

MARYSVILLE CITY COUNCIL MINUTES

OCTOBER 28, 1991

7:00 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	11-4-91
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Administrative Staff:

Mary Swenson, Asst. to the City Administrator
 Grant Weed, City Attorney
 Steve Wilson, Asst. 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 7:00 p.m. and led the flag salute.

ROLL CALL:

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

MINUTES OF PREVIOUS MEETING:

Councilor Lashua asked that Larry Caldwell's name be inserted on page 2, in the third paragraph, as the Arlington City Council-member present with Mayor Kraski, in the 10/14/91 minutes. He also noted that John Sheehan's name was misspelled under Audience Participation.

Councilor Pedersen noted on page 5, about 2/3 of the way down, that developers must pay not collect fees.

Councilor Lashua moved and Councilor Cundiff seconded to approve the 10/14/91 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

John Sheehan, Manager of TCI Cablevision, addressed Council and explained that 2 weeks ago he appeared before Council with regard to airing the Mike Tyson-Evander Holyfield fight on Channel 18. He noted that the fight has now been postponed and they do not have another date at this time but it's possible TCI will be able to use Channel 36 in the future, he said. He thanked the City for their indulgence.

Jim Rowley of Windermere Realty, Marysville, addressed Council, stating that he has been dealing with the new City Planner and doesn't seem to be able to come to any understanding on the ordinance with regard to non-conforming uses. He said this has to do with MMC section 19.40.020 for non-conforming structures and in the City Planner's opinion, if a single family residence (non-conforming) were destroyed by catastrophe, it can't be rebuilt. Mr. Rowley stated he knows of several older people (his aunt and mother for two) in commercial zones, with single family residences who are paying replacement cost insurance. He noted that if these residences can't be replaced, then this may pose a serious financial problem for people.

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City Attorney Weed asked how long the use has been in existence and Mr. Rowley stated his mother's--70 years and the one in question that he spoke with the City Planner about--40 years.

City Attorney Weed admitted that under City Code if the structure loses over 70% of its value, eg. by fire, the use would discontinue and the non-conforming status would disappear.

Mr. Rowley pointed out that if a person is insured for actual cash value, in the case of a fire, you will probably not be able to replace the residence using only the funds from the insurance co.

City Attorney Weed said insuring the structure to allow it to be rebuilt would be difficult and insurance is really a separate issue from the City Code.

Mr. Rowley stated that in his opinion, this is putting a lot of people in a negative economic situation.

Councilor Pedersen asked about these structures being grandfathered in and City Attorney Weed explained that even if it's a house that preceeded the code, with the loss of 70% of value, it would not allow the house to be rebuilt. He added that he is not sure of the intent of the code/ordinance passed in 10/88.

Councilor Weiser stated they had a similar piece of property with a similar situation and they worked around it by changing the ordinance and perhaps Council could do the same here as long as the home is rebuilt on the same footprint.

City Attorney Weed stated Council would be well within its rights to change the code.

Councilor Weiser asked what would happen if it's zoned single family in a commercial zone and City Attorney Weed said that would not make a difference--it's not allowed to be rebuilt if the loss exceeds 70% of the value.

Councilor Baxter said he knew there to be a lot of homes not zoned commercial yet.

Mr. Rowley said he just wanted to bring this to the attention of Council.

City Attorney Weed noted there is also a policy issue here for the Council to consider regarding non-conforming uses with regard to destruction of 75% of the pre-existing structure.

Councilor Lashua said he sympathized with the situation however, he thought the intent was to eventually get all non-conforming single family residences out of commercial zones.

Mayor Matheny asked City Attorney Weed to bring some alternative recommendations back before Council and City Attorney Weed said he would do so. He added that this is a problem that other cities have also had to deal with and he can report on how they handled it, as well.

Mike Papa, Marysville, addressed Council and asked if public comment would be allowed under Current Business/Southeast Annexation. Mayor Matheny said yes and so he said he would withhold his comments until then.

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Margaret Natterstad, 10532 38th Av. NE, addressed Council, regarding all annexations. She read a statement saying she would like to see the City put a moratorium on all annexations until various problems are worked out. She pointed out that Mill Creek has a self-imposed annexation moratorium, for example. She felt it would be a good idea for Marysville also in light of water pressure and restriction problems every summer, sewer problems/moratorium, storm drainage, traffic congestion, school overcrowding, inadequate voluntary mitigation. She gave some school statistics and pointed out inadequacies in mitigation fees for schools and parks. She also pointed out that the City has been bringing in less and less sales revenue for needed services. She thanked Gloria Hirashima, Dave Zabell and Roger Kelly for their help with neighborhood meetings and other information provided.

PRESENTATION: None.

PETITIONS & COMMUNICATIONS: None.

PUBLIC HEARINGS:

1. Quil Ceda Annexation.

Consultant Hirashima introduced the matter, noting that in 7/91 Council approved the annexation as per the boundaries on the overhead but since that time there have been some discrepancies in the no-protest covenants. With the revised red dashed line, staff has calculated 83% of assessed valuation is in favor of annexation and the solid red line would represent 70% of assessed valuation. She pointed out that both of these staff proposals exclude covenants. She stated the Council should decide whether it should be sent to the Boundary Review Board with revised boundaries.

Reid Shockey, 2924 Colby, Everett, addressed Council, representing Quil Ceda Auto Wreckers (Rich Warbus). I said he wanted to raise the procedural point that Gloria Hirashima is actually an employee of his but she is also under contract with the City. Further, he said he wished to restate the applicant's position, not wishing to give any further (new) testimony, just to restate their position. He also noted that an Intent to Annex has been filed with the Boundary Review Board and Quil Ceda Auto Wrecking is not opposing but in fact supports the Notice of Intent. He stated that with the advice of the City Attorney, he wished to restate their position, if there are no objections. (There were none.)

Mr. Shockey showed the Quil Ceda Auto Wrecking property on the overhead and stated they wish to annex because they wish to tear down a delapidated building and rebuild. This would be an asset to the business and the community but Mr. Warbus has quite frankly, had a hard time with the County and would like to come into the City, he said. One of the points brought out by the previous speaker (Mrs. Natterstad) was with regard to irregular boundaries, Mr. Shockey said, and referred to the fact that with this annexation approval, the mobile home park would be brought into the City. He also pointed out that Quil Ceda Auto Wrecking is strictly a commercial use and would not impose or involve any additional school students or parks use on the City/school system. He said when Mr. Warbus requested to come in originally, there were several petitions signed by other commercial uses on Smokey Pt. Blvd. and several people from Indian Creek Estates and Hidden Lake Estates area were in opposition however, Mr. Warbus had no feelings one way or the other with regard to that area. The area along State/Smokey Pt. Blvd. is clearly within the Urban Growth Boundary of Marysville and he said he wished merely to reiterate their request to be annexed.

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Carl Baird, 10512 38th Av. NE, addressed Council, stating he is in favor of revising the boundaries as recommended by staff, excluding Indian Creek Estates and part of Hidden Lake Estates from the annexation. He talked about the water quality, inadequacies of services and pointed out that poor planning has placed a lot of stress on City services, police protection, etc. He said he would like to see the City put their focus on services within the City before extending to Indian Creek Estates and Hidden Lake Estates.

Jeff Clark, 10509 38th Av. NE, addressed Council, stating he owns Lot 19 of Indian Creek Estates and asked for clarification of the staff recommendation regarding the boundaries. Consultant Hirashima stated staff is recommending that Indian Creek Estates be excluded and Mr. Clark said he would be in agreement with that.

Margaret Natterstad, 10532 38th Av. NE, addressed Council again and pointed out that there is only one road serving both Indian Creek Estates and Hidden Lake Estates and there might be some confusion for 911, etc., so it might make more sense to put the boundary at 104th all along, she said.

Councilor Weiser asked what happens to the non-protest agreements now and City Attorney Weed said he didn't believe the City has a legal basis on these covenants. He said as he understood it, the same signature was obtained for each of the lots in Indian Creek Estates so they would be invalid.

Councilor Weiser asked about the covenants on Lots 9, 10 & 11 and Consultant Hirashima stated there was no title search done on those three lots.

Councilor Weiser said he didn't think the annexation proposal should be sent to the BRB in its present form (prior to staff proposed changes) and discussion followed concerning assessed valuation (70% of assessed valuation have signed petitions within the solid red line recommended by staff), about 25 homes in the area.

Councilor Weiser moved and Councilor Baxter seconded to revise the boundaries within the solid red line as recommended by staff, to be sent to the Boundary Review Board. A roll call vote was taken and Councilors Weiser, Baxter, Cundiff and Lashua were in favor so the motion passed 4-3. (Councilors McGee, Pedersen and Wright were against.)

CONSENT AGENDA:

1. Approval of Claims in the amount of \$384,335.06 - 10/28/91.

Councilor Lashua mentioned prisoner medical care, noting this continues to puzzle him. He also asked why Marysville is sending prisoners to the County.

City Attorney Weed noted that on occasion a prisoner may exceed his time limit at the Marysville facility and must be transferred to the County jail (over 30 days).

Asst. to the City Administrator Swenson stated that with regard to the concern for the high medical expenses for prisoners, the City is obligated to respond to a prisoner's medical complaint and the City could be more liable if we didn't respond.

Councilor Weiser asked about reimbursement of medical expenses for prisoners and Ms. Swenson stated yes, claims have been submitted

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to Social Services, eg. and she said she could look further into this matter and report back at the next meeting.

Councilor Pedersen remarked on some professional services--Wall St. Service Center and Hammond Collier & Wade. She asked if Hammond Collier & Wade are under contract with the City.

Public Works Director Zabell stated yes and a lot of the expenses for them are for the Wastewater Treatment Facility, based on need per project.

Councilor McGee moved and Councilor Weiser seconded to approve Consent Agenda Item #1. Passed unanimously.

2. Project Acceptance ULID No. 12, Sanitary Sewers, 67th Av. NE/ 88th St. NE.

Public Works Director Zabell explained delays that have occurred with this project over the last 2 years as a result of easement acquisition, wetlands determination, a "feisty developer", etc. but stated the project is now complete and acceptance by Council would initiate the 30 day lien period.

Councilor Cundiff moved and Councilor Wright seconded to accept ULID No. 12 as outlined and recommended by staff. Passed unanimously.

REVIEW BIDS:

1. Grove Street Improvement Project.

Public Works Director Zabell explained Trico sent in the low bid of \$262,970.25, with the engineering estimate having been over \$359,000. The high bid was from Foxstad - \$390,000. He said a preconstruction meeting would be tomorrow morning.

After a brief discussion, Councilor Baxter moved and Councilor McGee seconded to approve/accept the Trico bid. Passed unanimously.

CURRENT BUSINESS:

1. Resolution Amending Boundary of S.E. Annexation.

Consultant Hirashima explained this is another annexation that was approved by Council, scheduled to go before the Boundary Review Board 11/12/91. She stated the City has since received information regarding two no-protest covenants and as a result, the applicant no longer has 60% and so the original petitioners are asking that the annexation be reduced and revised. She showed the map on the overhead and explained on the two green areas are now to be presented to the Boundary Review Board, per staff recommendation and original petitioner's revised request. She pointed out current City boundaries and explained that both the Neartown and Southeast Annexation were originally merged into the Southeast Annexation with 62% of assessed valuation by way of petitions and covenants being represented at that time. She noted that all covenants within the "red" area were then excluded and with the reduced boundaries (the "green" areas only now) there is 63% or \$800,000 of assessed valuation represented.

Laura Mocha, Consultant representing applicant, 2917 Pacific, Everett, addressed Council and she basically confirmed what Consultant Hirashima had said and made herself available for questions.

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Mike Papa addressed Council again and stated he had called the Boundary Review Board today and they said it was too late to modify the boundaries and they would be going ahead with the original annexation request.

Consultant Hirashima stated she has also spoken with the Boundary Review Board (Bonnie Collins) and Ms. Collins is aware of the modification. It was also noted that the City would be sending out a mailing notifying people of the upcoming hearing and the Boundary Review Board does have the right to expand an annexation if they feel it will be more logical, regardless of the City's action, she pointed out.

Pamela Holt, representing Dan Davis, 619 S. Alaska Way, Seattle, addressed Council and stated Mr. Davis is in negotiations right now, wanting to buy the Poortinga farm. It would not be developed as residential but rather for a series of lakes to assist control of water runoff, she said, and Mr. Davis would like the Poortinga farm included in the Southeast Annexation, she added.

Consultant Hirashima stated that would have to be a separate application as the Poortinga property is not contiguous to the subject annexation proposal.

Evelyn Blackburn, living in the "red" area depicted on the overhead, addressed Council and she stated she is the owner of 9 acres plus she is also representing Mr. Horvath who is also the owner of 9 acres. Both are adamantly against the annexation she said because of the 100 year old trees on the property, wildlife, vegetation, 6 streams, etc. She said they are trying to preserve the land so what happened to Poortinga won't happen again and they do not want their property ruined by being surrounded by houses.

Morgan Bartlett addressed Council and pointed out that the northern part of the Southeast proposed annexation is an island. He stated no development would be done but it's rather ridiculous having the County surrounded by the City here.

Councilor Baxter noted that petitions had been signed by 63% of the assessed valuation and he moved to adopt Resolution #1505 and pass this annexation as proposed onto the Boundary Review Board (the reduced area). Councilor Wright seconded and the motion passed unanimously.

2. Hearing Examiner Decision; Rezone, S.W. Corner of 47th & 84th St. NE - Doug Davis.

Associate Planner Bennett explained the hearing examiner has recommended the rezone to RML for a 4-plex, there have been no appeals to the decision and staff recommends affirmation of the hearing examiner decision.

Councilor Lashua asked if there are currently 2 duplexes on the property and Consultant Hirashima said there are.

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

3. Hearing Examiner Decision; Conditional Use Permit, 4903 Grove St. - Gregory Gosch.

Councilor Weiser disclosed that his aunt and grandmother own adjoining property but there were no objections heard.

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Associate Planner Bennett explained the hearing examiner is recommending this conditional use permit be approved with 7 conditions and the staff has recommended affirmation of the decision.

Councilor Pedersen asked about another dental office nearby, whether it was in a single family residence under conditional use permit also and Consultant Hirashima stated she believed it is.

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

Councilor Weiser asked if this was the same property for which a recent sewer variance had been granted and Consultant Hirashima stated it is.

Councilor Weiser asked if right of way had been obtained from this property for the Grove St. improvement project and Consultant Hirashima stated yes and referenced a condition made by the hearing examiner with regard to right of way dedication and frontage improvements (Condition #3).

The motion passed unanimously.

4. Hearing Examiner Decision - Griffor Preliminary Plat/Rezone and Site Plan.

Councilor Pedersen disclosed she owns property across the street and down the road 1/2 mile away. There were no objections heard.

Associate Planner Bennett explained the hearing examiner has recommended approval of the rezone and Councilor Weiser asked about the cul de sac vs. private road as referenced in the hearing examiner's report.

Discussion followed concerning the map, access to Sunnyside, etc. and Councilor Weiser then moved to approve/affirm the hearing examiner's decision, with the addition of a 13th condition: That no access be allowed off Sunnyside. Councilor Baxter seconded and the motion passed unanimously.

Councilor Lashua asked about the control of land, wetlands, the creeks and who polices same, eg. who would ensure the setback/buffer is met in order to prevent erosion and siltation.

Public Works Director Zabell explained the most difficulty is encountered at the building permit stage but Public Works has to submit a detail with regard to erosion control and the applicant has to adhere to that. He added that when the moratorium went into effect in February, there were a lot of builders rushing into development and right now the City only has one building inspector so there may be some delay in inspections but the City is hoping to get a code enforcer to help him out. He noted that the Public Works Dept. has an adequate number of inspectors at this time.

Councilor Lashua asked about state inspectors and Public Works Director Zabell stated he felt they are undermanned also but hopefully, with the several stages and permits developers have to go through, there will be adequate inspections.

NEW BUSINESS:

1. Marysville Community Food Bank Request for a Building Site.

Assistant to the City Administrator Swenson explained the Food Bank was interested in acquiring one acre of City property near

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the Public Works Building however there are wetlands there and so the City would like to see a committee appointed to look at alternatives. She noted it's very difficult to meet all their needs such as parking and easy access for people but the City realizes that they need to go through the government process and it was felt this was an area where the City could help out the Food Bank.

Jack Lybyer, Director of the Food Bank, made himself available for any questions and Councilor Lashua asked him about the Venne Beauchamps old building. Mr. Lybyer said they could check into it further.

Public Works Director Zabell mentioned an inventory of all City property that was done when they were looking for a new library site and east of the public works facility there's a piece of property but it's wetlands, he said. He added that another problem is there is no public access at this time with sewer facilities having to be pumped in.

Mr. Lybyer asked about the piece to the west of the Public Works Building and Public Works Director Zabell stated it would not be big enough.

Councilor Weiser mentioned a barn owned by Frank Gadwa, over by the Catholic Church and Mr. Lybyer stated the barn is smaller than the present Food Bank facility but he could check into it.

Councilor Weiser said another alternative is the cannery but it's only available 10 months out of the year. Mr. Lybyer stated they would need it 12 months.

Ms. Swenson reiterated that the City is not aware of any property but can offer assistance in finding a site.

Councilor McGee asked how many volunteers work at the Food Bank at present and Mr. Lybyer said at least 50.

Councilor Cundiff asked if their plans are to build and Mr. Lybyer said yes, a large pole building, eventually. He stated they need 3600 to 4000 sq. ft. because they have close to 800 families they serve now, all from the 98270 zip code.

Councilor Baxter suggested the old Hewlett-Packard buildings behind the Tulalip Inn and there was some discussion about that.

Councilor Cundiff said he would agree with staff's recommendation and Mayor Matheny said she would like to volunteer her personal services to help out and/or serve on the committee. Councilor Wright also volunteered to be on the committee, if needed. More suggestions were made and Ms. Swenson stated the City would be in touch with Mr. Lybyer further.

ORDINANCES & RESOLUTIONS:

1. Resolution Regarding Coordinated Water Study.

City Attorney Weed stated this would be formalizing Council approval.

Councilor Baxter moved and Councilor Weiser seconded to adopt/approve Resolution #1506. Passed unanimously.

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LEGAL MATTERS:

1. Hold Harmless Agreement with Marysville School District.

City Attorney Weed stated this is with regard to facilities used by the City for conducting civil service exams and the MSD is asking that the City sign the agreement which has been reviewed by him.

Councilor Baxter left Council Chambers at 8:43 p.m.

Councilor Weiser moved and Councilor Pedersen seconded to approve the agreement and authorize the Mayor to sign it. Passed.

2. Extra Services Authorization for Grove St. Improvements Project.

Councilor Baxter returned to Council Chambers at 8:45 p.m.

Public Works Director Zabell addressed the issue of extra services on the Grove St. project, noting that it involves an additional \$12,000 for right of way negotiations, standards specs to be brought in line, etc. He added that all work has been completed.

Councilor Baxter moved and Councilor Wright seconded to approve the authorization.

Councilor Cundiff asked if any of this would be covered under a grant and Public Works Director Zabell said yes, about 50%.

The motion passed unanimously.

3. Amendment No. 5 Agreement for Engineering Services - Everett/Marysville Pipeline Project.

Public Works Director Zabell explained an additional (upper limit) \$100,000 of pre-engineering costs has been requested to be added to the contract.

After determining that this was within the bid, Councilor Baxter moved and Councilor McGee seconded to approve the amendment to the agreement. Passed unanimously.

STAFF'S BUSINESS:

Asst. to the City Administrator Swenson stated that with regard to the City Hall roof project, she talked with the architect and at that time, one study for hazardous material still had to be done, with regard to making sure all asbestos is removed. She assured Council that the project is moving forward and staff is staying on top of it.

There was some discussion about bids, rainy season, the HCAV system.

Public Works Director Zabell reported on the WWTF and stated final plans are to be submitted to DOE tomorrow probably, after he picks them up from the consultants. He stated all concerns have been addressed and it is hoped to go out to bid very soon. With regard to the 2nd St. project, curbs are to be put in this week and on the south side of 2nd, the 1900 block has signed up for the curbs, gutters and sidewalks program so the entire street will now be improved. Concerning the Evt-Msvl. pipeline, pipe is to be arriving this week along 83rd and he met with the County regarding the grading permit. Permits should be approved by the end of the week, he said.

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MAYOR'S BUSINESS:

Mayor Matheny reported on the recent Lions Pavilion dedication at Jennings Park she attended and there was considerable discussion about the upcoming Centex dedication, to adjoin Jennings Park, how additional facilities are needed, etc.

CALL ON COUNCILMEMBERS:

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

Councilor Weiser reported on the Joint Fire meeting in which they set up some procedural rules, appointed a chair (Councilor Baxter) and vice chair and fire chief. He stated they also set up an agenda for future meetings.

Councilor Baxter mentioned getting an answer back from PUD but Assistant to the City Administrator Swenson stated this would be covered in Executive Session.

Councilor Baxter asked about the stairwell problem at City Hall and Assistant to the City Administrator Swenson explained they had an employee who fell down on the stairs. After examining the stairs, it seems they are not up to code and that will be part of the roof upgrade project, she stated.

Councilor Baxter said he wondered if a different kind of tread could be put on them in the meantime or a warning sign and Ms. Swenson stated the matter was discussed in a staff meeting and everyone is aware of the problem, now.

Councilor Baxter noted that on the south side of 6th St. people are parking there and using it as a "park and ride", i.e. leaving their vehicles there all day and there's no parking for people who want to go to the park. He suggested 2 hour parking signs be installed and Ms. Swenson stated a resolution would be prepared for next week.

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Councilor Pedersen asked about the developer donation of a park and Public Works Director Zabell stated that has not occurred as yet. She asked for an update on past due traffic violations and Ms. Swenson stated that due to staffing problems, they have not had time to get to it yet but they will be following up and getting back to Council on that.

Councilor Pedersen noted there is a sign on the east side of Jennings Park stating the park will be closed at dusk daily, but it isn't. She asked whose responsibility this is and Ms. Swenson said she would follow up on this.

Councilor Wright reported that at the Traffic Advisory Committee meeting the State made a presentation and they are planning on proposing no parking on the south side of 528 to 47th.

Councilor Cundiff asked about the clocks in the Public Safety Building, noting that the only one that had been changed back to Standard Time was the one in Council Chambers--all the rest of them are an hour fast. Ms. Swenson said she would be following up on that.

Councilor Cundiff asked about the 5th St. closing that was going to be looked into and City Attorney Weed stated they are still trying to locate the files, with several people looking for them and their needing to follow up with Burlington Northern.

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There was discussion about when the crossing over the railroad tracks would have been closed to traffic originally, and the fact that the City Attorney will continue to pursue the matter.

Councilor Cundiff asked about the traffic count at 51st & Grove/Armar and Public Works Director Zabell said he knew it was about 13,000 vehicles per day on Grove but that we do not meet the accident warrants for that corner. He will be reporting further at the next meeting when he gets something more definite from the State.

ADJOURNED INTO EXECUTIVE SESSION: 9:10 p.m.

EXECUTIVE SESSION:

1. Pending Litigation.
2. Property Acquisition.
3. Personnel.

RECONVENED AND ADJOURNED: Approx. 10:30 p.m.

Accepted this 4th day of November, 1991.



MAYOR



CITY CLERK



RECORDING SECRETARY