

January 6, 2003                      **Marysville City Council Work Session**  
6:15 p.m                                      **Public Safety Center**

*Executive Session: 6:15 p.m.*

**Potential Litigation.**

*Adjourn*

*Call to Order/ Pledge of Allegiance: 7:00 p.m.*

*Invocation*

There was no invocation.

*Roll Call*

Mary Swenson called the roll:

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

**Staff:** Gloria Hirashima, Community Development Director; Police Commander Steve Winters; Sandy Langdon, Finance Director; Mary Swenson, Chief Administrative Officer; Grant Weed, City Attorney; Jim Owens, Public Works Director; Greg Young, Grants Administrator, Kevin Nielsen, Interim Assistant City Engineer.

*Committee Reports*

Mayor Weiser called for Committee Reports. There were none.

*Other Items Scheduled for January 13, 2003 Meeting*

**A. Approval of Minutes.**

December 9, 2002 City Council Meeting.

January 6, 2003 City Council Workshop.

**Consent****A. Approval of January 13, 2003 Claims.**

There were no comments or questions regarding this item.

**B. Approval of December, 2002 Payroll in the Amount of \$1,246,663.96; Paid by Check Nos. 44562 through 44736 with Check No. 44736 Cancelled.**

There were no comments or questions regarding this item.

**C. Approval of Liquor License Renewals for AM/PM Mini Mart #5566, Boulevard Grocery, Froso's Greek & Italian Cuisine, Las Margaritas Family Mexican Restaurant, Rite Aid #5243, Saigon Garden Restaurant, and the Loyal Order of Moose Marysville Lodge #1845.**

Councilmember Donna Wright referred to past problems with some of these licenses and asked if those had been addressed. Both the Mayor and Mary Swenson, Chief Administrative Officer, indicated that the situation had gotten better.

**D. Approval of New Liquor License for Fred Meyer #0209 and Marysville Oriental Store.**

There were no comments or questions regarding this item.

**E. Approval of Final Plat for Callan Place; PA 0102010.**

Gloria Hirashima, Community Development Director, commented that all phases of this project have been approved and checked off.

Councilmember Lisa Vares asked about impact fees and noted a discrepancy in stated rates of \$5,700 on the Hearing Examiner's Decision versus \$2,000 on the minutes from the Hearing Examiner meeting. Ms. Hirashima she would verify the amount.

**F. Approval of Contract for Services Agreement for the Northwest Mini-Chain; Whatcom County.**

This is a continuation of a contract that has been held for many years. There were no comments or questions regarding this item.

**G. Authorize Mayor to Sign Second Addendum to Jail Services Agreement with City of Lake Stevens.**

There was discussion about the \$10.00 administrative fee payable to the City by Lake Stevens for each inmate transferred. Councilmember Jeff Seibert asked if this amount

was sufficient to cover the time involved for this service. Grant Weed, City Attorney, stated that the amount was deemed sufficient by those involved. There were no further comments or questions regarding this item.

**H. Authorize Mayor to Sign First Addendum to Jail Services Agreement with City of Arlington.**

There were no comments or questions regarding this item.

**I. Authorize Mayor to Sign State Participating Agreement with WSDOT for Ballenger Property Improvements Project.**

Public Works Director Jim Owens explained that this item was the same one that had been previously discussed. The City had received the paperwork back and the information was the same as discussed at earlier meetings.

Councilmember Mike Leighan asked about the Cleater's fence. Mayor Weiser indicated that the fence would not be installed. Councilmember Suzanne Smith asked why one fence had been approved and one was not. The Mayor replied that Mr. Ballenger had an existing fence. Prior to the widening of the street the owner was able to enter his property safely and keep his dogs within the boundaries of his yard. Since the widening of the street he was not able to do that.

Councilmember Leighan had concerns about the issue with the fence on the Cleater's property. He stated that his recollection was that a fence had been discussed along the front of the property, but at the Public Works meeting the plan had been changed to put it up along the front and two additional sides. He agreed with putting the fence up on the front, but did not feel that the two additional sides were necessary.

**J. Approval of Contract for Deferred Construction of Curbs Gutters & Sidewalks; Gene R. Pierce.**

**K. Approval of Contract for Deferred Construction of Curbs Gutters and Sidewalks; Terry & Phyllis Buckridge.**

**L. Approval of Contract for Deferred Construction of Curbs and Gutters Only; D.B. Johnson Construction, Inc.**

*Review Bids*

**A. WWTP Phase I Improvements.**

Public Works Director Jim Owens commented that this was a re-bid from Phase I when Council had rejected all bids. The city received five bids for the WWTP I Improvements ranging from \$5,248,631 to \$5,577,883.98. McClure and Sons Inc.

from Mill Creek is the apparent responsive and responsible low bidder for this project. There were no further comments or questions.

**B. 51st Avenue Lift Station Improvements.**

There were no comments or questions regarding this item.

*New Business*

**A. Contract for Public Defense Services; Vance Odell.**

City Attorney Weed added that the prior contract had been based on an hourly rate of \$70.00 or \$75.00 per hour. This contract is based on a flat rate of \$3,400.00. Mr. Weed felt that this would result in a savings especially since the number of cases the public defender will handle will most likely be increased. He noted that the city had looked at several proposals and Mr. Odell's was the most cost-effective.

Councilmember Seibert had concerns about the wording in the contract on page 3, which refers to "fee per case". Mr. Weed said it could be changed to be clearer.

Councilmember Smith wondered if this lower rate might result in a problem with the level of service for the city. Mr. Weed explained that if there was a problem it would be solved with the Court, but he did not believe there would be a decrease in service. He felt that this was fair compensation for the services rendered.

Councilmember Leighan referred to the amounts for liability insurance on page 4. He asked if those were standard amounts. Mr. Weed said that they preferred to see them higher, but that those were acceptable.

**B. Professional Services Agreement for Jail Expansion Planning Grant; Daniel Smith & Associates.**

Councilmember Leighan asked about Section 3.1 Minor Changes in Scope and Extra Work. He wanted clarification of who is authorized to make a change or to do extra work. Greg Young, Grants Administrator, said that any work outside the scope would be known ahead of time. He would have to seek approval prior to beginning anything outside of the scope.

Mary Swenson, Chief Administrative Officer, said that those terms would be included in the Letter of Award sent to the contractor.

City Attorney Weed also added that Section 3.1 also states that "Work under a supplemental agreement shall not proceed until executed in writing by the parties."

Councilmember Smith wondered if committing with the other entities mentioned in this contract would be binding the city in a way that might be detrimental in the future. Ms. Swenson explained that since this is the planning phase it would not, but if it was the actual expansion it would need to be looked at.

Councilmember John Soriano asked if there would be a graphical representation of the projections through 2025. Greg Young said he believed there would be. Mary Swenson stated and Mr. Young concurred that this firm was heads and shoulders above the other applicants and that they have a vast amount of experience in planning jail expansions.

Councilmember Smith inquired about the amount of in-kind contributions pledged by the city. Mr. Young clarified that \$11,700 of in-kind contributions were pledged.

**C. Capital Facilities Plan; Marysville School District, Lake Lakewood School District, and Lake Stevens School District.**

Community Development Director Hirashima explained that this renewal was done approximately every two years. The only difference was that this time all three school districts are combined. This will put all districts on the same cycle, concurrent with Snohomish County's capital facility plan update schedule. Staff recommends acceptance of the Planning Commission recommendation to adopt the Marysville, Lake Stevens and Lakewood capital facilities plans as an element of the City of Marysville Comprehensive Plan.

There was much discussion about looking at the Ordinance to revisit the fees.

Councilmember Vares was interested in hearing why the city's fee is 30% higher than the County's. Mayor Weiser explained that they had started out with trying to approve a 50% discount and it wasn't passed. They progressively lowered it until it got the votes to approve it. Councilmember Smith said she didn't feel there should be a discount at all. She explained further the history of this particular rate.

Ms. Vares inquired about bond rates being paid in conjunction with this. Ms. Hirashima stated that there was a credit for the bond payments.

There was discussion about the figuring of this rate and about the discounting of rates to be received by the school districts. Councilmember Smith felt strongly that there should not be a discount due to the fact that the estimate was diligently calculated. She felt that it was possible there could be an error of no more than 10% on either side, but that 50% was exorbitant. She said that the district should revisit the numbers and make them more accurate if that needed to be done, but it should not be discounted.

Councilmember Vares suggested waiting to see what happens with the bond before approving this. Ms. Hirashima explained that they would need to bring back an

amending ordinance anyway which would most likely be in February. Councilmember Leighan added that even if the bond passed the school district would not be required to recalculate their CID anyway.

Ms. Hirashima declared that she would research revisiting the discount. She stressed that this Capital Facilities Plan is based on numbers from the Ordinance. The plan adoption is separate from the discount issue. The Plan would automatically reflect any changed discount rates.

Councilmember Leighan noted that in comparing the old rate to the new rate there was only about 9% difference in a two-year period. Traditionally the CIP is spent on schools, but the impact fees are generally spent on portables and interim solutions. Councilmember Seibert explained that since no new schools had been built the schools were stuck trying to play catch up.

Mayor Weiser reminded Council that the school district was supposed to use mitigation fees to pay their 60% portion of the amount without a bond issue. The mitigation fees have been spent buying portables in order to have "un-housed students" to receive state funds.

**D. Supplemental Agreement with Tetra Tech for WWTP Phase I Improvements Project.**

Public Works Director Owens apologized for not having the numbers ready for this meeting. He said it would be negotiated this week and would be in the Council packet in time for the next meeting. He explained that this agreement reduces Tetra Tech's post-award services and that the difference would be applied to a new contract with Entranco.

Councilmember Seibert asked about the difference in the scope of services between Tetra Tech and Entranco. Mr. Owens replied that Entranco would be doing significantly more services than Tetra Tech was.

Councilmember Leighan inquired as to whether the Entranco Agreement would be all-inclusive of the services required. Kevin Nielsen, Interim Assistant City Engineer, said that it was unless there happened to be an extension in the timeframe.

**E. Professional Services Agreement for Construction Management and Inspection Services for WWTP Phase I Improvements; Entranco.**

**F. Supplemental Agreement No. 4 for Final Design Services for Stillaguamish Ranney Collector; Montgomery Watson Harza.**

**G. Property Disposal Agreement and Addendum; Property Bureau.com, Inc.**

City Attorney Weed explained that PropertyBureau.com has a worldwide website and that they have a sealed bidding process. Councilmember Soriano asked if a charitable organization in town couldn't do the same thing and get some of the profits. Mary Swenson commented that the city could contract with a charitable organization to do the auction, but could not give the property to the charity. She also noted that there are extensive record-keeping requirements for this sort of thing. Commander Winters added that using this company saves on personnel costs. Councilmember Soriano affirmed that the revenue would be higher as a result of the sealed bid process.

Mr. Weed mentioned that he had asked PropertyBureau.com to put a disclaimer on their website to note that all property is sold "as-is". They agreed that it was a good idea to add the disclaimer and had changed it on their website.

Councilmember Wright asked how the property got to PropertyBureau.com. Commander Winters explained that they came up from California to pick up the items.

Councilmember Smith asked what the termination date for the contract was. It was determined that it is an open contract and that the city can give 30-days notice to end the contract.

Councilmember Soriano commented on items over \$1,000. He noted that the city still receives 75% of revenue generated and that this is a not a big loss.

There were no further comments or questions.

### ***Information Items***

#### **A. Mayor's Business**

The Mayor noted that he would be out of the office for the next three days.

He also mentioned that Councilmembers would be getting an invitation in the mail from the Coalition of Snohomish County Newspapers to attend a discussion meeting regarding open government. The meeting will be held on January 30 from 7:00-9:00 p.m. at the Hawthorne Suites.

#### **B. Staff Business**

Gloria Hirashima had three items to bring to the attention of Council. All three were in response to requests by Council for more information.

##### **1. Timeframes for Development Construction and Performance/Maintenance Warranties.**

This item was in response to a request by Councilmember Seibert for more information.

Ms. Hirashima explained that there are no codified timeframes for construction of improvements and temporary restoration. However, timeframes are established through administrative policy for various level improvements through the right-of-way permit process. The right-of-way permit typically establishes an immediate temporary restoration with timing of final restoration varying dependent on the complexity of the project. There are no codified timeframes for performance. Typically performance bonds are allowed only for final asphalt lift and at the discretion of the City Engineer. The City's Engineering, Design and Development Standards (EDDS) requires that final lift occur after six months or 80% of plat build-out, to allow for settling and observation prior to final lift. Performance bonds are typically for one year following plat acceptance. On external streets the City's current policy is to require the final lift on external streets at six months, following the observation period. There are codified timeframes and amounts for maintenance bonds (one year for water/sewer, two years for other improvements.) She concluded by stating that Staff does not have any suggestions for codifying the timeframes at this time.

There was much discussion about what would happen if the contractor did not finish the project in the estimated time. Councilmembers wanted to know if the city had any recourse. Ms. Hirashima stated that the city has no real enforcement power, but that they first try negotiation. She added that if it is a safety issue the city does have the ability to send out a city crew and then bill out for time and services. Jim Owens added that it is part of the permit application process to establish the timeframes.

Councilmember Seibert referred to past incidents where there were long delays in completion. He wondered if there needed to be a penalty phase. City Attorney Weed noted that in a severe safety situation the city has a right to go to the Court to require compliance. The city can also revoke their right-of-way.

Ms. Hirashima reaffirmed that most issues in delays can be handled by communication with residents and with the contractor or developer. Ms. Swenson added that a lot of priority has been placed on this issue in the last year.

Councilmember Seibert thanked Ms. Hirashima for getting this information.

2. Zoning Requirements for Methadone Clinics.

This item was in response to a new article referred to by Councilmember Vares regarding the City of Lynnwood and an emergency ordinance proposed to address the siting of a methadone clinic in Lynnwood.



Referring to a memo from Chris Holland, Senior Planner with the Community Development department, Ms. Hirashima explained what the situation was in Lynnwood. In response to a rumor that a methadone facility was considering locating within the city, the city adopted an interim ordinance limiting the location of methadone clinics adjacent to residential area, schools, parks and similar community uses, by requiring a minimum separation of 250-feet measured from the property boundaries.

In Marysville a methadone clinic would be classified under Health Services (Medical/Dental clinic) and would be allowed as a conditional use in Multi-Family Residential zones, and permitted outright in Neighborhood Business, Community Business, General Commercial, Downtown Commercial and Mixed Use zones.

Councilmember Soriano asked what Lynnwood's main concerns to the clinic were. Ms. Hirashima stated that they were primarily safety issues.

Councilmember Vares suggested that due to the serious nature of methadone clinics the zoning restrictions should be tightened. Mayor Weiser commented that any doctor could prescribe methadone at any clinic even if there wasn't a methadone facility.

There was discussion about getting more information from the Health District about what a methadone clinic really is and what it does. Councilmember Wright said she would bring it up at the next Health Board meeting.

3. Nuisance Code for City of Mukilteo.

This item was in response to an article discussed by Councilmember Smith. The nuisance code for the City of Mukilteo was reviewed and discussed.

**C. Call on Councilmembers**

**Suzanne Smith** asked if the north end UGA was still on the docket. The Mayor replied that it was not.

Ms. Smith referred to the restaurant ad on the public access channel. She had received another email and apparently it was still airing as of January 1, 2003. The Mayor thought it had been taken care of and indicated it would not be airing again.

Ms. Smith then discussed an area where 80<sup>th</sup> Street curves into Cedar Avenue. Just before the curve, past some apartments on the left, there is an empty lot where some appliances and debris have been dumped.

Finally she asked about a truck route issue on the corner of 44<sup>th</sup> and 67<sup>th</sup>. The Mayor said that issue had been forwarded to Jim Owens. Mr. Owens stated that he would get back to Council with more information.

**Lisa Vares** welcomed everyone back from the holidays.

**Mike Leighan** commented on a number of fairly old minutes they had been receiving and asked that they be received in a more timely fashion.

**Donna Wright** said she was just glad to be here.

**John Soriano** referred to an email he had received regarding a grant writing class. He wondered if others had received it. Several members had received it, but no one expressed interest in taking the class.

**Jon Nehring** asked why the garbage had been picked up twice during the New Years week. Jim Owens explained that the memo sent out before the holidays was confusing so they had decided in advance to do a quick run-through on the second day.

**Jeff Seibert** noted that he also had concerns about the truck routes.

Additionally he asked about the two cargo trucks with the Tribes' logo parked at the caboose. It was explained that the Tribes lease that space and that they have two float trailers there.

### *Adjourn*

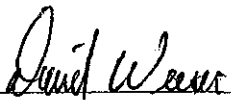
The regular meeting was adjourned at 9:05 p.m. The Executive Session was set to begin at 9:15 p.m. to discuss potential litigation.


### *Executive Session*

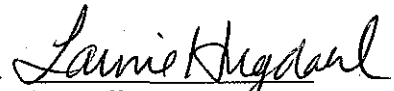
#### **A. Litigation**

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

Approved this 13<sup>th</sup> day of January, 2003.

  
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Mayor

  
\_\_\_\_\_  
City Clerk

  
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Recording Secretary