

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING APRIL 1, 1996 115

CALL TO ORDER/FLAG SALUTE: 7:00 p.m.

ROLL CALL: Mayor Weiser excused

MINUTES OF PREVIOUS MEETINGS: 3/25/96 Approved

AUDIENCE PARTICIPATION: Margaret Natterstad

CONSENT AGENDA: Approved:

1. Approval of Contract between City of Marysville & Dept. of Community, Trade & Economic Development.
2. Approval of Agreement for Personal Services with Mr. Bailey to provide Plumbing Inspector Services to the City of Marysville.
3. Approval of Agreement for Personal Services to Pacific Rim Code Services for Professional Plans Examiner Services.
4. Authorize Extension of Inspector Status to 12/31/96 with inclusion of Benefits.
5. Affirm Hearing Examiner's Recommendation to approve Conditional Use Permit to Construct a 30,000 sq.ft. 10-Plex Movie Theater; PA 9410036.

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PRESENTATIONS: None

PUBLIC HEARINGS: None

NEW BUSINESS:

1. Snohomish Co. Ground Water Advisory Councilmember Baxter apptd Delegate, Public Works Dir Winckler apptd Alternate Committee Postponed to 4/22/96
2. Waste Management NW Contract Agreement Postponed to 4/22/96
3. Planning Commission Recommendation Approved with minor change for Small Farm Overlay Zone; Chap. 19.28

CURRENT BUSINESS:

1. Pretreatment Ordinance - Final Review Approved
2. Discussion of Mayor's Position (cont. from 3/25/96) Continued to when all Council & Mayor present

ORDINANCES & RESOLUTIONS:

1. Ordinance 2068 Approved (6-1) Adopting a Growth Management Comprehensive Plan for the City of Marysville and Superseding Existing Policies Contained in the 1978 Comprehensive Plan and the Interim Comprehensive Plan Adopted in 1994 and Repealing Resolution Nos. 909 and 1702.

LEGAL MATTERS: None

ADJOURNMENT 10:05 p.m.

EXECUTIVE SESSION: 10:10 p.m.

1. Real Estate No Action

RECONVENED & ADJOURNED: 10:50 p.m.

MARYSVILLE CITY COUNCIL MINUTES

00146

APRIL 1, 1996

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor (excused due to illness)  
Donna Wright, Mayor Pro Tem

Councilmembers:

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

Administrative Staff:

Dave Zabell, City Administrator  
Steve Wilson, Finance Director  
Gloria Hirashima, City Planner  
Grant Weed, City Attorney  
Bob Dyer, Police Chief  
Ken Winckler, Public Works Director  
Jim Ballew, Parks & Recreation Director  
Wanda Iverson, Recording Secretary

CORRECTED: SEE 4/8/96  
MINUTES

CALL TO ORDER/FLAG SALUTE:

Mayor Pro Tem Wright called the City Council meeting to order and led the pledge of allegiance at 7:00 p.m.

ROLL CALL:

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

MINUTES OF THE PREVIOUS MEETINGS:

Councilmember Bartholomew asked that the 3/25/96 Council meeting minutes be corrected as follows: On page 6 in the 2nd paragraph above "3", she noted the letter was not from Ms. Drain but from Louise Conway and Lois Robertson. Also, the same correction to be made in the immediately following paragraph. On page 9, in the fourth line from the top, "Arizone" should be "Arizona" and on page 11, 4th paragraph, in the 4th line, "say" should be "saying."

Councilmember Herman noted on page 3, in the 8th paragraph, he wished the 2nd sentence of that paragraph to read instead: "He wished further information on something regarding changes in land use permitting in accordance with ESHB 1724 and cited as an example Bellingham's planning dept. ordinance which requires public meetings prior to the hearing process and that has resulted in a reduction of appeals."

Councilmember Pedersen noted on page 7, in the 2nd to last paragraph, in the 2nd line, "was" should be "were."

There being no further corrections, Councilmember Pedersen moved and Councilmember Bartholomew seconded to approve the 3/25/96 City Council minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Margaret Natterstad, 10532 38th Av. NE, Marysville, addressed Council. She presented a petition and said she would like the Council to accept it as a request to put an annexation for the neighborhood she lives in (Indian Creek Estates) on the election method. She explained Indian Creek Estates is an island surrounded by property within City limits and there are 192 registered voters within this area (about 100 homes). She read her letter into the record and noted this would allow "one man, one vote" and hopefully, this will create an incentive for the election method. She said a copy of the petition and request has been submitted to the Snohomish County auditor's office.

City Attorney Weed said this would have to be scheduled for an upcoming Council meeting/hearing.

Councilmember Pedersen noted the disadvantage to the election method of annexation has always been the cost involved but perhaps mail in ballots could be used to lessen the cost in this case.

City Attorney Weed said he believed the county/auditor's office would have the final choice regarding the method used.

Councilmember Pedersen noted this seems like a perfect test case but it would have to be scheduled for a public hearing first.

Councilmember Herman commented that this is a pleasant surprise and asked when the item would go to ballot, that he would like to know exactly what the costs would be and if it could be combined with another election. He added this looks like a perfect opportunity to "sell the City" to others.

Councilmember Bartholomew noted there is a cost of printing the ballots as well as postage but the county is leaning in the direction of mail in voting.

CONSENT AGENDA:

1. **Approval of Contract between City of Marysville & Dept. of Community, Trade & Economic Development.**
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3. **Approval of Agreement for Personal Services to Pacific Rim Code Services for Professional Plans Examiner Services.**
4. **Authorize Extension of Inspector Status to 12/31/96 with inclusion of Benefits.**
5. **Affirm Hearing Examiner's Recommendation to approve Conditional Use Permit to Construct a 30,000 sq.ft. 10-Plex Movie Theater; PA 9410036.**

City Attorney Weed noted he has reviewed all agreements on the Consent Agenda.

After considerable discussion on Item #5 concerning, parking (487 stalls which is more than required by City code), the size of the 10-Plex movie theater (1680 seats), very favorable demographics of the area and improvements that will be made for traffic flow in the immediate area, Councilmember Bartholomew moved and Councilmember Leighan seconded to approve Consent Agenda Items 1 through 5. Passed unanimously.

STAFF BUSINESS:

City Administrator Zabell commented on SB 6637 regarding the GMA which Governor Lowry vetoed today so they will retain the ability to invalidate local Comprehensive Plans.

Public Works Director Winckler reviewed projects presently underway: 109th to 116th on State being resurfaced and shoulder widened (went out to bid today); backup emergency portable generators have been received; City and county to share costs of conversion of Pacific Pride outlets so that in the event of a power outage, City and county vehicles will still be able to get fuel.

Police Chief Dyer introduced Marysville Police Department's newest officer: Officer John Hendrickson and Mayor Pro Tem Wright swore him in.

Chief Dyer also congratulated Lt. Dennis Peterson on his recent graduation from the FBI Academy in Quantico Beach and Lt. Peterson addressed Council briefly about his 6 week stay on the east coast.

Parks & Recreation Director Ballew reviewed the renovation of Cedarcrest Golf Course, design work having been done by Hammond Collier Wade-Livingston on the combined projects of the golf

course, 67th and LID 64. There was extensive discussion about a meandering path/pedestrian access along 67th vs a linear curb, gutter and sidewalk as well as fencing and streetscaping. It was noted that a meandering path and parallel fence would compromise safety and security and the consensus of Council was to go with the linear curb, gutter and sidewalk.

Direction was also given with regard to trees, shrubs, street-scaping, median plantings vs concrete islands, irrigation for plantings on 67th, aesthetically pleasing fencing and hedges. Larry Wade noted Dept. of Fisheries has been contacted and a mitigation plan has been presented to them as well as the bioswale system and there has been some discussion about a fish ladder being built as the ditches along 67th will be eliminated.

It was also noted that any median along 67th can only go south of 84th due to left hand turn lanes. There was further discussion about width of lanes (10' vs 11' vs 12') and it was noted it would be preferable to have 12' lanes vs 2' medians because of truck traffic.

Parks & Recreation Director Ballew noted the renovation bid went out today, with opening to be 4/25/96. He also reported this past weekend's First Beach Party Blowout went well with an attendance of 222 people. He thanked Tara Mitzell for all her help and a great job.

CALL ON COUNCILMEMBERS:

Councilmember Pedersen requested the City issue a proclamation similar to the one Edmonds did, declaring this week National Public Health Week.

After brief discussion, Councilmember Pedersen moved and Councilmember Baxter seconded to have a Marysville proclamation drawn up for National Public Health Week. Passed unanimously.

Councilmember Pedersen reported Viacom has never given residents of Parkside Manor the refund due because they do not know Parkside Manor is within City limits (they annexed in 12 years ago) and she asked staff to follow up with Viacom and possibly put an article in the newspaper concerning this.

Councilmember Pedersen complimented Mary Swenson on getting Dr. Shado to come 4/23/96 and do a presentation on presentations.

Councilmember Baxter discussed the need to survey the south fence line at Cedarcrest Golf Course as the property line needs to be redefined as well as along the mobile home park. Parks & Recreation Director Ballew said he would follow up on this and actually, some of it has already been done.

Councilmember Bartholomew asked about what is being done about getting software to interface the dates with the new millenium. She noted this could represent a significant financial impact as she read an article about the difficulty of computer date conversion starting with the year 2000.

Finance Director Wilson said he would be checking on this with the City's database/software contractor.

Councilmember Herman said he was pleased to return from Washington DC and discover he had been appointed a member of the ~~AWC~~ <sup>Central</sup> ASRC Transportation Committee, representing Marysville City Council.

Councilmember Leighan reported 3 sites have been chosen in Snohomish County for the Work Release program and there will be 3 open houses:

- 4/11/96 from 6-8:30 p.m. in Lynnwood
- 4/18/96 from 6-8 p.m. at the Tulalip Inn, Marysville
- 4/25/96 from 6-8:30 p.m. in Everett.

CORRECTED: SEE MINUTES 4/18/96 Shado

CORRECTED: SEE MINUTES 4/8/96

CORRECTED: SEE MINUTES 6

NEW BUSINESS:

**1. Snohomish County Ground Water Advisory Committee.**

Public Works Director Winckler reviewed the agenda bill and there was discussion about Councilmember Baxter serving along with Public Works Director Winckler or City Administrator Zabell.

Councilmember Bartholomew moved to appoint Councilmember Baxter as delegate and Public Works Director Winckler as alternate. Councilmember Pedersen seconded and the motion passed unanimously.

**2. Waste Management Northwest Contract Agreement.**

Finance Director Wilson asked that this be postponed to 4/22/96. Consensus.

**3. Planning Commission Recommendation for Small Farm Overlay Zone; Chapter 19.28.**

City Planner Hirashima reviewed the agenda bill and noted the process for applying for the Small Farms Overlay would be a two stage process: First the application would be made and then there would be one public hearing for all applications/existing small farm uses to be approved at one time.

Councilmember Herman asked about properties outside of the City limits and City Planner Hirashima said they can apply for the designation if they are outside the City but within the UGB and the City can adopt the Small Farms designation so that if and when they are annexed in they would have the designation in place. The \$50 fee covers basic notification costs (for applications after the initial blanket designation of applications for existing small farms) and the proposal to designate all sites at once would avoid the \$50 fee, she said.

Councilmember Baxter asked what happens if the ownership of the property changes and City Planner Hirashima said the designation would be considered an ongoing use.

Councilmember Baxter asked if 2-1/2 acres of hay is considered a farm and would they have to pay the \$50 fee.

Councilmember Herman noted if someone misses the first opportunity then they would have to come in and pay the \$50 fee; on change of ownership, the designation runs with the property.

City Attorney Weed referred to Transfer of Properties, page 4, Section F - Requirements of disclosure when there is a transfer of property; unless the subsequent property owner changes uses and registers that, there would be no need to change designation or reregister, he said.

City Planner Hirashima explained the "first round" would consist of notification in the paper and posting on site; the disclosure statement would not refer to the first round.

There was discussion about 300' notification not being very much distance in a rural area, there is a distinction between the initial/existing uses and subsequent applications, responsibility of neighbors when they sell their house to make sure the new home owners know of a farm in the immediate vicinity, disclosure on earnest money agreement, definition under .040, proof of whether the farm was being used as a farm within the last 5 years, inactive use of a farm and whether a person can come in and get a permit.

City Planner Hirashima pointed out that there were very few criteria for a small farm: 2.3 acres, ongoing ag use, falling within the matrix of permitted uses. There was more discussion about what would be a large farm, should a maximum be put in for a

small farm acreage, discussion in the minutes of the 2.3 acres.

George Wilcox, 9212 67th Av. NE, Planning Commissioner, addressed Council. He said the thinking was not to put any size limitation on a small farm as the bigger ones would probably subdivide anyway.

There was considerable discussion about the 5 year time limit and Councilmember Baxter noted it should not be made so difficult to keep the small farm. Councilmember Herman asked if deleting the 5 year limit would be considered a major change so as to force this issue to go back to public hearing.

City Attorney Weed said it is possible the neighbors might have the perception of no farming activity and may go ahead and build a home so the time limit would be to protect that; it would be a major issue if there was significant testimony at the Planning Commission level, he said.

Councilmember Pedersen asked if someone had ceased use for 5 years whether the City has the responsibility of notification of discontinuation of use as it was the City's requirement and designation in the first place; the designation would appear on the title and she said she has some question about that being tracked.

Mr. Wilcox noted nobody testified one way or the other at the Planning Commission level with regard to this issue and he said he would lean toward doing away with the 5 year time limit.

Councilmember Myers said he would agree. He asked if you are within City limits if you have to apply for the Small Farms Overlay or is it automatic?

City Planner Hirashima said you would have to apply and get included in the "first round" in order to be designated as a small farm.

Councilmember Herman said he would be in support of removing the 5 year time limit also.

Under 19.28.040 Definitions, it was the consensus to remove the very last part of paragraph A, i.e., place a period after the words "development of the small farm" and delete the rest of the sentence: "or the small farm has ceased agricultural activities for a period longer than five years."

There was discussion about division of a farm among children, subdivision of a farm, operation of farm machinery and exemption from the noise ordinance, statewide regulations, sight obscuring chain link fence.

Margaret McKelvey-Bell, 9512 60th Dr. NE, addressed Council. She said when the builders first proposed building above their farm, Shirley Bartholomew was on the county council then and that was 10 years ago so she's come full circle here! She said she realizes some of the problems this has caused with the growth but they moved here because they wanted the quiet and to raise some chickens and beef. They were there before they were annexed in and everyone thought it would be nice to have farm animals but now one person is objecting to the sounds the chickens are making. They wanted the laid back lifestyle of the country and she said she hopes this ordinance helps them keep their small farm.

Mr. Wilcox said he thinks this ordinance will settle the question as to encouraging small farms within the UGB and would encourage people to come into the City and think it's a very good thing.

Councilmember Pedersen asked him if he would be interested in annexing into Marysville and he said he would not lose any sleep over it.

CORRECTED: SEE 4/18/96  
4/18/96  
SJB/Biffo

Councilmember Herman moved and Councilmember Bartholomew seconded to adopt the Small Farms Overlay as recommended with the deletion under the definition regarding the 5 year time limit.

There was discussion about a termination of designation clause, removal of the designation from a deed, Disclosure Text 19.28.100, appeals, covenant to be recorded with the county auditor.

City Planner Hirashima pointed out that it is provided for under the Comp Plan that the property owner can remove the small farms designation and the zoning would revert to what it was previously or the underlying zone in the case of no previous use.

There was discussion about changing 19.28.090 (f) to be part of 19.28.100 - Disclosure Text and it was the consensus that the City Attorney could make slight changes such as this in the process of preparing the final ordinance for adoption.

The motion passed unanimously to adopt the Small Farm Overlay Zone with changes as stated.

CURRENT BUSINESS:

**1. Pretreatment Ordinance - Final Review.**

Public Works Director Winckler reviewed the agenda bill.

Councilmember Baxter moved and Councilmember Bartholomew seconded to direct the City Attorney to prepare the ordinance for adoption with no further changes. Passed unanimously.

**2. Discussion of Mayor's Position (continued from 3/25/96).**

Councilmember Herman moved and Councilmember Myers seconded to continue this to a Council meeting when the Mayor and all Councilmembers are present and when there is a lighter agenda. Passed unanimously.

ORDINANCES & RESOLUTIONS:

**1. An Ordinance of the City of Marysville adopting a Growth Management Comprehensive Plan for the City of Marysville and Superseding Existing Policies Contained in the 1978 Comprehensive Plan and the Interim Comprehensive Plan Adopted in 1994 and Repealing Resolution Nos. 909 and 1702.**

Councilmember Pedersen stated she received a call from Mr. Emery regarding the lack of access the Comp Plan allows on 88th where he is contemplating a development. She said the call came in just before tonight's meeting.

City Planner Hirashima referred to a handout with regard to community commercial zoning in the subject area and noted there was concern about access not being allowed on 88th, the need for a center turn lane, etc. She said there was discussion at the Planning Commission level that there should be no negative impact on the residential uses on 88th similar to what has happened at 4th St. She suggested wording could be inserted:

"Access to and from 88th may be considered if the proposed access does not affect long range capacity, level of service and safety of motorists using 88th St."

There was Council discussion at this point about a traffic study done and/or to be done, residential use on 88th, this may represent a major change to the Comp Plan or it may just be an attempt to circumvent a lot of effort that has already gone into developing the Comp Plan, adequate access needs to be provided to people on 88th, center turn lanes, designation of commercial, joint development, reopening the Comp Plan public hearing process.

CORRECTED:  
MINUTES  
SEE 4/8/96  
p. 6 Emery

City Attorney Weed pointed out the Council did incorporate changes after the last public hearing and if the recent request from Mr. Emery needs to be considered, the public testimony portion needs to be reopened; the alternative is to just consider this as late testimony.

Councilmember Pedersen said Mr. Emery wants to make sure he can come back before the Council with regard to traffic on 88th in relationship to a development and feels he cannot with the clause in the Comp Plan as it stands now.

City Planner Hirashima said she has had several conversations with owners on 88th and until a traffic study has been concluded it is premature to say how access or no access will affect the long term traffic on 88th. She said they had a concern that they might not even be able to argue their case before City Council because there is specific language in the Comp Plan that they can't come before Council for a year with any change so they were asking for some language so they can come back and give Council results of a traffic study, for example.

Councilmember Baxter said he doesn't see how these properties are going to be served off 35th only.

CORRECTED: SEE 4/8/96  
MINUTES s/h 36th

City Attorney Weed said this individual may want to come before Council within one year and perhaps Council could amend the one year time frame and possibly hold a public hearing on that one area.

Councilmember Myers said he would go with what was suggested about "access may be considered" rather than opening up the whole public hearing process again.

Councilmember Herman said he feels the Council is tainting the process by considering this new information as it was not presented during the public hearing. If additional information needs to be presented, the public hearing portion needs to be reopened; the Comp Plan language has been agreed on already and this has the appearance of an imbalance of input, he said.

Councilmember Leighan noted another area is multiuse or mixed use which has not been defined clearly, either and now 88th St. He pointed out there is no way to predict what is going to happen on 88th; perhaps Mr. Emery should have brought this up before, also.

Councilmember Baxter noted the traffic study has not been done yet and Councilmember Bartholomew questioned whether this couldn't be taken care of in the ultimate zoning process.

City Planner Hirashima said she thinks it can but the question is if this is a deviation large enough from what was put in the Comp Plan; the Planning Commission and staff did make some strong recommendations for this area but they did not specify for every area and if they come back and argue their case there is going to be a strong argument against them in the Comp Plan.

Councilmember Herman asked, given the strong language and the power of the Comp Plan under the GMA, if a proponent came in with a traffic study that proved their development would not impact, whether they would be able to change the Comp Plan at that point.

City Attorney Weed said probably not.

Councilmember Herman said he really thinks the Council is doing the wrong thing here, discussing this issue.

Councilmember Leighan noted there have been a lot of letters to the editor about this area being commercial.

There was more discussion about updates to be done to the Comp Plan within the next year, sub area amendments, etc. and 88th St.

could be included, review of land use as well as access on 88th.

City Planner Hirashima reviewed the Comp Plan wording regarding amendments under page 1-6, noting it is to be reviewed once a year unless there is an emergency or unless indicated earlier. She said the 88th area could be included as a transition area.

Councilmember Bartholomew said she would be in favor of putting this issue in with the subareas for possible amendment at a later time.

Councilmember Pedersen said she would like the record to show the dialogue tonight was that the intent was to look at this area again.

Councilmember Baxter said he doesn't think there is a chance, if the Comp Plan is passed tonight, for the property owners to get access on and off 88th.

City Planner Hirashima noted said there is an annexation petition pending.

City Attorney Weed said the recommendation is to adopt the Comp Plan as proposed but the 88th issue can be proposed as an amendment as an additional study area after January 1997 and until then there is a prohibition of access on 88th. *except at/on 36th.*

There was more discussion about waiting for the proponents to come back before Council with a traffic study.

Councilmember Bartholomew moved to adopt Ordinance 2068 adopting a Growth Management Comp Plan with the recommendation that the 88th St. area issue be included on the list of issues that are unresolved. Councilmember Myers seconded and the motion passed 6-1 with Councilmember Baxter against.

ADJOURNMENT: 10:05 p.m.

EXECUTIVE SESSION: 10:10 p.m.

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

RECONVENED & ADJOURNED: 10:50 p.m.

Accepted this 8<sup>th</sup> day of April, 1996.

Donna Wright  
MAYOR PRO TEM

Mary D. Iverson  
CITY CLERK

Kanda A. Iverson  
RECORDING SECRETARY

CORRECTED: SEE 418196  
MINUTES APP