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MARYSVILLE CITY COUNCIL MINUTES

MAY 14, 1990

7:30 p.m.

Council Chambers

PRESENT: Rita Matheny, Mayor
Councilmembers:
Ken Baxter, Mayor Pro Tem
Dave McGee
Dave Weiser
Donna Pedersen
Donna Wright
Bob Lashua
Lee Cundiff
Administrative Staff:
Carolyn Sanden, City Administrator
Phil Dexter, Finance Director
Jim Ballew, Parks & Recreation Supt.
Jim Allendoerfer, City Attorney
Dave Zabell, Public Works Director
Mike Corcoran, City Planner
Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Matheny called the meeting to order at 7:30 p.m. and led the flag salute.

ROLL CALL:

City Cler/Finance Director Dexter called the roll with all members present/absent as indicated above.

MINUTES OF THE PREVIOUS MEETING:

Councilor Lashua moved and Councilor Wright seconded that the minutes of the 5/7/90 meeting be approved as written. Passed.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Mike Hackler, 6820 73rd St. NE addressed the Council, stating he lives in LaJoy. He noted that when Centex first applied for their permit, they guaranteed all water problems would be taken care of but they have now covered up the open drainage ditch. He said further that they were originally told that all water would drain to the back of the lot, to the creek, but now it's all filled in and there's no place for the water to go and water stands on 67th with one-half inch of silt built up. He noted there used to be a creek in Kellogg Meadows also with hundreds of salmon and now there are no more fish there. He said when people in LaJoy backwash their pools, that's a lot of water to get rid of and so he tries to do his during the dry weather, but in the cold weather the poor drainage is going to cause ice to form like a real skating rink on 67th and that poses a liability problem for the City, he felt.

Public Works Director Zabell stated he would follow up on this problem and get back with Mr. Hackler.

Bob Wicks, Architect with Millenaar & Wicks, 1624 Grove St., addressed the Council with a handout. He stated he has a small problem with his client on Delta; that he contacted Jim Allendoerfer and was referred then to Dave Zabell, whom he was unable to reach. He stated Mr. Joseph Miklautsch has a building permit for construction at 7th & Delta and they have started to dig the foundations for Phase I. They were then told by the Bldg. Dept. building cannot continue (even with a building permit) because of Ordinance 1726 stipulating no structure can be built within 10' of an easement. He said he feels the alley is actually a right of way, not an easement. He said he understood that the ordinance was passed so there would be access to utility lines and it is agreed that access is necessary but the City had control over placement of the utility lines, not Mr. Miklautsch.

Mr. Wicks said that according to his calculations, the centerline of the sewer line is 6' from the property line. He added that this project is scheduled for completion in two months and time is of the essence, so they would like this situation resolved tonight if possible.

Public Works Director Zabell handed out maps of the same area and said the Marks & Mallet Addition and the H. B. Meyers Addition were probably formulated about 90 years ago when they dedicated only 10' of alley instead of 20'. The sewer line is 7' north into the alley with the intent that an additional 10' would be dedicated to the City, he stated. The Plan Checker had a map with incorrect alley measurements, he said and added that he could attest to the accuracy of the measurements on the handout because he just measured it tonight, and the sewer line is only 3' from the property line, not 6' as Mr. Wicks stated.

Councilor Cundiff asked if an alley is an easement or a right of way and City Attorney Allendoerfer responded that if it has never been dedicated to the City then it's probably an easement. He further stated that the intent is to site all buildings back from the sewer line 10'.

Councilor McGee asked what an acceptable footage would be to Mr. Wicks and Mr. Wicks stated using a standard of one and a half times the depth of the line, that would calculate out to 9'. Public Works Director Zabell stated that is for safety purposes, when trenching a line, and not the standard to be used for setbacks.

Mr. Wicks pointed out that this is commercial property and the applicant and/or his representatives can't be "down here every night" to find out the new ordinances being put in place.

Public Works Director Zabell agreed but stated 3' is not enough room to work on lines.

Mr. Wicks noted that there are other buildings in town in the same situation and doing this same thing. Further, Mr. Miklautsch has already dedicated quite a bit to the City, he said and the requirement as it stands now is for 20' which is virtually impossible.

Public Works Director Zabell said the City would want 10' dedicated in the alley from each side/property owner and that the plans had shown the alley to be 20' wide. Mr. Wicks argued that he could not get the correct information from the City.

Mayor Matheny noted there is a law that if an alley is not used it can be given back to the owner of the property after a certain length of time but it was agreed that this would not be the case in this particular situation.

Public Works Director Zabell stated the issue is 10' from the utility line and Councilor Baxter asked what the setback requirement is. Public Works Director Zabell pointed out that the setback and the utility easement requirements are two different issues.

Councilor Lashua asked if there hadn't been a recent concession where a utility line could be closer than 10' from the building and Public Works Director Zabell said yes, in Cedar Ridge.

Councilor Baxter noted there is no ordinance governing where the City places the utility line and it doesn't necessarily have to go in the center of the easement, either.

Councilor Pedersen asked what the minimum workable space would be and Public Works Director Zabell stated 6-7'.

Councilor Lashua summarized the problem as being that the engineering dept. is asking for a setback and the property owner would like to be allowed a zero lot line because it is commercial.

Mr. Wicks added that if the building is moved over, it will eliminate part of the parking lot and greenbelt/landscaping. He read from the minutes of the 9/18/89 Council meeting in which the ordinance was passed, indicating discussion of the problem of administering the ordinance.

Joseph Miklautsch addressed Council and stated he understood that a 20' alley was established with a 1' setback. Further, he noted that he has a signed lease from a tenant who wishes to move into the building being constructed and now this ordinance is supposedly asking for another 10'. He said he feels a proper maintenance man does not need 10' to go down 6' with the proper equipment. He said also, the map is in error (Dave's); that he thinks it's more like 6' from the property line (the sewer line). He said he eyeballed it at 6', Dave eyeballed it at 3' from the other end of the alley. He added that he has dedicated 10' for the sidewalk and has tried to comply with everything the City has requested and feels the City has created this problem for him; he feels that he is not creating a problem for the City. As an additional concession, he stated he would reinforce the alley to facilitate maintenance of the utility lines.

Councilor Baxter asked if the alley isn't more than 10' and Public Works Director Zabell agreed that it is, that he did not do a complete survey.

Councilor Baxter said he thought it may almost be 20' and even with a 10' utility easement from both sides, a total of 20' would still not be enough for utility and emergency vehicles. He said he thinks this is Mr. Miklautsch's problem as well as the City's.

Mr. Wicks stated they would be willing to go down 6' with a retaining wall and footing -- whatever it takes to get the square footage for the building.

Councilor Baxter pointed out that there is still a problem of fire trucks going down the alley. Mr. Wicks pointed out that the ordinance addresses easements, not fire truck width requirements.

Councilor Lashua asked if all the parking allowed for is needed and Mr. Wicks stated it would be needed by the time they finish Phase III. Councilor Lashua asked about the possibility of moving the buildings 3' off the existing property line and making some sort of a trade off for the parking in the future.

City Planner Corcoran noted that it looks like there is room to move the building forward 2-3 more feet without eliminating any parking spaces.

There was more discussion about the width of the alley, Councilor Lashua noting that it has been that way for years, Councilor Baxter noting that there are utility poles in the alley which preclude driving safely in the event someone wants to build a fence in the back.

Mr. Wicks agreed they could move the building over 3' but it would cut out some landscaping. He asked about some concessions for the owner in view of the fact he has to pave half the alley and pay for taxes on the 3' dedicated to the City. He asked about putting a fence on the property line.

Councilor Baxter pointed out that a fence would defeat the whole purpose of the setback, that there really isn't any problem with a 1' setback but this alley is not wide enough. If 3' were deeded,

he noted, they would not have to pay taxes on the 3' dedication.

Mr. Wicks stated that if 3' were deeded to the City, the applicant would want the City to take responsibility for the paving of the 3'.

Councilor Lashua asked about a trade off on the parking as he had suggested earlier and Mr. Miklautsch said the alley should be further south; that he would be willing to give a little, but he would like a little greenbelt and he added he does not wish to have to blacktop the extra 3'.

Councilor Baxter said he would like to see enough room for emergency vehicles in the alley.

Councilor Lashua said if the building is set back 3', that would allow room for maintenance but that the applicant should not have to necessarily dedicate the 3' to the City unless he wants to.

Councilor Baxter commented that he couldn't imagine why anyone would want to own 3' of an alley but said he thought the City needs to make some concessions because of the problem created "way back when". He added that he would want to make sure the applicant has adequate room for parking, also.

Councilor Weiser asked about the rationale for blacktopping the alley and Public Works Director Zabell stated that's what the City has been requesting.

Councilor Baxter stated he thought it worth it to the City to do the overlay at City expense and Councilor Weiser stated he would be in favor of the City paving the alley, also.

City Planner Corcoran pointed out that the planting area would be lost with the 3' setback and Councilor Baxter stated if there is adequate parking, he would be in favor of moving the building 3'. He added that he would like to see some landscaping, too. He reiterated about the utility poles in that alley and commented that one of these days the City is going to have the same problem again.

Councilor McGee moved to keep Ordinance 1726 in place requiring a 20' easement for this project. The motion died because there was no second.

Councilor Baxter moved to approve the request to continue construction with dedication of 3' on the north side of the alley and that the said square footage not be detrimental to the parking lot square footage. City would pave the 3' dedication with waiving of owner's portion of alley paving. Councilor Cundiff seconded.

City Attorney Allendoerfer clarified that the balance of the paving of half of the alley would be the burden of the owner. The motion was amended to include this clarification. The motion passed with Councilor McGee being against.

CONSENT AGENDA:

1. Approval of Claims Check No.s 19770 through Nos. 20006 and voided check nos. 19776, 19777, 19781, 19782 and 19788 thru 19801 in the amount of \$403,868.02.
2. Authorize the Mayor to Sign the Contract with Lewis Nelson Architects for the Library Feasibility Study.
3. Authorize the Mayor to Sign the Addendum to the Agreement with the Public Works and Police Unions.

There were questions regarding Voucher #19950, how many staff members have bank cards, maximum amount of petty cash withdrawals, the Library architectural firm being from Bellevue. City Administrator Sanden pointed out that the Architect Selection Committee chose the architects from Bellevue. Regarding the labor union amendment, she noted the Communications Officer is Grade VI and that the staff is looking for agreement to the concept and authori-

zing the Mayor to sign the Addendum once the corrections are made.

Councilor Cundiff moved to approve Consent Agenda Items 1, 2 & 3. Councilor Weiser seconded and the motion passed unanimously.

REVIEW BIDS: None.

CURRENT BUSINESS: None.

NEW BUSINESS:

1. RUSA Variance - Mildred Molloy.

Mildred Molloy, 14020 26th Av. NE, addressed Council and stated that their septic design papers had indicated that water would be supplied by the City of Marysville. She noted that the area is very wet and probably will not perc plus there is a beaver in the creek that constantly causes damming of the water. In answer to Councilor Lashua's question, she stated that the house on this property was moved in and no other house was on the property prior to this.

Councilor Lashua stated he did not feel this request for water meets the City's criteria/requirements for a variance and City Attorney Allendoerfer asked if there is a history of water lines in the immediate area.

Public Works Director Zabell stated there is a 2" line that was probably installed prior to RUSA being set up.

Ms. Molloy stated at the present time there is no sewer, septic or water to the property and they just found out, in fact, that they are not supposed to be living on the property without proper utilities.

City Administrator Sanden asked if she has approval for a septic from the Health District and Ms. Molloy responded that she does, on the north end of the property but she also noted that Fred Waller and another neighbor have Marysville water, which they would prefer over having to dig a well, seeing as how the line is right there. She noted that the property was purchased from the Everett City Engineer, Ken Storseth, who assured them that Marysville water would be no problem to the property.

Councilor Baxter noted that this area has a lot of problems with drainage because of the number of trees, etc. and everyone gets the same letter from the Health Dept.

Ms. Molloy said she knows the well water has a high iron content and without utilities, they can't even get insurance at this point, so they would really like this problem solved soon. She is presently having to pack bottled water in and they have a sani-can.

Councilor Lashua stated he had no problems with granting the variance except that it does not meet all the criteria; Councilor Cundiff asked if it could be considered a hardship case. Councilor Lashua wondered if it would jeopardize Marysville's capability to get water and Councilor Baxter stated he did not think so and also that he knows the water quality is poor in that area.

City Planner Corcoran pointed out that Ms. Molloy's purchase was in good faith, based on being able to obtain Marysville water and he confirmed that on the septic tank permit it shows "Water Source -- City of Marysville."

Ms. Molloy said the septic design was drawn up in 1984 and discussion followed regarding validation of permits, mobile home permits, drain field permits, building codes.

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Councilor Baxter moved to approve a water variance for Ms. Molloy and Councilor Lashua seconded the motion. Passed unanimously.

2. Variance Ordinance #1763 - Centex Homes/Parkview Estates.

City Planner Corcoran referred to the packets and site plans and stated this may not be a true variance. He explained that there were 53 sewer hookups under LID #7 plus hookups vested in a previously approved plat, totalling 78 hookups vested but never used. He stated that the applicant is only requesting 58 but they do wish to change the location of the vested sewer hookups in order for them to have a viable project. It's really a transfer of hookups from one side of an approved PRD to another, City Planner Corcoran stated, and added there would still be hookups along the sewer line and there should probably be a way to cover that situation administratively, he felt.

Public Works Director Zabell clarified that the request would be for 53 hookups plus three more from different parcels in the plat.

Ken Kruger, representing Centex Homes, addressed the Council and stated they submitted a drawing showing all the sewer lines but he now has some question on the interpretation of Ordinance 1763 because they have 79 usable services and are asking for transfer of 58 of those.

City Attorney Allendoerfer asked about the remaining 21 vested hookups and Mr. Kruger stated they could agree to not use them until the sewer moratorium is resolved. He added there are 58 lots in Division I but they could go to "Div. I Alternate" plans if the City does not agree to this shift in hookups. He said they are looking to do the construction this summer and are asking for transfer to the part that has no stubs in order to facilitate the project (Division I).

Councilor Cundiff asked if the hookups were being transferred from single family lots to single family lots and Mr. Kruger said yes.

City Attorney Allendoerfer asked again about the total calculation and it was explained that there were 53 hookups under ULID 7 plus about 22 in a plat on 64th St. that was never approved by the City. Mr. Kruger stated that they have 79 usable stubs on a line that has been pressure tested by the City. He said there are 58 lots in Division I, actually; that City Planner Corcoran has done his calculations a little differently, but basically they come up with the same figures.

Councilor Lashua noted that in Division I many of the lots have no sewer on site so the applicant would be reconstructing 90% of the line.

Mr. Kruger said yes, that the original site plan involved a pump station but they want to redo that.

City Planner Corcoran stated he counted the lots off the old plan --53 hookups on the old line plus Lots 3-010, 3-008 and 3-001 equals 56 hookups.

Councilor Weiser asked how many lots have vested sewer rights and Public Works Director Zabell stated 52. Councilor Weiser asked if these were included in the calculation when the sewer moratorium went into place and Public Works Director Zabell stated no, but they had allowed for some to be left out and calculated purposely high.

Councilor Weiser asked if these 52 lots would not include tearing out of any existing sewer lines and Public Works Director Zabell stated no, that they will also be able to utilize the main on 64th.

Councilor Baxter noted there is a new configuration of the plat

and Mr. Kruger said yes, and they would like to do the grading for Division I and would like to keep moving forward with the project at this point. He added that no one foresaw the problems with the DOE, unfortunately and now they have a contractor approved for the work and would like to start within the next thirty days.

Councilor Baxter noted that the City would not really be allowing hookups not previously allowed, as long as we adhere to 52 hookups. He asked if the sewer mains are in place and Mr. Kruger said no, new lines would have to be put in.

Councilor Weiser asked if new sewer lines are built, is that still considered "vested"?

Councilor Lashua said he had no problem with approval as long as it is limited to 52 hookups for as long as the sewer moratorium is in force.

City Attorney Allendoerfer disclosed that he represents Centex Homes privately but that he wanted to indicate that there can be a problem with precedent setting. Councilor Weiser pointed out that there is an existing sewer line and City Attorney Allendoerfer added that Centex will still have to go to the DOE for further approval of their plans.

Mr. Kruger stated that they have already received approval from DOE, which they obtained prior to Ordinance 1763. He said he sees the bottom line being the number of hookups and the fact that the developer will remain the same, i.e. they wouldn't be selling the vested sewer rights and property over to another developer, which possibility had been mentioned earlier.

Councilor Lashua pointed out that approval of this PRD would be only for Centex and that they can't assign part of it to someone else. City Attorney Allendoerfer said he thought that unlikely, but pointed out it is possible. He suggested making a provision that 42 hookups would be divested if this request tonight is approved and so no more would be allowed to Centex.

Councilor Baxter asked about plans for the park and Mr. Kruger said it would be totally dedicated to the City as soon as Div. I is finished, probably this summer.

Councilor Weiser expressed concern that the City would be leaving themselves wide open on the remaining lots but City Planner Corcoran pointed out that each phase would have to come back for City Council approval.

Councilor Lashua moved to accept Centex's proposal to transfer vested rights from Div. I Alternate to Div. I (known as Parkview Estates), divesting any future sewer hookups until the sewer moratorium is repealed, for a total of 52 hookups. Findings of fact:

- not a significant amount of sewage/effluent/impact
- approval would not be detrimental to public health
- it's a transfer and therefore there's no more sewage
- trunk line design has already been approved by DOE
(before moratorium enacted)

Councilor Baxter seconded the motion and it passed with Councilors Weiser and Pedersen against.

LEGAL MATTERS:

1. Recovery Contract - Don & Sharon Richards.

Councilor Lashua moved that Recovery Contract #153 for an 8" sewer line on 48th St. be approved/granted to Richards. Councilor Weiser seconded and the motion passed unanimously.

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2. Literacy Council Request.

City Attorney Allendoerfer explained that the Literacy Council is asking if they were allowed any federal funds this year; he said they were under the impression that they were entitled to holdover funds.

Discussion revealed that the funds had to be given to another organization or the funds would be lost.

3. City vs. Police Union.

City Attorney Allendoerfer reported that the arbitrator ruled in the City's favor.

4. Enforcement of Sewer & Water Liens.

City Attorney Allendoerfer explained that Dujardin has been in touch with the City regarding the plat of Meadow Green who still owes the City \$88,000. Dujardin has rejected the dispute between the builder and contractor and has offered to indemnify the City for the outstanding liens in order to continue with the project. City Attorney Allendoerfer said this situation has only come up once before and in this case, Dujardin states the contractor is trying to make Dujardin look bad. He said staff position is that if there is no clear title, then they should not get the utility hookup and Councilor Baxter agreed. It was the consensus that the City Attorney should hold firm on that position and advise Dujardin accordingly.

5. Curb, Gutter & Sidewalk Improvement Defaults.

City Attorney Allendoerfer explained this is another builder and contractor dispute where the improvements have not been done and the project is completed. He asked if staff can take the position that another project can be held up based on a past project. He noted that the business license ordinance states that the City will not do business with the particular business until all past debts have been cleaned up. He said both cases are short plats which seemed to have slipped through the cracks and are now occupied so the builder has no motivation to finish. It was noted that the occupants are renters, not owners.

It was the consensus that the builder/contractor should not be allowed to go forward with another project until all past debts are cleaned up, in order to give them the motivation to finish each project.

ORDINANCES & RESOLUTIONS: None.

STAFF BUSINESS:

City Planner Corcoran stated a situation has arisen with regard to trees in open spaces that have been dedicated to the City. Recent wind storms have proven that there is a dangerous situation in Brookwood Hts. III with some alders, where one is dangerously close to a house. He said he was looking for direction as to who would be responsible for taking care of the trees and situations such as this.

City Attorney Allendoerfer stated if it is in property owned by the City then it would be the City's responsibility. Public Works Director Zabell asked if it would come out of the Parks Dept. budget and it was the consensus that it would.

City Planner Corcoran then mentioned a thin line of singleton trees that run 150' along the slope adjacent to Munson Creek Div. IV where there is also a danger of trees and/or branches falling on houses.

Councilor Lashua suggested that the possibility of topping the

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trees be checked into prior to taking the trees out altogether.

City Planner Corcoran said that perhaps a plat should come back in if the trees are removed so City Council can have the chance to reevaluate as far as replanting. Discussion followed concerning the need for erosion prevention on the hillside, replanting of native growth, with the consensus being that replanting is a good idea and for Mike to check into the County ordinance with regard to replanting enforcement/options.

Parks & Recreation Supt. Ballew addressed Council, stating that tree trimming and removal has recently presented a problem because of not knowing what to do with the wood now. Burning it in an open fire and having City employees take it home are both illegal he pointed out and he wondered about the liability issue if tree cutting permits are issued in the park.

City Attorney Allendoerfer stated a release of liability could be obtained in the case of a tree cutting permit being issued in the park and as far as other alternatives, he suggested

- a trade off with the logger if he keeps the wood
- give it away to the Boy Scouts
- sell it.

Parks & Recreation Supt. Ballew suggested taking the matter back to the Parks Board especially with some thinning programs coming up and the problem needing to be resolved. It was the consensus that the problem be discussed at the Parks Board level.

City Administrator Sanden asked about responses to the Friday night dinner from City Council.

Public Works Director Zabell reported on recent drainage problems with Kellogg Meadows and said they are going to lower the overflow of the pond and anticipate a solution to the problem. He said he felt confident, after their having tried so many things, that they are finally in control of the situation in Kellogg Meadows.

MAYOR'S BUSINESS:

Mayor Matheny commented on the Centennial Coordinator decision to be made next Thursday, Al Swift's attendance at a recent Tulalip meeting, the Ham Radio Operators from Russia inviting her to their meeting.

CALL ON COUNCILMEMBERS:

Councilor Cundiff said he has noticed that the City is taking care of mowing/weedeating of the planting strips and asked if people are encouraged to take care of it themselves without the City stepping in.

Public Works Director Zabell stated that it's not done on a weekly basis but Lloyd mainly takes care of it for aesthetic reasons rather than waiting for people to do it on their own. He said there is a particularly bad area on 67th in the back yards and on Grove St.

Councilor Cundiff asked about the vacating of cars at 5224 Grove and City Planner Corcoran stated the owner has agreed to remove them but he just got out of jail and has to go to court in Arlington, so as soon as he can, he will. He said the problem is being worked on and the owner was told that he either remove the cars or the situation will be turned over to the City Attorney for litigation.

Councilor Cundiff added that this person is really causing a problem there with noise in the middle of the night, etc. City Planner Corcoran said he would follow up on it again.

Councilor Lashua said he had noticed that the Ebey Slough "Welcome to Marysville" sign is missing and Parks & Recreation Supt. Ballew stated the sign was broken in half somehow, with DOT disavowing any knowledge of how it happened. He said it is in the Parks Dept. shop for repair.

Councilor Lashua asked if there had been any movement on the Mall and City Attorney Allendoerfer said no, there hasn't been.

Councilor Pedersen expressed concern over the train the other day blocking a State Highway (4th) for about 15 mins.

City Attorney Allendoerfer stated that a complaint can be made to BN and Councilor Lashua asked if there isn't a time limit for them holding up traffic, that he believes Seattle has a 5 min. time limit.

Councilor Baxter stated he understood they could block traffic for up to 20 mins. Councilor Pedersen said she understood that train employees have been seen getting off the train while it is stopped and going into Burger King to get a burger. City Administrator Sanden said she would follow up with BN about the delay issue.

Councilor Weiser noted this is the season for garage sales and suggested a bounty on garage sale signs affixed to utility poles. He also reported there is a new portable (illegal) reader board at Alfy's Take and Bake on State.

There were comments about the possibility of Chita's once again applying for a business license in Marysville and the wine press on City property. City Planner Corcoran said he could post the building and/or contact Jim Pankowicz, owner of the building where the wine press is.

ADJOURNMENT: 10:10 p.m.

Accepted this 29 day of May, 1990.

Reta Matheny
MAYOR

Phillip E. Dexter
CITY CLERK

Wanda A. Iverson
RECORDING SECRETARY