

Original

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING

OCTOBER 5, 1998

CALL TO ORDER/FLAG SALUTE:

7:00 p.m.

00238

ROLL CALL:

All present

MINUTES OF PREVIOUS MEETINGS:

1. City Council Meeting 9/28/98

Approved

AUDIENCE PARTICIPATION:

John Myers & Skateboarders

CONSENT AGENDA:

Approved:

1. Approval of New Liquor License Applications for Strawberry Lanes and Jackpot Food Mart.

STAFF'S BUSINESS:

MAYOR'S BUSINESS:

CALL ON COUNCILMEMBERS:

PUBLIC HEARINGS:

None

REVIEW BIDS:

1. Crack Sealing Program

Approved 7-0

2. Street Overlay Project

Approved 6-0

3. Traffic Signal at 67th Ave. & Grove

- Approved 6-1

CURRENT BUSINESS:

1. Western PCS III Corp. Site Lease

Approved 7-0

2. Prof. Services Agreement; Supplemental No. 2; Perteet Engrg.; R9601-SR528 (67th Ave. to 83rd St.) Road Improvements

Approved 6-0 subject to getting written commitment from WSDOT

3. Professional Services Contract; Supplemental No. 2; Skillings/Connolly, Inc.; Traffic Signal at 67th Ave. & Grove St.

Approved 7-0

NEW BUSINESS:

1. Utility Variance for Water & Sewer Connections Subject to Conditions; Boyden, Robinett & Assoc., 108th St. NE & 67th Ave. NE; UV 98-023

Approved 6-1

2. State Ave. Road Improvements - State Ave. (1st St. to Grove); 3rd St. Streetscape Improvements & Ebey Slough Waterfront Park; Consultant Services Agreement; Hammond, Collier, Wade-Livingstone

Approved 5-2

ORDINANCES & RESOLUTIONS:

1. Ord. 2207 Approved 7-0 Amending MMC 6.60.030 Relating to Air Guns and Adding Regulations Relating to Use of Paint Ball Guns.

2. Ord. 2208 Approved 6-1 Relating to Skateboarding and In-Line Skating at Comeford Park, Adding a New Chapter 11.06 to MMC (Traffic Code) with deletion of confiscation paragraph "b" under Section 3 that was proposed.

LEGAL MATTERS:

1. Recovery Contract #211 Approved 4-1 (2 abstentions) - for recovery of utility construction cost for sewer; David Thorpe.

ADJOURNMENT:

10:46 p.m.

EXECUTIVE SESSION:

10:53 p.m. to 12:20 a.m.

1. Litigation

No Action 10/6/98

2. Real Estate

No Action

3. Personnel

No Action

RECONVENED & ADJOURNED:

12:20 a.m. 10/6/98

MARYSVILLE CITY COUNCIL MINUTES

OCTOBER 5, 1998

7:00 p.m.

Council Chambers

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

00239

CALL TO ORDER/FLAG SALUTE:

Mayor Weiser called the 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 THE PREVIOUS MEETINGS:

1. City Council Meeting; 9/28/98.

Councilmember Herman asked that several changes be made: On page 1 under the Minutes of Previous Meetings, for the 9/14/98 meeting, his comment regarding a "step in the right direction" should include that WSDOT tried to schedule work at different times, as well as providing alternate and detour routes.

On page 3, 3rd paragraph, he asked that the word "agreed" be changed to "noted" because he agreed with the ranking but did not know how it was going to be funded.

On page 5, he asked that "including concurrency requirements" be added at the end of the 3rd paragraph from the bottom.

On page 6, 3rd paragraph from the bottom, he asked that the last sentence, beginning "With regard to the REET" be struck.

On page 16, in the third paragraph, he wished to make it clear that the .585 figure is the number of students generated per dwelling unit. Two paragraphs down, he asked that after "Councilmember Herman said he was hearing some people saying the fees are to cover all the costs of the new facilities" -- "but that's not what the proposed ordinance does" should be added.

There being no further corrections, Councilmember Leighan moved and Councilmember Pedersen seconded to approve the 9/28/98 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

John Myers, 7113 61st Dr. NE, addressed Council. He explained he is the President of the Marysville Skate Park Assn. and Councilmember Herman is the Vice President. He commented on the support represented here tonight and noted this would give our kids something to do, somewhere to go and they are holding a raffle on a pickup truck to help raise funds. He said he was not really prepared to do a presentation tonight but would like 1/2 hour on a future agenda and would also like to know where they stand as far as how the Council feels about this issue. He said he would also like to have the Parks Board start looking for a site so the skateboarders can have some idea of how much to raise for a lot. He noted skate parks can range anywhere from \$35,000 to \$250,000; they have only raised \$2,000 so far.

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Councilmember Herman said regarding the site location, he sees a real void with the ordinance, restricting skateboarding in Comeford Park, because the kids need a downtown location. Also, he would like to see the Parks & Recreation Dept. identify a site and make recommendation to City Council.

Mr. Myers suggested a lot that the City owns, something near food and transportation, for the kids.

Councilmember Herman moved and Councilmember Roark seconded to direct the Parks & Recreation Dept. to identify a site and possibly a trade could be negotiated.

Councilmember Leighan asked about Strawberry Fields and Mr. Myers said a skate park is needed within the City; there's no transportation or sidewalks to get out to Strawberry Fields at this point.

There was discussion about inventory of City owned property, currently vacant property, doing a community wide search, expand inventory to include private property, creating a temporary skate park location, utilizing temporary equipment and ramps, needing something easy to get to because most of the kids who are interested don't drive, insurance liability issue to be reviewed closely.

Councilmember Pedersen noted she went to a recent AWC seminar and they talked about skateboard park insurance issues; Councilmember Wright mentioned the church parking lots.

Mr. Myers stated the churches have a lot of good activities for the kids; he would like to see a signed contract with the churches for the skateboarding. Also, he knows Jim Ballew has insurance information, he said.

Councilmember Herman noted WCIA and AWC has more recently presented a more positive picture than in the past; their loss experience is actually zero and injury rates are equivalent to softball. Attitudes seem to be more of a "pick yourself up, dust yourself off and keep going" type attitude now, he said.

Councilmember Dierck asked if Mr. Myers had talked to Jim Ballew because Jim does have information about sites as well as insurance issues. She noted the Parks Board is supporting the need for a skate park.

The motion was restated: To direct Parks & Recreation Dept. to identify options and study potential sites, taking recommendations to Parks Board for trades and/or creative solutions.

The motion passed unanimously.

Nathan Hanson, 8530 45th Dr. NE, addressed Council. He explained he is basically a novice at skateboarding but really enjoys the sport, even though he has suffered broken bones and injuries. He said he has been two skateboard parks and at one of them, they had a paper you had to sign to hold them harmless. He said the kids are OK with no skating in Comeford Park; even though he is careful, he said he knows some kids who are not so careful and there is the risk of hurting a senior at the senior center. He noted skateboarding is planned to be made an Olympic sport, it's a valid sport and he would one day like to be able to get good enough that he can compete at the Olympics in skateboarding. He mentioned the sport was actually invented in the 1950s as a substitute to surfing. He talked about the popularity of skateboard parks in New York and other places around the country and noted it is gaining acceptance. He said snowboarding started out the same way--as more of an extreme sport but one that is now for adults, too and its reputation is more subdued. Snowboarding is regulated now as a valid sport and he said he sees skateboarding going in this same direction.

Mr. Hanson suggested setting up an annual membership, have it like a club and then kids can skate/skateboard on that membership with with no further dues for a year. He noted it's a very technical sport and he gave a run down of all his past injuries. He said he still loves the sport and will keep skating until he can't anymore. As far as being willing to pay, if it's a reasonable price, like a membership, he said he thinks people would have no problem paying that. He said the Bellevue skate park charges a \$5.00 yearly membership and it's free for a year after that. He has also been to the one in Seattle, he mentioned.

Councilmember Pedersen asked if transportation would be a problem if they were to have a skate park at Strawberry Fields on 152nd.

Mr. Hanson said it might be; he got to the Bellevue and Seattle parks with relatives, once it was for his birthday and the other time, the relatives were going to the theater in the near vicinity and dropped the kids off at the skate park.

Mayor Weiser mentioned a lawsuit involving a situation where there was an admission charged to skate. He said the City would want to look at that issue closely. He asked if the parks in Seattle and Bellevue were private or city owned.

Mr. Hanson said the one in Seattle was part of the science center and the one in Bellevue was also connected with the City of Bellevue.

Teleshia Case, 7622 67th NE, addressed Council. She said she wanted to say it's a valid sport and the kids have a fear that if City Council bans skating in Comeford Park, it's going to get banned at other places and then they can't skate anymore. She said they heard the City has money set aside but is not doing anything with it. She named several surrounding cities that have skateboard parks and said they are good kids who all get good grades and are just not interested in other sports.

Councilmember Wright asked if the parks have skateboarding and inline skating in the same place and Ms. Case said yes.

Mayor Weiser said he wasn't sure where she got her information about the money, but there is no such fund specifically earmarked for a skateboard park.

Patrick Manney, 2207 Sturgeon Dr., addressed Council. He said he wished to add to the others' comments, that they really want a skate park. He suggested maybe having a corporate sponsor like Safeway and the corporate sponsor's name could be displayed around the skate park. Another suggestion he made was to put the park on the reservation, especially with the concerns that it should be banned citywide. He commented that he feels a lot of kids would get into trouble if it was banned, because they would be out there skating anyway. As far as a person reaching a certain age and then stopping or losing interest, he said he thinks older people might want to go to an official skate park, too. Some of them think of it as just plain good exercise, he noted.

Keely Craig, a mother of a skateboarder present, addressed Council. She said she grew up in California where this is a way of life and her son is an avid skateboarder. She said these are good kids and she supports having a skate park for them. She urged Council to support this as a way to keep these kids active and out of trouble, too. She said they just want a good place to skate.

Jake Boyd, 7928 161st Ave. NE, Lake Stevens, addressed Council. He said he has also been to the Bellevue and Seattle skate parks and has seen 20 year olds go, too. He said he feels he would continue to be interested even after he gets his driver's license. Right now, they need something better than the parks for skating, he said and added that the Seattle park has no admission, is open

all day, kids drive to it, get dropped off, whatever, even bikers go there and there are no problems. The kids just need somewhere to go, he concluded.

Councilmember Pedersen said she appreciated everyone coming to tell City Council their concerns and needs. She noted there is no plan to ban skateboarding citywide, it's just that there is a very serious safety issue at Comeford Park because of the location of the senior center there.

Steve Holmes, 6824 19th Dr. NE, addressed Council. He said he agrees with the ban in Comeford Park but would like to offer a compromise solution and that would be that the skateboarders could maybe use it after hours when there are no people inside the senior center.

John Martinis, 4630 67th Ave. NE, addressed Council. He said he really appreciates Councilmember Herman's support of looking into the issue. He said these children did not come here tonight to complain, they are looking to City Council as a conduit to solve their problems. They are not opposing the Comeford Park issue, he said, and he agrees with the compromise proposed. He said he thinks people should look for more reasons why we should support these children, i.e., we need to look at the positive approach more in this community which he said he things will serve us well.

CONSENT AGENDA:

1. Approval of New Liquor License Applications for Strawberry Lanes and Jackpot Food Mart.

Councilmember Herman moved and Councilmember Bartholomew seconded to approve Consent Agenda Item #1. Passed unanimously.

STAFF'S BUSINESS:

City Administrator Zabell followed up on the Finance Director's memo at last meeting regarding refinancing the bonds. He said this would represent \$455,000 worth of savings at a little less than 1% financing cost/fee.

Councilmember Herman asked about the annual impact and City Administrator Zabell said there are a couple ways it could be done and this needs to be discussed further during budget workshops.

City Planner Hirashima reported there were about 60 in attendance at the city/county reconciliation hearing regarding the extension of Marysville's UGA. She said recommendations are being supported by the public and because of the way the notice was written, a lot of people were actually disappointed when they found out they were not going to be annexed at this hearing.

MAYOR'S BUSINESS:

Mayor Weiser discussed dates for upcoming budget workshops and the following two dates were decided: Mon., Oct. 19th at 7 p.m. and Saturday, the 24th. Locations to be announced.

Mayor Weiser reported the school district called him today regarding a Councilmember using their studio for taping/airing/use of their equipment in connection with producing a video to be aired on the access channel.

Councilmember Pedersen said she would like to see a policy in place and Mayor Weiser noted right now, it is up to the City Clerk to view the tape prior to it being aired.

Councilmember Bartholomew noted the quality of the access channel picture seems to be getting poorer, possibly giving a poor impression of anything that is aired.

Councilmember Dierck said she had reviewed the contract between TCI and the City and doesn't see anything in that pertaining to this situation. She asked about the TV Advisory Committee's role.

There were several comments made regarding the public's perception of whether or not a councilmember seen on the access channel would be seen as representing the City's position or their own personal position; it would be inappropriate to use that channel for campaigning or for commercial use but it is also important that the public be informed.

There was discussion about TVW format and possibly following that, opposing views should be given equal time, need for developing policy so there is no misunderstandings. It was noted that televising council meetings could be a good way to keep the public informed, except a real cost effective way to do this has not been found as yet.

Councilmember Dierck said she feels the product is getting better and everything in the studio is donated. She said she is the one who wants to do the televising on Wednesday; it's a way for the kids to learn and practice their skills with the camera. The plan was for her to interview Tim Thometz and Kris Passey about school mitigation fees.

City Attorney Weed explained there is the risk that something may be discussed such as a land use matter or a councilmember giving an opinion about a quasi judicial matter; he said it makes a difference where and in what capacity the councilmember speaks in. He said it might be appropriate to have some general guidelines as to appropriate comments; there are other cities that have done that but this is a government access channel and the City Council has fairly wide authority on how they want the public to be provided with access to governmental issues.

There was discussion about appearance of fairness, more clarification between the legislative process and the quasi judicial process, things that may cause a prejudgment and a decision possibly being challenged as a result. There were also comments about land use/Comprehensive Plan hearings, platforms/issues that people run on, very thin line between government access vs public access.

Councilmember Bartholomew moved and Councilmember Pedersen seconded to reconvene the TV Advisory Committee to create guidelines for the public TV channel, with the school district, TCI and City Council being represented.

There was more discussion about what can happen prior to getting these guidelines in place, possibly having a debate format, noting one session on mitigation fees has already been aired on Channel 29. It was also noted that anything that's on the government access channel might be perceived as government policy or opinion. It was noted too that there are already some federal and state guidelines in place, although City Attorney Weed said he wished to look into this further.

Councilmember Roark said he would like to see if there is something already in place, possibly in conflict with the TV Advisory Committee guidelines and there was more discussion about having equal time between the administration and other Councilmembers, having a policy about having no issues discussed "x" number of days before an election.

The motion of sending this issue to the TV Advisory Committee to look at existing guidelines and sending back their recommendation to Council passed 4-3 with Councilmembers Dierck, Herman and Roark against.

There was further discussion about policies already in place, development of policies by the advisory committee, previewing of

videos being part of the process. It was the consensus to have the City Clerk preview the tape and to make a decision, as is the present policy, until any new guidelines are put in place. It was also suggested this be reviewed in Executive Session.

Mayor Weiser mentioned the upcoming Cities and Towns meeting in Everett November 19, with programs concerning the Endangered Species Act and Community Theater.

CALL ON COUNCILMEMBERS:

Councilmember Pedersen asked about following up with WSDOT on bridges and the 60th St. light.

Councilmember Roark said Sen. Strannigan, Rep. Metcalf and the City of Everett have now all got involved but he hasn't heard anything from WSDOT as yet.

Councilmember Dierck asked about Mother Nature's Window again and said she would like a decision tonight on the \$100,000 as there is an upcoming meeting at the county level Wednesday morning.

Councilmember Herman said he thinks Mother Nature's Window would be a significant contribution to the City and can think of a wide range of issues that are impacted by traffic and gambling/law enforcement. He said he would also like to see some sensitivity to the Tulalip Tribes as to where we spend the money. He noted he has long been a proponent of Mother Nature's Window but is not sure how much funding is secured and if there is a shortfall, the City might "step up to the plate."

Mayor Weiser noted the process of Conservation Futures proclaimed this as top priority but we don't know what that equates to as far as dollar amount. He said he could get that information to Councilmembers.

Councilmember Dierck said the county was very concerned about how much Marysville is contributing; they are having a meeting Wednesday a.m.

Mayor Weiser said the City has not officially been asked for a commitment of funds.

There was discussion about the discussion Councilmembers had with Rick Larsen, Mother Nature's Window to be put in the budget cycle, what the county council has on their agenda, what the county is asking Marysville to do, where did the \$100,000 figure come from.

Mayor Weiser explained that 4 or 5 years ago the county acquired property next to Mert Turk's property and \$100,000 was given as a figure needed to purchase Mert Turk's property as well as an adjacent piece. He said he would look into this matter further and bring the Council up to speed.

Councilmember Wright reported she attended a housing committee meeting and there is going to be a public forum 10/21/98 regarding discrimination in housing and lending; it will be a panel consisting of representatives from HUD, an attorney, property management, etc.

REVIEW BIDS:

1. Crack Sealing Program.

Mayor Weiser asked Public Works Director Winckler if there was anything he wished to add to the agenda bill and Public Works Director Winckler said instead of \$30,000 being requested, it should read a budget amendment of \$22,000. He noted engineering is actually being done internally on this project.

Councilmember Bartholomew moved and Councilmember Wright seconded to authorize the Mayor to sign the contract documents as recommended. Passed unanimously.

2. Street Overlay Project.

Public Works Director Winckler said he had nothing to add to the agenda bill, that staff is recommending the Mayor be authorized to countersign the contract with ARC Materials Corp. dba CSR Associated, for the amount of \$90,857.92 including state sales tax.

Councilmember Leighan asked why this could not be done inhouse and Public Works Director Winckler responded that Public Works people are currently working on alley projects and are too busy. Also, with bidding several projects together, the City is in a position to get a better price, he said.

Councilmember Dierck asked about inclement weather playing a role in the high cost of doing business at this time of year.

Councilmember Bartholomew left Council Chambers at 9:09 p.m.

It was agreed that because this project is scheduled for next month, the weather plays a very significant role in scheduling and cost.

Councilmember Herman moved and Councilmember Dierck seconded to authorize the Mayor to sign the contract documents as recommended. Passed 6-0.

3. Traffic Signal at 67th Avenue & Grove St.

Public Works Director Winckler pointed out that this project does not contain the same weather risk/role as the previous project approved.

Councilmember Bartholomew returned at 9:13 p.m.

Councilmember Wright moved and Councilmember Dierck seconded to authorize the Mayor to countersign contract documents on behalf of the City, as recommended. Passed 6-1 with Councilmember Herman opposed.

Public Works Director Winckler noted the signal poles are scheduled to come in October 23rd.

CURRENT BUSINESS:

1. Western PCS III Corporation Site Lease.

It was explained that this had been discussed in Executive Session previously.

City Attorney Weed noted there have been discussions with the potential lessee and shorter terms were negotiated.

Councilmember Wright left Council Chambers at 9:18 p.m.

City Attorney Weed also noted monthly rent comparisons were done by Mary Swenson.

Councilmember Wright returned at 9:19 p.m.

City Attorney Weed noted that the rent actually went up from \$500 to \$1000; there is only one resident nearby in the line of sight and it is in a relatively undeveloped area.

There was further discussion about the waiver of landlord lien rights, the addendum regarding subleasing, federal legislation superseding local legislation (none as yet), City of Marysville ordinance permits antennas/towers outright.

Councilmember Roark asked that City Council be notified if federal legislation comes through to supersede the City ordinance.

Councilmember Roark then moved and Councilmember Dierck seconded to authorize the Mayor to sign the Site Lease With Option and Addendum between the City of Marysville and Western PCS III Corp. Passed unanimously.

2. Professional Services Agreement; Supplemental #2; Perteet Engineering; R9601-SR 528 (67th Ave. to 83rd St.) Road Improvements.

Public Works Director Winckler added that this is for design of the project and is 100% funded by WSDOT at an estimated cost of \$500,000, to be done Spring 1999.

Councilmembers Pedersen and Herman voiced concerns about this being scheduled about the same time as other bridge projects by WSDOT and there are going to be very few arterials left without construction on them.

Councilmember Dierck left Council Chambers at 9:31 p.m.

Councilmember Herman then moved and Councilmember Bartholomew seconded to approve the professional services agreement, subject to obtaining a written commitment from DOT, eg. an interlocal agreement. Passed 6-0.

3. Professional Services Contract; Supplemental No. 2; Skillings/Connolly, Inc.; Traffic Signal at 67th Avenue/Grove St.

Public Works Director Winckler said he had nothing additional to add to the agenda bill.

Councilmember Dierck returned at 9:32 p.m.

Councilmember Bartholomew moved and Councilmember Wright seconded to approve the professional services contract, not to exceed \$3960. Passed 7-0.

NEW BUSINESS:

1. Utility Variance for Water & Sewer Connections Subject to Conditions; Boyden, Robinett & Associates; 108th St. NE & 67th Ave. NE; UV 98-023.

Public Works Director Winckler corrected the agenda bill from "34 Water Connections and 34 Sewer Connections" to an unlisted number of connections, based on density as yet to be established.

Councilmember Herman explained the Utility Committee discussed this and recommended this rather than a specific number; it could be less than 34 but probably won't be.

City Planner Hirashima mentioned that currently the density is 4.5 dwelling units per acre and the recommendation is that it go to 5 to 7 du/ac but there is a discrepancy between Marysville's and the county's Comprehensive Plans; the county's is 12 du/ac.

Councilmember Dierck asked about drainage and City Planner Hirashima stated that is going through the county.

Rick McCardle, Shockey Brent, applicant's representative, addressed Council. He said the project is designed to handle drainage to the south which is contained in the application to the county.

There was more discussion about the number of connections, anticipation at the end of the reconciliation is that it will be higher density than Marysville currently allows but less than what the county currently allows. It was also noted that one-quarter to one-fifth of the property is wetlands and unbuildable.

Councilmember Pedersen moved and Councilmember Wright seconded to approve the utility variance with the stipulation that it meets the Marysville Comprehensive Plan. The motion passed 6-1 with Councilmember Dierck against.

2. State Avenue Road Improvements - State Avenue (First Street to Grove Street); Third Street Streetscape Improvements; and Ebey Slough Waterfront Park; Consultant Services Agreement; Hammond, Collier, Wade-Livingstone Associates.

Scope of Work and Funding documents, to coincide with visual presentations, were distributed and Larry Wade, P.E. and Public Works Director Winckler both gave presentations.

There was considerable discussion about inviting public involvement, including the Economic Development Committee as well as the Chamber and Downtown Merchants and others.

Councilmember Roark moved and Councilmember Bartholomew seconded to proceed with the feasibility study as outlined.

There was further discussion about the use of the Growth Management funds, mitigation fees, where the museum should be located, discussion about previous direction given by the Council at the retreat regarding sites for a museum, revitalization of downtown, Revitalization Committee will be meeting Wednesday morning.

The motion passed 5-2 with Councilmembers Pedersen and Herman against.

Mr. Wade assured Council that Julie Walton will be happy to work with the Downtown Revitalization Committee.

ORDINANCES & RESOLUTIONS:

1. An Ordinance of the City of Marysville, Washington Amending MMC 6.60.030 Relating to Air Guns and Adding Regulations Relating to Use of Paint Ball Guns.

Councilmember Bartholomew moved and Councilmember Leighan seconded to adopt Ordinance 2207, with elimination of the word "or" at the end of 3(c). Passed unanimously.

2. An Ordinance of the City of Marysville, Washington Relating to Skateboarding and In-Line Skating at Comeford Park, Adding a New Chapter 11.06 to Marysville Municipal Code Title (Traffic Code).

Councilmember Herman recommended eliminating "b" on page 2 regarding confiscation of skateboards or inline skates.

Councilmember Pedersen moved and Councilmember Bartholomew seconded to adopt Ordinance 2208 (as presented).

Councilmember Herman moved and Councilmember Roark moved to modify the ordinance by striking "b" on page 2. The amendment to the motion failed 4-3 with Councilmembers Leighan, Wright, Pedersen and Bartholomew against and Councilmembers Herman, Roark and Dierck in favor.

The motion for adoption of Ordinance 2208 as presented also failed 4-3 with Councilmembers Dierck, Herman, Leighan and Roark against; Councilmembers Wright, Pedersen and Bartholomew in favor.

Councilmember Wright then moved to reconsider the previous motion and Councilmember Bartholomew seconded. This motion passed 7-0.

Councilmember Wright moved to adopt Ordinance 2208 with deletion of 3(b), Councilmember Bartholomew seconded and the motion passed 6-1 with Councilmember Leighan against.

LEGAL MATTERS:

**1. Contract for Recovery of Utility Construction Cost for Sewer;
David Thorpe.**

Councilmembers Wright and Leighan noted they will be abstaining from voting on this matter.

Councilmember Bartholomew moved and Councilmember Roark seconded to adopt Recovery Contract 211. Passed 4-1 with Councilmember Herman against, Councilmembers Wright and Leighan abstaining.

ADJOURNMENT: 10:46 p.m.

EXECUTIVE SESSION: 10:53 p.m. to 12:20 a.m. 10/6/98

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|------------------------|------------|
| 1. Litigation. | No Action. |
| 2. Real Estate. | No Action. |
| 3. Personnel. | No Action. |

RECONVENED & ADJOURNED: 12:20 a.m. 10/6/98

Accepted this 12th day of October, 1998.

David W. Lewis
MAYOR

Mary D. Swenson
CITY CLERK

Standa A. Iverson
RECORDING SECRETARY