

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



April 20, 2020- **REVISED**

1. CALL TO ORDER

Mayor Korthuis called to order the April 20, 2020 regular session of the Lynden City Council at 7:00 p.m. 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 Wohlrab.

Members absent: None

Staff present: Planning Director Heidi Gudde, Public Works Director Steve Banham, City Clerk Pam Brown, and City Administrator Mike Martin.

OATH OF OFFICE- None

APPROVAL OF MINUTES

Councilor Strengholt moved and Councilor Wohlrab seconded to approve the regular council minutes of March 16, 2020. Motion approved on a 7-0 vote.

The April 6, 2020 council meeting was canceled due to COVID-19 restrictions.

ITEMS FROM THE AUDIENCE

Scheduled: None

Unscheduled- None

2. CONSENT AGENDA

Approval of Payroll Disbursed – March 16-March 31

Paychex EFT.....	\$306,216.07
City of Lynden EFT.....	\$66,186.18
Warrant Liability	\$61,166.42
Subtotal	\$433,568.67
Paychex EFT Liability	\$7,230.62
Total EFT & Other Liabilities	\$440,799.29

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Approval of Claims – April 7, 2020

Manual Warrants No.	<u>75033</u>	through	<u>75040</u>		\$78,083.55
EFT Payment Pre-Pays					\$205,381.76
				Sub Total Pre-Pays	\$283,465.31
Voucher Warrants No.	<u>75041</u>	through	<u>75076</u>		\$220,265.88
EFT Payments					\$0.00
				Sub Total	\$220,265.88
				Total Accts. Payable	\$503,731.19

Heusinkveld Land Lease Agreement

A request for proposal was advertised in the Lynden Tribune requesting proposals for the use of 33 acres of the Ag land located on the Heusinkveld Property. Subsequently it was decided to retain the westerly 150 ft of the property for the city in order to begin the planting of trees where Pepin Creek may go eventually. Resulting in a net 28 acres of land to be leased for Ag related use.

One proposal was submitted for the use of the property by Edaleen Dairy at \$215 per acre. The Parks Committee reviewed the proposal and recommends leasing 28 acres of the property to Edaleen Dairy for a period of 5 years at \$215.00 per acre, plus leasehold excise tax

Resolution No. 1021- Authorization to Apply for a Recreation and Conservation Office Grant

Staff unsuccessfully applied for a Washington Recreation and Conservation Office (RCO) grant to extend the Jim Kaemingk Trail from Depot Road to North 8th Street in 2016 and 2018.

Staff received feedback from each of those past applications and has continued to move forward with the design and property acquisition. Staff now believes that they are in a position to put together a third application with the expectation of receiving a grant in 2021.

The current application is due before the end of May (extended due to COVID). One requirement of the 2020 grant application is to adopt a resolution authorizing the City to apply for RCO funding. The specific resolution language is provided to the City by RCO and their legal counsel and but has also been reviewed and reformatted by the City's attorney.

The Parks and Public Works Committees have both reviewed the Resolution in the previous application cycles in 2016 and 2018 and concurred to forward the Resolution 1021 to City Council for approval.

Resolution No. 1020- Acceptance of Department of Transportation Aviation Division Grant for Lynden Municipal Airport

The City is applying for a Washington State Department of Transportation, Aviation Division (WSDOT) grant to re-seal and re-stripe the runway at the airport in the amount of \$150,000. A 5% match is required



in the amount of \$7,500. Funds were allocated in the 2020 budget for this project. Construction would be performed in 2020 with re-stripping occurring in 2021.

City of Lynden Policy for the Families First Coronavirus Response Act (FFCRA)

The Families First Coronavirus Response Act (FFCRA) was signed into law on March 18, 2020 and took effect on April 1, 2020. The FFCRA provides two categories of leave. The first expands existing FMLA coverage to provide up to 12 weeks of partially paid Public Health Emergency Leave for eligible employees forced to miss work due to closure of their child's school or the unavailability of the child's childcare provider for reasons related to COVID-19. The second provides up to 10 days of Emergency Paid Sick Leave for various reasons related to the COVID-19 outbreak. The attached policy provides information and guidance on administration of these two leaves.

Personnel Policy HR-01.01- Request for Advanced Sick Leave

HR-01.01- Request for Advanced Sick Leave allows for an employee to request advance of sick leave hours when there are no sick leave accruals available to them. The employee must acknowledge and agree that any sick leave advanced is considered a debt, and that beginning with the first pay period after the advancement is approved, the employee is required to repay the City of Lynden by applying future sick leave accruals each pay period. It is further agreed that if the employee should separate from service prior to the repayment of these advanced hours, the City of Lynden is authorized to recover this debt, through a deduction from final wages and/or any leave cash out owed at the time of separation.

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

3. PUBLIC HEARING- None

4. UNFINISHED BUSINESS

PRD Amendment 19-01-RB Development (Parkview Apartments)

December 2, 2019 City Council approved an Order of Remand which sent the proposed Planned Residential Development (PRD) Amendment 19-01, a revision to the RB Development PRD, back to the Planning Commission for review of an alternate proposal.

The amendment seeks to utilize residential units originally planned for the PRD by modifying the perimeter setback associated with Parkview Apartments, setting an increased height limitation, and removing outdoor storage requirements for the proposed units. If the amendment is permitted, the applicant proposes the construction of senior apartments which would complement the surrounding property uses.



A revised application returned to a public hearing before the Planning Commission on February 27, 2020. The proposal reduced the building height from 45' to 41', reduced the proposed units from 50 to 41, proposed crosswalk improvements on Aaron Dr, and increased the setback from the street from 15' to 20'. At the hearing, concerns were raised as to the ability of the applicant to transfer this number of unused units of the PRD to this site.

In 1994, when the PRD was created, it was possible to transfer unused density within the PRD. However, in 2006 the code on PRD's was revised to prohibit the transfer of units from one area to another. As a result, the Commission voted 4 to 2 to recommend approval of the PRD amendment but the recommendation was fundamentally conditioned on the ability of the applicant to transfer density within the PRD. Legal interpretation was requested from the office of Carmichael Clark.

On March 12 the conclusive memo was received. It indicates that as the transfer of density was expressly permitted under the old code as well as the original contract, the developer maintains the right to transfer densities from one area of the PRD to another. If passed by Council, the approval will be considered preliminary until the applicant finalizes the associated development contract and CC&R's. Both documents must return to the Planning Commission and Council within 12 months. Staff will also return to Council with findings of fact and conclusion of law.

Councilor Lenssen moved and Councilor Strengholt seconded to preliminary approve the amendment to the RB Development PRD, Application 19-01 as presented. Motion approved on a 7-0 vote.

Although this item was approved by council at the April 20, 2020 council meeting, the draft minutes of that meeting did not record the council's approval. Therefore; the April 20, 2020 are hereby revised to record council approval of this item.

5. NEW BUSINESS

Water/Wastewater Agency Response Network (WAWARN)

The Water/Wastewater Agency Response Network allows water and wastewater systems to receive rapid mutual aid and assistance from other systems in an emergency. Utilities that enter into an agreement with WAWARN have the capability of sharing resources with any other system in Washington State that has also signed the agreement. WAWARN provides its members with emergency planning, response and recovery information before, during and after an emergency. As the nationwide WARN system expands, it will become easier to provide mutual aid to other states as needed. To get assistance, the WAWARN member needing help identifies the resources needed and can either directly contact another WAWARN member or use a state specific process of aid. Emergency requests can include equipment (pumps, generators, chlorinators, evacuators, etc.) or personnel (i.e. treatment plant operators). The WAWARN network includes 166 agencies from Washington State, including two in Whatcom County (Birch Bay Water and Sewer District and the City of Bellingham). Public Works staff is recommending that the City water and sewer utilities become a member of this organization to improve our resilience in case of an emergency.



Councilor Bode moved and Councilor Wohlrab seconded to approve the Water and Wastewater Agency Response Network (WAWARN) agreement and authorize the Mayor's signature. Motion approved on a 7-0 vote.

Ordinance No. 1605-Tolling of the 120-Day Local Project Review Deadline

Per Lynden Municipal Code 17.09.100 the final decision of the City on a development proposal shall be made within one hundred twenty days from the date of the letter of completeness. Due to recent prohibitions on public meetings and a municipality's ability to take action during the public emergency association with the novel coronavirus (COVID-19) and the Governor's "Stay Home, Stay Healthy" proclamation, certain applications which are in the review process may not reach a final decision within 120 days. Ordinance 1605 describes these conditions and, although staff will continue to review pending applications, suspends the requirement by which the City must make a final decision within a 120-day project review timeline.

Councilor Lenssen moved and Councilor Kuiken seconded to approve Ordinance No. 1605 suspending the City's requirement to reach a final decision on a 120-day project review timeline as described in LMC 17.09.100 due to the Public Health Emergency and the associated Governor's "Stay Home, Stay Healthy" proclamation, and authorize the Mayor's signature on the ordinance. Motion approved on a 7-0 vote.

6. OTHER BUSINESS

Council Committee Updates

Councilor Strengholt reporting for the Finance Committee which involved discussion of:

- Approval of Payroll and Claims
- Reviewed March 2020 overtime
- Sales tax revenue for March 2020- highest recorded month ever
- Canceled a warrant (represented item on the night's agenda)
- Discussion of general fund, revenue, expense accounts
- Project Hope funds paid out for community services
- Water, Sewer and Storms funds remain healthy

Councilor Wohlrab reporting for the Public Safety Committee which involved discussion of:

- Public Safety is occurring weekly
- Fire and Police staffing remains strong

7. EXECUTIVE SESSION

Council did not have an executive session.

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8. ADJOURNMENT

The April 20, 2020 regular session of the Lynden City Council adjourned at 7:26 p.m.

Pamela D. Brown, MMC
City Clerk

Scott Korthuis
Mayor