



MARYSVILLE CITY COUNCIL MINUTES

AUGUST 6, 1990

7:30 p.m.

Council Chambers

PRESENT: Rita Matheny, Mayor  
Councilmembers:  
 Ken Baxter, Mayor Pro Tem  
 Dave McGee  
 Dave Weiser  
 Donna Pedersen  
 Donna Wright  
 Bob Lashua  
 Lee Cundiff  
Administrative Staff:  
 Phil Dexter, Finance Director/City Clerk  
 Carolyn Sanden, City Administrator  
 Jim Allendoerfer, City Attorney  
 Mike Corcoran, City Planner  
 Dave Zabell, Public Works Director  
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Matheny called the meeting to order at 7:30 p.m. and led the flag salute.

ROLL CALL:

Finance Director/City Clerk Dexter called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Pedersen noted in the 7/23/90 minutes on page 1, regarding the Committee appointed to determine criteria for excused and unexcused absences, it was the City Administrator and not the City Attorney who was included/appointed to serve on the committee. She also noted that on page 7, in paragraph 1, regarding the water conservation, it is ultra low flush toilets and not kits that are available from Sears for \$100. On page 6 in the second paragraph, it was noted that "ot" should be "to".

Councilor Lashua noted on page 2 in the fifth and sixth paragraphs, the word "remporary" should be "temporary".

Councilor Pedersen moved and Councilor Lashua seconded to approve the minutes of the 7/23/90 meeting as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Edward Martin (no address given) addressed the Council with concerns regarding the proposed cruising ordinance. He asked if there was going to be an age limit and City Attorney Allendoerfer stated there is no age stated in the draft ordinance, that the person who is found to be cruising, hopefully would have a valid drivers license. Mr. Martin asked if the draft ordinance is for a 24 hour period and City Attorney Allendoerfer said yes. Mr. Martin asked if there would be any exemptions to the ordinance and City Attorney Allendoerfer responded that yes, public buses, taxis, pizza delivery vehicles would be exempted. Mr. Martin said he took exception to pizza delivery vehicles being exempted because a lot of pizza companies reimburse employees for using their own vehicles and so all a person would have to do if pulled over for cruising, would be to claim they were delivering pizza. He said he finds the proposed ordinance very discriminatory if it's not going to make everyone abide by the law. Further, he said he felt it his right to be on the road as long as he is obeying the laws and that a police officer should not have the right to pull him over just because he goes up and down State a few times. He noted that Everett is different from Marysville because State is our main arterial with very few alternative routes. He gave the example of buying something at Pay N Pak, driving home and finding out it was the wrong part. He would then have to go back to Pay N Pak, using the same route, to return the item and according

to the proposed cruising ordinance, he would have to wait 2 hrs. before returning the item to Pay N Pak or be subject to a \$1,000 fine because there is no other route for him to go. He stated he has spoken with several police officers and the reason for the ordinance is because of the out-of-towners and we shouldn't be punishing our own people, he said. Also, he noted that Marysville has several businesses that stay open later and so the kids came from out of town--word gets around. As far as security, he said he would suggest businesses hire their own security to cover their parking lots. It's the same problems every weekend--he listens to it on the scanner--the same businesses/parking lots--Texaco, Arco, Jack-in-the-Box, 7-11, McDonald's--and it ends up with a lot of police action and then the police are too busy and not available for other crimes, he noted. He asked when the public hearing will be.

City Administrator Sanden said she understood there was going to be a citizens' meeting first and then they were going to meet with representatives from the City prior to the public hearing. She said sh had not been notified of any meeting as yet.

Mr. Martin pointed out that the City Council would also be subject to this law, because they are also citizens of Marysville.

City Attorney Allendoerfer welcomed Mr. Martin's comments at the upcoming public hearing. He then introduced Tim McMann, a new attorney with the law firm of Allendoerfer, Keithly, & Weed.

CONSENT AGENDA:

1. Authorize Acceptance of Firefighters Union Agreement.

City Administrator Sanden noted that the firefighters have asked for the same benefits as the police union.

Councilor Weiser moved and Councilor McGee seconded to authorize acceptance of the Firefighters Union Agreement. Passed unanimously.

CURRENT BUSINESS:

.. Update on Wastewater Treatment Facility and Water Pipeline Project.

City Administrator Sanden gave a brief update on the Wastewater Treatment Facility, noting that a news release had been given out today regarding the fact that the BOD is higher than it should be and that testing and investigations are continuing. She noted a "game plan" has been put together for inflow correction and some emergency sampling will be done to determine the source(s) that are causing the higher than normal BOD. She noted that the suspended solids are within normal limits. The City is going to be contacting industrial and agricultural users. An Industrial Waste Engineer has been brought in to inventory the industrial contributors and make suggestions. She added that the DOE is as concerned as the City. The high BOD readings have surprised both parties to the Consent Order. She concluded that although we are in violation at this time, we still have some time to recoup.

City Attorney Allendoerfer clarified that this violation is not fecal chloroform, it's BOD substances such as sugar, grass clippings, green strawberries.

CORRECTED: SEE 8/13/90  
MINUTES

With regard to the Water Pipeline Project, City Administrator Sanden announced there will be an EIS scoping meeting 8/9/90 at 7:00 p.m. in Council Chambers, open to the public.

Councilor Weiser asked if the scoping meeting would limit the scope of the EIS and City Planner Corcoran said no, it would not limit the EIS to just the things that are brought up at the meeting, but the meeting may bring out more things to be included in the EIS.

The PUD was adamant that there will be challenges to our EIS and that they are planning to challenge the EIS already.

CORRECTED: SEE 8/13/90  
MINUTES

Councilor Weiser and he had heard that the PUD was concerned that the EIS may just be glossed over and City Planning Corcoran stated any and all comments will be entertained.

Councilor Weiser asked in what depth and how broad the EIS has to go, for example, do we have to consider the water supply in Darrington?

City Administrator Sanden stated no, but the City does need to look at anything with a significant impact, especially anything with a significant adverse impact on the environment. She said that as she recalled, the person that Councilor Weiser spoke to said that they plan to hold the project up for 2 to 3 years.

Right, Councilor Weiser said.

There was a discussion about some City Councilmembers being asked to lunch by PUD people with questions regarding litigation and discussion of the EIS process, threatened delay tactics, and possible water pipeline negotiations for their 18" line vs. the 30" line.

Councilor Weiser said the 18" line won't carry sufficient quantity for our needs today; but that the PUD said they could put pumps on it. But that was what the lawsuit was about - providing more water than what we need today. The PUD, he said, felt they would not have to do an EIS and that the City could just take the 18" line and go if we bought from them.

Councilor Weiser stated that it almost seems like the EIS isn't the problem, it is a delaying method.

Councilor Baxter said that at a prior meeting with PUD they twice said they would spend at least \$200,000.00 to fight the City's water line.

There was more discussion about Marysville as a rate base, PUD using ratepayers' money to "fight" Marysville, possibility of buying bonds to finance pipeline, becoming "partners" with PUD and not having to pay for the pipeline, just the water; the City could save bonding capacity for its sewer project.

There was concern for safety and having enough water available for fire protection of our citizens.

Finance Director Dexter explained there really is no such thing as "bonding capacity" -- revenue bonds are sold on the strength and ability of the proprietary operation. Capacity applies to General Obligation Bonds.

Councilor Baxter mentioned a 1986 PUD water study he came across and he noted that it included serving of Camano Island (which is in Island County). He noted this would require quite an amount of "shuffling" of the system with the cost being borne by all customers, regardless of proximity to the source.

There were more comments about the fact that Marysville likes to carry on business "up-front". The PUD can get on the agenda.

Councilor Weiser said, that in his conversation, the PUD had two thrusts:

1. If there was any room for discussion of 18" line on temporary basis.
2. To let us know that they plan to challenge our pipeline and even our sewer system. The Commissioner said they would require mechanical treatment.

Councilor Weiser asked about mechanical sewer treatment and City Administrator Sanden noted that it is much more expensive and that Everett's lagoon treatment works very well. Councilor Baxter said he wondered why PUD is interested in Marysville's sewer system.

City Administrator Sanden said the challenge of the EIS, the limited bonding capacity, the requirement of a mechanical sewer system--that she has concerns that this is a veiled threat of time and dollars.

Councilor Weiser said he got that feeling; that the issue was not the actual sewer and water projects, but a delay tactic using the SEPA process.

There was further discussion about the various meetings with PUD people, comments about information that was asked and given.

## 2. 1990 Budget Amendment Ordinance.

Finance Director Dexter explained that six funds are affected and he referred to the information in the packets. He noted new items that have been added since approval and discussion at last City council meeting. He went into some depth regarding the golf course improvements and there was discussion about how urgently needed it is to put the netting back up to prevent golf balls from going into the roadway and doing vehicular damage that the City is liable for.

After a brief discussion about timing schedules, width of 67th, claims, the City being a "good neighbor", Councilor Wright moved and Councilor Baxter seconded to approve/adopt Ordinance 1791 encompassing the 1990 Budget Amendments as presented. Passed unanimously.

NEW BUSINESS:

**1. Presentation on Snohomish County Homeless by Snohomish County Homeless Task Force.**

(1502 Hoyt, Everett)

Ed Peterson, Chairman of the Snohomish County Homeless Task Force, gave a presentation. He has been on the task force since its founding in 1976 and has been chairman for 2 yrs. He noted that a lot of the phenomena/problems began because of the shift of responsibility from the federal level to the local level and federal funding dried up. He noted there has not been enough local funding because of other priorities however, there has been some recent state and local funding to cities that are providing matching funds. He noted the funding problems have been compounded by an extraordinary amount of growth in Snohomish County as well as a low housing vacancy rate, cost of housing in general being very high, and many citizens just can't afford housing because it takes 80% of their income, he pointed out. He noted that in 1987 there were approximately 5900 homeless and current (1989-90) figures are about 12,000 in Snohomish County. And, he pointed out that this is a trend that's going to continue because for one thing, low cost housing isn't cost effective for developers and there are very few incentives. He enumerated (from hand-outs) some ways to help solve the problem:

- establishing a fund for future matching funds
- housing levy
- preservation of housing (eg. Ebey Arms)
- green tagging low income housing projects
- church shelter network (for housing families at night in the churches)
- community development block grant funding re-emphasis.

Mr. Peterson explained there are three types of housing:

1. Temporary shelter
2. 1-24 mos. Transitional housing
3. Permanent housing.

He talked about "Housing Hope", a local funding project which purchased a 3 bedroom house in Stanwood and they are looking for other possible homes that can be purchased in the area for future use by the homeless. He noted that most of the shelters and missions are in Everett because of the proximity to other needed services.

Councilor Pedersen asked about statistics as to where people come from and Mr. Peterson explained it is very difficult to develop this type of statistic because the homeless are a very transitional type of society.

Councilor McGee asked about the qualifications/criteria for low income housing and Mr. Peterson stated the housing authority's criteria is that they earn 50% of the median income, that they be good tenants, and the homeless receive priority.

Councilor Cundiff asked how much of the money that is donated to the homeless goes toward operating costs and Mr. Peterson said he could not speak for all funding projects, but "Housing Hope" only uses 10% for operating costs.

Councilor Wright commented on the low vacancy rate and said she could attest to the fact there are a lot of homeless in Marysville, people living in cars, etc. and very high rental rates.

Mr. Peterson noted that there is such a low vacancy rate, the landlord can ask for first and last month's rent, a security deposit and a non-refundable credit check fee. Unfortunately, he pointed out, the children are being traumatized and devastated by these experiences and a daycare for the homeless children has recently been started to help alleviate some problems there. Partners for Tomorrow is also helping, he said, and an action plan has been developed that will be presented in early September to surrounding communities; help is needed from everyone, he concluded.

## 2. Variance to Ordinance #1763; Henry Osborn.

Public Works Director Zabell explained the property is on 100th, east of 51st. It was originally 8 lots but only two dwelling units have been constructed and Mr. Osborn then ran into some construction problems. In the meantime, Ordinance 1763 was enacted that compounded Mr. Osborn's problems, explained Public Works Director Zabell.

Henry Osborn, 30 140th NW, addressed Council and explained he ran into some problems when digging for utilities and they ran into a 16" water main that was not shown on any City maps. He said Belmark is ready to go as soon as approval is received, to finish construction, but in the meantime, Mr. Osborn is paying \$1,000/mo. interest on the construction loan, he said. He noted it is a real mess and he would like to see the shrubbery repaired, etc. but he can't do anything without the sewer hookups. He explained that the contractor ran out on him and then they ran into the problem with the water main and those things caused a lot of delay and extra, unexpected expense.

City Attorney Allendoerfer questioned the request for only 2 sewer hookups if the applicant has 8 lots and Mr. Osborn explained he really only has 2 legal lots at this point and that he would like to move into one of the houses and sell the other. Each house is sitting on a legal 1 acre lot, he said, and he would wait until after the moratorium is lifted to apply for any more sewer hookups. He stated the soil will not perk and to put in a septic system would run about \$32,000 for an 8 lot plat. For right now, 2 hookups would satisfy his immediate need and he expressed a preference for getting the work done before school starts so as to prevent a safety hazard of open ditches, etc.

City Attorney Allendoerfer asked about the time period between 7/89 and 2/90 when the sewer moratorium was imposed--why the construction was not completed in that time.

Mr. Osborn explained that the water table is very high in that area and it was necessary to have pumps running constantly to keep the water away from the construction sites--this caused extra time and expense during that time.

Councilor Weiser asked about the contractor that ran out on him and Mr. Osborn explained it was his (ex) son-in-law, whom he is now suing. He said the main problem was running into the 16" water line and having to run two pumps 24 hrs. a day to keep the water out. He concluded that he wants to do "what's right" and that this is a very serious problem for him financially.

Councilor Weiser asked why the water line was not shown on the map and Public Works Director Zabell stated it was probably because it is a fairly new line and just wasn't on the map, yet. He added that the construction engineer has not resubmitted any plans for the project as yet.

Mr. Osborn said a locking manhole could be put in as a way to bypass the water and for the sewer to get away from the water line, with an easement on his property, taking some precautions for safety. He said he knew he could count on Belmark to finish up the job for him in a competent manner.

City Attorney Allendoerfer explained that the City is currently exceeding our Biological Oxygen Demand (BOD) limitations with a possible shutdown 8/15/90. He pointed out that a sewer hookup to the Osborn property may only have a six month life because granting of any hookups would have to be terminated if Marysville is shut down by DOE. Furthermore, he said he was not sure there is a variance hardship in this case and would suggest the applicant attend next Monday night's Council meeting at which time Ordinance 1763 will be reviewed. He noted there will be a proposal at that time for an ordinance that would allow a "no net increase" of sewage into the system and a variance could occur even with a shutdown if there's no net increase. He explained that in the Consent Order agreement between the City and DOE, the City agrees that if out of compliance, there will be no new hookups, as long as we are exceeding the BOD rating, eg.

Councilor Cundiff remarked that under the circumstances, he could see no way the City could grant this variance.

Mr. Osborn stated he had good intentions on this project but they had poor engineering and he would like to clean up the mess.

Councilor Cundiff suggested the possibility of deferring the matter to next Monday night and City Attorney Allendoerfer stated it may help him to be continued because the City is working on its violation status and the BOD issue may be resolved by next week. An alternative would be if Mr. Osborn could come up with a plan for taking care of his own BOD, he said.

CORRECTED: SEE	8/13/90
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Councilor Cundiff moved to deny the request without prejudice, so that the applicant may come back within 6 months without paying another fee, after which time the denial would convert to a regular denial. The motion was seconded by Councilor Weiser and passed unanimously.

### 3. Administrative Appeal to Ordinance 1763; Ed Hayes.

Public Works Director Zabell explained the applicant is appealing his (Zabell's) interpretation of the ordinance, that a hookup is one connection and connection to 200 units would be 200 hookups (for the proposed RV park).

Edward W. Hayes, 5115 Old US 99, Marysville, addressed Council and explained he purchased the property in question in 1960 and the City has passed many ordinances and variances on the property and there have been many delays over the years including it taking three years to obtain various water and sewer permits. He said he had Larry Wade do an independent study and in his opinion, the property is vested for the sewer hookup. In the meantime, he explained the property has been leased to Mr. Larry Loeber who is developing plans for the RV park, all of which he said he feels the City was aware of. He then explained that Mr. Rick McArdle wished to address Council on behalf of Larry Loeber.

Rick McArdle of Wight & Hardt, 2917 Pacific, Everett, addressed Council, representing Larry Loeber. He said it's obvious the City has to make some tough decisions and for the record, Wight & Hardt are not Mr. Osborn's engineers! With regard to the Hayes property, for a number of reasons, they feel the property is vested under both 2c3 and 2b of Ordinance 1763, he said. He noted that the sewer main was installed about a year ago across Ebey Slough and there is no extension required. The internal use of the property would be an RV park, although they feel that is not relevant, he pointed out. As far as the requirement that the sewer go across the frontage, there is no traditional "frontage" on this property. The facilities on site also could replace the current RV dump site on I-5, he added.

The Mayor pointed out that the RV dump site on I-5 is temporarily closed at this time because of the high BOD readings in the lagoon.

Mr. McArdle stated the intent is to charge fees and permanently replace the I-5 facility. Also, plans to transport solids to Everett with on-site storage of remaining effluent for transport into the Marysville system during non-peak hours are being made. He pointed out that this is a unique situation with no further extensions required to the sewer main and it is a kind of cross over between the two sections of Ordinance 1763, as far as vested rights.

City Attorney Allendoerfer argued that the real question is the interpretation of what a connection is and if there is going to be a network of connections to 200 RV pads, this would be like a multifamily complex, a shopping center and/or a mobile home park and the City has always considered the total count.

Mr. McArdle stated their interpretation is there would only be one connection to the City system, the owner would have a pump station to provide for an internal system. He has an existing sewer service, he added.

Public Works Director Zabell stated his interpretation was based on 200 "sources" of sewage.

There was discussion and comments regarding septic tank alternatives, mitigation, hydrology problems with the sewer lagoon, this case not fitting in with the existing ordinance particularly well, BOD readings, vesting, dollars spent on the project, upgrading of the lagoon.

Councilor Lashua said he would agree this would be 200 hookups and would suggest delaying these types of decisions until after next meeting when 1763 will be revisited. Also, this would give the applicant a chance to come up with a grey water only plan, he pointed out.

Councilor Baxter agreed with Councilor Lashua's comments.

Councilor McGee moved to uphold the administrative decision and Councilor Weiser seconded the motion.

After more brief discussion, a roll call vote was taken:

Councilor McGee - in favor  
 Councilor Weiser - in favor  
 Councilor Baxter - against  
 Councilor Pedersen - in favor  
 Councilor Wright - in favor  
 Councilor Cundiff - against  
 Councilor Lashua - against

The motion passed 4-3 in favor.

#### ORDINANCES & RESOLUTIONS:

- 1. Ordinance Amending Ordinance No. 1789 (Water Overage Rate Increase) as to Effective date thereof.**

Finance Director Dexter explained that the City is broken up into routes and all routes should not be effective the same day because all meters are not read at the same time and there would be logistical problems, so he suggested Routes 25 thru 89 - 8/1/90 and Routes 1 thru 24 and 90 thru 99 - 9/1/90.

Discussion followed concerning meter reading and intervals between meter readings, billings, how you would determine if and when an overage occurred when there is a 4 day leeway between readings, the customer caring about how fair it is, meter reading should be on the same day every month, stats about what percentage of meters are read exactly every 60 days, holidays and weekends interfering with schedule, with the overage the meter reading should be more accurate, pro rating if they go over 60 days between meter readings, how to prove when the overage occurred. (Staff to respond.)

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Councilor Wright moved and Councilor Weiser seconded to approve/adopt Ordinance 1792 amending the effective dates as proposed. Passed unanimously.

**2. Ordinance Rezoning Property Owned by Prime Storage Systems, Inc.**

Councilor Cundiff moved that Ordinance 1793 be approved/adopted for this contract rezone. Councilor Wright seconded and the motion passed unanimously.

**3. Ordinance adding a New Section to Marysville Traffic Code Prohibiting Short Cuts through Private Parking Lots.**

City Attorney Allendoerfer explained that the proposed ordinance is acceptable to the police chief.

Discussion followed regarding posting mall parking lots, the fact that both Lynnwood and Everett have this ordinance, enforcement.

Councilor Baxter moved that Ordinance 1794 be approved/adopted, Councilor McGee seconded and the motion passed unanimously.

**4. Resolution Granting Variance to the Sewer Moratorium for Hank Spoelstra.**

Councilor Lashua moved and Councilor Cundiff seconded to adopt/approve Resolution 1437. Passed unanimously.

LEGAL MATTERS:

City Attorney Allendoerfer explained that the Boundary Review Board/County has called for its own public hearing on the First-mark Annexation (on the west side of 67th), to be held 9/17/90.

City Attorney Allendoerfer announced that, thanks to Dave Zabell, the City has been awarded a \$32,500 road construction grant by the State for completion of engineering of right of way at 3rd & Liberty (47th). Public Works Director Zabell commented that the Grove St. job is going to bid next week.

CALL ON COUNCILMEMBERS:

Councilor Lashua made some comments regarding construction on 4th.

Councilor Wright commented on attending the AWC meeting and how they would like support in defeating 547 which they feel will be devastating to the cities.

Councilor Pedersen commented on her tour 7/23 of the sewer and water facilities of Marysville and how knowledgeable everyone was and how impressed she was with the expertise of staff. She said she still has a concern about traffic at the post office and Public Works Director Zabell said he would try to get the postmaster to attend an upcoming meeting. He commented that the highest rated accident intersection at this time in Marysville is at 4th & Beach, with the second highest being 4th & Delta. He noted these would be discussed at the upcoming Traffic Advisory Committee meeting.

Councilor Baxter asked about an agreement with Lake Stevens regarding water and City Administrator Sanden stated she understood they are offering Marysville help over the next 5 years. She noted their assistance was entirely non-solicited and she will be contacting Darwin Smith further about this.

Councilor Baxter reported there are four unmarked sewage pump trucks operating in Marysville. He asked about our water tank levels and Public Works Director Zabell stated they are holding up well with Hwy. 9 water, that we are up to our maximum of about 7 million gallons.

City Administrator Sanden commented that Utilities Supt. Kissinger

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is optimistic about the water conservation efforts helping our situation.

Councilor Baxter mentioned the teen and parent cruising ordinance meeting that was held this evening and City Administrator Sanden said she would follow up with Mrs. Larson about when they want to meet with City representatives.

Councilor Baxter noted there seemed to be some conflicting information and Mayor Matheny stressed that the meetings were to be joint meetings of the citizens' group and City representatives.

Councilor McGee underlined the great need to have the golf ball net put back up on 67th to protect passersby and there were several comments from Councilmembers in agreement.

ADJOURNMENT INTO EXECUTIVE SESSION: 10:30 p.m.

RECONVENE AND ADJOURNMENT: Approx. 11:00 p.m.

Accepted this 13<sup>th</sup> day of August, 1990.

Rita Matheny  
MAYOR

Phillip E. Dexter  
CITY CLERK

Manda K. Iverson  
RECORDING SECRETARY