

MARYSVILLE CITY COUNCIL MINUTES

MAY 13, 1991

7:30 p.m.

Council Chambers

Present: Rita Matheny, Mayor
Councilmembers:
Ken Baxter, Mayor Pro Tem
Dave McGee
Dave Weiser
Donna Pedersen
Donna Wright
Lee Cundiff
Bob Lashua

Administrative Staff:
Carolyn Sanden, City Administrator
Mike Corcoran, City Planner
Grant Weed, City Attorney
Roger Kelley, Community Information Officer
Phil Dexter, Finance Director
Doug Ronning, City Fire Chief
Bob Kissinger, Utilities Superintendent
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 PREVIOUS MEETINGS:

Councilor Pedersen moved that the 5/6/91 minutes be approved as written. Councilor McGee seconded and the motion passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

PRESENTATIONS:

1. Proclamation; National Employee Health & Fitness Day.

The Proclamation declaring 5/15/91 National Employee Health & Fitness Day was read by Councilmembers and signed by Mayor Matheny.

2. Waste Water Treatment Facility Update.

Larry Wade of Hammond, Collier, Wade, Livingston made a presentation as per a handout called "Wastewater Treatment Facilities". He outlined where we are in the permitting process, explaining all the various permits that are required and a time schedule for each. He noted that the project has been basically divided into two sections: Non-Wetland Components and Wetland Components with the plan being to go ahead with non-wetland components/projects while waiting for approval on the wetland components. He reported that our BOD is well below the DOE maximum requirements, as are the suspended solids and fecal coliform test results.

Mr. Wade noted that the City received DOE conditional approval 4/3/91 of the engineering report and DOE verbal approval 5/7/91 on the final outfall and water quality analysis. He explained a little about the Army Corps of Engineers 404 Permit for Wetlands. He also explained that the sand filter will require a pilot plant study (planned for August) prior to implementation.

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Mr. Wade itemized the various reports that his firm has written including one on the Industrial Wastewater Control Program, a technical memo regarding feasibility of using Parkson Dyna Sand Filters for lagoon effluent filtration, a memo regarding the shoreline permit process and requirements for wetland mitigation and a pre-engineering design report for headworks, contact chamber, effluent pumping and westside pump station.

As far as a time schedule, he stated the non-wetland issues should be ready for bid in the early fall, with the wetland issues pilot study finished in the fall and wetland issues finalized March 1992. He noted that construction would not be begun until that time and DOE is not opposed to phasing the project.

Councilor Lashua asked about the 404 permit status and Mr. Wade stated site inventory has been done but the design report must be completed first. He said they are working now on project that don't need any further approval.

Councilor Baxter asked about the outfall and Mr. Wade explained the pump station logistics and said hopefully we can get that approved under the non-wetland portion of the permitting process as wetlands will be replaced with wetlands. He added that the slow sand filter would require 3 acres, the fast sand filter one acre, so that's the reason we are looking at a rapid sand filter.

Councilor Baxter pointed out that we are using an area purchased many years ago for these purposes and Mr. Wade agreed and explained the location. He added that up by the northern cell is all backed up and is in fact an established wetland because it has water on it a minimum of 14 days out of the year. The slow sand filter would be the backup system, but the rapid sand filter is preferred because of less maintenance, for one thing, he said.

PUBLIC HEARINGS:

1. Proposed Increase of Water & Sewer Rates.

City Administrator Sanden explained the public hearing process and also noted that two letters were received with regard to the proposed rate increases and these letters are part of the record:

- a) Letter from Hilli Clark Martin & Peterson regarding Salmon Run sewer connections and
- b) Letter from the Everett Clinic re Marysville facility/sewer connection.

Larry Wade explained that the proposed 1991 revenue bonds are to pay for three projects:

- the Everett water supply line - \$4,500,000
- 1991 Water Improvement Project - \$600,000
- Waste Water Treatment Facility - \$7,800,000
- Total: \$12,900,000

He then proceeded to explain each of the needs more fully and also noted there are presently 13,400 water customers and 9700 sewer customers. He referred to the packets and explained the existing rates excluding surcharge and proposed new rates for city and rural customers as well as multi-family, schools, hotels/motels and camping facilities. He also reviewed the automatic sprinkler rates and stated the proposed rates would be effective 6/1/91 except for the schools, to be effective 9/1/91, to coincide with the school year. He explained some of the billing may have to be done manually because of the way the billing cycle currently operates.

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Another issue Mr. Wade talked about was monthly bills and he said it is felt monthly bills ought to be processed so people keep current, especially commercial and select users. He said there is a need, it is felt, to streamline the billing to keep on top of delinquent accounts, with the capacity to send out past due notices at 30 days vs. the current 45-60 day mailing of past due notices. He added also that new connection charges would probably go up in the future to help pay for other increases, but that issue is not being addressed at this time.

Councilors Pedersen and McGee both expressed concern regarding why the rate increases and new connection charges could not be increased simultaneously.

Mr. Wade said it was his understanding that was not to be looked at until later this year (connection charge increases) because at this point, only the 1991 revenue bond issue is being addressed. He added that the connection and capital outlay increases need to be looked at separately from the rate increases.

City Administrator Sanden added that in terms of development fees, etc., there are a number of things that are going on and the City is waiting for the Everett transmission to be in place, for one thing.

Mayor Matheny asked about grant money available and Mr. Wade said the only grant money available and applied for was Centennial Clean Water Act grant money. City Administrator Sanden stated the City has not heard whether or not we have received the grant yet.

Councilor Weiser asked how long it takes to do a rate study and Mr. Wade said about two months and to look at the connection charges would probably take another month. He stressed that he was not addressing any inflation or increase in cost of doing business--that it was not intended to be a complete rate study--it was a utility adjustment review.

Councilor Pedersen noted that with 940 new sewer hookups coming in, this would be a good time for the connection fees to be increased. City Administrator Sanden agreed but stated there is a lot of data still to come in for this.

Councilor Weiser asked about the comparison between what the City is paying PUD currently for overage water rates vs what we will be paying the City of Everett. Finance Director Dexter said we are currently paying 77 cents per thousand gallons and that's why the overage rates were raised to 85 cents a year ago.

Councilor Weiser pointed out we will have a contract with the City of Everett and City Administrator Sanden explained the City will be paying the ordinance rates unless new rates are set by contract.

Councilor Weiser pointed out that with a present usage of 1 MGPD from PUD, with a projected average of 3-1/2 MGPD and as high as 7 MGPD, at 77 cents per 1000 gals. can become quite costly, compared to 24 cents per 1000 gals. from the City of Everett. He also expressed some concern about having two different rate increases, one for water and sewer usage and another for connection fees at a later date.

City Administrator Sanden said the main concern at this point is to cover the bonds and the \$5.00 and \$10.00 proposed rate adjustments would do that.

CORRECTED: SEE 5/28/91
MINUTES

Finance Director Dexter pointed out a minor error that was made in the calculations.

No one in the audience spoke in favor or against the proposed rate increases.

Councilor Baxter said he would be in favor of delaying making a decision until there has been more discussion.

City Administrator Sanden said the rates have been proposed strictly to support the bond issue and the rate adjustments have to be approved as of June 1. She noted staff needs authorization to draft an ordinance for next week to be adopted, with a minimum rate increase.

Finance Director Dexter explained what will be covered on next Monday's agenda: Acceptance or rejection of underwriters' rates on bond issue, the bond ordinance and the rate adjustment ordinance, all to be effective and completed by June 1st. He added that the bonds must cover 135% of the operating needs and the rates must be adjusted to support the bond issue up to 135%, because overage rates cannot be predicted and/or counted on. He noted that right now, the rates are meeting our needs but we need to increase the rates for the annual average debt service as well as variable service, until the water comes in from Everett. These negotiations are not complete, he added.

City Administrator Sanden pointed out that the connection fees and development fees are also variable and not fixed and can't be used for debt service.

Councilor Pedersen restated that her concern is for both rate increases to come in at the same time.

Discussion followed concerning the 6/1 deadline, refinancing of the bond issue, savings with approval by 6/1, development fees and capital improvements, there not being enough time to do a complete rate study.

Councilor Baxter said he would like to see more time allowed to review information that was just received tonight. He also asked if the proposed increases are going to be enough with the rates the City is going to be paying to Everett.

Finance Director Dexter said he felt the City is well covered with the \$5.00 and \$10.00 proposed increases. He added that on 5/10 the City was notified that the bond will be sold at a Triple A rating through MBIA at 1/4% more interest than had been anticipated and Security Pacific Securities feel these proposed rates will cover the bonds, he said.

Councilor Lashua said he felt the cost of maintenance and operation should be separate from the cost of construction because they are two different issues.

Councilor Baxter warned against people believing this is the only rate increase; there will be another one to come. He said he thought Council was going to have more information available before tonight and so that is why he is recommending more time to study the matter.

Councilor Baxter moved to continue this public hearing to 5/20/91. Councilor Pedersen seconded and the motion passed with two opposed.

CORRECTED: SEE 5/28/91
MINUTES

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Councilor Pedersen said she would like to see a draft ordinance next week and that was the consensus of the Council.

2. Ordinance Imposing Temporary Restrictions on New Sewer Connections and Repealing Ordinance 1795.

City Attorney Weed gave a chronological history of the sewer moratorium, noting that the proposed ordinance would be a successor ordinance to Ordinance 1795 and Draft 4 was presented. He noted that the Pollution Control Board on 4/26/91 ordered the City to allocate 940 sewer connections not subject to any ban and that is what the new proposed ordinance does.

He reviewed the proposed ordinance, noting that it would be reviewed 12/31/91 until which time the sewer ban would remain in effect for connections other than those vested. The proposed ordinance also retains the no net increase language, dry sewer conditions, hardship variance allowance and the exceptions remain the same, he noted.

The hearing was opened up for public testimony.

Bill Binford of Kirkland, representing Salmon Run, a 237 lot plat, addressed Council, noting that they have participated in ULID #7 since 1978, with over \$200,000 paid to the City into the ULID to date. He said they can't develop with a 10% restriction in the proposed ordinance and lenders he doubted would loan money for the infrastructure. He noted that they lost last year's construction season, are sure to lose this year's and quite possibly may end up losing next year's as well. With the City acting as a purveyor, he stated they might want to consider whether they are actually in breach of contract by not allowing people to hook up to the sewer. He reiterated there is no practicality of only allowing 10% development and concluded this is a waste of time and money for the developers. He said they are requesting the City consider an amendment to the ordinance whereby developers would be allowed at least 50% of their sewer connections, which they feel to be a reasonable request as it will still leave connections for others.

Councilor Weiser asked if they have owned the property since the inception of the ULID in 1978 and Mr. Binford said no, but the price of the property included the paid up ULID.

Councilor Weiser asked if Salmon Run is under the moratorium or the ban and Mr. Binford said he thought they were under the ban and have now been able to start back up on their paperwork. Either way, he said he feels there's been some misrepresentation on the part of the City, leading people to believe they could develop in Marysville and then not providing the necessary sewer connections.

Penny McIntosh of Marysville addressed the Council, saying she is in favor of the proposed ordinance and hopes this will help her situation. She noted that her deadline from the county is 5/23/91 or she will be evicted from her property.

City Administrator Sanden said if this ordinance were passed tonight, Ms. McIntosh would be allowed to hook up to the City sewer but if it does not pass, she would need to apply for the variance all over again.

Robert "Bob" Canaan of Brier addressed Council stating they have a preliminary plat and need to remove the preconditions, with the help of the City. He explained the county needs a letter from the City in order for the preconditions to be met in probably a lot

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more cases than just his and unless something is done their preliminary plat is going to run out. Originally, he said they were told there was no problem hooking up to the sewer but then they found out there was a problem and now need some kind of commitment --even a conditional commitment--from the City because these projects are running into the hundreds of thousands of dollars that people are losing. He said his project represents about a million dollars.

City Attorney Weed explained that he had send a letter to the county with regard to Ordinance 1833, explaining to them and encouraging them to process plats outside the City of Marysville, that Marysville still does have restrictions. We now have 940 connections and developers can go ahead with processing of paper work, he pointed out.

Mr. Canaan said he has been dealing with Peter Donahue at the county and he is the one who needs a commitment of some kind from the City of Marysville.

City Attorney Weed conceded that the letter he referred to earlier is probably not going to meet Mr. Canaan's needs and Mr. Canaan said he would like the City to do something for the developers--he has been holding off suing the City--the letter could say something like "as soon as sewers are available, the developers can hook up" and he said he feels sure this would be acceptable to the county with regard to meeting the precondition requirements. He said he didn't care if it's 2-3-4 years down the road, just for the City to say they can have it as soon as it's available.

Gary Wight of Bothell addressed Council, representing Dujardin Homes. He stated he questioned why there is a moratorium at all because historically there have never been so many as 940 permits applied for in any 1-2-3-4 or even 5 year period. He pointed out that you need sewer hookups in order to support the cost of the wastewater treatment facility and perhaps with the connections being allowed, the City may not even need rate increases, he suggested. He explained Dujardin is wanting to put another 58 units in at 172nd & I-5, a development called "Village West" in Lakewood. He pointed out that 58 is not a very significant number when compared with 940 sewer connections total. He noted that they have already paid out over \$164,000 in sewer assessments under their ULID and this project only needs a building permit. He said they are proposing an additional section in the proposed ordinance to include connections paid for as if they were connected, which would include the Dujardin development. He concluded that they question whether the City needs the moratorium at all and another suggestion would be to review the ordinance earlier than December, possibly in September. He said they feel they have a unique piece of property.

Councilor Baxter asked about the original mobile home park contract Dujardin had with the City and Mr. Wight explained this proposal for 58 units replaces the mobile home park and is actually for about 100 units less. He said he felt strongly it would be represent less flow of sewerage and the homes would run about \$115,000 to \$135,000 which is substantially less than the average price of a home in Snohomish County at this time, he said.

City Attorney Weed said with regard to the need for the moratorium there have been approximately 300 connections per year in the past and as far as demand, there has been difficulty with financing and the market is low right now but there is a potential for 4-5,000 connections, based on developer applications at this time. He added that the City would also risk going into violation of the

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DOE Consent Order without a moratorium ordinance in place.

City Administrator Sanden said there would be increased (negative) exposure and even with the improvements, the City doesn't want to be completely without controls.

Robert Johnson of Sumner, addressed Council, explaining his property near 172nd & Smokey Pt. Blvd. has participated in ULID #1 for many years. He said the reason this item is on the agenda is because a developer sued the City and DOE and this ordinance only provides for that one developer. He said the original contract had no restriction on the amount of flow and now the City has a flow restriction. He said he interprets this as the City restricting people from getting the best and most efficient use of their property. Also, now the City wants to raise the rates for new construction and charge people for something the City knew about 5 or 6 years ago--he said he believes the City knew that there was going to be a capacity problem for sewer/waste water sometime ago. He questioned Marysville serving Lakewood schools with utilities and pointed out that his property is paying out \$25,000 per month because they can't hook on to the Marysville sewer yet. He added that it's very unfortunate that people saw a Safeway going in and hooking up 4 days after the moratorium went into effect. He asked if the Council thought this was fair and concluded the City may have opened the door for more lawsuits because they haven't kept up with the agreements. One hookup isn't even enough for one house, he said, and noted they are paying school taxes, towards the ULID, etc. and can't even develop their property as they would like to. He pointed out that there are connections at Island Crossing and Lakewood but Smokey Point can't even come on line.

Councilor Baxter pointed out that there were rule changes laid down mid-term by the DOE which were circumstances beyond the control of the City of Marysville.

Mr. Johnson said that doesn't relieve the City of their responsibility--that he feels the City has overextended themselves. He said he agrees there should not be a moratorium, that he is paying \$25,000 to \$30,000 per month in interest payments plus taxes, etc. and he would like to see the moratorium lifted.

Mert Gribble of Everett addressed Council and reminded them of his past testimony. He said he is in favor of the new ordinance for 940 applications. He said they have had their loan in place and have been paying taxes since 1988 and hope this is a step in the right direction.

Leo Marrs of Marysville addressed Council and said he is in favor of the ordinance. He said he applied for a water hookup with short plat approval in March of 1990 and they have been waiting for a sewer hookup on two lots ever since.

Brent McKinley, 516 N. Olympic, Arlington, addressed Council and stated he is in favor of the ordinance and that he thinks this is a step in the right direction. Rather than automatically reviewing at the end of the year, he said he would suggest a 90 day review period and possibly adjusting the criteria at that time, he said. For example, a 70 unit subdivision may want to phase in their hookups, he said, and he said he felt the shorter review period would be beneficial to both the City and the developer.

Bud Darling, 1916 Grove St., Marysville, addressed Council, saying he would also like to say no moratorium. He pointed out that in

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1989 there were 500 connections and in 1990 486 but those were record/boom years and the exception rather than the rule. He added that he felt waiting until December to review this may be too long because there's only been 30 hookups in the last four months--the market has died, he said. You should have everything in place by May, 1993, he predicted.

Stewart Jones of Lynnwood, addressed Council, stating he didn't know anything about this situation until this morning. He said he had wanted to buy in this area and asked how many vested connections the City is talking about.

City Attorney Weed guessed about 500, within 20%.

Mr. Jones asked if construction begins in March of 1992 on the sewer lagoon upgrade, how long before it is completed and Mr. Wade responded about nine months.

Mr. Jones said he concluded from that that it would be feasible for him to come in. He pointed out that people are not going to build 240 lots before the end of this year.

Bernie Sigler of Edmonds addressed Council, stating he is against the moratorium, in favor of repealing Ordinance 1795, but not in favor of the proposed ordinance. He said he has read the Pollution Control Board Hearing decision/report and notes that 940 hookups is a very conservative estimate of the capacity of the sewer lagoon, that actually 2100 hookups could be available and even as many as 4300 once the facility is improved. He said another thing he got out of reading the report is that the whole sewer lagoon is dependent on the operator and he said he also believes there are a large number of buffer hookups allowed for in the 940 figure. He further agreed that nobody can develop only 10% of their property and he said he would submit that is in violation of the Pollution Control Board decision. He further stated he believes there is no need for the moratorium and that the City is in compliance with the Consent Order without any problem. He added that he thinks the City needs to consider the serious ramifications of withholding sewer connections at this time.

Bruce McKinnon of 7612 57th Dr. NE, Marysville, addressed Council and agreed that 10% does absolutely nothing and is of no help to the developer whatsoever. He also referred to the Pollution Control Hearing Board report/decision and asked where the 2200 REU figure came from.

City Attorney Weed said that figure was developed from expert witness testimony. There was discussion regarding Dave Zabell's testimony and City Administrator Sanden explained that figure included the hearing examiner's interpretation and that Dave Zabell never testified as to capacity. City Attorney Weed said the figures were not provided by the City.

Mr. McKinnon concluded that 10% is of no value to the developers, that 25-50% would be more in line with 940 connections and keeping in mind the upgrade being hopefully completed by the fall of 1992.

Bob Canaan of Brier again addressed Council, stating he has 131 lots and is looking at a minimum of the end of 1992 before he will need sewer hookup, if the City lifts the moratorium. He reiterated that he needs a letter from the City for the County.

There being no further public testimony, the public hearing was closed at 9:55 p.m.

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City Attorney Weed said that as far as capacity, the Pollution Control Hearing Board had nearly two weeks of testimony from experts, staff, DOE, developers and as a result, the number of discreet connections that the hearing examiner came up with was 940. This may be a conservative number and could be increased with additional information, he said. He continued that that's why we should have a provision for review as far as possibility of increased hookups. He pointed out that the ordinance guarantees those 940 hookups. Another issue was to do with ULIDs, he said and he reiterated that participants in ULIDs do not have a guarantee to a hookup and there is no contract with the City until the fee is paid and permit is issued. He added that review in 90 days is an option, however that may not be enough time to give the City a good barometer.

Councilor Baxter asked where the guidelines came from for the proposed ordinance and City Attorney Weed stated it was based on a previous ordinance, Consent Order wording, input from the Public Works Dept. and elements from Ordinance 1795 & 1763. He noted the proposed ordinance addresses the 940 connections but also is attempting to protect the City in the event of going out of compliance on the Consent Order.

Councilor Baxter asked about hookups specifically for R/L Assoc. and Tom Withers' vested lots and City Attorney Weed stated he believed they do have some still but no, they would not get first priority. He said the City Council is to use its discretion without priority to those two litigants.

Councilor Baxter asked if either one of them would be in a position to get into the low income housing market because that would make a significant difference as far as the number of connections they could be eligible for.

City Attorney Weed said he did not know what the developers intentions are as far as low income housing units and further, there is no element in this proposed ordinance that addresses that issue.

Councilor Pedersen referred to the 4,000-5,000 potential and asked how many of that number might be able to build this building season.

Neither City Attorney Weed nor City Planner Corcoran could come up with a figure, although City Planner Corcoran offered that the City has had about 30 requests since 12/10/90.

Councilor Cundiff asked about the definition of "vested" and City Attorney Weed reviewed the criteria:

- sewer plans approved
- infrastructure in the ground w/stub outs
- prior to 2/26/90.

Councilor Cundiff asked about the City's liability if we can't guarantee hookups to the vested property owners and City Attorney Weed said everyone vested under the prior ordinance would be guaranteed a hookup without a ban.

Councilor Cundiff asked about the potential and City Attorney Weed said to abandon the moratorium at this point would certainly present a potential problem to the City, he believed.

Councilor Baxter asked about the 10% development restriction and City Administrator Sanden explained the idea was in an effort to allow all applications some use of their property.

Councilor Baxter stated he didn't think the calculations of a 10% restriction is fair.

Councilor Weiser pointed out that the Consent Order gave five parameters and the Pollution Control Board only had four, with the restricted flow not being a requirement of the Pollution Control Hearing Board.

City Attorney Weed agreed the flow restriction was not found to be necessary in the Consent Order.

Councilor Weiser asked if the 940 connections is a minimum and if there is still capacity at the end of the review period, whether the City might consider allowing more new connections.

City Attorney Weed said yes, more connections could be added with new and significant additional information.

Councilor Baxter asked how long the City has been in compliance with the Consent Order and Bob Kissinger responded that it has been about 3-4 months. City Attorney Weed added that the City received a letter from the DOE in November or December authorizing more hookups.

Councilor Weiser asked about the industrial violators and City Attorney Weed stated the City is continuing to work with them and there has been reduction of BOD.

Larry Wade pointed out that the tannery and egg farm have consultants and are working with the City but there has been no word from Pacific Coast Feathers.

City Attorney Weed stated he believed the owner of the feather company has been out of town and we are awaiting further information from them. He added that they were only in violation of flow, not BOD or suspended solids at this time.

Councilor Weiser noted that two preliminary plats are being considered for presentation before City Council and he asked if there could be any guarantee for sewer hookup for them, without a vesting ordinance in place.

City Attorney Weed said it would have to be very carefully conditioned on availability and City Administrator Sanden added that in terms of guaranteeing hookups, the City is trying to address that for a discreet number of folks who are within the system. She stated that even at the time of the hearings, there was no guarantee that the City would remain in compliance; we still have the produce season coming up, she pointed out.

Councilor Pedersen said she certainly understands the City's responsibility but has a problem with telling these people how to run their business. She said she thinks they should be allowed to do that (run their own business) and make their own decisions about risking investments and construction seasons.

Councilor McGee asked what would happen if the moratorium were lifted and then the City were to go out of compliance. City Attorney Weed said the DOE Consent Order would still be in force and the ban would go into place with a fine from DOE. He added that if we repealed the moratorium we would have to identify the 940 hookups in order to comply with the decision of the Pollution Control Hearing Board.

Councilor Baxter asked about the time element for the approval process, construction, etc. He questioned whether this would be 1, 1-1/2, 3 or 5 years and concluded that he felt the Council needs to make some firm decisions regarding the moratorium and give staff direction.

Councilor Pedersen stated she personally feels a need to protect the lots which are vested first and then allow hookups on a first come first served basis.

Councilor Weiser said he would like a definite number of vested lots.

Councilor Weed explained that Dave Zabell could give a more accurate figure than his (Weed's) ballpark figure of 500, but it was thought that was a pretty close number of vested lots.

Councilor Cundiff commented that Council has an obligation to protect vested customers and to protect the City against any negative exposure.

Councilor Lashua said he agreed that the 10% figure for development and hookups is unrealistic and said he would be in favor of increasing it to 20-25%.

Councilor Wright agreed with Councilor Lashua's remarks concerning raising the 10% and also said she felt the ordinance should be reviewed in 90 days.

Councilor Weiser agreed with the 90 day review period, noting that some are ready to go but not vested at this point.

Councilor Pedersen said she would like a weekly status report regarding applications and discussion followed concerning the slow market, demand for sewer hookups, etc.

Councilor Cundiff agreed with the 90 day review period.

Councilor Baxter said he was not satisfied with the answers as to why we can't open this up--a moratorium can be reinstated overnight, he pointed out. As far as vested protection, he said he agreed to a point but you may give some developer a real edge over another with a guarantee of a hookup.

There was discussion about the 370 over and above vested lots, first come first served basis, importance of doing this properly and fairly.

Councilor Cundiff moved to adopt the proposed ordinance but there was no second.

There was more discussion concerning protecting vested lots with the balance on a first come first served basis with a time element incorporated. Consensus:

Councilor McGee - Open it up.

Councilor Weiser - Open it up vs protecting vested first.

Councilor Baxter agreed with Councilor Weiser.

Councilor Pedersen - already expressed.

Councilor Wright - Protect vested lots.

Councilor Cundiff - Protect vested first and then open it up. He said he would like to change 10%.

Councilor Lashua - Change 10% to 20% to 25%.

Councilor Weiser said he would like another draft of the ordinance for next meeting.

City Attorney Weed reviewed the points made by Council - guaranteeing vesting with balance of connections on a first come, first served basis. Spell out owners of vested lots with possibility of a time limit for hooking up. There were more comments and discussion.

Bernie Sigler pointed out that sometimes there is information available in the audience that staff doesn't know and it is difficult when the Mayor has closed the public testimony portion of the hearing. City Attorney Weed stated the public hearing could be opened up again in this case.

Councilor Baxter moved to continue this public hearing but there was no second at this time.

There was further discussion and comments regarding the actual number of vested lots, about actually listing them in the ordinance, about the fact that Dave Zabell was just estimating the number and he felt it would take a considerable amount of time to sit down and list them all. City Administrator Sanden stated Public Works Director Zabell has a discreet definition/criteria for vesting and she said she felt his estimate of 500 is close enough and to open up the balance of the 940 to others who are not vested.

Councilor Baxter said he felt the exact number should be known for the ordinance and City Administrator Sanden said it would take a file search. Councilor Baxter insisted this is a critical situation, warranting such a file search, or whatever is necessary.

Bill Binford provided a list of people who applied in the county prior to February, 1990 and there was more discussion about how difficult it is to get the information, about putting the number or estimate in the ordinance.

Councilor Weiser moved to direct staff to rewrite the ordinance and bring it back before Council 5/27/91, as per Council discussion this evening. Councilor Pedersen seconded and the motion passed unanimously.

NEW BUSINESS:

1. Utility Variance 5304 Grove St. - Dennis Griep.

Mr. Griep addressed Council, explaining this is a request for a sewer variance, that he bought the house just a year ago and it has a failing septic system.

City Planner Corcoran stated the Health District has sent a letter (in the packets), there is sewage on the ground and in the basement of the home. He said staff recommends approval of the variance because of the failing septic tank, there would be no significant sewage, no violation of the Consent Order, no material detriment will result to public health or welfare, and this represents a unique hardship status which was not self-generated (findings of fact).

Councilor Baxter moved to approve the utility variance based on staff findings and recommendations. Councilor Pedersen seconded and the motion passed unanimously.

CONSENT AGENDA:

1. Payroll Vouchers in the amount of \$394,557.00.
2. Claim Vouchers in the amount of \$161,520.90.

Councilor Pedersen questioned the voucher reimbursing AJ's for patio construction/remodeling and City Administrator Sanden said she would check with Jim Ballew.

Other vouchers questioned were #1864 for drafting and topography maps, police dept. rental of vehicles at DARE convention and the Information Network #1744, #1785 for \$1300, voucher for softballs, voucher for a new phone/installation (for Centennial Coordinator).

Councilor Baxter moved that Consent Agenda Items 1 & 2 be approved with the exception of Voucher #1746 in the amount of \$1448.52 payable to AJ's at Cedarcrest. Councilor Pedersen seconded and the motion passed unanimously.

CURRENT BUSINESS:

1. Strawberry Festival Request for Contribution (Cont. from 5/6/91).

Councilor Cundiff moved and Councilor McGee seconded to deny the request. There was reference to the letter in the packets and discussion followed.

Councilor Baxter asked about the revenue status and Finance Director Dexter said as of a 5/1/91 analysis there will be a shortfall of \$19,000 plus by year end, according to his projection.

Mayor Matheny said that possibly the \$430 allocation for the Visitor Information Center could be given to the Strawberry Festival next year.

The motion passed unanimously.

Councilor Baxter commented on the City facilities and employees' time that is donated to the Strawberry Festival every year. It was the consensus that this support should continue.

Councilor Weiser said he would like to see a letter go to them explaining that they should get their request in earlier.

Councilor Lashua restated that they do give Marysville a lot of publicity and perhaps through the press an appeal could be made to people to help them out a little bit more this year by buying an extra Strawberry Festival pin or something.

2. Hearing Examiner Decisions:

- AT&T Communications CUP for a Regeneration Station.

Councilor Lashua moved and Councilor Baxter seconded to affirm the hearing examiner decision to approve. Passed unanimously.

3. - Eyelander Setback Variance Request.

City Planner Corcoran explained this is at 73rd & 49th Dr. NE. The drainfield is in the street and the applicant is requesting a 5' front yard setback, he said. He noted this would be granting of a special privilege because there is room on the lot to place the garage differently and it would still fit on the lot. He stated staff recommends that the hearing examiner decision to deny the request be upheld.

Councilor Pedersen moved and Councilor McGee seconded to affirm the hearing examiner decision to deny the variance request. Passed unanimously.

4. - Marysville School District CUP for Alternative Learning Center.

City Planner Corcoran explained this would be a 2400 sq. ft. modular complex to eventually house 200 students; it would be under a binding site plan.

Councilor Lashua disclosed that his daughter works at the Alternative Learning Center and has discussed the need for the new facility. There were no objections to his not stepping down.

Councilor Pedersen asked about the frontage improvements and City Planner Corcoran explained they would be on 44th and there was further discussion about improvements in the surrounding area.

Councilor Cundiff moved and Councilor Wright seconded to affirm the hearing examiner decision to approve the CUP. Passed unanimously.

MAYOR'S BUSINESS:

Mayor Matheny asked about Penny McIntosh's 5/23 deadline and City Attorney Weed said she would fall in the first come first served basis after the vested lots.

Councilor Pedersen asked if she would have to wait until the vested lots are all taken and City Attorney Weed said no, she would not have to but she may need an extension from the county. He said she needs to contact Donna Jordan at the county.

Mayor Matheny referred to testimony from Leo Marrs and said she is concerned about these people who "fall through the cracks".

City Attorney Weed said Mr. Marrs would be entitled to one hookup with tonight's ordinance.

CALL ON COUNCILMEMBERS:

Councilor McGee presented a letter to TCI from the Council concerning X and R-rated/content in our local cable TV written by the TV Advisory Committee. He explained that this is a major concern, especially in view of the fact that TCI has violated a previous agreement that was made with the City with regard to keeping this type of programming off the regular cable channels. It was the consensus that the letter to Steve Beard of TCI be signed by the Council and sent out.

There was brief discussion regarding programming on regular and premium channels.

Councilor Weiser talked about training 911 Dispatchers and gave an example of what they should and shouldn't say when an emergency is reported. There was some brief discussion regarding current practice of the Fire Dept.

Councilor Weiser asked about the possibility of starting Council meetings at 7:00 vs. 7:30. One of the advantages is that Call on Council could be first on the agenda so that all of staff and the press is in attendance at that time.

Councilor Pedersen pointed out that staff could go home earlier, possibly, too.

It was the consensus of the Council to change meetings to 7:00. City Attorney Weed said an ordinance change could be drafted for next meeting and City Administrator Sanden said she would discuss this with staff, also.

Councilor Baxter asked about the guidelines on the Pollution Control Hearing Board ordinance and City Attorney Weed said he worked with the Public Works Director and the intent was to protect the City the best way possible, to minimize liability and legal exposure.

Councilor Baxter said it looks like this ordinance is just going on and on and he said he wondered if we weren't being too cautious.

City Attorney Weed said we really won't know but without a moratorium in place, the City could end up with a horrendous liability but on the other hand, we may not.

Councilor Baxter pointed out the City was not totally to blame for the sequence of events and the completion of the upgrade to the sewer lagoon may possibly raise false hopes to developers, also. He added that the City has no control over DOE, and other government agencies.

Councilor Lashua commented that the upgrade may take 5 years, not two, also.

Councilor Baxter noted that before the moratorium came about, DOE was just sitting on the whole situation and didn't think Marysville was interested in upgrading the sewer lagoon.

Councilor Cundiff said he sees the City as having an obligation to the vested hookups under the original ordinance.

Councilor Lashua pointed out that the City is still under the Consent Order, subject to fines, also.

Mayor Matheny asked about a workshop on the moratorium and there were various suggestions. It was the consensus that Dave Zabell should be in attendance and that it should be set up next week.

Councilor Wright noted that this is the time of year for garage sales and illegal sign posting of same. It was noted that 1303 Cedar has been having a garage sale for some time--longer than they should be.

There was discussion regarding enforcement of the sign code, limiting of garage sales to two sales per year and not more than 6 days within a 15 day period per the MMC, real estate and guitar lesson signs.

ADJOURNMENT: 11:55 p.m.

Accepted this 28th day of May, 1991.

Kenneth D. Dexter pro tem
MAYOR

Phillip E. Dexter
CITY CLERK

Nanda A. Iverson
RECORDING SECRETARY