

MARYSVILLE CITY COUNCIL MINUTES

OCTOBER 7, 1991

7:05 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 10-14-91
MINUTESAdministrative Staff:

Carolyn Sanden, City Administrator
 Grant Weed, City Attorney
 Phil Dexter, Finance Director
 Roger Kelley, Community Information Officer
 Dave Zabell, Public Works Director
 Steve Bennett, Associate Planner
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Matheny called the meeting to order at 7:05 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 MEETING:

Councilor Pedersen moved and Councilor McGee seconded that the minutes of the Special Meeting of 9/18/91 be approved as written.

Councilor Pedersen noted in the minutes of the Regular Meeting of 9/23/91 on page 2, in the first paragraph, that the word "budge" should be "budget".

Councilor McGee moved and Councilor Weiser seconded to approve the 9/23/91 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

LEGAL MATTERS:**1. Contract with Shockey Brent, Inc.**

City Attorney Weed explained this contract would serve as a way of providing services in the interim until a senior planner is hired.

Councilor Cundiff moved and Councilor McGee seconded to authorize the Mayor to execute the agreement with Shockey Brent Inc. effective October 7, 1991. Passed unanimously.

PUBLIC HEARINGS:**1. U.L.I.D. No. 15 Public Hearing.**

Public Works Director Zabell explained this is for the construction of an 8" sanitary sewer on 92nd Pl. NE between 58th Dr. & 55th Av. NE, for the plat of "Cascade Vista". He said there have been several complaints of failing septic systems and a petition of 60.77% of the assessed valuation has been received by the City, however the City Clerk has now received some opposition letters.

Larry Wade explained the ULID is for 36 lots within the
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subdivision and he displayed an overhead map depicting the area. He stated the total cost of the sewer would be \$208,000 and he gave a breakdown of costs, with the per lot assessment working out to \$5777.78. He noted there were some unusual circumstances which included one homeowner owning 2-1/2 lots and another owning 1-1/2 lots and they were assessed 2-1/2 and 1-1/2 what other homeowners were respectively. He also noted that the protests received amount to 27% of the assessed valuation at this point. Proper notices were sent out, 15 days prior to the hearing with notices published in 2 consecutive issues of the Marysville Globe, for the record, he said.

Councilor Cundiff asked about the protests from previous owners who had signed the petition in favor and Mr. Wade said the ultimate effect would be that those people are still responsible for costs to date, i.e. the original petitioners would be responsible for costs of approx. \$2,000.

Anne Carlson, 9225 58th Dr. NE, addressed Council and stated she has a number of problems with the ULID and stated she was the one who started the opposition to the petition. She said her main concern is that they have to pay for something that only 2 people are going to be able to hook up to because of the sewer moratorium in effect right now. She noted there is only one failed system so far and also, she has not been able to determine who is going to pay for the "tap" and she understood there would have to be 3 taps, one at the 12' level, one at the 8' level and one at the 6' level, depending on which street it is. Another thing, she said, is they have to pay for side sewers which means major changes to homes plus plumber and contractor costs. She stated she feels there was misrepresentation because they were originally told an assessment of \$2500, not \$5778. Also, some people are on a sand pile and actually perk too fast and there are so many variables she said she would like this public hearing held over until there is more information available to the residents and proposed participants in the ULID.

Public Works Director Zabell attempted to explain the public hearing process and Ms. Carlson asked whether he knew how many wells would have to be drilled. She said there are too many variables, costs, questions, lack of notification, mail to the wrong addresses. She produced three more signatures against the petition, from Lots 2, 22 and 26.

Dan Simkins, 5712 92nd Pl. NE, addressed Council and stated he remembers signing a petition regarding being interested in a sewer, not that they were in favor of a ULID. Further, he said their notice of hearing was not received until 9/20 and he had very little time to find out anything. He said he understood there should be at least 30 days notice. And further, he said he finds the assessment quite excessive and a financial burden on his family.

Finance Director Dexter said ULIDs are generally for 15-20 years and it's a year before the first payment is due.

Mr. Simkins stated he called City Hall regarding this and was told it was an 11% interest general obligation bond and further, can't believe the residents are putting in a sewer and then not being able to hook up.

Cassandra Simkins, 5712 92nd Pl. NE, addressed Council and asked about the costs to date that the original petitioners would be responsible for.

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Public Works Director Zabell said they would be responsible for the preparation of the Preliminary Assessment Roll, engineering costs, etc.

John Harrison of 92nd Pl. NE, addressed Council and stated he was one of the original petitioners, that they desperately need the sewer but he is going to have to pay \$18,000 because he owns 3 lots, but that they can't get any perks on their street and so he said he doesn't see any choice. He said septic tanks can't work under water and the County just made their septic tank law more stringent and it will cost a lot more than \$1500 now, too. He added that the water table is very high there and these septic tanks were put in about 1963, so they are all due to be replaced very very soon. Regarding dewatering wells, he noted this is a very expensive process but that he didn't think they would have to do this. He stated he didn't know the ULID assessment and other costs until tonight either and agreed there are a lot of variables. He stated he is the owner of Lots 30, 16 and 14, one of which is a vacant lot.

Casandra Simkins addressed Council again and noted no one seems to know when the sewer moratorium is going to be lifted and said she doesn't see the purpose of putting the sewer in now if no one can hook up to it. She noted that her septic is working just fine.

Public Works Director Zabell clarified that this project was requested by some of Mrs. Simkins' neighbors, the City did not initiate the petition for the ULID. As far as the sewer moratorium being lifted, he noted the projected completion date for the sewer treatment plant is March, 1993. He added that a lot of people participate in a ULID and don't hook in as long as their septic is working but they know the septic is going to fail one day and the cost for the sewer would be lower now with exceptionally low interest rates; costs are not going to go down and a lot of folks do this for insurance, he said.

Mrs. Simkins said she feels part of the reason the septics are going to fail is because of all the other building that was allowed around them and now they are being forced to pay for something they can't afford.

Councilor Baxter explained the public health hazard exception way of being able to hookup to the sewer and Mrs. Simkins stated she understood that, but she has no need at this point of the sewer and does not understand the poor planning.

Councilor Baxter explained it was county planning and not City planning, because Mrs. Simkins is in the county and Public Works Director Zabell explained the series of events that occurred in the neighboring sewer development.

Walt McKinney addressed Council and explained that his septic tank was failing so he started the petition and advised people to read it very carefully before signing. He stated he has a letter from the health dept. and that he doesn't want to live in a house with a failed system. He said he talked with the neighbors years ago and no one wanted to do this before and now in the winter, some of the yards are flooded and he said he's sure there are others who having failing septic tanks at this point or will very very soon.

Anne Carlson addressed Council again, stating she and her husband own Lot 20 and half of 19. She said she thinks most of the people would say it's a good insurance policy but they need to know the bottom line, i.e. how much it's going to cost them when it's time to hook up in inspection fees, connection fees, etc.

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Finance Director Dexter stated outside City limits, the connection fee is \$1,000, inside he believed it to be about \$740.

City Attorney Weed stated the real purpose of this public hearing is to provide information with regard to the assessment roll and Mrs. Carlson asked about engineering costs, survey costs, etc.

Public Works Director Zabell explained that these would have to be the responsibility of the ULID participants.

Councilor Pedersen asked if these people had been given the benefit of an information meeting with someone from the City and Public Works Director Zabell said he had only talked with people who had called his office or come in regarding the ULID, that there was no formal neighborhood meeting.

Councilor Baxter commented that it looked like the same "mish mash" of information and that he thought this had been corrected with the public information program. He said he was not pointing fingers at anyone but that he felt the people deserve a public meeting with the City so they can quit blaming the City.

Councilor Pedersen noted it sounded like people didn't even understand the petition process and she knew that it is hard to remember 1-1/2 years ago, too.

Public Works Director Zabell pointed out that the petition was first circulated in January 1990 and then the sewer moratorium delayed things.

Councilor Pedersen said it just seems like the neighbors need more information and Councilor Weiser agreed, stating he would like to see each homeowner given some general information also.

Discussion followed about the variables, fees, etc., continuation of the public hearing to a date certain, the 30 day protest period, health problems, only 15/36 lots in favor which would equal 48.4% plus 3 more opposed tonight.

Councilor Weiser asked if the 3 who protested tonight would be official protests and City Attorney Weed stated no, but it can be used as evidence that this information is there.

Councilor Baxter moved to adopt the ULID Ordinance #1860, with a letter to be sent to the proposed participants by the Community Information Officer and to hold a formal meeting with them, with the thirty day protest period to be put in effect five days from Wednesday. Councilor McGee seconded. The motion passed with Councilor Lashua opposed.

Councilor Baxter commented on the poor mail service in Marysville and noted it has really become a problem that the post office doesn't know how to solve either.

2. Marysville Golf Center.

Consultant Gloria Hirashima stated this is a public hearing to continue to review a CUP that was issued to the Marysville Golf Center and she noted that on 9/23/91 the City Council stated this public hearing would be limited to new testimony that has occurred since 9/23/91 only. She noted that letters from the Oxfords, the Maslacs, the Boones, the Druckmans and Burl Tudor have been received, have been placed in the packets and are a part of the record.

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City Attorney Weed commented on "limited testimony" and noted this would include new matters since 9/23/91. He noted the hearing examiner ordinance requires all testimony to be given under oath to tell the truth and he then administered the oath to 5 people who raised their hands as an indication of their desire to give testimony.

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Jack Leverman addressed the Council and stated he is in favor of the golf center if it is run properly.

Dolores Boone, 7404 66th Av. NE, addressed Council and stated that they had 3 balls come into their yard on 3 days this past week. Also, she said they had not seen the golf pros with the golfers in the center 6 stalls which she understood would be the case and that was the reason the owner gave for why those 6 stalls did not have netting, because a pro would be with them at all times. She stated they also seem to have more holes in the nets by her house now and that this matter has taken 1-1/2 years to get this far but when the CUP was issued, she found out that the ordinance had been specifically change only 2 weeks prior to the CUP being issued so that it would allow driving ranges vs. a putting range. She noted that some things can happen quickly in the government process and also that the faxes of the pole order were never produced nor were the neighbors questions answered when they inquired at City Hall.

Councilor Weiser asked if she reported the balls coming into her yard to the golf center when it happened and Mrs. Boone said no, since she found out Mr. Ramcke is lying about everything, she has quit calling him about anything, because it doesn't do any good.

Councilor Cundiff asked her about her source of information regarding the driving ranges and putting ranges under City Ordinance and Mrs. Boone stated she researched it at the Library. She restated that the ordinance was changed from a putting range two weeks prior to October, 1987 when the conditional use permit was issued.

Consultant Hirashima confirmed there was an ordinance change at that time but it went through the Board of Adjustment process.

Councilor Wright asked when Mrs. Boone's house was built and Mrs. Boone said her house was built in 5/90 and at that time two-thirds of the Kellogg Meadows subdivision was already built.

Don Boone then addressed Council (Mrs. Boone's husband). He said his new evidence is to do with the owner's wife. There as a lady with 2 little kids who had picked up 2 balls outside the range and Mr. Boone said he saw Mrs. Ramcke "roller blading" with her vehicle, get out and then try to take the balls from the kids. He stated Mrs. Ramcke was also very rude to the grandmother of the 2 kids.

Vicki Carver, 7314 66th Av. NE, addressed Council and stated she was driving on Sat. about a week ago on 76th and saw Mrs. Ramcke picking up balls on the outside of the nets and she had a whole basketful, evidence that the balls are coming over, Mrs. Carver stated.

Burl Tudor, 7321 64th Av. NE, addressed Council, stating he had not seen compliance with the strict guidelines of the City Council. Further, he stated he mowed the grass recently on the north side of the driving range (on Grove) and all balls were picked up, so they started from "scratch". During a subsequent 24 hour period (on 10/2) they found 18 new balls and then again on 10/5, another 24 new balls were found and on 10/6 and 10/7, 42 more, so that would be 66 in 3 days.

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Mr. Tudor stated he felt this a very dangerous situation, that he heard balls drop while he was out there and in the future, someone may want to develop that land (about 125' or so from the tees) but under the present arrangement, this area is being pelted with golf balls, he said. He noted that when the golf driving range was originally approved, they promised a monofilament net but they have instead an old fish net with some holes in it 1-1/2" in diameter. Also, they promised to put up trees 16' high for the entire length and they are only 7' high now.

Councilor Cundiff asked if he was sure all the balls were picked up after he mowed the first time and Mr. Tudor said yes, that one lady got \$20 worth.

Consultant Hirashima stated one more letter was received today and she read it into the record. It was from the Marysville Golf Center, signed by Kurt Ramcke and dated 10/2/91. It itemized the people the Ramckes had contacted regarding the extenders which should arrive Nov. 20, according to the letter: Coast Crane, Eagle Northwest Insurance, Darrell Shaffer, Columbia Pacific Aluminum.

There was no further testimony to be given at this point and this section of the public hearing was closed at 8:22 p.m.

Councilor McGee asked about the fax that was supposed to have been sent and City Administrator Sanden referred to a letter in the packets received 9/26/91 from Columbia Pacific Aluminum Corp., confirming the purchase of the extenders.

Councilor McGee moved and Councilor Cundiff seconded to reopen the public hearing to allow Mr. Ramcke to comment on the extenders and for his testimony to be part of the record. The motion passed and City Attorney Weed administered the oath to Mr. Ramcke, swearing that he would give truthful testimony.

Mr. Ramcke stated he believed the information in the letter from Columbia Pacific Aluminum to be true, that the extenders should arrive 11/20/91. He stated he had also been in contact with Rod Harris and that Mr. Ramcke will be proceeding on the same path as Mike Paxton did for his driving range.

Councilor Baxter asked about the architect who was working on the City driving range but Mr. Ramcke said that architect didn't have the expertise on wind loading, just design. He added that there's a netting company in Bellingham that he contacted also but they are only familiar with driftnetting, not netting above water/ground.

Councilor Pedersen asked how often the holes in the netting are repaired and Mr. Ramcke stated they need a high range truck for the high holes, the lower holes come from the weed eaters, etc. and they try and repair those regularly.

Councilor Pedersen said she walked the outer perimeter of the golf range and there seems to be a number of holes right in the area of the Boones, large and high holes.

Mr. Ramcke said he and his wife take exception to the Boones' statements, especially regarding his wife trying to run over someone. He said that's ridiculous, that there were 2 children who were on Marysville Golf Center property who were stealing golf balls and she was trying to get the balls back, is all.

Councilor Cundiff pointed out there are often heavy rains in November and it may be difficult to install the extenders at that time.

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Mr. Ramcke agreed that is a concern.

The public testimony segment of the public hearing was reclosed at 8:32 p.m.

There was discussion regarding the golf center conforming to conditions, Councilor Baxter suggesting sheets of plywood being used in bad weather for the equipment, further time extension, last action being a resolution to comply with conditions, no extension date having been previously set.

Councilor Lashua left Council Chambers at 8:35 and returned at 8:38 p.m.

There was further discussion about what a reasonable time extension would be, fixing holes on an interim basis, some that are 35' high.

Councilor Cundiff moved to extend Marysville Golf Center's deadline to 11/30/91 for installation of the extenders.

Councilor Wright seconded and there was discussion centering around whether that would give them enough time and suggesting the holes be fixed by 10/31 and the extension poles up by 12/31/91.

Councilor Cundiff changed the motion date to 12/31/91 in order to complete the nets and pole extensions. Councilor Wright seconded and a roll call vote was taken. The motion passed 4-3 in favor, with Councilors McGee, Pedersen and Lashua against the motion.

Councilor Pedersen then moved that the Marysville Golf Center be instructed to fix all holes in the net large enough for a golf ball to go through, up to 50' high by 10/31/91 with the remaining holes (above 50') to be repaired when the pole extensions are put in. Councilor Wright seconded and a roll call vote was taken, with all in favor. The motion passed unanimously.

3. Centex Homes Variance.

Consultant Hirashima explained the request is for a variance so Centex can use the subject house as a sales office. The reason the request was denied by the hearing examiner, she explained, is that the house is outside Parkview Estates and is not a model home, as required by MMC. She noted that the City Council opted for a public hearing for this evening to review the hearing examiner's decision. She referred to the packet information with regard to findings.

City Attorney Weed swore in those who would be giving testimony (3 people raised their hands).

Jack Hood, Project Manager of Centex, 2320 130th Av. NE, Bellevue addressed Council and handed out "reduced" subdivision plans. He gave some history of the plat and noted that this parcel was not part of the original plat but was purchased more recently. They would only need it for about 90 days, he stated, and after that, it would probably be used for storage, possibly a superintendent's phone and some sales. He explained that the original people were remodeling the house when it was sold to Centex.

Councilor Weiser asked about a building permit on the remodeling and Mr. Hood said it was basically some minor improvements only. He said they added a little awning but no structural changes were made. He added that this property was not available for sale when the original plat was purchased 10 years ago by Centex but more

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recently the lady who owned the house had to move into a nursing home and the house became available for purchase, he said.

After brief discussion, Councilor Baxter moved to allow use of the house as a sales office for 90 days, complying with staff recommendations, and if there's any change in use, the applicant would have to go through the public hearing process again. It was the consensus of Council that Centex met the three criteria as stated in the agenda bill and Councilor Cundiff seconded the motion.

There was discussion about the second staff recommendation: "Certification to be submitted by the Health District of Snohomish Co. verifying that the septic system is operating in compliance with Health District standards" and Mr. Hood asked if this could be changed, or added to, with the words "or as approved by the Marysville Sewer District". He explained the house is on the sewer line and Public Works Director Zabell confirmed that it is vested for one sewer hookup under ULID #7.

The motion was amended as above and the 90 days determined to be to January 5, 1992. The motion passed with Councilor Weiser against.

4. Johnson Annexation (60% Petition).

Consultant Hirashima reviewed the agenda bill in the packets and noted the proposed annexation area is within RUSA, has a total assessed valuation of \$232,400 and the signed petitions represent \$152,500 or 65.6% of the assessed valuation for the area. She stated the staff recommendation is to approve the annexation requiring adoption of the City's bonded indebtedness and comprehensive plan designation for the area and to then authorize transmission of the file to the Snohomish County Boundary Review Board.

Rosemary Lowman addressed Council, stating she represents the owners and that they feel the annexation is a natural extension of the City boundary and the other owner/petitioner had no objection.

Marie Vickers, 5508 Sunnyside, addressed Council and stated she didn't understand why they are just taking sections. She said she wants to be in the City and is directly across the street from the proposed annexation area.

Consultant Hirashima said in the past, staff has recommended additional areas of annexation however, in this case, she believed the Council approved the boundaries as is because it was entirely within RUSA, with over 60% of the assessed valuation represented in the petition and Council did not ask for boundaries to be changed, she said.

City Attorney Weed pointed out that properties cannot be added at this time however they could go before the Boundary Review Board and testify that they wished to be included in the annexation area. He suggested Mrs. Vickers contact the county with regard to this.

Mrs. Vickers again asked about annexation of small sections such as this and Councilor Lashua explained a little more about how boundaries are set. A brief discussion followed.

Councilor Weiser then moved to approve the annexation as per staff recommendation above, with it to be sent on to the Boundary Review Board. Councilor McGee seconded and the motion passed unanimously.

CURRENT BUSINESS:

1. Hearing Examiner Decision-Shoreline Permit/City of Marysville.

Consultant Hirashima explained that there had been an inquiry from Garka Mill and Public Works Director Zabell stated a new legal description has been written up which should satisfy Mr. Garka. He stated there was a discrepancy and the original legal description was somewhat vague with regard to the tidal area so it has been revised so that it pertains to the area "owned by the City of Marysville".

Councilor Lashua moved to accept the staff and hearing examiner recommendations to approve the shoreline permit. Councilor Wright seconded and the motion passed unanimously.

2. Hearing Examiner Decision - Texaco Sign Code Variance.

Consultant Hirashima reviewed the request and stated the hearing examiner has recommended approval, with no appeals received. She stated staff recommends affirmation of the hearing examiner's decision.

Councilor Cundiff moved and Councilor Pedersen seconded to affirm/approve the hearing examiner's decision. Passed unanimously.

3. Hearing Examiner Decision - Northwood Group Conditional Use Permit.

Consultant Hirashima reviewed the request and noted that the hearing examiner has recommended denial, with no appeals having been received. She stated staff recommends affirmation of the hearing examiner's decision.

Councilor McGee moved and Councilor Pedersen seconded to affirm the hearing examiner's decision. Passed unanimously.

4. Hearing Examiner Decision - Forest Park Realty - Rezone, Preliminary Plat and Site Plan for Brighton Park.

Consultant Hirashima reviewed the request and noted that the applicant has received approval from the Army Corps of Engineers to fill .4 acres of wetland. She noted that the hearing examiner has recommended approval of the rezone request from RS-12500 to PRD 12500.

Councilor Weiser asked about the access easement and Consultant Hirashima pointed it out on the map and noted the location of the plat of Brighton Park. She also noted that the applicant is to provide interim street improvements of 75th or another secondary access for emergency vehicles.

Councilor Lashua asked about mitigation for filling in wetlands and Consultant Hirashima stated mitigation would not be needed for .4 acres and she added this would be a 100% single family PRD.

Councilor Weiser asked about a density bonus being given for open space and Consultant Hirashima stated lot size averaging would be allowed which did result in some lots ending up smaller than 12,500 sq. ft.

Councilor Wright moved to affirm the hearing examiner's decision, including all 10 recommendations/conditions. Councilor Cundiff seconded and the motion passed unanimously.

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5. Urban Growth Boundaries (Continued from 9/23/91).

Consultant Hirashima provided a large map and addressed concerns City Council expressed at the last meeting. She specifically referenced the Northeast corner and areas with ag preservation designation that had been excluded from the Urban Growth Boundary. She also noted areas with special designation for proposed school, park and public facilities.

There was some discussion about the Robinett property.

Gary Petershagen of Belmark Industries, 505 Cedar, addressed Council and asked if this map had been divided up with regard to parcels. He also asked about the Ottocrest and Belmark property being included.

Consultant Hirashima said no, the map had not been divided up with regard to parcels but the Ottocrest and Belmark property has been included in the proposed Urban Growth Boundary to be presented to the county.

Mr. Petershagen stated Belmark would like their 40 acres included and he handed out Metzger maps to show the area more clearly. He explained that basically the boundary proposed is based on land use.

Nick Van Dam, 11924 67th NE, Arlington, addressed Council. He suggested the boundary line be straightened and said he would like his property included in the Urban Growth Boundary also--he pointed this out on the map.

Ward Sayles, 5605 70th NE, representing the Marysville School District, addressed the Council and pointed out two sites that have been proposed for two new schools--one at 152nd NE & 51st and the other at 132nd NE on the north side, bordering Kleins. He stated the latter of the two was purchased from Kleins.

Councilor Weiser noted that the Van Dam property would be split if the boundary was straightened/continued as proposed.

Consultant Hirashima pointed out that the City has received several letters from people who wish to be included in the Urban Growth Boundary, but what the City is trying to do here is submit a very preliminary Urban Growth Boundary to the county, without having to address each parcel on a case by case basis first.

There was discussion about looking at boundaries on a parcel by parcel basis, City Administrator Sanden suggesting a letter stating intent to be to exclude ag land and areas of prime importance, Councilor Baxter stating he is very nervous about this only being a "proposed" Urban Growth Boundary.

Mr. Petershagen said he agreed with Councilor Baxter's concern because the county is taking the lead and his fear is the longer we wait, the more difficult the City's position is going to be and the more set the boundaries are going to be.

City Administrator Sanden said she would just rather not get into a parcel by parcel situation and Mr. Petershagen said at this point, he would just like to see ag land excluded and have that determination made tonight.

Councilor Pedersen agreed and Mr. Sayles added that as far as ag land, both the pieces he mentioned earlier are in ag land and schools are allowed in ag land, however the county is in the

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process of excluding schools out of ag land so the school district is very concerned about this.

Councilor Weiser expressed a concern about depriving someone from using their land and he said the City would be obligated to buy development rights, eg.

Councilor Pedersen proposed including "C" and "P" in the Urban Growth Boundary and then taking a look at the other areas at another time.

Councilor Baxter pointed out that for one thing, the type of soil is not known by Council in that area and Councilor Weiser said he would like to include language that says the City would constantly be reviewing appropriate pieces of land to be included in the Urban Growth Boundary.

City Attorney Weed explained this process is merely proposing these boundaries and it would have to go through the public hearing process as provided by the Growth Management Act.

Councilor Weiser restated that he thought they are going to end up looking at this on a case by case basis.

City Attorney Weed said he agreed but suggested Council submit a letter of intent at this time.

Councilor Baxter said it should be gone through owner by owner as well as parcel by parcel.

Councilor Lashua pointed out that the county is easy to convince when it comes to shrinking boundaries but he doubted they would be easy to convince when it comes to extending boundaries. He said he is in favor of including the Belmark 40 acres in the UGB area.

Councilor Weiser said he agrees with Councilor Lashua's opinion about the county not being as open to expanding boundaries and noted that the reason for the UGB is to put higher densities within a smaller area, i.e. confine it to a specific UGB and provide services for that UGB.

Councilor Pedersen moved to expand the Urban Growth Boundary to include "C" and "P" depicted on the map that Consultant Hirashima provided. Councilor Lashua seconded and the motion passed unanimously.

Mr. Petershagen requested a revised copy of the map and there was more discussion.

Councilor Pedersen then moved that in addition to a letter to Snohomish County Planning regarding "C" and "P", to go on record that the City of Marysville will be taking a look at the other parcels in this area, parcel by parcel, to determine appropriate use. Councilor Cundiff seconded.

Discussion followed about the burden of proof of land use, assuming the county has designated all the land as "prime ag", the definition of "prime ag", maps the county is using, Ag Advisory Board being a resource, talking with the farmers/owners of the ag land.

The motion passed unanimously.

BREAK 10:00 PM to 10:08 PM

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CONSENT AGENDA:

1. Payroll Checks in the amount of \$441,313.04.

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

ORDINANCES & RESOLUTIONS:

1. Ordinance Authorizing Utility Bill Adjustment.

City Attorney Weed explained this was as a result of an indigent coming before City Council and gives the Finance Director discretion for waiving the service charge.

Councilor Pedersen explained her intent was up to \$10.00, if necessary, whatever the staff would like to do.

Councilor Lashua stated that as he understood it, it was just for the \$1.00, not for adjustment of the bill.

Finance Director Dexter said adjustments are very rare and isolated cases, mostly to do with leaks, which is hard to write an ordinance for.

Councilor Lashua said he would like to see this just for waiving the service charge and City Administrator Sanden pointed out that the City already makes adjustments for leaks under a separate ordinance.

Councilor Lashua said he felt \$1.00 was an adequate amount to include in this ordinance but Councilor Weiser stated he thought the intent was to let staff delete the late charges, whatever they may be, whether it's \$1, \$2, \$3.

City Attorney Weed pointed out that it would be \$1.00 for each delinquent period.

Councilor McGee moved that Ordinance 1861 be approved/adopted and Councilor Wright seconded. Passed unanimously.

LEGAL MATTERS:

1. Everett and Joint Operating Agreement Participants Water Supply Contract.

City Administrator Sanden pointed out a change on page 6 where the words "pursuant to the terms of this agreement" have been added because PUD serves some customers outside of this agreement. She briefly summarized the JOA with regard to its covering need, rates, connection charges, filtration charges, peak flows, quantity of water, size of pipeline, water quality, maintenance and operation costs, distribution, demand, delivery and master meters.

After discussion, Councilor Baxter moved to delay this decision until the next meeting so the old agreement can be reviewed and compared with the new one, line by line. Councilor Lashua seconded.

City Administrator Sanden pointed out there is a time element and that Marysville was to sign the agreement tonight, with PUD and the City of Everett to sign tomorrow. She asked that it be approved on the condition that the change she noted is the only change, i.e. on page 6, under section 7(c)--to add "pursuant to the terms of this agreement".

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There was more discussion and Councilor Lashua withdrew his second to Councilor Baxter's motion.

Councilor Pedersen suggested approval on the condition that this be compared to the old one and that there be no more changes than mentioned this evening.

There was discussion regarding which draft to compare the new agreement with and City Administrator Sanden explained the steps, the changes that have occurred in recent months, Councilor Baxter noting that this agreement goes into perpetuity and that he would like to see how this differs from the original draft agreement. City Administrator Sanden noted there had been a recent amendment made regarding customers also.

City Attorney Weed said he is comfortable that there were no major changes over the last two drafts and Public Works Director Zabell stated he believes this agreement to be clearer than the previous ones.

Councilor Weiser seconded Councilor Baxter's earlier motion and noted that they are indicating that they don't want it until the second week of October.

City Administrator Sanden explained that's this week, according to the City of Everett. Mayor Matheny asked if a week extension could be granted and Councilor Cundiff said he thought the Council should show a little more faith in the City Attorney and called for the question. A roll call vote was taken and the only two Councilors in favor of the motion were Councilors Baxter and Weiser, so the motion failed.

Councilor Pedersen then moved to approve the JOA as written if there are no more changes than those indicated tonight by the City Administrator and City Attorney. Councilor Lashua seconded and the motion passed with Councilors Baxter and Weiser opposed.

2. Amendment to Mitigation Agreement Between the City of Marysville and Dujardin Development Company.

City Attorney Weed explained that Ordinance 1795 allowed temporary sewer hookups with "no net increases" and this is still included in the subsequent Ordinance 1846 however the Consent Order does not include hydraulic loading wording. He said Dujardin has proposed an agreement taking out the hydraulic loading wording, however City Attorney Weed does not agree with the proposal. He referred specifically to paragraphs "k" and "l" of the proposed agreement in the packets.

Brent Carson, Attorney for Dujardin, 1011 Western Av. #902, Seattle, addressed Council and stated they think they have come up with an amendment that makes sense and he proceeded to explain that if a new applicant came in under Section 5 of Ordinance 1846, it has to be based on BOD but the City has no basis for that at present. He said his client is simply asking to be treated like a new applicant and not have to conform with the BOD/hydraulic loading contingency. As far as the moratorium language, he said the no net increase agreement has been in force for nearly a year with no comment from the DOE so he would recommend the no net increase be deleted from the agreement.

Councilor Pedersen asked what a single family detached condo is and Mr. Carson stated it looks just like a plat with a condo association operating it.

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Councilor Weiser asked if this is included in the other contract and City Attorney Weed said his concern is a worst case scenario with the DOE imposing a ban/moratorium and it's language that was in the original agreement and he feels should stay in the agreement. He added that his understand is that this problem may not come up but he would like to be able to have the assurance that it's in there.

Public Works Director Zabell said he would agree with the City Attorney and mentioned a Port Ludlow case where flow could not be a consideration and so it seems unlikely that DOE can use hydraulics as an issue again, he said.

Councilor Lashua said he would like to see the language remain in the agreement and Councilor Cundiff concurred.

City Attorney Weed asked if Mr. Carson's client would be willing to sign the agreement with the deletion of paragraph "l" and Mr. Carson said yes, the issue of "k" is of somewhat less concern.

City Attorney Weed said his response to a new applicant would be that the City does have that language.

Mr. Carson pointed out again that the hydraulic contingency is not contained in the present ordinance and Councilor Pedersen said she felt the deletion of "l" would be a good compromise.

Councilor Baxter said he questions the need to compromise and would not want to leave the City open to any liability.

Mr. Carson said he thinks there are some people looking at no net increase proposals and the ordinance/agreement sends a mixed message.

City Attorney Weed said the City would be taking a minimal risk by leaving "l" out; he said he thinks it's more likely than not that the DOE would want to reinstitute hydraulic loading wording and it's possible that the City would have to go back to the developers at a later time.

There was discussion concerning the no net increase applying to under construction projects only.

Councilor Baxter moved to authorize the Mayor to execute the amendment to the mitigation agreement between the City and Dujardin as written, effective 10/7/91. Councilor Cundiff seconded and the motion passed unanimously.

MAYOR'S BUSINESS:

1. Planning Commission Appointment.

Mayor Matheny offered Ward Sayles' name as her recommendation for the appointment and it was noted that the Marysville School District is Marysville's largest employer, with about 1000 employees and it would be good to have a representative from the school district on the Planning Commission.

Councilor Baxter moved to appoint Ward Sayles to the Planning Commission and Councilor Cundiff seconded.

Councilor Weiser confirmed with Mr. Sayles that Mr. Sayles had no problem meeting every Tuesday night. The motion passed unanimously.

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Proclamation - Councilor Lashua moved and Councilor Wright seconded the Proclamation of National Mental Health Awareness Week by the Mayor. Passed unanimously.

CALL ON COUNCILMEMBERS:

Councilor McGee asked about the 3rd & State sign and Public Works Director Zabell said he is waiting to hear from the State.

Councilor Baxter asked about the City Hall roof and City Administrator Sanden said that would be covered in the next Council briefing.

Councilor Pedersen said she was approached by one of the residents near the driving range and on the west side of 66th Dr. there's a nuisance area called "Plats Plus". Public Works Director Zabell said he would follow up on this.

Councilor Wright referred to a letter in the packets regarding the status of the IOOF Hall building and their possibly losing National Historic Register status.

Councilor Cundiff said he noticed several garage sale and political signs illegally posted around the City and said he felt the City should set a good example. He also mentioned the traffic counting device at 51st & Grove does not seem to be in order and Public Works Director Zabell said he would follow up on this; he also explained the process of how they set up the traffic counter.

Councilor Lashua asked for an update on the lagoon BODs, etc. and Public Works Director Zabell stating they are looking fairly good with the exception of June and July.

Councilor Cundiff said he wished there was some way of controlling the last minute stuff that comes before Council. Councilor Weiser agreed.

City Administrator Sanden said the citizens do have a right to give written submittals, so the Council may want to call for a break in order to give themselves time to review the material.

ADJOURNMENT INTO EXECUTIVE SESSION: 11:11 p.m.

RECONVENED: 12:14 a.m. 10/8/91

1. Councilor Lashua moved and Councilor Cundiff seconded to approve the PUD settlement offer letter. Passed unanimously.

2. Councilor Weiser moved and Councilor McGee seconded to authorize payment for acquisition for land for wetland mitigation at a price authorized by Council in Executive Session. Passed unanimously.

3. Councilor Weiser moved and Councilor Lashua seconded to adopt Ordinance 1862 amending Ordinance 1856 revising the legal description for pipeline condemnation. Passed unanimously.

ADJOURNED: 12:17 a.m. 10/8/91

CORRECTED: SEE 10-14-91 MINUTES

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Accepted this 14th day of October, 1991.

Rita Matheny

MAYOR

Phillip E. Dexter

CITY CLERK

Manda A. Iverson

RECORDING SECRETARY