

COUNCIL



MINUTES

Work Session *February 6, 2012*

Call to Order / Pledge of Allegiance

Mayor Nehring called the meeting to order at 7:00 p.m. and led those present in the Pledge of Allegiance.

Roll Call

Chief Administrative Officer Hirashima gave the roll call. The following staff and councilmembers were in attendance.

Mayor: Jon Nehring

Council: Steve Muller, Carmen Rasmussen, Jeff Seibert, Michael Stevens, Rob Toyer, Jeff Vaughan, and Donna Wright

Absent: None

Also Present: Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, Commander Robb Lamoureux, Lt. Darin Rasmussen, City Attorney Grant Weed, Public Works Director Kevin Nielsen, Parks and Recreation Director Jim Ballew, Recording Secretary Laurie Hugdahl.

Committee Reports

Rob Toyer reported on the Graffiti Task Force meeting last Thursday where they discussed purchasing a security camera and the April 14 Graffiti Paint Out.

Presentations

Discussion Items

Approval of Minutes

1. Approval of the January 9, 2012, City Council Meeting Minutes.

2. Approval of the January 10, 2012, Joint Planning Commission and City Council Meeting Minutes.
3. Approval of the January 23, 2012, City Council Meeting Minutes.

Consent

4. Approval of the January 18, 2012, Claims in the Amount of \$1,824,373.53; Paid by Check Number's 74830 through 74935.
5. Approval of the January 25, 2012, Claims in the Amount of \$351,526.10; Paid by Check Number's 74936 through 75021.
6. Approval of the February 1, 2012, Claims in the Amount of \$1,153,603.87; Paid by Check Number's 75022 through 75147 with Check Number's 73685 and 74696 Voided.
7. Approval of the January 20, 2012, Payroll in the Amount of \$785,769.71; Paid by Check Number's 25079 through 25120.

Review Bids

8. Award Bid for the LED Lighting Retrofit Contract.

Director Nielsen stated that this is for 80 street lights through town to be purchased with grant money. These will be similar in style to what is currently on Ingraham Blvd.

Public Hearings

9. An Ordinance of the City of Marysville, Washington, Creating a New Chapter 6.28 to the Marysville Municipal Code Entitled "Stay Out of Drug Areas (SODA) Orders"; Providing for Severability; and Effective Date (Public Hearing will be Held on February 13, 2012).

City Attorney Weed stated that they will be having a public hearing on this subject next week. The Police Department has been working closely with the City Attorney to develop a map for the area that this would apply to. This would give court the authority to issue an order to a person to stay out of the prescribed area. If they don't, it gives the Police Department a tool where they can contact or arrest a person. The ordinance provides the City would review where the area is every two years to make sure it is consistent with the type of activity it is intended to address.

Chief Smith thanked Grant Weed and his office for helping him thoroughly look at this issue which provides a tool to help keep drug activity out of downtown. He explained the recommended boundary accounts for approximately 20% of the drug-related arrests that they have in the City. SODA allows the police to keep people out of this specified area after they are arrested.

Commander Lamoureux explained that they utilized Crime Analysis to come up with the SODA area. He reiterated that this is less than 2% of the City, but accounts for 20% of the drug-related crime. Lt. Rasmussen added that there are several significant clusters in the SODA zone such as Comeford Park, 2nd and Beach, and 4th and Beach. Crime Analysis has reported that the SODA area also leads the City in a variety of other crimes including theft, burglary, vehicle prowls, and assault.

Councilmember Muller asked if they thought this might just drive criminals to other areas of the City. Chief Smith noted that it could, but their hope is that it drives them out of the City. City Attorney Weed said that section .040 provides for an ongoing evaluation of the area that is covered in the SODA area. Chief Smith noted that a SODA area does not necessarily have to be contiguous to another SODA area. Councilmember Muller asked if there would be any sort of special signage for the area. Chief Smith said they could look into doing that, but their only obligation is to notify the individuals that they can no longer go in the SODA area. Chief Smith said they hope to do a campaign to educate all of the residents in the City. City Attorney Weed commented that the City was free to do PR work or signage, but it doesn't need to be part of the ordinance.

Councilmember Wright noted that the northeast area appears to very close to the school. She asked if this involves juveniles as well as adults. Chief Smith stated that it does. Councilmember Wright recommended getting the schools involved in the PR. Chief Smith concurred.

Councilmember Rasmussen asked if the resolution regarding the map would be available next week. City Attorney Weed indicated it would be included in Council's packet next week.

Councilmember Seibert asked if this would only apply to people who have been convicted in our municipal court. Chief Smith stated that if people are convicted in state court the Marysville Municipal Court could impose the SODA on them so they would have an order to stay out of the area. City Attorney Weed added that the court can issue a pre-release order stating that someone has to stay out of the area. He clarified that the order has to be issued by the Marysville Municipal Court; it can't be issued by any other court.

Councilmember Stevens asked if there was any sort of interlocal agreement that could be set up with the City of Everett. Chief Smith said he had never heard of anyone doing that and thought that there were some legal ramifications to that. They do, however, have mutual aid police powers so if an Everett police officer happened to be in Marysville and saw a drug related violation they could cite under the MMC. Similarly, Marysville officers can cite City of Everett violations in Everett.

Councilmember Muller asked if there is any overlap with this and a loitering ordinance. Chief Smith said this is crime specific, which is different from loitering. Police do talk with people who are loitering if they recognize it as potential drug-type activity or if they get a call from business owners or residents.

Mayor Nehring thanked the Police Department and the City Attorney for putting this together. He acknowledged this as a step to begin to revitalize the downtown area.

Commander Lamoureux concurred that this is tied in to the City's revitalization efforts and provides another tool to enable law enforcement to fight crime.

Chief Smith thanked Grant Weed, Cheryl Beyer, Bob Dolhanyk, Don Castanares, Lt. Rasmussen, Lt. Goldman, and the entire NITE team. He stated that the NITE team's Jon Elton, is the one who brought up the idea of a SODA area last year. He commended his staff for trying to see how they can better enforce the streets and keep the citizens safe.

10. An Ordinance of the City of Marysville, Washington, Amending Marysville Municipal Code Chapter 6.37 Regulating the Time, Place and Manner for Solicitation on the Public Right of Way; Providing for Severability and Effective Date (Public Hearing will be Held on February 13, 2012).

City Attorney Weed explained that they decided not to identify specific intersections where this would apply because they need to collect more evidence showing that the panhandling itself is a safety issue. They have modified the ordinance to address the issue of aggressive panhandling and coercive activity among panhandlers or others. They also have language that addresses interference with either pedestrians or traffic. These would be evenly applied throughout the city and not just in the downtown area.

Chief Smith emphasized they need to keep everyone's constitutional rights in mind as well as social and legal implications. The focus of this is on coercive behaviors towards those that are not panhandling. Commander Lamoureux said the biggest factor of this is the public safety issue. Lt. Jeff Goldman reiterated that the act of begging is a protected action. The addition of "coerce" or "coercive" is one of the primary changes to the code.

Councilmember Wright referred to the last page of the PowerPoint presentation that discusses theft at retail establishments. She asked if this would apply to those areas as well. Lt. Lamoureux said that this would provide another tool for officers to utilize. Over time it should drive out those individuals who are causing problems. Chief Smith said they are also increasing their exposure and communication in those areas. City Attorney Weed reviewed court decisions related to these activities.

Councilmember Muller asked if they keep a database of panhandlers. Lt. Goldman said that they only have a record of people who have been trespassed by a local business. There is no other database of people who are just panhandling. City Attorney Weed said that if the Police Department has the resources to do so they could document any issues they have with people interfering with traffic or being aggressive with people. With this ordinance they will be enabled to issue a citation and those will be documented. Lt. Goldman commented that logging people for a specific action could fall into the arena of intelligence which is then governed by federal law with very specific guidelines. Chief Smith stated that they definitely would not have a database for

panhandling but the officers on the streets are aware of who the people are as a result of interacting with them. He agreed that the citations would be the only form of data they would keep.

Councilmember Stevens asked if these would have to be witnessed by an officer. Lt. Goldman said they would require a witness or an observation by an officer. Councilmember Stevens asked if they could provide information to the people about options available to them. Chief Smith stated that they already regularly do this.

Councilmember Seibert asked if they would be starting to track data about traffic accidents related to panhandling. Chief Smith said they will try to capture that data in the future. Director Nielsen commented that there might be cases where there are not accidents, but where traffic is impeded. Councilmember Seibert suggested checking with other jurisdictions who has done this before. City Attorney Weed stated that they could check with Issaquah, but he noted that Issaquah had empirical data specific to certain intersections. He noted that they already have a code to address pedestrian interference so this is a citable offense. This information will be tracked. City Attorney Weed cautioned that the city limit boundaries don't extend all the way up and down the on and off ramps. They can only issue citations that are within the city limits and the court can only adjudicate citations that are committed in the city limits. Chief Smith commented that there are three types of panhandlers - those who are truly hurting, drug and alcohol addicts who are looking for their next fix, and scam artists. He commented that it is hard for people to distinguish between the scam artists and those that are really hurting. He expressed concern about coercive activity that might become a robbery.

Councilmember Seibert stated that he did not expect police to spend a lot of time at the intersections, but expressed a desire to have a mechanism to get these people off the intersections. He feels that this creates a problem for everybody that drives off the onramp or through certain intersections. When somebody stops to give the panhandlers something or is just distracted by the person it creates safety problems for all the drivers. Commander Lamoureux explained that they can't just say "no panhandlers" in certain areas or it would be considered discriminating. The ordinance would have to be written and enforced for all groups. This means that businesses couldn't have people holding advertising signs and politicians couldn't have political signs. Councilmember Seibert responded the difference is that the businesses and campaigners aren't asking drivers for anything at the curb, but the panhandler is saying, "Give me something right now." He pointed out there is already an ordinance prohibiting sales at the curb. Commander Lamoureux explained that he was only addressing the comment that the individual was causing a distraction, not necessarily the issue of the exchange of goods and money.

Councilmember Toyer agreed with Councilmember Seibert that they need to be firm with this issue if they are going to revitalize downtown. He urged staff to find a way around the discrimination issue.

Mayor Nehring asked if they could look at how some of the other cities are handling this. City Attorney Weed said they could get in touch with some of those cities about the type

of data they collected to justify intersection-specific locations. Mayor Nehring asked about traffic accident statistics that Public Works might have available. Director Nielsen said they do have that information in GIS and they could provide a map for Council.

Councilmember Vaughan expressed appreciation for Councilmember Seibert's comments. He commented on how this type of panhandling interferes with traffic flow which they have worked so hard to improve. He noted that anybody who is doing something that is impeding traffic can already be handled with the existing codes. This takes it a step further by addressing panhandlers who are more aggressive.

Councilmember Wright suggested that they communicate with citizens what a problem this is. She noted that if people weren't giving money then the panhandlers wouldn't be there. Councilmember Stevens suggested they provide people with information about where to give money as an alternative.

New Business

11. Amendment No. 3 to the Janitorial Services Contract between the City of Marysville and Advantage Building Services Revising the Labor Rate.

Director Nielsen said that minimum wage went up on January 1 so this modifies the contract to be in conformance with state law. The overall price is not changing.

12. Acceptance of the Ingraham Boulevard Corridor Improvement Project, Starting the 45-Day Lien Filing Period for Project Closeout with SRV Construction.

Director Nielsen reviewed this item. There were no comments or questions.

13. Acceptance of the Wastewater Treatment Plant Fence Project, Starting the 45-Day Lien Filing Period for Project Closeout with NPR Fence.

Director Nielsen stated that the Wastewater Treatment Plant fence is constructed. This is the first step of the Qwuloolt Trail. There were no comments or questions.

14. Pedestrian Improvements.

Maps of the improvement areas were reviewed. CAO Hirashima and Director Nielsen reviewed this item. Director Nielsen reviewed alternatives for this project in response to Council's comments from the previous meeting. They looked at the whole corridor to provide some crossings, especially at the church.

Councilmember Muller noted that the parking lot across from the church is not a legal lot. He suggested that the church ought to be responsible for the improvements there, not the City. Mayor Nehring cautioned against requiring this of them if they are not going to be consistent throughout the City. CAO Hirashima noted that at this time they are only addressing shoulder improvements.

Councilmember Rasmussen expressed concern with approving this expenditure when they did not approve things that staff requested at budget time and that the City is still not clear on the impact of the State's budget actions at this time. She clarified that she is very supportive of walkability and pedestrian access in general, but she is conflicted on this issue.

Councilmember Vaughan said he was also conflicted, but for different reasons. He did not think there should be mid-block crossings at all because they are dangerous and expose the City to undue risk. Director Nielsen said that staff's original plan did not have mid-block crossings, but it was brought up by Council that there was a long stretch with no crosswalks so they put these in as options.

Councilmember Seibert expressed his concerns with this area. He was the one who had brought up the issue of the long distances between crossings, but he had been referring to the area from the Sunnyside store towards 52nd Street, not in this area. Further to the west of the crosswalk is really narrow and there is not adequate room for people to walk. He compared this to "building a freeway to a tightrope". He asked how this would be handled if they did not have this mid-block crossing. Director Nielsen said it would be handled by people slowing down to watch for pedestrians who would probably cross there anyway. Councilmember Seibert asked if they looked at doing improvements further west on this corridor. Director Nielsen said they could channelize that further west towards 3rd Street instead of doing a mid-block crossing. He commented that one issue with channelization is that people put their garbage cans out on certain days so there will be some limitations on pedestrian movements on that west side.

Councilmember Seibert then noted that when he was looking at the costs he did not see anything for the north side of Sunnyside Blvd. Director Nielsen explained that it was shown on the Jennings Park/Sunnyside Blvd (west shoulder, from 53rd to 52nd). There was significant discussion about different projects and alternatives.

Staff indicated they would bring back a list of unfunded budget requests for Council to review in response to Councilmember Rasmussen's concerns.

15. An Ordinance of the City of Marysville, Washington, Amending Sections of Marysville Municipal Code Chapter 6.30 Relating to Lewd Conduct; Providing for Severability; and Effective Date.

City Attorney Grant Weed reviewed the proposed changes.

16. An Ordinance of the City of Marysville, Washington, Authorizing the City of Marysville to Continue to Impose a Sales and Use Tax as Authorized by RCW 82.14.415 as a Credit Against State Sales and Use Tax; Certifying the Costs to Provide Municipal Services to the Central Marysville Annexation Area; and Setting a New Threshold Amount for Fiscal year 2012 Relating to Annexations.

Finance Director Langdon explained that this ordinance addresses the sales tax requirements so they can continue to collect the annexation sales tax. This is due every year by March 1 to the Department of Revenue to set the amount for the fiscal period regarding the .2% credit that the City gets of the State sales tax portion. She reported that currently the estimate for the annexation cost for this fiscal period is \$10.8 million with revenue of \$4.8 million. The estimate for the .2% is about \$1.4 million so there is definitely a need greater than what would be given by the sales tax credit.

17. An Ordinance of the City of Marysville, Washington Amending Marysville Municipal Code Section 9.20.070 Relating to Permits for Fireworks Stands.

CAO Hirashima reviewed the issue that occurred last year with fireworks stands applications and Council's expressed desire to discuss this. She discussed some options that are open to the Council. Option 1 would remove the limitations on firework stand permits (currently limited to eight stands). Option 2 would leave the stand limits at eight, but would impose additional processes for approving the permits and allowing for multiple vendors.

Councilmember Seibert said he would be in favor of banning these altogether, but was willing to compromise by leaving the limit at eight. If there are more than eight applications there should be a lottery. He also recommended having a specific application period.

18. A Resolution of the City of Marysville Adopting Revised Green Fees for Cedarcrest Municipal Golf Course.

Jim Ballew, Dave Castleberry, and Mike Robinson gave an update on the golf course.

Jim Ballew distributed a handout and reviewed information related to the state of the golf course. He pointed out that 2011 was the lowest year they've had in over eight years. It also had the most rain. Dave Castleberry reviewed further statistical information about the number of rounds played per month per year. On a positive note, the number of tournaments and Junior Pass sales were up. High school rounds were up as the course is used by four high schools. Director Ballew also reviewed 2011 Restaurant Revenue and Revenue Expense Profile. CAO Hirashima discussed the importance of considering debt service. Councilmember Muller suggested looking at the golf course as a park facility.

Motion made by Councilmember Muller, seconded by Councilmember Wright, to extend the work session until 10:00 p.m. **Motion** passed unanimously.

Director Ballew commented that golf courses are looked at as enterprise funds. The challenge is that they are unable to charge the true cost of doing business. The goal right now is to reduce every expense and increase every revenue opportunity that they can. Across the board, every municipal course in the state of Washington is struggling. Director Ballew reviewed golf course accomplishments and maintenance operations improvements. He discussed revenue generation and marketing. He explained how the relationship between the restaurant and the golf course has improved and credited Dave Castleberry with this. Director Ballew reviewed the Cedarcrest Customer Service Model and all the things they are doing to keep Cedarcrest as an attraction. Director Nielsen reviewed utility enhancement options such as well site transfer, grey water distribution, and additional pond development. He commented that they need to replace the roof on the restaurant as soon as possible. Director Ballew reviewed the proposed fees increase and explained that it includes the admissions and sales tax. Staff's recommendation is to approve the golf course fee increase.

Mayor Nehring and CAO Hirashima commended the Jim Ballew, Dave Castleberry, Mike Robinson, and all the staff involved there for their excellent work.

Legal

Mayor's Business

19. Planning Commission Appointment: Roger Hoen

Other Mayor's Business:

- SCT met February 1 and had an update on the PSRC transit plan in conjunction with Vision 2040 and the legislative update. The three primary areas of focus were unfunded mandates, growth management, and attracting manufacturing jobs.
- Community Transit Board of Directors met February 2 and discussed a legislative update, lobbying topics, a new bus shelter cleaning contract, and Executive Board elections.
- He thanked Parks for their efforts with the Father Daughter Dance.
- Marysville Night at the Silvertips will be this Saturday.
- Relay for Life kickoff event will be Wednesday at 6:30 at the Holiday Inn Express.
- He distributed pictures of the Boys and Girls Club computer lab to show the nice progress that is being made down there.

Staff Business

Sandy Langdon had no comments.

Kevin Nielsen had no comments.

Chief Smith stated that there will be a Community Forum on Tuesday night at 7:00 at Marysville-Pilchuck High School on Personal Preparedness.

Mike Robinson had no comments.

Jim Ballew will be meeting with Maryfest next week about next year's event. He solicited any comments from Council about the proposal for next year. He noted with the beautiful weather people were parking on the street at Jennings Park today because it was so crowded.

Dave Castleberry had no additional comments.

Bob Dolhanyk had no comments.

Grant Weed explained that Prosecutor Al Tracy successfully defended a challenge against our entire model traffic ordinance, including our DUI statute, up to the Court of Appeals.

Gloria Hirashima distributed and discussed pictures of the kinds of issues they would be enforcing on the downtown code. She explained how they would try to send out letters, sponsor clean-up events, and potentially even offer certain clean-up services to try to resolve some of these issues. She also reported that they got sponsors for the industrial bill from both the Senate and the House.

Call on Councilmembers

Michael Stevens stated that the Father Daughter Dance was a great event. He suggested that they do a "We Have Great Parks" campaign to market the City's wonderful parks.

Carmen Rasmussen had no comments

Jeff Vaughan had no comments.

Rob Toyer also really enjoyed the Father Daughter Dance.

Steve Muller asked if they were compiling the list of public works projects that had been requested in Olympia. CAO Hirashima affirmed that they had and that it has already been sent to Olympia.

Donna Wright will be out of state from the 9th through the 17th and will need an excused absence.

Jeff Seibert said he noticed certain lights on at the Jennings Park in the day time. Mike Robinson indicated he would check on that.

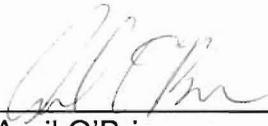
Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 10:00 p.m.

Approved this February 27, 2012.



Mayor
Jon Nehring



April O'Brien
Deputy City Clerk