



City Council Minutes – September 19, 2011

Special Meeting: From approximately 4:30 p.m. to approximately 4:50 p.m. the City Council conducted a site visit regarding MJB Properties' request for a shoreline permit for a new dry boat storage yard adjacent to MJB's boat ramp located at 2601 T Avenue. City Councilmembers Eric Johnson, Erica Pickett and Brad Adams were present. No testimony and no action were taken.

At 7:00 p.m. Mayor Pro Tem Brad Adams called the regularly scheduled Anacortes City Council meeting of September 19, 2011 to order. Roll call found present: Eric Johnson, Nick Petrish, Erica Pickett, Brad Adams, Bill Turner and Brian Geer. Cynthia Richardson was absent. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meeting

Mr. Petrish moved, seconded by Mr. Geer, that the minutes of September 6, 2011 be approved as if read. Vote: Ayes – Petrish, Pickett, Adams, Turner, Geer and Johnson. Motion carried.

Citizen Hearings

Gene Derig, 1302 K Avenue, Executive Director of Friends of Skagit County, offered public comment on Agenda Item 7b, the proposed ordinance amending AMC 2.92 regarding Public Records Act rules. Council and staff agreed that this testimony should be deferred until that agenda item was considered later in the evening.

Mayor/Council Communication and Committee Reports

Mrs. Pickett reported a very successful Fidalgo Bay Day on Saturday with 150 children and their parents participating at the event at the new Seafarer's Park. She said marine life was abundant at the recently restored site. Mrs. Pickett advised that the annual event is sponsored by the Skagit County Marine Resources Committee with the cooperation of 30 other organizations and 45 volunteers.

Mr. Adams reported that the Shell Refinery is beginning a turn around that will conclude in late November. He said that the refinery brings in up to 1900 contract workers during the shutdown which provides an economic benefit to the City.

Mr. Adams invited Eddie Griffith to speak under Citizen Hearings. Mr. Griffith said the State of Washington does not have a bike helmet law but the City of Spokane recently passed an ordinance adopting such a law and he encouraged Anacortes to do the same. Mr. Griffith quoted statistics from the United States Centers for Disease Control showing that most deaths from cycle-vehicle collisions are due to lack of helmets. He said children riding or skateboarding without helmets can be killed or incur extremely expensive medical treatment. He listed other states and countries that have helmet laws. Mr. Griffith urged government to ensure the health and safety of citizens by making bike helmets mandatory. Mr. Adams said City Council Public Safety Committee would look into this issue.

Consent Agenda

Mr. Adams announced that Item 6b, 2011 Valve Rebuild Service Contract, would be removed from the agenda to a future meeting. Mr. Johnson moved, seconded by Mr. Geer, to approve the following Consent Agenda items. Vote: Ayes – Pickett, Adams, Turner, Geer, Johnson and Petrish. Motion carried.

Approval of Vouchers/Cancellation of Checks

Council voted unanimously that the following checks audited and certified by the City's Auditing Officer (Finance Director) and subsequently reviewed and approved by the Council Finance Committee on September 8 and September 15, 2011 are approved for payment as of this date September 19, 2011.

Claim Checks: September 2011: Check Nos. 61765 through 61925 in the total amount of \$1,679,496.78

EFT: September 2011: EFT Nos. 61754 through 61764 in the total amount of \$3,322.72

Prewritten Checks: September 2011: Check No. 61752 in the amount of \$300.00

Closed Record Hearing: MJB Dry Boat Storage Yard Shoreline Permit

Senior Planner Libby Grage presented an application from MJB Properties, LLC for a Shoreline Substantial Development Permit for a dry boat storage yard on a 10-acre site located in the 2800 block of T Avenue which falls within the CM2 zone. Ms. Grage indicated the site on the overhead. She said the project would provide outdoor storage for 228 boats, a boat wash down facility, stormwater facilities, site grading, utilities, fencing, landscaping, and a public access path as well as removal of contaminated soils. Ms. Grage said the primary access would be from T Avenue at MJB's new boat ramp with additional emergency access off V Avenue. Boat storage rows would be oriented east-west with access aisles between them and off street parking would be provided in each boat stall. Regarding public access, Ms. Grage said the applicant proposed a 10-foot wide pedestrian path along the south property line to connect the Tommy Thompson Trail to the DNR property east of the project site. She said because City Development Regulations, the 2010 Shoreline Master Program, and the Comprehensive Plan direct that public access should be located as close to the shoreline as possible the project was conditioned through SEPA and the Planning Commission also recommended a condition for a 25-foot wide public access easement along the shoreline, approximately 300 LF. Ms. Grage said the Planning Commission held a public hearing on the application on August 24, 2011 and subsequently recommended for approval with conditions which were included as Exhibit 21 in the City Council packet.

Mr. Geer asked if the applicant planned to build west of the Tommy Thompson Trail. Ms. Grage said MJB proposed landscaping for that site and had filed a separate grading permit application for that. Mr. Geer asked if trail access would be curtailed during construction. Ms. Grage said one of the project conditions required a plan for pedestrian access during construction. Mr. Petrish asked about DNR's plans for its adjacent property. Ms. Grage said DNR had no current plans but might lease the property in the future. Mr. Petrish asked if the proposed pedestrian access would go all the way east to water. Ms. Grage said no, just to edge of the DNR property. Mr. Petrish asked if the Tommy Thompson Trail would be affected. Ms. Grage said it would not be relocated but would be landscaped with Parks Department acceptance. Mr. Adams asked about the applicant's proposed public access and what the Planning Commission recommended. Ms. Grage said the Commission recommended an added condition requiring a 25-foot wide public access easement along the shoreline of the site to be consistent with the City's development regulations and policy documents. Mr. Adams asked about the contaminated soil. Ms. Grage said the applicant performed a preliminary investigation with the Department of Ecology and found some lead-contaminated soil on the southwest portion of the site so proposed to remove approximately 700 cy of contaminated material and would also, per the recommended conditions, test its utility excavation and remove any other contamination found. Mrs. Pickett complimented MJB for moving ahead with so many things on their property and said she would like to see the 25-foot esplanade maintained as there was emphatic public demand for it. Mrs. Pickett asked councilmembers to consider adding a new Condition 32 memorializing MJB's proposal to install the 10-foot wide paved path at the south boundary of the property. She said the two access paths would provide a loop to the DNR property from the Tommy Thompson Trail. She also noted that the Thompson Trail is 12 feet wide so new Condition 32 might require that access to be 12 feet rather than 10 feet wide. Mr. Petrish asked if the eastern boundary of the MJB property would be fenced. Ms. Grage said yes, 7-foot-tall chain link fencing would enclose the boat storage yard. Mr. Johnson asked about the 6-foot berms. Ms. Grage said those were part of the original grading plan but the SEPA determination limited fill to 2 feet above existing grade.

Mr. Geer moved, seconded by Mr. Petrish, to approve the Shoreline Substantial Development Permit subject to the recommended conditions in the Planning Commission's Recommendation and to direct staff to draft City Council's Findings of Fact, Conclusions of Law and Decision for review and approval. Upon questioning from Mr. Johnson, Mr. Geer amended his motion, seconded by Mr. Johnson, to add Condition 32 requiring a 10-foot wide paved public access along the southern border of the project site. Vote: Ayes – Adams, Turner, Geer, Johnson, Petrish and Pickett. Amended motion carried.

Ordinance: Amendment to AMC 2.92 – Public Records Act Rules

Planning Director Ryan Larsen introduced a proposed ordinance to amend AMC Chapter 2.92. Mr. Larsen explained that the City's public records ordinance was adopted in 2006 but after attending a WCIA workshop this year staff proposed to update the ordinance to reflect best practices by cities in the state. Mr. Larsen said WCIA recognizes the burdensome nature of maintaining comprehensive records indexes and that the RCW allows cities to forego such indexing if it would be unduly burdensome or interfere with

agency operations. Mr. Larsen noted that the City has thirteen departments with divisions and subdivisions that each have their own record keeping systems. Because the City has records which are diverse, complex and stored in multiple locations and in multiple computer systems and databases, he said it is unduly burdensome if not physically impossible to maintain a central index of all records. He said the proposed ordinance would remove the requirement to maintain that list. Mr. Larsen concluded that staff discussed the proposed amendment with the City Council Planning Committee in August and the committee recommended bringing the amendment forward for Council action.

Mr. Geer clarified that the Public Records Act still allows the public to request information and that the proposed change only affects the centralized list of documents. Mr. Johnson said he had received a number of inquiries from constituents about this matter and moved, seconded by Mr. Turner, to move the topic to a study session and allow for public comment. Mr. Geer said the item was published on the evening's agenda, that members of the audience were present to offer comments, and that Council was delaying the inevitable. Mr. Johnson said the public may not have been aware of the proposal until it appeared on the current agenda and may need more time to respond. Mrs. Pickett said her experience with retrieving records at City Hall is that you go directly to the department involved. She said the question is whether a central list makes sense and is practical and said she would like to hear from those who were waiting to speak. Mr. Turner clarified that his second didn't mean he necessarily supported a central index but that he thought it was a good idea to allow public comment and further discussion before a decision was made. Mrs. Pickett asked the City Attorney if there was any reason a decision had to be made as this meeting. Mr. Furlong said Council could refer the item to study session if it chose to but that would preclude further public comment at this meeting. Mr. Larsen clarified that the item would have to be placed on a regular meeting agenda to accept public comment because study sessions allow Council discussion only. Vote: Ayes – Turner. Nays - Geer, Johnson, Pickett and Adams. Abstain – Petrish. Motion failed. Mr. Adams opened the floor for public comment.

Mr. Derig returned to the podium. He stated that collecting and maintaining public records and allowing access to them is an essential agency function. He said currently available technology should make indexing records take less time. He said Skagit County GIS has made it possible for the public to access records on line using off the shelf or specialized programs. He suggested the City talk to other jurisdictions that have made records more accessible and should look at the potential cost savings from a coordinated recordkeeping system. Mr. Derig said the proposed ordinance shifts the costs of retrieving records directly to the public. He said there are other ways to keep a central list that would continue to comply with the RCW, answer the public's need for information and address staff time issues.

Terry Christensen said was surprised to hear about this and said he doesn't like ordinances to pop up on an agenda for action three days later. Mr. Christensen said City Council passed a resolution in 1996 that adopted City Council rules and procedures and it is still in effect. He said the rules say absolutely nothing about not being able to take comments on items on the regular agenda. Mr. Christensen said he is not aware of any central or departmental indexes of documents but would be interested to see them. He asked how the public would know what to ask for if it doesn't even know what exists. He urged Council to refer the question to a study session.

Eddie Griffith, 4606 Bryce Drive, said San Francisco has public records available on everything on line and that citizens can look up sex offenders. Mr. Geer said the Anacortes website will let citizens identify sex offenders. Mr. Griffith disagreed. Police Chief Bonnie Bowers said the City website has a link to Skagit County where citizens can look up sex offenders. Mr. Griffith thanked her for that information.

Mr. Geer reiterated that the City's public records are accessible and that the proposed amendment is only intended to avoid reduplicated effort. Mr. Turner said the City isn't keeping a perfect master index but the existing ordinance says it is so the code needs to be amended to match current practice and set realistic expectations for the public. Mr. Turner said he would like a study session on the topic to get more information from staff to find out just what indexes exist and how they are created. Mr. Turner moved, seconded by Mr. Johnson, to move the agenda item to a study session. Mr. Johnson asked staff to elaborate on how the centralized index is unduly burdensome. Mrs. Pickett clarified that public comments on agenda items are not prohibited, they are just not appropriate until the meeting reaches that point on the agenda. Vote: Ayes – Johnson, Petrish, Pickett, Adams and Turner. Nays - Geer. Motion carried.

Buxton Report (Anacortes Futures Project)

Mr. Larsen summarized that the City, the Port of Anacortes and the Chamber of Commerce have been working together on the Anacortes Futures Project. He said two primary themes identified in that process are jobs and more diverse retail. The parties propose to contract with Buxton to address these issues and develop a sustainable marketing plan to attract targeted retailers and restaurants to Anacortes. Mr. Larsen outlined the services and deliverables that would be provided and Buxton's considerable expertise and resources in this area. He said the City, Port and Chamber plus Island Hospital would enter into an agreement to share the costs equally. Each of the four parties would pay \$12,500 for 2012 and \$312.50 per month thereafter until completion.

Mr. Petrish asked how the City found Buxton. Mr. Larsen said former Planning Director Ian Munce and Mayor Maxwell initiated contact some years ago. Mr. Petrish asked if the Anacortes Futures Project continues to play a role. Mr. Larsen said yes, the AFP is scheduled to present its results in November and will continue to function in some capacity. Mr. Petrish noted that the City has had quite a number of economic studies in the past. Mr. Larsen said Buxton doesn't produce a study or a report but rather a business plan for retailers and restaurants that would be ideally suited to locate in Anacortes. He said Buxton does this by purchasing credit card records and Safeway purchase records. Mr. Petrish asked if the City would have to rezone property to accommodate new retail. Mr. Larsen said that would not be part of the Buxton recommendations. Mr. Turner said the previous reports were general but this is more specific and fairly cheap for \$50K. He called it a good investment of City funds. Mr. Geer said if the City is going to spend more money it needs to be proactive and take action to invite retailers identified by Buxton to locate here. Mr. Petrish said he'd rather have Buxton focus on what kinds of industrial and high tech companies would fit here, not retail, and that the goal should be to bring in skilled jobs to employ residents at family wages. Mr. Larsen said Buxton can also do some of that but EDASC does that already so there is no point in duplicating that effort. Mr. Johnson noted that page 17 of the Buxton proposal addresses this. Mrs. Pickett moved, seconded by Mr. Turner, to participate with the Port of Anacortes, Anacortes Chamber of Commerce and Island Hospital to contract with Buxton as outlined in the packet memo. Vote: Ayes – Johnson, Petrish, Pickett, Adams, Turner and Geer. Motion carried.

Resolution: Right of Way Dedication – South Fidalgo Bay Road

By way of background Public Works Director Fred Buckenmeyer reminded the audience that the City owns 33 acres near Sharpes Corner and is developing infrastructure for a business park there. He said the City is constructing a street system through the area using a Transportation Improvement Board grant. Mr. Buckenmeyer illustrated the existing road system and the proposed extension. He advised that the new roadway will require a quit claim deed for a 60-foot right-of-way, a franchise utility easement, a utility easement, and a sanitary sewer easement. He presented a resolution that would authorize the mayor to execute those documents. Mr. Buckenmeyer noted that this situation is atypical because there is no plat underlying the property as is usually the case. He added that the City Attorney and Planning Director were consulted extensively in drafting the documents. Mr. Turner moved, seconded by Mr. Johnson, to adopt **Resolution 1829** authorizing dedication of a certain portion of property for highway and utility purposes by means of the four documents outlined by Mr. Buckenmeyer. Vote: Ayes – Petrish, Pickett, Adams, Turner, Geer and Johnson. Motion carried.

Resolution: Setting Public Hearing Date on Petition to Vacate Portion of Right of Way in Short Plat ANA06-011 (South Fidalgo Bay Road)

Mr. Buckenmeyer advised that the prior agenda item also requires vacation of a small portion of public right of way. He presented a resolution setting a public hearing date on the proposed vacation for October 17, 2011. Mr. Turner moved, seconded by Mr. Geer, to adopt **Resolution 1830** fixing a time when a petition for vacation may be heard and determined by the City Council in setting a public hearing date. Vote: Ayes – Pickett, Adams, Turner, Geer, Johnson and Petrish. Motion carried.

Executive Session – Fifteen (15) Minutes

At approximately 8:25 p.m. Mr. Adams announced that City Council and City Attorney Brad Furlong would convene in Executive Session to discuss potential litigation for approximately fifteen minutes without taking any action. At approximately 8:40 p.m., without taking any further action, the regularly scheduled meeting of September 19, 2011 was continued to 7:00 p.m. on September 26, 2011 for the purpose of considering a water contract extension and accepting public comments on the proposal.