

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

<b>AGENDA TITLE:</b>	Discussion of the Eastside Off Leash Area Lease Agreement with the Washington State Department of Social and Health Services
<b>DEPARTMENT:</b>	Parks, Recreation and Cultural Services
<b>PRESENTED BY:</b>	Eric Friedli, Parks, Recreation and Cultural Services Director
<b>ACTION:</b>	<input type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing <input checked="" type="checkbox"/> Discussion

**PROBLEM/ISSUE STATEMENT:**

The City of Shoreline and the State of Washington (State) have a long history of working together on issues related to State operations on the Fircrest Campus. The City is currently part of a larger multi-agency State initiative to develop a broad roadmap for the future of the campus; a process that has been slowed by the impacts of the current public health crisis.

Additionally, since 2013, the City has been leasing land from the State of Washington Department of Social and Health Services (DSHS) for the Eastside Off-leash Area (OLA). The Council approved the most recent extension to that lease agreement on June 22, 2020. The current lease agreement runs through the end of 2020. In the current agreement, the City pays a rental rate of \$1,000 per month for the months of July and August and then “the fair market value rate established by an appraisal commissioned by the Lessor” for the remainder of the year.

Based on the DSHS appraisal provided to staff in late July, the monthly rental rate will increase to \$4,356 per month effective September 1<sup>st</sup>. Staff recently asked an independent real estate consultant to review the appraisal. The consultant identified several important deficiencies in the analysis contributing to an above market opinion of value. The current lease agreement with DSHS allows the City to terminate the agreement with 15 days-notice if the budget impact of meeting the state’s fair market value requirement is not acceptable. Given this dramatic increase in the lease rate, Council was interested in discussing the potential options and next steps regarding continuing or terminating the current lease agreement with DSHS.

**FINANCIAL IMPACT:**

The City’s original budget for leasing the Eastside OLA was \$2,400 for all of 2020 based on the rate \$200 per month, which had been the lease rate since 2013. Based on the current lease agreement that began on July 1<sup>st</sup> (\$1,000 per month for July and August and \$4,356 for September through December), the total lease payment for 2020 would be \$20,624, which is \$18,224 over budget. As the Parks Operations Division has been actively reducing expenditures due to the COVID-19 budget challenges, the Division

can absorb this additional roughly \$18,000 in cost for 2020. However, this also means that the Parks Operations budget won't have as much budgetary savings to support the City's 2020 budget challenges due to the COVID-19 recession. If the City were to terminate the Eastside OLA lease and develop a new interim OLA at James Keough Park, staff estimates the capital cost would be between \$75,000 and \$150,000 in one-time funding.

### **RECOMMENDATION**

No formal action is required as this is a discussion item only. Staff is seeking Council direction however on whether to continue or terminate the current Eastside OLA lease agreement with DSHS by August 15, 2020. Staff recommends City continue the current lease at the increased lease rate through either September or October 2020 while continuing to review the State's appraisal and, if indicated, approaching the State to negotiate a reasonable rent based on the City's review. Staff further recommends that if the City is not on a successful pathway to a negotiated solution with DSHS by either September or October 15, 2020, that the City should give notice, close the Eastside OLA and replace it with an interim OLA in James Keough Park.

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

## **BACKGROUND**

On May 1, 2013, the City of Shoreline entered into a five-year lease agreement with the State of Washington Department of Social and Health Services (DSHS) to construct and operate a two-acre fully fenced off-leash area (OLA) located at the southeast corner of the Fircrest Campus, which is located at 1750 NE 150<sup>th</sup> Street. DSHS owns and operates the Fircrest property and is the leasing agent for this Eastside OLA.

The original lease agreement, which expired May 1, 2018, has been amended at various times. The most recent lease agreement for the Eastside OLA, which was approved by the City Council on June 22, 2020, went into effect on July 1<sup>st</sup> and runs through December 31, 2020. The staff report for the June 22<sup>nd</sup> Council approval of the lease with DSHS, which includes the current lease agreement, can be found at the following link:

<http://cosweb.ci.shoreline.wa.us/uploads/attachments/cck/council/staffreports/2020/staffreport062220-7e.pdf>.

### **DSHS Lease Terms and Rate for the Eastside OLA**

The terms of the current lease agreement for the Eastside OLA are similar to the terms of the prior lease agreements, except for an increase in the lease rate and termination notice. While the City's prior lease rate was \$200 per month, the current lease agreement has a rental rate of \$1,000 per month for the months of July and August 2020, and starting in September 2020, the rental rate will be "the fair market value rate established by an appraisal commissioned by the Lessor" for the remainder of the year. Based on the DSHS appraisal provided to the City in late July, the monthly rental rate will increase to \$4,356 per month effective September 1<sup>st</sup>.

During the 2020 Legislative session, state law ([RCW 71A.20.170](#)) was amended to assist in preserving the State's developmental disabilities community trust, which is the beneficiary of lease payments made for use of property at Fircrest. An [amendment](#) (SSB 6190 Sec 1 (3)) to the RCW states "any sale, lease, or easement under this section must be at fair market value". Per this revised language in state law, DSHS hired an appraiser to conduct a "fair market value" appraisal for the land at Fircrest School. The City was provided a copy of the appraisal on July 27<sup>th</sup>, and the State's appraisal indicates that an annual lease for two-acres of land at Fircrest would cost \$52,267 annually, or \$4,356 per month as noted above.

The current lease agreement with DSHS allows the City to terminate the agreement with 15 days-notice if the budget impact of meeting the state's fair market value requirement is not acceptable. Given this dramatic increase in the lease rate, Council was interested in discussing the potential options and next steps regarding continuing or terminating the current lease agreement with DSHS.

## **DISCUSSION**

Staff directed its real estate consultant to conduct a review of DSHS' appraisal of the fair market rental value of the Eastside OLA and received initial feedback that there are some deficiencies in the analysis which may have resulted in a valuation which is above market value for this property. This includes misstating that an approved Master

Development Plan (MDP) Permit exists under revision, which would be required for any development to occur on DSHS' property. While DSHS has initiated an internal master planning and design process several times, it has never culminated in a formal application to the City. The comparable properties analyzed in the appraisal did not have similar development constraints associated with them, being in zones where commercial and light-industrial uses are allowed by right.

Staff has developed the following options for Council consideration regarding the current DSHS lease for the Eastside OLA.

**Option 1: Continue Lease Through October 31<sup>st</sup> At Least (Staff Recommendation)**

Given that the review of the DSHS appraisal shows that there is a reasonable difference of opinion about fair market value of this property, staff believes that there is an opportunity to approach the State and potentially negotiate a lower rental rate. Staff recommends not terminating the lease agreement until this approach has been explored. This would likely go beyond August 15<sup>th</sup>, which is the date the City can terminate the lease prior to the higher lease payment going into effect on September 1<sup>st</sup>. Payment of the September and October rent would depend on the status of negotiations with the State at that time.

If lease rate negotiations are successful and a renegotiated lease amount is amenable to the City Council, the Eastside OLA would remain in operation and the City would begin negotiations with the State about extending the lease agreement beyond December 31, 2020. If negotiations are not successful, staff would recommend the City would post notice and move forward with closing the Eastside OLA by November 1, 2020, at the latest. While staff is hopeful that the State would at least consider the City's position about the appraisal of this property, staff understands that the fair market value rate is established by lessor's appraisal, and therefore discussing the appraisal with DSHS may not result in an amended lease rate.

**Option 2: Terminate Lease by August 15<sup>th</sup>**

Council could decide not to challenge the State's appraisal of fair market rent and direct staff to give notice to terminate the Eastside OLA lease agreement prior to August 15<sup>th</sup>. This would ensure that the City would not pay the higher lease rate for the remaining months of the year. Staff would immediately post notice of the imminent closure of the Eastside OLA and would remove fencing, signage, etc. by September 1<sup>st</sup>.

**Alternative Off-Leash Area Location**

Under either one of the options above that results in the closure of the Eastside OLA (by either September 1<sup>st</sup> or November 1<sup>st</sup>), an alternative location for an OLA is recommended. Closure of the Eastside OLA would result in just one year-round OLA in Shoreline, located in Shoreview Park.

The Priority Parks concept design process, conducted in 2018 for the Shoreline Aquatics, Recreation and Community Center/Parks Bond Measure, anticipated the need for additional OLAs in Shoreline. The concept designs for James Keough and Ridgecrest Parks both include new OLAs. The long-term development of those parks is expected to include OLAs along with other park amenities including playgrounds, walking paths, improved parking, picnic shelters, etc.

If there is a near-term need to construct an interim OLA to replace the closed Eastside OLA, James Keough Park is likely the most suitable location. Costs would include fencing, access trail, kiosk, pad for port-a-pottie and parking improvements. While firm cost estimates have not been developed for this project, rough estimates would be between \$75,000 and \$150,000. Construction would take between 60 and 90 days to complete.

### **STAKEHOLDER OUTREACH**

There has been no public or stakeholder outreach related to this specific issue as staff just recently received the State's appraisal.

### **FINANCIAL IMPACT**

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