

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING	DECEMBER 13, 1993	00109
<u>EXECUTIVE SESSION</u> (Real Estate)	6:30 to 7:20 p.m.	
<u>CALL TO ORDER:</u>	7:23 p.m.	
<u>ROLL CALL:</u>	All present	
<u>MINUTES OF PREVIOUS MEETING:</u>	12/6/93 Approved	
<u>AUDIENCE PARTICIPATION:</u>	None	
<u>STAFF'S BUSINESS:</u>		
<u>MAYOR'S BUSINESS:</u>		
1. Appointment & Swearing in of Municipal Judge Trivett		
<u>CALL ON COUNCILMEMBERS:</u>		
<u>PRESENTATION:</u>		
1. Citizenship Award	Hilma Brown	Mavis Bush
<u>PUBLIC HEARINGS:</u>		
1. Rezone, Prel. Site Plan & Prel. Plan "Whiskey Top"; PA 9303009	Denied	
<u>CURRENT BUSINESS:</u>		
1. Memorandum of Understanding between Sno. Co. & City of Msvl.	Signing postponed	
2. Pacific NW Rail Corridor Program Phase I	Motion to take no action	
<u>NEW BUSINESS:</u>		
1. Utility Variance for Water & Sewer; Don Davis	Approved	
2. Utility Variance for Water; Carrie Newcomb; UV 93-019	Approved	
3. Utility Variance for Water; Mary Lindsay; UV 93-021	Approved	
4. Utility Variance for Water; Tulalip Tribe Casino Complex	Approved	
5. Performance Evaluation Program	Approved - Res. No. 1656	
<u>CONSENT AGENDA:</u>		
1. Approve Final Plat of Northpointe Div. III; PA 9001004	Approved	
2. Approve Final Plat of Sunnybrook PRD; PA 9109035	Approved	
3. Approve Prel. Plat Sunnybrook III; PA 9212059	- Approved	
4. Approve 5 Liquor License Renewals	Approved	
5. Nov/93 Payroll - \$473,337.96	Approved	
6. 12/13/93 Claims - \$1,597,567.15	Approved	
<u>ORDINANCES & RESOLUTIONS:</u>		
1. Ord. adopting 1994 City Budget	Ord. 1973	Approved
2. Res. re non-bargaining employees restroactive pay & COLA 1/1/94	Res. 1657	Approved
3. Ord. adding section to MMC re fees & amending 1991 UBC	Ord. 1974	Approved
4. Ord. amending MMC Reducing Util. Taxes	Ord. 1975	Approved
5. Ord. reducing Water & Sewer taxes	Ord. 1976	Approved
6. Res. granting C.U.P. & Variance Calvary Community Church	Res. 1658	Approved
7. Res. granting C.U.P. & Variance Marysville Cemetary Assn.	Res. 1659	Approved
8. Res. granting Util. Variance for Tony Flett.	Res. 1660	Approved
<u>LEGAL MATTERS:</u>		
1. City Atty. Agreement for 1994	Approved	
2. Yanqing Statement of Intent	Approved	
<u>ADJOURNMENT INTO EXECUTIVE SESSION:</u>		
Personnel & Pending Litigation	11:16 p.m.	No Action
<u>RECONVENED & ADJOURNED:</u>	Approx. Midnight	

MARYSVILLE CITY COUNCIL MEETING

00140

DECEMBER 13, 1993

7:00 p.m.

Council Chambers

- Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Ken Baxter
 John Myers
 Dave McGee
 Donna Wright
 Mike Leighan
 Otto Herman
Administrative Staff:
 Dave Zabell, City Administrator
 Gloria Hirashima, City Planner
 Ken Winckler, Director of Public Works
 Jim Ballew, Parks & Recreation Director
 Roger Kelley, Public Information Officer
 Steve Wilson, Finance Director
 Grant Weed, City Attorney
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 1/3/94
MINUTES

EXECUTIVE SESSION (Real Estate): 6:30 to 7:20 p.m.

CALL TO ORDER:

Mayor Weiser called the Council meeting to order at 7:23 p.m. 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:

Councilor Herman moved and Councilor Leighan seconded to approved the minutes of the 12/6/93 Workshop as written. Passed unanimously.

Councilor Pedersen noted under Staff Business on page 1 of the regular Council Meeting of 12/6/93, the 1/11/94 joint get together is with the Council and Planning Commission at Maxwell's. On page 5 regarding the Library Building Committee, she noted direction given to the architect was for them to look at the option of 3 meeting room sections, at least one kitchen, as well as looking at a 1000 sq. ft. work room. She also had a question about Ordinance 1972 which was discussed on page 11 but it was decided to leave the minutes as is in this regard.

Councilor Leighan noted on page 3, under Call on Council, it should be the Law & Justice Task Force not the Drug Task Force meeting that he attended.

There being no further corrections, Councilor McGee moved and Councilor Myers seconded to approve the 12/6/93 regular Council meeting minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None

STAFF BUSINESS:

Finance Director Wilson explained that normally the City prepares claims for the third meeting of December but Council has no third meeting in December and so he asked for approval to bring the claims before Council for final approval in January, after having already issued the checks. This is normal practice each year at this time, it was noted.

Councilor Pedersen moved, Councilor Wright seconded to preapprove the claims for December as per the Finance Director's recommendation. Passed unanimously.

City Administrator Zabell reported he had received a memo from the City Clerk regarding the Marysville Advisory Commission on the Arts which was disbanded in 1986. This was in response to a question Councilor Wright had, he said.

City Attorney Weed advised Council that two recent Supreme Court decisions have been handed down of interest to Marysville regarding annexations, the GMA and SEPA relationship, one concerning the town of Black Diamond on which he will report further. The other item is a 42 page decision he has received from the Growth Planning Hearings Board on countywide policies regarding Lynnwood and Edmonds and he said he will be attending upcoming meetings and report further on this issue also.

Public Works Director Winckler reviewed Change Order #7 for the WWTF, as well as Change Orders 1 through 5, involving the west trunk pump station, expansion joints at the head works, force main at the head works, microscope substitution, Flopoke metering device carrying case and deletion of a slide gate. He noted Change Order #6 is pending but number 1 through 5 and #7 produce a total to date of only a .81% increase (less than 1% on the total cost of the WWTF). He reported that Getchell Hill was opened today.

MAYOR'S BUSINESS:

1. Appointment of Municipal Judge and Approval of Contract.

The Contract was reviewed and it was noted it is for 4 years with a standard \$10,000 bond, the amount of which is specified by state statute as well as the Marysville Municipal Code.

Councilor McGee moved and Councilor Wright seconded to authorize the Mayor to sign the Contract for the Municipal Court Judge. Passed unanimously.

City Attorney Weed then administered the Oath of Office to Judge Trivett.

CALL ON COUNCILMEMBERS:

Councilor Herman reminded Council of his request at last Council meeting to deal with some policy issues regarding compensation for Councilmembers' attendance at meetings.

Mayor Weiser suggested some general guidelines and Councilor Herman said that would be satisfactory, with some input from staff.

Councilor Pedersen asked about the status on the 67th & 528 traffic signal.

Public Works Director Winckler reported the City has supplied a speed study of 67th to the State and they have all the information that the City believes they need, so it should be just a matter of weeks, he said. He added that the channelization from the east was to be changed and the City is looking at trying to modify the plans for 528.

Councilor Pedersen followed up on a suggestion she had regarding reducing the number of fast food wrappers littering City streets by putting signs in the windows of fast food restaurants, eg. She asked if some costs could be checked into on this. Also, she noted Mukilteo was looking at hiring a part time Animal Control Officer and possibly we could share our with them, she said.

City Administrator Zabell reported Mukilteo would be willing to share their Animal Control Officer with us but not the other way around.

Councilor Pedersen wished her fellow Councilmembers and the Mayor Holiday Cheer and Health and Prosperity for 1994, seeing this is the last Council meeting for 1993.

Councilor Baxter followed up regarding the boat ramp and Public Works Director Winckler said he has heard nothing about it from the Tulalip Tribes. He noted that he and Jim Cameron attended a Chamber of Commerce meeting but that was the last he heard about it. With regard to the trees planted near the lagoon, they were Sitka Spruce, a species which thrives well in a wet area, he assured Councilor Baxter, in response to a query last meeting.

Councilor McGee reported the Golf Board is going to tour the golf course Wed. to evaluate the irrigation system. He reported they also toured the WWTF which is now 55% complete.

Councilor Wright presented Citizenship Awards to Hilma Brown and Mavis Bush and gave recognition to the lady who nominated these two valuable volunteers - Treasure Omdahl.

PUBLIC HEARING:

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

City Attorney Weed asked if there were any conflicts of interest with this case and there were no challenges. He then swore in those wishing to testify in this matter. He also made the announcement that generally there is a 15 day period for the Council to adopt a decision however in this case, Council will not be able to do that until January because there is no third meeting in December. There were no objections to this.

City Planner Hirashima reviewed the agenda bill. She noted Lot 1 does propose to access off 83rd with the remainder of the lots to access off the interior public and private road system. She noted the hearing examiner recommended approval of the rezone and preliminary plan but an appeal was subsequently filed by some of the residents before the deadline and tonight was chosen for a Council Public Hearing. She stated letters from the opponents' representative, Bob Rowley, Attorney, as well as the applicant's representative, Lorna Corrigan, Attorney, form part of the record.

Councilor Herman asked about the density bonus, noting they are one lot over with the 9600 density than what it would be with 12,500 zoning.

City Planner Hirashima stated they are actually 4 lots over.

Lorna Corrigan, Attorney with the firm of Newton, Kight, Everett, addressed Council. She stated she represents the applicants who are requesting a rezone from 12,500 to 9600 and she reviewed the request. She said it's time for reevaluation of values, we need to comply with the GMA and reduce urban sprawl, use less of our resources, increase land density so that we can utilize utilities better, have a concentration of population. She said they feel "Whiskey Top" exemplifies this and is consistent with the GMA as well as the Comprehensive Plan and Interim Urban Growth Boundary. It is a magnificent piece of view property and they also think it's most appropriate for a PRD, she said, adding that it's located on a hillside and they are placing the lots so that each lot has an incredible view. She pointed out that they are individual single family lots and Jim Egge, Dick Martin and Ray Miller are all here to give testimony.

Jim Egge, 5016 129th Pl. SE, Everett 98208, addressed the Council. He said he was basically answering Mr. Herman's question about zoning: If it were zoned at 12,500 they are estimating it would yield 13 lots vs the PRD 12,500 zoning with a 20% bonus which

yields 15.76 lots; 9600 zoning would yield 17.1 lots, he said. For the record, also included in the record is Mr. Egge's response to the opponents' appeal letter, he stated. City Planner Hirashima noted that was Exhibit 6.

Mr. Egge said that with regard to the PRD issue in this area, the concept is one where encouraging cluster designs on the east hillside of Marysville seems to be working for Marysville. It's very attractive they think and they feel they are meeting the objectives of the PRD code, with the first criteria being to create an environment of choice and variability and that they feel they are doing with the maximization of views, he said. He explained the road design on a sloped grade and "curbed linear entrance" which provides reduced brading to the hillside. He noted the open space and recreational area equals .94 acres and will include a sport court and onsite recreation as well as providing a safe environment and preservation of trees and topography. He explained that a study has revealed the area is basically made up of glacial soils with tills so near the surface the likelihood of interference with wells is very slight. Also, the study reveals no seismically sensitive areas present, he said.

CORRECTED: SEE 1/3/94
MINUTES s/b grading

Mr. Egge added that the stream will be protected as per the geotechnical report recommendation. They feel they have made creative use of the land with the lot shapes as well as efficient use of the land, in that the average lot size is about 6850 sq. ft. with an average width (frontage) of 65 to 70', he said. He noted it is a banking principal that bigger lots equal more expensive homes and the applicant is trying to make affordable homes available to a wide range of people.

He pointed out that this is an area in transition with two existing homes adjacent to the proposed "Whiskey Top" as well as a PRD fairly near. With their designs, they have created more affordable houses, they feel, and have optimized views, he said. He reviewed policies P9, P13 and P14 of the Comp Plan regarding small lot size with sewer capacity which is on the mend in Marysville. He also referenced the Hearing Examiner recommendation concerning the density bonus and pointed out that the applicant is participating in a couple of TIPS, frontage improvements on 83rd, volunteered at the Hearing Examiner hearing that if the trees on the frontage and NE corner don't interfere, they will be retained, so they are doing their part with regard to mitigation, he said. In addition, he pointed out that this is at the preliminary stage and they still have to submit a detailed grading plan, etc. but sight distance analysis shows they meet the minimum sight distance requirements, he said.

Councilor McGee asked about Lots 1, 2 & 18 taking access off 73rd and Mr. Egge explained Lot 1 will access 83rd.

Councilor McGee asked who would maintain the sport court and open space and Mr. Egge said it would be the Homeowner's Association responsibility.

Councilor Herman asked about trees that would be removed and retained and Mr. Egge explained on the north lines of Lots 1 & 4 there are tall trees that they have agreed to retain; they will have to revise the building envelope. He added along frontage of Lots 1 & 2 on 83rd where the existing home is, there are some trees that seem to be possibly right on the right of way and they may have to take them out and replant but they are going to try and save them if possible.

Dick Martin, 7414 83rd Av. NE, addressed Council. He stated he lives 300' north of the plat and his neighbor, Ken Doane, lives on the highest piece of property in the area. In fact, they surveyed the Arlington Airport from the Doane property because it is so high. Mr. Martin stated they do have a stream corridor there and

they believe their plat design is the highest and best use of the land--it takes into consideration the stream, the views, the wooded area, power line easement and GMA mandates. He talked about the wildlife preservation area that is being created and said that by moving the lots up the hill, the views are enhanced. There will be less impervious areas and less erosion, he said. He said their proposed storm drainage system will provide no more runoff after it's developed than in it's natural state. As far as the road design goes, he presented 5 large photos for each of the Councilmembers and explained they were taken 1) from the proposed centerline looking straight east, 2) from same spot, looking at the most impacted residence, 3) 83rd Av. NE frontage opposite proposed road intersection from SE corner of plat, 4) looking due east from approximate centerline of road (73rd) after proposed relocation north and 5) the stockpond/wetland area. He noted this "wetland" is not a naturally occurring one but rather created by a backhoe.

Mr. Martin pointed out that they could have up to 17 single family lots under the Comp Plan, they are asking for 18 under a PRD and are developing an unusual and unique product: there will be less lawn to mow and it is believed the magnificent view will be something a lot of people will be interested in, he said.

Bob Rowley, Attorney, 3731 Colby, Everett, addressed Council, representing a group of neighbors who will be living with the project and that makes them a bit more passionate than the proponents, he said. He said the neighbors are going to be expressing their concerns on their own but one of the things apparent about this plat is it's an island which may present some advantages and disadvantages. For one thing, he said it's impossible to have access to the plat except one way and school buses, emergency vehicles, everyone has to use that one access. Also, he said it's not a PRD at all; the PRD ordinance says "planned and developed as a unit", not sold individually and he said they believe they are clustered strictly for the views and believe that's going to be very costly, not affordable at all. He added there's no meaningful screening and/or vegetation between this and the existing properties as required by the PRD code and neither is their compatible zoning. He pointed out that Council has the power to reduce frontage of lots, average lot sizes, make concessions, but the problem is Council is asked to exercise discretion in favor of the applicant and the opponents don't feel this is good use of the property or the surrounding area, he concluded.

Bill Doane of Portland, Oregon, addressed Council, representing his 92 year old father, Ken Doane. He said his father's major concern was the high density and also, the proposed sewer easement that he signed. Mr. Doane said he doesn't believe his father knew what he was signing; he was shown a small map and doesn't believe he knew the full ramifications. He said his father did discuss it with him and his brother about a year ago and the two boys advised their father not to sign anything. He said the easement is very vague, there's no drainage plans as yet and there may possibly be drainage problems into Ken Doane's property as a result.

Councilor Pedersen asked where the Doane property is and Bill Doane explained it's 2.5 acres to the north of the proposed plat.

There was discussion about the power line easement and the easement that Mr. Doane signed; the Doane boys feel their father signed the easement under pressure, he said.

Norman Webb, 7125 83rd Av. NE, addressed Council, stating he lives to the SE of the property and has approx. 5 acres. He said he and his wife and baby daughter moved there a couple years ago and are very concerned about the traffic on 83rd--it's increasing daily and they feel with the increase of land use it's hard to avoid but with an additional 18 houses at an additional 160 trips a day,

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that is a lot of traffic for this land to absorb, he said. The additional traffic they feel will also be a burden on the roadway and he said he had a question about improvements: Past Bay View the road surfaces are getting very bad and also sections of 528 and he noted there doesn't seem to be any improvements taken into account, such as maintaining road surfaces and gridlock. He said he wondered why Marysville continues to allow development under these circumstances; he said he is opposed to the rezone, that they all have some real concerns in that area and would like this area to remain as rural as possible.

S/b Robison
 Ann Robison, 1631 Cedar, Everett, addressed the Council. She stated she owns property in NE Marysville and is also the Natural Resources Chair of the League of Women Voters and PR Chair of the American Assn. of University Women. She stated both these organizations are very much against this type of development; they are for cluster housing but she believes this plan leaves a lot to be desired, she said. She said she is also on the Growth Management Committee of Everett and sees a lot of natural vegetation being removed here for this proposed development which will affect fish, drainage, other environmental issues/impacts. She said this is a Pandora's Box that's going to set a precedent and will open up the whole ridge and she is most concerned about the cumulative effects of loss of our natural resources. She pointed out that one day we are going to wake up and find it all gone and then it's too late.

Councilor Herman asked what she felt would be appropriate along there and Ms. Robison said any development there should be done with all the lots in mind and she said she doesn't think that many homes in that area would be good. She added she would prefer it be developed by someone who does the whole thing and takes into account the whole area, minimizing all negative impacts.

Dave Rohde, 7323 83rd Av. NE, addressed Council, noting he owns 5 acres directly east of the proposed development and he said he can't imagine 18 more homes in 5 acres on the hillside. He said his concerns are for emergency vehicles, increased traffic, icy conditions in the winter, turnaround for the emergency vehicles. He said if it does go in, he would want to see at the very least an access at the bottom end.

Dean Fink, 7131 83rd Av. NE, addressed Council, noting he lives across the street and to the south of the proposed development, on 4.5 acres which he has owned for the past 4 years. He said they have found the hill to be exceptionally wet all year round. He gave some examples: They had to take out several trees and as soon as a crater was created from pulling the tree, it was filled with water. In the middle of July the crane they brought in got stuck as did 7 vehicles, including four wheel drive vehicles. In March, they had one vehicle get stuck 28 times and two of the operators walked off in frustration. They had a contractor dig a ditch 3' wide and 3' deep and it filled with water in 2 days. With 800' of French drain installed within 4" of the surface, they still have water surrounding their home. He said he is sure that at this time of year there will be a tremendous amount of water up there and he said he is most concerned with 18 homes on the top of the hill are going to be a problem. He said he is concerned there is no drainage easement at the bottom of the hill and he is also concerned about the detention pond--who is going to be responsible for that, he asked, when it fails. He said they complained for 2 years about their problem before getting it fixed and he said he is afraid of flooding, drowning of root systems of trees, excessive water creating wetlands where there aren't wetlands now. He concluded that he would urge Council not to approve the rezone until the drainage issues are resolved.

Councilor Pedersen asked if he installed his own French drain and Mr. Fink said he did, he was the general contractor for his own home.

CORRECTED: SEE 123798
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Councilor Baxter asked if a geotechnical study had been done before he commenced building and Mr. Fink said no.

Councilor McGee asked what species of trees were taken out and Mr. Fink said mainly alder.

Karrine Peterson, 7227 83rd Av. NE, addressed Council and read a prepared statement. She said she is proud to come before Council, representing parts of her neighborhood. She said they had several neighborhood meetings and it was agreed in a petition to the Planning Commission that single family homes would be compatible but the proposed development would not be. She said Bay View Ridge and other surrounding property is a minimum of 12,500 and 18 lots on less than 5 acres is outrageous to put next to 12,500 lots. She said it would be far more compatible if this 5 acres were divided into 2 or 3 lots at the most but she can't see any more than that.

Councilor Wright asked her how long she has lived there and Ms. Peterson said they purchased the property in 1987 and lived there in a mobile home until they built their home with a general contractor like the Finks did.

Rose Hunter, 8201 84th St. NE, addressed Council. She stated she is opposed to this PRD and pointed out that when you start disrupting the vegetation you are going to have nothing but drainage and erosion problems. She added that Marysville has such an air pollution/quality problem that there won't be any view anyway before long from the top of the hill; we need to think more about our air quality and quality of life, she concluded.

Ed Moyer, 7529 78th Dr. NE, addressed Council. He said he lives to the north and west of the proposed property and noted what a nice area Bay View Ridge is: well planned, 17,500 minimum lot sizes, his neighbors have 19,000 and 20,000 sq. ft. lots. He said he has seen the other developments such as Crystal Heights and Whiskey Top is not going to provide the space needed for people who need a 3 car garage and an RV lot. In other words, the lots are going to appeal to upper income groups with a lot of vehicles but no place to put them on 6,000 sq. ft. lots, he said. He added there are some nice starter home areas in Marysville such as the Uplands, Brighton Park, etc. but Whiskey Top is not a starter home development because starter home buyers don't buy a view lot as their first lot. He agreed that the developer of Whiskey Top is certainly giving it the "highest" use with 18 lots but they could have another Bay View Ridge up there and he encouraged Council not allow this developer to spoil the pearl that the hilltop there is.

Brad Edgerton, 7213 83rd NE, addressed Council and said his concern is that a lower access should be put in before development, otherwise all the traffic must use 73rd which will be a deadend street down a steep hill. The property owners adjacent to this in the county have no intent of giving any easement for access, he noted and he described the 15% grade of the road (73rd) under icy conditions which can be very hazardous. He pointed out the fact that that area has an elevation of 450' and sometimes they see no snow removal equipment for days. Alternative routes are not satisfactory in that area because of road closures, etc., he said and added 73rd is a dead end road now. He said he used to live on 108th in 1963 and they were promised there would be very little traffic on 108th but of course, it has since turned into a lot of traffic, just as 73rd might; this is a similar circumstance, he said he believes.

Councilor Baxter left Council Chambers at 9:16 p.m.

Bill Dowdell, 7417 79th Dr. NE, addressed Council. He stated he has lived in Bay View Ridge for 3 weeks and it is a most beautiful development. He explained he works for an insurance company as

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a regional flood coordinator and has seen extensive development going on and hears time and time again of the precautions people say they have taken regarding flooding and drainage.

Councilor Baxter returned to Council Chambers at 9:18 p.m.

Mr. Dowdell pointed out that the "100 year" floods keep coming year after year and he said he believes there is too much development. He said he lives to the west and north of the transmission lines and sees a lot of water coming down in his back yard now. He has had to tell a lot of homeowners time and time again there is nothing the insurance company he works for can do about the runoff--in Duvall, Snohomish, Sedro Woolley, etc.--coming off newly developed hillsides with drainage precautions taken, he said.

Rob Baker, 8305 83rd Av. NE, addressed Council. He said they had considered there would be some building going on up there but all of a sudden from 12,500 lots to 6300 sq. ft. lots was a shock. He said they should be 9600 at the absolute lowest because you now go from 6,000 sq. ft. to the other side of the road which is 5 acre lots and there is no reason Council should approve these lots which are so small. He suggested going with 12,500 lots and that would blend in better and be more compatible with the surrounding area.

Councilor McGee left Council Chambers at 9:22 p.m.

Mr. Egge, in rebuttal, noted with regard to the utilities easement they asked Mr. Doane to sign, it was not very specific, intentionally, and was 60' wide to go from Bay View Ridge to the common property line in the drawing.

Raymond Miller, Group IV, 2929 165th Pl. NE, Bothell, for the proponents, addressed the concern regarding a drainage easement.

Councilor McGee returned to Council Chambers at 9:25 p.m.

Mr. Miller stated along the west property line they propose a level spreader outfall from the detention pond and biofiltration swale. He noted there are no homes directly to the west but there is a PUD easement where the stream runs through to the north of Bay View Ridge.

Councilor Herman asked about the reference to there being no increase in runoff and Mr. Miller clarified that they would not allow any more runoff to be released than the existing rate; there is a net increase in volume but the rate does not exceed it's natural state, he said.

Councilor Herman asked about the impact to the stream as far as turbidity, erosion, sedimentation and Mr. Miller stated they are able to control the release rate, depending on the final design standards set by the City and the level spreader allows the runoff to run in a "sheet fashion" vs channelization, i.e., a slower rate. He added they will also comply with DOE requirements to contain sediment onsite and the stream would not see a visible increase in the runoff because of the upstream tributaries.

There being no one further from the audience who wished to testify, the public testimony portion of the public hearing was closed at 9:30 p.m.

There were comments regarding the Fire Marshal's comments and Councilor Baxter asked when the geotechnical report was done.

Mr. Egge stated it was done in June and the report completed in July.

Councilor Baxter noted there was one citizen who talked about lot sizes and he agrees but the City's own rules are getting in the way; the PRD ordinance he feels is being used against what should happen in the east side of the City, he said. He added that some areas on the east side are more conducive to small lots but in his opinion 12,500 for the most part on the east side should be the minimum. He said he is not in favor of approval of this and thinks it gets back to affordability. He added he didn't think Marysville had to make room for everyone who wants to live here-- some places are more conducive to lower income or affordable housing and this is one area he thinks is not appropriate for that, he said.

Councilor Herman said he has given a lot of thought to lot sizes but does believe we should make every effort to accommodate a full range of housing as far as cost and affordability. This area is unlikely to be at the low end but that doesn't necessarily dictate lot size, he said and added given it's location and some transition, it would tend to support larger lots but regarding the reference to sewer/septic service, a 12,500 lot can be reduced to 9600 according to Marysville's ordinance and so that suggests we will eventually have no 12,500 lots in Marysville, he said. He noted a couple weeks ago Council discussed ag being ~~more~~ *delete* permissible ~~than~~ 12,500; he said he thinks we need to consider the overall vision for the area and he feels there is a pretty credible argument for 12,500 lots.

CORRECTED: SEE 1/3/94
MINUTES

Councilor Baxter pointed out there is no such zoning as 12,500 in the Comp Plan now so if Council adopts the Comp Plan totally, then that would automatically mean nothing more than 9600 would be required which he said he doesn't agree with. He added the Council is boxed in by their own rules here and he thinks the City should try and do a little more about it.

Councilor Myers said he agrees with these concerns and in this proposal, it's really condensing housing but Council is caught in their own trap with 9600.

CORRECTED: SEE 1/3/94
MINUTES *delete*

Councilor Pedersen noted it's currently zoned 12,500, they did not ask for a rezone but rather went to a PRD and Council needs to determine if they qualify for the criteria ~~and eligibility~~.

Councilor Leighan asked about Open Space Tract A and City Planner Hirashima stated the argument can be made that this is usable open space; it could have been platted and they did not use the storm drainage space in the 20% required open space, either.

Councilor Leighan stated he is not sure he can support the 6,000 sq. ft. lots vs. a straight 9600; this is going to make the homes very close together, he noted.

Councilor McGee thanked everyone for their very professional presentations. He said it is very difficult for him to justify the 6800 sq. ft. lots, too and pointed out that the City does have to provide affordable housing in Marysville but the question is whether this is an appropriate area for that.

Councilor Baxter said he knows his comments are in opposition with the Growth Management Program and this presents a problem.

Councilor Herman pointed out that Growth Management is essential for our area and we are going to see smaller lot sizes but we need to consider whether this is a transition area/a buffer for the rural area adjacent to it and more appropriate for 12,500 lots. He said he does believe this is the case and that Council should consider maintaining 12,500 lots but with the PRD ordinance in place right now, it allows ~~9600~~ lots. He said he has difficulty going to 9600 however they are preserving open space and that merits a density bonus under the PRD ordinance so it's going to

CORRECTED: SEE 1/3/94
MINUTES *slb smaller*

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end up in a smaller lot. He concluded he would have a hard time opposing a 12,500 PRD.

Councilor Pedersen referenced a comment made about their having "no meaningful screening" and City Planner Hirashima clarified that if the adjacent/surrounding land uses were not compatible the City would require a buffer.

Councilor Pedersen asked about the comment that "a PRD should be planned and developed in one unit" and City Planner Hirashima said she thinks that was Mr. Rowley's own interpretation of the ordinance.

There were comments on a possible moratorium on PRDs, a bonafide public emergency would justify that, review of the PRD ordinance, Comp Plan and TDR ordinance was to be reviewed prior to the PRD ordinance.

Councilor Baxter then moved to deny the request for Rezone, Preliminary Site Plan and Preliminary Plan "Whiskey Top" and Councilor McGee seconded the motion. Findings of fact were listed as:

1. Nearest plat is over 12,500 zoning
2. Plat of Northpointe is 12,500 zoning
3. Is not compatible with the stable character and harmony of the surrounding property
4. Rural areas make this a more "transitional" area, more appropriate for larger lots
5. The IUGB is on one side and not on the other of the subject property.

The motion passed with Councilor Wright against.

CURRENT BUSINESS:

1. Memorandum of Understanding between Snohomish County and the City of Marysville.

City Attorney Weed noted this is regarding Mar 1 and he reviewed the agenda bill. City Planner Hirashima added this was an area that the county indicated would be revisited and it was discussed at the last two GMCC meetings as to whether it should be included within Marysville's IUGB. She stated under the Memorandum of Understanding draft, some of the items have been summarized that were discussed but the document hasn't been back before the committee since its presentation by the county. The county generally does address the GMCC's concerns, she said and added that Snohomish County discussed this at their last planning meeting and it's scheduled to be discussed again this upcoming Wednesday.

Councilor Baxter question Council approval prior to the county hearing and City Planner Hirashima said she didn't feel Council would be in a position to finalize it tonight but Council's concerns can be forwarded on to the County Council. She said they proposed an extension of the IUGA ordinance until 1/31/94 until the MOU can be finalized and they also drew up another ordinance reflecting City Council's approval of the MOU.

Councilor Baxter said he didn't feel they really have reflected any of Marysville's concerns; it's all the county's decision of where boundaries should be, for example.

Councilor Leighan commented that not only did they not listen to Marysville's concerns, they did not listen to their own GMCC.

Councilor Baxter said he doesn't see any reason to sign anything before the end of the year.

Mayor Weiser stated the list of things in the Memorandum of Understanding pretty well came out of the Snohomish County Tomorrow/GMCC meetings but he said he feels it's already putting restraints on the interlocal agreement with the county. If the county discusses MAR 1 by Jan. 31, he said he doesn't feel it necessary for the City to sign the MOU. We have two annexations in that area that the City has to be careful about the time line on these signatures, he warned and added with a new county director going through some transition, he would not be in favor of this document being signed at this time.

Councilor Herman said he feels like he has the minority opinion here but the document deals with flood plain issues, traffic issues, urban residential uses, upland and lowland uses, wetlands mitigation, other development of the area and he said he thinks it's looking at a very responsible plan for development of the area.

Mayor Weiser pointed out that Item 2 & 4 are tying the City's hands as we have already agreed on the mixed use housing, the open space issues, and there are a lot of issues already signed and he said he thinks this interlocal agreement can be signed at the end of January versus a 2 step process.

Councilor Herman said he disagrees with the comments regarding parks and traffic issues.

Councilor Baxter moved and Councilor Myers seconded to postpone signing the Memorandum of Understanding until there has been further discussion with the county and Growth Management Coordinating Committee.

City Planer Hirashima pointed out that Item 4 was discussed at the GMCC meetings; there was extensive discussion regarding private golf course use of the property, whether this meets open space/park requirements. She added this agreement does not spell that out and this area is designated recreational so it probably deserves more discussion, i.e., with regard to impact fees paid by the developer.

The motion passed with Councilors Pedersen and Herman against.

2. Pacific Northwest Rail Corridor Program - Phase I.

City Administrator Zabell reviewed the agenda bill, noting WSDOT is proposing a 30 mph speed at 1st, increasing to 50 mph by Grove and increasing to 79 mph by 80th St. on the passenger and freight runs between Seattle to Vancouver, B.C. He said DOT wishes Council to take a position on the proposal and has provided a sample resolution but Council is not obligated to take a position.

Councilor McGee asked about DOT's power and City Attorney Weed stated he didn't know what would happen if the City opposed the project; he said he could do some additional checking.

Councilor Baxter commented on Marysville having authority regarding excess speeds and Mayor Weiser confirmed we do.

Councilor Herman noted that ultimately, the decision will be made by the utilities commission.

Councilor McGee said he has a problem with the higher speeds and Councilor Pedersen agreed, adding she will not be supporting the resolution as she is not convinced there is enough being done in the interest of public safety nor to lessen environmental impacts.

City Attorney Weed said he thinks there is more to it than the speeds of the trains going through town. Councilor McGee said he is concerned about providing mass transportation but can't support the higher speeds going through the downtown core of Marysville.

Councilor Baxter commented that years ago the City got the speeds reduced because of the accidents and now they are asking to increase the speeds again.

Mayor Weiser pointed out that Marysville does have controlled crossings now, however.

Councilor Herman said he would like to support high speed rail but he said his first concern is for the public safety of the citizens of Marysville.

Councilor Baxter moved to take no action on this item and Councilor McGee seconded the motion. Passed unanimously.

Councilor Herman commented that he wants to make sure this doesn't preclude Council from making comments at a later time and it was agreed that it doesn't.

NEW BUSINESS:

1. Utility Variance for Water and Sewer; Don Davis.

Public Works Director Winckler reviewed the agenda bill.

Councilor Herman asked about the RUSA boundary and Public Works Director Winckler stated the property is adjacent to the boundary (100th).

Councilor McGee noted this property is within the 10% annexation petition that was discussed at the last Council meeting and City Planner Hirashima confirmed this.

There was discussion about the prior variance approval for the property, non-protest agreements.

Don Davis, 2971 243rd SW, Brier, addressed Council. He asked about a time limit on a variance because he said they do not intend to build anything on the land at all at this time, they just want "legal lot" status.

City Attorney Weed said the time limit would be 6 months with a second 6 month extension, if applied for. He said the idea behind that is when there is a limited sewer capacity, people with imminent need should be served first.

Mr. Davis asked if this means he would have to physically hook up to utilities and City Attorney Weed said yes.

Councilor Herman noted this property is definitely within the ultimate Urban Growth Area and he asked how that would affect future water and sewer service; he said perhaps a variance is not necessary in this case.

City Attorney Weed stated the RUSA boundary is more and more becoming an artificial boundary so the City may need to review the RUSA code.

City Planner Hirashima confirmed this is within the Interim Urban Growth Area and City Administrator Zabell asked the applicant if it is his desire to short plat.

Mr. Davis said yes, before his dad dies.

City Administrator Zabell noted this is a bit of a Catch 22 in that the county will not allow the short plat without a variance and he can't have the variance without the short plat plan; also, the variance would expire in 6 months.

It was discussed that looking at the history of the property, short platting into 2 lots had been approved.

Councilor Herman moved to accept the staff recommendation to approve the variance, based on previous approval and 4 criteria being met, complying with City code requirements. Councilor Pedersen seconded and the motion passed unanimously.

2. Utility Variance for Water; Carrie Newcomb; UV 93-019.

Public Works Director Winckler reviewed the agenda bill, noting the water connection is within the Arlington Utility Service Area, outside RUSA and CWSP, however Arlington is unable to provide water. He noted her well has gone dry and this and the next request on the agenda (Lindsay) were sharing the same well. He said staff is recommending the variance be granted based on this hardship and providing they comply with City code requirements.

Councilor Baxter moved to approve the variance as per staff recommendation, Councilor Wright seconded and the motion passed with Councilor Leighan against.

3. Utility Variance for Water; Mary E. Lindsay; UV 93-021.

Councilor Baxter moved and Councilor Myers seconded to approve the variance, as per staff recommendations, based on the hardship and with their complying with City code requirements. The motion passed with Councilor Leighan against.

Councilor Herman suggested Mayor Weiser send a letter to the County council apprising them of the utilities in this area and with regard to the Urban Area Boundary.

4. Utility Variance for Water; Tulalip Tribe Casino Complex; UV 93-020.

Public Works Director Winckler reviewed the agenda bill, noting staff is recommending the variance subject to resolution of all of the issues addressed in the October 11, 1993 letter from Ken Winckler to Jim Cameron. He added that at such time that the supply at 116th is from the Everett/Marysville Pipeline source, the connection is to be considered one of the three connections per the JOA/Wheeling Contract between the Tribes and City of Marysville. He noted that Marysville water is available at this time.

Councilor Pedersen stated this issue has been discussed at length at the RUSA Committee meetings and Councilor Baxter added that the JOA agreement states Marysville will serve them water.

Councilor Baxter then moved to grant the variance, Councilor Myers seconded and the motion passed unanimously.

5. Performance Evaluation Program.

City Administrator Zabell reviewed the agenda bill, noting the mapping form was instituted in the 1980s and staff recommends replacing it with the Employee Performance Evaluation form but the form would not be included in the resolution to make it easier to make minor language changes in the future.

Councilor Pedersen asked about when the evaluation is made and City Administrator Zabell said annually and/or January of each year.

Councilor Pedersen commented on the language: "There should be no surprises!" -- she agreed with it but suggested it not be underlined.

Councilor McGee moved and Councilor Herman seconded to adopt use of the new Employee Performance Evaluation for under Resolution #1656 as recommended by staff. Passed unanimously.

CONSENT AGENDA:

1. Approval of Final Plat; Northpointe Div. III; PA 9001004.
2. Approval of Final Plat; Sunnybrook PRD; PA 9109035.
3. Approval of Preliminary Plat; Sunnybrook III; PA 9212059.
4. Approval of Liquor License Renewals for Alfy's Pizza Inn, Buzz Inn, California Tavern, Jackpot Food Mart and Village, Inc.
5. Approval of November, 1993 Payroll in the Amount of \$473,337.96
6. Approval of 12/13/93 Claims in the amount of \$1,597,567.15.

Councilor Pedersen indicated she will not be voting on #3 and asked that it be separated out.

Councilor Herman moved that Consent Agenda Items 1, 2, 4, 5 & 6 be approved, Councilor McGee seconded and the motion passed unanimously. (Councilor Baxter did not vote on Voucher #17950.)

Councilor Herman moved to approve Item #3, Councilor Wright seconded and the motion passed. (Councilor Pedersen did not vote on this item.)

ORDINANCES & RESOLUTIONS:

1. **Ordinance Adopting a Budget for the City of Marysville, for the Year 1994 and Setting Forth in Summary Form the Totals of Estimated Revenues & Appropriations for Each Separate Fund and the Aggregate Totals of All Such Funds Combined.**

City Administrator Zabell noted the City is negotiating salaries at this time with the union and so the budget does not reflect salary increases and the same goes for the non-bargaining unit employees, he said.

Councilor Pedersen noted the mileage allowance for use of personal vehicles is shown at 25 cents per mile. She noted the IRS allows 28 cents a mile and Finance Director Wilson said they considered changing that but felt it was still appropriate to leave as is.

Councilor Pedersen moved and Councilor McGee seconded to approve and adopt the 1994 Budget as recommended by staff. Passed unanimously.

Finance Director Wilson clarified that the funds for the Drug Buy Fund come from confiscations of money or equipment and the fund actually buys drug enforcement related equipment.

2. **Resolution regarding non-bargaining employees retroactive pay and COLA effective 1/1/94.**

City Administrator Zabell explained this is the resolution that was discussed last week and tonight for non-bargaining employees; it is contemplated they will receive retroactive pay in addition to cost of living adjustment effective 1/1/94.

Councilor Wright moved and Councilor Myers seconded to adopt Resolution #1657. Passed unanimously.

Finance Director Wilson noted he looked at the Animal Control Officer salary which can be budgeted for a 90 day appropriation; it will show on the personnel portion of the budget and it will lapse in 90 days so a decision needs to be made at that time.

Mayor Weiser said he and City Administrator Zabell will be putting together a job description in early January, 1994.

3. **Ordinance adding a new section 16.04.050 to the MMC establishing a Basic Plan Review Fee & Amending Section 304(c) of the 1991 Uniform Building Code.**

Councilor Pedersen moved and Councilor Herman seconded to adopt Ordinance 1974. Passed unanimously.

4. Ordinance amending Sections 3.64.020, 3.64.030 and 3.64.040 of the MMC and reducing the rate of the Utilities Tax for Telephone Business, Sale of Gases and Sale of Electricity.

Councilor Pedersen asked if there was a 90 day requirement here until this goes into effect and City Attorney Weed said yes. He added there are actually 5 or 6 ordinances being combined here and they were all made consistent however Council can change some of them if desired.

Councilor McGee moved and Councilor Myers seconded to adopt Ordinance 1974 decreasing taxes effective 3/1/94. Passed unanimously.

5. Ordinance amending Chap. 3.65 of the MMC relating to Water & Sewer Dept. Gross Receipts Tax, Dhap. 3.67 of the MMC relating to Solid Waste Dept. Gross Receipts Tax and Chap. 3.69 of the MMC relating to Surface Water Utility Gross Receipts Tax and Reducing the Rate of the Taxation Relating Thereto.

Councilor Wright moved and Councilor Myers seconded to adopt Ordinance 1976 decreasing taxes effective 3/1/94. Passed unanimously.

6. Resolution Granting a Conditional Use Permit & Variance for Property Owned by Dr. Billy Kroeze/Calvary Community Church Subject to Conditions.

Councilor Pedersen moved and Councilor Leighan seconded to adopt Resolution 1658. Passed unanimously.

7. Resolution Granting a Conditional Use Permit & Variance for Property owned by Fred Smathers/Marysville Cemetery Assn. Subject to Conditions.

Councilor Herman moved and Councilor Pedersen seconded to adopt Resolution 1659. Passed unanimously.

8. Resolution Granting a Utility Variance for Tony Flett.

Councilor Herman moved and Councilor Leighan seconded to adopt Resolution 1660. Passed unanimously.

LEGAL MATTERS:

1. City Attorney Retainer Agreement for the Calendar Year 1994.

Councilor Pedersen asked about the paralegal rate of compensation and City Attorney Weed said it was \$40 under contract but the City would probably utilize very little paralegal time.

Councilor Baxter moved and Councilor Myers seconded to authorize the Mayor to sign the City Attorney Retainer Agreement. Passed unanimously.

2. Statement of Intent for the Establishing of Friendly Exchange Relationships Between Yanqing County and the City of Marysville.

City Attorney Weed reviewed changes he had made to the agreement, including deleting language in paragraph 1 relating to mutual benefits (reworded) and in paragraph 2 the words "if it is economically feasible they will attempt to meet" were inserted. He noted this would not make meetings and/or travel mandatory as in the previous draft document. He said he also added a revocation clause by either party.

Councilor Pedersen said she questions "economic feasibility" and Councilor Herman said he also has some discomfort/concern in that area.

Councilor Pedersen said she doesn't think it appropriate to spend City funds for trips to the Republic of China and there were comments that it could be at the discretion of Council, this same concern having come up before concerning a city in Russia, discussion about the history of this particular proposal.

It was decided striking the words "and if it is economically feasible they will attempt to meet at such times and places as are mutually agreeable to discuss topics of mutual interest" and replacing with "will endeavor to remain in contact to discuss topics of mutual interest" would be sufficient to all parties to meet the intent of the agreement.

Councilor Herman moved to authorize the Mayor to sign this agreement with the above change, Councilor Myers seconded and the motion passed with Councilors McGee and Baxter opposed.

ADJOURNED INTO EXECUTIVE SESSION: 11:16 p.m.


1. Personnel.
2. Pending Litigation.

RECONVENED AND ADJOURNED: Approx. Midnight.

Accepted this 3rd day of January, 1994.



MAYOR


CITY CLERK


RECORDING SECRETARY