



09179

MARYSVILLE CITY COUNCIL MINUTES

SEPTEMBER 26, 1994

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor  
Donna Pedersen, Mayor Pro Tem

Councilmembers:

John Myers  
Ken Baxter  
Donna Wright  
Mike Leighan  
Otto Herman  
Shirley Bartholomew

Administrative Staff:

Dave Zabell, City Administrator  
Steve Wilson, Finance Director  
Gloria Hirashima, City Planner  
Ken Winckler, Public Works Director  
Grant Weed, City Attorney  
Jim Ballew, Parks & Recreation Director  
Walt McKinney, Asst. Police Chief  
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:

Councilmember Pedersen noted in the 9/12/94 minutes on page 4, 3rd paragraph down, that "Lou Lyons" should be "Lew Leigh" and all references to "Mr. Lyons" should be changed respectively. On page 5, in the 2nd full paragraph, she noted Mr. Barstad is a builder, not a building and on page 7 in the 6th paragraph down, Mr. Kroeth should be "Ron Crowe" whose address is the same as Mr. Barstad's, 7111 Armar Rd.

Councilmember Herman moved that the minutes of the 9/12/94 City Council meeting be approved as corrected. Councilmember Wright seconded and the motion passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Cheryl Bailey, 3800 167th NW, Stanwood, WA 98292 addressed Council. She stated she is caught in the middle of a situation where the Super Safeway is building a new store where the Food Barn is now and they have the option of tearing down the building on Grove where the Cobbler Kitchen (Mrs. Bailey's business) and Kathryn's Flowers. She stated her present landlord says Safeway isn't going to do that, so she doesn't know what's going to happen, but neither the Cobbler Kitchen nor Kathryn's Flowers want to move; they feel it will be very detrimental to their business and Safeway merely wants more visibility for their new store and so wants to tear down the building she's in.

Mayor Weiser talked about a situation where he was able to simply buy the threatened property a few years ago but he doubted this was possible in Mrs. Bailey's case here.

Mrs. Bailey said Safeway has until December 1995 to tear the building down and from what she understands it doesn't even belong to them and she doesn't see how they can do it. She said she has taken up a petition and done a number of other things, trying to get this resolved. She said she is not against Safeway building, she would just like to stay in business there.

Councilmember Pedersen asked about the other businesses in that building and Mrs. Bailey said the church has moved out but the dry cleaners and video are still there. She noted the cafe (M&M Cafe?) has to move, also. She said the Cobbler Kitchen supports her family and she really has tried very hard to build up the business in the past three years.

Councilmember Pedersen said she thinks this is a legal question and she asked about the Planning Dept. receiving any plans for Safeway yet.

Mrs. Bailey said she has looked at the plans.

Councilmember Pedersen said another possibility is that Mrs. Bailey could have a renewable lease but Mrs. Bailey stated her lease is not actually renewable after the end of 1994.

City Planner Hirashima stated the Planning Dept. has not received Safeway's plans yet.

Mrs. Bailey asked if they could submit plans and then change them and said she feels like the "little guy" here.

Jack Peters, 10719 87th Av. NE (??), addressed Council, stating "they" recently bought property at 804 Cedar and they understood they could put a car lot on it; someone told them this was all possible but they understand now they have to change the zoning from residential. He explained there was other businesses there but for some reason now they have to apply for a rezone or conditional use permit however because this is a 2 to 4 month process, they were wondering if there is something they can do to expedite the process and remain in business in the mean time. He said they have spoken to Paul Rochon, Cheryl Dungan and Dave Zabell and it was suggested they come to Council tonight. He said they admit it's their fault for not looking into this further.

City Planner Hirashima explained there are non-conforming uses allowed but the property is residential; it's been cumbersome approving all the uses since it's a tenant in every case vs. dealing with the owner so they have put the owner on notice that this is residential property, she said.

Mr. Peters stated the property has been a business since 1922 and they have a letter from their attorney that the property should be grandfathered in. He said they are just looking for some reprieve here and have tried to conform with everything the City wants them to do but after they have filed for the rezone, they would like to have some kind of temporary business license because they have \$100,000 worth of cars and nowhere to go.

Councilmember Baxter noted there are two owners here: Frye & Mutchler and this property has always been used as commercial, so he said he doesn't understand why it's residential, either. He pointed out that the applicant is not trying to change anything because it's always been used 100% commercial.

City Attorney Weed said as far as grandfathering, there is a difference between an automotive repair and automobile sales but it sounds like there is a basis for keeping the property commercial with all the surrounding businesses being commercial.

Mr. Peters pointed out there are no houses except a couple on 9th and his business is not going to have junk cars for sale. He went on to say it looked like a feasible thing to them when they purchased the property; he has a dealer's license/bond for selling automobiles, he stated.

There was discussion about non-conforming use, other businesses in the area, presently operating an auto repair but wants to change to Full Moon Auto Sales.

Councilmember Baxter moved to allow Full Moon Auto Sales to continue auto sales contingent on rezoning from residential (giving him 10 days to complete the paperwork and submit it to the City and 180 days to complete the process). If the applicant is unsuccessful in obtaining the rezone, he should be allowed thirty days in which to discontinue his auto sales business. Councilmember Myers seconded the motion.

Councilmember Bartholomew suggested the applicant be in touch with his own attorney and Councilmember Herman clarified that the property owner and/or her legal representative needs to file the paperwork.

City Attorney Weed read the portion of the code which applies here and the motion passed unanimously, noting the motion concurs with the intent of the code.

There was brief discussion about a similar situation in the past where the applicant has still not filed for their rezone.

Brenda Adair Taylor, 6426 56th Pl. NE (at the corner of 64th Dr. NE & 56th Pl. NE), addressed Council. She stated they would like a lightpost installed in their area because they have kids from all over and it's a nightly problem. She stated they have had to put up their own security lights and there are numerous people in the neighborhood who are concerned about this.

She was given Ken Winckler's phone number (659-7643) to contact tomorrow.

#### CONSENT AGENDA:

1. **9/26/94 Claims in the amount of \$299,245.39.**
2. **Authorize Mayor to Sign the Final Plat Mylar for Foothills Estates; PA8909050; Subject to Post-Recording Contingency.**
3. **Authorize Mayor to Sign the Final Plat Mylar for Marysville Associates II/Lundberg; PA9401005 Subject to Post-Recording Contingency.**
4. **Authorize Mayor to Sign the Final Plat Mylar for Hickok Park; PA 8911067; Subject to Post-Recording Contingency.**
5. **Approval of Reimbursement for Oversizing the Water Main for Cedar Grove Apartments; 84th St. NE (Getchell Rd.).**
6. **Approval of Liquor License Renewal for Market Place of Msvl., 9620 Pacific Hwy. 99, Marysville.**
7. **Preliminary Plat; 75th Avenue NE; PA 9404020.**

Councilmember Leighan moved and Councilmember Bartholomew seconded to approve Consent Agenda Items 1, 2, 3, 5, 6 & 7. Passed unanimously.

Councilmember Leighan moved and Councilmember Wright seconded to approve Consent Agenda Item 4. Passed with Councilmember Leighan against.

#### STAFF'S BUSINESS:

Finance Director Wilson suggested a Budget Workshop 10/15 at 8 a.m. with location to be advised. After discussion, the date was changed to Mon. Oct. 17 from 6 p.m. to 10 p.m. and a seconded evening, Wed. Oct. 19 from 6 p.m. to 10 p.m. if necessary. It was noted the Budget needs to be presented to the Mayor by 11/2, due to the City Clerk 11/1 and the first public hearing will be 11/16/94.

Councilmember Wright left Council Chambers at 7:48 p.m. and returned at 7:51 p.m.

Finance Director Wilson stated the bids will be published on the Novelle System and the Purchasing Manual draft is being reviewed now.

City Administrator Zabell reported the impacts of the new health care laws/Washington State Health Care Act are significant and complex and he has prepared a document on this for distribution to Council. He said what it boils down to is the employees will have to pay more out-of-pocket for their health care benefits but the good news is that WCIA has reduced the City's liability insurance premium for 1995 due to a good claims record.

Public Works Director Winckler reported on the State & Grove traffic signal, the State & 5th traffic signal, the 6 million gallon reservoir tank (to be brought up at the 10/10 Council meeting), the water main repairs at 83rd & 64th and the 67th & 528 traffic signal.

MAYOR'S BUSINESS:

Mayor Weiser swore in Marysville's newest police officer, Stacy Dryer. He then reported on a meeting recently regarding the 4th St. Bypass/Boat Ramp and he noted the Tribes are intending to start on this project in the next two weeks but can't put a final coat of asphalt down until spring of 1995. He said it was a good meeting with mitigation money discussed, Welco operations, a temporary boat launch location discussed.

Mayor Weiser reported Frances Chamberlain's term expires on the Planning Commission but he would like her reappointed for another term because of her proven track record on the Commission.

Councilmember Bartholomew moved and Councilmember Pedersen seconded to affirm the Mayor's reappointment of Frances Chamberlain to the Planning Commission for another like term. Passed unanimously.

CALL ON COUNCILMEMBERS:

Councilmember Wright asked about the construction activity at 67th & 528 and Public Works Director Winckler stated they are beginning to prepare for installation of the traffic signal there.

Councilmember asked about an auditor's report and Finance Director Wilson said he imagines it will be in the next 30 days; the auditors will conduct an exit interview with himself, the City Administrator and the Mayor present.

Councilmember Baxter asked about the bid date for the library and Councilmember Pedersen responded that it is tomorrow at 11 a.m. with a 2 p.m. bid opening.

Councilmember Baxter asked about bids on the City Newsletter and City Administrator Zabell said he would check into that.

Councilmember <sup>s/b meyers</sup> Mayers asked about the street light <sup>s/b behind</sup> for Brenda Taylor's <sup>house</sup> and Public Works Director Winckler said he would check into that further.

Councilmember Baxter asked about the police department's role in checking for need of these lights and if they could check Liberty Lane.

CURRENT BUSINESS:

**1. Proposed Skate Board Park Facility; Continued from 9/12/94.**

Parks & Recreation Director Ballew stated the Council has been given some information and a video tape on this; he said they have had further information from cyclists and inline skaters. He said the Parks Dept. is supportive of continuing pursuing a facility although they know a lot of facilities are short lived. Golden-dale's facility was recently turned into a tennis court, he noted, for example and he asked for direction from Council.

CORRECTED: SEE 10/3/94 MINUTES



Councilmember Pedersen noted there was no one in the audience wanting to talk about this and asked whether this is a fad sport.

Parks & Recreation Director Ballew pointed out that skateboarding has been around for 20 years, roller blading around Green Lake is big and he would not recommend a concrete permanent facility for skateboarding but you could have portable structures or else build something that can be converted into a tennis court, eg. He said the City definitely needs a place to put these skateboarders and it's probably going to be short lived once they do.

Councilmember Pedersen referred to Gilman Trail where they have bumps for skateboarding and/or inline skaters but Parks & Recreation Director Ballew said they have to be careful when putting bumps in a regular trail; a spur off the trail could be put in, at Jennings Nature Park and use it for skateboarders and/or inline skaters however it's right on the back of Parkview Estates. He added they have had a lot of kids bike racing in the park and it can put the City at risk.

There was discussion about suitable locations, the City being in competition with Skate In, the City working with parents, etc. vs. spearheading, perhaps giving them a grant and/or property, Sea-SK8 and Bellevue did this, grant money, supervision issue, liability issue, credibility of the Council with the youth in the community, locations, lack of parental support, multi-use facility, participation, hockey, BMX, motocross, inline skating uses.

Councilmember Herman moved to direct Jim Ballew to identify one or more sites as a multi use facility and develop a preliminary design with flexibility for uses and bring it back to Council. Councilmember Leighan seconded the motion.

There was more discussion about softball/Little League use of field at Jennings Park, Jim using his discretion with regard to public involvement, City not wanting to compete with private industry, a BMX track being a NIMBY, something kids outgrow and a major liability problem. Councilmember Bartholomew said she feels the City's insurance premium will go up if the City opts to have this facility and she said she feels strongly that Charlotte Groves and members of the parks board need to be involved.

The motion passed with Councilmembers Bartholomew and Wright against.

## **2. Interlocal Agreement; Poortinga and Sunnyside Annexation.**

City Planner Hirashima reviewed the agenda bill and noted the draft interlocal agreement and memorandum of understanding has been included in the packets. She noted concerns relating to subsequent amendments after annexation takes place, duration/termination of the agreement and the City Attorney expanded on his areas of concern. City Planner Hirashima further explained the process the City of Marysville has to go through in developing its own Shoreline Master Program Update. She concluded that this process should be complete by 7/95, which takes into consideration the fact that a lot of steps have already been completed through the Comp Plan Update and development of the Parks Element.

After lengthy discussion about mitigation fee ordinances, it was the consensus to continue this at the next Council meeting, 10/3/94.

### NEW BUSINESS:

#### **1. Washington State Patrol Utility Variance; UV 94-010.**

Public Works Director Winckler reviewed the agenda bill and four options. He noted the timeline on Option 4 would be sometime next year (July/95 or later).

Joe Sullivan, WSP Property Management Section, 4242 Martin Way, Olympia, addressed Council. He stated currently they are using bottled water for drinking. They are using a 15-20 hp motor in the well which is not the problem; they had the well pumped for 45 hours straight, which is something the consultants recommended to clear the well and that was unsuccessful. He added their consultant says the horsepower has nothing to do with it. He explained they need a lot of water for irrigation, domestic use and fire protection and this is definitely a hardship for them--the badly colored water, the turbidity, the water being filled with sand and the consultant said he has never seen such turbid water. It's a 500' deep well, Mr. Sullivan said.

Public Works Director Winckler noted this is outside RUSA, CWSP and the Interim Growth Boundaries. As far as hooking on to the Boeing line, there would have to be some kind of agreement with Boeing but physically, it can be done, he said.

Mr. Sullivan said they have spoken with Boeing and they are apparently using that line for fire protection and WSP has agreed to pay for an engineering study to see if they can hook up. He explained WSP would still use their existing well for fire protection.

Councilmember Herman noted WSP, as a public safety entity, should receive special consideration and Councilmember Baxter noted that issue has not been discussed in RUSA meetings; they can also hook up to the Tribes/casino line when it is installed.

There was extensive discussion about public health and welfare concerns, possibly directing Ken Winckler to work with the applicant/Boeing but discontinue the hookup once the Tribes/casino line is hooked up. It was noted for WSP to hook up to the Boeing line would mean 1/4 to 1/2 mile of line. There was discussion about treatment of the system, the fact that it's very possible a new well may not solve the problem, there are other problems in the area. There was discussion about cost, Tribes would be agreeable with a line going over their property from Boeing to WSP, when water would be available out of the casino line, use of Everett water, in the meantime they are using Edwards Springs and Stilly water.

Councilmember Baxter moved to refer this matter to the 10/6 RUSA meeting and Councilmember Bartholomew seconded. It was noted the expectations are that there would be some definitive answers out of that meeting and a draft agreement between Boeing, WSP & the City and the agreement to be brought back to Council 10/10/94 or 10/24/94. The motion passed unanimously.

There was discussion about checking into Couch providing water to others; City Administrator Zabell to follow up.

## **2. Proposed Street LID #64; Street and Drainage Improvements for 67th Av. NE from Grove St. to 88th St. NE.**

Public Works Director Winckler reviewed the agenda bill and introduced Larry Wade.

Larry Wade noted last time this was submitted the City was going to contribute \$117,629 for a 5th turn lane and the school district and golf course contributions would come to over \$700,000 (along with the City's) out of the total \$1,191,100.30. He noted this does not include any improvements on 84th (sight distance improvements). This LID raised protests from many single family residents in the past, he said and one of the things that can be done is when you have major developments with single family lots (that can't be subdivided) involved, perhaps the single family owners only should be assessed for the curbs, gutters and sidewalk improvements, with the City doing the road improvements. He noted

a single family home is not going to really get any benefit and he thinks it's the best idea he can come up with.

Councilmember Bartholomew asked if the homeowner would be allowed 20 years to pay for the curbs, gutters and sidewalks and Mr. Wade said yes, it would follow the LID and he thinks it needs to be consistent with the LID policy.

Councilmember Pedersen asked about the 2 lots that lose some land and Grace Baptist Church and Mr. Wade said maybe the boundary ought to be adjusted to include Cloverdale Division II. He explained that property was taken out within 150' from each side of Munson Creek in the calculations.

There was discussion about assessment adjustment for the two property owners, deferments, how the churches will be treated, 67th basically going to be an arterial street improvement including replacement of drainage ditches, community park having 38 owners, golf course, Dept. of Fisheries' involvement, all 38 participants to pay for curbs, gutters and sidewalks on the corner lot/community park, to have discussions with single family homeowners, City Attorney not having any problem with Larry Wade's proposal if there are findings that the single family property owners have less benefit. City Administrator Zabell reminded everyone 67th is one of the areas the City would like to put in streetscaping.

Public Works Director Winckler suggested another possibility would be for the single family homeowners to put in curbs, gutters and sidewalks plus one lane with the developer and/or the City to pay for the center lane. There was brief discussion about a possible bike lane being put in.

Councilmember Bartholomew moved and Councilmember Herman seconded to postpone this to next Council meeting so Larry Wade can bring back revised calculations and assessment figures. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. **Ordinance Authorizing the Condemnation, Appropriation, Taking and Damaging of Land and Other Property for the Construction of a Water Storage Facility and Other Attendant Facilities.**

Councilmember Wright moved and Councilmember Leighan seconded to approve/adopt Ordinance 2003. Passed unanimously.

2. **Ordinance Affirming the Decision of the Hearing Examiner and Rezoning Property Owned by Larry Gable.**

Councilmember Baxter moved and Councilmember Myers seconded to approve/adopt Ordinance 2004. Passed unanimously.

3. **Resolution Granting a Variance for Property Owned by Borseth Construction, Subject to Conditions.**

Councilmember Pedersen moved and Councilmember Wright seconded to approve/adopt Resolution 1706. Passed with Councilmember Baxter against.

LEGAL MATTERS:

1. **Agreement for Debt Service Management.**

City Attorney Weed reviewed the agreement in the packets with regard to debt service retirement on two fire trucks.

Councilmember Herman moved and Councilmember Bartholomew seconded to authorize the Mayor to sign the agreement. Passed unanimously.

ADJOURNMENT INTO EXECUTIVE SESSION: 10:03 p.m.

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

RECONVENE & ADJOURNED: 11:02 p.m.

Accepted this 3rd day of October, 1994.

*David Weiss*

MAYOR

*Lillie Lein*

DEPUTY CITY CLERK

*Wanda R. Iverson*

RECORDING SECRETARY