

**MINUTES RECAP
MARYSVILLE CITY COUNCIL - REGULAR MEETING
SEPTEMBER 11, 2000**

000296

CALL TO ORDER/FLAG SALUTE	7:00 p.m.
ROLL CALL	All present
MINUTES OF PREVIOUS MEETING 1. September 5, 2000 city council	Approved as corrected.
AUDIENCE PARTICIPATION 1. Jim Kolthoff, Everett, regarding stumps in creek at Jennings Park	
PRESENTATIONS/PETITIONS/COMMUNICATIONS	
CONSENT AGENDA 1. Approve September 11, 2000 claims in the amount of \$273,281.00 paid by check nos. 54179 through 54265.	Approved.
ACTION ITEMS	
REVIEW BIDS 1. None	
PUBLIC HEARING 1. Planning Commission recommendation for Marysville School District Capital Facilities Plan, consideration of revisions to Title 18C.MMC (continued from July 24, 2000) - Adopting the Capital Facilities Plan - Regarding vesting - Regarding school impact fees	Approved Ordinance 2330 Approved Ordinance 2331 Approved Ordinance 2332
CURRENT BUSINESS None.	
NEW BUSINESS 1. Resolution regarding IAC grant application 2. Edward Springs booster pump, professional services agreement, RH2 Engineering 3. Resolution of the City of Marysville in support of Proposition No. 1 on the election ballot of September 19, 2000, levying taxes for emergency medical care and services, including paramedic services, for Marysville Fire District Medic Program.	Approved Resolution 1997. Approved. Approved Resolution 1998.
LEGAL MATTERS None.	
ORDINANCES AND RESOLUTIONS	
INFORMATION ITEMS	
1. Mayor's business 2. Staff's business 3. Call on councilmembers	
EXECUTIVE SESSION 1. To discuss one personnel matter and two real estate issues.	
ADJOURN	11:30 p.m.

**MINUTES
MARYSVILLE CITY COUNCIL - REGULAR MEETING
SEPTEMBER 11, 2000**

CALL TO ORDER/FLAG SALUTE

The meeting was called to order by Mayor Weiser at 7:00 p.m. in the Council Chambers, and the assemblage joined in the flag salute. A voice roll call was conducted. Attendance was as follows:

Councilmembers Present:	Administrative Staff present:
Dave Weiser, Mayor	Dave Zabell, City Administrator
Mike Leighan, Mayor Pro Tem	Robert Carden, Police Chief
Shirley Bartholomew	Eric Thompson, Senior Planner
Jim Brennick	Grant Weed, City Attorney
NormaJean Dierck	Ken Winckler, Public Works Director
Mike Leighan	
Donna Pedersen	
Suzanne Smith	
John Soriano	

MINUTES OF PREVIOUS MEETING

1. City Council Meeting, September 5, 2000.
Councilmembers noted the following corrections:
 - Page 8 under Councilmember Dierck's comments, revise to read "...no further sewer or water hookups be allowed before annexation except for an individual with a bad well or septic tank problem."

MOTION by Brennick, second by Bartholomew, to approve the minutes of the September 5, 2000 meeting as corrected. Motion carried unanimously (7-0).

AUDIENCE PARTICIPATION

Jim Kolthoff, Everett, stated that whoever had done the clearing on the softball side of Jennings Park had thrown the stumps down into the creek.

PRESENTATIONS/PETITIONS/COMMUNICATIONS

None.

CONSENT AGENDA

1. Approve September 11, 2000 claims in the amount of \$273,281.00 paid by check nos. 54179 through 54265.

MOTION by Bartholomew, second by Soriano, to approve consent item 1. Motion carried unanimously (7-0).

ACTION ITEMS

Review Bids

None.

Public Hearing

1. Planning Commission recommendation for Marysville School District Capital Facilities Plan; consideration of revisions to Title 18c.MMC (continued from July 24, 2000).

Mayor Weiser noted this was not a quasi-judicial action and reviewed the rules for public hearings, with the proponent allowed 15 minutes of presentation and the public comments limited to five minutes each. He noted the council had three ordinances before it: one accepting the Marysville School District Capital Facility Plan, one setting school mitigation fees, and one concerning the vesting issue as to mitigation fees. He then opened the public hearing.

Councilmember Bartholomew questioned Dr. Eisenhower's letter of September 6 as to the collection of mitigation fees and I-695. If the fees had to be refunded, who would pay interest? Mr. Weed responded that the ordinance would become effective five days after publication and the city would begin collecting fees and passing them through to the School District. The city had an interlocal with the School District that placed responsibility on the district or any refund which was required. He felt the District would be obligated to pay any interest due.

Dr. Richard Eisenhower, 7716 51st Avenue NE, Superintendent of the Marysville School District read from his prepared statement dated September 11, copies of which were provided to council. He urged council to adopt the Capital Facilities Plan as submitted. Regarding vesting, mitigation fees should be paid according to the ordinance in place at the time the fees were actually paid; there should be nothing retroactive. Regarding the discount, the District understood there might be a challenge to implementing the full fee and because of opponents' concerns regarding the currentness of assessed values and application to the tax credit portion of the fee formula, the had District agreed to the consideration of a 15% discount as an offset to those concerns.

Councilmember Dierck expressed support for no discount, and asked how much the District had lost in school mitigation fees over the last two years. Mr. Larry Price, the District's Facilities Manager, responded that he did not have exact figures, but thought there had been 200 to 400 new homes built in the city during that period. That number times \$2,000 as opposed to the proposed fee would give that figure.

Councilmember Smith asked if the Capital Facility Plan was revised every two years. Mr. Price responded that it was reevaluated every two years and a new fee calculated. Councilmember Smith asked if that reevaluation adequately addressed the concern about currentness of assessment, and questioned the need for a 15% discount. Mr. Price said the District spent a great deal of time on the process and there were developers on the committee. The question of the timeliness of information from the county was an issue.

Councilmember Bartholomew clarified that the District supported current vesting, only. Mr. Price stated that was correct, the fees would be paid according to whichever ordinance was in place at the time. Councilmember Bartholomew asked if that applied even if the building permit had not been issued. Mr. Price clarified that if an ordinance were put in place that changed the payment due time from the issuance of the building permit to the letter of completeness, the fees from now forward would be paid at that time. Fees that had already been paid under the existing ordinance would be considered paid in full.

Councilmember Leighan asked if the county had adopted the District's Capital Facility Plan; Mr. Price said it had. The \$2,000 cap was removed, the 10% annual growth limitation was removed, but the discount was retained.

Dave Aldrich, 5314 75 Avenue NE, supported approval of the Capital Facility Plan; supported vesting at time of building permit.

Mark Johnson, 12433 48 Drive NE, a school board member, supported proposed vesting, as it protected those who had paid previously.

Bob Johns, 1500 114 SE #102, Bellevue, attorney for the Master Builders Association, spoke in opposition and explained the history of the "50% discount," noting the legislature's original formula could not be implemented because it produced a fee that was higher than the legislature anticipated because not all the credits could be applied. The discount was an attempt to remedy that. The fee was not a tax on developers but was passed through to homebuyers and had the biggest impact on those at the lower end of the economic scale. He supported a 50% discount. He added that a broad coalition, including the Master Builders and several school districts, had lobbied the legislature to use part of the excise tax for school construction as it was more predictable and generated a lot more money than mitigation fees.

Councilmember Bartholomew asked if the fee was usually financed as part of the mortgage; Mr. Johns stated they were. A fee of \$6500 financed over the life of the mortgage would be approximately \$13,000 and the excess went to the mortgage holder, not the School District. Councilmember Dierck asked for proof that mitigation fees were financed; Mr. Johns said he did not have documentation but that was how mortgages worked. Councilmember Dierck said that without documentation, she could not change her theory that higher mitigation fees meant that less money went into the developers' pockets.

Councilmember Smith asked where the excise tax revenue currently went; Mr. Johns explained it went into the General Fund then was allocated by the legislature. Councilmember Smith suggested that if part of those funds were redirected to schools, it would leave a vacuum elsewhere. Mr. Johns said the state enjoyed a \$700 Million surplus which the legislature could not spend because of spending limitations. Using a portion of those funds for school construction would not take away from anything else in the state budget.

Councilmember Pedersen asked about the state lottery; Mr. Johns said part of it went to fund schools but the basic problem was that the school construction scheme was based on the forest industry, a source that had dried up. The legislature had never provided an adequate substitute.

Scott Missal, Short Cressman Burgess Law Firm, 999 3rd Avenue, Suite 3000, Seattle, stated he was speaking on behalf of Harbour Homes. He supported vesting as explained by the Superintendent and set out in the ordinance.

Councilmember Pedersen asked if increased fees, like mitigation fees, were factored into the cost of the homes as they were sold. Mr. Missal stated it was. Councilmember Pedersen asked how supply and demand might affect this. Mr. Missal responded that the fee would usually be passed through; if there were less demand for houses, a builder would pay part of the fee himself.

David Toyer, 15128 76th SE, Snohomish, Snohomish County Director, Master Builders Association, opposed higher mitigation fees, stating increased mitigation fees were passed on to homeowners, led to rising costs, and affected affordable housing.

Ty Waudé, 827 Grand, Everett, Bellmark Industries and Vice President for Master Builders Association in Snohomish County, spoke in opposition, stating neither he nor anyone else known to him from the building community had been involved in the School District's discussions regarding the discount being reduced. Mitigation fees were added to the cost of selling a house and the amount of profit to the builder was not dependent on the size of the fee. He said the germane point was whether schools received proper funding, not whose profit was affected. He opposed changing the discount factor, stating a 15% discount would place the issue in a legal venue.

Laura Stewart, 6218 59 Street NE, described the condition of her children's portable classrooms and voiced support for the higher fees.

Mike Pattison, 3201 Broadway, Everett, opposed higher fees. He stated the median price of a home in Marysville was \$175,000. The Realtors Association

had joined in lobbying for a change in funding for school construction as the first time home buyer was a fragile sector of the market but bore a large part of this tax, which harmed people on the lower end of the economic scale.

Steven Greenebaum, 1114 Daley Place, Edmonds, Citizens for Environmental Responsibility, supported the capital facility plan and a discount no greater than 10%. He stated the Growth Management Act provided for mitigation fees to address the stress caused by growth. He disputed that affordable housing was made more difficult by impact fees. Failure to implement mitigation fees amounted to subsidizing growth. He suggested a 5% discount was more than adequate to offset any ambiguities.

Councilmember Pedersen asked about schools in Edmonds; Mr. Greenebaum responded that mitigation fees were to support new schools needed to offset the impacts of new growth. Since Edmonds did not need new schools, they did not have mitigation fees.

Teri Tyo, 5712 63rd Avenue NE, supported higher fees, describing the current conditions. She stated that if higher fees worked to slow growth that was acceptable because the District could not house and educate the children it already had.

Ben Durham, 10515 20th, Everett, opposed higher fees. He distributed written information to councilmembers and said mitigation did not generate a lot of money and higher fees promoted zero growth. He stated there were inconsistencies in the Capital Facility Plan.

Robert Zigler, 5008 139 Street NE, favored the proposed fees.

Michael Plunkett, 8005 194 PL SW, Edmonds, a member of the Edmonds City Council and a real estate salesman, opposed high mitigation fees, saying an additional fee of \$2,000 to \$3,000 could prevent a family from buying a home or buying in an area where they wanted to send their kids to school. He claimed that if Edmonds had impact fees, there would be hundreds of families not going to the schools they wanted to. He said Marysville needed great schools and affordable housing and the city should not shut out those who wanted to move in.

Councilmember Bartholomew said there were five other communities in the Edmonds School District and questioned if they charged impact fees. Mr. Plunkett said they did not.

Dale Gribble, 4702 67th Avenue NE, a builder and small developer, said he supported schools but opposed higher mitigation fees. He said higher fees were factored into the cost of the building, just like the permit fee and copper plumbing, and passed on to the home buyer.

Russel Hermes, 10431 41st Avenue NE, spoke in support of schools but not the level of fees requested, saying impact fees were not a long-term solution and the District would be millions of dollars short even with levies and matching state funds. This would only worsen as the city became saturated and growth slowed.

Gregg Wright, 4802 76 Street NE, opposed higher fees and said the proposed fees were essentially a no-growth scheme as evidenced by the support from Messrs. Aldrich, Papa, Tipton and Seibert. Higher impact fees could not be used for the existing deficiencies, which had been described.

Jan Gustavson, 6606 73 Street NE, supported approval of the Capital Facility Plan at full fee, effective immediately, with a reevaluation at the end of five years. She stated 1500 new homes were going up near her, on Sunnyside and by the high school, and raising the fees would mean the difference of \$11 Million or \$300,000 for schools.

Mike Donner, 1010 SE Everett Mall Way #203, with Harbour Homes, questioned vesting rights. He said they had an agreement with the School District and a signed promissory note, which had already been paid. He felt

their responsibility had been fulfilled. Mayor Weiser said that according to Dr. Eisenhower's testimony they had fulfilled their obligation. Mr. Weed added that the city's current ordinance provided that vesting took place when they received their letter of completeness from the city. The ordinance before the council tonight changed vesting to a later point, upon receipt of a building permit application. The proposed ordinance recognized already-vested applications so any builder or developer who had received a letter of completeness before the new ordinance went into effect would pay whatever fees were in effect when they received that letter.

Gary Wright, 5533 Parkside Drive, opposed higher fees, stating they were unfair and placed on a small segment of society. A \$7,694 fee, when financed over 30 years, would amount to \$20,330. Schools needed to be funded by bonds that everybody paid, not by putting the load on the backs of those buying a new house.

Jim Woldcoff, 6300 70 Street, supported maximum fees stating they purchased a home here 11 months ago and the mitigation fee was not a factor in their decision. They chose the area because of the location, community and reputation of the schools.

Dave Ross, 11718 55 Avenue NE, opposed higher fees, stating that if people could not locate here because of the high cost of housing, then the city would lose the overall tax income.

Bruce Tipton, 6308 100 Street NE, supported higher fees. He stated developers were the ones who would be paying the higher fees and the proof of that was the strength of their opposition. He said the city did not have affordable housing and that developers would charge whatever the market would bear and would not lower the price of a house if the fees were lower.

Steven Brombach, 7021 62nd Place NE, described the conditions in his son's class and voiced support for better schools. He stated the mitigation fee was a pass-through to the homebuyer, the developer did not pay it.

The Mayor called a five-minute recess then reconvened the meeting.

Gayl Spilman, 6718 58 Drive NE, stated she was a developer and opposed to a \$5,000 increase in mitigation fees.

Dave Downing, 9502 61 Drive NE, opposed fees at the proposed level.

Ed Mohs, 1214 Beech, favored the fees.

Kathy Ruhns, 4014 Mission Beach Rd, described the conditions in the schools and favored higher fees.

Mike Appleby, Stanwood, opposed higher fees, stating many builders worked on a narrow profit margin in the Marysville area, \$5,000 to \$10,000 per home. There were other areas that supported higher profits so many builders would cease to develop here.

Jeff Seibert, 5004 80th Street, supported fees at the full amount.

Mike Papa, 8127 54 Drive NE, supported the fees as proposed, stating he did not think raising the fees would stop growth.

There being no one further wishing to speak, the Mayor closed the public comment portion of the meeting.

MOTION by Dierck, second by Smith, to adopt Ordinance 2330, amending the Comprehensive Plan and adopting the Capital Facilities Plan of the Marysville School District.

Mr. Weed pointed out that the ordinance before council referred to the Capital Facilities Plan that was adopted on April 17 and revised on May 3 and did not include the August revisions regarding 15%.

CONNECTED: SET 9-25-00
MINUTES 5/6 Ronn

VOTE: Motion carried (7-0).

MOTION by Dierck, second by Smith, to adopt Ordinance 2331, amending MMC 18C.10.050 relating to vesting.

Mr. Weed noted the ordinance before council changed the time of vesting from the letter of completeness to when the building permit application was received. Those who had already received a letter of completeness would not be impacted by any increase in fees.

VOTE: Motion carried (7-0).

MOTION by Dierck, second by Smith, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 95% of the fee calculated in accordance with the formula established in Table 1 below, a 5% discount."

DISCUSSION ON MOTION:

Councilmember Leighan noted the testimony that many houses were being built outside the city limits. Unequal fees would affect growth in the city but not in the School District. The city had collected the fees requested by the District in the past but the District was in a serious hole. It was not the council's responsibility to build schools, but the District's, and that would take a major levy. Passing that levy would require wide support. Asking people moving in to pay \$6,000 or \$7,000 and then pay the levy was a double hit. He supported the county's study of the problem and their 50% discount.

Councilmember Pedersen said that in the past when this subject was before council much discussion took place. When the School District was asked if it was willing to compromise, the entire School Board walked out. She expressed hope that a similar situation did not happen this evening because that precipitous action had precluded compromise and the District had collected less money during the last two years than it could have.

Councilmember Brennick expressed support for a fee of \$5,000 and suggested that as a friendly amendment. Councilmember Dierck rejected the amendment.

MOTION by Brennick, second by Bartholomew, to add the following language to the above-referenced section: "provided, however, that the maximum school impact fee payable shall not exceed \$5,000."

VOTE: Brennick and Bartholomew voted aye; all others voted nay; motion failed (2-5).

VOTE ON ORIGINAL MOTION: Dierck, Soriano and Smith voted aye; all others voted nay; motion failed (3-4).

MOTION by Dierck, second by Smith, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 90% of the fee calculated in accordance with the formula established in Table 1 below, a 10% discount."

VOTE ON MOTION: Dierck, Soriano and Smith voted aye; all others voted nay; motion failed (3-4).

MOTION by Brennick, second by Pedersen, to continue the discussion on this matter to September 25 to allow further discussion among councilmembers, especially the three new councilmembers, with no further public input taken at that meeting.

VOTE ON MOTION: Bartholomew, Brennick and Pedersen voted aye; all others voted nay; motion failed (3-4).

MOTION by Dierck, second by Soriano, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 85% of the fee calculated in accordance with the formula established in Table 1 below, a 15% discount."

VOTE ON MOTION: Dierck, Soriano and Smith voted aye; all others voted nay; motion failed (3-4).

MOTION by Leighan, second by Bartholomew, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 50% of the fee calculated in accordance with the formula established in Table 1 below, a 50% discount."

VOTE ON MOTION: Leighan, Pedersen and Bartholomew voted aye; all others voted nay; motion failed (3-4).

MOTION by Dierck, second by Smith, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 80% of the fee calculated in accordance with the formula established in Table 1 below, a 20% discount."

VOTE ON MOTION: Dierck, Soriano and Smith voted aye; all others voted nay; motion failed (3-4).

MOTION by Dierck, second by Smith, to approve Ordinance 2332, amending MMC 18C.10.010 relating to school impact fees, with the following amendment to the proposed ordinance:

"Section 1.(1) ...The school impact fee shall be 75% of the fee calculated in accordance with the formula established in Table 1 below, a 25% discount."

VOTE ON MOTION: Leighan voted nay; all others voted aye; motion carried (6-1).

MOTION by Bartholomew, second by Smith, to extend the meeting for 30 minutes. Pedersen voted nay; all others voted aye; motion carried (6-1).

Current Business

None.

New Business

1. Resolution regarding IAC grant application

Mr. Zabell noted this was a required element of the city's submittal and the application deadline was prior to the next council meeting.

MOTION by Bartholomew, second by Leighan, to adopt Resolution 1997. Motion carried (7-0).

2. Edward Springs booster pump, professional services agreement, RH2 Engineering

MOTION by Bartholomew, second by Leighan, to approve the professional services agreement with RH2 Engineering in the amount of \$64,089 and authorize the Mayor to execute the agreement on behalf of the city. Motion carried (7-0).

3. Resolution of the City of Marysville in support of Proposition No. 1 on the election ballot of September 19, 2000, levying taxes for emergency medical care and services, including paramedic services, for Marysville Fire District Medic Program.

MOTION by Brennick, second by Pedersen, to approve Resolution 1998. Motion carried unanimously (7-0).

Ordinances & Resolutions

None.

LEGAL MATTERS

None.

DISCUSSION ITEMS

None.

INFORMATION ITEMS

None.

ADJOURN TO EXECUTIVE SESSION

Council adjourned into Executive Session at 11:15 to discuss one personnel issue and two real estate issues.

RECONVENE AND ADJOURN

Council reconvened into regular session, took no further action, and adjourned at 11:30 p.m.

Accepted this 25th day of September, 2000.

David Weaver
Mayor

Trillie Leim
Deputy City Clerk

William Pedersen
Recording Secretary