

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



March 2, 2020

### 1. CALL TO ORDER

Mayor Korthuis called to order the March 2, 2020 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, Jerry Kuiken, Brent Lenssen, Nick Laninga, Kyle Strengholt, and Mark Wohlrab.

Members absent: None

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

### OATH OF OFFICE

Mayor Korthuis administered the Oath of Office to Police Officer Alex Pluschakov. Police Chief Steve Taylor briefly introduced Officer Pluschakov and welcomed him to the City of Lynden's Police Department.

### APPROVAL OF MINUTES

***Councilor De Valois moved and Councilor Wohlrab seconded to approve the regular council minutes of February 18, 2020 and the special council minutes of the Community Development Committee of February 19 with correction of the two errors noted by Councilor De Valois. Motion approved on a 7-0 vote.***

### ITEMS FROM THE AUDIENCE

**Scheduled: None**

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CITY COUNCIL  
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**Unscheduled:** Jude Gray, 206 2<sup>nd</sup> Street, Lynden, WA

Ms. Gray spoke to a question raised at the Planning Commission meeting regarding the RB Development on the Heritage Park project. The question was whether there have been any studies regarding the need for senior housing. Ms. Gray then discussed the two buildings over by the golf course that were designed for residents that were 55. The project failed because they were unable to find seniors willing to rent those apartments.

City Attorney Bob Carmichael reminded council that this matter is not yet before them. It has not yet been signed by the Planning Commission. What was just discussed is purely informational and not to be considered in the council decision because the matter is not before council.

## 2. CONSENT AGENDA

### Approval of Payroll Disbursed – February 16 through February 29, 2020

Paychex EFT .....	\$277,663.15
City of Lynden EFT.....	\$62,260.40
Warrant Liability .....	\$57,910.63
<b>Subtotal</b>	<b>\$397,834.18</b>
Paychex EFT Liability	\$6,087.61
<b>Total EFT &amp; Other Liabilities</b>	<b>\$403,921.79</b>

### Approval of Claims – March 6, 2020

Manual Warrants No.	<u>74850</u>	through	<u>74854</u>		\$25,817.17
EFT Payment Pre-Pays					\$59,044.16
				Sub Total Pre-Pays	\$84,861.33
Voucher Warrants No.	<u>74855</u>	through	<u>74896</u>		\$77,229.31
EFT Payments					\$0.00
				Sub Total	\$77,229.31
				Total Accts. Payable	<b>\$162,090.64</b>



## Resolution No. 1019 Authorizing the Acceptance of Whatcom County Economic Development Investment Program Grant and Loan Funds to Improve West Front Street to City Arterial Standards

The City of Lynden is pursuing a combination grant/loan from Whatcom County's Economic Development Investment (EDI) Fund for the reconstruction of west Front Street to City arterial standard. This street is a federally classified street and identified as a City "impact fee funded" street.

Local governments may apply to Whatcom County for EDI funds to construct publicly owned infrastructure, facilities, and related improvements. EDI funds are intended to encourage the creation or retention of private sector businesses and jobs in Whatcom County. Staff believes

EDI funding is an appropriate source for the west Front Street improvements since there is planned development in 2020 on this substandard street per the development agreement recently approved for Front Street Station.

Resolution No. 1019 will demonstrate to the Whatcom County Council the support of the Lynden City Council for this street improvement project and the City's commitment to repay the loan using a combination of TBD, Impact Fees and General Funds.

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

### **3. PUBLIC HEARING**

#### Ordinance No. 1604-Extension of the Pepin Creek Moratorium

The Pepin Creek moratorium has been in place since September of 2016. It was established in recognition of significant constraints associated with what is now known as the Pepin Creek Sub-area. The City has undertaken significant efforts to examine these constraints and develop solutions which would allow for growth in this area. Since then the City Council approved the Pepin Creek Sub-Area Plan and Comprehensive Plan amendment that addresses circulation, open space and assigned land use and zoning within the area.

Additionally, because of the significant infrastructure improvements associated with the creek re-alignment and the improvement of Benson and Double Ditch Roads, Council has recognized that work must be undertaken in a phased approach and planning efforts continue.



As these final elements are defined and executed, City staff recommends that the Council extend the moratorium an additional 6 months from March 9, 2020 to September 2020.

Mayor Korthuis opened the Public Hearing at 7:13 p.m.

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:13 p.m.

***Councilor Lenssen moved and Councilor Laninga seconded to approve Ordinance No. 1604, extending by six months, the existing moratorium of development on those properties previously identified within the Pepin Creek Subarea. Motion approved on a 7-0 vote.***

## 4. UNFINISHED BUSINESS

### Ordinance No. 1601 – Comprehensive Plan Amendment 19-01 (Pepin Creek)

The City of Lynden amended its Comprehensive Plan in December of 2018 to create the Pepin Creek Sub-Area. At that time the Future Land Use Map was also amended to reflect the arrangement of low and medium residential density proposed within the draft of the Pepin Creek Sub-Area Plan.

Since that time the zoning layout of the Pepin Creek Sub-Area was altered. The amendment to the Comprehensive Plan proposed at the end of 2019 updates the Future Land Use Map to correspond with these revisions. On December 16, 2019 the City Council reviewed the Planning Commission's recommendation and took public comment on the amendment.

The Council subsequently voted to approve the change. Since then the review period with the Department of Commerce has concluded without comment and Planning staff has drafted the attached Ordinance No. 1601.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Ordinance No. 1601 amending the City's Comprehensive Plan to reflect land use changes consistent with the Pepin Creek Subarea plan as presented and authorize the Mayor's signature on the documents. Motion approved on a 7-0 vote.***

### Ordinance No. 1600 – Pepin Creek Subarea Plan

In September of 2018 the City released a draft of the Pepin Creek Subarea Plan (PCSA). The intent of the plan is to develop a guide for future growth patterns appropriate for the Lynden



community. Given the projected costs of infrastructure in the Pepin Creek Subarea, City staff explored alternate circulation routes and conducting traffic studies to test alternate designs. As a result, the draft Subarea plan was revised. Revisions included a new street layout and adjustments consistent with zoning code amendments adopted in March of 2019.

On November 21, 2019 a public hearing was held before the Planning Commission. The resulting recommendation from the Commission was for approval with specific considerations outlined for the City Council.

On December 12, 2016 the City Council reviewed the Commission's recommendation and heard public testimony. The hearing concluded with a vote to approve the Sub-Area plan with specific conditions related to the area's circulation pattern. The plan reflects these revisions. Subsequently, the review period with the Department of Commerce has since concluded without comment on the document. Ordinance No.1600 has been drafted and is before Council for review.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve Ordinance No. 1600, adopting the Pepin Creek Subarea Plan as presented and authorizing the Mayor's signature on the document. Motion approved on a 7-0 vote.***

## 5. NEW BUSINESS

### Amendment to Downtown Residential Parking Agreement – 610 Front Street

Property owners of 610 Front Street (the liquor store location), now known as Porch Swing Properties, LLC, are developing plans for a significant renovation of the existing building. Parking requirements have been a concern as the renovation would add two additional floors for residential use to a building that is constructed to the property line and located within the Historic Business District.

On September 3, 2019 the City Council approved a parking agreement which would provide a parking easement and assigned a value to the necessary code required parking stalls. In addition, the parking agreement offered as many as 6 annual parking passes at a rate set out by the agreement and subject to adjustment.

The building owners have continued the planning and design process on this project and found that an additional unit, for a total of 7 units, would fit within the building renovation. Additionally, because the first-floor unit is required to be ADA accessible and provide a handicapped parking space, the three on-site spaces planned for the building's garage was



reduced to two. As a result, an amended parking agreement has been proposed which would accommodate a parking easement for 5 parking spaces, rather than 3, and permit the issuance of as many as 7 annual parking permits, rather than 6.

All residential parking is to occur within the three downtown parking lots noted in the agreement. The City's legal counsel created the parking agreement for the Council's consideration which would replace the previously approved agreement. The property owner has assumed legal costs associated with amending the agreement.

***Councilor Lenssen moved and Councilor Strengholt seconded to approve the amended downtown residential parking agreement with Porch Swing Properties, LLC, the owners of 610 Front Street and to approve the Mayor's signature on the agreement. Motion approved on a 7-0 vote.***

#### Air Space Encroachment Easement Agreement – 610 Front Street

The property owners of 610 Front Street (Front Porch Swing LLC) are developing plans for a significant renovation of the existing building. The renovation would add two additional floors and 7 residential units. Notably the western façade of this building is the location of a well-known mural sponsored by the Lions Club.

The owners seek to preserve / restore this mural, but it is located on the property line in an area that allows for zero lot line construction. The Council agreed that mural preservation was important and on September 3, 2019 approved a restrictive covenant that affects the City-owned parking lot immediately to the west. The Covenant prevents construction along a 10-foot swath on the City property immediately adjacent to the mural.

The building owners have continued the planning and design process on this project and desire that some architectural features of the building addition encroach into the City's property by as much as 12 inches. These encroachments, such as windowsills and parapets, are located on upper stories above the mural. Although a restrictive covenant is in place that prevents adjacent construction, encroachments were not addressed or permitted in the previous agreement.

With support from the Community Development Committee the property owner has requested the agreement for an air space encroachment. The property owner has assumed legal costs associated with the writing of the agreement.





***Councilor Lenssen moved and Councilor Bode seconded to approve the air space encroachment agreement with the property owner of 610 Front Street affecting the City's parking lot property located at the intersection of Front and Seventh Streets and to authorize the Mayor's signature on the document. Motion approved on a 7-0 vote.***

## 6. OTHER BUSINESS

### Council Committee Updates

Councilor Lenssen reporting for the Community Development Committee with involved discussion of:

- Meeting on March 26 concerning Pepin Creek Lite
- Meeting on April 8 also related to the Pepin Creek Lite

Councilor Bode reporting for the Public Works Committee which involved discussion of:

- Rates for mobile home sewer hookups
- Insurance for utility service from meter to home – the city would not authorize the use of the city name
- Water line hook-up for a local church

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

- EOC Covid-19 briefing ( A few of the items discussed):
  - No confirmed cases in Whatcom County – 2 people are under supervision
  - Whatcom County Health Department is expecting that will be confirmed cases locally
  - Symptoms are generally a fever, dry cough and fatigue, some will have no signs or symptoms at all
  - Currently there is no vaccine
- Councilor Wohlrab will provide all the information discussed at the meeting to the city administrator for distribution to staff.



## 7. EXECUTIVE SESSION

Council did not have an executive session.

## 8. ADJOURNMENT

The March 2, 2020 regular session of the Lynden City Council adjourned at 7:45 p.m.

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Pamela D. Brown, MMC  
City Clerk

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Scott Korthuis  
Mayor

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