From: Jeffrey Delapena
To: "Heidi Pozzo"; Rebecca Messinger
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: Comp Plan: Concurrency legislative intent
Date: Friday, October 2, 2026 7:57:00 AM

Hello Heidi,

Thank you for providing this comment and attachments. Confirming these have been received and will be added to the Comprehensive Plan Index of Record.

Best,

Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

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-----Original Message-----
From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Thursday, October 1, 2026 5:14 PM
To: Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>; Rebecca Messinger <Rebecca.Messinger@clark.wa.gov>
Cc: Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>
Subject: Comp Plan: Concurrency legislative intent

EXTERNAL: This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Jeff,

Please find attached a memo that outlines the concurrency legislative intent. I have uploaded two third party transcriptions of a BOCC work session and hearing. There labeling is per the file name, which can be seen when clicking from the Council grid to the recording in one case. For the other, I requested the file from the state archives and have attached the email to show how I obtained the file of the hearing. I have listened to the work sessions multiple times and have read the transcripts while listening and confirm they are accurate, in addition to the certification provided. Additionally, in the link is the recording of the 2014 hearing, which is a very large file. Three files uploaded to the link today starting at ~5:00 to go with this submission. Links to the recordings are in the print outs of the Council grid.

Thank you,

Heidi

MEMORANDUM

TO: Clark County Council; 2025–2045 Comprehensive Plan Update, Index of Record
FROM: Heidi Pozzo
DATE: September 28, 2026
RE: The 2014 corridor concurrency standard is being set aside without Council action, on an account the record contradicts

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1. Purpose

The transportation element of the Comprehensive Plan rests on a level-of-service standard that the Board of County Commissioners adopted deliberately in 2014, after a year of public work sessions, and that the Council re-adopted without change in 2016 and 2017. This memo sets out what the Board decided and why, using the certified transcripts of those sessions and the adopting ordinance, and then shows that the way Public Works now applies the standard departs from it. The account staff has given of where the current practice came from cannot be squared with the County's own record.

What the Board adopted in 2014, and why

The standard being replaced measured corridor level of service as a minimum travel speed on each of thirty-seven designated corridors, which staff drove and timed. The Board was told it had two failings. It was not understood. Mr. Schulte, then Transportation Division Manager, told the Board it was "simpler to understand a percentage of maximum capacity for the layperson than something, uh, like, uh, 27 miles per hour, because there's some stop time there, there's some go time there. It's a very hard measure for folks to, to correctly comprehend" (August 21, 2013, 0:13:50). Another participant put it in the public's voice: a 13 mile-per-hour standard in Salmon Creek, where the speed limit is 30, "counts the stops and the goes, and it's only for one hour of the day. It's, it's not easily understandable" (0:14:17).

It was also not objective. Setting a speed number for a corridor "became a political conversation over in Salmon Creek. Well, okay, we're gonna lower the level of service" (0:17:43), which another participant described as "a political ping-pong, more or less. We just assign a number to it and then we have a reason, umm, to lower it or raise it if we wanted to stop or start something" (0:20:29). Against that, a participant stated the principle behind the new measure: the level of service "would be the capacity of the road." Mr. Schulte answered, "That is the standard," and another participant added, "So you don't have to pick a random number" (0:22:10 to 0:22:30). Staff's stated guiding principles for the work were to "make a more predictable model, make a system that's more predictable for developers. A simpler process… Still retain our accuracy" (0:10:36).

The replacement was a capacity standard set by roadway classification. "The concurrency standard would be a theoretical capacity of a roadway classification," measured as a percent of maximum capacity (0:12:25), with the number set by "the maximum theoretical capacity of, uh, for each corridor depending upon classification" (0:28:33). Table 40.350.020-1 does exactly

that: every roadway of a given class carries the same capacity figure. The test also stopped being limited to thirty-seven selected corridors. Rather than "picking the 37 busiest corridors like we've done in the past," the new approach "would assign a capacity standard to every, to all of the roadways" (0:48:57). Ms. Lebowsky summarized it for the Board at adoption: the current system "is based on intersection delay time," while the new one is "a link-based system… a simpler approach, easier to understand for both staff and for developers. Uh, we'll all know, obviously, what are the, what is the capacity for roads" (August 19, 2014, 0:02:37). The adopting ordinance says the same in its recitals, which Section 2 quotes.

Because capacity now carried the entire corridor test, the things that affect a road's capacity had to be inside the capacity numbers. Asked how capacity would be determined, Mr. Schulte said the County would have to account for lane carrying capacity and the spacing of intersections, and would need "a metric to somehow put and adopt in, uh, intersection, uh, impact on that, that standard" (0:16:57). The intersection standards already in the code were kept, but as something else: protective measures retained under a link-based system. Sections 3 and 4 set out this part of the record in full.

What Public Works now does

In the 174th Street Subdivision case (PLD-2026-00002), the concurrency staff report found that segments of NE 179th Street, NE 10th Avenue, and NE 15th Avenue projected above the 0.9 volume-to-capacity standard in CCC 40.350.020(G)(1)(a) "do not represent roadway deficiencies, rather corridor mobility facilitated with good intersection LOS" (Ex. 52; repeated in Ex. 140). Asked at the hearing how the code language gets you there, staff could not point to a provision. Three letters filed afterward give two different dates for when the practice began and attribute it to a Public Works Director.

Summary of findings

1. The engineer who helped prepare the 2014 standard told the Hearing Examiner it was adopted in 2010. Mr. Jardin, by his own account in Ex. 144, was the County's Concurrency Engineer in 2014 and "was a part of preparing the presentation materials" for the change. His May 21, 2026 letter (Ex. 136) told the Hearing Examiner that "In 2010, the current language of CCC 40.350.020(G)(1)(a) was implemented" and that the method had been "applied and practiced since 2010." Staff's response the same day (Ex. 141) repeated "since 2010" three times. The corridor v/c standard did not exist until Ordinance 2014-08-09, whose recitals state that as of August 2014 the corridor standard measured level of service "according to travel speeds along a corridor." (Sections 2 and 3.)

2. The date changed only after the 2014 record was filed, and the explanation changed with it; the conclusion did not. On June 4, 2026, Ex. 144 moved the origin to "the 2014 time frame as you will see with the exhibits provided into the record during the first open record period," which are the 2014 documents I filed in Ex. 88. Ex. 136's account, a direction given by "the then Transportation Division Manager and the Public Works Director" on "the initial application of this code section," became a determination by the Director alone, made in response to "unintended consequences that came to light shortly after code implementation." None of the three filings names the official, gives a date more specific than a year or "time frame," or identifies a document recording the determination. (Sections 2 and 7.)

3. Nothing in the record shows a problem with the corridor measure in the period when staff says the determination was made. Ex. 144 attributes the determination to "unintended consequences that came to light shortly after code implementation." The 2014 proceedings record no difficulty with the new corridor measure; staff presented it as simpler than what it replaced, as giving the Board the same degree of certainty, and as something the annual review would keep ahead of by funding fixes before a corridor reached the standard. When the Council took up what in the concurrency code was not working in 2016, the answer was the 2010 exemption, and a participant stated that staff was not proposing to change anything else in the concurrency model (0:58:11). If a Public Works Director gave such a direction, the standard it fits is the pre-2014 travel-speed standard, under which intersection delay was an input to the corridor measurement. (Sections 3, 6, and 7.)

4. The authority now cited for the practice first appeared after the Hearing Examiner asked for it. At the April 23, 2026 hearing, the Hearing Examiner asked how the code language supports the practice, and the concurrency engineer did not identify a provision (Ex. 78). (F)(9) was first cited for the practice on May 21, 2026, in Ex. 136, written in response to that question. Concurrency findings issued before then cite no code provision for the practice, as traced in Compliance Without a Standard, filed in this index on September 13, 2026. (Sections 2 and 5.)

5. Staff told the Council it brings concurrency changes to the Board, and it brought a small one, but not this one. Opening his presentation on October 12, 2016, Mr. Jardin told the Council that concurrency standards "are established, uh, uh, by approval through the board," and that "there have been many times where, uh, we have, where staff has approached the board about, uh, about concurrency changes" (0:01:57). He was there to do it again, two years after the 2014 change, for a v/c condition in an exemption written for two- and three-lot short plats, which the County fixed through emergency and permanent ordinances, DEAB, the Planning Commission, and two Council hearings. Public Works Director Heath Henderson, who had held the office since December 2013, presented with him. I was unable to find any mention that morning of a Director determination about corridors, or any point, then or since, at which the corridor practice was brought to the Board or the Council. By staff's own accounts, it has rested since 2010 or 2014 on a Public Works Director's determination. (Sections 6 and 7.)

6. Staff asks that the method not be called an override while describing it as an analysis outside the code. Ex. 144 states that "Staff's analysis outside of the code's prescriptive measures on corridor capacity" was performed and that "staff did not use the prescriptive volume threshold," then asks that the recommendation "not be considered or labeled an override or exemption," and concludes that the v/c standard "is not binding." Subsection (G)(1)(a) says the ratio "shall not exceed nine-tenths (0.9)." No provision of CCC 40.350.020 allows a segment above 0.9 to comply because its intersections operate acceptably. (Section 5.)

7. The Board was told the opposite when it adopted the standard. At the August 19, 2014 adoption hearing, a member of the public asked whether the new metric would make congested areas come out uncongested. Mr. Schulte answered: "The individual intersection standards for safety and for mobility, those are not changing in this proposal. They're identical to what we've had in the past. So we have some protections at the intersections" (0:21:20). The Board

adopted the ordinance on that answer. Ex. 144 now calls the 2014 presentations' failure to show how a corridor above 0.9 would be evaluated "a mistake staff made at the time of presentation." (Section 4.)

8. Intersection effects are already counted in capacity. The Board was told in 2013 that intersection impact would be built into the capacity values, and staff's own Exs. 135 and 136 treat intersection and access spacing as capacity factors. Using intersection level of service again to set aside a result above 0.9 counts the same influence twice, and only in the direction of approval. (Section 4.)

Why this matters to the plan

The practice decides whether segments above 0.9 are counted as transportation deficiencies at all, and therefore what the transportation element and the capital facilities plan must address. If the plan carries forward the standard the Board adopted, those segments are deficiencies. If it accommodates the current practice, the plan adopts a measure the Board never approved, and gives up the predictability and objectivity that were the reasons for the 2014 change.

This memo builds on the legislative-intent submission I filed in the 174th Street case on April 25, 2026 (Ex. 88), adding the certified transcripts of the August 21, 2013 and February 12, 2014 work sessions, the August 19, 2014 adoption hearing, and the October 12, 2016 Council work session, and responding to the accounts staff filed after Ex. 88. The 2013 and 2016 transcripts were submitted to this index on October 1, 2026 with my memorandum on transportation concurrency as administered; the February 12, 2014 work session and the August 19, 2014 adoption hearing transcripts are submitted with this memorandum. Exhibit numbers refer to the PLD-2026-00002 record. Every document cited has been submitted to the Comprehensive Plan index and is listed in the Documents referenced table at the end.

2. Staff's accounts of the origin

The question arose at the April 23, 2026 hearing. The Hearing Examiner read (G)(1)(a) aloud and observed that it "doesn't say anything about level of service at either end," asking "how do you get there based on that language?" He added: "I thought the code prohibited approval of the development in that case" (Ex. 78). The concurrency engineer did not identify a code provision or say when the practice began; he asked to consult his manager during the open record. Each of the three accounts of the practice's origin in the record was written after that question was asked. Ex. 136 responds to it, and Ex. 141 refers the Hearing Examiner to Ex. 136 as the answer to his inquiry at 1:47:36 of the hearing video.

Date	Source	Origin claimed
May 21, 2026	Ex. 136, letter from Mr. Jardin to the Hearing Examiner	"In 2010, the current language of CCC 40.350.020(G)(1)(a) was implemented." On "the initial application of this code section," the then Transportation Division Manager and the Public Works Director directed staff to use intersection performance in evaluating v/c compliance. Method "applied and practiced since 2010."

Date	Source	Origin claimed
May 21, 2026	Ex. 141, staff response to my written testimony (Ex. 59); staff engineers David Jardin and Craig Kathol	Repeats three times that the evaluation "has been applied and practiced since 2010." Where my testimony stated that no provision of CCC 40.350.020 authorizes substituting intersection findings for corridor v/c findings, the response cites no provision; it refers to the Jardin and Gallup letters.
June 4, 2026	Ex. 144, open-record comment from Mr. Jardin	Written "to correct the record regarding the time frame." The code language was implemented "in the 2014 time frame as you will see with the exhibits provided into the record during the first open record period." The Public Works Director's determination is moved to "the 2014 time frame," in response to "unintended consequences that came to light shortly after code implementation."

What the accounts do not supply

The exhibits Ex. 144 points to are the 2014, 2016, and 2017 legislative documents I submitted on April 25, 2026 in my legislative-intent filing (Ex. 88). The author of Exs. 136 and 144 was the County's Concurrency Engineer in 2014 and, by his own account in Ex. 144, helped prepare the 2014 presentation materials. After those documents entered the record, the origin date moved from 2010, asserted in two separate staff filings, to 2014. The conclusion did not move. None of the three filings names the official who made the determination, gives a date more specific than a "time frame," or identifies any document recording it. None identifies which code provision the Director was applying, and none states which version of the corridor standard was in effect when the direction was given. That last omission is not a detail. The corridor standard was rewritten in 2014, and a determination made under the earlier standard would say nothing about how the current one is applied.

Two ordinances, two different subsections

The 2010 date cannot be right on the face of the ordinances, and the two amendments involved should not be run together. Ordinance 2010-08-06 amended the unsignalized-intersection standard, then subsection (G)(1)(d). It added three conditions that all had to be met before a development could be required to mitigate at a failing unsignalized intersection, one of which was a projected volume-to-capacity ratio above 0.9 on the worst lane movement of the intersection approach. That is a measure of one movement at one intersection. It did not touch the corridor standard, which in 2010 was a minimum travel speed for each designated corridor under (G)(1)(a), tied to Table 40.350.020-1, "Travel Speed Standards."

Ordinance 2014-08-09 is the amendment that created the corridor v/c standard. The language now in (G)(1)(a) first appears in the June 25, 2014 staff report and proposed code text, and the Board adopted it at its public hearing on August 19, 2014, to take effect with the revised Capital Facilities Plan on November 4, 2014. Different ordinances, different subsections, different things measured. What the two share is the figure 0.9, which is why they are easy to blur, but a 0.9 ratio on an intersection approach in 2010 is not the corridor standard staff is applying now. Section 6 returns to the 2010 provision and what became of it.

The adopting ordinance says the same thing in its own recitals. Ordinance 2014-08-09 opens: “WHEREAS, the concurrency standards for transportation facilities set forth in CCC Section 40.350.020 measure level of service according to travel speeds along a corridor; and WHEREAS, replacing that methodology with a volume-to-capacity measure would provide a simplified and more understandable approach for calculating level of service.” As of August 2014, by the Board’s own finding, the standard in effect was travel speed. A practice for applying a corridor v/c standard could not have been established in 2010, because no corridor v/c standard existed until this ordinance created one.

The County’s own written methodology from after the 2010 amendment confirms the point. The Clark County Concurrency Administrative Manual is dated March 2011. It still uses the speed-based corridor metric, and it treats corridors and intersections as separate tests: designated “Concurrency Corridors” and “Intersections of Regional Significance” are each tested, and developments that cause “an intersection to exceed delay standards or a corridor to fall below travel speed standards are considered to ‘fail’ Concurrency” (Step 5). A failing corridor means denial unless the developer mitigates. Under “Mitigation on Corridors,” an applicant whose development degrades travel speed below the standard may propose mitigation “at intersections and roadway links” to bring the corridor back to standard. The manual contains no step allowing acceptable intersection performance to excuse a corridor that fails its standard. If the practice had existed since 2010, it would appear here.

3. Before 2014: intersection delay was part of the corridor measure

Mr. Jardin’s own Ex. 144 describes how the speed standard worked. Travel-time runs were made on each corridor once a year, and then “development would use their intersection related impacts (delay per approach per intersection) to determine their impacts to a corridor for travel time and estimated speeds.” Steve Schulte, then Transportation Division Manager, described the old model the same way at the May 1, 2014 DEAB meeting: delay times at intersections were monitored along with corridor travel times and speeds. At the August 21, 2013 Board work session, Mr. Schulte explained that a speed standard such as 27 miles per hour is hard to understand “because there’s some stop time there, there’s some go time there” (0:13:50), and a participant the transcript does not identify said of the 13 mph Salmon Creek standard that “it counts the stops and the goes” (0:14:17).

The 2011 manual shows the same thing from the other direction: because intersection delay was part of corridor travel time, improving an intersection was a recognized way to restore a failing corridor’s speed. So Ex. 144’s description of the old method is accurate as history. Under the speed standard, intersection delay was inside the corridor calculation. Evaluating a corridor by its intersections needed no special determination, because it was not an exception to anything; it was the arithmetic of the standard. That standard was repealed in 2014.

4. 2013–2014: intersection impact went into capacity; intersection standards stayed a separate floor

Intersection impact was to be built into the capacity values

When the v/c concept was first presented to the Board on August 21, 2013, the question came up of how the County would determine what 100 percent capacity is for a given road. Mr. Schulte answered (0:16:57):

> "So again, the, the standard is the 5,000 vehicles per hour for a five-lane principal. That's a theoretical number. We'd have to take in, take in account the, the lane carrying capacity and some spacing of intersections. Certainly, uh, a, a five-lane roadway with no intersections on it is going to have higher speeds than a five-lane roadway with ten intersections on it. So we just have a metric to somehow put and adopt in, uh, intersection, uh, impact on that, that standard."

The same session made the point twice more. Another participant explained that if a corridor has more access points, "your capacity will be adjusted functionally" (0:18:09). Comparing Padden Parkway with Highway 99, Mr. Schulte said: "Same lanes, but you carry much more on the Padden" (0:19:15).

The table adopted in 2014 by Ordinance 2014-08-09, Table 40.350.020-1 "Roadway Capacities," is consistent with that instruction. It sets capacity by roadway type rather than lane count alone: 2,000 vehicles per hour per direction for a parkway, 1,800 for principal and four-lane minor arterials, 900 for two-lane minor arterials and C-2cb collectors, and 800 for other collectors and rural roads. For roads not built to standard, (G)(1)(a) sets capacity by lane and shoulder width. Whatever the exact derivation, the Board was told that intersection impact would be accounted for inside these values, and it adopted them on that understanding.

County staff in the 174th Street case rely on the same principle. Ex. 136 lists "number and spacing of intersections and/or driveway accesses" among the roadway influences that affect capacity, and Mr. Gallup's Ex. 135 applies the Highway Capacity Manual adjustment for access-point density in calculating the capacity of NE 179th Street.

That has a direct consequence. If intersection effects are already in the capacity side of the ratio, a segment above 0.9 is over the standard after intersections have been accounted for. Using intersection level of service a second time to set that result aside does not add a missing factor. It counts the same influence twice, and only in the direction of approval.

Intersection standards were described as a safety net under the corridor test

At the February 12, 2014 Board work session, Mr. Schulte described the new program and the intersection standards being carried forward (0:02:50):

> "So the LOS standard would be 90%. The metric would be roadway volume-to-capacity ratio. Now, in addition to that... we have, I call 'em safety net standards. So in the event the corridor may be operating well, but one intersection is very problematic, huge delay times through that intersection, or one individual movement doesn't work well, we have these safety net standards. We've always had them in the ordinance. They don't trigger very often."

The direction is explicit: a corridor that passes can still be caught by a failing intersection. The rest of the 2014 record is consistent. The June 5, 2014 Planning Commission presentation listed the level-of-service measurement as a roadway v/c ratio “with a maximum of 90 percent,” followed by “additional protective” LOS standards for individual intersections (slide 4). At the May 1, 2014 DEAB meeting, Mr. Jardin explained that intersection LOS would remain unchanged and that, instead of monitoring the miles-per-hour threshold, the County would compare existing volumes to the capacity allowed. The June 25, 2014 staff report stated that “transportation improvements would be required of roadway segments that are either at a V/C of 0.90 or above.” Later in the February 12 session, Mr. Schulte said the v/c table “helps keep mobility on the links, on the segments,” while intersection problems would be handled through a separate intersection line in the capital facilities plan (0:28:17). At the July 17, 2014 Planning Commission hearing, Laurie Lebowsky said the new standard “looks at links and it’s less focused on intersections.”

The August 19, 2014 adoption hearing is the clearest statement of all, because it is where the Board was asked to vote. Ms. Lebowsky presented the intersection standards as “what we call the protective measures for intersections,” explaining: “Because we’re going to a link-based system, and we wanted to keep in place, uh, standards to protect intersections” (0:02:37). The hearing packet put the standard to the Board as a single test: with capacity of 7,000 and a loading of 3,500, “if the maximum LOS is set at 90 percent, then the corridor is not in Concurrency failure.” Mr. Schulte described it the same way, without qualification: “the level of service standard for roadways is 90% of full capacity, theoretical capacity. This particular corridor would be operating at an operating level of only 50%. So it has 40 more percent points to go before it goes into failure” (0:05:08).

A member of the public then asked the question this memo is about. She asked whether changing the way concurrency is measured “does it make areas here that were considered congested before not be congested now.” Mr. Schulte answered that staff believed it was “leaving the standards, uh, largely, uh, the way they are,” using “a different measure, a different metric” that “effectively gets you the same degree, uh, of certainty” as the more complicated one. He closed with the point he called critical: “The individual intersection standards for safety and for mobility, those are not changing in this proposal. They’re identical to what we’ve had in the past. So we have some protections at the intersections” (0:20:12 to 0:21:20). The Board adopted the ordinance on that representation. The current practice produces the opposite result: corridors that fail the adopted metric are treated as not congested because of the intersection standards that staff said were unchanged protections.

Staff told the Board the opposite. At no point in the 2013–2014 record did staff tell the Board, DEAB, or the Planning Commission that a segment exceeding 0.9 could be found compliant because its intersections were operating acceptably. Ex. 144 attributes that silence to oversight: because the 2014 slide presentation’s example did not exceed the threshold, there was “no need to show how a v/c that exceeded the threshold would be evaluated,” which Ex. 144 calls “a mistake staff made at the time of presentation.” The record shows the opposite. No such example was needed, because exceeding the standard is not a condition that calls for further analysis. It is failure.

That is how the Board discussed it throughout. In August 2013, the question was where to set the line: “where do you make a red light? Is the red light at 90%, 100%, 110%?” Mr. Schulte answered that the Board could set the number anywhere it chose up to 100 percent of capacity, because the number is the failure point: “You could start calling it concurrency failure when you just get to 60% of capacity” (0:29:03, 0:29:44). Reaching the number is the event. Failure stops development, which is why the 2011 manual says a development that causes a corridor to fail is denied unless the developer mitigates, why a participant in 2016 described the model as one in which a corridor that “went into failure” meant “you couldn’t put any trips through it” (0:58:11), and why the Council found in 2017 that the code “attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated.”

The design also explains why the 78th Street example, at 3,500 of 7,000, was a passing corridor. Staff told the Board that corridors would be watched on the way up, not sorted out at the top. Mr. Schulte said the annual report would show “kind of a status of each of our corridors. You can just see year-to-year how capacity’s changing” (February 12, 2014, 0:04:39). Ms. Lebowsky told the Board that staff would “develop some kind of system to monitor the roads and the intersections. So if a road is getting close to capacity, we know ahead of time and can do and address that issue,” and Mr. Schulte described an annual color-coded status report so the Board would know “when intersections or road segments are nearing failure, and then we can move monies around as needed to resolve those issues” (August 19, 2014, 0:06:02, 0:06:37). The plan was to fund the fix before a corridor reached 0.9, not to reinterpret the standard once it did. By his own account in Ex. 144, Mr. Jardin was the Concurrency Engineer in 2014 and helped prepare those presentation materials.

5. The code makes the corridor a separate test, and the practice is not in it

The 2014 amendment, Ordinance 2014-08-09, did more than change the corridor metric. It rewrote subsection (G)(1) so that corridors and intersections are measured independently. Before 2014, the signalized-intersection standard in (G)(1)(b) applied “Within the designated transportation corridors,” and a separate subsection (G)(1)(c) set a different standard for signalized intersections “Outside of designated transportation corridors.” The June 25, 2014 redline strikes both. After 2014, (G)(1)(b) applies to every signalized intersection of regional significance in the unincorporated county, and the unsignalized standard became (G)(1)(c). Intersection standards no longer depend on whether the intersection sits on a corridor. The corridor standard in (G)(1)(a) became its own measurement of every collector and arterial segment, in each direction.

The operative text of (G)(1)(a), re-adopted in 2016 and 2017, defines the test completely: “The maximum volume to capacity ratio for each roadway segment shall not exceed nine-tenths (0.9), when measured independently for each direction of travel.” Volume is determined from the factors in subsection (F). Capacity is determined from Table 40.350.020-1 for roads built to County standards, or from the lane-and-shoulder schedule written into (G)(1)(a) for roads that are not. There is no step in which intersection level of service is compared, and no provision anywhere in (G) stating that a segment above 0.9 complies if its intersections pass. The exemptions from concurrency denial are listed in subsection H, and they are four specific development types. A corridor whose intersections operate acceptably is not among them.

The 2016 record describes the model the same way. At the October 12, 2016 Council work session, a participant the transcript does not identify explained that the concurrency model "was designed and written" so that "when an intersection, or later a corridor, or later, um, an entire area, um, went into failure, you couldn't put any trips through it" (0:58:11). Intersections and corridors are separate failure conditions, each of which stops development on its own.

Staff's own filing concedes the structure. Ex. 144 states: "Each subsection of section G represents different elements of the county road network (G)(1)(a) Corridors, (G)(1)(b), Signalized Intersections, and (G)(1)(c) Unsignalized Intersections. County code has established individual levels of service for each." Ex. 144 also acknowledges that the 2014 slide presentation did not show how a corridor above 0.9 would be evaluated.

The administrative manual does not supply it either. Since 2014, (G)(2) has required that the level-of-service standards "be applied and interpreted as stated in the administrative manual prepared pursuant to Section 40.350.020(N)." In response to public records request P057715, Public Works confirmed on July 14, 2026 that "The 2011 Administrative Manual was the last one finalized/published" and that there have been no updates since 2011. The 2011 manual, the last one the County finalized or published, applies the corridor standard as a stand-alone test with no intersection override.

The authority staff's filings cite for the practice is (F)(9) (Ex. 136; Ex. 144). Subsection (G)(1)(a) uses the factors in subsection (F) to determine the volume in the ratio, and (F)(9) is one of those factors; its application is analyzed in the Telegin Law response comments (Ex. 154), submitted to this index on September 3, 2026, and in my supplemental submission on the intersection LOS override and (F)(9), submitted on September 22, 2026. When my written testimony stated that no provision of CCC 40.350.020 authorizes substituting intersection-level findings for corridor v/c findings, staff's response did not identify one; it referred the Hearing Examiner to the Jardin and Gallup letters (Ex. 141, Issue 2).

Staff's own description of the method confirms it. Ex. 144 states that "Staff's analysis outside of the code's prescriptive measures on corridor capacity" was performed, and that "staff did not use the prescriptive volume threshold" but instead made "a more representative look at corridor operations and through put." Whatever (F)(9) is read to allow, the description here is an admission on its own terms. The prescriptive measure is the standard, and an analysis that does not use it is not a determination under (G)(1)(a).

Ex. 144 also treats the standard as advisory. It says the code "has also established what factors staff need to consider when determining those levels of service," describes intersection level of service, queuing, roadway influences, and potential mitigation strategies as things that "may be considered in whole or in part when determining compliance," and concludes that "the prescriptive v/c under CCC 40.350.020 (G)(1)(a) is not binding or a 'flat prohibition'." The framing has hardened over time. Concurrency findings issued on August 31, 2026 state that these factors "may be considered and applied in lieu of the code-prescribed threshold values when determining compliance with, or acceptable levels of service under" the corridor standard, a progression traced in Compliance Without a Standard, filed in this index on September 13,

2026. Applied in lieu of the code-prescribed values is not an interpretation of the standard. It is a substitute for it.

The code is not a list of considerations. (G)(1)(a) sets a maximum: the volume to capacity ratio "shall not exceed nine-tenths (0.9), when measured independently for each direction of travel." Subsection (C) directs that the review authority "shall approve, approve with conditions, or deny proposed developments in accordance with the provisions of this section." The Council's 2017 findings describe a code that "attempts to delay development in areas served by roads failing concurrency," and the March 16, 2017 staff report told the Planning Commission that transportation is the only area of concurrency that specifies denial when the standards cannot be met. Compliance with a maximum is not a weighing exercise.

So the question is not whether the code is silent on an issue staff has had to fill. The code answers it. Corridors and intersections are separate tests with separate standards, and a segment either meets 0.9 or it does not.

6. The unintended consequence the County actually documented, and how it was fixed

2010. Ordinance 2010-08-06 added three conditions to the unsignalized-intersection standard, all of which had to be met before a development could be required to mitigate: at least five peak-hour trips to a failing approach; a projected v/c above 0.9 on the worst lane movement of the approach with the highest delay; and that movement worsened by the development. The purpose was to let small developments, such as two- or three-lot short plats, proceed without being assigned large mitigation triggered by earlier development (March 2, 2017 DEAB slides 2–3; October 12, 2016 Council work session, 0:08:56).

2016. Mr. Jardin began his presentation at the October 12, 2016 Council work session by describing how concurrency standards are set and changed: "levels of service, delay times, volume-to-capacity levels, uh, those are established, uh, uh, by approval through the board. Uh, and there have been many times where, uh, we have, where staff has approached the board about, uh, about concurrency changes, uh, trying to help development move forward, maybe, uh, uh, changing some standard, uh, travel times, levels of service to allow development to occur" (0:01:57). That is what staff was doing that morning. He then explained what had gone wrong (0:32:21):

> "The, the, uh, main issue is that the projected volume-to-capacity ratio of 0.9 is very difficult to achieve. It's not impossible, but it's very difficult to achieve when an intersection is not an all-way stop-controlled intersection. Um, so as a result of that, um, there is the possibility that we may have some missed opportunities to require or get mitigation from development to mitigate their impacts."

Large developments were meeting two of the three conditions and escaping mitigation at failing intersections (0:51:00). Carolyn Heniges, then Transportation Division Manager, told the Council the exemption "was never intended to be applied the way it is" (0:44:48). Heath Henderson, Public Works Director, said: "You try things for a while and then realize it's not working quite right" (0:44:08). The same unidentified participant quoted in Section 5 summarized the problem:

the nine-tenths v/c "results in many projects being approved that never should have been approved," and "I don't believe staff's proposing changing anything else to the concurrency model" (0:58:11). The same participant recalled the sequence as a move "to a, uh, capacity, volume-to-capacity ratio," in the implementation of which the v/c component was added to the exemption. The ordinances fix the order: the 0.9 ratio on an intersection approach entered the code in 2010 (Ordinance 2010-08-06), and the corridor v/c standard in 2014 (Ordinance 2014-08-09), whose recitals state that the corridor standard until then measured travel speed.

Public Works gave the problem its own name. The March 2, 2017 DEAB presentation carries the heading "2010 Code Language — Unintended Consequences" on slides 5 through 8.

2016–2017 remedy. The County fixed it legislatively: emergency interim Ordinance 2016-08-12 (August 30, 2016); extension with an adopted work plan, Ordinance 2016-10-11 (October 2016); notice to the Department of Commerce (January 27, 2017); DEAB review, a Planning Commission work session, and a SEPA determination of non-significance (March 2, 2017); a Planning Commission hearing (March 16, 2017); and a Board hearing and adoption of Ordinance 2017-04-13 (April 25, 2017), which struck the v/c condition from the exemption. Ex. 144 describes the emergency interim ordinance the same way: it removed the intersection v/c language "since the 0.90 threshold allowed projects to avoid mitigation due to analysis limitations."

Along the way the Council adopted findings, most recently in Ordinance 2017-04-13, that "Clark County code attempts to delay development in areas served by roads failing concurrency until the condition can be improved or mitigated." The March 16, 2017 staff report told the Planning Commission that "Transportation is the only area of concurrency that specifies denial of development if LOS standards cannot be met." Subsection (G)(1)(a), the corridor v/c standard, was reprinted unchanged in Ordinances 2016-10-11 and 2017-04-13.

7. What this means for the accounts in Exs. 136 and 144

Ex. 144 says unintended consequences came to light shortly after the 2014 code was implemented, that staff took them to the Public Works Director, and that the Director determined corridors should be evaluated with the impacts of adjacent intersections. The record contradicts that account in four respects.

First, the unintended consequence of a v/c test that the County documented in this period concerned the 2010 intersection exemption, not the 2014 corridor standard. The 2014 proceedings record no difficulty with the new corridor measure. Staff presented it as simpler than what it replaced and as giving the Board the same degree of certainty, and told the Board that corridors would be watched annually so that funding could be moved before any of them reached the standard. When the Council later asked what in the concurrency code was not working, the answer was the exemption, and a participant said, "I don't believe staff's proposing changing anything else to the concurrency model" (0:58:11).

Second, that consequence was taken to the Council in public, two years after the 2014 change, by Mr. Jardin, with the sitting Public Works Director and Transportation Division Manager presenting beside him. He opened by telling the Council that "there have been many times

where, uh, we have, where staff has approached the board about, uh, about concurrency changes" (0:01:57). The Director was Heath Henderson, who had held the office, first as interim Director, since December 2013, across the whole of the "2014 time frame" in which Ex. 144 places the Director's determination. Participants asked about the history of the exemption language (0:36:03, 1:00:07). I was unable to find any mention in the session of a Director determination about corridors.

Third, the remedy was an ordinance adopted through full public process, and the Council left the corridor standard exactly as written. The County's documented way of correcting a concurrency provision that produces unintended results is to change the code, and staff used it: a work plan, the prosecuting attorney, development engineering, community planning, public comment, the development community, DEAB, the Planning Commission, and two Council hearings, all to amend an exemption written for two- and three-lot short plats. I was unable to find any point at which the practice now applied to the corridor standard, which governs collector and arterial segments across the urban area, was brought to the Board or the Council: no work session, proposed amendment, or notice, and no entry in the administrative manual. The full process was used for the small provision. None of it was used for the large one.

Fourth, Ex. 136 attributed the determination to "the then Transportation Division Manager and the Public Works Director." Moved to 2014, that would point to Mr. Schulte, who was introduced as the Transportation Division Manager when he presented the proposal to the Board in February 2014, and to Mr. Henderson as Director. Mr. Schulte's recorded statements to the Board run the opposite way: intersection impact goes into the capacity standard, and intersection standards are a safety net under a passing corridor. Ex. 144 drops the Transportation Division Manager and attributes the determination to the Director alone.

There is also a structural parallel. The 2010 problem was a second measure (approach v/c) being used to excuse a failure on the adopted measure (intersection level of service). The Council recognized that as a flaw and removed it. The current practice uses a second measure (intersection level of service) to excuse a failure on the adopted measure (corridor v/c). It is the same flaw in the opposite direction.

8. Conclusion

The method Ex. 144 describes existed, as the arithmetic of the pre-2014 speed standard. The 2014 amendment retired that arithmetic, put intersection effects into roadway capacity, and kept intersection standards as a floor beneath the corridor test. When a v/c test later produced unintended results, the County fixed it by ordinance and re-adopted (G)(1)(a) unchanged. The code was written to make the corridor a separate test, and it contains no provision allowing intersection performance to clear a segment above 0.9. If a Public Works Director once directed staff to evaluate corridors through their intersections, the only standard that direction fits is the travel-speed standard, where intersection delay was an input to the corridor measurement. The Board replaced that standard in 2014, on staff's recommendation and with staff's assurance that the intersection standards were being kept as separate protections. The accounts staff has offered for the practice are contradicted by the ordinances, the transcripts, or staff's own filings. The practice is not a continuation of 2010 or 2014 practice. It is a departure from the standard

the Council adopted and twice re-adopted, made without the process the County itself uses when a concurrency provision is not working.

9. What the Comprehensive Plan should reflect

1. The transportation element and capital facilities analysis should treat every collector and arterial segment projected above 0.9 v/c as a deficiency, as (G)(1)(a) requires, regardless of intersection level of service.

2. The level-of-service policies in the plan should state that corridor and intersection standards are independent tests, consistent with the 2014 structure of (G)(1) and staff's own description of it in Ex. 144.

3. Any change that would let operational or intersection analysis set aside a (G)(1)(a) result should come to the Council as a code amendment, with the same public process the County used in 2010 and 2016–2017, and the methodology should be published in the administrative manual that (G)(2) requires. Until then, the plan should not rely on the practice in counting capacity or deficiencies.

Documents referenced

Each document below has been submitted to the Comprehensive Plan index.

No.	Document	Description	Date submitted to Index of Record
Submitted with this memo			
1	Feb. 12, 2014 Board work session	Concurrency and CFP update; certified Scribie transcript, cited by timestamp	With this memo
2	Aug. 19, 2014 Board hearing	Public hearing adopting Ordinance 2014-08-09; certified Scribie transcript, cited by timestamp	With this memo
Previously submitted			
3	Aug. 21, 2013 Board work session	Transportation Concurrency Workshop; certified Scribie transcript, cited by timestamp	October 1, 2026
4	May 1, 2014 DEAB minutes	Adopted June 5, 2014	August 20, 2026
5	June 5, 2014 PC presentation	"Transportation Concurrency and the Capital Facilities Plan (CFP) Update"	August 20, 2026
6	June 25, 2014 staff report	Revised staff report and proposed code text (redline)	August 20, 2026
7	July 17, 2014 PC hearing minutes	Planning Commission hearing on the 2014 amendments	August 20, 2026

No.	Document	Description	Date submitted to Index of Record
8	Ordinance 2014-08-09	As adopted, with the Board hearing packet and staff slides	September 7, 2026
9	Ordinance 2010-08-06	Amending the unsignalized-intersection standard	September 20, 2026
10	March 2011 Concurrency Administrative Manual	Clark County Concurrency Administrative Manual	September 3, 2026
11	PRR P057715-071426 response	Public Works, July 14, 2026: 2011 manual is the last one finalized/published	September 3, 2026
12	Ordinance 2016-08-12	Emergency interim ordinance	August 20, 2026
13	Ordinance 2016-10-11	Extension and work plan	August 20, 2026
14	Oct. 12, 2016 Council work session	Concurrency; certified Scribie transcript, cited by timestamp	October 1, 2026
15	Mar. 2, 2017 DEAB presentation	“Clark County Code Language, Concurrency – 40.350.020(G)(1)(c)”	August 20, 2026
16	Mar. 16, 2017 PC staff report	Revised staff report	August 20, 2026
17	Ordinance 2017-04-13	Permanent amendment	August 20, 2026
18	PLD-2026-00002, Ex. 52	Concurrency staff report	September 13, 2026
19	PLD-2026-00002, Ex. 78	April 23, 2026 hearing transcript	September 19, 2026
20	PLD-2026-00002, Ex. 88	Supplemental submission on legislative intent (Apr. 25, 2026)	August 20, 2026
21	PLD-2026-00002, Ex. 135	S. Gallup letter on roadway capacity	September 13, 2026
22	PLD-2026-00002, Ex. 136	D. Jardin letter, May 21, 2026	September 13, 2026
23	PLD-2026-00002, Ex. 140	Reissued concurrency staff report	September 13, 2026
24	PLD-2026-00002, Ex. 141	Staff response to Ex. 59, May 21, 2026	September 19, 2026
25	PLD-2026-00002, Ex. 144	D. Jardin open-record comment, June 4, 2026	September 22, 2026

No.	Document	Description	Date submitted to Index of Record
26	PLD-2026-00002, Ex. 154	Telegin Law response comments, (F)(9) analysis, June 4, 2026	September 3, 2026
27	Compliance Without a Standard	Submission on rewritten concurrency findings	September 13, 2026
28	Supplemental submission on the intersection LOS override and (F)(9)	Analysis of the intersection LOS override and CCC 40.350.020(F)(9)	September 22, 2026

From: **Archives - Research** Research@sos.wa.gov
Subject: Re: how to find a Clark County hearing recording
Date: September 22, 2026 at 9:49 AM
To: hcpheidi@yahoo.com

AR

Hi Heidi,

Glad the PDF worked for you.

Good news! We were able to do a little more digging on the audio recordings to see what we might be missing about the CVTV transfer you mentioned.

Long story short, the audio recordings files don't show up in search results through our general catalog. However, they are being archived into a database that we have in-house. It appears the date range of the available recordings is limited to around 2005-2019.

That being said, August 19, 2014 is available for access. We located the audio file for the public hearing on concurrency. We have made two files available for download via Dropbox. They are the same video, but one version has captions.

- Clark County, Board of County Commissioners Proceedings, August 19, 2014-Public Hearing on Concurrency [no captions]
  - https://www.dropbox.com/scl/fi/9c46womq2qdq2nqgm7q6i/CC-BOCC_8-14-2014_PH_Concurrency_NoCaps.zip?rlkey=el5dhdlske16uc69xtohwjm4a&st=9hfmqywl&dl=0
- Clark County, Board of County Commissioners Proceedings, August 19, 2014-Public Hearing on Concurrency [with captions]
  - https://www.dropbox.com/scl/fi/grof7j34xafkjaf5eaqgu/CC-BOCC_8-14-2014_PH_Concurrency_WithCaptions.zip?rlkey=gepigz7y3v13m5m536xhdimw8&st=dr1867jx&dl=0

Please use the links above to access the videos. You will need to download the video files to view them on your own device[s]. We generally keep files available on Dropbox for 10 business days. But, please let us know if you need more time to download the video files.

Please let us know if you run into any issues with downloading the videos.

Take care,

Washington State Archives
Research Services
Office of the Secretary of State
1129 Washington St SE, Olympia, Washington 98501
360-586-1492
www.sos.wa.gov

WASHINGTON
Secretary of State
Washington State Archives

From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Monday, September 21, 2026 12:27 PM
To: Archives - Research <Research@sos.wa.gov>
Subject: Re: how to find a Clark County hearing recording

Thank you for sending this. It opened up without issue.

I wanted to make sure the meeting recording isn't in a different place. CVTV makes the recordings and holds it on their site then sends the recordings to you. Are they possibly in a different location than the County files?

Thank you,

Heidi

> On Sep 18, 2026, at 11:55 AM, Archives - Research <Research@sos.wa.gov> wrote:
>
> Hi Heidi,
>
> As requested, attached is the scanned *PH: Transportation Concurrency-CFP* file from the Clark County Board of County Commissioners, August 19, 2014, meeting.
>
> Please let us know if you have any trouble opening the PDF.
>
> Take care,
>
> **Washington State Archives**
> **Research Services**
> Office of the Secretary of State
> 1129 Washington St SE, Olympia, Washington 98501
> 360-586-1492
> www.sos.wa.gov
> <Outlook-vwmm2ois.png>

From: Heidi Pozzo <hcpheidi@yahoo.com>

From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Friday, September 18, 2026 10:32 AM
To: Archives - Research <Research@sos.wa.gov>
Subject: Re: how to find a Clark County hearing recording

Thank you,

CVTV told me they send you all the recordings after 6 years, but weren't sure what happened to if after they sent them to you.

If you could scan the materials and send it to me, that would be appreciated.

Thank you,

Heidi

> On Sep 18, 2026, at 9:34 AM, Archives - Research <Research@sos.wa.gov> wrote:
>
> Hi Heidi,
>
> We received the off-site box that appeared to be responsive to your request for the Clark County Board of County Commissioners, August 19, 2014, meeting.
>
> The August 19, 2014, meeting exists in physical paper files only. **No audio recording was included in the box for the meetings.** In talking to a colleague, it appears we would not have received an audio recording for these meetings.
>
> However, within the physical meeting files for August 19, 2014, there is a folder that is labeled as *PH: Transportation Concurrency-CFP,* which appears to be the most responsive to your request on a concurrency hearing.
>
> **Next steps:**
> - We can book an appointment in our research room for you to view the files and make digital or physical photocopies.
>
> OR
>
> - We are able to make a scan of the *PH: Transportation Concurrency-CFP* file and send it to you as a PDF in email.
>   - Since the scanning of this one file would likely not exceed $5.00, we would be able to waive the scanning charge. Please view our Reproduction Services Fees here for more details.
>
> Let us know how you would like to proceed.
>
> Take care,
>
> **Washington State Archives**
> **Research Services**
> Office of the Secretary of State
> 1129 Washington St SE, Olympia, Washington 98501
> 360-586-1492
> www.sos.wa.gov
> <Outlook-aa3x2f5f.png>

From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Tuesday, September 15, 2026 11:19 AM
To: Archives - Research <Research@sos.wa.gov>
Subject: Re: how to find a Clark County hearing recording

You don't often get email from hcpheidi@yahoo.com. Learn why this is important

Thank you!

> On Sep 15, 2026, at 10:56 AM, Archives - Research <Research@sos.wa.gov> wrote:
>
> Hi Heidi,
>
> Thank you for contacting the Washington State Archives, Olympia branch.
>
> Based on the information provided, we have located a records box that may be responsive to your request for the Clark County Board of County Commissioners Proceedings for August 19, 2014.
>
> Please NOTE: This records box is currently located in off-site storage. We have put in a request for the box to be retrieved and delivered to our archives branch here in Olympia. This off-site request may take up to 5-10 business days for delivery of the box. There is no fee for retrieval of this box.
>
> Once we receive the box, we will attempt to locate the proceedings for August 19, 2014. At that point, we will follow up with you on what we*may* have located and possible next steps from there.
>
> Please let us know if you have any questions.
>
> Take care,
>
> **Washington State Archives**
> **Research Services**
> Office of the Secretary of State
> 1129 Washington St SE, Olympia, Washington 98501

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<Outlook-wwhfdfci.png>

From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Friday, September 4, 2026 2:26 PM
To: Archives - Research <Research@sos.wa.gov>
Subject: how to find a Clark County hearing recording

[You don't often get email from hcpheidi@yahoo.com. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

Hello,

Clark County and CVTV have both told me they do not have the recording of the August 19, 2014 Clark County Board of Commissioners hearing on concurrency. CVTV suggested it may be in a state archive. Can you direct me to how to find this?

Thank you,

Heidi

<ClarkCountyBOCC_8.14.2014_PH-Concurrency-SW-202200006-01.pdf>

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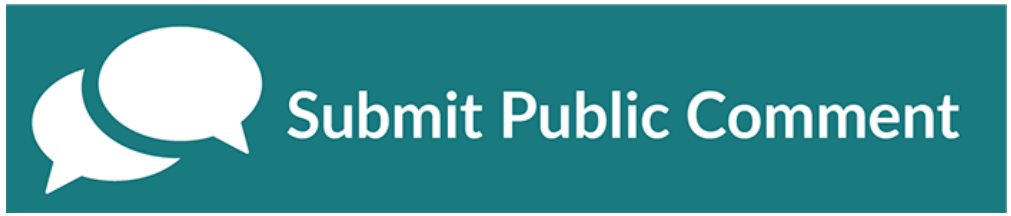

Clark County Council meetings are open to the public, in person or online.

Council Meetings are held in a hybrid format. You can join in person, on the 6th floor of the Public Service Center, 1300 Franklin Street, Vancouver, WA 98666, or virtually.

For meeting dates and times, please see the County Council Calendar or the Weekly Calendar on our Meeting Information page.

If you would like to participate in public comment, you can come to the Public Service Center 6th floor Hearing Room, provide comment over the phone, or by logging into WebEx. Please see How to provide public comment via computer or mobile device.

All documents are in PDF format unless noted otherwise.

To request a document not available here, call 564-397-4305 or email: rebecca.messinger@clark.wa.gov.

To request a video not available here, contact CVTV.

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Date	Agendas & Minutes	Related Documents	Audio/Video
2/12/2014	Board Time Agenda	**Work Session Items** WS-Transportation Concurrency and Capital Facilities Plan (CFP) Update	WS-Transportation Concurrency and Capital Facilities Plan (CFP) Update (MP3 91.6MB) Board Time (MP3 169MB)

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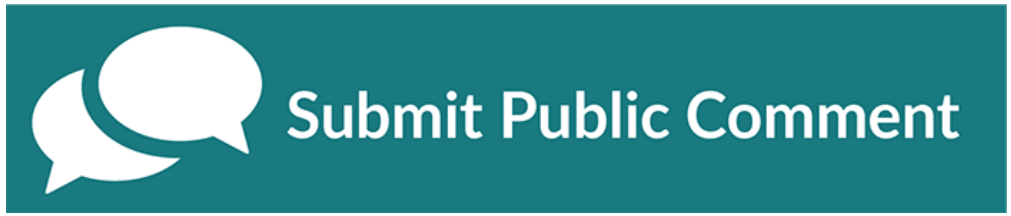
Clark County Council Meetings



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For meeting dates and times, please see the County Council Calendar or the Weekly Calendar on our Meeting Information page.

If you would like to participate in public comment, you can come to the Public Service Center 6th floor Hearing Room, provide comment over the phone, or by logging into WebEx. Please see How to provide public comment via computer or mobile device.

All documents are in PDF format unless noted otherwise.

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To request a video not available here, contact CVTV.

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Date	Agendas & Minutes	Related Documents	Audio/Video
8/19/2014	Weekly Calendar Hearing Agenda Minutes	**Consent Items** 1. ESA contract for Environmental impact statement 2. Sole Source purchase CodeSmart Inc. 3. IGA with Southwest Behavioral Health 4. Associate Medical Examiner position recruitment approval 5. Warrants July 28-Aug 1 2014 and; August 4-8 2014 6. Minutes for July 10 2014 (Parks Advisory Board) and August 5 2014 (BOCC) 7. Letters of Acceptance: - Barbara Anderson Marsha Keen and Greg Foster appointed to Clark County Parks Advisory Board **Public Hearing: Concurrency** Ordinance 2014-08-09 **Public Hearing: Shoreline Master Program Limited Amendment** Staff Report : Ordinance	Board Hearing - Aug. 19 2014

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