

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



January 16, 2024

### 1. CALL TO ORDER

Mayor Korthuis called to order the January 16, 2024 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

### PLEDGE OF ALLEGIENCE

### OATH OF OFFICE

### ROLL CALL

Members present: Councilors Gary Bode, Lee Beld, Gary Vis, Nick Laninga, Kyle Strengolt, and Mark Wohrab.

Members absent: Councilor Lenssen absent with notice.

Staff present: Community Development Director Heidi Gudde, Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Brent DeRuyter, Police Chief Steve Taylor, Public Works Director Jon Hutchings, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael.

### SUMMARY REPORTS AND PRESENTATIONS

#### APPROVAL OF MINUTES

***Councilor Vis moved, and Councilor Strengolt seconded, to approve the January 2, 2024, regular council meeting minutes. Motion approved on 6-0 vote.***

**Mayor Korthuis announced that the council would not be accepting public comment on the topic of fluoride which is listed on the agenda under unfinished business. If a public hearing is scheduled for another date that is when council will receive public comment. He also announced that all other public comments will be limited to three (3) minutes which falls into alignment with other agencies in the county.**

### CITIZEN COMMENT

Jon Henry, South BC Avenue, Lynden

Mr. Henry asked Council a couple of procedural process questions in reference to the topic concerning the question of whether to discontinue the addition of fluoride to the city's water supply.

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## 2. CONSENT AGENDA

### Approval of Claims – December 31, 2023

Manual Warrants No.	<u>28931-</u> <u>29137-</u> <u>29151</u>	through	<u>29153</u>		\$834,128.39
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$834,128.39
Voucher Warrants No.	<u>29155</u>	through	<u>29252</u>		\$900,085.66
EFT Payments					\$161,116.73
				Sub Total	\$1,061,202.39
	Total Accounts Payable				<b>\$1,895,330.75</b>

### Payroll Liability to December 31, 2023 through January 13, 2024

#### EFT & Other Liabilities

##### Non-L&I Liabilities

Monthly EFT .....	\$462,661.45
Check Liability .....	\$0.00
Total Non-L&I Liabilities .....	\$432,661.45
Quarterly Liabilities .....	\$13,818.85

**Total EFT & Other Liabilities** **\$446,480.30**

ORD-24-1682 Setting the Final Property Tax for 2024

RES-24-1089 Adoption of the Unified Fee Schedule (UFS)

2024-2025 Contract Renewal for City Attorney Services

***Motion made by Councilor Bode, seconded by Councilor Strengholt to approve the items on the Consent Agenda. Motion approved 6-0.***

## 3. PUBLIC HEARING

### Public Hearing – RES-24-1088 Amending the Building Valuation Data (BVD) Table Used to Calculate Building Permit Fees

As the City Council considers fee increases reflected in a comprehensive fee schedule, staff have also drafted an update to the Building Valuation Data (BVD) which is used in a formula to calculate building permit fees.

National BVD is updated by the International Code Council (ICC) every 6 months to represent average valuations for various occupancy types including business, residential,



educational, etc. The average costs include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical and interior finish material. The City of Lynden then uses these valuations to calculate building permit fees. The valuation table that is currently used by the City reflects 2016 ICC guidance as adopted in 2018.

Staff are now proposing an increase to the 2021 guidance to close the gap between the city's adopted valuation data and the current market rate. RES-24-1088 does not propose an increase to the fee formula but only to the minimum value assigned per construction type. If accurate construction costs have been submitted to the city the result will be little to no increase in that portion of permit fees.

Mayor opened the public hearing at 7:05 pm.  
There were no comments from the public.  
Mayor closed the public hearing at 7:05 pm.

***Motion made by Councilor Strengholt, seconded by Councilor Wohlrab to approve RES-24-1088, updating the minimum building valuation data used to calculate building permit fees and to authorize the Mayor's signature on the resolution. Motion approved 6-0.***

### RES-24-1090 Resolution of Intent to Annex Weg Property, 8634 Double Ditch Road

The City Council is being asked to take public comment and make a decision concerning Annexation Application 23-01 representing approximately 45 acres on the northwest edge of the city known as the Weg Property. This area is part of the City's Urban Growth Area and is slated to be added to the city as a residentially zoned property within the Pepin Creek Subarea.

The review of annexations is meant to consider the following:

1. Whether the City shall accept, reject, or geographically modify the proposed annexation area; and
2. Whether the City shall require simultaneous adoption of a proposed zoning regulation consistent with the City Comprehensive Plan and applicable sub-area plan; and
3. If such a proposal has been prepared and filed in the area to be annexed as provided for in RCW 35A.14; and
4. Whether it shall require the assumption of indebtedness by the area to be annexed.

The Planning Commission held a hearing to consider this item on November 9, 2023 and recommended approval of the parcel as proposed. The staff of the Technical Review Committee has reviewed this request and developed a corresponding report and



recommendation which is submitted for the Council's review. If recommended for annexation the application will be sent for legal review to the Boundary Review Board for comment prior to a final ordinance of the City Council which would formally annex the property.

Mayor opened the public hearing at 7:08 pm.  
There were no comments from the public  
Mayor closed the public hearing at 7:08 pm.

***Motion made by Councilor Strengholt, seconded by Councilor Wohlrab to approve RES-24-1090, a Resolution of Intent to Annex for Annexation Application 23-01 concerning the 45-acre Weg property located at 8634 Double Ditch Road and to authorize the Mayor's signature on the document. Motion approved 6-0.***

#### 4. UNFINISHED BUSINESS

**Director Gudde submitted to Council a revision to ORD-23-1680, different than what was initially submitted into the council packet. After providing a summary of the revised items the revised ordinance was made a part of the official council file.**

##### ORD-23-1680 Amending the Civil Penalties Code

Since publication of the city council agenda packets for the January 16, 2024 meeting the following clarifications have been proposed to ORD-23-1680 to clarify who is authorized to obtain and sign a voluntary correction order. These revisions clarify that Appointed Officers, as listed in LMC 2.05.010 and the mayor are authorized to do so. These individuals as well as the City Attorney are authorized to negotiate a compromise to gain compliance on a cited violation.

- 1.34.040 (A)(1): This is the list of steps Enforcement Officials are authorized to take. Changed "Enter into" to "Obtain" for consistency with later revisions re: who is authorized to sign Voluntary Correction Agreements.
- 1.34.050©: Struck "acting through the Enforcement Official" language. Changed who is authorized to sign Voluntary Correction Agreements on behalf of the City to "(1) the Mayor, and (2) Enforcement Officials who are also appointed officers listed in LMC 2.05.010.
- 1.34.050(l)(1): Restricted authority to waive monetary penalties to Enforcement Officials who are also appointed officers. Said Enforcement Officials may waive a payment related to a Voluntary Correction Agreement issued by them or their designee.



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- 1.34.070(E): Restricted ability to negotiate a compromise or settlement (which may include reducing monetary penalties) to an Enforcement Official who is also an appointed officer (as well as the City Attorney).

On January 2 the City Council held a public hearing on this item and some specific questions were raised. In response the following items were revised in the ordinance:

- Removed the “non-deferrable, non-suspendable” language from LMC 1.24.040; - Reworked the “Declaration of Public Nuisance” provision in LMC 1.34.035;
- Reworked the “Right of Entry” provision in LMC 1.34.040(E);
- Clarified when “days” refers to “calendar days” throughout;
- Removed references to the “City Engineer” in LMC 12.16.065, 13.08.010; and 18.20.050 (note: left the reference in 17.13.010);
- Modified the provision related to designees of Enforcement officials in LMC 1.34.030(B)(5);
- Added a sentence to LMC 1.34.070(E) to clarify that settlement may include reducing or waiving monetary penalties; and
- Added a sentence to 1.34.090(F) to clarify that the Hearing Examiner can reduce or waive monetary penalties.

***Motion made by Councilor Strengholt, seconded by Councilor Vis, to approve ORD-23-1680 regarding the amendment to the city’s Civil Penalties and to authorize the Mayor’s signature on the ordinance. Motion approved 6-0.***

### Set Public Hearing for Notification Plan for Discontinuation of Fluoride in City’s Water Supply

At the September 18, 2023, City Council meeting, a motion was passed to “direct City staff to: Develop a schedule, public notice strategy, and date for public hearing before the City Council, consistent with state law, on the question of whether the city should consider discontinuing fluoridization of the City’s municipal water supply.” The topic was then tabled until the January 6, 2024 council meeting.

At the January 6, 2024 council meeting a motion was made to place the topic on the next agenda and bring the schedule, public notice strategy and public hearing date to the January 16, 2024, meeting. The submitted January 16, 2024 council packet contains the information necessary to meet the requirements of HB 1251 that went into law July of 2023 requiring a minimum of 90-days’ notice for a public hearing.

The proposed timeline for notice and public hearing includes:

- The Notice of Public Hearing will be mailed to all 5941 utility account holders as required by law.



- The notice will be distributed by a third-party vendor who will also provide an Affidavit of Mailing to the City.
- A copy of the notice will also be mailed to the Department of Health, Office of Drinking Water as required.
- A copy of the notice will also be sent to the standard media sources used by the City (radio, newspaper, and other electronic media including the city webpage).
- Notice will also be included in the comment box of the utility bills sent out for at least two billings prior to the public hearing.
- Upon approval by council the notices will be mailed in early February. It would be assumed that most account holders would receive the notice within a week of mailing.
- Set the public hearing for Monday, May 6, 2024 and possibly continued to May 20, 2024, to be sure the city provides the required minimum notice of 90 days.

**Councilor Vis asked that the city also consider sending a couple of advertisements to the Lynden Tribune informing the community of the public hearings. Other council members agreed.**

***Motion made by Councilor Bode, seconded by Councilor Strengholt, to set a public hearing for Monday, May 6, 2024 and continuing to May 20, 2024 to be sure the city provides the required minimum notice of 90 days. Motion approved 6-0.***

## 5. NEW BUSINESS

### ORD-24-1683 Update LMC 2.05.010 Position Titles

This is an update to LMC 2.05.010 on Appointed Position titles to reflect title changes that have occurred. City Clerk has been updated to include the word “city” into the title, and “Planning Director” has been changed to “Community Development Director” to reflect organizational changes in the department and the more commonly used title.

***Motion made by Councilor Strengholt, seconded by Councilor Bode, to adopt ORD-24-1683 and authorize the Mayor’s signature on the document. Motion approved 6-0.***

## 6. REPORTS

Councilor Wohlrab reported Public Safety Committee discussion on the following:

- Yearly stats for police and fire are not yet available.
- December EMS and police calls were up.
- Police department is working on recruitment.
- Fire inspections are progressing.



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- Councilor Wohlrab will be presenting a possible solution to the topic of fluoride at the next Public Works committee meeting.

Councilor Strengholt reported Finance Committee discussion on the following:

- Approved payroll for November and December.
- Reviewed OT for 2023, and the numbers were lower than the previous two years.
- Sales tax strong for 2023, higher than 2022.
- Review of agenda items addressed at the night's council meeting.
- Review of Unified Fee Schedule.
- Review of position title and city attorney contract.
- WCIA insurance rates are lower than the previous year.
- Auditor is reviewing the city's vendors as well as the usual item.

Councilor Vis reported Parks Committee discussion on the following:

- Provided an update to the Parks department projects.
- Discussion/update on the CivicRec software that Parks will be using for reservations.
- Update on the bridge work on the city trail.

### 7. EXECUTIVE SESSION

Council did not hold an executive session

### 8. ADJOURNMENT

January 16, regular session of the Lynden city council adjourned at 7:30 p.m.

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Pamela D. Brown, City Clerk

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Scott Korthuis, Mayor