

Special Meeting

At 4:00 p.m. Mayor Laurie Gere called to order the advertised special meeting of the Anacortes City Council for the purpose of a site visit regarding the Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; Shoreline Substantial Development Permit (SSDP) and Land Use Conditional Use Permit (CUP) (SDP-2016-1003). Council convened at the eastern terminus of Skyline Way, Anacortes. Councilmembers Eric Johnson, Erica Pickett and Matt Miller were present. No testimony was received and no action was taken. At approximately 4:03 p.m. the special meeting adjourned.

Special Meeting

Mayor Laurie Gere called to order an advertised special meeting of the Anacortes City Council on November 21, 2016 at 5:30 p.m. Councilmembers Eric Johnson, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Ryan Walters was absent.

Executive Session (30 Minutes) per RCW 42.30.110 (b, c, i)

Mayor Gere announced that City Council and the City Attorney would convene in Executive Session for no more than 30 minutes to discuss litigation, potential litigation, and a potential real estate transaction about which open discussion could result in terms unfavorable to the City and that following the executive session the meeting would adjourn with no action being taken.

There being no further business, at approximately 5:53 p.m. the advertised special meeting of the Anacortes City Council for November 21, 2016 was adjourned.

Regular Meeting

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of November 21, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Ryan Walters was absent. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor's Award of Merit Presentation to Jeff Vogel and Jeff Beltramini: Mayor Gere read letters recognizing Engineering Technician Jeff Beltramini and Librarian Jeff Vogel for their outstanding service to the city. She presented each of them with a gift certificate at a local restaurant and announced that their names would be added to the plaque on display at City Hall.

Outstanding Wastewater Treatment Plant Award – NPDES: Mayor Gere read a letter from the Washington State Department of Ecology awarding the Outstanding Wastewater Treatment Plant Award for the Anacortes Wastewater Treatment Plant under National Pollutant Discharge Elimination System (NPDES) Permit #WA0020257 for the fifth year in a row. The mayor presented a plaque from DOE to Plant Manager Becky Fox and Plant Supervisor Steve Doeblar.

Lodging Tax Advisory Committee: Mr. Miller reported from the committee meeting the prior Thursday. He thanked the Tourism Promotion Strategic Planning ad hoc committee for developing the recently adopted strategic plan that would guide allocation of lodging tax funds. Mr. Miller advised that the LTAC would hold another meeting to consider applications, then final award recommendations would come back to Council for approval.

Ms. Lovelett reported from the Community Action Lunch and Learn event the prior Thursday which featured a respected panel addressing permanent supported housing for the chronically homeless. She reported that permanent supported housing lowers recidivism for incarceration, lowers jail nights, lowers hospital stays, and decreases other costs to communities. Ms. Lovelett reported the conclusion that it is far less expensive to provide permanent supported housing and advised that the Skagit County commissioners had signed a resolution supporting that model. She suggested that City Council adopt a resolution supporting the County's efforts.

Mayor Gere thanked the library staff for planning and hosting the immensely successful Harry Potter night at the Anacortes Public Library on November 17. Library Director Sheri Miklaski recognized her staff and the library's many community partners for organizing and producing the magical evening for families throughout Anacortes. Ms. Miklaski and Public Services Manager Diana Farnsworth shared photographs from the event which was attended by over 700 participants.

Public Comment

No one present wished to address Council on any topic not already on the agenda.

Consent Agenda

Mr. Johnson removed Item 5d, Acceptance of Easement for Similk Inc., from the Consent Agenda. Mr. Johnson moved, seconded by Mr. Adams, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of November 14, 2016
- b. Approval of Claims in the amount of: \$660,219.11
- c. Contract Modification: 100% Design Specifications & Bid Documents for 3MG Blue Heron Reservoir (HDR Engineering)

The following vouchers/checks were approved for payment:
Voucher (check) numbers: 82793 through 82886, total \$544,517.98
EFT numbers: 209717 through 210386, total \$118,806.98

- d. Acceptance of Easement for Similk, Inc.

In response to a question from Mr. Johnson, Public Works Director Fred Buckenmeyer reported that during a routine boundary survey of the Swinomish golf course it was discovered that the original Christianson Road was vacated in the 1940s and then reconstructed in its current location without the benefit of the dedication of new right of way. Most of the ROW lies within Skagit County but a small portion is in Anacortes city limits. Mr. Buckenmeyer explained that the Swinomish were offering an easement for public right of way over the western portion of that roadway. He added that staff would work with landowners of the eastern half of the road to obtain easements and would eventually seek dedication of a public right of way. Mr. Johnson moved, seconded by Ms. Lovelett, to authorize the mayor to accept the easement granted by Similk Inc. as presented on Consent Agenda Item 5d. The motion passed unanimously by voice vote.

PUBLIC HEARINGS

Closed-record Public Hearing: Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; SSDP, & Land Use CUP (SDP-2016-1003)

Mr. Archibald disclosed that he owns property immediately west of the subject property and recused himself from consideration of the matter. He excused himself from the Council chambers.

Ms. Pickett disclosed that she had known the applicant since 1971 but ran into him only every year or two. She offered to recuse herself if anyone objected to her consideration of and action on the matter. No one present objected.

Planner Kevin Cricchio presented an application from Mousel Investments, LLC for a Shoreline Substantial Development Permit (SSDP) and land use type of Conditional Use Permit (CUP) to permit the construction of a 22' X 30' two-story building at the east terminus of Skyline Way (Parcel # P32370). Referring to his slide presentation in the packet materials for the meeting (Exhibit 14), Mr. Cricchio summarized the project proposal, noticing, critical areas review, agency and public comments received, and Shoreline Management Act and zoning code considerations. Mr. Cricchio advised that both staff and the Planning Commission recommended approval subject to staff's suggested conditions of approval along with Condition of Approval #11 added by the Planning Commission following its open record public hearing on October 26, 2016. Mayor Gere noted that City Council had conducted a site visit to the project site at 4:00 p.m. that day to view defining features of the project.

Mayor Gere invited parties of record to address the Council regarding items already in the record. No one present wished to address the Council.

Mayor Gere advised that no appeals had been filed relating to the subject application.

Mr. Miller asked about road maintenance in the area. Planning Director Don Measamer provided some history of that topic and advised that the applicant had been working with neighboring condominium associations on a maintenance agreement.

No one else wishing to speak on the matter, Mayor Gere closed the closed-record public hearing.

Mr. Johnson moved, seconded by Mr. Miller, approve the subject Shoreline Substantial Development Permit and land use type of Conditional Use Permit subject to staff's suggested conditions of approval and Condition of Approval #11 added by the Planning Commission. Vote: Ayes – Pickett, Adams, Lovelett, Miller and Johnson. Motion carried.

Mr. Archibald rejoined the meeting in the Council chambers.

Ordinance 2989: Prohibiting Medical Marijuana Cooperatives in All City Zones

City Attorney Darcy Swetnam summarized staff's briefing on this topic from the November 7, 2016 City Council meeting and reported that no public comments had been received by staff at that meeting or subsequently. Ms. Lovelett called for additional public education about the effects of the proposed ordinance and asked if cooperatives could possibly be permitted on March Point. Ms. Swetnam responded that Council could make that policy decision but said staff recommended prohibiting medical marijuana cooperatives in all city zones given ongoing state rule making and the need to put permanent rules in place. Mr. Archibald expressed concern that some patients would not be able to find another party to grow medical marijuana on their behalf. Mr. Adams confirmed with Ms. Swetnam that stakeholders had been contacted and provided ample opportunity to provide input.

Mayor Gere opened the public hearing on proposed Ordinance 2989. No one present wished to address the Council. Mayor Gere closed the public hearing.

Ms. Pickett moved, seconded by Mr. Johnson, to approve **Ordinance 2989** prohibiting medical marijuana cooperatives in all city zones as proposed. Vote: Ayes – Adams, Miller, Johnson and Pickett. Nays – Lovelett and Archibald. Motion carried 4 to 2.

Ordinance 2995: Adopting a Fund Balance Policy and Repealing Ordinance 2339

Senior Accountant Philip Steffen summarized the discussion of this topic from the November 14, 2016 City Council meeting. He reviewed a slide presentation describing the few changes incorporated into the draft policy subsequent to that meeting and responded to questions raised by councilmembers. Mr. Steffen's slide presentation was added to the packet materials for the evening. Councilmembers discussed the legislative means by which Council could deviate from an adopted fund balance policy in cases of emergency or significant economic shifts.

Mayor Gere opened the public hearing and invited members of the public to comment on the proposed policy. No one present wished to address the Council. Mayor Gere closed the public hearing.

Mr. Johnson moved, seconded by Mr. Archibald, to adopt **Ordinance 2995** repealing Ordinance 2339 and adopting a comprehensive fund balance policy. Vote: Ayes – Lovelett, Archibald, Adams, Miller, Johnson and Pickett. Motion carried.

Continued Public Hearing: Ordinance 2993: Adopting 2017/2018 Biennial Budget

Finance Director Steve Hoglund addressed Council's concern expressed at its November 14, 2016 meeting about increasing vehicle tab fees to make up the General Fund portion of the \$1.1M planned pavement management program funding. Mr. Hoglund said that he and Mayor Gere proposed to use an additional \$300K of real estate excise tax (REET) reserves instead. He displayed a worksheet forecasting available REET at year end of 2017 and 2018, noting healthy balances. Mr. Hoglund said that relying on REET for 2018 would allow Council to continue discussions prior to 2019 regarding the best means of funding the pavement management initiative long term. He encouraged future discussion of either increasing the vehicle tab fee to \$40 annually and/or asking the voters to consider a 0.1% sales tax increase, either of which would raise additional funds dedicated specifically to the pavement management program.

Mr. Miller urged first determining the level of expenditure required, then determining a funding method. Ms. Lovelett encouraged putting the question to the voters to establish the community's prioritization of pavement maintenance in relation to other programs. Mr. Johnson argued that significantly more funding would need to be secured just to maintain the streets at their current level.

In response to councilmember questions about increases in staffing expenditures, Mayor Gere asked Administrative Services Director Emily Schuh to recap the staff positions added since 2014. Ms. Schuh listed those positions including the public defender and his legal assistant (previously contracted) and the city attorney (previously contracted), one additional firefighter/EMT, one additional police officer (half paid by ASD 103), two Water Treatment Plant operators at the recommendation of the Department of Health, a laboratory technician at the Water Treatment Plant, an operator at the Wastewater Treatment Plant, a half time position for Channel 10 and public meeting filming (previously contracted), two street maintenance positions related to the new roll on roll off service, and an associate planner, all of which addressed identified needs.

Mayor Gere invited members of the public to address the Council as part of the continued public hearing on the 2017/2018 biennial budget.

Bill Perkins, a resident on S Avenue, concurred with Mr. Johnson that Anacortes was not spending enough on roads. Mr. Perkins quoted the list of transportation projects in the Capital Facilities Plan totaling over \$33M in six years and concluded that \$1.1M per year was not sufficient. Mr. Hoglund explained the other sources of funding for CFP projects including impact fees and grants. Mr. Perkins said the street condition index included on page 4 of the consultant's report did not add up. Mr. Hoglund said he would review that information with Mr. Perkins and Mr. Buckenmeyer to provide an explanation. In response to Mr. Perkins' question about sidewalk projects included in the CFP, Mr. Buckenmeyer outlined how separating pedestrians from motor vehicles actually increases the level of service for vehicles.

Dan Worra, Port of Anacortes Executive Director, read from his letter submitted to the mayor earlier in the day regarding stormwater fees. Mr. Worra's letter was added to the packet materials for the meeting. On behalf of the Port, its tenants, and its industrial neighbors, he asked that the City take a measured approach to increasing fees for business. He also asked that the City consider credit for businesses that are making efforts to reduce their impact to the City's stormwater system. Mr. Worra concluded that the Port has a deep understanding of the challenges and investment that permit compliance creates but asked that any increase in fees be incremental and phased-in over time so that businesses have appropriate time to budget and absorb the fees. Mayor Gere advised that the Finance and Public Works departments were developing a business friendly approach to rates.

Dennis Clark, 3805 M Avenue, urged the city to stay the course for the street improvement project it adopted in July 2014 with Resolution 1895. Mr. Clark asked rhetorically if the city doesn't make this important investment now when it has revenue available, when will it do it?

No one else wishing to address the Council, Mayor Gere closed the public hearing on the 2017/2018 biennial budget.

Addressing next steps for budget adoption, Mr. Hoglund advised that the only change Mayor Gere and staff currently proposed to make to the budget prior to adoption was replacing \$300K of TBD vehicle tab funding with REET reserves for 2018. He asked if Council wished to direct any other changes to the budget prior to adoption. In response to previous councilmember questions, Mr. Hoglund advised that the library carpet had become a safety concern and had already been patched to the extent possible so replacement was really required. Mr. Archibald asked if his colleagues had any other concerns that needed to be addressed before the budget could move forward. Mr. Johnson preferred to have the entire Council present for the vote and suggested voting the following week. Mayor Gere agreed to bring the budget back for possible action on November 28, 2016 with Mr. Walters in attendance.

Continued Public Hearing: Ordinance 2994: Adopting 2017-2022 Capital Facilities Plan

Mr. Hoglund advised that a revised CFP project listing had been distributed to Council earlier in the evening; the projects and amounts were unchanged, but several projects had been reassigned between departments. Mr. Hoglund confirmed that all 2017 and 2018 CFP projects were included in the proposed biennial budget. Ms. Lovelett reiterated for the public that the CFP included projects for which the City intended to seek grants so not all projects would be funded by locally generated dollars. Mr. Hoglund recommended approval of the CFP. Councilmembers questioned inclusion of the South Commercial Avenue pocket park for 2019, having understood that the park would be completed with current year funding. Mayor Gere asked Mr. Hoglund to investigate that project with Parks and Recreation Director Gary Robinson and report back.

Mayor Gere invited members of the public to address the Council as part of the continued public hearing on the capital facilities plan. No one present wished to address the Council. Mayor Gere left the public hearing open to the following week until all questions had been addressed.

OTHER BUSINESS

Proposed Draft Title 19, Land Use Permit Procedures – Introduction

City Attorney Darcy Swetnam shared a slide presentation introducing the proposed update to AMC Title 19, land use procedures. Her slide presentation was added to the packet materials for the evening. Ms. Swetnam summarized the timeline for code updates including the sections slated for adoption before year end and reminded Council that the LID requirements were driving the schedule. She then listed highlights of Ordinance 2992 and the structure of the new title, including input from consultant Makers.

Ms. Swetnam reviewed in detail the draft decision matrix, Table 19.20.030-1. She explained the types of decisions and noted that specific assignments, such as for decision maker, could be adopted differently but the matrix structure could remain the same. Ms. Swetnam responded to councilmember questions about current and proposed procedures and appellant bodies. In response to a question from Ms. Lovelett, Ms. Swetnam advised that the table as presented did not propose a local appeal of Planning Commission recommendations on Type 4 decisions; she added that other jurisdictions typically provide for such appeals before a hearing examiner but staff was not proposing that in the current draft. Several councilmembers asked that conditional use permits come before City Council rather than Planning Commission for approval. Councilmembers discussed fees for filing appeals, supporting some recovery of hard costs borne by the city but also fee levels that did not present a barrier to appellants. Ms. Swetnam said staff had conducted extensive research about fees charged by neighboring jurisdictions and had drafted a proposed fee schedule that would come before Council for consideration. Ms. Pickett supported refunding appeal fees if the appellant prevailed. Ms. Swetnam said she recommended that practice for appeal of code enforcement actions but that it was less logical for land use appeals.

Mayor Gere invited members of the audience to comment on this agenda item.

Marilyn Wells Derig, 1302 K Avenue, read from her prepared remarks which were added to the packet materials for the evening. Ms. Derig addressed the responsibilities of the proposed hearing examiner position and expressed her ongoing concern about installing that position, which would replace citizen boards, particularly before code revisions were complete. Ms. Derig also raised questions of staff responsibility for code enforcement (reference proposed AMC 19.02.070) and standing (reference proposed AMC 19.10.210). She questioned whether the proposed changes would actually provide for the health, welfare and safety of the general public and concluded that the proposed changes might actually suppress citizen input and impact.

Ms. Swetnam thanked Ms. Derig for her questions and responded in detail. She clarified that staff would still be performing code enforcement and a hearing examiner would only handle code enforcement appeals, that AMC 16.04.105 was not being repealed, and that proposed AMC 19.02.070 was a standard provision common to code in other cities. She agreed that staff had proposed eliminating AMC 17.08 but said that provisions describing the duty of the administrator could be added back into Title 19, where AMC 19.10.030 addressed the same topic. Finally, regarding concerns about standing, Ms. Swetnam said the proposed language was taken from the LUPA code which was the approach taken by most other jurisdictions.

Patrick O'Hearn, 11039 Post Drive, requested clarification on the process for reviewing and adopting Title 19. Mayor Gere confirmed that following Planning Commission consideration at its November 23, 2016 meeting and possibly at subsequent meetings, Title 19 would come back before Council for public input and consideration. Mr. O'Hearn advised that he would be presenting written comments at another time but said that the LUPA language introduced in the code regarding standing bothered him because unlike LUPA proceedings, at which standing is determined by an independent third party judge, it was unclear which independent, unbiased party would determine standing for a local hearing. He expressed concern about the appearance of a conflict of interest if staff or even Council were responsible for determining standing.

Corrine Salcedo, 4303 Kingsway, said she was skeptical about whole idea of a hearing examiner which she said was less democratic than citizen boards.

No one else present wished to address Council.

Mr. Measamer concluded that the Planning Commission would review the materials at its November 23, 2016 meeting and possibly the following week as well, then the Title 19 procedures would come back to Council for consideration and public hearing, ideally with a recommendation from the Planning Commission, for adoption by year end.

DNR Lease Renewal

Mr. Measamer introduced a discussion about renewing to January 2034 the city's aquatic lease from the Department of Natural Resources for property that includes Cap Sante Marine and the Fidalgo Marina sublease areas. He reviewed the history of the lease and explained why the city would like to reduce the area from 83 acres to 16.5 acres, reducing the annual lease payment to \$36,428.56 annually. Mr. Measamer displayed graphics showing the access easements included in the lease. He briefed Council on the city's responsibility to remove creosote piles, replace treated wood docks with 50% grated docks prior to January 2, 2026, and perform soil sampling and remediation in the north area of site C1 by October 1, 2017. Mr. Measamer thanked Mr. Dennis Clark of the DNR for his assistance in drawing up the lease document.

Mr. Measamer responded to councilmember questions about the estimated costs of the environmental cleanup, approximately \$130K in present day dollars. Ms. Pickett asked about Paragraph 7.2, Existing Improvements, which states that the improvements are Tenant-owned and pointed out that the city does not own the marina. Mr. Clark explained the boilerplate language and offered to re-word that section but advised that any revisions would have to be approved by the Attorney General which could take several

months. Mr. Measamer and Ms. Swetnam suggested that ownership of improvements could be addressed in the city's subleases with its tenants.

Mayor Gere summarized that the lease would come back to Council for consideration and action at its next regular meeting and asked councilmembers to forward any additional questions to Mr. Measamer in the interim. Mr. Johnson suggested bringing the matter back on the Consent Agenda.

Ordinance 2978: Creating AMC 6.04.035 Reducing License Fee for Young and Old Dogs

City Attorney Darcy Swetnam advised that the Animal Control Officer had pointed out that AMC Title 6 currently required licensing of dogs before they were old enough to be spayed or neutered and after such time as spaying or neutering might be unhealthy for a dog. This caused citizens to pay the intact dog license fee of \$50 rather than the \$10 fee for a spayed or neutered animal. In the interest of incentivizing licensing, staff had researched practices in other jurisdictions and recommended adjusting the fees based on the age of the dog as outlined in the ordinance.

Ms. Lovelett moved, seconded by Mr. Adams, to adopt Ordinance 2978 creating Section 6.04.035 AMC Regarding Dog Licensing. Vote: Ayes – Archibald, Miller, Johnson, Pickett, Adams and Lovelett. Motion carried.

There being no further business, at approximately 8:26 p.m. the Anacortes City Council meeting of November 21, 2016 was adjourned.