

City Council Minutes – October 24, 2016

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of October 24, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Proclamation of National Hospice Palliative Care Month: Mayor Gere read a statement proclaiming November 2016 to be National Hospice Palliative Care Month in Anacortes and encouraging citizens to increase their understanding and awareness of care at the end of life and to observe the month with appropriate activities and programs. Bob Laws, Executive Director of Hospice of the Northwest, serving Anacortes since 1989, invited the public to an open house at Hospice's Mount Vernon office on November 17 from 4:30 p.m. to 6:30 p.m.

City Prosecutor's Report: City Attorney Darcy Swetnam responded to Finance Committee questions about prosecution services by inviting City Prosecutor Craig Cammock to address the Council. Police Chief Bonnie Bowers first addressed Council praising the services provided by Mr. Cammock and recommending renewal of his contract for 2017. The Chief's remarks were added to the packet materials for the meeting. Carol Yates, Legal Assistant, spoke highly of Mr. Cammock's experience, efficiency, responsiveness, and the extensive range of services provided. Ms. Yates said both the Legal Department and the Municipal Court are run more efficiently and professionally because of Mr. Cammock's dedication to the city. Mr. Cammock addressed the Council on the role of the prosecutor in the municipal court system and his role in Anacortes specifically, summarizing the range of responsibilities and duties he performs. He complimented the Anacortes Police Department and the Municipal Court.

Planning Commission Appointment of Andrea Doll: Mayor Gere requested Council confirmation of her appointment of Andrea Doll to the Planning Commission to fill the remainder of a term expiring December 2018. Mr. Johnson moved, seconded by Ms. Pickett, to confirm the appointment. Vote: Ayes – Walters, Pickett, Adams, Lovelett, Archibald, Miller and Johnson. Motion carried. Ms. Doll thanked Council for the opportunity to serve.

Parks & Recreation Advisory Commission Appointments of JoAnn York-Gilmore, Kathy Shaw & Jack Hartt: Mayor Gere requested Council confirmation of the following appointments to the Parks & Recreation Advisory Commission:

Kathy Shaw to a term expiring October 2018
JoAnn York-Gilmore to a term expiring October 2017
Reappointment of Jack Hartt to a term expiring October 2020
Reappointment of Aaron Rasmussen to a term expiring October 2021

Mr. Johnson moved, seconded by Mr. Adams, to confirm the appointments. Vote: Ayes – Pickett, Adams, Lovelett, Archibald, Miller, Johnson and Walters. Motion carried.

Public Comment

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

Consent Agenda

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

- a. Minutes of October 17, 2016
- b. Approval of Claims in the amount of: \$589,512.83
- c. Approval of Interlocal Agreements for Purchase of SCBA's
- d. Excavator Purchase Authorization
- e. Approval of Interlocal Agreement with Whatcom County for Work Crew Services

The following vouchers/checks were approved for payment:
Voucher (check) numbers: 82464 through 82567, total \$577,956.37
EFT numbers: 208238 through 209366, total \$13,379.08

PUBLIC HEARINGS

Public Hearing: Ordinance 2991 Adopting New Standards for Stormwater Management

Capital Project Coordinator John Franz referred Council to the initial presentation of this item at the October 10, 2016 City Council meeting. He thanked Councilmember Walters and the team of staff members and consultants from Kulshan Services for their successful effort to develop the new standards within the timeline required by the Washington State Department of Ecology.

At approximately 6:27 p.m. Mayor Gere opened the public hearing.

Carol O'Hearn, 11039 Post Drive, referenced Version 6 of the draft ordinance which was included in the packet materials for the October 10, 2016 meeting. Ms. O'Hearn said the draft ordinance offered too much discretion to the Director.

- Regarding page 5, AMC 17.04.050.E, last sentence of the paragraph, Ms. O'Hearn asked what was meant by "exceptions". Mr. Franz explained that DOE requires the city to remove barriers to implementation of LID throughout the Anacortes Municipal Code and that because AMC Titles 16 and 17 did contain some barriers but were currently under revision, the ordinance included supremacy language to give LID requirements included in Title 19 supremacy over the other titles. He said that the Director's discretion in this paragraph was to authorize exceptions to any part of Title 17 that conflicted with LID.
- Regarding page 9, AMC 18.30.050.B, "The Director may impose a civil penalty of up to \$1,000 per day per violation", and AMC 18.30.050.C, "To abate a violation, the Director may:", Ms. O'Hearn said those statements should be changed to "must" or "will" rather than "may". Mr. Franz explained that at DOE's recommendation the city had established an escalation of enforcement policy under which the first step was to provide technical advice, followed by meetings, letters, deadlines for action, etc., but that the Director had discretion to impose fines, for instance in the case of egregious acts, repeat offenses, and so forth. He said this was a requirement of the NPDES permit and the state stormwater manual.
- Regarding page 15, AMC 19.50.040.G.3, "The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.", Ms. O'Hearn asked where the findings would be available to the public. Mr. Franz responded that beginning on January 1, 2017, all new development applications would be subject to the new regulations and that all petitions for exceptions would be documented and then reported annually to DOE including the findings of fact. He added that any adjustments or exceptions to the minimum requirements were strictly governed by the state stormwater manual, which the new code adopted, and that any exceptions granted had to be advertised to the public.
- Regarding page 16-17, AMC 19.50.050.D.4, allowing "an alternative permanent protective mechanism approved by the Director," Ms. O'Hearn asked for an example of such a mechanism. Mr. Franz advised that he would research that question and respond to Ms. O'Hearn.
- Regarding page 17-18, AMC 19.50.060.D.2 regarding maintenance plans, Ms. O'Hearn asked where those records would be found and how they could be viewed by the public. Mr. Franz indicated that those public records would be available on request from the Planning Department and added that maintenance plans for privately owned stormwater facilities had to be attached to the plat which was recorded with Skagit County.
- Regarding page 19, AMC 19.55.010.C, "... and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover", Ms. O'Hearn asked whose property was referred to and if this was an attempt at a view ordinance. Mr. Franz explained that this section of the code applied to permit applications for clearing, grubbing and grading on one's

own property. Ms. Swetnam confirmed that this section did not apply to vegetation on adjoining properties.

No one else present wished to address Council as part of the public hearing.

Ms. Lovelett asked staff to respond to Mr. Miller's previous request for more information regarding civil enforcement under the proposed new code. Councilmembers discussed enforcement measures with Mr. Franz. Mr. Johnson requested a detailed list of the differences between the old and the new code. Mr. Franz advised that the development code was entirely new but that he would provide the requested list of code changes that pertained to existing commercial and residential property.

Mayor Gere concluded the discussion for the evening but left the public hearing open for future meetings.

Continued Public Hearing: 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

Ms. Swetnam recommended continued public input and questions while staff continued implementing the changes already discussed and preparing the requested comparison of the proposed code to the current code. She recapped her slide presentation from the October 3, 2016 City Council meeting. Ms. Swetnam reported from a recent WSAMA conference regarding code enforcement appeal fees and hearing examiner fees in other jurisdictions. Mr. Johnson supported a fee structure under which appellants would pay the appeal fees only for unsuccessful appeals. Ms. Swetnam referenced Patrick O'Hearn's question at the October 3, 2016 public hearing regarding whether the public could appeal a determination of the Director not to pursue code enforcement and advised that she found no precedent for such appeals in other jurisdictions. Mr. Walters suggested an annual report on code complaints and the disposition of each to provide transparency. Mr. Johnson reminded staff that Council had requested to know how long a person would have to address a public nuisance before a criminal penalty was imposed. He also asked about Mr. O'Hearn's suggestion that all participants at an appeal hearing be sworn in. Ms. Swetnam supported that idea.

At approximately 7:10 p.m. Mayor Gere invited members of the public to comment on this agenda item.

Patrick O'Hearn, 11039 Post Drive, said one of his concerns was that the Director might make a decision and affected parties might not know in time to appeal to the Hearing Examiner. Mr. O'Hearn referred to the City Council minutes of July 2, 2012 at which Hal Rooks "urged Council to address how the public including adjoining property owners is supposed to learn about decisions the Planning Director can make that don't require public notice. He gave examples of types of decisions that could significantly impact surrounding property owners and their property values and asked how affected parties will learn of decisions in time to become a party of record and file an appeal." Mr. O'Hearn repeated that query, asking if a decision is appealable but no one knows about the decision until the appeal period is over, what good is it?

Mr. Johnson asked if any member of the public could appeal a decision or only parties directly involved. Ms. Swetnam said the city was generally required to provide notice and an opportunity to be heard before taking an enforcement action. She said the city could consider means of providing notice to the general public but issues of standing would still have to be decided. Ms. Swetnam and Mr. Walters reminded that Title 20 dealt strictly with code enforcement and that public notice to surrounding property owners was perhaps less relevant than in the context of Title 19.

Mayor Gere inquired if anyone else present wished to comment as part of the public hearing. No one else wished to address the Council. Ms. Swetnam suggested closing the public hearing but advised that staff would continue to take comments from the public and that the topic would come back to Council for further consideration and adoption. At 7:17 p.m. Mayor Gere closed the public hearing and advised that the matter would come back before Council at a future meeting.

Mayor Gere called a two-minute break. Mr. Walters left the Chambers for the duration of the meeting. At approximately 7:23 p.m. the mayor called the meeting back to order.

OTHER BUSINESS

Council Review of 2017/2018 Budget: Departments Other than Public Works

Finance Director Steve Heglund invited Council review of the proposed budget for all departments other than public works, which had been presented the prior week. Mr. Heglund explained that this first ever biennial budget was structured as two one-year budgets for presentation. He noted that the 2017 budget was up nearly \$5.5M from 2016 and said most of the increase was due to capital spending, primarily in the water and sewer funds. Mr. Heglund also reported that Community Development Fund 180 had been consolidated back into the Planning Department in the General Fund due to sizable anticipated reductions in both lease expense and lease revenue in that fund. Mr. Heglund stated that the budget was balanced without using general fund cash reserves. He noted that Library Fund 103 budgeted approximately \$14K of cash reserves each year to fund a new .5 FTE position but that Library Director Sheri Miklaski estimated that passport revenues would come in higher than budgeted by nearly enough to cover that expense so cash reserves would not actually be tapped. Finally, Mr. Heglund reminded that Council was also reviewing 2015-2022 capital facility plan (CFP) projects and that the public hearings and adoption of the two documents would also likely happen concurrently.

Museum Director Steve Oakley presented the proposed museum budget, noting that no major new expenditures were anticipated. He shared a slide presentation, which was added to the packet materials for the meeting, highlighting the museum's 2016 successes and upcoming events in the next biennium. Ms. Lovelett inquired about the impact of opening the Maritime Heritage Center an hour earlier on Saturdays over the summer to provide more restroom access for Farmer's Market patrons. Mr. Oakley advised that very few patrons had utilized that hour. Mr. Heglund and Mr. Oakley reviewed with Council the CFP item for the museum on page 123 of the proposed budget.

Mr. Heglund reviewed with Council the CFP items for the Planning, Community and Economic Development Department on page 125 of the proposed budget, noting that neither was budgeted for the upcoming biennium. Planning Director Don Measamer presented the proposed budget for his department. He listed the projects included in the Professional Services line item. He reminded Council of the code updates already underway and advised that remaining 2016 funding would be rolled into 2017 to complete those projects as required. Mr. Measamer shared statistics from the building department, noting the increasing levels of counter, permit and inspection activity. Ms. Lovelett inquired if revised impact fees were reflected in the budget. Mr. Heglund responded that the revenue projections were based on the current fee structure. Mr. Measamer said his staff was drafting a new fee schedule which would come to full Council for consideration and action in the future but noted that impact fees and general facilities charges did not hit General Fund revenue. Mr. Adams confirmed with Mr. Measamer that no staffing changes were budgeted in his department. Mr. Johnson asked about timing for South Commercial Avenue enhancements and coordination with WSDOT paving for that corridor scheduled for 2021. Mayor Gere reported that recent meetings with WSDOT indicated interest on its part and that some roadway maintenance on Commercial Avenue was likely to occur before 2021.

City Attorney Darcy Swetnam presented the proposed legal department budget. She pointed out the line items reflecting the department's goals including code updates and, beginning in 2018, a .5 FTE legal assistant to support implementation of the electronic content management software included in the information technology budget for 2018. Ms. Swetnam described the function and value of ECM to reduce liability in the area of records responses and records retention and strongly urged adequate staffing to implement such a system based on the experience of other jurisdictions.

Mr. Heglund reviewed with Council the CFP items for the Fire Department on page 126 of the proposed budget. Fire Chief Richard Curtis presented his department's proposed budget which he said reflected the same level of service as 2016. He identified four major initiatives in the budget: replenishing the equipment replacement fund, completing the self-contained breathing apparatus (SCBA) acquisition which requires grant matching funds, obtaining an extractor to decontaminate firefighting gear and protect the health of firefighters, and nearly \$87K for up to date equipment to extricate victims from vehicles. Mr. Johnson noted that replacement of the \$1.5M ladder truck was looming in the equipment rental capital facilities projects for 2021. Chief Curtis confirmed that the truck would then be 22 years old, two years

older than the standard service life of 20 years which the Public Safety Committee had agreed to extend by two years as a matter of policy.

Library Director Sheri Miklaski advised that the Library Board had just approved the library's strategic plan which she would present to Council at its November 21, 2016 meeting. She said the library's budget for the upcoming biennium aligned with the strategic plan goals. Ms. Miklaski said the budget included an additional .5 FTE library assistant at a cost of less than \$14K in 2017 to help alleviate consistent staffing shortages and support the Family Place Library designation. She also provided background on increases in budget lines for supplies (reflecting higher electronic book prices), professional services (reflecting a one-time investment of \$10K for communications and marketing), and travel and training (to ensure staff stay current with best practices and trends).

Mr. Hoglund reviewed with Council the CFP items for the Parks Department on page 124 of the proposed budget. Parks & Recreation Director Gary Robinson responded to councilmember questions about the CFP projects and was requested to add the South Commercial Avenue pocket park back into the CFP. Mr. Robinson presented his department's proposed budget, referring to his slide presentation which was added to the packet materials for the meeting. Ms. Lovelett asked why the grounds maintenance contract was coming in house in 2018. Administrative Services Director Emily Schuh described the bargaining unit implications of that transition. Mr. Robinson responded to councilmember questions about cemetery maintenance and expansion and about improved access to the madrone grove at the Depot. Ms. Lovelett requested that the Parks & Recreation Committee have more input into the capital plan.

Police Chief Bonnie Bowers presented the proposed budget for her department, noting no staffing increases but advising that several staff were retiring and their positions would be refilled during 2017. Chief Bowers shared a slide presentation, which was added to the packet materials for the meeting, describing the highlights of the budget. She responded to councilmember questions about the new police vehicles, explaining that the Crown Victoria was no longer manufactured and the Tahoe had equal or better mileage, even before the recent propane conversions had begun. Mr. Johnson inquired about painting the Public Safety building; Mr. Hoglund advised that the project was included in the facilities budget for 2018. Ms. Pickett congratulated Chief Bowers on being named a SWAN Woman of the Year.

Administrative Services Director Emily Schuh presented the proposed budget for her department, referring to her slide presentation which was added to the packet materials for the meeting. Ms. Schuh addressed the potential for the city to take over the Senior Center from Skagit County, then summarized the highlights of the budgets for human resources, municipal court, public defender, the Senior Center, and the new website.

Mr. Hoglund reviewed with Council the CFP item for the ECM discussed earlier in the evening. He then presented the budgets for the legislative, executive, finance and information technology departments. He noted that some of the payroll expense for finance department staff had been moved to utility funds based on a time study conducted earlier in the year and alerted Council that the proposed budget included one additional full time staff member in the IT department (an increase from three to four) to address the rapid increase in devices citywide, cyber security, ECM implementation, the new phone system, the fiber initiative, and other expanding workload.

Mr. Hoglund reminded Council that there was no regular City Council meeting on October 31, that the advertised public hearings on both the proposed 2017/2018 biennial budget and the 2015-2022 capital facilities plan would occur at the November 7, 2016 City Council meeting, and that ordinances adopting the budget and capital facilities plan and property tax resolutions would be presented to Council for action at the City Council meeting on November 14, 2016. Ms. Lovelett asked about the budget decision matrix that Mr. Johnson had requested the prior week. Mr. Hoglund advised that staff would incorporate any additional items raised at this evening's meeting and then circulate the matrix to Council later in the week following review by the Finance Committee at its regular meeting on Wednesday evening.

There being no further business, at approximately 8:51 p.m. the Anacortes City Council meeting of October 24, 2016 was adjourned.