

MINUTES RECAP

00157

MARYSVILLE CITY COUNCIL MEETING APRIL 13, 1992

CALL TO ORDER: 7:00 p.m.

ROLL CALL: Councilor Baxter on Vac.

MINUTES OF PREVIOUS MEETING: 4/6/92 Approved

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

AUDIENCE PARTICIPATION: Dave Shore, Blake Gregory,  
Mike Papa, Gordon Peterson

PRESENTATION: None

PETITIONS & COMMUNICATIONS: None

PUBLIC HEARINGS:

1. Preliminary Plat of Buena Vista Applicant-Ron Otis Approved

CONSENT AGENDA:

1. Payroll - \$433,534.84 Approved  
2. Claims - \$788,116.72 Approved

REVIEW BIDS:

1. Janitorial Bid; Public Safety Building Approved - ABM

CURRENT BUSINESS:

1. Jennings Park Petting Zoo Request for Funding Approved  
2. Hrg. Examiner Recommendation - Hickock East Approved  
3. Hrg. Examiner Recommendation - Dagley Approved  
4. Hearing Examiner Recommendation - Van Dam Approved  
5. Utility Variance 91-10; Poeschel/Schultz. Approved  
6. Model Land Capacity Analysis Project; Dan Flynn; Master Bldrs. Assn. (Cont. from 4/6/92) Sr. Planner Bennett to report back in 30 days

NEW BUSINESS:

1. Request for Deferment of LID Payments; Irene Holman Approved to 5/1/93

ORDINANCES & RESOLUTIONS:

1. Res. Amending Personnel Rules relating to Comp Time. Res. #1534 Approved  
2. Res. - Forest Park Realty Annexation & Transmitting to B.R.B. Res. #1535 Approved  
3. Res. Affirming Hearing Examiner Decision granting C.U.P.-Jubie Res. #1536 Approved  
4. Res. Stating City's Intention to Annex Johnson Property & Transmitting Matter to B.R.B. Res. #1537 Approved  
5. Quil Ceda Annexation Report For Information Only

LEGAL MATTERS:

1. Employment Contract - Don Shaw Term changed: 5/1/92 to 12/31/92

ADJOURNMENT INTO EXECUTIVE SESSION: 9:55 PM

1. Real Estate

RECONVENED & ADJOURNED: 10:30 PM

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7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor  
Councilmembers:  
 Donna Pedersen, Mayor Pro Tem  
 Dave McGee  
 John Myers  
 Ken Baxter (on Vacation)  
 Donna Wright  
 Mike Leighan  
 Otto Herman  
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  
 Jim Ballew, Parks & Recreation Director  
 Dave Shore, Police Officer  
 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 MEETING:

Councilor Wright noted that on page 2 of the 4/6/92 minutes, it was inadvertently shown that she volunteered to serve on the AWC Nominations Committee when in fact she had volunteered for the Resolutions Committee.

Councilor Herman pointed out that in the paragraph immediately above that paragraph on page 2, he had noted that there were many issues to be studied, not discussed.

Councilor Pederson moved and Councilor McGee seconded to approve the 4/6/92 minutes as corrected. Passed unanimously.

STAFF'S BUSINESS:

City Administrator Garner reminded Council about the Navy Impact Committee meeting tomorrow at 10 AM in the Police Conference Rm.; Chief Dyer will be taking his annual leave 4/16/92 to 5/20/92; the Boeing Mitigation Conference has been changed to 4/22; a Public Hearing on the 88th St. Interchange will be held at MPHS 4/22/92; City Administrator Garner will be attending a Rotary International Conference in Penticton, B.C. 4/29, 4/30 and 5/1/92.

Public Works Director Zabell reported that the outfall diffuser for the WWTF is going to bid soon.

Sr. Planner Bennett reported that he will be attending an upcoming Planning Conference.

MAYOR'S BUSINESS:

Mayor Weiser reported the Mayor's Advisory Committee will meet Wed. at 7:30 AM and there will be a presentation by Sgt. Dennis Peterson. He stated he will also be attending a 4/14 PM Seven Lakes and Warm Beach Water Assn. Joint Meeting because Warm Beach

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has had a water moratorium for about 12 years and would like some relief. He stated he and Public Works Director Zabell will be in attendance to look at feasibility of Marysville supplying water to Warm Beach and he will report back at the 4/27 Council meeting.

CALL ON COUNCILMEMBERS:

Councilor Herman commented on the procedures and rules of public meetings contained in the packets, noting that sometimes groups are allowed 15 mins. rather than only 10. He asked about the parking signs on State between State & Columbia, questioning the two hour limit on residences and asked if there had been any complaints. He said he would like to see a summary of where the City is as far as preparing an ordinance for mitigation fees and policies.

There was some discussion about the parking signs on 4th and Public Works Director Zabell said he would follow up on this.

Councilor Leighan asked when the 80th St. project would be going to bid and Public Works Director Zabell explained he believed it would be sometime this month, probably within the next 2 weeks.

Councilor Leighan reported that the TV Advisory Committee is working on some video programs for Channel 18.

Councilor Myers asked about further improvements to the Park & Ride on Ash and Public Works Director Zabell stated there will be some further improvements, to be paid for by Mr. Thorsen.

Councilor Myers asked about a stop sign at Beach and 5th and Public Works Director Zabell said he would follow up on that.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Police Officer Dave Shore, representing the Police & Fire Associations, addressed Council and explained that they wished to put up a memorial plaque for Audrey Black, to be placed in the area of the flagpole at the Public Safety Building. The plaque would be set in the ground with a couple of rhodi bushes in her memory, he explained and the consensus of Council was that this would be a very nice tribute to Audrey, especially with her having been an employee at the Public Safety Building.

Blake Gregory, Seafirst Manager and also Treasurer of the Downtown Merchants Assn., addressed Council. He stated they have a serious concern regarding the 4th & Delta prohibition of left turns which has proposed. He said with regard to the alleged 28 accidents between Delta & State, only one was as a result of left turns and he suggested a possible compromise of left turns onto Delta, but no through traffic from the south side of 4th allowed. He read a letter clarifying that the Downtown Merchants were not in favor of no left turns, parking prohibitions nor the traffic revisions. He asked that the City reconsider their decisions regarding this situation or there could be major problems caused.

Public Works Director Zabell explained the only thing the DOT really needs from Marysville is the restriction of parking on 4th.

Mr. Gregory said they would like a copy of their letter to go to DOT and Public Works Director Zabell said he would send it to them.

Mike Papa, 9128 58th Dr. NE, addressed Council regarding mitigation fees and handed out spread sheets showing figures and

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mitigation fee deficits. He pointed out the need for a school and parks mitigation fee ordinance. He said he talked to several people in the county planning dept. and they would be more than willing to let the City of Marysville use their model, he said.

Mayor Weiser said the City is planning to sit down with the Marysville School District with regard to the school mitigation fee ordinance. He said he is not sure why there is so much difference between the City and the county but that's what the school district has set and he suggested Mr. Papa might like to address the school district direct on this issue.

Mr. Papa stated his next stop tonight is to head over to the school board meeting, right now.

Gordon Peterson, owner of Burger King, addressed Council, reminding them he had come before them a couple weeks ago regarding the restriction of left turns onto Delta at 4th. He said last Friday they sat down with the DOT and basically there were only two accidents on the north side of the street in a year and the left hand turn restriction as it is now proposed is going to ruin a couple of businesses for the sake of only a couple of accidents. He said DOT has indicated they would reconsider this, with a westbound turn lane onto Delta only and the Downtown Merchants would like the City to reconsider also, he stated.

PUBLIC HEARINGS:

**1. Preliminary Plat of Buena Vista; Applicant Ron Otis;  
PA 9104012.**

City Attorney Weed swore in those people (including staff) indicating that they may wish to testify in this Public Hearing.

Sr. Planner Bennett reviewed the matter, noting the request is for 9600 lot zoning, 25 lots on 7 acres and an appeal was received originally from adjoining property owners regarding adequate access. He explained that staff met with property owners and a letter has been submitted by Public Works Director Zabell (in the packets).

Bob Otis, 6926 55th St. NE, addressed Council and made himself available for questions. He asked that the second Hearing Examiner recommendation be clarified.

Sr. Planner Bennett explained the first recommendation was to deny the variance but to approve the development. His second recommendation would reduce the number of lots from 25 to 24, he said.

Councilor Pedersen asked about the variance and Sr. Planner Bennett said staff recommended approval of the variance originally but the Hearing Examiner did not concur because he felt it was granting of a special privilege. He recommended Mr. Otis give 20' for access but since then staff has recommended changing Condition 11, substituting language from Dave Zabell's letter, 4th paragraph from the bottom, regarding the easement, he said.

Public Works Director Zabell explained that 55th NE is a 30' private easement with access onto it by one lot but part of Otis' property is encroached and his recommendation is to substitute Condition 11 with CC&Rs on Lots 15, 16 & 17 for future maintenance, he said.

Mr. Otis said as he understands it, there is no special privilege involved.

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Councilor Herman asked for clarification of the proposal, eg. the exact dimensions and distances.

Public Works Director Zabell said some field work has been done and Mr. Trepanier is here with that information.

Councilor Pedersen asked about the lot width variance and Sr. Planner Bennett said the Planning Dept. believes the variance should be approved, that the original request should be approved but consideration should also be given to the original Hearing Examiner's recommendation, too, he noted.

Ted Trepanier, 1420 Hewitt, Everett, addressed Council and showed a detailed survey map. He referred to staff and Hearing Examiner approval as of 12/20/91, at which time there was some property line dispute, he noted. He explained that the Hearing Examiner then made a modified recommendation based on the property owners' concerns and they now have a map that everyone is using--the fence is now no longer encroaching, the gravel road does encroach near Lot 11 or 12 of Otis' property but with Public Works Director Zabell's recommendation and based on all the above, they are in favor of the staff recommendation at this time, he concluded.

Councilor Pedersen asked to hear from Mr. Mapes with regard to his being in favor of the revisions.

John Mapes, 6809 55th NE, addressed Council and said their main concern is that Mrs. Jameson have access to her two lots and they had requested a 30' easement for them. He noted she also owns property and the Hearing Examiner did a survey which included too many lots. He stated Mr. Otis has agreed to change his driveway in order to allow a 50' easement so the surrounding area can be developed, if the owners so wish. He pointed out how the 50' easement would resolve the problem for all the neighbors: Shubert, Jameson, Oosterwyk, for possible subsequent development. He added that this was all agreed upon.

Ron Otis, 6926 55th St. NE, addressed Council, noting this was the original map presented to the staff; it went through several changes and has now come back full circle.

There being no one further who wished to address Council from the audience, this portion of the public hearing was closed at 7:45 PM

Councilor Herman asked why the Hearing Examiner recommended approval the first time and not the second time.

Sr. Planner Bennett apologized for not putting the original decision in tonight's packets, but the second recommendation has to be considered as a "package", he said--the variance and the preliminary plat--you have to include the 20' easement which is a special privilege but it's the position of staff, he said, that if the applicant can't reach what the zoning allows, then staff has always recommended the "special privilege" variance be granted. He said the Hearing Examiner actually originally recommended this the first time around but the variance would be smaller without the 20' easement.

Councilor Pedersen asked how many lots are actually affected and how many feet per lot are involved in the variance and Sr. Planner Bennett stated it would be the corner lots that are affected, because of the shape of the lots. Eleven lots actually do not meet the minimum and the use of lot averaging provides some flexibility, he said. He noted that the minimum lot width is basically the variance; minimum lot area requirements are being met.

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Councilor Pedersen moved to accept/affirm the Hearing Examiner's modified recommendation to approve 9600 zoning with modified conditions and variance, except for Conditions 11 & 16, and to include the recommendations in Dave Zabell's 4/7/92 letter. Councilor Wright seconded the motion.

City Attorney Weed noted that the Hearing Examiner found that the variance would grant a special privilege, but it's actually a minor lot width adjustment.

Councilors Pedersen and Wright accepted this addition to the motion and a roll call vote was taken with all in favor, so the motion passed unanimously.

CONSENT AGENDA:

1. Payroll in the amount of \$433,534.84.
2. Claims in the amount of \$788,116.72.

Councilor McGee moved and Councilor Wright seconded to approve Consent Agenda Items 1 & 2. Passed unanimously.

REVIEW BIDS:

**1. Janitorial Bid; Public Safety Building.**

City Administrator Garner explained the bid tabulation in the packets, noting that the low bid came in from American Building Maintenance at \$1293 and the high bid was \$6945 from Sunshine Floor Service. He stated he was very impressed with ABM's 20 page proposal, noting they have a fine record and staff is recommending approval for one year of service. He stated the city attorney would still have to review the contract. He added that each employee has been investigated by ABM and they have full liability insurance, in addition to the many other features noted in their proposal.

City Attorney Weed noted there is a 30 day escape clause for either party provided in the contract and he would recommend the term of the contract to run from 5/1/92 to 4/30/93.

Councilor Pedersen moved to authorize the Mayor to sign the contract with American Building Maintenance for janitorial services effective 5/1/92 for one year, for the police and court areas of the Public Safety Building. Councilor Myers seconded the motion and it passed unanimously.

CURRENT BUSINESS:

**1. Jennings Park Petting Zoo; Request for Funding.**

Parks & Recreation Director Ballew addressed Council and explained that the request is for \$9,000 from the General Fund and because of staff hiring delays, this amount of money is now available. He also explained that the original budget amount for the Petting Zoo was \$13,200 but with a reduction in staff and no demonstrations on weekends, this can be cut back to the \$9,000 figure. He noted that Dr. & Mrs. O'Rourke (he's a local vet in town) are interested in helping the Petting Zoo find funding through some kind of a program such as "Friends of the Zoo" (see letter in packets).

Councilor Herman referred to the reduction in insurance and personnel costs and City Administrator Garner expanded on this, noting that a Grade VII Laborer, the Planning Aide, the Associate Planner, Communications Officer, Parks Secretary, not having been

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hired Jan. 1 as budgeted, combined with plans to reorganize the Finance Dept. have resulted in the extra available funding for the petting zoo.

Finance Director Dexter also noted that there was an insurance savings of about \$17,000, of which a small portion, \$4-5,000 was in the General Fund.

Mayor Weiser explained that this budget request was originally slated to wait for review by the Budget Committee, but there was some urgency to the request at this time.

Councilor Pedersen reminded Council that Parks & Recreation's budget did take a "beating" last year.

Mayor Weiser added that another staff savings was when City Administrator Garner was hired.

Councilor McGee moved to authorize the \$9,000 funding request for the Petting Zoo, to come out of the General Fund. Councilor Herman seconded and the motion passed unanimously.

**2. Hearing Examiner's Recommendation; Hickock East; PA 9110040.**

Sr. Planner Bennett explained the Hearing Examiner has recommended approval to subdivide approximately 1.9 acres into 8 single family lots and a variance relating to front yard setback for Lot 1 and minimum lot frontage for lots 3, 4 and 5. The site is located on the north side of 64th St. NE, west of the alignment of 55th Av. NE, and the Hearing Examiner has set forth 9 conditions for the applicant's compliance, he said. He noted that no appeals have been submitted and staff recommends approval of the project.

Bill Roberts, 4129 76th St. NE, representing the applicant, made himself available for questions, noting this is a straight forward plat.

Alice Sloan, 5330 64th St. NE, addressed Council, reviewing the conditions of the sale of her property to the applicant, regarding water and sewer to be provided, and she noted that she wants a nice fence and steps to get to her mailbox. She also said she expected that with the driveway closed off and landscaped, that there would still be enough room for her to get in and out and otherwise, everything was fine with her.

Mr. Roberts stated they are willing to go along with all Mrs. Sloan's requests; that's part of the agreement of the purchase of property, he said.

Councilor Myers asked about the variance and Sr. Planner Bennett explained there is a setback variance on Lot 1 and minimum frontage on Lots 3, 4 & 5. Also, he stated there is one other correction--that Ordinance 1846 should be 1883 now under Condition 5.

Councilor Myers moved to approve the preliminary plat with variance and with the change from Ordinance 1846 to 1883. Councilor Wright seconded.

Councilor Herman asked if the variance on Lot 1 is due to existing structures and Sr. Planner Bennett said it is.

Councilor Herman asked if sideyard setbacks could be dealt with in another way besides a variance request and Sr. Planner Bennett explained that Marysville doesn't have a lot averaging ordinance and so it has to be done this way.

The motion passed unanimously.

Mrs. Sloan asked about a turn lane at 64th & 67th and Public Works Director Zabell stated that would probably be installed this summer or fall.

**3. Hearing Examiner's Recommendation; Dagley; PA 9111048.**

Sr. Planner Bennett explained the Hearing Examiner has recommended approval of a conditional use permit to operate a "mini-daycare center" (max. 10 children) in an existing residentially zoned (R-7200) structure located at 1709 8th St. He noted the Hearing Examiner sets forth 8 conditions for the applicant's compliance, no appeals were submitted and staff is recommending that the Hearing Examiner's recommendation to approve the conditional use permit be affirmed.

Robert Dagley, 6504 73rd Pl. NE, addressed Council and made himself available for questions. He answered Councilor Pedersen's question about the parking and Councilor McGee's question about the sign.

Councilor Wright moved and Councilor McGee seconded to affirm the Hearing Examiner's recommendation to approve the conditional use permit, with conditions. Passed unanimously.

**4. Hearing Examiner's Recommendation; Van Dam; PA 9112052.**

Sr. Planner Bennett explained the Hearing Examiner has recommended approval of a conditional use permit to construct a duplex on an 11,041 sq. ft. residentially zoned lot. He gave the location and noted the Hearing Examiner has set forth 7 conditions of approval and with no appeals having been filed, staff recommends affirming the Hearing Examiner's recommendation, he said.

Mayor Weiser asked about the street improvements and Sr. Planner Bennett noted that was covered under Condition 1.

Councilor Pedersen noted the location is on the west side rather than the east side of 74th.

Ben Van Dam, the applicant, 7108 55th Av. NE, addressed Council and made himself available for questions.

Councilor McGee moved and Councilor Myers seconded approval/acceptance of the Hearing Examiner's recommendation for approval of the conditional use permit, with 7 conditions. Passed unanimously.

**5. Utility Variance 91-10; Poeschel/Schultz.**

Public Works Director Zabell reviewed the request for a variance to allow water hookup without sewer to property outside RUSA. The property is located north of 188th St. NE, west of Hwy. 99 and the owners are currently pursuing a request to rezone the property from RU 20,000 to R-12,500 classification and the subdivision of the property into 21 lots, he said. He noted the applicant has been before Council on a previous occasion and was told to contact the City of Arlington with regard to Marysville providing water service. He referred to a letter from Terry Castle with regard to there being no objection to Marysville providing "interim" water service.

Pete Poeschel, 19203 Smokey Pt. Blvd., Arlington, addressed Council and asked about the Everett water transmission/Coordinated Water Act.



Public Works Director Zabell stated it would be effective 7/1/92.

Mr. Poeschel said he understood there are ongoing negotiations between Marysville and Arlington and noted that NORETEP (the applicant) has been caught in the middle; that Marysville has been kind enough to give them water but they are not within City limits. He said if it's planned to give that area to Arlington in the future, he pointed out that it does take a long time to get a plat in the county and they do need a commitment from Marysville. He added they had a meeting a week or so ago with the RUSA Committee and they said if the applicant got turned down the applicant might have to go to PUD and/or be a purveyor of water themselves. Mr. Poeschel stated the applicant does not want to have to be a water purveyor.

Public Works Director Zabell said one of the provisions in the Coordinated Water Plan is that if a property owner can't be provided water by the purveyor whose boundaries he is in, he must get a letter from Arlington, (which he has), saying they won't provide water to him.

Councilor Herman asked about the use of the word "interim" and City Attorney Weed explained that if at any time they find it inappropriate or inconvenient, they may have the right to relinquish the agreement but he said he is not particularly concerned, as long as Marysville is not having to pay something for the conversion.

Mayor Weiser asked if it might refer to the current negotiations between Marysville and Arlington and City Attorney Weed said that might be a possibility, too.

Councilor Herman asked about findings of fact if the variance is approved and Public Works Director Zabell noted there are four criteria listed in the packets; the applicant doesn't meet all four, however, some of the criteria may not be applicable now with the CWSP, he said. As far as the concern about it being "interim" he said the applicant will be paying \$1000 in capital improvement fees (to Marysville) and Arlington may wish to have this money paid into their fund also.

City Attorney Weed stated that it also needs to be made clear to the applicant that Marysville can't control what Arlington may do, for example, the second capital improvement fee.

Mr. Poeschel asked for clarification and Public Works Director Zabell said the capital improvement fee pays for maintenance on the reservoir, etc. and is assessed at \$1000 per lot to help mitigate impacts for connecting to the system. He added that Arlington may want to collect a capital improvement fee again if the applicant hooks up with them in a couple years, for example.

Mr. Poeschel said he is not worried about that at present, they just want to get water from Marysville at this time and will pay Arlington another fee, if necessary, in the future.

Mayor Weiser noted that Arlington just raised their water connection fee to \$1500.

Councilor Pedersen commented on the "granting of this utility variance not being inconsistent with long range plans" and there was further discussion and comments.

Public Works Director suggested an interlocal agreement may be drawn up between Marysville and Arlington if necessary regarding it being "interim".

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Councilor Wright commented on a letter in the packets from Arlington.

Councilor Myers moved to approve the variance based on exhibits in the record and findings that Marysville intends to grant the water hookup subject to any interlocal agreement that may be developed. Councilor Wright seconded the motion and it passed, with Councilor Leighan opposed.

**6. Model Land Capacity Analysis Project; Dan Flynn; Master Builders Assn.; Continued from April 6, 1992.**

Sr. Planner Bennett referenced a handout and noted that he had met with Dan Flynn regarding the logistics and concern about City autonomy of administration and use of funds. He talked about the "RFP" process, having an independent consultant work for the City, utilizing temporary staff/summer staff, having a technical advisory committee with the City to report to the DCD. He noted there would be certain assumptions developed for the next 20 years and the City could work autonomously on a work program developed, following criteria of the DCD. He said he would like to involve the city attorney in the developing of an agreement.

Councilor Pedersen said she is concerned about duplication of effort, eg. taking in \$10-15,000 and spending \$25,000 on something that the City basically already has.

Sr. Planner Bennett stated that regarding the RFP he wanted to have the option of looking at other consultants so as not to look biased. As far as updating the land use inventory, it's not as complete as the City would like it to be at this point, he said and noted the City also needs to document the process as well as needing to look at a larger area in total, the Urban Growth Area, for example. He added that we have to go through a lot of the same steps but it's "fine tuning" and a lot of the work can be done by taking advantage of a summer intern and it can be done by fall, he said. He pointed out that the City would do what they can with the funds available and with Marysville being one of the first communities requesting funds (and could in fact, possibly give some back), we would serve as a central point between the consultant and a summer intern and save money.

Councilor Herman asked if Sr. Planner Bennett had asked Master Builders about this proposal and how it might build from what we already have and Sr. Planner Bennett said yes, in terms of land use analysis and they suggested the need for commercial inventory and information, for example. They see the need for fine tuning and are going to give the City a general idea on cost, also, he said.

Councilor Herman asked if this means a possible budget proposal and Sr. Planner Bennett said yes.

Councilor Herman asked how this relates to progress on the Comprehensive Land Use Plan and Sr. Planner Bennett said he went over this with Mr. Flynn to make sure they are comfortable with this and the City needs a land use and housing inventory for which this funding could be used in compliance with the GMA and this would be of benefit toward the Comp Plan Update also, he said. He added that this would also justify any action we took under the GMA; we need the documentation anyway and he said he doesn't see this as "reinventing the wheel." He said he would provide a status report in 30 days.

Councilor Pedersen said she would like to see included in the

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status report further information about summer interns, how many we need, etc.

Councilor Herman suggested information in the status report also about budget, autonomy, certain and non-certain funding, greater detail of the outline.

Sr. Planner Bennett to report back in 30 days.

NEW BUSINESS:

**1. Request for Deferment of LID Payments; Irene Holman.**

City Attorney Weed explained Mrs. Holman's assessments are in excess of 2 years in delinquency and the City has the right to foreclosure, however, according to her letter dated 4/7/92 in the packets, there have been several hardships and Mrs. Holman is asking for deferral for 5 years, however, City Attorney Weed said he recommended a deferment of 13 months to 5/1/93 giving a 30 day grace period so there is some flexibility at that time.

Bruce Bell, Attorney for Mrs. Holman, 2930 Wetmore, addressed Council and cited RCWs relating to the matter. He noted there is a 10 year statute of limitation on this matter and if deferment is allowed, it must be added to the 10 years; they are requesting 5 years and are not requesting abatement, he pointed out. He referred to Mrs. Holman's letter and explained that she got caught in the sewer moratorium and they would want a minimum of 2-3 years to get through the regulatory process. She also requires a purchaser to go through the process and she is dealing with the Marysville School District, he said and due to her financial situation and the length of the process, they are asking for a minimum of 2-3 years deferment.

City Attorney Weed stated that in clarification of the deferment statute, state law does authorize cities to defer in cases where the LID ordinance specifically allows it in which case it would be allowed for an economic hardship.

Mayor Weiser asked if a 2-3 year deferment could be extended and City Attorney Weed said yes, tolling of the 10 years occurs and in terms of the appropriateness of the length of time, it could be zero to as many years as the Council wishes, but he said he is suggesting a reasonably short period of time with a possible extension after 13 months.

Councilor Pedersen asked if an LID runs with the land or the owner and City Attorney Weed explained it runs with the land.

Attorney Bell explained that if there was a pending sale, with the deferment running with the land, the deferment would depend on the purchasers.

City Attorney Weed said it should be worded so when Mrs. Holman sells the land, payment could pay off the delinquent LID.

Bud Darling, 1916 Grove, addressed Council and said he knows Mrs. Holman is doing everything she can; two plats to the north of her have changed things because of the wetlands issue; she has a lovely piece of property but not the means to maintain it at this time. The school has spent \$18,000--it's a problem that can be worked out, he said, he felt, with a little bit of time.

Councilor Herman asked about provisions in the LID ordinance and City Attorney Weed said if there is a specific provision for

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economic hardship that can be used as a basis for deferral; the City has general authority to defer, he said.

Mayor Weiser asked about postponing this until the sensitive ordinance has been completed.

City Attorney Weed said Mrs. Holman needs to have something specific timewise but postponing is an option as well.

Councilor Herman asked if a deferment is granted if there would be interest accrual and City Attorney Weed said yes, interest plus penalties continue to accrue during the period of deferral.

Councilor Pederson inquired as to the process by which one would prove they have economic hardship, whether it would be by a letter to the City and City Attorney Weed said it would be.

Councilor Herman asked about other deferrals in the past and City Attorney Weed reported Council granted Mr. Vermullen a deferment from 8/91 to 1/92 and Mr. Leifer a one year deferral. He said those are the only two that Phil is aware of.

Councilor Herman stated he would support a motion to grant deferment to 5/1/93 with a 30 day grace period with the potential of foreclosure not being effective until 6/1/93.

Councilor Pedersen asked about the time line for the sensitive area ordinance and Sr. Planner Bennett stated the Planning Commission is holding a public hearing on 4/21 with a 30 to 45 day SEPA process, so it will be about the beginning of June before it comes before City Council, he said.

Mayor Weiser suggested possibly a 25 month deferment.

Councilor Herman moved to grant deferment to 5/1/93 with a 30 day grace period with the potential of foreclosure not being effective until 6/1/93; Councilor Myers seconded.

City Attorney Weed clarified that the intent was for the deferral to be for Mrs. Holman, not to run with the land. The motion passed unanimously.

#### ORDINANCES & RESOLUTIONS:

##### **1. Resolution Amending the Personnel Rules Relating to Compensatory Time.**

City Administrator Garner explained anybody can accrue Comp Time at this point and if it can't be used, it's released back to the City except for 40 hours. The resolution, he explained, would allow:

- 100 hours or more to be converted to administrative leave and given time towards leave;
- from 16 to 32 hours can be allowed at any one time;
- it can be used at either end of an employee's vacation but not at both ends.

City Attorney Weed noted that one other key element is administrative leave is not cashed out when the employee leaves the City, which is a significant part of the proposal.

Councilor Pedersen asked about the resolution being retroactive.

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City Administrator Garner said no, it would be effective when the Mayor signs the resolution.

Councilor Pedersen asked about guidelines for overtime vs. comp time, eg. abuse and City Administrator Garner stated there is dept. head approval and with overtime you have to work within the budget. He added that with exempt personnel, you would have to check with your dept. head before working overtime, also.

Councilor Pedersen pointed out that with retreats, for example, it might be possible to look at cutting back so staff is not required all day long, just when their portion is being presented and City Administrator Garner agreed, noting that historically the ones who accumulate the most comp time have been Jim Ballew, Sue Jensen, Steve Bennett, Dave Zabell.

Councilor Herman asked about the possibility of allowing overtime to be paid for comp time and City Administrator Garner responded that the City has never done that.

City Attorney Weed noted the FLSA regulations don't require any policy for comp time for exempt employees; that's at the City's discretion.

Councilor Pedersen commented on the accumulation of a lot of comp time and budget concerns and discussion followed regarding staff need, attendance at City Council meetings, presentations, retreats, other staff time.

Councilor McGee moved that Resolution #1534 be adopted/approved and Councilor Leighan seconded. The motion passed unanimously.

**2. Resolution Stating the City's Intention to Annex Certain Unincorporated Area into the City Known as the Forest Park Realty Property and Transmitting the Matter to the Snohomish County Boundary Review Board for Approval.**

Councilor Wright moved and Councilor Myers seconded that Resolution #1535 be adopted/approved. Motion passed with Councilor Leighan in opposition.

**3. Resolution Affirming the Hearing Examiner Decision Granting a Conditional Use Permit for the Jubie Property.**

Councilor McGee moved and Councilor Pedersen seconded that Resolution #1536 be adopted/approved. Passed unanimously.

**4. Resolution Stating the City's Intention to Annex Certain Unincorporated Area into the City Known as the Johnson Property and Transmitting the Matter to the Snohomish County Boundary Review Board for Approval.**

Councilor Pedersen moved and Councilor Myers seconded that Resolution #1537 be adopted/approved.

City Attorney Weed noted this annexation was for 6 acres which came before City Council last October, however a resolution wasn't prepared at the time and it is being followed up at this time. He added that the property owners had not complained and there is no specific time period in which the City has to submit it to the Boundary Review Board; it's a single property owner, with no opposition to annexation. This is merely affirmation of action already taken, he said.

The motion passed unanimously.

**5. Quil Ceda Annexation Report.**

Public Works Director Zabell reported that the Boundary Review Bd. has proposed alternate boundaries; he placed maps on the wall.

Sr. Planner Benett stated the county is proposing a reduced boundary for the Quil Ceda Annexation with the Northwest Annexation noted on the map also. He stated the county is requesting the reduction (up to 104th on the north, eg.) based on boundary criteria

Mayor Weiser stated the Boundary Review Board approved the RUSA boundary in 1982 and he pointed out that the annexation would be all infill, so he doesn't understand them saying the boundaries are not logical now.

City Attorney Weed stated there are some separate issues in the interlocal agreement and Public Works Director Zabell pointed out they want 26B to be imposed in that annexation area, with regard to protection of the creek and mitigation fees. He added that there are a number of projects in Service Area B, however this annexation wouldn't have to contribute to any, but there are a number of other issues involved and this is just information; Council doesn't have to accept their motion, he said.

There was discussion about it being 80% developed, ownership of property, boundary changes, etc.

LEGAL MATTERS

**1. Employment Contract - Don Shaw.**

City Attorney Weed explained the effective date needs to be revised to 5/1/92 in order not to be retroactive on the golf cart rental agreement.

Discussion followed about this time frame being hard to negotiate (5/1/92 to 5/1/93), recommendation of 5/1 to 12/31, amendment could be made with 60 days notice, cart rental, retroactivity of contract.

Councilor Pedersen moved and Councilor Herman seconded to change the term to 5/1/92 to 12/31/92 to conform with the normal expiration of the contract. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSION: 9:55 PM

**1. Real Estate (2 items). No action.**

RECONVENED & ADJOURNED: 10:30 PM

Accepted this 27 day of April, 1992.

David Weiser  
 MAYOR

Phillip E. Dexter  
 CITY CLERK

Nanda A. Iverson  
 RECORDING SECRETARY