



City Council Minutes July 16, 2007

At 7:30 p.m., Mayor Maxwell called the regularly scheduled meeting of July 16, 2007 to order. Roll call found present Loren Hoboy, Nick Petrish, Erica Pickett, Brad Adams, Bill Turner, Cynthia Richardson, and Brian Geer. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meeting

The July 2, 2007 minutes will be available on August 6, 2007.

Citizen Hearings

No citizens present wished to speak on matters not on the agenda.

Mayor/Council Communication

Mayor Maxwell asked for Council confirmation of Mr. Steven Hoglund as the new Finance Director for the City of Anacortes. Mr. Geer so moved, seconded by Mr. Hoboy. Vote: Ayes – Petrish, Pickett, Adams, Turner, Richardson, Geer, and Hoboy. Motion carried. Mr. Hoglund thanked the Mayor and Council for this opportunity to serve the community and to be part of the local government process.

Mayor Maxwell asked for Council confirmation of Mr. Tom Thompson as the Ward 1 representative on the City Improvement Board. Councilman Petrish enthusiastically moved to confirm the reappointment of Mr. Thompson; Mrs. Pickett seconded the motion. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, Hoboy, and Petrish. Motion carried. The Mayor thanked all the Board volunteers who so selflessly serve their community.

Mr. Petrish sent the following message to the speed bicyclists who use the Tommy Thompson Trail; please signal their presence to pedestrians on the Trail, and try to use the Trail when the pedestrian traffic is at a minimum.

Mr. Geer thanked all the dedicated volunteers who worked on the Relay for Life; the Opening Ceremonies will be held on Friday night at 6:00. Further, Mr. Geer thanked the City and Port for their on-going support of this and other important community fund raising activities.

Mr. Hoboy remarked on the new equipment at Washington Park and thanked everyone who worked on this impressive recreational facility. Mrs. Richardson mentioned that the Kiwanis and Rotary Clubs contributed to the Park's many amenities.

Shoreline Master Program Update

Mr. Ian Munce, Planning Director, reported that the fourth round of public comments on the City's Shoreline Master Program Draft is complete. In light of this extensive review, Mr. Munce asked that the Council close the hearing to all the issues except those relating to buffers. Mr. Munce also explained that a final draft is available of the consultant's work on "Ecological Functions, Land Use, and Buffers and Setback." Staff recommends that the document be released for public comment concurrent with Council review. With that, Mr. Adams, moved, seconded by Mr. Hoboy, to authorize a 30-day comment period on the "Ecological Functions, Lane Use, and Buffers and Setback" report and to close comments as to the other issues in the Shoreline Master Program except for those relating to shoreline buffers. Vote: Ayes – Adams, Turner, Richardson, Geer, Hoboy, Petrish, and Pickett. Motion carried.

Consent Agenda

Mayor Maxwell removed item d. *Street Fair Application – Anacortes Arts Festival Revision* from the Consent Agenda. With that, Mr. Hoboy moved, seconded by Mrs. Pickett to approve the following Consent Agenda items. Vote: Ayes – Turner, Richardson, Geer, Hoboy, Petrish, Pickett, and Adams. 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 July 5, 2007 and July 12, 2007 are approved for payment as of this date July 16, 2007.

Claims Warrants

July, 2007: Warrant Numbers 42000 through 42184 in the total amount of \$375,878.83

July, 2007: EFT Numbers 41998-41999 in the total amount of \$187.00

Payroll for July 5, 2007 in the total amount of \$727,384.05

Warrant Numbers 30962 through 31039 in the total amount of \$239,615.12

Direct Deposit Numbers 22827 through 22937 in the total amount of \$264,622.06

EFT Numbers 693 through 729 in the total amount of \$233,146.87

In the same motion Council:

Approved the Street Fair Application for the annual Eagles Barbecue to be held on August 17-19, 2007 at 7th Street and “Q” Avenue. Staff and the applicant have agreed to conditions and services; staff recommended approval subject to the applicant’s June 19, 2007 application; and

Approved the Street Fair Application for the Causland Park Condo Association Block Party to be held on August 11, 2007 from 11:00 a.m. to 3:00 p.m. The request is to close the alley between 8th and 9th Streets between “M” and “N” Avenues. Staff and the applicant have agreed to conditions and services; staff recommended approval subject to the applicant’s June 25, 2007 application; and

Approved the Special Event Request to hold “What the Heck Fest” in Causland Park on July 21-22, 2007 from 11:00 a.m. to 4:00 p.m. Staff recommended approval subject to the City’s special event policies; and

Approved the Special Event Request to hold a Salmon Barbecue and Quartet Contest at Washington Park on July 29, 2007 from 6:00 a.m. to 4:00 p.m. The event is sponsored by the An-O-Chords; staff recommended approval subject to the City’s special event policies.

Anacortes Arts Festival – Street Fair Application – Revision

Mr. Fred Buckenmeyer, Public Works Director, presented a request from the Arts Festival to change the street closure times on Thursday from 6:00 p.m. to 3:00 p.m. The request was discussed with the Public Works Committee, staff, and Police Department. Staff unanimously recommends denial of the time change request; the change would be too disruptive to the downtown area. Councilmembers agreed that it was unfair to further disrupt the merchants/traffic. With that, Mr. Richardson moved, seconded by Mr. Hoboy, to deny the request for the Anacortes Arts Festival schedule revision. Vote: Ayes – Richardson, Geer, Hoboy, Petrish, Pickett, Adams, and Turner. Motion carried.

Closed Record Meeting: Conditional Use Application: T-Mobile Wireless Communication Facility – 2201 “H” Avenue.

The proceedings are on tape and filed at City Hall.

With regard to hearing this matter Mayor Maxwell, Mrs. Richardson, and Mr. Petrish disclosed potential conflicts of interest; there were no objections from the applicant or neighbors to any of the issues raised. The Mayor then initiated the Closed Record Meeting on a Conditional Use Application submitted by T-Mobile USA to construct a new wireless communication facility at 2201 “H” Avenue in the R 3 Zone. Mr. Ian Munce, Planning Director, explained that the Council has been thoroughly briefed on the nature on this application. The applicants have availed themselves of the cellular tower citing section of the Zoning Ordinance. The Planning Commission conducted an extensive public hearing process on this matter; the final Commission vote was a 3-3 split. In light of that, the Council determined to hold its own Public Hearing, but the applicant objected citing that state law limits land use applications to one public hearing. The City Council then remanded several questions to the Planning Commission for review and recommendation; subsequent to the remand Public Hearing, the Planning Commission voted to recommend denial of the T-Mobile application. The applicant filed an appeal of the decision. The entire record, including draft Findings of Fact, was forwarded to the City Council. The applicant will present T-Mobile’s appeal; the neighbors have been asked to coordinate their response.

Mr. Gary Abrahams, representing T-Mobile USA, explained that a Conditional Use application for a wireless communication facility at 2201 “H” Avenue was submitted in September of 2006. With regard to need, T-mobile customers demand the coverage that this site will provide; the tower will also provide data and voice service to E-911. The T-Mobile application complied with all elements of the Municipal Code save for one - separation distance requirement. All issues were extensively analyzed; the requirements have been met under the code, and all documentation was forwarded to the City. While T-Mobile appreciates the neighborhood concerns, no evidence was presented to the contrary regarding the validity of the application; additionally, the City hired its

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own 3rd party review to investigate the need for the facility and any alternative locations. The application complies with the City code, state law, and the Federal Telecommunications Act. T-Mobile asks that the Council grant the appeal and approve the Conditional Use Permit. Mr. Abrahams then reviewed the project details: the facility equipment will be located on the ground and the tower will be painted green and blended into the trees; the location does not meet the 200' separation distance and the applicant is proposing Option A configuration. He then discussed procedural issues including the published notice stating that the remand hearing was to be limited in scope to address specific Council concerns. Instead the hearing was opened to testimony beyond that scope. In preparation of this application, T-Mobile used land use professionals to study creative solutions and alternative sites. The final analysis is that this is the appropriate site. Key issue one: Need for the facility - two current sites are not providing quality in-building coverage to Anacortes; this is supported by propagation maps in the Council packet. He then discussed the second key issue: alternative locations; this is the best possible location for line of technology; no alternative technology is available to provide necessary coverage. The combined 29th Street and Guemes Island sites would not provide coverage to the central commercial and residential core. The project has been designed to fit into the heavily treed site to utilize the surrounding characteristics. This application meets the criterion for a conditional use permit; highlights the coverage gap; addresses visual issues, and will provide needed service.

Mr. Blake Thompson, 1605 24th Place, distributed a memo regarding updated information on an alternative solution to T-Mobile's cell tower. He explained that it's possible to use existing internet technology to provide cellular coverage ("T-Mobile HotSpot@Home") in the home. The cost is reasonable and would provide service for the T-mobile customers. Mr. Coleman Hill, 2417 Creekside Lane, spoke on behalf of his neighborhood and said that the cell tower will negatively impact their area – a non-neighbor seeks to commercialize the neighborhood, views will be impacted, property values will be depressed, and there will be additional noise. Mr. Bob Barry, 1914 22nd Street, referred to his information packet submitted to the Planning Commission. He suggested the lengthy process could have been avoided if T-Mobile had highlighted federal regulations early on in the process. Mr. Barry discussed the absence of information regarding available science, and T-Mobile's lack of response to issues raised including alternative sites and report details.

Mr. Munce then explained, with regard to federal regulations, that cities are required to accommodate alternative technologies. With regard to T-Mobile's proposal, the City's responsibility is to apply appropriate policies and regulations, including federal, to the facts of this particular case. With regard to new and alternative technologies, the Council is limited to the record including this evening's submittal from Mr. Thompson. Mr. Adams asked if the remand testimony stayed within the scope of the hearing; Mr. Munce explained that there was no motion to strike any information although the Council has the discretion to do so. Mr. Petrish said that based on the information before him he was ready to make a decision.

Mr. Petrish spoke against use of this site for a cellular tower; he said that Cap Sante should be considered as a site. Mr. Hoboy spoke against the project: he suggested that a combination of tower locations would work and that the 3rd party study acknowledges a 2-tower solution; no additional engineering and scientific data was provided at the remand hearing as requested; and screening trees may be vulnerable to removal. Mrs. Pickett also spoke against the proposal citing her lack of confidence in the information provided by the applicant. Mr. Adams said that while this is a solid proposal, the neighborhood objections carry considerable weight. Mr. Turner also supported the Planning Commission's recommendation absent the appropriate data; he also proposed a proactive approach for the City to identify appropriate cell tower sites. The Mayor questioned approving a commercial use in a residential zone. Mrs. Richardson spoke in favor of the application noting the overall difficulty of finding an appropriate site; it is not Council's responsibility to direct which technology should be used; a single tower hidden in the trees would provide coverage for a number of cell phone customers. Mr. Geer spoke against the proposal and moved to direct staff to prepare the Findings of Fact and Conclusions of Law to deny the appeal and to deny the T-Mobile Conditional Use Permit application. Mr. Perish seconded the motion. Vote: Ayes – Geer, Hoboy, Petrish, Pickett, Adams, and Turner. No – Richardson. Motion carried.

Executive Session (45 minutes)

At approximately 9:30 p.m. the Council and Mayor convened in Executive Session to discuss litigation relative to water issues. At approximately 10:15: p.m. the Council reconvened and without taking any further action, continued the meeting to Monday July 23, 2007 at 5:00 p.m. in order to conduct a site visit at the Anacortes Airport. The meeting will again be continued to the evening of July 23, 2007 at 7:30 p.m. in the Council Chambers.