



City Council Minutes – June 2, 2008

At 7:30 p.m. Mayor Maxwell called the regularly scheduled meeting of Monday, June 2, 2008 to order. Roll call found present Kevin McKeown, 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

Mr. Geer moved, seconded by Mr. Adams, to approve the minutes of May 5, 2008 as if read. Vote: Ayes – Petrish, Pickett, Adams, Turner, Richardson, Geer, and McKeown. Motion carried.

Citizen Hearings

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

Mayor/Council Communication

Mayor Maxwell announced that the Park and Recreation Department update has been rescheduled for June 16, 2008.

The Mayor reported on a successful week in the City culminating in the opening ceremony for the Storvik Park playground project, Our Town Our Park. The Mayor and Parks Director Gary Robinson thanked the Our Town Our Park Committee members, the hundreds of volunteers, and the community at large for their support in the construction of this great facility. In particular, they thanked the children who not only helped build the Park but participated fully in the design phase.

There will be a Port/City Liaison Committee meeting at City Hall tomorrow morning at 8:30 a.m. Mrs. Richardson will not be able to attend.

Mr. Ian Munce, Planning Director, reported on recent activity relative to the T-Mobile cell tower issue. Now that the full 9th Circuit Court of Appeals will re-hear the San Diego/Sprint case, a number of parties have filed amicus briefs including the cities of Portland, Oregon and Tacoma, Washington. Both cities have asked the City of Anacortes to participate; they will reference our case, using it as an example of how local jurisdiction can be usurped if the 9th Circuit Court doesn't change some of their precedents. Additionally, Representative Morris has asked the State Attorney's General's office to take a position on this matter that is supportive of the City's position. Over the next few weeks we will hear whether or not District Court will stay the decision on our cell tower case (Methodist Church site.) Mr. Turner thanked Mr. Munce for his counsel and the Council for taking this courageous step to protect the community.

Consent Agenda

Mr. McKeown moved, seconded by Mr. Geer to approve the following Consent Agenda items. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, McKeown, and Petrish. 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 May 22, 2008 and May 29, 2008 are approved for payment as of this date June 2, 2008.

Claims Warrants

May 2008: Warrant Numbers 46255 through 46441 in the total amount of \$602,863.30

EFT

May 2008: Warrant Number 46254 in the total amount of \$98.00

Prewritten Claims

May, 2008: Warrant Number 46253 in the total amount of \$1,267.14

Payroll May 20, 2008 in the total amount of \$497,970.00

Warrant Numbers 32286 through 32334 in the total amount of \$48,516.19

Direct Deposit Nos. 26483 through 26653 in the total amount of \$280,970.26

EFT Numbers 854 through 858 in the total amount of \$168,483.66

Cancellation of Warrants

Warrant Number 46118 in the total amount of \$34.37

In the same motion Council approved the following Special Event Applications:

Special Event # 1: Wedding ceremony atop Mt. Erie on June 17, 2008 from 6:30 to 8:00 p.m.; Special Event # 2: Bumberpalloozafest by Youth Dynamics; year end party at Washington Park on June 18, 2008 from 11:00 a.m. to 10:00 p.m.

Final Plat: Rock Ridge South Phase III

Mrs. Richardson stepped down from deliberation on this matter. Mr. Ian Munce, Planning Director, explained that the Rock Ridge South Phase III Final Plat application calls for the Council, in its administrative capacity, to accept streets and utilities, and to agree to maintain them in perpetuity. In the case of Rock Ridge South Phase III, all tasks have been completed and a maintenance bond has been called for. The Planning Commission reviewed the application and recommended approval subject to a Maintenance Bond and 3 conditions. After discussion, Mr. Turner moved, seconded by Mr. Geer, to accept the Final Plat for Rock Ridge South Phase III subject to: receiving a 2-year Maintenance Bond in the amount of \$38,847.00; receiving approved Drawing of Records in mylar form; and final City Engineering review and approval of the plat drawing assuring conformance to the project requirements. Vote: Ayes – Adams, Turner, Geer, McKeown, Petrish, and Pickett. Motion carried. Mrs. Richardson returned to the Council Chambers.

Closed Record Meeting: Cove at Fidalgo Bay/Conditional Use for Condominiums in the CM Zone – 4501 Fidalgo Bay Road

Mayor Maxwell initiated the Closed Record Meeting for the Cove at Fidalgo Bay Conditional Use application to construct condominiums in the CM Zone at 4501 Fidalgo Bay Road. Mr. Ian Munce, Planning Director, used an overhead display to indicate key features of this project. Phase I of the project is complete; Phase II was also approved but the permits expired. The Cove at Fidalgo Bay LLC reapplied for Phase II Shoreline and Conditional Use permits to construct 18 condominium units in the CM Zone. The complete record from the Planning Commission hearing was forwarded to Council prior to this meeting. The Planning Commission approved the Shoreline Permit and recommended approval of the Conditional Use application subject to conditions; no appeals were filed.

Mr. Munce discussed Phase I issues that will need attention prior to commencement of Phase II. In that regard, the Phase I Homeowners Association submitted several exhibits outlining development expectations; over the last several months, the applicant has addressed many of these outstanding tasks. Building and Engineering Departments will continue to monitor the issues raised should the project be approved. The Samish Tribe, neighbor to the south, expressed concern regarding work done inappropriately along the shoreline resulting in erosion damage and negative impact to Native American midden sites. Relative to that, Phase II approval would require a long-term permanent shoreline stabilization plan with on-going maintenance work. An Agreement to that effect between the Samish Tribes and the applicant was reached. Staff expressed concern that there should be specific time frames for accomplishing these stabilization tasks.

The question of the sewer lift station also concerns the Samish Tribe, the City, and the project proponent. When the Fidalgo Bay Resort was constructed a private pump station was installed; Phase I is connected to that pump station. The City's Public Works Director has campaigned to upgrade this system to City standards with the City assuming management of the facility. This accord never took place. As a result, the Samish Tribe will maintain its own pump station; Cove at Fidalgo Bay will construct a new pump station conditioned so that it will be properly maintained. Also, the City shall be held harmless should the

system fail. Mr. Munce then reviewed the history of securing the Tommy Thompson Trail; Parks Director, Mr. Gary Robinson, has been working with the Homeowners Association to reach an agreement regarding shoreline access. In summary, the Planning Commission issued a Shoreline Permit with multiple conditions; two additional conditions have been recommended relative to Conditional Use permit approval.

Council questions and comments followed regarding road construction, parking, shoreline stabilization, residential use in the CM zone, clarification of guest parking spaces for condo owners; location of public access, enforcement should the pump station fail, the City's pioneering role in bringing sewer to this area, and scrutiny of the maintenance and operation schedule by City personnel. The Mayor emphasized that the City is looking to minimize its sewer stations, and the Samish Tribe and Cove at Fidalgo Bay pump station facilities will never be taken over by the City

With that, Mrs. Richardson moved, seconded by Mrs. Pickett, to approve the Cove at Fidalgo Bay Phase II Conditional Use Permit for the construction of 18 condominium units on Fidalgo Bay Road subject to the conditions recommended by the Planning Commission with the following amendments and additions: Condition # 13: add "prior to any construction"; add Condition # 17: "The Cove at Fidalgo LLC shall commence construction on the Fidalgo Bay beach nourishment and shoreline stabilization project at the same time as upland site clearing and grading. The shoreline project shall be complete prior to the start of framing for the condominium buildings consistent with the Memorandum of Understanding between the Cove at Fidalgo LLC and the Samish Indian Nation.", and Add Condition # 18: "The Cove at Fidalgo Bay LLC is required to enter into an Agreement with the City of Anacortes regarding the operation, maintenance and ownership of the sanitary sewer pump station. This agreement will allow the City to maintain compliance with our current Department of Ecology, NPDES sanitary discharge permit. The Agreement must indemnify the City of Anacortes with a hold harmless agreement from any and all liability associated with the operation, maintenance, and potential failure of the pump station facility and force main pipe line both from a regulatory and civil damages perspective." Vote: Ayes – Turner, Richardson, Geer, McKeown, Petrish, Pickett, and Adams. Motion carried.

There being no further business, at approximately 8:15 p.m. the Mayor adjourned the regularly scheduled meeting of June 2, 2008.