

00107

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING SEPTEMBER 14, 1992

CALL TO ORDER: Workshop: 6:00 p.m.

1. Recent Court Decisions re Land Use

RECONVENE: 7:00 p.m.

ROLL CALL: All present

MINUTES OF PREVIOUS MEETING: 9/8/92 Approved

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

AUDIENCE PARTICIPATION: Maryfest

PETITIONS & COMMUNICATIONS: None

PUBLIC HEARINGS:

1. Moose Lodge; PA 9204016 Approved

CONSENT AGENDA:

1. 8/92 Payroll Claims \$427,916.70 Approved

2. 9/14/92 Claims - \$937,409.57 Approved

3. Strawberry Lanes Liquor Lic.Change Approved

REVIEW BIDS: None

CURRENT BUSINESS:

1. Sensitive Areas Ordinance Review P.H. set for 10/12/92

NEW BUSINESS:

1. St.Vacation Request-Quil Ceda Auto PH set for 10/12/92

2. Util.Var.-Dujardin Development Approved

3. Reinstatement of Bldg.Inspector Position - Approved

4. WOB Enterprises, Final Plat Approval - Approved

5. Util. Var. - Henry Cook Approved

6. Modification of Library Mtg.Rm. Approved

ORDINANCES & RESOLUTIONS:

1. Ord. annexing Aldridge/Fay/Light Property Ordinance 1905 Approved

2. Ord. annexing Aldridge Property Ordinance 1906 Approved

3. Ord. affirming H.E. decision to Rezone Belmark Prop.(Gronning Est.) Ordinance 1907 Approved

4. Ord. affirming H.E. decision to Rezone Centex Homes/Parkview Est. Prop., BSP, Prelim.Plat Revision Ordinance 1908 Approved

5. Ord. affirming H.E. decision - Zoning of Cedarcrest Place Ordinance 1909 Approved

6. Res. granting Util.Var. Brenmar Builders Resolution 1574 Approved

7. Res. affirming H.E. decision to grant C.U.P. for Golf Driving Range Resolution 1575 Approved

8. Res. affirming H.E. decision to deny fence var. - Northward Const. Resolution 1576 Approved

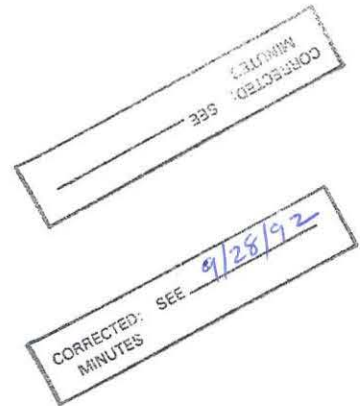
9. Res. affirming H.E. decision to approve Nyblod Shoreline Substantial Development Permit Resolution 1577 Approved

10. Res. stating intention to annex Martin/Wall Prop. & Sending to BRB Resolution 1578 Approved

LEGAL MATTERS:

1. Northwest Annexation Public Hrg. set 9/28/92

ADJOURNMENT: Midnight



MARYSVILLE CITY COUNCIL MINUTES

SEPTEMBER 14, 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
Administrative Staff:
 John Garner, City Administrator
 Grant Weed, City Attorney
 Steve Wilson, Finance Director
 Gloria Hirashima, Planning Director
 Eric Thompson, Associate Planner
 Lucy Sloman, Planning Consultant
 Dave Zabell, Public Works Director
 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 Wilson called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETING:

Councilor Wright noted in the 9/8/92 minutes on page 4, in the 4th paragraph, the "firefighter school" should be named: "Washington State Fire Fighter Academy".

Councilor Pedersen referenced page 10, 7th paragraph beginning "Nelson Betty". She asked that a period be placed in the first sentence after "Hearing Examiner", deleting the word "and" after that and beginning a second sentence, "Centex is trying....."

Councilor Herman referred to page 4, 5th paragraph and asked that rather than suggesting the social services submit their requests, he asked that this be corrected to reflect the City should be setting a budget item for social services. He also noted that "Sarie Creidman" should be "Sarri Kreisman" on page 4 and 5. On page 8 in the 3rd full paragraph, he stated he believed the 10 acres in the southwest corner was designated with a higher density residential designation but the problem was which of the three designations applied to which area. On page 14, in the first paragraph, fifth line, "produce" should be "product".

There being no further corrections, Councilor McGee moved and Councilor Myers seconded to approve the minutes of the 9/8/92 meeting as corrected. Passed unanimously.

STAFF BUSINESS:

Finance Director Wilson announced that the City has received the \$140,000 Boeing mitigation funds, to be used for the traffic signal at 92nd & State. He noted tomorrow is the Solid Waste Committee meeting and he has received estimated rates from contractors for garbage pickup.

City Administrator Garner reminded Council of the Towns & Cities meeting 9/24 and Sat. 9/26 is the Council workshop. He stated 14

applications have been sent out for Public Works Director, which indicates a strong interest in that opening. He asked Council to review the information provided with regard to improvements to 529 and other areas that will impact Marysville.

City Attorney Weed said the Bond Counsel has sent a note that regarding the Library issue, if the proposition fails Tuesday, City Council will have to have a special meeting and/or take formal action.

Public Works Director Zabell reported that the Outfall/Diffuser work of the WWTF project was completed Friday with testing taking place now.

MAYOR'S BUSINESS:

Mayor Weiser appointed two members of Council to sit on the Budget Committee: Councilors Pedersen and Myers. He stated the first Budget Committee meeting will be 4 p.m. 10/8/92.

Mayor Weiser gave a synopsis of this past weekend's Snohomish County Tomorrow Steering Committee Retreat. He explained that various mayors, council people and staff discussed and adopted about 40 issues/policies that were contained in the countywide draft. He noted the policies have to be consistent with the countywide comprehensive plan.

CALL ON COUNCILMEMBERS:

Councilor Leighan reported on the recent Parks & Recreation meeting he attended which was a Brookwood Park meeting/hearing also. He said the meeting went well, he thought. He referred to a proposal he had about a Citizens Service Award which he said he would like to see for people who make a difference in the community, to be given recognition. He said he would like to see nominations from citizens, City Council, etc.

There was discussion about how this will highlight community service and what's going on, that some criteria need to be developed, setting up a committee and choosing someone once a month, depending on interest, getting Roger Kelley involved. It was decided that the three Councilors interested (Councilors Myers, Wright and Leighan) would form a committee and report back.

Councilor Pedersen said she would like a report, perhaps at the next Council meeting, on the adopt-a-street program. She asked about cleaning a fast food restaurant parking lot with a hose rather than a broom (someone had reported this to her).

Public Works Director Zabell said MMC doesn't allow washing down of driveways, sidewalks or parking lots however they may wash immediately around the dumpster. He said he would get in touch with Jack in the Box.

Councilor Myers commented on the efforts put forth by the City Street Dept. doing necessary patching lately.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Roger Burton and Leah Crombie made a short presentation on behalf of Maryfest, thanking the City for their support and looking forward to next year. They said last years festival was the best ever and they presented the City with a framed poster celebrating 60 years of Strawberry festivals. They also showed off a couple trophies the float won and stated that they appreciate Councilor Leighan serving on their board.

PUBLIC HEARING:

1. Moose Lodge; PA 9204016.

Mayor Weiser reviewed the procedure to be followed, including time limits and swearing in of those giving testimony. He asked if there were any challenges of Council and there was no response.

City Attorney Weed administered the oath to those wishing to testify.

Planning Director Hirashima reviewed the agenda bill, noting the Hearing Examiner has recommended approval of a shoreline management permit and conditional use permit to construct an 8854 sq. ft. building with associated parking, for the use as the new Moose Lodge #1845 in the RS 7200 zone. She explained the Hearing Examiner has recommended approval with 15 conditions to address noise and traffic issues that came up during the hearing. Other concerns were the flood hazard zone location, Allen Creek and the 25' foot setback, she said, adding that staff is recommending the City Council make a decision to approve or deny based on public testimony and consideration of available information. She noted that Cherry Beard sent a four page letter including petition from property owners and would like her to be given the chance to read that into the record as it was received too late to be included in the packets. Ms. Beard has some concerns regarding safety and whether or not the facility is an asset to the neighborhood, she stated. She said they have also received a petition from the proponents including statements from the neighbors in favor of the Moose Lodge in their neighborhood.

Mayor Weiser asked about the conditional use matrix and Planning Director Hirashima explained this is classed as a fraternal organization.

Councilor Pedersen asked about the parking stalls and Planning Director Hirashima stated they currently have 72, modified from 75 originally.

Councilor Pedersen asked about the Public Works Director's recommendations, referred to by the Hearing Examiner, dated 5/20/92, items 3, 4 and 5 and whether these three conditions satisfied.

Planning Director Hirashima read the 3 conditions from the Public Works Director's memo, regarding road drop off, turn lanes and sight distance. With regard to the parking stalls, she said there are 62 regular, 2 handicap and 8 compact stalls.

Councilor Wright noted that CT had made 2 requests and Planning Director Hirashima said this is standard information CT wishes passed along to neighbors regarding bus schedules, mainly; they are not proposing a bus stop or turn in lane in front of the proposed building. She added that the Hearing Examiner also stated that he didn't believe the lodge should be required to provide transit and rideshare information as requested by CT but they could do so on a voluntary basis.

Councilor Pedersen asked about the parking requirements again and Planning Director Hirashima stated stall requirements are typically 9'x 16-18' but the City has no standard and so we use surrounding industry standards--9'x 18' is basically a maximum, she said. She added there's different ways of measuring parking stalls.

Councilor Herman noted that he is on the CT Board of Directors but he was not challenged for remaining in the Public Hearing.

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Laurey Tobiason, McArdle & Murray, 2917 Pacific, Everett 98201, representing the applicants, addressed Council. He noted that other consultants involved in this project were Roberts Land Surveying, Gibson Traffic Consulting and Cedar Design. He showed the plan on the board and noted SR 528, Allen Creek, the wetlands and greenbelt buffer as well as the project's relationship to Sunnyside. He noted the only side there is residential dwelling units on is the west side and they have placed the proposed Moose Lodge building as close to the center of the property as possible in order to allow the least impact to the residences. He described the various elevations used, typical residential siding and roofing, landscaping on site plus a solid wood fence on the west side of the property. He said they have received a recommendation from the hearing examiner for approval with 15 conditions and with this being a binding site plan, it is a very concise package which also gives the City a good deal of protection. He said he knows the neighbors have a concern about traffic but Roberts surveyed and analyzed the sight distance and intersection impact was analyzed by Gibson Traffic Consultants, with the result that it was found that a traffic signal is not needed nor is there a significant increase in traffic that would result in a lower level of service. With regard to noise and rowdy behavior concerns, this has been dealt with under the hearing examiner's conditions, he pointed out and the Moose Lodge is willing to comply in every respect. He noted that upon checking with the Marysville Police Dept., who keep records going back 5 years, they have a record of one fight in 5 years, nothing else in the way of complaints. He noted 20 out of 25 petitioners on the petition they took are in favor of the Moose Lodge going in at this location and are not even members of the lodge. He noted there is one condition that they take exception to and it's #1-- participation in the TIPS. He said they believe the hearing examiner is mistaken by requiring participation as the current building is to be demolished with the building of the new project and therefore there is no net new additional traffic. He added their parking exceeds current Snohomish County/Marysville parking requirements for size of stalls, also.

Councilor Herman noted there was a change in the street frontage improvements with regard to the wetlands frontage and Mr. Tobiason said in order to fill wetlands and do street improvements, the City would have to have a permit. Also, it's possible the Dept. of Fisheries would actually require a bridge, he said; these improvements would be done at a later date on a participatory basis with other projects in the immediate area.

Hank Brown, 13527 19th Av. NE, addressed Council in favor of the project. He stated some of the Moose members have serviced this community year in and year out, by contributing time and money toward the DARE program, etc. and are not a political organization. They have 1000 paid up members and are a good neighbor, he said and pointed out that when they first moved in to Marysville they were surrounded by houses, they have all moved and now the Moose has to move, too, he said. This is not a community of mills and large manufacturing companies, he noted, where there are a lot of vacant buildings to choose from for the Moose to move to--it's basically a bedroom community and resources for a large building are limited. He said they have committed half a million dollars to building a new lodge in Marysville, one that will fit the community, it's going to be a very beautiful building and they plan to be here for a long time, he said. He noted the Moose is an international organization, they just won the state softball championship and have a lot of shirts and jackets running around with Marysville on the back! He concluded they care about the community and care about the neighbors' concerns.

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Councilor Pedersen asked about their regular lodge meetings and how many usually attend. Mr. Brown said 21 at the most attend the regular meetings out of a membership of 1000.

Councilor Pedersen asked about their large social events and Mr. Brown explained that one event they have every year is the special dinner for senior citizens for Thanksgiving, they do it in shifts of 200 dinners at a time and the Moose members go and get all the seniors and bring them back to the Lodge for dinner.

Gary Arne, 2407 Martin Rd., Mount Vernon, addressed Council, noting there are a lot of misconceptions about the Moose Lodge. He noted internationally, they have 2.5 million members, there are 42 lodges in Washington and most of them are in single family residential communities. In order to maintain the Moose charter, they are required to do community services such as the Adopt-a-Highway program, Say No to Drugs Program, the Thanksgiving Dinner, etc. and he said a lot of people don't understand who the Moose is. He concluded that perhaps the Moose doesn't tell enough people what they do but they are a very positive organization, over 1000 members strong in Marysville.

Cherry Beard, representing the neighbors against the proposal, addressed Council. She read a letter/prepared statement, reviewing the Moose Lodge's request, what the Moose Lodge is, surrounding zoning, lack of appropriate notification to residents. She explained she and her neighbors did a survey of a 3 block area and in answer to the question as to whether or not the lodge should be built in the proposed location, 81.6% said no, 13.6% had no opinion and 4.5% said yes, she said. She stated there were many comments concerning building of the lodge in a residential area, traffic concerns, parking concerns. For example, last year on New Year's Eve and the Moose's Reno Night there were 76 vehicles and 78 vehicles in their parking lot, respectively, which is more than their proposed parking lot will hold, she pointed out. She noted other concerns are the fact that people feel there is definitely going to be an increase in traffic on 3rd St. even though the Gibson data doesn't support this.

Ms. Beard explained the neighbors did their own traffic count, mid-week, between 5 & 7 p.m. on 8/28/92 and there were 931 vehicles on 3rd St. in front of the proposed site and according to their calculations, this would mean the Moose Lodge would increase the present traffic by 8%, she said. She noted also that this lodge would be for the benefit of a small number of people, .02% of the City population, which is certainly not the community at large. She said she took exception to Mr. Tobiason's trying to say the Moose is trying to lessen impacts to the residents in the area and repeated the results of the survey: 81.6% against the Moose Lodge going in in this location, 13.6% no opinion and 4.5% in favor. She reiterated that traffic, parking and appropriateness of the location are the major concerns. Also, the number of parking spaces does not come up to the number of vehicles at previous large functions and room for expansion is severely limited, she said. She said the surrounding neighborhood should be considered and noted some of the people in the neighborhood include foster families, young families, retired people. She asked what the property would be used for should the lodge move and she read some of the comments off the survey forms, such as: "The use of the lodge would benefit members only," "Traffic and parking are concerns, as well as appropriateness of location, alcohol around children." She said one man suggested putting an access from 4th St. vs 3rd St. and she explained how the opinion survey was done. It was done door to door with the form and they asked if they were a member of the Moose Lodge or in any other

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fraternal organization and whether they feel the Moose Lodge should be built at the proposed site. She said they requested documentation from the City and did not get it until the last week of August so their time was limited to gather information for tonight. She said another question is what would happen if they increase their membership and/or outgrow the present facility. She said they are not questioning the Moose Lodge's long standing reputation of working with the community, DARE programs, etc., they are questing the location. She said they would also question the proponents' survey--the specific area they surveyed because her neighbors concentrated on the immediate area surrounding the proposed Moose Lodge site. She reiterated that they feel there is a traffic problem already and the 27 or 29 people they surveyed tended to agree, she said.

Councilor Herman asked specifically where they surveyed and Ms. Beard said to the east and on the corner of 47th & 3rd and up Sunnyside.

Steve Spoor, 4811 61st St. NE, addressed Council and stated he is a resident adjacent to the proposed site. He said he has concerns about parking, traffic, the Moose's growing membership. He said approx. 4 years ago, 528 was built to relieve traffic and now they are adding more traffic. Mr. Spoor claimed to have nothing against the Moose Lodge but his neighbor is also concerned about the drinking (he has 3 children) and would not have purchased his house if the Moose Lodge had already been located there, he said. He concluded their concerns are about traffic, parking and noise.

Allen Higley, 4904 61st Pl. NE, addressed Council and said there is one lot between his house and the duplexes being built so the Higley driveway will be right across from the Moose Lodge driveway. He noted the MPD use the Higley driveway all the time for monitoring passing vehicles' speed. He said he has the same problems/concerns as already mentioned--traffic, congestion, parking; there's a lot of places they can build, he said, and is against this location for the Moose.

Mr. Tobiason readdressed the Council and said this seems to have turned into a "battle of the surveys." With regard to the benefits to the community, he said the Moose will benefit the whole community, not just its members. This area is largely a vacant area, he pointed out, it's not an established single family residential area as the neighbors seem to want the Council to believe. There are commercial uses to the west, for example, in addition to the single family uses, he said and with regard to parking, it's not necessary to design the Moose parking around one or two nights a year, he said. If they overflow once or twice a year, that is acceptable, he believes, he said. He said with regard to the 8% increase in traffic Ms. Beard is talking about, their figures are based on the biggest night of the year for the Moose and it's closer to a 1% increase that the Moose will produce. Regarding the change of use, he said the size of the Moose Lodge has been constant over the last 22 years and if there were a major change, of course they would have to apply for a conditional use permit again.

Mayor Weiser asked about the Moose's budget for upkeep and maintenance of the building and Mr. Tobiason said he didn't know what it would be.

Councilor Herman asked about the membership being constant and if the proposed facility anticipates a growth compared to the old facility. Mr. Tobiason said this building is approximately the same size as the old one.

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Councilor Herman asked about the increase in traffic - one survey saying 8%, the other saying 1%.

Mr. Tobiason explained that Gibson Traffic Consultants are professional traffic consultants and they study shows substantially no impact to the street that would cause a level of service deficiency.

Councilor Baxter asked about the placement of the duplexes in relation to the proposed Moose Lodge and Mr. Tobiason pointed them out on the site plan.

There being no further public testimony, the public hearing was closed at 8:40 p.m.

Councilor Herman asked if the Moose Lodge activity ceases and a new use there other than single family is proposed, if that would require a new conditional use permit. Planning Director Hirashima explained the conditional use permit would be specific to a fraternal organization, not just the Moose Lodge and if that use ceased, it would require another C.U.P., yes.

Councilor Leighan referred to the traffic analysts findings in the packets regarding 528 and 529 and Mayor Weiser asked about parking regulations on 3rd St. Public Works Director Zabell said it is not prohibited.

Councilor Baxter said he doesn't agree with hours of closing at 10:00 p.m. 5 days a week and 12:00 Fri. & Sat. nights. He said he thinks in a residential area it should be 10:00 7 days a week as far as amplified music. Also, he asked about the equipment stored in the residential area. (Someone in the audience admitted the equipment is still there.)

Mayor Weiser noted that if you want to reduce the Moose Lodge noise, perhaps the City should also consider limiting the boom boxes that go driving around all over.

Councilor Pedersen pointed out that the proposal is a permitted use for the area, the bottom line is compatibility with the neighborhood.

Mayor Weiser suggested considering no parking on 3rd along the shoulders and Public Works Director Zabell referred to #10 of the Hearing Examiner recommendations, noting that provides for no parking between the driveways, also.

Councilor Herman said he was wondering about sight distance problems with parking and Public Works Director Zabell said he could check into this further to be sure.

Councilor Pedersen asked about the minimum of 200 sq. ft. for a parking stall and if the number of compact stalls could be increased in the proposed parking lot.

Planning Director Hirashima said she believes the minimum requirements are met and that there is no set ratio of compact stalls to regular stalls, so increasing the number of compact stalls is a possibility. It was noted that the MMC was developed for bigger cars, too. The standard regular stall is 9.5' x 21' and 7.5' x 17.5' for compacts, she said.

Councilor Leighan asked about the storm drain retention system and Public Works Director Zabell stated the applicant has not submitted a plan as yet other than a dispersion trench, biofil-

tered swale, onsite vault (probably). He said the storm water retention is about 150' from the center of the creek and they are providing a 25' buffer as required as well as wetland delineation.

Results of the two surveys were briefly discussed and it was noted approximately 23 were in favor and 27 against, overall, considering both surveys.

Councilor Baxter moved to affirm the hearing examiner's approval recommendation for a conditional use permit and shoreline development/management permit, with the recommendation of changing of hours. There was no second at this time.

Councilor Herman said he thinks the issue is not so much the hours as the compatibility with the neighbors and unfortunately, Marysville doesn't have a noise ordinance at this time.

Councilor Pedersen said there are some options available to the neighbors if this is not a compatible neighbor and the City just went through that process.

Councilor Leighan commented on the noise staying within the building, possibly with a stipulation of "if the noise could be heard outside the building....."

Councilor Pedersen noted this is good to keep in mind for when we do put together a noise ordinance. She asked about teenagers in the parking lot making noise--wouldn't that reflect on the Moose?

Councilor Baxter agreed that's already a problem and separate from this issue, however. Councilor Herman pointed out there is opportunity to readdress that issue.

City Attorney Weed stated that whether or not the Council opts to adopt a noise ordinance, you can revisit this ordinance if a public nuisance occurs, even without a noise ordinance.

Councilor Pedersen asked if music is allowed til midnight and that creates a problem, what would the neighbors have as a recourse and City Attorney Weed said the Council could then have a public hearing and modify the conditional use permit.

Councilor Pedersen seconded Councilor Baxter's motion.

Planning Director Hirashima pointed out a typo in the Hearing Examiner's condition #1, page 5, noting he references participation in 3 TIPS and it should be participation in TIPS 2 & 3 only.

Councilor Herman said he sees this as sending a message to the Moose to be a good neighbor.

A roll call vote revealed all in favor with the exception of Councilor Herman who stated he voted against because of a technicality. The motion passed 6-1.

Public Works Director Zabell stated he would follow up on the 3rd St. parking situation/regulations.

CONSENT AGENDA:

1. 8/92 Payroll Claims in the amount of \$427,916.70.
2. 9/14/92 Claims in the Amount of \$937,409.57.

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

CORRECTED: SEE 9/28/92
MINUTES

Leighan abstained from voting on voucher #12926.)

3. Approval of Liquor License Change for Strawberry Lanes from a Class A to a Class H License.

Councilor Baxter moved and Councilor Myers seconded to approve Consent Agenda Item #3. Passed unanimously.

REVIEW BIDS: None.

NEW BUSINESS:

1. Street Vacation Request; Quil Ceda Auto Wrecking; Rich & Chuck Warbus; PA 9208038.

Planning Director Hirashima explained the applicant is under pressure from their insurance agent to replace the existing structure and would like to modify the (office) building. She stated they have been annexed into Marysville but still are a non-conforming use. They have applied to vacate a portion of their property however, there fence is currently in the right of way and it was found that they never vacated the portion of the highway when it was changed from Old Pacific Highway. She stated Hammond, Collier & Wade have recommended that Quil Ceda Auto Wrecking enter into a right of way agreement with the City. In view of these factors, she said staff is requesting a public hearing and she noted that a determination was made by Snohomish County Public Works several years ago which said they had allowed sufficient right of way for their proposal on Smokey Pt. Blvd.

Public Works Director Zabell added that staff wants to review the county's plans as well as Transpo plans as to what can be vacated and staff wants to make sure there is enough right of way for future widening. This will take approx. 3-4 wks., he said. He added that the applicant's fence is in City right of way at this point in time.

Councilor Wright moved to set a public hearing for 10/12/92 and Councilor Leighan seconded. Passed unanimously.

2. Utility Variance; Dujardin Development; UV 92-11.

Public Works Director Zabell explained this is a 42 lot plat on PUD water; the variance is to allow Marysville sewer service to a plat with PUD water service. He said this was part of the South-west Annexation but was eliminated by the BRB, approximately a year and a half ago. He referred to the applicant's letter in the packets and said they would be required to sign a no protest agreement. He noted Rick McArdle represents the applicant and is available for questions.

Councilor Leighan commented on an agreement with PUD and Mayor Weiser asked about contiguous property annexations.

City Attorney Weed said with an island, surrounded by property within City limits, if it's surrounded by 80% of property within City limits, it would compel annexation.

Councilor Pedersen pointed out they had attempted to be in the City limits but didn't quite make it and asked if there are going to be others in the same situation.

Planning Director Hirashima noted there is an annexation proposal pending for Eastwood Hills II, which is contiguous to the Dujardin property. There was brief discussion about annexation policies.

Rick McArdle, 2917 Pacific, addressed Council and gave some history about the Southwest Annexation. He stated there has been a recent agreement with the PUD to serve this area with water and for the first time, as he understands it, there are areas that will be served by PUD water and Marysville sewer, within the RUSA boundaries, especially within this particular area, he said. He added it was suggested a non-protest agreement be signed and the applicant has no problem with that. Also, he said he believes there is a requirement to file a petition for annexation and they have no objection to that, either. Eastwood Hills may include this property, he pointed out and said they also have the issue of applying to the county if they can't get the sewer from Marysville and an annexation petition is another issue, causing more delays, unfortunately.

Councilor Baxter commented on the notification of new property owners, having the non-protest agreement signed by the developer and recorded.

Councilor Pedersen asked about the intentions of the owner and Mr. McArdle read the code, noting the applicant has a year to file an annexation petition. He said they can bring in an annexation petition immediately after the plat is recorded for 42 lots, they have no objection to this but don't want to run into processing problems with the county. He pointed out that the City has the hammer for the utility commitment.

Councilor Baxter pointed out that someone has to follow up on that.

City Attorney Weed said he would recommend submittal of the petition being a condition of approval, being received by a certain time and probably the Public Works Dept. would be the best checks and balances method for a time frame.

Councilor Baxter said he doesn't want this to slip through the cracks.

Mayor Weiser asked if there was any objection by the applicant to both an annexation petition and non-protest covenants and Mr. McArdle said no, they have no objection to that.

Councilor Baxter pointed out that it would be most advisable to avoid the problem the City just went through with Indian Creek Estates with the non-protest covenants being declared invalid.

Mr. McArdle said they are asking for a break on the timing while the annexation is pending.

Carolyn Keith, 7402 68th Av. NE, addressed Council, stating her father is 2/3 owner of the property. She said this is his retirement and he now has a progressive debilitating disease and would like to get on with this while he is able to. He is willing to sign a non-protest agreement or whatever it takes for this variance to be granted, she said (tearfully).

Councilor Baxter asked about changing the wording and City Attorney Weed pointed out that our ordinance states Marysville will not grant sewer unless served by Marysville water and granting this variance may create a precedent but on the other hand, there was an ordinance about a year ago that denied this type of variance, he said.

Councilor Baxter stated the City was aware that this would happen when the agreement with PUD was signed.

Councilor Baxter moved and Councilor McGee seconded to grant the variance subject to the condition that the applicant sign a non-protest agreement as well as an annexation petition upon final plat approval, subject to the findings of fact and memo in the packets. It was also noted for the record and as a finding, that annexation of this plat was previously attempted and the plat has a unique situation. The motion passed unanimously.

Councilor Baxter commented on the many delays this plat has undergone what with the sewer moratorium, annexation hearings, Boundary Review Board changes, etc.

3. Request to Reinstate Building Inspector Position.

Planning Director Hirashima referred to the agenda bill, noting the Planning Dept. has already exceeded year end anticipated revenues by July 1992 and the number of building permits from Jan. through June 1992 is twice that of the same period last year. She noted the Council approved a temporary certified building inspector last May and recommended reevaluation of the position after 4 mos. Since that time, she noted Harry Britton resigned and John Dorcas was hired as the new Building Official. She explained the difficulty of hiring a temporary building inspector and gave some history, noting the Planning Dept. has a need for two full time positions at this time, now that the sewer moratorium is off, for one thing. She said a comparable worth study was done for both Building Inspector and Building Official which established the Building Inspector at Grade IX (this position is presently set at Grade VI through 1992).

Councilor Pedersen moved and Councilor Wright seconded to approve the Planning Dept. request to reinstate the Building Inspector at a Grade VI through 1992. Passed unanimously.

4. WOB Enterprises; Final Plat Approval; PA 9110043.

Planning Director Hirashima reviewed the agenda bill and documents in the packets, noting this is a 37 single family lot plat, applicant has paid mitigation fees and staff recommends the Mayor sign the mylar.

Councilor Wright moved and Councilor Leighan seconded approval of the final plat and authorized the Mayor to sign off on the mylar. Passed unanimously.

5. Utility Variance; Henry Cook; UV 92-12.

Public Works Director Zabell reviewed the agenda bill, noting it is not feasible for the Cooks to pay the frontage on both 83rd & 528. When asked for the dimensions of the property, he responded 1320' x 80'.

Councilor Baxter moved the variance be approved but there was no second to the motion.

By way of explanation, Public Works Director Zabell stated the pipeline on 528 was built 10 years prior to 528 and the frontage assessment is \$13.00 per foot on 528, only \$2.25 per foot on 83rd.

Councilor Herman said he would like further information regarding the square footage and frontage in order to arrive at a fair resolution.

Public Works Director Zabell noted there is a wider portion of the lot and said he would using that width for calculating frontage on

83rd. Discussion followed.

Councilor Leighan moved to continue the matter but there was no second to the motion.

Public Works Director Zabell noted this piece of property has a very unusual shape and in addition to the frontage fee, there is still a meter fee and connection fee to be paid. He said the property can only support one residence and the applicant is in somewhat of a desperate situation, with undrinkable water from the well at this point.

Councilor Myers moved to approve the variance, for the applicant to pay frontage on 83rd based on the widest point and to have to pay no frontage on 528. Councilor McGee seconded and the motion passed unanimously.

6. Partitioning Off 1/3 of Library Meeting Room to Create Staff Workspace and Storage Space.

City Administrator Garner explained the library's need for more workspace and reviewed the agenda bill. As this expense was not anticipated in the 1992 budget, he said he believed Growth Management Funds could be used for the \$2100 request. He said their group meetings at the library only run about 20 people at the most and so the partitioning would not negatively impact meetings.

Councilor Pedersen asked about removing the City Council desk and Councilor Baxter asked about removing the door. There was discussion about use of the rooms, whether or not a door is necessary, fire requirements, Edenholm donating \$200 worth of permits and permit drawings, the entryway changes, reading area.

Councilor Pedersen moved to approved the request/plan with the exception of the door removal, subject to availability of Growth Management Funds. Councilor Baxter seconded and the motion passed unanimously.

BREAK: 10:07 - 10:15 PM

CURRENT BUSINESS:

1. Sensitive Areas Ordinance Workshop.

Planning Director Hirashima explained that the Planning Commission took testimony from several sources, the original product was from a Snohomish County Tomorrow draft/model ordinance, funded by Growth Management funds. Marysville looked at a number of ordinances to formulate this version, she stated and currently, there is an appeal that was filed by the Marysville Community Action Network. Their concerns are the use of the 1987 versus 1989 manual, she said, to do with wetland/stream buffers. There were some questions by both the Planning Commission and City Council with regard to the wetland buffers at the joint meeting, 7/21/92, she noted (those minutes are in the packets). She said they are looking for direction from City Council--should there be 100' buffers, for example. It was noted that Lucy Sloman, Planning Consultant, is available for questions about the draft ordinance.

Councilor Herman commented on the identification of wetlands and the use of the two different manuals. He stated the 1989 manual is scientifically better and feels the City would be viewed as a more responsible authority if we use the 1989 manual.

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Councilor Wright said she believed more areas would be appropriate for the 1987 manual.

Ms. Sloman said it was about a 50/50 split between the two manuals as far as other jurisdictions who have drawn up their Sensitive Areas Ordinance.

Councilor Wright said she noted throughout the draft ordinance the question of who would pay for monitoring, for example, and specifically, on page 8 under 2.2 B, she asked if the City would have to pay for a wetland determination/identification as defined by these regulations.

Planning Director Hirashima said she agreed with this question and said she thought annexation costs and the wetland study should also be included. Ms. Sloman stated there is no payment plan included in the draft ordinance/Growth Management Act for non-project action.

Councilor Herman referenced page 9, B-2 and Ms. Sloman said only Category IV wetlands would be exempt. She said "or wetland areas" may be deleted.

Councilor Wright questioned page 11, B-1, list of species and Ms. Sloman said the list is under the Fish & Wildlife and could be referenced here.

Page 12 - Buffer Widths - Discussion. Ms. Sloman said this represents a compromise based on Snohomish County Tomorrow, the Planning Commission and other input from Marysville Community Action Network, for example. Councilor Wright mentioned a maximum of a 50' buffer which she thought had been suggested.

Ms. Sloman said basically the DOE says less than 50' is totally ineffective and she read a passage from the DOE's review of literature.

Councilor Baxter said he had concerns about Category I - 100' buffer because this has very negative impacts on the Hayes property, for example. He noted some property would be held unusable so he asked how much the City is willing to pay for property that the owner can no longer use.

There was discussion about City property on the north shore of Ebey Slough, possibility of adding "the south shore of Ebey Slough" to be included within the 25' buffer width requirement, discussion about filling wetlands.

Planning Director Hirashima said she has a concern about neighboring property, up to the property line, and how that is treated.

Councilor Herman said he feels adjacent wetlands next to a filled wetland should be protected without rendering it unusable. He stated he would be in favor of including the south side of Ebey Slough within the 25' buffer width requirement.

Councilor Baxter explained that what happened with a lot of these wetlands is that with the breaking of the dikes and not getting repaired, this caused a wetland that previously did not exist.

Councilor Herman pointed out that the areas that are wetlands need to be protected, regardless of how they were formed.

Councilor Baxter pointed out that Ed Hayes has 10 acres of usable

filled wetlands and maybe the diking could be repaired for the other 80 acres for him. He said he feels the City needs to prevent ending up in a position of having to purchase the property because he knows there is a long record (paper trail) on this property.

Planning Director Hirashima commented that Ed Hayes has submitted a letter of application with regard to a high use project and so he is basically vested because it was submitted prior to the ordinance, she said. She added that 80 acres is designated wetlands under the 1987 or 1989 manual and whether he has a buffer or not, it's still wetland and it would depend on the Corps approval if he can get it filled for further development.

Mayor Weiser stated he would like to have this situation looked into further.

Councilor Wright said she thinks the buffer widths should be lower.

Ms. Sloman commented that out of 25 cities, there are only 3 or 4 less than 25' for Category IV.

It was noted on page 14, under H, there should be the word "and" added after numbers 1 & 2, with an appeal to the Hearing Examiner.

Public Works Director Zabell said on page 13 under F, under utility lines, he would also like to see public improvements included.

Councilor Herman suggested changing A, B & C to 1, 2 & 3 on page 16 under #4.

Councilor Leighan said he had a question on page 18 with regard to irrigation systems, fertilizer runoff, setting some kind of deadline, naming a jurisdiction to control/monitor.

Ms. Sloman said it would be appropriate to name a jurisdiction that would determine biological impacts on the wetland system and it would be appropriate to add language regarding fertilizer runoff, controlled release, for example and use of water soluble chemicals.

Under bonding requirements on page 23, Councilor Herman said he would suggest allowing more than 3 years. Ms. Sloman pointed out that on page 24 it references 3-5 growing seasons.

Councilor Herman explained he doesn't want to see money being released if the whole project/vegetation is dead in 3-1/2 years, for example.

Planning Director Hirashima said she thinks this was modeled after the Snohomish County ordinance and Councilor Wright asked who would pay for the monitoring.

Planning Director Hirashima said generally, the planning dept. would monitor the consultant who would monitor the vegetation, for example.

Mayor Weiser suggested including some enforcement/penalty language and there was discussion about the evolution and changes that have occurred in Marysville over the years concerning the need for enforcement.

Ms. Sloman pointed out that "3 years" was in the model ordinance.

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There was discussion about performance bonding--time lengths, what happens if there is default, should money be held for 5 years, part of the bond should be eliminated as the time passes after improvements are made.

Councilor Leighan questioned Transfer of Development Rights on page 24, 2.14 B. Ms. Sloman said this is in the process of being addressed through other documents--GMA/UGB.

Councilor Pedersen asked about keeping track of TDRs and Ms. Sloman said no, a system hadn't been devised as yet and she hadn't had a chance to check with the county assessor/auditor's office.

Councilor Wright questioned where TDRs have been a success and Ms. Sloman said in Montgomery County, Maryland they have used TDRs successfully, but it's strictly ag land.

Planning Director Hirashima said in Island and Skagit Counties they have a program in place but it's used so rarely that they couldn't really share how it's tracked.

Ms. Sloman stated some of the jurisdictions hold the TDRs within the Planning Dept. and in some other instances it's identified and taxed as a separate element.

Councilor Pedersen said she sees a potential situation where TDRs are not kept track of and Councilor Wright pointed out that financial institutions don't want anything to do with TDRs whether you are buying or selling them.

Councilor Herman said it's easy to identify properties that can use TDRs but there's a controversy with regard to the properties receiving higher density.

Councilor Pedersen said onsite transfers are easy enough to deal with (eg. PRDs) but offsite and with different owners, creates a whole new set of problems.

Mayor Weiser said we are going to have to work through the TDR issue and Councilor Pedersen suggested establishing criteria for onsite vs. offsite TDRs and encourage onsite TDRs.

Councilor Herman said he thinks that's basically the way it's written but we need more specific language for receiving TDRs. He said he could come up with some ideas and submit them later.

Ms. Sloman pointed out there needs to be a demand to provide the incentive to purchase the TDR and receiving of a TDR is the key. It's very difficult to predict how much this program would in fact be used and so it's possible we need to devote more time to onsite issues, she said. It's mainly an educational issue--educating the banks, educating the public, not allowing TDRs and PRDs in the same area approved to help the program, she added.

Planning Director Hirashima suggested taking offsite transfers out of the ordinance and dealing with them separately.

Ms. Sloman commented that one of the original proposals was that the sender and receiver would come in at the same time and thus result in a lesser time frame.

City Attorney Weed said that when you create a TDR offsite you are segregating a property right which is an entirely foreign concept in Snohomish County and there's a lot of implementation issues, tax issues, escrow companies not knowing how to deal with the

separate ownership, financial institutions having to deal with encumbrances/liens against the property, developers filing an application for a plat/shoreline permit, how the senders recognize the TDR, Comp Plan compatibility, for example. He also mentioned other issues that come up: the legal measurement of a TDR, impact on adjacent property owners, public education availability (direct involvement needed), can a TDR be considered a legal taking? He noted there were only two cases in Montgomery Co., MD and it's difficult to adopt a TDR program without knowing answers to questions and there's definitely a need to look at the GMA timing requirements, also, he said.

Mayor Weiser asked about wetlands with respect to the TDR program/ the taking process and Councilor Herman said with a 100% wetland, he understands the Corps/cities have allowed enough fill so the property owner can build a single family dwelling. If a TDR is measured as a dwelling unit it might be possible to identify a dollar figure so that someone could buy a TDR/du, he said.

Councilor Wright said she had a question on page 31, under 3.2-- how far outside a habitat or buffer? Also, she noted on page 32 under 3.3 B-2, a 75% figure and Ms. Sloman said this is from the streamside ordinance and addresses substantial damage.

On pages 33 and 34, there were concerns about buffer widths as previously discussed. Ms. Sloman pointed out this reflects Everett's ordinance and this would exempt pieces already subdivided.

Councilor Pedersen requested "ands" be added on page 36 under G.

Councilor Herman noted on page 36 under F, "when it's area is not appropriate" could be added.

Councilor Leighan referenced page 37, 3.7-B where it states "shall seek to implement" and it was the consensus to delete the words "seek to".

There was discussion about page 38, 3.8-A-8 - "noxious or undesirable species" as to who would determine this.

Councilor Leighan referenced page 44 #2 and suggested changing "may" to "shall" be reduced to a minimum of 10', with an insurance device. He also questioned page 45 #4 about impervious surfaces and asked for further definition in the ordinance.

On page 46 #7, Councilor Herman talked about "legally created lots and complete applications" and City Attorney Weed said it could be changed to "complete applications as defined by ordinance or by city policy."

On page 49, Councilor Herman pointed out that Category VI should be Category IV (typo).

On page 51 "In order to to determine" should have one "to" eliminated.

On page 54, 5.4-B, Public Works Director Zabell suggested easements and/or dedications be included.

City Attorney Weed said he thought it would be a good idea to give the City some discretion on that.

On page 56, Councilor Wright noted under 5.7-A, that a \$2,000 penalty seems excessive if the owner wasn't aware of it and questioned notification.

Ms. Sloman suggested putting in language about notification prior to enforcing.

On page 58 under B, Councilor Pedersen questioned adding "ands" and it was decided instead to add the words "all of" after "demonstrate", in other words, "An applicant for relief from strict application of these standards shall demonstrate all of the following:"

It was the consensus to have a public hearing without offsite TDRs included in the ordinance, 10/12/92.

ORDINANCES & RESOLUTIONS:

1. **Ordinance Annexing Certain Unincorporated Area Known as the Robert Aldridge, Charles Fay, and Glenn Light Properties into the City.**

Councilor Wright moved and Councilor McGee seconded to approve/adopt Ordinance 1905. Passed unanimously.

2. **Ordinance Annexing Certain Unincorporated Area Known as the Robert Aldridge Property into the City.**

Councilor Myers moved and Councilor McGee seconded to approve/adopt Ordinance 1906. Passed unanimously.

3. **Ordinance Affirming the Decision of the Hearing Examiner, Rezoning Property Owned by Belmark Industries, Inc., Amending the Official Zoning Map Previously Adopted in Ordinance No. 772, and approving the Preliminary Plat for the Subdivision of Gronning Estates.**

Councilor Leighan moved and Councilor Herman seconded to approve/adopt Ordinance 1907. Passed unanimously.

4. **Ordinance Affirming the Decision of the Hearing Examiner and Rezoning Property Owned by Centex Homes, Amending the Official Zoning Map Previously Adopted in Ordinance No. 772, approving a Binding Site Plan & Preliminary Plat Revision to a Portion of the Plat of Parkview Estates, and Denying a Road Standards Variance.**

Councilor Wright moved and Councilor Leighan seconded to approve/adopt Ordinance 1908. Passed with Councilor McGee against.

5. **Ordinance Affirming the Decision of the Hearing Examiner Zoning Property Owned by Belmark Industries, Inc., Amending the Official Zoning Map Previously Adopted in Ordinance No. 772, and Approving the Preliminary Plat for the Subdivision of Cedarcrest Place.**

Councilor Leighan moved and Councilor Myers seconded to approve/adopt Ordinance 1909. Passed unanimously.

6. **Resolution Granting a Utility Variance for the Brenmar Builders, Inc., Property located west of 1210 Lakewood Rd., Stanwood.**

Councilor Myers moved and Councilor McGee seconded to approve/adopt Resolution 1574. Passed with Councilor Leighan against.

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7. **Resolution Affirming the Decision of the Hearing Examiner Approving a Conditional Use Permit to Operate a Golf Driving Range for Property Owned by Kurt Ramcke, Subject to Conditions.**

Councilor Herman moved and Councilor Leighan seconded approval/adoption of Resolution 1575. Passed unanimously.

8. **Resolution Affirming the Decision of the Hearing Examiner Denying a Variance Application from M.M.C. 12.24.020 to Retain a Temporary Fence for Northward Construction.**

Councilor Leighan moved and Councilor Herman seconded to approve/adopt Resolution 1576. Passed unanimously.

9. **Resolution Affirming the Decision of the Hearing Examiner and Approving an Application for a Shoreline Substantial Development Permit to Allow the Construction of a 16,000 sq.ft. Light Manufacturing Building for a Property Owned by Bruce Nyblod.**

Councilor Wright moved and Councilor McGee seconded approval/adoption of Resolution 1577. Passed unanimously.

10. **Resolution of the City Stating its intention to Annex Certain Unincorporated Area into the City Known as the Martin/Walla Property and Transmitting the Matter to the Snohomish County Boundary Review Board for Approval.**

Councilor Pedersen moved and Councilor Leighan seconded to approve/adopt Resolution 1578. Passed unanimously.

LEGAL MATTERS:

1. **Public Hearing to be set for Northwest Annexation.**

Mayor Weiser explained the Boundary Review Board's decision is due 9/26 and he would like a public hearing set for 9/28.

Councilor Herman moved and Councilor Wright seconded to set a public hearing for 9/28/92. Passed unanimously.

ADJOURNMENT: Midnight.

Accepted this 28th day of September, 1992.

Rand Weiser
 MAYOR

Mary D. Swenson
 CITY CLERK

Wanda K. Swenson
 RECORDING SECRETARY