



City Council Minutes – April 20, 2009

At 7:30 p.m. Mayor Maxwell called the regularly scheduled meeting of April 20, 2009 to order. Roll call found present Nick Petrish, Erica Pickett, Brad Adams, Bill Turner, Cynthia Richardson, and Brian Geer. Absent: Kevin McKeown. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meeting

Mr. Geer and Mrs. Richardson pointed out typographical errors. With those corrections, Mr. Geer moved, seconded by Mr. Adams, that the minutes of April 6, 2009 be approved as if read. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, and Petrish. Motion carried.

Citizen Hearings

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

Mayor/Council Communication

Proclamation: Mayor Maxwell read from a document proclaiming Friday, May 1, 2009 as Silver Star Banner Day in the City of Anacortes. The Silver Star Families organization honors the commitment of American's men and women in the Armed Forces. The Proclamation reads, in part, "The Mayor and City Council encourage everyone to honor the wounded and ill soldiers of the City of Anacortes and show their appreciation along with the Silver Star Families of America and honor their commitment to our wounded Armed Forces members."

Skagit Valley Tulip Festival Presentation: Nancy Jankelson

Ms. Nancy Jankelson, with the Skagit Valley Tulip Festival, presented the Mayor and Council with the 2009 Tulip Festival poster in appreciation of the City's support for this successful annual event. Happily, the tulips are in bloom.

Conditions: Leeward East Conditional Use and PUD

Mr. Ryan Larsen, Director of Planning, reported that on March 16, 2009 the City Council directed staff to revise Planning Commission and staff-recommended conditions on both the Leeward East Planned Unit Development and Conditional Use applications. Mr. Larsen shared those revisions with the applicant; in a March 27, 2009 letter, the Leeward representatives objected to proposed conditions 17, 26, 31, 35, 37, and 38. After review of the March 27th material, Mr. Brad Furlong, City Attorney, recommended amending several conditions. Mr. Larsen summarized the City's response in an April 15, 2009 memorandum with revisions to conditions 17, 26, 35, 38, together with an additional revision to # 38 relative to park impact fees. The closed record appeal was reopened to discuss the revised conditions only.

The first appellant, Mr. Ross O. Barnes, 1004 7th St., speaking for himself and Evergreen Islands, had no objections to proposed conditions 17 and 26; however, Condition # 35 should be retained as originally proposed. The unusual configuration of the building should require that additional measurements be taken. Condition 37 should remain as originally proposed. Based on the applicant's opposition to connecting trails, Mr. Barnes said that it is essential to put the 20' tract along the east property line in a separate tract. Also, the original proposal for Condition 38 relative to park impact fees should be retained.

The applicant, Mr. Ron Hoelscher, 1020 Geneva St., objected to condition 36 dealing with open space. They object to the 20' setback for the open space, suggesting that condition would cause the loss of 3 lots. He does not believe that the Leeward East project would impact the area to the degree that this setback should be required. This condition, according to Mr. Hoelscher, violates State Law Chapter

82.02 and violates constitutional rights, including those pertaining to due process, and protection from taking without compensation. Further, he said there is no impact from the development for which mitigation would require a public trail on the Leeward property. The trail is a foot path that will not be used that often and will not require that size buffer.

The City Attorney responded to comments from Mrs. Richardson regarding statutory requirements to provide esplanades along the waterfront in the CM Zone; open space dedication as a standard PUD component; and conditional use criteria authorizing Council to protect the privacy of individuals occupying residences in this project as well as those citizens using the trail and appropriate conditions. Mr. Don Measamer, Assistant Planning Director, explained to Mr. Turner that, prior to any permit issuance, the applicant will be required to provide a benchmark survey. With regard to the applicant's objection to the 20' setback, the City can require that within the PUD those spaces shall be maintained as open space and not developed, thereby creating a separation between pedestrian paths and buildings. These are amenities that will be found valuable by Leeward East residents. After discussion, Mr. Geer moved, seconded by Mrs. Pickett, to approve the Leeward East Conditional Use Application and Preliminary Development Plan (PUD) subject to corrected recommended conditions and to conditions outlined in an April 15, 2009 memorandum from Ryan C. Larsen to the Mayor and City Council. Questions followed regarding park fees, height, and homeowner association requirements. Mrs. Richardson asked for a moment to review the revision to the park impact fee condition. Mr. Geer called for the question. Vote: Ayes – Adams, Turner, Richardson, Geer, Petrish, and Pickett. Motion carried.

Consent Agenda

Mr. Turner moved, seconded by Mr. Geer to approve the following Consent Agenda items. Vote: Ayes – Turner, Richardson, Geer, 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 April 9, 2009 and April 16, 2009 are approved for payment as of this date April 20, 2009.

Claims Warrants

Apr 2009: Warrant Numbers 50502 through 50669 in the total amount of \$718,214.41

EFT

Apr 2009: EFT Number 50495 through 50501 in the total amount of \$2,140.54

Payroll for April 20, 2009 in the total amount of \$521,095.66

Warrant Numbers 33448 through 33498 in the total amount of \$46,690.47

Direct Deposit Numbers 30492 through 30662 in the total amount of \$289,845.20

EFT Numbers 975 through 981 in the total amount of \$184,559.99

In the same motion:

Council adopted **Ordinance No. 2798** entitled "An Ordinance Vacating a Right-of-Way of Certain Portions of "A" Avenue, Lot 11, Block 243, Map of Anacortes, Records of Skagit County, Washington;" and

Approved Street Fair Applications: (1) Anacortes Farmers Market, every Saturday from May 23rd through October 10th, "R" Avenue between 6th Street and 7th Street, and the alley between 6th Street and 7th Street; ; (2) Anacortes Waterfront Festival, May 16th and May 17th, 9th Street from "Q" Avenue to the north parking area at the Port of Anacortes; and (3) Oyster Run, September 27, 2009, several street closures with parking restrictions, and specific Public Works services.

Task Order Agreement: Old Brook Lane/Semrau Engineering

Mr. Fred Buckenmeyer, Public Works Director, presented a proposed Task Order Agreement with Semrau Engineering for preparation of construction drawings for the South Fidalgo Bay Road/Old Brook Lane project. The Public Works Department proposes to modify the design for roadway improvements within Short Plat ANA 06-001 (Old Brook Lane and South Fidalgo Bay Road) and extend the design to

the west and north through Short Plat No. 18-85 to connect to South Fidalgo Bay Road. The project will create approximately 1,000 linear feet of new roadway design and modify the design for approximately 1,200 linear feet of roadway. A critical areas analysis and delineation are complete, and all required permits are in place. The project is funded by Skagit County Distressed County Grant Funds issued in 2008. The serviceable roadway will have a gravel surface through the cul-de-sac to Fidalgo Bay Road. Questions followed regarding future development in the area, safety issues, and funding for the Sharpe's Corner roundabout. After discussion, Mrs. Richardson moved, seconded by Mr. Geer, to award the South Fidalgo Bay Road/Old Brook Lane Task Order Agreement to Semrau Engineering and Surveying, PLLC in an amount not to exceed \$46,700.00. Vote: Ayes – Richardson, Geer, Petrish, Pickett, Adams, and Turner. Motion carried.

Norman Brown Fire Station Cell Tower Lease Agreement

Mr. Don Measamer, Assistant Planning Director, discussed the Option and Lease Agreement between the City of Anacortes and New Cingular Wireless now before Council for review. Approximately 250 square feet of City property at 5209 Sunset Avenue (Sunset Avenue Fire Station) will be used for a flagpole cell tower and building addition. Mr. Measamer used an overhead display to show how the cell tower will look from Sunset Avenue and Anaco Beach Road. A Mitigated Determination of Significance for this project was issued by the City in 2006 with proper notice and posting. Over the ensuing years, the applicant and City staff worked together to develop an appropriate project design. With that, Mr. Turner moved, seconded by Mrs. Pickett, to authorize the Mayor to enter into the Option and Lease Agreement with New Cingular Wireless for a flagpole cell tower and building addition at 5209 Sunset Avenue. Mr. Brad Furlong, City Attorney, highlighted key features of the Agreement; he then introduced Ms. Elaine Ward representing AT&T Cingular. Ms. Ward said AT&T is looking forward to working with the City and to providing improved coverage for customers in this area.

Mr. Furlong then addressed comments from Council as follows: page 3: (a) project plans have been approved by the Fire and Building Departments; a full set of plans will be attached to the executed lease agreement. Page 3: (b) will review language clarifying the location of any proposed fence around the control unit; Page 4: will review language regarding increase in antennas rather than in transmission towers. Page 10: (13) will review language clarifying that the storage unit for the fire station will not be removed at the end of the tenancy. After discussion, Mrs. Pickett moved, seconded by Mr. Petrish to table this matter until the next regular Council meeting. Vote: Ayes – Petrish, Pickett, Adams, and Richardson. No – Geer, Turner. Motion carried.

Executive Session (15) Minutes

At approximately 8:30 p.m. the Mayor and Council convened in Executive Session to discuss possible litigation. At approximately 8:45 p.m., the Council reconvened and without taking any further action, the meeting of April 20, 2009 was adjourned.