

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



November 20, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the November 20, 2023 regular session of the Lynden City Council at 7:03 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

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

Members absent: Councilor Wohlrab and Councilor Strengholt absent with notice.

Staff present: 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.

OATH OF OFFICE – None

SUMMARY REPORTS AND PRESENTATIONS - None

APPROVAL OF MINUTES

Councilor Lenssen moved, and Councilor DeValois seconded, to approve the November 6, 2023, regular council meeting minutes. Motion approved on 5-0 vote.

CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

She spoke to the following topics:

- History of the Thanksgiving holiday.
- Lynden library and the books that were chosen to be displayed.
- Veteran's Day events.
- Antisemitic protests.

Mikhail Nichols, Andress Lane, Lynden

Mr. Nichols read a letter he wrote to council concerning past interactions with the Lynden police department and their refusal to help him.

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2. CONSENT AGENDA

Set Public Hearing for Proposed Nooksack Valley Disposal (NVD) 2024 Rate Increase
Whatcom Conservation District 2024 Interlocal Agreement
Welch Ecological Services Agreement 2024
Set Date for the Final Public Hearing on the 2024 Preliminary Budget
RES-23-1085 Set Public Hearing – 2024 Revisions to the Engineering Design and
Development Standards Project Manual
RES-23-1087 Real Estate Property Tax Levy Increase 2024

Finance Committee did not meet November 20, 2023.

Motion made by Councilor De Valois, seconded by Councilor Kuiken to approve the consent agenda with the payroll and claims item removed. Consent Agenda. Motion approved 5-0.

3. PUBLIC HEARING

Public Hearing for ORD-23-1679, Real Estate Property Tax for 2024

As published, 7:00PM on November 20, 2023 is the time and date set for the Public Hearing on the 2024 Property Tax Levy as presented to the City Council by Mayor Korthuis at the October 16th City Council meeting.

Upon completion of the public hearing with no items outstanding the 2024 Property Tax Levy will be presented to the City Council for adoption.

Mayor opened the public hearing at 7:15 pm.

There were no comments.

Mayor closed the public hearing at 7:15 pm.

Public hearing only.

4. UNFINISHED BUSINESS-None

5. NEW BUSINESS

Set Public Hearing ORD-23-1680-Amendinding the Civil Penalties Code

Over the last 12 months city administration, staff, and legal counsel, Luke Phifer, have been drafting an update to the City's civil penalties code. They are now prepared to introduce the amendment for Council's review. The City's current code is in need of this update as it includes numerous criminal misdemeanor penalties for offenses that would be more appropriately

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classified as civil infractions. Additionally, although the code recognizes the authority of the City to fine violators, it provides only broad guidance on what dollar amount could be used under this authority.

The revised code carefully defines general penalties, civil infractions, misdemeanors, and gross misdemeanors. It assigns penalties to infractions which would be classified as C-1 through C-9 depending on the severity of the violation. The amended code also establishes a uniform process for citing and correcting violations, a critical tool for staff seeking to provide fair and consistent enforcement of the city's code provisions. To implement a revision of this nature it is necessary to amend numerous existing penalty provisions throughout the Lynden Municipal Code. The bulk of the civil penalties code will be located in Chapter 1 of the Lynden Municipal Code, but many other chapters would also be amended to classify infractions and identify corrective processes. Council and its committees are asked to review the draft ordinance with the intent to hear at the January 2, 2024, meeting.

Motion made by Councilor Lenssen, seconded by Councilor Bode, to set the public hearing for January 2, 2024, to consider ORD-23-1680, regarding an amendment to the city's civil penalties code. Motion approved 5-0.

ORD-23-1679-Real Estate Property Tax for 2024

The City of Lynden is required by State regulations to adopt the proposed 2024 property tax levy. The mil rate has been calculated on preliminary information received to date from the Whatcom County Assessor's Office. When comparing preliminary 2022 levy assessment rates to 2023 levy assessment rates, the decrease is estimated at 0.16 cents per mil to a mil rate of 1.05369.

The final figures for the assessed valuation of the city's tax base are not yet available. Once those are provided by the County Assessor, an ordinance setting the final, exact levy will be provided in January 2024 for consideration.

Motion made by Councilor Kuiken, seconded by Councilor De Valois to adopt ORD-23-1679 and authorize the Mayor's signature. Motion approved 5-0.

RES-23-1086-Conditional Use Permit 23-01 for Premier Packing (Project Zebra)

In December of 2022 the City Council approved Conditional Use Permit 22-02 which related to a seafood processing facility for Premier Packing (also known as Project Zebra). The company proposed to move from its current location at the center of the city to a property on Curt Maberry Drive. There they propose to construct a seafood processing facility with associated truck access, employee parking, and utility infrastructure. The proposal also



included an additional 5 feet of building height for the freezer portion of the structure resulting in a maximum height of 50-feet.

Recently the applicant returned to the city to modify the approved Permit and request additional height on the same facility. The height would allow for greater efficiency in freezer storage that could take advantage of the latest pallet stacking technology without increasing the footprint of the facility. The current application is seeking a height of 80 feet for the freezer portion of the building (a majority of the facility). This final height is similar to the maximum height granted for a portion of the nearby Alliance / Canature facility.

The Planning Commission and the Technical Review Committee have reviewed the request for additional height. Both groups have brought forward a recommendation to approve the request for additional height with specific conditions which are listed in TRC Report and Planning Commission Resolution 23-05.

Motion made by Councilor Lenssen, seconded by Councilor Bode to approve Conditional Use Permit 23-01 which authorizes Premier Packing to utilize a maximum building height of 80 feet subject to the conditions outlined in the Planning Commission Resolution 23-05. This motion also authorizes the Mayor's signature on the Findings of Fact and Conclusion of Law. Motion approved 5-0.

Motion made by Councilor Bode, seconded by Councilor De Valois to accept the transfer of equipment from Whatcom County Department of Emergency Management for a Wanco Metro Matrix message sign trailer for response to a flood or other hazard event within the City and authorize the Mayor to sign the agreement. Motion approved 5-0.

Mayor Korthuis announced that the city will host an event in recognition of Councilor De Valois (20.5 years) and Councilor Kuiken's (36 years) retirement from Council. Coffee and cake will be served from 5:30 to 7:00 p.m. at the Annex before the council meeting on December 4, 2023. The public is invited to attend.

6. REPORTS

Councilor De Valois, Parks Committee, reported discussion of the following:

- No response received from SHKS Architects; the city will no longer work with this them.
- Benson Park barn will be used for equipment storage.
- Awaiting architectural plans for Schoolyard Park pavilion.
- Depot to 8th trail construction is expected to be completed in December 2023.

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- The city hasn't yet signed agreement with VanderGriend Lumber (VGL) for a building demolition.
- CivicRec software which allows the Parks reservation system to work with the city's finance program has been completed.
- Budget discussions.

7. EXECUTIVE SESSION

Council adjourned into executive session at 7:22 to discuss with legal counsel representing the city, matters relating potential litigation, under RCW 42.30.110(1)(i) and possible acquisition of real estate purchase, under RCW 42.30.110(1)(b). Council expects to be in executive session until 7:46 p.m. with potential action to follow.

Council reconvened 7:42 p.m. and the following motions were made:

Motion made by Councilor De Valois, seconded by Councilor Bode to approve the purchase agreement with Vander Griend Lumber LLC for real property associated with the City Trail connection from Depot Road to 8th Street in the amount of \$380,000 and to authorize the Mayor to sign all documents associated with the purchase and closing of the property. Motion approved 5-0.

Motion made by Councilor Bode, seconded by Councilor De Valois to file a Request for Exclusion to opt out of the Class Action Settlement MDL No. 2:23-cv-03230-RMG with E.I DuPont de Nemours and Company, et al., and to authorize the City Attorney to sign and submit on behalf of the City any and all documents necessary to opt out of the lawsuit. Motion approved 5-0.

Motion made by Councilor Bode, seconded by Councilor Kuiken to file a Request for Exclusion to opt out of the Class Action Settlement MDL No. 2:23-cv-03147-RMG with 3M Company, and to authorize the City Attorney to sign and submit on behalf of the City any and all documents necessary to opt out of the lawsuit. Motion approved 5-0.

8. ADJOURNMENT

November 20, 2023, regular session of the Lynden city council adjourned at 7:44 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor