

City Council Minutes – September 5, 2017

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of September 5, 2017 at 6:00 p.m. Councilmembers Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, Bruce McDougall and Matt Miller were present. The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Public Works Committee: Ms. Lovelett reported from the committee meeting earlier in the evening. She said that a new water rate study would come before Council in the weeks ahead exploring tiered rates, multifamily rates, and related topics. Ms. Lovelett reported that the committee also received updates on the fiber project and on the prilled sulfur interlocal agreement with the Port of Anacortes which would be discussed later on the agenda.,

Mr. Johnson reported from the Port/City Liaison meeting earlier in the day at which those present discussed the prilled sulfur agreement, the wastewater treatment plan outfall project, Port property redevelopment, ongoing work on the maritime strategic plan, the future of the Olsen Building, and the city development regulations update.

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 August 28, 2017
- b. Approval of Claims in the amount of: \$389,703.80

The following vouchers/checks were approved for payment:
EFT numbers: 86232 through 86272, total \$103,727.69
Check numbers: 86273 through 86318, total \$288,063.04
Wire transfer numbers: 220033 through 220961, total \$3,559.47

PUBLIC HEARINGS

Public Hearing: Ordinance 3008: Anacortes 2018-2023 Transportation Improvement Plan (TIP)

Public Works Director Fred Buckenmeyer presented an ordinance to adopt the annual six-year transportation improvement plan which had traditionally been part of the annual budget and capital facility plan adoption process but due to the switch to a biennial budget would not be part of that process for 2018. Mr. Buckenmeyer listed the projects included in the TIP that were pending state or federal funding or that were eligible for funding with transportation impact fees. He emphasized that adopting the TIP did not obligate the City to any financial course of action but did allow the state to plan and predict funding requirements for the six years ahead.

Ms. Lovelett observed that the copy of the TIP in the packet materials for the meeting was difficult to read so she recommended uploading a clean copy of the document and allow an additional week for more public comments. Mr. Miller agreed. Mr. Adams requested hard copies for each councilmember as well.

Mr. Johnson asked if the 17th Street project between Q and R Avenues might generate impact fees. Mr. Buckenmeyer responded that any eventual projects in that area might indeed generate impact fees or other developer contributions and that inclusion of that project in the TIP allowed but did not require use of state or federal funds if those should become available.

Mayor Gere invited members of the public to comment on this agenda item. No one present wished to address the Council. Mayor Gere left the public hearing open until the next regular meeting pending posting of a more legible copy of the TIP.

Mr. Adams asked which projects had changed in the 2018-2023 TIP compared to the 2017-2022 TIP. Mr. Buckenmeyer said he would verify and report back to Council. Mr. Walters asked that the agenda bill highlight those changes.

Mr. Walters asked that the City Clerk be authorized and required to review packet materials and reject them if they are not readable.

OTHER BUSINESS

Requested Amendment to Prilled Sulfur Interlocal Agreement with Port of Anacortes

City Attorney Darcy Swetnam introduced a discussion of the interlocal agreement (ILA) between the City and the Port regarding the use and operation of the Pier 2 terminal for prilled sulfur. Her slide presentation was added to the packet materials for the meeting.

Ms. Swetnam outlined key components of the current ILA including the payment provisions, duration of the agreement, and modification language. She explained that on July 20, 2017 the Port had requested that the ILA be voided. Ms. Swetnam then summarized considerations related to that request including the SEPA mitigated determination of non-significance, road maintenance costs and public safety response costs borne by the City. She presented three action options for Council consideration including denying the Port's request, proposing a modification to the ILA, or agreeing to terminate the ILA.

Mr. Buckenmeyer then summarized the history of the ILA. He emphasized that the Port originally approached the City to propose the ILA and had also proposed the \$2.50/ton mitigation fee, and that neither of those proposals originated from the City. Mr. Buckenmeyer said the mitigation funding was now incorporated in the City's long term pavement rehabilitation plan, including ongoing maintenance of the Q/R Avenue corridor which was resurfaced in 2014. He said that lacking some sort of agreement with the Port, the City would have all of the ongoing impact with none of the ongoing mitigation. Mr. Buckenmeyer also clarified that comparison of mitigation fees with transportation impact fees was not relevant as impact fees are limited to minimizing the impact of increased peak hour trips on pedestrian safety, vehicle safety, and corridor capacity, and cannot be used for maintenance projects.

Fire Chief Richard Curtis then addressed the hazard of prilled sulfur. His handout was added to the packet materials for the evening. Chief Curtis said the hazard is not great in prilled sulfur's normal state when being transported, the concern was in its extraordinary state, if a fire or explosion exposed prilled sulfur to burning which releases two very toxic chemicals, hydrogen cyanide and hydrogen sulfide. Fire department staff require special training to be prepared to deal with such a situation. Chief Curtis reported on the one response event to date, on May 23, 2017. Mr. McDougall asked the annual cost of the fire staff training. Chief Curtis referred to the packet materials which summarize the fire department training and equipment costs of approximately \$18K per year. The Chief responded to councilmember questions about the effect of wind direction on evacuation plans and firefighting techniques for sulfur fires.

Dan Worra, Port Executive Director, then addressed Council, saying he had no disagreement with what City staff had presented but wished to add a few points and answer councilmember questions. Mr. Worra emphasized the partnership between the Port and the City and the value of that relationship. Mr. Worra explained that some of the assumptions from the original ILA had not come to fruition, noting that the total tonnage hauled had not turned out to be as much as planned. He added that the Port had not anticipated capital improvements necessary to the Pier 2 facilities but that \$11M of capital improvements had now been identified, including a \$2M repair beginning in October. Mr. Worra said that at the beginning of the agreement, the Port charged customers \$12.50/metric ton and paid the City \$2.50/metric ton of that, or 20% of the total fee. The price charged by the Port had fallen to \$10.50 in 2017, of which the City still received \$2.50/metric ton, leaving less available for Port capital projects. Mr. Worra stressed that the mitigation payments were only for truck route maintenance and fire safety mitigation related to prilled sulfur. He called the ILA a win-win for the Port and the City, with over \$900K paid to the City over the course of the agreement and 50 jobs created, but that in the current economic climate the Port would have to be more aggressive with its pricing to retain that shipping business in the community.

Mr. Worra responded to councilmember questions regarding a letter from Port customer Chemtrade; the letter was provided to councilmembers prior to the meeting and added to the packet materials. He discussed uses of prilled sulfur and other potential disposal options including its use as fertilizer. Councilmembers requested more information on the percentage of trucks on the Q/R corridor that carry prilled sulfur, the Port's operating costs for the prilled sulfur operation, the jobs created by the operation in terms of FTE or person years and the wage rates for those jobs. Mr. Adams acknowledged the increasingly competitive market and said it would take more discussion to come up with a rate that would make sense for both jurisdictions and still protect the jobs involved. Mr. Miller cautioned that market conditions may eventually cease to make the operation viable. Ms. Lovelett expressed concern that increasing automation might put some of the sulfur handling jobs in jeopardy. Council expressed interest in determining a mitigation fee representative of the actual impact on road maintenance and public safety expenditures due to Port operations. Mr. Worra stated that Anacortes is the only city that charges this type of fee to port export operations and noted that no other business or entity pays that fee. Several staff noted that the Port also does not pay property tax to support the roadways, which private businesses do through property tax and which citizens do through taxes and through license tabs. Mr. Worra said that the Port does pay leasehold excise tax. He suggested an alternative of leaving the existing the ILA in place but vacating the fees for three years, then revisiting the issue based on market conditions at that time.

Mayor Gere concluded that City and Port staff would continue working together to provide more information to Council. Referring to the Chemtrade letter distributed prior to the meeting, Mr. Johnson asked staff to also address why U.S. ports allow shipping of sulfur with more than 10 ppm of hydrogen sulfide gas whereas Canadian ports won't allow that.

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

Port Commissioner John Pope, 4001 Peters Lane, called the prilled sulfur operation very valuable to the community and noted that the Port is now a little threatened in one of its main avenues of business. He said the Port does not pay property tax but pays significant leasehold tax that supports the City. Mr. Pope said the Port accounting department could detail out the tax revenue and the jobs related to the prilled sulfur operation. He said business competitiveness is the key and the commodity that this county can export is what the Port is set up to do. Mr. Pope noted that the ILA is odd compared to other ports and that no other specific user pays to use freight corridors. He recognized that sulfur operations do require a prepared fire department and said that training should be on the Port but suggested that the benefit of the jobs to the local economy makes up for most of the street impact.

Port Commissioner Joe Verdoes, 13399 Driver Road, reported from his farming background that sulfur is a fertilizer that lowers soil pH, is good for blueberries and related crops, and is a common commodity at agricultural suppliers. He noted that many non-toxic substances are toxic when burned, including plywood. Mr. Verdoes said it was worth looking closer at the user pay concept of road impact.

Mr. Walters praised the written materials from City and Port staff included in the packet and said with a bit more data a compromise position could probably be reached. Mayor Gere confirmed that staff would bring more information back to Council for action. Mr. Worra thanked Council and staff for the opportunity to continue the discussion.

There being no further business, at approximately 7:20 p.m. the Anacortes City Council meeting of September 5, 2017 was adjourned.