



May 21, 2008

**To:** Parks and Recreation Advisory Board

**Thru:** City Manager, Andrew Neiditz

**From:** Communications Director, Jeff Brewster

**Cc:** City Council  
Management Team

**RE:** (Draft) Lakefront Street Ends Discussion and Recommendations

### **1. Purpose**

The purpose of this memorandum is to summarize the ongoing lakefront street ends review process to date and to make recommendations to the Parks and Recreation Advisory Board on how to make best use of each lakefront street end in the long term interests of the citizens of Lakewood.

### **2. Bottom Line Up Front**

Request the Parks and Recreation Advisory Board (PRAB) review and formally approve the recommendations regarding lakefront street ends presented in paragraphs 9 and 10 or variations thereof. It is further recommended that the PRAB not take such formal action for at least one month to give interested citizens sufficient time to thoroughly review all documents and provide comment after such review.

### **3. Background**

Lakefront street ends are rights-of-way, or public easements, that essentially “dead end” into public lakes. The City does not own these easements, but on behalf of its citizens, it has access rights by State law. More detail on ownership facts can be found in the attached legal opinion ([Appendix A](#)). Since the early years of incorporation, the City of Lakewood has struggled with what to do with “Lakefront Street Ends.” The struggle began when the City was working on its initial Parks and Recreation Master Plan in 1998 and learned very quickly that this was a contentious matter. The issue is typical of most municipalities in that a natural tension exists between lakefront property owners who want privacy and other citizens who want unfettered access to these street ends for recreational purposes at the edge of lakes, which are State properties. Lakewood is not the only city that has struggled with this dilemma. The City of Seattle, which incorporated in 1865, did not get around to fully addressing its waterfront street ends controversies until 2000. The first parcels around Steilacoom Lake were platted by Pierce County in 1890. Lakewood has been incorporated for twelve years and has long considered the street ends issue important but not urgent. In the summer of 2007, the City Council directed the City Manager to begin the process of reviewing Lakewood’s street ends and making recommendations

to the Council through the Parks and Recreation Advisory Board on the most appropriate uses of these sites.

#### **4. Available Courses of Action**

There are several courses of action the City can take with respect to each individual street end. These were discussed throughout the public process.

a) The first is the “**status quo**” or “do nothing” or “leave as is” option. In a sense, this option has been in place for many decades and to one extent or another, has generated uncertainty and anxiety among some and has satisfied very few, if any, citizens.

b) Second, the City could **develop or improve** individual sites to make them more appealing to local residents for passive recreational uses such as walking, sitting on a bench, having a picnic, enjoying a view, or launching a canoe.

c) Third, the City could **vacate (sell)** these street ends to adjacent land owners. RCW 35.79.035 (“Limitations on vacations of streets abutting bodies of water”) governs these actions. An excerpt of this law is attached to this memorandum as **Appendix B**. More detail follows in the next paragraph on legal constraints.

d) Finally, the City could **lease** designated street ends. Some cities, such as Seattle, have used this option as a means to preserve easement interests and to raise money for the improvement of other street ends.

#### **5. Legal Constraints.**

Paragraph 2c identifies the State law that establishes how local governments vacate waterfront street ends. The City has been challenged on various aspects of its interpretation of RCW 35.79.035 by lakefront homeowners. Again, the City Attorney has drafted a legal opinion that addresses these challenges in **Appendix A**, but there are several key facts that should be underscored:

a) The City cannot simply give up its interest (public access) in a lakefront street end without just compensation.

b) The City cannot vacate any lakefront street end without determining the feasibility of that street end for public access; only sites judged infeasible for such access can be vacated.

c) The City Council is the only legally recognized entity that can determine the feasibility of public access for lakefront street ends.

d) Should the City vacate its interests in a street end, it must use the proceeds of that sale to acquire additional public access on that same body of water.

#### **6. Public Process**

The City hosted four public meetings between September 2007 and January 2008 in the City’s Council Chambers to gather public input and to work toward a consensus solution that could be presented to the Parks and Recreation Advisory Board and Council. To guide the City through this process, staff retained Jim Merritt of Merritt Architecture (a Tacoma firm) to facilitate and guide these meetings. To

advertise the first meeting, the City mailed out notification letters to every household within ¼ mile of a street end; *The News Tribune*, and *Suburban Times* each noted the meeting, and the City's website provided extensive detail. Some participants thought this was not sufficient for notification purposes, so the staff decided that every subsequent meeting would be advertised on the front page of *Lakewood Connections*, a City newsletter that is mailed to every household and business in Lakewood. The pace of the public process was, by design, slow and methodical.

a) **First Meeting (September 25, 2007).** In the hour preceding the first meeting, the City and Merritt Architecture (hereinafter referred to as "the facilitators") hosted an open house. Large aerial photos of each lake and each individual site were mounted on poster boards to give the public a good visual indication of the scope of sites under consideration. This first meeting provided an overview of the process, including the purpose, history, timelines, legal constraints, and a brief description of each site using aerial and on-site photos. Each subsequent meeting restated these elements to some degree. The first meeting was the most contentious of the four, with many citizens angry and uncertain about the City's motives for undertaking this process and afraid it would lead to nothing but grief for lakefront property owners. A strong minority of citizens advocating for increased public access to street ends also voiced its concerns as well. Staff captured all citizen concerns and entered them into the record.

b) **Second Meeting (November 27, 2007).** The objective of this meeting was to identify "constraints and opportunities" or basic attributes of each site. Three of the fourteen sites under review were not true "street ends" but actual parcels owned by the City of Lakewood: Edgewater Park, Wadsworth "Street" and Lakeland "Park." The City decided to include these sites because they shared many characteristics of the others and better revealed the inventory of available sites that could be improved or vacated. Identifying these attributes was a necessary step for developing criteria by which to measure each site in subsequent meetings. Constraints are those site features that can inhibit access for recreation, such as steepness of terrain and lack of parking among other things. Opportunities are those characteristics that make a site appealing for improved public access, such as unobstructed views, wide and flat areas, and sufficient setbacks from adjoining property owners.

c) **Third Meeting (December 11, 2007).** The intent of this meeting was to review and validate proposed evaluation criteria, developed by the facilitators between sessions, and then apply it to American Lake, Lake Louise, and Gravelly Lake sites. A consensus emerged that these draft criteria proposed were too subjective and not sufficiently defined. The criteria were subsequently improved in that regard and a consensus emerged that the new and improved criteria were acceptable. These criteria are attached as **Appendix C**. There was a discussion about whether or not to "weigh" the criteria, that is give some criteria such as "site width" greater influence in determining a site's feasibility than another such as "view" (this is only an example). Eventually, a consensus was reached that the only weight that should be applied was the somewhat subjective factor of "community will." A community's will (and that could be translated to "neighborhood will" to a large extent) can either enhance a site's feasibility for improved public access or detract from it. In other words, even the most problematic site could, with the right amount of willpower and resources, be made feasible. Alternatively, even sites with the best physical characteristics could be made impractical for increased public access with enough public opposition.

d) **Fourth Meeting (January 23, 2008).** The evaluation criteria honed during the December 11<sup>th</sup> meeting were applied to the lake with the most sites: Steilacoom Lake. Some complained that as the

evening wore on, those lakefront owners participating in the site evaluations attempted to negotiate scoring downward to present Steilacoom Lake sites in a less appealing manner, thereby giving them a somewhat artificially low score. This may be true, but it may also be a reflection of “neighborhood will” at play. There were enough pro-access citizens in the audience to challenge these residents and to maintain a certain level of tension and scrutiny with the support of the facilitators. By the end of this meeting, all fourteen sites had been evaluated, scored, and rank ordered in terms of feasibility for increased public access for passive recreational purposes. A full-page evaluation of each of the fourteen sites, as well as their physical characteristics (e.g. width, length, and slope), can be found in **Appendix D**. A visual snapshot of the rank ordering can be seen at **Appendix E**.

**7. Legal Document Review.** During the four public meetings, a number of citizens questioned the City’s drawings that reflected property lines, easements, location of fences and other structures, ownership interests (e.g. whether land was part of a tax parcel or a right-of-way), and so forth. The City asked for supporting documentation in each instance and did receive a number of documents, all of which were reviewed by Public Works staff. On at least one occasion, a homeowner was able to identify a significant error on an aerial photo at the Lake Louise boat launch, which was corrected by City staff in cooperation with the Pierce County Assessor’s Office. The City undertook an additional site review process to study all documents and other constraints. In short, this review did not identify any new information or major discrepancies that would seriously affect the City’s options for any site. That said, before the City vacates or develops any sites, additional due diligence, through title companies and/or local utility concerns may be prudent.

### **8. Summary of Scoring and Judging.**

Paragraph 4, “Public Process,” reveals in a broad sense how evaluation criteria were developed. All key characteristics of a street end that shape its feasibility for public access were identified and, to the greatest extent possible, quantified. There is no perfectly quantifiable means to judge a street end site either “feasible” or “infeasible” and by State law, this determination is the prerogative of the Lakewood City Council. Based on the scoring of individual sites a line between “feasible” and “infeasible” must be drawn somewhere on the feasibility graph shown on **Appendix E**. Some sites are very clearly feasible for public use and some are not. Others are less obvious and as such, one of the primary challenges of the process was to sort through sites in the “gray area.” Based on the methodology used, a site could have a maximum score of 55 points (5 points for 11 criteria) and a minimum score of 11 points (1 point minimum per criterion) in its evaluation. Staff recommends a line be drawn at 25 points. That is, those sites above 25 should be viewed as feasible for improved public access and those below 25 should be deemed infeasible. The policy options identified below were developed based largely on this scoring.

### **9. Primary Recommendations.**

a) Sites that should be improved for public access:

- #1: Westlake avenue SW, Steilacoom Lake
- #4: Lake Avenue SW, Steilacoom Lake
- #7: Edgewater Park SW, Steilacoom Lake (parcel)
- #8: Lake City Boulevard SW, American Lake
- #10: Melody Lane SW, Lake Louise
- #14: Lakeland Avenue SW, American Lake (parcel) (\*Option A)

b) Sites that should remain “as is” with little to no improvements:

#9: Wadsworth Street SW, American Lake (parcel)

c) Sites that should be leased or vacated to raise capital to acquire more suitable lakefront property on the same lake b:

#2: Mount Tacoma Drive SW, Steilacoom Lake

#3: Beach Lane SW, Steilacoom Lake

#5: 100<sup>th</sup> Street SW, Steilacoom Lake

#6: Holly Hedge Lane SW, Steilacoom Lake

#11: Holden Street SW, Lake Louise

#12: Hilltop Lane SW, Gravelly Lake

#13: Linwood Lane SW, Gravelly Lake

#14: Lakeland Avenue SW, American Lake (parcel) (\*Option B)

d) Site that should be vacated unless the surrounding neighborhood comes forward with a street end adoption and improvement plan within six months of City Council approval (in light of demonstrated neighborhood interest):

#4: Lake Avenue SW, Steilacoom Lake

[\*Please note that site #14 could either be a candidate for improvement or vacation. Paragraph 7f provides more detail.]

## **10. Additional Recommendations.**

a) The City should develop a master plan for each site designated for improvements that is integrated into the Six-Year Parks Capital Improvement Projects Plan.

b) The City should continue to maintain Wadsworth Street for public boat launchings.

c) Sites should be vacated when adjoining property owners are able to pay the fair market value for terminating the City’s easement rights as required by State law.

d) If property owners would rather lease than purchase street ends, the City will hire an appraiser to determine appropriate annual lease fees. The Parks and Recreation Advisory Board will review staff recommendations on policies related to leasing options.

e) If adjoining property owners are unwilling or unable to lease or purchase easement rights within five years, the City will reserve the right to re-examine its options for enhancing those sites for public access.

f) While the Lakeland Avenue SW (#14) site is identified with a parcel number, some additional legal changes would have to be made to convert it to a “buildable” residential lot. The City inherited this parcel from Pierce County; the County had designs on making it a park at one point before deeding it to the City. It is not ideal as a neighborhood park for a number of reasons (access, size, parking, and

slope), and it could be viewed as a resource to “leverage” acquisition of additional property on American Lake in the greater Lake City neighborhood. The most obvious candidate would be expanding American Lake Park, at some point through additional acquisition. Again, please note this site also has utility as a street end, which is why an alternative option is to improve the site for public access.

g) The City should work with Lakewold Gardens to explore opportunities to provide some level of public access to Gravelly Lake for passive recreation including non-motorized watercraft.

h) The City should consider using its powers of eminent domain to increase lakefront access in meaningful ways. It should use existing parks as “anchors” from which to expand.

i) Lakewood Police, perhaps through neighborhood policing teams, will need to work with surrounding neighbors to establish block watches and to establish a low tolerance for anti-social behavior at those street ends that are improved for public access.

## **11. Conclusion.**

Most expected the lakefront street ends public process to be contentious, and it was. One implied task of the facilitators was to balance the rights of lakefront property owners, who are well organized and frequently vocal, with those who are less organized but equally passionate about having access to the shorelines of Lakewood’s lakes to indulge in passive recreation along a beautiful lake shore. Each side has a compelling case.

Those who live on the shores of our lakes have very significant investments in their property. They value their privacy and peace of mind. They are understandably very concerned about unfettered access of the public so close to their property; many provided examples of disorderly behavior at street ends and have an understandable fear of expanding this access to the greater public. A lack of parking is a major problem with all of these street end sites and was frequently cited as a concern by surrounding homeowners. On the other end of the spectrum, those citizens participating in the meetings who enjoy the outdoors, such as bicyclers, canoeing enthusiasts, and walkers, shared a frustration that these sites may not be available to them. Therein lies the policy dilemma. The best antidote to this dilemma may very well be a series of vacations and acquisitions to improve lakefront access. The City should expect vocal opposition from surrounding property owners when it attempts to acquire additional lake frontage, as it did in 1998 when it considered purchasing a parcel on Steilacoom Lake.

Lakewood incorporated a century after many of the parcels along these shorelines were being formed. The City will not undo a century’s worth of neglectful government planning totally, quickly, inexpensively, or without controversy. It can, however, make Lakewood’s lakes more accessible to its citizens with a proper level of foresight.

## Appendices

A – Legal Opinion

B – RCW 35.79.035 (“Limitations on vacations of streets abutting bodies of water...”)

C – Evaluation Criteria Matrix (Definitions)

D – Site Evaluations

E – Site Comparison Matrix and Graph  
F – Maps