

# CITY OF LYNDEN



## CITY COUNCIL MINUTES OF REGULAR MEETING

March 1, 2021

### 1. CALL TO ORDER

Mayor Korthuis called to order the March 1, 2021 regular session of the Lynden City Council at 7:00 p.m. held through an online web-based meeting platform (Microsoft Teams).

#### ROLL CALL - None

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

Members absent: None

Staff present: Fire Chief Mark 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 Kuiken moved and Councilor Strengholt seconded to approve the February 16, 2021 regular council minutes as presented. Motion approved on a 7-0 vote.***

#### ITEMS FROM THE AUDIENCE

Scheduled- None

Unscheduled- None

### 2. CONSENT AGENDA

***Payroll information is unavailable at this time because of the finance department's transition to a new payroll system (Caselle)***

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**Approval of Claims – March 3, 2021**

Manual Warrants No.	<u>21543</u>	-	<u>21544</u>		\$7,183.68
EFT Payment Pre-Pays					\$33,954.73
				Sub Total Pre-Pays	\$41,138.41
Voucher Warrants No.	<u>21545</u>	through	<u>21577</u>		\$60,975.95
EFT Payments					\$0.000
				Sub Total	\$60,975.95
				Total Accts. Payable	<b>\$102,114.36</b>

Berthusen Park Agricultural Land Lease  
COVID-19 Federal Reimbursement Contract  
Resolution No. 1033- Stuit Development Agreement

***Councilor De Valois moved and Councilor Kuiken seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.***

### 3. PUBLIC HEARING

Ordinance No. 1621 Pepin Creek Moratorium Extension

The Pepin Creek moratorium has been in place since September of 2016. It was established in recognition of development constraints associated with what is now known as the Pepin Creek Sub-area. The City has undertaken significant efforts to examine these constraints and develop solutions which would allow for growth in this area.

Since then, the City Council has approved the Pepin Creek Sub-Area Plan that addresses circulation, open space and assigned land use and zoning within the area. Additionally, because of the significant infrastructure improvements associated with the creek re-alignment and the improvement of Benson and Double Ditch Roads, Council has since recognized that work must be undertaken in a reduced or phased approach. The engineering team, Public Works, and Planning departments have developed a plan which decreases the overall infrastructure cost associated with the creek realignment, is largely consistent with the concepts of the approved sub-area plan and focuses first on portions of the sub-area already within the City and under moratorium.

The financial mitigation study has concluded with a SEPA mitigation fee showing merit for use in allocation of infrastructure costs. The Planning Department has subsequently drafted a Resolution of Intent which outlines the required steps toward lifting the moratorium and will be circulated to the City Council prior to the February 16 Council meeting. It is anticipated that these next steps will require an extension of the moratorium. As a result, City staff

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recommends that the Council set a public hearing date of March 1st to consider extending the moratorium through June 30, 2021. The current date of expiration is March 9, 2021.

Mayor Korthuis opened the Public Hearing at 7:04

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:04

***Councilor Lenssen moved and Councilor Kuiken seconded, to approve Ordinance No. 1621 extending the moratorium of development on those properties identified within the Pepin Creek Sub-Area through June 30, 2021 and authorize the Mayor's signature on the Ordinance. Motion approved on a 7-0 vote.***

#### 4. UNFINISHED BUSINESS

In 2018 the City of Lynden began researching the use of a hearing examiner after several costly and time-consuming administrative appeals were defended. Benefits of the use of a hearing examiner include an expediency in processing appeals, the unbiased opinion of a professional, removing social/political influence from the process, reducing the City's liability, and decreasing the obligations placed on volunteer boards.

All decisions made by the Hearing Examiner, apart from Shoreline land use permits, will be appealable to the City Council. Shoreline permits, per the City's Shoreline Master Program, remain appealable to the State Shoreline Hearing's Board.

The individual selected for the Hearing Examiner position would be selected by the City Council. A corresponding request for qualifications has been drafted and was distributed to Council members in January and reviewed with the Community Development Committee. The Technical Review Committee and the Planning Commission recommend approval as presented.

On February 1, 2021, the City Council held a public hearing on Ordinance 1615 but continued the item to March 1, 2021.

***Councilor Lenssen moved and Councilor De Valois seconded, to approve Ordinance No. 1615 with an effective date of May 1, 2021, amending the Lynden Municipal Code to create a Hearing Examiner role and scope of authority, and to authorize the Mayor's signature on the Ordinance. Motion approved on a 7-0 vote.***

***Council members Gerald Kuiken, Mark Wohlrab, and Brent Lenssen agreed be on the panel that selects the Hearing Examiner.***



## 5. NEW BUSINESS

### Resolution No. 1031- A Resolution of Intent regarding the Pepin Creek Project

At the January CDC / Special Council Meeting staff presented concepts for the allocation of costs associated with the Pepin Lite infrastructure. As Council will recall, the goal of the Pepin Lite design is to reduce overall infrastructure costs, focus on transportation improvements within the Pepin Creek Sub-Area, and lift the existing development moratorium.

The 13 projects identified in Pepin Lite include creek re-location but also considerable street improvement projects. Nine of the projects directly serve the development within the Pepin Creek Sub-Area. Another 4 projects are identified as providing benefit to existing neighborhoods or the general community.

Next steps in the planning process include the establishment of a fair allocation of costs for the 9 projects specific to the sub-area. The mechanism that showed the most merit is the use of Transportation Impact Fees (TIF) administered in the form of a SEPA mitigation fee. This fee can be based on the percentage of trips which will be generated by the build-out of the Sub-Area. Traffic analysis concluded that 98.7% of new trips in this area will stem from development in the Sub-Area. This is the nexus for allocating 98.7% of the 9 infrastructure projects to new development. Since the January meeting Berk Consulting conducted a market analysis to determine if this is a realistic share of costs for private development to assume.

Results showed that development within the Sub-Area appears feasible even if it shoulders 98.7% of the cost of infrastructure improvements, other fees, utility costs, and raw land costs. Given these results, staff has drafted the attached Resolution of Intent which summarizes the conclusions of the Pepin Creek Financial Mitigation Study and outlines the path toward lifting the moratorium on development within the Sub-Area. While the resolution does not finalize needed legislative changes, it clearly outlines the City Council's direction on this complicated project and provides guidance to staff and landowners in this area.

***Councilor Lenssen moved and Councilor Strengholt seconded, approve Resolution No. 1031 outlining the Council's intentions in the allocation of infrastructure costs associated with the Pepin Creek Sub-Area and authorize the Mayor's signature on the Resolution. Motion approved on a 7-0 vote.***

## 6. OTHER BUSINESS

Council Committee Updates - None

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### 7. EXECUTIVE SESSION

Council did not hold an executive session.

The Council meeting reconvened at 7:17 p.m.

### 8. ADJOURNMENT

The March 1, 2021 regular session of the Lynden City Council adjourned at 7:17 p.m.

Pamela D. Brown

Pamela D. Brown, MMC  
City Clerk

Scott Korthuis

Scott Korthuis  
Mayor