

City Council Minutes – October 9, 2017

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of October 9, 2017 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Liz Lovelett, Bruce McDougall and Matt Miller were present. Councilmember Brad Adams was absent. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Housing Affordability & Community Services Committee: Ms. Lovelett reported from her attendance at the Housing Washington affordable housing conference in Spokane the prior week. Observing that the conference focused on solutions in affordable housing, she said the Anacortes affordable housing strategic plan was on the right track and that local government would have to play a role to achieve long term results. Ms. Lovelett mentioned the Washington State Housing Finance Commission which provides low interest loans to local organizations to fund low income housing. She urged more elected officials and regional partners to attend future events on this topic. Ms. Lovelett said the final draft of the affordable housing strategic plan was due to be presented to the Planning Commission the following week.

Planning Committee: The regularly scheduled committee meeting earlier in the day was cancelled.

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 October 2, 2017
- b. Approval of Claims in the amount of: \$773,516.15
- c. Contract Amendment: Systems Design West Ambulance Billing Service
- d. Contract Modification: WTP Lagoon Sediment Removal 17-098-WTR-001
- e. Contract: Clinical Site Agreement with Island Hospital

The following vouchers/checks were approved for payment:
EFT numbers: 86622 through 86670, total \$683,618.21
Check numbers: 86671 through 86706, total \$87,693.35
Wire transfer numbers: 221295 through 222464, total \$5,423.62

DECISION HEARINGS

Closed Record Decision Hearing, Conditional Use Permit CUP-2017-0002: Dog Kennel/Boarding and Grooming Associated with an Existing Doggy Daycare at Molly Lane

Associate Planner Kevin Cricchio presented a conditional use permit application from Kirk and Kelly Moore to permit a dog kennel/boarding and grooming associated with an existing doggy daycare at 9119 Molly Lane. Mr. Cricchio's slide presentation was added to the packet materials for the meeting. Mr. Cricchio summarized the existing land use and zoning, the background of prior CUPs for earlier business models at the same site, the current CUP application, noticing, public and agency comments, parking considerations involved with the project, and the criteria for approval of a CUP per AMC 19.36.040. Mr. Cricchio reported that following the open record public hearing before the Planning Commission on

September 27, 2017, the commission voted unanimously 4-0 to recommend approval of the CUP to City Council. He concluded that staff also recommended approval.

Mr. Johnson moved, seconded by Mr. Miller, to approve the subject conditional use permit subject to the recommended conditions of approval. Vote: Ayes – Walters, Pickett, Lovelett, McDougall, Miller and Johnson. Motion carried.

Closed Record Decision Hearing, SDP-2017-0001: WSDOT Shoreline Permit(s) SSDP, SCUP & Shoreline Variance; SR-20/Sharpe's Corner Vicinity Improvements

Mr. Cricchio presented an application from the Washington State Department of Transportation for a Shoreline Substantial Development Permit (SSDP), a Shoreline Conditional Use Permit (SCUP), and a Shoreline Variance to replace the existing signal located at SR-20/SR-20 Spur Interchange (referred to as Sharpe's Corner) with a multi-lane roundabout. Mr. Cricchio's slide presentation was added to the packet materials for the meeting. He highlighted aspects of the voluminous record regarding underlying zoning, application background, outreach meetings, noticing per requirements, critical areas review including wetland buffer impacts and compensatory mitigation, priority habitats and species, cultural resources, SEPA review and Shoreline Management Act requirements. Mr. Cricchio reported that following the open record public hearing before the Planning Commission on September 27, 2017, the commission voted unanimously 4-0 to recommend approval of the subject shoreline permits to City Council. He concluded that staff also recommended approval subject to staff's suggested conditions of approval.

At 6:40 p.m. Mayor Gere invited parties of record to speak to materials already entered into the record. No one present wished to address the Council.

Mayor Gere invited the applicant to address Council and answer councilmember questions.

Jay Drye, WSDOT Assistant Regional Administrator, referred to the project's 20-year history including extensive evaluation of alternatives to arrive at the current design. Mr. Drye said the project was long overdue from a safety and mobility standpoint. He said extensive public outreach would continue. Mr. Drye noted that the project's minor environmental impacts would be offset at the adjacent mitigation bank. In response to a question from Mr. Walters, Mr. Drye confirmed that as reflected in the record, stormwater would be captured and treated where practical through compost and vegetated filter strips consistent with the 2012 Western Washington Stormwater Manual. Mr. Drye responded to questions from Mr. Johnson and Ms. Lovelett regarding questions raised at the Planning Commission public hearing.

Ms. Pickett moved, seconded by Mr. Johnson, to approve the subject Shoreline Substantial Development Permit (SSDP), Shoreline Conditional Use Permit (SCUP), and Shoreline Variance subject to the recommended conditions of approval. Vote: Ayes – Pickett, Lovelett, McDougall, Miller, Johnson and Walters. Motion carried.

OTHER BUSINESS

Requested Amendment to Prilled Sulfur Interlocal Agreement with Port of Anacortes

City Attorney Darcy Swetnam reported that pursuant to Council's direction at its September 25, 2017 regular meeting, City staff had worked with Port staff to update the proposed interlocal agreement as presented in the packet materials for the current meeting. She said Mr. Walters had subsequently suggested that the agreement be clarified to state that it completely replaces and revokes the 2011 agreement, which Ms. Swetnam had done since the packet was prepared. Ms. Swetnam reported that Port Executive Director Dan Worra had also requested that language be added to the contract requiring that funds received pursuant to the ILA could only be used for maintenance of the truck route leading to Pier 2, not for safety measures, but she said that requested change was not reflected in the packet materials

because City staff was concerned that such restrictions would be administratively burdensome for the City and because the total cost of maintaining the truck route would far exceed the anticipated amount of any payments received from the Port.

Councilmembers discussed hazmat safety training at some length and whether prilled sulfur payments or leasehold taxes paid by Port tenants most appropriately addressed that general fund expense. Mr. Walters suggested that the agreement be made effective January 1, 2018 and that the current agreement remain in place until that time and apply to any last prilled sulfur shipments in 2017.

Mr. Worra briefly addressed Council, clarifying that the Port did not object to paying for safety provisions but only where those were related to the prilled sulfur operation. He said the Port Commission was concerned that the mitigation payments be used only for the truck route. Mr. Worra concurred with making the agreement effective January 1, 2018.

Mayor Gere invited members of the public to address Council on this topic.

Bill Langjhar, mailing address 1004 Commercial Avenue, #1024, urged Council to reconsider whether prilled sulfur should even be shipped through the city based on safety concerns. Mr. Langjhar distributed written materials in addition to his comments that were included in the packet materials for the meeting and reviewed those materials with Council. Mr. Langjhar noted that Anacortes property owners pay the Port over \$300K in property tax annually in contrast to the approximately \$200K the city receives in leasehold tax from Port tenants. He related the history of prilled sulfur shipping through the Sultran facility in Vancouver, BC until that facility rejected the Anacortes sulfur for its high hydrogen sulfide content. He quoted a Material Safety Data Sheet (MSDS) for prilled sulfur, saying that "Hydrogen Sulfide is highly flammable, explosive gas under certain conditions, is a toxic gas, and may be fatal and the product is very toxic to aquatic life." He said that there had been at least one fire in Anacortes related to the prilled sulfur operation and described the boundaries of the ½ mile recommended evacuation area if a large fire were to occur at Pier 2. Mr. Langjhar urged Council not to expose the citizens of Anacortes to exposure to an explosion or fatal toxic gas. He said that at the current \$2.50/ton fee the Port would not be competitive and prilled sulfur shipments would likely end.

Councilmembers considered the risk of fire or explosion from the current prilled sulfur loading operations. At the request of Mr. Johnson, Fire Chief Richard Curtis explained that under normal circumstances the sulfur is off gassed prior to shipment so that it is not normally a fire hazard during shipment but that in the presence of an accidental spark the sulfur could ignite. The chief said that the greater concern is that when an external source of fire heats the sulfur, two very dangerous toxic chemicals are released. Mr. McDougall questioned Mr. Worra on projected shipment quantities. Mr. Worra said quantities had been decreasing since the initial 80 tons/year, that the Port had budgeted for 40 tons the following year, and that if Chemtrade were to shut down no prilled sulfur would be shipped. Ms. Lovelett asked the Port to demonstrate its commitment to public safety. Mr. Worra contrasted the City's mission to ensure public safety with the Port's mission to promote economic development. Mr. Miller suggested that if the ships carrying prilled sulfur arrived full for offloading the operation would be a more profitable business.

Wim Houppermans, 3412 K Avenue, reminded that City Council should have a long term vision for a future without fossil fuels and without refineries in Anacortes. Mr. Houppermans said Anacortes would get something beautiful in return but that Council needed to start planning for it now.

John Dumas, Port Director of Operations, noted that every business does pay for public safety, through WSHA, by which every business and every employee pays into ensuring that every business operates safely, complies with MSDS, and transports and handles good to assure public safety.

Mayor Gere asked if any other members of the public wished to address Council on this topic. No one presented wished to speak.

Mr. Johnson moved, seconded by Mr. Walters, to approve the interlocal agreement regarding the use and operation of the Pier 2 terminal for prilled sulfur as presented except modified to be effective January 1, 2018 and modified to specify that the agreement replaces and revokes the previous agreement. Vote: Ayes – McDougall, Miller, Johnson, Walters and Pickett. Nays – Lovelett. Motion carried.

Update on New City Website

Administrative Services Director Emily Schuh introduced the new City of Anacortes website, anacorteswa.gov, which came on line earlier in the day. She pointed out highlights and improvements of the new site built by CivicPlus. Ms. Schuh thanked the team of staff, interns and photographers who worked on the site for nearly a year. She noted that websites are dynamic and invited suggestions and feedback from the public. Ms. Schuh thanked City Council for funding this necessary improvement in city services and thanked the public for its continual encouragement to improve the site.

Mayor Gere invited members of the public to comment on this topic. No one present wished to address the Council.

Update on NoaNet Survey

Ms. Schuh announced that earlier in the day the city had launched its survey of community interest in a community owned fiber broadband network in the city. She referred to her slides included in the packet materials for the meeting. Ms. Schuh summarized previous presentations regarding the potential to leverage excess capacity in the new fiber optic telemetry network to create a community broadband network, the economic development benefits of doing so, the technology being used to install the fiber inside existing water pipes to avoid expensive trenching, and the city's partnership with NoaNet, a Washington nonprofit organization helping to facilitate broadband access in rural communities. Ms. Schuh explained how to access the online survey which would help determine which neighborhoods had the most interest in broadband to the home via a municipal network. She reported that 300 surveys had already been completed in the first day. She listed how the data collected would help the city evaluate demand, identify areas of high interest and develop cost estimates. Ms. Schuh concluded that staff would report back to Council after the conclusion of the survey to consider viable business models and funding options. Mr. McDougall thanked Ms. Schuh, Mr. Buckenmeyer and NoaNet for their efforts on the project, calling the progress to date tremendous.

Mayor Gere invited members of the public to comment on this topic. No one present wished to address the Council.

Amendment to Interlocal Agreement with NoaNet for Fiber Optics Phase 1 & 2, Design and Installation

Public Works Director Fred Buckenmeyer requested Council approval for an amendment to the city's interlocal agreement with Northwest Open Access Network (NoaNet) for additional hours for Phase 1 and 2 of the City's fiber optics communication project, as well as additional hours for construction inspectors. He outlined the additional services to be provided for the \$113K increase. Councilmembers questioned the size of the increase to the original \$175K contract and the rationale for outsourcing construction inspection. Councilmembers stressed that quantity and scope of work estimates for Phase 2 should be more accurate.

Ms. Lovelett moved, seconded by Mr. McDougall, to approve the amendment to the interlocal agreement with NoaNet for fiber optics Phase 1 and 2 design and installation. Vote: Ayes – McDougall, Miller, Johnson, Walters, Pickett and Lovelett. Motion carried.

Water Rate Study

Finance Director Steve Hoglund invited Council to continue the discussion of this topic from its October 2, 2017 meeting. He recapped the presentation by consultant FCS reporting on their cost of service analysis and proposed block (tiered) water rates for single family residences, referring to his slide presentation included in the packet materials for the meeting. Mr. Hoglund presented the water rates proposed by FCS for 2018, noting that all proposed changes were to the consumption rate per CCF, not to the base rate for any customer class. He then presented a comparison of those rates with the proposed block rates for several sample consumption amounts. Several councilmembers expressed disappointment that the proposed block rates did not appear to achieve Council's various goals when deciding to research that option. Mr. Hoglund summarized that the decisions before Council were to define rate classes, then decide whether or not to adopt new rates for any of those classes based on the cost of service study and the block rate analysis.

Mr. Walters proposed defining three rate classes: single family residential (SFR), multifamily (MF), and commercial/industrial/other (CI). SFR would include meters for single-family residences, including zero-lot-line SFR, irrigation meters associated with SFR, and irrigation meters associated with homeowner's associations. MF would include meters, including irrigation meters, associated with multifamily buildings, including duplexes, triplexes, fourplexes, apartment buildings, and condominium buildings. CI would include all meters other than irrigation meters associated with homeowner's associations, including parks. He suggested that the Finance Director be authorized to make judgments about which rate class applied to each meter.

Ms. Lovelett suggested that parks might pay the agricultural water rate rather than the commercial rate. Mr. Walters said a separate discussion of agricultural water rates was scheduled for an upcoming agenda but pointed out that residents ultimately pay for park irrigation water, either through general fund support of park expenditures or through higher water rates if parks pay a lower water rate. Mr. McDougall and Mr. Miller generally supported the definitions proposed by Mr. Walters. Ms. Pickett spoke in favor of rate structures that encourage reducing peak demand in order to reduce overall system expense. Mr. Miller reminded that the proposed rate adjustments were in addition to the 7% increase already adopted for 2018.

Mayor Gere invited members of the public to comment on this topic.

Jeff Graf, 2406 Washington Court, reminded that in 2015 Council had voted to increase water rates annually through 2022. Mr. Graf said that regardless of terminology, water rates are a consumption tax: those who use more water pay more. He expressed skepticism that the additional 1.6% rate increase under consideration for single family residential accounts would be the end of the increases for that rate class. He asked Council to remember that every increase is borne by individual ratepayers and taxpayers.

Bill Dorrance, 1908 Creekside Place, spoke in support of the rate classification proposed by Mr. Walters. He asked Mr. Hoglund if the water system had sufficient water to meet peak demand and if so, why block rates would be considered to encourage conservation. Mr. Dorrance also noted that if peak demand on a daily basis stressed the system, irrigation systems could be programmed to run at times of low demand. Mr. Hoglund confirmed that the water system has plenty of water to meet anticipated demand.

Councilmembers discussed the effect of base fees versus consumption rates on the effective water rate paid by various rate classes. Mr. McDougall observed that because the base fee is the same for high

volume and low volume users and the consumption rates are relatively low, high volume users pay a much lower effective rate for each CCF of water. Councilmembers in general supported adopting a lower multifamily consumption rate as proposed by FCS but declining to implement block rates. Mr. Hoglund suggested that staff would bring back a resolution memorializing that change for public comment later in the month.

Mayor Gere inquired if any other members of the public wished to comment on this topic.

Norm Culbert, 1817 Creekside Lane, thanked the councilmembers who came to talk to Creekside following the previous Council meeting. Mr. Culbert explained the distinction between single family and multifamily residences from a title and lending perspective. He said single family homes can be attached, as at Creekside and several other developments in Anacortes, or detached. Each of those units is singly owned and subject to fee simple title transfer. In contrast, detached homes can be condominiums which are multifamily homes; they don't own the land beneath their buildings, though lenders treat them as single family residences. Mr. Culbert explained that Creekside homeowners own their attached and the ground directly beneath it to the wall line only. All grounds outside the wall lines belong to the HOA. Mr. Culbert noted that the 74 residences on Creekside's 23 acres result in a density of .31 acres/home which is not multifamily density. He emphasized that a common wall in a building does not make it a duplex if each unit is in individual fee simple ownership.

Mr. Walters thanked Mr. Culbert for the useful information and asked staff to take it into account when structuring the rate class definitions.

Richard Walsh, 1813 Creekside Place, reported that each home in Creekside has its own water, gas, and power meter, echoing Mr. Culbert that each Creekside residence is a single family home.

Mayor Gere concluded that staff would discuss the topic with the Finance Committee and bring back a proposal for public hearing and Council consideration two weeks hence.

Contract Modification: WWTP Outfall Repair 13-020-SEW-009

Mr. Buckenmeyer requested Council approval of a change order to contract 13-020-SEW-009 with Culbertson Marine Construction, Inc. due to changed conditions as outlined in the agenda bill. He recommended approval of the change order. Councilmembers questioned Mr. Buckenmeyer about the demobilization costs for the work suspension during the Port of Anacortes heavy lift operations. Mr. Johnson and Ms. Pickett pointed out that the interlocal agreement with the Port anticipated and accepted the Port's schedule for that operation. Mr. Buckenmeyer confirmed that there was sufficient cash in the sewer fund to cover the increased cost of the project but acknowledged that the project would complete considerably over budget. Ms. Pickett moved, seconded by Mr. Johnson, to approve the change order to Culbertson Marine Construction. Vote: Ayes – Miller, Johnson, Walters, Pickett and McDougall. Nays - Lovelett. Motion carried.

There being no further business, at approximately 9:11 p.m. the Anacortes City Council meeting of October 9, 2017 was adjourned.