

## **City Council Minutes – September 26, 2016**

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Mayor Laurie Gere called to order the regular Anacortes City Council meeting of September 26, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, John Archibald and Matt Miller were present. Councilmembers Brad Adams and Liz Lovelett were absent. The assembly joined in the Pledge of Allegiance. Ms. Lovelett joined the meeting at approximately 6:02 p.m.

### **Announcements and Committee Reports**

Mayor Gere asked the audience to observe a moment of silence in sympathy for the shootings in Burlington on September 23. The mayor read aloud the letter of support sent from Anacortes to Mayor Sexton and the City of Burlington.

### **Public Comment**

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

### **Consent Agenda**

Mr. Miller removed Item 5e, Contract Award: Design Ship Harbor & SR20 Intersection (Edwards Way), from the Consent Agenda. Mr. Johnson moved, seconded by Mr. Archibald, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of September 19, 2016
- b. Approval of Claims in the amount of: \$369,104.68
- c. Contract Award: Integrated Library System
- d. Contract Award: Treatment Plant Chemicals

The following vouchers/checks were approved for payment:

Voucher (check) numbers: 82086 through 82205, total \$315,091.09  
EFT numbers: 207888 through 208258, total \$24,953.33

- e. Contract Award: Design Ship Harbor & SR20 Intersection (Edwards Way)

Mr. Miller asked Public Works Director Fred Buckenmeyer for more information about the subject project. Mr. Buckenmeyer reminded that these intersection improvements had been in the Capital Facilities Plan for years and had been included in the transportation element of the recently adopted 2016 Comprehensive Plan. He advised that in March 2016 Anacortes had been awarded a Federal Highway Administration grant in the amount of \$127,000 for design of this intersection. Because the design contract cost was greater than the grant amount, the difference would be covered Street Impact fees. Mr. Buckenmeyer responded to councilmember questions about WSDOT and private developer participation in the project, noting that WSDOT would have to approve the design and eventual construction of the intersection on the State Route 20 spur. Mr. Miller moved, seconded by Mr. Johnson, to approve award of a contract to Reichardt & Ebe Engineering in the amount of \$200,111.64 to design Ship Harbor & SR20 Spur Intersection Improvements. The motion passed unanimously by voice vote.

Returning to the Committee Reports section of the agenda, Mr. Walters reported that the Planning Committee had not met that evening as scheduled.

Mr. Walters announced that he would be hosting a Ward 1 community meeting regarding land use on Thursday, September 29, 2016 at 6:30 p.m. at the Anacortes Senior Center.

### **PUBLIC HEARINGS**

#### **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 introduced the first of the six code update packages under development following adoption of the 2016 Comprehensive Plan. Ms. Swetnam's slide presentation was added to the

packet materials for the meeting. Ms. Swetnam explained the need for improved code enforcement procedures as a first order of business and summarized the deadlines for revisions to subsequent code provisions that were driving the timing of this first update package. She reviewed the proposed new AMC Title 20 to consolidate code enforcement procedures and remedies and outlined the related changes to Titles 2, 9, 16 and 18. Ms. Swetnam advised that fees for code enforcement would be set by resolution as part of the unified fee schedule and alerted Council that code enforcement actions were likely to increase once the new enforcement title was adopted. She described the Office of Hearing Examiner added to Title 2 to hear appeals of code enforcement actions. Ms. Swetnam concluded by observing that the proposed code enforcement procedures and remedies were consistent with the generally accepted standards in place in neighboring jurisdictions.

Ms. Swetnam responded to councilmember concerns about citizens who might need assistance navigating the steps of responding to or appealing an enforcement action. She emphasized that a hearing examiner would be an independent third party, not a member of city staff. Councilmembers discussed the role of the existing Anacortes Improvement Board and the potential role of an ombudsman position. Councilmembers debated the amount of staff discretion that was appropriate in code enforcement. Planning Director Don Measamer spoke in support of the proposed Title 20, saying it would allow staff to respond more timely to nuisance complaints. Ms. Lovelett asked if the role of the hearing examiner, limited to code enforcement appeals in the current proposal, would extend to hearing land use appeals in the future. Ms. Swetnam advised that AMC Title 19 was being revised to propose that the hearing examiner might hear some appeals on certain limited development decisions such as cell towers and variances but that Title 19 was not part of Ordinance 2988 and would be presented for public input at a future public hearing. She recommended instituting the Office of Hearing Examiner even if that office never expanded to hear appeals of land use matters.

Mayor Gere opened the public hearing to comments from the audience.

Carol O'Hearn, 11039 Post Drive, read from her prepared remarks which were added to the packet materials for the meeting. Ms. O'Hearn said that the proposed code changes allowed too much discretion to the director, that the code needed more forceful, certain, definite, direct language including using "will" instead of "may," and that all speakers at appeals hearings should be sworn in, including staff.

Gene Derig, 1302 K Avenue, spoke from his prepared remarks which were added to the packet materials for the meeting. Mr. Derig asked why the term "Hearing Examiner" wasn't included in the agenda item title and questioned why that position was being reconsidered before development code updates were complete. Mr. Walters and Mayor Gere responded that Ordinance 2988 did not propose having the hearing examiner hear appeals of development matters. Mr. Derig requested more specific information about what the hearing examiner would hear and which responsibilities would be moved from elected or appointed officials to the hearing examiner. Mr. Derig also presented a series of questions regarding the qualifications, powers, conflict of interest and removal provisions of proposed new AMC Chapter 2.30. Ms. Swetnam responded to Mr. Derig's questions regarding motions of reconsideration, propounding interrogatories, disposing of procedural requests, and disciplinary action for the hearing examiner which would be consistent with the Washington Code of Judicial Conduct.

Wilhelmus Houppermans, 3412 K Avenue, expressed concern that the proposed hearing examiner would replace the current Board of Adjustment and spoke in support of the Board of Adjustment. Mr. Measamer clarified the current roles of the Anacortes Improvement Board and the Board of Adjustment and explained that Ordinance 2988 would not change the role of the Board of Adjustment but would create a new pathway for addressing nuisances and code issues, including those related to new stormwater regulations, which would be much more effective than the Anacortes Improvement Board.

Tom Glade, 210 Mansfield Court, spoke representing Evergreen Islands. Mr. Glade said the recent City Council hearing on the Haddon Road PUD was handled well and that all appellants had a chance to speak. He observed that hearing public concerns about specific land use proposals brought to Council's attention the need for revisions in the code. Mr. Glade urged revision of the development code, whether

or not a hearing examiner were appointed. He said hearing appeals kept Council in touch with the pulse of the community and whether code needed to be changed to meet citizen expectations.

No other members of the audience wished to address Council.

Mr. Johnson asked, regarding proposed new AMC 9.06.020, how long a person would have to address a public nuisance before a criminal penalty was imposed. Ms. Swetnam said she would investigate that. Mr. Walters explained the existing criminal penalty provisions in the code.

Mr. Walters spoke in support of adopting the proposed Ordinance 2988 but agreed with Ms. O'Hearn on the value of swearing in all parties at an appeal hearing. Mayor Gere advised that the discussion of this topic would continue at the next meeting.

Approximately 7:35 p.m. Mayor Gere called five-minute break. At 7:41 p.m. the mayor called the meeting back to order.

## **OTHER BUSINESS**

### **Finance Update**

Finance Director Steve Hoglund provided an update on the city's financial position year to date through August (67% through the year), referencing a series of charts included in the packet materials for the evening. He reported that sales tax continued strong compared to both prior year and to budget and that real estate excise tax (REET) was also coming in considerably over projections. Mr. Hoglund reviewed general fund revenues by type and explained the apparent shortfall between revenues and expenditures due to the nearly \$1M of expenditures budgeted from fund balance. Mr. Hoglund reported that vehicle license tab revenue was also coming in higher than projected. He then reviewed revenues and expenditures in funds other than the general fund and explained the apparent anomalies due to the episodic timing of both revenue and expenditure postings during the year. Mr. Hoglund closed with summary of monthly cash flows.

### **Ordinance 2990: Amending 2016 Budget**

Mr. Hoglund introduced Ordinance 2990 which would amend the 2016 budget to transfer approximately \$2.2M from general fund cash reserves into the Equipment Rental Fund 501 replacement reserve. Mr. Hoglund explained that the replacement reserve had been underfunded every year since the 2008 recession in order to balance the budget and that the proposed amendment would build the replacement reserves back up to 75% of full funding for all non-utility fund equipment. He advised that the transfer would leave \$5.8M of unrestricted general fund cash reserves, which would be approximately 42.5% of the general fund budget compared to 16% recommended by the Government Finance Officers Association. Mayor Gere added that the transferred cash would still be available to the city in case of emergencies. Mr. Miller and Mr. Walters confirmed with Mr. Hoglund that future budgets would include full annual funding for the equipment replacement reserve. Mr. Walters and Mr. Archibald reported that the Finance Committee had discussed and generally supported the proposed transfer. Mr. Walters and Mr. Johnson suggested taking action on the proposal in conjunction with consideration of the 2017/2018 budget. Ms. Lovelett expressed concern that the transfer would reduce the city's ability to consider other large capital expenditures including construction of a third fire station. Mr. Hoglund and Mr. Walters observed that the cash reserves had accumulated to the current level largely because scheduled annual transfers to the equipment replacement reserve had been curtailed. Mr. Walters moved, seconded by Ms. Pickett, to express the sense of the Council that the city should make the \$2.2M transfer for the Equipment Rental fund in the biennial budget. Vote: Ayes – Walters, Pickett, Archibald, Miller and Johnson. Nays – Lovelett. Motion carried. Ms. Lovelett specifically asked how the fire station would be funded and what other capital projects might be funded with the cash reserves. Several councilmembers observed that the final amount of the proposed transfer could be adjusted if deemed necessary during review of the biennial budget and in light of the Resolution 1946 adopted July 18, 2016 regarding fire protection level of service.

**Interlocal Agreement with Skagit County: Economic Development Public Facility Project Funding for City of Anacortes Fiber Optic Network**

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. Walters left the Council chambers for the remainder of the meeting.

Mr. Buckenmeyer advised that Skagit County had awarded Anacortes an economic development grant in the amount of \$295,833 for its fiber optic network. He said an additional \$204,167 was expected to be awarded by year end. Mr. Buckenmeyer said there was no matching requirement for the grant but referred to his project funding presentation from the September 19, 2016 City Council meeting which included the subject grant. Mr. Buckenmeyer recommended that Council authorize the mayor to execute the grant agreement. Mr. Johnson moved, seconded by Ms. Lovelett, to authorize the mayor to execute the grant agreement with Skagit County. Vote: Ayes - Pickett, Lovelett, Archibald, Miller and Johnson. Motion carried.

There being no further business, at approximately 8:25 p.m. the Anacortes City Council meeting of September 26, 2016 was adjourned.