

00123

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING MARCH 23, 1992

CALL TO ORDER: 7:00 p.m.

ROLL CALL: All Present

MINUTES OF PREVIOUS MEETING: 3/9/92 C.C. Approved
3/16/92 Jt. PC/CC Approved
3/17/92 City Hall Mtg. "

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

AUDIENCE PARTICIPATION: Bob Denby/Nate Foster

PRESENTATION: Mike Robinson - GCSAA Rpt.

PETITIONS & COMMUNICATIONS: None

PUBLIC HEARINGS:

1. Ordinance Imposing Restrictions on Industrial & Commercial Discharge to the City's Sewer System; Adopting a SEPA Policy Relating to the City's WWTF/Repealing Ord.1846 Ord. #1883 Approved

CONSENT AGENDA:

1. 3/23/92 Claims - \$416,513.17 Approved

CURRENT BUSINESS:

1. SR 528 Improvements Approved
2. Drug Enforcement Fund Ord. #1884 Approved
3. Boeing Traffic Mitigation Fund Approved
4. Hearing Exam.Decision/Buena Vista Prel.Plat/Ron Otis P.H. Set for 4/13/92
5. Hearing Exam.Decision/Rezone & Prel.Plat Windsong III/Porter/Storkson Approved
6. Model Land Capacity Analysis Project; Master Bldrs. Assn. Continued to 4/6/92
7. Utility Variance Msvl.School Dist.To be discussed in E.S.

NEW BUSINESS:

1. Cellular One Proposal for Rerad Placement on Comeford Park Water Tank Continued to 4/6/92
2. Hiring Part-Time Help for Personnel Dept. Approved
3. Kiwanis Request to Waive Sign Permit Fee Approved

ORDINANCES & RESOLUTIONS:

1. Ord. Annexing Sunnyside Wells No. 1 and 2 Ord. #1885 Approved
2. Ord. Rezoning Baldwin Property Ord. #1886 Approved
3. Res. Approving Sign Variance for Everett Mutual Res. #1529 Approved
4. Res. Approving C.U.P. - Hassan Res. #1530 Approved
5. Res. Approving Variance allowing water connection to Johnson prop. Res. #1531 Approved

LEGAL MATTERS:

1. Msvl. Pipeline Project; Consultant Amendment No. 6 Approved

ADJOURNMENT INTO EXECUTIVE SESSION: 11:35 PM

1. Personnel Issue Peterson Geotechnical Expenses to be covered by City & Foreclosure Proc.
2. Litigation

RECONVENED & ADJOURNED: 12:34 & 12:36 AM 3/24/92

MARYSVILLE CITY COUNCIL MINUTES

MARCH 23, 1992

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Dave McGee
 John Myers
 Ken Baxter
 Donna Wright
 Mike Leighan
 Otto Herman

CORRECTED: SEE	9/6/92
MINUTES	

Administrative Staff:
 John Garner, City Administrator
 Grant Weed, City Attorney
 Phil Dexter, City Clerk/Finance Director
 Steve Bennett, Senior Planner
 Dave Zabell, Public Works Director
 Bob Kissinger, Utilities Supt.
 Jim Ballew, Parks & Recreation Supt.
 Eric Thompson, Associate Planner
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Weiser called the meeting to order at 7:00 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 PREVIOUS MEETINGS:

Councilor Pedersen noted in the 3/9/92 Council minutes, in the third paragraph from the bottom, it should be "cross" not "corss" section of the community. Also, in the sixth paragraph from the bottom, it should read "Marysville will be more affected" not "most affected".

Councilor McGee moved and Councilor Pedersen seconded to approve the 3/9/92 minutes as corrected. Passed unanimously.

In the 3/16/92 Joint City Council/Planning Commission minutes, Councilor Herman noted that on page 8 in the seventh paragraph, it was the annexation that failed, not an Arlington levy.

It was also noted that on page 4, in paragraph 6, it should be "6-7 years" not "607 years".

Councilor Pedersen moved and Councilor McGee seconded to approve the 3/16/92 Joint Marysville Planning Commission/City Council Meeting minutes as corrected. Passed unanimously.

In the City Hall Meeting of 3/17/92, Councilor Pedersen noted "Flapjack" was misspelled on page 6. She also asked that the following be inserted on page 4, at the beginning of the third paragraph: "Committee members offered suggestions as to what should be considered and Parks & Recreation Supt. Ballew....."

Councilor Wright moved and Councilor Pedersen seconded to approved the 3/17/92 minutes as corrected. Passed unanimously.

STAFF'S BUSINESS:

City Administrator Garner reminded Council of the upcoming 3/27 & 3/28 Workshop sessions with representatives from the Navy (Fri.

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night) and the WWTF/Regan property tour Saturday (bring walking shoes). He noted he has also made arrangements for the 12 passenger YMCA van for the day for transportation. He reported the City Hall roof repair started last Thursday; the City has been asked to take an AARP employee on board, for which AARP will pay, this person has computer skills, etc.; Jim Ballew is still interviewing for a secretary; the Golf Course Committee meets tomorrow morning at Cedarcrest Golf Course at 7 AM; the Council historical plaque in the hallway of the Public Safety Bldg. has been updated, for Councilmembers to make sure spelling is correct.

MAYOR'S BUSINESS:

Mayor Weiser thanked Mayor Pro Tem Pedersen for taking the 3/17/92 City Hall Meeting on short notice; he reported the joint Marysville and Arlington Planning Commission meeting 3/18 went well with another meeting to be set up at the end of April. The Navy Impact Committee (NIC) appointments so far are:

Councilor Donna Wright, Chairperson
 Bob Dyer, Police Chief
 Doug Ronning, Fire Chief
 Dave Zabell, Public Works Dept.
 Jim Ballew, Parks & Recreation Supt.
 Steve Bennett, Planning Dept.
 Don DeMarco, Marysville School Dist./Private Sector

He said he would name the other four members very soon and commented that he was pleased with the response of people who have indicated an interest in being on this committee.

CALL ON COUNCILMEMBERS:

Councilor McGee thanked the anonymous rosebud donor who gave all members of Council a rosebud just prior to tonight's meeting, via Zoe Hallgren. He noted that on 55th Dr. on the west side at the bottom of the hill, it is starting to wash away and Public Works Director Zabell said he would take care of that.

Councilor Pedersen noted another City Hall meeting needs to be set up and Mayor Weiser said he had in mind the third Monday of each month and there were no objections.

Councilor Wright reported on the Economic Development Council Annual Meeting she had recently attended as well as an Open House of the Community Development Council of Snohomish County at the Courthouse; and she reported on an ESCICC recent meeting where they were working on a housing model and gathering information to do with geography, transportation, demographics, economics, USNavy needs, etc.

Councilor Leighan reported on a recent Parks Board meeting, noting the next one will be April 8th. He stated they discussed the Petting Zoo and an Art Show in Comeford Park upcoming. He thanked the Police Dept. for allowing him to accompany them on patrol Friday night; he said it was quite an "eye opener".

Councilor Herman reported CT had an orientation last Saturday which he attended. He asked about the Smokey Point issue, as discussed at the Joint Arlington/Marysville Planning Commission meeting.

Mayor Weiser said both cities agreed for planning purposes that the boundary between the two cities would be 152nd; they discussed present thinking and it appears to coincide, plus they discussed

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holding further meetings to gather input with regard to the Lake-wood/Smokey Pt. areas and which city they wish to join, he said.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Bob Denby, 17824 Marine Dr., Stanwood, addressed the Council and said he would like to comment on something. He said in a sense he was reporting an injury and he read a prepared statement regarding events that led to the closure of the Marysville Golf Center, of which he was a former employee. He clarified that he was not appearing on behalf of the Marysville Golf Center, that these are all his own opinions and he said he felt it important to summarize the situation. He noted that currently the MGC is closed as it was deemed a public nuisance, it is no longer a commercial entity, no longer has a business license and in the eyes of the City can't make application for a new conditional use permit until all mandates have been complied with and the structure modified at many thousands of dollars before even applying for a conditional use permit, i.e., it must first build the facility, before applying, he pointed out. He proceeded to explain about the wind storm that severely damaged the driving range last fall, making the nets lean inward, and even there was no risk, the center allowed use of irons only and proceeded to fix the nets. He said there is only one leaning pole now but the MGC was basically returned to the same point it was before the storm, however the City still deemed it a public nuisance and consequently two employees have lost their jobs, the proprietor has to jump through all kinds of hoops plus the owner of the property (which is now residential) can't even hit a golf ball from inside the fence as neighbors would be allowed to do. He said they feel the MGC was trying to comply and he has now been denied rights as a result of the City's actions and he said it strikes him that no one understands the implications and the owner should have his rights restored.

Nate Foster, 6024 95th Pl. NE, addressed Council, stating he represents a number of kids that golf at Cedarcrest Golf Course and they are requesting that the City consider restoring the category for them, at \$80.85 including tax.

PRESENTATION:

Mike Robinson, Cedarcrest Golf Course, reported on the recent GCSAA International Conference he attended in New Orleans. He took several classes, including Safe Use of Pesticides, a US Golf Course rating system class and a safety, security and risk management class. He was also able to attend seminars on personnel, trees, the American Disabilities Act (regarding handicap accessibility legislation) and a trade show. There was also a lot of networking and tips on course maintenance and he enjoyed the conference immensely and found it a very educational and worthwhile experience.

Councilor McGee asked him about a reference he made to improving the bridges over the water traps at Cedarcrest and Mr. Robinson said probably the main thing would be putting bumpers on them to prevent the possibility of going into the water.

Councilor Herman asked about rating of the golf courses and Mr. Robinson explained each course is rated on its difficulty as well as the impact on the handicap system; rating is usually done by a team and the only course you are not allowed to rate is your own.

PUBLIC HEARINGS:

1. Ordinance of the City of Marysville, Washington, Imposing Restrictions on Industrial and Commercial Discharge to the City's Sewer System; Adopting a SEPA Policy Relating to the City's Waste Water Treatment Plant & Repealing Ordinance 1846.

City Attorney Weed explained that in 4/91 the Pollution Control Board authorized 940 connections and as a result, the City adopted Ordinance 1846 and amended the DOE Consent Order. In 7/91 the City and DOE were served with a second appeal by six developers and the Pollution Control Board asked that the City revisit the situation, he said, as a result of which the City and DOE met and revised the Consent Order, recognizing significant progress in the WWTF upgrade. He said in late January the Consent Order was amended, approved in early March and this draft repeals Ordinance 1846, removing the automatic sewer ban, establishing effluent limitations for commercial and industrial users and recognizes vested connections and emergency connections.

Public Works Director Zabell reviewed Section 3 - Interim Restrictions on Industrial and Commercial Discharges - of the draft ordinance. He noted that the intent is to try and get some parity with residential users, with the industrial BOD limited to 2.16 pounds per acre per day, which equates to about 1% of the plant capacity, he said. Under the old limitations, it was based on a flow concentration, he said and this would basically affect wet industries. For commercial users such as restaurants, the limit would be 8 pounds of BOD per connection but the City doesn't anticipate all restaurants in this category because there are a lot of shops, for example, which don't have a bathroom even. He concluded that all other limitations would remain unchanged.

City Attorney Weed said the underlying thinking is to make sure that the City's capacity is not used up by any one user and Public Works Director Zabell agreed, noting there are still 820 out of 940 connections still left under the Consent Order and once Phase I of the WWTF upgrade is complete, the DOE will be operating under different criteria because the outfall will be to Steamboat Slough.

Mike Papa, 9128 58th Dr. NE, addressed Council, asked if this opens it up for new residential development and Public Works Director Zabell said it does.

Mr. Papa asked if the new building permits might take up all the capacity for the industrial/commercial users and City Attorney Weed said under the PCB directive, the City has no choice in granting up to 940 connections and it will take some time before these are used up, it is felt. He added that even while homes are being built and connections being prepared for, the WWTF upgrade will still be in progress.

Public Works Director Zabell pointed out that one of the City's biggest development years only had 500 connections.

Mr. Papa pointed out that he would continue to stress the need for the City to develop mitigation fee ordinances for parks, schools, sensitive areas, as these will all be infringed upon with the new development.

Councilor Pedersen referred to section 6.4 of the draft ordinance, asking if the City is still requiring a letter from the health district in cases of contamination/public health emergency.

City Attorney Weed said the City generally requires some verification for a variance, yes and Public Works Director Zabell said he would use the same criteria as in 6.1 through 6.4.

Councilor Herman asked about the projected completion date for the WWTF upgrade, noting this is what predicates the capacity.

Mayor Weiser asked about the effective date of the ordinance and City Attorney Weed said the normal time frame is five days after the date of publication, which would be the 25th.

Councilor Baxter moved to adopt/approve Ordinance 1883, to be published 3/25/92, repealing Ordinance 1846. Councilor Pedersen seconded and the motion passed unanimously.

CONSENT AGENDA:

1. 3/23/92 Claims in the amount of \$416,513.17.

Councilor Baxter moved and Councilor Wright seconded to approve Consent Agenda Item #1. Passed. (Councilor Leighan did not vote.)

CURRENT BUSINESS:

1. SR 528 Improvements. (Continued from 3/9/92 Meeting)

Public Works Director Zabell gave a little history, noting DOT made a presentation to the Traffic Advisory Committee and the Downtown Merchants also have been involved.

Richard Mitchell of WSDOT addressed the Council, noting that the improvements will include north and south on and off ramps at 4th & I-5 to be widened, channelization of 4th with two left turn lanes from SR 528, plus placing raised curbs to Columbia, eliminating left turns at Beach and Delta, removing parking between State and Columbia, interconnecting signals, increasing safety and traffic flow which will be assisted with the railroad crossing at 5th. He said the main emphasis is on safety in trying to eliminate as many accidents as possible and he pointed out that this roadway rates as #62 in the State which is a fairly significant problem in the State highway system.

Mayor Weiser noted that 3rd & 5th would be signed at Beach, Cedar and Delta, which was previously discussed because of left turn lanes and Mr. Mitchell said the State would take care of signage required. Regarding dedicated movements on Cedar, they will provide signs there also, he said.

Councilor Leighan asked about the 15,000 vehicles per day criteria and Mr. Mitchell confirmed that is when all on street parking must be removed and I-5 to State on 528 is up to 15,000 VPD, State to Columbia on 528 is at least 13,000 VPD.

Mayor Weiser said he talked with the property owner who may provide off street parking but he will have to get back to Council on that in a week or so because his real estate agent is out of town.

Councilor Pedersen asked about the possibility of the State helping the City finance off street parking and Mr. Mitchell said the State would not contribute, they have safety and improvement funds only, he said.

Public Works Director pointed out that this whole project is to

mitigate the east side growth and under TIP 3 it's possible to include some off street parking, rerouting traffic, etc. For example, the 5th St. railroad crossing could happen soon, he said but downtown parking is a major problem and he said he would like to come up with some kind of solution through a TIP or a LID, eg., for off street parking, etc.

Councilor Baxter said he doesn't feel the Council should be discussing removing parking until they get a solution first and he asked about the Delta and Beach intersections--what most accidents there are caused from. He asked if gaps could be left in the divider/barrier and Mr. Mitchell said that would not solve the accident problem.

Councilor Baxter said he doesn't think the accidents are caused from left hand turns but Mr. Mitchell said the accident study the State did showed that the left turn movements, eg. at Delta from the west to the north, and at Beach in all directions, were accident-producing. He also mentioned the interconnection of signals will help movement all along 4th/528.

Councilor Wright asked if the City could be held liable if the traffic count goes over the recommended amount and there's an accident.

City Attorney Weed said it's difficult to give an opinion without an actual case, but the State has a criteria and that may be brought up by the injured party.

Mr. Mitchell pointed out that 15,000 VPD is within the State's design standards and they are required to come before City Council for an ordinance or resolution.

Gordon Peterson, owner and operator of the Burger King at Delta & 4th, addressed City Council, referring to the letter he wrote, included in the packets. He said he based his 40% loss of business figure on past experience but has since found out it would be more like 60%. He said there was a similar situation in Tacoma--the city put a raised barrier down and he showed Council some photographs, noting the restaurant in Tacoma has now closed in Tacoma. He said he would fully expect the same thing to happen in Marysville because people don't go out of their way for a hamburger. He added that he is sure there's a lot of businesses who didn't know about this going to happen, even though it's supposedly been in the mill for 3 years, he said. (He noted that he doesn't belong to the Downtown Merchants Assn.) With regard to accidents at his corner, he said there were only 9 accidents in 3 years and the ones they have had are from people coming out of the Mall because there's no stop sign out of the Mall northbound onto Delta. He noted that at 3rd & State there's a signal, at 2nd & State there's a signal, so maybe the City should put at least a stop sign up at 4th & Delta, which would be the easy solution to this whole problem. He added that he thinks the City/State is concerned about a few accidents and are going to end up putting a lot of businesses out of business as a result.

Councilor Myers asked if he would feel more comfortable if they opened up 5th St. and Mr. Peterson said that might keep Burger King alive but their business would still be down 40%, he would estimate.

Councilor Herman said he thinks the left turn off 4th is very dangerous and Public Works Director Zabell said only a portion of this project was talked about three years ago; DOT is now the proponent, he clarified, not the City.

Mr. Peterson said he thinks there are a lot of people still not aware of this--even Seafirst people don't know, he said.

Kenneth Christensen, 4527 121st Pl. NE, addressed Council. He said he and his wife own a business on 4th near Columbia and people are not going to want to walk from State, if they are not allowed to park on 4th as proposed. He said they have owned the business for 13 years and just found out about this about a week ago.

Councilor Wright stated people, she felt, are in danger right now as they get out of their parked cars, with other vehicles going past so closely.

Mr. Christensen agreed off street parking would solve a major portion of the problem.

Councilor Leighan asked if customers of businesses on 4th could park on Columbia around the corner and Mr. Christensen said they could, but that's usually taken up with other businesses on Columbia, for example. Also, there is some (only 3 stalls) in the alley, but that's very limited parking, too.

City Administrator Garner reported he received a telephone call from a Seafirst real estate representative, against the left hand turn prohibition at 4th & Delta.

Councilor Herman said he certainly sympathizes with businesses in the area and would like to see funds Public Works Director Zabell mentioned go toward the railroad crossing at 5th as well as off street parking and yet he is still disappointed this may not solve all the problems, he said.

Councilor Pedersen asked when the last possible date would be that people could park on 4th up to Columbia and Mr. Mitchell said probably sometime in October.

Mayor Weiser asked if some of the stalls on Columbia be changed to half hour but there were strong negative noises from the audience. Councilor Pedersen also noted that it's very difficult sometimes to complete escrow business or a hair appointment in half an hour.

Councilor Baxter reiterated that he doesn't think the parking should be removed until the City has a solution to the problem.

Councilor Leighan pointed out that the parking was removed from State when they put the Mall in but Councilor Baxter argued that State was widened in some areas and the City paid for a lot of parking to make up for the places that were lost. He said he would rather not see the City have to come up with more parking again; he said he would rather the State does this.

Councilor Leighan asked about the possibility of the City funding this project sometime in the future if the State abandons the project at this time and Councilor Baxter pointed out that this whole project is to help people move in and out of the City faster and there are no considerations for the business people; this is not encouraging people to stop and shop, he said.

Councilor Leighan argued that the east hillside is attracting residents and the City needs to consider their easy access to and from work, too.

Mayor Weiser said he sees a safety issue between 4 and 5 PM, trying to park on 4th.



Councilor Baxter pointed out that the same merging problems are going to happen at State as now happen at Columbia, so he said he doesn't see why eliminating parking is going to help.

Mr. Mitchell pointed out that going eastbound, you drop 7,000 VPD, i.e., it's easier to merge east of State than from Delta to State and you have more gaps, it makes for a more simplified merge, he said.

Councilor Pedersen said she also sympathizes with the businesses; it's a dilemma with 15,000 VPD, it's dangerous and she said she thinks opening up 5th might help.

Councilor Baxter pointed out that the City has been waiting for 3 years now on the 5th St. crossing and Mayor Weiser said the problem there is money, not the BN and that's why Public Works Director Zabell recommends including it in a TIP, he said. Mayor Weiser explained the right of way is still being maintained by the City over 5th St.

Public Works Director Zabell said it's possible to get some funds under the Growth Management Fund, once the Six Year Street Plan is amended, to make the 5th St. Crossing a priority.

Councilor Herman asked about the BN's responsibilities and Councilor Baxter pointed out that it was intended originally to reopen 5th St. with a combined effort of the City and BN.

There was discussion at this point about traffic signals on Cedar, the off street parking problem, noting that the City has until October to solve the problem, making a commitment to get parking by October, accidents on 4th, Councilor McGee asking about delaying the parking elimination portion of the project only.

Mr. Mitchell said it's possible to delay eliminating the parking but that will end up costing more money, although he couldn't say exactly how much. He said the money would have to come out of state funds but those funds can't be used for parking. He suggested including the language in the approval of the project that the City is pursuing the parking question and he said he would rather include the removal of parking and then remove that portion at a later date, if necessary, because it's easier to remove something than add something in, he said and it could be pulled out six weeks prior to the July date of beginning of construction, for example.

There was more discussion about a public hearing regarding the Growth Management Fund, with Mr. Mitchell noting that the removal of the parking is the only issue remaining under this project, everything else has been agreed to. He added that there may be other funding with regard to the BN crossing at 5th but not State funds, that he knows of.

Public Works Director Zabell explained that the City initiated the closure and now the City is going to have to fund the \$100,000 to \$200,000 to reopen it and is not eligible for any grant.

Councilor Herman asked if TIP 3 funding could go towards parking on 4th and Public Works Director Zabell said the City has collected \$30,000 to \$35,000 to date which would go toward the DOT fund, additional fees can be used toward other projects once agreed and calculated in the mitigation fees, he said. He said he would suggest amending the Six Year Street Plan, borrowing the money from the Growth Management Fund and then possibly paying it back through TIP 3.

Councilor Baxter moved to deny the WSDOT request for removal of parking stalls on 4th. He added there are other businesses besides Burger King that this is going to affect. (There was no second to the motion.)

Mayor Weiser noted the request was to put the curbing in, the businesses hired a consultant and the agreement was reached to put the curbing in but it has been extended to Delta now.

There was more discussion about growth, 4th St. traffic, the burden of the problem on the businesses, needing to start the SR 528 project, parking being retained for six months, parking agreement from State to Columbia could be removed from the WSDOT project.

With regard to removing curbing, Mr. Mitchell stated the safety improvements are for the people of Marysville to use this route-- these are people who are making the turns and out of 281 accidents, 63 were direct driveway access accidents/turning in and out of the Mall, for example, 20-30% of the accidents are injury accidents and there was \$70,000 worth of property damage accidents at Delta & 4th, he said. He added that these improvements would be for all users, not just a select few.

Councilor Baxter asked about the consideration that these "improvements" might be putting businesses out of business and Mr. Mitchell responded that WSDOT is in the process of making these same type of improvements in other cities--SR 99, eg. with similar accesses--it's a trend and it becomes a traffic issue and WSDOT needs to make it a safe route, he said.

Councilor Wright moved to approve the 528 improvements, with removal of parking as discussed, working toward alternate parking, with the possibility of having to remove this item at a later time, setting a public hearing for the Six Year Street Plan/Growth Management Fund as soon as possible, to consider the reopening of the 5th St. crossing, and also reporting back as soon as possible regarding the off street parking at 4th & Columbia. Councilor Herman seconded and the motion passed 6-1 with Councilor Baxter against.

2. Drug Enforcement Fund.

Finance Director Dexter said this is in answer to when the police dept. seizes cash and assets converted into cash, especially when it consists of federal cases. He noted the law says the City can't keep this money in the General Fund and so the ordinance is setting up a separate fund, as recommended by staff.

Councilor McGee moved and Councilor Pedersen seconded to adopt/ approve Ordinance #1884, setting up the Drug Enforcement Fund. Passed unanimously.

3. Boeing Traffic Mitigation Fund.

City Administrator Garner stated Boeing had a consultant study intersections they felt would be most affected by Boeing and they identified intersections where there is already State funding. Staff is recommending that the Boeing funding go towards the signal project at State & 92nd at this time.

Councilor Pedersen asked about using the funds for the 5th St. crossing, to speed that process up but Public Works Director Zabell pointed out that 92nd & State is actually within the realm of the Boeing Traffic Mitigation funds as one of the intersections

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identified was 100th & State and 92nd & State would be more appropriate. This would include a traffic light, widening, pedestrian signals and left turn capabilities, he explained.

City Administrator Garner said there's also a good chance that the City may get more than the \$140,000, too. Public Works Director Zabell added that the consultants showed a significant number of trips north and south bound on State.

Councilor Baxter moved and Councilor Herman seconded to use the Boeing Mitigation Funds towards the 92nd & State project as outlined by the Public Works Director. Passed unanimously.

4. Hearing Examiner's Decision; Preliminary Plat of Buena Vista, PA 9104012; Ron Otis.

Mayor Weiser disclosed that Mr. Otis came to see him this afternoon but procedure only was discussed.

Sr. Planner Bennett gave a bit of a history, noting the Hearing Examiner originally recommended approval and an appeal was filed 12/31/91 by adjacent property owners. Then on 1/27/92 City Council remanded the matter to the Hearing Examiner and the Hearing Examiner again recommended approval, with 17 conditions and some primary modifications, recommending also denial of lot width variance resulting in a reduction of the number of lots, plus a 20' easement to be given by Otis. He said staff recommends the Hearing Examiner's decision be approved.

Mayor Weiser asked that any statement from the public be restricted to whether or not the City Council should hold a public hearing.

Ron Otis, 6926 55th St. NE, addressed the Council and he noted there's a lot of background information which the Hearing Examiner did not have and the applicant feels some of the Hearing Examiner's conclusions were wrong. He said they have been working on this for four years, have submitted several plat configurations, have put in several hundred hours including looking at the effect it will have on the neighbors. He said the Hearing Examiner took it upon himself to reconfigure the subdivision, which has negated a lot of the applicant's work as well as the Planning Department's. Mr. Mapes continues to insist he has an easement and the Hearing Examiner continues to insist 55th should be a road, Mr. Otis reported.

City Attorney Weed reminded everyone this chance is for information with regard to whether or not there should be a public hearing.

Mr. Ron Otis put a map on the board and explained the Hearing Examiner recommends creating an island within the subdivision which Mr. Otis believes is an absurd concept, also, no one is willing to give up their property for easement, he pointed out. Oosterwyk & Jamieson are both affected and it doesn't make sense the way the Hearing Examiner has recommended the subdivision be laid out, he said; it would be injurious to certain property owners and they feel they finally came up with something that was acceptable to the Planning Dept., only to be negated by the Hearing Examiner. He stated they wish to have the Council hold a public hearing and also would recommend the Hearing Examiner office be open to the public because they could never get ahold of him. Mr. Otis concluded they have been before the Hearing Examiner twice and this still is not solved to everyone's satisfaction.

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Bob Otis, 6926 55th St. NE, addressed the Council and referred to his appeal letter in the packets and to Hearing Examiner minutes which he said don't reflect accurately testimony and exhibits. He said he wished to see a City Council public hearing also.

Councilor Leighan moved and Councilor Herman seconded that there be a public hearing held 4/13/92 for the Otis/Buena Vista Preliminary Plat. Passed unanimously.

5. Hearing Examiner's Decision; Rezone & Preliminary Plat of Windsong III, PA 9104013; Owner, Robert Porter; Applicant, Darrell Storkson.

(Councilor Pedersen stepped down.)

Sr. Planner Bennett reported the Hearing Examiner has recommended approval with 14 conditions, there have been no appeals and the staff recommends the Hearing Examiner's decision be affirmed.

Mike Papa, 9128 58th Dr. NE, addressed Council, noting he had presented some material at that Hearing Examiner's hearing and wanted to make sure it's in the packets. He added that he thinks mitigation fees is an issue that needs to be settled very soon because since 6/89 when the recreational study was done, 75% of the respondents thought that there should be mandatory parks/fees. He noted that there is no factual basis for the City's fees and the Marysville School District fees are going to have to be subsidized by the taxpayers.

Bill Roberts, 4129 76th St. NE, addressed the Council, representing the applicant. He stated they are complying with the MSD agreement, the City of Marysville TIP and paying SEPA mitigation as per agreements in the past. He added that the applicant is agreeable to all staff requests and he said he understands where Mike Papa is coming from but this is a preliminary plat and they are not opposed to any of the staff recommendations. He stated the parks mitigation fee is a standard voluntary amount that's been fairly standard for the last couple years.

Councilor Baxter referred to the difference between the county and City parks mitigation fees and Mr. Roberts explained there's a difference between the county and City parks services, too, inventory, etc. He said he thinks there's more to it than just comparing fees.

Councilor Herman said the county parks fee does include unincorporated Marysville but Marysville doesn't have a parks mitigation fee ordinance and he said he thinks the City ought to do that.

Mr. Roberts explained Snohomish County's parks mitigation fee is \$700 and if Marysville asked for a justified amount such as that, he said he is sure the developers would pay it.

Councilor Leighan asked if this plat is within the disputed water area with PUD and Public Works Director Zabell said PUD agrees it's within Marysville's service area, Marysville has a water line in Sunnyside East that could be extended for this plat.

Mayor Weiser noted it's within the overall disputed area but Public Works Director Zabell explained PUD has since agreed it's within Marysville's service area.

Mr. Roberts said on the maps he saw, this area was never in the disputed area, it's north of 52nd.

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Councilor Baxter moved and Councilor McGee seconded to approve/affirm the Hearing Examiner's Decision as per staff recommendations. Passed unanimously.

6. Model Land Capacity Analysis Project; Dan Flynn; Master Builders Assn.

Sr. Planner Bennett referred to the agenda bill, noting that staff investigated the 1989 inventory that was done and feels 80% of the data is complete and recommend not to pursue this program as proposed by Dan Flynn as it will largely be a reproduction of what's been done already by staff and consultants.

Councilor Wright noted that the 1989 inventory is relatively accurate, however she pointed out that a "windshield" inventory was done and in referring to the 3/2/92 City Council meeting minutes, she said it sounded like the Planning Dept. was in favor of the Master Builders' proposal.

Sr. Planner Bennett pointed out that in some cases on the inventory maps there may in fact be some error but some of the inventory may also reflect the direction the Planning Commission wishes the area to go. He added that staff did in fact have second thoughts about the timeliness (or lack of it), because it's going to take another year to have something tangible, he pointed out and the City has a Planning Aide now that can assist in data gathering and there is hesitancy in embarking on this project which it is felt will not give that much benefit.

There were comments about having a second opinion and it was also clarified that not only are Master Builders involved, so are the realtors and the Dept. of Community Development.

Councilor Baxter left Council Chambers at 9:59 p.m.

Sr. Planner Bennett commented that he has no problem with the entities involved or how the program would work.

Jim Miller, 6824 279th Pl. NW, Stanwood, addressed Council, representing the Dept. of Community Development. He stated they put together a proposal and would like to correct a couple of misconceptions. Their intent was to have a funding source for a

Councilor Baxter returned to Council Chambers at 10:01 p.m.

vacant land inventory which would provide a good, factual basis for land use planning and provide a good basis for developing Marysville's Comp Plan. The coordination for the program is through the DCD and there are funds from Master Builders, Realtors and the DCD, he said, with the possibility of additional State funds. He said they have heard from two cities already and the opportunity is still open for Marysville to participate in the program. He passed out copies of a policy paper recently developed and explained this is basically to provide the funds for a vacant land inventory, but they are also talking about suitability and whether land is appropriate to be developed. He noted the Community Development process includes subtracting land already committed to existing uses which are unlikely to change over the next 20 years, subtracting land the community defines as not developable, road and utility right of way, not suitable for development for social and economic resources, land likely to be held out by property owners from development for 20 years or more. He said that if you don't have a land inventory that can pass the test, that's something you want to avoid and the private sector is willing to help out with funding at this time. He noted that

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Marysville's current inventory is more than likely going to include some staff/consultant guesstimates which may not be totally accurate and he brought to the Council's attention factors of county methodology that may be very questionable. He reemphasized the money is available immediately from Master Builders, Realtors and the DCD. He said this money may also supplement the money/budget being used for this process already and he gave an example where in the State of Oregon, they had full GMA funding and it still took them 15 years for something they thought would only take 3 years, so this money could be freed up as soon as Marysville wants to sit down with the DCD, he said. He mentioned a couple legislators who are interested in helping out local cities and the fact that the county methodology definitely has its drawbacks.

Gary Wright, 5533 Parkside Dr., Marysville, addressed Council and stated this is a very important issue--the density issue--the inventory, developable land, and it's important Marysville have an accurate inventory and he said we need to consider subtracting out land such as wetlands and we still want to have enough room for growth. He said this proposal, which the City Planner has stated would be slightly more accurate, would be a valuable opportunity for the City to take advantage of in order to gather accurate information. He said he doesn't believe the county has a good track record with regard to Comp Plans and this proposal would offer something Marysville can be proud of in the future.

Mike Papa, 9128 58th Dr. NE, addressed Council, stating that with regard to subtracting critical areas, under the draft the Planning Commission is working on, TDRs are going to make up the density that's subtracted by the sensitive area ordinance. He said he thinks the City should trust the planning staff and consultants to do the inventory.

Mayor Weiser said he thinks the point is to get the most accurate information possible.

Sr. Planner Bennett agreed the Planning Commission is looking at sensitive areas and other areas are being considered--undeveloped areas, non-developable areas, etc. He said if something could be worked out that could augment the City's process with supplemental outside funds and not have to start over from scratch, then he would be in favor of the program.

Councilor Herman said with regard to subtracting out sensitive areas, etc., that would probably be something that the Planning Commission/Planning Dept. is doing.

Sr. Planner Bennett said that's a difficult issue and the methodology has not been agreed on as yet.

Councilor Herman agreed he knew there were discussions about problems with the county methodology in that area and Sr. Planner Bennett said the county is actually taking information and breaking it down for unincorporated areas.

Councilor Herman commented on the assessor's and POPEL model which is different from Marysville's methodology and he said the other concern he had was with regard to money from the private sector as this is a different perspective and may not be wholly impartial. He noted this is different from collecting mitigation fees from developers because mitigation fees are after-the-fact vs. these funds which are to be brought in before the planning.

Councilor Wright noted that even with outside money, the City would still be using the same consultants.

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Councilor Herman commented on the flow chart indicating a review process that excluded the City and if that were to change, it might not raise the question of bias, he said, but as it is, the DCD involves outside/private sector entities.

Mr. Miller explained that the review process is to make sure it's consistent with the DCD process, not to have an advisory function. He stated the intent is to put the City in the driver's seat and the agreement can be structured between the DCD and the City and the idea is to bring State funds into the process and make sure the funds are spent within the scope of State funds, he said.

Councilor Herman stated that with a modified proposal, he would be in favor of participation in the program.

There was discussion about agreement wording, coordination with staff, having a chance to review this more, no legal impediment in accepting these funds, methodology of accepting the funds, having an independent process.

Councilor Baxter moved to postpone this matter to 4/6/92, referring it back to staff to work out an agreement/scope of work. Councilor Myers seconded and Councilor Pedersen noted that she would like to see "staff" include the City Attorney. Passed unanimously.

7. Utility Variance; Marysville School District; Continued from March 9, 1992 Meeting.

Ward Sayles, 5605 70th NE, addressed the Council, representing the school district. He stated they sent a letter to Public Works Director Zabell with a possible solution of a force main down 47th. He said he would like to remind Council that the school is hopefully going to be occupied by 1994, due to the tremendous need in the community.

Mayor Weiser asked about putting the school on a septic system but Mr. Sayles said he didn't think schools were allowed on septic systems anymore. He noted they put Sunnyside Elementary on a force main.

Councilor Baxter noted the City would still have the same problem with a force main and Mr. Sayles added they would like to start construction in 1993 and are hoping to go to bid for one site on 528 this fall. He noted the school district is already using 62 portables; they have a site at 51st & 152nd but they actually need a site closer in; they also have a site which adjoins that site for which they will be coming to the City for a variance, he said. As far as the elementary on 51st, they could do it but it would create an added expense for busing 550 students, he said.

Councilor Baxter asked if this could be discussed in Executive Session and City Attorney Weed stated he felt it would be appropriate.

Councilor Baxter moved and Councilor McGee seconded to postpone this issue and discuss it in Executive Session because of potential litigation. Passed unanimously.

NEW BUSINESS:

1. Proposal by Cellular One for Cellular Communications Rerad Placement on City of Marysville Water Tank in Comeford Park.

Nancy Porcincula of Cellular One, 617 Eastlake Av. E., Seattle,

addressed Council and explained how a cellular phone works and how there is a big gap in Marysville for hand off users--the police, public works, library, etc. She stated the Police Dept. requested a "quick fix"--a parabolic signal antenna receiver mounted on the water tower. It would be a simple installation, easily placed, with mild aesthetic impact, mounted on the catwalk, she said.

Councilor Pedersen asked about US West & Cellular One sharing signals/antennas and Ms. Porcincula said they don't and explained the proposed permanent site, but in the meantime, they wish to improve the City's Cellular One service by placing their temporary antenna on the water tower.

City Attorney Weed asked if an easement/right of way is required and Ms. Porcincula said yes and there is a compensation for that.

Councilor Herman asked about potential liability and City Attorney Weed stated should there be some kind of agreement/property use document, that should be spelled out and Ms. Prcincula said Mary Swenson was working on that.

Discussion followed concerning there only being two cellular providers allowed in this area, this being for temporary use, precedent setting, this request relates directly to the welfare of the citizens of Marysville, location for a rerad, the water tank being very appropriate, premises would be restored to original when the antenna is removed.

Councilor Herman said he would like to see an agreement prepared by Cellular One proposing compensation and indemnifying the City.

Ms. Porcincula noted the number of Cellular One users in Marysville is not high enough at this time for Cellular One to build a freestanding antenna and the request was generated by the Police Chief for his staff, she pointed out. She added that as long as the vehicle is on I-5, you probably won't have problems, but with the wide range of travel of the emergency vehicles, there are bound to be gaps in communication areas.

There was further discussion about US West cellular phones, precedent setting as far as hanging things on the water tank, having Cellular One draw up the documents, giving them a variance to put up an antenna on or near the Public Safety Bldg., postponing the decision until the Police Chief gets back and explains the problems they have been having with the gaps in service, needs, location of antenna.

Councilor Baxter moved to continue this to 4/6/92 and Councilor Myers seconded. The motion passed unanimously.

3. Request to Waive Sign Permit Fee; Kiwanis Club.

Tom King, 3113 Sunnyside Blvd., addressed Council, representing the Kiwanis. He stated they would like to install two new signs with their club logo and wish the City to waive any fees. He said they would like to install these next Saturday in conjunction with a cleanup project; the signs are 30" in diameter on a 7' pole. He stated their membership is down and they thought more signs might help. He explained that Kiwanis sponsors the Boy and Girl of the Month, the annual Senior Dinner at the Moose Lodge, a scholarship, they participate in the annual food drive, litter clean up, sponsor the high school youth Key Club program and they want to do a reading and lunch program for younger children in the near future. He said they have 18 members at this time and would like to have a membership drive. He noted he did discuss the signs with Harry

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Britton as far as putting the signs on the City right of way possibly opening a can of worms but could work with other organizations in the future as far as everyone sharing a sign.

Public Works Director Zabell stated the Public Works Dept. would like the clubs to coordinate these signs with them and Mr. King said that would be no problem. He added the Kiwanis does some small work projects such as Jennings Park, also.

Sr. Planner Bennett pointed out the Kiwanis would be exempt if the sign is less than 3 sq. ft. but the sign they are proposing is almost 5 sq. ft. and staff is proposing a smaller size, he said.

Mr. King explained that basically, they were provided a decal 30" in diameter for the sign.

Councilor Wright moved to allow the Kiwanis to put their sign in the public right of way, consulting with the Public Works Dept., with waiver of any fees. Councilor Baxter seconded and the motion passed unanimously.

BREAK: 11:15 to 11:25 PM

2. Part Time Help for Personnel Dept.

City Administrator Garner explained the Personnel Technician needs assistance. One of the things that has impacted this position is the additional responsibilities of the American Disabilities Act, he stated and staff is recommending Council consider a six month position, i.e., go back to the high school program for 4 hours a day at \$5.50 per hour for an overall cost of \$2900. He also mentioned the AARP position being filled.

After brief discussion, Councilor Baxter moved and Councilor Myers seconded approval for the six month position at \$5.50 per hour for 4 hours per day. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. An Ordinance Annexing Certain Real Property Known as the Sunnyside Wells No. 1 and 2.

Councilor Baxter moved that Ordinance 1885 be adopted/approved and Councilor Pedersen seconded the motion. Passed unanimously.

2. An Ordinance Rezoning Property Owned by John Baldwin.

Councilor Baxter moved and Councilor McGee seconded to approve/adopt Ordinance 1886. Passed with Councilor Leighan against.

3. Resolution Approving a Sign Variance; Everett Mutual Savings.

Councilor Pedersen moved and Councilor Myers seconded to approve/adopt Resolution #1529. Passed. (Councilor Baxter didn't vote.)

4. Resolution Approving a Conditional Use Permit for Property Owned by R. H. Hassan.

Councilor Wright moved and Councilor Baxter seconded to approve/adopt Resolution #1530. Passed unanimously.

5. Resolution Approving Variance to Allow Water Connection to Property Owned by Robert A. Johnson.

Councilor Wright moved & Councilor Baxter seconded to approve/adopt Resolution #1531. Passed unanimously.

LEGAL MATTERS:

1. Marysville Pipeline Project; Consultant Amendment No. 6.

Public Works Director Zabell said this is the final amendment to the James M. Montgomery contract and he referred to the letter in the packets. He said the request is for \$90,000 which has been increased from \$60,000 because of the Sherman right of way, SR 2 crossing, Meridian extension roadway, etc. Staff recommends approval, he said.

Councilor Baxter moved and Councilor Myers seconded to approve Amendment No. 6. Passed unanimously.

ADJOURNMENT INTO EXECUTIVE SESSION: 11:35 PM

1. Personnel Issue.
2. Litigation.

RECONVENED: 12:34 AM 3/24/92

Councilor Herman moved and Councilor Leighan seconded that the City pay the geotechnical expenses of Mr. Peterson for right of way purposes on the Everett Pipeline Project. Passed unanimously.

Councilor McGee moved and Councilor Wright seconded to give the City Attorney permission to proceed with the formal foreclosure process of a ULID #6 account presently in delinquent status. Passed unanimously.

ADJOURNED: 12:36 AM 3/24/92

Accepted this 6th day of April 1992.

David Weiser

MAYOR

Phillip E. Dexter

CITY CLERK

Wanda R. Iverson

RECORDING SECRETARY