

**CITY OF MEDICAL LAKE
City Council Regular Meeting**

6:30 PM
July 18, 2023

MINUTES

Council Chambers
124 S. Lefevre Street

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

COUNCIL AND ADMINISTRATIVE PERSONNEL PRESENT

Councilmembers

Heather Starr
Art Kulibert
Don Kennedy
Bob Maxwell (Excused absence)
Ted Olson
Chad Pritchard
Tony Harbolt

Administration/Staff

Terri Cooper, Mayor
Sonny Weathers, City Administrator
Koss Ronholt, Finance Director
Sean King, City Attorney
Steve Cooper, WWTP Director
Scott Duncan, Public Works Director
Elisa Rodriguez, City Planner

WRITTEN PUBLIC COMMENTS

If you wish to provide written public comments for the council meeting, please email your comments to sweathers@medical-lake.org by 4:00 p.m. the day of the council meeting and include all the following information with your comments:

1. The Meeting Date
2. Your First and Last Name
3. If you are a Medical Lake resident
4. The Agenda Item(s) which you are speaking about

*Note – If providing written comments, the comments received will be acknowledged during the public meeting, but not read. All written comments received by 4:00 p.m. will be provided to the mayor and city council members in advance of the meeting.

Questions or Need Assistance? Please contact City Hall at 509-565-5000

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, ROLL CALL

- A. Mayor Cooper called the meeting to order at 6:30 pm, led the Pledge of Allegiance, and conducted roll call. Councilmember Maxwell submitted a request for absence. Motion to approve made by councilmember Kennedy, seconded by councilmember Starr, carried 6-0. All other members were present.

2. AGENDA APPROVAL

- A. Motion to approve made by councilmember Kulibert, seconded by councilmember Kennedy, carried 6-0.

3. INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- A. Tammy Roberson, resident of Medical Lake - frustrated that the City does not follow its guidelines. Addressed Martin St. wetland. See attached.
- B. Robynn Sleep, not a resident of Medical Lake, speaking on behalf of Tammy Roberson - requests that the City postpone the decision on the wetland application and have it reconsidered by Planning Commission.
- C. James Demico, resident of Medical Lake for 21 years - Received notice for not paying utility bill. Had difficulty receiving bills so changed to electronic billing. Upset at receiving notice and recommended a step in between the cut-off notices. Mayor: working on procedures.
- D. James Shaffer, resident of Medical Lake - Stated what an honor it is to be part of this community. Sends his regards.
- E. Lahnne Henderson, resident of Medical Lake - video was not turned on.

4. ANNOUNCEMENTS / PROCLAMATIONS / SPECIAL PRESENTATIONS

- A. Mayor Cooper commented on Founders Day and gave thanks to all volunteers in the City. Shared about working with Re-Imagine Medical Lake and the positive comments from passersby that it was the best one ever. Special recognition for Reggie Hebink as Volunteer of the Year for Founders Day; she volunteers at every community event and collaborates with organizations. Re-Imagine Medical Lake Community Partnership Award given to Gerri Johnson. Hollis and Chase Roberts were presented with the Founders Day Small Business Volunteer of the Year award.

5. REPORTS

- A. Public Safety
 - i. FD3 Chief Rohrbach - Does not have June stats back. Wildfire has been the biggest load as of last month. July 4th was fairly quiet. Fireworks are a passionate topic, encouraged citizens to celebrate responsibly. Great interactions with the community. Had a wildfire south of Medical Lake in Picnic Pines, just over 10 acres. A fire started yesterday in Lincoln County near Fishtrap exit. No wildfire relief in sight. Deeper dive in the newsletter; has information on upcoming levy lid lift. Service level decision. Call volume continues to trend up. FD3 is the fastest-growing fire district in the county at 6%, which is over four times the national rate.
 - 1. Councilmember Olson asked if the levy information is available. Chief Rohrbach: yes, will make it available and encouraged citizens to call with any questions. They are happy to discuss.
 - 2. Councilmember Kulibert asked if Four Lakes is the backup if the Medical Lake team is out on calls. Chief Rohrbach: yes.
 - ii. SCSO Lt. Gladden - If while recreating on a lake and you see smoke in the air, clear out of the middle of the lake, as the airplanes retrieve water from the lake. If people do not, marine deputies will have to clear people from the lake. Not a lot of stats, but nothing alarming was reported.

1. Councilmember Kulibert shared about a post on Facebook regarding a person in a red vehicle that was running people off the road and waving a gun. Washington State Patrol is the primary patrol for 902, a state highway. Deputy Gladden stated he was not familiar with that incident.

B. Council Comments

- i. Councilmember Pritchard - AWC Conference was great. Bluegrass Festival is coming up the second weekend of August. General Government meeting, WWTP reclaimed water pipe repaired. Legislative award of one million for stormwater projects.
- ii. Councilmember Starr - Finance Committee met and went over typical items. Shared that this is her last meeting with City Council as she is moving to the other side of the state for a job opportunity.
 1. Mayor Cooper thanked councilmember Starr for her service.
 2. Councilmember Kulibert asked if Council can bring on the unopposed council applicant to begin working now. Mayor Cooper stated that the options are to leave the position vacant or open for applications. Council decided to move forward with application process.
- iii. Councilmember Kulibert – commented on the all-city yard sale, the map was missed this year.
- iv. Councilmember Kennedy - big week for STA meeting. Rode the first electric bus around town. Hosted bus riding events. Official ribbon cutting at Gonzaga.
- v. Councilmember Olson - Thanked the sheriff's office and fire department for their full reports.
- vi. Councilmember Harbolt - no report.

C. Mayor

- i. Will be out for August 1st meeting.

D. City Administrator & City Staff

- i. No report

6. WORKSHOP DISCUSSION

A. Transfer to Other Unit of Government Award for Broadband Infrastructure

- i. Ariane Schmidt from Spokane County (Broadlinc). Here to provide context for this agenda item. Would like to keep original intent of \$100,000 award to go toward Medical Lake for efforts in broadband infrastructure.
 1. Councilmember Pritchard - what does that mean for the current broadband up on water tower? Reply: Unaffected. Zply rejected the offer from the county.
 2. Councilmember Starr - Why would the company decline the contract? Reply: There is a lot of level setting going on nationally. Zply didn't care for open access constraints tied to grant awards.
- ii. Selected as pilot for semi-fixed wireless, Fire District 3, awarded funding for project.

B. Zoning Map

- i. City Planner, Elisa Rodriguez - The City does not have one complete, correct or officially adopted map. Desires to bring forward a Resolution to adopt correct map. Identified all inconsistencies in maps. Brought forward concern that Site C has a mixed zone, both R3 and C1. (see attached) Recommended making it all commercial but asked council if they had any guidance on the matter. Discussion held. Mrs. Rodriguez will try to contact the owner, Mr.

Wilcox to see if he has any additional information. If not, she will bring back as a Resolution to recognize this as the official zoning map.

7. ACTION ITEMS

A. Consent Agenda

- i. Approve **July 5, 2023**, minutes.
 1. Mayor Cooper noted that original comments by resident Lahnie Henderson were referenced but missing from the minutes. Motion to add comments made by councilmember Kennedy, seconded by councilmember Pritchard, carried 6-0.
 2. Motion to approve minutes as amended made by councilmember Pritchard, seconded by councilmember Starr, carried 6-0.
- ii. Approve **July 18, 2023**, Payroll Claim Warrants **50327** through **50334** and Payroll Payable Warrants **30015** through **30019** in the amount of **\$148,190.68** and Claim Warrants **50335** through **50369** in the amount of **\$105,729.03**.
 1. Motion to approve made by councilmember Kennedy, seconded by councilmember Harbolt, carried 6-0.

B. Application LU 2023-005 CA, Critical Area Review for N Martin St Wetland.

- i. Mrs. Rodriguez shared that an application for the development has been submitted. Starting on page 14 is the Staff Report to Council. Page 20, Staff Report to Planning Commission. Gave a presentation, see attached.
- ii. Councilmember Kulibert asked why wetlands have a buffer and lakes don't. Rodriguez: lakes are regulated by the shoreline management plan.
- iii. Councilmember Pritchard - is the owner able to build a basement on this property? Rodriguez: The topic was never discussed. Mayor: would be addressed through the building permit process.
- iv. Councilmember Harbolt - Is the signage required because of the new CAO? Rodriguez: yes, required because of the application.
- v. Councilmember Kennedy - If this is denied then is the City declaring it unbuildable and causing an economic loss? Rodriguez: Yes, if denied it would be declared unbuildable. The owner could appeal to the superior court.
- vi. Councilmember Starr - if the conditions are not followed, what are the repercussions? Rodriguez: Would be considered a code violation and treated as such.
- vii. Mayor Cooper - what is the maximum penalty for non-compliance? Rodriguez – Would refer back to the RCW.
- viii. Councilmember Kennedy noted that even if council approves the application, the building permit could still be denied. Rodriguez – yes, if all of the criteria is not met, permit would be denied. She is one of the parties that has to sign off on the permit and would be reviewing.
- ix. Councilmember Kulibert motioned to approve, seconded by councilmember Olson, carried 6-0.

C. Permit Refund Request, Medical Lake Food Bank

- i. Motion to approve made by councilmember Harbolt, seconded by councilmember Starr, carried 5-0 with councilmember Kennedy recusing himself because his wife is on the Food Bank Board.

8. RESOLUTIONS

A. 23-612 Records Management Policy.

- i. Discussion held and recommendations made.

- ii. Motion to continue resolution to next meeting to add additional language made by councilmember Pritchard, seconded by councilmember Kulibert, carried 6-0

9. PUBLIC HEARING – None scheduled.

10. ORDINANCES – None scheduled.

11. EXECUTIVE SESSION – None scheduled.

12. EMERGENCY ORDINANCES – No items listed.

13. UPCOMING AGENDA ITEMS – No items listed.

14. INTERESTED CITIZENS

- A. Robynn Sleep, non-resident of Medical Lake – Voiced concern that Council did not consider the option to deny application for Martin St. wetland and have them reapply. Stated displeasure with the decision.

15. CONCLUSION.

- A. Motion to conclude made by Councilmember Pritchard, seconded by councilmember Kennedy. Carried 6-0 and meeting concluded at 8:56 pm.



Terri Cooper, Mayor



Koss Ronholt, Finance Director/City Clerk

Comments on the North Martin Wetland Pond

18 July 2023 / Final

By: Scott Holbrook, Retired Architect, Master of Architecture Montana State University
See also attachments #1 and #2 about Multiple Owners and the Wetland Specialist Reports

I would like to see a council member make a **motion to deny** this project. As a design professional there is no way this project can be fit into this site without destroying the wetland and cutting down three mature trees. The drawing is not to scale and is misleading. In my career I have seen contractors get permits and then work it all out as they go. And nobody gets to see the specifics that would have otherwise been disapproved. We do not want to compromise this wetland just to see if we can fit. This is unacceptable!!

The resident at 424 W Brooks Rd, the owner of the south side of the pond has lived next to this wetland for 23 years. To reduce the mosquito problem there was much intense research to find the true owner. This wetland pond was purchased on 7 Oct 2013 from the city of Medical Lake, with a quit claim signed by the Mayor with discussion and an agreement of what would be done.

We have to assume that the site plan submitted with the Critical Area application will be the site plan used to apply for a building permit. **In that case there is no rear yard setback of a minimum 15 feet shown or labeled.** What is shown is a 10 foot dimension on the north property line necking down to 4 feet at the corner of the rear of the house. This project still has to comply with the building code making this unacceptable as the code requires a rear yard of at least 15 feet. One cannot see how this proposed house will fit into this site. It is a forced fit and would have to remove a fallen tree that is a habitat. The plan is shown without a garage and that does not fit the neighborhood, all homes on N Martin have garages. It appears that the site plan drawing is not to scale and not in sync with the actual site features. The drawing is over too far on the west side. There was a discrepancy with the dimensions that I brought up to the City Planner a couple months ago, I see the dimensions have changed but the lines were not scaled to reflect the new dimensions.

The whole wetland boundary is not shown. **A wetland specialist can only evaluate a whole wetland pond, not a portion of it.** Therefore this drawing is missing the southern part of the wetland. It is missing the boundary to the west and north which are owned by 4 different homeowners. The only way a wetland boundary can be shown as a straight line on the property line is if the wetland boundary and/or the buffer extends beyond the property line making more property owners. The wetland boundary on the west and north property lines would certainly follow a curvilinear line on that side due to the irregular land elevations. With this many mistakes or oversights, makes one wonder what else is miss-drawn, left out or hidden.

Again this is unacceptable. No garage and too close to the pond. Cutting down the three mature trees is a desperate move to force this to fit. What about the people who will live there? There would be next to no front yard as most of the space in front of the house would need to be used for parking. The fallen tree is already a habitat for life. The migratory path of the deer and wild turkeys is between the two houses on the west side thru the gravel corridor and along the back sides of the house to the north and directly to the west of that, where there is about a 10 foot corridor. The migrations will be stopped or severely limited.

The aerial photo used is quite old and the wetland has changed over the years. On a high water year the wetland pond boundary could be right at or near the corner of the proposed building. Why should three mature pine trees be cut down when without this project would not be cut down and should not be cut down. The biggest tree was there when the Declaration of Independence was signed.

All the wildlife that depends on this wetland would be seriously impacted. The migratory pattern of the deer and wild turkeys is to come thru the railroad house property thru the large gate opening she has on her west boundary or jump the fence and on into the wetland where the proposed house will be and thru the corridor between the west and northwest corner under the big willow tree. This migratory pattern will be broken and be destroyed for the deer and wild turkeys that use that route. The ducks that come every spring would more than likely not come back. There was 4 mated pair of ducks this year (8 ducks). Three pair had hatches, one of 11 ducklings, then 9 babies and the last of 7 little ducks. It was a delight to see the little ducklings swimming in the pond going from the deep side to the shallow side, as the neighborhood sees most every year. The first hatch was observed to be in the tall grasses about where the proposed plan is to plant aspens just south west of the big rock. With the aspen grove that is currently growing in the wetland, there would be no need to plant 10 more aspen trees to compete. Aspens groves are one entity and are completely linked underground and are largely what will drive this wetland to become a category 1. This is BIG. Anyone who has seen a mature aspen grove knows that eventually this entire pond will be full of aspens that are all about two feet apart. But that should not happen for a good length of time, so in the meantime the neighborhood can enjoy seeing ducks, ducklings, and hearing their familiar noises and seeing their familiar tails sticking up in the pond as they search for food. This is their home during the spring, and most of the summer, until the waters dry up.

Does the City Planner appear to have become an advocate for this project? Throughout my career I was always told that cities remain neutral and do not advocate for one side or the other.

Original signed by Affiant

By: _____ ©
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See atch #1 and #2

Attachment #1 - Final

One Wetland Pond – Multiple Owners

As far as the N Martin Street Wetland Pond goes, it is one pond with at least two major owners and 3-4 minor owners. The wetland actually spills over onto 3 or 4 other neighbors depending on the elevation of the water level each year. A wetland specialist performed the first evaluation and wetland report back in the fall of 2013 and it was accomplished on the entire wetland. The applicant did a second report in May of 2020 with revised information on May 6, 2023 on the north side of the wetland only (never asked to see the south side). Then a PhD did a 3rd report and as we watched he was only looking at the north side, so we assumed his report was done on the north side only.

The City hired a wetland specialist and he did an evaluation and report to confirm the work of the applicant again of the north side only. Recently hired by the owner of the southern part of the pond another PhD performed a wetland evaluation of the south side only and stated in his report that it was of the south side only and that he needed permission to complete the review. And those who don't know much about this process assume that a report is a report, but an evaluation must be done of the entire wetland.

And those who don't know much about this process assume that a report is a report, not so. This is one wetland pond with two main owners, and possible 4 additional owners with very small pieces each. A wetland can only be evaluated in its entirety and not in pieces. All of these owners have rights. These reports have been done independently of each side only. The applicant has not identified the entire wetland nor even talked to those others owners to find out more information. This project is ignoring the rights of those who have other pieces of the pie.

Attachment #2 - Final

The Wetland Pond – Mother Nature

Mother Nature does not define Her wetlands with a category 1, 2, 3, or 4. She cares about creating a place that will support life for wildlife, flora and fauna and even humans. She starts out with a depression that somehow starts to accumulate water and then the hard pan of rocks gets filled in with silts and creates a seal and the water stays longer and birds eat seeds and poop them where ever they wish or wherever they are and things start to grow. Year after year water comes in the form of snow and rain and stays longer and longer and some years there is more precipitation than other and things continue to grow. When there is water to drink and vegetation to eat the animals, birds and other wildlife come to frequent this location. Mother Nature creates a wetland habitat for Her vegetation and wildlife. Life is good. And when the frogs start to croak you know it is a happy balance as they can only exist with a pH of 6.5 to 7.5. Much lower than 6.0 and they begin to die off.

Old concrete is inert and done curing and poses no threat to the pH being too high or too low for plants especially for wildlife and the vast array of life at all levels especially aquatic creatures like frogs, salamanders, snakes, mosquitoes, water shrew, etc. New concrete on the other hand is very alkaline about Ph13 on a scale from 1 to 14.

Mother Nature creates places to support life for flora and fauna. Wetlands along with forests and forested wetlands produce oxygen that mankind and all creatures cannot live without. The scientists are saying that we have 20-25% less oxygen in our world today then in 1900. So the point of the above is that a wetland report is not an absolute, it is a snap shot in time of the normal progression of a wetland, Mother Nature creating a habitat for the maintenance of life on the planet, wildlife, vegetation life, the special life of mycorrhizal fungi and other life within the soil, above and below the surface. The planet not only supports humans. There are so many facets that depend on this planet to sustain life. With our wetlands being filled in and destroyed we have passed the tipping point. Watch: <https://fantasticfungi.com/film/>
<https://youtu.be/qry8K7KPHIQ> <https://youtu.be/pXHDoROh2hA>

Now lets talk about perhaps their major purpose and benefit to humanity. Wetlands along with forests and forested wetlands produce oxygen that man and all creatures cannot live without. The scientists are saying that we have 20-25% less oxygen in our world today then in 1900. So the point of the above is that a wetland report is not an absolute, it is a snap shot in time of the normal progression of a wetland, Mother Nature creating a habitat for the maintenance of life on the planet, wildlife, vegetation life, the special life of mycorrhizal fungi and other life within the soil and below the surface. (see video below about fungi) The planet not only supports humans but life at all levels. There are so many facets that depend on this planet to sustain life. With our wetlands being filled in and destroyed we have passed the tipping point. As the most intelligent species on the planet we need to see the purpose of Mother Nature, our eco-system and how it serves us. If we do not take care of it, it will NOT take care of us.

Our planet is a sphere with a solid molten core of iron that is about 15,000 degrees F and surrounded by layers of rock and gravel and all the things scientists have theorized about. Gravity holds it all together. This core of iron causes the magnetic fields that we have. Because the center or core is so hot and in fact about the same temperature as the surface of the sun, it needs to vent

from time to time. So we see volcanoes. To also help it stay as cool as it needs to be we have the surface covered with surface waters, ice, snow, rain, vegetation, forests, rain forests, wetlands, forested wetlands and so on. All this helps the earth to maintain a temperature much like you and I must maintain a temperature of 98.6 degrees F or we get sick, the earth also has to maintain a temperature range that year after year is fairly constant for Her to stay healthy, the same is true for animals and insects. The more we destroy this layer of protection the more we hurt ourselves in the process. Deforestation, filling in wetlands, building on or too close to wetlands, constructing too many surfaces with asphalt and concrete create excessive heat to deal with. Try this go stand in the center of a large lawn area near trees and see how you feel. Then go stand in the center of a concrete driveway or pad and see how you feel. You will feel warmer, 10-20 degrees warmer and you won't feel as relaxed either.

Watch and learn about fungi: <https://fantasticfungi.com/film/>
<https://youtu.be/qry8K7KPHIQ> <https://youtu.be/pXHDoROh2hA>

Mother Nature doesn't care about category 1, 2, 3, or 4, doesn't care about ownership or all of the things humans care about and often fight over. She cares about creating a place that will support life for both flora and fauna and wildlife of all sizes and birds and water fowl AND be compatible with humans. She starts out with a depression that somehow starts to accumulate water and then the hard pan of rocks below, all the crevices and space between get filled in with dirt, silts, scum, fallen grasses that turn into decaying matter and so much more and creates a seal and the water stays longer and birds eat seeds and poop them where ever they wish or wherever they are and things start to grow. Year after year water comes in the form of snow and rain and stays longer and longer and some years there is more precipitation than other and things continue to grow and grow and grow. When there is water to drink and vegetation to eat the animals, birds and other wildlife come to frequent this location. This is a wonderful process and those of us sensitive enough to see the process pay attention and become stewards of such places and do all we can to preserve them.

Mother Nature creates a wetland habitat for Her vegetation and Her wildlife. Life is good. And when the frogs start to croak you know it is a happy balance as they can only exist with a pH of 6.5 to 7.5. Much lower than 6.0 and they begin to die off. Old concrete is inert and done curing and poses no threat to the pH being too high or too low for plants but especially for wildlife and the vast array of life at all levels especially aquatic creatures like frogs, salamanders, snakes, mosquitoes, water shrew, etc. Mother Nature creates places to support life for wildlife, flora and fauna and humans.

Yes, I know that politicians get on bandwagons trying to get more tax money based on situations. One famous or infamous person said, "Never let a disaster go to waste". In other words, you can take advantage of a disaster to get people to give up more taxes. This has been done over and over in history. If you have ever watched the movie "Robin Hood" with Kevin Costner you see the king hires the clans from the north to come in and ruff up the local peasants and some die and they cry to the king to protect them, he says ok but it will cost you. Ok what ever you want and they agree to something that ends up worse and never realized that it was the kings plan all along. Our world has a real dilemma going on. But because the politicians have attached their agenda to it the waters have become muddied and much of the population doesn't believe, when in fact the issues are real we don't need political solutions to resolve what is not a political problem.

Official Letter for July 18, 2023 City Council Meeting
RE: LU 2023-005 CA, Critical Area Review for N Martin St Wetland
 (As Of: 18 Jul 2023)

Good evening Mayor, Council Members, and City Officials.

I'm here to talk about how frustrating it is when your City government cannot be counted on to follow its own rules and codes.

First, I'd like to thank the City's wetland consultant, Mr. Towey for recognizing in his July 4th report that our wetland stewardship has produced a well-established vegetation structure with higher functions and values than what was originally and erroneously stated by the City Planner to the Planning Commissioners.

In addition, please refer to Ms. Robynn Sleep's two letters (dated July 5th and July 11th, 2023) for more flawed information in regards to the Planning Commission's Public Hearing (concerning false public hearing testimony from the City and how the Chair had misspoken about his possible conflict of interest under the Appearance of Fairness Doctrine in reference to the approved amended Planning Commission Minutes for 25 May 2023).

I care deeply about wetlands in general. I am one of two owners of this wetland we are talking about.

I retired after 20 years from the USAF working the whole time in the Command Post (the so-called "eyes and ears" of the base, a 911 Operations Center is the civilian counterpart). If we did not have a regulation or checklist for a possible life or death situation, it was my job to create one...

I care about following the wetland environmental rules because these rules give folks guidance and instructions on how to care for Mother Nature in an upside-down world we live in. If the City does not follow their own environmental rules, then how can they expect their residents to follow the rules they have put in place for us?

For example, the Planning Commission expected to become involved again if there were any issues concerning SEPA comments received. BTW this was one of the conditions (besides Condition H and the trees) the Commissioners agreed to when they recommended approval with conditions. There were issues with the SEPA comments because the City had to hire Towey Ecological Services to take a 2nd look at the information. Also, according to the City Planner if there were issues, it would go back to the Commissioners and the Planning Commission would have to hold another public hearing (time stamped approximately 1:44). This did not happen.

It is interesting to note that according to DOE (email dated 6 Jul 2023 12:24pm), "... for a Revised SEPA, comment periods are not required, but **recommended if it involves mitigation** (MDNS issued) **or** you feel it's particularly contentious. **The same thing for public notice. ...**" **Not sure why the City Planner did not consider this to be "contentious" and to do Ecology's recommendation.** This would be an excellent question to ask her. (refer to Attachment #1)

I believe wetlands are entitled to be protected according to city/state laws and procedures – this seems to have been overlooked. Even though, it is stated numerous times in the Critical Areas Ordinance (CAO). I firmly believe it is a reasonable expectation that the rating will be performed according to the rules as stated in the City Code (MLMC Chapter 17.10.090 Section D, Wetland Ratings).

MLMC Chapter 17.10.090, Section D states “Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, as set forth in the *Washington State Wetland Rating System for Eastern Washington: 2014 Update* (Ecology Publication # 14-06-030, or as revised).”

According to Ms. Robynn Sleep’s email (dated 18 Jul 2023), there is nothing in the record that indicates shared ownership (and our private property rights) or any consideration of the higher functioning habitat value we have created, as Towey had acknowledged in his July 4th updated report. (refer to Attachment #2)

The mitigation plan accepted by the City of Medical Lake does nothing to preserve the integrity of our habitat value, which must be considered because the wetland is one unit and it is not “fragmented” as stated in Mr. Towey’s report. (as proven in Attachment #3 photos)

As part owner of this wetland, I am requesting please that the City Council postpone their vote until a valid rating is completed as required by the City Code and to also include Conditions of Construction Best Practices (refer to Attachment #4) as an amended approved condition to protect our habitat value from indirect construction impacts (i.e., construction noise alone has an adverse impact on wildlife, any pollutants that reach the water during construction, will of course, be in the shared waterbody and affect all waterfowl, etc.).

These conditions are our only means of protecting our habitat and the wildlife that depends on it.

In actuality and in accordance with Ecology’s recommendation, another Public Notice and Public Hearing should be held by the Planning Commission based on the City’s many mistakes and/or oversights and erroneous information given to the Commission. This does make one wonder what else is hidden or left out...

If this new rating is not required then “Best Available Science” is NOT being used.

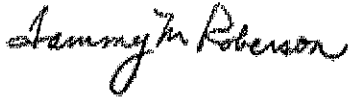
I do not believe that these two requests are unreasonable to ask for.

Finally, as a resident living in Medical Lake since 2000, I have a legal right to express my concerns without feeling personally attacked and humiliated in a public hearing with inaccurate, prejudicial, and false accusations given by the City which was totally unprofessional, bias, rude, unethical, and slanderous and this should have been stopped at the time. This was damaging to my creditability and reputation. Currently, I am extremely irritated and highly disappointed with the City.

Hopefully and I am praying also that the City Council will correct these wrongs done and even to follow the City’s own environmental rules.

Thank you for your attention to correct (as required by the City Code) the invalid wetland rating being used and to also include the conditions of construction best practices document as an amended approved condition.

We are a City of Wetlands. May God's grace and protection be with our wetlands and the future of Medical Lake.



Tammy M. Roberson, MBA
SMSgt USAF Retired
Disabled Veteran (100% service connected)
424 W Brooks Rd

4 Attachments

- Attachment #1: DOE's email dated 6 Jul 2023 12:24PM, Subject: RE: Revised DNS Question (2 pages).
- Attachment #2: Ms. Robynn Sleep's email dated 18 Jul 2023 11:11AM, Subject: Indirect impacts of construction on your habitat value (1 page).
- Attachment #3: Document with Photos, Subject: N. Martin Wetland is NOT Fragmented (2 photos, 1 page).
- Attachment #4: Ms. Robynn Sleep's Letter (dated 15 Jun 2023) Subject: Comments regarding LU 2023-005 CA SEPA DNS 2023 06 01, Conditions of Construction Best Practices found on page 7 (1 pg).

From: Anderson, Cindy (ECY)
Sent: Thursday, July 6, 2023 2:52 PM
To: Elisa Rodriguez
Subject: RE: Revised DNS Question

It means you will allow for the time to appeal the final decision before you take any action on the project, like issue the building permit, allow the project to continue, etc. It gives persons who may wish to appeal time to do so before the agency gives the OK to move ahead. An appeal is limited to the actual final decision to grant the permit, adopts an ordinance, etc.

By definition, the *underlying governmental action* or “act” is the action that must be taken by an agency to authorize a proposal. Actions include issuing a permit or license, approving funding, or adopting a plan, ordinance, rule, or other actions.

Does that help?



~Cindy

Cindy Anderson, CFM

SEPA Planner, SEA-ERO | Dept. of Ecology | 509-655-1541 work cell

Email: Cindy.Anderson@ecy.wa.gov

Work Hours: M-Th, 6a-4:30p Off on Fridays
In ERO office on Tuesdays, 9a-3p,
Telework all day on M, W-Th; T 6-9a/3-4:30p

Visit the [SEPA Homepage](#) to learn more about SEPA and how it applies to you and your project.

Please note: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: Elisa Rodriguez <ERodriguez@medical-lake.org>
Sent: Thursday, July 6, 2023 1:06 PM
To: Anderson, Cindy (ECY) <CYAN461@ECY.WA.GOV>
Subject: RE: Revised DNS Question

Cindy,

Okay, I think I might be misunderstanding what “act” means. I thought it meant make a final decision on the land use review. But does it actually mean give permission to commence work? In this instance it would be a building permit.

Thanks again!

Elisa Rodriguez
City Planner
Medical Lake
509-565-5019
Monday-Thursday 8-2
Friday 9-2

From: Anderson, Cindy (ECY) <CYAN461@ECY.WA.GOV>
Sent: Thursday, July 6, 2023 12:24 PM
To: Elisa Rodriguez <ERodriguez@medical-lake.org>
Subject: RE: Revised DNS Question

Hi!

So, for a Revised SEPA, comment periods are not required, but recommended if it involves mitigation (MDNS issued) or you feel it's particularly contentious. The same thing for public notice. You should send everything to your agency list /interested Parties list if you have one.

As far as the 14-day wait before acting, if this is your final determination decision on the project, then yes, you should wait, while also staying within your SEPA appeal process found in the City's municipal codes ([16.10.420 – Appeals](#)). The 14-day wait applies to the appeal process. Appeals are only made on final decisions made on a project. So, if 14 days is your standard time to wait for your appeal process, then that's what you should do.

Hope this makes sense.



~Cindy

Cindy Anderson, CFM

SEPA Planner, SEA-ERO | Dept. of Ecology | 509-655-1541 work cell

Email: Cindy.Anderson@ecy.wa.gov

Work Hours: M-Th, 6a-4:30p Off on Fridays
 In ERO office on Tuesdays, 9a-3p,
 Telework all day on M, W-Th; T 6-9a/3-4:30p

Visit the [SEPA Homepage](#) to learn more about SEPA and how it applies to you and your project.

Please note: This communication is public record and may be subject to disclosure as per the Washington State Public Records Act, RCW 42.56.

From: Elisa Rodriguez <ERodriguez@medical-lake.org>
Sent: Thursday, July 6, 2023 11:02 AM
To: Anderson, Cindy (ECY) <CYAN461@ECY.WA.GOV>
Subject: Revised DNS Question

Good Morning, Cindy,

I hope you enjoyed the holiday! Thank you so much for taking the time to answering my questions regarding the SEPA process. After reading the resources you provided, I have an additional question. If we issue a revised DNS without a public notice or comment period, are we still required to wait 14 days before we act on the application? And yes, I understand that we still post the revised DNS on the SEPA Register and send it to agencies.

Thank you for your time!

Elisa Rodriguez
 City Planner
 Medical Lake

509-565-5019
Monday-Thursday 8-2
Friday 9-2

Subject: Indirect impacts of construction on your habitat value
From: "Robynn Sleep" <sleeprobynn@gmail.com>
Sent: 07/18/2023 11:11:40
To: "Tammy Roberson" <tmroberson61@gmail.com>;
Attachments: RobersonWetlandWater2.JPG; RobersonWetlandWater.JPG

Dear Tammy,

In the discussions of the compensatory mitigation required by the applicant's proposed construction in your shared wetland buffer the focus has been on the low function of the habitat value in the portion owned by Mr. Mangis. The mitigation plan that Ecology concurred with (Jacob McCann email 7/21/2020) expected the plan to increase the habitat value on his half, which it clearly would because of its low functioning in this regard.

Despite your shared ownership (and your private property rights), I see nothing in the record that indicates consideration of the higher functioning habitat value you have created, as Mr. Towey acknowledged in his July 4th report. The mitigation plan accepted by the city of Medical Lake does nothing to preserve or protect the integrity of your habitat value, which must be considered because the wetland is one unit. It is not fragmented, as the attached images show.

The conditions of construction I asked the city to consider in my SEPA comments were for the express purpose of protecting your habitat value from the known significant indirect adverse impacts of construction. I encourage you to ask for these conditions as it is your only means of protecting your enhanced habitat and the wildlife that rely on it. The noise of construction alone has an adverse impact on wildlife. Some construction projects require noise decibel level testing and limits for this reason. Additionally, because the wetland is not fragmented, any pollutants and sediment that reach the water during construction will, of course, be in the shared waterbody and affect all waterfowl.

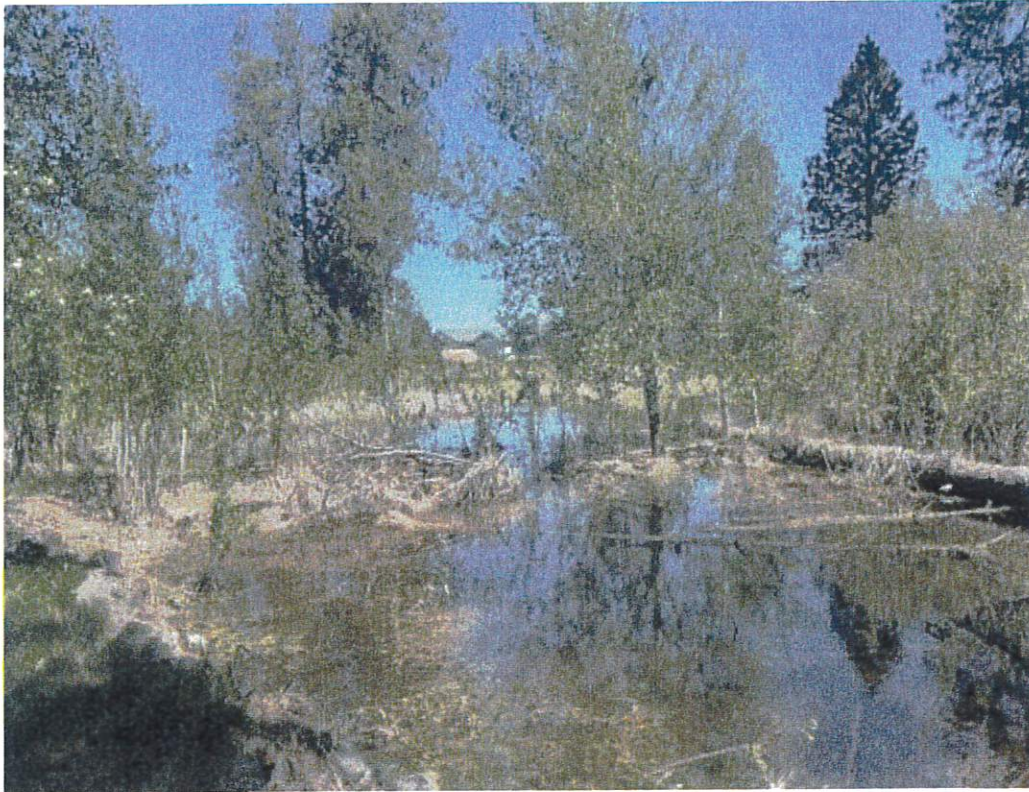
I urge you to ask for this protection in recognition of your private property rights, if people are not inclined to care about habitat value. It's important for the conditions of construction to be attached to the approval because residential builders frequently are not aware of Ecology's regulations. Ecology typically requires Erosion and Sediment Control Plans when a project has the potential to discharge to a "waters of the state" (wetlands), but there is no guarantee a builder will know this since the Plan is not usually required on such a small site. Attaching the conditions of construction to the approval is the only way to ensure the protection of your wetland. It should not wait for the building permit application.

Sincerely,

Robynn Sleep

AAS Water Science
WA Certified Erosion & Sediment Control Lead (CESCL)
CESCL #: CWTA – 77762179, Expires 7/10/2025

N. Martin Wetland Is NOT Fragmented



NOTE: Page taken from Ms Robynn Sleep's Letter dated 15 Jun 2023, page 7.

Suggestions for Conditions of Construction to protect the wetland and its buffer

As a former construction project manager and a current Certified Erosion and Sediment Control Lead (CESCL) in Washington I understand how hard construction can be on the environment and the extreme risk it poses to a wetland. Given that a wetland and its buffer comprise this entire site, best practices, such as those listed below, are essential conditions of construction that should be included in the action at hand. Waiting to address these issues as part of the building permit process risks inadequate protection, and an increased likelihood of unacceptable and avoidable impacts.

Allow no access to the site other than the area of disturbance specified in the plan documents.

No material storage or spoils stockpiled on site.

No use of pesticides.

No porta-pottys on site, they should be placed on the street.

No heavy or motorized equipment onsite; excavation and grading take place from the street.

Install construction fencing on Martin Street and all other points of access to maintain control of the buffer.

Install interior construction fencing around the wetland at the high-water mark to protect the soils.

Post signage reminders of wetland protection guidelines.

Use other, more effective sediment control best management practices (BMPs) along with silt fencing.

Also use orange construction net fencing to increase visibility of the BMPs.

No petroleum products on site, no refueling on site.

Maintain spill prevention and control kits on site and train crews in their use.

Formalize wetland protection training for crews along with safety training.

Require that a Certified Erosion and Sediment Control specialist, or other environmental specialist, prepare a site-specific plan to ensure protection of the wetland.

Use straw or coir mats to cover bare soils, don't use vegetated covers that could introduce invasive species.

No concrete wash out on site or in the adjoining street.

Require excavation and concrete contractors to wash equipment before coming to the site to prevent the spread of invasive species.

Collect and store trash, recycling, and hazardous waste offsite

Subject: Disability Request Please - Please acknowledge receipt
From: "Tammy Roberson" <tmroberson61@gmail.com>
Sent: 07/18/2023 08:13:37
To: "Sonny Weathers" <SWeathers@medical-lake.org>;

Good morning Mr Weathers,

Please acknowledge receipt.

If needed, I am requesting an additional 5 minutes (a total of 8 minutes) please (for speaking during each of the 1st and 2nd Interested Citizens portion based on my speech disturbance/impediment (which is annotated in my medical records). I am 100% disabled (service connected).

In other words, if I decide to speak during the 1st interested citizens, I am requesting a total of 8 minutes (if needed) and this request is the same if I decide to speak during the 2nd Interested Citizens portion.

I am also requesting please that this request stays in effect for the future if I decide to speak during any upcoming City Council Meetings.

If needed, I have a copy of my medical records to back this up.

Thank you for your consideration and time.

Tammy Roberson

Subject: Response to comments re: wetland buffer mitigation for Spokane County Parcels 14073.0253 & 14182.0402

From: "McCann, Jacob (ECY)" <JMCA461@ECY.WA.GOV>

Sent: 04/26/2021 08:32:06

To: "tmroberson61@gmail.com" <tmroberson61@gmail.com>;

CC: "McGerr, Joenne (ECY)" <jomc461@ECY.WA.GOV>; "Hunt, Sara (ECY)" <SARH461@ECY.WA.GOV>; "mayor@medical-lake.org" <mayor@medical-lake.org>;

Ms. Roberson – Thank you for your continued engagement and advocacy for the wetland you share with the Mangis property. Over the past few weeks, you submitted questions in various emails. In the interest of continuity, rather than answering each email, I'm responding to the general themes from your inquiries. It should be noted that many of your questions are related to City of Medical Lake Municipal Code – I've kept my response limited to those issues that are under Ecology's authority.

Regulatory Authority –

The state Growth Management Act (GMA) requires local governments to regulate wetlands within their jurisdictions. In addition, Ecology has regulatory authority over direct impacts to wetlands via the [Section 401 Water Quality Certification](#) process for activities that involve fill/and dredge within wetland boundaries. While activities in the buffer can impact wetlands, the authority to regulate, or permit, buffer impacts rests with local government, in this case, the City of Medical Lake.

The Mangis proposal involves fill in the buffer zone, but not within the wetland itself. The buffer area is not included in the delineated boundary of a wetland. If the fill/dredge were occurring within the delineated wetland boundary, we would be reviewing this under the Section 401 permitting lens, but those impacts have been avoided. Since development activities are limited to the buffer, Ecology's role is to provide technical assistance as requested. Vince Bartels reached out to me to review the content of the Mangis Wetland Buffer Mitigation Plan. I visited the Mangis property in summer 2020 to inform my review. **We do not access private property without landowner permission, so I limited my observations to what could be seen from the subject parcels and road right of way.**

Wetland Mitigation Plan

- **Mitigation Sequencing** – As outlined in a previous response, when wetland or buffer impacts are possible, the applicant must demonstrate that the plan incorporates efforts to avoid, minimize, and mitigate as necessary. Assuming the maximum buffer of 150' prior to any local code allowances for buffer reduction, any development of the parcels would likely involve some sort of buffer impact. Following the next step, minimization, the footprint was located as far away from the wetland as feasible and the residential square footage was reduced. Given the size and buffer position of other homes adjacent to this wetland, the reduced size and distance from the wetland appears to be in keeping with the general concept of "minimum necessary" to afford relief from site constraints. Those impacts are what are being mitigated. It should be noted that local codes, as well as state and federal regulations, utilize this sequencing process recognizing that conflict between development and protected water resources will occur.
- **Planting Plan** – While no direct wetland impacts are proposed, buffer conditions are important to the overall health of the wetland. One of the most common ways to improve buffer function is through

bolstering the native plant community. As such, the subject plan includes a mix of native herbaceous and woody species to add diversity and stratification to an area that is generally dominated by reed canary grass, a non-native and invasive species that is common in wet areas throughout Washington state.

In determining the plant palette, we often look to adjacent area to determine what would be successful. In this instance, the wetland **already contains red osier dogwood on your portion**, and the other species in the plan are found in the vicinity. Cottonwood plantings were incorporated via my recommendation due to the loss of at least one mature Ponderosa pine. Given the limited upland area, replanting conifers adjacent to a residence does not seem like a good idea. As a compromise, cottonwood were incorporated because they are more appropriate for high water table adjacent to the wetland and will still provide a taller canopy similar to mature pine. Keep in mind that while the species included in the plan should be native, there is flexibility in determining the makeup of the planting schedule. If the landowner is amenable, there could potentially be changes to the plan.

- **Monitoring and Maintenance** – Mitigation plans usually include monitoring/maintenance for at least five years to ensure plant survival and implementation of other required elements. This should be included or incorporated by reference in permitting documents. The responsibility for following through is on the landowner and reporting procedures are defined by the agency issuing the permit. Often a consultant is retained over that time period to ensure success and adaptively manage if performance goals aren't being met.
- **Conservation Easement** – One of the concerns with development adjacent to wetlands is how they will be impacted over time. Left unchecked, landowners will sometimes "creep" further into a buffer or even a wetland with landscaping development, planting of non-native vegetation, etc. Conservation Easements, or similar instruments, provide greater assurance that these types of impacts will not occur into the future. In some instances these areas can be placed under the control of another entity for longer term management, but that is not a requirement.

Existing Studies

- While following Ecology's public records request process, you had questions about types of documents available related to wetlands in the Medical Lake area. I am not aware of any specific wetland studies in the City. Generally, we use the National Wetland Inventory and aerial photo interpretation to identify wetlands that could be impacted by a proposal. If wetlands are suspected, the proponent should hire a qualified wetland specialist to determine the wetland boundary and rate the functions and values. The rating classifies the wetland on a scale of 1-4, which determines buffer width. If a project requires Ecology permitting, we may have record of those files. However, I have not been able to locate Ecology permits in Medical Lake. It is my understanding that some local subdivisions have involved buffer impacts, so the City may have record of those actions on file.

As far as other studies, the only Ecology-led effort I'm aware of is related to the [West Medical Lake TMDL for PCBs and Dioxin](#). WDFW likely also has studies related to fisheries management and DNR may have info regarding Columbia Spotted Frog surveys, but again, that's focused on W Medical Lake. There are limited studies on individual wetlands because they often are on private land.

Next Steps

- An application has not been submitted to Medical Lake for the proposal described in the Wetland Buffer Mitigation Plan. As such, the local permitting process has not been defined. It's not clear if that process will include public review component, but if I receive notice of application submittal I will let you know so that you can follow up with the City as needed.

I hope this information is helpful to your understanding of Ecology's role in this situation. Though the City indicated Ecology "approval" of this mitigation plan, it is not an action we have the authority to approve via regulatory action, rather that should be understood as concurrence that the submittal meets the general requirements of a mitigation plan. I encourage you to continue to reach out the City regarding their permitting and review process, but I will also keep you informed if I learn anything new about the application.

Respectfully,
Jacob

Jacob McCann

Wetlands/Shorelands Specialist
Department of Ecology | Eastern Region
Desk 509-329-3584 | Cell 509-209-4428

This communication is a public record and may be subject to disclosure per RCW 42.56.

Robynn Sleep
6310 E Sprague Ave
Spokane Valley, WA 99212

July 18, 2023

Medical Lake City Council
124 S Lefevre Street
Medical Lake, WA 99022

Subject: Public Comments by Robynn Sleep for the July 18, 2023 city council meeting, in support of Medical Lake Resident Ms. Tammy Roberson, Re: 2023-005 CA Critical Area Review

Dear Council Member:

I respectfully ask you to consider voting to postpone the city council decision on this application until a new public hearing is held by the Planning Commission. The reasons for this request are shown below.

1. The Planning Commission voted to recommend approval of the application with ten conditions, one being that the SEPA comments be reviewed by them. If they were found to be significant staff said a new public hearing would be held. This condition is in the Zoom audio/video file but isn't in the staff report provided to City Council. Relevant content from the Zoom file is transcribed on page two of this letter.
2. Clarification of the ML Critical Areas Ordinance regarding the wetland rating supplied by the applicant, and the city's ability to accept it is needed. The wetland rating accepted by staff is not valid because it didn't use the methodology in the *Washington State Wetland Rating System for Eastern Washington, 2014 Update, October 2014 – Effective January 2015, Publication no. 14-06-030,* as required by ML CAO 17.10.090 D., copied on page two.
3. Clarification of the ML CAO buffer mitigation requirements, 17.10.090 F. 2. is needed. The city's wetland consultant believes part of it doesn't apply to buffers, and staff have acted on his opinion. As a result, an attorney's SEPA comments have been invalidated by staff. If the requirement of the code is not clear, it should be clarified by counsel before it is disregarded by staff. I agree it is not clear, but I don't agree with Mr. Towe's interpretation, nor with his assertion that the rated category of a wetland doesn't matter.
4. Clarification of Ecology's regulatory authority is needed by staff. It is misleading and prejudicial when staff reports and comments say Ecology is the regulatory authority and has approved a wetland rating or mitigation plan, when that is not the case. The distinction is made clear in an email (submitted as a separate file) from Jacob McCann to Ms. Roberson, dated 4/26/2021:

“Though the City indicated Ecology “approval” of this mitigation plan, it is not an action we have the authority to approve via regulatory action, rather that should be understood as concurrence that the submittal meets the general requirements of a mitigation plan.”

The dialog below was transcribed from the Zoom audio/video file of the public hearing.

Prior to the vote, the following exchange took place:

Commissioner: "if we made a decision tonight and they [SEPA Comments] came back either way, I would say negative, then how does that alter our decision? Can we put it as a condition? For instance, if they came back with something significant, something we needed to address."
(1:44:04)

Staff: we would come back and have another hearing. (1:44:20)

The final motion for which the Commission voted approval was:

Commissioner: "Okay, so it's been motioned on the table to recommend approval with the conditions of Condition H [inadvertent discovery], conditions of the selecting different trees and condition of the SEPA report that is coming. And we have a second, I'll second it, Carl. So, it's been motioned and seconded to recommend approval amending the conditions, condition H, condition of the trees, and the SEPA condition." (1:51:41)

If the SEPA notice had been correctly noticed, SEPA comments would have been in the staff report.

17.10.040 A. Critical Areas Permit Process

11. SEPA threshold determination. The planning official will issue a SEPA threshold determination no fewer than 15 days prior to a hearing.
12. Review. The planning official must provide a single report stating the approval criteria, findings and a recommendation to the Planning Commission prior to the hearing.

The wetland rating is not the Best Available Science. This is a procedural issue, not a duel.

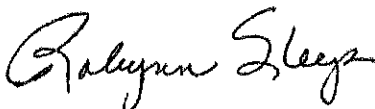
Failure to rate the entire wetland is responsible for almost all the differences in the two ratings. If the entire wetland is not rated, the rating is not scientifically valid (Rating Manual, pages 15, 16, 17).

17.10.090 D. Wetland Ratings

"Wetlands shall be rated according to the Washington State Department of Ecology (Ecology) wetland rating system, as set forth in the Washington State Wetland Rating System for Eastern Washington: 2014 Update (Ecology Publication #14-06-030, or as revised). The rating system document contains the definitions and methods for determining if the criteria below are met."

Thank you for your consideration of my comments on behalf of Ms. Tammy Roberson.

Sincerely,



Robynn Sleep
AAS Water Science
WA Certified Erosion & Sediment Control Lead (CESCL)
CESCL #: CWTA – 77762179, Expires 7/10/2025



City of Medical Lake
124 S Lefevre St
Medical Lake, WA 99022
(509) 565-5000

Permit Refund Request

APPLICANT INFORMATION:

Organization: Medical Lake Food Bank Association (if applicable)
Name: Shirley Maike
Address: PO Box 388 Phone: 5099813363
Medical Lake, WA 99022 Email: smaike@centurytel.net

I am requesting a refund for permit #: 22-145 in the amount of \$2,427

Reason:

The Medical Lake Food Bank Association has rejected the architectural plans for both the Care and Share and Food Bank buildings and are going in a more streamlined approach as the Association is not able to secure sufficient funding to accomplish both renovations. The Care and Share renovations will be interior and the Food Bank renovation will be a different approach. We have received the refund for the Care and Share permit. This is a request for a refund of the Food Bank permit as we will be submitting a new permit with the new plans.

Signature: Shirley Maike Digitally signed by Shirley Maike
Date: 2023.06.20 18:26:05 -07'00' Date: 6/20/23
Printed Name: Shirley Maike Title: Vice President

*less admin cost \$100
\$2,327*

FOR STAFF USE ONLY

Date Received: _____

Date of Finance Committee Review: _____

Finance Committee Recommendation:

Refund \$2,327

Council Decision:

Approved Denied Partial Approval: _____ %

[Signature]