

Anacortes City Council Minutes - October 3, 2022

Call to Order

Mayor Matt Miller called to order the Anacortes City Council meeting of October 3, 2022 at 6:00 p.m. Councilmembers Jeremy Carter, Christine Cleland-McGrath, Bruce McDougall and Amanda Hubik were present.

Councilmembers Ryan Walters and Carolyn Moulton participated in the meeting remotely via Zoom.

Councilmember Anthony Young was absent.

Mr. Carter moved, seconded by Ms. Hubik, to excuse the absence of Mr. Young. The motion carried unanimously by voice vote.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor Miller shared an update regarding the ongoing investigation and progress toward rebuilding the Tommy Thompson Trail Trestle. The final Alcohol, Tobacco, Firearms and Explosives investigative report should be provided to the City this week. Staff are submitting permits to state and local agencies and ordering necessary supplies for decking, lumber and fencing. Parks and Recreation will open portions of the trail in the coming weeks to increase safe access to the trestle. He reported that many generous donations continue to come in and that additional donations can be made via the Parks Foundation website. Mayor Miller concluded by announcing the Chamber of Commerce sponsored event, Bier on the Pier, this weekend at the Transit Shed on Friday from 5-8pm and Saturday from 12-3pm and 4-7pm.

Finance Committee

Mr. McDougall reported that the Finance Committee did not meet as scheduled.

Public Works Committee

Mayor Miller reported that the Public Works Committee did not meet and there would be no report provided.

Public Comment

Mayor Miller invited the public to comment on any item not on the agenda.

Megan Schorr of Anacortes commented on public safety and health. Ms. Schorr thanked Mayor Miller and the mayors of Mount Vernon, Burlington and Sedro-Woolley for addressing the concerns of citizens with a letter to state legislators informing them of the humanitarian crisis in Washington state. She mentioned the inability of merchants and police to effectively punish or deter shoplifters, adding that a misdemeanor is no longer a punishable offense in Washington and that police are prevented from pursuing suspected criminals. She denounced the current legislative environment as madness and a mockery of our social contract that attempts to further an incomprehensibly perverse moral virtue. Ms. Schorr asserted that current policies protect criminals, while effectively subjecting productive citizens to crime and vilifying law enforcement officers who attempt to prevent it. She asked the City Council and the Mayor to enact legislation to change the current system and to take up the issue with state legislators. She advocated putting funds toward staffing jails, funding mental institutions and creating low-income housing for families and recovering drug addicts so that these individuals can take responsibility for their lives and actions and become better integrated into society. Ms. Schorr concluded that this issue affects all, regardless of political outlook, and requires common sense and truly compassionate legislative action.

Cody Hart of Sedro-Woolley, a Navy veteran and independent reporter, noted his statewide advocacy for election integrity over the past several years. He pointed out two separate interviews he conducted with Skagit County election officials, in which he claimed that they admitted to locking out election observers, misinforming them of ballot processing times, and conducting ballot processing at publicly undisclosed times during the recent August 2022 primary election. Mr. Hart then summarized a video interview with Mr. Wiggins, a Skagit County Sheriff's representative speaking on behalf of Sheriff Ron McDermott and Prosecuting Attorney Rich Weyrich, who Mr. Hart said confirmed that the Skagit County Sheriff's office will not investigate election crimes in Skagit County and will refer them to the State Attorney General's office. He termed this suggestion as a dead end and obstruction of justice, noting that the State Attorney General's office does not conduct investigations through citizen referrals. Mr. Hart reminded the Council that the Skagit County Sheriff and Auditor are under contract with the City of Anacortes through interlocal agreements, and provided notice that these entities stand in breach of such agreements and will continue to violate them unless the Council takes action to legally remedy the situation. He concluded by encouraging Councilmembers to inform constituents where they stand on the issue of election integrity and that they would be held accountable for their views, positing that this is not a political issue, but is about our Constitution and being a democracy.

Jeff Zeiger of Cap Sante in Anacortes commented on the encroachment on public lands on 5th Street and Cap Sante Park. He expressed agreement with comments made by friends and neighbors at recent Council meetings, and added that waiting over a decade from the time the initial encroachment notice was issued to take action is more than enough time. He requested the City to set and enforce a deadline in the near future to finally resolve the situation.

John Campbell of Anacortes deferred his comments.

Consent Agenda

Mr. Walters removed Item 5.c., Contract Award: W.T. Preston Deck Recoating #22-243-MUS-001, from the Consent Agenda.

Mr. McDougall moved, seconded by Mr. Carter, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

a. Minutes of September 26, 2022

b. Approval of claims in the amount of \$1,021,385.22

The following vouchers/checks were approved for payment:

EFT numbers: 104395 through 104432, total \$375,169.22

Check numbers: 104394 and 104433 through 104448, total \$183,390.25

Wire transfer numbers: 310891 through 311153, total \$462,825.75

Contract Award: W.T. Preston Deck Recoating #22-243-MUS-001

Mr. Walters highlighted the contract amount of \$67,553.92 because it represents a substantial amount of money for the project, pointing out the asset could be lost if the work is not completed. He moved to authorize the Mayor to sign contract 22-243-MUS-001 with North West Colors Inc. for the amount of \$67,553.92 to perform the W.T. Preston Deck Recoating, which was seconded by Ms. Hubik. The motion carried unanimously by voice vote.

Public Hearings

Public Hearing on 2023 Budgeted Revenue Sources

Finance Director, Steve Hoglund, opened the public hearing on 2023 Budgeted Revenue Sources referencing a slide presentation that was included in the packet materials for the meeting. He updated the Council on forecast utility revenues and tax revenues (property, sales, utility) for 2023. He mentioned that the public hearing requires consideration of a potential 1 percent property tax increase, which will be brought back before the Council for approval in early November.

Mayor Miller noted the challenge faced by the Finance Director in projecting budget numbers for the coming year, but expressed his satisfaction with them.

Mr. McDougall asked Mr. Hoglund to clarify the millage metric. Mr. Hoglund responded that millage is based upon the valuation of the property and the actual property tax levy that is used to assess the property tax on a per thousand dollar basis of property value. He then detailed the required calculation $\text{millage} = (\text{total property value} / 1000) / (\text{total levy})$. Millage is then used to determine the property tax for each property owner. Mr. McDougall followed up by asking if property values have increased an average of 50-60% over the past ten years, then why have property taxes only increased 10%? Mr. Hoglund replied that the assessed value is increasing faster than the levy, and thus millage is decreasing.

Mr. Walters thanked Mr. Hoglund for the presentation and pointed out that the property tax collected today compared to the amount collected in 2016 adjusted for inflation reflects a decrease in the purchasing power for the City over time, as the 1% allowable annual increase is not keeping pace with inflation. He added that as inflation has increased at 23.4% since 2016, the costs of staffing and materials are rising more commensurate with inflation, but property tax revenues are not. He went on to mention that sales tax revenues help make up some of the difference, underscoring the necessity for approving the 1% property tax increase. He asked if the 2023 tax revenue projections include new construction. Mr. Hoglund responded affirmatively. Mr. Walters expressed his appreciation for the revenue associated with new construction, and also reminded the Council and audience that new construction also brings new costs in increased demand for services.

Ms. Cleland-McGrath asked if the budgeted or projected sales tax for 2023 is 5% below sales tax revenues for 2022. Mr. Hoglund responded that it is the projected amount, and explained that actual sales tax revenue amounts through July are paired with historical norms to project the total revenue for 2022.

Mayor Miller asked if members of the public in person or online would like to comment, no public comments were offered, and the public hearing was closed.

Ordinance 4031 Extending the Moratorium on the Acceptance of Certain Land Use Permit Applications in the R4 Use Zone West of the Commercial Use Zone that seek to use the Bonus Height provisions of AMC Section 19.42.050 C.

Planning Community and Economic Development Director, Don Measamer, opened a public hearing for Ordinance 4031 Extending the Moratorium on the Acceptance of Certain Land Use Permit Applications in the R4 Use Zone West of the Commercial Use Zone that seek to use the Bonus Height provisions of the AMC Section 19.42.050(c). He detailed the history of the moratorium, which was extended several times due to the COVID-19 pandemic, various workloads and other actions. Mr. Measamer recounted that at the June 27, 2022 meeting, the Council produced eight concepts that were taken back to the Planning Commission for review and public comment, which is still in progress. He then detailed staff work with Makers Architecture and Urban Design, LLP to develop the Housing Action Plan to address housing needs and said that since 2016 the average new units constructed are 101 with 131 new units needed to meet the goals set forth in the 2016 Comprehensive Plan. He then reported that the Housing Action Plan is eighty-five percent complete and will be presented to the

Planning Commission over the next few months and then subsequently come before the Council via the Housing Affordability and Community Services and Planning committees. Mr. Measamer then presented two options: Council can approve Ordinance 4031, which would trigger staff to come back to the Council with a resolution and a work plan within 60 days, or allow the moratorium to expire on October 11th. He pointed out the recent trend of a greater variety of housing coming on the market due to the good work of the Council, the public and the Planning Commission updating development regulations, which he expected to continue and be further diversified through proposals from the Housing Action Plan.

Mayor Miller invited the public to comment on the agenda item.

Erica Pickett of Anacortes spoke in favor of the five-story building height, pointing out that as a neighbor residing within a half block of the Fidalgo Flats building, the advantages of a large building are that farmland, forest land and coastal areas are not being used for housing development. She continued by mentioning that the close proximity of residents in this area to amenities and services makes it possible for those living there to conduct most activities without the need and associated costs of operating a vehicle. She concluded by saying that she recognizes there is opposition to these buildings within the community and the associated challenges for the Council, but taller buildings provide living space for more people and conserve energy when compared to single-family homes.

Mr. Walters asserted that housing is needed in Anacortes and height is needed along Commercial Avenue, especially in the Central Business District and elsewhere. He expressed his agreement with Ms. Pickett's reasoning and added that more options are needed for housing, including small units, apartments, and condominiums. He recounted writing the moratorium to prevent five-story buildings from being constructed westward up to M Avenue, underscoring the importance of integrating multi-unit housing into existing residential areas by providing a diverse range of options that might be more palatable to the existing property owners. He advocated for continuing on the present path, warning that allowing the moratorium to expire would break faith with the public who are expecting a public process to explore housing development options. He declared that the only option for the Council is to move the Ordinance forward, continuing the promised public process, and pointed out that one of the options in the process is doing nothing and letting the moratorium expire, as he insisted the process is important to ensure public participation and input. Mr. Walters continued mentioning that the ongoing Housing Action Plan and associated ordinance for housing options, including height, should be integrated into the process. He recommended the Council approve Ordinance 4031 to move the public process forward to provide options for the community to consider at all income levels.

Ms. Moulton recounted that it had been three years and acknowledged that many are running short on patience, and that she would like this to be the last extension. She agreed with Mr. Walters that the moratorium be extended and integrated into the Housing Action Plan, which would require some small adjustments.

Ms. Cleland-McGrath summarized that there have been intense discussions on these issues in the Planning Committee and recommended that others read the Makers Architecture and Urban Design, LLP recommendations that were included in the packet materials for the meeting. She also pointed out that the initial shock around the introduction of a five-story building into the R4 zone has subsided somewhat, as other options including townhomes and three-story buildings could be integrated as well. She said that it is important that the public be able to see the final Housing Action Plan and discuss housing throughout Anacortes, including bonus height incentive for the R4 zone. She added that additional height would likely be needed in other residential zones of the city and that one more renewal of the moratorium is warranted as part of the process to enable the Planning Commission to complete its work.

CHRISTINE CLELAND-MCGRATH moved, seconded by JEREMY CARTER, to Approve Ordinance 4031. Vote: Ayes - JEREMY CARTER, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDUGALL, AMANDA HUBIK. Nays - None. Result: Passed

Mayor Miller added that he heard the Council loud and clear that this is the final moratorium extension and pledged to work with the Planning Commission and Makers Architecture and Urban Design, LLP to provide the Council with at least a couple of reasonable options. The public hearing was closed.

Other Business

Interlocal Agreement 22-227-MCT-001 with Administrative Office of the Courts (AOC) for the Reimbursement Agreement Between AOC & City of Anacortes

City Attorney, Darcy Swetnam, introduced interlocal agreement 22-227-MCT-001 with Administrative Office of the Courts (AOC) to provide reimbursements to assist Cities and Municipal Courts with extraordinary judicial, prosecutorial, or defense-related costs of resentencing and vacating the sentences of defendants whose convictions or sentences are affected by the *State v. Blake* decision, and to provide reimbursements to assist Cities and Municipal Courts who have reimbursed or will reimburse legal financial obligations to defendants whose convictions or sentences in Municipal Court are affected by the decision. She introduced Administrative Services Director, Emily Schuh, who would also be able to answer questions from the Council. Ms. Swetnam then detailed the implications of the Blake decision in December 2021 on county court systems, including vacating convictions and reimbursing the defendants for associated financial obligations related to their cases, referring to the slide presentation that was included in the packet materials for the meeting. She specified that \$72,234 would be available for City costs including staff time, and \$62,816 would be available for reimbursing those who had to pay costs associated with their defense. She mentioned a meeting held with the AOC that helped clarify the reimbursement process.

Ms. Cleland-McGrath wondered how far back people are able to have their convictions vacated and if the defendant would be required to initiate the action to have the sentence vacated. Ms. Swetnam did not provide a time limitation and confirmed that an individual could request to have their conviction vacated. However, some jurisdictions were proactively vacating such sentences while reimbursement funds were available.

Mr. Walters asked if there had been any estimations as to whether or not the amounts allocated are commensurate with the potential obligations. Ms. Schuh responded that most of the convictions prior to the *Blake* decision were adjudicated in Superior (County) court and that Ms. Welch, the Municipal Court Administrator, is currently investigating the numbers for the City. Mayor Miller pointed out that before *Blake*, the vast majority of possession cases would have been Class C felonies and tried at the Superior court level. Mr. Walters wondered what type and number of relevant cases and convictions occurred in Anacortes Municipal Court. Ms. Swetnam replied that estimation work is ongoing.

Ms. Moulton asked that staff notify the Council of answers to Mr. Walters inquiry. Mr. Walters asked if the reimbursement funds had been built into the 2023 budget. Mayor Miller noted that Mr. Hoglund indicated that it has not.

CAROLYN MOULTON moved, seconded by Amanda Hubik, to authorize the Mayor to sign Interlocal Agreement 22-227-MCT-001 with Administrative Office of the Courts (AOC) and the City of Anacortes. Vote: Ayes - JEREMY CARTER, RYAN WALTERS, CHRISTINE CLELAND-MCGRATH, CAROLYN MOULTON, BRUCE MCDUGALL, AMANDA HUBIK. Nays - None. Result: Passed

Capital Facilities Plan (CFP), Public Works Projects

Finance Director, Steve Hoglund, introduced the review of the Capital Facilities Plan for Public Works Projects. He noted that there is some overlap with the Parks and Recreation department due to public works projects being undertaken. Senior Accountant, Philip Steffen, detailed the CFP via OpenGov software, pointing out the graphing functions to best depict budget information for users.

Ms. Moulton asked Mr. Steffen to get down into the details for the water projects for 2023. Mr. Steffen pointed out that a user must pull up the CFP, sort by the 2023 column and search for water and then go into budgets on the side toolbar. Mayor Miller pointed out that this is a major flaw in the software.

Mr. Hoglund pointed out that none of the CFP projects are funded through debt, but through existing cash reserves or future receipts. Ms. Moulton asked if there was a location to find the funding sources for each project. Mr. Steffen pointed out different means to find funding source information through the software application, including by state budget code and broader revenue type. Mr. Walters asked if there was a quick reference guide for funding sources. Mr. Steffen responded that there was not, but he would develop one. Ms. Moulton asked if there were screenshot instructions or tip sheets to assist users with navigation in OpenGov to different modules and/or different views.

Mr. Hoglund then moved through a review of the Public Works CFP projects. He started with water projects. Mr. Walters asked about the 'Pipeline Replacements 2023' with respect to the high-profile infrastructure failures over the last year, and whether or not the budget for this item is adequate in light of these incidents. Water Treatment Plant Manager, Brian McDaniel, pointed out that the ongoing Water System Plan update will provide suggestions for improving the system and that the 2023 funding allocation was held at present levels pending those results.

Mr. Walters asked if the amount for Advanced Metering Infrastructure includes all funds required for project completion. Mr. McDaniel pointed out that additional funds are budgeted in 2024 and 2025 and added that the software was purchased up front and that the project would be completed in phases with additional antennas being installed throughout the City and periodic updates on individual meters. Mr. Walters asked how much was spent so far on this project. Mr. McDaniel promised to follow up with that detail.

Ms. Moulton asked if 2022 expenditures could be included in the CFP in OpenGov. Mayor Miller responded that a short summary of the project details to date should be possible.

Mr. Walters asked which stage of the project is WTP Phase 4&5 Water Controls Reliability. Mr. McDaniel responded that it is the final stage of the project.

Mr. Hoglund continued the CFP review with wastewater projects. Mayor Miller wondered about the increased numbers for solids handling in 2027 and 2028. Wastewater Treatment Plant Manager, Becky Fox, responded that the higher numbers are for sewer line extensions and looking at future alternatives to the solids handling process. Mr. Walters asked if these budget numbers are informed estimates for solids handling and the sewer line from Lovrics to Sixth Street. Ms. Fox responded that the sewer line for Lovrics to 6th Street has been in the CFP for a while and is still a provisional project. She added that additional costs for solids handling would be clearer with further study and that current costs are based on a rough estimate from an engineer. Mr. Walters asked for more information about the 6th Street sewer line. Engineering Services Manager, Tim Hohmann, pointed out that the sewer line is a new line to support potential future development in that area. Mr. Walters asked if the project would support the sewer system generally, pointing out that future development should pay for its own sewer line. Mr. Hohmann replied that it was conceived with the goal of pump station reduction and system outflow problems. Mr. Walters explained that he highlighted the project because sewer rates are calculated using CFP and should be removed if not justified, which will save residents money or sewer rates.

Mayor Miller pointed out that in 2025 sewer rates would be calculated using the CPI inflator. Mr. McDougall asked that the Lovrics to 6th Street sewer project be better defined in geographic terms to specify the areas served by the proposed new line.

Mr. Hoglund continued the review of transportation projects. Mr. Walters wondered about the project at 12th Street and K Avenue. Mr. Hohmann pointed out that the project is included as part of the Comprehensive Plan to address the failing left turn traffic score and needs to be included in the CFP to maintain the possibility for grant funding. Mr. Walters pointed out that the funding source indicated traffic impact fees. Mr. Hohmann responded that this is standard for any project included in the Comprehensive Plan. Mr. Walters asked if \$1,000,000 was adequate to fund a roundabout. Mr. Hohmann responded that is not likely and that it would more likely involve left turn traffic control.

Mr. McDougall asked about Q Avenue and 17th Street project. Mr. Hohmann responded that as a primary entry and egress point from the MJB development, it is scheduled to be a roundabout.

Mr. Walters pointed out that more details (referring to the Fidalgo Bay Road Reconstruction) about the likelihood of funding should be indicated and asked that projects be carefully considered for inclusion on the CFP if grant funds are involved. Mayor Miller responded that this project was included to show that the project was not a priority for City funding but that the City can support efforts to obtain grant funding. Mr. Hohmann pointed out that OpenGov priorities can be helpful in categorizing projects. Mr. Hoglund detailed the funding priorities: 1= critical need and resources available; 2= necessary, resources available; 3= necessary, resources not available; 4= nice to have, resources available; 5= nice to have, resources not available.

Mr. Hoglund continued reviewing stormwater and sanitation projects. He pointed out that facilities projects will be included under general projects and are funded through real estate excise tax. Mr. Walters pointed out his concerns regarding storm water projects to ensure that downstream upgrades are happening to facilitate increased capacity and support future development and advocated that specific projects be included in the CFP. Mr. Hohmann responded that there are projects programmed to increase capacity but they are not included in the OpenGov version CFP, but that the department plans on re-evaluating them. Mr. Walters asked if there are grant opportunities for stormwater capacity improvement and that these projects should be included in the CFP. Mayor Miller responded that consideration of impacts on sewer rates should be taken into account and that more detail on stormwater projects is needed.

Mr. Walters requested more data regarding the various facilities maintenance projects for individual projects, and proposed a price cap on individual projects to be included separately in the CFP. Mayor Miller agreed that such a distinction is necessary.

Adjournment

There being no further business, at approximately 8:10 p.m. the Anacortes City Council meeting of October 3, 2022 was adjourned.