

MARYSVILLE CITY COUNCIL MINUTES

JULY 26, 1993

7:00 p.m.

Public Safety Center

Present: Dave Weiser, Mayor

Councilmembers:

Donna Pedersen, Mayor Pro Tem

Dave McGee (excused)

John Myers

Ken Baxter

Donna Wright

Mike Leighan

Otto Herman

Administrative Staff:

Grant Weed, City Attorney

Dave Zabell, City Administrator

Steve Wilson, Finance Director (Paul Rochon, Code Enforcement Officer, also in attendance)

Gloria Hirashima, City Planner

Ken Winckler, Public Works Director

Wanda Iverson, Recording Secretary

00175

CALL TO ORDER:

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

ROLL CALL:

Finance Director Wilson called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETINGS:

Councilor Pedersen moved and Councilor Myers seconded to approve the 6/8/93 Joint Planning Commission & City Council Workshop minutes as written. Passed unanimously.

Councilor Herman referred to page 4 of the 7/12/93 Council meeting minutes and City Administrator Zabell clarified that in the first paragraph on that page, it should be Central Puget Sound Economic Development District, not Puget Sound Regional Council.

On page 6, under #2, in the paragraph beginning "Bill Roberts", it was noted the word "apy" should be "pay" in the fifth line from the bottom of that paragraph.

Councilor Myers moved, after it was determined there were no more corrections, and Councilor Pedersen seconded to approve the 7/12/93 minutes as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON-AGENDA ITEMS:

Mayor Weiser asked that everyone be as brief as possible in order to allow everyone to speak who wished to.

Cyril Greenawalt, 5825 65th Av. NE, addressed Council, stating he has lived in Marysville 3 years and wishes something done about the "Rap: the Lyrics" book. He stated the First Amendment he feels is a poor defense for not removing the book from the library. He then referred to Japlinski vs State of New Hampshire in his prepared statement, noting the courts ruled that it is not necessary to use lewd, fighting, inflicting or offensive words in order to express one's self. Mr. Greenawalt said he feels deannexation of the City from the library district is the way to go in order to get this type of book behind the counters and inaccessible to children.

Dave Zachary, 7620 65th Dr. NE, addressed Council, stating he has lived in Marysville since 1985 and has grandchildren that he takes to the library. He stated he is really disappointed with the lack of action of the library board and the material available/accessible to children. He said he thinks the City of Marysville should do something as far as making these materials inaccessible: everything from lewd materials, comic books, etc. He said he doesn't believe the library board is showing an interest in keeping these materials off the shelves; they have decided to stand by their

Bill of Rights which says children should be allowed to view all materials.

Leo Marrs, 6525 77th Pl. NE, addressed Council, stating he concurs with the foregoing statements regarding the particular book in the library. He said he would encourage the Council to deannex from the Sno-Isle Regional Library System in order for the City to have more local control over the local library so that children are not exposed to these materials.

Teresa Van Mieghan, 9209 61st Dr. NE, addressed Council, stating she also supports deannexation if the Moses issue is not resolved in his favor. She added that society is on the threshold of a wave of explicit materials: videos, comics and other inappropriate materials and she read a prepared statement regarding raising children responsibly and with concern for morality, etc.

Richard Luster, 8056 53rd Dr. NE, addressed Council. He stated he's lived in Marysville 14 years and has used the library extensively. He said he feels the Sno-Isle Regional Library has exceeded their jurisdiction in this case and thinks the City should deannex. He added he thinks the board is going in the wrong direction in allowing explicit language and this type of "pornography"; our children do not need to be exposed to this type of material, he said and added he would like to see more control so we don't end up like Los Angeles.

Mary Isabel Hall, 5900 64th NE, addressed Council, noting she is a grandmother and is very concerned about this issue and if it takes deannexation, she is for that.

Kathy Nolan, 1087 Cedar #A, addressed Council, stating she is a mother of a 12 year old and opposed to the pornography being allowed in the public library. She said she doesn't see any good coming out of people being exposed to these materials and would like to see the book banned.

Jill Moses, 7022 Armar Rd., addressed Council, stating her husband will be speaking and she concurs with what he is trying to do. She said this is just a common sense issue--she thought it was a mistake that Matthew was allowed to check out the book when he was only 8 years old but then found out it is not against their policy. She said she is sorry that the Sno-Isle Regional Library Board is taking the position that they do; that the Moses have talked to thousands of people and 99% concur with the Moses and they are just trying to make the public aware of the situation. If it takes deannexation then she would applaud that, she said.

Grant Hall, 5900 64th NE, addressed Council. He said he has lived here for 30 years and this is the worst thing he has ever seen and he agrees with the people against the library.

Karl Cotter, 5404 81st St. NE, addressed Council, stating he too supports the previous people who have spoken. He stated the City he thinks should deannex the library if this is the only way to correct the situation.

Jeff (and Matthew) Moses, 7022 Armar Rd., addressed Council. He gave them all a prepared handout and asked when the library will quit giving pornography to the kids. He referred to an editorial by Kurt Batdorf and talked about sexual, obscene materials and pornography being readily available. He read a prepared statement regarding the library's Bill of Rights, their so called "rights" to allow children to have the materials. He noted that some states now have laws that will help parents protect minors with a "Harmful to Minors" (minors would be under 18) law. He talked about limiting accessibility with the use of a card, something that was apparently done before at the library but that was discontinued for some reason, he said. He added he doesn't feel parents should have to accompany their children to the library as the library board is suggesting. He noted the U.S. Supreme Court

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has ruled that the children "do not have the right to have access" to these materials and he encouraged Council to pursue a Harmful to Minors Law in this State.

Councilor Herman said it is not clear to him what Mr. Moses' solution is.

Mr. Moses said minor children do not have the right to porn without their parents' consent and he would solve the problem with a special children's library card for age appropriate material.

Councilor Leighan asked about deannexation and Mr. Moses said he would think it's possible for Marysville to go with their own library system rather than affiliate with Sno-Isle Regional Library System.

Peggy Marrs, 6525 77th Pl. NE, addressed Council. She said she is very much in favor of deannexation because of the sexually explicit material being available to children.

John C. Campbell, 5303 110th Pl. NE, addressed Council. He said he is just outside of City limits but pointed out that many people outside the City use the library and he said when he heard the City was considering deannexation he was impressed because that takes a lot of guts. He noted Denny Youth Center is full and there's enough stuff (sexually explicit) like this around already--being shown in the news and on TV, crimes being committed, etc. and we don't need it in the library, too, he said. He added that if the City goes on their own with their own library, he would be willing to pay for a card because he doesn't want to even go to the library any more.

Mayor Weiser pointed out that deannexation was just one option that had been presented.

Dennis Mumm, 4730 67th St. NE, addressed Council, stating he has lived in Marysville 20 years and as participated in Little League, helped at the YMCA, coached basketball, etc. He stated he works with kids who have gone through abuse and out of his caseload of 800 he said at least 95% have been exposed to pornography--it's devastating to the mind and spirit of most human beings. He said he and his family were excited about the new library but finding out about their selection process, he is very disappointed and said Marysville needs its own economy and we need to be able to select our own books. He said he would like to be removed from the Sno-Isle Regional System because he doesn't believe they have the same views as the majority of Marysville citizens. He said he cares a lot about the children and speaks to the Council as an interested party and parent.

Lee Cundiff, 5217 Grove St., addressed Council. He explained he had sent each of the Council a letter expressing his thoughts on this matter and he noted he personally gathered 500 signatures against the book being available to the children. He said he would like to see Marysville stay a good community and would urge Council to take whatever steps it needs to in order to solve the problem.

Robin Hall, 3922 119th Pl. NE, addressed Council, stating she has lived in this area 1-1/2 years. She said she is opposed to deannexation; that she doesn't think Marysville can operate a library the caliber of the collection that the Sno-Isle Regional Library can offer. She said she thinks Council should work with, not against the system. She referred to a book called "Fahrenheit 451" which talks about banning of books and she pointed out that everyone has a different view of what is appropriate and what is not. Staying with Sno-Isle is a better use of the taxpayer money, she concluded.

Dan Schaefer, 11718 47th Dr. NE, addressed Council. He noted there was an implication of censorship here but the main concern is not censorship but rather protection of the children. As a pastor, he stated he recently attended at the emergency room of a hospital to see a woman who had been violently sexually attacked. He pointed out that we have laws against pollution of the air and we need to protect our children from a pollution of the mind. He talked about desensitization and how increasingly young people are exposed to materials that are desensitizing them to crimes, etc. and the Sno-Isle Regional Library has removed themselves from any responsibility for this. He said he remembers the library when he was young and we need to enhance children's minds and he said he encourages Council to take steps that will prevent further erosion of society.

Tom Mayer, Director of Sno-Isle Regional Library, 7312 35th Av. NE, addressed Council. He said he wished to bring everyone up to date on the steps that are currently being taken as a result of the hearing regarding this book: The board is working on a plan to better communicate with people as far as what people want at the library, he said and they are trying to get the message out to parents. Also, they intend to distribute a note to all parents that there may be something offensive in the library so they can work with their children, he said. He pointed out that the staff is being trained to work with parents and users and also, he is monitoring a similar situation in Vancouver, WA where they have had a request similar to Marysville's, trying to restrict materials. Regarding labeling materials, he said this was the original request and now he said we seem to be talking about "pornography" which has a different definition in everyone's mind and "obscenity" and "erotic" materials which are terms defined under state law, but this book has not been given this label, he pointed out. Also, with regard to the Harmful to Minors laws, attempts have failed to legislate this in many cases due to it being unconstitutional, he said.

Councilor Pedersen asked about the child's library card being issued in the past and Mr. Mayer said he doubted if there was a children's card more recently than the 1950s.

Councilor Wright referred to the Sno-Isle pamphlet and suggested they boldface some of the information, which Mr. Mayer agreed was a good idea and which they intend to do for next printing of the pamphlet.

Councilor Baxter referred to a comment that Mr. Mayer made about parents having the right to take this matter to court. He pointed out that maybe the cost is too prohibitive for people to do that.

Mr. Mayer noted there are organizations in this state and perhaps one of these groups as a whole could afford to take it to court.

Tom Barcles, 1100 Columbia #M, addressed Council, noting he has been a resident of Marysville 16 years. He stated he moved here from back east and has seen many changes in Marysville over the years. He said he feels strongly about this issue also and notes there has been a real cross grain of people who are all offended and outraged at the material that can be found in the library. He added he knows there is beneficial materials but this library system needs to be careful what is presented to the children and hopefully the information the children are exposed to will be beneficial in order that they can make good citizens.

Helen Pasey, 12618 Marine Dr., addressed Council, noting she has been a resident of Marysville for 18 years. She stated she has been a Sno-Isle patron since 1960 and is against what the majority is saying here tonight, she said. She agreed there is some offensive material in the library but she has a great deal of responsibility and trusts the judgement and responsibility of her children (ages 16, 11 and 9). She said she doesn't feel they are

adversely affected by this type of material, just because it is available. She gave the example of a retailer, stating we don't expect them to be sure toys are safe for children, that's up to the manufacturer of the toy; it's the same with books, it should not be up to the library to make sure they are safe, it should be the publisher's responsibility.

Mr. Moses responded to Mr. Mayer's comments, noting a PEC group lobbied illegally with taxpayers' monies. He said the Harmful to Minors legislation is in 40 states so that is something he sees Washington State should be doing. He noted that libraries are all exempt from the pornographic material laws and the only way around that is through the Harmful to Minors laws.

City Attorney Weed agreed the state statute does provide an exemption for libraries however, he said he doesn't believe that a person couldn't go to the courts himself. He added that the courts are the ones that make the calls on what is erotic, obscene, etc., not the state or library and he said in some cases it's very burdensome and expensive for an individual to take an action to court so it would be probably more appropriate for a group to do this.

Mr. Moses stated the Harmful to Minors law has a simple test and the library is only required to take a book off the shelves once a complaint is made.

City Attorney Weed said that law could be challenged and ultimately a court would make that decision, anyway.

Mr. Moses thanked the Council and Mayor for their time involved in this issue.

Fred Erickson, 8303 47th Av. NE, addressed Council. He stated he has 3 daughters and they make prodigious use of the library. As parents, he said they try to monitor their material but that's not always possible and if there is no better solution, he would be in favor of deannexation but he would rather not see any erotic, offensive by our community standards material and he would rather not have to depend on our court system to make that determination, either, he said. "Community standards" he said he thinks is the main test and if Sno-Isle does not deem these items to be offensive then we need to deannex.

Mayor Weiser commented on the fact that the City of Marysville committed to a minimum of 3 years with the Sno-Isle Regional Library System and we are at the half way point now. Also, deannexation would take it having to be on the ballot with a vote of the majority to deannex, he explained.

Councilor Baxter noted the City has an ordinance that rules against pornographic material in shops and he asked about the zoning/siting of a new library that would have this "obscene" material in it.

City Attorney Weed noted again that libraries are exempt from that ordinance by state statute so would not be regulated by that ordinance.

Councilor Pedersen asked if Mr. Mayer is of the opinion the board will not be making any further considerations regarding the book "Rap: The Lyrics" and Mr. Mayer stated the board has completed the three step appeal process but he said he spoke to the board about this and they are attempting to have a more comprehensive plan to do a better job of giving library customers information.

Mayor Weiser asked Mr. Mayer to keep him apprised of the Vancouver, Washington case and Mr. Mayer agreed to do so.

Councilor Myers asked about a break up of the library--who owns what, in other words, and Mr. Mayer said the building and shelves belong to the City, the rest basically belongs to Sno-Isle, the computers, books, etc.

Lee Cundiff addressed the Council again, stating he asked the Board of Trustees if he could recite from the book at the hearing and he was not allowed to. He noted it would be wise if everyone was aware of what is in that book but he noted he is not allowed to read it in public so there must be something wrong with it. And we are exposing our children to it, he noted and added he thinks it should be read publicly and get the media involved--all of it. Our children need to be protected from this, he reiterated.

Councilor Myers noted the issue is not just this book, the issue is about other material that might be found offensive.

Mr. Cundiff said he does not want his tax dollars used to pollute the minds of the children in Marysville.

Mr. Mumms (??) readdressed Council, stating he has been supporting the Marysville library system all these years and doesn't know what happened to the books before the City joined Sno-Isle.

Mayor Weiser explained they weren't the City's books, the City contracted with them to provide the books, materials and librarians for which the City paid \$180,000 to \$190,000 per year so we looked into joining the system and the City decided it would commit to bonds for a new library.

Mr. Mumms (??) asked if the City ever had any control over the selection of the books and Councilor Baxter said before the City used to provide the building and also selected the materials but doesn't any more. That was before the City started contracting with Sno-Isle, he explained.

Mr. Mayer confirmed this, noting it's been at least 20 years ago.

City Attorney Weed said he believed it was 30 years ago, in '63, that the City started contracting services from Sno-Isle.

Councilor Baxter explained the library needed to expand and the idea was to improve the system, he said, by selling bonds to pay for it.

Teresa Van Mieghan addressed Council again, noting first of all, the issue is not censorship. In respect to Mr. Mayer, she said she doesn't feel his sincere intent with communications improvement is going to solve the problem--it's like letting kids loose in an adult book store, she said and she said she thinks more is necessary than these "attempts"; there needs to be a responsibility to the children, to the community, etc. She noted a lot of people couldn't come to the Council meeting tonight because they had to work or stay home with their children, but there are a lot more people out there that feel the same way she does.

STAFF BUSINESS:

City Administrator Zabell commented on several City employees who have been promoted and/or received certain certification toward their jobs and he noted this has taken a lot of individual effort on the part of the employees. He reminded committee members of the upcoming CHPS meeting and referred to a recent article in the Herald regarding the Arlington WWTF upgrade which talked about some possible "regional solutions".

Public Works Director Winckler reported that the 10th & Beach project at the YMCA is ready to pave if we get some good weather.

MAYOR'S BUSINESS: Mayor Weiser reminded Council of the WWTF tour Saturday at 8 AM, with everyone to meet at the Public Works Bldg.

CALL ON COUNCILMEMBERS:

Councilor Herman stated he had received several calls from citizens regarding cruising, loitering, etc. and he said he thinks the community needs to look at things for these youth to do. He said it's become quite a problem and we need to look at noise issues, also. Regarding the library issues, he said he does appreciate that the library is taking an ongoing look at this with regard to what other libraries are doing, special children's library cards, etc. He stated there is in his mind a significant parental responsibility that needs to be exercised regarding protecting the children and he would not be in favor of deannexation.

Councilor Wright said she had a number of calls also, people are calling the MPD but apparently they have no clout and pose no threat to the kids. She said she has personally experienced and heard loud boom boxes with obscene Rap music, just today, driving along City streets.

Councilor Pedersen commented on the packets being easier to read. With regard to the carpooling issue in Marysville, she said she would like the City to take a proactive approach to the traffic problem and look at some incentives for businesses to put carpooling measures in place even if they don't have the necessary number of employees. She said this might encourage other cities to do the same and she noted carpooling might be cheaper than putting another lane in on some of the streets, for example. She asked when the parking ordinance is going to come back before Council and City Planner Hirashima stated 8/2/93.

Councilor Pedersen noted that there are different needs for parking, for example in multifamily complexes, there are one, two and three bedroom units and the parking needs are probably different for the different kinds of units and maybe this should be a consideration. City Planner Hirashima agreed.

Councilor Pedersen pointed out that there are starting to be more one bedroom units, for example, with the Navy coming in.

Councilor Baxter reported there was a meeting last Tuesday morning regarding the 4th St. Bypass with representatives from the Tribes, businesses, etc., there. He stated there was good attendance and Public Works Director Winckler is to come up with some answers on a lot of questions posed at the meeting regarding the boat launch, etc. He said there was another meeting today regarding the impacts to Welco, bus routes, options for the boat ramp, for example, it might be placed more to the west, which needs to be negotiated further. He noted there is a boat launch similar to this one on the Swinomish Slough and they are looking at that situation for some possible problem solving solutions. He gave a brief RUSA meeting report, noting they discussed generators, boundaries, bids, land use, residential property adjacent to City property on the reservation.

Councilor Myers reported the Petting Zoo has gotten a tremendous response, especially since Everett is now charging admission to theirs and Marysville's is no charge to the public. He commented on Kent's noise ordinance which works very well and suggested Marysville take a look at possibly emulating that one.

City Attorney Weed said he is comparing several and he noted Everett is amending theirs to make it tighter, too.

Councilor Myers noted Kent's ordinance also pertains to noise in the homes, not just in cars.

PUBLIC HEARINGS:

1. Dale Olson Petition for Street Vacation; PA 9304011.

City Attorney Weed swore in thos wishing to give testimony.

Public Works Director Winckler reviewed the agenda bill and said because of sight distance problems on 84th there wil probably never be a driveway.

Bill Roberts, 4129 76th St. NE, addressed Council, representing the applicant. He stated they would be willing to join in with the neighbor with regard to compensation and vacation of the right of way.

Mayor Weiser asked about tax parcel 1-027 and Mr. Roberts stated Dale Olson owns both pieces designated on the map as 1-027.

City Attorney Weed asked about the Burton right of way, whether this is an easement or street right of way and Public Works Director Winckler clarified that it's supposed to be a right of way.

Councilor Herman noted there was a conveyance done in 1911 and 1921 and City Attorney Weed clarified the request is for vacation of a right of way. City Planner Hirashima further clarified that this originally was only for half but Mr. Burton has been contacted and he has concurred. She explained the map, noting it's an irregularly shaped right of way.

Mr. Roberts stated it was vacated by quit claim and the PUD's easement is for overhead utilities. He added that the Burtons are now willing to join in the vacation.

Councilor Herman asked about access and Mr. Roberts stated this would not be used as access.

Fred Burton, 7720 84th St. NE, addressed Council, stating Mr. Olson has given the Burtons a letter regarding the vacation and the Burtons would be allowed to access as well as the utilities-- AT&T has a fiber optic building there, he noted and it's known as 79th St. legally. AT&T's tower is on the Burton property, he explained.

There being no one further who wished to present testimony, the public hearing was closed at 8:56 p.m.

Councilor Leighan asked about a "notch" in the right of way and Public Works Director Winckler explained that was for better access, to make the intersection. Mr. Burton added that they had to dedicate the north 20' to the City for the AT&T access and slope easement, which created the "notch."

Councilor Leighan asked about taking a like amount out of the right of way for possible future need and City Planner Hirashima stated Mr. Olson has indicated he will be bringing in a subdivision request so the City will be asking for right of way dedication during the review and will be looking at needs on 84th at that time also.

Mr. Olson stated that it's his intention to develop the property; originally the access was to be on 84th but there is not enough sight distance so the right of way dedication can't be used as a public street.

City Planner Hirashima stated the corrected amount of compensation due is \$561.27, based on half of the assessed valuation and including the PUD easement and the property owners would negotiate that further among themselves.

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Councilor Baxter moved to approve the vacation request with compensation to the City of \$561.27, right of way to include the PUD and AT&T easement. Councilor Pedersen seconded and the motion passed unanimously.

REVIEW BIDS:**1. Emergency Generators; 3rd St. & 51st Av. Sewage Lift Stations.**

Public Works Director Winckler reviewed the agenda bill including the brand names of all the components in the package. He stated staff recommends approval of the \$114,000 bid by InterMountain Electric and he clarified that the bid called for a type of system rather than a specific brand, to meet telemetry and other lift station needs. There are several types of systems that will meet the specs, he said.

City Administrator Zabell added and expanded on what would be included in the call for bids.

Councilor Baxter noted this is a very common unit, very maintenance free, it's a good unit, according to a reputable source he consulted with.

Councilor Leighan commented on the list of references and the fact that the company who recommended the equipment has used it themselves.

Councilor Baxter moved to approve the InterMountain Electric bid of \$114,000 plus tax, Councilor Pedersen seconded. The motion passed with Councilor Herman against.

2. 172nd St. Utility Relocation Project.

Public Works Director Winckler reviewed the agenda bill and said as a result of discussions with the county the City decided to develop their own contract. The county recently awarded their bid to Associate and the City would like to stay ahead of their work with our portion, he said. He added the bid includes mobilization, administrative costs, bonding, etc., as referenced in the Hammond Collier Wade letter in the packets. As far as timing, he said construction is scheduled to begin mid August.

Councilor Baxter asked about reversing the sewer line flow on 172nd which had been previously discussed and City Administrator Zabell explained it has been decided that would be too costly to do.

Councilor Baxter asked about separate sewer lines, Marysville & Arlington's and Mayor Weiser pointed out the offer has been on the table for several years and nothing has come of it.

Councilor Baxter asked if that means Marysville is dropping the issue and City Administrator Zabell said he doesn't think Arlington is interested in expending the money it would take to reverse the flow.

Public Works Director Winckler said this bid/budgeted amount also includes \$8,000 for placing gate valves on State.

Councilor Baxter moved to approve the Wilder Construction bid of \$210,000 plus tax for the 172nd St. Utility Relocation Project. Councilor Myers seconded and the motion passed unanimously.

City Administrator Zabell noted that Items 23-26 of the contract will be negotiated with Wilder.

CURRENT BUSINESS:

1. Contract for Probation Services.

City Attorney Weed said a contract has been negotiated and prepared for Evelyn Barth and Marilyn McCormick-McCoy to perform services as per previous Council meeting discussion.

Councilor Pedersen asked about their using space in the Public Safety Building and City Administrator Zabell stated the intention is for them to use the Judge's chamber on Monday evenings and he added they won't be using very much space.

Councilor Pedersen asked about revenue to pay for the program and City Attorney Weed said it would come from the individuals court ordered to attend.

Councilor Pedersen asked how we collect money from a person who doesn't show up and City Attorney Weed said the court can summon them back into court or issue a warrant for them to be accountable.

Councilor Pedersen expressed concern about collection of these fees and a congestion problem in the Court Administrator's area if the person doesn't make the payment to the probation officer at the time of visit. She said the concept is good but she is wondering how much foot traffic is going to be generated.

There was discussion about the probation officer collecting the money, availability of probation officers, typo under #8 - should be "indemnify" not "indemnity" in the contract.

Councilor Baxter left Council Chambers at 9:24 p.m.

City Attorney Weed talked about implication of the hold harmless agreement under Section 8 of the contract and there was concern expressed by Councilors Pedersen and Wright regarding use of the facilities on Monday nights. City Attorney Weed said he would follow this up with Sue Jensen.

Councilor Baxter returned to Council Chambers at 9:27 p.m.

Councilor Pedersen moved to table this until next Council meeting and when more information on scheduling, collection and disbursement procedure could be obtained. Councilor Myers seconded and the motion passed unanimously.

2. Utility Variance - Water & Sewer Hook Up Outside RUSA; Jack & Mary Faucett; UV 93-010 (Cont. from 7/12/93).

City Planner Hirashima reviewed the agenda bill, noting this is for 280 units within Arlington's water area but Arlington has denied the applicant service. She noted the Lakewood Commons sanitary sewer depth is 7' and staff doesn't recommend any new connections. Staff recommends denial at this time, she said, and the RUSA committee recommends waiting until the water comprehensive plan is completed, in approx. Dec. 1993. She added that this request came before Council previously and was continued --this is the continuation of the request from several years ago.

Mayor Weiser asked about the formation of ULID 10 and City Administrator Zabell gave information about that, including where the RUSA boundaries are/were, existing service on the south boundary of the subject parcel.

Councilor Herman said he has a frustration with the lack of City policy concerning new hookups for utilities.

Bill Roberts, 4129 76th St. NE, addressed Council. He said he offered to speak for Mr. Faucett as he is familiar with the situation. He said he advised the Faucetts to talk with Dave Zabell, review the staff report/recommendations, etc., and with some utility planning between Marysville and Arlington there may be something positive in the future and for the applicant to request a denial without prejudice at this point. He noted they are in the urban boundary study area and they have a couple things going for them, he thinks.

Councilor Herman noted a denial without prejudice is generally for six months which will come very close to the Dec. 1993 timeline for completion of the water comp plan.

Mr. Roberts said that would probably be OK. He added he remembers when the ULID was set up and the City had to draw a line somewhere and it ended up right at Faucetts, so his best position is to sit by and see what happens, probably.

Councilor Pedersen noted six months was an arbitrary time limit in the past, not a hard and fast rule. There was more discussion about the Faucetts trying to provide affordable housing, their need for utilities, perhaps getting a denial without prejudice for a year.

Councilor Pedersen moved to deny the request without prejudice for 12 months, Councilor Wright seconded and the motion passed unanimously.

3. SR 528: 67th Av. NE to SR 9; Frontage Improvement Assessments.

Public Works Director Winckler reviewed the agenda bill, noting Bill Roberts had requested that developers have input. He stated there was a meeting on 7/19 and he summarized the proposal from that meeting:

- front foot costs for a 56' wide roadway - \$62/ff
- On a 44' wide roadway - \$50/ff

He said it was also recommended that a TIP be developed and staff concurs with this.

Councilor Herman asked about frontage improvements and estimated costs of same and whether staff agrees with these costs. Public Works Director Winckler explained this is what the developers say their costs are.

City Administrator Zabell added that the City's costs would be based on level terrain, no overlay, it's pretty close to comparing apples to apples. He noted that vertical alignment is, of course, more expensive and there are several other developments that have been similar but not with the vertical alignment needed in this case. He said staff feels the developers should have to pay for a bit of the vertical alignment.

Public Works Director Winckler said staff feels just an assessment could be levied in order to get the program in place, not necessarily a TIP at this point.

Councilor Herman said his expectation was that the whole package be included so that all adjacent properties would contribute.

City Administrator Zabell explained more regional funding is required in addition to the frontage program but not necessarily simultaneously--it's going to take a traffic consultant to determine the benefit area, for example.

Bill Roberts, 4129 76th NE, addressed Council. He stated the developers basically agree with Public Works Director Winckler;

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they had to decide where to draw the line as far as what is the TIP responsible for and he said he thinks the vertical alignment needs to be included in that. He said he is in favor of about \$60 per front foot for the developer and the rest should go into the TIP. Some of the major alignments, costs related to trips to the highway, those costs pertinent to the highway use should be under the area wide TIP, he said.

Mayor Weiser asked if Mr. Roberts would want a credit if more than 40' of right of way is dedicated and Mr. Roberts said yes, the county gives \$2200 per lot plus additional for right of way, improvements, etc., it depends on their total plan.

Mayor Weiser asked if there are many projects that would need to dedicate more than 40' of right of way and Mr. Roberts said he did a plat where they dedicated 45' but in the case of the county, they never give you a check, but you can break even with the fees owed and what they owe you.

City Administrator Zabell talked about L&I requirements, some consideration that should be given to the fact this will be a public/state project.

Mr. Roberts said he agreed but they were talking about a typical frontage improvement, not the building of a state highway. He said they are just trying to get all the facts on the table here.

City Administrator Zabell said as far as a dollar value on the right of way dedication, it's raw ground on a 12,500 lot, so the value would work out to about \$45,000, he said.

Mayor Weiser said he would like to see credit given for temporary improvements made by the developer.

Mr. Roberts said temporary improvements would probably not be made except in the case of a safety hazard that needs immediate correction.

Public Works Director Winckler stated the extreme vertical alignment is a problem with temporary improvements, for example with access, etc.

Councilor Pedersen asked about staff recommendations and Public Works Director Winckler referred to the original recommendation, noting the actual cost of the project is \$2.4 million but the project is not actually designed yet and staff is just trying to come up with a cost per foot; WSDOT does not have any figures yet, either, he said.

City Administrator Zabell noted the project has 10,000 front feet in it.

Councilor Herman referred to the \$82.50 staff calculation per front foot, including vertical alignment from before and Public Works Director Winckler said yes, the vertical alignment portion is about \$28 per lineal foot or \$14 per front foot.

Councilor Herman asked about the actual width of roadway and City Administrator Zabell said it would be 5 lanes at two points, 4 lanes in others.

There was discussion about a 5th lane not being funded by WSDOT if there is only one house, preclusion of future access onto 528, this being a state highway and the responsibility of the City to maintain, state criteria/responsibility based on population, state retaining jurisdiction, vertical alignment portion, prevailing wage rate, time line, \$68.50/FF, TIP being set up.

Ron Selia, 7216 67th NE, addressed Council and said with regard to

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SEE 8/2/93

access onto 528 and the fact that WSDOT won't allow this, there is a lot of property that's still to be developed along there and everyone would have to use 67th if 528 is not opened up to access. He pointed out that people are not going to go east first in order to go west, for example, by using Grove and that's a lot of traffic on 67th and the City should be able to put some pressure on DOT to allow access onto 528, he said.

There was more discussion about \$68.50/FF being a reasonable amount, trying to move rapidly forward with formation of a TIP, possibly continuing with the issue, increased hazard potential along 528, possible exclusion of the vertical alignment for now.

Councilor Baxter moved and Councilor Pedersen seconded to continue this to 8/2/93. Passed unanimously.

4. Final Plat Approval; Hickock East Division II; PA 9207031.

City Planner Hirashima reviewed the agenda bill, noting staff recommends approval of the Hearing Examiner's recommendation to approve the Final Plat, with conditions.

Councilor Wright moved and Councilor Myers seconded to approve the final plat and authorize the Mayor to sign off on the mylar. Passed with Councilor Pedersen abstaining.

NEW BUSINESS:

1. Preliminary Plat/Rezone; Brookwood East; PA 9211056.

City Planner Hirashima reviewed the agenda bill and noted there was a letter of appeal from the Shores and several neighbors stating they disagree with the Hearing Examiner's recommendation with regard to no access onto 528 and also disagreeing with Public Works on this. Also, they raised the issue of what they felt was lack of proper notification regarding the hearing, she said.

Councilor Baxter asked how many lots are under 12,500 in this plat and City Planner Hirashima said probably about 28.

Councilor Pedersen asked how many surrounding plats have 12,500 lots and City Planner Hirashima stated to the north the lots average 8500 sq. ft. and in Brookwood Heights they also used lot size averaging so those are also less than 12,500. She stated the subject property in terms of lot size, they took the PRD approach, with a minimum required lot size of 6000 sq. ft., but they have a minimum lot size, in fact, of 9600 sq. ft., she said. She also noted that the Comp Plan proposes lots which have availability to hookup to public sewer should be 9600 sq. ft.

Councilor Baxter said he thought the City was going to try and keep larger lots and City Planner Hirashima stated 9600 is the direction our Comp Plan is going and most of the newer plats are in the range of 8000 to 8500 under the PRD approach.

Councilor Baxter said he thought we learned some lessons on PRDs and Councilor Pedersen commented on the access onto 528 and noted the Hearing Examiner asked about it also. It was noted that DOT does not want access onto 528 and it is under the state's jurisdiction, not the City's.

Public Works Director Winckler confirmed the state policy/WAC allows no access within a certain number of feet from a planned or existing signalized intersection on a state highway, so the decision was based on that criteria.

City Planner Hirashima showed a map on the overhead, showing the planned Grove St. extension, the location of Brookwood Heights (residents who are appealing Brookwood East Preliminary Plat/Rezone), 528, etc.

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City Administrator Zabell noted City policy is not encouraging access onto 528 and used as examples 60th Dr. and the Centex subdivision where potential problems can be created.

Mayor Weiser noted Council should either accept or reject the Hearing Examiner's recommendation to approve, otherwise hold its own public hearing and he asked that people who wished to speak, please keep their comments within those confines.

Mike Franczkoviak, Lot 6 of Brookwood Heights, addressed Council, stating he would like to petition Council to hold its own public hearing on the matter. He stated he is concerned about the poor notification they received and a lot of people are going to be affected who were not given a chance to testify before.

Rex Walker, 3214 67th Pl. NE, addressed Council, stating he would also like to see the Council have its own public hearing, because of his concerns with traffic and Northpointe drainage.

Diane Selia, 7216 67th NE, addressed Council, stating she would also like the Council to hold its own public hearing.

Julie Shore, 7402 67th NE, addressed Council, stating she and her husband have concerns about due process. She said it was just by chance that they found out about the appeal deadline and they would like a new public hearing because of traffic concerns.

Leo Danielise, 6701 74th Dr. NE, addressed Council, stating he would like to see a new public hearing also because of his concerns with acreage sizes, etc.

David Gerard, 7118 67th NE, addressed Council, stating he would also like to see Council have its own public hearing on this matter.

Dave McCorkle, 7306 67th Pl. NE, addressed Council, stating he would like to see a new public hearing because of his concerns about traffic.

Mike Stoecklhuber, 7305 67th NE, said he would also like to see a new public hearing as did Don Enterman, 7105 67th NE.

Councilor Leighan moved to set a public hearing for 8/23/93, with an extended mailing list to include Brookwood Heights Div. III & IV, Councilor Herman seconded and the motion passed unanimously.

Councilor Pedersen asked for a copy of the WAC that Public Works Director Winckler referred to earlier regarding no access onto a state highway, in time for the public hearing.

Councilor Baxter said he would like a copy of the traffic plan.

2. "Strawberry Hills" Model Homes Request; Dally Homes, Inc.; PA 8909052.

City Planner Hirashima reviewed the agenda bill, noting the request is for 3 model homes but there are actually only 2 legal lots, one of the lots was actually a lot for a well and not "legal", so staff recommendation is for approval for two model homes. She stated the applicant has paid all final plat fees although they do have to construct utilities. The proposed lots for the model homes were 37, 38 & 39 and she said this would be for Phase I immediately south of 61st.

Councilor Baxter asked about wetlands and City Planner Hirashima responded that the City would be dedicated the wetlands and the developer is working with Jim Ballew with regard to a pedestrian trail connecting with the adjacent plat next to it. She stated the applicant has retained a wetlands biologist to help with the plans for the wetlands.

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Councilor Baxter noted there is a problem with maintenance of several small pieces like this and City Planner Hirashima said actually they have combined several small area tracts, coming up with a total of an 11 or 12 acre park, which is a good size area. She said she would verify which tracts the City is accepting.

After a brief discussion, Councilor Pedersen moved that the Dally Homes' request be approved for two model homes, Councilor Leighan seconded and the motion passed unanimously.

3. Confined Space Entry Program.

Public Works Director Winckler reviewed the agenda bill and introduced Paul Rochon, the City's new Code Enforcement Officer who actually put the Confined Space Entry Program together in his role as chairman of the Safety Committee.

Mr. Rochon explained the need for the document (in the packets), the OSHA & WISHA requirements, training required, etc. and he noted there are some changes in progress because the OSHA & WISHA regs have not been finalized but basically, the program will not change.

Public Works Director Winckler noted they tried to word the program so there would not be any language changes needed when WISHA & OSHA make their anticipated changes. He said immediate needs at this point are probably going to be for equipment and staff is working with the fire dept. so there is no duplicated equipment purchased. He added that the proposed effective date of the WAC is 9/3/93.

Councilor Herman commended the committee on putting this document together.

Councilor Baxter asked if this means two people have to be on duty on weekends because a person always has to be accompanied when going into a confined space and Public Works Director Winckler said they are not sure how that's going to work; they may need to forego some inspections. Another thing they are trying to do is get the telemetry system to help with diagnostics, he said.

Councilor Herman moved and Councilor Pedersen seconded to approve the Confined Space Entry Program as presented. Passed unanimously.

6. Proposed Cruising Ordinance.

Patricia Wright, 1229 State #4, addressed Council. She said she is very very concerned about ongoing youth problems, all night noise, litter, yelling, racing of engines. She said she understands there will be several young people wanting to testify about this here tonight, but the businesses can't control the current problem nor can the police as there is no teeth in the law. She noted the police don't plan on hiring any new officers until 1994 and if this problem isn't controlled very soon, she is considering moving out of Marysville, as are a lot of her neighbors. She added that Marysville is being host to many other cities problem youth because we have no cruising ordinance here.

Mayor Weiser noted loitering is a very difficult problem to deal with but the City is looking at a couple of noise ordinances as well as a cruising ordinance for Marysville to adopt.

Mrs. Wright asked about the noise ordinance being considered--if it one where you have to measure the decibel level, because that's not a very easy ordinance to enforce. She added that it takes a lot of police time to answer these nuisance calls and she has been threatened when she goes to use the phone. She said her suggestion would be a \$1000 fine with the funds going to purchase a teen center.

Councilor Herman said one of the calls he had this weekend was from some people who have lived in the same place since 1957 and are considering moving because of this problem. The cruising ordinance is not going to deal with the noise and other issues, he pointed out and he said he also has concerns about bus stops, littering, congregation, public urination, drug issues, vandalism, parking lot problems and he noted a lot of kids are from Renton, Tukwila, etc., outside of Marysville.

Councilor Pedersen asked about multi-city efforts and Mayor Weiser stated as a member of the Youth Gang Task Force, they were going to look at that but haven't got to that point as yet. They are looking at the gang problem right now, he said and added the concern was the possible connection between these problems and gangs. He referred to a memo written by Chief Dyer.

City Administrator Zabell expanded concerning the major problems the police had this past weekend at 80th & State where 30 people were fighting in the street. He said he will be going out with Chief Dyer this coming weekend to get a better idea of the situation.

Councilor Leighan said maybe the Council could take turns going out with the MPD to see what's really going on but Councilor Baxter said he doesn't think Councilmembers belong in police cars because of potentially dangerous and hindering situations that may come up.

Councilor Leighan argued that it's hard to see what the MPD are up against unless you are out there, too.

There was discussion about 8 and 9 year olds being involved; a 13 year old who recently stole a car, was joy riding and ended up dead; curfew; danger to the police and those riding with the police; signs being posted in private parking lots regarding no trespassing; vehicles to be towed away; requiring business owners to get up in the middle of the night to help with enforcement; City of Everett cruising ordinance relieved most of their problems; drug free zones; penalties for dealing drugs within a DFZ; State Avenue traffic volumes.

City Attorney Weed said he needs to enhance the ordinance draft in the packets and basically he has provided a bare bones wording providing definitions, requiring posting of signs, public information process and enforcement. He said basically this is a policy issue which will require much public education and all problems are not going to be solved by passing an ordinance.

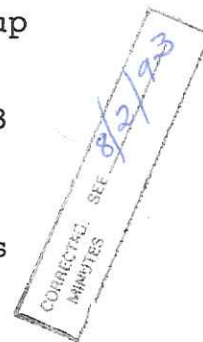
Councilor Pedersen asked about who is going to monitor the violations of the ordinance and Councilor Leighan noted that motorcycle officers are used in Seattle who punch up license plate numbers on a computer.

City Administrator Zabell pointed out that the fight Friday night used a lot of manpower and it's hard to see how we can afford someone to be on a computer.

Councilor Leighan compared it to the time it takes for an officer to be on a radar gun, checking speeds.

Councilor Pedersen stated that if only a cruising ordinance is put into effect, we are going to actually accentuate the parking lot problem. She said she seemed to recall a committee that was looking at this and she remembered the cruising did cut back during that time, about a year or so ago.

Mayor Weiser stated it wasn't in the summer when the biggest problem is and there really was only one well attended meeting on the issue, with parents and youth and City people involved.



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Councilor Baxter said it was actually about 6 meetings but attendance died off drastically, down to nothing, so they quit having the meetings and nothing came of it.

Councilor Wright asked about the young people's comments about how to solve the problem and Councilor Baxter said they like showing off their cars.

There was more discussion about congregation in the Public Safety Building parking lot (suggestion of where they could congregate, not what is presently being done); concerts in the parks very poorly attended; some pretty neat cars but those kids are not usually the problem; loud noises, boom boxes; noise ordinance should be put into effect instead of a cruising ordinance.

Mrs. Wright told about a couple weekends ago when she had to listen to the amplified music these kids play and you feel the vibration throughout your house. She said she would like to see the kids have a good place to go, they could staff it, maintain it, have input as far as programs.

Councilor Leighan noted the Parks Dept. did a survey and hopefully they will have some figures and comments back next Wednesday that he will pass along to Council regarding this issue. *5/6 and Wed. in Aug.*

Councilor Baxter said teens that go to a teen center are not the same ones Marysville is having problems with here and there are different and varied interests.

Councilor Pedersen referred to the Mountlake Terrace Neutral Zone attended by "at risk" kids and Councilor Baxter said that's not the same group that have nice cars or trucks.

Councilor Leighan suggested a teen center where auto design is featured, what to look for in sound systems/workshops, etc. There were positive reactions to this idea among Council.

Kenda McKenzie, 4526 136th NW, addressed Council. She said as a teenager, she would like to see a teen center or designated parking lots made available--those are good ideas and asked what the kids are supposed to do if a cruising ordinance is put in place, because there is nothing for them to do in Marysville. She said kids don't want to be at home. Regarding noise, she said they could have a certain time for one level of noise and then turn it down more at a later time, just a suggestion. She also suggested the parking lot owners provide trash cans and the youth would gladly use them, so as to prevent litter in the parking lots.

Councilor Pedersen asked her to describe a typical night's activities for these kids and Ms. McKenzie said basically the kids socialize and show off their cars in the parking lots.

Mayor Weiser said he remembered cruising in his day, it was maybe a little bit of drag racing on Colby and a bottle of beer once in awhile but when things go into excess like 130 people in a fight, that's very difficult to control.

Ms. McKenzie said she doesn't feel the City can do anything to stop it completely, but there can be some improvement.

Councilor Myers said he thinks reducing it to a controllable amount is the main goal.

Jerry Bartholomew, 1132 62nd Av. NE, addressed Council. He said he would like to see some car shows in this area because he has to go to Yakima and big shows like that, there's nothing in Marysville or surrounding area. He said he notices a lot of nice fixed up cars in Marysville and maybe a plaque, have kids vote on the best car, eg.

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Kim McKenzie, 4526 136th Pl. NE, addressed Council (Kenda McKenzie's sister). She said she thinks there should be a law against bass and noise but not against cruising. She said she gets off work at 11 o'clock and then goes stands around in the parking lots and talks and they don't have loud boom boxes. She said she just joined the Navy on the deferred program and doesn't need a ticket for cruising. Also, during the summer, the only time the kids see each other is at night because they all work, she said.

Councilor Pedersen asked about the ages in the groups and Kim said anywhere from 10 to 35.

Councilor Wright asked what she would consider a fair time (at the latest) to expect the kids to go home and Kim said midnight.

Councilor Herman asked how many kids are local and how many are from out of the area. Kim said about 50/50. The kids she hangs out with in the Safeway parking lot are half from Everett, she said.

Sgt. McLeod, MPD, addressed Council. He said most of the problems they see are not from the Marysville kids, they are from Arlington, Lake Stevens, Everett, and he would like to see something more than a cruising ordinance, a noise ordinance at the very least. He said most of the citizen complaints are with the noise and MPD can't enforce the noise ordinance in force at this time because it requires a judgement call as far as the definition of noise.

City Administrator Zabell asked if this goes on every night and Sgt. McLeod said yes, in the summer. He added that the MPD just doesn't have the manpower on the weekends, during the week it's not too bad.

City Attorney Weed talked about Everett's ordinance that includes public disturbance and other noise. He said it can be enforced a lot easier than Marysville's which is left over from the days when we simply adopted a DOE ordinance without teeth, it's full of vagueness. He said other issues to consider are police manpower, City policy, level of service required to provide the community, safety issues.

Councilor Pedersen said she would like to see some other cities' ordinances that seem to be working (noise and cruising ordinances) as well as comments from the Parks Dept. survey, more stats from MPD such as what it takes to enforce laws, manpower needed, information to be brought back to next meeting.

City Attorney Weed said he would get a copy of Kent's noise ordinance for Council.

There was more discussion about unenforceable curfew ordinances, bringing this back in a couple weeks or so, possibly having a town meeting to get more input, enforcing whatever is put in force, City Attorney to bring back samples 8/23/93. City Attorney Weed recommended against a parental responsibility/curfew ordinance.

4. Debt Service Agreement: City of Marysville/Tulalip Tribes; Tribes Share of Marysville/Everett Pipeline Construction Costs.

Finance Director Wilson reviewed the agenda bill and noted the agreement allows the Tribes to pay on the basis of the City's debt service schedule. He said the request is for the Mayor to sign the debt service agreement.

Councilor Herman asked about legal issues involved and City Attorney Weed said there is a constitutional prohibition against

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extension of credit to private entities by a government agency, however an Indian Nation is a public entity and they are not included or excluded in the RCW/WAC but a commitment was made in 1991 that the Tribes could purchase their portion under the JOA in this way. He confirmed that this is more of a formality and the City is adding some specifics to the original JOA, he said.

Councilor Pedersen asked about the interest rate and Finance Director Wilson said it's consistent with the 1991 bond issue.

Councilor Pedersen moved and Councilor Leighan seconded to approve and authorize the Mayor to sign the debt service agreement with the Tulalip Tribes. Passed unanimously.

5. Snohomish County Proposed IUGA Boundary. Postponed to 8/2/93.

CONSENT AGENDA:

1. Approval of 7/26/93 Claims in the Amount of \$249,115.52.
2. Acceptance of 1992 Crack Sealing Program; Contract No. 92-05.

Councilor Pedersen moved and Councilor Leighan seconded to approve Consent Agenda Items 1 & 2. Passed unanimously. (Councilor Leighan did not vote on Voucher #16590.)

ORDINANCES & RESOLUTIONS:

1. Ordinance Relating to Front Yards and Corner Lots.

Councilor Pedersen moved and Councilor Herman seconded to approve/adopt Ordinance 1955. Passed unanimously.

ADJOURNED INTO EXECUTIVE SESSIION: 12:12 a.m. 7/27/93.

1. Potential Litigation.
2. Personnel.

RECONVENED & ADJOURNED: 12:37 a.m. 7/27/93.

Accepted this 2nd day of August, 1993.

Daniel Weiser

MAYOR

Mary Swenson

CITY CLERK

Manda A. Swenson

RECORDING SECRETARY