

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING

MAY 24, 1993

00073

CALL TO ORDER:

7:00 p.m.

ROLL CALL:

Councilor Pedersen excused

PUBLIC HEARING:

1. Joint Public Hearing (City & County) - Approved -
Tyler Open Space Application Joint Motion No. 93-171

MINUTES OF PREVIOUS MEETING:

5/10/93 Approved

AUDIENCE PARTICIPATION:

Leo Marrs, Trent Olson,
Mary Isabel Hall, Grant
Hall, Jeff Moses, Gary Wright, Scott Skelton, Dave
Koshak, Christie Skelton, Pat Cantoni, Marilyn
Roberts, Tamara Armstrong.

STAFF'S BUSINESS:Eric Anderson appointed to
Planning Commission.MAYOR'S BUSINESS:CALL ON COUNCILMEMBERS:

City Atty. to bring back
draft resolution 6/7/93
regarding Council's concern on Library's policy on
availability of explicit language books.

PUBLIC HEARINGS:

1. East Ridge Annexation; PA 9302002 - Continued to 6/7/93

REVIEW BIDS:

1. Bid for 10th St. & Beach Av. Im- Approved - Belmark
provement Project
2. Bid for Jennings Park Petting Zoo Approved - Town & Country
plus funds from H/M Tax for vents, overhang, etc.

CURRENT BUSINESS:

1. City Motto Finalists Information Only

NEW BUSINESS:

1. Blackburn 10% Annexation Approved
2. Perkins/Armstrong Variance Public Hrg.set for 6/14/93
3. Dwayne Lane Dodge; C.U.P. Approved
4. Establish Part-Time Probation Dept. Approved
5. Tregoning Water without Sewer Var. Approved
6. Romo Water without Sewer Var. Denied without prejudice
7. Mulligan Water w/o Sewer Var. Denied without prejudice

CONSENT AGENDA:

1. Environmental Consultants Sensi- Approved
tive Areas Ordinance List
2. Claims in the amount of \$806,932.92 Approved

ORDINANCES & RESOLUTIONS:

1. Ordinance Repealing Residency Ord. 1950 Approved
2. Resolution Establishing Stop Res. 1623 Approved
Signs at 42nd Av. NE & 103rd Pl. NE

LEGAL MATTERS:

1. Amendment #2 to ILA for Growth Approved
Management Planning Program Funding
2. Hadley Utility Easement Approved

ADJOURNMENT INTO EXECUTIVE SESSION:

11:40 p.m.

1. Personnel
2. Litigation
3. Real Estate

RECONVENED AND ADJOURNED:

12:12 a.m. 5/25/93

MARYSVILLE CITY COUNCIL MINUTES

MAY 24, 1993

7:00 p.m.

Council Chambers

Present: Dave Weiser, MayorCouncilmembers:

Donna Pedersen, Mayor Pro Tem (Excused)

Dave McGee

John Myers

Ken Baxter

Donna Wright

Mike Leighan

Otto Herman

County Councilmembers:

Peter Hurley

Bill Brubaker

Ross Kane

Kathy Morton, County Clerk

Administrative Staff:

Grant Weed, City Attorney

Dave Zabell, City Administrator

Steve Wilson, Finance Director

Jim Ballew, Parks & Recreation Director

Ken Winckler, Public Works Director (7:50 p.m.)

Roger Kelley, Public Information/Communications Officer

Gloria Hirashima, City Planner

Sue Jensen, Court Administrator

Larry Trivett, Municipal Judge

Cindy Lyons, Managing City Librarian

Wanda Iverson, Recording Secretary

CORRECTED: SEE 6/7/93
MINUTESCALL TO ORDER:

Mayor Weiser called the meeting to order at 7:00 p.m. and led the flag salute.

ROLL CALL:

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

PUBLIC HEARING:

**1. Joint Public Hearing (City of Marysville/Snohomish County);
Open Space Application for Ernie Tyler.**

Mayor Weiser explained the procedure for this hearing, noting state law requires that a determining authority composed of three members of County Council and three members of City Council make the final determination with regard to the open space application. City Councilors Wright, Baxter and McGee stepped down and County Councilmembers Hurley, Brubaker and Kane sat on the Council for the hearing, along with City Councilmembers Herman, Leighan and Myers. Mayor Weiser introduced the County Councilmembers.

City Attorney Weed swore in those wishing to testify.

County Councilmember Hurley asked the Clerk if it was necessary to call the County Council in session and County Clerk Morton stated no, that was not necessary.

Councilor Herman disclosed he was on the Marysville Planning Commission at the time this hearing came before them (8/14/90) but no one challenged his remaining on the Joint Hearing Board.

City Planner Hirashima reviewed the request, as per the agenda bill, noting that since the review by the Marysville Planning Commission, the City Council has approved the Sensitive Areas Ordinance which requires a 100 foot setback from Category I streams instead of the 25 foot setback noted in the original staff report. It was also noted that Quil Ceda Creek runs through the Tyler property.

City Attorney Weed stated this is a unique type of hearing wherein the state statute provides for a joint public hearing between county and city councils, to take any testimony pertinent to the issue.

County Councilmember Brubaker asked about the impact of the new setback requirement to the subject request, whether there was any impact and City Attorney Weed stated the Planning Commission is recommending the open space application be approved as requested.

County Councilmember Brubaker asked if "approximately 15 acres" is the most accurate description of size possible but County Councilmember Kane noted there is a map in the packet with a tax assessor's number on it.

County Councilmember Hurley referred to Exhibits 4 and 5 in the packets and the fact that Mr. Tyler had requested an additional 10 acres to be included as open space. It was noted the deputy prosecuting attorney stated an additional application would be needed for the additional 10 acres and County Councilmember Hurley asked if this 10 acres is included in the subject request.

City Planner Hirashima responded that the second 10 acre piece is not included in the request.

County Councilmember Hurley noted it would have saved some time and money if it had been included.

Mayor Weiser asked if anyone in the audience wished to address this matter and no one stepped forward. He then closed the public testimony portion of the hearing at 7:10 p.m.

County Councilmember Kane moved and County Councilmember Hurley seconded to approve and adopt Joint Motion 93-171. The motion passed unanimously.

CONTINUATION OF MARYSVILLE CITY COUNCIL MEETING:

Councilors Wright, Baxter and McGee returned to the Council.

MINUTES OF PREVIOUS MEETING:

Councilor Herman noted in the 5/10/93 minutes, on page 4, in the 4th paragraph, that the words "noted on" should be "notified of". On page 7, half way down, the last sentence, "He said the local transit purveyor....." was actually attributable to Mr. Kaf-tanski, answering a question of Councilor Herman's. Councilor Herman suggested striking the whole sentence.

Councilor Leighan referred to page 9, third paragraph from the bottom. He stated "get models" should be "get materials".

There being no further corrections, Councilor McGee moved and Councilor Herman seconded to approve the 5/10/93 City Council minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Leo Marrs, 6525 77th Pl. NE, addressed the Council regarding the Rap book issue. He noted this book has some very sexually explicit writings that he doesn't condone as a Christian and it seems to him it's time to take a stand against this type of violence. He stated he would like to see this book taken out of the library altogether.

Councilor McGee asked him to clarify whether he meant for just this book or other similar books and Mr. Marrs stated he would say on any book that has writings in it such as this one, the books should be reviewed and "garbage" such as this should be eliminated from the library.

Trent Olson, 1815 4th St. (wearing a YMCA T-shirt and identification badge from the YMCA), addressed Council concerning the same

issue. He stated he works in a childcare center and this book was very displeasing to their program and the children. He said what is needed is some kind of rating--witchcraft, Bugs Bunny, pornographic books are all together at the library and they need to be separated out on different shelves, labeling needs to be done also.

Councilor McGee asked him to further clarify and Mr. Olson said he would rather not have this type of material in the library but if it has to be, then it needs to be labeled. He said he checked this all out today for an hour at the library, picking books out randomly, and they were not put in any order, just everything mixed together--books for small children in with books for teens in with books for adults or older.

Mary Isabel Hall, 5900 64th St. NE, addressed the Council. She referred to a Two Live Crew tape Karen Leslie took before Everett City Council and the Washington State Legislature, where she got 100% support to remove this tape from stores, but now there is a battle going on legally, she said. Mrs. Hall said she felt the least thing we could do is label these books with warning labels as a parental advisory.

Grant Hall, 5900 64th St. NE, addressed Council. He stated he is definitely against this sort of thing in the library for kids to be picking up without any supervision.

Jeff & Matt Moses, 7022 Armar Rd., addressed Council. He stated they have been battling with the Sno-Isle Regional Library and are in the third stage of the process right now; there is a public hearing to be scheduled soon. He said he felt it an important time for the Council to make a public statement regarding this matter and he said he would like the Council to support the Moses in their fight against porn and approve a resolution stating that.

When asked when the Sno-Isle public hearing is going to be, he stated it is scheduled for 6/16 at 7 p.m. at the Sno-Isle service center by Roy Robinson Chevrolet.

Mayor Weiser explained the process of putting a resolution in place, such as this and Mr. Moses asked if it would be appropriate for the City Attorney to draft a resolution.

City Attorney Weed stated he would do what's directed by the Mayor and Council.

Mr. Moses explained he is in the process of getting a petition signed against the book and to put labels in place. The City of Marysville owns the library building and property, he pointed out, however SIRC would make decisions, so he said he is asking City Council, if it's appropriate, to support a label for material similar to this book because he said he feels the Council needs to make a public statement against "violent pornography" such as this.

Gary Wright, 5533 Parkside Dr., addressed Council. He said he would also like to address this issue and in reviewing the matter he feels it's detrimental to the community to have this type of material available to the children; it's not in the best interest of the community or the children and he said he strongly disagrees this is against a person's constitutional rights to take the book away. He pointed out he feels the book definitely does not have to be available at public expense in our community to the children and further, he said he thinks it should go a step beyond labeling: possibly a separate section in the library if the books are absolutely necessary to be in the library. He added he objects to his tax money being spent to permit this type of material being available to children. If it's available in an adult book store, that's a different matter, he concluded.

Scott Skelton, 7121 56th Pl. NE, addressed Council. He brought several other people up with him to the podium and stated they are new homeowners in Foothills who were guaranteed a certain value of home, a certain concept and now some people have come in and built homes that they don't feel fit in. He stated the homeowners he represents are working with an attorney and would like to get a temporary building moratorium until they can get an architectural committee together.

Councilor McGee asked him to clarify what kind of homes don't fit in and Mr. Skelton said they don't fit in because of the style of home, the quality of home is of lesser value and the original homeowners were guaranteed in the brochures that they would all have the same style, quality, value. (The brochure was from the builder/developer, he said.)

When asked who the developer/builder is, Mr. Skelton said it is Northward Homes (builder) and the developer is Tom Withers. He added that the quality meets minimum requirements of roof types, etc. but the value is not there and they would like to get an architectural committee together and at least help other people who want to move in in the future.

Mayor Weiser asked about covenants and whether they aren't being enforced by a current architectural committee.

Mr. Skelton said it depends on who owns the most property who runs the architectural committee and he guessed at this point the developer owns the most property. He has sold property to his brother who has put lesser valued homes in and that's what has created this problem.

Councilor Baxter asked if this is the old Crystal Heights subdivision and it was confirmed it is, that it was renamed Foothills.

Christie Skelton, 7121 56th Pl. NE, addressed Council, noting they purchased their home in 9/92 and by 2/93 15 homes have gone up that are \$30,000 less in value right in their backyard. She said entryway to the subdivision is a concern right now, too, because it's vacant and they don't want lower valued homes to go in there and give people the impression that's representative of the whole subdivision. She said Northward Homes was to be in charge of an architectural committee.

Councilor McGee asked what specific difference in the homes make the value less and Mrs. Skelton said the lower valued ones are at minimum code, as far as square footage, street appeal, etc. and they would like some kind of support to put a halt on building until they can meet with the architectural committee. She reiterated that they are very concerned about the entryway and what kind of homes are going to be built there. She added they are at a great disadvantage and think something should be done for future homeowners, too.

Councilor McGee asked if the difference in values could be anywhere from \$30,000 to \$80,000 and Mrs. Skelton confirmed that was the problem.

Councilor Baxter asked if the City has a copy of the CC&Rs and City Planner Hirashima said no, she didn't think so, that the City is not required to enforce covenants of private builders and developers.

Mrs. Skelton noted the CC&Rs are recorded and she has given a copy to their attorney. She added that Tom Withers' brother apparently has done this before--he builds a lower valued home in the nicer areas and if those sell, it's going to take off and he's going to get away with this; he has 15 homes in there already, she said.

CORRECTED: SEE 6/7/93
MINUTES ADD "legis"

Councilor Herman noted the homeowners are utilizing available resources but as he understands it, the City does not get involved in compliance issues with CC&Rs.

City Attorney Weed stated the City gets involved up to the Final Plat: characteristics of the neighborhood, zoning, etc., but once the Final Plat is approved, the City is no longer involved to the same extent and it's an agreement/covenants between the builder/developer and the homeowner. He pointed out these are binding agreements with regard to building materials, house size, etc. but the City is not involved usually in this--it would be a policy issue that the City should consider. Any recourse they may have would likely be between the real estate agent/developer/builder and the homeowner but the City can't get involved unless it's to do with height of building, eg., he said. He noted that some cities, such as Snohomish, do have an architectural review committee that review covenants but Marysville doesn't.

Councilor Herman asked if that was something Marysville could do in the future.
~~was to be investigated and she stated only one covenant was~~

City Attorney Weed said yes, the City of Snohomish has limited capacity in that process, for example, but Marysville can't get involved in this case at this point. He stated he is sure these citizens' attorney will advise them concerning the covenants.

CORRECTED: SEE 6/7/93
MINUTES omit notes

Dave Koshak, 5609 73rd Dr. NE, addressed Council, stating he thinks the Foothills situation needs to be reviewed by the City. He said they are looking to the City to possibly come to the rescue because they have the best view on the hill and they thought there was more control over what is built in that subdivision. But now the new builder is putting in split levels and simple roof lines and there should be some kind of mechanism to establish their own architectural committee. He noted the original homeowners in this subdivision have put a lot of time and money into their homes, they went door to door and all the homeowners in there speak negatively of Northward, Dick Gilroy and Tom Withers and they would like to see a building moratorium until they can establish an architectural control committee, he concluded.

Councilor McGee asked if the covenants apply to all lots and Mr. Koshak said yes, but the builder has pulled out now with 37 lots left to go; sideyards have been reduced, etc.

City Attorney Weed said in the case of a public safety hazard, health hazard, emergency or special violation of City code, the City would have authority to put a building moratorium on and perhaps the citizens could have a Superior Court place a temporary restraining order. He reiterated there would have to be a violation of City code in order for the City to have authority to put a building moratorium on.

Mayor Weiser noted there has been preliminary discussion about the City having an Architectural Control Committee and Mr. Koshak said he can't see anything negative whatsoever about having an Architectural Control Committee.

Councilor Leighan pointed out that there might be some additional cost if someone has to conform to more expensive CC&R requirements and Mayor Weiser added that you can spend a lot of time in court fighting the ACC decision, sometimes, too.

Councilor Baxter asked if this could be done at the Planning Commission level and Mayor Weiser noted that when he was on the Planning Commission, they were asked to look sometimes at merits of different building materials, etc. and the thought of the Planning Commission was it wasn't something that should be enforced, it would depend on pride of ownership and that's hard to control, he said.

Mr. Koshak noted there isn't much property left in Marysville and if nothing is done about just square feet and cost conformity there will be a lot of problems in this and other areas of Marysville.

Councilor Baxter pointed out that maybe the neighbors in the lesser valued homes are putting in three times the effort to make a payment as Mr. Koshak and it's not the City's job to decide where people should live.

Mayor Weiser noted it's not an easy issue to resolve.

Mr. Koshak reiterated the subdivision was misrepresented to them and he said he thinks the City should plan on being more aggressive in this area.

Councilor Baxter asked about these people coming before the Planning Commission and it was noted the Planning Commission could only make a recommendation to City Council. Councilor Baxter noted this issue has come up before and the Council can approve ordinances concerning PRDs, densities, etc. but not building materials.

Pat Cantoni, 5814 74th Dr. NE, addressed Council. She said the point is not whether she can afford a nice house because they had to buy a more expensive home compared to where they came from in Missouri, but Northward Homes misrepresented these homes. The homeowners pay their taxes to the City and so would like to be able to be helped by the City. She noted the City has the authority to tell her neighbors they can't expand their deck, but they can't help in the area of something more major, such as the whole house square footage, appeal, etc.

Councilor Myers noted there's a difference between a variance to an ordinance, such as in the case of the deck or sideyard setbacks) and what these neighbors are talking about.

Mrs. Cantoni said she can't believe the City Council or Planning Commission can't help and City Attorney Weed stated they do have recourse with the Consumer Affairs/Protection Act and could go to the Attorney General's office. He added that in order to deal with misrepresentation, unfortunately, City Council does not have authority to help on this.

Mrs. Cantoni said she thought it was time maybe that City Council starts getting involved in issues such as this; these homeowners need to have their biggest investments protected.

Councilor Leighan pointed out that the City does offer protection in the way of public safety. He noted he had the same thing happen in his neighborhood with people installing a lower grade soffit, 3 tab roofs, etc. and he said there are loopholes and that's between the homeowner and the developer to resolve.

Mrs. Cantoni noted it took them 4 months to build her home, the new ones are taking 3 weeks and she asked about the City's regulations about checking on permits.

Mayor Weiser assured her there are several building inspections done by the City during the process to be sure the houses conform to code.

Councilor Baxter also assured her that the Council does care about this, it's just basically not within their jurisdiction to enforce CC&Rs.

Councilor Myers agreed, stating he has a similar problem in his neighborhood but does not even have the protection of covenants to fall back on.

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Marilyn Roberts, 6502 54th Dr. NE, addressed Council. She stated she has lived in Marysville for 16 years and just moved to Parkview Estates. She said she noticed the other day that a new shopping center is going in on 64th (528) directly across from the Allen Creek Elementary School. She asked if there was something that could be done to stop that. She suggested instead duplexes, single family homes, another senior retirement center, because she feels it's very dangerous to have a shopping center across from a school. She added she and her neighbors, as well as the community at large, doesn't need another shopping center, especially with all the crime that's associated with them.

Mayor Weiser explained this property has had a business zoning for a number of years, the Comp Plan designates land use for the next 10 years; the updated Comp Plan will be on the Council agenda next month and during the public hearing everyone is welcome to testify for or against it at that time.

City Planner Hirashima added that when the property was annexed into the City two and a half years ago, it was given Neighborhood Business zoning and recently, the owners have applied for Planned Community Business. She noted the only way it can be downzoned is if the property owner and/or City Council requests it.

Mrs. Roberts said she is concerned that they can start building now and Mayor Weiser pointed out the property is zoned Neighborhood Business but the City is in the process of reviewing the Comp Plan because of all the changes that have occurred over the last 10 years, such as new school locations.

Councilor Herman said it might be helpful if there were a list of permissible uses under Neighborhood Business for Mrs. Roberts and Mayor Weiser invited her to come down to talk with the Planning Dept. in fuller detail about this property. City Planner Hirashima noted they have a full file which is available for the public to peruse in this matter.

Tamara Armstrong, 5810 74th Dr. NE, addressed Council regarding the architectural committee in Foothills issue. She said she doesn't begrudge the homeowners with lesser quality homes but if this has come before Council in the past, it seems to her that it would behoove the City to involve themselves in a minimal way with regard to design review. She added it seems like this is going to continue to be a problem and there should be some kind of control, at least at a minimal level.

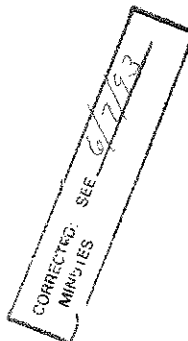
Councilor Baxter clarified that when he said this has come up a number of times, it has been more like a few times in 21 years is all.

STAFF BUSINESS:

City Administrator Zabell announced Clarence Dozey's retirement Friday from the Golf Course. He also noted Larry Larson will be Bob Kissinger's temporary replacement and will be taking his final state exam in June to qualify for this position on a permanent basis.

City Planner Hirashima reported the Masonic Temple has requested directional signs at three entry points of the City, which will be installed as per MMC. With regard to sign code violations, she stated several subdivision owners have been notified in the Southeast part of town that the signs need to be removed. Polygon, who is building in Northpointe has since requested the City look at a single sign which could possibly serve several Southeast subdivisions and she said the City is working with them on this.

She reported at the GMCC meeting last Monday, land capacity analysis was discussed, with some interesting materials supplied



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on this from the county. In response to information provided, she said, especially the information that the interim annexation area could hold up to 100% over the next 20 years of growth, it was requested the City and County renegotiate the interlocal agreement which is set to sunset at the end of June. She said the Planning Dept. would like to have a joint meeting scheduled between the Planning Commission and City Council, to review methodology, 6/8/93.

Councilor Baxter asked if this would involve more boundary discussion and City Planner Hirashima said that's possible because the county analysis is saying Marysville is exceeding needed land within the interim annexation area for the next 20 years by 100% and the need is to look at the methodology that produced these figures that differ so much from the original methodology.

Mayor Weiser pointed out that the county is giving as some of the reasons for the difference as 25-50' buffers instead of Marysville's 100' buffers, for example, as well as a book that Councilor Baxter obtained which is predicting Marysville's 1995 population to be only 6400!

Consensus was to have a joint Planning Commission and City Council Meeting 6/8/93 at 7 PM in Council Chambers, combining it with the Planning Commission's regular Tuesday night meeting.

Collection Status Report; Municipal Court.

Sue Jensen, Court Administrator and Judge Larry Trivett, made themselves available to the Council for questions concerning the information in the packets.

Councilor McGee asked if the 165 cases closed reflects collected cases and Court Administrator Jensen said no, some people are only paying \$10/mo. but those cases are still considered "closed". She added they sent Al Gordon \$167,000 worth with a recovery rate of about 16%.

Councilor Baxter asked if the amount still to be received is \$374,000 and Judge Trivett said he would say a more accurate figure would be \$270,000 because the older the account is, the less likely it will be collected. He added that they are trying to assign the collections sooner now.

Councilor McGee asked for clarification on the collection agency fees being included and Judge Trivett stated they collect the original amount, plus interest, plus the additional collection fee.

Court Administrator Jensen said they are actually turning the accounts over in 120 days now and can put a hold on the person's drivers license renewal if they have an outstanding warrant.

Judge Trivett noted the Municipal Court is now going to start using Al Gordon to issue garnishments, also, because they have a lot of resources in order to collect that the Court doesn't, under state law. He said they have been seeing a steady increase in revenue and feel the collection process is working well.

City Administrator Zabell asked about the 20 canceled cases and Court Administrator Jensen stated that's because the defendant is deceased, now out of state or has applied to the judge for a cancellation.

MAYOR'S BUSINESS:

Mayor Weiser noted 11 applications had been received from people interested in serving on the Planning Commission (to replace Ward Sayles) and his recommendation for appointment is Eric Anderson.

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After very brief discussion, Councilor Baxter moved and Councilor McGee seconded to approve the Mayor's choice of Eric Anderson. The motion passed unanimously.

Mayor Weiser asked the Council to consider changing the residency requirement for the Golf Board, Library Board and Parks Board and Councilor Wright suggested at least requiring them to live within the Marysville zip code or the Marysville School District service area.

Mayor Weiser noted that at present the majority of each of the three boards are required to be within Marysville city limits and Councilor Baxter said he doesn't see a problem; they still require Council approval.

Councilor Leighan said seeings as how the parks are within city limits, everyone on the Parks Board should probably reside within city limits; with the Golf Course/Board, people could serve from other areas but with the Library Board, they could be from within the Sno-Isle boundary.

Mayor Weiser commented on the possibility of combining the Parks and Golf Boards and said Roger Kelley will be putting an ad on Marysville Community TV for those interested in becoming members of the Parks and Golf Boards.

Mayor Weiser announced the upcoming DARE graduation at Kellogg Marsh School, Thursday, June 3, 1993 at 7 p.m.

CALL ON COUNCILMEMBERS:

Councilor Herman announced that his home phone no. is 659-7721, not the one in the newspaper and Roger Kelley is making necessary changes in the City records. He asked about the status of Mother Nature's Window.

Mayor Weiser stated the City is working with the County Parks Dept. and Mert Turk and we should hear soon more information on that. He added that hopefully, we will be able to talk about this at next Council meeting; in the meantime, the county has put a hold on the payment, he reported.

Councilor Herman noted this matter was to be continued tonight and so moved to defer a decision until more information is received. Councilor McGee seconded and the motion passed unanimously.

Councilor Leighan gave the Council a report of the Parks Board meeting 5/5/93, with youth activities, concert series in the Park, Sights & Bites, etc. discussed.

Councilor Wright reported she was watching C-Span and the U.S. Senate was holding hearings similar to our library book issue. Their concern was to stop violence on TV and they are going to come up with a V-lock so children have no access to this material. She stated she finds sexually explicit and violent material personally unacceptable for public TV or a public library.

Councilor McGee agreed with her last comment and urged Council to authorize the City Attorney to draft an ordinance to reflect that position and bring the ordinance back in two weeks. Councilor Baxter concurred.

Councilor Herman said he feels there has been some truly offensive material available but there are many issues involved: censorship, bans, sensitivities, guaranteed freedoms, labeling issues and possibly establishing a criteria/threshold is one way to go, although he stated he sees that also being a very difficult task as different people find different things offensive. He added that he know one of the problems also is making a labeled book an

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attractive nuisance; separate sections of the library may present a problem or extra staff time, examining materials, etc., and that can cost more money and may come down to whether we can afford to have public libraries. It's a very difficult issue to resolve, he concluded.

Councilor McGee said he feels there are several places throughout the city and county for this type of material to be available, but it should not be available at a public library, in his opinion, particularly when the majority of the library clientele is children.

Councilor Leighan suggested the possibility of a review committee to review library materials and Councilor McGee added that he was originally in favor of a parental advisory label or something along that line but the more he has thought about it, it's just not appropriate material for a public library.

Councilor Baxter said he feels the City has lost control of the library and there's not a lot the Council can do about it. This material is unacceptable to him, also, he said, and added that the library doesn't need that type of material. He noted he got along without it growing up and it really bothers him that those in the Sno-Isle Regional Library don't consider this material pornographic material.

Councilor Leighan observed that there seems to be a conflict--that the book might be a good resource for parents but he agrees there is a conflict with what should be available to children, he said.

Councilor Myers asked who would have the responsibility of determining what's available to adults and what's available to children.

Mayor Weiser agreed it's a two tier problem and he said he has spoken with Tom Mayer about this.

Councilor Wright said she still doesn't know if the Marysville Public Library has a children's librarian.

Cindy Lyons, Managing Librarian, addressed Council. She stated this is a very emotional issue for her but yes, they do have a children's librarian. He helps the kids up to 14 find things, he selects materials, but the selection overall is made by many different people, for example, she (Cindy) selects most of the adult books, juvenile is selected by others. The Rap Lyrics book was actually meant for adults, it was coded for adults, it did not have a "J" on it which is for "Juvenile"--6th to 8th grade. She said this book was coded for adults because of the language and content, even though most of the people who listen to Rap are under 21. She agreed there is a conflict there because this book is probably not of too much interest to adults.

Councilor Wright asked if a parent could call in and ask the library not to allow their child to check out a certain book and Ms. Lyons said no, not at this time, but the Sno-Isle Regional Library Board could consider that action. She said in the case of the Moses boy, he asked specifically for the words to a particular song that he was going to perform in school and it's not up to the librarian to say he can't have the book. He asked specifically for lyrics to a particular song and sometimes, for example, someone (a child) will ask for writings by Shakespeare--whatever criteria you have, you are going to have people complain, she said. She added that before the City annexed to Sno-Isle they had an option as far as "control" but that's not a black and white issue, either. As far as how many children come to the library, she said she felt it was more like 1/3 of the total instead of 50%, that someone else thought it was.

Councilor McGee questioned her using the word "borderline" with regard to the Rap book and Ms. Lyons explained the book was reviewed in mainstream library literature and was not published by an underground publisher, for example. She said they rely on reviews a lot because it would be too hard to read everything that comes into the library.

Councilor Baxter asked about someone interested in opening a day-care center on 1st or 2nd St. and City Planner Hirashima said yes, there is someone who is interested but they have not applied for the conditional use permit yet. Councilor Baxter said he was wondering about having to pave the alley and City Planner Hirashima said potentially, the site meets the City's non-conforming use section of the code and so they would not have to meet all offstreet parking requirements, possibly. She said the interested party was going to research that further and the non-conforming standard would depend on when the building was last occupied.

Councilor Baxter said he wouldn't mind having the alley paved if the City pays for it, but he doesn't want to have to contribute towards it, as an adjoining business.

Mayor Weiser noted the applicant could also ask for a variance if the alley is required to be paved.

Councilor McGee asked about the cottage homes in the Munson Creek Division and City Planner Hirashima said a wetland analysis needs to be further reviewed before it comes before City Council.

Councilor McGee reported on 55th the grass needs cutting and Parks & Recreation Director Ballew stated that's being taken care of.

Mayor Weiser asked about a recommendation from Council for a resolution on the library issue.

Councilors Herman and Myers both said they plan on attending the Sno-Isle Regional Library public hearing on June 16th.

Councilor McGee moved that the City Attorney be directed to draft a resolution to be forwarded to the Sno-Isle Regional Library Board in time for the 6/16/93 hearing, expressing the desire for Rap: The Lyrics to be removed from the library, along with other material such as this, and proposing some available options as far as accomplishing the Council's feelings, based on discussion by Council about this matter. Councilor Baxter seconded the motion.

A roll call vote revealed Councilors Myers, Leighan and Herman against the motion and so it was a tie vote, 3-3.

Councilor Leighan then made the motion for the City Attorney to draft a resolution stating the Council's concern about material that can be accessed by juveniles, asking the library to adopt a policy for better control of what books can and can't be accessed. Councilor Herman seconded the motion and a roll call vote was taken:

Councilor McGee was against because he said he felt a stronger stance should be taken by City Council to remove this type of material from the library altogether.

Councilor Baxter was also against, all others were in favor, so the motion passed 4-2.

Mayor Weiser asked the City Attorney to bring the resolution draft back to the 6/7/93 City Council meeting.

PUBLIC HEARING:

1. East Ridge Annexation; PA 9302002.

City Planner Hirashima reviewed the agenda bill, noting 528 is included in the proposal but not Highway 9, 69% of the assessed valuation has signed the petition and there is a correction to the proposed temporary land use designation on the agenda bill: It should read 1 du/2.3 ac.

Mark Dibble, 6605 83rd Av. NE, addressed Council. He stated he is opposed to the annexation and one of his biggest concerns is that the GMA has this to be zoned high density and he said he is reasonably sure people are not aware of what the proposed zoning is going to be. He noted the area there already has standing water over 88th and there are a lot of problems in that area. He added he doesn't know the reason for why they want to come into the City--he heard there's a possibility of a strip mall and he asked what the City would offer the neighbors in the event of annexation. He also asked for clarification about the filing of the DNS.

City Planner Hirashima explained the Determination of Non-Significance stated the City had determined there would be no significant adverse environmental effect if this were annexed. It's what the City calls a "non-project action", she said and added there would be service changes if annexed, such as water, sewer, police, fire.

Rob Baker, 8305 83rd Av. NE, addressed Council. He stated he is opposed to the annexation also. He said he has been attending the joint county and city meetings and it's been stated the City doesn't need to have this land for future expansion--there are sections in the midst of the City that are still in the county and he suggested the City needs to look at those areas first, with regard to annexation. With respect to water, sewer, etc., he said the City does not plan to take water and sewer up there and most of the people up there wanted the rural area, they have very adequate services and he concluded that he would like to see the public hearings for the Comp Plan held after Maryfest so as many people as possible could attend both events.

Councilor Baxter noted that over and over he hears, "I don't know why the City wants this area" but the City does not make these petitions.

Mr. Baker said he understands that.

Mayor Weiser noted in cases such as this, the City usually would ask for the developer to set up a neighborhood meeting with regard to the advantages of annexing: Things such as lower water and sewer rates and hookup fees, quicker fire and police response time, dealing with the City vs. the county are always mentioned by people who come into the City on an annexation, he said.

Mr. Baker stated he understood but thinks all the developer wants in this case is to put in more housing and make it higher density than what his neighbors currently enjoy.

Norman Webb, 7125 83rd Av. NE, addressed Council. He stated he is opposed also and didn't find out about this until just the other night when he read the notice (which had fallen over) on the property. He said it's important to have meetings and communication and he thinks the rest of the people on the hill should have been notified and should be involved.

There being no one further from the audience who wished to speak to this matter, the Mayor closed this portion of the public hearing at 9:40 p.m.

Councilor Herman asked about the Comp Plan designation and City Planner Hirashima stated the majority is single family, however there is rural conservation, some neighborhood commercial and two parcels proposed for multifamily.

Councilor Herman asked about notification to adjacent homeowners and City Planner Hirashima stated a perimeter mailing has not been done as yet.

Councilor Herman noted this is within the interim annexation area and asked about land use capacity, annexation boundaries, population projections and whether or not this area is necessary to meet the need over the next 20 years.

Mayor Weiser reminded Council the methodology of determining the boundaries and population projections still has to be approved.

Councilor Herman asked for clarification of the interim annexation area--justification for expansion and Marysville's land use planning as far as critical need and long range plans.

City Planner Hirashima explained that when Marysville first signed the interlocal agreement, areas within the IAA were determined to be appropriate with respect to future annexation, water and sewer service feasibility, future development. This property probably is likely to be left in the IAA, she said and she talked about its proximity to Bayview Ridge which is on City water and sewer.

Councilor Herman asked if the proposed annexation would be on sewer or septic and City Planner Hirashima stated it is proposed for sewer.

Councilor Herman asked for more clarification regarding density, future growth potential, population projections, Comp Plan designation, land use. He said he is concerned about an increase in density in that area.

Councilor Baxter agreed that he is also concerned about the density, especially in light of what the Planning Commission has been discussing.

There was discussion about what the density will be, depending on whether it's annexed or not, mixture of density now and in the future.

Councilor Wright moved to approve the subject annexation subject to assumption of the City's bonded indebtedness and adoption of the comprehensive plan designation of Rural 1 du/2.3 ac, subject to completion of the City's Interim Comprehensive Plan for the subject area and to send said recommendation on to the Boundary Review Board. Councilor Baxter seconded the motion but it resulted in a tie vote with Councilors Myers, Leighan and Herman against.

Councilor Herman moved to continue this matter to 6/7/93, Councilor Myers seconded and again, this resulted in a tie vote, with Councilors Wright, Baxter and McGee against.

City Attorney Weed suggested a motion to reconsider the continuance so that this can be voted on with a full Council present.

Councilor Baxter moved to reconsider the continuation to 6/7/93. Councilor Myers seconded and the vote was 5-1 in favor, Councilor McGee being against.

REVIEW BIDS:

1. Tenth Street and Beach Avenue Improvement Project Bid.

Public Works Director Winckler reviewed the agenda bill and explained this project is funded by a county block grant in the amount of \$25,000, so the City would not be responsible for any of the funding, as the bid from Belmark came in at \$24,594. He said staff recommends acceptance of this bid.

Councilor McGee asked if the project was anticipated to exceed this amount and Public Works Director Winckler said no. City Administrator Zabell also noted that no Washington State Sales Tax would have to be added.

After brief discussion about the block grant, private donations, asphaltting, no sales tax on a street project, Councilor Baxter moved and Councilor McGee seconded to approve the bid in the amount of \$24,594 from Belmark Industries. Passed unanimously.

2. Approval of Bid for Jennings Park Petting Zoo.

Parks & Recreation Director Ballew reviewed the agenda bill and stated that one change recommended by the Parks Board was that the facility be fully enclosed; that is what the bids were based on, a fully enclosed building. He reviewed the bids for a 30' x 48' building (\$23,208), a 30' x 60' building (\$26,588), cupola vents (\$615) and an 18" overhang on roof line (\$1938) and stated they had hoped to have the building completed by 6/25 however, they need to allow 30 days from delivery of materials for completion. He stated he has met with Rotary and they seem very positive with regard to interior furnishings, with other possible donations to come from the community/Navy, he said.

Councilor Herman asked about adding on the overhang and cupola vents because it looks like they would be less costly to add on prior to rather than after the structure is built, he noted.

There was discussion about the hotel/motel tax funds, Maryfest donating \$3,000, cupolas being mainly aesthetic but also providing venting, concealed overhead doors vs. sliding doors (same cost), approx. \$4,000 was going to be taken out of the hotel/motel tax account originally for rewiring for Sights & Bites, Maryfest will be underwriting temporary electrical connection (\$1,000), high attendance at the zoo from tourists and out of state visitors.

Councilor McGee moved to approve the Town & Country bid for the 30' x 60' building in the amount of \$28,768.22 (incl. tax), plus \$615 plus tax for the cupola vents and \$1938 plus tax for the overhang, as recommended by staff, with the difference between the total and the insurance money available, to be drawn from the hotel/motel tax fund. The motion was seconded by Councilor Wright and passed unanimously.

CURRENT BUSINESS:

1. City Motto Finalists.

Councilor Herman noted there were 80 entries and he read the five finalist entries in the packets. He noted the committee had a tough job singling out these five and thanked them for their efforts, as well as the entrants for their efforts. He explained the winner will be announced at the 6/14 meeting and awarded the prize of \$100, after voting by Council on 6/7/93.

NEW BUSINESS:

1. Blackburn 10% Annexation; PA 9305017.

City Planner Hirashima reviewed the agenda bill, noting this was originally part of the Southeast Annexation, is now 9.64 acres with 100% of the assessed valuation represented in the property owners who have signed the annexation petition.

Councilor Myers moved and Councilor Leighan seconded to accept the 10% petition, establishing an annexation area as proposed for circulation of the 60% petition. Passed unanimously.

2. Perkins/Armstrong Variance; PA 9303006.

City Planner Hirashima reviewed the agenda bill, noting the hearing examiner has recommended denial of the request. The applicant did submit a letter of appeal, she stated, and reiterated the hearing examiner's reasons for recommending continued denial for the setback variance. She noted the applicants wished to build a 320 sq. ft. second floor deck which is a 10' variance; staff is recommending Council affirm the hearing examiner's recommendation for denial of the request.

Councilor Leighan noted the immediate neighbors are not opposed, however there is vacant land adjacent to the subject property still.

City Planner Hirashima stated the applicants would be allowed a deck about half the size they are applying for, without a variance.

Councilor Herman asked about alternate structures that would be allowed, extraordinary circumstances, precedent setting and City Planner Hirashima explained the applicant is arguing their view is a special circumstance which the deck would be taking advantage of.

City Attorney Weed pointed out there are 3 criteria which must be all met, which the hearing examiner did not find were met.

Councilor Wright noted the neighbor thought the larger deck would improve the appearance of the applicant's home by making it look less like an apartment building, however.

Councilor Leighan moved and Councilor Wright seconded to set a public hearing for 6/14/93.

Councilor Herman stated he feels Council should be affirming the hearing examiner's recommendation for denial.

The motion passed 5-1, with Councilor Herman opposed.

Councilor Myers left for the evening at 10:33 p.m.

3. Dwayne Lane Dodge; Conditional Use Permit; PA 9212064.

City Planner Hirashima reviewed the agenda bill, noting the applicant would be utilizing 70 K-Mart outside parking stalls. She said Dwayne Lane did have one sales event at K-Mart: a business license was applied for but the applicant was told a conditional use permit would be required; advertising had been done so the sale was allowed to be continued with, which was a success. She stated the hearing examiner recommends approval of the conditional use permit, with 4 conditions. With regard to condition #4, however, she stated they wish added: "for renewal".

Councilor Baxter asked about condition #3, coordinating sales events with K-Mart and City Planner Hirashima explained this would

mainly apply to outdoor holiday events, events that would require K-Mart's use of the parking lot or have an extremely large draw of customers, to the point where there would be a conflict; it's to protect against a shortage of parking, she said.

Discussion ensued about parking at Marysville Mall and this possibly setting a precedent (Marysville Mall is full to capacity now), sales tax revenue which would be received by the City from all sales made during their events in Marysville.

Councilor Baxter moved and Councilor McGee seconded to approve/affirm the hearing examiner's recommendation to approve the conditional use permit. Passed unanimously.

4. Establish a Part-Time Probation Department.

Judge Trivett reviewed the proposal for funding for a two year monitoring program. He stated this would be for people receiving a citation who can be entered into a deferred prosecution program. He stated some defendants are successful in the program, some aren't but all the courts that are effective have this program. He noted the Marysville Municipal Court has an arraignment case load of 80 cases per month and in addition to two very qualified individuals (Evelyn Barth and Lynn McCormick), a vehicle would be required to monitor defendants. He outlined the revenue that is projected, as per the information in the packets and he stated it is expected that more money will be collected than they are proposing the City spend on the program to get it started.

Councilor Baxter asked about the possibility of no shows and Judge Trivett said that is an unknown quantity/factor at this time, but the funds would probably be collected by the City/Court system. He added that these defendants are usually prepared to pay and enter the deferred prosecution program fairly well motivated towards success.

Councilor Baxter asked if this program would be in lieu of a person going to Evergreen Manor, say, and Judge Trivett explained the defendant is seen for an evaluation, a program is developed for 2 years (which may include Evergreen Manor), and the program is approved by the judge. Sometimes the defendant does not show and therefore is found automatically "guilty", he said.

Mayor Weiser asked about allegations that this is just adding a duplication of services to fill City coffers and Judge Trivett explained there are too many cases with problems of drugs and alcohol abuse; there is a significant need to make sure there is something in place for these defendants to reduce the high number of domestic assaults, DWIs, etc. and this is a program to help defendants and possibly avoid reoffenses, but it's also a good opportunity to have the defendant pay for some of these services, he stated.

Councilor Herman asked what happens if the defendant says they can't afford the treatment and Judge Trivett stated the defendant in that case will probably not get the treatment.

Councilor Herman observed that finances may dictate justice received, in some cases, and Judge Trivett agreed, stating on the other hand, there are also monies available for indigents. He added there are laws that state the Municipal Court can have this program in place, there is no law that says treatment must be given to indigents. He explained the advantages of treatment for these people, also noting there are some evaluations done at no charge.

Councilor Herman encouraged the Judge to be aware of those resources and stated it regrettable that there wasn't a budget request earlier for this before Council, when they were in a

position to grant human services monies, for example.

Councilor Baxter noted there is a budget amendment/request in the packets, approved by staff.

City Administrator Zabell noted it seems like a pretty well self-sustaining program.

Councilor Baxter moved and Councilor McGee seconded to approve the \$7,000 budget amendment to implement the part-time probation dept.

Councilor Herman asked about the budget impact/difference between the cost of the program and revenue and Judge Trivett said they would be sending letters out immediately to get the defendants to pay for this and he said he really expects more revenue than what is spent in getting the program started.

The motion passed unanimously.

Court Administrator Jensen asked about having a contract drawn up and Judge/Attorney Trivett said he would arrange to have this done.

Councilor Baxter left Council Chambers at 11:00 p.m.

5. Utility Variance; Water Without Sewer Hookup; Karen Tregoning; Property Outside of RUSA; UV 93-005.

Public Works Director Winckler reviewed the agenda bill, noting staff recommends approval.

City Attorney Weed stated he has been asked by the RUSA Committee to prepare an ordinance to allow approval of variances for hardship cases, such as this, to be dealt with administratively.

Councilor Leighan asked about only having to meet criteria 3 & 4 and City Attorney Weed stated that is per the MMC.

Councilor Herman asked about Arlington not being able to provide water and City Administrator Zabell said the original lines drawn were only an estimate of what and who could serve an area; if they can't serve a customer, then the applicant has to go to the adjacent purveyor.

Councilor Herman talked about setting policy for areas outside RUSA, CWSA, infrastructure, burden on the system, water quality, future sources of water.

Councilor Baxter returned to Council Chambers at 11:06 p.m.

City Administrator Zabell said the RUSA Committee has considered these issues, as well as health hazards, large volume users, etc.

Mayor Weiser asked the applicant if she wished to speak and she stated she did not, unless Council had any questions for her.

Councilor McGee moved and Councilor Leighan seconded to approve the Tregoning utility variance. Passed unanimously.

6. Utility Variance; Water Without Sewer Hookup; Laurence Romo; UV 93-002.

7. Utility Variance; Water Without Sewer Hookup; Jim Mulligan; UV 93-003.

Public Works Director Winckler stated that the RUSA Committee has requested that these requests be tabled until December when the Water Comprehensive Plan is finalized.

Councilor McGee left Council Chambers at 11:12 p.m.

Public Works Director Winckler stated that sometime in 7/94 he believes a surface water rule is going to be imposed by the state and this is going to mean the Stilly is going to have to be filtered at that time. Approval of these two requests would complicate the issue to a great degree, he said.

Councilor McGee returned to Council Chambers at 11:14 p.m.

Public Works Director Winckler added that anything that's along the Stilly line is going to be impacted by the surface water rule and has been requested by the RUSA Committee to be tabled until the Water Comp Plan is finalized.

Councilor Baxter discussed and commented on other sources--Edwards Springs, Lake Goodwin Well, 83rd Av. Well, future negotiations with the Tribes regarding their reservoir, not mixing Everett and Marysville water, water rights, filtering.

City Administrator Zabell talked about the (non) feasibility of filtration, technology, industrial water use.

Councilor Leighan asked about a dual system and City Administrator Zabell said that's usually for major water users who are usually also major sewer users. He added the City/RUSA Committee is looking at a lot of alternate filtering concepts, one filter plant equi-distant from two sources, for example.

Councilor Baxter said all we really need to remove out of the Stilly is mud, silt and clay, but we need to be careful not to mix it with Everett water, and added that Larry Wade is working on some different ideas, too, because there is now some different, less costly technology for filtration available.

Councilor Baxter moved to deny the Romo utility variance without prejudice. Councilor Herman seconded and the motion passed unanimously.

Councilor Wright moved to deny the Mulligan utility variance without prejudice, Councilor Herman seconded and the motion passed unanimously.

CONSENT AGENDA:

1. **Environmental Consultants Sensitive Areas Ordinance List.**
2. **5/24/93 Claims in the Amount of \$806,932.92.**

Councilor Wright questioned Voucher 15713 and Finance Director Wilson said he would check on this and let her know what it was about.

Councilor Leighan moved and Councilor McGee seconded to approve Consent Agenda Items 1 & 2. Passed unanimously.

City Administrator Zabell clarified that if a consultant is not on the list, they can be cleared administratively in the event, say, a new consultant would need to be approved in the middle of the year, for example.

ORDINANCES & RESOLUTIONS:

1. **Ordinance Repealing MMC 2.50.100 Relating to Residency Requirements for Employees.**

Councilor Leighan moved and Councilor Herman seconded to approve/adopt Ordinance #1950. Passed unanimously.

2. Resolution Establishing Stop Signs at the Intersection of 42nd Avenue NE & 103rd Pl. NE.

Councilor Wright moved and Councilor Leighan seconded to approve/adopt Resolution #1623. Passed unanimously.

LEGAL MATTERS:

1. Amendment No. 2 to Interlocal Agreement for Growth Management Planning Program Funding.

City Planner Hirashima explained the county is responsible for disbursing funds and in order to do so an interlocal agreement needs to be signed (amendment) which inserts a new (lower) amount for the City's reimbursement.

After very brief discussion, Councilor Leighan moved and Councilor Herman seconded to authorize the Mayor to sign the interlocal agreement with the county. Passed unanimously.

2. Utility Easement; Vic and Ann Hadley.

City Attorney Weed explained this is in Bayview Crest, allowing the City access to a cleanout.

Councilor Herman asked about compensation to the City and City Attorney Weed said no, that would not be appropriate in this case as the easement crosses an open space.

City Administrator Zabell explained the open space was dedicated to the City because it's too steep to build houses on.

Councilor Wright moved and Councilor Baxter seconded to approve the utility easement. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 11:40 p.m.

1. Personnel.
2. Pending Litigation.
3. Real Estate.

RECONVENED AND ADJOURNED: 12:12 a.m. 5/25/93.

Accepted this 7th day of June, 1993.

David Weiss
MAYOR

Mary Swenson
CITY CLERK

Wanda A. Swenson
RECORDING SECRETARY