

MARYSVILLE CITY COUNCIL MINUTES

NOVEMBER 25, 1991

6:00 p.m.

Council Chambers

Present: Rita Matheny, MayorCouncilmembers:

Ken Baxter, Mayor Pro Tem

Dave McGee

Dave Weiser

Donna Pedersen

Donna Wright

Lee Cundiff

Bob Lashua

Administrative Staff:

Carolyn Sanden, City Administrator

Grant Weed, City Attorney (7:11 p.m.)

Phil Dexter, City Clerk/Finance Director

Lt. Walt McKinney, Marysville Police Dept.

Doug Ronning, Fire Chief

Steve Bennett, Associate Planner

Roger Kelley, Community Information Officer

Dave Zabell, Public Works Director

Wanda Iverson, Recording Secretary

BUDGET WORKSHOP: 6:00 p.m.CALL TO ORDER:

Mayor Matheny called the meeting to order at 7:08 p.m. and led the flag salute.

OATH OF OFFICE:**1. Donna Wright/Short Term.**

Mayor Matheny gave the oath of office to Councilmember Wright.

ROLL CALL:

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

MINUTES OF PREVIOUS MEETING:

Councilor Lashua moved and Councilor McGee seconded to approve the minutes of the 11/12/91 City Council meeting as written. Passed unanimously.

STAFF'S BUSINESS:**1. City Hall Roof.**

City Administrator Sanden explained the roof will be ready to go to bid this week and they would like to plan on construction in February or March when we are not in the heavy rainy season. She stated an asbestos evaluation has been done and a contract needs to be signed which the City Attorney has reviewed.

City Attorney Weed explained the contract only came in Thursday and in his opinion is a very one-sided contract in favor of the contractor as far as liability, etc. He said it's possible the City doesn't have a whole lot of bargaining power, however, the City is being asked to sign an agreement which would give the City very little indemnification. He added that the work has been evaluated and he would have preferred to have seen the contract presented prior to the work having been started.

City Administrator Sanden said they really have only gone in and evaluated the situation with no actual work done and therefore no

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liability. Secondly, the data obtained was necessary to be part of the bid package and they are asking the City to sign the contract before they present the evaluation, she said.

Councilor Lashua asked how much asbestos is going to be affected by the construction and City Administrator Sanden said she didn't know; that Mary Swenson was working with the contractors.

City Attorney Weed stated handling asbestos is a high risk and it didn't surprise him that this contract has come about.

Councilor Lashua asked if this firm is going to be involved in the removal of the asbestos and City Administrator Sanden said no, they are just evaluating the asbestos content and amount to be removed.

City Attorney Weed said the contractor wants to be held harmless in the event they have missed any asbestos so they would not be responsible in the event asbestos is determined at a later date to have been the cause of some problems.

City Administrator Sanden said she doesn't mind signing the contract as long as Council is aware of the situation and City Attorney Weed stated he is not sure how much negotiation can be done at this point, that he suspects the City is not in a position to modify the contract at this time.

City Administrator Sanden pointed out that they have already done the evaluation, they are just asking the City to sign the contract before releasing the information. She added that staff could pursue negotiations if Council wishes.

Councilor McGee said he would like to see if trying to negotiate would put the City in a better position as far as the contract/hold harmless agreement is concerned and it was the consensus of Council to do this.

2. Councilmember position opening.

City Administrator Sanden noted that as of 1/1/92 there will be an opening on City Council, created by Mayor-Elect Weiser. She stated John Meyer has sent a letter of interest and Council could either accept his application or advertise for the position.

Councilor Baxter stated he felt it should be advertised as the position is open to any citizen who is interested. Consensus of Council was to advertise the position.

Councilor Pedersen asked if Mr. Meyer's application/letter would be considered also and City Administrator Sanden said it would be.

Councilor Pedersen stated she would like to see each candidate given the chance to speak before Council chooses and City Administrator Sanden said that would be no problem.

Councilor Pedersen stated she would also like that included in the ad--that candidates should be prepared to speak before Council as well as submitting a letter of interest. Consensus of Council was to do this.

3. Garbage Collection.

City Administrator Sanden announced garbage collection would be one day later because of the Thansgiving holiday.

4. Tentative DOE/Consent Order Modification Meeting.

City Attorney Weed said he had tentatively set up a meeting with the DOE and the six developers (Bud Darling, spokesman) for Wednesday. He said the DOE attorney is to get back to him and City Attorney Weed has recommended 11 a.m. It was noted that City Councilmembers may attend if they wish, as long as a quorum is not present. He added that the idea was to have a meeting and to make recommendations to City Council after the meeting.

5. AWC Workshop for Newly Elected Officials.

Finance Director Dexter announced there are upcoming AWC Workshops to be held for newly elected officials. He stated the newly elected officials' names and addresses have been submitted to AWC so AWC will be sending this information directly to the newly elected officials.

6. Library Bond Issue.

Finance Director Dexter explained the bond issue failed by two votes and in accordance with the Elections Dept., the City of Marysville has formally requested a manual recount be conducted; it will begin 9:30 a.m. Monday 12/2/91. He stated they estimated it would take 10 people and 3 days to complete the recount and he cautioned people against optimism as rarely are results changed because of a recount, although the hope is there will be a different count by asking for a manual recount vs. a computer one.

Councilor Cundiff asked if a majority of the Council voted for the recount and Finance Director Dexter said yes, the vote was 5-2 in favor of a recount.

7. Urban Growth Boundary.

Associate Planner Bennett advised Council that a number of requests have been received for inclusion in the Urban Growth Boundary and the Planning Commission and Planning Dept. will be working on a model interlocal agreement. He recommended these requests be included in the Urban Growth Boundary and he explained this is an ongoing process with the Urban Growth Boundary not finalized until the Comp Plan update is completed.

Councilor Pedersen asked about 2 requests sent to the county and City Administrator Sanden said it had been agreed the City would be reviewing parcel by parcel as we go through the process.

8. Public Works Dept./Utility Dept. Report.

Public Works Director Zabell reported the sewer line near Grove St. is not in the budget but will have to go out to bid as they have discovered a "belly" in it and they will be bringing back a proposal to Council soon, with construction to be held off until after Christmas.

MAYOR'S BUSINESS:

Mayor Matheny stated she wished to recommend reappointment of Joan Clyde to the Library Board.

Councilor Baxter moved and Councilor Weiser seconded to reappoint Joan Clyde to the Library Board. Passed unanimously.

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CALL ON COUNCILMEMBERS:

Councilor McGee asked about the Senior Planner position and City Administrator Sanden stated they are in the process of interviewing the five candidates.

Councilor McGee asked about the liaison program between Council and City departments and Mayor Matheny said she would like Mayor-Elect Weiser to participate in this selection.

Councilor Baxter asked about the 10 year review period of the Urban Growth Boundary and Associate Planner Bennett said he recommended the property which has been requested to be included, be included in the Urban Growth Boundary, which would be good for 10 years.

Councilor Baxter noted an area near Brookside Mobile Home Park where a lot of trees are dying and the City may have some real liability in the green belt the City wanted to keep.

Public Works Director Zabell suggested having Jim Ballew and Lloyd Taubeneck go out and take a look at the trees, suggesting which ones should be taken out. He added that the Fisheries does prefer the "natural" look as long as it doesn't impede streams, however.

Councilor Pedersen asked about Jennings Park closure at night and stated the sign has now been taken down, as the solution to having the park closed each night. She noted there are cars in the park at night and she would like to see alternatives to leaving the park open all night. Also, she asked if there had been anything new with regard to Marysville Golf Center in the last two weeks, as a result of communications between them and the City.

City Attorney Weed stated the City was given assurances that repairs were to be done on the nets and he is prepared to discuss with Council the alternatives regarding the Marysville Golf Center, either after the neighbors' testimony or in executive session tonight.

Councilor Pedersen stated she is aware that there are three nets on the north side at "half mast", one large hole, the net closest to the Boone house is half down and the Marysville Golf Center is still open for business.

City Attorney Weed restated that he is prepared to discuss this as far as legal action is concerned, etc.

Councilor Pedersen asked about removal of concrete blocks near the Marysville Golf Center and City Attorney Weed said he believes the 30 days is up and he has not seen any response so the next step would be for abatement procedure, a court order requiring him to take steps he was asked to by the City.

Councilor Wright reported on the AWC Legislative Committee meeting she attended wherein they discussed growth management, housing, solid waste and funding for smaller cities issues.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Don Boone, 7404 66th Av. NE, addressed Council, explaining he is one of the neighbors of the Marysville Golf Center. He said he took a walk over there today and the little holes are still not fixed and so now they have those plus the bigger ones and the neighbors want them fixed.

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Delores Boone, 7404 66th Av. NE, addressed Council and added that they have been coming here since July and all they are getting is promises from Mr. Ramcke. She stated they had a ball hit their daughter's bedroom window frame and there is a 50' x 20' hole right next to their house and the net is starting to tear. She stated she talked to Mr. Ramcke Thursday regarding her car and he said he needed another truck to install the netting and extensions. She said she hoped he had the good sense to put the netting up from his side of the nets rather than the Boone's side, because they are tired of having their lawn messed up. She concluded she would like to see him closed down until he fulfills the Council's requests, possibly through a restraining order, because of failure to comply and that should be reason enough.

Ralph Druckman, 7322 66th NE, addressed Council briefly, deferring his time for Vicki Carver to speak.

Vicki Carver, 7314 66th Av. NE, addressed Council, stating not only are there gaping holes, draping nets, but leaning poles too and said she is concerned about a domino effect once one thing starts to go down.

City Attorney Weed stated that if Council is inclined to look at options they could

- look for a Uniform Building Code abatement, because of a dangerous building/structures, but this would require a hearing process
- have the City Attorney obtain a Superior Court Temporary Restraining Order requiring the Marysville Golf Center to cease operations or else limit operation to where balls would not go through the nets in the areas where the nets are sagging
- get Mr. Ramcke to voluntarily cease operations, however Mr. Ramcke has indicated he wishes to continue operations and get the big hole fixed.

Councilor Cundiff noted that there has been no response as far as Council's direction to get the holes fixed and City Attorney Weed said as he recalled, the conditional use permit would be revoked if the holes were not fixed.

Councilor Cundiff asked if staff had spoken to Mr. Ramcke about this and City Administrator Sanden stated she was not sure they did.

Councilor Cundiff pointed out the Council did direct the holes be fixed by 10/31 and Councilor McGee added that Council has given Mr. Ramcke every opportunity and said he felt a Restraining Order should be obtained.

Councilor McGee moved that the City Attorney be directed to obtain a restraining order to close the Marysville Golf Center until there is compliance with Council requests, i.e. fix all holes and nets. Councilor Cundiff seconded the motion.

Delores Boone pointed out that Mr. Ramcke has never complied with any of the requests made by Council. Councilor Pedersen agreed and clarified the motion.

City Attorney Weed explained his request would be to enter a restraining order until any immediate danger to the general public is cured as well as other requests of the Council being met.

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Councilor Lashua stated he fails to see why it has become necessary to obtain a restraining order because Council's motion sometime ago was to revoke the conditional use permit if they did not comply.

City Attorney Weed stated the Council has in fact revoked the conditional use permit but as long as Mr. Ramcke has failed to shut down his business, a restraining order is necessary for enforcement purposes.

Councilor Pedersen pointed out that it has come to the Council's attention that he is now operating without a business license, also.

The motion passed unanimously.

Hank Van Dam, 12510 67th Av. NE, Arlington, addressed Council. He said he would like to have his two parcels included in the Urban Growth Boundary and he described their locations (one near 132nd and the other near 122nd & Shoultes Rd. - 30 acres of sandy soil).

Associate Planner Benett stated the Planning Dept. has already received Mr. Van Dam's request and it will be included in the Urban Growth Boundary consideration by the Planning Commission.

Jim Rowley, 4810 84th St. NE, addressed Council, stating that several weeks ago he approached Council with regard to the destruction ordinance regarding single family dwellings and he said he would like a discussion and decision with regard to that.

City Attorney Weed stated that in 1988 Council passed the non-conforming use part of the code and he has reviewed what some of the other cities are doing with regard to non-conforming uses. He said a number of cities have similar provisions, i.e. a certain percentage after which a building can't be rebuilt without complying with current zoning/code. There are potential problems with regard to financing, etc. but there are 2 or 3 other options, he said, which would be:

- allowing the building to be built on the same footprint (single family dwellings)
- downzoning of the property, eg. commercial to single family (however, this would result in spot zoning)
- conditional use permit for a single family dwelling in a commercial zone.

He stated his recommendation would be a conditional use permit with reasonable conditions including a 75% limit on restoration.

Councilor Weiser noted that originally, the Planning Commission started out with one house on a sub-standard lot and that grew to 60% of the downtown area, it was discovered. He pointed out that these people did not ask for it to be zoned commercial and he said he felt it would be easier to approach it with the original footprint concept up to 75%, otherwise conform to City standards.

City Attorney Weed pointed out this may just be delaying a total build out but Councilor Weiser questioned whether a total build out is realistic.

City Attorney Weed agreed it may not be realistic but this is a policy issue with regard to phasing out of the non-conforming use, especially in the case of a 100% destruction.

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Councilor Baxter stated east of State St. - 1st - 2nd - 3rd St. is the main area of concern and if a house in that area burns to the ground, you can't do anything with a 50' vacant lot. He said he feels a dwelling should be allowed to be added onto, eg., an upper story.

Councilor Wright noted that was discussed when she was on the Planning Commission and the idea was to promote mixed uses, eg. single family dwellings and commercial use together in the same zone.

Councilor Baxter said he would like to see a mixed type of zoning in the downtown area and that he thought that was the original intent, also.

Councilor Lashua agreed, stating not only did he understand single family dwellings were to be allowed in commercial zones but also multi-family low density.

Councilor Baxter noted there are some property owners in this area who are trying to upgrade their residences/property and discussion followed about one and two story houses, rebuilding on the same footprint, commercial zoning not allowing rebuilding on the same footprint, a conditional use permit would allow mixed uses which would be a good combination in the downtown area.

Councilor Pedersen said she felt the original intent was to allow apartments above commercial uses, for example and City Attorney Weed said if Council wishes, he could draft an amendment to the current ordinance to allow reconstruction in the commercial zone on the original footprint, remodel or total rebuild.

There was more discussion regarding non-conforming uses, disaster should not force people out of their homes, the downtown area in general, its past and future.

Councilor Lashua moved to direct the City Attorney to amend the commercial non-conforming use ordinance to allow a structure to be rebuilt on the same footprint, under a conditional use permit (regardless of the reason the structure was destroyed). Councilor Weiser seconded the motion.

Discussion followed concerning the 50% ceiling on rebuilding or remodeling of a structure, interior remodeling, the original intent to expand the downtown business core east, the fact that the same buildings have been downtown for a long time and most of them are going downhill. Councilor Baxter said he would like to see these homes/property cleaned up and have the code allow people to update their homes.

Councilor Lashua pointed out that it it's updated for single family use, it's too expensive for someone who wants to buy it for commercial use.

The motion passed, with Councilor Baxter in opposition.

Mr. Rowley asked about the conditional use permit process when someone has been put out of their home as the result of a total loss, eg.

City Attorney Weed stated they would have to start with an application to the Planning Dept., schedule a hearing before the hearing examiner and wait 2-6 weeks before a hearing would be held. A person could get estimates lined up, etc. in that time, he pointed out.

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Mr. Rowley said he felt the key is to reduce the trauma of the long time period and City Attorney Weed said he was sure an expedited hearing could be arranged in the case of an emergency.

Mr. Rowley asked for a commitment from the Council on that and City Attorney Weed stated that the Council could have an expedited hearing policy, not necessarily part of the ordinance.

CONSENT AGENDA:

1. 11/25/91 Claims in the amount of \$606,406.21.

Councilor Lashua questioned several vouchers - 4038, 4063, 4112, 4153 and Councilor Pedersen questioned voucher #4100.

After some discussion, Councilor McGee moved and Councilor Baxter seconded to approve Consent Agenda Item #1. Passed. (Councilor Weiser did not vote.)

2. Use of Centennial Logo as Official City Logo following the end of the Centennial Year.

City Administrator Sanden noted that everything would not be changed over at once, i.e. they would only change over as new stationery is needed, etc. and also, the thought was to change "1891 to 1991" to say "since 1891", otherwise the logo would be the same.

Councilor Cundiff moved and Councilor Wright seconded to approve the use of the Centennial Logo as proposed and recommended by staff. Passed unanimously.

CURRENT BUSINESS:

1. Hearing Examiner Decision - Ten-Sixty Group/Richter Conditional Use Permit.

Associate Planner Bennett reviewed the hearing examiner's recommendation to approve the conditional use permit for a daycare facility at 1060 State, Units C & D. He stated there have been no appeals and it is staff's recommendation to affirm the hearing examiner's decision.

Councilor Weiser asked about the proposed play area and Associate Planner Bennett explained it is currently parking, but turning it into play area will not jeopardize parking--they have 5 spaces. He added that it will be fenced with a 6' fence and will have to be approved by the Health Department, as the final permitting agency, prior to opening the daycare facility.

Councilor Weiser moved and Councilor Lashua seconded to affirm/approve the conditional use permit for the Ten-Sixty Group. Passed unanimously.

2. Hearing Examiner Decision - U.S. West New Vector Conditional Use Permit.

Associate Planner Benett stated this is for a cellular telephone equipment building, dish, satellite and antenna and the hearing examiner has recommended approval. There have been no appeals and staff is recommending affirmation of the hearing examiner's decision, he said.

Councilor Lashua asked about a light on the top of the 150' antenna and City Attorney Weed said he believed the FCC would have jurisdiction and would impose that requirement, if any.

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Scott Greenberg, consultant for U.S. West New Vector, addressed Council and stated one of the things they have to do is get FAA approval and he said he believes that's where the requirement would come in.

Mayor Matheny said she understood the original height of the antenna was 75' and now it's up to 150'.

Mr. Greenberg stated that actually, it was to go to 175' but was reduced down to 150', was his understanding.

Councilor Lashua asked about possible City liability associated with the possibility of an airplane hitting the 150' high antenna or improper engineering, eg.

City Attorney Weed responded that as long as these issues have been discussed and addressed in a hearing situation, the City has no liability. He added that the FAA would review the requirement of the light on the top of the pole and with regard to the construction and engineering, that should have been discussed before the hearing examiner.

Councilor Weiser noted that ultralights used to use I-5 as a tracking point and he feels the top of the antenna should be lighted so the ultralights do not run into it accidentally.

City Attorney Weed said that was not a requirement of the hearing examiner but would be reviewed by the FAA and the City would not have that jurisdiction. He added that he understood one of the conditions was to make the pole blend into the environment which may make it more dangerous.

Councilor Weiser moved to have a Council public hearing with someone from the FAA present with special emphasis on the ultralights. Councilor McGee seconded.

Mr. Greenberg addressed Council again, stating they would like to get this project going and they would willingly put a light on the top and paint it any color Council wishes! He added that they did check with Arlington Airport and they had no concerns. He reiterated that they really want to get this going without delay.

Councilor Lashua said he could live with FAA review vs. a Council public hearing and more discussion followed about the FAA requirements, jurisdiction, ultralights, aesthetics of the antenna, etc.

The motion passed with 12/9/91 set up as the date for the Council public hearing.

3. Hearing Examiner Decision - Prime Storage Systems Inc. - Rezoning and Comprehensive Plan Modification.

Associate Planner Bennett reviewed the hearing examiner's recommendation for medium density multiple family comprehensive plan designation and medium density multi-family zoning, with 10 conditions. An appeal was filed 11/19/91 by the applicant, he noted.

Brief discussion followed concerning the density.

Darrell Okada, President of Prime Storage Inc., 9501 State #A, addressed Council and stated the property is 1.34 acres. He noted the reasons for their appeal are set forth in the appeal letter and he stated they feel the hearing examiner has erred in several interpretations, for example, density. He requested they be granted a Council public hearing December 9, if possible.

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Councilor Weiser pointed out that would be conflicting with budget hearings the first two Mondays of December and asked if the applicant would be very negatively impacted if the hearing were in January.

Mr. Okada stated they would strongly prefer December 9.

Councilor Lashua asked about sewer vesting on the property and noted that plans are not to build until 1993.

Mr. Okada stated they have their internal timeline and would like this process to be concluded by the end of the year. He pointed out that they originally filed for this rezone in 1/90 and he added that the hearing examiner has recommended granting approval for 22/30 units.

Councilor Pedersen stated she would not oppose a public hearing however she would like it on a different night than budget hearings and she asked the City Attorney if the hearing examiner's decision could be adopted even after a City Council Public Hearing.

City Attorney Weed said yes and December 9th was discussed as a poor date. It was also noted that 12/23 is historically a non-meeting night (4th Monday of Dec. and 2 days before Christmas), so the next available meeting would be 1/6/92 for a public hearing.

Councilor McGee moved to hear this at a public hearing 1/6/92. Councilor Cundiff seconded and the motion passed unanimously.

4. U.L.I.D. No. 15.

Public Works Director Zabell pointed out that a memo has been submitted from Finance Director Dexter with regard to the options for Cascade Vista getting City sewer services.

City Attorney Weed noted there was one bit of misinformation at the last Council meeting regarding 40% vs. 60, when in fact it does take 60% of the assessment roll for repeal, he said. He said legally, there is just under 60% protesting here.

Councilor Weiser asked about the health hazard exception and City Attorney Weed said three criteria must be met which could override the 60% protest but there is not 60, so this is immaterial.

Discussion followed about health hazard, jurisdiction of the Health Dept., City limits, whether or not City Council has the right to ask the Health Dept. to determine a health hazard.

Anne Carlson, 9225 58th Dr. NE, addressed Council and outlined chronologically events of the past few months, including the meetings attended by City staff in the neighborhood, to answer their questions. She noted at the 10/7/91 meeting they were told they needed 40% to quash a 60% petition and now they are being told they need 60% and it's now too late to get an additional signature. She commented on the "one man one vote" concept.

Finance Director Dexter explained the statute states the protests are based on the cost of the project so the ones with the higher assessed value have more voting power, but in this case, each person has an equal number of lots with the exception of two property owners who have more assessment, he said. Every lot in this case has a similar value and the 60% petition is based on the assessment roll but the original 60% petition in favor was based on assessed value, he explained.

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Mrs. Carlson asked if the base could be different for the 60% petition in favor vs. the 60% petition against and Finance Director Dexter said yes, the original petition in favor was based on assessed value whereas the 60% petition against would be based on 60% of the ULID cost (assessment roll).

Mrs. Carlson said this sounded like comparing apples to oranges. She also pointed out that they have checked with the health dept. and they do not show any duress on McKinney's system.

City Attorney Weed stated the City can't ask for a report from the health dept. until there is a 60% petition to override the ULID, in order to determine a health hazard.

Councilor Pedersen stated she believed Lt. McKinney indicated he couldn't do anything until spring anyway and since the neighbors were given misinformation, she suggested the possibility of giving them more time for more signatures.

City Attorney Weed pointed out that the 30 day appeal/protest period has passed.

Mrs. Carlson noted the 40% figure was given at the 10/7 City Council meeting and it was said that nothing could stop it and now they have been given new information.

City Attorney Weed said repeal of the ordinance can be with a lower percentage, 60% is automatic with the exception of a health hazard.

Mrs. Carlson stated they could have gotten another signature which is all they are short, one signature, if they had known 60% was required.

Jim Bortner, representing Tom & Darlene Fails, addressed Council and referenced a conversation he had with the City Attorney on 10/16 wherein he was given the information that 60% need to be in favor, with 40% protesting which would kill the ULID. He pointed out that there seems to be some discrepancy between his and the City's calculations because 21 lots to the City equals 60.77% but 21.5 lots is less than 60% when it comes to protesting the ULID. He said he would like the City to divest themselves of the jurisdiction because in rounding out 59.73%, it comes to 60% sufficiency of petition, which he said he believed fulfilled the intent of the law. He concluded that you either have a 60% majority in favor or you have 60% against, depending on how you look at the figures.

City Attorney Weed said he said it required 60% for formation; automatic divesting has to do with 60% of assessed valuation. He admitted the legislation is confusing on this point.

Finance Director Dexter pointed out that the number of lots has no basis in the calculation.

Mr. Bortner said he understood that, but taking each lot against the total cost.....

Finance Director Dexter explained the total preliminary assessment roll came to \$208,000 and the total protests equal \$121,333.38 which equals 58.33%. He added that the number of lots is not material, but it's 21.

Mr. Bortner pointed out there are 21.5 lots protesting so the City's calculations may be in error.

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Finance Director Dexter argued there are only 21 lots and Public Works Director Zabell confirmed this. He added that the two parties who own a half lot were both in protest and so the two half lots only count as one lot, that may be where the confusion in the calculations lies.

Finance Director Dexter offered copies of all the protests and Mr. Bortner said he would like the opportunity to review the calculations.

Councilor Wright commented that she sees the health hazard as the issue and Mr. Bortner said he understands that concern but apparently Mr. Fails has checked with the health dept. with no such health hazard on record and he said he thinks it incumbent on Lt. McKinney to prove a health hazard.

John Fails, 5506 92nd NE, addressed Council and reiterated that Mr. McKinney is claiming a health hazard but Mr. Fails sees none and he also sees no sanican in Mr. McKinney's front yard, as he had said he was going to put in. Also, he has not been condemned even though the septic system has been used for 28 years (it was installed in 1963) and it is surprising that Mr. McKinney has not had any problems with it, he said. He added that according to the health dept. records, Mr. McKinney's septic system was approved for 4500 sq. ft. with only 1400 sq. ft. being used at this time. Also, there was no record that he has ever applied for a new system, the health dept. has pointed out there are several options for McKinneys to pursue and Mr. Fails concluded that he is very much opposed to the neighbors paying for someone else's problem.

Lt. McKinney addressed Council, stating his system has been in fact added onto and it will not take any more water, especially in the rainy season. He said he had it pumped twice last year at \$200 per visit and he predicted that in five years people are going to be begging for a sewer system. He requested the possibility of his going through the variance process and this could be used by others at a later date, to hook up. He noted he has a letter from Mr. Jorgenson stating there is a health hazard, he said he believed he got the letter in August, 1991. He indicated the system has failed, Lt. McKinney stated.

Councilor Baxter pointed out that the square footage requirements are different today vs. when it was originally put in and Lt. McKinney added that he has doubled the size of his drainfield and it's still inadequate.

Councilor Baxter said he would like to see a letter stating Lt. McKinney has a failed system and more information with regard to alternatives.

Lt. McKinney said he was gone last week and that is why there was no sanican put up but he will be getting one, that he feels, is his only option at this point.

Public Works Director Zabell noted there is a variance procedure for a side sewer that Lt. McKinney has requested, it would be a temporary line only until a public sewer is put in. He noted it would require that a no protest agreement to a future ULID be signed and he added that the plat to the north of Cascade Vista is sewerred.

City Attorney Weed asked if that would require an easement and Public Works Director Zabell said yes and potentially a tank and pump system, also. Another option is a force main but that would require a right of way from the City, he said.

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Councilor Lashua said he sympathized with the neighbors, not being able to hook up to a sewer they still have to pay for.

Councilor Pedersen asked about the public health hazard and the misinformation the neighbors were given. She pointed out that they did bring in almost 60% and she said she thought they should be allowed to have another chance to get the signatures. She asked if Lt. McKinney could be allowed time to bring back papers also, because she would like everyone to feel as though they have had a fair hearing. She added she would like to look at the October 7 minutes, also.

Councilor Baxter noted there is conflicting testimony regarding percentages, health hazard, etc. and letters are still needed to allow Lt. McKinney to hook into the sewer.

City Attorney Weed explained the health hazard exception is only in the event of a divesting and there would have to be a variance request and a letter from the health dept. in order to grant a variance tonight.

Cassandra Simkins, 5712 92nd Pl. NE, addressed Council and noted that several homes were put in several years ago and they allowed the developers to put in a storm sewer, which took care of a lot of the problem. She said Lt. McKinney has a very viable solution which can be done.

Councilor Lashua moved to pass ordinance 1864 to repeal ordinance 1860 to repeal the original ULID No. 15. Councilor Pedersen seconded and a roll call vote was taken. The motion passed with Councilor Baxter in opposition.

NEW BUSINESS:

1. Fire Joint Operating Budget.

Fire Chief Ronning addressed Council, referring to the 1992 Joint Operating Agreement with Fire District 12 and the budget for 1992 which was proposed to the joint board last Tuesday, reviewed and is being presented to City Council tonight, he said. He noted the City portion would be based on a tax of \$1.439 and the fire district portion of the budget would be based on a tax of \$1.49. He stated the total budget proposed is \$1,911,995 and he itemized all the necessary items and equipment needed to support the joint fire dept. He explained once City Council approves, this budget is then taken back to the joint board and then on to the county for final approval.

Councilor Baxter added that the budget timing is critical and needs to be operational by 1/1/92, so this needs to be adopted tonight.

Chief Ronning added that the \$1.49 will be the same for both the City and the Fire Dept. in 1993.

Councilor Lashua commented on the need for a cumulative reserve fund, in his estimation, because he would like to see them start saving for a new \$300,000 fire truck, eg.

Chief Ronning said they were hoping to put \$68,000 in reserve, however, due to budget costs at this time, it looks like they would be able to save or put into reserve only about \$30,000 at this time, but that is a minimum, he said. Councilor Lashua commented that he would hate to see the fire department depend on a bond issue for needed new equipment.

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Councilor Baxter pointed out the antenna is very much needed for the dispatch system and Councilor Lashua asked about their using the one taken down off the City Hall roof.

Chief Ronning stated that antenna was installed on the Hwy. 9 well which has improved reception tremendously but Councilor Baxter said he understands there may still be a problem up by Lakewood with still having some "dead" spots in the reception.

Chief Ronning said he would have to get back with the Council on that.

Councilor McGee moved and Councilor Cundiff seconded to approve the 1992 Fire Joint Operating Budget as proposed. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. **Ordinance Levying Taxes Upon all Property--Real, Personal and Utility, subject to taxation within the corporate limits of the City of Marysville, Washington for the year 1992.**

Finance Director Dexter explained one of the City's fixed costs is the \$270,000 G.O. bond issue for the Public Safety Building.

Councilor Lashua moved and Councilor Baxter seconded to approve/adopt Ordinance 1865. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 10:20 p.m.

1. **Personnel.**

RECONVENED & ADJOURNED: 10:55 p.m.

Accepted this 2nd day of December, 1991.

Rita Matheny
 MAYOR

Phillip E. Dexter
 CITY CLERK

Nanda A. Iverson
 RECORDING SECRETARY