

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



August 21, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the August 21, 2023 regular session of the Lynden city council at 7:00 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

Members present: Councilors Gary Bode, Ron De Valois, Gerald Kuiken, Brent Lenssen, Nick Laninga, Kyle Strengtholt and Mark Wohlrab.

Members absent: None.

Staff present: Community Development Director Heidi Gudde, Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Brent DeRuyter, Police Chief Steve Taylor, Public Works Director Jon Hutchings, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael.

OATH OF OFFICE – None

SUMMARY REPORTS AND PRESENTATIONS

Mayor Korthuis presented the Department of Ecology's "Golden Plunger" award to Josh Libolt who accepted the award on behalf of the City of Lynden's Water and Wastewater staff.

APPROVAL OF MINUTES

Councilor Strengtholt moved, and Councilor De Valois seconded to approve the August 7, 2023, regular council meeting minutes. Motion approved on 7-0 vote.

CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

Some of Cynthia's comments concerned the following:

- Thankfulness for police presence at the NW WA Fair.
- Collection of signatures for SB 5599 initiative.
- Opposition to CRT (Critical Race Theory).

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2. CONSENT AGENDA

Payroll Liability for August 13 through August 26, 2023

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$587,833.05
Check Liability.....	\$0.00
Total Non-L&I Liabilities	\$587,838.05
Quarterly Liabilities	\$13,837.44
Total EFT & Other Liabilities	\$601,675.49

Approval of Claims – August 22, 2023

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>27867</u>	through	<u>27979</u>		\$1,655,788.80
EFT Payments					\$70,332.13
				Sub Total	\$1,726,120.93
				Total Accts. Payable	\$1,726,120.93

Award Bid for 3rd and main Street Intersection Overlay

Staff recently solicited bids for the 3rd and Main Street Intersection Overlay for the structural overlay of the intersection, extending down each intersection leg, and minor pedestrian ramp reconstruction. Work to be performed under this contract shall include the grinding and fiber reinforced asphalt overlay of the existing roadway, installation of traffic loops, and the replacement of pedestrian ramps. Three bids were received on July 27, 2023, as shown on the Bid Tabulation prepared by Reichhardt & Ebe.

The Public Works Committee at their August 9th meeting concurred to recommend award to Granite Construction Company, the lowest responsive and responsible bidder, in the amount of \$324,192.50, including Washington State Sales Tax. The Engineer's Estimate was \$386,536.50.

Motion made by Councilor Bode seconded by Councilor Strengholt to approve the consent agenda as presented. Motion approved 7-0.



3. PUBLIC HEARING

RES-23-1079 Agreement to Exchange Property for Pepin Creek Parkway ROW

Mountain Summit Ventures, LLC is proposing to develop approximately nine acres of property with RM-3 zoning into townhomes. This property is the first in the Pepin Creek Subarea to come forward for development after the approval of the Pepin Creek Subarea Plan. The property is also pivotal in that it provides the opportunity for the alignment and initial construction of Pepin Creek Parkway at Benson Road. This alignment is consistent with the option that instigated the city purchase of 8691 Benson Road.

As the subject property is relatively small and narrow and the 80-foot right-of-way for the Parkway is wider than a typical city street, staff and the developer are proposing a property exchange which would mitigate disproportional impacts by exchanging city owned property at the northern edge of the subject property for the right-of-way needed for Pepin Creek Parkway.

The city-owned property consists of a 48-foot-wide strip of the Benson Park property. Notably, this strip includes the intercept ditch which is used to protect the subject property from overland flow during specific wet-season weather events.

An agreement has been drafted for the Council to consider. It details the right-of-way dedication and property exchange and associated actions including the rezone of the exchanged property and the right-of-way grant.

Mayor Korthuis opened the public hearing at 7:10 p.m.
Dennis Farris, Bellingham, WA spoke in favor of RES-23-1079.
Mayor Korthuis closed the public hearing at 7:16 p.m.

Motion made by Councilor De Valois seconded by Councilor Laninga to approve Resolution 23-1079 and the associated agreement with Mountain Summit Ventures, LLC for the right-of-way dedication and property exchange needed for Pepin Creek Parkway running west and south from the intersection of Benson Road; and to authorize the Mayor's signature on the documents. Motion approved 7-0.

RES-23-1078-Design Standards Variance 23-01, Walnut Street

JWR Design, on behalf of Pacific Edge Builders, has applied for a Design Standards Variance related to improvements to a public right-of-way. Pacific Edge, a local developer/contractor, desires to construct a commercial building on a vacant lot at the terminus of Walnut Street, adjacent to the railroad tracks, addressed as 315 Walnut Street. Development here triggers a requirement to improve street frontage at the project's address that would include curb, gutter, sidewalk and paving of drive aisles. However, because the entire dead-end street is relatively unimproved the applicant is proposing an alternate standard.

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The application proposes to pave approximately 440 linear feet at 20 feet wide, centered on the 60-foot public right-of-way. This project would provide improvement along the entire street rather than meet a $\frac{3}{4}$ street standard improvement exclusively along the 70 feet of the property's frontage as required by code (Engineering Design and Development Standards Div 4.3 (C) and Table 4-1.). The project will preserve parking on both sides of the street and will not hinder existing access points. Initially a gravel pedestrian walkway was proposed with the variance application, but this was removed as it would be impractical and difficult to maintain with truck and vehicle traffic crossing and parking in the same area. The applicant also provided a cost estimate which indicated the varied standard would actually cost considerably more than the code-required standard.

The Technical Review Committee has completed a final report and recommendation to approve specific clarifications and conditions as detailed in Res 23-1078.

Mayor Korthuis opened the public hearing at 7:19 p.m.
Ian VanRy spoke in favor of RES-23-1078.
Mayor Korthuis closed the public hearing at 7:27 p.m.

Motion made by Councilor Bode seconded by Councilor De Valois to approve Resolution 23-1078 granting a Design Standards Variance 23-01 with specific conditions regarding paving and maintenance of Walnut Street and to authorize the Mayor's signature on the document. Motion approved 7-0.

4. UNFINISHED BUSINESS

RES-23-1076-Reconsideration of Text Amendment to LMC 19.22.030 RE Enclosing Patios
At the June 19 meeting the City Council heard but did not take action on an amendment to LMC 19.22 regarding the screening of covered patios. The Council indicated that additional review may be needed to reach a solution which would allow for a higher degree of enclosure while ensuring adequate ventilation. The Council voted to have the item reconsidered.

At the June 21 Community Development Committee meeting this directive was discussed and the Committee concluded that the reconsideration could be reviewed by the Community

Development Committee after staff edits. This item is slated to return to the Community Development Committee in September and subsequently to the City Council for review and decision. Resolution 23-1076 documents this decision.

Motion made by Councilor Lenssen seconded by Councilor De Valois to approve Resolution 23-1076 detailing reconsideration steps of a text amendment to LMC 19.22 regarding the screening and enclosing of covered residential patios within

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rear setbacks and to authorize the Mayor's signature on the document. Motion approved 7-0.

5. NEW BUSINESS

RES-23-1077-Support of Whatcom County Initiative Sales and Use Tax Proposition (Jail)

On Tuesday, November 7, 2023, Whatcom County voters will vote on an initiative to fund a new jail and behavioral health services. The proposition titled "PUBLIC HEALTH, SAFETY, AND JUSTICE SALES AND USE TAX," on the November 2023 general election ballot, would authorize a sales and use tax of two-tenths of one percent (20 cents per \$100) for costs associated with a new Whatcom County jail and other behavioral health, supportive housing, public safety, and criminal justice services. The city would commit a portion of its revenue from this sales tax to the construction of the new facility.

Motion made by Councilor Wohlrab seconded by Councilor Bode to adopt the resolution and authorize the Mayor to sign Resolution 23-1077. Motion approved 7-0.

ORD-23-1672- Fire Station LTGO Bond 2023

Resolution No.1032 was approved by Council on February 16, 2021. It provided for the establishment of an inter-fund loan from the Water Fund (F401) as interim financing for the Fire Station remodel project. The terms of Resolution No.1032 stated that the City, within three years, would need to establish a commercial loan as permanent funding and re-pay the inter-fund loan.

ORD-23-1672 establishes a longer-term Limited Tax General Obligation Bond (LTGO) through Peoples Bank here in Lynden as the long-term funding source required by Resolution No.1032. The amount of the Bond is \$2,200,000 for a term of 15 years at a fixed rate of 5.18%. The City's Bond Counsel K&L Gates and Finance Director have reviewed the terms of the Bond prior to its review by the Finance Committee on August 21, 2023. The Finance Committee agreed to the approval of the Bond in their August 21, 2023 meeting and forwarded the ORD-23-1672 to the full Council.

Motion made by Councilor Strengholt seconded by Councilor Kuiken to approve ORD-23-1672 as presented and authorize the Mayor's signature. Motion approved 7-0.



6. REPORTS

Councilor Bode, Public Works Committee, reported discussion of the following:

- 3rd and Main Street Bid award.
- The need for a wastewater treatment plant capacity study.
- Cedar Drive pump station is not necessary.
- Fishtrap Creek erosion and trees in the creek.
- Studies involving fluoride in the city's water system.
- Crosswalk requests with emphasis on pedestrian safety.

Councilor Wohlrab, Public Safety Committee, reported discussion of the following:

- Fire department calls are up.
- Fire is awaiting decision on the award of a SAFER grant.
- Police department reports an increase in thefts.
- Police department is fully staffed.
- Police department is requesting a part-time position to work with evidence.
- A dozen or so members of the community commented on fireworks and the possibility of a ban or a decrease in the number of days that fireworks can legally be shot off.
- Past fireworks complaints in Lynden seem to be more of a noise complaint rather than an issue of safety.

Council Wohlrabe, chair of the Public Safety Committee stated that the fireworks issue will come to Public Safety again in September 2023. He asked Council and Staff for some guidance. The following was provided:

- Councilor Bode stated that banning fireworks does not work and the ban is not enforceable.
- Councilor De Valois would consider a reduction in the number of days fireworks can legally be used.
- Councilor Laninga is not in favor of a ban but would consider a reduction in the number of days fireworks can legally be used.
- Councilor Strengholt would like to see the ordinance remain as written and does not believe that banning fireworks will work or be enforceable.
- Community Development & Planning director Heidi Gudde suggested to Council that the City dedicate time and effort in educating the public on the days and times fireworks can legally be used. She stated that if people knew the parameters of fireworks use there would be better compliance.

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Councilor De Valois, Parks Committee, reported discussion of the following:

- Possibility that the scope of work on the Benson Barn may be scaled down due to enormous costs.
- Schoolyard Park water meters have been ordered. The architectural plans are in progress.
- The Depot to 8th Trail is ahead of schedule and there are some modifications.
- The updates to the Dickinson and Berthusen houses are completed.
- Park's seasonal staff will soon leave and head back to college which will leave full-time staff busy.

Councilor Strengholt, Finance Committee, reported discussion of the following:

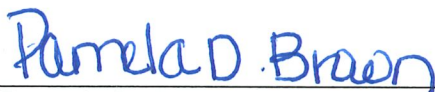
- Review of OT and sales tax.
- OT almost doubled from last month
- Sales tax was higher than last month and higher than July of last year.
- Reviewed the loan that was approved at this council meeting.
- General Fund is strong.
- Water Fund over budget.
- Sewer Fund under budget.
- Stormwater Fund under budget.
- Revenue through July is as expected or better.
- Expenditures are as expected.

7. EXECUTIVE SESSION

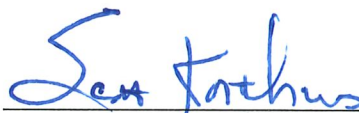
The Council did not hold an executive session.

8. ADJOURNMENT

August 21, 2023, regular session of the Lynden city council adjourned at 8:05 p.m.



Pamela D. Brown, City Clerk



Scott Korthuis, Mayor