

THE CITY OF SPOKANE



ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, FEBRUARY 3, 2014

MISSION STATEMENT

**TO DELIVER EFFICIENT AND EFFECTIVE SERVICES
THAT FACILITATE ECONOMIC OPPORTUNITY
AND ENHANCE QUALITY OF LIFE.**

MAYOR DAVID A. CONDON

COUNCIL PRESIDENT BEN STUCKART

COUNCIL MEMBER MICHAEL A. ALLEN

COUNCIL MEMBER CANDACE MUMM

COUNCIL MEMBER JON SNYDER

COUNCIL MEMBER MIKE FAGAN

COUNCIL MEMBER STEVE SALVATORI

COUNCIL MEMBER AMBER WALDREF

CITY COUNCIL CHAMBERS
CITY HALL

808 W. SPOKANE FALLS BLVD.
SPOKANE, WA 99201

CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON WEDNESDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the podium and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

SPEAKING TIME LIMITS: Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

CITY COUNCIL AGENDA: The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at www.spokanecity.org. Agenda items are available for public review in the Office of the City Clerk during regular business hours.

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Gita George-Hatcher at (509) 625-7083, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or ggeorge-hatcher@spokanecity.org. Persons who are deaf or hard of hearing may contact Ms. George-Hatcher at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

ADMINISTRATIVE SESSION

Roll Call of Council

CONSENT AGENDA

REPORTS, CONTRACTS AND CLAIMS

RECOMMENDATION

- | | | |
|--|------------------------------|---------------|
| 1. Amendment to contract with Patterson Buchanan Fobes & Leitch, Inc., P.S. (Seattle, WA) for outside counsel services in legal matter of Bradley N. Thoma v. City of Spokane—increase of \$125,000. Total amount not to exceed \$300,000. Nancy Isserlis | Approve | OPR 2012-0361 |
| 2. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2014, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve & Authorize Payments | CPR 2014-0002 |

EXECUTIVE SESSION

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

CITY COUNCIL SESSION

(May be held or reconvened following the 3:30 p.m. Administrative Session)
(Council Briefing Center)

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

LEGISLATIVE SESSION

(6:00 P.M.)
(Council Reconvenes in Council Chamber)

WORDS OF INSPIRATION

PLEDGE OF ALLEGIANCE

ROLL CALL OF COUNCIL

ANNOUNCEMENTS

(Announcements regarding Changes to the City Council Agenda)

BOARDS AND COMMISSIONS APPOINTMENTS

(Includes Announcements of Boards and Commissions Vacancies)

CITY ADMINISTRATION REPORT

COUNCIL COMMITTEE REPORTS

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

OPEN FORUM

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

LEGISLATIVE AGENDA

NO EMERGENCY BUDGET ORDINANCES

NO EMERGENCY ORDINANCES

RESOLUTIONS & FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

- RES 2014-0009 Protecting the health, safety and economic well-being of local citizens and Spokane's drinking water supply and natural resources from the potential impact of increased crude oil rail traffic passing through the City of Spokane resulting from proposed terminal projects. **Council President Stuckart / Council Members Allen, Mumm, Snyder, Waldref**
- RES 2014-0010 Supporting legislation before the Washington State Legislature designating energy created at the Spokane Waste to Energy Plant as a Renewable Resource. **Council Members Salvatori, Allen, Fagan**
- RES 2014-0011 Expressing Council support for the newly formed Marijuana Policy Subcommittee created by Council Members Snyder and Fagan. **Council Member Snyder**
- RES 2014-0012 Setting public hearing before City Council for February 10, 2014, for consideration and adoption of the Proposed Interlocal Agreement with Spokane County to include the sale of the North County and Valley Transfer Stations. **Ken Gimpel**
- ORD C35072 Relating to appointment of residents to Boards and Commissions and amending Spokane Municipal Code Section 4.01.030. **Council Members Allen, Mumm**
- ORD C35073 Repealing Title 14 "Franchises" of the Spokane Municipal Code. **Barbara Burns**
- ORD C35074 Relating to the Utility U-Help program; amending Spokane Municipal Code Section 13.09.030. **Council Member Waldref**

FIRST READING ORDINANCE

(No Public Testimony Will Be Taken)

- ORD C35077 Relating to the reporting structure of the Municipal Court and Probation Department; repealing Spokane Municipal Code Sections 3.01A.410 and 3.01A.600; adopting a new Article IV to Chapter 3.01A SMC; and adopting new Sections 3.01A.700 and 3.01A.710 to Chapter 3.01A of the Spokane Municipal Code. **Council President Stuckart**

FURTHER ACTION DEFERRED

SPECIAL CONSIDERATIONS

(If there are items listed you wish to speak on, please sign your name on the sign-up sheets in the Chase Gallery.)

RECOMMENDATION

- | | | | |
|-----|--|------------------------------|---------------|
| S1. | a. Collective Bargaining Agreement with the Police Guild covering wages and benefits for 2012-2015—2012: \$778,501; 2013: \$744,665; 2014: \$900,439; 2015: \$950,972. (Deferred from December 16, 2014, Agenda). Heather Lowe | Approve & Authorize Contract | OPR 2013-0864 |
| | b. Final Reading Ordinance relating to the Office of Police Ombudsman; amending SMC Sections 4.32.010, 4.32.020, 4.32.030, 4.32.060, 4.32.070, 4.32.080, 4.32.090, 4.32.100, 4.32.110, 4.32.140, 4.32.150, and 4.32.160. (Deferred from December 16, 2014, Agenda). Theresa Sanders | Pass Upon Roll Call Vote | ORD C35069 |

NO HEARINGS

Motion to Approve Advance Agenda for February 3, 2014
(per Council Rule 2.1.2)

OPEN FORUM (CONTINUED)

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

ADJOURNMENT

The February 3, 2014, Regular Legislative Session of the City Council is adjourned to February 10, 2014.

NOTES

**Agenda Sheet for City Council Meeting of:**

02/03/2014

Date Rec'd

1/22/2014

Clerk's File #

OPR 2012-0361

Renews #**Submitting Dept**

CITY ATTORNEY

Cross Ref #**Contact Name/Phone**

NANCY ISSERLIS 625-6225

Project #**Contact E-Mail**

NISSERLIS@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #

CLAIMS

Agenda Item Name

0500 AMENDMENT TO SPECIAL COUNSEL

Agenda Wording

Amendment to contract with Patterson Buchanan Fobes & Leitch, Inc., P.S. for outside counsel services in legal matter of Bradley N. Thoma v. City of Spokane - increase of \$125,000.00.

Summary (Background)

Additional funds are required for outside counsel to argue summary judgment motions and prepare for and conduct trial if necessary.

Fiscal Impact**Budget Account**

Expense \$ 125,000

0000 00000 00000 00000

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

BURNS, BARBARA

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

tdunivant@spokanecity.org

For the Mayor

SANDERS, THERESA

james.scott@ascrisk.com

Additional Approvals

rimus@spokanecity.org

Purchasing

shansen@spokanecity.org

CONTRACT AMENDMENT NO. 3

THIS CONTRACT AMENDMENT is between the CITY OF SPOKANE, a Washington State municipal corporation, as "City," and PATTERSON BUCHANAN FOBES LEITCH & KALZER, INC., P.S., whose address is 2112 Third Avenue, Suite 500, Seattle, Washington, 98121, as "Firm".

WHEREAS, the parties entered into a contract wherein the Firm agreed to act as outside counsel in the matter of BRADLEY N. THOMA V. CITY OF SPOKANE;; and

WHEREAS, it is necessary to increase the maximum amount of the contract; --
Now, Therefore,

The parties agree as follows:

1. DOCUMENTS. The contract dated April 12, 2012 and April 30, 2012, any previous amendments and/or extensions/renewals thereto are incorporated by reference into this document as though written in full and shall remain in full force and effect except as provided herein.
2. EFFECTIVE DATE. This contract amendment shall become effective January 1, 2014.
3. AMENDMENT. Section 3 of the contract documents is amended to read as follows:

3. COMPENSATION. The City shall pay the hourly fees and other charges as stated in the attached exhibit up to a maximum amount of (~~ONE HUNDRED SEVENTY FIVE THOUSAND AND NO/100 DOLLARS (\$175,00.00))~~) THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$300,000.00) that may not be exceeded without the written approval of the City Attorney or city council, where appropriate.

Dated: _____

CITY OF SPOKANE

By: _____
Title: Mayor

Attest:

City Clerk

Dated: _____

Approved as to form:



Assistant City Attorney

PATTERSON BUCHANAN FOBES &
LEITCH, INC., P.S.

E-Mail address, if available:

By: _____

Title: _____

**Agenda Sheet for City Council Meeting of:**

02/03/2014

Date Rec'd

1/22/2014

Clerk's File #

RES 2014-0009

Renews #**Submitting Dept**

CITY COUNCIL

Contact Name/Phone

BEN 509-625-6269

Contact E-Mail

AMCDANIEL@SPOKANECITY.ORG

Agenda Item Type

Resolutions

Agenda Item Name

0320 OIL RAIL TRAFFIC

Cross Ref #**Project #****Bid #****Requisition #****Agenda Wording**

A resolution to protect the health, safety and economic well-being of local citizens and Spokane's drinking water supply and natural resources from the potential impact of increased crude oil rail traffic passing through the City of Spokane

Summary (Background)

The Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a major safety alert on January 2, 2014, declaring oil obtained in the Bakken Shale is more explosive. There have been a number of significant train derailments resulting in human fatalities, property damage and environmental degradation including train derailments in Lac Megantic, Quebec on July 6, 2013, Casselton, North Dakota on December 30, 2013, New Brunswick, Connecticut on January 7, 2014 and in Spokane

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

MCDANIEL, ADAM

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

resulting from proposed terminal projects.

Summary (Background)

on December 24, 1991. This resolution will: 1)requests that the potential impacts to Spokane's public safety, environment, economy, and traffic be studied by the agencies conducting all environmental reviews and request that Spokane be included in any environmental impact statements pertaining to any project that may cause increase in associated oil rail traffic travelling via Spokane; and 2)supports the creation of clear Federal guidelines for tracking the chemical composition of transported fuels so that local governments, citizens and first responders can better understand and plan for the risks associated with the specific type of fuel flowing through or to their communities; and 3)request that the Federal Government immediately implement safety regulations regarding older tank cars, train speeds, and other identified hazards associated with flammable

Fiscal Impact

Select \$

Select \$

AmtType7 \$ Amount7

AmtType8 \$ Amount8

Budget Account

#

#

Budget7

Budget8

Distribution List

Email16

Email17

Email18

Email19

Email20

Email21

Email22

Email23

RESOLUTION NO. 2014-0009

A RESOLUTION TO PROTECT THE HEALTH, SAFETY, AND ECONOMIC WELL-BEING OF LOCAL CITIZENS AND SPOKANE'S DRINKING WATER SUPPLY AND NATURAL RESOURCES FROM THE POTENTIAL IMPACT OF INCREASED CRUDE OIL RAIL TRAFFIC PASSING THROUGH THE CITY OF SPOKANE RESULTING FROM PROPOSED TERMINAL PROJECTS.

WHEREAS, the City of Spokane is committed to the protection of its citizens, as well as the natural resources on which the City depends, rail infrastructure in Eastern Washington and North Idaho runs adjacent to land resources; its sole source of drinking water at the Spokane Valley-Rathdrum Prairie Aquifer; and its marine and aquatic resources including the Spokane River, Little Spokane River, and the other creeks, lakes, rivers, tributaries, and marine resources near and adjacent to Spokane; and

WHEREAS, rail transportation through the Spokane region is focused on an elevated track through the center of the City, the City Council is concerned about the potential impacts on public safety and economic disruption from a possible derailment; and

WHEREAS, the Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a major safety alert on January 2, 2014, declaring oil obtained in the Bakken Shale is more explosive; and

WHEREAS, on July 6, 2013, a train carrying crude oil derailed in Lac Megantic, Quebec killing over 40 people, destroying thirty buildings, and requiring the evacuation of over 1,000 people; and

WHEREAS, on December 30, 2013 a train carrying crude oil derailed in Casselton, North Dakota causing violent explosions and a hazardous plume of smoke; and

WHEREAS, On January 7, 2014 a train carrying crude oil derailed in New Brunswick; and

WHEREAS, on December 24, 1991 a train derailed dropping a freight car 80 feet onto an interstate highway just west of downtown Spokane above Latah Creek;

NOW THEREFORE BE IT RESOLVED that the City Council of Spokane strongly requests the potential impacts to Spokane's public safety, environment, economy, and traffic be studied by the agencies conducting all environmental reviews and request that Spokane be included in any environmental impact statements pertaining to any project that may cause increase in associated oil rail traffic travelling via Spokane; and

BE IT FURTHER RESOLVED the Spokane City Council supports the creation of clear Federal guidelines for tracking the chemical composition of transported fuels so that local governments, citizens and first responders can better understand and plan for the risks associated with the specific type of fuel flowing through or to their communities; and

BE IT FURTHER RESOLVED that the Federal Government immediately implement safety regulations regarding older tank cars, train speeds, and other identified hazards associated with flammable crude oil; and

BE IT FURTHER RESOLVED that the City of Spokane review and communicate with the public emergency response and evacuation plans in the case of a derailment of an oil train.

ADOPTED BY THE CITY COUNCIL ON _____

City Clerk

Approved as to form:

Assistant City Attorney

**Agenda Sheet for City Council Meeting of:**

02/03/2014

Date Rec'd

1/22/2014

Clerk's File #

RES 2014-0010

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**

STEVE 625-6715

Project #**Contact E-Mail**

RBARDEN@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Resolutions

Requisition #**Agenda Item Name**

SPOKANE WASTE TO ENERGY PLANT AS A RENEWABLE RESOURCE

Agenda Wording

A resolution supporting legislation before the Washington State Legislature designating energy created at the Spokane Waste to Energy Plant as a Renewable Resource.

Summary (Background)

The City owns and operates the Waste to Energy Plant, which burns municipal garbage in an incinerator that produces electricity. The City's stream of municipal waste is a renewable resources that flows everyday to the plant. The City has devoted considerable resources to improve recycling and diversion of solid waste through the construction and promotion of single stream recycling and the construction of the Materials Recycling Facility. The City Council and Mayor listed Renewable Status for the Waste to Energy Plant as a shared legislative priority for 2014. Legislation has been filed with the Washington State Legislature by State Senator Michael Baumgartner that would grant to the Waste to Energy Plan renewable status. This resolution provides the City Council's support for passage of the legislation.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

STUCKART, BEN

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

RESOLUTION NO. 2014-0010

A resolution supporting legislation before the Washington State Legislature designating energy created at the Spokane Waste to Energy Plant as a Renewable Resource.

WHEREAS, the Spokane Waste to Energy Plant is a major asset of the city, and has provided an environmentally superior alternative to long haul landfill disposal for over 20 years; and

WHEREAS, the citizens and ratepayers of Spokane County have paid off all debt associated with the construction of the plant; and

WHEREAS, continued upgrades and investment will keep the plant operating at peak efficiency and with the lowest environmental impact; and

WHEREAS, our municipal waste is a renewable resources that flows everyday to power the plant; and

WHEREAS, the city has devoted considerable resources to improve recycling and diversion of solid waste through the construction and promotion of single stream recycling and the construction of the Materials Recycling Facility; and

WHEREAS, the energy produced at the plant has qualified as a Renewable Energy Resource in the past, and the loss of that designation was not due to any issue with efficiency or environmental concerns; and

WHEREAS, the City is committed to improving its energy efficiency at the plant and throughout the city; and

WHEREAS, this item would be budget neutral to the State of Washington; and

WHEREAS, the City Council and Mayor listed Renewable Status for the Waste to Energy Plant as a shared legislative priority for 2014 which passed unanimously; Now, Therefore,

BE IT RESOLVED that the Spokane City Council urges all members of the state legislature to pass the measure designating energy produced at the Spokane Waste to Energy Plant as a Renewable Resource.

ADOPTED BY THE CITY COUNCIL ON _____

City Clerk

Approved as to form:

Assistant City Attorney



Agenda Sheet for City Council Meeting of:
02/03/2014

Date Rec'd	1/22/2014
Clerk's File #	RES 2014-0011
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	
Submitting Dept	CITY COUNCIL
Contact Name/Phone	JON SNYDER 6254
Contact E-Mail	JSNYDER@SPOKANECITY.ORG
Agenda Item Type	Resolutions
Agenda Item Name	0320 RESOLUTION REGARDING MARIJUANA POLICE SUBCOMMITTEE

Agenda Wording

Expressing Council support for the newly formed Marijuana Policy Subcommittee created by Council members Snyder and Fagan.

Summary (Background)

Council members Snyder and Fagan have agreed to co-chair a new Marijuana Policy Subcommittee that will meet once a month to discuss issues and concerns as they relate to I-502 and to ensure that implementation efforts are coordinated amongst various stakeholders.

<u>Fiscal Impact</u>		<u>Budget Account</u>	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
<u>Approvals</u>		<u>Council Notifications</u>	
<u>Dept Head</u>	MCDANIEL, ADAM	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	Public Safety - 1/13/2014
<u>Finance</u>	LESESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	PICCOLO, MIKE		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			

RESOLUTION NO. 2014-0011

A resolution regarding the establishment of a Marijuana Policy Subcommittee and Council support.

WHEREAS, I-502 establishes a legal market for the cultivation, processing and selling of recreational marijuana in the State of Washington; and

WHEREAS, the City Council recognizes the importance of implementing the wishes of the citizens of the City of Spokane who voted in favor of this Initiative by a majority vote; and

WHEREAS, successful implementation of I-502 will depend on the City and stakeholders coming together to address concerns, issues and ideas that arise as implementation moves forward; and

WHEREAS, Councilmember Snyder, acting as Chair of the Public Safety Committee, has created a Marijuana Policy Subcommittee with Council member Fagan for the purpose of ensuring a smooth, coordinated effort to implement I-502; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPOKANE that the City supports the efforts of the Marijuana Policy Subcommittee co-chaired by Council members Snyder and Fagan and encourages those with an interest in this subject to participate on this committee.

Adopted this _____ day of February, 2014.

City Clerk

Approved as to form:

Assistant City Attorney

**Agenda Sheet for City Council Meeting of:**

02/03/2014

Date Rec'd

1/22/2014

Clerk's File #

RES 2014-0012

Renews #**Submitting Dept**

UTILITIES

Cross Ref #**Contact Name/Phone**

KEN GIMPEL 625-6532

Project #**Contact E-Mail**

KGIMPEL@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Resolutions

Requisition #**Agenda Item Name**

RESOLUTION TO SET HEARING REGARDING SALE OF RSWS PROPERTY

Agenda Wording

Resolution to set public hearing for consideration and adoption of the interlocal agreement with Spokane County that includes the sale of transfer stations.

Summary (Background)

The City and the County formed the Spokane Regional Solid Waste Management System in 1989 through an Amended and Restated Interlocal Agreement ("1989 Agreement"); and have been discussing long term planning associated with solid waste disposal and agree to not renew the 1989 Agreement and wish to execute a new Agreement for the Disposal and Transfer of Solid Waste and sale of the Transfer Stations owned by the City.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

ROMERO, RICK

Study Session**Division Director**

ROMERO, RICK

Other

PWC 1/13/14

Finance

LESESNE, MICHELE

Distribution List**Legal**

DALTON, PAT

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

RESOLUTION NO. 2014-0012

WHEREAS, pursuant to the provisions of RCW 35.94.040, the City Council must set a public hearing for consideration of the sale of land or property originally acquired for public utility purposes; and

WHEREAS, chapter 39.33 RCW authorizes the intergovernmental transfer of any property, real or personal, or property rights, including but not limited to the title to real property, subject to certain notice and hearing requirements; and

WHEREAS, the CITY and the COUNTY formed the Spokane Regional Solid Waste Management System ("System") in 1989 through an Amended and Restated Interlocal Agreement ("1989 Agreement"); and

WHEREAS, the PARTIES have been discussing long term planning associated with solid waste disposal and agree to not renew the 1989 Agreement and wish to execute a new Agreement for the Disposal and Transfer of Solid Waste and sale of the Transfer Stations owned by the CITY; and

NOW, THEREFORE –

BE IT RESOLVED By the City Council of the City of Spokane that:

The City of Spokane will commence with a Hearing during the Legislative Session on February 10, 2014 to Consider the Proposed Interlocal Agreement with Spokane County to sell the North County and Valley Transfer Stations to the County.

Adopted by the City Council _____, 2014.

City Clerk

Approved as to form:

Assistant City Attorney

**Agenda Sheet for City Council Meeting of:**

01/27/2014

Date Rec'd

1/15/2014

Clerk's File #

ORD C35072

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**MIKE ALLEN, 625-6715
CANDACE MUMM**Project #****Contact E-Mail**

RBARDEN@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

CITY RESIDENCE

Agenda Wording

An ordinance relating to appointment of residents to boards and commissions; amending SMC section 4.01.030.

Summary (Background)

SMC 4.01.030 currently provides that appointments to city boards, commissions and agencies may be non-city residents if the board, commission or agency is authorized by state law to conduct activities on a regional basis or the ordinance creating the board, commission or agency provides for appointments of nonresidents. This ordinance would require that all appointments to city boards, commissions and agencies be city residents.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

STUCKART, BEN

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**

ORDINANCE NO. C35072

An Ordinance relating to appointment of residents to boards and commissions; amending SMC section 4.01.030.

The City of Spokane does ordain:

Section 1. That SMC section 4.01.030 is amended to read as follows:

4.01.030 Appointment

Appointments to City boards, commissions or agencies are to be made from residents of the City (~~(, unless the board, commission or agency is authorized by state law to conduct activities on a regional basis or the ordinance creating the board, commission or agency provides for appointments of nonresidents))~~). Any current member of a board, commission or agency who is not a resident of the City shall be permitted to complete his or her term and any subsequent reappointment. Appointees shall be at least eighteen years of age unless the state law or City ordinance creating the board, commission or agency provides for appointees under the age of eighteen. Appointees shall have indicated a willingness to serve in such capacity in response to efforts by the mayor to extend the opportunity for service to all concerned citizens and groups so as to achieve the greatest degree of public confidence and expertise.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/27/2014

Date Rec'd

1/15/2014

Clerk's File #

ORD C35073

Renews #**Cross Ref #****Project #****Bid #****Requisition #****Submitting Dept**

CITY ATTORNEY

Contact Name/Phone

BARBARA BURNS 6225

Contact E-Mail

BBURNS@SPOKANECITY.ORG

Agenda Item Type

First Reading Ordinance

Agenda Item Name

0500 REPEAL TITLE 14 SMC

Agenda Wording

An ordinance repealing Title 14 "Franchises" of the Spokane Municipal Code

Summary (Background)

Title 14 of the Municipal Code lists the various City franchises by topic. The listing is outdated, incomplete and difficult to maintain. Repeal of Title 14 will not impact any of the specific franchises which are covered by separate ordinances.

Fiscal Impact**Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

BURNS, BARBARA

Study Session**Division Director****Other**

7-8-13 Public Works

Finance

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

bburns@spokanecity.org

For the Mayor

SANDERS, THERESA

ktwohig@spokanecity.org

Additional Approvals

kmiller@spokanecity.org

Purchasing

BRIEFING PAPER

PUBLIC WORKS COMMITTEE OFFICE OF THE CITY ATTORNEY JULY 8, 2013

Subject

An ordinance repealing Title 14 "Franchises" of the Spokane Municipal Code.

Background

In 1982, an Assistant City Attorney codified a listing of franchises into title 14 of the Municipal Code, using the old ordinance book from 1954. In 1991, he updated the listing and repealed numerous expired franchises. It appears that there have not been any modifications or updates to title 14 since 1991.

This title is not a legislative enactment of the City. The purpose of this title is to simply list existing franchises for the convenience of the reader of the code. The inclusion of a franchise in the title which does not exist or which has expired does not create or revive such franchise nor does the omission of an existing franchise terminate the franchise. Nothing in this title alters, amends, or in any wise affects any franchise as written.

The title is not used by the public or City staff. Information, when needed, is normally obtained from the City Clerk's computerized filing system.

Impact

Reduce potential confusion and inaccurate information.

Action

Recommend approval.

Funding

Not applicable.

ORDINANCE NO. C35073

AN ORDINANCE repealing Title 14 "Franchises" of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That Title 14, consisting of the following sections, of the Spokane Municipal Code is repealed.

- a. SMC 14.00.010
- b. SMC 14.00.020
- c. SMC 14.00.030
- d. SMC 14.01.010
- e. SMC 14.01.050
- f. SMC 14.01.060
- g. SMC 14.01.070
- h. SMC 14.01.080
- i. SMC 14.02.010
- j. SMC 14.03.010
- k. SMC 14.03.020
- l. SMC 14.04.030
- m. SMC 14.05.010
- n. SMC 14.05.020
- o. SMC 14.05.030
- p. SMC 14.07.010
- q. SMC 14.07.020
- r. SMC 14.07.030
- s. SMC 14.07.050
- t. SMC 14.07.060

- u. SMC 14.07.070
- v. SMC 14.07.080
- w. SMC 14.07.090
- x. SMC 14.08.010
- y. SMC 14.08.011
- z. SMC 14.08.012
- aa. SMC 14.08.013
- ab. SMC 14.08.016
- ac. SMC 14.08.110
- ad. SMC 14.08.111
- ae. SMC 14.08.112
- af. SMC 14.08.113
- ag. SMC 14.09.010
- ah. SMC 14.09.020

PASSED BY THE CITY COUNCIL ON _____, 2014.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

01/27/2014

Date Rec'd	1/15/2014
Clerk's File #	ORD C35074
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	UTILITIES
Contact Name/Phone	AMBER WALDREF 625-6275
Contact E-Mail	AWALDREF@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	5200 - U HELP PROGRAM REVISIONS

Agenda Wording

Update the City's U Help program to increase the amount of emergency financial assistance available to low-income utility customers and change the basis for establishing eligibility to 50 percent of the Area Median Income (AMI) as defined by HUD.

Summary (Background)

The U Help program provides low-income households with one-time emergency assistance to help pay their City utility bills. The annual assistance amount has been capped at \$60 for many years. This ordinance would increase the amount of assistance to be equal to an average monthly utility bill that includes a 68-gallon garbage cart and 15,000 gallons of water use. Additionally, the basis for establishing eligibility would be changed to 50 percent of the Area Median Income (AMI) as defined by HUD.

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Select	\$		#
Select	\$		#
Approvals		Council Notifications	
Dept Head	ROMERO, RICK	Study Session	
Division Director	ROMERO, RICK	Other	Public Works Cmmtte 1/13/14
Finance	LESESNE, MICHELE	Distribution List	
Legal	BURNS, BARBARA	mfeist@spokanecity.org	
For the Mayor	SANDERS, THERESA	rnicodemus@spokanecity.org	
Additional Approvals		shardie@spokanecity.org	
Purchasing		cmarchand@spokanecity.org	
		bpatrick@spokanecity.org	
		Shawna.Sampson@usw.salvationarmy.org	

ORDINANCE NO. C35074

An ordinance relating to the Utility U-Help program; amending SMC section 13.09.030.

WHEREAS, chapters 35.92 and 35.67 RCW authorize cities to “provide assistance to aid low-income persons in connection with services” for municipal utilities and sewerage services; and

WHEREAS, Article 8, Section 7 of the Washington State Constitution permits “support of the poor and infirm,”; and

WHEREAS, sixteen and eight tenths percent (16.8%) of households in the City of Spokane reported an income below the poverty line at the time of the 2010 Census and the City Council has recognized that any increase of utility rates has a profound impact on low-income customers; and

WHEREAS, the City Council has previously directed the Utility Department to transfer up to \$50,000 per year to match private contributions to the U-Help Assistance Fund, a separate fund managed by the City and designated to assist low-income customers with utility bills; and

WHEREAS, through the existing donation-based utility u-help program, the intent of the City Council is to offer expanded one-time limited assistance to its customers whose household incomes are in the lower ranges of the area’s income scale and earning less than the poverty level income; --Now, Therefore,

The City of Spokane does ordain:

Section 1: That SMC section 13.09.030 is amended to read as follows:

13.09.030 Qualifications

An applicant must qualify as a low-income customer to receive a utility service credit. To qualify as a low-income customer for any purpose under this chapter, an applicant must satisfy each of the following criteria:

- A. Current residential customer of City of Spokane utilities. The credit shall apply only to utility charges for services to a residence.
- B. Income.
The annual gross income of the applicant’s household may not exceed (~~one hundred twenty five percent of the current poverty level guidelines issued by the U. S. department of health and human services~~) fifty percent of the Area Median

Income for Spokane, as issued by the U.S. department of housing and urban development.

- C. The applicant must have received a final notice for utility account delinquency.
- D. The applicant is limited to one u-help assistance within a twelve month period not to exceed ((~~sixty dollars~~)) the average monthly bill for residential customers within the City of Spokane. The average monthly bill includes fifteen thousand gallons a month of water consumption and a sixty eight gallon refuse cart.

Passed by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

02/03/2014

Date Rec'd

1/22/2014

Clerk's File #

ORD C35077

Renews #**Submitting Dept**

CITY COUNCIL

Cross Ref #**Contact Name/Phone**

BEN STUCKART 625-6269

Project #**Contact E-Mail**

AMCDANIEL@SPOKANECITY.ORG

Bid #**Agenda Item Type**

First Reading Ordinance

Requisition #**Agenda Item Name**

0320 CHANGES TO REPORTING STRUCTURE OF THE MUNICIPAL COURT &

Agenda Wording

An ordinance relating to the reporting structure of the Municipal Court and Probation Department; repealing SMC sections 3.01A.410 and 3.01A.600; adopting a new article IV to chapter 3.01A SMC; and adopting new sections 3.01A.700

Summary (Background)

This ordinance provides that both the clerk of the municipal court and the chief of probation shall be appointed by the presiding judge of the municipal court upon a majority vote of the judges. The ordinance further defines the functions and duties of both the clerk of municipal court and the chief of probation.

Fiscal Impact**Budget Account**

Select \$

#

Select \$

#

Select \$

#

Select \$

#

Approvals**Council Notifications****Dept Head**

MCDANIEL, ADAM

Study Session**Division Director****Other****Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

For the Mayor

SANDERS, THERESA

Additional Approvals**Purchasing**



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

and 3.01A.710 to chapter 3.01A of the Spokane Municipal Code.

Summary (Background)

Fiscal Impact

Select \$

Select \$

AmtType7 \$ Amount7

AmtType8 \$ Amount8

Budget Account

#

#

Budget7

Budget8

Distribution List

Email16

Email17

Email18

Email19

Email20

Email21

Email22

Email23

ORDINANCE NO. ORD C35077

AN ORDINANCE relating to the reporting structure of the Municipal Court and Probation Department; repealing SMC sections 3.01A.410 and 3.01A.600; adopting a new article IV to chapter 3.01A SMC; and adopting new sections 3.01A.700 and 3.01A.710 to chapter 3.01A of the Spokane Municipal Code.

The City of Spokane does ordain:

Section 1. That SMC section 3.01A.410 is repealed:

~~((3.01A.410~~ ————— ~~Probation~~

- A. ~~The probation department supervises offenders place on probation by the municipal court to ensure compliance with court orders, supervises conditions of pre-trial release, refers offenders to various community agencies for programs, facilitates evidence based programs proven to reduce re-offense, conducts pre and post sentence investigations, conducts financial screening for public defense services, works with law enforcement and community agencies to promote offender compliance and rehabilitation and promote victim and community safety.~~
-
- B. ~~The chief of probation is appointed by the mayor after consultation with the presiding judge of municipal court and confirmed by the city council.))~~

Section 2. That SMC section 3.01A.600 is repealed:

~~((3.01A.600~~ ————— ~~Spokane Municipal Court~~

- A. ~~See [chapter 5A.04 SMC](#).~~
-
- B. ~~The clerk of the municipal court shall be appointed by the presiding judge of the municipal court upon a majority vote of judges present at a regularly scheduled judges' meeting. Under the direction of the presiding municipal judge, the clerk is responsible for the clerical functions of the court and for the operation of the municipal violations bureau.))~~

Section 3. That there is adopted a new Article IV to chapter 3.01A of the Spokane Municipal Code to read as follows:

**ARTICLE IV
COURT SERVICES**

Section 4. That there is adopted a new SMC section 3.01A.700 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.700 Spokane Municipal Court

- A. See [chapter 5A.04 SMC](#).
- B. The clerk of the municipal court shall be appointed by the presiding judge of the municipal court upon a majority vote of judges present at a regularly scheduled judges' meeting. Under the direction of the presiding municipal judge, the clerk is responsible for the clerical functions of the court and for the operation of the municipal violations bureau.

Section 5. That there is adopted a new SMC section 3.01A.710 to chapter 3.01A of the Spokane Municipal Code to read as follows:

3.01A.710 Probation

- A. The probation department supervises offenders place on probation by the municipal court to ensure compliance with court orders, supervises conditions of pre-trial release, refers offenders to various community agencies for programs, facilitates evidence based programs proven to reduce re-offense, conducts pre and post sentence investigations, conducts financial screening for public defense services, works with law enforcement and community agencies to promote offender compliance and rehabilitation and promote victim and community safety.
- B. The chief of probation is appointed by presiding judge of the municipal court upon a majority vote of judges present at a regularly scheduled judges' meeting.

PASSED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

10-8-13

Mayor

Date

Effective Date

**Agenda Sheet for City Council Meeting of:**

12/16/2013

Date Rec'd

12/4/2013

Clerk's File #

OPR 2013-0864

Renews #**Submitting Dept**

HUMAN RESOURCES

Cross Ref #**Contact Name/Phone**

HEATHER LOWE 6233

Project #**Contact E-Mail**

HLOWE@SPOKANECITY.ORG

Bid #**Agenda Item Type**

Contract Item

Requisition #**Agenda Item Name**

2012-2015 COLLECTIVE BARGAINING AGREEMENT WITH THE POLICE GUILD

Agenda Wording

Authorization to enter into a collective bargaining agreement with the Police Guild covering wages and benefits for the years 2012-2015.

Summary (Background)

The City of Spokane and the Police Guild have concluded negotiations and reached a Tentative Agreement for a successor collective bargaining agreement with a four-year term, from January 1, 2012 through December 31, 2015. The average annual increase in total cost of compensation over the four-year term is projected to be 2.76%.

Fiscal Impact**Budget Account**

Expense \$ 2012 \$778,501

various

Expense \$ 2013 \$744,665

various

Expense \$ 2014 \$900,439

various

Expense \$ 2015 \$950,972

various

Approvals**Council Notifications****Dept Head**

LOWE, HEATHER

Study Session**Division Director**

LOWE, HEATHER

Other**Finance**

LESESNE, MICHELE

Distribution List**Legal**

BURNS, BARBARA

ejacobson@spokanecity.org

For the Mayor

SANDERS, THERESA

hlowe@spokanecity.org

Additional Approvals

rkokot@spokanecity.org

Purchasing

fstraub@spokanepolice.org

cmeidl@spokanepolice.org

tdunivant@spokanecity.org

jgately@spokanepolice.org

TENTATIVE AGREEMENT
Between
City of Spokane and Spokane Police Guild

The following memorializes a Tentative Agreement (TA) constituting a full and complete settlement of the negotiations for a successor four-year contract commencing January 1, 2012. All proposals by either the City or Guild that are not addressed in the below or attached TAs are withdrawn. The parties' negotiating teams recommend approval of the TA, which is subject to ratification by the Guild membership and the Spokane City Council. Should either party fail to approve the TA, the parties will revert to their last formal offers and recommence mediation.

2012

- 2% base wage increase, retroactive to 1/1/12

2013

- 2% base wage increase, retroactive to 1/1/13
- Article 27, Civilian Review: No later than 30 days after ratification by Guild and Council, implement attached version of revised Article 27, and attached modification to Article 24, section E-12
- Implement attached tuition reimbursement revisions, upon ratification by Guild and Council

2014

- 2% base wage increase, effective 1/1/14
- Education pay: .5% AA/AS and 1% BA/BS, effective 1/1/14
- Effective 1/1/14, medical plan options will be City Plan III, City Plan IV, Group Health I, and Group Health II. Employee contributions for City Plan III and Group Health I will increase by \$15/month to \$120/month. Employee contributions for City Plan IV and Group Health II will be \$105/month.
- Switch dental from current plan to PPO, effective 1/1/14.

2015

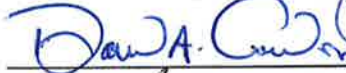
- 2% base wage increase, effective 1/1/15
- Education pay: increase AA/AS by .5% and BA/BS by 1% for a total of 1% for AA/AS and 2% for BA/BS, effective 1/1/15
- Effective 1/1/15, employee contributions for City Plan III and Group Health I will increase by \$15/month to \$135/month. Employee contributions for City Plan IV and Group Health II will remain \$105/month.


CAMERAS: The City may utilize in car and/or body cameras in providing police services to the citizens of Spokane. The parties recognize that there are many working condition issues that will need to be resolved related to utilization of the cameras. Without limitation, these include the extent to which video from the cameras may be used in discipline, and potential limitations on access to and use of the video. The City and Guild agree that these issues will be resolved pursuant to bargaining, consistent with RCW 41.56. In the event the parties are unable to reach agreement, either party may require that the parties jointly request the assistance of Mediator Jamie Siegel from the PERC. The City will not utilize videos from the cameras for disciplinary purposes until bargaining has been completed.

All prior TAs to be implemented:


- Attached Grievance Procedure revisions dated 4/23/13
- Assistant Range Master added as a specialty assignment with 3% specialty pay if a rank below sergeant is assigned. Current sergeant FTE will not be eliminated but may be moved to meet department needs.
- Deletion of Truancy Officer and School Resource Officer from Special Assignments


For the City of Spokane:



David A. Condon
Mayor

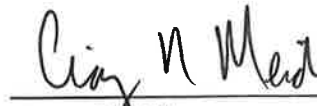

Gerry Gemmill
Local Government and
Labor Relations Director


Frank Straub
Police Chief


Erin Jacobson
Assistant City Attorney



Theresa M. Sanders
City Administrator



Heather Lowe
Human Resources Director



Craig Meidl
Assistant Police Chief



Tim Dunivant
Budget Director


For the Police Guild:


John Gately
President


John Griffin
Vice-President


Paul Carpenter
Vice-President


Ty Snider
Secretary


JD Anderson
Treasurer

Final OPO Language for 2012-2015 CBA Tentative Agreement

ARTICLE 27 - CIVILIAN REVIEW

The Office of Police Ombudsman (OPO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public. The City and the Guild agree that the OPO and the Police Ombudsman Commission as set forth in Article 27 complies with and satisfies all of the requirements of the City Charter in effect on March 1, 2013.

(a) The OPO will actively monitor all police department OPO involved investigations as provided for herein.

(b) An "OPO Involved Investigation" is defined as an IA investigation where the complaint giving rise to the investigation, whether made to the Department or the OPO, is a complaint of a serious matter (complaints that could lead to suspension, demotion or discharge) involving allegations that an employee either improperly used force or improperly/inappropriately interacted with citizens.

(c) The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department. The OPO will forward all complaints to IA within three business days for processing and, when appropriate, investigation. The OPO will not act upon complaints concerning events that occurred more than one year prior to the filing of a complaint. The OPO will not conduct separate disciplinary investigations, but may participate in interviews and request that further investigation be completed, as provided herein.

(d) In addition to complaints received by the OPO, Internal Affairs will provide copies of all other OPO Involved Investigation complaints to the OPO within three business days. Once the case is closed, the OPO will return all case file materials to IA for retention, but will have subsequent access to closed cases.

(e) The OPO will have the opportunity to make a recommendation for mediation to the Chief of Police, prior to investigation. In the event the Department, the complainant and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline and no disciplinary finding will be entered against the officer. Good faith means that the officer listens and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to

mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.

(f) Once any complaint is received by the Internal Affairs unit (including those forwarded to IA from the OPO), it shall be submitted to the chain of command for review per existing policy. When either the Chief or her/his designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process. The OPO will participate in that investigative process for OPO Involved Investigations as follows:

1. Internal Affairs will notify the OPO of all administrative interviews on all OPO Involved Investigations. The OPO may attend and observe interviews, in person or by telephone, and will be given the opportunity to ask questions during the interview after the completion of questioning by the Department. The OPO will not participate in criminal investigations of Department employees but will be notified when the criminal case is concluded.

2. Upon completion of OPO Involved Investigations, IA will forward a complete copy of the case file to the OPO for review. The OPO will review the case file and determine whether the investigation was thorough and objective.

3. As a part of the review process, the OPO may conclude that further investigation is needed on issues deemed material to the outcome. The OPO will notify IA of the suggested further investigation. The OPO's suggestions and rationale for further investigation will be provided to IA in writing. The OPO and assigned investigator(s) will discuss the suggested further investigation and attempt to reach an agreement. If there is no agreement between the assigned investigator(s) and the OPO regarding the necessity, practicality or materiality of the requested further investigation, the OPO will notify the Chief (or designee) in writing of the OPO's suggestions and rationale for further investigation. The Chief (or designee) will determine whether further investigation will be undertaken by IA. The Chief (or designee) will provide his/her determination in writing.

If the OPO is not satisfied with the determination of the Chief, the OPO's request for further investigation may be presented to the Police Ombudsman Commission, whose decision will be final. The decision of the Police Ombudsman Commission will be based upon the OPO's written request and the Chief's (or designee's) written response. Once the matter has been referred to and resolved by the

Police Ombudsman Commission, the investigation will be completed consistent with the decision of the Police Ombudsman Commission on the OPO's request.

The request from the OPO for IA to do further investigation, the process of review and decision making on that request, or the requirement to do further investigation do not suspend the 180 day requirement of Article 24.

4. After completion of the further investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPO, the internal investigation was thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, the OPO will not be involved further in the disciplinary process in that case.

(g) The OPO will be notified if the Chief or designee determines that any complaint that meets the definition of an OPO Involved Investigation will **not** be investigated by IA. If the OPO believes that an investigation should be completed, the OPO shall notify the Chief or designee in writing. The OPO and Chief or designee will discuss the OPO's request for investigation and attempt to reach an agreement. The Chief will provide a written response to the OPO's request. If there is no agreement between the Chief or designee and the OPO regarding the investigation, the Police Ombudsman Commission will decide whether the investigation requested by the OPO will be undertaken by IA, as provided in section (f). The decision of the Police Ombudsman Commission will be based upon the OPO's written request and the Chief's (or designee's) written response.

The request from the OPO for IA to do an investigation, the process of review and decision making on that request, or the requirement to do an investigation do not suspend the 180 day requirement of Article 24.

(h) All disciplinary decisions will be made by the Chief (or designee).

(i) The OPO will be provided a copy of any letter or other notification to an officer informing them of actual discipline imposed as a result of an internal affairs investigation or any Notice of Finding in the event that the complaint is not sustained.

(j) The OPO will be notified by IA within five business days of case closure of all OPO Involved Investigations. The OPO, in addition to the Department's written Notice of Finding letter to the

complainant, may send a closing letter to the complainant. The letter may summarize the case findings.

(k) Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the City in any subsequent challenge to the discipline.

(l) Once the OPO has made a certification decision and the Chief has made a final determination on the case, the OPO may publish a closing report that summarizes the complaint, investigation, and findings. The closing report will not disclose the names of officers or witnesses.

(m) In addition to the investigative process, the OPO will have unimpeded access to all complaint and investigative files from OPO Involved Investigations for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the Chief of Police in specific cases.

(n) The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process, and review and recommend changes in departmental policies to improve the quality of police investigations and practices. The OPO may publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The OPO's recommendations will be related to departmental procedure, policies, training, or related issues. The OPO will not make recommendations concerning discipline for specific cases or officers. Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

(o) A committee of five (5) members (Committee) will be formed that will recommend three (3) candidates for the OPO position to the Police Ombudsman Commission (one of which must be selected). The Committee shall be composed of one member appointed by the Spokane Police Officers Guild; one

member appointed by the Lieutenants and Captains Association; one member appointed by the President of the City Council; one member appointed by the Mayor; and a fifth member selected by the other four members.

(p) In addition to whatever job requirements may be established by the City, one of the minimum job requirements for the OPO will be to have a history that includes the establishment of a reputation for even-handedness in dealing with both complainants and the regulated parties. The City also agrees that compliance with the confidentiality provisions of this agreement will be a condition of employment for the OPO. Inadvertent, de minimus disclosures shall not be considered a violation of this section.

(q) Alleged violations of this agreement are subject to the grievance and arbitration provisions of the bargaining agreement. In the event the Guild believes a candidate recommended by the Committee for OPO does not meet the minimum job requirement established in Section (p) above, the Guild must within three (3) days of the recommendation present information to the Police Ombudsman Commission about their concern. If that person is ultimately selected by the Police Ombudsman Commission, the Guild may file a grievance within five (5) days of the appointment and an expedited arbitration process will be utilized to resolve the matter. The Arbitrator will conduct an arbitration within twenty-one (21) days, and issue a bench decision. The decision will be final and binding upon the parties. Upon the filing of a grievance, the appointment shall be held in abeyance pending completion of the arbitration.

(r) The City will require that each member of the Police Ombudsman Commission sign a confidentiality statement confirming as a condition of service that they will not release the name(s) of employees or other individuals involved in incidents or investigations, nor any other personally identifying information. Inadvertent, de minimus disclosures shall not be considered a violation of this section.

(s) In addition to whatever job requirements may be established by the City, one of the minimum job requirements for the members of the Police Ombudsman Commission will be to have a history that includes the establishment of a reputation for even-handedness in dealing with both complainants and the regulated parties.

(t) Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

PART OF GUILD WHAT IF 7-8-13

Excerpt from Article 24 §E

12. Administrative investigations must be completed within 180 days of the matter coming to the attention of the Department (Bureau Command Staff or above) In the event the Office of the Chief believes an extension beyond 180 days is necessary, and the City can show that it has acted with due diligence and the investigation could not be reasonably be completed due to factors beyond the control of the ~~Department~~ City (including, but not limited to, for example, extended illness or other unavailability of a critical witness (i.e. - the complainant, the officer being investigated), or necessary delays in the processing of forensic evidence by other agencies,) the Chief must contact the Guild prior to the expiration of the 180 days seeking to extend the time period. Any request for extension based on the unavailability of witnesses shall include a showing that the witness is expected to become available in a reasonable period of time. A request for extension based upon the above criteria will not be unreasonably denied. The period of investigation may also be extended by mutual agreement between the Guild President and the Chief.

The 180 day period shall be suspended when a complaint involving alleged criminal conduct is being reviewed by a prosecuting authority or is being prosecuted at the city, state or federal level, or if the alleged conduct occurred in another jurisdiction and is being criminally investigated or prosecuted in that jurisdiction. In cases of an officer involved fatal incident, the 180 day period will commence when the completed criminal file is provided to the Prosecuting Attorney, and will only be tolled in the event criminal charges are filed.

Section C – Tuition Reimbursement

The City agrees to reimburse the employee for 100 percent of the tuition fee for any approved job related course upon satisfactory completion of the said course up to the applicable tuition level established at Washington State University. In order to qualify for tuition reimbursement, the course must be approved by the Police Chief or designee and the Human Resources Department before the course is taken. The cost for books, laboratory and other related expenses shall not be paid by the City. Satisfactory completion of any course shall mean a grade of "C" or better.

New Paragraph:

For all courses that are approved for reimbursement after the date of signing this Agreement, the employee must refund the City for tuition reimbursement under the following circumstances:

1. The employee voluntarily leaves City employment within two years after receiving tuition reimbursement; and
2. The course(s) for which the City reimbursed tuition was completed during the two years prior to the effective date of the voluntary separation. The course(s) shall be considered completed on the date the employee submitted his or her grade to the City for purposes of demonstrating satisfactory completion.

~~An employee may request~~There shall be an exception to this requirement in the event extenuating circumstances require the employee to terminate employment with the City (e.g., employee quits in order to move and take care of sick parent). ~~Such~~The employee's requests shall be reviewed for approval by the Police Chief or designee and the Human Resources Department and such approval shall not be unreasonably denied.

Guild What If Grievance Procedure Package 4/23/2013 11:00 am

(Redlined from current contract language and City's 12/13/12 proposal)

ARTICLE 5 - GRIEVANCE PROCEDURE - PERMANENT UMPIRE

Section A - Grievance Procedure Steps

1. Any grievance or dispute which may arise between parties concerning the application, meaning, or interpretation of this Agreement, shall be settled in the manner prescribed by this grievance procedure.
2. A "Grievance" is defined as a claim or dispute by an employee, group of employees, or authorized Guild representatives concerning the interpretation or application of the provisions of this Agreement. Nothing in this procedure shall prohibit an employee from discussing a complaint directly with his supervisor or department head without representation by the Guild as provided by State Law.
3. Should a subject for claim or dispute arise, there shall be no stoppage of work by employees, but an earnest effort shall be made to settle such claims or disputes promptly and in the manner hereinafter outlined. Prior to initiating a written grievance, an employee shall attempt to resolve the matter with his/her supervisor, or in their absence, with the next person in the chain of command.

Step 1

A grievance may be presented to the Police Chief or designee, ~~with a copy to the Human Resources Department, by a Guild Representative-Executive Board Officer or designee~~ within ~~twenty-one (21)~~twenty-eight (28) calendar days of the alleged occurrence; in writing, setting forth:

- a. The nature of the grievance;
- b. A statement of the facts upon which the grievance is based;
- c. The provisions of the Agreement allegedly violated, and;
- d. A statement of the relief desired.

Step 2

The Police Chief or designee shall attempt to settle the grievance within ~~seven~~ (7)twenty-one (21) calendar days after it has been presented.

Step 3

If the grievance is not settled by the Police Chief within the time allowed, it may be presented to the City Administrator, with a copy to the Human Resources Department, by a Guild ~~Representative-Executive Board Officer or designee~~ within ~~seven~~ (7)twenty-one (21) calendar days of the Police Chief's response or the expiration of the time limit in step 2.

Step 4

The City Administrator shall have ~~fourteen~~ (14)twenty-one (21) calendar days to review the grievance. If the City Administrator does not respond or otherwise settle the grievance within the ~~fourteen~~ twenty-one day period, the grievance may be advanced to step 5 within twenty-one (21) days of the Step 3 response or, if not received within the allotted time period, the date the response was due.

Step 5

If the grievance is not settled at Step 4, the dispute will be referred to the negotiating committee of both parties. The two committees shall meet within ~~ten~~ (10)fourteen (14) calendar days to consider the dispute. At that meeting, all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation. If no satisfactory solution is reached in this step, the matter may be submitted to arbitration within ~~24~~ twenty-eight (28) calendar days of the conciliation meeting.

Section B - Arbitration

The parties shall attempt to select an arbitrator by mutual agreement. If the parties have been unable to select an arbitrator ~~by mutual agreement~~ within ten (10) days, the Arbitrator shall be selected on a rotating basis from the following panel of arbitrators: Janet Gaunt, Mike Cavanaugh, Michael Beck, Alan Krebs, and Howell Lankford. The Arbitrator shall be selected from the list by both the City representative and the Guild's attorney within ten days of the matter being submitted to arbitration. Each party shall

alternatively strike or accept the top name on the list. If both parties accept the arbitrator, that person shall hear the case. Once both parties have had two strikes/acceptances, the next arbitrator on the list shall hear the case. The selected arbitrator shall move to the bottom of the list for the next arbitration hearing. The arbitrator shall conduct the arbitration within six months of the appointment unless otherwise agreed by the parties. The decision of the arbitrator shall be final and binding on the parties.

1. The Arbitrator shall make his/her own rules of procedure. The Arbitrator shall have no authority to amend, alter, or modify this Agreement or its terms and shall limit his/her decision solely to the interpretation and application of this Agreement.
2. Each grievance or dispute will be submitted separately except when the City and the Police Guild mutually agree to have more than one grievance or dispute submitted to the Arbitrator.
3. The City and the Police Guild shall bear the expense of the Arbitrator and related stenographic expenses on an equal basis.
4. Each party shall bear the costs of their own attorney(s) unless the City either fails to abide by an Arbitration award thereby requiring the Guild to seek judicial enforcement or appeals the same into the courts. In such an event, this provision shall have no force and effect retroactive to the initiation of the grievance procedure.
5. The decision of the Arbitrator shall be issued within thirty (30) days of the close of the hearing and scheduled receipt of any post-hearing briefs.

Section C - Time Limits

Time limits may be extended by mutual written agreement. Except as otherwise provided herein, if the City fails to comply with any of the above time limits, the matter will be settled in favor of the Guild's last requested remedy. If the aggrieved/Guild fails to comply with any of the above time limits, the grievance is dropped and the City's position sustained. While forfeiture under this clause will finally resolve the matter in dispute, it will not establish a precedent between the parties on issues of contractual interpretation. There shall be no interruption of work while grievances are being resolved.



Agenda Sheet for City Council Meeting of:
12/16/2013

Date Rec'd	12/4/2013
Clerk's File #	ORD C35069
Renews #	
Cross Ref #	
Project #	
Bid #	
Requisition #	

Submitting Dept	MAYOR
Contact Name/Phone	THERESA 625.6502
Contact E-Mail	TSANDERS@SPOKANECITY.ORG
Agenda Item Type	First Reading Ordinance
Agenda Item Name	0520 OPO ORDINANCE

Agenda Wording

An ordinance relating to the Office of Police Ombudsman; amending SMC sections 4.32.010, 4.32.020, 4.32.030, 4.32.060, 4.32.070, 4.32.080, 4.32.090, 4.32.100, 4.32.110, 4.32.140, 4.32.150, and 4.32.160.

Summary (Background)

This ordinance adopts amendments to Chapter 4.32 SMC regarding the Office of Police Ombudsman and the Police Ombudsman Commission in order to incorporate provisions of Section 129 and 130 of the City Charter approved by the voters in February of 2013.

Fiscal Impact		Budget Account	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
Approvals		Council Notifications	
<u>Dept Head</u>	SANDERS, THERESA	<u>Study Session</u>	
<u>Division Director</u>		<u>Other</u>	
<u>Finance</u>	LESNE, MICHELE	<u>Distribution List</u>	
<u>Legal</u>	BURNS, BARBARA		
<u>For the Mayor</u>	SANDERS, THERESA		
<u>Additional Approvals</u>			
<u>Purchasing</u>			



Continuation of Wording, Summary, Budget, and Distribution

Agenda Wording

Summary (Background)

The ordinance provides the OPO with the authority to 1) obtain additional information regarding complaints for the sole purpose of determining whether to forward the complaint to IA, 2) independently investigate any non-disciplinary matters necessary to enable the OPO to issue policy and procedure recommendations, and 3) publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The ordinance establishes a procedure for the OPO to review Police Department Internal Affairs (IA) investigations and to notify IA of suggested further investigation. The procedure includes the ability of the OPO to go to the Police Ombudsman Commission to request further investigation. All subsequent IA investigations must be completed consistent with the determination of the Commission. The ordinance adds an additional procedure whereby the Commission may contract for a third party investigation and may issue a report containing finding and conclusions of the third party investigation. The ordinance makes numerous other revisions as fully set forth in the ordinance.

Fiscal Impact

Budget Account

Select

\$

#

Select

\$

#

AmtType7 \$ Amount7

Budget7

AmtType8 \$ Amount8

Budget8

Distribution List

Email16

Email17

Email18

Email19

Email20

Email21

Email22

Email23

Ordinance No. C-C35069

AN ORDINANCE relating to the Office of Police Ombudsman; amending SMC sections 4.32.010, 4.32.020, 4.32.030, 4.32.060, 4.32.070, 4.32.080, 4.32.090, 4.32.100, 4.32.110, 4.32.140, 4.32.150, and 4.32.160.

WHEREAS, the City had previously enacted chapter 4.32 of the Spokane Municipal Code establishing an independent Office of Police Ombudsman (hereinafter "OPO"), which has now been in existence for over four years; and

WHEREAS, on December 17, 2012, the Spokane City Council approved Resolution No. 2012-0105 placing Proposition No. 1 before the Spokane electorate for a vote. The Spokane's electorate voted in February 2013 to amend the City Charter to add a section creating a Police Ombudsman Commission and an Office of Police Ombudsman that has independent investigatory authority; and

WHEREAS, the City Council recently amended Chapter 4.32 SMC to incorporate provisions related to the Police Ombudsman Commission; and

WHEREAS, the City Council adopts this ordinance to codify within the Spokane Municipal Code the provisions of Sections 129 and 130 of the City Charter regarding the office of the police ombudsman and the police ombudsman commission; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC section 4.32.010 is amended to read as follows:

4.32.010 Office of Police Ombudsman

A. The office of police ombudsman (OPO) is established in order to:

1. help ensure that investigation of complaints against police officers are accomplished in a timely, fair, and thorough manner;
2. provide visible, professional, independent civilian oversight of police officers; ~~((and))~~
3. provide policy makers with recommendations on improvements to police policies, procedures, training and to improve the quality of police investigations; and
4. reassure the public that investigations into complaints and allegations of police misconduct are conducted in a timely, thorough, and objective manner.

- B. The police ombudsman and any employee of the OPO must, at all times, be totally independent. Any findings, recommendations, and requests made by the OPO must reflect the independent views of the OPO with the support of the OPO Commission.
- C. No person shall attempt to unduly influence or undermine the independence of the police ombudsman, or any employee of the OPO, in the performance of the duties and responsibilities set forth in this chapter.

Section 2. That SMC section 4.32.020 is amended to read as follows:

4.32.020 Definitions

- A. "Chief" means the chief of the Spokane police department.
- B. "Commission" means the office of police ombudsman commission.
- C. "Complainant" means any person who files a complaint against any commissioned member of the Spokane police department.
- D. ~~((G-))~~ "Complaint" means a complaint by any person of alleged police misconduct.
- E. "Designee" means a commissioned member of the Spokane Police Department.
- F. ~~((D-))~~ "Finding" means a conclusion reached after investigation.
- G. ~~((E-))~~ "IA" or "internal affairs" means the Spokane police department's investigative unit, whose responsibilities and procedures are described in the Spokane police department's Policy and Procedure Manual, as amended from time to time, to receive and investigate allegations of misconduct by Spokane police department employees.
- H. ~~((F-))~~ "Material to the outcome," "material statement," and "material fact" are those facts, evidence, or statements which tend to influence the trier of fact because of its logical connection with the issue. It is a fact which tends to establish any of the issues raised by the complaint or the defenses to the complaint.
- I. ~~((G-))~~ "Mediation" means a private, informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement. The mediator has no power to impose a decision on the parties.

- J. ~~((H.))~~ “Member” means a sworn employee of the Spokane police department about whom a complaint has been submitted to the Spokane police department or the OPO.
- K. ~~((I.))~~ “Misconduct” means conduct by a member during an encounter with a citizen, which conduct violates Spokane police department ~~((regulations or orders, or other standards of conduct required of City employees))~~ policies, procedures and/or canons of ethics.
- L. “OPO Involved Investigation” means an IA investigation where the complaint giving rise to the investigation, whether made to the police department or the OPO, is a complaint of a serious matter (complaints that could lead to suspension, demotion or discharge) involving allegations that an employee either improperly used force or improperly/inappropriately interacted with citizens.
- M. ~~((J.))~~ “Policy-related issue” means a topic pertaining to the Spokane police department’s hiring and training practices, the Spokane police department’s policies and procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer’s conduct.
- N. ~~((K.))~~ “Serious matter” means any complaint that could lead to suspension, demotion, or discharge.

Section 3. That SMC section 4.32.030 is amended to read as follows:

4.32.030 Functions and Duties

The functions and duties of the OPO are as follows:

- A. The OPO will actively monitor all police department OPO Involved ~~((internal))~~ ~~((i))~~ Investigations as provided herein.
- B. The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department. The OPO may obtain additional information regarding the complaint for the sole purpose of determining whether to forward the complaint to IA. The OPO will forward all complaints to ~~((the police department’s internal affairs (IA) unit))~~ IA within three business days for processing and, when appropriate, investigation. The OPO shall not act upon complaints concerning events that occurred more than one year prior to the filing of a complaint. The OPO will not conduct separate ~~((independent))~~ disciplinary investigations, but may participate in all OPO Involved Investigation interviews and request that further investigation, which could include additional interviews, be conducted by IA as provided herein.

- C. In addition to complaints received by the OPO, IA will provide copies of all other OPO Involved Investigations complaints (~~((received by the Spokane police department))~~) to the OPO within three business days. Once the case is closed, the OPO will return all case file materials to IA for retention consistent with the police department's record retention policy but will have subsequent access to closed cases.
- D. The OPO will have the opportunity to make a recommendation for mediation to the chief of police prior to investigation. In the event the department, the complainant, and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline, and no disciplinary finding will be entered against the officer. Good faith means that the officer listens to all information presented and considers the issues raised by the complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.
- E. Once any complaint is received by (~~the internal affairs unit~~) IA, including those forwarded to IA from the OPO, it shall be submitted to the chain of command for review per existing police department policy. When either the chief or (~~the chief's~~) his designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process. The OPO will participate in that investigation process for OPO Involved Investigations as follows:
1. (~~((F.))~~) Internal affairs will notify the OPO of all administrative interviews on all OPO Involved Investigations (~~((complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge) and all complaints originating at the OPO))~~). The OPO may attend and observe interviews in person or by telephone and will be given the opportunity to ask questions during the interview and after the completion of questioning by the department. (~~((G))~~) The OPO will not participate in criminal investigations of department employees, but will be notified when the criminal investigation is concluded.
 2. (~~((H.))~~) Upon completion of (~~each administrative investigation~~) OPO Involved Investigations, IA will forward a complete copy of the case file to the OPO for review. The OPO will review the case file and determine whether the investigation was timely, thorough and objective.
- E. (~~((I.))~~) As a part of the review process, the OPO may conclude that (~~additional~~) further investigation is needed on issues deemed material to the outcome. The

OPO will notify IA of the suggested further investigation. The OPO's suggestions and rationale for further investigation will be provided to IA in writing. The OPO and assigned investigator(s) will discuss the suggested further investigation and attempt to reach an agreement. If there is ~~((any dispute))~~ no agreement between the assigned investigator(s) and the OPO regarding the necessity, practicality, or materiality of the requested ~~((additional))~~ further investigation, the OPO will notify the chief (or designee) in writing of the OPO's suggestions and rationale for further investigation. ~~((t))~~The chief (or designee) will determine whether ~~((additional))~~ further investigation will be undertaken by IA. The chief (or designee) will provide his determination to the OPO in writing.

If the OPO is not satisfied with the determination of the chief, ~~((the matter will be resolved by the mayor,))~~ the OPO's request for further investigation may be presented to the commission, whose decision will be final. The decision of the commission will be based upon the OPO's written request and the chief's (or designee's) written response. Once the matter has been referred to and resolved by the ~~((mayor))~~ commission, the IA investigation will be completed consistent with the determination by the ~~((mayor))~~ commission. After providing IA a reasonable opportunity to complete the further investigation as directed, if the commission determines and specifically describes in writing how the IA investigation was not completed consistent with the commission's direction, the commission may again direct IA to conduct further investigation, or the commission may publish its report containing its findings and conclusions, and may also contract for or request a third-party investigation if it so chooses. The third-party investigation shall be conducted by someone with recognized expertise in conducting a fair and objective investigation (e.g., the Washington State Patrol, a police ombudsman from another Washington jurisdiction, etc.). The third-party investigator may request, but not require, participation by police officers in the investigation, unless already vested with that authority. The commission may publish a report containing findings and conclusions of the third-party investigation, so long as the report does not identify specific members of the department and does not in any way comment upon officer discipline (or the lack thereof). The findings and conclusions of the commission may not be used by the City as a basis to open or re-open complaints against any union-represented employee(s), including those assigned to IA. Nor may the findings and conclusions of the Commission be used by the City as a basis to reconsider any decision(s) previously made concerning discipline. No discipline of union-represented employees may result from the commission's third-party investigation.

After completion of the further investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPO, the internal investigation was timely, thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, the OPO will not be involved further in the disciplinary process in that case.

- G. The OPO will be notified if the chief or designee determines that any complaint that meets the definition of an OPO Involved Investigation will not be investigated by IA. If the OPO believes that an investigation should be completed, the OPO shall notify the chief or designee in writing. The OPO and chief or designee will discuss the OPO's request for investigation and attempt to reach an agreement. The chief will provide a written response to the OPO's request. If there is no agreement between the chief or designee and the OPO regarding the investigation, the police ombudsman commission will decide whether the investigation requested by the OPO will be undertaken by IA, as provided in subsection (E). The decision of the police ombudsman commission will be based upon the OPO's written request and the chief's (or designee's) written response.
- H. ~~((J. The OPO shall not have a role in any disciplinary matter.))~~ All disciplinary decisions will be made by the chief (or designee). The OPO shall not have a role in any disciplinary matter.
- I. ~~((K.))~~ The OPO will be provided a copy of any letter or other notification to an officer informing the officer of actual discipline imposed as a result of an internal affairs investigation, or any notice of finding in the event that the complaint is not sustained.
- J. ~~((L.))~~ The OPO will be notified by IA within five business days of case closure of all OPO Involved Investigations ~~((complaints of a serious matter and all complaints originated by the OPO))~~. The OPO, in addition to the department's written notice of finding letter to the complainant, may send a closing letter to the complainant ~~((to summarize the case findings))~~. The letter may summarize the case findings.
- K. ~~((M.))~~ Any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the office of police ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the City in any subsequent challenge to the discipline.
- L. Once the OPO has made a certification decision and the chief has made a final determination on the case, the OPO may publish a closing report that summarizes the complaint, the OPO's investigation, and the OPO's findings and recommendations. The closing report will not disclose the names of officers or witnesses. The OPO's closing report shall not be used in disciplinary proceedings of members. For purposes of this section, "final determination" of a case means a final decision by the police chief regarding discipline of a member

or of members involved in a single related incident, including the final disposition of all subsequent judicial or administrative appeals.

- M. ((N)) In addition to the investigative process, the OPO will have unimpeded access to all ((IA)) complaint and investigative files from OPO Involved Investigations for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the chief of police in specific cases.
- N. ((O))The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process and review and recommend changes in departmental policies to improve the quality of police investigations and practices, including the IA investigation process. The OPO may independently investigate any non-disciplinary matters necessary to enable the OPO to issue policy and procedure recommendations. The OPO may publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The OPO's recommendations will be related to departmental procedure, policies, training, or related issues. The OPO will not make recommendations concerning discipline for specific cases or officers. If required by law, the City will engage in collective bargaining prior to adopting any such recommendations. ~~((Nothing in this chapter shall be construed as a waiver of the officers' collective bargaining right to require the City to engage in collective bargaining as authorized by law.))~~
- O. ((P)) The OPO shall not have access to legally privileged documents held by the city attorney or attorney-client communications held by the city attorney's clients. The OPO shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- P. ((Q)) The police ombudsman may propose ~~((adopt, promulgate, amend, and rescind))~~ rules and procedures required for the discharge of the police ombudsman's duties, including policies and procedures for receiving and processing complaints, monitoring investigations, and reporting findings, conclusions and recommendations to the commission. The OPO's rules and procedures must be consistent with state law and the collective bargaining agreement between the city and police guild. The OPO may not levy any fees for the handling of complaints or any other duties identified in this chapter.
- Q. Complaints regarding the chief of police shall be directed to the mayor and investigated by the city's human resources department. Complaints against the

ombudsman shall be directed to and investigated by the commission, with the assistance of the City's human resources department.

Section 4. That SMC section 4.32.060 is amended to read as follows:

4.32.060 Qualifications

The minimum qualifications for the position of police ombudsman are:

- A. legal, investigative, or prosecutorial experience within in the five years prior to appointment;
- B. recent or current familiarity with police procedures within in the five years prior to appointment;
- C. demonstrated ability to review investigations to ensure they are thorough and unbiased;
- D. successful completion of a criminal background investigation consistent with the requirements to become employed as a Spokane police officer;
- E. demonstrated ability to work with confidential information;
- F. a record of community involvement;
- G. an ability to build working relationships with and communicate effectively with diverse groups; and
- H. established ((a)) reputation for even-handedness in dealing with both complainants and the regulated parties.
- I. become a resident of the City within six months of the beginning of the appointment term and maintain residency during the remainder of the term.

Section 5. That SMC section 4.32.070 is amended to read as follows:

4.32.070 Training

The police ombudsman shall continue his or her professional education throughout the period of employment as the ombudsman in subjects consistent with the responsibilities of employment. At a minimum, such training shall include:

- A. a training program in police procedures and orientation to the Spokane police department, including at least one ride-along with police within six months of appointment and at least two ride-along each year; ((and))

- B. ~~((completion of))~~ attend the police department's ((Citizens)) Reserve Academy, or other similar training program, within one year of appointment, however, such training shall not result in a police commission;
- C. attend police department in-service training regarding current training and policy and procedure updates, as well as specialized training; and
- D. pursuit of certification from the National Association of Civilian Oversight of Law Enforcement (NACOLE) during the term of his or her appointment.

Section 6. That SMC section 4.32.080 is amended to read as follows:

4.32.080 Appointment

- A. A selection committee of five members (committee) will be formed that will recommend three candidates for the OPO position to the ~~((mayor))~~ commission, one of which must be selected. The committee shall be composed of:
 - 1. one member appointed by the Spokane Police Officers Guild,
 - 2. one member appointed by the Lieutenants and Captains Association,
 - 3. one member appointed by the city council,
 - 4. one member appointed by the mayor, and
 - 5. ~~((a))~~ the fifth member selected by the other four members.
- B. The ~~((mayor shall))~~ commission must appoint one of the three individuals recommended by the committee to the OPO position. ~~((The individual appointed by the mayor and confirmed by the city council must be one of the individuals recommended by the committee.))~~ The five member selection committee will select the committee's chair.

Section 7. That SMC section 4.32.090 is amended to read as follows:

4.32.090 Term

- A. The appointment of the police ombudsman shall be for an initial three-year term.
- B. A current police ombudsman may be reappointed for additional terms not to exceed three years upon ~~((recommendation of the mayor and confirmation by the city council))~~ reappointment by the commission. If ~~((the mayor does not recommend reappointment or the city council))~~ commission does not approve the

reappointment prior to the expiration of the appointment term, the appointment term shall expire at the end of the term.

- C. Should a vacancy in the position occur, due to expiration of term, resignation, sickness, death, retirement, conflict of interest, or any other reason, the ~~((mayor may recommend an appointment for city council confirmation of))~~ commission appoint an interim police ombudsman for a term not to exceed four months, in compliance with the appointment process stipulated in SMC 4.32.080. The selection committee referenced in SMC 4.32.080 must meet within thirty days of notification by the ~~((mayor))~~ commission of the need to appoint an interim police ombudsman.

Section 8. That SMC section 4.32.100 is amended to read as follows:

4.32.100 Removal

- A. The police ombudsman may not be removed from office during his term except for misconduct, inefficiency, incompetence, inability or failure to perform the duties of the office, ~~((or))~~ negligence in the performance of the duties or failure to complete the requisite training. Compliance with the confidentiality provisions of this chapter is a condition of employment for all employees of the OPO. Inadvertent, de minimus disclosures shall not be considered a violation of this section.
- B. In such cases that warrant removal from office, removal shall be by a resolution adopted by a majority of the ((city council)) full commission subsequent to a public hearing by ~~((either the majority of the full city council upon recommendation of the mayor or by a vote of no less than five members of the full city council))~~ the commission.
- C. Nothing contained herein shall prevent the ~~((city council))~~ commission from ~~((either))~~ declining to approve an appointment or reappointment ~~((, or eliminating the office of police ombudsman by legislative action, both of which do not require the city council to consider removal for cause as set forth above))~~.

Section 9. That SMC section 4.32.110 is amended to read as follows:

4.32.110 Reporting Requirements

- A. The police ombudsman reports, for administrative and executive functions, directly to the ~~((mayor or the mayor's designee))~~ commission.
- B. The police ombudsman is not an employee of the Spokane police department and shall work independently from the Spokane police department.

- C. The police ombudsman shall make monthly reports jointly to the commission, the mayor, the police chief, and the Public Safety Committee regarding the activities of the OPO. In addition, the police ombudsman shall make an annual report to the city council during a council meeting. The report shall contain:
1. statistical analysis documenting the number of complaints by category, disposition, and action taken;
 2. analysis of trends and patterns;
 3. recommendations.

Section 10. That SMC section 4.32.140 is amended to read as follows:

4.32.140 False Reporting

- A. The OPO shall have the discretion to decline further action on a complaint filed with the OPO if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew them to be false at the time the complaint was filed.
- B. The employees of the OPO are considered public servants for purposes of SMC 10.07.020. Any person who knowingly makes a false or misleading material statement to the OPO is subject to criminal sanctions in SMC 10.07.020. The OPO shall notify complainants that they can be charged with a criminal gross misdemeanor for making a false or misleading material statement pursuant to SMC 10.07.020.

Section 11. That SMC section 4.32.150 is amended to read as follows:

4.32.150 Office of Police Ombudsman Commission

- A. That an office of police ombudsman commission ("commission") be created consisting initially of five members.
- B. General Duties.
In addition to other duties enumerated in this chapter, the commission shall:
1. Appoint, reappoint and potentially remove the police ombudsman pursuant to SMC 4.32.080 through 4.32.110;
 2. Approve annual and long term goals of the OPO;
 3. ((2:)) Approve OPO procedures and best practices;

4. ~~((3.))~~ Approve the OPO annual report;
5. ~~((4.))~~ Approve OPO recommendations ~~((to implement))~~ regarding changes in police department policies and training;
6. ~~((5.))~~ Approve OPO rules and procedures ~~((The ((OPO)) commission, on its own or upon request by the OPO, may adopt, promulgate, amend, and rescind rules and procedures))~~ required for the discharge of OPO duties, including policies and procedures for receiving and processing complaints, monitoring investigations, and reporting findings, conclusions and recommendations. The rules and procedures approved by the commission shall be consistent with Washington state law and comply with the collective bargaining agreement between the city and the police guild.
7. ~~((6.))~~ Conduct and approve evaluations of the OPO and OPO personnel;
8. ~~((7.))~~ Request that the OPO examine or re-examine specific non-disciplinary ~~((incidents or))~~ policy or procedure issues and confirm or reject OPO requests for additional investigation by IA;
9. ~~((8.))~~ Assist OPO personnel in communicating with Spokane's diverse communities and the general public about the complaint filing and investigation process;
10. ~~((9.))~~ Make readily available to the public all commission reports, recommendations, and evaluations; and
11. ~~((10.))~~ Prepare and present an annual report to the city council.

C. Selection of Members.

1. Two members shall be nominated by the mayor and appointed by city council; and,
2. One member from each of the three city council districts nominated and appointed by city council.
3. The commission may, at any time, determine that more members are necessary to carry out the duties of the commission. Upon unanimous vote of all commission members and majority approval by the city council pursuant to an amendment to this section, additional members may be added to the commission two members at a time:

- a. One additional member nominated by the mayor and appointed by city council; and,
- b. One additional member nominated appointed by city council.

D. Officers.

The commission members shall annually choose their own chair and vice-chair, who will serve from January 1st through December 31st, and shall serve in that position for no more than three consecutive one-year terms. The chair (and vice-chair in the absence of the chair) will set the agenda for meetings, facilitate the meetings, speak on behalf of the commission and call any special meetings.

E. Qualifications.

1. Members of the commission shall be volunteers who immediately, prior to appointment, shall be:
 - a. A current resident of the city of Spokane;
 - b. Of the age of twenty-one years or older;
 - c. Able to pass an in-depth background investigation and have no convictions for crimes involving dishonesty or moral turpitude within the past ((five)) seven years; and
 - d. Neither a current or former employee of the City of Spokane or Spokane police department, nor an immediate family member of a current City of Spokane or Spokane police department employee.
 - e. Able to establish a reputation for even-handedness in dealing with both complainants and the regulated parties.
2. The following characteristics shall be considered during the appointment process:
 - a. An absence of any real or perceived bias, prejudice, or conflict of interest;
 - b. A record of community involvement;
 - c. A demonstrated ability to be fair, impartial and unbiased;
 - d. An ability to build working relationships and communicate effectively with diverse groups;

- e. Education, professional and/or personal experience including but not limited to judicial, legal, investigative, mental health and law enforcement experiences with the exception that a commission member shall not have been a law enforcement officer for two years prior to his or her appointment;
 - f. Contribute to the diversity of the commission so that the makeup of the commission reflects the diversity of the people most likely to have contact with members of the police department, including geographic, racial and disability diversity.
- 3. All commission members shall be required to sign a confidentiality statement confirming as a condition of service that they will not release the name(s) of employees or other individuals involved in incidents or investigations, nor any other personally identifying information. Inadvertent, de minimus disclosures shall not be considered a violation of this section.
 - 4. All commission members shall complete a ride-along with the police within six months of appointment. The police department shall make additional training available to commission members, including annual ride-alongs, the Reserve Academy, or other similar training programs, and department in-service training. Such training shall not result in a police commission.

F. Terms of Office.

- 1. Each commission member shall serve a three-year term and is eligible for re-appointment, except that no member shall be re-appointed after serving three consecutive full three-year terms.
- 2. The initial commission members will have staggered terms, with three members serving three years and two members serving two years.
- 3. A vacancy that occurs during the term of a member shall be filled in the same manner as the original appointment, and the appointee shall serve for the remainder of the expired term.
- 4. Each member shall continue to serve in such capacity until the member's successor has been duly appointed and is acting, provided, however, that the period shall not exceed ninety days past the expiration of the member's term.

G. Expectations.

1. Commission members shall participate in an appropriate training program to be established by the commission, the chief of police and/or the OPO so that they shall possess the knowledge to perform their duties.
2. Members of the commission shall agree in writing that they are subject to the City of Spokane code of ethics contained in chapter 1.04 SMC and an appropriate confidentiality agreement to be developed by the OPO and reviewed and maintained in collaboration with the commission.

H. Liability.

It is the intent of the City that the commission members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under the city's insurance program and indemnification policy.

I. Removal.

A member of the commission may be removed from office by the city council prior to the normal expiration of his/her term for consistent failure to perform commission member duties, for having a real or perceived bias, prejudice or conflict of interest, or for violating the statement of principles, code of conduct, or confidentiality agreement.

J. Meetings and Procedures.

1. The commission may appoint from its membership committees as necessary to perform its duties.
2. Commission members are expected to maintain a minimum of seventy-five percent meeting attendance on an annual basis.
3. The commission shall hold regular meetings with an opportunity for public comment at least quarterly, and the commission and its committees may hold additional meetings as necessary.
4. No business of the commission shall be conducted at a meeting without at least a quorum of three members.
5. All actions of the commission shall be made upon a simple majority vote of the members present.
6. Meetings of the commission shall be open to the public except when the commission has determined a closed executive session, in accordance with RCW 42.30.110, is necessary in order to carry out its business.

7. The commission shall prepare and present an annual report to the city council that:
 - a. Summarizes the commission's activities, findings, and recommendations during the preceding year;
 - b. ~~((Gives))~~ Summarizes the OPO's recommendations for changes to the police department's ((processes and)) policies, procedures and training during the preceding year;
 - c. Evaluates the work of the OPO, including whether the OPO is ~~((functioning as intended and))~~ performing required duties.
- ~~((8. The commission may develop additional reports as deemed necessary by it, or as requested by the city council. All reports generated by the commission shall not release nor disclose any records exempt from disclosure under the Washington Public Records Act or any confidential information that city officials or employees would be legally prohibited from disclosing.~~
8. ~~((9))~~ The commission shall evaluate the performance of the OPO. In doing so, the commission:
 - a. Shall establish criteria by which to evaluate the work of the OPO;
 - b. Shall review, comment on and assist in maintaining policies, procedures and operating principles for the OPO;
 - c. Shall monitor status reports from the OPO; and
 - d. May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly with due diligence.
9. The commission's policies and procedure required for the discharge of its duties shall be consistent with Washington state law and the collective bargaining agreement between the city and police guild.
10. The commission shall have no involvement concerning discipline for specific cases or officers.

Section 12. That SMC section 4.32.160 is amended to read as follows:

4.32.160 Funding

The city council shall maintain funding necessary to appropriately staff the office of police ombudsman and the commission, including adequate staff to enable to ombudsman to perform the required duties and responsibilities of the office as well as providing staff assistance to the police ombudsman commission.

PASSED by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date