

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING

SEPTEMBER 28, 1998

CALL TO ORDER:

7:00 p.m.

00219

ROLL CALL:

All present

MINUTES OF PREVIOUS MEETINGS:

- | | |
|-----------------------------------|----------|
| 1. City Council Meeting; 9/14/98 | Approved |
| 2. City Council Workshop; 9/15/98 | Approved |
| 3. City Council Workshop; 9/21/98 | Approved |

AUDIENCE PARTICIPATION:

Bruce Tipton

CONSENT AGENDA:

Approved:

1. Approval 9/28/98 Claims in the amount of \$206,467.80; paid by check nos. 41146 through 41325 with check nos. 40504 and 40640 void.
2. Affirm Hearing Examiner's Recommendation to Approve the Request for a Rezone with Conditions; Chatham Court; PA 9802016.
3. Affirm Hearing Examiner's Recommendation to Approve the Request for a Rezone with Conditions; Strawberry Hills III; PA 9804023.
4. Approval of Model Home Request on Lot 71 of Cedarcrest Park.

STAFF'S BUSINESS:MAYOR'S BUSINESS:CALL ON COUNCILMEMBERS:PETITIONS & COMMUNICATIONS:

None

PRESENTATIONS:

None

PUBLIC HEARINGS:

1. School Impact Fee Ord. & Amendment Continued to 10/26/98 of Comp Plan/Capital Facilities Only

REVIEW BIDS:

None

NEW BUSINESS:

None

ORDINANCES & RESOLUTIONS:

None

LEGAL MATTERS:

None

ADJOURNED:

12:15 a.m. 9/29/98

EXECUTIVE SESSION:

12:21 to 1:10 a.m. 9/29/98

1. Legal Matters
2. Real Estate

No Action
No ActionRECONVENED & ADJOURNED:

1:10 a.m. 9/29/98

MARYSVILLE CITY COUNCIL MEETING

SEPTEMBER 28, 1998

7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Wright, Mayor Pro Tem
 Donna Pedersen
 Brett Roark
 NormaJean Dierck
 Mike Leighan
 Otto Herman, Jr.
 Shirley Bartholomew
Administrative Staff:
 Robert Carden, Police Chief
 Ed Erickson, Finance Director
 Dave Zabell, City Administrator
 Gloria Hirashima, City Planner
 Grant Weed, City Attorney
 Ken Winckler, Public Works Director
 Wanda Iverson, Recording Secretary

00220

CORRECTED: SEE 10/5/98 MINUTES

CALL TO ORDER:

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

ROLL CALL:

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

MINUTES OF PREVIOUS MEETINGS:

1. City Council Meeting; September 14, 1998.

Councilmember Dierck noted on page 2, under Call on Council, the last three lines of the second to last paragraph should be replaced with "She noted that this information needs to be for public record."

Councilmember Herman noted on page 4, second paragraph from the bottom, that the "step in the right direction" is that DOT did include in their presentation alternative routes.

Mayor Weiser noted that he had been approached by a member of the public regarding making another correction in the minutes. The item in question will be researched and it will then be brought back to Council who has the authority to change the minutes.

There being no further corrections, Councilmember Wright moved and Councilmember Dierck seconded to approve the Council Minutes of 9/14/98 as corrected. Passed 7-0.

CORRECTED: SEE 10/5/98 MINUTES

2. City Council Workshop; September 15, 1998.

Councilmember Pedersen moved and Councilmember Bartholomew seconded to approve the 9/15/98 Workshop minutes as presented. Passed unanimously.

3. City Council Workshop; September 21, 1998.

Councilmember Leighan moved and Councilmember Pedersen seconded to approve the 9/21/98 Workshop minutes as presented. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Bruce Tipton, 6308 100th St. NE, addressed Council. He said tonight marks a momentous occasion for Marysville; there are two projects up for approval on the Consent Agenda and letters in these packets include the letter from the Marysville School District saying they can't educate the children brought into this community. He said this type of project will have an adverse impact on the school district; this is a standard letter that has been ignored by the City time after time.

City Planner Hirashima explained the letter is a standard response from the school district for development reviews; the school district is asking the City to require a mitigation fee in accordance with the Capital Facilities Plan and the existing school mitigation fee charged developers by the City is \$925 per dwelling unit.

CONSENT AGENDA:

1. **Approval 9/28/98 Claims in the amount of \$206,467.80; paid by check nos. 41146 through 41325 with check nos. 40504 and 40640 void.**
2. **Affirm Hearing Examiner's Recommendation to Approve Request for Rezone with Conditions; Chatham Court; PA 9802016.**
3. **Affirm Hearing Examiner's Recommendation to Approve Request for Rezone with Conditions; Strawberry Hills III; PA9804023.**
4. **Approval of Model Home Request on Lot 71 of Cedarcrest Park.**

Councilmember Dierck asked that Items 2 & 3 be removed and voted on separately. She said she will be voting "no" on these two items because we don't have enough room for our kids.

Councilmember Bartholomew moved and Councilmember Herman seconded to approve Consent Agenda Items 1 & 4. Passed with Councilmember Leighan abstaining on Check #41312 under Item #1.

Councilmember Wright moved and Councilmember Leighan seconded to approve Consent Agenda Items 2 & 3.

Councilmember Herman clarified that he will be voting based on existing standards and regulations.

Councilmember Pedersen noted \$925 was accepted as an adequate impact fee.

The motion passed 6-1 with Councilmember Dierck opposed.

STAFF'S BUSINESS:

City Planner Hirashima reported there will be a community and Planning Commission Workshop tomorrow evening with the county presentation from 4 to 6:45 p.m. then the Planning Commission Public Hearing/meeting regarding Phase II of the UGA Plan. She noted that Phase I is generally south of 152nd and Phase II is generally north of 152nd.

Public Works Director Winckler reported Aztec Electric is to proceed on the project at First & State; poles are to be delivered Oct. 30 and it is anticipated completion will be in 2 mos.

He also reported the Highway 9 Reservoir has been completed and will be on line within 2 weeks.

Ed Erickson, City's new Finance Director, referred to a memo he had passed out before the meeting, regarding debt retirement. He noted there is the potential for a savings of \$456,000 over the next 4 years due to refinancing and it would not extend the term of the bond.

MAYOR'S BUSINESS: None.

CALL ON COUNCILMEMBERS:

Councilmember Dierck asked about the gambling revenue funds being used for Mother Nature's Window, as a follow up to her previous question about the funds being used for something other than law enforcement.

Mayor Weiser said nothing was actually submitted about Mother Nature's Window but he talked with John McCoy of the Tulalip Tribes and he has submitted the latest draft of the compact.

Mayor Weiser said when a decision is made as to how to spend the funds, the City is to advise Tulalip Tribes.

Councilmember Pedersen noted Mother Nature's Window went through the process and as she understands it, it may already be fully funded.

Councilmember Herman agreed, stating it's got a number one priority now.

Mayor Weiser said he thinks the Council needs to look at it during the budget process; the City can spend the revenue on things other than police impact.

Councilmember Bartholomew noted the county budget report will be delivered tomorrow. She also noted there is an upcoming ASC Seismic workshop and Public Works Director Winckler said he will take a look at the brochure as he might be interested in attending.

Councilmember Herman submitted a letter regarding regional transit issues for copying to Councilmembers.

Councilmember Leighan asked about the traffic loops on Grove that were to be repaired/replaced and Public Works Director Winckler said he will be negotiating with Aztec Electric to do this, in addition to the First & State project.

Councilmember Leighan said the street sweeper needs to go through the mall and Public Works Director Winckler said he would follow up on that.

PUBLIC HEARINGS:

1. School Impact Fee Ordinance and Amendment of Comprehensive Plan/Capital Facilities Only.

Mayor Weiser gave a brief introduction. He stated testimony will be taken here to make a record so City Council can act on the school mitigation fee ordinance that's in front of them tonight. He thanked school board members for being here tonight and noted the official record includes school board minutes as well as Marysville Planning Commission and City Council Workshop minutes.

City Planner Hirashima reviewed the agenda bill. She noted that the county is going through a similar process for all 13 of the cities within the county; the Planning Commission recommends approval of the Marysville School District Capital Facilities Plan and ordinance in the packets. She noted the Title 26C hand out is to become part of the record as is a letter just received today from the Master Builders Assn. which asks about the legality of accepting these higher fees at this time.

City Planner Hirashima stated the GMA allows updates of the Capital Facilities Plan portion of the Comprehensive Plan.

Mayor Weiser asked when the fees are collected--at the building permit stage or can they be paid earlier?

City Attorney Weed said they can be paid prior to the building permit; the building permit is the latest time they can be paid.

Mayor Weiser asked if collection of the fees covers the City from future legal action.

City Attorney Weed said one thing that's being contemplated is an interlocal agreement with the Marysville School District to make provision as to how the fees would go from the City to the school district and would cover accountability of the fees which the district would report. He said he understands other jurisdictions

CORRECTED: SEE 10/5/98 MINUTES Noted

are doing this and he believes that's actually part of the draft ordinance and if it is not, it would be his recommendation that it be included.

Councilmember Dierck asked about the liability issue and Mayor Weiser explained that through an agreement with the school district, the builder can't come back on the City and say the money was improperly spent.

Councilmember Bartholomew asked how often the school district gets the mitigation fees and who gets the interest on the money.

City Attorney Weed said funds are disbursed right away and the school district gets the interest; the City would get a \$250 handling fee, is what is included in the ordinance, he added.

City Planner Hirashima referred to page 19 of the ordinance regarding the \$250 handling fee which would be per development application, not per lot.

Mayor Weiser noted fees would be collected at two different times from the developer. First the application fee and then the actual mitigation fee.

Councilmember Herman said pages 17, 18 and 19 of the ordinance seem to cover refunds; after six years they would be returned with interest if the money is not spent at the end of six years. He said he is sure that would be covered in the interlocal agreement.

Councilmember Roark asked what happens to left over money and City Planner Hirashima said the City has never had a request for return of school impact fees.

Councilmember Roark noted at the Planning Commission level, he didn't remember any discussion about the calculation of the \$250 handling fee figure and City Planner Hirashima said this is a new concept but the fee is basically for tracking over the six years, it includes legal costs, if any. She said they originally looked at a percentage fee, with a quarterly accounting, which is what the county did but the county was going to change that, so the Planning Commission felt it better to have a flat fee and talked about not wanting to have too much of a difference between the different school districts. In the case of apartments, there is not a lot of tracking for multiple units, where there is only one building/developer, but for a subdivision, the handling fee may not take care of all the staff costs, she said.

Marysville School District Superintendent, Dr. Richard Eisenhauer, 7716 51st Ave. NE, proceeded with his presentation. He submitted his statement in writing and introduced members of the Marysville School Board present. He mentioned a 10 day turn over of funds, that the \$250 was a suggestion of City staff, not the school district. He said they are used to keeping track of funds and would be happy to do it, seeings as how the City has not done this before. He noted that it's interesting that if the City is collecting the fee, they might want to reconsider the need to cover themselves for legal liability!

He read his statement in conjunction with a visual display of charts, of which a hard copy was also provided for reference. He said they believe new development should pay its share and he pointed out that there is a lapse of a year or more between the building of a new home and when the new property owner starts paying property taxes. He reviewed their methodology for the student generation rate formula, how 100% of building permits were reviewed since 1990. He reiterated that not all new students come from new homes but they generate .585 students and the school district's recommendation is \$4070 per single family dwelling and \$3744 for multifamily units mitigation fee. He said they are not recommending a cap like the county and he noted several school districts are actually now discussing waiving the cap. The school

district is, however, proposing a 15% discount, he said.

Larry Clement of the Marysville School District, 12705 48th Dr. NE, addressed Council. He said he was asked about the mitigation fees impact on a future bond issue and comparing the two methods of bringing in funds. He said if they collected the full \$4070 from enough homes over 20 years, they would not have to go to a bond. Last year, \$500,000 was collected and is going to be put in a fund for future portables, he said.

Dr. Eisenhower said they feel these impact fees are fair and justifiable and urges the Council to pass this enabling ordinance.

Dave Aldrich, 5218 68th Dr. NE, addressed Council. He read from a prepared statement, basically supporting and championing our good community and good schools. He said through their Capital Facilities Plan, the school district provides good schools for our children; it establishes impact fees based on the costs of new schools and they have accurately and efficiently determined how much new development should pay for our schools. He concluded that he is supporting good schools, good community and good economics.

Toni Aldrich, 5218 68th Dr. NE, addressed Council and read from a prepared statement. She noted the Marysville School District currently collects half the fees other districts in the Puget Sound region do; we don't have a Boeing or Microsoft here and have to rely on bonds, property taxes and impact fees for our good schools. She said she commends the Marysville School District for developing a plan to adequately house our growing school population and their proposal is to accommodate growth. She said she is a teacher in the Marysville School District and on behalf of the students, she urges the Council to adopt the ordinance before them.

Mark Johnson, 12433 48th Dr. NE, addressed City Council. He said he is a new Marysville School District board member and always asks real estate agents about the schools and property taxes when he is buying a home. He noted in Marysville, our property taxes are quite high and the school district has a hard time passing bonds and levies and if impact fees were higher, it would help the school district a lot. He said he would like to see the ordinance passed as soon as possible; if there is any delay, perhaps a building moratorium could be placed, he said.

Councilmember Herman noted currently there is some money through impact fees and there is some money from levies and bond issues in Marysville for the school district. If these monies are not raised, he said there is a question of what the requirements are under the GMA. _____

CORRECTED: SEE 10/5/98
MINUTES

Mr. Johnson said he hopes enough fees are collected from the new development to build the new schools; there should be no further delay as all the schools are at full capacity now. The growth he thinks is understated and other jurisdictions are building better facilities than Marysville can afford, he said.

John Martinis, representing Citizens for Marysville Schools, addressed Council. He pointed out that levies and bonds are passing but we can't keep up with the very rapid growth Marysville is experiencing. People expect space for their children, books, teachers. There are a couple vehicles--bonds, eg., but it took Edmonds 5 tries to pass a bond and he said he doesn't think people want their children to go to school in a gym. He asked if we are just going to go to bond with no assurance they will pass. Mitigation fees will reduce the bond amount the school district has to ask for, he said; property owners pay the money regardless, is it going to be through a bond, impact fees or what? He pointed out that Marysville is running out of space and he would like City Council to pass this as proposed. On the administrative fees, he

said his recommendation is to have a fee for collecting B&O taxes, too, that would be more fair!

Councilmember Dierck asked if he was saying higher mitigation fees equal lower bonds and Mr. Martinis said yes. He added if higher mitigation fees are not collected, the bonds will have to be higher.

Zak Parpia, 10217 19th Ave. SE, Everett, WA 98208, addressed Council. He said he disagrees with the arguments so far. He said this area does have good schools, no question, and they need to maintain them and keep up with growth. But not the way that is proposed. He said to go from a \$900 to a \$4000 mitigation fee is not good for the economy and even at that, it will be inadequate to meet the Capital Facilities needs. If you think you are going to unburden the people by putting the burden on the builder, you are wrong because it still comes down to the homeowner having to pay the mitigation fees plus property taxes, plus bonds and levies. He said he feels strongly that the state must help out here--facilities are supposed to be provided by them and they could be using the REET taxes, for example. He said he would definitely question the state as to how those funds are being spent now. He said it's popular to use the new development as a scapegoat but it's inadequate, even at the additional \$3000 proposed to be collected in mitigation fees. He said with a combined effort, the City and school district can get more and do it right.

He said he believes for first home buyers, most of them are trying to buy a house and come up with the down payment and it's very difficult for them when they are trying to buy into affordable houses, which are charged the same impact fees as the higher end homes--there's no differentiation made. He said he supports good schools but doesn't think higher impact fees is the solution.

Councilmember Dierck asked for his suggestion and Mr. Parpia said he does not believe real estate excise taxes are being properly allocated on the state level to mitigate needs, such as educational. A lot of them are going into the general fund for social services, for example, and that tax, he thinks, is mis-directed and he is hearing a clear need here but you are not going to meet it with mitigation fees only, he said. New development has an impact on schools, yes, he said, but cannot meet the need alone.

Councilmember Roark referred to his comment about no differentiation between the mitigation fee for low end housing and high end housing and pointed out that probably the needs for schools for their children are still the same.

Mr. Parpia agreed but said everyone targets first time home buyers and he thinks there should be some sympathy for them.

Councilmember Herman said he agrees that the increased fee would not be totally adequate but he doesn't think it would be right to charge any more than what is being proposed. With regard to the REET, that does go towards education as well as to cities' general funds.

Mr. Parpia explained that the REET that goes to the state is a directed tax and he would urge concerned citizens to research where that tax goes. It should come back to the community in which it was collected to help with the schools, he said. He noted it is a large amount of money collected locally and it should be redirected back to the community.

Dan Townsend, 12015 Marine View Dr., Marysville, addressed Council. He said he's heard some real good points here tonight and is here to support mitigation fees. He said he understands what the gentleman from Everett who just spoke, is saying, but these fees have not gone up in 10 years. \$900 in Marysville



compares to \$1500 in Conway, eg. He said he thinks even at \$4000 there is an extremely good value here for the developer and he is a developer.

Brian Reece, 7017 57th Dr. NE, addressed Council. He said the school district would love to not have to collect mitigation fees but that means bonds. There are still the same number of portables no matter how many schools are built. One way to help with schools would be to exempt the school district from having to pay parks mitigation fees, he pointed out. Or maybe the City should be paying towards parks to the school district, he suggested. He said the school district did have an agreement at one time to have no mitigation fees, just bond issues, but passing the bond issues are not easy, as people know.

Gary Wright, Realtor, 5533 Parkside Dr., addressed Council. He read from a prepared statement. He said he is not opposed to school impact fees but he is opposed to the amount of the increase and could support something above the current, but hopefully not as much as being asked for. He explained a few concerns he has: He has heard and read having developers pay impact fees will prevent higher property taxes on the part of the property owner but this is not so. The consumer still has to pay one way or the other, he said--it's the same as if we have the oil company pay a higher tax, thinking we would not have to pay a higher amount at the pump --it's always passed on to the consumer.

If we shift from everyone who pays taxes to just the person who is a new home buyer--it's still the same total amount that's collected, he pointed out. He noted he sells a lot of used homes and they pay nothing to the school, but they do pay property taxes. They are older people with no children, usually, he said. He calculates that \$26.86 would be added to the cost of the new home which works out to \$9,000 added to the cost of the new home over 30 years. There are short plats where there is no real development, but they end up being affected the same as a large development and may not have any children, is another concern, he said.

Mr. Wright said his recommendation is to get the facts on the amounts of the different impact fees, parks, traffic, etc. and don't look at it piece meal, look at it on a cumulative basis, analyse it and see what's tolerable and fair for the average home, look at other districts and adopt a comprehensive plan. He pointed out that Marysville needs affordable housing and we need a good school district, too. He said he has supported bond levies in the past for the school district but also supports affordable housing. There has to be a balance between the two, he said, because both are important.

One final comment he had on property taxes--Referendum 21 is going to be on the ballot in November and if it passes, he said it's going to increase a new home cost by \$900, another tax will add \$160. There has to be a limit to how much the property owner is going to pay, he concluded.

Councilmember Bartholomew asked him what his interpretation is of affordable housing and what is the average down payment needed these days.

Mr. Wright said the average price of a house in Marysville is over \$174,000 now and it costs about 5 to 8 percent down to get into one, on the average. To that, you have to add about 3% closing costs, he estimated.

Councilmember Roark asked how supply and demand affects what the consumer pays in the end.

Mr. Wright said basically, supply and demand affects marketability of the house.

Councilmember Roark said he heard the average cost of a house was \$146,000 but in the last couple years it's gone up to \$174,000, a considerable jump. Mr. Wright agreed that is a result of supply and demand.

Councilmember Roark asked if the majority of new home buyers can afford \$174,000 and Mr. Wright said no, he would say they probably start out at \$150,000 to \$160,000 but more people are interested in higher priced homes with the lower interest rates now.

Councilmember Roark said he and his wife are looking at a new home and it would seem to him that most first time home buyers can't afford a \$174,000 home. He said he can't afford that and he doesn't believe a lot of people can, so if people don't buy that home, then the consumer is not going to have to pay the mitigation fees.

Mr. Wright said if the buyer will not pay that cost, the builder will probably have to build elsewhere. He said he has seen where the economy of an area will force the developers to go somewhere else.

Councilmember Bartholomew asked what percentage of couples don't qualify for the higher priced home and Mr. Wright said the most common reason for rejection is not sufficient income of the buyer.

Councilmember Bartholomew asked what the average house payment is these days. Mr. Wright estimated on a \$160,000 home, the payment would be about \$1300 to \$1400 a month, meaning they have to have one very good income or two incomes or a sizable down payment.

Councilmember Dierck asked about the county mitigation fee and Mr. Wright said he believes they have a cap.

City Planner Hirashima said it's about \$900 per lot right now.

Councilmember Dierck noted Issaquah has a \$6000 school mitigation fee and they don't have the difficult time selling homes there.

Mr. Wright pointed out that Issaquah has a higher income level, on the average, than Marysville.

Councilmember Dierck said she feels Marysville School District has given good information and the question is: What are we going to do for these kids?

Mr. Wright said he thinks there needs to be a legislative solution, for example, some of the real estate transfer tax that goes to Olympia (\$2500) could come back for school construction.

Karen Elder, 5401 143rd Pl. NE, addressed Council. She said she has lived in Marysville for 15 years and notes that land development seems to rule: Rush hour is a mess, our schools are filling to the brim, developers get lower rates than citizens. Her prepared statement summarized her coming before City Council on previous occasions regarding the surcharge on her water bill because she lives outside city limits, how the City expects people to conserve water and yet still charges them more than construction companies. And the construction companies and land developers pay no surcharge, so she sees it as an incentive to bring a lot of new people into the community who then overflow the schools, traffic, etc. because the developers seem to get all the breaks and for once, the developers need to be held responsible for the increased costs, she said. She urged Council to raise the impact fees and not property taxes.

Frances Chamberlain, Marysville School District board member, 6724 63rd Pl. NE, addressed Council. She read from a prepared statement and stated the student generation rate documentation deserves credibility. She noted they spent hours and hours developing this, with a 100% survey of plats over the last 8

years. She said she originally thought GMA was the answer, but that has since been rejected as the solution here. She referred to the school district as a good team and said they would be happy to make as many presentations as it takes to convince people of the value of the mitigation fee to help build schools. She went on to talk about HB 2699 and collection of real estate excise tax. She said apparently the county does apply for that money but Marysville needs to focus on mitigation fees, bonds, funding education. The problem is here and now and they have a good team of presenters that can go to Olympia and talk to legislators, for example. Another piece of legislation, SB 6094, can be reviewed annually, but she said we need to be working on financing education and you can't answer all of the problems with mitigation fees, but that's a good place to start.

Councilmember Dierck asked if this doesn't represent a lot of volunteer time and Ms. Chamberlain said yes, but this is a long term plan and they are committed to supporting their methodology and formula for coming up with the student generation figures.

Tim Thometz, 8518 47th Dr. NE, MSD Board member, parent, taxpayer, addressed Council. He said a lot of good points have been made but the main point is that he would recommend the Council go ahead with approval of the Capital Facilities Plan and ordinance as recommended by the school district. He said they have heard about going to the state but his kids are going to be through school by the time that gets accomplished, is his fear. He noted they have projections for a lot of kids and you can't wait for these plans to hatch or you will lose a lot of kids. He said they will talk to anybody who has a good idea but they haven't heard a lot of good ideas, they have done a lot of solid research and don't hear a lot of supporting evidence from anyone else.

The REET proposal the school district has been working on for several years and it is not really going to help Marysville at all, he said. It will help Seattle mostly with the larger real estate deals and the REET is not sufficient at all, he said. First time home buyers will be affected but not all first time home buyers are buying expensive homes, eg. he bought an older home when he was a first time home buyer and he said he suspects that's what a lot of first time home buyers do, and then they don't have mitigation fees.

With regard to the large increase in mitigation fees, he pointed out that the school district has been operating on less than the true cost for a long time. The county has accepted these figures as a true cost and the recommendation to county council is to take another look at the cap, he said. He said the other superintendents could not back the cap up, so that may be repealed now.

He said it's time we made our own plans for our own community instead of looking around at what others do. As far as the fees being passed on to the consumer, profit margins might be reduced, but he doesn't think the fees will be actually passed on to the consumer. He noted he has been paying taxes on his home for 50 years and there are a lot of ongoing taxes but the student generation rate is based on the new homes, looking at the county records, based on the facts. Judging by what's going on in Washington, DC, he said we have one chance to do what's right and he urges Council to pass this for the Marysville School District's sake.

Councilmember Dierck asked about extra money being passed on to the consumer and Mr. Thometz said fees have not gone up over the years, since 1989, but costs have. There are lower interest rates and a good job market right now, so things are really moving now, he said.

Councilmember Dierck asked if Snohomish County is the only one with a cap and Mr. Thometz said not necessarily, but he hasn't seen any good reason for a cap.

Bruce Tipton, 6308 100th St. NE, addressed City Council. He said a lot of real good points have been made by the school district and he would like to relinquish his time to Dr. Eisenhower for closing rebuttal.

Sue Adams, Pilchuck Audubon Society, 1803 Hewitt, #108, Everett, addressed Council and read from a prepared statement. She said they support the mitigation fees--these are tools to ease negative impacts on our schools and they relieve the burden of an additional tax in the property tax. The fees place the responsibility on the developer, it's part of the cost of doing business, she said. Strong mitigation fees are vital to the health and welfare of our schools and the long time taxpayer should not have to pick up the tab for the new developments; bonds will not pass as long as mitigation fees are low, she pointed out. She noted we all know our property values are related to the quality of our schools so we are talking about our children--this is our future and if they have a quality education, then we are investing in our future. She said she has seen portables all over, no restrooms in them, poor interaction between the students in portables--we just have too much overcrowding and need fair mitigation fees, she contended.

Daniel Moynihan, 5926 96th St. NE, addressed the Council. He said he has 4 reasons for asking Council to pass this ordinance: 1) He teaches on a site with 13 portables and they are in dire need. 2) He has 5 children and he is concerned about their school housing. 3) Exponential thinking vs linear thinking (he's a math teacher). He said things keep going up, yes, but they are going up more than we had thought and we are not just talking about schools having a problem, we are talking about parks, roads, etc. He said there is more to it than just school mitigation fees. There is a lot of people out there who understand this already, eg. PUD, the telephone company, consultants and we can't live on our income that we got 10 years ago but Marysville is still charging the same mitigation fees.

4) For 10 years he had to pay a certain water rate and now the newcomers have to pay a different amount--the new people do have to pay more, that's the way it goes, he said.

He said he doesn't think \$4000 is going to affect the cost of houses; they are going to go up and the factor of students per new dwelling will not change, based on the mitigation fee, he said.

Councilmember Roark asked about portables ever going away and Mr. Moynihan said no, they will not.

Councilmember Dierck asked if having portables isn't the way the school district gets state funds.

Mr. Moynihan said yes, it is, but it's getting worse and worse. The District tries to balance it out but people keep moving into Marysville.

Ty Waude, Belmark Homes, 505 Cedar #B1, Marysville, addressed Council. He said as far as the agreement on the county cap, he represents an organization of 2300 members and they were not happy with the cap nor the new construction mitigation fees, nor the statement by real estate agents. He said they have not gotten anywhere with Olympia. He said he keeps saying the same thing over and over: Show him what the fair mitigation is for new construction and he will pay it. But he has not been shown a fair formula; the group of them that stayed at the county hearings came to a compromise and put a cap on, he said. Removing that cap, you need to take a good look at the formula, he warned. He said he is not convinced it's fair to new construction and is still confused where the district's 15% discount came from--good faith? He said he doesn't disagree with the student generation factor, they went to a lot of effort, but it doesn't deal with new growth from existing homes within city limits. He said he was reading an

article about "old growth"--there are families living together, two and three families, because they can't afford their own home these days. Some children go to private schools, some are home-schooled, some people are not paying fees--there are so many factors involved such as taxes, 4000 sq. ft. lots, 1300 sq. ft. houses, \$140,000 is the average cost of a home now and out of that, the mitigation fees are \$23,000, so it doesn't leave much left over for all the people involved in the sale of that one house, he said.

He pointed out that he has to finance the cost of the lot, and pay real estate excise tax, too, there are a lot of costs involved. So who benefits--everyone does, actually, he said. But the credit concerns him, the discount, he said. He pointed out that you have to use new construction values and \$155,000 was used in the formula. This year, for the first nine months, the average has been \$170,000 plus for a new home and there is no factor in the formula for the increase in the average home value, he said.

Mr. Waude said he thinks Olympia has to re-distribute money more fairly. He said his wife is a teacher in a portable and he doesn't know what the answer is but he would like a fair application of the mitigation fee to new construction. He passed out a chart entitled "New Home Costs in Marysville (1998)."

Bob Johns, Attorney, 701 5th Ave. #3600, Seattle, WA 98104, representing Master Builders, addressed Council. He said he has discussed school mitigation fees all around the state. Several developers have said they support quality schools, good school systems sell homes and we all care about our own kids having a quality education, he said. But he said it galls him every time he has to talk about this: The state has to provide a quality education and they don't, they expect cities and school districts to struggle with this. Some of the problems are that both the constitution and the RCW have restrictions and new development fees, i.e. new fees, can't pay for old problems, he pointed out.

So the existence of portables is not justification for new mitigation fees, he said. They won't go away. The requirement is that fees have to relate to new development, eg. there is no exemption for senior housing, and if you look at the Capital Facilities Plan, their figures--they have done a good job of trying to figure out student generation rate--but they are estimating it will take 18,000 new houses just to pay for a new high school, he said. He pointed out that the reason for the need for the new high school is actually a change in the school district's structuring of grade levels and that's not a need created by new development. They have now created a 900 student surplus at the middle school, he said and the state statute requires a credit for past and future property taxes to schools. The ordinance only makes adjustment for past and not future, he said.

Regarding bond issues, he said people are going to end up paying twice. He said the Master Builders met with the school district about the credits and the formula uses the average assessed value which allows less of a credit so there's an error in the formula. Every city and county has recognized these items and the compromise is a cap. It is a recognition that it's extremely difficult to use the state formula. The development industry has agreed on the discount and cap as a result, he said. He said if you want to get rid of the cap, then you have to fix all the internal problems of the formula, such as the high school changing structure, adding 9th grade level needs to be addressed. State law needs to be reviewed and he said he thinks there may be some serious legal issues here.

Councilmember Roark asked him why this is the first time he has seen Mr. Johns come before either the Planning Commission or the Marysville City Council, if he bears such important information. Why did he not present this argument sooner than this?

Mr. Johns explained he has not been able to get to all the jurisdictions; Mr. Spangenberg has addressed the Planning Commission, though, on behalf of the Master Builders, they have letters in the record.

Councilmember Roark said this is the first time he has seen the developers' side and he has been working on this for four months.

Mr. Johns said Ty Waude was not allowed to speak at the workshop but they have tried to raise these issues before.

Councilmember Dierck said she doesn't agree about the portables. The way the ordinance is written, it can be passed tonight and Council can do away with the cap and the discount. She said she has gone to the Planning Commission and Marysville School District meetings and sees our kids caught in the middle between the developers and the school district.

Councilmember Herman asked Mr. Johns which jurisdictions' mitigation fees he supports and Mr. Johns said they supported the Snohomish County \$2000 cap and have done the same thing in a number of cities, such as Bothell and in King County--it's a compromise, he said.

Councilmember Leighan asked about shifting 9th graders to the high school. Mr. Johns said the plan would charge new development with the cost of constructing a new high school and a middle school.

Councilmember Pedersen said she believes there was a 3% exemption for portables.

Mr. Johns agreed that the school district did do that part of it right.

John Spangenberg, Master Builders, 2155 112th Ave. NE, Bellevue, WA 98004, addressed Council and read from a prepared statement. He said they have 2300 organizations in King and Snohomish County all connected with the building industry, everything from architects to surveyors, contractors, etc. He referred to the Planning Commission 7/28/98 minutes, noting they have two pages of issues in those minutes, so this is not a new topic here.

He stated he lives in King County and asked for Council's indulgence because of that fact. He said he supports school districts and the issue is: How can we build schools? In Lake Washington, he said they learned very soon that you need 60% to pass a levy. Redmond and Kirkland do not have mitigation fees. Redmond is the fastest growing city in King County and Kirkland is classed as the most livable city in King County, he pointed out, and they have no school mitigation fees.

He said the issue is how to finance construction of new schools. The reason Master Builders is here is to say the formula in the ordinance tonight is not fair and does not work. He said they have had a chance to look at many ordinances, they are all unfair and it's not working. They have figures they would like to present that would go into a more fair fee, he said and added they would like the flaws remedied but this means adjusting the school district Capital Facilities Plan, as well. He said further, he would like to point out elementary has more growth, more impact, and using the MSD numbers, with a new high school capacity of 1500, 184 or 14% is generated by new construction for the high school. He noted the construction industry wants to pay their fair share of WSDOT fees, many other fees and they want to solve the problem of new schools, too.

As far as the relativity of mitigation fees vs bond issues, he used the example of what has recently happened in Issaquah. As far as getting additional funding for schools, he said North Shore School District said REET money was a real boon for them but the preferred method is mitigation fees. He said he would be able to

provide the figures to Council tomorrow as he didn't have them with him tonight.

Councilmember Herman asked how his figures of cost per student generated by housing unit reconciles out.

Mr. Spangenberg said it is based on student generation; it is historically true that people moving into the area should have a direct bearing on the number of high school kids.

Karyn Zigler, 5008 139th St. NE, addressed Council. She said she works for the school district and suggests the builders and developers just split the mitigation fee, because there will not be any people moving here without good schools. She urged Council to pass the ordinance and she challenged the builders and developers to help with the upcoming levies and bonds. She said she has been a real estate agent, mortgage lender, etc., and knows people will still come to Marysville even with the higher school mitigation fees because we have affordable housing. There might be a little less profit margin, but she knows the builders and developers are selling a ton of houses here, she concluded.

Robyn Warren, CPA, 9529 35th Ave. NE, addressed Council on behalf of the Greater Marysville/Tulalip Chamber of Commerce. She read from a prepared statement, saying business is attracted to this area for several reasons. The Marysville School District is considering numerous bonds, there are several bond issues considered by the population, but the school district provides a good starting point. Their research is thorough and we need to continue to attract businesses, who pay 58% of the city's revenue, she said. She likened this situation to the water rates that should have been put up sooner and she urged Council to become proactive and pass the ordinance as presented.

Councilmember Leighan said he heard the county is charging \$4,700 school mitigation fees vs the City's \$925.

City Planner Hirashima said the county is proposing \$2,000 and the City \$4,070 for single family homes.

Mike Appleby, 14025 Evergreen Way, Stanwood, addressed Council. (Senior Vice President, Evergreen Title Company, Everett) He agreed it is important to have a good education and we do need mitigation fees. He passed out a letter containing some recent research he did, showing the average sales price of a single family new construction home in Marysville of \$155,138 (for 1997). Using the same search parameters, he came up with a figure of \$170,590.73 for the first 9 months of 1998. He pointed out that cost of land, preparation of the property, everything has gone up; the cost of a lot used to be \$25,000 and now it's more like \$65,000 to \$70,000, so there is not much profitability there.

Councilmember Roark asked how long it takes before they actually have a house on the property and Mr. Appleby said it's about a year and you hope you don't lose too much to wetlands, for example. He agreed you are running a business, taking risks, trying to make a living. He said regarding mitigation fees, you are talking about the kids going to school and it seems like everyone should be counted, not just new construction, for example, rentals, older homes, existing homes.

Councilmember Roark asked about the people who are displaced and go into new construction and Mr. Appleby said there are a lot of new people coming to Marysville that are not living in new construction.

Gary Petershagen, Belmark Homes, 505 Cedar, addressed Council. He said he is opposed and yet in favor; he is opposed to the inequity but not opposed to the actual need for the fee. There is too much of a jump here, from \$900 to \$4,000, he said. That's too much. It seems like there is an argument for every argument tonight, he

said, but he would urge Council to look at the whole impact of schools, parks and traffic mitigation fees--\$8,000 is a huge increase and he would urge Council to look at the fairness, he said.

Councilmember Roark asked how long it's been since the mitigation fees have been increased and City Planner Hirashima said it has gone up a little in the last 7 years.

Mr. Petershagen asked about the 15% discount--is that for the first year only or for both years? On the administration fee, it seems with the present procedure, the developer takes the fee over to the school district and gets a receipt--he asked what is wrong with that procedure?

City Planner Hirashima said she believes the City would actually collect the fee based on the GMA requirements and actually would require more of an accounting with a refund if the money is not spent and that's why the City is proposing an interlocal agreement, she said. The present accounting system would include routing to the school district, notifying the district, entering the transaction into the City records, entering fees into the building permit system, checking, finance dept. transferring the money over to the school district. The discount rate as proposed can be reviewed every two years, she pointed out, or more often than that, if Council wishes.

City Attorney Weed noted the GMA does not specify who sets up the accounting but there must be an annual report accounting for the funds. Sometimes the county, city or school district collects the fees, he said.

Mike Papa, 8127 54th Dr. NE, addressed the Council and read from a prepared statement. He noted a lot of the arguments by the building industry he thinks could be rebutted by Brian Derdowski from King County and Mr. Papa has a transcript of one of Mr. Derdowski's recent presentations, if anyone would like to borrow it. He said he thinks the community wants this ordinance passed; there have been more than enough public hearings. Why should it be passed now? He said this last weekend he did a lot of door-belling on this and talked with a lot of people. He talked with one elderly person who said she loves living in Marysville but her main concern was property taxes going up--she is on a fixed income and is contemplating a \$300 property tax increase. He said if the school bonds are kept down she might not have to sell her car in order to pay property taxes. He asked Councilmembers if they want to have to tell her why she has to pay for new growth. He pointed out that 70% of Marysville's new growth is within city limits and the Council's decision will have a tremendous impact.

He added that this issue should be based on its own merits and not considered with parks and roads. This community is watching the Council tonight and this is a rare opportunity for Marysville to stand up to the Master Builders, he said. He added that you have to agree this is good for the schools and taxpayers and Council should vote accordingly. He said he hopes the Council will pass this tonight and knows there are a lot of issues involved; there might be a lot of self-interests but the Council needs to look at this ordinance and pass it on its own merits. He said everyone cares about schools--and asked if the Councilmembers do.

Councilmember Roark said he supports education but he also encourages growth--that's the only way you are going to collect those fees.

Greg Wright, 4802 76th St. NE, addressed Council. He said he is having a tough time with some of the logic tonight and bad applications. He asked what the sewer system has got to do with it, noting the City wasn't charging enough--the existing people were not paying enough--it's got nothing to do with the new people, he said. The portables are not because the new people

haven't paid for new schools yet, either. He said at the Planning Commission meeting, there was a vote taken about the cap and two motions were defeated and the bottom line was to have a cap and discount. The Planning Commission wanted the City Council to look at affordable housing, look at possibly getting rid of the mitigation fees, he said. He said it was agreed to put a cap of \$2,000 and the Marysville School District should honor that deal that was made.

Linear vs exponential thinking? Mitigation fees? Kids are caught in the middle, yes, but the solution is right in people's pockets, he said. The Marysville School District benefits, the City benefits, the whole community benefits and everyone should help to bear that burden, he said. Bonding does mean no mitigation fees, he pointed out and invited people to look at Everett and Edmonds who have no school mitigation fees. You don't have to have high mitigation fees to pass bonds, he said. He supports schools, he has four kids, and wants to help but he is not charged any impact fees because he bought a house from an older couple, he said. He said we need to pay for our own schools out of our own pockets; we need to be responsible for our own selves. Everyone has to pay their fair share, he said.

Mr. Wright suggested making the mitigation fee due when the lot is sold or created would make more sense. That eliminates a lot of recordkeeping, for one thing, and the school district gets the money upfront when the money has the most impact for school construction, he said.

About portables, he said some of them are not bad, but that's not an impact issue. We need bonds, levies, money from the state, we could help ourselves, he said. It's our schools and we should pay for it, and if you are talking about builders' profit going down--that means builders from out of town are coming in. He said we need to keep our local people here and not put them out of business and we need to keep our kids in our community. We don't want Bellevue builders building homes for Mill Creek people, he said. Property taxes are affected by everything; we need to look at the whole picture, he said. School mitigation fees need to come out of our own pockets, he concluded.

There was quite a bit of banter about the pros and cons of going to school in a portable.

Break: 11:00 p.m. to 11:10 p.m., approximately.

Dr. Eisenhower turned his rebuttal time over to Grace Yuan.

Grace Yuan, Attorney for the Marysville School District, 701 5th Ave., Seattle, addressed Council. She said she would try and address all the issues that came up tonight. About the high school issue, the school district recognizes there will be a new high school needed but only a small portion is being asked from new development. Regarding student generation rates, she entered into the record a chart entitled "Taxpayer Savings from Mitigation Fees."

She said as far as Bob Johns' comments, the school district feels the 15% discount adequately addresses any inaccuracies that might occur in their formula for student generation. As far as concurrency, she said the GMA spells it out, the state subdivision act requires adequate school provision; there is a legal issue if they are not provided, through mitigation fees. She noted Kirkland is actually now discussing charging mitigation fees, Redmond has some mitigation fees also and Issaquah has one, too.

As far as caps, there are only two ordinances--Pierce and Snohomish County, statewide that have caps, she said.

With regard to responsibility for the impact fees being local, she said this is for the Marysville School District and most of the

growth is within the city, so they are asking that the Council consider the proposal. Schools are not free and the Marysville School District is looking to new development to help with the fees--maybe these are a "drop in the bucket" but they will reduce the next bond issue by \$6.5 million dollars, so that's enough to build a lot of facilities, she said.

In closing comments, Dr. Eisenhower stated Marysville needs more money from the states and feds, but the problem is here and now. The impact fee does not lower the operating levy but will offset the local levy impact and offset property taxes, he said. He added that as far as waiting for parks and roads, he doesn't think so--that's the reason for the discount. \$925 should have been higher and with incremental increases things would have been fine, but that didn't happen. The school district has over 100 portables districtwide and no, they can't get rid of them, that is what helps get funding, but the district wants them to be for emergencies, not for everyday use as is the present situation, he said.

He spoke about the cost of land acquisition, based on a conservative figure of \$50,000 per acre and actual construction costs in neighboring districts. He said they tried to calculate the formula on a middle of the road fee; not all growth comes from new homes, they know that, but .585% does, so it's only a proportionate share.

Dr. Eisenhower stated the bonds will be passed based on a need, there are many factors the community will support or not. He concluded that the answers to most of the challenges he believes have been answered previously.

Councilmember Herman said he was hearing some people saying the fees are to cover all the costs of the new facilities; the concept was clear and he now understands the formula. He talked about an exponential value of "10" and he asked about the 15% discount--how that works.

Ms. Yuan said yes, the figures cover adequately the need, even with the 15% discount.

Dr. Eisenhower reiterated that they know all the new kids don't come from the new homes and they are not going to ask for a bond for something they don't need. If the growth continues in Marysville, the way it has been, the Marysville School District is going to need a new high school; they have got to create space, he said. He added that they may have to come back annually, to increase fees, but they are looking for mitigation fees now.

Councilmember Herman clarified that the focus is on deficits and not where the school district has an adequate supply of resources.

Councilmember Pedersen noted the average cost of a house used was \$136,000 and if the school district had used \$174,000, that would have changed things somewhat in the formula.

Ms. Yuan said the dollar amount would still be higher than that proposed, either way, but the 15% discount adequately addresses any discrepancies.

Councilmember Pedersen asked about senior housing being exempted and Ms. Yuan referred to page 4, definition 10 of the proposed ordinance where senior housing is exempted and she agreed it is not appropriate to charge them impact fees.

Councilmember Wright noted the average cost of a new home is going up on a regular basis and Ms. Yuan stated the Marysville School District is willing to review this annually but they have been conservative and they believe fair in all their calculations.

CORRECTED: SEE 10/5/98 MINUTES

CORRECTED: SEE 10/5/98 MINUTES

Mayor Weiser pointed out that the state does provide 60% of the total cost of schools but that still leaves a \$22,000,000 to be funded through other sources such as mitigation fees, taxes, levies, bonds.

Ms. Yuan said based on figures to date, \$6.5 million for two years will be collected in mitigation fees, which still leaves \$15.5 million to be raised through levies and bonds.

There was City Council discussion about student projection figures, alternate methods of funding, capital outlay required based on how much has been collected in mitigation fees. There was also discussion about site inventory.

Councilmember Herman moved and Councilmember Bartholomew seconded to close the public hearing to oral testimony (11:45 p.m.) with written submittals to be made by 5 p.m. 9/29/98. Passed unanimously.

It was noted that because of written comment still to come in, no vote on this can be taken tonight.

Councilmember Herman moved to continue this matter and make the final decision 10/26/98 at that time. Councilmember Bartholomew seconded the motion.

There was discussion about when the other mitigation fees are to be discussed at the Planning Commission level (traffic 10/27 and parks 10/20).

City Attorney Weed explained that if Council is allowing additional written information to come in up to 5 p.m. tomorrow, the Council should wait until after that's been received before voting on this or it could be subject to challenge.

Councilmember Roark said he believes the vote will probably be the same then as now and he doesn't want to go through the MSD presentation again and would like it voted on tonight, if possible.

The vote was 6-1 for continuing this to 10/26/98, with Councilmember Roark being the dissenting vote.

It was asked that Lillie copy information from Mr. Spangenberg/Johns of Master Builders and pass it along to Councilmembers as soon as possible.

After more discussion, Councilmember Herman moved to allow the school district until 5 p.m. Wednesday for rebuttal to whoever submits additional information, out of the people who testified tonight. Councilmember Bartholomew seconded the motion.

After discussion, this motion failed 4-3, with Councilmembers Leighan, Pedersen, Dierck and Roark against.

Councilmember Pedersen then moved to reconsider the first motion and to allow additional information from only Master Builders. Councilmember Leighan seconded.

After discussion, the motion passed 6-1 with Councilmember Roark abstaining.

Councilmember Leighan then moved not to accept any more written or oral testimony at all and to close the public hearing. Councilmember Herman seconded and the motion passed 5-2 with Councilmembers Wright and Bartholomew against.

Councilmember Roark moved and Councilmember Dierck seconded to reconsider to continue this to 10/26/98. A roll call vote revealed this motion failed 4-3 with Councilmembers Bartholomew, Pedersen, Wright and Leighan against.

ADJOURNMENT: 12:15 a.m. 9/29/98

EXECUTIVE SESSION: 12:21 to 1:10 a.m. 9/29/98

- 1. **Legal Matters.** No Action
- 2. **Real Estate.** No Action

RECONVENED & ADJOURNED: 1:10 a.m. 9/29/98

Accepted this 5th day of October, 1998.

David Weiser
MAYOR

Mary Swenson
CITY CLERK

Wanda K. Swenson
RECORDING SECRETARY