

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



November 18, 2019

### 1. CALL TO ORDER

Mayor Korthuis called to order the November 18, 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, and Kyle Strengholt.

Members absent: Councilors Jerry Kuiken and Mark Wohlrab absent with notice.

Staff present: Finance Director Anthony Burrows, Fire Chief Billmire, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, 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 Laninga seconded to approve the regular council minutes of November 4, 2019. Motion approved on a 5-0 vote.***

### ITEMS FROM THE AUDIENCE

**Scheduled: None**

**Nonscheduled:**

Mayor Korthuis thanked Nikki Turner, Darren Johnson, Jesse DeMooy, and Jen Marion for their participation in the election and their willingness to serve the Lynden community by running for council positions. He also congratulated Councilors Bode, De Valois, Kuiken and Lenssen for their successful outcomes in the election.

Mayor Korthuis also congratulated the Lynden Regional Park and Recreation District for the successful passage of Proposition 2019-4. He stated that the promotion committee did an excellent job.

Mayor Korthuis also offered his condolences to Chief Knapp's family and friends and reminded everyone that Chief Knapp's memorial service was scheduled for 1:00 p.m. on Wednesday, November 20th.

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

Cynthia thanked the council members for their work and dedication to the community. She offered her condolences to council and city staff for the loss of Chief Knapp and said that she knew of someone that could conduct a grief workshop if anyone was interested. She gave the city clerk a couple of books related to grief, a sympathy card and two flowers.

### 2. CONSENT AGENDA

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

Paychex EFT.....	\$294,971.53
City of Lynden EFT.....	\$62,397.31
Warrant Liability .....	\$55,534.62
<b>Subtotal</b>	<b>\$412,903.46</b>
Paychex EFT Liability	\$6,170.05
<b>Total EFT &amp; Other Liabilities</b>	<b>\$419,073.51</b>

#### Approval of Claims – November 20, 2019

Manual Warrants No.	<u>74101</u>	through	<u>74103</u>		\$7,855.99
EFT Payment Pre-Pays					\$817.39
				Sub Total Pre-Pays	\$8673.38
Voucher Warrants No.	<u>74104</u>	through	<u>74240</u>		\$802,884.47
EFT Payments					\$36,110.49
				Sub Total	\$838,994.96
				Total Accts. Payable	<b>\$847,668.34</b>

#### Set the Public Hearing – Ordinance No. 1594- Impact Fee Deferral Program

In 2015 the State Legislature authorized changes to RCW 82.02 related to the collection of impact fees for single family home development. This was intended to assist in the economic recovery of the building industry.

As a result, the City is required to create a program by which home builders may defer the payment of impact fees.

The amended code language will propose that impact fees may be delayed until final occupancy but not longer than 18 months. The number of fee deferral requests may not exceed more than 20 units per year per applicant and will be administered at a fee equivalent to 10% of the value of the fees for which deferment is requested.

Staff is also using the opportunity to amend Title 3 by formally recognizing the option to have fee credits (construction in lieu of impact fees) and to clean-up other language such as outdated capital

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improvement references to "Table 8" and indicating park and fire fees by reference instead of within the code.

Draft language is currently going through legal review and will be brought forward with the December 2 City Council agenda.

### Resolution No. 1010-Net Increase in the Revolving Cash Fund for Municipal Court

Currently the Lynden Municipal Court (LMC) has a cash fund for the purpose of making change for citizen transactions. The LMC has two cash drawers, each is assigned to an individual with the understanding that they are responsible for the funds as stated in the Resolution. Due to an increase in operational transactions the LMC needs to increase its cash limit in each drawer. Resolution No. 1010 would increase the cash limit of each cash drawer from \$150 to \$300.

Resolution No. 1010 would increase the total of the City's revolving cash fund from \$2,000 to \$2,300. The Finance Committee approved the recommended increase in their November 18, 2019 meeting and has forwarded the Resolution to the full Council.

### Resolution No. 1012-Request to Cancel Warrant No. 73716

RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and Warrant No. 73716 has not and will not be presented for payment and should be canceled.

### Set Date for the Final Public Hearing on the 2020 Preliminary Budget

As published, 7:00PM on December 2, 2019 is the time and date set for the Final Public Hearing on the 2020 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 21st City Council meeting.

***Councilor Bode moved and Councilor De Valois seconded to approve the Consent Agenda. Motion approved on a 5-0 vote.***

## 3. PUBLIC HEARING

### Development Standards Variance #19-03- Front Street Station Business Park

A Development Standards Variance application has been brought forward by Don and Sally Korthuis for a variance to the required right-of-way (ROW) dedication and resulting street section for West Front Street. The Variance would facilitate the development of a business park development called



Front Street Station. The proposed project is located on approximately 7 acres of vacant property and would affect approximately 475 feet of frontage along West Front Street.

The application requests the dedication of 10 feet rather than 20 feet of additional ROW, which would be required for the full 80' ROW identified in the Development Standards. The 30-foot ROW abutting Front Street Station allows construction of a 44' wide paved street cross-section matching the improved street to the east but reduces sidewalk width from 8 feet to 5 feet, with a small 3' planter strip between, and street trees shifted into parking islands on the property.

West Front Street is considered an impact fee (arterial) street which means that the City assumes responsibility for its improvement using developer impact fees. Currently the City has a pending EDI application for County grant and loan funds to assist in the improvement of this section of roadway.

The alternate standard is based on sound engineering and has support from Public Works and Planning staff. The variance also recognizes the burden of pioneering development on a previously unimproved portion of West Front Street. This variance is specific to the frontage of the West Front Street Station.

Mayor Korthuis opened the Public Hearing at 7:10 p.m.  
Don Korthuis, 2151 Stickney Island Road, Everson spoke in support of the item.  
Mayor Korthuis closed the Public Hearing at 7:12 p.m.

***Councilor Lenssen moved and Councilor Bode seconded to approve the Development Standards Variance allowing for a 10" right-of-way dedication and alternate street standard along the Front Street Station frontage and to authorize the Mayor's signature on the document. Motion approved on a 4-0 vote with Councilor Strengholt abstaining.***

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

**This item did not appear on the agenda**

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 which would be used to access the multi-family portion of the property located at 1583 Badger Road.

The application request and staff report will be detailed in the package moving forward for the December 16 council meeting. However, due to a miscommunication within the Planning Department the Public Hearing for this application was noticed and advertised per code, to occur at the November 18<sup>th</sup> council meeting without being placed on the published agenda or information provided to council members.

Staff requests that council initiate the public hearing at the November 18 meeting and take public comment from those who may wish to speak. Staff also requests that the Public Hearing remain open and the item tabled until the December 16<sup>th</sup> council meeting so that interested parties can attend and speak at the December 16<sup>th</sup> meeting. Any comments made at the November 18<sup>th</sup> meeting will already be part of the official record.

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Mayor Korthuis opened the Public Hearing at 7:14 p.m.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 7:14 p.m.

***Councilor Lenssen moved and Councilor Strengholt seconded to extend the public hearing and table Development Standards Variance #19-02 until the December 16, 2019 council meeting. Motion approved on a 5-0 vote.***

### Ordinance No. 1595 – Real Estate Property Tax 2020

This item appeared under New Business on the agenda instead of the Public Hearing section.

The City of Lynden is required by State regulations to adopt the proposed 2020 property tax levy. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor's Office. When comparing preliminary 2018 levy rates to 2019 levy rates, the decrease is estimated at 0.120 cents per mil to a mil rate of 1.67781

The final figures for the assessed valuation of the city's tax base are not yet available. Once those are provided by the County Assessor, an ordinance setting the final, exact levy will be provided in January 2020 for consideration.

On November 18, 2019 the Finance Committee discussed the draft ordinance and recommended that Ordinance No. 1595 be reviewed by the full Council.

Mayor Korthuis opened the Public Hearing at 7:25 p.m.  
There were no comments.  
Mayor Korthuis closed the Public Hearing at 7:25 p.m.

***Councilor Strengholt moved and Councilor De Valois seconded to approve Ordinance No. 1595 and authorize the Mayor's signature. Motion approved on a 5-0 vote.***

## 4. UNFINISHED BUSINESS- None

## 5. NEW BUSINESS

### Conditional Use Permit #19-01 – Front Street Station Business Park

The Conditional Use Permit application is brought forward by Don and Sally Korthuis for a business park development called Front Street Station. The proposed project is located on approximately 7 acres of vacant property on the south side of West Front Street. The application requests the addition of wholesaling and warehousing as permitted uses within the proposed business park. The business park is not intended to be exclusively wholesaling and warehousing but a wide variety of uses including retail, showroom, office, and light manufacturing as permitted by code.

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At a public hearing on October 24, 2019 the Planning Commission recommended approval of the proposed conditional uses.

***Councilor Lenssen moved and Councilor De Valois seconded to approve the Conditional Use Permit allowing wholesale and warehouse uses at the Front Street Station Business Park and to authorize the Mayor's signature on the Findings of Fact. Motion approved on a 4-0 vote with Councilor Strengholt abstaining.***

### Site Specific Rezone #19-01 – Bouma Property

Rezone application 19-01 has been brought forward by property owner Gene Bouma. Mr. Bouma is proposing to shift the property from the single-family zoning category of RS-100 to a

multi-family zoning category of RM-2. The 30,000 square foot property is located at the northwest corner of Main St. and 19<sup>th</sup> St.

The application went to a public hearing before the Planning Commission on July 11<sup>th</sup>. Although public comment included support for nearby multi-family developments such as Woodcreek and Oakwood Apartments, many neighboring property owners spoke against the proposal with concerns related to the proposed housing type and its associated impacts. A recording of the meeting is available on the City's website: <https://www.lyndenwa.org/recorded-meetings/>

While the Planning Commission agreed that the rezone to RM-2 would be consistent with the City's Comprehensive Plan they ultimately recommended denial of the rezone stating that this area of the City should be reviewed as a whole rather than specific consideration given to this corner. They concluded that the application did not meet the criteria of "promoting the health, safety and general welfare of the community".

It's clear that nearby residents have strong feelings about a revision to the zone however the proximity of this site to other multi-family zones and its location along the busy corridor of Main Street presents a good opportunity for transitional zoning. Staff believes that concerns related to a decrease in property values, dangerous traffic conditions, and the harsh characterization of renters are unfounded. In this case, staff recommends the City Council review the record and consider approval of the rezone of the Bouma property as presented in Rezone Application 19-01. Findings of Fact which correspond with the Council's final decision will be brought forward at the December 2 meeting.

***Councilor Lenssen moved and Councilor Bode seconded to approve Site Specific Rezone application #19-01 of the Bouma property. Motion approved on a 4-1 with Councilor Lenssen opposed.***

Easement Agreement Form for Fence or Vegetation in City Property Located in Pepin Creek Corridor  
Certain properties in the Bogaard plat would like to place fencing, or vegetation in the Pepin Creek corridor that abuts their properties. The agreement prepared by the City Attorney will grant them the right to use the portion of land owned by the City for certain permitted uses, namely installation of a

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fence or landscaping. This would be until the City, at its sole discretion, needs the area vacated. The property owners would be given 30 days prior written notice of the requirement to vacate.

If this agreement form is approved by City Council, the City will enter into separate agreements with each property owner desiring to use the aforementioned City property. Legal descriptions will be incorporated in the final, individual agreements.

The Public Works Committee reviewed this at their November 14th meeting and concurred to recommend approval to the full City Council.

***Councilor Bode moved and Councilor De Valois seconded to approve the Easement Agreement Form for fence or vegetation in City property located in Pepin Creek Corridor and authorize the Mayor to sign each Agreement with individual property owners. Motion approved on a 5-0 vote.***

### Interlocal Agreement with Whatcom County to Establish Cost Sharing Partnership for Licensed Pictometry Imagery and Software

Council is asked to review the Interlocal Cooperative Agreement (Amendment) with Whatcom County to cost share 2019 Pictometry aerial images. These updated images are obtained under a Whatcom County Contract with Pictometry International Corporation; and are supplied to other local jurisdictions at a discount through this Interlocal Agreement. Pictometry imagery and software is a patented digital aerial image capture system used by staff for projects and land use planning.

The City has used this service for several years and money has been reserved in the 2020 budget. The first payment of \$4,733.94 is due the month after the City receives the Pictometry imagery, and the second payment of \$4,160 is due no later than one year after the first payment is due. The Public Works Committee concurred to recommend approval to City Council at their November 13th meeting.

***Councilor Bode moved and Councilor De Valois seconded to approve the Interlocal Agreement with Whatcom County for shared costs of Pictometry Software and Image Capturing Services and authorize the Mayor to sign the Agreement. Motion approved on a 5-0 vote.***

## 6. OTHER BUSINESS

### Council Committee Updates

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

- Transportation Impact Fee revisions
- Easement Agreement approved at this meeting
- WTP demolition complete
- Outfall project is operational
- Line Road sidewalk
- 7<sup>th</sup> Street revitalization
- 17<sup>th</sup> Street design
- Berthusen restrooms

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

- Review of payroll, overtime and sales tax
- Overtime for Police and Fire Departments
- Finance items discussed at tonight's meeting
- Public Hearing dates for 2020 Budget
- Property tax ordinance
- General reserves are strong
- Passage of Parks Bond

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

- Benson Property
- Bond projects
- Barn renovations, kitchen and restrooms
- Pump Track
- Solar-powered cameras installed in Parks
- Rotary Rock Project progress
- Park impact fee review
- Restrooms for Berthusen Park

### 7. EXECUTIVE SESSION

Council recessed into executive session at 7:45 p.m. to discuss a potential acquisition of real estate. It was anticipated that the executive session would last approximately 15 minutes total and that a decision would not be made.

### 8. ADJOURNMENT

The November 18, 2019 regular session of the Lynden City Council adjourned at 8:00 p.m.



Pamela D. Brown, MMC  
City Clerk



Scott Korthuis  
Mayor