

MINUTES RECAP

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MARYSVILLE CITY COUNCIL MEETING NOVEMBER 1, 1993

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Councilor McGee excused

MINUTES OF PREVIOUS MEETING: 10/25/93 Approved

AUDIENCE PARTICIPATION: None

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PRESENTATION: None

PETITIONS & COMMUNICATIONS:

1. Petitions regarding Proposed 4th St. Bypass.

PUBLIC HEARINGS: None

REVIEW BIDS: None

CURRENT BUSINESS: None

NEW BUSINESS:

1. Rezone, Prel. Site Plan & Prel. Public Hrg. set for
Plat of "Whiskey Top"; PA 9303009 12/13/93

2. Budget Amendment for Purchase of Approved
a Conflict Monitor Tester for
Traffic Signal Maintenance.

3. 1994 Preliminary Budget. Handed out to Council
Council to hold Workshop
11/6/93

CONSENT AGENDA:

1. Hrg. Examiner Recommendation - Approved w/Conditions
C.U.P. - Joel Hylback

2. Hrg. Examiner Recommendation - Approved w/Conditions
C&C Assoc. Priv. Rd. Variance

3. Street Closure Request for Approved for 12/3/93
Merrysville for Holidays Parade

ORDINANCES & RESOLUTIONS: None

LEGAL MATTERS: None

ADJOURNMENT INTO EXECUTIVE SESSION: 8:55 p.m.

1. Litigation No Action

RECONVENED & ADJOURNED: Approx. 9:10 p.m.

MARYSVILLE CITY COUNCIL MINUTES

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NOVEMBER 1, 1993

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Dave McGee (excused)
 John Myers
 Ken Baxter (8:26 p.m.)
 Donna Wright
 Mike Leighan
 Otto Herman
Administrative Staff:
 Steve Wilson, Finance Director
 Gloria Hirashima, City Planner
 Grant Weed, City Attorney
 Ken Winckler, Director of Public Works
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 11/8/93
 MINUTES

CALL TO ORDER:

Mayor Weiser called the Council meeting to order and led the flag salute.

ROLL CALL:

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

MINUTES OF THE PREVIOUS MEETING:

In the 10/25/93 Council minutes, Councilor Pedersen noted on page 5 in the second to last paragraph, the words "with him" after "got to be an emotional one" should be deleted. In the paragraph next, beginning "Mark Dibble", the word "fitures" should be "figures", she noted.

Under Legal Matters on page 11, Councilor Pedersen noted "per capital" should be "per capita" and under Litigation, "Elveson" should be "Volgeson".

CORRECTED: SEE 11/8/93
 MINUTES s/b Helgesen

Councilor Herman referred to page 8, fourth paragraph, after the word "viable" a new sentence should be added: "He noted the ultimate authority is Washington State Utilities & Transportation Commission to approve or deny the speed change and the City of Marysville has only an advisory capacity in this."

There being no further changes or corrections, Councilor Wright moved and Councilor Pedersen seconded to approve/adopt the minutes of the 10/25/93 Council Meeting as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

STAFF BUSINESS:

Finance Director Wilson reminded Council, on behalf of City Administrator Zabell (out with the flu), of the Library Building Committee meeting, the RUSA and Traffic Advisory Committee meetings.

City Attorney Weed reported further on contract liability caps and changes that may be occurring in the law. He said he wrote a letter to the Attorney General and the response was that a WSDOT subcommittee is meeting 11/9 in Bellevue to discuss this issue. The subcommittee includes 4 members of local government and representation from Marysville was invited also. He said he would be reporting further on this. Also, he said he would like to bring a State Supreme Court case out of Yakima summary before Council regarding service and utilities outside city limits, confirming that cities have the right but are not required to serve utilities outside of city limits. He noted Yakima's non-protest covenant was held to be valid and appropriate and their covenant is similar to Marysville's.

Director of Public Works Winckler reported on the process of when the City takes over garbage service in an area, such as the area Laura Wild lives in. First of all the Public Works Dept. notifies the Prosecuting Attorney's office, a complete review is done of all addresses and then letters of notification are sent out. He said he is almost positive Wilds were included in the notification process, but he has nothing to prove it. The letters of notification ask that people choose the service they wish and mail a response card back to the City. He stated that apparently Mrs. Wild's address did not get put into the computer for the billing until September.

He then summarized Change Order #5 for the Wastewater Treatment Facility in the amount of \$14,439 for an electric control panel for standby power for Marysville and Tulalip. Purchase of this system saves the City \$250 per month payable to PUD, he explained, because they would normally charge \$500 per month for a full standby system; the City would supplement a partial standby system with its own (reduced) power. He reviewed the 4 previous change orders and noted the WWTF is now 50% complete, with it expected to be finished in a month, which is ahead of schedule and will therefore result in a savings to the City, also, he said. He said they anticipate being able to connect power to the headworks very soon and suggested another Council tour in February.

He reported on some northbound State Av. signal changes: 3 lights (the 2 near Fred Meyer on State and one at 116th) have had extensions of time put on them for northbound traffic which should relieve congestion during peak hours, he said.

MAYOR'S BUSINESS:

Mayor Weiser said election results for Marysville, Arlington and some of the surrounding communities will be broadcast on Channel 2 starting at 6 p.m. tomorrow evening.

He suggested a Budget Workshop be held this Saturday at the Public Works Building, upstairs, at 8 a.m.

He announced that on 11/29/93 at 1 p.m., Marysville will present Everett a flag and flagpole for their Centennial, at the park on the south end of the Snohomish River Bridge. He apologized for the long planning process this took, but it had to be coordinated with the State.

Mayor Weiser thanked all those involved with preparing the Preliminary Budget (handed out). He noted one of the things proposed is a decrease in the utilities tax and there are also some anticipated increases in revenue.

Finance Director Wilson stated additional copies of the Preliminary Budget would be made available to the public tomorrow at City Hall.

CALL ON COUNCILMEMBERS:

Councilor Herman said he would like an update on the interim Comp Plan, workshops, hearings, etc. and City Planner Hirashima said it had been discussed about having another workshop 11/8 or 11/22, directly prior to a Council meeting or it could be on the first or third Tuesday. It was tentatively agreed that another Comp Plan Workshop would be held on the 5th Monday of November (11/29).

City Planner Hirashima added that the Planning Dept. is working on a new colored map as a result of the last Comp Plan Workshop and that will be available for the next Workshop.

Councilor Leighan commented on the 528 & State turn light which has been finally installed. He commented on the tremendous amount of work that has been devoted to the budget process.

Councilor Wright noted she will be attending a Navy Homeport meeting Thursday and she said she thought the Candidates' Forum on Channel 2 very good.

PETITIONS & COMMUNICATIONS:

A petition in the packets concerning the Boat Ramp near the Welco Mill was referred to and Councilor Pedersen asked about point #4 the petitioners were trying to make, about Welco going out of business with the proposed 4th St. Bypass.

Mayor Weiser explained there are several proposals that would re-route Welco traffic; Welco's debarking facility is on the west side and he said he believes there are a number of proposals Welco is considering.

NEW BUSINESS:

1. Rezone, Preliminary Site Plan and Preliminary Plat of "Whiskey Top"; PA 9303009.

City Planner Hirashima reviewed the agenda bill. She stated an appeal was received to the Hearing Examiner's recommendation, signed by several of the neighbors. Also, a letter was received from Jim Egge responding to the appeal; these items are both in the packets. She noted Council has 3 options: Affirm the Hearing Examiner's recommendation, remand the decision back to the Hearing Examiner or for the City Council to hold its own public hearing.

Councilor Pedersen noted she did not know the size of this property until tonight and it should be included on the Hearing Examiner's report. She asked about PRD restrictions.

Brad Edgerton, 7213 83rd Av. NE, addressed Council. He asked that this item be delayed until at least 8 p.m. when they will have an engineer and attorney arriving. He referred to the times listed on the agenda and this item is not scheduled until 8:15.

It was pointed out that these are just estimates of when the items will come up and not "cast in stone".

Councilor Herman said with regard to streamlining the process, he realizes there is an appeal filed here and it may be reasonable to assume that a new public hearing will be requested; perhaps this type of item can be put on a Consent Agenda also.

Councilor Pedersen noted Council is ahead of schedule here but on the other hand, it is noted on the agenda this is just an estimate of time.

City Attorney Weed said it is his understanding on the time periods stated they were merely a guideline for the Mayor and Council and not to be published in the newspaper, however, if members of the public were given these times, it might be appropriate to postpone this until the respective parties are here, he said.

Mayor Weiser agreed to wait until 8:15 p.m.

Jim Egge then addressed Council, representing the Wallas. He said they have no problem waiting until 8:15 but both the appellant and opponent have responded within the 14 day deadline and he asked if it appropriate for Council to take any testimony tonight at all.

City Attorney Weed explained that procedurally, comment is limited to whether a new public hearing should be held. He added the Council has opted to not accept comment in the future but this is one that was caught in the middle.

2. Budget Amendment for Purchase of a Conflict Monitor Tester for Traffic Signal Maintenance.

Public Works Director Winckler explained this is a computer monitor system used in conjunction with signal boxes and 3 quotes were received for identical units: Harlen E. Baxter & Assoc. - \$8580
Athens Technical Specialists - \$8885
Diamond Traffic Products - \$8940

Councilor Myers moved and Councilor Leighan seconded to purchase the tester from Harlan E. Baxter & Associates, Inc., Bellevue for \$8580 plus tax, as recommended by staff. Passed unanimously.

CONSENT AGENDA:

1. Approval with Conditions (Hearing Examiner Recommendation); Conditional Use Permit & Variance to Private Road Standards; Joel Hylback; PA 9304015.
2. Approval with Conditions (Hearing Examiner Recommendation); Variance to Private Road Standards; C & C Assoc.; PA 9212068.
3. Approval of Street Closure Request for Merrysville for Holidays Parade. (Dec.3).

Councilor Pedersen had a question about #1 and City Planner Hirashima explained there are 2 duplex lots existing which will also be using this private road.

Councilor Leighan had a question about #2--a sprinkler system in lieu of fire equipment and City Planner Hirashima stated the applicant asked for a variance to the road standards, the fire district wanted either a turnaround or a sprinkler system and the applicant indicated they would be interested in constructing a turnaround but then changed his mind to a sprinkler system.

Mayor Weiser asked about "No parking shall be enforced by property owners" and City Planner Hirashima explained it is because it is a private road.

Councilor Pedersen then moved to approve Consent Agenda Items 1, 2 and 3. Councilor Wright seconded and the motion passed unanimously.

There was discussion at this point about the appropriateness of taking comments regarding the Whiskey Top Rezone, giving the staff report prior to 8:15. Mr. Egge agreed, as did Mr. Edgerton.

NEW BUSINESS, CONTINUED:

1. Rezone, Preliminary Site Plan and Preliminary Plat of "Whiskey Top"; PA 9303009.

City Planner Hirashima noted this property encompasses a total of 4.71 acres.

Mayor Weiser asked about the stream crossing and City Planner Hirashima said it was disclosed at the public hearing that it would be part of the construction plans although it was not necessary to be part of the public hearing.

Councilor Herman asked about utilities plans for crossing the stream and City Planner Hirashima said that would be reviewed by the Dept. of Fisheries as well as having to obtain approval from the Dept. of Public Works.

Councilor Herman said he has a concern about aesthetics and Director of Public Works Winckler said the process is that they meet with adjoining property owners with regard to vegetation shields to be put up by the developer and they consider other suggestions submitted by the neighbors, also. He said they are trying to be very sensitive to the neighbors' needs.

Mayor Weiser asked all those who wished to address Council to limit their comments to whether the Council should remand this back to the Hearing Examiner or hold a new public hearing.

Douglas Byerline, 15602 22nd Ct. SE, Mill Creek and 2930 Wetmore (business address), Everett, addressed Council. He stated he is a Licensed Professional Engineer and has been requested by the homeowners in the Whiskey Hill area to review the proposal. He said he has seen comments with regard to issues that have been overlooked by the Hearing Examiner and would request a Council public hearing.

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Page 5

There was discussion then about what detail Mr. Byerline can go into at this point vs. information appropriate for a public hearing (new testimony, etc.).

Mr. Byerline explained the issues the opponents wish to raise relate to traffic impacts caused by this development, both related to roadway width and also the cumulative traffic flow. In addition to that, he said the runoff issue should be further investigated because they feel the detention pond is not sufficient and finally, the geotechnical issues need further investigation as to slope instability, specifically.

Bob Rawley, Attorney from Everett, addressed Council on behalf of the opponents also. He stated his clients oppose this development and they would like Council to retain a larger lot size because of incompatibility with the surrounding location. He noted also new density requirements under the GMA, some of the procedural aspects and what has happened so far such as the environmental review and MDNS as issues they wish to bring out in a new public hearing. He said with respect to the MDNS, he reviewed it and rather than adopting conditions it simply defers action into the future which is of no value to the surrounding property owners at this point; they feel these matters need to be addressed now rather than being deferred.

Mr. Rawley was asked to limit his comments as to whether Council should hold a public hearing or remand the matter back to the Hearing Examiner.

Mr. Rawley continued that in reviewing the MMC with 1993 revisions, in conjunction with PRD applications, there are some specific mandatory requirements that must be met at the application stage as cited under 19.48.050 (d): certain data to be contained on the Preliminary Site Plan which was not. By way of example, some of the information that was not included was landscaping plans which are very important from an aesthetic and drainage standpoint, he said. He noted that in the Hearing Examiner recommendations "road frontage improvements and drainage plans" are referred to and required but no specifics are listed and considering that the pond entrance for storm water can't be changed, it could be rerouted, he said.

Mr. Rawley was interrupted once again by City Attorney Weed who clarified that the Council wishes solely to hear whether or not it is his preference that the Council have a new public hearing. Also, Mr. Rawley was asked for his address.

Mr. Rawley gave his address as P. O. Box 1127/3731 Colby, Everett and continued. He stated the applicant should be required to submit a drainage plan with specifics and he said he thinks the whole procedure should start back at Square One--requiring the applicant to submit necessary information. If necessary, a Council public hearing should be held, he said, but the opponents have expert witnesses they can call on regarding what they feel are major deficiencies in the whole project.

Jim Egge, 5016 129th Pl. SE, Everett, addressed Council. He pointed out that Council and staff has in their record written materials that were submitted by the appellants 10/28 as well as a hurried response to that appeal written by Mr. Egge. He said he would wholeheartedly concur that Marysville needs a policy outlining the appeal procedure because his understanding was that the cutoff date was 10/28: he received the appeal at 2 p.m. and returned a response by 3:30 that same day. The first 8 items were already raised before the Hearing Examiner, he noted, and a specific response was given by Mr. Egge, the Hearing Examiner and staff to these items, in addition to written material in the file in response to these items, eg. offsite sewer/stream crossing--it's a bore under the stream, he commented. Apparently no one

availed themselves of this information, he said and with regard to the preliminary drainage plan, he understood this was one of the better ones the City has received and not deficient in any way. Items out of the SEPA checklist were responded to by Mr. Egge, staff or the Hearing Examiner, he said. In conclusion, he said he thinks there has been a fair hearing: Council has the right to hold a public hearing, however, they feel mitigation is in place, specific plans laid out, traffic analysis was made and accepted by City staff, mitigations submitted to the Hearing Examiner, size of the detention facility submitted, there's been no proof offered that that's not large enough. He said the applicant still has to go through a final engineering review, the geotechnical review was very thorough and what seems to be happening here is the opponents just want larger lots and they want to use whatever delays are available to try and get that, which Mr. Egge said he sees as a waste of time. The applicant has shown compatibility, met PRD requirements, done the SEPA checklist, he said and added he thinks the appeal was appropriate but he doesn't think Council should entertain new issues.

Councilor Baxter arrived at 8:26 p.m.

Dick Martin, one of the proponents, addressed Council. He stated he lives about 450' away from the proposed plat and what he sees here basically is a group of people who are not from Marysville who are attempting to use this appeal process for their own benefits. He noted in the opponents' statement, they refer to "homes" when there is only one person's home they are referring to (Mr. Edgerton's) that they are worried about lights shining into. They also bring up things like wildlife, open space and lot size, all issues that have already been addressed, he said.

Mr. Martin was reminded that Council is only interested in whether or not they should have a new public hearing and Mr. Martin stated he is proposing the Council pass and approve this Preliminary Plat as it's proposed. Open space is being placed contiguous to a stream corridor and will make probably the best wildlife area; it will be about 17 acres total, he said. He concluded the Preliminary Plat should be approved as recommended by staff and the Hearing Examiner.

City Attorney Weed commented that as to new testimony, it's allowed at a public hearing but not tonight; there have been numerous attempts to keep new information from being given so he asked Council to try and exclude any new information that might have been given tonight.

CONTROLLED BY
MAYOR
11/8/93
slb comments

Councilor Pedersen noted she does not have the SEPA checklist or the MDNS in the file/packet.

Councilor Herman asked if the public testimony portion was closed and Mayor Weiser closed it at 8:33 p.m.

City Attorney Weed noted people both for and against have been allowed to elaborate tonight, however these comments are not to be considered as far as merits of the case--Council needs to limit their decision simply to whether or not a public hearing should be held.

Councilor Pedersen explained she is not sure there is enough information in the packets for Council to make a decision because it sounds like there may be some deficiencies in the documentation or maybe not, one cannot be sure without the documents at hand.

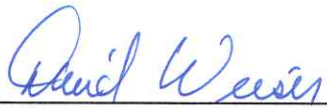
City Planner Hirashima explained the MDNS with all conditions was included in the Hearing Examiner's decision. The preliminary site plan, grading and drainage plans were submitted, reviewed by staff and had the adequate information on it.

ADJOURNMENT INTO EXECUTIVE SESSION: 8:55 p.m.

1. Litigation.

RECONVENED AND ADJOURNED: Approx. 9:10 p.m. (No Action)

Accepted this 8th day of November, 1993.



MAYOR



CITY CLERK



RECORDING SECRETARY