



City Council Minutes – August 17, 2009

At 7:30 p.m. Mayor Maxwell called the regularly scheduled meeting of August 17, 2009 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. McKeown moved, seconded by Mr. Turner, that the minutes of August 3, 2009 be approved as if read. Vote: Ayes – Petrish, Pickett, Adams, Turner, Richardson, Geer, and McKeown. Motion carried.

Citizen Hearings

No one present wished to speak on items not already on the agenda.

Mayor/Council Communication

Proclamation of Senior Center Month: The Mayor proclaimed September 2009 Senior Center Month in the City of Anacortes. Maxine Lang, president of the Senior Activity Committee at the Senior Center, thanked the City for its support and cooperation to make Senior Center programs possible and help Anacortes serve the more mature members of the community. The Mayor reported that people often ask who can visit the Senior Center. Mrs. Lang affirmed that the Center is open and welcoming to anyone in the community as well as visitors from out of town; membership is not required. A wide range of activities are offered. Anyone over 50 is qualified to become a voting member. Mrs. Lang introduced Senior Center Volunteers Marilou Mallet and John Parker. Mrs. Mallet described how welcome she was made to feel when she moved to town in 2008 and first visited the Senior Center. Mrs. Mallet praised the vast array of activities available for participants and volunteers alike. John Parker described visiting the Senior Center when he first moved to town ten years ago and the collaborative computer teaching program he and his wife Kathy developed between the Senior Center and Island View Elementary School.

Summer Youth Sailing Program: Recreation Manager Dustin South reported on the summer youth sailing program run by the Parks & Recreation Department. The program had to relocate this year because its traditional location was unavailable due to the clean up project underway at the former Scott Paper Mill site. Mr. South thanked Ryan Larsen, Don Measamer, and Erica Pickett for help relocating the program to the City float at the end of 30th Street and the American Red Cross for providing a classroom. Mr. South also thanked the City for its ongoing support of the program which has been very popular for years. The program served approximately 60-70 students ages 10 to 16 this summer. A program for high school students runs in the spring. Registration information will be available in April 2010 for next summer's program. Mrs. Pickett thanked Mr. Geer for helping to make the American Red Cross facility available.

Unfinished Business

Lease Agreement for Verizon Cell Tower at Water Treatment Plant: City Attorney Brad Furlong presented the final draft of the First Amendment to Option and Lease Agreement which amends the terms of the existing lease with Verizon dated March 2, 1993. The amendment is effective retroactively to March 1, 2009 and raises the rent to \$1500 per month for 2009. The rent will then increase 3% per year on March 1 each year for the duration of the lease which will run for an additional 25 years, renewable automatically in five-year increments. The amendment also removes a provision which would have allowed the City to terminate the lease on six months notice for any reason. Verizon will also make a one-time \$10,000 payment in consideration for an unconditional release of any disputes prior to the effective date. Under the accompanying Use Authorization and Consent Agreement, Verizon will sublease the tower to American Tower which will manage the tower and attempt to co-locate other cell providers on the tower. Any additional providers added henceforth will involve additional rent for and require approval by the City. Mrs. Pickett noted that only 60 feet square is being leased which is just enough space for a tower. Mr. Furlong confirmed that the tower and a small utility building are the only structures on the site and any further construction would require full permitting and approval. Mrs. Pickett asked for confirmation that the allowed uses are strictly limited by the lease; Mr. Furlong confirmed. Mr. Petrish clarified that this lease is for a different tower from the T-Mobile tower and that the Verizon tower is

located at the City's Water Treatment Plant in Mount Vernon, not within the City limits, which it has been for many years. Mr. Adams asked what would happen if technological developments make cell towers obsolete. Mr. Furlong responded that Verizon would have to pay through the end of the five-year lease term in progress at that time. Verizon also has the right to upgrade its equipment. Mrs. Richardson asked about the leasehold excise tax, which brings a small amount of revenue back to the City with the bulk going to the State. Mr. Turner observed that the City has always been willing to help find City property that is appropriate for the location of cell towers and that the Water Treatment Plant is such a site. Mr. Geer asked if each five-year renewal has to come back to Council for action. Mr. Furlong replied that the renewals are automatic unless Verizon gives appropriate notice that it does not want to renew. Mr. Geer moved, seconded by Mrs. Pickett, to approve the First Amendment to Option/Lease with Verizon and the Use Authorization and Consent Agreement with American Tower. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, McKeown and Petrish. Motion carried.

Consent Agenda

Mr. Adams moved, seconded by Mr. McKeown, to approve the following Consent Agenda items. Vote: Ayes – Adams, Turner, Richardson, Geer, 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 August 6, 2009 and August 13, 2009 are approved for payment as of this date August 17, 2009.

Claims Warrants

August 2009: Warrant Numbers 52055 through 52277 in the total amount of \$1,222,450.91

EFT

August 2009: EFT Number 52049 through 52054 in the total amount of \$1,986.54

Prewritten Claims

August 2009: Warrant Number 52048 in the total amount of \$2,992.00

Payroll for August 5, 2009 in the total amount of \$749,147.02

Warrant Numbers 33851 through 33918 in the total amount of \$66,140.99

Direct Deposit from 31758 through 31951 in the total amount of \$509,528.66

EFT Numbers from 1014 through 1018 in the total amount of \$173,477.37

Public Hearing: Vacation of a Portion of Alley - Mooney

Mr. Turner disclosed that he had previously spoken with Mr. Mooney about this vacation request but did not feel he had a conflict. Mr. Furlong confirmed that there was no reason for Mr. Turner to recuse himself from the discussion. Public Works Director Fred Buckenmeyer presented the petition to vacate a portion of public alley abutting Lots 8-13 in Block 40 in Anacortes between 11th and 12th Streets at O Avenue. The Board of Adjustment held a hearing on the petition on July 7, 2009 and recommends approval. The City Council passed Resolution 1781 setting the current public hearing. The petitioners are Pat Mooney and Development Services of America (aka Sebo's). The remainder of the alley in this block was vacated years ago. The Mayor opened the public hearing. Petitioner Pat D. Mooney, 2010 41st Street, testified that the alley in question is a 75-foot stretch directly behind his store (Piston Service) which drivers commonly treat as a through way but in fact it dead ends in private property that Mr. Mooney leases out and the tenant does not want vehicles driving through it. When cars discover they can't pass through they back up and turn around on Mr. Mooney's lot or back out onto O Avenue which is unsafe. The Mayor noted that the entrance signs on Mr. Mooney's building do invite traffic into the alley. Mrs. Richardson noted that state law requires the alley to be split between adjacent landowners, in this case Piston Service and Sebo's. Mr. Mooney stated that Sebo's has declined any interest as long as their access is not blocked. Mrs. Richardson continued that City policy allows Mooney, the remaining interested property owner, to purchase the entire piece. Mr. Furlong clarified that by law the property must go to both owners but Sebo's can then deed or sell it to Mr. Mooney. Mrs. Richardson observed that it can essentially be a simultaneous transaction. Mr. Furlong stated that the alley is only vacated if and when the entire amount

is paid by one party or another. Mr. Geer asked what Mr. Mooney intends to do to control traffic down the alley. Mr. Mooney said he will use it for parking but no chain will be put up. As no one else present wished to testify, the Mayor declared the public hearing closed. Mrs. Richardson suggested installing a Dead End/No Outlet sign to curtail the traffic. Mr. McKeown agreed that the current configuration is a traffic hazard. Mr. Turner asked for clarification of how the two halves of the alley are to be vacated. The Mayor stated that it is possible to vacate only half of an alley. Mr. Furlong stated that the current petition from both adjoining landowners requests a vacation of both halves. Mr. Furlong observed that it is not uncommon for one adjoining owner to bring in a check for the full amount, having already made an agreement with the other adjoining owner who is agreeable to the vacation but doesn't want the property and agrees to deed or sell it to the other property owner as soon as the vacation is approved. Mrs. Pickett noted Sebo's only requested that its access not be blocked and asked if the City needs to protect that access as a condition of the vacation. Mr. Furlong said those details get worked out between the petitioners. Mr. Buckenmeyer responded to an earlier question about the value of the property, which is \$30,996 when calculated per City code. Mr. Buckenmeyer also stated that if Council approves the petition an ordinance will come back before Council to finalize the vacation once full compensation is received. Mr. Geer moved, seconded by Mrs. Richardson, to approve the alley vacation. Vote: Ayes – Turner, Richardson, Geer, McKeown, Petrish, Pickett and Adams. Motion carried. The Mayor concluded that an ordinance will appear on the consent agenda at the next regular City Council meeting.

Resolution: Skagit County Community Action Agency Contract Amendment

Planning Director Ryan Larsen presented a resolution to amend the City's 2009 contract with Skagit County Community Action Agency now that the City's total allocation amount from HUD has been determined (\$106,238). The City typically gives 15% of its HUD allotment to SCCAA. Mr. Pickett moved, seconded by Mr. Adams, to approve **Resolution No. 1783**, A Resolution Authorizing a Contract Amendment with the Skagit County Community Action Agency. Vote: Ayes – Richardson, Geer, McKeown, Petrish, Pickett, Adams and Turner. Motion carried.

Resolution: Updating Petty Cash and Change Funds

Finance Director Steve Hogle presented a resolution to update the amounts in the Petty Cash and Change Funds. Mr. McKeown moved, seconded by Mr. Turner, to approve **Resolution No. 1784**, A Resolution Updating Petty Cash and Change Funds and Amending Section of Resolution No. 1627 Adopted March 3, 2003. Vote: Ayes – Geer, McKeown, Petrish, Pickett, Adams, Turner and Richardson. Motion carried.

Fiscal Impact Analysis of I-1033

The Mayor noted that information about Initiative I-1033 is available on line on the Association of Washington Cities website (www.awcnet.org). Mr. Hogle presented a brief overview of the content and potential impact of Initiative I-1033 which has qualified to appear on the statewide ballot this fall. The General Fund revenues of cities, counties and the State would be affected. In effect, beginning in 2010 General Fund revenue for each taxing district would be capped at 2009 levels, adjusted for inflation and population growth. Anything collected over that adjusted cap would have to be refunded via property taxes the following year. No credit would be given for years in which General Fund revenue was lower than the adjusted cap. Mr. Petrish asked what the actual effect would be in round numbers. Mr. Hogle noted that 2009 has been a very lean year for spending so projecting from the first half of 2009, our 2010 revenue would cap at \$10,288,000. Our General Fund revenue has not been that low since 2004. Mrs. Pickett asked how that compares to 2007 or 2008. Mr. Hogle reported that 2008 General Fund revenues were \$11.4M, 2007 were \$11.6M, 2006 were \$11.1M, 2005 were \$11.6M. The Mayor summarized that 2009 has been our most difficult revenue year in a dozen years and I-1033 would set our revenue at this point. Mrs. Richardson observed that General Fund revenue includes sales tax, property tax, leasehold excise tax, and so forth and those numbers are all lower this year than in past years, but if we bring in more than the 2009 level in future years we have to reduce the *property tax only* the following year to give back the excess. Mr. Hogle confirmed that the initiative specifically aims to limit property taxes. Mrs. Richardson noted that there is no incentive to increase our sales tax base if I-1033 passes because we'll have to give back any increased sales tax revenue via property tax. The Mayor noted that public needs to determine what level of services they want and how they want to fund them. Mr. Turner asked if this initiative has received any legal challenges already. None were noted by

those present. Mr. Adams noted that Colorado tried a similar initiative but subsequently scrapped it. Mr. Adams agreed with Mrs. Richardson that I-1033 discourages efforts to increase the retail sales tax base and observed that funds and departments that rely solely on property taxes such as libraries and parks will be hurt the most. Mr. Adams stated that I-1033 would make it difficult to maintain the current level of service. Mr. Furlong reminded that the Public Disclosure laws restrict the use of public facilities to support or oppose initiatives and referenda. However, the City can advertise a hearing on an issue such as this one to take testimony from the public. There is also a formalized process the Council may invoke if it chooses to go on record taking a position on an initiative. Mrs. Richardson observed that currently in good times as revenues increase jurisdictions can increase services but I-1033 would preclude that; excess revenues would always have to be rebated rather than spent. Mr. Hogle agreed and noted that under I-1033 if revenues fall short jurisdictions could use cash reserves to pay for services but could not bank excess revenues during good years to use during lean years. Mrs. Richardson observed that under I-1033 jurisdictions would not be able to create any future cash reserves. Mr. Hogle clarified that the only way to do that would be to reduce expenditures. The Mayor encouraged members of the public to educate themselves on the initiative and stated that the City will continue to provide information.

Library Summer Reading Program Update

Children's and Young Adult Librarian Doug Woods gave a presentation on the library's summer reading program which is designed to keep kids reading during summer vacation and introduce reading to pre-school children so all are school-ready in the fall. This has been the biggest year ever for participation, notably for teens. Mr. Woods spent some time in the high school and middle school last year and it was determined that high school students heading into Honors or Advanced Placement English were required to participate in the summer reading program. Over 500 students participated overall. The program also provided many activities for younger children, including the Tales for Tails program in which kids read books to service dogs. Singers and musicians also performed and incorporated literacy skills in their performances. The library is reaching out to teens and encouraging them to use the library as an evening homework center during the school year. Mrs. Richardson praised the library's efforts to reach out to the schools. Mr. Woods described another partnership with the Anacortes School District to use staff funded by the District's Gates Grant and space provided by the library to provide story time for toddlers. The program has been so popular that they have had to move to the large meeting room at the library. Mr. Woods will continue working to expand the program which provides essential literacy skills for toddlers and is very much appreciated by their parents.

Library RFID Update

Mr. Woods provided a status update on the library's RFID (radio frequency identification) project by which patrons will check out their own materials. This will reduce lines at the library circulation desk and free up staff time to provide patrons with more in depth service. The RFID system will go live September 1, 2009. Over 90% of the books are tagged now. Tagging of videos and music CDs is underway.

Safety Committee Update: The Cost of Impatience Video

Mr. Buckenmeyer introduced Wil Ludemann, Fleet Services Manager and chairperson of the Safety Committee, who presented a safety videotape created by the committee. Sakuma Farms, the Washington State Dept. of Labor & Industries and even organizations out of state are now using the video. Mr. Ludemann noted that many of the previously available safety videos were outdated, dull and hence disregarded so the Committee decided to make something more useful. The topic is "asking for help", the title is *The Cost of Impatience*. Different City departments provided writing and acting and recent Anacortes High School graduate Chris Hyde produced the video. Mr. Ludemann thanked the Mayor and department management for their support. Mr. Turner suggested that the City should offer the video to the contractors in town to show to their employees. The Mayor again thanked Mr. Ludemann for chairing the Safety Committee and underscored how important it is for all City employees to work safely.

Executive Session – Fifteen (15) Minutes

At approximately 8:50 p.m. the Mayor, Council and City Attorney Brad Furlong convened in Executive Session to discuss potential litigation for approximately fifteen minutes. At approximately 9:05 p.m., the Council reconvened and without taking any further action, the regularly scheduled meeting of August 17, 2009 was adjourned.