



# McCleary City Council

## AGENDA

**April 22, 2015**

### 7:00 City Council Meeting

- **Flag Salute**
- **Roll Call**
- **Public Comment**
- **Public Hearings**
  
- **Minutes:**                   - Approval (Tab A)
  
- **Mayor's Comments:**   - Discussion
  
- **Staff Reports:**           - Dan Glenn, City Attorney (Tab B)  
                                     - Todd Baun Staff Report (Tab C)
  
- **Old Business:**           - Storm Pond Discussion  
                                     - Accident Prevention Discussion  
                                     - GHC Jail Contract Amendment (Tab D)
  
- **New Business:**           - Train Shelter Roof Replacement (Tab E)  
                                     - Community Center Roof Replacement (Tab F)  
                                     - Purchase of Used Mini Excavator with Mower Attachment (Tab G)  
                                     - Purchase of Sewer Maintenance Equipment (Tab H)
  
- **Ordinances:**           -
  
- **Resolutions:**           -
  
- **Approval of Vouchers**
- **Mayor/Council Comments**
- **Public Comment**
- **Executive Session**
- **Adjournment**

Americans with Disabilities Act (ADA)  
Accommodation is Provided Upon Request

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The City of McCleary is an equal opportunity provider and employer.  
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**CITY OF MCCLEARY**  
**Regular City Council Meeting**  
**Wednesday, April 8, 2015**

ROLL CALL AND FLAG SALUTE Councilmember's Reed, Schiller, Catterlin, Ator and Peterson.

ABSENT Councilmember Ator left the meeting at 7:50 PM. **It was moved by Councilmember Schiller, seconded by Councilmember Catterlin to excuse Councilmember Ator's absence when he dismissed himself during the meeting due to illness. Motion Carried 4-0.**

STAFF PRESENT Present at the meeting were Todd Baun, Wendy Collins, George Crumb, Dan Glenn, John Graham, Brad Lott and Paul Nott.

PUBLIC COMMENT Gary Atkins wanted to thank everyone who was involved with helping to shut down one of the drug houses. He stated he thinks the City should lower their rates by 6% and then rerun the police levy. He mentioned again the idea of imposing a business licenses. Dan Glenn responded saying the Council has been given the information regarding business licenses and he is waiting for their direction, if they choose to move forward.

MINUTES APPROVED **It was moved by Councilmember Ator, seconded by Councilmember Reed to approve the minutes from the March 25, 2015 meeting. Motion Carried 5-0.**

CITY ATTORNEY REPORT Dan Glenn provided a written report for the Council.

MAYOR'S COMMENTS None.

DIRECTOR OF PUBLIC WORKS REPORT Todd Baun reported the sewer cameras are finished and they were successful in finding some issues in the system. He is waiting for the report to be finalized to see exactly what was discovered.

STORM POND DISCUSSION Todd Baun has been in contact with the bank that owns Cedar Heights and they told him they believe it's up to the homeowners association to maintain the ponds. Dan Glenn has been in contact with the owners of Summit Place II. Todd would really like to get direction on Evergreen Heights, which is on Birch Street and East Pine. All eleven owners have indicated they want to hand over their storm pond to the City to maintain. Todd is asking the Council if they will approve taking over the storm pond. **It was moved by Councilmember Catterlin, seconded by Councilmember Schiller to authorize and accept the eleven owners of Evergreen Heights, giving the City ownership by preparing an "ownership transfer deed" for signature. Motion Carried 5-0.**

ACCIDENT PREVENTION DISCUSSION Tabled.

GHC JAIL CONTRACT AMENDMENT Mayor Dent said this is acknowledgement that the Sheriff has cut off access to small cities in the County by making their jail unavailable. They accept two kinds of prisoners now; domestic violence and felony prisoners. The Sheriff has been publicly stating how they need money. According to the newspaper, the County is in a 2.5 million dollar deficit and their reserves are shrinking. It is not the job of the City to financially bail them out. Dan added the County will still accept other prisoners, if there is room. Those cases will be handled with discretion by the County, with no guarantee. We currently pay a monthly amount with a reduced rate. The County wants to change it during the middle of a contract term, asking for more money. Dan asks Council to consider responding to the County that we want to keep the rate that we agreed to in the contract.

FD5 MUTUAL RESPONSE AGREEMENT **It was moved by Councilmember Catterlin, seconded by Councilmember Reed to renew the contract with Fire District #5. Motion Carried 5-0.**

ASTOUND WAVE BROADBAND ORDINANCE **It was moved by Councilmember Schiller, seconded by Councilmember Reed to adopt Ordinance 808, granting a requested franchise to astound Broadband, LLC upon certain terms and conditions, establishing an effective date as provided by RCW 35A.47.040, and providing for severability. Roll Call taken in the affirmative, 4-0 (Ben Ator left the meeting before roll call). Ordinance Adopted.**

PUBLIC COMMENT Gary Atkins thinks the City should just build a jail if the jails around the area are all full. Mayor Dent said we don't have the money and Dan Glenn added that jails have been built that are still vacant because they can't afford to open them. The cost is phenomenal and jails are not profitable.

APPROVAL OF VOUCHERS Accounts Payable vouchers/checks approved were 39354 - 39389 including EFT's in the amount of \$48,206.72.

**It was moved by Councilmember Peterson, seconded by Councilmember Reed to approve the vouchers. Motion Carried 4-0.**

EXECUTIVE SESSION None.

MEETING ADJOURNED **It was moved by Councilmember Peterson, seconded by Councilmember Reed to adjourn the meeting at 7:53 pm. The next meeting will be Wednesday, April 22, 2015 at 7:00 pm. Motion Carried 4-0.**

Mayor Gary Dent: \_\_\_\_\_

Clerk-Treasurer Wendy Collins: \_\_\_\_\_

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL, City of McCleary  
FROM: DANIEL O. GLENN, City Attorney  
DATE: April 17, 2015  
RE: LEGAL ACTIVITIES as of APRIL 22, 2015

THIS DOCUMENT is prepared by the City Attorney for utilization by the City of McCleary and its elected officials and is subject to the attorney-client privileges to the extent not inconsistent with laws relating to public disclosure.

1. THE PUBLIC RECORDS ACT & TEXT MESSAGING: In today's world, text messaging is very much present. If one did not believe so, that person would only have to go to a restaurant and look around at the fellow patrons, many of whom would be texting rather than talking to those with whom they are dining.

As I am only too aware from the ongoing situation of public records requests in an adjoining city, the matter of the applicability of the Act to text messages relating to municipal business sent by covered individuals, whether from personal or municipally provided cellular phones, is becoming more focused. The issue has become even more present due to an article printed in the Tacoma News Tribune on April 11, a copy of which I have provided to Ms. Collins so that those of you who might wish to read it may do so.

As a result of that article and the ripple effect upon requests submitted to a number of entities in King and Pierce counties, the State Archives branch of the Secretary of State's Office, which is in charge of maintaining a great deal of public records, issued a multi-page document relating to the matter making certain general recommendations. A copy of that document is attached for your easy reference. The bottom line is that such communications are subject to the Public Records Act and thus require some type of retention. Reading various materials and my involvement in a relatively long telephone conference on the 14<sup>th</sup> made it clear this is not a simple issue. To achieve retention could require multiple systems since cellular phones

MEMORANDUM - 1

CITY OF McCLEARY  
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McCLEARY, WASHINGTON 98557

using the Android system require different retention software than one using the I-phone software. It appears to be even more difficult than with emails since they can be easily saved to a City-managed network while the cellular networks are privately owned and operated.

In any event, the consensus was consistent with a suggestion that I made to Ms. Collins on the 13<sup>th</sup>. Until this entire area can be sorted out, it may well be the best policy to issue a rule prohibiting the use of text messaging in relation to City business, whether it be on a city provided cellular phone or a covered individual's personal cellular phone. (I will be talking to Mr. Snyder in relation to the CBA implications of such a policy, if any.)

2. STORMWATER POND ISSUES: It is the hope that we are working through each of these developmental issues and will ultimately achieve a positive result.

A. Cedar Heights: As you will remember this is the situation with a number of unusual circumstances present. They include that it does not appear the developer ever formally filed the HOA, the financial institution which funded the development took ownership as a result of the breach of the developer, but then itself went out of business and its assets were taken over by another institution, and most, if not all, of the undeveloped lots were sold by it to an individual who a representative of the second bank indicated was an officer of the first bank, but the ownership of the pond and two other parcels, including the sewer pump station, were retained by the second bank. To add to the mix, the stormwater pond is utilized by an adjacent development as its pond.

All of that being said, I have spoken to the representative of the current bank. We discussed resolutions. As you can understand, his institution desires to resolve the problems as efficiently as possible. That would include transferring to the City the pump station site and transferring to the owners or HOA, as the case may be, the pond and the other parcel. We discussed fiscal information provided by Mr. Baun in terms of what it would take to bring the pond into compliance. He will be speaking to his counsel on both the possible participation in funding that activity and the transfer of the parcels. After that discussion, he will be in further contact.

B. Summit II: The ponds for this development apparently continue to be in the name of the original developer, Todd A. Hansen, Inc. Not surprisingly, the taxes which have accrued have not been paid. I have contacted the company's counsel, Ms. Burgess, who indicated she was unaware of this

situation. She will be contacting her client and I anticipate a responsive call.

As with Cedar Heights, we are going to have to work through the matter, but it is possible it will be resolved more easily than the other situation.

3. LAW ENFORCEMENT ISSUES:

A. Contract Draft: Sheriff: Pursuant to the request of Council Member Catterlin, approximately two weeks ago I contacted the deputy prosecutor who has been working with the Sheriff on the development of the contract. She was kind enough to return my call. However, she indicated she had no further information since the Sheriff was discussing the matter with one or more individuals who she did not identify. I have heard nothing since that time.

As a personal observation, based upon comments made in Oakville on the 13<sup>th</sup> by Lt. Porter who serves as the Sheriff's representative to Oakville, the Sheriff has received a copy of the portion of my memorandum which summarized the general duties of a sheriff's office in terms of providing law enforcement services to the entire county, whether within or without corporate limits. It was my impression that Lt. Porter, who I respect both professionally and personally, had been tasked to let Oakville know that legal opinions can differ as to what extent of service a sheriff must provide to an entity with which the sheriff does not have a contract.

B. Chehalis Tribal Jail Service Contract: I believe that all of you have been provided with a copy of the draft contract provided by the Chehalis Tribe. On the whole, it appears consistent with reasonable practice. An initial review does suggest the following matters which would benefit from clarification.

1. Medical Care: The approach is consistent with that of the approach being imposed by the County. We would wish to clarify what is covered in terms of the provision of "Basic Medical Care" which is to be provided by the Facility.

2. Governing Law: The matter of governing law is one which will need to be discussed. Bluntly, I am not certain as to the content of the laws of the Chehalis Tribe which, according to the draft, would govern matters. In a somewhat similar situation in relation to a private contract, we worked out an arrangement under which the Tribe involved in that agreement waived its sovereign immunity to a limited extent and it was agreed to utilize the federal court system to handle any disputes.

C. Charges for "transporting" City prisoners from the Jail to the District Court: As you are aware, I have written a letter to the Commissioners requesting that they honor the representation made to the City by the Court's management in terms of bringing the prisoners from the Jail to the District Court. Not having received a response, I raised the question of a respond to the DPA with whom I spoke about the Sheriff's contract for services. She indicated she would inquire as to the matter. As of this time I still have not received a response.

4. UTILITY RATES: As you are aware, the anticipation is we will be presenting a resolution setting forth proposed modifications in the rates charged for providing the services of the stormwater utility. As of the time of the preparation of this report, the proposed figures are still under consideration. Upon receipt, I will prepare an appropriate draft for consideration.

As always, this is not meant to be all inclusive. If you have any questions or comments, please direct them to me.

DG/le

## Electronic Records Management: Managing Public Records Created or Received as Text Messages

**Purpose:** Provide guidance to state agencies and local government entities on the basic steps to managing public records that are created and/or received as text messages.

There are three essential steps:

### 1. Develop Policies and Procedures for Texting

Each agency must make and document some key policy and procedure decisions in order to manage their public records that are created and/or received as text messages, such as:

- What type of agency business (if any) is appropriate to be conducted via text messaging?
- Who in the agency can conduct agency business via text messaging (e.g., elected officials, executive management, line employees, etc.)?
- Is conducting agency business via text messaging allowed using personally-owned devices or only using agency-owned devices?
- With public records created and received as text messages, how is the agency going to:
  - Capture the text messages?
  - Retain the text messages for the minimum retention period in accordance with current approved records retention schedules?
  - Destroy/Transfer those text messages once their minimum retention period has been met?
- How will the agency enforce these policies and procedures?

### 2. Train Agency Personnel

Agencies must ensure that everyone who is part of the agency (elected officials, executive management and all employees):

- a. Is aware of their agency's policies and procedures;
- b. Understands their responsibilities; and
- c. Knows how to comply with the policies and procedures.

### 3. Monitor Compliance

Finally, the agency needs to be able to demonstrate that it is routinely and systematically complying with its own policies and procedures through a process of monitoring and auditing.

**Additional advice regarding the management of public records is available from  
Washington State Archives:**

[www.sos.wa.gov/archives](http://www.sos.wa.gov/archives)  
[recordsmanagement@sos.wa.gov](mailto:recordsmanagement@sos.wa.gov)



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## Electronic Records Management: Text Messages and Public Records – The Basics

**Purpose:** Provide a high-level overview to state agencies and local government entities on the basics of managing public records that have been created or received as text messages.

- Text messages about the work of the agency are public records.
- Texting on personally-owned devices about the work of the agency are still public records.
- Retention of text messages is:
  - Responsibility of the agency;
  - Must follow the approved records retention schedules;
  - Is based on the function/content of the message – not its format.
- Agencies need to have policies and procedures that cover:
  - What type of agency business (if any) is appropriate to be conducted via text messaging;
  - How the agency will capture and retain text messages (such as saving messages to an agency server, using third party software to automatically capture text messages, using a vendor service to capture and retain text messages on behalf of the agency, etc.).
- Agencies also need to train their staff and monitor compliance with their agency policies and procedures.

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Washington State Archives:**

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## Electronic Records Management: Are Text Messages Public Records?

**Purpose:** Provide guidance to state agencies and local government entities on whether text messages are public records for the purposes of records retention (chapter 40.14 RCW).

### Are text messages public records?

**YES** – If the text message relates to the conduct of public business (which means it is about the work of the agency), then it satisfies the definition of public records in RCW 40.14.010 (emphasis added):

*“As used in this chapter, the term “public records” shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business, and legislative records as described in RCW 40.14.100.”*

### Are agency work text messages sent or received to a personally-owned device a public record?

**YES** – If the text messages relate to the work of the agency, then it does not matter if the device involved is agency-owned or personally-owned; the records are still public records.

If you are conducting public business – it's a public record.

### What about public records requests for text messages?

For guidance on public records requests for text messages, please consult your agency's legal counsel or the Office of the Attorney General's Open Government Program at:

<http://www.atg.wa.gov/open-government-ombuds-function>

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## Electronic Records Management: How Long Do Text Messages Need to be Kept?

**Purpose:** Provide guidance to state agencies and local government entities on the retention of text messages.

### Is there one retention period for text messages?

**NO** – The retention period for public records depends on the *function* and *content* of the record, not its format or method of transmission.

How long text messages need to be kept depends of the agency's business, legal and accountability needs to retain the evidence of the transaction that is documented in the text message. Like public records in any format, some only need to be kept for a very short time, some need to be kept a little longer, and some will be "Archival" and kept forever.

The questions to ask to determine the function/content of text messages are:

1. What is the message about? (content)
2. Why was it sent and for what purpose? (function)

Having just one blanket retention period for text messages is akin to having a single retention period for all letter-sized paper – the format does not determine the retention.

### Aren't all text messages transitory records?

**NO** – It is important to distinguish between public records created and/or received in a transitory type of *format* (such as text messages) from those public records which have only transitory retention value (based on their function/content).

### Is simply keeping all text messages the answer?

**NO** – Storing every text message is not the same as managing public records created and/or received as text messages. Such a strategy is unlikely to be sustainable in the long run, will make it harder to locate the public records that do need to be retained and may not be the most efficient use of agency resources.

### Where can I find out what the retention is based on the function and content?

**RECORDS RETENTION SCHEDULES** – These schedules set out the minimum required retention periods and grant permission to either destroy or transfer the records at the end of that period. The current approved records retention schedules are available from Washington State Archives' website at:

#### State Agencies:

<http://www.sos.wa.gov/archives/recordsmanagement/state-agencies-records-retention-schedules.aspx>

#### Local Government Entities:

<http://www.sos.wa.gov/archives/RecordsManagement/Local-Government-Records-Retention-Schedules--By-Type-of-Agency.aspx>

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## Electronic Records Management: Capture and Retention of Text Messages

**Purpose:** Provide guidance to state agencies and local government entities on how to capture text messages for records retention purposes.

### Is the agency or the phone company responsible for retaining text messages?

**THE AGENCY** – The responsibility for ensuring that public records of agency business conducted via text messaging are appropriately retained lies with the agency.

### But doesn't the phone company have all the text messages?

**MAYBE** – Phone companies are governed by their own policies, compliance with their own regulatory framework and by the contract your agency makes with them.

Agencies need to be aware and understand what their contract with their text messaging service provider covers in terms of retention of text messages and the agency's ability to access those records, especially if agencies are choosing to rely on their provider to meet the agency's records retention responsibilities.

### What options are there for capturing and retaining text messages?

1. **Users Save Messages** – Agencies can choose to have their users be responsible for manually saving their text messages to an agency-controlled storage device such as an Enterprise Content Management (ECM) system or a server. However, it may difficult to demonstrate that this is done consistently, especially if questioned during litigation.
2. **Automatic Capture to Agency-Controlled Storage** – Agencies can choose to either configure their text messaging service or use third-party software to automatically capture each text message sent and received either into a repository or as an email sent to the agency.
3. **Vendor Capture and Store Services** – Agencies can choose to use a vendor service to capture and retain their public record text messages. Again, agencies will need to be aware and understand what their contract with their vendor service provides in terms of retention, access to the records, what happens to the text message records at the end of their minimum retention periods and what happens if the contract is terminated or the vendor goes out of business.

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Finally, the agency needs to be able to demonstrate that it is routinely and systematically complying with its own policies and procedures through a process of monitoring and auditing.

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# Deleted forever? Government text messages vanish within days

By Sean Robinson

Staff writer April 11, 2015

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Visualization exercise: Picture 88,000 mobile phones owned by more than 700 governments large and small throughout the state, state agencies, counties, cities, universities, schools, ports, tribes and junior taxing districts.

No need to imagine — the numbers are facts, logged in state records. The phones are provided by Verizon, one of the state's four primary phone contractors.

Next step: Picture the text messages typed on those 88,000 mobile phones — hundreds of thousands of public records — and imagine them disappearing every day, acres of digital media erased and cyber-shredded, in direct violation of state law.

No need to imagine — it's happening. Fife City Attorney Loren Combs just figured that out, after the city sued Verizon in January.

"Those public records are literally disappearing as we speak," Combs said in a recent interview. "They're just dumping the data. The text I sent you on a city phone last week doesn't exist anymore, which makes no sense."

The state's record-keeping watchdogs didn't know about the Fife lawsuit until they heard about it from The News Tribune, but they swiftly grasped the implications.

Fife, like local and regional governments throughout the state, piggybacks on a boilerplate contract with Verizon used by all levels of government, administered by the state Department of Enterprise Services.

Verizon, according to a company spokesman, takes limited steps to preserve the text message content; under state law, that responsibility stays with the government agency that creates the records.

"The obligation to retain records and comply with (public records) requests regarding employee usage lies with the public agency," said Verizon spokesman Scott Chariston.

The point: Unless agencies take independent steps to preserve records, the texts on those 88,000 phones are evaporating, in violation of state laws governing records retention. And it's not clear those 700 agencies are doing much to prevent it.

"I had not heard of this. It's a big issue," said Steve Excell, state archivist with the Secretary of State's Office.

"This is square on a public record — you can't even try to make the argument that it's private. No question text messages, like emails, are just like paper records. They're a public record. We try to keep ahead of it, but it is challenging."

## THE LAWSUIT

For Combs, the path to revelation started with a routine matter. On Nov. 6, 2014, a Fife resident filed a public records request.

The resident sought the past four years of text messages from former City Manager Dave Zabell's mobile phone, bought and paid for by the city.

Fife forwarded the request to Verizon, the phone carrier, and asked for the records. Verizon's response: get a subpoena.

Combs said the move surprised him. This wasn't a law enforcement matter tied to a criminal investigation, just a simple records request.

"I was dumbfounded in this case," he said, "first that they wouldn't give it to us without having to file a lawsuit to get our own records."

Combs filed the subpoena: a short lawsuit, nothing more.

Verizon replied. The answer was a shock.

"The records that you requested no longer exist because they are beyond Verizon's period of retention," the official reply stated. "Text message content is maintained for 3-5 days from the date of transmission/receipt and requires a court order. There (is) no text message content available for your requested time frame."

The phone logs, going back one year, were still accessible; it was possible to see that messages had been sent and received, and the to-and-from phone numbers, but the content was gone: four years of communications between the city's highest-ranking official and whomever he was talking to deleted forever.

"They only keep the messages for a couple of days, and then it's gone," Combs said.

Fife dismissed the lawsuit in March. There was nothing to litigate. The city sought the records requested by the citizen and got its answer: an empty set.

## THE CONTRACT

Fife's contract with Verizon is a boilerplate document listed in state records as T12-MST-687.

It's used by governments at various levels, from Pierce County and the city of Tacoma to Seattle, King County and the University of Washington, among hundreds of other entities. (The state relies on similar contracts AT&T, Sprint and T-Mobile.)

Collectively, the agencies paid more than \$27 million to Verizon through the first three quarters of 2014, according to state records.

Under state law, destruction of public records is a crime, a felony. The references appear in RCWs 40.14.010 and 40.14.020.

After researching the issue, Excell, the state archivist, agreed with Verizon's position: The duty of records retention lies with individual agencies, not the phone carrier.

"The ultimate responsibility lies with the record creator. They cannot pass it on to third parties," Excell said.

The trouble is, it's not clear that agencies are taking the necessary steps to preserve the messages. Tacoma, to name one example, has no consistent method to ensure preservation and disclosure of text messages.

The issue surrounding government text messages differs from recent controversies in Pierce County and elsewhere surrounding digital communication on privately owned devices.

Pierce County Prosecutor Mark Lindquist and Puyallup City Councilman Steve Vermillion are embroiled in those debates, currently winding through the courts.

The example illustrated by Fife's lawsuit presents a different set of circumstances. The government agencies own and pay for the phones. Privacy interests, cited in the Lindquist and Vermillion cases, don't come into play.

"Whatever the strategy is, it's up to the originating agency that's managing the electronic records," Excell said.

Excell added that the state hosts numerous training seminars to drive that point home, but the explosion of phones, tablets and other digital devices creates complexity.

"It's very uneven out there," he said. "Some agencies send their people to training. They are on top of it. There are other agencies that say, what, text messages, emails? Those are public records?"

"We know there're agencies that don't send people to training — when they do they're shocked."

Even at the state level, it's not clear that agencies are taking steps to retain text messages.

Excell mentioned a widely used product called the Vault, used by state agencies to retain records. But it's only for email, according to a spokesman for the agency that administers it.

"(The Vault) is only related to email. It's not related to text messages on a telephone," said David Brummel, communications director for the state Department of Consolidated Technology Services.

Brummel said he assumed the responsibility for preserving text messages rested with the phone carrier.

#### DIFFERENT RECORDS, DIFFERENT RULES

All public records are not created equal. State law relies on a matrix to decide what needs to be retained and what doesn't. Some material, related to state laws and archives, is held forever.

Excell gave an example: the websites of ex-Govs. Gary Locke and Christine Gregoire.

In theory, text messages fall into a different category known as transitory records. The designation applies to trivial communications, such as coming home late for dinner.



But the underlying principle holds that the nature of the message, not its format, determines whether a record is transitory. If a text message is about government business, it matters.

For a fresh example, consider State Auditor Troy Kelley, current target of a federal criminal investigation.

On March 5, the U.S. Attorney's Office served a subpoena on Kelley's office, seeking various records, including text messages.

An excerpt from the subpoena asked the agency to "produce only requested documents which were emailed or sent via text to or from the Auditor's Office more than 180 days prior to the receipt of this subpoena."

In short, federal agents sought old text messages — more than six months old. The Auditor's Office is one of many agencies linked to the Verizon's contract. If Verizon's stated retention policy applies, and the agency took no independent steps to retain records, the texts could be gone.

Toby Nixon, president of the Washington Coalition for Open Government, learned of the text message retention dilemma from The News Tribune. His first reaction was disappointment.

"It's surprising that the people responsible for archiving of records would not be aware of this situation and acted long ago to correct it — especially with all the controversy in Pierce," he said.

"You would think that people would have woken up and be paying attention. Here, we're not even talking about private devices. We're talking publicly owned or operated devices.

"It's disappointing that people wouldn't be paying attention to this and that it would be such a widespread thing."

After inquiries last week from The News Tribune, Excell, the state archivist, said his office drafted a series of advice sheets for local and state agencies governing records retention, with explicit instructions regarding text messages.

"We are anticipating many questions on Monday," he said.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun  
Date: April 20, 2015  
Re: Staff Report

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No Staff Report



***Grays Harbor County Sheriff's Department***

**RICHARD R. SCOTT, Sheriff**

March 2, 2015

Honorable Donald Gary Dent  
City of McCleary  
100 South 3rd  
McCleary, Washington 98557

Dear Mayor Dent:

Please find attached to this letter two copies of the first addendum to the interlocal agreement between Grays Harbor County and the City of McCleary for jail services. We request that you review, sign and return both copies. After which we will submit them to the Board of County Commissioners for signage and return an original copy to you for your files.

This addendum speaks to the removal of Section 6.8 of the contract for jail services. It has become necessary to cease allowing pre-payment for guaranteed jail beds due to constant over-crowding in our jail facility, which in turn has caused a safety concern for both staff and inmates. Until such time that our facility capacity is enlarged and/or our population lowered through other means, we can no longer continue the practice of accepting pre-pay bookings.

I look forward to our continued partnership in providing jail services to your city and apologize for any inconvenience this change may cause your police department. If you have questions or comments, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "R. SCOTT", written over a horizontal line.

RICK SCOTT, Sheriff  
Grays Harbor County

Enclosure

RS/rf

100 W. BROADWAY, SUITE 3 \* P.O. BOX 630 \* MONTESANO, WA 98563 \* (360) 249-3711

**FIRST ADDENDUM TO THE INTERLOCAL AGREEMENT BETWEEN  
GRAYS HARBOR COUNTY AND THE CITY OF McCLEARY  
FOR JAIL SERVICES**

**THIS ADDENDUM** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between GRAYS HARBOR COUNTY, a political subdivision of the State of Washington (hereinafter referred to as the COUNTY), and the CITY OF McCLEARY, a municipal corporation of Grays Harbor County, State of Washington (hereinafter referred to as the CITY), as a first addendum to the Interlocal Agreement between the parties for jail services executed on the 14<sup>th</sup> day of January, 2013, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, and filed in the office of the Grays Harbor County Auditor, pursuant to RCW 39.34.040.

**WITNESSETH:**

**WHEREAS**, the parties have heretofore contracted for jail services to be provided to the CITY by the COUNTY and each appreciates that contracting for such services provides a number of mutually beneficial advantages, and

**WHEREAS**, pursuant to Section 2.1 of the Agreement, the Sheriff has the right to refuse to accept for confinement any City Prisoner if acceptance of said prisoner will result in overcrowding of the jail, and

**WHEREAS**, the COUNTY has represented to the CITY that overpopulation of the jail has resulted from accepting certain City Prisoners under Section 6.8 of the Agreement, and

**WHEREAS**, it is necessary to modify the Agreement to rescind the "prepayment for incarceration" clause in its entirety, and to instead utilize the existing payment on usage provision, in order to control inmate population;

**NOW THEREFORE**, in consideration of their mutual covenants, conditions and promises, the PARTIES HERETO HEREBY AGREE as follows:

**ITEM ONE.** Section 6.8 of the Agreement is rescinded effective immediately. However, the CITY shall be able to apply any remaining prepaid incarceration funds remaining upon execution of this Agreement toward the County's Prisoner Day charges at the reduced rate provided in Section 6.8 for a period of sixty (60) days following the execution of this First Addendum. Thereafter the funds remaining in the CITY's prepaid

account shall be refunded in full. Upon the refund of the prepaid incarceration fees, or upon the expenditure of said funds prior to the 60-day usage period, whichever occurs first, all further Prisoner Day charges shall be at the full rate provided for in Section 6.1.

**ITEM TWO. REMAINING TERMS UNCHANGED:** That all other provisions of the Interlocal Agreement between the parties for jail services dated January 14, 2013, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, and filed in the office of the Grays Harbor County Auditor, pursuant to RCW 39.34.040, shall remain unchanged, and in full force and effect.

In witness whereof, the parties have executed this Agreement.

**GRAYS HARBOR COUNTY**

**CITY of McCLEARY**

By: \_\_\_\_\_  
Wes Cormier  
Its: Chair, Board of Commissioners

By: \_\_\_\_\_  
Donald Gary Dent  
Its: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Attest:

\_\_\_\_\_  
Jenna Amsbury  
Clerk of the Board

\_\_\_\_\_  
City Clerk-Treasurer

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Norma J. Tillotson  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Daniel Glenn  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved and recommended:

\_\_\_\_\_  
Richard R. Scott, Sheriff

**FIRST ADDENDUM TO THE INTERLOCAL AGREEMENT BETWEEN  
GRAYS HARBOR COUNTY AND THE CITY OF McCLEARY  
FOR JAIL SERVICES**

THIS ADDENDUM is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between GRAYS HARBOR COUNTY, a political subdivision of the State of Washington (hereinafter referred to as the COUNTY), and the CITY OF McCLEARY, a municipal corporation of Grays Harbor County, State of Washington (hereinafter referred to as the CITY), as a first addendum to the Interlocal Agreement between the parties for jail services executed on the 14<sup>th</sup> day of January, 2013, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington, and filed in the office of the Grays Harbor County Auditor, pursuant to RCW 39.34.040.

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account shall be refunded in full. Upon the refund of the prepaid incarceration fees, or upon the expenditure of said funds prior to the 60-day usage period, whichever occurs first, all further Prisoner Day charges shall be at the full rate provided for in Section 6.1.

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**GRAYS HARBOR COUNTY**

**CITY of McCLEARY**

By: \_\_\_\_\_  
Wes Cormier  
Its: Chair, Board of Commissioners

By: \_\_\_\_\_  
Donald Gary Dent  
Its: Mayor

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Attest:

\_\_\_\_\_  
Jenna Amsbury  
Clerk of the Board

\_\_\_\_\_  
\_\_\_\_\_  
City Clerk-Treasurer

Approved as to form:

Approved as to form:

\_\_\_\_\_  
Norma J. Tillotson  
Deputy Prosecuting Attorney

\_\_\_\_\_  
Daniel Glenn  
City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved and recommended:

\_\_\_\_\_  
Richard R. Scott, Sheriff

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun- Director of Public Works  
Date: April 10<sup>th</sup>, 2015  
Re: Train Shelter Roof

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The cover for the train and old fire engine is in need of replacement. I have received 3 bids to tear off and replace the roof with a new metal roof that matches the other buildings in the park.

The pricing from the 3 bidders are as follows:

- The Roof Doctor- \$8640.00 plus tax
- Chehalis Sheet Metal- \$7900 plus tax
- Pittman Construction- \$5085.40 with tax included

**Action Requested:**

Please award the replacement of the train cover roof to the lowest bidder, Pittman Construction for a cost of \$5085.40 with tax included.



**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun- Director of Public Works  
Date: April 10<sup>th</sup>, 2015  
Re: Community Center Roof

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The Community Center Roof is due for replacement. I have received 3 bids to tear off and replace the roof with a new 30 year composition roof that is black in color.

The pricing from the 3 bidders are as follows:

- The Roof Doctor- \$6210.00 plus tax (6737.85 with tax)
- Chehalis Sheet Metal- \$7325.00 plus tax
- Pittman Construction- \$6632.16 with tax included

**Action Requested:**

Please award the replacement of the Community Center roof to the lowest bidder, Pittman Construction for a cost of \$6632.16 with tax included.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun- Director of Public Works  
Date: April 17th, 2015  
Re: Purchase of Used Mini Excavator with Mower Attachment

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For 2015, we budgeted for a used mini excavator and a mower attachment for it. What we are looking for is a mini excavator that has between 1,000 to 2,000 hours and is around 10,000 lbs. We also want 4 buckets with the machine.

I have contacted several salesman and they have provided several quotes for machines that meet our criteria that we have for a mini excavator.

I have also been looking at mower attachments for a mini excavator. There are several out there that I think will work great for what we need to do. I would like to use the mower attachment for mowing storm ponds and their banks, mowing ditch lines, ROW, easements, and areas we cannot currently get to.

We can use a mini excavator for all of our current jobs that we perform. It will get into tight spaces that our back hoe cannot currently get into. It will also perform several jobs we currently have to contract out to other agencies such as ROW mowing and ditching work.

**Action Requested:**

Please let me know if this something you still want me to continue with. The funds (water, sewer, storm, L&P) that are scheduled to purchase this, are in good shape and looks to be able to afford these purchases.

**STAFF REPORT**

To: Mayor Dent  
From: Todd Baun- Director of Public Works  
Date: April 17th, 2015  
Re: Purchase of Sewer Maintenance Equipment.

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For 2015, we budgeted to purchase some sewer and storm maintenance equipment. These items were budgeted to use in our search, locate and repair of I&I (inflow and infiltration) into our sewer system. We will also use these items on our storm system to locate lines and make necessary repairs.

The crew has demoed several products and have come to the conclusion that RIDGID provides the items we like the best.

We would like to purchase a push camera with 200 foot reel, a monitor with 2 batteries and charger, a cable cleaning machine, and a locator for the camera.

**Action Requested:**

Please accept the purchase of a push camera with 200 foot reel, a monitor with 2 batteries and charger, a cable cleaning machine, and a locator from Ballard Industrial for the cost of \$14,836.28. We budgeted \$15,000 for this equipment. The Sewer fund is in good shape and looks to be able to afford these purchases.