

From: [Baylor, Kristina \(SAO\)](#)
To: [Leider, Mary \(SAO\)](#)
Cc: [Amonsens, Courtney \(SAO\)](#)
Subject: FW: SAO Report No.1035665, separate letter
Date: Tuesday, October 1, 2024 10:12:30 AM
Attachments: [image001.png](#)

Hello Mary,

Can you please open a PRR for this request below? The ML is ready to be shared.

Thank you,
Kristina

From: cohobanger@aol.com <cohobanger@aol.com>
Sent: Tuesday, October 1, 2024 9:26 AM
To: Baylor, Kristina (SAO) <baylork@sao.wa.gov>
Cc: Amonsens, Courtney (SAO) <amonsenc@sao.wa.gov>
Subject: SAO Report No.1035665, separate letter

External Email

Hello Kristina and Courtney,

Would you please provide me a copy of the "separate letter" dated September 26, 2024, that was referenced on page 11, in SAO Report No.1035665, published September 30, 2024 as soon as possible?

From page 11: "Other Matters: We noted certain matters related to compliance that we have reported to the management of the City in a separate letter dated September 26, 2024".

<https://portal.sao.wa.gov/ReportSearch/Home/ViewReportFile?isFinding=false&arn=1035665>

Sincerely,

Ron Kraut

On Tuesday, August 20, 2024 at 11:46:34 AM PDT, cohobanger@aol.com <cohobanger@aol.com> wrote:

Thank you Kristina,

How about 2:00.

My number is 425-754-8044.

Ron Kraut

On Monday, August 19, 2024 at 04:26:36 PM PDT, Baylor, Kristina (SAO) <baylork@sao.wa.gov> wrote:

Thank you. I would like to include the supervisor of the City's most recent audit in this discussion, Courtney Amonsens.

Courtney and I are both available anytime between 1:00pm and 4:00pm tomorrow. If there is a time that works well for you, please let us know so that we can ensure our availability.

Also, what phone number works best to reach you at for our discussion?

Thank you again,



Kristina Baylor

Program Manager, [Office of the Washington State Auditor](#)

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From: cohobanger@aol.com <cohobanger@aol.com>

Sent: Monday, August 19, 2024 9:01 AM

To: Gadbois, Kirk (SAO) <gadboisk@sao.wa.gov>; Baylor, Kristina (SAO) <baylork@sao.wa.gov>

Subject: Re: Notification of Citizen Hotline Results - H-24-052, H-24-065

External Email

Sounds good, we'll talk tomorrow.

Ron

On Wednesday, August 14, 2024 at 09:57:06 AM PDT, Baylor, Kristina (SAO)
<baylork@sao.wa.gov> wrote:

Good Morning,

Yes, next week will work on our end. How does Tuesday, 8/20 sound?

I am available anytime between 9:00 AM and 4:00PM (with exception of 11:00-11:30AM)

Thank you,



Kristina Baylor

Program Manager, [Office of the Washington State Auditor](#)

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From: cohobanger@aol.com <cohobanger@aol.com>

Sent: Wednesday, August 14, 2024 8:16 AM

To: Gadbois, Kirk (SAO) <gadboisk@sao.wa.gov>; Baylor, Kristina (SAO)
<baylork@sao.wa.gov>

Subject: Re: Notification of Citizen Hotline Results - H-24-052, H-24-065

External Email

Thank you Kristina,

I am not available this week.

Next week?

Ron Kraut

On Monday, August 12, 2024 at 03:01:36 PM PDT, Baylor, Kristina (SAO)
<baylor@sao.wa.gov> wrote:

Good Afternoon Mr. Kraut,

My apologies on the delayed response to you. I was out of town when this message came in and recently returned on July 29th. I have been working to get caught up on correspondence that came in during my absence and had the opportunity to review your message below.

Would you have time Wednesday or Thursday of this week to arrange a phone call to discuss your message?

Thank you,



Kristina Baylor

Program Manager, [Office of the Washington State Auditor](#)

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From: cohobanger@aol.com <cohobanger@aol.com>
Sent: Thursday, July 11, 2024 10:00 AM
To: Baylor, Kristina (SAO) <baylork@sao.wa.gov>; Gadbois, Kirk (SAO) <gadboisk@sao.wa.gov>
Subject: Notification of Citizen Hotline Results - H-24-052, H-24-065

External Email

Dear Kristina and Kirk,

Thank you for your response to my letters of concern.

It appears you have misinterpreted my complaint.

I Wrote:

"The city of Sultan no longer has a six-year capital facilities plan for parks as required per RCW 36.70A.070(3)."

You failed to address or respond to my core complaint. The lack of six-year funding plan which also fails to identify the location of any proposed future parks. This unconditionally renders the city ineligible to collect park impact fees. The city has no funding plan within it's Capital Facilities Element for parks beyond 2025 in direct defiance of the law.

Sultan's has only a two-year plan that will only finance park capital facilities through 2025. Sultan is irrefutably in violation of the conditions of the law, which would allow Sultan to utilize impact fees to fund parks.

See City of Sultan 2022 Capital Facilities Element, adopted by ordinance 1384-22. See Tables 9-36 and 9-37.

For reasons unknown, your response to my complaint cites and quotes a reference to a "community park" allegedly in Chapter 9, subsection 9.9.1.

There is no such reference in Chapter 9 subsection 9.9.1, and if there was, it would be irrelevant. A Capital Facilities Element which states the possible need for a community park without documenting any location for the proposed new park, AND simultaneously failing to provide a six-year funding plan through at least 2028, is by definition, ineligible to utilize impact fees for parks funding. Sultan's funding plan for all current and proposed parks ends at the end of 2025. Sultan has failed to show in required Comprehensive Plan Elements, any proposed park location or a minimum six-year funding plan. Therefore the city clearly does not meet the minimum requirements of *RCW 36.70A.070(3)* which is a prerequisite prior to the city spending of impact fees for parks funding. See *RCW 36.70A.070(3)*, *RCW 82.02.050* and *RCW 82.02.090*. As such, the city has had no legal authority to spend any impact fees on any proposed new park or existing park since 2019.

See: https://www.ci.sultan.wa.us/DocumentCenter/View/6302/Ordinance-1384-22_Comprehensive-Plan---Chapter-9-Update-PDF

Next, you wrongly cite and quote Chapter 7.

You state:

"In Chapter 7, under subsection V. Capital Improvement Program, this proposed park is similarly identified as "Community Park (Sultan Basin)."

Point of clarification: Chapter 7 has no subsection V. and the phrase "Community Park (Sultan Basin)" is not found anywhere within Chapter 7.

The Sultan Comprehensive Plan, Chapter 7: Parks and Recreation was adopted November 10, 2011 (Ordinance 1113-11). Since then, Chapter 7 has never been repealed or amended. It has specifically incorporated within it, portions of Sultan's 2010 Parks and Recreation Open Space (PROS) Plan, adopted by Ordinance 1099-10 on December 16, 2010.

See Sultan Comprehensive Plan, Chapter 7: Parks and Recreation:

<https://www.ci.sultan.wa.us/DocumentCenter/View/5697/Chapter-7-Park-and-Recreation-PDF>

See 2010 Pros Plan:

<https://www.ci.sultan.wa.us/DocumentCenter/View/178/Parks-Recreation-and-Open-Space-Plan-PDF>

It appears you are erroneously citing from the city's 2020 Pros Plan, which was never incorporated or adopted by reference into any Chapter or Element of the City of Sultan Comprehensive Plan, including

Chapter 7: Parks and Recreation Element and Chapter 9: Capital Facilities Element.

In fact, per the City Staff Report and testimony for the Public Hearing regarding the 2020 PROS plan, city staff testified it would utilize 2020 Pros Plan as **"...a key document for guiding our update of the Parks and Recreation chapter of the Comprehensive Plan in 2024"**. Staff also testified in the agenda's staff report *"The recommendations and conclusions of the plan are for policy guidance and are not binding."*

See CITY OF SULTAN COUNCIL MEETING – COMMUNITY CENTER OCTOBER 22, 2020:
https://www.ci.sultan.wa.us/AgendaCenter/ViewFile/Agenda/_10222020-264

You then incorrectly conclude: *"Both Chapter 7 and Chapter 9 include all the required elements under RCW 36.70A.070(3). Therefore, we determined the City is in compliance with this law."*

Findings of Fact:

Your conclusion has no basis in fact.

Criteria: RCW 36.70A.070(3)(c) and RCW 82.02.050(5)(a)

1. Does the city's capital facilities element for parks show the proposed locations and capacities of expanded and new park capital facilities as the cited statutes mandate?

Answer: No, the required element is not met. The location of any proposed park is not shown as required by the cited statutes, the obligatory mandate is not met.

2. Criteria RCW 36.70A.070(3)(d) and RCW 82.02.050(5)(a)

Does the City's capital facilities element include at least a **six-year plan** that will finance such capital facilities for parks within projected funding capacities and clearly identifies sources of public money for such purposes as the cited statutes mandate?

Answer: No, the required element is not met. The City's Capital Facilities Element does not include a six year financing plan for parks as required by the cited statutes, the city's financing plan expires in less than two years, at the end of 2025. The city has no six-year funding plan for parks, the obligatory mandate is not met.

Clearly your analysis and conclusion are wrong.

Please refer to confirming analysis and conclusion from State Auditors Office report No. 1000014 regarding these issues:

"AUDIT AREA 1 – CAPITAL FACILITIES FINDING":

*"The following is an excerpt from RCW 36.70A.070(3), which discusses the capital facilities plan element: "A capital facilities plan element consisting of: (a) An inventory of existing capital facilities owned by public entities, **showing the locations** [emphasis added] and capacities of the capital facilities; (c) **the proposed locations and capacities of expanded or new capital facilities** [emphasis added]; (d) **at least a six-year plan** that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes..."*

*"In looking at the above capital facilities plan element in regard to impact fees, Ernst & Young noted that RCW 82.02.050 states that **impact fees "may be collected and spent only for public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan."** Therefore, **impact fees can only be spent on capital facilities that are part of the capital facilities plan element.** RCW 36.70A.070(3)... states that **the capital facilities plan must show the locations of capital facilities and the proposed locations and capacities of the new capital facilities...**"*

In summary, your analysis and conclusions are deeply flawed and have resulted in a patently false conclusion.

Please correct your findings and conclusions to reflect the requirements RCW 36.70A.070(3), RCW 82.02.050 and RCW 82.02.090 and the previous conclusion found by your office in Case # 1000014.

Comments on your choices in the other two matters:

"Concern: The City did not charge a developer the correct rate for the Sewer General Facility Charge, as established by ordinance 1322-20. The City also provided an unauthorized discount to

a developer, because it did not use the correct Equivalent Residential Unit rate for recreational vehicle spaces, as defined in Chapter 16.46.060 L of the Sultan Municipal Code."

I can't imagine what issues will danced around in this litigation.

The city appears to be in an awkward position in this matter. If you check into my public records request regarding this huge project, you will find that:

The city's response to my PRR indicated that no permit or permit fee was required for the applicant by the city for this massive project.

The city also falsely claimed an Environmental Determination of Non-Significance was issued for this project. They provided as evidence, an Environmental Determination of Non-Significance that was issued on the opposite (south) side of Highway II for a different, never built project. No Environmental Determination of Non-Significance was ever published by Ecology in the SEPA Register in violation City code.

The point is, according to the city's response to my public records request, it appears that city municipal officers waived all permit fees including SEPA, without city council approval in violation of city code.

See:

RCW 42.23.070 Prohibited acts, state in part:

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

Regarding:

"Concern: The City failed to require public notice of permit application under RCW 36.70B.110, failed to require development permits under Sultan Municipal Code 16.80.020, and failed to publish Threshold Determination in SEPA Register in accordance with WAC 197-11-508. The City of Sultan does not notify the Washington State Department of Ecology when its claim to issue threshold determinations.

Results: We have determined this issue is outside our audit authority as defined by RCW 43.09.

We do not have the authority to audit land use. This concern would be better addressed directly by the Department of Ecology, which can be reached at <https://ecology.wa.gov/about-us/contact-us>."

Your office does have the authority to investigate whether the city municipal officers are charging and collecting fees for permits as required by law, and to investigate whether the city

is performing the duties needed to fulfill the city's obligations when choosing or not choosing to issue permits and collect required fees for said permits.

See:

RCW 42.23.070 Prohibited acts, state in part:

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

I am sharing this correspondence with other concerned neighbors and citizens from whom much of the information in my complaints was sourced.

I look forward to your response and sharing it with those who have assisted me,

Sincerely,

Ron Kraut

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,
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Dear Mr. Kraut,

We are writing to share with you the results of our evaluation of two citizen hotline referrals (Hotline ID No.'s H-24-052 and H-24-065) you submitted earlier this year. Attached you will find our letter sharing these results.

Please note that you may be awaiting the results of additional referrals that have also been submitted. We have taken note of each of these referrals, however, based on the timing of these referrals being submitted near the end or after our most recent audit, we will consider these during our next regularly scheduled accountability audit, set to occur in the summer or fall of 2025.

We thank you for utilizing our citizen hotline referral program and reporting matters of public importance. Please reach out if you have any questions.

Sincerely,



Kristina Baylor

Program Manager, [Office of the Washington State Auditor](#)

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