



MARYSVILLE CITY COUNCIL MINUTES

DECEMBER 7, 1992

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor  
Councilmembers:  
 Donna Pedersen, Mayor Pro Tem  
 Dave McGee (excused)  
 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  
 Jim Ballew, Parks & Recreation Director  
 Dave Zabell, Public Works Director  
 Ken Winckler, Public Works Director  
 Bob Dyer, Marysville Police Chief  
 Sue Jensen, Municipal Court Administrator  
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 12/14/92  
MINUTESCALL 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. It was noted that Councilor McGee has an excused absence.

MINUTES OF PREVIOUS MEETINGS:

Councilor Herman noted that on page 4 of the 11/23/92 minutes, in the paragraph concerning his motion adopting a revised table for bulk and dimensional requirements and amending setbacks, that it should read "frontage" of 20' instead of "setback" of 20' on a cul de sac.

Councilor Myers moved and Councilor Wright seconded to approve the 11/23/92 Council meeting minutes as corrected. Passed unanimously.

EXECUTIVE SESSION:

Mayor Weiser called an Executive Session at 7:03 p.m. for the reason of discussing Potential Litigation. The City Council Meeting was reconvened at 7:30 p.m.

STAFF BUSINESS:

City Administrator Garner reminded everyone that there will only be two December City Council meetings.

Public Works Director Zabell said he, Ken Winckler and Larry Larson will be interviewing Public Works Engineer applicants 12/18/92. Also, the week of 12/21 Phase III of the WWTF project will be bid, he reported.

City Planner Hirashima reported that the Marysville Golf Driving Range has completed all conditions and will be opening soon. They have also applied for a change to some of the conditions and will be going before the Hearing Examiner, she said.

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MAYOR'S BUSINESS:

Mayor Weiser reported there will be a public hearing on 12/14 regarding increasing Solid Waste rates. He also reported he will be attending a memorial service for Clarence Hatch Wednesday morning. He thanked John Garner for all his support and efforts this past year as Temporary City Administrator, tonight being his last Council meeting.

CALL ON COUNCILMEMBERS:

Councilor Myers commended the Parks Dept. on the parade and lighting ceremony last Friday night.

Councilor Baxter announced there will be a RUSA meeting 12/16/92. He also asked about the outcome of the people hitting golf balls at the driving range.

City Administrator Garner reported 8 balls were hit over the fence with woods but golf balls from the north side stayed within the fence. Balls from the south tees should be irons only, he concluded and he reported they gave the nets a thorough test, it was felt, with lots of slices.

City Planner Hirashima said the golf center did add more tee-cage netting and they also had some engineers watching the whole time people were hitting golf balls during the test, to witness what happened and where the balls went.

Councilor Pedersen commented on how nice the water tower looks lit up. She reported there will be a Snohomish County Health District meeting tomorrow night.

Councilor Wright asked about possible refurbishment of the street decorations and Mayor Weiser said this has been discussed; that Jim Ballew is to be getting in some bids.

Councilor Herman asked about the Marysville Golf Center and clarified that the wing nets, everyone is confident, will contain the golf balls.

City Planner Hirashima commented that the real test is when the driving range opens.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Scott Elsworth, 8033 59th Av. NE, addressed Council. He said his concern is with the irregular shape of the City boundaries which can lead to slow police response. He asked that City Council make every effort possible to square up these boundaries, if possible.

Mayor Weiser explained there is a tentative boundary, outlined by streams, rivers, roads, etc. and the City cannot solicit annexations, people apply to the City to be annexed and what has happened is people may contest boundaries, the Snohomish County Boundary Review Board may add or subtract to the squared off annexation that comes before them. He said the City is endeavoring to square off boundaries by sometimes trying to combine annexations in close proximity to each other but then the BRB won't allow the City to do that all the time. There is upcoming legislation under the Growth Management Act, he said, and time will tell how the boundaries will be affected; there's a possibility that the BRB may be abolished after 7/93 if another procedure is put in place, he added.

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Mr. Elsworth said his concern is with the police response time in his neighborhood and he knows it would be better if the boundaries were squared off to make it easier for the police to know whether or not they should respond to a call that comes in or if it's within the Sheriff's Office jurisdiction.

PUBLIC HEARINGS:

**1. Sensitive Areas Ordinance Continued from November 23, 1992.**

Mayor Weiser explained that there is a quorum present for hearing this, as per the continuance motion from last meeting; that the Marysville Community Action Network appeal has been withdrawn.

City Attorney Weed suggested a motion be made to accept the withdrawal of the MCAN appeal.

Councilor Baxter moved and Councilor Myers seconded to accept the withdrawal of the MCAN appeal. Passed unanimously.

Councilor Herman said he wished to comment that several areas have been reviewed, such as wetland buffers and plenty of public comment has been received, along with the great amount of work done by the Planning Commission/Planning Dept. and so he then moved to accept the Sensitive Areas Ordinance as recommended by the Planning Commission and to direct the City Attorney to draw up the final ordinance based on previous City Council discussions for change. Councilor Pedersen seconded the motion.

City Attorney Weed suggested coming back next week with the ordinance for final approval.

Councilor Baxter expressed the concern for inconsistencies in the ordinance regarding buffers, noting they go from 25' to 100' in some areas and he pointed out you can only get 25' on one side in some cases and in order to be consistent, you need to set out an amount that you can take from both sides of a stream, etc.

Councilor Pedersen stated there are some circumstances beyond the Council's control and Council can't be responsible for things that have happened in the past with regard to buffers, etc.

Mayor Weiser pointed out that the ordinance does allow for the reasonable use of the buffer property and the ordinance precludes taking of all the property as well as there being other safeguards against taking of all the property.

Councilor Baxter said the Army Corps of Engineers already has a program in process which will change what the City is doing right now and the City needs to adopt the '87 COE manual. There's nothing we can do about that, he said--it's already in place.

Councilor Herman pointed out that the '87 manual only delineates wetlands, it does not regulate them.

Councilor Baxter said he is still concerned about the possibility of a lawsuit.

City Attorney Weed stated in any adoption of setbacks where there is such a harsh result with regard to the use of the property, there are some alternatives: a variance in hardship cases, the safeguard regarding leaving no economic value and 3) TDRs is an alternative where they may be allowed relief in hardship cases, he said. He added that the GMA has mandated that an ordinance be adopted with regard to sensitive areas.

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Councilor Wright asked about the requirement that access be allowed to Ebey Slough as a navigable waterway and City Planner Hirashima stated in order for the ordinance to be consistent with the Shoreline Management Master Program, the following language is being recommended under Section 3.7 C.:

C. Alteration of habitat and their buffers may be permitted by the Planning Dept. subject to the following standards:

1. Critical Habitat, Class I and II Streams: Alterations of critical habitat and Class I and II Streams shall be avoided, subject to the reasonable use provisions of this ordinance and conformance with the City of Marysville Shoreline Management Master Program. Access to the shoreline will be permitted for water-dependent and water-oriented uses subject to the mitigation sequence referred to in Section 3.7 A and B.

City Planner Hirashima added the language should be included so that access to these waters would not be prohibited by this ordinance.

Councilor Baxter said he feels the City is putting itself in a poor position and he can't agree with the ordinance in its present form.

Councilor Herman asked about the additional language and City Planner Hirashima said with regard to points of access, site design, etc., the language is intended to minimize conflicts between the ordinance, the Comp Plan and the Shoreline Management Master Program.

Councilor Wright asked if this includes dikes and City Planner Hirashima said yes.

Councilor Herman said he would be happy to include the 3.7 C. additional language in the motion and Councilor Pedersen seconded that.

Councilor Pedersen said that she realizes there may be some sections that everyone does not like but given the time spent on this, she said she feels the City has been presented with a good product.

Councilor Baxter said he does appreciate all the work that has gone into it but he said he feels the ordinance is unfinished.

Councilor Pedersen asked for clarification of this statement and Councilor Baxter said there are enough doubtful items that would suggest to him that there will be problems.

Mayor Weiser said he agrees that all ramifications can't be foreseen and that's why the three relief areas in the ordinance.

Councilor Myers asked for review of these relief areas again.

Mayor Weiser said they are the flexibility of increasing and decreasing setbacks, TDRs and waterfront access provisions.

City Attorney Weed said if there are areas that need further refinement in the years to come, Council can always make amendments which invariably is the case--this can be looked at as an evolving document, he said, as he sees it.

The motion was repeated: To accept the proposed Sensitive Areas

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Ordinance as modified, send it to the City Attorney to redraft and bring it back to City Council next week, including the 3.7 C. changes.

A roll call vote was taken with Councilors Herman, Wright, Myers and Pedersen in favor, Councilors Leighan and Baxter against. The motion passed 4-2.

2. Preliminary Budget for 1993 Continued from November 23, 1992.

Mayor Weiser noted that staff was to try and find replacement funding for the \$12,000 lost revenue that would have been realized if the bingo tax had gone through, as well as the \$5,000 for funding the Youth Gang Task Force that had been approved. Other expenditures as per handout include Court Repairs & Maintenance reduced in error (\$6,170), overpaid taxes that need to be refunded to GTE (\$13,921), Intergovernmental services under the Fire District Contract (\$16,000), \$5,000 to the Youth Gangs Task Force, with the total expenditures amounting to \$41,740. Revised projections for revenues amount to \$23,658 and so they had to look for a way to come up with a net of \$18,082, he said. It was decided to take this out of the reserve fund rather than from each department's budget, he explained.

Councilor Baxter moved that the 1993 Budget be adopted under Ordinance 1919, with adjustments as discussed, as per the handout. Councilor Myers seconded.

Discussion followed regarding police vehicles, leasing versus purchasing. Councilor Herman said he understood the money in the budget was only enough to lease two vehicles and to purchase one. He pointed out that Mountlake Terrace leases their police vehicles as does Edmonds but eventually the City will have to commit to a higher budget for vehicles. He asked about the possibility of another dept. funding for acquisition of vehicles on an internal lease basis and Councilor Baxter explained the City doesn't have any substantial records to determine how much a car is costing the City. They are in the process of putting together a records program for each City vehicle now, he said. He added that the mileage may not be the sole factor but cost per vehicle (such as maintenance) will be determined.

Councilor Herman referred to a memo from the police department in the packets and Councilor Baxter said the program being put in place will give the City a better idea than what is being recorded now--a form has been developed that breaks down manhours spent on a car, how many times it's been in for service, what it's costing per mile, etc.

Councilor Herman asked if this data is being put on a computer and Mayor Weiser said not at this time. He added that as far as another fund leasing the vehicle, this will continue to be discussed; there are some advantages to leasing that the City is looking into, along with residual payments at the end of the lease, etc.

Chief Dyer explained the need for state of the art radio equipment and with leasing, the police dept. would have to go to bid at the end of the lease term, that's how the leasing company makes their money, he pointed out. One definite advantage to leasing is that it forces the police department to keep the fleet somewhat modern, eg. the present jail car is worth less than its tires, he said.

Mayor Weiser said there are advantages both to leasing and purchasing and Councilor Herman said he would like to see the City obtain two vehicles for the police dept. for this year with the flexibi-

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lity of having a budget amendment later.

Chief Dyer pointed out that the ordering deadline for the police package vehicles is in January.

Councilor Leighan asked about radios becoming obsolete and Chief Dyer said there is a possibility of having a separate radio band, that he would want at least 800 Mhz radios.

There was a lengthy discussion about rolling over leases, turning in old cars, leasing six cars simultaneously, having a 10 vehicle fleet, staff looking at figures again, replacing 2 cars a year, not being locked into all cars being leased, leasing forcing the fleet to be modern, after the first 3 years having the option to purchase by paying the residual, not being put into a situation where you have to be leasing all the cars forever, purchasing some vehicles, getting more information/projections.

Finance Director Wilson reviewed the changes to the 1993 Budget, noting that in Section I, the aggregate total should be \$33,690,656. It was also the consensus to leave the per mileage rate at 25 cents and it was noted that the budget includes the projected revenue from the 6% storm drainage tax and the \$4,000 was left in for possible renewal of membership in the Puget Sound Regional Council.

The question was called for and the motion to approve the 1993 Budget, Ordinance #1919, as amended, was passed unanimously.

CONSENT AGENDA:

1. Withers Final Plat of Crystal Heights Division II; PA 8902009.
2. Wintch Final Plat Albert Griffore Addition; PA 8912075.

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

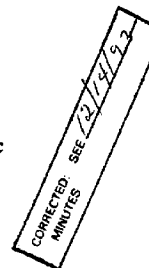
NEW BUSINESS:

1. Cascade Surveying & Engineering; RUSA Variance - Proposed Plat of Stimson Estates; UV 92-13.

Public Works Director Zabell reviewed the agenda bill, noting the request is for 44 water and sewer connections. He noted the property is located outside of RUSA but is within the Critical Water Service Plan area. He explained that Nina Lakes is served with a force main by Marysville which was put in in the late 1960s and that John Garner and Ken Baxter might be able to remember specific details about the variance that the previous owners had to get. He added that the 1990 Comprehensive Sewer Plan does not include this parcel, expansion of RUSA to include the subject parcel will require action by the Boundary Review Board and the size of the parcels indicated in the proposed plat are adequate for onsite septic systems, however he said he was not sure if the soils are conducive to such onsite sewage disposal. He stated staff recommends granting of the water variance but not the sanitary sewer request.

Councilor Baxter said Nina Lakes only has a 4" main which was not intended for any more hookups. He said he believed the soils to be conducive to an onsite septic system.

City Administrator Garner stated the City had made an agreement that there would be utilities provided to Nina Lakes with the contractor.



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Kim Just, Cascade Surveying, addressed Council. He explained the property was originally used for agriculture, they already have a street and utilities and the addition of houses would not negatively impact Marysville, rather, they feel would positively impact Marysville due to increased density. He read a letter from the Snohomish County Health District stating that no onsite septic would be allowed as the water table is only 13" below the surface of the ground and at present, Mr. Just said he believes they have a substandard system. He said if they were able to go in and update the system that would absolve the City from any further expense. He added that this property is not worth anything without the sewer system.

Councilor Baxter pointed out that the Critical Water Service Area had a lot of meetings and this area is within Marysville's area to serve with water but not sewer and putting in a private system could get pretty costly.

Public Works Director Zabell pointed out that the property is outside of the Comprehensive Sewer Planning area and to add this subdivision in would bring a negative reaction from DOE. He noted also that this area is outside of the currently proposed UGA and there is a potential if this parcel is approved for a lot more people to request sewer service from this immediate area.

Councilor Myers moved to approve the water connections in accordance with the CWSP but to deny sewer service as it is outside of the Comprehensive Sewer Plan, as per staff recommendations. Councilor Baxter seconded and the motion passed unanimously.

2. Gregory Partridge; RUSA Variance - Water; UV 92-14.

Public Works Director Zabell reviewed the agenda bill, noting this property is currently occupied by a garage and it is the applicant's plan to demolish the garage and put in a new single family residence. As far as an onsite septic system within 200' of the sewer, he explained the health dept. will not allow it as this law is meant to prevent a proliferation of onsite septic in an urban area, he said. He said staff recommends denial of the request for water service without sewer.

Steve Muller, 4919 Sunnyside Blvd., addressed Council. He pointed out that out of 14 lots, Lot 2 is the only vacant lot and everyone in the subdivision is on septic, it's sandy loam and his understanding is, he said, that the only reason a person should have to hook up to a sewer within 200' is if their septic has failed. He said this subdivision was approved in 1954, septic were installed at that time and none of them have failed and it would cost \$8,000 to \$10,000 for the owner to go 200' plus hookup fees for sewer, with no chance of recovery because of the perfect soil and no one having to go to sewer in that subdivision for a long time, he said. He added that requiring the applicant to hook into the sewer is putting an adverse cost/condition on him and he said it was his understanding they just needed to get a variance on the 200' requirement from the City.

Public Works Director Zabell pointed out that the Kalma Addition is in the county and it is within the County Health District jurisdiction and the Marysville ordinance does not supersede the County.

Councilor Baxter noted that if the property was in the City, it would be different.

Public Works Director Zabell pointed out that the applicant would still need to meet Marysville requirements for water, too and he



said he thinks the county is going to probably deny the variance also.

Gail Amherst addressed Council, stating she owns Lot 3 which she bought in 1974. She pointed out that none of the neighborhood wants a duplex to go in on Lot 2 which is what is going to have to happen if the builder wants to turn any profit. She said they would prefer to see a single family residence with a septic. She pointed out that the extra cost to hook up to sewer has driven the price up that the builder is asking on Lot 2.

Councilor Baxter asked about the frontage and distance from the sewer main and Public Works Director Zabell said it is about 125' from the sewer main but they need 220' to cover the frontage.

Councilor Myers asked about the cost and Public Works Director Zabell said that depends on the right of way, bidding climate, county restoration requirements, etc.

Steve Muller asked if some leeway could be granted on the full frontage and Public Works Director Zabell said that would require a variance also.

Councilor Herman asked about recovery payments and Public Works Director Zabell said they could be recovered within 15 years from date of sewer installation. He added that the request regarding less frontage, if granted, may catch up to the City in a few years when another lot comes in and wants to know why they have to pay for more frontage than this lot. He also noted this subdivision is part of ULID 18.

Councilor Herman moved to deny the water service without sewer variance as per staff recommendations. Councilor Myers seconded and the vote was 3-3 with Councilors Leighan, Wright and Baxter against.

After further discussion with regard to this becoming a sewer ULID very soon probably, saturation of the soils in that area, the fact that the county may not allow a septic system even if the City grants a variance, Councilor Pedersen moved to deny the water service without sewer WITHOUT PREJUDICE, allowing the applicant 6 months to reapply without paying another variance request fee. Councilor Baxter seconded the motion and it passed unanimously.

City Administrator Garner clarified that the 6 months is from tonight.

ORDINANCES & RESOLUTIONS:

**1. An Ordinance Rezoning Property Owned by Belmark Industries, Inc.**

Councilor Wright moved and Councilor Leighan seconded to approve/adopt Ordinance 1920. Passed 5-0. (Councilor Pedersen did not vote.)

**2. An Ordinance Rezoning Property Owned by John Sims, Jr.**

Councilor Leighan moved and Councilor Myers seconded to approve/adopt Ordinance 1921. Passed unanimously.

**3. An Ordinance Adopting a Revised Table for Bulk and Dimensional Requirements and Amending MMC 19.20.050 Relating to Yard Setbacks for Accessory Buildings.**

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Councilor Herman moved and Councilor Myers seconded to approve/adopt Ordinance 1922. Passed unanimously.

**4. An Ordinance Levying Taxes on all Property.**

Councilor Baxter moved and Councilor Herman seconded to approve/adopt Ordinance 1923. Passed unanimously.

**5. A Resolution Delegating Authority to the Marysville Fire Dist. Board to Enter into and Execute Certain Agreements.**

City Attorney Weed explained that the interlocal agreement contains language that the City and the Fire District #12 will delegate authority to the board but it has become apparent that there are some agreements that Fire District 12 needs to keep in force and he said it's his recommendation to have Council and the Fire Commissioners delegate authority with the exception of labor negotiations and budget changes. He added that he sees this as a housekeeping resolution and it would contain the following wording:

"Any agreements that may cause an increase in any budget item would be excluded....." (under paragraph 3)

Councilor Pedersen moved and Councilor Herman seconded to approve/adopt Resolution #1595 as amended by the City Attorney. Passed unanimously.

**6. A Resolution Granting a Conditional Use Permit & Variance for Property owned by William Roberts subject to conditions.**

Councilor Wright moved and Councilor Leighan seconded to approve/adopt Resolution #1596. Passed unanimously.

LEGAL MATTERS:

**1. Renewal of Public Defender Contract - Richard Bennett.**

City Attorney Weed said in the past this has been a two year agreement and this would extend the same agreement, under the same terms and conditions as of 1/1/93 at \$65 per case and \$260 per appeal (appeals are very rare). It also includes a 30 day termination clause, he explained and said he recommends renewal. He noted this 30 day termination clause can be utilized in the event it is decided to break the contract before the two years is up. He also noted that it probably is not a very good time to make any changes in view of the change in municipal court judge.

Councilor Myers moved and Councilor Baxter seconded to authorize the Mayor to sign the renewal contract. Passed unanimously.

**2. Court System - Information Only.**

City Attorney Weed reported that as a result of the Northwest Annexation, the new area is under the jurisdiction of the Cascade Court and state statute states that a City can only be under one district (either Everett or Cascade District Court, not both). He asked for Council direction in order to submit this matter to Seth Dawson and the County Redistricting Committee. He pointed out that if the preference is for Cascade District Court, they may have to increase the number of judges serving that area, however if the preference is Everett District Court, they would not. He noted that originally the whole of Marysville was in the Cascade District Court but now, of course, all City traffic issues are handled through the Marysville Municipal Court System.

Mayor Weiser commented on the need for consistency of UGA boundaries to coincide with the Court District; Councilor Myers and Councilor Baxter said they would tend to lean toward being within Everett District Court's jurisdiction.

**3. Interlocal Agreement with Monroe for Police Reserve Officer Training.**

City Attorney Weed explained this training program enables officers to go to Monroe instead of all the way to Seattle or Olympia. Due to 1993 budget restrictions Bob Dyers did not originally intend to send anyone however there is one officer he now wishes to send but it requires the City signing an interlocal agreement indemnifying the City of Monroe, he said. He noted that the program only charges \$100 per officer and the MPD wishes to send a corrections officer this year.

Councilor Pedersen moved and Councilor Myers seconded to authorize the Mayor to sign the interlocal agreement with Monroe for the Reserve Officer Training Program. Passed unanimously.

**4. Interlocal Agreement with Snohomish County regarding building permits for Northwest Annexation residents/property only.**

City Attorney Weed explained the county was voicing an unwillingness to finish processing building permits that were started prior to the Northwest Annexation and thus the necessity for the interlocal agreement. He said this would give continuity to the process and he handed out a revised interlocal agreement.

City Planner Hirashima stated the county notified the City about their concern because the county no longer has jurisdiction within the Northwest Annexation area to process building permits. She said it is believed this will not affect too many cases and the county is willing to turn their files over to the City and the City will complete the review and inspections. The two cases that come to mind, she said, are Milgard and Northwest Composites and it would be very difficult if the City were to require these companies to start the building permit process over. She said the final inspection would be completed by the City and county and renewals or changes would go through the City. Also, there is a provision in the interlocal agreement, she said, if final approval has been given by the county, that will be enforced by the City.

City Attorney Weed added that the City would be agreeing to adopt by reference certain county code requirements in order to complete the building permits, listed in the interlocal agreement for a limited period of time, while the permits are being processed. He said this is the same thing that happened in the Bothell change and the adoption would be repealed once the last of the building permits is finalized. These codes would only apply to the Northwest Annexation, he said, using the language:

"For the area described in Exhibit B and only for those applications which were started in the county."

He said that for example, if an application came in subsequent to the Northwest Annexation effective date, it would have to be in compliance with the MMC only.

Councilor Myers moved and Councilor Leighan seconded to authorize the Mayor to sign the interlocal agreement with the county, as outlined above. Passed unanimously.

Councilor Baxter noticed a typo: "assures" should be "assumes".

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ADJOURNED INTO EXECUTIVE SESSION: 10:00 p.m.

1. Pending Litigation.
2. Real Estate.

RECONVENED AND ADJOURNED: 10:30 p.m.

Accepted this 14<sup>th</sup> day of December, 1992.

David Weiser  
MAYOR

Mary D. Swerson  
CITY CLERK

Wanda A. Swerson  
RECORDING SECRETARY