

MINUTES RECAP

00104

MARYSVILLE CITY COUNCIL MEETING JANUARY 10, 1994

CALL TO ORDER: 7:00 p.m.MINUTES OF PREVIOUS MEETING: 1/3/94 - ApprovedAUDIENCE PARTICIPATION: NoneSTAFF'S BUSINESS:MAYOR'S BUSINESS:

1. Msvl. Fire Board reappointments - Councilors McGee, Baxter & Pedersen
2. Planning Comm. Appointment Frances Chamberlain

CALL ON COUNCILMEMBERS:PETITIONS & COMMUNICATIONS: NonePRESENTATION:

1. School Levy Presentation Resolution to be drawn up affirming support of 2/8 levy

PUBLIC HEARINGS: NoneREVIEW BIDS: NoneCURRENT BUSINESS:

1. Memorandum of Understanding between Snohomish Co. & City Postponed until after joint meeting w/County Council
2. Msvl. Transportation Study Contract Addendum #4; Transpo Approved - \$25,435

NEW BUSINESS:

1. Construction Inspector Position Classification Approved - Grade IX
2. Purchasing Manual; Request for Consultant Approved - Eileen Enos - \$2,000

CONSENT AGENDA:

1. Dec. 1993 Payroll - \$510,116.20 Approved
2. 1/10/94 Claims - \$802,138.38 Approved
3. Charles Okada Rezone; PA 9306020 - Public Hearing set 2/7/94

ORDINANCES & RESOLUTIONS:

1. Resolution Granting a Utility Variance for the Tulalip Tribes of Washington Request Withdrawn

LEGAL MATTERS: NoneADJOURNED INTO EXECUTIVE SESSION: 9:50 p.m.

1. Pending Litigation No Action
2. Personnel No Action

RECONVENE: 10:13 p.m.ADJOURNMENT: 10:14 p.m.

MARYSVILLE CITY COUNCIL MEETING

JANUARY 10, 1994

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Ken Baxter
 John Myers
 Dave McGee
 Donna Wright
 Mike Leighan
 Otto Herman
Administrative Staff:
 Dave Zabell, City Administrator
 Gloria Hirashima, City Planner
 Steve Wilson, Finance Director
 Grant Weed, City Attorney
 Ken Winckler, Director of Public Works
 Wanda Iverson, Recording Secretary

CORRECTED: SEE 1/24/94
 MINUTES

CALL TO ORDER:

Mayor Weiser called the Council 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 THE PREVIOUS MEETING:

On page 4 under New Business, Councilor Herman noted 3 corrections in the 1st paragraph: "...described the need for a representative to go to the board meeting every 2 years. He stated (delete: medium and small cities are represented but) 2 years ago when he attended....." ".....he attended meetings on 74 days last year..."

Councilor Myers corrected the third word on page 2 to "to", not "and".

There being no further corrections, Councilor McGee moved and Councilor Myers seconded to approve the 1/3/94 Council meeting minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

STAFF BUSINESS:

City Administrator Zabell reported the person who broke out a window at the public library this past weekend was apprehended by the MPD; the first AWC legislative bulletin has been received and will be included in the Council's weekly briefing. He noted it includes information about annexations and talks about counties having permitting authority for projects within City limits.

City Attorney Weed reported he, Dave Zabell and consultants met with DOE in Bellevue regarding the third amended Consent Order and the document will be brought before Council at the next meeting.

City Planner Hirashima noted the GMCC meeting has been rescheduled for 1/20 in the Fire Training Room, rather than 1/17 which is the holiday for Martin Luther King's Birthday. She reported the next Comp Plan Workshop meeting was set for Monday, 1/31 at 6 p.m. in the Fire Training Room.

Public Works Director Winckler gave an update on the Brookwood Heights parking restrictions on 67th St. He stated a neighborhood meeting was held and there was one vote more to have parking stay the same as it is than to change it to the other side of the street. He said staff's proposal is to leave parking restrictions as is on the north side with a certline marking and 25 mph speed signs near the park area. Also, to have some raised pavement markers prior to the sign, he said. He added that a stop sign has

been placed at the intersection of 67th & 74th Dr. He asked for Council's concurrence, suggestions.

Councilor Pedersen commented on the neighborhood meeting, noting the raised bumps are not so much speed bumps as they are to get the driver's attention regarding the speed limit, the fact it is a park area, etc. She said there had been complaints of high speeds in through there.

Public Works Director Winckler ^{s/b conforming} said there are no special requirements here, the City is confirming to TCP ^{s/b muted} rules and this configuration actually impacts the least number of residences. Also, regarding the handout, he gave a little more explanation about the 2 recycling projects: Christmas trees (4047 chipped to date) and household battery collection (2 - 4 gal. buckets have been collected so far).

CORRECTED: SEE 1/24/94
MINUTES

MAYOR'S BUSINESS:

Mayor Weiser reminded Council of the upcoming City and Towns meeting 1/27. He reported also Roger Burton called the City asking for a letter of support from the City for the Towne Centre Community Museum.

Councilor McGee asked about the facility and if this could be discussed under New Business.

Mayor Weiser said they are asking for help toward the \$5,000 due this Friday.

Councilor Pedersen stated this is a real estate commitment the City had no say in and she also believes there is a law against the City spending public money on something like this. She also pointed out that the Towne Centre Community Museum seems to have accepted a full price offer.

Councilor Leighan agreed that the City is precluded from spending public funds on a private enterprise such as this.

Finance Director Wilson stated it would be considered a gift of funds.

Mayor Weiser said he is not sure if this qualifies for non-profit donations by the City.

Councilor Myers said he supports the project but agrees with the comments regarding the City being precluded from giving financial support.

City Attorney Weed stated there are some exceptions to the constitutional prohibition of expending public funds; he said he would hope to review it further but the City is neither a buyer or a seller and whether there are funds available toward this project, he is not sure but he could study it further, he said.

Councilor Baxter stated he supports their efforts also but doesn't think the City should be giving them public funds.

The consensus was to have City Attorney Weed review further.

Marysville Fire Board Re-Appointments:

Mayor Weiser asked for affirmation of his reappointments of Councilors McGee, Baxter and Pedersen to the Marysville Fire Board. Councilor Herman moved and Councilor Wright seconded to affirm the Mayor's re-appointments and the motion passed unanimously.

Marysville Planning Commission Appointment:

Mayor Weiser explained this is to fill the unexpired term of Jim Mulligan on the Planning Commission. He stated he feels there is a fairly good balance on the Planning Commission and he would like to maintain that goal and so he has chosen someone that is not affiliated with a particular group or stance. He said he was looking for someone to keep the balance; there were 4 persons originally who showed interest but it was narrowed down to one: Frances Chamberlain. She is from Kirkland, having moved to the east hillside of Marysville 2 years ago and got very involved in the planning process when she had a drainage problem when she first moved to the area. She has a very good grasp of some of the growth related issues Marysville has, he said.

Councilors Baxter and Pedersen both expressed concern about her being such a newcomer to the area and Mayor Weiser stated all 4 candidates had interest in the community, it was a tough decision but he thought Frances had more of a grasp of the GMA.

Councilor Herman said he wished to echo Councilor Pedersen's concerns and would like to hear more about the interviewing process.

Mayor Weiser explained he received 2 letters and 2 phone calls showing interest in the position, had several conversations with the 4 candidates and one of them had a time conflict on Tuesday nights and so was eliminated from the running.

Councilor Herman said it sounds like there was a difference in time given each candidate and Mayor Weiser confirmed there was. He offered to have Frances Chamberlain come before Council.

Councilor Baxter than moved and Councilor McGee seconded to affirm the Mayor's appointment of Frances Chamberlain to the Planning Commission to fill Jim Mulligan's unexpired term. The motion passed with Councilors Pedersen, Leighan and Herman against.

There was further discussion about the process, submitting resumes, Councilmembers doing the interviewing in the future, including people from newly developed areas on the Planning Commission.

CALL ON COUNCILMEMBERS:

Councilor Wright commended the City on the Christmas tree recycling program, stating it was done in a very efficient manner.

Councilor Baxter said he was almost involved in an accident at 528 & 47th recently and would like the sight distance checked into further, specifically the time it takes west bound traffic to enter the intersection. He said he was almost broadsided when he was turning left (to go north) because he didn't see the car coming up the hill. He said he would like to see if something can be done there; a member of the MPD was there also and concurred with him that there might be a problem with the sight distance, maybe with the speed, too.

Public Works Director Winckler said he would check on this further.

Councilor Baxter reported on the recent RUSA Committee meeting last Thursday when they discussed the 3 industrial sewer violators from last year. He said the violators have made good progress towards compliance and there will be more discussion.

Public Works Director Winckler said the City is going to be serving notice to the violators with copies to the City Attorney; the ordinance gives the City authority to cite them with a \$1000 fine if they are out of compliance.

Councilor McGee asked about the status of the golf course committee.

City Administrator Zabell said they will meet this week or next; they are waiting for John Garner's availability and will advise as soon as a meeting time and place are set up, he said.

Councilor McGee said he would like to know the number of occurrences of gambling incidents at the Tulalip Casino, if the MPD keeps those specific records.

Councilor Herman noted the 4th St. & I-5 traffic signals are so sensitive they frequently cycle with only one car going through. He noted the sensor is on the east side of I-5, when a car arrives at the off ramp, that's when the east-west traffic gets a red light.

Public Works Director Winckler said he would follow up with the state. He said last time the City talked with the state they asked the City to give them feedback on the system.

There was also some discussion about the light sequence at 4th & Cedar.

Councilor Leighan said the Parks Board meeting had to be changed. He also reported at length about the Law & Justice meeting he attended and the role of the Snohomish County Youth Gang Task Force, noting there are two parts to this: the interlocal and the County. The interlocal is the funding source and the Snohomish County Youth Gang Task Force goes out to the schools but there have been some concerns regarding liability here, he said. He commended Granite Falls with setting up a place for the teens for 4 weeks.

PETITIONS & COMMUNICATIONS: None.

PRESENTATION:

1. School Levy Presentation: Dr. Ron Barnes and Karen Zigler.

Dr. Barnes introduced Karen Zigler, Mark Hale, Fred McCarthy and Cyndy Whitcomb. He explained they are here to talk about the upcoming Maintenance & Operations February 8 levy but also he wished to make a couple personal comments about his leaving the district. He said if he has caused any ill will because of his leaving, it certainly was not his intent and the school board is expeditiously moving toward selection of a new superintendent.

He explained that the levy is not a new tax, it's a continuation of a tax that's been in place, it's just a rate change and represents 16% of the overall school district budget out of an overall \$55 million budget.

Mark Hale presented some overheads and used the analogy of the levy being like a magazine subscription where citizens help fund something the state does not fully fund. One overhead depicted 84% of the school district budget going towards staff development and salaries and 16% goes to pay for the operational costs. 78% of taxes received are from the state, 16% from local taxes and the balance is funded federally. Another overhead depicted all the services not fully funded by the state (eleven) including transportation, student activities, community facilities, gifted programs, etc. It was noted the levy amount for '95 would be \$4.25/M and for '96 \$4.08/M.

He noted the school district did set aside a cash reserve of \$420,000 which represents good planning but it's crucial that the levy be passed to continue the good job they are doing, he said.

Fred McCarthy, Asst. Superintendent, said what is happening to make it look like the levy rate has increased is it is actually

staying about the same as before, but it is being applied to higher valued homes in Marysville and so you are going to see a slightly higher tax compared to a tax rate in '93 vs '95 because a \$100,000 house would have been reassessed at \$140,000, for example, he said.

Karen Zigler then spoke briefly, noting she is a community member and parent of 2 children that have gone through or are going through the Marysville School District. She stated it will really be disastrous if this levy doesn't go through for the M&O of the school district. It's not a new tax and they are looking for a commitment from the City Council, she reiterated. She added that she thinks the issue of Dr. Barnes leaving is a separate issue from the levy issue; the support they are asking for is for the many programs, not support that is given by federal taxes. She noted they are also having a raffle to give people another way to support this levy, featuring prizes of furniture from Jack's Furniture, appliances from Judd & Black, a trip donated by Uniglobe Travel and a floral arrangement from Byers Floral. She said another way people can support this cause is with yard signs and talking to others in the community.

Councilor Wright asked the City Attorney about how far the City Council can support this legally and City Attorney Weed said as long as Council doesn't use public funds, it would be OK, for example, they could pass a resolution or take a vote of support in general.

There was discussion about a banner that encourages people to vote but not which way to vote, passing an affirming resolution. City Attorney Weed said he would gladly donate his services to draw up this type of resolution for Council.

Councilor Wright moved and Councilor Herman seconded to have the City Attorney draw up a resolution affirming Council's support of the upcoming Marysville School District M&O levy. Passed unanimously.

CURRENT BUSINESS:

1. Memorandum of Understanding between Snohomish County and the City of Marysville.

City Planner Hirashima reviewed the agenda bill, noting County Council was asked to give us an extension of time on the IUGB and at their hearing in December they did extend the time limit to 2/28/94, she said, which gives us a little less than 2 months to get it back to the county, giving them a few weeks to review and possibly come back to City Council again. She stated the main issue is Mar 1 (Poortinga & Sunnyside South Annexations). The City and county are to agree prior to the annexations to 6 conditions and she said there are no proposed changes in this language from before. She said staff felt the areas that need review would be condition 2 & 4; no project proposal has been sent in yet and so we don't know what kind of road improvement or other development is being contemplated. The other concerns, referring to #4, are our Comp Plan specs with regard to open recreation areas and the concern is with regard to park mitigation fees, she said. She added there is a proposal being discussed with regard to a golf course/recreation area and the need for a shoreline permit has been discussed as well as park improvements/mitigation fees.

Councilor Herman asked if ^{about} he was a developer, if ^{Title} Title 26 requires ~~mitigation fees or improvements in the county~~ and City Planner Hirashima said Snohomish County's fees are generally higher than Marysville's and this project needs to be reviewed as far as public access/shoreline permitting with regard to a commercial venture such as a golf course.

CORRECTED: SEE 1/24/94
MINUTES

Councilor Pedersen stated she thought there was going to be some residential development in that area as well and Councilor Herman

said he believed the uplands were to be developed as residential, the lowlands were to be developed as a golf course/park.

Mayor Weiser said he thinks it's important that the flood plains remain ag, open space or recreation space. He said there seems to be some fear that the City is going to allow it to be developed residentially.

Councilor Baxter said he doesn't see how that can be allowed.

Councilor Herman ^{commented on mitigation fees.} ~~pointed out that Marysville actually has more stringent standards than the county, even though our fees might be lower. With regard to the parks mitigation, that's a planning tool which he thinks is a responsible method to meet growth demands, traffic and parks mitigation, he said.~~

CORRECTED: SEE 1/24/94 MINUTES

Councilor Pedersen asked about forming a TIP to improve the road and City Administrator Zabell explained to add a TIP assessment in addition to all the other assessments may be asking a lot.

Councilor Baxter said he takes exception to the county's demands about fees when they have not been improving the roads over the years and then expect the City to come up with maintenance/TIP funds.

Councilor Leighan asked about the benefit area and City Administrator Zabell said we are looking at a hybrid of a TIP and the benefit area plan with the City being the lead agency. In the past, about the only entity who has made improvements is the school district when they put in a school, he said.

There was more discussion about how to implement road improvements, having a structure in place for getting mitigation fees, the needs of high growth and development, where all the improvements are supposed to have been made by the county, Sunnyside Blvd. needs improvement but the Memorandum of Understanding is not going to do that, Title 26 has raised greater amounts of funding but the improvements may not have been made as needed, Sunnyside Blvd. is not under Title 26B.

Councilor Baxter stated there was a meeting with the county council several years ago and more meetings are needed like that one where discussions between the City and county council can be held about these kinds of things.

City Planner Hirashima said the MOU did go through the GMCC and not the county council.

Councilor Baxter said he still sees that process as county biased with no changes.

City Administrator Zabell said the interlocal/MOU as he sees it is just an extra piece of paper.

There was more discussion about how it sets down some rules which Marysville has to follow, negotiable items within an area that's to be annexed anyway into Marysville, the Sunnyside Blvd. area is actually a very small annexation, marginally developable and with low impact, this is only going to be a portion of the larger area which should contribute to mitigation and improvement of Sunnyside Blvd., we need an equitable system to implement improvements.

City Attorney Weed stated the MOU is focused on Mar 1 and there is a question about maybe we should have included other issues in it. He added that Council should look at the question of possibly a different MOU with a broader scope.

Mayor Weiser pointed out that 7/1/94 is the deadline for setting the final UGB and if we are going to approve the MOU we should add in #7 regarding additional issues, eg. the UGB.

Councilor Baxter pointed out that we had a proposal/study done on the Poortinga farm with regard to play fields, wildlife habitat, recreational area in the lowlands, residential in the highlands and this represented the most open area from any other proposal that has come along.

Councilor Herman said the issue he thinks is how you make that a financially feasible project and Councilor Baxter added there was a suggestion at that time regarding getting together with the county.

Councilor Pedersen moved to set up a joint meeting with county council to discuss the MOU/GM issues/Mar 1 prior to signing the Memorandum of Understanding. Councilor Baxter seconded and the motion passed unanimously.

2. Marysville Transportation Study Contract Addendum #4; Transpo Group.

Public Works Director Winckler reviewed the agenda bill, noting Addendum 4 extends the length of the project due to additional work, input from the Planning Commission, changes necessary due to some EIS issues and staff is recommending approval of the amendment for the Transpo Group contract, in the amount of \$25,435.

Jeff Webber, Vice President of Transpo, 14335 NE 24th St., Bellevue, addressed Council and gave a fairly detailed presentation via overheads. He reviewed the history of the transportation plan which initially started in 5/89 and he noted there were several components:

- land use at that time
- Comp Plan upgrade then got underway
- change in the will of the City Council and Planning Commission
- transportation plan needed to be in synch w/the Comp Plan

He ran down the different dates from 1990 to date where different items had to be incorporated into the transportation plan and noted despite all the delays, the benefits will be as follows:

- the transportation plan is going to be in compliance with the Comp Plan and GMA
- Marysville's mitigation funding plan is more in keeping with funding programs that have been passed since 5/89
- 2 traffic signals have been coordinated.

Councilor Pedersen asked about the funding mitigation plan and Mr. Webber explained the process is to take the land use, traffic carrying character, existing transportation and then determine what kind of improvements need to be made to the road systems. He said they also look at traffic "sheds", review costs of improving road systems, estimate the number of trips and develop a mitigation fee schedule based on this information. He said it's something the Planning Dept. can actually use at the counter when the developer asks how much mitigation they will have to pay.

Councilor Pedersen said one concern was with 67th Avenue and City Administrator Zabell explained determining fees is what Transpo is doing--67th is one of the projects, as is 528, they are working on within certain "zones", he said.

Councilor Baxter asked how far outside of our current planning area/city limits Transpo has included in the transportation plan and City Administrator Zabell said the boundaries are Soper Hill Rd. to Hwy. 9, north to 152nd. They would also include the Lundeen Parkway being factored in, he added.

Councilor Baxter moved to approve Addendum #4 for Transpo in the amount of \$25,435, Councilor Pedersen seconded and the motion passed unanimously.

NEW BUSINESS:

1. Construction Inspector Position Classification.

Public Works Director Winckler reviewed the agenda bill, noting this was approved in the 1994 budget and currently being addressed under the Equipment Operator position but the responsibility needs to be placed in the Engineering Department due to the increased job responsibilities. He noted a comparable worth study was done and it would be a Grade IX position.

City Administrator Zabell noted that because this position was budgeted for Grade X, the City should save money overall.

Councilor Pedersen questioned whether there would be an additional vehicle, office furniture, etc., down the road for this position.

Public Works Director Winckler said yes, some office furniture has been budgeted but a vehicle isn't necessary for this position.

There was discussion about vehicle allotment and availability/replacement, budgeting, vans, flatbeds, pickups, appropriateness, who gets the newer vehicles depends on the need/use, trying to get the best use out of each vehicle, sharing of vehicles, outside people doing inspections and equipment operator jobs currently, this will free up one person to help with plan checks, paperwork, field work, building inspection schedule--getting out within 24 hrs. of request usually, Construction and Public Works schedules very similar.

Councilor McGee left City Council Chambers at 9:05 p.m.

City Planner Hirashima stated inspectors for the most part are meeting all requests although they may not be able to be on site for as long as in the past.

Councilor McGee returned to Council Chambers at 9:06 p.m.

Public Works Director Winckler noted the fee schedule is being reviewed for inspections.

Councilor Herman moved to approve the Construction Inspector Position at a Grade IX Classification, as recommended by staff, effective 1/4/94. Councilor Myers seconded and the motion passed unanimously.

2. Purchasing Manual; Request for Consultant.

Finance Director Wilson stated this system is now being implemented for 1994 and it is anticipated there will be further review of the Purchasing Policies & Procedures to enhance and provide better controls for 1994. He said it was agreed a Purchase Requisition was an integral part of the process and it has since been decided to develop a manual. He then contacted Eileen Enos of the Marysville School District (Purchasing Agent) who has prepared a purchasing manual for the school district and City of Edmonds. He stated the City of Marysville needs the control that is given in these manuals and he referred to the Table of Contents of Edmonds' Purchasing Manual. He outlined Eileen's extensive experience and proposed she recommend policies, procedures and forms for staff review, then it would come before Council.

Councilor Pedersen explained that Eileen's name came up at a health district meeting; someone from the City of Edmonds had recommended her highly. Councilor Pedersen asked if by following Finance Director Wilson's recommendations, all the issues would be covered in an audit with regard to policies and procedures to be followed, etc.

Finance Director Wilson said the one recommendation was a Purchase Agent and this would be a move towards that system. He added Edmonds has a decentralized system and staff here would have to review whether that is the appropriate system for Marysville. With a centralized system, you have one person who approves all computers (Deb Lytle does that now), for example, one person who would approve office furniture, another for vehicles, auto parts, etc. and a manual would set this out rather than just discussing it in staff meetings, he said.

Councilor Pedersen reiterated her concern about the City getting volume purchasing discounts by having some sort of purchasing system set up.

Councilor Myers moved for approval of the consultant contract in the amount of \$2,000 for Eileen Enos, as recommended by staff. Councilor McGee seconded and the motion passed unanimously.

CONSENT AGENDA:

1. December 1993 Payroll in the amount of \$510,116.20.
2. 1/10/94 Claims in the amount of \$802,138.38.

(Councilor Pedersen asked that Item #3 be separated out.)

Councilor Baxter asked about voucher #18267 payable to Lake Industries for road sweepings collection/dumping by the City.

Public Works Director Winckler said they are in Everett, on East Grand and are permitted to accept that kind of material. It's a temporary solution for the City, he said.

Councilor Baxter asked about the Ness Crane/Tree Removal voucher #18278 - whether this was for the 84th St. project and Public Works Director Winckler said yes, trees had to be removed because it was a very unstable situation.

Councilor Baxter said he would be abstaining from voting on vouchers 18292, 18311 and 18272.

Councilor Pedersen asked about voucher #18234, length of contract and City Administrator Zabell said it is an open ended contract.

Councilor Pedersen suggested taking a look at that.

Councilor McGee then moved to approve Consent Agenda Items 1 & 2. Councilor Myers seconded and the motion passed, with Councilor Baxter abstaining from voting on the 3 aforementioned vouchers.

3. Charles Okada Rezone; PA 9306020.

Councilor Leighan asked about the neighbors' concerns and whether they were addressed.

City Planner Hirashima said the letter was not part of the appeal process but the hearing examiner did note it in his report; their concern was with the residential and mixed use in that area, she said.

Councilor Herman asked about Acro Machining and City Planner Hirashima explained the non-conforming uses are to be phased out over time and the machine shop is more of an industrial use.

Councilor Baxter pointed out that Acro was displaced by the mall, then they were told they could not have a residential use because of their warehouse and now these people (Okada) are allowed to put in apartments. He said there are a number of businesses in that area, commercial and industrial uses along Cedar, several major uses; these were all residential at one time so there has been quite a bit of change over the years.

Councilor Herman noted the hearing examiner's decision does reflect the Comp Plan, however.

City Planner Hirashima agreed but said the City is probably going to continue to see conflict between the residential and industrial uses; with the residential use for the machine shop it was a non-conforming use and now the City is going in the opposite direction, permitting residential uses.

Councilor Leighan commented on stacked parking and City Planner Hirashima said that will be revised as it is not allowed in the City's parking code.

Councilor Herman noted there does seem to be some genuine conflict and he said he would agree with Councilor Baxter's concern; the noise problem will probably become a problem for the City to deal with, he said.

Councilor Baxter said he is very concerned about this business being treated like this. Acro is getting very frustrated over finding a location where the City will allow them to be, he said. He added that he doesn't think an existing business should be called "non-conforming" and he said he thinks the new people coming in should have to sign an agreement that they will put up with any noise. Obviously, the hearing examiner and Planning Commission are not considering the past history of the property, he concluded.

Councilor Wright asked who the onus is on to prove someone is out of compliance with the noise ordinance.

City Attorney Weed said he is not sure; he said he thinks Marysville's ordinance only applies to residential zones and the 2nd question is would a non-conforming use be exempt. He said the City also has a nuisance component in the ordinance which is something you would have to try and get the parties to come to some agreement on and there is a potentially incompatible situation here with the apartments and the machine shop, he said. He suggested that perhaps there should be some kind of disclosure drawn up upfront so the apartments can't come back and say they were not aware of the legal non-conforming use.

Councilor Leighan asked about staff recommendation #3 and City Planner Hirashima stated the City doesn't have a multifamily PRD ordinance so have allowed multifamily developments that don't take advantage of the PRD concept. This is actually medium to high density multi-family, she said.

Councilor Herman asked about high density multifamily downtown as was discussed in past planning meetings and City Planner Hirashima said there are very few parcels available that would be suitable for mixed use because of not having any sites available, for example, one acre in size. This is currently general commercial and they are asking for a rezone, she pointed out.

Councilor Baxter moved for a City Council Public Hearing 2/7/94 and Councilor Myers seconded the motion. The motion passed with Councilor Pedersen abstaining from voting.

ORDINANCES & RESOLUTIONS:

1. Resolution Granting a Utility Variance for the Tulalip Tribes of Washington.

City Administrator Zabell stated the Tulalip Tribes have requested this item be withdrawn.

ADJOURNED INTO EXECUTIVE SESSION: 9:50 p.m.

1. Personnel. (No Action)
2. Pending Litigation. (No Action)

RECONVENE: 10:13 p.m.

ADJOURNMENT: 10:14 p.m.

Accepted this 24th day of January, 1994.

Donna M Pedersen

MAYOR

Mary Swenson

CITY CLERK

Manda A. Swenson

RECORDING SECRETARY