



**PUBLIC HEALTH & SAFETY COMMITTEE
MEETING AGENDA**

**Online via Zoom and In Person at
Tumwater City Hall, Council Conference
Room, 555 Israel Rd. SW, Tumwater, WA
98501**

**Tuesday, September 13, 2022
8:00 AM**

1. Call to Order
2. Roll Call
- [3.](#) Approval of Minutes: Public Health & Safety Committee, August 9, 2022
- [4.](#) Update from Thurston County Prosecutor's Office (Karen Kirkpatrick)
- [5.](#) Contract Renewal – Tumwater Prosecution Services (Karen Kirkpatrick)
6. Additional Items
7. Adjourn

Meeting Information

All committee members will be attending remotely. The public are welcome to attend in person, by telephone or online via Zoom.

Watch Online

<https://us02web.zoom.us/j/83153338486?pwd=aTUvQ1V5d0JBaE1zdHZ0L3UxNzVYQT09>

Listen by Telephone

Call (253) 215-8782, listen for the prompts and enter the Webinar ID 831 5333 8486 and Passcode 389476.

Public Comment

The public may submit comments by sending an email to council@ci.tumwater.wa.us, no later than 5:00 p.m. the day before the meeting. Comments are submitted directly to the Committee members and will not be read individually into the record of the meeting.

Post Meeting

Audio of the meeting will be recorded and later available by request, please email CityClerk@ci.tumwater.wa.us

Accommodations

The City of Tumwater takes pride in ensuring that people with disabilities are able to take part in, and benefit from, the range of public programs, services, and activities offered by the City. To request an accommodation or alternate format of communication, please contact the City Clerk by calling (360) 252-5488 or email CityClerk@ci.tumwater.wa.us. For vision or hearing impaired services, please

contact the Washington State Relay Services at 7-1-1 or 1-(800)-833-6384. To contact the City's ADA Coordinator directly, call (360) 754-4128 or email ADACoordinator@ci.tumwater.wa.us.

**TUMWATER PUBLIC HEALTH AND SAFETY COMMITTEE
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CONVENE: 8:00 a.m.

PRESENT: Chair Leatta Dahlhoff and Councilmembers Peter Agabi (late arrival) and Angela Jefferson.

Staff: City Administrator John Doan, Police Chief Jon Weiks, Fire Chief Brian Hurley, Communications Manager Ann Cook, and Police Administrative Services Manager Laura Wohl.

**APPROVAL OF
MINUTES: PUBLIC
HEALTH AND
SAFETY
COMMITTEE,
MAY 10, 2022, JUNE
14, 2022 & JULY 12,
2022:**

MOTION: Councilmember Jefferson moved, seconded by Chair Dahlhoff, to approve the May 10, 2022, June 14, 2022, and July 12, 2022 minutes as published. A voice vote approved the motion.

**ORDINANCE NO.
O2022-018,
HABITAT
CONSERVATION –
PRESCRIBED
BURNING:**

Fire Chief Hurley reported the City was recently contacted by two landowners in the City, Kaufman Entities and Puget Western. Both companies have completed a Habitat Conservation Plan (HCP) with the U.S. Fish and Wildlife Service to preserve prairie lands located within the City limits. Additionally, the City is currently working on the development of a Habitat Conservation Plan in partnership with the Port of Olympia that will include requirements to conserve native prairies.

To meet some of the standards within the HCP, prescribed burning is often necessary to help achieve a number of goals. Prescribed burning helps to replicate natural fires that have historically occurred on prairies. Prescribed burns kill weeds and invasive vegetation, eliminates accumulated debris and vegetation, and provides conditions conducive for native seeding and prairie restoration. Prescribed burning also reduces the threat of wildfire in urban areas.

Fire Chief Hurley referred to several maps of the properties. One of the properties is located off Old Highway 99 near the airport runway owned by the Kaufman Brothers. The second property is off 93rd Avenue near the new Flying J Truck Stop.

Management of the HCPs is coordinated through Eco Studies Institute and another company managing the prescribed burns. The burns are conducted under risk-mitigated conditions with trained and experienced firefighters. Fire program managers have conducted more than 1,000 prescribed burns

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spanning the last 15 years. Many of them were on Joint Base Lewis McChord to help maintain native prairies on the base. The process is typically completed within one hour with no lingering smoke from the burn. Timing of the burn is important as it conducted under mild weather temperatures with minimum wind conditions to minimize risks.

The burns represent a training opportunity for fire department staff. In a number of burns, local fire departments often assist the burn as it provides training and helps firefighters obtain red card certification, a wildland fire fighting certification.

The process entails the applicants applying for a permit from the City. The Department of Natural Resources (DNR) also issues permits. The burns are permitted by DNR. The City works with DNR representatives to ensure the burn plan is appropriate with staff and DNR personnel visiting the burn sites prior to issuance of the permits. The applicants are required to submit a Communications Plan for the burns. Following approval of the Communications Plan by the City, DNR issues the permits and the Fire Chief approves the City permits. The Fire Chief retains the authority to deny the burn if conditions are not appropriate.

Neighboring properties are notified in advance of the burn and any other individuals or companies requesting notification are notified by email on the day prior to the burn. City staff works closely with the contractor to ensure other City requirements are satisfied. Implementation of the plan is the responsibility of the applicant.

Currently, City code restricts burning in the City that could be considered a nuisance. The proposed ordinance creates an exception whereby a permit for a prescribed burn is issued by the City. The proposed ordinance establishes the process.

Staff requests the committee forward a recommendation to the City Council approving the adoption of Ordinance No. O2022-018 at the September 6, 2022 Council meeting.

Fire Chief Hurley noted that the authority for the burn is effective 30 days after approval of the ordinance. However, the owners have indicated timing for an effective burn is during the months of September and October. For that reason, staff requests consideration of the proposal as an emergency ordinance to ensure the effective date begins on September 6, 2022.

Chair Dahlhoff inquired about required elements in the Communications Plan. Fire Chief Hurley advised that the City has no defined requirements for the plan other than he plans to work with the City's Communications Manager to ensure the plan meets City requirements.

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Chair Dahlhoff asked whether messaging could be tailored to those that may have medical conditions that might be aggravated by smoke. Fire Chief Hurley advised that the City could release community messages prior to the burns to help mitigate issues. Chair Dahlhoff suggested working with Communications Manager Cook to coordinate social media messages in addition to requirements in the Communications Plan.

Fire Chief Hurley advised that notification of the burns to the community is coordinated by the companies conducting the burns.

Communications Manager Cook added that the City working in conjunction with Thurston County Alert and Smart 911 can contact individuals with medical issues within a specific area. It is possible to target messaging to individuals within a geographical area who have opted to receive messages.

MOTION:

Councilmember Jefferson moved, seconded by Councilmember Agabi, to recommend the City Council approve Ordinance No. O2022-018, Habitat Conservation – Prescribed Burning, at the September 6, 2022 Council meeting. A voice vote approved the motion unanimously.

**ADDITIONAL
ITEMS:**

City Administrator Doan encouraged the committee to review the presentation materials on the Regional Fire Authority prior to the Council worksession scheduled later in the day.

ADJOURNMENT:

With there being no further business, Chair Dahlhoff adjourned the meeting at 8:17 a.m.

Prepared by Valerie L. Gow, Recording Secretary/President
Puget Sound Meeting Services, psmsoly@earthlink.net

TO: Public Health & Safety Committee
FROM: Karen Kirkpatrick
DATE: September 13, 2022
SUBJECT: Update from Thurston County Prosecutor's Office

1) Recommended Action:

No action needed – this is an update only.

2) Background:

The City has a long-standing relationship with the Thurston County Prosecuting Attorney's Office. On February 8, 2022, Jon Tunheim and Christy Peters provided an update on current prosecution services and statistics. Following that presentation, several requests were made for additional updates on topics such as infractions and recidivism data for therapeutic courts, therapeutic court graduation information, how Blake affected Tumwater, and how new legislation impacted numbers.

3) Policy Support:

Our continued relationship with the Prosecuting Attorney's Office helps provide and sustain quality public safety services.

4) Alternatives:

N/A

5) Fiscal Notes:

N/A

6) Attachments:

N/A

TO: Public Health & Safety Committee
FROM: Karen Kirkpatrick
DATE: September 13, 2022
SUBJECT: Contract Renewal – Tumwater Prosecution Services

1) Recommended Action:

Place the Interlocal Agreement with the Thurston County Prosecuting Attorney's Office for Prosecution Services on the September 20, 2022 City Council Agenda with a recommendation to approve and authorize the Mayor to sign.

2) Background:

The City has a long-standing relationship with the Thurston County Prosecuting Attorney's Office. The current contract for prosecution services expires December 31, 2022. Staff recommends renewing the contract for a period of two years. The Prosecutor's Office updated their figures based on the services previously provided and projected trends, and has proposed an annual amount of \$200,400 (\$16,700 per month). This is less than the current amount of \$210,000 per year (\$17,500 per month). The proposed contract also includes civil support at \$140 per hour, not to exceed \$30,000 (which is unchanged from the current contract).

3) Policy Support:

The continued relationship with the Prosecuting Attorney's Office helps provide and sustain quality public safety services.

4) Alternatives:

N/A

5) Fiscal Notes:

Proposed contract amount: \$200,400 per year (\$16,700 per month) plus civil support at \$140 per hour, not to exceed \$30,000.

6) Attachments:

A - Proposed Contract and Scope 2023-2024

Attachment A

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF TUMWATER AND
THE THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE
FOR PROSECUTION SERVICES**

THIS INTERLOCAL AGREEMENT, is made and entered into pursuant to RCW 39.34 in duplicate this _____ day of _____, 2022, by and between the CITY OF TUMWATER, a Washington municipal corporation, hereinafter referred to as the "CITY" and THURSTON COUNTY PROSECUTING ATTORNEY'S OFFICE, hereinafter referred to as the "PAO."

In consideration of the terms, conditions, covenants, and performance contained herein, the parties hereto agree as follows:

1. SCOPE OF SERVICES.

The PAO shall perform the following services and accomplish the following tasks, including the furnishing of all materials and equipment necessary for full performance thereof:

The PAO shall perform all necessary prosecution services for the City of Tumwater as more particularly described and detailed in Attachment "A" incorporated herein by reference.

In the provision of services under this Agreement, the PAO will endeavor to perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

2. TERM.

This Agreement shall be in full force and effect beginning January 1, 2023 and shall remain in effect until December 31, 2024, unless sooner terminated according to the provisions herein. This Agreement may be extended for additional periods of time upon mutual written agreement of the parties.

3. COMPENSATION AND METHOD OF PAYMENT.

A. Payments for services provided hereunder shall be made following the performance of such services, unless otherwise permitted by law and approved in writing by the CITY.

B. No payment shall be made for any service rendered by the PAO except for services identified and set forth in this Agreement.

C. The CITY shall pay the PAO for work performed under this Agreement a sum of Two Hundred Thousand Four Hundred Dollars and no cents (\$200,400.00) per year as follows: Sixteen Thousand Seven Hundred Dollars and no cents (\$16,700.00) per month payable on or about the first Wednesday of the following month. In addition, on an as-needed basis, civil support will be billed at One Hundred Forty Dollars (\$140.00) per hour not to exceed Thirty Thousand Dollars (\$30,000.00) per year, for a total not exceed amount of Four Hundred Fifty Thousand Dollars and no cents (\$450,000.00). The cost of all infrastructure, administrative support, and services, as well as standard overhead services necessary to comply with established standards, is included in this payment.

4. INSURANCE.

Thurston County is a member of the Washington Counties Risk Pool and the liability coverage through the Risk Pool is acceptable to the CITY.

5. INDEPENDENT CONTRACTOR RELATIONSHIP.

A. The parties intend that an independent contractor relationship will be created by this Agreement. The CITY will not exercise control and direction over the work of the PAO, and is interested primarily in the results to be achieved. Subject to paragraphs herein, the implementation of services pursuant to this Agreement will lie solely within the discretion of the PAO. No agent, employee, servant or representative of the PAO shall be deemed to be an employee, agent, servant or representative of the CITY for any purpose, and the employees of the PAO are not entitled to any of the benefits the CITY provides for its employees. The PAO will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

B. In the performance of the services herein contemplated the PAO is an independent contractor with the authority to control and direct the performance of the details of the work; however, the results of the work contemplated herein must meet the approval of the CITY and shall be subject to the CITY'S general rights of inspection and review to secure the satisfactory completion thereof.

6. HOLD HARMLESS INDEMNIFICATION.

The PAO shall indemnify and hold the CITY and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the CITY resulting from the

PAO's performance or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the CITY, its agents, employees, and/or officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the PAO; and provided further, that nothing herein shall require the PAO to hold harmless or defend the CITY, its agents, employees and/or officers from any claims arising from the sole negligence of the CITY, its agents, employees, and/or officers.

7. COMPLIANCE WITH LAWS.

The PAO, in the performance of this Agreement, shall comply with all applicable federal, state or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in this Agreement to assure quality of services.

8. ASSIGNMENT.

The PAO shall not assign its performance under this Agreement unless the PAO determines that a conflict of interest exists. The PAO shall notify City if a case is being assigned to an attorney outside the PAO.

9. TERMINATION.

Either party may terminate this Agreement, in whole or in part, at any time, by giving at least sixty (60) days written notice.

10. NOTICE.

Notice provided for in this Agreement shall be sent by certified mail to the addresses designated for the parties on the last page of this Agreement.

11. ADMINISTRATION.

This Agreement will be jointly administered by Administration Chief Prosecuting Attorney and the Tumwater City Attorney. This Agreement does not create any separate legal or administrative entity.

12. FINANCING BUDGET.

This Agreement does not contemplate joint financing of the activities within its scope, nor does it contemplate a joint budget.

13. PROPERTY ACQUISITION AND DISPOSITION.

This Agreement does not contemplate the joint acquisition of property by the parties. At termination, each party will remain the sole owner of its own property. Any property acquired by the PAO in connection with this Agreement will be, and remain, solely owned by the PAO, even if the property is acquired by the County using payments made by the CITY under this Agreement.

14. ATTORNEYS FEES AND COSTS.

If any legal proceeding is brought for the enforcement of this Agreement, or because of a dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to any other relief to which such party may be entitled, reasonable attorney's fees and other costs incurred in that action or proceeding.

15. JURISDICTION AND VENUE.

A. This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by laws of the State of Washington, both as to interpretation and performance.

B. Any action of law, suit in equity, or judicial proceeding for the enforcement of this Agreement or any provisions thereof, shall be instituted and maintained only in any of the courts of competent jurisdiction in Thurston County, Washington or in the superior court of either of the two nearest judicial districts.

16. SEVERABILITY.

A. If, for any reason, any part, term or provision of this Agreement is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If it should appear that any provision hereof is in conflict with any statute of the State of Washington, said provision that may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provisions.

17. ENTIRE AGREEMENT.

The parties agree that this Agreement is the complete expression of the terms hereto and any oral representations or understandings not incorporated herein are excluded. Any amendment or extension of this Agreement shall be in writing and signed by both parties. Failure to comply with any of the provisions stated herein shall constitute material breach of contract and cause for termination. Both parties recognize time is of the essence in the performance of the provisions of this Agreement. It is also agreed by the parties that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

18. FILING. This Agreement will be filed with the Thurston County Auditor or listed on the PAO's web site prior to entry into force, in accordance with RCW 39.34.040.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first hereinabove written.

CITY:

CITY OF TUMWATER

555 Israel Road SW
Tumwater, WA 98501

PAO:

THURSTON COUNTY
PROSECUTING ATTORNEY'S
OFFICE
2000 Lakeridge Drive SW
Olympia, WA 98502

DEBBIE SULLIVAN
Mayor

JON TUNHEIM
Thurston County Prosecuting Attorney

ATTEST:

Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick, City Attorney

ATTACHMENT "A"

PROSECUTION SERVICES

Duties

- A. The Thurston County Prosecuting Attorney's Office (PAO) will be responsible to assign an employee who is qualified and able to provide the services needed to represent the City of Tumwater (CITY) as the CITY'S primary prosecutor in matters before the Thurston County District Court. This includes representation for all stages of criminal proceedings for criminal misdemeanors and gross misdemeanors, criminal traffic misdemeanors and gross misdemeanors, and contested traffic infractions. The PAO will be present at all stages of criminal proceedings including in-custody bail hearings, arraignments, pre-trial conferences, motion hearings, bench trials, jury confirmation hearings, jury trials, and post-conviction/post-trial motions and appeals. The PAO will also represent the CITY at contested traffic hearings when the defendant is represented by counsel, or when witnesses have been called to testify.
- B. The PAO will be responsible for providing all of the legal support work necessary to support the prosecution of the CITY'S cases.
- C. Represent the CITY in matters on appeal before the Thurston County Superior Court, Washington State Court of Appeals and the Washington State Supreme Court. These are very infrequent, but would include the writing of a brief in response to the appellant's brief, and appearance at all appellate proceedings. The PAO will timely inform the Tumwater City Attorney of all matters set for trial and all appeals.
- D. Review Tumwater police reports referred for charging sufficiency. Respond timely with the necessary communication back to the police department. Meet with the police department on a regular basis; communicate regularly and timely with the police department in order to assist with case investigation, to prepare officers as witnesses for evidentiary motions and for trial, and to provide feedback to officers and their superiors on matters relating to charges filed. Provide periodic training sessions for the benefit of the police department. CITY will reimburse the PAO for all training materials provided to police department employees. Regularly communicate with and provide feedback to the Police Chief or Police Commander on criminal matters relating to police investigation and charging decisions.
- E. The PAO agrees to be available by telephone for communication with witnesses, police, and CITY staff, and provide timely responses to messages during times of unavailability. The PAO will provide a telephone number to the CITY for regular business contacts as well as a telephone number (whether the same or different number) for purposes of police investigation /advice during non - business hours (between 5:00 p.m. and 8:00 a.m.). This number is expected to be used infrequently, and only for emergent legal issues.

- F. The PAO shall have the right to determine which PAO employees will provide prosecution services under this Agreement. If the PAO has a conflict of interest on a case, the PAO will arrange for alternative service.
- G. Due to scheduling conflicts outside the control of the PAO, primarily the Monday in-custody arraignment calendar, the PAO shall have the right to make arrangements with the City of Lacey Prosecutor to represent the CITY for such purposes as may be necessary (i.e., arraignment/probable cause statements, bail hearings, conditions of release, no contact orders).
- H. The PAO agrees to timely inform the City Attorney of issues that will cause liability for the CITY or have the potential to expose the CITY to liability.
- I. In addition to the prosecution services described above, the PAO may provide the CITY with civil case support related to code enforcement matters depending on the capacity of the PAO civil division to provide these services. These services, if provided, will be billed separately at an hourly rate of \$140.00.