City Council Minutes – March 2, 2009

At 7:30 p.m. Mayor Maxwell called the regularly scheduled meeting of March 2, 2009 to order. Roll call found present: Kevin McKeown, Nick Petrish, Erica Pickett, Brad Adams, Bill Turner, and Cynthia Richardson. Absent: Brian Geer. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meetings

Mr. Petrish moved, seconded by Mrs. Pickett, that the minutes of February 2, 2009 and February 17, 2009 be approved as if read. Vote: Ayes – Petrish, Pickett, Adams, Turner, Richardson, and McKeown. Motion carried.

Citizen Hearings

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

Mayor/Council Communication

Mayor Maxwell announced Skagit Beat the Heat as the recipient of the Auto Magic $2,000 contest prize. The organization, working to slow global warming and promote sustainability, logged nearly 20,000 car miles saved in 2008. The contest, organized by Councilmember Pickett, encourages people to walk, bike, ride the bus, or share a car. The winners determine where the City will spend the prize money. Ms. Betty Carteret, representing Skagit Beat the Heat, thanked the City for its efforts to raise public awareness through the Auto Magic Program. The membership decided to support the community garden project in partnership with the Parks and Recreation Department. The garden will be located between 28th and 29th Streets; garden plots are slated to be ready by June.

Resolution: Naming John and Doris Tursi Park

Mr. Gary Robinson, Director of Parks and Recreation, introduced a Resolution to Council for review and adoption. If adopted, the Resolution would authorize naming the park at West 12th and Pennsylvania the John and Doris Tursi Park. The Tursis contributed to the community over the years and have volunteered for countless hours for numerous local community service groups. With that, Mrs. Richardson moved, seconded by Mr. McKeown, to adopt **Resolution No. 1776** entitled "A Resolution Naming a Park at West 12th and Pennsylvania as the John and Doris Tursi Park." Vote: Ayes – Pickett, Adams, Turner, Richardson, McKeown, and Petrish. Motion carried.

Mr. Petrish said he may have to leave the meeting for a brief period due to recent surgery.

Consent Agenda

Mr. Adams moved, seconded by Mr. McKeown to approve the following Consent Agenda item. Vote: Ayes – Adams, Turner, Richardson, McKeown, 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 February 19, 2009 and February 26, 2009 are approved for payment as of this date March 2, 2009.

Claims Warrants

Feb 2009: Warrant Numbers 49832 through 50006 in the total amount of $436,590.31

EFT

Feb 2009: EFT Number 49831 in the total amount of $182.00

Payroll for February 20, 2009 in the total amount of $508,559.42
Warrant Numbers 33261 through 33299 in the total amount of $38,570.74
Direct Deposit Numbers 29764 through 29933 in the total amount of $289,733.19
EFT Numbers from 954 through 959 in the total amount of $180,255.49

2009 Comprehensive Plan and Development Regulation Update
Mr. Ryan Larsen, Director of Planning, informed the City Council and the citizens of Anacortes that the City is seeking docket applications from the public as it begins the 2009 process to review and update the Comprehensive Plan and development regulations. City staff began accepting suggested changes earlier this year; the official window for acceptance is March 1st through March 31st. Any proposals received after March 31st will be accepted and held until the following year. The City's informational brochure reflects these deadlines. Mr. Ryan can be reached by e-mail or by appointment to discuss proposals.

First Reading of 2009 Refunding Bond Ordinance
Mr. Steve Hoglund, Finance Director, explained that the Council recently adopted a Resolution authorizing the Finance Department to pursue refunding opportunities for the 1999 LTGO Bond. Piper Jaffray analyzed the bonds and determined that by refunding $1,605,000 of the 1999 Limited Tax General Obligation Bonds the City will save $115,800, present value, over the life of the debt. This is the first reading of the Ordinance to issue the LTGO bonds. The Ordinance will be finalized on the day of the sale of the 2009 LTGO Bonds, March 16th.

Public Hearing: CDBG 2009 Action Plan – Open Public Comment Period
Mayor Maxwell opened the Public Hearing to initiate the 30-day comment period for 2009 Action Plan Allocation relative to the City's Community Development Block Grant (CDBG.) Mr. Ryan Larsen, Planning Director, reported that the comment period will end on April 6th. The 2009 CBDG funding allocation is estimated to be approximately $104,980 based on last year's allocation; the amount actually funded may be less than that amount. Distribution for the 2009 funding allocation is proposed for: Skagit County Community Action Agency Public Services; Skagit County Food Bank Food Distribution Center; City of Anacortes ADA compliant sidewalk ramps; Gentry House adult day care; and administrative planning services. It was noted that the Gentry House will require land use permits from the City prior to receiving any funding. There were no comments from the public and the Mayor continued the Public Hearing to the evening of April 6, 2009.

Water Shortage Response Plan: Ordinance Revision
Mr. Matt Reynolds, Assistant City Engineer, presented an Ordinance to Council for review and adoption. If adopted the Ordinance would approve the replacement of Chapter 8.29 of the Municipal Code regarding Water Shortage Response. Mr. Reynolds pointed out that the City's Municipal Code contains certain triggering criteria and recommended actions to take when the Skagit River is in a low flow condition. These requirements are not consistent with the 1996 Memorandum of Agreement which essentially secures the City's water rights. The inconsistencies, in part, deal with river levels and public service announcements. Mr. Turner, a member of the Skagit River Flow Committee, pointed out that adoption of this Ordinance has been a work item of the Committee. On a question from Mr. Adams, Mr. Reynolds explained that the City currently draws 20 million gallons daily; our protected water right is for a 55 million gallon maximum. After discussion, Mr. Turner moved, seconded by Mr. Adams to adopt **Ordinance No. 2797** entitled "An Ordinance of the City of Anacortes, Washington, establishing policies and procedures for declaring and dealing with various stages of water shortages, establishing regulations and penalties for enforcing said provisions, and adopting Chapter 8.29 of the City of Anacortes Municipal Code." Vote: Ayes – Turner, Richardson, McKeown, Petrish, Pickett, and Adams. Motion carried.

Public Hearing: Latecomer Agreement West 6th Street and Ohio Avenue
Mayor Maxwell opened the Public Hearing to review and take comments on a Latecomer Application and Agreement. The applicant, Mr. Bill Wooding, installed 13,860 square feet of street construction with curb, gutter, and sidewalk, installed 555 linear feet of waterline with hydrant and services, and installed 600 linear feet of sewer with catch basins as part of a 5-lot short plat on West 6th Street off of Ohio Avenue. Mr. Fred Buckenmeyer, Public Works Director, explained that affected property owners were notified of the proposed application and Public Hearing; no correspondence was submitted prior to the Hearing.

This is a 10-year agreement; each of the 4 lots involved would be encumbered with a $21,264.70 reimbursement. There were no comments from the audience and the Mayor declared the Public Hearing closed. With that, Mr. Turner moved, seconded by Mr. McKeown, to accept the West 6th Street and Ohio Avenue Latecomer Agreement 2009-0010. Vote: Ayes – Richardson, McKeown, Petrish, Pickett, Adams, and Turner. Motion carried.

Closed Record Meeting: Leeward East Planned Unit Development and Conditional Use

(This item is on tape and available at City Hall)

Mayor Maxwell initiated the Closed Record Meeting on the Leeward East Planned Unit Development and Conditional Use applications for multifamily and single-family residential units in the Commercial Marine Zone. Mr. Don Measamer, Assistant Planning Director, used an overhead to highlight the predominantly single family residential developments adjacent to the Leeward East project; the project site is east of Edwards Way. The original proposal included relocating the cul-de-sac uphill with 48 condo units and 22 single family residential lots. After review with staff, the applicant now proposes to leave the cul-de-sac in its current location; 38 condo units and 23-single family unit with a density of 9.73 units per acre are proposed. There are a number of geotechnical issues with this site; the applicant secured geotechnical reports that were forwarded to a 3rd party consultant hired by the City. The conditions proposed by the Planning Commission reflect the geotechnical engineer's recommendations. Another issue concerns the location of condo units relative to the railroad right-of-way that abuts the shoreline. Also, the applicant is proposing a fire apparatus access lane, yet to be designed, along the Guemes Channel Trail. The Planning Commission recommends that the design be brought back for approval. All application exhibits, letters, and Findings of Fact were forwarded to the Council; the Commission recommends approval subject to conditions. Two appeals were filed.

Mr. Petrish inquired about the status of the Leeward West project, the need for a Commercial Marine component for Leeward East, and drainage from the San Juan Passage development. Mr. Measamer explained that separate review/permits were required for the Leeward projects because there is a geotechnically hazardous and possible active landslide area on the east side of the cul-de-sac. Mr. Adams pointed out that the appeals center on the Commission's recommendations relative to the Planned Unit Development and Conditional Use permits. On a question from Mr. Turner, Mr. Measamer stated the fire trail is a Fire Department requirement and is in the same location as a sanitary sewer line access road and the Guemes Channel Trail. The Washington State Department of Fish and Wildlife and the City's biologist will work together to locate trail, buffer planting, and so on.

Appellant # 1: Mr. Ross O. Barnes, 1004 7th Street, spoke on behalf of Evergreen Islands. Mr. Barnes first used an overhead drawing to revisit Leeward West issues. Mr. Brad Furlong, City Attorney, pointed out that the drawing is not in the record of this matter and cannot be utilized for evidentiary purposes. Mr. Barnes then went on to explain the focus of the Evergreen Islands appeal: (1) building setback at least 20' from public shoreline tract; (2) only 10' of fire lane in public shoreline tract; (3) apply Fidalgo Bay Plan shoreline buffer standards; (4) show location of adequate trail corridors through cul-de-sac and Edwards Way areas; (5) where is permanent bus parking; and (6) OHWM should be shown on site plans.

Appellant # 2: Mr. Russ Lindquist, Gilbane Development Company, 7 Jackson Walkway, Providence, Rhode Island. Gilbane is the owner and developer of San Juan Passage adjacent to the applicant's property. Mr. Lindquist referred the Council to two documents in the record: (a) the reply to Gilbane's appeal from Leeward Partners; and (b) Exhibit # 33 - Chart presented to the Planning Commission on November 12, 2008. Mr. Lindquist then explained the focus of the Gilbane Development appeal: (1) the chief concern for Gilbane is the size of the proposed condo building; at 350' feet long, the building has an impact especially on the trail. (2) Building heights should be measured form the existing grade with no filling allowed. (3) Leeward East should be designed to the same zoning and development conditions imposed on San Juan Passage. (4) Leeward East should be required to install, at its cost, a new section of the Guemes Channel trail abutting its development in accordance with City guidelines and standards. (5) Leeward East should be required to dedicate the necessary easement along its eastern boundary of sufficient width to adequately accommodate and buffer the proposed access trail to the Guemes Channel trail. There should be a minimum 20' NGPE between the trail and proposed development with no planted species having a mature height greater than 30'. (6) The park impact fee for each approved lot/unit

should be doubled with the proceeds going toward the Ship Harbor Interpretive Reserve. (7) Additional open space should be required.

Applicant: Mr. Ron Hoelscher, 1020 Geneva Street, Bellingham referred to his February 25, 2009 letter responding to appeal issues. In addition, Mr. Hoelscher said regarding planting, they are working with the Department of Fish and Wildlife (WSDFW) and will provide for gravel or sand on an annual basis; this will be included in the restrictions. They will work with the City, WSDFW, and the Port to accomplish the planting requirements. Leeward Partners are moving forward with the development of the west side, specifically the hotel. There will be no view obstruction from their project; the density is equivalent to San Juan Passage and is compatible with the neighborhood. Mr. Randy Cox, 702 Kirkland Way, Kirkland, pointed out that the residential component is less dense than San Juan Passage, installation of the utility road equal to fire lane dimensions is required, and the existing vegetation will remain in place.

Questions followed from Councilmembers. Mr. Petrish asked if there would be view blockage; Mr. Measamer said existing vegetation will be evaluated onsite; healthy trees and shrubs will be saved; view blockage is possible from the vegetation that's retained or planted. WSDFW will apply strict conditions to the vegetation plan. The Department and the City's consulting biologist will identify the specific spawning area; vegetation will be planted to correspond with those areas. Mr. Measamer also pointed out that Leeward East isn't involved in the beach restoration or plantings; those requirements correspond with the Guemes Channel Trail shoreline permit.

Mrs. Richardson discussed using the Leeward West amenities as justification for approval of Leeward East. Mr. Brad Furlong, City Attorney, said that if the applicant will use amenities which are being constructed as part of the other project as meeting the requirements for this conditional use permit, the City will have to require that at least those elements of the other project be constructed contemporaneous with the project that's under review; they are mitigating amenities that are required for approval of the conditional use permit and they have to be constructed as part of the Leeward East project. These items can be referenced as conditions. Mr. Hoelscher offered that they may have to install temporary parking until the permanent parking is in place.

Mr. McKeown asked about the trail/cul-de-sac/Edwards Way connection. Mr. Fred Buckenmeyer, Public Works Director, said that based on design drawings, it will be a tight fit between the retaining wall, the cul-de-sac sidewalk to be installed, and the trail. No design level drawings are available at this time. Discussion followed regarding the bus parking – a requirement of Leeward West.

Mrs. Pickett discussed the reservations expressed by the third-party engineer, Geo Engineers. In response, Mrs. Pickett proposed Condition # 28: The installation of the retaining wall of cylinder piles shall be in the first phase of construction and shall be bonded for the entire cost of the project before a building permit will be issued." The applicant indicated assent to the added condition.

Mr. Adams asked where the park and public restroom are located in Leeward East. Mr. Measamer explained that a public restroom is not part of this project. Mr. Adams asked before a decision is made, the restroom and park location be identified and how that would connect to Leeward East. Mrs. Richardson indicated a 5,000 square foot landscaped park is indicated on the drawing. Mr. Adams also expressed concern over the close proximity of the trail to homes in Leeward East.

Mr. Turner discussed the appellant's request to increase the fire lane setback to 20'; he asked Council to consider that request. He also suggested increasing the setback on the east side. Absent complete engineering, Mr. Turner asked how the review process will proceed. Mr. Measamer replied that the City will hire a consultant to review the applicant's submittal; current engineering is at a reconnaissance level. The next step is complete engineering drawings to be submitted to the Building Department for third party review. A proposed project condition requires the consulting geotechnical engineer provide inspection services throughout the entire construction process.

On a question from Mr. McKeown, Mr. Measamer explained that the applicant is not proposing a commercial marine component for the east side. The application is subject to current Comp Plan

recommendations regarding the CM zone. Mr. McKeown suggested that both projects be built and redesigned and put in place contemporaneously. In response to Mr. Petrish, Mr. Furlong considered both projects as separate applications. Discussion followed regarding permit time limits and extension requests and what constitutes substantial progress, location of the planting; setbacks from the paved area and residential building; location of the trail at the east property line; who develops the trail; tidelands owned by the Port; and establishing the OHWM. Councilmembers identified specific appeal/project conditions and concerns. Mrs. Pickett suggested height of condo "B" rising to elevation 50, increased setback from the trail, and a 20' buffer along the trail to the overlook. Mrs. Richardson supported using the fire lane and the trail in the same location; 20' setback adjacent to residences and 20' setback from the waterfront trail to the buildings; supported # 6 appeal issue regarding impact fees; and suggested including the Leeward West 15 public parking spaces and restroom requirement as a condition of Leeward East. Mrs. Richardson also asked for clarification on participation in the Oakes Avenue intersection improvements. Further, Condition # 21 should read the exterior lighting shall be shielded to prevent glare at the shoreline and nearby residential properties; Condition # 22 should clarify that the Planning Commission will approve the fire lane design; clarification on Condition # 34 regarding setback and lot size consistency with the San Juan Passage project; Condition # 25 parking within the cul-de-sac language is unnecessary, and a definition of extension of the trail through to its connection with the trail to the west is needed; Condition # 27 should clarify that a necessary easement shall be granted for the public trail at the east property line and the improvements shall be constructed by the applicant. Mrs. Richardson also discussed the method for measuring building height; transfer of ownership of the parcel adjacent to the Ship Harbor wetland; and all easements and property transfers to the City of Anacortes pertaining to either or both of the Leeward projects must be fully executed and recorded prior to any construction of the project. Mr. Turner would like to see the setback from the water to the condominiums increased to 20' and an increase in the setbacks on the San Juan Passage side where the trail is located.

After discussion, Mr. Furlong recommended that the Planning Director draft additional/revised conditions and submit those to the two appellants, the applicant, and Council with the next Council packets.

At approximately 10:00 p.m. Mayor Maxwell adjourned the regularly scheduled meeting of March 2, 2009.