

MINUTES RECAP

ORIGINAL

MARYSVILLE CITY COUNCIL MEETING SEPTEMBER 22, 1997

CALL TO ORDER/FLAG SALUTE: 7:00 p.m.

72600

ROLL CALL: All present

MINUTES OF PREVIOUS MEETINGS:

1. 9/8/97 Council Meeting Minutes Approved

AUDIENCE PARTICIPATION: Bob Wicks

CONSENT AGENDA: Approved:

1. Approval of 9/22/97 Claims in Amount of \$449,362.01; paid by check nos. 35597, 35598 and 35774 through 35965.
2. Approval of Liquor License Application for Derek Maziarz at DMS Gas at 9515 State Ave., Marysville.
3. Authorize Reimbursement for Oversizing the Sewermain for the Plat of Cedar Grove PRD.
4. Acceptance of 1997 Sewer Improvements Project as Being Complete and Begin the 45-day Lien Period.
5. Affirm the Hearing Examiner's Recommendation to Approve the Rezone, Preliminary Plat, & Variance with Conditions for Cloverdale West; PA 9611044.
6. Approve Extension of Utility Variance for Boyden, Robinette & Associates, L.P.; Kellogg Village (north of 100th St. NE); UV 95-007.

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PUBLIC HEARINGS:

1. LID No. 66 Public Hearing/Bid Award. Island Construction
2. LID No. 64 - CANCELLED
3. LID No. 65 Final Assessment Roll; Approved
45th Dr. NE & 84th St. Sanitary
Sewers

REVIEW BIDS:

1. Computer Network Wiring Bid Awarded to GTE

NEW BUSINESS:

1. Amendment to Snohomish Health Dist. Councilmember Pedersen Charter Affecting Article III - selected as Marysville's Membership. representative
2. Handout Regarding Surface Water Information Only - to be Management Program discussed further next mo.

ORDINANCES & RESOLUTIONS:

1. Ord. 2146 Approved Affirming Hearing Examiner Decision and Rezoning Property Owned by Robert Nehring and Amending Official Zoning Map Previously Adopted in Ord. 772.
2. Ord. 2147 Approved Providing Regulations for the Operation of Towing Businesses and Tow Trucks and Amending MMC 11.37.010 and MMC 11.37.040.
3. Ord. 2148 Approved Ordering the Construction and Installation of Sewer Mains and Appurtenances Along 92nd Pl. NE All in Accordance with Res. 1848 of the City Council; Establishing LID No. 67 and Ordering the Carrying Out of Proposed Improvement; Providing that Payment for the Improvement Be Made in Part by Special Assessments upon the property in the District, Payable by the Mode of "Payment by Bonds"; and Providing for the Issuance and Sale of LID Warrants Redeemable in Cash or Other Short-Term Financing and Local Improvement District Bonds.
4. Res. 1860 Granting Utility Variance for Belmark Industries, Inc. for Property Located at 3028 83rd Ave. NE, Everett, WA.

ADJOURNMENT: 9:20 p.m.

EXECUTIVE SESSION: 9:30 to 10:27 p.m.
Real Estate & Personnel No Action

RECONVENED & ADJOURNED: 10:27 p.m.

MARYSVILLE CITY COUNCIL MINUTES

SEPTEMBER 22, 1997

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Donna Wright, Mayor Pro Tem

Councilmembers:

John Myers
Ken Baxter
Donna Pedersen
Mike Leighan
Otto Herman
Shirley Bartholomew

Administrative Staff:

Dave Zabell, City Administrator
Steve Wilson, Finance Director
Grant Weed, City Attorney
Ken Winckler, Public Works Director
Gloria Hirashima, City Planner
Walt McKinney, Acting Police Chief
Mary Swenson, City Clerk
Wanda Iverson, Recording Secretary

CALL TO ORDER/FLAG SALUTE:

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

ROLL CALL:

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

MINUTES OF THE PREVIOUS MEETINGS:

1. Council Meeting Minutes from 9/8/97.

Councilmember Bartholomew questioned on page 3, fourth paragraph under Museum/Historical Society/Rotary presentation, last line, whether it should be "sale conditions" or "soil conditions." [In checking the tape of the meeting, it should be "soil conditions."]

Councilmember Bartholomew moved and Councilmember Pedersen seconded to approve the 9/8/97 Council Minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Bob Wicks, Architect, 8123 54th Dr. home address and 1624 Grove St. office, addressed Council. He passed around his statement regarding Section 19.14.060 of the new City Development Code. He said he believes it has come into effect under a little misunderstanding with regard to accessibility. He said he believes the Planning Commission and Planning Dept. were well meaning but in the case of commercial structures, he doesn't believe it should apply. He said he was told by someone at the Planning Dept. that sketches he was given as examples came from a planning book but he can only find references to residential buildings and multifamily housing. He said he thinks there's been a death of common sense and he read a quote from a book called, "The Death of Common Sense" where it talks about wider streets and needing enough room for two fire engines to pass themselves at 50 mph and that's how the "Two Fire Engine Rule" came into being and accepted as law. He added that a lot of ordinances are developed without any common sense and pointed out that the new modulation code has been applied to commercial and the Planning Dept. says his projects meet "intent" but he has to go to the Planning Dept. every time he draws up a plan.

He argued that if his drawings meet the UBC and the building fits on the property, he doesn't feel the Planning Dept. should be an architectural review board. He said he was approached by a commercial builder and had to tell them their standard footprint would not meet the Marysville Municipal Code and so they have gone elsewhere to build. He noted there is not a building in this town

that meets the new design code and it shows no flexibility. It doesn't say what wall the modulation would apply on -- is it one or all four sides? There is a lot left to interpretation, he said and added that he has seen quite a few plan checks come back and doesn't think they should be applying this code to commercial uses and structures; it's great for residential buildings, however.

City Planner Hirashima stated it was an item that was called out, it was discussed at length and spacing requirements have been a concern. Section 19.14.090 provides some flexibility, however, and the 30' spacing can be resolved using other methods, she said. Originally, the recommended width was 60' and it was amended down to 30', she said and added that the Planning Dept. does hand out an example for residential but can start handing out an example of commercial modulation. She also noted that Les Schwab buildings can meet the requirements, as can other standard (franchise) building plans. These requirements are typical of other jurisdictions and Marysville does have options; most applicants have been building to meet the design requirements, she said.

Mr. Wicks responded that you have to have an offset in order to have variations and the best building design is one without roof variations; he has to go to the City with every application for interpretation of whether it is all four walls, for example.

City Planner Hirashima said it is for the entry way and one wall but they have a clean up ordinance for building facades in which they will be adding a new definition and there is a public hearing coming up 9/30/97.

Councilmember Baxter noted you can run into problems on steel buildings. Mr. Wicks pointed out that a steel building in an industrial zone is a commercial use, too.

Mayor Weiser said he would like to see the planning staff review the 30' requirement and how many people this has affected.

City Attorney Weed noted the new zoning code has a tremendous amount of new language in it and there are bound to be some housekeeping items needed very soon.

Councilmember Baxter said he remembers when this came up and he guesses we are getting some feedback now.

Councilmember Pedersen said she has a concern about consistency and City Planner Hirashima said she would follow up on this with information to be provided to Council.

Councilmember Herman noted that with the new design code, the Marysville Mall would look very different from what it does.

CONSENT AGENDA:

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5. Affirm the Hearing Examiner's Recommendation to Approve the Rezone, Preliminary Plat, & Variance with Conditions for Cloverdale West; PA 9611044.
6. Approve Extension of Utility Variance for Boyden, Robinette & Associates, L.P.; Kellogg Village (north of 100th St. NE); UV 95-007.

Councilmember Pedersen moved and Councilmember Bartholomew seconded to approve Consent Agenda Items 1 through 6. Passed with Councilmember Baxter abstaining on check #35884 under Item #1.

STAFF'S BUSINESS:

City Administrator Zabell reported the joint meeting with the school district will be 9/29/97 at the Library. The joint meeting with City of Lake Stevens will be 11/17/97.

Public Works Director Winckler reported the Public Works quarterly breakfast with developers and engineers will be held tomorrow (9/23/97). He apprised Council of a broken water line on State that occurred between 8 and 9 a.m. today from 5th to Grove, to be repaired tomorrow.

MAYOR'S BUSINESS:

1. Mayor Weiser said he followed up with regard to the sister city relationship with Stillwell, Oklahoma and it's to be more of just a "sister group" shared relationship between the two strawberry festival committees.
2. Meeting with Tulalip Tribes for September has had to be re-scheduled for 10/20/97, 6 p.m., City Hall.
3. Meeting with Greater Marysville-Tulalip Chamber of Commerce has been scheduled for 10/15/97, 2 p.m., City Hall.
4. Joint meeting with school district has been scheduled for 9/29/97, 6 p.m. at the Library and joint meeting with City of Lake Stevens will be 11/17/97.
5. Council Retreat has been scheduled for 10/3/97 at Lions Hall in Forest Park from 8-5.

CALL ON COUNCILMEMBERS:

Councilmember Baxter reported there was a water leak at the Ken Baxter Senior Center; the roof needs repair and there was no heat in the south end of the building yet. He also reported the concession tent blew away at the golf course but there have been no concessions, either; vending machines to come in tomorrow.

Councilmember Myers asked about the bicycle lane to be striped in at 67th & Grove and also said he had concerns about buses parking in the Library parking lot and using it for a turnaround.

Public Works Director Winckler said he would follow up on both these items.

Councilmember Baxter said he forgot to report that revenues at the golf course have exceeded the Finance Dept. predictions to date.

Councilmember Bartholomew reported she was impressed with the Public Works projects tour Friday and also talked with Lt. Peterson about homeless bums loitering and hanging around schools and the library. She said she thinks it's time Marysville had an ordinance to restrict them, similar to Everett's ordinance.

City Attorney Weed said Seattle's ordinance has been protested -- it's an all out ban but when an individual is holding up a sign, bothering people, following them, that can be covered by an ordinance, so long as it doesn't go too far; panhandling can definitely be curbed by ordinance, he said.

Mayor Weiser said the City has been getting a lot of calls about aggressive panhandling in Marysville and he said he also thinks it's something we have to address.

Councilmember Bartholomew said she would like the ordinance to be developed as soon as possible.

There was discussion about litter problems and the intolerable situation for downtown merchants.

Councilmember Herman spoke about the 67th & Grove Park and asked for an update; he said it needs cleanup.

Councilmember Leighan followed up on the UGB interlocal agreement, now that the county has designated boundaries between Arlington and Marysville. City Planner Hirashima explained the interlocal agreement is to be finalized within 90 days of signature by the county on their decision; a draft of an interlocal agreement has been developed but a new scope of work is still needed, she said.

Councilmember Leighan said he would like follow up reports on new stop signs, restriping, janitorial services and surface water. He asked about the possibility of janitorial services being done inhouse, for example, and reported on the consolidation process of the two fire districts. He asked how Council would like to pursue this and explained how it would work. The consensus was to put this on the Retreat agenda.

Councilmember Leighan asked about the Skateboard Park funding and Councilmember Myers said there is a savings account open at Everett Mutual. It is to be made clear that this is being sponsored and facilitated by two councilmembers acting on their own behalf and not on behalf of the City.

Councilmember Wright gave a Cities and Towns meeting report and noted she will be unable to attend the upcoming 10/3 Retreat due to a previous commitment. Also, she will be out of state 11/17, the date set for the joint meeting with Lake Stevens.

PUBLIC HEARINGS:

1. L.I.D. No. 66 Public Hearing/Bid Award.

City Attorney Weed swore in everyone wishing to give testimony regarding this issue.

Councilmember Bartholomew disclosed she had a personal conversation with Jack Sherrin at the beginning of the meeting; there were no challenges to her remaining in the room during this Public Hearing.

Public Works Director Winckler reviewed the agenda bill.

Glory Perry Sherrin, 4921 65th St. NE, addressed Council and stated the cost increased \$11,000 in 9 months, so they can't afford to wait any longer on this. She said they would like to know what the "inflation" and "quantities" increases were about-- these were the reasons she was given when she called the City before.

Public Works Director Winckler explained there were needed increases in materials because of removal of unsuitable backfill material due to soil tests and so the engineers estimated more material would have to be brought in. He noted that original estimates are based on other projects going on at the time but they are just general costs and there are a lot of changes based on the market and whether contractors want to do the job. He said it's a real guessing game and they tried very hard to make the estimate as accurate as possible; in this case the City only got one bid. In terms of inflation there are a lot of things that inflate and as far as quantities, they have to remove and replace 104 cubic yards of material.

Rod Elvram, 4823 100th St. NE, addressed Council. He said most of the owners are concerned there was only one bid. He said he does not feel there is unsuitable material, it's very good soil; cost of plumbing material has not gone up, either. He noted the pipe was built by Bumstead McLaughlin, it's old pipe and Oosterwyks' septic has already gone out--he's had it pumped twice so the sewer needs to be put in there as soon as possible.

Robert Swanson, 4929 65th St. NE, addressed Council. He said they paid their \$300 on 12/3/96 and the bid keeps going up. He asked if it is going to go up again or is this a firm bid?

Public Works Director Winckler said this is a firm bid but sometimes things do happen that they don't count on such as sloughing, for example, but the price for the units is firm.

Mr. Swanson noted only 7 units are being added.

City Administrator Zabell pointed out that there are a couple of saving graces as far as cost goes and that is that you don't have the depth, so that's less problems, also the City has the control of the whole right of way.

Mrs. Sherrin addressed Council again and asked when the sewer could be installed. Public Works Director Winckler explained it requires an additional 30 day protest period; they would need four "nos" to stop it, out of 7 units.

City Attorney Weed explained the protest period and that a new public hearing is required because of the increase being over 20% of the original estimate.

Public Works Director Winckler said after the 30 day period, it takes another 2 weeks to go through the bid award process, so they anticipate construction to begin shortly after the 30 day protest period.

Mrs. Sherrin asked if they could speed up the process if 5 out of 7 people guarantee that they will not protest.

City Attorney Weed said if they can put that in writing, it may be possible to start sooner.

There being no one further wishing to address this issue from the audience, this portion of this public hearing was closed at 8:10 p.m.

Mayor Weiser said the City Attorney will check into the issue of speeding up the process, if Council approves.

Councilmember Leighan moved and Councilmember Bartholomew seconded to adopt the preliminary assessment roll, awarding the bid to Island Construction for \$51,498.76 including sales tax and for the City Attorney to research waiving protest rights. Passed unanimously.

2. L.I.D. No. 64 - CANCELLED.

3. L.I.D. No. 65 Final Assessment Roll; 45th Dr. NE & 84th St. Sanitary Sewers.

City Attorney Weed swore in those who wished to testify in this matter. Three letters received after the packets were made up, were submitted for the record (one from Caldie Rogers, one from Bryan & Beth Anne Dittenber and one from Laurence & Barbara Hoge).

Public Works Director Winckler reviewed the agenda bill.

Larry Wade, Hammond-Collier-Wade-Livinstone, 4010 Stone Way N., Seattle, addressed Council. He gave the location and noted that a portion of 84th was too high of an elevation so the City participated in the cost of lowering the main. He explained the zone and termini method was used for assessment and 13 lots within the subdivision have equal assessments. One notice was returned for Ruby Upton, he reported, however a copy had been sent to 3 people who indicated they had an interest: Judy Cummings, Agnes Kent and William Ashburn. The City has received six notices of protest, he reported and he proceeded to outline each one:

MARYSVILLE CITY COUNCIL MINUTES

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1. Lot 12 - Concerned about increase in cost. Mr. Wade explained the additional cost is in road restoration (overlay) of 45th Drive which was a county requirement.
2. Lot 9) All concerned that the assessment roll be distributed
3. Lot 6) over 20 years.
4. Lot 7)
5. Lot 3 - Concerned with increase of assessment and they would like to be allowed to pay monthly with their water bill.
6. Lot 4-064 - on south side of 84th St. - lot is 135' wide and 600' deep. The boundary of the LID cuts through so is only assessed based on 250' of depth in the zone and termini method. Property owner also feels they should not be charged with regard to correction of depth and they are not. Also concerned about increase in cost and raised question regarding notification--eg. communication regarding original preliminary assessment roll, when project would begin and length of construction. Also concerned regarding a well and a note that due to several sewer projects in the area their well has decreased in capacity. Also concerned about additional construction costs associated with delay. Mr. Wade explained there was a dewatering problem but no cost directly related to delay.

Pat Hayes, 8419 45th Dr. NE, Lot 3, addressed Council. He said it was presented to the people that they could pay so much per month along with their water bill. He also noted the contractor tore up a whole lot of utility lines and asked who was paying for that.

Mr. Wade said that would be the responsibility of the contractor.

Mr. Hayes said he was the first one to hook up on the sewer and he was told he had to fill his septic tank with pea gravel, which cost him \$230. Then the inspector came out and said he didn't have to do that and he said he thinks the City needs to be consistent in what they tell people.

Councilmember Baxter said Snohomish County Health Dept. requires the septic tank be filled or removed.

Mr. Hayes said yes, but he was told by the City it specifically had to be filled with pea gravel, not sand or dirt, pea gravel.

Bob Jack, 8516 45th Dr. NE, addressed Council. He said he guesses they are luckier than a lot of people, but they would like to pay over 20 years, monthly. This is what they were told and \$800 a year is going to hurt a lot of people, he said.

Public Works Director Winckler pointed out that they have 12 months until their first payment is due and then you pay 1/20th which can be paid monthly, as long as it adds up to a minimum of \$800 a year.

Finance Director Wilson said he recommends people set up a savings account but the City can't bill LIDs out once a month; it's billed once a year.

Councilmember Myers asked if they can pay an extra \$135 on their utility bill and Finance Director Wilson said that's not a normal procedure; he would prefer they set up a savings account. He added that the annual interest rate is only 6-7%.

James Mock, 4508 84th St. NE, addressed Council. He said he came home from work in Dec. 1995 and they had staked his property for a pumping station, there had been no notification and nobody could at the City could provide him with the verbage of the LID. He said he objects to the lack of communication with the City. Also, he is assessed on 250' of his property and yet his assessment went up drastically, he said. Another thing is the depth of the extension he has been told will not help out his neighbors to the west and that's poor planning, he said. Also, Mocks will only be able to drain the first 250' of their property. He said they did

get two official letters of assessment and one original notice. He asked about combining LIDs for financial benefit/lower interest rates and if that was causing a delay in getting this going.

Finance Director Wilson said the combining of LIDs does give a lower interest rate as well as lowering bonding costs, but it has nothing to do with any delay.

Mr. Mock added that his well did drop 6' out of 19' total as a result of new construction in the area.

There being no one further from the audience wishing to speak at this time, this portion of this public hearing was closed at 8:37 p.m.

There was discussion about making available a fact sheet regarding septic tanks, requirement of pumping/lift stations, 6' is a general rule of thumb for depth of sewer mains. It was also noted that the percentage Mr. Mock's assessment went up was 19.6%, the same as the others.

Councilmember Baxter noted there is a real water problem in that area as it's a collection pond for Lost Creek.

Councilmember Pedersen moved and Councilmember Herman seconded to reopen the public hearing/public testimony portion as Mr. Hayes indicated he wished to speak again. Passed unanimously.

Mr. Hayes asked about utilities being torn out and Public Works Director Winckler clarified that if it's been identified, then the contractor pays. If it hasn't been identified, then the utility pays; the customer doesn't pay and these charges are kept track of, he said.

City Administrator Zabell noted a lot of the extra charges are for the road restoration.

Mr. Mock spoke again. He said he just wanted to clarify that it's state law that when a utility is marked, the person who digs up the utility pays for it. He also gave some information about Lost Creek.

The public testimony portion of the public hearing was closed again at 8:47 p.m.

Councilmember Leighan asked about recovery contracts and City Administrator Zabell explained that when a new person is added to the LID, they have to pay one lump sum, not in payments.

Councilmember Myers moved and Councilmember Leighan seconded to approve the final assessment roll for LID 65 and start the 30 day protest period, payments to be made over 20 years. Passed unanimously.

REVIEW BIDS:

1. Computer Network Wiring.

City Clerk Swenson reviewed the agenda bill, noting there were actually 8 potential bidders. BJSS (computer consultants) have done extensive research and they feel GTE is low bidder, has good references and recommend they be awarded the bid. She explained that GTE was not the contractor responsible for some of the poor wiring at City Hall, as previously thought--it was another contractor who had done patch paneling. Staff is recommending GTE be awarded the bid in the amount of \$30,063.37 including sales tax, she said.

Councilmember Bartholomew asked about the huge difference between the low bidder and high bidder and City Clerk Swenson said they basically misunderstood the specs.

Councilmember Baxter left Council Chambers at 8:51 p.m.

Councilmember Herman moved and Councilmember Bartholomew seconded to approve the bid award to GTE in the amount of \$30,063.37 including sales tax, as recommended by staff. Passed 6-0.

NEW BUSINESS:

1. Amendment to Snohomish Health District Charter Affecting Article III--Membership.

City Administrator Zabell reviewed the agenda bill.

Councilmember Baxter returned to Council Chambers at 8:53 p.m.

Mayor Weiser stated Councilmember Pedersen has indicated a continued interest to serve on the Health District Board.

Councilmember Myers said originally, he thought this was an additional position and since finding out it is not, would like to see Councilmember Pedersen retained.

Councilmember Baxter seconded that nomination.

After brief discussion about eligibility of the Mayor to serve as the representative for Marysville, City Administrator Zabell noted the Mayor would not be eligible.

The vote was unanimous to have Councilmember Pedersen as Marysville's representative on the Health Board.

2. Handout Regarding Surface Water Management Program.

Public Works Director Winckler said it is Public Works' recommendation that this issue be brought up at the 10/20/97 City Council meeting.

Larry Wade gave a fairly detailed outline of the 2 inches of paperwork that had been handed out to Council at the beginning of the meeting. It was noted there was a draft ordinance to be reviewed, included in the lengthy documentation.

There was discussion about comparisons between the new code and the old code, interrelating with the City of Arlington and possibly making some changes in the documents to reflect the new UGB decision between the two jurisdictions. There was also discussion about anticipated revenues and the reservoir on 100th.

ORDINANCES & RESOLUTIONS:

1. Ordinance Affirming Hearing Examiner Decision and Rezoning Property Owned by Robert Nehring and Amending Official Zoning Map Previously Adopted in Ord. 772.

Councilmember Baxter moved and Councilmember Myers seconded to approve/adopt Ordinance 2146. Passed unanimously.

2. Ordinance Providing Regulations for the Operation of Towing Businesses and Tow Trucks and Amending MMC 11.37.010 and MMC 11.37.040.

City Attorney Weed added a sentence to the end of Section 2: "Provided further tow truck businesses who tow vehicles shall not be required to comply with paragraph 3, 4 and 5 above....."

Councilmember Herman moved and Councilmember Bartholomew seconded to adopt/approve Ordinance 2147. Passed 6-1 with Councilmember Wright against.

3. Ordinance Ordering the Construction and Installation of Sewer Mains and Appurtenances Along 92nd Pl. NE All in Accordance with Res. 1848 of the City Council; Establishing LID No. 67 and Ordering the Carrying Out of Proposed Improvement; Providing that Payment for the Improvement Be Made in Part by Special Assessments upon the property in the District, Payable by the Mode of "Payment by Bonds"; and Providing for the Issuance and Sale of LID Warrants Redeemable in Cash or Other Short-Term Financing and Local Improvement District Bonds.

Councilmember Wright moved and Councilmember Myers seconded to approve/adopt Ordinance 2148. Passed unanimously.

4. Resolution Granting Utility Variance for Belmark Industries, Inc. for Property Located at 3028 83rd Ave. NE, Everett, WA.

Councilmember Pedersen moved and Councilmember Bartholomew seconded to adopt/approve Resolution 1860. Passed unanimously.

ADJOURNMENT: 9:20 p.m.

EXECUTIVE SESSION: 9:30 to 10:27 p.m.

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|-----------------|-----------|
| 1. Real Estate. | No Action |
| 2. Personnel. | No Action |

RECONVENED & ADJOURNED: 10:27 p.m.


Accepted this 6th day of October, 1997.



MAYOR



CITY CLERK



RECORDING SECRETARY