

Anacortes City Council Minutes - March 27, 2023

Call to Order

Mayor Pro Tempore Anthony Young called to order the Anacortes City Council meeting of March 27, 2023 at 6:00 p.m. Councilmembers Ryan Walters and Carolyn Moulton were present.

Councilmembers Jeremy Carter, Bruce McDougall (joined at approximately 7:17pm), and Amanda Hubik participated in the meeting remotely via Zoom.

Councilmember Christine Cleland-McGrath was absent. Ms. Moulton moved, seconded by Mr. Carter, to excuse the absence of Ms. Cleland-McGrath. The motion carried unanimously by voice vote.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor Pro Tempore Young reported on Mayor Miller's absence to attend the National League of Cities Congressional City Conference. He then announced the Tommy Thompson Trestle Re-Opening ceremony to be hosted by the Samish Indian Nation at the Fidalgo Bay Resort located at 701 Fidalgo Bay Road from 2-4pm on Friday March 31, 2023 with Mayor Miller opening the festivities.

Fiber Committee

Mr. Walters reported from the Fiber Committee meeting held the previous week. The topics discussed included progress in the US Economic Development Administration grant expansion area, current status of the Guemes View expansion project, Robinson Brothers Construction continuing restoration work in the West End, IPv4 address acquisition, adding Fiber equipment to the Information Services maintenance and replacement program, appropriate outsourcing for administrative services, and a discussion of how to pay off the line of credit for the Guemes View expansion.

Northstar Project Housing Task Force

Mr. Walters also reported on the Northstar Project Housing Task Force where he relayed his vision for unincorporated Skagit County to remain an area characterized by the natural resource industry and for cities to develop without considerable expansion. Principal issues discussed included legislation passed in the last state session regarding how much housing in each county for each income bracket is required to be supported as determined by counties and distributed to cities, an enforcement mechanism for housing distribution, and workplan development.

Planning Committee

Ms. Moulton reported from the Planning Committee meeting held earlier in the evening. The topics discussed included the West Basin project pre-application from the Port of Anacortes, the MJB framework development plan for public review and comment, Office of Financial Management population projections, a parking code re-write, and Commercial Avenue improvements for pedestrians..

Library Committee

Mayor Pro Tempore Young reported that the Library Committee did not meet as scheduled.

Housing Affordability and Community Services Committee

Mr. Walters reported from the Housing Affordability and Community Services Committee meeting held the previous Thursday. The topics discussed included a policy and strategy regarding T Avenue with a discussion coming before the Council in the near term. Mayor Pro Tempore Young mentioned many public comments on the topic.

Public Comment

Mayor Pro Tempore Young invited the public to comment on any item not on the agenda.

Zach Wight of Anacortes representing Procession of the Species Anacortes provided background for the event that will occur on June 10th with preparatory workshops to be held in May. He invited interested members of the public to participate. Andy Stewart of Anacortes mentioned that there is significant community support for the event and thanked the Council for their consideration. He added that there is additional information on @potsanacortes on Facebook and Instagram, as well as at potsanacortes.org. Mr. Stewart asked for volunteers or donations of supplies for the event.

Beth Bell of Old Town Anacortes spoke about the homeless, RVs and drugs, terming the problem as a national one due to the lack of means and facilities for mental health that lead to drug addiction for affected individuals. She asserted that the rules have become skewed to protect the population without supporting them. She cited the commitment of the Anacortes Family Center and the City of Anacortes as important elements of community efforts to assist the homeless. She asked how do we handle the segment of the population that continues to resist help and violate laws in parks, residential areas, and other public spaces? She averred that it is not by creating laws that protect them like *Blake* or passing ordinances that result in arrests in a system that is understaffed and lacks sufficient time and resources to deal with the associated petty crimes and overdoses, adding that detox centers are not the answer. She allowed that giving them privileges is tricky and we should not reward lawless behavior, and that we are not trying to get rid of homeless individuals who are down on their luck. She expressed support for the agencies and organizations who give help to those who need and want it. She then mentioned that the state closed down its mental health institution and those who were served by that facility turned to drugs. She concluded by asserting that the state must take action and attend to mental health issues, or otherwise face potentially dangerous consequences of inaction. She implored the city, county and state to do the hard work by coming together as a team to create institutions that get homeless and addicted individuals help or off the street.

Boshie Morris of Anacortes voiced a concern regarding the Kiwanis Guemes Channel Park being overtaken by invasive species of willow and blackberry vines that are obstructing the views for which this park was built. She wondered who to take this issue to? Mr. Young responded that the Council can pass the concern on to Parks and Recreation Director, Jonn Lunsford.

John E. Hilburn of Anacortes addressed the Levy Lid Lift, wondering if this would be a one-time measure at the will of the Council or would it need to be put before the voters every time? He cited increasing assessments and their negative impact on his finances. He then addressed the population density and associated housing requirements as put forth by the state legislature. He lamented having to comply with a higher level government dictate, and wondered if adequate traffic and water infrastructure could be in place to support the new density and associated housing requirements. He mentioned that current road conditions in Anacortes are not really great. He then related that he moved to Anacortes for the small town atmosphere to get away from urbanization, and posited that the Council and state government are bent on urbanizing the area. Mr. Young responded that there would be forthcoming discussion before the Council regarding the future of Anacortes development and invited all interested citizens to come forth and voice their concerns so that the Council could better serve citizen interests. Mr. Walters added that the Levy Lid Lift does go to the voters every time.

Mike Pearl of Anacortes mentioned some of the comments Mr. Walters made regarding the R4 zone and asserted that it was shameful that the Council did not listen to him or support him, and that there is a lot of work to be done on the zoning issue. He then described coming to Anacortes 38 years ago to find a small town where he could raise his two school-age children and find affordable housing. He mentioned his own experience working for Skagit Self-Help Housing as a supervisor to provide housing for families in Anacortes. He mentioned the unique character of one and two-story homes in Anacortes that still exists today and decried the

development of five-story buildings as faceless and impersonal, citing Fidalgo Flats as an example of what is to come in the area. He wondered if the appearance of Commercial Avenue would continue to be the welcoming one it is today or would it be all five-story buildings. He mentioned that the 2-3 blocks on either side of Commercial Avenue have family homes and small businesses that are part of a thriving community, asserting that the Council's recent decision regarding bonus height had opened the door to a cold, canyon-like, dystopian future. He accused the Council of only considering the future and not giving any value to the people who have made Anacortes what it is today.

Consent Agenda

CAROLYN MOULTON moved, seconded by JEREMY CARTER, to approve Consent Agenda items a.-d.
Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, AMANDA HUBIK. Nays - None. Abstentions: BRUCE MCDUGALL. Result: Passed

a. Minutes of March 20, 2023

b. Approval of claims in the amount of \$387,133.99

The following vouchers/checks were approved for payment:

EFT numbers: 105859 through 105895, total \$184,286.44

Check numbers: 105854 through 105905, total \$188,191.31

Wire transfer numbers: 321135 through 321473, total \$14,656.24

c. Street Fair Application - Procession of the Species Anacortes

d. Contract Award: Skyline Drainage and ADA Updates #23-119-TRN-001

Other Business

Contract Award / Program Update: Anacortes Family Center Social Worker Agreement #23-113-APD-001

Police Chief, Dave Floyd, introduced the Anacortes Family Center Social Worker Agreement #23-113-APD-001, asking for renewal of the agreement. He then introduced the Anacortes Family Center (AFC) Director, Dustin Johnson, who provided remarks on the Social Worker Agreement citing statistics on T Avenue clients who have found housing elsewhere. He provided details from the most recent quarterly report dated March 15, 2023, including 25 outreach activities meeting 151 clients, of which 53 of those clients were distinctly served. He reported that five of those clients were able to leave T Avenue for housing elsewhere, the demographics on T Avenue consist of one family with children and single adults who are most resistant to assistance, and the AFC's efforts to provide deep engagement with the individuals to get them needed resources, and the policies for assistance. He qualified that assistance is provided to those who are compliant with city ordinances for waste and illegal dumping, not stealing electricity, or openly engaging in drug use, and that AFC would do everything in their power to get those individuals into a better housing situation. He added that other service providers are not setting those boundaries and thus making it more difficult to effectively incentivize responsible behavior, though much work has been done to convince other service providers of the merits of a unified policy. He expressed hope that there would be an agreement on this matter.

Ms. Moulton asked for a definition of HMIS. Mr. Johnson responded that it stands for the Homeless Management Information System that is required by the Washington State Department of Commerce for any agency nationwide that provides services to homeless individuals that provides information on an individual's participation in the human and social services system and rates service providers' success rates in helping clients out of the system. Ms. Moulton followed up by asking for the definition of the Community Options Program Entry System (COPES) program. Mr. Johnson responded that it is a resource-intensive program supporting children around schools and behavioral health. Ms. Moulton mentioned the accountability piece of the system and that the results are tied to compliance, and that benefits are not being given out without consideration or requirements. Mr. Johnson expressed his frustration with the lack of coordination between agencies and the misinformation related to benefits being provided freely without accountability. He concluded that ultimately

this uncoordinated response is harmful to the cause of helping those who need it.

Mr. Young thanked Mr. Johnson for his regular updates and mentioned that there is no specific roadmap for handling the problem of homelessness and social challenges. He asked Mr. Johnson to expand on the AFC's services, especially around mental health in the wake of the pandemic, pointing out the lack of available resources and the limited resources being spent on law enforcement actions, incarceration and cleanup, in addition to provision of services. Mr. Johnson mentioned that significant portions of budgets should be reallocated to human services, as it is mostly a local issue that must be handled on that level. He added that document recording fees are the only budget allocations that are statutorily required to go towards human social services, of which Anacortes receives 25%. More specifically, the Anacortes Family Center receives less than 10% of those funds year over year, as he pointed out that there is no one who lives or works in Anacortes on the county committee responsible for the document recording fee funding outlays. He asserted that this, in addition to the misconception of Anacortes as a relatively affluent community, has caused an inherent geographic bias that prevents Anacortes service providers from receiving their fair share of the document recording fees. He recommended that the Council take steps to demonstrate to Skagit County that it is deserving of those outlays through a more open, thoughtful and thorough process. Mr. Walters mentioned that the first step is for the City to draft a Homeless Housing Plan that would justify the recapture of those monies. He pointed out the annual stipend mentioned in the contract will change in the near future, as the County is signaling a change in the way funds are allocated, and that we must be concerned with success immediately and efficiency in the longer term.

RYAN WALTERS moved, seconded by JEREMY CARTER, to approve Anacortes Family Center Social Worker Agreement #23-113-APD-001. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, AMANDA HUBIK. Nays - None. Result: Passed

Ordinance 4044: Amending the Qualifications for the Utility Discount Program

Finance Director, Steve Hoglund, re-introduced Ordinance 4044: Amending the Qualifications for the Utility Discount Program. He reviewed the principal elements of the proposed ordinance, including changing the qualifying income guidelines from 150% of the federal poverty rate to 50% of the average family median income as published by the federal Department of Housing and Urban Development and raising the discount rate to 30% for qualifying households. He outlined new proposed language in section 3.50.030.D. which reads, "In a mixed use building where the non-qualifying use is not metered or distinguishable from the qualifying residential use, the program applies to the entire utility bill if the amount of floor area attributable to a qualifying residential use exceeds the amount of floor area for the non-qualifying use."

Ms. Moulton asked if this would only be for existing buildings or would new buildings have meters for every resident? Mr. Hoglund responded that this would be for both existing and new buildings. Ms. Moulton asked if a building were to be built with 50% units of affordable housing, would that building qualify? Mr. Hoglund responded affirmatively. Ms. Moulton mentioned this would be a significant investment in the community below 50% of the area median family income that needs assistance, and avoids the more costly scenario of helping a household that has been forced out of its home.

Mr. Walters pointed out that this revised subsection is a hack to compensate for the inability of the accounting software to proportionally apply the discount in a mixed-use building, and could be changed once the software is updated. He continued that the ordinance provides a program framework and gives the Council a means by which they can provide a break to those who need it and automatically enroll those who are participants in the disabled senior property tax exemption program through the county. He expressed hope that the Council would move it forward.

Mayor Pro Tempore Young invited the public to comment on the agenda item.

Ward MacKenzie of Anacortes expressed support for the program as a whole, but disapproved of the method for calculating the discount for a large building.

Mr. Walters expressed agreement with Mr. MacKenzie's comment and suggested that the Council move forward with the ordinance as currently presented and have the Council come back to change it once the accounting software is updated, though he would also consider deleting subsection D. entirely if that helped move forward the ordinance in this meeting. Mayor Pro Tem Young asked Mr. Hoglund for guidance on how to proceed. Mr. Hoglund acknowledged that the current verbiage for mixed-use buildings is not perfect due to the shortcomings of the accounting software and that the committee tried to err on the side of making it easier to qualify for the program. He offered that he could take it back to staff for further consideration at the committee level or the Council could move it forward at the current meeting.

Ms. Moulton asked how many buildings would be included under subsection D qualification criteria. Mr. Hoglund responded that he is not certain and that previously multi-family and commercial buildings were charged at the same utility rates. Mr. Walters reminded the Council that this has been an ongoing accounting problem since the multi-family category was introduced, and added that the buildings that would qualify would be the Anacortes Housing Authority and Anacortes Family Center.

At 7:17pm Mr. McDougall stated that he had joined the meeting via Zoom.

Ms. Moulton asked if there was a way to ensure that the Council would come back and re-visit the program once the software is updated. Mr. Hoglund estimated that the new software would be operational in about four years, and that he could place it on the Finance Committee agenda as a standing item to be reviewed periodically until the software is updated. Ms. Moulton expressed support for moving forward and coming back to re-visit the program once the accounting software was updated.

RYAN WALTERS moved, seconded by AMANDA HUBIK, to approve Ordinance 4044 with presented changes to section 3.50.030.D. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, AMANDA HUBIK. Nays - None. Abstentions: BRUCE MCDUGALL Result: Passed

Ordinance 4045: Title 9 Update

City Attorney, Darcy Swetnam, introduced the first reading of Ordinance 4045: Title 9 Update, referring to a slide presentation that was added to the packet materials for the meeting. She then introduced Police Chief, Dave Floyd, who answered questions from the Council and the public.

Mr. Walters mentioned that this is one of a series of steps to address public order without depending on the state legislature. He also pointed out that it is important for the city prosecutor to be able to send people into therapeutic courts in order to access treatment and proposed adding a general provision encouraging the prosecutor to use therapeutic courts, or community courts, or other alternatives to prosecution, and is required to file a reason as to why therapeutic court is not a viable venue. Otherwise, the other option would be sending individuals to jail, which is costly and often unavailable due to capacity limitations. He added that the ordinance provides a framework for further revision and that the Council must get a handle on the drug problem in Anacortes through action in the near term.

Mr. Young mentioned the problem of drug abuse, addiction, and mental illness and its deleterious effects on families, citing the confusing labyrinth of services and administrative barriers to effective treatment. He added that a balance must be struck between compassion and enforcing the law, as these issues have an impact on the entire community. He asked the public for ideas, adding that the Council, committees and staff are listening and that no one has a comprehensive solution.

Mayor Pro Tempore Young invited the public to comment on the agenda item.

Dan Maul of Anacortes asked what changed in light of the *Blake* decision to prevent lawsuits from coming against the city if the police were to commence taking enforcement actions against individuals who violated the proposed code.

Ms. Swetnam responded that the *Blake* decision applies to state law and prohibits local jurisdictions from enforcing those provisions, but that it does not prevent Anacortes from drafting its own ordinances to address the issue. Mr. Walters added that the new crime included in the proposed ordinance is drug use in public, which is distinguishable from the *Blake* decision. Chief Floyd added that this ordinance will address public drug use and the deposit of drug paraphernalia, as these items represent a distinct health hazard to the community that warrants a criminal penalty.

Ms. Moulton asked about drug use in public related to sitting in a vehicle doing drugs and being spotted by police. Chief Floyd responded affirmatively that doing drugs on a public roadway in public view would be prohibited under this ordinance. Ms. Moulton then asked if this applied to the use of cannabis. Chief Floyd mentioned this would be a citation under a separate provision of the Revised Code of Washington as a civil infraction.

Mr. Young asked about the illegality of drug paraphernalia in public places. Chief Floyd responded that if there is a way to show who is responsible for depositing these items illegally, then it would be cited under the code. Mr. Walters mentioned that drug paraphernalia would be more difficult to enforce and that illegal drug use is not a victimless crime and that it has effects on the wider community. He added that the Council must do what it can to eliminate drug use and drug dealing in our community. Ms. Moulton expressed agreement with Mr. Walters, and added that enforcement is needed and will be a benefit to the community.

Mark McEathron of Anacortes expressed that the Council should move forward with this ordinance and asked if video evidence that was collected by cameras (public and private) would be adequate evidence for enforcement. Chief Floyd mentioned that this ordinance would not meet the misdemeanor presence rule. Mr. Walters asked if the police could take follow-up targeted enforcement action with the assistance of video evidence. Chief Floyd responded that would be possible with targeted enforcement by allowing law enforcement to know the identity of the perpetrators, and where and when the activity would be likely to occur.

Beth Bell of Anacortes asked a clarifying question about visual or recorded evidence not allowing police to uphold the law or ordinance. Mr. Walters responded that in the criminal justice system, people are represented by two separate, but equally important, groups. The defense attorney will argue that the video evidence is not what it appears to be, and that the prosecution must prove the case beyond reasonable doubt. In many instances, video evidence does not meet the burden of proof. He added that public support in exposing and eliminating drug houses is needed.

Ms. Swetnam summarized that the ordinance would be brought back before the Council in two weeks.

Ordinance 4046: An Interim Ordinance declaring an emergency and adopting a moratorium on the acceptance of certain Land Use, Building Permit and Business License applications in the Commercial, Central Business District, Marine Mixed Use, and Commercial Marine Use Zones Regarding Short Term Rentals in Residential Dwelling Units

Planning, Community, and Economic Development Director, Don Measamer introduced Ordinance 4046 that would declare an emergency and adopt a moratorium on the acceptance of certain Land Use, Building Permit and Business License applications in the Commercial, Central Business District, Marine Mixed Use, and Commercial Marine Use Zones for Short-Term rentals in Residential Dwelling Units. He defined short-term rentals as units that were rented for periods of less than 30 days and that the moratorium will allow the Council and city staff to analyze the impact of short-term rentals on the surrounding area. He qualified that this moratorium would not impact currently licensed short-term rentals, hotels and motels. He added that staff would return to the Council within 60 days for a public hearing and a workplan with a way forward. He mentioned receipt of one public comment from Evergreen Islands in support of the moratorium.

Mr. Walters mentioned that the Planning Committee drafted and supports this ordinance because new housing is being turned into short-term rentals, which is contrary to the Council's housing goals. He added that short-term rentals should pay full retail price for impact and commercial fees. He added that short-term rentals take away from the community, as they are only occupied on a seasonal basis by temporary residents who are not invested in the long-term health of the community. He pointed out that there could be a need for more hotels and motels and that residential development must be used for long-term residents and this ordinance plugs that hole in the code.

Ms. Moulton wondered if there could be something done separately from this ordinance to address individuals who have second, third or fourth homes in the city that are largely unoccupied and expressed support for the ordinance. Mr. Young pointed out that there must be a way to find a balance between the desire to have more visitors come to Anacortes and the need for long-term housing.

Mr. Measamer added that staff does recommend approval and that staff will come back in 60 days for a public hearing.

Mayor Pro Tempore Young invited the public to comment on the agenda item.

Brian Wetcher of Anacortes spoke to the Council on behalf of Evergreen Islands, mentioning that the organization had submitted a proposed amendment to the Comprehensive Plan to regulate short-term vacation rentals and support affordable housing, and that the organization supports this interim ordinance. He added that Tom Glade, the President of Evergreen Islands, had submitted a letter to the Council and that he hoped this issue would be solved in a way to allow the community to find the right balance between affordable housing and community values. He thanked Mr. Measamer for his decades of public service.

Mayor Pro Tempore Young acknowledged receipt of Mr. Glade's letter and thanked Mr. Measamer for his service.

CAROLYN MOULTON moved, seconded by AMANDA HUBIK, to approve Ordinance 4046 as presented. Vote: Ayes - JEREMY CARTER, ANTHONY YOUNG, RYAN WALTERS, CAROLYN MOULTON, AMANDA HUBIK. Nays - None. Abstentions: BRUCE MCDUGALL. Result: Passed

Adjournment

There being no further business, at approximately 8:05 p.m. the Anacortes City Council meeting of March 27, 2023 was adjourned.