

City Council Minutes – May 20, 2019

Mayor Laurie Gere called to order the Anacortes City Council meeting of May 20, 2019 at the advertised special time of 5:00 p.m. Councilmembers Eric Johnson, Anthony Young, Ryan Walters, Brad Adams, Carolyn Moulton and Matt Miller were present. Councilmember Bruce McDougall was absent.

Mr. Walters moved, seconded by Mr. Johnson, to suspend for the May 20, 2019 meeting City Council Procedure Section 4.3(D) limiting councilmember participation in absentia to twice in a calendar year. Vote: Ayes – Young, Walters, Adams, Moulton, Miller and Johnson. Motion carried. Mr. McDougall then joined the meeting by telephone.

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Parks and Recreation Committee: Mr. Adams reported from the committee meeting the prior Thursday. He encouraged his colleagues and the public to explore the new Guemes Channel Trail section of the Parks and Recreation page on the city website, anacorteswa.gov. Mr. Adams also reported on progress on the Pickett Pocket Park, repair of the Washington Park boat launch, permitting for Guemes Channel Repairs, and progress on installing new artificial turf on the fast pitch field at Volunteer Park. Mr. Young praised the additions to the website and encouraged the public to offer feedback. Mr. Johnson clarified with Mr. Adams that the Washington Park boat launch was open and operational but that staff were working on further improvements to extend and stabilize the floats. Mr. Young thanked Transpac and other community partners for extraordinary assistance with the repairs to minimize disruption to boaters during the boating season.

Ms. Moulton reported that the Bike Everywhere event the morning of May 17 welcomed fifty cyclists and walkers of all ages on their way to work or school at 22nd Street and Commercial Avenue.

Mr. Young reported from the Skagit Community Action Skagit Vets Connect grand opening which he called a wonderful touching event. Mr. Young described the comprehensive services offered to local veterans through the program. Mr. Young read a letter of endorsement from former U.S. Secretary of Defense Robert M. Gates, for whom the new center was named. The letter was added to the packet materials for the meeting.

Mayor Gere removed Item 7a, Resolution 2042: Lodging Tax Application - Heart of Anacortes 2019 Music Event, from the agenda and advised the item would be addressed in committee before coming back before full City Council. Mr. Adams requested a complete list of the LTAC funding applications and award recommendations when this item came back before Council. Planning Director Don Measamer advised that the normal LTAC award cycle begins in October each year and comes before City Council for final decision in November.

Public Comment

Bruce Baglien thanked Mayor Gere for cutting down the bushes by library so patrons no longer have to walk through a homeless jungle. He read from a book calling Causland Memorial Park “one of the most remarkable small parks on the whole Pacific coast.” Mr. Baglien complained that the park is now strewn with needles, human feces, weeds and garbage and had people sleeping in it during the day, which he said intimidates his neighbors from visiting the park. He asked that energy be focused on keeping Causland Memorial Park nice.

Carolyn Wood said that people were sleeping outside the Trident building and the landing and practically in neighborhood backyards as well as the park. She said it was becoming quite a concern.

Dorothy Taylor said that cutting down the weeds at Kiwanis Park had helped move along a couple that had been sleeping there for weeks. Ms. Taylor said the Anacortes Police told her there was nothing they could do unless someone was sleeping in a park after hours. She said she didn't know what could be done but that the problem needed to be discussed.

Sandy Mathis, Old Town resident, said that the signage for Causland Park was destroyed and had not been replaced in five years. She urged replacing it. Ms. Mathis said the homeless situation was beginning to affect neighborhoods. She asked for an explanation of what the police mean when they say their hands are tied in this regard.

Mary Stahl spoke about zoning. She said she moved from California 6 years ago and saw what happens when builders come into nice little neighborhoods and build McMansions. Ms. Stahl said she feared that allowing larger homes on smaller parcels would cause that same thing, not affordable housing. She said public comments [on the revised development regulations] were full of objections to zoning as it stands but she couldn't see that anything came of that. She said it would ruin a lot of lovely small neighborhoods in the community.

Linda Noel, an Old Town homeowner, reiterated comments by her neighbors that they would like to get this stopped early. She said neighbors were finding feces in the alleys behind their homes and were concerned about public health and about living in a neighborhood where things like that are going on. Ms. Noel also said she found a needle in the park just before the public Easter egg hunt.

Mayor Gere reassured the speakers that staff was exploring all legal options to find creative solutions to the problem of homelessness, which is a rapidly growing issue for all communities in the northwest. The mayor explained that being homeless is not against the law so it is very complicated for the police department. Ms. Moulton reported that the Skagit County Task Force was working on a homeless housing plan, due by December, and she invited the public to participate in a public meeting that would be advertised in the next month or so. Mr. Walters suggested a fact sheet or web page to alert the public to what the city was currently doing to address homelessness. Mr. Johnson reminded that the 9th US Circuit Court of Appeals has said cities cannot put homeless people who are sleeping on public property in jail or evict them unless they have another place to go. He described options such as providing sanitary facilities and parking in church parking lots for the short term. Mr. Johnson reiterated that staff was working on both short and longer term solutions to the problem of homelessness.

Mr. Baglien returned to the microphone and said that we are enabling the homeless. He said he had spoken with a local young man who is homeless here in his own hometown who said he had no problem getting free food and clothing. Mr. Baglien suggested that the homeless be sent to the Washington Park campground so tourists would not have to see them.

Consent Agenda

Mr. Young removed Item 5b, Approval of Claims in the amount of: \$484,801.22, from the Consent Agenda. Mr. Johnson moved, seconded by Mr. Miller, to approve the following Consent Agenda items. The motion carried unanimously by voice vote.

- a. Minutes of May 13, 2019
- c. Contract Modification: Direct Internet Access (DIA) Service (19-045-FBR-001)

The following vouchers/checks were approved for payment:
EFT numbers: 93259 through 93302, total \$293,272.98
Check numbers: 93258 and 93303 through 93334, total \$159,769.46
Wire transfer numbers: 249650 through 249974, total \$1,117.32

b. Approval of Claims in the amount of: \$484,801.22

Mr. Young said he still struggled a little with approval of claims for Amazon purchases for things like ink cartridges and paper towels. He acknowledged that some items cannot be purchased locally but said many others can be purchased locally at reasonable cost. He urged staff to continue to press departments to consider local merchants whenever possible. Ms. Moulton concurred with Mr. Young and noted the multiplier effect for dollars spent in the local community. Mr. Miller noted that many local merchants will deliver and challenged staff to check with local merchants on both pricing and delivery options. Mr. McDougall thanked Mr. Young and Ms. Moulton for their comments. He observed that the velocity of money theory says a dollar is worth more like \$1.30 to the local economy if spent locally. Mr. Johnson moved, seconded by Mr. Adams, to approve Consent Agenda Item 5b. The motion carried by voice vote with Mr. Young voting against.

OTHER BUSINESS

Resolution 2044: Adopting New City Council Procedures

Mr. Hoglund presented Resolution 2044 to revise City Council procedures to allow councilmembers to participate in absentia more than twice a year. Mr. Miller suggested that councilmembers wishing to participate in absentia contact both the mayor and the mayor pro tem ahead of time. Councilmembers were generally in agreement with limiting participation in absentia to one councilmember per meeting. They discussed the appropriate upper limit for participation in absentia, noting that councilmembers can miss a large number of meetings entirely with no penalty as long as the absences are excused and also noting the value of face to face interaction as a group which can only occur at open public meetings. Mr. Johnson and Mr. Young noted that allowing participation in absentia might encourage more young professionals with high tech careers involving significant travel to engage in public service on the City Council. Upper limits of 6, 8 and 12 meetings per year were considered.

Mr. Walters moved, seconded by Mr. Johnson, to approve Resolution 2044 as presented filling in “8” in Section 4.3(d). Vote: Ayes – Walters, Adams, Moulton, McDougall, Miller, Johnson and Young. Motion carried.

Municipal Broadband Fiber: Residential and Business Pricing

Municipal Broadband Business Manager Jim Lemberg presented an update on the milestones to achieve in preparation for connecting the first customers and the proposed pricing structure for residential and small business customers. Mr. Lemberg’s slide presentation was included in the packet materials for the meeting.

He outlined seven parallel task paths currently active by city staff and consultants. Mr. Lemberg advised that staff expected to publish the RFP for outside plant construction in the Central Business District (CBD) and Old Town mid-June at the earliest and that the selected contractor(s) would likely start work 45 days later. He said that once Council approved the price points, staff could begin work on other task paths in the interim such as building out the billing system and initiating the marketing campaign. Mr. McDougall suggested that staff be prepared to respond to inquiries from potential customers regarding when service would be available at their address.

Mr. Lemberg reviewed the data and guiding principles considered in developing the recommended price points, then presented the proposed pricing for residential and business 100 Mbps and 1 Gbps service, including optional increment for WiFi and a \$100 installation charge in all cases. Councilmembers questioned Mr. Lemberg about whether the proposed price points would achieve the stated mission to make the fiber network self-sustaining. Mr. Lemberg and Mr. McDougall indicated that the proposed pricing would support the business model previously developed, which assumes a 35% subscriber rate and predicts total construction ROI in 15-17 years if the network is built out to reach the entire city. Mr. Lemberg advised that residential customers would

have month to month contracts while business customer contracts would likely be year by year. Mr. Miller noted that the installation fee would encourage users to maintain service even without an extended contract term. Councilmembers were generally pleased with the pricing levels. Mr. Johnson cautioned that a subscriber's total cost with added streaming services would be significantly higher but staff reported that the proposed prices were competitive with the internet access portion of the nearest competitors. Mr. Lemberg and Mr. McDougall emphasized the extensive consideration of the pricing at the recent fiber summit and the high value provided for the proposed pricing. Mr. Johnson asked when service would be available. Mr. Lemberg said he intended for service to be available in Old Town by the end of the calendar year. Councilmembers discussed the variables and assumptions in the business model and the need to evaluate the revenue and costs frequently during the first year to determine if the model was succeeding, possibly adjust the price structure, and make decisions about continuing or expanding the network. Mr. Lemberg recommended monthly reports to Council on the number of subscribers, revenue and costs. Mr. Walters requested a full accounting of the costs, including apportioned costs. Mr. Miller emphasized the need for and value to the public of complete transparency about the finances of the network. Ms. Schuh advised that the proposed prices would come back before Council for adoption by resolution as part of the unified fee schedule.

Mayor Gere invited members of the audience to comment on this agenda item.

Mary Stahl questioned why customers would switch from Comcast if they have to pay another provider for the rest of the bundled services the city does not provide. Mr. Walters observed that the market was constantly and quickly evolving and that the net effect was difficult to predict.

Ward MacKenzie, 1302 7th Street, asked if the 100 Mbps service would be a true 100 Mbps and if customers with their own WiFi routers could omit the incremental WiFi charge. Mr. Lemberg acknowledged that the 100 Mbps service would be an oversubscribed service that would be shared just as on cable or DSL but said the fiber infrastructure was far superior and more reliable so the service should be superior. Mr. McDougall added that fiber provides symmetrical speed, both upload and download, unlike cable and DSL. Mr. Lemberg confirmed that the incremental WiFi charge was optional for those who provide and maintain their own routers.

Planning Commission Recommendation: Development Regulations and Zoning Map Amendments

Senior Planner Libby Grage invited Council to finalize the list of items that would be proposed for additional written public comment and to discuss additional topics requested by one or more councilmembers. Ms. Grage's slide presentation was added to the packet materials for the meeting. She outlined the reasons for taking additional public comment on specific items introduced by either the Planning Commission or the City Council. Ms. Grage referenced the staff memo included in the packet materials for the meeting (updated earlier in the day) listing 14 such items. She then directed the discussion of those couple of items that still needed Council input.

Retail Sales in MMU zone: Regarding Table 19.41.050, staff asked Councilmembers to determine which maximum size of retail establishment it wished to allow and whether each size would be permitted outright or conditionally in the C, CBD and MMU zones. Councilmembers discussed at length various caps ranging from 50,000 SF to 100,000 SF and the pros and cons of outright versus conditional uses. Mr. Walters and Mr. Miller argued against conditional uses, which require quasi-judicial proceedings, and strongly preferred the legislative process of code amendment if changes were desired in the future. Mr. Adams voiced support for allowing larger stores either outright or by conditional use, citing the longstanding requests from many citizens for more retail options in Anacortes. Mr. Walters suggested providing more than one option for public comment.

At approximately 7:03 p.m. the mayor called a 10 minute break. At 7:17 the mayor called the meeting back to order.

The discussion continued where it had left off. **Mr. Measamer eventually confirmed near consensus for revising Table 19.41.050, Retail Sales section, to show 25,001-50,000 NFA as an outright Permitted use in the CBD, C and MMU zones and to delete the 4th and 5th rows of the section, effectively prohibiting Retail Sales at larger than 50,000 SF in those zones.** Mr. Adams reiterated his objection to that limit, again citing public demand for more retail options within the city limits.

Garage setbacks – residential zones: Ms. Grage presented four alternatives for garage setbacks in Table 19.42.020 and regulation 19.42.130(B), along with sketches depicting each option. Mr. Measamer clarified that these would apply in the R1 through R3 zones but not in the Old Town overlay. Mr. Walters argued in favor of Option 3, Require individual/private garages for all housing types be setback be at least 5’ behind the front face of the dwelling (including a porch or covered entry feature). Mr. Measamer said Option 3 was also the most straightforward to administer. **Councilmembers all concurred to propose Option 3 for additional public comment.**

Ms. Grage then asked Council to consider a topic not included in the staff memo, Side setback provisions for CBD/Old Town transition between 5th and 10th Streets between N and O Avenues. She reviewed the current language in 17.20.060 and the latest proposed language in 19.42.150. Mr. Measamer explained why that language was hard to apply in this particular five-block area where zones transition mid-block. Ms. Grage presented a slide displaying possible alternatives. After some discussion **councilmembers reached consensus on proposing for public comment the 10’ setback, plus height/setback plane proposed on the slide. Mr. Walters and Mr. Measamer agreed that 19.42.150 would need to be revised to add “except when bordering the Old Town zone where [cite for the new height/setback plane language] applies.”**

Ms. Grage next introduced the topic of possible additional uses in the industrial zone, a subject raised for further discussion by Mr. Johnson. Mr. Johnson referred to his memo beginning on page 16 of the packet materials for this agenda item. He listed a number of non-industrial uses currently in that zone, referenced the comprehensive plan goals for that zone, and asked his colleagues to consider whether some of those uses might be added as allowed uses in Table 19.41.050 to produce jobs, limit complaints from adjoining neighbors, and provide services closer to downtown rather than in the LM zone. Mr. Measamer advised which of those uses would require comprehensive plan amendments to be permitted in the Industrial zone. Councilmembers discussed the balance between preserving industrial land for job creation and offering convenience for customers. **Council eventually concluded not to propose adding any uses to Table 19.41.050. Mr. Measamer agreed to add language to Table 19.41.050 limiting offices in the Industrial zone to those accessory to permitted primary uses only.**

Ms. Grage introduced the topic of bike parking, a subject raised for further discussion by Ms. Moulton. Ms. Grage reviewed a slide including recommendations from the Association of Pedestrian and Bicycle Professionals (APBP). Referencing Table 19.6.080, she said staff recommended removing the proposed bike parking exemption for developments which require fewer than 10 vehicle parking spaces. Mr. Measamer clarified that staff proposed a minimum of one or two spaces per development, in the case that the formula would call for a fractional space. Councilmembers and Mayor Gere discussed where the bike parking had to be located. Ms. Grage cited the code allowing bicycle parking on the sidewalk under certain conditions. **Councilmembers agreed to staff’s recommendation.**

Council then discussed a request by Mr. Miller that staff prepare a matrix comparing uses in the current and proposed code. Mr. Miller explained his rationale, to allow a thorough review of possible unintended consequences of the numerous code changes, particularly in the residential zones. Mr. Walters urged resuscitating the prior table of uses. Mr. Measamer advised that staff could update that table and bring it back to Council for review, which would require postponing noticing for public comment and push off the end public comment period beyond June 12. He noted that comments submitted now were outside any open public comment period but that once a public comment period was advertised staff would log public comments

received in a matrix complete with staff recommendations. Mayor Gere concluded that development regulations would not be further considered by Council until at least June 3 to allow staff time to prepare the matrix requested by Mr. Miller.

Executive Session

At approximately 8:35 p.m. Mayor Gere announced that City Council and the City Attorney would convene in Executive Session per RCW 42.30.110(i) for approximately 30 minutes to discuss potential litigation or litigation and that following the executive session the meeting would adjourn with no action having been taken.

There being no further business, at approximately 9:05 p.m. the Anacortes City Council meeting of May 20, 2019 was adjourned.