

**MINUTES RECAP
MARYSVILLE CITY COUNCIL - REGULAR MEETING
OCTOBER 2, 2000**

000214

CALL TO ORDER/FLAG SALUTE	7:10 p.m.
ROLL CALL	All present
MINUTES OF PREVIOUS MEETING 1. September 25, 2000 city council	Approved as corrected.
AUDIENCE PARTICIPATION -Vicky Stevens, Century 21 Commercial Division, regarding interest by Sounders Soccer Team in 80 acres near Smokey Point. -Jeff Seibert, 5004 80 th , regarding right-of-way for State Avenue and public input at council meetings.	
PRESENTATIONS/PETITIONS/COMMUNICATIONS None.	
CONSENT AGENDA 1. Approve October 2, 2000 claims in the amount of \$348,124.65 paid by check nos. 54478 through 54630.	Approved
ACTION ITEMS	
REVIEW BIDS None.	
PUBLIC HEARING None.	
CURRENT BUSINESS None.	
NEW BUSINESS 1. Security Camera 2. Water/Sewer Service outside city limits	Approved Approved study of issue in detail at spring retreat.
LEGAL MATTERS None.	
ORDINANCES AND RESOLUTIONS 1. An ordinance of the City of Marysville authorizing the condemnation, appropriation, taking and damaging of land and other property for the widening of State Avenue from approximately 116 th Street NE to approximately 136 th Street NE. 2. A Resolution of the City of Marysville granting a utility variance for David Mills for property located at 4605 100 th Street NE, Marysville, Washington. 3. A resolution of the City of Marysville granting a utility variance for Nathan and Sherri Kelley for property located at 12412 54 th Drive NE, Marysville, Washington.	Approved Ordinance 2334 Approved Resolution 2005. Approved Resolution 2006
INFORMATION ITEMS	
1. Mayor's business Re-appointments: - Steve Muller to the Planning Commission - Bob Bell to the Park Board - Ray Stanton to the Park Board 2. Staff's business 3. Call on councilmembers	Approved. Approved. Approved.
EXECUTIVE SESSION 1. To discuss pending litigation, two personnel issues, and a real estate matter.	No Action Taken.
ADJOURN	11:35 p.m.

**MINUTES
MARYSVILLE CITY COUNCIL - REGULAR MEETING
October 2, 2000**

CALL TO ORDER/FLAG SALUTE

The council met in Executive Session prior to the regular meeting to discuss real estate. The regular meeting was convened by Mayor Weiser at 7:10 p.m. in the Council Chambers, and the assemblage joined in the flag salute. A voice roll call was conducted. Attendance was as follows:

Councilmembers Present:	Administrative Staff present:
Dave Weiser, Mayor	Dave Zabell, City Administrator
Mike Leighan, Mayor Pro Tem	Steve Winter, Police Commander
Shirley Bartholomew	Gloria Hirashima, City Planner
Jim Brennick	Grant Weed, City Attorney
NormaJean Dierck	Ken Winckler, Public Works Director
Mike Leighan	
Donna Pedersen	
Suzanne Smith	
John Soriano	

MINUTES OF PREVIOUS MEETING

1. City Council Meeting, September 25, 2000.

Councilmembers noted the following corrections:

- Page 2, regarding price of the speed cushions, revise to read "The cushions were approximately \$3,000 each and would need to be installed every 400'."
- Page 4, regarding MSAC, revise to read "Determine if MSAC or other group of interested citizens was interested in the speed gun option."

MOTION by Leighan, second by Bartholomew, to approve the minutes of the September 25 meeting as corrected. Motion carried unanimously (7-0).

AUDIENCE PARTICIPATION

Vicky Stevens, Century 21 Commercial Division, 13322 Highway 99, Everett, advised that the owner of the Sounders professional soccer team was interested in purchasing 80 acres near Smoky Point, which had recently been annexed into the city.

Jeff Seibert, 5004 80th, said that part of the right-of-way being purchased along State was for settling ponds for the project and did not actually abut State. He requested that the Mayor ask for public input at the meetings before accepting motions.

PRESENTATIONS/PETITIONS/COMMUNICATIONS

None.

CONSENT AGENDA

1. Approve October 2, 2000 claims in the amount of \$348,124.65 paid by check nos. 54478 through 54630.

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

ACTION ITEMS**Review Bids**

None.

Public Hearing

None.

Current Business

None.

New Business

1. Security camera

Commander Winter gave the background presentation, noting the cost of the new camera would be \$2788 and Tribal gaming funds would be used. Dispatch would monitor and control the device.

The Mayor called for public comments; there were none.

MOTION by Bartholomew, second by Soriano, to approve the purchase of the additional security camera, as proposed. Motion carried (7-0).

2. Water/Sewer service outside the city limits

Mayor Weiser noted that Councilmembers Dierck and Smith had requested this item be placed on the agenda. An in-depth briefing on water/sewer issues had been given at the April retreat; the Utility Committee recommended a workshop setting to continue discussing this issue in depth. Because of the considerable amount of research and information that would be needed to support this discussion, and because staff was focused on preparing the budget, the Executive Department recommending holding the workshop on this issue at the end of November.

Councilmember Dierck stated she had already received several pieces of data - a map showing the city's commitments for utilities, information from Finance regarding the real estate excise tax, building permit activity from the Marysville Community Development Report - and expressed support for holding the workshop in October. She had calculated the amount of funds which would have come into the city for traffic and parks mitigation had the recipients of utilities been required to annex first, and it was sizeable. She did not want that loss of revenue to continue for two more months. Having the recipients of utilities inside the city would also help with levies, GO bonds, etc.

Councilmember Bartholomew expressed support for a November date and mentioned several pieces of information that council would need to review in preparation for such a discussion. All suggestions by councilmembers of information they would want to review as part of the in-depth workshop on this topic are set forth below.

Councilmember Leighan questioned whether the map shown by Councilmember Dierck included all of the LID's and ULID's. There were many unfulfilled commitments, and there had been a recent court ruling, which put the burden on the city to provide utilities. He mentioned the countywide planning for water and the need to understand how certain areas would be served if the city chose not to extend utilities beyond the city limits. Making such a decision would be a major policy change, which would require major in-depth research and discussion.

Councilmember Smith expressed support for moving ahead with the discussion. She asked if impact fees for roads and parks came to the city from the county under the Interlocal Agreement. Ms. Hirashima responded there was a mechanism for directing the money to the area where it was collected. The Transportation Service Area Agreement covered an area much larger than the UGA and the county council determined which improvements they were going to approve as part of their 6-year TIP. There was no agreement that funds collected would be allocated directly back to the area that generated it, but the agreement was reciprocal and covered collection of traffic impact fees.

Councilmember Smith asserted that an interlocal was needed that funneled money back to this area because that's where growth was occurring. She also supported efforts to encourage the county to adopt school mitigation fees at the same level as the city's. She asserted her concerns were about taking care of Marysville's needs and it was not an anti-growth issue.

Councilmember Pedersen observed that there was no guarantee that making such a policy change would force annexations into the city. The city received income from sewer hookup fees as well as monthly service fees. Under the CWSP, if the city chose not to serve those in the surrounding areas, the residents could request service from Arlington, Lake Stevens Sewer District, or the PUD. When that happened, that income would be permanently lost to the city. Marysville did not have a major source of revenue like other cities - Everett Mall, Twin City Foods, Arlington Airport - so lost revenues from utilities had to be considered carefully. She mentioned an interlocal the city had negotiated with the county about three years ago; Ms. Hirashima noted that was specific to the Portinga annexation and had sunset.

Mr. Zabell reiterated that a thorough treatment of the topic would require a huge investment of staff time. There were several other very important

and complex issues that council needed to address in the near future. He suggested a poll of council to see if there was interest in investing its time and staff's time in this issue.

Councilmember Leighan noted that each councilmember constituted one-seventh of the council and a concern or interest held by one or two councilmembers may not constitute the view of the majority of the council. This was not a "new" council, as it had been in existence since 1891. There were some new members but, in the words of a former councilmember, "they hadn't been around long enough to know what they didn't know." There was a known morale problem at the staff level and council needed to accept responsibility for that by the extra work it requested staff to perform.

Councilmember Smith suggested the discussion could begin with the information that was already available and could continue over time.

The Mayor called for public comments, noting the issue was whether the council should hold the workshop.

Neslen Welch, 1507 49th PL SW, Everett, stated he owned three acres of property in the county at 67th Avenue and 44th Street. His plans to fully develop the property with utilities constituted his retirement plan. He was willing to annex into the city to assure utility service. He did not support the city terminating its current practice of serving water and sewer outside the city limits. Councilmember Brennick advised that he had sold Mr. Welch his property and agreed his statements were correct.

Bud Darling, 1916 Grove, stated there were 6,164 sewer services inside the city and 4,805 outside; 6778 water services in the city and 7,790 outside. The city's practice of supplying utility service outside the city limits had been going on for a number of years. In the Sunnyside area three years ago, a vigorous effort had been made to achieve annexation; only 37% were in favor. Many areas would be willing to annex but could not because they could not "leapfrog" those areas that wished to remain in the county. He did not support the city changing its policy.

Greg Wright, 4802 76th St. NE, took exception to Councilmember Dierck's comment that she wanted to hear from citizens and not just industry. He emphasized that he was a citizen of the city, not just a builder. He felt this, like the school mitigation fees, was a no-growth measure. He urged council to drop the issue and not hold a workshop; many people had made investments based on the city's current policy. Councilmember Dierck responded that she had meant that she hoped to hear from as many citizens as representatives of the building industry.

Gary Wright, 5533 Parkside Drive, stated he was a citizen of the city. He said that if mitigation fees were not being fairly allocated, that should be addressed, but discontinuing utility service outside the city was not the proper context for that discussion. Prohibiting further utility connections outside the city would be breaking the city's trust with the public and would constitute the most unfair action the city had ever taken. People had made investments in property based on maps promulgated by the city of where utility service could be expected. Repealing the RUSA would require Boundary Review Board approval. He did not support the workshop.

Dan Webster, 1326 5th Street, Emerald Real Estate Development, Inc., encouraged council not to take up this issue. He said he worked with many landowners whose property and property rights were being impacted often. He viewed this as an anti-growth or slow-growth effort. Many people had made investments in the area based on their assumption that they would be able to obtain utility service. Whenever a piece of property was developed, an agreement was signed to not protest annexation to the city. Many areas were willing to annex but could not because of leapfrogging.

Councilmember Smith stated she felt her role was to look at the totality and there were unmet needs. If the city put a moratorium in place, help would be available to a homeowner from Snohomish County. Mr. Webster emphasized that properties outside the city supported the city with hookup fees and by paying rates. This supported safer fire protection for all. When a PRD was done in the county, they paid for parks, safe walking areas to schools, school mitigation fees, and transportation fees.

Ron King, 3113 Sunnyside Boulevard, stated he had worked with Mr. Darling on annexation of the Sunnyside area, and had worked on it again recently, with the same results. He suggested that the city hold open houses on the subject of annexation as opposed to the workshop being proposed.

Jeff Seibert, 5004 80th St., supported going forward with the agenda bill. The city code said the city did not provide utility service outside the city limits; it was done through a variance procedure, which required justification. Present policy had been to accept any variance application. The problem was that service was being provided way outside the city and the area inside the city was being neglected. It was harder to get people to annex after they already live there and had utility service. He explained that he did not have sewer service at his residence, which was a direct result of the development next door and their failure to submit proper documentation on the work that was done.

David Toyer, 15128 76th SE, Snohomish, stated he represented the Master Builders' Association and encouraged council to not hold the workshop.

John McCoy, Executive Director of Governmental Affairs for Tulalip Tribes, 6700 Tulalip Drive, said the suggested workshop should have been held last spring. In June the Tribes made an offer to fund studies because they wanted to put in all the piping necessary to address their capacity issues. The offer still stood, but they were moving ahead without the city to put in another treatment plant. A regional approach would have been more desirable and could possibly have reduced the number of plants, which would ultimately empty into the Snohomish River. Because of failing septics on the reservation, they could not delay. If the city did not offer utility service outside the city that only meant that Lake Stevens and Arlington would need a larger treatment plants.

Orville Peterson, 2120 Island Avenue, Everett, spoke against the workshop, stating that for the city to come back now and say it was no longer going to offer utility service outside the city would be an injustice to those who had lived in the area and done business in town with the expectation that eventually they would be part of the city.

There being no one else wishing to speak, the mayor closed the public comment portion of the topic.

Additional councilmember comments included:

Dierck:

- One of her campaign platforms was "smart" growth, which was not occurring.
- There was a \$2,000 difference in school mitigation fees between the city and the county and the schools were over capacity.
- Small parks inside developments were underutilized; citizens wanted larger, open-space parks.
- The city also lost revenue on phone and PUD bills for areas that were not annexed in.

Brennick:

- He had worked for the PUD for 30 years and been a real estate agent for 20 years and this was a hot topic. Council should not hesitate to discuss the issue, review past commitments and determine if it wished to continue the current policy.

Leighan:

- School mitigation fees were different in the county and the city as a result of the deliberate action by this council to raise the city's fee. It was up to the School District to build schools, and it had not properly accounted for the last \$21 Million bond issue.

Pedersen:

- If the city had never started utility service outside the city limits, that would be one thing. But people had made investments over a number of years based on the city dangling the promise of utility service within the RUSA boundary.
- If mitigation fees were the real concern, then the city should lobby the county for higher fees, but it should not try to achieve that by cutting off people's rights to use their property.
- She inherited a moratorium situation when she first came on the council and it had led to distrust, frustration and litigation.
- She disagreed that the benefit outweighed the cost of requesting staff to undertake this work product. It would take an immense amount of work to review and analyze the years of agreements.
- If the intent was to force annexation, that would not be achieved, because the majority who had utilities did not see a benefit in annexing into the city.

Bartholomew:

- The city's history of supplying water and sewer service outside the city went back to the 60's.

MOTION by Dierck to set a workshop on this issue for the 3rd week of October. Mayor Weiser advised he would conduct the straw poll prior to accepting any motions.

The Mayor conducted a straw poll on whether the issue should be pursued further. Leighan, Pedersen and Bartholomew said no; all others said yes.

MOTION by Pedersen, second by Bartholomew, to schedule a retreat in the spring to study this topic, thus allowing staff

CORRECTED: see 10-9-00
MINUTES Additional Comments

ample time to amass the information required. Dierck and Smith voted nay; all others voted aye; motion carried (5-2).

Information requested by councilmembers in support of the workshop on this topic included:

- Analysis of the city's contractual agreement with Arlington.
- Same re Tulalip Tribes.
- Same re Lake Stevens Sewer District.
- The county's charges for drainage fees. \$30 going to \$65?
- What GMA required the city to do to accommodate growth in the Urban Growth Area. If the city stopped serving the surrounding areas, would it have to contract its urban growth boundary? If so, what would that do to densities in the city? If not, could other utility providers come into the city?
- Countywide water service plan (CWSP).
- Analysis of lost revenues (when those who would have received service get it from Arlington, Lake Stevens, PUD, etc.).
- Analysis of the impact on the city's comp plan and water comp plan.
- Updated land valuations by Snohomish County Assessor.
- A listing of all existing commitments.
- A review of all past agreements that might be affected.
- An explanation of how money is collected now - values set by Assessor, collected as taxes, paid into county's General Fund, then disbursed out to cities.
- Listing of LID's and ULID's.
- Listing of all recovery contracts outside the city limits.
- Agreement with Fire District 12.
- A review of the utility rate structure. This was based on a certain number of connections inside and outside the city limits. The city is facing \$50 million of system upgrades over the next six years, almost all of which were the direct result of new state and federal water regulations that the city did not currently meet. The city now had an equal number of residential connections in and out of the city. An analysis would have to be done on what a change in the mix would do to rates. People outside the city pay for more their utilities.
- Joint Operating Agreement between the city, Tulalip Tribes, and PUD.

Ordinances & Resolutions

1. An ordinance of the City of Marysville authorizing the condemnation, appropriation, taking and damaging of land and other property for the widening of State Avenue from approximately 116th Street NE to approximately 136th Street NE.

Mr. Winckler advised staff was looking at 5 strip areas, 6 easements, and two retention ponds. No homes were involved.

MOTION by Pedersen, second by Bartholomew, to adopt Ordinance 2334. Motion carried (7-0).

2. A Resolution of the City of Marysville granting a utility variance for David Mills for property located at 4605 100th Street NE, Marysville, Washington.

MOTION by Bartholomew, second by Brennick, to approve Resolution 2005. Dierck and Smith voted nay; all others voted aye; motion carried (5-2).

3. A resolution of the City of Marysville granting a utility variance for Nathan and Sherri Kelley for property located at 12412 54th Drive NE, Marysville, Washington.

MOTION by Bartholomew, second by Leighan, to adopt Resolution 2006. Dierck and Smith voted nay; all others voted aye; motion carried (5-2).

LEGAL MATTERS

None.

DISCUSSION ITEMS

None.

INFORMATION ITEMS

1. Mayor's business
 - He had spoken with the Post Office regarding the renaming of State Avenue. It had a process for notification of those affected.
 - He recommended several re-appointments to the Planning Commission and Park Board. Councilmembers Dierck and Smith expressed support for advertising the vacancies. Mr. Zabell noted that the city did advertise when there was an open position but had not done that for reappointments. It was the Mayor's prerogative to appoint and the council's job to concur.

MOTION by Bartholomew, second by Leighan to approve the reappointment of Steve Muller to the Planning Commission. Dierck voted nay for the reason that she desired the position be advertised; all others voted aye; motion carried (6-1).

MOTION by Pedersen, second by Leighan, to re-appoint Bob Bell to the Park Board. Dierck voted nay for the same reason as stated above, all others voted aye; motion carried (6-1).

MOTION by Bartholomew, second by Soriano, to re-appoint Ray Stanton to the Park Board. Dierck voted nay for the same reason as stated above; all others voted aye; motion carried (6-1).

2. Staff's business
 - None.

3. Call on councilmembers

Soriano:

- Asked if anyone attended the grand opening of the skateboard part in Bellingham. No one had.
- The Naval Base was having its Birthday Ball on the 14th. He would not be able to attend; there was an option of sponsoring a sailor. Mr. Weed thought the city could not do that, but individuals could contribute to that.

Dierck:

- What was the status of the information on publicly owned buildings. Mayor Weiser advised that was before the Park Board, which had not met due to lack of a quorum.
- What happened at the WSDOT meeting? Mayor Weiser had not attended but understood there had been a recommendation for a traffic study to look at the possibility of a light, re-channelization, and a line-up space for turning cars. That would come back to council as an agenda bill.
- When would the city meet with the Tribes again? The Mayor had contacted John.
- Had the people on Grove been contacted about the handicapped child sign? Mr. Winckler advised that someone from his office had spoken with them and the signs had been ordered.
- The Planning Commission minutes indicated there would be a presentation on the 4D Rule. Ms. Hirashima advised that had been changed to the end of October.

Leighan:

- Offered an apology to Engineering and other staff members regarding his vote on Grove Street. It had been inadvertent, but changing his vote would not have changed the outcome.

Bartholomew:

- Asked about Doug Buell. Mr. Zabell advised he was home and resting and anticipated a 6-week recovery period.

ADJOURN TO EXECUTIVE SESSION

Council adjourned into Executive Session at 9:30 to discuss pending litigation, two personnel issues, and a real estate matter.

Council reconvened into Regular Session at 11:00 p.m. **Motion** by Smith, second by Bartholomew to continue the Executive Session to 11:30 p.m. Motion carried 6-1 with Leighan against.

RECONVENE AND ADJOURN

Council reconvened into regular session, took no further action, and adjourned at 11:35 p.m.

Accepted this 9th day of October, 2000.

David Weiser
Mayor

Mary Swanson
City Clerk

Anna M. ...
Recording Secretary

CORRECTED: SEE MINUTES
John Mc Coy