



## Memorandum

**DATE:** March 6, 2012  
**TO:** Ian R. Sievers, City Attorney  
**FROM:** Christina Schuck, Assistant City Attorney  
**RE:** Parks and Recreation Special Purpose Districts

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Washington allows the following four types of special purpose districts relating to parks and recreation:

1. Metropolitan Park Districts (RCW 35.61)
2. Park and Recreation Districts (RCW 36.69)
3. Joint Park and Recreation District (RCW 36.69.420 - .460)
4. Park and Recreation Service Areas (RCW 36.68.400)

### Metropolitan Park Districts

**Purpose:** Metropolitan Park Districts (“MPD”) may be created for the management, control, improvement, maintenance, and acquisition of parks, parkways, boulevards, and recreational facilities.<sup>1</sup>

**History:** In 1907, first class cities were first authorized to create MPDs. The statutes were amended in 2002 after a legislative task force recommended that cities and counties or a combination of them be able to create an MPD. Prior to 2002, cities with populations under 5,000 could not create MPDs.

**Creation:** An MPD is a municipal corporation under RCW 35.61.040. It may consist of territory located in one city or in multiple cities, as well as counties. State law sets forth two methods for establishing an MPD: (1) petition method<sup>2</sup>; and (2) resolution method<sup>3</sup>. Under the resolution method, the legislative authorities adopt resolutions submitting a

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<sup>1</sup> RCW 35.61.010

<sup>2</sup> Under the petition method, a petition signed by 15% of the registered voters residing within the potential district is submitted to county auditor,

<sup>3</sup> Under the resolution method, the City Council adopts a resolution submitting a proposition for formation to the voters.

proposition for its formation to the voters within the proposed MPD boundaries. Under the petition method, a petition signed by at least 15 percent of the registered voters residing in the area to be included in the MPD is submitted to the county auditor. The ballot proposition is then submitted to the voters in the next general election or at the next special elections occurring 60 days after the resolution is adopted or the county auditor certifies the petition.<sup>1</sup> A simple majority vote at this election suffices to create the district.<sup>2</sup>

The creation of an MPD may be subject to review by the boundary review board under RCW 36.93.<sup>3</sup> Specifically, if the proposed district is located wholly or in part in a county where a boundary review board (Board) has been created, notice of the proposal to create an MPD must be filed with the Board according to RCW 36.93.090.<sup>4</sup> However, RCW 35.61.030 also states that the creation of an MPD is not subject to Board review “if the proposed district only includes one or more cities.”

RCW 36.96.090 requires that for every newly created special purpose district, the county auditor must provide the state auditor with the name of the district and a general description of its location; contact information for the members in its governing authority; and the function of the district and the purpose for which it was created.

**Governing Body:** The MPD is governed by a board of five park commissioners, who are elected at the time of formation. If the MPD is located wholly within one city, then the governing body of that city may be designated to serve in an ex officio capacity as the board of metropolitan park commissioners. If the MPD is located within more than one city, each city governing body may be designated to collectively act as the commissioners through selection of members from each body. The treasurer of the MPD can either be the county treasurer (ex officio) or the MPD may designate a treasurer. A designated treasurer must be approved by the county treasurer and bonded by the MPD board.<sup>5</sup>

**Powers:** MPDs have the broadest powers of the parks districts. Specifically, MPDs can purchase, acquire and condemn lands both within and outside of the boundaries of the park district. An MPD may issue general obligation and revenue bonds, petition for creation of local improvement districts and regulate, improve parks, parkways, boulevards, avenues and playgrounds. An MPD can employ counsel, provide for park police and all necessary employees and establish civil service for the employees. MPDs can also authorize, conduct and manage the letting of boats, operation of bath houses, sale of food or merchandise, concerts and entertainment. An MPD can sell, exchange or dispose of surplus property and it can annex territory.

**Condemnation Authority:** MPDs do have the power to condemn property within the boundaries of the district for public parks; the board of park commissioners exercises this

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<sup>1</sup> RCW 35.61.030.

<sup>2</sup> RCW 35.61.040

<sup>3</sup> RCW 35.61.001

<sup>4</sup> RCW 35.61.030(2).

<sup>5</sup> RCW 35.61.180

condemnation authority under the same procedure as a city authorizes its eminent domain authority.<sup>1</sup> Funds to pay for condemnation can only be raised as specified in RCW 35.61.

**Taxing Authority:** An MPD is a junior taxing district with two available property tax levies: 50 cents per thousand dollars assessed value (AV) and one of 25 cents. Although they are considered one levy for the limits in RCW 84.55, they have different rankings under the prorationing statute. Specifically, the aggregate regular levy rates of senior taxing districts and junior taxing districts cannot exceed \$5.90 per thousand dollars AV. If the rates exceed this limit, at least one levy from one junior taxing district must be prorationed. The first levy to be reduced is Park and Recreation Districts (PRD) and Park and Recreation Service Area (PRSA), both up to 60 cents. The 25 cent levy for MPDs is third on the list, followed by the 50 cent MPD levy as the fourth to be reduced. Thus, MPDs have at least three fiscal advantages over a PRD or PRSA: (1) it has a higher maximum levy of 75 cents, compared to 60 cents for PRDs and PRSAs; (2) it has a higher ranking in the prorationing statute; (3) the levy for MPDs is permanent, and not subject to a vote every six years.

**Dissolution:** To dissolve an MPD, first the city or county must petition for dissolution and assumption of assets or liabilities; or 10 percent of the voters or the city and/or county must petition the city or county governing officials.<sup>2</sup> Next, a majority of the park commissioners must vote for dissolution.

An MPD can also be disincorporated if it is located wholly or in part within a county with a population over 210,000 and has been inactive for five consecutive years.<sup>3</sup> To do so, either the county legislative authority can call for the disincorporation, or 20 percent of the voters within the district can petition for disincorporation.<sup>4</sup> Then, the county holds public hearings to determine whether or not any services have been provided within a consecutive five year period and if it is in the best interest to dissolve the special district.<sup>5</sup> If these conditions are met, the county shall order the disincorporation of the special district.<sup>6</sup>

There is nothing in the RCWs addressing reinstatement.

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<sup>1</sup> RCW 35.61.130

<sup>2</sup> RCW 35.61.310

<sup>3</sup> RCW 35.61.315, referencing RCW 57.90.010

<sup>4</sup> RCW 57.90.020.

<sup>5</sup> RCW 57.90.020

<sup>6</sup> RCW 57.90.030

## **Park and Recreation Districts and Joint Park and Recreation Districts**

**Purpose:** PRDs provide leisure time and recreational activities and facilities of a nonprofit nature to the residents within their geographical area.<sup>1</sup> A PRD can be formed encompassing two or more counties and is then referred to as a Joint PRD.<sup>2</sup> Joint PRDs have all the same powers and duties of a PRD. PRDs are often formed to provide general recreation services or to finance swimming pools.<sup>3</sup> Recreational facilities include parks, playgrounds, gymnasiums, swimming pools, field houses, stadiums, bathing beaches, bike paths, and community centers.<sup>4</sup>

**History:** In 1957, larger counties, such as King County, were authorized to establish PRDs. Then, in 1959, this authority was expanded to smaller counties.

**Creation:** A PRD is a municipal corporation and is created by a petition, which must describe the land to be included and be signed by at least 15 percent of registered voters within the area described. The petition must be filed with the county auditor, who must certify the sufficiency of the signatures.<sup>5</sup> Then, the board of county commissioners must set a time for a hearing on the petition of the PRD's formation.<sup>6</sup> Although the PRD may include any incorporated area, if any part of the proposed PRD lies within the corporate limits of a city or town, the petition must contain a certified copy of a resolution approving the inclusion of the PRD within the city limits.<sup>7</sup> The statute does not seem to address Shoreline's situation, namely, does the city have to approve the inclusion if the PRD was created prior to the city's incorporation? There is also no case law on point.

RCW 36.96.090 requires that for every newly created special purpose district, the county auditor must provide the state auditor with the name of the district and a general description of its location, contact information for the members in its governing authority; and the function of the district and the purpose for which it was created.

**Governing Body:** PRDs are governed by a board of five elected commissioners, elected to staggered four-year terms and serve until their successors are elected.<sup>8</sup> Vacancies are filled according to RCW 42.12.070 (filling nonpartisan vacancies). The method of filling the vacancy depends upon how many positions are vacant. If at least two members of the governing body are in office, they can appoint a qualified person to fill the vacancy. If less than two members are in office, the county appoints a qualified person to fill the vacancy. If the county fails to do so within 180 days, the remaining members can petition

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<sup>1</sup> RCW 36.69.010

<sup>2</sup> RCW 36.69.420

<sup>3</sup> <http://www.mrsc.org/subjects/parks/prcompare.aspx>, citing Recreation Resources: A Heritage for the Future, IAC 1986.

<sup>4</sup> RCW 36.69.010 (lists additional recreational facilities).

<sup>5</sup> RCW 36.69.020

<sup>6</sup> RCW 36.69.040.

<sup>7</sup> RCW 36.69.030

<sup>8</sup> RCW 36.69.090.

the governor to appoint someone. Anyone appointed to fill a vacancy serves until someone is elected at the next scheduled election.<sup>1</sup>

The board must hold public meetings at least monthly, adopt policies and administer the district park and recreation activities, including selecting and employing those deemed necessary.

**Function and powers:** PRDs may acquire and hold real and personal property, dispose of this property, make contracts, borrow money, establish fees and rates, and make and enforce rules. PRDs may also contract with any municipal corporation to conduct parks and recreation programs; hold in trust and manage public property; acquire, construct and operate recreational facilities; and make improvements or acquire property under RCW 36.69.130.

**Taxing Authority:** A PRD may impose a property tax up to 60 cents per thousand dollars of AV, in each year for six years, if authorized by a majority of three-fifths of the voters approving a proposition authorizing the levies at either a special election or general election. The three-fifths voting yes must be equal to 40% of the voters voting at the last preceding general election.<sup>2</sup> PRDs are subject to aggregate limits on property taxes set forth in RCW 84.52.043(2). As discussed above, if the aggregate regular levy rates of senior taxing districts and junior taxing districts exceed \$5.90 per thousand dollars AV, the first levy to be reduced is the PRD and up to the entire 60 cents. Thus, there are two disadvantages to PRDs in comparison to MPDs: (1) the PRD levy is reduced and possibly even eliminated before the MPD is reduced; and (2) the levy is only authorized for six years.<sup>3</sup>

**Dissolution:** A PRD may be dissolved under RCW 53.48 relating to port districts. The district should declare its intent to dissolve and may name a successor taxing district.<sup>4</sup> A PRD may also be dissolved or disincorporated for inactivity.<sup>5</sup> RCW 36.96 provides for the dissolution of inactive special purpose districts. A PRD is inactive when (1) it is not carrying out any of its special purposes or functions for five consecutive years; or (2) no election has been held to elect members to the governing body for seven years or no members appointed in seven years. The county auditor is tasked to search each year for special purpose districts that appear to be inactive.<sup>6</sup> The county within which the PRD is located must then hold a public hearing to determine if it is inactive.<sup>7</sup> After the hearing, the county makes written findings as to the district's inactive status. If it is found

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<sup>1</sup> RCW 42.12.070

<sup>2</sup> RCW 36.69.145

<sup>3</sup> *Id.*

<sup>4</sup> RCW 36.69.310

<sup>5</sup> RCW 57.90.010; RCW 36.96

<sup>6</sup> RCW 36.96.020

<sup>7</sup> RCW 36.96.030

inactive, the county adopts an ordinance dissolving the district. The district's authority ceases after thirty-one days after the adoption of the dissolution ordinance.<sup>1</sup>

The PRD can also be "disincorporated" if located in a county with a population over 200,000 and inactive for five years.<sup>2</sup> To do so, either the county legislative authority can call for the disincorporation, or 20 percent of the voters within the district can petition for disincorporation.<sup>3</sup> Then, the county holds public hearings to determine whether or not any services have been provided within a consecutive five year period and if it is in the best interest to dissolve the special district.<sup>4</sup> If these conditions are met, the county shall order the disincorporation of the special district.<sup>5</sup>

There is nothing in the RCWs addressing reinstatement.

### **Shoreline Parks and Recreation District**

On November 4, 1958, King County voted to establish the Shoreline PRD and elected five commissioners. King County Resolution No. 19186 created the Shoreline PRD. In June, 1959 Resolution No. 19905 altered the property of the PRD, withdrawing a portion inadvertently included in the PRD when established. A draft map using the descriptions in Resolutions 19186 and 19905 was recently created and can be found here:

<J:\GIS\Maps\PRCS\ParkDistrict1958.pdf>

The following information is still needed:

- The date of the last elections for commissioners
- The date of the last levies
  - Levies attempted in 1991 and 1992 failed.

### **Park and Recreation Service Area**

**Purpose:** The purpose of a PRSA is to finance, acquire, construct, maintain or operation a park, zoo, aquarium, senior citizen activity center or recreational facility. The park, zoo, aquarium, etc. shall either be owned or leased and administered by a city or park and recreation service area.<sup>6</sup>

**History:** In 1963, first class counties were given the authority to establish PRSAs in unincorporated areas within the county. Then in 1965, this authority was extended to all counties. In 1985, these areas were authorized to fund zoos and aquariums.

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<sup>1</sup> RCW 36.96.040

<sup>2</sup> RCW 36.69.320, referencing RCW 57.90.

<sup>3</sup> RCW 57.90.020.

<sup>4</sup> RCW 57.90.020

<sup>5</sup> RCW 57.90.030

<sup>6</sup> RCW 36.68.400

**Creation:** A PRSA is a quasi-municipal corporation and an independent taxing authority and a taxing district. If the PRSA includes incorporated cities, the city must approve a resolution including the area within the corporate limits of the city.<sup>1</sup> For unincorporated areas of a county, the county must adopt a resolution or it can be formed by a petition with 10 percent of registered voters in the area.<sup>2</sup>

RCW 36.96.090 requires that for every newly created special purpose district, the county auditor must provide the state auditor with the name of the district and a general description of its location, contact information for the members in its governing authority; and the function of the district and the purpose for which it was created.

**Governing Body:** The members of the governing body are members of the county legislative authority acting *ex officio*. If a city is included, the PRSA is governed by an interlocal cooperation agreement.<sup>3</sup>

**Function and Powers:** A PRSA has the power to acquire, construct, own, lease, or operate parks, senior citizen centers, zoos, aquariums, and recreational facilities. It can make contracts, sue or be sued, impose and collect use fees on facilities financed by the PRSA, hire employees, fund salaries, exercise eminent domain, accumulate reserves, enact and enforce police regulations.<sup>4</sup>

**Taxing Authority:** A PRSA may impose a property tax up to 60 cents per thousand dollars of AV, in each year for six years, if authorized by a majority of three-fifths of the voters approving a proposition authorizing the levies at either a special election or general election. The three-fifths voting yes must be equal to 40 percent of the voters voting at the last preceding general election.<sup>5</sup> PRSAs are subject to aggregate limits on property taxes set forth in RCW 84.52.043(2). As discussed above, if the aggregate regular levy rates of senior taxing districts and junior taxing districts exceed \$5.90 per thousand dollars AV, the first levy to be reduced is the PRSA and up to the entire 60 cents. Additionally, the levy is only for six years.<sup>6</sup>

**Dissolution:** PRSAs can also be dissolved under RCW 53.48 relating to port districts or via the dissolution procedures in RCW 36.96 for inactive special purpose districts. A PRSA is inactive when (1) it is not carrying out any of its special purposes or functions for five consecutive years; or (2) no election has been held to elect members to the governing body for seven years or no members appointed in seven years. The county auditor is tasked to search each year for special purpose districts that appear to be inactive. The county within which the PRSA is located must then hold a public hearing to

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<sup>1</sup> RCW 36.68.610

<sup>2</sup> RCW 36.68.410

<sup>3</sup> RCW 36.68.400

<sup>4</sup> RCW 36.68.541 - .570.

<sup>5</sup> RCW 36.68.525

<sup>6</sup> *Id.*

determine if it is inactive. After the hearing, the county makes written findings as to the district's status. If determined inactive, the county adopts an ordinance dissolving the district. The district's authority ceases after thirty-one days after the adoption of the dissolution ordinance.<sup>1</sup>

There is nothing in the RCWs addressing reinstatement.

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<sup>1</sup> RCW 36.96.040