

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



December 16, 2019

### 1. CALL TO ORDER

Mayor Korthuis called to order the December 16, 2019 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

### ROLL CALL

Members present: Mayor Scott Korthuis and Councilors Gary Bode, Ron De Valois, Brent Lenssen, Nick Laninga, Kyle Strengholt, and Mark Wohrab.

Members absent: Jerry Kuiken, absent with notice.

Staff present: Finance Director Anthony Burrows, Fire Chief Billmire, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Acting Police Chief Russ Martin, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator Mike Martin, and City Attorney Bob Carmichael.

### OATH OF OFFICE – None

### APPROVAL OF MINUTES

***Councilor De Valois moved and Councilor Strengholt seconded to approve the regular council minutes of December 2, 2019. Motion approved on a 6-0 vote.***

### ITEMS FROM THE AUDIENCE

Mayor Korthuis introduced Lieutenant Russ Martin as the newly appointed Acting Police Chief. Chief Martin will act in this capacity until the recently hired Police Chief Steve Taylor takes office in mid-January.

### Scheduled:

Acting Police Chief Martin then officially recognized the promotion of Randy Humphreys to Police Sergeant. Officer Humphreys was selected after a rigorous testing process and has served the city of Lynden for 27 years.

Mayor Korthuis then congratulated Sergeant Humphreys on his promotion and thanked him for his many years of service.

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### Unscheduled:

Cynthia Ripke-Kutsagoitz, 7062 Guider Meridian, #30, Lynden

Cynthia spoke about possible future 911 events hosted by businesses throughout the city. She also thanked the council members for their work and dedication to the community.

Teri Treat, 7183 Dahlberg Road, Ferndale

Teri Treat spoke on behalf of the Downtown Business Association, all of who are 100% in support of the Wayfinding Project proposed for Lynden.

Gary Vis, Chamber of Commerce Director, 518 Front Street

Director Gary Vis thanked council for their support of the NW Lighted Christmas Parade. An estimated 14,000 people attended with 48 floats signed up. Next year with the be 30<sup>th</sup> year of the event. He also thanked the 100 or so volunteers that make the NW Lighted Christmas Parade such a success.

## 2. CONSENT AGENDA

### Approval of Payroll Disbursed – December 1-15, 2019

Paychex EFT .....	\$291,813.61
City of Lynden EFT .....	\$60,133.95
Warrant Liability .....	\$56,980.38
<b>Subtotal</b>	<b>\$408,927.94</b>
Paychex EFT Liability	\$6,910.82
<b>Total EFT &amp; Other Liabilities</b>	<b>\$415,838.76</b>

### Approval of Claims –December 18, 2019

Manual Warrants No.	<u>74273</u>	through	<u>74277</u>		\$203,117.46
EFT Payment Pre-Pays					\$20,077.05
				Sub Total Pre-Pays	\$223,194.51
Voucher Warrants No.	<u>74278</u>	through	<u>74445</u>		\$1,474,648.30
EFT Payments					\$27,475.53
				Sub Total	\$1,502,123.83
				Total Accts. Payable	<b>\$1,725,318.34</b>

### Resolution No. 1016-Real Estate Property Tax Levy Banked Capacity 2020

All taxing jurisdictions are required, due to the passage of Referendum 47 in 1997, to pass a resolution specifically indicating the increase in tax levy if any, from the previous year, excluding the increase due to new construction, improvements to property, or any increase in the value of state assessed property. The limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation. Given the current rate of inflation (1.396%) the City is allowed by statute RCW 84.55.005 to

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increase the Levy the full 1% or bank this capacity for future use. The City Council has deemed it necessary due to the City's funding requirements to increase the regular property tax levy by the full 1% allowed.

Resolution No. 1016 reflects the City Council's requirement to not "bank" any real property taxes in 2020 and approve the legally allowed 1% increase in the 2020 real property taxes. The Finance Committee reviewed this Resolution earlier this evening, December 16, 2019 and recommended it be sent to the full Council for approval.

### Resolution No. 1015- Stormwater Comprehensive Plan- Set Public Hearing Date

The City of Lynden has developed an updated Comprehensive Stormwater Plan referenced in the City's overall Comprehensive Plan (Chapter 5, Section 5.2.3), as required under the State's Growth Management Act. Additionally, this plan was revised to meet the terms of the City's Western Washington Phase II National Pollutant Discharge Elimination (NPDES) Permit.

The Comprehensive Stormwater Management Plan offers guidance on ways to minimize the adverse effects of stormwater runoff to receiving water bodies and identifies existing stormwater issues within the system. The Plan provides City staff and policy makers with the background and necessary information to develop and manage the storm drainage system in a cost-effective manner that complies with regulatory stipulations. The objectives are to understand the current conveyance and water quality treatment issues to position the City for effective planning of future improvements. As such, this plan functions as a long-term planning tool that prepares the City for population growth over a 20-year horizon. The Plan outlines methods for meeting regulatory requirements and developing policies and procedures; and defines capital facilities projects for the Stormwater Utility.

The full document is available upon request and will be posted to the City's website. At their December 4th meeting, the Public Works Committee concurred to recommend a public hearing date of January 6th, 2020 to hear comments on the City's Stormwater Comprehensive Plan.

### Ordinance No. 1599- Comcast Franchise Agreement Introduction-Set Public Hearing Date

The City's Franchise Agreement with Comcast Cable Communications Management LLC must be updated. The last agreement adopted by Ordinance 1165 in 2003 expired in 2013. The franchise fee remains at 5% per federal law (47 U.S.C. 542(a) and (b)). Staff and the City Attorney worked with Comcast on the terms of this agreement.

Per RCW 35A.47.040, No granting of any franchise in a code city for any purpose shall be adopted or passed by the city's legislative body on the day of its introduction nor for five days thereafter....therefore this ordinance is being introduced at this council meeting and Council is asked to set a public hearing date of January 6, 2020 for final approval.

### Approval of Splunk Proposal for 2019-2022

Staff proposes using Splunk as laid out in the attached material to help meet the City's following needs:

- Compliance with CJIS standards for Lynden Police.
- Real-time and historical visibility into all City IT systems.

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- Real-time alerting on security and compliance risks.
- Visibility into security incidents for incident response purposes

The payments would be made as described below. The first payment is due upon signature of this agreement. The attached statement of work encompasses the installation and configuration of the Splunk solution.

Payment 1: \$12,670.68 (line items 1 and 2) due Net 30 from the invoice Date

Payment 2: \$10,723.04 will be invoiced January 15, 2021 and due Net 30 from the invoice Date

Payment 3: \$10,723.04 will be invoiced January 15, 2022 and due Net 30 from the invoice Date

The finance committee reviewed this item at their December 16th meeting, and recommended review by full council.

### Appoint Mayor Korthuis to the 2020 Board of the Whatcom Council of Governments & Appoint Councilor Gary Bode to act as alternate

Mayor Korthuis acted as the city's representative to the Board WCOG and Councilor Bode acted as the alternate. Each are willing to continue in this capacity for 2020.

***Councilor Bode moved and Councilor Wohlrab seconded to approve the Consent Agenda. Motion approved on a 6-0 vote.***

### 3. PUBLIC HEARING

#### Development Standards Variance 19-02- 1583 East Badger Road

A Development Standards Variance application has been brought forward by Robert Langei for a variance to the required right-of-way (ROW) dedication and resulting street section. The proposed roadway would be used to access the multi-family portion of the property located at 1583 East Badger Road.

In some similar instances, property owners have opted to create private roads with more narrow profiles. However, staff does not support a private street at this location as it is the terminus of an existing public street network. Additionally, due to maintenance and jurisdictional concerns, the City has begun to discourage the development of streets that have the appearance of being public but are actually private.

At the same time, staff recognizes that providing a standard 60-foot-wide right-of-way would significantly constrain development due to the shape and size of the subject property. The applicant is requesting a variance to dedicate a right-of-way which is 41 feet rather than 60 feet. The proposed standard would include on-street parking and a sidewalk on only one side of the street.

Staff is concerned that a reduced street standard could create parking shortages that would negatively affect the adjacent North Prairie Phase 7 neighborhood. As such, staff is supportive of the variance on the condition that future development provide an additional 20% on-site parking to accommodate for the on-street parking that is lost in the revised standard.

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Mayor Korthuis opened the Public Hearing at 7:15 p.m.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 7:15 p.m.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Variance 19-02 on the condition that future development provide all code required on-site parking plus an additional 20% and additionally that the minimum street standards for a private street are met and authorize the Mayor's signature on the Finding of Fact. Motion approved on a 6-0 vote.***

### Approve Pepin Creek Sub-Area (PCSA) Plan

In September of 2018 the City released a draft of the Pepin Creek Sub-Area Plan (PCSA). The intent of the plan is to develop a guide for future growth patterns that will be appropriate for the Lynden community. This is a unique area of the City that warrants a thoughtful planning effort.

Given the projected costs of infrastructure in the Pepin Creek Sub-Area the City staff has been exploring alternate circulation routes and conducting traffic studies to test these alternate designs. As a result, the revised 2019 Sub-Area Plan includes a new street layout and adjustments consistent with the code revisions made regarding applicable zoning categories adopted in March of 2019.

It is important to note that the sub-area plan assumes the realignment of Pepin Creek, but it does not decide on the design of this creek realignment project. The Public Works department is heading up environmental review of a couple different realignment options and their associated costs. It is critical to the environmental review process that the PCSA be in a final Council-approved form.

Although the PCSA represents a monumental amount of research, outreach, and staff time it is critical to remember that the document is a plan rather than a contract. The goal of the plan is to guide development and priorities within the sub-area. It can, however, be altered, revised, and improved as we learn more about the channel project, projected costs, and the needs of the City.

At a November 21st hearing the Planning Commission recommended approval with specific considerations outlined for the City Council. Additionally, the comment period with the Department of Commerce, regarding the PCSA plan, has begun but will not officially conclude until early 2020. Based on tonight's outcome Planning staff will be finalizing Ordinance No. 1600 and returning the document at a subsequent council meeting.

***Planning Director Heidi Gudde provided a 20-minute presentation to Council that highlighted some of the background information related to the PCSA and to also touch upon some recent conversations related to the PCSA.***

Mayor Korthuis opened the Public Hearing at 7:38 p.m.

### Jeff Roberts, 1318 W. Park, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and reminded council as to what the property owner wanted for the property when it was sold to the city.

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### Heather Brown, 863 Main Street, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

### Brent Work, 501 Sunrise Drive, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

### Gary Vis, 518 Front Street, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street. He also stated that the city doesn't have to do anything with the land right away.

### Diane Veltkamp, 705 Birch Street, Lynden

Commented on her understanding of Mr. Heusinkveld's vision of keeping the property for parkland. She also commented on the property that was previously set aside for Bender Park and asked that the council do the right thing.

### Bob Weeks, 1501 Lilac Court, Lynden

Commented on the concept of having a parkway on the north side of the existing airport roadway and the possibility of extending the airport runway.

### TJ Timmermans, 1804 Fairview Court, Lynden

Commented on the possible configuration plans of the Pepin Parkway circulation plans and does not want to see the Park bisected by a street.

Mayor Korthuis closed the Public Hearing at 7:55 p.m.

***Councilor Lenssen moved and Councilor Laninga seconded to approve Pepin Creek Sub-Area Plan using alternative No. 3 design as the circulation plan that's included and that no concerns are generated during the Department of Commerce review. Motion approved on a 6-0 vote.***

### Approve Comprehensive Plan Amendment 19-01 (Pepin Creek)

The City of Lynden amended the Comprehensive Plan in December of 2018 to reflect the creation of the Pepin Creek Sub-Area. At that time the Future Land Use Map was also amended to reflect the arrangement of low and medium residential development proposed within the Sub-Area Plan draft.

Since that time the zoning layout of the Pepin Creek Sub-Area has been altered as reflected in the revised plan. The proposed amendment to the Comprehensive Plan is meant to correspond with these revisions. The comment period on the Amendment from the Department of Commerce has begun but

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will not officially conclude until early 2020. Planning staff will be finalizing Ordinance No. 1601 based on the outcome of tonight's meeting and returning the document to the City Council at a subsequent meeting.

Mayor Korhuis opened the Public Hearing at 8:18 p.m.  
There were no comments.  
Mayor Korhuis closed the Public Hearing at 8:18 p.m.

***Councilor Strengholt moved and Councilor De Valois seconded to approve Comprehensive Plan Amendment 19-01 on the condition that no concerns are generated by the Department of Commerce's review. Motion approved on a 6-0 vote.***

#### 4. UNFINISHED BUSINESS

##### Interlocal Agreement- Implementation Guidelines for County Wayfinding Signs

The Bellingham Whatcom County Tourism Office has been working cooperatively with the jurisdictions of Whatcom County to develop a regional wayfinding sign program. The program includes coordinating roadway and pedestrian signs for locations throughout the County but includes unique identity icons and signs for Lynden and the other cities. The program is meant to provide continuity and guidance to visitors in support of tourism activities throughout the County and to raise a visitor's awareness to other destinations within the Lynden by directing visitors to downtown from Bender Fields, the Fairgrounds, or Homestead golf course.

In anticipation of this agreement the Lodging Tax Advisory Committee voted to provide funding in the amount of \$22,000. This will be matched by Whatcom County for a total of \$44,000. No additional funding commitments are required at this time.

The Council discussed this agreement at the December 2nd meeting in order to get clarification on a few administrative items. The Mayor has confirmed with the County Executive's office that administrative costs related to sign installation will be covered by the County. The maintenance plan associated with the sign program has not been created but will be done in cooperation with all of the participants. On-going fees associated with the maintenance group are not anticipated.

It has also been confirmed that the City of Lynden is able to select a reduced sign menu from those created by the County's consultant. It is important to note that the attached agreement does not obligate the City of Lynden to install a specific number of signs.

***Councilor Strengholt moved and Councilor De Valois seconded to authorize the Mayor's signature on the Interlocal Cooperation Agreement Amendment between Whatcom County and the Cities of Whatcom County for the purpose of implementing a Countywide Regional Wayfinding and Gateway Program. Motion approved on a 5-1 vote with Councilor Laninga opposed.***

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### 5. NEW BUSINESS

#### Confirm Police Chief Appointment

Council is aware that the City has undertaken and completed a recruitment process to identify a permanent police chief. Twelve individuals applied for the position. The selection process included a series of interviews, written testing and a community meeting. Mayor Scott Korthuis selected Steve Taylor as the successful candidate. If the City Council confirms his appointment, Chief Taylor will join our Police Department January 16th.

***Councilor Lenssen moved and Councilor Wohlrab seconded to confirm Mayor Korthuis' appointment of Steve Taylor as Lynden's new Police Chief. Motion approved on a 6-0 vote.***

#### Agreement for Legal Services with Carmichael Clark P.S.

The City of Lynden has contracted for legal services with the firm Carmichael Clark P.S. for many years. The most recent two-year contract expired in October. The attached agreement is its successor. There are virtually no changes in content or format of between the expired contract and the one you are considering except for Exhibit B, the hourly rate schedule on page six. You will see a comparison of the expired contract to the proposed fees for the next two years. Staff believes these rates are reasonable and recommends approving the contract.

***Councilor Strengholt moved and Councilor Laninga seconded to approve the contract for legal services with Carmichael Clark P.S., and direct the Mayor to sign. Motion approved on a 6-0 vote.***

#### Interlocal Agreement with Whatcom Conservation District

The City would like to again enter into an Interlocal Agreement with the Whatcom Conservation District (WCD) for a Stormwater and Water Conservation Community Education and Outreach Program for 2020. The scope of this contract helps fulfill certain City requirements under its NPDES Phase II Stormwater Permit. The Water Conservation efforts support requirements from the State Department of Health for Water Use Efficiency. Staff has been very pleased with the deliverables over the past four years. This year's scope of work includes collaboration with the Northwest Washington Fair for stormwater improvements design through a Department of Ecology grant that the City will administer. The WCD will assist with design and project management and their efforts will provide the required grant match.

Additionally, through this agreement, the City participates in the Nooksack Basin Water Quality studies that investigate fecal coliform testing to identify sources of contamination. This aids the Portage Bay Shellfish District.

The term of this agreement is January 1, 2020 through December 31, 2020. The Whatcom Conservation District Board approved this at their November meeting.



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***Councilor Bode moved and Councilor De Valois seconded to approve the Interlocal Agreement with the Whatcom Conservation District and authorize the Mayor's signature on the agreement. Motion approved on a 6-0 vote.***

### 6. OTHER BUSINESS

#### Council Committee Updates

Councilor Bode reporting for the Public Works Committee, involving the discussion of:

- Line Road work is nearing completion
- LED signs around Lynden schools
- 17<sup>th</sup> Street design
- TIB grant for E Grover Street
- DOE grant for decontamination facility

Councilor Lenssen reporting for the Community Development Committee, involving the discussion of:

- RV storage code

Councilor De Valois reporting for the Parks Committee, involving the discussion of:

- Staff working with Recreation District concerning Parks Bond
- Berthusen Park restrooms
- Rotary Project at Bender Field
- Reviewing Park Impact Fees
- An Art Wall
- Cameras in the city's parks

Councilor Strengholt reporting for the Finance Committee, involving the discussion of:

- Computer software for security
- Review overtime
- Sales tax is strong but is under projected budget
- General fund cash is healthy
- Departments are within their budgets with exception of Police

### 7. EXECUTIVE SESSION

Council did not have an executive session.

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### 8. ADJOURNMENT

The December 16, 2019 regular session of the Lynden City Council adjourned at 8:40 p.m.

*Pamela D. Brown*

Pamela D. Brown, MMC  
City Clerk

*Scott Korthuis*

Scott Korthuis,  
Mayor