

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



December 6, 2021

### 1. CALL TO ORDER

Mayor Korthuis called to order the December 6, 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 Strenght, and Mark Wohlrab.

Members absent: None.

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

**OATH OF OFFICE- None**

### APPROVAL OF MINUTES

*Councilor DeValois moved and Councilor Kuiken seconded to approve the November 15, 2021, regular council meeting minutes as presented. Motion approved on a 7-0 vote.*

### ITEMS FROM THE AUDIENCE

Mayor Korthuis thanked Lynden Chamber Director Gary Vis for excellent efforts put toward the success of the Lighted Christmas parade. Mr. Vis acknowledged his staff and all the volunteers that participated in the event. He provided a rough estimate of 10-15 thousand attendees.

**Scheduled: None**

**Unscheduled: None**



## 2. CONSENT AGENDA

### Payroll Liability to November 16 through November 30, 2021

#### EFT & Other Liabilities

#### Non-L&I Liabilities

Monthly EFT .....	\$519,140.26
Check Liability .....	\$3214.38
Total Non-L&I Liabilities .....	\$522,354.64
Quarterly Liabilities .....	\$11,227.05
<b>Total EFT &amp; Other Liabilities</b>	<b>\$533,581.69</b>

### Approval of Claims – December 7, 2021

Manual Warrants No.	<u>23349</u>	through	<u>26653</u>		\$7,990.86
EFT Payment Pre-Pays					\$1,948,464.01
				<b>Sub Total Pre-Pays</b>	<b>\$1,956,454.87</b>
Voucher Warrants No.	<u>23354</u>	through	<u>23398</u>		\$304,523.15
EFT Payments					\$0.000
				<b>Sub Total</b>	<b>\$304,523.15</b>
				<b>Total Accts. Payable</b>	<b>\$2,260,978.02</b>

### Set the Public Hearing to Consider Comprehensive Plan Amendment (CPA) 21-02

On October 10, 2021 the Planning Commission held a public hearing to consider Comprehensive Plan Amendment 21-02. The proposal is brought forward by David Vos representing Vander Giessen Nursery.

The application details the desire to move two small parcels of property, adjacent to the existing retail nursery location, into the industrial land use category and assign a zoning category of Industrial Business Zone (IBZ). This shift would be consistent with the parcels to the north and west and would match how the northern parcel has been traditionally used.

Although no immediate expansion is plan, this shift would allow for the potential future expansion of their retail nursery operation. Currently the site is occupied by a single-family home. This use would become non-conforming.

The public hearing regarding the Comprehensive Plan Amendment is proposed to take place on December 20 and public comment on the issue will be taken at that time. The Site



Specific Rezone, also to be considered on December 20th is quasi-judicial and closed for public comment.

### Set the Public Hearing to Consider Ordinance No. 1640 Moratorium on Residential Development within CSL Zones

Under certain provisions, the City of Lynden's Zoning Ordinance allows multi-family residential development within the Commercial Services- Local (CSL) Zones in conjunction with first floor commercial spaces. These projects are often referred to as "mixed-use" and are intended to facilitate a symbiotic relationship between commercial uses and the residents that live nearby.

In the North Lynden Sub-Area, the code makes additional provisions for residential development with a lower ratio of required commercial use. As the demand for commercial space wanes the viability of mixed-used projects has been called into question by the Community Development Committee. Staff research shows that since 2013 the city has approved 276 multi-family units within CSL zones. While the corresponding commercial spaces associated with these projects is about 92,000 square feet much of that space is accounted for by one farm and garden store (Tractor Supply), is used as mini or condo storage spaces, or is currently vacant.

The Committee has requested an interim moratorium on multi-family residential development within the city's CSL zones while adequate review of this issue is conducted. Review will consider the effects of mixed-use development to the City's housing goals, will review the intent and success of the mixed-use ordinance, and examine how mixed-use provisions may affect new areas of annexation. The public hearing is proposed to take place on December 20 and public comment on the issue will be taken at that time.

### Resolution No. 1042- 2022 Real Estate Property Tax Levy Increase

All taxing jurisdictions are required, due to the passage of Referendum 47 in 1997, 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. Given the current rate of inflation (3.86%) the City is allowed by statute RCW 84.55.005 to increase the Levy 1% or bank this capacity for future use. The City Council has deemed it necessary due to the City's funding requirements to increase the regular property tax levy by the full 1% allowed. Resolution No. 1042 reflects the City Council's requirement to not "bank" any real property taxes in 2022 and approve the legally allowed 1% increase in the 2022 real property taxes.



### State Advocacy Contract with Gordon Thomas Honeywell

Briahna Murray, Vice-President of Gordon Thomas Honeywell Governmental Affairs, has been Lynden's State advocate advocated since 2015. That advocacy has resulted in more than \$8 million worth of capital earmarks for important City projects. The contract is virtually identical to its predecessors and continues the relationship with Ms. Murray and her firm.

The contract continues with a \$3,000 monthly cost for a total of \$36,000 in 2022. This rate is unchanged from previous years and is included in the proposed 2022 budget.

### Renew Agreement Professional Services- Lynden Municipal Judge

Judge Terrance Lewis has served as Lynden's Municipal Court Judge for a number of years. The attached contract extends his service for another 4-year period. The terms remain the same.

### Contract for Public Defender Services- Indigent Criminal Defense Services

This Agreement creates an independent Contractor relationship between Jason Smith, North County Public Defense, and the City of Lynden for Indigent Criminal Defense Services. Contract duration is two years with the option of two additional two-year terms. In consideration of the services provided the City agrees to pay \$4,000/monthly for each full month in which services are provided.

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

## 3. PUBLIC HEARING

### Final Public Hearing on the 2022 Budget

As published, 7:00PM, December 6, 2021 is the time and date set for the *final* Public Hearing on the 2022 Budget as presented to the City Council by Mayor Korthuis at the October 18th City Council meeting.

Mayor Korthuis opened the public hearing at 7:04 p.m.  
There was no public comment.  
Mayor Korthuis closed the public hearing at 7:04 p.m.

### Public Hearing for Comments on Proposed Nooksack Valley Disposal Rate Increase

Nooksack Valley Disposal (NVD) is requesting a rate increase, effective January 1, 2022, for their services due to their increasing disposal fees. NVD currently has a 20-year franchise agreement with the City of Lynden (through 2036) for curbside garbage pickup and recycling



program services. On November 17 and December 1, 2021, the public was invited to comment on the proposed rate increases.

Mayor Korthuis opened the public hearing at 7:06 p.m.

Written public comment was received and distributed to council from the following:

Isaac White	Robert Knapp	Layne Brennick
G. Todd Williams	Steve Moyer	Carol Blankfied

There were no other public comments.

***After some discussion, Councilor Bode recommend continuing the Public Hearing concerning the Nooksack Valley Disposal proposed rate increase until December 20, 2021 council meeting. Motion approved on 7-0 vote.***

***Councilor Lenssen asks that the public's concern over antiquated recycling processes be addressed at the December 20<sup>th</sup> council meeting. Mayor Korthuis will ask Nooksack Valley Disposal's Calvin Denhartog to attend the next council meeting.***

## Public Hearing for Revisions to the Engineering Design and Development Standards Project Manual

The Engineering Design and Development Standards Project Manual was originally adopted by City Council on April 5, 2004 and was last updated on January 1, 2021. These standards are required by the City's Growth Management Act and include street, water, sewer, and storm drainage standards.

In response to inquiries, changes in technology, and the feedback from customers, additions, deletions and/or clarifications have been made to the project manual. The manual also addresses access issues, permitting processes and procedures, and includes various forms necessary in the development process. Staff is updating the Manual annually and presents Resolution No. 1042 along with a list of revisions for Council review.

The Public Works Committee reviewed the updates at their October 6, 2021, meeting and recommended that they be forwarded to City Council for consideration.

Mayor Korthuis opened the public hearing at 7:12 p.m.

Public Works Director Steve Banham noted that Public Works department received comments from Lane Stremler and the Transpo Group. This information will be reviewed before the next council meeting.

Mayor Korthuis closed the public hearing at 7:13 p.m.



***Councilor Bode moved and Councilor Lenssen seconded to direct staff to make the necessary changes to Resolution No. 1043, Revisions to the Project Manual for Engineering Design and Development Standards, to address public comments and to bring the updated Resolution to City Council for approval. Motion approved on 7-0 vote.***

#### **4. UNFINISHED BUSINESS**

##### Ordinance No. 1639, Adoption of the 2022 Budget

The Preliminary 2022 Budget was presented to the City Council by Mayor Korthuis at the October 18, 2021 City Council meeting. The first public hearing for the 2022 Budget was held on November 1, 2021. The final RCW required budget hearing was held earlier this evening December 6, 2021. Ordinance No. 1639 represents the results of the budget process.

Passage of this ordinance will finalize and adopt the 2022 budget; and is in compliance with RCW deadlines. The Finance Committee has been presented with this information for their review throughout the budget process, as has Council.

***Councilor Strengholt moved and Councilor Kuiken seconded to continue approve Ordinance No. 1639 and authorize the Mayor's signature. Motion approved on 5-0 vote. Councilor Lenssen and Wohlrab opposed.***

#### **5. NEW BUSINESS**

##### Lynden Automotive Conditional Use Permit 21-04

The application came before the Planning Commission as a virtual open public hearing on November 18, 2021. The resulting resolution recommended approval but confirmed specific conditions that were assembled by staff from all city departments during the Technical Review process.

The result would permit the use of auto mechanic services at the subject location but under specific conditions that designate where vehicles could be parked during the repair process, would require screening of the parking area, as well as addressing any stormwater discharge concerns.

Due to previous code violations and the existing condition of the site, staff and the Planning Commission recommended that the Conditional Use Permit be reviewed for compliance after six months. The Planning Commission Resolution and staff review documents are included in the council packet for council review.

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



***After some discussion between Council, Staff and City Attorney, Bob Carmichael, a motion was made.***

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Conditional Use Permit 21-04 per the conditions listed in Planning Commission Resolution 21-10, authorizing the commercial use of auto mechanic services at Lynden Automotive located at 8894 Bender Road. This motion also authorizes the mayor's signature on the associated Findings of Fact and Conclusion of Law. Motion approved on 7-0 vote.***

### PRD Amendment – RB Development- Parkview Apartments

Lynden Municipal Code (LMC) 19.29.100, describes the approval of Planned Residential Developments (PRD). It calls for the review of the final PRD and CCR document by the City's Planning Commission and City Council. Review is intended to ensure consistency with the approved PRD, or in this case, a PRD Amendment.

As you may recall, the RB Development Heritage Park PRD was created in the early 1990s. In late 2019 one of the property owners within this development approached the City to request an amendment to the PRD so that additional 41 senior housing units could be added to the site of the Parkview Apartments. The additional unit count was within the previously approved maximum unit count for the overall PRD. The amendment to the RB Development PRD was approved by Council on April 20, 2020.

The resulting Findings of Fact and Conclusions of Law as well as the Planning Commission Resolution and staff's findings are included in the documents as exhibit B of the PRD Agreement. The Council has been asked to review these documents for consistency with the approval granted in April of 2020. No additional proposals or amendments are before the Council at this time.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve the Development Contract for the Parkview West Apartments, an amendment to the RB Development and Heritage Park PRD as well as the proposed Covenants, Conditions and Restrictions for RB Development.***



## 6. OTHER BUSINESS

Councilor Lenssen reporting for the Community Development Committee

- Camping restrictions at city parks
- Ordinance No. 1640 Moratorium on Residential Development within CSL Zones

Councilor Wohlrab reporting for the Public Safety Committee

- OT report for PD (illnesses and light duty officer)
- Fire inspections suspended due to COVID
- Higher than normal calls for FD
- Response time from Liberty Street
- Responded normally in the flood event for FD and PD
- Homeless encampments slowly moving north towards Lynden
- Golf cart issue
- Grand opening at new Fire Department

***Public Works Director Steve Banham provided council with a brief overview of assessed damaged caused by the recent flood event.***

## 7. EXECUTIVE SESSION

Council did not hold an executive session.

## 8. ADJOURNMENT

The December 6, 2021, regular session of the Lynden City Council adjourned at 7:44 p.m.

---

Pam Brown, MMC  
City Clerk

---

Scott Korthuis  
Mayor