



CITY COUNCIL AGENDA

15728 Main Street, Mill Creek, WA 98012 (425) 745-1891

Pam Pruitt, Mayor • Brian Holtzclaw, Mayor Pro Tem • Sean Kelly • Donna Michelson •
Vince Cavaleri • Mike Todd • Mark Bond

Regular meetings of the Mill Creek City Council shall be held on the first, second and fourth Tuesdays of each month commencing at 6:00 p.m. in the Mill Creek Council Chambers located at 15728 Main Street, Mill Creek, Washington. Your participation and interest in these meetings are encouraged and very much appreciated. We are trying to make our public meetings accessible to all members of the public. If you require special accommodations, please call the City Clerk at (425) 921-5732 three days prior to the meeting.

The City Council may consider and act on any matter called to its attention at such meetings, whether or not specified on the agenda for said meeting. Participation by members of the audience will be allowed as set forth on the meeting agenda or as determined by the Mayor or the City Council.

To comment on subjects listed on or not on the agenda, ask to be recognized during the Audience Communication portion of the agenda. Please stand at the podium and state your name and address for the official record. Please limit your comments to the specific item under discussion. Time limitations shall be at the discretion of the Mayor or City Council.

Study sessions of the Mill Creek City Council may be held as part of any regular or special meeting. Study sessions are informal, and are typically used by the City Council to receive reports and presentations, review and evaluate complex matters, and/or engage in preliminary analysis of City issues or City Council business.

Times listed on the agenda are approximate only. Discussions may sometimes cause remaining agenda items to be considered before or after their scheduled time. Citizens are welcome and encouraged to attend all sessions (except for Executive Sessions) of the meeting.

Next Ordinance No. 2015-793

Next Resolution No. 2015-527

**March 10, 2015
City Council Meeting
6:00 p.m.**

6:00 p.m. CALL TO ORDER:

6:01 p.m. FLAG SALUTE:

6:02 p.m. ROLL CALL:

6:03 p.m. AUDIENCE COMMUNICATION:

A. Public comment on items on or not on the agenda

6:15 p.m. STUDY SESSION:

- A. Update from Colin Baenzinger Regarding City Manager Recruitment
(City Council)
(Estimated Length of Discussion: 10 minutes)
- B. Public Records Refresher
(Shane Moloney, City Attorney)
(Estimated Length of Discussion: 30 minutes)
- C. Information Technology Policy
(James Busch, Information Systems and Technology Manager)
(Estimated Length of Discussion: 15 minutes)
- D. Council Devices
(James Busch, Information Services and Technology Manager)
(Estimated Length of Discussion: 15 minutes)
- E. Continuation of Strategic Plan Review
(Tom Rogers, Community Development Director)
(Estimated Length of Discussion: 60 minutes)
- F. Open Discussion
(City Council)
(Estimated Length of Discussion: 10 minutes)

8:40 p.m. BUSINESS SESSION:

8:40 p.m. CONSENT AGENDA:

- A. Approval of Checks #53411 through #53468 and ACH Wire Transfers in the Amount of \$96,073.32.
(Audit Committee: Councilmember Michelson and Councilmember Bond)
- B. Payroll and Benefit ACH Payments in the Amount of \$216,779.82.
(Audit Committee: Councilmember Michelson and Councilmember Bond)
- C. Revised City Council Meeting Minutes of February 10, 2015

8:45 p.m. ACTION ITEMS:

- A. Resolution authorizing the City Manager to implement the Information Technology Policy and repeal City Council Policy 97-004 (If adopted, would take Resolution #2015-527)
(James Busch, Information Systems and Technology Manager)

8:50 p.m. REPORTS:

- A. Mayor/Council
Boards and Commission Reports
City Attorney
City Manager
Finance Director
Director of Community Development
Public Works Director
Police Chief
City Clerk

9:10 p.m. AUDIENCE COMMUNICATION:

A. Public comment on items on or not on the agenda

9:15 p.m. ADJOURNMENT

MILL CREEK CITY COUNCIL
AGENDA SUMMARY

Date on Council Agenda: March 10, 2015

Subject: **PUBLIC RECORDS REFRESHER**

Budget Impact: None

Contact Person/Department: Shane Moloney, City Attorney

SUMMARY/BACKGROUND:

In 2014, the state passed a law requiring all new elected and appointed officials to complete training covering the Public Records Act (PRA), the Open Public Meetings Act (OPMA), and records retention requirements. Once the initial training is completed, refresher training is required no less than every four years.

The City Clerk will keep record of council members' compliance with the training requirements. Please coordinate with the City Clerk to ensure all of your PRA, OPMA and records retention related training is documented.

At the March 10, 2015, Council Meeting, the City Attorney will highlight public records issues that may not be obvious from other training materials and answer the Council's questions. The City Attorney's presentation will not be designed to satisfy the public records portion of the required training. However, he will reference the attached written materials that were created by the State Attorney General's Office for the purpose of satisfying the training requirements. Accordingly, councilmembers are encouraged to review the written materials in advance of the meeting to satisfy the legal requirement and be prepared to ask questions.

Additional training resources and information about the new law are available here: <http://www.atg.wa.gov/open-government-training>. As the Council's schedule allows, the City Attorney will provide additional refresher presentations on the OPMA and records retention at future meetings.

STAFF RECOMMENDATION:

- Review attached materials and ask any questions at meeting

COUNCIL PROCESS/ACTION:

- Presentation by Shane Moloney, City Attorney

ATTACHMENTS:

- State Attorney General's Office PRA Training PowerPoint
-

City Manager Approval: _____ Date: _____

Open Public Records Act RCW 42.56



Prepared by Washington State Attorney General's Office
Last revised: April 2014



Washington's Open Public Records Act (PRA)

- Passed in 1972 – Initiative 276
- 72 percent of the popular vote
- RCW 42.56 (formerly RCW 42.17)



(2)

Purpose

- “The people do not yield their sovereignty to the agencies which serve them.”
- “The people, in delegating authority, do not give public servants the right to decide what is good for the people to know and what is not good for them to know.”
- “The people insist on remaining informed so they may retain control over the instruments they have created.”

~ RCW 42.56.030



Purpose (Cont.)

- The “free and open examination of public records is in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others.”
- Act is to be “liberally construed.”

~ *RCW 42.56.030; RCW 42.56.550*

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- “It has been said time and again in our history by political and other observers that an informed and active electorate is an essential ingredient, if not the *sine qua non** in regard to a socially effective and desirable continuation of our democratic form of representative government.”

~ *Washington State Supreme Court*

**indispensable action*



Open Government Laws Like the PRA are Often Called “Transparency Laws” or “Sunshine Laws”



This is because they “shine light” on government. U.S. Supreme Court Justice Louis Brandeis once famously said, “*Sunlight is the best disinfectant.*”



Transparency builds public confidence in government.

Touchstone:



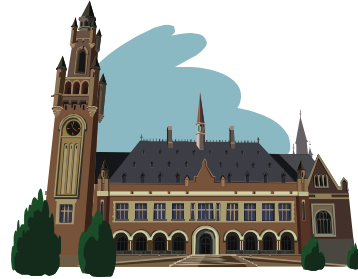
- Public records of government agencies are presumed open.
- Records or information in records can be withheld only by law (e.g. exemption in law). Exemptions must be “narrowly construed.”

~ RCW 42.56.030



PRA Applies to Records of:

- State government agencies*
- Local government agencies*
- Limited extent to Legislature



~ RCW 42.56.010

* And to agencies that are the functional equivalent of public agencies.

PRA Does Not Apply to:

- Court records (court files)
- Private organizations or persons*



* Unless, for example, the records are used or retained by a government agency.

Public Record

“**Public record**” means:

- any writing
- containing information
- relating to
- the conduct of government or
- the performance of any governmental or proprietary function
- prepared, owned, used, or retained
- by any state or local agency
- regardless of physical form or characteristics.”

~ RCW 42.56.030



Writing

- **“Writing”** includes “handwriting, typewriting, printing, photostating, photographing, and **every other means of recording any form of communication** or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.”

~ RCW 42.56.030

- So, “public record” is **broadly defined.**



Note: Public Records Can Include...

...records of agency business when they are created or retained by agency employees or officials on home computers or in non-agency email accounts.



General PRA Procedures



Under PRA, agencies must:



- Appoint a **public records officer**.
- Publish **procedures** describing certain agency organization, operations, rules of procedure, and other items listed in PRA.
- Adopt **rules/procedures** to:
 - Provide full public access to public records,
 - Protect public records from damage/disorganization
 - Prevent excessive interference with other agency functions.
 - Provide fullest assistance to requesters
 - Provide most timely possible action on requests.
- If charging actual costs of copies of records, **publish fee schedule**.
- Maintain a **list of laws** the agency believes exempts or prohibits disclosure.
- Provide certain **indexes** of records.
- Make non-exempt records **available for inspection and copying** during **customary business hours** for a minimum of 30 hours per week, excluding holidays.
 - ❖ Post customary business hours on the agency's website and make hours known by other public means.



~ RCW 42.56.040, RCW 42.56.070 - .090, RCW 42.56.580, RCW 42.56.580.

Requests for Public Records



- Persons can request **identifiable public records** from public agencies.
 - Requester can use agency public records request form.
 - If agency request form not used, requester must provide “fair notice” that he/she is seeking public records.
 - A request for “information” is not a request for “records” under the PRA.
- Requesters can ask to **inspect** records, or request **copies** of records.
- Agencies can adopt procedures explaining where requests must be submitted and other procedures.

~ RCW 42.56.520; RCW 42.56.080, RCW 42.56.040, RCW 42.56.100.

Agency Responses to Requests

- The agency has **five business days** to respond to a public records request.



- Agency response can:
 1. **Acknowledge receipt of the request and provide a reasonable estimate for a further response;** or
 2. **Fulfill the request;** or
 3. **Provide an internet address and link** to the records on the agency's website (which fulfills part or all of the request); or
 4. **Seek clarification;** or,
 5. **Deny** the request with an accompanying written statement of the specific **reasons**.

~ RCW 42.56.520

respond

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Seeking Clarification

- An agency can seek clarification of a request if it is **not reasonably clear**, or does not request “**identifiable records**.”
- Remember: agency is to give “fullest assistance.”
- Agency should explain why it needs clarification, in order to provide fullest assistance to requester and to search for potentially responsive records.
- If requester does not respond to request for clarification, the agency may close the request.

~ RCW 42.56.520



Estimate of Time for Further Response



- An agency can provide an **estimate of time for further response**.
- Estimate is to be **reasonable**.
- It is a good practice to briefly **explain why** more time is needed to process a request. If challenged in court, it is an agency's burden to show why an estimate of time is reasonable.
- **Factors** may include, for example, time needed to:
 - Get clarification if necessary.
 - Search for records. More time may be needed if request is large or complex.
 - Assemble and review records.
 - Provide notice to affected third persons/agencies if necessary.
 - Prepare an exemption log if necessary.
 - Perform other essential agency functions, considering agency resources including staff availability.
- An agency can extend the time if needed. Again, it is a good practice to explain why.
- If an agency can't produce all the records at once (particularly for large requests), an agency can provide records in installments.

~ RCW 42.56.520, RCW 42.56.520, RCW 42.56.080, RCW 42.56.550

Searches



- An agency should **read the request carefully** to understand what records are requested.
 - Clarify the request if needed.
 - An agency can also ask the requester to suggest search terms.
- An agency must conduct an **adequate search** for responsive records.
 - Consider all formats (paper, electronic, etc.)
 - Consider records of current staff/officials, and former staff/officials, if potentially responsive.
 - Consider possible locations (e.g., file cabinets, agency website, audio files, etc.)
- The search should be **reasonably calculated to uncover responsive records**.
- The search should follow **obvious leads** to possible locations where records are likely to be found.
- It is a good idea to **document** search efforts (locations, search terms used, etc.) The agency bears the **burden of proof** to show the adequacy of the search.

~ RCW 42.56.520

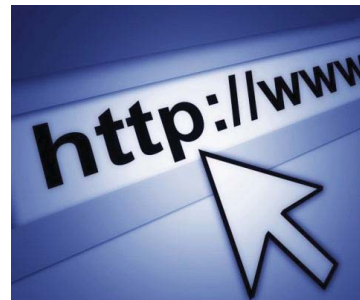


Installments

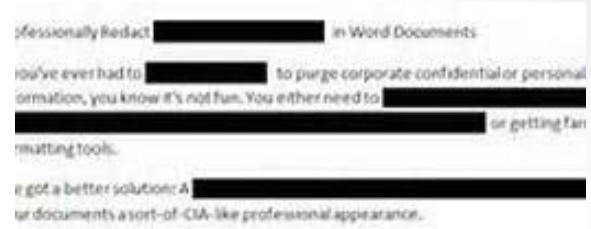


- Agencies can provide records in **installments**, particularly for larger requests.
- Agencies can request a deposit up front (not to exceed 10 percent).
- Agencies can provide an installment by providing links to records on its website.
 - ❑ Note: Agencies are encouraged to post commonly-requested records on their websites. This:
 - Makes records more accessible.
 - Enables quicker agency responses.
 - Enables requesters to choose to view or copy only those records they want.

~ RCW 42.56.080, RCW 42.56.120



Exemptions



- Records are presumed open.
- If a record, or part of a record, is withheld from the public, the agency must cite to an **“exemption”** in law and give a brief explanation.
- Exemptions are **narrowly construed**.
- The general rule is the agency withholds only the exempt information, and releases the rest.
- Exemptions must be authorized in law --- in PRA or other laws.

~ RCW 42.56.050, RCW 42.56.210 - .510, RCW 42.56.550

Exemptions (Cont.)



- When withholding part (redacting) or all of a record, agency must **describe record** by date, type, authors/recipients, and total number of pages.
- Agency must **list exemption and give brief explanation**.
- This information can be provided to the requester in an “**exemption log**” or in other formats, so long as the required information is provided.
- Common exemptions are certain information in student or employment records, attorney-client privileged information, pending investigative records in certain investigations, and protected health care information.
- Agencies are not generally authorized in the PRA to provide lists of individuals for commercial purposes.
- The **agency bears the burden of proof** to justify the exemption.

~ RCW 42.56.050, RCW 42.56.210 - .510, RCW 42.56.550

Privacy

- There is no general “privacy” exemption in the PRA.
- If privacy is an express element of another exemption, privacy is invaded only if disclosure about the person would be:
 1. “Highly offensive to the reasonable person” and
 2. “Not of legitimate concern to the public.”

This means that if information does not satisfy both these factors, it cannot be withheld as “private” information under other statutes.

~ RCW 42.56.050



Fees



- Agencies cannot charge fees to allow requesters to **inspect** records.
- Agencies cannot charge fees for **searching, reviewing or redacting** records.
- Agencies cannot charge a requester for **staff salaries, benefits or general overhead or administrative costs**, unless they are directly related to the actual cost of copying records (the charges must be reasonable, and documented).
- Agencies can charge fees for the **copies** themselves (15 cents per page, or actual costs). Agencies can pass along to the requester the cost of sending records to an outside vendor or service so the records can be copied.
- Agencies can charge for costs of **mailing** records (postage, shipping container, etc.)
- Agencies are to make their **fee schedules** available to the public.
- There may be other laws, outside the PRA, that permit an agency to charge fees for records.



~ RCW 42.56.060, RCW 42.56.120, RCW 42.56.130

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Enforcement & Penalties



- PRA enforced by **courts** for claims listed in PRA.
- A court can impose **civil penalties**. No proof of “damages” required.
- A court is to consider the **factors** in requiring an agency to pay a penalty:
- Plus, a court will award the requester’s **attorneys fees and costs**.
- Special penalty provisions and court procedures apply to lawsuits involving inmate requests.

~ RCW 42.56.550, RCW 42.56.565; *Yousoufian v. Sims*

Penalty Factors

A court must consider these nonexclusive **factors** in deciding whether an agency should pay a penalty:

❑ **Mitigating factors** (factors that can reduce a penalty):

- A lack of clarity in the PRA request.
- The agency's prompt response or legitimate follow-up inquiry for clarification.
- The agency's good faith, honest, timely, & strict compliance with all PRA procedural requirements & exceptions.
- Proper training & supervision of the agency's personnel.
- The reasonableness of any explanation for noncompliance by the agency.
- The helpfulness of the agency to the requester.
- The existence of agency systems to track and retrieve public records.

❑ **Aggravating factors** (factors that can increase a penalty):

- A delayed response by the agency, especially in circumstances making time of the essence.
- Lack of strict compliance by the agency with all the PRA procedural requirements and exceptions.
- Lack of proper training & supervision of the agency's personnel.
- Unreasonableness of any explanation for noncompliance by the agency.
- Negligent, reckless, wanton, bad faith, or intentional noncompliance with the PRA by the agency.
- Agency dishonesty.
- The public importance of the issue to which the request is related, where the importance was foreseeable to the agency.
- Any actual personal economic loss to the requestor resulting from the agency's misconduct, where the loss was foreseeable to the agency.
- A penalty amount necessary to deter future misconduct by the agency considering the size of the agency and the facts of the case.
- The inadequacy of an agency's search for records.



~ *Yousoufian v. Sims; Neighborhood Alliance v. Spokane County*

Penalties Outside of PRA



Penalties in Other Laws:

There can be criminal liability for willful destruction or alteration of a public record.

~ *RCW 40.16.010*

For state employees, penalties can be assessed under the State Ethics Law if an employee intentionally conceals a record that must be disclosed under the PRA, unless decision to withhold was in good faith.

~ *RCW 42.52.050*

Risk Management Tips

- Establish a culture of compliance with the PRA, beginning with agency leadership and support.
- Train appropriate staff and officials about the PRA's requirements. (See next slide).
- Review agency's PRA procedures.
- Review available resources; institute best practices.
- Review penalty factors.
- Keep updated on current developments in PRA; correctly apply law.
- Consult with agency's legal counsel.



Training

- A new law effective July 1, 2014 amends the PRA to require records training. Chapter 66, 2014 Laws (ESB 5964) (“Open Government Trainings Act”).
- Elected local and statewide officials, and records officers, are to receive records training on the PRA, and records management/retention under RCW 40.14.
- They can take training sooner than July 1. Refresher training occurs no later than every 4 years.
- Training can be taken online, in person, or by other means.



- Training resources, videos, and more information about the Act (a “Q & A”) are available on the Attorney General’s Office Open Government Training Web Page:

<http://www.atg.wa.gov/OpenGovernmentTraining.aspx>

PRA Assistance

- The **Washington State Attorney General's Office** has provided an explanatory pamphlet and other materials about the PRA.
- The Attorney General's Office has also published Model Rules.
- The Attorney General has also appointed an Assistant Attorney General for Open Government. The AGO can provide technical assistance and training.
- The Attorney General's Office materials about the PRA, and other open government topics and resources, are on its website at www.atg.wa.gov.
- The Attorney General's Office Open Government Training Web Page with training resources, videos and other materials is at: <http://www.atg.wa.gov/OpenGovernmentTraining.aspx>
- The Attorney General's Office may also review a state agency denial of a record when the agency concludes the record is exempt.
- The Attorney General's Office may issue formal opinions about the PRA for qualified requesters.

~ RCW 42.56.570, RCW 42.56.530,
Chap. 66, 2014 Laws





MILL CREEK CITY COUNCIL
AGENDA SUMMARY

Date on Council Agenda: March 10, 2015

Subject: **INFORMATION TECHNOLOGY POLICY**

Budget Impact: None

Contact Person/Department: James Busch, Information Systems and Technology Manager

SUMMARY/BACKGROUND:

The current policy covering “Internet, e-mail, and computer local area network use” City Council Policy 97-04 is from 1997 and therefore outdated. Additionally, the WCIA cyber liability audit required the City to adopt an updated Information Technology Policy and forward it to WCIA before month end. Attached for council review is an Information Technology Policy that would apply to anyone using City owned or maintained information technology.

Many, but not all, existing personnel policies have been approved by the council through resolution or in the form of City Council Policies. Chapter 1.24 of the MCMC establishes a process for the Council to adopt such policies and administrative procedures. It contemplates the City Manager will adopt “administrative *procedures*” to implement council established policies. Chapter 1.24 says that it is not meant to limit the City Manager’s authority or the council’s ability to delegate authority to the City Manager.

For efficiency purposes and to clarify the authority of the City Manager, staff recommends the Council delegate authority to the City Manager to adopt administrative information technology policies that do not affect employee compensation, benefits, or the approved budget. These types of policies are commonly adopted at the staff level in other cities. However, the Council’s past adoption of policies calls into question the extent of the City Manager’s authority to adopt such administrative policies and procedures. If the Council adopts the proposed resolution, the existing outdated policies will be repealed concurrently with the City Manager’s adoption of replacement policies. The attached draft policies, which are not yet finalized, are provided for the Council’s information.

STAFF RECOMMENDATION:

- Adopt the attached resolution authorizing the City Manager to implement the Information Technology Policy and repeal City Council Policy 97-04.

COUNCIL ACTION:

- Council vote to adopt the attached resolution.

ATTACHMENTS:

- City of Mill Creek Information Technology Policy.
- Resolution to adopt Information Technology Policy and repeal City Council Policy 97-04
- City Council Policy 97-04

City Manager Approval: _____ Date: _____
G:\EXECUTIVE\WP\COUNCIL\SUMMARY\2015\IT Policy.docx

CITY OF MILL CREEK INFORMATION TECHNOLOGY POLICY

Access to information technology is provided to employees, volunteers, contract employees, elected, and appointed officials to allow for efficient operation of City business. Use of City owned or maintained information technology and other information technology used for City business is subject to conformance with this policy and any and all other restrictions imposed by the City Manager, department heads, and/or the City's IT Manager. Questions or issues arising from this policy should be directed to the IT Manager.

1) Policy Scope and General Guidelines

This policy governs the use of all information technology equipment and services owned/maintained by the City and all other information technology equipment and services used for City business. The term information technology includes, but is not limited to, computers, laptops, tablets, cell phones, computer peripherals and software, servers, phones, fax machines, copy machines, computer network resources, Wi-Fi networks, local and portable electronic storage devices, the Internet, e-mail, social media, websites, text messaging, and other forms of electronic communication, electronic data retrieval and storage, electronic data transmission, and/or electronic data manipulation.

The retention of electronic data is subject to all applicable City policies and state and local regulations, including the applicable state approved minimum retention schedules on the Secretary of State's website and linked on the City's intranet.

This policy sets forth information technology restrictions which are necessary to reduce potential liability, inappropriate use, and possible adverse perceptions by the general public. The City's information technology resources are not to be used for illegal, prohibited, harassing, libelous, or obscene purposes, or in a way that violates any City policy or local or state law/regulation. All records created through the use of information technology are public records. Care should be taken to avoid use of information technology that could bring negative public scrutiny, including any perception of misuse of public resources. All communications and electronic records should be businesslike, courteous, and civil.

Employees who fail to comply with the provisions of this policy are subject to discipline up to and including termination. If City resources are used for purposes that violate federal or state laws, employees may be held legally accountable. City employees who learn of any misuse of information technology shall immediately notify their supervisor or department director.

2) No Expectation of Privacy

Washington State public records and retention laws broadly define public records to include any record in any format (e.g. paper, electronic, hidden meta-data...) that is prepared, owned, used, or retained by the City (and its employees/agents) in connection with the transaction of public business. Public records are subject to minimum retention requirements and, in most instances, must be produced in response to requests from the public. Failure by the City to comply with such requests could result in litigation, financial penalties, and payment of attorneys' fees.

Employees must be aware that any record created, modified, received, or stored using City owned or maintained information technology is likely subject to state records retention and public disclosure laws.

Because public records laws must be broadly interpreted and distinguishing between commingled business related records and personal records is difficult and time consuming, the City generally treats all records (including those of a personal nature) that are created or stored on City information technology to be public records. All such records are subject to City interception, access, search, retrieval, monitoring, inspection, copying, and/or public dissemination for purposes of conducting City business, complying with the Washington State Public Records Act, complying with other applicable laws and regulations, and/or enforcement of this and other applicable City policies.

Accordingly, employees have no reasonable expectation of privacy in records created using City owned or maintained information technology. This lack of privacy should be observed by employees choosing to make limited personal use of City information technology.

Moreover, public record disclosure and retention laws cannot be avoided by using non-City owned or maintained devices to conduct City business. Records created by employees in the conduct of the performance of their work on non-City owned or maintained devices are public records that must be retained and made available for public disclosure.

If employees use non-City owned or maintained devices to conduct public business, the City may be required to search those devices to recover and produce public records. The City would not intentionally produce clearly private/non-business related records to the public from personally owned equipment. However, the City, its consultants, its attorneys, judges, and/or the attorneys of those who seek public records may be required to review non-City business records on the device in order to ensure all business related records are produced and retained in accordance with state law.

The City's policies are designed to minimize the chance that private and public records are commingled. However, due to the nature of how information technology retains hidden information (such as meta-data), it may not be possible to eliminate commingling of public and private information when personal devices are used to create, modify, receive, or send business related records. In cases involving requests for hidden electronic meta-data and/or deleted business records from personal devices or accounts (e.g. private email services), courts have required cities to conduct costly technical examinations of personally owned hard drives and private email accounts.

Accordingly, employees are strongly discouraged from using personal Information Technology to conduct City business. Those who choose to use personal Information Technology to conduct City business have a diminished expectation of privacy in the information stored on such devices.

3) Personal Use of the City's Information Technology

City owned and maintained information technology is intended for official City business purposes. However, the City allows limited personal use by employees (e.g. checking cloud based personal email accounts, making or receiving toll free personal phone calls, or using the Internet for non-business related purposes) so

long as such use is infrequent and non-disruptive, appropriate in the workplace, is not detrimental to the conduct of City business or negatively impacts other employees, does not cause the City to incur costs or charges, does not cause public perception that City resources are being used inappropriately, and does not cause any security threat to or increased burden on the City's information technology infrastructure.

Personal use by employees shall not distract or disrupt any employees from their duties, and shall be limited in frequency, location and duration. For example, employees should not use the City's information technology in the view of the public, even when on a paid break, if such visible use could be construed by the public as an inappropriate use of City resources. Personal use by employees who are paid on an hourly basis should be limited to unpaid time and the employee's authorized paid breaks.

The City retains the right to revoke the privilege of allowing limited personal use of the City's information technology resources at any time and for any reason. Without limiting the above general restrictions or the ability of City management to further restrict employee's use of its information technology, the following uses of the City's information technology and other information technology in the workplace are specifically prohibited with regards to personal and business use:

- Commercial use for an employee's personal business (i.e. other jobs or businesses in which the employee is involved).
- Solicitations that promote monetary gain for an employee or an employee's charity unless otherwise authorized by the City Manager, separate policy, or in conjunction with a City sponsored event.
- Political use, including partisan campaigning or sending political messages.
- Any type of harassment or discrimination – including transmission of obscene or harassing messages to any individual or group because of their sex, race, creed, religion, national origin, sexual orientation or other protected class status.
- Accessing of pornographic, sexually explicit or indecent materials and any other materials that are otherwise unreasonably offensive and not appropriate in the workplace.
- Any activity that could adversely affect the City of Mill Creek's image or reputation.
- Gambling or gaming (loading or playing computer games)
- Anything that unreasonably hampers City network or other information technology.
- Peer to peer file sharing
- Unauthorized copying of copyrighted material or anything that violates software license agreements.
- Downloading or installing software that is not pre-authorized by the IT Manager.
- Use of an assumed name with intent to obscure the origin of a communication.
- Transmitting City records for personal or other use without City authorization.
- Transmitting information to unauthorized persons or organizations.
- Malicious use of the system, including but not limited to hacking, denial of service, and unauthorized access, so as to deprive others of system use or resources.
- Personal use of City Information Technology for streaming media unless approved by a supervisor or Director.
- Personal uses that cause the City to incur charges or costs. An exemption to this rule is that employees are allowed to make infrequent and de minimis use of City printers and/or copy machines

for limited personal use.

4) IT Integrity and Security

The City's information technology infrastructure contains sensitive financial, personal, law enforcement and other sensitive information. The integrity of all City records must be protected.

Networked computer systems can easily spread computer viruses, and it is every employee's responsibility to exercise due caution to minimize the risk of viruses. Since email attachments are a common source of viruses, only those received from expected and known business sources may be opened. No external computer files may be downloaded without being properly scanned for viruses.

Mobile computers and devices, in particular, are subject to damage, theft, or loss when removed from City offices. Employees are therefore responsible for taking adequate measures to prevent damage, theft, or loss of City equipment.

This policy includes guidelines and procedures to assist employees in protecting the City's information technology infrastructure. Employees should use good judgment to seek assistance from the IT Manager whenever questions arise as to the safety of a contemplated use of the City's information technology.

a) Surplus Equipment and Destruction of Electronic Data:

The IT Manager is responsible for continually implementing procedures, software, and equipment that are designed to minimize security threats, including implementing methods for secure destruction and disposition of surplus information technology. Accordingly, no employee may surplus, destroy or otherwise dispose of media (such as hard drives, solid state drives, USB drives, tapes, diskettes, Optical Disks, flash memory and SD cards) containing City business records without prior authorization and specific instructions of the IT Manager and/or compliance with specific applicable procedures and policies.

b) Passwords:

All information technology equipment used for City business should be password protected and accessed only by the employee. The IT Manager is responsible for establishing password protocols designed to protect the City's information technology. Such protocols may be updated from time to time and communicated to employees. All employees shall abide by the password protocols.

c) Access to City Records and Data:

Employees' access to data on the City's servers, voicemail system, archives and other storage mechanisms is limited to job related access for authorized business purposes only. Employees shall not access, intercept, copy, or reproduce the City's business records for personal use or gain, or in any way that harms the City's interests. If an employee wishes to access City business records for personal purposes, the employee should make a public records request for such records.

d) Installation of Software or Hardware:

If an employee wishes to make hardware changes (including, but not limited to: keyboards, mice, monitors, and USB memory sticks), install software, or make any other changes to City owned or maintained information technology, he/she shall notify in advance the IT Manager, who shall make the final decision regarding the appropriateness of such changes. At a minimum, the criteria for determining the appropriateness of a change to a computer system shall include:

- Software and hardware shall be compatible to the City's computer network and have a legitimate business use;
- Downloading and/or uploading of all software and files must be virus free. Employees are required to follow the appropriate virus scan protocol before downloading/uploading software or other electronic information to the City's computer system;
- Software shall be properly licensed for use by City employees;
- The change shall not affect the overall integrity of the City's computer systems.

5) Electronic and Telephone Communication

Due to the difficulty in retaining IM, Chat, and Blogs, the use of these types of communication are prohibited for all City business. Use of social media (Facebook, Twitter, etc....) is restricted to uses authorized by the City Manager and any policies and procedures that apply specifically to such use. Records of all posts and other public records of social media use shall be retained in accordance with applicable retention requirements. The City maintains a single website at www.CityofMillCreek.com. No employee may create any other official or unofficial website for City use.

a) Email Communications: The following guidelines are required when using email:

- Exercise due caution when sending confidential or sensitive information electronically.
- Forwarding of Electronic Mail - A user forwarding a message, which originates from someone else, may not make changes to that message that would be misleading or deceitful.
- Communicating with Legal Counsel - Messages sent to or from attorneys acting on behalf of the City, its officers or employees, may be privileged communications and therefore, confidential. These messages shall not be forwarded outside of the City without the prior approval of the involved attorney or City Attorney. Likewise, such messages shall not be forwarded or copied to internal City recipients without approval of the City Attorney unless any and all such recipients have a legitimate business need to be aware of the advice/information provided within the message.
- Misdelaivered Messages - If an electronic mail message comes to a user by mistake, the user should: stop reading it as soon as they realize the message was not meant for them, delete it, and notify the sender immediately.
- Use of Non-City Email Accounts - Non-City email accounts (e.g. Gmail, AOL, MSN, Hotmail, Outlook, Yahoo, etc.) may not be used to conduct City business unless approved in advance by the City Manager and an approved records retention system is put in place to archive all email to and from these accounts.

- Employees are encouraged to delete emails from their Outlook folders when they are no longer needed for City business. All messages sent to and from City email accounts are archived as they are sent and received. Accordingly, employees should not use City email accounts for sending or receiving personal emails. If an employee chooses to use a City email account for infrequent personal purposes (e.g. use for coordinating scheduling child care picks, or other time sensitive matters for which the employee is more likely to see on City email during the day than a personal account), the employee should keep in mind that such emails are subject to City inspection and possible public disclosure.
- Transmission of Protected Data - Unencrypted messages may be intercepted, viewed, and used for non-approved purposes, especially when corresponding via the Internet. Accordingly, protected, confidential, or other sensitive data (e.g. HIPPA, CJIS, PCI etc.) must not be sent via unencrypted electronic mail. Contact the IT Manager for assistance with transmitting such messages.
- Using E-Mail for Mass Mailing - The City's e-mail system is not intended to be used for general mass mailings. The City uses other electronic publications to communicate information that are more efficient and cost effective. If mass email mailings are required, a mass mailing or marketing service must be used.
- Attachments are limited to 20 MB in size and all use of attachments should be limited. The preferred option is to use a link to a document stored on a City file server for internal messages, and a link to a shared document on a City managed and authorized externally available storage location for external messages. Contact the IT Manager for assistance with transmitting large documents that exceed the attachment size limitation.
- Employees who do not have a need to review another employee's email in order to maintain or operate the email systems, respond to a public records requests, or investigate policy violations, legal claims or legal defenses, are prohibited from retrieving or reading such email unless authorized by the person to whom the email belongs or the City Manager.

b) Internet Use:

- General Use - Internet access on the City server by default is provided to every employee with a City login. By a supervisor's request, Internet access may be restricted. Internet use may be logged and monitored for compliance with the City's Policies. Resources of any kind for which there is a fee, including all Internet sites, shall not be accessed or downloaded without prior approval of department directors.
- Online Storage - Because the City must be able to access, retain, and retrieve all public records, use of an online storage service is prohibited unless authorized by the IT Manager. The IT Manager may adopt procedures for utilizing such services, which must be followed.
- Streaming Media - Streaming media should be limited so as not to interfere with network and internet performance. If attending a webinar, employees should coordinate to share a single stream from a single computer when practical.

c) Text Messaging:

- Employees shall not send or receive text messages related to City business from personally owned devices. If such messages are sent or received, the employee shall notify the IT Manager as soon as possible to coordinate appropriate retention of the records.
- Due to the difficulty of retaining and producing text messages, use of text messaging from City owned devices should be limited to circumstances in which the communication is transitory in nature (e.g. a message to provide an ETA) or when other forms of communication are not suitable.
- All employees using text messaging shall retain the messages in a manner authorized by the IT Manager and in compliance with applicable state retention schedules. Employees shall not delete (1) any text messages on City owned devices or (2) City business related messages on personally owned devices without preauthorization by the IT Manager, who will consult with others as necessary to determine appropriate retention requirements.

6) Use of Mobile and Non-City Devices

- Employees should avoid use of a mobile device (e.g. cellular telephone, laptop, or tablet) while driving. If such use is necessary, all employees must comply with state law and use appropriate hands free devices. Typing electronic messages or otherwise allowing a device to take one's attention away from the road is strictly prohibited.
- Employees who are required to use a mobile device (e.g. cellular telephone, laptop, or tablet) on or off duty will be provided a device to meet such needs. The needs may be temporary (e.g. attendance at a conference, offsite meeting, or serving in a designated on-call position) or long term (e.g. employee has a need to frequently or unexpectedly perform work away from the office). Employees required to use a mobile device on a temporary basis can check out City owned equipment for such purpose through the IT Manager or through other established procedures.
- Some employees who are not required to carry a mobile device may wish to use a mobile device for City business for their own convenience rather than as a requirement of the job (e.g. FLSA exempt employee performing work from home or desiring remote access to work calendar and/or email). Requests by such employees to use City provided mobile devices will be considered by the City Manager or Department director on a case by case basis, and shall be approved only to the extent sufficient funding is available.
- Due to public record retention and disclosure laws, use of non-City devices to perform City business is limited to the following circumstances:
 - Use of a non-City phone to occasionally make or receive phone calls while away from an assigned office phone. Employees should be aware that although the City does not retain or track call logs on non-City owned devices (e.g. to monitor appropriate use), such records could become the subject of a public records request or City related litigation. Employees are not required to keep call logs, unless such logs are requested pursuant to a public records request, litigation, or they are reasonably anticipated to be relevant to potential litigation. In such instances, the employee shall not delete or otherwise alter the call logs and should instead immediately coordinate for such logs to be transferred to the City Clerk or City Attorney.
 - Approved use of a non-City device to sync a City email account and/or calendar using the City's Exchange Active Sync server. Before being approved to sync email and/or calendars to a non-

City device, employees must sign an acknowledgement or agreement approved by the IT Manager that outlines the expectations and limitations of such use, including password requirements, risk of exposure of the device to public records requests, and other security precautions. The internal storage on such devices may not be used to create or modify email attachments or other documents.

- Authorized access through an internet browser to email and/or a calendar at <https://webmail.cityofmillcreek.com>. The internal storage on such devices may not be used to create or modify email attachments or other documents.

7) Virtual Private Network (VPN)

A non-City owned or maintained device may be used as a client to access City information technology through an authorized Virtual Private Network (VPN) connection. Generally, use of a VPN connection is the preferred method for creating records from non-City devices. If an employee has a need to create or edit a document (such as an attachment to an email) while using a non-City device, such records shall be saved directly to pre-approved City owned or maintained storage – not personally owned storage. The type of pre-approved storage is subject to change based upon the type of device used and availability. When such connection is unavailable, the IT Manager may arrange for City maintained cloud services or portable storage devices to be used to save documents. Employees with such need should seek assistance and guidance from the IT Manager.

8) Off Duty/Out of Office Access and Work

- Use of personal or City information technology (e.g. phones, tablets, laptops, computers, email accounts, and calendars) for City business while off duty or from a remote location is limited to FLSA exempt employees and employees with express authorization from his/her supervisor to work from a remote location during those applicable times.
- Non-exempt employees should not check City email accounts from home or otherwise outside of their scheduled working hours unless it is a de minimis or personal use (e.g. an employee checking his/her work schedule to coordinate his/her personal time, such as scheduling personal appointments or vacations).
- Non-exempt employees performing any substantive work while off duty (including checking and responding to business emails) shall record that time as time worked and promptly report the time worked to his/her supervisor. Non-exempt employees performing unauthorized off duty work will be paid for all time worked, but if such time was not authorized or approved, the employee may be subject to discipline and/or required to flex his/her schedule during the same pay period to avoid the off-duty work from causing the City to pay unauthorized overtime.

RESOLUTION NO. 2015 - _____

A RESOLUTION OF THE CITY OF MILL CREEK, WASHINGTON, REPEALING CITY COUNCIL POLICY 97-04 AND AUTHORIZING THE CITY MANAGER TO ADOPT ADMINISTRATIVE PERSONNEL POLICIES THAT GOVERN EMPLOYEES USE OF INFORMATION TECHNOLOGY.

WHEREAS, Mill Creek Municipal Code (MCMC) Chapter 1.24 establishes a process for the City to establish City Council Policies and Administrative Procedures;

WHEREAS, the process established in MCMC Chapter 1.24 is not an exclusive process for adoption of administrative policies;

WHEREAS, the City Council adopted information technology related administrative policies in City Council Policy 97-04, and such policies are now in need of updating;

WHEREAS, for efficiency purposes and to clarify the authority of the City Manager to oversee administrative personnel matters within the City, it is in the interest of the City to expressly delegate authority to the City Manager to adopt and implement administrative information technology policies that do not affect employee compensation, benefits, or the approved budget; and,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON, THAT:

Section 1. The City Manager is authorized and directed to adopt and implement administrative policies that govern the conduct of City business using information technology and other uses of City information technology, so long as such policies do not affect employee compensation, benefits, or the approved budget.

Section 2. Upon the City Manager's adoption and implementation of replacement policies, City Council Policy 97-04 will be effectively repealed. Until such replacement policies are formally implemented, the policies within City Council Policy 97-004 will remain in place. This Resolution is effective immediately upon adoption.

Adopted this 10th day of March 2015 by a vote of _____ for, _____ against, and _____ abstaining.

APPROVED:

PAM PRUITT, MAYOR

ATTEST/AUTHENTICATED:

KELLY M. CHELIN, CITY CLERK

APPROVED AS TO FORM:

SHANE MOLONEY, CITY ATTORNEY

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

RESOLUTION NO.: _____

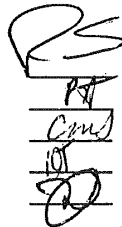
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**CITY OF MILL CREEK POLICY
FOR
INTERNET, E-MAIL AND COMPUTER LOCAL AREA NETWORK
USE**

City Policy No.: CCP 97-04
Effective: February 11, 1997

Department Review:

Executive
Community Development
Public Works
Finance
Police



Internet, E-mail, and the City computer network services are provided to staff to improve communications and the exchange of information within the City, other local, state, and federal officials, professional and business associates, and to provide information and research resources. The City encourages the use of electronic communications by its employees. Although access to information and information technology is essential to the accomplishment of the City's goals, employee use of Internet, E-mail, and computer network services is a revocable privilege. All employees shall conform with the acceptable use guidelines and this policy statement.

The City will conform to required licensing agreements in the use of computer software. All employees will follow protocols developed to protect the integrity of the City's computer network.

Electronic communications to and from City employees is intended to be used for City business purposes. City computers and any data stored in them or accessed through electronic means are the property of the City and may be accessed at any time by authorized officials of the City. Electronic records are to be treated as any other public record, and as such should be considered to be open to public inspection unless specifically exempted by state statute.

Employees are required to adhere to the guidelines as outlined in the administrative guidelines developed to implement this policy.

The City Manager or designee is authorized to develop and maintain an administrative procedure to implement this policy.

PASSED BY THE CITY COUNCIL OF THE CITY OF MILL CREEK, WASHINGTON THIS
11th DAY OF February, 1997.

APPROVED:

Kathy Nielsen
MAYOR KATHY NIELSEN

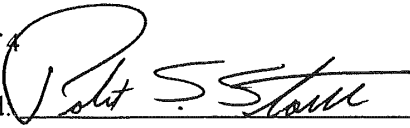
ATTEST/AUTHENTICATED:

Debbie Tarry
CITY CLERK DEBBIE TARRY

APPROVED AS TO FORM:

[Signature]
OFFICE OF THE CITY ATTORNEY
SHORT CRESSMAN & BURGESS

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ADMINISTRATIVE GUIDELINES	CITY OF MILL CREEK
City Policy Reference: CCP 97-04	Effective Date: February 11, 1997
Page 1 of 4	
Approved:  City Manager	

ACCEPTABLE USE GUIDELINES FOR INTERNET, E-MAIL, AND NETWORK SERVICES

PURPOSE

These guidelines and procedures are provided to implement the policy for the use of City computer network resources, including Local Area Networks (LANs), the Internet, E-mail, and on-line information services.

SCOPE

These guidelines and procedures shall apply to all computer hardware, operating systems, data, and application software of the City and any stored electronic media and other systems that may be connected, such as bulletin boards, Internet, and on-line information services.

This includes any information in digital electronic format, including but not limited to electronic mail, databases, clip art, digital images, voice and sound recordings, and any digitized information that may be available.

GENERAL GUIDELINES

These guidelines set forth computer network resource restrictions which are necessary to reduce potential liability, the risk of inappropriate use, and possible adverse perceptions by the general public. Although LAN, Internet, E-mail, and on-line services are intended for official City business purposes, the City will allow limited personal use subject to limitations and guidelines provided within these administrative guidelines. The City retains the right to revoke the privilege of allowing limited personal use of the City's computer network resources at any time and for any reason. These computer network resources are not to be used for entertainment, illegal, prohibited, harassing, libelous, or obscene purposes during or outside of normal City business hours.

SYSTEM INTEGRITY

If an employee wishes to make hardware changes, install software, or make any other changes to the network, he/she shall notify in advance the Finance Director (Administration) or Police Records Coordinator, who shall make the final decision regarding the appropriateness of such changes. At a minimum, the criteria for determining the appropriateness of a change to a computer system shall include:

- ▶ Software and hardware shall be compatible to the City's computer network;
- ▶ Downloading and/or uploading of all software and files must be virus free. Employees are required to follow the appropriate virus scan protocol before downloading/uploading software or other electronic information to the City's computer system;
- ▶ Software shall be properly licensed for use by City employees;
- ▶ Software shall be on an original manufactured disk; and
- ▶ The change shall not affect the overall integrity of the City's computer systems.

SECURITY PROCEDURES

Each authorized computer user is assigned certain rights on the City's computer network, E-mail system, and Internet access. These rights identify what areas the user has access to and types of access, e.g., "read" and/or "write to," that are permitted. These rights are determined jointly between the user's department director and the Finance Director or Records Coordinator.

Each user shall select a password which is required to access the City's computer system. By the use of this password, the computer system knows what systems and files the user is permitted to access. Therefore, the use of passwords, and maintaining strict confidentiality about one's password, is critical to maintaining the integrity of the computer systems. However, the City shall have access to every employee password and employees shall disclose their password to the City immediately upon request.

Access rights include the time period and length of time during which a user is authorized to use the computer systems. If a user needs to access the system during time periods beyond those authorized, he/she must get permission from his/her department director who will notify the Finance Director or the Records Coordinator.

MODEM ACCESS

Modem access to the City's computer network from an employee-owned personal computer located off site is allowed for performance of City business only. Employees who wish to have modem access to perform City work may request access through their department director. The City Manager and the appropriate department director will evaluate and approve/deny requests for modem access.

Employees who are allowed modem access will be given the modem communication software to load on their home computer and shall agree in writing to erase the program upon termination of their access rights. Employees are required to sign a usage agreement governing the installation/deletion of the modem access program. The City reserves the right to revoke modem access privileges of employees at any time.

Employees are required to follow the appropriate protocol when accessing the City's computer network via a modem.

USE AND PRIVACY

Employees should be aware that any computer, whether networked or stand alone, may be accessible to other users. E-mail communications transmitted over the electronic network constitute public records and, as such, employees should not expect or assume any privacy regarding the content, source, or destination of electronic mail communications. The City reserves the right to access or periodically monitor messages for business purposes, for reasons of security, to respond to a request for public information or for other reasons. In addition, the City will monitor monthly Internet access and make available

to department directors a record of Internet sites accessed by employees within their department. Electronic mail communications are periodically purged from the system, but are retained on system back-up tapes and are available for public access until such time as the back-up tapes are destroyed.

The following guidelines are established for sending Internet and LAN E-mail:

- ▶ Do not communicate confidential and sensitive issues via E-mail. E-mail is not secure. Never include in an E-mail message anything that you want to keep private and confidential.
- ▶ Racism, sexism and other inappropriate or illegal behavior are not tolerated. If you receive such messages, forward them to your supervisor.
- ▶ Mail takes up space. Employees should set their E-mail trash baskets to be purged every three days. All "Out" and "In" Boxes should be reviewed periodically to purge unnecessary messages.
- ▶ Exercise reasonable caution when sending replies; be sure that mail is addressed to the individual or group you want to receive it.
- ▶ Do not use E-mail to convey messages which have a negative or sarcastic tone. All messages should be conveyed respectfully and positively.
- ▶ E-mail to and from the City Attorney or outside legal counsel will be protected by the attorney-client privilege, only IF that privilege is not breached or waived. Accordingly:
 - When communicating with legal counsel, DO NOT copy others on the communication except the City Manager or appropriate department head.
 - Legal counsel will be responsible for forwarding the message outside the City and the attorney's office in order to preserve the privilege.
 - Sensitive, confidential, proprietary, or similar information should not be sent by E-mail to the City Attorney or outside counsel. When in doubt, ask legal counsel by phone or telefax before sending an E-mail.

PERMITTED PERSONAL USE

Limited Internet, on-line services, and personal E-mail communications will be permitted to employees on a six-month trial basis (starting with the adoption of these guidelines) and are subject to the following limitations:

- ▶ Such use shall not occur on "paid time" but is permitted before and after hours, and during breaks.
- ▶ Such use is permitted only to the extent that the City does not incur user charges. If charges are incurred, they shall be paid by the employee.
- ▶ Examples of acceptable incidental or personal use of the system include:
 1. Advising others about an employee's vacation, marriage, birth, etc.; or
 2. **Brief and infrequent** friendly communications between employees.
- ▶ Personal use remains subject to all other conditions of these guidelines.

- ▶ The City's computer network resources should never be used to send or obtain information that would have a negative impact on the City.

Limited personal use is a privilege. The City reserves the right to monitor and ban any or all personal use at any time and for any reason.

PROHIBITED AND INAPPROPRIATE USES

City computer network resources shall not be used inappropriately. When in doubt, employees should check with their supervisor. Examples of inappropriate uses include but are not limited to:

- ▶ Soliciting others for non-City sponsored profit or non-profit oriented sales or ventures or fund raisers.
- ▶ Seeking to gain or gaining information for inappropriate purposes or unauthorized access to proprietary or confidential information.
- ▶ Seeking access to passwords, computer files, or E-mail messages belonging to the City or others, or accessing such information using another employee's password without that employee's or department director's permission.
- ▶ Unauthorized or illegal attempts to break into or access any computer, computer files, computer system, or computer network, regardless of whether it belongs to the City or another organization.
- ▶ Using the Internet or knowingly allowing another to use the Internet for personal profit, personal business, commercial product advertisement, or partisan political, or religious purposes.
- ▶ Processing, distributing, transmitting, or displaying inappropriate stored electronic media such as obscene, libelous or defamatory materials. This includes, without limitation, downloading, transmission, viewing, or possession of pornographic, profane, or sexually explicit materials.
- ▶ Sending any threatening, harassing, discriminatory, (whether racial, sexual, or otherwise) messages or material.
- ▶ Sending or posting proprietary or confidential materials outside of the City, or sending or posting City confidential materials inside the City to non-authorized personnel.
- ▶ Infringing on third party copyrights or trademarks or other intellectual property rights, license agreements, or other contracts; for example, illegally installing or making available copyrighted software in a form or manner inconsistent with the licensee agreement.

VIOLATION OF POLICY AND GUIDELINES

Any violations or abuse of this policy and these guidelines may result in disciplinary action as appropriate for the circumstance, up to, and including termination.

ADMINISTRATION

The City Manager or his/her designee is responsible for the administration of the policies and guidelines for use of the City's computer network and electronic information access.

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MILL CREEK CITY COUNCIL
AGENDA SUMMARY

Date on Council Agenda: March 10, 2015

Subject: **COUNCIL DEVICES**

Budget Impact: \$0 - 9100

Contact Person/Department: James Busch, Information Systems and Technology Manager

SUMMARY/BACKGROUND:

Currently, council members do not have City-provided devices (computers, laptops, tablets, etc.) to perform their responsibilities as council members. To provide a better experience for the council members for their various responsibilities and to reduce liability for the City, the IT Manager has researched options and provided recommendations in the attached memo for your review.

STAFF RECOMMENDATION:

- Option 3 or Option 4 as described in the attachment

COUNCIL ACTION:

- City Council review of Council Device Recommendation Memo
- Council questions/discussion
- Approve purchase of devices

ATTACHMENTS:

- Council Device Recommendation
-

City Manager Approval: _____ Date: _____
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TO: City Council
FROM: James Busch, IT Manager
DATE: March 5, 2015

SUBJECT: Council Devices

Dear Council Members,

The topic of having a City-owned device was first suggested for the purpose of viewing the council packets digitally. While investigating options for digitally viewing council packets, it became apparent that the Council may have other, more pressing, technology needs to conduct City business without subjecting personally owned devices to potential inspection for purposes of responding to public records requests. There are many benefits to having a City-owned device, some of those include:

- Simplify responding to PRA requests due to having data stored on a City-owned device
- Protecting personally owned devices, and the personal or business data on such devices from City inspection
- Similar experience for all Council Members when viewing email, council packets, browsing the internet, etc., which also reduces direct and indirect IT support costs
- Potentially reduce printing costs through use of digital council packets
- Backup of council created documents to comply with records retention requirements

After doing some basic testing in-house with the council packet app, I decided I needed to gather additional information from each of you to make sure I fully understood your requirements for a device. I setup a meeting with each of you to discuss your needs and I thank you for taking the time to meet with me. Based on our discussions I've compiled a list of features/concerns that many of you mentioned you would like to have in a device:

- Read/Respond to email, ideally something that works better than the current webmail
- A digital way to read council packets, with the ability to make digital notes a big plus
- Ability to do research on the internet
- Concerns about having to turn over personal computers/devices for public records requests
- Ability to review documents, some creation/editing - primarily Word documents

Given the benefits and features discussed above, and other factors such as standardizing on a minimal number of options to keep administrative costs down, I came up with the following options:

Option 1: Virtual Private Network (VPN) from an existing, personally-owned, Windows 7 or newer computer (desktop or laptop). Cost to the City: \$0.00.

This is the least desirable option as it meets only two of the benefits and two of the features listed above. With this option I would install software on your personally-owned computer that would allow for an encrypted connection from your personal computer to the City's network. This would allow for you to save files (Primarily Word/Text documents) directly to the City's file server so the City can retain them, back them up, and have them available for responding to PRA requests. This option would not address any of the other benefits or features listed above such as reducing printing costs, better method to read/respond to emails, digital council packet with digital notes, City-owned device for internet research, or eliminating the potential to turn over your personal computer for a PRA request. This option will require me to setup the VPN software and possibly troubleshoot ongoing problems with personally-owned devices. Additionally, this option gives us the least amount of flexibility moving forward to add additional capabilities, features, and functionality. I do not recommend this option.

Option 2: Check out a City-owned Laptop. Cost to the City: \$0.00 - \$4000.

The City currently owns three laptops that are available for staff to check out when needed for meetings, projects, presentations, etc. and they are used fairly often. These laptops could be configured so council members could also check them out when needed for document creation, internet research, and other City council related duties. These laptops would also be configured for VPN as in Option 1 so the files would be saved directly to the City's file server. Option 2 has all of the same downsides as Option 1 with the exception that the document creation, internet research, etc. would be done on a City-owned device, so it would reduce the likelihood of a PRA request requiring a personal computer be turned over to comply with the request. Another downside to Option 2 is that the council member would need to come to City Hall to retrieve the laptop when needed, and that may not always be convenient. Additionally, depending on the demand for the three laptops the City currently has available for check-out, further laptops may need to be purchased to meet the increased demand. I do not recommend this option.

Option 3: Apple iPad with WiFi only. Cost to the City: \$279 - \$379 per device + ~\$156/year per person for Microsoft Office software licensing. Additional small costs for accessories (covers/cases, keyboards).

The software the City currently utilizes to create the council meeting agenda also has an Apple iPad app for viewing the council packet in digital form. Some of you have viewed a short demo of this app and have seen how it also has the capability for you to make digital notes such as underline, highlight, type sticky notes, and free-form draw. You can also search the council packet attachments and view thumbnails of each page to quickly jump to a different location. Viewing the council packets digitally will reduce printing costs. The iPad also has the capability to run mobile versions of Microsoft Word for document creation. Through the use of Microsoft Sharepoint cloud services, documents would be saved to cloud storage. This would simplify the

process of responding to PRA requests due to council documents being stored in a central cloud location and easily searchable by City staff when needed. If a PRA request pertained to information stored only on the iPad itself (such as internet browsing history) then the device would need to be brought to City Hall for the search to be performed, but the risk of City staff having to review commingled personal records would be limited. The iPad also has an email app built-in for reading and composing emails, and with the portability of the device, council members would have much more flexibility in when and where they could read and respond to emails. For long emails or documents, wireless keyboards (portable and full-sized) can be used instead of the onscreen keyboard. The iPad does meet all of the benefits and features listed above; however, there are a couple of downsides that may be of concern. The iPad does not have the ability to connect a larger external monitor and you are limited to only apps that are available through the Apple app store. Overall the iPad is a good option.

Option 4: Microsoft Surface Pro 3. Cost to the City: \$719.10 per device + ~\$156/year per person for Microsoft Office software licensing. Additional small costs for accessories – recommend getting cover/keyboard for \$103.99 per device. Extended 3 year warranty/accidental coverage for \$199.20 is an option.

The Microsoft Surface Pro 3 is more expensive than the iPad, but has many added benefits. It has a larger screen – 12” vs. 10” or 7.9” (iPad Air or iPad Mini respectively) and also has the ability to connect to an external monitor for an even larger viewing experience if necessary. While larger than the iPad, it is still very light and portable. The Surface Pro 3 keyboard cover, which I highly recommend purchasing if you choose this device, is a nearly full-size keyboard so composing emails or Word documents from anywhere, is easy. The Surface Pro 3 runs the full version of Office, which is more fully featured and a familiar interface compared to the mobile version on the iPad. As part of the full version of the Office suite, it will run the full version of the Microsoft Outlook email application, which will provide the most functionality and is much more user friendly than the webmail version that most of you currently use. The Surface Pro 3 comes with a digital pen for taking onscreen notes through an application called Microsoft OneNote. The council packet can be opened in OneNote and digital notes taken with the pen and easily viewed at a later time. OneNote also allows for underlining, highlighting, typing sticky notes, and free form drawing. Digital council packets will reduce printing costs for council members that choose not to have paper copies printed. Through the use of Microsoft Sharepoint cloud services, documents would be saved to cloud storage. This would simplify the process of responding to PRA requests due to council documents being stored in a central cloud location and easily searchable by City staff when needed. If a PRA request pertained to information stored only on the Surface Pro 3 itself (such as internet browsing history) then the device would need to be brought to City Hall for the search to be performed, but the risk of City staff having to review commingled personal records would be limited. The Surface Pro 3 runs the full version of Microsoft Windows and therefore is the most feature-rich, flexible device and will be future-proof for many years. The Surface Pro 3 does meet all of the benefits and features listed above and has additional capabilities. Overall this option is the best and I would give it my top recommendation.

The funds to purchase a device for council purposes would come out of the legislative department budget; however, it was not budgeted for in the current biennium, so it would most

likely result in a budget amendment in the future. At this time, Staff has not identified any specific savings elsewhere in the department budget to cover the costs.

Sincerely,

James Busch
IT Manager
425-921-5729

MILL CREEK CITY COUNCIL

AGENDA SUMMARY

Date on Council Agenda: March 3, 2015

Subject: **REVIEW OF STRATEGIC PLAN**

Budget Impact: None

Contact Person/Department: Tom Rogers, Director of Community Development

SUMMARY/BACKGROUND:

On April 10, 2012, the City Council adopted its Strategic Plan. The year-long planning process that preceded its adoption included an extensive public outreach program, which included a telephone survey, three open houses, and outreach at numerous community events. At the time of adoption, the Plan represented the City's medium- to long-term vision, and identified actions and a schedule to implement the vision. The City Council has requested to review the adopted Strategic Plan to determine if the vision and actions identified in the plan are still valid.

The most substantive sections of the Plan are Chapter 3 - Strategic Plan Vision, Chapter 4 - Strategic Plan Framework, Chapter 5 - Goals, Objectives, and Implementation and Appendix A: Fiscal Strategy. As such, the Council has indicated that their review should focus on these portions of the Plan. No attachments are provided. Please bring your copy of the Plan to the meeting.

STAFF RECOMMENDATION:

- None. Discussion only.

COUNCIL PROCESS/ACTION:

- Council discussion

ATTACHMENTS:

- None

Acting City Manager Approval: _____ Date: _____

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Revised – starting on page 4
CITY COUNCIL MINUTES

February 10, 2015

15728 Main Street, Mill Creek, WA 98012 # (425) 745-1891

Pam Pruitt, Mayor
Brian Holtzclaw, Mayor Pro Tem
Sean Kelly
Donna Michelson
Vince Cavaleri
Mike Todd
Mark Bond

February 10, 2015
Regular City Council Meeting
6:00 p.m.

CALL TO ORDER

Mayor Pruitt called the meeting to order at 6:00 p.m.

FLAG SALUTE

Flag Salute was conducted.

ROLL CALL

Roll was called by the City Clerk with all Councilmembers present.

AUDIENCE COMMUNICATION

Bill Schatz
15523 29th Avenue SE
Mill Creek, Washington 98012

Mr. Schatz commented on the Economic Development Committee recommendations and the negotiations with Fire District 7. He believes the Council has lost its vision conversation.

PRESENTATIONS

Public Art Displays
(Zach Anders, Chair of the Art/Beautification Board)

Council liked the proposal and asked the committee to continue work on it and report back to the Council at a future meeting.

STUDY SESSION

Emergency Services Coordinating Agency (ESCA) Briefing
(Tom Gathmann, Public Works Director)

The following agenda summary information was presented:

The Emergency Services Coordinating Agency (ESCA) was formed in 1984 by a group of South Snohomish County cities, including Mill Creek, as an alternative to paying for the services of the Snohomish County Department of Emergency Management (DEM). That action was formalized by

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the Council's adoption of Resolution 84-14 (Attachment 1) on September 25, 1984. In 1994 an Interlocal Agreement (ILA) was signed by Mill Creek and the cities of Bothell, Brier, Edmonds, Lynnwood, Mountlake Terrace and the Town of Woodway because they had "mutually determined it would be beneficial to combine emergency management coordinating activities by the creation of a separate government entity constituted of its member communities." (Quoted from Attachment 2.) The membership has changed slightly since formation with the addition of the cities of Kenmore, Lake Forest Park, Mukilteo and Woodinville, while the City of Bothell has left the organization.

The primary mission of ESCA is to serve as the emergency management agency for member cities and to assist the member cities with development and updates of their Comprehensive Emergency Management Plan, Emergency Action Plans, and to provide emergency training. (A much more detailed description listing 18 services is included as Attachment 3, which is copied from the ESCA website on the page labeled "What We Do.") It is important for the City of Mill Creek and other cities with limited staffing resources to have available the expertise of emergency management professionals. Aside from Snohomish County itself, within the County only the City of Everett has its' own staff dedicated to full-time emergency management functions. ESCA has provided necessary services that City staff simply do not have the time or knowledge to provide in-house. However, ESCA experienced significant staffing changes in 2014, including the resignation of a Senior Coordinator early in the year and the retirement of the Director in late summer. With only four full-time staff members, these events seriously hampered the ability of ESCA to function as intended.

To address both staffing and functional issues, a subcommittee of ESCA Board members prepared a draft strategic plan that outlined three potential options for ESCA moving forward: fill the vacancies and continue as before; dissolve ESCA and seek emergency management services somewhere else; create a hybrid organization that focused on training and planning, but not disaster event support. At the last ESCA Board meeting on January 22, 2015, the City of Mukilteo submitted a formal withdrawal letter. The ILA requires submission of withdrawal letters on or before June 30 for withdrawal at the end of the year in which the withdrawal is made. After considerable discussion of the current state of ESCA and options available, the board concluded it was essential to meet with DEM, and that meeting is scheduled for February 12, 2015. A letter from John Pennington, DEM Director, detailing some points of discussion at the meeting is included as Attachment 4.

The cost to Mill Creek in 2015 for ESCA membership is \$44,431. All member cities pay a fee based on population at the rate of about \$2 per person. The 2015 operating budget for ESCA is \$655,126 and it has about \$95,000 in reserves. Aside from revenue from member cities, ESCA also gets grant revenue. That can vary, but has average about \$125k in recent years. The existing cost for DEM member cities is \$1.12 per person, also based on population. DEM currently does not provide the same support services to member cities as ESCA. Much of the discussion at the February 12th meeting will focus on the potential integration of the seven ESCA member cities in Snohomish County into DEM and how some of the services provided by ESCA might (or might not) be provided by DEM.

Like Mukilteo, the City could formally withdraw from ESCA by submitting a letter so stating, but the withdrawal would not be effective until the end of the year. Section 7 of the 1994 ILA, entitled "Term and Dissolution," states the ILA, and thus ESCA, may be terminated and dissolved at any time by a simple majority vote of the members. City Attorney Maloney recommends that independent

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legal consul be retained by ESCA to work through the details including the distribution of assets and potential assumption of liabilities among member cities and/or DEM. In any event, the actions taken by the City and the ESCA board will have ramifications and need to be made with prudence.

Discussion.

Council and Staff engaged in a discussion. Chief Crannell and Director Gathmann will both attend the February 12, 2015 meeting between ESCA and DEM and report back to City Council on February 24th.

Recommendations from the Economic Development Committee Report
(Tom Rogers, Director of Community Development)

The following agenda summary information was presented:

The Mill Creek Economic Development Committee presented its report to the City Council on September 23, 2014. The report contained several "Areas For Consideration," which they believed warranted further Council consideration. These recommendations were categorized as either short-term (to be investigated/ implemented within one year) or long-term (to be investigated/ implemented in two or more years). Although the Council did not discuss them in any detail, a few of the short-term recommendations, if approved, would have budgetary implications for 2015-2016.

The recommended Areas for Consideration as contained in the Economic Development Committee Report are listed below. Those recommendations that would require funding within the 2015/2016 budget period are bolded.

AREAS FOR CONSIDERATION

A consensus was reached on the following areas for consideration by the members of the committee who have participated for these last three months. They are divided into short-term (1 year) and long-term (2+ years and up).

SHORT TERM

- Add an Economic Development position to City staff.
- Promote the concept of a "big box" store in the EGUV for a reasonable time period and then if no contract evolves, offer an alternative design with focus on an arts and entertainment complex, restaurants and surrounding retail outlets. See Attachment A for a design example.
- Create an Economic Development web page to use as a resource for property owners, developers and brokers to use as a marketing tool, by highlighting the benefits of living in Mill Creek or owning/developing a business in the City. The web page would feature the types of businesses the City would like to see in Mill Creek and provide a one-stop shop for development information and support.
- Create relationships with business organizations to determine necessary information to incentivize potential new businesses to locate in Mill Creek.
- Streamline and promote the online permitting process to make it simple and more pro-business.
 - Create a City motto or tag line and use it in all promotions.
 - Mill Creek – a place where good things happen.
 - Mill Creek – come see why we love Mill Creek.
 - Mill Creek – where families are proud to call our City home.

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- Mill Creek – a community of families, nestled among parks and trails.
- Or make it a city-wide contest to create the favorite one.
- Continue to provide community-oriented activities to enhance the character of the City, such as “Movies in the Park.”
- Optimize North Creek Trail through promotion, signage for parking, addition of exercise stations and restrooms.
- Review and revise the current annexation policy document to modify it from a “pencil out” numbers focus to add elements of future control and potential new developments.
- Gather preliminary data for annexing the 164th corridor to I-5 in order to manage future development and control a key artery from I-5 to our City.
- Encourage the creation of a wetlands bank whereby developers could buy financial offsets to be used as mitigation in the same watershed.
- Change zoning codes to allow “mixed-use” in CB zones and increased building heights.
- Create a standing five-member Economic Development Committee to advise the City Council, support the Economic Development Director and provide oversight on the economic development direction in the City.

LONG TERM

- Provide a dedicated facility for family-oriented public activities such as the Annual Mill Creek Festival, Easter Egg Hunt, and future possibilities such as the Munch at Mill Creek, etc.
- Reconsider the south-end annexation without the burden of the Fire District payments and using the rewritten annexation policy.
- Pursue partnerships with businesses to advance community enhancements such as the position the City of Monroe took in partnering with a movie theater in order to secure its establishment.
- As the Council approaches the 2017-18 budget process and plan, we understand there will be difficult decisions to be made. Besides reviewing the possibilities of increased property taxes, instituting a new utility tax, cutting services to the citizens, we think you should seriously consider annexing into Fire District #7.

Discussion.

The Council discussed the committee recommendations and came to the following consensus:

- Add an Economic Development position to City staff.

Consensus: The Council agreed there are no funds allocated in the budget for an additional staff person at this time. This could be revisited at a later date. The Council agreed to utilize Economic Alliance to the extent possible.

- Promote the concept of a “big box” store in the EGUV for a reasonable time period and then if no contract evolves, offer an alternative design with focus on an arts and entertainment complex, restaurants and surrounding retail outlets.

Consensus: Council agreed that this is unfortunately not likely at this time. The Council will be holding a joint City Council/Planning Commission meeting to discuss the vision of East Gateway and its zoning. The Council will be reviewing the strategic plan and this will come up again during the conversations about the vision of the City.

- Create a Prominent Economic Development web page to use as a resource for property owners, developers and brokers to use as a marketing tool, by highlighting the benefits of living in Mill Creek or owning/developing a business in the City. The web page would feature the types of businesses the City would like to see in Mill Creek and provide a one-stop shop for development

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information and support.

Consensus: Staff will look at ways to revamp the City's website to help sell Mill Creek as a place to do business. Other cities websites will be looked at for examples. A major upgrade to the site may require a marketing firm to prepare materials.

- Create relationships with business organizations to determine necessary information to incentivize potential new businesses to locate in Mill Creek.

Consensus: Council discussed a new summit of developers and landowners as well as a sales tax free month or weekend. Mayor Pruitt regularly attends the Mill Creek Business Association meetings to keep communication with the businesses' needs. Council agreed that the Economic Development Committee was a group of landowners, developers and business representatives that was created to generate ideas; therefore, another summit was not needed at this time.

- Streamline and promote the online permitting process to make it simple and more pro-business.

Consensus: The City is doing a lot in this area and staff strives to be customer friendly. No action is required at this time.

Create a City motto or tag line and use it in all promotions.

- Mill Creek – a place where good things happen.
- Mill Creek – come see why we love Mill Creek.
- Mill Creek – where families are proud to call our City home.
- Mill Creek – a community of families, nestled among parks and trails.
- Or make it a city-wide contest to create the favorite one.

Consensus: Council agreed to review the strategic plan and decide on this at a later date.

- Continue to provide community-oriented activities to enhance the character of the City, such as "Movies in the Park."

Consensus: The Council feels that staff is doing this well.

- Optimize North Creek Trail through promotion, signage for parking, addition of exercise stations and restrooms.

Consensus: A suggestion was made for a possible grant for the signage. The Council agreed that there is a need to promote the trail to the public, possibly on Main Street. Staff will look into this and the available funds. The Council indicated that they were not in favor of exercise stations and restrooms at this time.

- Review and revise the current annexation policy document to modify it from a "pencil out" numbers focus to add elements of future control and potential new developments.

Consensus: There is an action item in the strategic plan for this item and it will be discussed at a later date.

MOTION: Councilmember Todd made a motion to extend the meeting to 9:30 p.m., Councilmember Michelson seconded the motion. The motion passed unanimously.

- Gather preliminary data for annexing the 164th corridor to I-5 in order to manage future

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development and control a key artery from I-5 to our City.

Consensus: This annexation is not a priority at this time but the Council does not want to lose sight of it.

- Encourage the creation of a wetlands bank whereby developers could buy financial offsets to be used as mitigation in the same watershed.

Consensus: Council agreed that this is not a viable option.

- Change zoning codes to allow “mixed-use” in CB zones and increased building heights.

Consensus: Council is already on this path. Council was in favor of continuing to working on this.

- Create a standing five-member Economic Development Committee to advise the City Council, support the Economic Development Director and provide oversight on the economic development direction in the City.

Consensus: The Council agreed that they need to set the direction first and possibly look at this in the future.

LONG TERM

- Provide a dedicated facility for family-oriented public activities such as the Annual Mill Creek Festival, Easter Egg Hunt, and future possibilities such as the Munch at Mill Creek, etc.

Consensus: Council agreed that they will be discussing facility needs in the future.

- Reconsider the south-end annexation without the burden of the Fire District payments and using the rewritten annexation policy.

Consensus: Council agreed that there is no way out of the Fire District and possibly annexation can be looked at a late date.

- Pursue partnerships with businesses to advance community enhancements such as the position the City of Monroe took in partnering with a movie theater in order to secure its establishment.

Consensus: After discussion, the Council is not interested at this time.

- As the Council approaches the 2017-18 budget process and plan, we understand there will be difficult decisions to be made. Besides reviewing the possibilities of increased property taxes, instituting a new utility tax, cutting services to the citizens, we think you should seriously consider annexing into Fire District #7.

Consensus: Council previously had detailed conversation about this and this is not an option at this time.

Open Discussion (City Council)

Mayor Pruitt addressed the memorandum included in the packet from City Engineer Smith regarding the BWC pavement option. The Council agreed to proceed with a trial.

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CONSENT AGENDA

Approval of Checks #53275 through #53342 and ACH Wire Transfers in the Amount of \$473,456.12.

(Audit Committee: Councilmember Todd and Councilmember Michelson)

Payroll and Benefit ACH Payments in the Amount of \$192,322.27.

(Audit Committee: Councilmember Todd and Councilmember Michelson)

Council Meeting Minutes of January 13, 2015

Council Meeting Minutes of January 27, 2015

MOTION: Councilmember Todd made a motion to approve the consent agenda, Councilmember Cavaleri seconded the motion. The motion passed unanimously.

REPORTS

Mayor Pruitt asked the Council to bring their strategic plan to the next Council meeting. She also spoke to a letter addressed to the Senator and State Representatives from the Council addressing the potholes at 132nd and 35th.

Councilmember Kelly reported that he attended the last Park and Recreation Board meeting.

Councilmember Michelson reported that she will be attending the Art/Beautification Board meeting tomorrow.

Councilmember Todd reported that he will be attending the AWC Legislative Conference and the Economic Alliance reception on February 19 in Olympia.

Acting City Manager Manuel reported on the WCIA leadership convention on March 19.

Community Development Director Rogers reported on the 2014 stormwater outreach handout. He also reported on the Planning Commission meeting next Thursday.

Councilmember Michelson asked staff to put some information out about the stormwater utility fee being on the County property tax bill this year.

AUDIENCE COMMUNICATION

There were no comments from the audience.

ADJOURNMENT

With no objection, Mayor Pruitt adjourned the meeting at 8:54 p.m.

Pam Pruitt, Mayor

Kelly M. Chelin, City Clerk