



City Council Minutes – October 4, 2010

At 7:30 p.m. Mayor Maxwell called the regularly scheduled Anacortes City Council meeting of October 4, 2010 to order. Roll call found present: Kevin McKeown, Erica Pickett, Brad Adams, Bill Turner, Cynthia Richardson and Brian Geer. Nick Petrish was excused.

At approximately 7:31 p.m. the Mayor announced that as per the published agenda the Mayor and City Council would convene in Executive Session for approximately fifteen minutes to discuss contract negotiations with the police FOP and no action would be taken. At approximately 7:41p.m. the regular session resumed. The meeting continued with the Pledge of Allegiance.

Minutes of Previous Meeting

Mrs. Richardson moved, seconded by Mr. Turner, that the minutes of September 20, 2010 be approved as if read. Vote: Ayes – Pickett, Adams, Turner, Richardson, and Geer. Abstain: McKeown. Motion carried.

Citizen Hearings

Sandra Spargo, 1408 11th Street, asked the Council to delay signing the Tethys contract and to hold a public hearing before signing it. She acknowledged that a public hearing is not required for this matter but said a hearing is allowed and she encouraged Council to hold one. She asked if Council had consulted the WSU extension office about irrigation water and noted that the summer of 2009 was a record irrigation year. Ms. Spargo provided handouts from research at the University of Washington regarding potential effects of climate change on fresh water including the Skagit River. She also said bottled water is losing favor with consumers. She again asked Council to postpone signing the contract.

Jason Kelley, 817 Dana Drive, Sedro Woolley, seconded Ms. Spargo's comments. Mr. Kelley said he was testifying from Skagit County because he felt the contract had implications for all of the cities in the county and warranted a public hearing and great consideration.

Mayor Maxwell reiterated the City's role as a proprietary water utility and stated that the 1996 Memorandum of Agreement granted Anacortes rights to 55 MGD of Skagit River water of which the city only uses an average of 21 MGD right now, or less than one half of one percent of all the water in the river. He added that Anacortes water provides economic development and opportunity in two counties. The Mayor supported the Council's vote on the Tethys contract and welcomed the economic opportunity the project could provide. He concluded that the City followed the letter of the law every step of the way and no public hearing is ever used for water contracts.

Mayor/Council Communication

Proclamation: Domestic Violence Awareness Month

Mayor Maxwell read a proclamation declaring October Domestic Violence Awareness Month in Anacortes and urged citizens to work together to eliminate domestic violence from the community.

Proclamation: United Way Campaign Months

Mayor Maxwell read a proclamation declaring September, October and November United Way Campaign months in Anacortes and encouraged citizens to volunteer and contribute financially to the United Way.

Appointment to Library Board: Diane Munce

Mayor Maxwell asked Council to appoint Diane Munce to a term on the Anacortes Library Board of Trustees for a term expiring December 31, 2012. Library Director Cynthia Richardson welcomed Ms. Munce and spoke strongly in favor of her appointment. The Mayor also recognized new Library Board member Jim English. Mrs. Richardson moved, seconded by Mr. McKeown, to approve the appointment of Diane Munce to the Anacortes Library Board of Trustees. Vote: Ayes – Adams, Turner, Richardson, Geer, McKeown and Pickett. Motion carried.

Appointment to Historic Preservation Board: Kay O'Connell

Mayor Maxwell asked Council to appoint Kay O'Connell to a term on the Anacortes Historic Preservation Board of Trustees for a term expiring October 31, 2013. Museum Director Steve Oakley spoke on behalf of Historic Preservation Board Chairwoman Susan Rooks in favor Ms. O'Connell's appointment. Mr. Turner moved, seconded by Mr. McKeown, to approve the appointment of Kay O'Connell to the Historic Preservation Board. Vote: Ayes – Turner, Richardson, Geer, McKeown, Pickett and Adams. Motion carried.

AWC Presentation on Initiatives 1100 and 1105

Planning Director Ryan Larsen introduced Candace Bock, a lobbyist for the Association of Washington Cities (AWC), to explain initiatives I-1100 and I-1105 which will appear on the 2010 General Election ballot. Ms. Bock said this was a record year for initiatives and there will be six on the ballot; initiatives I-1100 and I-1105 have to do with liquor. She clarified that AWC has not taken a position on any of the initiatives and their mission is simply educating cities and citizens about them. Ms. Bock explained that cities benefit from liquor sales in two ways, receiving a share of profits from state liquor stores and a share of liquor taxes, both of which are distributed to cities on a per capita basis. Cities share 40% of state liquor profits and 28% of state liquor taxes. She said Anacortes received \$110K in liquor profits and nearly \$79K in liquor taxes in 2008. She then provided summary figures showing how these profits fund state and county budgets as well.

Regarding the initiatives, Ms. Bock stated that both initiatives would take the state out of the liquor business, close state liquor stores and close the state liquor distribution center. However, I-1100 would allow retailers to also be distributors whereas I-1105 would require retailers to purchase from separate licensed distributors. I-1100 would allow volume discounts on liquor, beer and wine whereas I-1105 would allow volume discounts on liquor only. I-1100 would allow any current beer or wine retailer to sell liquor whereas I-1105 would direct the Liquor Control Board (LCB) to develop liquor licensing criteria. I-1100 would leave the current liquor tax structure in place whereas I-1105 would repeal all liquor taxes and direct the LCB to recommend to the legislature a new tax structure that would generate \$100M in additional revenue over five years. Ms. Bock added that the legislature would not be required to enact any taxing legislation and that if I-1053 passes the legislature would need a two-thirds majority to enact any new taxes.

Ms. Bock then addressed the potential impacts on cities. I-1100 would eliminate liquor profits, would allow for more liquor outlets, and may increase liquor consumption (the Office of Financial Management estimates a 5% increase). I-1105 would have as similar impacts but would also eliminate liquor taxes which the legislature might or might not replace. OFM estimates the fiscal impact of either initiative would be a large decrease in revenue to cities and counties, slightly less than \$200M in 2011-2015 for I-1100 and slightly more than \$200M in 2011-2015 for I-1105. The changes would take effect in stages but profit sharing would end in mid-2011 (costing cities an estimated \$7.34 per capita) and under I-1105 liquor taxes would end in 2012 but liquor would be subject to retail sales tax if the legislature doesn't enact new liquor taxes. Regarding potential law enforcement impacts, Ms. Bock said there are currently 315 state liquor stores but there could be 3000-5000 outlets statewide if either initiative passes; Anacortes could have as many as 23 liquor outlets instead of the one it has now. She said the LCB currently achieves a 94% compliance rate at state stores and a 76-84% compliance rate at stores that sell beer and wine (compliance means not selling to under age or obviously intoxicated patrons). Under privatization, the LCB anticipates the same level of funding but with more outlets the enforcement impacts are unclear.

Ms. Bock said many people ask why there are two initiatives. She said I-1100 is called the "Costco initiative" because Costco was the major sponsor and I-1105 was funded primarily by two large liquor distributors. If both initiatives pass the legislature could resolve conflicts between them with a two-thirds vote. If the legislature doesn't do that, the matter will end up in court. She said polls have shown conflicting predictions and passage of either initiative is still in question. Mr. McKeown observed that these are not citizen generated initiatives, they are big business initiatives. Ms. Bock said all the initiatives this year are corporately funded one way or another. She recommended that cities educate voters and prepare during budgeting for potential revenue losses. She offered technical assistance from AWC and

provided several websites that offer more information: www.awcnet.org, www.mrsc.org, www.ofm.wa.gov, www.sos.wa.gov, and www.liq.wa.gov. Mayor Maxwell urged voters to inform themselves about the initiatives and their potential adverse impacts on the cities.

Mr. Adams asked if the current 33% tax on liquor includes state sales tax. Ms. Bock said there is no retail sales tax on liquor right now. Mr. Adams asked if small neighborhood groceries would be allowed to sell hard liquor. Ms. Bock said if they currently sell wine or beer, yes. Mr. Adams said that might not be desirable. Ms. Bock said cities may want to look at zoning changes to address that. Mrs. Richardson asked if the legislature can modify the excise tax structure under I-1100 to make up for lost profit. Ms. Bock said yes. Mr. Geer asked what liquor revenues were in Anacortes in 2009. Mayor Maxwell said they were close to the 2008 revenues presented, about \$200K total. Mrs. Pickett observed that making up \$100-200K of revenue is not easy, it represents \$18M of sales if the city had to make it up in retail sales tax. Mr. Turner observed that I-1100 leaves the tax revenue in place. Mr. McKeown asked if other states have privatized liquor sales and what happened to their enforcement. Ms. Bock said there are no other states to compare to and that Alberta, Canada is the closest case study. OFM used Alberta to estimate the increase in consumption but there are no good projections for enforcement impacts. Mr. Turner asked Police Chief Bonnie Bowers if the department is concerned about enforcement if either initiative passes. Chief Bowers said the department is very concerned and noted that the Bellingham LCB office just consolidated into the Everett office and their staff is spread very thin. Mayor Maxwell thanked Ms. Bock for her presentation.

Mayor's 2011 Budget Message

Mayor Maxwell read his annual budget message to Council. He reported that the proposed 2011 budget is once again balanced and totals \$39,339,415 total, a 3.6% increase over 2010. This includes the privately funded Skyline Marina dredging project and capital expenditures at the Wastewater Treatment Plant; the budget is only .85% larger than 2010 excluding those projects. He said capital expenditures will be limited due to lower real estate excise tax and impact fees and the budget reflects conservative discretionary spending due to sales tax and building permit revenues that are up over last year but still well below historic norms. The Mayor said the city is fiscally conservative and maintains cash reserves particularly in the critical general fund. He added that Anacortes is among the lowest taxing cities in Skagit County and reminded that property taxes are the main source of revenue for the general fund.

Summarizing the budgets for each department, the Mayor outlined the City's expenditures on social services. He said the Police Department is working to achieve efficiency while continuing to achieve declining crime rates. The Fire Department will improve communications and maintain a high level of training while containing costs. He said the slowdown in the real estate industry has diminished impact fees and real estate excise taxes that fund streets and parks which means smaller number of public works projects. The City will try to make up for that with grant funding for streets and sidewalks. In the water fund, the initial phase of the Water Treatment Plant expansion will begin in 2011 and the replacement of the North Texas Road waterline is budgeted. In the wastewater fund, the infiltration reduction project will continue and the budget funds Phase II of the PLC at the WWTP as well as implementation of energy recovery technologies. In the storm drainage fund cash reserves will fund projects at Pennsylvania Avenue and Anaco Beach Road as well as storm outfall reconstruction. In the sanitation fund replacement dumpsters will be purchased. The Equipment Rental fund will replace aging equipment including a street sweeper, three police cars, a WWTP utility truck and mobile air compressor. Facilities will continue its successes at saving water, energy and the resulting expense. The library will reduce staff computers, replace some periodicals with donated materials and close over holiday weekends to save costs but continues to be an increasingly popular destination for residents and visitors. The legal/courts budget includes the contract City Attorney, Public Defender and Prosecuting Attorney and the Court continues its very busy schedule. Planning and Economic Development has budgeted \$25,000 for the Anacortes Futures Project and \$10,000 for the wayfinding project and will continue to support the CDBG program. The Building Department budget is very similar to 2010. Human Resources focuses on prevention and training to manage risk and reduce liability. The City is pursuing a Well City designation from AWC to save 2% on health insurance premiums, a significant savings. Multiple-year contracts are in place with Teamsters Local 231, IAFF Local 1531 and the Noncommissioned Police Guild. Binding arbitration with the Commissioned Police Guild is scheduled for January 2011. The

Museum will continue to provide new exhibits and research materials at the Carnegie site and develop exhibits at the Maritime Heritage Center. Parks and Recreation will maintain its 2010 level of service and staffing while working to be even more cost effective. REET funding will allow continued work on the Ship Harbor Interpretive Preserve Trail and the Guemes Channel Trail.

The Mayor concluded that the current economy has been challenging to the City and to its citizens and he is proud to present a balanced budget. He thanked the City Council, City staff and citizen volunteers for working together to achieve a high level of service and maintain a strong infrastructure within the fiscally conservative budget.

Consent Agenda

Mayor Maxwell removed Item (d), Settlement Agreement with Technical Systems, Inc., from the Consent Agenda. Mr. Turner moved, seconded by Mr. Adams, to approve the following Consent Agenda items. Vote: Ayes – Richardson, Geer, McKeown, Pickett, Adams and Turner. 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 September 23, 2010 and September 30, 2010 are approved for payment as of this date October 4, 2010.

Claims Warrants

September 2010: Warrant Numbers 57457 through 57607 in the total amount of \$429,015.84

In the same motion Council:

Accepted as complete the North Texas Road Waterline, Phase I project (04-051-WTR-005) by Welch Brothers Construction, Inc;

Adopted **Resolution 1808** setting a public hearing date of November 1, 2010 for a street vacation (Meyers); and

Approved a Street Fair Application for the Anacortes High School Homecoming Parade on October 15, 2010 from 3:00 to 4:00 p.m.

Public Works Director Fred Buckenmeyer presented Item (d), the TSI settlement agreement. He said this issue had been reviewed several times by the Council Finance and Public Works committees in the past two years. He recapped that in November 2008 water meter reads for two regional customers were found to have problems due to programming errors by TSI. Two separate companies verified the error which overcharged two regional customers; the error was corrected in 2009. Mr. Buckenmeyer advised that legal counsel Foster Pepper has been involved in resolving the matter. A settlement offer was recently received that will net the City \$155K; Council was provided a copy of the agreement under which TSI will pay the City \$197K and the City will pay TSI \$42K in outstanding fees for a separate project it was performing at the WWTP when the programming error was discovered. Mr. Buckenmeyer said staff and legal counsel recommend approval of the settlement. Mr. McKeown moved, seconded by Mr. Turner, to authorize the Mayor to sign the settlement agreement with Technical Systems, Inc. Mr. Adams and Mr. McKeown thanked Mr. Buckenmeyer for his ongoing efforts to resolve the issue. Vote: Ayes – Geer, McKeown, Pickett, Adams, Turner and Richardson. Motion carried.

Contract Award: 6th Street Paving Project

Mr. Buckenmeyer explained that this project will include an asphalt overlay of 6th Street from K Avenue to M Avenue and repair of concrete paving on 6th Street from M Avenue to O Avenue as well as four ADA sidewalk ramps. Four bids were received and SRV Construction, Inc. was the low bidder at \$86,817.95. He said staff recommended awarding the contract to SRV who was also the successful prime contractor on the recent roundabout project. Mr. Buckenmeyer added that this phase of the project was separated from the recent work between I and J Avenues because of the Federal funding for the latter. Mr. Geer asked why the Engineer's Estimate is lower than the actual bids. Mr. Buckenmeyer explained that staff has been attempting to bring the estimates more in line with the current bidding climate. Mr. Geer moved, seconded by Mr. McKeown, to award the contract to SRV Construction, Inc. In response to a question

from Mr. Adams, Mr. Buckenmeyer clarified that asphalt overlay would not be successful over concrete pavement. Vote: Ayes – McKeown, Pickett, Adams, Turner, Richardson and Geer. Motion carried.

Contract Award: Wastewater Treatment Plant PLC Upgrade Project, Phase I

Mr. Buckenmeyer advised that the current programmable logic controller (PLC) system at the Wastewater Treatment Plant is over 25 years old, that its data load has grown tremendously, and that a new system is needed. He said staff evaluated several companies and recommended award of a contract to Quality Controls Corporation in an amount not to exceed \$166,000. Mr. McKeown asked how long the new system will last. Mr. Buckenmeyer said it will be sufficient for all planned added capacity. Mr. McKeown moved, seconded by Mr. Geer, to approve award of the contract to QCC. Mr. Adams remarked that WWTP supervisor John Franz has said this upgrade will make plant operations much more efficient. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer and McKeown. Motion carried.

Task Order Award: Water Treatment Plant Services through Bidding (HDR)

Mr. Buckenmeyer stated that the City is advertising for bids on the Water Treatment Plant Improvement Project and that the current task order with design engineer HDR expired when the project went out to bid as that task order was through preparation of plans and specifications only. He said the proposed task order is for pre-construction services through the bid date and up to the start of construction. Mr. Buckenmeyer explained that pre-construction services include responding to bidder questions, preparation of addenda if required, evaluating alternative equipment selections, evaluating the sedimentation process (Actiflow) proposals, evaluation of all bid proposals, reference checks and development of a construction management plan. Staff recommended awarding HDR a task order for \$286,180. Mr. McKeown moved, seconded by Mrs. Richardson, to award the task order to HDR. Mr. McKeown asked what economic impact the construction of the plant would have. Mayor Maxwell replied that it is expected to generate 300-400 construction jobs plus sales tax in Skagit County with ripple effects that may generate four to five dollars for every dollar spent. Mrs. Richardson asked if the HDR task order is a lump sum contract. Mr. Buckenmeyer said it is on an hourly basis with a not to exceed figure of \$286,180. Mrs. Richardson asked if a new task order will be issued once construction starts. Mr. Buckenmeyer said yes and added that staff will recommend retaining a separate construction management firm. Vote: Ayes – Adams, Turner, Richardson, Geer, McKeown and Pickett. Motion carried.

Possible Action: Ratify Collective Bargaining Agreement with Commissioned Police Guild

Mayor Maxwell advised that because there was no ratified agreement from the Police Guild this item would be removed from the agenda.

There being no further business, at approximately 8:55 p.m. Mayor Maxwell adjourned the regularly scheduled Anacortes City Council meeting of October 4, 2010.