



INFORMATIONAL MEMORANDUM

TO: Finance Council Committee

FROM: Vicky Carlsen, Finance Director
Jay Wittwer, Fire Chief
Ben Hayman, Fire Marshal

CC: Mayor Ekberg

DATE: July 17, 2019

SUBJECT: Fire Marshal Office Discussion

ISSUE

Review responsibilities of the Fire Marshal Office (FMO) including current services provided, options for providing services, required minimum levels of service, and liability associated with providing and/or not providing services.

BACKGROUND

The Fire Marshal Office currently provides several public safety services including:

- Plan review and associated inspections (inspections for new and existing businesses are not currently being done)
- Limited code enforcement
- Fire investigation

The office is staffed as follows:

Position	FTEs	Notes
Captain	2	Inspectors
Battalion Chief	1	Fire Marshal
Senior Fire Project Coordinator	1	Plan Reviewer
Admin Support Technician	1	

Staffing levels for this office have remained at five since 2011. Prior to 2011, the staffing level was six FTEs.

Budget

The Fire Marshal's Office is a division within the fire department and the process to develop the budget is the same as for the fire department. Finance staff drafts the budget for personnel costs and fire staff provide budget requests for supplies and services.

In addition to the expenditure budget, revenues generated by departments are also budgeted and revenue backed expenditures are trued up at a department level. For example, if a department expects to receive a grant for \$10 thousand, the revenue is budgeted and expenditures of \$10 thousand are also budgeted so that the net effect on the total general fund budget is zero.

The chart below shows revenue received specific to the Fire Marshal's Office. The chart also gives the total overtime budget and demonstrates that total revenue generated by this division

exceeds the total overtime budget. It should be noted that not all overtime is considered to be reimbursable and not all revenue generated is a result of overtime costs.

Revenue Generated by Fire Marshal's Office						
	Actuals					Budget
	2014	2015	2016	2017	2018	2019
Operational Permit Fees	\$ 76,836	\$ 44,175	\$ 24,825	\$ 12,400	\$ 10,507	\$ 21,400
Plan Review Fees	52,363	45,973	66,895	74,103	76,628	75,000
Reinspection Fees	1,000	300	300	-	100	2,000
	<u>\$ 130,199</u>	<u>\$ 90,448</u>	<u>\$ 92,020</u>	<u>\$ 86,503</u>	<u>\$ 87,235</u>	<u>\$ 98,400</u>
Overtime Expenditures	\$ 79,661	\$ 61,330	\$ 62,638	\$ 89,875	\$ 88,356	\$ 61,143

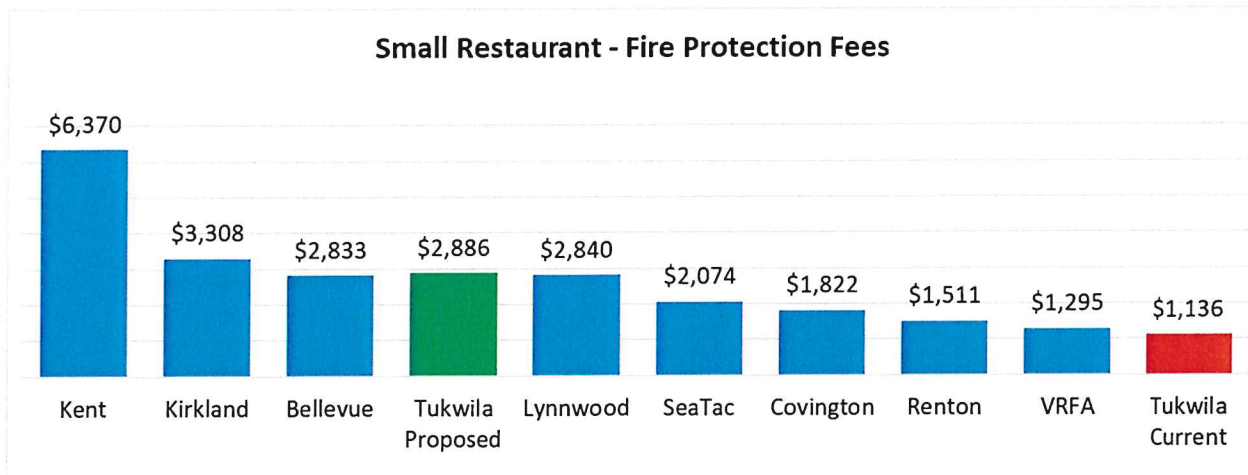
Actual and Projected Budget for Fire Marshal's Office – Prevention and Investigation

	Actuals					Budget
	2014	2015	2016	2017	2018	2019
Prevention & Investigation	\$824,862	\$815,137	\$826,468	\$864,692	\$907,865	\$834,653

Revenues and Fees for Services

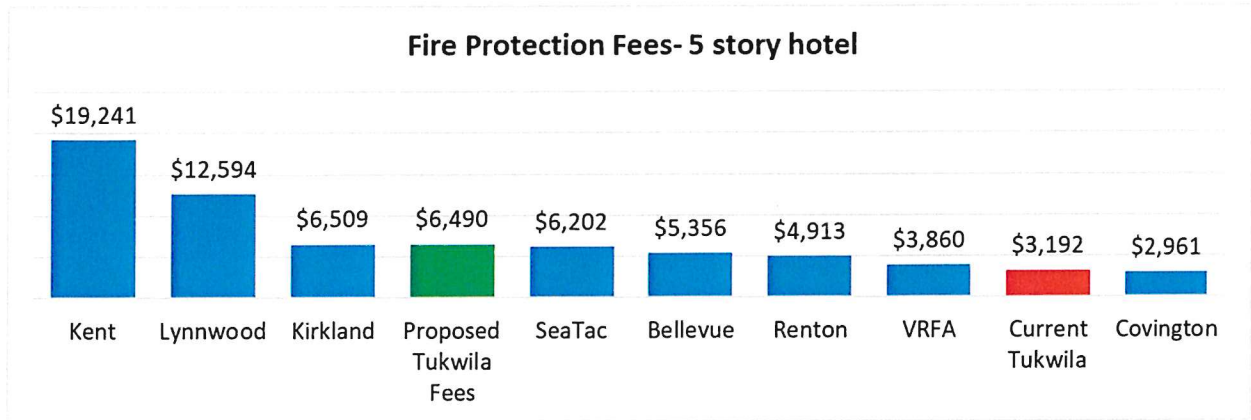
As can be seen above, the actual revenues and fees for services from the Fire Marshal's Office do not balance with the expenses. Recently, the fees associated with the fire department have been reviewed and research shows that Tukwila's fees have not kept pace with the market. The charts below show a few fees and how they compare with our neighboring cities. There is a recommendation to update these fees to be competitive with our neighboring cities. Some of the fees listed below are increases to existing fees and others are new fees that other cities charge that Tukwila currently does not charge. It should be noted that the fees listed below are approximate and would vary depending on size and scope of each project.

Small Restaurant – Fire Protection Fees



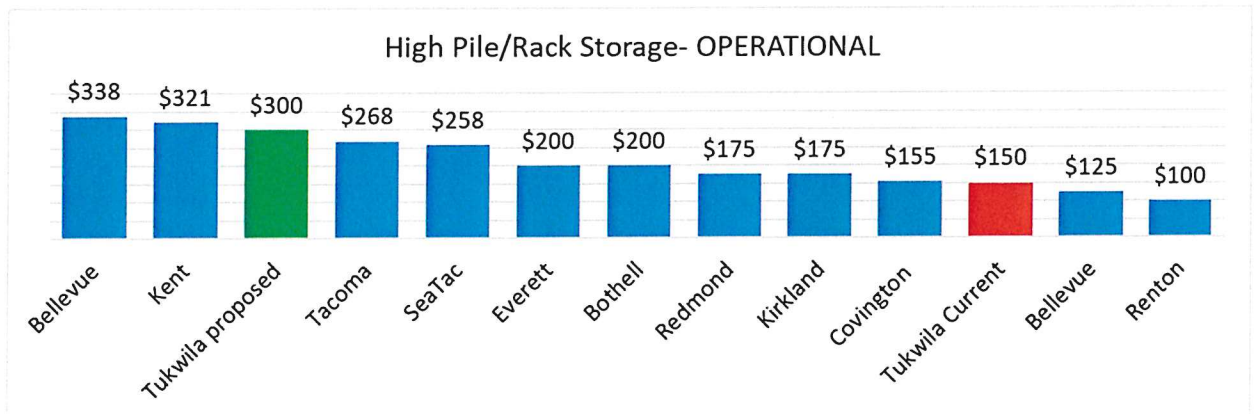
The current Small Restaurant fee for Tukwila \$1,136, whereas the neighboring cities range from \$1,295 up to \$6,370 for this similar service. A proposed increase to \$2,886 would still be within the average range for these fees.

Fire Protection Fees – 5-Story Hotel



The current 5-Story Hotel fee for Tukwila is \$3,192, whereas the neighboring cities range from \$2,961 up to \$19,241 for this similar service. A proposed increase to \$6,490 would still be within the average range for these fees

High Pile/Rack Storage – Operational



The current High Pile/Rack Storage fee for Tukwila is \$150, whereas the neighboring cities range from \$100 up to \$338 for this similar service. A proposed increase to \$300 would still be within the average range for these fees.

Recommendation: Update current fees and permit schedule to current market standards and averages.

To act on this recommendation, staff will need to produce a list of current and proposed fees and an ordinance to implement the new fee schedule. Staff would continue the review of our fees and comparison with our surrounding neighbors.

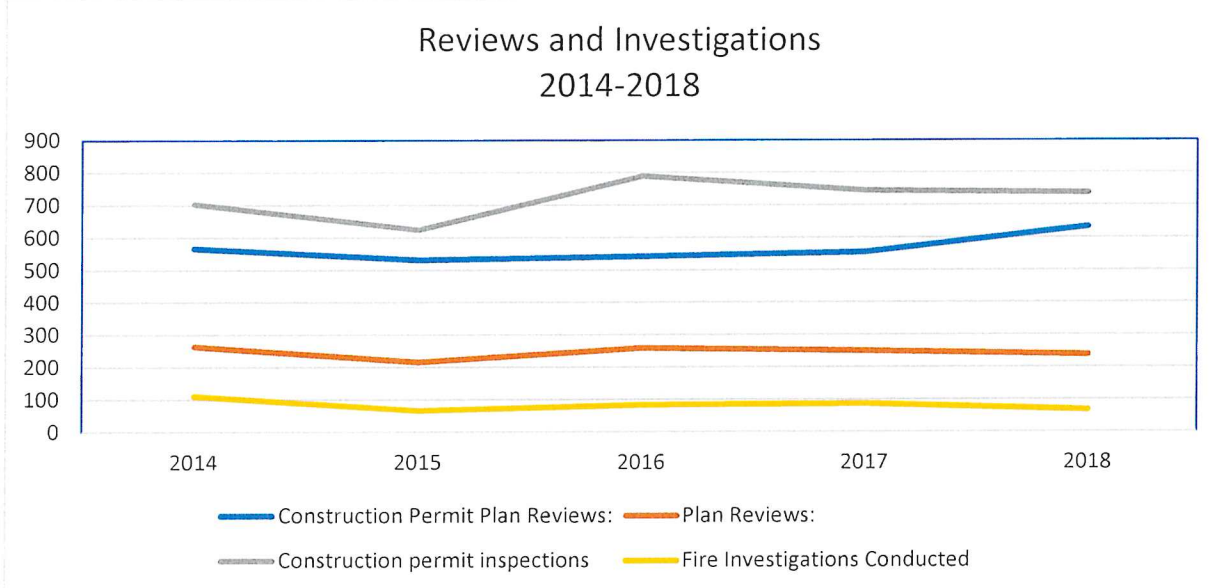
Current Workload

The following table outlines the main responsibilities of the Fire Marshal's Office, this includes

Construction Permit Review, Plan Reviews and Construction Permit Inspections. The Fire Marshal is required by statute and TMC 2.24.020 to report all fires of criminal, suspected criminal, or undetermined origin to the State Fire Marshal.

Current Workload

	2014	2015	2016	2017	2018
Construction Permit Plan Reviews: Land Use, Public Works, and Mechanical Permits	566	531	542	555	633
Plan Reviews: Sprinkler, Fire Alarm, Kitchen Hood, and UL 300 Construction permits	264	216	259	250	238
Construction permit inspections	703	624	789	744	737
Fire Investigations Conducted	111	66	83	87	68



Current Services Provided

As mentioned earlier, the Fire Marshal's office has several duties that need to be reviewed and evaluated as to which services should remain within the Fire Marshal's office, which services and programs need to be streamlined, which areas can be provided in a different fashion (e.g. contracted or as part of a regional service), and which areas need to be reprioritized. These will be addressed more fully at a later date.

Services which could be done outside the Fire Marshal's Office

Some of the current services provided by the Fire Marshal's office could be done by other parts of the organization or are already being done by other departments. Specifically, these include:

- 1) City Addressing – This is currently being coordinated through Technology Services/GIS and could be more streamlined to not have the Fire Marshal's office as the lead agency.

2) New Business License Reviews – The Finance Director is responsible for reviewing our current review process for new business licenses and with the change to State Licensing it may be an opportunity to reevaluate the need and priority for the Fire Marshal's Office review.

3) Special Event Permit Coordination – Historically, the Fire Marshal's Office has been the project manager for all special event permits, e.g. Boeing Celebration and major events. This involves working across several City departments. The City will be reviewing where best to have this function reside with the Fire Marshal's office providing input, but not being the lead agency.

The result of these three changes would be to provide more capacity to our Fire Marshal's Office to meet other higher priority services.

Other Services

Inspections of New and Existing Businesses and Plan Review

Inspections for businesses include annual business inspections, inspections for new businesses, and follow-up on confidence test reports. Confidence test reports are reports received by this Office that show deficiencies or malfunctions within a business's fire sprinkler or fire alarm systems.

Previously, inspections were provided by on-duty suppression crews but this began to change in 2014. The change was mainly due to new training requirements and standards set by the South County Fire Training Consortium and was also a policy change because these inspections may not have been the most efficient use of personnel. This change has left many inspections not being done at this time. A key policy question is how best to balance the requirements for inspections, the need and then the cost recovery options for these inspections.

According to the Fire Marshal, there are over 1,700 existing businesses in need of inspections and approximately 700 operational permits for activities such as explosives, hazardous materials storage and production, carnivals and expositions, underground tank removal, compressed gases, hot work, propane tank installation, and other activities that are deemed hazardous by the Fire Marshal that should be inspected for compliance. Enforcing critical life safety fire codes in schools, apartment buildings, shopping malls, hotels, and large industrial businesses are considered by the Fire Marshal to be a high priority.

The following chart shows historical fire prevention data including inspections performed the last few years and who performed the services. As noted in the chart, suppression crews performed many inspections 2014 through 2016, but have not been involved inspections since 2017.

Life Safety and Operational Permits

	2014	2015	2016	2017	2018
Life Safety Inspections – Completed by Fire Suppression Crews	1,388	959	458		
Life Safety inspections – Completed by Fire Marshal's Office				3	2
Operational Permit Inspections – Completed by Fire Suppression Crews	770	461	229		

There are ways in which we can prioritize which buildings are necessary to inspect, and how often the inspections should occur. There are also staffing considerations that can be considered to

balance the workload. For instance, suppression crews could be assigned to do certain inspections, which did occur in past years. This would raise situational awareness of the structures when crews respond to emergencies.

Staff will provide an updated list of types of businesses and options on how best to provide this service and recover costs for these services.

New Business and Confidence Test Reports

Per this Office, there are approximately 150 new businesses that should be inspected to ensure that new operations are operating safely. Additionally, the Office receives approximately 500 confidence test reports each year that show deficiencies or malfunctions with fire sprinkler or alarm systems. The Fire Marshal believes it is important to follow up on these reports to ensure that the needed repairs are completed.

Code Enforcement

Code enforcement issues are forwarded to the Fire Marshal from suppression crews or other city staff. Per the Fire Marshal, due to the current staffing model, the office is unable to follow up on the majority of fire code issues. Additional data on what types of code enforcement issues and volume of work will be presented at a later date.

General Requirements – Fire Code Official

The International Fire Code (IFC) is a model code that regulates minimum fire safety requirements for new and existing buildings, facilities, storage, and processes. The IFC addresses fire prevention, fire protection, life safety and safe storage and use of hazardous materials in new and existing buildings, facilities, and processes.

In addition to the IFC, Revised Code of Washington (RCW), the Tukwila Municipal Code, 16.16 adopted and amended the 2015 IFC.

Public Duty Doctrine

As stated above, some services currently provided by the Fire Marshal's Office are authorized while other services are required to be provided. In discussing services provided by this office, it is important to keep in mind what potential liability the City could face in changing service levels or processes.

Under the public duty doctrine, when a city's duty is owed to the public at large (such as general fire suppression and inspection duties), an individual who is injured by an alleged breach of that duty has no valid claim against the City or its officer or employees. There are certain exceptions to the public duty doctrine, such as in cases where a special relationship is created (such as when an officer or employee makes direct assurances to a member of the public under circumstances where the person justifiably relies on those assurances); or when an officer or employee, such as a building official, knows about an inherently dangerous condition, has a duty to correct it (i.e. law says that the City "shall" correct the condition), and fails to perform that duty. Taylor v. Stevens County, 111 Wn.2d 159, 171-72, 759 P.2d 447 (1988). In general, however, governmental entity will not be liable to a private party for failure to perform duties that that are owed solely to the general public (a duty to all is a duty to no one).

RECOMMENDATION

For information only