

**ORIGINAL**

Marysville City Council

7:00 p.m.

000205 Public Safety Center

January 13, 2003

<b>Call to Order/Pledge of Allegiance/Roll Call</b>	7:00 p.m.
<b>Approval of Minutes</b>	
December 9, 2002 City Council Meeting Minutes.	Approved
January 6, 2003 City Council Work Session Minutes.	Approved
<b>Consent Agenda</b>	
Approval of January 13, 2003 Claims in the Amount of \$3,809,575.84; Paid by Check Nos. 70954 through 71581 with Check Nos. 70847, 71075 and 50683 Void.	Approved
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.	Approved
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.	Approved
Approval of New Liquor License for Fred Meyer #0209 and Marysville Oriental Store.	Approved
Approval of Final Plat for Callan Place; PA 0102010.	Approved
Approval of Contract for Services Agreement for the Northwest Mini-Chain; Whatcom County.	Approved
Authorize Mayor to Sign State Participating Agreement with WSDOT for Ballenger Property Improvements Project.	Approved
Approval of Contract for Deferred Construction of Curbs, Gutters and Sidewalks; Gene R. Pierce.	Approved
Approval of Contract for Deferred Construction of Curbs, Gutters, and Sidewalks; Terry & Phyllis Buckridge.	Approved
Approval of Contract for Deferred Construction of Curbs and Gutters Only; D.B. Johnson Construction, Inc.	Approved
<b>Review Bids</b>	
WWTP Phase I Improvements.	Bid Awarded to McClure & Sons
51 <sup>st</sup> Avenue Lift Station Improvements.	Bid Awarded to Interwest Construction, Inc.
<b>New Business</b>	
Contract for Public Defense Services; Vance O'Dell.	Approved
Professional Services Agreement for Jail Expansion Planning Grant; Daniel Smith & Associates.	Approved
Capital Facilities Plan; Marysville School District, Lakewood School District, and Lake Stevens School District.	Approved
Supplemental Agreement with Tetra Tech for WWTP Phase I Improvements Project.	Approved
Professional Services Agreement for Construction Management and Inspection Services for WWTP Phase I Improvements; Entranco.	Approved

Marysville City Council  
7:00 p.m.

January 13, 2003

Public Safety Center

Supplemental Agreement No. 4 for Final Design Services for Stillaguamish Ranney Collector; Montgomery Watson Harza.	Approved
Property Disposal Agreement and Addendum; Property Bureau Com, Inc.	Approved
<b>Mayor's Business</b>	
Library Board appointment of Margo Tipton	Approved
<b>Adjournment</b>	9:07 p.m.
<b>Executive Session</b>	9:16 p.m.
Approved interim lease for 120 days as discussed in Executive Session.	
<b>Adjournment</b>	9:33 p.m.



- They were very excited that Ms. Julietta Gellerson donated \$30,000 to the Marysville Library in her will.

There were no further committee reports.

### ***Presentations***

Mayor Weiser announced his honor of swearing in three new police officers for the City of Marysville this evening. He proceeded with the swearing in ceremony and welcoming the new officers, Darryn Wiersma, Richard Smith, and Allen Henninger, to the city's Police Department.

### ***Audience Participation***

**Denise Baker, 8305 83rd Avenue NE, Marysville 98270**

Ms. Baker had questions regarding an issue with her house located on the corner of 9<sup>th</sup> Street and Ash Avenue. She explained that a letter and photos were submitted last Monday to Council, but she had not received a response. Mary Swenson, Chief Administrative Officer explained that they have set up a meeting with the Public Works Director to resolve the issue.

### ***Approval of Minutes.***

#### **A. December 9, 2002 City Council Meeting.**

**Motion** by Councilmember Mike Leighan, second by Councilmember Jon Nehring to approve the December 9, 2002 City Council Meeting Minutes as written. **Motion** passed unanimously (7-0).

#### **B. January 6, 2003 City Council Work Session**

Councilmember Jeff Seibert referred to page 10 under his name (on Call on Councilmember). The paragraph should read "Additionally he asked about the two cargo *trailers* with the *Maryfest* logo..."

**Motion** by Councilmember Lisa Vares, second by Councilmember Seibert to approve the January 6, 2003 City Council Work Session Minutes as corrected. **Motion** passed unanimously (7-0).

### ***Consent Agenda***

Mayor Weiser noted that the Police Department had asked that Items G and H be removed from the Consent Agenda and brought back at next meeting. The Mayor asked if anyone else wished any of the items to be removed from the Consent Agenda. There were no further comments or questions regarding the Consent Agenda.

- A. **Approval of January 13, 2003 Claims in the Amount of \$3,809,575.84; Paid by Check Nos. 70954 through 71581 with Check Nos. 70847, 71075 and 50683 Void.**
- 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.**
- 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.**
- D. **Approval of New Liquor License for Fred Meyer #0209 and Marysville Oriental Store.**
- E. **Approval of Final Plat for Callan Place; PA 0102010.**
- F. **Approval of Contract for Services Agreement for the Northwest Mini-Chain; Whatcom County.**
- I. **Authorize Mayor to Sign State Participating Agreement with WSDOT for Ballenger Property Improvements Project.**
- J. **Approval of Contract for Deferred Construction of Curbs, Gutters and 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.**

**Motion** by Councilmember John Soriano, second by Councilmember Smith to approve Consent Agenda Items A, B, C, D, E, F, I, J, K, and L. **Motion** passed unanimously (7-0).

***Review Bids***

**A. WWTP Phase I Improvements.**

Mayor Weiser asked Public Works Director Jim Owens if he had anything to add. Mr. Owens recommended that Council award the bid for the WWTP Phase I Improvements Project to the apparent low bidder, McClure and Sons, in the amount of \$5,694,764.64 including Washington State Sales Tax, authorize the Mayor to sign the contract documents and approve a 6.15% management reserve of \$350,000, for a total allocation for the WWTP Phase I Improvements project of \$6,044,764.64.

City Attorney Grant Weed stated that they have reviewed the four letters submitted by IMCO legal counsel, dated January 3, 6 and two letters dated January 7, 2003. They have

also reviewed the December 23, 2002 letter submitted by McClure and Sons. In addition to the staff report that is in Council's packet, the city's position has been spelled out in a letter dated January 9, 2003 to the attorney of McClure and Sons. That letter should also be part of the record. Within the letter is a reference made to a website of Concrete Technology Corporation for the record. Copies of pages of the website have been made available to the Council. On the website the company makes reference to itself as CTC which are the letters used by McClure and Sons in their bid in this case. This provides the history of the company and shows that the company refers to itself as both CTC and Concrete Tech. That played some of the role in deciding that the use of CTC in the bid proposal does not warrant rejection of the bid for any of the reasons that have been offered in the several letters that have been submitted by IMCO through their legal counsel.

Mayor Weiser then invited the bidders to speak, if present.

**Mark Jensen, 1504 151st Place SE, Mill Creek, WA. 98012**

Mr. Jensen said he appreciates the city's consideration for this project. He reviewed McClure and Sons past involvement in working with the city and said they look forward to working with the city again.

**Motion** by Councilmember Nehring, second by Councilmember Lisa Vares to award the bid for the WWTP Phase I Improvements Project to McClure and Sons in the amount of \$5,694,764.64 including Washington State Sales Tax, authorize the Mayor to sign the contract documents and approve a 6.15% management reserve of \$350,000, for a total allocation for the WWTP Phase I Improvements project of \$6,044,764.64. **Motion** passed unanimously (7-0).

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

Mr. Owens explained that they received 10 bids ranging from \$561,993.08 to \$833,425.39, including Washington State Sales Tax. After reviewing those bids they determined the primary reason for the cost difference was attributed to the submersible pumps. Mr. Owens explained that Public Works staff recommends that City Council award the bid to the apparent low bidder, Interwest Construction, Inc.

**Motion** by Councilmember Nehring, second by Councilmember John Soriano to approve the award of the bid for the 51<sup>st</sup> Avenue Lift Station Improvement Project to Interwest Construction, Inc. in the amount of \$561,993.08 including Washington State Sales Tax; authorize the Mayor to sign the contract documents; and approve 10% management reserve of \$56,199.31 for a total allocation of \$618,192.39. **Motion** passed unanimously (7-0).

#### **Public Hearings**

None.

***Current Business***

None.

***New Business*****A. Contract for Public Defense Services; Vance O'Dell.**

City Attorney Weed had nothing further to add with regard to the contract. Mayor Weiser solicited public comment. There was none.

Councilmember John Soriano asked about the incorrect date on the agreement that had been discussed at the last work session. Mr. Weed replied he sent new copies of the agreement to Mr. Odell for him to re-sign and date. He also noted that the wording on page 3 of the contract was changed from "Fee Per Case" to "Fee".

**Motion** by Councilmember Nehring, second by Councilmember Seibert to authorize the Mayor to sign the contract for public defense with Public Defender Vance Odell. **Motion** passed unanimously (7-0).

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

Chief Carden had nothing further to add. There were no comments or questions of staff. Mayor Weiser solicited public comment. There was none.

**Motion** by Councilmember Donna Wright, second by Councilmember Smith to approve the Professional Services Agreement with Daniel Smith and Associates. **Motion** passed unanimously (7-0).

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

Gloria Hirashima, Community Development Director, noted that 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. Ms. Hirashima explained that there is a provision for updating the capital facilities plans more than every two years although they are only required every two years. Updating at this time will put all districts on the same cycle, concurrent with Snohomish County's capital facility plan update schedule. City Attorney Weed added that another basis upon which an amendment can be made is by making it a part of the budget-making process.

Mayor Weiser reiterated that Council was approving only the capital facilities plans of the three school districts at this time. He clarified that it did not affect the enabling ordinance that the City has as far as school mitigation fees. Ms. Hirashima agreed,

however she added that it would affect the fee amounts, but not affect the way the fees are calculated in terms of the mitigation ordinance.

**Mike Pattison, Snohomish County Realtors Association, 3201 Broadway #E  
Everett WA 98201**

Mr. Pattison spoke in favor of the capital improvements plan. He expressed a desire to reopen discussion on the discount fee so that the capital improvement plan more accurately reflects the needs of the community.

**David Toyer, 2155 112th Avenue NE, Bellevue, WA 98004**

Mr. Toyer stated that he was representing Master Builders Association. Mr. Toyer said he was not opposed to the capital improvement plan, but would like the city to reconsider the fee ordinance. Mayor Weiser said it was not the time to discuss the enabling ordinance. Mr. Toyer concluded by stating the city would be receiving a letter from his association.

**Zak Parpia, 1059 State Avenue Suite D, Marysville, WA, 98270**

Mr. Parpia stated that he has always supported mitigation fees, but expressed frustration at the changing requirements for builders. He requested that they be allowed to pre-pay the mitigation fees. Mayor Weiser said that would be discussed when the enabling ordinance was addressed.

Councilmember Mike Leighan asked Mr. Parpia if he would rather see the fees paid at the plat stage. Mr. Parpia indicated he would like to have the option to prepay. He went on to say that he feels there is inordinate unfairness to a fixed rate for all classes of houses, especially for those, like himself, who build in the affordable range. Mr. Parpia concluded by reiterating that he is in support of the capital improvement plan here tonight.

**Gary D. Wright, 5533 Parkside Drive, Marysville, WA 98270**

Mr. Gary Wright addressed the Mayor and the Council by saying he was not in favor of the plan because the plan listed the average sales price of a residence at \$169,000. That may be the average of all houses across the board, but not applicable to new construction to which this will be applied. One of his issues with the new plan is where the school mitigation fee is applied to all building permits across the board. He felt that preexisting lots should not have to pay the mitigation fee, especially when the lot is being used for a retirement home, as is his situation. He concluded that if the discount were changed to 50% he would be in favor of the plan. He also was in favor of making it possible for the fee to be paid in advance.

Mayor Weiser restated for clarification that Mr. Wright was in favor of the capital facilities plans. Mr. Wright indicated that he was.

**Greg Wright, 4802 76th Street NE, Marysville, WA 98270**

Mr. Greg Wright had concerns about the process. He felt that the impact fees had been overpaid last year and that the methodology of the school district needed to be addressed to assure accurate estimates for school impact fees. He suggested that Council approve the plan and then address the ordinance. Mr. Wright believes that the plan would unfairly impact low-income residents.

There were no comments or questions for Mr. Greg Wright.

**Jake Walker, Executive Director of Business and Operations, Lake Stevens Schools, 12309 22<sup>nd</sup> Street NE, Lake Stevens, WA 98258**

Mr. Walker began by saying there were a couple items he would like to mention with regard to the capital facility plan in response to some of the statements heard this evening. With regard to the student factor, he said the factor for students at Lake Stevens is calculated on a 100% match of students enrolled in the district in new homes. As the student enrollment per new houses changes so would the student factor, which is a part of how the fee is actually driven. He explained that it is an ongoing changing vehicle.

With regard to being adopted on more than a biennial program, Lake Stevens has asked to be a District that is being reviewed this year in order to be on a cycle concurrent with the County.

Mr. Walker explained that because there has been a reduction in elementary school enrollment, the mitigation fee for a single-family dwelling has been reduced almost in half. He noted that a single dwelling by a single person for their own use does not have a mitigation fee attached to it. He noted that the district also paid mitigation fees for building their schools so he understands the concerns about the fees.

With regard to the suggestions to prepay the mitigation fees, Mr. Walker explained that the district is required to utilize fees within a six year time period. The timing is critical to when the fees are paid and recorded by the district.

**Response to Mr. Walker:**

Councilmember Vares thanked Mr. Walker for coming. She asked about the comment that the mitigation fees are primarily used to build portables. Mr. Walker replied that their portables have increased from five to forty-seven in the last few years because it is the fastest way to provide housing for students. Also, in order to gain priority for receiving state matching funds the district needs to create a history of un-housed students for a certain period of time. Ms. Vares asked if any percentage of the mitigation fees were held over for purposes other than portables. He said that mitigation fees were not established in terms of how they are utilized. He cited a \$10 million renovation of their Northlake Middle School project with additions where mitigation fees were partially used to pay for about 10,000 square feet.

Councilmember Smith asked about his comment that existing lots did not need to pay mitigation fees. There was some discussion about situations in which lots were and were not required to pay those mitigation fees.

Ms. Smith then asked if mitigation fees paid 100% of the cost of housing students. Mr. Walker replied that it was not even close. He said that even with the state matching funds it does not meet the requirements, which is why they have the bonds.

Councilmember Nehring asked what percentage the district was striving for with the mitigation fees. Mr. Walker said it was not a simple correlation. Mr. Nehring expressed frustration because the data was so nebulous. Mr. Walker said that was part of the discussion that they were not having tonight. He went on to explain that the formula has been used widely on the western side of the state. Its purpose was to be as uniform as possible. He argued against the discount because they calculate the numbers as accurately as possible.

Mr. Nehring wondered if the mitigation fees would serve to push people out into the County and away from Marysville. Mr. Walker said he doesn't believe there is a large impact from mitigation fees. People are moving to the area because of the high prices of homes in King County. He feels it has nothing to do with mitigation fees and everything to do with market demand.

Councilmember Nehring also asked about the \$150 per square foot formula and its accuracy in terms of accounting for numbers of students. Mr. Walker said a related issue is that the house gets tax credit. Also students moving within the district are not always accounted for under that student formula. Mr. Walker summarized that all the variables make it a difficult process.

There was further discussion about the types of facilities created and the cost effectiveness of those. Mr. Walker replied that it was up to the local school boards to determine what types of schools they build. He also stated the features that seemed frivolous ten years ago are making a huge difference in education today. He said that Lake Stevens District is concentrating on building substantial facilities. They are focusing on systems that are important regarding items such as maintenance and energy consumption.

Councilmember Smith asked about the process of formulating impact fees. She asked his opinion of how valid the formula is. Mr. Walker said that from a standpoint of public process it was a compromise. She asked about the capital facilities formula. He said he felt they are fair especially when it comes to student generation rates. It is more consistent now among districts as far as going for 100% match. Ms. Smith thanked Mr. Walker for his time.

Mayor Weiser referred to Mr. Walker's statement that it takes approximately \$150 per square foot to build a school. He asked about the cost of portables. Mr. Walker replied that it costs about \$7,500 on average for a 900 square-foot portable.

Councilmember Seibert asked for clarification about the 100% match. Mr. Walker explained that they look only at the new houses and who lives there.

Mayor Weiser thanked Mr. Walker for his time.

**Shelly Jay, 12903 96th Street NE, Lake Stevens, WA 98258**

Ms. Jay noted she has children who will be attending the schools. She described her history of growing up in a school that severely lacked funding and the resulting problems. She encouraged support of the capital improvement plan.

There were no further questions of staff.

**Motion** by Councilmember Seibert, second by Councilmember Leighan to approve the Planning Commission's recommendation to adopt the Marysville, Lake Stevens and Lakewood capital facilities plans as an element of the City of Marysville Comprehensive Plan and to direct staff to come back with an ordinance. **Motion** passed unanimously (7-0).

**Motion** by Councilmember Wright, second by Councilmember Vares to bring back the enabling ordinance for the first workshop and meeting in February.

Councilmember Leighan suggested that it might be more appropriate to discuss this at the upcoming retreat as they would be able to devote more time to it there. Ms. Swenson commented that Economic Development was also an issue to be discussed at the retreat and that it also was a weighty topic.

Councilmember Seibert referred to several other requests for information for which Council was waiting. He cited four topics that have not been brought back to Council and asked that they be addressed before this enabling ordinance.

Councilmember Vares suggested addressing the fee ordinance issue first because of the financial nature of the ordinance and the impact it would have on fees paid to the city.

Ms. Swenson noted that the items Councilmember Seibert mentioned are scheduled to be brought back to Council sometime in February.

Councilmember Leighan asked what the Planning Commission's calendar looked like. Community Development Director Hirashima stated they would be able to address it, but she knew that they would be asking for Council's direction on it. She noted that when it was brought to them two years ago they refused to make a recommendation on it.

**Motion** by Councilmember Wright, second by Councilmember Vares to bring back the enabling ordinance for the first workshop and meeting in February. **Motion** passed 4-3 with Councilmembers Smith, Soriano and Seibert voting against.

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

Public Works Director Owens explained that this supplemental agreement would deduct from Tetra Tech's scope of work construction management services for the Wastewater Treatment Plant Phase I Improvements. He concluded by saying that Public Works staff recommends that Council authorize the mayor to sign the Supplemental Agreement, subject to approval by the City Attorney, with Tetra Tech for the WWTP Phase I Improvements.

**Motion** by Councilmember Soriano, second by Councilmember Vares to approve the adjustment to the Supplemental Agreement with Tetra Tech. **Motion** passed unanimously (7-0).

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

There were no comments or questions of staff or audience.

**Motion** by Councilmember Smith, second by Councilmember Nehring to approve the Supplemental Agreement with Entranco for Construction Management and Inspection Services for the WWTP Phase I Improvements subject to approval by City Attorney. **Motion** passed unanimously (7-0).

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

Public Works Director Owens, had no additional information, but noted that this was a very fair and reasonable fee for these services.

Councilmember Smith asked why there were four supplemental agreements. She asked if it should have been bid all at once. Mr. Owens said this was new technology and part of the reason was to allow staff to have time to get used to the technology. Kevin Nielsen, Interim Assistant City Engineer, further explained the circumstances that resulted in each of the supplemental agreements.

Councilmember Leighan referred to a PowerPoint presentation shown to Council a while ago that explained the selection process. He felt this would be beneficial to some of the newer councilmembers to understand this process.

Councilmember Seibert asked about the possibility of choosing a new professional from the professional roster. Mr. Nielsen said that the City can always go out for a new professional service agreement, but there is a huge learning curve.

Councilmember Vares asked why the Zenon filtration technology was picked. Mr. Nielsen said the biggest factor was that the membrane systems operate without a lot of labor requirements. He explained that the turbidity is so high on the Stillaguamish that other systems don't function as well. This combined with the life expectancy of the Zenon deemed it to be more effective. He added that the quality of the water is also excellent. Ms. Vares referred to Mr. Owens earlier statement that this was going to be the first Zenon plant in Washington. Mr. Nielsen explained that this is a brand name, but there are others like it used in the state. Mr. Nielsen said it is being used for both drinking water and wastewater because of the lower labor aspect.

Councilmember Soriano requested that the information on the different filtration systems be presented to Council.

**Motion** by Councilmember Wright, second by Councilmember Leighan to approve the Supplemental Agreement No. 4 for Final Design Services for the Stillaguamish Raney Collector with Montgomery Watson Harza subject to approval by City Attorney. **Motion** passed unanimously (7-0).

#### **G. Property Disposal Agreement and Addendum; PropertyBureau.Com, Inc.**

Chief Carden had no further comments for the Council. Councilmember Soriano mentioned that he had visited the website and that it was very interesting. He said after visiting the site he was pretty comfortable with this option. There were no further comments or questions.

**Motion** by Councilmember Vares, second by Councilmember Nehring to approve the Property Disposal Agreement and Addendum with PropertyBureau.com, Inc. **Motion** passed unanimously (7-0).

#### *Legal*

None.

#### *Ordinances and Resolutions*

None.

#### *Information Items*

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

Mayor Weiser made note of the meeting Wednesday morning at 7:00 a.m. with the City of Arlington. He then mentioned the upcoming joint meeting with MERC, Planning Commission, and the City Council on January 28th from 4-6 p.m. at Fire Station 62.

Mayor Weiser then discussed the reappointment of Margot Tipton to the Library Board.

**Motion** by Councilmember Nehring, Second by Councilmember Leighan to affirm the Mayor's reappointment of Margo Tipton to the Marysville Library Board. **Motion** passed unanimously (7-0).

**Staff Business.**

**Chief Carden** mentioned that there would be a thank you night for the supporters of the K9 unit at 7:00 p.m. at the All State Building. So far they have about 20 RSVPs from supporters. He said there would be some demonstrations and refreshments. He invited any councilmembers who were able to attend.

Chief Carden announced that on January 10th Marysville officers investigated an Internet scam which resulted in a seizure of about \$25,000 worth of property and a couple of arrests. He commended the officers for their good work.

**Sandy Langdon** issued a reminder that timesheets are due Wednesday the 15th. She announced that the new system is up and running. She mentioned that they cancelled the Finance Committee meeting this week because of the department's intensive training to get the new system up and running.

**Mary Swenson** commended the Finance Department staff for the long hours they have worked and the fine job they have done.

Ms. Swenson updated Council on the Employee Committee that was generated in order to recognize employees. They have been meeting regularly and working on implementing employee appreciation and also looking at benefit issues. One of the ideas they had was to invite employees and their families to be recognized at a City Council meeting for monumental anniversaries with the City.

Next Ms. Swenson noted that they are publishing a calendar regarding dates for the lunch bunch and summer barbecue so everybody will have those dates well in advance and can plan to attend them.

Ms. Swenson explained that the Dykeman Architects contract was being put on hold. They are trying to do it internally in order to cut costs significantly. She added that some areas would need to be contracted out.

She concluded by saying she is setting up appointments with all councilmembers to set goals and objectives as a starting point for the year. She asked each of them to be sure to make an appointment with her.

**Grant Weed** said he had no business other than during the Executive Session.

**Gloria Hirashima** had a follow-up on Councilmember Smith's comment on trash at 80<sup>th</sup> Street and Cedar Avenue. She said they had investigated it and did find some trash, which was removed.

**Jim Owens** referred to two areas north of 132nd that have had high beaver activity. They have had to go out to remove beaver dams, which were in danger of flooding some homes. Staff has been going up there on a daily basis because the beavers are quick to rebuild.

**Mayor Weiser** added that the Parks Dept and Public Works staff placed large rocks and bushes along the walkway from the south park-and-ride lot to 4<sup>th</sup> Street. The transients that were using that area have moved to under the I-5 underpass. City crews have been to the area at least twice in the last month cleaning the area up. He is in contact with the Department of Transportation about the issue. DOT is coordinating with Washington State Patrol to go in and clean the area up. Mayor Weiser urged people not to give the transients money who are seen in this area.

#### **Call on Councilmembers.**

**Jon Nehring** asked about an email from Janice Stow. Mayor Weiser informed him that it was being taken care of.

**Jeff Seibert** asked for an update on Denise Baker's house. Mayor replied that he had a memo he would forward to him.

**Donna Wright** said she attended the Partnership for Clean Air that is the anti-tobacco group, which is a partnership with the Health District, the Lung Association, and the Cancer Society. There was a nice presentation by a group from the Marysville Junior High School. The Mayor from Granite Falls, the Mayor from Arlington and Jim Ballew from Marysville were on the panel.

**Lisa Vares** had nothing to report.

**Mike Leighan** asked about the sewage smell in downtown Marysville. Mr. Owens explained that there was nothing wrong with the plant, but that it was just the last of the dredging process.

**Suzanne Smith** asked if Council always receives the Hearing Examiner's minutes. Ms. Hirashima thought that they were generally included. Ms. Smith said she would like to receive them on a regular basis.

There was discussion about the voting procedures. Ms. Smith indicated her discomfort at the roll call voting process and wondered if there was another way it could be handled. City Attorney Weed stated that a resolution was in place that describes the Council's own rules and procedures. Periodically those are reviewed to see if they can

be improved. Mr. Weed also stated that there are very few types of situations Ms. Smith referenced (final plat approvals) which come before Council. There was some discussion about the plat approval process and Council's limited options.

Finally Ms. Smith requested that Dr. Walker and Mr. Fenstermaker be invited to come to the meeting discussing the enabling ordinance.

### *Adjournment*

The meeting was adjourned at 9:07 p.m.

The Mayor stated that there was one potential litigation and one real estate issue that he anticipated would take about ½ hour.

### *Executive Session*

#### **Litigation**

#### **Real Estate**

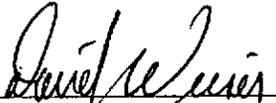
An Executive Session was conducted from 9:16 p.m. to 9:30 p.m. at which time Council reconvened into regular session, and a **Motion** was made by Councilmember Seibert, **second** by Councilmember Nehring to approve an interim lease for 120 days as discussed in Executive Session. Motion carried unanimously.

Council reconvened back into Executive Session to discuss one more item of potential litigation at 9:31 p.m.

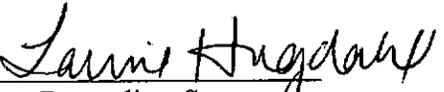
### *Adjournment*

Council reconvened into Regular Session at 9:33 p.m. and adjourned with no further action taken.

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

  
\_\_\_\_\_  
Mayor

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

  
\_\_\_\_\_  
Recording Secretary

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***

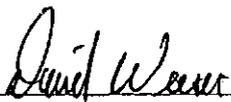
The regular meeting was adjourned at 9:05 p.m. The Executive Session was set to begin at 9:15 p.m. to discuss potential litigation.

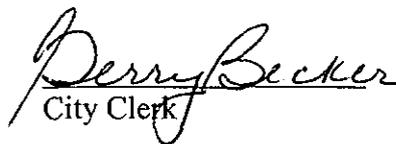
### ***Executive Session***

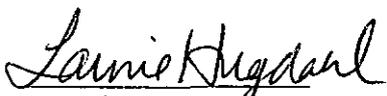
#### **A. Litigation**

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.

  
\_\_\_\_\_  
Mayor

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

  
\_\_\_\_\_  
Recording Secretary