

MARYSVILLE CITY COUNCIL MINUTES

MARCH 12, 1990

7:30 p.m.

Council Chambers

PRESENT: Rita Matheny, Mayor  
Councilmembers:  
 Ken Baxter, Mayor Pro Tem  
 Dave McGee  
 Dave Weiser  
 Donna Pedersen  
 Donna Wright  
 Bob Lashua  
 Lee Cundiff  
Administrative Staff:  
 Carolyn Sanden, City Administrator  
 Phil Dexter, Finance Director  
 Jim Allendoerfer, City Attorney  
 Jim Ballew, Parks & Recreation Supt.  
 Dave Zabell, Public Works Director  
 Mike Corcoran, City Planner  
 Wanda Iverson, Recording Secretary

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 above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Lashua moved and Councilor Cundiff seconded that the minutes of the 3/5/90 meeting be approved as presented. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:

1. Approval of February 1990 Payroll Checks No. 17691 through 17973 in the amount of \$323,158.42 and March 12, 1990 Claims Checks No. 19060 through 19212 and voided checks no. 18480 & 18983 in the amount of \$137,290.60.

Councilor Lashua questioned several vouchers including the one (#19152) for annual NRA membership for the Police Dept. and Finance Director Dexter explained this is necessary in order for the Police Dept. to give firearms safety classes, that this is not a donation to the NRA's political arm and because of the game law, firearm safety courses can't be given without membership in the NRA.

Councilor Lashua also questioned the City having to pay taxes under one of the vouchers and Finance Director Dexter explained it was for forest fire taxes at Edwards Springs watershed and this is the only type of tax from which the City is not exempt.

Councilor Lashua moved and Councilor Weiser seconded to approve the Consent Agenda. Passed unanimously.

CURRENT BUSINESS:

1. **Solid Waste Management Interlocal Agreement & Ordinance Relating to Solid Waste Management (Continued from 3/5/90).**

City Administrator Sanden distributed updated copies of the Solid Waste Agreement & Ordinance to City Council and explained that it is required by state law that the City of Marysville have a Solid Waste Comp Plan. She noted that the County has adopted one now and that the interlocal agreement with them would be for 20 years, that the County would have the final say but the cities can exert political pressure on the County for changes. She

added that there is a luncheon tomorrow regarding the longhaul issue, financing, etc. and that she recommends approval of the ordinance and interlocal agreement at this time, that the County needs approval by 3/15, other cities have approved but a lot are looking to Marysville to sign first.

Councilor Baxter noted that Everett is not going to sign the agreement and City Administrator Sanden said Everett has their own Comp Plan, at a cost of about \$200,000 to prepare.

Councilor Baxter asked with the County as lead agency, if it will make any difference if Marysville signs or not and City Administrator Sanden said it may make a difference over time with regard to the longhaul issue, that the interlocal agreement will guarantee a rate structure.

CORRECTED: SEE 3-26-90  
MINUTES

Councilor Lashua pointed out that garbage<sup>\*</sup> comes under the jurisdiction of the Washington Dept. of Utilities & Transportation and they would have final say, over and above the County.

Councilor Cundiff said he would like to see more definitive figures on the longhaul plan before signing the agreement and City Administrator Sanden said she believed those figures would be presented at the luncheon tomorrow.

Mayor Matheny said she also has a concern about the cost on the longhaul.

Councilor Baxter noted also that the new landfill has been approved but that's not included in the interlocal agreement, nor is wood waste or any established plan for wood waste.

City Administrator Sanden pointed out that the Comp Plan is a general guideline only and we have been a party with the County in the past. She said the primary driving force at this time is for DOE approval as well as an increase in rates.

Councilor Lashua pointed out that Marysville will have to come up with a recycling plan, that Snohomish can't sell their recyclable material at this time.

City Administrator Sanden said Marysville has nine months to come up with a curbside pick up program, that it's a state mandate for all cities to have to deal with.

Councilor Baxter pointed out that you have to have a place for the waste to go and City Attorney Allendoerfer agreed there are two "holes" in the interlocal agreement: recyclable materials and wood waste. He said he would recommend signing but then having a Marysville representative attend all the County's SWAC meetings and placing pressure on them to resolve these various issues.

Councilor Weiser pointed out that the County has veto power on any issue and City Administrator Sanden agreed, noting that Marysville can participate on the advisory committee and really has no other alternative plan for solid waste.

City Attorney Allendoerfer urged stronger representation from Marysville at the SWAC meetings to prevent unilateral decisions being made such as the outlawing of incineration. He added that the rates are being increased and a public meeting will be held to explain that and that he had wanted SWAC to be more involved in the interlocal agreement/Comp Plan.

Mayor Matheny noted that all the mayors are meeting on this issue because of a concern there and discussion followed regarding Marysville's position (our having no alternatives). City Administrator Sanden noted they had an advisory and a task force and the County is responsive to cities' concerns. She added that Marysville did lead the charge/challenge in getting the interlocal agreement/changes in place and a lot of cities are waiting for

MARYSVILLE CITY COUNCIL MINUTES  
MARCH 12, 1990  
Page 3

Marysville to sign. It was noted that originally, the agreement was to have been for 30 years and City Administrator Sanden was successful in negotiating that down to 20 years.

City Attorney Allendoerfer commented that the County needs 20 yr. financing but they may wait for a few years for more bonding and so the 20 years would not be valid at that time.

After further brief discussion, Councilor Lashua moved that the agreement regarding the Solid Waste Comp Plan be signed with the County. Councilor McGee seconded and a roll call vote was taken:

Councilor Cundiff - against  
Councilor Lashua - for  
Councilor Wright - for  
Councilor Pedersen - for  
Councilor Baxter - against  
Councilor Weister - for  
Councilor McGee - for

The motion passed 5-2 in favor.

Councilor Weiser then moved for approval of Ordinance 1768 authorizing the Mayor to sign the interlocal agreement, Councilor Wright seconded the motion and it passed unanimously.

## 2. Municipal Court Computer System Lease & Purchase Agreement.

City Attorney Allendoerfer explained that the contract has been negotiated with Data West System for \$40,000, with computers to be delivered 3/30/90 and installation date 4/1/90. He also noted a lease agreement would have to be signed with City Corp. on a conditional sales agreement at a monthly payment of \$847 over 5 years.

Finance Director Dexter explained that the above plan would be at 8.95% interest and the City would have to come up with another \$20,000 over and above what was budgeted in order to buy the system outright. He noted that cash flow was a concern at the time it was decided to put this on a 5 yr. contract but there is a better cash flow now. He said the main concern is if cities are pu8t out of business as far as being in the municipal court business in 1992 or 1993. He noted we can get out of a lease if that happens but in 3 years we probably would have spent the same if we had purchased or leased. Either way, he said, the purchase and leasing issue is separate from the Data West agreement, and he added it would be \$1700/yr. for a maintenance agreement.

There was discussion regarding non-appropriation, the method by which cities and counties can get relieved of their obligation under lease agreements, the fact there would be \$11,000 in interest paid out over the five year period.

Councilor Lashua asked about population figures with regard to justifying municipal courts and City Attorney Allendoerfer said municipal courts are generally regarded as dispensing a lower form of justice and there's legislation trying to eliminate municipal courts completely, regardless of population.

Councilor Cundiff stated he would be in favor of buying the system outright. Councilors Baxter and Lashua agreed with him.

Councilor Baxter moved that the system be purchased if the funds can be found. Councilor Cundiff seconded and Councilor Lashua stated he would like to hear from Sue Jensen as to the rationale for purchasing the equipment.

Sue Jensen addressed Council and explained that without the system, they would need to hire another clerk to assist and she noted that they are already looking for more court time because of the increased number of cases.

MARYSVILLE CITY COUNCIL MINUTES  
MARCH 12, 1990  
Page 4

There was more discussion regarding the financing/purchase of the system and City Attorney Allendoerfer noted that \$8,000 down payment would be needed right away with 60 days to come up with the balance.

Councilor Baxter amended his motion to make the down payment and sign the contract to purchase the system, with the cash balance to be made on the approval of the equipment. Councilor Cundiff seconded and the motion passed unanimously.

### 3. Marchiney Annexation.

City Planner Corcoran explained the proponents have a sufficiency of petition based on 62% being non-protest covenants and 3% being additional property owner petitions in favor of annexation of their property into the City. He described the annexation location and noted that it was 53 acres but three more parcels have been added: 4-009, 4-010 and 4-017. He noted the proposed annexation is within the RUSA boundaries and he recommended a public hearing be set for 4/23/90.

Discussion ensued regarding additional signatures other than Marchineys, grandfathering rights of farms, what happens to the zoning once the property is annexed, non-conforming use status being abandoned and then reinstated. City Attorney Allendoerfer noted that the Planning Commission is presently working on a "mini" farm zone which is more of what the concern is for preserving. Councilor Baxter said he wanted to be sure the guy who wants to continue to board horses would be allowed to do so once he came into the City.

Councilor Weiser asked about the mini farm zoning and City Planner Corcoran said a speaker is going to be addressing the Planning Commission soon to help develop policy on this.

Councilor Cunduff confirmed that any grandfathering would "go with the land" and City Planner Corcoran added that in some cases, where a use has been abandoned for over a year, they can still get it reinstated because of "unintentional abandonment" of use.

There was more discussion about the validity of/justification for a mini farm zone and it was noted some people have a substantial investment in outbuildings and even if the number of animals varies (in the case of horse boarding, eg.), the owner should still be able to maintain the zoning/use.

Councilor Pedersen asked for some clarification of intent of the covenants that were signed and City Attorney Allendoerfer said they have been in effect since 1982 and they promise that people will not object if they get water and sewer, i.e. the City expects the boundaries of the City will include these people eventually. He noted that in the People v. Spokane (City of), the court upheld covenants with some limitations, that the annexation can't be protested. He noted that these Marysville covenants have been duly recorded with the County and this is the first time people have changed their minds on the covenants by way of an informal petition passed around by George Wilcox which does not honor the original covenants. He added that the staff preference is that there would be enough sufficiency of petition without the use of the covenants.

City Administrator Sanden explained that as a policy approach, the City gets people to sign covenants because they are using City services, with the tax base going to the County, and the City would like them to be included in the City and supporting City services.

Mike Patterson, agent for the Marchineys, addressed the Council and noted that when the 10% petition for annexation was first presented, City Council recommended a good faith effort be made to secure more signatures. He said a lot of the people expressed interest and said they had not signed the petition because they thought

MARYSVILLE CITY COUNCIL MINUTES  
MARCH 12, 1990  
Page 5

they had already signed it, that there was definite interest in the Fox Trail and Jubie Additions in signing the annexation petition but he said he thought there was also some confusion with George Wilcox's petition. He said he thought about 7-10 homes had responded in a positive manner when he approached them.

Councilor Pedersen asked if he talked with Mr. Sorenson or Mr. DeGroot and Mr. Patterson said he spoke with Mr. Sorenson and he would like to remain in the County. He added that there were 9 or 10 more signatures turned in, in favor of annexation.

George Wilcox addressed Council and said there is no way people could have been confused with the two petitions, that his clearly spelled out the words "OPPOSED TO ANNEXATION" and he obtained 63 signatures against the annexation, which represents about 50 parcels. He distributed copies of the petition to Council and added that his family raises cattle and Doleshels have a Christmas tree farm. He said the proponents did not get any more than 9 signatures and it is absolutely untrue that he (Wilcox) misrepresented the issue. Further he said, he gave Mr. Patterson a chance to obtain more signatures in favor of the annexation so as not to have to use the covenants, but he didn't, he pointed out. Mr. Wilcox added that no part of Fox Trail or Jubie Addition is contiguous to the City as per the MMC interpretation. He further pointed out that Doleshels, Sorensons, Wilcoxes and DeGroots represent 34 acres out of the total proposed annexation and they do not have City water nor did they sign covenants and they are not contiguous to the City. He said he has been working to set up policy to protect the small farms and once that policy is in place, they would be happy to come into the City, but right now, a Christmas tree farm or a riding farm use, 5 acre horse farms are not really protected. He said they can't rely on grandfathering rights at this time, that they are working on this under the Marysville Comp Plan and think this annexation is premature. He added he would like to see 60% of the owners sign the petition before a public hearing is held and furthermore, they have to wait six months under the sewer moratorium anyway so he urged Council to wait until after the moratorium is lifted which would also give the zoning code a chance to be amended.

Councilor Cundiff asked how many total property owners there are in the proposed annexation and Mr. Wilcox said there are 25 in Fox Trails, 43 in the Jubie Addition, plus about another 7, totalling about 75 property owners.

Councilor Cundiff asked how many property owners are represented on the petition in favor of annexation, not counting the covenants and City Planner Corcoran said 10. Mr. Wilcox said he begged the Council not to use the covenants.

Councilor Wright asked if taxes would increase for the proposed annexation area and City Attorney Allendoerfer pointed out that yes, taxes are higher than the County with the advent of the Public Safety Building.

Bruce McKinnon, 7307 71st Av. NE, addressed the Council and said he also has a concern about what protections (grandfathering) the annexed property owners will get but that he would think it would be better for them to be in the City, especially the people who have Marysville sewer and water and who probably shop in the City of Marysville. He said he has a problem with people not wanting in the City and asked what they are really protecting.

Gary Sorenson, 9818 67th Av. NE, addressed Council and stated that no one from the Marchiney Annexation group has ever contacted him regarding the proposed annexation. He noted that part of his property was included in the proposed annexation and he would not be opposed to annexation except he understood that once a horse leaves the riding arena it can't be replaced. He said he sees his riding stables as a valuable place for families to do something together, keeping the kids off drugs, etc. and he wants to protect that use of his property.

MARYSVILLE CITY COUNCIL MINUTES  
MARCH 12, 1990  
Page 6

There was discussion about the addition of lots 4-009, 4-010 (part of Sorenson's) and 4-017 (Moskeland). Mr. Sorenson said the De Groots want to remain where they are at and do not want development at this time.

Councilor Pedersen asked about the affect of the sewer moratorium and City Attorney Allendoerfer said the City could allow non-project rezones. Also, he added that horse riding stables are allowed as a conditional use under the MMC and a conditional use permit would "go with the land".

Councilor Weiser pointed out that adding the three additional parcels was to square off the annexation and they didn't know it would be dividing Sorenson's land. He asked if these three lots could be left out of the annexation and City Attorney Allendoerfer said yes, they could be excluded.

Councilor Cundiff said he would like to wait awhile to make sure they have the protection referred to.

City Attorney Allendoerfer corrected a previous statement made, noting that ag is only 5 acres in Marysville, not 10 and as far as the definition of "contiguous", he said he and Mr. Wilcox have discussed this issue and it is a close call but the intent of RUSA and the covenants is that "contiguous" means the whole neighborhood not the row of lots abutting, otherwise you could annex in one row of houses/lots at a time, but he said he didn't think that was the intent.

Mike Patterson addressed Council again and made a correction to an earlier statement--he said it was the DeGroots he talked with and not the Sorensens.

Mike Doleshel addressed Council and stated he is 1/4 of a mile away and that he thinks he is only in the proposed annexation to square it off and that further, in talking with the neighbors, the main concern is they don't know what's going to happen as far as grandfathering, zoning, etc. and he urged Council to wait.

There was more discussion about the upcoming speaker at the 3/20 Planning Commission meeting who will be helping to better define text for small farms in the Comp Plan, the fact that Marchiney owns 10 acres out of the total (Lot 4-014), intent of the covenants, concerns with the riding stables and small farms.

Councilor Cundiff said he would be in favor of postponement in order to allow time for a plan to be spelled out with regard to small farm use and grandfathering rights.

Councilor Baxter said he would prefer to deny the public hearing request at this point, to give time to further work on the Comp Plan and in order to assure people of the protection.

Mr. Sorenson said that once the zoning is more clearly defined and uses spelled out, they would be 100% in favor of annexation, probably.

Councilor Weiser asked if he didn't feel the present zoning and conditional use permit process would protect them and Mr. Sorenson said not necessarily, but he still has a concern about the trees because trees are a very important part of our environment and he added he would like a little more time to review things. He concluded that they support George Wilcox.

Mr. Doleshel pointed out that he only has 2-1/2 acres and therefore would not be covered by the 5 acre City zoning.

Mr. Wilcox commented that he would petition for annexation once the protections are in place.

Councilor Cundiff moved to deny the request for a public hearing. Councilor Pedersen seconded and the motion passed with Councilor Weiser opposing.

MARYSVILLE CITY COUNCIL MINUTES  
 MARCH 12, 1990  
 Page 7

4. Firstmark Annexation.

City Planner Corcoran described the location, noting that this is a 40 acre site within RUSA, with an 88% sufficiency of petition by signature. He noted that the request is that the annexation area be established for petition according to the map in the packets. He also noted that 67th Av. in front of the property is within City limits already and the RUSA designation for the property is 12,500.

Jim Egge, representing Firstmark, addressed Council, stating 21.6 acres out of 40 or 88% have agreed to annexation and Griffith and Callan are the only ones who didn't sign the petition.

Mayor Matheny asked which creek runs through the property and Mr. Egge stated it is Munson Creek.

Councilor Baxter moved and Councilor Pedersen seconded to establish the annexation area provided that, upon annexation, property owners within the annexation would agree to accept the City's bonded indebtedness, 12,500 zoning and participate in the 67th Av. LID being formed.

Mr. Egge pointed out that the Comp Plan has two designations-- 12,500 and 4½ to 6 du/ac and that he would have to consult with Firstmark regarding the LID.

The motion passed unanimously.

5. Shoreline Permit for SE Marysville Downtown Storm Drainage - Planning Commission Recommends Approval.

City Planner Corcoran explained that the Planning Commission recommends approval and the request is for authority to submit a plan to DOE for final approval.

Councilor Lashua moved for approval and Councilor Cundiff seconded. Passed unanimously.

NEW BUSINESS:

1. Streetscape SR 528.

Public Works Director Zabell and Parks & Recreation Supt. Ballew presented a plan for an Arbor Day tree planting program that would result in 235 Thundercloud flowering plum trees being planted along SR 528 as a part of Marysville's Centennial activities as well as a beautification project. Estimated cost for the trees, white ivy and topsoil is \$5,800 with funds to come from the Street Construction Fund. The \$5.00 donated by each citizen planting a tree on Arbor Day would go towards administrative costs mainly, Parks & Recreation Supt. Ballew said.

Councilor Baxter moved to approve the program and put his name in as purchaser of the first tree. Councilor Wright seconded the motion. It was decided that each Councilmember would buy a tree. Motion passed unanimously.

LEGAL MATTERS: None.

ORDINANCES & RESOLUTIONS: None.

STAFF'S BUSINESS:

Finance Director Dexter reported that regarding the purchase or lease option for the golf course equipment, he contacted Security Pacific Securities regarding a conditional sales contract and they quoted 7.4% interest plus a 1% set up fee, with no penalty for pre-payment, on a 3 yr. contract. He noted that the Pilchuck Rental equipment is not available at this time and recommended a "draw" type of loan program with 36 payments on a conditional sales contract.

## MARYSVILLE CITY COUNCIL MINUTES

MARCH 12, 1990

Page 8

It was noted that the golf course makes good money but there are peaks and valleys to contend with; Finance Director Dexter said he estimated a \$200,000 operating annual surplus that goes back into capital or debt service and with a cash outlay of \$195,000 over three years, money can still be invested in course improvements. He said he would recommend buying over three years at the low rate of interest and added that the loan on the building still needs to be paid for also.

After a brief discussion, Councilor Lashua moved to proceed with the acquisition of golf course equipment through a conditional sales contract financed through Security Pacific Securities and to authorize the Mayor to sign the necessary documents. Councilor Baxter seconded and the motion passed unanimously.

City Planner Corcoran stated that regarding a piece of property on 71st NE with Munson Creek along the west boundary, the property owner is proposing to subdivide and donate a tract to the City so they won't have to pay frontage on it. He said the City has the tract east and south of this, across 71st and will probably end up with open space and this is a good opportunity for the City to obtain some creek bottom.

Discussion followed regarding value of the property, maintenance, being part of City's drainage basin, short platting, siting a house, drop off down to creek, City Planner Corcoran stating he is looking for direction, tax advantages to the City, contours, setbacks, City guaranteeing access, 400' frontage.

Councilor Baxter moved that the City accept Tract "X", being part of LaJoy Plat. Councilor Lashua seconded and the motion passed unanimously.

**Munson Creek Div. V & VI - Preliminary Plat**

City Planner Corcoran stated this project has vested sewer rights although the engineering is not quite completed. The applicant is asking for approval of preliminary plat with the condition that it would stay in Dave Zabell's office until final approval.

Mr. DeJong stated the water system was finished up this weekend and Bill Roberts will be doing the as builts tomorrow. He said they are not trying to side-step any of the normal procedures, but want to have some assurance of approval prior to the meetings/negotiations with DOE regarding the sewer moratorium.

Public Works Director Zabell pointed out that security testing and X-raying still needs to be done and Mr. DeJong is willing to bond on the streets, however he (Zabell) would not recommend approval at this time. City Attorney Allendoerfer agreed, stating there are a lot of items that need to be done on the project.

Discussion followed regarding what could happen with a premature approval, future problems and complications with DOE.

Councilor Baxter moved to deny the request for preliminary plat approval on Munson Creek Div. V & VI. Councilor Lashua seconded and the motion passed unanimously.

Parks & Recreation Supt. Ballew announced the upcoming Friday morning Chamber/Centennial Kickoff breakfast at Maxwell's with James Comeford possible guest speaker. He also reminded everyone of the State Championship Men's Basketball coming to MPHS 3/24 & 3/25.

Public Works Director Zabell reported that about 1' of sludge was taken out of the lagoon contact chamber which will result in better operation and more capacity.



MARYSVILLE CITY COUNCIL MINUTES  
 MARCH 12, 1990  
 Page 9

CALL ON COUNCILMEMBERS:

Councilor Lashua commented on the article in the North Snohomish County Today newspaper regarding the upcoming DOE meeting. He noted it was slanted in favor of the DOE.

Councilor Baxter reported that Bob Kissinger got a call from Channel 4 regarding the DOE/sewer lagoon issue. There was discussion regarding misconceptions and lack of information from DOE.

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

EXECUTIVE SESSION: Personnel & Pending Litigation.

RECONVENE & ADJOURNMENT: Approx. 11:00 p.m.

Accepted this 26 day of March, 1990.

Rita Matheny  
 Mayor

Phillip E. Dexter  
 City Clerk

Wanda R. Iverson  
 Recording Secretary