

Work Session
June 6, 2016

Call to Order / Pledge of Allegiance

Mayor Nehring called the meeting to order at 7:00 p.m. and 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: Steve Muller, Kamille Norton, Jeff Seibert, Rob Toyer, Jeff Vaughan, and Donna Wright

Absent: Michael Stevens

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

Approval of the Agenda

Motion made by Councilmember Toyer, seconded by Councilmember Muller, to approve the agenda. **Motion** passed unanimously (6-0).

Mayor Nehring noted that Michael Stevens had notified him that he would be out of town.

Motion made by Councilmember Muller, seconded by Councilmember Norton, to approve the absence of Councilmember Stevens. **Motion** passed unanimously (6-0).

Committee Reports

Presentations

Discussion Items

Approval of Minutes

1. Consider the May 2, 2016 City Council Work Session Minutes
2. Consider the May 9, 2016 City Council Meeting Minutes
3. Consider the May 13, 2016 City Council Special Meeting Minutes

Consent

4. Consider the May 18, 2016 Claims in the Amount of \$1,686,421.82; Paid by EFT Transactions and Check Numbers 108271 through 108449 with No Checks Voided
5. Consider the May 25, 2016 Claims in the Amount of \$426,555.94; Paid by EFT Transactions and Check Numbers 108450 through 108629 with Check Number 91441 Voided
6. Consider the June 1, 2016 Claims in the Amount of \$1,578,312.67; Paid by EFT Transactions and Check Numbers 108630 through 108806 with No Checks Voided
7. Consider the May 20, 2016 Payroll in the Amount \$932,206.62; Paid by EFT Transactions and Check Numbers 29891 through 29935

Review Bids

Public Hearings

New Business

8. Consider the Supplemental Agreement No. 1 to the Professional Services Agreement between the City of Marysville and Gray & Osborne, Inc. Consultants

Public Works Director Nielsen stated that this is a time extension with no cost to the Supplemental Agreement with Gray & Osborne. There were no comments or questions.

9. Consider the Special Event Permit Application for Marysville Downtown Merchants Association to Conduct a Special Event on July 9, 2016, including the Street Closure of 3rd Street between State Avenue and Union Avenue, as well as Columbia Avenue between 2nd Street and Half Way Down 3rd Street

Community Development Director Koenig stated that this is a Special Event Permit Application to close off 3rd Street on July 9 for the Rods on Third event. There were no comments or questions.

10. Consider the Approval of the Annexation Boundary for Circulation of the 60% Petition, and the Annexation Boundary should be Subject to the City's Bonded Indebtedness, Comprehensive Plan and Zoning

Planning Manager Holland stated that staff was looking for approval of the annexation boundary for circulation of the 60% petition subject to the City's bonded indebtedness, Comprehensive Plan and zoning.

Councilmember Seibert asked if most of this is DOT right of way. Planning Manager Holland replied that it is, but it is in the City's Urban Growth Area. This will make permitting a seamless city process.

11. Consider the Four Firework Stand Permit Applications Submitted by TNT Fireworks and Approve the One Firework Stand Permit Application Each Submitted by Jake's Fireworks, Inc., Park Ridge Community Church/Shock N Awe Fireworks, and Western Fireworks

Director Koenig stated this relates to permits for seven locations to sell fireworks for the 4th of July.

12. Consider the Professional Services Agreement with Mayer/Reed for the Ebey Waterfront Park Project. The Contract Provides Design Development and Construction Documents for Landscape and Signage Elements of this Project.

Parks Director Ballew stated that staff is ready to commence work on Phase 1 which would be the waterfront trail from the 529 pad is underneath the bridge all the way to the west breach of the Qwuloolt Restoration Area and also on the other side of the estuary connecting Harborview Park to the east breach. Mayer/Reed would be involved as a team member with the City. They would commence work as soon as possible. The total price of their involvement in this phase is \$49,370. Those funds are available within the project.

Councilmember Muller asked if there are plans for any parking at Olympic View Park. Director Ballew replied that it would not be part of this project, but it was submitted to the Recreation Conservation Office for potential funding in 2018.

13. Consider Providing Direction to Staff on How to Proceed on Addressing Backyards which are a Concern of Adjacent Neighbors

Director Koenig gave a PowerPoint briefing on backyard nuisance complaints regarding materials in backyards which neighbors can see from their property and are considered undesirable by those neighbors. He suggested the Council could consider adding language that would allow enforcement on garbage and litter and such where it can be

viewed from adjacent public or private property, and not just from public view from the street.

Councilmember Toyer asked about the options for enforcement. Director Koenig reviewed the current process when it can be seen from the street. City Attorney Walker stated that most of the pictures displayed in the presentation are in back or side yards where the City does not currently have any enforcement opportunities because it is screened from the street. He noted that another option would be to provide for abatement where the City would get a Warrant of Abatement from the court and go in to clean it up. Currently if it is screened from adjacent streets, the City does not have enforcement capability. If the Council is interested in abatement, he recommended making some code changes to clarify how that works. CAO Hirashima noted that one of the slides showed a simple way to amend the code language so that it would include the backyard.

Councilmember Seibert asked for clarification about the screening, noting that some of the houses showed wooden fences that appeared to provide screening so someone would have to be looking over the fence to see the adjacent yard. City Attorney Walker noted there is a definition of screening. CAO Hirashima commented that sometimes the issue is raised by people who can see the adjacent backyard from a second story.

Councilmember Norton referred to the examples from other cities and noted they were very specific about what constitutes garbage or trash. Director Koenig explained that sometimes people just don't like what is going on in the backyard and complain about that, but trash is pretty easy to define. He noted that the language could be refined such as materials that could be a place for rodents and so forth.

Councilmember Wright spoke in support of moving forward with the verbiage proposed by staff.

Councilmember Muller commented that there are probably a lot of gray areas. He asked if there is an appeals process. Director Koenig replied that there is.

Councilmember Vaughan asked how the courts typically treat these cases. Director Koenig reviewed the two cases he was aware of. CAO Hirashima summarized it has been a mixed response, and it is a very slow process. The courts aren't used to seeing this kind of process used in land use cases, but they are seeing more and getting used to it.

Mayor Nehring noted that he consistently receives many complaints about these types of issues.

Councilmember Vaughan recalled that the Blackman case took a long time to resolve. He asked if anything learned there could be applied here. CAO Hirashima explained that was a particularly difficult case. Councilmember Vaughan asked if the proposed language would have helped move the case along quicker. CAO Hirashima thought it would.

Councilmember Muller asked about the timeline abatement process. City Attorney Walker explained it would depend on a lot of factors related to when the tickets were issued and when they worked their way through the process. He noted there could be some situations where they wouldn't want to have to wait for a two-ticket process. Councilmember Muller asked to see some examples and language regarding abatement.

Councilmember Vaughan asked what the enforcement process would be under the proposed language. Director Koenig explained that code enforcement would first go out to look at the situation. If they feel there is an issue they would speak with the property owner about what needed to be done to be in compliance. This would be done verbally and followed up by a letter. After that, fines would commence. There is a two-step process on fines. The third time it would go to court.

14. Consider an **Ordinance** Amending Marysville Municipal Code (MMC) Sections 5.02.040 Regarding Business License Application Procedures; 5.02.070(1) Regarding Business License Fees – Penalty; 22G.030.050 Regarding Home Occupation Fees; and Amending MMC Section 22A.010.160 General Administration, related to Tracking Amendments to the City's Uniform Development Code; Providing for Severability and Effective Date

Director Koenig stated that this is the ordinance the City Council asked staff to prepare which would eliminate the home occupation fee for \$50 and change the new business license fee to \$65 which is the estimated normal cost to process a new business license.

15. Consider an **Ordinance** Relating to the Production, Processing, and Distribution of Marijuana, Amending Sections 6.24.050, 22A.020.040, 22A.020.140, 22A.020.190, 22A.020.220, 22C.010.060, 22C.010.070, 22C.020.060, 22C.020.070, and 22A.010.160 of the Marysville Municipal Code.

Planning Manager Holland reviewed this item. There were no comments or questions.

17. Consider Amendment No. 1 to Interlocal Cooperation Agreement for the Housing of a Mobile Command Vehicle.

City Attorney Walker explained this is just an extension of the Interlocal Agreement.

Legal

16. Council Rules and Procedures

City Attorney Walker reviewed the proposed areas that were addressed in his last memo.

Councilmember Vaughan referred to the section about excused absences and asked under what circumstances this would apply. City Attorney Walker explained it was something requested by a councilmember and would likely apply for a long-term period of absence. It would take away the Council's ability to continue excusing absences. Councilmember Vaughan asked why the Council would want something in there that would remove their ability to use their discretion. Councilmember Wright reviewed a situation in Everett where this would have been helpful. She noted it would take the emotion out of dealing with the situation.

Councilmember Vaughan asked about other scenarios. City Attorney Walker explained that as it is currently written it wouldn't propose any exceptions.

Councilmember Seibert said he wasn't in favor of this change unless it was for a very large number of absences.

Councilmember Norton stated she also was not generally in favor of this. She spoke in support of allowing Council to use discretion.

Councilmember Vaughan thanked the City Attorney for the information and asked how the other council members feel about the censure language.

Councilmember Norton spoke in support of this to protect the integrity of the Council.

Councilmember Seibert asked if the purpose of censure was just to express disapproval for something a councilmember did. City Attorney Walker affirmed that. He noted it was a collective expression of disapproval of something that another councilmember did that brings discredit on the Council or undermines the legislative process. Councilmember Norton added that it could be valuable for sending a message to the public.

Councilmember Muller spoke in support of the censure language.

Mayor Nehring summarized that there appeared to be no desire to put an excused absence limit on the Council, and there is a desire to add language around the ability to do a censure.

City Attorney Walker noted that the third item related to the number of council members required to schedule a special meeting in order to comply with the Open Public Meetings Act. He then noted that he had provided some potential changes to the Ethics Code based on past Council discussion to include language regarding an ethics board. He explained that an ethics board would be used in an advisory capacity on a certain issue, not in general. Their advice would be considered by the Council, who would not be required to act on it.

Councilmember Seibert asked about the progression of events. City Attorney Walker stated that as it currently reads he could or the prosecutors could charge someone if they had probable cause to believe that someone had willfully violated the ethics code.

The Council needs to decide if they want it to be handled as a criminal matter or be handled by the Council.

Councilmember Vaughan asked how the change in language would affect the parking ticket scenario. City Attorney Walker replied that getting a parking ticket would have to affect, interrupt, or interfere with the performance of one's official duties which does not seem very likely. It also matters if the violation was committed during the official's official capacity.

Councilmember Vaughan then noted that the scope of this is beyond elected officials. He asked about the separation of powers as it relates to this. City Attorney Walker stated they would want to be very careful, but there are processes involving legislative oversight of the executive branch as an example at the federal level. Councilmember Vaughan asked if City Attorney Walker felt there were enough checks and balances in place to prevent misuse. City Attorney Walker replied that he did. The purpose of the ethics board is to make sure that something is actually a violation. Then the Council would have the authority to review and approve the findings of the ethics board.

Councilmember Vaughan summarized there appeared to be consensus on the other items. He stated he is fairly comfortable with the ethics item, but suggested they bring it back as well for a vote.

Mayor's Business

Mayor Nehring had the following comments:

- It was a very busy weekend. The weather was perfect for Healthy Communities Challenge Day which was a packed event. He noticed a lot of people going to both the Farmers Market and the Challenge Day.
- The Farmers Market is proving to be a success.
- He thanked American Legion Post 178 for putting on the Memorial Day Ceremony. Over 400 people attended the ceremony, and many people contacted him to express their appreciation for the event.
- There was a Trade Up event at the Marysville-Pilchuck High School last Thursday that was put on by the Snohomish County Labor Council.
- Alicia Purdom was selected for an AWC Scholarship for her leadership role at Marysville-Pilchuck High School. He had the honor of presenting that on behalf of AWC last week.
- He commended everybody involved with Well City. The City was once again awarded the Well City Award which is a great achievement.

Staff Business

Sandy Langdon had no further comments.

Dave Koenig had no further comments.

Kevin Nielsen:

- Public Works is busy with striping around town.
- They are also putting in traffic circles which have all gone through Public Safety; he reviewed the process for how those are approved.
- There is a lot of mowing going on.
- Some sidewalks are popping up because of the heat. Staff should be notified if anyone notices this.

Chief McFalls:

- He reviewed his experience at Trade Up at the high school. He thought it was a great event.
- His crew enjoyed going to the Washington State Fire Commissioners' Training over in Chelan over the weekend.
- The Board Meeting will be on June 15.
- He is looking forward to the Directors Retreat this weekend.
- He gave a report on the fire in Everett which really taxed all the neighboring jurisdictions. The effort was great to try to save the building.

Jim Ballew:

- The weather was great for Healthy Communities Challenge Day where a few thousand people came out to participate. There were 73 vendors, and everything went smoothly.
- The Spray Park is in full swing now. Opening day went great.
- There will be an Open House on June 28 with the neighborhood around Mother Nature's Window to get input on a plan.
- Cedarcrest Golf Course was Premier's number one course in terms of May revenue. Jeff has done an incredible job redesigning the patio up at the restaurant.
- New registration software is about to be implemented along with a POS system. It should go live next Thursday.

Gloria Hirashima said she participated in the Chamber of Commerce retreat a few weeks ago where they did some strategic planning. One of the things raised by many of the members was that one of their accomplishments was establishing a stronger relationship with the City. It was reassuring to hear that from the members. One of the goals going forward was to continue to strengthen relationships with the City and the Tribes. Another goal was to develop a new funding formula. The Chamber acknowledged they need to recognize membership and other funding sources for a longer-term strategy. It was a very good retreat.

Call on Councilmembers

Rob Toyer had no comments.

Jeff Vaughan:

- The asphalt tour was very interesting. He was impressed.
- He agreed that there are many other options besides college. There are some great careers you can get into that don't require a college education. It is important that young people understand there are many paths to doing what they want to do.
- With regard to traffic circles, he asked staff to clarify that a traffic circle is not a roundabout.
- He asked if there will be considerations for preserving history at Mother Nature's Window. Director Ballew replied that is part of it.

Jeff Seibert:

- He asked about another auto show being held on the 10th. CAO Hirashima explained that it is being put on by Keller-Williams who is doing a fundraiser at the city's courthouse property.
- He asked about a Council retreat. CAO Hirashima explained they have set the agenda, the location, and dates. Staff will provide all the information to Council this week. Councilmember Seibert asked about Council input for the location and stated he is not in favor of an out-of-town event because it's difficult for him to get time off work.

Donna Wright:

- She agreed that closer would be better for the retreat.
- She appreciates people helping out around the community. She noted that the realtors helped out at Jennings Park last weekend.

Steve Muller:

- Friday was Windermere's Service Day.
- He commented on the pressure on kids these days to operate at such a high level. He noted that college isn't for everybody so it was neat to see the trade event at the high school.

Kamille Norton:

- She was at the Healthy Communities Challenge Day which was great. The firefighters stole the show with the hose.
- She also enjoyed the Memorial Day Service.
- Mike Rowe has also been trying to get the message out to kids that there are other options besides college.

City Attorney Walker stated the need for an Executive Session to discuss two items - one real estate item and one personnel item – for 10 minutes with action expected on one item.

Council recessed at 8:35 p.m. for five minutes before reconvening in Executive Session for ten minutes to discuss one personnel item and one real estate item with action expected on one item.

Executive Session

- A. Litigation
- B. Personnel – one item, RCW 42.30.110(1)(f)
- C. Real Estate – one item, RCW 42.30.110(1)(b)

Executive session ended and public meeting reconvened at 8:50 p.m.

Motion made by Councilmember Muller, seconded by Councilmember Wright, to authorize the Mayor to sign the purchase and sale agreement with Cody Holdings, LLC as presented. Motion passed unanimously.

Adjournment

Seeing no further business Mayor Nehring adjourned the meeting at 8:50 p.m.

Approved this _____ day of _____, 2016.

Mayor
Jon Nehring

April O'Brien
Deputy City Clerk