

MARYSVILLE CITY COUNCIL MINUTES

AUGUST 13, 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:
 Phil Dexter, Finance Director/City Clerk
 Carolyn Sanden, City Administrator
 Jim Allendoerfer, City Attorney
 Jim Ballew, Parks & Rec. Supt.
 Dave Zabell, Public Works Director
 Bob Dyer, Police Chief
 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:

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

MINUTES OF THE PREVIOUS MEETING:

Councilor Pedersen noted that in the minutes of the 8/6/90 meeting, on page 2, third paragraph from the bottom, Councilor Weiser should be identified as having made the statement. On page 6, in the fifth paragraph, the words "if the applicant does not reapply" should be added after "so that the applicant may come back within 6 months without paying another fee, after which time the denial would convert to a regular denial".

Councilor Wright noted on page 2, in the sixth paragraph from the bottom, "chloroform" should be "coloform".

Councilor Wright moved and Councilor McGee seconded to approve the minutes of the 8/6/90 meeting as corrected.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:

1. July 31, 1990 Payroll Check Nos. 19208 through 19526 with voided Check Nos. 19210 & 19211 in the amount of \$368,574.15.
2. August 13, 1990 Claims Check Nos. 20820 through 21050 in the amount of \$283,886.56.

Councilor Cundiff moved and Councilor Lashua seconded to approve Consent Agenda Items 1 & 2 as presented. Passed unanimously.

NEW BUSINESS:

1. Six Year Transportation Improvement Plan.

Public Works Director Zabell explained this is the annual program for street improvement and he referred to the packets. He also handed out an update on status of 1990 budgeted street improvements for the Council's information. He commented that on Grove there are some "hoops" to jump through because of some of the requirements of federal funding. He noted that on 80th, some "holdouts" are anticipated which will delay that project. With regard to signals on State, he noted that the county is the lead agency.

Councilor Weiser asked about the light at 5th & State, whether

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it is still necessary, and Public Works Director Zabell explained it would be very expensive to remove, as well as the fact that it does meet the volume warrant. He gave more information about vehicle actuated signals along State. As far as 528, he said it will be resurfaced once the other construction work is complete, but he doubted whether the traffic signal will be in before school starts. He stated the State has indicated 4th/528 will be closed for four weeks.

Councilor Pedersen asked about widening of State on the north end and Public Works Director Zabell responded that this is priority #16, that a public hearing is scheduled for 9/10 regarding the whole Six Year Transportation Improvement Program and that he would like City Council to review information prior to the public hearing.

Mayor Matheny expressed her preference for as much construction as possible to be done before school starts (on 528, especially).

Councilor McGee moved and Councilor Weiser seconded that a public hearing be scheduled for 9/10/90 to review the Six Year Transportation Improvement Plan. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. **Resolution Denying Variance to the Sewer Moratorium for Henry Osborn.**

Councilor Lashua moved and Councilor Wright seconded to adopt/approve Resolution #1438 denying a variance to the Sewer Moratorium for Henry Osborn. Passed unanimously.

2. **Resolution Upholding Administrative Decision regarding Sewer Moratorium for Ed Hayes.**

Councilor Weiser moved and Councilor McGee seconded to approve/adopt Resolution #1439 upholding the administrative decision. Passed unanimously.

CURRENT BUSINESS:

1. **Discussion on Library Feasibility Study.**

Parks and Recreation Supt. Ballew addressed Council and stated the Library Bldg. Committee and some members of City Council met last week and the committee would now like direction with regard to several options. He said it was the consensus they should wait and see what direction is going to be taken on the community center and on the new library building option, they would like to exhaust all uses of the existing building, for example, there is the possibility of using it as a City Hall. He said their recommendation is to use the Library architect, Mr. Lewis, to do a feasibility study for the use of the Library as the new City Hall facility. He noted that the community center task force will continue to meet and would like City Council direction as far as the use of the Library as a City Hall.

Councilor Pedersen noted that she attended the meetings and as a side note, the use of the Library as City Hall could meet the needs of the City for approximately the next five years.

Councilor Cundiff asked about following up with the School District regarding the property next to the Library for parking and City Administrator Sanden stated she had not been in touch with the Superintendent (Huselton) recently, but last time they spoke, she was to let him know how many square feet would be required for the City's use and Mr. Huselton was to review impacts this would have on them. She said he indicated they were not willing to sell the property to the City, but would be probably willing to allow the City to use the property for some consideration.

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Councilor Baxter noted that the School District is interested in discussing this with the City because that area is not being used by the school at this point.

City Administrator Sanden said she thought they would be agreeable if the City were to improve it and then allow the school to share it with them.

Parks and Recreation Supt. Ballew said the school district has been included/invited to meetings. He asked if there was still money left in the budget for the architect's services and City Administrator Sanden said yes, Mr. Lewis still has Phase II to do for which there is a budget allowance.

City Attorney Allendoerfer pointed out that Professional Services would not have to be put out for bid.

Councilor McGee stated he would feel comfortable with the City Administrator getting an estimate to move City Hall to the Library facility.

Councilor Cundiff said he would like the parking issue resolved first.

City Administrator Sanden agreed to follow up with the school district.

Councilor Baxter said he would like to see a discussion regarding having a regional library vs. a city library because it might be questioned why City residents have to support a regional facility and a \$3,000,000 program is a lot of money.

Parks and Recreation Supt. Ballew said the Library does have the ability to extend the Library district beyond City limits, so that there would be a wider tax base.

Councilor Pedersen shared some of the thoughts of the committee with regard to having to first consider the cost of a new City Hall vs. using the existing Library. She said the committee wished direction before proceeding further.

Parks and Recreation Supt. Ballew added that the Building Committee was looking at the new building option for the Library and recognized that City Hall and a Community Center complicated the matter somewhat.

Councilor Pedersen added that the committee did not want to just "bandaid" all the needs and wanted plans/options to be in line with the needs and objectives of the City.

Councilor Cundiff reiterated that he would like to know if the parking issue can be resolved and would like to see a commitment from the school district, prior to making any decision regarding moving City Hall to the present Library facility.

Councilor Weiser pointed out that a City Hall right next to a school may have a different impact on the school than a Library.

It was agreed to have a workshop with regard to this matter on 9/8/90, in the afternoon, after the Fire Presentation (at the Tulalip Inn).

PUBLIC HEARING:

- 1. An Ordinance of the City of Marysville Imposing Temporary Restrictions on New Sewer Connections to the City's Sewer. (Revisiting Ordinance #1763)**

City Attorney Allendoerfer explained that Ordinance 1763 bans new hookups (unless vested) until 9/1/90 which was the agreed date

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Councilor Lashua asked about interest payments at 12% on page 6 and City Attorney Allendoerfer said state law states the interest rate is at the current judgment rate, a minimum of 12%, and would only be paid in the event the money collected is not spent within five years.

Councilor Pedersen asked how many people are expected to be included as vested under 3.1 and City Attorney Allendoerfer said he did not know but that the six month time limit rule for utility letters has always been in the City code.

Brent Carson, Attorney with Buck & Gordon of Seattle, addressed Council and referenced a three page letter regarding an additional category for vested rights which they are requesting on behalf of Dujardin Development. He commended the proposed ordinance on the encouragement of innovative ways of creating a "no net increase" but pointed out that Dujardin has paid out \$100,000 over 12 years under ULID #10 and over \$60,000 in addition to the \$100,000 for sewer service which they have never received and so they are requesting the vesting be allowed for those property owners in this limited scope and those who only need a building permit. He said they appreciate the City's position and said Dujardin is also looking at "no net increase" methods/plans at this point, too.

The proposed additional category would read:

"3.7 Previous Agreements. Properties which are part of a completed ULID, and were a party to a Temporary Service Agreement with the City prior to the ULID, and made monthly service fee payments under the Temporary Service Agreement and assessment fee payments under the ULID and which only require a building permit and/or condominium approval shall be allowed to receive a letter of commitment from the City to insure that sewer service will be available to the property when construction is complete, and shall have vested rights for that connection regardless of whether a side sewer extension is required."

Penny McIntosh, 8420 47th Dr. NE, Marysville, addressed Council and explained her circumstances. She said in Feb./89 she applied to the county for a short plat and they explained it was a 120 day process with a court hearing. It was then discovered that the house is 4' too close to the property line and that caused a delay and the mortgage company required certain commitments, creating another delay. It's been a total of 15 months now of delay, there is City water and sewer on both sides of the property; she had a sewer vesting letter which expired and the county said since the sewer goes by her house, she must hook up to it.

Mayor Matheny suggested she talk with Dave Zabell in the Public Works Dept. and Public Works Director Zabell stated he could talk to the county on Mrs. McIntosh's behalf.

Margaret Oczkewicz, 5804 100th NE, Marysville, addressed the Council and asked about a low BOD reading--is this going to cause a rush of additional hookups. She also expressed a concern for plans that are drawn up for a "no net increase" and then don't work--is there a provision for penalties? She noted it's a bit of a Catch 22--you don't want to OK a plan unless it works but you don't want to allow the plan to function without a building permit.

Ed Hanson, Attorney from Lynnwood, (P. O. Box 6699), addressed Council, representing Heritage Mobile Home Park. He commended the efforts and resourcefulness that went into producing the proposed ordinance. He said he supports Section 4 but his client has constructed a system to serve the mobile home park and is now wondering if they have vested rights under 3.3. He pointed out that his clients have spent over \$300,000 and without a determination of vesting this does represent a financial hardship.

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City Attorney Allendoerfer agreed that this is a unique situation and recommended that a separate hearing be held to address this particular issue. Mr. Hanson stated that would be acceptable to him.

Tom Withers, 12526 Meridian Avenue, Marysville, addressed Council and noted that it appears that the total burden under the proposed ordinance is on the developer. He referenced the Consent Order of 5/29/90, page 7, paragraph 4 and asked what steps the City has taken as far as transfer of waste to other districts.

City Administrator Sanden stated the City had heard both Everett and Lake Stevens might be receptive to that and Lake Stevens is receptive. Marysville is doing some calculations at this point, and may need to look at the construction of a line to Lake Stevens, she said. She noted that Lake Stevens is willing to assist Marysville up to five years.

Mr. Withers said he felt the focus of the sewer moratorium is on new construction and pointed out current City buildings and facilities should be looked at as well.

City Attorney Allendoerfer pointed out that effective 7/1/90 new construction must have low flush toilets and the City is in the process of drafting a water conservation ordinance with ultra-low flush toilets, shower retrofitting, etc.

Mr. Withers asked about the 6 month limitation and City Attorney Allendoerfer pointed out that with the utility letter, it's one year on a plat, 6 months for everything else, from the date you get the utility commitment letter.

Brent McKinley, 516 N. Olympic, Arlington, addressed Council, stating he is in the process of developing a shopping center and the Safeway at Smokey Point. He expressed a concern for parcels that have been participating in ULIDs, stating that the proposed ordinance seems to be focusing on the smaller user when the commercial, ULID participant has been paying assessments over the years, adding up to a large sum of money. He said he wondered if this represented some form of discrimination here and asked the City to consider his argument for the developer.

City Attorney Allendoerfer pointed out that most of the ULIDs are residential not commercial and in allowing one connection to a commercial property, with the same limitation as a residential connection, is an attempt at fairness. He pointed out that Marysville does have a very limited capacity and we are risking losing all our capacity if we give commercial more than residential at this point.

Bud Darling, 1916 Grove St., Marysville addressed Council and asked what percentage the industrial influent represents and if there is any comparison with the amount of residential influent. His reference was to the high industrial BODs recently discovered and asked how this can be corrected and how big of a problem it is.

City Administrator Sanden explained the City is not sure how big of a problem it is, that the crisis of the high BOD count was taken to the DOE and it is suspected it has some connection with food processing, dairy, ag and/or industrial. This has shifted our focus, she said, and if the source(s) are found, the City can get back into compliance fairly quickly and easily.

Mr. Darling asked about the six month forecast for sewer capacity and Public Works Director Zabell explained the process that is involved--engineering study by 11/1/90, EIS by December, approval from the DOE in Jan. or Feb., plus another sixty days for construction/improvement to the lagoon, so it's going to be mid-1991 before any new construction to the sewer lagoon can be done, he pointed out. He added that there are 3 more aerators on order.

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City Administrator Sanden stated the City is not setting a date for completion of the project at all at this time.

Bruce McKinnon, 505 Cedar, Marysville, addressed Council and asked for some clarification under 2.1, as to new connections being allowed if the City is in compliance on the BOD readings.

There was some discussion at this point with Public Works Director Zabell admitting that some preliminary figures would be available 8/15 but more comprehensive readings not available until 8/22/90.

Mr. McKinnon asked for clarification under 6.1, regarding preliminary plats, and it was stated that up to two years could be allowed for filing final plats.

Jim Egge, Consultant from Everett, addressed Council, representing Tom Withers. He expressed a concern for property owners/developers who come up with plans for no net increase, only to be shut down by 3.6 of the proposed ordinance. According to the Consent Order, he said he understands it to allow no net increase connections. He added that the City is probably talking about a new outfall location, probably in 5 years and that section 4 should probably be explored further because there is a lot of concern.

Ron Loop, 7017 51st Av. NE, Marysville, addressed Council and pointed out that some of his property is in the county and they need a letter from the City but the City won't grant a hookup without a letter from the County. City Attorney Allendoerfer agreed that you can't put in a dry sewer line but the City could write a letter to the County on the applicant's behalf, explain the sewer moratorium situation.

Craig Kruger of Bellevue addressed Council and questioned section 2.1 and asked if under this, the City would still accept and process building permits. City Attorney Allendoerfer said the "no development applications" sentence has been deleted under the proposed ordinance.

Mr. Kruger stated they recently purchased 18 lots in Bayview Ridge and asked if they are vested. Public Works Director Zabell said yes, they are.

Mr. Kruger commented on the possibility of the "no net increase" costs being shared.

Henry Osborn, 30 140th NE, Marysville, addressed Council and referred to his recent request for a variance under Ordinance 1763 being denied. He said in the beginning of this project, he had plans approved by the City and the county but the contractor was not able to finish the construction because of a 16" water line, in other words, because of no fault of Mr. Osborn's. He pointed out that there are stubs and water and that he should be allowed a sewer connection on a "first come, first serve" basis. He added he has a real financial hardship here, it wasn't his fault, and perhaps the City should put a ban on new businesses coming into Marysville, he said. He pointed out that there is a housing shortage in Marysville and he sold the house to a man who put money down on it.

Darrell Okada, owner of Prime Storage, addressed Council and asked about his new project and where it falls as far as vesting.

There was some staff discussion and it was felt that 3.4 (c) applied to Mr. Okada's project. Mr. Okada said he felt he fell under 3.3 but wondered if his project was to have been approved by the City "and DOE". Public Works Director Zabell pointed out that would only apply to sewer mains.

Mike Browning of Seattle addressed the Council and asked for clarification of the definition of a connection--would it include a side sewer, for example?

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City Attorney Allendoerfer said the state definition of a connection would not include a building that is connected to a side sewer but Mr. Browning pointed out that a side sewer is a "potential source", even if it is not physically attached. There were several comments regarding what constitutes a "potential source".

Brent Carson addressed Council again and said he concurred with Jim Egge's argument in favor of not shutting down "no net increase" connections because his interpretation of the Consent Order also would allow these connections. He asked that the "total ban" section be reconsidered in light of this.

City Attoreny Allendoerfer pointed out that no one has asked this tonight, but if the City has a ban and then it's lifted, the question then is one of priorities. He asked whether connections should be allowed based on the date of application, based on the fact they have paid ULID assessments, monthly sewer charges, or if the houses are framed up and waiting for a connection.

The Mayor ascertained there was no more public input and closed the public hearing at this time. She said she had every sympathy for those testifying but the City must first consider and be concerned with public safety.

Councilor Cundiff asked what would happen if a developer comes up with a no net increase plan and there are problems with it once it is in operation. City Attorney Allendoerfer said prevention of this situation would be through staff review but did admit the word "function" may need some clarification.

Councilor Pedersen said she would be interested in other jurisdictions who have tried out some of these water and sewer saving ideas.

Councilor Baxter said he asked John Glynn about this and he said it would not help the City at all and questioned whether the ordinance may be leading the developers astray, if the no net increase program is going to be unacceptable to DOE. He added that the City is going to be in a lot of trouble if we have engineering reports done and a lot of studies and then we take it to DOE and they don't approve it.

Bill Persich of Brown & Caldwell, sub-consultants to Larry Wade, was asked to address Council. Mr. Persich said he had received back some preliminary reports on the industrial waste that is responsible for the high BOD readings--it's a cross between root beer and beef bouillon and is being dumped into the system during the night, it was reported. He talked about ways of decreasing the BOD readings and minimizing the problems and industrial waste, noting that the step system is not the only way to provide a "no net increase".

Councilor Baxter said he agreed that industrial waste needs top priority and it needs to be regulated at this time.

Mr. Persich pointed out that Marysville does have an ordinance allowing a maximum of 300 mg/l of BOD but one industry has over 2000 mg/l and pre-treatment would be very effective in this case. Holding and/or hauling to Everett or Lake Stevens is another way to reduce the high BOD readings, he said.

Councilor Weiser pointed out that it's hydraulic loading also that's the problem and Larry Wade suggested installation of low flush toilets in addition to the treatment, because there has to be some offset--changing out fixtures, on-site septic/filter systems, etc. He noted that sand filters have been documented with good results.

Mr. Persich added that industrial pre-treatment is practiced in Everett and Seattle and there are many ways to pre-treat, with OTC chemicals, recycling, etc.

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Councilor Baxter pointed out that we need more definitive information on the source of the industrial waste before making any decisions and Mr. Persich explained more about the surveying that is being done. As far as industrial pre-treatment, he said another option is the EPA who has a model as practiced in Everett which is a very rigorous process.

There was discussion about the capacity of the lagoon and Public Works Director Zabell stated it is running about 1.9 MGD for August. Larry Wade pointed out that was one of the main concerns at the time of the Consent Order and now it's one of the City's least concerns.

Mr. Persich noted that the City is undergoing enhancing performance of the lagoon, has resolved the oxygen profile and preliminary reports have been very satisfactory. He talked a bit about contact time, dye testing, aerators, curtains, mixing, change of flow and identification of various problems and solutions.

Councilor Baxter commented that these things are being worked on and the public needs to know we are trying to resolve the crisis of the industrial waste.

Councilor Lashua stated he felt the proposed ordinance gives some breathing room and in view of the testimony, we are getting a handle on the problem and he would be in favor of passing the ordinance tonight.

Councilor McGee agreed with Councilor Lashua, adding that the present system does not work and the City needs a little time to get over the current crisis.

Councilor Wright said she was also in favor of passing the ordinance, with the changes to 3.6, changing "null and void" to "suspended".

Councilor Weiser said he had a concern with 3.6 and Section 4, that he felt section 3.6 could supersede.

There was more discussion about cancellation of vested rights, interpretation of the total ban paragraph and the no net increase paragraph, strong language in the Consent Order, definition of "connection", semantics and definitions of side sewer connection, potential source.

Councilor Cundiff moved to adopt Ordinance 1795 imposing temporary restrictions on new sewer connections, amending 3.6 to strike the words "cancel and become null and void" and replacing with "suspend". Term would be 8/13/90 to 2/13/91. Seconded by Councilor Wright. The motion passed unanimously.

CALL ON COUNCILMEMBERS:

Councilor Lashua reported on Snohomish County Tomorrow goals and mission statements recently developed.

LEGAL MATTERS:

1. City Attorney Allendoerfer talked about the possibility of reopening negotiations with Arlington regarding RUSA boundaries with Arlington accepting sewage north of Marysville, eg. the egg farm. He noted that Arlington wants to talk about water with no sewage but with our crisis, he recommended reopening of negotiations with Arlington and maybe Marysville could contribute toward their pump station.

There was further discussion about the possible source of Marysville's industrial waste and high BOD readings.

2. City Attorney Allendoerfer reported there is interest in reopening of Chita's as an adult entertainment center. He noted there are several considerations that could prevent this from

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happening:

- they have inadequate off-street parking
- adult entertainment is to be located in industrial zoning according to Comp Plan
- no adult entertainment allowed in the freeway service zone (where they are)

It was the consensus not to write up an ordinance regarding off-street parking adequacy because it may have a negative impact on some oldtime businesses in downtown Marysville.

3. City Attorney Allendoerfer asked for a decision with regard to the senior rate for garbage because a recent situation has come up whereby a mobile home park is claiming all of its residents are seniors and therefore the park business should receive the senior rate because the exemptions would pass through to the owner who is a commercial customer.

Councilor Weiser asked why this customer did not have a container and it was guessed that perhaps they did not have room for a container in the mobile home park.

There was discussion about the landlord probably increasing the rent to offset the increased garbage rates, whether or not all the tenants would be eligible for the senior rate, billing structure and capability of the City.

Councilor Weiser concluded that this sounds like an administrative nightmare with individual billing and suggested the City encourage a container be put in.

STAFF BUSINESS:

Police Chief Dyer requested that \$3,000 be taken from the training budget to purchase a satellite dish in order for the Police Dept. to avail themselves of particular closed circuit TV channels for crime prevention and other training. He stated there is a possibility that fire training could be included and the Fire Dept. could contribute toward this capital improvement. He stated that a necessary filter has already been purchased and he talked about compiling a video library. It was the consensus of Council that this would be a very worthwhile training program. Chief Dyer thanked the Council for their support and explained that he wanted to keep Council informed in the event people question a satellite dish on the Public Safety Building. He also noted there is a free cable drop, meaning TCI does not monitor the frequency the Police Dept. will be using.

MAYOR'S BUSINESS:

Mayor Matheny mentioned the upcoming AWC Meeting 9/17/90.

ADJOURNMENT INTO EXECUTIVE SESSION: 11:05 p.m.

1. Real Estate.
2. Parking.
3. P.U.D.

RECONVENE AND ADJOURN: Approx. Midnight.

Accepted this 27th day of August, 1990.

Rita Matheny
 MAYOR

Mary P. Swanson
 CITY CLERK, Deputy

Wanda R. Swanson
 RECORDING SECRETARY