

City Council Minutes – May 2, 2016

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of May 2, 2016 at 6:00 p.m. Councilmembers Eric Johnson, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Ryan Walters was absent. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Proclamation of Nation Nursing Home Week: Mayor Gere read a statement proclaiming May 8-May 14, 2016 National Nursing Home Week in Anacortes and encouraging the community to honor individuals who laid the foundations of the community by participating in National Nursing Home Week observance at Anacortes nursing facilities.

Finance Committee:

Mr. Johnson reported that the committee met the prior Wednesday and discussed the fund balance policy currently being developed.

Ms. Lovelett asked out the possibility of providing low cost lead tests for domestic water pipes in private residences.

Ms. Lovelett disclosed that she would be participating as a private citizen in a forum at 7:00 p.m. on May 11 at the Depot with former United Steel Workers president Steve Gary and environmental advocacy groups.

Ms. Pickett thanked the Engineering Department for working to preserve trees along the sidewalks, noting that mature shade trees help to mediate rising temperatures.

Public Comment

Jan Woodruff spoke about the Break Free event scheduled for May 13-15, 2016, focusing on the People's Climate Conference solutions expo taking place at the Port Transit Shed. Ms. Woodruff elaborated on the wide range of activities scheduled over the three days, all free and open to the public, and said the full schedule was available at www.breakfreepnw.org/programming.

Consent Agenda

Mr. Johnson removed Item D from the Consent Agenda.

Mr. Johnson moved, seconded by Ms. Pickett, to approve the following Consent Agenda items.

- a. Minutes of April 25, 2016
- b. Approval of Claims in the amount of: \$170,934.34
- c. Accept as Complete - 2015 "U" District SS Line Rehab (Columbia Pumping & Construction)
- e. **Resolution 1956:** Authorizing Temporary Road Closure

Ms. Lovelett asked Sheriff Will Reichardt to address Item E regarding the March's Point road closure during the Break Free event scheduled for May 13-15. Police Chief Bonnie Bowers advised that the city's goals for the event were life safety, property safety, and ensuring First Amendment rights of freedom of speech and assembly. Chief Bowers explained the County's planned road closure to allow a First Amendment zone on March's Point, including some city roadway. She reported that the County commissioners had adopted a resolution regarding closure of the county roadway and that proposed Resolution 1956 would do the same for the city portion of the road. Sheriff Reichardt emphasized that the closure of the city section of the roadway was critical to the comprehensive plan to provide safety for all concerned. He urged Council to approve Resolution 1956.

The motion to approve Consent Agenda Items A, B, C and E then carried unanimously by voice vote.

The following vouchers/checks were approved for payment:

Voucher (check) numbers: 80285 through 80360, total \$ \$237,086.05

EFT numbers: 202822 through 203360, total \$ \$10,507.83

- d. Interlocal Cooperation Act Agreement with Anacortes School District #103 regarding Maintenance and Operation of Recreational Facilities at Volunteer Park

Mr. Johnson asked City Attorney Darcy Swetnam to address the following language in Paragraph 4 of the proposed agreement:

Any improvements and alterations made by either party shall remain on and be surrendered with the Property on expiration or termination of the Term. Any improvements and alterations that remain on the Property upon expiration or termination of the Term shall automatically become the property of the District and title to such improvements and alterations shall automatically pass to the District at such time without any payment therefor by the District to the City.

Ms. Swetnam explained the development of the proposed agreement which succeeded the original 1981 lease agreement and updated its terms, particularly regarding indemnification. Mr. Johnson observed that the agreement had already been approved by the school board but suggested that the language be amended to require that improvements would be surrendered "as long as they remain within the original recreational purposes of the agreement." Ms. Swetnam said staff could ask if the District would agree to such a change. Ms. Swetnam, Parks and Recreation Director Gary Robinson, and Ms. Pickett explained the unlikelihood that the uses of the property would be changed by the District. Mr. Johnson moved, seconded by Ms. Lovelett, to approve Consent Agenda Item 5d. The motion carried unanimously by voice vote.

OTHER BUSINESS

2016 Comprehensive Plan Update Revised Schedule

Planning Director Don Measamer presented an updated schedule for the remainder of the 2016 Comprehensive Plan update. The schedule, which was published as part of the packet materials for the evening, included a public hearing on June 20, final Council review on July 5, and adoption by ordinance on July 18. Mr. Measamer observed that final adoption would likely occur slightly after the June 30 deadline but said that staff had discussed the schedule with Department of Commerce staff and they were satisfied with the timeline.

Final Plat Approval: Leeward Landing PUD, PUD-2014-0001 / Ordinance 2974: Minnesota Avenue ROW Vacation

Associate Planner Kevin Cricchio presented the final replat and PUD application for Leeward Landing, a 10-lot re-plat/PUD located on the north side of Oakes Avenue, east of Anacopper Road (PUD-2014-0001/SDP-2014-001). Referring to his slide presentation which was added to the packet materials for the evening, Mr. Cricchio summarized the proposed project, approval of the preliminary replat on July 6, 2015 subject to 41 conditions, construction of required infrastructure, recommendation of approval by both the Public Works Department and the Planning Commission, inspection of erosion control and debris management recommended by the final arborist report, and the applicant's agreement to submit an irrevocable letter of credit in the amount of \$10,000 in order to ensure successful completion of the 5-year maintenance and monitoring period and to plant the geotech setback area prior to recording of the plat. Mr. Cricchio also described the associated vacation request for a portion of Minnesota Avenue. Mr. Cricchio advised that if the City Council found that the final replat/PUD met the requirements set out in the preliminary replat/PUD approval conditions, the final replat/PUD should be approved per AMC §16.16.030. He presented a list of six items that staff recommended recording before or concurrently with

recording of the final replat/PUD. Mr. Cricchio, Mr. Measamer and Ms. Swetnam responded to councilmember questions regarding the Geologically Hazardous Area Covenant, the right of way vacation, and monitoring for completion of the arborist report recommendations. Mr. Adams and Mr. Miller commented favorably on the value of the improvements received by the city in exchange for the right of way vacation.

Ms. Pickett moved, seconded by Mr. Adams, to accept the final replat approval and pass **Ordinance 2974** vacating a portion of Minnesota Avenue right-of-way. Vote: Ayes – Pickett, Adams, Archibald, Miller and Johnson. Nays – Lovelett. Motion carried.

Ordinance 2978: Title 6 Updates

City Attorney Darcy Swetnam recalled that Council approved an entirely rewritten Anacortes Municipal Code Title 6, Animals, in September 2015 but that ongoing exploration of cat regulation was recommended at that time. Referring to her slide presentation which was added to the packet materials for the evening, Ms. Swetnam reported on ensuing discussions with members of the public and requested some further direction from Council. She advised that draft Ordinance 2978 included in the packet was one possible direction but she outlined other courses of action as well.

Ms. Swetnam also presented several additional revisions to Title 6 that had been suggested by Animal Control Officer Zabrina Nybo relating to dangerous dogs and to hens. Ms. Lovelett suggested further discussion on possibly allowing ducks as well as hens in zones other than R1.

Mayor Gere invited members of the public to comment.

Arlene French, 1411 8th Street, spoke in support of the proposed changes to AMC Chapter 6.04. Referring to her prepared remarks which were added to the packet materials for the evening, Ms. French said the changes in draft Ordinance 2978 would provide protection for cats, protection for neighboring property owners, and would help limit overpopulation of cats. She said the existing code did not hold cat owners responsible for their cat's safety and well-being, or for public health and nuisance issues caused by cats roaming at large. Ms. French, a volunteer at the Humane Society of Skagit Valley (HSSV), described the proposed changes as the beginning of educating the public as to why cats should live safely and happily indoors. She summarized the services of HSSV including rehoming, adoption, foster care for neonates, trap/neuter/release, low income spay/neuter services, and medical care.

Marilyn Derig, 1302 K Avenue, spoke in support of the recommended animal code changes. Referring to her prepared remarks which were added to the packet materials for the evening, Ms. Derig described her concerns with protecting cats, cat overpopulation, neighborhood property rights, and the killing of federally protected neo-tropical songbirds and other birds that frequent many Backyard Habitat areas. She said the proposed code change would be the beginning of a dialogue leading to actual protection of cats from disease, death or maiming from other animals, being hit by a vehicle or getting lost and would also be a start in protecting property rights of neighbors. Ms. Derig urged a contract with the Skagit Humane Society so citizens could deliver stray animals without charge for medical attention and eventual rehoming or adoption.

Patricia Young, 2219 32nd Street, spoke in support of the proposed animal code changes intended to protect cats, protect neighboring property owners, and limit overpopulation. Referring to her prepared remarks which were added to the packet materials for the evening, Ms. Young supported incremental changes to the code and public education. She said code that says cats cannot roam at large on private property is fair and reasonable. She supported a city contract with the Humane Society to allow for the rescue of strays and lost cats seven days a week. Ms. Young provided a list of the services offered by the Humane Society of Skagit Valley.

Sandra Smith, an Anacortes resident for ten years, opposed the proposed ordinance. Ms. Smith said she had been involved with "community cats" for fifteen years in three different communities. She said the proposed leash law could result in more cats being killed in shelters. She urged not including cats in "animals running at large". Ms. Smith called the leash law unfair to people who own outdoor or

indoor/outdoor cats who would thereafter have to live permanently inside. She opposed volunteers trapping community cats and delivering them to the Humane Society. Ms. Smith urged instead trapping, neutering and returning community cats and said that approach is proven to work to reduce the community cat population. She said found animals should be reported to Animal Control and held for 72 hours in Anacortes with prescribed attempts to return the animal to its owner. She urged putting available funding into low cost spay/neuter clinics for both cats and dogs.

Michele Onorato, 705 41st Place, founder and executive director of local cat shelter Cat's Meow and the Thrifty Kitty thrift store, described the services provided by Cat's Meow, a registered 501(c)(3) organization. Ms. Onorato said of the over 1200 cats admitted by Cat's Meow, 71% were strays, 18% were surrendered by owners, and 9% were adoption returns; 3% were returned to owners and others were adopted out. She said the facility provides admitted animals with medical care, spay/neuter and microchipping and that Cat's Meow has offered free spay/neuter to the community since 2011. Ms. Onorato described the trap/neuter/return efforts begun 20 years ago in Anacortes and said that approach has been successful at reducing the feral cat population. Ms. Onorato opposed the proposed code change, saying cats don't pose the same risk to people as dogs and that codes should not be enacted if they won't be enforced. She asked why the city would begin paying for a service that Cat's Meow was already providing in Anacortes for free.

In response to question from Mr. Johnson, Ms. Onorato said there is not a cat overpopulation problem in Anacortes and that Cat's Meow takes in about 100 cats per year. In response to a question from Mr. Archibald, Ms. Onorato said they hold animals for a week or two for medical attention and potential rehoming before posting them for adoption and that there is no charge to owners who reclaim their pets.

Soren Jensen, 5003 Doon Way, warned that enforcement of the proposed code change would be expensive. He supported working through Cat's Meow to manage the cat population instead of choosing another route. He said he hoped the city would leave the issue alone and urged councilmembers to visit Cat's Meow on 4th Street to see the great work they were doing.

Bob Berry, 1914 22nd Street, said he had been trying to work with others in the community to come up with a proposal all could support and had researched and drafted proposals. He expressed surprise that the topic was suddenly back on the agenda. He urged Council not to take action on the draft ordinance but to remand the topic to the public to develop a more widely acceptable solution. Mr. Berry reported statistics on cat bites and resulting rabies shots. He urged making cat owners responsible for their pets, providing a method for giving relief to property owners who are injured by cat misbehavior, and addressing cat nuisance behavior on public property such as schools and parks.

Martha Hall, 2617 16th Street, observed that the proposed code change had not been to the Public Safety Committee. She expressed concern about the spread of disease from cat feces. Ms. Hall cited a long list of counties and cities in Washington that have prohibited cats at large. She called it a huge humane issue which is why the ASPCA, the Humane Society of the United States, the American Humane Association, and other animal care organizations oppose loose cats. She said such groups oppose cats at large for the protection of the cats and of other animals. Ms. Hall said many cities and counties also have cat licensing to check for rabies vaccinations, identify animals and help pay for animal control and boarding. She said the proposal did not address dog tethering. Ms. Hall urged a public hearing and a shelter in Anacortes open to accept stray cats seven days a week. She said cats roaming in her yard ruin her enjoyment of her own yard.

Ms. French returned to the microphone. She said she supported Cat's Meow and had met with Ms. Hall and Mr. Berry. Ms. French said she had worked with Ms. Young and Ms. Derig to take the middle ground and address the concerns of various folk with common sense. She said the two changes in the draft ordinance are a starting point to educate people how to raise indoor cats. Ms. French said Cat's Meow isn't open seven days a week, which is why she supports a contract with the Humane Society so people can take strays in at no cost.

Mr. Berry returned to the microphone. He asked whether Council wanted to pursue a gradualist approach or a comprehensive code update to solve the cat problem.

Ms. Onorato returned to the microphone. She said other municipalities do not let random individuals trap cats. Either animal control officers regulate that process tightly or do the trapping themselves. She said if cats were not allowed to run at large in Anacortes, Cat's Meow would ask for that same type of regulation of trapping.

Ms. Hall returned to the microphone. She disagreed with Ms. Onorato. Ms. Hall said she called supervisors in many jurisdictions and none of them had Animal Control officers trap cats except in extreme situations. Instead, rather they accepted animals brought in by the public.

Jan Kelly, 4402 San Juan Avenue, observed that the common ground among the speakers was loving animals and cats. She urged coming together to educate the community to find a solution that was workable for everyone. She said cats don't work well on leashes or with tags. She said she wished everyone would keep their cats inside but they don't. She encouraged a way of getting cats spayed/neutered and/or microchipped in town, pursuing education, and not moving on code changes right away.

Mr. Archibald asked Officer Nybo what a property owner's rights are if someone else's cat is in his yard. Officer Nybo said property owners do currently capture cats and take them to the Humane Society. She reminded that abandoning your own cat is considered animal cruelty and is against the law. She said she does assist the public with sick or abandoned cats. Mr. Adams asked Officer Nybo if any person had ever been attacked by a cat or contracted rabies from a cat in Anacortes. Officer Nybo said no. Ms. Swetnam observed that currently trapping a cat is taking someone else's personal property but that the draft ordinance would make that permissible. Mr. Miller observed that cats are regulated in Anacortes by the RCW that requires rabies vaccination for cats and AMC 6.04.150 regarding biting animals. He asked Officer Nybo for an interpretation of AMC 6.04.130 and if it applies to cat waste.

Ms. Smith returned to the microphone. She said she had been bitten by cats before and never got rabies or had to have shots. She questioned whether people could contract diseases from cats. Ms. Smith said that if her cat was on someone else's property and they trapped it and took it away, she would report that and make a claim.

Ms. Derig returned to the microphone. She advised that when she recently found a cat with a new litter of kittens in her compost bin, she knocked on many doors in her neighborhood but no one knew anything about the cat. She urged working with neighbors when a cat is found and reiterated the need for education.

Mayor Gere asked if councilmembers wished to provide any further guidance. Mr. Johnson said education is a good first step and encouraged teaching neighbors about options for dealing with one another's cats rather than enacting more laws that cannot be enforced. He supported funneling funding through Cat's Meow for more education. Mr. Adams said he was surprised that a proposed code change had not been through committee first. He said he was not interested in legislating against cats at large, he favored public outreach and education about free spay/neuter service. Mr. Miller agreed that the Public Safety Committee should review animal control ordinances and referred the public to the article about Cat's Meow in the upcoming *A-Town Is Our Town* publication. Mr. Archibald said the two questions that needed to be addressed were owner responsibility and property rights. Ms. Pickett supported the proposed ordinance, as it would allow those who were bothered by other people's cats in their yards to ask Officer Nybo to talk to the cat owner. Ms. Lovelett said Council needed to decide first if it agreed that every cat must be an indoor cat, and second look at humane issues regarding cat welfare. She urged taking time to avoid unintended consequences. Mr. Johnson asked for examples of what property owners can do about neighboring cats in their yards. Ms. Onorato recommended ultrasonic devices, motion sensor activated spray devices, and other related products.

Mr. Berry returned to the microphone to ask why dog owners are responsible for their animals but not cat owners.

Ms. Swetnam inquired if Council wished to proceed with the sections of the proposed ordinance that did not address cats. Councilmembers generally expressed support. Ms. Lovelett reminded that ducks needed to be discussed further and possibly allowed. Ms. Swetnam said she would take the proposed ordinance to the Public Safety Committee for further work. Mr. Johnson asked that the committee look at ways of keeping cats out of other people's yards. Mr. Miller suggested that cat licensing rather than restraint would be a middle ground. Ms. Lovelett suggested that repeated incidents be classified as a nuisance and be addressed in that manner. Mayor Gere concluded that the discussion would continue.

There being no further business, at approximately 8:20 p.m. the Anacortes City Council meeting of May 2, 2016 was adjourned.