

MARYSVILLE CITY COUNCIL MINUTES

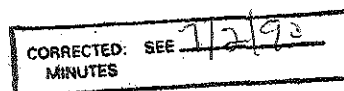
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JUNE 25, 1990

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  
Steve Wilson, Deputy City Clerk/Asst. Finance Director  
Jim Allendoerfer, City Attorney  
Mike Corcoran, City Planner  
Dave Zabell, Public Works Director  
Jerry Jacobsen, Fire Marshal  
Bob Dyer, Marysville Police Chief  
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:

Deputy City Clerk Wilson called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Lashua moved and Councilor Pedersen seconded to approve the minutes of the 6/11/90 meeting as written.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

None.

PRESENTATIONS: None.      PETITIONS & COMMUNICATIONS: None.

PUBLIC HEARINGS:

**1. Griffore Annexation.**

City Attorney Allendoerfer explained that the purpose of this public hearing is to consider the increased size of the Griffore Annexation as expanded by the Boundary Review Board. He noted that the proposed annexation would include Sunnyside Hills, Cherry Tree Lanes and Glenwood Mobile Home Park, an additional 165 acres which is consistent with the City's annexation policy of allowing an expansion of up to 100% of the original Griffore Annexation proposal. He added that Marysville has the authority to approve or reject the Boundary Review Board decision, that a lawsuit has been filed against the Boundary Review Board which is still pending and so the City of Marysville cannot take final action tonight but can take testimony. He also stated that no formal decision can be made until after the lawsuit is disposed of which could be in a couple months but that staff has submitted an environmental review of the expanded boundaries including comments regarding finances, police and fire protection, streets, etc. He stated that following the public hearing, Mike Corcoran, as the responsible SEPA official, will make a decision regarding resubmitting any environmental documents or not and he reminded Council that this is a legislative matter, not a quasi judicial one and that a limit of three minutes had been placed on each person's testimony because of total time limitations and other matters on the agenda this evening.

JUNE 25, 1990

Page 1

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 25, 1990  
 Page 2

Councilor Pedersen stated that she would like to disclose the same statement she made at the last Griffore hearing, that she and her husband participate in a rental in the proposed boundary area and that should would not be participating in this hearing. (She stepped down.)

Councilor Wright disclosed that she had been contacted by several people but has not formed an opinion as yet regarding being in favor or against the extended boundaries.

CORRECTED: SEE 7/2/90  
 MINUTES

Councilor McGee stated he had also received a couple phone calls and has not as yet formed any opinion on the matter.

City Attorney Allendoerfer disclosed that he has represented Glenwood Mobile Homes in the private sector for at least ten years.

There were no challenges from the audience.

Mayor Matheny stated she wished the hearing to be over in one hour in order to allow time for other matters on tonight's agenda.

Dennis Wintch, 510 Gays Dr., addressed Council and stated he was one of the original proponents of a much smaller area to be annexed into the City limits. He noted that at time there were 92% in favor in the smaller area and no one spoke against the annexation at the subsequent public hearing. He stated he did not realize how much the Boundary Review Board was going to annex, that he had inherited the property three years ago and simply wished the immediate area to become part of Marysville.

Steve Peiffle, P. O. Box 188, Arlington, Attorney representing Coyleen Ferrucci, addressed Council, explaining that the area is basically made up of two groups, half of which wish to annex and then the group in already developed areas who do not wish to annex. He stated the latter group (which he represents) had no indication that they would become part of the annexation and furthermore, it is their contention that Marysville cannot afford this annexation because of the additional personnel they would have to hire, at least 9 additional police personnel, additional sanitation crew, an additional fire station having to be built, etc. He admitted that mitigation fees would allow Marysville to recoup some costs however, most of the area being proposed for annexation is not eligible for mitigation fee payment and the additional service/personnel costs will be prohibitive. As far as the argument that this would square off boundaries in compliance with the annexation resolution, he noted that the petition method has to be with the consent of the property owners and he noted that at least half of the property owners are opposed to this annexation. He presented a petition signed by 250 residents of the area against the proposed annexation expansion boundaries and urged the Council to overrule the BRB's decision in view of the substantial lack of favorable participation in the annexation process.

Bill Roberts, 4210 Sunnyside Blvd., addressed Council, stating he was also one of the original petitioners of the Griffore Annexation and lived across the street for 20 years. He stated he was not intending to develop within the Griffore Annexation but simply wished to see the area become part of the City. He presented a large map and noted that at the time of the first public hearing before Council, there was a discussion about including Sunnyside at that time in the annexation and it was decided not to do that but the BRB/county council overruled that decision. He admitted to this being an emotional issue but pointed out several advantages to being within City limits:

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 25, 1990  
 Page 3

- taxes are about the same in the City and the County but water and sewer are lower in the City than the County
- people in the larger area already have water and sewer and it was originally felt this area would eventually be annexed and that is why they were part of RUSA
- this area is moving toward urbanization and is in need of City services such as fire, police, garbage
- approx. \$220,000 in taxes would go to the City vs. the County with this annexation

He said with this and the other growth in the area, he felt the City would be able to afford additional City services and as far as fire protection, the City does have a contract with Fire Dist. 12 at present but with the annexation, the money would be there so that Marysville could serve the whole area. In closing, he stressed local problems should be resolved with local tax dollars and he noted that the county council is basically from south county and that he would like to see the money stay in Marysville.

Ken Pfloeger, 5701 64th Av. NE, addressed Council and said CORRECTED: SEE 7/2/90 MINUTES he was having a hard time putting the numbers together regarding 62% of 69 families being in favor of the annexation, but over 400 families against. In other words, the way he sees it, 32 families voted for 400 and he said he didn't think that was fair.

Arch Minas of Glenwood Mobile Homes addressed Council and said he had an experience with the Marysville Police Dept. vs. the Sheriff's Dept. responding to a call and he felt the Sheriff's Dept. far superior and would like to stay in the County because of that. Also, the County provides good road maintenance and trash collection and they don't want sidewalks to be put in in Glenwood because there just isn't enough room on most of the lots. He concluded that there just is nothing they can see that Marysville can do for them in Glenwood and said he would like to see Council support the citizens' constitutional rights as far as not wanting to annex.

James Peters, 5730 61st NE (Sunnyside), addressed Council, stating he has lived in the area for 35 yrs. and feels Sunnyside was just an "afterthought" on the annexation. He said maybe if they had been involved from the beginning, it would have been a different story.

Julie Hawk, 5804 64th NE, addressed the Council, explaining that she is a licensed daycare provider, representing other daycare providers who are concerned about the number of trips per day allowed to and from the day care and also the limitation of the percentage of your home that can be used for the day care business. She said she was neither for or against the annexation but was against the way the annexation was brought about and also noted that GTE is charging the increased utility tax on her phone bill, even though she is not within City limits.

City Planner Corcoran stated that as far as her concern regarding the recent home occupation ordinance adopted by the City, a day care center would come under a Conditional Use Permit and be allowed special concessions over and above a basic home occupation use.

Councilor Lashua noted that there had been incorrect reference made to the City's tax rate being \$52 a year higher than the County's and explained that the City's property tax rate and the County's is the same.

City Administrator Sanden confirmed that the Boundary Review Board

MARYSVILLE CITY COUNCIL MINUTES  
JUNE 25, 1990  
Page 4

had given some erroneous information regarding the tax comparison, that the City's millage rate is actually \$12.9175 and the County's \$12.9285 so a home with an assessed valuation of \$70,000 would pay taxes amounting to \$904.23 in the City and \$905.00 in the County.

Bud Darling, 1916 Grove St., addressed Council, stating he has lived in the City 37 yrs., the County 60 yrs., and was also one of the original proponents of the Griffore Annexation. He said he sees a lot of confusion about taxation in the City vs. the County. Also, he said they had no idea so many people were to be involved or they would have explained it to these people. He noted the City and County both utilize the Marysville School District and some of the other advantages he sees are:

- the City is easier to deal with than the County
- City services such as water, sewer, garbage are lower.

He said he realizes the utility tax was just increased in the City but reminded people there is a special senior citizens exemption for that in the City. He added that there was no intention originally to involve Sunnyside but also that there was no protest prior to this by them, either.

Mike Koontz, 5730 60th Dr. NE, addressed Council and noted that he is paying for water, sewer, garbage, taxes already and that they didn't know anything about the annexation--that no one notified 250 Sunnyside homes. He said they feel ramrodded and that really, things are fine the way they are, that they already support Marysville stores and Marysville is receiving money there. He concluded that they understand the City's position but do not want to come into the City.

Virginia Grace, 6106 57th Dr. NE (Cherry Tree Lane), addressed Council, stating she is happy in the County. Further, she said she didn't even know she had a covenant regarding the no protest to annexation, that the builder had actually signed it prior to her buying the house in July 1979 and the covenant doesn't even show up on the title report. She added that their development had no notice of the public hearing at all.

Michael Glazer of Sunnyside Hills, addressed Council, pointing out that it was the County that created this annexation problem tonight and this is a good example of the type of thing he wants to get away from, that he wants to be able to deal directly with the government that puts through the action. He cited a good example of local representation as being able to go to City Council and plead for stop signs in his neighborhood to increase traffic safety. He said he was in favor of the larger annexation.

Pamela Crowell, 5906 67th NE, addressed Council and stated she had a flooding incident a while back and the City did not respond until the next day, even though they admitted the problem had come from the City side of the road. The County responded the night before but could do nothing about it because it was the City's responsibility and the Public Works Dept. did not show up until the next day, she said.

Joann Orr addressed Council, stating she moved to this area from Mukilteo and the same thing happened in Mukilteo--figures can be manipulated and the next thing you know, you are annexed into the City. That's the reason they moved, she noted, to Sunnyside but now she has a problem with the black water and sometimes has to do the same load of laundry three times to get it clean.

MARYSVILLE CITY COUNCIL MINUTES  
JUNE 25, 1990  
Page 5

John Bates, 5715 64th NE, Sunnyside Hills, addressed Council and said he didn't think the problem is whose services are better, but how the annexation was done. He said he felt the whole matter should go back to the committee.

John Ladowsky of Sunnyside Hills, addressed Council and said he has nothing against the City but they just don't want to change. Also, he warned people about contractors pulling wool over the eyes of the residents and the Council. He asked when the next Boundary Review Board hearing would be.

City Attorney Allendoerfer stated there would not be one, that the City Council will hold another hearing as soon as the court case is concluded in approx. 30-60 days. He noted the Boundary Review Board hearing was 4/19/90 and they are now out of the picture. In response to Mr. Minas' comment from the audience, City Attorney Allendoerfer stated there was no protest from anyone at the 4/19/90 Boundary Review Board hearing.

Bill Warner, 5808 65th Dr. NE, addressed Council stating he is new to the area and likes being in the County.

Ann Grace, 6106 57th Av. NE, addressed the Council, stating she is from New York and likes the view of the country setting in her neighborhood and likes being in the County.

John Painter, 5214 126th NE, Arlington, addressed Council, stating it appears that it's time to break Marysville into population districts, otherwise it's taxation without representation and because of the growth, he said he thought it would be the responsible thing to do in order to give everyone a say in local government.

Steve Peiffle, Attorney, addressed Council again, stating that most of the residents of Sunnyside Hills were not aware of the covenants nor were they aware of the annexation notice and he urged City Council to consider what's been done in this case.

Margaret Poniak, 5708 60th Dr. NE, addressed Council, noting she likes the country too and asked what would happen to all the horses. She said she had a real concern about it getting too crowded, too.

Bill Roberts addressed Council again, noting that there is a total of 1600 people in the proposed Griffore Annexation and that his hope is that they can participate in the City government and continue to be served by the City.

Coyleen Ferrucci, 5715 60th Dr. NE, addressed Council, representing homeowners in Glenwood Mobile Home Estates. She reiterated that THEY DID NOT KNOW about the hearings, about the proposed annexation, etc., otherwise they would have come to the public hearings. She noted they already spend a lot of money in Marysville, shop and support Marysville, but do not wish to become part of the City. Costs are not the main issue, she noted and added they wish to be involved in the process, that they have filed an appeal with the County and are letting the Council know also how they feel.

City Attorney Allendoerfer advised Council that this may be an appropriate time for Council to express themselves as far as how they feel about the annexation.

Councilor Cundiff asked about deferring the decision until after the Boundary Review Board appeal decision and City Attorney Allen-

MARYSVILLE CITY COUNCIL MINUTES  
JUNE 25, 1990  
Page 6

doerfer explained that the Court is being asked to review and may find the Boundary Review Board has done the appropriate thing or may find against them, in which case the Boundary Review Board would have to start all over again with the public hearing process.

Councilor Cundiff said he would prefer to wait until the Court decision is made and Councilor Lashua concurred. He added that a firm decision can't be made tonight anyway.

Councilor Wright said she thought it somewhat unfair that the Boundary Review Board has taken the approach they did but would also be in favor of deferring until after the appeal decision.

Councilor Baxter agreed and said he felt a decision tonight would prejudice the matter.

Councilor Weiser asked if the total area would be brought in under existing zoning if the annexation were approved and City Attorney Allendoerfer explained that it would come into the City under the predesignated Comp Plan/RUSA designation and zoning usually follows once the property is annexed.

Councilor Weiser asked about the sidewalk stipulation and 50-50 plan and City Attorney Allendoerfer said there is no such requirement for incoming residents to put in sidewalks but if the residents wished to, they could participate in the 50-50 plan where the City would pay for half of the cost of the sidewalk improvements.

Councilor Weiser asked the Fire Marshal about fire and aid calls to Sunnyside Hills and Fire Marshal Jacobsen stated on fire calls, Fire District 12 responds with City backup but on aid calls, they are all responded to by the City in Sunnyside.

Councilor Weiser asked about the need for an additional fire station and Fire Marshal Jacobsen said the Citizens Advisory Group did include this in their recommendations.

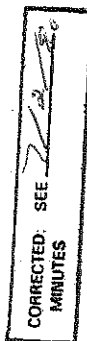
Councilor Weiser asked the Police Chief about the ratio of police officers to citizens and Police Chief Dyer stated that Marysville currently has about 20 police officers to a population of 10,000 which is better than the national average.

Councilor Weiser asked about the City's legal right to charge more for water and sewer services when residents are outside of City limits and City Attorney Allendoerfer confirmed that is legal because it has been determined that people outside City limits are further away from the source. He added that the rate differential at this point is about double for those outside City limits. He added that taxes cannot be charged by the City of Marysville on utilities outside City limits.

Councilor Weiser concluded by saying he would be in favor of deferring the decision regarding this annexation until after the Court case has been decided.

Councilor McGee said he agreed, however noted that he felt quality of life would be enhanced if the total annexation were to come into City limits.

Councilor Baxter asked about the total number of no protest agreements and Bill Roberts stated originally they had 55% of the total annexation area.



MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 25, 1990  
 Page 7

Councilor Baxter moved and Councilor Cundiff seconded to continue this public hearing to a date approximately 30 days after the pending Boundary Review Board appeal has been decided by the Court. The motion passed with Councilor Weiser against.

CONSENT AGENDA:

1. Approval of 6/25/90 Claims Check Nos. 20352 to Nos. 20510 with voided check nos. 20358 to nos. 20368 in the amount of \$311,223.02.
2. Approve Reimbursement for Oversizing the Sewer Main for Munson Creek, Division I; \$526.12.
3. Approve expenditure of up to \$5,000.00 for remodel of portion of City Hall facility.
4. Personnel Report.

Councilor Lashua asked about Voucher #20428 to Geddes Marine and it was noted that \$883 included a motor. Councilor Baxter asked about Item #3 and City Administrator Sanden said they were looking at painting and carpeting. Councilor Baxter noted there was a "Building/City Hall Remodel Committee" and why they were not involved in the decisions being made about remodeling.

City Administrator Sanden stated she understood the costs were so high to build and so staff decided to "refurbish" City Hall as an interim measure, that Charlene has been in charge of getting quotations for paint and carpet and other maintenance items at City Hall. She said the paint quote is \$600 and the rest of the \$5,000 would be for carpeting, mainly.

Councilor Baxter asked if the outside walls were going to be sheetrocked on the inside or just painted and City Administrator Sanden stated there are a couple of walls that will need to be replaced but all the rest would be just painted.

There was further discussion about the high cost of remodeling, that "refurbish" was a better word to use at this time, carpet samples to be picked out at City Hall, the possibility of reactivating the Building/City Hall Remodel Committee, questions regarding the renovation/remodel to be referred to Mayor Matheny, City Administrator Sanden or Charlene Bye (in charge of Maintenance & Operations) at this time.

Councilor Lashua moved to approve Consent Agenda Items 1, 2, 3 & 4 and Councilor McGee seconded the motion. Passed unanimously.

CURRENT BUSINESS:

**1. Walker Rezone; Planning Commission Recommendation.**

City Planner Corcoran explained this was an apartment complex built in 1956, currently zoned RS 7200 in a multi family designated area. He noted that the applicant's concern is mainly if the building burns down, it cannot be rebuilt as an apartment complex because of the current zoning. The applicant is requesting a low density rezone and the Planning Commission has recommended approval of same, he noted.

Councilor Cundiff moved and Councilor Wright seconded to approve the rezone and to direct the City Attorney to draw up a rezone ordinance. Passed unanimously.

**2. Plat of Meadow Green Utility Connection Issue.**

City Attorney Allendoerfer explained this came before City Council



MARYSVILLE CITY COUNCIL MINUTES  
JUNE 25, 1990  
Page 8

previously and it has since been discovered there is a lien against the sub-contractor and so now the question is whether the City should still allow water and sewer to be installed and to continue with the hookups. He referred to correspondence in the packets regarding the recommendation that Dujardin put up an indemnity bond. He noted that the premium would be about \$2,000 on an \$80,000 bond and Dujardin does not wish to do this, although this is staff recommendation. He noted that the builders are appealing the delay are are represented in the audience tonight.

Noah Ragsdale, 1833 North Shore, Bellingham, representing Marvel Industries, addressed Council and explained that they had purchased 73 lots in Meadow Green. He said he has been guaranteed by three title companies and has now found himself involved in a lawsuit regarding the delay. He noted that out of 53 lots that were granted sewer hookups, 25-28 have closed but they need sewer in order to continue with the development. He said the way the lien laws work, there's 8 months in which this can go on and he is caught in the middle, that they need to proceed and he is not sure why he is being penalized and are having financial problems without the other 25 homes being hooked up.

City Attorney Allendoerfer explained that the City needs some kind of guarantee/protection on the outstanding \$80,000 and Mr. Ragsdale explained that he was willing to post the bond except he found out it can go on indefinitely (at \$1900 premium per year) and that's the reason Dujardin doesn't want to do it, either.

Councilor Lashua suggested that if Dujardin is forced to post a bond, it might force them to do something about the outstanding lien. He added that the City is looking for title to the sewer lines and the City has to be protected against this type of situation.

City Attorney Allendoerfer concurred, stating that the City wants some security in the form of a bond, a personal guarantee, a bank account assignment. Mr. Ragsdale said he felt he could get that.

Councilor Cundiff said he would prefer it in the form of a bond as opposed to the other two options.

Councilor Baxter asked about the builder posting the bond and Mr. Ragsdale said he would, except he doesn't know how long it is going to go on and also, he is not eligible, only the people who do the work are eligible to post the bond. He added that he felt he shouldn't have to guarantee an \$80,000 bank account.

There was discussion about the risk of bond failure, what the chances are of someone ripping out the water and sewer lines, Mr. Dujardin possibly giving a personal guarantee vs. a bond.

Councilor Cundiff moved to affirm the previous decision of 5/29/90 to require Dujardin Const. to post an indemnity bond, or equivalent, for 100% of the outstanding lien. Councilor Weiser seconded the motion and it passed unanimously.

NEW BUSINESS:

**1. Variance to Ordinance #1763 - Meadowcreek PRD.**

City Attorney Allendoerfer explained that the new SEPA law requires witnesses to be sworn to tell the truth for testimony. He brought the list of exhibits in the packets to Council's attention and noted that Exhibit "X" should be added at the bottom to read, "Consent Order Agreement between the City and D.O.E."



MARYSVILLE CITY COUNCIL MINUTES  
JUNE 25, 1990  
Page 9

He noted that there would be a limit of 5 minutes per witness.

Richard Sanders of 4122 128th SE, Bellevue, addressed the Council, as attorney representing the developer, stating he had submitted materials to City Attorney Allendoerfer however had not received materials which are in the Council packets and he said he objected to this.

A five minute recess was called so that Mr. Sanders could review the information in the packets.

After the recess, Mr. Sanders again addressed Council, stating he is the attorney representing R/L Associates, the proponents of the PRD in question. He noted there are two issues to be resolved: a variance to Ordinance 1763 (sewer moratorium) and the DS/SEPA appeal issue which came as a result of Ordinance 1763. He noted that he has submitted three affidavits: 2 from Robert Hale of R/L Associates (partner) and one from Ted Trepanier, P.E.

Mr. Sanders then expressed their feeling that because Mr. Allendoerfer is the City Attorney and the City is a party to the Meadow Creek lawsuit, that it is improper for Mr. Allendoerfer to participate in this hearing which is to be a neutral function. He then quoted a 4/81 action in which an attorney was legal advisor and prosecutor of the case and the Supreme Court ruled against the attorney's participation as a neutral advisor. He asked that Mr. Allendoerfer not be permitted to participate.

City Planner Corcoran suggested if Mr. Allendoerfer or Mr. Corcoran do not participate to represent the City, perhaps the City should retain another attorney.

City Attorney Allendoerfer restated, as he had earlier, that he is here as advisor only to the City Council and will maintain the separation of roles as in the case Mr. Sanders has cited.

Mr. Sanders stated he still objected to Mr. Allendoerfer's participation but that they wished to proceed with the hearing.

Councilor Baxter said he wished the City Attorney to remain as a participant in the hearing and City Planner Corcoran concurred, stating he would like some representation on his behalf and the City's.

City Attorney Allendoerfer reminded everyone this is an administrative appeal, not a lawsuit proceeding and said he didn't feel it's necessary to continue to defer the hearing to another date.

Mr. Sanders then continued his presentation. He said in addition to the supporting documents identified in his letter to the City, he wished to also identify and present several more documents:

- 1) SEPA checklist for the first project submitted in 1/89
- 2) SEPA checklist for the scaled down project submitted 9/89
- 3) Further scaled down SEPA checklist submitted 12/89
- 4) Letter from Mr. Hale to Mr. Corcoran requesting a hearing 1/10/90
- 5) Excerpts from Dave Zabell's deposition of 5/21/90
- 6) Excerpts from John Glynn's deposition 6/18/90

He stated that in addition, they wished Council to consider testimony from Mr. Hale and Mr. Trepanier (he gave Ted's credentials). He briefly outlined the chronological history of events concerning the application for the PRD, noting that a scaled down version was presented in 9/89 after their request in

the Spring of 1989 was denied for a PRD. He stated a sewer availability letter was issued by the City in 9/89 and staff also requested a wetlands study to be completed in 12/89 for the project. The project was further scaled down to 85 lots with the wetlands portion not subject to development and on 1/16/90, Mike Corcoran issued a Mitigated Determination of Non-Significance, he said. He noted that this MDNS contained conditions which the developer found objectionable and were to be brought up at a final public hearing (which was never held). He said if the public hearing had been held within 30 days of 1/16/90, the sewer moratorium would have had no effect on his client. Mike Corcoran then withdrew the MDNS based solely on the sewer moratorium and the provisions for a sewer moratorium variance are unique hardship and no public health hazard.

Mr. Sanders went on to report that a final public hearing was not held because of inexplicable City staff delays which would represent unique hardship. Secondly, there would be no public health hazard with 85 lots which would represent about one-half of a percent of the existing flow into the system. Further, the DOE Notice of Violation related to permit violation with regard to BOD and suspended solids and would have nothing to do with this project. With respect to the DNS, it would not be sustained without the sewer moratorium, he noted and there is no adverse significance nor is there any new evidence of adverse significance, he said.

Robert Hale then addressed Council and was affirmed by Mayor Matheny to tell the truth. Mr. Hale said in giving a history of the project, it is 1-1/2 to 2 years old and was originally a HUD project under a bonus situation and they did have a DNS filed on a much larger project. He said they were in strict compliance without variance except for a grade variance for a small piece of road at 21% grade. He stated they were then requested to submit a wetlands study which they did and then they redesigned and scaled down the project to 85 lots. The MDNS was issued on 1/16/90 with all new conditions but the continuation of paperwork was halted with the sewer moratorium, he noted. He said they feel they had little alternative but to sue at that point because

- 1) no public hearing was granted in time
- 2) they do have a financial hardship at this time because of the City's actions
- 3) septic tanks are not a viable solution
- 4) there would be no sewer or water use for at least a year
- 5) they do not feel the sewer moratorium was new evidence and justified the MDNS which was then replaced with a DS.

Ted Trepanier, P.E. of 1420 Hewitt, Everett, addressed Council and was affirmed by Mayor Matheny to tell the truth. He explained his background working for the DOE and his experience in working on designs of sewage treatment plants, discharge permits, water quality standards, Ebey Slough, engineering reports. He said he is here to talk about the appeal to the DNS and said he felt this project would not cause a public health threat. A DNS was issued 1/16/90 he said and no new facts have come to light and therefore he said he does not feel the DNS should have been revoked. The Notice of Violation was with regard to the BOD, suspended solids, too much flow, he said and he added that these have been happening since 1983 and it would appear that if there has been no new information, then a DS should not have been issued. Water quality was being met with respect to oxygen and temperature and he said he found nothing in the record that this project would cause a water quality nor a public health threat. In fact, he said there is a fax memo dated 5/18/90 to the DOE regarding the aerators and they have improved the water quality tremendously.

Public Works Director Zabell asked if in Mr. Trepanier's opinion, 85 hookups to the sewer would eliminate an existing health hazard because if not, the only valid argument would be a unique hardship, he noted.

Mr. Trepanier stated he could not find any evidence to prove there is a health hazard. He stated the Notice of Violation was related to flow, BOD, suspended solids and these do not constitute a public health hazard.

Councilor Lashua explained that his interpretation of health hazard is a non-functioning septic tank and Council allows a variance to eliminate that health hazard.

City Attorney Allendoerfer said that would be his interpretation also; that either A) or B) of 1763 would be appropriate for a variance.

Mr. Sanders referred to the list of exhibits and stated he objected to the following irrelevant (in his opinion) items:

- A. Motion for Writ of Review
- M. Deposition - Mike Corcoran (parts)
- Q. Deposition - Dave Zabell
- R. Deposition - John Glynn
- U. Letter from Tulalip Tribes dated June 9, 1990
- V. Declaration of Gloria Hirashima (hearsay and irrelevant)
- X. Consent Order with D.O.E. of 5/29/90 which occurred after all of the above and therefore irrelevant.

Councilor Lashua stated he took exception with Mr. Sanders' objecting to the Tulalip Tribes letter because they are very concerned about their tidelands and the City does dump into Ebey Slough. He stated their concerns are significant, valid and important, that they consider this possible "degradation of tidelands".

Mr. Sanders agreed but added that the evidence for the City Council concerns water quality of Ebey Slough and there is no evidence that water quality in Ebey Slough has been adversely affected.

Councilor Lashua stated he believed there is a water quality study going on now and Mr. Sanders pointed out that DOE has no data on the water quality at this time and that there has to be valid evidence on record in order to justify the action in question with respect to R/L Associates.

City Administrator Sanden introduced City Planner Corcoran and asked him the date of the last PRD application submitted. City Planner Corcoran stated 9/22/89 but it was not complete at that time. He said a tech review meeting was held 10/12 and as a result, a revised site plan was drawn up and additional application submitted.

City Administrator Sanden asked when the application was considered complete and City Planner Corcoran reviewed the items-- MDNS submission, tech review meeting, application being submitted and stated he believed it was somewhere between 12/11/89 and 1/4/90.

City Administrator Sanden noted that the City has 90 days to respond to the completed application and an MDNS was submitted during that time. She asked what the applicant's response was to the MDNS and City Planner Corcoran then retracted his statement about the complete application, stating it was not complete as of 1/4/90, that staff met with the proponents and explained the environmental problems and issued the MDNS on 1/16/90. He stated that the applicant objected to all 16 mitigation measures on the MDNS and then subsequently met with staff when they agreed to acquiesce on most of the items except for the wetlands issue. He said staff had planned to check with the Marysville School District and Diking District 3 prior to a public hearing.

City Administrator Sanden pointed out that even if a completed application had been received 12/11/89, 90 days from that date would be 3/11/90 which would be the deadline by which to have a public hearing but the applicant filed an appeal on 1/25/90.

At this point, someone asked if Mike Corcoran had been sworn in and it was realized that he hadn't been, so Mayor Matheny then did swear him in. He affirmed that he would and had been telling the truth. Time: 10:40 p.m.

City Administrator Sanden asked if staff had proceeded with this application in a normal and timely manner and City Planner Corcoran said yes.

City Administrator Sanden asked what caused him then to change from a DNS to a DS and City Planner Corcoran responded that it was because of approval of Ordinance 1763 which was predicated on DOE issuing their Notice of Violation on 2/13/90, which indicated outflow exceeded water quality standards and pollution evidence. He stated that he has seen no new information to remove the Determination of Significance at this time. The DS was executed on 2/23/90.

City Administrator Sanden asked what the purpose of Ordinance 1763 was and City Planner Corcoran said it was to impose temporary restrictions on the City sewer system and establish environmental protection under SEPA. He noted that the Ordinance was adopted as a SEPA policy document, identifying vesting rights, protecting the waste water treatment facility until improved and it identified a variance process.

Mr. Sanders asked if on 9/22/89 the Planning Dept. did not receive 20 revised drawings, a master application and a revised checklist.

City Planner Corcoran said he was not positive that was the date, without his complete records, but as of 9/26/89, his records show that the application was not complete.

Mr. Sanders asked if requirement of a complete application is part of the MMC and City Planner Corcoran stated the SEPA ordinance allows request of additional information and the application needs to be complete in conformance with SEPA and this is necessary in order to take a look at the underlying uses of the property.

Mr. Sanders asked if there was any provision in the MMC for the request for the wetlands study and City Planner Corcoran said he has the authority to ask for a wetlands study. He added that the request for a rezone was subsequently denied as per Resolution No. 1369.

Mr. Sanders asked if it is Mr. Corcoran's position that whenever additional documents are asked for, that constitutes an incomplete application, and Mr. Corcoran answered in the affirmative.

Mr. Sanders referred to Mr. Corcoran's deposition, page 23, line 16, where he was asked if there was any provision requiring more information to be submitted and City Planner Corcoran commented that he wasn't sure at the time what was being asked and he noted he had stated that in the deposition. He noted that staff met with the applicant on 1/4/90 and discussed the environmental problems.

Mr. Sanders again referred to Mr. Corcoran's deposition, page 40, line 1, where he stated on 12/11/89 he needed no further information at that time and City Planner Corcoran reminded Mr. Sanders that he was operating from memory in the deposition.

Mr. Sanders asked if there was any information or facts brought forth by DOE through its Notice of Violation, not supplied prior to 1/16/90, already not known by the City of Marysville.

City Planner Corcoran said the Notice of Violation was new information but Mr. Sanders pointed out that the City of Marysville had been corresponding with DOE for many years with respect to BOD, suspended solids, etc. and there was nothing new in the Notice of Violation with regard to the function of the wastewater treatment facility.

CORRECTED: SEE 1/2/90  
MINUTES

City Planner Corcoran agreed there was no new information such as BOD, suspended solids, etc.

Public Works Director Zabell was then sworn in and City Administrator Sanden asked him what the City's expectations were from DOE prior to the issuance of the Notice of Violation, with respect to upgrading of the wastewater treatment facility. She asked specifically if there was a concern that there would be any major delays and Public Works Director Zabell stated the City felt as though things were progressing positively and he said he feels the City is still making progress in that direction toward upgrading the plant, however, DOE's requirement on the water quality of Steamboat Slough was a surprise. He further explained that water quality studies need to be done in the summer months so it was their (the City's) expectation that the City could get this done sooner. He added that the engineering report was submitted in January 1990 and it was originally anticipated that it could be finalized in February but that was not the case.

City Administrator Sanden asked about the City's environmental review of the wastewater treatment facility and Public Works Director Zabell explained that first, there would be an EIS scoping meeting 7/12 and the whole process is expected to be a lengthy one.

Mr. Sanders then referred to the graphs relating to the wastewater treatment facility in the packets and proceeded to demonstrate that overloading, increased BODs and suspended solid information was well known to the City back in 1983.

Public Works Director Zabell agreed, but pointed out that the system was not in violation very much at all and barely peaked out in the winter of 1983-4. Mr. Sanders pointed out that it did peak out regularly in January and February, 1986 and Public Works Director Zabell agreed. Mr. Sanders additionally noted that all the permit violations cited by DOE had been previously known by the City of Marysville and Public Works Director Zabell agreed.

John Glynn of the DOE Northwest Regional Office was then affirmed by the Mayor. He gave his address as 4315 115th St. NE, Redmond and made a couple of opening comments, stating that he had given his deposition to Mr. Sanders but had not been given the opportunity to review it in writing. Secondly, he noted that in the interests of brevity, excerpts of his deposition only had been put in the packets and he was not entirely sure the appropriate excerpts had been chosen by Mr. Sanders.

City Administrator Sanden asked him about the Notice of Violation and Mr. Glynn stated it was a violation of discharge. She asked him if the timing was typical, because the City had been negotiating with DOE for a period of time. Mr. Glynn stated yes, there were difficulties in obtaining the engineering reports and City Administrator Sanden asked if he thought the City staff was aware of those difficulties. Mr. Glynn stated he could not answer that but that it was his observation the City has been responding in a timely manner since.

City Administrator Sanden asked him about public health/environmental issues and Mr. Glynn stated "public health threat" is an ambiguous term and one that is not used by DOE because of that reason. He noted that DOE prefers to speak in terms of quality limitations and BOD are not directly related to public health but with continuing deterioration of BOD, the disinfection efficiency will decrease which can develop into a health concern. With respect to general environmental concerns, he stated that

Ebey Slough has a limited flow, the City is growing and DOE is reluctant to allow continuation of the present situation. The responsibility is with the applicant City to prove in the engineering report that quality of water is not being violated, he said. He added that the Notice of Violation included actual calculations/printouts and the Federal Clean Water Act has since come into law since the lagoon was built and plays an important role in these calculations. He stated that primary treatment is not going to fix this situation--it has to be secondary treatment.

City Administrator Sanden asked Mr. Glynn about the impacts of Ebey Slough's slow flow on water quality, shellfish and recreation and Mr. Glynn stated it can have adverse effects if the disinfection level is not high enough and it was noted that high levels of loading impact chlorine use and efficiency of bacteria.

City Administrator Sanden asked about Marysville's rapid growth being an element in the DOE's decision to issue the Notice of Violation and Mr. Glynn stated that with the fast rate of growth, DOE feels it would deteriorate efficiency of the lagoon.

City Administrator Sanden asked about public input being a factor and Mr. Glynn stated that the initial determination was made prior to public input but that he is aware of the public input at this point.

City Administrator Sanden asked if it is fair to say that difficulty with the City, public pressure, etc. all caused the Notice of Violation to be brought in earlier than it would have been normally and Mr. Glynn stated he was not sure that was true because since the fall of 1989 violations were continuing and growth was occurring at a fast rate--these were factors, he said.

Mr. Sanders asked Mr. Glynn if there was any supporting data with regard to indications that the receiving waters, because of the slow flow, have an adverse effect on shellfish and Mr. Glynn said no. Mr. Glynn then explained that the net transfer of water--the net flow into Port Gardner Bay -- is affected by tidal flow. He added that the DOE has no data with regard to Ebey Slough in particular but it does have data on net flow and reflex of pollutants, however, in Puget Sound, in general.

Mr. Sanders pointed out that the DOE would have a heightened sense of concern if nothing has been done and Marysville has added aerators. He noted that DOE in fact predicts standards would be met with these improvements and with the additional improvement in efficiency with elimination/diversion of stormwater. Mr. Glynn agreed, noting the aerators have now been installed.

Mr. Sanders referred to the DOE's "hypothetical" concern regarding fecal coliform in Ebey Slough and asked if they had any supporting data for that and Mr. Glynn said no.

City Administrator Sanden asked what the difference is between EPA standards and DOE standards and Mr. Glynn stated that DOE requires dillution of 100:1 flow to discharge and in conversations with the City it has been noted that Ebey Slough sometimes runs 3:1.

City Administrator Sanden asked if the City had any knowledge of this prior to the Notice of Violation and Mr. Glynn stated it is his understanding the sub-consultant came up with that figure subsequent to the Notice of Violation. He noted standards of 30 mg/l and 75 mg/l up to 2.8 MGD flow.

City Administrator Sanden asked if DOE had approved the aerators prior to the Notice of Violation and Mr. Glynn said no, but that he believed DOE had concurred with installation of the aerators.

Bill Persich, P.E., of Brown and Caldwell, Seattle, addressed Council and explained that they had been involved with Hammond, Collier, Wade & Livingston as well as the City of Marysville in completing the engineering report due in Nov. 1990 and said that he had been practicing as a sanitary engineer since 1983. He talked about the health significance of BODs, suspended solids, and high amounts of fecal coliform not directly causing a health hazard but merely indications and would require more chlorine in the system. He noted other factors such as algae solids and receiving water have to also be considered in water quality and whether or not there is a health hazard. He said his calculations done with the aerators installed indicate the sewage treatment plant will meet the 30/75 treatment standards.

City Administrator Sanden asked him if he would view the sewer lagoon as an environment concern and Mr. Persich said he would view it as an administrative concern only at this time, that he couldn't really comment on the absolute significance/impacts of the sewer lagoon, however.

City Administrator Sanden asked Mr. Persich to comment on the outflow into the Ebey Slough, oxygen depletion, dilution factor and Mr. Persich stated DOE does require 100:1 dilution standard with the sewer lagoon running about 8:1 right now. He added that Ebey Slough does not have a great amount of flow.

Mr. Sanders asked him if primary treatment would be better than Marysville's system--if the general discharge would be more or less and Mr. Persich stated 200 mg/l is the average BOD in primary treatment and there is 50 mg/l in Marysville's system, so it exceeds primary treatment. Mr. Sanders asked what effect the aerators will have and Mr. Persich stated the WWTF would meet standards of 30/75.

Mr. Sanders asked Mr. Persich if he felt the current facility a health hazard and Mr. Persich said he didn't know how to answer that. Mr. Sanders then asked Mr. Persich if he had any knowledge of anyone getting sick because of the overloading of the sewer lagoon and Mr. Persich said no. Mr. Sanders asked if he had any knowledge of bad shellfish and Mr. Persich said no. Mr. Sanders asked if he had any knowledge of a high level of coliform fecal content and Mr. Persich said he had no knowledge of that either.

Mr. Sanders asked what effect 85 lots would have on the WWTF and Mr. Persich pointed out that if a plant is already in violation, any little discharge would have an effect but that it would be a very difficult calculation to make.

Public Works Director Zabell asked Mr. Persich's expectation for some difference in the lagoon as a result of the installation of the aerators and Mr. Persich stated in about 30 days.

City Administrator Sanden asked about the 1000 vested sewer hookups mentioned in the sewer moratorium ordinance and Public Works Director Zabell stated they were mainly made up of preliminary plats and when asked if he felt this project would have a measurable impact, he stated yes.

Mr. Sanders then proceeded to point out that if 1000 residential sewer hookups were made at 2.3 average number of persons per household times 60 gallons per day, that would equal about 11,000 gallons discharged per day which would represent about 4 or 5% of the total discharge into the sewer lagoon. He further pointed out that Ordinance 1763 provides for a variance process and that he and his client feel a variance is appropriate because of the unique hardship status, that a threshold determination was made in 1/90 and with a public hearing within 30 days, vesting would have occurred. He noted that R/L had completed the SEPA process but the City had not granted a public hearing and therefore R/L lost their vested sewer rights. With regard to the other criteria, he stated there would be no significant sewer effluent--11,000 gal. per day in a few years hence and in the meantime, he said he was

not sure the discharge would even be measurable. On the DNS to DS issue, there was no new evidence after 1/16/90 and according to Mike Corcoran's deposition, the MDNS was revoked on 3/9/90 because of the Ordinance 1763 - SEPA policy, indicating environmental significance, he stated.

City Administrator Sanden noted that the DS was based on new evidence--1) the Notice of Violation came very quickly  
2) dillution factor of Ebay Slough became an issue  
3) water quality study has caused more delay  
4) SEPA review process had not been completed  
5) staff recommendation was to make a DS.

CORRECTED: SEE 7/2/90  
MINUTES

Councilor Baxter asked if the DOE ever orders a jurisdiction to go to a mechanical treatment plant and Public Works Director Zabell said no, not to his knowledge.

Councilor Baxter asked if Marysville's improvement plans have been approved by the DOE yet and Public Works Director Zabell said no, the final report will be submitted to DOE 11/1/90 with regard to design and water quality.

Mr. Glynn interjected that the normal review time is 30 days but the state environmental policies/standards documents must be completed first.

Councilor Baxter asked about the number of sewer hookups the applicant is requesting at this time and Mr. Sanders explained that the applicant would like the final paperwork to be completed without sewer hookups at this point and for the sewer not to be hooked up for at least a year after approval.

Councilor Baxter asked what would happen if the improvements were approved and then the applicant didn't want sewer and Mr. Sanders explained that the alternative would be to wait until the plan is almost complete and with Council's approval tonight, they would save a year.

Councilor Baxter asked what would happen if the City and/or DOE doesn't release the moratorium in a year and Mr. Sanders stated that not allowing the applicant to hook up is less of a hardship, they feel, than the present situation and also, not lifting the moratorium would probably only be a temporary situation.

Mr. Hale interjected, stating once the paper work is processed, which is a lengthy process, for them to wait it out is not what they wish to do--they would like to proceed prior to the lifting of the moratorium because they would rather get the preparation done and save the time and take the risk of the moratorium being extended, he said.

Councilor Baxter said his concern is not wanting to possibly mislead the applicant and Mr. Hale said they are pretty sure of the consequences and they just want to use the time productively with a concurrent resolution.

City Attorney Allendoerfer pointed out that there are two issues on the table: the variance request to Ordinance 1763 and the water quality/SEPA mitigation issue.

Councilor Lashua said he was not sure the applicant is vested, that he doubted the applicant could have put in sewer extension and stub outs in six weeks.

Mr. Sanders stated that they had complied with the SEPA review process and if they had been granted a public hearing, they would have been able to put in the stubs and be vested.

Councilor Pedersen said she was not sure of what "vested" means in this context, either.

Mr. Sanders reiterated that they have no sewer stubs but they



could have had a SEPA threshold determination with a DS to worry about.

Councilor Pedersen stated she had not been convinced that a complete application had been submitted and that she still had concerns regarding the mitigation process and issues.

Mr. Sanders explained that they were seeking a hearing and if they had been given that public hearing, they would have been able to complete SEPA Section 3.3.

City Planner Corcoran pointed out that state law gives the City 90 days and he also noted that the proponent is assuming the request would have been approved at the public hearing.

Mr. Sanders stated that 90 days is to do with state statutory law and if they had had a hearing they would have met 3.3 under SEPA. This has created a hardship under the variance provision, he said.

City Planner Corcoran said developments which have completed the process means approval at the public hearing and that the applicant here is assuming approval at the public hearing, he felt.

Mr. Sanders asked if they were going to be able to have a final public hearing, that the sewer moratorium has now in fact stopped the paperwork.

City Administrator Sanden confirmed that 90 days is state law for a subdivision public hearing after the SEPA review process and 30 days is with regard to the appeal process.

Councilor Cundiff said he feels the Notice of Violation and Ordinance 1763 does constitute new evidence because the City thought they were progressing with adequate speed to a resolution of the sewer lagoon problem.

Mr. Sanders pointed out that Section 3.1 of SEPA makes it part of the City of Marysville policy, outlining mitigation plans, and a DNS was issued 1/16/90.

Councilor Cundiff asked why Mr. Sanders felt the standards were imposed with regard to the sewer moratorium and Mr. Sanders made a comment about it being part of the bureaucratic process. Mr. Glynn said it was both an administrative and a water quality issue that caused DOE to issue the Notice of Violation and the City to issue the DS.

The hearing was closed to public input at 12:15 a.m. 6/26/90.

Councilor Lashua moved to deny the sewer moratorium variance request because the applicant doesn't meet the criteria for a variance, there are no stubs to lots, he has not proved a unique hardship, no existing health hazard, there would be a significant generation of effluent, with additional flow to provide a public health hazard. Councilor Cundiff seconded and the motion passed with Councilor Baxter opposed.

Councilor Cundiff moved to deny the SEPA appeal regarding the MDNS Being replace with a DS, based upon testimony, partially because of the environmental problem and also because there was new environmental information which had come to light. Councilor Pedersen seconded and the motion passed unanimously.

## **2. Variance to Ordinance #1763 - Northwest Composites.**

Kurt Gustafson of Northwest Composites and who resides in Seattle, addressed the Council. He stated Northwest Composites owns 20 acres north of Marysville and have a 107,000 s.f. existing facility and they would like to build another 90,000 s.f. building in order to support Boeing contracts. He noted they are presently using fresh water and are proposing additional equipment to re-

duce discharge to Marysville's sewer system--from 800,000 to 400,000 gallons per month, through an open loop method using a water cooling tower and evaporation. He noted they will be hiring about 100 additional employees over the existing 250 employees, but that they feel the increased water usage would be traded off with less discharge to the sewer system. He said they would be willing to implement the cooling tower within 3-6 months with a total reduction of 400,000 to 500,000 gallons per month.

There was brief discussion about the advantages of cooling towers, the fact that the property is within RUSA, discussion about the original use of the building for Merry Tiller. Mayor Matheny asked if they would sign a no protest agreement to annexation and Mr. Gustafson said they would consider that. He asked that a copy of the agreement be faxed to him at 653-2112.

Councilor Lashua moved and Councilor Pedersen seconded to approve the variance to Ordinance 1763.

Councilor Weiser clarified that the request was for one additional water and sewer hookup and Mr. Gustafson said yes, that there would be about 12-15 water closets hooked up to the sewer line.

The motion passed unanimously.

### 3. Administrative Appeal, Ordinance #1763 - Canpaco Associates Ltd.

Robert Heller, Attorney, 1001 Fourth Plaza Bldg., Seattle, representing Canpaco, addressed Council, giving a brief description of events that occurred prior to the sewer moratorium. He noted the applicant wishes to complete the infrastructure of the subdivision during this summer's prime construction time without connection to sewer, until the moratorium is lifted and that they would be willing to take the risk of putting the infrastructure in first (it is their right, also, he noted) and they are also willing to sign appropriate documentation to the effect that there would be no occupancy because they would concede the property would be unusable without sewer. He said they are asking for a final plat approval based on

- property rights of the owner as per preliminary plat approval already granted
- the condition there would be no sewer hookups until after the moratorium is lifted
- they would hold harmless the City as far as any financial hardships are concerned.

Councilor Lashua asked about issuing sewer approval without final plat approval and City Planner Corcoran stated they have final plat approval on a portion of their property, that preliminary plat approval does allow construction and that there is no bonding requirement for water and sewer but there is bonding required for roads.

Councilor Lashua asked if it is the intent of the applicant to complete curb, gutter and sidewalk improvements and Mr. Heller responded in the affirmative.

Councilor Cundiff asked for clarification of the definition of a variance/change to 1763 and City Attorney Allendoerfer explained the moratorium is for sewer extensions. He asked if Mr. Heller was asking for a waiver on the extension limitations and Mr. Heller said no, an extension is a pipe longer than 500' connected to the main and they are not asking for any connections but rather they want to meet the criteria of this emergency moratorium and they are putting in a blanked off manhole and not connecting to the sewer.

Councilor Pedersen asked if there was a completed variance application.

City Administrator Sanden stated they have asked for a waiver but have not paid the \$50 fee. Mr. Heller stated he was not aware there was a \$50 fee, that he would be sure the applicant takes care of that.

City Attorney Allendoerfer noted that an appeal is to do with interpretation of the ordinance and Mr. Heller has supplied a letter that would hold the City harmless with respect to the granting of the applicant's request.

Mr. Heller questioned whether the City might be liable more if they lifted the moratorium in the middle of the winter when it would be more costly to finish up the project. As far as never suing the City, this applicant has a very positive record with the City over the last ten years and they feel this is a very reasonable request, entirely within the spirit of the moratorium, he stated.

Councilor Cundiff asked him to expand on his remark that they have no plans to sue the City and Mr. Heller stated that the City Attorney had indicated the applicant had very little invested at this point and have a lower potential claim at this point than once construction is completed. He said his client is willing to take the risk and feels it's their right to do this.

Councilor Weiser expressed a concern about Canpaco later having a good argument for vesting, once construction is completed and Mr. Heller stated they would sign documents certifying that they are not vested. He said he would suggest that this agreement run with the preliminary plat and so any possible buyer would be aware of the fact that this does not guarantee sewer vesting.

City Attorney Allendoerfer commented that it's possible the development community thinks this is going to be (the sewer moratorium) resolved this fall. He said he doesn't think this crisis is going to be resolved that fast because the City has no more appropriate discharge points and may have to look for two years; it's not an easy solution, he said. He also noted that this may mean the client having to continue paying on a construction loan for three years, possibly.

Mr. Heller said he feels, right or wrong, it's the client's right and he feels it's worth the risk.

City Attorney Allendoerfer asked how many preliminary plats may want to use this option and Public Works Director Zabell said he has been approached on this issue several times, that there are different interpretations for "connecting to" but he was told to stop all construction where it was at the time of 1763 and there was to be no construction of lines, even with the guarantee that the lines would not be used, he said.

Councilor Pedersen asked how many plats this would affect and Public Works Director Zabell said at least three that he knows of right now and yes, it would be precedent setting he feels.

City Attorney Allendoerfer pointed out that on 8/13/90 1763 will be reviewed with the possibility of rewriting to include allowing completion of construction and/or paperwork.

Mr. Heller commented that it didn't sound like there would be that many that the precedent would be set for and added that it's also possible the others wouldn't sign the same agreements that his client is willing to do:

- 1) no final plat approval
- 2) hold harmless agreement
- 3) no occupancy agreement.

Councilor Baxter asked about the engineering reports on the sewer lagoon and Ebey Slough situation and City Administrator Sanden said when the final engineering report is done, it is anticipated Marysville will no longer be able to use Ebey Slough because the ration should be 100:1 and it's about 800:1.

There was discussion about what part of the discharge goes into Ebey Slough, studies not done yet, DOE requirements, new information.

Councilor Weiser said he agreed people should be allowed to use their property as they feel appropriate but he also sees a difference in definition/interpretation of a sewer "connection".

Councilor Weiser moved to deny the administrative appeal as it would be setting a precedent. Councilor Lashua seconded and the motion passed with Councilors Baxter and Wright against.

ORDINANCES & RESOLUTIONS:

CORRECTED: SEE 7/2/90  
MINUTES

1. Monty Annexation.

City Attorney Allendoerfer explained this had been approved by the Boundary Review Board and was a fairly routine annexation.

Councilor Weiser moved and Councilor McGee seconded to approve Ordinance #1784. Passed with Councilor Lashua against.

2. Sewer Moratorium Resolution - California Tavern.

City Attorney Allendoerfer explained this does not include the house in behind the tavern.

Councilor McGee moved and Councilor Weiser seconded to approve Resolution #1427. Passed unanimously.

3. Stop Signs at 65th & 69th (2) and 2nd & 47th (1).

City Attorney Allendoerfer stated that this also will include no parking in the south half of the 400 block on Cedar.

Councilor Cundiff moved and Councilor Wright seconded to approve/adopt Resolution #1428. Passed unanimously.

4. Ed Hayes granting of sewer utility easement.

City Attorney Allendoerfer explained this would grant the City an easement over Steamboat Slough.

Councilor Baxter moved to authorize the Mayor to sign the agreement with Ed Hayes. Councilor Weiser seconded and the motion passed unanimously.

CALL ON COUNCILMEMBERS:

CORRECTED: SEE 7/2/90  
MINUTES

Councilor Baxter stated the Library Committee would like to go on record that they need a new location/buidling versus a remodel now as previously thought. They will be making a presentation to the City Council, he said.

ADJOURNMENT: 1:27 a.m. 6/26/90

Accepted this 2 day of July, 1990.

Rita Matheny  
MAYOR

Phillip E. Dexter  
CITY CLERK

Wanda A. Iverson  
RECORDING SECRETARY