

**MINUTES RECAP  
MARYSVILLE CITY COUNCIL - REGULAR MEETING  
OCTOBER 11, 1999**

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<b>EXECUTIVE SESSION</b>	6:00 p.m.
<b>CALL TO ORDER/FLAG SALUTE</b>	7:03 p.m.
<b>ROLL CALL</b>	All present
<b>MINUTES OF PREVIOUS MEETING</b> 1. October 4, 1999 council meeting	Approved as corrected
<b>AUDIENCE PARTICIPATION</b>	None.
<b>PRESENTATIONS/PETITIONS/COMMUNICATIONS</b> None.	
<b>ACTION ITEMS</b>	
<b>REVIEW BIDS</b> None.	
<b>PUBLIC HEARING</b> None.	
<b>CURRENT BUSINESS</b> None.	
<b>NEW BUSINESS</b> 1. Approval of Utility Variance (one water connection only), Fellowship Baptist Church, 403 172 <sup>nd</sup> Street NW. UV 99-11. 2. 10% annexation notice of intention, 164 <sup>th</sup> Street Annexation. PA 9909042. 3. 10% annexation notice of intention, 164 <sup>th</sup> Street /I-5 West Annexation. PA 9909043. 4. Utility variance; Brutus & Associates, East of 51 <sup>st</sup> Avenue, South of 152 <sup>nd</sup> Street. UV 99-08. 5. Utility variance; Pacific Rim Development, 3318 71 <sup>st</sup> Avenue N.E. UV99-12. 6. Utility variance; Grande Ronde Development Corporation, SR528 NW corner of SR528, NW corner of SR9. UV99-13. 7. Utility variance; Darling Investment, 3332 Sunnyside Boulevard. UV99-15.	Approved. Approved. Continued to October 25. Approved. Approved. Approved. Approved.
<b>CONSENT AGENDA</b> 1. Approve October 11, 1999 claims in the amount of \$315,983.44 paid by check nos. 48203 through 48310.	Approved; Leighan abstained.
<b>LEGAL MATTERS</b> None.	
<b>ORDINANCES AND RESOLUTIONS</b>	
1. An ordinance of the City of Marysville granting a utility variance for Belmark Industries, Inc. for property located at 9409 35 Avenue N.E., Marysville, Washington.	Approved Ordinance 1942.
<b>DISCUSSION ITEMS</b>	
1. Draft graffiti ordinance. 2. Fee and rate schedule.	Set public hearing for November 8; requested extensive notification.
<b>INFORMATION ITEMS</b> 3. Mayor's business 4. Staff's business 5. Call on councilmembers	
<b>ADJOURN</b>	10:15 p.m.
<b>EXECUTIVE SESSION</b> To discuss one real estate matter.	
<b>RECONVENE</b> No action taken.	
<b>ADJOURN</b>	10:59 p.m.

**MINUTES**  
**MARYSVILLE CITY COUNCIL - REGULAR MEETING**  
**October 11, 1999**

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CORRECTED: SEE 10/25/99  
MINUTES

**EXECUTIVE SESSION**

Councilmembers convened into Executive Session at 6:00 p.m. to consider a real estate matter and adjourned at 6:55 p.m.

**CALL TO ORDER/FLAG SALUTE**

The meeting was called to order by Mayor Weiser at 7:03 p.m. in the Council Chambers, and the assemblage joined in the flag salute. A voice roll call was conducted. Attendance was as follows:

Councilmembers Present:  
Dave Weiser, Mayor  
Donna Wright, Mayor Pro Tem  
Shirley Bartholomew  
NormaJean Dierck  
Otto Herman, Jr.  
Mike Leighan  
Donna Pedersen  
Brett Roark

Administrative Staff present:  
Dave Zabell, City Administrator  
Dennis Peterson, Police Commander  
Ed Erickson, Finance Director  
Gloria Hirashima, City Planner  
Grant Weed, City Attorney  
Ken Winckler, Public Works Director

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**MINUTES OF PREVIOUS MEETING**

1. City Council Meeting, October 4, 1999.

Councilmembers noted the following corrections:

- The September 27 minutes, Page 1, Presentations, should read "...Councilmember Herman served...CT Board."
- Page 1, Audience Participation, Kathi Roon's comments should read "...the 1% coming from all new public construction in the city."
- Page 2, third paragraph should read "...help was available from the Washington Arts Commission..."
- Page 4, the vote on first motion was (7-0).

**MOTION** by Bartholomew, second by Pedersen, to approve the minutes of the October 4, 1999 meeting as corrected. Motion carried unanimously (7-0).

**AUDIENCE PARTICIPATION**

None.

**PRESENTATIONS/PETITIONS/COMMUNICATIONS**

None.

**ACTION ITEMS**

**Review Bids**

None.

**Public Hearing**

None.

**Current Business**

None.

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**New Business**

1. Approval of Utility Variance (one water connection only), Fellowship Baptist Church, 403 172<sup>nd</sup> Street NW. UV 99-11.

Mr. Winckler gave staff presentation, noting staff recommended approval of the variance with conditions.

Councilmember Pedersen asked if the facility would be on septic. Mr. Nelson responded in the affirmative, noting there was no sewer within a mile and the application was for a water connection, only.

Dave Nelson, 16316 80th Avenue N.E., Stanwood, the real estate agent handling the sale to the Fellowship Baptist Church, advised council that the county required a fire hydrant and water was not available from any other source. The houses surrounding this lot received water service from the City of Marysville.

Councilmember Pedersen asked if approval had been received for the Health Department to use a septic system. Mr. Nelson responded that the application had been submitted to Snohomish County and the property did perc. The design had not been completed; when it was done it would be resubmitted. It was necessary to obtain water service first. Councilmember Pedersen noted she was on the Health District Board and knew that agency was not as inclined to issue septic permits as it used to be. Mr. Zabell added that the nearest sewer service was on 29<sup>th</sup>.

Mayor Weiser called for comments from the audience; there were none.

Councilmember Leighan asked if the requirement for a fire hydrant would cause them a problem; Mr. Nelson responded that it would not. Councilmember Herman asked who was responsible for the hydrant; Mr. Winckler responded that the property owner paid for it as part of the construction costs.

**MOTION** by Bartholomew, second by Roark, to approve utility variance UV 99-11, subject to the applicant meeting all provisions of the M.M.C., payment of all applicable fees, including compliance with annexation requirements per MMC 14.32.040. Motion carried unanimously (7-0).

2. 10% annexation notice of intention, 164<sup>th</sup> Street Annexation. PA 9909042.

Ms. Hirashima presented the agenda materials, noting this petition encompassed 311 acres. The city did receive a second petition immediately after this one covering over 400 acres, including this 311 acres, and which shared the I-5 boundary and extended westward, encompassing properties in the Lakewood area. She noted that staff's recommendation was to treat the two petitions separately, one east of I-5 as originally submitted and the other for those properties west of I-5. The reason for the recommendation was that the annexation east of I-5 would be more straightforward as there was already a comp plan and associated zoning in place. Also, the city was in the process of planning for the area west of I-5 with Snohomish County. In order to annex that area the city would have to go back and designate land uses in the comp plan for the property that was not already designated. Since the area did not have comp plan designations in either the city or the county, staff recommended allowing the Planning Committee time to do that work.

The contact for the first annexation was George Wilcox, representing Marysville Livestock Auction, the official applicant. Ralph Cretchner was the contact for the second petition. He was a Lakewood resident and did carry the petition on behalf of the area.

Councilmember Dierck asked what would happen with Twin Lakes Park. Ms. Hirashima responded that the city had an interlocal with Snohomish County which addressed how park properties would be handled. The agreement stated that when the city received a petition it would enter into discussions with the county regarding whether park maintenance and ownership would be transferred to the city or retained by the county. The criteria was set out in the agreement, and based on that, she expected Snohomish County to continue to own, operate and maintain Twin Lakes Park. The agreement mainly spoke to the transfer to small parks, with the county continuing to operate regional parks, such as Twin Lakes. She would seek an agreement with the county to clarify this.

Councilmember Dierck questioned the buildable land area on the west side. Ms. Hirashima responded that any development proposal would include the required wetland drainage plan.

Councilmember Leighan asked if there was any problem with a Planning Commission member bringing forth an annexation petition. Mr. Weed noted that the Planning Commission did not make recommendations on annexation proposals. It reviewed the 10% requirement for establishing the boundary, but the 60% petition, if and when received, was in the purview of the council. So there was no conflict of interest. There might be some Planning Commission activity on the comp plan, but that would occur for the west side of I-5. This would not create a conflict either, since the Planning Commission member circulated the petition for the east side of I-5.

Mayor Weiser called for comments from the audience on either of the annexation petitions which had been submitted.

Councilmember Dierck asked the council to consider holding a workshop covering the two areas. She stated there was an aquifer and wetlands to the east of Highway 99 and she wanted to see more study before proceeding, as the council's action could result in problems. Secondly, she did not know how much of the land was buildable.

Responding to the conflict of interest question, Ms. Hirashima noted that the city had been pre-zoning, that is, establishing zoning at time of annexation. That would require action by the Planning Commission to study the zoning, but the Commission member in question could excuse himself from the pre-zoning action. Councilmember Leighan added there was a 10,000 population threshold on conflict of interest issues.

Councilmember Leighan asked if staff had done any analysis regarding the drainage requirements, roadways, and the overall financial burden the city could be taking on. Ms. Hirashima responded that staff had discussed doing a more detailed fiscal impact analysis and was prepared to analyze road improvement costs anticipated for that area and known drainage projects. The analysis would be completed by the time this was presented as a 60% petition. The area from 152<sup>nd</sup> to 172<sup>nd</sup> was part of the Smokey Point Road Improvement District, so there had been some mechanism for completing the Smokey Point Boulevard improvement. She noted there was an expectation on the part of some of the property owners that this alleviated them from any future mitigation fees to the county or the state. The city requires traffic mitigation, so it needs to establish what commitment the county had made with regards to the RID (Road Improvement District). Regarding drainage issues, the city currently had a contract with Pertee Engineering to review the drainage plan for the northern area. Mr. Winckler added that the study had not been completed and the boundary of the study area could be extended if necessary. Councilmember Leighan requested a cost analysis of that study.

Councilmember Wright asked about the consequences of separating the petitions, as this would require a recalculation of the percentages, which the signatures that had already been gathered represented. Ms. Hirashima responded that both petitions would have to have to initiate a 60% petition and circulated for new signatures.

Councilmember Herman spoke to the conflict of interest issue, noting that when the council went through the comp plan, the designating of land uses was a legislative action, so even if a councilmember had an interest, he or she did not have to step down. Mr. Weed agreed that the comp plan process of establishing land uses was considered to be a legislative process as opposed to quasi-judicial one so the conflict of interest and appearance of fairness doctrines did not apply. What was referred to earlier was the provision of services between the Planning Commission and property owners. Councilmember Herman questioned whether there would be any supplying of services here. Mr. Weed reiterated that the designation of land uses was a legislative function. There would be no question of a publicly appointed official contracting with the city, which would bring the action under the conflict of interest guidelines.

Ms. Hirashima clarified that the provision "subject to pre-zoning" applied to both areas. The issue of comp plan designation applied to the area west of I-5, only.

**MOTION** by Bartholomew, second by Wright, to accept the 10% petition PA 9909042, with the annexation being subject to the city's bonded indebtedness, comprehensive plan and zoning; and the area's parameters being 152<sup>nd</sup> Street N.E. on the south, 43<sup>rd</sup> Avenue N.E. on the East, I-5 on the west and 164<sup>th</sup> Street N.E. on the north (Arlington south city limits). Councilmember Dierck voted nay because she desired a workshop, wanted to see the groundwater study from the county, and had concerns about draining an aquifer because it could never be restored. All others voted aye. Motion carried (6-1).

3. 10% annexation notice of intention, 164<sup>th</sup> Street /I-5 West Annexation. PA 9909043.

**MOTION** by Bartholomew, second by Wright, to accept the 10% petition PA 9909043, with the annexation being subject to the city's bonded indebtedness, comprehensive plan and zoning; and the area's parameters

being 156th Street N.E. on the south, I-5 on the East, Burlington Northern Railroad on the west, and 164th Street N.E. on the north (Arlington south city limits).

Councilmember Herman asked about the process for the two petitions. Ms. Hirashima responded that comp plan designations would have to come first. The petitioners wanted to know what the designation of their property would be when it was annexed into the city. That would be resolved first by the Planning Commission then by the council. The 60% petition could not be brought to council until that was resolved. She added that this area was part of a sub area plan, specifically it was part of Snohomish County's Phase 2 planning, which currently included areas that were in the City of Arlington, the City of Marysville, and parts of unincorporated Snohomish County. If the area in question annexed, those decisions were the city's and the city also had the ability to designate land use outside the city limits. Those did not become effective until property was annexed in. Councilmember Herman expressed concern about going forward without a clear understanding of the bigger picture for this area and how the designations would fit in. Ms. Hirashima responded that one reason for separating the petitions was that it was unclear where there would be potential conflicts with the county. One reason the petition was initiated was because the Phase 2 planning effort was going so slowly, it was currently in its third year.

Councilmember Herman suggested it was important to have well-coordinated land use planning but in timely fashion. He questioned whether delaying action on the petition until the next meeting would allow staff to obtain an indication from the county regarding possible conflicts and a prognosis for resolving those issues. Ms. Hirashima noted she had spoken to the county about splitting the annexation boundaries and they indicated they were supportive. If the proposed action was delayed, staff could obtain further input. She gave a brief review of the problems the county had encountered in its planning process. Councilmember Herman expressed support for continuing this action to allow time for additional information to be obtained.

Councilmember Pedersen asked about the timing of annexation petitions, in general. Mr. Weed responded there was no set time by which petitioners needed to submit the 60% petition, except for the requirement that the signatures be "fresh." In certifying the petition, the assessed valuation could not be counted for any signatures that were older than six months.

Councilmember Roark stated he had been contacted by citizens regarding the county's planning process and had contacted several elected officials at the county level and the county's Planning Department. The snag was at the county level and they were attempting to work through it. The city could have someone from the county attend a meeting and speak to the issue, but he expected the situation to remain the same, with no break in the logjam.

Councilmember Pedersen supported delaying action for two weeks. Councilmember Herman agreed, noting the information he would want to see: feedback from the county regarding coordination of land use planning in order to prevent conflicts or problems; a schedule which would show that the comp plan planning process could actually be completed and land use designations arrived at within six months, which would allow petitioners to go forward and gather signatures and would allow council to act on the petition when it came back.

**MOTION WITHDRAWN.** Councilmember Bartholomew withdrew the motion. Councilmember Wright withdrew her second if the item were on the agenda for the next meeting.

**MOTION** by Wright, second by Bartholomew, to continue the discussion of PA9909043 until the October 25th council meeting to allow time to inquire of Snohomish County regarding the planning process and timeline.

Councilmember Roark stated he would not support the motion because of the reasons he stated earlier; the requested information was redundant and simply delayed the process.

Councilmember Dierck asked the maker of the motion to include a request for a groundwater study from the county, which would save the city money by not having to do it in that area. Ms. Hirashima noted that would be part of the background study during the comp plan process; it would be reviewed in connection with a land use proposal. Councilmember Wright made no change to her motion.

**VOTE ON MOTION.** Roark and Leighan voted nay; all others voted aye; motion carried (5-2).

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4. Utility variance; Brutus & Associates, East of 51<sup>st</sup> Avenue, South of 152<sup>nd</sup> Street. UV 99-08.

Staff had no additions to the agenda bill.

Councilmember Dierck asked about the school district's response to this request. Mr. Weed noted that this request was for a variance from the RUSA code's density requirement and was similar to the one council deliberated and decided upon at the October 4th meeting. If council approved this request, he recommended that it make findings in support of the decision, similar to the ones it made previously.

Mayor Weiser called for comments from the audience.

Jeff Seibert 5004 80th Street, noted that on other variances the city had required the developer to pay mitigation fees; there were none called out for this one. Mr. Zabell noted that the city and county had an interlocal agreement covering impact fees for developments outside the city, as was the case here. The city would not 100% of the transportation impact fees, for example.

CORRECTED: SEE 10/25/99 MINUTES

Rick McCardle, Shockey Brent, Inc., 2924 Colby, Everett, spoke on behalf of the developer and distributed a handout to council. He stated they did not expect the full 109 water and sewer hookups. They did not disagree with the city's desire to control development within the UGA; this policy was being pursued in other cities, also. He noted there were different ways to calculate density and in this project it made a difference of 20 lots so the method of calculation was important to them. He referred to his handout, comparing the density calculations under the city's comp plan, 84 d.u., and under RUSA, 98; both anticipated the density bonus for a P.R.D. Mr. McCardle then referred to three old P.R.D. projects in which his office had been involved. He stated these were evidence that the city had approved utility service to developments where the lot yield exceeded the comp plan. He asserted that the RUSA plan was the governing one for this application.

Mr. Weed noted that on the application for the variance, applicant had indicated the property was outside the city's Rural Utility Service Area. Mr. McCardle agreed that was correct. Mr. Weed then noted that applicant was asking the city to apply the RUSA plan to an area outside RUSA. The property was within the UGA and staff had appropriately recommended comp plan densities. He repeated that the developer was asking for RUSA densities even though the property was not within the RUSA boundary. Mr. McCardle requested that the same implementation rules which applied to RUSA be applied to this project; the city had set a precedent by exceeding its own comp plan calculations in the past.

Councilmember Dierck asked for a better map than what was provided in the packet.

Councilmember Pedersen noted the role of the council was to approve or reject the request for a utility variance, not to calculate the densities. Mr. Weed agreed, noting staff had recommended approval consistent with certain densities, not approval of a certain number of connections or lots.

Councilmember Herman commented that Mr. McCardle's use of the density calculation for Harbor View Village, an in-city development, had no basis in logic and the arguments regarding RUSA were convoluted and inaccurate. Absolute adherence to the city's plan would result in no service at all to the development because it lay outside the RUSA boundary. Mr. Weed agreed that's what the city's code stated, thus the request for the variance. Under the circumstances, it made sense that densities and bonus densities be calculated on comp plan land use numbers. Ms. Hirashima added that when staff looked at the issue of how to apply density calculations from one jurisdiction to another, it was difficult to translate in terms of the zoning because the zoning codes were different between the jurisdictions. The area was zoned single family medium density, 4.5 du./acre. The only way to exceed 4.5 would be to apply the density bonus. So rather than trying to apply city zoning codes to a county project, staff recommended the development be allowed to go to the maximum of 5.21 du./acre without having to go through the process of meeting the city's density incentives. She felt this was a fair recommendation and beyond that, the city would be trying to impose its zoning incentives on a county development.

Councilmember Herman noted this issue had similarities to the previous request decided by council; he briefly reviewed the history and purpose of the RUSA and comp plans and emphasized that conformity was important.

**MOTION** by Herman, second by Roark, to approve utility variance request UV 99-08, subject to applicant meeting all provisions of the M.M.C., payment of all applicable fees, land use densities consistent with Marysville

Comprehensive Water, Sewer and Land Use Plans, compliance with annexation requirements per MMC 14.32.040, and that the plat be constructed to the City of Marysville road standards, and further directing the city attorney to draw an ordinance containing recitals similar to those set out in previous council actions. Dierck voted nay; all others voted aye; motion carried (6-1).

5. Utility variance; Pacific Rim Development, 3318 71<sup>st</sup> Avenue N.E. UV99-12.

Mr. Winckler gave the background information, adding that this project was in the area where the Phase 2 sewer trunk "D" extension was planned. It was in the P.U.D. water service area.

Mayor called for comments from the audience; there were none.

Councilmember Roark asked about the number of hookups being requested; Mr. Zabell replied that the "80" in the application had been completely crossed out and "46" written in. 46 was the number of sewer hookups being requested. No water hookups were requested.

Councilmember Dierck asked what was being done to address paragraphs 3 and 4 of the county's letter, the active bald eagle nest and the conflict with the neighboring development regarding the classification of wetlands. Ms. Hirashima responded that the county required the applicant do a habitat study regarding the eagle nest and also required them to reclassify the wetlands. Those issues were incorporated into the county's review of the project.

Terry Lindblom, 3559 S.E. Camano Drive, the applicant, testified they were required to allow a 50' buffer for the eagle nest and construction could not occur during certain times of the year to allow for nesting. The wetlands were reclassified, which is why the request went from 80 to 46.

Ms. Hirashima added that in this variance request there was a condition regarding entering into a contract. This was to secure a financial contribution toward the sewer Trunk D Phase 2, and was consistent with conditions imposed on at least two other applications which had recently come before the city.

Councilmember Herman noted that action on this request should contain the same recitals regarding the history of RUSA and the comp plan as before, with the additional requirement for a contract. Mr. Weed stated the contract would be consistent with the previous ones.

**MOTION** by Herman, second by Roark, to direct the city attorney to draw an ordinance containing the recitals previously referenced, and to approve utility variance UV 99-12, subject to the applicant executing an agreement with the city which would include the following:

- a. Mitigation of development impacts as required by city code.
- b. Development standards and land use densities consistent with the city plans and standards.
- c. Adherence with the land use densities contained in the Marysville Comprehensive Sewer, and Land Use Plans for the property.
- d. Compliance with the annexation requirements per MMC 14.32.040.
- e. Participation in Trunk "D" development, including, but not limited to, payment of a fee of \$372 per lot to be applied toward a regional lift station that would serve the subject property.
- f. Development of a collection system consistent with the city's Comprehensive Sanitary Sewer Plan.
- g. Compliance with City of Marysville road standards and consistency with the city's road network plan.

Councilmember Dierck voted nay, stating she wanted to see more of a layout in the packet regarding how the development was going to be done and also a letter from Washington State Department of Fisheries regarding the wetland. All others voted aye. Motion carried (6-1).

6. Utility variance; Grande Ronde Development Corporation, SR528 NW corner of SR528, NW corner of SR9. UV99-13.

Mr. Winckler emphasized the owner would be required to install a privately owned booster pump for approximately 35 of the lots in the development. This was a unique requirement and applied only to this project.

Jack Molder, David Evans & Associates, Everett, consultants for the applicant, advised council that applicants had no problems with any of the conditions that had been discussed. The plat was consistent with both the county and city zoning requirements. He asserted the engineering issues could be worked out during the plan review process. He had met with both the city and DOT regarding road improvements, and felt a resolution was at hand regarding access to SR 28.

Councilmember Dierck asked if a small plat map was available; there was not.

No one else from the audience wished to address council.

Councilmember Herman noted that any motion should include the recitals of the history of the city's planning and direct they be included in any ordinance regarding this variance.

Councilmember Dierck asked about the detention ponds. Mr. Molder responded that two ponds were required because the property drained into two separate areas. They had been designed in accordance with the Department of Ecology requirements for quantity and quality of runoff. The site had been reviewed by a biologist, who found no critical areas.

**MOTION** by Herman, second by Roark, to direct the city attorney to draw an ordinance containing the recitals previously referenced, and to approve utility variance UV 99-13, subject to the applicant meeting all provisions of the M.M.C., payment of all applicable fees, land use density consistent with the Marysville Comprehensive Water, Sewer and Land Use Plans, compliance with annexation requirements per MMC 14.32.040, and that the plat be constructed to the City of Marysville road standards. In addition, the following conditions are required:

- a. Mitigation of development impacts as required by city code.
- b. Development standards and land use densities consistent with the city plans and standards.
- c. The owner shall be required to install privately owned individual booster pump at each service located above 440 elevation contour (approximately 35 lots). Static pressure at the meters located at or above the 440 elevation would be less than the 30-psi required by the Department of Health.
- d. Development of a collection system consistent with the City's Comprehensive Sanitary sewer Plan.
- e. The applicant shall be required to meet separation and access standards for access to SR 528.

Councilmember Pedersen suggested b) should read "Development standards and land use densities consistent with the City plans and standards." The maker and seconder of the motion agreed.

**VOTE ON MOTION:** motion carried unanimously (7-0).

7. Utility variance; Darling Investment, 3332 Sunnyside Boulevard. UV99-15.

Mr. Winckler gave the staff presentation.

Councilmember Dierck asked if this project would affect the flood plane; Mr. Winckler responded in the negative, noting that this was west of the area for sewer trunk D, Phase 2, and the alignment for that was above the flood plane.

Rick McCardle, representing the applicants, explained the topography area, concluding the project was above the flood plane. The wetlands on the toe of the slope were category 1 and the county required the entire slope and part of the top of the slope as a setback. The developer was also working with the county on the ESA issue regarding Chinook, as the wetland was classified as primary habitat for that specie.

Mr. McCardle added that this development was a straight plat, not a P.R.D. and his clients would have no objections to the city's requirements.

**MOTION** by Roark, second by Bartholomew, to direct the city attorney to draw an ordinance containing the recitals previously referenced, and to approve utility variance UV 99-15, subject to the applicant executing an agreement with the city to include the following:

- a. Mitigation of development impacts as required by city code.
- b. Development standards and land use densities consistent with the city plans and standards.



- c. Adherence with the land use densities contained in the Marysville Comprehensive Sewer and Land Use Plans for the property.
  - d. Compliance with the annexation requirements per MMC 14.32.040.
  - e. Participation in trunk "D" development, including, but not limited to, payment of a fee of \$372 per lot to be applied toward a regional lift station that would serve the subject property.
  - f. Development of a collection system consistent with the city's Comprehensive Sanitary Sewer Plan.
  - g. Compliance with City of Marysville road standards and consistency with the city's Road Network Plan.
  - h. Dedication of necessary utility easements.
- Councilmember Dierck voted nay, all others voted aye, motion carried (6-1).

### **CONSENT AGENDA**

1. Approve October 11, 1999 claims in the amount of \$315,983.44 paid by check nos. 48203 through 48310.

**MOTION** by Pedersen, second by Roark, to approve item 1. Councilmember Leighan abstained. Motion carried (6-0-1).

### **Legal**

None.

### **Ordinances & Resolutions**

1. An ordinance of the City of Marysville granting a utility variance for Belmark Industries, Inc. for property located at 9409 35 Avenue N.E., Marysville, Washington.

Mr. Weed noted that a revised copy of the ordinance had been distributed to council this evening and he reviewed the changes which were drafting and clerical changes to add further clarity to the city's decision.

Councilmember Leighan advised that since he had excused himself from the deliberations and action on this issue he would not be voting on this ordinance.

**MOTION** by Herman, second by Wright, to approve Ordinance 1942. Dierck voted nay; Leighan abstained; motion carried (5-1-1).

Mayor Weiser called for a five-minute recess.

### **DISCUSSION ITEMS**

1. Draft graffiti ordinance.

Mr. Weed reviewed the draft ordinance, pointing out that where the perpetrator could not be caught and prosecuted, the responsibility for abatement would fall to the property owner. The city could do it then charge the cost back to the property owner. The ordinance contained no restrictions on commercial businesses regarding the selling of spray paint and markers to juveniles. Only Tacoma and one city in California had ordinances which prohibited sales. He emphasized this was a discussion item, only, and council needed to consider the impact of such an ordinance on businesses and perhaps seek their input.

Councilmember Roark asked how many perpetrators the city caught per year; Mr. Zabell noted there were very few, as it was necessary to catch them in the act. Councilmember Roark suggested the ordinance would serve to penalize property owners for graffiti done to their property. He questioned the option of enhancing enforcement efforts. Mr. Weed responded that the ability of the Police Department to catch those who were doing graffiti was subject to the amount of manpower and budget constraints; that would be a policy issue for council. Increased enforcement would help to eliminate the necessity for this type of ordinance. The aim of this kind of legislation was not to punish property owners but recognize that if graffiti got started and was not abated and eliminated in a short time it became self perpetuating.

Councilmember Roark asked what penalties the city had in place and questioned the possibility of making them stiffer. Mr. Weed responded that citations could be issued

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for malicious mischief and defacing property. The city could make the crime a misdemeanor which would mean a \$5,000 fine and up to a year in jail.

Councilmember Roark stated he would not support the ordinance because it was a form of punishment for the property owner and amounted to double taxation because it asked them to pay for something that the Police Department should be protecting them from.

Councilmember Wright responded that graffiti had become an increasing problem. Most businesses were willing to take care of their property; this ordinance spoke to the ones that were not. She recommended a public hearing to discuss it, noting that unabated graffiti tended to expand.

Councilmember Leighan agreed that untended graffiti grew, but expressed concern about penalizing the victim of a crime. He mentioned Graffiti Control Patrols and agreed that a public hearing would be in order.

Councilmember Pedersen stated she did not like graffiti but did not want to penalize property owners. She noted that the majority of graffiti was on the freeway stanchions and sidewalks and questioned asking the state to clean it up. She did not want to see the city invest heavily in employee time to abate it. She suggested a proactive approach, including a special coating that graffiti would not adhere to.

Mr. Zabell mentioned that the strip mall building to the west of Safeway had been hit hard, but that had been cleaned up fairly well. Staff had been pursuing voluntary compliance. He added that it took just a few graffiti locations to make the city look "trashed." It appeared widespread but usually was the work of a couple people who were hard to catch.

Councilmember Roark stated he had used "graffiti stop" on buildings in Seattle; it was difficult to apply, looked horrible on most surfaces, stung the eyes, and was prohibitively expensive. It did work and he suggested it could be used on public signs. Allowing a reasonable amount of time for the property owners to do the clean up would be appropriate if an ordinance were approved. Mr. Zabell agreed to research the products that were available. Councilmembers also suggested using recycled paint, which was available free from the county.

Councilmember Pedersen asked about posting "no cruising" signs which referenced the ordinance and the penalty.

Councilmember Bartholomew expressed support for a public hearing that would be well advertised to homeowners and business owners. She questioned if the existing code contained restrictions regarding the sale of spray paint cans, such as their being kept behind the counter. Mr. Weed responded that compliance was voluntary.

Jeff Seibert, agreed business owners should not be punished. Public service time could be used to clean up graffiti.

Councilmember Bartholomew added that community service for local offenders might be used, similar to the county's roadside cleanup crews. Mr. Weed noted this would carry the potential for liability and would depend on the form of supervision or monitoring.

Councilmember Roark asked about the advertising for the public hearing; Mr. Weed responded that it could include the entire proposed ordinance, publication of which would be expensive, or a bulleted summary. The city could advertise in any manner it wished. Councilmember Roark supported publishing a summary of the ordinance. Councilmember Bartholomew suggested utilizing the public television channel.

**MOTION** by Wright, second by Bartholomew, to hold a public hearing to consider approval of the proposed graffiti ordinance at the November 8 council meeting, with extensive advertising of same including notices to businesses, the Chamber, service clubs, the newsletter, and Channel 28.

Councilmember Dierck suggested this could be delayed, stating many items had been placed on the agenda recently because it was campaign time; she desired issues to be placed there for the right reasons and felt this one could wait. Councilmember Bartholomew noted the Police Chief had an interest in seeing this addressed as there was a problem in the city; Councilmember Roark concurred.

On roll call vote, Herman, Leighan and Dierck voted nay, all others voted aye, motion carried (4-3).

## 2. Fee and rate discussion.

Mr. Zabell reviewed the list of fees for service, noting staff was not necessarily proposing they be raised. Some would be impacted by passage of I-695 and some made sense to subsidize. An example was the fee to take a civil service test, the cost of renting the video and providing the testing was more than the city recouped from the \$20 testing fee. If the city raised its fee it would be higher than other municipalities in the area and would serve to discourage the applicant pool. He felt it was important for the city to stay competitive. He felt that for the most part, the fees did cover the cost of providing the service; they were not a means of raising revenues. Animal licenses were an example of a requirement that citizens would simply ignore if the fee were too high. He pointed out that for the first four taxes listed the city did not provide a service, it taxed the services provided by others inside the city. To go beyond the property tax limit required a super-majority vote. The preliminary budget anticipated adding additional FTE's in the Police Department.

Mr. Zabell further noted that some fees were not set by the city but were set by agreement or were simply pass throughs. He encouraged councilmembers to review this list in conjunction with the one Mr. Erickson had provided last week. The planning fees were not included as they were scheduled to be discussed at a Planning Commission public hearing on October 12. Engineering fees would be available on October 25.

Councilmember Roark asked about the fee charged fireworks stands; Mr. Zabell agreed to research this. The notation "no more" by the baseball fee indicated that the city no longer organized the youth baseball leagues. Several councilmembers expressed support for the city getting back into managing the baseball. Mr. Zabell responded that the proposed budget contained some money to support that but Little League would have to request the city's involvement.

Councilmember Pedersen noted the city's business license fee that been at \$20 for a long time and asked what other cities were charging. Mr. Zabell noted the city did review this last year and had forecasted revenue from business licenses at \$65,000; that did not materialize. This would be discussed further at the next meeting.

Councilmember Pedersen asked about fingerprinting; Mr. Zabell replied that 600 people were done in 1998, including the child identification program, food service workers, adult volunteers working with children, etc. He added that some fees, like the fee charged per photocopy, were limited by the state. The court fees would be reviewed on the 25<sup>th</sup>.

Councilmember Pedersen suggested giving away the remaining copies of the centennial books as there was a cost associated with storing them. She noted that the city's agreement with Arlington for animal control and shelter fees expired at the end of the year; she recommended researching the possible use of Everett's services.

Councilmember Herman noted that recreational fees and senior center fees had generally been self sustaining but not profit making. He suggested this was an appropriate level for those fees. He questioned whether the fees were sufficient for next year or whether they needed to be revised. Mr. Zabell noted that some of the fees were not covered in the code and were not set by council. They were not a rate; the city was simply passing on the cost of providing the service. Mr. Weed added that where the cost of providing a service was readily ascertainable, those could be passed through. Where the city had to second-guess how the actual cost was calculated, then it ran into problems.

### INFORMATION ITEMS

#### 1. Mayor's business

- Mayor Weiser advised council that John McDonald, owner of Marysville Rental, and Ted Hayes, a long-time local businessman had both passed away.
- There would be a retirement party for four former employees, representing 113 years of service to the city, on October 22<sup>nd</sup>.

#### 2. Staff's business

Mr. Winckler

- Reminded council that the Utility Committee meeting was Thursday October 14.
- Road standards would be on the October 25<sup>th</sup> agenda.
- Public Works and Planning had begun implementing the winterization requirements for plats. A number of things were required to be in place by November 1<sup>st</sup>. Staff had done an extensive notification process to developers, indicating that stop work orders would be issued until the requirements were complied with.

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- Public Works had utilized an Employee of the Quarter program for three years, but had been notified by the Finance Director that the watches being awarded were being purchased without a policy in place. He recounted the requirements for recognition and stated the watches were held in high regard by the recipients.

**MOTION** by Roark, second by Leighan, to authorize \$257 in payment of watches for the Employee Recognition Program in the Public Works Department. Motion carried unanimously (7-0).

Councilmember Pedersen suggested the recognition program was an excellent idea and should be captured in a policy that would allow all departments to acknowledge exceptional performance. Mr. Weed agreed it would be a good idea to have a financial management policy which outlined the parameters of a recognition program. The key was that in order to use public funds for this kind of item there needed to be a showing that there was some benefit that the city and citizens received from the "payment" that was over and above regular salary. Mr. Zabell added that a committee was being formed to look at a proposed policy; that would come to council in December. This review would also include department lunches, travel and credit cards.

Councilmember Bartholomew suggested the state examiners could look askance at such expenditures. Mr. Weed responded there were at least two Attorney General opinions about the use of public funds for gifts to a city's own employees. Based on the description given by Mr. Winckler, he felt there would be no problem as long as the city had a written policy in place.

### 3. Call on councilmembers

#### Councilmember Pedersen

- The city's new librarian is Dan Howard. The new Director of Sno-Isle is Art Weeks, from upstate New York. Sno-Isle will host an open house to introduce him.
- The Health District Board will meet on October 12.

#### Councilmember Dierck

- Asked when council would review park fees; Ms. Hirashima advised it would be next year due to the work needed to prepare for a public hearing. Councilmember Dierck expressed concern that the city would be losing money.
- Requested a plat map be made a part of the agenda material for any future utility variance hearings.
- Requested minutes of the meetings between the city and the Tribes; Mayor Weiser responded that minutes were not taken at the meetings. Councilmember Dierck felt that the council, as a legislative body, needed to be informed and requested that minutes be kept.

#### Councilmember Roark

- Suggested the Tribes be consulted before regarding the taking of minutes.
- Expressed appreciation for the dedication and work of city staff members, particularly Mr. Winckler, Ms. Hirashima and Mr. Zabell. He suggested any awards program should extend to their level so they could be recognized for efforts "above and beyond."

#### Councilmember Herman

- Commented that plat maps do not always exist for utility variances as other agencies may be doing the permitting. Also, any maps at that stage would be preliminary and not an indication of what actually would happen in a development.
- Expressed disappointment at attempted "end runs" around the city's utility planning that might jeopardize the city's ability to provide services in future. He requested a contingency plan be put in place that could be implemented if the city detected an event that compromised its ability to implement comprehensive water/sewer plans and long range plans outside the city limits. He suggested an emergency ordinance should be readied that would withhold utility service that's not already vested outside the city limits and make this known to the development community. Councilmember Roark concurred. This would not be a moratorium, but a "retraction" of utility service back to the outer limits of the city, thus requiring any new development to annex and comply with all city codes. This action should be held in readiness for the city's use when needed.

### ADJOURN TO EXECUTIVE SESSION

Council adjourned into Executive Session at 10:15 to consider one real estate matter.

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**RECONVENE AND ADJOURN**

Council reconvened into regular session, took no further action, and adjourned at 10:59 p.m.

Accepted this 25<sup>th</sup> day of October, 1999.

David Weiss  
Mayor

Mary Swenson  
City Clerk

Chris McNeill  
Recording Secretary