

MINUTES  
MARYSVILLE CITY COUNCIL - REGULAR MEETING  
JUNE 7, 1999

00168

CORRECTED: SEE 6/14/99  
MINUTES

**CALL TO ORDER/FLAG SALUTE**

The meeting was called to order by Mayor Weiser at 7:05 p.m. in the Council Chambers, and the assemblage joined in the flag salute. The recorder noted those present and absent, as follows:

- |                             |   |
|-----------------------------|---|
| Councilmembers Present:     | Dave Zabell, City Administrator           |
| Dave Weiser, Mayor          | Robert Carden, Police Chief               |
| Donna Wright, Mayor Pro Tem | Owen Carter, City Engineer                |
| Shirley Bartholomew         | Ed Erickson, Finance Director             |
| NormaJean Dierck            | Gloria Hirashima, City Planner            |
| Otto Herman, Jr.            | Larry Larson, Public Works Superintendent |
| Mike Leighan                | Grant Weed, City Attorney                 |
| Donna Pedersen              | Ken Winckler, Public Works Director       |

Councilmembers Absent:  
Brett Roark - excused

Mayor Weiser explained to councilmembers the new electronic system for indicating their desire to speak on a topic. He then introduced the Recorder, Ann Averill.

**MINUTES OF PREVIOUS MEETINGS**

- Special City Council Meeting, May 12, 1999  
Councilmembers noted the following corrections:
  - Page 9, second paragraph, last line should read "He asked if she knew what the cause of swimmer's itch was and informed her it comes from water fowl waste, that it was a parasite, and therefore pollution."
  - Page 6, second paragraph, should read "Councilor Leighan referred to Kathy Thornburgh implying that the County had jurisdiction over water quality."

**MOTION** by Bartholomew, second by Dierck, to approve the minutes of the May 12, 1999 meeting as corrected. Motion carried unanimously (6-0).

- City Council Meeting, May 24, 1999  
Councilmembers noted the following corrections:
  - Page 7, second paragraph, first line "Councilmember Leighan asked if any promotion has been done of the golf course, referring to the aggressive promotion Kayak has been doing lately . . . ."

**MOTION** by Dierck, second by Pedersen, to approve the minutes of the May 24, 1999 meeting as corrected. Motion carried unanimously (6-0).

**AUDIENCE PARTICIPATION**

Phyllis McKinzie, 1528 172<sup>nd</sup> Street, Arlington, stated the Lakewood residents desired to be involved with the City in the planning for the north area, noting they were already working with the County. Mayor Weiser responded there had been setbacks to this process. Councilmember Bartholomew added that Becky Foster from that area served on the City's Planning Commission. Ms. McKinzie stated that the Lakewood residents had different issues than those from Smokey Point and needed to be included.

Jeff Seibert, 5004 80<sup>th</sup> Street, Marysville, distributed documents and pictures to councilmembers regarding a current development at the corner of 51<sup>st</sup> and 80<sup>th</sup>. He noted that development had continued with an obvious disregard for meeting the City's requirements. After detailing the deficiencies, he asserted the development was in non-compliance and requested that the work be stopped, fines be imposed and the property revert to its prior zoning. Mayor Weiser responded that the issue would be directed to the Compliance Officer. Attorney Weed addressed the issue of conflicting provisions in the code: Title 20, which was part of the development code vs. Title 12.02.180, #4. Title 20 allowed up to nine lots on a private road, while Title 12 allowed four. Mayor Weiser noted the Council had changed some of the pertinent ordinances and agreed to check on the dates of the documents Mr. Seibert had referenced to ensure the latest version was being used. Attorney Weed added that the City had authority to require removal of landscaping that impaired sight distances, especially on rights-of-way and that the City did not need to let landscaping direct the siting of roads. Ms. Hirashima noted that

someone from her office had made contact with the developer of this property and a Stop Work order had been issued. Mr. Seibert stated that on this date the workers had been off-loading trash, only. Councilmember Dierck added that her review of the conflicting codes indicated Title 20, which dealt with subdivision standards, was the most recently adopted and contained the standards Mr. Seibert referred to. She suggested Title 12, which dealt with streets and sidewalks be brought up to date. Mr. Seibert asserted that the developer should be required to file his paperwork before doing any further work.

Councilmember Pedersen mentioned the condition of the streets at 51st and 8th which rendered them undriveable. Mr. Winckler responded that he had been reluctant to resurface the area because of the utilities, but he would consult with the City Engineer and perhaps require a temporary overlay.

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DIRECTOR: SEE Pg 14/1999  
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## **PRESENTATIONS/PETITIONS/COMMUNICATIONS**

### 1. Consumer Confidence Report

Mr. Larson distributed copies of the brochure *How Safe is Your Drinking Water*, noting this report on water quality was required by the EPA and the Department of Health. He reviewed the history of the Clean Water Act and the detailed information which had been compiled for the City's report. Mr. Larson added that the entire project had been accomplished well before the required deadline and entirely by staff. He thanked Jill Boersema and Doug Buell for their contributions to this successful effort.

Councilmembers thanked staff for its excellent work.

### 2. John Glynn, State Department of Ecology

Mr. Glynn addressed Council regarding the recent developments in water quality regulations, and particularly compliance with the Federal Clean Water Act and the Endangered Species Act. Total maximum daily loads, or TMDLs, equated to water clean-up plans and addressed two different problems, point source and non-point source pollution. Point source referred to discharges from separately permitted facilities, such as wastewater treatment plants from cities or industries. The capacity of the river to handle the waste loads, even after they had been treated, was regularly examined. In the lower Snohomish basin, the State was requiring closer control of biochemical oxygen, which affects the oxygen content of the receiving water. Because of the growth in the Snohomish basin, the computer model showed depleted oxygen will exceed the standards. To respond to this, the State will place certain requirements on point sources, which will be imposed later this summer. He noted this affected Marysville.

Mr. Glynn then discussed non-point sources such as stormwater runoff, discharges from septics, failing septics, agriculture practices, timber harvesting or other land use practices. The two streams which are impacted and which are critical to Marysville are Quilceda Creek and Allen Creek. One of the principal pollutants is fecal choliform bacteria. He noted that a TMDL for a non-point source required a great deal of cooperation among jurisdictions. He particularly called attention to the watershed management plan for Quilceda and Allen Creeks which had been prepared by Marysville, Snohomish County and other jurisdictions. It contained a thorough discussion of the current status and what could be done to address the problems in a prioritized order. He encouraged Councilmembers to review the document and work with the neighboring jurisdictions to take the recommended actions. He added there was a limited amount of grant money to address non-point sources, but one was currently under negotiation from Snohomish County to address control of Quilceda Creek. He added that the applications for grants and loans were reviewed each spring and he encouraged the City to apply. He closed by emphasizing the importance of the watershed management plan.

Councilmember Dierck commented that the TMDL study, the watershed management plan and the document prepared by the Tribes were good sources for implementing a clean-up plan.

Councilmember Pedersen asked about the length of time necessary to achieve solutions; Mr. Glynn responded that this would be variable, but one could be accomplished in a few years. By contract, the lower Snohomish TMDL was very complex with a complex computer model. It was started seven years ago, and the finished product is not on the near horizon. He suggested the Quilceda/Allen Creek effort would be moderately complex. Mr. Glynn added that the State bore the responsibility for determining if standards were met.

Councilmember Leighan asked about grant money. Mr. Glynn responded that within the state, the cigarette tax provided money for the Centennial Clean Water Act. Funds

also came from the federal government up front to establish a loan source to be made available to jurisdictions. These loans have to be paid back in order to keep the fund self-sustaining. The federal government is no longer involved in grants. He noted that in Skagit and Whatcom Counties, grant money to health districts had been used to do sanitary surveys of failing septic tanks which impacted shellfish harvests. Regarding agriculture practices, they have worked with conservation districts regarding farms which do not meet standards. The feedback in this area has been that steady improvement is achievable, but the overall process will be lengthy, perhaps five years.

Jana Graupmann, 18230 McElry Road, Arlington, emphasized the good work which had been accomplished through EnviroStars, a voluntary program for businesses in the area which helped them handle their hazardous wastes appropriately. Technical assistance was provided. Mr. Glynn agreed this was an extremely valuable and low cost program which had achieved some conspicuous successes in the past.

Councilmember Herman asked about DNA testing as a method of better understanding the nature of the pollution problem. Mr. Glynn responded that DNA testing had been carefully considered, but the scientific community felt it was not specific enough to warrant the cost.

Mike Papa, 8127 54<sup>th</sup> Drive NE, Marysville, thanked the Council and Mr. Glynn for this presentation and the work which was being done.

**MOTION** by Dierck to adopt the Department of Ecology TMDL Non-Point Source Pollution Study.

Councilmember Dierck emphasized that adoption of this study would be the first step in cleaning up the water. She noted the document had been distributed two weeks prior, and her motion supported the agenda's recommended action of early action on TMDLs.

There was no second to the motion, with several Councilmembers urging adequate time to read and review this study and consider a broad, cooperative plan. It was agreed to bring the matter back in three weeks.

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These Studies

#### CONSENT AGENDA

1. Approve June 7, 1999 claims in the amount of \$491,021.71 paid by check Nos. 45414 through 45621, with check No. 45277 void.
2. Approve May, 1999 payroll in the amount of \$794,149.48 paid by check Nos. 35088 through 35357, with check No. 34994 void.
3. Approve new liquor license application for Marysville Deli and Video.
4. Authorize Mayor to sign Turnback Agreement TB 1-0124, 116th Street NE.
5. Affirm the Hearing Examiner's decision to approve the rezone and preliminary plat request, with conditions, for the planned residential development of the Trivett property.
6. Approve certain existing but unauthorized petty cash and change funds and authorize increase to Police petty cash fund, increase existing change fund, and create a new change fund; Ordinance No. 2262.

**MOTION** by Pedersen, second by Wright, to approve items 2 through 6. Dierck voted nay; all others voted aye; motion carried (5-1).

**MOTION** by Pedersen, second by Herman, to approve item 1. Under discussion, Mr. Winckler reported the 1999 Dodge Ram truck (warrant No. 45556) was going to an employee in the Sewer Department. It had been purchased through the State'd bid process and was a budgeted item.

**VOTE ON MOTION:** carried unanimously (5-1), with Councilmember Leighan abstaining as to Warrant No. 45618.

#### ACTION ITEMS

##### **Public Hearing**

1. L.I.D. No. 70 (Continued from May 24, 1999)  
Mayor Weiser noted that the public testimony had been closed at the prior meeting, and this discussion had been requested by Council in order to receive additional information from staff.

Robin Nelson reviewed the agenda materials on the four issues raised after the formation hearing held May 24th:

- Deferral of assessments for economically disadvantaged persons.

- Differences between zone and termini and square footage method of assessments.
- Interest from the Tribes regarding sewer service to their parcel contiguous but not within the proposed special benefit boundary.
- Possible inclusion in the special benefit area of the area around the Texaco station at 116th.

A lengthy discussion ensued; Councilmember comments included:

- Property involved in probate was not listed as one of the reasons for deferral. Attorney Weed responded that unless it was specifically set out in the RCW, bond counsel would not support it.
- The Risk Committee had struggled with deferrals for disadvantaged persons, but no clear definition emerged, as some people with low incomes were "land rich." Attorney Weed agreed to ask bond counsel how this was defined in other cities which had implemented a deferral option.
- The first page of calculations included the eight Texaco parcels and the impact their inclusion would have. The second page (zone and termini vs. square footage) did not include those parcels. Including them would reduce the assessment on eight parcels and increase it on fourteen. The eight which increased were the larger parcels which had the most likely opportunity to recover the cost if the value of the property was increased by having sewer.
- If Council decided to add additional properties, a public hearing would be held and notice given only to the owners of those properties. Citizens included in the original LID process would not be giving testimony. Adding parcels and increasing the value would make it more difficult for dissenting property owners to muster the required valuation to resist the LID formation.
- A lien cannot be placed on Tribal property. Participation of the Tribes would require some other method of payment, either a lump sum at the outset or a contract with payments over time.
- Councilmembers asked for a visual depiction of the impact of the two methods of calculation, zone and termini or square footage. These maps should include all the parcels being considered.
- The City is mandated to provide sewer service to each parcel; this would be a 6" stub to the property line of a residential parcel, and an 8" stub to a large parcel. The developer would be responsible for extensions within his parcel.

**MOTION** by Pedersen, second by Bartholomew to enter into discussions with the Tulalip Tribes regarding their interest in participating in this project. Dierck voted nay, all others voted aye, motion carried (5-1).

**MOTION** by Pedersen, second by Bartholomew, to direct the City Attorney to draft language which, if accepted, would authorize deferment of assessments to economically disadvantaged property owners while still protecting the interests of the City.

Under discussion, Councilmember Herman suggested the City not involve itself in the personal financial affairs of these citizens; the intent was simply to keep a property owner from losing his or her home. Pedersen and Bartholomew agreed to include this as a friendly amendment.

**VOTE ON MOTION:** motion carried unanimously (6-0).

**MOTION** by Wright, second by Bartholomew, to direct staff to prepare a resolution for future council action, including the notification of public hearing, for the purpose of adding the eight parcels which include the Texaco station and mobile home park.

Under discussion, Councilmembers repeated the request for clearer maps to show the impact of the addition of these parcels. Mr. Nelson agreed to have these ready for the Council's discussion of the resolution.

Councilmember Dierck repeated her concern about the limited opportunity for public testimony, noting it would preclude citizens in the existing LID area from testifying again.

**VOTE ON MOTION:** Dierck and Leighan voted nay; all others voted aye; motion carried (4-2).

**MOTION** by Bartholomew, second by Herman, to continue the discussion and action on the zone and termini vs. square footage methodologies to the June 28<sup>th</sup> regular meeting. Motion carried unanimously (6-0).

#### **New Business**

1. Snohomish County Master Annexation Interlocal.  
Ms. Hirashima gave the staff presentation of the agenda materials. She noted a public hearing had been scheduled for June 14<sup>th</sup>; this was at Council's request but was not required by the city code or state law. There was a timing urgency on this agreement, as the 122<sup>nd</sup> Street annexation was before the Boundary Review Board

and the County Council desired to have the interlocal in place before completing its action.

Councilmember Dierck asked about a mailing so citizens would know how they could be annexed into the City; Ms. Hirashima responded that the affected parties were the City of Marysville as an agency and Snohomish County as an agency. Mayor Weiser noted this process had a long history and public hearings had been conducted as to specific annexation proposals during that time. The general notification process would be utilized to inform the public about the proposed agreement and the public hearing; that is, the public information channel and newspapers.

Mr. Zabell added that the document put into writing and formalized the way the City and County had been coordinating on annexations and development within the City's urban growth area. Attorney Weed noted that some language still needed clarification to ensure the City did not incur liability if the County issued permits as the agent for the City.

Mayor Weiser called for public comments; there were none. He reiterated that a public hearing was scheduled for June 14<sup>th</sup> to consider this interlocal agreement.

2. Engineering Design and Development Standards  
Council deferred discussion of this topic to later in the meeting in order to take up the 116<sup>th</sup> Corridor Master Plan.

#### **INFORMATION ITEMS**

1. 116<sup>th</sup> Corridor Master Plan

Ms. Hirashima directed Council's attention to the memo she had prepared, noting that there was not one large developer spearheading this effort, but a group of interested parties. The City could coordinate the planning effort. Because of demand on planning staff, she recommended hiring an outside consultant with the cost recovered from the property owners. The City would define a scope of work, hire a consultant, and then develop a fee basis.

Public comments on this topic were as follows:

Phyllis McKinzie stated she represented the Ritz property. She distributed a memo and spoke to the issue of a binding site plan, which would impose a plan on a very large parcel of land that was under many different ownerships. Ms. Hirashima responded that the area was shown as Commercial in the comprehensive plan; in order to amend that text the City would have to go through a plan amendment process. The deadline for requesting an amendment had been extended to July 1<sup>st</sup>. The Comprehensive Plan can only be amended once a year so if the request was not filed soon, the issue could not be considered until 2000.

Gary Petershagen, 505 Cedar Suite B-1, Marysville, represented Belmark Properties. He suggested the process for a Master Plan would be difficult to accomplish because there were few developers but a very large group of property owners who did not have specific ideas of what they wanted to do with their property. An example of how cumbersome the process would be is the requirement for a drainage site. This encompasses the entire 170 acres in the area, yet no one has specific plans which would allow calculation of impervious surfaces. He noted they had gone through the initial Comprehensive Plan process. Ms. Hirashima responded that traffic was a critical issue and access needs were unclear. She suggested an overall plan was critical, otherwise the last parcel to be developed would get stuck with satisfying the requirements for parks, etc.

Councilmembers noted that property owners in the area were at an impasse because they did not know what could be done with their property in the future. Ms. Hirashima noted that a Master Plan would estimate the need for park lands and retention, main roads and signals.

Jeff Seibert added that during the meetings on the Comprehensive Plan, citizens became convinced that the only way to achieve a good result, rather than a piecemeal effort, was to prepare a Master Plan. He supported hiring a consultant, sharing the cost, and proceeding to complete that work.

Ms. Hirashima agreed to prepare the scope of work for the Master Planning process and bring it for the June 14<sup>th</sup> meeting.

**MOTION** by Herman, second by Dierck, to direct staff to prepare recommendations for consideration regarding an amendment to the Comprehensive Plan that would maintain the requirement for master planning but allow some flexibility for this area so property owners could

move ahead and not be prevented from either a sale or a development because others weren't ready to act. Bartholomew, Leighan, and Wright voted nay; all others voted aye; motion tied (3-3).

**MOTION** by Herman, second by Leighan, to direct the City Attorney to review the legality of a Comprehensive Plan amendment process which allowed correcting the area-wide rezone in order to accommodate a minor correction so planning could go forward in the subject area. Dierck voted nay; all others voted aye; motion carried (5-1).

At this point, Council resumed the regular agenda.

#### **New Business**

2. **Engineering Design and Development Standards**  
Councilmember Pedersen asked Mr. Carter about the review process. He responded that the document had been given to over 40 developers and engineers and many had responded. Councilmember Pedersen noted the Council's information had not contained Mr. Carter's responses to those inputs.

Councilmember Dierck requested that Council hear from the citizens in the audience who had been waiting to speak on this topic.

Jeff Seibert commented on the apparent conflict between street designations (collectors were wider than minor arterials), lack of sidewalk requirements on private roads, access to back yards, work hour restrictions for heavy equipment road work.

Mike Papa expressed concern that no public input had been solicited, only the development community had been asked to comment. He suggested delaying any action until the general public had received an opportunity to review and comment.

Gary Petershagen requested information regarding the changes that were made to the document as a result of the responses staff received. He noted the City continued to build very wide streets, when narrower streets would act to slow traffic. He supported rolled curbs in high density areas. The minimum standards for residential streets were excessive. Mr. Carter responded that the streets were designed to last 20 years.

Due to the lateness of the hour, Councilmembers agreed to delay the presentation on the Engineering Design and Development Standards until July, when Mr. Carter returned from vacation.

#### **Ordinances and Resolutions**

None, except those which had already been approved as part of the Consent Agenda.

#### **LEGAL MATTERS**

None.

#### **DISCUSSION ITEMS**

None.

#### **INFORMATION ITEMS**

1. **Mayor's Business**  
The Downtown Redevelopment Committee requested the City to work with them to provide ways of accessing additional funds and grants for a grant writer, who would be hired or contracted with by the City. He was working on that proposal. The Cities and Towns Association requested a letter of support for the nomination of former State Representative Jeannette Wood to the Puget Sound Hearing Board. This would be on next week's agenda.
2. **Staff's Business**  
Mr. Winckler distributed doorhangers which had been distributed regarding the State Avenue Improvements Project public open house on June 9<sup>th</sup>. Staff is working to develop a contract with a certified vendor for insect spraying. Planned Marine Drive improvements from Meridian to 19<sup>th</sup> Avenue had been documented and copies were available at the library.
3. **Call on Councilmembers**  
Councilmember Leighan directed Council's attention to the memo regarding Terry Williams' meeting.

Councilmember Wright inquired about the street closure on Grove between 60<sup>th</sup> and 88<sup>th</sup>; staff responded that this was for a sewer extension.

Councilmember Pedersen will attend the Snohomish Health District meeting, but not the Chamber meeting. The bid opening for Cedarcrest Golf Course clubhouse was scheduled for May 27<sup>th</sup> with an award at this meeting, but it was not on the agenda. Consistency was needed in the handling of Council requests to staff.

**ADJOURN TO EXECUTIVE SESSION**

Council adjourned into Executive Session to discuss a real estate matter.

**RECONVENE AND ADJOURN**

Council reconvened into regular session, took no further action, and adjourned at 11:07 p.m.

Accepted this 14<sup>th</sup> day of June, 1999.

David Weiser  
Mayor

Mary Pedersen  
City Clerk

Ann M. America  
Recording Secretary