

MINUTES RECAP

MARYSVILLE CITY COUNCIL MEETING JANUARY 27, 1992

WORKSHOP: 6:30 p.m.

RECONVENE/CALL TO ORDER: 7:00 p.m.

ROLL CALL: All present

MINUTES OF PREVIOUS MEETING: 1/13/92 Approved

STAFF'S BUSINESS:

MAYOR'S BUSINESS: Appt. to Planning Comm.:
Steve Fogg
Appts. to Golf Board:
Scott Darling & Lee
Scrimgeour

CALL ON COUNCILMEMBERS:

AUDIENCE PARTICIPATION: Bob Lashua, Ernie Byers,
Leroy Berry, Loella Reiger

PUBLIC HEARING:

- 1. Rezone to RMH w/binding site plan for construction of an 18 unit, 3 story bldg. - Cedar & Grove - Dennis Edwards Approved

CONSENT AGENDA:

- 1. Reimbursement of \$31,043.01 for Oversizing Water Main for Quilceda East, 35th Av. NE & 92nd St. NE Approved
- 2. Informational Banner for Upcoming School Levy - Withdrawn
- 3. 1991 Claims Checks - \$698,515.59 Approved
- 4. 1992 Claims Checks - \$334,298.51 Approved

REVIEW BIDS: None

CURRENT BUSINESS:

- 1. Golf Fee Proposal (continued to 2/3/92 meeting)
- 2. Wastewater Treatment Plant Update. Info. only
- 3. Revisions to Consent Order between City & Wash. State DOE Approved

NEW BUSINESS:

- 1. Hearing Examiner Decision - Var. Rex Hensrude, 5438 47th Av. NE PH set for 2/24/92
- 2. Hearing Examiner Decision - Prel. Plat of Buena Vista, Ron Otis Remanded back to H.E.
- 3. H.E. Decision - CUP - Tom De Young, 1609 2nd St. H.E. Decision affirmed/ Approval of dental lab
- 4. H.E. Decision - CUP & Variance Lillian Peterson, 1601 10th St. H.E. Decision affirmed/ Approval of massage parlor
- 5. H.E. Decision - CUP - Kim & Sandra Gudgel, 1403 8th St. H.E. Decision affirmed/ Approval of daycare center
- 6. H.E. Decision - Rezone, Preliminary Plat & Preliminary Site Plan for Northpointe H.E. Decision affirmed/ Approval of Preliminary Plat & Site Plan
- 7. Request for Stop Signs - Union & 10th and Quinn & 10th Approved

ORDINANCES & RESOLUTIONS:

- 1. Ordinance rezoning property owned by Prime Storage Co.Inc. & Amending official zoning map Ord. 1873 Approved
- 2. Ord.rezoning property owned by Smith, Duryee, et al & amending official zoning map & approving variance to street design criteria. Ord. 1874 Approved

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LEGAL MATTERS: None

ADJOURNMENT INTO EXECUTIVE SESSION: 10:45 PM

1. Real Estate

RECONVENED & ADJOURNED: 11:30 PM

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7:00 p.m.

Council Chambers

Present: Dave Weiser, Mayor
Councilmembers:
 Donna Pedersen, Mayor Pro Tem
 Dave McGee
 John Myers
 Ken Baxter
 Donna Wright
 Mike Leighan
 Otto Herman

CORRECTED: SEE	2/27/92
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Administrative Staff:

John Garner, City Administrator
 Grant Weed, City Attorney
 Phil Dexter, City Clerk/Finance Director
 Steve Bennett, City Planner
 Dave Zabell, Public Works Director
 Jim Ballew, Parks & Recreation Supervisor
 Roger Kelley, Public Information Officer
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

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

ROLL CALL:

Finance Director/City Clerk Dexter called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETING:

Under "Mayor's Business" on page 2 of the 1/13/92 minutes, Councilor Wright noted that the "Essex" Committee should be the "ESCICC" Committee, which stands for the Everett Snohomish County Impact Coordinating Council.

Councilor Pedersen noted that on page 4, the roof bid was for \$205,500 however the itemized list of items adds up to \$206,000, from rounding off each item. Also, there is a reference later on to spending \$250,000 on the roof, when it should be \$205,000. Also, she noted that on page 6 in the second paragraph, it makes reference to Councilor Baxter noting there was absolutely no one against the project, when in fact he noted there was absolutely no one in favor of the project and that is why he voted against it.

Councilor Pedersen moved and Councilor Wright seconded that the minutes of the 1/13/92 meeting be approved as corrected. Passed unanimously.

STAFF BUSINESS:

City Administrator Garner noted that Finance Director Dexter received a letter from the Washington Insurance Authority allowing the City an adjustment in the premium formula because we no longer have a fire dept. The premium was adjusted downward by \$15,000 to \$16,000, he said.

He reported that candidates have been interviewed for the position of Associate Planner and they are down to 2 candidates now and the Mayor will be making a decision soon.

The new Executive Dept. secretary has been hired - Lilly Lien.

He referred to an AWC bulletin regarding interest arbitration for law enforcement and stated this is dangerous legislation for cities under 15,000 population.

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City Administrator Garner reminded everyone of the RUSA meeting Friday at 7:30 a.m. at the Lloyd Taubeneck Bldg.

City Attorney Weed stated he had prepared a draft amendment to the parking ordinance, as requested by City Council at last meeting, so that vehicles in certain areas could only park if they have a permit. Also, he stated he had prepared amendments to the ordinances with regard to the fire dept. merger with Fire Dist. 12.

MAYOR'S BUSINESS:

Mayor Weiser reported a letter had been authorized to be sent out to all employees regarding employee benefits, explaining how much of their salary is taken in sick leave, etc. and it went out Friday. He stated they have had nothing but positive responses.

After due consideration, he stated he wished to appointed Steve Fogg to the Planning Commission, to round it out.

Councilor Pedersen moved and Councilor Baxter seconded to approve the appointment of Steve Fogg to the Planning Commission. Passed unanimously.

Mayor Weiser stated he wished to make two Golf Board Appointments, the first one being Scott Darling.

Councilor Baxter moved and Councilor Wright seconded to approve the appointment of Scott Darling to the Golf Board. Passed unanimously.

Mayor Weiser stated the second Golf Board Appointment he wished to make is Lee Scrimgeour.

Councilor Baxter moved and Councilor Wright seconded to approve the appointment of Lee Scrimgeour to the Golf Board. Passed unanimously.

CALL ON COUNCILMEMBERS:

Councilor McGee commended staff on a recent project they had completed, Councilor Baxter commented on left turn signals at 4th & Cedar (finally) and Councilor Wright stated she wished to be excused from next week's meeting as she will be out of town on business.

Councilor Herman reported that he had been selected to the Board of Directors of Community Transit and submitted a list of all the Board to the Mayor.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Bob Lashua, 1908 3rd St., addressed Council, representing the Marysville Historical Society and explained the MHS is a member of the League of Snohomish Co. Historical Associations and once a year they choose a local historical society for outstanding historical work down. This year's award went to the Stanwood Historical Society, with the Marysville Historical Society receiving honorable mention. However, he stated a special award was given to the City of Marysville for publication of the Centennial Book "Reflections of Marysville." He then presented this award to the Mayor and Mayor Weiser stated he would be sure and let those directly involved in "Reflections of Marysville" know about the special award.

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Ernie Byers, 4401 80th St. NE #1, addressed Council and explained that when GTE dug up the street about a year ago it was explained that they did not have to hot patch because the City was to start on reconstruction of the street right away. Nothing has been done, Mr. Byers pointed out and the road is very rough, in his opinion, the worst street in town and one of the heaviest traveled, what with the school buses, etc. He stated he knows that no surface work will last because the work under the road was done many years ago but they would like the courtesy of knowing when it will be fixed.

Public Works Director Zabell apologized for not notifying the residents sooner but stated it will be advertised in the early part of April. He stated the City ran into some right of way acquisition problems last summer and also, because of the ground water in that area, they can't excavate at this time of year.

Mr. Byers explained there is one resident of the mobile home court that drives a motorized conveyance and she has to go down the middle of the road in order to avoid standing water.

Public Works Director Zabell said he would be sending a letter out soon to all the petitioners.

Leroy Berry of 92nd St. NE addressed Council, noting that he has come before Council many many times and would like an update regarding the possibility of a traffic signal at 92nd & State.

Public Works Director Zabell noted that project was not funded for 1992 under the Six Year Street Plan, but he believed it is on the agenda for 1994 or 1995.

Mr. Berry then asked about a banner on State at the crosswalk, which he has asked about before.

Public Works Director Zabell stated he still has not received an estimate and will get a private contractor to quote, so it can go to bid.

Loella Reiger, 4401 80th St. NE, addressed Council, stating she has an additional concern about the road condition of 80th. She pointed out that when it rains, people cannot see the center of the road and they would like a yellow line painted down the middle. Public Works Director Zabell said yes, they would do that.

PUBLIC HEARING:

1. **Rezone to RMH (High Density, Multiple Residential) with Binding Site Plan for construction of an 18 unit, three story building; East side of Cedar Avenue, South of Grove St. - Dennis Edwards.**

Mayor Weiser asked if there were any conflicts of interest, disclosures, etc. and Councilor Herman stated he lives at 1298 Beach but has no monetary interest in the project. There were no challenges.

City Attorney Weed stated that under the hearing examiner ordinance all those about to give testimony need to be sworn in and he gave the oath to those indicated they wished to testify.

Planner Bennett reported that the hearing examiner has recommended denial of high density but approval of a medium density rezone. He read the hearing examiner recommendations and gave a brief his-

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tory, noting that staff recommends the hearing examiner decision be considered as well as the applicant's appeal. He added that with approval of medium density, a new site plan would have to be submitted.

Bill Roberts, 4129 76th St. NE, representing the applicant, addressed Council. He reviewed the location of the site and noted that it consists of .71 acres and they are proposing 18 units in a three story building on the site, similar to the Belmark buildings near 47th & Grove. He said he believe the hearing examiner's recommendation for denial was based on the fact that the subject property is not an acre and so needed the PRD process for the application. Mr. Roberts noted that the site was found to be suitable for medium density multi-family and the applicant's appeal is that they wish it to be high density multi-family. He noted that one acre would allow 28 units and further, Marysville's PRD ordinance does not address multi-family, it is for single family only. The requirement of the 1978 Comp Plan is to provide a binding site plan, he noted, which they have done, showing substantial detail, however the applicant is willing to give further details once the density issue is resolved, he said. He continued that medium density multi-family would give them about 13 units on the site, calculated on 20 du/acre for medium density and he pointed out they are proposing 18 units and feel they meet all requirements except they don't have one acre. He said he sees no reason for having to have a one acre minimum and feel they meet all requirements for high density. He noted that the PRD ordinance has been quoted in the hearing examiner's decision, with regard to encouraging a mix of usage and he said the area seems to be well suited to high density and the applicant is looking for some indication from the City Council that with a more detailed plan, landscaping plan, etc., the City Council would consider high density. He concluded that they don't feel the hearing examiner is using valid criteria to deny the request.

Councilor Pedersen asked if the proposal is for one or three buildings and Mr. Roberts stated the intent is for one building with the same character and style so as to blend into the neighborhood.

Councilor Pedersen noted that the hearing examiner felt the setbacks were inconsistent with requirements and Mr. Roberts explained the site plans do have 65' setbacks now, that there was some question originally of where the lot lines were and he added they are willing to meet the 65' requirement.

Mayor Weiser asked about the current Comp Plan designation and Mr. Roberts stated it talks more about a commercial use but also it talked about a mix of high and medium multi-family density, but he noted the Comp Plan is out of date. Mayor Weiser agreed but noted it is the only Comp Plan the City has to go by at present, until the update is complete.

Councilor Pedersen asked if the building would actually be a full three stories high and Mr. Roberts said, yes, but it wouldn't exceed 35' in height; it would be very similar to Belmark's. He added that the Edwards property has very similar surroundings also to Belmark's with a mix of single and multi-family, park, etc.

Councilor Herman referred to the hearing examiner minutes of 11/21/91, page 5, where Gloria Hirashima stated there were no specific project amenities to justify high density and Mr. Roberts explained that in the PRD process, there may be tradeoffs but that is why he is saying this is not applicable to this--that they are not asking for an increase in density, this is an acceptable density except they don't have an acre.

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Councilor Herman asked if, putting the PRD process aside, the project has any special attributes and Mr. Roberts responded that it is close to the downtown core, an arterial and bus route and even the hearing examiner would agree they have met those multi-family criteria, he stated.

Councilor Herman noted that based on .71 acres, his calculation come out to their being allowed 12.78 units under medium density, 19.7 units under high density and Mr. Roberts said he agreed with those calculations.

John Simms, 1535 NE 177th, Seattle, then addressed Council and stated he is the owner of Frank Lumber just down the street and they have spent considerable money purchasing property over the years in the proximity of the subject property. He said that it was their understanding it was to stay commercial and they don't feel multi-family or single family would mix well, also high density is going to cause a lot of parking problems compared to just having businesses in there, he noted.

Mr. Roberts responded that the applicant is providing onsite parking and exceed the requirement by 2-3 parking places and would not be using the street. He added there is multi-family immediately north and multi-family is acceptable under the Comp Plan.

Planner Bennett stated the Planning Dept. did receive a letter from Mike Rainwater (in the packets) in opposition to the project.

Councilor Baxter asked how a normal automobile would get in and out of the parking lot with no turnaround and Mr. Roberts stated they could eliminate two stalls to be used as a turnaround.

Councilor Herman referred to the hearing examiner's comments about the orientation of the building to the sun and Mr. Roberts stated the front of the building at present is proposed to face the sun but they have no problem with reorienting the building so the back of it would be exposed to the sun.

Rather than just to do with the growing of the lawns, Councilor Herman suggested that the hearing examiner may have had in mind the decks facing the sun.

Mr. Roberts said that's possible and it is no problem to reorient the building.

Councilor Pedersen noted another conclusion was to do with buffers between the parking lot and the neighbors and Mr. Roberts said that would be no problem.

Councilor Baxter questioned what kind of buffer would be possible with so little room between the parking lot and the neighbors. He also noted that area was zoned commercial years ago and it's definitely headed for apartments but can end up a problem because of the mix. It's a question of who is going to win--the businesses or the apartments, he said, and conceded that Mr. Simms has a valid point.

There was brief discussion about the Comp Plan, changes in the area, three story buildings, fire suppression, sprinkler system, letting prospective buyers know what is going in, the need to consider the businesses already on the east side of the street, it not being right to allow apartment dwellers to suppress businesses, this area being desirable for a mixed use, the rights of the business owner over the apt. dweller when the business was there first.

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Councilor Wright moved to approve the rezone to RMH, high density multi-family, with 18 units, to include staff recommendations and with architectural, landscape and binding site plans to be brought back before City Council. Councilor McGee seconded.

Findings of fact were discussed (A thru G) with A accepted by City Council, B - delete first sentence, C - change decks to the south side of the building and parking lot to be turned around too. D, E, F and G to be addressed by the binding site plan.

Roll call vote was taken and all Councilors were in favor except for Councilor Herman. The motion passed 6-1.

CONSENT AGENDA:

1. Reimbursement of \$31,043.01 for Oversizing the Water Main for Quilceda East, 35th Avenue NE & 92nd St. NE.
2. Withdrawn.
3. 1991 Claims Checks in the amount of \$698,515.59.
4. 1992 Claims Checks in the amount of \$334,298.51.

There were brief questions and answers concerning Vouchers 4665, 4672, 4668, 4725, 4634, 4652. Councilor Herman asked about the utility tax refunds and Finance Director Dexter explained that seniors 62 or older with a total income not exceeding \$14,000 a year and people qualifying as handicapped under the RCW, could be eligible to have the 6% City of Marysville utility tax refunded. \$1604.03 has been included in this set of vouchers; there was \$3135.22 refunded last year.

Councilor Baxter moved and Councilor Pedersen seconded to approve Consent Agenda Items 1, 3 & 4. Passed unanimously.

CURRENT BUSINESS:

1. Golf Fee Proposal (continued to 2/3/92 meeting).
2. Wastewater Treatment Plant Update.

Larry Wade of Hammond, Collier, Wade, et al, started off by reviewing the service area--from I-5 east to 83rd, from Ebey Slough in the south to Arlington Airport in the north. He explained how the system is fed and that the projected need for 2012 is 6.1 million gallons per day, with an ultimate capacity as determined from RUSA. He listed some of the objectives to be accomplished:

- change outfall from Ebey Slough to Steamboat Slough
- meet current capacity and water quality needs
- be able to expand facilities as needed
- minimize use of wetlands
- obtain permits in a timely manner

Mr. Wade described the wetlands mitigation area, the Regan property, the west side pump station, the head works, flow of the outfall into Steamboat Slough, showing these components of the project using the overhead projector. He then listed 1991 Accomplishments:

- Engineering report approved by DOE 6/7/91
- Pilot sand filter tests conducted
- Geotechnical investigations made
- Topographical surveys completed
- Wetland delineation survey made on Regan property as well as treatment plant site

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- Phase I internal treatment facilities designed, bid and contract awarded
- Toxic spill analysis prepared and presented to DNR
- Sediment sampling program prepared for Ebey & Steamboat Sloughs
- Real estate appraisals obtained for Hayes, Bowers and Poortinga properties
- Preapplication meeting for the Corps 404 permit held 10/91
- Final wetland mitigation plan prepared
- Hydraulic curtain in northern cell replaced
- 6 additional aerators order and delivered for use in internal upgrade
- Plans and specs prepared, contract awarded and construction completed for Phase III of the Storm Sewer Separation project. Columbia to State, First to Seventh. System has potential to remove 1.2 million gallons per each inch of rainfall.
- Preengineering design reports submitted for effluent pump station, headworks, chlorine contact chamber, laboratory and control building, dechlorination and ammonia removal.
- Draft Industrial Wastewater Control Program prepared and submitted to City and DOE for review.
- Final Outfall and Water Quality Analysis Report was prepared.
- Two addendums prepared to Final Outfall and Water Quality Analysis.
- Final EIS issued.
- Design drawings started for headworks, recirculation pump station, chlorine contact chamber, effluent pump station, and filter, laboratory and outfall.

He reviewed the scheduling for the three phases (in packets), noting which items were on schedule, which were slightly behind and why, which sections of the improvements have been completed. He noted that under the construction phasing, the internal treatment is on schedule and from 7/1/92 to 9/1/92 they are proposing to make the crossing of Ebey and Steamboat. He stated they will probably be asking for pipeline material in April and then will present the labor request during the summer. He noted the whole project is predicated on meeting the ACOE 404 permit requirements.

Dave Voight, also of Hammond, Collier, Wade, et al, then addressed Council. He talked about the internal lagoon improvements and stated the project is currently in progress with contractor to be mobilizing next week and they anticipate substantial completion the last week of May, first week of June. He said that Phase I has been made a high priority, to improve the quality and capacity of the sewer lagoon.

He then reviewed the description of the work (in packets), including the components of aerators, electrical service, hydraulic curtains, concrete piles, scum baffle, mooring piles for expansion.

Mr. Wade noted that the Marysville Shoreline & Master Permit did not include the Regan Property and was obtained 12/5/91. The Hydraulics Project Approval from the Dept. of Fisheries was received 9/11/91 with hearings coming up for the following:

- 3/12/92 - wetlands permit hearing
- 3/92 - outfall permit hearing
- 1/29/92 - County Parks & Recreation use permit hearing
- 4/2/92 - Aquatic lease permit hearing
 - ACOE 404 permit in process as well as Snohomish Co. grading permit and water quality permit.

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Jon Ives of Jones and Stokes then reviewed the environmental issues such as the SEPA EIS completed in February, 1991, Water Quality/Outfall Studies and Wetland Mitigation. He noted there were several properties evaluated for potential wetland mitigation sites: 1) city-owned property at the mouth of Quilceda Creek and Ebey Slough, 2) Biringer Farms, 3) property owned by the city north of the sewage treatment plant (First Street), 4) Regan property (now under city ownership) east of the treatment plant and 5) Poortinga property east of the sewage treatment plant. He enumerated the reasons why the Regan property was best suited as wetland mitigation and was purchased in November 1991 and annexed to the city in December. This property will produce 9 acres of wetland in order to mitigate the 3 acres of wetland impacted by the project. There will also be additional dike constructed, he stated, for a total of 13.5 acres for mitigation.

He explained the logistics of the mitigation through construction, regeneration, planting, preservation of fish and habitat, flood control, protection of area to the north of the site and he stated the only remaining tasks for wetland mitigation are to do the final coordination with Snohomish County Parks regarding an outfall easement across the wetland recently purchased by the Parks Dept., to prepare construction drawings and specs for dike construction, shrub planting, construction of fish passage channels at the mitigation site and restoration requirements for outfall construction crossing Ebey Island, and obtaining the ACOA 404 permit.

Dave Voight of Brown & Caldwell then reviewed the Rapid Sand Filter and Recirculation Pump Station status, purpose and description of work (in the packets). He stated they are working in concert with the other consultants and the design of the filtration system is about 40% to 50% complete. He reported they have been meeting with the City and continue to coordinate all efforts in conjunction with the other consultants and agencies, with an anticipated completion date for the filtration system March 1992. He showed overhead transparencies indicating location and description of the units. He noted these would be tier mounted units and would allow for future expansion. They would dramatically improve the biological treatment of sewage and help minimize stagnant areas, he said, and would involve a system of 48" piping into the lagoon which would then be dispersed back out once treated. He noted the piping system is expandable for future needs.

He went into considerable detail and using overhead transparencies, described the 16 filter modules to be constructed in concrete tanks, below grade facilities, air compressors, pumps, effluent conveyors, dispersal of chlorine and alum into the treatment system; he noted that most of the filtration system/structure is to be below ground and he added that this is a very "operator friendly" system with no sludge to be handled.

Mr. Wade gave the status of the remaining components including the head works, the pump intake station, laboratory, contact chambers, various storage areas, effluent pump station, outfall facilities (28" line). He noted the capacity they are preparing for by 2012 is 4200 GPM but with the Tulalip Tribes being added in, the capacity would have to be increased to 5600 GPM outfall. He explained that the system is set up so that it won't discharge on an incoming tide.

Mr. Wade stressed the need to address future staffing needs and said one of the first needs will be to go to a staff of 3-4 including operators, secretarial support and lab personnel. He also noted the need for a budget to cover replacement of parts and mechanical equipment which is estimated to only have a life span of 15 years. Maintenance and other future operational needs must be considered, he said.

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Mr. Wade pointed out that another important need will be staff to continuously monitor water quality, suspended solids, BOD count, etc. The results of the monitoring will determine future modifications necessary to the system, he said and he noted another consideration is requirements of the Industrial Waste Control Program. This program makes stipulations to assure that water quality does not go into violation, provides monitoring guidelines and would help staff keep track of who is discharging large amounts of industrial waste. He concluded that Bob Kissinger has a set of current drawings so plans are available for anyone who wishes them.

Councilor Baxter asked if the west side pumping station was in the original bid and Mr. Wade said it was not, and he said he would recommend that be bid as an additive.

Councilor Baxter asked about the Tulalip Tribes allocation and Mr. Wade stated the 2 MGD is not included in the current design, if they were to be added in, future capacity would be used up and to date, no commitment has been made to the Tulalips. The Tulalip Tribes had simply made a request to be included in the planning process, he said.

Public Works Director Zabell commented that there was a comment during the EIS scoping process but no commitment was made; he said he doesn't know their present plans.

Councilor Baxter said he was told they were planning to rebuild their treatment plant and Mr. Wade pointed out there were two alternatives in the Comp Plan from a collection standpoint in the event of the Tulalip Tribes coming in.

3. Revisions to Consent Order between City and Washington State Department of Ecology.

Mayor Weiser gave a brief history of meetings and requests for meetings that have resulted in this action to date.

Councilor Baxter left Council Chambers at 9:27 p.m.

Mayor Weiser explained that several developers, attorneys, City Councilmembers, and consultants met with DOE and the State Attorney General's office and it was agreed that a new Consent Order would be drafted up.

City Attorney Weed went into further detail about the DOE issuing a Notice of Violation 2/90, prompting Ordinance 1763 restricting sewer connections and then subsequently the Consent Order was issued.

Councilor Baxter returned to Council Chambers at 9:30 p.m.

City Attorney Weed gave a chronological outline of the events that occurred since the Consent Order was issued:

- 6/90 - RL Associates and Tom Withers challenged the Consent Order
 - Ordinance 1795 adopted
 - 940 connections to be exempted from the sewer ban
- 6/91 - Ordinance 1846 passed implementing 940 connections and amending Consent Order
 - Appeal of Consent Order
 - DOE approached by developers
 - Further meetings with DOE
- 1/92 - Draft of Consent Order changes from original C.O.

He noted the following changes in the Draft:

- in Article V - new language under purpose section because of WWTF upgrade
- in Article VIII - Stipulated facts - 17 steps have been taken since the original Consent Order
- in Article X - Scope of Work - Recognizes steps that have been taken since the original Consent Order
 - d) lists 4 new items under Scope of Work
 - e) Permitting changes - effluent limits
 - compliance with BOD loading (4500 lbs. per day)
- New Consent Order complies with NEDNS as per previous Consent Order with no automatic sewer ban language, however. Also recognizes delays beyond the City's control.
- Article XI - same effluent limits as per previous Consent Order
- Article XII - Sewer connections
 - no automatic sewer ban
 - recognizes 940 connections
- Monetary penalty section remains the same.

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It was noted that John Glynn from the DOE and Rebecca Vandegriff from the State Attorney General's office were both available for questions.

Dennis Reynolds, Attorney for Tom Withers and other developers, addressed the Council and thanked all those involved in the second revised ordinance. He said by limiting the automatic sewer ban, this will alleviate concerns of lending institutions, for example, and it is still understood that DOE has the ultimate power for the possibility of a ban but they also recognize some very positive comments have been made by DOE and the developers hope that any discretionary action would treat the City as any other city would be treated. He stated their only comment is that the City appears to be back in the same position it was before and they would possibly question the need for Ordinance 1846 at this time.

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Councilor Baxter moved and Councilor McGee seconded to approve the amended Consent Order as drafted by the City Attorney. Passed unanimously.

15 MINUTE BREAK - 9:45-10:00 PM

NEW BUSINESS:

1. Hearing Examiner Decision - Variance, Rex Hensrude, 5438 47th Avenue N.E.

Planner Bennett stated the hearing examiner has recommended denial of the request with an appeal filed by the applicant 1/6/92. He stated staff recommends consideration of the hearing examiner's decision and appeal and if Council wishes its own public hearing, staff recommends it be set for 2/24/92.

Councilor Baxter moved and Councilor McGee seconded that a public hearing be set for 2/24/92. Passed unanimously.

2. Hearing Examiner Decision - Preliminary Plat of Buena Vista, Ron Otis.

Planner Bennett stated the hearing examiner has recommended approval of the RS-9600 rezone request with variance however an appeal has been filed by the adjacent property owners. At issue is the existing property line and easement and the hearing examiner has

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recommended relocation of the road under Condition 11, he said. He added that staff recommends approval of the hearing examiner decision, with consideration of the appeal and if Council wishes to set a public hearing, it is recommended for 2/24/92 or later.

Councilor Pedersen asked about the property line dispute and Planner Bennett explained that's what the hearing examiner was referring to regarding a property line adjustment.

Charles Hunter addressed Council, representing the adjacent property owners, Oosterwyk, Shubert, Mapes and Jamieson. He explained that 55th St. dead ends at the Oosterwyks and he gave some history and stated there was an attempt to convey the property to the county which did not happen. Mr. Mayer then sold some of the property and allowed a 30' easement in 1965, he said, but 55th has never been 60', some of it is on the northerly portion of the Otis property and the property owners believe they can work out their differences. He suggested this be remanded back to the hearing examiner, as opposed to a public hearing.

Public Works Director Zabell explained the 30' was originally a PUD easement and the proponents would like to dedicate it as road. Planner Bennett pointed it out on the map. Councilor Herman asked if this issue were remanded back to the hearing examiner, if this could resolve the issue at hand.

Ted Trepanier addressed Council and explained the encroachment issue was addressed by their firm and they surveyed it. He said the proponents are willing to give up 5' to 6' but not 20' that the hearing examiner has recommended. He stated that rather than a boundary line adjustment, Trepanier Engineering is referring to it as adverse possession. He added that the 30' easement was set in 1965 and without it becoming a public road within 20 years it went back to private property.

Mr. Hunter tried to further explain the history of the 30' easement and Mayor Weiser kept reminding those wishing to speak that this is not a public hearing.

City Attorney Weed recommended that because it is not within the jurisdiction of Council to settle property line disputes, it would be appropriate to remand this matter back to the hearing examiner, with resolution of the property dispute away from this forum.

Councilor Baxter asked if the boundary line adjustment is necessary for a future street and Public Works Director Zabell said it can't really be developed because of the sentiment in Rivers Inlet. He noted that Buena Vista could build 8 units on a private road and the issue is whether it is fair to keep the 30' easement.

John Mapes, 6809 55th Dr. NE, addressed the Council and said he sees the issue as how many houses can be built on a 30' easement because Mrs. Jamieson understood there was a 60' easement and she has two lots. Mrs. Shubert may want to subdivide 4 lots, he said and so he noted the question is how many homes would the City approve off of a 30' easement.

Public Works Director Zabell stated there could be 4 lots and Mr. Mapes pointed out that someone is going to get shorted. He added that Mr. Mayer intended it to be a private road but because it was maintained by Mr. Nyman, it was never updated and the easement actually became void because a death clause had been included in the document.

Councilor Herman said he understands that for this to go to final

plat stage, these legal issues need to be resolved first.

City Attorney Weed agreed and recommended that the matter be remanded to the hearing examiner, with the property dispute to be resolved prior to final plat approval.

Councilor Pedersen pointed out that the hearing examiner has recommended the relocation of the private road, which she said she sees as the easiest way to resolve this.

Councilor Pedersen moved and Councilor McGee seconded to remand this request back to the hearing examiner. Passed unanimously.

3. Hearing Examiner Decision - Conditional Use Permit, Tom De Young, 1609 2nd St.

Planner Bennett stated the hearing examiner has recommended approval of the request for a dental lab at 1609 2nd St., in a single family dwelling. There were no appeals and staff recommends the hearing examiner decision be affirmed, he stated.

Councilor Baxter moved and Councilor Pedersen seconded to affirm/approve the hearing examiner's decision. Passed unanimously.

4. Hearing Examiner Decision - Conditional Use Permit & Variance, Lillian Peterson, 1601 10th St.

Planner Bennett stated the hearing examiner recommends approval of a massage parlor at 1601 10th St., with four conditions set forth. He stated there have been no appeals and staff recommends affirmation of the hearing examiner's decision.

Councilor Baxter moved and Councilor Myers seconded to approve/affirm the hearing examiner's decision. Passed unanimously.

5. Hearing Examiner Decision - Conditional Use Permit, Kim & Sandra Gudgel, 1403 8th St.

Planner Bennett stated the hearing examiner recommends approval of a daycare facility request with three conditions. There have been no appeals and staff recommends approval of the hearing examiner's decision, he said.

Councilor Pedersen asked if this is zoned commercial and Planner Bennett stated it is.

Mayor Weiser asked if frontage improvements refer to curbs, gutter and sidewalks and Public Works Director Zabell said it does.

Councilor Baxter asked about fencing requirements and Planner Bennett noted the applicant has proposed fencing around the play area to be a 5' chain link fence.

Councilor Baxter moved and Councilor Wright seconded to approve/affirm the hearing examiner's decision. Passed unanimously.

6. Hearing Examiner Decision - Rezone, Preliminary Plat, and Preliminary Site Plan for Northpointe.

Councilor Leighan disclosed that he lives immediately north of the subject property in Bayview Ridge but there were no challenges.

Planner Bennett explained the proposal is for a 232 lot PRD and the hearing examiner has recommended approval with 17 conditions. There have been no appeals and the staff recommends approval of the hearing examiner decision, he said.

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Mayor Weiser asked about public input and Planner Bennett pointed out that at the end of the hearing examiner's report, it is noted that 8 members of the public spoke for or against the project.

Councilor Baxter asked about Exhibit 4 not showing Grove St. being connected and Public Works Director Zabell explained that was constructed so Bayview Crest will connect and he outlined the water boundary along 71st, stating there is at least a 15% grade up the hill which precludes construction of piping however, they could build access through Munson Creek through some City property/easement, he said.

Councilor Pedersen asked about flexibility in participating in mitigation for SR 9 & 528 intersection, noting that they are only required to sign a non-protest agreement at this time. Public Works Director Zabell stated that was the arrangement made with WSDOT.

City Attorney Weed pointed out the non-protest agreement would run with the land and would be enforced when it is time to put in a signal at that intersection.

Councilor Baxter asked about the extension of Grove and Public Works Director Zabell explained that is under TIP #1 however there is not enough money in that fund yet; this project would constitute about 20% towards TIP #1, however. He noted that the City could borrow ahead on the project to complete the extension, out of the Growth Management Funds.

Councilor Baxter said he sees this as a necessity if the hill is to be developed any more and discussion followed about streetscape plan for the project and other amenities.

Councilor Myers moved and Councilor Baxter seconded to approve the hearing examiner's decision. Passed unanimously.

7. Request for Stop Signs; Union Av. & 10th St. and Quinn Av. & 10th.

Public Works Director explained these are both "T" intersections and have been the subject of safety meetings, with the sentiment to put in stop signs for traffic going north. He added that the MPD and Liberty PTSA are in favor of these traffic revisions also.

Councilor McGee moved and Councilor Wright seconded to approve the request. Passed unanimously.

ORDINANCES & RESOLUTIONS:

1. Ordinance rezoning property owned by Prime Storage Co. Inc., and Amending Official Zoning Map.

Councilor Pedersen moved and Councilor McGee seconded to adopt/approve Ordinance #1873. Passed 6-1 with Councilor Baxter against.

2. Ordinance rezoning property owned by Smith, Duryee, Darling and Doerflein and Amending Official Zoning Map and Approving a Variance to Street Design Criteria.

Councilor Wright moved and Councilor Leighan seconded to adopt/approve Ordinance 1874. Passed unanimously.

LEGAL MATTERS: None.

ADJOURNMENT INTO EXECUTIVE SESSION: 10:45 p.m.

1. Real Estate..

RECONVENE AND ADJOURN: 11:30 p.m.

Accepted this 3 day of February, 1992.

David Wain
MAYOR

Phillip E. Dexter
CITY CLERK

Wanda R. Sverson
RECORDING SECRETARY