

Municipal Research News

Winter 2002

Municipal Research & Services Center of Washington

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Master Planned Resorts - GMA Style

Many of the resource-based industries that have traditionally provided jobs and income to rural residents have cut back or even shut down operations. Where this has occurred, concerned county officials are under pressure to attract substitute sources of income, employment, and tax base to revive languishing economies. In response to these needs, the legislature amended the Growth Management Act (GMA) to offer greater flexibility for new uses, services, and economic opportunities in rural areas, while attempting to limit negative effects on rural, resource, and critical area lands. Master planned resorts and small-scale recreational or tourist uses are among the uses that counties may choose to permit within rural areas.

What the Heck are MPRs?

According to the GMA definition, master planned resorts (MPRs) are "self-contained and fully integrated planned unit development(s), in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities," (RCW 36.70A.360(1).)

In other words, MPR's are more than just overnight lodging for visitors or a single recreation use. They are carefully planned and integrated developments, centered on special recreational opportunities and natural settings. They provide a package of facilities, services, and amenities that largely meet the daily needs of visitors. They attract visitors for extended stays because of the high quality and varied recre-

ational opportunities and the area's natural splendor. In some other states, MPR's are called destination resorts to emphasize their special attractions and ability to draw visitors from distant places.

While most counties will not land a planned resort of Disneyland dimensions, Washington is already home to a variety of resorts (although all don't perfectly fit the MPR definition). Examples include Crystal Mountain Ski Resort (and its proposed expansion) in the shadow of Mt. Rainier; Port Ludlow, in its Hood Canal setting; the Skamania Lodge, overlooking the Columbia River Gorge National Scenic Area; Rosario Resort, in the San Juan Islands; and Sun Mountain Resort in scenic Okanogan County. In addition, several MPRs have been approved under the new GMA requirements, including the Mt. Rainier at Park Junction Resort in Pierce County and the Mountainstar Resort in Kittitas County.

Small-Scale Recreational or Tourist Uses are not just Mini-MPRs

Small-scale recreational or tourist uses (SSRTs) generally involve a more limited investment and a smaller scale of development on an individual parcel. They are not intended to be mini-MPRs, but generally focus on offering one or several activities rather than a broad range of activities or services. Although smaller in scale, they are generally more intensive uses than traditional rural uses. They may be a "Ma & Pa" type operation, but they still must provide access to a high-quality recreational opportunity to be successful. They can include commercial but not permanent residential uses. Washington has

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Web Site Index

For complete information on these topics, go to www.mrsc.org.

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numerous examples of small-scale uses such as bed and breakfast lodging, campgrounds, river rafting guide services, and outdoor sports equipment rental, often bordering national park or recreational areas.

Evaluating the Net Benefits of MPRs

Many of Washington's rural areas offer magnificent scenic settings and natural amenities with potential to attract tourists and recreational enthusiasts. MPRs and SSRTs offer a potential "shot in the arm" for rural counties with depressed economies. They promise to bring new jobs, revenues, and recreational opportunities - a promise that has been realized in some rural communities.

However, these uses can contrast greatly in scale and nature from traditional rural uses and activities. As a result, they can bring changes to the economic, social, or environmental character of surrounding rural areas. The changes can be dramatic and controversial. For instance, Kittitas County recently approved a large MPR sited on 6,200 acres. The development included more units (mostly short-term rentals) than the combined housing units in the adjacent cities of Cle Elum and Roslyn. A citizens' group challenged the MPR approval, and resort developers needed to address concerns raised by adjacent cities and a tribe. The resort development is now moving forward following a series of interlocal agreements, a settlement agreement with the citizens' group, and a development agreement with the county.

Each county will need to weigh whether MPRs offer net benefits to the county and are consistent with GMA and the county's priority goals for its rural areas. In addition, county officials should evaluate whether a proposed resort is likely to succeed, the promised benefits will accrue to county residents, and the benefits outweigh any negative impacts.

MPRs will make sense in some rural locations within some counties. MPRs will be most appropriate where a county seeks new jobs, recreational opportunities, or other benefits that resorts may offer, and when impacts can be adequately addressed. In contrast, other counties that have lost rural lands to sprawl, may de-

cide that preserving the limited remaining rural and resource lands should be the primary focus.

Resort development is a risky business, although the long-term prospects for the industry appear favorable. After reviewing North American resort and recreational projects over a 30-year span, some resort industry leaders estimated that as few as 10 percent were profitable for the original developer (Middleton, 1994). As a result, local jurisdictions should carefully evaluate a proposed MPR's prospects for success. Master planned resorts are typically large undertakings that will take years (and sometimes decades) to complete all phases. To succeed, an MPR must offer something very special. The county must be satisfied that the MPR location qualifies as "a setting of significant natural amenities." In addition, the MPR also must offer a package of high quality recreational opportunity and amenities capable of drawing visitors from distant places. This will require that resort developers make a substantial investment in recreational facilities and other amenities. Much of this investment must occur before substantial revenues come in. To ensure adequate investment, some Oregon communities have adopted a minimum investment requirement of at least \$7 million for onsite developed recreation facilities and visitor-oriented accommodations for "destination resorts" (similar in concept to Washington's MPR).

Whether or not a local jurisdiction adopts specific investment targets, it should look for convincing assurance that the project is economically viable. A developer should present market plans and analyses demonstrating that a proposed resort can succeed and that benefits to the community will materialize. In addition, a developer should provide evidence of sufficient company experience and financial backing to manage a large-scale, long-term venture.

Local officials should also consider who will realize resort benefits and who will experience impacts. Although successful resorts can be expected to generate jobs, the jobs will not necessarily go to local residents. It is not unusual for a resort to bring in top managers from other areas. News of job opportunities in a resort setting may draw job seekers from afar who compete with

local job seekers. For instance, when the Semiahmoo Resort was developed near Blaine, WA, many jobs were filled by college students from Bellingham, according to one consultant who works with resort developers. Local officials may want to seek some agreement encouraging local job recruitment. Similarly, resort recreation facilities may or may not be available to local residents. Master planned resorts may provide new jobs and revenue, but they may also interfere with farm operations and other existing economic pursuits. There also may be an opportunity cost if some other type of development would offer greater benefits.

Local officials should determine that resort benefits (and revenues) to the county and county residents will outweigh any costs or impacts. If the county decides to permit MPRs and/or SSRT uses, the challenge will be to guide the development in a manner that limits undesirable effects on existing infrastructure, sensitive critical areas, resource uses, and rural uses and character. Careful planning and design are essential if an MPR is to attract visitors and harmonize with neighboring rural uses. The MPR should not overwhelm surrounding rural character or disrupt surrounding resource operations. Successful resorts must balance development of an attractive package of amenities with preservation of the features and natural settings that are a major key to attracting visitors. They must also be self-contained and able to meet the daily needs of its guests to minimize traffic and other impacts. MPR developers should also address possible unintended side effects common to large resort developments in remote rural areas. Potential issues include increased land and housing costs in the resort vicinity, increased wildfire hazard, fragmented wildlife habitat, and other impacts.

MPRs and SSRTs offer promising options for broadening economic and recreational opportunities in rural areas. When carefully planned and sited, some of these recreation-related uses can be developed without jeopardizing traditional rural character or economic pursuits. However, county officials should carefully consider whether these uses will further the county's goals for its rural areas. They also should be prepared to ask appropriate questions and

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THE BASICS Public Records Disclosure

The public records disclosure statutes are confusing at times, but some basic principles can be distilled:

1. Most of the records of a city or county are *public records*, including things written on paper or recorded electronically, photographs, audio recordings, survey documents, construction plans, etc. (See the definitions of "public record" and "writing" in RCW 42.17.020.)
2. Cities and counties are required to respond in writing *within five days* to any public records disclosure request. The response can (1) provide for inspection and/or copying of the records; (2) acknowledge receipt of the request and provide an estimate of the time needed to produce the records; or (3) deny the request. (See RCW 42.17.320.) The statute also lists the permissible reasons for taking more than five days to actually produce the documents.
3. Public agencies cannot charge for the time required to locate a public record, but can charge for the reasonable costs if a person requests *copies* of public records. The maximum per page cost for photocopies can only exceed fifteen cents if the agency has determined that its actual costs exceed fifteen cents per page. (See RCW 42.17.260(7), (8), and 42.17.300.)
4. Some public records are *prohibited* from being disclosed (most personal tax records, medical records, etc) and some are *exempted* from disclosure (certain active criminal investigation files, preliminary drafts of agency policies, etc). The primary exemptions are listed in RCW 42.17.310, but the disclosure prohibitions are located at numerous places throughout the state statutes.
5. If a portion of a public record is exempt from disclosure or prohibited from being disclosed, the portion that is exempt or prohibited should be *redacted* (whited-out or some other such technique) and the rest of the document disclosed.
6. Whenever a city or county agency refuses to disclose a record or a portion of a record, the agency must provide a statement of the specific exemption relied upon and a brief explanation of how the exemption applies to the record withheld. (See RCW 42.17.310(3).)

7. Local governments may not ask the reason for the disclosure request; however, when the request is for a list of persons, the agency should ask whether it is to be used for a commercial purpose. If such a list is to be used for a commercial purpose, disclosure should be denied. (See RCW 42.17.270.)
8. Public agencies must respond to requests for disclosure received by mail. (See RCW 42.17.270.) So far, neither the statutes nor caselaw have addressed the issue of public disclosure requests received by e-mail.
9. Local government jurisdictions are not required to *create* documents in order to respond to a request for certain information. Rather, they must produce existing documents for review and copying.
10. Public agencies are not required to compile information from various documents so that information is in a form that is more useful to a requestor.
11. There is statutory immunity from suit for local government officials or employees for any loss or damage based upon the release of a public record if the official or employee acted in good faith in attempting to comply with the state public record disclosure act. (See RCW 42.17.258.)

Electronic records and databases create a variety of unique disclosure problems. For example, many agencies now maintain various electronic mailing lists. There is a specific prohibition on disclosure of lists of individuals that are requested for commercial purposes. (See RCW 42.17.260(9).)

Recommendations:

1. Check to make sure that your city or county has adopted procedures for handling public records disclosure requests. County departments that operate with some degree of autonomy should make sure that their department's procedures are consistent with the overall county policies and procedures. The adopted procedures should include a statement of the charges for the copying of public records. (See RCW 42.17.300.) See item #3, above.
2. Public agencies are required to either maintain an index of their public records or publish a formal order explaining why maintaining such an index would be unduly burdensome.

(See RCW 42.17.260(3) and (4).) Has your agency complied?

3. Cities and counties are required to maintain a list of the exemptions (other than those listed in Chapter 42.17 RCW) relied upon by the agency to deny disclosure of public records maintained by the agency. (See RCW 42.17.260(2).) Has your agency complied?
4. All local government jurisdictions should periodically train employees who handle requests for disclosure of public records.
5. Whenever you are unsure about whether a record should be disclosed, review the issue with your supervisor or the attorney advising your jurisdiction. There are substantial financial penalties for not responding in a timely or complete manner to requests for public disclosure. (See RCW 42.17.340(4).)

Resources:

1. Advice from your city attorney or county prosecutor.
2. The Attorney General's *Open Records & Open Meetings Deskbook* (to be soon updated). This excellent resource is available online at: <http://www.wa.gov/ago/records/>.
3. MRSC has a publication titled *Public Records Disclosure*. This publication may be read or downloaded from the MRSC Web site at: <http://www.mrsc.org/Publications/textprd.aspx>. The appendices of the publication provide sample procedures and forms. Paper copies may be obtained by calling MRSC.
4. The MRSC Web site has a section devoted to public records disclosure issues that is periodically updated. The Web site includes sample disclosure policies, summaries of relevant recent court cases, and links to additional resources. The public disclosure laws apply equally to counties and cities and towns, so city or county policies are useful examples.
5. Call one of the MRSC legal consultants for advice. Keep in mind that our assistance is supplementary, and is not a substitute for the legal advice provided by your city attorney or prosecutor. ■

Jim Doherty
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Open Public Meetings Act

The basic requirement of the Open Public Meetings Act (chapter 42.30 RCW) is that, with a few exceptions, all meetings of “governing bodies” of “public agencies,” including “subagencies,” must be open to the public. So, the first issue to address when looking at the Act is whether it applies to a particular body.

Does the Act apply? Since cities and counties are “public agencies,” the Act applies to their governing bodies – city councils, boards of county commissioners, and county councils. The governing bodies of “subagencies,” such as planning commissions, civil service commissions, and boards of adjustment, are also subject to the Act. The governing bodies of these various subagencies are the boards and commissions themselves.

The Act also applies to a “committee” of a governing body “when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comment.” While it may be clear when a committee conducts hearings or takes testimony or public comment, it may not be so clear when a committee “acts on behalf” of a governing body. According to the attorney general’s office, a committee acts on behalf of a governing body “when it exercises actual or de facto decision-making authority for the governing body.” Contact your legal counsel and/or MRSC legal staff when you have questions about whether a committee is subject to the Act.

When is a governing body having a meeting? A meeting of a governing body takes place when it is taking action – transacting the business of the agency – which generally can occur only when a quorum of the body is meeting. A governing body is taking action, for example, when it is simply discussing a matter of city or county business; it does not actually have to be making decisions to be taking action under the Act.

There are two types of meetings: regular and special. A regular meeting is one held according to a schedule. A special meeting is any meeting other than a regular meeting. It does not matter that a meeting might be called something else – a workshop, study session, retreat – it is still either a regular or special meeting. The

main difference between these two types of meetings, for purposes of the Act, lies in the fact that a special meeting requires certain notice. The notice of regular meetings is provided by the adopted schedule.

What are the procedural requirements for meetings? Certain procedural requirements apply to both regular and special meetings:

- Meetings must be open to the public.
- No conditions (e.g., registering) may be imposed upon those attending, although disruptive people may be removed.
- Votes may *not* be by secret ballot.
- Governing bodies may meet in executive session, but only for a reason allowed by the Act and in accordance with certain procedures.

Note that the Act does not give the public any rights to speak at meetings, although governing bodies typically extend this privilege in some form to the public. And, it does not require meetings to be held in any particular locality; however, other statutes impose some locational restrictions upon the councils of most classes of cities and upon boards of county commissioners.

Certain procedural requirements apply only to regular meetings:

- The day, time, and place of regular meetings must be established by ordinance, resolution, order or rule, as may be required for the particular body.
- If the regular meeting date falls on a holiday, the meeting must be held on the next business day.

Certain procedural requirements apply only to special meetings:

- A special meeting may be called by the presiding officers or by a majority of the members of the body.
- Written notice must be provided by mail or in person at least 24 hours before the meeting to:
 - each member of the body
 - each newspaper of general circulation, and

- each local radio or television station that has on file with the governing body a request to be notified.
- Written notice may be waived by a member in writing or by telegram and is waived with respect to any member who is present at the meeting when it is convened.
- The notice must specify:
 - the time and place of the special meeting and
 - the business to be transacted.
- The governing body may take final action *only* concerning matters identified in the notice of the meeting.
- Notice is not required in the event of a true emergency.

Note that the Open Public Meetings Act does not require any notice to the public. However, other statutes require city and county governing bodies to establish procedures for notifying the public of the preliminary agendas of meetings.

The Act allows meetings to be adjourned and continued to a later date under certain circumstances and by following certain procedures. See RCW 42.30.090.

What are the requirements for holding an executive session? An executive session is that part of a regular or special meeting that is closed to the public. An executive session may be held only for one of the purposes specified in RCW 42.30.110(1). The allowed purposes for an executive session that have relevance for city or county governing bodies are:

- To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price;
- To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;

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- To receive and evaluate complaints or charges brought against a public officer or employee;
- To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee;
- To evaluate the qualifications of a candidate for appointment to elective office; and
- To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency. (RCW 42.30.110(1)(i) defines what is meant by “potential litigation.”)

If a governing body is not sure whether a proposed discussion may take place in executive session, consult with your legal counsel and/or MRSC legal staff. Executive sessions provide the most fertile ground for challenges under the Open Public Meetings Act.

For a governing body to properly meet in executive session, the presiding officer must publicly announce the executive session to those attending the meeting by stating:

- the purpose of the executive session (which must be a purpose authorized by the Act), and
- the time when the executive session will end.

What meetings are exempt from the Open Public Meetings Act? There are four situations where a governing body may meet and not be subject to the requirements of the Act, though only three have possible application to cities or counties:

- proceedings concerned with formally issuing an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business or occupation;
- that portion of a meeting of a quasi-judicial body which relates to a

quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; and

- collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in the negotiations or proceedings while in progress.

What are the penalties for violating the Act? The only avenue provided by the Open Public Meetings Act to enforce its provisions or to impose a penalty for a violation of its provisions is by an action in superior court. “Any person” may bring that action in superior court. If a superior court determines that a violation has occurred, liability may be imposed as follows:

- *Individual liability.* Members of a governing body who attend a meeting where action is taken in violation of the Act are subject to a \$100 civil penalty *if* they attend with knowledge that the meeting is in violation of the Act. Note that a knowing or intentional violation of the Act may provide a legal basis for recall of an elected member of a governing body, although recall is not a penalty under the Act.
- *City or county liability.* The city or county is liable for all costs, including reasonable attorney fees. A city or county *may* be awarded reasonable expenses and attorney fees for frivolous challenges.

Any person may bring an action by mandamus or injunction to stop violations of the Act or to prevent threatened violations.

In addition, any actions (e.g. adoption of ordinances or resolutions) taken at meetings found to be in violation of the Act are *null and void*.

What are some resources available to cities and counties to help understand the Open Public Meetings Act? The above summary of the Open Public Meetings Act deals only with “the basics.” It does not address all the details and nuances, nor does it discuss the many gray areas present in the Act. For more information about this important law, the following sources are available:

- Your city attorney or county prosecutor;
- The Attorney General's *Open Records & Open Meetings Deskbook*, available online at: <http://www.wa.gov/ago/records/> (to be soon updated);
- The MRSC publication, *The Open Public Meetings Act - How it Applies to Washington Cities, Towns and Counties*. Report No. 39, September 1997 (to be soon updated), available in paper or at <http://www.mrsc.org/Publications/textopma.aspx>;
- A Web page at the MRSC Web site on the Open Public Meetings Act, at <http://www.mrsc.org/Subjects/Legal/opma/pg1pkj.aspx>;
- MRSC legal consultants. (Keep in mind that our assistance is supplementary, and is not a substitute for the legal advice provided by your city attorney or county prosecutor.)

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Rights-of-Way Management

Public rights-of-way are increasingly being used for telecommunications infrastructure, which is exacerbating the problem of multiple underground users. Cities and counties need to be good stewards of this valuable resource.

The American Public Works Association (APWA) has a good collection of articles regarding rights-of-way management and compensation. They may be accessed at: <http://www.apwa.net/ResourceCenter/index.asp?Section=row&SectionName=Right+of+Way+Management>.

ASK MRSC

Summaries of recent inquiries answered by MRSC consultants

Americans with Disabilities Act • May an employer request a doctor's note from an employee to substantiate the need for sick leave?

Yes. This question implicates the Americans with Disabilities Act (ADA), because a rule requiring a doctor's note can be viewed as a "disability-related inquiry." According to the EEOC, a "disability-related inquiry" is a question that is likely to elicit information about a disability. *Enforcement Guidance: Disability-Related Inquiries and Medical Examinations of Employees under the Americans with Disabilities Act* (EEOC, 7/2000). Such an inquiry is permissible under the ADA only if it is "job-related and consistent with business necessity." According to the EEOC, it is permissible for an employer to request an employee to provide a doctor's note or other explanation to substantiate his/her use of sick leave:

An employer is entitled to know why an employee is requesting sick leave. An employer, therefore, may ask an employee to justify his/her use of sick leave by providing a doctor's note or other explanation, as long as it has a policy or practice of requiring all employees, with and without disabilities, to do so.

EEOC *Guidance*, at Question 15.

FLSA • May a jurisdiction pay an exempt employee, who is doing some of the work of a non-exempt employee on temporary leave, at the rate of pay (hourly rate basis) of the non-exempt position, without destroying the exempt status of the exempt employee?

A jurisdiction may not pay an exempt employee on an hourly basis for non-exempt duties, without destroying exempt status. An employee is either exempt or not exempt, but not both. So, if an employee meets the FLSA test for an exemption, he or she is exempt, even if some of their

duties are of a non-exempt nature. As long as their primary duties are those that qualify the employee as an exempt employee, there is no problem with the employee's continued status as an exempt employee if they perform some duties of a non-exempt nature. (See, e.g., 29 C.F.R. sec. 541.103) However, he or she still must be paid entirely on a salary basis to retain exempt status; there is no provision in the FLSA regulations that allows an exempt employee performing some non-exempt duties to be paid on an hourly basis for those non-exempt duties.

Ham Radio Antennas • Are ham radio antennas exempt from local zoning requirements?

There is no state law that preempts local regulation of ham radio towers, but there is a federal ruling regarding preemption of state and local regulations related to amateur radio facilities. In 1985, the Federal Communications Commission issued a ruling, known as PRB-1, regarding federal preemption of state and local regulations pertaining to amateur radio facilities. This ruling, available at <http://wireless.fcc.gov/services/amateur/prb/index.html>, established a limited federal preemption policy. The ruling does not specify any particular height limitation below which a local government may not regulate. It states that "local regulations which involve placement, screening, or height of antennas based on health, safety, or aesthetic considerations must be crafted to accommodate reasonably amateur communications, and to represent the minimum practicable regulation to accomplish the local authority's legitimate purpose." Section 25, PRB-1, Memorandum Opinion and Order (FCC 85-506), Federal Preemption of State and Local Regulations Pertaining to Amateur Radio Facilities.

This ruling is still in effect and has been affirmed by additional PRB-1 interpretations by the FCC. Based on a review of local ordinances, it appears that most cities exempt ham radio antennas from local wireless communications facilities regulations.

Library Services • May a city charge for library services?

A city may not charge residents for basic library services. Libraries may charge user fees for those who do not live in the political jurisdiction that supports the library through taxation. Also, a city may charge for corollary services, such as the use of copy machines, phones, and fax machines.

Low-Impact Development • What is low-impact development?

Low-impact development is an integrated, environmentally-friendly approach to land development and stormwater management designed to reduce impacts on watershed hydrology. Low-impact development emphasizes alternative land development techniques that conserve natural vegetation and soils. These techniques include reducing impervious surfaces, using natural landscape features for stormwater treatment, clustering development, and providing green spaces. Low impact development involves limiting impervious surfaces associated with roads, driveways, and buildings, while maximizing the use of forested and landscaped areas for natural drainage. An Olympia "Impervious Surface Reduction Study" found that minimizing vehicle-oriented pavement provided the greatest opportunity for reducing impervious cover. Some Washington communities, including Lacey and Tumwater, have adopted zero effect drainage discharge provisions that aim to retain 60-65 percent of the native forested conditions on development sites. Other terms sometimes used synonymously with low-impact development include conservation design, green development, and watershed-based planning and zoning.

Military Leave • Must a city or county elected official's position be kept open while the official is on active military duty?

Yes, the elected official must be granted a leave of absence. RCW 73.16.041 provides:

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When any elective officer of this state or any political subdivision thereof, including any judicial officer, shall enter upon active service or training as provided in RCW 73.16.031, 73.16.033 and 73.16.035, the proper officer, board or other agency, which would ordinarily be authorized to grant leave of absence or fill a vacancy created by the death or resignation of the elective official so ordered to such service, shall grant an extended leave of absence to cover the period of such active service or training and may appoint a temporary successor to the position so vacated. No leave of absence provided for herein shall operate to extend the term for which the occupant of any elective position shall have been elected.

So, a city or county is required to keep the position open by granting an extended leave of absence, but the position may be filled with a "temporary successor." The leave of absence would not extend beyond the elected official's term.

No Protest Agreements • Are "no protest agreements" still valid?

No protest agreements are not valid in connection with municipal annexations because of the *Grant County Fire Protection District No. 5 v. Moses Lake* decision invalidating the petition method of annexation. However, they are still valid in connection with local improvement districts. RCW 35.43.182 specifically authorizes no protest agreements; the *Grant County* case does not affect LIDs. ▀

How to "Ask MRSC." Assistance from MRSC may be obtained by **Phone** (206) 625-1300 or 1-800-933-6772 for long-distance calls; **Letter** 2601 4th Avenue, Suite 800, Seattle, WA, 98121-1280; **Fax** (206) 625-1220; or **E-mail** mrsc@mrsc.org. Telephone inquiry service is available from 8:00 a.m. to 5:00 p.m. If a consultant is not immediately available, you can record a detailed request on voice mail 24-hours a day, and a staff member will call back as soon as possible.



2003 State Legal Holidays

January 1	New Year's Day
January 20	Martin Luther King Day
February 17	President's Day
May 26	Memorial Day
July 4	Independence Day
September 1	Labor Day
November 11	Veteran's Day*
November 27	Thanksgiving Day
November 28	Day after Thanksgiving
December 25	Christmas Day
Optional	Floating Holiday

Cities, towns, and counties do not have to follow this holiday schedule.

The MRSC office will be closed on these days.

*RCW 1.16.050 provides that when a legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday.

Statutory Reference: RCW 1.16.050. See also, RCW 2.28.100 and RCW 2.28.110 (Court business on legal holidays) and RCW 28A.150.050 (School holidays)

HEADS UP

Emerging information for local government

Economic Gardening

Economic gardening is a term used to describe a strategy to nurture and cultivate entrepreneurs already resident in a community. Programs are designed to protect and support local companies and entrepreneurs in an effort to create a more competitive environment, thus creating additional jobs for the community. The concept is that by growing existing businesses, rather than searching for businesses from outside to spur the local economy, the community can become more prosperous.

There are a number of communities nationwide and internationally that are actively developing and implementing economic gardening programs. These organizations (cities, counties, economic development corporations, states, universities, and others) believe that focusing resources on businesses in the creation or expansion phases is an effective strategy to compete in today's economy.

For more information see: *Economic Gardening Center for Economic Development, California State University Chico* at <http://www.csuchico.edu/cedp/products/services/biap/econ.gardening.html>

Amnesty Program

In case you missed it, during the month of October, more than 100 courts in Washington State collected \$1,850,000 in revenue and closed more than 10,000 cases through a statewide collection amnesty program designed to help drivers with outstanding traffic tickets regain their driving licenses. The innovative program was coordinated by the Skagit County District Court. Courts and their collection agencies agreed to waive interest and a significant portion of collection costs on tickets currently in collection. The program allowed citizens an opportunity to pay fines at a reduced rate. In instances where licenses were revoked, many courts assisted citizens in the process to regain their license through established relicensing programs.

This program was an effort to reduce the number of outstanding fines in collection and the more than 700,000 holds on drivers' licenses throughout Washington State. According to a court workgroup devoted to "warrant resolution," people convicted of driving with a suspended license are estimated to occupy nearly 5 percent of all jail beds at any given time. *Washington State Court Press Releases, 9-27-02 and 11-12-02; <http://www.courts.wa.gov/press/>*

More Bicycles on the Road

In the year 2000, world bicycle production climbed to 101 million, more than double the 41 million cars produced. Bike sales in the United States rose from 15 million in 1991 to 21 million in 2000. Sales of bikes are soaring because they provide affordable mobility, increase physical fitness, alleviate traffic congestion, and do not pollute the air or emit climate-disrupting carbon dioxide.

In many cities in the United States, bikes provide mobility that cars cannot match. More than four-fifths of all urban police departments now have some of their force on bicycles. Officers on bikes can usually reach the scene of a crime before those in squad cars, typically making 50 percent more arrests per day. For fiscally-sensitive city managers, the low cost of operating a bicycle and the high productivity of an officer using one is a winning combination. *World Turning to Bicycle for Mobility and Exercise, Earth Policy Institute, <http://www.earth-policy.org/Updates/Update13.htm>*

Retired Baby Boomers Impact on Recreation Services

Parks and recreation agencies should consider planning for the recreation needs of baby boomers (the 76 million Americans born between 1946 and 1964) when they enter retirement. Boomers will remain dedicated to health, wellness, and exercise, creating a demand for high-end fitness centers catering to adults. Boomers will likely continue to pursue education into retirement. Parks and recreation departments that provide non-credit classes will do well.

When programming for this age group, consider the baby boomer generation's need for self-fulfillment, healthy pleasure, nostalgic youthfulness, and individual escapes. Be prepared to facilitate transitions away from games and activities that boomers associate with senior citizens. (This includes moving away from the practice of calling buildings "senior centers.") Night and weekend workshops would be preferable to six-to eight-week classes.

Boomers may also change how volunteers are used in future programs. They will be less likely to fill full-time, unpaid volunteer positions, and are more likely to become part-time, paid staff for seasonal programs. *Recreating Retirement: How Will Baby Boomers Reshape Leisure in their 60's? by Jeffrey Ziegler, CPRP, Parks & Recreation, October 2002.*

Text Messaging and Emergency Communications

In the late 90's, sending text messages by mobile phone was, for most people, a novelty; it now may be used as a form of emergency communication for speech- or hearing-impaired persons. In England, the West Midlands police department launched England's first phone text-messaging service to help hearing- and speech-impaired citizens contact the police in an emergency. A survey of the Birmingham Institute of the Deaf showed that 98 percent of hearing-impaired persons use Short Message Service (SMS)* text messaging and 85 percent would like to use the service to contact police. A copy of the West Midlands brochure on registering for text messaging emergency services may be downloaded from http://www.west-midlands.police.uk/general/text_messaging.htm. *Government Technology, September 2002.*

*The Short Message Service (SMS) is the ability to send and receive text messages to and from mobile telephones. The text can comprise of words or numbers or an alphanumeric combination. SMS was created when it was incorporated into the Global System for Mobiles (GSM) digital mobile phone standard.■

WEB TALK

News and information about www.mrsc.org

What's New? - *Share Your Ideas*

On the MRSC home page, you'll note a new feature that we call, "Share Your Ideas." We'd like to hear about anything you've done to improve service delivery or save money in your community. We then may share your ideas with other local governments in Washington. These ideas need not be major initiatives; it's often the small and simple ideas that have the greatest impact. Let us know about anything you're doing that is appreciated by your residents or that has improved the internal workings of your city, town, or county offices. We'll post the best suggestions on the MRSC Web site, so that others may benefit from your ideas, and you can benefit from theirs.

How Do I? - *My MRSC Links*

Within the new MRSC Web site interface, you'll note the capability to set up "My MRSC Links," which enables you to set up shortcuts to your favorite pages on the MRSC site. These shortcuts will appear each time you return to the MRSC home page. To add pages to your list, simply click on "Add page to my MRSC Links," located at the top of many of the pages on the site.

Web Site Search

After searching the MRSC Web site by phrase or keyword, you'll note that the document results page includes an option to limit the results to specific areas of the site,

such as agreements and contracts, past MRSC inquiries, ordinances, RFPs, etc.

What's Coming?

Over the coming months, we will be adding enhanced database functionality to our Web site. This means that you will be able to target information more precisely. For example, you will be able to search for ordinances, comprehensive plans, and other public documents by specifying a population range and form of government.▶

Master Planned continued from page 3

negotiate conditions to ensure that such developments will be successful and will benefit the county.▶

Sue Enger
Planning Consultant
Municipal Research & Services Center

Case of Interest

Full Names of Police Officers Must be Disclosed *King County v. Sheehan*

The state court of appeals ruled on November 12 in *King County v. Sheehan* that a list of the full names - not merely the last names - of police officers must be disclosed upon request. The court noted that police officers disclose their names on a daily basis, on the uniforms they wear, on the tickets and citations they issue, to suspects and witnesses, and when they testify in court. The county failed to explain to the court why disclosure of a general list of names pursuant to the public records request would somehow result in more danger and stress to police officers and their families than all of these individual daily disclosures. The court rejected the county's claim that disclosure of the names would invade the officers' privacy.

The court also concluded "that a penalty of at least \$5 per day is now mandatory where an agency erroneously withholds a public record, whether or not the agency acted in good faith reliance upon a statutory exemption that is not in fact applicable."▶

Announcing New Guidebook from MRSC

MRSC is releasing a new guidebook (not yet titled) that discusses GMA requirements, hearing board direction, and other considerations that are important to local officials in making decisions about these two types of recreational development - master planned resorts and small-scale recreational or tourist uses. Although this publication focuses on master planned developments, it also contains a short discussion of small-scale recreational and tourist uses. The guidebook will provide further information about how local jurisdictions can better anticipate and evaluate the potential benefits and impacts of these developments. This publication suggests criteria to help local jurisdictions decide whether it makes sense for a county to allow for such exceptions within its rural areas. It provides criteria for assessing whether a specific proposed resort (or small-scale recreational use) is a net benefit to the community, and whether the location is suitable. Finally, this publication provides examples of policies and regulations that might be used to guide resort and recreational development consistent with the GMA. It includes examples of regulations to address other potential issues common to resort development, such as increased housing costs, wildfire hazard, or fragmented wildlife habitat. Look for it the first of 2003.

LIBRARY LISTINGS

New resource materials now available

New Acquisitions

This list contains new publications, ordinances, and other materials recently received by the MRSC library. We also prepare a more comprehensive list of new acquisitions each month which is posted on our Web site at www.mrsc.org/library/newacq.htm. If you would like to borrow one or more of these publications, please contact Amy Harper in our library at (206) 625-1300.

▼Economic Development

Downtowns: Revitalizing the Centers of Small Urban Communities, Michael A. Burayidi, editor, 2001

▼Environment

Wetland Indicators: A Guide to Wetland Identification, Delineation, Classification, and Mapping, by Ralph W. Tiner, 1999

▼Finance

The Five Strategies for Fundraising Success: A Mission-Based Guide to Achieving your Goals, by Mal Warwick, 2000

Tax Increment Financing and Economic Development: Uses, Structures, and Impacts, edited by Craig L. Johnson and Joyce Y. Man, 2001

▼Metropolitan and Regional Government

American Metropolitics: The New Suburban Reality, by Myron Orfield, 2002

▼Parks

Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, 2002

▼Personnel

Personnel Policies, City of Anacortes, 2002

Human Resources: Understanding the Legal Issues of Managing Public Employees, produced in association with Washington State Association of Counties, Washington Association of County Officials, Washington Counties Risk Pool, County Road Administration Board, Washington State University, 2002

▼Planning and Land Use

Costs of Sprawl—2000, by Robert W. Burchell, 2001

Street Vending: A Survey of Ideas and Lessons for Planners, by Jennifer Ball, 2002

Protecting Free Speech and Expression: The First Amendment and Land Use Law, edited by Daniel R. Mandelker and Rebecca L. Rubin, 2001

▼Property Management

Fleet Management, by Deborah Berlyne, 2002

▼Public Safety

Reducing False Alarms: A Systematic Approach, by Richard D. Baranzini, 2002

▼Telecommunications

Telecommunications: The Governmental Role in Managing the Connected Community, by Paul Valle-Ristra, 2002

Resource Sharing

The *Information Partnership Program* seeks and collects current materials from Washington local governments. The materials received provide answers and support to the challenges faced by cities and counties every day. You may order the materials below by contacting the MRSC library at (206) 625-1300 or 1-800-933-6772 or e-mail us at mrsc@mrsc.org. Due to space limitations, the list below may not be complete. A comprehensive list of IP materials received may be requested from the library or viewed on our Web site at www.mrsc.org/library/rshare.htm.

▼Credit Card Use

Everett Policy/procedure No. 400-97-02—Charge Cards, 5 p., 8/12/97; Grand Coulee Resolution No. 00-04 establishing a system for the issuance, use and control of credit cards for official purchases, 3 p., 4/4/00 (F 1.1150)

▼Personnel Policies and Procedures

Bellevue Human resources policies and procedures manual, 118 p., 9/22/98; Camas Employee handbook, 28 p., nd; Colville Personnel policies, 36 p., 8/28/02; Coupeville Personnel policies, 35 p., 2001; Grand Coulee Personnel policies, 48 p., 5/15/01; Winthrop Personnel policies, 39 p., 2001 (PE 6.0500); Everett City policies, 100 p., 1995-2000 (G 4.1100)

▼Housing Plans

Colville Housing element of comprehensive plan, 6 p., (HO 7.1000)

▼Strategic Plans

Vancouver Strategic plan, 10 p., 2000 (G 9.2150) [www.ci.vancouver.wa.us/strategic-plan-final.htm]

▼Youth Courts

Everett Everett High School and Everett Alternatives High School student traffic court program description and guidelines, 19 p., nd (PS 7.4285)

*Best Wishes for the New Year from
Everyone at MRSC*



Front Row (left to right): Byron Katsuyama, Amanda Kemp, Erica Zwick, Donita Mowers, Amy Harper, Nicole Stiver, Marcie Klobucher, Sue Enger, Lynne De Merritt, Pam James, Kim Gallik, Kathy Devlin, Connie Elliot, Bob Meinig

Back Row (left to right): Rich Yukubousky, Carol Tobin, Fred Ward, Pat Mason, Jim Doherty, John Carpita, Paul Sullivan, Ron Bartels, Robb Ashton, Don Edlin

Absent: Judy Cox, Holly Martin, Sandra Vong



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