

MARYSVILLE CITY COUNCIL MINUTES

00231

DECEMBER 12, 1994

7:00 p.m.

Council Chambers

- Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 John Myers
 Ken Baxter
 Donna Wright
 Mike Leighan
 Otto Hermann
 Shirley Bartholomew
Administrative Staff:
 Dave Zabell, City Administrator
 Janet Berg, Asst. Finance Director
 Gloria Hirashima, City Planner
 Ken Winckler, Public Works Director
 Grant Weed, City Attorney
 Jim Ballew, Parks & Recreation Director
 Cindy Lyons, Library Director
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 1/3/95
MINUTES

CALL TO ORDER:

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

ROLL CALL:

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

MINUTES OF THE PREVIOUS MEETING:

Councilmember Pedersen noted on page 2 of the 12/5/94 minutes, in the 8th full paragraph, the words "Director" and "will" were misspelled. Also, in the very next paragraph, the word "litigation" should be "mitigation."

Mayor Weiser noted under Mayor's Business, Donna Anderson's name should be spelled "Andersen."

There being no further corrections to the 12/5/94 minutes, Councilmember Bartholomew moved and Councilmember Myers seconded to approve the 12/5/94 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None at this time. It was noted there may be a presentation later.

CONSENT AGENDA:

1. 12/12/94 Claims in the amount of \$654,017.18.
2. 11/94 Payroll in the amount of \$556,688.45.
3. Approval of Liquor License Renewals for Fred Meyer, G. A. Maxwell's and Strawberry Lanes.
4. Approval of Final Plat for Eastwood Hills Div. IV (formerly Sunnybrook III); PA9212059.

LEGAL MATTERS:

1. Agreement for Services; Braun Consulting Group.
2. City Attorney Retainer Agreement.
3. City Administrator Employment Contract.
4. Amendment to Contract for Marysville Municipal Court Judge.
5. Addendum to Interlocal Agreement for Jail Services.
6. Public Defender Contract.

Councilmember Pedersen suggested including the contracts under Legal Matters in with the Consent Agenda. She noted she would not be voting on Consent Agenda Item #4.

Councilmember Bartholomew moved and Councilmember Herman seconded to approve Consent Agenda Items 1 through 3 and Legal Matters Items 1 through 6. Passed unanimously.

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Councilmember Herman moved for approval of Consent Agenda Item 4, Councilmember Leighan seconded and the motion passed. (Councilmember Pedersen did not vote.)

STAFF BUSINESS:

City Administrator Zabell passed out AWC surveys asking Councilmembers which state legislators they know and other information for future lobbying.

Public Works Director Winckler noted an upcoming Traffic Advisory Committee Meeting Thursday at 10:30 a.m. in the Public Works Conference Rm. He reported there was a RUSA meeting this afternoon with the Tulalip Tribes.

MAYOR'S BUSINESS:

Mayor Weiser passed around an appreciation award from the Marysville-Tulalip Visitors Information Center. He said he thought the Wheeling Agreement Meeting with the Tulalip Tribes went well, with 17 issues identified to be addressed in future meetings, to be held on the 3rd Wednesday of each month.

Councilmember Bartholomew stated she thought the meeting went well with both sides recognizing the parameters that need to be discussed. She said the proposed agreement will lay the groundwork for any future negotiations with other water purveyors.

Mayor Weiser mentioned a Citizens Advisory Group to be formed for discussion of the Comp Plan and he will submit names to City Planner Hirashima.

CALL ON COUNCILMEMBERS:

Councilmember Myers said he would like to see as a future agenda item policy for what functions are to be considered official Council functions. For example, he noted he did not believe a meal should be provided at the workshop prior to the Council meeting on 1/3/95.

Councilmember Pedersen explained time constraints and there was discussion about policy, abuse, IRS requirements. It was noted there will be a committee meeting soon on this.

Councilmember Herman wished everyone a Happy Holiday Season.

Councilmember Pedersen noted tonight's agenda was not on the public access channel again. She asked about a traffic count at 47th & Grove and Public Works Director Winckler said he would follow up on this.

Councilmember Baxter commented on the Wheeling Agreement Meeting and also asked about a design/engineering report on the Public Works Building access. City Administrator Zabell said he would follow this up.

AUDIENCE PARTICIPATION:

Milton Odum, 3520 136th St. NE, Marysville, owner of Olympic Ford and Board Member of the Greater Marysville Chamber of Commerce, addressed Council. He stated the Chamber is asking the City Council to support opposition of the RTA resolution, and recommending that the county opt out of participation in the Regional Transit Authority agreement as it is now written. He explained that the mass transit plan should be extended to cover light rail into northern Snohomish County because of the potential benefits for Marysville and Arlington, what with the Navy, Arlington Airport, the 100 acre Tulalip hotel and casino complex, light rail would contribute to the economic welfare of the community. He reviewed some history of the RTA and noted the plan only goes as far north as Everett, with only 9 miles of light rail

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planned for Snohomish County and the funding shortfalls have not been covered nor factored into state and federal funding which is not available until 2010, he said. He said they are asking that the Council strongly endorse an opposition to being included in the regional plan. This will put the RTA in a position to reconvene and review the plan, he said. He pointed out that Snohomish County is growing too fast to be taken out of the RTA altogether and he asked how they can put together a "regional" system and leave Snohomish County out, with Snohomish County being the fastest growing county in the region. Cost overruns have not been provided for and that's with a system that only comes up to 164th, he said.

Mayor Weiser explained Marysville originally wanted in the RTA so we could study the potential but we then opted out because we could see no light rail coming to Marysville soon, with the funding availability. Since then, however, there has been a proposal regarding use of BN tracks, he noted. He asked if Snohomish County opts out, how it will force RTA to start over. He said possible we should stay in and let it go to a vote of the people who would have the option of voting it down.

Mr. Odum stated that with the cost of the project and with a \$778,000,000 contribution from Snohomish County, it would be very difficult for RTA to continue without Snohomish County's contribution if we opted out at this time.

Councilmember Herman said as he understands it, the Chamber would like to see the system built, but it doesn't come far enough and Mr. Odum agreed. Mr. Odum continued that the community/county should be getting some assurances that light rail will come into Everett and the Chamber is proposing to opt out with some amendments; that they want to be a part of it but only if there is some benefit to the county. He said he understands that if the county opts out the RTA will review and change the plan.

Councilmember Herman said he understood that once you opt out, that could be a permanent choice, however.

Mr. Odum argued that it is his understanding from the Port of Everett that the RTA would reconvene and would not proceed without Snohomish County's participation. Presently there is an \$800,000,000 shortfall that will come due in 2010 and we don't want any part of that, given the choice of that overrun and that it will only go to 164th, he said and added the county would be better off out of the system under those circumstances. He said there will just not be enough benefit if it only goes to 164th and it's not going to help the north part of the county at all; from a growth management point of view, it's not doing us any good.

Councilmember Baxter said from what he understands the best Marysville can hope for is an improved bus system and he said he thinks that's all we have to look forward to and he agrees with Mr. Odum's and the Chamber's assessment of the situation, that we should endorse opting out of the present proposal.

Councilmember Pedersen asked about other cities in the county and Mr. Odum stated although he has not spoken with any, he would say it's as beneficial to Marysville as it is for Everett.

Councilmember Pedersen said she would be in favor of a resolution as Mr. Odum proposes.

Councilmember Herman said he has some doubt about what's going on with the RTA's plan and he would like to see something in favor of getting light rail to Everett. He said he also questions whether opting out is the answer here; economic development in our area will be affected by what happens in Everett and he would be in favor of a resolution to urge the county to obtain a plan to have light rail come to Everett.

CORRECTED MINUTES
SEE 1/3/95
S/b would

Councilmember Pedersen said she would be in favor of that wording, with regard to bringing light rail to Everett, and if they can't do it, then we would want to opt out.

Councilmember Herman said the question is whether Marysville and Arlington would be better off opting out; he said he thinks ultimately that would be a poor choice so he would urge the county to try and have the plan modified to include Everett.

Councilmember Pedersen said she doesn't think Marysville/Everett has the benefit with it only going to 164th and she would want it extended to Everett. (It was pointed out that Marysville is outside of the RTA.)

Councilmember Bartholomew said she would support a resolution opting out if light rail can't be brought to Everett. She pointed out that federal money dries up too quickly and she gave as an example a light rail system in Miami that goes nowhere--it was just a waste of money. She said she feels all of Snohomish County needs to be benefited and she talked about a commuter rail system we used to have and said you just can't have a system that starts nowhere and ends nowhere.

City Attorney Weed passed out a draft resolution. Councilmember Pedersen moved and Councilmember Wright seconded to approve Resolution #1712 and there was considerable discussion about changing language in it and defining "Everett": "as proposed by Mayor Hansen."

Councilmember Herman moved and Councilmember Bartholomew seconded to approve an amended version of the resolution with wording such as "postponing the county's vote and amending the master plan" and deleting the "opting out" language. There was discussion about timeline and how much time there is left to accomplish anything regarding this resolution before it will go into effect.

A roll call vote revealed it failed 4-3 with Councilmembers Wright, Pedersen, Baxter and Bartholomew against.

Councilmember Pedersen then withdrew her original motion and Councilmember Wright seconded. Councilmember Pedersen moved to approve Resolution 1712 as written with the exception of the seconded to last "aggrieved parties" paragraph, to be deleted. Councilmember Baxter seconded the motion and it passed 6-1, with Councilmember Herman against.

PRESENTATION:

1. Marysville Library Furniture; Ross Jamieson and Al Bragalone.

Ross Jamieson reviewed the budget information in the packets and explained the budget was based on an actual design; the final design of the building went up to 24,000 sf and the final budget actually went down slightly. One of the decisions made in conjunction with the Building Committee was that there would be flexible work stations which were included in the construction budget vs the furnishings budget, he said. He said they are looking for approval on the furnishings proposal.

Al Bragalone, Design Perspectives, addressed Council and presented a display board for chairs, tables, dictionary stand, study benches, work station furniture, settees, etc. He explained that they have set standard for bid. He showed what they have proposed for children's furnishings and also showed the color board, noting they are using all stock fabrics, predominantly light colors in the shelving, walls, etc. and darker colors for chairs, tables, etc.

Councilmember Pedersen moved and Councilmember Bartholomew seconded to accept the proposal and allow the furnishings to go out to bid. After brief discussion, the motion passed unanimously.

CORRECTED: SEE 113
MINUTES
insert
withdrew

CURRENT BUSINESS:

1. HKS Partnership Utility Variance; UV 93-015.

Public Works Director Winckler reviewed the agenda bill and noted they are requesting a water utility variance only, they are outside RUSA but within Marysville's CWSP. He referred to letters in the packets from the City of Arlington, PUD and Tulalip Tribes. He stated staff recommends approving the request, pending construction of the 6 million gallon reservoir which is now being designed and to be constructed by the end of 1995. He noted there is still the question of limited capacity on the sewer and so staff is not recommending the 58 connections be approved at this time; the City is in the process of reviewing the sewer capacity in that area, i.e. under LID #3.

There was discussion about providing water without sewer hookups, making a commitment regarding completing the reservoir project, possible delays in construction of the reservoir, extension with regard to the completion of the Water Comprehensive Plan, population projections for the subject area, UGB proposed boundaries, RUSA boundaries, this property not being in ULID 3 or 10, capacity of sewer and water, expansion of system, this property being within the Marysville CWSP however Marysville is not able to serve until we have the 6 million gallon reservoir constructed, discussion about whether this is within the proposed Smokey Point Annexation.

Peter Dill, Attorney for Harmsen, Kosters and Sterk from Seattle, addressed Council. He referred to the map and defined the property, noting the subject property is adjacent to Crystal Tree Vallage. He stated this property is within the Marysville CWSP, there has been considerable debate over the zoning of the property but it's not Ag10, is surrounded by commercial and according to the County Council is Residential 20,000. He said the request has been reduced to 24 connections in the north parcel vs 58 hookups, although they may come in at a later time on the development of the south parcel. He said they understood they only had 6 months under their extension and this is the soonest they could come back. On the Growth Management issue, he said their position is that when an urban growth decision is made, the City will be able to grant their request which is within their right to request. He pointed out the Urban Growth boundary comes right to their boundary line, however, there are current rights that have to be respected with regard to development of the property. Also, he said they would like to see, ideally, approval of both water and sewer, however they could separate the two requests in order to accommodate the City of Marysville at this time; PUD will defer this area to Marysville and they are simply asking the City to provide what they have provided for the neighbors. He said they did not realize this service may be delayed by the construction of a reservoir and the request is for only 24 connections. He said they are also surprised that the City is wanting to delay service until the Water Comprehensive Plan is completed and he added if Marysville is unwilling to serve, PUD will provide them with the needed water. He noted there is a recovery contract which was signed in 1971 contemplating latecomers and the neighbor, outside of RUSA, was granted water. He pointed out that if the City does not grant this request, it will raise a significant equal protection question. He added that these owners have been before the City twice and they would like to be granted water service; sewer service is a more complex issue. ULID 10 included this property as well as Crystal Tree Village as well as another piece of property to the south and also the HKS property and it's Mr. Dill's understanding that sewer capacity was contemplated for the total property area. He explained the legal ownership of the lots as well as the fact that the purchase of the property was based on the future service of sewer as it was granted to Crystal Tree Village as a latecomer, as well as Mr. Johnson. Mr. Johnson was only a single hookup, Crystal Tree Village was for 162 hookups.

In conclusion, Mr. Dill pointed out everyone is concerned about the Growth Management Act and good stewardship of property which needs to be considered here. He pointed out that their predecessors gave an easement for the water line on their property and it's ironic now that Harmsen, Kosters and Sterk can't be granted access to a water main on its own property. The sewer line is only 10' away and he said he thinks the guiding principle should be good stewardship. He added they would like to discuss again capacity and they do have a concern about equal protection; HKS would like to be the City's customer.

There was discussion about the particular situations of Johnson, Lawler/Sun Dial Mobile Estates, Crystal Tree Village as to health hazards, etc. It was noted Lawler came before the City for two or three variance requests and was denied. City Administrator Zabell noted the problem with capacity is with ULID 3 not ULID 10.

City Attorney Weed asked about "vested rights" and Mr. Dill stated he used that term as to development of the property and they are referencing the recovery contract which clearly contemplated late-comers.

City Attorney Weed asked if they felt they had vested rights to water and sewer and Mr. Dill said they do feel the City has an obligation to equally serve water and sewer.

City Attorney Weed asked Mr. Dill if he had had an opportunity to review the Withers case against the City of Marysville and Mr. Dill said no, he had not.

Harland McElhany, Prof. Engineer of Monroe, also representing HKS Partnership, addressed the Council. He explained the water line was extended west along 169th and south on 25th 110' in 1971 for Crystal Tree Village and a recovery contract was written up which provided for latecomers. He noted that the HKS property represents 50% of the frontage and their understanding of their rights is that if there is a commitment to extend service there must have been a contemplated benefit. He said he would also like to address the capacity issue of ULID 10--his is not sure if the area was larger or pertained just to the people in ULID 10. He has a verbal legal description and a map they received from the City of Marysville for ULID 10 (Exhibit B) and Area A includes the Sun Dial/Crystal Tree Village, Mr. Lawler and HKS property. There is a total of about 57 acres and out of that, 40% is Crystal Tree Village, he said; ULID 10 boundaries were established by resolution. He showed a map of the original easement and noted Resolution 1189 set up the ULID and the official records actually include the legal description of Crystal Tree Village, Lawler and HKS but Ordinance 1456 adopted the ULID with the wrong legal description (Crystal Tree Village was the only one that was to be included). The original intent was to include the whole area, ULID 10 design and capacity was based on 162 hookups for Crystal Tree Village at 21,000 gallons a day, which is exactly 40% of what was contemplated for the whole area and the flow from HKS is appropriately included in the original plan for the ULID, he said. He added that in reviewing Marysville's RUSA ordinance and criteria for a variance, there are 4 criteria:

- that there be unusual circumstances, which he believes there are in this case in light of what he has just talked about.

- that there be significant property rights in jeopardy if this variance is not granted. He said they would ask that the City have the same consideration as they have shown to the neighboring property owners.

- that granting of the variance not be detrimental to the public welfare.

- that extension is consistent with the City's long range plans.

Mr. McElhany, said they believe it was within the City's long range plan; it is within the CWSP.

Councilmember Baxter asked if Mr. Johnson was a new or existing residence and Mr. McElhany stated he was a new single family residence. Councilmember Baxter added he believed there was a health hazard with all the variances that were granted.

Public Works Director Winckler stated that in reference to the earlier denial without prejudice, there was a request from the RUSA Committee to discontinue any further water connections because of the Clean Water Act, noting that system may have to be discontinued, pending the outcome of the Water Comp Plan and so staff recommendation was to wait until completion of the 6 million gallon water reservoir. He added they received calculations from Hammond, Collier & Wade with regard to capacity and it was not necessarily for ULID 3 or 10.

Councilmember Pedersen asked about WWTF/onsite septic systems and Mr. Dill clarified that Resolution 1690 only gave them until 10/31/94. Also, they have a pending application with the county, he said, with regard to septic systems.

Mr. McElhany stated soils analyses are being done but based on preliminary findings, they suspect they can get approval for on site disposal which is not their most economical choice, it would be their second choice if they can't get sewer, he said.

Councilmember Baxter moved to remand this matter back to the RUSA Committee and that there be a meeting with the City Attorney, engineers, etc., with regard to the legal description mixup. Also to extend the time on the variance denial without prejudice for another 6 mos. to April 30, 1995. Councilmember Myers seconded and the motion passed 5-2, with Councilmembers Herman and Leighan against. It was noted the next RUSA Committee meeting will be January 19, 1995.

NEW BUSINESS:

1. Lloyd Taubeneck Building Roof System Replacement.

Public Works Director Winckler reviewed the agenda bill and noted there is funding available in the Utility Fund. He noted they received an estimate from Limited Contracting Inc. for \$27,892.

Discussion followed, noting the building was built in 1969 with an all metal roof, discussion about the small works roster, disposal of the old roof, bidding process, life expectancy of roof, specs need to be consistent (26 gauge minimum?).

Councilmember Bartholomew moved and Councilmember Pedersen seconded to authorize the roof system to go to bid as per staff recommendation. Passed unanimously.

2. Snohomish County PUD Easement Request; Cedarcrest Golf Course.

Parks & Recreation Director Ballew reviewed the agenda bill and said they don't have a problem with removing the two trees but they don't know what the procedure has been in the past as far as replacement of the trees.

There was discussion about widening of Grove, City's responsibility for renovation of bank and fence line, a value of \$500 for two trees, relocation of trees by PUD, franchise agreement with PUD, permit for cutting trees down needs to include hold harmless agreement. There was also discussion about widening the area across the creek, sidewalks on both sides of Grove, 38' road curb to curb, 5' sidewalks each side.

Councilmember Baxter moved to approve the easement request as per the City Administrator's and City Attorney's recommendations and language and any additional expense would be borne by PUD. Councilmember Bartholomew seconded the motion and it passed unanimously.

ORDINANCES & RESOLUTIONS:

1. Ordinance Annexing Certain Unincorporated Area Known as the Sunnyside South Annexation Area into the City of Marysville.

Councilmember Herman said he would like the minutes to reflect that he is pleased with the way the issues have all been addressed and he moved to adopt/accept Ordinance 2011 as proposed. Councilmember Bartholomew seconded.

CORRECTED: SEE 1/3/95 MINUTES

through the interlocal agreement

City Planner Hirashima noted new zoning "RU" (rural) was proposed so people can retain livestock, eg. She explained they want no conflict with the Snohomish County designations and RC (Rural Conservation) would still be included. She noted Exhibit B shows the zoning, in the packets.

The motion passed unanimously.

2. Ordinance Annexing Certain Unincorporated Area Known as the Poortinga Annexation Area into the City of Marysville.

Councilmember Herman moved and Councilmember Leighan seconded to approve/adopt Ordinance 2012. Passed unanimously.

3. Resolution establishing Salaries for Nonbargaining Unit (Exempt) Employees for 1995.

Councilmember Pedersen moved and Councilmember Myers seconded to approve/adopt Resolution 1713, at a rate to be established in a subsequent resolution (paragraph 5). Passed unanimously.

LEGAL MATTERS: See Consent Agenda, page 2 of these Minutes.

ADJOURNMENT INTO EXECUTIVE SESSION: 10:04 p.m.

1. Real Estate.

RECONVENED: 10:20 p.m.

Councilmember Pedersen moved and Councilmember Leighan seconded to authorize the Mayor to enter into a purchase agreement with Sam DeJong for property on which to site the 6 MG water reservoir under the terms and conditions discussed in Executive Session. The motion passed 7-0.

ADJOURNED: 10:24 p.m.

Accepted this 3rd day of January, 1995

David Weiser

MAYOR

Lillie Levin

DEPUTY CITY CLERK

Wanda A. Iverson

RECORDING SECRETARY