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2. City officials could not receive any gratuity or gift with the exception of a "small" gift, i.e., birthday or Christmas card. It was noted that the threshold used by the P.D.C. is \$50.
3. City officials cannot ask for special consideration for themselves or another.

Councilmember Smith asked if these rules applied to Council only, and Attorney Weed replied that it applied to all elected and appointed officials as well as employees.

A short discussion followed regarding the use of confidential information for personal gain.

Separation of Powers:

Attorney Weed stated that there were three branches of City government:

- I. Executive – Mayor and Staff
- II. Legislative – Council
- III. Judicial – Municipal Court

He noted that the State statutes delineate these branches. He also noted that there is a distinction between a Mayor/Council form of government, which Marysville is, and a Council/City Manager form of government.

Mr. Weed explained that the Mayor is like the CEO of the city and responsible for administration, personnel, and giving direction to staff. The Mayor has veto power, and it is his responsibility to see that services are provided to citizens.

Council, on the other hand, is the policy-making body and responsible for making legislative decisions. Mr. Weed noted that in both State statutes and case law, it is inappropriate for Council to give direction or to try to control staff. If they want to give direction to staff, Council must go through the Mayor or City Administrator. He added that Council can request information from staff but they cannot tell staff what to do or how to do it.

Mr. Weed stated that it was not appropriate for staff to tell Council what policies should be made when or how, etc. Staff should make recommendations to Council.

Top Ways to Get Into Trouble:

Mr. Weed noted some of the top ways Council could get into trouble:

- A. Bribery – taking of or offering someone else a benefit to influence their decision.
- B. Official Misconduct – attempt to obtain benefit or deprive others their rights.
- C. Requesting unlawful compensation.
- D. Intimidation of a public servant.
- E. Torts, violation of civil or constitutional rights.
- F. Violation of Bid Laws.
- G. Conflicts of Interest.
- H. Appearance of Fairness.

Attorney Weed noted that the City will provide legal representation for claims or litigation according to Marysville Municipal Code 2.84, which states in part,

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“... arising from the scope of your official capacity...” He further noted that there are some conditions to receiving legal representation, and they are:

1. Council is required to give the City notice as soon as they are aware of a potential claim;
2. Council is required to cooperate with the defense.
3. Council is required to attend court, if necessary.

Mr. Weed added that there are also exclusions that would preclude a person from receiving legal representation from the City. The City will not provide representation under the following circumstances:

1. An illegal act.
2. A fraudulent act.
3. If claim or litigation is for actions taken outside the scope of their position.

Council convened into Executive Session at 9:22 a.m. Council adjourned from Executive Session at 10:51 with no action taken. After a short break, Council reconvened their special meeting at 11:00 a.m.

Lew Leigh, Executive Director of W.C.I.A. (Washington Cities Insurance Authority) was introduced next. He reviewed the role of W.C.I.A. and stated that they are aggressive in risk management, aggressive in income, and aggressive in court. He noted that the City of Marysville is fortunate to have Mary Swenson, Assistant to the City Administrator/City Clerk, who is also Vice-President of the Board of Directors for W.C.I.A. Because of Ms. Swenson, he noted that the City is very aggressive in their risk management and training.

Mr. Leigh reviewed typical cases with other cities, and noted that W.C.I.A. will be as aggressive in litigation as a city is aggressive in their risk management. He noted that land issues are very tough, and reviewed averages of loss frequency and loss severity for Marysville as compared to other cities in the same group. It was established that groups are determined by number of work hours, but Mr. Leigh said that this pretty much equates to the same thing as population.

Mr. Leigh stated that Marysville has an adept staff, one of the better ones he has seen. He added that Marysville also has a great attorney, adept in personnel and land use issues, and encouraged Council to listen to him and do everything he says.

Mr. Leigh also said that if a person wanted to be an activist they should leave Council, because Councilmembers must serve all of the people. He added that punitive damages are the responsibility of an individual person and are assessed for wanton/reckless actions of that individual and go beyond ordinary negligence. He stressed the importance of going through appropriate channels and saying appropriate things. Mr. Leigh added that, should a Councilmember leak information or make outrageous quotes, it could jeopardize the City's status with the insurance authority.

Mr. Leigh talked about “reservation of rights” and “intentional acts”, and stated that Council may receive a personal letter advising them what the insurance authority would defend against and what they will not. He added that there could come a time when a Councilmember would need a personal attorney, and encouraged Council to try to avoid that.

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Assistant to City Administrator/City Clerk Swenson noted that W.C.I.A. began their insurance pool with nine cities, and noted that Marysville was one of the cities in the original pool. She further stated that there are now 99 cities and the Fire District that participate in the pool. She noted that W.C.I.A. provides training free to the City and covers auto and property insurance also. Ms. Swenson stated that the fee reflects past losses.

General consensus of Council was to discuss committee assignments at Monday night's Council meeting. Mayor Weiser distributed a list of current assignments noting that lines 2, 15, and 16 were changed due to appointments made at the January 3 Council meeting.

A special meeting to be held January 18 at 3:30 p.m. was discussed. It was noted that this entire meeting would be in Executive Session. The location will be announced.

Mayor Weiser distributed maps to Council showing the City limits, and urban growth boundary.

Mayor Weiser adjourned the January 8, 2000 special meeting of the Marysville City Council at 11:52 a.m.

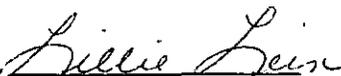
Accepted this 24th day of January, 2000.



Mayor



City Clerk



Recording Secretary

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**MINUTES
MARYSVILLE CITY COUNCIL - REGULAR MEETING
JANUARY 3, 2000**

CALL TO ORDER/FLAG SALUTE

The meeting was called to order by Mayor Weiser at 7:00 p.m. in the council chambers, and the assemblage joined in the flag salute.

SWEARING-IN CEREMONY

Superior Court Judge Jim Allendoerfer performed the swearing-in ceremonies, wherein Dave Weiser was sworn in as Mayor, John Soriano to Position 5, Suzanne Smith to Position 6, and Mike Leighan to Position 7. Mayor Weiser and the new councilmembers took their seats at the council table.

Mayor Weiser called a brief recess for a reception honoring the newly elected and re-elected officials.

RECONVENE

A voice roll call of councilmembers was conducted. Attendance was as follows:

Councilmembers Present:

Dave Weiser, Mayor
Shirley Bartholomew
Jim Brennick
NormaJean Dierck
Mike Leighan
Suzanne Smith
John Soriano

Administrative Staff present:

Dave Zabell, City Administrator
Mary Swenson, Assistant to City
Administrator/City Clerk
Robert Carden, Chief of Police
Gloria Hirashima, City Planner
Grant Weed, City Attorney
Ken Winckler, Public Works Director

Mayor Weiser advised that Councilmember Pedersen was ill.

MOTION by Bartholomew, second by Dierck, to excuse Councilmember Pedersen due to illness. Motion carried unanimously (6-0).

Mayor Weiser reordered the agenda so action could be taken at this point on the following resolutions.

Ordinances and Resolutions

1. A resolution of the City of Marysville honoring Otto Herman, Jr., councilmember.

MOTION by Brennick, second by Dierck, to adopt Resolution 1958. Motion carried unanimously (6-0).

Mayor Weiser read the Resolution, highlighting Mr. Herman's accomplishments during his term of office, January, 1992 through December, 1999. He thanked Mr. Herman for his service to the city.

2. A resolution of the City of Marysville honoring Donna Wright, Councilmember.

MOTION by Bartholomew, second by Dierck, to adopt Resolution 1959. Motion carried unanimously (6-0).

Mayor Weiser read the Resolution, highlighting Ms. Wright's accomplishments during her term of office, January, 1990 through December, 1999. He thanked Ms. Wright for her service to the city.

MINUTES OF PREVIOUS MEETING

1. City Council Meeting, December 13, 1999.
Councilmembers noted the following corrections:

- Page 6, second motion, carried (4-3) not (5-3).

MOTION by Dierck, second by Leighan, to approve the minutes of the December 13, 1999 council meeting as corrected. Motion carried unanimously (6-0).

2. City Council Special Meeting, December 21, 1999.

Councilmembers noted the following corrections:

- Page 2, under Proposed Increase to Gambling Tax, third paragraph, insert the following sentence before the last sentence: "Councilmember Herman moved to schedule a public hearing on January 3, 2000 for the purpose of extending the moratorium."

MOTION by Bartholomew, second by Leighan, to approve the minutes of the December 21, 1999 special meeting as corrected. Motion carried unanimously (6-0).

AUDIENCE PARTICIPATION

None.

PRESENTATIONS/PETITIONS/COMMUNICATIONS

1. Introduction of new librarian, Daniel Howard
Mayor Weiser introduced the new Marysville City Librarian, Daniel Howard.

ACTION ITEMS

Review Bids

None.

Public Hearing

1. Moratorium on gambling activity - public hearing to be continued to January 10, 2000

Ms. Swenson advised that the public hearing needed to be continued to allow sufficient time for the required advertising.

Mayor Weiser opened the public hearing; no one wished to speak.

MOTION by Bartholomew, second by Brennick, to continue the public hearing on this matter to the January 10th meeting. Motion carried unanimously (6-0).

Current Business

None.

New Business

1. Extension of agreement for consolidation of fire and emergency medical services with Fire District No. 20.

Greg Corn, Marysville Fire Chief, gave a brief history and report on the consolidation during the past two years, noting it was going well and during the extension period they would be investigating ways for that to continue, either by long-term contract or a voter-approved merger. The stumbling block to a merger would be the slight levy difference in Fire District 20.

MOTION by Leighan, second by Bartholomew, to approve, and authorize the Mayor to sign, the extension of agreement for fire and emergency medical services with Snohomish County Fire District No. 20. Motion carried unanimously (6-0).

2. Fire investigation contract with Snohomish County

Chief Corn advised the city had been using the county's investigators on an informal basis, without a contract and without formal coverage of the compensation of the investigators. The county determined that a contract to cover such services was appropriate. He noted he had two people on his staff who were capable of conducting investigations, but if they were unavailable or were stumped, then he could bring the county in for assistance. He added that fire investigation was not necessarily arson investigation. If arson was suspected, then a police detective was brought in who handled the case as a criminal investigation.

Regarding the role of the State Fire Marshall, Chief Corn noted that role had been cut back significantly. They did investigations for counties that did not have a Fire Marshall or investigator. Its main role, since it was now under the Washington State Patrol, was management of the North Bend Training Center and inspections of licensed health care homes in the state.

Mr. Weed noted that this agreement served to procure the services of the county within the city limits and the city was the only entity that stood to gain from it, so only the city, and not the full board of the fire district, were parties.

Councilmember Dierck asked about the Tribes' participation; Chief Corn expressed hope that they would be entering into a contract also.

MOTION by Bartholomew, second by Dierck, to approve, and authorize the Mayor to sign, the interlocal agreement with Snohomish County for the purpose of providing fire investigation services. Motion carried unanimously (6-0).

CONSENT AGENDA

1. Approve January 3, 2000 Claims in the amount of \$530,911.60; paid by check Nos. 49452 through 49800 with Check Nos. 49452-49469 and 49301 void.
2. Approve December, 1999 payroll in the amount of \$908,853.79; paid by check Nos. 36988 through 37234 with check Nos. 37234 and 36831 void.
3. Approve liquor license renewals for Albertson's #471; Circle K No. 8878; Pearl Garden; Jackpot Foodmart #160; and First Stop Deli.
4. Accept Allen Creek bridge replacement project and begin 45-day lien filing period.
5. Set a public hearing date of February 28, 2000 for Rodney Glassett, street vacation; PA 9911054.
6. Set a public hearing date of February 28, 2000 for Dale Glassett street vacation; PA 9911055.

MOTION by Bartholomew, second by Dierck, to approve items 1 through 4. Item 1 approved (5-0-1) with Councilmember Leighan abstaining. Items 2 through 4 carried unanimously (6-0).

Regarding items 5 and 6, Councilmember Brennick asked if all adjacent property owners would receive notification of the hearing. Ms. Hirashima responded that they would after the hearing had been formally set.

MOTION by Leighan, second by Dierck, to approve items 5 and 6. Motion carried unanimously (6-0).

Legal

None.

DISCUSSION ITEMS

None.

INFORMATION ITEMS

1. Mayor's business

- The Tulalip Tribes and Marysville School District would hold a series of lectures. Interested councilmembers should let staff know so reservations could be made.
- Debbie Carden, wife of Chief Carden, had expressed an interest in filling the vacant spot on the Library Board.
MOTION by Bartholomew, second by Leighan, to approve the Mayor's appointment of Debbie Carden to the Library Board. Motion carried unanimously (6-0).
- Mayor Weiser noted that every two years the council elected a Mayor Pro Tem to serve in the Mayor's absence. When both the Mayor and Mayor Pro Tem were absent, a third person could be designated by council to chair the meeting. That would be done on a case-by-case basis.
MOTION by Bartholomew to nominate Councilmember Leighan as Mayor Pro Tem, close the nominations, and cast a unanimous ballot. Motion carried unanimously (6-0).
- The councilmembers' assignments to committees was also reviewed every two years. He distributed a list showing the duties and meeting times and agreed to add North County Summit to the list. He recalled that at a council retreat there was discussion of how committee appointments were made but no record of a formal action to implement that discussion had been located by staff. After discussion, council agreed to postpone further action to allow councilmembers time to review the list and voice their preferences. Mr. Zabell noted that committee assignments could be confirmed at the upcoming retreat during executive session. Mayor Weiser noted there was some urgency regarding some of the appointments.
MOTION by Brennick, second by Bartholomew, to authorize Mayor Weiser to represent the city at the Community Transit Board meeting of January 12. Motion carried unanimously (6-0).
MOTION by Bartholomew, second by Brennick, to confirm the appointment of Donna Pedersen to the Snohomish County Health Board. Motion carried unanimously (6-0).
MOTION by Brennick, second by Bartholomew, to submit Councilmember Dierck's name to the Snohomish County Council for appointment to the Solid Waste Advisory Committee. Motion carried unanimously (6-0).
- The council retreat was scheduled for Saturday January 8 from 8:00 a.m. to Noon at the Senior Center. A representative from the Washington Insurance Authority would be present and there would be a discussion of pending litigation. He stressed the importance of each councilmember's attendance.

2. Staff's business

Chief Carden:

- Discussed radio reception in the area north of town, particularly around 146th in the area of Eagle Point Mobile Home Park. Officers transmitting from there could not be heard at the main station. The Department received technical advice on the problem resulting in their plan to add a voter receiver station at Station 63. This would be purchased at a discount directly from Motorola for approximately \$5600 and should resolve the problem. Gang funds would be used for the purchase, which would be accomplished soon.

Dave Zabell:

- Council's first budget workshop would be in February as it was necessary to begin the process earlier because of I-695 and possible need to seek voter approval.
- Directed council's attention to the notice regarding exceeded coliform levels.
- Mentioned the letter from Association of Washington Cities regarding openings on State Boards and asked councilmembers to advise staff if they were interested.
- The AWC Legislative Conference was February 9 and 10 in Olympia.
- Gave a detailed report on staff's efforts to ensure the city's preparedness for potential Y2K problems. He noted the city had taken the possibility of problems very seriously and many employees and officials had spent time to ensure that the switch over to the year 2000 was an uneventful evening. He particularly commended Councilmember Bartholomew, Chief Carden, Police Commander Peterson, Public Works Director Winckler, Public Works Superintendent Larry Larson, Assistant to City Administrator Mary Swenson, Systems Administrator Marc Renner, and Fleet/Facilities Manager Roger Kennedy.

Grant Weed:

- There were four lawsuits pending regarding I-695 and his office had established a file to monitor those. Action in these suits could affect the city's decisions. He mentioned the Attorney General's opinion regarding utility rates, observing that the city's bond counsel agreed that I-695 would not affect the contractual relationship between bond holders and the city.

Ken Winckler:

- Gave more details on the coliform notice, adding that immediate actions had been taken and the areas in question retested with good results (coliform did not exceed the maximum contaminant level).
- Directed council's attention to the detailed report he had distributed regarding the Westview II private lift station. He added that a connection had been made from this lift station to the Trunk D line. Trunk D was not operational yet, but there was a mile of it in the ground and it served to receive and hold the overflow from Westview. It would be emptied by vac truck as necessary. This work was being billed to the developer. When Trunk D became operational the Westview station would be eliminated as there would be gravity flow into Trunk D. He noted that although Westview was private, the State Department of Ecology ensured standards were met and it worked through the city. The state could levy fines against the developer.

3. Call on councilmembers

Councilmember Dierck:

- Advised the "no parking" signs had not been put up where they were needed.
- Suggested the many big trucks parked on 76th during the fog were a safety hazard. Mayor Weiser responded that trucks were allowed to park on the street if it was a truck route; he agreed to review this. Mr. Winckler added that council would be reviewing truck routes soon.

Councilmember Brennick:

- Requested copies of staff's responses to citizen letters.

Councilmember Leighan:

- Welcomed new councilmembers.

4. Contract change order No. 2 for the Trunk D sanitary sewer project; information only.

Mr. Winckler gave the background information, noting this was for additional rebar which was an in-field change after construction had started.

ADJOURN INTO EXECUTIVE SESSION

Council adjourned into Executive Session at 9:20 to discuss personnel, real estate and litigation matters.

RECONVENE AND ADJOURN

Council reconvened into regular session at 9:30, took no further action, and adjourned.

Accepted this 10th day of January, 2000.

David Weiser
Mayor

Mary Jo Johnson
City Clerk

David M. Johnson
Recording Secretary

specifically prohibited but can open that person up for challenge when it comes before Council.

Councilmember Leighan inquired what the ramifications would be if a Councilmember were challenged and that person decided to stay anyway. City Attorney Weed replied that, should a judge rule that the proceedings were unfair, the whole decision the Council made would be thrown out. He noted that, if you make a good record of disclosure and reasons why you do not feel you have a conflict, it could protect the decision made by Council. Councilmember Leighan asked about when the City Attorney advises that there may be a conflict? City Attorney Weed answered that the decision whether or not they will step down is still up to the individual. However, if they don't, the decision can be challenged.

Councilmember Pedersen asked Attorney Weed to explain how to avoid conflicts. Attorney Weed explained that, should a Councilmember be approached regarding an issue that may come before Council, they should immediately let that person know that if they discuss the issue with them, it could influence whether or not they can hear the issue when it comes before City Council. He further stated that they should explain to this person that they don't want to discuss the issue with them now but encourage them to come to the public hearing and testify. Attorney Weed encouraged all Councilmembers to keep a record of any such contact and disclose this at the public hearing.

City Administrator Zabell asked Attorney Weed to explain to Council that decisions they make are not whether or not they agree or like a project, but whether or not the decision they are making is consistent with City laws. City Attorney Weed agreed and explained that Council's decisions could not be arbitrary and capricious. He further explained that a decision would be arbitrary and capricious when there are no facts to substantiate or support the decision.

City Administrator Zabell asked if the only opportunity to challenge Council was at the time of disclosure. Attorney Weed replied that, in general, a person waives their right to challenge if they do not come forward at the time of disclosure. However, he added that, if a disclosure is not made at the time of the hearing, then the decision could be challenged later.

Finally, Mr. Weed encouraged Council to contact him before a hearing if they are not sure whether or not something needed to be disclosed, or, if they feel other legal issues may arise.

Conflict of Interests:

City Attorney Weed discussed the State statute regarding conflicts of interest noting that there are a few exceptions:

1. An elected official can be an employee of the City if they don't make more than \$100 per month;
2. They can be an officer of a non-profit corporation that does business with the City; and
3. They can own minor interest in property the City leases.

There was a short discussion of the new ruling regarding elected officials contracting with a City when the City's population is over 10,000.

Councilmember Smith inquired if there are other conflicts of interest besides contracts? Attorney Weed replied:

1. City officials could not receive any compensation other than what is provided for in the municipal code;