

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING SEPT. 11, 1995

CALL TO ORDER: 7:00 p.m. 00225

ROLL CALL: Councilmember Pedersen
excused

MINUTES OF PREVIOUS MEETINGS: 9/5/95 Approved

AUDIENCE PARTICIPATION: Bill Bower, Steve Bertoldi

CONSENT AGENDA: Approved:

1. Approval of 9/11/95 Claims in the Amount of \$1,301,994.21; paid by check nos. 25716 through 25988 with check no. 25435 Void.
2. Authorize Mayor to Sign Final Plat Mylar for Northpointe East Div. I; PA 9410039.
3. Affirm Hearing Examiner's Recommendation to Approve the Conditional Use Permit with Conditions; Marysville School Dist./YMCA; PA 9506033.
4. Approval of Preliminary Plat & Rezone; The Hill; PA 9504023.

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PRESENTATIONS: None

PUBLIC HEARINGS: None

REVIEW BIDS: None

CURRENT BUSINESS: None

NEW BUSINESS:

1. Supplemental Agreement #2; Reid Middleton & Assoc.; Grove St./67th to 71st; City Project R-9409 Approved
2. Mutual Aid Agreement w/Evt. Water Utility Committee Res. 1743 Approved
3. 1994 Water System Improvements Amendment Adding Telemetry Revisions Approved
4. Pacific Coast Feathers Utility Variance Extensin Request UV94-005 Approved

ORDINANCES & RESOLUTIONS:

1. Res. establishing Stop Signs at 84th St. NE & 67th Av. NE Res. 1744 Approved
2. Res. regarding reaffirming policy for Utility Service for Areas Outside Marysville City Limits Res. 1745 Approved
3. Res. stating intention to annex certain unincorporated area known as the Wright Annexation into the City & Transmitting Matter to the Snohomish Co. BRB for Approval Res. 1746 Approved
4. Res. approving w/conditions Utility Var. for Water & Sewer for Boyden, Robinett & Assoc. Inc. Res. 1747 Approved
5. Res. approving w/conditions Utility Var. for Water & Sewer for James Klein Res. 1748 Approved
6. Res. approving w/conditions Utility Var. for Water Only for Bud Darling Res. 1749 Approved
7. Res. approving w/conditions Utility Var. for Water & Sewer for HKS Partnership Res. 1750 Approved

LEGAL MATTERS: Franchise Agreement Change - to be cont.

ADJOURNMENT INTO EXECUTIVE SESSION: 8:44 p.m.

1. Potential Litigation (No Action)

RECONVENED & ADJOURNED: 9:58 p.m.

MARYSVILLE CITY COUNCIL MEETING

SEPT. 11, 1995

7:00 p.m.

Council Chambers

Present:

Dave Weiser, Mayor

Councilmembers:

Donna Pedersen, Mayor Pro Tem (excused)

John Myers

Ken Baxter

Donna Wright

Mike Leighan

Otto Herman

Shirley Bartholomew

Administrative Staff:

Dave Zabell, City Administrator

Steve Wilson, Finance Director

Grant Weed, City Attorney

Gloria Hirashima, City Planner

Ken Winckler, Public Works Director

Wanda Iverson, Recording Secretary

00226

CORRECTED: SEPT. 11, 1995

CALL TO ORDER:

Mayor Weiser called the City Council Meeting to order and led us in the pledge of allegiance, at approximately 7:00 p.m.

ROLL CALL:

Finance Director Wilson called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETINGS:

Councilmember Herman noted on page 2 of the 9/5/95 minutes, second paragraph, that he would like it to say, rather than "he would like small farms included": "he would like small farms conditions adopted concurrent with the Comp Plan." On page 3, in the first paragraph, the word "recommended" should be "recommending" and on page 4, second paragraph, after the word "ratio" he suggested adding "between the city and county would be maintained, he said."

Councilmember Herman also noted on page 6, third paragraph, that the words "that we are not willing to serve subdivisions that do not meet Marysville's standards and we should make the county aware of this" should be deleted and replaced with "with our concerns."

There being no further corrections, Councilmember Bartholomew moved and Councilmember Myers seconded to approve the 9/5/95 minutes as amended. Passed unanimously.

AUDIENCE PARTICIPATION:

Bill Bower, 6056 7th Av. NW, Seattle, WA 98107, addressed Council. He stated he owns the property next to the sewer lagoon and when his property was annexed to Marysville, Mr. Durant did not want to join because of his cost in the sewer lagoon and state improvement was too much for him to assume. The City Council at that time made an agreement that he would be part of the industrial park, now Mr. Bower has spent a lot of time trying to find out the details of this but he could not find out when it was changed to Light Industrial. He said he doesn't believe the other people in the park were changed to Light Industrial and if this is the case, then he has been discriminated against; he would like to know the reasons why. He said the City Planner said he was Light Industrial in the county and should be Light Industrial in the City but he was never Light Industrial in the City, he was ag. He noted he has spent just in taxes and PUD interest on the money, putting in power poles for 800 feet and wiring, not including labor, \$268,000. With Light Industrial zoning it is not what he paid for and he thinks he has been discriminated against, he reiterated. He said he had calculated that he made 1556 trips into Marysville, averaging 100 miles a trip, plus donating all his time; about 9 years he has tried to get building permits and the City keeps saying they were going to make changes but he said he

CORRECTED: SEPT. 11, 1995

doesn't believe he was ever rezoned, or he was not made aware of it. He said he feels he has no protection, in other words, one person in a city the size of Marysville has no rights compared to if he was a member of a larger group, for example and he is not a "screamer" so he has not been heard. When this zoning was changed--he asked if they overlooked the first agreement because he can't figure out what happened after he had General Industrial and how it got changed to Light Industrial.

City Planner Hirashima stated when the annexation was processed under Frizzell-Durant, Mr. Bower's concern was that Light Industrial did not have very many uses but recently, she explained, the Council has expanded Light Industrial so it encompasses more uses.

Mr. Bower stated he has been paying taxes all this time on what he thought was General Industrial to the county and they still have the duplicate on file of his zoning documentation. He showed the paper he had, dated 1980, to Council.

Mayor Weiser stated the Planning Commission is going to be holding Comp Plan hearings soon and City Planner Hirashima stated yes, the first one will be held 9/26/95 and suggested Mr. Bower appeal to the Planning Commission at that time for a change in zoning.

Mr. Bower stated there is no argument that he was General Industrial.

Mayor Weiser stated there will also be upcoming hearings in front of Council and encouraged Mr. Bower to take advantage of that method of setting the record straight.

Steve Bertoldi, 1282 169th St., Mukilteo, WA 98275, addressed Council, stated they just started a Kentucky Fried Chicken in the Smokey Point Shopping Center. This project has been going on for a year and he filed for a water and sewer permit 2-1/2 months ago and the person in Public Works/Planning just said to come in with plans, there would be no problem about getting the hookups when they needed them. He said now there is an annexation going on, he has a million dollar project, Can Am (previous owner) signed a petition to annex with Arlington and now Mr. Bertoldi can't get water and sewer. He said he had no idea this was going on; he has met with a couple people and it looks like they are caught in the middle here.

Councilmember Bartholomew asked if the county health district signed off on his building permit, noting that this condition existed and Mr. Bertoldi said yes, his building permit application was 4-5 months ago.

City Planner Hirashima stated the Community Development Dept. has indicated they will not be issuing further permits such as this.

Mr. Bertoldi explained he went back to the county and they denied having any responsibility. Originally he was told to wait for the building permit, to go ahead and start on his project and there would be no problem when he came in later for water and sewer, he said.

City Attorney Weed asked if he had any idea about the annexation petition being signed on his behalf and Mr. Bertoldi said no, that it is very important to him to allow him to continue with construction.

Councilmember Herman asked about timelines and conditions under which the annexation petition was signed. He noted there is a requirement that the property be ultimately suitable for annexation if Marysville is to grant water and sewer and if there is a valid signature on the annexation petition, then it's not going to work for Marysville because the property could not be annexed into Marysville. Because Arlington has stated they could provide water and sewer, he suggested Mr. Bertoldi might want to approach them for utilities.

Mr. Bertoldi noted all the other projects around him have water: Food Pavilion, Wendy's, etc. and Kentucky Fried Chicken is the only one that doesn't.

Mayor Weiser said he needs to find out if there was a valid signature on the annexation petition and City Attorney Weed noted that for some reason, Arlington is not moving the annexation forward. He added that there is a six month time slot from when the annexation petition was circulated and when the signatures are certified.

City Planner Hirashima said the question is whether Mr. Carter had authority to sign for this property and Councilmember Bartholomew noted that on the Food Pavilion, for example, none of the owners had signed the Arlington petition, that was the difference.

Mr. Bertoldi pointed out the whole strip is owned by Can Am and the rest all have water except for him.

There was further discussion and Mayor Weiser suggested he meet with Ken Winckler and start the variance process, also to check with the City of Arlington regarding the annexation and see about the validity of the signature.

CONSENT AGENDA:

1. **Approval of 9/11/95 Claims in the Amount of \$1,301,994.21; paid by check nos. 25716 through 25988 with check no. 25435 Void.**
2. **Authorize Mayor to Sign Final Plat Mylar for Northpointe East Div. I; PA 9410039.**
3. **Affirm Hearing Examiner's Recommendation to Approve the Conditional Use Permit with Conditions; Marysville School Dist./YMCA; PA 9506033.**

Councilmember Bartholomew moved and Councilmember Myers seconded to approve Consent Agenda Items 1, 2 & 3. Passed unanimously with Councilmember Leighan not voting on Voucher #25973 under Item #1 and Councilmember Baxter not voting on Voucher #25789 & 25886 under Item #1.

Councilmember Leighan noted he would not be voting on item #4:

4. **Approval of Preliminary Plat & Rezone; The Hill; PA 9504023.**

Councilmember Wright moved and Councilmember Bartholomew seconded to approve Item #4 of the Consent Agenda. Passed with Councilmember Leighan not voting.

STAFF BUSINESS:

City Administrator Zabell reminded Council of the Navy trip tomorrow aboard the USS Wright and that the carpool will leave City Hall tomorrow at 0600 to go to Bellingham. He announced the 9/21 Mayors & Fire Chiefs meeting at Noon, Club Broadway and noted the Dept. of Defense has paid \$402,000 for utility connections on behalf of the Navy at 136th.

Public Works Director Winckler announced the WUCC meeting Thursday from 9 to Noon at the Public Safety Building, the Traffic Safety Committee meeting Thu. at 10:30 and 2 change orders: One for 136th St. for an additional line for construction of future development, to be done on a recovery basis. The second for 88th St. Interchange Change Order #10 for water and sewer extensions for property changing from residential to commercial, also on a recovery basis.

MAYOR'S BUSINESS:

Mayor Weiser noted there is to be a meeting next week with Ross Jamieson with Councilmembers Myers, Baxter and Leighan to serve on

the committee with regard to getting the old library building ready to house City Hall.

City Council Retreat: To be held 10/13 & 14 or 10/20 & 21??? Discussion about Comp Plan and mitigation fees, Dispatch/800 MGH, utility issues, location for retreat, whether or not there should be a facilitator?

Councilmember Herman noted he will be out of town 10/9 thru 10/13 and there was discussion about budget workshops, staying in town vs going out of town, facilitator vs no facilitator, costs, the consensus that this should be further discussed at next Council meeting for final decision.

CALL ON COUNCILMEMBERS:

CORRECTED: SEE 9/25/95
MINUTES sb held out of town

Councilmember Wright noted there are big holes in the roadway on 76th between 47th & 48th and also at 94th & 44th on the Southwest corner *and questioned if the roadway on 76th between 47th & 48th was a street or an alley.*

CORRECTED: SEE 9/25/95
MINUTES questioned

Councilmember Baxter reported he attended a meeting with John Garner and Tom Lehman from the County Utilities Appeal Committee; hopefully the change in procedure for appeals will be approved this Thursday, he said. He noted the final word will lie with the county council.

Councilmember Myers reported there was a Library Board meeting today and they discussed the vandalism the new library has already had and possibly putting in more security. He noted most of the vandalism has been in the restrooms and they have also had problems with vehicles exiting the library.

Councilmember Bartholomew mentioned and City Attorney Weed confirmed, that invasion of privacy issues need to be watched carefully.

Councilmember Herman talked about the CT Six Year Plan which has just been published and circulated and he also talked about increase in local service and ridership which is up 32% in some areas. There may be need for more buses on commuter routes, he noted.

Councilmember Bartholomew asked him about the King County Metro and Seattle Metro merger and what impacts there might be in Snohomish County or with CT. Councilmember Herman said he couldn't be too specific but noted ET and CT might re-think a possible merger as a lot of people think there should only be one transit service in this area. He talked about paratransit service, ADA service requirements, commuter routes and also noted the exiting problems at the new library.

Councilmember Leighan announced a State Work Release Meeting 9/14 (not the date noted in packets).

NEW BUSINESS:

1. **Supplemental Agreement #2; Reid Middleton & Associates; Grove St./67th to 71st; City Project R-9409.**

Public Works Director Winckler reviewed the agenda bill, noting \$19,360 additional engineering costs.

Finance Director Wilson added a few comments regarding the increased cost of construction and said this would come from a county fund and in the future he will bring in a budget amendment on requests such as this.

Public Works Director Winckler stated the reason for the additional cost is a 36" culvert under Munson Creek, 20' of excavation and to replace the existing culvert. Construction has begun, he said.

Councilmember Baxter moved and Councilmember Leighan seconded to authorize the Mayor to sign the agreement with Reid Middleton. Passed unanimously.

2. Mutual Aid Agreement with Everett Water Utility Committee.

Public Works Director Winckler reviewed the agenda bill and it was noted the City Attorney has had the opportunity to review the agreement, with no changes suggested.

Councilmember Myers moved and Councilmember Wright seconded to authorize the Mayor to execute the agreement and to adopt Resolution 1743. Passed unanimously.

3. 1994 Water System Improvements Amendment Adding Telemetry Revisions.

Public Works Director Winckler reviewed the agenda bill.

Councilmember Baxter moved and Councilmember Myers seconded approval. Passed unanimously.

4. Pacific Coast Feathers Utility Variance Extension Request; UV 94-005.

Public Works Director Winckler reviewed the agenda bill.

Joe Crawford, 5509 104th Pl. SW, Mukilteo, WA 98275, addressed Council on behalf of Pacific Coast Feathers. He stated 18 months ago it was clear they would need a variance, they are there now, they have made the extensions and have pursued a recycling of water system, they have gone all over the country and basically it made more sense to buy from the City vs buying the recycling system equipment. He said they are asking for 3 years but as long as the City has excess capacity, which he believes the City has, he would think this is the best way to go.

Councilmember Leighan asked about the difference in dates and Mr. Crawford said it was established that they were going to pay more on dirtier effluent and they paid that retroactively back in February.

Councilmember Baxter explained the need for one year extensions vs 3 year extensions.

City Administrator Zabell referred to a letter in the packets regarding rate increase, to be set on a year by year basis and noted the committee recommended one year at a time with a 120 day provision and Pacific Coast Feathers could be subject to a surcharge.

Mr. Crawford stated they have a current agreement until November, as he understands it, paying 26 cents a pound with a 30% automatic increase a year. If the City decides that's not enough to do the clean up that's fine, but they want to make sure they are not getting a "double" charge, so to speak.

Councilmember Baxter explained a variance should only be for a specific time and they need to have some incentive to move ahead and eventually install their own recycling water system.

Mr. Crawford said the way he sees it is where a variance costs people, he can see it, but this is a win-win situation, for Marysville and Pacific Coast Feathers.

Councilmember Baxter stated the customer in this case is supposed to be proceeding ahead with their pretreatment program so he is wondering about the reason for the variance.

City Administrator Zabell stated the variance was mainly for flow but there is an ongoing effort to clean up the effluent, too.

City Administrator Zabell added that with regard to the 120 days, the intent is for a variance request to begin with the burden on the applicant.

Public Works Director Winckler noted it would take 6 months for Pacific Coast Feathers to come into compliance with the needed engineering and construction of the recycling system.

City Administrator Zabell said that with regard to the surcharge, the RUSA Committee is not recommending 30% surcharge, they are saying City Council may put a surcharge on.

Public Works Director Winckler elaborated on the 30% which was meant to be an incentive for Pacific Coast Feathers to come into compliance after the first year. Also, the 30% was just an arbitrary figure, he said.

City Administrator Zabell added it was just a recommendation; another recommendation anticipates City Council would deal with that issue upon subsequent extensions.

Mayor Weiser asked about income to the City of \$200,000 vs \$50,000 and what the cost figures are to process effluent.

Councilmember Baxter said he would like to see them in compliance and moved to approve a one year extension with the recommendation of the RUSA Committee (a possible 30% surcharge) in subsequent extensions/years. Councilmember Bartholomew seconded the motion and it passed 5-1 with Councilmember Herman against.

ORDINANCES & RESOLUTIONS:

- 1. Resolution of the City of Marysville Establishing Stop Signs at the Intersection of 84th St. NE and 67th Av. NE.**

Councilmember Leighan moved and Councilmember Bartholomew seconded to approve/adopt Resolution 1744. Passed unanimously.

- 2. Resolution of the City of Marysville Regarding Reaffirming its Policy for Utility Service for Areas Outside the Marysville City Limits.**

Councilmember Bartholomew moved and Councilmember Herman seconded to approve/adopt Resolution 1745. Passed unanimously.

- 3. Resolution of the City of Marysville Stating its Intention to Annex Certain Unincorporated Area Known as the Wright Annexation into the City and Transmitting the Matter to the Snohomish County Boundary Review Board for Approval.**

Councilmember Myers moved and Councilmember Leighan seconded to approve/adopt Resolution 1746. Passed unanimously.

- 4. Resolution of the City of Marysville Approving with Conditions a Utility Variance for Water and Sewer for Boyden, Robinett & Associates, Inc.**

Councilmember Wright moved and Councilmember Baxter seconded to approve/adopt Resolution 1747. Passed unanimously.

- 5. Resolution of the City of Marysville Approving with Conditions a Utility Variance for Water and Sewer for James Klein.**

City Attorney Weed noted on page 5, the word "not" needs to be deleted, i.e., requirement that the property be connected, not "not be connected".

Councilmember Herman moved and Councilmember Wright seconded to approve/adopt Resolution 1748. Passed unanimously.

6. Resolution of the City of Marysville Approving with Conditions a Utility Variance for Water Only for Bud Darling.

Councilmember Leighan moved and Councilmember Myers seconded to approve/adopt Resolution 1749. Passed unanimously.

7. Resolution of the City of Marysville Approving with Conditions a Utility Variance for Water and Sewer for HKS Partnership.

Councilmember Myers moved and Councilmember Bartholomew seconded to approve/adopt Resolution 1750. Passed unanimously.

LEGAL MATTERS:

1. Franchise Agreement Change.

City Attorney Weed explained this involves the sale of Viacom to TCI; there are several cities involved but there are a couple of issues that he would like to see reviewed and resolved and there is going to be a meeting with regard to how to find out the financial capability of someone taking over a franchise, for example. Also, the City has to acknowledge that the present franchise holder is in compliance with all terms of the franchise and he said he would like to talk with Ron Hurd and a couple of the other cities.

After brief discussion, it was decided to bring this item back before Council in a couple weeks or so.

ADJOURNMENT INTO EXECUTIVE SESSION: 8:44 p.m.

1. Potential Litigation. (No Action)

RECONVENED & ADJOURNED: 9:58 p.m.

Accepted this 25th day of September, 1995.

MAYOR

David Weid

CITY CLERK

Mary J. Jones

RECORDING SECRETARY

Shanda A. Querson