

MINUTES RECAP

CORRECTED: SEE 11/12/96
MINUTES

3-2

MARYSVILLE CITY COUNCIL MEETING

NOVEMBER 4, 1996

CALL TO ORDER/FLAG SALUTE:

7:00 p.m.

ROLL CALL:

Councilmember Pedersen
excused

MINUTES OF PREVIOUS MEETINGS:

CC Mins. 10/28/96 Approved

AUDIENCE PARTICIPATION:

None

CONSENT AGENDA:

Approved:

1. Acceptance of City Hall Remodel Project and Begin 45-Day Lien Filing Period.
2. Acceptance of LID 65 Sanitary Sewer Project & Begin 45-Day Lien Filing Period.
3. Acceptance of Telemetry System Upgrade and Begin 45-Day Lien Filing Period.

STAFF'S BUSINESS:

1. Proposed Heather Glen Sanitary Sewer - Not to be formed at LID (cont. from Oct. 14) this time but \$200 dep. to be used toward future formation of LID

MAYOR'S BUSINESS:

1. Swearing in Patrol Officer Michael Braley

CALL ON COUNCILMEMBERS:

PETITIONS & COMMUNICATIONS:

None

PRESENTATIONS:

None

PUBLIC HEARINGS:

1. Wickham Annexation; PA 9503020 Approved

REVIEW BIDS:

None

CURRENT BUSINESS:

1. Utility Var. Dennis Westergreen; North of 4907 88th St. NE; UV 96-025 (continued from Oct. 28) Approved w/conditions

NEW BUSINESS:

1. Installation of C-Curbing on Cedar from 4th to 5th St. Approved w/modifications
2. Teen Curfew Discussion P.H. to be held 12/2/96

ORDINANCES & RESOLUTIONS:

1. Ord. 2098 Approved Affirming Hearing Examiner Decision & Rezoning Property Owned by LeRoy A. Welcome, Amending Official Zoning Map previously adopted in Ord. 772.
2. Res. 1825 Approved Providing for a public hearing 11/25/96 of petition for Vacation of an Unimproved/Unopened Section of 51st Av. NE.

ADJOURNMENT INTO EXECUTIVE SESSION:

9:03 p.m.

1. Legal Matters
2. Real Estate
3. Personnel

No Action
No Action
No Action

RECONVENED & ADJOURNED:

10:00 p.m.

313

MARYSVILLE CITY COUNCIL MINUTES

NOVEMBER 4, 1996

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
Donna Wright, Mayor Pro Tem
John Myers
Ken Baxter
Donna Pedersen (excused)
Mike Leighan
Otto Herman
Shirley Bartholomew
Administrative Staff:
Janet Berg, Asst. Finance Director
Dave Zabell, City Administrator
Ken Winckler, Public Works Director
Gloria Hirashima, City Planner
Grant Weed, City Attorney
Walt McKinney, Asst. Police Chief
Wanda Iverson, Recording Secretary

CALL TO ORDER/FLAG SALUTE:

Mayor Weiser called the City Council meeting to order and led the flag salute at approx. 7:00 p.m.

ROLL CALL:

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

MINUTES OF THE PREVIOUS MEETINGS:

Councilmember Wright noted in the 10/28/96 Council Meeting Minutes, under Audience Participation on the Minutes Recap and on page 1, "Braunwyn Thomas" should be spelled "Brownwyn Thomas."

On page 2, Councilmember Myers noted under Staff Business, 2nd paragraph, in about the middle of the paragraph "grand money" should be "grant money."

On page 5, Councilmember Herman noted in the 2nd line "expsnes" should be "expenses" (this correction was made when retyping onto disk) and on page 6, under Item #4, in the last paragraph, "Councilmbmer" should be "Councilmember" (this correction was also made when retyping onto disk).

There being no further corrections, Councilmember Leighan moved and Councilmember Wright seconded to approve the 10/28/96 Council Minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:

1. **Acceptance of City Hall Remodel Project and Begin 45-Day Lien Filing Period.**
2. **Acceptance of LID 65 Sanitary Sewer Project & Begin 45-Day Lien Filing Period.**
3. **Acceptance of Telemetry System Upgrade and Begin 45-Day Lien Filing Period.**

Councilmember Myers moved and Councilmember Bartholomew seconded to approve Items 1, 2 & 3. Passed unanimously.

STAFF BUSINESS:

1. **Proposed Heather Glen Sanitary Sewer L.I.D. (continued from Oct. 14)**

City Attorney Weed said he had checked into questions that had been raised at the October 14th Council meeting, including whether the \$200 deposits could be refunded to the property owners and if

not, if the deposits could be used toward a future LID formation. He said his opinion is that a refund would be improper and the statute is clear about the initial study being paid for by the deposits, but as long as the engineering plans are useful toward a future LID, then the property owners who paid \$200 could be given a credit, as long as there is a benefit from the work that was done initially. He said it may be a good idea to create an ordinance or a resolution setting forth the above and there was discussion among Council about changing policy.

Mayor Weiser stated there has been a request to open this up to the public again and City Attorney Weed said that would be appropriate.

Councilmember Myers moved and Councilmember Herman seconded to hear the public's comments at this time. Passed unanimously.

Linda Brown, 5219 142nd Pl. NE, addressed Council. She said this is the first meeting she has been able to attend and thanked Council for allowing her to state her position. She said she understands what they are saying about the City's policy but is not sure if they are aware of the history of this project. She said they were originally told some things that did not come to pass, for example, the cost estimate was changed drastically, timelines that were different, etc. Even the \$200 got changed to \$20, she said, at one point. She said she understands that the person that they were dealing with at the City is no longer with the City, that they were estimating compared to another LID, but they feel like this was really mishandled and it has been unfair, that the \$200 was not refundable was not told to them. As far as a future LID forming, she said she understands that is pretty well impossible because the City put the sewer in wrong to start with and so it's going to involve some major reconstruction, possibly years down the road when a lot of the present property owners won't be in the neighborhood any longer. She concluded that she doesn't think a credit is the way to go, people should get their money back.

Public Works Director Winckler agreed there were a lot of misunderstandings, but they did go through this pretty thoroughly with the Council. For example, about the cost, the City was very clear that they were not giving an estimate, only giving the cost of a project that was similar but there were a number of variables, he pointed out. He said that's why the City needed to do a study, it was explained and Mrs. Perry did say she didn't expect people to sign a blank check and the City understood that. This project would have to have pipe relayed deeper and the additional portion was going to be at City cost, he said. With reference to the \$200, it states very clearly that it's attributable to the LID but is a non-refundable amount, he said.

Ms. Brown said she understands also the form was not completely filled out and Councilmember Herman explained the only part that was not filled out is the legal description which is not completed until it's figured out exactly what area is being covered. He added that he understands the problems here, the fee was collected and it was explained it goes toward engineering which comes up with a cost estimate; he said they understand how this all happened and understand the neighbors' unhappiness.

Ms. Brown said there is a lot that has gone on, many people are concerned about the situation, they are pretty surprised about what went on and proposing to give them a credit toward an LID that may be done in 20 years is not a satisfactory solution for them.

CORRECTED: SEE 11/12/96
MINUTES SIB "years"

Councilmember Wright asked if the Brown's home has septic failure and Ms. Brown said everybody around them has had a septic failure, she is OK but she knows Mrs. Perry needs to do something about hers. Most everybody around the Browns is on their second system, she said but she is on her first but what she understands is that

the sewer is not going to be put in in the near future by the City; maybe this is another case of misunderstanding.

Councilmember Herman said it's possible the sewer won't be put in for several years but it's up to the neighborhood if they want to form a ULID.

Ms. Brown reiterated that it has been very confusing and said she thinks they are going to be very leery about signing up for an LID and it's very difficult to know who to trust after this experience.

Councilmember Myers pointed out that the decision may be made for them soon as he understands Snohomish County Health District may not be allowing people to redo their septics anymore, so he would recommend the neighborhood start the process of forming an LID as soon as possible, he said.

Ms. Brown said she thinks the majority of the people were in favor but a survey was sent out with misinformation; people did not want the higher cost. She said they have heard different stories about how the cost is divided up, also.

Mayor Weiser explained it's spread out over all the homes within the service area.

Ms. Brown said some people were told that and others were told it was just spread out over the few who were interested in the LID in the beginning.

Councilmember Bartholomew said the City needs staff to hold community meetings but Ms. Brown said there was a community meeting regarding expansion of the LID area. Unfortunately, the back of the neighborhood was not in favor because their septics aren't failing; the community meeting was not held in the beginning of the process and they maybe should have done that, she said.

Councilmember Bartholomew said she knows community meetings are costly items but she would like to see that in the budget.

Councilmember Baxter said he just received copies of the new sanitation rules today and there are a lot of expensive changes.

Ms. Brown said another thing the Council might not be aware of is that the majority of Heather Glen is on limited incomes and the \$200 was a hardship for them to get nothing for.

Councilmember Baxter pointed out that the \$200 has not covered the cost to the City for the effort that was put into the study but the residents have at least got the information that the sewer line has to be put down deeper, the City has obligated itself to \$100,000 and then the LID would start from that point. He said the engineering that goes into this is expensive and has to be paid for by other taxpayers.

Ms. Brown said she is sure Heather Glen residents have sometimes ended up paying taxes for costs not directly attributed to them as well, so it probably all works out but they were told the existing system would be adequate for a few homes, the ones who wanted to sign up originally. It would have to be made deeper only if the LID is extended, was her understanding, she said.

Councilmember Baxter said the RUSA Committee and City knew it was too shallow and you can't have a line that will only accommodate 10% of the neighborhood.

Mayor Weiser added they found there were others having problems and that's why the suggestion to expand the LID; if the City put in a new line, they want the ability to serve everyone who needs it, he said.

Ms. Brown said for the most part, the people in the back did not want to be part of the LID and the existing system they understood would serve the few people who originally wanted to sign up.

Councilmember Herman said it's clear to him that verbal communications do not work and so he would recommend written communications; any figure that was given needs to be clear what it was for, the final estimate could even vary and the City needs to have everything in writing, he said, such as having a brochure also that can outline the process so it's made clear to everyone.

Shirley Perry, 527 142nd Pl. NE, addressed Council. She said the original plan was that the estimate was for 4 houses; that's what Mr. Winckler and Mr. Doan told her and then they added to it, she said and did a study on their own and she said she thinks they should get their money back.

Councilmember Wright moved that because of the attorney's advice, the \$200 deposits (totaling \$1400) are to be used toward a future formation of an LID for Heather Glen. Councilmember Bartholomew seconded and the motion passed 5-1 with Councilmember Leighan against.

STAFF'S BUSINESS, CONTINUED:

City Administrator Zabell reminded Council 11/11 is Veteran's Day and so City Council will meet on Tuesday, 11/12 instead. Also, the next Cities & Towns meeting is 11/21 in Stanwood. He announced the Washington State Council on Aging has an opening on their board and the Council is invited to former Mayor of Monroe, Gordon Tjerne's retirement party 11/16.

City Planner Hirashima handed out maps with regard to the Barr Annexation and summarized what had happened at the two Boundary Review Board hearings. Because of their concern about the county (north of 88th) being landlocked, the BRB did not include the right of way on 88th in the annexation. Apparently between 80th and 88th was considered an unincorporated "peninsula" and there were a number of people opposed to the annexation.

There was discussion about this setting a precedent, that usually both sides of the street are included in an annexation.

Public Works Director Winckler announced there will be a CT Parking Committee meeting Friday at 10 a.m. 11/8 in the Public Works Building.

He outlined Change Order #2 for LID 65, which was a credit for \$32,000 as well as Change Orders 1 & 2 for the golf course including drains, irrigation, hydromulching, electricity, rockery, removal of trees on Fairway 1, roadwork, PUD access. He noted the total of change orders to date for the golf course amounts to only 2.2%.

Don Shaw reported that approximately 75% of the golf course renovation is completed, the contractor is good to work with and there may be some additional costs with regard to erosion control/repair. He said they are taking measure to prevent as much erosion as possible; they are diverting runoff to catch basins. He referred to a progress chart handout and said they are still anticipating to be reopened August 1st as planned.

There was brief discussion about the service road to the pump house.

MAYOR'S BUSINESS:

Mayor Weiser reported on the meeting he attended at Lakewood High School last Wednesday night regarding possible incorporation of a new city in that area. He said there were comments for and against and it was a very well fun meeting.

1. Swearing in Patrol Officer Michael Braley.

After an introduction by Police Chief Dyer, Mayor Weiser administered the oath of office to Patrol Officer Michael Braley.

CALL ON COUNCILMEMBERS:

Councilmember Baxter explained he was unable to go to the Lakewood High School meeting and was glad the Mayor was able to attend.

Councilmember Herman spoke about the need for a response for the incorporation proposal and utility policy; he asked about a letter to be written and wanted to make sure Council receives copies. As far as the water and sewer rates brought up at last Council meeting, he said he would like more information from staff regarding larger and smaller users, before and after the proposed rate increase, eg. restaurants, supermarkets, comparisons.

Public Works Director Winckler said they are in the process of developing some comparisons now and will have more information at the next Council meeting.

Councilmember Herman said he also would like information regarding users outside the UGB, what the revenue would look like without them, for example and whether Marysville's costs are that much higher. He said he would also like to see Marysville's annexation policies reviewed, our agreement with Arlington, eg. covenants, adjacent areas, considering some possible changes and possibly this is something that should go first to the RUSA Committee.

Councilmember Baxter said he agrees it should first be discussed at a RUSA Committee meeting.

PUBLIC HEARINGS:

1. Wickham Annexation; PA 9503020.

Mayor Weiser explained the process for public hearings.

City Planner Hirashima reviewed the agenda bill, referring to the overhead map and explained squaring off of boundaries. She noted the auditor's office now has to certify all annexations, a process which takes a little more time but ensures accuracy as far as the calculation of percentage of petition signers and covenants.

Mayor Weiser opened the public testimony portion of the public hearing at 8:10 p.m. No one wished to speak for or against the annexation and so the public testimony portion was closed at 8:11 p.m.

Councilmember Myers moved and Councilmember Bartholomew seconded to approve the annexation, with it being subject to the City's bonded indebtedness, RS 7200 zoning and comprehensive plan designation of General Commercial and High Density Single Family (5-7 du/ac).

Councilmember Leighan said he would like it noted on the SEPA checklist that the City does have money budgeted for and plans to hire additional police officers and would like the report to reflect same.

The motion passed unanimously.

CURRENT BUSINESS:

1. Utility Variance for Dennis Westergreen; North of 4907 88th St. NE; UV 96-025 (cont. from Oct. 28).

Public Works Director Winckler reviewed the agenda bill, noting they have now proposed a private line and easement and the staff recommendation is for approval of the utility variance provided

that the applicant obtain necessary easements on Lot 3, sign a hold harmless agreement and sign an agreement to participate in future main extension on 89th St., meeting frontage requirements.

There was discussion about the City maintaining the manhole, meeting requirement for side sewer.

Councilmember Baxter moved and Councilmember Bartholomew seconded to approve the utility variance with conditions as outlined. Passed unanimously.

NEW BUSINESS:

1. Installation of C-Curbing on Cedar Avenue from 4th to 5th St.

Mayor Weiser declared he owns property in the immediate area but there no objections to his making comments, although he said he will not be voting.

Public Works Director Winckler reviewed the agenda bill and introduced Asst. Police Chief McKinney who is a member of the Traffic Safety Committee.

Asst. Chief McKinney said the Traffic Safety Committee addressed specifically the problems at 4th & Cedar, especially with traffic going into the BP and Texaco stations, using this for a U-turn in some cases.

There was considerable discussion about safety measures that are needed at the corner such as closing off the alleyway, putting in C-curbing to prevent people making unsafe turns, lack of input from businesses even though everyone was notified of tonight's agenda item, large trucks using two lanes to turn, people getting stuck in the middle of the intersection after the light changes, discussion about possibly widening alleys, confusion with two lanes allowing left turns, possibly putting in double yellow lines vs C-curbing.

Councilmember Myers moved to install C-curbing up to the alley and look at widening the alley entrance curb cut and to seek permission from DOT regarding reflective buttons and paint on 4th (to help guide left turns onto Cedar). Councilmember Herman seconded and the motion passed unanimously.

2. Teen Curfew Discussion.

Asst. Chief McKinney said he sent a memo out to sergeants and they felt the City really doesn't need a curfew at this time but it could be a valuable tool. He did note Marysville has seen an increase in graffiti and Everett has seen a decrease in graffiti as a result of their curfew ordinance.

Councilmember Myers said he would like to hear public input on this topic and there was discussion about the state statute which has been incorporated into the MMC whereby you have to catch them in the act; 27 cities in the State of Washington (10% of the population) have a curfew ordinance.

City Attorney Weed gave a report regarding Lake Stevens and Snohomish's experience with curfew ordinances, both are in the throes of considering one but do not have one as yet. He noted Everett uses no force under their curfew ordinance and no citations have been issued; curfew violation is considered a civil offense and not a criminal offense and the ordinance is mainly used as an educational tool with rare transport of youth to parents, he said. He reviewed other area curfew ordinances, eg. Bellingham and Oak Harbor have ordinances which are being questioned because of vagueness, eg. "prohibiting wandering and loitering" and vagueness of what conduct is not allowed.

There was discussion about holding a public hearing, that Marys-

ville already has some appropriate laws on the books, that this could be used as an educational tool, eg. to help the parents and for protection of other kids from gang activity. Other issues such as parental responsibility, graffiti laws and retribution were brought up.

Councilmember Myers moved and Councilmember Bartholomew seconded to hold a public hearing 12/2/96 for public input on a possible curfew ordinance. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. **Ordinance Affirming Hearing Examiner Decision & Rezoning Property Owned by LeRoy A. Welcome, Amending Official Zoning Map previously adopted in Ord. 772.**

Councilmember Wright moved and Councilmember Bartholomew seconded to approve/adopt Ordinance #2098. Passed unanimously.

2. **Resolution Providing for a Public Hearing 11/25/96 of petition for Vacation of an Unimproved/Unopened Section of 51st Av. NE.**

Councilmember Leighan moved and Councilmember Baxter seconded to approve/adopt Resolution #1825. Passed unanimously.

ADJOURNMENT INTO EXECUTIVE SESSION: 9:03 p.m.

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| 1. Legal Matters. | No Action |
| 2. Real Estate. | No Action |
| 3. Personnel. | No Action |

RECONVENED & ADJOURNED: 10:00 p.m.

Accepted this 12th day of November, 1996.

David Weiser
MAYOR

Mary D. Swenson
CITY CLERK

Wanda A. Swenson
RECORDING SECRETARY