



Anacortes City Council
Municipal Building Council Chambers
904 Sixth Street

December 5, 2016
6:00 p.m.

***REVISED* PRELIMINARY AGENDA**

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Board and Commission Reappointments (Action)
 - b. Pride in Service Awards: Councilmembers Eric Johnson and Ryan Walters
4. **Public Comment**
5. **Consent Agenda (Action)**
 - a. Minutes of November 28, 2016
 - b. Approval of Claims in the amount of: \$238,144.81
 - c. Resolution 1977: Sole Source Procurement of Patented Micro-Duct Installation for Telemetry
 - d. Ordinances 2997, 2998 and 2999: Correcting Legal Descriptions on 10th Street Vacations
 - e. Accept Donation of Exercise Equipment to Anacortes Fire Department
6. **Public Hearings**
7. **Other Business**
 - a. Ordinance 2988: Amendments to AMC Title 2, Title 9, Title 18, and Creating a New Title 20 to Provide for a Fair and Efficient System of Civil Code Enforcement (Action)
 - b. * Proposed Draft Title 19, Land Use Permit Procedures (Discussion)
8. **Adjournment**

Per Resolution 1949, citizens wishing to comment on items not on the agenda may do so under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk () may do so as those items are considered by Council during the course of the meeting. Citizens wishing to speak will please sign in at the back of the Council Chambers prior to the start of the meeting. The Mayor may limit comments to those who have signed in, and may limit the time allotted to each speaker to facilitate the orderly progress of the meeting.*

The City of Anacortes encourages people with disabilities to participate in public meetings.
For assistance with special needs, please contact Cherri Kahns at 360-299-1950 at least 48 hours prior to this meeting.



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning December 12, 2016

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes, vouchers and consent agenda items is not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

December 12, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Discussion)
- Resolution ____: Establishing Fees for the Water Utility (Discussion/Possible Action)
- Resolution ____: Establishing Fees for the Storm Water Utility and Ordinance 2979 Removing Storm Rates from AMC (Discussion/Possible Action)

December 19, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Action)
- Ordinance 2996: Amending the 2016 Budget (Year End) (Action)
- Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer (Discussion/Possible Action)

December 27, 2016

January 3, 2017

January 9, 2017

January 17, 2017

January 23, 2017

February 6, 2017

- Closed Record Public Hearing: Conditional Use Permit to Permit Construction of Private Parking Lot in the R4 Zoning District, CUP-2016-1003

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Monday, Dec 5, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Monday, Dec 12, 2016, 3:00 PM, Main Conference Room, City Hall
- Public Safety, Tuesday, Dec 13, 2016, 4:30 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 14, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue
- Public Works, Monday, Dec 19, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Tuesday, Dec 27, 2016, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 28, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue

Memo

To: Anacortes City Council
From: Laurie Gere, Mayor
Date: 11/15/2016
Re: Board Appointments and Reappointments



The following appointments to City boards and commissions will be presented for confirmation at the regular City Council meeting on December 5, 2016. Most are reappointments, and City directors have recommended them all. I appreciate the contributions of these volunteers and their willingness to serve our community. If you have any questions or feedback you wish to provide, please contact me prior to the meeting.

Historic Preservation Board

I request that Ken Hansen be reappointed to the Historic Preservation Board for three-year terms that expire December 31, 2019.

Library Board of Trustees

Please consider reappointing Judy Weathers and Nick Alphin to serve another five-year term on the Anacortes Library Board of Trustees that will expire December 2021.

Forest Advisory Board

I recommend Sandra Starbuck be reappointed to the Anacortes Forest Advisory Board for a five-year term ending in November of 2021.

Board or Commission Members Appointed by the Mayor

Arts Commission

Based on Director Gary Robinson's recommendation, I have reappointed Laura Hamilton, Karla Locke, Ron Smith to serve terms that will expire December 2018 and Lisa Rhoades, Lanny Bergner, and Terry MacDonald to serve three-year terms on the Anacortes Arts Commission that will end December 2019.

Civil Service Commission

Based on Director Emily Schuh recommendation, I have reappointed James English to be reappointed as an alternate on the Civil Service Commission. This is a 3 year appointment and will end December 2019.

Memorandum

TO: Mayor Laurie Gere
Anacortes City Council

FROM: Steve Oakley, Director Anacortes Museum

DATE: November 2, 2016

RE: Reappointment to the Anacortes Historic Preservation Board

AGENDA ITEM: For Monday, November 13, 2016

Reappointment to the Anacortes Historic Preservation Board

The Anacortes Historic Preservation Board requests the reappointment of Ken Hansen to a 3-year term to expire December 31, 2019. Ken has contributed much to community through his work on the Board and his willingness to continue serving is greatly appreciated.

A handwritten signature in blue ink, appearing to be "S. Oakley", enclosed within a large, loopy oval shape.

Memo

To: Mayor Gere
From: Sheri Miklaski
cc: Cherri Khans
Date: November 3, 2016
Re: Library Board of Trustees reappointments – Nick Alphin and Judy Weathers

I recommend that Nick Alphin and Judy Weathers both be reappointed to the Library Board of Trustees. Their terms will expire in December and they have both expressed interest in continuing to serve on the board. Nick and Judy have both demonstrated dedication to our library and their continued service on the Library Board is a benefit to our community.

Nick Alphin
3712 West 12th
Anacortes, WA 98221

Judy Weathers
3706 West 11th
Anacortes, WA 98221

Board Reappointments
Memo to Council in November to all

Kahns, Cherri

From: Schuh, Emily
Sent: Friday, October 21, 2016 11:11 AM
To: Gere, Laurie
Cc: Kahns, Cherri
Subject: Civil Service (Alternate) Reappointment
Attachments: Jon Stables CSC Reappointment.pdf

Mayor Gere,

I would like to recommend Mr. James English be reappointed as an Alternate on the Civil Service Commission. I have spoken with Mr. English and he would be interested in continuing on the Commission in this capacity. The appointment is for three years beginning 12/1/2016.

Thank you,

Emily Schuh, Director | Anacortes Administrative Services | P.O. Box 547 | 904 6th Street | Anacortes, WA 98221
360.299.1941 (work) | 360.299.1982 (secure fax) | emilys@cityofanacortes.org | www.cityofanacortes.org

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City Council Minutes – November 28, 2016

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of November 28, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, John Archibald and Matt Miller were present. Councilmember Liz Lovelett was absent. The assembly joined in the Pledge of Allegiance.

Mr. Walters moved, seconded by Mr. Archibald, to excuse the absence of Ms. Lovelett. The motion passed unanimously by voice vote.

Announcements and Committee Reports

Planning Committee: Mr. Walters reported that the regularly scheduled Planning Committee meeting earlier in the evening had been cancelled.

Public Comment

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

Consent Agenda

Mr. Johnson moved, seconded by Ms. Pickett, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of November 21, 2016
- b. Approval of Claims in the amount of: \$267,821.35
- c. Findings of Fact, Conclusions of Law and Decision: Mousel 2-story Building; 1st Floor Restroom serving the Marina; 2nd Floor Apartment; SSDP, & Land Use CUP (SDP-2016-1003)
- d. Accept as Complete: Install VFDs at Pumps 3 and 4, Water Treatment Plant Intake Pump Station (15-054-WTR-002) – Dahl Electric
- e. Accept as Complete: 2016 Overlay Project (15-005-TRN-006) - Lakeside Industries
- f. DNR Lease Renewal

The following vouchers/checks were approved for payment:
Voucher (check) numbers: 82889 through 82979, total \$239,793.82
EFT numbers: 209799 through 210580, total \$23,753.60

At 6:02 p.m. Ms. Lovelett joined the meeting.

PUBLIC HEARINGS

Closed-record Public Hearing: Proposed Veterinary Clinic at 1812 Commercial Avenue (CUP-2016-1001)

Associate Planner Kaitlynn Nelson presented an application from Mike Miranda for a conditional use permit for a veterinary clinic in the Commercial zoning district at 1812 Commercial Avenue. Ms. Nelson reported that following the open record public hearing before the Planning Commission on November 9, 2016 the Planning Commission recommended approval with conditions and that no appeals had been filed. Planning Director Don Measamer described the parking provisions on the site. He noted that no parties of record other than the applicant and owner were in attendance for the closed-record public hearing so there would be no testimony.

Ms. Pickett moved, seconded by Mr. Adams, to approve Conditional Use Permit CUP-2016-1001 for a Veterinary Clinic at 1812 Commercial Avenue subject to staff's suggested conditions of approval and condition #4 added by the Planning Commission. Vote: Ayes – Walters, Pickett, Adams, Lovelett, Archibald, Miller and Johnson. Motion carried.

Ms. Lovelett apologized for her delayed arrival.

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

Finance Director Steve Hoglund responded to councilmember questions raised during the public hearing on this topic at the November 21, 2016 City Council meeting regarding \$100K included in the CFP in 2019 for the Commercial Avenue pocket park. He confirmed the funding sources already committed for this project for 2016 (eligible for carryover) and explained that the 2019 funding was reflected in the CFP in case additional funding were required for completion.

Mr. Johnson moved, seconded by Mr. Archibald, to adopt **Ordinance 2994** adopting the Capital Facilities Plan for 2017-2022.

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

Vote: Ayes – Pickett, Adams, Lovelett, Archibald, Miller and Johnson. Nays – Walters. Motion carried.

OTHER BUSINESS

Mayor Gere moved Item 7a, Library Strategic Plan, to a later position on the agenda to accommodate presenter schedules.

Ordinance 2993: Adopting 2017/2018 Biennial Budget

Mr. Hoglund recalled that Council had postponed voting on the proposed 2017/2018 budget the prior week pending full Council attendance. He reviewed the summary of assumptions underlying the proposed budget; these had been included in the packet materials for the evening. Mr. Hoglund reported that Mayor Gere supported removing the increase in Transportation Benefit District vehicle license fees from the projected 2018 revenues and replacing that funding with real estate excise tax (REET) reserves in the same amount. He said neither Mayor nor staff proposed any other changes to the budget as presented at the November 7, 2016 public hearing and asked if councilmembers wished to direct any other changes to the budget or if it could be brought back for action on the Consent Agenda at the next regular City Council meeting.

Mr. Johnson asked that the assumption matrix just reviewed by Mr. Hoglund be included in the published budget. Mr. Walters listed a number of changes he would like to see in the budget including elimination of some or all of the added staff positions and moving funding for electronic content management forward from 2018 to 2017. Councilmembers discussed the staff positions proposed at some length. Mr. Adams advised that he would not be present at the December 5, 2016 City Council meeting and suggested taking action on the budget at the present meeting while all councilmembers were present.

Mr. Adams moved, seconded by Mr. Archibald, to adopt **Ordinance 2993** adopting the 2017/2018 biennial budget. Mr. Walters moved, seconded by Ms. Lovelett, to amend the motion to include changing approximately \$300K of 2018 pavement management funding from an increase in vehicle tab fees to REET reserves. Vote: Ayes – Adams, Lovelett, Archibald, Miller, Johnson, Walters and Pickett. Motion carried. Vote on amended motion: Ayes – Archibald, Miller, Johnson, Pickett, Adams. Nays – Lovelett and Walters. Motion carried.

Library Strategic Plan

Library Director Sheri Miklaski presented the library's 2016-2020 Strategic Plan, referring to her slide presentation which was added to the packet materials for the evening. She discussed the funding for the plan development with consultant Primary Source. Ms. Miklaski summarized the library's mission, vision and values. Library Public Services Manager Diana Farnsworth presented the library's strategic focus including an emphasis on teens and young adults. Ms. Farnsworth then summarized the goals identified in the strategic plan. Librarian Jeff Vogel described plans to expand digital offerings and online resources including expanded offerings for students. Ms. Farnsworth discussed plans to evaluate and expand

access to library services including possible hour changes and outreach opportunities. She elaborated on the objectives for enhanced communications and branding. Mr. Vogel reported on space planning and utilization including modernizing and expanding meeting room space, rearranging space to provide a more welcoming entrance and better traffic flow, and planning for a future makerspace/computer lab. Ms. Miklaski addressed library staffing and professional development objectives to support the other initiatives outlined in the plan. She closed by noting that the 8-page Strategic Plan document was included in the packet materials for the evening and was also available on the library website.

Mr. Walters asked that the new library logo clearly identify the library as a city facility. Councilmembers discussed the notion of a regional library district to include the rest of Fidalgo and possibly Guemes Islands. Ms. Miklaski reminded that voter approval would be required for such a change and that a countywide library district had been rejected by the voters in the past. Library staff responded to councilmembers questions about the future of print media and concluded that print books would continue to be in demand by all age groups for the foreseeable future.

Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer

Mr. Hoglund reiterated his comments from the discussion of the budget earlier in the evening, noting that the biennial budget just adopted by Council included full annual funding for the ER&R fund each year but did not include any extra amounts to make up for underfunding of that account since 2008. He advised that he hoped to have firm year end revenue projections prepared in the next few weeks and would bring Ordinance 2990 back to Council for consideration and action at its December 19, 2016 meeting when he could better report on year end cash flow and the effect of the proposed transfer on cash reserves in light of the fund balance policy adopted by Council on November 21, 2016. Mr. Hoglund confirmed for Mr. Adams that the proposed transfer would not negatively impact the city's bond rating.

Ordinance 2991: New Standards for Stormwater Management

Public Works Director Fred Buckenmeyer introduced David Roberts of consultant Kulshan Services. Mr. Roberts summarized Kulshan's work with city staff and Councilmember Walters over the past year developing new stormwater codes, based on guidance from the Department of Ecology, other jurisdictions, and staff and councilmember expertise. He noted that the accompanying engineering standards were still being developed but the code presented addressed the minimum requirements imposed by DOE. Mr. Roberts summarized that proposed Ordinance 2991 would modernize how the city addressed stormwater, clean up and simplify the codes, and incorporate low impact development (LID). He described the statewide shift in responsibility for both quality and quantity of water runoff from governments to site owners, with the goal of reducing costs to municipalities while improving habitat and reducing water pollution. Mr. Roberts reminded Council that the deadline for code adoption was the end of the year.

City Attorney Darcy Swetnam called Council's attention to a letter she had distributed to them earlier in the evening from David Halinen, attorney representing MJB Properties LLC, proposing revisions to draft AMC 19.76.050. Ms. Swetnam reported that she had explained to Mr. Halinen that the changes he suggested did not meet the requirements of the city's NPDES permit and the DOE stormwater manual.

Mr. Miller objected to the ordinance's specific penalty language and nebulous language about public education. He described his experience applying established technology to prevent contamination of runoff on a large scale and urged that the regulations should focus on helping the public to adopt proven technologies rather than imposing fines. Mr. Walters clarified that draft AMC 18.30.050 allowed penalties up to \$1000 and argued that the Director needed that authority to address egregious violations but agreed with Mr. Miller that emphasizing education was the preferred alternative. Councilmembers discussed best practices and enforcement options with Mr. Measamer, who clarified the intent of draft AMC 18.30.040 and called attention to AMC 18.30.030(B) which listed allowable discharges. Mr. Walters added that AMC 18.30.030, sections C and D, provided for conditionally allowed discharges and exemptions. Ms. Swetnam reminded Council that the proposed code was intended to be adopted in conjunction with new AMC Title 20, Civil Enforcement and Penalties, which provided for an escalating sequence of remedies.

Ms. Lovelett moved, seconded by Mr. Archibald, to adopt **Ordinance 2991** setting new standards for stormwater management.

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

Mr. Walters asked that AMC 19.76.060, Bonds and Liabilities, be corrected to 19.76.090.

Vote: Ayes – Archibald, Johnson, Walters, Pickett, Adams and Lovelett. Nays – Miller. Motion carried.

There being no further business, at approximately 7:37 p.m. the Anacortes City Council meeting of November 28, 2016 was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the December 5, 2016 City Council meeting:

[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210614	7/19/2016	20161201	08563	CHOWANEC, BILL	DECEMBER RENT - 29-3	\$1,976.00
210682	8/15/2016	INV027292	02917	WASH ASSN OF SHERIFFS	WASPC 2016 FALL CONF; CHIEF BOWERS	\$300.00
207533	8/23/2016	4HZZYMRQP	09137	RED LION BELLEVUE INN	TRAINING HOTEL STAY; WAPRO - RECORDS SUPERVISOR INGRAM	\$340.90
207725	8/30/2016	81644535	10289	HAMPTON INN & SUITES SEATTLE	TRAINING HOTEL STAY; SNUG MTNG - RECORDS SUPERVISOR INGRAM	\$113.27
208301	9/13/2016	K313623	02123	PLATT ELECTRIC SUPPLY INC	120V LIGHT UNIT	\$94.35
210689	10/1/2016	1 109 - A	05518	ETLICHER, VERNON	OCT. REIM PARTIAL ASSIST LIVING (\$41 X 30 DAYS)	\$1,230.00
210724	10/3/2016	10404631024038641(2)	08811	AMAZON.COM	MESH SCREENS FOR INCINERATOR	\$156.24
209312	10/17/2016	26547	07996	REICHHARDT & EBE ENGINEERING	MARCH PT RD SHOULDER - JULY 2016	\$5,761.81
209613	10/25/2016	21101660	02934	WASHINGTON STATE UNIVERSITY	PESTICIDE TRAINING - RECERTIFICATION	\$600.00
209638	10/26/2016	106-7740182-7853003	08811	AMAZON.COM	PART FOR VEH #008	\$43.97
210029	10/26/2016	1202222030	08590	NEWEGG BUSINESS INC	COUNCIL CHAMBER - USB ADAPTOR	\$20.60
210698	10/26/2016	117056	02896	VISA	UNIFORM PINS; SUPPORT OFFICER	\$11.75
209810	10/27/2016	105-6220650-9501023	08811	AMAZON.COM	PART FOR VEH #031	\$42.47
210706	10/27/2016	DNR 22-A02664	00778	DEPT OF NATURAL RESOURCES	DNR LEASE SECURITY BOND	\$500.00
210716	10/27/2016	DNR 22-A02664	00778	DEPT OF NATURAL RESOURCES	DNR EASEMENT FEE	\$48,200.00
210705	10/27/2016	DRN Lease 22-A02664	00778	DEPT OF NATURAL RESOURCES	DNR LEASE - RENT	\$36,428.56
210026	10/28/2016	111-0550697-5706646	08811	AMAZON.COM	PUNCH DOWN TOOL & CABLE JACKET STRIPPER	\$72.53
210027	10/28/2016	630200010722	04308	COSTCO	BREAKROOM SUPPLIES	\$21.95
209822	10/28/2016	315081	10426	DOORMAN	DOOR CLOSERS FOR CITY HALL	\$243.04
210754	10/28/2016	868101-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-923	\$688.98
210750	10/28/2016	868103-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-921	\$723.70
210751	10/28/2016	868106-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-918	\$723.70
209859	10/31/2016	103-6359718-3286627	08811	AMAZON.COM	MALE PLUG CONNECTOR SOLDER	\$5.14
210243	10/31/2016	3090715760	04296	LEXISNEXIS	LEXIS NEXIS SUBSCRIPTION OCT. 2016	\$270.18
210686	10/31/2016	801330	09222	WASHINGTON STATE FERRIES	INVESTIGATIONS; FERRY RIDE TO SAN JUAN 16-ST0005	\$60.55

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
209979	11/1/2016	102-9936524-1243403	08811	AMAZON.COM	BUBBLE TUBING NON CONDUCTIVE 1/4" X 100'	\$18.21
209943	11/1/2016	106-7496375-7077008	08811	AMAZON.COM	PARTS FOR VEH #171,#173 & #207A	\$127.41
210028	11/1/2016	111-9754095-5039428	08811	AMAZON.COM	17.5 INCH RED LED FLASHLIGHT - PARKS	\$21.00
210656	11/1/2016	CNL914694215-01	10384	CORELDRAW	LATEST CORELDRAW SOFTWARE	\$202.90
210700	11/1/2016	APD 107409	06939	MAJESTIC INN & SPA	CRIME PREVENTION APPRECIATION DINNER	\$600.20
210752	11/1/2016	868105-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #7-919	\$723.70
210763	11/1/2016	868108-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-915	\$1,324.79
210762	11/1/2016	868110-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-913	\$1,155.53
210755	11/1/2016	868112-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-912	\$2,821.00
210747	11/1/2016	868123-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #6-953	\$937.44
210745	11/1/2016	868124-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #6-952	\$937.44
210741	11/1/2016	868125-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #6-938	\$1,324.79
210748	11/1/2016	868127-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #6-935	\$937.44
210738	11/1/2016	868129-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- VEH #2-910	\$767.10
210749	11/1/2016	868134-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #6-913	\$767.10
210613	11/1/2016	200024889996	02192	PUGET SOUND ENERGY	INTAKE ELECTRICITY	\$356.91
210723	11/2/2016	110-2939846-0725059	08811	AMAZON.COM	C BATTERIES	\$11.71
210030	11/2/2016	A1168354	02405	SEBO'S DO-IT CENTER	CORD FOR NEW DESK	\$21.57
210720	11/3/2016	107-7612715-2037802	08811	AMAZON.COM	TRASH BAGS	\$13.78
210721	11/3/2016	109-4083645-1660209	08811	AMAZON.COM	LYSOL DISINFECTANT	\$8.76
210722	11/3/2016	110-70629841-3405843	08811	AMAZON.COM	TEA	\$14.17
210085	11/3/2016	126144	09946	CASH & CARRY	3RD FLOOR BREAKROOM SUPPLIES	\$14.64
210702	11/3/2016	21257484	00941	FBINAA	FBINAA CONFERENCE; CHIEF BOWERS	\$73.50
210194	11/3/2016	8561 0002 16184	07231	HOME DEPOT	DRILL BITS & STORAGE TOTES FOR IT	\$275.73
210007	11/3/2016	613020	01369	ISLAND FARM AND PET	SUPPLY FOR STREET DEPT	\$58.01
210733	11/3/2016	868091-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/ SERVICE- VEH #1-903	\$1,045.94
210761	11/3/2016	868099-00	06706	PACIFIC POWER GROUP, LLC	GENERATOR LOAD TEST & SERVICE, EQUIP.~	\$767.10
210753	11/3/2016	868104-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE - #7-920	\$767.10
210760	11/3/2016	868107-00	06706	PACIFIC POWER GROUP, LLC	GENERATOR LOAD TEST & SERVICE, EQUIP	\$827.31
210758	11/3/2016	868109-00	06706	PACIFIC POWER GROUP, LLC	GENERATOR LOAD TEST & SERVICE EQUIP #	\$1,045.94
210757	11/3/2016	868113-00	06706	PACIFIC POWER GROUP, LLC	GENERATOR LOAD TEST & SERVICE EQUIP	\$1,045.96
210756	11/3/2016	868114-00	06706	PACIFIC POWER GROUP, LLC	GENERATOR LOAD TEST & SERVICE #7-904 AT	\$767.10

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210767	11/3/2016	868115-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #7-903	\$723.70
210764	11/3/2016	868116-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- #7-902	\$723.70
210195	11/3/2016	494754	08879	PARTY CITY	SUPPLIES FOR WONDERLAND WALK	\$50.97
210632	11/3/2016	A1168836	02405	SEBO'S DO-IT CENTER	HYDRANT, TOOL MAINTENANCE SUPPLIES,	\$86.16
210633	11/6/2016	A1169665	02405	SEBO'S DO-IT CENTER	HAND SOAP, SINK STRAINER, TANK FLAPPER	\$14.13
210693	11/7/2016	112-1708789-4837021	08811	AMAZON.COM	PATROL SUPPLIES; NIK DRUG TEST KIT - OPIATES	\$69.00
210690	11/7/2016	112-2614392-3429800	08811	AMAZON.COM	PATROL SUPPLIES; NIK DRUG TEST METH	\$35.98
210090	11/7/2016	113-6563927-4905840	08811	AMAZON.COM	PAPER TOWELS - 4 CASES	\$104.28
210153	11/7/2016	704	02896	VISA	TICKET FOR AUTO SHOW	\$23.00
210403	11/8/2016	631787100	10236	B & H PHOTO	SPLITTERAVINAR SPITFIRE PRO 1X16 HDMI	\$176.40
210616	11/9/2016	701825	00306	BAYSHORE OFFICE PRODUCTS INC	SUPPLIES FOR WONDERLAND WALK	\$61.85
210402	11/9/2016	500014703	04308	COSTCO	HOT BEVERAGE DISPENSER - PARKS	\$371.36
210665	11/10/2016	K028771/1	00021	ACE HARDWARE	BUSHINGS, ELBOWS AND TAPE	\$15.08
210413	11/10/2016	A1170922	02405	SEBO'S DO-IT CENTER	FASTENERS	\$13.83
210407	11/11/2016	1151461	00999	FOSTER PEPPER PLLC	GENERAL MATTERS NO.1 -TELECOMUNICATION	\$2,792.50
210408	11/11/2016	1151477	00999	FOSTER PEPPER PLLC	WHOLESALE WATER CONTRACTS MATTER NO. 84	\$517.50
210410	11/11/2016	1151493	00999	FOSTER PEPPER PLLC	WATER TREATMENT PLANT MATTER NO. 96	\$34,794.87
210685	11/11/2016	006401786	00368	GALLS LLC - DBA BLUMENTHAL UNI	UNIFORM BELT; SUPPORT OFFICER	\$24.90
210717	11/12/2016	104-5985806-0629033	08811	AMAZON.COM	TEA	\$2.34
210666	11/12/2016	mileage	04847	LUDEMANN, WILLIAM	REIMBURSE MILEAGE - TRAVEL MT. VERNON	\$24.00
210415	11/14/2016	1988884801	06718	ARAMARK	LAUNDRY SERVICE	\$73.05
210684	11/14/2016	006411357	00368	GALLS LLC - DBA BLUMENTHAL UNI	UNIFORM PANTS; SUPPORT OFFICER	\$97.60
209295	11/14/2016	61385	10351	GRANDVIEW ON THE LAKE	TRAINING HOTEL STAY; CHIEF BOWERS	\$249.59
210678	11/14/2016	300000003909	02192	PUGET SOUND ENERGY	MAIN PLANT POWER	\$15,052.76
210683	11/14/2016	Recertification	02081	WSU URBAN IPM & PEST SFTY ED	TRAINING RECERTIFICATION CLASS - NICK	\$120.00
210586	11/15/2016	702393	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$27.22
210381	11/15/2016	702412	00306	BAYSHORE OFFICE PRODUCTS INC	O'HEARN V CITY AF1 DJS	\$79.39
210712	11/15/2016	879585342001	01962	OFFICE DEPOT	OFFICE SUPPLIES	\$152.41
210424	11/15/2016	001-353576	02109	PISTON SERVICE OF ANACORTES	PARTS FOR SHOP	\$198.50
210425	11/16/2016	106-3603249-6653036	08811	AMAZON.COM	PART FOR VEH #423	\$39.05

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210493	11/16/2016	108-5117355-6637069	08811	AMAZON.COM	10 X 10 CANOPY TO BE USED AT CITY EVENTS	\$299.95
210556	11/16/2016	111-0541785-9684264	08811	AMAZON.COM	AVERY BLANK BUSINESS CARD STOCK	\$38.66
210555	11/16/2016	111-0924921-3729825	08811	AMAZON.COM	SAFETY DEPOT TRAFFIC WAND - PARKS	\$19.99
210696	11/16/2016	112-33911455-2554668	08811	AMAZON.COM	PATROL SUPPLIES; NIK DRUG TEST KIT - METH	\$104.94
210708	11/16/2016	115-5482993-2827448	08811	AMAZON.COM	PENCIL LEAD REFILLS .5MM	\$5.96
210726	11/16/2016	9	06335	ANACORTES ARTS FESTIVAL	SOUTH COMMERCIAL ART PROJECT	\$9,750.00
210585	11/16/2016	702454	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$22.01
210703	11/16/2016	2455613	01050	GAYLORD BROTHERS INC	CURATORIAL SUPPLIES	\$189.23
210426	11/16/2016	11350961	04310	GLOBAL EQUIPMENT CO., INC	TIRE RACKS FOR SHOP	\$580.35
210389	11/16/2016	WA07-148606	07819	MOTION INDUSTRIES	MOTOR BEARINGS	\$165.22
210715	11/16/2016	879585422001	01962	OFFICE DEPOT	DAILY PLANNER	\$25.60
210587	11/16/2016	880071033001	01962	OFFICE DEPOT	MISC OFFICE SUPPLIES - FIRE DEPT	\$56.59
210589	11/16/2016	880526100-001	01962	OFFICE DEPOT	BREAKROOM SUPPLIES, PENS - ENGR	\$47.94
210634	11/16/2016	A1172679	02405	SEBO'S DO-IT CENTER	ADHESIVE FASTENERS	\$16.15
210652	11/16/2016	B349688	02405	SEBO'S DO-IT CENTER	BALL VALVE AND BRASS NIPPLES	\$19.79
210697	11/17/2016	112-9003965-2457052	08811	AMAZON.COM	PATROL SUPPLIES; MAG/CUFF PADDLE POUCH; PRUIETT	\$54.40
210695	11/17/2016	112-9146673-2000203	08811	AMAZON.COM	PATROL SUPPLIES; SHOULDER HOLSTER	\$171.96
210636	11/17/2016	183425	07305	FIRECOM	REPLACEMENT MODULE FOR HEADSETS	\$374.33
210448	11/17/2016	001-353696	02109	PISTON SERVICE OF ANACORTES	PART FOR VEH #511	\$51.26
210607	11/17/2016	001-353736	02109	PISTON SERVICE OF ANACORTES	PARTS FOR VEH #014	\$95.94
210680	11/17/2016	K805728	02123	PLATT ELECTRIC SUPPLY INC	FUSE AND TERMINAL BLOCK WITH WIRE	\$137.51
209977	11/18/2016	9797080	00598	COLE-PARMER INSTRUMENT CO.	CALIBRATION OF THE THERMISTOR	\$158.94
210768	11/18/2016	AR55581	09741	ELECTRONIC BUSINESS MACHINES	OPERATIONS COPY MACHINE- 08/14/16-11/13/16	\$195.96
210610	11/18/2016	50118/2	06246	H.B. JAEGER	PVC CAP SLIP	\$8.38
210557	11/18/2016	H372332345	01232	HEWLETT PACKARD ENTERPRISE CO.	LAPTOP/TABLET ENGINEERING	\$1,599.27
210609	11/18/2016	001-353812	02109	PISTON SERVICE OF ANACORTES	PART FOR SHOP	\$12.48
210606	11/18/2016	001-353894	02109	PISTON SERVICE OF ANACORTES	PARTS FOR VEH #155	\$585.65
210679	11/18/2016	0542005-001	02835	UNUM LIFE INS CO OF AMERICA	DECEMBER, LEOFF LONG-TERM CARE PREMIUM	\$985.35
210673	11/20/2016	9775688104	02879	VERIZON WIRELESS	FERRY TERMINAL SCADA COMMUNICATION	\$371.92
210661	11/21/2016	903636/1	00021	ACE HARDWARE	BUSHINGS	\$3.78
210615	11/21/2016	115-1631720-9647400	08811	AMAZON.COM	3-PACK SCANNER SLEEVES	\$27.03

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210676	11/21/2016	1988895573	06718	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$73.93
210657	11/21/2016	0533623	00932	FERGUSON ENTERPRISES, INC	REGISTER - TRPL SR2 5/8 100CF	\$1,139.25
210691	11/21/2016	253459	01023	FRONTIER BUILDING SUPPLY	CONCRETE MIX	\$135.41
210688	11/21/2016	253464	01023	FRONTIER BUILDING SUPPLY	CONCRETE MIX AND PALLETS	\$157.11
210518	11/21/2016	85788688	10088	GOTOCITRIX.COM	GOTOCITRIX 11/21-12/20/16	\$53.17
210711	11/21/2016	160094	01253	HOLLINGER METAL EDGE INC	CURATORIAL SUPPLIES	\$98.85
210637	11/21/2016	774703	01588	LIFE ASSIST INC	TACTICAL TOURNIQUETS	\$578.85
210608	11/21/2016	001-354014	02109	PISTON SERVICE OF ANACORTES	PARTS FOR VEH #024	\$98.11
210592	11/21/2016	A1174293	02405	SEBO'S DO-IT CENTER	LIGHTER, TEA LIGHTS, GEL FUEL - WP EVENT	\$63.25
210590	11/21/2016	A1174294	02405	SEBO'S DO-IT CENTER	PLAY SAND	\$8.66
210667	11/21/2016	A1174317	02405	SEBO'S DO-IT CENTER	VARIOUS LED CHRISTMAS LIGHTS FOR THE	\$85.67
210651	11/21/2016	A1174323	02405	SEBO'S DO-IT CENTER	CONDUIT, COUPLING, CONNECTOR AND	\$23.33
210594	11/21/2016	A1174393	02405	SEBO'S DO-IT CENTER	SPRAY PAINT	\$6.38
210649	11/21/2016	B350152	02405	SEBO'S DO-IT CENTER	CONDUIT, BENDER AND PIPE	\$34.37
210617	11/21/2016	8136 50 291 0005268	09989	WAVE	FIBER LEASE WTP TO CITY HALL	\$319.56
210595	11/22/2016	106-4965823- 8769845	08811	AMAZON.COM	TOOLS FOR SHOP	\$223.70
210660	11/22/2016	248895	10423	BAKER III, JIMMIE	REIMBURSEMENT FOR CDL PHYSICAL	\$85.00
210584	11/22/2016	delivery ticket	00007	CINTAS CORP	FIRST AID SUPPLIES - VARIOUS DEPTS	\$470.38
210618	11/22/2016	WAANA87284	00939	FASTENAL CO	TOOLS FOR SHOP	\$107.27
210687	11/22/2016	253689	01023	FRONTIER BUILDING SUPPLY	CONCRETE MIX	\$33.85
210681	11/22/2016	006471762	00368	GALLS LLC - DBA BLUMENTHAL UNI	UNIFORM BOOTS; CORP LEETZ	\$260.40
210638	11/22/2016	774815	01588	LIFE ASSIST INC	TACTICAL TOURNIQUETS	\$210.49
210674	11/22/2016	733742	10294	PACIFIC LAMP & SUPPLY COMPANY	EXTERIOR LED FIXTURES FOR NORTH CITY	\$585.90
210662	11/22/2016	38453	07817	PEARCE, ERIC	REIMBURSE FOR CDL PHYSICAL / ERIC PEARCE	\$110.00
210627	11/22/2016	001-354102	02109	PISTON SERVICE OF ANACORTES	WIPERS FOR 2931	\$13.05
210591	11/22/2016	A1174653	02405	SEBO'S DO-IT CENTER	QUICK LINK	\$1.90
210635	11/22/2016	A1174856	02405	SEBO'S DO-IT CENTER	TARPS FOR FIBR	\$113.36
210593	11/22/2016	B350192	02405	SEBO'S DO-IT CENTER	FASTENERS	\$6.04
210654	11/22/2016	C276360	02405	SEBO'S DO-IT CENTER	CONCRETE VIBRATOR RENTALS	\$24.50
210714	11/23/2016	703392	00306	BAYSHORE OFFICE PRODUCTS INC	EQUIPMENT - CARNEGIE	\$111.74
210599	11/23/2016	cpls	00765	DEPARTMENT OF LICENSING	CPLS TO D.O.L.; LAST WEEK IN SEPT AND ALL OF OCTOBER 2016	\$1,161.00
210619	11/23/2016	WAANA87296	00939	FASTENAL CO	CABLE	\$7.05
210776	11/23/2016	875077-0	09557	KEENEY'S	SCISSORS & GLUE STICK - PLANNING	\$15.58
210588	11/23/2016	880525976001	01962	OFFICE DEPOT	BREAK ROOM SUPPLIES - 3RD FLOOR	\$4.92
210628	11/23/2016	001-354293	02109	PISTON SERVICE OF ANACORTES	WIPERS FOR MED 12	\$31.50

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210605	11/23/2016	42001452040	05432	SAFEWAY PHARMACY	DISTILLED WATER FOR SHOP	\$7.92
210598	11/23/2016	132447	02280	SCOTT RICHARDS INSURANCE	ADD NEW STORVIK PARK RESTROOM TO PROPERTY INSURANCE	\$23.11
210730	11/23/2016	B350332	02405	SEBO'S DO-IT CENTER	MAINTENANCE SUPPLIES - CARNEGIE	\$50.43
210646	11/23/2016	NOVEMBER2016	02896	VISA	PUB DEF VISA	\$8.33
210625	11/24/2016	1988902218	06718	ARAMARK	MAT SERVICE STA 2: 11/24	\$21.70
210626	11/24/2016	1988902219	06718	ARAMARK	MAT SERVICE: 11/24	\$21.70
210603	11/24/2016	1988902224	06718	ARAMARK	NYLON MATS CLEANED	\$16.28
210663	11/24/2016	1988902229	06718	ARAMARK	LAUNDRY SVC FOR OPS & PARKS	\$73.06
210624	11/24/2016	1988902230	06718	ARAMARK	NYLON MAT CLEANING FOR OPS/SHOP	\$23.07
210631	11/25/2016	10332	09161	CLEANER GUYS, LLC	STA 1 WEEKLY CLEANING FOR NOVEMBER	\$488.00
210621	11/25/2016	8498 30 017 0487207	04412	COMCAST	CITY HALL INTERNET CONNECTION	\$191.12
210766	11/25/2016	0105882	06543	PACIFIC TIRE	TIRE DISMOUNT & MOUNT ON TRUCK #512	\$23.87
210622	11/25/2016	001-354335	02109	PISTON SERVICE OF ANACORTES	PART FOR VEH #423	\$58.97
210629	11/25/2016	November 25, 2016	08270	SARA JOY	HEM PANTS, REPLACE NAMETAGS, PATCHES	\$139.97
210670	11/25/2016	74399436	07342	VERIZON BUSINESS	MONTHLY ACCESS & LONG DISTANCE	\$34.57
210718	11/28/2016	904023/1	00021	ACE HARDWARE	MAINTENANCE SUPPLIES	\$98.49
210675	11/28/2016	1988906304	06718	ARAMARK	LAUNDRY SERVICE FOR WWTP	\$73.05
210623	11/28/2016	AR56243	09741	ELECTRONIC BUSINESS MACHINES	COPIER COPIES: 8/12 - 11/11-2016	\$129.54
210639	11/28/2016	11-2016	09816	FIRE SERVICE ENTERPRISE LLC	NOVEMBER VOLUNTEER COORDINATION	\$2,220.83
210735	11/28/2016	868130-00	06706	PACIFIC POWER GROUP, LLC	LOAD TEST/SERVICE- VEH #2909	\$767.10
210709	11/28/2016	S6-1496382	05774	SEATTLE AUTOMOTIVE	BRAKE CLEAN FOR SHOP STOCK	\$128.12
210729	11/28/2016	A1176123	02405	SEBO'S DO-IT CENTER	MAINTENANCE SUPPLIES - CARNEGIE	\$35.02
210653	11/28/2016	A1176240	02405	SEBO'S DO-IT CENTER	TUBING	\$7.67
210236	11/28/2016	4798 5100 5527 6725	02813	UNITED STATES POSTAL SERVICE	VISA - USPS PREPAID ENVELOPES	\$163.00
210725	11/28/2016	4798 5100 5527 6725	02896	VISA	LODGING FEES	\$720.60
210672	11/28/2016	6659-HR	02144	WEST MARINE PRODUCTS, INC	30-YEAR PRIDE IN SERVICE AWARD - MIKE LAFFERTY	\$150.00
210719	11/29/2016	LTAC Art in Bloom	06335	ANACORTES ARTS FESTIVAL	LTAC ART IN BLOOM	\$9,672.87
210727	11/29/2016	702888	00306	BAYSHORE OFFICE PRODUCTS INC	PC NAME PLATE DOLL	\$12.59
210713	11/29/2016	703993	00306	BAYSHORE OFFICE PRODUCTS INC	OFFICE SUPPLIES	\$22.39
210742	11/29/2016	004601	00763	DEPARTMENT OF HEALTH	ANNUAL WTPC CERTIFICATION RENEWAL - ROBERT MACKAY	\$42.00

Invoice Doc #	Transaction Date	Invoice #	Vendor #	Vendor Full Name	Description	Total Amount
210734	11/29/2016	006330	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - JAMES DAVIS	\$42.00
210737	11/29/2016	008007	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - MARK EDWARDS	\$42.00
210739	11/29/2016	010575	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - SCOTT EISEN	\$42.00
210740	11/29/2016	010940	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - MARIO GONZALEZ	\$42.00
210746	11/29/2016	011034	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - SETH VAN WYCK	\$42.00
210743	11/29/2016	011890	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - JEFF MARRS	\$42.00
210659	11/29/2016	012408	00763	DEPARTMENT OF HEALTH	WATERWORKS OPERATOR CERTIFICATION	\$42.00
210744	11/29/2016	013266	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - CHAD SIEDLIK	\$42.00
210736	11/29/2016	013777	00763	DEPARTMENT OF HEALTH	ANNUAL WTPO CERTIFICATION RENEWAL - ALYSHA EARL	\$42.00
210699	11/29/2016	1094092967	02193	FERRELLGAS	PROPANE FOR SHOP FUEL	\$319.14
210759	11/29/2016	DEC 2016	01511	KORTERUD, WAYNE D	INDIGENT SERVICES CONTRACT	\$375.00
210648	11/29/2016	Pay Application 4	01530	LAKESIDE INDUSTRIES	2016 OVERLAY PROJECT	\$12,741.60
210701	11/29/2016	001-354555	02109	PISTON SERVICE OF ANACORTES	PARTS FOR VEH #156	\$24.14
210677	11/29/2016	6659 HR	02342	SAFEWAY INC	30-YEAR PRIDE IN SERVICE AWARD - CAROL YATES	\$150.00
210710	11/29/2016	Prepay	02371	SCHOOL LIBRARY JOURNAL	SCHOOL LIBRARY JOURNAL	\$99.99
210644	11/29/2016	Pay Estimate 4	02383	SCIMITAR CONSTRUCTION	OVERLAY INFRASTRUCTURE IMPROVEMENTS	\$9,042.73
210732	11/29/2016	reim	10425	SPRAGUE, GARY	REIMBRUSEMENT FOR WTPOII TESTING & APPLICATION FEES	\$185.00
210704	11/29/2016	October #2016-10	05726	STOUGHTON, MARY	LTAC - HEART OF ANA RESTROOM CLEANING	\$448.00
210770	11/29/2016	nov training travel	02896	VISA	MAYOR WATER RIGHTS TRANSFER TRAINING	\$284.53
210769	11/29/2016	NovTraining Travel	02896	VISA	CITY ATTORNEY WATER RIGHTS TRANSFER TRAINING	\$262.04
210765	11/29/2016	PW Nov CC purchases	02896	VISA	PW NOVEMBER VISA PURCHASES	\$319.99
210668	11/29/2016	2017 Pest Lic Renewa	09716	WA STATE DEPT OF AGRICULTURE	PESTICIDE LICENSE RENEWAL: HIBMA,	\$198.00
210731	12/1/2016	1760928-0043-0	02997	WASTE MANAGEMENT	WTP SOLID WASTE DISPOSAL FOR NOVEMBER	\$135.12

Total

\$238,144.81



City Council Agenda Bill

Meeting Date: 12/5/2016 **Agenda Item:** 201612051Item5c

Subject: Resolution Designating Craley Group Limited as Sole Source

Staff Contact: Fred Buckenmeyer 

Approved for Submittal to Council by	
	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
X	Resolution No. 1977
	Contract
	Public Hearing
	Staff Report

Summary Statement: To seek approval of a Resolution authorizing Craley Group Limited as a sole-source provider to build and install a micro-duct to support the City's telemetry system.

Background: During a September 19, 2016 meeting, City Council approved an interlocal agreement between the City and NOANET, and on September 26, 2016 City Council authorized the Mayor to enter into a grant with Skagit County to construct a network that will support the City's telemetry system. The initial distribution under the grant is \$295,833 and it's expected that additional funds will be awarded in early 2017.

Previous Council/Committee Action: Authorization to enter an interlocal agreement with NOANET and enter into an economic development grant with Skagit County.

Competing Viewpoints Considered: N/A

Recommended Motion: I move that the enclosed Resolution be approved authorizing single source designation to build and install a micro-duct for the City's telemetry system and authorizing the Public Works Director to carry out this authorization.

Alternative Actions: N/A

Attachments: Resolution 1977

RESOLUTION 1977

A RESOLUTION of the City of Anacortes, Washington, relating to public works; authorizing a single source designation to furnish and install a hollow micro-duct for City's telemetry system, and authorizing the Public Works Director to carry out this authorization.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ANACORTES, WASHINGTON, AS FOLLOWS:

Section 1. Recitals and Findings

- 1.1 Pursuant to RCW 82.14.370, Skagit County Commissioners awarded the City of Anacortes an economic development grant in the amount of \$500,000 with an initial distribution of \$295,833 for the construction of a network to support the City's telemetry system. Additional distribution under the grant is expected in 2017.
- 1.2 RCW 39.04.280 provides that the City, by resolution, may waive competitive bidding requirements when a purchase is clearly and legitimately limited to a single source of supply, or when the purchase involves special facilities or market conditions.
- 1.3 Craley Group Limited of Farnborough, Hants United Kingdom, a company that institutes an ISO 9001-2008 quality management system, is the sole owner of the patented Atlantis Hydrotec® T-Series, an ANSI/NSF certified micro-duct system which allows a hollow micro-duct to be used as a conduit for the City's telemetry system.

Section 2. Designation of Single Source Purchase. Based on the findings above, it is prudent for the City to waive the competitive bidding requirements to provide this pipe-in-a-pipe conduit that is made exclusively by Craley Group Limited.

Section 3. Authority of Public Works Director. The City's Public Works Director is authorized to ratify Craley Group Limited as a single source supplier, and take actions as otherwise necessary to carry out the intent and direction of this Resolution.

Section 4. Ratification and Confirmation. Any actions of the City or its officers prior to the date hereof and consistent with the terms of this Resolution are ratified and confirmed.

Section 5. Effective Date. This Resolution shall be in full force and effect from the after its adoption and approval.

The foregoing resolution was ADOPTED by the City Council of the City of Anacortes, Washington, at a regular, open public meeting thereof this _____ day of December 2016.

Laurie Gere, Mayor

ATTEST:

Steve D. Hoglund, City Clerk/Treasurer

APPROVED AS TO FORM:

By: _____
Darcy Swetnam, City Attorney



City Council Agenda Bill

Meeting Date: 12/5/2016

Agenda Item: 5d

Subject: Correction of Vacations

Staff Contact: Eric Shjarback, Darcy Swetnam

Approved for Submittal to Council by	
	Laurie Gere, Mayor
	Steve Hoglund, Finance Director
x	Darcy Swetnam, City Attorney

Action Type	
x	Ordinance No. 2997, 2998, 2999
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: The three enclosed Ordinances are corrections that fix errors in the legal descriptions of the vacated areas.

Background: On May 16, 2016, Council adopted Ordinances 2975, 2976, and 2977, which vacated a small portion of 10th Street in exchange for quitclaim deeds for land abutting the planned location of the Guemes Channel Trail. In November, city staff discovered an error in the legal description of the vacated areas. Therefore, the enclosed ordinances correct the legal description to provide clear title to the recipients.

Budget Impact	
Amount Budgeted	
Budget Account (BARS)	
Proposed Expenditure	
Budget Amendment Required?	
Revenue Source	

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

Previous Council/Committee Action: Ordinances 2975, 2976, and 2977 were adopted on May 16, 2016, approving the vacations.

Competing Viewpoints Considered: N/A

Recommended Motion: I move we adopt Ordinances 2997, 2998, and 2999 to correct the legal descriptions of the vacated areas.

Alternative Actions: N/A

Attachments (listed in order presented): Ordinances 2997, 2998, and 2999

RETURN TO:

City of Anacortes
P.O. Box 547
Anacortes, WA 98221

ORDINANCE NO. 2997

**AN ORDINANCE VACATING A RIGHT-OF-WAY OF CERTAIN PORTIONS OF
10th STREET ABUTTING PARCEL P-133010 AS PER
RECORDS OF SKAGIT COUNTY WASHINGTON**

**THE CITY COUNCIL OF THE CITY OF ANACORTES DOES HEREBY ORDAIN AS
FOLLOWS:**

WHEREAS, at the April 18, 2016, City Council meeting a resolution was passed to set a hearing date for May 16, 2016, to consider a petition to vacate right-of-way (ROW) on 10th Street; and

WHEREAS, per AMC Chapter 12.50 Street and Alley Vacation the City Council, by motion, elected to forgo review by the board of Adjustments (AMC 12.50.060(F)); and

WHEREAS, the City Council held a public hearing on said proposal on May 16, 2016, and approved the requested vacation; and

WHEREAS, the legal description for the Street Vacation contained in Ordinance No. 2975 is in error and needs to be corrected; now, therefore

**THE CITY COUNCIL OF THE CITY OF ANACORTES, DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The following described right-of-way on streets and alleys located in the City of Anacortes should be and are hereby vacated:

The Northerly 7.75 feet of that portion of Tenth Street as per the "Map of the City of Anacortes", recorded in Volume 2 of Plats, page 4, abutting Lot D per BLA-2015-0008, recorded under Auditor's File No. 201508310104, all records of Skagit County, Washington

SECTION 2. As this Ordinance is to correct the street vacation legal description contained in Ordinance No. 2975 and has been initiated by the City, no additional compensation, based on AMC Section 12.50.130, shall be required.

SECTION 3. Effective Date: This ordinance shall take effect from and after 5 (five) days after its passage and publication as required by law.

PASSED AND APPROVED this 5th day of December, 2016.

CITY OF ANACORTES:

BY: _____
Laurie Gere, Mayor

ATTEST:

Steve D. Hoglund, City Clerk Treasurer

APPROVED AS TO FORM:

Darcy J. Swetnam, WSBA #40530
City Attorney

RETURN TO:

City of Anacortes
P.O. Box 547
Anacortes, WA 98221

ORDINANCE NO. 2998

**AN ORDINANCE VACATING A RIGHT-OF-WAY OF CERTAIN PORTIONS OF
10th STREET ABUTTING PARCEL P-133009, AS PER
RECORDS OF SKAGIT COUNTY WASHINGTON**

**THE CITY COUNCIL OF THE CITY OF ANACORTES DOES HEREBY ORDAIN AS
FOLLOWS:**

WHEREAS, at the April 18, 2016, City Council meeting a resolution was passed to set a hearing date for May 16, 2016, to consider a petition to vacate right-of-way (ROW) on 10th Street; and

WHEREAS, per AMC Chapter 12.50 Street and Alley Vacation the City Council, by motion, elected to forgo review by the board of Adjustments (AMC 12.50.060(F)); and

WHEREAS, the City Council held a public hearing on said proposal on May 16, 2016, and approved the requested vacation; and

WHEREAS, the legal description for the Street Vacation contained in Ordinance No. 2976 is in error and needs to be corrected; now, therefore

**THE CITY COUNCIL OF THE CITY OF ANACORTES, DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The following described right-of-way on streets and alleys located in the City of Anacortes should be and are hereby vacated:

The Northerly 7.75 feet of that portion of Tenth Street as per the "Map of the City of Anacortes", recorded in Volume 2 of Plats, page 4, abutting Lot C per BLA-2015-0008, recorded under Auditor's File No. 201508310104, all records of Skagit County, Washington.

SECTION 2. As this Ordinance is to correct the street vacation legal description contained in Ordinance No. 2976, no additional compensation, based on AMC Section 12.50.130, shall be required.

SECTION 3. Effective Date: This ordinance shall take effect from and after 5 (five) days after its passage and publication as required by law.

PASSED AND APPROVED this 5th day of December, 2016.

CITY OF ANACORTES:

BY: _____
Laurie Gere, Mayor

ATTEST:

Steve D. Hoglund, City Clerk Treasurer

APPROVED AS TO FORM:

Darcy J. Swetnam, WSBA #40530
City Attorney

RETURN TO:

City of Anacortes
P.O. Box 547
Anacortes, WA 98221

ORDINANCE NO. 2999

**AN ORDINANCE VACATING A RIGHT-OF-WAY OF CERTAIN PORTIONS OF
10th STREET ABUTTING PARCEL P-56212, AS PER
RECORDS OF SKAGIT COUNTY WASHINGTON**

**THE CITY COUNCIL OF THE CITY OF ANACORTES DOES HEREBY ORDAIN AS
FOLLOWS:**

WHEREAS, at the April 18, 2016, City Council meeting a resolution was passed to set a hearing date for May 16, 2016, to consider a petition to vacate right-of-way (ROW) on 10th Street; and

WHEREAS, per AMC Chapter 12.50 Street and Alley Vacation the City Council, by motion, elected to forgo review by the board of Adjustments (AMC 12.50.060(F)); and

WHEREAS, the City Council held a public hearing on said proposal on May 16, 2016, and approved the requested vacation; and

WHEREAS, the legal description for the Street Vacation contained in Ordinance No. 2977 is in error and needs to be corrected; now, therefore

**THE CITY COUNCIL OF THE CITY OF ANACORTES, DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The following described right-of-way on streets and alleys located in the City of Anacortes should be and are hereby vacated:

The Northerly 7.75 feet of that portion of Tenth Street as per the "Map of the City of Anacortes", recorded in Volume 2 of Plats, page 4, abutting Lot AB per BLA-2015-0008, recorded under Auditor's File No. 201508310104, all records of Skagit County, Washington.

SECTION 2. As this Ordinance is to correct the street vacation legal description contained in Ordinance No. 2977 and has been initiated by the City, no additional compensation, based on AMC Section 12.50.130, shall be required.

SECTION 3. Effective Date: This ordinance shall take effect from and after 5 (five) days after its passage and publication as required by law.

PASSED AND APPROVED this 5th day of December, 2016.

CITY OF ANACORTES:

BY: _____
Laurie Gere, Mayor

ATTEST:

Steve D. Hoglund, City Clerk Treasurer

APPROVED AS TO FORM:

Darcy J. Swetnam, WSBA #40530
City Attorney



City Council Agenda Bill

Meeting Date: 12/5/2016

Agenda Item: 5e

Subject: Acceptance of Restricted Donation

Staff Contact: Richard Curtis, Fire Chief

Approved for Submittal to Council by	
X	Laurie Gere, Mayor
X	Steve Hoglund, Finance Director
X	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report

Summary Statement: Bill and Susan Carlisle would like to make a donation of workout equipment to the Anacortes Fire Department. They no longer have use for the equipment and believe that it would best suit the physical fitness activities of the FireMedics.

Ordinance 2959 requires the City Council take action to accept "Restricted Donations" exceeding value of \$10,000 dollars which support an established City Program.

Background: The Anacortes has in the past accepted certain types of physical fitness equipment to be used by the FireMedics in existing facilities. This donation exceeds the Mayor's authority as a restricted donation. The value of the equipment is \$14,000 dollars new, and has had light use and nearly in brand new condition.

Budget Impact	
Amount Budgeted	0
Budget Account (BARS)	0
Proposed Expenditure	0
Budget Amendment Required?	0
Revenue Source	0

Proposed Contract	
Contractor	
Amount	
Start Date	
End Date	

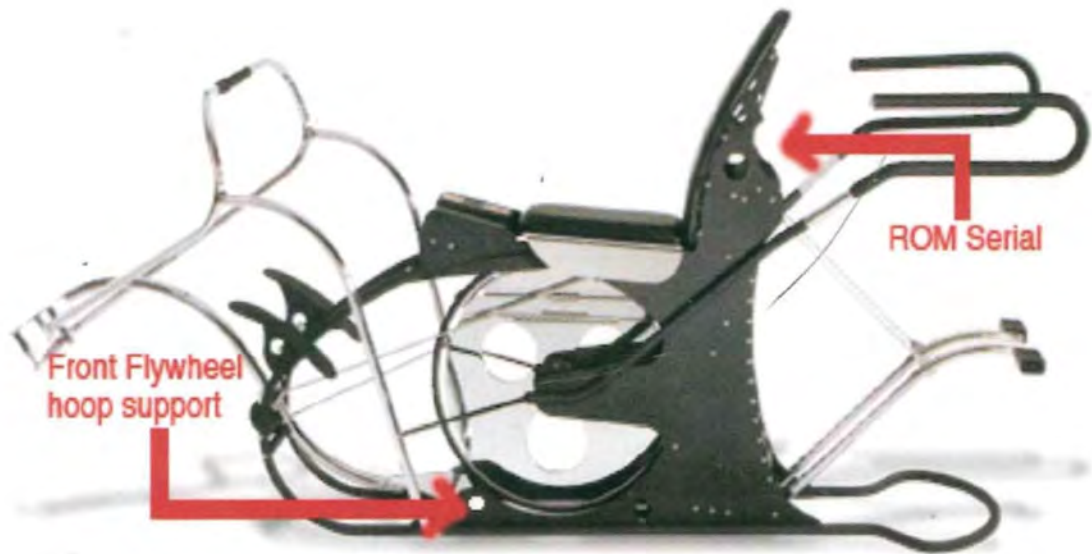
Previous Council/Committee Action: None

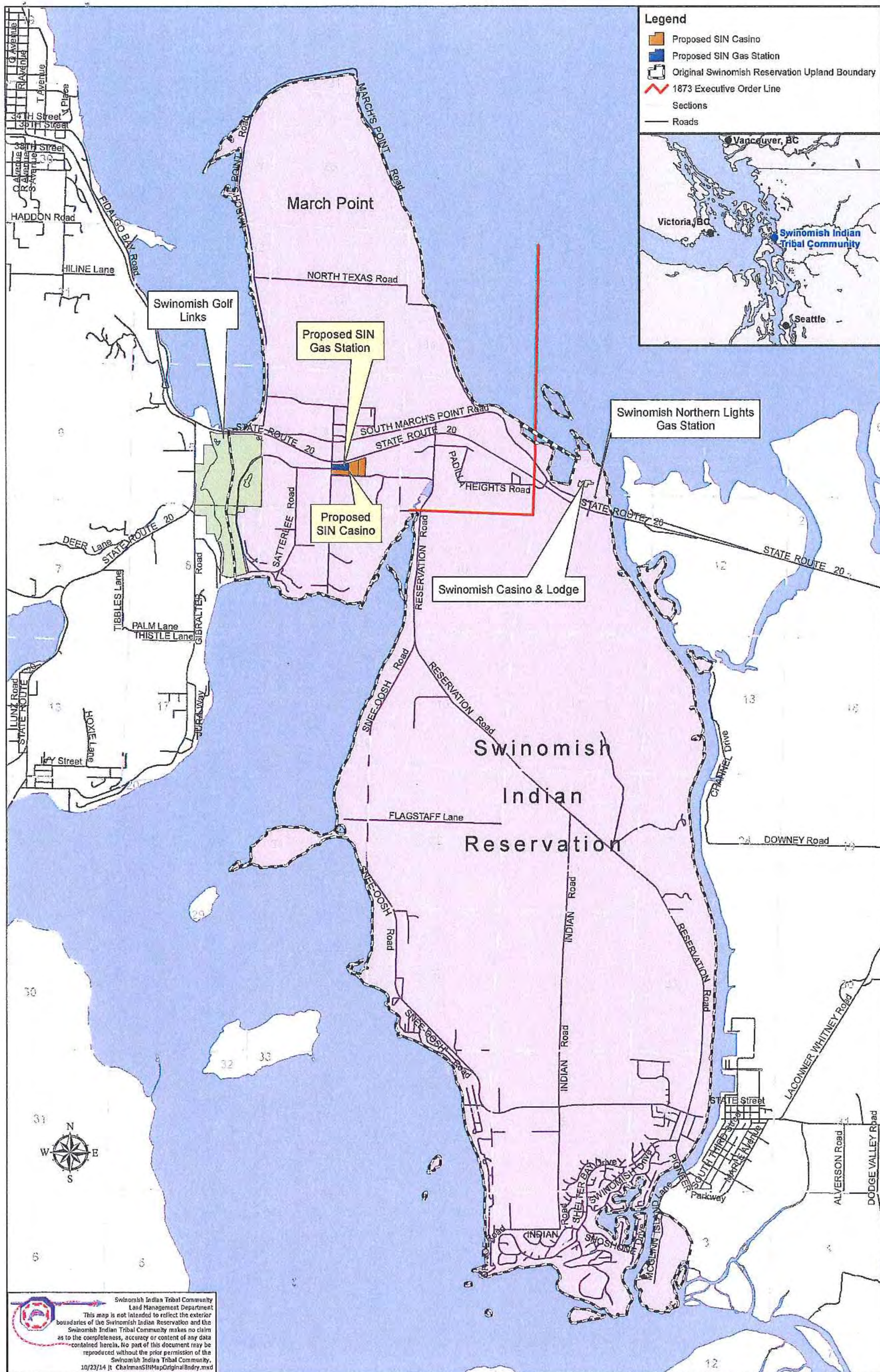
Competing Viewpoints Considered: None

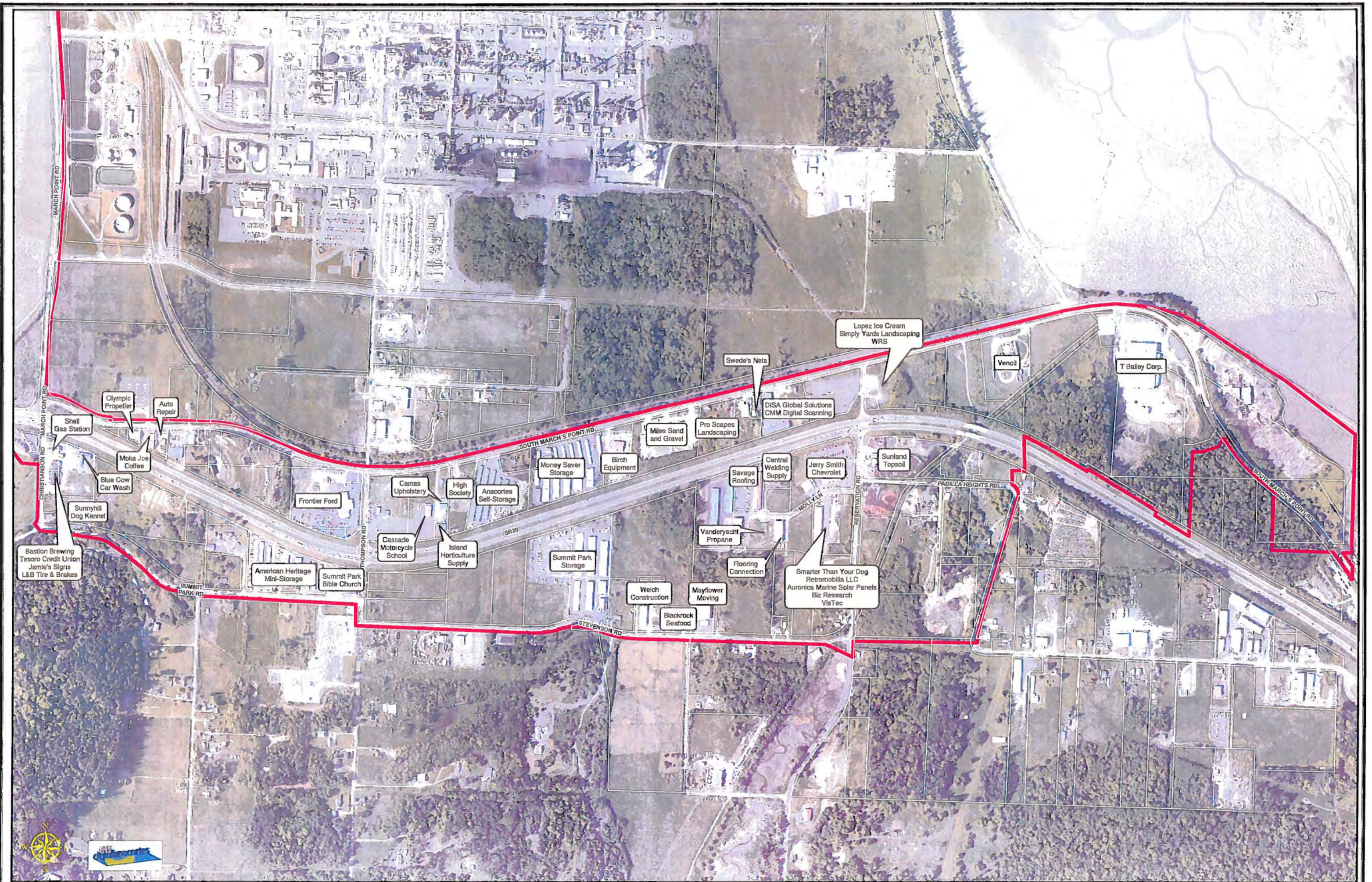
Recommended Motion: I move to accept the restricted donation from Bill and Susan Carlisle of exercise equipment for use by the Anacortes Fire Department as part of the Consent Agenda.

Alternative Actions: Not accept the donation

Attachments (listed in order presented): Picture of Workout Equipment







Ordinance No. 2988

An Ordinance Amending AMC Title 2, Title 9, Title 18, and Creating a New Title 20 To Provide for a Fair and Efficient System of Civil Code Enforcement

Whereas the Anacortes Municipal Code currently includes code enforcement rules and procedures in multiple titles;

Whereas the City Council desires to consolidate and clarify code enforcement procedures and remedies to provide effective and efficient rules for the public and city staff;

Whereas the City Council desires to establish a hearing examiner to hear appeals of code enforcement actions;

Whereas RCW 35A.11.020 and RCW 35A.21.160 provide that the City has all the power of any class of cities, and RCW 35.22.280 provides that first-class cities have the ability to declare and abate public nuisances;

Whereas RCW 35A.11.020 and RCW 35A.21.160 provide that the City has all the power of any class of cities, and RCW 35.22.280 provides that first-class cities have the ability to declare and abate public nuisances;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

Section 1. The Anacortes Municipal Code is amended as shown in Attachment A.

Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Attachment A

Amendments to the Anacortes Municipal Code

Title 2 Personnel and Administration

The following chapters in Title 2 are created or amended:

New Chapter 2.30 Hearing Examiner

2.30.010 Purpose.

- A. To provide an efficient and effective administrative adjudicatory system for acting upon quasi-judicial matters and for review of contested administrative determinations;
- B. To ensure, to the extent possible, that quasi-judicial administrative decisions are made in a fair and impartial manner; and
- C. To ensure that the principles of due process and appearance of fairness are adhered to in regard to quasi-judicial matters.

2.30.020 Creation.

- A. The office of the Hearing Examiner is hereby created to be independent of city departments, boards, and commissions.
- B. The term "Hearing Examiner" includes any *pro tem* Hearing Examiner.

2.30.030 Appointment.

- A. The Hearing Examiner may be appointed by the mayor, with the concurrence of not less than four members of the city council, for a term of two years.
- B. One or more Hearing Examiners *pro tem* may be appointed by the mayor, for such terms as may be specified at the time of appointment, to serve in the case of a conflict or absence of the hearing examiner.
- C. The Hearing Examiner and any Hearing Examiner *pro tem* must be appointed solely with regard to qualifications of the office.

2.30.030 Qualifications

- A. The Hearing Examiner must:
 - 1. be an attorney;
 - 2. have at least five years' experience in land use planning and land use law;

3. have other training and experience necessary to qualify the Hearing Examiner to conduct administrative quasi-judicial proceedings.
- B. For matters involving interpretations of the International Building Code or International Residential Code, the Hearing Examiner must be qualified by experience and training to pass on matters pertaining to building construction. For matters involving interpretations of the International Fire Code, the Hearing Examiner must be qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems.

2.30.040 Duties.

- A. The Hearing Examiner must impartially administer hearings and review, interpret, and implement regulations as provided by this Chapter.
- B. Any person who holds the office of Hearing Examiner, including Hearing Examiner *pro tem*, must conduct all of his or her activities consistent with the Washington State Code of Judicial Conduct.

2.30.050 Powers and Jurisdiction.

- A. The Hearing Examiner has jurisdiction only over those matters prescribed by the Anacortes Municipal Code.
- B. The Hearing Examiner has the authority to conduct public hearings and decide matters as prescribed by the Anacortes Municipal Code.
- C. The Hearing Examiner *pro tem*, in the event of absence or the inability of the Hearing Examiner to act, has all the duties and powers of the Hearing Examiner.
- D. In the performance of his or her duties, the Hearing Examiner may:
 1. Administer oaths and affirmations, examine witnesses, rule upon offers of proof, receive relevant evidence, and conduct discovery procedures which may include propounding interrogatories and taking oral depositions pursuant to Washington State Court Rules; except that no person may be compelled to divulge information which he or she could not be compelled to divulge in a court of law;
 2. Upon the request of any party, or upon the Hearing Examiner's own volition, issue and cause to be served subpoenas for the attendance of witnesses and for the production for examination of any books, records, or other information in the possession or under the control of any witness. A subpoena must state the name and address of the witness sought, and if for the production of books, documents or things, must specifically identify the same and the relevance thereof to the issues involved.
 3. Regulate the course of the hearing in accordance with this chapter and other applicable ordinances;

4. Hold conferences for the settlement or simplification of the issues by consent of the parties;
5. Dispose of procedural requests or similar matters;
6. Take any other action authorized by the Anacortes Municipal Code.

2.30.060 Procedures.

- A. The Hearing Examiner may adopt rules as necessary to carry out the duties and responsibilities of the office.
- B. Rules may not take effect until they have been reviewed and approved by the City Council.
- C. Rules may not conflict with the Anacortes Municipal Code.

2.30.070 Conflict of Interest and Freedom from Improper Influence.

- A. The Hearing Examiner may not conduct or participate in any hearing or decision in which the Hearing Examiner has a direct or indirect personal interest that might exert such influence upon the Hearing Examiner that might improperly interfere with the decision-making process.
- B. Any actual or potential conflict of interest must be disclosed to the parties immediately upon discovery of such conflict. The Hearing Examiner must abstain from any further proceedings in the matter unless all parties agree in writing to have the matter heard by that Hearing Examiner.
- C. No City official or any other person may attempt to interfere with or improperly influence the Hearing Examiner in the performance of his or her duties. Violation of this subsection is a misdemeanor, punishable by up to 90 days in jail, or a fine of up to \$1,000, or both.

2.30.080 Removal.

After a public hearing, the Hearing Examiner may be removed from office during a term either:

- A. for just cause by the mayor with the concurrence of at least four members of the city council; or
- B. by the vote of at least five members of the City Council, without the concurrence of the mayor.

2.30.090 Annual Report to City Council.

The Hearing Examiner must report in writing and meet with the city council at least annually for the purpose of reviewing any amendments to city ordinances or other policies or procedures that would improve the performance of the Hearing Examiner process. Such report must include a summary of the Hearing Examiner's decisions since the last report. If requested by the city council or the mayor, the Hearing Examiner must provide additional written reports as deemed appropriate by the city council or mayor.

Title 9 Public Peace, Morals, and Welfare

The following chapters in Title 9 are created or amended:

New Chapter 9.06 Nuisances

9.06.020 Criminal penalty

A person who commits or maintains a public nuisance, for which no special punishment is prescribed; or who willfully omits or refuses to perform any legal duty relating to the removal of a public nuisance; or who lets, or permits to be used, any land, building, or structure or portion thereof, knowing that it is intended to be or is being used for committing or maintaining any such public nuisance; is guilty of a misdemeanor, and upon conviction, may be punished by a fine not to exceed \$1,000, or imprisonment not to exceed 90 days, or both. Each day or part thereof is a separate offense.

Title 16 Subdivisions

AMC 16.04.105.B, Violation—Penalty is repealed.

Title 17 Zoning

AMC Chapter 17.66, Penalties for Violation, is repealed.

Title 18 Environment

8.08 Littering

AMC 8.08 Article IV, Enforcement (AMC 8.08.210-250) is repealed.

18.14 Nuisances

AMC 18.14.180, Public nuisance defined, is recodified as new section AMC 9.06.040.

The remainder of AMC Chapter 18.14, Nuisances, is repealed.

New Title 20
Civil Enforcement and Penalties

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Chapter 20.10 General Provisions

20.10.010 Policy.

- A. The policy of the City of Anacortes is to:
 - 1. Fairly, actively, and uniformly enforce the municipal code to preserve the health, safety, and welfare of the public and the environment and not for the benefit of any particular class of persons;
 - 2. Conduct all investigations into alleged violations consistent with statutory and constitutional protections of the right of privacy;
 - 3. Use education as a first step toward achieving compliance with those codes and offer property owners the opportunity to correct violations before imposing fines;
 - 4. Use administrative orders and other measures when necessary to ensure violations are corrected.
- B. To achieve this policy, this Chapter provides authority and procedures for:
 - 1. Efficient and effective notice and opportunities to correct violations;
 - 2. Progressive monetary penalties proportionate to the violations;
 - 3. Appeal of administrative orders regarding violations;
 - 4. Collection of civil penalties; and
 - 5. Abatement and remediation of violations
- C. Discretion.
 - 1. Generally, the Director should use a graduated enforcement process that uses notification and education as a first step and should offer violators the opportunity to correct violations before imposing fines.
 - 2. The Director may decide not to take action to correct a violation, especially for *de minimus* violations or violations that require interpretations or discretionary judgments of the applicability of the land use code.
- D. Supremacy. In the event of a conflict between provisions of this title and other provisions in the AMC, the provisions of this title control.

20.10.020 Definitions

The following definitions apply to this Title:

“Civil violation” means a failure to comply with any mandatory provision of the Anacortes Municipal Code, including failure to comply with a permit condition or an administrative order issued pursuant to AMC Title 20.

“Director” means the director of the Planning, Community, and Economic Development Department.

“Violator” means a person who violates any mandatory provision of the Anacortes Municipal Code, including failure to comply with a permit or an administrative order issued pursuant to AMC Title 20.

20.10.020 Civil violations.

- A. A civil violation includes any act or omission that procures, aids, or abets a civil violation.
- B. Each day a civil violation continues is a separate civil violation.
- C. A civil violation is a public nuisance and is subject to abatement under this Title, RCW Chapter 7.48, and RCW Chapter 9.66.
- D. Per RCW 7.48.260, any court or magistrate before whom any proceeding for a civil violation is pending may order such nuisance abated, in addition to any fine or other punishment that it may impose for such violation, and all property unlawfully used in the maintenance thereof destroyed by the sheriff at the cost of the defendant, except that if the conviction was in a district court, the district court judge may not issue the order and warrant of abatement, but on application must transfer the cause to the superior court to try the issue of abatement in the same manner as if the action had been originally commenced therein.

20.10.080 Joint and several liability.

In addition to any other person who may be liable for a civil violation, the property owner is jointly and severally liable for the civil violation, payment of any civil penalties, and restoration of the site.

20.10.090 Required report to City Council.

By February 1 of each year, the Director must report in writing to the City Council the number of code enforcement complaints received during the previous calendar year, the number investigated, the number found to be without basis, the number resolved, and the manner in which each was resolved.

Chapter 20.20 Procedures

20.20.020 Investigation—Right of entry.

- A. Investigation.
 - 1. Any person who believes a civil violation has occurred may notify the Director.
 - 2. The Director must investigate an alleged civil violation and confirm it has occurred before proceeding to correct it.
- B. Right of Entry.
 - 1. Whenever necessary to make an inspection of an alleged or suspected civil violation, the Director may, upon presentation of proper credentials and consent of the property owner

or other person having charge or control of the building, structure or property, enter such building, structure, property or portion thereof at all reasonable times to inspect the same.

2. If the building, structure, property, or portion thereof is unoccupied, the Director must make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property, or portion thereof and request entry.
3. If entry is refused or a responsible party cannot be located, the Director may ask the City Attorney to assist in obtaining a warrant.

20.20.040 Administrative orders including stop work orders.

- A. Generally. The Director may issue an administrative order to compel correction of a civil violation, abatement of a nuisance, or payment of civil penalties.
- B. Stop work orders. The Director may issue an administrative order to immediately cease any work or activity that is causing a civil violation or a public nuisance.
- C. Supplemental orders. The Director may at any time add to, rescind in part, or otherwise modify an order by issuing a supplemental order.
- D. Final orders. An administrative order becomes final if it is not timely appealed, or if it is timely appealed and not stayed or reversed.
- E. Violations of administrative orders.
 1. If the person to whom an order is directed does not obey the order or does not pay the civil penalty assessed by the order, the Director may pursue any combination of the remedies in AMC Chapter 20.30.
 2. Failure to comply with a stop work order is a gross misdemeanor punishable upon conviction by a minimum fine of \$500 up to a maximum fine of \$1,000 or one year in jail, or both. Each day or part thereof of noncompliance with a stop work order is a separate offense.

20.20.060 Administrative orders—contents.

An order must contain the following:

- A. The name and address of the property owner, the person in possession of the property, and any other person responsible for the violation or condition.
- B. The street address or description of the property sufficient for identification of the location where the violation occurred or condition is located.
- C. A statement that the Director has identified a public nuisance or found a violation of specific code sections, permit condition, stop work order, or other administrative order.
- D. For stop work orders:

1. A directive to immediately cease the work or activity until the Director rescinds the order.
 2. A statement of the penalties for failure to comply.
- E. For orders other than stop work orders:
1. A statement of the corrective action required to be taken. If the Director has determined that corrective work is required, the order must require that all necessary permits be secured and the corrective work physically commence within a reasonable time, as determined by the Director, and a reasonable date by which the work must be completed.
 2. A statement specifying the amount of any civil penalty assessed as a result of the violation and, if applicable, the conditions on which assessment of such civil penalty are contingent.
 3. A statement that if the corrective action is not commenced or completed within the time specified, the Director may proceed to abate the violation, cause the corrective work to be done, and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation.
- F. A statement of the procedural steps the City may take to ensure compliance if the violation is not corrected consistent with the order.
- G. A statement that the order is effective upon service or, for stop work orders, when the Director posts it on the subject property or serves it on the persons engaged in the work.
- H. A statement of the right to appeal an order and the method and deadline for doing so, and that failure to file a timely and complete appeal may constitute a waiver of all rights to appeal the order.

20.20.080 Administrative orders—Service

- A. All persons identified in the order must be served either personally or by mailing a copy of the order by certified mail, postage prepaid, return receipt requested.
- B. If the address of a person cannot reasonably be ascertained, then a copy of the order must be mailed by certified mail, return receipt requested, to such person at the address of the location of the violation and a copy must be posted in a conspicuous location on the premises. The failure of any such person to receive such notice does not affect the validity of any proceedings taken under this Chapter.
- C. Service by certified mail is effective on the date of mailing.

20.20.100 Appeals.

- A. Filing.
 1. Who may file. Any person subject to an administrative order issued pursuant to this Chapter may appeal it in writing to the Hearing Examiner.

2. When to file. An appeal must be filed within 14 calendar days of service of the administrative order being appealed.
3. How to file. An appeal must be filed by submitting a Notice of Appeal to the Director on forms provided by the City, with the appeal fee set by City Council resolution.
4. Contents. The Notice of Appeal must contain the following:
 - a. Identification of the order being appealed;
 - b. The name and address of the appellant and the appellant's interest(s) in the matter;
 - c. The specific reasons why the appellant believes the order is in error;
 - d. The requested relief;
 - e. Identification of any applicable Anacortes Municipal Code sections.
- B. Automatic stay. An administrative order other than a stop work order is stayed during an appeal to the Hearing Examiner except when the Director determines that the violation will cause immediate and irreparable harm and so states in the order.
- C. Standard of review.
 1. The appellant bears the burden of proving that the administrative order was clearly erroneous.
 2. The Hearing Examiner may not overturn or modify the Director's order unless he or she finds it was clearly erroneous.
- D. Hearing. The Hearing Examiner must hold a hearing, during regular business hours, to provide opportunities for the parties to be heard on the appeal.
- E. Decision.
 1. The Hearing Examiner may affirm, reverse, or modify the appealed order.
 2. The Hearing Examiner's written decision must include findings of fact, conclusions of law, and a decision on the appeal.
 3. The Hearing Examiner must hold the hearing and provide the written decision on the appeal within 90 days of filing of the Notice of Appeal.
- F. Reconsideration.
 1. A party to an appeal may seek reconsideration of the Hearing Examiner's decision by filing a written request for reconsideration, describing the specific errors alleged, within 10 days of the date of decision.
 2. The Hearing Examiner must consider the request, without public comment or argument by the party filing the request. Reconsideration may be granted only when a material legal

error has occurred or a material factual issue has been overlooked that would change the previous decision.

3. A request for reconsideration is not required to exhaust the appellant's administrative remedies.
- G. Exhaustion of administrative remedies.
1. The Hearing Examiner's decision is the final decision of the City on the order.
 2. The date of final decision is the date the Hearing Examiner issued its decision, unless any party timely requests reconsideration, in which case the date of final decision is the date the Hearing Examiner makes its decision on reconsideration.

Chapter 20.30 Remedies

20.30.020 Voluntary compliance agreement.

- A. The City and the violator may enter into a voluntary compliance agreement at any time.
- B. The Director is authorized on behalf of the City to enter into a voluntary compliance agreement, as provided for in this Section, at any time before the City becomes involved in any lawsuit related to the enforcement action.
- C. Contents. A voluntary compliance agreement must contain the following:
 1. The name and address of the property owner, the person in possession of the property, and any other person responsible for the violation or condition.
 2. The street address or description of the property sufficient for identification of the location where the violation occurred or is located.
 3. A description of the civil violation and a reference to the specific code provisions that were allegedly violated.
 4. A detailed description of the agreed corrective action and the date by which it must be completed.
 5. The amount of the civil penalty that will be imposed, if any, pursuant to AMC 20.30.080 if the terms of the voluntary compliance agreement are not met and that the City has a consensual lien against the property for the amount of the civil penalty plus any recording fees and costs.
 6. A statement that the City retains the right to enforce the agreement as a matter of contract and retains all other rights and remedies available at law.
 7. A statement that if the Director determines that the terms of the voluntary compliance agreement are not met, the Director may proceed with enforcement consistent with this Title.

8. A statement that by entering into the voluntary compliance agreement the violator admits that the conditions described in the voluntary compliance agreement exist and constitute a civil violation.
 9. A statement that the violator knowingly, voluntarily, and intelligently waives the right to appeal any current or future administrative order arising from the same conditions or violations, including current or future civil penalties associated with the same conditions or violations.
- D. The Director may grant an extension of the time limit for compliance or a modification of the required corrective action if the violator has shown due diligence or substantial progress in correcting the violation and the circumstances support such an extension.

20.30.040 Certificate of Non-Compliance.

- A. After an administrative order becomes final, the Director may record with the County Auditor a certificate of non-compliance against any real property subject to the order.
- B. The certificate of non-compliance must describe:
 1. the property subject to the order;
 2. the violation;
 3. the amount of unpaid civil penalties;
 4. the method of releasing the certificate of non-compliance.
- C. Upon request of the property owner or violator, the Director must record a release of the certificate of non-compliance if:
 1. The administrative order is satisfied;
 2. All civil penalties are paid; and
 3. All costs associated with recording the certificate of non-compliance and the release of the certificate of non-compliance are paid.

20.30.060 Civil infraction.

- A. A person who causes a civil violation, or by any act of commission or omission procures, aids, or abets such a civil violation, is subject to a class 1 civil infraction in accordance with RCW Chapter 7.80, unless otherwise specifically provided.
- B. The maximum penalty and the default amount for a class 1 civil infraction is \$250, not including statutory assessments.
- C. A civil infraction may be imposed in addition to or as an alternative to any other judicial or administrative remedy.

20.30.080 Civil penalty.

- A. In addition to or as an alternative to any other judicial or administrative remedy, a person who causes a civil violation, or by any act of commission or omission procures, aids, or abets such a civil violation, may be subject to a civil penalty.
- B. Amount of Civil Penalty.
 - 1. The amount of civil penalty is \$100 per day per violation unless otherwise provided.
 - 2. For a civil violation related to critical areas, as defined in the Anacortes Municipal Code, the Director may impose an additional civil penalty up to:
 - a. An amount, not to exceed \$25,000, that is reasonable based upon the nature and extent of the violation and the costs to the City of enforcing this Chapter against the violator; or
 - b. An amount equal to twice the economic benefit that the violator derived from the violation as measured by the greater of:
 - i. The resulting increase in the market value of the property or the value received by the violator; or
 - ii. The savings of construction costs realized by the violator derived from the act that constituted the violation.
 - 3. A person found in violation of a new and separate civil violation within one year of the resolution of a prior civil violation may be subject to double the civil penalties normally imposed for such a violation.
 - 4. The Director may reduce a civil penalty based on one or more of the following mitigating factors:
 - a. The violator showed good faith or substantial progress, or both, in correcting the violation; or
 - b. The violator was not the primary cause of the violation.
- C. Collection of Civil Penalties.
 - 1. An order to pay civil penalties is valid for the penalties accrued as of the date of the order, and for future penalties that accrue until a specified event.
 - 2. The Director may issue a supplemental order for additional civil penalties. That order is appealable only for the additional civil penalties imposed by the supplemental order.
 - 3. Per RCW 19.16.500, the Director may refer orders to pay civil penalties to collection agencies 30 days after service, and may add a reasonable fee to cover the costs of collection.

- D. Payment of a civil penalty pursuant to this Chapter does not relieve the violator of the duty to correct the violation.

20.30.100 Abatement.

- A. For a civil violation related to illicit discharges or connections, the Director may also:
 - 1. Require implementation of BMPs described in the Stormwater Management Manual and, when necessary, AKART BMPs as described in RCW 90.48.010 and 90.48.520.
 - 2. Require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 - 3. Make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- B. If the required corrective work is not commenced or completed within the time specified, the Director may ask the City Attorney's office to assist in abating the public nuisance.
- C. Consistent with RCW 35A.21.160, RCW 35.22.280(30), and RCW 35.80.030, the City may abate the violation itself and charge the costs of abating the violation as a public nuisance lien against the property.
- D. Per RCW 35.80.030, the City may abate unfit dwellings, buildings, structures, or property following the procedures in this Title and RCW 35.80.030, and may direct the County Treasurer to charge the costs of abatement as an assessment upon the tax rolls against the real property.
 - 1. The Director is the municipal officer designated and authorized to exercise the powers necessary to carry out the purposes authorized by RCW 35.80.030.
 - 2. The Hearing Examiner is the appeals commission designated to hear and decide appeals within sixty days of date of filing, as required by RCW 35.80.030(1)(g).

20.30.120 Settlement.

The Director may, with the advice and consent of the City Attorney, enter into negotiations with parties in an enforcement action or named in a lawsuit under this Title or their legal representatives, for the purposes of negotiating a settlement to such action or lawsuit. The settlement may include a compromise regarding the collection of civil penalties but must consider the interests of the public and be in the best interests of the City.

20.30.160 Alternative remedies.

In addition to any other penalty or method of enforcement, the City Attorney may bring actions for injunctive or other relief to enforce the Anacortes Municipal Code.

Land Use Permit Procedures Code Update Package – Title 20

Comment summary – December 1, 2016

Below is a brief summary of public comments received as of December 1, 2016, document version references, and staff comments and recommendations. Comments have been grouped by theme/issue. Complete written public comment letters should be consulted for full details and context.

Issue	Comments summary	Draft reference	Comments
CODE ADMINISTRATION			
Discretion of Director	Commenters expressed concerns about the discretion provided to the director to determine whether to pursue enforcement and to determine what remedy is appropriate		Title 20 is intended to provide escalating enforcement, so that the Department can attempt to work with residents to correct violations before instituting fines and penalties. There may be egregious violations that warrant immediate fines and penalties, however. Therefore, Director discretion is important as to what remedy and enforcement actions should be taken.
Language of update not forceful enough	Commenter urges the use of more forceful, certain, definite, and direct language in codes and that use of “may” be changed to “will”. Commenter is concerned that, without this change, the confusion of the current code will exist with the new code		Changing all uses of “may” to “will” would eliminate all Director discretion to select remedies based on the facts of a particular case. This could lead to a situation where the director was required to impose harsh penalties on residents when a violation could better be addressed through education. Similarly, eliminating director discretion could require the director to postpone strict enforcement for egregious violators. This lack of discretion is contrary to the idea of escalating enforcement and the variety of remedies available to address code violations.
Director duty to follow and enforce code	Commenters are concerned that proposed repealed language in various code sections eliminates the Director’s duty to enforce the code provided in AMC 16.04.105.	Title 16 – Noting that only AMC 16.04.105,B is repealed	The update was amended to leave subsection A of 16.04.105 intact and only repeal section B of AMC 16.04.105, which deals with the procedures for violations. Additionally, the proposed Title 19 update includes language that says “The director has the duty to administer and enforce AMC Titles 16, 17, 18 and 19”.
Complaint-based enforcement	Commenters were concerned that having complaint-based enforcement was too passive and not adequate to enforce the code	20.20.020	The alternative to complaint-based enforcement is having staff patrol and seek out violations. Staff monitoring requires additional full-time equivalent staff, which the budget does not support. Under the proposed model, staff may still pursue enforcement actions for violations that come to their attention even if a complaint is not received. Most communities approach code enforcement based on citizen complaints.
Decriminalization of code violations	Commenter objected to removal of language in Title 16 that made code violations misdemeanors	Repeal of Chapter 17.66	Violations were not decriminalized. Chapter 1.24 AMC establishes that all code violations are criminal violations. The Code need only set criminal penalties for violations in one spot.
HEARING EXAMINER			
Cost of HE	Commenters feel that a HE will be expensive	Chapter 2.30	A Hearing Examiner will have budget impacts. To hire a HE, the City will send out a request for proposals and then contract with the chosen candidate. The City will pay

Issue	Comments summary	Draft reference	Comments
			the HE an hourly fee for actual time spent on cases. This position would not be a FTE - the HE will only perform those services required by the City's case load. The City may specify an hourly rate in the RFP. Hourly rates range from \$75 up to \$210 for cities similar to Anacortes. Skagit County pays \$75/hour. City Council may elect to recover some of those costs through appeal fees. City Council may also want to allow for fee reimbursement if an appellant prevails or fee assessments if the appellant loses.
Losing Improvement Board could deprive underrepresented residents of support	Commenter indicated that he feels the improvement board should act as an ombudsman for mentally ill, disabled, and poor residents.	Chapter 2.30	The improvement board is required to hear quasi-judicial matters in an unbiased manner that does not violate the appearance of fairness doctrine. Therefore, they may not act as an ombudsman for parties before them. However, City Council could consider creating an ombudsman program for appellants representing themselves separately.
Eliminating citizen boards discourages volunteers	Commenters expressed concerns that eliminating citizen boards takes away citizen involvement in local government by discouraging volunteers and appointing decision-makers who are not connected to their constituents.	Chapter 2.30	The adoption of the office of the hearing examiner would eliminate the improvement board in this update. Historically, the improvement board has met infrequently.
Scope of HE Duties	Commenters expressed concern about what the HE role will be – just code enforcement or other land use projects also? Commenters were particularly concerned that the language in Title 2 says that the HE will hear all quasi-judicial matters	2.30.010	The language of Title 2 creates the office of the hearing examiner and gives the hearing examiner authority to hear a broad range of cases, but does not determine what issues will come before the hearing examiner. The other Titles actually send cases to the hearing examiner. The Title 20 update sends only code enforcement appeals to the hearing examiner. The proposed Title 19 update sends Type 1 and 2 appeals to the hearing examiner and decisions on Type 3-HE projects (telecommunications, level 3 variances). Staff is not proposing any additional types of cases to the hearing examiner.
HE Qualifications	Commenter suggested that the City look at a HE candidate's past decision-making history	2.30.030	The City could consider any relevant decision-making history in the candidate selection process. Staff does not recommend this be built into the code update because it is difficult to quantify.
HE Discipline and Removal	Commenter questioned how to discipline a HE who doesn't follow conflict of interest rules or needs to be removed	2.30.070, 080, 2.30.040	The City adopts the Washington State Code of Judicial Conduct to govern the Hearing Examiner's professional activities. Removal procedures are clearly laid out in proposed 2.30.080.
GENERAL PROCEDURE			
Swearing in	Commenters would like city staff to be sworn in at public hearings.	Could be added to proposed 20.20.100(D)	Staff agrees
Order of code updates	Commenter expressed concerns about adopting a HE before the substantive code updates are complete		The City is unable to accomplish all code updates in one package because so much of the AMC is being updated over the next year. Additionally, statutory deadlines required updates to the code by the end of 2016 to comply with the NPDES Phase II Permit. These stormwater updates were adopted by Council on November 28. To be

Issue	Comments summary	Draft reference	Comments
			effective, the AMC needs to provide procedures to support the newly-adopted stormwater regulations.
Reconsideration	Commenter challenged the reconsideration process as pointless because a HE will not likely admit errors	20.20.100(F)	A party may request reconsideration of a HE decision within 10 days to correct any errors or oversights made during the appeal hearing. Reconsideration is commonly provided in the court system to address any errors without forcing parties to file a subsequent appeal.
Legalese in Code	Commenter questioned the use of “discovery” and “propounding interrogatories” in the code	2.30.050	These are all terms of art that have legal significance. However, if Council would prefer, staff can rework this section to be more accessible to the public.
APPEALS			
Notice	Commenters expressed concern about an opportunity to appeal Director’s decision to HE without notice provided to the public of the decision – they felt that was a hollow right to appeal	20.20.080	Code enforcement actions are different than land use actions. Those appeals provided for in Title 20 result from situations where a resident is found to be in violation of the Code and an administrative order is entered against them. Their due process rights then entitle them to notice and an opportunity to be heard on the charges against them. Conceptually, this entitles neighbors to a different level of involvement than in land use projects.
Appeal fees	Commenters expressed concerns about charging an appeal fee on code enforcement actions and that it would discourage public participation and burden potentially vulnerable members of the community		There are hard costs associated with an appeal of a decision, including mailing and publication of notices, copies, etc. Currently, staff is proposing a fee that would be commensurate with those average hard costs (around \$150-\$200). A proposal for changes to appeal fees will be brought forward to City Council in the coming months. For code enforcement actions, it may make sense to allow appellants to have fees reimbursed if they prevail in their appeal, or to only pay fees if they lose their appeal.

CODE ENFORCEMENT ORDINANCE

CITY OF ANACORTES – OCTOBER 24, 2016

CODE UPDATE OVERVIEW

2016/2017 Anacortes Municipal Code Amendments - Anticipated Schedule

Elements / Schedule*	2016	Sep	Oct	Nov	Dec	2017	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Code Enforcement & Penalties		CC Public hearing	CC additional discussion		CC adoption by 12/31													
Land Use Permit Procedures			PC meetings & hearing; CC meetings & hearing		CC adoption by 12/31													
Stormwater, Clearing/Grading		PC Public Hearing	CC Public Hearing		CC adoption by 12/31													
Medical Marijuana Cooperatives			PC/CC public meetings; hearings		CC adoption by 12/31													
Critical Areas				Public engagement; 1st draft development					PC/CC public meetings & hearings									CC adoption by 6/30
Zoning, Development Regulations & Design Standards				Development of concepts; community engagement; public workshop					PC Meetings; Hearings									CC Meetings; Hearings; adoption

* This schedule is intended to be general in nature and is subject to change.
Updated 9/27/16

APPEAL PROCESS – CURRENT CODE

Nuisance

Complaint received by department

Preliminary investigation by director

If a nuisance, service of complaint

Hearing before **improvement board** on violation

Board Order

File appeal within 30 days

Appeal hearing before City Council

Council decision on appeal

Appeal to superior court allowed

If owner doesn't comply with order, City can take action

Building Code

Owner applies for permit

Dept determination of completeness

Final decision on permit

File appeal within 10 days

Public notice of hearing

Appeal hearing before **board of adjustment**

Board of adjustment order

Further appeal to superior court

Subdivision Code

Complaint received OR department review

Admin Order to cease and desist

Owner fails to comply

Civil Penalty Issued

Notice of Penalty served

W/in 30 days application for remission or mitigation

Appeal within 30 days

Appeal hearing before City Council

City Council Order

If not paid, City action against owner

APPEAL PROCESS – PROPOSED

Preliminary
Investigation
by Director

- Complaint-Based
- Right of Entry allowed with owner permission

Director Issues
Administrative
Order

- Stop Work Orders
- Supplemental Orders
- Final Orders

Director Pursues
Appropriate
Remedy

- Voluntary Compliance Agreement
- Certificate of Non-Compliance
- Civil Infraction
- Civil Penalty
- Abatement

Appeals

- Any aggrieved party may Appeal to HE within 14 days of Administrative Order
- HE must hold hearing within 90 days of Administrative Order
- HE issues written findings
- Party may request reconsideration
- Aggrieved party may appeal to Skagit County Superior Court

HIGHLIGHTS OF ORDINANCE 2988

- **Creates Code Enforcement Procedures and remedies**
 - **Title 20**: New Title: Civil Enforcement and Penalties
- **Fixes Nuisance Code in light of new Title 20**
 - **Title 9**: Adds new sections on Nuisances
 - Public nuisance defined
 - Criminal penalties
 - **Title 18**: Removes Nuisances from Title 18 (Environment)
- **Provides a Hearing Examiner to hear Code Enforcement Appeals**
 - **Title 2**: Creates the Office of the Hearing Examiner
- **Cleans up Misc. Code Enforcement Provisions**
 - **Title 16**: Deletes code enforcement procedures from Subdivision Title

STRUCTURE OF TITLE 20

- **Chapter 20.10: General Provisions**

- Policy
- Definitions
- Civil Violations

- **Chapter 20.20: Procedures**

- Investigation
- Administrative Orders
- Appeals

- **Chapter 20.30: Remedies**

- Voluntary Compliance Agreements
- Certificates of Non-Compliance
- Infractions and Penalties
- Abatement
- Settlement

ADDITIONAL CONSIDERATIONS

- Code enforcement appeals in other jurisdictions
 - Nearly all jurisdictions have an appeal fee
 - But, there is a sense that different fees should apply for code enforcement appeals than for development project appeals
 - Some ideas:
 - Fee to be paid only if the appellant loses
 - Fee can be reimbursed if an appellant successfully challenges order
 - Reduced fee for code enforcement appeals
- Hearing examiner fees
 - Other jurisdictions offer certain hourly fee (e.g. \$75, \$150, etc.)
 - Average hours for code enforcement action estimated 5 hours
 - Likely would be a budget impact for HE services
- Director discretion: No examples of appeals of inaction of Director

A decorative graphic on the left side of the slide, consisting of a white wavy line with a yellow border, resembling a stylized speech bubble or a torn piece of paper.

QUESTIONS?

THANK YOU!



City Council Agenda Bill

Meeting Date: 12/5/2016 **Agenda Item:** 7b

Subject: Title 19 Land Use Procedures

Staff Contact: Don Measamer, Darcy Swetnam

Approved for Submittal to Council by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director
x	Darcy Swetnam, City Attorney

Action Type	
	Ordinance No.
	Code Revision?
	Resolution No.
	Contract
	Public Hearing
	Staff Report
x	Discussion

Summary Statement: This discussion item is presented to continue City Council discussion regarding draft proposed code amendments intended to consolidate and clarify procedural rules for land use permits within a new Title 19, Unified Development Code.

Background: See [11/21/16 CC packet](#) regarding this item.

Previous Council/Committee Action: Planning Commission discussed drafts of the proposal (V7, dated 10/3/16; V8, dated 11/2/16 and V10, dated 11/16/16) at its October 12, November 9, November 23, 2016 meetings. A public hearing before the Planning Commission was held on November 23, and continued to November 30, 2016.

Competing Viewpoints Considered: Public input has been taken at all public meetings regarding this topic. Public comment is welcome. A public hearing before the City Council has been advertised for December 19, 2016.

Recommended Motion: None – this is a discussion item.

Alternative Actions: N/A

Attachments (listed in order presented):

[11/21/16 CC Packet](#)

[Written public comments \(received as of 11/28/16\)](#)

November 9, 2016

Good Evening Commissioners,

My name is Marilyn Wells Derig. I reside at 1302 K Avenue here in Anacortes.

I have two concerns that I wish to bring to your attention.

For the first concern, I call your attention to the matrix, version 11/2/2016. Under Type 1 Administrative Ministerial Actions, no notice is required of the administrator. That means that for a Boundary Line Adjustment (BLA) approval, no neighborhood notice is given. So neighbors are unaware of developments that utilize this method of application, and cannot raise concerns in a timely manner, even if it dramatically affects their neighborhood. See recent BLA's on properties on 12th and D and on West 10th to see the extent of these boundary line adjustments. These are not adjusting lines between two agreeable neighbors. No notice was given to neighbors. I suggest that BLA's need to be handled through a mechanism that requires notice.

My other concern relates to standing. Currently any "aggrieved" person who submits a written comment or speaks at a Planning Commission meeting may appeal. The suggestion is to replace that process. Please see 19.10.210. I quote:

Appeals.

A. Standing. The following parties have standing to appeal final decisions:

1. The Director;
2. The applicant;
3. Any owner of the property subject to the application;
4. Any party of record when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;
 - b. That person's asserted interests are among those that the City was required to consider when it made the land use decision; and
 - c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision."

Please note: This is a requirement for bringing an action before the Superior Court. What if a "local decision maker" incorrectly ruled that you have no "standing?" You have no remedy in Superior Court because you no longer meet the requirement 4b.

Thank you for your consideration of my concerns.

Marilyn Wells Derig

mdेरig@me.com

360-293-3928

J. Lauridsen
11/9/16

11/9/2016 AMC PROPOSED CODE CHANGES

1. THE DIRECTOR HAS NO OBLIGATION TO FOLLOW AND ENFORCE THE LAW

Repealed:

~~16.04.105—Enforcement, violations and penalties.~~

~~A. General.~~

~~1. It shall be the duty of the administrator to enforce these requirements and to bring to the attention of the city attorney or his/her designated agent any violations of these regulations.~~

~~2. No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall convey title to any part of the parcel before a final plat of the subdivision has been approved by the city council in accordance with the provisions of the regulations and filed with the county auditor.~~

~~3. The subdivision of any lot or any parcel of land, by the use of metes and bounds described for the purpose of sale, transfer, or lease is prohibited.~~

~~4. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.~~

Repealed All of 17.08 to include:

~~17.08.010—Administrator.~~

~~It shall be the duty of the administrator to administer and enforce this title.~~

Repealed:

~~17.08.020—Building permits.~~

~~A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the building official. No building permit shall be issued except in conformity with the provision of this zoning code, city subdivision ordinance, street standards, building codes and other applicable ordinances.~~

ALL REPLACED WITH NEW TITLE 19 CODE SECTION

19.02.070 No special duty created.

A. It is the purpose of this title to provide for the health, welfare, and safety of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers, agents, or employees for whom the implementation or enforcement of this title is discretionary and not mandatory.

2. THE DIRECTOR HAS NO OBLIGATION TO RESPOND COMPLAINTS, MAINTAIN A RECORD OF COMPLAINTS AND GIVEN LICIENCE TO IGNOR COMPLAINTS

REPEALED

~~17.08.050—Complaints regarding violations.~~

~~Whenever a violation of this title occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrator. The administrator shall properly record such complaint, immediately investigate, and take action thereon as provided by this title, and shall notify the complainant of any conclusion reached or action taken. (Ord. 2316 (part), 1994)~~

REPLACED WITH:

20.20.020 Investigation—Right of entry.

A. Investigation and Follow-Up.

1. Any person who believes a civil violation has occurred may notify the Director.
2. The Director must investigate an alleged civil violation and confirm it has occurred before proceeding to correct it.
3. Generally, the Director should use a graduated enforcement process that uses notification and education as a first step and should offer property owners the opportunity to correct violations before imposing fines.
4. The Director may decide not to take action to correct a violation, especially for de minimus violations or violations that require interpretations or discretionary judgments of the applicability of the land use code

3. NO METHOD TO REQUEST AN INTERPRETATION OF TERMS

REQUIRED BY

RCW 36.70B.110

(11) Each local government planning under RCW 36.70A.040 shall adopt procedures for administrative interpretation of its development regulations.

REPEALED

~~17.08.080 – Duties of administrator, building official, board of adjustment, and city council on matters of appeal.~~

~~A. All questions of interpretation and enforcement shall be decided by the administrator.
B. Questions of interpretation and enforcement of this title and the building codes shall be presented to the board of adjustment only on appeal within ten days from the final decision of the administrator. Recourse from the decision of the board of adjustment shall be to the courts as provided by law.~~

REPLACED WITH

19.02.030 Administration

B. Counter information. The Director may respond to inquiries regarding the applicability and interpretation of various code provisions prior to or outside the context of a specific development permit application. These general counter requests for information are for public convenience only and are not binding on the City nor appealable.

4. DEFEATS PUBLIC PARTICIPATION ON APPEAL

“STANDING” TO APPEAL

Currently any “aggrieved” person who submits a written comment or speaks at a Planning Commission meeting may appeal.

REPLACED WITH

19.10.210 Appeals.

- A. Standing. The following parties have standing to appeal final decisions:
1. The Director;
 2. The applicant;
 3. Any owner of the property subject to the application;
 4. Any party of record when all of the following conditions are present:
 - a. The land use decision has prejudiced or is likely to prejudice that person;

- b. That person's asserted interests are among those that the City was required to consider when it made the land use decision; and
- c. A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision.

Note: This is a requirement for bringing an action before the Superior Court. What if a "local decision maker" incorrectly or maliciously rules that public participant has no "standing?" The party would have no remedy in Superior Court because they no longer meet the requirement 4b.

P. O'Hearn
11/9/16

19.02.070 No Special Duty created.

A. No provision or term used in this title is intended to impose any duty whatsoever upon the city or any of its officers...for whom the implementation or enforcement of this title is discretionary and not mandatory Does this give discretion to the director to enforce or implement portions of the title, if so, how is that discretion overseen? What records will be kept when the city declines to implement or enforce portions of this title?

19.10.180 Hearings and Meetings- There has been discussion of fees for appeals to the Hearing Examiner. For Type 3 HE decisions including Level 3 variances (what ever those are), and short plat subdivisions up to 4 lots the Hearing Examiner conducts the Public Hearing. We need to be assured that no fee will be imposed for any Public Hearing, regardless of the body holding the public hearing.

19.10.190 Notice of Decision

A When a final decision is made that requires a Notice of Decision per AMC 19.10.030 (Matrix)...

Type 1 and 2 are decisions by the Director with appeal to the Hearing Examiner. Type 3 HE is a decision by the Hearing Examiner with appeal to the City Council. Type 3 PC is a decision by the Planning Commission with appeal to the City Council. Type 4 has no local appeal process.

Type 1 decisions- While there is a provision for type 1 director decisions to be appealed, there is no notice provision which would realistically allow anyone other than the applicant to appeal the decision. As noted below, several types of decisions in this category could have significant impact on an existing neighborhood and there should be the ability for parties other than the applicant to weigh in on a Directors decision (Accessory Dwelling Units, Boundary Line Adjustment, and "minor" permit revisions)

Type 4- City Council Decisions- Long subdivisions (over 9 lots) which are arguably the most involved and intrusive of subdivisions have no local appeal process. There is an open record hearing before the Planning Commission which recommends action to the City Council which then makes a decision without any further hearing. There is no appeal from the Council decision. While the City is correct in limiting hearings to one open and one closed hearing, in this case it appears that a closed record hearing would not be allowed per the matrix.

19.10.120 Pre application neighborhood meeting- The proposed code rightly strengthens this important step. It makes a neighborhood meeting mandatory in many cases, and at the directors discretion in some. Most importantly, it requires a neighborhood meeting to be held at a public location and at a time most likely to allow neighbors to attend. It also requires a third party facilitator. All of these requirements make it more likely that this would be a meeting to discuss the project rather than just a forum for the developer to give lip service to a meeting.

19.10.160 Public Hearing and Meetings-

B. Swearing in required. –This sections should make it clear that “a party who desires to submit evidence” includes city staff testimony.

19.10.210 Appeals

A.4. Any party of record when all of the following conditions are present

Standing for an appellant is only allowed when three conditions are met. These conditions are copied from the State RCW LUPA statute. Additionally, comment RW33 states “*The appellate body needs explicit authority to determine standing...*”. This is a direct attempt to limit who may appeal a decision by the Director, Hearing Examiner, or Planning Commission. While state statute creates conditions for standing in a LUPA action, it is vital to remember that the LUPA action and standing issues are decided by a neutral third party, a Superior Court Judge. In this case, the very body that oversees the hiring of the decision maker would determine if a party had standing to appeal that decision makers ruling. Presumably the hearing body (either the Hearing Examiner or the City Council) would rely on advice from the City Attorney as to a whether or not a party had standing. None of this achieves any measure of independence in either appearance or fact. To reiterate, LUPA rules were created to allow an appeal to an independent 3rd party. To try to apply LUPA restrictions to a totally “in house” procedure puts a proposed appellant on an unequal footing. Additionally, by excluding a party from the appeal, that would exhaust “his or her administrative remedies to the extent required by law.” *RCW 19.10.200.C.1*. This could create a situation where a denied appellant could file a LUPA appeal to have their standing recognized before an appeal hearing could go forward.

An appeal is timely only if it is filed with the director within 14 calendar days... Since when is “the director” anything other than an employee of the City. The appeal should be filed with the City Clerk or the Mayor as officials of the City able to accept service. Additionally, the Director is often the person whose decision is being appealed.

An appeal must also be accompanied by the appropriate appeal fee (*19.10.200.C.2*). In discussions before the Council appeal fees to offset the cost of a Hearing Examiner have been discussed but this would seem to require fees to appeal an action to the City Council. The idea that a Citizen of Anacortes would be precluded from appealing to their elected representatives without paying a fee is repugnant on its face.

19.10.210 C. Permissive Joinder- “At the discretion of the hearing body, a party with standing to appeal may be added to the appeal after the appeal period has run.” Just as the hearing body would have unfettered power to determine who could appeal, this give the body carte blanche to add persons to the appeal without any justification. If one of the goals of the Title 19 rewrite is to make decisionmaking more transparent, open, and reduce controversy, this section and the standing section go in the opposite direction and can give the appearance of a “thumb on the scale”.

19.10.200 K. *"Preparation of transcripts and record. The appellant must pay the cost of preparing transcripts of public hearings and meetings and all other records ordered certified by the court or desired by the appellant for the appeal"*. While this language is mostly lifted wholesale from the State LUPA statutes, care should at least be exercised to adapt the language to the City of Anacortes. There is no **court** involved. Again, to require a citizen to bear the cost of appealing "the director's" decisions to the elected council creates a "pocketbook democracy" that limits access to only those with the money to buy the access.

19.10.210.I- This removes the requirement that a Notice of Decision be given to all involved parties. It allows mere publication of the Notice of Decision.

Finally the proposed code eliminates language in the current code that makes citizens aware that final decisions can be appealed to Superior Court with a LUPA petition. While this elimination cannot stop a LUPA appeal, the omission gives an appearance of finality to the "final decision" that does not really exist. Reference to external appeals should be put back into the code revision.

19.10.310 Permit Revision - This section allows the Director to make "minor revisions" to an approved permit. It goes on to give five qualifications of a minor revision. Importantly it removes a requirement in the 10/3/2016 draft "Significantly more or different impact on the surrounding area than does the present development, as determined by the director. In determining impact, the Director shall consider the scale of the proposed expansion or modification and expected changes to traffic, noise, hours of operation, and parking:". Removal of this language removes any requirement to consider the "minor revision" impact on the surrounding neighborhood. This section would allow the Director to ignore impact to the neighborhood and focus only on the impact to the project itself.

19.60.030- Accessory Dwelling Units- This is a major change in that ADU's become an Allowable use rather than a Permitted Use. It envisions ADU's being created throughout the City with no notice to neighbors. There would be a stated appeal to the Hearing Examiner but, in reality, without notice no appeal by anyone other than an applicant would be a practical impossibility. It also sets up a scheme whereby enforcement of the requirements of an ADU would depend on a yearly certification to the City which, as is pointed out in comment [GL 31] would be hard to track. Wholesale unleashing of ADU's without any realistic means of controlling them will inevitably lead to neighborhood disputes, uneven and arbitrary enforcement, and a variety of Air B&B's, vacation homes, guest cottages and other uses outside the stated goal of providing for affordable housing. Additionally, how does the City propose to fund the additional staffing load that would be required to ensure that ADU's are in compliance with code and meet the goals as stated in this Chapter?

19.60.055 Home Occupations

B. 2. Side effects of equipment used in the home occupation no longer prohibits generation of hazardous waste, or glare affecting adjacent properties

B.3. Removes the requirement that no more than 25% of the home may be used in the occupation and replaces it with the nebulous statement "The primary use of the premises shall be residential and at no

time shall the home occupation be the predominant use". While 25% is an arbitrary figure, the phrase that replaces it is realistically unenforceable.

B.4 Adds the requirement that no person other than members of the family residing on the premises can engage in such occupation. While that sounds good, the definition of a "family" in the new Chapter 19 includes up to "five unrelated persons living together in a single unit". Additionally, it removes the requirement that there be adequate off street parking and replaces it with the phrase "required parking", whatever that means.

4

PATRICK O'HEAR
11039 POST DRIVE

Grage, Libby

From: Mount, Jeff
Sent: Thursday, November 10, 2016 11:07 AM
To: Measamer, Don; Grage, Libby
Subject: title 19 comments

I compiled the following notes after the meeting last night. If there is anything else I can do to help please don't hesitate to ask.

- 1) 19.08.100 in the section on reasons for deferring action, #2 seems more like a reason not to defer action
- 2) Table 19.10.030-1 references Title 17 several times, which I believe will be superseded by title 19.
- 3) The hearing examiner seems like an extra layer of bureaucracy with a very narrow niche of responsibility. What do we gain from this?
- 4) 19.10.140 In E the address of the project should be included in the notice
- 5) 19.10.130 c.4.a says "the applicant may make minor revisions to the applicant" While technically true, this is probably not the intent.
- 6) 19.10.230 I am confused on the circumstances in which a reconsideration would happen rather than an appeal.
- 7) 19.10.330 D.2 included should be revised to include.

Grage, Libby

From: Gene Derig <gderig@me.com>
Sent: Friday, November 11, 2016 8:41 PM
To: Laumbatus, Marty; Mount, Jeff; Doll, Andrea; Cleland-McGrath, Christine; Moffitt, Amber; Oppel, Curt; McNett, Jeremy
Cc: coa.mayor; Measamer, Don; Grage, Libby; Nelson, Kaitlynn; Stewart, Joann; Cricchio, Kevin
Subject: Comments for Planning Commission from the meeting 11/9/16

Anacortes Planning Commission
Anacortes, WA

Dear Chairman Laumbattus and Planning Commissioners,

These are my comments for the Planning Commission meeting of 11/9/16.

#1—RE: The expanding powers of a possible Hearing Examiner.

Originally, we were told that the Hearing Examiner position, if adopted, would have limited responsibilities, only applying to such things as Variances and Special Use permits for antennas and cell towers. Now we find in the most recent version of the matrix that preliminary short sub-divisions of 5-9 lots are now included under the jurisdiction of the Hearing Examiner. Why is there an expansion of powers at this time? The position has not been approved and we haven't even cleaned up our codes yet!!

#2— RE: Question of "Frivolous Appeals"

The last time we attended a Planning Commission meeting the subject was raised of a fee or other charge per appeal to any City body. The Chairman offered that such a fee might be preclude "frivolous appeals". What is a "frivolous appeal"? Why would it be deemed in the best interest of the public for citizens to have to "pay -to-play", as it were, in order to appeal a Planning Commission decision to City Council as illustrated in column 3, under PC of the latest matrix?

Thanks for your time.

Gene Derig
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360-293-3928

Tom and Pam Allen
P.O. Box 817
Anacortes, WA 98221

November 21, 2016

To: Anacortes Planning Commission

Re: Draft Title 19 Development Section of the AMC

Dear Chairman Laumbattus and Planning Commissioners,

We would like to submit some of our thoughts on the upcoming Draft Title 19 Development code rewrite for procedures, policies and code changes.

The economic vitality of Anacortes is very important to all of us for jobs, healthy business investment and a range of housing affordability for all economic segments of the Anacortes community. As long time building contractor and business investors in Anacortes we feel that there is currently a negative environment for housing in Anacortes. Negativity hurts our Anacortes citizens and businesses. Negativity does not foster economic vitality.

Draft Title 19.10.210 Appeals.

Routine, arbitrary or possibly frivolous appeals have become the norm in the Anacortes land use and building process and are very disruptive. Appeals are paralyzing to the Planning Department, the applicant(s), businesses and the community. They increase the price of land and slow housing growth, which in turn increases housing prices.

The result of the more recent proliferation of appeals has wasted limited municipal and private sector resources, which leads to an inefficient and uncertain public planning process. This is costly to the taxpayers and the applicants and leads to uncertain building, investment & economic development processes. Private land owners work hard with the City of Anacortes Building and Planning Departments to complete application processes with the reviews set forth in the AMC to receive approvals where zoning is deemed in conformity with policy. Applicants who respect the process and follow the administrative lead of the COA staff, should be allowed to develop their property under the AMC. Importantly, the taxpayers shouldn't have to bear the entire burden of an out of control appeal process with no cost to the appellants. The current system allows a repeat small group of people the opportunity to slow growth and significantly increase development costs.

We applaud the proposed rules for appeals as proposed in the Draft Title 19.10.210.

- A. Standing
- B. Necessary Parties
- C. Permissive Joinder

These proposals are well written under draft AMC Title 19 Appeals 19.10.210. and we are proposing to include in the new 19.10.210. other tools for appeal options and fees. Options for changing the current appeals process could include the following:

- 1) **Restrict who can file an appeal.** Historically in communities across the state, including Anacortes, land use development applications have required mailing notification to landowners or people who reside within a 300' radius of the land use project. We believe that same 300' radius should also be the boundary for appeals. We are recommending restricting who can file a land use appeal at no cost in Anacortes to include:
 - Only citizens who are directly impacted by a Short Plat, Long Plat or other land use application by living or owning property within a 300' radius of the applicant project.

Other appellants, whose goal is to disrupt, stop or slow growth, should not be allowed to appeal a land use application within the city limits, unless within the 300' radius. As it stands now, people who live on the other side of the island from a land use project or even outside of Anacortes, with no physical or economic investment in the applicant project area can disrupt businesses and our planning processes. We need to stop these routine and arbitrary appeal applications by those who are abusing the system only to subvert it. The cost of these appeals is a burden to the City, taxpayers and the applicant(s) who also have rights.

We also offer a secondary consideration:

- 2) **Implement a "Sliding Scale" fee for a land use/housing appeal application,** just like other City of Anacortes application fees, to accurately reflect the staffing and processing cost to the City and to discourage "serial appealers" who create excessive cost to the Anacortes taxpayer. Serial appealers can be disrespectful to staff and applicants and have a negative economic impact on applicants, city staff and the Anacortes taxpayers while managing to slow or stop the growth of workforce and other affordable housing. Fidalgo Island has a population of 22,000 and the current repeat appealers that set forth to disrupt and subvert the application process represent 3 ten thousandths (.0003%) of our island population.

We propose charging an appropriate fee to process the appeal to the Council with the following considerations:

- Appeals should be free for people who own or rent property within the 300' radius of the application project.
 - Additional parties who file appeals on projects within Anacortes should be charged an appropriate appeals application fee to help mitigate the city staffing and processing costs to taxpayers. As an example, the first appeal is \$1,000. The second appeal will cost \$2,000, the third appeal will cost \$3,000, etc.
 - Any system that costs the applicant tens of thousands of dollars and appellants nothing is a system open to abuse by serial appellants.
- 3) **Use LUPA process to define Appeal Application requirements.** We support using the current draft language that uses the Washington State LUPA filing requirements for 3 conditions to be met for Appeal Applications. We do not agree with Mr. O'Hearn's public comment statement at the 11/9 Planning Commission meeting that a 3rd party oversight should be required for vetting

the initial appeal application to the City of Anacortes on a land use project. We believe that adds an extra layer of expense to the taxpayer and that our current Planning Department administration staff should process these initial appeals.

Requirement of recommended new appeal fees and restrictions are needed as appeals are expensive to process and hear, and time consuming for city staff and Council with significant time analyzing new information, compiling the expanding record, and drafting new staff reports and findings pertaining to an application to Council, resulting in undermining the Council's capacity to work on the Council's priority projects.

- Because of the current nonexistent appeal fee, the cost of the appeal process is borne by the City's taxpayers and encourages "serial appellants."
- Due to the additional staff time, consultant fees, applicant time lost on delays and spent on answering appeals and council time for the same, appeals can cost the community tens of thousands of dollars for city costs and land costs that push any hope of affordable land for housing or business development upward in price.

Determine appeal application standing by bringing certainty, integrity and reliability to the land use process for applicants and the community to protect public investment in infrastructure as a reasonable standard for allowing appeals.

Anacortes Goal H-3, Housing Affordability.

- Policy H-3.2. stresses the importance to "...promote the development of affordable workforce housing to meet local needs..."

Affordable workforce housing starts with the price of the land. Land use appeals cause additional costs to property owners/applicants by adding time delays, additional costs for municipal staffing, professional services when peer reviews for consultants are required 2, 3 and 4 times, and legal fees. These additional costs burdens are added to the cost of the land pushing up housing and business costs.

Anacortes Goal H-6. Monitoring.

States to, "Implement Housing Element goals in a manner that is **efficient and transparent.**"

The word "efficient" is ignored and only the word "transparent" is being continually abused and demanded by a small and persistent group of serial appellants. These two words, efficient and transparent, that are the leading goal in monitoring the implementation of the housing element seem to be at odds with each other. There needs to be balance. There is nothing efficient about transparency, nor is there any affordability in transparency. Transparency is time consuming and expensive. Where is the balance?

19.10.210.1 Decision on Appeal.

As proposed the wording is correct in publishing the Notice of Decision. It is not in the best interests of the city to supply legal advice or propose or promote lawsuits by providing suggestions to citizens about what they can or can't do regarding decisions made by City Council regarding various land use applications.

19.02.070 No Special Duty Required.

The wording of this proposal for Title 19 is adequate and requires no revision.

Notice of Decision.

The Type 1 to Type 4 are very adequate as proposed for the Title 19 code change with an exception. We believe the Type 3-HE Hearing Examiner for "Preliminary Short Plat Subdivisions of 5 – 9 Lots" should be left with the Administrator in Type 2 with 1 - 9 Lots as is currently done in Anacortes.

A simple 1 – 9 Lot Short Plat Application doesn't need or require this additional burden on the city or they applicant. The Planning Department staff are well qualified.

Table 19.10.031-1.

We feel the Administrator is very well qualified to handle subdivisions up to 9 lots. It's been that way for a long time. Even Vernon Lauridsen stated that the current land use codes have worked in this town since 1994. (11/9/16 Planning Commission Meeting on City of Anacortes video @ 17 minutes.)

We don't feel a neighborhood meeting is required for subdivision applications up to 9 lots. The system has been working. If the neighbors requested it or the applicant requested it, it should be voluntary.

19.10.120 Pre-application neighborhood meeting.

We don't believe a neighborhood meeting should be required for subdivision applications up to 9 lots. The current optional neighborhood meeting system has been working and the Planning Director/Administrator is very capable of dealing with small short plats. If the neighbors requested it or the applicant requested it, it should be voluntary. These meetings add another layer of cost that drives up the price of land and the time to market in Anacortes. To summarize, Type I and II Land Use Applications along with Short Plats up to 9 Lots should not be required to have a neighborhood meeting or a Hearing Examiner.

Demanding that neighborhood meetings be required on all types of land use applications is an expensive overkill and an attempt to force a Community meeting instead of a Neighborhood meeting by the same disruptive group of serial appellants that want to control all development in Anacortes. There is no efficiency in this request. Stop the overkill in requiring notices to neighborhood, newspaper notification and posting meeting notice on site be required for all types of land use applications.

For Type 3 & 4 development applications, city staff can attend these meetings and can act as a facilitator. They need to be there anyway to answer impact questions.

19.04 Definitions

Definition of "Family".

The proposed definition allowing unrelated people and/or boarders to live together is already happening throughout our community. This definition is a good thing as it promotes one type of affordable housing and makes legal what is already common in our community.

19.10.310 Permit Revision

The definitions proposed for major and minor revisions are too restrictive and don't allow enough flexibility for the city and applicant(s) to work through the application process. As proposed, revisions would add unnecessary time and cost the applicant(s) more money. We believe Item 19.10.310 A.1. should be increased to at least 20%.

An example of why more flexibility is required follows:

The proponents put forth a plan. The Planning Department through DRG requires changes from the original proposal. Along with those changes an application is made. A lot of time and money is spent to get to this point. The Planning Commission approves the plat, with changes. We know there will be appeals. The City Council approves it with more changes. Somewhere along the line there is a point where the "10% revision" rule (AMC 19.10.310) is exceeded. This is not fair to the applicant to start over the application process based on 10%.

19.60.055 Home Occupations

The Home Occupations as written for Title 19 are well conceived. We do have a few suggestions:

- A. Permit should run with the land.
- B. There should be exceptions where a permit is not required.
 - 1) A nanny
 - 2) An elderly caregiver for 1 person
 - 3) A bookkeeper or other benign business that generates no additional noise and no more traffic than 2 cars per day average.

It is also proper to use of the Definition of Family (AMC 19.04.020) where non-related home occupants could work together in a business. Examples could be: building websites, engineering, baking, etc.

Thank you for time and your consideration of our comments.

Regards,

Tom and Pam Allen

November 21, 2016

Good Evening Mayor and Council,

My name is Marilyn Wells Derig. I reside at 1302 K Avenue.

We, as citizens, have looked to our City staff to recommend projects that are meeting our City codes. As you well know, sometimes, we may have an interpretation of the code that is opposed to a recommendation by staff to approve a project and this may be related to our current codes, which are now under review. I know that staff and Council are concerned about tightening up our codes, and I heartily support that action.

Originally, we were told that if we decided to install a Hearing Examiner, that that person would have limited duties. She or he would hear matters specifically on variances and special use permits for towers or cell antennas. Code Enforcement was also mentioned as a role for the Hearing Examiner.

I have always been and still am concerned about installing a Hearing Examiner, a position that would replace our citizen boards. Particularly I am concerned about this action taking place before we have our codes cleaned up.

Referring to the most current matrix, I see now that the hearing examiner would be hearing **appeals** on the Type 1 (with no notice to citizens) and Type 2 actions that are within the province of administrative ministerial actions and decisions, respectively. So if we have a hearing examiner, will it be through the Hearing Examiner in these two areas that **we as a City will do our code enforcement?**

I ask this because the City is now recommending for an outright repeal of 16.04.105, which addresses Enforcement, Violations and Penalties. Also 17.08. is recommended for repeal, taking the responsibility of administration and enforcement under that title away from the administrator. And the replacement, **19.02.070 says that NO special duty is created** and goes onto say **"It is the purpose of this title to provide for the health, welfare and safety of the general public, and**

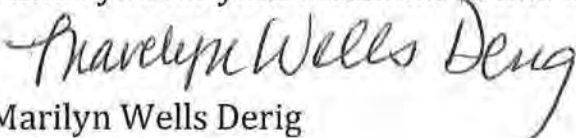
not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this title. **No provision or term used in this title is intended to impose any duty whatsoever upon the City or any of its officers, agents or employees for whom the implementation or enforcement of this title is discretionary and not mandatory.**" So it would seem that the City staff would not be responsible for enforcement. **Is that correct?**

In addition to this, the City is recommending changing the definition of **standing** and making it more difficult for citizens to have standing and therefore be able to appeal a decision. Please see 19.10.210 and check out the increased demands needed for said standing.

Theoretically then, the hearing examiner would be the one that **enforces** the codes, by virtue of an appeal, even when there may be **no notice to citizens** (like in the Type 1 Ministerial action which includes boundary line adjustments) and in addition, there are **more proposed limitations placed on citizens in the area of standing. Is this actually providing for the health, welfare and safety of the general public?**

While this administration ran on the platform of transparency and openness, and I applaud the steps taken to do so thus far, I am concerned that these proposed changes actually will suppress citizen input and impact, the same citizens who are paying for this whole process.

Thank you for your attention to this matter,



Marilyn Wells Derig

mderig@me.com

360-770-9805

Anacortes Planning Commission
Anacortes, City Hall
Anacortes, WA 98221

City
November 23, 2016

Rec - 11/23/16

Dear Chairman Laumbattus and Commission Members:

These are more comments regarding the proposed Hearing Examiner position.

I have stated some of this same information before, but will restate it for emphasis to those entrusted with decision-making.

Just a few years ago this same question of whether or not to have a Hearing Examiner, arose. It was controversial then as it is now, only a few short years removed. At that time the city decided to invite a veteran of the Hearing Examiner experience to speak at the Depot here in town. The speaker was Ed Good, a retired and very knowledgeable hearing examiner. The idea was for citizens and staff to take advantage of Mr. Good's expertise to get answers to questions about the issue.

The first point Mr. good made was this. He said, "If your economy is not "red hot" you don't need a hearing examiner". Our economy was not red hot, and still is not red hot, and that point was not lost on the full house audience there.

A second point he made was this. He said, "If you have a file drawer full of Conditional Uses in your Planning Department, you have a dysfunctional planning system". Read that: Fix Your Codes.

At the City Council meeting just two nights ago, 11/21/16, both the Budget Director and the Mayor stated that for now Anacortes' budget is okay. But there is cooling of revenues from building and construction which will be continuing after the next year or and into the foreseeable future. According to that, I'd say a "cooling" trend is in the opposite direction from red-hot and therefore, based on Mr. Good's statement we don't need a hearing examiner.

In reference to Mr. Good's allusion to the fact our problem was actually the codes —as it has been all along—I suggest we follow the advice of Mr. Good, someone the City invited to educate us to the appropriateness of a hearing examiner in the first place. Consider the number of conditional uses this City has relied on and you will hear Mr. Good's sentiment echoed: It's the codes, folks! ---My translation. The truly sensible course is to fix the codes first--- before you consider a hearing examiner position.

One more item: The City uses an argument for promoting the position of hearing examiner, which is this: we are one of the few jurisdictions who do not have a hearing examiner. So what? Kids use that argument on their parents all the time: "But Dad, Mom everyone else has one!!" And Mom and Dad often say no because what everyone else has is not necessarily a healthy premise to base a decision on. Same thing for the hearing examiner position. On the other hand we still have things a lot of jurisdictions wish they had but don't: a town with active, intelligent, attentive citizens and multiple opportunities guaranteed for meaningful input and impact to the process they pay for. Please say no to the Hearing Examiner.

I am Thankful, this evening before Thanksgiving, for everyone who is here and for the opportunity to speak on this issue because it means our system of transparency, of MEANINGFUL public participation, the system that all 16,000 of us stakeholders pay for, is still, at least for now, in tact.

I'll close my comments with this quote: "When citizen input becomes inconvenient to a government, we have the wrong government"

Thanks for you time,



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14.06.110			14.06.120			14.06.130			14.06.140		
Level I review procedures			Level II review procedures			Level III review procedures			Level IV review procedures		
Item	Level I	Deadline (Days)	Item	Level II	Deadline (Days)	Item	Level III	Deadline (Days)	Item	Level IV	
1	Optional Pre-development meetings		1	Optional Pre-development meetings		1	Optional Pre-development meetings		1	Optional Pre-development meetings	
2	Mandatory Pre-development meetings		2	Mandatory Pre-development meetings		2	Mandatory Pre-development meetings		2	Mandatory Pre-development meetings	
3	Letter of Completeness		3	Letter of Completeness		3	Letter of Completeness		3	Letter of Completeness	
4a	Notice of Development Application		4a	Notice of Development Application		4a	Notice of Development Application		4a	Notice of Development Application	
4b	Comment Period		4b	Comment Period		4b	Comment Period		4b	Public Comment Period	
5	Administrative Official Decision		5	Staff Report		5	Staff Report		5	Staff Report	
6	Notice of Decision		6	Notice of Public Hearing		6	Notice of Public Hearing		6a	Board Decision	
7	Hearing Examiner Appeal		7a	Open Record Pre-Decision Hearing	10	7	Open Record Pre-Decision Hearing		6b	No Public Hearing Required	
8	Notice of Appeal	14	7b	Public Notice of Decision		8	Hearing Examiner Recommendation				
9	Appeal Fee		8	Request For Reconsideration	14	9	Commissioner Closed Record Hearing				
10	Public Notice-Open Record Appeal		9	Notice of Appeal		10	Public Notice of Decision				
11	Hearing Examiner Open Record Appeal		11	Commissioner Closed Record Appeal		11	Superior Court LUPA Appeal	21			
12	Request For Reconsideration	10	12	Superior Court LUPA Appeal	21						
13	Board of Commissioners Appeal	14									
14	Superior Court LUPA Appeal	21									

Reductions of Required Landscape Buffers
 Reductions of Required Parking
 Reduction of Setbacks.
 Lot Certification
 Boundary Line Adjustments
 Preliminary & Final Short Subdivision Approvals

Variances (Including Shoreline)
 Special Use Permits
 FPA Waivers Not Single-Family Residents
 Review of Previous Land Use Permit or Approval
 Urban Reserve Development Permit
 Preliminary Long Subdivisions (Between 9 & 50 Lots)

Board of County Commissioners' Variances
 Preliminary Long Subdivisions (> 50 Lots)
 Binding Site Plans (> 50 Lots)
 Development Agreements
 Commissioner Recommendations
 Regional Essential Public Facilities

Final Long Subdivisions

Rec'd
 11/23/16
 Tom Glade

Rec'd
11/23/16
Carol O'Hearn

I'm Carol O'Hearn. I live at 11039 Post Drive.

I'm here to address 19.10.040 A in version 11-16-2016.

I'm opposed to city council setting a fee for appeals to the council when it is acting as an appellant body.

Citizens should not have to pay a fee to talk to or be heard by their elected officials.

In addition, 19.10.070 A seems to say this title is not meant to create a particular class of citizens or group of citizens who will be protected by or benefit from the title. However, if a fee is set you are doing just that: Creating a class or group who can afford to pay a fee to talk to their elected officials.

Where are you going with this? A pay to play system?

Each councilmember is paid a stipend by the city. The dictionary definition of stipend is a fixed sum of money paid periodically for services or to defray expenses.

Each councilmember is paid \$1,200 a month. This is \$14,400 per year for each councilmember.

They are paid for their service. It is part of the council service to listen to citizens. Yet, to file an appeal and to be heard by the council, an appellant will have to be able to afford to pay a fee. Those who can not afford to pay, can not play--- therefore, can not be heard. The council is setting up two distinct groups of citizens...those who can be heard and those who cannot be heard when the council is acting as an appellant body.

Do not set a fee for appeals to the council when the council is acting as an appellant body.

Thank you.

Carol O'Hearn

Rec'd
11/23/16
Patrick O'Hearn

Title 19 11/16/16 Revisions Comments

Patrick O'Hearn

As a preface, note that any reference to a position (i.e. "director") is directed to the position and its powers and duties and not any current, past, or future holder of that position. This is important if the goals of this code revision are to be met and the code will work effectively both now, and in the future.

Comments by section as follows

17.04.030- As properly noted by [RW6] This section states that an appeal to Superior Court is allowed. Nowhere in the new Title 19 is that fact noted. RCW 36.70.C makes it clear that City land use decisions may be appealed to Superior Court. To not make notice of that fact does not make an appeal go away but it seems less than honest to not make a citizen aware that there are options beyond the City appeal process.

19.20.030- Administrative Decisions- I am assuming that Bed and Breakfasts are an Administrative conditional use? Do they need to be listed as are home occupation permits? See my additional comments under 19.44.040 Bed and Breakfasts.

19.20.030- Type 1- There is still no way for anyone other than the applicant to find out about a Directors decision which renders the appeal process meaningless, except to the applicant. This is a basic fairness issue, the reality is that the developer is granted the ability to appeal a Director negative decision but the surrounding neighbors are not realistically afforded the chance to weigh in on a pro applicant decision. While some of the items listed are truly Administrative Magisterial Actions and there is not really any ability to appeal a cut and dried decision to proceed, level 1 variances allow the Director to make changes to "dimensional or numeric standards" by up to 25%. This definitely could impact neighboring properties and notice should be given so that adjacent property owners do not have to depend on the judgement of the Director for their protection. As an example, under current zoning regulations, a residential home height would no longer be limited to 35 feet but could be increased to 43 feet by director fiat. The same goes for other numerical limitations such as lot coverage, setbacks, and building size, all of which could have real negative impacts on surrounding properties.

19.20.030- Type 4 decisions are arguably the most intrusive land use decisions, large subdivisions and expensive shoreline projects among others. Yet, there is no mechanism for appeal of a decision. Attorney Swetnam stated that staff could see no good way of working around the problem of an appeal body hearing both the appeal and ruling on the underlying application. While that is a major and desirable goal, the fact that it is difficult to achieve does not warrant forcing anyone who wants to appeal into Superior Court. A mechanism for local appeal really needs to be in the code.

19.20.210 Standing- This has not changed from the earlier draft and my comments still stand. The standing for parties of record are lifted wholesale from the State LUPA statutes. Standing in the case of a LUPA action is determined by a totally unrelated third party (Superior Court Judge). In this case, 19.20.210 does not even define who may rule on standing issues. Even if such a party was identified, I

cannot see how they could be an independent third party. If the appeal body makes this determination, it is not independent. The City Council would presumably rely on the City Attorney for advice as to standing, which again would not be an independent judgement. This is a massive "thumb on the scale" and totally ignores the fact that many decisions may in fact set citywide precedents and affect more than just the immediate, surrounding landowners. This section insures that the applicant will always have a seat at the table but that everyone else will have to beg for a chance to be heard. Finally, denial of standing exhausts the administrative remedies available and would seem to trigger a party's ability to file a LUPA case prior to the appeal even being heard.

19.20.210.C Permissive Joinder- To further add to the uncertainty, allows "The hearing body may add a party with standing to the appeal, after the appeal deadline has passed, upon the request of the party". I assume that, since this is in the appeal section, the undefined term "hearing body" refers to the appeal hearing body and not the original hearing body. Regardless, we now have a process whereby the appeal hearing body can not only determine who may speak to it, it can open a side door and let someone into the process at their whim.

19.20.210.E Method of Service- The denial of postmarks to determine delivery effectively shortens the time to file. While most appeals would probably be filed in person, this assures that appeals filed close to the deadline must be filed in person or risk slow mail delivery. Use of postmarks would not slow the appeal process down but only serve to further limit the ability to appeal.

19.20.240 Exhaustion of administrative remedies- Again, the omission of even a reference to the non administrative remedy, a LUPA petition does not bar its use but only serves to obscure the fact that there is an appeal after all administrative remedies have been exhausted.

19.28.310 Permit Revision- The addition of C.2 which defines a minor revision as one that does not "2. Increase the intensity of the use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts" is a good addition from earlier drafts and requires the Director to consider the impact on the surrounding properties.

19.38 Variances- Limiting variances to dimensional or numeric standards is a positive step as is restricting them for changes in maximum density or minimum lot size are positive steps. The problem with this section arises in that the Director may vary numeric or dimensional standards by up to 25 percent with no notice to anyone. The fact that the variance is appealable by anyone other than a rejected applicant is specious in that, unless the variance is discoverable prior to the end of the appeal period, no appeal can be filed.

19.44.020 ADU's- Changing ADU's to an "allowable use" in all residential zones is a major change to the character of the city. This will allow almost anyone in any residential zone to double the number of dwelling units on their lot and flies in the face of the City comprehensive plan and zoning regulations. While the stated goals as outlined in the purpose section are good, the code does not provide any mechanism for enforcing their outcome. Simple wishing does not provide affordable or moderate income housing. Purpose #4 "Protect neighborhood stability, property values, and the character of the

neighborhood" is especially egregious. How adding a number of small apartment units to a single family neighborhood creates stability or preserves the existing character boggles the imagination.

This section defines ADU's but provides no mechanism for enforcement of the requirements. While either the dwelling or ADU is to be the owner's permanent and principal residence, the only mechanism for enforcing the requirement is recording a notice of that against the property title with the County Auditor.

19.44.020.C.5 requires the habitable floor area not exceed 900 square feet. Again, there is no enforcement mechanism and further, with a level 1 "no notice" variance, could be increase by the director to 1125 sq ft.

19.44.020.C.6 requires no interconnected interior spaces. Again, how can that be realistically enforced when any D.I.Y.'er with a moderate level of skill can carve a door between the units?

19.44.020.C.7- Requires three parking spaces but allows one space to be on the street. While one extra car parked on the street would seem no problem, if a majority of the houses on the block put in ADU's parking does become problematic, especially if more than three cars are involved in an ADU household.

The earlier draft at least had a permitting scheme which required an annual affirmation by the owner that the requirements of the ADU were being met. While that was cumbersome and questions were raised about enforcement, at least there was an attempt to insure that the letter of the law was being met. Perhaps an annual license fee should be imposed, with the proceeds going toward enforcement of this section. Also, is there a provision in the code section to allow the City to inspect to determine that an ADU is in compliance with this section?

This proposal will lead to neighborhood strife, congestion, and strain on the infrastructure without any guarantee that any of the very good purposes will be met.

19.44.040- Bed and Breakfasts- This section seems incomplete. B and B's are not addressed in the matrix. Are they a conditional use, or an allowable use? They are not defined in the definitions section. While the Zoning portion of the code has not been written, there is no reference here to any zone restrictions on B and B's. Are they to be allowed in any residential zone like the above mentioned ADU's?

Additionally, the licensing and notice provisions in the current code have been removed. While the requirements section is an improvement, the lack of oversight, licensing, and control need to be addressed. The section says that the "owner" must be the operator of the facility and must reside on the premises. Does this mean the "owner" of the property, or just the "owner" of the B and B on some leased or rented property? There is no process for approval or denial of a B and B stated. Surely it is not the intention to allow anyone, anywhere to open a B and B which requires no notice to officials, much less surrounding neighbors. Finally, the term Bed and Breakfast is not defined as to number of occupants, length of stay, or any qualifiers that would prevent a party from creating a series of long term rooms for rent should they so desire. This section needs much more work.

Land Use Permit Procedures Code Update Package – Title 19

Comment summary & Planning Commission Recommendations – November 30, 2016

Below is a brief summary of public comments received as part of the Planning Commissions review process, document version references, staff comments/recommendations and Planning Commission recommendations. Comments have been grouped by theme/ issue. Complete written public comment letters can be viewed [here \(http://www.cityofanacortes.org/public_comments-LU.php\)](http://www.cityofanacortes.org/public_comments-LU.php) and should be consulted for full details and context.

Issue	Comments summary	Version V8 reference	Version V10 reference	Staff Comments	Planning Commission Recommendation
PERMIT REVIEW PROCEDURES					
Public notice	Commenters would like there to be public notice of various proposed Type 1 applications, specifically mentioning boundary line adjustments, accessory dwelling units, and Level 1 variance applications	19.10.190	Table 19.20.030-1 (p. 27)	In making recommendations for the appropriate review process for different application types, some of the issues staff considered included: current and past permit review procedures and their outcomes; potential for a development to impact adjacent properties; the appropriate balance between facilitating citizen involvement and the cost in time and resources involved in additional procedural requirements (to City, applicant); and providing for a timely and fair permit process that ensures predictability. Staff recommends that refinements be made to the Variance levels in 19.38 and that a minimum Type 2 review process be provided for any variance request. It is also recommended that boundary line adjustments (BLA) and accessory dwelling units (ADU) be processed as Type 1 applications. In order to address concerns regarding what can be accomplished through a BLA or an ADU proposal, staff recommends that BLA and ADU criteria and standards be reviewed and amendments considered as part of the imminent development regulation update process.	Changes recommended to V10: Move Boundary Line Adjustments and Level 1 variances to a Type 2 review process. Utilize a Type 1 review process for Accessory Dwelling Units applications, retain all existing use criteria and standards from AMC 17.10.170, except 17.10.170(J) (which requires annual filing of owner's certificate of occupancy).
Type 4 applications	Commenters note that there is no local appeal option for Type 4 permit applications; and it appears that a closed record hearing would not be allowed per the matrix	19.10.090	Table 19.20.030-1 (p. 27)	Since Type 4 permits are City Council decisions, there is no higher local body to which to appeal. One way to ensure a local appeal opportunity for more applications would be to move certain application types to Type 3-PC or Type 3-HE review processes. These decisions could then be appealed to City Council. Per RCW 36.70B, closed record hearings are typically appeal hearings. With no local appeal, it would be appropriate to have no closed-record hearing.	No changes recommended to V10.
Short plats 5-9 lots	Commenters were concerned about the proposed review process for	19.10.031-1	Table 19.20.030-1 (p. 27)	In V10, preliminary short subdivisions have been moved back to a Type 2 review process.	No changes recommended to V10.

Issue	Comments summary	Version V8 reference	Version V10 reference	Staff Comments	Planning Commission Recommendation
	these applications as a Type 3 permit				
Method to request administrative interpretation	Commenters note that RCW 36.70B.110 requires local governments to adopt procedures for administrative interpretation of its development regulations; concerned repealed language is not adequately replaced	19.02.030	Ch. 19.12 (p. 16)	Staff recommends that administrative interpretations be added to the Type 2 column in Table 19.20.030-1 and that additional procedural language be added to Title 19 (possibly 19.02.030), as needed, to comply with RCW 36.70b.110(11), which states: “Each local government planning under RCW <u>36.70A.040</u> shall adopt procedures for administrative interpretation of its development regulations”.	Changes recommended to V10: Planning Commission supported the staff recommendation to add administrative interpretations to the Type 2 column in Table 19.20.030-1, and that additional procedural language be added to Title 19 as needed to comply with RCW 36.70B.110(11).
Permit revisions	Commenters would like the impacts on the surrounding neighborhood to be considered in approving a minor revision to a permit	19.10.310	19.28.310 (P. 39)	“Minor revision” criteria were revised in V10: any proposed revision that would increase in the intensity of a use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts, would be processed as a major revision.	No changes recommended to V10.
Variances	Commenter concerned that the Director may vary numeric or dimensional standards by up to 25% with no notice (Level 1 Variance)		19.38 (p. 42)	Staff recommends that refinements be made to the Variance levels in 19.38, and to adjust variance review procedures so that any level variance request requires public notice.	Changes recommended to V10: Planning Commission supported the staff recommendation to make refinements to the Variance levels in 19.38 and to adjust the variance review procedures so that any level variance request requires public notice.
Hearing Examiner	Commenters are concerned that a Hearing Examiner is proposed to be utilized for various land use permit types and appeals, replacing the Board of Adjustment and City Improvement Board. They feel that the existing development regulations need to be cleaned up prior to entrusting decisions to a hearing examiner, have questions about how that position would be paid for, and are concerned the		Table 19.20.030-1 (p. 27)	As proposed in V10, the Hearing Examiner would only be used for Type 1 and 2 appeals and Type 3 decisions. The HE would only review quasi-judicial matters that allow for limited public input regardless of the decision-maker.	No changes recommended to V10. (Vote was 5:1 to recommend utilization of a hearing examiner as proposed in V10)

Issue	Comments summary	Version V8 reference	Version V10 reference	Staff Comments	Planning Commission Recommendation
	proposal would have the effect of reducing public input and participation.				
APPEALS					
Standing to appeal	Some commenters state that the proposed standing criteria in 19.20.210(A) defeats public participation in appeals and prefer the existing code provisions regarding standing, which, in most cases, specify that any “aggrieved” party may appeal. Other commenters agree with the proposal to use LUPA standards in establishing requirements for standing, and/or limiting who can appeal based on proximity to a project site		19.20.210(A) (p. 36)	Standing only comes up in quasi-judicial hearings, which look to courts for guidance on process. There are three fundamental components of federal constitutional standing: injury, causation, and redressability. These three components are reflected in the LUPA statute. City staff has recommended adoption of the LUPA standing rules, which are supported by federal and state constitutional law.	Changes recommended to V10: Do not use LUPA standing definitions; use party of record to determine standing.
Filing of appeal	Commenters want appeals to be filed with the City Clerk instead of the Director		19.20.210(D) & (E) (p. 37)	Staff recommends changing language in this section to require filing with the City Clerk.	Changes recommended to V10: Planning commission supported the staff recommendation to change the language to require filing with the City Clerk.
Method of service for appeal	Commenter notes that denial of postmarks to determine delivery effectively shortens time to file an appeal.		19.20.210(E) (p. 37)	The existing rules in the AMC do not address this issue. Allowing postmarks to determine service date creates uncertainty. The city would have to wait an uncertain amount of time before processing appeals to ensure mail days are accounted for.	No changes recommended to V10.
Appeal fee	Some commenters want the city to continue to not charge a fee to submit an appeal; other commenters propose implementing a “sliding scale” fee.		19.20.210(D)(2) (p. 37)	There are hard costs associated with an appeal of a decision, including mailing and publication of notices, copies, etc. Currently, staff is proposing a fee that would be commensurate with those average hard costs (around \$150-\$200). A proposal for changes to land use permit fees will be brought forward to City Council in the coming months.	No changes recommended to V10.

Issue	Comments summary	Version V8 reference	Version V10 reference	Staff Comments	Planning Commission Recommendation
External appeals	Some commenters want City to retain language in the code regarding the availability of judicial appeals after local appeals have been exhausted. Other commenters believe the city should not provide legal advice regarding appeal of a final city decision.		19.20.240 (p. 38)	The Anacortes Municipal Code provides City rules. A party's right to appeal a local decision to state court is a matter of state law and staff recommends that it not be described in the city code.	No changes recommended to V10.
Permissive joinder	Commenters say that this section could allow the appeal body to add persons to the appeal without justification.	19.10.210(C)	19.20.210(C) (p. 37)	In V10, this section was revised to clarify that the body may add a party with standing to the appeal, after the appeal deadline has passed, upon the request of the party.	No changes recommended to V10.
Public hearing fee	Commenters want assurance that no fee will be imposed for a public hearing		19.10.180 (p. 35)	Staff proposes that land use permit application fees be updated to more accurately reflect the costs involved in processing different types of applications, including those requiring a public hearing. A project applicant is required to pay this fee when an application is submitted. Staff also recommends that an appeal fee be established to cover hard costs involved in processing such actions.	No changes recommended to V10.
Preparation of transcripts paid for by appellant	Commenter says this has the effect of limiting access to city council	19.10.200(K)		This language has been deleted in V10. The current AMC provisions require that an appellant pay for the cost of preparing transcripts (17.62.010, 17.04.030); this cost can be significant.	No changes recommended to V10. Planning Commission recommend that City Council look at this issue as part of updating the unified fee schedule.
Swearing in	Commenters would like city staff to be sworn in at public hearings.	19.10.160	19.20.160(B)	Language was changed in V10 to include city staff in swearing-in requirement.	No changes recommended to V10.
CODE ENFORCEMENT					
Director obligation to follow and enforce code	Commenters are concerned that proposed repealed language in various code sections is not adequately replaced to ensure enforcement of code	19.02.070(A)	19.10.030(A)	Staff proposes changing 19.10.030(A) to "The director has the duty to administer and enforce AMC Titles 16, 17, 18 and 19".	Changes recommended to V10: Planning Commission supported the staff recommendation to change 19.10.030(A) to "The director has the duty to administer and enforce AMC Title 16, 17, 18 and 19."
Director obligation to	Commenters are concerned that proposed repealed			Code Enforcement is dealt with in proposed Title 20, also see comment above.	No changes recommended to V10.

Issue	Comments summary	Version V8 reference	Version V10 reference	Staff Comments	Planning Commission Recommendation
respond to complaints	language in various code sections is not adequately replaced to ensure response to complaints				
SUPPLEMENTAL USE CRITERIA					
Accessory Dwelling Units, Home Occupations and Bed and Breakfasts.	Commenters had various concerns with the proposed supplemental use standards contained in Title 19 for Accessory Dwelling Units, Bed & Breakfasts, and Home Occupations, including how enforcement would occur, how uses would be compatible with surrounding neighborhoods, where they would be allowed, etc.		19.44.020, 17.44.040, 19.44.055	Staff's intent was to move procedures for these uses, which currently exist throughout AMC Chapter 17.10, into Title 19. Additional changes were proposed that were thought to be helpful in meeting the objectives of clarifying language and addressing confusing processes and terms. Staff recommends that in order to meet timeframes for adoption of land use procedures, the discussion tonight focus on procedural issues, rather than use criteria and standards for the specific use types. If Planning Commission is uncomfortable with the current proposal, one option could be to retain the existing standards for Accessory Dwelling Units, Home occupations, and Bed and Breakfasts where they currently exist in Title 17, while making minor adjustments to reference Title 19 where procedure language occurs. This would ensure that the development regulations remain as they currently exist, allowing for future review and amendment to address community and PC concerns as part of the upcoming development regulations update.	Planning Commission recommended that the changes in the "Permit Review Procedures", <i>Public Notice section</i> above be implemented to address concerns.
OTHER					
Notice of Decision	Commenter says this section removes requirement that a notice of decision be given to all involved parties		19.20.210(I)	Language was changed in V10 to require distribution of a revised NOD, incorporating the decision on appeal.	No changes recommended to V10.
Definition of Family	Some commenters are concerned about the definition of 'family' as it relates to allowable number of family members employed as part of a home occupation. Some commenters feel the definition is good to promote affordable housing.	19.04	19.12.020	The definition of family is not proposed to be changed from where it is defined in existing Title 17. Staff recommends caution be exercised in making changes to the definition so that citizens' fundamental constitutional rights are not violated.	No changes recommended to V10.

The following are some additional recommended changes have been identified:

1. Change the “Pre-application neighborhood meeting” cell under Type 2 Administrative Decisions from “No” to “At discretion of Director”.
2. 19.14 Chapter Title – Delete ...”and uniform”. The city does not adopt any uniform codes.
3. Repeal 16.08.040 re: Appeals of short plat decisions. Table 19.20.030-1 and 19.20.210 replaces 16.08.040 in outlining appeal procedures.
4. Repeal 17.44 Planned Unit Developments and Cottage Housing.
5. Add #8 to 19.20.150(B) re: other info needed to make a decision on an application
6. In Table 19.20.030-1 – Under Type 1 – revise term “Wireless Co-locations” to a term that is consistent with administratively approved uses in 17.63.030.
7. In Table 19.20.030-1, add Modifications and exceptions per AMC 16.24 to Type 4 review process column.
8. Numbering of tables in Sections 19.20.160 & 19.20.180 needs to be fixed.



TITLE 19: POLICY CONSIDERATIONS

December 5, 2016



Key Policy Considerations Guide Unified Development Code

- Balancing Interests Throughout Code
 - Procedural Considerations
 - Constitutional Considerations
 - Substantive Considerations



Major Considerations

- Transparency
- Public Participation
- Property Rights
- Substantive Due Process
- Procedural Due Process
- Efficiency of Process
- Specific Legal Requirements

Transparency

- Compliance with Open Public Meetings Act
 - Public access to meetings
 - Proper meeting notice
- Providing public information on upcoming projects
 - Appropriate notice for various permits
- Compliance with Public Records Act
- Clearer process for public to follow
- Clearer standards for decision-makers to use
- Aligning City regulations with generally-accepted legal principles

Public Participation

- Encouraging public participation
 - Providing an opportunity for public review and comment
 - Public hearings for statutorily-required types of government actions
 - Conduct of public hearings
 - Processing public comments
- Examples of Procedural Rules that Support Public Participation
 - Clearly noting comment periods
 - Accepting comments through open-record hearing
 - Providing public notice of projects where public input is warranted
 - Providing local appeals for most projects
- Recognizing legal limits on public participation
 - Closed-record hearings
 - Limits on public opinion in quasi-judicial hearings
 - “Approval or denial [of a PUD application] cannot be based solely on community sentiment.” *Kenart & Assocs. v. Skagit County*, 37 Wn.App. 295 (1984).
 - Applicants who satisfy relevant criteria are entitled to immediate issuance of permit. Legislative immunity does not protect decision-makers from liability for failure to issue permits that meet criteria. *Mission Springs, Inc. v. City of Spokane*, 134 Wn.2d 947 (1998).

Property Rights

- Personal property rights are constitutional
 - U.S. Constitution: 5th Amendment
 - Washington State Constitution, Article 1, §16
- Government may not take private property unless it is for a public use and just compensation is paid
- Taking occurs by:
 - Physically appropriating property
 - Regulating or limiting the use of property in such a way as to
 - Destroy one or more of the fundamental attributes of ownership
 - Deny all reasonable economic use of the property
 - OR Require the property owner to provide a public benefit
- Examples:
 - Building Permits must be issued as a matter of right if the zoning regulations and structural requirements of the building code are met
 - A taking would result if the City required developer to provide public access trails on private property
 - Property owners are allowed by right to perform boundary line adjustments (moving property lines)
 - Property owners have a constitutional right to develop their property within the rules of the code
 - City can limit economic use of property, but cannot deny use completely

Substantive Due Process

- Substantive due process test used to analyze constitutionality of burdens imposed by land use regulations

- Constitutional Considerations
 - U.S. Constitution: 14th Amendment
 - Washington State Constitution: Article 1, §3

- Analysis: Land use regulation must:
 - Have a legitimate public purpose
 - Use means that are reasonably necessary to achieve that purpose
 - Not impose an unfair burden on affected property owners

- Misc
 - Appearance of fairness doctrine
 - Conflicts of interest

Procedural Due Process

- U.S. Constitution requires that individuals are afforded procedural due process protections when the government deprives an individual of a property or liberty interest that is under an obligation to afford
- What process is due?
 - Notice
 - Opportunity to be heard
- Example: Vested Rights
 - Washington State concept: A land use application, under the proper conditions, will be considered only under the land use statutes and ordinances in effect at the time of the application's submission
 - Applies to: Building permits, subdivision applications, development agreements
 - Does NOT apply to: Procedural rule, impact and connection fees, business permits

Efficiency of Process

- Volume of permits
 - Approximately 560 permits processed YTD 2016
 - Approximately 40 building and remodel permits per month
 - Notice for all 560 permits would require
 - 2 additional FTE City staff and
 - Increased budget for mailing and publication
- Complying with timing requirements
 - Development applications must be processed within 120 days
- Staff time
 - Ability to complete all required projects within required time limits
 - Balancing effort of notice for issues public has not historically participated in

Specific Legal Requirements

- Federal and State law limits procedural rules in certain cases:
- Examples:
 - Federal law and case law limits procedures for telecommunications applications
 - State law requires City to process applications within certain # of days
 - Building permits: 28 days
 - Development applications: 120 days
 - State law requires no more than one open record hearing and one closed record appeal under RCW 36.70B
 - Shoreline substantial development permits must be processed pursuant to State Law and have different timing for notice and comment period
 - Appeals of SSDPs are to Shorelines Hearings Board
 - Rezones and annexations must be appealed to the Growth Management Hearings Board



QUESTIONS?

Process Matrix – Current and Proposed Land Use Permit Procedures Comparison

Based on Version Title 19 UDC v10, dated 11/16/16
 November 30, 2016

Yellow Highlight = Proposed change from current AMC procedures;
 PC = Planning Commission; CC = City Council; HE = Hearing Examiner

Proposed Type		Pre-application Neighborhood meeting		NOA / Comment Period		Recommendation By		Pre-Decision Open Record Hearing		Decision By		Notice of Decision		Local Appeal To / Appeal period		Appeal Hearing Type	
		Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
1	Accessory Dwelling Units	No	No	Yes 14 days	No	None	None	No	No	Director	Director	Yes	No	CC 5 days	HE 14 days	Not specified	Open-record
1	Boundary line adjustments	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
1	Building/mech/plumb permits	No	No	No	No	None	None	No	No	Director	Director	No	No	B of A 10 days	HE 14 days	Not specified	Open-record
1	Clearing and grading permits	No	No	No	No	None	None	No	No	Director	Director	No	No	CC 10 days	HE 14 days	Not specified	Open-record
1	Extension of time for approval	No	No	No	No	No	No	No	No	CC (PPL) Director (CAO) Director (SDP)	Director	No	No	None	HE 14 days	None	Open-record
1	Level 1 variances	n/a	No	n/a	No	n/a	None	n/a	No	n/a	Director	n/a	No	n/a	HE 14 days	n/a	Open-record
1	Shoreline exemptions	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
1	Minor permit revisions	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
1	Wireless collocation requests	No	No	No	No	None	None	No	No	Director	Director	No	No	None	HE 14 days	None	Open-record
2	Administrative CUPs, including Home Occ	No	Director Discretion	Yes 14 days	Yes 14 days	None	None	No	No	Director	Director	Yes	Yes	CC 5 days	HE 14 days	Not specified	Open-record
2	Binding site plans	No	Director Discretion	No	Yes 14 days	None	None	No	No	Director	Director	No	Yes	B of A 10 days	HE 14 days	Not specified	Open-record, then closed-record
2	Level 2 variances	n/a	Director Discretion	n/a	Yes 14 days	n/a	None	n/a	No	n/a	Director	n/a	Yes	n/a	HE 14 days	n/a	Open-record
2	Preliminary short subdivisions	No	Director Discretion	Yes 14 days	Yes 14 days	None	None	No	No	Director	Director	Yes	Yes	CC 15 days	HE 14 days	Open-record	Open-record, then closed-record
2	SEPA threshold determinations	No	Director Discretion	No	No	No	None	No	No	Director	Director	No	No	None	HE, then CC 14 days	None	Open-record, then closed-record

Proposed Type		Pre-application Neighborhood meeting		NOA / Comment Period		Recommendation By		Pre-Decision Open Record Hearing		Decision By		Notice of Decision		Local Appeal To / Appeal period		Appeal Hearing Type	
		Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
2	SWMM adjustments and exceptions																
3-HE	Special use permits for towers or antennas	No	Yes	Yes 14 days	Yes 21 days	Director	Director	CC	HE	CC	HE	Yes	Yes	None	CC	None	Closed-record
3-HE	Level 3 Variances	n/a	Yes	n/a	Yes 21 days	n/a	Director	n/a	HE	n/a	HE	n/a	Yes	n/a	CC 14 days	n/a	Closed-record
3-PC	CUPs, except Administrative CUPs	No	Yes	Yes 14 days	Yes 21 days	Director	Director	PC	PC	CC	PC	Yes	Yes	None – can appeal PC rec to CC	CC 14 days	None	Closed-record
3-PC	Shoreline Substantial Development Permit (for projects valued less than \$1 mil. On site < 3 ac.)	No	Yes	Yes 30 days	Yes 30 days	Director/PC	Director	PC	PC	PC if < 3 ac, 1mil	PC	Yes	Yes	CC if PC decision (5 days), otherwise SHB	CC 14 days	Closed-record	Closed-record
3-PC	Shoreline CUP & Variance	No	Yes	Yes 30 days	Yes 30 days	Director/PC	Director	PC	PC	PC if < 3 ac, 1mil CC if > 3ac, 1mil	PC	Yes	Yes	CC if PC decision (5 days), otherwise SHB	CC 14 days	Closed-record	Closed-record
3-PC	Special use and reasonable use permits per AMC 17.70	No	Yes	Yes 14 days	Yes 21 days	PC	Director	PC	PC	CC	PC	Yes	Yes	None	CC 14 days	None	Closed-record
3-PC	Any other applications identified as “conditional uses” in AMC Title 17	No	Yes	Yes 14 days	Yes 21 days	PC	Director	PC	PC	CC	PC	Yes	Yes	None	CC 14 days	None	Closed-record
4	EPFs, type 1 and 2	Yes	Yes	Yes	Yes	Director	PC	No	PC	CC	CC	Yes	Yes	None	None	None	None
4	Manufactured home subdivisions	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None
4	Preliminary long subdivision	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None
4	Site-specific rezone authorized by comp plan	No	Yes	Yes 14 days	Yes 21 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None
4	Shoreline Substantial Development Permit (for projects valued at \$1 mil. or more or on site of 3 ac. or more)	No	Yes	Yes 30 days	Yes 30 days	PC	PC	PC	PC	CC	CC	Yes	Yes	None	None	None	None

RC 12/5/16

Tom Allen
P.O. Box 817
Anacortes, WA 98221

December 5, 2016

Re: Response to Public Comments COA Planning Commission Meeting of 11/30/16 - Draft Title 19 Development

Dear Mayor Gere and City Councilmembers,

Please find below my comments regarding Boundary Line Adjustments (BLAs). I am offering a rebuttal of Vernon Lauridsen's public comment testimony before the Planning Commission on November 30, 2016:

Boundary Line Adjustments (BLAs):

Vernon Lauridsen stated (at 28:40 minutes on the Planning Commission 11/30/16 video,) "Boundary Line Adjustments (BLAs) are used to substitute for basic subdivisions in Anacortes."

This is not true. With a Boundary Line Adjustment (BLA) the properties are already subdivided with platted lots, streets and alleys. The BLA is a means of defining the area of a lot that meets the underlying zoning requirements (R-2, R-3, etc.) This does not create lots. In fact, in most cases the combining of existing lots reduces the overall number of lots after the BLA is completed. This right of a BLA is protected under Washington State law.

RCW 58.17.060 (6)

Vernon Lauridsen stated (at 30:00 min on Planning Commission 11/30/16 video,) "BLA's are used to 'get around' subdivisions."

This is also simply not true. The applications that are put forth for BLAs are already on subdivided lots. This is a very important point.

RCW 58.17.033

This RCW lists application procedures for short plat or preliminary plat approval only. These are new subdivision applications. Existing plats are not shown in this RCW. Therefore, existing plats have been and can be handled by BLA(s) with the Administrator as they are protected under state law.

Vernon Lauridsen states (at 31:00 minutes on the Planning Commission 11/30/16 video) that, "The Administration isn't looking at the state of the lots as they exist at the time that the BLA is being applied for."

Again, this is not true. There are very complete BLA procedural requirements with the City of Anacortes. The older plats of Anacortes contain legal lots. Streets, alleys and lots were platted. Property taxes have been paid on these lots for over 100 years. To suggest that property subdivided in the past is less relevant or has less rights than lots platted subsequently is not a valid argument and subverts a property owner's rights that are protected by state law. I would assert that land that had taxes paid on it for 100 years has all the rights of any other lots regardless of the date of the plat.

Lauridsen is using the age of the original plat as his grounds for not accepting BLAs. If you look at Mr. Lauridsen's own home at 2219 32nd St., Anacortes, you will see that his house is sitting on a lot defined by the underlying lots. Lauridsen's (P#57764) home sits on Lot 1, Lot 2 and ½ of Lot 3 of an older existing plat on 32nd St. In fact, many homes in Anacortes are built on underlying plats where houses are built that conform to current R2 or R3 density. These houses reside on lots defined by BLAs on 2 or more lots of the underlying plat. Current Washington State law does not agree with Mr. Lauridsen and once again protects the legal private property rights of BLA applicants.

Vernon Lauridsen describes 3 separate cases (at 33:50 minutes on the Planning Commission 11/30/16 video.) Vernon Lauridsen stated, "No case is exactly on point" and "I can assure you that I don't think any court would go along with what's been happening here." (Referring to boundary line adjustments.)

In Vernon Lauridsen's own case examples, the courts have ruled for the applicant property owners. I am not an attorney, but as shown below I don't see where Vernon Lauridsen has provided examples of his statements, as quoted above, to corroborate where he asserts that the courts rule against BLA(s).

I could only find 2 of his 3 examples online. These were litigated as court cases and the court ruled for the applicant property owners.

- Seattle Vs Crispin No. 72515-2 June 19, 2003.

Supreme Court of Washington overturned the court of appeals and upheld for the BLA of the property owner under RCW 58.17.040(6).

- Island County Vs Dillingham, No 48133-1, March 31, 1983.

Supreme Court of Washington upheld for the property owner stating that the owners were diligent, complied with state statutes and county planning regulations.

Vernon Lauridsen (at 35:00 minutes on the Planning Commission 11/30/16 video,) brings up AMC 16.04.105 (a)(3), asserting that the city and applicants are violating our existing codes by describing properties in BLAs by meets and bounds. His statements are subverting the definition of the code.

Please note this code uses the word 'Subdivision'. It does not use the term 'Boundary Line Adjustments.' Once again, BLAs are protected under state law. Please do not be moved or influenced by this subverting or twisting of our laws and codes.

I could go on and on refuting Vernon Lauridsen's public statements, but I hope you get the point. He strongly encouraged the Planning Commission to "follow the law." I hope that you do just that.

Thank you for reading this letter.

Regards,

Tom Allen



Anacortes City Council

Proposed Agenda Items for the Next Eight Weeks Beginning December 12, 2016

Subjects listed below have been tentatively suggested for consideration by the Anacortes City Council on the dates indicated. Items may be added to, removed from or rearranged on this list. Routine business such as approval of minutes, vouchers and consent agenda items is not included. The complete Preliminary Agenda for each meeting is published at 3:00 on the Wednesday prior to the meeting. Published Agendas are subject to change and may be updated following the posting period. For additional information on agenda topics, please contact the City Clerk's office at 360-299-1960 to be directed to the sponsoring staff member.

December 12, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Discussion)
- Resolution ____: Establishing Fees for the Water Utility (Discussion/Possible Action)
- Resolution ____: Establishing Fees for the Storm Water Utility and Ordinance 2979 Removing Storm Rates from AMC (Discussion/Possible Action)

December 19, 2016

- Ordinance 2992: Title 19, Land Use Permit Procedures (Action)
- Ordinance 2996: Amending the 2016 Budget (Year End) (Action)
- Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer (Discussion/Possible Action)

December 27, 2016

January 3, 2017

January 9, 2017

January 17, 2017

January 23, 2017

February 6, 2017

- Closed Record Public Hearing: Conditional Use Permit to Permit Construction of Private Parking Lot in the R4 Zoning District, CUP-2016-1003

Upcoming City Council Committee Meetings

The public is welcome to attend City Council Committee Meetings.

- Public Works, Monday, Dec 5, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Monday, Dec 12, 2016, 3:00 PM, Main Conference Room, City Hall
- Public Safety, Tuesday, Dec 13, 2016, 4:30 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 14, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue
- Public Works, Monday, Dec 19, 2016, 4:30 PM, Mayor's Office, City Hall
- Planning, Tuesday, Dec 27, 2016, 5:00 PM, Main Conference Room, City Hall
- Finance, Wednesday, Dec 28, 2016, 5:00 PM, Johnny Picasso's, 501 Commercial Avenue
