



## **City Council Minutes – January 18, 2011**

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At 7:30 p.m. Mayor Maxwell called the regularly scheduled Anacortes City Council meeting of January 18, 2011 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. Geer moved, seconded by Mr. Turner, that the minutes of January 3, 2011 be approved as if read. Vote: Ayes – Pickett, Adams, Turner, Richardson and Geer. Abstain – Petrish and McKeown. Motion carried.

### **Citizen Hearings**

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

### **Mayor/Council Communication**

Reappointment to City Improvement Board: Tom Thompson

Reappointments to Museum Advisory Board: Lewis Jones and Libby Walgamott

Mayor Maxwell asked Council to confirm the re-appointment of Tom Thompson to an additional four-year term on the City Improvement Board to expire in April 2014. He also asked Council to confirm the re-appointment of Lewis Jones and Libby Walgamott to additional four-year terms on the Anacortes Museum Advisory Board to expire in December 2014. Mrs. Richardson moved, seconded by Mr. Adams, to approve those three re-appointments and to thank the appointees for their service. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, McKeown and Petrish. Motion carried.

Mrs. Pickett announced the results of the AutoMagic competition for 2010: Westminster Presbyterian Church won in the non-commuter category and Skagit Beat the Heat edged out Westminster Church in the commuter category. She added that almost 23,000 automobile miles were saved by ride sharing, cycling, walking and taking the bus. The Mayor thanked all those who participated.

Mrs. Richardson reported on the grand opening of Anthony's Restaurant on Saturday and said the proceeds (estimated between \$15,000-\$20,000) from the nicely catered dinner were donated to Gentry House and the Boys and Girls Club. Mrs. Richardson thanked the restaurant for its generous gesture and welcomed it to the community. Mayor Maxwell thanked the Port of Anacortes Executive Director and commissioners for their support of this great addition to the business community.

Mr. Adams reported he had attend the memorial service for Ray Sizemore, a 12-year city councilmember who served through 2005. Mr. Adams called Mr. Sizemore a hard working, civic minded local businessman and said he will be missed.

### **Consent Agenda**

Mr. Petrish asked to have Item D removed from the Consent Agenda.

Mr. McKeown moved, seconded by Mrs. Pickett, to approve the following Consent Agenda items. He thanked Larry Brown Construction for a nice job on Pennsylvania Avenue. 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 January 6, 2011 and January 13, 2011 are approved for payment as of this date January 18, 2011.

Claims Warrants

December 2010 and January 2011: Warrant Numbers 58767 through 58942 in the total amount of \$1,027,536.54

EFT

January 2011: Warrant Numbers 58757 through 58766 in the total amount of \$2,880.42

Pre-Written Claims

January 2011: Warrant Numbers 58755 through 58756 in the total amount of \$71,064.52

Payroll for January 5, 2011 in the total amount of \$843,569.51

Warrant Numbers 35513 through 35553 in the total amount of \$45,028.41

Direct Deposit Numbers from 38097 through 38291 in the total amount of \$543,906.19

EFT Numbers from 1223 through 1228 in the total amount of \$254,634.91

In the same motion Council:

- Accepted as complete the Pump Station 13 Improvements project by Razz Construction (Contract 10-003-SEW-003), and
- Accepted as complete the Pennsylvania Avenue – Phase II Construction project by Larry Brown Construction (Contract 06-054-TRN-012).

Regarding the proposed ordinance vacating a portion of 25<sup>th</sup> Street, Mr. Petrish said he had been contacted by the owner of the neighboring dive shop who was concerned about signage. Mr. Petrish asked if signage for the hospital project will be addressed separately from this street vacation ordinance. Mayor Maxwell said yes. Mr. Petrish moved, seconded by Mr. McKeown, to approve **Ordinance 2845** vacating a right-of-way of certain portions of 25th Street Block 2 and a portion of the alley in Block 3 Plat of Hensler's first addition. Vote: Ayes – Turner, Richardson, Geer, McKeown, Petrish, Pickett and Adams. Motion carried.

**Authorize Mayor to Execute TIB Grant Obligation for South Fidalgo Bay Road**

Finance Director Steve Hogle displayed a depiction of the city-owned land in the Fidalgo Bay Road/Old Brook Lane area near Sharpes Corner. He reported that in 2010 the city built a rough road in the area and this year has an opportunity to use a State TIB grant to finish the road. The \$1.3M grant would complete the paving and improvements but requires a 38% match, or approximately \$505K. Mr. Hogle said staff recommends using utility fund dollars to build water, sewer and storm infrastructure in the area which would meet the matching requirements. He added that this was not included in the 2011 budget because the city didn't know about the grant yet during budgeting. Mr. Hogle asked Council to authorize the use of utility funds so the city can demonstrate it has matching funds available and allow the mayor to enter into a grant agreement with TIB. Mrs. Pickett asked if the infrastructure cost would be recovered by the utility funds when the property is sold. Mayor Maxwell said this is intended to be a city-owned business park that leases space to tenants so the city would continue to own the improvements. Mr. Turner observed that the city's Distressed County Grant will also be used as part of the matching funds. He added that the road project is to develop a business park that will bring jobs to the community and expressed enthusiasm for the long-term project. Mrs. Richardson asked if the funding can be structured so that if the city ever did decide to sell the land a latecomers agreement or something similar would recoup that cost. Mr. McKeown countered that the utility improvements would increase the value of the land, which would be reflected in the purchase price, so a latecomer agreement would not be necessary. Mayor Maxwell reminded that the property was given to the city and the vision is to have lease payments provide revenue for the general fund. Mrs. Pickett said she didn't object to the proposal but since the money was being allocated from utility funds she would like a mechanism for the money to be returned to those funds. Mayor Maxwell said businesses locating there would pay hook up fees into the utility funds and added that to promote economic development the city needs to have utility infrastructure in place. In response to a question from Mr. McKeown, Planning Director Ryan Larsen demonstrated on the overhead the extent of the 39 acres the city owns. He added that the neighboring property owners are in favor of the project. Mr. Adams noted TIB grants are competitive and asked about the grant

stipulations. Mayor Maxwell explained this is a Transportation Improvement Board grant and said when WSDOT eventually builds the highway improvements at Sharpes Corner it will need construction access. Mr. Adams asked if the new road would connect back over to South Fidalgo Bay Road. Mr. Hogle said yes. Mr. McKeown asked about the road standards. Mayor Maxwell said it will be a heavy-duty 32-foot road. Mr. McKeown moved, seconded by Mr. Geer, to authorize the use of \$200,000 from the Water fund and \$150,000 from the Sewer Fund to meet the TIB grant obligation. Mr. Adams suggested a site visit to this property. Mr. Larsen said he was in the process of scheduling such a visit for City Council and Planning Commission members. Mrs. Richardson asked if the new road would provide access to Fidalgo Bay Road. Mr. Measamer said yes. Mr. McKeown asked if there would be a signal light controlling access to SR20 for safety. Mayor Maxwell said initially access would be right turn only and eventually a center holding lane for left turns would be built. Vote: Ayes – Richardson, Geer, McKeown, Petrish, Pickett, Adams and Turner. Motion carried.

#### **Lease Amendment: Radius LLC for Anacortes Cinema Property**

Mr. Hogle explained that the city owns the property where the Anacortes Cinema is located and leases that land to the building owner who in turn leases the building to the cinema. He said the lessee requested struggling tenant relief. Mr. Hogle said the lease amount has been \$1000/month since the lease began in 2001. Rather than enacting the terms of the struggling tenant clause, staff proposes amending Section C of the 2005 amendment, which would have stepped the lease up to \$1200/month, to maintain the lease at \$1000/month until April 2013 at which point the Consumer Price Index (CPI) increase would kick in. Mrs. Pickett said this was a fine idea, remarked that trade and traffic increased when the cinema came to town, and called this a good economic development project. Mr. Hogle said staff had reviewed the lessee's financial statements and found it was not in a very strong position so might qualify for struggling tenant relief but decided that the current lease rate was competitive so did not feel a lease reduction was appropriate. Mr. McKeown asked why the business is struggling. Mr. Hogle said in the last couple years the movie industry product hasn't been very strong but that the projections for 2011 look better. He added that the parties are working on a financing package that would allow the theater operator to buy the building and achieve operating efficiencies. Mayor Maxwell said the original lease was generous to the tenant and that the proposed amendment should be sufficient. Mr. Turner moved, seconded by Mr. Geer, to authorize the proposed lease amendment. Vote: Ayes – Geer, McKeown, Petrish, Pickett, Adams, Turner and Richardson. Motion carried.

#### **Public Hearing: 2010 Development Regulations Amendments, Exhibits 1 through 4**

Planning Director Ryan Larsen introduced the public hearing for 2010 Development Regulations Amendments Exhibits 1 through 4 which were discussed at the City Council study session on January 10. He suggested that at the conclusion of the evening's testimony the public hearing be closed, that Council deliberate and make recommendations, and that staff then bring back final ordinance language to adopt Council's recommendations at the February 7, 2011 City Council meeting. Mr. Larsen briefly recapped the four exhibits which were included in the Council packet. Assistant Planning Director Don Measamer then addressed the revisions that Council had asked staff to work on at the January 10 study session.

- Exhibit 1: Since "nursery, plant materials" is already defined in the AMC, staff proposes using "nursery, plant materials" in place of "nursery".
- Exhibit 1: Since "clinic" is already defined in the AMC, staff proposes using "clinic" in place of "medical clinic".
- Exhibit 3: Council asked for language restricting where cargo containers may be placed on streets so staff proposes to add 17.48.010J, "Cargo containers shall not be placed on developed streets." This would minimize safety hazards.
- Exhibit 3: Council asked for language requiring existing tents and cargo containers to comply with the new regulations so staff proposes to add 17.48.010K: "Non-conforming tent structures and cargo containers shall conform with Chapter 17.48.010 within one year of adoption."
- Exhibit 3: Council asked if the tent structure restrictions applied to commercial and manufacturing zones. The proposed language applies only to residential zones.

Regarding Exhibit 1, Mrs. Richardson suggested altering the punctuation in proposed 17.24.040F to read "Churches; libraries; nursery, plant materials; veterinary clinic; clinics; hospitals; and public or municipal service facilities." Regarding Exhibit 3, Mr. McKeown suggested that cargo containers also be prohibited

from alleys. Mr. Measamer concurred that changing 17.48.010J to read “developed streets and alleys” would be fine. Mrs. Richardson asked why not say “street rights of way” to prohibit placement on undeveloped streets as well. Mr. Measamer replied that containers might appropriately be placed on undeveloped rights of way during construction. Mayor Maxwell clarified that the goal was to keep containers off traveled streets and alleys. Mr. Turner opined that as long as a container doesn’t block an undeveloped right of way it should be okay there.

At 8:07 p.m. Mayor Maxwell opened the public hearing.

Keith Rubin, 915 Haddon Road, spoke as a private citizen in opposition to any changes to the shipping and manufacturing zone codes [Exhibit 4]. Mr. Rubin said the Manufacturing/Shipping zone creates more family wage jobs per acre than any other and that the deep water access for manufacturing is unique. He said if the community values manufacturing jobs, it needs to not further restrict opportunities for business to grow there.

Bob Hyde, Executive Director of the Port of Anacortes, testified that Anacortes competes for shipping with the ports of Bellingham, Olympia and Everett. He said the Port tries to be a good neighbor to residents in Cap Sante and elsewhere but needs to remain competitive. He said they need a buffer between houses and the deep water port. He called proposed Exhibit 4 a spot zone. Mr. Hyde concluded that the Port totally supports the Planning Commission 7-0 vote recommending denial of Exhibit 4.

Dulcie Bowman, 305 T Avenue, spoke against Exhibit 4, saying it is damaging to the businesses in the area and community wide. She said the proposal would encumber and diminish the available uses of the M/S zone. She said although the affected area is small area Council must look at the bigger picture and the cumulative effect. She said the city needs every piece of land that has the potential for job creation. She challenged anyone to find other parcels with deep water access, next to active ship yard, with M/S zoning. Calling the existing zoning crucial for economic stability, Ms. Bowman asked Council to deny Exhibit 4.

J.B. Smith, 414 Third Avenue, advised that the Wallins who proposed Exhibit 4 could not be present but said he would speak to the merits of their request. He said the proposal is not just to preserve a few people’s view corridors but to create a buffer. He said normal zoning would not set Manufacturing/Shipping and residential uses side by side and the proposal tries to create a buffer that is more durable. He said all the businesses currently in the affected area could still be there even if it weren’t zoned M/S and that those businesses and the existing non-conforming residences are the de facto buffer. He asked Council to make the de facto buffer permanent for once and for all. He said the proposal wouldn’t prevent the area from supporting ship building. He asked that Council approve Exhibit 4 or else direct the Planning Department to come up with some zoning changes that will address this issue.

Mr. McKeown asked if there’s any common ground that can be established. Mayor Maxwell said it was worth exploring but that the task before Council was to address the four proposed amendments. No one else wishing to testify, at approximately 8:18 p.m. the mayor closed the public hearing.

Mr. Petrish asked Mr. Hyde what size and type of buffer he had in mind between the M/S and residential zones. Mr. Hyde said the existing small homes, food bank, mini-storage, etc. are currently the buffer for the marine terminal that has been there since the 1960s. He said the marine terminal needs to have other industrial area around it rather than homes and that the de facto buffer works for the Port now the way it is. He suggested that if anything R2 zone in the area should perhaps be rezoned. He noted there are only 33 acres of M/S zone in town and there won’t be any more. He reiterated that the Port doesn’t want the existing homes to be improved with the expectation that they won’t have manufacturing/shipping activity next door.

Mr. Turner agreed with Mr. Hyde that he does not want to make housing a conforming use in that area because homeowner expectations will change. Mrs. Richardson said that Mr. Smith made an excellent point that the Planning Department, businesses, and neighbors could schedule a series of meetings to discuss concerns and expectations and perhaps some agreement could arise as to how that transitional

block should look in the future. Mayor Maxwell said he was open to that idea but reminded Councilmembers that the agenda item before them was the four proposed development regulation amendments.

Mr. McKeown moved, seconded by Mrs. Pickett, to approve Exhibits 1 through 3. Mrs. Pickett offered a friendly amendment: stating that the tent structure limitations in Exhibit 3 would preclude the draping on every commercial shipyard and boatyard project in town she proposed deleting "... or partially supported by another structure." Mr. Measamer said the intent was not to impact shipyards or the industrial zone. Mr. Turner clarified that the tent structure restrictions only apply to residential zones. Mr. Measamer said that the definition would however be in the code and would be applied throughout. Mr. McKeown accepted the friendly amendment, and clarified that his earlier motion included Mr. Measamer's suggested changes read aloud earlier in the evening. Mrs. Richardson said without the language Mrs. Pickett proposed to delete there would be nothing in the code to prohibit lean-to tent structures. Mrs. Pickett said an alternative would be to strike references to all zones other than residential from Exhibit 3 instead. Mayor Maxwell suggested that staff rework the language to achieve the intent of the discussion. Regarding Exhibit 2, Mr. Adams asked if the proposed sign ordinance addresses political signs. Mr. Measamer replied that nothing in the code specifically addresses political signs and suggested that those be addressed separately. City Attorney Brad Furlong clarified that Council's vote on the motion on the floor would direct staff to prepare an adopting ordinance and that Council would vote on the final language at that time. Vote: Ayes – McKeown, Petrish, Pickett, Adams, Turner, Richardson and Geer. Motion carried.

Turning to Exhibit 4, Mr. Geer said he agreed with public testimony and was not in favor of Exhibit 4 but did favor a subsequent public discussion to come up with a solution all the neighbors can agree on. Mrs. Pickett said the reason manufacturing jobs are so important is that's what allows families to live here. She said she felt strongly that M/S zone is tiny compared to all the residential zones and agreed with Mr. Geer that she was not in favor of Exhibit 4. Mr. Adams said the current zoning would not let the storage business be replaced with housing and said over time houses in that area will eventually be swallowed up by conforming or conditional M/S zone uses. He said the current zoning is working and supported keeping it as is. Mrs. Richardson repeated her comments from the January 10, 2011 study session that this juxtaposition of zones is not ideal but it is a historical legacy; that there has always been low intensity use between the shipping terminal and R2 area; that Council has an opportunity to correct the mis-match by proposing uses for the buffer area that would work for both sides; and that lots of M/S zone uses could exist there with modest impact to either of the adjacent uses. She asked that the community conduct a conversation about how to best do that. Mr. Turner supported the idea of continued discussion, said a rezone might be more appropriate, and concluded that the current Exhibit 4 proposal is flawed. Mr. McKeown agreed with Ms. Bowman's testimony and encouraged the neighbors to keep talking. Mr. McKeown moved, seconded by Mr. Geer, to deny Exhibit 4. Mr. Petrish asked Mr. Furlong if Exhibit 4 could be considered spot zoning. Mr. Furlong said no, it was a comprehensive look at an area, not just at one parcel. He added that denial of the proposal would certainly not be spot zoning. Vote: Ayes – Petrish, Pickett, Adams, Turner, Geer and McKeown. Nays – Richardson. Motion carried.

**Public Hearing: Ordinance Amending Chapter 13.32 of the Anacortes Municipal Code to Increase Rates Charged for Furnishing and Sale of Water by the City of Anacortes**

Mr. Hoglund reviewed the proposed water rate ordinance for residential and commercial customers that he had presented to Council on several previous occasions. He explained that the new rates were necessary to provide funding for the city's portion of the Water Treatment Plant improvement project. He said the stepped increase over the next three years would include no CPI increase until 2014. He added that the increase was in the base rate rather than the consumption rate because the majority of water treatment costs are fixed costs that don't vary with the amount of water produced and because all customers benefit from the improvements regardless of how much water they use. He also reviewed Anacortes water rates compared to rates in surrounding areas and reported that even after three years of stepped increase the cost of Anacortes water would still be lower than in any neighboring community today. He added that if adopted at this meeting the new rates would go into effect February 1, 2011.

At 8:46 Mayor Maxwell opened the public hearing. No one wishing to testify, the mayor closed public hearing.

Mr. Turner observed that the rates had been discussed at length by the Finance Committee, that the proposed rate structure is the fairest way to adjust the rates, and that the city is fortunate to have such low water rates. Mr. Turner moved, seconded by Mr. Geer, to approve the new water rates. Mr. McKeown noted how much more other communities charge for water and asked if Anacortes is charging enough. Mayor Maxwell said the low rates are a reflection of the efficient way Anacortes operates its plant and its business. He explained that an outside rate analyst helped develop the rates and they were sufficient to meet funding needs for the plant. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, McKeown and Petrish. Motion carried. Mr. Turner then moved, seconded by Mr. Geer, to approve **Ordinance 2846** amending Chapter 13.32 of the Anacortes Municipal Code to increase rates charged for furnishing and sale of water by the City of Anacortes. Vote: Ayes – Adams, Turner, Richardson, Geer, McKeown, Petrish and Pickett. Motion carried.

There being no further business, at approximately 8:55 p.m. Mayor Maxwell adjourned the regularly scheduled City Council meeting of January 18, 2011.