



AGENDA

STAFF PRESENTATIONS

PUBLIC COMMENT

SHORELINE CITY COUNCIL VIRTUAL/ELECTRONIC REGULAR MEETING

Monday, September 27, 2021
7:00 p.m.

Held Remotely on Zoom
<https://zoom.us/j/95015006341>

In an effort to curtail the spread of the COVID-19 virus, the City Council meeting will take place online using the Zoom platform and the public will not be allowed to attend in-person. You may watch a live feed of the meeting online; join the meeting via Zoom Webinar; or listen to the meeting over the telephone.

The City Council is providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral public comment. To provide oral public comment you must sign-up by 6:30 p.m. the night of the meeting. Please see the information listed below to access all of these options:



[Click here to watch live streaming video of the Meeting on shorelinewa.gov](https://www.shorelinewa.gov)



Attend the Meeting via Zoom Webinar: <https://zoom.us/j/95015006341>



Call into the Live Meeting: 253-215-8782 | Webinar ID: 950 1500 6341



[Click Here to Sign-Up to Provide Oral Testimony](#)

Pre-registration is required by 6:30 p.m. the night of the meeting.



[Click Here to Submit Written Public Comment](#)

Written comments will be presented to Council and posted to the website if received by 4:00 p.m. the night of the meeting; otherwise they will be sent and posted the next day.

	<u>Page</u>	<u>Estimated Time</u>
1. CALL TO ORDER		7:00
2. ROLL CALL		
3. APPROVAL OF THE AGENDA		
4. REPORT OF THE CITY MANAGER		
5. COUNCIL REPORTS		
6. PUBLIC COMMENT		

Members of the public may address the City Council on agenda items or any other topic for three minutes or less, depending on the number of people wishing to speak. The total public comment period will be no more than 30 minutes. If more than 10 people are signed up to speak, each speaker will be allocated 2 minutes. Please be advised that each speaker's testimony is being recorded. Speakers are asked to sign up by 6:30 p.m. the night of the meeting via the [Remote Public Comment Sign-in form](#). Individuals wishing to speak to agenda items will be called to speak first, generally in the order in which they have signed up.

7. CONSENT CALENDAR

- (a) Approval of Minutes of Regular Meeting of August 16, 2021 7a-1
- (b) Approval of Expenses and Payroll as of September 10, 2021 in the Amount of \$2,650,758.07 7b-1

8. ACTION ITEMS

- (a) Public Hearing and Discussion of the 2022 Community Development Block Grant Funding Plan 8a-1 7:20
All interested persons are encouraged to listen and/or attend the remote online public hearing and to provide oral and/or written comments. Written comments should be submitted to Bethany Wolbrecht-Dunn, Community Services Manager, at bwolbrec@shorelinewa.gov by no later than 4:00 p.m. local time on the date of the hearing. Any person wishing to provide oral testimony at the hearing should register via the Remote Public Comment Sign-in form at least thirty (30) minutes before the start of the meeting. A request to sign-up can also be made directly to the City Clerk at (206) 801-2230.

9. STUDY ITEMS

- (a) Discussion of 2021 Legislative Impacts on Policing 9a-1 7:40

10. EXECUTIVE SESSION: Litigation – RCW 42.30.110(1)(i) 8:25

The Council may hold Executive Sessions from which the public may be excluded for those purposes set forth in RCW 42.30.110 and RCW 42.30.140. Before convening an Executive Session the presiding officer shall announce the purpose of the Session and the anticipated time when the Session will be concluded. Should the Session require more time a public announcement shall be made that the Session is being extended.

11. ADJOURNMENT 8:45

Any person requiring a disability accommodation should contact the City Clerk's Office at 206-801-2230 in advance for more information. For TTY service, call 206-546-0457. For up-to-date information on future agendas, call 206-801-2230 or visit the City's website at shorelinewa.gov/councilmeetings. Council meetings are shown on the City's website at the above link and on Comcast Cable Services Channel 21 and Ziplly Fiber Services Channel 37 on Tuesdays at 12 noon and 8 p.m., and Wednesday through Sunday at 6 a.m., 12 noon and 8 p.m.

CITY OF SHORELINE
SHORELINE CITY COUNCIL
SUMMARY MINUTES OF REGULAR MEETING

Monday, August 16, 2021
7:00 p.m.

Held Remotely via Zoom

PRESENT: Mayor Hall, Deputy Mayor Scully, Councilmembers McConnell, McGlashan, Chang, Robertson, and Roberts

ABSENT: None.

1. CALL TO ORDER

At 7:00 p.m., the meeting was called to order by Mayor Hall who presided.

2. ROLL CALL

Upon roll call by the Deputy City Clerk, all Councilmembers were present.

3. APPROVAL OF THE AGENDA

The agenda was approved by unanimous consent.

4. REPORT OF CITY MANAGER

Debbie Tarry, City Manager, provided an update on COVID-19 and reported on various City meetings, projects, and events.

5. COUNCIL REPORTS

There were no Council Reports.

6. PUBLIC COMMENT

Councilmember Roberts moved to suspend Council Rules to allow for enough time for all people who are signed up to speak for two minutes. The motion was seconded by Councilmember McConnell and approved by unanimous consent.

The following members of the public spoke in support of a ban of fossil fuels in new construction:

Vicki Grayland, Kenmore resident, praised Shoreline as a leader in climate action.

Lee Janzen, Shoreline resident, said she appreciates the work Shoreline does for conservation efforts and spoke to the positive impact banning fossil fuels would have.

Melinda McBride, Shoreline resident, said multifamily housing will be more valuable if they are built green for future needs.

France Giddings, Shoreline resident, said it is past time to phase out fossil fuels, and shared the reasons why. She urged the Council to prioritize keeping the City clean and safe.

Meesun Cho, Shoreline resident, recognized climate impacts and said it is important to support renewable energy.

Lee Keim, Shoreline resident, said it is critical that cities adopt changes necessary to stop escalating fossil fuel emissions and encouraged action in Shoreline.

Sally Yamasaki, Lake Forest Park resident, emphasized the impacts of climate change, praised the positive active role in climate change that Shoreline has played, and encouraged phasing out fossil fuels in new construction.

Deepa Sivarajan, Seattle resident and Washington Policy Manager for Climate Solutions, said Climate Solutions strongly supports a policy to require that new buildings be all electric, and shared reasons why.

Nina Olivier, Seattle resident and Built Green Certification Program Coordinator and Coordinator for the Northwest Ecobuilding Guild, supported the move to prohibit fossil fuels in new construction and shared other regional efforts and actions and the associated impacts.

Linda Khandro, Shoreline resident, shared scientific information on the benefits of methane and solar energy based on her expertise as an Earth and Space Science instructor.

Asha Viswanathan, Shoreline resident and high school student, spoke to the impacts of pollution on the community. She said the climate crisis will only get worse without action, and emphasized the significant impact on BIPOC and houseless communities. She supports pursuing electric power.

The following members of the public spoke in opposition of a ban of fossil fuels in new construction:

James O'Neill, Shoreline resident, said renewable natural gas sources are being developed and would be a viable use for home heating and utility resource, but replacing fossil fuels as a resource should not be done until a solid plan is in place.

Ginny Scantlebury, Shoreline resident, said a ban on natural gas would hit residents in their wallets and listed examples of the impacts of the costs associated with moving away from natural gas.

Ray Chew, Shoreline resident, said a ban on fossil fuels would not help unless alternative solutions were available. He suggested the use of solar panels.

Julien Loh, Seattle resident and Puget Sound Energy (PSE) Local Government Affairs Manager, shared information on PSE's efforts in climate legislation and urged Council to involve stakeholders in the decision making on a ban.

Leanne Guier, Pacific resident, spoke representing the Plumbers and Pipefitters Union Local 42. She said the current infrastructure needs to be maintained and operated to act as a conveyance for renewables as they are developed. She said freon is more damaging to the atmosphere than natural gas.

Additional comment was offered by the following members of the public:

Martha Diesner, Shoreline resident, spoke regarding the proposed 198th Street Affordable Housing Project. She asked that the old growth trees on the property be preserved and spoke to the benefits of mature trees.

Jackie Kurle, Shoreline resident, spoke regarding the Enhanced Shelter. She encouraged continued operational monitoring and reporting relative to the facility.

7. CONSENT CALENDAR

Upon motion by Deputy Mayor Scully and seconded by Councilmember Robertson and unanimously carried, 7-0, the following Consent Calendar items were approved:

- (a) Adoption of Ordinance No. 939 - Approving Renewal of Zayo Group LLC Telecommunications Franchise Renewal**
- (b) Adoption of Ordinance No. 934 - Amending Development Code Chapter 20.30 to Add Procedures for Subdivision Vacations**
- (c) Adoption of Resolution No. 481 – Establishing a Fee for the Processing of Applications for the Vacation of Previously Recorded Subdivisions**
- (d) Adoption of Resolution No. 482 - Amending the Employee Handbook**
- (e) Authorize the City Manager to Execute a 99-Year Ground Lease with Catholic Housing Services for City-Owned Property Located at 19806 Aurora Avenue N to Provide Affordable Housing with Supportive Services**
- (f) Adoption of Resolution No. 479 – Surplus Vehicles and Equipment for the Public Works Wastewater Utility Division in Accordance with Shoreline Municipal Code 3.50.030 (B) and 3.50.060**

(g) Authorize the City Manager to Increase Contract Amendment Authority for Architectural and Engineering Design Services Contract with Rolluda Architects, Inc. in the Amount Not to Exceed \$75,000 for the Shoreline City Hall, Highland Plaza, Richmond Highlands Recreation Center, and the Shoreline Swimming Pool

(h) Authorize the City Manager to Execute a Professional Services Contract with Blueline, Inc. in the Amount of \$237,250 for Design of the N/NE155th St Overlay Project

8. STUDY ITEMS

(a) Discussion of Prohibition of Fossil Fuels in New Construction

Autumn Salamack, Environmental Services Coordinator; and Ray Allshouse, Building Official, delivered the staff presentation. Ms. Salamack said fossil fuels are key sources of greenhouse gas emissions that contribute to climate change. She reviewed State and City commitments to reduce emissions and said the City's 2019 greenhouse gas emissions inventory showed a 1.3 percent increase compared to 2009, which is not on track to meet goals. She emphasized that emissions need to be significantly reduced to meet targets for 2030 and 2050 and working to reduce emissions is critical to preventing the most catastrophic impacts of climate change. She displayed graphs of the sources of community emissions, and said electricity is the preferred energy source for reducing emissions and protecting public health. She explained that some communities are banning some uses of fossil fuels, shared reasons for acting at a local level, and reviewed efforts the City is taking to meet its carbon goals.

Mr. Allshouse gave an overview of Seattle's work toward prohibiting fossil fuels. He set context for the discussion, stating that the proposed building code amendments only apply to multifamily and nonresidential buildings. He shared highlights of the Regional Code Collaboration group's recommended 2018 energy code amendments and explained distinctions in the amendments. He added that State law controls the building code for single family residential, townhomes, and duplexes. Mr. Allshouse described the amendment highlights focusing specifically on decarbonization, emphasizing that adoption of these amendments will eventually be required, but there is opportunity to do it sooner than is being done at the State level.

Mr. Allshouse spoke to the efficiency of heat pump space heating and water heating and gave examples of associated costs and shared ways to achieve targets. He said most new large apartment buildings do not use much natural gas, but the amendments would eliminate the option of using gas for any amenity. He described the benefits of onsite solar use and described the solar-ready requirements in two codes. Mr. Allshouse reviewed other amendment highlights; including those focused on building performance factors, sustainable building envelope limits, allowable vertical glazing, additional energy efficiency credit requirements, lighting power allowance, change of occupancy class, and metering for existing buildings.

The Councilmembers expressed unanimous support for moving forward toward the prohibition of fossil fuels in new construction.

Councilmember Chang asked what type of feedback and direction staff is looking for. Mr. Allshouse said a formal recommendation will be drafted after Council provides feedback on what provisions they are interested in adopting. Councilmember Chang said she would like to hear the staff recommendation, but it is her understanding that you need the whole package to increase the energy efficiency of the buildings. She asked for clarification on aspects of Chapter 5. Mr. Allshouse said he will make sure the applicability of requirements are identified and responded to. Councilmember Chang asked Mr. Allshouse to continue to follow up with Seattle to see if the Code is working and if the systems are working. Mr. Allshouse said he will monitor the process in Seattle to provide guidance and inform Council's decision. He said he would find out what aspects King County did not adopt and try to find out how those decisions were made. Councilmember Chang asked if there are ever times when solar does not make sense. Mr. Allshouse said yes, this can be a consideration that should be addressed.

Councilmember Robertson said she looks forward to hearing the staff comparison and recommendation. She likes the idea of consistency in the region and looks forward to seeing what King County does.

Deputy Mayor Scully expressed gratitude for the thoughtful public comment. He views the prohibitions on heating gas and cooking gas differently and wondered if natural gas used for cooking could be carved out, because it is philosophically different. He also asked that staff reach out to the development community for their feedback on how the amendments would affect their work process.

Councilmember Roberts asked staff to report back on what percentage of multifamily buildings are solely using electricity and asked how long the stakeholder process would last, to which Mr. Allshouse said a few months. Councilmember Roberts said this work makes sense, because buildings are being designed for a long lifespan, and retrofitting is difficult and expensive.

Councilmember Roberts suggested adding changes to allow for more local control over the energy code, encouraging the State to provide real just transition of workers who are in this industry and will be affected by this prohibition, and to consider policies that include solar water heating and water heat recovery systems to the Council's legislative priority list for 2022.

Councilmember McGlashan asked what cities in Washington have done something like this. Mr. Allshouse said he will research and report back. Ms. Salamack said unincorporated King County and Seattle have been the leaders in the conversation, but there are a lot of conversations taking place within the King County Cities Climate Collaboration (K4C) and in Snohomish and Peirce Counties. Councilmember McGlashan confirmed that the use of natural gas for cooking would be allowed. He then asked staff to provide information on whether any of the existing large apartment buildings in Shoreline use gas for cooking or heating. He recognized that the big culprit in natural gas use are the new large residential homes being built. He noted that Council is considering putting regulations on something (apartments) that is not the biggest contributor to the problem. Mayor Hall agreed with this observation but noted that current State policies do not yet allow cities to direct use in townhouses or single-family homes.

Councilmember McConnell said she values the staff research and recommendation in such technical decisions. She said continued changes need to be made in the climate change battle. She expressed a preference to not significantly impair development with these amendments.

Mayor Hall said Shoreline has been an active partner with K4C for almost a decade and it has been recognized that the City cannot meet emission reduction goals without shifting away from fossil fuels. He said this is a good step. He recognized that the building community likes consistency, so he wishes this were being done more aggressively at the State level. He appreciates staff's commitment to additional research and action this year because time is of the essence.

Mayor Hall summarized that there is consensus to bring the whole package forward, with the potential to make changes.

(b) Discussion of Ordinance No. 942 - Amending Shoreline Municipal Code Chapter 15.20 Landmark Preservation

Julie Ainsworth-Taylor, Assistant City Attorney, delivered the staff presentation. Ms. Ainsworth-Taylor said the recent quasi-judicial appeal of a landmark preservation decision spurred a reevaluation of this chapter of the Shoreline Municipal Code (SMC), which had not been amended since 2003. She said this chapter establishes the purpose of the chapter and the criteria for the special member. She said the SMC needs to be amended to reflect the current King County regulations and to automatically incorporate future amendments. In addition to this change, staff is recommending transferring the appeal authority to the City Hearing Examiner, changing special member term and appointment criteria to align with that of the Planning Commission, and identifying the City's four designated landmarks. She said Ordinance No. 942 is scheduled for action on September 13, 2021.

There was general reflection on the recent quasi-judicial appeal hearing that Council presided over of the Naval Hospital Chapel. Councilmember Chang asked if there is any reason to want to keep control for Council on these decisions. Ms. Ainsworth-Taylor said this is a policy question, but Hearing Examiners are independent bodies with experience in deciding appeals within parameters, standards, and guidelines they use to make decisions. Deputy Mayor Scully said based on his professional knowledge, the Council did a great job handling the recent appeal, however he supports moving it to the Hearing Examiner because he does not think that type of issue is what Council should be spending time on. Councilmember McConnell agreed that the Council did a good job on the recent appeal hearing, but expressed concern that it felt borderline political, and therefore feels that keeping it with an independent Hearing Examiner would be a good move. Mayor Hall supports the Ordinance as proposed and concurred that shifting landmarking decisions makes sense because it is consistent with the general move to using the Hearing Examiner in quasi-judicial matters and this is a good thing.

Addressing the issue encountered at the recent appeal, Councilmember Roberts recalled the Code specifically talks about buildings, but not about features beyond the building, and he asked how that piece could be addressed. Ms. Ainsworth-Taylor said the King County designation criteria language would have to be modified to include any additional features that the Council would

like to be considered for landmark status. Councilmember Roberts asked staff to draft language to recognize this, if not in this consideration, as a future effort. Councilmember McGlashan asked for clarification on this request, if there could be some way to delineate the amount of property around a building being landmarked. Ms. Ainsworth-Taylor said based on her understanding, the Landmarks Commission focuses on structures, not necessarily the land surrounding it. Deputy Mayor Scully and Councilmember Robertson echoed Councilmember Roberts' interest in influencing the discussion about considering property around structures. Councilmember McConnell said she does not want to hold up action to address this concern. Mayor Hall said he is ok reviewing the standards for surrounding areas in the future.

The Council agreed that Ordinance No. 942 would return as a Consent Item and that they would like to review changes regarding language to include property surrounding landmarked buildings in the future.

9. ADJOURNMENT

At 9:14 p.m., Mayor Hall declared the meeting adjourned.

Jessica Simulcik Smith, City Clerk

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Approval of Expenses and Payroll as of September 10, 2021
DEPARTMENT: Administrative Services
PRESENTED BY: Sara S. Lane, Administrative Services Director

EXECUTIVE / COUNCIL SUMMARY

It is necessary for the Council to formally approve expenses at the City Council meetings. The following claims/expenses have been reviewed pursuant to Chapter 42.24 RCW (Revised Code of Washington) "Payment of claims for expenses, material, purchases-advancements."

RECOMMENDATION

Motion: I move to approve Payroll and Claims in the amount of \$2,650,758.07 specified in the following detail:

***Payroll and Benefits:**

Payroll Period	Payment Date	EFT Numbers (EF)	Payroll Checks (PR)	Benefit Checks (AP)	Amount Paid
8/8/21-8/21/21	8/27/2021	98523-98741	17570-17601	83345-83351	\$816,483.65
8/8/21-8/21/21	8/27/2021			WT1206-WT1207	\$103,980.11
					<u>\$920,463.76</u>

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
9/1/2021	83293	83310	\$427,489.68
9/1/2021	83311	83326	\$181,283.48
9/1/2021	83327	83333	\$15,201.73
9/1/2021	83334	83344	\$43,042.40
9/9/2021	83352	83376	\$57,577.42
9/9/2021	83377	83382	\$6,601.90
9/9/2021	83383	83394	\$999,097.70
			<u>\$1,730,294.31</u>

Approved By: City Manager **DT**

City Attorney **MK**

***Accounts Payable Claims:**

Expense Register Dated	Check Number (Begin)	Check Number (End)	Amount Paid
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CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Public Hearing and Discussion of the Community Development Block Grant Funding and Contingency Plan for 2022
DEPARTMENT:	Recreation, Cultural and Community
PRESENTED BY:	Bethany Wolbrecht-Dunn, Community Services Manager
ACTION:	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input checked="" type="checkbox"/> Discussion <input checked="" type="checkbox"/> Public Hearing

PROBLEM/ISSUE STATEMENT:

The City adopts a Human Services Funding Plan biennially. The 2021–2022 Human Services Funding Plan allocates both General Fund and federal Community Development Block Grant (CDBG) funds to 11 human service agencies to deliver services through 24 separate programs to Shoreline residents, as well as provide for capital projects that support projects for low- and moderate-income persons. While the City adopts a two-year spending plan for human services funding, it must take public comment and confirm decisions about the use of CDBG funds annually.

For 2022, the City Manager recommends use of CDBG funds to support continued operation of the Interlocal Agreement with King County for administration of our grants, continued support to the Minor Home Repair Program and to hold the remainder in contingency.

Tonight, the City Council will hold a public hearing on the proposed 2022 CDBG Funding and Contingency Plan. Potential action on the Plan is currently scheduled for October 11, 2021.

FINANCIAL IMPACT:

The 2022 CDBG Funding and Contingency Plan anticipates that the City of Shoreline will be eligible to receive \$323,558 in CDBG funds in 2022. The proposed funding plan would allocate all CDBG funds.

RECOMMENDATION

Staff recommends that the City Council hold the public hearing regarding the use of the 2022 Community Development Block Grant funding. Staff further recommends that Council approve the recommended projects, as scheduled, on October 11, 2021.

Approved By: City Manager **DT** City Attorney **MK**

BACKGROUND

The City financially supports human services delivery by non-profit agencies using General Fund and federal Community Development Block Grant (CDBG) funds. Each year, the Council must hold a public hearing on the proposed use of CDBG funds and act to adopt an allocation plan. CDBG funding is proposed to be used for housing repair and capital projects as well as for planning and administration. This is outlined in the 2022 CDBG Funding and Contingency Plan (Attachment A).

Biannual Human Services Funding Plan

The City develops a Human Services Funding Plan biennially to specify how it will allocate funds to address residents' human service needs. The current plan, adopted in 2020, funds 24 separate programs serving an estimated 3,000 Shoreline residents annually. See Attachment B for a list of agencies and the amounts of funding allocated to each agency in 2021 and projected for 2022.

While the City develops a two-year plan for human service allocations, a separate action is required to adopt the CDBG allocation plan each year. Federal regulations require that the City Council hold an annual public hearing before adopting the annual CDBG allocation plan.

CDBG Program

The Federal CDBG Program is one of the most enduring programs providing federal support to local jurisdictions. It was created under Title I of the Housing and Community Development Act of 1974. The primary objective of the CDBG program is the development of viable urban communities, by providing decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. CDBG funds can serve households with incomes up to 80% of the King County median income (\$90,500 for a four-person household). CDBG funds can be used for the following activities: acquisition and rehabilitation of housing for low-income and special needs populations; housing repair for homeowners and renters; acquisition and rehabilitation of community facilities; public infrastructure improvements; delivery of human services; historic preservation; planning; CDBG program administration; and economic development.

The City has an Interlocal Agreement with King County for the administration and management of the City's CDBG grant. This agreement calls for the City's annual CDBG Plan to allocate 48% of the available revenues to local projects. The balance of the CDBG funds are allocated to the delivery of regional programs which serve Shoreline residents, and to program planning and administration of the grant funding. Regional programs include a homeless prevention program (5%) and the King County Major Home Repair program (25%). Planning and administrative costs are agreed to be 10% for the City and 12% for the County.

DISCUSSION

The total amount of new CDBG funding that is available to the City of Shoreline in 2022 is projected to be \$323,558. The CDBG Interlocal Agreement between King County and the City of Shoreline specifies the percentages of funding for regional projects. The

City's 2022 CDBG Funding and Contingency Plan (Attachment A) specifies how the full amount of CDBG revenue is allocated.

2022 Capital Funding Recommendation

Sound Generations - Minor Home Repair: \$98,000

This program fills the gap between the major home repair program - targeted to larger planned projects - and emergency repairs and small electrical, carpentry and plumbing repairs needed by homeowners on a frequent basis to keep their homes safe and in good repair. In 2020, the program completed 84 repairs at 30 different residences.

The Minor Home Repair program is targeted to income eligible residents and most are older adults and are in households with "very-low" incomes. Home owners pay \$10.00 per hour for the service, plus the cost of materials. The grant pays for personnel costs relating to the program. Given the age of Shoreline's housing stock, the high number of older adults aging in place, and the number of low and moderate income home owners, this program is in high demand. The program is contracted to Sound Generations and there is no other non-City funding source for this program.

Project Contingency - \$57,307

These funds will be held in contingency until an eligible project is available. Shoreline City Council approval of any project is required.

Local Delivery of Regional Programs

Shoreline's Interlocal Agreement with King County allocates City CDBG funds to two regional programs that serve Shoreline residents. The amount of funding to each program is set by formula in the Interlocal Agreement. The total funding for these regional programs is \$97,068.

The Housing Stability Project: \$16,178

A key strategy towards preventing homelessness involves keeping families in their current housing. The Housing Stability Program makes one-time loans and/or grants to homeowners and tenants in danger of eviction or foreclosure because of short-term financial difficulties. It also provides loans or grants to homeless families and individuals who need assistance moving to permanent housing, and limited assistance for other types of moves. Support for this program is set at 5% of all Consortium Cities' CDBG funding.

Major Home Repair: \$80,890

The King County Housing Repair Program administers the Major Home Repair program on Shoreline's behalf. The allocation to this program for each city is set in the Interlocal Agreement at 25% of the city's total CDBG amount. Shoreline has made this service available to its residents since it first chose to participate in the CDBG Consortium. This program provides emergency grants and interest free loans to income eligible homeowners. Loans are recouped as revenue to the program when a home sells; hence the amount available to disperse varies from year to year.

ALTERNATIVES ANALYZED

After holding a public hearing on the use of CDBG funds, the City Council has two alternatives to consider for approval at the October 11, 2021, Council meeting:

1. Council could approve the proposed use of CDBG funds in 2022 as recommended and authorize the City Manager to take the actions necessary to implement these spending objectives. (Recommended)
2. Council could make changes to the recommended spending plan in response to public testimony or to reflect a change in Council policy objectives.

FINANCIAL IMPACT

The 2022 CDBG Funding and Contingency Plan anticipates that the City of Shoreline will be eligible to receive \$323,558 in CDBG funds in 2022. The proposed funding plan would allocate all CDBG funds.

RECOMMENDATION

Staff recommends that the City Council hold the public hearing regarding the use of the 2022 Community Development Block Grant funding. Staff further recommends that Council approve the recommended projects, as scheduled, on October 11, 2021.

ATTACHMENTS

Attachment A: 2022 CDBG Funding and Contingency Plan

Attachment B: 2021-2022 Human Services Allocation Plan

2022 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING AND CONTINGENCY PLAN

Since the Community Development Block Grant (CDBG) funds for 2022 are an estimate from the federal government, Shoreline must adopt both a funding and a contingency plan to deal with possible variations in the amount available. Plans must be made in case the amount available increases or decreases by up to 10% of the amount currently estimated. In addition, if an applicant later declines funds, the adoption of a contingency plan of action will expedite the process of reallocation.

2022 Estimated CDBG Funding Totals by Source	Amount
Share of 2020 Entitlement Grant Allocation	\$323,558
Program Income*	\$0
Total CDBG Revenue	\$323,558
2022 Estimated CDBG Funding Plan Allocation	
Amount	
Local Allocation - 48%	
Sound Generations – Minor Home Repair	\$98,000
Capital Contingency	\$57,307
CDBG Capital Project Funding	\$155,307
Regional Allocation and Program Administration - 52%	
King County Housing Stability Program (5%)	\$16,178
King County Major Home Repair Program (25%)**	\$80,890
CDBG Regional Program Funding	\$97,068
King County Administration and Planning (10%)**	\$32,356
King County Capital Set Aside (2%)	\$6,471
City of Shoreline Administration and Planning (10%)**	\$32,356
CDBG Administration and Planning Funding	\$71,183
Regional Allocation and Program Administration	\$168,251
Total CDBG Allocations	\$323,558

*Fluctuates depending on loan repayments each year

**Percentage set in the Inter-local Agreement

2022 CDBG Contingency Plan

Shoreline must adopt a contingency plan if the amount of federal funds available increases or decreases by up to 10% of the estimate. In addition, if an applicant later declines funds, the adoption of a contingency plan will expedite the process of reallocation.

1. If additional funding becomes available:
 - a. **Capital Projects**
If additional CDBG Capital funds become available in 2022, any additional revenue will be allocated to the Sound Generations Minor Home Repair Program.
 - b. **Planning & Administration**
If additional CDBG Planning and Administration funds become available in 2022, the City will use these funds for planning and administration purposes.

2. If funding reductions are necessary:
 - a. **Capital Projects.**
In the event CDBG Capital funds are reduced in 2022, the Project Contingency amount will be reduced accordingly.
 - b. **Planning & Administration**
In the event CDBG Planning and Administration funds are reduced in 2022, the City will reduce the amount of revenue allocated to planning and administration purposes.

Agency Name	Program Name	2021 Request	2020 Funded	2021 Proposed	2022 Proposed	Two Year Totals
Crisis Clinic	Crisis Line	\$ 10,000	\$ 7,500	\$ 8,000	\$ 8,000	\$ 16,000
Crisis Clinic	King County 2-1-1	\$ 12,500	\$ 12,000	\$ 12,500	\$ 12,500	\$ 25,000
Hopelink	Employment	\$ 42,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 20,000
Hopelink	Family Development	\$ 25,200	\$ 11,000	\$ 11,000	\$ 11,000	\$ 22,000
Hopelink	Family Housing	\$ 25,750	\$ 25,000	\$ 25,750	\$ 25,750	\$ 51,500
Hopelink	Adult Education	\$ 21,000	\$ 6,000	\$ 6,000	\$ 6,000	\$ 12,000
Hopelink	Financial Assistance	\$ 92,628	\$ 27,000	\$ 27,000	\$ 27,000	\$ 54,000
Hopelink	Emergency Food	\$ 86,730	\$ 48,000	\$ 59,000	\$ 59,000	\$ 118,000
Lake City Partners	Winter Shelter	\$ 20,000	\$ 15,000	\$ 18,612	\$ 18,612	\$ 37,224
Lake City Partners	Housing Program Outreach	\$ 25,000	\$ 11,000	\$ 25,000	\$ 25,000	\$ 50,000
Mary's Place	A Place to Call Home	\$ 10,000	\$ -	\$ 5,000	\$ 5,000	\$ 10,000
Harborview Medical Center	Center for Sexual Assault & Traumatic Stress	\$ 5,150	\$ 5,000	\$ 5,150	\$ 5,150	\$ 10,300
King County Sexual Assault Resource Center	King County Sexual Assault Resource Center	\$ 8,320	\$ 8,000	\$ 8,320	\$ 8,320	\$ 16,640
Center for Human Services	Behavioral Health	\$ 130,800	\$ 109,000	\$ 109,000	\$ 109,000	\$ 218,000
Center for Human Services	Family Support Programs	\$ 68,500	\$ 80,000	\$ 80,000	\$ 80,000	\$ 160,000
Child Care Resources	Information & Referral	\$ 8,084	\$ 5,000	\$ 5,000	\$ 5,000	\$ 10,000
Wonderland Child & Family Services	The Next Level	\$ 7,250	\$ 6,000	\$ 7,250	\$ 7,250	\$ 14,500
Sound Generations	Community Dining	\$ 10,000	\$ 6,500	\$ 7,500	\$ 7,500	\$ 15,000
Sound Generations	Meals on Wheels	\$ 5,991	\$ 5,000	\$ 6,000	\$ 6,000	\$ 12,000
Sound Generations	Volunteer Transportation	\$ 8,000	\$ 4,000	\$ 4,000	\$ 4,000	\$ 8,000
Totals for Competitive Allocation		\$ 622,903	\$ 401,000	\$ 440,082	\$ 440,082	\$ 880,164

Other Programs Supports/Fund Source		2020 Funded	2021 Proposed	2022 Proposed	Two Year Totals
Hopelink/City Utility Revenue (GF)	Utility Assistance	\$ 25,000	\$ 25,000	\$ 25,000	\$ 50,000
Hopelink/Substitute House Bill 1406	Affordable and Supportive Housing	\$ 81,700	\$ 85,929	\$ 85,929	\$ 171,858
CHS/State Shared Revenue*	Behavioral Health/Substance Abuse	\$ 14,850	\$ 15,453	\$ 15,514	\$ 30,967
New Beginnings/State Shared Revenue**	Domestic Violence Services	\$ 26,605	\$ 26,605	\$ 26,605	\$ 53,210
Total for Other Programs		\$ 148,155	\$ 152,987	\$ 153,048	\$ 306,035

TOTALS FOR ALL PROGRAMS **\$ 549,155 \$ 593,069 \$ 593,130 \$ 1,186,199**

Priority Areas	Proposed 2021	Proposed 2022
Basic Needs	\$ 318,791	\$ 318,791
Counseling/Behavioral Health	\$ 164,528	\$ 164,589
Children/Youth	\$ 92,250	\$ 92,250
Older Adults	\$ 17,500	\$ 17,500
	\$ 593,069	\$ 593,130

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussion on 2021 Legislative Impacts on Policing		
DEPARTMENT:	City Manager's Office Police Department		
PRESENTED BY:	Shawn Ledford, Police Chief		
ACTION:	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

PROBLEM/ISSUE STATEMENT:

Recent events, both locally and nationally, have prompted a significant degree of interest in policy issues, as well as proposals for change, related to law enforcement. The 2021 Legislative Session was the first attempt by state law makers to respond to those calls for change. The session resulted in several pieces of police reform becoming law, as well as the Legislature adopting new legislation to address the impacts of *State v. Blake*. Several other bills addressed tactics police can use, the degree of force an officer may use, and factors that law enforcement must consider before using any degree of force, among several other sweeping changes.

Tonight, Council is scheduled to review the highlights of the 2021 Legislative Session's impact on policing to understand how day-to-day operations have changed, what pieces of legislation the City is currently seeking clarity on, and how these changes may impact the City's 2022 Legislative priorities. Shoreline Police Chief Shawn Ledford will be joined by a panel of speakers to present the updates to Council, including Jesse Anderson, King County Sheriff's Office Chief of Patrol Operations; Erin Overbey, King County Sheriff's Office Legal Advisor; and Sarah Roberts, City of Shoreline Prosecutor.

RESOURCE/FINANCIAL IMPACT:

This item has no direct financial impact.

RECOMMENDATION

No action is required at this time. Staff recommends that Council ask questions about the 2021 Legislative session impacts on policing to the panel members.

Approved by: City Manager **DT** City Attorney **MK**

INTRODUCTION

Recent events, both locally and nationally, have prompted a significant degree of interest in policy issues, as well as proposals for change, related to law enforcement. On May 25, 2020, the world saw the horrific killing of George Floyd, a Black man, at the hands of a white police officer. Although much focus was put on the George Floyd killing, it is only one example of multiple recent occurrences throughout the United States of the death of a Black individual as a result of the actions of a police officer. The killing of George Floyd has sparked local, regional, and national discussions about how law enforcement systems disproportionately impact people of color as a result of systemic racist policies and practices that have existed not only in law enforcement, but in the broader criminal justice system (courts, jails, legal systems) and other areas where social and racial injustice needs to be addressed, such as housing, health, education, and financial systems and policies. These recent events have prompted a significant degree of interest in policy issues, as well as proposals for change, related to law enforcement.

A recent statement from the Washington Association of Sheriffs and Police Chiefs (WASPC) acknowledged, “We recognize the hurt, trauma, and anger caused by a history in which our profession has often failed to live up to our own ethical ideals, particularly in our relationships with Communities of Color.” WASPC acknowledges that change is necessary and supports meaningful reform and a conversation about law enforcement that focuses on transparency and accountability, reduces barriers to discipline and termination, and ensures a fair and more equitable criminal justice system.

The 2021 Legislative Session was the first attempt by state law makers to respond to those calls for change.

BACKGROUND

The 2021 Washington State Legislative Session was a 105-day “long” session, where biennial Operating, Capital, and Transportation budgets are adopted. Adjournment, also known as *sine die*, was April 26th.

Included in this session were over 100 newly enacted bills relevant to law enforcement, as well as the Legislature adopting new legislation to address the impacts of *State v. Blake*. The Legislature passed several bills that address tactics police can use, the degree of force an officer may use, and factors that law enforcement must consider before using any degree of force, among several other sweeping changes that will impact how policing is done in Shoreline.

Criminal Justice and Police Accountability

The Legislature enacted several significant changes to the operations of law enforcement and the accountability of its officers:

- [HB 1054](#) establishes limitations and requirements for police tactics and equipment,
- [HB 1310](#) sets new standards for use of force by law enforcement,
- [SB 5051](#) expands background investigations for applicants of law enforcement and corrections officer positions and also broadens the grounds for officer decertification,
- [SB 5066](#) creates a duty for law enforcement officers to intervene and report any use of excessive force by another officer,
- [HB 1267](#) establishes a new Office of Independent Investigations for the purposes of investigating the use of deadly force by law enforcement officers,
- [HB 1089](#) provides the State Auditor’s Office with the authority to conduct compliance audits of a law enforcement agency at the conclusion of a deadly force investigation, and
- [SB 5259](#) creates a program to gather and report data collected from law enforcement agencies.

Given the magnitude of these changes, the Legislature also allocated a total of \$20 million in one-time funding to cities to assist with costs related to implementing these changes. Shoreline received \$228,506 for this purpose in late July 2021. The City Manager will be making a recommendation on how to spend these funds after understanding all the associated costs the City will have for implementation.

Criminal Justice and the Blake Decision

In a 5-4 decision early in the legislative session, the Washington State Supreme Court declared unconstitutional, as a violation of due process, the state’s drug possession law because it criminalized passive conduct with no requirement to prove criminal intent (*State v. Blake*). Rather than move forward with no law against drug possession, the Legislature passed [SB 5467](#), which makes possession of drugs such as LSD and heroin a misdemeanor instead of a felony and provides funding and policy direction for a transition to a more treatment-centered system for addressing substance use disorder. Some key features of this legislation include:

- The first and second time a person is caught with drugs, officers must refer the person for assessment and services rather than arresting them.
- A committee of experts will study the issue and make recommendations to the Legislature for a more permanent approach in 2023.
- \$83.5 million in the budget to help state and counties manage the legal impacts of the Blake decision, and another \$88.4 million to help establish the new programs. Of the \$88.4 million, \$4.5 million will go to help enhance municipal and district therapeutic courts.

Policing in Shoreline

Since the City of Shoreline incorporated in 1995, Shoreline has contracted for law enforcement services from the King County Sheriff’s Office (KCSO). The mission of the Shoreline Police Department is “to be a trusted partner in fighting crime and improving the quality of life for our residents and guests.” The KCSO contract allows contract cities, such as Shoreline, to interview and select their police chief from a list of qualified

candidates and to maintain control over policing priorities, including the degree of emphasis given to community engagement efforts.

The contract for police services is embodied in an interlocal agreement between the municipality and King County. The agreement sets forth specific details regarding chief selection, financial details (including contract cost adjustments and invoicing), services offered, processes for requesting additional services, contract oversight, dispute resolution, and contract termination. The agreement outlines the authority that may be exercised solely by the Chief, issues that require input and approval from KCSO, and issues that must be consistent between KCSO and the City. An Oversight Committee consisting of City Executives from the contract agencies, the Sheriff, a County Executive designee, and the Chair of the King County Law and Justice Committee, meets quarterly to administer the agreement.

The KCSO [General Orders Manual](#) includes the policies and procedures for delivering police services to the communities it services. The General Orders Manual is updated when there are new laws, and this must also be followed up with additional training to officers once new procedures have been established.

In 2020, Shoreline Police Department had 22,690 contacts and made 865 arrests. Out of these contacts, force, or a report of force, was used in 15 incidents. This equates to 0.06% of Shoreline Police Department contacts in 2020. A use of force report covers a broad range of force tactics. Pointing a firearm is considered a use of force, as is handcuffing someone if there's a complaint of pain. A taser application and any contact that results in a complaint of pain or injury is reported as a use of force. In the 15 Shoreline use of force incidents, three (3) resulted in a complaint of pain or injury, and in the other 12, there was no complaint of pain or injury. Of the three that did result in pain or injury, one was an officer involved shooting that resulted in death, one was a complaint of pain because of handcuffing, and one was a control hold that resulted in a complaint of chest pain.

DISCUSSION

In the 2021 legislative session, there were 100 newly enacted bills relevant to law enforcement. Some changes are significant and impact law enforcement's ability to proactively prevent crime and arrest criminals. It will take time to update KCSO policies and train officers on the impacts of the new legislation and how day-to-day police work changes. Much of the recently passed law enforcement reforms also relies on the transfer of current and historical services to non-law enforcement agencies and service providers, such as behavioral health providers and homeless services. It will likely take time for those providers to be fully able to take on this new work as well, though the Legislature does provide funding in some cases for such work to be done.

As a result of these reforms and the need for additional clarity, the public may notice changes in how law enforcement responds to calls. On the whole, the policing reforms may reduce the number of violent interactions between law enforcement and the public.

However, KCSO and the City is currently seeking additional information and clarification on some policing reforms, because as they are written they may have unintended outcomes that result in increased levels of confusion, frustration, victimization, and increased crime. If such clarification does not come from the Attorney General's Office or the courts, staff recommends Council seek clarification in the 2022 Legislative Session by adding these issues to the 2022 Legislative priorities scheduled to be discussed by Council in November 2021. The reforms and impacts to policing in Shoreline are identified in the sections below.

HB 1054 – Tactics

HB 1054 prohibits the use of chokeholds or neck restraints on another person (even where the use of deadly force is justified) and prohibits the use of a “no-knock” warrant. The bill prohibits a vehicular pursuit unless the officer has probable cause that a crime (violent or sex offence) has/is committed or that there is a reasonable suspicion of a DUI. The bill also prohibits law enforcement from acquiring or using military equipment. Additionally, the bill limits when officers can use tear gas and requires the highest-ranking elected official in a jurisdiction to authorize the use of tear gas against members of the public. Finally, the bill tasks the Criminal Justice Training Commission (CJTC) with developing a model policy and training program for police K9 units.

The KCSO GOM already banned the use of chokeholds and neck restraints but still gave consideration to these techniques if they were a reasonable less than lethal use of force. Now these tactics are completely banned. The GOM also significantly restricted vehicle pursuits due to the safety concerns they pose in dense neighborhoods and urban areas. Vehicle pursuits were only permissible in the event of a burglary or in a situation where there was an eminent threat, such as a person driving 100 mph down Aurora Ave N, where a deputy could stop then with a type of vehicle maneuver. This is now no longer allowed by law.

Due to the bill's prohibition of military equipment, KCSO officers have turned in their less lethal shot guns. For the purposes of this bill, military equipment is defined as firearms and ammunition of .50 caliber or greater, machine guns, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, long range acoustic hailing devices, rockets, rocket launchers, bayonets, grenades, missiles, directed energy systems, and electromagnetic spectrum weapons. The less lethal shot guns KCSO were using were .50 caliber and shot bean bags. Only officers who were specially trained could use this weapon, since if they were not used as directed the officers could cause a serious or deadly injury. Officers would use these shot guns in cases where an individual could not be subdued by another non-lethal method, such as a taser, due to distance or type of clothing worn by the individual.

Other cities have not turned these weapons in, citing that they believe the intent was not to limit less lethal options for physical force and that they would rather use these to try to save someone's life. KCSO has interpreted the law as written, and therefore stopped using their less lethal shot guns. Now a KCSO officer would need to possibly transition

to a firearm where they previously would have had a less lethal shot gun as a viable option.

If there is a future case where officers would recommend the use of tear gas, the Shoreline Mayor would need to authorize it against members of the public. The law provides this further clarity on when it can be used, and the KCSO's SWAT team is available to deploy tear gas after such directive from the Mayor.

Finally, KCSO already has a model policy and training program for police K9 units that complies with the intent of HB1054. K9 units already keep dogs on lead (on a deputy-held leash) while tracking and give verbal warnings of the use of the K9 unit to suspects. There are likely no changes in policy or practice for KCSO regarding their use of K9 units in the field.

Recommendation: If the issue of using less lethal weapons is not resolved prior to the 2022 Legislative Session, staff recommends that this issue be added to the City's 2022 Legislative Priorities.

HB 1310 – Use of Force

HB 1310 creates a statewide use of force standard and establishes an expectation of "reasonable care" for officers. The use of force standard includes requirements for verbal warning and de-escalation tactics as well as a requirement that officers use the minimal degree of physical force to address a situation that requires the use of force. The bill specifies the factors an officer must consider when using force and establishes criteria for the use of lethal force. Cities retain the ability to enact more stringent use of force standards.

The KCSO GOM defines physical force as the intentional application of force through the use of physical contact that does not rise to the level of deadly force but is greater than de minimis physical contact. Physical force includes hitting or striking with any body part or an object, the use of any chemical agent, and any intentional physical interaction that could reasonably be expected to cause pain or injury. Nothing in the GOM prohibits a deputy from making an investigative detention (Terry Stop), if the suspect stops voluntarily, and conducting a pat down search for weapons (frisk) in compliance with the GOM provided that the detention and frisk does not require the use of physical force. A lawful pat down search for weapons of a compliant subject is not considered a use of force under this directive. However, if the suspect leaves, officers can no longer detain them even if they have reasonable suspicion for a crime.

By July 1, 2022, the Attorney General will develop and publish a model policy on law enforcement use of force and de-escalation tactics, and law enforcement agencies are required to submit their model policies to the Attorney General as well. The Attorney General will then publish a report of the model policy by December 31 of each year.

HB 1310 also requires basic training provided by the CJTC to be consistent with the use of force requirements and limitations of the bill and the Attorney General's model policy on the use of force and de-escalation.

Reasonable Suspicion Versus Probable Cause: As a result of HB 1310, a deputy may only use physical force when necessary to:

- Protect against criminal conduct where there is probable cause to make an arrest; or
- Effect an arrest; or
- Prevent an escape as defined in [RCW 9A.76](#); or
- Protect against an imminent threat of bodily injury to a peace officer, another person, or the person against whom force is being used.

A deputy may use physical force when necessary to protect against criminal conduct where there is probable cause to make an arrest but probable cause for Obstructing a Law Enforcement Officer, absent other factors listed herein, shall not be used as the sole justification for using physical force.

The inclusion of probable cause is a critical piece of this change because previously officers could use reasonable suspicion instead of probable cause as the basis for their use of physical force. Probable cause is a state of mind derived from a composite of facts, circumstances, knowledge, and judgment that would persuade a cautious, but disinterested police officer to believe a crime is occurring or has occurred and the accused person is committing or had committed the crime. That state of mind is more than "mere suspicion or reasonable belief" but less than "beyond a reasonable doubt." The standard applied is that of a police officer, recognizing that officers may also consider information given to them in training or derived from police work experiences. Keep in mind that the burden of probable cause is easier to meet when applying for permission in advance from a court (e.g., warrant) to do something, than when a court looks back in judgment on police activity taken based on probable cause without prior court permission.

Reasonable suspicion is specific, objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct. A police officer may have reasonable suspicion that a crime is being committed if based on all of the facts and circumstances of the situation, a reasonable police officer would have the same suspicion. The police officer does not need physical evidence in order to have reasonable suspicion. Instead, the presumption of reasonable suspicion is made based on the officer's training, the circumstances of the situation, and what other officers would do in similar circumstances. If a police officer has reasonable suspicion, he may briefly stop the person involved (the person must stop voluntarily), but an officer may not make an arrest based on reasonable suspicion alone. For example, if a driver is driving erratically, swerving between lanes, and failing to stop for traffic signals, a police officer may have reasonable suspicion that the driver is drunk. The officer may pull the driver over, but the officer may not arrest the driver unless there

is further evidence of drunk driving to establish probable cause for the arrest. If after being pulled over a driver fails a sobriety test, that may provide probable cause for an officer to make a drunk driving arrest.

Before the police can arrest someone or get a search warrant, they must have probable cause to make the arrest or to conduct the search. The [Fourth Amendment of the U.S. Constitution](#) references probable cause as a necessary component of a search or seizure of property and before a person is taken into police custody. Specifically, the Fourth Amendment reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Thus, probable cause is left to the courts. The courts have established that probable cause is a higher standard than reasonable suspicion. Probable cause “requires a showing that the facts and circumstances within the arresting officer's knowledge and of which the officer has reasonably trustworthy information are sufficient to warrant a person of reasonable caution in a belief that an offense has been committed” (*State v. Barron*). In another case, “probable cause boils down, in criminal situations, to a simple determination of whether the relevant official, police or judicial, could reasonably believe that the person to be arrested has committed the crime” (*State v. Neeley*). Such a determination relies on the totality of facts and circumstances known by the officer at the time of the arrest. It is “grounded on a practical, nontechnical” review of the facts. Probable cause means that the police officer not only has a suspicion that a crime has been or is being committed, but that the police officer also has actual knowledge that the crime has been or is being committed. In other words, there must be evidence that supports a police officer's suspicion that a crime has been committed before he can have a search warrant issued and/or make an arrest.

Guidance from the Criminal Justice Training Commission (CJTC) asks an officer to consider what particularized, articulable facts and circumstances exist that would lead a reasonable person to believe that a particular person did commit, or is committing, a particular crime wherein all elements of the crime are satisfied. Based on this guidance and KCSO's interpretation of HB 1310, Shoreline officers have changed how they respond to calls for services. For example, Shoreline Police recently responded to a call for service in the middle of the night by a person who saw on their security camera what appeared to be someone stealing their neighbor's catalytic converter. When police arrived, they could not detain the person because they did not have probable cause, though they did have reasonable suspicion (the description of the individual matching the description given by the person who called 911). To establish probable cause, the officers would have needed the person who called police to identify the suspect as the person they saw on their security camera or the vehicle owner to have stated that they did not ask someone fitting the suspect's description to work on their car. With no one to

confirm the suspect and the inability for the police to use physical force to detain the individual on reasonable suspicion while probable cause was determined, the individual left the scene and officers were unable to make the arrest.

KCSO is still in a period of evaluation regarding the understanding of probable cause as related to HB 1310 and their use of physical force. Ensuring that law enforcement are using a definition of probable cause aligned with the law will only happen once it is established by the courts and new case law can be referenced. There have yet to be any court cases since HB 1310 was effective. KCSO chiefs do not want their officers to be the test case for HB 1310 and have been clear that officers must no longer use reasonable suspicion as their rational for using physical force.

Duty of Reasonable Care: In addition to the implications of probable cause, the Duty of Reasonable Care created in this bill impacts an officer's ability to use physical force. Duty of Reasonable Care states that when using any force, officers shall use the least amount of force necessary to overcome resistance under the circumstances, in consideration of the characteristics and conditions such as medical condition; pregnancy; age; signs of mental, behavioral, or physical impairments of disabilities; perceptual or cognitive impairments related to substance abuse; suicidal ideations; language barrier; or the presence of children. When "possible" (safe and feasible), an officer shall exhaust available and appropriate de-escalation tactics prior to using any force, such as:

- time, distance, and cover;
- calling for additional resources, including back-up officers and/or crisis intervention teams or mental health professionals;
- designating one officer to communicate with the subject;
- taking as much time as necessary, without using physical force or weapons; and/or
- leaving the area if there is no threat of imminent harm and no crime has been committed, is being committed, or is about to be committed.

The use of physical force must be terminated as soon as the necessity for such force ends. Continual assessments by those involved are important and must be communicated so all involved know when to stop.

KCSO officials have interpreted these limitations on use of force as instructions not to engage with people until there is a threat of imminent harm or a crime has been committed, is being committed, or is about to be committed. This means officers will respond to assess the situation to determine if there is a threat of imminent harm, but if not, they often do not have a basis to take further action with a person in mental health crisis or enter a person's home without permission to conduct welfare checks unless a clear crime has been committed.

Officials in the Washington State Attorney General's Office have refuted claims by law enforcement agencies that the legislation prevents them from responding to non-criminal calls. Assistant Attorney General Shelley Williams and Deputy Solicitor General

Alicia O. Young issued a memo in response to a request from Rep. Jesse Johnson (Federal Way) and Rep. Roger Goodman (Kirkland) asking for clarification in response to multiple law enforcement agencies interpreting the law in the same way as KCSO. "Washington statutes and case law recognize responding to community caretaking calls as part of a law enforcement officer's duties," the memo reads in part. "Bill 1310 does not prohibit peace officers from responding to community caretaking calls, including mental health calls." The memo calls specific attention to language in HB 1310 that permits officers to use force when necessary to "protect against an imminent threat of bodily injury" to the officer, person in question, or someone else. "[That language] indicates the statute anticipated that officers may respond to calls that do not involve a crime," the memo says. The Attorney General's memo, however, is not a formal advisory opinion.

Until such time as more clarity exists, KCSO officers will respond differently than they historically have to welfare checks and mental health calls where there is no imminent threat or crime. For example, there was a recent call for service to a suicidal female who had slit both her wrists. When officers arrived, she told them she did not want anything to do with them and locked herself in her apartment stating they would need a warrant for her to come out. No knife was present and imminent threat could not be determined even after a call to off-duty command staff. Officers removed themselves from the immediate area after attempting to make contact with her, at which time the female came outside to start arguing with her boyfriend. She collapsed and became unconscious. Her boyfriend picked her up and brought her to officers pleading for them to help her now that she could not resist. Officers began lifesaving measures including calling for an aide car, which brought her to a hospital where she was treated for excessive blood loss. Had she not come outside and collapsed with officers nearby she might have died. Prior to HB 1310, officers would have kicked in the apartment door immediately after she went inside and probably would have needed to use physical force to restrain her. She would have then been transported by an aide care to the hospital. She would have been rendered first aid as soon as it was safe to do so and would likely not have suffered as much blood loss as she did.

Recommendation: Preserving the sanctity of human life is at the heart of HB 1310. If further clarification does not come before the 2022 Legislative Session, staff recommends working with the Washington Association of Sheriffs and Police Chiefs (WASPC) to develop recommendations for the legislature to consider clarifying HB 1310 with the intent of providing police with the tactics needed to arrest suspects of crimes and serve the most vulnerable members of the community.

SB 5051 – Decertification

SB 5051 requires departments to conduct broader background checks for officers before hiring them, including checking with previous departments for any discipline history or misconduct investigations. It also expands civilian representation on the CJTC and requires the commission to maintain a publicly searchable database of officers, what agency they work for, what conduct has been investigated and the disposition. SB 5051 also broadens the grounds for officer decertification. Decertification is the process

by which a State authority determines that an individual should not be allowed to continue exercising the duties and privileges of a law enforcement officer.

While some believe broadening the grounds for decertification to be a potentially powerful mechanism for ensuring integrity in law enforcement, it is already showing signs of impacting proactive policing among officers across Washington State. Officers are reluctant to make a mistake and are unclear as to what actions would be subject them to decertification. Where supervisors historically used the standard of if an officer acted in good faith, it is now unclear if “acting in good faith” would be considered. Officers acting in good faith would receive corrective action, such as counseling, additional training, written reprimand, and discipline. The threat of decertification is significant, as officers do not know if a violation of one of the new legislative measures or existing laws would lead to decertification. Officers and their law enforcement agencies are unwilling to be the test case to help clarify this issue and therefore are waiting for calls for service rather than engage in proactive policing.

Recommendation: Along with clarifying the use of force standards in HB 1310, staff recommends that the legislature clarify their intent for the change in standards for officer decertification and advocate for use of a standard for an officer acting in good faith.

SB 5066 – Duty to Intervene

SB 5066 require law enforcement officers to intervene if they witness another officer using excessive force in an encounter. The legislation also provides training for officers through the CJTC and requires law enforcement agencies to have written policies on the new duty to intervene.

The KCSO GOM already covered an officer’s duty to intervene and duty to report misconduct. The GOM states that any identifiable, on-duty KCSO commissioned personnel who witnesses another peace officer using, or attempting to use, excessive force against another person shall, when in a position to do so, intervene to stop the use of excessive force and prevent the further use of excessive force. For purposes of this directive, “identifiable” means wearing a uniform or other clothing and/or accessories that make the person easily identifiable as a law enforcement officer. These interventions can be verbal but may also be physical. Commissioned personal who witness any wrongdoing committed by another peace officer or has a good faith reasonable belief that another peace officer has committed wrongdoing, shall report such wrongdoing to their immediate supervisor or another supervisor if their immediate supervisor is unavailable. This extends to reporting officers from other agencies, though excludes federal law enforcement officers or federally commissioned tribal police officers, regardless of whether such conduct is allowed under that agency’s policy.

HB 1267 – Office of Independent Investigations

The Legislature passed HB 1267, establishing the Office of Independent Investigations (OII) within the Governor’s Office. The purpose of the office is to conduct fair, thorough, transparent, and competent investigations of police use of force and other incidents involving law enforcement. The OII will be staffed by a director as well as an

investigator, as chosen by the director. The two will be classified as limited authority police officers with the ability to investigate any case within the jurisdiction of the OII. Beginning July 1, 2022, the OII is authorized to conduct investigations of deadly force cases occurring on or after July 1, 2022, including in-custody or out-of-custody deadly force incidents.

KCSO is already subject to the intent of HB 1267 through the Office of Law Enforcement Oversight (OLEO) which was created in 2006 after the recommendation of King County Sheriff's Blue Ribbon Panel, whose authority has expanded in the years since its founding. There is likely little impact to the KCSO due to this change.

HB 1089 – Audits of Investigations

HB 1089 provides the State Auditor's Office with the authority to conduct compliance audits of a law enforcement agency at the conclusion of a deadly force investigation. The Auditor can conduct audits to determine if agencies are compliant with all applicable state laws, policies, and procedures.

KCSO is already subject to the intent of HB 1267 through the Office of Law Enforcement Oversight (OLEO) which was created in 2006 after the recommendation of King County Sheriff's Blue Ribbon Panel, as stated in relation to HB 1267.

SB 5259 – Law Enforcement Data Collection and Reporting

SB 5259 creates a program at Washington State University (WSU) to gather and report data collected by law enforcement agencies. The bill expands the kind of data and incidents that must be collected. The intent to creating a statewide data collection program that creates a publicly accessible database to track metrics is to help to promote openness, transparency, and accountability; build stronger police-community relations; improve trust and confidence in policing services; evaluate specific areas of concern such as biased policing and excessive force; and ultimately improve the quality of policing services. It is currently unknown what kind of funding will be available for police departments to comply with the data collection and reporting to the statewide program and if the statewide program will be funded well enough to meet the bill's intent.

Recommendation: Staff will be following the WSU program development and funding model as well as the requirements of police departments. Depending on available funding, staff may recommend that the Council advocate for KCSO to provide more funding for the WSU program to ensure KCSO compliance.

SB 5476 – State v. Blake

On Feb. 25, 2021, the Washington Supreme Court issued a decision declaring the state's main drug possession statute [RCW 69.50.4013\(1\)](#) unconstitutional and "void." The ruling occurred in a case known as *State v. Blake*. In 2016, Shannon Blake was arrested in Spokane and convicted of simple drug possession. Blake argued that she did not know there was a baggie of methamphetamine in the jeans she had received from a friend. The court ruled that the statute violated the due process clause of the

constitution. Without any mental state requirement, the law criminalized “unknowing” drug possession and people could be arrested and convicted even if they did not realize they had drugs in their possession. The majority concluded, “The legislature’s police power goes far, but not that far.”

The repercussions to the Supreme Court decision include the invalidation of simple drug possession convictions for nearly 100 individuals incarcerated and nearly 7,000 individuals who were sentenced to community supervision on a simple possession conviction. It also calls for the potential resentencing for nearly 2,600 individuals incarcerated and nearly 3,900 individuals who are serving community supervision on a simple possession and an additional conviction(s).

Other matters remain unclear, including whether Legal Financial Obligations (LFOs) that were paid by those convicted of simple possession must be reimbursed. The King County District Court (KCDC) is viewing the decision as retroactive and is attempting to determine what the impact to cities like Shoreline will be if this is the case. However, there is an issue with whether counties have the necessary data related to LFOs to process reimbursements. Data collection systems have changed numerous times since the *Blake* statute was put in place in 1971, and it is unknown if documentation exists regarding the amount of LFO ordered, the amount paid, and the amount paid related strictly to *Blake*. Who the burden of proof of payment belongs to – the person convicted or the courts – will significantly influence the decision’s financial impact on cities. The expected monetary impact of the ruling is significant, with the Washington State Association of Counties estimating that it will be a “\$100 million issue” statewide. This is in large part because of the potential LFO repayment but also due to potential resentencing, which is occurring at a time when courts are already backlogged because of the disruption caused by the COVID-19 pandemic.

Several bills were introduced to amend the unconstitutional statute with technical “fixes.” Ultimately the Legislature passed SB 5476, which recriminalizes drug possession, although makes it a misdemeanor instead of a felony. Additionally, before an individual can be charged with a crime, they must be diverted to services at least twice. These changes to the law will only be in effect until July 1, 2023, unless the legislature or voters change the law again. This is accomplished via a procedure called a sunset clause. If the law is not changed, simple drug possession for controlled substances would become non-criminal again in July 2023 as a result of the *Blake* decision. Possession of drug paraphernalia is decriminalized with no sunset provision. SB 5476 also provides new funding for services and diversion. It tasks the Washington State Health Care Authority with convening an advisory committee and creating rules for a “plan” on how to provide services to people with substance use disorders.

Diversion and Criminal Penalties: The legislation requires law enforcement officers who encounter an individual in possession of a controlled substance to offer a diversion to seek a substance use disorder assessment and treatment services. The first two interactions by law enforcement must result in such a diversion. Further contacts allow the officer to offer diversion but does not mandate that the officer do so. If an officer

arrests and pursues a misdemeanor charge, the prosecutor is not required to prosecute. The prosecutor may offer diversion or move forward with prosecution.

An immediate challenge faced by law enforcement agencies implementing the *Blake* decision was tracking diversions offered to individuals. Since the decision, Washington State Patrol's SECTOR system has been made available to law enforcement agencies to track diversion attempts for narcotics possession statewide. SECTOR is the same system all Washington State law enforcement agencies use for traffic citations and to document collisions. Individuals contacted in Shoreline will be referred to the [Washington Recovery Help Line](#) and be given an referral card with the agency's contact information. Deputies will document encounters with individuals and include, if known, if the diversion referral is a first or second diversion for an individual. This report will then be included in SECTOR.

This is a significant change from previous practice by KCSO deputies in Shoreline and now includes the Shoreline City Prosecutor instead of the King County Prosecutor's Office. Previously KCSO deputies would arrest an individual who was in possession of a controlled substance. They would provide probable cause documentation to the King County Prosecutor, who, after reviewing the documentation, would determine whether or not to charge the individual with a felony, which was prosecuted by King County. This shift changes not only the process, but also the workload for and costs incurred by cities since it is now a misdemeanor. Cities now bear the cost burden of prosecution, potential jail time, and court costs (both traditional and potential alternative sentencing courts) as a result of this legislation.

The ability to charge an individual with a misdemeanor for possession of a controlled substance will expire July 1, 2023, and state law will automatically revert to whatever the law states on that date. This gives time for the committee to make recommendations on how to address the long-term impacts of *Blake*, which are due by December 2022, and allows the 2023 Legislature time to enact the recommendations. It is unclear as to whether a local government can pass its own criminal drug possession laws. The Legislature has clear authority to pass legislation that clarifies state laws related to substance abuse disorders, which local governments would have to follow.

Further complications to policing drug activity generally and in relation to *Blake* is other legislation passed by the Legislature. For example, without being able to stop and detain an individual by using physical force (such as using handcuffs on an uncooperative suspect), an officer may be unable to document a diversion or check for previous diversions and therefore be unable to arrest an individual for possession of a controlled substance because the individual will not provide identification to the officer. While the Legislature may be attempting to connect individuals with treatment before prosecution, the unintended consequences of HB1310 would prevent officers from forwarding charges to the prosecutor in some cases. Some individuals contacted by Shoreline Police are already refusing to give the officer their name, which prevents the officer from documenting a diversion. While the individual police are making contact with may not be concerned with this, Shoreline residents reporting such activity may be.

Substance Abuse Treatment Investments: The Washington State Health Care Authority (HCA) is charged with establishing a recovery services advisory committee to create a substance use recovery services plan. The purpose of the plan is to implement measures to assist those with a substance use disorder in accessing outreach, treatment, and recovery support services that are low-barrier, person-centered, informed by people with lived experience, and culturally and linguistically appropriate. Additionally, the committee must make recommendations regarding the appropriate criminal legal system response, if any, to possession of controlled substances. It must also make recommendations regarding the collection and reporting of data that identifies the number of people law enforcement officers and prosecutors engage with regarding drug possession, and the design of a mechanism for referring people with a substance use disorder, or who display problematic behaviors resulting from substance use, to supportive services. A final plan is due to the Legislature by December 1, 2022.

The HCA will also establish several other plans and programs, including:

- A comprehensive statewide substance misuse prevention plan. As a part of this plan, the HCA must administer a competitive grant process for existing local community efforts to prevent substance misuse. The plan must be completed by January 1, 2024.
- A grant program to provide treatment for low-income individuals with substance use disorder who are not eligible for Medicaid. Grant distribution must begin by March 1, 2022.
- A grant-based homeless outreach stabilization transition program. Grant distribution must begin by March 1, 2022.
- Funding for behavioral health administration services organizations to establish recovery navigator programs. These programs will provide community-based outreach, intake, assessment, connection to services, and, as needed, long-term intensive case management and recovery coaching services to individuals with substance use disorders.
- An expanded recovery support services program that increases regional access to recovery services for substance use disorder such as housing, employment training, recovery coaching, and legal support.

It is currently unclear if people currently receiving treatment or due to receive treatment through the criminal legal system will lose access to these services. Some drug court participants are no longer subject to court supervision and therefore could lose access to those services, since the underlying charges will be dismissed. However, efforts are being made to ensure that individuals who want services can access them through other non-criminal channels. That said, the non-criminal channels are already being hit extremely hard and are experiencing service delays due to staffing shortages and budget cuts. Individuals impacted by this situation are being encouraged to reach out to the service providers they have been working with or contact the [Washington Recovery Help Line](#).

Officer Training: By July 1, 2022, the Criminal Justice Training Commission must develop new training for law enforcement officers on how to manage interactions with people they encounter with substance use disorders, including referral to treatment and recovery services as they are available. The training will be incorporated into the curriculum at the Basic Law Enforcement Academy.

Funding for Cities' Implementation: In addition to the \$83.5 million in the state's budget to help the state and counties manage the legal impacts of the *Blake* decision, SB 5476 includes another \$88.4 million to help establish the new programs outlined above. Of that \$88.4 million, \$4.5 million will go to the Administrative Office of the Courts (AOC) to help enhance municipal and district therapeutic courts. AOC opened a grant program for this purpose on September 7, 2021, and will close it on September 28, 2021. AOC expects the average grant award to be \$200K. King County District Court is not anticipating applying at this time for their existing therapeutic court services. There are no direct appropriations to cities to offset the costs of diversion and prosecution.

Recommendation: The Association of Washington Cities is collecting information from member cities and closely monitoring updates on this issue. Staff recommends that the City follow the Association of Washington Cities work on this issue and possibly adopt all or some of their 2021 Legislative Priorities related to clarifications needed for implementing the *Blake* decision. Staff is also recommending that the City work with other North King County Cities to seek state funding for substance abuse treatment facilities and/or access to substance abuse treatment programs for residents of Shoreline and other North King County cities.

Association of Washington Cities 2022 Legislative Committee Recommendation

AWC's Legislative Priorities Committee met over the summer and recently wrapped up its work to recommend a set of 2022 legislative priorities for the AWC Board's consideration. The Board will consider the committee's recommendations at its September 24 meeting and take final action to adopt 2022 priorities.

The Legislative Priorities Committee considered more than two dozen issues. It ultimately recommended three as 2022 priorities, along with a host of issues deemed significant (one step down from priority). Included as significant were the *Blake* decision and law enforcement use of force. AWC's draft recommendations are as follows:

Blake decision – Advocate for direct funding for cities to administer diversion programs related to misdemeanor drug possession cases handled by city law enforcement and now adjudicated in municipal courts, as well as Medication-Assisted Treatment (MAT) services, therapeutic courts, and a diversion tracking database.

Law enforcement use of force – Support clarification of the civil standards for use of force requirements so law enforcement can better understand the state requirements and know when they can use force to intervene in a situation, including a mental health crisis where a crime is not being committed.

AWC plans to share the final list of priorities and significant issues, as adopted by the AWC Board of Directors, in October.

KCSO Current Challenges

In the face of these changes, KCSO is facing a number of other challenges that make implementation of these legislative changes even more difficult. The current Sheriff is in the last months of their term and will be replaced by a yet to be determined leader appointed by the King County Executive, which leads to a vacuum of executive leadership in the KCSO and no clear direction and implementation regarding these changes. Officer vacancies are at an all-time high with little to no hiring of new recruits occurring. While KCSO intends to fully comply with the legislation and work with officers to implement, it will take time to ensure that officers are receiving the correct training and support to understand how to conduct their day-to-day police work under these new laws.

SUMMARY

The 2021 Legislative Session resulted in many, sometimes conflicting, attempts at police reform in Washington State. Many of these bills will bring greater transparency to policing, which may help with future reforms and training to address racial bias of officers that impact those who are Black, Indigenous, and/or other Person of Color. Others have unintended consequences that, without further clarity, will likely continue to have the chilling effect on policing that cities like Shoreline have already seen. This is caused by the high volume of legislative changes, coupled with the lower bar for police officer decertification and lack of clarity needed by officers to do their day-to-day work. A reasonable officer who wants to do the right thing and not make a mistake is now waiting to receive a call for service or only get involved when a clear crime has been committed rather than proactively police where they may run afoul of the new legislation. No officer wants to be the test case for the new legislation where they could not only be decertified but could also be charged with a crime.

The City Council has the opportunity to influence the 2022 Legislative session to allow for less lethal weapons; to clarify use of physical force tactics in community policing (response to mental and behavioral health calls); to possibly advocate for full funding of data collection and reporting of police incidents; and to seek state funding for substance abuse treatment facilities and/or access to substance abuse treatment programs.

COUNCIL GOAL(S) ADDRESSED

This work addresses Council Goal 5, Action Step 4 from the Council's adopted [2021-2023 Council Goals and Work Plan](#):

Goal 5: Promote and enhance the City's safe community and neighborhood programs and initiatives

Action Step 4: *Support efforts to improve public safety by incorporating best practices and model policies for use of force, de-escalation training and police accountability*

RESOURCE/FINANCIAL IMPACT

This item has no direct financial impact.

RECOMMENDATION

No action is required at this time. Staff recommends that Council ask questions about the 2021 Legislative session impacts on policing to the panel members.