

MARYSVILLE CITY COUNCIL MINUTES

DECEMBER 10, 1990

7:30 p.m.

Council Chambers

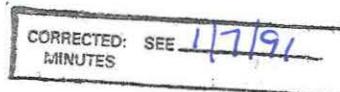
Present: Rita Matheny, Mayor

Councilmembers:

Ken Baxter, Mayor Pro Tem  
Dave McGee  
Dave Weiser  
Donna Pedersen  
Donna Wright  
Bob Lashua  
Lee Cundiff

Administrative Staff:

Mary Swenson, Asst. to City Administrator  
Phil Dexter, Finance Director  
Dave Zabell, Public Works Director  
Jim Allendoerfer, City Attorney  
Mike Corcoran, City Planner  
Walt McKinney, Lt., Marysville P.D.  
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 Clerk/Finance Director Dexter called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Lashua noted in the minutes of the 12/3/90 meeting, on page 4, paragraph 9, in the next to last sentence, the word "rezone" should be "plat or subdivision". On the last page under Mayor's Business, "John" Beaman should be "Don" Beaman.

Councilor Pedersen noted that on page 9, paragraph 5, Councilor McGee's motion concerning the City Attorney included the months of January and February.

Councilor Wright noted on page 5, paragraph 2, item 3, the meeting included many developers, not only developers.

Councilor Lashua moved and Councilor McGee seconded to approve the minutes of the 12/3/90 meeting as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

None.

PRESENTATIONS:

None.

PETITIONS & COMMUNICATIONS:

None.

PUBLIC HEARINGS:

- 1. An Ordinance Amending Ordinance No. 1795 Relating to the Sewer Moratorium by Adding Section 2.4 Establishing a Priority Ranking for New Sewer connections.**

City Attorney Allendoerfer referred to "Draft 4" in the packets but noted that a "Draft 5" has now been written and is available. He explained that as a result of the readings at the sewer lagoon being within criteria set by DOE, new sewer connections can now be allowed and the Council basically has three options:

1. To leave the lagoon closed until upgrade is complete;
2. Compromise in the form of the amendment to the ordinance with new connections allowed according to a priority and including a "phasing in";
3. Allow all vested connections to connect (approx. 500) at this time.

He stated that the proposed ordinance amending Ordinance #1795 does in fact "stretch" the Consent Order. He referred to a letter received from DOE, dated 12/7 which releases the ban under Ordinance 1795 and noted that they recommend some controls as to how many connections are made at a time. He noted if the "wide open" option is chosen, no amendment to 1795 would be required but this method would not provide relief for those people who are not vested and another ordinance will have to be drafted for them --which he said he would try and do before he leaves the employ of the City.

The Mayor then opened the public hearing up to the audience.

Penny McIntosh, 8420 47th Dr. NE, addressed Council, explaining she started a short plat in 1989 but was not vested. There have been several delays and now her current extension from the County expires 5/91 and she said she would like to be approved for sewer hookup otherwise she would have to start the short platting process all over with the county. She said she felt the City of Marysville should honor their commitment to her regarding telling her she could connect to the sewer, prior to the moratorium.

Randy Aliment and Dennis Reynolds, 601 Union Street, Seattle, addressed Council explaining that they represent Tom Withers' Crystal Heights plat. It was noted that Mr. Withers has received repeated commitments for the 97 lots and Mr. Aliment asked that there be no further delays. He also requested they be allowed two years to hook up, along with a clear assurance from City Council for the connections. He then proceeded to itemize in chronological order several events that transpired from 2/88 to 10/90, from first being approved by the Boundary Review Board, the lots being vested and Mr. Withers being assured that Marysville had the capacity, Mr. Withers being encouraged to proceed with construction but side sewers rejected. It was explained that over \$2,000,000 in improvements have been made so far, including a 5.4 acre park to be donated to the City. It was also pointed out that Mr. Withers pays \$22,500 in interest per month on his bank loan for this development. Mr. Aliment concluded that the sewer ban has been lifted and they therefore request that the 97 lots be allowed to connect.

Mr. Reynolds then explained that it would take at least 2-3 years before the full impact of 525 sewer connections is felt by the City. He also stated that they have been meeting with DOE and feel they have a good relationship at this point, that DOE is willing to renegotiate the Consent Order. Mr. Reynolds pointed out that it is possible that a ban may come in again and that paragraph 17 of the Consent Order provides for review. He said they feel this is significant and asked that the City work with them as far as the concept of "vested rights" in the event of a ban being reimposed. He concluded that this type of language should have been in the Consent Order and they would like to see the wording modified.

Jim Matheson, Marysville, representing Ron Young and the State Street Medical Building, addressed Council, requesting some priority for their project. He presented photographs to Council and explained that they applied for a sewer connection in 9/88 originally but the building was not finished. Only 1350 sq.ft. is completed so far and they would like to finish up the remaining 3050 sq. ft. with their permit/contract recognized, because at present tenants are all sharing one bathroom.

City Attorney Allendoerfer pointed out that Mr. Matheson/Young have one of the highest priorities for connection/vesting rights.

Bruce McKinnon, 7612 75th Dr. NE, addressed Council, stating he hoped Council's choice would be to renegotiate the Consent Order. He pointed out that even at 100 connections per month, it will still take a minimum of 8 months before the connections are actually used and further, he said he felt a lot of people have gone to a lot of expense and with the industrial users in compliance, there should be no problem with keeping Marysville's lagoon in compliance.

Brent Carson, 1011 Western Ave., Seattle, addressed Council on behalf of several builders, he said. He noted that he had sent a letter and would like to make a couple of points at this time. Firstly, he wished to congratulate staff for making good progress in the area of sewer violators. Secondly, he pointed out that with the ban no longer in place, vested lots have the right to proceed and so he really didn't know why people were appearing before Council--with the restrictions no longer in place for vested lots, people should be able to simply proceed. He handed out an information sheet showing that even if 525 connections were hooked up at .6 lbs. of effluent per day, there would still be adequate capacity in the sewer lagoon. He said that as far as renegotiation with the DOE, he thinks there is a misconception because he has spoken at length with the DOE and the liability issues are because of City policies and not DOE policies and further, he feels the City is now in a situation to start dealing with known vested lots. He stated he feels DOE wishes to renegotiate and that he would like to see all lots processed because there is no longer any legitimate reason to stop processing permits. Even with a ban in place, the permits should still be processed and he hoped City Council would direct staff to do so, he said.

City Attorney Allendoerfer pointed out that Ordinance 1763 & 1795 put a freeze on processing through SEPA whereby each applicant would have to prepare an EIS however now that the City has submitted an EIS it will not be necessary for each individual user to do so. The EIS process should be completed very soon, he said.

Art Urquidi, 8902 69th Dr. NE, addressed Council and pointed out that their drainfield has completely failed, with Shoultes Rd. draining into their lot. He referred to letters from the County (in the packets) requiring they connect to the Marysville sewer by December 21.

Brent McKinley, 516 Olympic, Arlington, addressed Council, as an owner of the Gateway Shopping Center with a vested connection. He pointed out that they were a participant in an LID which entitled them to only one hookup however they are zoned commercial and so one tenant for them they feel would be most unfair. He said he didn't think that was the intent and therefore is requesting that Ordinance 1795 wording be amended so as not to restrict a vested connection to one tenant. He reiterated that when the LID went into effect, they didn't feel that was the intent.

Riley D. Lee, Housing Director of Family Counseling Service of Snohomish County addressed Council, on behalf of Harmony House, Apartments for the mentally-emotionally disturbed (see memorandum in packets). He stated they feel they are entitled to priority for sewer connection because they would be a public building, bought by public funds and providing housing to the community. He referred to the explanation letter in the packets.

City Attorney Allendoerfer pointed out that this is a special case where the applicant is asking that a building owned by a non-profit organization be considered a public facility and therefore exempted from the sewer hookup restriction/ban.

Harvey R. Jubie, 9905 39th Dr. NE, addressed Council, stating that he owns quite a bit of non-vested property. He said he would recommend, the way the market is now, that the City open it up to both vested and non-vested property.

Jack Sleasman, 9212 96th Dr. NE, addressed Council, representing about 15 property owners in his neighborhood. He noted that their situation is very bad--they can't flush toilets or wash clothes because of the failing drainfields and septic tanks. He stated the "Ron Crest Addition ULID" was approved in Feb. 1990 just before the ban went into effect, the homes are all about 20-22 yrs. old and they need to be on sewer. He noted that the average life expectancy of a septic tank system in this area is about 25 years and they have taken steps to reduce their sewage but their drain fields are really backed up, they wash clothes at the laundromat and don't use their dishwashers. He noted they need some time to get the whole process started even once they are approved and would like to start as soon as possible toward being connected, because they needed sewers yesterday.

Ted Trepanier, 1420 Grand, Everett, addressed Council, representing several vested developers. He noted that he has extensive experience working with the DOE and has reviewed their records and monitoring results and in his expert opinion as an engineer, 1500 hook ups could easily be added to the Marysville sewer lagoon without adverse affect. He also commented on the report done by Jones & Stokes, consultants, noting that their July 1990 test results for water quality, etc. were generally within State standards. He concluded that the City could easily look at 1500 connections without negative impact to the sewer lagoon at this point.

Bud Darling, 1916 Grove St., addressed Council, stating he felt the City was justified in banning sewer connections but now that we are back in compliance, he thinks all connections should be considered, not just the vested ones. Further, if a person is given a sewer permit, he said he doesn't think it right the City should be allowed to take that away. He noted that the market is very slow right now for selling houses and said he didn't think the City will have a lot of connections but people with new plats should be considered as capacity becomes available.

Public Works Director Zabell review the Comprehensive Sewer Plan as to testing results and capacities, noting that peaks for effluent occur in the fall of the year and then again in May and August. He expressed a concern that we may be in a temporary compliance situation and that the possibility still exists that we may be in another moratorium position if a handle is not kept on the users. He said in his opinion, he felt there is adequate capacity for 500 connections, but did not feel confident there is adequate capacity for 1500 hookups, as per Ted Trepanier has expressed. He pointed out that the readings "bounce around" and it's very difficult to predict. The loading to the plant is the problem, not the treatment, he explained.

Mayor Matheny said she felt the developers have been very patient and said she feels the City has an obligation to let the vested connections go in at least, with the hope we can get this solved as soon as possible for everyone.

Councilor Baxter pointed out that the sewer lagoon upgrade will handle 6.9 mgpd and asked about the expected completion date.

Public Works Director Zabell said construction would begin in 9/91 with expected completion in the last quarter of 1991. He explained the upgrade would allow 8000 lbs. BOD per day.

There were further comments on putting in curtains, timing and scheduling of the improvements, filtering, etc.

Councilor Pedersen asked about the industrial users/violators' anticipated schedule for compliance and Public Works Director Zabell said there really isn't one per se, that there have been substantial improvements made and discussion has been held regarding putting them on a Consent Order agreement between them and the City. He said the City is continuing to work with the violators -- the egg farm is putting together an engineering report, the tannery has cut their BOD and the feather factory is only over on the loading and they are working on a recycling process.

Councilor Baxter said he was in favor of a Consent Order agreement for anyone who is out of compliance which might help the City get a little better action.

Councilor Weiser asked if DOE has indicated willingness to the City to renegotiate the Consent Order and Public Works Director Zabell stated that several topics were brought up with DOE, that the City was very pleased to get the 12/7 letter from them, but noted that the City is dealing with different people than the attorneys are. The City is dealing with John Glynn, he said.

City Attorney Allendoerfer stated his reaction is that DOE is very reluctant to reopen the Consent Order at this point.

Councilor Weiser pointed out that with the present Consent Order in effect, if the City exceeds the readings and limits in the Consent Order, the DOE can reimpose a ban/fines.

Councilor Pedersen asked if the proposed ordinance is not passed this evening, how hardship cases would be treated and City Attorney Allendoerfer stated they are adequately covered under Ordinance 1795 and the DOE letter has given a better interpretation in favor of Marysville.

Councilor Baxter commented that the City had a lot of reason to question DOE's decision on the moratorium and said he thinks it is very important for the City to be careful what we do so the DOE doesn't apply their own moratorium.

City Attorney Allendoerfer referred to John Glynn's letter regarding controlling of sewer connections and under what conditions a sewer connection ban could be imposed.

Councilor Baxter commented on the improvement of the relations with DOE over the years and warned against Marysville getting back into a bad situation with them.

Councilor Cundiff wanted to know how we could guarantee a trickle of applications to be processed rather than a big rush and Public Works Director Zabell said he felt the market will dictate that more than anything, that different categories could be prioritized according to when they were vested, hardship cases, etc., but he wasn't sure that was necessary.

City Attorney Allendoerfer suggested informally encouraging the trickling effect and also noted that vested rights are only good for six months. He also pointed out there is no real contract with the City until the fee is paid and if we had to, we could still shut down or ban "vested rights" and that he didn't think speculators/hoarders will be paying the fees without intent of hooking up within 6 months. He offered as an alternative to Council, that the proposed ordinance this evening be put in abeyance until such time as it is needed and passing it at that time, if necessary.

There was discussion about how many vested connections there are on the books, payment of the fee once building plan is approved.

City Planner Corcoran noted that the Building/Planning Dept. has several pending applications and once the plan checks are done, it's just a matter of filling out the paperwork for the sewer permit. He said they have a 2-3 week turn around on residential homes and he speculated that the Planning Dept. will probably not be nearly as rushed as they were before the sewer moratorium.

Councilor Pedersen said it sounds like the market is the monitoring device and that she likes the idea of putting the proposed ordinance on hold until such time as it is necessary to enact it.

Councilor Baxter said his concern is for all the financing and monetary issues the moratorium has caused and Councilor Pedersen agreed, but said she is still concerned about the possibility of going out of compliance again, too.

Councilor McGee said he doesn't want to see another moratorium and that it seems like 550 homes should be safe with the market being "soft". He said he was also in favor of putting the proposed ordinance on hold and using it if necessary.

Councilor Pedersen asked about an effective way of communicating to people that the moratorium is only being lifted as long as the sewer lagoon stays in compliance and that there is a possibility of another ban.

Public Works Director Zabell said he interprets the DOE letter and Ordinance 1795 that if people have a permit, they can continue to construct and City Attorney Allendoerfer said that was also his interpretation.

Councilor Baxter made some comments regarding staying on schedule with the improvements in the lagoon and said he would like to see the capacity keeping up with the hookups for a change. He added that we are in a better position now and with the engineering study waiting approval by DOE, then we will know the schedule for the improvements to the lagoon to keep up with the demand for hookups and we can proceed in a more orderly manner. He said he didn't feel we are in a danger unless we do allow more industrial users.

Public Works Director Zabell noted that Ordinance 1795 restricts everyone to 168 gallons of effluent per day, whether industrial or residential user.

Councilor Weiser asked if the City can require an engineering study from any new customer under the ordinance and City Attorney Allendoerfer said yes.

Councilor Cundiff asked how hardship cases would be handled if the proposed ordinance is not passed tonight and City Attorney Allendoerfer said they would be handled under the variance process, that they should bring proof of failing status before Council.

Councilor Baxter moved to retain Ordinance 1795 with no amendments, to allow the hookups as per the letter from the DOE and with the dry sewer amendment to remain as is, with the ban lifted as of December 10, 1990. Councilor Wright seconded and the motion passed unanimously.

**2. The Adoption of Transportation Improvement Program No. 3 which would impose a traffic impact fee on all new development which results in vehicle trips traveling through the I-5/SR 528 intersection in the amount of \$594.70 per peak hour vehicle trip.**

Public Works Director Zabell said this has been discussed for a year and it is basically the same as TIP #1 as far as the way it was put together.

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City Attorney Allendoerfer noted this is the biggest TIP Marysville has had because it covers the whole City, part of the west side and part of the county. It is to pay for necessary improvements to the I-5/4th St. interchange, he explained, with the mitigation fee based on the typical one peak hour trip per day per house, which translates into the \$595 fee for every new house constructed. He said he had in hand detail of the cost breakdown and also noted that Dave Ostergaard was available for questions and comments.

Mayor Matheny commented on the "88th St. Interchange" project, noting that it had just received State approval for the preliminary engineering plans.

City Attorney Allendoerfer noted that once the I-5/4th St. ramp is widened, there will be less of an impact on 88th and/or 116th and that the I-5/4th St. exit has been operating at a level of service "E" for some time, without benefit of state funds, putting the burden to finance on the City. He explained that \$155,812 would come out of the General Fund, with the balance of \$623,248 to be financed by/paid for by developers. There is no money available from the state or federal governments, he reiterated.

Public Works Director Zabell pointed out that not all subdivisions would utilize the interchange and so would not have to contribute. He also explained that a peak hour trip is a round trip.

Dave Ostergaard, 4915 129th St. NE, addressed Council and stated he represents a couple of land owners that went through the county because of a concern about the intersection and the county ruled these two land owners would have to fund the interchange themselves. He pointed out that this method would be prohibitive and TIP #3 is the resulting solution. He stated the final cost, including engineering reports, etc., would be financed on a proportionate basis. A design has been drawn up for final approval by the State, along with a cost estimate, he said. He noted that he and the land owners have been working with the State and County on this for some time. He explained trip generation in residential and commercial and how projects closer to the interchange would have a greater impact, with the calculation of TIP #3 basically done in the same manner as the SR 528/47th TIP, with the fee being charged for new construction only. He added that they are hoping that the cost estimates are high and can be reduced at a later time.

City Attorney Allendoerfer pointed out that any remodels that would generate new traffic would also be charged a mitigation fee and the fees would be collected by the county and Tulalip Tribes, also, and they would then submit the fees to the City of Marysville.

Councilor Cundiff asked if this would affect a subdivided lot-- a boundary line adjustment only and City Attorney Allendoerfer said there would be no fee charged if no new traffic is generated.

Public Works Director Zabell explained that the City has taken the lead on the TIP because the State can't take lump sum payments on TIPS from developers.

Bruce McKinnon, 7612 75th Dr. NE, addressed Council and asked if it's possible at some future date for Marysville to be reimbursed or eligible for state funding out of the gas tax and Public Works Director Zabell stated he thought that possible and recommended a state representative address Council on that issue.

Mr. McKinnon asked when the fee is payable and City Attorney Allendoerfer said it would be upon getting the occupancy permit or as a subdivider, you could pay on a five year installment basis, which is something that is required by the State.

Bill Roberts, 4210 63rd Avenue NE, addressed Council, stating firstly how much he appreciates the progress that has been made on this TIP, finally. He noted that \$155,000 could actually come out of the Growth Management Fund--the fund that was put in effect by the developers who caused the problem and he pointed out that funding this project is therefore not going to rob another sector.

Dexter Rowe of the State Dept. of Transportation addressed Council and stated that he worked with the consultants on TIP #3 but has not seen the last version of the agreement. He said the State was not in total agreement with all the cost estimates and asked who would be designing the improvements and who would administer the contract.

Public Works Director Zabell explained DOT would do the designing and the City of Marysville would fund/administer the contract.

Councilor Baxter asked about gas tax money as far as a source of funding. He said he didn't feel Marysville should have to rebuild I-5.

Mr. Ostergaard explained the costs were in accordance with State estimates and design and Public Works Director Zabell noted the total cost estimates include a \$45,000 engineering report fee. He added that the money would be coming in from the developers and there were some comments about the bridge over the slough as well as the Tulalip Tribes having to pay their fair share because of the impact Marine Drive traffic has on I-5.

Mark Jacobs of Bellevue addressed Council and said as far as the City/local developers funding a part of a state highway, the State will be much more amiable to a project that is funded and this would be given priority as far as future state funding, when available.

THERE WAS NO FURTHER AUDIENCE PARTICIPATION AND THE PUBLIC HEARING PORTION WAS CLOSED.

Councilor Baxter asked about Marysville's share of the 88th St. interchange and Mayor Matheny noted that we would have to pay for part of the EIS.

Councilor Weiser asked about a sunset clause in TIP #3 and City Attorney Allendoerfer explained that funds could not be collected after 15 years, but the money has to be spent by 1996, with the TIP dissolving in 15 years which allows quite a few years to keep collecting impact fees.

Councilor Lashua pointed out that out of the total cost of \$779,000 Marysville would pay 20% and \$622,000 would have to be collected from the private sector in mitigation fees within 15 years. He asked what happens if that much money is not collected in 15 years and City Attorney Allendoerfer explained the City would just be "out" the money it could not recover.

Councilor Weiser asked how the City can enforce collection by the Tulalip Tribes and City Attorney Allendoerfer explained it would be through cooperation with the Tulalip Tribes.

Councilor Lashua asked if figures used in calculating traffic and new development included a casino on the west side and City Planner Corcoran said they did. He gave some background and history on the PSCOG projections and noted that the original figures may not have included the casino, but the City just received a more updated traffic study.

Mayor Matheny mentioned a Park & Ride Lot, work release program and other things happening on the west side that would impact I-5 and City Planner Corcoran agreed that we need to negotiate in good faith with the Tribes. He added that this mitigation fee is more like a utility than anything else.

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Mr. Ostergaard assured Council that the Tulalip Tribes volumes were considered in the TIP, using Transpo's projections.

Councilor Wright moved to adopt/approve Ordinance #1815 establishing TIP #3. Councilor Pedersen seconded the motion.

Councilor Baxter asked about the chance of state funding down the road and Public Works Director Zabell said based on the history of other projects, he guessed we may get one-third funded.

Councilor Weiser suggested predicating approval of the TIP on an interlocal agreement with the Tulalip Tribes and Councilor Lashua said he may be in favor of that.

There was further discussion regarding state funding, participation by developers, counts including Tulalip Tribes figures/buildout on the west side, adjustment of developers' mitigation fees at a later time depending on the overall adjustment.

A roll call vote revealed Councilors McGee, Baxter, Cundiff and Lashua against; Councilors Weiser, Pedersen and Wright in favor. The motion was defeated 4-3.

Councilor Lashua then moved to bring the ordinance back for reconsideration the second meeting in January. Councilor Baxter seconded and the motion passed.

CONSENT AGENDA:

1. 11/30/90 Payroll Check No. 20525 through No. 20723 in the amount of \$363,468.05.
2. 12/10/90 Claims Dehck NO. 22226 through No. 22386 in the amount of \$222,181.05.

After questions regarding vouchers for Brown & Caldwell, Clark Office Supplies (regarding dealing locally for office supplies), and Voucher #22325 for a computer, printer and monitor budgeted in the Executive Dept., Councilor Weiser moved and Councilor Baxter seconded to approve the Consent Agenda Items 1 & 2. Passed.

REVIEW BIDS: None.

NEW BUSINESS:

**2. Sewer Contract - Heritage Park**

Marty Robinette, Attorney, 18425 123rd SE, Snohomish, addressed Council and referred to the packets. He stated he represents the owner who feels they have vested rights for 200 hookups and he gave some background, noting that the City originally gave approval in 8/89 and the State gave approval in 9/89 for the project. The sewer was completed in 12/89 and Mr. Robinette stated his client has \$500,000 invested at this point and the county needs some assurance that the sewer is available. He added that they would be willing to sign a hold harmless agreement and are looking for at least 50 hookups for mobile homes at this point, deferring the other 150 until the sewer moratorium is lifted.

City Attorney Allendoerfer explained that LRG Development has been added as an additional developer in the project and Mr. Robinette also stated that they would have no objections to "successors and assigns" being bound by all contract terms, conditions and hold harmless agreements. City Attorney Allendoerfer noted that there are no outstanding lawsuits pending against the City with regard to the sewer moratorium at present and added that with the 50 hookups, this would limit vesting rights and would represent 10% of the total 500 hookups originally estimated that would be vested, when the sewer moratorium was imposed in February.

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Councilor Lashua noted that the hookups would probably not be on line for at least another year and Mr. Robinette confirmed this, stating it would be 12-16 months, probably. He stated they have all the utilities installed but they don't have final approval from the county on the 200 pads as yet.

There was further discussion about accesses, location of the project, no protest agreement, hold harmless agreement.

Councilor Pedersen then moved to authorize the Mayor to sign the contract with the addition of "successors and assigns being bound by the contract" and subject to the approval of the Public Works Dept./Director. Councilor Cundiff seconded and the motion passed unanimously.

CURRENT BUSINESS:

**1. Surface Water Utility.**

City Attorney Allendoerfer explained this would be an interlocal agreement between the City and the County. He noted that the County would be charging Marysville a one-time only fee of \$8500 and there was discussion about remittances being kept for three months prior to sending back to Marysville, interpretation of some wording that the County added to the proposed ordinance.

Councilor Weiser then moved to approve/adopt Ordinance 1815 setting up the Surface Water Utility fund under Chapter 3.2 of the MMC. Councilor Wright seconded and discussion followed concerning the fees to be charged--\$66 per quarter acre for hard surfaces and \$7 per quarter acre for soft surfaces. The definition of an impervious surface was read and briefly discussed and the motion passed, with Councilor McGee against.

Councilor Weiser then moved to adopt/approve Ordinance 1816 enacting a new chapter of the Marysville Municipal Code for the Surface Water Utility. Councilor Wright seconded and the motion passed with Councilor McGee opposed.

Councilor Weiser moved that the Mayor be authorized to sign the interlocal agreement with the County concerning the Quil Ceda/Allen Creek Watershed and the Surface Water Utility. Councilor Wright seconded and the motion passed.

**2. North Snohomish County Regional Water Supply Joint Operating Agreement (continued from 12/3/90).**

City Attorney Allendoerfer explained that there is another negotiation session scheduled for 12/12/90 at 9 a.m. and he noted there is new language included in Draft #7 with regard to a penalty for not paying for capacity rights and selling surplus water with right of first refusal.

There was discussion about the wheeling charge to the Tulalips, upgrading of the pipeline, cost of upgrading the reservoir on the east side to supply the west side, the regional use of the line, "multipurpose" use vs. "multiuser" use, Phase II, distribution of water to North County in the event of an impasse. Marysville's critical need for water was emphasized at this point and City Attorney Allendoerfer noted that PUD can cut off our intertie and the Tulalip Tribes have no existing water problems.

Public Works Director Zabell noted that PUD was basing their need on Granite Falls' need for water.

As far as control, City Attorney Allendoerfer assured Council that Marysville would have lead agency control on Phase I but that he was checking further into "Winters Water Rights". In answer to Councilor Lashua's query regarding wording on page 3, paragraph 3, City Attorney Allendoerfer stated Marysville is looking for a special wholesale rate from Everett and on page 2, paragraph D, the reference to PUD being co-author of the EIS would be checked out further by the City Attorney.

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City Attorney Allendoerfer also made reference to a new sentence on page 6, paragraph 7 with regard to completion of the pipeline by 9/1/91 and he suggested deleting paragraphs A through D under "Alternative Language Provided by Tribes". There was no final action taken at this time.

### 3. Public Defender Contract.

City Attorney Allendoerfer referred to the contract in the packets, signed by the Public Defender.

Councilor Baxter moved and Councilor Weiser seconded to approve the contract as written and to authorize the Mayor to sign. Passed.

### NEW BUSINESS:

#### 1. Authorization to Purchase Radios for Narcotics Investigation.

Lt. Walt McKinney addressed Council and stated he had checked with Everett PD & the County with regard to using "Drug Buy Fund" monies for additional equipment and this is something that is often done by other agencies. The request is for a special radio to be used for undercover work, at a cost of about \$1200, as well as another two-way radio.

Councilor Lashua moved the Marysville Police Dept. request be approved, Councilor McGee seconded and the motion passed unanimously.

#### 3. Hearing Examiner.

City Attorney Allendoerfer explained that the first step is to approve the office of Hearing Examiner and then the code book will have to be amended with regard to all the references to the Board of Adjustment.

George Wilcox, 1522 3rd St. addressed the Council as Chairman of the Planning Commission, noting that he has not had a chance to poll the Planning Commission with regard to their feelings about having a Hearing Examiner. He noted further that he believed the only quasi judicial hearings the Hearing Examiner would hear would be things like shoreline management permits, which he didn't see included in the proposed ordinance and so he suggested the Planning Commission review this for their reaction. He conceded that if the Planning Commission were to hear more quasi judicial hearings, they may have to meet four times a month and he also noted that in Everett, decisions involving three or more acres are referred to the Planning Commission.

City Attorney Allendoerfer pointed out that the proposed ordinance was worded in accordance with the public hearing of 9/18/89 and at that time it was decided that the Planning Commission would only hear City-initiated rezones. He added that with lifting of the sewer moratorium, the Planning Dept. and Hearing Examiner will be very busy and it is very important that something be in the code books regarding a Hearing Examiner at this time.

Councilor Lashua pointed out that area wide rezones initiated by the City would be hard by the Planning Commission but Mr. Wilcox pointed out that this procedure has been rare, if not non-existent, in the past. He said he would like to see some further discussion about the role of the Planning Commission and gave some examples of neighbors' concerns that were "fine tuned" into the platting/rezoning process. He concluded that he thought with the larger decisions/projects, a larger group may be able to handle better.

Councilor Lashua pointed out that professionalism is a big plus for the Hearing Examiner--that he is trained to take public input and make a decision based on all factors.

Mr. Wilcox agreed but added that there's also something to be said for the sensitivity of a larger group who lives in the community.

Councilor Pedersen noted that one of the criticisms with morning Board of Adjustment meetings was that a lot of people cannot attend at that time of day and she asked about stipulating evening meetings. She added that she thought the Hearing Examiner was mainly to assist the Planning Commission in giving them time to work on the Comp Plan, on a temporary basis.

City Attorney Allendoerfer noted that a temporary Hearing Examiner has been utilized by the City for about a year now, in place of 6-12 Board of Adjustment hearings.

Councilor Lashua stated he would be in favor of continuing this discussion to next week and there were other comments regarding issues that need to be settled before the end of the year--Joint Operating Agreement, Joint Fire Study committee meetings. It was noted that the Hearing Examiner ordinance can be modified at a later time but that something should be on the books in the meantime.

Mr. Wilcox pointed out that the Planning Commission is scheduled to meet tomorrow night.

Councilor Pedersen stated she would like to be assured the Hearing Examiner meetings will not be at 8 a.m. and Councilor Lashua suggested adding "meetings would be scheduled as needed--in the evening".

Councilor Baxter agreed, stating that meetings during the day are very difficult for people to attend.

Councilor Pedersen said she didn't care what day of the week the meetings are held on, as long as they are in the evening and discussion followed regarding amending the contract/ordinance to reflect evening meetings, rate to pay him, modular housing in single family zoning, the consensus being to pass the ordinance with the provision that it can be amended down the road.

Councilor Lashua moved to approve/adopt Ordinance #1817 with the addition of language providing that all meetings be held after 6 p.m. Councilor Weiser seconded the motion and it passed with Councilor Pedersen against.

ORDINANCES & RESOLUTIONS:

**1. Ordinance Amending the 1990 Budget.**

Councilor Cundiff moved and Councilor Wright seconded to adopt/approve Ordinance 1818. Passed unanimously.

**2. Resolution Authorizing Interfund Loan.**

Finance Director Dexter explained this is for the ULID 14 north of Smokey Point, for an additional cost of \$50,000. The total cost of the project has now reached \$107,000, he said and this resolution would authorize an interfund loan to complete the project.

Councilor Wright moved and Councilor Weiser seconded to approve/adopt Resolution 1454 authorizing the interfund loan. Passed unanimously.

**3. Ordinance Amending Section 18.20.070 (2)(v) so as to Adopt Transportation Improvement Programs as SEPA Policies of the City.**

City Attorney Allendoerfer explained this is basically a housekeeping ordinance regarding TIPS and City Planner Corcoran noted this would ensure mitigation fees can be collected.

Councilor Weiser moved and Councilor Wright seconded adoption/approval of Ordinance 1819. Passed unanimously.

CALL ON COUNCILMEMBERS:

CORRECTED: SEE 11/191  
MINUTES

00285  
00298

Councilor Weiser mentioned the new state laws affecting 67th and said he would like to see more on Sunnyside Blvd. Public Works Director Zabell said he would follow up.

Councilor Weiser referred to last week's Economic Development Council presentation and said it bothered him that Mr. Potter talked in terms of helping Welco regarding the spotted owl issue because in speaking with Bob Crunkilton, he explained the EDC did not provide very much help to Welco at all; the mill has been here since 1949 at least, he noted.

Councilor Baxter noted more and more illegal signs being placed at the southwest corner of 64th & 67th.

Councilor Pedersen mentioned the light at 47th & 528 being tested and Public Works Director Zabell said the City is in the process of doing so.

Councilor Baxter noted poor alignment at 47th & 528 when you are turning left onto Armar Rd. and Public Works Director Zabell said he would be following up with the State on this.

Councilor Wright announced that the Chamber of Commerce wished to have all Councilmembers' photos in an upcoming directory and there was some discussion.

MAYOR'S BUSINESS:

The Mayor announced that Marysville is at last online with E-911.

FINANCE DIRECTOR:

Finance Director Dexter explained that in view of the fact there will be no more City Council meetings until next year, it would be necessary for him to receive approval to pay out "regular" disbursements for payroll and expenses one more time before the end of the year.

Councilor Lashua moved and Councilor Cundiff seconded that this approval be granted. Passed unanimously.

ADJOURNMENT: 11:55 p.m.

Accepted this 7 day of Jan., 199 .

Lita Matheny  
MAYOR

Phillip E. Dexter  
CITY CLERK

Manda A. Iverson  
RECORDING SECRETARY