

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



March 6, 2023

### 1. CALL TO ORDER

Mayor Korthuis called to order the March 6, 2023 regular session of the Lynden City Council at 7:00 p.m. which was held in the city's council chambers.

### PLEDGE OF ALLEGIENCE

### ROLL CALL

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

Members absent: Councilor Kuiken absent with notice.

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

### OATH OF OFFICE – None

### SUMMARY REPORTS AND PRESENTATIONS - None

### APPROVAL OF MINUTES

*Councilor Strengholt moved, and Councilor De Valois seconded to approve the February 21, 2023, regular meeting minutes. Motion approved on 67-0 vote.*

### CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

Cynthia commented on general events occurring in and around Lynden and Whatcom County including the Deming Log Show, a local fundraiser, local high school performances in Fiddler on the Roof, flags and hiring practices for city job positions.

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### 2. CONSENT AGENDA

#### Payroll Liability to February 12 through February 25, 2023

##### **EFT & Other Liabilities**

##### **Non-L&I Liabilities**

Monthly EFT .....	\$556,348.81
Check Liability .....	\$0.00
Total Non-L&I Liabilities .....	\$556,348.81
Quarterly Liabilities .....	\$12,646.31
<b>Total EFT &amp; Other Liabilities</b>	<b>\$568,995.12</b>

#### Approval of Claims – March 7, 2023

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>26797</u>	through	<u>26863</u>		\$187,374.33
EFT Payments					<u>\$519,655.52</u>
				Sub Total	\$707,029.85
				Total Accts. Payable	\$707,029.85

#### Ratification of City Participation in State Opioid Settlement

The Washington State Attorney General office reached a settlement agreement with prescription drug manufacturers regarding opioid distribution and the impacts on citizens for their distribution and potential addictive issues associated with its manufacture. As before, counties and cities in the state will receive a proportionate share based on population. These funds are restricted as to how they can be used; however, the City feels there is benefit to the citizens by funding education programs. The State has now settled with five (5) retailers and participation in the settlement share approximately \$215M statewide. Lynden's share will be determined by the number of entities that sign on and the city population.

***Motion made by Councilor Bode seconded by Councilor De Valois to approve the consent agenda as presented. Motion approved 6-0.***



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### 3. PUBLIC HEARING

Ordinance No. 23-1665 (previously advertised as Ordinance No. 1654)- Amending LMC 17 and 19 regarding Community Residential Facilities, CUPS, and STRs

***Important: This ordinance was advertised as number 1654 but has been reassigned to Ord-23-1665.***

The City Council is considering the adoption of comprehensive zoning regulations governing Community Residential Facilities. In this case the term “Community Residential Facility” broadly means a residence or facility where unrelated individuals live together temporarily or permanently while utilizing common support and services. Several actions have led the City to examine this issue. In 2021 the State passed House Bill 1220 that affects how the city is allowed to regulate certain housing types that aim to address homelessness. In 2022, the issue came into sharper focus when proposed actions by a non-profit would have placed two group homes for men leaving prisons within close proximity of elementary schools. Research and review into this issue has been extensive. In the meantime, the City Council adopted interim zoning regulations that limited proximity to schools and similar residential facilities. Staff is now presenting the final ordinance on this issue. It should be noted that in addition to regulations for residential facilities, the proposal updates code pertaining to Conditional Use and Home Occupation Permits, and Short-term Rentals. Also, work on housing issues will continue. Staff is currently coordinating with Whatcom County to assess the regional housing need, including the need for emergency housing and shelters. Results will be reflected in the City’s Comprehensive Plan. On December 15, 2022, the Planning Commission held a public hearing on the ordinance and recommended approval with the condition that length of stay at bed and breakfasts be treated equally to length of stays at short-term rentals. Following this conclusion, the Community Development Committee drafted alternate recommendations that did not alter language related to Community Residential Facilities but tightened regulations on short-term rentals. Details of these alternate regulations have been included in the agenda packet for discussion.

Additionally, it was found that proposed sections 19.49.090 and 19.49.100 did not accurately call out large scale facilities as Conditional Uses as noted in the table in 19.49.030. It is also recommended that this clarification be included in the final document.

Mayor Korthuis opened the public hearing at 7:11 p.m.

Comments:

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- Tav Shaver, C Street, Lynden
- Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden
- Nathan Libolt, 17<sup>th</sup> Street, Lynden

None spoke in opposition of Ordinance No. 23-1665.

Mayor Korthuis closed the public hearing at 7:20 p.m.

***Motion made by Councilor Lenssen seconded by Councilor Bode to approve ORD-23-1665 and authorize the Mayor's signature on the draft recommended by the Community Development Committee and on the condition that the final document clarify that Residential Re-entry and Transition Housing Facilities which are "Large Scale" be subject to Conditional Use Permit approval consistent with the scale and permitted zoning shown in 19.49.030. Motion approved 6-0.***

#### 4. UNFINISHED BUSINESS - None

#### Executive Session

Council recessed into executive session at 7:34 p.m. to discuss with legal counsel representing the city, a matter concerning potential property acquisition under RCW 42.30.110(1)(i)(c)), The session was expected to last 10 minutes with a decision. Council adjourned from executive session at 7:44 p.m.

#### 5. NEW BUSINESS

##### Ordinance No. 23-1664 Tops Condemnation

The City of Lynden has completed a design to expand the Jim Kaemingk Sr. Trail from Depot Road west to 8th Street. This expansion of the trail network will extend and improve the trail allowing more neighborhoods to access City Park with the Million Smiles Playground and Lynden's extensive signature trail system to the east. The City requires two easements over property abutting West Pine Street: a) A temporary construction easement for approximately 18 months for the purpose of constructing a new section of public trail on adjacent property, and b) once the temporary construction easement expires, a temporary access and maintenance easement for a period of 36 months to efficiently access required mitigated vegetative plantings adjacent to the shoreline required for the trail and to address future maintenance needs for those plantings.



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To complete the project in 2023, the construction contract should be advertised before the end of March. City staff and the City Attorney have contacted the owner(s) of the Property and their attorney on several occasions to acquire the easements but without success. It is in public interest to exercise the City's power of eminent domain and condemn the property for the purposes of obtaining these easements subject to the City paying just compensation to the property owners as provided by law. Per RCW, notice has been delivered via mail, and the required advertising has been done in the City's paper of record, the Lynden Tribune.

***Motion made by Councilor Bode seconded by Councilor De Valois to approve ORD-23-1664 authorizing the acquisition, condemnation, appropriation, and taking by eminent domain of easements for the construction and maintenance of an extension of the Jim Kaemingk Sr. Trail between Depot Road and 8th Street and authorize the Mayor's signature on the Ordinance. Motion approved 6-0.***

Ordinance No. 23-1666- Emergency Interim Zoning Ordinance regarding Community Residential Facilities (Substitute to Ordinance No. 1661)

***This item was pulled from the agenda as it became unnecessary after the meetings earlier adoption of ORD-23-1665. No action was taken on this item and Ordinance No. 23-1666 is VOID.***

***Motion made by Councilor Lenssen that city council accept the Chamber's letter dated February 22, 2023 and make provision to allow for the street closures as requested by the Chamber of Commerce. Motion approved 6-0.***

***Mayor Korthuis gave Council a brief update on the Washington D.C. trip that he and City Administrator John Williams took Tuesday through Thursday of last week. They had opportunity to meet with Representative Rick Larson and his staff. They also visited the Department of Transportation, Patty Murray's office, FEMA, and Maria Cantwell's office.***

## 6. OTHER BUSINESS

Councilor Lenssen reporting for Community Development involving discussion of:

- The staff position in the Planning Department has been filled.

## 7. EXECUTIVE SESSION

Council held an executive session after item No. 4 on the agenda.

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### 8. ADJOURNMENT

The March 6, 2023, regular session of the Lynden City Council adjourned at 7:55 p.m.

*Pamela D. Brown*

Pamela D. Brown, City Clerk

*Scott Korthuis*

Scott Korthuis, Mayor