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MARYSVILLE CITY COUNCIL SPECIAL MEETING

DECEMBER 17, 1990

7:30 p.m.

Fire Training Rm.

Present: Rita Matheny, Mayor  
Councilmembers:  
 Ken Baxter, Mayor Pro Tem  
 Dave McGee  
 Dave Weiser  
 Donna Pedersen  
 Donna Wright  
 Bob Lashua  
 Lee Cundiff  
Administrative Staff:  
 Carolyn Sanden, City Administrator  
 Jim Allendoerfer, City Attorney  
 Dave Zabell, Public Works Director  
 Wanda Iverson, Recording Secretary

CALL TO ORDER & ROLL CALL:

Mayor Matheny called the meeting to order and City Administrator Sanden called the roll with all present as above.

UTILITY VARIANCE:

Art Urquidi, 5132 138th St. NE, addressed Council, stating their septic tank has failed again and the county has given them until the 21st or the people in the house have to vacate.

Public Works Director Zabell explained this would be a hardship variance and he referred to a letter from the County previously distributed to Council. He stated they are asking for a variance from being unvested and will have to pay a connection fee--it's a rental house, he added.

City Administrator Sanden pointed out that this is a health hazard and City Attorney Allendoerfer asked if a no protest agreement would be signed. Public Works Director Zabell said yes.

Councilor Lashua moved that the variance be granted with findings of fact:

1. public health hazard
2. on the condition a no protest agreement be signed.

Councilor Cundiff seconded and the motion passed unanimously.

NORTH SNOHOMISH COUNTY REGIONAL WATER SUPPLY JOINT OPERATING AGREEMENT:

City Attorney Allendoerfer presented the latest draft of the Joint Operating Agreement, explaining it is basically just a "cleaned up version". He pointed out that the Council had wanted an iron clad commitment from the other two entities towards building Phase II and that's what the intent of the final draft is. He noted that a penalty clause has been written in in the event of bad faith and also in the event Marysville's 12" line reaches capacity in the downtown area because of serving the Tulalips, they are committed to helping Marysville rebuild the replacement pipe on a proportionate basis. He stated the concept would be that the Tulalip Tribes would have to pay Marysville upfront for this.

Councilor Lashua asked if we would still charge them a wheeling fee and City Administrator Sanden said yes, basically the wheeling fee is to cover maintenance expenses.

As far as who would own the pipeline, City Attorney Allendoerfer stated Marysville owns the right of way and pipeline, we are just selling the right to use it and would be able to have the right to depreciate it and also, we will get cash 60 days after the pipeline is constructed, he said, according to the agreement.

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Councilor Baxter asked about Marysville buying capacity rights from Everett and City Attorney Allendoerfer explained that we are just paying a monthly fee, not buying capacity rights. He noted that there is a risk in that PUD, as soon as the pipeline is completed, may use this pipeline to serve Lake Stevens, with their old pipeline still in existence.

Bob Wubbana explained that this agreement is based on the Critical Water Supply Plan which gets back to how to serve the long term water needs of North County. He stated he has tried to give each party equal time in the Joint Operating Agreement and the final draft here is, he feels, in Marysville's best interest.

City Attorney Allendoerfer asked about PUD serving water outside of the service area and Mr. Wubbana stated there is a clause in the JOA that will not allow PUD to serve outside their service area and trigger Phase II.

City Attorney Allendoerfer mentioned a question about the Tulalip Tribes' use of Edwards Springs water for the fish hatchery--it's pure and won't need chlorination. Discussion followed concerning fisheries needs, Winters Waters rights (change in language in JOA), chlorinated vs. non-chlorinated water, Spada Lake facility taking water away from Snohomish River flow, 1903 Treaty rights, fisheries rights, Tulalip Tribes right to sue PUD for a lower flow because of Spada Lake; Stilly River and Edwards Springs as additional sources of water.

City Attorney Allendoerfer said he felt comfortable with the new language except possibly for a concern about the trigger mechanism for Phase II.

Mr. Wubbana explained Attachment A would be part of the JOA and it covers the triggering mechanism in depth.

City Attorney Allendoerfer said he thought as soon as the Stilly Well is closed Marysville is going to need more water--1994/5, but we didn't plan Phase II that soon.

Public Works Director Zabell pointed out that there are actually two Phase IIs--one a "quick fix" once the Stilly Well is cut off, which is in the Comp Plan. He stated it's an internal distribution system upgrade which can be contributed by the Tulalip Tribes if they need the water, too.

Mr. Wubbana stated he felt the Comp Plan is consistent with the JOA and he pointed out that the City does have existing infrastructure. He said the JOA does give Marysville discretion in triggering Phase II.

Councilor Baxter pointed out that Marysville should be looking to upgrade its reservoirs, also for the north and south ends of town.

Mr. Wubbana explained that the JOA is not dealing with the north end as yet.

Public Works Director Zabell brought up "peaking rates" and City Attorney Allendoerfer explained the JOA should have the authority to charge enough rates to pay for improvements but Marysville rates should not pay for water in Granite Falls, for example.

Councilor Cundiff asked if the repair costs would be proportionate in accordance with capacity rights and City Attorney Allendoerfer said that would come under Operation & Maintenance in the agreement. Mr. Wubbana further explained that the intent under 5a & 5b is that capacity rights are purchased at the lowest price per gallon and Operation & Maintenance costs would be based on the proportionate costs.

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City Attorney Allendoerfer asked about including in that paragraph (on page 4) "and thereafter for the life of the pipe", stating he would feel more comfortable with this being included.

Mr. Wubbana noted that it was edited out of 3d but could be put back in under "b"--"O & M and other recurring costs to be paid within 30 days of invoicing" and Councilor Cundiff noted that was in Draft 6 and that he would like to see it included in the final draft. Mr. Wubbana agreed to this.

City Administrator Sanden asked if the proportionate basis is based on flow or capacity and Mr. Wubbana said he had included a new section "b" where it would be a fixed cost based on capacity and commodity.

Mayor Matheny asked if additional personnel would be required to administer the JOA and City Attorney Allendoerfer stated no, it would be basically handled by the Public Works Dept.

As far as the question of whether Marysville could just walk away from the JOA at this point and go on our own, Mr. Wubbana said with all the environmental reviews, etc., required, other parties could prevent Marysville from proceeding with the project. He stated the JOA has been drafted with a 9/91 completion date for the water transmission pipelines.

Mayor Matheny asked if PUD could build their own water line and Mr. Wubbana explained that the whole process is very complex, with geographical needs involved, etc. and he said there are very few cities or PUDs able to stand on their own--they have to take into account their neighbors and cooperate. Also, the cost on a regional basis is an advantage, he added.

City Attorney Allendoerfer pointed out that HB 2929 mandates "regional" land planning and discussion followed concerning "regional" and "cooperation". Councilor Lashua asked about changing the word "and" to "or" and after some discussion, it was decided to leave as is. He also asked about the "overlap" paragraph and there was discussion about the 3.6 million gallons being split between PUD and Marysville until it is decided who needs the additional capacity.

Councilor Pedersen referred to the reopener paragraph on page 6, noting it is to be done prior to 9/1/91. She asked about interpretation of participants selling unused capacity rights at cost and City Attorney Allendoerfer stated that would be original cost plus 8% interest.

Councilor Pedersen asked if there is anything in the agreement preventing us from using the pipe we have now and Mr. Wubbana said no.

It was noted that this agreement is to be signed by 1/21/91 and with additional negotiations comes additional cost. There was brief discussion about the reopener clause and possible delays to enacting Phase II.

Mr. Wubbana pointed out that we are moving into the "2929 arena" which is mandated and a lot of turf wars have been eliminated with the JOA and so most of the objectives/growth management issues will be solved, too. He said he sees Phase II as a functional thing only; that he has been working on a caucus for 2929 in the State and that he personally doesn't see too many changes about to occur in the State; that they will want to see 2929 work for awhile first, before implementing anymore changes. He concluded that the JOA is basically consistent with the Coordinated Water Study.

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City Attorney Allendoerfer stated he felt the JOA solves the problem of how to get water to North County and recommended the City sign it. He noted there are upcoming potential problems with the other two parties in a few areas and with Arlington (Smokey Pt. turf wars, eg.), also.

Councilor Baxter commented on the tremendous amount of time and effort that has been put into drawing up the agreement and Mayor Matheny added that public safety for our citizens is our number one priority and so she would be signing it under those circumstances.

Councilor Weiser asked if this agreement retains/returns ownership of the pipeline for/to Marysville and Mr. Wubbana referred to I-B, stating he had change "Marysville-sponsored" and the Tulalip Tribes and PUD has seen these drafts, he said. He added that he would be taking Marysville's comments back to the Tulalip Tribes and PUD tomorrow.

The Mayor took a poll and Councilors Weiser, Pedersen, Wright and McGee all stated they would be in favor of the Mayor signing the Joint Operating Agreement. Councilor Cundiff said he was very hesitant but for the betterment of the community, would be in favor. Councilor Lashua said he thought the Mayor should be given authority to sign the agreement.

City Administrator Sanden stated she felt this will serve as an example for design and coordination.

Councilor Baxter said he felt it difficult for Marysville to give up her independence and have to start operating on a "regional" basis, but from the citizens' side, we need the water and would not have it without the agreement. We need the fire flow, it will change the rates some but Marysville will still be in control of the rates and are buying direct from Everett, he said. He expressed hope that relations with PUD will improve now that we have entered into the agreement with them.

Public Works Director Zabell pointed out that Marysville is subsidized 40% for Phase I and so there will be no rate increase for the time being.

ADJOURNMENT INTO EXECUTIVE SESSION: 8:40 p.m.

**1. Personnel.**

Councilor Weiser moved and Councilor Wright seconded to authorize the Mayor to sign the Public Works Union Employees contract. The motion passed 5-1 with Councilor McGee against and Councilor Lashua abstaining.

RECONVENE AND ADJOURN: Approx. 9:40 p.m.

Accepted this 7 day of Jan, 1991.

Lita Matheny  
MAYOR

Phillip E. Dexter  
CITY CLERK

Wanda A. Iverson  
RECORDING SECRETARY