

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



December 19, 2022

1. CALL TO ORDER

Mayor Korthuis called to order the December 19, 2022 regular session of the Lynden city council at 7:00 p.m. at the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

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

Members absent: None.

Staff present: Fire Chief Mark Billmire, Planning Director Heidi Gudde, Public Works Director Steve Banham, City Administrator John Williams, City Clerk Pam Brown, and City Attorney Bob Carmichael.

OATH OF OFFICE – None

SUMMARY REPORTS AND PRESENTATIONS

Briahna Murray, Gordon Thomas Honeywell Governmental Affairs Lobbyist
Lobbyist Briahna Murray provided Council with information about the upcoming 2-year legislative session expected to last until April 23, 2023. She also reviewed the City's 2023 funding requests and legislative agenda policy statements.

Councilor Kuiken moved, and Councilor Bode seconded to approve the 2023 legislative agenda as presented. Motion approved on 7-0 vote.

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APPROVAL OF MINUTES

Councilor De Valois moved, and Councilor Strengholt seconded to approve the December 5, 2022, regular meeting minutes. Motion approved on 7-0 vote.

CITIZEN COMMENT - None

2. CONSENT AGENDA

Payroll Liability to December 4 through December 17, 2022

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$397,470.52
Check Liability	\$0.00
Total Non-L&I Liabilities	\$397,470.52
Quarterly Liabilities	\$14,783.20
Total EFT & Other Liabilities	\$412,253.72

Approval of Claims – December 21, 2022

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>26234</u>	through	<u>26350</u>		\$2,573,667.91
EFT Payments					<u>\$33,858.27</u>
				Sub Total	\$2,607,546.18
				Total Accts. Payable	\$2,607,546.18

Approval to Purchase Pierce 107' Quint Fire Truck

On 12/01/2022, during the Public Safety Committee Meeting, a motion was made, seconded, and approved to bring the purchase of a new Pierce 107' Quint Ladder truck to full Council for vote and approval.



Award Management Services Northwest, Contract for City's Janitorial Services

Bids for Janitorial Services (2023) were recently solicited with some modification to the service requested. City Hall and Annex cleaning will be reduced to two days per week, down from three days per week, and the City Shop facility was added for one day per week. The contract is for one year with the option for four additional one-year extensions, potentially extending the contract to the end of 2027. Two bids were received on November 15, 2022. The City's current janitorial service provider, Management Services Northwest (MSNW), was the lowest bid. The Public Works Committee reviewed bids at their meeting on December 7, 2022 and concurred to recommend that City Council award the bid to MSNW.

Award Welch Ecological Services Agreement (2023)

Welch Ecological Services has provided support for the City's National Pollution Discharge Elimination System (NPDES) stormwater permit since the City was reclassified to Phase II in 2014. The contract for 2023 includes support to the City for the following:

1. Administration of the Municipal Stormwater Management Program, including annual reporting;
2. Stormwater Management Planning;
3. Education, Outreach and Public Involvement;
4. Illicit Discharge Detection and Elimination;
5. Controlling Runoff from New Development, Redevelopment, and Construction Sites;
6. Operations and Maintenance Stormwater Protocols;
7. Source Control Program;
8. Grant Funding Application and Administration;
9. Industrial Stormwater Permits for the Airport and Wastewater Treatment Plant.

The Public Works Committee reviewed this contract at their meetings in November and again at their meeting in December and concurred to recommend renewing the contract with Welch Ecological Services. The funding for this contract is included in the 2023 Stormwater (Fund 410) Budget which includes grant funding from the Department of Ecology.

Interlocal Agreement with Whatcom County Health Department to Source Control Inspections

The City of Lynden is required, per the requirements of the City's National Discharge Elimination System (NPDES) Phase II stormwater permit, to develop and implement a Source Control Program by January 2023.



Lynden has over 1,600 businesses within the City's jurisdiction. 290 of these were identified as potential pollutant generating businesses per the NPDES permit. The City is required to annually inspect 20% of these businesses, which equates to conducting at least 58 site inspections in 2023.

The City plans to complete some of inspections by partnering with Whatcom County Health to perform 20 of the required inspections to augment inspection by City and contract staff. The County receives state funding to do inspections like this, so it represents the lowest cost alternative while keeping overall control of the program under City staff.

All inspection reports are provided by Whatcom County Health to the City for any potential follow-up or enforcement. The two-year Interlocal Agreement allows for an additional two-year extension or termination within 60 days if the services are not satisfactory. The Public Works Committee reviewed this agreement at their meetings in October, November, and December 2022, and recommended forwarding to City Council for approval.

Re-Appoint Aaron Apps to the Design Review Board

Award DeKoster Excavating the Contract for NW Washington Fairgrounds Stormwater Improvements

Staff recently solicited bids for the Northwest Washington Fairgrounds (Fair) Stormwater Improvements. The project includes the installation of approximately 1,000 feet of new storm pipe, two large infiltration facilities, and other conveyance components on the Fairgrounds property at 1775 Front Street. All work occurs within the private parcel, within City-owned easements.

This project is being primarily funded through a State Department of Ecology (Ecology) Grant. Nineteen (19) bids were received on November 17, 2022, as shown on the attached Bid Tabulation prepared by Herrera Environmental Consultants. There was some question about bids including a list of Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) subcontractors the bidder anticipates using for the project, per an Ecology bid insert.

There is no requirement to use any MBE/WBE subcontractors, and the City's agreement with Ecology prohibits awarding the contract based on MBE/WBE participation. This list was not included by 16 of the 19 bidders, including the three lowest. Upon review by the



City attorney, it was determined that this irregularity was “not material” and so the City has the authority to award to the lowest bidder.

At the Public Works Committee meeting on November 9, 2022, the committee concurred that the bid results could be forwarded directly to City Council after being informed of the results. Based on the engineer recommendation and legal review staff is recommending waiving the possible irregularity and award to DeKoster Excavating, the lowest responsive and responsible bidder, in the amount of \$660,000.23, including Washington State sales tax.

Motion made by Councilor Kuiken, seconded by Councilor Bode to approve the consent agenda as presented. Motion approved 7-0.

Mayor Korthuis thanked Aaron Apps for his service to the Design Review Board and the residents of Lynden.

3. PUBLIC HEARING

Ordinance No. 1655 - Comprehensive Plan Amendment (CPA) 22-02 JD Bargaen

The proposal for Comprehensive Plan Amendment 22-02 is brought forward by Lesa Starkenburg-Kroontje representing JD Bargaen Industries, LLC. On September 22, 2022 the Planning Commission held a public hearing to consider the application. Subsequent to the hearing, the amendment was sent to the Department of Commerce for review. That comment period has expired without remark.

The application details the desire to shift a portion of a vacant property, adjacent to the affiliated Lynden Door manufacturing campus from a commercial to an industrial land use category. This shift would be consistent with the parcels to the north and east. A corresponding rezone application is moving through the approval process with this Comprehensive Plan Amendment. If approved the Amendment and the Rezone applications would eliminate the split zoning currently on the subject parcel and create a cohesive Industrial (ID) zoning throughout.

The application details why the ID zoning is the best fit for the future expansion of the Lynden Door operations. Staff and the Planning Commission have recommended approval of this map amendment. Tonight, public comment will be taken regarding the shift in land use from commercial to industrial. The corresponding site-specific rezone request is also being considered on the Council’s new business agenda. No additional public comment is taken specifically on the rezone as that record is closed.



Mayor Korthuis opened the hearing at 7:15 P.M.

Lesla Starkenburg-Kroontje addressed a Scribner's error in Ordinance No. 1655 and with this correction stated her support of council adoption of the ordinance. Mayor Korthuis closed the hearing at 7:17 P.M.

Public hearing held on the Comprehensive Land Use Amendment item only.

Ordinance No. 1655, JD Barga Comprehensive Plan Amendment 22-02 and Rezone 22-01

The proposal for Rezone 22-01 is brought forward by Lesla Starkenburg-Kroontje representing JD Barga Industries, LLC in cooperation with Comprehensive Plan Amendment (CPA) 22-02. This property is located north of Front Street and south of the existing Lynden Door campus (Parcel 400224 332215 0000). The details of this

application and the Planning Commission's recommendation were described in association with the Public Hearing for CPA 22-02.

Motion by Councilor Lenssen, seconded by Councilor Strengholt to approve and authorize the Mayor's signature on Ordinance No. 1655 which amends the Land Use Map within the City's Comprehensive Plan and rezones the subject parcel from CSR and IBZ zoning to an ID zoning category. Motion approved with a 7-0 vote.

Ordinance No. 1656, City-led CPA 22-01 and Rezone

The proposal for CPA 22-02 represents an initiative brought forward by the Planning Department primarily in response to the moratorium on mixed-use development. It captures a number of updates to the Comp Plan which can be briefly summarized as follows: Zoning Map Updates:

1. Recognizing a new overlay category of "Mixed-Use".
2. Revising 6 parcels in the East Lynden Sub-area from a Commercial designation to a Residential designation.
3. Shifting the zoning of 3 North Lynden Sub-area parcels from Commercial to Residential designations.
4. Shifting 7 parcels in the West Lynden Sub-area from commercial designation to an industrial designation. Future Land Use Map Updates: Revision to Future Land Use designations within the Urban Growth Area (UGA) south of the Birch Bay Lynden Rd.

This would affect the zoning options for these parcels when, and if, they come into the City via annexation. It would not have an immediate effect (rezone) the properties at this time. Sub-Area Map and Text Amendment: In support of the new Mixed-Use provisions, this is a proposal to alter the boundaries of some sub-areas located on the western end of the City and to create a new sub-area called the "West Lynden Gateway Sub-Area".

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On September 22, 2022, the Planning Commission held a public hearing to consider these amendments. The Commission recommended approval of the amendment but asked that the Council consider revising the proposal to the Future Land Use map so that all of the privately owned UGA property south of the Birch Bay Lynden Rd be brought into the City with a low-density residential designation and that no industrial zoning be assigned in this area.

Based on property owner feedback and existing industry in this area, staff continues to recommend the proposal as presented with approximately 40 acres (8 parcels) of industrial land use near the intersection of Berthusen and Birch Bay Lynden Rds. The Council will be asked to make a final determination on this point.

Mayor Korthuis opened the hearing at 7:20 P.M.

There were no comments.

Mayor Korthuis closed the hearing at 7:20 P.M.

Motion by Councilor Lenssen, seconded by Councilor Strengholt to approve Ordinance No. 1656, amending the City's sub-areas, the zoning map, and the Comprehensive Plan text to accommodate a mixed-use planning initiative, and additionally amending the Future Land Use Map with designations of privately owned UGA properties, south of the Birch Bay Lynden Road, shifting to low density residential with the most western 40 acres assuming an industrial land use designation. Motion approved with a 7-0 vote.

Ordinance No. 1657, Mixed-Use Overlay and Amendments to LMC 17, 18, and 19

Ordinance No. 1657 represents a response to the City's moratorium on residential construction within CSL zoning categories, otherwise known as mixed-use development, which was enacted on December 20, 2021 with Ordinance No. 1642.

Over the course of the last year, Planning staff have worked with stakeholders, the Community Development Committee and the Planning Commission to develop mixed-use provisions which consider scale and location of mixed-use developments to better serve the good of the community and the original intent of the mixed-use code. This initiative also captures other Planning Department initiatives with updates to the parking code, the manufactured home zone, as well as various housekeeping and clarifications throughout Chapters 17, 18, and 19.

On September 22, 2022, the Planning Commission held a public hearing to consider these amendments. The Commission recommended approval of the amendment with three suggested revisions:



1. That the Residential Design Criteria requirement for a minimum 4:12 pitched roof remain with the option to seek a waiver with the Design Review Board rather than be deleted as a residential standard as proposed. LMC 19.22.030(C)(4).
2. That a parking requirement for studio apartments be added at a rate of 1.5 parking stalls per unit rather than 2 stalls as currently proposed. LMC 19.51.040.
3. That body piercing and tattoo studio uses remain as outlined in the current code – permitted only within the CSR zone. LMC 19.23.020.

Staff has amended the proposed ordinance to include recommendations 1 and 3 but, per the feedback from the Community Development Committee, has not incorporated recommendation number 2.

Mayor Korthuis opened the hearing at 7:41 P.M.

Gary Vis, Chamber of Commerce Director, Lynden spoke in favor of item #2 which is related to the parking requirement

Mayor Korthuis closed the hearing at 7:43 P.M.

Motion by Councilor Lenssen, seconded by Councilor Bode to approve Ordinance No. 1657, amending Chapters 17, 18, and 19 with the inclusion of PC recommendations 1 and 3 as previously described, with an effective date of January 1, 2023 and authorize the Mayor's signature on the document. Motion approved with a 7-0 vote.

4. UNFINISHED BUSINESS - None

5. NEW BUSINESS

Project Zebra, Premier Packing Conditional Use Permit

Premier Packing through their agent, JP Slagle, has applied for a Conditional Use Permit (CUP) to allow the use of food processing to occur on property with a zoning designation of Industrial Business Zone (IBZ). (Initially this project was submitted under the name "Project Zebra"). The subject property is 11.8 acres located at 603 Curt Maberry Drive. Surrounding properties are utilized for similar industrial uses and agriculture.

The proposal details the construction of a 194,250 square foot facility which would receive frozen fish and seafood to be processed and packaged for retail sale. The Conditional Use Permit also requests the ability to expand to include an additional 74,000 square feet in the future and to exceed a maximum building height of 45 feet by five feet to allow the building to reach a maximum building height of 50 feet.



The application came before the Planning Commission at an open public hearing on November 17, 2022. The resulting Commission resolution recommended approval per the following conditions:

1. Prior to issuance of the building permit, a sewer discharge study to the City's system is required to verify impact, treatment loads, and pipe size. (Be advised, this study will require 3rd party review.)
2. Roof-mounted condenser units must be screened from view so that mechanical equipment is not visible from public streets.
3. That the Conditional Use Permit be evaluated annually as described by code, for compliance with the performance standards of LMC 19.25.040, especially as it relates to noise and smell. The Planning Commission Resolution and staff review documents are included in the packet for Council review.

Motion by Councilor Lenssen, seconded by Kuiken to approve the Conditional Use Permit 22-02, which authorizes the use of food processing on an IBZ zone and permits additional building height subject to the conditions outlined in the Planning Commission Resolution 22-07. This motion authorizes the Mayor's signature on the Finding of Fact and Conclusion of Law. Motion approved with a 7-0 vote.

6. OTHER BUSINESS

Webpage Development- CivicPlus Annual Agreement for Service

The Parks Department, Finance Department, and IT proposed and reviewed the ability to update and modify the city's website with the capability to update schedules, take online payment and handle rental services in a more streamlined approach. The current system is out of date and needs to be updated to satisfy the requests of the auditors. This will help the management team alleviate the flood of phone calls and email requests for more assistance from park users.

CivicPlus has offered a proposal for annual service to monitor the system, provide assistance, and streamline payment and schedule portals. The Parks Committee reviewed the updated proposal and recommended forwarding it to full Council for approval.

Motion by Councilor De Valois, seconded by Councilor Wohlrab, to approve the Service Agreement proposal from CivicPlus and authorize the Mayor's signature on the agreement. Motion approved with a 7-0 vote.



Councilor Bode (Public Works Committee) reported discussion of:

- Upcoming health department inspection program
- FEMA funded ditch cleaning
- NW WA Fair bid award
- Fishtrap Creek bank erosion

Councilor Strengholt (Finance Committee) reported discussion of:

- Approved Claims and Payroll
- Sales tax revenue remain strong
- Update on the various fund amounts

Councilor De Valois (Parks Committee) reported discussion of:

- **CivicPlus subscription for payment of facility rentals**
- **Benson Park design project and Rotary Club interest in assisting with the project**
- **Champion cherry tree in Dickinson Park**
- **Glenn Street park design planning**
- **Berthusen Park signage and automatic mechanism for opening the gate to the park**
- **Trail signage**
- **Hiring progress for the open Park position**

7. EXECUTIVE SESSION

Council did not hold an executive session.

8. ADJOURNMENT

The December 19, 2022, regular session of the Lynden City Council adjourned at 8:10 P.M.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor