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MARYSVILLE CITY COUNCIL MINUTES

OCTOBER 2, 1989

6:30 p.m.

Public Safety Center

PRESENT: Rita Matheny, Mayor
Councilmembers:
Ken Baxter, Mayor ProTem (excused)
Mel Schank
Dave Weiser
Bill Roberts
Larry Hots
Bob Lashua
Lee Cundiff (excused)
Administrative Staff:
John Garner, City Administrator
Mike Corcoran, City Planner
Jim Allendoerfer, City Attorney
Dave Zabell, Public Works Director
Phil Dexter, Finance Director
Bob Kissinger, Public Utilities Supt.
Larry Wade, Water/Sewer Consultant/Engineer
Wanda Iverson, Recording Secretary

WORK SESSION:

Mayor Matheny explained that the Dept. of Ecology has sent the City correspondence with regard to the Waste Water Treatment Facility and introduced Larry Wade to address the issue.

Mr. Wade stated that the City has been informed that our discharge permit has expired. He explained that he had been given to believe that the National Pollutant Discharge Elimination System (NPDES) Waste Discharge Permit did not have to be renewed until the next phase of construction of the sewer lagoon but now it appears the Dept. of Ecology is asking for a re-application. He said this will be hand delivered to the Dept. of Ecology tomorrow morning and will be based on the 1983 values and limitations of 1.2 MGPD.

City Administrator Garner noted that they had agreed to extend our GPD to 2.8 million and asked if our permit could be modified.

Mr. Wade explained that the City has shown evidence that we are entitled to what is basically "grandfather" rights with regard to the increased effluent in the lagoon however they can't issue a discharge permit until such time as the treatment plant upgrade plans have been submitted and approved.

Public Works Director Zabell stated it was his understanding that the permit was good until Sept. of 1988 and the City was told that we might as well wait and renew the discharge permit when the upgrade was completed to 2.8 million gallons per day capacity.

There was some discussion at this point and Mr. Wade submitted a design schedule/timetable for the 2.8 MGPD as well as a proposal dividing the lagoon into three large cells and adding 29 new aerators in addition to the present 7 aerators. He talked about polishing capabilities being added and showed a hydraulic profile including polishing, pumping because of tide flows, storage of sewage. He noted that the design and report does need final approval of DOE.

There was discussion about why the screw pumps weren't installed in 1979 and Mr. Wade explained that in hindsight that was a bad decision. They were planned for but at the last minute they were eliminated from the design and have been included in the new design again, he said. He said he is proposing that the plans and specs be submitted by the end of the month to DOE for their approval. Once approval is received, the project can go to bid, he explained and it's about a four month construction job involving putting in pre-cast partitions on H-piles, adding 29 aerators, etc. This will take us up to 2.8 million gallons, or approximately the year 1998. He added that historically, they have found that the capacity will exceed DOE standards because there is no high industrial load; Marysville has a good quality of sewage.

Councilor Schank asked if we had eliminated storm water a year ago from going into the lagoon if we would have the same problem we have now and Mr. Wade admitted it would have reduced the problem. He explained a bit about how samples are taken of the Biochemical Oxygen Demand (BOD) and suspended solids and noted that the TV camera recently purchased for the system has helped reduce flow/load problems also.

Councilor Schank asked if it is Mr. Wade's opinion that the City has enough evidence to prove we have been working on the problem of exceeding effluent limitations and Mr. Wade said yes.

City Attorney Allendoerfer asked if 1998 is based on existing RUSA boundaries and Mr. Wade said yes, with population projections from the PSCOG.

Councilor Hots confirmed that the permit would be good for 5 yrs.

City Attorney Allendoerfer asked if the DOE could possibly turn down the re-application tomorrow morning and Mr. Wade stated they would not, according to his understanding from the DOE. There was discussion concerning renewing the permit, increasing capacity, new personnel at DOE, the meeting on Thursday that Mr. Wade would be attending. Councilor Roberts stated he felt a couple Councilmembers in attendance at the same meeting would add credibility and reassurance that the City is putting forth the effort to solve the problem of the sewer lagoon. Mayor Matheny asked that Councilors Roberts, Baxter and Hots be in attendance at the meeting.

Councilor Lashua asked about monitoring/measuring suspended solids and Mr. Wade said they are monitored daily and weekly and explained the suspended solids are measured after treatment. There were further comments regarding other DOE standards/measurements, the fact that half a million dollars has been budgeted to upgrade the lagoon, storm water diversion from the lagoon, mechanical treatment vs. organic treatment. Mr. Wade noted that mechanical treatment's largest drawback is the tremendous amount of sludge that has to be disposed of or have the City pay to have hauled away.

Councilor Roberts noted that the money spent now on the lagoon, with the polishing cells, etc., will be money well spent and Mr. Wade concurred with this.

Councilor Schank noted that the surcharge being levied against water customers at this time should accumulate to a substantial amount and City Administrator Garner agreed it would amount to approximately \$14,000,000 by the year 2004, thanks to Councilor Lashua's vision/concern regarding upgrading the sewer lagoon about a year ago.

Mayor Matheny asked about the availability of grant money under the Clean Water Act and Mr. Wade said he could check with the cities of Edmonds and Lynnwood who recently received grants. City Administrator Garner noted that he thought they received grant monies because their water was a health hazard. Councilor Schank added that Marysville may qualify if this can be considered an emergency situation.

Councilor Hots asked if the design work has been done and Mr. Wade said yes, except for the specs; we are following DOE's criteria and as far as being able to renew the permit, they do have people locally who can make these decisions, he added, rather than the matter having to be referred to another office.

There was further brief discussion regarding the meeting on Thursday and Councilor Roberts suggested a short briefing meeting Wednesday for those to be in attendance. Councilor Schank volunteered to be an alternate attendee.

RECONVENE/CALL TO ORDER:

Mayor Matheny called the meeting to order at 7:30 p.m. and led the flag salute.

ROLL CALL:

Finance Director/City Clerk Dexter called the roll with all members present/absent as indicated.

MINUTES OF PREVIOUS MEETING:

Councilor Schank moved and Councilor Lashua seconded that the minutes of the 9/25/89 be approved as written. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Rick McArdle of Wight & Hardt, representing Brookwood Heights, addressed the Council and explained that the plat was approved for 112 lots for Division 4 which involves a creek crossing and they would now like to add one lot to make it 113 lots. The additional lot would be on the east side of the creek and it would reduce the open space but the plat density would still be less than allowed, he noted. He said he spoke with the City Planner who felt it would be appropriate for the request to come before City Council. He stated that time is of the essence in this situation. One other item--in researching the approval, Mr. McArdle discovered that the plat actually expired in Feb. and so they will be asking for a year's extension to Feb. 1990, he said.

Councilor Roberts asked if this was a straight subdivision and Mr. McArdle said yes, with 123 lots calculated as being allowed and with lots fronting on the creek having a minimum lot size of 12,500 in Division 4.

Councilor Roberts stated he felt this should go through the public hearing process again because of the additional lot being requested.

Mr. McArdle noted that the City of Everett allows a certain percentage that can be added administratively but he said if Marysville can't do this perhaps the applicant could request the increase at the same time as the extension of the plat.

Councilor Roberts pointed out that perhaps an additional mitigation fee should be volunteered by the applicant to offset the additional lot for both the TIP and storm water mitigation.

City Attorney Allendoerfer stated that the applicant should have come before the Planning Commission eight months ago for the extension. He said there was a case not too long ago where City Council did grant an exception such as this but this is a request for a variance and it needs to be an advertised public hearing at which time the additional mitigation issue can be raised. Plats are only good for three years and circumstances have changed in Marysville in three years and so the presumption is the plat is "dead" at this point, he stated. He added that if the applicant wants to have a public hearing, it will be "open season" on the plat; the public hearing can be before City Council only.

There was discussion about how the three year deadline had slipped by without being noticed and Councilor Roberts moved that a public hearing be advertised for 10/23/89, based on the applicant's getting an application in for Brookwood Heights Div. 4. Councilor Lashua seconded and the motion passed unanimously.

PRESENTATIONS: None.

PETITIONS & COMMUNICATIONS:

1. Memorandum from Ecology NW Regional Office.

2. Petition from Businesses Located on Grove Street.

There was discussion regarding businesses on Grove St. not having been notified that Grove St. was to be repaved and as such, closed to traffic. Councilor Roberts suggested a letter of apology be sent to the businesses that were inconvenienced by this project.

Public Works Director Zabell stated they do generally notify people/businesses in a timely manner however they found themselves in a "spot" on this one, where the contractor and the weather both cooperated at the same time and the City had an ideal opportunity to get the job done. He said he would be sending out letters of explanation/apology to businesses on Grove.

PUBLIC HEARINGS:

1. Vacation of a Portion of 10th Street.

Councilor Schank moved and Councilor Hots seconded that this be continued to 11/6/89 at 8 p.m. Passed. (Councilor Roberts did not vote.)

CONSENT AGENDA:

1. Snohomish County Tomorrow Public Meeting.

Councilor Lashua stated that he would be attending.

2. Approval of Claim for Easements for the Everett-Marysville Water Transmission Main.

3. Tube Art Displays Sign Code Variance - Establish Public Hearing Date of 11/6/89.

Councilor Hots moved and Councilor Schank seconded that Items #2 and 3 be approved. Passed unanimously.

REVIEW BIDS:

1. ULID #14.

Public Works Director Zabell explained that the bids came in much higher than estimated and on which the preliminary assessment was based.

City Attorney Allendoerfer stated that a new assessment roll can be sent out, based on new figures, and this will justify the higher bids. He said Larry Wade has recommended this procedure and that another public hearing must be held for ULID #14.

After brief discussion of options and alternatives, Councilor Schank moved and Councilor Weiser seconded to hold a new public hearing 11/6/89 for ULID #14. Passed unanimously.

2. Public Works Paving Project - Phase I.

Public Works Director Zabell stated that the low bidder was Associated Sand & Gravel at just over \$18,000; the project was budgeted for \$20,000. He recommended the low bid be approved.

Councilor Schank moved and Councilor Hots seconded that Associate Sand & Gravel be awarded the bid. Passed unanimously.

CURRENT BUSINESS:

1. Chita's (continued from 9/25/89 meeting).

Councilor Hots explained that the main concern is whether the City is responsible for paying the sheriff's association.

Police Chief Bob Dyer addressed the Council and stated that as he interprets the ordinance, Mr. Mumford was responsible for security in order to keep his business open and therefore he should be responsible for the payment to the sheriff's association, not the City of Marysville.

Councilor Hots said he felt the City should pay it and then go after Mr. Mumford for reimbursement to the City.

Councilor Schank asked who originally called the sheriff's association to request security officers.

Chief Dyer said that the idea of the ordinance was for Mr. Mumford to call but he did not so the Marysville Police Dept. would have to place the call.

Councilor Hots said he didn't want to see friction caused over \$348 and Mayor Matheny asked about putting a lien on Mumford's property.

City Attorney Allendoerfer explained that a lien can only be placed after a judge rules it legal to do so and if the City pays the bill, he said he would recommend it be conditioned on the sheriff's assn. and the City becoming joint plaintiffs in a judgment against Mumford.

Councilor Roberts asked about the way the security roster was put together and Chief Dyer stated that if it was left up to Mr. Mumford, no security would have been called and so he (Chief Dyer) would have to call Sgt. Lang, the call being on behalf of the Marysville Police Dept.

Councilor Roberts concluded that he would lean towards Councilor Hots opinion that the City should pay the \$348 and then try and get reimbursement from Mumford.

Mayor Matheny asked who signed the contract and Chief Dyer explained there was no written contract, it was a "gentlemen's agreement".

Councilor Weiser asked if Mumford was aware of tonight's meeting and Chief Dyer said indirectly, yes.

Councilor Weiser asked about rates of pay and Chief Dyer explained that the association deputies "freelanced" at \$14.50 per hour, Marysville Police Dept. off duty officers were paid at the overtime rate of \$25.00 per hour.

Councilor Hots moved that the City of Marysville send the Snohomish County Sheriff's Assn. \$348 to take care of Mumford's bill on the condition that they join the City of Marysville as plaintiffs against Mumford. Councilor Weiser seconded the motion.

There was discussion regarding the possibility of a business license not being granted/approved as long as there is an outstanding debt such as this. The motion passed unanimously.

2. Public Defender Cost Comparison.

Finance Director Dexter referred to the information in the packets and Councilor Schank noted that it appears we are well within the budget.

City Attorney Allendoerfer then brought to the attention of Council the fact that Attorney Bennett has asked for a two year extension with the same price for the first year and a \$5.00 per case increase for the second year.

Councilor Schank moved and Councilor Weiser seconded that the Public Defender Contract be put out for bids. After discussion regarding a one or two year contract, the motion and the second were retracted.

Councilor Schank then moved that the contract be extended for one year at the present terms and conditions, from 1/1/90 to 12/31/90 subject to Mr. Bennett's approval. Councilor Hots seconded and the motion passed unanimously.

3. Planning Commission Recommendation (PA 8905024) - Jubie/Hebert Rezone.

(Councilor Roberts stepped down.)

City Planner Corcoran explained that the Planning Commission recommended approval to RML from RR 7200 with a binding site plan; the development to be 5 duplexes, a total of 10 dwelling units. He noted that the previous request (Hebert) for 21 units was denied by City Council. He added that this rezone is consistent with the Comp Plan, generally consistent with the area and well suited for the area.

Mayor Matheny asked why the applicant had only offered \$100 per unit for a parks mitigation fee and Harv Jubie explained that an option of \$200 was not given him, but he would be happy to volunteer \$200 per unit. (He spoke from the audience.)

Councilor Weiser asked about the boundary line adjustment and City Planner Corcoran stated that it is for a different purpose; that the extra property is not needed for this particular development.

Councilor Weiser asked about fencing of the recreation area, the parks donation and whether Mr. Jubie agrees to the 11 conditions recommended by the Planning Commission.

Harv Jubie, 9905 39th Av. NE, addressed the Council and clarified the issue of fencing of the recreation area. He stated that he would donate \$200 per unit, i.e. \$2,000 for parks, and that he agrees to the 11 conditions. He added that they have reduced the number of dwelling units from the previous (Hebert) request, the maximum height will only be 26.5' and the units will be 2 stories with a 5-12 pitch roof line.

Councilor Lashua moved that the Jubie Rezone be approved, based on Planning Commission recommendations and including Findings of Fact, conditions and conclusions. Councilor Schank seconded and the motion passed.

NEW BUSINESS:

1. Giffore Annexation (PA 8909053).

(Councilor Roberts stepped down.)

City Planner Corcoran explained the request is to submit a 170 acre annexation petition for boundary approval.

Bill Roberts addressed the Council and explained that Giffore's grandson has requested that Giffore's name be on this plat because the grandfather lived on the property for about 50 years.

City Attorney Allendoerfer asked about the RUSA/County designation and Mr. Roberts stated that the majority of the 170 acres is a combination of 9600 and 12,500 and falls under the Lake Stevens and the Marysville Comp Plans. He noted that the difference in the zoning is based on utilities; there are existing residents that are served by PUD with a small extension of Marysville sewer. He said that the applicants do not believe whose water it will be is an issue under the annexation.

CORRECTED: SEE 10-9-89
MINUTES

City Attorney Allendoerfer noted that this may be putting PUD and the City of Marysville in competition for water customers and there was discussion regarding the fact that PUD's 6" main is insufficient for future growth in that area.

Councilor Lashua stated that he would like to see Sunnyside Hills included in the annexation and Mr. Roberts pointed out that both Sunnyside Hills and Cherry Tree Lane are developed and therefore a different type of annexation--the subject annexation is 170 acres with very little development on it, compared to the mobile home parks, etc.

There was considerable discussion regarding creation of islands surrounded by annexed property and Councilor Lashua again suggested bringing in Sunnyside Hills, at least.

Mr. Roberts pointed out that if you take in Sunnyside Hills, you might as well take in the whole area to 528 and there was discussion regarding a small island vs. a larger island being created. Mr. Roberts said a non-protest map can be put together and he added that he knew the previous owners of Glenwood Mobile Home Park signed a non-protest agreement for annexation.

City Attorney Allendoerfer stated that Glenwood would like to annex but not if they have to improve their 528 frontage. There was further discussion about bringing in Glenwood, Cherry Tree Lane and Sunnyside Hills and Mr. Roberts noted that the densities need to be considered and the impact on City utilities, but that he would be willing to map out the non-protest agreements and bring that back before City Council.

Councilor Schank moved to continue the Giffore Annexation to 10/9/89, to be considered with the Kotilainen annexation. Councilor Hots seconded and the motion passed.

LEGAL MATTERS/ORDINANCES & RESOLUTIONS:

1. Resolution Granting a RUSA Variance to the Stillaguamish Tribe for Water & Sewer Connections to Property Located at the Intersection of Highway 99 and Highway 530.

Councilor Roberts stated that for the record, he wanted it noted that City Council is aware that the variance would only be good for six months, although City Attorney Allendoerfer noted that the RUSA variance can be extended.

City Administrator Garner also pointed out that the variance is being granted for sewer because of the soil conditions.

Councilor Roberts asked about the phrase included in the resolution regarding the Stilly Tribes "cooperating with the City of Marysville" and City Attorney Allendoerfer read aloud the Stilly Tribe's official statement regarding allowing the City of Marysville up to 3.2 million gallons.

After extensive discussion regarding Henken vs. the Tribes situations, the Tribes affirming their commitment to the City of Marysville, water vs. sewer hookups, RUSA variances being granted, their being required to obtain a flood plain permit and a building permit from the county as well as a shoreline permit from the state, Councilor Schank moved to continue discussion regarding this RUSA Variance to 10/23/89. Councilor Hots seconded and the motion passed unanimously.

2. Vacation of Ash Behind Village Restaurant.

City Attorney Allendoerfer explained there was a public notice problem and recommended continuing this to 10/23 so abutting property owners can be notified.

Councilor Schank moved and Councilor Weiser seconded that this be continued to 10/23/89. Passed unanimously.

3. Recovery Contract - Henry L. Johnson.

City Attorney Allendoerfer explained that this is for a 10" water line near 67th & 73rd. It is for 520' and has been approved by

the Public Works Dept.

Councilor Schank moved and Councilor Weiser seconded that Recovery Contract #143 be approved. Passed unanimously.

4. Recovery Contract - Hank Haasen.

City Attorney Allendoerfer explained that this is for an 8" water line near 47th & 80th and has been approved by the Public Works Dept.

Councilor Schank moved and Councilor Hots seconded that Recovery Contract #144 be approved. Passed unanimously.

5. Pending Litigation - Executive Session.

City Attorney Allendoerfer explained that a short executive session should be called.

6. Final Plat of Bayview Ridge Division 6.

City Planner Corcoran explained that this is for 30 lots east of the Cedarcrest Golf Course, which meets requirements of the Preliminary Plat and zoning regulations; it is owned by Belmark.

There was a question regarding the extension of Grove St. and City Planner Corcoran said this plat will have a road into Munson Creek Estates and also provides for roads north for circulation. He added that all mitigation fees have been made that were in place at the time of the request.

Councilor Hots moved and Councilor Weiser seconded to approve the Final Plat of Bayview Ridge Division 6. Passed unanimously.

CALL ON COUNCIL:

Councilor Hots asked about progress with the contract with the City of Everett and City Attorney Allendoerfer stated there has been no progress since last meeting. Councilor Schank suggested this be consummated as soon as possible.

Councilor Roberts said he would like the Planning Commission to be authorized/directed to look at the PRD ordinance as far as clarifying the text because he feels there are parts of it which are difficult to interpret, eg. the 40 acre maximum and having two contiguous PRDs. He said he also felt the condition of bordering a highway unfair but these are some of the issues to be evaluated by the Planning Commission--clarification of multiple family and single family definitions, landscaping, open space issues to be clarified also.

Councilor Lashua noted that in the past PRDs were only allowed if the land wasn't level or if it was unusual and asked if perhaps PRDs should be limited to certain topography also.

Councilor Weiser asked about the CUP at 4th & Columbia (Paul Ware) and City Planner Corcoran said he had a conversation with the property owner and that he would follow up on this. By way of explanation, Councilor Weiser stated that the original use allowed was for Family Counselling and now there are different uses in there. Councilor Schank stated that the new owners are Clive Ware and Ron Young.

Councilor Schank pointed out that there is some information from AWC regarding the upcoming meeting, etc. in the packets. He said he felt the City of Marysville should follow through with the AWC legislative committee.

APPOINTMENTS TO PARK BOARD AND LIBRARY BOARD:

City Administrator Garner said Joan Fritz has been recommended to be appointed to the Park Board.

Councilor Hots moved and Councilor Schank seconded that the Mayor's appointment of Joan Fritz be affirmed/approved. Passed unanimously.

City Administrator Garner said Helena Kyle has been recommended for the Library Board appointment.

Councilor Schank moved and Councilor Hots seconded that the Mayor's appointment of Helena Kyle be affirmed/approved. Passed unanimously.

City Administrator Garner stated that Councilor Baxter had dropped off plans for the city hall remodel to be discussed by Council. It was the concensus that the plans be reviewed next week.

ADJOURN INTO EXECUTIVE SESSION: 9:15 p.m.

At 9:50 Council reconvened. Councilor Schank moved and Councilor Hots seconded to appoint Carolyn Sanden as the new City Administrator, to be hired effective December 1, 1989, to confirm the Mayor's selection. The motion passed unanimously.

RECONVENE AND ADJOURNMENT: 9:53 p.m.

Accepted this 9 day of October, 1989.

Lita Matheny
Mayor

Phillip E Dexter
City Clerk

Wanda R. Iverson
Recording Secretary