

March 24, 2014

7:00 p.m.

City Hall

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
<b>Approval of the Agenda</b>	Approved
<b>Approval of Absence of Councilmember Muller.</b>	Approved
<b>Committee Reports</b>	
<b>Presentations</b>	
Police Officer Swearing In: Joseph Bellame	Presented
Volunteer of the Month: Mike Youn	Presented
Employee Services Awards	No one present
Proclamation: Mayor's Day of Recognition for National Service	Presented
<b>Approval of Minutes</b>	
Approval of the February 24, 2014 City Council Meeting Minutes.	Approved
Approval of the March 3, 2014 City Council Work Session Minutes.	
<b>Consent Agenda</b>	
Approval of the March 5, 2014 Claims in the Amount of \$1,125,292.07; Paid by Check Number's 90486 through 90697 with Check Number 88642 Voided.	Approved
Approval of the March 12, 2014 Claims in the Amount of \$713,739.60; Paid by Check Number's 90698 through 90864 with Check Number 89965 Voided.	Approved
Approval of the March 5, 2014 Payroll in the Amount of \$1,457,333.71; Paid by Check Number's 27434 through 27474.	Approved
<b>Review Bids</b>	
<b>New Business</b>	
Approve the Professional Services Agreement with The Greater Marysville Tulalip Chamber of Commerce.	Approved
Approve the VIC Agreement with The Greater Marysville Tulalip Chamber of Commerce.	Approved
Consider the Binding Letter of Agreement with Snohomish County and Approve the Additional \$14,020.30 Needed to Complete the Utility Relocate for 67 <sup>th</sup> Avenue Site Distance Project.	Approved
Consider the D.A. Davidson & Co. Underwriting Engagement Disclosure Letter Regarding LID No. 71 Bonds.	Approved
Consider a <b>Resolution</b> Authorizing Investment of City of Marysville Monies in the Local Government Investment Pool (LGIP).	Approved Res. No. 2357
<b>Public Hearings</b>	
Consider Closed Record Appeal by Steiner Regarding Local Improvement District No. 71.	Held
Confirm the assessments against the appellant as recommended by the Hearing Examiner and have Special Counsel include the Additional Findings and Conclusions in the record as discussed in Executive Session.	Approved
Consider an <b>ORDINANCE</b> of the City of Marysville, Washington, relating to Local Improvement District No. 71 providing for the construction of an Interstate 5 overpass at 156th Street NE, as provided by Ordinance No. 2827; approving and confirming certain assessments appealed to the	Approved Ord. No. 2956

**March 24, 2014**

**7:00 p.m.**

**City Hall**

Council and a portion of the assessment roll of Local Improvement District No. 71; and levying and assessing a part of the cost and expense thereof against several lots, tracts, parcels of land and other property shown on the roll.	
<b>Legal</b>	
<b>Mayor's Business</b>	
<b>Staff Business</b>	
<b>Call on Councilmembers</b>	
<b>Adjournment</b>	8:25 p.m.
<b>Executive Session</b>	8:30 p.m.
<b>Reconvenement</b>	8:45 p.m.
<b>Adjournment</b>	8:45 p.m.

# COUNCIL



# MINUTES

## **Regular Meeting** March 24, 2014

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

Mayor Nehring called the meeting to order at 7:00 p.m. Pastor John Mason from Mountain View Presbyterian Church gave the invocation, and Mayor Nehring 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:** Kamille Norton, Jeff Seibert, Michael Stevens, Rob Toyer, Jeff Vaughan, and Donna Wright

**Absent:** Steve Muller

**Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Grant Weed, Public Works Director Kevin Nielsen, and Recording Secretary Laurie Hugdahl.

Mayor Nehring recommended that Council consider moving new business items 7 through 10 to before the Public Hearing to accommodate visitors who were present for those items.

**Motion** made by Councilmember Toyer, seconded by Councilmember Stevens, to approve the agenda with the amendment as recommended by Mayor Nehring. **Motion** passed unanimously (7-0).

**Motion** made by Councilmember Vaughan, seconded by Councilmember Wright, to excuse Councilmember Muller who called in and is out of town this evening. **Motion** passed unanimously (7-0).

### **Committee Reports**

None

## **Presentations**

### A. Police Officer Swearing-in

Commander Wade read the biography for Joseph Belleme. Chief Smith welcomed Officer Belleme who was then sworn in by Mayor Nehring.

### B. Volunteer of the Month

Mike Youn was presented with the Mayor's Volunteer of the Month Award for February for his outstanding community service through his compassion and willingness to donate free meals to people in need once a month in Marysville through his family-owned restaurant, and giving back to the community as part of the solution to address hunger and homelessness in the community.

### C. Employees Services Awards

- Charles Smith, Police Officer, 20 year (not present)
- Bradley Akau, Police Lieutenant, 20 years (not present)

### D. Proclamation: Mayor's Day of Recognition for National Service

Mayor Nehring read the Proclamation declaring April 1, 2014 *Mayors Day of Recognition for National Service* and encouraging residents to recognize the positive impact of national service in our city, thank those who serve, and to find ways to give back to their communities.

## **Audience Participation**

### **Approval of Minutes** (*Written Comment Only Accepted from Audience.*)

#### 1. Approval of the February 24, 2014 City Council Meeting Minutes

**Motion** made by Councilmember Wright, seconded by Councilmember Vaughan, to approve the February 24, 2014 City Council Meeting Minutes as presented. **Motion** passed unanimously (7-0).

#### 2. Approval of the March 3, 2014 City Council Work Session Minutes

Councilmember Seibert pointed out that on the last page under council comments, it refers to Mayor Vaughan. This should be corrected to Mayor Nehring

**Motion** made by Councilmember Seibert, seconded by Councilmember Stevens, to approve the March 2, 2014 City Council Work Session Minutes as amended. **Motion** passed unanimously (7-0).

## Consent

3. Approval of the March 5, 2014 Claims in the Amount of \$1,125,292.07; Paid by Check Number's 90486 through 90697 with Check Number 88642 Voided.
4. Approval of the March 12, 2014 Claims in the Amount of \$713,739.60; Paid by Check Number's 90698 through 90864 with Check Number 89965 Voided.
5. Approval of the March 5, 2014 Payroll in the Amount of \$1,457,333.71; Paid by Check Number's 27434 through 27474.

**Motion** made by Councilmember Vaughan, seconded by Councilmember Toyer, to approve Consent Agenda items 3, 4, and 5. **Motion** passed unanimously (7-0).

## Review Bids

### New Business

7. Consider the Tourism Promotion Service Agreement and the Chamber Services Agreement with The Greater Marysville Tulalip Chamber of Commerce.

CAO Hirashima stated that this agreement with the Chamber is the consideration of the annual funding of the Marysville Tulalip Chamber of Commerce. This was on an earlier agenda but the Council recommended that staff take a look at the form of the agreement and do a review with the Economic Development Committee. The Committee reviewed the form of the agreement and then had a joint meeting with the Chamber board members and director.

The packet contains two agreements. One is an agreement for the Visitor Information Center (VIC) called the *Tourism Promotion Services Agreement*. This agreement would provide funding of the VIC through Hotel Motel funds for \$20,000. The other agreement proposed would provide an additional \$20,000 from the City for general economic development and area promotional services.

Councilmember Vaughan asked if anybody from the Economic Development Committee would like to speak to the things that went into these agreements. Councilmember Stevens commented that the thought behind splitting this into the two agreements was to utilize some of the funding for the Chamber services agreement to better serve the business development aspects within the city limits, thereby justifying that out of the General Fund.

Councilmember Vaughan referred to the Chamber Services Agreement which talks about deliverables. He asked if the six things listed under the Scope of Work on Exhibit are the deliverables. CAO Hirashima replied that some of those have more to do with coordination and communication expectations. The deliverables would be quarterly written reports, documentation of businesses seeking location and/or relocation, quarterly business directory to the City, and attending a joint meeting to give an annual

report of the general review of business development and economic development activity.

Councilmember Vaughan said his understanding is that payment would happen quarterly upon acceptance by the City of those work deliverables. CAO Hirashima replied that is correct. Councilmember Vaughan asked if for some reason those deliverables aren't provided, can the City withhold payment? CAO Hirashima affirmed this. Councilmember Vaughan asked if any deliverables have been provided for Q1. CAO Hirashima commented that the agreement isn't in place yet. The expectation is that the process will be set in motion once the agreement is approved.

Councilmember Vaughan referred to page 1, item 5 on the Chamber Service Agreement under *Payment* which states that payment would happen "at the discretion of the City" and asked who would make this decision. City Attorney Weed stated that because the Council approves the vouchers they would be the ones who would approve it. Councilmember Vaughan requested a quarterly report from staff on the deliverables. CAO Hirashima indicated she would provide that.

**Motion** made by Councilmember Toyer, seconded by Councilmember Wright, to approve the Professional Services Agreement with The Greater Marysville Tulalip Chamber of Commerce. **Motion** passed unanimously (7-0).

**Motion** made by Councilmember, seconded by Councilmember, to approve the VIC Agreement with The Greater Marysville Tulalip Chamber of Commerce. **Motion** passed unanimously (7-0).

8. Consider the Binding Letter of Agreement with Snohomish County and Approve the Additional \$14,020.30 Needed to Complete the Utility Relocate for 67<sup>th</sup> Avenue Site Distance Project.

Director Nielsen explained that about a year ago staff brought an agenda bill forward asking for construction funds to lower the water main in support of the County's road project. Staff bid this project with the County, but it came in \$14,000 more than the original estimate. This Agreement would cover that difference.

**Motion** made by Councilmember Stevens, seconded by Councilmember Norton, to authorize the Mayor to sign the Binding Letter of Agreement with Snohomish County and Approve the Additional \$14,020.30 needed to Complete the Utility Relocate for 67<sup>th</sup> Avenue Site Distance Project. **Motion** passed unanimously (7-0).

9. Consider the D.A. Davidson & Co. Underwriting Engagement Disclosure Letter Regarding LID No. 71 Bonds.

Finance Director Langdon explained that the City conducted an RFP for underwriting services which resulted in three submittals and two interviews. D.A. Davidson & Co was selected. This is an Engagement Letter indicating what they will do for the City.

**Motion** made by Councilmember Norton, seconded by Councilmember Vaughan, to authorize the Mayor to sign the D.A. Davidson & Co. Underwriting Engagement Disclosure Letter Regarding LID No. 71 Bonds. **Motion** passed unanimously (7-0).

10. Consider a **Resolution** Authorizing Investment of City of Marysville Monies in the Local Government Investment Pool (LGIP).

Finance Director Langdon stated that the State Treasurer is making sure that anyone who invests in the local investment pool understands the processes.

**Motion** made by Councilmember Wright, seconded by Councilmember Stevens, to adopt Resolution No. 2357. **Motion** passed unanimously (7-0).

### **Public Hearings**

6. Consider Closed Record Appeal by Steiner Regarding Local Improvement District No. 71.

Mayor Nehring opened the hearing at 7:40 p.m. and reviewed the purpose of the hearing. Steven DiJulio and Lindsay Coates, Special Legal Counsel from Foster Pepper, PLLC further explained the purpose of the hearing and some background on the matter. Mr. DiJulio summarized that LID No. 71 provides approximately 50% of the cost for the I-5/156<sup>th</sup> Overpass project. The Hearing Examiner issued his recommendation on the final assessment roll on February 3, 2014. \$8,093,213 of assessments were confirmed earlier by the Council. This appeal was brought to the City Council by the Steiner Farms on February 19. In this matter the Preliminary Final Assessment Role for LID No. 71 showed assessments against these 8 parcels of the appealed properties in the amount of \$193,198. The Hearing Examiner's recommendation proposes a reduction in the assessment to \$161,612. The Council's role is to sit as a board of equalization to determine the protest and appeal and the amount of assessments to be levied against these appealed properties. He asked if any member of the Council or the Mayor held a conflict of interest in this appeal. None were noted. He then advised the Council on the Appearance of Fairness Doctrine and asked if anyone on the Council has engaged in any communications outside of this hearing with either the Appellant or Appellant's attorney or city staff or the City Attorney's office on the substance of the appeal. None were noted. He clarified that this is an appeal, not technically a hearing in that the complete record from the Hearing Examiner was already before them. He reviewed some of those documents and the information already contained in the record.

Councilmember Vaughan commented that the Council doesn't address matters like this very often. He said he would be more comfortable receiving additional information about this in Executive Session in order to be better prepared to make a decision.

**Motion** made by Councilmember Vaughan, seconded by Councilmember Toyer, to recess into Executive Session for ten minutes to discuss matters related to the LID No.71. **Motion** passed unanimously (6-0).

Council recessed into Executive Session at 7:53 p.m. until 8:03. At 8:03 Mayor Nehring announced a five-minute extension. Council reconvened the regular meeting at 8:08 p.m.

**Motion** made by Councilmember Vaughan, seconded by Councilmember Seibert, to confirm the assessments against the appellant as recommended by the Hearing Examiner and have Special Counsel include the Additional Findings and Conclusions in the record as discussed in Executive Session.

Mr. DiJulio read the following Additional Findings and Conclusions:

1. *All notices were proper as sent to the taxpayer of record. Under the July 2006 real estate contract (Exhibit 1 to the Steiner Farms Appeal dated January 19, 2014) the buyer is responsible for payment of all taxes and assessments. See also RCW 35.50.010. The City is required by law to give notice to the taxpayer of record. See e.g. RCW 35.43.150.*
2. *The current use of the industrial-zoned land for agricultural purposes does not preclude an assessment against the property. Whether property is or is not exempt from the obligation to pay an assessment is not part of a final assessment roll proceeding and whether the Steiner parcels that are assessed in LID No. 71 are qualified Farm and Agricultural land under RCW 84.34.020 (2) remains for future determination. In the event those properties are so qualified, the parcels still remain subject to the assessments and the future obligation to pay under RCW 84.34.370.*
3. *The City Council has considered all of the valuation evidence in the record including the opinions of the Broker Letter of Opinion submitted by the Appellant. When a protest includes conflicting valuation evidence the Council, sitting as a board of equalization, must weigh the evidence and determine the credibility of the competing opinions. Here, the Appellant does not present any before and after analysis and, the valuation of the Appellant properties based on Agricultural Land status only is not persuasive. The property was sold for \$14 million in 2006 with Steiner Farms receiving \$3,500,000. The Council recognizes the real estate market fell in 2008, but the market is recovering. The LID Appraiser's Report is far more credible in showing special benefit to the appellant properties. The improved transportation system created by the new I-5 overpass benefits industrial-zoned land in the area. That is also evidenced by the appellant properties' earlier support for the LID and 2006 purchase price for the land.*
4. *Any Public Works project will encounter costs that may be necessary to support the basic project construction including utility relocation or reconstruction. Here, the I-5 overpass project required new systems (stormwater) to support the project as well as replacement of old systems*



*that were required to be replaced. Replacement was required by the project itself and not to place general utility costs on the assessed properties. But for the I-5 overpass project, there would not have been need to replace water and sewer lines. Further, the City is paying 50% of the construction cost for project construction. Allocating utility cost to the City and not to assessed properties does not diminish the special benefit to the appellant properties from the project or result in a reduced assessment amount. That assessment amount is less than half the amount of special benefit.*

5. *City-owned parcels within LID No. 71 are assessed on the same basis as similarly situated properties in the LID.*
6. *That Steiner Farms currently receives no income from the appellant properties is actually better evidence that the property has specially benefitted by LID No. 71 improvements. The LID improvements will improve the accessibility to the appellant properties and necessarily, the value of those properties.*
7. *There is no real issue regarding whether the appellant properties are considered as several parcels or a single parcel. The appellant argued before the Hearing Examiner that it should be considered as a single parcel, and the appellant properties were sold as such in 2006.*
8. *The Council accepts the Hearing Examiner's Recommendation to reduce the assessment against the appellant properties from \$193,198 to \$161,612.*

**Motion** passed unanimously (6-0).

### **New Business**

11. Consider an **ORDINANCE** of the City of Marysville, Washington, relating to Local Improvement District No. 71 providing for the construction of an Interstate 5 overpass at 156th Street NE, as provided by Ordinance No. 2827; approving and confirming certain assessments appealed to the Council and a portion of the assessment roll of Local Improvement District No. 71; and levying and assessing a part of the cost and expense thereof against several lots, tracts, parcels of land and other property shown on the roll.

**Motion** made by Councilmember Seibert, seconded by Councilmember Stevens, to adopt Ordinance No. 2956. **Motion** passed unanimously (7-0).

Special Counsel DiJulio stated that Appendix A to that Ordinance will include the Additional Findings and Conclusions adopted by the Council by its motion.

### **Mayor's Business**

Mayor Nehring:

- He attended Economic Alliance Snohomish County's Economic Forecast event on Thursday where the speaker was forecasting continued modest recovery. They noted that Snohomish County and the Puget Sound are recovering at a faster clip than a lot of places in the country.
- He had the pleasure of speaking at the NJROTC Military Ball over the weekend which was a very special event.

Staff Business:

Chief Smith advised the Council that the police are starting to see some of the crime trends coming down as a result of their long-term strategy against crime. He commented that this is not just a Police Department issue. He commended the Executive Office, Community Development, Code Enforcement, Public Works, Parks, and all the departments for working together to fight crime in the City.

Kevin Nielsen:

- Wednesday night is Marysville University. Transportation is the topic.
- He noted that staff offered resources to Snohomish County for the landslide in Oso situation as part of the Mutual Aid Agreement.

Sandy Langdon distributed a flyer that will be included in the utility bills.

Grant Weed stated the need for an Executive Session for four items expected to last 15 minutes with no action expected.

Gloria Hirashima had no comments.

Call on Councilmembers

Kamille Norton had no comments.

Rob Toyer had no comments.

Michael Stevens stated that there was a Fire Board meeting last week. Battalion Chief Rex Tucker has been with the district 41 years and will be retiring at the end of month. The Fire District is hosting an open house for him on March 30 starting at 2 p.m. at Station 62.

Jeff Seibert had no comments.

Donna Wright:

- She attended the Snohomish Cities and Towns Meeting. The speaker Deanna Dawson who is the Director of Sound Cities. Mayor Earling from Edmonds is trying to encourage working together as a county.

- She will be out of town next week so she won't be able to attend the LEOFF 1 meeting or the Public Safety meeting.

Jeff Vaughan had no comments.

Council recessed into Executive Session at 8:30 p.m. to discuss four items expected to last 15 minutes with no action expected.

## Legal

### Executive Session


- A. Litigation – One item per RCW 42.30.110 (1)(i)
- B. Personnel – One item per RCW 42.30.140 (4)(a)
- C. Real Estate – Two items per RCW 42.30.110 (1)(B)


Executive Session ended and public meeting reconvened at 8:45 p.m.

### Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 8:45 p.m.

Approved this 14 day of April, 2014.

  
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Mayor  
Jon Nehring

  
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April O'Brien  
Deputy City Clerk

