

CITY OF LYNDEN



Mayor
Scott Korthuis

Council Members
Gary Bode
Ron De Valois
Gerald Kuiken
Nick H. Laninga
Brent Lenssen
Kyle Strengholt
Mark Wohlrab

Online (Microsoft Teams) City Council Meeting
City Annex- 205 Fourth Street
October 04, 2021

Unscheduled public comment will not be taken at online council meetings. To schedule time to address council, contact the city clerk at 360-255-7085 before **12:00 noon on the day of the council meeting**. You will be asked to provide your name and address for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Members of the public may choose to join the city council meeting telephonically by dialing 1-253- 948-9362. You will then be prompted to enter the Conference ID 152 041 605 # . It is necessary to enter the # symbol. For those that prefer to join via Microsoft Teams [click here](#).

Call to Order

Pledge of Allegiance- None

Roll Call

Oath of Office- None

Approval of Minutes

1. Draft September 20, 2021 Council Minutes

Items from the Audience

Scheduled:

Carryn Vande Griend- PSE, Update on Storm Preparedness

Katie Stanford & Erika Lautenbach- WC Health Dept., COVID Community Health Impact Assessment

Unscheduled public comment will not be taken at these council meetings. To schedule time to address council, contact the city clerk at 360-255-7085 before **12:00 noon on the day of the council meeting**. You will be asked to provide your name and address for the council file. The time limit to speak to any topic that is not on that night's agenda is 3 minutes.

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Resolution No. 1034 Park Fees
- [4.](#) Resolution No. 1040 - Request to Cancel Multiple Warrants
- [5.](#) Interlocal Agreement with Bertrand Watershed Improvement District and North Lynden Watershed Improvement District
- [6.](#) Amendment to Procedures of the role of Hearing Examiner

Public Hearing

- [7.](#) Public Hearing-Ordinance No. 1636- Franchise Agreement Renewal with Cascade Natural Gas Franchise

Unfinished Business

New Business

- [8.](#) Foxtail Street Assessment Reimbursement Area Deed Notices
- [9.](#) Mayor's Status of the 2021 Budget

Other Business

- [10.](#) Draft Parks Committee Minutes September 20, 2021
- [11.](#) Draft Community Development Committee Minutes of 9-22-21
- [12.](#) Calendar

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Draft Council Minutes- Regular Meeting | |
| Section of Agenda: | Approval of Minutes | |
| Department: | Administration | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required |
| Attachments: | Draft Council Minutes- Regular Meeting | |
| Summary Statement: | Draft Council Minutes- Regular Meeting | |
| Recommended Action: | For Council review. | |

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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CITY COUNCIL
MINUTES OF REGULAR MEETING



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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CITY COUNCIL MINUTES OF REGULAR MEETING

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

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



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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CITY COUNCIL MINUTES OF REGULAR MEETING



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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CITY COUNCIL MINUTES OF REGULAR MEETING



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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CITY COUNCIL MINUTES OF REGULAR MEETING



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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CITY COUNCIL MINUTES OF REGULAR MEETING



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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CITY COUNCIL
MINUTES OF REGULAR MEETING



8. ADJOURNMENT

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

Pam Brown, MMC
City Clerk

Scott Korthuis
Mayor

DRAFT

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Approval of Payroll and Claims | |
| Section of Agenda: | Consent | |
| Department: | Finance | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required |
| Attachments: | None | |
| Summary Statement: | Approval of Payroll and Claims | |
| Recommended Action: | Approval of Payroll and Claims | |

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|--|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Resolution 1034 Park Fees | |
| Section of Agenda: | Consent | |
| Department: | Parks | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Resolution 1034 | | |
| Summary Statement: | | |
| <p>In an effort to remain current on prices charged for usage at out parks and to remain competitive with other parks departments in the county a couple of changes and increases were requested to be made to our fee structure.</p> <p>Field fees were increased due to the increase in cost of painting lines on fields, and the demand for additional fields needed for soccer.</p> <p>Facility fees were raised approximately 10% to keep in line with other municipalities</p> <p>Parks Committee has reviewed the changes and additions to the fee schedule and recommends bringing the additions to Council for approval</p> | | |
| Recommended Action: | | |
| Motion that Resolution 1034 Amending resolution 983, setting Park Fees be approved and that the mayor be authorized to sign said Resolution. | | |

RESOLUTION NO. 1034

A RESOLUTION AMENDING RESOLUTION 913
REGARDING FEES TO BE CHARGED IN RELATION TO BERTHUSEN PARK, CITY PARK
AND BENDER FIELDS FOR THE CITY OF LYNDEN, WASHINGTON

BE IT RESOLVED by the City Council of the City of Lynden, Washington that
Resolution 983 be amended in its entirety, to read as follows:

(NOTE: THE FOLLOWING AMOUNTS ARE IN U.S. FUNDS ONLY.)

Section 1: The park charges contained in Resolution 1034, adopted January 1, 2018,
are hereby enacted, confirmed and ratified effective January 1, 2022

BERTHUSEN PARK

Section 2: Effective January 1, 2022, the following are the fees to be charged by the
City in relation to **BERTHUSEN PARK**:

a. Kitchen Rentals

Reservations ***April 1-September 30***

Kitchen #1 & 2

| | |
|---|----------|
| One-half of a Weekday | \$75.00 |
| Full Day Weekday | \$115.00 |
| One-half of a Saturday or Sunday | \$95.00 |
| Full Day Saturday, Sunday or Holiday | \$140.00 |
| <u>FULL DAY RENTAL ONLY</u> on Holidays | |
| Playfield reservation | \$20.00 |

b. Open Shelter

| | |
|---|---------|
| One-half of a Weekday | \$50.00 |
| Full Day Weekday | \$65.00 |
| One-half of a Saturday or Sunday | \$60.00 |
| Full Day Saturday, Sunday or Holiday | \$85.00 |
| <u>FULL DAY RENTAL ONLY</u> on Holidays | |

Changes to set-up re: moving tables, barricades etc.

Add an additional \$50.00

(NOTE: ADD \$10.00 TO THESE RENTAL PRICES IF GROUPS
ARE OVER 100 PEOPLE)

c. Overnight Camping (Camping Season: **Months of May & September**) TENT CAMPING ONLY-For non-profit educational youth programs.

Per Person-Per Night \$3.00/person
(Maximum group size-80 people)

CITY PARK

Section 3: Effective January 1, 2022, the following are the fees to be charged by the City in relation to use of facilities at the **CITY PARK:**

Reservations April 1-September 30

a. Kitchen Rentals

One-half of a Weekday \$75.00
Full Day Weekday \$115.00
One-Half of a Saturday or Sunday \$95.00
Full Day Saturday, Sunday or Holiday \$140.00
FULL DAY Rental ONLY on Holidays

b. Open Shelter

One-half of a Weekday \$50.00
Full Day Weekday \$65.00
One-half of a Saturday or Sunday \$60.00
Full Day Saturday, Sunday or Holiday \$85.00
FULL DAY Rental ONLY on Holidays

(NOTE: ADD \$10.00 TO THESE RENTAL PRICES IF GROUPS ARE OVER 100 PEOPLE)

c. Tennis Court Reservations

Per court \$5.00 per court/3 hour max.

BENDER FIELD RECREATION AREA

Section 4: Effective January 1, 2022, the following are the fees to be charged by the City in relation to the **BENDER FIELD RECREATION AREA:**

a. Adult League & Tournament Use Fees:

| | |
|---|-----------------------|
| Per Game Fee - League | \$40.00 |
| Per Game Fee- Non-local league | \$50.00 |
| Per Game Fee - Tournaments (Local League Sponsored) | \$40.00 |
| Per Game Fee - Tournaments (Non-local League Sponsored) | \$50.00 |
| Per Game Fee - Games Needing Lights | ADD \$ 30.00 per game |
| <i>Per Field Fee- Set-up change</i> | <i>\$50.00</i> |

b. Reservation Fee - Adult Tournament

Non-refundable: \$50.00 per field/per day (applies to tournament fee).
There will be a minimum charge of \$55.00 per field, per day for each field reserved for adult tournaments. This fee would apply to the per game fee.

c. Youth League & Tournament/Camps Use Fees:

| | |
|---|-----------------------|
| Per Game Fee – League (LYS Youth <u>Rec.</u> League Only) | \$ 15.00 |
| Per Game Fee- Select Team Leagues | \$ 25.00 |
| Per Game Fee- Non-local leagues | \$ 35.00 |
| Per Game Fee - Tournaments (LYS Rec. League Sponsored) | \$ 15.00 |
| Per Game Fee - Tournaments (Select Leagues) | \$ 25.00 |
| Per Game Fee- Tournaments (Non-Local League Sponsored) | \$ 35.00 |
| Per Game Fee - Games Needing Lights | ADD \$ 30.00 per game |
| <i>Per Field Fee- Set-up change</i> | <i>\$25.00</i> |

d. Reservation Fee – Youth Tournament/Camps

Non-refundable: \$25 per field/per day (applies to tournament fee).
There will be a minimum charge of \$75.00 per field, per day for each field reserved for youth tournaments. This fee would apply to the per game fee.

e. Schools Teams:

| | |
|--|----------------|
| Per Game Fee- | \$40.00 |
| Additional charge if fields used for practice after 5:00 P.M. | \$25.00 |
| <i>Turnout Fee: Turnouts on game fields will be assessed per field</i> | <i>\$25.00</i> |

f. Practice Fields (For Local League Team Practice or Family Recreation)

| | |
|---|------------------------|
| Reservation Fee-Field only fee | \$ 25.00 per field |
| Field Set up Fee | \$ 25.00 |
| (changes to field re: bases, lining etc.) | |
| Lighted Field Reservation Fee | ADD \$ 30.00 per field |

Non-local league practice (max. 1 ½ hour) \$45.00 per field

g. Soccer Field Use Fees:

Per Game Fee

Full size fields (Lacrosse, Varsity, Middle School, Mod size per game fee

Adult & Schools \$40.00

Non-local adult games \$50.00

Select leagues youth \$25.00

Rec. league youth \$15.00

Small, Extra Small, micro size fields per gam

Rec. League youth \$12.00

Tournaments: (Per game)

Adult & school \$40.00

Non-local adult & school \$50.00

Select leagues \$25.00

Non-local select \$35.00

Rec. league youth \$15.00

h. Bocci Field (reservation fee) \$20.00 per ½ day

i. Shelter (reservation) \$60.00 per 1/2 day
\$85.00 per full day

j. Kitchen Reservations
One-half day weekday \$75.00
Full Day weekday \$115.00
One-half day Saturday or Sunday \$95.00
Full day Saturday, Sunday, or Holiday \$140.00

FULL DAY Rental Only on Holidays

k. Additional Vendor/Concessionaire Fee \$25.00-per day

l. Rental Storage Unit per month \$75.00
Rental Storage Unit per year \$750.00

m. Fitness groups, yoga, martial arts, dog training etc.
Application Fee (one time) \$25.00
Groups up to 20 participants \$25.00 per month
Groups over 20 participants \$40.00 per month

n. Cricket matches \$100.00 per game

Section 5. Effective January 1, 2022, the following are the fees to be charged by the City in relation to **DONATED ITEMS TO THE PARKS DEPARTMENT:**

- a. Park/Trail bench- concrete \$500.00
- b. Street bench- slatted \$400.00
- c. Trees (vary according to size & variety) \$250 to \$900
(all costs for trees and planting are the responsibility of the donating party)

Section 6: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 7: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 8: This Resolution shall be in full force and effect on first day of January, 2022.

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the fourth day of October, 2021 and signed by the Mayor on the fourth day of October, 2021

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|---|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Resolution No. 1040 - Request to Cancel Multiple Warrants | |
| Section of Agenda: | Consent | |
| Department: | Finance | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Resolution No. 1040 Copy of Warrants supporting cancellation memos. | | |
| Summary Statement: | | |
| <p>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</p> <p>Warrants Numbering: 21004, 21478, 21681, and 21876 have not and will not be presented for payment; and should be canceled.</p> | | |
| Recommended Action: | | |
| The City Council give consent approval of Resolution No. 1040 and authorize the Mayor's signature. | | |

RESOLUTION NO. 1040

A RESOLUTION BY THE CITY OF LYNDEN, WASHINGTON
REQUESTING THE CANCELLATION
OF MULTIPLE WARRANTS

WHEREAS, 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

WHEREAS, it has been brought to the attention of the City Council that Warrants Numbering: 21004, 21478, 21681, and 21876 have not and will not be presented for payment; and

WHEREAS, documentation has been provided that the payment due was paid on an invoice; and

NOW, THEREFORE, BE IT ORDAINED BY the City Council of the City of Lynden as follows:

Section A: That Warrant No. 21004, in the amount of \$2,079.18, issued 12/23/20; Warrant No. 21478, in the amount of \$700.00, issued 02/17/21; Warrant No. 21681, in the amount of \$100.00, issued 03/16/21 and Warrant No. 21876, in the amount of \$15,054.95, issued 04/21/21 be cancelled.

Section B: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this resolution. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this resolution should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section C: This resolution shall take effect and be in force from and after its passage by the Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, ____ IN FAVOR ____ AGAINST AND SIGNED BY THE MAYOR THIS ____ DAY OF OCTOBER 2021.

MAYOR

Scott Korthuis

ATTEST:

APPROVED AS TO FORM:

Pam Brown
City Clerk

Robert Carmichael
City Attorney



Memo

To: Anthony Burrows cc: Linde Schreifels
From: Linda Handy 
Date: September 7, 2021
Re: VOID Claims Check #21004

- **TO BE VOIDED & NOT REISSUED (Council review required)**

Please void **check #21004** payable to Enviro-Care Co. (V# 4532) dated 12/23/2020 in the amount of \$2,079.18. This check was returned to us by the vendor. Payment of invoice 20-52787 for Enviro-Clean was paid on this check in error.

Please authorize the check void and cancellation of the AP invoice transactions.

Correcting payments have already been sent to Enviro-Clean and Enviro-Care for the corresponding invoices.

Thank you,

LH

CHECK FILE COPY
City of Lynden

21004 24

12/23/2020

****2,079.18****

TWO THOUSAND SEVENTY-NINE AND 18/100 DOLLARS

ENVIRO-CARE CO.
1570 ST. PAUL AVE.
GURNEE IL 60031

Not Negotiable

COPY

VENDOR: 4532 ENVIRO-CARE CO.
ACCT NUMBE

12/23/2020

Check No: 21004

| <u>INVOICE #</u> | <u>INV DATE</u> | <u>INV AMOUNT</u> |
|------------------|-----------------|-------------------|
| 20-52787 | 11/02/2020 | 868.07 |
| PART202191SV-PL1 | 11/05/2020 | 1,211.11 |

TOTAL AMOUNT 2,079.18

CITY OF LYNDEN

FINANCE DEPARTMENT
360-354-2829



Memo

To: Anthony Burrows cc: Linde Schreifels

From: Linda Handy 

Date: September 7, 2021

Re: VOID Claims Check #21478

-
- **TO BE VOIDED & NOT REISSUED (Council review required)**
-

Please void **check #21478** payable to Evergreen Rural Water of WA (V# 2255) dated 2/17/2021 in the amount of \$700.00. This check was returned to us by the vendor. Payment was also made via credit card by Mike Kim on 1/27/21.

Please authorize the check void and cancellation of the AP invoice transaction.

Thank you,

LH



CITY OF LYNDEN

P.O. Box 650
Lynden, Washington 98264
(360) 354-2829

PEOPLES BANK 98-442
LYNDEN, WASHINGTON 1251

C

21478

26

DATE
2/17/2021

AMOUNT
700.00

PAY: ***SEVEN HUNDRED AND 00/100 DOLLARS***

TO THE ORDER OF: EVERGREEN RURAL WATER OF WA.
PO BOX 2300
SHELTON WA 98584

VOID

Anthony Burrows

MP
AUTHORIZED SIGNATURE

⑈021478⑈ ⑆125104425⑆5017⑈730036⑈

CITY OF LYNDEN • LYNDEN, WASHINGTON 98264
VENDOR: 2255 EVERGREEN RURAL WATER OF WA.
ACCT NUMBE

2/17/2021

Check No: 21478

C

21478

INVOICE #
1220-418

INV DATE
1/02/2021

INV AMOUNT
700.00

TOTAL AMOUNT 700.00



Memo

To: Anthony Burrows cc: Linde Schreifels

From: Linda Handy ~~xxxx~~

Date: September 7, 2021

Re: VOID Claims Check #21681

-
- **TO BE VOIDED & NOT REISSUED (Council review required)**
-

Please void **check #21681** payable to Mark Billmire (V# 4914) dated 3/16/2021 in the amount of \$100.00. This check is being held in the Finance Dept safe. The expense form was mistakenly processed as an employee reimbursement, when it should have been entered as a City VISA card expense to V# 2546.

Please authorize the check void and cancellation of the AP invoice transaction.

Correcting payment was already sent to Peoples Bank VISA (V#2546)

Thank you,

LH

CHECK FILE COPY
City of Lynden

3/16/2021

100.00

ONE HUNDRED AND 00/100 DOLLARS

MARK BILLMIRE
7366 ALMA COURT
FERNDALE WA 98248

Not Negotiable

VOID

VENDOR: 4914 MARK BILLMIRE
ACCT NUMBE

3/16/2021

Check No: 21681

INVOICE #
BILLMIRE-BRINK GIFT CAR

INV DATE
2/11/2021

INV AMOUNT
100.00

COPY

TOTAL AMOUNT 100.00



Memo

To: Anthony Burrows cc: Linde Schreifels

From: Linda Handy 

Date: September 7, 2021

Re: VOID Claims Check #21876

-
- **TO BE VOIDED & NOT REISSUED (Council review required)**
-

Please void **check #21876** payable to Ken's Tree Service LLC (V# 4973) dated 4/21/2021 in the amount of \$15,054.95. This check was returned to Steve Banham by the vendor. It is now being held in the Finance dept safe.

Per Steve, the invoice that was processed, approved & paid to Ken's Tree Service was actually a QUOTE that the vendor submitted for a tree removal job. PW did not select his quote, and so this should not have been submitted to AP for processing.

Please authorize the check void and cancellation of the AP invoice transaction.

Thank you,

LH

CHECK FILE COPY
City of Lynden

21876 30

4/21/2021

****15,054.95****

FIFTEEN THOUSAND FIFTY-FOUR AND 95/100 DOLLARS

KEN'S TREE SERVICE LLC
PO BOX 5
EVERSON WA 98247

Not Negotiable

VENDOR: 4973 KEN'S TREE SERVICE LLC
ACCT NUMBE

4/21/2021

Check No: 21876

INVOICE #
20357

INV DATE
3/26/2021

INV AMOUNT
15,054.95

COPY

TOTAL AMOUNT 15,054.95

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



| | | |
|--|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Interlocal Agreement with Bertrand Watershed Improvement District and North Lynden Watershed Improvement District | |
| Section of Agenda: | Consent | |
| Department: | Public Works | |
| <u>Council Committee Review:</u> | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | | <u>Legal Review:</u> |
| | | <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required |
| Attachments: | | |
| Interlocal Agreement | | |
| Summary Statement: | | |
| <p>The City of Lynden is committed to ongoing support for agricultural activities which occur outside City limits. The City recognizes that managed growth within the City is intended in part to preserve land for agricultural use and that many Lynden businesses and industries support or are related to surrounding agricultural land use. Development must comply with established state stormwater regulations, but sometimes more cost effective and practical solutions for managing stormwater can be found by considering regional impacts and implementing regional solutions. This interlocal agreement between the City of Lynden, the Bertrand Watershed Improvement District, and the North Lynden Watershed Improvement District establishes a framework for identifying collaborative solutions between the City and the surrounding Water Improvement Districts that align with local agricultural interests.</p> <p>The Public Works Committee discussed this Interlocal Agreement at their meeting on September 8, 2021 and concurred to recommend approval by City Council.</p> | | |
| Recommended Action: | | |
| That City Council approve the Interlocal Agreement with Bertrand Watershed Improvement District and North Lynden Watershed Improvement District and Authorize the Mayor’s Signature on the Agreement. | | |

AGREEMENT BETWEEN THE CITY OF LYNDEN, BERTRAND WATERSHED IMPROVEMENT DISTRICT, AND NORTH LYNDEN WATERSHED IMPROVEMENT DISTRICT, RELATING TO PROVIDE FUNDING SUPPORT FOR WEST LYNDEN AREA DRAINAGE PLANNING AND IMPLEMENTATION OF PROJECTS IDENTIFIED IN DRAINAGE PLANNING

This Agreement is made and entered into by and between the City Of Lynden (hereinafter referred to as the “City”), Bertrand Watershed Improvement District (hereinafter referred to as “BWID”), and North Lynden Watershed Improvement District, (hereinafter referred to as “NLWID”).

WHEREAS, the City of Lynden is planning for the development within its Urban Growth Areas which involves addressing stormwater that is consistent with the drainage needs of the surrounding agricultural area; and

WHEREAS, the City of Lynden is committed to continuing to support agricultural activities which occur outside of the City limits, recognizing that managed growth within the City is intended to preserve land for agricultural use and that many Lynden businesses and industries support or are closely related to that surrounding agricultural land use; and

WHEREAS, the commercial and industrial areas west of the Guide Meridian (SR 546) and the residential areas between Double Ditch Road and Benson Road and north of Main Street, referred to as the Pepin Creek Subarea, both have stormwater and drainage challenges connected with properties to the north, west and south of the Lynden urban growth boundary; and

WHEREAS, the BWID and NLWID are special purpose districts generally encompassing most of the agricultural lands to the north, west, and south of the City of Lynden and are created pursuant to RCW 87.03; and

NOW, THEREFORE, it is agreed by the parties hereto as follows:

1. **PURPOSE.** The purpose of this Agreement is to set the terms whereby all parties to the agreement will mutually plan, develop, and implement Comprehensive Stormwater and Drainage Plans for the West Lynden Commercial Area and Pepin Creek Subarea that serve the best interest of all parties. Initial action will be to outline potential options and explore funding partners to develop and implement preferred options.

2. PARTY RESPONSIBILITIES

A. CITY OF LYNDEN RESPONSIBILITIES

1. The City shall designate a one or more representative to participate in the West Lynden Stormwater and Drainage Work Group;
2. The City shall pursue outside funding for drainage studies.
3. The City shall wholly fund the work of engineers and surveyors to survey and perform a preliminary evaluation of the Mouw Ditch and the downstream portions of

Bertrand Creek which receive drainage from the West Lynden Business Park and to analyze potential improvements to that conveyance system.

- 4. The City will seek additional funding for projects agreed to by the work group.
- 5. Where drainage projects are identified outside the City which provide special benefit to developable properties within City, the City shall establish agreements that allow the City to contribute construction funding to recover those funds through stormwater connection charges to the specific properties at time of development to the extent that such is allowed by law.

B. WID RESPONSIBILITIES

- 1. Each WID shall designate a representative to participate in the West Lynden Stormwater and Drainage work group;
- 2. Bertrand WID shall encourage property owners to provide access to the City’s engineers and surveyors to conduct the work identified in item A.3 above.
- 3. Each WIDs agree to provide support to the City in its efforts to secure funding from state and local funding authorities that would benefit both the City of Lynden and the adjoining agricultural lands
- 4. The WIDs agree to provide at least 5% of the funding for improvement projects agreed to by the work group within their respective boundaries.

3. TERM OF AGREEMENT

The period of performance for this Agreement shall be October 1, 2021 through June 30, 2024.

4. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of all of the parties hereto. Inclusion of other entities into the agreement will be allowed by consent of all existing parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

5. DISPUTES

In the event that a dispute arises under this Agreement, a dispute board shall resolve the dispute in the manner set forth in this section. The parties to this Agreement shall each appoint a member to the dispute board. The dispute board shall evaluate the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the parties hereto. In the performance of this Agreement, it is mutually understood and agreed upon by the parties hereto that this Agreement shall be governed by the laws and regulations of the State of Washington and the federal government, both as to interpretation and performance.

6. ASSIGNMENT

The obligations to be performed by the parties under this Agreement are not assignable or delegable by any party in whole or in part, without the prior written consent of both of the other parties.

7. WAIVER

A failure by any of the parties to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

8. TERMINATION

This Agreement may be terminated without cause by any Party effective upon sixty (60) days written notice, mailed postage pre-paid by certified mail, return receipt requested, to all remaining Parties last known address for the purposes of giving notice under this section. If this Agreement is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this Agreement, and to this end the provisions of this Agreement are declared to be severable.

10. INTEGRATION OF AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

11. CONTRACT MANAGEMENT

No new separate legal or administrative entity is created to administer the provisions of this Agreement. No agent, employee, servant, or representative of any party shall be deemed to be an employee, agent, servant, or representative or any other party for any purpose. Each party will be solely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Agreement. The Contract Administrator for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Contract Administrator for the City is:

Steve Banham, Public Works Director
300 4th Street
Lynden, WA 98264
(360) 354-3446
banhams@lyndenwa.org

The Contract Administrator for the WIDs is:

Henry Bierlink, Executive Director
Bertrand and North Lynden WIDs
204 Hawley Street
Lynden, WA 98264
(360) 354-1337
henry@agwaterboard.com

12. COUNTERPARTS

This Agreement may be executed in multiple counterparts and each shall be deemed an original, but all of which together constitute a single instrument.

13. EFFECTIVE DATE

This Agreement shall be in full force and effect upon full execution by the Parties and filing with the Whatcom County Auditor or posting on each Party's website, whichever method of filing is chosen.

IN WITNESS WHEREOF, the parties have executed this Agreement.

CITY OF LYNDEN

By: _____

Title: _____

Date: _____

NORTH LYNDEN WID

By: _____

Title: President

Date: 9-21-21

BERTRAND WID

By: Vern Verndt

Title: President

Date: 9/13/2021

CITY OF LYNDEN



EXECUTIVE SUMMARY

| | | |
|--|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Procedures for the Hearing Examiner Role | |
| Section of Agenda: | Consent | |
| Department: | Planning Department | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Proposed Revision to Procedures for the Hearing Examiner Role, Section 3 of Ord 1615 | | |
| Summary Statement: | | |
| <p>In March of this year the City Council adopted ordinance 1615 which created a hearing examiner role for the City of Lynden. The City also adopted procedures of the office.</p> <p>The hearing examiner has held two public hearings to date. Hearings have gone smoothly. However, the Hearing Examiner has requested that the City amend procedures regarding the distribution of decisions. This is intended to curtail any direct contact an applicant or member of the public might have with the hearing examiner so as to maintain his impartial status in each matter. The Planning Department will be responsible for distribution of information.</p> | | |
| Recommended Action: | | |
| Motion to approve an amendment to the procedures of the office of hearing examiner for the City of Lynden regarding distribution of decisions and correspondence as shown in the attached document. | | |

**RULES OF PROCEDURE FOR PROCEEDINGS BEFORE
THE HEARING EXAMINER OF THE CITY OF LYNDEN, WASHINGTON**

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1. Applicability.

These Rules of Procedure (hereinafter “Rules”) shall be followed in all proceedings before the Hearing Examiner of the City of Lynden, Washington. These Rules supplement the provisions of the Lynden Municipal Code relating to proceedings before the Hearing Examiner.

2. Amendment of Rules.

These Rules may be amended only by an ordinance of the City of Lynden adopting such amendment.

3. Interpretation.

The Hearing Examiner shall interpret the Rules and determine the application of the Rules to specific circumstances so that proceedings are fair and due process is achieved. Where there are questions of proceeding or practice not addressed by these Rules, the Hearing Examiner shall follow a practice or proceeding which provides fair treatment and due process of law to all Parties.

4. Definitions.

Terms used herein are defined below:

- A. "Appeal" for the purposes of these rules means an appeal, petition, or challenge of an administrative decision over which the Hearing Examiner has jurisdiction pursuant to LMC 2.09.040.
- B. "Appellant" means the person who submits a complete and timely Appeal.
- C. "Applicant" means a person who has timely and completely submitted an Application.
- D. "Application" for the purposes of these rules means an application over which the Hearing Examiner has jurisdiction, unless context clearly requires otherwise.
- E. "City" has the meaning provided for it in LMC 17.01.030.
- F. "City Code" has the meaning provided for it in LMC 17.01.030.
- G. "Days" refers to calendar days unless explicitly stated otherwise.
- H. "Department" refers to the city department issuing the administrative decision being appealed or administering the applicable section of the City Code. "Department" may refer to the planning department, public works department, or other department as context requires.
- I. "Director" refers to the highest-ranking city staff person in the Department as defined above. For matters brought to the Hearing Examiner, the Director is usually, but not necessarily, the director of the planning department or public works department.
- J. "Ex Parte Communication" is a communication that occurs between any person and the Hearing Examiner outside of the presence of the other Parties of Record.
- K. "Hearing Examiner" has the meaning provided for it in LMC 17.01.030.
- L. "Intervenor" means a person granted intervention pursuant to Rule 21. An Intervenor has the same rights of participation in the proceedings as the Appellant or Applicant and the City, unless such rights are expressly limited by the Hearing Examiner.
- M. "Motion" means an oral or written request to the Hearing Examiner for an order or ruling.
- N. "Open Record Hearing" has the meaning provided for it in LMC 17.01.030.
- O. "Party" refers to a Party of Record.
- P. "Party of Record" has the meaning provided for it in LMC 17.01.030.
- Q. "Person" has the meaning provided for it in LMC 17.01.030.
- R. "Rules" means these Rules of Procedure for Proceedings Before the Hearing Examiner of the City of Lynden, Washington.
- S. "Record" means the official record of documents, briefs, motions, testimony, recordings, and other items submitted, created and/or relied on during the course of the proceedings before the Hearing Examiner, which will be the full and complete record of proceedings if the Hearing Examiner's decision is appealed.
- T. "Timely" means within the time frame provided by City Code, these Rules, or within the time specified by the Hearing Examiner.
- U. "Variance" as used in these Rules refers only to variances over which the Hearing Examiner has jurisdiction pursuant to LMC 2.09.040.

5. Expeditious Proceedings.

To the extent practicable and consistent with requirements of law, hearings shall be conducted expeditiously. The Hearing Examiner and all Parties shall make every reasonable effort to avoid delay.

6. Frequency and Scheduling of Proceedings.

Hearings before the Hearing Examiner shall be scheduled on an as-needed basis. Applications or Appeals requiring a proceeding before the Hearing Examiner shall be scheduled for hearing promptly after notification by the Director that the Application or Appeal is complete.

7. Consolidation.

Whenever practical and consistent with the City Code and state law, proceedings before the Hearing Examiner related to the same matter may be consolidated. The Hearing Examiner may order consolidation with or without a request from a Party of Record.

8. Format for Submission of Hearing Examiner Pleadings, Applications for Variances and Appeals of Administrative Decisions.

The format for Applications for variances from the requirements of Title 19 is laid out in LMC 19.47.070. The format for Appeals of administrative decisions made under Title 17 is laid out in LMC 17.11.020. The City Code may require specific information or a specific format for Applications or Appeals brought under other sections. The Director shall not accept an Application or Appeal if it does not conform to the requirements specified in the City Code.

All pleadings, exhibits, comments, motions, and other material intended to be seen by the Hearing Examiner as part of any decision making process the Hearing Examiner is involved in, shall be filed with the City’s Planning & Community Development Department, and that department shall ensure the material is made part of a public record that is accessible or distributed to all parties and the Hearing Examiner prior to a hearing.

9. Withdrawal of Application or Appeal.

- A. If an Applicant or Appellant requests to withdraw its Application or Appeal before official notice of the public hearing is served, the Applicant or Appellant shall notify the Director and the withdrawal shall be permitted.
- B. If a withdrawal request is made after official notice of the public hearing is served, the Hearing Examiner may permit or deny the withdrawal at his or her discretion.
- C. The City may return any fees paid by the Applicant or Appellant if no City time has been spent on the Application or Appeal.

10. Presiding Officer.

The Hearing Examiner is the presiding officer over proceedings before him or her. The Hearing Examiner shall ensure a fair and impartial hearing, take all necessary action to avoid undue delay, gather facts necessary to make his or her decision, and maintain order. The Hearing Examiner shall have all powers necessary to achieve these ends.

11. Recusal.

Because of a conflict as defined in LMC 2.09.035 or another substantial reason, a Hearing Examiner may recuse him- or herself from a particular hearing, with or without a request for recusal from a Party. A Party requesting recusal must do so as soon as possible after the reason for the requested recusal is known. If a Hearing Examiner is recused, a Hearing Examiner pro tem will take his or her place. The recusal of the Hearing Examiner may be grounds for a continuance depending on the circumstances.

12. Ex Parte Communications.

- A. No person, regardless of whether that person is a Party of Record, may communicate ex parte in any way with the Hearing Examiner regarding the merits of a particular hearing or a factually-related petition or Application. The Hearing Examiner may likewise not communicate ex parte in any way about the same topics with any person.
- B. If prohibited ex parte communication occurs, it shall be immediately disclosed to all Parties of Record and made a part of the record. If a substantial prohibited ex parte communication occurs, the Hearing Examiner shall exercise his or her proper discretion and determine whether he or she must recuse him- or herself.
- C. A person may communicate ex parte with the Hearing Examiner concerning strictly procedural matters or to make requests for publicly available documents.

13. Computation of Time.

Except as otherwise provided in the City Code or these Rules, any prescribed period of time begins on the first day following that on which the act initiating the period of time occurred. When the last day of the period of time is a Saturday, Sunday, or City holiday, the period shall extend to the following business day. All materials due on a given day must be served on all other Parties and submitted to the Hearing Examiner before 5:00 PM on that day unless otherwise agreed.

14. Extension of Deadlines.

Any Party may move to extend any deadline specified in these rules, except for the deadlines to file an Appeal or Application. The Hearing Examiner may grant or deny such motions at his or her discretion.

15. Rights of Applicants and Appellants to Fair Hearing.

All Applicants and Appellants have the rights of due notice, due process, cross-examination, rebuttal, presentation of evidence, objection, motion, argument, and all other rights essential to a fair open record hearing.

16. Rights of Parties of Record.

- A. Appellants, Applicants, the City, and Intervenors may participate in any pre-hearing conference, submit legal briefing, motions, and witness and exhibit lists, present witnesses and testimony at the hearing, and perform other hearing-related functions as needed to protect their legal rights and interests.
- B. Parties of Record who are not an Appellant, Applicant, the City, or an Intervenor may submit exhibits, written statements, and testimony to the Hearing Examiner at the hearing or after the hearing but before the close of the record. Such Parties shall participate in the other

aspects of the hearing only at the Hearing Examiner’s discretion, unless such Parties are granted Intervenor status.

17. Name, Address, and Telephone Number Required for Official Notifications and Service.

- A. Each Party of Record shall supply the Hearing Examiner and other Parties with their name, mailing address, and telephone number for receipt of official notifications and service.
- B. When a Party consists of more than one individual, such as an association, corporation, or other entity, that Party shall designate one individual to be its representative. The Party shall inform the Hearing Examiner and other Parties of the name, mailing address, and telephone number of the representative for receipt of official notifications and service. The representative alone shall exercise the rights of that Party, and notice or communication to the representative shall constitute notice or communication to the Party.
- C. When an attorney enters a notice of appearance on behalf of a Party, all official notices and service shall be directed to the attorney instead of to the Party.

18. Filing and Service of Documents.

- A. Appeals and Applications shall be submitted to the Director. The Director may also request additional information to be submitted to his or her office after receiving the initial Appeal or Application.
- B. All documents filed subsequently shall be submitted directly to the Hearing Examiner at the mailing address or email address the Hearing Examiner specifies.
- C. Documents shall be served personally or by first-class, registered, or certified mail. Service shall be regarded as complete upon the deposit of a properly addressed and stamped envelope in the regular facilities of the US Postal Service, or upon the time of personal service. One City office or agency may serve another City office or agency using the intra-city mail system. The Parties are encouraged to agree to at least one alternative method of service, such as fax, email, or other electronic transmission. Any such agreement shall be filed with the Hearing Examiner.

19. Legal Counsel.

- A. Parties’ counsel. All Parties participating in any hearing may be represented by legal counsel at all stages of the proceedings. A notice of appearance pursuant to Rule 20 is required.
- B. City Attorney. The Hearing Examiner may at his or her discretion request the presence of the city attorney or his designee, at any hearing or meeting to advise on matters of law and procedure, subject to approval of the mayor.

20. Notice of Appearance.

When an attorney represents a Party, the attorney shall file a notice of appearance with the Hearing Examiner and send a copy of that notice to all other Parties, except that such notice of appearance shall not be required if the attorney representing the Party filed the Application or Appeal. Failure to file a notice of appearance at least seven days before a hearing shall be grounds for a continuance.

21. Intervention.

- A. A person may intervene as a matter of right when the requirements of intervention in Washington State Superior Court Civil Rule 24(a), or its successor rule, are met.
- B. At his or her discretion, the Hearing Examiner may permit the intervention of a person when the requirements for permissive intervention in Washington State Superior Court Civil Rule 24(b), Intervention, or its successor rule, are met.
- C. A person desiring to intervene shall file a motion for intervention stating the legal ground for intervention with the Hearing Examiner before the date of the hearing.
- D. A person granted intervention shall have a right to participate in all aspects of the proceedings, including without limitation pre-hearing conferences, briefing, motions, presentation of witnesses and exhibits, and oral argument, unless such right is expressly limited by the Hearing Examiner as a condition of permissive intervention.

22. Pre-Hearing Conference.

- A. The Hearing Examiner may require one or more pre-hearing conferences, which may be in person, by virtual meeting, or telephonic, to discuss matters appropriate to ensure the orderly and expeditious disposition of the proceedings. Items discussed at a pre-hearing conference may include:
 - i. Whether issue clarification statements, dispositive motions, exhibit lists and distribution, witness lists, hearing briefs, post-hearing briefs, and other submittals are needed, and if so, deadlines and methods of filing and service of the same;
 - ii. The date, time, and location the hearing is to be held;
 - iii. Issues related to discovery;
 - iv. Issues related to intervention; and
 - v. Other procedural issues as the Hearing Examiner deems appropriate.
- B. The Appellant or Applicant, City, and all Intervenors shall receive written notice of a pre-hearing conference at least three business days in advance of the conference, unless otherwise agreed. All participants shall attend the conference either personally or via a representative or attorney, unless the Hearing Examiner grants permission to not attend.
- C. Following a pre-hearing conference, the Hearing Examiner may issue orders reflecting the actions taken, decisions made, or rulings made during the conference.

23. Submission Deadline for Legal Authority.

All forms of legal authority, including briefs, staff reports, memoranda, upon which an Appellant or Applicant, the City, or an Intervenor will be relying or presenting at the hearing, must be submitted to the Hearing Examiner at least seven days in advance of the hearing. At his or her discretion, the Hearing Examiner may require legal authority to be submitted earlier than seven days prior to the hearing. When justified, the Hearing Examiner may refuse to consider or admit into the record any legal authority received late. The Hearing Examiner shall make all such documents available to the public at least five days in advance of the hearing, or if documents are submitted late but accepted by the Hearing Examiner, as soon as reasonably feasible.

24. Motions.

- A. All motions, other than those made orally during a hearing, shall be in writing and shall state the relief requested and the grounds for that relief. Motions must be served on the

Appellant or Applicant, City, and Intervenors the same day they are submitted to the Hearing Examiner.

- B. Unless otherwise specified by the Hearing Examiner, the other Parties may file and serve a written answer to a motion within seven days of the filing of the motion.
- C. Unless otherwise specified by the Hearing Examiner, the Hearing Examiner shall rule on the motion within 48 hours of the passing of the deadline for answers to the motion or within 48 hours of oral argument, whichever is later. There is no right to oral argument for a motion filed outside of a hearing, but the Hearing Examiner may in his or her discretion grant a request for or require oral argument before ruling on the motion.
- D. Motions made orally during a hearing may be answered and ruled on immediately.

25. Staff Reports Regarding Applications.

A staff report shall be submitted within fifteen days of the date an Application is filed with the Hearing Examiner. The staff report informs the Hearing Examiner of the Department’s position regarding the application. It should contain the following elements:

- A. Basic factual information about the property and the Applicant, such as name, ownership, address, parcel number, lot size, zone, availability of utilities and public services, and other relevant information;
- B. A detailed description of the lot or lots, including location of existing structures and other improvements, vegetation, slope, critical areas and buffers, and other relevant factors;
- C. A description of the Application and Applicant’s objective;
- D. Information about the zone the property occupies and neighboring uses;
- E. A description of how public notice was achieved, a summary of the public comments the Department received, and a statement of whether the Department concludes that the public comments were adequately addressed in the staff report;
- F. A statement describing the results of any related SEPA review, or a statement explaining why no SEPA review occurred;
- G. Analysis of the proposal’s consistency with the City Code and Comprehensive Plan; and
- H. The Department’s recommendation, including any recommended conditions of approval.

26. City Response to Submission of Appeal.

When an Appeal has been filed with Hearing Examiner, the Department shall file a written response to the Appeal if required by City Code or ordered by the Hearing Examiner, or may file a response on its own initiative. The response shall be submitted to the Hearing Examiner and served on other Parties within thirty days after the submission of the Appeal, unless otherwise ordered by the Hearing Examiner. The response should fully inform the Hearing Examiner of how the Department made the determination being appealed, including relevant facts and City Code citations as needed.

27. Discovery.

- A. At his or her discretion, the Hearing Examiner may permit discovery upon the motion of the Applicant, Appellant, City or Intervenor. The Hearing Examiner may limit the scope of discovery as appropriate. The Hearing Examiner shall generally not permit discovery, except in exceptional circumstances and where good cause is shown.

- B. Subpoenas. The Hearing Examiner is authorized by LMC 2.09.040(F) to issue subpoenas. To that end, the Hearing Examiner, in his or her sole discretion, may issue a subpoena consistently with the procedures described in Washington State Superior Court Civil Rule 45.

28. Dismissal without Hearing.

The Hearing Examiner may dismiss without a hearing and with or without a motion, any Appeal or Application over which the Hearing Examiner determines that he or she has no jurisdiction, or which is without merit on its face, frivolous, or brought only to secure delay.

29. Notice of Hearings.

Notice of hearings before the Hearing Examiner shall be made pursuant to LMC 17.07.030.

30. Format of Hearings.

Hearings shall be of an informal nature, but shall allow a reviewing body to easily ascertain the relevant facts, evidence, and arguments presented during the hearing and allow the Parties to develop a complete record. The order in which Parties present their cases shall not impact the applicable burden(s) of proof.

31. Format of Hearings for Applications.

- A. When the Hearing Examiner holds a hearing to determine whether an Application should be granted, generally, the hearing should proceed according to the following outline:
 - i. Hearing examiner’s introductory statement;
 - ii. Opening statements by the Parties, if any;
 - iii. Presentation of staff report by the City;
 - iv. Presentation and/or testimony by the Applicant;
 - v. Presentation and/or testimony by Intervenors;
 - vi. Public comment regarding the Application;
 - vii. Opportunity for City, Applicant, Intervenors and the Hearing Examiner to ask questions to any Party, or to cross examine any witness immediately following direct testimony from that witness;
 - viii. Opportunity for rebuttal.
- B. The Hearing Examiner may alter the order of the proceedings as needed.

32. Format of Hearings for Appeals of Administrative Decisions.

- A. When the Hearing Examiner holds a hearing of an Appeal of an administrative decision, generally, the hearing should proceed according to this outline:
 - i. Hearing Examiner’s introductory statement;
 - ii. Opening statements by the Parties;
 - iii. Presentation of evidence by the Appellant;
 - iv. Presentation of evidence by the City;

- v. Presentation of evidence by the landowner or other Party who sought the administrative decision now being appealed, if different than the Appellant;
 - vi. Presentation of evidence by Intervenor to appeal;
 - vii. Limited public comment regarding the Appeal, if any;
 - viii. Opportunity for rebuttal;
 - ix. Closing statements of the Parties.
- B. The Hearing Examiner may alter the order of the proceedings as needed.

33. Evidence.

- A. The Hearing Examiner has discretion over the admission of evidence.
- B. Admissibility. The federal district court or state superior court rules of evidence that would apply in a court setting need not be observed, but may serve to guide the Hearing Examiner in his or her discretion. Generally, any and all relevant evidence with probative value from a reliable source shall be admitted, including hearsay. It is the Hearing Examiner’s prerogative to give weight to admitted evidence as they see appropriate.
- C. Objection. Any Party may object to the admission of evidence into the record. The Hearing Examiner shall rule on all objections to evidence made during the hearing before the close of the record.
- D. Testimony. The Hearing Examiner may limit testimony that would be repetitious or irrelevant, may impose a reasonable limit on the number of witnesses and the length of their testimony, and may limit cross examination only to what is necessary for the full disclosure of facts.
- E. Documents. Documentary evidence may be received in the form of copies if the original is not readily available.
- F. Privilege. To the extent recognized by law, the rules of privilege shall apply.
- G. Judicial Notice. The Hearing Examiner may take judicial notice of a fact if the truth of the fact cannot reasonably be doubted. In addition, the Hearing Examiner may take judicial notice of facts within his or her specialized knowledge. The Hearing Examiner may give notice to the Parties that he or she is taking judicial notice of a fact; this can be accomplished by an announcement during the proceedings.
- H. No additional evidence may be submitted after the close of the record. The Hearing Examiner may re-open the record to allow new evidence at his or her discretion if the evidence has significant relevance and there is good cause for the delay in its submission.

34. Witnesses.

- A. All witnesses testifying before the Hearing Examiner shall take an oath or affirmation to be truthful.
- B. If a witness testifies via an interpreter, the interpreter shall take an oath that a true interpretation shall be made.
- C. As Hearing Examiner proceedings are open to the public, it is anticipated that some members of the public may wish to testify. Witnesses who are not Parties of Record and are not called by Parties of Record shall be allowed to testify in proceedings on an Application, subject to Rule 33.D. Witnesses who are not Parties of Record and are not called by Parties of Record may be allowed to testify in Appeal proceedings, at the Hearing Examiner’s

discretion. The Applicant, City, and Intervenors may in their discretion cross-examine members of the public testifying as witnesses in proceedings on an Application. The Appellant, City, and Intervenors may be allowed to cross-examine members of the public testifying as witnesses in proceedings on an Appeal, at the Hearing Examiner’s discretion.

- D. Witnesses may present their testimony via telephone, virtual meeting, or video-conference at the discretion of the Hearing Examiner, as long as all present can hear or hear and see the witness and the ability to cross-examine the witness is not impacted.

35. Site Inspection.

When helpful to develop a full understanding of the case or making a finding of fact, the Hearing Examiner may inspect the site(s) at issue prior to, during or subsequent to the hearing. The Hearing Examiner shall provide notice to the Applicant or Appellant, City, and Intervenors when the site inspection will occur. If Parties attend the site inspection, all persons must observe the ex parte communications rules at Rule 12. The Hearing Examiner’s observations made during the site inspection shall be added to the official record including but not limited to the location, date, time, length and attendees at the site inspection.

36. Electronic Record of Hearing.

- A. Hearings shall be electronically recorded or recorded by court reporter verbatim and such recordings shall be a part of the record.
- B. Copies of the recording shall be made available upon request by a Party or a member of the public within a reasonable time. The City may charge a reasonable fee for the copying of the recording.
- C. No minutes of the hearing will be kept.

37. Transcript.

Anyone desiring a transcript of a hearing shall be responsible for obtaining the electronic recording of the proceeding and arranging and paying for the creation of a verbatim transcript. The Applicant or Appellant, City, and Intervenors shall have an opportunity to review and comment on the transcript. The Hearing Examiner shall resolve any issues that the Parties raise regarding the transcript. When the Hearing Examiner has resolved all conflicts and is satisfied that the transcript provides a reliable record of the proceedings, the Hearing Examiner shall certify the transcript. No transcript shall be considered an official record of the proceedings without the Hearing Examiner’s certification.

38. Contents of the Record.

- A. The record shall include at least all of the following:
 - i. The Application or Appeal;
 - ii. The Department’s report or recommendation;
 - iii. All correspondence, memos, reports, studies, environmental documents, and other public documents contained in the Department’s files on the issue before the Hearing Examiner;
 - iv. Written comments from the public and other agencies submitted to either the Department or the Hearing Examiner in a timely manner;
 - v. Statement of matters officially noted, if any;

- vi. The Hearing Examiner’s written decision;
 - vii. Mailing lists and notices for notice and decision;
 - viii. The video or audio recording of the hearing;
 - ix. The official transcript of the hearing, if any; and
 - x. Any document, item, or other materials the Hearing Examiner admitted into evidence, made part of the record, relied on, or considered.
- B. A Party may object to the inclusion of any particular document in the record. Such objections shall be made either by written motion before the hearing or by oral motion during the hearing. The Hearing Examiner shall rule on such objections prior to the close of the record.

39. Continuances.

- A. The Hearing Examiner may continue or re-open proceedings for good cause by entering an order to that effect prior to issuing his or her decision.
- B. If the Hearing Examiner continues proceedings during a hearing and announces the date, time, place, and nature of the future hearing, no further notice of the continuance is required. When the Hearing Examiner determines after a hearing that a future hearing is needed, all Parties of Record shall be provided at least seven days’ notice of the date, time, place, and nature of the future hearing. Such notice shall also be published in the city official newspaper.

40. Leaving the Record Open.

The Hearing Examiner may leave the record open at the conclusion of a hearing to receive further evidence or argument or for other good cause, under conditions the Hearing Examiner deems appropriate. All Parties of Record shall be given notice that the record has been left open and the date it will be closed.

41. Re-Opening Proceedings.

At any time prior to the issuance of the decision, the Hearing Examiner may re-open proceedings for the reception of further evidence or legal briefing. All Parties of Record shall be given notice of re-opening of the proceedings.

42. Decision of the Hearing Examiner.

The written decision of the Hearing Examiner shall include all of the following elements:

- A. A statement of the nature and background of the proceeding;
- B. Findings of Fact. The findings of fact are a statement of all the facts that form the basis of the decision. The findings of fact must be derived exclusively from testimony and evidence presented during the hearing and facts of which the Hearing Examiner took official notice. The source of each finding of fact should be identified and cited;
- C. Conclusions of Law. Conclusions of law should cite to specific provisions of law or regulations and include reasons and precedents relied on, whenever applicable. If relevant, the conclusions of law should address how the decision is supported by the comprehensive plan and the effect of the decision on properties in the vicinity; and

D. Order. The Hearing Examiner’s order shall be based on the entire record and supported by reliable, probative, substantial evidence.

43. Notice of Decision.

The Hearing Examiner will send a final decision to the City’s Planning & Community Development Department, and that department shall ensure the notice of the Hearing Examiner’s decision shall be sent to all Parties of Record pursuant to LMC 17.07.050.

44. Clerical Errors.

Clerical errors in any part of the record or decision arising from an oversight or from errors in computation may be corrected by an order at the Hearing Examiner’s initiation or in response to a motion of any Party.

45. Termination of Jurisdiction.

The jurisdiction of the Hearing Examiner is terminated upon the issuance of the Hearing Examiner’s decision, except when the Hearing Examiner expressly retains jurisdiction, a reviewing court remands a matter to the Hearing Examiner, or as otherwise provided in these Rules or the City Code.

46. Reconsideration.

Any Party of Record may request reconsideration pursuant to LMC 17.09.080.

47. Appeals of Hearing Examiner Decisions.

The effect of the hearing examiner’s decision may vary by type of Application or Appeal and is as stated in the City Code. For most matters, the hearing examiner’s decision is the final decision of the City, subject to appeal to the City Council. For other matters, appeals may be made to superior court, the shoreline hearings board, or other reviewing body.

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



| | | |
|--|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Ordinance No. 1636 Hear Comments on Franchise Agreement Renewal with Cascade Natural Gas Franchise | |
| Section of Agenda: | Public Hearing | |
| Department: | Public Works | |
| <u>Council Committee Review:</u> | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | | <u>Legal Review:</u> |
| | | <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required |
| Attachments: | | |
| 1) Cascade Natural Gas Request for Renewal of Franchise 2) Ordinance No. 1636 | | |
| Summary Statement: | | |
| <p>The current Cascade Natural Gas (CNG) franchise agreement expires in January 2022. CNG has requested to renew the agreement for ten years, per Section 3 of the agreement. Ordinance 1413, signed on January 3, 2012, allows for one ten-year renewal. The new expiration date would be January 2032.</p> <p>The request for a franchise renewal was discussed at the Public Works Committee meeting on September 8, 2021, and the Committee concurred to recommend approval by City Council.</p> | | |
| Recommended Action: | | |
| That City Council after hearing public comment authorize the Mayor’s signature on the Cascade Natural Gas franchise renewal. | | |



August 19, 2021

Public Works Director
City of Lynden
300 4th St.
Lynden, WA 98264

Subject: Franchise Renewal Application

Public Works Director,

Cascade Natural Gas Corporation hereby formally requests renewal of the Franchise Agreement between the City of Lynden and Cascade Natural Gas Corporation for another (10) years per Section 3 of the Agreement filed under City of Lynden Ordinance No. 1413. Please respond to this letter with details regarding the next steps to accomplish renewal of this Agreement in accordance with its terms.

Upon acceptance, the new expiration date would be 01-25-2032.

If you have any questions, please do not hesitate to contact me directly.

Respectfully Submitted,

David Gutschmidt
Director, Northwest Region
Email: David.gutschmidt@cngc.com
Office: (360) 336-3887
Cell: 701-426-5565

ORDINANCE NO. 1636

AN ORDINANCE ~~EXTENDING~~ **RENEWING** THE GRANT TO CASCADE NATURAL GAS CORPORATION, A WASHINGTON CORPORATION, ITS SUCCESSORS, GRANTEES AND ASSIGNS THE NONEXCLUSIVE RIGHT, PRIVILEGE, AUTHORITY AND FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, REMOVE, REPLACE, AND REPAIR EXISTING PIPELINE FACILITIES, TOGETHER WITH EQUIPMENT AND APPURTENANCES THERETO, FOR THE TRANSPORTATION OF NATURAL GAS WITHIN AND THROUGH THE CITY OF LYNDEN.

Commented [SB1]: For consistency with the language in Section 3 of the Original Franchise Agreement I suggest we change the language from "extend/extension" to "renew/renewal"

WHEREAS, state statutes and City ordinances authorize the City to grant nonexclusive Franchises;

WHEREAS, the current Franchise Agreement with Cascade Natural Gas Corporation (hereinafter "Grantee") adopted by Ordinance No. 1413 on January 3, 2012, had a ten-year term with an option for a ten-year- ~~renewal period~~ extension;

WHEREAS, the initial ten-year term expires on January 25, 2022; and

WHEREAS, the City of Lynden considers the continuation of the services provided by the Grantee to be in the best interest of the public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1: Term. The City approves the Franchise Agreement ~~extension~~ renewal with Cascade Natural Gas Corporation, for a term of ten (10) years which will expire on January 25, 2032.

Section 2: Entire Franchise. The Franchise Agreement attached hereto as "Exhibit A" constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings or prior agreements including prior Franchise Agreements written or otherwise shall be binding upon the parties upon execution of this Franchise Agreement.

Section 3: Acceptance. Within thirty 30 days after the passage and approval of this Ordinance this Franchise Agreement must be accepted by Grantee by its filing with the City Clerk an unconditional written acceptance thereof Failure of the Grantee to so accept this Franchise within said period of time shall be deemed a rejection thereof and the Existing Franchise shall be deemed to have expired without renewal and thereafter to be null and void and the rights and privileges herein granted shall after the expiration of the thirty 30 day period absolutely cease and desist unless the time period is ~~extended~~ renewed by ordinance duly passed for that purpose.

Section 4: Effective Date. This Ordinance being an exercise of a power specifically delegated to the City legislative body shall take effect five 5 days after passage and publication of a summary thereof consisting of the Title to this Ordinance.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, ____ IN FAVOR ____
AGAINST, AND SIGNED BY THE MAYOR THIS ____ DAY OF _____,
2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY – City Council



| | | |
|---|--|-----------------------------|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Foxtail Street Assessment Reimbursement Area Deed Notices | |
| Section of Agenda: | New Business | |
| <u>Council Committee Review:</u> | <input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____ | <u>Legal Review:</u> |
| | | |
| Attachments: | | |
| 1) Map of Foxtail Assessment Reimbursement Area 2) Notices of Assessment for: <ul style="list-style-type: none"> • Lot 2, Hatch Short Plat, AF No. 2060403412 (one notice) • Lot B, C and D Larry Haak Short Plat, AF No. 2021-0201853 (three notices) | | |
| Summary Statement: | | |
| <p>Staff is seeking authorization to record Notices of Assessment on four parcels adjacent to the newly constructed Foxtail Street extension. The three new lots created by the Larry Haak Short Plat and the western portion of an existing parcel (Lot 2, Hatch Short Plat) were identified as benefitting properties and included in the Assessment Reimbursement Area for sidewalk improvements and water and sewer utility improvements made by contract. These actual costs would be reimbursed to the respective Street, Water, and Sewer Funds at time of building permit application. By law this assessment expires within 15 years for sidewalk improvements and 20 years for utility improvements.</p> <p>The final total calculated final assessment amount is \$84,706.70, comprised of \$33,113.34 for sidewalk improvements, \$22,756.45 for water improvements, and \$28,836.91 for sewer improvements. The preliminary assessment amount included in original notice to the property owners was \$93,386.30.</p> <p>The existing property owners were notified in writing of the proposed preliminary assessments and elected not to request a Public Hearing.</p> <p>The Public Works Committee at their May 5, 2021, meeting concurred to recommend approval of the latecomer assessments if no Public Hearing was requested.</p> | | |
| Recommended Action: | | |
| <p>That City Council authorize the Mayor’s signature on these notices to be recorded on the properties to establish the assessments due at the time of development.</p> | | |

RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY WATER, SEWER, AND SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot B Larry Haak SP AF No. 2021-0201853

ASSESSOR'S TAX PARCEL NUMBERS:

4003164422200000

**NOTICE OF ASSESSMENT FOR CITY WATER, SEWER,
AND SIDEWALK IMPROVEMENTS**

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapters 35.72 and 35.91 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city water, sewer, and sidewalk improvements which benefit Whatcom County Parcel Number 4003164422200000 (hereinafter "Benefited Property") and which were completed with the construction of an extension of Foxtail Street as of the 11th day of June 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180, RCW 35.72.040 and RCW 35.91.060, to recover costs associated with water and sewer facility improvements and street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed water, sewer, and sidewalk improvements as part of the construction of an extension of Foxtail Street (hereinafter "Street and Utility Improvements") and has created a corresponding assessment reimbursement area (hereinafter "Foxtail Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot B" on Exhibit A) is one of four (4) parcels which are benefited by the Street and Utility Improvements, and which fall within the Foxtail Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property for their share of the cost to City incurred to construct the Street and Utility Improvements at such time as they seek connection to or use said improvements (for water and sewer improvements) and/or make application for a building permit (for sidewalk improvements); and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Water, Sewer, and Sidewalk Improvements (hereinafter "Notice") are as follows:

1. **Assessment.** The total Assessment amount for street and utility improvements is **\$84,706.70**. The total Assessment amount for sidewalk improvements is **\$33,113.34**. The total Assessment for water improvements is **\$22,756.45**. The total Assessment amount for sewer improvements is **\$28,836.91**. These amounts reflect the actual costs to City for the Street and Utility Improvements constructed within the Foxtail Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.

2. **Assessment Share.** The Benefited Property shall be assessed an equitable share of the Assessment (hereinafter “Assessment Share”) as follows:

Sidewalk Improvements: **\$15,915.00** as based on 231.17 feet of street frontage, including driveway entrance(s), along Foxtail Street.

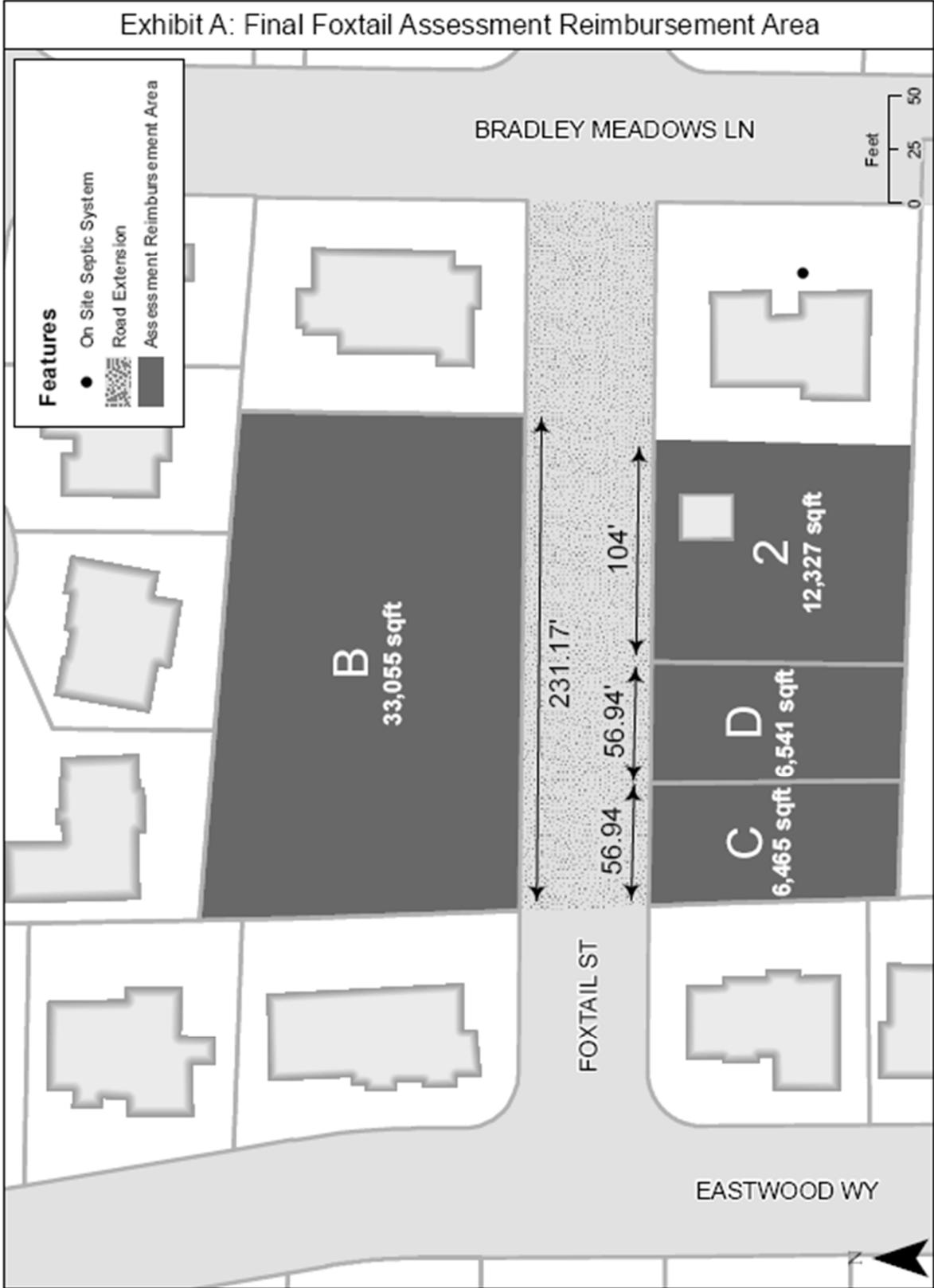
Water Improvements: **\$12,381.63** as based on 33,055 square feet.

Sewer Improvements: **\$14,654.36** as based on 33,055 square feet.

3. **Collection of Assessment Share.** City shall collect the Assessment Share from the owner(s) of the Benefited Property as a condition of approval of an application to connect to or use the water improvements and/or sewer improvements, and/or as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of utility service or building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on square footage (for water or sewer improvements) or street frontage (for sidewalk improvements). All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. **City Authority; Effective Date; Assessment Duration.** City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180, RCW 35.72, and RCW 35.91. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. **Recording.** This Notice shall be recorded in the Whatcom County Auditor’s Office, Whatcom County, Washington, immediately upon execution by City.



RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY WATER, SEWER, AND SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot C Larry Haak SP AF No. 2021-0201853

ASSESSOR'S TAX PARCEL NUMBERS:

4003164312050000

**NOTICE OF ASSESSMENT FOR CITY WATER, SEWER,
AND SIDEWALK IMPROVEMENTS**

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapters 35.72 and 35.91 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city water, sewer, and sidewalk improvements which benefit Whatcom County Parcel Number 4003164312050000 (hereinafter "Benefited Property") and which were completed with the construction of an extension of Foxtail Street as of the 11th day of June 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180, RCW 35.72.040 and RCW 35.91.060, to recover costs associated with water and sewer facility improvements and street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed water, sewer, and sidewalk improvements as part of the construction of an extension of Foxtail Street (hereinafter "Street and Utility Improvements") and has created a corresponding assessment reimbursement area (hereinafter "Foxtail Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot C" on Exhibit A) is one of four (4) parcels which are benefited by the Street and Utility Improvements, and which fall within the Foxtail Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property for their share of the cost to City incurred to construct the Street and Utility Improvements at such time as they seek connection to or use said improvements (for water and sewer improvements) and/or make application for a building permit (for sidewalk improvements); and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Water, Sewer, and Sidewalk Improvements (hereinafter "Notice") are as follows:

- 1. Assessment.** The total Assessment amount for street and utility improvements is **\$84,706.70**. The total Assessment amount for sidewalk improvements is **\$33,113.34**. The total Assessment for water improvements is **\$22,756.45**. The total Assessment amount for sewer improvements is **\$28,836.91**. These amounts reflect the actual costs to City for the Street and Utility Improvements constructed within the Foxtail Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.

2. Assessment Share. The Benefited Property shall be assessed an equitable share of the Assessment (hereinafter “Assessment Share”) as follows:

Sidewalk Improvements: **\$ 4,456.01** as based on 56.94 feet of street frontage, including driveway entrance(s), along Foxtail Street.

Water Improvements: **\$ 2,620.53** as based on 6,465 square feet.

Sewer Improvements: **\$ 3,591.86** as based on 6,465 square feet.

3. Collection of Assessment Share. City shall collect the Assessment Share from the owner(s) of the Benefited Property as a condition of approval of an application to connect to or use the water improvements and/or sewer improvements, and/or as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of utility service or building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on square footage (for water or sewer improvements) or street frontage (for sidewalk improvements). All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. City Authority; Effective Date; Assessment Duration. City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180, RCW 35.72, and RCW 35.91. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. Recording. This Notice shall be recorded in the Whatcom County Auditor’s Office, Whatcom County, Washington, immediately upon execution by City.

IN WITNESS WHEREOF, City has approved and executed this Notice on this ____ day of _____, 2021.

CITY OF LYNDEN

By: Scott Korthuis
Its: Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Scott Korthuis, the Mayor of the **CITY OF LYNDEN**, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

Notary Public in and for the State of Washington
Residing at: _____
My commission expires: _____



RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY WATER, SEWER, AND SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot D Larry Haak SP AF No. 2021-0201853

ASSESSOR'S TAX PARCEL NUMBERS:

4003164372050000

**NOTICE OF ASSESSMENT FOR CITY WATER, SEWER,
AND SIDEWALK IMPROVEMENTS**

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapters 35.72 and 35.91 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city water, sewer, and sidewalk improvements which benefit Whatcom County Parcel Number 4003164372050000 (hereinafter "Benefited Property") and which were completed with the construction of an extension of Foxtail Street as of the 11th day of June 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180, RCW 35.72.040 and RCW 35.91.060, to recover costs associated with water and sewer facility improvements and street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed water, sewer, and sidewalk improvements as part of the construction of an extension of Foxtail Street (hereinafter "Street and Utility Improvements") and has created a corresponding assessment reimbursement area (hereinafter "Foxtail Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot D" on Exhibit A) is one of four (4) parcels which are benefited by the Street and Utility Improvements, and which fall within the Foxtail Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property for their share of the cost to City incurred to construct the Street and Utility Improvements at such time as they seek connection to or use said improvements (for water and sewer improvements) and/or make application for a building permit (for sidewalk improvements); and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Water, Sewer, and Sidewalk Improvements (hereinafter "Notice") are as follows:

1. **Assessment.** The total Assessment amount for street and utility improvements is **\$84,706.70**. The total Assessment amount for sidewalk improvements is **\$33,113.34**. The total Assessment for water improvements is **\$22,756.45**. The total Assessment amount for sewer improvements is **\$28,836.91**. These amounts reflect the actual costs to City for the Street and Utility Improvements constructed within the Foxtail Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.

2. **Assessment Share.** The Benefited Property shall be assessed an equitable share of the Assessment (hereinafter “Assessment Share”) as follows:

Sidewalk Improvements: **\$ 4,456.01** as based on 56.94 feet of street frontage, including driveway entrance(s), along Foxtail Street.

Water Improvements: **\$ 2,636.00** as based on 6,541 square feet.

Sewer Improvements: **\$ 3,618.51** as based on 6,541 square feet.

3. **Collection of Assessment Share.** City shall collect the Assessment Share from the owner(s) of the Benefited Property as a condition of approval of an application to connect to or use the water improvements and/or sewer improvements, and/or as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of utility service or building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on square footage (for water or sewer improvements) or street frontage (for sidewalk improvements). All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. **City Authority; Effective Date; Assessment Duration.** City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180, RCW 35.72, and RCW 35.91. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. **Recording.** This Notice shall be recorded in the Whatcom County Auditor’s Office, Whatcom County, Washington, immediately upon execution by City.

IN WITNESS WHEREOF, City has approved and executed this Notice on this ____ day of _____, 2021.

CITY OF LYNDEN

By: Scott Korthuis
Its: Mayor

STATE OF WASHINGTON)
) ss.
COUNTY OF WHATCOM)

On this ____ day of _____, 2021, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Scott Korthuis, the Mayor of the **CITY OF LYNDEN**, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

Notary Public in and for the State of Washington
Residing at: _____
My commission expires: _____



RETURN TO:

ROBERT A. CARMICHAEL
CARMICHAEL CLARK, PS
P.O. BOX 5226
BELLINGHAM, WA 98227
PHONE: (360) 647-1500

DOCUMENT TITLE:

NOTICE OF ASSESSMENT FOR CITY WATER, SEWER, AND SIDEWALK IMPROVEMENTS

REFERENCE NUMBER OF RELATED DOCUMENT:

N/A

GRANTOR:

CITY OF LYNDEN, a Washington municipal corporation

GRANTEES:

BENEFITED PROPERTY OWNER
PUBLIC

ABBREVIATED LEGAL DESCRIPTION:

Lot 2 Hatch LLA AF No. 2060403412

ASSESSOR'S TAX PARCEL NUMBERS:

4003164492050000

**NOTICE OF ASSESSMENT FOR CITY WATER, SEWER,
AND SIDEWALK IMPROVEMENTS**

NOTICE IS HEREBY GIVEN, pursuant to Section 13.28.180 Lynden Municipal Code (hereinafter "LMC") and Chapters 35.72 and 35.91 Revised Code of Washington (hereinafter "RCW"), by the CITY OF LYNDEN, a Washington municipal corporation (hereinafter "City") of the assessment of costs for city water, sewer, and sidewalk improvements which benefit Whatcom County Parcel Number 4003164492050000 (hereinafter "Benefited Property") and which were completed with the construction of an extension of Foxtail Street as of the 11th day of June 2021.

RECITALS

WHEREAS, City is a Washington municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street system improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, City is authorized, pursuant to LMC 13.28.180, RCW 35.72.040 and RCW 35.91.060, to recover costs associated with water and sewer facility improvements and street system improvements through the creation of an assessment reimbursement area of which City is the sole beneficiary; and

WHEREAS, City has completed water, sewer, and sidewalk improvements as part of the construction of an extension of Foxtail Street (hereinafter "Street and Utility Improvements") and has created a corresponding assessment reimbursement area (hereinafter "Foxtail Street ARA") which is depicted on **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the Benefited Property (labelled as "Lot 2" on Exhibit A) is one of four (4) parcels which are benefited by the Street and Utility Improvements, and which fall within the Foxtail Street ARA; and

WHEREAS, City is entitled to reimbursement from the owner(s) of the Benefited Property for their share of the cost to City incurred to construct the Street and Utility Improvements at such time as they seek connection to or use said improvements (for water and sewer improvements) and/or make application for a building permit (for sidewalk improvements); and

WHEREAS, these recitals are a material part of this Notice,

NOW, THEREFORE, the terms of this Notice of Assessment for City Water, Sewer, and Sidewalk Improvements (hereinafter "Notice") are as follows:

- 1. Assessment.** The total Assessment amount for street and utility improvements is **\$84,706.70**. The total Assessment amount for sidewalk improvements is **\$33,113.34**. The total Assessment for water improvements is **\$22,756.45**. The total Assessment amount for sewer improvements is **\$28,836.91**. These amounts reflect the actual costs to City for the Street and Utility Improvements constructed within the Foxtail Street ARA. The City Public Works Director reviewed and approved the costs upon which the Assessment is based as eligible for reimbursement.

2. **Assessment Share.** The Benefited Property shall be assessed an equitable share of the Assessment (hereinafter “Assessment Share”) as follows:

Sidewalk Improvements: **\$ 8,286.32** as based on 104.00 feet of street frontage, including driveway entrance(s), along Foxtail Street.

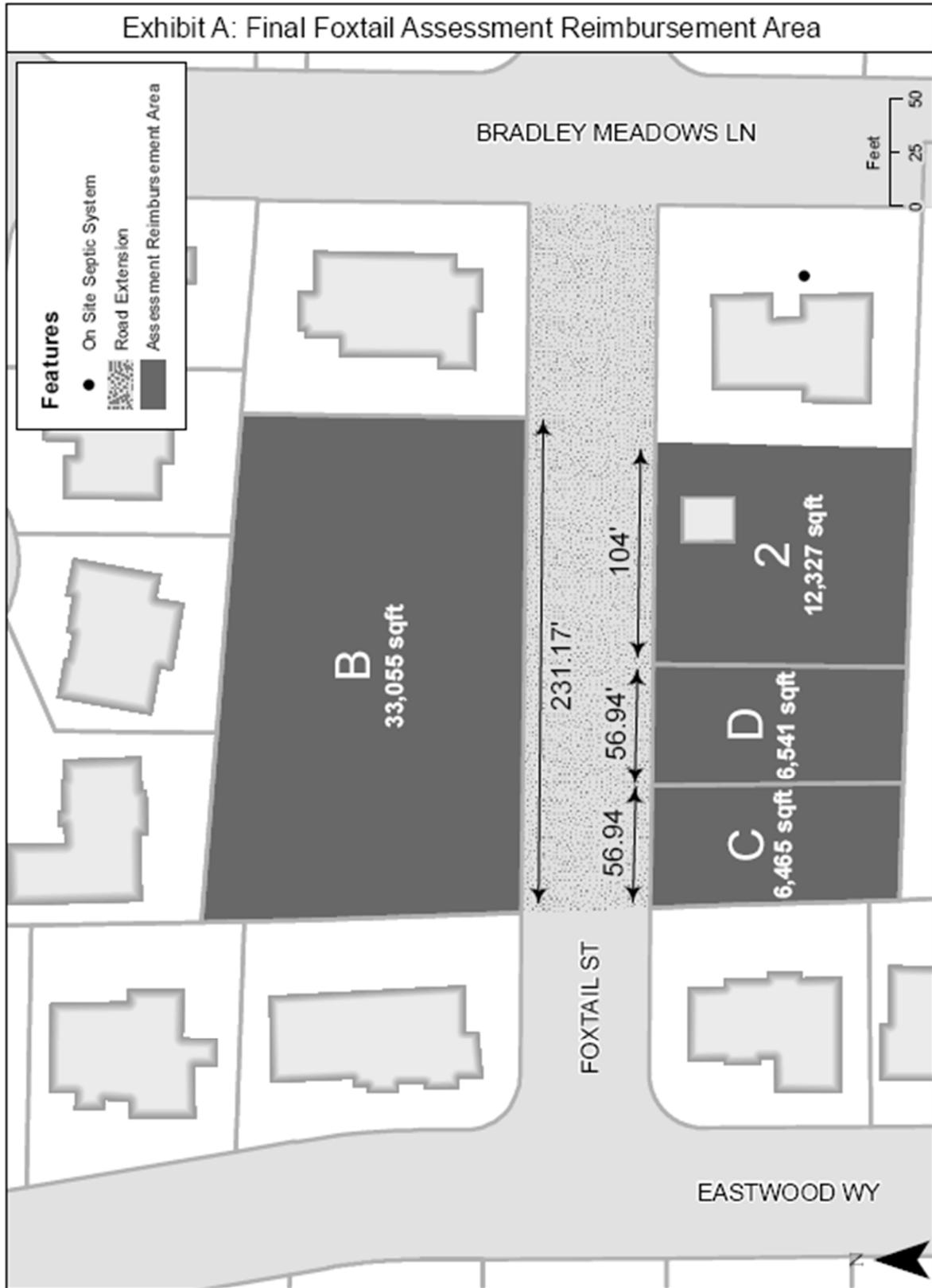
Water Improvements: **\$ 5,118.29** as based on 12,327 square feet.

Sewer Improvements: **\$ 6,972.18** as based on 12,327 square feet.

3. **Collection of Assessment Share.** City shall collect the Assessment Share from the owner(s) of the Benefited Property as a condition of approval of an application to connect to or use the water improvements and/or sewer improvements, and/or as a condition of approval of an application for a building permit to construct on the Benefited Property. The Assessment Share shall be collected in addition to all other City charges in effect at the time of utility service or building permit application, including without limitation utility general facilities fees and impact fees. Upon application by the owner(s) of the Benefited Property, City may further segregate the Assessment Share based on square footage (for water or sewer improvements) or street frontage (for sidewalk improvements). All fees and costs of such segregation shall be borne by the owner(s) requesting such segregation.

4. **City Authority; Effective Date; Assessment Duration.** City is authorized to collect the Assessment by virtue of the provisions of LMC 13.28.180, RCW 35.72, and RCW 35.91. The obligation of the property owner(s) of the Benefited Property to pay the Assessment Share of the Assessment shall become effective upon recording of this Notice, shall run with the land, and shall remain in full force and effect in perpetuity until paid in full.

5. **Recording.** This Notice shall be recorded in the Whatcom County Auditor’s Office, Whatcom County, Washington, immediately upon execution by City.



CITY OF LYNDEN

EXECUTIVE SUMMARY - FINANCE



| | | |
|---|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Mayor's Status of the 2021 Budget | |
| Section of Agenda: | New Business | |
| Department: | Finance | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Mayor's 2021 Budget Status Update | | |
| Summary Statement: | | |
| <p>Per statute RCW 35.33.135, in preparation for the 2022 Preliminary Budget Review on October 18, 2021 the Mayor provides the City Council with an updated status regarding the current 2021 Budget.</p> | | |
| Recommended Action: | | |
| None – Information only for the Council's review. | | |

CITY OF LYNDEN



ADMINISTRATION DEPARTMENT
Scott Korthuis, Mayor
(360) 354 - 1170

Memorandum

To: City Council Members
From: Mayor Scott Korthuis
Date: October 4, 2021
Re: 2021 Budget Update

Status Report on the 2021 Budget

Revenues in all major funds are projected at year end to be at the amounts budgeted. All forecasted amounts are calculated with conservative optimism but must keep in consideration that there are possible long-term economic impacts of the pandemic that we have not yet seen and that have not fully taken effect. The City may be required to adjust its revenue projections accordingly. The status of the major revenue sources are as follows:

- **Property Tax** revenue has come in on schedule with few delays or delinquencies. Current collections are 13% ahead of the forecasted budget. As the second half of the year collections come in Property Taxes are expected to level out and finish at year end on budget.
- **Sales Tax** has been robust this year and is currently running 39% over forecast. The sales tax has benefited from the strength of the Lynden businesses combined with the destination sales tax that comes from consistent online sales. Sales Tax is projected to finish the year 22% over forecast.
- **Utility Tax** current revenue is 4% over the forecasted amount and is estimated to finish the year on budget.

The Water and Sewer funds did not enact a 2021 rate increase. Both funds are robust with strong cash positions.

CITY OF LYNDEN

ADMINISTRATION DEPARTMENT

Scott Korthuis, Mayor
(360) 354 - 1170



Expenditures in total are projected at year end to be at the budgeted amounts. The current expense funds are as follows:

- General Government – year to date, the current expenditures are under-running the budget by 4%, this is due to a lag in capital purchases and the cancelling of equipment. Estimates have these expenditures catching up towards year end with the General Government finishing at budget.
- Police Department -the current expenditures are 2% under the forecasted budget due to under-runs in Administration. Expenditures are projected to catch up by year end and the department is estimated to finish 3% over budget.
- Fire Department -the current expenditures are 9% under the budgeted amount due to under-runs in administration and capital expenditures. Overtime and capital will drive some of the expenditures in the second half of the year. The department is estimated to finish the year on budget.
- Streets Department -the current expenditures are 4% under the budget. Capital projects throughout the Fall will have the Streets department finishing the year closer to, but still 1% - 2% under budget.
- Parks Department -the current expenditures are 10% under the budgeted amount. With seasonal employment having ended the Parks Department is estimated to stay steady and finish the year 3% under budget.
- Community Services Department - the current expenditures are 74% over the forecasted budget. The over-run is being driven by repair expenses on the Recreational Center. It is estimated that community services will finish 70% over budget at year end.

Your monthly financial statements will provide you with more detailed information.

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|--|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Draft Parks Committee Minutes September 20, 2021 | |
| Section of Agenda: | Other Business | |
| Department: | Parks | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Draft Parks Committee Minutes September 20, 2021 | | |
| Summary Statement: | | |
| See Next Page | | |
| Recommended Action: | | |
| For Council Review | | |

CITY OF LYNDEN

PARKS DEPARTMENT

Vern Meenderinck, Parks Director
(360) 354 - 6717



PARKS COMMITTEE MINUTES

4: 00 PM. Sept 20, 2021

1. ROLL CALL:

Members Present: Councilors Ron DeValois, Mark Wohlrab, and Nick Laninga

Staff Present: City Administrator John Williams; Parks Director Vern Meenderinck; Parks Admin. Assistant Nancy Norris; and Brent DeRuyter Park Maintenance Supervisor

2. ACTION ITEMS:

A. Approval of Parks Committee Minutes- August 23, 2021

DeValois asked for a motion to approve the minutes Wohlrab motioned to approve the August 23, 2021, minutes and Laninga approved the motion.

Action: *The Parks Committee Minutes from August 23, 2021, were approved.*

B. Fees for park usages for 2022.

Copy of Resolution 983 from 2018

Draft fees for 2022 Parks Committee reviewed the recommend Park Fees.

Action: *Wohlrab motioned to forward the 2022 Park Fees to City Council and recommend Council approve the 2022 Park Fees, Laninga and DeValois concurred.*

C. Approve Professional Service Agreement

With SCJ Alliance and forward to full council. No Action needed from Parks Committee; this was already approved by council. Final signatures are all that is needed.

D. Draft Exclusion from Chief Taylor

Okay to send on to legal for final review. Parks Committee reviewed the draft exclusion policy prepared by Chief Taylor and agreed to forward it on for legal review.

Action: *Councilor Wohlrab motioned to send the Exclusion ordinance for legal review, Laninga and DeValois concurred.*

E. Signs by Ben deRegt

Ben deRegt has already refurbished the signs at the Annex & Centennial Park, Mr. deRegt also will make new signs; but only painted not sand blasted.

CITY OF LYNDEN



PARKS DEPARTMENT

Vern Meenderinck, Parks Director
(360) 354 - 6717

Shall we have Mr. deRegt give us prices for signs for the smaller parks or do we want them sandblasted (raised letters etc.)?

Parks Committee would prefer that the Park Signs be sandblasted and Mr. deRegt do the painting. Needed Park signs include Patterson, Greenfield, Northwood Indian Jim, Dickinson, and Benson.

Mr. deRegt has offered to refurbish the Berthusen sign at the corner of Badger Rd. and Berthusen Rd. The fee for this sign is \$1100.

***Action:** Parks Committee asked to get quotes for sandblasted signs from North Stars Signs, Sign's Plus and the Sign Post. It was agreed to have Mr. deRegt refurbish the Berthusen Sign at the corner of Badger Rd. and Berthusen Rd.*

3. INFORMATION ITEMS:

A. Glennig property

Community meeting held on Sept 16, 2021, approx. 30+ community members attended, Harlan announced the money was raised in full! Now to start planning and envisioning for the future generations. Many people made suggestions, but also took home the Planning/Suggestion form to return with their ideas.

Dave Timmer added a Comments and suggestions form to the City Website, for others to participate in adding their suggestions for this park property.

B. Updates on Parks projects:

Benson Park

Waiting for final contract with SKHS.

An asbestos and lead study has been completed. There is no asbestos, and some lead paint in the milking pallor.

Dickinson Park

The House will be available at the end of the month, it will be advertised for City employees first, lease price \$2000. Including leasehold excise tax, duties will include mowing the lawn and maintaining the grounds, lawnmower provided. Term 1year lease. A house inspection will be done, and the basement carpets replaced.

Set at time and date for a community meeting regarding plans for the park. The city has been contacted by several neighbors requesting information on what the plans for the park and parking etc. will be.

CITY OF LYNDEN



PARKS DEPARTMENT

Vern Meenderinck, Parks Director
(360) 354 - 6717

Parks Committee agreed to meet with the Community Oct. 7, 2021, at 6:30pm at the City Annex Council Chambers.

Depot to 8th Trail

Purchase agreement with VG Lumber for needed property, in process.

C. Succession Plan

We have 2 applications from within the City of Lynden
Interviews will take place toward the end of September.

4. ITEMS ADDED:

Review City Ordinance on camping on/in Public Parks.

Mr. Wohlrab ask that the City review its City Ordinance regarding to overnight camping in Parks and Public property.

Motorized Transportation on Trails.

With new motorized bikes and scoters skateboards etc.... Parks Committee questioned if these are allowed and if this Ordinances should be reviewed and updated?

Meeting Adjourned 5:12pm.

NEXT MEETING DATE

October 18, 2021.

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|---|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Community Development Committee Minutes of 9-22-21 | |
| Section of Agenda: | Other | |
| Department: | Planning Department | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Draft Meeting Minutes of Community Development Committee September 22, 2021 | | |
| Summary Statement: | | |
| Draft CDC Minutes of 9-22-2021 attached for review. | | |
| Recommended Action: | | |
| Council review. | | |



COMMUNITY DEVELOPMENT COMMITTEE

Minutes

4:00 PM September 22, 2021

Virtual Meeting Using Microsoft Teams

1. ROLL CALL

Council: Brent Lenssen, Kyle Strengholt, Gary Bode, Mayor Korthuis

Staff: Heidi Gudde, Dave Timmer, John Williams

Chamber of Council: Gary Vis

Guests: Karsten Wise, Mary Lou Childs, Dianna Graeber, Will VanderHage

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting 7-21-21 Minutes Approved

3. DISCUSSION ITEMS

- a. Dianna Graeber addressed the CDC regarding her concerns about the appearance of the City. Her concerns included trailers parked on the street for long periods of time, failure to collect garbage in residential areas, vehicles parked the wrong direction on Front Street.

Graeber suggested that the Police’s volunteer group, Stars, could offer more warnings to on-street violations.

Mayor Scott and the CDC discussed exemptions which may have been issued for trash collection and reached out to Nooksack Valley Disposal to find out how many have been issued.

Dave Timmer noted that letters regarding misc. debris is the most frequently sent out violation letter. That, as well as inoperable vehicles is the most frequent.

Staff available to address specific violations if reported.

Request to be made that Public Safety Committee discuss on-street violations.

Graeber noted that she would like to become more involved in City meetings.

- b. Hazard Pay Presentation from the United Food and Commercial Workers International Union 21, Karsten Wise

Wise noted that his union represents the employees at Safeway and Food Pavilion. He addressed the CDC regarding city ordinances which require hazard pay for frontline workers. The union has worked with City Council's in Burien and Seattle. A few others including Bellingham, Olympia, Federal Way also approved hazard pay ordinance.

Noted that at the start of the pandemic workers at Safeway were paid an extra "Hero Pay" of \$2 an hour. This was later discontinued and remains discontinued despite the union lobbying the employers to recognize risk associated with working with so many members of the public. He also raised the point of extraordinary increase in profits that grocery chains are making due to the pandemic since people are stocking more groceries at home and not eating out.

Wise noted that ordinances like these have been held up in court. He also noted that different cities have handled the ordinances differently. Some ordinances have a sunset or are tied to the state of emergency declaration, some utilize ARPA funds.

Wise encouraged the CDC to consider an ordinance to show good faith in the efforts of the workers.

Gudde asked if funds (ARPA or other) had been distributed to businesses in Lynden related to the pandemic. Korthuis noted that CARES funding has been distributed to some local non-profits and small businesses who had requested assistance.

Strengholt noted that PPP would be increased for Albertsons/Safeway's profits were up.

Bode responded to the presentation by stating that if the City were to recognize grocery store workers then how would the City not also need to recognize all frontline workers that continued to work through the pandemic. He strongly feels that what you do for one you need to do for all. He also stated that he felt this was a private issue for the employer to work out with the employee's union and that the union should advocate for its members rather than the City.

Wise responded by saying that he was representing union workers and following through with a request they had made of him – to explore options regarding a city ordinance as had been done in other cities.

The Committee thanked Wise for the presentation.

c. West Lynden Annexation Process and Zoning Categorization

Lenssen introduced the topic. At this stage the Council has granted the petitioners the right to petition and collect signatures for the 277-acre addition to the city. This encompasses the entire block of urban growth area in the southwest corner of the city. This land is slated for a mix of uses including industrial, commercial, and residential. It would also bring the City's West Lynden Regional Stormwater Pond to within the City's jurisdictional limits. Items that the CDC should discuss were included in the executive summary for the item. This includes public outreach plans, land use designations, zoning categories, timing of the annexation, and infrastructure needs for the area.

Will VanderHage, the petitioner for the annexation, gave the Committee a summary of which property owners he had talked with about the annexation. Generally, he was finding support.

The committee discussed the slated land uses as described in the Comprehensive Plan. A significant area south of the Birch Bay Lynden Road is slated to be commercial uses. Staff and the Chamber representative, Gary Vis, has concerns that commercial may not be viable and encourage the Council to consider a land use shift in this area.

Gudde noted that the most frequent inquiry for property at the Planning Department is for industrially zoned properties. While the zoning map gives the impression that the City has a significant amount of industrial area, there are property owners and market factors that result in that land not necessarily being available for development. Gudde encouraged the Council to consider broadening the industrial areas of the City.

Gudde also noted that if the commercial area came into the City as Commercial Services Local (CSL) it would undoubtedly be developed primarily as residential as CSL allows for mixed use. In this case it would be better for the City to zone the property residentially.

The Committee discussed how and when the land use shift may occur. Vis encouraged the Committee to consider a land use shift simultaneous to an annexation so that a shift is considered before / at the same time as properties are coming into the City. Gudde noted that the review would be better done at a comprehensive level. Although the Comp Plan update is slated for 2025 the annexation may move faster.

d. Land Use Projects Map

The Committee reviewed a map that Gudde has put together with the intent of better communicating land use actions that are occurring in the City. This map was also shared with the Planning Commission and they appreciated the information. Ultimately the map would be a useful public outreach tool and ideally, interactive on the website, but for now it offers a snapshot of how many applications are being reviewed and where.

Given the favorable response, Gudde offered to continue to provide map update to the CDC.

Next Meeting Date: October 20, 2021

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | October 4, 2021 | |
| Name of Agenda Item: | Calendar | |
| Section of Agenda: | Other Business | |
| Department: | Administration | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | Outlook Calendar | |
| Summary Statement: | See next page. | |
| Recommended Action: | None | |

October 4, 2021
Monday

7:00 PM - 9:00 PM

Online City Council Meeting- 10/4/2021 -- Online TEAMS Meeting
[To join via Microsoft Teams click here.](#)

Microsoft Teams meeting
Join on your computer or mobile app
[Click here to join the meeting](#)
Or call in (audio only)
[+1 253-948-9362,,152041605#](#) United States, Tacoma
Phone Conference ID: 152 041 605#
[Find a local number](#) | [Reset PIN](#)
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October 5, 2021
Tuesday

5:00 PM - 6:30 PM

Design Review Board -- To be determined

October 6, 2021
Wednesday

All Day

Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

4:00 PM - 6:00 PM

Public Works Committee Meeting - October -- Microsoft Teams Meeting
UPDATE!

Public Works Committee Meeting meets Wednesday at 4:00 pm at City Hall in the 2nd Floor Conference room **OR** join us online by clicking the link below.

We look forward to seeing you!

Microsoft Teams meeting
Join on your computer or mobile app
[Click here to join the meeting](#)
Or call in (audio only)
[+1 253-948-9362,,156723257#](#) United States, Tacoma
Phone Conference ID: 156 723 257#
[Find a local number](#) | [Reset PIN](#)
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October 6, 2021 Continued

Wednesday

October 7, 2021

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 253-948-9362,,832433768#](#) United States, Tacoma

Phone Conference ID: 832 433 768#

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4:00 PM - 5:00 PM

Public Safety Committee Meeting -- Police Training Room

Microsoft Teams meeting

Join on your computer or mobile app

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Or call in (audio only)

[+1 253-948-9362,,954667669#](#) United States, Tacoma

October 7, 2021 Continued

Thursday

Phone Conference ID: 954 667 669#

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October 11, 2021

Monday

7:00 PM - 9:00 PM

Park & Trail Advisory Meeting -- Annex South East Conference Room

October 13, 2021

Wednesday

All Day

Possible Jury Trial -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room

7:00 PM - 9:00 PM

Park and Rec. District Meeting -- Annex South East Conference Room

October 18, 2021

Monday

3:00 PM - 4:00 PM

Finance Committee Meeting -- Microsoft Teams Meeting
Finance Committee Meeting

~~UPDATE: beginning June 21st the location will return to the City Hall 1st Floor Large Conference room~~

-

UPDATE: beginning September 20th the Finance committee meetings will return online via TEAMS

Monday

Thank you!

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 253-948-9362,,699053786#](#) United States, Tacoma

Phone Conference ID: 699 053 786#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

4:00 PM - 5:00 PM

Parks Committee -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM

City Council Meeting -- City Annex Building

City of Lynden is returning to in-person meetings located at the city Annex building.

For questions/concerns please reach out to me.

Thank you.

Pamela (Pam) D. Brown, MMC, CPRO | City Clerk

City of Lynden

300 4th Street, Lynden, WA 98264

Direct: (360) 255-7085 | Email: brownpa@lyndenwa.org

Our Vision: Cultivating Exceptional Service for Our Extraordinary Community

We Value: Communication – Teamwork – Community – Excellence – Integrity