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MARYSVILLE CITY COUNCIL MINUTES

JUNE 10, 1991

6:30 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

CORRECTED: SEE 6/24/91  
MINUTES

Administrative Staff:  
Carolyn Sanden, City Administrator  
Mike Corcoran, City Planner  
Grant Weed, City Attorney  
Phil Dexter, Finance Director  
Roger Kelley, Community Information Officer  
Mary Swenson, Assistant to the City Administrator  
Dave Zabell, Public Works Director  
Wanda Iverson, Recording Secretary

EXECUTIVE SESSION: 6:30 to 7:30 (Litigation).

CORRECTED: SEE 6/24/91  
MINUTES

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 minutes of 6/3/91 be approved as written. Councilor McGee seconded and the motion passed unanimously.

STAFF BUSINESS:

City Administrator Sanden reported that the bids for City surplus vehicles were taken at 4:00 p.m. today and this item would be put under New Business.

CALL ON COUNCILMEMBERS:

Councilor McGee followed up on uncollected court fines and City Administrator Sanden said staff is putting together a proposal based on information from Evergreen District Court, etc.

Councilor McGee reminded everyone of the 6:30 DARE program tomorrow night.

Councilor Weiser commented on a problem on 2nd St. with regard to alignment and Public Works Director Zabell said the City has raised the grade on the north side of the street and the curb has been corrected now.

Councilor Pedersen noted that the courts have ruled against TCI with regard to their negative marketing. She asked if there was anything the City could do as far as notification of subscribers regarding TCI's "Encore" programming.

Mary Swenson said she talked with Steve Beard who said their corporate office is reviewing the court decision and will let the

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 10, 1991  
 Page 2

City know what is happening in due course. She said Steve Beard will be leaving as manager of the Marysville TCI, but they are intending to continue with the free preview of "Encore" through the month of June, as originally planned.

Councilor Pedersen followed up regarding a City purchasing agent and Ms. Swenson said staff has been in contact with Mukilteo (they are comparable in size with Marysville) and staff is in the process of gathering information but would like some direction from City Council whether the presentation to City Council and/or consideration for a purchasing agent should be before or after budget time, she said.

Councilor Pedersen said she would like to see the figures as soon as possible, even before budget time and Ms. Swenson said she would speed up the process.

MAYOR'S BUSINESS:

Mayor Matheny reminded everyone that Strawberry Festival is coming up and Scott Schaeffer of America's Funniest People will be in Marysville on June 15th, doing auditions at Jennings Park and at Biringer's Pig Out on the Farm.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

PRESENTATION:

Mayor Matheny explained that she had had to use devious methods to get Cheryl Deckard to the City Council meeting this evening and the Councilmembers then proceeded to read a "Proclamation to make June 10 through 16, 1991 Cheryl Deckard Week." The proclamation plaque was presented to Cheryl Deckard.

CONSENT AGENDA:

1. 5/31/91 Payroll Checks in the amount of \$413,642.83.
2. 6/10/91 Claims Checks in the amount of \$114,645.42.
3. Water Main Over Sizing Reimbursement, Grace Baptist Church, 84th St. NE & 67th Av. NE
4. Acceptance of Work Floating Lagoon Partition, Caicos Corp.

Councilor McGee moved and Councilor Pedersen seconded to approve Consent Agenda Items 1 through 4. Passed unanimously.

REVIEW BIDS:

1. S.E. Downtown Drainage System Phase III.

Public Works Director Zabell described the location and explained that 5 responsible bids were received, with the low bid being from Skagit Co. Development Corp. in the amount of \$139,578. He said Skagit Co. has a good record of work in the past and staff recommends acceptance of the low bid.

Councilor Cundiff moved to accept the low bid of \$139,578 as per staff recommendation. Councilor Wright seconded and the motion passed unanimously.

ORDINANCES & RESOLUTIONS:

1. Ordinance of the City of Marysville amending MMC Section 20.20.090 relating to Maintenance Bonds for Final Plats and Providing for a two-year warranty period.

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 10, 1991  
 Page 3

Councilor Wright moved and Councilor McGee seconded to approve/adopt Ordinance #1848.

Councilor Weiser asked about the two years vs. one year and City Attorney Weed said Snohomish County uses two years and often there are problems with one year and so the request was made on behalf of the Public Works Dept. and Building Inspection Dept. to make it a two year warranty period.

Public Works Director Zabell commented on the soils, unstable conditions, etc. and how a lot of times it takes a while for problems to show up.

The motion passed unanimously.

**2. Ordinance of the City of Marysville amending Sections 7.08.012, 7.08.060, 7.08.065 and 7.08.100 of the MMC, all as pertain to "Excess Refuse."**

Finance Director Dexter explained that the proposed ordinance defines excess refuse as well as the necessity to have the ordinance. He also noted that two City facilities so far will be selling the applicable tags and that a phrase regarding monthly billing has been added in the proposed ordinance for future reference. The tags are self-adhesive as well as having a hole in them, he said and the City will be sending out a letter on a mass mailer with a \$3.00 coupon.

Councilor Weiser noted that right now people get charged \$3.00 for an extra can but asked what would happen if the can is not picked up and who would be responsible for the health hazard.

Finance Director Dexter admitted that was one issue that hasn't been addressed as yet and will have to be discussed at an upcoming staff meeting, he suggested. He noted that people will be told how to get their tags but the City really doesn't want to sell tags by mail in case they don't get the tags. He said he understands Albertson's & Red Apple will be selling the tags, also.

City Attorney Weed noted that if City Council approves the ordinance, the effective date clause needs to be established.

Councilor McGee moved to approve/adopt Ordinance #1849 effective August 1, 1991 with Councilor Weiser's question to be answered regarding cans not picked up and who is responsible for the health hazard. Councilor Pedersen seconded and the motion passed unanimously.

**3. Resolution of the City of Marysville granting a variance to the Sewer Moratorium and a variance under MMC 14.01.040 for the Wayne Anderton Property at 5225 63rd Av. NE, Marysville.**

City Attorney Weed noted that this incorporates the findings of fact from last meeting.

Councilor Lashua moved and Councilor Wright seconded to approve/adopt Resolution #1482. Passed unanimously.

CURRENT BUSINESS:

**1. Quilceda Auto Annexation PA 9009038.**

City Planner Corcoran explained this is a 60% petition request and that the 10% petition stage had been done in November. The total assessed valuation is \$11,306,000 with the total of signed peti-

## MARYSVILLE CITY COUNCIL MINUTES

JUNE 10, 1991

Page 4

tions and annexation covenants coming to \$8,055,800 which represents 71% of the valuation for the area, he said. He showed the location on an overhead transparency and noted that the Leifer Annexation is contiguous to the Quilceda Auto Annexation. He noted that Brookside Mobile Home Court is included on the south boundary in the annexation area. He stated staff recommended action at this time would be to set a public hearing date of 7/22/91 to determine whether the subject property should be annexed to the City, subject to the City's bonded indebtedness and Comp Plan designation.

Councilor Weiser moved for acceptance of the 60% petition, setting a public hearing date of 7/22/91 and with the annexation area to be subject to the City's bonded indebtedness and Comp Plan designation. Councilor McGee seconded and the motion passed unanimously.

PUBLIC HEARING:

City Attorney Weed stated this is a successor ordinance to 1795 to implement the decision of the Pollution Control Hearing Board. He noted that Draft #3 and Draft #6 are before City Council this evening with a public hearing already having been held on #3. The City has received several letters, he noted, which are in the packets, with the exception of a letter from R/L Associates and these are all entered into and form part of the public record.

He itemized the letters in the packets: Letter dated 5/28/91 from Merton Gribble/51st St. Addition; letter dated 5/30/91 from Canpaco Properties Inc. (Maribeth Hutchings); letter dated 6/3/91 from Edward W. Hayes; letter dated 5/31/91 from Buck & Gordon (Brent Carson).

Mark Mantei, Director of Operations of the Everett Clinic (Marysville location on 76th St. NE), addressed Council and noted that the Everett Clinic represents 90 physicians and is the highest provider group in the County. He stated they would like to enlarge the Marysville clinic for five more doctors but are unable to because they are not vested. There is a huge need for physicians, he said, and they impact the public health community very much. As far as Draft #6, he said it meets their needs the best but feel 40 residential units should be increased to a greater number in order to more effectively meet the needs of the community.

Bud Darling, 1916 Grove St., addressed Council and said as far as the 940 connections, those were to be guaranteed sewer hookups and that guaranteeing 550 to vested people for 18 months is not right. Also, 10% to developers means nothing to them, he said and further Larry Wade estimated that 305 hookups per year could come in, i.e., 915 for three years, MINIMUM. He said his interpretation is that the 940 is a minimum and now a maximum needs to be calculated. He noted that only 15 new houses were sold in the last month in Marysville with over 100 people waiting for sewer hookups. He said the average home now runs \$184,000 which is too high for most people but the lots getting the guarantee are \$50-60-70,000 which no one is buying. He said only 29 hookups have been applied for in the last 6 months to the City and said he thinks the moratorium should be lifted, that the City should get a higher number than 940 from the PCHB and that the lagoon upgrade should be completed as soon as possible, so this whole situation will be alleviated.

Bernie Sigler addressed Council, stating he would like to put his previous letter (dated 5/20/91) in the public record. He said he

JUNE 10, 1991

Page 4

## MARYSVILLE CITY COUNCIL MINUTES

JUNE 10, 1991

Page 5

is against the sewer moratorium and does not feel the City is going to solve anything with this new ordinance. He said he has submitted a couple of charts with regard to BOD and it's running at less than half which indicates substantial capacity and the plant is running at a very high rate of efficiency--in the 90% range, he said. He pointed out that the creates significant capacity--about 6400 hookups, according to his calculations, and he has confidence that with the additional capacity the City consultants should take another look at it with a view to allowing more hookups.

City Attorney Weed noted that Mr. Sigler's letter of 5/20/91 would be accepted into the public record.

Bill Binford of Kirkland addressed Council, noting that Draft #6 is still unworkable, uncertain and very difficult to administer. He said if the moratorium is lifted, it is felt it will actually reduce the risk to the City, but with the approval of the ordinance, the City is creating an unbalanced and unrealistic real estate market, increasing the unaffordable problem which already exists. He said they encourage regular monitoring and feel that an open market would be the way to in this slow real estate market. He concluded that there is way too much product on the market and real estate people predict this as a very slow year for housing starts and we need a natural market situation, he said.

Mr. Ocrist of Arlington, representing Einar Olson, addressed Council, noting that there is a serious problem in the Smokey Pt. area with the pizza place, eg., have to close because of the lack of utilities. He noted they have had traffic problems in the past and now are caught up in this moratorium. He gave a bit of history: that in 1975 a ULID was proposed in the Smokey Pt. area and Mr. Olson's lots were included (Johnson's Plaza), sewers were paid for through the ULID and Mr. Olson feels the City should be obligated to provide sewer services--they assured him of no problem in the future. He concluded that he felt the moratorium should be lifted.

Brent Carson addressed Council and said he basically reviewed past correspondence between his office, DOE and Dave Zabell regarding the number of vested hookups (550) and he said he is still having a hard time with who is vested and who is not. He said he cannot figure out where these figures come from--940, for example--he also feels is a minimum and so what's the maximum? He noted that the plant is operating much more efficiently and he asked how many more hookups can be put on. He said the City is saying it's not an easy problem to solve, but with efficiency at 90% and 940 equalling 82%, there should be a higher number than 940 hookups. He said he thinks the City staff should go to the DOE with this new and significant information, instead Dave Zabell is not doing this and further, Mr. Carson suggested the City hire an independent consultant to work on this and expedite a solution to the capacity and expansion of the lagoon/treatment plant problems. He added that it appears there is little risk in completely lifting the moratorium and the Consent Order can be resolved also on the new and significant information, he said.

Ed Hayes, 5215 Old US 99, Marysville, addressed Council, noting that he has written two letters and requests they be part of the record also. He stated he agrees with Bernie Sigler's letter and believes it would be quite helpful to the City's deliberations.

Bob Canaan, Brier, addressed Council and passed out copies of a 3/25/91 letter to Dave Zabell. He said they would like #1 & #2 included in the ordinance, that this is verbage to get past the

JUNE 10, 1991

Page 5

MARYSVILLE CITY COUNCIL MINUTES  
JUNE 10, 1991  
Page 6

County as far as their precommitment letters.

Martin Robinette, Lynnwood, addressed Council, stating he believes both Drafts 3 & 6 violate the PCHB resolution because according to their ruling, 940 connections are not to be diminished with time limits, etc. which the drafts are doing, he pointed out. He said that also, under the vesting, multifamily/mobile home parks were included in Draft 3, but not Draft 6 and he felt this discrepancy should be corrected.

CORRECTED: SEE 612491  
MINUTES

Councilor Weiser as about testing on the sewer lagoon and Public Works Director Zabell explained that the tests are performed by City employees on a regular basis for BOD, hydraulic flow in and out, suspended solids, effluent pH, with a monthly report to DOE. He stated that support testing is done by an independent person as well as the City of Everett testing the accuracy of Marysville's testing.

Councilor McGee commented that he felt staff should do whatever is possible to get the lagoon up and running, continuing to control high end users, making phone calls daily to Olympia, and working with Larry Wade, Jones & Stokes, etc.

Councilor Weiser asked about the no net increase exception and if 5.1 is necessary in the new ordinance.

City Attorney Weed said that is an issue that under the PCHB decision no net increase is not a factor and as a result, DOE is willing to have that omitted from the ordinance.

Councilor Weiser asked if a piece of property could be developed under the no net increase section without being deducted from the 940 connections and Public Works Director Zabell said yes.

Councilor Baxter asked when the last inquiry was to DOE regarding revising the Consent Order and City Attorney Weed said a revised Consent Order will be presented later tonight with regard to the 940 connections but the City has not approached the DOE with regard to lifting it all together.

City Administrator Sanden said with regard to approval of reports, John Glynn has been contacted by developers but the inference is that there just isn't the capacity there at this time.

Councilor Pedersen said this is one of the "tough decisions" she knew she would have to make when she got elected as a Councilmember.

Councilor Baxter pointed out that there have been a lot of lawsuits on this matter and a lot of "behind the scenes" information that perhaps the public is not privy to. He moved to approve Draft 3 with certain findings of fact. Councilor Cundiff seconded.

Councilor Pedersen commented on the difficulty of this situation and assured people that the intent is to be fair.

Councilor Baxter noted that by the number of drafts, discussions, etc. this proves Council has tried to please everyone.

Councilor McGee said he has had many discussions about this and feels we need to prevent hoarding.

Councilor Weiser said he would like to see continuance of the monitoring and if possible, go back to the DOE for a revision of

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 10, 1991  
 Page 7

the Consent Order.

Councilor Pedersen said she thinks Council agrees that with any new evidence, such information will be taken to the DOE for a revision of the Consent Order.

Councilor Wright asked about the ordinance being reviewed in 90 days.

City Attorney Weed said he recommended the following changes to Draft 3:

1. Section 3.1 - Residential Equivalent Unit (REU).
2. At end of paragraph add: Unless specifically stated otherwise "connection shall mean one REU".
3. Renumbering.
4. 3.3.d to include mobile home parks.
5. 3.3.e reference to 4.4 should be 4.0.
6. 3.3.g reference to 4.4 should be 4.0.
7. 3.4 - 0.63# of BOD.
8. Deletion.
9. 4.2 change.
10. 4.3 - DOE deleted.
11. 5.1 deleted/renumbering.
12. Page 10, section 10--effective date 6/10/91.
13. Section 11 - 90 day review clause (no expiration).
14. Sunset Clause (3.9 of Draft 6).
15. Phasing of development.

Councilor Lashua said he concurred with the sunset clause of 18 months and Councilor McGee said he concurred on the phasing of development and the 90 day review period.

City Attorney Weed noted that 3.8 and 3.9 should be brought from Draft 6 to Draft 3 as well as the 3.5 reference.

Councilor Baxter amended his motion to include the changes as read into the record and suggested by City Attorney Weed. Councilor Cundiff seconded to approve/adopt Ordinance #1846. Passed unanimously.

LEGAL MATTERS:

**1. Bid Awards - Surplus City Vehicles.**

Finance Director Dexter explained 4 surplus vehicles were to be sold by sealed bid, as advertised. There was one bid received for \$50 on the 1976 Ford Torino, no bids received on the '76 Mercury Monarch and 6 bids received, ranging from \$200-1275 on the '79 Chev Camaro. There were 3 bids received on the '85 Dodge Diplomat, ranging from \$151.51 to \$250, he reported. He recommended awarding the high bidders the vehicles but asked for direction on the Mercury.

Councilor Pedersen said that for the record, her husband's son was a bidder and so she would abstain from voting.

Councilor Baxter noted that the original motion concerning these surplus vehicles included sending to public auction if no bids were received.

Councilor Cundiff moved to accept the high bids with the Mercury to go to public auction. Councilor Weiser seconded and the motion passed. (Councilor Pedersen did not vote.)

MARYSVILLE CITY COUNCIL MINUTES  
 JUNE 10, 1991  
 Page 8

**2. DOE/City of Marysville Consent Order Proposed Revision.**

City Attorney Weed said this proposed revision would make the Consent Order consistent with the 940 connections granted by the PCHB decision with 4 changes:

1. Flow criteria deleted as a criteria.
2. Removal of pH criteria.
3. Increase penalty.
4. Adoption of language requiring 940 connections--mirroring the PCHB wording.

Councilor Lashua moved to authorize the Mayor to execute the amended DOE Consent Order. Councilor Baxter seconded and the motion passed unanimously.


There was brief discussion about intent of wording, DOE, pH in lagoons, flow, etc.

ADJOURNMENT: 9:25 p.m.

Accepted this 24<sup>th</sup> day of June, 1991.

  
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 MAYOR

  
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 CITY CLERK

  
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 RECORDING SECRETARY