

MARYSVILLE CITY COUNCIL MINUTES

SEPTEMBER 13, 1993

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Dave McGee (excused)
 John Myers
 Ken Baxter (7:05 p.m.)
 Donna Wright
 Mike Leighan
 Otto Herman

Administrative Staff:

Grant Weed, City Attorney
 Dave Zabell, City Administrator
 Steve Wilson, Finance Director
 Gloria Hirashima, City Planner
 Ken Winckler, Director of Public Works
 Jim Ballew, Parks & Recreation Director
 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.

MINUTES OF PREVIOUS MEETING:

Councilor Herman corrected ^{s/b the} his correction in the 9/7/93 minutes to read: "Councilor Herman asked for rewording on page 11, first paragraph, in order to clarify: "...and it is his understanding that these 3 alternatives result from the requirements of the EIS alternatives analysis. He said he does take exception to the ~~'recommended plan'~~; ^{that} confusion has been created and the City Council needs to have the public indicate what they want to see in their neighborhood."

Councilor Pedersen noted Councilor Myers name was misspelled on page 2 under Call on Council. On page 9, she pointed out that the word "195" should be "lot" in the seventh line down from the top. In the next paragraph, it should read: "Councilor Pedersen asked for clarification and reminded Mr. Butters that the City doesn't initiate annexations and Mr. Butters said....." On page 10, 2nd paragraph, "should come in" should be "comes in".

Councilor Myers noted on page 5, third paragraph, that Celeste Gemmer lives on 41st not 31st and instead of "was in favor of", it should be "more closely agrees with" Alternative 2. (Ms. Gemmer was in the audience and confirmed that she opposed Alternative 3 & 3A because of their negative impact.)

Councilor Herman moved and Councilor Myers seconded to approve the 9/7/93 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Pam Klein-Bosh, 7114 52nd St. NE, addressed Council. She asked Council to turn up the speakers because the people in the audience can't hear Council at all.

STAFF BUSINESS:

City Administrator Zabell reported there is a buzz on the tapes of Council meetings and staff will be investigating and trying to work that out. On the cable certification, application has been

CORRECTED: SEE 9/27/93 MINUTES

sent out to the FCC in order to lock in rates in implementation of the cable act, he said.

Public Works Director Winckler said they are planning on paving the alley between 7th & 8th between Delta & State Wednesday.

MAYOR'S BUSINESS: None.

CALL ON COUNCIL:

Councilor Herman said he was impressed with his first read of the youth recreation survey from the Parks Dept.

Councilor Wright reported she will be attending the AWC Legislative Committee meeting tomorrow and as usual, will be asking the Legislature not to mandate things they don't have a vote on first.

Councilor Pedersen asked about the bus stop changes downtown that CT was referring to a few meetings back.

Public Works Director Winckler stated he met with Larry Gesgart and it was felt there was good cooperation with CT; he said he would put information regarding this in the Council packets for next briefing/meeting.

Councilor Pedersen stated she has a conflict with the Cities & Towns meeting of 9/23--the fire board retreat meets then also. She reported the needle exchange program is on the agenda for the health district meeting tomorrow and she asked how Marysville feels about it, if they are still against it.

After a brief discussion, it was determined that the majority of Marysville City Council is against having a county health district needle exchange program.

Councilor Pedersen stated the meeting will be at 3 p.m. with no further public testimony to be taken.

Councilor Baxter reported at last week's CWSA meeting he asked about the Regional Water Resource Planning Committee and no one seems to know what it's about.

City Attorney Weed stated the information was inadvertently left out of the Council's weekly briefing: Foster Pepper letter, some history and background including the Boldt decisions. The origin of the Chelan agreement comes from the Boldt II decision regarding Tribes/fisheries rights and DOE has chosen to try and get everyone to work together in order to avoid litigation, he said. He added that now the first stage in the process is the prescoping: plans of each area, etc. and the approach does have some similarities to the Critical Water Study but there are some elements not included in the Critical Water Study. The ultimate "hammer" is the state and if local jurisdictions can't agree, for example, the state will make the decision and the bottom line is that this is a time for us to be a party to this vs. being left out and not being apprised of what's going on and risk losing some voice in the process, he said. This is a process that's probably going to go on over the next 5-10 years whether we want it to or not, he added.

Councilor Baxter said he thinks Dave Zabell would be a very appropriate appointment and he thanked City Attorney Weed for the explanation. He said it makes more sense now that it has been explained that this new process includes watersheds.

City Attorney Weed said if we can't get Dave Zabell appointed, we should at least get the governor to appoint someone who would represent small to medium sized cities/water purveyors; the governor is making the selections on the 16th so we need to send a fax to Russ Layman with regard to our desires, he said.

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Councilor Baxter pointed out there is no other city with the same size utility comparable in size to Marysville.

City Administrator Zabell stated the larger purveyors will be represented: Everett, Tacoma and Seattle, but Marysville is the solution for the north county area.

Councilor Pedersen asked that the City Attorney Weed build a case to appoint Dave Zabell and submit a letter to the governor.

City Attorney Weed stated he could try and said he had actually already prepared a draft letter that can be faxed tomorrow to the governor's office.

Councilor Baxter noted we are the hub for the whole north county area; Everett water is regional water and they have agreed to serve north county, but Marysville is in a position to be a serious player.

Councilor Pedersen pointed out that often these appointments are used to reward someone for helping the governor with his campaign and so she would like to not leave the opening for another choice; it should be restricted to Dave Zabell, she feels, she said and Councilor Myers agreed.

Councilor Baxter pointed out that Dave Zabell has been involved in this process for 8 years and is very knowledgeable.

City Attorney Weed said they need someone who is willing to correspond with other local entities and would represent other jurisdictions and cities as well.

There was discussion about the need for City Administrator Zabell to be involved, appointment of an alternative, where the meetings might be held.

Councilor Baxter moved and Councilor Pedersen seconded to direct the City Attorney to write a letter to the governor's office nominating Dave Zabell to the Water Resources Prescoping Task Force. The motion passed unanimously.

Councilor Myers noted 67th & Grove is now a 3 way stop and a lot of people would like that to go to a 4 way stop. He noted there have been a lot of near misses at that intersection.

Public Works Director Winckler said he would bring this up at the Traffic Advisory Committee meeting next.

Councilor Pedersen said she would like to clarify that there is an audience participation format at the Health District meeting tomorrow if someone were to wish to speak about the needle exchange program, for example, although no more official public testimony is being taken.

Councilor Herman referred to the 67th & Grove St. intersection & agreed 3 way stops are confusing. He said he would also encourage a 4 way stop at that corner.

PUBLIC HEARINGS:

1. Rezone, Preliminary Site Plan & Preliminary Plat of "Verda Ridge"; PA 9211054.

Mayor Weiser asked for disclosures, challenges, conflicts of interest and there were none.

City Attorney Weed swore in those wishing to testify in this matter.

City Planner Hirashima reviewed the agenda bill, noting revisions to the original site plan were received this afternoon in the

Planning Dept. (She handed out copies of the revised site plan.) She stated the subdivision has been reduced to 31 lots, it's a PRD and they are requesting 3 bonus lots as a result of the open space, drainage swale, etc. She noted 32% of the subdivision is open space as opposed to the previous plan where only 21% was open space. She stated the previous discussion centered largely on amenities provided by the applicant and a PRD chart was presented, showing a comparison of all the PRDs that have been submitted over the years and this PRD compares quite favorably with the others, she said. She noted 2 PRDs in the past have received a density bonus but overall, density bonuses have not been requested; Verda Ridge compared with other PRDs favorably. She said comments from the Parks Dept. were received and the open space would be within the definition of a neighborhood park although it could also be a "city" neighborhood park but she said she has not had a chance to discuss this with the Parks Dept. as yet as far as dedication to the City. The applicant has proposed a tot lot and sport court, she said and other features she reviewed were retention, conifer tree retention and landscaping.

Councilor Pedersen questioned the calculation of "60% more open space" than required and City Planner Hirashima said previously the Parks Dept. had not indicated an interest in the dedication, however it's possible they might be interested now that it's larger.

Councilor Pedersen asked about the policy for including a retention pond in the open space calculation with regard to the density bonus if the retention pond is required. She said she did not think it appropriate to include a required retention pond in the calculation of open space.

City Planner Hirashima stated the applicant calculated the detention pond and open space twice and the open space is still large enough, without the detention pond.

Councilor Herman asked the detention pond square footage and Mr. Laurey Tobiason said the open space would be 2.65 acres without the detention pond, or 28 to 29% of open space.

Councilor Leighan asked about the 73rd cul de sac access/frontage and City Planner Hirashima said she didn't see a problem. There are 10 existing lots (Neartown Acre Tracts) included in the re-subdivision, so the proposal is reduced by these 10 lots, she explained.

Laurey Tobiason, McArdle & Murray, 2917 Pacific, representing the applicant, addressed Council. He stated they submitted a revised proposal to address concerns from the last hearing. He explained the cul de sac that was removed which increases open space: the original proposal had 33 lots and the revised one has 31 lots. The bonus was 6 lots and the revised one has 3, open space in the original proposal was 20%, the revised one 32%, he said. He stated this project compares favorably with other approved PRDs in the City, there is more open space than in any other PRD except for one (Parkview Estates), the quality of the open space is exceptional because most of the open space dedications are wetlands, this is not. This is actual buildable upland area and there is 1.5 acres of entirely usable land with improvements, he pointed out. Also, they have included open space to be used as buffer under the Native Growth Protection Act, he said and he pointed out the open space creates a focal point for the plat. Under density bonuses in the code, there are 3 criteria: the first is landscaping and use of existing facilities and they will have shade trees and 60% more open space than required. Regarding the detention pond, he said out of 2.9 acres of open space, it is 1/4 of an acre and it is proposed to have extensive wetland planting and screening. The park will have approximately \$25,000 worth of improvements: picnic tables, basketball court, etc., he said, which will be dedicated to the City if they wish to accept it. Existing trees which do not present problems will be retained within the rear yard set back.

Regarding the second criterion, Mr. Tobiason said, use of physical features, compatibility with surrounding area, etc.: 61% of the lots face the park/open space, existing vegetation will be saved, there are some nice trees, for example. Also, there are wetlands and streams and wildlife, he said; there is a transition area to the north which will provide a buffer with the adjacent subdivision. Also, there is a trail that's a connecting trail with adjacent projects, he said. The third criterion is internal circulation, housing types, harmony, building materials, etc.: It is hoped the proposal will be in harmony and have a minor impact on the area and they wish to have Council approve the project, he concluded.

Morgan Bartlett, 5902 268th NW, Stanwood, addressed Council, stating he owns Lots 11 to 20 of Neartown Acres and he pointed these out on the map. He stated originally his plan was to improve 73rd prior to annexation into the City with the possible future development of each individual lot with the idea of having 2-4 lots per acre. He noted these are fully platted lots in the City of Marysville. He went to Mr. McArdle in 10/92 and he said Mr. Bartlett should consider a PRD and he wanted to do what the neighbors wanted, he said. He explained he has spent a lot of time discussing this PRD with the City, they feel they have a viable plan and would like to see the subsequent/revised plan approved by Council.

David Langley, 7431 84th Av. NW, Stanwood, addressed Council. He stated he has a corner lot, still in the county and he is in favor of the project; he would like to retire there.

Pam Klein-Bosh, 7114 52nd St. NE, addressed Council and stated she appreciates the work involved but they have no shoulders on the road, no sidewalks and they are looking at an additional 124 cars a day on that road which is not built to handle that many cars. She stated she opposes the whole development.

Kim Phillips, 5016 72nd St. NE, addressed Council, stating she has 2 small children and opposes this for the same reasons; it is very dangerous, the crime rate is going to go up with more people coming in and they will have no more access except for 67th & 73rd. She added there are so many houses up there, in Brighton Park, etc., which is full of empty houses, she said she thinks the City needs to stop somewhere with the building.

Peggy Gabrio, 4727 73rd Dr. NE, addressed Council, stating she is in opposition also. She said she understands a lot of work has gone into it however she is extremely concerned because the plat at 52nd & 73rd has been for sale for several months, it's a wetland and she is sure it's the same across the street. In the last three years, she pointed out the new subdivisions that have been built: Himalaya, Rivers Inlet, etc., etc. and she named several builders. She said there are so many houses on 52nd now and there is no way it can handle all the additional traffic. Another problem is the sewer capacity--there's too much building going on and she said she thinks we need to control our growth. Water is another problem, she said, because she had to put in a water booster when she built and that's a problem too on the hill she guessed, also the problems of access and runoff. She noted too many trees are being taken down and you have an erosion problem and she said she thinks the City should concentrate on the quality not the quantity in Marysville so it doesn't turn into another Lynnwood.

Councilor Pedersen asked her how long she has lived here and Ms. Gabrio said 3 years and she has one acre.

City Administrator Zabell explained Marysville was in a moratorium but since then has upgraded the Wastewater Treatment Facility so the upgrade is designed to handle population projections for the next 20 years. We have planned on the growth since the mid-80s, he said and added that the federal laws changed in the late 80s and that was why the moratorium.

Gail Birdsell, 7218 52nd St. NE, addressed Council, stating she has lived there 21 years. She said she has had problems with the water over the years: pressure, etc. She said her question is if she will be back to the same problem with so many more homes going in. 52nd is really really bad for traffic, she said and she is opposed to approval of this project.

City Administrator Zabell explained the City's upgrades and the boosting of water pressure that was put in, contemplating increased demand.

Laurey Tobiason addressed Council in rebuttal, stating with regard to traffic, there was a traffic study done by Gibson Traffic Consultants, the project would participate in TIP #2, they are doing street frontage improvements, etc., as conditions of the approval. He stated Terry Gibson indicates no sight distance problems, there will be street widening and secondly, this site includes 10 existing lots/short plats and the potential for increased traffic already exists. With regard to the wetlands, across the street the wetlands are protected by the open space tract in the proposed plat, he said. Looping of water should improve the water pressure/system and with regard to erosion, he said there will be temporary erosion control provided during construction. He added that this plat is extraordinary in terms of saving trees, with the open space being 32% of the site, leaving as much existing vegetation as possible and remaining areas to be landscaped and seeded. The detention pond is proposed to be vegetated and landscaped more than usual, it will be an engineered wetland, have upland buffer type plantings, he said.

Councilor Leighan asked about improvements on 52nd and Mr. Tobiason said it would be 44' wide and they would provide half street improvements which would consist of widening, curbs, gutters and sidewalks.

Councilor Leighan asked about improvements to 56th on the north end and City Administrator Zabell stated that is dedication right of way, unimproved.

Mr. Tobiason stated rear lots are on that but it will not be a usable street; there are utilities running through there.

Councilor Myers asked about 67th to 73rd (distance) and City Administrator Zabell guessed about 3/8 miles.

Councilor Baxter asked about the right of way on 52nd and City Administrator Zabell said that's 6'.

Councilor Baxter commented on the lack of a large map and said he would like to see the adjacent plats, etc. Mr. Tobiason provided him with a large map.

Councilor Baxter asked about 75th and City Planner Hirashima said the original 75th was vacated and put in again at a different location. She noted that the Planning Dept. has started to receive applications from Neartown Tracts Lots 1-5 for short plat.

Councilor Baxter asked about 56th St. right of way and City Planner Hirashima stated the project, if approved, would require a vacation of 56th until completion of the plat.

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Councilor Baxter asked about Lots 1-10 and the proposed street going through them.

City Planner Hirashima stated that no formal agreement exists; the proposal is for an access road along the east edge of Lots 1-5. Lots 1-3 are proposed to have a 50' wide easement, Lots 8, 9 & 10 would have access on 75th.

Mayor Weiser asked if there was a proposed road just south of the open space and City Planner Hirashima confirmed in the affirmative.

Councilor Pedersen said she thought we were looking at a PRD and City Planner Hirashima explained east of the project site, between this and Brighton Park, the Planning Dept. is starting to receive short plat applications.

Councilor Leighan asked if there was a potential of the road going through Lot 9, south of the retention pond and City Planner said there is some potential but only Lots 8, 9 & 10 came in for subdivision.

There was further discussion about 52nd, 56th, 71st, 75th, various rights of way, open space, cul de sacs, access, topog, background of the varying rights of way (in the county), wetlands/drainage swale necessitating moving of road, improvement of 52nd time frame--to be improved by developer money.

City Planner Hirashima said there's one condition relating to the traffic study--removal of a tree in order to improve sight distance at 52nd & 73rd, which would include negotiations with the NW corner lot owner.

Councilor Baxter said he recognizes that the applicant is going by the PRD rules in this case.

Councilor Herman reminded Council the PRD code was to have been reviewed by Council but for some reason never did, apparently because it did not include a provision for multifamily.

Mayor Weiser said he believed it was looked at but it was sent back to the Planning Commission.

Councilor Herman said the Planning Commission did not realize the Council had reviewed it and with regard to the traffic concerns, this further illustrates Council's constrictions and we need a traffic mitigation ordinance in place, he said, because there are no mechanics to get more monies in order to improve 52nd at the time of construction, however the proponents have clearly tried to better utilize open spaces. Regarding possible dedication, if approval is considered, he said he would suggest the Parks & Recreation Director make that decision.

Councilor Pedersen said she doesn't want the proponents to feel Council is picking on them over the PRD ordinance--that's something Council needs to deal with separately. With regard to the road she said she can live with it if they put a turnaround there. She said she would like to state that the potential does exist whether it's a PRD or not, there are still going to be houses in there.

Councilor Baxter agreed but said he would like to see larger lots but the Council is caught in its own web with the PRD ordinance.

Mayor Weiser explained the potential of 30-35 lots and Councilor Baxter noted we are also getting into a situation where we have to look at priorities: backyards or open space?

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Mayor Weiser pointed out that the applicant is agreeing to half street improvements and a part of the overall traffic study requirement is to have capital management plans in place.

Councilor Herman mentioned the GMA/PRD ordinance/need for policy and Councilor Pedersen mentioned the Six Year Transportation Program. She said we are looking at the big picture here but it is not necessarily the responsibility of this development.

Councilor Herman noted there will probably be some people here who are not satisfied with Council tonight but this proposal does follow the ordinance very well.

Councilor Herman then moved to approve the revised plat with the 3 bonus lot request, with the provision that the dedication/acceptance of the open space be at the discretion of the Parks & Recreation Director as well as including the 14 conditions of the Hearing Examiner. Councilor Myers seconded but said he too has a problems with the traffic getting out of the development.

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

Councilor Pedersen asked about trying to solve some of these long term problems and Councilor Baxter said he thinks dedication of the open space should be at the discretion of Council because it is a budgetary/financial matter.

Councilor Pedersen stated she thinks that's a policy decision and said she would also like to see a policy made regarding whether a detention pond should be included in open space/bonus calculation on a PRD if it's a requirement. She said if it's a requirement, then she doesn't think that should be part of the bonus consideration.

Councilor Herman said on the traffic issues, we have had some situations come to Council's attention: how these connecting roads all come together and the resulting traffic and he said he would like Council to have more comprehensive information on rights of way, what the negative impacts will be, etc. He added he would also like some traffic mitigation for a project such as this; we don't have a mechanism in place yet and perhaps a mitigation fund is the key to do something like this.

Councilor Baxter commented again on staff providing Council a large map to be included in the packets and also he said he would like the Parks & Recreation recommendation prior to the hearing in the future.

2. Preliminary Plat of Johnson Acres; PA 9212065.

Councilor Pedersen disclosed that she spoke about the process to one of the people involved; there were no challenges to her remaining on Council for this Public Hearing.

City Attorney Weed swore in those wishing to testify.

City Planner Hirashima reviewed the agenda bill, noting the hearing examiner is recommending approval with 14 conditions and did address the 2 issues in question: Condition #11 stated that Vickers and Atkins would have water made available by Belmark and Condition #10 related to the boundary line dispute which shall be resolved prior to final plat approval. She stated Exhibit 45 shows well sites, property lines and other boundary line encroachments; the condition therefore should be amended to include "all boundary line disputes".

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She stated the Planning Dept. contacted the health district to confirm information submitted and that information is in the packets. With regard to pollution control buffers, there are no requirements for a single family residence unless they are on onsite septic systems but the plat of Johnson Acres is to be on City water, she explained. She referred to the health district response with regard to well requirements and public water systems; the well on the Atkins property would qualify as a community well as it serves 2 residences. With regard to frontage improvements, they would include Tax Parcel 3-018; the City would be responsible for paving 61st NE, she said and she reviewed the other conditions.

City Attorney Weed asked, other than Parcels 5, 6 & 7, if we have information in the files showing boundary line disputes and Councilor Pedersen asked about changing Condition 10 to reflect all boundary line encroachments/disputes--what documents would be satisfactory to the City Attorney as to prove resolution.

City Attorney Weed stated agreements between applicant and property owners would be satisfactory evidence of resolution; whatever the private parties can do, showing they are no longer in dispute.

Gary Petershagen of Belmark Industries, 505 Cedar, addressed Council and stated they have agreed to provide water to Vickers and Atkins; he said Belmark recognizes the existing fence is the property line and believes all disputes have been resolved. He said this has been discussed with the two families and there will also be adjustments made in the lot sizes. Mrs. Vickers has paid for a water connection/meter and Belmark has agreed to reimburse that fee (\$902 or \$907), he stated. He added they have agreed to 2 water hookups for Atkins which they will pay for (Belmark) when Atkins wish to hook up. He said they also agree to new fencing for the Vickers property along the property line.

Councilor Pedersen asked about fencing for the Strands to be provided by Belmark and Mr. Petershagen said they did not receive that request. (He was provided with a copy of the Strand's letter.)

Councilor Herman asked about an overall vicinity map and City Planner Hirashima referred to the packets. She stated the assessor's map shows a lot that has been vacated and she showed him a better map.

City Attorney Weed asked if there have been any other lots other than 5, 6 & 7 complaining about encroachments and Mr. Petershagen said essentially, the whole perimeter was in dispute and Belmark doesn't have any problem with revising the condition to include all property line disputes to be resolved prior to final plat approval.

City Administrator Zabell asked if it is the intent that the water hook ups be for the existing residences only and Mr. Petershagen said yes, that is the intent.

Councilor Baxter asked about the 100' requirement and City Planner Hirashima said that doesn't come into play unless there is a septic system or community well but the agreement has been made, anyway.

Councilor Herman commented on the omissions on the maps and City Planner Hirashima passed out new maps.

Pam Klein-Bosh, 7114 52nd St. NE, addressed Council, stating she would like to see the Council require Belmark approach all the property owners and inform them there are property disputes because in her experience, Belmark only tells the property owners what they want them to hear.

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Bill Atkins, 5514 Sunnyside, addressed Council. He stated there are 2 issues here: Two water hookups and the other is the storm drain. He stated he has it coming from the road from the east; there is a ditch on the west property line and they say they want to dump their water in that and that's unacceptable to him, he said. Mr. Atkins provided a map to illustrate his point. He noted that the natural flow is in his direction, his property extends further south and Belmark want it to be an unrestricted flow, he said. He clarified that he is in the county and south of Belmark is county.

Bruce McKinnon, 7612 75th Dr. NE, representing Belmark, addressed Council. He said relative to the drainage, Belmark is aware of the downstream effect and they have talked with the Diking District and the City and they will have to finalize that at the time of construction but they don't plan on dumping water anywhere, he said.

City Planner Hirashima said prior to Belmark's ownership, the previous owner had proposed something that was not acceptable to City code regarding drainage; there is a condition in the Hearing Examiner recommendation #4 that a detailed drainage plan is to be approved by the Public Works Director as well as a hydraulics permit approval from the Dept. of Fisheries prior to approval of the drainage plan.

Mr. McKinnon said Belmark has talked with DOF also and City Administrator Zabell asked if they would be agreeable to the Diking District reviewing the plans, also. Mr. McKinnon said no problem.

Councilor Baxter pointed out that Mr. Atkins should have the opportunity to approve of the outcome of this also and Mr. McKinnon agreed and added he would assume that is what the Public Works Dept. would want to make sure, to protect other property owners, also.

Mr. Atkins said on the drainage, they got a letter today from Belmark, some kind of a release (he read it) and said he does not consent to it.

Mr. McKinnon explained if the proposal is not adequate, then Belmark is here to deal with that problem.

Mayor Weiser asked about the Strand's fencing request and Councilor Myers noted it looks like about 331' of fence, for Lots 26, 27, 28 and 29.

Mr. McKinnon stated it's currently a barbed wire fence and fencing is always a problem. He said they basically can't put a fence around all their projects. He said they talked with Mrs. Vickers and there is an ill repaired fence around her property and Belmark is willing to replace Vickers' fence but he asked where you draw the line. If there is a good reason, Belmark would be happy to put up a fence, he concluded.

Councilor Leighan referred to "bike riding" along the long driveway and Mr. McKinnon clarified this on the map--along Lots 26, 27, 28 & 29. All lots will take access, he said, Belmark doesn't take any access.

Councilor Herman asked about the reimbursement of connection fee for Vickers and Atkins and Mr. McKinnon stated they will connect Vickers and reimburse them but with Mr. Atkins, Belmark will bring 2 services to his property and he can hook up whenever he wants at no charge. Mr. Atkins has just now asked that Belmark hook up his home, he said and added he is not sure how far it is from the water line.

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Councilor Baxter said he is not sure why the City is getting involved--the wells have nothing to do with this plat and a water hookup is a separate issue also, he pointed out.

Councilor Myers agreed, saying it's similar to the property line issue--the City should not be involved in private citizen's disputes/affairs.

The public hearing was closed at 9:40 p.m. as no one further wished to speak from the audience at this time.

There was discussion among Council about Condition 10 revision, the 100' health district requirement, pollution control zone, 2 hookups is a public water system but hooking up to the City makes that a moot point, fence issues, a 49 year old fence that the property owners want replaced (Strands), Condition #10 to include all property line encroachments.

Councilor Baxter moved to approve the Preliminary Plat of Johnson Acres, including the Hearing Examiner recommendations, with rewording of Condition 10, with an approved drainage system approved by the Public Works Dept. and Dept. of Fisheries. (He said he believed the Diking District is included automatically in the City review process.)

City Administrator Zabell recommended including Diking District approval for protocol; Mr. Atkins situation would be included.

Councilor Baxter included Diking District 3 approval as above, Councilor Myers seconded the motion and a roll call vote revealed all in favor of the motion. Passed 6-0.

REVIEW BIDS:

1. 64th Street N.E. Improvements; 53rd Avenue N.E. - 67th Av. NE.

Public Works Director Winckler reviewed the agenda bill, stating staff recommends awarding the low bidder, Belmark, the contract in the amount of \$343,629.40 plus tax. He added the City has sought TIB approval for these funds which has been received verbally.

Councilor Pedersen moved and Councilor Wright seconded to award the contract to Belmark as recommended by staff. Passed unanimously.

CURRENT BUSINESS:

1. Blackburn 60% Annexation Petition; PA 9305017.

City Planner Hirashima reviewed the agenda bill, noting two property owners: Evelyn Blackburn and Pam Klein-Bosh, the first being in favor of the annexation and the second not interested in annexing at this time.

City Attorney Weed noted there is a recorded annexation covenant that was recorded in error on the Klein-Bosh property; it apparently got recorded against the wrong property and so that's in the process of being corrected, he said, i.e., the non-protest covenant can't be counted.

Councilor Pedersen observed that if the annexation is approved for the Blackburn property, Klein-Bosh would be surrounded by City property but City Planner Hirashima said Klein-Bosh is actually being included in the annexation because she would be surrounded on all sides and an island would be created.

Pam Klein-Bosh, 7114 52nd St. NE, addressed Council. She stated she is in opposition of the annexation and realizes she would be a one acre island but 130' east of her would be county. She said she has been talking with Gary Petershagen and Belmark has made an offer to build 24-27 houses which she feels that area can't support.

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Ms. Klein-Bosh stated she understands Belmark's offer is contingent upon the approval of the annexation. She admitted she agreed to sign the 10% petition because at that time she owned 49% of the assessed valuation in the annexation. She was then approached to sign a subsequent petition and now that Blackburns had sewer available, her signature constitutes 65% of the assessed valuation and so Klein-Bosh's signature was not needed. She stated she is not interested in becoming part of the City, City Hall staff was very difficult to figure out with regard to whom she would go to regarding getting the covenant taken off her property and she said she has a major concern with the roads: 71st St. is to be vacated, 52nd can't handle the additional traffic.

She quoted Evelyn Blackburn who said she did not want to be part of the City until now that it's to her advantage, Ms. Klein-Bosh pointed out.

Councilor Herman asked what it would take for Ms. Klein-Bosh to want to be part of the City and she said she would like to see the roads improved, they have a very bad hill and her third grader essentially doesn't leave the family property. They have play equipment and are 7 blocks from Bay View Ridge, they could have put a control in there but the Council needs to make the streets safer for the kids, she said. She pointed out that there are ditches, slopes, to widen the road would require fill. She said she feels the MPD needs sensitivity training and the City Hall staff should be more attuned to citizens; State, 4th & 67th need to be improved because there is too much congestion.

Mayor Weiser asked about the non-protest agreement and she said it had the wrong address on it, it should be Mrs. Blackburn's (7126). She added she is on City water but can't turn two faucets on at the same time.

Mr. Bailey addressed Council, of 7131 52nd St. NE, across the street from Pam Klein-Bosh, he said. He said he agrees the roads are not wide enough, kids have to go about 500' down to Rivers Inlet before there are any sidewalks. He asked where the dividing line is because he thought they were going to take the whole hillside in.

Mayor Weiser explained there was a large annexation attempt 2-3 years ago and City Planner Hirashima said the north side of 52nd is in the City, the south side is in the county.

Mr. Bailey said he thought the City went up to the nursery and City Planner Hirashima explained that only some of the parcels are in the City.

Councilor Myers moved to accept the 60% petition for annexation and set a public hearing for 10/11/93. Councilor Wright seconded and the motion passed, with Councilor Herman against.

Councilor Baxter noted Mr. Bailey had asked about signing at the top of the hill for safety and City Administrator Zabell said he would have the Traffic Safety Committee look at that.

2. Sunnyside South 60% Annexation Petition; PA 9210046.

City Planner Hirashima stated this is adjacent to the next item on the agenda: Poortinga 10% Annexation Petition; PA 9308025 but they are in two different stages. She put a map on the overhead and reviewed the agenda bill and map. She stated the applicant is requesting that the annexation be considered under its original boundary as shown on the overhead. The majority is Ag 10, the remaining 7200, she said, as noted in the Snohomish County-Lake Stevens land use plan but this is one area the interim annexation proposal wanted to review and the ag advisory board recommended that the Poortinga property be excluded from the ag preservation designation, she said.

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She noted Mr. Meissenberg has sent in a letter of opposition with regard to the annexation.

Councilor Herman stated he is confused with the change of boundary; it should have been set with the 10% petition and 2-012 and 2-014 looks like they are included in the 10% Poortinga annexation, he said.

City Planner Hirashima explained the 10% annexation petition sets the maximum boundary but that can be reduced, not expanded. She said because they are both before Council at the same time, Mr. Poortinga will go with either one of the boundaries. She stated Council requested consideration of expansion of the annexation if the applicant is agreeable. They would prefer that the original boundaries be retained, eg. in the Poortinga annexation it's important to set maximum boundaries, she said. She added they would however, like the Sunnyside Annexation to be as per the red line shown on the map, with Mr. Poortinga's property split as shown. This has something to do with the way Mr. Poortinga's property has been listed for sale, she said.

Councilor Herman noted the BRB prefers straighter boundary lines and dealing with them separately would reinforce the straighter boundaries.

Councilor Pedersen noted Meissinger's letter mentions Vickers and Atkins and she asked if Meissinger can be removed from the petition at this stage.

City Attorney Weed said not once it has been signed, submitted and certified by the City.

City Planner Hirashima clarified they did not sign the petition; he may have been speaking on behalf of others.

Paul Archis, 5814 56th NE, addressed Council. He stated they would like the opposition to speak first.

City Planner Hirashima pointed out this is not a public hearing so there are not the same procedural formalities.

Dave Meissinger, 5628 Sunnyside, addressed Council. He pointed out that his letter is not necessarily opposing the proposal/annexations. He stated he was opposed to the process and the misrepresentation to Mrs. Vickers and Atkins. He said they were informed that everyone else had signed and so were coerced into signing too and so that left a bad taste in his mouth. Being lied to in the process like that, it's a tainted petition, but he said he may sign if he gets the questions he asked answered. He referred to Councilor Herman's earlier question: "What would it take for you to come into the City?" He said 1) traffic on Sunnyside at peak hours is very treacherous, just like Hickok, 35 mph, but they go 50. He said they are trying to raise an 8 yr. old in a rural atmosphere with horses, goats and his fear is Marysville is headed for being a Lynnwood North and he doesn't think Marysville is equipped to handle the traffic. He said he is in favor of golf and that's been proposed for Mr. Poortinga's property but he said if he is going to get run out of the rural neighborhood, he will move.

Councilor Baxter asked what about the people who have lived here for a long time and are being run out by the new people?

Mr. Meissinger said he bought property here and did not subdivide --he said he is not suggesting Council say "no" but is saying Council needs to plan for a future and plan on what's going to happen. He said it looks like Council is rubber stamping everything.

Councilor Baxter recommended Mr. Meissinger get involved in the whole planning process so he would better understand where Council is coming from.

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Mr. Meissinger said he is running for Council and wants very much to get involved.

Pete Poortinga, 5904 46th St. NE, addressed Council. He stated his family is sitting there with 700 head of cattle in the middle of all the development and they can't farm there anymore. He said they would like to move to Island Crossing; the current property is not appropriate for farming anymore.

Lester Morris, 5704 Sunnyside, addressed Council. He stated he is opposed to the annexation. He said he doesn't think it's right if the City doesn't treat them right: the City charges him more for water than the others on the other side of the street and he said he thinks the City should be fair to everyone. He said he is not opposed to the golf course proposed but he loves to see all the wildlife on Pete's property and they should be left on the wetland, he thinks. He named some of the wildlife he has seen: coyotes, geese, ducks, deer.

Councilor Herman said he thinks it should be discussed as to whether or not this should be treated as two separate annexations.

Mayor Weiser asked if they could be combined and City Attorney Weed said no, the boundaries should be set as two separate annexations; the 10% sets the maximum boundary and Council can then reduce if it so desires those boundaries.

Councilor Herman explained the original boundaries.

Reid Shockey, Shockey/Brent Inc., 2924 Colby, Everett, addressed Council, stating he represents Poortinga who is interested in having the entire annexation move to a public hearing and it would make sense, he said, to have one public hearing. He said if Council wants to include the two large parcels to the north and then discuss the whole thing, at one public hearing, that would be fine with them.

Mayor Weiser asked about timing on the certification and whether signatures would still be valid on the petitions.

City Attorney Weed asked how old the signatures were and Mr. Shockey noted they have 63% already on the 10% petition.

City Planner Hirashima corrected him, stating it is actually only 30%. She added the City is going to be looking at the same issues --particularly when it goes before the BRB and they would probably prefer one annexation procedure also.

City Attorney Weed said procedurally, that's OK except if you run into a problem with the certification of the signatures on the 60% petition.

Mayor Weiser asked if it would be better to hold off presenting the 60% petition to the BRB until the 10% petition goes through the process and City Planner Hirashima said the signatures have been certified already on the 60% petition so that's a moot point.

Councilor Pedersen said she thinks doing the two together makes sense if the applicant has no opposition.

City Planner Hirashima said her suggestion would be that Council set a date and continue this.

There was discussion about deciding on boundaries, setting a public hearing, getting the petition to come together for both annexations, applicant agreeing to either way the Council wishes to pursue.

Councilor Pedersen moved to accept the 60% petition, setting a public hearing for 11/8/93 with boundaries as per information in the packets/maps. Councilor Leighan seconded and the motion passed unanimously.

NEW BUSINESS:

1. Poortinga 10% Annexation Petition; PA 9308025.

City Planner Hirashima reviewed the agenda bill, again explaining this is contiguous to the Sunnyside South 60% annexation. There would have to be further neighborhood meetings in an attempt to obtain 60% of signatures in favor of the annexation, she said.

Reid Shockey addressed Council again and stated he would like to request that Council adopt the annexation boundaries; the Comp Plan does have a planned recommended use for the site and he said he would also bring to Council's attention the remarks made earlier by Mr. Poortinga.

City Planner Hirashima stated there are about 70 property owners involved in the annexation and the applicants have 11 signatures out of the 70 on the petition, so far.

Councilor Wright moved for acceptance of the 10% petition, establishing boundaries and Councilor Myers seconded. Passed unanimously.

2. Youth Recreation Survey Summary Report.

Parks & Recreation Director Ballew referred to the packets, noting 1600 surveys were sent out. He said as a result of the survey of Marysville youth, some problems have been discovered:

1. There's a high demand for facilities;
2. Information is not getting out to the kids;
3. Currently the City's recreational opportunities are only reaching preteens. He said non-athletic opportunities have been offered to teens but kids are not interested in that, either.
4. 80% of middle school and junior high kids want to join a gang.

He said the City has found out about crime that has been committed by these kids such as kidnapping, things that there was no knowledge of previously. He stated the results of the survey were delivered to the media and schools and hopefully the Parks & Recreation Dept. can get together with the school board with regard to use of the school facilities. Unfortunately, the high school gym has already been booked for next summer but the hope is to have businesses talk to these kids, other programs to be available, such as the use of the swimming pool, which was the number one priority of the kids, according to the survey. Number 2 priority was TV & food, he said, and the need is to provide some activities in the winter, possibly getting service clubs to sponsor activities on weekends, for example, he said. The most alarming thing that came out of the survey was the amount of present gang activity and the number of kids in the ALC, junior high and middle school that are wannabes; he quoted from the survey: "Gangs are not being dealt with effectively." These kids need a place to go, he concluded.

He also stated the Park Advisory Board has had discussion about who would take the lead in this: the YMCA, Parks Dept., schools and this will be studied further in an effort to create some cost effective programming and check further with the school district.

CONSENT AGENDA:

1. Approval of August, 1993 Payroll in the Amount of \$469,341.64.
2. Approval of 9/13/93 Claims in the amount of \$913,367.55.

Councilor Baxter moved, Councilor Herman seconded to approve items 1 & 2. Passed. (Councilor Leighan did not vote on Vouchers 17025 and 17062.)

3. Approval of Final Plat of Buena Vista.

Councilor Myers moved, Councilor Wright seconded to approve the Final Plat of Buena Vista. Passed unanimously.

ORDINANCES & RESOLUTIONS: None.

LEGAL MATTERS:

1. Contract with Border Patrol.

City Attorney Weed stated in the past the MPD has made available to the Immigration Services, jail service and this is the same as in the past.

Councilor Herman said he would like to know if \$50 a day covers costs.

Sgt. Winters stated it does. To compare with Snohomish County, they charge a booking fee plus, but MPD has been able to cover costs and actually bring in some revenue; MPD has 67 prisoner days so far in 1993, equalling \$3350 in revenue; INS covers medical and other costs, he pointed out.

Councilor Baxter said he thinks we came to the conclusion our actual costs are \$43 a day when the study was done 4-5 years ago.

City Attorney Weed said he thinks we are fairly consistent, compared to the county.

Councilor Baxter said he thinks it should be reviewed again and Councilor Pedersen agreed, stating she would be interested in how the costs work out in 1993.

Councilor Herman asked about how non-English prisoners are handled and Sgt. Winters stated MPD has access to translators that can come in if necessary; most of the prisoners at least have broken English, however.

Councilor Herman questioned the five year term of the agreement that can be cancelled in the event of something of an "unusual nature" that would allow termination.

Sgt. Winters gave the example of a full bed situation.

Councilor Herman said he would suggest deletion of the "unusual nature" terminology.

Sgt. Winters said he was happy with the wording the way it is; he said INS always calls ahead to make sure there's room.

City Attorney Weed said his interpretation of the termination clause is that either party can terminate and deleting these 2 words would give more flexibility, possibly.

Councilor Herman asked if there was time to get more information on this before voting on it and City Administrator Zabell said on the cost per prisoner, it depends on how full the jail is, meals and laundry, eg.

Sgt. Winters said there is really no way to predict how many prisoners there are going to be but Finance Director Wilson pointed out there are certain fixed costs and it was decided to put together an information sheet, based on prior history.

Councilor Pedersen moved to approve the renewal of the contract, contingent on the costs being \$50 or less a day. The motion was seconded and passed unanimously.

2. Contract with Al Gordon & Associates, Inc. for Collection of Court Fees.

City Attorney Weed referred to the packets and stated the City is in the 12th month of the current contract, up for renewal. He said the Court Administrator has asked for a renewal of 3 years.

Councilor Pedersen confirmed that all the other terms and conditions would be the same as the current contract and City Attorney Weed said they would be.

Councilor Herman referred to Section 3 - Compensation - Item E, interest at 12% with 50% commission on the interest. He asked if that interest is assigned for collection.

Councilor Pedersen said normally, it appears to only be 30%, not 50% commission and City Attorney Weed said he didn't have the answers to these questions.

Councilor Herman said he has another concern: the 3 year term vs. 1 year.

There was discussion about interest rate and agency commission, principal being collected, City should be getting 50% of principal, advantages in looking at a one year term to keep the agency on their toes, whether 30% is included in the amount collected.

Councilor Herman moved to continue this to next meeting in order to clarify the three issues raised. Councilor Leighan seconded and the motion passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 11:47 p.m.

1. Pending Litigation.

RECONVENE: 11:59 p.m.

Councilor Herman moved to authorize the City Attorney to write a condemnation ordinance for right of way discussed in Executive Session. Councilor Leighan seconded and the motion passed unanimously.

ADJOURNMENT: 11:59:45 p.m.

Accepted this 27th day of September, 1993.



MAYOR



CITY CLERK



RECORDING SECRETARY