

MINUTES RECAP

9100

MARYSVILLE CITY COUNCIL MEETING

MARCH 2, 1998

CALL TO ORDER:

7:00 p.m.

ROLL CALL:

All Present

MINUTES OF PREVIOUS MEETINGS:

Approved

1. City Council Meeting; 2/23/98

AUDIENCE PARTICIPATION:

None

CONSENT AGENDA:

1. Approval of Final Plat for Strawberry Hills Phase II; PA8909052

Approved

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PRESENTATIONS:

1. Strawberry Festival Pageant Candidates
2. ASCENT 21-C. Earl/B. Anderson Marysville to contribute \$1935

None

PUBLIC HEARINGS:

REVIEW BIDS:

1. 88th St. Sewage Lift Station (cont. from 2/23/98)

Approved bid from SRV

CURRENT BUSINESS:

1. Proposed LID No. 69; Parkside Drive Sanitary Sewer (cont. from 2/23/98)

Res. 1875 - Public Hrg. to form LID 69 - 4/27/98

NEW BUSINESS:

1. Prof. Services Agreement for 122nd St. Drainage Improvements; Hammond Collier Wade-Livingstone Assoc. Inc.
2. Prel. Plat & Rezone Appeal; Cedarcrest Park; PA9707022.
3. Prof. Services Agreement for Sunnyside Sewer Trunk D Extension; Hammond Collier Wade-Livingstone

Approved

Public Hrg. 3/23/98

Approved

None

ORDINANCES & RESOLUTIONS:

None

LEGAL MATTERS:

ADJOURNED:

9:45 p.m.

EXECUTIVE SESSION:

9:50 to 10:34 p.m.

1. Litigation
2. Real Estate
3. Personnel

No Action

Action - See Minutes

No Action

RECONVENED & ADJOURNED:

10:34 & 10:36 p.m.

MARYSVILLE CITY COUNCIL MEETING

MARCH 2, 1998

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Wright, Mayor Pro Tem
 Donna Pedersen
 John Myers
 Normajean Dierck
 Mike Leighan
 Otto Herman
 Shirley Bartholomew
Administrative Staff:
 Dave Zabell, City Administrator
 Bob Carden, Police Chief
 Grant Weed, City Attorney
 Gloria Hirashima, City Planner
 Ken Winckler, Public Works Director
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor Weiser called the City Council Meeting to order at 7:00 p.m. and led us in the flag salute.

ROLL CALL:

City Administrator Zabell called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETINGS:

1. Council Minutes 2/23/98 Meeting.

Councilmember Pedersen noted on page 9 in the 4th paragraph, it should be "for" not "fro."

Councilmember Herman noted on page 10 in the 2nd to last paragraph, "her" should be "here."

There being no further corrections, Councilmember Bartholomew moved and Councilmember Herman seconded to approve the 2/23/98 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS: None.

CONSENT AGENDA:

**1. Approval of Final Plat for Strawberry Hills Phase II;
 PA8909052.**

Councilmember Pedersen moved and Councilmember Bartholomew seconded to approve Consent Agenda Item #1, authorizing the Mayor to sign the Final Plat Mylar. Passed 6-1 with Councilmember Dierck opposed.

STAFF'S BUSINESS:

City Planner Hirashima reported mitigation ordinances are coming up as the next order of business before the Planning Commission for their review: School, Parks and Traffic Mitigation ordinances and the City Attorney is working with them on these. She said these will probably be coming before Council within the next two months.

Public Works Director Winckler outlined Change Order #1 to LID #67 for \$7,450 for replacement backfill. The original backfill was deluged and had to be replaced with 93 tons of backfill material, he explained. Even at that, the project is still \$78,000 under the preliminary assessment and the project is near completion. This change order represents 4.25% of the total project, he said.

He reported there will be an open house this Wednesday at Allen Creek Elementary School regarding 60th Drive.

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Public Works Director Winckler also reported he researched the figures on the WWTF in connection with flow and BOD/capacity of the lagoon. He said a new facility or expansion is to be created when the present facility reaches 85% of capacity/flow, i.e. a flow of 5.2 million gallons per day and 8,670 lbs. of BOD a day, which has to be the average for 3 months running. Average flow for 1996 was 4.05 million gallons per day and for 1997 4.43 million gallons per day. Average BOD for 1996 was 7868 lbs. per day and for 1997, 7880 lbs. per day. So it is projected that the City has enough capacity in the sewer lagoon until at least the year 2000 or 2001 which is when the Sewer Comprehensive Plan needs to be reviewed again, anyway, he said.

He noted the DOE permit expires in June, 1999 and the process needs to commence 180 days prior to that as far as renewal of the permit, so Pacific Coast Feathers does have a few years to start their water recycling program.

MAYOR'S BUSINESS:

1) The Mayor reported on the open house last Thursday night at the junior high school regarding a proposed Park & Ride lot at Asbery Field. The proposal was to create 244 parking places as well as storm drainage. The open house was attended by 59 people and there were 30 written responses - all negative comments received. Even the school district is basically against the proposal so it is felt that a public hearing is unnecessary at this point. He said most of the concerns were regarding safety, vandalism, increased crime, traffic, reduced property values. The Engineering Dept. came up with some ideas regarding raised crosswalks and will come back with further information, he said.

There was discussion about the need for Marysville School District employee parking, safety conditions need to be addressed right now and that the school district/board and City Council need to have a joint meeting to discuss this whole thing further and see if some kind of plan suitable to all concerned can be arrived at.

The amount of staff time and effort that was put into the open house was noted, that the problem of parking still needs to be resolved and it was the consensus that a joint meeting with the school board would be productive.

The fact that the junior high may be switched back to a high school was mentioned, in which case they will need additional parking for the students as well as the need to apply for a conditional use change.

2) The Mayor, Mayor Pro Tem Wright and Councilmember Dierck will be out of town 3/9/98 and the consensus was to have Council-member Leighan serve as Mayor Pro Tem at that meeting, as he did at the 2/23/98 meeting.

3) The Ken Baxter Senior Community Center Rate Structure has been reviewed by the Parks Advisory Board and the recommendation is to go to \$45 an hour with a 3 hour minimum. Apparently they are trying this and already have 3 weddings/receptions scheduled, charging a \$300 damage deposit.

After brief discussion about alcoholic beverages being served, the fact that setting up another committee such as a KBSCC Advisory Committee is unnecessary because there already is a Senior Committee and a Parks Dept. Advisory Board to administrate the facility, it was the consensus to bring this back as an agenda item and review reservations, any problems that have come up in the interim, etc.

4) Mayor Weiser mentioned four topics that have been suggested for the 3/27 & 3/28 Council Retreat:

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- Museum/Waterfront Project
- Jail Siting
- Committee Structure
- Economic Development

It was also noted that discussion of the first two of these four items could begin at the 3/16 Workshop, prior to the retreat. It was noted that on the Waterfront/Museum project, it depends if the draft EIS has been issued; the county doesn't know when it's to come out at this point, he said.

There was discussion about the jail siting and Councilmember Bartholomew noted one of the locations is going through the annexation process and she had been asked to comment on the site. City Attorney Weed said he saw no problem with her making comment on this.

5) Mayor Weiser commented on the letter regarding the Quilceda/Allen Creek Watershed from County Executive Bob Drewell (in Council's packets).

CALL ON COUNCILMEMBERS:

Councilmember Myers reminded everyone to complete PDC forms; everyone in public office must do it this year. He asked about the paving of State and Public Works Director Winckler explained difficulties the contractor has been running into with the weather, conflicts, etc. He said everything is lined up, ready to go now as soon as the weather cooperates.

Councilmember Bartholomew said the TV Advisory Committee will be meeting this Thursday morning and considering televising school board meetings. She mentioned a change in the makeup of the HUD Block Grant Advisory Committee and had a question regarding jurisdiction vs federal ruling, eg. a New York State judge banned adult book stores in industrial zones and she asked if a federal ruling such as that would have jurisdiction in Marysville.

City Attorney Weed said he could look into this further; it would depend if it was an appellate court decision.

Councilmember Leighan asked about the Economic Development Committee and City Planner Hirashima said their next meeting is 3/11/98.

Councilmember Pedersen reported she was asked to do a senior forum and they asked many questions about City government. She said she enjoyed the interaction and invited other Councilmembers to join her this Friday at 1:15 at City Hall to speak with and answer questions from the cub scouts.

PRESENTATIONS:

1. Strawberry Festival Pageant Candidates.

Jodi Hiatt, 1998 Maryfest Royalty Pageant Director, addressed Council and invited each of the nine candidates to introduce themselves. The nine candidates this year were Amanda Nickelson, Alyssa Gill, Lisha Moore, Kimberly Vos, Brooke Frasier, Crystal Hanson, Alison Drake, Jessie Sanchez and Alea Peterson.

Ms. Hiatt invited Council to attend the Pageant this year at 7 p.m. on 3/28/98 at the high school.

2. ASCENT 21 - Charlie Earl/Bob Anderson

Mayor Weiser gave a brief introduction, noting ASCENT 21 is in Phase II; part of the funding is a partnership with EDC. He spoke about the Infrastructure Committee, water and sewer projects totalling \$41 million. He introduced "Mayor" Bob Anderson.

Mr. Anderson explained there are 40 in the ASCENT 21 group including private enterprise, public representation, people from labor and education. He said he lives at Priest Point and knows the problems commuting, concerns about water and sewer, quality of life. He said the group is looking to the next 20 to 30 years and want to put together something first that makes sense, then to inform the public and make some decisions. He said they took a survey and the biggest concerns are traffic, water and sewer, public safety--which originally totalled \$1.5 billion in projects. He said they have developed the process, the communication, are getting input, consulting with public agencies and then plan to find a way to get this information out to the public so projects can be identified and funded. He said they are looking for some contributions to go forward in this process and said they have a very ambitious project here. He said they would like to get going on some road projects, for example. He introduced Charlie Earl.

Mr. Earl explained they are looking for funds from various sources and over the next 6 to 7 weeks they are inviting 300+ people to give input. Anyone who is interested is invited to participate in giving feedback about projects, legislative strategy and funding at the local and state levels. He referred to information in the packets and outlined their schedule:

- invitations go out tomorrow for 3/23/98 workshop and those people will network with others
- some action/decision to be reached by April 15 about proceeding to Snohomish County Council, eg. putting items on the November ballot.

He said if this whole thing is a success, they need a way to manage it and are asking for some money from the City of Marysville (and others); Phase II will end in May and they will try to raise public money to put items on the ballot in November.

He named some donors they have received commitments from so far including the Cities of Everett and Index, the Tulalip Tribes, the Labor Council. He said they are trying to raise \$50,000, using the same funding formula as Snohomish County Tomorrow, which works out to \$1935 from Marysville.

There was brief discussion as to which fund this could come from and Councilmember Bartholomew moved and Councilmember Herman seconded to authorize Marysville's participation and for a budget amendment to be brought before Council as to where funds are coming from. Passed unanimously.

REVIEW BIDS:

1. 88th St. Sewage Lift Station (continued from 2/23/98).

Public Works Director Winckler reviewed the agenda bill, recommending the low bidder, SRV Construction, be awarded the bid in the amount of \$333,753.72 including sales tax.

Councilmember Pedersen left Council Chambers at 8:18 p.m.

Councilmember Myers moved and Councilmember Leighan seconded to award the bid to SRV Construction in the amount of \$333,753.72 as recommended plus a 10% contingency.

Councilmember Dierck asked how close the lift station will be built to the creek and Public Works Director Winckler said it is 100' at least.

City Planner Hirashima added that a Shoreline Management Permit was granted.

Councilmember Pedersen returned to Council Chambers at 8:20 p.m.

Councilmember Leighan asked if this will be funded out of the Utilities Reserve Account and City Administrator Zabell said yes.

The motion passed unanimously.

CURRENT BUSINESS:

1. Proposed LID No. 69; Parkside Drive Sanitary Sewer (continued from 2/23/98).

Councilmember Wright explained she is one of the petitioners and stepped down, leaving Council Chambers at 8:22 p.m.

Public Works Director Winckler reviewed the agenda bill, noting 14 out of 23 homeowners have expressed interest in LID participation, however the gravity sewer will not be able to serve 5 homes' daylight basements. It is recommended a resolution of intention to order construction and installation of the proposed improvements and formation of LID No. 69 be approved with a public hearing on 4/27/98 and that the preliminary assessment roll for the described special benefit area be prepared.

Councilmember Herman asked Public Works Director Winckler to describe the public notification process and Public Works Director Winckler said it is advertised in the newspaper and notification is also sent out to each property owner by mail, to the name of the person on the assessor's roll as well as to the property address.

Councilmember Pedersen noted for the record she and her husband are not included in this LID; they have sewer already.

Councilmember Herman asked Public Works Director Winckler to describe what would happen at the public hearing.

Public Works Director Winckler stated the property owners would be informed of the LID boundary, engineering estimate of the LID assessments and information that would be available to them prior to the public hearing.

Councilmember Dierck said she feels a public hearing is necessary prior to any action.

Councilmember Herman moved and Councilmember Bartholomew seconded to approve Resolution 1875 giving intent to order construction and installation of the proposed improvements and formation of LID No. 69, with a public hearing on 4/27/98 at 7:00 p.m. and ordering the preliminary assessment roll for the described special benefit area be prepared. Passed 5-1 with Councilmember Dierck against.

Councilmember Wright returned to Council Chambers at 8:30 p.m.

NEW BUSINESS:

1. Professional Services Agreement for 122nd St. Drainage Improvements; Hammond Collier Wade-Livingstone Assoc. Inc.

Public Works Director Winckler reviewed the agenda bill, recommending the professional services agreement be approved in the amount of \$12,483.

Councilmember Leighan asked about the construction to the north and Public Works Director Winckler explained that was taken into consideration, the mitigation and coordination of the 2 projects.

Councilmember Bartholomew moved and Councilmember Myers seconded to authorize the Mayor to sign the agreement as recommended. Passed unanimously.

2. Preliminary Plat & Rezone Appeal; Cedarcrest Park; PA9707022.

City Attorney Weed reviewed the agenda bill outlining the need for a closed record appeal. In this type of proceeding, he explained the only issues to be discussed are procedural issues and nothing relating to the merits of the appeal.

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Councilmember Pedersen asked that it be explained how the procedure has changed from previously and City Attorney Weed said there is a right of appeal to Council and Council does not really have a choice about whether or not to hear this.

Councilmember Pedersen asked if validity of the appeal is part of the ordinance and City Planner Hirashima said it is.

City Attorney Weed said jurisdiction issues would be heard at the beginning of the hearing; it would review arguments, jurisdiction, procedure.

Councilmember Bartholomew said she sees no indication of who the applicant is and City Planner Hirashima stated the applicant is Bud Darling and Harvey Jubie. She explained they are requesting a rezone from RS 12,500 and RS 9,600 to Multiple Family Residential Low Density with a Planned Residential Development Overlay, preliminary site plan and preliminary plat approval for the single family residential development of Cedarcrest Park. The Hearing Examiner recommended approval of the rezone with a PRD overlay, preliminary plat, preliminary site plan with conditions and a public hearing was held on Jan. 22, 1998. The Hearing Examiner's decision was issued on February 14 and an appeal was filed on February 23, 1998. It is recommended March 23, 1998 be set as the date for the closed record appeal hearing, she said. She noted the appellant was here last week.

There was discussion about the Council having no contact with the appellant, that this will be a quasi-judicial hearing, that the appellant will be required to state reasons they feel where the Hearing Examiner erred in his decision, discussion about Title 15, written arguments vs oral arguments, this needs to be codified.

There were comments about reviewing this process after this case to see how smoothly it went; it was noted that some jurisdictions go direct to superior court with these appeals, discussion about the term "argument."

Councilmember Leighan asked what is considered new evidence and City Attorney Weed said the burden is on the proponent as to why that information could not have been brought to the attention of the Hearing Examiner prior to the closed record hearing. The appealing party would have an additional 7 days with a copy to the applicant who can address the issues made by the appealing parties; staff would then present to Council. He asked Council whether they would accept oral argument or written argument only. He added that only issues raised in the appeal statement are to be considered.

Councilmember Pedersen asked about the jurisdiction issue again, frivolous lawsuits, what would keep that from occurring?

City Attorney Weed said the appellant would have to describe something in the code on which their appeal is based. The responding party would have an opportunity to respond and an appeal can be dismissed if certain issues were raised that have no merit, he said. First, the procedure must be determined, he said and the appeal can then go to superior court from City Council.

Councilmember Pedersen said she would like more time than from March 19th to the 23rd to read through all the documentation and City Planner Hirashima said the majority of the documentation can be provided to the Council within a couple days.

There was more discussion about oral vs written argument, need to have it in writing as emotional issues tend to get out of hand. There was discussion about ex parte contact and City Attorney Weed said Councilmembers should refrain from discussion with each other until they have all information available and are at the hearing, so it's on the record. He said the timing of the written statements, oral vs written argument and procedural issues need to be decided tonight.

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Councilmember Bartholomew asked about the City Councilmembers visiting the site and City Attorney Weed said the Councilmembers ought to make a visit as a group with a record of why they are making the visit, to familiarize themselves with the site to gain a better understanding. He said the visit should be with staff, eg. in a van as a group, with no discussion about the appeal at that time.

Councilmember Pedersen said she wanted to be sure they don't have a real crowded agenda the night of the 23rd.

City Planner Hirashima asked about reasonable time frames and Councilmember Herman asked about the 2 days given for staff. City Planner Hirashima said that was sufficient for the Planning Dept.

City Attorney Weed said his role is basically with the procedure, so he is comfortable with 2 days.

Brad Cattle, Attorney, Everett, addressed Council. He said he is representing the applicant and wished to make a couple brief comments. He said the timing sequence as stated (7 days for the appellant then 7 days for the applicant and 2 days for staff to review) is entirely acceptable and the hearing date (3/23/98) is acceptable to the applicant. He said he has two suggestions for City Council's consideration in this new process: He would suggest they allow limited oral summation, no more than 5 or 10 minutes, for example, as a summary of the salient points. The written case will come before them and he said he thinks it would help City Council to understand the material better and would also give them the opportunity to ask questions. He said he thinks Council is trying to avoid extra information and that can still be done but his role is to tell the Council on behalf of the applicant what is important. He noted this is a formidable report and he is not sure it should be the Council's role to read the whole record; that should be up to the attorneys to summarize the important points and he said he would encourage Council to consider some limited oral testimony.

Councilmember Herman said he can understand the argument for brief oral summation and he said he thinks that would help in the public process.

There was discussion about the more positive sounding "oral summation" and that it could be limited to 5 minutes for each side, to not include any answers to Council's questions. There was discussion about who summation would be from, whether it should be from the applicant and appellant only.

City Attorney Weed described the sequencing as: Opening, staff report, oral summation from the Appellant, oral summation from the Applicant and Deliberation. He noted that in Superior Court, written argument is reviewed ahead of time, oral argument (10 mins.) is given in court with rebuttal time and then there is the deliberation procedure.

Councilmember Pedersen asked who would determine whether it is a valid appeal and City Attorney Weed said if either party raises this issue, it can be done in writing or orally and it's staff/Council's job to review jurisdiction issues first.

Councilmember Herman asked about providing findings of fact and City Attorney Weed said that would be part of the deliberation process, with findings of fact and conclusions which would constitute the final decision.

Councilmember Herman moved to allow a total of 5 minutes each to the appellant and applicant for oral summation, with no rebuttal after that. Councilmember Pedersen seconded and the motion passed unanimously.

Councilmember Pedersen moved and Councilmember Wright seconded to establish the hearing date of March 23, 1998 for the closed record appeal with the time line as previously outlined for receiving written arguments and staff review, also that the Councilmembers to get the bulk of the information this week. Passed unanimously.

3. Professional Services Agreement for Sunnyside Sewer Trunk D Extension; Hammond Collier Wade-Livingstone Assoc. Inc.

Public Works Director Winckler reviewed the agenda bill.

Councilmember Dierck left Council Chambers at 9:25 p.m.

Public Works Director Winckler explained the amount budgeted was actually \$1,598,000 and not what is shown on the agenda bill. He said this design would be for Phase 1 & 2 and recommended approval of the professional services agreement.

Councilmember Dierck returned to Council Chambers at 9:29 p.m.

Public Works Director Winckler reviewed the breakdown of the \$520,500 figure for the total project and also spoke about easement acquisition, adjacent plats, geotechnical/environmental support, electricity and telemetry. He said nearly all of Phase I will be ready to go at the same time as the project is constructed and so recoverable (main charges up to 10" sewer main); oversizing and pump station also recoverable. Phase II will not be constructed until further development is planned and approved first, he said. He added that the upfront financing will be \$1.5 which includes the lift station which is budgeted for this year.

Councilmember Bartholomew asked when construction is scheduled to begin and Public Works Director Winckler said September.

Councilmember Bartholomew asked long range, how Phase II ties in with the Soper Hill project and City Administrator Zabell said it depends on the interest for sewers; Phase I goes up to 40th on Sunnyside.

Councilmember Pedersen asked what a sufficient interest level would be and City Administrator Zabell said it depends on plats purchased, ULIDs.

Councilmember Pedersen asked about which would come first, the plat or the interest for the sewer and City Administrator Zabell said they are getting together with interested parties regarding sewer; there have been a lot of inquiries. He added it has to make sense for the City to go forward first.

Public Works Director Winckler explained the process and how wide spread the interest was with Phase I.

Councilmember Pedersen asked if Marysville plans to coordinate this with Lake Stevens and City Administrator Zabell spoke about a possible interlocal agreement with Lake Stevens. Public Works Director Winckler said in fact they were going to be meeting with Lake Stevens 3/10/98.

City Administrator Zabell said the City would pursue an interlocal agreement until a gravity system is available.

There was more discussion about number of survey hours, right of way acquisition. Councilmember Bartholomew then moved and Councilmember Leighan seconded to authorize the Mayor to sign the professional services agreement with Hammond Collier Wade as recommended. Passed unanimously.

ADJOURNMENT: 9:45 p.m.

EXECUTIVE SESSION: 9:50 to 10:34 p.m.

1. **Litigation.**
2. **Real Estate.**
3. **Personnel.**

RECONVENED: 10:34 p.m.

Councilmember Herman moved and Councilmember Bartholomew seconded to purchase the property for the amount discussed in Executive Session. Passed unanimously.

ADJOURNED: 10:36 p.m.

Accepted this 9th day of March, 1998.



MAYOR



CITY CLERK



RECORDING SECRETARY