

MARYSVILLE CITY COUNCIL MINUTES

FEBRUARY 2, 1998

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Wright, Mayor Pro Tem
 John Myers
 Normajean Dierck
 Donna Pedersen (excused)
 Mike Leighan
 Otto Herman (7:45 p.m.)
 Shirley Bartholomew
Administrative Staff:
 Dave Zabell, City Administrator
 Bob Carden, Police Chief
 Grant Weed, City Attorney
 Gloria Hirashima, City Planner
 Ken Winckler, Public Works Director
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 2/9/98
 MINUTES

CALL TO ORDER:

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

ROLL CALL:

City Administrator Zabell called the roll with members present/absent as indicated above.

MINUTES OF PREVIOUS MEETING:**1. City Council Meeting January 26, 1998.**

In the fourth paragraph under Review of Utility Rates, page 3, Councilmember Bartholomew noted the words "went through" should be "reviewed."

There being no further corrections to the minutes of 1/26/98, Councilmember Bartholomew moved and Councilmember Leighan seconded to adopt them as corrected. Passed 5-0.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:**1. Signing Interlocal Agreement for Animal Shelter Services.**

Councilmember Leighan moved and Councilmember Wright seconded to approve Consent Agenda Item #1, authorizing the Mayor to sign the interlocal agreement. Passed 5-0.

STAFF'S BUSINESS:

Police Chief Carden followed up on Councilmember Bartholomew's concern regarding holding Snohomish County prisoners in the Marysville jail, noting there were no county prisoners here in the last 6 months.

City Attorney Weed suggested moving the Court Decision Update down on the agenda in view of the large audience here tonight.

Public Works Director Winckler reported there will be a W.U.C.C. Meeting 2/3/98 at the Public Safety Building. He also reported there was a recent asphalt pack spill with 3 citations issued as a result and the Street Dept. is in the process of cleaning it up.

MAYOR'S BUSINESS:

Mayor Weiser reported on a recent meeting he and Public Works Director Winckler attended concerning the Snohomish River Basin

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Plan/Grant process, noting the Endangered Species Act will be the focus and will overlap work to be done under the Snohomish River Basin Plan. There are several upcoming meetings planned, he said.

2) He reported on his giving testimony in Olympia regarding SB 6241 - Water Rights and Water Planning in Critical Water Study areas. He noted Val Stevens, the Dept. of Health and the Assn. of Washington Cities were also involved and as of 8 a.m. today the bill was still incubating and probably will stay in the Ag & Environmental Committee. He reviewed several other bills that were also discussed including SB 6515 - Utility Franchise Rights and he said he will pass more information on to the Council tomorrow when he receives it.

3) The Puget Sound Regional Council has been under lawsuit concerning a third runway which has now been settled in favor of PSRC; i.e. all obstacles to building the third runway have been cleared.

4) He thanked all those involved in giving testimony on SB 6241 including people from the City of Everett, Marysville and AWC.

CALL ON COUNCILMEMBERS:

Councilmember Wright noted she will be out of town on the 4th and from the 6th to the 13th.

PRESENTATION:

1. Proposed Snohomish County Criminal Justice Center - Enviro-Issues.

Mayor Weiser explained that there are 3 sites that will be going through the EIS process: One at 199th St. NE & 63rd Ave. NE near the County solid waste transfer station in Arlington; one south of NE 162nd St. on Smokey Point Blvd. and the third south of NE 152nd St., east of Smokey Point Blvd. He introduced Jennifer Kauffmann of EnviroIssues.

Ms. Kauffmann, EnviroIssues, 101 Stewart, Seattle, Washington 98101, addressed the Council, noting they are the agency that will be working on the Environmental Impact Statement, doing the public outreach, developing a fact sheet for the "public involvement plan" whereas Huckle Weinman Assoc. is the actual lead agency.

She reviewed handout information, noting they will be working with the school district and other community members to determine impacts in the community for inclusion in the EIS. Fact Sheets and other informational pieces on the proposed Snohomish County Criminal Justice Center are available at Marysville City Hall and the Library, she said and they are also developing a mailing list of interested individuals who wish to be notified of public meetings, etc. She introduced Kathie Deviny.

Kathie Deviny, Snohomish County Corrections, 3000 Rockefeller, MS 509, Everett, WA 98201, addressed Council. She outlined the need for a new corrections facility, explaining there is an existing 477 bed jail that was built in 1986 and the county has outgrown this facility in addition to several more facilities that have been added over the last 11 years, including a minimum security work camp at the Evergreen Fairgrounds. She reported they just can't house the number of inmates that they are finding they need and are even contracting with a facility in Yakima for 30 inmates. Marysville and Lynnwood have jails but there just isn't enough room in the county, she said. She noted there is a total capacity for 669 inmates in the county.

Ms. Deviny cited factors that have contributed to the need for more facilities: increased penalties, 3 strikes and you're out, increased population in the county. She said they are proposing a 500 bed corrections facility that would include a booking center for all area police departments, holding areas and housing for minimum security inmates; Everett would remain the high security facility. The proposed facility would serve inmates also that need not be housed, eg. work facility offenders, booking and holding, possibly siting of the North Precinct Sheriff's Office and Cascade District Court as well as a juvenile facility, she said. She added that they are also planning a second 500 bed facility, if approved, depending on the acreage available, public input, etc.

Councilmember Leighan noted there have been several negative remarks made about the proposal but there are also benefits to the locale where the facility is built.

Ms. Deviny cited the fact that everything would be in one central location, it could possibly house offices for paying taxes and/or purchasing building permits, there would be at least 100 new hires from the local area including corrections officers and an economic benefit to the local area.

Councilmember Leighan asked about work release offenders and Ms. Deviny stated this facility would not have a work release component at this time; that would remain in Everett.

Councilmember Leighan asked what impact there would be on the local fire departments, aid calls, etc. with a higher population and Ms. Deviny said that is being studied for all three sites and will be contained in the Environmental Impact Statement.

Councilmember Bartholomew asked about off-site work programs, eg. roadside clean up detail as well as Monroe Fairgrounds.

Ms. Deviny said they are anticipating a program like that can be operated out of this site and possibly private enterprise might want to use these clean up crews, too--they work in the county parks department, they are screened, supervised and authorized by the judge to work in the program and the county has had excellent experience with this program, with no new crimes committed (they are not violent offenders).

Councilmember Bartholomew asked how many problems they have had since the inception of the program in 1983 and Ms. Deviny said they have had no true "escapes" -- only 3 very minor problems with this type of offender program.

In answer to another query, Ms. Kauffmann explained how the sites (15) were originally selected and narrowed down to the present 3. She said the EIS should be finalized this summer with the design and construction to start next year. It will probably be in two phases and they will be making presentations to the PTSA and school board in addition to other interested groups.

Councilmember Bartholomew asked about this qualifying as an "Essential Public Facility" under a recently adopted county ordinance and Ms. Kauffmann explained the county ordinance was actually adopted after the proposed siting, however they are looking for public input and the siting will probably be treated as an "essential public facility."

Councilmember Bartholomew asked about splitting up the facility and Ms. Deviny said that has not been ruled out, i.e. looking for other sites in other parts of the county, but it would be more cost effective to have the central facility. She added she understands the booking facility in Everett would remain there.

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Mayor Weiser asked about individual locations and the scope of the EIS.

Councilmember Herman arrived at 7:45 p.m.

Ms. Kauffmann said all 3 sites are being studied as far as the natural environment, drainage, soils, land use, impacts, wetlands, traffic, medical and utility services.

Mayor Weiser asked if any specific criteria were being looked at and Ms. Kauffmann said in addition to reviewing comparative capital and operating costs for each of the 3 sites, other considerations would be local and public opinion.

Mayor Weiser asked if there were any fatal flaws in the EIS and Ms. Kauffmann said no, mitigation would be called out in the EIS so there is no one thing she could think of as a fatal flaw, she said.

Councilmember Leighan noted there were no sites proposed in the south county or east county areas.

Ms. Kauffman said that was not intentional; people were asked to propose sites throughout the county and they just all happened to come in from the north part of the county.

Councilmember Dierck asked about the 30 day public comment period and Ms. Kauffman said it would be at the county level but they have not come up with a location as yet for a public hearing; there will be an open house and they are looking for input as to a location for the open house and public hearing(s). She suggested a public meeting in Marysville and one in Arlington, too.

Mayor Weiser said he would like to have the open house on the draft EIS as early as possible in the process and Ms. Kauffmann said she would follow up with the county on this.

Mayor Weiser added that the local chambers, school districts, etc. all want to be involved and included in the public input process.

Councilmember Herman noted he just came from Olympia tonight and asked when the draft EIS is due.

Ms. Kauffmann said it would probably be at the end of February and the public comment period could be extended over 30 days, if necessary.

Councilmember Herman said he thinks it important to have at least two public meetings.

Ms. Kauffmann said they are still looking for suggestions to coordinate planning and invited people to contact her or Kathie Deviny.

Councilmember Bartholomew asked that the EIS process be explained for the audience, eg. how any written comment is answered.

Ms. Kauffmann explained details of the public hearings would be published, the 30 day comment period would be given and the county would develop a mailing list. People can submit comments in writing or at a public hearing and at the end of the 30 day comment period, comments are reviewed by the county and EIS team and responses to the comments are incorporated in the final EIS. It then is used to make the final decision, she said.

Mayor Weiser asked about the appeals process and Debra Weinman of Huckle Weinman Assoc., 215 Central Way, Kirkland, stated there would be an additional appeal period as well as additional public input allowed.

Councilmember Dierck asked whether there could be a possibility of any sex offenders being brought into the new/proposed facility and Ms. Deviny said the booking component may involve sex offenders but they would probably be housed in maximum security.

Councilmember Bartholomew asked if this changes the thrust to a maximum security facility and Ms. Deviny explained the booking and holding portion/component would be high security.

Mayor Weiser concluded that the draft EIS is to be completed by the end of February with an open house to be set up after that.

CURRENT BUSINESS:

1. Discussion of Stormwater Comp Plan continued from 1/29/98 workshop.

Mayor Weiser noted a letter was received today from Bruce Tipton for the record, citing the urgent nature of the need for this comp plan to be adopted because of the streams in the Quilceda/ Allen Creek Watershed being unhealthful for swimming and half too polluted for wading, in addition to the water quality endangering fish and wildlife.

Larry Wade of Hammond, Collier, Wade-Livingstone addressed Council and picked up review of the draft Stormwater Comp Plan at Chapter 7 in which water quality, treatment by infiltration (preferred treatment), bioswales, wetlands, detention ponds, oil separators, drainage problems, flooding on various City streets is addressed. He spoke about catch basins, dredging, culverts, beaver dams and trapping near Jennings Park.

Councilmember Dierck asked about the canary grass not being native in Jennings Park and what species of trees are to be planted. Mr. Wade said that is to be worked out with Parks & Recreation Director Ballew.

Mr. Wade reviewed other proposed improvements to streams and fish habitat, wet ponds, regional ponds and channel improvements in Unnamed Creek on the Cedarcrest Golf Course. He said there was possibly some Fisheries issues remaining at the golf course/67th that need to be addressed but the total project is largely completed. Public Works Director Winckler noted all areas have been hydroseeded.

Mr. Wade reviewed cost estimates and there was discussion about volunteer projects coordinated through Public Works, possibly with interns and available summer students, to help with roadside ditch and bioswale/wet pond improvements. He also reviewed funding options included in Chapter 8, such as LIDs, Diking District mitigation fees, fees-in-lieu-of construction, latecomer fees, Centennial Clean Water Fund, State Public Works Fund, Public Involvement and Education Fund, Flood Control Assistance Grant Program. It was noted there is a \$450 mitigation fee per single family residential lot for all property within Allen Creek Drainage Basin per Ordinance 1581.

He reviewed the Appendix, the proposed Drainage Ordinance, definitions, cost estimates and goals/standards.

In beginning to review Chapter 4, Drainage Design Standards, there was extensive discussion about erosion control measures, buffers, small and large parcel distinction, Water Quality Control Plan being required (determination made by Public Works), no detailed engineered drawing required for one residential lot/one catch basin, eg. (redevelopment threshold), protection of adjacent property.

Mr. Wade said he would follow up on whether clear plastic shall or may be used vs black plastic for erosion protection and this review to be continued from Small Parcel Requirements, p. 4-21 at next Council Meeting, if time/agenda allows.

STAFF'S BUSINESS:

1. Court Decisions Update/Report from City Attorney.

City Attorney Weed reviewed Newman vs King County which was a request for public (police) records of a murder case. He said it came down to the "right to know" vs "confidentiality of a pending file" and the court ruled in favor of the law enforcement need to maintain confidentiality of the records.

In Phillips vs King County, this was a case where drainage issues were involved on privately owned property and the county was being held liable for trespass, inverse condemnation and ingress in their trying to manage and maintain surface water runoff on 19 acres. Contrary to some of the prior cases, the question is whether the private developer as well as the county have liability and the court decided that indeed, the county did have some liability.

In Bishop vs Misch, this case involved a drunk driver who was on probation, hitting and killing a 5 year old boy. He had several prior convictions but under aliases. Was the county/probation officer liable for failing to report a probation violation? The court found that the county would be liable in this case.

In Wilson vs City of Monroe, this case was about wrongful termination of a wastewater treatment operator for per performance. He was a union employee, filed a grievance but changed it to a wrongful termination suit. Judge Allendoerfer dismissed the claim but his decision was reversed by Judge Baker who ruled that a whistleblower action is separate and the employee can sue without going through the grievance process.

There is a pending "sovereign status" suit in the state of Alaska with the Athabascan Tribe claiming all of Alaska "Indian Country" even though it is not contained within their tribal land. If the courts rule in the tribe's favor, this could mean stripping of state powers with regard to taxation, for example and would increase sovereign nations' laws/powers throughout the nation. The state of Alaska budgeted over \$1 million in their own defense because of the importance of this issue.

ORDINANCES & RESOLUTIONS:

1. Resolution of the City of Marysville Granting Utility Variance for Robert and Cindy Allred for Property Located at 11624-55th Avenue NE, Marysville.

Councilmember Bartholomew moved and Councilmember Herman seconded to approve/adopt Resolution 1873. Passed unanimously.

2. Resolution Amending Resolution 1789 and Approving an Extension of the Utility Variance for Gary Ball/John Robinett for property located at 2988 188th St. NE, Arlington.

Councilmember Wright moved and Councilmember Myers seconded to approve/adopt Resolution 1874. Passed unanimously.

3. Ordinance modifying rate structure for CWSP Water rates, effective 2/1/98 (containing emergency clause).

Councilmember Leighan moved and Councilmember Bartholomew seconded to adopt/approve Ordinance 2181. Passed 5-1 with Councilmember Dierck opposed.

LEGAL MATTERS: None.

ADJOURNED: 9:21 p.m.

CORRECTED: SEE 2/9/98 MINUTES

CORRECTED: SEE 2/9/98 MINUTES

EXECUTIVE SESSION: 9:30 to 10:04 p.m.

1. Pending Litigation.
2. Real Estate.

RECONVENED: 10:04 p.m.

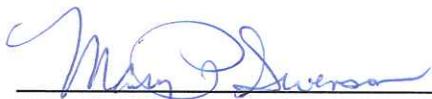
Councilmember Bartholomew moved and Councilmember Herman seconded to authorize Mayor Weiser to sign a letter of commitment for sale of utility lines as discussed in Executive Session. Passed 6-0.

ADJOURNED: 10:05 p.m.

Accepted this 9th day of February, 1998.



MAYOR



CITY CLERK



RECORDING SECRETARY