

MARYSVILLE CITY COUNCIL MINUTES

JANUARY 24, 1994

7 PM

Council Chambers

Present: Donna Pedersen, Mayor Pro Tem (Mayor Weiser excused)Councilmembers:

Dave McGee

John Myers (8:00 p.m.)

Ken Baxter

Donna Wright

Mike Leighan

Otto Herman

Administrative Staff:

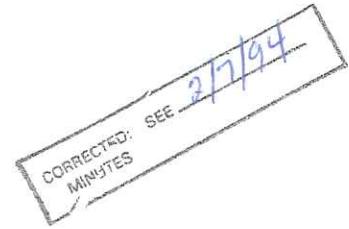
Dave Zabell, City Administrator

Grant Weed, City Attorney

Gloria Hirashima, City Planner

Steve Wilson, Finance Director

Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Pro Tem Pedersen called the Council meeting to order and invited Cassandra Olson (age approx. 8) to lead the flag salute.

ROLL CALL:

Finance Director Wilson called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETINGS:

Councilor Herman referred to page 2 of the January 10, 1994 minutes, noting in the 3rd paragraph, "confirming" should be "confirming" and "TCP" should be "MUTCD" rules. On page 5 in the 2nd to last paragraph, he asked that it be reworded to better reflect his statement: "Councilor Herman asked about Title 26 and City Planner Hirashima said....." Also, on page 6, he asked that the 4th paragraph be reworded as follows:

"Councilor Herman commented on mitigation fees."

There being no further corrections, Councilor Herman then moved and Councilor Leighan seconded to approve the Council minutes of 1/10/94 as corrected. Passed unanimously.

There being no corrections to the 1/4/94 Comp Plan Workshop Minutes, Councilor McGee moved and Councilor Herman seconded to approve them as written. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Ian Millikan, Attorney, addressed Council. He stated they should have received an additional document pertinent to a New Business item and the new document is technically not on the agenda.

Councilor Herman stated he was aware of that and will proceed with the appropriate process when Council gets to New Business.

Dick Martin, 7414 83rd Av. NE, addressed Council. He stated they would like to ask Council to change its denial on Whiskey Top to denial without prejudice. He said they feel they have produced the best product for the City in accordance with the ordinance and feel there has been some change in policy, i.e. Council wishes to have larger lots which puts a strain on developers such as himself and so they are asking for a "without prejudice" denial so they don't have to repay all the fees.

Ruth Walla, 13411 1st Av. W., addressed Council. She echoed Dick Martin's comments and stated this is the only project they are working on, they are not large developers.

City Attorney Weed explained the City doesn't have a specific provision which allows waiver of fees except in the fee schedule there is a reference to why the fees are charged. The Council

would have the final authority to interpret its own ordinance and if the applicant is going to be submitting something similar again it would seem reasonable that it would be a duplication of effort of some parts and if the new application is the same as the old, new administrative costs should not be required, he said. However, notice and publication requirements would need to be paid for, he added, but anything that's a duplication of effort would be reasonable to waive fees on. He said there is the question of a new time period, etc. and he would recommend allowing a waiver of a portion of the fees with regard to the portion of the process that would be duplicated, eg. it may depend on the new proposal.

City Planner Hirashima said there are 3 fees involved: a preliminary plat fee, rezone fees and SEPA fees and the applicant has indicated they wish waiver of the preliminary plat fees; she said some changes are expected with the new proposal being submitted as a straight plat vs. a PRD but she said she thinks it would warrant a reduction in either the preliminary plat or rezone fees. Without prejudice could be a waiver of all fees and staff would want to get something, rather than a complete waiver of fees, she said.

Mayor Pro Tem Pedersen referred to a recent case similar to this where some of the fees were waived but not all.

Councilor McGee asked for a breakdown of fees, percentage of time involved by staff.

City Planner Hirashima said a waiver of the preliminary plat fee would be acceptable.

Councilor Herman said if it's currently zoned 12,500 the two possible scenarios would be to change it to a PRD or some density change, probably and City Planner Hirashima agreed.

Councilor McGee asked if, based on what they indicate they are going to propose, the rezone and SEPA fees cover staff costs and City Planner Hirashima said yes, rezone fee would be \$750 which would cover the hearing examiner and advertisement costs. The SEPA fee is \$100, she said and the preliminary plat fee would be \$1500 plus \$30 per lot.

Councilor Baxter moved and Councilor McGee seconded to waive preliminary plat fees for the Martin/Walla application with fees relating to the rezone and preliminary plat not to exceed \$850 (includes \$100 SEPA fee). Findings of Fact:

1. The matter is very recent and denied by the Council so information is fresh.
2. New application/proposal is expected to be very similar.

The motion passed unanimously.

STAFF'S BUSINESS:

City Administrator Zabell reported there had been some gang vandalism at the restrooms in Comeford Park which had just been repainted. Recommendation is to start locking the restrooms at night, he said, an action which has been approved by the Parks Board but they wish concurrence from Council. This was given.

City Administrator Zabell reported a joint meeting with Council and the school board has been set for Tuesday, Mar. 8 at 7 p.m. and a joint meeting with City Council and County Council has been tentatively set for 2/17 with time and location to be announced.

When he suggested 2/10 for the Capital Planning Meeting, there were too many calendar conflicts and so City Administrator Zabell will come back with different options for this meeting. He reminded those present of the RUSA meeting Thursday morning.

MARYSVILLE CITY COUNCIL MINUTES
 JANUARY 24, 1994
 Page 3

City Administrator Zabell stated a request was received from Family Counseling Services with regard to an audible system being installed for the pedestrian crosswalk at 80th & State. He said on checking into this, it would cost about \$1800 to \$2000 and this is a good place to start, it was planned to eventually do it with all signals and there is a demonstrated need with one person every day. He said he would be coming back to Council with suggestions for how this can be paid for.

He announced that the meter reading position was filled last week and they are interviewing for custody officers tomorrow. The AWC Bulletin highlights will be included in the next staff briefing, he concluded.

City Planner Hirashima reminded Council of the Comp Plan Workshop Jan. 31 (next Mon. night) at 6 PM in the Fire Training Room. Also tomorrow the Planning Dept. is hosting the Builders' Meeting at 4:30 in the Public Works Bldg. lunchroom, she said.

CALL ON COUNCILMEMBERS:

Councilor Baxter reported on a train blocking the tracks in town this afternoon at 4 p.m. with traffic backed up all over town. He said this is a good example of what the train can do; it was for over half an hour.

City Administrator Zabell said they attempted to reach BN officials but it was too late in the day. He noted the City did suggest BN change the times of their trains so they don't conflict so heavily with rush hour traffic but he didn't think there had been or probably will be any change in train times.

Councilor Herman reported that this Thursday, following the CT Board meeting, they will be choosing 9 people to go to the annual meeting and there does seem to be a higher level of interest this year. He said a number of the issues have been identified and he gave a letter to City Administrator Zabell to be copied off. He added that there will be a Sno Tran meeting 2/1/94 on the issue of combining agencies. He noted also that he spoke with Senator Vognild and learned there have been prior problems and the state wants to phase out federated boards, government structures, legislation with regard to putting a combined agency under the county jurisdiction. He said there is a great deal of pressure to combine agencies on a shorter term. He reported on the recent Stillaguamish Sr. Center board meeting he attended and noted there is a senior housing project underway and Council will probably be approached with regard to some upcoming fund raising in that regard.

Councilor Leighan reported he recently attended the Parks Board meeting and one of the things discussed there was the Mary Comford Wall in the Park which is going to need repair. The Parks Board Basketball Program has 886 kids involved this year, from ages 6 through 14, he reported.

Mayor Pro Tem Pedersen reported she attended an AWC workshop a week ago for newly elected officials and if anyone wishes to borrow the handbook she obtained at that workshop, they are welcome to do so.

MAYOR'S BUSINESS:

Mayor Pro Tem Pedersen noted two appointments were previously mentioned by the Mayor: one on the Boundary Review Board and one on the Disability Board. She stated Mayor Weiser wrote a letter on behalf of Sim Wilson who has shown an interest in being on the Disability Board and Mayor Pro Tem Pedersen will be presenting his name at the AWC legislative meeting coming up.

PETITIONS & COMMUNICATIONS: None.

CORRECTED: SEE 2/7/94
 MINUTES s/b to serve
 as board members
 for the next
 2 years.

CORRECTED: SEE 2/7/94
 MINUTES

PRESENTATION:

1. Citizenship Award.

Councilor Leighan introduced Joanne Mulligan, Marysville Food Bank Director and nominator of the winner of this quarter's Citizenship Award. Joanne cited many things that prompted her to nominate Pat Dunlap for the award: her 8 years continuous service to the Food Bank in a voluntary capacity, the fact that Pat has put on several rummage sales to raise money for the Food Bank and has basically single handedly raised in excess of \$3,000 in so doing and from October to December of 1993 was at the Food Bank on a continuous basis to accept donations. She was presented with a very nice plaque and was very surprised with the award. Congratulations, Pat!

NEW BUSINESS:

1. Committee for Juvenile Justice Donation.

City Administrator Zabell explained the City received a letter a couple weeks ago asking for a \$100 donation.

City Attorney Weed explained if the City wishes to make a financial donation there would be a problem legally with the donation of City funds. He said individual Councilmembers are allowed to send in donations but a recent State Attorney General ruling has come down with regard to ballot propositions wherein a City can endorse or support in a general way, providing equal time is given at a public meeting for the opposing side, but no public funds are to be given. The City can certainly support the concept but not by financing from the City coffers, he said.

City Administrator Zabell said the City has previously indicated support in this matter and Councilor Herman said he would personally support this and would encourage others to do so individually. He suggested a letter to the signators of the letter be sent out on City letterhead.

2. Variance to Commercial Sign Setback; Graham/Carlson; PA 9311036.

City Attorney Weed stated there appears to be 2 issues that should be dealt with separately:

1. The hearing examiner decision to deny the sign variance;
2. Special consideration under the sign code for the applicant who has provided a letter.

There was discussion about the hearing examiner process, requirement under the code that the applicant provide narrative giving justification for request. City Attorney Weed suggested taking public testimony.

City Planner Hirashima noted this has not been done before and the hearing examiner has provided ample findings, as per the information in the packets.

Councilor Wright referred to Section 16.16.230 and suggested hearing that part of this matter first and then this would resolve the other portion; it would make it easier to deal with the hearing examiner decision, she said.

Ian Millikan, Attorney representing Graham & Carlson, 1059D State, addressed Council. He said it is difficult for him to add to the well prepared narrative in the packets from the applicant: he has outlined the code and shows how the sign would fit within the code. He said he believes it was the intent of the sign code to approve one that is aesthetically pleasing, it fits in with surroundings, it doesn't obstruct vision and the plan/design would be superior to any other options. This building represents a substantial investment, he pointed out, and the sign is certainly consistent with the structure, it does not obstruct any view or traffic

sight obstruction. There is some density of signs down there, he noted, some of which it is felt are not in conformance with the sign code but the alternatives are not feasible for the applicant --different placement, etc., he said.

Councilor Myers arrived at 8 p.m.

Councilor Herman said he thought he heard that the hearing examiner made an appropriate recommendation. He asked if in the second part of the question the Council should decide that tonight or ask for further public input at another public hearing. He said he realizes they are setting precedent for future policy, here.

There was discussion about which should come first, the first or second issue.

City Planner Hirashima reiterated that this is the first time 16.16.230 has been questioned. Aesthetically, the applicant's sign conforms, impacts are very minimal, however it would present some problems in administrating if the precedent is allowed of a setback of less than 10'. She said she sees the difficulty being that several business would like to locate their signs closer than 10' back from the property line. She said they could look at all signs on a case by case basis and determine those that are aesthetically pleasing could be set closer, those that aren't would have to be set back 10'; she said she could see a lot of variance requests coming in here and as far as the comprehensive design section, it seems to be a catch all section and it's hard to interpret. Also, with regard to the variance section, she said it can come back to the comprehensive design section.

Councilor Herman commented that this could be some motivation for aesthetics.

Mayor Pro Tem Pedersen asked about existing signs to the west of the Graham & Carlson building and City Planner Hirashima said there are at least 2 signs that are within the 10' setback, i.e. less than 10' back from the sidewalk.

Mayor Pro Tem Pedersen asked what would happen to them if the hearing examiner's decision is approved, eg. Joy's Country Shop.

City Planner Hirashima said she believes that was approved under a conditional use permit and the one that was done before the road was widened--the measurement may have been taken inaccurately.

Councilor Baxter noted one of the signs was put up 30 years ago, before we had a sign code. He also noted that one of the criteria used in the past was sight distance and he talked a bit about the traffic patterns in that area. He noted that businesses need to have signs and it's too bad the sign code doesn't take that into consideration because a sign is a business' form of advertisement, he said.

There was more discussion about having another public hearing, making a decision on the first section first (the hearing examiner's recommendation to deny the variance request) or second, there are only 2 parties of record and they are in the audience out of all homeowners and property owners within 300' notified. There was also discussion about criteria, setting a precedent, the whole sign code being changed, comprehensive design plan, interpretation.

Councilor Wright then moved to allow the sign as per MMC 16.16.230 for PA 9311036, with only a 5' setback. Councilor Baxter seconded with the finding that 5 feet doesn't cause a safety hazard.

Councilor Herman commented that the process is important and with a public hearing he would feel more comfortable. The motion passed with Councilors Herman and Leighan against, Councilor Myers abstained.

Councilor McGee then moved and Councilor Baxter seconded to affirm the hearing examiner decision. The motion passed with Councilors Leighan and Herman opposed and Councilor Myers abstaining.

CONSENT AGENDA:

- 3. Approval of Liquor License Renewals for AJ's at Cedarcrest, Boulevard Grocery, Godfather's Pizza #48523, JJ's Golf, Marysville Moose Lodge, Oriental Inn Restaurant, Saigon Garden Restaurant, Skipper's Seafood 'N Chowder House & 7-11 #18861.**

City Administrator Zabell noted Saigon Gardens have had 9 incidents since 9/92 of overserving and after hours serving and the MPD will be sending a letter to the Liquor Control Board denying their request for liquor license renewal.

Finance Director Wilson noted that AJ's at Cedarcrest are behind on payments to the City, since October. It was noted this was a separate issue, however, from the liquor license renewal request.

Councilor Herman moved and Councilor Wright seconded to approve Consent Agenda #3 except for Saigon Garden Restaurant, who are recommended for denial. Passed unanimously.

- 1. 1/24/94 Claims for Period 13 in the amount of \$178,863.47.**
- 2. 1/24/94 Claims for Period 14 in the amount of \$413,228.69.**

Councilor Baxter moved and Councilor McGee seconded to approve Consent Agenda Items 1 & 2. Passed unanimously.

- 4. State Avenue East Model Home Request; Canfield Homes.**

City Planner Hirashima explained the model home ordinance and said this case is a little different because there is only one home being applied for and they are not required to even go under the model home ordinance but since it was on the books, it was felt it was probably more appropriate to do so.

Councilor Baxter moved and Councilor Herman seconded to approve Consent Agenda Item #4. Passed unanimously.

ORDINANCES & RESOLUTIONS:

- 1. An Ordinance Annexing Certain Unincorporated Area Known as the Blackburn Annexation Area into the City of Marysville.**

Councilor Wright moved and Councilor McGee seconded to approve/adopt Ordinance 1978. Passed with Councilor Leighan against.

- 2. A Resolution Approving the Order on Consent, Third Amendment, with the Washington State Dept. of Ecology & Authorizing the Mayor to Execute the Same.**

Councilor Myers moved and Councilor McGee seconded to approve/adopt Resolution 1666. Passed unanimously.

- 3. A Resolution Supporting the Marysville School District Maintenance & Operation Levy on Feb. 8, 1994.**

Councilor Herman moved and Councilor McGee seconded to approve/adopt Resolution 1667. Passed unanimously.

LEGAL MATTERS:

- 1. Agreement to Provide Urban Planning Services; McConnell/Burke, Inc.**

City Planner Hirashima explained this is a renewal of McConnell/Burke's existing contract; the City has been decreasing the scope of work with them with staff providing more and more services. She said this also includes renewal of the hearing examiner contract and there are no fee changes.

Councilor Herman moved and Councilor Wright seconded to authorize the Mayor to sign the renewal contract with McConnell/Burke as recommended by staff. Passed unanimously.

2. Recovery Contract for Water; Arthur N. Dujardin; 7920 108th St. NE, Marysville

Councilor Wright moved and Councilor Myers seconded to approve/adopt Recovery Contract 172. Passed unanimously.

3. Recovery Contract for Sewer; Arthur N. Dujardin; 7920 108th St. NE, Marysville

Councilor McGee moved and Councilor Myers seconded to approve/adopt Recovery Contract 173. Passed unanimously.

4. Snohomish Regional Narcotics Task Force Letter of Intent.

City Administrator Zabell explained this is a continuation of the City's relationship and it is within budget.

Councilor Myers moved and Councilor Wright seconded to authorize the Mayor to enter into an agreement with the Snohomish Regional Narcotics Task Force as recommended by staff. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 8:40 p.m.

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|------------------------|-------------|
| 1. Personnel. | (No Action) |
| 2. Pending Litigation. | (No Action) |
| 3. Real Estate. | (No Action) |

RECONVENE & ADJOURNED: 9:08 & 9:09 p.m.

Accepted this 7th day of February, 1994.

David Weese
MAYOR

Mary Swenson
CITY CLERK

Standa A. Swenson
RECORDING SECRETARY