

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



March 15, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the March 15, 2021 regular session of the Lynden City Council at 7:00 p.m. held through an online web-based meeting platform (Microsoft Teams).

ROLL CALL - None

Members present: Mayor Scott Korthuis and Councilors, Ron De Valois, Jerry Kuiken, Brent Lenssen, Nick Laninga, Kyle Strengholt and Mark Wohlrab.

Members absent Gary Bode absent with notice.

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 Catherine Moore.

OATH OF OFFICE- None

APPROVAL OF MINUTES

Councilor Strengholt moved and Councilor Kuiken seconded to approve the March 1, 2021 regular council minutes as presented. Motion approved on a 6-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled- None

Unscheduled

Allie Macomber, 9529 Hammer Road, Lynden

Expressed how happy she and her family are to reside in Lynden and thanked the Mayor and the Council for the direction and guidance they have provided throughout the COVID-19 event. She spoke in support of protecting constitutional rights and also for the protection of the citizen's rights and personal freedoms.

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2. CONSENT AGENDA

Payroll information is unavailable at this time because of the finance department's transition to a new payroll system (Caselle)

Approval of Claims – March 16, 2021

Manual Warrants No.	<u>21578</u>	through	=		\$278.52
EFT Payment Pre-Pays					\$3,263.43
				Sub Total Pre-Pays	\$3,541.95
Voucher Warrants No.	<u>21606</u>	through	<u>21753</u>		\$1,053,966.25
EFT Payments					<u>\$0.000</u>
				Sub Total	\$1,053,966.26
				Total Accts. Payable	\$1,057,508.20

Award Bid for Foxtail Street Extension Project

Staff recently solicited bids for the Foxtail Street Extension Project. Ten bids were received on March 4, 2021 and Reichardt and Ebe Engineering prepared the Bid Tabulation. The Public Works Committee, at their March 3rd meeting, concurred that the bid results could be forwarded directly to City Council after informing them of the results. The Committee was advised of the bids and concurred to recommend award to Colacurcio Brothers, Inc., the lowest responsive and responsible bidder, in the amount of \$371,615.19, including Washington state sales tax. This amount was below the Engineer's estimate.

Councilor Kuiken moved and Councilor Wohlrab seconded to approve the Consent Agenda. Motion approved on a 6-0 vote.

3. PUBLIC HEARING - None

4. UNFINISHED BUSINESS- None

5. NEW BUSINESS

Amendment to the Public Defender's Contract

Angela Anderson became Lynden's Public Defender in October 2019 and entered into a contract with the city for a term that ends in October 2021. She recently asked that some



terms in the agreement be changed to reflect local market rates. Specifically, she asked that the pay for cases she is assigned to be raised from \$275/case to \$350/case. This amount is consistent with the per case rate in Ferndale, Sumas, and Blaine. She also asked that the rate for the more labor-intensive cases involving Driving Under the Influence and certain Domestic Violence be increased to \$400/case. Together, these changes would add an estimated \$12,150 cost to the annual contract (about \$8,000 for the remainder of 2021). The amended contract would increase the assigned case rate effective immediately, while the DUI and DV case rates would take effect Nov. 1 this year.

In exchange for amending the contract before it expires in October, Ms. Anderson has agreed to extend her contract for two years, meaning it will expire in October 2023. Ms. Anderson is well regarded by her colleagues in Lynden's Municipal Court, including Judge Lewis, and together they operate as an efficient team. There is no metric that can prove the efficacy of our Court, but there is little doubt that a smoothly working court system saves Lynden much more than the additional cost of this contract amendment.

Councilor Wohlrab moved and Councilor Kuiken seconded to amend the contract with Ms. Anderson to include the changes as described. Motion approved on a 6-0 vote.

Site Specific Rezone- Kode Kamp (Lagerwey Property)

Jeff Palmer, on behalf of Northwood Partners LLC, has applied for a site-specific rezone of approximately 28 acres located at the northeast corner of Kamm Road and Northwood Road. The subject property is currently zoned for single family residential with a minimum lot size of 10,000 square feet (RS-100). The applicant has requested that the zoning shift to a residential zoning known as Residential – Mixed Density (RMD). This is a zoning category that calls for a variety of lot sizes and is meant to accommodate detached single-family homes, attached (or paired) single-family homes, and duplexes.

The applicant has provided a narrative which responds to the site-specific rezone criteria found in LMC 17.19.050. Additionally, the applicant has simultaneously applied for long plat approval of the same property. The proposed 92-lot long plat utilizes the RMD lot configuration criteria described in LMC 19.16 and a variety of lot sizes which range from the 10,000's to the 6,000's.

The Planning Commission considered the Rezone request at a public hearing on January 28, 2021. The Commission voted to recommend the rezone action but with specific conditions as outlined in Resolution 21-03. The Technical Review Committee has concluded review and also recommends approval of the rezone. However, as the conditions described by the Planning



Commission is specific to potential changes in lot configuration and plat design, staff recommends the Site-Specific Rezone be considered on its own merit and decision based on the criteria related to rezone requests. Changes which would result in additional lots or other significant changes to the plat would be brought before the Planning Commission in a separate action. Staff does not recommend that rezone action be connected to specifics of plat configuration. An ordinance reflecting the Council's decision will be brought forward at a subsequent meeting.

Councilor Wohlrab left the council meeting at 7:10 p.m.

Councilor Lenssen moved and Councilor Strengholt seconded to approve the Lagerwey / Kode Kamp Site Specific Rezone, Application 20-04 shifting the subject property from a residential designation of RS-100 to Residential Mixed Density. Motion approved on a 5-0 vote.

Preliminary Plat Approval- Kode Kamp Long Plat

Jeff Palmer, on behalf of Northwood Partners LLC, has applied for the subdivision of approximately 28 acres located at the northeast corner of Kamm Road and Northwood Road into 92 lots. The proposed long plat is dependent on a corresponding application to rezone the property from RS-100 to Residential –Mixed Density (RMD). This is a zoning category that calls for a variety of lot sizes and is meant to accommodate detached single-family homes, attached (or paired) single-family homes, and duplexes. Proposed lot sizes range from the 6,000 square foot rant to well over 10,000 square feet.

The applicant has indicated a desire to maintain all the lots for single family detached homes except for 5 lots near the Northwood entrance of the plat which would be used for duplexes. Pedestrian accommodations will be made interior to the plat in the form of sidewalks and, on Northwood Road, widened roadway shoulder that is delineated by a curb and flexible lane markers.

The Technical Review Committee has concluded review with a recommendation to approve the long plat with the applicant meeting two specific conditions related to minimum lot sizes and / or the location of the duplex lots.

A public hearing was held before the Planning Commission on January 28, 2021. The Planning Commission concluded the hearing by voting to recommend to the City Council but similar to staff recommendation included the following conditions:

- (1.) That duplex lots be disbursed throughout the interior of the plat in areas where on-street parking is more readily available; and
- (2.) That there be no single family or duplex parking be allowed on Northwood Road; and



(3.) That the East Lynden Trail be extended along Northwood Road to meet condition #34 as noted in the Technical Review Committee Report dated January 6, 2021, under Parks and Recreation.

Councilor Lenssen moved and Councilor Kuiken seconded, grant preliminary approval of the Kode Kamp Long Plat 20-01 as conditioned by the Planning Commission and to authorize the Mayor's signature on the attached Findings of Fact and Conclusions of Law. Motion approved on a 5-0 vote.

Site Specific Rezone 20-05 – O & S Farms

Ashley Gosal, on behalf of Fishtrap Creek LLC, has applied for a site-specific rezone of the property located at 8035 Guide Meridian. The subject property is currently zoned Commercial Services – Regional (CSR).

The applicant has requested that the zoning shift to Commercial Services – Local (CSL). CSR zoning has traditionally been geared toward big box retail and strip shopping centers. More recently the City updated the CSR definition and permitted uses to embrace uses consistent with business parks including light manufacturing and warehousing. Many uses that are permitted in CSL are also permitted in CSR with the notable exception of multi-family residential in a mixed-use setting. This is only permitted in CSL and is a primary reason the applicant seeks this rezone request.

The City's Land Use Code includes the criteria by which site specific rezones can be approved. These are addressed in the application. Technical Review Committee comments and report to the Planning Commission are found in the council packet. The Committee's review concluded with a recommendation for approval of the site-specific rezone given that the aforementioned code revisions and the changes to the retail market marked a change condition as described in the approval criteria (LMC 17.19.050).

The Planning Commission considered the rezone request at a public hearing on January 28, 2021. The hearing concluded with a recommendation to the City Council to deny the rezone request. The minutes of this meeting are included in the packet as well as Planning Commission Resolution 21-02. After the Planning Commission decision, the Planning Department received a letter from legal counsel for the applicant. The letter outlines concerns related to the January 28th hearing. Per RCW 42.30.140(2) the City Attorney has recommended that these concerns be discussed in executive session prior to Council action on the rezone application.



6. OTHER BUSINESS

Council Committee Updates

Councilor Strengholt gave a summary of the Finance Committee meeting. Councilor Lenssen gave a summary of the most recent Public Safety Committee meeting. Chief Taylor spoke to the recent Supreme Court decision (the “Blake” decision) which had the effect of eliminating the statute that was relied on for many drug cases. Councilor De Valois summarized today’s Parks Committee meeting.

7. EXECUTIVE SESSION

Council recessed into executive session at 7:25 p.m. concerning a matter of potential litigation. The executive session is expected to last 10 minutes and a decision is expected.

The Council meeting reconvened at 7:35 p.m.

Councilor Kuiken moved and Councilor Lenssen seconded to order a site-specific re-zone application back to the Planning Commission for a new open record hearing at which public testimony will be taken. The Planning Commission will need to make written findings as to each criterion in LMC 17.19.050 and 17.09.040. Also, Commissioner Timmer must consider if she should recuse herself from the deliberations. The City Council needs a response by May 13, 2021. Motion approved on a 5-0 vote.

8. ADJOURNMENT

The March 15, 2021 regular session of the Lynden City Council adjourned at 7:58 p.m.

Pamela D. Brown, MMC
City Clerk

Scott Korthuis
Mayor