

00204

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING NOVEMBER 9, 1992

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Councilor McGee excused

MINUTES OF PREVIOUS MEETING: 11/2/92 Approved

STAFF'S BUSINESS:  
1. Merrysville for the Holidays Parade

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

AUDIENCE PARTICIPATION: None

PRESENTATION:

PETITIONS & COMMUNICATIONS: None

PUBLIC HEARINGS:  
1. Sensitive Areas Ordinance cont. Continued to 11/23/92

CONSENT AGENDA:  
1. 11/9/92 Claims - \$423,944.47 Approved  
2. Payroll Claims - \$410,424.34 Approved

REVIEW BIDS: None

CURRENT BUSINESS:  
1. Snohomish Co. Youth Gangs Task Force Interlocal Agreement Approved  
2. Bud Darling; 5200 Crestview Final Plat; PA 9001010 Approved  
3. Bud Darling/Bill Roberts; Hickok East Div. 1 Final Plat PA 9110040 Approved  
4. Msvl. Transportation Plan Addendum No. 3 Approved

NEW BUSINESS:  
1. Human Services Policy Continued to 11/23/92

ORDINANCES & RESOLUTIONS:  
1. Model Home Ordinance; Planning Commission Recommendation Ordinance 1914 Approved  
2. Ordinance Rezoning Roberts/Darling Property & Approving Preliminary Plat of Sunnyside East Div. II & Granting a Variance Ordinance 1915 Approved  
3. Ordinance Decriminalizing Certain Animal Control Regulations, etc. Ordinance 1916 Approved  
4. Ordinance Rezoning Turner Property, Approving Preliminary Plat & Site Plan for Sunnybrook PRD Ordinance 1917 Approved  
5. Interim Industrial/Business Park Zoning Designation; PA 9210042 Ordinance 1918 Approved  
6. Resolution stating City's Intention to Annex Eastwood Hills II Resolution 1592 Approved

LEGAL MATTERS: None

ADJOURNMENT: 12:45 a.m. 11/10/92

MARYSVILLE CITY COUNCIL MINUTES

NOVEMBER 9, 1992

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor  
Councilmembers:  
 Donna Pedersen, Mayor Pro Tem  
 Dave McGee (excused)  
 John Myers  
 Ken Baxter  
 Donna Wright  
 Mike Leighan  
 Otto Herman  
Administrative Staff:  
 John Garner, City Administrator  
 Grant Weed, City Attorney  
 Steve Wilson, Finance Director  
 Gloria Hirashima, Planning Director  
 Jim Ballew, Parks & Recreation Director  
 Walt McKinney, Marysville Police Dept.  
 Dennis Petersen, Marysville Police Dept.  
 Dave Zabell, Public Works Director  
 Lucy Sloman, Planning Consultant  
 Eric Thompson, Associate Planner  
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Weiser called the meeting to order at 7:00 p.m. and led the flag salute.

ROLL CALL:

Finance Director Wilson called the roll with all members present/absent as indicated above. It was noted that Councilor McGee is out with the flu.

MINUTES OF PREVIOUS MEETINGS:

Councilor Leighan corrected minutes of 11/2/92 on page 2, to read "Darrin" not "Dave" Rasmussen under Call on Council/Councilor Leighan's portion.

Councilor Pedersen moved and Councilor Wright seconded to approved the minutes of 11/2/92 as corrected. Passed unanimously.

STAFF BUSINESS:

City Administrator Garner reminded everyone of the upcoming Towns & Cities dinner meeting; he noted the CHPS Committee will be meeting tomorrow at 10 AM; City offices will be closed Wed. 11/11; new Public Works Director Ken Winkler started today; selection process for Judge Jay Wisman replacement has been started; Smokey Pt. hearing Thu. at the Stillaguamish Sr. Center; RUSA meeting Thu. at 4 PM; Land & Water Magazine published a 3 page article about Marysville with lots of quotes by Dave Zabell about our water supply, etc.

City Planner Hirashima reported she, John Garner and Dave Weiser discussed the feasibility of having another joint Planning Commission/City Council meeting, 11/30. She asked for City Council direction and the consensus was 11/30/92 at 7 p.m. in the Public Safety Bldg.

City Administrator Garner pointed out there is also a Boundary Review Meeting that night, but it was felt some Planning Dept. staff could cover that as well as the joint meeting with Council.

Parks & Recreation Director Ballew brought before Council the

issue of this year's Marysville for the Holidays parade. It will be coordinated by Maryfest this year as the Chamber will not be able to do it, he said, but they wish at least part of State closed off the Friday night of the parade from 7-8 p.m. He explained the motorized parade begins at Fred Meyers and goes to Comeford Park at about 25 m.p.h., last year they drew about 2,000 to 3,000 spectators and there is a safety concern there with people walking out into the street. With the closure of at least part of State, the thinking was also that band entries could join the parade at Grove; there was a llama team entry last year that joined the parade at approximately the Pit Stop Car Wash, he said.

Lt. McKinney reported he had met with the police chief and the MPD really doesn't have the budgeted overtime for this but if the request is approved, he said he would recommend closure of State from Grove to 4th rather than just to 5th. He said it would be easier to redirect traffic on 4th.

Councilor Herman asked if darkness would be a concern and Lt. McKinney said no, it is mainly the spectators' safety on State that is of concern.

Councilor Leighan asked for more clarification and Parks & Recreation Director Ballew said they thought the bands could join in at Grove to Comeford Park--they could possibly use the Public Safety Bldg. for staging the high school band and three choirs that are interested; possibly they could be staged on Columbia. He stated they had 22 total entries last year with the total parade time about 35 minutes so he said he doesn't anticipate the parade lasting longer than an hour this year. He added they have a volunteer base to assist with crowd and traffic control.

Councilor Pedersen asked if the MPD has a minimum overtime rate and Lt. McKinney said yes, three hours would be paid whether the officer works the three hours or not. He added they could call in some of the reserves, but they don't have explorers this year.

Councilor Baxter moved and Councilor Leighan seconded to close off State from Grove to 4th the Friday night of the parade from 7-8 p.m. Passed unanimously.

MAYOR'S BUSINESS:

Mayor Weiser mentioned an upcoming meeting in Sultan and also moved tonight's public hearing on the Sensitive Areas Ordinance down on the agenda until after Current Business.

CALL ON COUNCILMEMBERS:

Councilor Myers noted there is a considerable "dip" on State at 88th and Public Works Director Zabell said he would follow up on this.

Councilor Baxter asked about retention pond and mud erosion monitoring by the City, especially on weekends on the east side.

Public Works Director Zabell said they try to keep close tabs on this but Councilor Baxter said it appeared they could use a little help on weekends.

Councilor Leighan followed up on the graffiti under the I-5 overpass at 4th and Public Works Director Zabell said he sent a letter to the DOT Thu. or Fri.

Councilor Herman mentioned an article in the Herald regarding a

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design review board in Mukilteo and he noted there's been some concern in Marysville regarding development. He said he has a concern with design of multi family facilities so the character of our community is not damaged.

Councilor Baxter said he doesn't think it's a position the City should take, eg., as to what color a person's house should be.

Mayor Weiser noted there was a question similar to this that came up during the development of the sign code, eg. whether or not everyone should have perpendicular signs and it was decided that what is aesthetically pleasing to one person may not be to another.

Councilor Pedersen said she believed the design committee could put some guidelines together as far as what the City is looking for aesthetically, on a general basis and Councilor Leighan agreed, noting that in Portland the community was in agreement about cobra head street lamps, eg.

Councilor Pedersen said she thinks the City Council does have some responsibility to the community to make sure things are aesthetically pleasing.

Mayor Weiser noted that the Downtown Merchants tend to decorate similarly for holidays, etc. There were comments about developing a list of guidelines with regard to landscaping, removal or not of trees, etc.

Councilor Baxter said his argument is having to pay someone for a design on your own property. He pointed out the City is already having a problem with too many hard surfaces for water to drain off and that issue needs to be addressed.

There was discussion about the Comp Plan and property being restricted through its zoning, grasscrete rather than concrete, to allow more drainage, commercial parking areas, ground water/aquifer needs to get back into the ground.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:

1. **November 9, 1992 Claims in the amount of \$423,944.47.**
2. **October Payroll Claims in the amount of \$410,424.34.**

Councilor Herman moved and Councilor Pedersen seconded to approve Consent Agenda Items 1 & 2. Passed unanimously. (Councilor Leighan abstained from voting on Voucher #13547.)

REVIEW BIDS: None.

CURRENT BUSINESS:

1. **Snohomish County Youth Gangs Task Force.**

John Turner, Mountlake Terrace Police Chief and former Marysville Police Chief, addressed Council. He explained that he is now the volunteer Chair of the Snohomish County Youth Gangs Task Force. He introduced Dan Bond, Mike Hawkins and Debbie Drain who are all employed by Snohomish County and work with youths. He pointed out that the gang phenomenon is growing in Snohomish County. For example, 75 gang people were identified in the county two years ago and this number has now risen to 600. He pointed out how mobile gangs are and stated they consume a lot of law enforcement

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time, personnel, money and energy. He said the Marysville incident of 1988 when he was Police Chief here involved 2 Z-Boys from Oak Harbor; it was a drive by shooting on State. He gave examples of some of the horrible crimes these kids commit: stabbings, assaults (some resulting in murder), drive by shootings and they are committed all over the County, not just South County. He pointed out that the need is for all cities to work together on a regional basis, if possible, including Snohomish, King & Pierce County (at least) in order to impact this problem.

Chief Turner said getting tough is a good suppression tactic however all these kids do is move to a jurisdiction where there is less suppression. You need prevention and intervention in addition to suppression, he said and pointed out the proposed interlocal agreement would hire 3 people for suppression, intervention and prevention. Snohomish County has agreed to put up \$100,000 towards salary for the three people, he added.

Mayor Weiser asked if gang activity is related to loitering, cruising and other issues that have been going on in Marysville.

Chief Turner said yes, these kids are searching for an environment other than at home--things to do with their peers, for example. He said in Mountlake Terrace, they had a lot of kids out after hours, they looked at some parental responsibility ordinances, curfews, etc. but that's not the answer; there needs to be positive things for the kids to do, eg. have a neutral zone. He handed out packets explaining what was done in Mountlake Terrace--where the school district provided a place, local merchants provided free food and games for the kids to play--pool, basketball, foosball, etc. The only rules are: No bagging, no sagging and no ragging. Gang members are invited and from time to time there may be violence breaking out but this is easily handled by the volunteer police on hand. He warned about the results of gang activity--violent crimes being perpetuated by younger people and encouraged Marysville to do something about the problem soon.

Bud Darling (in audience) asked about these gang members being protected by juvenile laws and Chief Turner admitted this is part of the problem but at the same time the state institutions are already full, even though they have 900 beds for juveniles. Basically the state has run out of room and money, he said and added that the average for these juveniles in state institutions is 7 felony offenses per juvenile. He added we need to address the problem before it gets to this point, eg. with anger management, alcohol and drug treatment at an earlier age. Marysville's portion under the interlocal agreement would be \$5277.

Dan Bond, MSW, Dept. of Social & Human Services, addressed Council and added they have studied this problem for the past 3 years, including visiting other large cities with gang activity such as Portland, Tucson, L.A. He stated the gang task force has submitted several proposals to the county in the past, all based on a volunteer workforce and came to the conclusion it's unreasonable to expect the whole gang phenomenon and problem to be solved by volunteers, so that's why they are proposing 3 paid people now. He said this is urgently needed for a comprehensive countywide program as soon as possible and also noted that joining in with the other cities would give Marysville access to gang intelligence as well as other information from other cities involved.

Debbie Drain, Probation Officer, addressed Council and said this isn't just a law enforcement problem. She pointed out that she sees these kids all the time and there's a need to keep these kids

occupied and busy--they have as many as 300 kids in the Neutral Zone on weekends, eg. She said these kids look forward to doing things with their gangs because they don't get these things at home: picnics, playing games together, pizza parties, etc.

Mike Hawkins also addressed the Council. He stressed that the press recently wrote up a story telling about the kids being from Seattle but in fact, Snohomish County kids were involved. The gang intelligence/collaboration link is very important, he said, between Marysville-Everett-Mountlake Terrace, etc. Keeping on top of where the kids are operating can be key, he said.

Mayor Weiser said he knows Marysville has a problem which we have been wrestling with for some time and also, he pointed out, that the Council came up with an additional \$4,000 last week when they turned down a proposal brought before Council.

Councilor Leighan noted that a recent YMCA dance drew 300 kids and that's a good starting place for these kids. He said he felt the interlocal agreed is good but that the community needs to make a commitment beyond the interlocal agreement for a neutral zone or whatever, to keep these kids from ganging up.

Councilor Pedersen said she feels there needs to be community involvement, a free zone, etc. and she would be in favor of the interlocal agreement.

City Attorney Weed pointed out that the Drug Buy Fund could also be a source of funds for this.

Chief Turner noted that Mountlake Terrace is also looking at using their Drug Buy Fund for helping out with funding.

Dan Bond pointed out that the interlocal agreement includes the 3 elements of suppression, prevention and intervention through hiring of 3 people that will in turn set up networks of intelligence, law enforcement, anger management class coordination in the community, etc. It really will be a comprehensive program.

Councilor Leighan stated he feels the community needs to have a neutral zone and a community commitment for that, in addition to the interlocal agreement.

Councilor Herman said he agrees and asked about calculations on a per capita basis. It was pointed out that the population our proportion was based on was 13,000.

City Administrator Garner asked about school/PTA input and Chief Turner pointed out that the Superintendent of the Mukilteo School District is a member of the Gangs Task Force, Marysville School District personnel are working with the Marysville Police and in fact are going to Colorado together soon to check out how they handle gang activity in that area.

City Administrator Garner asked about specific implementation of prevention education, such as in the DARE program and Chief Turner said that is still in the planning stages, that they know they don't have the same problem they have in L.A., for example, we have no all black or all any race gangs in this area--every gang has at least one white gang member. He said one of the major problems is overcoming parental denial which is the strongest element in perpetuating gang activity. We need to start dealing with this or we can end up like L.A., he warned.

Dan Bond pointed out that the kids involved are very high risk--

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the Gangs Task Force is becoming better at identifying who will become a gang member, their needs, what we can do to prevent a lot of the problems. A lot of the kids become victims, he pointed out and added it's not an easy problem to get rid of but we need to start supplying other needs so they don't turn to gangs--gangs organize more quickly than bureaucrats.

Councilor Pedersen moved to authorize the Mayor to sign the inter-local agreement, looking at the budget in two weeks for additional funding, with the help of Lt. McKinney. Councilor Myers seconded the motion.

Discussion followed concerning funding in addition, for the neutral zone, community donated services, \$5,000 would be our donation toward a countywide program, having our own program, cruising/curfew/loitering ordinances not being the solution, enforcement only is not going to solve the problem, signing the interlocal agreement will access Marysville to more information than we have.

A roll call vote revealed all present in favor of the motion with the exception of Councilor Baxter. The motion passed 5-1.

**2. Bud Darling; 5200 Crestview Final Plat; PA 9001010.**

City Planner Hirashima reviewed the agenda bill, noting the applicant has completed all items on the checklist and has paid mitigation fees. Staff recommends the Mayor sign off on the final plat mylar, she said.

Councilor Herman asked about the checklist and City Planner Hirashima said two final items were completed on Friday and she clarified some points for Councilor Herman regarding the number of lots.

Councilor Myers moved and Councilor Herman seconded to authorize the Mayor to sign off on the final plat mylar as per staff recommendation. Passed unanimously.

**3. Bud Darling/Bill Roberts; Hickock East Div. 1 Final Plat; PA 9110040.**

City Planner Hirashima reviewed the agenda bill, noting the applicant had completed items 7 & 8 of the Hearing Examiner's recommendations on Thursday and all items were completed on the checklist by today, as well as their paying all mitigation fees.

Councilor Wright moved to authorize the Mayor to sign off on the Final Plat mylar. Councilor Leighan seconded and the motion passed unanimously.

**4. Marysville Transportation Plan; Addendum No. 3.**

Public Works Director Zabell reviewed the agenda bill, noting the City originally entered into the agreement with Transpo in 1989 but since then the GMA has come into being as well as the need for linkage between the Comprehensive Land Use Plan and Transportation Plan. The addendum will extend the contract to 4/30/93 and also will expand the scope of work to include the signal design at 67th & 528, signals on State from 5th to 100th to be revised; an increase in the study budget under the original agreement for Transpo and a decrease in sub-consultant's fees and direct expenses, bringing the net increase of this agreement over the previous contract amount to \$24,858. He stated staff is recommending Council authorize the Mayor to sign this addendum.

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Councilor Pedersen asked about #3 and Public Works Director Zabell clarified what signal timing and coordination with WSDOT would entail.

Mayor Weiser said he knew \$12,000 is to come out of Professional Services but asked where the balance was to be funded from.

Public Works Director Zabell said the signal at 67th & 528 would be basically paid for out of the Hazardous Elimination Grant and also the City has collected a substantial amount of money through TIP #2 which would go toward this total project.

Councilor Wright moved and Councilor Pedersen seconded to authorize the Mayor to sign the addendum to the Transpo agreement. Passed unanimously.

NEW BUSINESS:

**1. Human Services Policy.**

City Administrator Garner explained this is a new line item with a budget of \$5,000. He said the proposed policy in the packets was based on other cities that Marysville thought would be a good basis; it also provides financial assistance for social agencies; it proposes an advisory committee makeup and outlines guidelines for financial requests, he said. This would allow the Council to study the requests thoroughly, he noted and added that the proposed policy is basically modeled after the City of Kirkland's.

Councilor Wright asked about the sentence where Marysville is insuring that everyone's needs are to be met and asked if this might be setting the City up for failure.

Councilor Pedersen noted there is a disclaimer where Marysville is not to provide direct services.

Councilor Wright mentioned the example of giving signs in lieu of money to Cocoon House.

Councilor Herman noted he is/was on the county advisory board for administration/funding of block grant funds and with so many worthy causes, it's difficult but one of the things they do in the county is have the applicant give a brief oral presentation (with a time limit). He said he feels this should be incorporated into Marysville's Human Services Policy with the oral presentation given before the advisory board. Also, under #13, he suggested possible rewording and possibly #1 should be removed so as not to interfere with the decision making process. He added this might preclude the selection of a preventative program.

Councilor Pedersen said she thinks it would depend on the requests the advisory board has at the time.

City Administrator Garner pointed out that this is only one criterion and discussion followed about including the word "emergency", weighted priorities, subjective grading system, staff could rework the document and bring it back next meeting, advisory committee ranking priorities, recommending funding levels, putting emergency and preventative services on an equal basis, reviewing #13, a new organization receiving funding vs. a proven organization, how some organizations may be able to leverage additional funds, staff time (in January of each year, basically), Mary Swenson would be willing to serve, budget would basically be set, change to "City Clerk" only, rework #13.

City Attorney Weed suggested the rewritten document should be brought back in the form of a formal resolution.

"13. Priority will be given to those agencies who have demonstrated an ability to leverage additional sources of funding."

Consensus for this to be continued.

PUBLIC HEARING:

**1. Sensitive Areas Ordinance continued from October 12, 1992.**

Mayor Weiser noted that Council needs to take action on the appeal of the DNS by MCAN and 2) needs to take action on the Sensitive Areas Ordinance.

Councilor Baxter left City Council Chambers at 9:07 p.m.

Mayor Weiser set a 5 minute limit for presentations relating to the Sensitive Areas Ordinance.

City Attorney Weed swore in those wishing to give testimony in this matter.

Councilor Pedersen left City Council Chambers at 9:09 p.m.

City Planner Hirashima explained the Council requested additional information and this is in the packets, along with a letter from the consultant, '87 and '89 manual comparisons, documents requested, Geologic Hazard Areas County Motion, etc.

Councilor Baxter returned at 9:10 p.m.

City Planner Hirashima stated that Mark Bentley's letter (from DOE) was just received and Mr. Bentley is in the audience tonight.

Mayor Weiser also noted a letter has been just received (since packets were produced) from the Tulalip Tribes and Ed Hayes.

Councilor Pedersen returned at 9:11 p.m.

Terry Williams of the Tulalip Tribes addressed Council. He referred to comments in his letter and noted that we need to think about the environment. For example: 90% of old growth ecosystems are gone, 33% of our wetlands are gone nationally (50% in Snohomish County), under the watershed program \$35 million will have to be paid for surface water management, the county is having to put in culverts to protect property in the flood plains which will cost \$70 million compared to \$20 million if the county were to outright purchase the property in the flood plains. He said the Church Creek project was another \$30 million, but Marysville still has an opportunity to save the natural streams and wetlands. He expressed concern for the kids and what we are leaving our children--they are not going to have the resources to repair these things, just like they are not going to be able to pay off the national debt, he said. He said when you look at the surface water problems there are a lot of costs involved and that needs to be considered.

Councilor Herman referred to information in the packets, the chart and graph (last page of Tulalip letter in packets) and Mr. Williams said it's looking at fish caught by the Tulalips in Port Susan and Port Gardner but the same desecration is occurring all over the Puget Sound.

Councilor Herman asked about the Tulalip Hatchery production and Mr. Williams explained the Boldt Decision forced a different treatment of fisheries management and the Tulalips did see an increase in spawning and it was thought things were improving until 1987 when forest applications went up as did the land use changes, he said.

Councilor Herman asked if there were any other factors and Mr. Williams said yes, ocean survival, Canadian fisheries. He said they tried to reduce the fishing to compensate for the loss but the habitat is a really important factor and harvest has been severely affected in Snohomish County because of the damage to the habitat.

Mayor Weiser said he had talked with Terry, especially with regard to supply and demand and Mayor Weiser noted that the price of fish has not gone up in 30 years. He noted the problem is multi-faceted and quite complex.

Mr. Williams agreed and he told a story about a negotiator who said the fisheries negotiations were more difficult than negotiating how many nuclear subs the U.S. and Russia should be allowed to have. He talked about weakest stock management and how the abundance of fish is down.

Councilor Baxter asked if the Tulalips have contributed in any creek rehabilitation and Mr. Williams said they have worked with King and Snohomish Counties with regard to restoration, rehabilitation, damage assessment. He added they had a proposal to put hatchery fish in the Quil Ceda but decided against mixing hatchery fish with the wild stock.

Councilor Baxter asked if they have any idea how much loss of productive land would occur when they get turned into buffers along the Quil Ceda.

Curt Nelson, Fisheries/Wetlands Engineer, employed by the Tulalip Tribes, addressed Council. He said there are very sensitive areas in the Allen Creek area that would be benefitted by buffers to protect it from the development going on but he said he couldn't tell how many acres would be needed.

Councilor Baxter asked if they would encourage a full EIS and Mr. Williams said they did identify the Quil Ceda/Allen system as one to be analyzed and that process has begun with Snohomish County having set up a committee so that the Quil Ceda and Allen Creeks will go through a full watershed plan.

Councilor Herman noted their main concerns are the use of the '87 vs. '89 manual and buffers.

Mr. Williams said the '89 delineation manual they believe is the best methodology to date. Some agencies have reverted to the '87 manual but 99% of the government agencies use the '89 manual, he said. The Army Corps of Engineers basically were pushed into use of the '87 manual because of political reasons, he said and added that both the Boldt and Magnuson Decisions said to use the best methods to protect the fish available. As far as buffers, the Tulalips' position is that you need 100' to 200' for water quality and 200' to 300' for important fish and wildlife protection.

Mark Bentley of the Dept. of Ecology, Wetlands Section, Olympia, addressed Council. He said he wished to clarify first that there was a draft only wetland delineation 1991 manual and the Perkins/COE report recommended a 50' minimum buffer. He passed out a

report and explained that Snohomish County has basically found 50' buffers to be inadequate. He stated DOE has compiled all the scientific and technical information they could find and the bottom line is that 50' or less is generally ineffective for protecting wetlands. He said there are cases where you need more, for example in order to attain 90% sediment removal and good water quality you would need 100' buffers and for 95% sediment removal the buffer goes up dramatically to a minimum of 200'. In order to protect wildlife, he said 200' to 300' buffers are recommended, dependent on land use, with 50' to 150' to protect from human disturbance.

Mayor Weiser asked about sediment removal from storm water and a lengthy discussion ensued regarding detention ponds helping removing sediment, saving wetlands through the use of detention ponds, detention ponds just basically being able to handle additional run off from impervious surfaces resulting from a development.

Mr. Bentley said a development is basically why you would put a detention pond in and so there are probably still wetland impacts.

Councilor Herman pointed out that once trees and vegetation are removed from a hillside for a development, eg., with hard surfaces creating the problem of water not being absorbed back in, detention is basically treating the water so it can be put back into the ground.

Mr. Bentley said detention ponds are one part of the question; it's improving water quality.

Councilor Herman said the detention facility would mainly be treating the water which runs off the new development and Mr. Bentley agreed. He added that the wetland would still provide some background functions, in addition to the detention pond, however.

Councilor Herman asked which manual the DOE recommends and Mr. Bentley explained the '87 manual was used by the Army Corps of Engineers, it was improved on by 4 agencies for the development of the '89 manual which gives a higher percentage of identification accuracy, it also gives a better method of managing the wetlands, he said. The '87 manual is very vague but DOE actually uses both, COE uses the '87 manual, he said.

Councilor Baxter asked if they aren't actually putting together a manual to replace both the '87 and '89 manual, with the '91 manual having basically been dropped for now.

Councilor Herman said the '89 manual as he understands it is scientifically more sound than the '87 manual.

Mr. Bentley said the '87 has criteria for defining of wetlands but it's more vague than the '89. The four agencies which have now adopted the '89 manual are the Soil Conservation Agency, Fish & Wildlife, EPA & COE, he said.

Councilor Baxter concluded that it looks like all three manuals are being used.

Mr. Bentley said that with regard to buffers, DOE documents both recommend a minimum of 50' buffers but the Perkins/COE analysis report has interpreted that as an overall recommendation for wetland buffers.

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Councilor Wright noted some boundaries were changed and Mr. Bentley added there were still impacts; he explained that a 50' buffer is not a 50' buffer because of encroachments by neighbors and property owners.

Councilor Wright noted that 25' to 30' buffers are mentioned in the DOE report and Mr. Bentley admitted there are different buffers for different needs, different wildlife species.

Councilor Baxter asked about other states, different grasses, the West Coast needing higher buffers and Mr. Bentley said the Dept. of Wildlife does recommend 200' to 300' in Western Washington for wildlife, 100' to 200' in Eastern Washington.

**BREAK: 10:05 to 10:15 p.m.**

Carl Baird, 10512 38th Av. NE, read a statement to Council. On page 2, under 1.1 B - near the end of that paragraph, he questioned whether "geographic" shouldn't be "geologic". He asked how the City plans to measure impacts to the environment on a month to month basis. He said there appears to be no yardstick to measure what the Sensitive Areas Ordinance was designed to preserve. He pointed out that the Comprehensive Plan can identify zones and geologically hazardous areas and overall, the goal should be changed to no overall loss of wetlands with a long term goal to improving the wetlands and water quality. He talked about high risk watersheds, fish kills, pollutants, the I-5/88 interchange exacerbating desecration of habitat. He said he supported the Tulalip Tribes position as well as DOE and would support increasing wetland buffers as follows:

Category I to a minimum of 200'  
 Category II to a minimum of 100'  
 Category III to a minimum of 75'  
 Category IV to a minimum of 50'

He said he recommended deleting 2.8 D para. 2 and 3.6 D para. 2 - up to 25' buffer width with planting of vegetation as the possible improvements and successes of plantings are not proven for several years. He said he would support the threshold of 10,000 sq. ft. from 1 acre for filling wetlands. He talked about facilities being constructed with the use of survey equipment and allowing such activities within a buffer contradicts the role of a buffer zone where there should be no human disturbance, he said. He pointed out that our present wetlands are not healthy and the City should be in a reparations mode and need to increase buffers to protect watersheds, habitat, etc. Under 2.13 B, he said he recommends increasing to 5 years and asked about the 10 considerations and reissuance of the ordinance.

City Planner Hirashima said once the ordinance is finalized it will be published in the newspaper.

Mr. Baird also talked about the lack of enforcement and the deterioration of buffers.

City Administrator Garner pointed out that the City has budgeted for a code enforcement officer.

Councilor Baxter asked Mr. Baird where he lives and Mr. Baird said he lives right next to Quil Ceda Creek in Indian Creek Estates.

Bud Blethen, 10524 38th Av. NE, addressed Council. He read a letter into the record from the EPA to William Black, Supt. of Puget Sound Agency Bureau of Indian Affairs. Basically, the

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letter dealt with the impacts of the I-5/88th St. Diamond Interchange which is to provide access to the Tulalip Reservation, will alter land use, increase growth rates and traffic, result in impacts on air quality, water quality, wetlands, noise and aesthetics. The letter outlined mitigation needed in order to prevent further degradation of the Quil Ceda Creek.

Mr. Blethen said he concurs with Mr. Baird as far as buffer zones and would also like to see further protection such as no oil separators, etc., within the buffer area.

Public Works Director Zabell pointed out that that letter was specifically regarding the building of the Tribal Industrial Park west of I-5.

Carl Baird then read a letter from Mike Papa, 9128 58th Dr. NE (who could not be in attendance) to City Council. The letter was concerning buffer widths for water quality protection and Mr. Papa pointed out it would be more difficult in the future to develop buffers and we will be more in line with County and Everett if we do increase the widths at this time. He pointed out that there is reduction of buffers allowed under the Sensitive Areas Ordinance up to 25% but that is something he feels will be asked for constantly and so recommended leaving out this clause. He noted it's the taxpayers who pay the price in the end, not the Board of Realtors or Master Builders. He concluded that Marysville would gain the respect of other cities by making his recommended changes.

It was noted that Ed Hayes letter was received too late to get into the packets but forms part of the record. Mr. Hayes did not address Council but his letter pointed to inconsistencies and he requested a full impact statement be prepared as a preliminary to consideration of the Sensitive Areas Ordinance.

Gary Wright, 5533 Parkside Dr., addressed Council. He said that with regard to the '87 vs. the '89 vs. the '91 delineation manuals, he would ask that the Council keep in mind the balance of interests. It's the environment vs. human needs for housing, etc. and he said he feels the '87 manual meets that balance best. He noted that he was in Washington, DC when the '89 manual was found to be not workable. He added that just about every piece of property in Western Washington would be a wetland under the '89 definition. Regarding buffer areas, he said he supports "no net loss of wetlands" but does find some comparisons which don't seem relevant, for example, protecting elk within Marysville, feedlots, logging operations, shrews and moles. He said he feels 100' should be the maximum with 200' and 300' rendering a lot of land useless needlessly, denying people housing and other uses. Also, a 125% increase on top of a 300' wetland buffer could end up being a lot of land taken from a property owner, he said and he added that he thinks 100' at the absolute most is quite adequate.

There being no further public testimony, this portion of the public hearing was closed at 10:45 p.m.

Mayor Weiser pointed out that the deadline was March 1992 for finalization of the Sensitive Areas Ordinance.

**Page 5 - Wetlands Delineation Manual.**

Councilor Herman pointed out there are some distinctions between the scientific ('89) delineations and the '87 manual which seems to be a little more vague in the definition and he thinks the City should go to the '89 manual and then make the hard decision as to how to regulate.

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Councilor Herman moved to go to the '89 manual but there was no second to the motion.

Councilor Pedersen asked who would make the final decision regarding a wetland--the Army Corps of Engineers?

City Planner Hirashima said yes, the applicant has to go through the Army Corps of Engineers in order to fill; generally, staff planners would make the determination, however.

Councilor Pedersen asked if the adoption of the '89 manual wouldn't involve rewriting of the whole ordinance.

Councilor Baxter moved to adopt the '87 manual. Councilor Wright seconded and the motion passed with Councilor Herman against.

Councilor Pedersen commented that she is convinced that after the Planning Commission has gone through this ordinance so thoroughly, she would be willing to go along with what they have written, as is. She asked about the effective date of the ordinance.

City Attorney Weed said it would be either as specified or five days after acceptance.

**Page 23 - 3 or 5 years.**

Councilor Baxter noted our newly constructed water line disturbed wetlands; it was designed by professional engineers and now a bond has been placed for doing a job that was designed and built as designed, i.e., the person who designed it should hold the bond not the general contractor, he contended.

Councilor Herman said he feels that the general contractor hires the designer and the proponent of the project needs to take that responsibility.

There was discussion about how long the bond is in force, City responsibility, holding the bond for 3 or 5 years.

Public Works Director Zabell said his experience for monitoring is that the Corps requires 5 years of monitoring on the water transmission pipeline; the Wastewater Treatment Facility has a 10 year plan. It is not uncommon for the Corps/EPA to require a monitoring of 5-10 years, he said.

There was more discussion about monitoring, wetlands replacing wetlands, how long a bond should be held, feasibility of reconstructing the project in 5 years, incremental reductions for maintenance bonds as per a monitoring plan, survivability of plantings (usually they will become more established and prove successful after the first 2 years).

Councilor Herman expressed a concern about a wetland failing after 3 years and the need for a bond. Councilor Baxter said maybe the designer needs to take out the bond.

Councilor Leighan pointed out that either way, the applicant still pays for it.

Councilor Herman moved to establish a 5 year time period on page 23 but retain wording allowing reduction of the bond. Councilor Pedersen seconded and the motion passed with Councilor Baxter against.

**Page 12/13 - Buffer Width.**

Lucy Sloman explained the 125% increase should be 25% to be consistent with the reduction amount.

Councilor Wright moved to change the 125% to 25% (buffer width x 1.25). Councilor Leighan seconded.

Councilor Herman commented on the unlikelihood of increasing a buffer.

The motion passed with Councilors Baxter and Herman against.

**Page 12 - Shoreline on South Side of Ebey Slough.**

There was discussion about treating the north and south sides the same, history of the property, boundaries of Ebey Slough and Snohomish River, how this whole area has evolved into wetland over time, there are cattails on the north and south sides, filled areas, need line marker, eg. 47th Av. NE.

Councilor Baxter moved to treat the south side of Ebey Slough the same as the north shore, i.e. add "and south shore" after "North shore" and before "of Ebey Slough" in the Wetland Category matrix.

Councilor Leighan seconded and the motion passed with Councilors Herman and Pedersen against.

**Page 32 - 3.3 #2 - 75%.**

The consensus was to leave as is.

**Page 33 - Fish & Wildlife Buffers.**

Councilor Baxter moved and Councilor Leighan seconded to change the second grouping to "North shore and south shore of Ebey Slough .....". The motion passed with Councilors Pedersen and Herman against.

**Page 34 - Would the buffers change if culverts were removed?**

Councilor Baxter asked about Quil Ceda Creek and Allen Creek.

City Planner Hirashima said they are Class II with anadromous fish.

Councilor Baxter asked about a road going along the stream and how that would affect buffer widths.

Lucy Sloman suggested the possibility of mitigation measures having to be taken.

There was discussion about alternatives, the possibility of 50' on one side and 0' on the other, biofiltration swales, catchbasins, prevention of building roads next to streams in the future, non-stream buffers, removing a blockage in a culvert which allows fish through--if this would require an increase in the buffer, some properties next to each other may have different buffers, allowing up to a 25% reduction, you have to base buffers on time of application however you must also consider that you can't create an unbuildable lot.

The consensus was for no change.

**Page 35 - 125%.**

Councilor Wright moved and Councilor Leighan seconded to change the 125% to 25% (buffer width x 1.25%). The motion passed with Councilor Herman against.

**Page 39 - Removal of Noxious Species - #8.**

Councilor Wright moved to delete #8. Councilor Baxter seconded and a roll call vote was taken, revealing Councilors Herman, Leighan and Pedersen against; Councilors Wright, Baxter and Myers in favor, so the vote was tied at 3-3.

Councilor Leighan moved and Councilor Myers seconded to just remove the words "and control" from #8. The roll call revealed Councilors Herman, Wright and Pedersen against; Councilors Baxter, Myers and Leighan in favor. Tied 3-3 again.

Councilor Leighan then moved and Councilor Pedersen seconded to **leave #8 as is**. A roll call vote revealed Councilors Herman, Pedersen, Leighan and Myers in favor, so the motion passed 4-2, with Councilors Wright and Baxter against.

**Page 45 - #4.**

Public Works Director Zabell pointed out that the Building Dept. could request that impervious surface coverage be minimized.

City Planner Hirashima pointed out there is a provision within the UBC and discussion following about the definition of "minimized".

Councilor Baxter moved to remove #4. Councilor Leighan seconded and the motion passed unanimously.

**MIDNIGHT - HAPPY BIRTHDAY, MAYOR WEISER, 11/10/92.**

**Geological Hazards Section.**

Councilor Herman moved and Councilor Leighan seconded to include a "reasonable use" provision in the Geological Hazards section. Passed unanimously.

**Page 54 - First B.**

Councilor Wright moved and Councilor Leighan seconded to add "at the discretion of the City of Marysville." Passed unanimously.

**Page 56 & 57 - 5.7.**

City Attorney Weed said misdemeanors can be handled up to \$5,000 within the municipal court system; it could be made a civil infraction but this would be a policy question.

Councilor Herman asked about 20 separate penalties/citations and City Attorney Weed explained accrual, notice to appear, police officer would have to write the ticket, not the compliance office.

The consensus was to leave as is.

**Appeal to the DNS & Effective Date of the Ordinance.**

City Attorney Weed explained the SEPA ordinance requires that written findings and conclusions be made.

Councilor Herman noted there are a couple of major points that have not been discussed as yet, for example, which manual, minimum size of threshold after which there would be wetland regulation.

Councilor Herman then moved for a threshold maximum area that could be filled without a permit for Class IV wetlands of 10,000 square feet, from one acre. There was no second to his motion.

City Planner Hirashima explained upholding MCAN's appeal would mean an EIS is necessary to be filed.

City Attorney Weed explained MCAN's appeal was timely; Ed Hayes' request was not, for support of an EIS.

There was discussion about procedure for a non-projection action, DNS, Lucy Sloman said she has never seen an EIS done for a Sensitive Areas Ordinance.

City Planner Hirashima said MCAN's two issues rose the question of whether the environment is going to be protected enough.

Councilor Baxter asked who would do the EIS and City Attorney Weed said it could be done by City staff and/or consultants (at the City's expense).

Councilor Baxter said the additional expense is his concern--and what a full EIS would tell the City about fiscal impacts on property owners.

Lucy Sloman said you might not get a very accurate analysis if the wetlands are not all on the county maps.

Councilor Baxter said he found it inconsistent to put an ordinance into effect without first having an accurate inventory of all the wetlands.

There was discussion about the scope of the EIS, '87 vs '89 manual, exemption level, cost and time frame.

City Planner Hirashima said the first priority of the Planning Dept. at this point is the Comprehensive Plan EIS and so the EIS for the Sensitive Areas Ordinance (if one is deemed necessary) would have to be contracted out at a cost of about \$12,000 to \$15,000 and it would take approx. 4 mos.

Councilor Baxter moved to uphold the appeal of the DNS by MCAN. Councilor Herman seconded and a roll call vote revealed Councilors Myers and Baxter in favor; Councilors Pedersen, Wright, Leighan and Herman against. The motion failed 4-2.

Councilor Leighan then moved to deny the appeal and direct staff to prepare a resolution outlining findings and conclusions for the Council's review. Councilor Wright seconded and the roll call vote revealed Councilors Herman, Baxter and Myers against; Councilors Leighan, Pedersen and Wright in favor. Tie 3-3.

Councilor Herman explained the Marysville Community Action Network appeal has merit but he doesn't think their intent was to chalk up more time and money; their intent was to change the Sensitive Areas Ordinance.

City Attorney Weed pointed out that MCAN is saying there is a probability of substantial impacts to the environment, leaving the threshold at 1 acre or less and using the '87 manual but the City could still issue a DNS.

Councilor Leighan said he would like to continue this matter until there are 7 Councilmembers present. He then turned this into a motion, adding that a final vote would be taken on the Sensitive Areas Ordinance at that time (11/23/92). Councilor Baxter seconded and the motion passed unanimously.

Councilor Pedersen left for the evening at 12:38 a.m. 11/10/92.

ORDINANCES & RESOLUTIONS:

**1. Model Home Ordinance; Planning Commission Recommendation;  
PA 9210043.**

City Planner Hirashima reviewed the ordinance and stated staff recommends acceptance of the ordinance which allows a maximum of 4 model homes per plat, one per lot, with final plat approval and infrastructure in place first. She added that if Northpointe came in now they would only be allowed to build one home per legal lot rather than the several they were proposing, prior to this ordinance.

Councilor Wright moved and Councilor Leighan seconded to adopt/ approve Ordinance 1914. Passed unanimously.

**2. An Ordinance Rezoning Property Owned by William Roberts & Bud Darling and Approving the Preliminary Plat of Sunnyside East Division II and Granting a Variance.**

Councilor Baxter moved and Councilor Wright seconded to adopt/ approve Ordinance 1915. Passed unanimously.

**3. An Ordinance Decriminalizing Certain Animal Control Regulations & Providing for Disposition Under Rules of Procedure for Infractions.**

Councilor Herman moved and Councilor Myers seconded to approve/ adopt Ordinance 1916. Passed unanimously.

**4. An Ordinance Rezoning Property Owned by R. Scott Turner & Approving the Preliminary Plat & Preliminary Site Plan for the Planned Residential Development of Sunnybrook.**

Councilor Wright moved and Councilor Leighan seconded to approve/ adopt Ordinance 1916. Passed unanimously.

**5. Interim Industrial/Business Park Zoning Designation;  
PA 9210042.**

City Planner Hirashima said this became necessary because of the Northwest Annexation coming into the City; several of the properties have current county zoning of Industrial Park (IP) or Business Park (BP) and the City proposes adopting an interim zoning designation, she said. This ordinance would need to be further reviewed by the Planning Commission at a later time, she said but this way, people coming into the City on 11/16 may apply for a building permit if they wish.

Councilor Baxter moved and Councilor Herman seconded to approve/ adopt Ordinance 1918. Passed unanimously.

**6. Resolution Stating the City's Intention of Annexing Certain Unincorporated Area Known as Eastwood Hills II.**

Councilor Wright moved and Councilor Myers seconded to approve/ adopt Resolution 1592. Passed unanimously.

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ADJOURNMENT: 12:45 a.m. 11/10/92.

Accepted this 23rd day of November, 1992.

  
David Weiser  
MAYOR

Mary P. Swenson  
CITY CLERK

Standa A. Swenson  
RECORDING SECRETARY

*Include As Part of Public Record  
on Sensitive Area Ordinance*

EDWARD W. HAYES  
19327 - 88th Avenue West  
Edmonds, Washington 98026  
206-776-4314

RECEIVED  
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00223

November 5, 1992

To: Honorable Mayor and Each Member of the City Council

Regarding: The Proposed Sensitive Areas Ordinance for the City  
of Marysville

Dear Mayor and Each Member:

The scheduled hearing for the above proposed ordinance was set for October 12, 1992. That hearing indicated **the proposed ordinance would have considerable impact on the City of Marysville.**

A Notice of Determination of Non Significance, dated June 18, 1992 was published for the lead agency (City of Marysville) and signed by Stephen R. Bennett, Senior Planner. This stated, ".....**this proposal does not have a significant impact on the environment.**" It further stated "This decision was made after review of the City of Marysville of a completed environmental checklist and other information on file with this agency." Mr. Bennett at this date is no longer the Senior Planner of the City of Marysville.

The Environmental Checklist referred to above was signed by "Dow W. Huasi", City Planner, under date of 10/8/92. This was prepared for the proposed project "City of Marysville Proposed Interim Comprehensive Plan; a non-project proposal." The checklist was prepared on September 23, 1992.

The above chronology appears inconsistent and the method of decision incomprehensible to me as an ordinary citizen.

I would request that a full impact statement be prepared as a preliminary to consideration of the Sensitive Areas Ordinance by the City of Marysville Council. This information is necessary for judicious consideration of the impact of the proposed ordinance. A cursory appraisal indicates the proposed ordinance could materially affect the future mode of life for the citizens and property owners within the corporate limits and contiguous areas. It is further requested that this impact statement consider the detailed economic impact.

Your serious consideration of the above is requested.

Yours very truly,

*Edward W. Hayes*  
Edward W. Hayes

cc: Welco  
Geddes  
Garka

part of Public Record  
on SAC.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, Washington 98101

00224

REPLY TO  
ATTN OF: WD-126

William Black, Superintendent  
Puget Sound Agency  
Bureau of Indian Affairs  
Federal Building  
3006 Colby Avenue  
Everett, Washington 98201

Dear Mr. Black:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and § 309 of the Clean Air Act, we have reviewed the Final Environmental Impact Statement (final EIS) for the **Interstate 5/88th Street Northeast Interchange**. The final EIS preferred alternative is a new full diamond interchange on I-5 at 88th Street Northeast north of Marysville, Washington. The purpose of the interchange project is to improve traffic circulation and provide direct freeway access to commercial and industrial properties on the Tulalip Tribes Reservation.

In our review of the draft EIS we had environmental objections based on the potential indirect effects of the project. This project will alter land use, increase development density, increase growth rates, and significantly increase traffic movements in the vicinity of the proposed new interchange resulting in effects on water quality, wetlands, air quality, noise, and aesthetics. We were particularly concerned that increased development and higher densities together with direct project effects could exacerbate the existing serious water quality problems and further damage salmonid spawning and rearing habitat in Quilceda Creek.

The following mitigation measures for direct effects outlined in the final EIS must be fully developed and implemented before the project is begun. These are consistent with the objectives of the Section 404 Nationwide permit program and 401 Certification application process. They include:

- (1) Water quality and wetland mitigation plan which includes "sequencing" of avoiding, minimizing, and compensating water resource effects before the design phase;
- (2) Erosion and sediment control plan for the construction phase;
- (3) Hazardous spill management plan for construction phase; and
- (4) Construction of grassland swales and detention ponds for the operation phase.

The additional information included in the final EIS on indirect water quality and land use effects was useful for understanding needed mitigation. We agree with the final EIS that without a long-term watershed approach to mitigate cumulative effects (direct and indirect) further water quality degradation in the Quilceda Creek basin will occur. This confirms that present institutional controls are not adequate to protect sensitive resources. Land use regulations (mitigation measures) included in the final EIS which can control density and lot coverage together with stricter erosion control measures such as: downzoning; increased stream and wetland buffers; and increased detention requirements designed to minimize stormwater runoff should be implemented before further development occurs. After-the-fact mitigation is often much more difficult and expensive to implement.

We continue to have environmental objections until these mitigation measures are implemented. We recommend that the Record of Decision include all the mitigation needed to prevent further degradation of Quilceda Creek from both direct and indirect effects. Enclosed is an example table of Proposed Environmental Protection and Mitigation Measures for NEPA Documents which can be used to develop the Record of Decision.

Thank you for the opportunity to review this final EIS. Please contact Wayne Elson at (206) 553-1463 if you have any questions about our comments.

Sincerely,

Kathy Veit, Chief  
Program Coordination Branch

Enclosure

cc: Barry Morehead, FHWA  
Bob Falkenstein, FHWA  
Kahle Jennings, Ecology  
Dave DesVoigne, HDR  
Dan Thayer, BIA  
Greg Williams, Snohomish County