

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM #: Action A-3

DATE: September 9, 2010

SUBJECT: Audio Recordings of Special Meetings

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

SUMMARY:

Mr. Pinson is requesting the council consider recording all regular and special meetings of the city council. Currently only regular council meetings are recorded. Unless the audio recordings are transcribed and the transcription is approved, the recordings must be retained as a public record for 6 years. City staff are confirming that "transcribed" means verbatim.

Following is additional information from MRSC regarding audio recordings of council meetings <http://www.mrsc.org/askmrsc/featuredinq.aspx?inq=452>

Regular and Special Council Meetings

There does not appear to be any legal requirement for local legislative bodies to make audio tape recordings of general public meetings of the legislative body. Written minutes are still required as a permanent record of legislative proceedings.

Many local legislative bodies make a tape recording of the proceedings to assist the clerk in preparing the required summary or minutes of the official proceedings for approval by the council or board. If such a tape is made, it must now be retained for the new six year period even if the purpose for tape recording is simply to assist the clerk in preparing minutes.

Even though the tape must now be retained for six years, written meeting minutes are still required for every regular and special meetings, except executive sessions (RCW 42.32.030).

Quasi-Judicial Meetings

Different rules apply to quasi-judicial adjudicative proceedings and to public hearings where specific findings are required and a record may need to be made for judicial review. Washington courts have held that a verbatim record is required and even a close paraphrase of the proceedings is not sufficient where it becomes necessary to prepare an adequate record for review.

Although other methods of reporting are possible to obtain a verbatim transcript, the potential need for a verbatim transcript essentially means an audio recording is required for any hearing involving testimony upon which the legislative body will base its decision and which will become part of the record in the event of judicial review. If a verbatim transcript of the tapes is prepared and certified, the required retention period for the audio tapes may be reduced.

If there is any question over whether a tape needs to be made, consideration might be given to making a tape recording simply to avoid a court subsequently vacating the action due to lack of an adequate record for review. In addition, the courts have upheld actions even where the formal written findings were found inadequate to support the decision, where the decision was supported by oral findings contained in the tapes of the proceeding.

If you have any questions on whether audio tapes need to be made of particular hearings or proceedings, you should discuss the issue with your county prosecutor or city attorney.