

City Council Minutes – February 25, 2019

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of February 25, 2019 at the advertised special time of 5:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Anthony Young, Brad Adams, Bruce McDougall and Matt Miller were present. Councilmember Liz Lovelett was absent.

The assembly joined in the Pledge of Allegiance.

Mayor Gere removed Items 7f, Ordinance 3036: Municipal Code Chapter 1.30, Contracting, and 7g, Resolution 2030: Purchasing Policy, from the agenda to allow staff additional time to address councilmember questions raised at the February 19, 2019 City Council meeting. She advised that those topics would come back before City Council on March 4, 2019.

Mayor Gere announced that an executive session on potential litigation would be added to the end of the agenda.

Mayor Gere announced that Item 6a, a public hearing on Ordinance 3037: Vacating the Alley in Block 31 "Map of the City of Anacortes", had been advertised to begin at 6:00 p.m. so Council would postpone consideration of that agenda item until 6:00.

Announcements and Committee Reports

Parks & Recreation Committee: Mr. McDougall reported from the committee meeting the prior week. He reported on the proposed expansion of Grand View Cemetery to the east, upcoming interviews for the recreation activities coordinator position, weather delays to the turfing project at Daniels Field, donation by Transpac of a temporary float to replace the damaged Washington Park boat launch, recent storm damage to the Guemes Channel Trail, and positive meetings between Parks staff and the Samish Tribal Council who were looking forward to more collaboration in the future.

Councilmember Liz Lovelett Resignation: State Senator Liz Lovelett joined the meeting by telephone from Olympia. Ms. Lovelett announced her resignation from her City Council position, effective February 25, 2019, due to the demands on her time following her recent appointment to the Senate. Mayor Gere thanked Ms. Lovelett for her service to the Council and the city and for now serving Anacortes and the region in the state legislature. The mayor advised that staff would solicit letters of interest from community members interested in filling Ms. Lovelett's position on the City Council and that Council would subsequently interview interested candidates and select and appoint a new councilmember. Senator Lovelett spoke of the honor of serving on the City Council and the effective preparation her Council position had afforded for her current role in Olympia. She urged forward motion on implementing the Affordable Housing Strategic Plan. Her colleagues on the Council thanked her for her service both in Anacortes and in Olympia.

Mr. Young reported from a recent Community Action board meeting and commended the agency's work in support of veterans in Skagit County.

Public Comment

Theresa Baker, 1820 11th Street, said it was wonderful that a short term fix for the Washington Park boat launch was being donated but reiterated that the dock is really really important to Anacortes and to its vision as a maritime community. Ms. Baker said without the Washington Park boat launch recreational boaters have nowhere to go. She said she was disappointed that permitting for a permanent replacement had not been started long before. She urged staff to commence permitting a permanent replacement. Mayor Gere assured that staff was already working on permitting the replacement float.

Kathleen Lorence-Flanagan disagreed with Mr. McDougall's report from the Parks & Recreation Committee that there had been no structural damage to the Guemes Channel Trail during the recent storm. She said she and her husband had inspected the trail and found it to be really undermined, as she had described in a recent letter to the editor. Ms. Lorence-Flanagan suggested that it would not be an inexpensive repair. She also questioned ongoing clearcutting in front of private properties along the trail and asked why this was allowed to continue in this critical shoreline area.

Consent Agenda

Mayor Gere clarified that Item 5d was an amendment to add La Conner to the EMS system in Skagit County. Mr. Miller asked staff to let the community know about the timing and location of slurry seal contract. Mr. Adams moved, seconded by Mr. Johnson, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

- a. Approval of Claims in the amount of: \$273,597.41
- b. Contract Award: Slurry Seal 2019 19-008-TRN-001
- c. Contract Award: 2019-2020 Janitorial Services #19-022-FAC-001
- d. Amendment 1 to Interlocal Agreement C20180481: Skagit County, Emergency Medical Services System Delivery Agreement

The following vouchers/checks were approved for payment:
EFT numbers: 92304 through 92346, total \$104,419.64
Check numbers: 92347 through 92376, total \$167,855.75
Wire transfer numbers: 245164 through 245528, total \$1,281.23

OTHER BUSINESS

Resolution 2035: Anacortes Maritime Strategic Plan

Planning Director Don Measamer presented the Maritime Strategic Plan which had been introduced to and reviewed by Council at its meeting the prior week. Mr. Measamer advised that the executive team had held over fifty stakeholder meetings during the course of the plan's development. He said staff recommended approval of Resolution 2035 adopting the Maritime Strategic Plan.

Mr. Young moved, seconded by Mr. Johnson, to approve Resolution 2035 adopting the Anacortes Maritime Strategic plan. Mr. Young and Mr. Miller encouraged regular reporting to Council on progress implementing the plan, likely through monthly Port/City Liaison Committee meetings. Vote: Ayes – Young, Walters, Adams, McDougall, Miller and Johnson. Motion carried.

The plan was then signed by Mayor Gere, Port of Anacortes Executive Director Dan Worra and Economic Development Alliance of Skagit County Executive Director John Sternlicht.

Resolution 2032: Ratifying TBD Vehicle License Tab Repeal and Transportation Sales Tax

Finance Director Steve Hogle presented Resolution 2032 and provided an update on the Transportation Benefit District, referring to his slides which had been included in the packet materials for the meeting. Mr. Hogle clarified that the new .2% transportation sales tax would go into effect on April 1, 2019 and that the \$20 vehicle licensing fee would expire for vehicles with tab renewal dates beginning April 1, 2019. Mr. Miller observed that the resolution was consistent with Council's intent when it proposed the new sales tax.

Mr. Miller moved, seconded by Mr. McDougall, to adopt Resolution 2032 ratifying the repeal of the \$20 vehicle license fee.

Mayor Gere invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Mr. Walters recapped Council's action to substitute the .2% transportation sales tax approved by the voters for the \$20 vehicle tab fee to generate new revenue dedicated to pavement maintenance, allowing more pavement overlays to be performed each year, and drawing that funding from people who drive through Anacortes and make purchases, not just residents. Mr. Miller agreed that the sales tax was a more efficient, logical and effective way to fund pavement management. Mayor Gere observed that the new funding mechanism would allow the city to invest nearly \$2M annually in pavement maintenance, an increase from the \$1.2M annual investment made over the past few years.

Vote: Ayes – Walters, Adams, McDougall, Miller, Johnson and Young. Motion carried.

Ordinance 3038: Establishing AMC Chapter 19.68, Wireless Service Facilities and Ordinance 3039: Establishing AMC Chapter 5.38, Public Utility and Telecommunications Right-of-Way Use

City Attorney Darcy Swetnam reviewed the two ordinances which had been discussed by Council at its February 19, 2019 meeting. She reviewed the timeline of the moratorium, the reason for the code revisions, and the specific terms of the ordinances. Ms. Swetnam's slide presentation was added to the packet materials for the meeting. She addressed councilmember questions raised at the February 19, 2019 meeting, including how the new code would require visual compatibility with existing neighborhoods (proposed AMC 19.68.200). Mr. Miller confirmed that a conditional use permit would still be required in the residential zones. Mr. Adams asked Ms. Swetnam to explain the appeal processes for decisions issued under the new code, which she did. Mr. Johnson asked how a neighbor of a right-of-way would gain standing to appeal a decision. Ms. Swetnam and Mr. Walters outlined the state law that provided such standing to persons adversely affected or aggrieved. Mr. Walters pointed out that the ordinances as presented still contained placeholders for related code section citations, such as 5.38.100(E). Ms. Swetnam offered to complete those references and bring the ordinances back to Council for final action on the Consent Agenda at its next meeting. Mr. Walters said he was comfortable approving the ordinances with the proviso that the City Attorney would supervise completion of the citations prior to signature. Ms. Swetnam responded to questions from Mr. Johnson regarding "substantial changes", explaining the definition.

Mr. Walters moved, seconded by Mr. Adams, to approve Ordinance 3038 and Ordinance 3039 subject to corrections in the internal cross references by the City Attorney prior to signature by the mayor. Mr. Johnson asked that Ordinance 3039 be revised such that AMC 5.38.110 include column headings for the two columns. Ms. Swetnam agreed to make that formatting change, with which Mr. Walters and Mr. Adams concurred.

Vote: Ayes – Adams, McDougall, Miller, Johnson, Young and Walters. Motion carried.

Contract Award: Water System Earthquake Early Warning System - Phase 1 & 2, #19-038-WTR-001

Water System Manager Jeff Marris presented a new technology for earthquake early warning. Mr. Marris introduced Dan Ervin of Varius Inc. to describe the new technology and the proposed contract. Mr. Ervin's slide presentation was added to the packet materials for the meeting. He briefly summarized the USGS seismic sensor system installed the length of the west coast that feeds research facilities in Pasadena, Menlo Park, Berkeley and Seattle, which then relay signals to participating public facilities in order to allow them to act to minimize damage in the event of a major quake. Mr. Ervin explained that the different speeds at which sound waves and primary waves travel allow up to four minutes of warning before damaging earth movement hits, allowing water utilities to protect pumps, transmission lines and valves and reserve water supplies for use after a quake. Councilmembers questioned Mr. Ervin and Mr. Marris about the time required to implement orderly shutdown or flow control of water facilities, how the technology avoided false positive reports of impending quakes, whether the \$65K for the proposed contract could be more effectively used for alternative earthquake protection or recovery programs, whether there were any ongoing costs after the initial term of the contract, and how the

technology could potentially be applied to protect other city infrastructure beyond the water system. In response to councilmember questions about the very new technology, Mr. Ervin reported that the USGS had 811 sensors in place and was funded to continue installing sensors for a total of 1600 because a denser network would allow better triangulation. He explained that the USGS program was aimed at a full public alert system that could be 10 years out but that the nature of water utilities made the technology applicable and cost effective for them already. In response to a question from Mr. Adams, Mr. Marrs confirmed that the entire contract cost would be borne by the regional water system, the city's share of which was approximately 10%. Mayor Gere suggested that staff bring the contract back for consideration in subsequent weeks with answers to the questions raised by councilmembers during the meeting. Councilmembers concurred.

PUBLIC HEARINGS

Public Hearing: Ordinance 3037: Vacating the Alley in Block 31 "Map of the City of Anacortes"

Engineering Technician Tim Hohmann presented a request by the Port of Anacortes for vacation of right of way of the alley in Block 31, map of the City of Anacortes. Mr. Hohmann displayed an aerial view of the unopened, platted alley running from Commercial Avenue to O Avenue in the block between 2nd Street and 3rd Street, the block containing the Olson Building and the Marine Supply and Hardware Building. He said the building currently occupied by the Bike Spot retail business sits upon the platted alley. Mr. Hohmann said that representatives of the Port of Anacortes and the Anacortes Housing Authority would present the merits of their proposal following his presentation. Referring to the agenda bill included in the packet materials for the meeting, Mr. Hohmann explained the purchase and sale agreement between the Port and the Housing Authority, the city's intent to dedicate Lot 18 to the Housing Authority for low income housing, the utility easements in the alley, the appraised value of the alley and of Lot 18, and the Port's suggestion that the \$6000 difference in the appraised values of the two parcels be offset by the public benefit of affordable housing for low income households provided by the whole proposal. Mr. Hohmann alerted Council that an additional letter of public comment had been received after the packet was published but within the public comment deadline and said both hard copy and electronic copy of that letter, from Brent Morrison, had been provided to councilmembers and the public prior to the meeting.

Dan Worra, Port of Anacortes Executive Director, shared highlights from the Port's Statement of Purpose for the vacation which was included in the packet materials for the meeting. He emphasized that the alley vacation and property transfer would serve the purposes of both economic development and expanding availability of workforce housing.

Brian Clark, Anacortes Housing Authority Executive Director, spoke in support of the alley vacation. He said that the Authority needed Lot 18 to open options for future development of the space.

Mr. Walters confirmed with Mr. Worra that the Port planned to allow the Bike Spot retail business to remain in its present location if the land underneath that building were vacated to the Port. Mr. Walters also said he was concerned that the proposed land exchange would open the city to an audit finding due to the \$6K difference in the appraised values of the two properties. He suggested that the Port pay the difference to the city. Mr. Worra conceded that was one option but argued that the proposed series of agreements and transfers would meet the requirements of providing all parties with "true and fair value" as that term is defined in RCW 43.09.210, relevant case law, and attorney general opinion, by allowing for the best possible and most efficient use of the property for workforce housing. Mr. Walters countered that the new RCW would allow the city to gift land to the AHA for affordable housing but not to the Port for economic development. Ms. Swetnam observed that the new RCW was relatively untested but said it did require a covenant in the instrument of the transfer to require Lot 18 to be used for affordable housing. Mr. Johnson said the proposed series of transfers would achieve a public benefit that the community had long been seeking. He urged moving ahead with the vacation and proposed land transfers.

Mayor Gere invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Mayor Gere suggested that the proposed ordinance come back before Council for its second reading with answers from staff regarding the questions raised by councilmembers about the relative property values.

Mr. Miller and Mr. Young spoke in support of the vacation. Mr. Adams asked if the vacated alley adjacent to Commercial Avenue would remain in commercial use if the Bike Spot were to vacate that space in the future. Mr. Hohmann responded that following the alley vacation that property would belong to the Port which could use it for any purpose allowed by city code, subject to permitting requirements. Mr. Worra stated that the Port had no plans to do anything other than have the Bike Spot remain in that location, but noted some maintenance challenges with the building. He said the Port would love to see the business remain there as long as it was viable to keep it there.

Mr. Walters said the alley vacation made sense but that he did not support donating \$6K of land value to the Port. **Mr. Walters moved, seconded by Mr. Young, to approve Ordinance 3037 vacating the alley in Block 31 with the compensation of the \$30K parcel swap and an additional \$6K from the Port.**

Mayor Gere invited members of the audience to comment on the motion. No one present wished to address the Council.

Mr. McDougall asked Ms. Swetnam if staff might be able to propose an alternative means of addressing the \$6K value difference. Ms. Swetnam agreed that she and Finance Director Steve Hoglund could investigate that question prior to the March 4, 2019 City Council meeting if councilmembers wished to postpone action on the motion. Mr. McDougall sensed that Council was prepared to approve the vacation if the risk of audit finding could be addressed. Mr. Worra indicated that the Port had no objection to postponing action on the ordinance for one week.

Wil Houppermans, 3412 K Avenue, called Council's attention to the letter submitted by Brent Morrison and provided to councilmembers prior to the meeting. Mr. Houppermans said it was a well written letter that deserved answers prior to Council taking action.

Mr. Walters moved, seconded by Mr. Young, to postpone consideration of the motion on the table for one week. Vote: Ayes – McDougall, Miller, Johnson, Young, Walters and Adams. Motion carried.

Mr. Walters moved, seconded by Mr. McDougall, to close the public hearing on Ordinance 3037. Mayor Gere again invited members of the audience to comment on this agenda item. No one present wished to address the Council. Vote: Ayes – Miller, Johnson, Young, Walters, Adams and McDougall. Motion carried.

OTHER BUSINESS, CONTINUED

Resolution 2036: Adopting Unified Fee Schedule with Revised Sewer Rates

Public Works Director Fred Buckenmeyer and Finance Director Steve Hoglund invited Council to continue the sewer rate discussion begun at the February 19, 2019 City Council meeting. Mr. Buckenmeyer briefly recapped that presentation. He noted that without a rate increase the Sewer Fund balance would be down to a dangerously low level of \$700K by 2024, and that current revenues would cover operating expenses but no capital improvements. He said staff recommended implementing a 7% annual increase for 6 years.

Mr. Hoglund responded to councilmember questions about winter averaging and consumption caps based on summer water use. He said that FCS was currently performing a cost of use analysis for the sewer utility which would result in recommendations for consumption charges based on an actual average rather than tiers but said

that separate recommendation would not affect the rates charged, only the quantity billed to each customer. Councilmembers and Mr. Hoglund engaged in some discussion about the 7% annual increase being the total increase each year, with no additional CPI increase over and above the 7% for the next 6 years. Mr. Hoglund confirmed that if Resolution 2036 were adopted at the present meeting, it would go into effect for service provided beginning March 1 and would appear on utility bills mailed to customers in April. In succeeding years the 7% increase would go into effect on January 1 each year. Mr. Adams suggested adopting the rate increase but revisiting it after several years to see if a lower rate might be possible given actual economic conditions. Mr. Hoglund agreed that interim review would be appropriate, noting that the actual collection of General Facilities Charges could actually make a larger increase necessary. Mr. Miller and Mr. Young agreed. Mr. Walters suggested a review every two years, but said that review should be performed in house rather than contracted out to FCS.

Mayor Gere invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Mr. Young moved, seconded by Mr. Walters, to approve Resolution 2036 adopting unified fee schedule with revised sewer rates, to be reviewed at the two year, four year and six year anniversary of the resolution. Vote: Ayes – Johnson, Young, Walters, Adams, McDougall and Miller. Motion carried.

At approximately 7:15 p.m. Mayor Gere announced that City Council and the City Attorney would convene in Executive Session per RCW 42.30.110 (i) for approximately 15 minutes to discuss potential litigation or litigation and that following the executive session the meeting would adjourn with no action being taken.

There being no further business, at approximately 7:35 p.m. the Anacortes City Council meeting of February 25, 2019 was adjourned.