

City Council Minutes – October 3, 2016

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of October 3, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams and Matt Miller were present. Councilmembers Liz Lovelett and John Archibald were absent. The assembly joined in the Pledge of Allegiance.

Mr. Walters reported that Ms. Lovelett was ill and had asked that her absence be excused. Mr. Walters moved, seconded by Mr. Johnson, to excuse the absence of Councilmember Lovelett. The motion passed unanimously by voice vote.

Police Chief Bonnie Bowers read the department's official statement following the tragic shootings at the Cascade Mall in Burlington. Her comments were added to the packet materials for the meeting.

Executive Session (30 Minutes) per RCW 42.30.110 (i)

At approximately 6:06 p.m. Mayor Gere announced that Council and the City Attorney would convene in Executive Session for no more than 30 minutes to discuss potential litigation and that no action would be taken. At 6:35 p.m. the Council reconvened in regular session.

Announcements and Committee Reports

Mr. Miller invited the public to the dedication of the new Veterans Memorial Plaza at Anacortes High School on October 5, 2016 at 4:30 p.m. including a Navy jet flyover, weather permitting.

Public Works Committee: Mr. Johnson reported from the committee meeting earlier in the evening at which the committee discussed propane conversion of fleet vehicles, stormwater utility rates, initial steps of the fiber optic network project, the city street overlay project for 2017, and WSDOT's overlay of SR20 in 2017.

Ms. Pickett reported from the meeting of the Poverty, Housing and Homelessness subcommittee of the Housing Affordability and Community Services Committee the prior week. She said that Sarah Nichols had addressed the group regarding funding options and tax credit investments as they might relate to the city's property at Sharpes Corner.

Mr. Walters reported from the Ward 1 community meeting at the Senior Center the prior Thursday, focused on land use. He summarized the topics discussed including boundary line adjustments and duplex configuration. Mr. Walters reported some public misgivings about land use procedures and administration and encouraged various means of seeking public input as the code is rewritten.

Public Comment

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

Consent Agenda

Mr. Johnson removed Item 5c, Resolution 1971: Lodging Tax Funds for the Anacortes Vintage Market, from the Consent Agenda. Mr. Walters removed Item 5d, Interlocal Agreement with Skagit County for Probation Services, from the Consent Agenda. Mr. Adams moved, seconded by Mr. Miller, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of September 26, 2016
- b. Approval of Claims in the amount of: \$108,100.80

The following vouchers/checks were approved for payment:
Voucher (check) numbers: 82207 through 82279, total \$121,086.93
EFT numbers: 208005 through 208524, total \$ \$8,413.68

c. Resolution 1971: Lodging Tax Funds for the Anacortes Vintage Market

Mr. Johnson asked about the timing and amount of the proposed contract which had not been part of the regular application and award process. Mr. Walters, chair of the Lodging Tax Advisory Committee, explained that the committee had been attempting to expand the number of groups and projects involved in the program and that there was no requirement to have only one award cycle per year. Mayor Gere spoke in support of the event, commenting on the large number of shoppers who visit town to attend. Mr. Johnson moved, seconded by Ms. Pickett, to approve Resolution 1971 authorizing execution of the Tourism Promotion Fund contract by and between the City of Anacortes and the recipient agency. The motion passed unanimously by voice vote.

d. Interlocal Agreement with Skagit County for Probation Services

Mr. Walters disclosed that as a fixed salary employee of Skagit County, one of the contracting parties, under RCW 42.23.040 he had a remote interest in the agreement and for the city to enter into the agreement his vote could not be counted. Mr. Johnson moved, seconded by Mr. Miller, to approve the interlocal cooperative agreement between Skagit County and the City of Anacortes for the provision of probation services to the City. The motion passed unanimously by voice vote with Mr. Walters abstaining.

PUBLIC HEARINGS

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

City Attorney Darcy Swetnam continued the discussion of this topic begun at the September 26 City Council meeting and responded to councilmember and public questions raised at that meeting. Ms. Swetnam's slide presentation was added to the packet materials for the meeting. She presented an overview of the code update schedule, explained how the various sections were interrelated and addressed the necessary order of precedence. Ms. Swetnam summarized the appeal processes in the current code for nuisances, building permits, and complaint or review under the subdivision code and noted that not all situations fit cleanly into exactly one of the three categories. She explained that proposed Ordinance 2988 provided a standardized appeal process for all violations. She outlined the steps in that process including the administrative role of the Director, the role of a hearing examiner to hear and issue findings on appeals, and subsequent options for request for reconsideration or appeal to Skagit County Superior Court. Mr. Miller thanked Ms. Swetnam for her report which clarified the need for revisions to the enforcement code.

Planning Director Don Measamer reported to Council on the volume and range of complaints received by the city including nuisances and the challenge of determining which section(s) of the municipal code apply to each situation. Mr. Measamer explained how the proposed code enforcement procedures would make the code much more consistent and achieve more efficient and effective enforcement actions as well as providing more clear expectations for the public. He offered to provide a monthly update to Council on nuisance and code issues being addressed by staff.

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

Vernon Lauridsen, 2219 32nd Street, suggested steps to follow when presenting proposed code amendments to the public and City Council. Speaking from written remarks which were added to the packet materials for the meeting, Mr. Lauridsen requested open, complete and transparent presentation of information. He thanked Ms. Swetnam for her informative presentation earlier in the evening. Mr. Lauridsen also asked that staff identify how the proposed amendments modify the current code, and that staff identify how proposed amendments implement or advance the policies and goals of the 2016 Comprehensive Plan. Mr. Lauridsen quoted proposed Title 2 asked that staff candidly address the intended scope of that office. Mr. Lauridsen also noted that the proposed repeal of AMC 16.04.105 which creates a duty on the administrator to enforce the code would effectively create a complaint-based system of code enforcement. Mr. Lauridsen also observed that repeal of 16.04.105B would decriminalize

violations of the land use code. He argued that the threat of criminal charges should be retained to provide adequate incentive for compliance.

Ms. Swetnam thanked Mr. Lauridsen for his suggestions. She clarified that the Planning Department had established a website page for the code updates to provide current information to the public. She observed that that criminal penalties remain in AMC 1.24.010. Ms. Swetnam offered that language regarding affirmative duty to enforce the code could be explicitly added back into Title 20 if Council so directed.

Tom Glade, 210 Mansfield Court, speaking on behalf of Evergreen Islands, expressed concern about adopting a hearing examiner, specifically about the cost to the common person to appeal a decision under a hearing examiner system. Based on his experience with Skagit County, Mr. Glade said it required legal representation to present an appeal before a hearing examiner with a chance of success. He reported that the state of Maryland provides a citizen advocate to represent citizens in appeals before a hearing examiner and urged Anacortes to do the same if it were to adopt a hearing examiner system.

Mr. Johnson asked for more information on hearing fees. Ms. Swetnam responded that legal representation was not necessary at a hearing examiner hearing. Mr. Walters reported on the Skagit County fee structure for hearings. Ms. Swetnam reiterated that fees are a policy matter set by the governing body, which Council would need to discuss and take action on at a future date.

Wilhelmus Houppermans, 3412 K Avenue, said he was happy with the proposal. He suggested one change to AMC 20.20.080 as drafted, asking that the effective date of notice be the date the notice is received, not the date it is sent.

Patrick O'Hearn, 11039 Post Drive, observed that under this proposal the Director would be the gatekeeper for code enforcement. Mr. O'Hearn asked what the procedure would be to appeal inaction on the part of the Director and force the Director to take action.

Ms. Swetnam responded that she would verify that the Title 19 update addressed that question but said that Title 20 could be updated to request that the Director issue a determination if action would not be taken on a complaint. Mr. Walters observed that the Director would have prosecutorial discretion. Mr. Miller and Mr. Walters both voiced support for tracking and reporting when the Director elects not to act on a complaint. Mr. Johnson supported the idea of being able to appeal inaction on the part of the Director.

Mr. Walters and Ms. Swetnam underscored that Ordinance 2988 would not refer any matters other than code enforcement appeals to the Hearing Examiner. Mr. Walters argued in support of adopting the ordinance. Mr. Adams urged adding language to limit the hearing examiner's jurisdiction to code enforcement and specifically excluding land use appeals to address public concerns.

Mr. Measamer responded to councilmember questions about the roles of the Board of Adjustment and the Anacortes Improvement Board and indicated that neither board had handled any appeals of nuisance enforcement in the preceding several years.

Mr. Johnson asked if proposed AMC 2.30.040 could be edited to constrain the duties of the hearing examiner. Mr. Walters suggested that AMC 2.30.040B could reference other code sections but emphasized the value of avoiding restatement in the code. He suggested retaining AMC 16.40.105A and inquired what other edits councilmembers would like to see so that the proposed ordinance could be redrafted and presented for approval.

Mayor Gere continued the public hearing and invited councilmembers and members of the public to forward any additional questions to Mr. Measamer and Ms. Swetnam to be addressed at that time.

OTHER BUSINESS

Scope of Work for Zoning & Development Regulations Updates

Planning Manager Libby Grage presented an overview of the schedule and draft scope of work to update the zoning and development regulations and design standards following adoption of the 2016 Comprehensive Plan. Her slide presentation was added to the packet materials for the meeting. Ms. Grage summarized the proposed roles of city staff and of MAKERS Architecture and Urban Design in this effort. She requested that Council approve the draft scope of work developed by MAKERS or provide direction to revise it so that a contract could be brought forward for approval at a future City Council meeting. Ms. Grage introduced Bob Bengford of MAKERS who explained the scope of work as presented in the packet materials and the proposed twelve-month timeline. Mr. Bengford reviewed a series of examples of the work product envisioned. Councilmembers discussed public input into the effort, the roles of the Planning Commission and the City Council Planning Committee, and the proposed timeline. Mr. Measamer explained that Council had allocated funding for the project in the 2016 budget but that some of those funds would need to be rolled over into 2017 in accordance with the proposed timeline.

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

Mr. Measamer advised that staff would bring the proposed contract back for approval on the Consent Agenda at the next regular City Council meeting.

Interlocal Agreement: Propane Fuel Service

Public Works Director Fred Buckenmeyer presented a proposal to convert part of the city vehicle fleet to propane. He summarized the highlights of the program as presented in the packet materials for the evening. Mr. Buckenmeyer explained the proposed interlocal agreement with Linn-Benton Community College to train Anacortes fleet maintenance staff to perform vehicle conversions. He said the project would be funded by surplus funds in the 2016 fuel budget due to lower than expected fuel prices. Police Chief Bonnie Bowers endorsed the proposal and observed that City of Edmonds had converted its entire police fleet to propane with very high satisfaction. Mr. Buckenmeyer requested Council approval of the interlocal agreement.

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

Mr. Buckenmeyer responded to councilmember questions regarding the increasing number of propane fuel conversions by other jurisdictions and ongoing monitoring and reporting on fuel efficiency and return on investment following the conversions.

Ms. Pickett moved, seconded by Mr. Johnson, to accept the interlocal agreement for propane fuel service. Vote: Ayes – Walters, Pickett, Adams, Miller and Johnson. Motion carried.

There being no further business, at approximately 8:35 p.m. the Anacortes City Council meeting of October 3, 2016 was adjourned.