

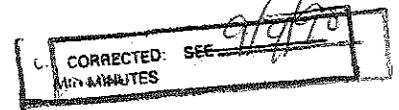
MARYSVILLE CITY COUNCIL MINUTES

AUGUST 27, 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 (excused)
Administrative Staff:
 Carolyn Sanden, City Administrator
 Jim Allendoerfer, City Attorney
 Jim Ballew, Parks & Recreation Supt.
 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:

City Administrator Sanden called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Pedersen moved and Councilor Lashua seconded that the minutes of the 8/13/90 Council meeting be approved as written. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

None.

PUBLIC HEARINGS:**1. Sewer Moratorium Variance - Centex Homes.**

Ken Kruger of Centex Homes addressed Council. He had previously handed out a two page letter regarding the City requiring Centex to stop work on Parkview Estates last week. He stated they would like to continue with site work and improvements under the conditions of Ordinance 1795 and noted that the City had previously indicated to them there were no problems with continuing the construction work on 52 vested lots on the west side of the site. He noted there are existing taps in place already.

City Administrator Sanden gave a bit of background to the situation, noting that in the interim, the new sewer moratorium (Ordinance #1795) has disallowed any connections whatsoever. She said 1763 stopped all connections excepted for those that were vested, however, 1795 will not allow any connections as long as the City is exceeding influent and/or effluent limits.

Mr. Kruger explained that because of the time of year, they would like to finish up the 52 sites, acknowledging that they can't have building permits until the sewer moratorium is lifted.

City Administrator Sanden agreed this situation is a little unique but anticipated complaints from citizens because developers can continue and citizens can't (continue with construction) and so the City has taken the position that as long as we are in violation, we have to put a temporary stop on all hookups under 2.1 of Ordinance 1795. She agreed this is a tough call and are very sympathetic to the concerns of the developer regarding the construction season coming to an end soon for this year.

Councilors Pedersen and Lashua agreed with City Administrator Sanden's remarks however Councilor Baxter questioned whether the

the City may be overstepping its jurisdiction in this case because he said he didn't feel it should be up to the Council to tell the owner of the property how to spend his money--whether it be to put in landscaping or dry sewer connections, it should be their prerogative. To protect the City's interests, he suggested having the developer sign a hold harmless agreement.

City Administrator Sanden stated this had been discussed at the staff level however it was staff's understanding that City Council's position (and staff's position) is not to allow any dry connections because of the liability issue. Also, the further the developer gets along on the project and the more money they put into the sewer connection, the more angrier the developer will get and the harder it is to enforce, she pointed out. The argument that they could sign an agreement and not connect until after the sewer moratorium is lifted is a gray area, she added. She noted that originally they were vested although the connections were not completed and also, if approved, he would be the only one allowed to do this with other developers having had to stop construction.

Councilor Pedersen said she remembered the pros and cons and discussions of the risks and that the consensus was not to allow the developer to continue.

City Administrator Sanden said yes, and the DOE concurred with this position, she noted.

Councilor Pedersen added that approval would also set a precedent and be possibly "opening a can of worms" and although she is sympathetic to the developer's request, noted that everyone is having to suffer through this same situation with the sewer ban/moratorium.

Councilor Weiser asked if this would apply to already vested lots only and City Administrator Sanden explained there was a vesting requirement and he was considered vested under Ordinance 1763, however, Ordinance 1795 cancels out those vesting rights and thus the work stoppage order.

Councilor Weiser said with the ban now, he didn't think approval of the variance would be adding anything to the sewer and Councilor Lashua noted the City would not be giving him any extension.

Councilor Baxter said he feels if the DOE disagrees with what the developer is doing, it should be up to DOE to stop the work and not within the jurisdiction of the City of Marysville. He added that if the developer wants to take the risk, it should be up to him to spend his money as he sees fit.

Councilor Lashua pointed out that the "transfer" or relocation of sewer connections is not an extension, as he sees it and City Administrator Sanden noted it is actually just an "exchange" of connections from one side of the property to the other.

Councilor Lashua asked for the City Attorney's opinion and City Attorney Allendoerfer said that as previous indicated, he has represented Centex in the past and has agreed not to discuss this situation in front of City Council in order not to present any bias.

Mayor Matheny expressed a concern about being consistent and Councilor Baxter said he would like to see Ordinance 1795 revisited and/or changed to allow developers to continue construction, if they wish.

City Administrator Sanden noted that private individuals have also had to stop work and asked if Councilor Baxter wished to make an exception in this case.

Councilor Baxter noted one person has come before Council twice on this issue--he has two homes all ready to be lived in and can't because of the sewer ban. He said he would like to see 1795 amended.

Councilor Pedersen said be that as it may, as long as the City is in violation, as they are at this time, the variance request must be denied.

Mr. Kruger noted that hindsight is 20/20 and if Centex had left the east side as it was, there would have been nothing to preclude them from continuing construction on the east side; this is a substitution only and it is rather a unique situation.

Jack Hood of Centex addressed Council at this time and asked if Centex/Parkview Estates isn't the only vested tract in Marysville that does not have sewer lines in the ground.

It was determined that they are the only ones in this situation but City Administrator Sanden pointed out that the meaning of "vested" was that they have the lines in the ground and the hookup stubbed.

Councilor Baxter moved to revisit Ordinance 1795 but there was no second to the motion. Councilor McGee agreed with 2.1 at this time, he said, but would be in favor of revisiting 1795 also. Councilor Pedersen added that the way she interprets 2.1, this request cannot be allowed.

Councilor McGee moved to deny the variance request, Councilor Pedersen seconded. Roll call vote:

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

The motion failed 4-2.

Councilor Baxter moved that the Centex variance request be approved as far as the construction work is concerned with a document/agreement to be signed and recorded to prohibit hookup to the sewer until the sewer moratorium/ban is lifted. Said agreement to run with the land. Findings of fact:

- no net increase, trading/substitution of hookups only from one street to another
- all other provisions of 2.1 would continue to apply
- hold harmless agreement would be a condition
- Centex would still be under notice of Ord. 1795, Section 2.1.

Councilor Lashua seconded and there was some discussion about spelling out of the hold harmless agreement. Roll call vote:

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

The motion passed 4-2.

CONSENT AGENDA:

1. 8/27/90 Claims Check Nos. 21051 thru 21214 - \$249,106.63.

After noting 2 or 3 pipeline lawsuit/right-of-way expenses,

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Councilor Baxter moved to approve Consent Agenda Item #1. Councilor Pedersen seconded and the motion passed unanimously.

2. Personnel Report which includes authorizing upgrades (per Union Agreement) of the following positions:
 - a. Public Works Secretary/Receptionist from a Grade II to III
 - b. Groundskeeper from a Grade III to V.

City Administrator Sanden explained there was an agreement with the Union in July in which it was agreed there would be an evaluation through the City's Comparable Worth system on three positions, Public Works Utility Secretary, Groundskeeper (including Greenskeeper) and Meter Readers. Comparable worth has been completed on two of the three positions; the meter reader position has not been evaluated because a task force is evaluating their job responsibilities and reporting relationship. When the task force has completed their evaluation, a Comparable Worth study will be done, she reported.

Councilor Baxter moved and Councilor Weiser seconded that Consent Agenda Item #2 be approved. Passed unanimously.

NEW BUSINESS:

1. Interlocal Agreement with Snohomish County Corrections.

It was explained that this item has been postponed because of a copying/logistics problem.

REVIEW BIDS:

None.

CURRENT BUSINESS:

None.

LEGAL MATTERS:

1. Consultant Contract.

Councilors Lashua and Weiser commented on the consultant's proposed plans and ideas and how the committee was very impressed with Mr. Burke. City Administrator Sanden explained that the agreement would be to pay the consultant \$5,000 for four sessions at four hours each with personnel, but there is some flexibility with the times.

Councilor Lashua moved and Councilor Weiser seconded to authorize the Mayor to sign the contract with the consultant as agreed. Passed unanimously.

LEGAL MATTERS:

1. An Ordinance Temporarily Suspending Section 14.01.050 of MMC to the Extent that it Requires Sewer Connections During the City's Sewer Moratorium.

It was noted that the County is enforcing Marysville's code requiring people within 200' of the sewer to hook up. There would be two conditions under this proposed ordinance: 1) that the improved property be consistent with an ultimate sewer connection and 2) that the propertyowner sign a covenant that they will connect with the sewer once the moratorium is lifted--within 90 days?

There was discussion regarding the second condition and Councilor Weiser suggested the wording "within 90 days after the ban or up to 12 months after the septic system was installed, whichever is longer".

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Councilor Baxter commented that it probably wouldn't be a good idea to force everyone to connect to the sewer at the same time; that he felt there should be several months of flexibility allowed.

City Attorney Allendoerfer noted that a sewer permit is good for 6 months and City Administrator Sanden noted that the use of a sewer permit would be easier to administrate than the wording suggested by Councilor Weiser. She added that it would be at the property owner's expense to decommission the septic and to connect to the sewer.

Councilor Lashua noted that the ordinance would run with the land.

Councilor Baxter said he felt there should be more discussion regarding using a septic tank and then dumping the effluent into the sewer system as a step system and in that case, it would be inadvisable for the property owner to abandon and/or decommission his septic system.

City Administrator Sanden said that would have to be approved by the DOE and/or DOH, but in Lake Stevens the experience is that a septic tank will leach within 5 years.

Councilor Baxter explained his idea would be for drain fields to be disconnected and pumped from the septic into the sewer system.

City Attorney Allendoerfer pointed out that the ordinance can be amended.

Councilor Lashua stated he would like some assurance that this ordinance would run with the land and there was brief discussion regarding this, noting the wording in the proposed ordinance.

Councilor Weiser then moved that Ordinance 1796 be approved with paragraph 2 to read "within 90 days after the sewer moratorium/ban is lifted or 12 months, whichever is longer". Councilor Baxter seconded and the motion passed unanimously.

2. An Ordinance Amending Section 14.05.020 of the MMC by adding a New Discharge Restriction on Customers of the City's Sewer System.

City Attorney Allendoerfer explained this is another amendment to the sewer ordinance which sets out a mathematical equation for the BOD limit into the system, according to state law. He noted this is to clarify criteria in the MMC only because there are three most blatant industrial violators at this time. They have been warned and are working on pre-treatment plans/efforts, he said.

Councilor Baxter moved and Councilor McGee seconded to adopt/approve Ordinance 1797. There was brief discussion and the motion passed unanimously.

City Administrator Sanden noted that the samples that have been taken so far have only been "grab" samples and are not definitive enough to enforce fines at this time but she will be talking with the engineers again tomorrow about this.

3. An Ordinance Amending Section 14.07.070(b) of the MMC Relating to the Calculation of Commercial Sewer Rates.

City Attorney Allendoerfer explained this is another sewer/water housekeeping item; that some industries have secondary water sources (such as the Quil Ceda Creek) and in some cases, they might be putting more sewer in our system than they are taking out of our water system and this proposed ordinance would correct that.

Councilor Wright moved and Councilor Baxter seconded to approve/adopt Ordinance 1798. Passed unanimously.

4. An Ordinance Imposing An Additional Excise Tax of Real Property, providing for the Collection Thereof, Subjecting the Tax to Referendum by Special Initiative and Fixing Penalties for the Violation Thereof.

Postponed.

5. A Resolution Authorizing Application for Funding Assistance for Two Outdoor Recreation Projects to the Interagency Committee for Outdoor Recreation as Provided by the Marine Recreation Land Act and Land, Water, Conservation Fund.

Parks & Recreation Supt. Ballew explained that grants have been applied for to fund acquisition of the Reagan property and the property adjacent to Jennings Park and Parkview Estates. He said under an IAC grant, the City is agreeing to backup and match all grant money, that a total of \$220,000 has been requested for the Reagan property but the City would have to come up with \$111,000 if either the IAC grant or the county grant is not approved. He noted that Centex is making a dedication of land as well as donating \$20,000 in in-kind services. He talked about Initiative 215 --funding provided for recreational services including boating. This is the funding we are hoping to draw from for development of the Reagan property into a waterfront recreational area. He indicated that he would like to do a more comprehensive presentation on this in the near future to Council.

Councilor Pedersen asked about the Growth Management Fund and Parks & Recreation Supt. Ballew stated he believed there is about \$200,000 in it and about \$8,000 in the Parks Mitigation Fund. He added that the match of funds has a deadline of two years after the IAC grants funds.

Councilor Lashua asked about right of way acquisition on the Reagan property and Parks & Recreation Supt. Ballew stated we can cut into the sewer lagoon hill with fencing and put in a 23' road to the point.

Councilor Lashua asked if \$220,000 is the "asking" price of the Reagan property and Parks & Recreation Supt. Ballew said yes, that until Council approves this resolution, no negotiations for a lower price are authorized.

There was further brief discussion regarding negotiations, the boundary of the property, the dike, parking, right of way on 47th, fill being needed, existing occupancy.

Councilor McGee moved to adopt/approve Resolution #1440 with Councilor Lashua seconding the motion. Passed unanimously.

6. Resolution regarding surplus police revolver.

City Attorney Allendoerfer explained that Sgt. Dennis' .38 Colt is no longer serviceable and that Sgt. Dennis would like to be able to buy it from the City as a memento of the many years he wore it in the line of duty. In order to do this, it must first be declared surplus and Sgt. Dennis would like first right of refusal.

Councilor Baxter moved and Councilor Weiser seconded to approve/adopt Resolution #1441 as outlined. Passed unanimously.

LEGAL MATTERS, CONTINUED:

1. City Attorney Allendoerfer said he wished to make it clear DOE did not fine the City of Marysville \$1,000 as printed in the Globe for sewer lagoon violation.
2. On the Dujardin/Meadow Green/Marvel Industries bonding issue, City Attorney Allendoerfer explained that an \$88,000 bank account has been replace with title insurance and also the City has been added in the lawsuit, with Dujardin's attorney agreeing to defend and indemnity the City.

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Councilor Weiser moved to authorize the Mayor to sign the two letters in question to Dujardin, releasing the \$88,000 bank account and agreeing to the terms of being included in the lawsuit. Councilor Wright seconded the motion and it passed unanimously.

3. Contract with HUD/County.

City Administrator Sanden explained this contract grants block grant monies to the City for the period 7/1/91 through 6/30/94 and is a standard agreement for which the Mayor needs to be authorized to sign.

Councilor Lashua moved and Councilor McGee seconded to authorize the Mayor to sign the interlocal agreement. Passed unanimously.

STAFF BUSINESS:

Parks & Recreation Supt. Ballew reported on the task force analysis committee to meet regarding the Library/Marysville School District parking issue. He said the school district is agreeable to 37 spaces for the City use (tentatively) and Ward Sayles will be presenting the proposal to the school board. The City would be required to make the improvements and also, he noted, there is an additional island that could be used for additional (employee?) parking.

There was some discussion about control of traffic, using the island area for employee parking.

Parks & Recreation Supt. Ballew then handed out a mockup of a Centennial logo that has been drawn up, noting \$100 has been invested so far for the graphic artist. He stated he is looking for direction from City Council on this--that the Centennial Committee is in excess of 30 members strong and it's their consensus that a Centennial logo be developed. Another alternative is to pursue the 100 year old logo/original City seal and use that as the Centennial logo.

There was discussion about use of the old logo, developing a completely new logo or possibly a combination of the old, present and new. It was noted that there has been good response to the present City logo pins but Parks & Recreation Supt. Ballew did mention this logo is very difficult to duplicate because of the color separation and suggested the possibility of more simplicity in the design and/or colors. He also reported on the Centennial book being published (2,000 or 3,000 copies) at a cost of \$12.60/issue at the most to the City, including 250 hard cover issues. These can be sold for \$15.95 to \$25.95 retail and there is a possibility of getting high school students to distribute (they would retain some of the profits). There were comments made regarding the success of Everett's and Langley's publications and Parks & Recreation Supt. Ballew concluded that the committee is very enthusiastic about the whole project.

MAYOR'S BUSINESS:

Mayor Matheny announced her appointment of Kelly Burt to the Planning Commission, one of the reasons being because Ms. Burt lives within City limits.

Councilor Baxter moved and Councilor Wright seconded to approve the Mayor's appointment. Passed unanimously.

CALL ON COUNCILMEMBERS:

Councilor Weiser asked for a copy of the Fire Dept. presentation for the 9/8 Workshop, to be distributed to Councilmembers prior to the 9/8 Workshop. He also said that regarding the Petunia District, he would like to see (and understands Arlington is interested in) negotiations restarted regarding the boundaries. There was discussion at this point regarding water and sewer services of the two cities, as well as annexation issues.

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It was the consensus that there needs to be more discussion regarding this issue (at the workshop 9/8?).

Councilor Baxter asked about whether there were any problems over the weekend with cruising and City Administrator said no major problems, one speeding ticket. She added that she recently attended a city managers' seminar and a lot of cities are having problems with cruising and it apparently tends to get worse, she said.

Councilor Baxter asked about the 4th St. closure and whether or not they are planning to put in curbs, gutters and sidewalks.

City Administrator Sanden said this matter should probably be referred to Public Works Director Zabell when he gets back from vacation.

Councilor Weiser said he understood there would be complete closure for 4 weeks altogether.

Councilor Baxter stated he would like to see something done at First & Cedar regarding the parking problem, possibly some painted markings/boundaries, but he could wait until Dave Zabell gets back and approach him about this again.

There was discussion about 2 hour parking restrictions, the fact that the street is very narrow, the possibility of an ordinance or resolution having been passed regarding this but not enforced. When asked about the vacant lot next to Baxter's Auto, Councilor Baxter stated Jess McCollum owns part of it, Virgil Baxter owns the other part and City Administrator Sanden said she would do some checking into the parking code.

Councilor Pedersen followed up on the traffic problem at the post office and City Administrator Sanden said she didn't have any information.

Councilor Lashua also followed up on whether or not there were any problems with cruisers and City Attorney Allendoerfer stated there were a lot of kids in parking lots and a lot of out-of-towners in town last weekend; this is causing a lot of overtime to be paid for security but the situation was fairly well disciplined, he said.

Parks & Recreation Supt. Ballew reported that the YMCA had a dance Saturday night and only 3 people showed up.

Councilor Lashua reported that by next meeting he would have a presentation from Snohomish County Tomorrow/progress.

ADJOURNMENT INTO EXECUTIVE SESSION ON REAL ESTATE & PENDING LITIGATION: 9:25 p.m.

RECONVENE & ADJOURN: APPROXIMATELY 9:55 p.m.

Accepted this 4 day of September, 1990.

Peta Matheny
MAYOR

Phillip E. Dexter
CITY CLERK

Manda R. Iverson
RECORDING SECRETARY