



City Council Minutes – May 15, 2008
Continued Meeting of May 12, 2008

Mayor Maxwell called the continued meeting of May 15, 2008 to order at 7:30 p.m. Roll call found present: Nick Petrish, Erica Pickett, Brad Adams, Bill Turner, Brian Geer, Kevin McKeown and Cynthia Richardson.

Mayor Maxwell announced the two items on the agenda under consideration: Interim Ordinance Adopting Regulations Regarding Cellular Facilities and Declaring an Emergency and Ordinance to Adopt Development Regulations Providing for Identification, Designation, Siting and Regulation of Essential Public Facilities, Adopting a New Chapter 17.75 AMC, Adopting a Work Plan and Declaring an Emergency. Mr. Ian Munce, Planning Director, then provided the background for these emergency ordinances.

Interim Cell Tower Ordinance: Public Hearing

Mayor Maxwell opened the public hearing. Mr. Munce discussed the T-Mobile cell tower issue that prompted the court decision. T-Mobile's choice for placement of the cell tower was on the property of the Methodist Church located on "H" Avenue. After public hearings and citizen input, the City denied this request but offered other sites for the location of the cell tower that would not interfere with city views. T-Mobile declined the other choices and challenged the decision by taking the matter before the Federal District Court in Seattle. The District Court Judge threw out the council decision and issued an order for the City to provide a building permit to T-Mobile for the site on the church property.

Mr. Munce stated that we can request a stay of the order and appeal. The cost for this would be approximately \$30,000. This would provide some time to develop an Ordinance that would not be so burdensome to applicants and still provide the City with the decision as to where such construction could be placed.

After discussion, Mr. Munce restated the question as to whether we want to file an appeal by Monday to at least ask for a stay and then asked the Council to consider drafting a new cell tower ordinance which takes out the information that the Court finds objectionable.

Mr. Geer suggested that this situation is "bigger than a cell tower" in that the federal government is preempting our local government. Mr. Geer believes we should appeal this decision and does not agree with the federal government telling the City how we should operate.

Mr. Turner inquired whether this is just a delaying tactic and that we will most likely not be successful in pursuing an appeal. Mr. Turner believes this may work to allow time to generate support for the smaller municipalities to support local government and not allow the federal government to come into a community and overturn the process of the local government.

Mr. Munce believes that the tower may well be built but that pursuing an appeal would be worthwhile to press the point that Congress and the Court system need to recognize local zoning. Mr. Adams raised a concern whether this would set a precedent that would allow other organizations to come into the City and override our zoning codes. Mr. Munce stated that this is about competition and that everyone must accommodate every carrier.

Mr. Petrish asked whether this particular service would only serve T-Mobile customers. Mr. Munce believes that they did state they would share their tower with other providers but if they decide not to share, they do not have to. Mr. Munce added that we did put in our conditions that they have to share but is not sure now whether T-Mobile would have to comply with those conditions after the court order.

The Council agreed to further consider this issue on June 2. Mr. Turner then moved to adopt the interim ordinance regarding wireless communication facilities as presented and schedule a hearing on the emergency ordinance. The motion was seconded by Mr. Geer and passed unanimously.

Mayor Maxwell clarified for the record that we are not against having the best technology for the community. Rather, we have worked extremely hard to craft a policy for public facilities that would allow for siting of cell towers and monopoles. We offered T-Mobile the opportunity to use our water tower facility free of charge if they would change direction.

Essential Public Facilities Ordinance: Public Hearing

Mayor Maxwell then introduced the second item on the agenda and asked Mr. Munce to provide the background for the consideration of an Ordinance to Adopt Development Regulations Providing for Identification, Designation, Siting, and Regulation of Essential Public Facilities, Adopting a New Chapter 17.75 AMC, Adopting a Work Plan and Declaring an Emergency.

Mr. Munce reported that Burlington, Mount Vernon and Sedro Woolley recently adopted some language regarding essential public facility language because of concerns that secure community transition facilities may possibly be located in their cities without adequate review. The secure community transition facilities house high risk offenders or ex-offenders. Because these communities have established ordinances to regulate these types of public facilities, Anacortes should take steps to establish regulations for this community. The Ordinance presented to the City Council is almost verbatim to Sedro Woolley's Ordinance. Mr. Munce stated that if the Ordinance is adopted tonight, a hearing will be scheduled in July and then we would start a work program over the next 12 months to develop something that will work.

Mr. McKeown requested the definition of a secure community transition facility. Chief Bonnie Bowers stated that her research found that these facilities are operated by the Washington State Department of Social and Health Services and is transitional housing for level 3 sex offenders. The facilities are monitored and the residents are not allowed to leave on their own. Some of the residents do work but they have monitors attached to their ankles when they leave the facility. Chief Bowers stated that the facility is more like a halfway house.

Mr. Adams stated that we should get a process started until we can figure out what we want to do in allowing these types of facilities into Anacortes. Mr. Adams moved for a motion to adopt the Ordinance. Mr. McKeown seconded and was followed with a unanimous vote.

The continued meeting of May 15, 2008 ended at approximately 8:30 a.m.