



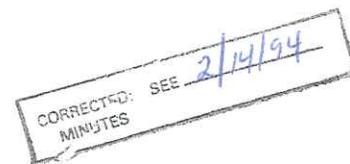
MARYSVILLE CITY COUNCIL MINUTES

FEBRUARY 7, 1994

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor  
Councilmembers:  
 Donna Pedersen, Mayor Pro Tem  
 Dave McGee  
 John Myers  
 Ken Baxter  
 Donna Wright  
 Mike Leighan  
 Otto Herman  
Administrative Staff:  
 Tim McMahon, City Attorney Pro Tem  
 Dave Zabell, City Administrator  
 Steve Wilson, Finance Director  
 Gloria Hirashima, City Planner  
 Bob Dyer, Police Chief  
 Ken Winckler, Director of Public Works  
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Weiser called the meeting to order and led us in the flag salute.

ROLL CALL:

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

MINUTES OF PREVIOUS MEETING:

Councilor Pedersen noted in the 1/24/94 Council Minutes in the last sentence of page 3 that "AWC legislative" meeting should be "Cities & Towns" meeting. On page 5, she noted the minutes show the Council affirmed the hearing examiner decision "to deny a variance".

Councilor Herman noted on page 3, in the 3rd paragraph under Call on Council, it should read "will be choosing 9 people to serve as CT Board members for the next 2 years" rather than "to go to the annual board meeting."

Councilor Baxter asked about the hearing examiner decision on the sign variance again and discussion followed.

Councilor Herman then made the motion to postpone approval of the minutes until the next meeting with the tapes to be reviewed regarding the hearing examiner decision regarding the sign variance request. Councilor Baxter seconded the motion and after further brief discussion, the motion passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Patricia Wright, 1229 State #F, addressed Council and read a prepared statement after she noted that if any one felt they might be offended, they would be welcome to leave the room before she read her statement. No one left the room and she proceeded to state her concern about increased youth gang activity in our community. She read a long prepared statement, noting Marysville is in the same situation as Seattle was 10 years ago. She talked about ignorance, apathy, gangs, prostitution, crime, increased violence in the community and encouraged people to become more aware of what they can do about it before it gets out of hand.

Mayor Weiser noted that there is an upcoming joint meeting 3/8/94 at 7 p.m. with City Council, the Marysville School Board, Officer Goldman and members of the Youth Gang Task Force and he invited Ms. Wright to attend.

STAFF'S BUSINESS:

Finance Director Wilson reported there is a bill regarding municipalities being able to attach utilities liens being discussed in Olympia. He said they are trying to exclude municipalities from the lien capability and he explained the problems involved with outstanding utility bills when a house is sold. He explained the City's procedure with regard to sending out delinquent notices to the tenants and landlords and said the Council may have to consider collecting deposits or whether the City should continue with the lien process.

City Administrator Zabell reported he and Councilor Pedersen attended an AWC legislative committee meeting last week in Olympia and several things of interest were discussed, including a Pension III Plan, retiree medical coverage, bond issue ordinances, councilmatic bond limit to be increased to 1%, "taking" of private property (especially in the case of sensitive areas) and he said he will be distributing a summary of these issues to Council.

CORRECTED: SEE 2/14/94  
MINUTES add  
Councilor Wright

City Planner Hirashima reminded Council of tomorrow's Comp Plan Workshop at 6 p.m. in the Fire Training Room. She also noted the Planning Dept. will be sending out open house notices for 2/23 & 3/1 from 7-9 p.m. at Jennings Park Barn. She invited Councilmembers that wished to, to be on hand to answer any questions that the public might have. The mailing is to go out to all property owners within City limits as well as people who have asked to be placed on the mailing list or have a specific interest in property within City limits. She estimated the mailing would be to about 5,000 folks and representatives of McConnell/Burke and City Planning Staff will be in attendance also.

Public Works Director Winckler reported that Sunday at 3 a.m. he was notified of a high water flow occurring and upon checking it out, it was found to be a 10" broken water line in the Crystal Heights/Northpointe area. The building inspector was sent out, the break was repaired and several calls were received regarding dirty water and air in the lines, he said. He added that the City did have to contract the work out and they did a good job in responding quickly but there is considerable washout, retention systems overflowing, silting and other problems on which documentation is being done in the event the City wishes to claim reimbursement from the developer. He noted it was an old pipe that broke with only 3' of cover but there was 12' of backfill placed on top of it by the contractor, which probably caused it to break.

He reviewed the latest change order for the WWTF, for the storm water/drainage system.

The third item Public Works Director Winckler reported on was regarding the City limits now going up to 136th and State and according to our City ordinance, "Smokey Point Boulevard" now needs to be signed "State Avenue" all the way to 136th. However, he noted they will be leaving Smokey Point Boulevard signs up (in brown and white) and adding the State Avenue signs in green and white. This will require about 14-16 new signs and he noted the business licenses are now requiring the addresses to be shown as State Avenue rather than Smokey Point Boulevard or Old Hwy. 99.

The fourth item Public Works Director Winckler reported on was that staff has submitted a preliminary plan (done by Perteet Engineering) for widening State; 3 property owners have complained about this phase of the project. He noted that Perteet is also designing the portion of 88th from the Quil Ceda Bridge to State.

There will be a Utilities Coordinating Meeting 2/11 at 10 a.m., he said, noting this will be the 2nd annual meeting with utilities companies, staff, etc. in attendance to disseminate information about construction projects that are going on or will be going on in the City.

Public Works Director Winckler said a tour of the WWFT for the Council has been set up for Sat. 2/26 at 9 a.m. This will be about 3 hrs. total, including the construction project briefing.

Mayor Weiser asked about the 64th & 528 light and Public Works Director Winckler said Transpo and Ernie Berg were to meet about this but the meeting has been rescheduled; they are working on rechannelization in conjunction with the TIP and are real close to working this out, with Belmark as the general contractor, he said.

MAYOR'S BUSINESS:

Mayor Weiser reported he cannot attend an upcoming Court Redistricting Committee meeting that Seth Dawson appointed him to and so in his stead, Councilor Leighan will be attending for the Mayor.

CALL ON COUNCILMEMBERS:

Councilor Herman reported that he had in fact been selected to serve another 2 years on the CT Board, along with Roger Bergh (Mayor of Mountlake Terrace) and Bill Miller of Bothell.

Councilor Leighan expressed some concern about the new library in that in reading the minutes, it seems that the building committee and architects do not seem to be in agreement, especially on technology issues (installing electrical for computers). He also talked a little more about the differences between the Snohomish County Gangs Task Force and Interlocal Gangs Task Force Committee.

Councilors Baxter and Pedersen added more comments about computers at the new library and preparatory wiring being done and there were more comments about CD ROM capability, fiber optics being prepared for, having movable computer stations, carpet squares vs one piece carpeting, flat ware.

Councilor Wright briefly reviewed her attendance at the AWC Legislative Committee meeting recently and said there was discussion about annexation bills and they are very conscious about mandates where ~~people don't get to vote on taxes/increased charges or fees.~~ She also noted she is extremely interested in seeing a policy developed for what would happen in the event of an extended illness of one of the Councilmembers. (Grant Weed to research this.)

CORRECTED: SEE 2/14/94 MINUTES  
Passes laws requiring cities to provide services w/o the funding mechanism in place.

Councilor Pedersen added comments regarding the AWC Legislative Committee Meeting, noting she learned about "Keys to Effective Lobbying", among other topics. She reported she will be most aware of Council's concerns at the Wed. 3 p.m. Library Building Committee Meeting and she reported she has been selected the Vice President of the Snohomish Health District Board.

Councilor Baxter said he saw the egg farm tank truck dumping at the lagoon recently and asked if this is a change from past procedure. *privately owned manure lagoon at 100th St.*

CORRECTED: SEE 2/14/94 MINUTES

City Administrator Zabell said he would have Dale Thayer call about this.

Public Works Director Winckler noted there is a meeting tomorrow regarding and with the lagoon industrial users.

Councilor Myers said he has been hearing complaints about all day boom boxes in the City and that the noise ordinance is not being enforced.

Councilor McGee asked about the future possibility of a left hand turn signal at Grove & State for traffic turning left to go south on State and whether this could be analyzed.

City Administrator Zabell said he would check into that.

Councilor McGee asked about the golf course study analysis and whether it will be coming before Council soon. City Administrator Zabell said he has a memo out and he needs to talk to the Golf Committee one more time, first.

Councilor McGee asked about the restaurant (AJ's) payment status and Finance Director Wilson reported Jim Ballew says they are up to date.

Councilor McGee reminded everyone to vote tomorrow.

PUBLIC HEARING:

**1. Charles Okada Rezone; PA 9306020.**

Mayor Weiser reviewed the procedure and City Attorney Pro Tem McMahon swore in those wishing to testify.

Councilor Wright disclosed that <sup>one of the owners of</sup> Acro Machining is an independent contractor for her husband but she feels she can be fair and impartial in this hearing.

Councilor Pedersen disclosed that she and her husband have property near the subject property but she said she feels she can be fair and impartial also.

Councilor Herman disclosed that he lives 1/2 mile north of the subject property.

There were no challenges from the audience about these Councilors remaining in the hearing.

City Planner Hirashima reviewed the agenda bill and noted this was previously heard by the hearing examiner; they did not formally receive an appeal however, there were 2 letters received from Acro who were concerned that the rezone would adversely affect their business. She stated the request is for high density multiple family which allows up to 28 du/ac however their overall unit density would be 18.6 du/ac. She said Acro's main concern was that a multifamily use would set the stage for future complaints about their business; they typically run 15 hrs. a day and a residential use could be incompatible with their business. She referred to the letter in the packets and stated she has provided a colored map of the area showing current designated land use which shows a mixed use in that area which includes commercial, some legal non-conforming uses, residential; there have been some recent rezone requests for high density multifamily (Parsons) and this will probably be occupied in the next 6 months, she reported. She noted the subject property is immediately north of Acro Machining.

Bill Roberts, representing Charles Okada, 4129 76th St. NE, addressed Council and said first of all, he feels he was misquoted in the Globe, that this meeting was not called unnecessarily. He said they have made some changes to the site plan in an attempt to at least recognize some of the noise problems that may exist, so they have flipped the plan so the parking lot and landscaping will buffer the applicant from the neighboring site. He said they are not trying to run anyone out of business, they do not want constant complaints and are aware that the machine shop will be making noise but they are not clear about Acro's conditional use permit and are not opposed to some kind of agreement with them. For example, they would like to know how many people Acro is allowed to have under their conditional use permit, how many hours can they operate, etc. and he said they would just like to know the ground rules and would like to know what kind of agreement they would like.

CORRECTED: SEE 2/14/94  
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Councilor Baxter noted the City has a noise ordinance which is difficult to enforce.

Mr. Roberts said yes, Marysville's ordinance does not recognize the sophisticated use of equipment to measure noise.

Councilor Baxter pointed out that it's not that simple to enforce the noise ordinance and mixing of uses is not simple, either. He said he is looking for what the applicant is willing to agree to.

Mr. Roberts said they would like to agree to some decibel level, for example, recognizing they work so many hours a day and have so many employees and complaints to do with that would be exempt but they just want to know what the level of operation is at this point, he said.

Janet Edmonds, 12031 11th Av. NE, Marysville, addressed Council. She noted she and her husband and son own three pieces of property on Beach, doing business as Acro Machining. She produced a copy of the noise ordinance and said she also called L&I who sent her a copy of the appropriate RCW/WACs. She said they would fall under Class 3 and she pointed out their business had to relocate from the mall; residential is generally not allowed in the same area as manufacturing, she noted. She read from the WAC and noted they provide ear plugs for their employees. She said the man from L&I said they could go to 85 decibels for a short period of time--if they are located next to Class C they can go to 70 decibels, if they are located next to Class B (General Commercial), they can go to 65 decibels and if located next to residential, they can only go to 60 decibels except for very short periods of time when they can go higher.

She said she thinks there needs to be more of a buffer; they have a forklift for heavy material and have to transport material back and forth between 2 buildings. There is a lot of noise, she said and noted they have to reduce their noise level for certain hours unless they have operated for 15 hours a day for at least 5 years, which they have, so they are exempt from noise reduction, according to the WAC. She said they have records to prove they have operated for 15 hours a day for at least 5 years.

She noted L&I said there are some very costly noise absorption panels they could put around their equipment but that could definitely affect the company's profitability. The City would not allow them to keep a nice little house they had and rented out at \$500/mo., she pointed out--they were forced to evict the tenants because Acro was not allowed to have residential in there, she said.

Mayor Weiser asked if they have ever had noise complaints and Mrs. Edmonds said no.

Mayor Weiser asked if OSHA comes through on a regular basis to make sure they are within safety standards and Mrs. Edmonds said yes, but not with a decibel reader.

Councilor McGee asked her if she had any idea what decibel level they are operating at and Mrs. Edmonds said she could find out. She added she has no objection to the apartment building but she thinks there should be more of a buffer. She said she is concerned about the compatibility and thought perhaps they would put the back of the building against Acro's property line with a lot of insulation and no windows, but she is not whether that's allowed.

Richard Shipp, 4517 106th NE, addressed Council, noting he has a machine shop a block away from the Public Safety Building on 44th and it seems to him that with an existing business, the onus should not be put on them. The newcomer should have to put up

with existing businesses, he said. He said this would be just like if he moved to Seatac and then complained about the airport noise.

George Sherry, 6804 Bayview Dr., addressed Council. He stated he owns property just north of Acro on Beach and has owned this property since 1972; it's zoned commercial and he said he doesn't want anything to go in that's going to affect use of his commercial use to its fullest extent. He said he doesn't agree with the Comp Plan and has voiced his opinion on this. He explained that the map is incorrect in showing Action Electric--they own a little house out in front, he said.

CORRECTED MINUTES SEE 2/14/94 s/b OKADES

Rob Baker, 8305 83rd Av. NE, addressed Council, noting they own property at 1088 Beach and intended to put a commercial venture on it. He said he sees a change of the use in the area here and maybe the area should be designated mixed use but he said it looks like they can't do what they want to do now and he sees a lot of problems with the existing businesses. He pointed out that if the land use designation is changed, there is no where else for the businesses to go.

Councilor Herman clarified the location of Baker's property and Mr. Baker stated they bought the property because it was designated commercial on the Comp Plan.

Mayor Weiser noted they are contemplating a mixed use where commercial would be allowed as well as residential, everything up to general commercial, but no industrial use, he clarified. He said it's the same problem with the golf driving range--the new people need to see what's in there first and not make them conform to the newcomers.

Dan Edmonds, 12029 11th Av. NE, addressed Council. He said he runs the crew at the shop at Acro and about 3 years ago they had to let half of their employees go; they are supporting about 25 families now. He said they are not ornary or obnoxious but a lot of times they have a shipment come in or they are trying to get the work out and they make noise. He said they had a complaint once from an upstairs apartment about a radio in the summer being too loud and the radio was turned down, that was the only complaint. He said Acro wants to work with people but it's like the Kenmore Gun Range which was there first and people move in and now it looks like the gun range might have to move, he said.

Roy Edmonds addressed Council. He said he is one of the owners of Acro Machining and they have been in business for 15 years and try to be good neighbors, trying not to bother people. He said they employ 25-40 people and sometimes do make a lot of noise--trucks might come in late at night to be unloaded and make some noise. He said they have always complied with the City's ordinances and requirements and feel they are an asset to the community.

Councilor Pedersen asked about the map and single family residences and Mr. Edmonds explained Acro is right in front of Freeway Storage and there are no single family residences adjacent at present.

Mayor Weiser asked if there had been any noise complaints when Acro was down between 3rd and 4th and Mr. Edmonds said no, but they had a lot smaller operation at that time.

Rob Baker addressed Council again. He said his understanding is the difference between General Commercial and Residential under Mixed Use is there is less density.

City Planner Hirashima explained Mixed Use would include retail uses, offices; a lot of uses currently in that area verge on General Commercial and General Industrial and are on a conditional

use permit and this would not be allowed under Mixed Use, she said. She added that Acro Machining is under a conditional use permit.

George Sherry addressed Council again and said he just wanted to add that when they purchased the property in '72, it was Light Industrial and he was not aware when it was rezoned to Commercial from Industrial. He said he agrees that Acro was first and should not have any restrictions other than a normal business and with commercial property around them, they should not have any complaints. He concluded that he doesn't feel Mixed Use in this area should be allowed.

Mr. Roberts offered to have the hearing continued so the applicant can get in touch with someone with sound equipment and get some feel for Acro's noise level. He said they would like to take that reading as well as say, a worst case scenario, and work with insulation on the building, window construction, etc. and maybe they don't have a problem but they would like to have more scientific information so they can present that to Council.

Councilor Herman commented on the situation that this has left the Council in with regard to the two land uses and the noise ordinance. He said he hopes the information would be gathered in a positive manner and asked how long this would take.

Mr. Roberts guessed 3 weeks from tonight would be adequate and he expanded on what information he would be looking for to see if the two uses could be compatible.

Councilor Pedersen noted the applicant has been made aware of the noise situation, and if he can document that and is willing to spend that kind of money, she thinks he should be allowed to postpone the hearing.

CORRECTED: SEE 2/14/94  
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Councilor Baxter gave some history about Ash Av. and the original intent was for it to be commercial/industrial but then the mall came along and the City/Mall displaced a number of businesses: Marysville Rental, Acro Machining, etc. He said he likes Mr. Roberts' proposal.

Councilor Leighan asked how Acro feels about the proposal.

Janet Edmonds addressed Council again and said they would have to do some special runs for some of the things they only do once or twice a year. She said you may get a lot of generalizations and she is really concerned about their causing a problem for the apartment tenants. She said she likes the idea of apartments but doesn't think it's going to be conducive. She asked what would be allowed on the other side of the apartments and said she thinks it's going to be a domino effect.

Councilor Herman moved to continue the public hearing, leaving it open for further public testimony, in 3 weeks from tonight (2/28) to allow time for some noise level readings, etc. Councilor Baxter seconded.

Councilor Pedersen said she would like to hear the person wishing to speak at this time.

The motion maker and seconder withdrew the motion.

Martha Sherry addressed Council (George Sherry's wife). She said they had a daycare center for 17 years and were told they could not have their daycare on anything but commercial property. She said her concern is what is going to happen when the apartments are sold and what the City is going to do if there are complaints in the future.

Discussion followed about the agreement going with the land and Councilor Pedersen asked the City Attorney Pro Tem about this.

City Attorney Pro Tem McMahon said if the applicant wanted to volunteer that the agreement would go with the land, that would be OK but it can be a problem with the courts for future owners, as agreements such as this are not always recognized by the courts.

There was further discussed about conditional use permits, non-conforming uses, grandfathered uses, manufacturing permitted uses, general contractor uses (which the Sherrys are), looking into Mrs. Sherry's concerns about if the land is sold.

Councilor Herman remade his motion to continue the public hearing to 2/28 for purposes of allowing the parties to see if there is a possibility of an agreement as discussed and to allow further public testimony at the continuance. Councilor Baxter seconded the motion and it passed unanimously.

NEW BUSINESS:

**1. Emergency Power to Wastewater Treatment Plant.**

Public Works Director Winckler reviewed the agenda bill and noted this is for information only. He outlined the need briefly and referred to a letter in the packets he wrote to P.U.D. He then turned it over to Larry Wade.

Larry Wade, P.E., Hammond, Collier & Wade-Livingstone, addressed Council. He referred to the original agreement between the City and PUD, the intertie agreement, which could have a potential charge of \$12,500 to the City, \$7,700 for a switch, plus the \$560 charge per month the PUD would require for giving "guaranteed" service. He explained that leaving the aerators out of the picture would reduce the \$560 per mo. to \$280 per mo. for "guaranteed" service, however a change order would be needed for the \$14,000. He outlined other options that would save the City money:

- eliminate the crosstie
- revise the switch
- Change Order #7 could be cancelled but it isn't felt the savings would be worth it so Hammond Collier Wade is recommending the Change Order not be cancelled
- eliminate the \$280/mo. charge because the PUD has indicated the lagoon will receive first priority anyway in the event of a power failure and startup

He explained the response time however may be more than 30 minutes, up to over 2 hours which can cause a lot of problems, so a mobile emergency generator is recommended to prevent this situation. He talked about the "freeboard" available in the sewer lagoon for up to 14 days and said the total Change Order he is recommending is \$59,800 which would include the generator, installation, automatic dialers and this would produce a savings of \$15,000 plus the \$280 per month for the life of the lagoon.

City Administrator Zabell asked about an easement across the dike to allow PUD in and Mr. Wade said it was prepared but he has never seen the final document. City Administrator Zabell said he would check into that further.

Public Works Director Winckler noted the grand total for total change orders is still under 1% of the total WWTF project.

**2. Center for Battered Women Proposed Letter of Agreement.**

Police Chief Dyer referred to a proposal in the packets for utilizing funding from the Motor Vehicle Excise Tax portion of the Criminal Justice Funding Distribution to Cities, through the Dept. of Community Development.

He stated the 1993 legislature has required them to put some policies in place in order to get the funding for this program. He gave as an example, an incident of Domestic Violence (DV) this past "Superbowl" weekend where the woman is apparently caught up in a cycle of DV and they need the funding to help these people get counseling. He said there are several cities involved in the area and it would give these women a referral system, eg., they could go to the shelter located in Everett. He said the total figure requested here should be \$6764.39 and noted Grant Weed has reviewed the original document.

There were several comments and discussion about how the program works, DV cycles, etc.

Councilor Pedersen moved to allow the Mayor to sign the letter of agreement between the City and County as proposed. Councilor Myers seconded and the motion passed unanimously.

**3. Tribal Gambling Monies; Purchase Request for Equipment & Crime Prevention Supplies.**

Councilor Baxter left City Council Chambers at 9:23 p.m.

Chief Dyer reviewed the agenda bill, noting some of the impacts of the Tribal Gambling Center are very hard to measure but they have outlined some needs, for approx. 1/3 of the proceeds:

- one more vehicle, with equipment
- computer and colored printer

Councilor Baxter returned to Council Chambers at 9:25 p.m.

- new terminal for Records Management
- software
- filing cabinets
- scale
- refrigerator
- Project Kidcare (for use at safety fairs)
- Police Trading Cards (Officer DARE, especially for distribution in schools)

Mayor Weiser asked how many hours MPD was involved in the reported abduction at the Gambling Center and Chief Dyer said none, but they have been involved in fights in the parking lot, etc.

Councilor Pedersen asked if this would be an annual payment and Chief Dyer said yes.

Councilor Leighan asked about the term of the contract and City Administrator Zabell said there is no term per se but it comes up for renegotiation in 18 months.

Councilor Leighan asked about having evidence room equipment in the budget and it getting cut and Chief Dyer said they would be happy to add more items to the above list and have asked for computer upgrades in the past, eg. (that got cut). On the undercover vehicle, he added, they can get a good deal by buying a one year rental/used vehicle, very reasonably priced.

Councilor Myers moved to authorized the Marysville Police Dept. to purchase the items as per the list recommended by Chief Dyer. Councilor McGee seconded and the motion passed unanimously.

**4. Michael & Frances Ren Utility Variance; UV 93-022.**

Public Works Director Winckler reviewed the agenda bill, noting this is for water only and that there is an 8" water line on 35th. He referred to the maps in the packets. He noted the property is outside of RUSA, the IUGB and CWSP however, there have been 4 other homes in that general vicinity which were connected to City water, he said.

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City Administrator Zabell asked if they were granted variances or if they were connected to water prior to RUSA and discussion followed about others who have received water--Roy Robinson, Sno-Isle Regional Library, other residences, failing well requirement, letter from Dept. of Health usually required.

Frances Ren, 7224 35th Av. NE, addressed Council to answer any questions.

Mayor Weiser asked if their well is failing now and Mrs. Ren said no, but the one well won't support 2 homes and they want to put in a manufactured home.

Councilor Pedersen asked about allowing 2 homes on the same piece of property and City Administrator Zabell noted also she needs to get a letter from the Tribes stating they cannot serve the Rens.

Councilor Baxter asked if the mobile home is for a member of the family and Mrs. Ren said yes, it's for her parents.

There was discussion about how they can only have one residence per hookup, need to have a letter from the Tribes, accessory use being allowed, letter from the county with regard to adequacy of the well, placement of another well possibly, need to make sure this all fits together, the connection for the water is in place already, need a letter from the county concerning the capacity of the well, adequacy of the well is not covered by Marysville's ordinance (just water quality), testing procedures, the county not wanting a proliferation of wells.

Councilor Myers moved to approve the utility variance on the condition that the Rens get a letter from the Tulalip Tribes stating they cannot serve the Rens water as well as a letter from the county that it's in order for Marysville to serve the Rens water.

Councilor Pedersen asked specifically what dept. of the county and Councilor Baxter said actually PUD might have to get involved, too. City Administrator Zabell explained it would be the Tulalip Tribes, the adjacent purveyor or P.U.D.

Councilor Myers changed his motion to the condition that the Rens get a letter from the Tribes and a building permit from the county.

City Attorney Pro Tem McMahon clarified that the manufactured home would be for her dad, an infirmed relative, a temporary accessory use and the City would be allowing a permanent hookup for a temporary use if they were to grant this variance.

Councilor Herman said he understands the county was going to be liberalizing their accessory uses under the GMA and City Attorney Pro Tem McMahon said he thinks Mrs. Ren is going to have trouble getting anything from the county without assurance from the City and maybe she needs a letter regarding capacity but he said his feeling is it's not going to be easy for her to do.

Councilor Myers rescinded his motion in view of the previous comments.

Councilor Herman said he feels all 4 criteria seem to have been met and moved to approve the variance as presented with the condition that there be a letter from the Tulalip Tribes indicating they can't provide the service and have no objection to Marysville providing the water service.

He was asked if he would include the condition of the Rens signing a no-protest agreement in the motion and he said no, that would not be a part of his motion.

Councilor McGee seconded the motion and there was discussion regarding whether or not a no-protest agreement should be required.

A roll call vote indicated Councilors Wright, Pedersen, Baxter and Myers against the motion, so it failed 3-4.

Councilor Myers then made the same motion as Councilor Herman, only with the inclusion of the condition of a no-protest agreement being signed by the Rens. Councilor Wright seconded and the motion passed unanimously.

Councilor Leighan left Council Chambers at 10:00 p.m.

CONSENT AGENDA:

1. **Final Plat of Brookwood East; PA 9211056.**
2. **Final Plat of Eastwood Hills II; PA 9302003.**

Councilor Herman moved and Councilor Myers seconded to approve Consent Agenda Items 1 & 2. Passed 6-0.

ORDINANCES & RESOLUTIONS:

1. **Resolution Denying a Variance from the City's Sign Code Set-back Requirements and Granting a Sign Permit Allowing for a Five-Foot Setback.**

City Attorney Pro Tem McMahon pointed out that this cannot be considered until such time as the minutes of 1/24/94 are approved.

Councilor Leighan returned to Council Chambers at 10:03 p.m.

It was noted that another option is to postpone approval of the resolution.

Councilor Pedersen moved to approve the minutes of 1/24/94 as corrected, noting the resolution clarifies the action that was taken at the 1/24/94 meeting. Councilor Leighan seconded and the motion passed unanimously.

Councilor Baxter moved that Resolution 1668 be approved/adopted as stated above. Councilor Pedersen seconded and the motion passed with Councilor Herman against.

LEGAL MATTERS:

1. **Recovery Contract - Craig Majors.**

City Administrator Zabell explained this is for 220' of 8" sewer line across from the Moose, totaling \$22,000.

Councilor Wright moved to approve/adopt Recovery Contract 174 and Councilor Pedersen seconded the motion. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 10:05 p.m.

1. **Real Estate.** (No Action)

RECONVENED & ADJOURNED: 10:33 & 10:34 p.m.

Accepted this 14<sup>th</sup> day of February, 1994.

David Weiser  
MAYOR

Mary D. Swenson  
CITY CLERK

Standa A. Sverson  
RECORDING SECRETARY