

City Council Minutes – December 19, 2016

Special Meeting

Mayor Laurie Gere called to order an advertised special meeting of the Anacortes City Council on December 19, 2016 at 5:30 p.m. Councilmembers Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Eric Johnson was absent.

Executive Session (30 Minutes) per RCW 42.30.110 (i)

Mayor Gere announced that City Council and the City Attorney would convene in Executive Session for no more than 30 minutes to discuss potential litigation and that following the executive session the meeting would adjourn with no action being taken.

There being no further business, at approximately 5:56 p.m. the advertised special meeting of the Anacortes City Council for December 19, 2016 was adjourned.

Regular Meeting

Mayor Laurie Gere called to order the regular Anacortes City Council meeting of December 19, 2016 at 6:00 p.m. Councilmembers Ryan Walters, Erica Pickett, Brad Adams, Liz Lovelett, John Archibald and Matt Miller were present. Councilmember Eric Johnson was absent. The assembly joined in the Pledge of Allegiance.

Mr. Adams moved, seconded by Ms. Lovelett, to excuse the absence of Mr. Johnson who was traveling out of state. The motion passed unanimously by voice vote.

Announcements and Committee Reports

Dakota Creek Recognition: Mayor Gere recognized Dakota Creek Industries in honor of its national recognition as the best of the best, winning the Best Ships Award, continuing as a leader in state-of-the-art environmental and safety technology for the maritime industry, and the recent construction and design of the AGOR vessels, *Blue North* and *Fishermen's Finest*. She introduced DCI managers Holly Anthonysz and Liz Stout. Ms. Anthonysz and Ms. Stout shared a slide presentation illustrating the history of the 40-year-old company and the local shipyard, its employment impact, its model environmental practices, its specialized construction facilities, and noteworthy accomplishments including the 2016 Best Ship award for the F/V *Blue North*. They described recent and upcoming DCI projects, highlighted the cutting edge technology employed in these vessels, then discussed fleet modernization in the fishing industry and the potential economic impact of that work for Anacortes. Mayor Gere recognized other members of the DCI team including Judy Knight, CFO Nancy Loftis, Property Manager Kathy Pittis, Project Assistant John Beaumonte, Vice President Mike Nelson and President Dick Nelson as well as Kristian Uri, General Manager of *Fishermen's Finest*. The mayor presented DCI with an Award of Excellence and thanked the entire team for its contributions to the community and the industry.

Public Works Committee: Ms. Lovelett reported that the committee met briefly earlier in the evening to discuss stormwater utility rates. She advised that a presentation and public hearing on those were anticipated the second week of January.

Mr. Miller reported from the Skagit County Law and Justice Council meeting the prior Wednesday and said that the new Skagit County Jail was due to be complete in April 2017.

Public Comment

No one present wished to address the Council on any topic not already on the agenda.

Consent Agenda

Mr. Walters removed Items 5d, 5e and 5f from the Consent Agenda. Ms. Lovelett moved, seconded by Mr. Adams, to approve the following Consent Agenda items. The motion passed unanimously by voice vote.

- a. Minutes of December 12, 2016
- b. Approval of Claims in the amount of: \$160,047.69
- c. Contract Award: Emissions Control Testing for WWTP Scrubber Installation

The following vouchers/checks were approved for payment:
Check numbers: 83169 through 83216, total \$148,409.16
EFT numbers: 83149 through 83168, total \$10,322.44
Wire transfer numbers: 210805 through 211253, total \$10,773.34

- d. Interlocal Agreement with Skagit County for Technology Services, 2017-2019
- f. Interlocal Cooperation Agreement for a Countywide Public Safety Communications Center

Mr. Walters disclosed that as a fixed salary employee of Skagit County, one of the contracting parties in both agreements, under RCW 42.23.040 he had a remote interest in the agreements and for the city to enter into the agreements his vote could not be counted. Ms. Lovelett moved, seconded by Mr. Archibald, to approve Consent Agenda Items 5d and 5f. The motion passed unanimously by voice vote with Mr. Walters abstaining.

- e. Contract Award: 2017 Prosecutor Services

Mr. Walters argued that the proposed contract was not worth entering into and said the money would be better spent by hiring a full time in house prosecutor who could work on other matters with the city attorney. Ms. Pickett recalled the previous testimony by police and legal department staff regarding how much they value Mr. Cammock's work. **Ms. Pickett moved, seconded by Mr. Adams, to approve the contract as presented.** Mr. Archibald suggested that the Finance Committee should investigate the option proposed by Mr. Walters. Mr. Walters emphasized that he had no concern with Mr. Cammock's performance but felt the contract was not the best use of city funds. He noted that the contract allowed for termination with 60 days' notice so the matter could be pursued during the coming year. **The motion passed unanimously by voice vote.**

PUBLIC HEARINGS

Ordinance 2992: Title 19, Land Use Permit Procedures

Planning Director Don Measamer reported that following the public hearing on Title 19 held before the Planning Commission on November 23, 2016 and November 30, 2016, the Planning Commission recommended approval of Ordinance 2992 with specific changes; and that staff had incorporated those changes into the December 7, 2016 draft of the document which had been reviewed by City Council at its December 12, 2016 meeting and was presented for continued review and public hearing at the present meeting. Mr. Measamer said that all public comments received since that draft had been distributed to Council and posted on the City website. He advised that the advertised public hearing on the ordinance at the present meeting would provide an additional opportunity for public comment and said that staff also had some recommended revisions.

At approximately 6:35 p.m. Mayor Gere opened the public hearing.

Cynthia Richardson, 315 V Avenue, reviewed her comments submitted earlier via email which were included in the packet materials for the meeting. She described many of her suggestions as minor edits but elaborated on two points. Regarding 19.44.040, Bed and Breakfasts, Ms. Richardson suggested flexibility to allow the rental unit to be outside the main house; she added that it need not be defined in

Title 19 and could be addressed in the zoning regulations instead. Regarding Boundary Line Adjustments, Ms. Richardson suggested splitting these into simple and more complex adjustments and defining that distinction more clearly in the zoning regulations.

Carol O'Hearn, 11039 Post Drive, referred to her written comments previously submitted. She said the December 7, 2016 revision of Title 19 showed an evolution in thinking. Ms. O'Hearn called the process matrix on page 28 a good work in progress. She praised the checks on the discretionary powers of the Director but said the code still left too much unchecked power in the hands of the director and the new hearing examiner positions. She said the draft was not perfect but gave citizens important and improved recourse. She urged Council to adopt the December 7, 2016 version at the present meeting.

Sara Holahan, 1511 38th Street, commented on rapid development in recent years and said it threatened to permanently change the character of the city. She urged code revisions that would protect the unique environment and neighborhoods and fully support crucial public participation and oversight. Ms. Holahan highlighted points from her written comments dated December 15, 2016 including a 21-day comment period for Level 2 applications, retaining Boundary Line Adjustments in Level 2 and moving ADUs to Level 2, explicitly acknowledging citizen rights to appeal to Superior Court, questioning appeal fees, and asking when the public could comment on and appeal final approval of a short subdivision.

Vernon Lauridsen, 2219 32nd Street, cautioned Council against adopting Title 19 by an arbitrary end of year deadline and said the public would like to see a final version reflecting all revisions before adoption. Mr. Lauridsen said that long subdivisions are significant land use developments and should include public process before City Council, allowing all persons of record to speak. Regarding Boundary Line Adjustments, Mr. Lauridsen said there was no such thing as underlying lots and that the RCW prevented BLAs from creating new tax parcels. Mr. Lauridsen said the code needed a mechanism to reduce the minimum lot size, for example in the R2 zone, in a simple way that was not a BLA. Mr. Lauridsen said that development impact fees had been removed from Title 19 but needed to be included and enforced. Mr. Lauridsen summarized his December 15, 2016 written comments regarding AMC 19.16.020C(3) regarding public process for the capital facilities plan as part of the Comprehensive Plan, and AMC 19.20.140B(11) regarding the Director's determination of consistency.

Marilyn Derig, 1302 K Avenue, read from her prepared remarks which were added to the packet materials for the meeting. Ms. Derig questioned the proposed limits on public notice requirements. She quoted extensively from the 2016 Comprehensive Plan regarding preservation of neighborhood character and said that not requiring notice for boundary line adjustments and ADUs posed risks to neighborhood character and integrity. She urged adopting land use regulations that observed the Comprehensive Plan goals and policies regarding neighborhood character.

Patrick O'Hearn, 11039 Post Drive, praised the development and review process for Title 19. He said the current draft was not perfect but it was flexible and could be amended in the future. He reminded councilmembers that underlying zoning and subdivision portions of the code would be written in the months ahead and urged them to err on the side of conservatism in order not to remove protections that might be needed later. He commended staff and councilmembers on the process to date and supported moving forward to the next phase.

No one else present wished to address the Council regarding proposed Ordinance 2992.

Mr. Measamer pointed out revised Section 2 of Ordinance 2992 regarding processing of development permit applications deemed complete prior to the effective date of the ordinance. He clarified that staff would add the 18-month duration of Building Permits to Table 19.28.020-1 *Permit Terms and Extensions*. Mr. Measamer discussed Boundary Line Adjustments and said staff supported leaving those Type 2 applications with public notice requirements while the community worked through the development regulations in the year ahead. Regarding AMC 16.28.090, Mr. Measamer recommended reverting to the current adopted language to allow for retail sales in an RV park at the discretion of City Council as part of the conditional use permit process. Mr. Walters recommended adding '... as part of the conditional use permit' to the end of the current language and Mr. Measamer concurred. Regarding Type 4 processes in

Table 19.20.030-1, *Review Classification and Process Matrix*, Mr. Measamer clarified that the public could speak at the open record public hearing before the Planning Commission and also before the City Council prior to its decision, but the Planning Commission *recommendation* would not be subject to appeal. City Attorney Darcy Swetnam added that per Table 19.20.160-1, *Types of hearing and meetings*, at a closed record decision hearing before City Council in such a case the applicant and any party of record could speak at the hearing. Mr. Walters suggested adding a row to Table 19.20.030-1 to indicate if there was a closed record decision hearing for each type of application. Mr. Measamer said that was the extent of the revisions proposed by staff to the December 7, 2016 version included in the packet materials for the meeting.

Councilmembers discussed ADUs at some length and whether those would more appropriately be considered Type 1 or Type 2 processes. Type 1 was generally supported.

Mayor Gere invited members of the audience to address the Council. No one else present wishing to speak, at approximately 7:18 p.m. the mayor closed the public hearing.

Mr. Walters responded to points raised in public comments earlier in the evening regarding final plat approvals, notice of appeal rights to Superior Court, adoption of the Capital Facilities Plan financing plan, Boundary Line Adjustments and impact fees moving to AMC Title 3. He encouraged adopting Ordinance 2992 at the present meeting to comply with the recently adopted stormwater code.

Mr. Archibald moved, seconded by Mr. Miller, to approve Ordinance 2992 adopting new AMC Title 19 with the following changes from the December 7, 2016 draft presented in the packet materials:

16.28.090 - ~~Commercial use~~Retail sales.

No retail sales uses should be allowed within the park unless a specific site for such use, limited to park users, is approved by the city council as part of the conditional use permit.

19.12.020 Definitions.

~~"Public meeting" means a quorum of city council or other decision-making body gathering with the collective intent of transacting city business. A public meeting does not include an open record hearing.~~

Table 19.20.030-1. Review Classification and Process Matrix

Add row:

Closed-Record Decision Hearing - No - No - No - No - Yes, before City Council

Table 19.28.020-1. Permit Terms and Extensions

Add row:

Building permits - 18 month initial term – 1 extension allowed - 18 months extension length

Vote: Ayes – Pickett, Adams, Lovelett, Archibald, Miller and Walters. Motion carried.

OTHER BUSINESS

Swinomish Indian Tribal Community Presentation

Mayor Gere said the city had invited Tribal Chairman Brian Cladoosby and members of the Tribal Senate to explain the constitutional amendment they had applied for with the Bureau of Indian Affairs. The mayor welcomed Chairman Cladoosby and the tribal members present.

Tribal Chairman *spee pots*, Brian Cladoosby, introduced tribal senators *taleq tale II*, Barbara James (Treasurer), *sməkələ*, Leon John, and *wa lee hub*, Kevin Paul as well as tribal Attorney Steve LeCuyer, Intergovernmental Affairs Director Debra Lekanoff and Nina and Mary Cladoosby. Chairman Cladoosby expressed the tribe's disappointment about the letter mailed by Skagit County commissioners to Fidalgo Island property owners. He thanked Anacortes for its willingness to talk about issues and resolve disagreements. Chairman Cladoosby stated that nothing could happen through the constitutional

amendment process that would have any impact on the ownership of any land on March Point or Summit Park. He then outlined the history of the tribe's constitution, adopted in 1934 and amended in 1966 and 1985, and described the intention of the third proposed amendment to bring the constitution into the 21st century by removing outmoded, paternalistic provisions. Chairman Cladoosby then addressed the true nature of the tribe's issues with the federal government related to the reservation boundary. He displayed a map depicting the tribal boundary established by the Treaty of Point Elliott in 1855 and another map showing the less extensive boundary purportedly clarified by President Grant's 1873 Executive Order. Chairman Cladoosby reiterated the tribe's longstanding position that only Congress can diminish a reservation and that its boundary remained unchanged from 1855 but said the constitutional amendment would not affect or resolve that longstanding disagreement. Chairman Cladoosby described several of the tribe's recent land purchases in the March Point area, all made by willing sellers or at public sales. He referenced a letter from Skagit County Prosecuting Attorney Rich Weyrich to the Bureau of Indian Affairs opposing the tribe's fee-to-trust application for its gas station property which was currently assessed property tax by Skagit County. Chairman Cladoosby displayed a calculation of the payments in lieu of taxes that the tribe had made between 2010 and 2015 to the Anacortes Fire and Police departments, the Skagit County Sheriff's Office and County Prosecutor, and the Washington State Patrol, totaling over \$622K. He said this was far more than the \$5K of annual property tax assessed to the gas station property. The chairman closed by stating again that the tribe's action with its constitution was not going to have any impact whatsoever on the citizens of Anacortes and that converting its three properties to trust status would not impact the refineries, the Jerry Smith auto dealership, or area homeowners who would still continue to pay taxes to Skagit County and Anacortes and the other taxing districts in the area. Chairman Cladoosby restated that position in response to questions from several councilmembers and Mayor Gere. Mr. Walters observed the dramatic change overnight in the La Conner School District after a change in how federal law regarding taxation was interpreted there and concluded there was reasonable concern for Anacortes. The chairman said County taxation of reservation land since the 1950s was a big issue for the Swinomish and across the nation, but that was a longer discussion. Mayor Gere asked that the city and tribal legal departments work together to educate Anacortes about the documents and the issues. Mr. LeCuyer said he was happy to work with the City Attorney and councilmembers to share information. Mayor Gere invited members of the community to address any remaining concerns to the City Attorney if those had not been addressed by the presentation. Chairman Cladoosby invited the public to phone him at 360-708-7533 if they had questions and referred to the FAQs on the tribe's website.

At approximately 8:10 p.m. Mayor Gere called a brief recess. At approximately 8:18 p.m. the mayor called the meeting back to order.

Finance Update

Finance Director Steve Heglund presented a year end update on the City's financial position through November (92% through the year), referring to the charts included in the packet materials for the meeting. He responded to councilmember questions regarding lower than expected utility tax revenue and reported strong receipts of sales tax, real estate excise tax, impact fees, and vehicle tab fees. Mr. Heglund then displayed revenues and expenditures year to date by fund, highlighting items that would be addressed later in the agenda with a year-end budget amendment, and concluded that there had been no unusual or alarming performance in any fund.

Ordinance 2996: Amending the 2016 Budget (Year End)

Mr. Heglund presented Ordinance 2996 to amend the 2016 budget. He reviewed each line in the proposed amendment as presented in the packet materials for the meeting. Mr. Heglund noted that the 2016 budget had relied on nearly \$1M of general fund cash reserves but stronger than anticipated revenues meant that only approximately \$.5M would be needed. Mr. Walters moved, seconded by Mr. Adams, to approve Ordinance 2996 as presented. Vote: Ayes – Adams, Lovelett, Archibald, Miller, Walters and Pickett. Motion carried.

Ordinance 2990: Amending 2016 Budget for Equipment Rental & Replacement Transfer

Mr. Heglund recalled prior discussions regarding this ordinance during the budget process. He displayed a projection of the general fund cash balance at year end which was added to the packet materials for the meeting. Mr. Heglund demonstrated that after setting aside 20% of budgeted expenditures in the

Economic Stabilization Reserve Fund as prescribed by the recently adopted Fund Balance Policy, transferring \$2.2M to replenish the Equipment Rental Fund replacement reserve under Ordinance 2990 would leave sufficient cash to maintain the desired 10% unassigned fund balance with approximately \$.5M remaining. Mr. Hoglund reminded Council that the 2017/2018 Biennial budget included full annual funding for the equipment replacement fund but did not include any extraordinary amounts to replenish that fund for prior years of underfunding. Ms. Pickett moved, seconded by Mr. Archibald, to adopt Ordinance 2990 as presented. Vote: Ayes – Archibald, Miller, Walters, Pickett and Adams. Nays - Lovelett. Motion carried.

Contract Revision: Navia Benefit Solutions

Administrative Services Director Emily Schuh presented a revision to the city's existing contract with Navia Benefit Solutions, administrator of the city's Cafeteria Plan. She explained that the original contract used the WCIA blanket policy but that document was silent about the city's dual insurance incentive so the revision addressed that incentive in both the plan document and in the summary plan description. Ms. Lovelett moved, seconded by Mr. Miller, to approve the contract revision with Navia Benefit Solutions. Vote: Ayes – Archibald, Miller, Walters, Pickett, Adams and Lovelett. Motion carried.

Resolution 1979: Adopting New Travel and Business Meals Policies and Procedures for the City of Anacortes / Ordinance 3000 Repealing Ordinance 2825 Adopted June 21, 2010

Mr. Hoglund presented Resolution 1979 revised as requested by councilmembers at the December 12, 2016 meeting. He explained that all policies regarding non-travel meals had been consolidated at the end of the document and reviewed the revised language. Mr. Adams and Mr. Walters said the revised language achieved the clarity Council had been seeking. Mr. Walters moved, seconded by Ms. Pickett, to adopt **Resolution 1979** adopting the new travel policy and **Ordinance 3000** repealing Ordinance 2825. Vote: Ayes – Miller, Walters, Pickett, Adams, Lovelett and Archibald. Motion carried.

There being no further business, at approximately 8:57 p.m. the Anacortes City Council meeting of December 19, 2016 was adjourned.