

# COUNCIL



# MINUTES

## **Work Session** May 2, 2016

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

Mayor Nehring called the work session to order at 7:00 p.m. and led those present in the flag salute.

### **Roll Call**

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

**Mayor:** Jon Nehring

**Council:** Steve Muller, Kamille Norton, Jeff Seibert, Jeff Vaughan, and Donna Wright

**Absent:** Michael Stevens and Rob Toyer

**Also Present:** Chief Administrative Officer Gloria Hirashima, Finance Director Sandy Langdon, Police Chief Rick Smith, City Attorney Jon Walker, Public Works Director Kevin Nielsen, Community Development Director Dave Koenig, Parks and Recreation Director Jim Ballew, Fire Chief McFalls and Recording Secretary Laurie Hugdahl.

Mayor Nehring commented that Councilmember Stevens had informed them he had a work obligation tonight and requested an excused absence.

**Motion** made by Councilmember Norton, seconded by Councilmember Muller, to excuse Councilmember Stevens. **Motion** passed unanimously (5-0).

**Motion** made by Councilmember Muller, seconded by Councilmember Norton, to approve the agenda. **Motion** passed unanimously (5-0).

### **Committee Reports**

Councilmember Wright reported that the **Public Safety Committee** met on April 27. There was a nice annual awards ceremony prior to the meeting where officers were recognized for their work this year. At the meeting they talked about hiring needs and

options. Volunteers have done a great job. Drug houses have been taken care of. Overall the community is a safer place.

## **Discussion Items**

### **1. Public Safety Tax Option Discussion**

Mayor Nehring reported that the County opted to do the 0.2% sales tax. The discussion tonight would be around the Council putting forward a 0.1% measure. CAO Hirashima commented this is something the City has studied in the past as an option for the future given the large public safety improvement needs. This was being considered as a potential tool to address infrastructure needs. The County's proposal was a surprise because it affects the City's ability to move forward. She reviewed the possible uses for the potential sales tax revenue including public safety. Chief Smith discussed the critical public safety infrastructure needs as a result of an aging, a building that is too small, and a dramatic increase in population and service calls. He indicated support for moving this forward to have the voters vote on it.

Council President Norton asked for an estimate of how much the City would take in with the local option. Finance Director Langdon replied that based on 2015 actuals, 85% of the revenue would be about \$750,000.

Councilmember Muller asked if voters could vote yes for both options if they were both on the ballot. Staff indicated they could, in which case it would result in a 0.3% tax. Of that the City would get 40% of the county's 0.2% and 85% of the 0.1%. There was discussion about how the revenue could be leveraged to fund a public safety building.

Councilmember Vaughan discussed neighboring sales tax rates. He commented that if both options passed, the sales tax rate would be 9.4% sales tax. He expressed concern that the unintended consequences of this might be a downturn in sales. He asked what kind of controls would be in place to make sure these funds would be spent only on public safety. Sandy stated that it would go in the General Fund, but the auditors would examine it to make sure they were only used on public safety. She commented that the public safety tax does not apply to motor vehicles. Councilmember Vaughan said he was glad to hear that. He stated he was also glad to hear about the sunset clause. He suggested that another way to fund a project like the jail would be to do a bond which would affect property tax. However, he observed that it seems people are a little more willing to handle a little bit higher sales tax than increases in property tax.

Councilmember Muller pointed out that if times get tough there is a risk related to covering debt service. He asked what stance the City should take on this since it needs to be explained to the public. CAO Hiroshima noted the City could do a fact sheet of the data, but they are not allowed to use city resources to take a stand.

Councilmember Seibert noted that Mill Creek has a 9.8% sales tax rate but people continue to flock there. Bellevue is also maxed out, but they still draw people to come and shop there. He thinks that letting the citizens vote on this is the best way to handle

it. Some of the citizens think that a lot of the retail sales in the City is from out-of-town visitors so it seems a little more palatable.

CAO Hirashima commented that if this is going to be considered next week, staff would need to proceed with a draft for consideration. There appeared to be consensus to have staff move forward.

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

2. Consider the April 4, 2016 City Council Work Session Meeting Minutes
3. Consider the April 11, 2016 City Council Meeting Minutes

### **Consent**

4. Consider the April 20, 2016 Payroll in the Amount \$947,808.24; Paid by EFT Transactions and Check Number's 29833 through 29855

### **Review Bids**

### **Public Hearings**

### **New Business**

5. Consider the Nonexclusive Communication Site Sublease/License with the T-Mobile West LLC

Director Nielsen stated this is a sublease for T-Mobile that will go on the SERS Tower on Highway 9. There will be an initial siting fee of \$2,000 and an annual base rent in the amount of \$18,000. The agreement is renewable for two extensions. There is a cost increase of 2.5% COLA on the annual amount due to the City.

Councilmember Seibert asked where they arrived at the dollar amount. Director Nielsen replied that staff calls around to see what the going rate is. There is also a provision for a rate study within the agreement. Councilmember Seibert asked about the agreement with SERS. Director Nielsen replied that isn't in the packet yet.

Councilmember Muller asked if there are many people looking for sites. Director Nielsen replied that the City gets calls all the time for people to go on the towers at 71<sup>st</sup> and at Highway 9.

6. Consider Adopting the Proposed Job Description for Wastewater Treatment Plant Supervisor, which Captures the Responsibilities, Knowledge, Skills, and Abilities Required to Perform the Duties of this Position and Place the Wastewater Treatment Plant Supervisor at Level M-4 on the Management Classification Grid

Director Nielsen stated that this is providing for a supervisory position out of the union to oversee the Wastewater Treatment Plant and water quality. This is the first supervisor in Public Works that will be out of the union.

7. Consider the Final Plat of Rock Creek North Division 2, Phase 4.

Community Development Director Koenig commented that this item and the next are Phase 4 and Phase 5 of the Rock Creek North plat that Harbor Homes is doing. They have provided a performance bond for improvements. All frontage improvements have been completed on 83rd Avenue NE.

8. Consider the Final Plat of Rock Creek North Division 2, Phase 5.

See above.

9. Consider an Ordinance Amending Chapter 6.60 of the Municipal Code and Prohibiting the Discharge of Firearms

City Attorney Walker reviewed the proposed ordinance which would ban the discharge of firearms in the City.

Councilmember Seibert

Councilmember Vaughan asked if this would prohibit the use of firearms within the Qwuloolt. Director Walker asked how far out into the estuary the city limits go. Director Ballew replied that the center line of the slough is where the city limits are. Councilmember Vaughan asked if tribal members would have an exclusion. City Attorney Walker replied they would not. Director Ballew commented there will be an effort to educate the Tribes. CAO Hirashima commented she thinks they will be supportive.

Councilmember Norton asked if most of the complaints are concerning people who are on the water or on land. CAO Hirashima replied that water complaints are difficult, but people walking on the trail are the ones who seem to upset the residents the most.

## **Legal**

10. Review of Council Procedures

City Attorney Walker stated that the consideration for Council on procedures related to censure and admonitions is the question of if the Council feels there is a need for formal standards of conduct and whether or not there is a need for an ethics board. The current ethics code applies to employees and had disciplinary process to address any misbehavior. Currently the ethics code provides that a willful violation is a misdemeanor. A negligent violation has a maximum penalty of a loss of up to one month's salary and possible cancellation of contracts. He thinks these are things the Council can handle

itself or with the help of an outside investigator if necessary. He commented that ethics boards are sometimes misused or used as political pawns.

Councilmember Vaughan referred to Council ethics, and asked if it would require a quorum of council members to take some sort of action. He asked for an example scenario. City Attorney Walker replied it would probably take a quorum of members to get anything started. It could be discussed in an Executive Session. If that official objected to the topic being discussed in an Executive Session it would be brought back out to the public session. The Council could decide to have an investigator or a subcommittee or an ad hoc board. There are multiple options that would be available to the Council. Councilmember Vaughan asked if it was his opinion that it would be "cleaner" to not have an ethics board which could complicate things. City Attorney Walker affirmed that. He noted that an ethics board would be able to do some things independent of the Council which could create problems. On the other hand it could provide a different sort of accountability.

Councilmember Seibert noted that in the current council rules it says that any violation of MMC would not be allowed. He noted that the Council had talked about changing the wording of that so that a parking ticket or other minor thing wouldn't be a problem. He suggested including state laws as well. He also asked about the possibility of a convicted felon serving on the Council. City Attorney commented that he sent out an email saying that a convicted felon would forfeit its right to serve on the Council. Regarding the violation of MMC, he thinks the meaning of it relates to crimes convicted in one's official capacity. The fact that malfeasance would cause forfeiture is already covered in state law.

Councilmember Muller asked when the forfeiture would be effective. City Attorney Walker explained that once the judgment sentence is entered by the court the person automatically forfeits their office. If they appeal, they do not get the office back. If it is overturned, they don't get the office back that was forfeited, but they would be eligible to hold office in the future.

Councilmember Norton said she thinks it would be good to have some formality relating to censure or some sort of expression of disapproval. Regarding a board of ethics, she commented that in the unlikely event of having three or four council members colluding on something, it might be difficult to have any sort of accountability. Even though the ethics board would just be advisory, it would enable some sort of accountability. Regarding the makeup of a board, she didn't have a specific opinion. She thinks that layers of accountability in general is a good thing.

Councilmember Vaughan asked Councilmember Norton who would decide who is put on the board. Councilmember Norton thought they could be appointed by the Council. She thought it would be useful to have a standing ethics board rather than just appointing one as needed. This could also be a vehicle for members of the public to contact with any concerns.

Councilmember Vaughan asked Councilmember Wright about her opinion in light of her many years of experience on the Council. Councilmember Wright expressed concern about the makeup of the board. If there is nothing for them to do, they would lose interest. On the other hand, they might not still be around when needed.

Councilmember Seibert commented that some members might actually look for things to investigate. He has heard about ethics boards on other cities that have gotten out of control.

Councilmember Norton noted one of the cities requires the members to be people who have a background in different areas of expertise.

Councilmember Wright asked about having a vice president.

Councilmember Vaughan noted they had also discussed the process for getting things on the agenda. City Attorney Walker asked for direction about how to move forward with that. Finance Director Langdon commented that staff created a form that could be emailed out to the Council which could be filled out. There is also an online form that can be filled out to have an item put on the agenda.

Councilmember Seibert asked if this should just be done at Council meetings instead of having to fill out forms. City Attorney Walker agreed that it could just be done at the meetings.

Mayor Nehring summarized the issues Council would like to discuss further appeared to be: the ethics question, consideration of selection of a vice president, and the process for getting items on the agenda.

City Attorney Walker stated that Council Rules currently state that if the Mayor and President are both absent, the Council could just appoint someone for that meeting. There was consensus to leave that as it is.

Regarding the agenda matter, Councilmember Seibert recommended having both a form and the ability to raise a matter at a Council meeting. It was noted that the rules currently state that there is a form so there isn't really a need to change the process. Councilmember Vaughan wondered why anyone would use the form if the matter would have to have a vote at the meeting anyway. Councilmember Seibert reviewed some history of items being added to the agenda frivolously and thought that this was developed as a way to curb that. There was consensus to leave this as it is in the rules.

Councilmember Norton asked if there was an interest in a process for handling censure. She expressed support for having a process in place. Councilmember Seibert said he wasn't opposed to having the process there if needed, but expressed concern about it causing conflict. Councilmember Vaughan discussed possible scenarios. He thinks it could go both ways. He suggested having it in the rules as an option or a tool. City Attorney Walker indicated he could draft something to that effect. He suggested he could require a super majority in order to take action. Councilmember Vaughan spoke in

support of that. Councilmember Seibert asked City Attorney Walker to also set some options for levels at which this would be applicable. City Attorney Walker stated he could bring something back to the first work session in June. He asked for any direction on the ethics board issue.

Councilmember Muller recommended a formal process of how an ethics board could be appointed if needed. Councilmember Vaughan said it would be helpful to talk about how someone could bring something forward if there is an issue as well as a process for how to form a board, but not having a standing board. He stressed that his desire would be that the board would be an option, but not a required process. Councilmember Seibert asked about having outside legal advice for an ethics board. City Attorney Walker recommended that the City Attorney would serve that role unless there is a conflict of interest. He explained that his personal duty is to the City as an organization. City Attorney Walker indicated he would bring back some language related to the censure procedures and the ethics complaint process.

### **Mayor's Business**

Mayor Nehring:

- He commended Comcast who held a daylong event at the Boys and Girls Club with Comcast Cares where over 300 volunteers helped with all sorts of maintenance and projects. He thanked them for what they did.
- The Police Department awards were very nice.
- He discussed the need to appoint voting delegates for the annual AWC Convention. He offered to be one of them, but asked if two other Councilmembers would be willing to vote. He recommended putting this on the agenda.
- He stated there would be a Volunteer Appreciation Banquet tomorrow night from 5 to 7 p.m.

### **Staff Business**

Chief Smith thanked the councilmembers who came to the awards ceremony.

Jim Ballew:

- The Fishing Derby is this weekend and the pancake breakfast.
- The spray park will open Memorial Day weekend.
- The homeowner association at Tuscany ridge participated in the final efforts of their neighborhood improvement grant. They did a great job, and it looks good. Staff has also been meeting with the homeowners at Rolling Green and helping them with a program to clean up their park and reduce their liability exposure. This has been a good program so far.

Kevin Nielsen:

- There will be a Public Works Committee field trip this Friday at 2:00 p.m.

- Staff has been mowing a lot. April was the hottest month on record.
- Public Works will be going out to bid for paving so that will be coming to the TBD.

Chief McFalls reported there was a fire out at Marine Drive and 4th at an abandoned house that created a lot of smoke and traffic issues. If the weather continues it may increase the chance of fires this year.

Sandy Langdon stated there would be an audit entrance conference tomorrow at 2:30 at Council Chambers.

Jon Walker announced the need for an Executive Session to discuss two items with no action expected - one item regarding an employee matter and another regarding potential litigation. It was expected to last 12 minutes.

Gloria Hirashima had no comments.

### **Call on Councilmembers**

Steve Muller asked about the demo of the marina buildings. Director Ballew gave an update.

Jeff Vaughan had no comments.

Jeff Seibert commented on traffic issues related to WSDOT construction. He thinks some of the improvements the City has done have helped to improve the situation.

Donna Wright:

- Marysville Police Department annual awards were very nice. She reviewed the awards that were given and commended those officers.
- She will not be in town next Monday and will need an excused absence.

Kamille Norton:

- She has noticed concern about a field to the west of the library where there are a lot of cars, boats, and motorcycles for sale. It's becoming a bit of an eyesore.
- One of Marysville's own, Taniela Tupou, was signed with the Seahawks as an undrafted free agent on Saturday.

### **Adjournment**

Council recessed at 8:48 before reconvening into Executive Session at 8:54 to discuss on litigation item and one personnel item for 12 minutes with no action expected.

### **Executive Session**

- A. Litigation – one item, RCW 42.30.110(1)(i)



B. Personnel – one item, RCW 42.30.110(1)(f)

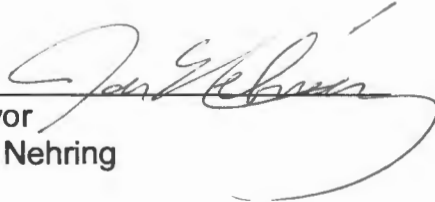
C. Real Estate

Executive session ended and public meeting reconvened at 9:06 p.m.


**Adjournment**

Seeing no further business Mayor Nehring adjourned the meeting at 9:06 p.m.

Approved this 13 day of June, 2016.



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Mayor  
Jon Nehring



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April O'Brien  
Deputy City Clerk