.555#:~:text=No%20elective%20official%20nor%20any,any%20person%20to%20any%20office) (<https://apps.leg.wa.gov/rcw/default.aspx?cite=42.17A.555#:~:text=No%20elective%20official%20nor%20any,any%20person%20to%20any%20office>).

Shirley argued that Olympia's staff produced and distributed a mailer that is supportive of a ballot measure seeking to form the Olympia-Tumwater Regional Fire Authority (RFA).

The public is set to vote on the ballot measure at the April 25 election. If approved, the RFA would replace the fire departments in both cities and consolidate their resources to provide fire protection and emergency services in both jurisdictions.

The two cities worked together to distribute 44,758 mailers about the ballot measure during the first week of April containing a panel explaining the purpose, governance, and funding of the RFA as well as a panels showing what the ballot measure would look like and a four-part explainer on RFA's priorities. The front page of the mailer also indicates that it is "for information purposes only" and that it does not intend to support or oppose the ballot measure.

(<https://myolympiaagent.com/>)

It cost the two cities \$9,057.63 to print the material and \$13,184.75 to mail them, confirmed by Kellie Purce Braseth, Olympia's strategic communications director. Braseth added that Tumwater covered a third of the cost.

Features of the mailer

Shirley asserted in his complaint that the content of the mailer was not an objective and fair presentation of the facts, especially the four-part explainer which promised enhanced services when they were, according to Shirley, irrelevant to the ballot measure.

(/uploads/original/20230414-184810-OT RFA Mailer - Priorities panels.jpg)

The mailer states that the RFA would prioritize the following:

- Stabilize funding using dedicated sources
- Meet the needs of growing communities
- Maintain a healthy workforce
- Increase service efficiencies

"The flyer is misleading to the extent it focuses on fire and EMS activities, including promises of new and enhanced services when the ballot measure



(<https://be224.infusionsoft.app/app/form/jolt-subscription-form-submitted?cookieUUID=cd998e80->

cf3b-46f6-96cd-15fcfd63dd80)

is concerned with administration and funding and not with activities and services,” Shirley alleged in his complaint.

Shirley also took issue with the mailer not explaining the impact of new fees on taxpayers, particularly with the potential increase of the median total property tax bill, saying that this lack of information indicated that the mail piece supported the ballot measure through the omission of facts.

The overview section of the mailer did explain that the RFA would be funded through four sources: a property tax levy of up to \$1.00 per \$1,000 assessed value, a fire benefit charge, countywide EMS levy revenues, and contract revenues and fees for services and grants.

The mailer states that the fire benefit charge is a national standard based on the size of a building and that one could get an estimate for their building on RFA’s website, a comment that has been disputed by opponents of the proposition.

Shirley also took issue with the mailer not providing any links to the RFA plan, which the public would vote to approve as part of the ballot measure.

City staff responsible for the mailer involved in similar 2019 incident



(<https://www.thejoltnews.com/stories/ready-to-go-to-the-library-again,1017?>)

Shirley requested to the
[Public Disclosure](#)
[Commission](#)

(<https://www.pdc.wa.gov/>) (PDC) that the following Olympia staff members should be fined for the production and distribution of the mailers: City Manager Jay Burney, City Attorney Mark Barber, Assistant City Attorney Michael M. Young and Strategic Communications Director Kellie Purce Braseth.

He stated that these employees should have been aware that they were committing a violation of the RCW as Olympia’s city staff was involved in a similar incident in 2019.

The PDC found former Olympia City Manager Steve Hall responsible for producing and distributing mailers that explicitly opposed a statewide initiative to limit vehicle tab fees to \$30 a year.

Shirley noted in his filing that the employees he included in his complaint were already in their positions during the 2019 incident, except for Burney who was assistant city manager.

Sought for comment yesterday Burney told *The JOLT* that the city has not yet received a notice from PDC about the complaint and would therefore not be able to make a response.

Shirley also requested that the PDC determine if Mayor Cheryl Selby should also be held accountable about the alleged issues regarding the mailing. Though the PDC’s 2019 decision found no elected official responsible for the violation, Shirley stated that PDC wrote to Mayor Selby in 2020 advising her to review a PDC interpretation, which required supervisory personnel to inform and communicate with their staff about the inappropriate promotion of ballot measures.

Tumwater not included, not exempt either

Though Tumwater coordinated with Olympia in the production and distribution of mailers, Shirley told *The JOLT* that he was not comfortable filing a complaint against Tumwater city officials as he was not knowledgeable enough about the operations of the city. He did believe that PDC has enough information to determine whether to review the actions of Tumwater’s city staff.

“My understanding is the PDC can initiate a complaint in the event it becomes aware of any apparent violations, including an apparent violation of RCW 42.17A.555,” Shirley stated in an email to The JOLT, adding, “There is sufficient information in the complaint for the PDC to determine if it should consider a review of the actions of Tumwater elected officials and employees.”

Tumwater Communications Manager Ann Cook told *The JOLT* that they have also not yet seen the complaint and that it would be premature to comment on the issue.

Comments

5 COMMENTS ON THIS ITEM PLEASE LOG IN TO COMMENT BY CLICKING HERE (/LOGIN.HTML?REFERER=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

 **longtimeresident**

Olympia City staff: Oops! We made some mistakes. Yep, you sure did.....

5 DAYS AGO REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10216&COMMENT_ID=2415&REFERRING_URL=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

 **FordPrefect**

Perhaps they were planning to send out an opposition flyer that would accurately describe the fire benefit charge as a TAX!

I won’t hold my breath.

The RFA is trickery and they are counting on voters being too stupid to notice.

5 DAYS AGO REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10216&COMMENT_ID=2418&REFERRING_URL=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

 **LarryJz**

Ironically, the taxpayers will end up paying for the legal defense and wasted time by city staff to defend what the city did. With all the great things that the City is working on, it is a shame to make such an unforced error that diverts resources and attention from them.

Even if the city thought the flyer could walk a fine legal tightrope that kept it from being found to be an improper attempt to influence the vote, EVERYBODY who read it knew what was going on. And with everybody knowing, a legal challenge with the PDC would be inevitable and costly.

So even if the City ultimately prevails in a technical defense of the legality of the flyer, the violation of the spirit of the law is beyond defense.

The cost of such action goes beyond dollars and wasted city staff time on creating and then defending the flyer. Regardless of the outcome of the PDC complaint, the bigger cost is the contribution to increasing public cynicism of government.

I'd rather see the city stop committing the same offense that will again lead to PDC complaints than, as the complaint suggests, a fine.

4 DAYS AGO REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10216&COMMENT_ID=2421&REFERRING_URL=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

 **JohnGear**

Hitting any particular minions with financial penalties seems like a pointless gesture to me.

I think the more appropriate response is to enjoin the City of Olympia from sending any mailers or doing any “explainers” on ballot measures on the city website or other media without the participation and approval of the text and/or presentation from representatives of the group opposing the upcoming ballot measure (i.e., the group that writes the opposing position statement for the voters’ pamphlet). The city has already been found to have improperly used taxpayer funds to promote a biased position, and been penalized for it, but the behavior

continues. The recent RFA flyer is so grossly biased that it appears that the response should be much more meaningful ... instead of wrist-slap fines, just solve the problem: take away the City's ability to repeat the offense again.

The only other meaningful alternative response to the flyer would be to delay the election and provide the opposition with the same amount of funds and the time to do their own mailing to rebut the city's mailing. That doesn't seem workable.

3 DAYS AGO REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10216&COMMENT_ID=2423&REFERRING_URL=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

 Kruz81

Not a surprise. The RFA will line many people's pockets. It is not going to benefit the public.

2 DAYS AGO REPORT THIS (/REPORT_ITEM.HTML?SUB_ID=10216&COMMENT_ID=2430&REFERRING_URL=%2FSTORIES%2FOLYMPIA-RESIDENT-ACCUSES-CITY-STAFF-OF-PRODUCING-BIASED-RFA-MAILER-FILES-COMPLAINT-WITH-PUBLIC%2C10216)

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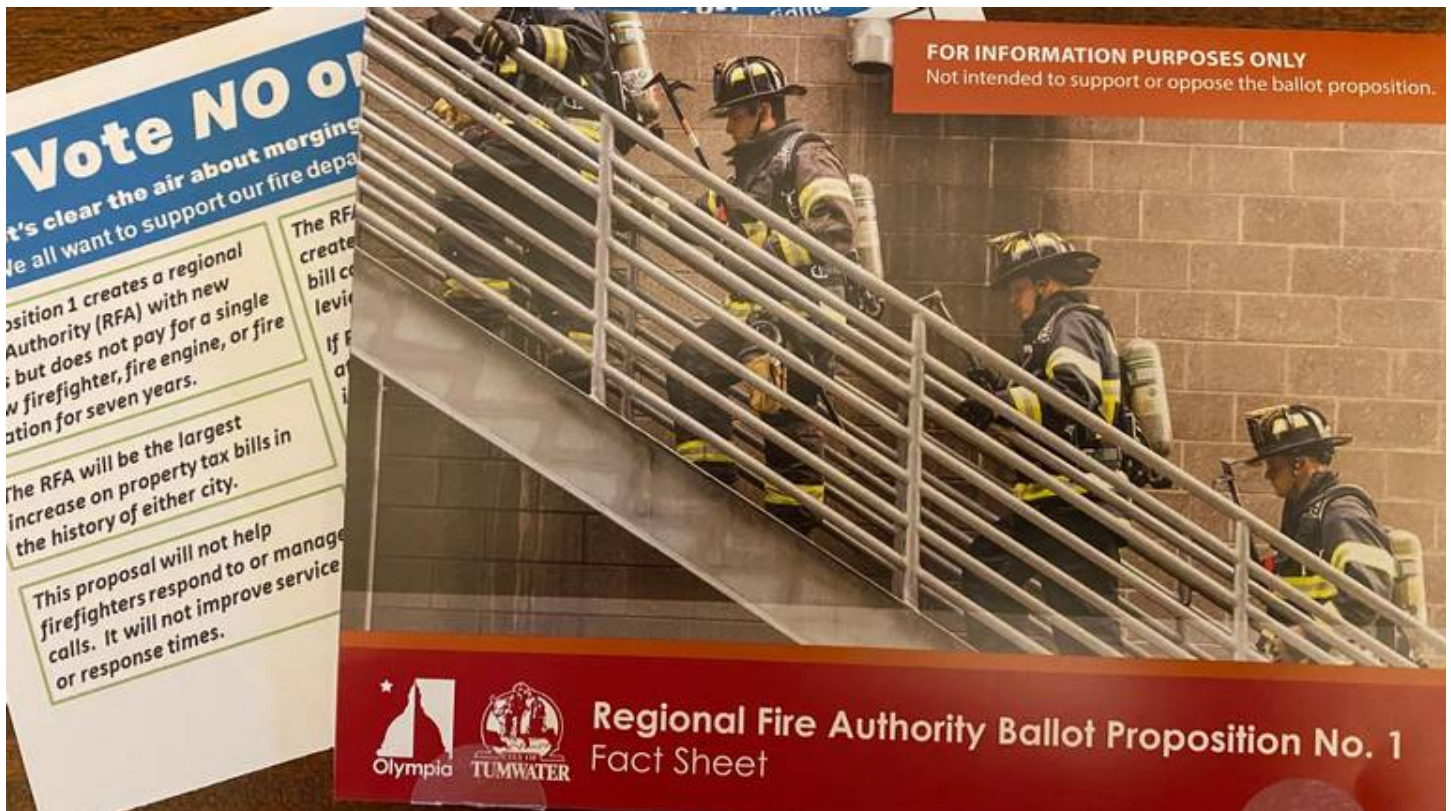
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LOCAL

Two Olympia citizens file PDC complaints, contending city's RFA flier is biased

BY TY VINSON

APRIL 19, 2023 5:00 AM



A Fact Sheet on the Regional Fire Authority ballot proposition was mailed to residents in Olympia and Tumwater the first week of April. Along with them came fliers with information both for and against the RFA. DDEMAREST@THEOLYMPIAN.COM *Dusti Demarest*

Olympia resident Robert Shirley is one of two people who have submitted formal complaints to the state Public Disclosure Commission, alleging that City of Olympia employees knowingly produced and mailed an election flier biased in support of the creation of a joint Regional Fire Authority with Tumwater.

Kim Bradford, deputy director of the PDC, told The Olympian two complaints have been filed against the mailer, the one by Shirley and another by Olympia resident Arthur West, an open government activist. Both complaints are still under assessment, she said, and cases have yet to be opened.

According to the complaint Shirley shared with The Olympian, he is alleging the Fact Sheet sent to peoples' homes in Olympia and Tumwater goes against [state law](#) because it was drafted by a public office and appears to be in support of a political campaign. Along with that, the complaint alleges the city spent more than \$20,000 in combined costs for printing and distributing.

Shirley's complaint says the flier sent by the city doesn't include all the information necessary, nor does it provide a link to the 31-page RFA plan. Overall, it focuses on enhancing fire and EMS services while the actual ballot language is limited to the governing structure and funding, he contends.

TOP VIDEOS



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Shirley's complaint alleges several city employees were involved in creating the flier, including city manager Jay Burney, city attorneys Mark Barber and Michael M. Young, and spokesperson Kellie Purce Braseth.

The complaint also references a [2019 PDC complaint](#) against City of Olympia employees for a similar situation. It ended with former City Manager Steve Hall paying a \$10,000 fine. Shirley makes mention that several of the employees referenced in his April 12 complaint were employed at the time of the previous violation.

Though the flier doesn't directly tell the public to vote yes or no on the measure, Shirley's complaint says the PDC review considers the tone and tenor of communication. The review is used to ensure city-funded fliers are objective and fact-based.

Shirley's complaint alleges city employees committed 14 violations in total. Shirley told The Olympian Tuesday that the complaint targets only Olympia employees because he's not familiar with the duties of Tumwater employees. But he said it's possible the PDC could take action against Tumwater officials.

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City of Olympia spokesperson Kellie Purce Braseth told The Olympian Tuesday the city tries to stay mindful of talking about issues that are on an active ballot. However, she said, after speaking with officials, the city hasn't heard of any formal complaints filed with the PDC.

The PDC's Bradford said the commission has a 10-day window to assess the complaints and decide whether there's evidence of a violation. If there is, the complaint is sent to the alleged violator and they are given a couple of weeks to respond.

After that, she said the commission has 90 days to determine whether the issue can be resolved administratively or dismissed entirely. It could end in a warning, or a statement of understanding where the violator pays a penalty and agrees there was a violation. Or, if things aren't resolved in that 90-day period, a formal investigation

could be opened through the commission, Bradford said.

ALLEGED VIOLATIONS

Shirley alleges the photos used in the flier are in direct violation of state law because the PDC says you can't depict a body on an EMT stretcher or a house engulfed in flames. The second complaint references the photos as well, alleging they provoke an emotional reaction and appear to be in support of the proposition.

The complaint alleges the flier is missing any neutral presentation of objective facts. Shirley says the flier avoids telling the public how much they will have to pay for services and how taxes and fees will work.

The rest of the violations reference the lack of proper factual material or links to more information, as well as what Shirley alleges is inaccurate and/or biased information in the sections of the benefits of an RFA. The majority revolve around the language used — or not used — in the flier, such as the promise of better response times and more firefighters and better equipment. He also contends that putting fiscal responsibility onto the public isn't mentioned outright.

Shirley is asking that the PDC fine the city employees who were involved in the production and distribution of the RFA materials. He said since Burney was the assistant city manager when a \$10,000 fine was imposed, a \$20,000 fine against him should be considered this time. And any other employees involved should be fined to some degree, according to Shirley's complaint.

Lastly, Shirley wants the PDC to decide whether Mayor Cheryl Selby has any responsibility for the violations. In the 2019 violation, Shirley said the PDC did not fine any other elected officials, but sent Selby a letter advising her to study laws surrounding the matter.

Shirley said he imagines it will take months before the public knows whether or not city employees committed any violations.

"Nobody will know by April 25, that's for sure," he said.



TY VINSON



360-357-0201

From: Leslie Owen <lesliewowen@gmail.com>

Sent: Tuesday, May 9, 2023 12:42 PM

To: Council

Subject: RFD

I am writing because it is important that the Olympia and Tumwater City Councils hear from people like me regarding the recent proposition to establish a Regional Fire District. Like many others who expressed their opinions, I have voted for every tax increase proposed by the City of Olympia and the Olympia School District during the past 28 years that I have lived in Olympia. In this case I voted against the proposal to establish the RFD. The main reason I voted No was because I did not feel that the Pro side provided detailed and thorough arguments supporting this proposal. Furthermore, I believe the Cities needed to mount a significant education campaign regarding the need for the RFD and the finance system supporting it.

Like others, I tried to read everything I could find on this proposal. I found myself learning more about the proposal from posts on Next Door, Jolt News and the League of Women Voters Forum than directly from the proponents of the proposal. After reading the very detailed criticisms of the RFD from the opponents I searched for rebuttal from the PRO side and did not find detailed responses to the criticisms presented. Honestly, the NO side presented more detailed information about the financing system which I believe concerned many people, though I do understand that this information can be challenged. I do support mechanisms to support city services. However, in this case, there were many concerns that were not addressed such as 1) the extent to which the funds are needed for fire services vs. emergency medical services (the fire services were emphasized even though it appeared that emergency services are in significant need of funding), 2) the pros and cons of an RFD vs. a levy lift 3) the consequences of the community voting down the funding in 6 years, 4) detailed projections/plans for the costs for buildings, firefighters, and equipment needed over the next 10-15 years comparable to other communities of similar size; and 5) details regarding the compensation is needed to maintain a competent fire department for a community our size as well as projections for funds needed to sustain the growth of our communities.

Again, I reiterate – a lot of education is and was needed. Just saying that we must support our firefighters was not enough. I understand that there are complicated issues regarding the financing of these services – but it seems that a 6 month education campaign was needed to educate the electorate for any likelihood of passage.

I urge both City Councils to review how such an education campaign can be mounted before any more proposals are placed on the ballot.

Leslie Owen

3322 Fairview St. SE

Olympia, WA 98501