

January 27, 2003

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
<b>Approval of Minutes</b>	
January 13, 2003 City Council Meeting Minutes.	Approved
January 21, 2003 City Council Work Session Minutes.	Approved
<b>Consent Agenda</b>	
Approval of January 27, 2003 Claims in the Amount of \$927,580.90; Paid by Check Nos. 71582 through 71674 and Check Nos. 5000 through 5160 with Check Nos. 71447, 71573, 5000, 5041, and 5042 Void.	Approved
Approval of January 21, 2003 Payroll in the Amount of \$344,246.15; Paid by Check Nos. 1001 through 10086.	Approved
Approval of Liquor License Renewals for Fanny's Restaurant, Jackpot Food Mart (5830 Grove Street), Jackpot Food Mart (1034 State Avenue), 88th Street Texaco Food-Mart and Car Wash, Vi & Glynn's Tavern.	Approved
Approval of New Liquor License for Ichi Bento Teriyaki and "R" Place Pub and Grill.	Approved
Affirm Hearing Examiner's Recommendation to Approve Rezone, Preliminary Plat, and Utilization of Density Incentives for Ebey Vista; PA 11056.	Approved
Acceptance of Donation from Estate of Julietta Gellerson.	Approved
Authorize Mayor to Sign Interlocal Agreement with Snohomish County for Construction and Maintenance of Portion of 88th Street N.E.	Approved
Authorize Mayor to Sign Interagency Agreement with Snohomish County for 2003 Overlay Program.	Approved
Authorize Contract for Deferred Construction of Curbs, Gutters, and Sidewalks; Orlo Williams.	Approved
Approval of Contract for Deferred Construction of Curbs, Gutters and Sidewalks; Paul Bustard.	Approved
Approval of 240 Zone Water Reservoir Phase II; Due Diligence Proposal; RH2 Engineering.	Approved
Approval of Amendment No. 1 to Professional Services Agreement with Hammond, Collier, Wade-Livingstone Associates for Trunk D Extension Phase II including Soper Hill Pump Station Project.	Approved
Approval of Supplemental Agreement No. 1 to Professional Services Agreement for State Avenue (116th Street NE - 136th Street NE) Improvements Project; Lane & Associates.	Approved
Approval of Supplemental Agreement No. 9 to Professional Services Agreement for State Avenue (116th Street N.E. - 136th Street NE) Improvement Project; Skillings Connolly Engineers.	Approved
Approval of Change Order in the Amount of \$198,519 and Accept Strawberry Fields Phase I Project as Complete and Begin 45-day Lien Filing Period.	Approved
Approval of Change Order in the Amount of \$32,427.55 and Accept the 132nd Street Water Main Expansion Project as Complete and Begin 45-day Lien Filing Period.	Approved

January 27, 2003

Marysville City Council 00283  
7:00 p.m.

Public Safety Center

<b>Current Business</b>	
Storm Water Drainage	Continued
<b>New Business</b>	
Approval to form a citizens committee to look at all forms of gambling, to advertise for citizens to participate and to report back to Council in five or six months.	Approved
<b>Legal</b>	
Contract for Recovery of Utility Construction Costs for Sewer: Harvey & Janet Jubie.	Approved Contract No. 250
<b>Ordinances and Resolutions</b>	
Resolution for the acceptance of a gift subject to conditions.	Approved Resolution 2086
<b>Adjournment</b>	9:54 p.m.
<b>Executive Session</b>	No Action
<b>Adjournment</b>	10:33 p.m.

**MARYSVILLE CITY COUNCIL MEETING**

January 27, 2003

7:00 p.m.

Public Safety Center

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

The January 27, 2003 meeting of the Marysville City Council was called to order at 7:00 p.m. Mayor Weiser led the assembly in the Pledge of Allegiance.

**INVOCATION**

Mayor Weiser encouraged those present to keep in their thoughts the family of former police chief, Herman Broeker, who passed away this morning. Pastor Victor Rodriguez gave the invocation.

**ROLL CALL**

Mary Swenson, Chief Administrative Officer, called the roll. Those present were noted as follows:

**Council:** Mayor David Weiser, Mayor Pro Tem Mike Leighan, Councilmembers Suzanne Smith, John Soriano, Jon Nehring, Jeff Seibert, Donna Wright, and Lisa Vares.

**Staff:** Police Chief Bob Carden; Mary Swenson, Chief Administrative Officer; Sandy Langdon, Finance Director; Grant Weed, City Attorney; Gloria Hirashima, Community Development Director; and Jim Owens, Public Works Director.

**COMMITTEE REPORTS**

Councilmember John Soriano said he attended the Disability Board meeting. They reviewed one claim and discussed the cost of dental care and hearing aids.

Councilmember Mike Leighan described his meeting with the Public Safety Committee. The following items were reported:

- They saw a video of a taser gun in action. This will be another piece of equipment for our police officers to use.
- He noted that David Ray, from Everett Community College's journalism program will be a volunteer as needed on Tuesdays and Thursdays for the Police Department.
- The Citizens Academy 12-week course will be starting soon and they are looking for 20 citizens and a couple of councilmembers to participate.
- The Committee talked about threat-level response and issues with regard to terrorism.
- There was also detailed discussion about traffic enforcement numbers for the year. Councilmember Leighan noted that there were almost twice as many

citations issued in 2002 as the previous year. He acknowledged Officer White who accounted for 56 of the 120 DUI citations issued in 2002.

- There was also discussion at the meeting of increasing court security in the future possibly including metal detectors.
- They also reported that 222 passports were issued during 2002.
- Finally they watched a video by Washington State Patrol describing the tactic of hitting a car moving under 40 mph as a way to stop cars in pursuit.

## PRESENTATIONS

### Service Award Presentations.

Mayor Weiser awarded presentations for years of service employed with the City. The following employees were recognized for their years of service although none were able to attend:

- ♦ **Court Judge Larry Trivett – 10 Years**
- **Ann Miller – 5 years**
- **Jeff Cobb - 5 years**

## AUDIENCE PARTICIPATION

Mayor Weiser solicited audience members to address the council.

### **Ken Cage, former City Council Member and President of the Marysville Historical Society, 1269 Beach Avenue, Marysville, WA., 98270**

Mr. Cage presented Mayor Weiser with a \$50,000 check from the Historical Society towards the preservation of the Water Tower. Mayor Weiser gratefully accepted the check and expressed his appreciation to the Historical Society for their efforts.

There was no further audience participation.

## APPROVAL OF MINUTES

### A. January 13, 2003 City Council Meeting Minutes

**Motion** by Councilmember Jon Nehring, second by Councilmember Suzanne Smith to approve minutes as presented. **Motion** passed unanimously (7-0).

### B. January 21, 2003 City Council Work Session Minutes

Councilmember Jeff Seibert referred to Page 7, 3<sup>rd</sup> and 4<sup>th</sup> paragraphs should be attributed to Mr. Seibert, not Councilmember Soriano.

**Motion** by Councilmember Leighan, second by Councilmember Seibert to approve the minutes as amended. **Motion** passed unanimously (7-0).

**CONSENT AGENDA**

Mayor Weiser asked if audience or council would like to remove any items for further discussion. Councilmember Lisa Vares requested that Consent Agenda Item O be removed. Councilmember Jeff Seibert requested that Items N and P be removed from the Consent Agenda.

- A. Approval of January 27, 2003 Claims in the Amount of \$927,580.90; Paid by Check Nos. 71582 through 71674 and Check Nos. 5000 through 5160 with Check Nos. 71447, 71573, 5000, 5041, and 5042 Void.**
- B. Approval of January 21, 2003 Payroll in the Amount of \$344,246.15; Paid by Check Nos. 1001 through 10086.**
- C. Approval of Liquor License Renewals for Fanny's Restaurant, Jackpot Food Mart (5830 Grove Street), Jackpot Food Mart (1034 State Avenue), 88th Street Texaco Food-Mart and Car Wash, Vi & Glynn's Tavern.**
- D. Approval of New Liquor License for Ichi Bento Teriyaki and "R" Place Pub and Grill.**
- E. Affirm Hearing Examiner's Recommendation to Approve Rezone, Preliminary Plat, and Utilization of Density Incentives for Ebey Vista; PA 11056.**
- F. Acceptance of Donation from Estate of Julietta Gellerson.**
- G. Authorize Mayor to Sign Interlocal Agreement with Snohomish County for Construction and Maintenance of Portion of 88th Street N.E.**
- H. Authorize Mayor to Sign Interagency Agreement with Snohomish County for 2003 Overlay Program.**
- I. Authorize Contract for Deferred Construction of Curbs, Gutters, And Sidewalks; Orlo Williams.**
- J. Approval of Contract for Deferred Construction of Curbs, Gutters and Sidewalks; Paul Bustard.**
- K. Approval of 240 Zone Water Reservoir Phase II; Due Diligence Proposal; RH2 Engineering.**
- L. Approval of Amendment No. 1 to Professional Services Agreement with Hammond, Collier, Wade-Livingstone Associates for Trunk D Extension Phase II including Soper Hill Pump Station Project.**
- M. Approval of Supplemental Agreement No. 1 to Professional Services Agreement for State Avenue (116th Street NE – 136th Street NE) Improvements Project; Lane & Associates.**

**Motion** by Councilmember Vares, second by Councilmember Leighan to approve Consent Agenda Items A-M. **Motion** passed unanimously (7-0).

**N. Approval of Supplemental Agreement No. 9 to Professional Services Agreement for State Avenue (116th Street N.E. – 136th Street NE) Improvement Project: Skillings Connolly Engineers.**

Councilmember Seibert requested clarification about the Streamlined Negotiations sections. Jim Owens, Public Works Director, explained it to his satisfaction. There was then some discussion about the access road. Next Mr. Seibert asked which work was outside the scope of the redesign. Mr. Owens said that would include survey work on State Avenue, an update of the specifications of the estimate, changes in ADA requirements, such as a detectable warning design, and an extended project management fee. Councilmember Seibert then referred to Assumptions on page 3 of Scope of Work. The 7<sup>th</sup> bullet down states that there will be no contributing run-off from the proposed White-Leisure development. Mr. Owens replied that they would do it at a later date.

**Motion** by Councilmember Vares, second by Councilmember Leighan to approve Consent Agenda Item M. **Motion** passed unanimously (7-0).

**O. Approval of Change Order in the Amount of \$198,519 and Accept Strawberry Fields Phase I Project as Complete and Begin 45-day Lien Filing Period.**

Councilmember Vares requested a full explanation about the \$198,519 Change Order. Chief Administrative Officer Mary Swenson began the explanation by saying that there have been several new processes that have recently been implemented to correct this sort of issue. Public Works Director Owens explained that the original contract specifications required that one-inch of material be removed. He noted that this turned out to be impossible and required taking off much more material than estimated. The vast majority of the work consisted of taking off vegetation that was not suitable for the underlying surface of the field. He cited the following work as having been done:

- 2600 cubic yards had to be taken off @ \$10/cubic yard
- Washed sand material - 2200 yards @ \$12/yard
- Organic material placed, graded and compacted – 6000 yards @ \$12/yard
- Select root zone material had to be brought in – more than was specified
- Changed the gravel parking lot to an asphalt parking lot

Councilmember Vares asked about the miscalculation in the estimate of the plan prior to the process. Mr. Owens explained that they went out after the process was finished and re-surveyed the playing field to make sure that what was removed and what was brought back was indeed needed. He stated that the contractor should have known that it would not be possible to skim off one-inch of root-zone material from the grass area. Also, there was an error in the computation of what is loose in the truck versus the amount needed when it is packed in the ground. He then said that if the consultant had been notified sooner they might have lowered the grade altogether on the field. He

stated that there had been tight time constraints on this process, which served to push it through quickly without going through the proper channels.

Councilmember Vares asked what would be explained to the taxpayer about the mistakes in calculations. Ms. Swenson added that there was a lot of staff time to keep costs down. They also did surveying to double check the work. She restated that processes are being put into place on what levels things can be approved without coming to Council. Higher-level items will need to come for Council approval. This particular project had timing issues in order to get the grass in and get it growing. She stated that Council should not see a cost overrun of this magnitude after it has happened. Councilmember Vares concluded by stating that she supported having nice soccer fields for the kids, but she felt this was an awful lot of money for dirt.

Councilmember Leighan said he was having concerns about the ordinance or resolution, which allocated a 10% reserve for projects. He said he was having second thoughts because he did not approve of having this amount as a slush fund to upgrade projects. He said he would like to see that ordinance come back. He also noted that the timing of when staff became aware of this problem and the time that Council was made aware of it was a fairly significant and an inappropriate length of time lapse.

Councilmember Jon Nehring clarified that the work had been done and that it went over the management reserve of 10%. He asked if there was any way to agree that this was authorized, but the right party didn't authorize it. City Attorney Grant Weed said there are some internal things the city can do, such as what Ms. Swenson described, in the way the contracts are handled. However, since there was no fraud involved, this would be more of an internal issue. Councilmember Nehring asked where the city would be if this was not approved. Mr. Weed said that since the contractors provided the service, they would be able to put a claim against the city. Mr. Nehring said he would approve this, but he sincerely hoped that staff got the message that they did not want to get change orders of this magnitude after the fact and that they sincerely want the way staff does business changed.

Councilmember Seibert asked if there was a way to prevent against this in the future possibly in the writing of contracts. Mr. Owens said there were remedies if there were clear-cut negligence on the part of the consultant. Mr. Weed stated that it was all placed, graded and compacted. He agreed that it was over the estimate, but the work needed to get done anyway and they did end up with a playable surface.

Mr. Seibert asked about situations where a consultant might make an error in design. He wondered if there was protection in the agreements. Mr. Weed said the consultant definitely had a requirement to provide responsible services and to provide errors and omissions insurance. Mr. Seibert's final comment was that the Parks and Recreation Director Jim Ballew, originally said that the gravel parking lot was part of the project because a paved one was not in the budget. He wondered why they had decided on the paved one. Ms. Swenson said they are reviewing the way they handle those types of decisions. Mr. Ballew explained why this decision had been made. Ms. Swenson stated that there were definite errors of judgement made by staff which has been dealt with.

Councilmember Smith said the contractor should have been aware of the miscalculations and notified the city earlier. Ms. Swenson said that they did, but there were some definite lapses of judgement. She added that one of the reasons this was so late in coming to Council was that there were so many questions of staff that needed answering. Councilmember Smith clarified that the contractor did come back to the city and the project manager did give approval. Ms. Swenson repeated that this is not the way they want to do business and they will make changes so that this type of thing does not happen again. Finally Ms. Smith asked for clarification of the cost of the materials and if it included the labor. Public Works Director Owens said that it did.

Councilmember Leighan asked about the possibility that the bidder knew they couldn't do it in the beginning and anticipated doing a change order. Mr. Owens stated that it's very important to hold pre-job conferences to discuss this type of issue and that they expect to resolve those types of issues early in the process.

There were no further comments or questions.

**Motion** by Councilmember Leighan, second by Councilmember Smith. **Motion** passed unanimously (7-0).

**P. Approval of Change Order in the Amount of \$32,427.55 and Accept the 132nd Street Water Main Expansion Project as Complete and Begin 45-day Lien Filing Period.**

Councilmember Seibert asked what the management reserve percentage was. Public Works Director Owens speculated that it was 10%. Mr. Owens explained that there was additional fill required and the 10% management reserve was not adequate. In response to Mr. Seibert's question he said that it was the same project manager and that the decision had been made without coming to Council. He added that the labor became a factor because it was an old wage determination. The increase in labor drove it above the 10% management fee.

**Motion** by Councilmember Donna Wright, second by Councilmember John Soriano. **Motion** passed unanimously (7-0).

**CURRENT BUSINESS**

**A. Storm Water Drainage**

**Gary Petershagen, General Manager, Ebey Vista, LLC, 4129 76<sup>th</sup> Street NE, Marysville, Washington 98270**

Mr. Petershagen explained that they are working on a project and trying to comply with the requirements. They have been having a hard time getting the software provided by DOE to work. He expressed frustration that the construction drawings had been submitted and completed since December, but they are still waiting for the review of the stormwater calculations. Mr. Petershagen commented that a wonderful



program has been put into place by the State. They want to comply with it, but there are glitches that make it very difficult.

Councilmember Smith asked if he had been in contact with DOE. Mr. Petershagen stated that he has been in contact with the city to get their feedback. He doesn't feel it is any fault of staff, but just that the software doesn't work. They are trying to use other methods to analyze the situation, but are facing limitations in terms of the time they have to work in that particular area.

Councilmember Smith asked Gloria Hirashima, Community Development Director, about the issue. Ms. Hirashima responded that she wasn't familiar with this particular issue, but she would certainly look into it. She was aware that there had been some problems with the software package, but she was under the impression that it had been resolved. Mr. Petershagen reiterated his frustration that the city had adopted this program sometime ago, but it still isn't working well.

There were no further questions of Mr. Petershagen.

Councilmember Nehring commented that he felt the stormwater presentation last week was not very clear to him. He expressed frustration that this was adopted by Marysville, but not by surrounding communities. He wondered what the benefit to the city was. He noted that the State doesn't even have their act together with the permit process and enforcing compliance. Mr. Nehring said he wished it had never been adopted. He mentioned that when he had brought it up in March 2002 he was informed that they would lose grant money if it was not adopted. Councilmember Nehring concluded by asking what options were available to the city.

Community Development Director Hirashima discussed the following options:

- Retain the DOE manual as written
- Retain the manual with some amendments
- Revoke it and go back to the 1992 manual
- Go back to 1992 manual with some amendments

She noted that they are considering applying for the NPDES permit even though they are not yet ready to issue it. There was discussion about the various options. They have gone forward on the basis that the 2002 manual would be retained in some form although she agreed that this was possibly adopted too soon. Ms. Hirashima explained that the stormwater requirements have been much more complex than anticipated. The city did not have things in place in the transition to make it easy for applicants but they have been working on improving that. Some of the items in the Council's packet include checklists the staff have created to facilitate the process. She said those documents should have been in place prior to adoption, but since they weren't it has made this transition more difficult. Ms. Hirashima commented that the requirements are stricter in order to provide better environmental protection.

Ms. Hirashima noted that staff is looking at the 2002 manual with the goal of providing more flexibility in the application of it. They want to meet the intent of the

manual with regard to protection of the environment, but to allow development to go forward. Right now there are conflicts between what the code says and what the manual says. There is also the possibility of adopting the manual as a technical reference document. She discussed various ways that they are considering amending the manual.

Councilmember Vares had several comments. First she stated that the Tulalip Tribes do not need to comply with the manual. Then she said it was clear to her that the adoption of the manual happened backwards. The software should be working and the processes in place before the adoption. She went on to say that she is hearing continually that we have only seen a shadow of what is to come with regard to the development of the Tulalip side. She feels that having adopted the stormwater manual when the city did has hampered development at an essential time.

She noted that DOE has not taken into account what the detention ponds will do to the city and surrounding areas with regard to health hazards. Finally, she asked why the city should adopt the manual before even making application.

Councilmember Smith asked if the proposed revisions were to the 2002 manual. Ms. Hirashima said they are revisions to the 2001 manual. She agreed that the process should have been done in a different order. Ms. Hirashima said the revisions have been drafted and would be brought back at the first meeting in February. Ms. Smith then asked about the status of streamlining the processes. Ms. Hirashima said they have made quite a bit of progress, but are looking to Council for direction.

Ms. Smith asked about how the staff was doing with this. Ms. Hirashima responded that they are pretty well versed in the manual now. They have had internal training and are the ones who have prepared the checklists. They have done quite a bit of training over the last three months. They are where they should have been when this was first adopted, but they are now trained to enforce the manual and communicate the requirements to the applicants. She said there are a couple of different options available for the software so she did not believe that should still be an issue. She noted that the consultants are utilizing it with their submittals.

Councilmember Smith then asked for clarification about the March '03 deadline date. This was explained to her satisfaction. She said she interpreted what DOE said as surrounding jurisdictions who did not adopt the manual would have their applications screened with a fine-tooth comb. Those who had adopted the manual would be in a safer position than those who did not. She believed DOE had implied that they were willing to use their enforcement capabilities for those communities who did not follow through.

Councilmember Leighan said that Ms. Hirashima did a good job listing the things that should be done. He asked Ms. Hirashima if they would set up a better procedure for adopting future manuals. She said that would be addressed in the future as needed.

Regarding the comments to which Councilmember Smith was speaking, Mr. Leighan referred to the bottom of page 5 of the January 20, 2003 City Council Meeting

Minutes. He said that he did not see a clear-cut answer there from DOE, but a whole lot of murky language.

Councilmember Seibert said he was glad to see members of the development community at the workshop last week. He commented that if the area became an impaired waterbody it would become subject to more stringent requirements and would cause even more hardship for the developers. The demonstration approach might be required if the manual were not adopted and there are associated problems with this. He added that using the manual sets you up to use the presumptive approach. He said former City Engineer Robin Nelson had stated numerous times that the project would not have gone through as quickly as it had if they had not had the manual. With regard to the detention ponds, he stated that they are not designed to hold water all the time, but to hold water in the event of storms and flooding. He believes this is a problem with the way the code is written. Finally Mr. Seibert discussed going back to the 3-foot separation and stated that there would need to be data showing that the soils would accomplish the filtering.

Councilmember Smith asked about the infiltration facilities versus detention facilities. She then asked if it might be necessary to spell out a process to have the proper order of adoption. Ms. Hirashima stated that was a possibility or to simply take out the "as revised" portion of adoption. She added that this was not unusual to have this type of language in public works standards.

Councilmember Vares asked about the maximum daily load. Ms. Hirashima deferred the question to Public Works Director Owens. She did state there were minimum standards that developers would have to comply with. She did not believe it was zero, but it was very minimal. The ramped-up requirements would be lower so that any development over one acre would have to apply for a permit. DOE would screen communities that did not have standards with more scrutiny.

Ms. Vares then discussed the five-foot separation. She said that she felt the separation should stay where it was at the 3-foot level and require the extra data in order to impose the 5-foot requirement. Councilmember Smith responded to that suggestion by stating that the five-foot separation came about as a result of data that had been studied previously. She stated that there is a lack of correlated data. Ms. Hirashima clarified that they did request from DOE any papers they had as a basis for increasing to five feet, but have not received any information addressing that issue. The city is trying to track down the basis as to why that requirement was raised. She did agree with Councilmember Smith's statements that they don't have correlated data that suggests that five-foot is acceptable as opposed to three-foot.

Councilmember Vares said she would guess that the DOE standards are based on worst-case scenario. She stated that the variability of soils needs to be addressed in terms of getting the water down into the soil.

Councilmember Leighan noted that there have been difficulties getting the five-foot separation. Ms. Hirashima said there have been issues with downtown and troubles meeting the requirements there. From staff's point of view, they want to promote

development in the downtown area. It doesn't make since to be hindering the development of the downtown area. What they have seen is that the small parcel developments would have to provide additional studies to prove that the three-foot separation was beneficial. Councilmember Leighan said he hoped they were not focusing on any one part of the city any more or less than any other as the north end is more likely to be subject to major development. Councilmember Seibert concurred that the north end needs to be addressed. Ms. Hirashima said that they need to focus on different areas in different ways. She said the solution to the north end was probably a regional detention pond. This would not be possible for the south end.

Ms. Swenson added that this is one of the things they are looking to discuss at a workshop with Council in February. She has some tentative dates and will be looking for direction from staff.

**Recess from 9:45 p.m. until 9:50 p.m.**

## **NEW BUSINESS**

### **A. Repeal of Ordinance No. 2324 Prohibiting the Conduct or Operation of Social Card Games as a Commercial Stimulant within the City Limits.**

There were no audience comments on this item.

Councilmember Seibert said he personally would like to see this issue dropped, but he suggested forming a committee to research this further in order to get public opinion.

Councilmember Smith stated the reason this came up was that the city is seeking ways to find new funding sources. Although she thinks that this might provide money into the community she did not believe it would bring the goodness that the city wants to portray. She referred to a friend of hers who lives in Everett who has described the pawn-shops and quick cash establishments which have sprouted up near the vicinity of the Casino. She did not feel that this was a positive way for residents to be spending their money. She said she was holding out hope that good things are coming the way of the city. She expressed the difficulty she has had with this issue. She does not feel that this is a worthy distraction for residents. She asked Council to consider not even voting to form a committee.

Councilmember Nehring said he also has thought a lot about this issue and feels that it is very tempting, especially in the case of the present economic situation. He also feels there are alternative and better ways to promote economic development. He noted that gambling is all around and that even the state is moving closer to endorsing it. He also stated that he did not in reality think that one more city would make that much of a difference in the big picture, but for moral reasons he would not be in support of this.

Councilmember Leighan stated that the impacts of the casinos across the road would most likely be domestic violence issues and that the city would be forced into dealing with those issues. They are doing the commercial development and leaving the housing to Marysville. Originally Marysville was supposed to be getting some impact

money for the increased costs of law enforcement, but this has been done away with. Councilmember Leighan feels they need to hear from the public in the form of a public hearing and that it would be naïve to ignore the issue of gambling. He referred to the dire state of the budget and the reluctance of the public to provide any new taxes as reasons for looking further into this.

Councilmember Soriano asked who would be involved in a citizens committee and suggested that different citizens were used.

Councilmember Donna Wright said she feels that times have changed. She noted that this is a legal business. She added that check cashing establishments and pawnshops are already located within our city. With regard to the committee, she said they would want different people and also input from the Public Safety Committee.

Councilmember Vares asked for Chief Carden's perspective. Police Chief Carden stated that the police chiefs in Mountlake Terrace and Everett had more concerns initially about domestic violence calls. In Mountlake Terrace there has been more drunk driving and they have concerns about over-serving. They are working with the alcohol control board to resolve that issue. Since the inception of gambling in those cities things have calmed down. They are even considering having another one in Mountlake Terrace.

Ms. Vares asked about an aggressive violence prevention program that Mountlake Terrace has implemented. She asked if that had been discussed. Chief Carden said that it had not been discussed. He stressed that problems have tended to dissipate after time. Ms. Vares said she would support doing a citizen committee and/or a public hearing to discuss this. She said she would like to hear from the citizens about what they think.

Councilmember Seibert commented on the apparent contradiction in what Council was saying. He said on one hand they were saying that there would be no impacts from having card rooms and on the other hand they are complaining that they have to live with the inherent impacts of the Casino across the road. Mr. Seibert also stated he did not believe this would be as profitable as hoped because of the proximity to the Tribes' Casino. He said he was not in favor of going much further with this. If there was a committee he said there should be an application process and that Council should not try to steer the outcome of the committee.

Police Chief Carden wanted to clarify that there are definite impacts from gaming, especially in the form of increased traffic.

Mary Swenson stressed that there would already be impacts from the traffic being generated from the Tribes. They are looking at employing 8,000 people by the time they are finished with building the new Casino and their plans for additional retail shops. There is also the proposal of a high school on the Tulalip Indian Reservation side. Those are substantial impacts for Marysville.

**Motion** by Councilmember Seibert, second by Councilmember Nehring that the ordinance be tabled. **Motion** failed 4-3 with Councilmembers Vares, Wright, Soriano and Leighan voting against.

City Attorney Grant Weed commented that, prohibited or not, gambling is not necessarily an all or nothing approach in the eyes of the gambling commission. There are multiple classes of gambling which can or cannot be allowed. He referenced charitable/non-profitable categories and business/commercial categories.

**Motion** by Councilmember Leighan, second by Councilmember Vares to form a citizens committee to look at all forms of gambling, to advertise for citizens to participate in that committee and to report back to Council in five or six months. **Motion** passed 5-2 with Councilmembers Smith and Nehring voting against.

## LEGAL

### A. Contract for Recovery of Utility Construction Costs for Sewer; Harvey & Janet Jubie.

**Motion** by Councilmember Leighan, second by Councilmember Vares to approve Contract No. 250 for Recovery of Utility Construction Costs for Sewer. **Motion** passed unanimously (7-0).

## ORDINANCES AND RESOLUTIONS

### A. A Resolution of the City of Marysville for the Acceptance of a Gift Subject to Conditions.

Jim Ballew, Parks and Recreation Director, said he would like to do more research on the Gellerson family and bring it back to Council. Councilmember Seibert asked if Mr. Buell, Community Information Officer, could mention the donation in the Messenger as a way to acknowledge and thank the family. Mr. Ballew said they were trying to figure out if the family wished to be acknowledged. Mr. Seibert said they wanted to respect that, but if the family gave approval he wanted it to acknowledge all the recognition possible. Councilmember Jon Nehring said he hoped they would determine what her wishes were and that they would work to use the money to that means. Mr. Ballew concurred with this. Councilmember Smith suggested doing some sort of plaque. Mr. Ballew agreed, but said they still needed to find out if the family wished anonymity or not.

**Motion** by Councilmember Leighan, second by Councilmember Seibert to adopt Resolution 2086 for the Acceptance of a Gift Subject to Conditions. **Motion** passed unanimously (7-0).

**INFORMATION ITEMS****Mayor's Business.**

Mayor Weiser issued a reminder about the joint meeting Tuesday, January 28<sup>th</sup> from 4:00 p.m. to 6:00 p.m. at Fire Station 62 on 108<sup>th</sup> Street and Shoultes.

He then discussed the issue regarding transients at the Junction of SR 528 and I-5. He noted that there is a clean up scheduled with WSDOT staff and possibly with the State Patrol and Marysville Police Department. There have been some concerns about health hazards in conjunction with that issue.

**Staff Business.**

**Chief Carden** announced he met with the Tulalip Police Chief referencing the graffiti on the overpass at 116<sup>th</sup> Street N.E. Their police chief said he would look into taking care of that. Mr. Siebert noticed it had been painted already, but that the graffiti was already back.

**Sandy Langdon** mentioned that they plan to go live with new cash receipting on Monday.

**Mary Swenson** noted that the Public Works crews have also been cleaning up under the I-5 freeway area.

Ms. Swenson also said she is looking at dates to discuss the north end issues. Some possibilities were February 8<sup>th</sup> or an evening meeting. There was consensus with Council that February 8<sup>th</sup> seemed to be the best time and they discussed meeting during the morning, possibly from 9-noon.

Ms. Swenson then mentioned that there would be a 2-day retreat in town at the end of March.

**Grant Weed** mentioned that the State Supreme Court struck down the teen curfew ordinance in Sumner. The basis was an exception that allowed for the running of errands for the parents. This is something the city will want to review.

**Jim Ballew** thanked Councilmembers Siebert and Soriano for coming to the Lakewood Coalition meeting.

He noted that the restaurant has identified itself as Cedarcrest Restaurant.

He went on to say that on February 22<sup>nd</sup> a tour of the Marysville Parks is planned with the Park Board from 10 am to 1 pm.

**Call on Councilmembers.**

**Jeff Seibert** addressed the situation where some of the citizens had very similar addresses. Ms. Hirashima said that they had re-addressed the house. She explained that they only reassigned the resident that had an issue with it.

Mr. Seibert thanked the employees for their service of five and ten years respectfully.

He then noted his concern about the issue with cars running red lights and stop signs.

Mr. Seibert asked City Attorney Weed about how the annexation process is coming. Mr. Weed replied that they are planning on bringing that back to Council at the next workshop meeting.

**Donna Wright** asked about the truck route issue. Mr. Owens said he has investigated the issue. The problem is that part of it is in the city and part in the county.

**Lisa Vares** mentioned that she attended the Smokey Point Chamber Officer's Installation. She said that it was a nice event with delicious food and good company.

**Mike Leighan** asked about the completion date for the traffic light at 67<sup>th</sup> Avenue N.E. and 88<sup>th</sup> Street N.E. Public Works Director Owens responded that he wasn't sure about the completion date for the project.

Mr. Leighan then asked about a pile of gravel and dirt in front of Denise Baker's house on Ash Avenue. Mr. Owens said the gravel was put there at her request initially so she could have better access to her front yard, but that they would look into the matter.

**Suzanne Smith** asked if there would be a MERC meeting in February. Mary Swenson said that would be determined Tuesday at the joint meeting.

Ms. Smith asked about the location of the 2-day workshop. Ms. Swenson said it would be at the Ken Baxter Center if it was available, but she needed to check on the location.

Ms. Smith suggested organic weed control as a topic at Marysville University.

She referred to duplexes being put into established neighborhoods that are pretty unattractive. She wondered if there was anything that could be done to address this situation. Mayor Weiser said he would discuss the design review with Gloria Hirashima. Ms. Hirashima said something could be done if that was what the city wanted to do although this would be quite time-consuming. She said that possibly greater setbacks might help to mitigate the appearance. The issue of small lot design is a huge issue with cities right now. She noted that the City of Everett is considering increasing lot sizes and also possibly doing design review.



**John Soriano** thanked Chief Carden for the demonstrations during the Public Safety meeting and asked if they could be part of a Council presentation.

**Jon Nehring** also thanked Chief Carden for the K-9 presentation. He felt it was very impressive.

Councilmember Nehring described a citizen who had complained about overhanging trees. There had been a very quick response and he thanked Gloria Hirashima and her department for that.

He thanked the staff at Cedarcrest for getting the restaurant back open.

Mr. Nehring also thanked the Mayor for addressing the issue of transients under the overpass. He asked Chief Carden about controlling the problem in the long-term. Chief. Carden said that panhandling, littering, intoxication are things that can be dealt with, but moving people along is a more difficult issue because everybody has a right to go there. The important thing is to continue to clean up under the bridge area. As long as someone is cleaning it up on a consistent basis it becomes more difficult for people to live there.

Council adjourned into Executive Session at 9:54 p.m.

#### **EXECUTIVE SESSION**

Council met in Executive Session at 10:00 p.m. to discuss three litigation issues.

#### **ADJOURNMENT**

Council reconvened into regular session at 10:30 p.m.; took no further action and adjourned at 10:33 p.m.

Approved this 10<sup>th</sup> day of February, 2003.

  
\_\_\_\_\_  
Mayor

   
\_\_\_\_\_  
City Clerk                      Recording Secretary

**Marysville City Council Work Session**  
**January 21, 2003**                      **7:00 p.m.**                      **Public Safety Center**

***Call to Order/Pledge of Allegiance***

Mayor Weiser called the January 21, 2003 Work Session to order at 7:00 p.m.

***Invocation***

Chaplain Fry gave the invocation.

***Roll Call***

Sandy Langdon called the roll:

**Council:** Mayor David Weiser, Mayor Pro Tem Mike Leighan, Suzanne Smith, John Soriano, Jon Nehring, Jeff Seibert, Donna Wright, and Lisa Vares.

**Staff:** Mary Swenson, Chief Administrative Officer; Sandy Langdon, Finance Director; Grant Weed, City Attorney; Gloria Hirashima, Community Development Director; Jim Owens, Public Works Director; Jim Ballew, Parks and Recreation Director, Randy Brower, Program Engineer – Surface Water, and Eric Thompson, Program Engineer – Land Development.

***Committee Reports***

Mayor Weiser updated Council on the Governmental Affairs Committee. Salary commission was discussed and it will be coming back to Council for discussion. The Committee also reviewed several bills currently being discussed in Olympia such as water rights, the annexation issue, and the Open Meetings Act. Mayor Weiser concluded by saying that nothing had been presented yet on gambling issues.

Councilmember Lisa Vares reported on the Public Works Committee meeting. State Avenue Improvements was one of the topics discussed, especially how to direct traffic around the improvements and potential rerouting for the Strawberry Festival parade. Another topic discussed was the pre-treating of grease by restaurants in order to be in compliance so the sewer system doesn't clog up. They also reviewed the overlay projects for 2003 and received an update on the Grove Street Advisory Committee.

## *Discussion Items*

### **A. Storm Water Drainage Discussion**

Randy Brower, Program Engineer – Surface Water, introduced the discussion topic for the evening and the guest speakers.

#### **Hilary Culverwell, Local Liaison Snohomish - Skagit - and Whatcom County**

Ms. Culverwell represented the Snohomish Sound Water Quality Action Team whose mission it is to restore and protect the biological health of the waters in the area. Stormwater is a very high priority for the Snohomish Sound Water Quality Action Team as it is the leading cause of pollution in the U.S. and in this state as well. She discussed the 2000 Puget Sound Water Quality Management Plan that says every city and county shall develop and implement a comprehensive stormwater management program including stormwater controls for new development and redevelopment.

She began by defining stormwater as water from rain or snowmelt that falls on impervious surfaces and is routed to natural or artificial drainage systems of water bodies. It is a problem because of development and impervious surfaces which increase the amount of water runoff. Water from developed land is 16 times greater than undeveloped land. Ms. Culverwell explained that in a natural environment 36.6% goes into groundwater. In more developed land about 15% goes to groundwater and more goes into runoff. She noted that it is very costly to address the issue to help solve the flooding problems, but runoff has a huge impact on aquatic resources, especially water quality and water quantity.

Water quality effects include increased sediments, toxic metals (especially copper), organics (pesticides and herbicides), hydrocarbons, fecal coliform bacteria (pathogens), and nutrients. She showed a graph that described the direct correlation between greater amounts of impervious surfaces and deteriorating biological health. Water quantity effects include flooding and stream impacts such as stream bank and stream bed erosion.

Ms. Culverwell proceeded to discuss ways cities and counties can solve the problem. One way she discussed was developing stormwater programs, especially utilizing the DOE's Stormwater Manual. She explained that usual complaints about adopting the manual have to do with the negative impact on the business community especially with respect to detention ponds. She stated that the standards can potentially increase the cost to the developer, but they don't have to. Washington State is currently researching low impact developments (LID) to allow less water to runoff. Examples such as permeable pavers were discussed. Ms. Culverwell stressed that Puget Sound Action Team is committed to helping local governments make progress in this area. In summary she said stormwater is a big problem, adoption of the Ecology's Manual is an important step, innovative approaches exist and they are willing to help.

**Melodie A. Selby, PE, Washington State Department of Ecology**

Ms. Selby focused on the Manual from a policy and legal standpoint. The DOE has legal requirements to properly manage stormwater runoff in order to prevent water quality problems. Legal requirements started with the Federal Clean Water Act, which says that the water must be fishable and swim able. The state is required to adopt standards adopted by the government. The State Water Pollution Control Act also controls groundwater and smaller streams and discharges to treatment plants. The Endangered Species Act affects this area because of large numbers of wildlife that are part of the habitat. She also reiterated that stormwater is one of the leading causes of pollution.

In describing ways to monitor compliance with the Manual she described the Demonstration Approach in which an approval agency individually reviews and conditions proposed projects to meet federal and state stormwater standards based on current science. Problems with this are that it lacks predictability and can be very time consuming. For larger complex projects it may reduce costs and/or improve environmental protection.

The Presumptive Approach is a default set of stormwater practices based on current science that will satisfy state and federal stormwater requirements – Ecology Stormwater Manual or equivalent. This is more predictable and practices are approved across jurisdictions. Costly studies, etc. are not required as they may be under the demonstration approach. It was the intent of DOE to allow for the use of the Presumptive Approach although they have determined that the Demonstration Approach also needs to be used at times.

The objective of the manual was to provide a commonly accepted set of standards and guidance to control quality and quantity of runoff from new development and redevelopment in order to comply with WQ standards. The manual has been updated to comply with Federal Clean Water Act, State Water Pollution Control Act, and the Federal Endangered Species Act. A major priority of the manual is to be able to continue with the Presumptive Approach.

Those affected by the Puget Sound Water Quality Management Plan include Puget Sound communities who must adopt the Department of Ecology's new manual or an equivalent by March of 2003. Those affected by NPDES Phase I Communities are King, Snohomish, Pierce, Clark Counties, Seattle, Tacoma, and WSDOT. The time frame for adoption of the new manual or equivalent set by new Phase I permit. This also affects construction sites greater than or equal to five acres and heavy industry. Phase II NPDES Permittees include construction sites greater than or equal to one acre, at least 90 cities and 12 counties, and municipal industrial sites.

The current status of Phase II is that it goes into effect in March of 2003. The Department of Ecology worked with municipalities and developed an application of the standards. DOE plans to develop separate Phase II permits for Eastern and Western Washington. They do not expect to begin work on the Phase II permits until this fall. Ecology will work with affected and interested parties to develop these permits.

Ms. Selby reviewed risk management considerations such as the impairment of water bodies and liability issues such as CWA third party lawsuits and ESA liability. She encouraged the city to stay in the preventative mode. In order to maintain local control she said the city should be aware of local watersheds, know what is threatening them, develop and implement appropriate management strategies then submit Phase II application.

### **Ralph Svrjcek, Washington State Department of Ecology Water Quality Program**

Mr. Svrjcek summarized the water quality problems as having high levels of bacteria and low levels of dissolved oxygen. He then described the Department of Ecology's approach to achieving clean water. He noted that DOE has shifted to a watershed approach using the Performance Measure. They focus on how clean is the water and an implementation strategy.

In discussing risk management Mr. Svrjcek said if this strategy does not work there would likely be more frequent and severe flooding and poor water quality. He added that correcting the problem would be even harder than preventing it. Mr. Svrjcek noted that the costs would shift to local governments and that it could be difficult for industry/construction to get permits.

He went on to describe what DOE is likely to do. He listed working harder to find innovative solutions and funding, utilizing stricter permit conditions, and possibly enforcement. Solutions to the issue include instilling in staff the importance of viewing streams as more than drainage conveyances. He noted with pleasure that the city is already examining local needs with its Surface Water Management Program. He encouraged the city to utilize a master drainage study and special regional solutions as needed.

Mr. Svrjcek summarized by encouraging the city to keep up the good work in order to save the fish runs. He noted that the city is also fostering continued economic development with local-based solutions. He concluded by stating the need for the city to make local streams a safe place for kids to play and to keep the new stormwater manual as an important part of the tool kit.

### **Questions and Discussion**

Councilmember Jon Nehring asked about the separation issue and why that was changed to five feet. Mr. Svrjcek stated that there needs to be enough separation to

filter out the pollutants. He did not feel qualified to thoroughly answer this, but said there was an engineer on staff who could answer this. Melodie Selby stated that it was based on the region, but if it could be demonstrated that it was unnecessary in this area it could be changed.

Mr. Nehring stated the challenge of doing this and promoting economic development at the same time. He mentioned the Tulalip Tribes and asked about their requirements. Ms. Selby replied that they work directly with EPA. They are supposed to develop water quality standards. They can be their own permitting authority or have EPA do the permitting. She wasn't sure how the Tribes and EPA work together in this area, but noted that they can basically police themselves. She said to contact her for more information.

Mr. Nehring then made reference to the King County Manual and asked what it was. Ms. Selby said it was similar to DOE's manual. Mr. Svrjcek added that King County is also in the process of updating their manual.

Councilmember Jeff Seibert asked if the city should adopt the manual as a reference or as a guideline. Ms. Selby answered that the city should look at the balance between public and private investment in stormwater. She believes in the long run asking people to contribute to protect stormwater is good for economic development. Her recommendation would be that in order to do development, the development needs to be done in compliance with the manual.

Mr. Seibert asked how far the city could veer from the manual and still be equivalent. Ms. Selby said the important thing was if the city was meeting the goal of protecting water quality standard. She clarified that the city needs to be able to prove its case by being consistent and having data to show why it is doing things differently.

Councilmember Seibert then asked for which type of construction sites this applied (commercial or residential). Ms. Selby replied that Federal rules state that it is anything that disturbs more than one acre. It could be anything.

Finally Mr. Seibert asked about retrofit situations. He asked if there was an exemption for this. She stated that the city could take the ideas from the manual and apply them, but they would not be a requirement.

Councilmember Suzanne Smith clarified that the DOE 2002 Manual is not mandatory for the city at this point. Ms. Selby stated that was correct. Ms. Smith then asked about the permit development process to which Ms. Selby explained the permit has not been written yet.

Ms. Smith asked if the manual might become mandatory in the future. Ms. Selby explained that the manual affects different people so it would be difficult to generalize it. It will be mandatory for all construction sites that require a permit and anything over one acre that has a discharge. She could not venture a guess when it might

become mandatory for municipalities. It could be when Phase II is released sometime next year, but there would probably be a phase-in period.

Ms. Smith then inquired about municipalities that have not adopted the manual. She referred to neighboring communities with which the city is in direct competition that have not stepped up to the plate. Ms. Selby explained that industry and construction going into those communities still will need permits. As time goes on there will be more and more difficulties as those areas try to clean up their water bodies. As far as encouraging them to adopt the manual, she noted the Association of Cities is actively working on getting cities to adopt the manual. She suggested contacting them.

Councilmember John Soriano asked about hardships for cities that have begun adopting the manual. She said the biggest concerns have been for communities concerned with vesting issues and liability. Pre-adoption jitters are mostly what she hears. Mr. Soriano suggested compiling some of those concerns as an aid for communities who are beginning the process.

Councilmember Lisa Vares noted that Marysville is downstream from upstream development. She wondered what would happen if its water was not up to standard, but not a result of the city's non-compliance. Mr. Svrjcek said they hope to develop information to determine where the pollution is coming from - the City of Arlington, the Tulalips or Marysville. Their goal is to determine how clean the water is when it comes into the city and how clean it is when it goes out of the city. Ms. Selby agreed that from a clean-up perspective it would be more difficult for Marysville. She suggested using nuisance tactics to people upstream. Mr. Svrjcek stated that DOE is keenly aware of the importance of working with the City of Arlington and others and that they will keep this in mind.

Mayor Weiser referred to a map he received in 2002 showing the quality of streams in the area. He asked if there was a more recent map to show the quality of streams and if it had improved. Ms. Culverwell replied she was not familiar with the map.

Mayor Weiser then asked what assurance the city has, if any, from DOE that the rules are not going to change in five years or ten years. Ms. Selby explained that they have attempted to keep the goals the same. They have attempted to balance what is needed with what is reasonable. Mayor Weiser referred to a specific situation where the requirements for developers had continually changed making it difficult for developers. Ms. Selby said that was unusual and to contact her about that specific situation.

**B. Discussion Regarding Repealing Ordinance No. 2324 Prohibiting the Conduct or Operation of Social Card Games as a Commercial Stimulant within the City Limits.**

Chief Administrative Officer Mary Swenson explained that the current ordinance that prohibits card rooms is included in the packets. The ordinance from Montlake Terrace

that allows card rooms is also included. She explained that Montlake Terrace currently has one card room. There is a second establishment being considered. The Police Chief there went on record as being in favor of that. Everett was also consulted and the Police Chief there said there were fewer impacts than a tavern that has music and dancing.

Ms. Swenson noted that Council was originally interested in this topic because of the feeling that the city was already dealing with the impacts of this from neighboring communities. She reviewed some of the numbers of revenues and projected revenues that she had researched.

Councilmember Soriano asked Grant Weed, City Attorney, if zoning requirements and regulation issues have changed. Mr. Weed replied that there appears to be an ongoing debate about this issue. It has not been decided by the Courts. Mr. Soriano stated that this might be a potential problem. Mr. Weed agreed.

Mr. Soriano asked if the lift on the ban on card rooms could ever be reversed. Mr. Weed said it would require proper public hearings with strong evidence of the negative effects of those types of activities. There would have to be a record of those activities.

Councilmember Mike Leighan noted that the city is already suffering the impacts of these activities from neighboring communities and not gaining any revenue from it. In these difficult times he felt it should be a consideration. Regarding zoning restrictions he asked for clarification on the restrictions cities face. Mr. Weed explained they need to be located in the commercial zone, but the city cannot specify which portion of that zone they could be in. Mr. Leighan then recalled a public hearing held when originally discussing this ban. He asked if a hearing would be required to lift the ban. Mr. Weed stated it would be optional, but not required. Mr. Leighan concluded by stating that he would be in favor of lifting the ban or at the very least of holding a public hearing.

Councilmember Soriano asked about building a component into the ordinance that would dedicate a certain portion of the revenues to covering increased police costs. Mr. Weed stated that could possibly be done. Mr. Soriano asked for clarification about regulating the zoning versus regulating the gambling. Mr. Weed stated that some cities have gone beyond stating where the card rooms can be located by allocating certain portions of commercial zones to those types of businesses. The state gambling commission has said that cities can't get into those types of details.

Councilmember Smith noted the possibility that a large amount of revenues could be gained, but she stated that she could never be in support of this for spiritual reasons. She stated that she envisions more for this city than what gambling has to offer. She cited examples of families ruined because of gambling and also examples of friends who don't seem to have trouble. She believes the money wasted on gambling could be spent elsewhere in the community in a more positive way. She also stated she did not believe it coincided with the city's vision of maintaining a small town feel.



Councilmember Vares said she agrees on many levels with Councilmember Smith, but she believes that the city is going to feel the effects of gaming whether or not they want it because of the neighbors. She stated she would like to have a public hearing to hear the public comments on lifting the ban.

Councilmember Donna Wright stated she also would like to have a public hearing although she would probably personally be opposed to lifting the ban.

Councilmember Jeff Seibert suggested forming a committee to research this further.

Mayor Weiser concluded by saying that this would be an action item at Monday night's meeting.

### *Consent Agenda Items*

The Mayor reviewed the following Consent Items:

- A. Approval of January 27, 2003 Claims.**
- B. Approval of January 21, 2003 Payroll.**
- C. Approval of Liquor License Renewals for Fanny's Restaurant, Jackpot Food Mart (5830 Grove Street), Jackpot Food Mart (1034 State Avenue), 88th Street Texaco Food-Mart and Car Wash, and Vi and Glynn's Tavern.**
- D. Approval of New Liquor License for Ichi Bento Teriyaki and "R" Place Pub and Grill.**
- E. Affirm Hearing Examiner's Recommendation to Approve Rezone, Preliminary Plat, and Utilization of Density Incentives for Ebey Vista; PA 9911056.**

Councilmember Seibert asked if there is a plan to address the needs of offsite walkway requirements for the school district. Community Development Director Gloria Hirashima explained that they are in the process of working on that.

### **F. Acceptance of Donation from Estate of Julietta Gellerson.**

Councilmember Nehring asked if there would be a committee formed to deal with this and if it could be named after Ms. Gellerson. Parks and Recreation Director Jim Ballew explained they would go back to the Park Board with recommended uses and that they could certainly recognize the donor with a plaque stating how the money was used.

**G. Authorize Mayor to Sign Interlocal Agreement with Snohomish County for Construction and Maintenance of Portion of 88th Street N.E.**

**H. Authorize Mayor to Sign Interagency Agreement with Snohomish County for 2003 Overlay Program.**

Councilmember Smith asked about the costs to the city of the additional work being added. Mr. Owens said they were getting the work for about 10% less than has been historically paid.

Councilmember Leighan inquired about a management fee that had been discussed with the Utility Committee. Mr. Owens replied that there was a management fee, but even with that cost the price was still less than they were paying.

**I. Approval of Contract for Deferred Construction of Curbs Gutters & Sidewalks; Orlo Williams.**

**J. Approval of Contract for Deferred Construction of Curbs Gutters and Sidewalks; Paul Bustard.**

Councilmember Smith asked if this was the same 46<sup>th</sup> Street NE on which Ebey Vista was located. Ms. Hirashima replied that it is, but there was a separation. There was discussion about how close the sidewalk needs to be before there is a requirement to create an adjacent sidewalk. Mayor Weiser clarified that since this is a preliminary plat approval it could be anywhere from about six months to three years before this is actually built.

***New Business***

**A. 240 Zone Water Reservoir Phase II; Due Diligence Proposal RH2 Engineering.**

Councilmember Seibert had concerns about hazards of this area and wondered if there would be another area that would work as well for the city. Public Works Director Jim Owens said that they had looked at numerous criteria before narrowing it down to five sites. They then looked at the geology and the development of the area. Out of the five sites this was the best option. Aerial photos and topographical maps show that there are very few elevations where the 240 elevation exists. The acquisition of property for other locations would be very expensive as the only other site with the 240 elevation has very expensive homes. Mr. Owens explained that there is evidence that the Boeing Company had deposited some improper material on the site. This area is being monitored very closely. Councilmember Smith asked if the reservoir would be influenced by the contaminated groundwater. Mr. Owens replied that the reservoir is partially above ground. From the data that he had he did not believe the groundwater would be affected.

**B. Amendment No. 1 to Professional Services Agreement; Hammond, Collier Wade Livingstone Associates for Trunk D Extension Phase II including Soper Hill Pump Station Project.**

Mr. Owens explained that this amendment is necessary to correct the files. This project is completed, but there was an oversight and Council did not give approval to the contract. Mr. Weed explained further that this would help to ratify the agreement, in a written form, in the event of an audit. Councilmember Seibert expressed concerns about this getting through without Council's approval.

**C. Supplemental Agreement No. 1 to Professional Services Agreement for State Avenue (116th Street N.E. – 136th Street N.E.) Improvement Project; Lane & Associates.**

Mr. Owens explained that this is a no-cost time extension to the contract.

Councilmember Leighan asked if there would be any way to add a penalty if it was not completed in the stated time. Mr. Owens stated that it could not be added to this contract.

**D. Supplemental Agreement No. 9 to Professional Services Agreement for State Avenue (116th Street N.E.-136th Street N.E.) Improvement Project; Skillings Connolly Engineers.**

Mr. Owens explained that this involved a stormwater detention pond. A developer has approached the city with a large development plan. In order to maximize the development potential of the location he suggested reorienting the pond. It would also make the property more saleable. The city has been in discussions with the developer and is desirous of proceeding with the alternate location. The developer has committed to sharing in 50% of cost of redesign of the pond.

Councilmember Smith asked if the city was over-sizing it at all in order to accommodate the developer. Mr. Owens said they were not. Ms. Smith then asked if it could be built larger in order to be used regionally for that particular area. Mr. Owens said he did not believe it could. The developer has planned out all of the property. There is no adjacent property that would allow for expanding.

There were no further comments or questions.

***Legal***

**A. Contract for Recovery of Utility Construction Costs for Sewer; Harvey & Janet Jubie.**

There were no further comments or questions.

*Information Items***A. Mayor's Business**

Mayor Weiser issued a reminder of the city's joint meeting on Tuesday, January 28<sup>th</sup> at 4:00 p.m. with MERC and the Planning Commission.

He also mentioned that the Smokey Point Chamber is having an installation of officers on Saturday night. If any Councilmembers can attend please call the Smokey Point Chamber office. Mary Swenson added that she had the phone number if anyone needed it.

*Adjourn*

Mayor Weiser recessed into Executive Session at 9:08 p.m.

*Executive Session***A. Litigation****B. Personnel****C. Real Estate**

City Council met in Executive Session at 9:15 p.m. At 9:56 p.m. Council reconvened into regular session. **Motion** by Councilmember Seibert, **second** by Councilmember Smith to approve the labor contracts as discussed in Executive Session. Motion carried unanimously (7-0).

*Adjourn*

Mayor Weiser adjourned the January 21, 2003 City Council Work Session at 9:58 p.m.

Approved this 27<sup>th</sup> day of January, 2003.

David Weiser Mayor      Perry Becker City Clerk      Lanni Hugeland Recording Secretary