

City Council Minutes – July 5, 2016

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of June 27, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett and Matt Miller were present. Councilmember John Archibald was absent. The assembly joined in the Pledge of Allegiance.

Executive Session (15 Minutes) per RCW 42.30.110 (b, c)

Mayor Gere announced that Council would convene in Executive Session for approximately 15 minutes to discuss a potential real estate transaction about which open discussion could result in terms unfavorable to the City. At approximately 6:17 p.m. Council reconvened in regular session having taken no action.

City Attorney Darcy Swetnam advised that the City had previously made an offer to purchase the GEMS property and that its Purchase and Sale Agreement would expire July 19, 2016. Ms. Swetnam said the City had an opportunity to extend that agreement until August 19, 2016. She invited Council to consider authorizing the mayor to sign that extension. Mr. Johnson moved, seconded by Mr. Miller, to authorize the mayor to sign the agreement for the extension until August. The motion passed unanimously by voice vote.

Mr. Johnson moved, seconded by Mr. Adams, to excuse the absence of Mr. Archibald. The motion passed unanimously by voice vote.

Announcements and Committee Reports

National Fire Academy Executive Fire Officer Program presentation to Fire Chief Richard Curtis: Mayor Gere read a letter from the Acting Superintendent of the NFA congratulating Fire Chief Richard Curtis on his successful completion of the 4-year Executive Fire Officer Program and associated applied research. Mayor Gere presented a certificate to Chief Curtis in recognition of this significant achievement.

Ms. Pickett reported from the most recent Port/City Liaison Committee meeting. Ms. Pickett said the Port and city would be cooperating on a new Clean San Juan project to provide a boat pump out station.

Public Works Committee Report: Mr. Johnson reported that the committee meeting scheduled for earlier in the evening had been cancelled and that the committee would meet next on July 18.

Parks and Recreation Director Gary Robinson reported on the Independence Day celebration over the weekend. Mr. Robinson thanked a long list of organizations and individuals who donated time, skills and resources to make possible the many events including the Patriotic Community Picnic on the evening of July 3, the town photo on Saturday morning, the July 4th parade, and the fireworks display on Saturday evening. Mayor Gere announced the parade winners. For floats, Anacortes Community Theatre and Rotary tied for first place, D Avenue Nursery placed second, and the City of Anacortes Birthday Cake float took third. For marching groups, first place went to the Twisted Pixies, second place went to Fidalgo DanceWorks, and third went to the Anacortes Youth Cheer. For vehicles, the Navy took first place, Bill Wooding's army vehicles took second and SignDog took third. The mayor thanked everyone who participated in the festive weekend.

Mr. Adams requested an update on the paving and slurry seal projects. Public Works Director Fred Buckenmeyer reported that the slurry seal project was going very well and was two days from completion. He said paving on the D Avenue/32nd Street project would begin on Monday, July 25, with more public outreach beforehand. Mr. Buckenmeyer added that next year's paving project was expected to be an overlay of Commercial Avenue between approximately 4th and 11th Streets.

Ms. Pickett requested an update on the fiber optic project. Mr. Buckenmeyer shared a slide presentation reporting on the topic; his materials were added to the evening's Council packet. Mr. Buckenmeyer explained the phased project to first construct a dark fiber network to provide a more reliable telemetry

communication system than the current radio system for the sewer and water pump stations, water reservoirs and water treatment plant, then expand from that infrastructure to create a fiber based municipal broadband network connected to the internet. Mr. Buckenmeyer reported that the city had applied for a Skagit County Economic Development grant in collaboration with Mount Vernon, Burlington and the Port of Skagit County. The application sought funding for additional fiber to connect the Anacortes Water Treatment Plant to the city network, provide a redundant loop for the other three jurisdictions, and provide a redundant loop for the Eastern Skagit County network. Mr. Johnson suggested extending the fiber to Oak Harbor. Ms. Pickett expressed concerns about data security and the high cost of switching to a fiber-based telemetry model if less expensive means were available. Ms. Lovelett endorsed the notion of leveraging utility and general funds to build a municipal fiber optic network while achieving necessary upgrades to the telemetry networks. Mr. Buckenmeyer said that a fiber-based system would be the most secure, robust telemetry system available and that the opportunity to leverage it provided value for the community and the utilities. Mr. Miller called it a reasonable and measured approach to achieve more secure telemetry.

Public Comment

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

Consent Agenda

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

- a. Minutes of June 27, 2016
- b. Approval of Claims in the amount of: \$87,316.19

The following vouchers/checks were approved for payment:

Voucher (check) numbers: 81101 through 81158, total \$77,984.59
EFT numbers: 204550 through 205553, total \$2,619.48

OTHER BUSINESS

Resolution 1946 (Version 7): Setting Fire Protection LOS Standard and Budget/Revenue Allocation

Chief Curtis recalled the discussions of this topic at previous City Council meetings. He said he had revised the six-year plan and Resolution 1946 adopting the plan to incorporate prior suggestions from councilmembers. He shared a slide presentation from the evening's packet materials summarizing steps to achieve the recommended level of service and preferred funding options. Chief Curtis and Finance Director Steve Hognlund responded to councilmember questions regarding the high cost of ladder truck replacement, proposed fire impact fees, the possibility of bonding for a new fire station, the Anacortes share of the countywide EMS levy, and alternative means of increasing fire inspection capacity sooner rather than later.

Mr. Walters asked that paragraphs G and H in draft Resolution 1946 be reversed, to increase staffing at the Skyline Fire Station before the Marches Point Fire Station, consistent with the slide presentation. Chief Curtis concurred. Mr. Miller asked that paragraph D in draft Resolution 1946 be revised to read "Council will *consider allocating* ~~allocate~~ of the following sources..." and suggested that all other paragraphs be revised to include "consider" if they were not already written that way. Chief Curtis concurred. Mr. Miller asked that the paragraph lettering be corrected so that there were not two paragraphs A and B. Mr. Miller asked that the second recital paragraph be revised to read, "... Fire Protection System is ~~a~~ the primary obligation to City residents ...". Mr. Walters argued that the first paragraph A was not necessary because it was covered in the Anacortes Municipal Code and asked that it be struck. He suggested that the resolution include language saying that the levels of service being adopted in first paragraph B were only achievable if the city took the steps enumerated in the subsequent paragraphs.

Mr. Walters said he was not comfortable with using 50% of the proposed impact fee to replace existing equipment. Ms. Swetnam explained the lack of clear guidance from the Attorney General's office or case law about the appropriate percentage and said Council could set those proportions at the level it felt was appropriate.

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

Mayor Gere asked that Chief Curtis make the requested revisions to the resolution and bring it back for approval on the Consent Agenda at a future meeting. Several councilmembers and Chief Curtis agreed.

At this point Mr. Johnson and Ms. Lovelett asked that the remaining agenda items be reordered to move the Comprehensive Plan discussion to the end of the evening. No one objected.

Alton R. Daniels Field - Volunteer Park - Artificial Turf Update

Parks and Recreation Director Gary Robinson recalled the discussion of this topic from the June 27, 2016 regular City Council meeting. He addressed some of the questions raised at that meeting including life expectancy of an artificial turf surface; savings in maintenance costs compared to grass fields; time sensitivity of both the \$500,000 donation from the Daniels family and the contractor's availability; potential sources of additional funding including the Anacortes Parks Foundation, the Anacortes Baseball Club, the Anacortes School District, park impact fees, real estate excise tax, and lodging tax; and expected costs of various components of the project. He explained that the donation from the Daniels family had been made to the Anacortes Parks Foundation which would issue the construction contract, not the city. Mr. Walters asked that Ms. Swetnam investigate the city's liability in such a case.

Mr. Walters emphasized that artificial turf fields, both existing and future, must be included in the Capital Facilities Plan. Mr. Miller agreed.

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

Ms. Lovelett expressed reservations about the expenditure of city funds for the project given the number of needs at other city parks including Washington Park. Mr. Adams expressed strong support for the project and urged moving it forward. Ms. Pickett, Mr. Miller and Mr. Johnson concurred.

Mayor Gere summarized that Mr. Robinson had the support of Council to move forward and would address councilmember requests regarding the Capital Facilities Plan and contractor liability.

Water Rights Seasonal Transfer Application

City Attorney Darcy Swetnam shared a slide presentation updating Council on water rights issues since the summer 2015 irrigation season. She sought Council authorization for the Mayor to execute an application to the Department of Ecology for a seasonal change of water rights from Anacortes to Irrigation District 15-B and Diking Improvement District 22 in case a drought emergency were to be declared. Ms. Swetnam recapped the 2015 emergency water right transfer under a DOE issued Drought Change Authorization, subsequent requests from the Western Washington Agricultural Association for additional water transfers, and meetings with various state and local entities to discuss these issues. She reported that the Department of Ecology suggested that a seasonal water transfer would be a more streamlined process to allow a transfer to happen more efficiently if the districts were to find themselves in a position of need in 2016. Ms. Swetnam distinguished between a declared drought emergency, which was not expected in 2016, and water levels falling below the instream flow level, which happens every summer and precludes the districts from removing water from the river. She said filing the application would allow the city to assist the districts for the duration of the 2016 irrigation season only but that the city would not be required to implement the transfer and could withdraw its application after filing it. She indicated that staff recommended implementing the transfer only if a drought emergency were declared and had structured the draft application accordingly. She explained that the proposed application would

provide tools to provide short term assistance while a longer term solution was developed by all interested parties in the region. Ms. Swetnam added that even if DOE were to approve the application, the city would still draw up contracts with the districts addressing terms before any water was diverted.

Mayor Gere advised that in the autumn staff would be scheduling several City Council study sessions regarding water issues.

Mr. Johnson asked that Section 5 of the application be revised to remove the final phrase, "... and Anacortes City Council approval" since Council would be voting its approval by voting to authorize the mayor to submit the application.

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

Wilhelmus Houppermans, 3412 K Avenue, observed that water rights policy would be discussed later on the agenda as part of the Comprehensive Plan discussion. Mr. Houppermans recalled an article in the *Skagit Valley Herald* during 2015 quoting Mr. Buckenmeyer as saying that in 2015 the water used by the districts had been unmetered. Mr. Houppermans suggested that farmers should plan crops for available water and that if water were provided to them at no cost they would likely choose the crop that yielded the largest profit. He said he hoped the Comprehensive Plan language would protect the salmon.

Walt Guterbock, 2005 29th Place, said Anacortes should not give water away for free and should not gouge people in a drought, either. He urged arriving at a fair price for water and pointed out that farmers do have crop insurance.

Ms. Swetnam clarified that the districts were not purchasing treated water from the Water Treatment Plant but rather pulling water directly from the river. She said that in 2015 Anacortes did not charge the districts for the water itself, only for actual administrative costs of implementing the transfer. She anticipated that would also be the case in 2016 if a transfer became necessary.

Brandon Roozen, Director of WWAA, said farmers in the area have been preparing for decades but that they weren't covered in the 1990s water rights allocations so they were still looking at how to find legal short term and long term solutions. He thanked Anacortes for continuing the discussions. Mr. Roozen said that the 2015 water right transfer was a good gesture but it didn't meet the needs of the districts and that the dictated pumping schedule was very inefficient for both transport and water table management. He said the association was working with state agencies and private experts to report on how agricultural diversions do or do not harm the fisheries. Mr. Roozen said that the proposed application, because of the tidal time restrictions, would not be a satisfactory solution in 2016 either. He reported that the districts have been working for years to acquire water rights and have not needed to irrigate with water rights because enforcement has been loose. He said now the districts were trying to eliminate illegal agricultural water use within their infrastructure.

Ms. Lovelett suggested tabling the application for two weeks if it was not going to serve the needs of those it was intended to serve. Mr. Walters observed that the application as written would have no effect unless a drought emergency were to be declared. Mr. Roozen reiterated that the proposed application would not meet the districts' needs.

Ron Wesen, Skagit County Commissioner for District 1, said he appreciated Anacortes working with the districts on this issue. Commissioner Wesen summarized the conditions in the application that prevented it from meeting the needs of the districts. He said the districts were looking for a permanent solution. Commissioner Wesen contrasted eastern Washington, where agriculture typically has water rights, with western Washington where more abundant rainfall made agricultural application for water rights much less common. Commissioner Wesen said Anacortes has the largest water right and asked what percent of its water right Anacortes withdraws at its treatment plant pump station. Public Works Director Fred Buckenmeyer said Anacortes was currently withdrawing about 20 MGD, in May it had been closer to 30 MGD, of its 55 MGD water right. Mr. Buckenmeyer pointed out that the new water treatment plant was designed to expand to use the full water right. Commissioner Wesen pointed out that currently part of the

Anacortes water right is running down stream unused and asked why Anacortes couldn't allow a transfer to someone who could use that water beneficially.

Councilmembers discussed whether or how to alter the application to be more helpful to the districts. Ms. Swetnam said the application restricted pumping times in response to a discussion in 2015 about potential impacts of water diversions on wildlife habitat. She said the application connected the seasonal transfer to a drought declaration because that was what the city told other water partners it would do and that going beyond that could interfere with the future of the city's water rights in the long term. She recalled that the issue has been litigated more than once in Skagit County and urged against connecting the application to the instream flow rule instead of to drought declaration. Mr. Buckenmeyer emphasized that the instream flow level was set to protect fisheries and the environment and the city should be very careful before allowing or suggesting a withdrawal of any kind, even for the City, once the river drops below that level. Councilmembers continued discussion on whether the application as drafted served any purpose.

Mr. Adams moved, seconded by Ms. Pickett, to authorize Mayor Gere to execute the seasonal change application to the Dept. of Ecology to provide access to the City's 15 CFS water right for Districts 15 and 22 in case of a drought emergency. Mr. Johnson asked if Mr. Adams and Ms. Pickett would accept an amendment to strike "and Anacortes City Council approval" at the end of Remarks Section 5 on the application to DOE. The mover and seconder agreed.

Ms. Lovelett moved, seconded by Mr. Walters, to table the motion for two weeks. Vote on motion to table: Ayes – Walters, Adams, Lovelett and Miller. Nays – Johnson and Pickett. Motion carried.

At approximately 9:02 p.m. Mayor Gere called a five minute break. At 9:07 p.m. the mayor called the meeting back to order.

2016 Comprehensive Plan Update: Final Review

Mr. Measamer asked Council to consider and respond to the comments received at the public hearings held June 20, 2016 and June 27, 2016. Referring to the matrix distributed in the evening's Council packet, Mr. Measamer presented each topic and sought consensus on how to address that comment in the final comprehensive plan.

I-67, Table CF-1, Level of Service for Fire Protection: Mr. Measamer recommended replacing the language in the draft comprehensive plan with more streamlined wording from the fire chief's presentation earlier in the evening. Councilmembers raised no objections.

I-75, Policy U-8.8: Councilmembers engaged in extensive discussion regarding this proposed policy and related policy U-8.7 and the extent to which water rights and water sales contracts were appropriately addressed in the comprehensive plan. Based on that conversation, Mr. Measamer suggested retaining Policy U-8.8 with two modifications: change "1,000,000 gallons" to "4,000,000 gallons" and add " , without a public hearing." to the end of the policy. Councilmembers concurred with that suggestion.

I-30, Subarea Plans: Mr. Measamer suggested adding a bullet for a Maritime subarea plan below the bullet for residential neighborhoods. Several councilmembers supported that suggestion and none objected to it.

I-37, Goal ED-4: Councilmembers discussed the Port's request to add a policy to this goal addressing the deep water port. After some discussion, Mr. Measamer suggested instead modifying Policy ED-4.3 thus: "... such as a heavy boat lift *and deep water port* to enhance the competitive advantage for marine trades *and marine industrial uses.*" Councilmembers supported that suggestion.

I-48, Policy PR-2.4: Mr. Measamer supported the change requested by the Port of Anacortes. Mr. Walters asked that the policy specify trailerable boats. Mr. Measamer agreed. Councilmembers raised no objections.

I-62, Policy T-3.18: Mr. Measamer recommended a small change to address a concern expressed by the Port: "Encourage the Port of Anacortes to provide more transient boat moorage. The City is willing to partner on this effort *and in reducing vacancy rates* as it benefits the economy of the downtown area." Several councilmembers supported that suggestion and none objected to it.

II-44, Economic Development Background Information: Mr. Measamer said staff recommended no change to this section. Councilmembers raised no objections.

I-36, Policy ED-3.2: Mr. Measamer said staff supported the change requested by the Chamber of Commerce. Councilmembers raised no objections.

I-37, Policy ED-4.7: Mr. Miller suggested simply adding two words to the policy to achieve the intent of the Chamber's comment: "Anticipate and plan for potential future desired uses at the March Point refineries as product types, manufacturing processes, *economic competitiveness* and transportation methods change." Mr. Walters supported that suggestion and no councilmember objected to it.

I-28, Policy LU-9.7(C): Mr. Measamer said staff recommended no change to this policy. Mr. Johnson agreed and no one objected.

I-17-18, Table LU-1: Mr. Measamer said staff recommended no change to this policy. Mr. Johnson agreed and no one objected.

I-27, LU-8.3(b, c): Several councilmembers supported the policy as drafted. Mr. Measamer recommended making the policy slightly more general: "Encourage the preservation of access to the dredged channel near 22nd Street." Mr. Miller was willing to accept that change and no one else objected.

I-15-16, II-13, Medical Overlay Boundary: Mr. Measamer suggested leaving the boundary as shown on the Future Land Use Map. Mr. Johnson agreed and no one objected.

I-15, 16, II-13, Proposed Land Use Designation lot size changes: Mr. Measamer clarified that the adoption of the Comprehensive Plan does not change the development regulations applicable to property. He said the direction in the plan was to *explore* options for reducing minimum lot sizes, which could be accomplished through future development regulation updates and rezoning processes. He recommended no change to the plan as drafted. Mr. Miller agreed and no one objected.

Mr. Measamer thanked the CAC, Planning Commission, City Council and the entire community for their incredible effort to update the comprehensive plan. He said staff would revise the draft per direction received at this meeting, then bring a draft ordinance to Council for consideration on July 18 with adoption on either July 18 or July 25. Mr. Measamer emphasized that the goal was to have the plan adopted by the end of July, consistent with conversations with the Department of Commerce.

There being no further business, at approximately 9:57 p.m. the Anacortes City Council meeting of July 5, 2016 was adjourned.