

City Council Minutes – April 2, 2018

At 6:00 p.m. Mayor Pro Tem Matt Miller called to order the regular Anacortes City Council meeting of April 2, 2018. Councilmembers Eric Johnson, Anthony Young, Ryan Walters, Brad Adams, Liz Lovelett, Bruce McDougall and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Finance Committee: Mr. McDougall reported from the committee meeting the prior Wednesday at which he and Mr. Hoglund, the only committee members present, previewed the agriculture irrigation water presentation scheduled for later on the agenda.

Public Works Committee: Ms. Lovelett reported that the committee meeting scheduled for earlier in the evening had been cancelled.

Mr. Miller reported from the successful first ferry run of the season to Sidney, B.C. on Sunday, April 1.

Mr. Miller reported that construction had begun at the Miller/Gibraltar Road intersection with SR20 and that WSDOT was working to alleviate the traffic delays.

Public Comment

No one present wished to address 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 carried unanimously by voice vote.

- a. Minutes of March 26, 2018
- b. Approval of Claims in the amount of: \$334,369.66
- c. Street Fair Application: Anacortes Farmers Market

The following vouchers/checks were approved for payment:
EFT numbers: 88647 through 88682, total \$67,759.59
Check numbers: 88683 through 88730, total \$302,768.06
Wire transfer numbers: 229353 through 230606, total \$8,982.05

OTHER BUSINESS

Lodging Tax Advisory Committee Annual Appointments

Planning Director Don Measamer requested Council approval of appointments to the Lodging Tax Advisory Committee for 2018, referring to the staff memo included in the packet materials for the meeting. After reviewing the statutory requirements governing committee membership, Mr. Measamer proposed that the committee membership remain unchanged from 2017 (Mark Lione, Russ Olivier, Erik Schorr, Andy Stewart, Karla Locke, and Matt Miller as Chair) with the exception of appointment of Pam Audette, manager of the Marina Inn, to fill the position vacated by Nancy Dalton. Mr. Measamer added that the committee would not likely meet to consider applications for funding until later in the summer.

Mr. Walters moved, seconded by Mr. Johnson, to approve the appointments as presented. The motion carried unanimously by voice vote.

Ordinance 3024: Agriculture Irrigation Code Update

City Attorney Darcy Swetnam and Finance Director Steve Hoglund continued the discussion of agriculture irrigation meters last considered at the regular City Council meeting on March 19, 2018, referring to their slide presentation included in the packet materials for the meeting. Ms. Swetnam summarized the three action items with which staff had been tasked at the on March 19 meeting: preparing an ordinance limiting agricultural irrigation meters to current use classified properties, pursuing interlocal agreements with Skagit PUD and La Conner regarding irrigation meters in their service areas, and presenting additional phasing options for increasing agriculture irrigation rates to cover the cost of the water being sold.

In response to the first task, Ms. Swetnam presented draft Ordinance 3024 which would add new AMC section 13.32.037 specifying the Skagit County current use classification that would qualify property for a seasonal agriculture irrigation meter and the agriculture irrigation rate set by City Council resolution, as well as codifying the current practice of allowing other use classifications to apply for seasonal meters at the commercial water rate. Mr. Walters confirmed with Ms. Swetnam that the entirety of AMC Title 13 was being revised and that AMC 13.32.035 would be reconciled with AMC 13.32.037 in that process. Mr. Young confirmed with Ms. Swetnam that the agriculture irrigation rate would only apply for customers served directly from an Anacortes irrigation water meter.

In response to the third task, Mr. Hoglund displayed a slide showing options for phasing in a rate increase from the current agriculture irrigation rate to the full wholesale variable rate over periods ranging from 3 to 10 years beginning April 1, 2019. He then shared a slide depicting the actual quantity of irrigation water purchased by fifteen agriculture meter customers in 2016 and the cost of that water at a selection of different rates including the rates charged by Skagit PUD and La Conner. Mr. Young emphasized that the difference between the agriculture irrigation rate and the wholesale water cost was being subsidized by the Anacortes retail water system ratepayers. He confirmed with Mr. Hoglund that no other water customer types were paying less than actual cost for water.

Mr. Miller invited members of the audience to comment on this agenda item.

Mike Lytton, 4004 Astrea Place, said he was discouraged to learn that he'd been paying to support the agricultural community for years. He said he didn't have a lot of interest in supporting the agricultural community. Mr. Lytton encouraged Council to raise the agriculture irrigation rate as fast as possible to whatever was required to cover the variable and capital costs of the water plant, particularly since the current rate gave some farmers a competitive advantage over adjacent farms that had to pay full rates for other sources of water.

Jerry Nelson, representing potato farmer Norm Nelson Inc., reiterated his comments from the November 6, 2017 City Council meeting. He recounted the history of the installation of the Anacortes water line across farm fields. Mr. Nelson said verbal representations that adjoining farms would be able to obtain irrigation water from the line won over farmers to selling land or granting easements to allow the line to be installed. Mr. Nelson said that having irrigation available had made land adjacent to the water line much more workable and that farmers had not requested a special price for that water, only accepted the price offered by the city. He said he wasn't asking to pay less than the wholesale cost of the water but observed that a 10-fold price increase was considerable. Mr. Nelson reminded that if agriculture were not viable, the Skagit valley would have asphalt and houses everywhere like the Kent valley. He explained that high value crops were what kept agriculture viable and those crops mostly require irrigation. Mr. Miller asked staff to elaborate on consideration paid for easements or condemnations at the time the water line was installed. Ms. Swetnam reported that Public Works Director Fred Buckenmeyer assured that there was either condemnation or consideration paid for every easement, plus some payments for crop loss for some number of years. Mr. Nelson recalled that when the waterline construction zone extended beyond the easement on property he was renting, the city paid him for crop losses in 2004-2005. He added that having access to the water line and hydrants was advantageous for potatoes, and that buying water from La Conner was much more expensive.

Ward MacKenzie, 1302 7th Street, observed that the alternatives presented were rate increases phased in over 3-10 years but that there were potential legal or political problems with failing to institute the market rate right away. Mr. MacKenzie hoped that if Council were to raise the rate immediately, it would offer farmers options for paying the increase back over time to soften the economic impact.

Wim Houppermans, 3412 K Avenue, reminded that agriculture irrigation typically occurs in August-October when the Skagit River is at low levels with competing interests wanting water. He urged considering that fact and using more science in the discussion. Mr. Houppermans said people will ultimately pay whatever water costs, the question is how much water would be available in years to come. He said the climate is changing and the glacial melt that feeds the river at the end of summer will no longer do so when the glaciers are gone. Mr. Houppermans observed that some crops take more water than others and said farmers would do well to choose their crops to make use of natural rainfall.

Mr. Walters reported how to find recorded easements and compensation for same on the Skagit County website. He urged getting a legally defensible rate in place expeditiously and opined that phasing in the rate increase to complete by 2021 was gradual enough. He noted that agriculture irrigation water is an extremely minor portion of the river flow and of the Anacortes water right.

Mr. Miller recalled the recent increase in retail water rates which was phased in over several years to ease the impact on Anacortes residents and businesses. He said phasing in the irrigation rate increase over four years made sense to him.

Mr. Young observed that there are many wonderful people and organizations doing extraordinary things in Anacortes, many with budgetary challenges, but they all pay the retail rate for water. He said the low irrigation rate that had been offered for years demonstrated the city's good faith and support of agriculture but wondered how to justify continuing to subsidize a small subset of Skagit valley farmers. He said the city had an obligation to be fair to everyone.

Mr. Adams also emphasized that Anacortes retail water customers were subsidizing approximately \$2,100 for every million gallons of agriculture irrigation water sold. He urged correcting that as soon as possible. He suggested three steps to take. First, don't allow any new agriculture customers to use the current rate, but rather charge them the full wholesale rate starting immediately. Second, have farmers meet Anacortes ratepayers halfway: during the three-year phase in, farmers would pay the reduced rate for gallons equaling half of their average consumption and the full wholesale rate for the rest. Finally, he suggested that if Anacortes really wanted to subsidize farmers, the farm subsidy could be paid out of the general fund as a named line item rather than through retail ratepayer subsidy. He urged being fair to everyone.

Ms. Lovelett said it was unfortunate that the recent round of retail rate setting had not addressed this problem. She discouraged taking a punitive approach to fifteen irrigation customers to fix an internal mistake. Ms. Lovelett advocated for a 5-year phase in of the rate increase based on the fact that retail ratepayers would not see a reduction in their rates, only a potentially lower future increase. She said the city was asking individual businesses to absorb a huge rate increase due to the city's mistake.

Mr. McDougall agreed that the city bore responsibility of the low agriculture irrigation rate and supported a five year time frame for phasing in the rate increase.

Mr. Johnson asked how different durations of the rate increase would materially affect farmers and their crop plans. Mr. Nelson explained that he rotates potatoes so each field is only irrigated one out of four years and that when a field is in potatoes it must be irrigated, so the duration of the rate phase in would not likely change his crop plan but said that farmers of other crops would think differently. He explained the water-intensive nature of

potato farming. Mr. Nelson thanked Council for considering the question so carefully and said farmers don't want to put the burden on Anacortes ratepayers.

Andy Schuh, of Schuh Farms, said the agriculture irrigation rate was intentional and was offered not to the agricultural community at large but only to landowners who have the water pipe running through their property. He described the ongoing ramifications to the productivity of that land. Mr. Schuh said farmers were under extreme pressure from minimum wage increases. He agreed with Mr. Nelson that farmers want to pay a fair rate for the water but said they need as much time as they can get to adjust to it.

Ms. Swetnam clarified that staff had not intended for Council to decide on rate phasing at this meeting and said staff would need to come back with a resolution for adoption of any rate increase. She said Ordinance 3024 was fairly straightforward and could be adopted if Council wished.

Ms. Lovelett asked if there were a mechanism in place to compensate landowners for disruption due to waterline maintenance on their property. Ms. Swetnam explained that easement terms specifically address those such compensation up front. Mr. Miller asked staff to bring back more information on easements and compensation already paid along the route of the waterline.

Mr. Johnson inquired whether the Ordinance 3024 was in fact viable outside the Anacortes service area. Ms. Swetnam reported that staff was currently working on interlocal agreements to present to La Conner and Skagit PUD to allow Anacortes to provide those services. She added that water department staff routinely contact Skagit PUD before installing meters for customers in the PUD's service area and only proceed if PUD agrees.

Ms. Swetnam summarized that it is not proper for the city to sell water a less than cost and that the agriculture irrigation rate needed to be addressed in a reasonable manner. Mr. McDougall asked if phasing in the rate increase over eight to ten years was legally defensible. Ms. Swetnam said she did not advocate for a specific time period, that Council had been advised of the legal risks of the current rate, and that she would feel more comfortable with a shorter period of time but understood the impacts on the businesses that currently rely on that rate. Mr. Miller noted the apparent consensus on the dais for a 3-5 year phase in.

Mr. Adams shared statistics from the Skagit County 2017 Annual Farmland Legacy report sharing the dollar value to producers of different crops, for a total of \$117.5M in 2015.

Mr. Johnson moved, seconded by Mr. Walters, to approve **Ordinance 3024** as presented. Vote: Ayes – Walters, Miller, Adams, Lovelett, McDougall, Johnson. Nays – Young. Motion carried.

Mr. Adams asked when Council would address the interlocal agreements with Skagit PUD and La Conner and the rate increase schedule. Mr. Miller suggested that staff come back with a draft resolution including phasing options.

Mr. Walters moved, seconded by Mr. Johnson, that staff prepare a resolution to adopt an agriculture irrigation rate pursuant to AMC 13.32.037 that phases in an increase over four years to the wholesale rate.

Mr. Adams asked that his three ideas presented earlier in the evening be considered when the resolution was drafted and said he would likely move to amend legislation that did not address them.

Councilmembers sought clarification on the phase in option moved by Mr. Walters. Mr. Miller restated the motion to specifically reference the "4 Year" column in the staff slide titled Phase-In Options.

Mr. Johnson moved, seconded by Mr. Adams, to amend the motion to refer to the "3 Year" column in the staff slide titled Phase-In Options, starting April 1, 2019 and achieving full wholesale rate on April 1, 2021.

Ms. Lovelett moved to amend the motion to refer to the “5 Year” column in the staff slide titled Phase-In Options, starting April 1, 2019 and achieving full wholesale rate on April 1, 2023. Motion died for lack of a second.

Vote on Mr. Johnson’s amendment: Ayes – Miller, Adams, Johnson and Young. Nays – Walters, Lovelett, McDougall. Motion carried.

Mr. Adams moved, seconded by Mr. Young, to amend the motion not to allow any new users at the reduced rate effective 2018. Councilmembers discussed with staff the challenges of administering such a restriction. Mr. Walters and Mr. McDougall spoke against the amendment. Mr. Adams withdrew his motion.

Mr. Adams reiterated his second proposal, that the average irrigation consumption over the past five years be calculated for each agriculture customer and that those customers be charged the reduced rate for half of that volume and the full wholesale rate for the remainder. Mr. Young supported that idea. Mr. McDougall asked the irrigation customers present for feedback on the proposal and if that notion would change their consumption.

Mr. Adams reiterated his third proposal, to look for a funding source other than retail water rates, such as the general fund, if Council explicitly wanted to subsidize agricultural customers. Mr. Walters and Mr. McDougall spoke against the idea, preferring to eliminate the subsidy.

Mr. Nelson responded to Mr. McDougall’s question about Mr. Adams’s second proposal, saying water rates would not be his deciding factor because potatoes need water when they need it. Mr. Schuh agreed that the 50/50 application of old and new rates would not affect conservation because irrigation depends on weather. Mr. Nelson added that irrigation water costs more than renting the land, and reminded that given acreage might be farmed by different farmers with different crops each year. Mr. McDougall concluded that the historic water consumption was not meaningful as a predictor of future use so the proposal was not practical.

Mr. Miller spoke against all three of Mr. Adams’s proposals, preferring a direct linear rate increase over a specified time period.

Ms. Swetnam summarized that staff would bring back a draft resolution based on the 3-Year rate increase column, and would investigate and evaluate Mr. Adams’s three proposals and report back on whether and how those solutions would be workable.

There being no further business, at approximately 8:20 p.m. the Anacortes City Council meeting of April 2, 2018 was adjourned.