

MINUTES RECAP

CORRECTED: SEE 5/2/94 MINUTES

MARYSVILLE CITY COUNCIL MEETING APRIL 25, 1994

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Councilor Wright excused

MINUTES OF PREVIOUS MEETING: 4/4, 4/5 & 4/11/94 Apprvd.

AUDIENCE PARTICIPATION: None

STAFF'S BUSINESS:
 1. State Avenue Widening Project Perteet Engrg.presentation

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:
 1. Citizenship Award Tom King & John Martinis

PUBLIC HEARINGS:

CURRENT BUSINESS:
 1. Brennick Annexation; 60% Pet. P.H. set for 5/23/94
 PA 9203007
 2. Prel. Plat & Rezone; Griffore/Wintch; PA 8912076 P.H. set for 6/6/94
 3. Subdivision Code; MMC Chap. 20 Continued to 5/2/94

CONSENT AGENDA: Approved:
 1. 4/25/94 Claims in the amount of \$590,820.15.
 2. Liq. License renewals for AM/PM Mini Mart #5566, Don's Restaurant, Kuhnle's Tavern, Marysville Deli & Video, Maxi's Rest. & approval of the Friendly Tavern with Condition of Warning letter sent.
 3. Prel. Plat Msvl. Assoc. II/Lundberg; PA 9401005.
 4. Agreement between City, WSDOT, County/Project Prospectus for City Road Project R9404; State Av. 109th St. to 136th St. NE
 5. Affirm Hearing Examiner's Recommendation to approve Conditional Use Permit; Cherry Dale Tracts/Jubie; PA 9401003.
 6. Rebid of Front Load Garbage Container/Pocket Package Acceptance of original bid w/change orders to be put in for galvanized containers & reduction in no. of pockets needed (100 less).

ORDINANCES & RESOLUTIONS:
 1. Res. granting Util. Var. for Tulalip Tribes of Wash. for Casino Complex Res. #1674 Approved
 2. Res. authorizing application for Funding assistance for Outdoor Recreation Project to IAC Res. #1675 Approved
 3. Res. denying w/o prejudice Osberg Utility Variance Res. #1676 Approved
 4. Res. granting util. var. for Bitto property Res. #1677 Approved
 5. Res. declaring Surplus Pers.Prop. Res. #1678 Approved
 6. Res. establishing P.H. date of 5/23/94 for Cole Alley Vacation Res. #1679 Approved
 7. Res. relating to water service applications for high volume industrial users. Res. #1680 Approved
 8. Res. denying w/o prej.util. var. for Tenaska Power Partners, L.P. Res. #1681 Approved

LEGAL MATTERS:
 1. Covenant for Extension of Msvl. Sewer System & Power of Attorney not to protest formation of LID Approved

ADJOURNMENT INTO EXECUTIVE SESSION: 10:15 p.m.
 1. Legal Matters Action
 2. Property No Action

RECONVENED & ADJOURNED: 10:54 & 10:55 p.m.

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7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor (arrived 7:35 p.m.)Councilmembers:

Donna Pedersen, Mayor Pro Tem

Dave McGee

John Myers

Ken Baxter

Donna Wright (excused)

Mike Leighan

Otto Herman

Administrative Staff:

Dave Zabell, City Administrator

Steve Wilson, Finance Director

Gloria Hirashima, City Planner

Walt McKinney, Asst. Police Chief

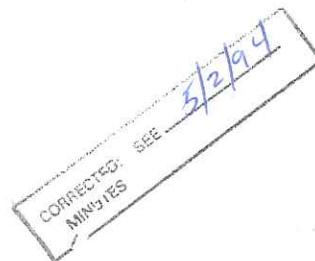
Doug Buell, Community Information Officer

Ken Winckler, Director of Public Works

Grant Weed, City Attorney

Jim Ballew, Parks & Recreation Director

Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Pro Tem Pedersen called the meeting to order and asked Councilmember Herman to lead the flag salute.

ROLL CALL:

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

MINUTES OF PREVIOUS MEETINGS:

In the Joint City Council/County Council Meeting minutes of 4/4/94 Councilmember Herman asked that on page 2, second paragraph, 4th line from the bottom, the word "as" be struck and to insert "should have" a strong commitment....which would more accurately reflect his statement, he said.

Mayor Pro Tem Pedersen noted on page 3 in the 2nd paragraph, 2nd line, it should be Hank Graafstra, not Frank Graafstra.

There being no further corrections, Councilmember Herman moved and Councilmember Myers seconded to approve the 4/4/94 minutes as corrected. Passed unanimously.

In the 4/5/94 Marysville Comp Plan Public Workshop minutes Councilmember Herman asked City Planner Hirashima about the comments at the top of page 6 under Waterfront Designation, how the 5th line down should read and she stated a Waterfront overlay over an industrial designation had been discussed. She said it should probably be worded that some of the owners have requested (it was not the consensus) that it remain General Industrial designation.

Councilmember Herman referred to page 9, 4th paragraph regarding a lack of "right of way policy" and this should be "setback requirements" in 2 places, he said.

Councilmember Baxter asked about the end results of discussions/consensus, i.e. what happens from here?

City Planner Hirashima said on most of the issues brought up by Council, many of them appear to be policy issues and she was asked to reword/redraft these policies and it would be appropriate to revisit these policies, she said. As far as the land use designations, there were not a whole lot of changes, she said.

There being no further corrections/discussion, Councilmember McGee moved and Councilmember Leighan seconded to approved the Comp Plan Public Workshop Minutes as corrected. Passed unanimously.

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In the 4/11/94 regular City Council minutes, Councilor Myers asked that on page 4 in the 7th paragraph, the committee he is on be changed from "battery solid waste" to "vactor solid waste". On page 5 in the 6th paragraph "neet" should be "need" (this typo already caught on disc) and "a 50%" should be added just before "increase in life expectancy" as well as adding "cost" just after "for an extra 10%".

On page 4, Councilmember Herman asked that the 2nd paragraph be amended so that it reads as follows after the word "housing": "unit was not initially included in the UGB and that seemed to present a lot of concern at the senior center's board meeting."

On page 12, in the 4th paragraph, after the word "regarding" it should read "policy for evaluation and eventual awarding of contracts on a competitive basis. He said possibly we should revisit these guidelines."

There being no further corrections to the 4/11/94 minutes, Councilmember McGee moved and Councilmember Myers seconded to approve them as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

STAFF'S BUSINESS:

1. State Avenue Widening Project.

Public Works Director Winckler introduced Rich Perteet and Kevin Weed from Perteet Engineering. He explained that they have been working on a design proposal for widening State from 88th to 94th.

Mr. Perteet explained the main focus has been on safety and putting in a new signal at 92nd. He said they focused on the west side of the street because they already have a sidewalk on that side, south to 92nd.

Mr. Weed explained they met with City staff and had an open house for business and property owners along State. The conclusion was that the impacts of widening on the west was thought to be too much and so they looked at widening on both sides of State. With widening on the west side south of 92nd Pilchuck Rentals and the Tuxedo place would lose parking and in the case of Pilchuck Rentals, they would not be able to move their equipment, he said. The alternative Perteet is recommending is to end the sidewalk at 92nd and with the signal at 92nd, pedestrians can cross over to the east side of the street where there is a sidewalk, he said. Any future development would include donation of right of way and construction of sidewalk to fit in with existing, he added and construction costs on the east side would be more costly than on the west because they would all be new; he said it is felt the City may be getting more "bang for your buck" by widening equally on both sides.

There was discussion at this point about pedestrians having to cross and use the sidewalk on the east side, the most equitable solution because of the businesses in that vicinity.

Councilmember Baxter noted that the way Pilchuck Rentals is situated, there really is no need for a sidewalk unless occupancy changes on that property. He noted they are already very crowded in there.

Mr. Weed said without constructing the sidewalk in front of Pilchuck Rentals and the Tuxedo place, the majority of the sidewalk can be constructed within existing right of way.

Mr. Perteet noted Tuxedo would still lose 3 parking spaces.

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Mr. Weed said if 5-1/2' of right of way is taken from Pilchuck Rentals for a sidewalk, they will no longer be able to have any circulation around one of their buildings; the trucks have very little extra room and the nature of their business is that they attract a larger vehicle, he said.

Councilmember Baxter said he thinks it would be too dangerous for people to walk along the sidewalk next to Pilchuck Rentals, anyway.

It was noted CT has moved their bus stop down south of 88th (the one that used to be on the north side of the intersection).

Mr. Weed said they will be looking at acquiring right of way from BN if CT needs a shelter.

Mayor Pro Tem Pedersen said she would not like to see the left hand turn lane given up for a sidewalk but Councilmember Herman said he would like to see both put in and said he thinks the City needs to look at some compromises here on both sides of State.

Public Works Director Winckler stated staff would like to see this project started so that it gets done during this construction year.

Councilmember Baxter said he would like to see the engineers move forward as per their recommendations and Councilmember Myers agreed.

Councilmember Herman said he thinks we should solve both problems here and may be we should look at it again.

Councilmember Leighan said he doesn't think it's feasible at this time for Pilchuck Rentals to have sidewalk in there but if the use changes then it may be considered.

Councilmember Baxter stated with the traffic light going in, Pilchuck Rentals may have to move anyway because of increased traffic, increased equipment, increased need for space, etc.

Councilmember Myers said he doesn't want the cemetery disturbed either. *s/b any more than necessary.*

Councilmember Baxter pointed out there is sidewalk from 80th to 88th on the east side.

Councilmember Herman noted it's not very pedestrian-friendly in that particular area of State.

Public Works Director Winckler stated staff and the engineers do want some direction because of the controversy in that area and they would like to proceed with the project, but would like a "sense" from Council.

Mayor Pro Tem Pedersen said she is hearing that no sidewalk in front of Pilchuck Rentals isn't the preferred alternative but it's acceptable.

City Administrator Zabell said he sees several issues here: improving the roadway, sidewalks, traffic, pedestrian safety, etc.

Finance Director Wilson noted he has been working on a water and sewer revenue bond issue and will probably be having Steve Gaidos make a presentation at an upcoming meeting. The widening of State could possibly be added to the bond issue, he said, along with some other small bond issues such as fire trucks and garbage trucks.

Mayor Weiser arrived at 7:35 p.m.

City Administrator Zabell reminded Council of the upcoming RUSA

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meeting Wed. at 1 p.m.; the AWC Convention in Spokane 6/14-17/94; the fact that 3 Snohomish County police officers were named as WSCPO Officers and/or Deputies of the Year in "The Washington Police Officer" publication.

City Planner Hirashima reported on the situation at 917 Quinn, noting the owner has been removing vehicles, the boat and trash, spending a total of \$3500 so far in clean up costs and she is continuing to work on the violations.

City Planner Hirashima reminded Council of the Thursday Comp Plan Public Workshop at 7 p.m. here in Council Chambers and the City Engineer will be providing information on traffic as requested, she said.

She reported the Animal Code revisions should be completed tomorrow at the Planning Commission meeting. She asked Council about the best time for a joint meeting with the Planning Commission to review the PRD revisions and after brief discussion, it was decided to have the joint meeting at 5 p.m. on 5/24 in Council Chambers.

She reported the Growth Management Coordinating Committee has been compiling comments and their next meeting will be Thu. at 4:30 pm in the Fire Training Rm. This will actually be their final meeting and they will be completing review of the policies and of Marysville's Urban Growth Area, she said.

Public Works Director Winckler had three items: 1) 4/28 at 10 a.m. in the Public Works Bldg., the Traffic Advisory Committee meeting to be held. 2) Nine applications have been received for extending water line and these will be narrowed down to 4 finalists who will be interviewed this Thursday, he said.

The third item is Change Order #8 for the WWTF for

- lab light fixtures	\$1658
- heat tape at the head works	347
- storm drain for the west pump station	6600
- lab structural modifications/beams	1821
- chlorine chamber outlet conduit	1280
- manhole structure change	1344
- credit/deletion of riser	-3055

Total \$10,082

MAYOR'S BUSINESS:

Mayor Weiser had three items: 1) Reminder of the joint County Council and City Council meeting next Mon. 5/2 at 5 p.m. 2) For Council to be thinking about this year's retreat: when, where, for future discussion. 3) He asked for the consensus of Council regarding closure of City Hall Wednesday for President Nixon's funeral.

City Administrator Zabell noted the county offices are going to remain open, according to the person he spoke with this afternoon.

It was the consensus that City Hall should stay open Wed. also.

CALL ON COUNCILMEMBERS:

Councilmember Pedersen noted the Snohomish County Health Board is holding their retreat this Saturday at the Tulalip Inn and asked about a welcoming bouquet of flowers from the City.

She reported on the questionnaire she helped work on to be sent out randomly to people in the fire district regarding emergency medical services, giving options for funding, etc. ~~and she said if there is a favorable response a levy for new equipment will be put on the ballot, otherwise it won't.~~ She noted the Fire Dist. is in need of a fire commissioner also, to replace Commissioner



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Cliff Gregory who was a fire commissioner for 25 years. The person to replace him needs to be a resident from outside City limits but within the fire district, she said.

She asked if anyone attended the Edmonds/BN meeting and no one had.

Councilmember Baxter reported he attended a recent Library Bldg. Committee meeting and they are refining library drawings, furniture, but have several meetings yet to go before things are finalized.

He said he has concerns about the language in the EMS survey, that he doesn't feel it is as clear as it should be to a "layman", for example, people don't understand why there is a charge for the ambulance.

He also reported he received a letter (as per his request) outlining all the chemicals stored at a co-generation plant and in what amounts, this information about the plant at Sumas and he asked that the 2 pages be copied off for interested Councilmembers, the fire dept., staff, etc.

Councilmember Myers thanked Jim Ballew for the nice job the Parks Dept. did at the Foothills Park dedication and he also thanked Public Works Director Winckler for putting up the new library sign.

add and mike Leighan

Councilmember McGee explained how interested parties could make application as a fire commissioner and stated the appointment is hoped to be made by 5/10/94.

Councilmember Herman said he has been looking at pedestrian and bicycle facilities/routes in Marysville and he said he would encourage the City to look at improvements in these areas. He noted Smokey Point's road improvements do have some bike lanes.

Councilmember Leighan introduced the Citizenship Award Presentation.

He said the two gentlemen to be honored are heavily involved in youth programs, playground equipment donations, the Marysville School District, Kiwanis members, donations of computers, Community Transit bus stop improvements, etc.

Parks & Recreation Director Ballew said he was honored that the two people he had nominated had won the award and that these two men have contributed a lot to our community. He presented a plaque each to TOM KING and JOHN MARTINIS. It was also noted that they are also both interested in maintenance of salmon habitat and Tom King is a volunteer fireman.

CURRENT BUSINESS:

1. Brennick Annexation; 60% Petition; PA 9203007.

City Planner Hirashima reviewed the agenda bill, noting it was the consensus of Council to leave the boundary as proposed as it would be more regular than if it were expanded. She gave the location, noting it is within RUSA and is currently zoned R-7200; it is also within the UGB and designated for urban residential land use. She stated staff is recommending acceptance of the 60% petition subject to the City's bonded indebtedness and Comp Plan designation and the next available public hearing date would be 5/23/94.

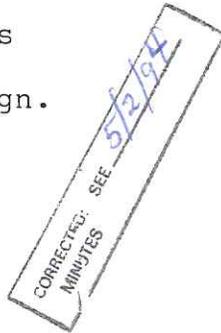
Councilmember Myers moved and Councilmember Herman seconded to set the public hearing for 5/23/94, accepting the 60% annexation petition as recommended by staff.

Councilmember Pedersen asked Mr. Brennick if he had spoken with his neighbors regarding annexation.

Jim Brennick, 4508 105th Pl. NE, addressed Council and said yes,

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he did, that a couple of them were in favor of annexation, two had signed a non protest covenant when they signed up for water.

Councilmember Pedersen wanted to know why the ones in favor of annexation were not included in the annexation petition and City Planner Hirashima said she recalled a discussion at last Council meeting and the majority opinion was that the boundary would not be regular, also, the non protest covenant property owners were not in favor of annexation.

Councilmember Baxter said he felt this is precisely where Council should use the non protest covenant and that he doesn't remember discussing this previously.

City Planner Hirashima said she believes only Lots 1 & 2 signed the non protest agreement (the short plat) and Councilmember McGee said he remembers that discussion.

Mr. Brennick said he believes Lot 5 signed a non protest covenant on the corner (Penny McIntosh) as well as Fern Healy but she sold and didn't want to obligate the purchasers who did not want to be included in the petition.

City Planner Hirashima said her understanding was that one of the lot owners who signed does not want to annex now.

Mayor Weiser asked if there were 2 non potest agreements and there was discussion about how half a short plat could sign and the other not, one was already hooked up prior to when non protest agreements were required, Lot 3 across the street did a major remodel and is not connected to the sewer yet.

Mr. Brennick noted Lot 2 changed her mind.

City Planner Hirashima said she had signed the Scott Ray annexation petition but after selling she was unwilling to lock the new owner in.

Mr. Brennick said originally she had the services but wanted to allow the purchaser to have the right to make their own decision. He added Lots 7 & 8 was the Scott Ray original annexation and at this time he did not want to make it an uncomfortable situation and so he was happy to be the only lot annexed into the City. He pointed out that he has been in favor of annexation for 18 months!

Councilmember Baxter said he takes exception to people who get the utilities, sign the non protest agreement and then they think they can back out of the non protest agreement.

Mr. Brennick said he believed it was their signature on a petition not the non protest agreement. He added that he is not sure if Scott Ray is still in favor of annexation--he is developing his property under the county code now.

City Attorney Weed said generally the 60% point is not when you change the boundaries of the annexation, it's generally done at the 10% level. Where you have multiple property owners involved it's more awkward; you can adjust it up until the time of the public hearing, he stated.

Mr. Brennick said he knows Lot 5 wishes not to be in the City but they know they signed a non protest agreement and there are 2 more who definitely do not wish to be in the City, so he thought some dissention might be caused and it would create an irregular boundary if you just take the ones in favor, also, he said.

S/b The question was called for
~~Councilmember Myers moved and Councilmember Herman seconded~~ to set the public hearing for 5/23/94. The motion passed 4-2, with Councilmembers Baxter and Pedersen opposed.

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CORRECTED:
MINUTES

SEE 3/2

Councilmember Pedersen stated she would like to review the City's annexation policies because there are at least 4 lots in favor here and she said she thinks this would have been a perfect opportunity for a larger annexation.

Councilmember Baxter said he would like to go back and look at the minutes from the previous meeting with regard to what was discussed regarding the Brennick Annexation.

**2. Preliminary Plat & Rezone; Louis Griffore/Dennis Wintch;
PA 8912076.**

City Planner Hirashima reviewed the request/agenda bill, noting the open space tract, private road system, the location of the property, consistency with the Comp Plan (single family residential 2-4 du/ac). She noted the Comp Plan also states that where sewers are available 9600 zoning will be encouraged. She noted the Hearing Examiner recommends approval with conditions and 2 appeal letters were received and are included in the Council packets.

Councilmember Pedersen asked about Lots 1, 2 & 3 setback variance and impact on adjacent lots and City Planner Hirashima referred to the Hearing Examiner's condition 11 addressing this issue.

Councilmember Pedersen asked if the protest letters were concerning Lots 1, 2 & 3 and City Planner Hirashima said yes, Mike Lynch is the owner of property to the south.

Councilmember Pedersen asked about the drainage plan approval, HPA permitting process and how the Planning Dept. follows that up.

Public Works Director Winckler said normally that's done by the City Engineer who reviews the plans and does infield reviews, etc.

Councilmember Pedersen said she just wondered how it's insured that drainage plans don't affect neighboring property.

Councilmember Herman asked about the 5' setback requirements and variances.

City Planner Hirashima explained you would have to meet variance criteria, for example a hardship situation, topography, proving the hardship was not self-created, etc. She said in this case the width of the property at the point where they are asking for a variance is a total of about 90' and they are actually asking for a variance but one of the 3 lots doesn't actually need a variance. She noted the special conditions called for by the hearing examiner of the fence and that the structures on Lots 1, 2 & 3 be single story to address this issue, also.

Councilmember Herman asked about the private roadway, the panhandle width and sensitive area.

City Planner Hirashima said a good portion of the site was constrained by sensitive areas, in fact, the applicant lost 2 acres to regulated sensitive areas and a good portion of the northern panhandle was impaired. She noted 3 or 4 revisions were made to this application/request over the last couple years and the 32' is the paved width now with the overall width 50'.

Councilmember Herman pointed out that that only leaves a 40' wide building area.

City Planner Hirashima corrected her previous comment, stating the right of way is actually only 32' and they are paving the entire right of way width; the width of Lots 1, 2 & 3 is 59' each, she said.

Councilmember Herman asked where the sensitive areas are and City Planner Herman said the entire native growth protection area is sensitive area and the applicant is proposing some wetland fill.

Councilmember Baxter noted the 4 lots to the north of Lots 1 & 2 appear to be 13,000+ square feet each and he asked about the size of the lots to the south of Lots 1 & 2.

City Planner Hirashima said she believed they are in the same range.

There was brief discussion/comments about size of lots, adjacent lots all over 12,500, putting smaller houses in the middle.

City Planner Hirashima noted a lot of the houses to the south are duplexes and they are required to have larger lots. Also, all the newer development in the last few years along this corridor have been PRDs because of the new creek and wetland restrictions in place, she said. She added that in order to do the development to the south today, the City would require a substantial setback from the creek and would not allow extension of lots out to the creek. She said the City regulations have changed and even though those lots are larger, they would not be able to have the same size home on that property today because of the new regulations and you would probably see 2-3 smaller lots clustered and next to 67th vs what is there now to the south, she said. Also, she said she recognizes this is not the kind of environment everyone is in favor of but it's to protect the wetlands and creeks.

Councilmember Baxter said he just wants to see the people considered who are already there; their lots are twice the size and he said he thinks there has to be a better compromise.

Councilmember Leighan asked about the size of the Wind Song III lots and City Planner Hirashima said that was approved through a PRD and the lots vary from 5,000 to 12,000 sq. ft.

Councilmember Herman asked about the letter from Lynch, paragraph 1 and City Planner Hirashima said she didn't think that was a problem.

Councilmember Herman said he thinks the PRDs need to be reviewed and Councilmember Pedersen noted City Council has a joint meeting coming up with the Planning Commission regarding the PRD code 5/24/94.

City Planner Hirashima reminded Council there are already two public hearings scheduled for 5/23/94 and so that may not be a good night for another public hearing on this.

Councilmember Herman moved and Councilmember Leighan seconded to schedule a public hearing on the Griffore/Wintch preliminary plat and rezone for 6/6/94. Passed unanimously.

Councilmember Baxter said he is wondering how much buildable area got turned into Native Growth Protection Area and Councilmember Herman said he would also like further information such as maps, buffer areas, etc. to be available at the public hearing.

3. Subdivision Code; MMC Chapter 20; PA 9304013.

It was agreed this would be reviewed after Ordinances & Resolutions.

NEW BUSINESS:

None.

CORRECTED: SEE 5/4/94
 MINUTES 5/6 Hirashima

CONSENT AGENDA:

1. 4/25/94 Claims in the Amount of \$590,820.15.
2. Liquor License Renewals for AM/PM Mini Mart #5566, Don's Restaurant, Kuhnle's Tavern, Marysville Deli & Video, Maxi's Restaurant and Approval of the Friendly Tavern with Condition of Warning Letter Sent.
3. Preliminary Plat Marysville Assoc. II/Lundberg; PA 9401005.
4. Authorize Mayor to Sign WSDOT, City/County Agreement and Project Prospectus for City Road Project R9404; State Avenue 109th St. to 136th St. NE
5. Affirm the Hearing Examiner's Recommendation to Approve the Conditional Use Permit; Cherry Dale Tracts/Jubie; PA 9401003.
6. Authorize Rebid of Entire Front Load Garbage Container/Pocket Package, including the galvanized option and that the bid be advertised for only one week due to the short time period for arrival of new refuse truck.

It was agreed to separate out Items 2 & 6.

Councilmember McGee moved and Councilmember Myers seconded to approve Consent Agenda Items 1, 3, 4 & 5. Passed unanimously. (Councilmember Leighan abstained on Voucher #19605 and Councilmember Baxter abstained on Voucher #19457.)

2. Liquor Licence Renewals.

add "reported with blood alcohol charges (B.A.C.)"

Asst. Police Chief Walt McKinney reported that out of 76 establishments in Snohomish County, the Friendly Tavern has the 5th highest incidence of arrests and he is recommending a warning letter informing the owners their establishment will be monitored over the next year for overserving which could result in their being denied renewal of their liquor license by the State Liquor Control Board.

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Councilmember Pedersen asked about Saigon Gardens and Asst. Police Chief McKinney stated the police dept./City's letter was not strong enough to have the Liquor Control Board call for a public hearing in that case. The Friendly Tavern, however are having the same type of problems, including overcrowding and he would like to see a little more pressure brought to bear on that situation.

Councilmember Baxter moved and Councilmember McGee seconded to approve Consent Agenda #2 with a strong warning letter from the police dept. on file. Passed unanimously.

City Administrator Zabell noted a warning letter will come from the police dept. but a recommendation letter to deny their license would come from the City Administrator.

6. Garbage Container Bid/Galvanized Option.

Councilmember Herman said he thought this was finalized at the last Council meeting.

City Attorney Weed said there was a question about whether the galvanized container specifications were included in the bid documents to all bidders and staff felt (and City Attorney Weed agrees), to make the process fair, it should be rebid to include the galvanized containers.

Councilmember Baxter asked about the timeline and if the delay of delivery is going to cause more problems, although it is not known for sure when the new garbage truck is coming in.

Public Works Director Winckler said it is putting the City in a time crunch and that is why it has been suggested the rebid only be advertised for one week.

City Administrator Zabell noted Council does have the option to accept painted containers.

Councilmember Herman noted the issue of rebidding was not discussed at all; it's an additional \$9200 for galvanized containers and it looks like there are some potential problems in that the ~~only~~ bidder's bid has been exposed to ~~public~~ scrutiny, he said. *s/b low* *delete* *add by competitors*

City Attorney Weed pointed out that the City does have the right to reject all bids but he said he thinks it's important to give everyone an equal chance to bid.

Councilmember Baxter pointed out the delay factor with advertising it in a weekly paper whose deadline for the next paper has passed and the next deadline is 4 days hence, so you have eaten up the one week allowance just trying to get it in the newspaper.

Public Works Director Winckler explained they could just have an addendum to the bid.

There was discussion about the advantages and disadvantages to the process at hand, the actual cost for galvanizing is going to be more like \$10,000 from what was stated at the last meeting, City Administrator Zabell said.

Vern Tridell, Capital Industries (successful bidder), addressed Council and pointed out that if this is rebid it does give the highest bidder a crack at the low bid. He said Capital Industries has worked with the staff for 6 months and had a pretty good idea of what they were looking for and so took it upon themselves to provide the items in the bid they felt should be included, rather than having the City put out an addendum. He said it appears now that the bid is going to be patterned around the bid which didn't include all the extras and they thought they had the bid two weeks ago and so they were very unprepared for tonight's agenda bill. He said they feel their first bid was a good bid and should be accepted.

Councilmember Baxter suggested an alternative of accepting the painted (not galvanized) bid prior to delivery of the truck and then accepting an addendum for the galvanizing.

City Attorney Weed said the concern he had was that the bid specs did not include galvanizing and so a reasonable bidder would not know that might be included.

Councilmember Pedersen countered that Capital Industries was only practicing good business practices by including the galvanized cost and she said she would like to see their bid accepted if the City is within its rights.

City Attorney Weed said the state statute contemplates an open and competitive bid and if Council is inclined to award the bid tonight he would recommend it be awarded as it was specified. He added that the law allows that the bid go to the lowest and/or most responsive/responsible bid but that's not an issue here.

Councilmember Herman asked about galvanizing/refinishing at a later date and possible repairs.

Public Works Director Winckler said he didn't really hear any consistent figures regarding additional life expectancy for galvanizing. In terms of the welding, maintenance, etc., it was felt that would be the same for painted as galvanized, he said. He added that the need has now gone down from 470 to 370 pairs of pockets, so that will reduce the bid.

Councilmember Baxter stated the City has had a number of painted and galvanized containers in the past and if it was a big issue, staff should have asked for galvanized. He said he thinks under the circumstances, at this point, the City should order the painted containers because that's what was asked for in the bid specs and that's what the bids came in on. He said he thinks the City should allow the bid originally presented.

Councilmember McGee agreed.

Councilmember Baxter then moved and Councilmember McGee seconded to approve the painted containers as per the original bid for \$81,393.45 including sales tax, minus the 100 pair of pockets. A roll call vote revealed Councilmembers Myers, Pedersen, Leighan and Herman against and so the motion failed 4-2.

Councilmember Myers then moved to accept the original bid (from Capital) for painted containers but then for the City to put in a change order for galvanizing.

Councilmember McGee asked where funding would come from, the \$10,000 mentioned earlier for galvanizing the containers.

Finance Director Wilson stated there is enough at this point in the Garbage Account however he said he would recommend any future changes be looked at very carefully, because there is not much more than \$10,000 extra in that account at this point.

Mr. Tridell stated the 100 pairs of pockets would reduce the Capital Industries bid by about \$400.00.

CORRECTED
MM
5/6 5/2/94
\$4000.00

Councilmember Pedersen seconded the motion, to include a change order for reduction in the pairs of pockets.

A roll call vote revealed Councilmembers McGee and Baxter against and the motion passed 4-2.

ORDINANCES & RESOLUTIONS:

- 1. Resolution Granting a Utility Variance for the Tulalip Tribes of Washington for Property Located at the Proposed Tulalip Casino Complex between 27th Avenue NE & I-5 and 105th St. NE & 116th St. NE, Marysville, Washington.**

Councilmember Leighan moved and Councilmember Herman seconded to accept/approve Resolution #1674.

Mayor Weiser asked about a non-protest agreement and City Attorney Weed responded that this is somewhat a different situation than the usual request in that Marysville is providing water up to the boundary vs. providing water for a plat. Also, this is under our joint operating agreement with the Tulalip Tribes and they are entitled to sovereign nation status so he said he is not recommending a non-protest agreement be requested.

The motion passed unanimously.

- 2. Resolution Authorizing an Application for Funding Assistance for an Outdoor Recreation Project to the Interagency Committee for Outdoor Recreation as Provided by the Washington Wildlife Recreation Program.**

Councilmember Myers moved and Councilmember Leighan seconded to approve/adopt Resolution #1675. Passed unanimously.

3. Resolution Denying without Prejudice, a Utility Variance for Grant Osberg dba Osberg Construction Co. for Property located east of I-5 and south of 188th St. NE.

Councilmember Herman moved and Councilmember Leighan seconded to approve/adopt Resolution #1676. Passed unanimously.

4. Resolution Granting a Utility Variance for the Helmut and Margaret Bitto Property Located at 4826 89th Pl. NE, Marysville

Councilmember McGee moved and Councilmember Herman seconded to approve/adopt Resolution #1677. Passed unanimously.

5. Resolution Declaring Certain Items of Personal Property to be Surplus and Authorizing the Sale Thereof.

Councilmember Baxter moved and Councilmember Leighan seconded to approve/adopt Resolution #1678. Passed unanimously.

6. Resolution Establishing a Public Hearing date of May 23, 1994 for Cole Alley Vacation.

Councilmember Myers moved and Councilmember Baxter seconded to approve/adopt Resolution #1679. Passed unanimously.

7. A Resolution Relating to Applications for Water Service by High Volume Industrial Users.

City Attorney Weed reported a separate public meeting was held to discuss the issue of high volume industrial users and the Council did direct that some changes be made to items 1 & 2 on page 2 of the draft resolution. He stated that paragraph 1 has to do with the City's capacity not being curtailed by another user.

In paragraph 2, he said the intent is to allow for a facility that may wish to utilize effluent in excess of 75,000 gallons from any source.

There was discussion at this point about restricting this to "potable" water, water supply could be water "supplies", the definition of potable does not include water subjected to high turbidity, consensus was to make 1) a water supply from the Stillaguamish Well and 2) effluent water vs other water is the intent, Hwy. 9 as an alternative source, using the wording "treated or untreated" was discussed, utilizing the Hwy. 9 Well for a cogeneration plant to do their own treating and 150,000 gallons a day would be OK out of the Hwy. 9 Well, City Administrator Zabell said.

Councilmember Baxter explained the filtration system the cogeneration plant would use and it was noted that there needs to be enough water for employees drinking needs, eg.

There was more discussion about being within RUSA as one of the criteria, capital improvements being the industrial user's responsibility, being in compliance with MMC & RUSA code, variance requirements not being waived, applicant would have to comply as per a normal variance, the plant would have to be the successful bidder to PUD, "co-generator facility" wording changed to a "power plant facility".

It was agreed subparagraph 2 on the second page of the resolution from the words "75,000 gallons per day of" should read: "water supply from a source other than the City's WWTF, subject to such request being consistent with the long range plans of the City's water utility."

Councilmember Baxter moved and Councilmember Pedersen seconded to approve/adopt Resolution #1680 with the changes as listed by the City Attorney and as discussed above. Passed unanimously.

8. A Resolution Denying Without Prejudice a Utility Variance for Water Service Without Sewer for Tenaska Power Partners, L.P. for Property located south of 188th St., east of 59th Dr., west of 67th Av. and north of 172nd St. NE, Arlington.

First of all, it was determined that the "blanks" to be filled in are to be with Resolution #1680 and discussion followed about the 6 month time frame being changed to 9 months, extension requests.

Councilmember Baxter moved and Councilmember Myers seconded to approve/adopt Resolution #1681, changing the time frame to 12 months in the without prejudice clause (from 6 mos.). Passed unanimously.

LEGAL MATTERS:

1. Covenant for Extension of Marysville Sewer System and Power of Attorney and Agreement not to protest formation of Local Improvement District.

City Attorney Weed explained this is in reference to the matter that came up when the Bitto utility variance was discussed at last Council meeting.

Councilmember Baxter moved and Councilmember Pedersen seconded to authorize the Mayor to sign the agreement, with "Resolution 1677" and "4/25/94" inserted in the blanks. Passed unanimously.

CURRENT BUSINESS:

3. Subdivision Code; MMC Chapter 20; PA 9304013.

Because 5/2/94 will be a light Council meeting, it was agreed to continue this matter once more to that meeting.

City Administrator Zabell reported he, City Planner Hirashima and Public Works Director Winckler met today regarding page 29 and agreed on the following changes:

Schedule 20.24.090A - Easement Access Drive Standards:

Easement Access Drive Standards for:	Potential # of Lots Served	Minimum Easement Width	Surface & Pavement
Single Family Det. or 1 Duplex	1	20'	12' x 6" thick gravel
Single Family Det. or Duplexes	2-4	30'	20' x 6" crushed rock w/1-1/2" asphalt plus 6' paved walkway
Single Family Det. or Duplexes	2-4	40'	16' x 6" crushed rock w/4' gravel shoulder 1 side
Single Family Det. or Duplexes	5-9	40'	22' paving w/4' gravel shoulder 1 side
Single Family Det. or Duplexes	10-18	40'	22' paving w/4' gravel walkway; detached would be paved; 80' paved cul de sac.

City Planner Hirashima said she did receive some additional comments from Belmark which she will include in the packets for the 5/2/94 meeting. Their comments included identifying trees to be kept and removed, revisiting driveway locations and also they sent the draft code to the Natl. Assoc. of Home Builders for review and their comments will also be included, she said.

Councilmember Herman brought up the subject of the boundary line adjustment policy and asked about staff bringing information back on that, for example whether a licensed surveyor should always be required for writing up legal descriptions, policy regarding mylar requirements and City Planner Hirashima said she would bring information back on that also.

ADJOURNED INTO EXECUTIVE SESSION: 10:15 p.m.

1. Legal Matters.

Councilmember Herman moved and Councilmember Pedersen seconded to authorize the Mayor to sign the agreement with PUD as discussed in Executive Session. Passed 6-0.

2. Property. No Action.

RECONVENED & ADJOURNED: 10:54 & 10:55 p.m.

Accepted this 2nd day of May, 1994.

David Weiser
MAYOR

Mary Jo Jensen
CITY CLERK

Standa A. Iverson
RECORDING SECRETARY