

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



February 16, 2021

1. CALL TO ORDER

Mayor Korthuis called to order the February 16, 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

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

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 Clerk Pam Brown, City Administrator Mike Martin, and City Attorney Bob Carmichael.

OATH OF OFFICE- None

APPROVAL OF MINUTES

Councilor Kuiken moved and Councilor Laninga seconded to approve the February 1, 2021 regular council minutes as presented. Motion approved on a 7-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled- None

Unscheduled- None

2. CONSENT AGENDA

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

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Approval of Claims – February 17, 2021

Manual Warrants No.	<u>21429</u>	And	<u>21439</u>		\$10,777.79
EFT Payment Pre-Pays					\$37,814.02
				Sub Total Pre-Pays	\$48,591.81
Voucher Warrants No.	<u>21454</u>	through	<u>21541</u>		\$593,765.19
EFT Payments					<u>\$0.000</u>
				Sub Total	\$593,765.19
				Total Accts. Payable	\$642,357.00

Award Bid for Public Works Shop- Stormwater Decant Facility

17th Street Latecomers Deed Notices

Interlocal Agreement with City of Bellingham for Vector Waste Facility Use

Re-Appointment to Planning Commission – Diane Veltkamp

Set the Public Hearing to Consider Ordinance No. 1621- Extending the Pepin Creek Moratorium

Councilor Devalois moved and Councilor Bode seconded to approve the Consent Agenda. Motion approved on a 7-0 vote.

Mayor Korthuis thanks Diane Veltkamp for her continued service as a City of Lynden Planning Commissioner.

3. PUBLIC HEARING

Ordinance No. 1620 Amending Chapter 13.08 of the LMC- Water Project Design Standards

The newest update of the Project Manual for Engineering Design and Development Standards was adopted by City Council on December 21, 2020. Ordinance No.1620 updates Chapter 13.08 of the Lynden Municipal Code to remove outdated material and to revise language to reference and compliment the new Standards update.

The Public Works Committee reviewed this Ordinance at their February 3, 2021 meeting and concurred to recommend approval to the City Council.

Mayor Korthuis opened the Public Hearing at 7:02

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:02

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Councilor Bode moved and Councilor De Valois seconded, to adopt Ordinance No. 1620, Amending Chapter 13.08 of the Lynden Municipal Code- Water Project Design Standards and authorize the Mayor's signature on the Ordinance. Motion approved on a 7-0 vote.

Ordinance No. 1619- Pepin Area-Wide Rezone, Rezone Application #20-02

In March of 2020, the City of Lynden adopted the Pepin Creek Sub-Area plan. This document is a guide for an area slated to accommodate a majority of residential growth in the next 15 years. The proposed rezone action would officially shift the properties within the City's boundaries to the zoning categories described in the plan. It is an action that is required so that the City's zoning map and comprehensive plan are not in conflict. It is important to complete this step before the moratorium on development is lifted from these properties.

The parcels affected by the rezone actions are detailed in the application. These property owners have been involved in the sub-area planning process and were contacted about the January 14th hearing before the Planning Commission. Properties outside of the City, but within the planned sub-area, will retain their zoning categories as assigned by Whatcom County until they are annexed into the City. However, anticipating these future zoning assignments allows the City to more accurately predict and plan for development in these areas.

On January 14, the Planning Commission held a public hearing to consider the area wide rezone and recommended approval to the City Council. Changes to the sub-area plan are likely to occur in the future in response to a revised project scope for the creek realignment. However, the proposed zoning categories within the moratorium remain a good fit for the Sub-Area and staff will be asking that the Council review and approve the rezone request at the February 16th hearing.

Mayor Korthuis opened the Public Hearing at 7:05

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:05

Councilor Lenssen moved and Councilor Bode seconded to approve, and authorize the Mayor's signature, on Ordinance 1619 which revises the residential zoning categories for properties within the City limits and in the Pepin Creek Sub-Area and establishes prospective zoning categories for the Pepin Creek Sub-area properties within the Urban Growth Area. Motion approved on a 7-0 vote.



Ordinance No. 1616 – Zoning Text Amendment re Non-Conforming Mobile Home Communities

Lesia Starkenburg-Kroontje, representing her client Four 'S' Investments, has applied for a Zoning Text Amendment regarding the expansion of the nonconforming use of a mobile home park within the Commercial Services-Regional (CSR) Zoning category.

The request is somewhat focused on the Duffner Mobile Home Park located on Front Street just west of the Guide Meridian. However, the amendment would apply to any other mobile home communities (MHCs) within the CSR zoning category. (Staff believes this is limited to one other circumstance – the unit pads located at the Windmill Inn Motel located at 8022 Guide Meridian.)

Non-conforming uses are addressed in LMC 19.35. A use, like the Duffner Mobile Home Park, which is brought into the City and does not match the permitted uses of its zoning category is considered a legal nonconforming use. Although a legal nonconforming use can continue to operate, it is not permitted to expand. The Duffner Mobile Home Park was recently able to connect to City sewer services and decommission aging septic systems. This available connection has also initiated the applicant's opportunity to request additional housing units be placed on the property as each would be able to connect to sewer services.

The amendment application describes the potential benefits that additional stock of affordable housing could provide to the City. Staff review, with the assistance of the City's legal counsel, has concluded with a recommendation to approve the expansion of MHCs in the City's CSR zones only as a conditional use and subject to appropriate setback and buffering requirements that may result as a review of the conditional use permit application. To be consistent with State Statutes, staff also recommends that the City's definitions related to MHCs in Chapter 17 be updated as attached and the corresponding text amendments to Chapters 18 and 19 be made in accordance with these updates.

Mayor Korthuis opened the Public Hearing at 7:09 p.m.

Leesa Starkenburg-Kroontje, 115 Front Street, Lynden spoke in favor of the ordinance.

Mayor Korthuis closed the Public Hearing at 7:12 p.m.

Councilor Lenssen moved and Councilor Strengholt seconded to approve the ongoing Text Amendment 20-02 and authorized the Mayor's signature on Ordinance No. 1616. Motion approved on a 7-0 vote.

Development Standards Variance #20-01- Skyview Street Standard Variance

Development Standards Variance application has been brought forward by Mike Kooy to vary the required right-of-way (ROW) dedication and some aspects of the street section which would

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be used to access a future residential project called Skyview. This property is zoned for multi-family development and is located at the north terminus of Currant Street (north of the North Prairie Phase 7 development). It connects to the north end of Brome Street – which was previously granted a similar variance.

A private street of reduced size is an option but not encouraged at this location as it is the terminus of an existing public street network. Additionally, due to maintenance and jurisdictional concerns, streets that have the appearance of being public but are actually private are discouraged. At the same time, staff recognizes that providing a standard 60-foot-wide ROW would significantly constrain development due to the shape and size of the subject property. (Building setbacks are measured from the edge of dedicated ROW).

The applicant is requesting a variance to dedicate a ROW which is 41 feet in width rather than 60 feet. The resulting North-South portion of the street will include all elements of a standard City street including a 36-foot curb-to-curb width however one sidewalk will be located outside of the ROW. Pedestrian access on this sidewalk will be protected through an access easement. The East-West portion of the street will include parking on only one side of the street, a curb-to-curb width of 30 feet to match the adjoining property to the east, and one sidewalk which will be located on private property with access protected by an access easement. It is anticipated that most traffic created by new development in this area will be utilizing the wider north-south portion of the roadway.

While there is support for the variance, staff is concerned that a reduced street standard could create parking shortages that would negatively affect the adjacent North Prairie Phase 7 neighborhood. As such, staff recommends that future development, which is adjacent to the varied public street, provide an additional 20% on-site parking to accommodate for the on-street parking that is lost in the revised standard.

Mayor Korthuis opened the Public Hearing at 7:16 p.m.

Mike Kooy, 8071 Guide Meridian, Lynden spoke in favor of the item.

Mayor Korthuis closed the Public Hearing at 7:19 p.m.

Councilor Lenssen moved and Councilor De Valois seconded to approve Variance 20-01 as described in the TRC report on the condition that development fronting the varied street sections provide all code required on-site parking plus an additional 20% and authorize the Mayor's signature on the Findings of Fact. Motion approved on a 7-0 vote.



Stuit Development Agreement

Dannon Traxler, representing her clients Ben and Lindy Stuit, has proposed a development agreement that outlines an alternate schedule for infrastructure build-out on a proposed short plat located on Flynn Road (Bay Lyn Road). The Stuits seek to construct a single-family home on Lot A of the short plat, maintain the existing home on Lot B, and burden the remaining undeveloped portion of the short plat, Lot C, with water and roadway improvements, and the City with sewer extension to collect allocated shares via ERUs.

Staff originally issued short plat findings with the intent to approve the 4-lot short plat. These findings were later vacated at the request of Ms. Traxler so that the Stuits could propose the alternate development schedule. All parties have collaborated to create the draft agreement and associated no-build covenant.

The development agreement revises the short plat to 3 lots. The entire plat would connect to the City sewer network which the City is advancing in this area while development of Lot C must include the extension of City standard water lines and road frontage improvements. Staff is conflicted regarding the recommendation of this development agreement. Although cognizant of the applicant's personal goals for the property, from a municipal perspective, staff has concerns related to two issues within the development agreement.

One is the underdevelopment of the property. The short plat creates 2 lots for single family homes which are over 24,000 square feet each but located in a multi-family zone that can support many more additional units. The proposed development on Lots A and B represent 2 ERUs toward the new sewer system when, if developed per zoning, many more ERUs would be collected. Secondly, there is the potential that the infrastructure burden and constraints of the floodplain on Lot C will make it such that it will not be financially feasible to develop in the near term. However, the Stuits are selling the City an easement for the sewer network to reach Bay Lyn Road and provide additional service.

A subsequent resolution documenting the agreement, the administrative approval of the short plat and associated conditions will hinge on the Council's decision related to development agreement.

Mayor Korthuis opened the Public Hearing at 7:29 p.m.

Dannon Traxler, Bellingham

Mayor Korthuis closed the Public Hearing at 7:35 p.m.



(Staff recognizes the proposed development agreement as a policy decision to be made by the City Council and has not included a recommended action.)

Councilor Lenssen moved and Councilor Strengholt seconded to approve the Stuit Development Agreement and authorize the Mayor to sign the Agreement. Motion approved on a 7-0 vote.

4. UNFINISHED BUSINESS- None

5. NEW BUSINESS

Reconsideration of Conditional Use Permit – Dillard Term Rental

On Jan. 4, 2021, the City Council approved a Conditional Use Permit (CUP) for applicants David and Kathleen Dillard to operate a short-term rental (vacation rental) out of their home at 422 Woodcreek Dr. The Dillard's already have a legal Accessory Dwelling Unit (ADU), located in the basement floor of their residence. This ADU has been used as a rental. The CUP proposal sought to make the short-term rental a legal option for this space.

On Dec.10, 2020, the Planning Commission recommended approval of the CUP. They conditioned their recommendation on an annual review of the Permit. Staff also recommended approval but, after public comment from 2 neighbors along this street, staff additionally recommended that the Dillard's install a 6' privacy fence on the north property line between the homes (48 feet of fencing) due to parking pressures placed on the residence by the ADU rental which causes both the north and south driveways of the Dillard residence to act as parking areas and impacts the privacy of the adjacent neighbor to the north.

Council approved the short-term rental with the condition to install privacy fencing. The Dillard's have since requested in writing that Council reconsider the condition of the fence. At this time Council has the option of:

- Denying the request for reconsideration, or
- Reconsidering the issue immediately or at another date.

It is important to note that new testimony or information cannot be submitted without a fair opportunity for the public to also be notified and submit testimony and / or information. Staff continues to assert that fence is an appropriate condition to aid in mitigating the impacts of a commercial operation in a residential neighborhood especially as the neighborhood is already familiar with the parking situation related to a rental of the ADU at the Dillard home. Public comment regarding the issue did not call for a denial of the request but simply that considerations to be made.



Councilor Bode moved and Councilor Strengholt seconded to deny the request for reconsideration of the fence condition placed on CUP #20-03. Motion approved on a 6-0 vote with Councilor Wohlrab opposed.

Resolution No. 1032- Interfund Loan for the Fire Station Remodel

The City of Lynden after considering the emergent needs of the City seeks to improve its fire-fighting capability through infrastructure improvements by remodeling and expanding the City of Lynden Fire Station.

Resolution No.1027 which was passed by the City Council on November 16th, 2020 provided the overall funding plan to achieve the needed fire infrastructure improvements. Resolution 1027 provided for the establishment of an interfund loan from the Water Fund (F401) to the General Fund (F001) in the amount of \$2.8M dollars to cover the remodel expenditures.

Resolution No.1032 is the resolution to establish the actual \$2.8M interfund loan and initiate the Fire Station remodel financing. The interfund loan would be a short-term three-year loan to cover the remodel. The Finance Committee reviewed this resolution earlier today and approved it for review by the full Council.

Councilor Strengholt moved and Councilor Kuiken seconded to approve Resolution No. 1032 and authorize the Mayor's signature. Motion approved on a 7-0 vote.

6. OTHER BUSINESS

Council Committee Updates

Councilor Wohlrab reporting for the Public Safety Committee. Some of the items discussed:

- 2021 Public Safety schedule
- OT review for Police and Fire
- Fire Station renovations
- AC recruitment in process, interviews on February 25th & 26^h
- Fire Department "stacking calls" represents 1/3 of the calls
- Firefighter recruitment
- Police Department call volume is up

Councilor Bode reporting for the Public Works Committee. Some of the items discussed:

- Decant Facility bid approved
- Lynden will supply water for an apartment complex that has well contamination

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- Review of a request for outside dining which would occupy parking spaces
- City has received a DOE Grant of \$4.7 million
- Guide Meridian pump station at Bay Lyn Drive
- COVID-19 reporting information which is being distributed to the public

Councilor De Valois reporting for the Parks Committee. Some of the items discussed:

- Berthusen AG land lease
- Trail repair in Berthusen Park
- RFP for Heusinkveld Barn remodel
- Survey for Dickinson property has been disputed
- Glenning Street fundraising update
- Camera at Bender Fields
- Park Impact fees coming to council soon

Councilor Strengholt reporting for the Finance Committee. Some of the items discussed:

- Caselle updates to Payroll reporting
- Fire Station remodel loan from the Water Fund
- Caselle software switch over

7. EXECUTIVE SESSION

Council recessed into executive session at 8:23 p.m. to discuss a potential litigation matter. It was anticipated that the executive session would last approximately 10 minutes total and that a decision would not be made.

The Council meeting reconvened at 8:33 p.m.

8. ADJOURNMENT

The February 16, 2021 regular session of the Lynden City Council adjourned at 8:33 p.m.

Pamela D. Brown, MMC
City Clerk

Scott Korthuis
Mayor