



City Council Minutes – October 2, 2006

At 7:30 p.m., Mayor Maxwell called the regularly scheduled meeting of Monday, October 2, 2006 to order. Roll call found present Loren Hoboy, Nick Petrish, Erica Pickett, Bill Turner, and Cynthia Richardson. Absent: Brad Adams and Brian Geer. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meeting

The minutes of September 18, 2006 will be distributed to Council prior to the October 16, 2006 meeting.

Citizen Hearings

No one present wished to testify on matters not on the agenda.

Mayor/Council Communication

Park Board Reappointment:

Mayor Maxwell reported that Mr. Aaron M. Rasmussen's term on the Anacortes Parks and Recreation Advisory Board will expire at the end of October, 2006. Mr. Rasmussen would like to serve another term; the Mayor and City staff support this reappointment. With that Mr. Petrish moved, seconded by Mr. Hoboy, to confirm the reappointment of Mr. Aaron Rasmussen to the Anacortes Parks and Recreation Advisory Board. Vote: Ayes – Petrish, Pickett, Turner, Richardson, and Hoboy. Motion carried.

Phase 2 – Economic Study (Retail)

Mayor Maxwell distributed a September 29, 2006 Memorandum from Berk & Associates to Council regarding retail sales potential and related development implications. In that regard, Mr. Ian Munce, Planning Director, added that this evening's meeting will be continued to October 9th in order to conduct a Public Hearing regarding removing the cap on large retail stores. The Berk & Associates Memorandum contains key information regarding this issue; the material is available on the website, has been distributed to the Council's Advisory Committee, and is available to the public.

The Mayor shared that the September 30th recital by the Croatian dance troupe from Korkula Island was a total success; the performance, held at Brodniak Hall, was an ancient sword dance, *Kumpanija*. Representatives from Anacortes' Sister City, Vela Luka, were also in Anacortes for the event. An additional performance is scheduled for Sunday, October 15th at the Mt. Baker Theater, Bellingham.

The October 3rd Port/City Liaison Committee meeting will be held in the Mayor's Office.

Amendment to Public Records Act Ordinance

Mr. Ian Munce, Planning Director, explained that the Council previously adopted an Ordinance complying with Washington State legislative directives that the City clarify and codify its policies about public records. That Ordinance contained a blanket exemption for draft documents; the Attorney General's office disagreed with this approach and recommended the language changes contained in the revised Ordinance now before Council. The revision states, in part, that in order to rely on an exemption the City must show: that the records contain predecisional opinions or recommendations of subordinates expressed as part of a deliberative process; that disclosure would be injurious to the deliberative function of the process; that disclosure would inhibit the flow of recommendations; and that the materials covered by the exemption reflect policy recommendations and opinions and not the raw factual data on which a decision is based. Mr. Hoboy expressed concern regarding distribution of erroneous data; Mrs. Richardson asked for clarification on the Council deliberative process. On a question from Mr. Petrish, Mr. Munce explained that the proposed language changes apply only to *Section 5. Exemptions. Item (3.)* After discussion, Mr. Turner moved, seconded by Mr. Hoboy, to adopt **Ordinance No. 2747** entitled "An Ordinance Amending Ordinance No. 2745 (Adopting Public Records Act Rules for the City of Anacortes)". Vote: Ayes – Pickett, Turner, Richardson, Hoboy, and Petrish. Motion carried.

Consent Agenda

Mrs. Richardson moved, seconded by Mr. Petrish, to approve the following Consent Agenda item. Vote: Ayes – Turner, Richardson, Hoboy, Petrish, and Pickett. Motion carried.

Approval of Vouchers/Cancellation of Warrants

Council voted unanimously that the following vouchers/warrants audited and certified by the City's Auditing Officer (Finance Director) and subsequently reviewed and approved by the Council Finance Committee on September 20, 2006 and September 27, 2006 are approved for payment as of this date October 9, 2006.

Claims Warrants

September, 2006: Warrant Numbers 38220 through 38367 in the total amount of \$525,747.31

EFT

September, 2006: EFT Numbers 38213 through 38219 in the total amount of \$1,770.00

Cancelled Warrants

Warrant Number 35858 in the total amount of \$241.00

Warrant Number 29388 in the total amount of \$1,517.63

Final Plat: Eagle Ridge

Mr. Ian Munce, Planning Director, explained that the Planning Commission recommended approval of the Eagle Ridge final plat. However, Mr. Tom Preston has filed an appeal. The appeal and Planning Commission recommendation will be brought back to the Council on October 16th.

Public Hearing: Vacation of a Portion of "V" Avenue

Mrs. Richardson stepped down from deliberation on this matter. Mayor Maxwell opened the Public Hearing on a petition submitted by LaDonna Krautkremer for the vacation of a portion of "V" Avenue (an 80' right-of-way) adjacent to her property at 401 3rd Street. Mr. Fred Buckenmeyer, Deputy Public Works Director, presented the history of this request. The Petition initially requested the vacation of a pie-shaped parcel along the full length of Lot 1. Additionally, the petitioners suggested that their building site was compromised by a previous Board of Adjustment decision to allow a 40' long garage at zero setback on the adjacent property. The Development Review Group and Public Works staff expressed concern over a number of issues; for example, if granted, the vacation would leave less than 10' of public right-of-way next to a water utility. In light of these concerns, the applicants amended the Petition to request vacation of 10' of "V" Avenue east of 401 3rd street to a distance approximately 50 feet south. The Board of Adjustment held a Public Hearing on the revised Petition and recommended approval; all Hearing materials and exhibits were forwarded to the Council for review.

Ms. LaDonna Krautkremer and Mr. Dennis Cullen, petitioners, 404 4th Street, suggested that the vacation would add to this small building site thereby providing for more development options. An October 2, 2006 letter in support of the vacation request was received from Joe and Nancy Halton, 518 V Avenue. There were no further comments and the Mayor declared the Public Hearing closed. Questions from Council followed regarding the configuration of the area to be vacated. After discussion, Mrs. Pickett moved, seconded by Mr. Turner, to approve the vacation as requested, and to authorize staff to calculate compensation values and to prepare an Ordinance reflecting this action. Vote: Ayes – Hoboy, Petrish, Pickett, and Turner. Motion carried. Mrs. Richardson returned to the Council Chambers.

Interim Ordinance: Stream Restoration and Monitoring:

Mr. Ian Munce, Planning Director, explained that the City has identified and mapped approximately 16 streams as part of the Critical Areas inventory process. If developers choose to subdivide property near any of these stream or wetland areas, there shall be a 50' buffer set back from those streams; as an alternative the developer can also apply for a conditional use permit for approval of a mitigation plan. However, most of those existing streams run through homeowner's backyards; in those situations the City would work with the homeowners, on a voluntary basis, to develop an adaptive management process. If, over time, no progress is being made under the adaptive plan other regulatory measures would have to be taken by the City to protect the streams. Mr. Munce suggested that guidelines for this voluntary program need to be developed. The Ordinance now before Council would adopt interim standards via the addition of Municipal Code Sections 17.70.540(7)b(iii) and 17.70.540(7)b(iv); both sections call out all

adaptive management program documentation requirements. Council discussed annual tracking and follow-up measures. After discussion, Mrs. Richardson moved, seconded by Mr. Petrish, to adopt **Ordinance No. 2748** entitled “An Ordinance Adopting Interim Adaptive Management for Streams.” Vote: Ayes: Petrish, Pickett, Turner, Richardson, and Hoboy. Motion carried.

Procedural Issues: Anaco Bourne Issue (October 16th Public Hearing)

Mr. Ian Munce, Planning Director, reported that Anaco Bourne was one of the streams identified and mapped in the City’s Critical Areas inventory. As part of the annual Comp Plan and Development Regulation updates, an Anaco Bourne adjacent property owner asked that the stream be de-listed. Detailed and expert testimony on this issue were put forward by the property owner through the Planning Commission hearings; Mr. Ross Barnes, representing himself and Evergreen Islands also presented detailed testimony to the contrary. The Commission recommended to Council that the stream not be de-listed; the Hearing exhibits have been distributed to Council for review. The Public Hearing on this matter has been scheduled before Council on October 16th; the matter now before Council is what hearing/deliberation procedure should the Council follow on the 16th. Mr. Munce outlined various options; even if time limits are imposed on testimony, Council would still be able to ask questions. Mrs. Richardson suggested that testimony take summary form. After discussion, Mrs. Pickett moved, seconded by Mr. Hoboy, to limit the testimony to either party on the Anaco Bourne issue to 15 minutes. Vote: Ayes – Pickett, Turner, Richardson, Hoboy, and Petrish. Motion carried.

Shoreline Master Program, 2006: Consultant Services

Mr. Ian Munce, Planning Director, explained that the Department of Ecology (DOE) has suggested that the City retain a marine scientist to focus on some of the outstanding issues regarding the *Shoreline Master Program, 2006 Update*. Mr. Munce first explained the background on the Master Program update schedule; other State agencies support keeping with the schedule to complete the update this year. Ultimately, Council legislative action regarding Shoreline Plan updates must be endorsed by DOE. A Public Hearing was held before the Planning Commission and recommendations and comments will be incorporated into a new draft. With regard to hiring a marine consultant, Mr. Munce summarized the responses received from six firms; staff requests authorization to hire MCK Environmental (Tracey McKenzie) in an amount not to exceed \$36,000. If approved, a budget amendment for this expenditure will be required. With that, Mrs. Richardson moved, seconded by Mrs. Pickett, to authorize the Mayor to enter into a contract with MCK Environmental (Tracey McKenzie) for professional services on the City’s Shoreline Master Program update in an amount not to exceed \$36,000. Vote: Ayes – Turner, Richardson, Hoboy, Petrish, and Pickett. Motion carried.

There being no further business, at approximately 9:00 p.m. Mayor Maxwell convened the Council in Executive Session to discuss park property purchase (small inholding) and a real estate purchase (Public Works). At approximately 9:30 p.m. the Council reconvened and without taking any further action, the Mayor continued the meeting to Friday, October 6, 2006 at 4:00 p.m. at City Hall in order to conduct a site visit relative to the Anaco Bourne issue (no testimony will be taken). At the conclusion of the site visit the meeting will again be continued to Monday, October 9, 2006 at 7:30 p.m. in order to conduct a Public Hearing: Large Scale Retail.