

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



September 20, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the September 20, 2021, regular session of the Lynden City Council at 7:00 p.m., which was held online, via Microsoft Teams.

ROLL CALL

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

Members absent: None

Staff present: Fire Chief Mark Billmire, HR Manager Kimberly Clemons, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Police Chief Steve Taylor, Public Works Director Steve Banham, City Administrator John Williams, City Attorney Bob Carmichael, and City Clerk Pam Brown.

OATH OF OFFICE- None

APPROVAL OF MINUTES

Councilor Wohlrab moved and Councilor Kuiken seconded to approve the September 7, 2021, regular council minutes as presented. Motion approved on a 7-0 vote.

Mayor Korthuis thanked civil service commissioner, Mr. Arvid Hagen for the 15 years he served they Lynden community. The Mayor expressed gratitude and appreciation on behalf of the city council and city staff .

ITEMS FROM THE AUDIENCE

Scheduled: None

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Unscheduled:

Councilor Wohlrab asked council to allow Diana Graeber to address council as an unscheduled participant.

Diana Graeber, 1515 Front Street

Ms. Graeber stated that the City of Lynden was in decline and has been for the past couple of years. She believes this decline may be related to the COVID pandemic, but she would like to see this situation change through more code enforcement. She is noticing more trash in the city and other code items that are not being addressed. She is greatly concerned and asks whether the city practiced proactive code enforcement. And if not, why not?

Mayor Korthuis stated that the allotted time for scheduled public comment does not provide the best opportunity for an in-depth dialogue. Instead, he suggested that Ms. Graeber attend one of the council committee meetings, in this case, the Community Development Committee meeting. Ms. Graeber agreed to contact City Administrator John Williams for more information about the CDC's meeting schedule.

2. CONSENT AGENDA

Payroll Liability to September 1 through September 15, 2021

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$408,884.33
Check Liability	\$11,913.25
Total Non-L&I Liabilities	\$420,797.58
Quarterly Liabilities	\$11,618.77
Total EFT & Other Liabilities	\$432,416.35

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Approval of Claims – September 21, 2021

Manual Warrants No.	<u>22819</u>	through	=		\$75.00
EFT Payment Pre-Pays					\$171,159.94
				Sub Total Pre-Pays	\$171,234.94
Voucher Warrants No.	<u>22820</u>	through	<u>22970</u>		\$1,401,052.77
EFT Payments					\$0.000
				Sub Total	\$1,401,052.77
				Total Accts. Payable	\$1,572,287.71

Interim Contract for Public Defender Services

The current Public Defender has been appointed to a Judge position and her final day as Lynden Public Defender will be September 22nd. If approved, the new public defender firm of North County Public Defenders will begin transition of all existing cases that day; and all new cases will be with the new firm as well. The City has started an RFP process and anticipates initiating a new Public Defender contract to begin on January 1, 2022. The costs of the interim contract are consistent with the typical expenditures for the service.

Set Public Hearing Date of October 4, 2021- Ordinance No. 1636- Extending the Franchise Agreement with Cascade Natural Gas Corporation

Cascade Natural Gas Corporation has formally requested that the City extend its existing Franchise Agreement adopted by Ordinance No. 1413 in January 2012, by exercising the City's option for a ten-year extension. Cascade provides natural gas service to residents and businesses within the City of Lynden which is considered to have a public benefit. The current franchise would expire in 2022 without this extension of a new franchise.

The Public Works Committee reviewed this request at their meeting on September 8, 2021 and concurred to support the extension and recommended to forward the request to City Council to set a Public Hearing.

Councilor Bode moved and Councilor Lenssen seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.

3. PUBLIC HEARING

Ordinance No. 1635- Franchise Agreement with Sound Internet Services dba Pogozone for Transmission of Telecommunication

Sound Internet Services dba Pogozone would like to enter into a non-exclusive Franchise

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Agreement with the City to operate and maintain telecommunications (phone and high-speed internet) systems within City right-of-way. They are also in the process of seeking franchise agreements from other local jurisdictions as they expand beyond Bellingham and into the rest of Whatcom County.

Facilities will be placed on existing infrastructure where practical, which could mean using existing telephone poles (hanging lines from Puget Sound Energy poles) and/or using existing towers. However, there may be cases where new infrastructure is needed. In these cases, City permits will be required. The request for a franchise agreement was discussed at the Public Works Committee meeting on September 8, 2021, and the Committee concurred to recommend that City Council approve the Franchise Agreement.

Mayor Korthuis opened the Public Hearing at 7:07 p.m.
There were no public comments received.
Mayor Korthuis closed the Public Hearing at 7:07 p.m.

Councilor Bode moved and Councilor De Valois seconded to approve the Franchise Agreement with Sound Internet Services dba Pogozone and authorize the Mayor's signature on the Franchise agreement Motion approved on a 7-0 vote.

Ordinance No. 1633- Amend LMC Section 12.28- Sidewalk Obstructions

The City has received requests from dining establishments to use portions of the City sidewalk for outdoor dining. There have also been previous requests for additional clarification on the use of sidewalks for other purposes.

The proposed code amendment clarifies which obstructions require permits and which are exempt from permit requirements. Provisions have been included for outdoor dining facilities. The permitted uses are required to preserve a five-foot continuous strip of sidewalk for pedestrian movement.

The Public Works Committee reviewed these revisions at their June 9, 2021 and August 4, 2021 meetings and concurred to recommend approval. Based on comments made at the City Council Meeting on September 7, 2021 introducing Ordinance No. 1633, staff amended 12.28.020 L. to include reference to Lynden Municipal Code 19.33.

Mayor Korthuis opened the Public Hearing at 7:09 p.m.

Gary Vis, Chamber of Commerce, 518 Front Street, Lynden spoke in favor of Ordinance No. 1633 after submitting some suggested revisions to council and staff.

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Mayor Korthuis closed the Public Hearing at 7:22 p.m.

The suggested revisions made by Mr. Vis will be reflected in Ordinance No. 1633 and a copy of those revisions are also made part of the official Council file.

Councilor Bode moved and Councilor De Valois seconded to approve the Ordinance No. 1633, Amending LMC Section 12.28- Sidewalk Obstructions, with the revisions suggested through public comment, and authorize the Mayor's signature on the ordinance. Motion approved on a 7-0 vote.

Development Standards Variance 21-01 – Lot Design of the Cedarbrook Short Plat

A Development Standards Variance application has been brought forward by Cedarbrook Partners LLC to vary a subdivision standard that relates to the proportions of residential lots. Specifically, LMC 18.14.020(A) states that no residential lot shall be created deeper than three times its width.

The request to vary this standard comes forward as part of a Shoreline Substantial Development (SSD) Permit and a Short Plat application. The Hearing Examiner held a public hearing regarding the Shoreline permit on August 26, 2021 and has approved the request. The subject property is unique in that the Fishtrap Creek runs along its eastern boundary. The creek and associated critical areas limit the development along this eastern half of the property. As such, the 4 lots that are proposed to be created are accessed from the western edge. Three of the lots run lengthwise west to east across the 3-acre parcel so the lot depth is more than three times the lot width. The variance does not seek to reduce the minimum size of the lots as each is over 20,000 square feet, well above the 10,000 square foot minimum.

Variance requests must be brought forward to a public hearing and public comment received on the item. Staff has provided the Technical Review Committee report which concludes with support for the variance.

Mayor Korthuis opened the Public Hearing at 7:07 p.m.
There were no public comments received at the online meeting.
Mayor Korthuis closed the Public Hearing at 7:07 p.m.

Councilor Lenssen moved and Councilor Bode seconded to approve Development Standards Variance Request #21-01 associated with the Cedarbrook Short Plat application. Motion approved on a 7-0 vote.

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4. UNFINISHED BUSINESS- None

5. NEW BUSINESS

Exterior Siding and Roofing Proposal- Lynden Recreation Center

The wood exterior siding and composition roof on the south side of the former YMCA facility needs repair. After the YMCA ended their lease because of COVID-19 the City entered into a new lease with Forge Fitness to operate a Pool/Fitness Center at 100 Drayton Street.

Recognizing the urgent need for repairs to the building exterior and HVAC systems, the City Council at their meeting on June 8, 2021, approved an amendment to the Recreational Facility Lease Agreement allowing for \$250,000.00 per year in reimbursements of out-of-pocket Capital Expenditures on this City Building by the owners of Forge Fitness.

A proposal was obtained by the Davidsons from Bay Road Building and Consulting LLC, the only firm available and able to perform this work in a timely manner, in the amount of \$410,269.65 plus Washington State Sales Tax.

At their meeting on September 8, 2021, the Public Works Committee reviewed the proposal for siding replacement and recommended including graffiti protection (\$3,000) and concurred to recommend approval to City Council to split this work between 2021 and 2022 to allow the work to be completed within the annual reimbursement limits.

Councilor Bode moved and Councilor De Valois seconded to approve the Davidsons request for siding and roof replacement at the Lynden Recreation Center and authorize the Davidsons to execute the agreement with Bay Road Building and Consulting LLC in the amount of \$413,269.65 plus Washington State Sales Tax with City reimbursement up to \$250,000 in 2021 and 2022. Motion approved on a 7-0 vote.

Conditional Use Permit 21-02 – Loeffler Short Term Rental

Steven and Denise Loeffler have applied for a Conditional Use Permit to allow for the operation of a short term (vacation) rental at their home located at 8283 Double Ditch Road. The rental unit is a 640 square foot apartment above their garage. The unit has been in place as an accessory dwelling unit (ADU) for some time. As an ADU it is permitted to accommodate long term rentals.

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The Conditional Use Permit would allow the unit to also be used for short term vacation rentals. Short term rentals are reviewed like bed and breakfast establishments per Lynden Municipal Code 19.49.020 and 19.49.030. As required by code, the applicant sent notices to surrounding property owners about the proposal and a public hearing was held in front of the Planning Commission on September 9. No public comment was submitted to the city and no testimony given at the public hearing about the proposal.

The Technical Review Committee has reviewed the application and created a report. The report concludes that the rental unit could operate with little to no impact to the surrounding property owners due to the size and location of the property, the existing surrounding landscape, and the design of the rental unit which all serve to minimize impacts of the proposed rental.

The Planning Commission reviewed the application and the criteria as outlined in LMC 19.49. Their hearing also concluded with a recommendation to approve the proposed Conditional Use Permit.

Councilor Lenssen moved and Councilor Bode seconded to approve Conditional Use Permit 21-02 which authorizes the operation of a short-term rental at 8283 Double Ditch Road and to authorize the Mayor's signature on the Finding of Fact and Conclusion of Law.

6. OTHER BUSINESS

Mayor Korthuis announced that after the council meeting was adjourned city council would have a closed-door meeting discussing labor negotiations.

Councilor Bode reporting for the Public Works Committee:

- Possibility that the Greenfield Village is draining into KOA ponds and causing erosion.
- Lynden Rec Center – Forge Fitness siding proposal color samples
- Pin Oak trimming
- 6th Street sewer pipe problems
- Decant facility progress
- Industrial Condensate line progress
- Pepin Creek parkway alignment discussions

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Councilor Mark Wohlrab reporting for the Public Safety Committee:

- Police 2022 budget requests- 2 new officers and 2 more vehicles
- Fire 2022 budget request- Command vehicle. Life Pak 15 and Hearst tools for the engine.
- WA State vaccine mandate
- OT costs for Fire and Police
- Monthly Fire Dept. report
- Five part-time positions suggested for the Fire department
- Fire contract negotiations
- Fire station progress
- Interim Public Defender contract with North County Public Defense

Councilor De Valois reporting for the Parks Committee:

- 2022 Park Use Fees
- Park Signs
- Glenning Park community meetings
- Contract for Benson Park Plan
- Dickinson house rental agreement (available at the end of September)
- Purchase agreement with VanderGriend Lumber close to completion
- Succession planning for the Park Director position

Councilor Strengholt reporting for the Finance Committee:

- Payroll and OT review
- Possible part-time positions with the Fire department
- Sales tax revenue the highest ever for the City
- Budget calendar items
- Satellite agencies budget requests at October Finance

Chamber Director Gary Vis said that the Chamber are planning a Trick-or-Treat event on October 29th in Lynden. There are also plans for holding a 2021 Christmas Parade.

7. EXECUTIVE SESSION

Council did not hold an executive session.

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8. ADJOURNMENT

The September 20, 2021, regular session of the Lynden City Council adjourned at 8:15 p.m.

Pam Brown

Pam Brown, MMC
City Clerk

Scott Korthuis

Scott Korthuis
Mayor