

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

December 17, 2018

1. CALL TO ORDER

Mayor Korthuis called to order the December 17, 2018 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

ROLL CALL

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

Members absent: None.

Staff present: Finance Director Anthony Burrows, Fire Chief Mark Billmire, HR Manager Vanessa Bronsema, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Police Chief John Billester, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator Mike Martin and City Attorney Bob Carmichael.

OATH OF OFFICE - None

APPROVAL OF MINUTES

Councilor De Valois moved and Councilor Wohlrab seconded that the minutes of December 3, 2018 regular meeting be approved as presented. Motion approved on a 7-0 vote.

Mayor Korthuis noted that the 2019 Budget was on the night's agenda and he provided the following information regarding the breakdown in costs for the 16th police officer position which had been included in the Budget:

- ***Salary \$70,000***
- ***Benefits \$28,000***
- ***Travel \$500***
- ***Training and Misc. \$5,000***

Funding for this position will come from property tax that was banked from last year ; property tax for this year (approximately \$80,000); and \$25,000 expected from a reduction in police department overtime. Mayor Korthuis also noted that the city's budgets are posted to the city's website

ITEMS FROM THE AUDIENCE

Scheduled: None

Nonscheduled:

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Cynthia S. Ripke-Kutsagoitz, 7062 Guide Meridian #30, Lynden

Ms. Ripke-Kutsagoitz stated her appreciation to council for making sound fiscal decisions concerning the additional police officer. She also stated her pro-life beliefs and her approval that the city does not have a Planned Parenthood clinic.

Gary Vis, 8844 Bender Road, Lynden

Mr. Vis thanked council for the funds allocated in the 2019 Budget for the Chamber of Commerce. He also thanked City Administrator Mike Martin for his assistance in working through the matters related to the Lodging Tax funds.

Paul Harris, 811 Glenning Street, Lynden

Mr. Harris thanked the council for doing the right thing by recognizing that funding another police officer position was necessary. He also stated that council needs to care about their citizens, especially the police officers.

Tessa Garcia, 408 17th Street

Extended her thank you to council in their support of the police and the citizens of Lynden.

Frank Albano, 106 Springview Drive, Lynden

Mr. Albano, as president of the Woodfield Village HOA, thanked council for their support of the Lynden police officers. He stated that the officers on the police force is exceptional.

Heather Phillips, 1437 Colony Court, Lynden

Ms. Phillips thanked council for the hard decisions that they made concerning the additional police officer position. She also stated her appreciation that council listens to citizen's concerns and making decisions that are sometimes in opposition of their personal feelings.

2. CONSENT AGENDA

Approval of Payroll Disbursed – December 1-15, 2018

Paychex EFT	\$263,965.43
City of Lynden EFT	\$57,618.85
Warrant Liability	\$55,628.58
	\$377,212.86

Approval of Claims – December 20, 2018

Manual Warrants No. <u>72061</u> through <u>72063</u>	\$680,358.39
EFT Payment Pre-Pays	\$290,085.26
	Sub Total Pre-Pays
	\$970,443.65
Voucher Warrants No. <u>72064</u> through <u>72217</u>	\$1,034,153.83
EFT Payments	30,511.79
	Sub Total
	\$1,064,665.62
	Total Accts. Payable
	\$2,035,109.27

Temporary Easement for Whatcom County at Berthusen Park



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Whatcom County will be replacing the bridge on Badger Road adjacent to Berthusen Park and need temporary construction and slope easements in order to accomplish this work. The project is slated for 2019/2020. The city attorney has reviewed the documents. Also, the Parks Committee, Berthusen Advisory Committee and Public Works staff have reviewed the documents and agreed to forward to full council for consideration.

Resolution No. 993-Banked Capacity for Real Estate Property Tax Levy for 2019- Rescinding Resolution No. 992

All taxing jurisdictions are required to pass a resolution specifically indicating the increase in tax levy, if any, from the previous year, excluding the increase due to new construction, improvements to property, or any increase in the value of state assessed property.

The limit factor for a taxing jurisdiction with a population of 10,000 or over is the lesser of 1% or the rate of inflation. Give the current rate of inflation (2.169%) the City is allowed by statute RCW 84.55.005 to increase the Levy the full 1% or to bank this capacity for future use.

On November 19, 2018, Council approved Resolution No. 992 to “bank” the full 1% in 2019 for the City’s future use and benefit. Since the passage of Resolution No. 992 Council has deemed in necessary , due to emergent needs, to rescind Resolution No. 992.

Resolution No. 993 reflects Council’s requirement to **not** “bank” any real property taxes in 2019 by rescinding Resolution No. 992 and approve the legally allowed 1% increase in the 2019 real property taxes.

Ordinance No. 1570- 2019 Real Estate Property Tax, Amends Ordinance No. 1566

The City of Lynden is required by state regulations to adopt the proposed 2019 property tax levy. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor’s Office. When comparing preliminary 2017 levy rates to 2018 levy rates, the decrease is estimated at 0.139 cents per mil. The final figures for the assessed valuation of the city’s tax base are not yet available. Once those are proved an ordinance setting the final, exact levy will be provided for consideration.

On November 19, 2018 Council did pass Ordinance No. 1566, setting the real property taxes for 2019. Since that date, due to emergent needs of the City, and given that the 2019 real property taxes have not yet been certified by the County, Council has chosen to modify the 2019 real property taxes. Ordinance No. 1570 amends previously approved Ordinance No. 1566 and reflect those changes required and approved by Council.

Amendment to Berthusen Park Caretaker House Lease Agreement

This amendment changes one thing in the Lease Agreement; it would reduce the monthly rent from \$700 to \$300 on the Caretaker’s House beginning January 1, 2019. This reduction is intended to acknowledge the work the current occupant performs that is outside the scope of the terms of the lease. The remainder of the Lease is identical to the one that has been in place for many years.

The current occupant of the Caretaker House in Berthusen Park routinely and voluntarily takes on duties that go far beyond those contemplated in the lease agreement. The current agreement requires the occupant to open and close the park gate each day, generally monitor the park grounds and take care of the house itself.



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The additional duties include being the default point of contact for the many park visitors who need assistance or want to point something out to city staff. These events usually occur outside normal work hours, including both days of the weekend. Examples of this work are, a flooding toilet, a tree limb down on the playground, a park user lost on the trails, a vehicle broken down, a mentally disturbed person causing concern etc. The amount of money the City saves by having this work done voluntarily far exceeds the \$400 monthly savings accrued from reducing the rent.

It should be noted that the current occupant did not ask for this reduction, nor express unhappiness with the lease terms. Rather, it is being proposed now because the occupant provides great value to the City in performing these additional duties. And because it behooves the City to encourage the current occupant to remain if possible, as it is highly unlikely the City could find another occupant with a similar personal commitment to the Park.

Ordinance No. 1564- Amending LMC Chapter 5 and Ordinance No. 725- Modifying Business License Issuance and Exemptions

The Washington State Legislature recently enacted a new law (EHB 2005) codified in RCW 35.90 changing business license requirements for cities. The new law states that cities with a general business license must adopt mandatory provisions of the model business license ordinance set forth by January 1, 2019.

Ordinance No. 1564 amends Lynden Municipal Code Chapter 5.02 regarding business license issuance and exemptions with the modified language required by EHB 2005.

Renewal of Subscriber Agreement with Public Safety Testing

The Police Department currently contracts with Public Safety Testing (PST) to provide pre-employment testing services for entry-level recruits. This agreement expires at the end of 2018. PST is offering a reduced fee if a 3-year agreement is approved.

Ordinance No. 1569-Amending the city of Lynden Comprehensive Plan and Zoning Map

Council considered three amendment to the City's Comprehensive Plan at their December 3 meeting. Washington State Department of Commerce has also reviewed the requested Comprehensive Plan Amendments and has made no comments concerning these changes. Staff requests Council review and approval of Ordinance No. 1569 which amends the Lynden Comprehensive Plan and the City of Lynden Zoning Map.

Councilor Bode moved and Councilor Wohlrab seconded to approve the Consent Agenda. Motion approved on 6-0 vote with Councilor Laninga abstaining.

3. PUBLIC HEARING - None

4. UNFINISHED BUSINESS

Ordinance No. 1567- Adoption of the 2019 Budget

The Preliminary 2019 Budget was presented to the City Council by Mayor Korthuis at the September 17, 2018 council meeting. Per the approved budget calendar, the public hearings for the 2019 Budget were held



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on November 5, 2018 and November 19, 2018. The final RCW required budget hearing and the proposed budget adoption was held on December 3, 2018.

Ordinance No. 1657 represents the results of the budget process including all revisions required by the Council stemming from the December 3, 2018 public hearing. Passage of this ordinance will finalize and adopt the 2019 Budget and follows RCW deadlines.

Councilor Kuiken moved and Councilor Strengtholt seconded that Council approve Ordinance No. 1567 and authorize the Mayor's signature. Motion approved on 7-0 vote.

5. NEW BUSINESS

Award Janitorial Contract to MSNW Group LLC

November 16, 2018 Public Works staff opened proposals in response to the Request for Proposal (RFP) for janitorial services for 2019. The RFP identified specific evaluation criteria, in addition to price, that the city would use in selecting the best qualified service provider. Two proposals were received from MSNW Group LLC (\$5,210/month) and 5 Star Services Inc. (\$3,900/month).

An evaluation team of five staff members from different city departments reviewed the two proposals. The team unanimously selected MSNW Group LLC, who met all selection criteria, had excellent references, and rated highest in being able to perform the work. The contract is in effect for one year and has an option of three additional 1-year extensions.

Councilor Bode moved and Councilor De Valois seconded to award the 2019 contract for janitorial services to MSNW Group LLC in the amount of \$5,211 per month and for the mayor to sign the contract. Motion approved on a 7-0 vote.

Preliminary Plat Amendment for North Prairie Phase 7 Long Plat

In September of 2017 Council granted preliminary plat approval for the long plat known as North Prairie Phase 7, a proposal by Bob Libolt of North Prairie LLC. The long plat is located east of Northwood Road at the intersection of Brome Street. The 93-lot proposed plat is approximately 23 acres and has a single-family zoning of RS-72. Since preliminary plat approval on September 5, 2017, construction of improvement, including significant off-site sewer infrastructure have been underway.

Recently the developer has submitted a request for an amendment to the preliminary plat approval of North Prairie Phase 7 into two divisions. This phasing is requested due to his current financial circumstances and extensive off-site sewer improvements. The proposed Division 1 includes 60 lots, utility improvements and some street improvements required with the original preliminary plat approval. The proposed Division 2 includes completion of street improvements, the remaining 33 lots and any remaining items left incomplete with Division 1.

Councilor Lenssen moved and Councilor Bode seconded to adopt amended Findings of Fact, Conclusions of Law and Decision on Subdivision Application #17-04 for the North Prairie Phase 7 preliminary plat approval allow the final plat to be submitted in phases. Motion approved on a 7-0 vote.



Final Plat Approval for North Prairie Phase 7 Division 1 Long Plat

In September of 2017 Council granted preliminary plat approval for the long plat known as North Prairie Phase 7, a proposal by Bob Libolt of North Prairie LLC. The long plat is located east of Northwood Road at the intersection of Brome Street. The 93-lot proposed plat is approximately 23 acres and has a single-family zoning of RS-72. Since preliminary plat approval on September 5, 2017, construction of improvement, including significant off-site sewer infrastructure have been underway.

Simultaneous to this request for final plat is the request to amend the preliminary plat approval to allow for the phasing of the plat. As such, the request for final plat includes only the first 60 lots of North Prairie Phase 7 long plat. Final development fees were paid on December 12, 2018.

Staff recommends granting final plat approval based on the following conditions:

1. Dedication of all rights-of-way for Phase 1 and 2.
2. Completion of all punch list items.
3. Submittal and acceptance of required maintenance bonds and any necessary performance bonds.
4. Payment of final inspection fees for plat construction.
5. Submittal of final as-built drawings.
6. Submittal of final plat mylars.
7. Provisions for emergency access within the future Snowbush ROW until Phase 2 is complete.
8. Fire hydrant location revisions as needed to ensure coverage of Phase 1.

Councilor Lenssen moved and Councilor Strengholt seconded grant final plat approval of phase one of the North Prairie Phase 7 Division 1 Long Plat subject to the conditions noted above. Motion approved on a 7-0 vote.

Purchase of Dickinson Property

The City of Lynden wishes to buy the so-called "Dickinson" property. It is roughly 8.8 acres in size, heavily forested and includes the confluence of Pepin and Fishtrap creeks. It is owned by Roland and Caroline Dickinson. Their single-family residence is on the site and included in the purchase. The entire property is generally south of Double Ditch Road and North of Front Street, and a block west of 17th Street.

The City has several uses for the property:

- 1) It is likely some infrastructure attendant to the Pepin Creek project will be located there. Staff believes it is possible to pipe flood waters from the Pepin Creek project directly into Fishtrap creek at this location, reducing the likelihood of erosion on an upstream stretch of Pepin Creek.
- 2) The property would also be used to extend the City Trail system from a recently completed section around Fisher Elementary School.
- 3) It would also become a City Park. The property, one of the last heavily timbered properties in City limits, is a natural park. As mentioned above, both Fishtrap and Pepin creeks meander through the property. The City does not intend to develop the park immediately but will sometime in the future.

The Dickinson have agreed to sell the property for \$1.2 million, which will be paid in installments that conclude on or before October 2020. Although the Council is being asked to approve the purchase tonight, the sale will not be consummated until sometime after January 1, 2019.



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Among the other terms of this transaction, the City would agree to name the property "Dickinson Park". It also would agree to let the Dickinsons remain in their residence until they wish to leave.

Councilor De Valois moved and Councilor Laninga seconded to purchase the Dickinson property located at 8200 Double Ditch Road in Lynden, Washington, tax number 400319-34222-000, on the terms described in the Purchase and Sale Agreement and other documents. Motion approved on a 7-0 vote.

Mayor Korthuis thanked the members of the Lynden Regional Park and Recreation District for their efforts in this process.

Ron Van Soest, 8658 Vinup Road, Lynden

Mr. Van Soest read a letter which formalized the commitment of the Lynden Regional Park and Recreation District's intent to financially support two major park projects. The Lynden Regional Park and Recreation District will be advancing a \$3 million bond in 2019. Mr. Van Soest also introduced each of the board members and thank Terry DeValois for his 20 + years of service.

Conditional Use Permit #18-01- Engels

Mary and Craig Engels are seeking to establish a short-term (vacation) rental at their home located at 400 E. Front Street. Commonly marketed through websites such as Air BNB and VRBO, the City of Lynden regulates these transient accommodations consistent with LMC 19.49- Conditional Use Permits and Bed and Breakfast. As transient accommodations located within a neighborhood zoned for single-family residences could potentially have negative impacts on surrounding property owners, applicants must seek a Conditional Use Permit (CUP). This process includes notifying the surrounding property owners.

On December 6, 2018, the Planning Commission held a public hearing to accept public testimony on the request. In addition to the applicant, one resident spoke in favor of the request. No written comments were submitted to the Planning Department in response to the notification. After considering the criteria outlined in LMC 19.49 the Planning Commission recommended approval of the CUP with the condition that the use regarding short-term rentals be limited to two weeks or less.

Councilor Lenssen moved and Councilor Kuiken seconded to approve Conditional Use Permit #18-01 for Mary Engels and to authorize the mayor's signature on the Findings of Fact. Motion approved on a 7-0 vote.

OTHER

Council Committee Updates

Councilor Lenssen reporting for the Public Safety Committee which involved discussion of:

- Funding for the police officer position (#16).
- Redevelopment of community block watch program for deterring crime.
- Usage of impact fees to pay for an ambulance.
- Change in budget to allow for an assistant chief position at the fire department.
- Hiring process for police officer position #15.
- Police department case of the month.



Councilor Kuiken reporting for the Finance Committee which involved discussion of:

- Adoption of the 2019 Budget.
- Rescinding of Resolution No. 992.
- Amending Ordinance No. 1566.
- LMC regarding business licenses.
- Overtime: Fire & Police.
- Sales tax revenue continues to come in strong.
- Monthly financial statement review.

Councilor Laninga commented that the city is losing the mitigation funds which is money we received from the state commonly referred to destination tax. The program has been phased out.

7. EXECUTIVE SESSION

Council did hold an executive session.

8. ADJOURNMENT

The December 17, 2018 regular session of the Lynden City Council adjourned at 7:38 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor