

**CITY OF LAKE STEVENS
CITY COUNCIL REGULAR MEETING MINUTES**

Tuesday, September 26, 2017
Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:05 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Gary Petershagen, Kurt Hilt, Todd Welch, Rauchel McDaniel, Kathy Holder

ELECTED OFFICIALS ABSENT: Councilmember Tageant

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director/City Clerk Barb Stevens, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Chief John Dyer, Human Resources Director Teri Smith, Deputy City Clerk Kathy Pugh, City Attorney Grant Weed, Associate Planner Dillon Roth, IT Specialist Rod Pena, Parks Coordinator Jim Haugen

OTHERS: Jason Bierman, Department of Emergency Management; Doug Levy, Outcomes by Levy

Pledge of Allegiance: Council President Kurt Hilt introduced Derek Oden and his family, and Derek then led the Pledge of Allegiance.

Roll Call: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to excuse Councilmember Tageant from the meeting. On vote the motion carried (6-0-0-1).

Approval of Agenda: Director Wright requested that the New Employee Introduction be removed from the agenda.

Moved by Councilmember Welch, seconded by Councilmember Holder, to approve the agenda with the noted change. On vote the motion carried (6-0-0-1).

Citizen Comments:

Larry Addison, 11023 36th Street NE, Lake Stevens, distributed a letter and said he is concerned about residue from mature trees in his neighborhood and the damage it causes.

Employee Anniversaries: Mayor Spencer recognized IT Specialist Rod Pena for ten years of service with the City and presented him with a plaque and pen.

Guest Business:

Jason Bierman, Snohomish County Department of Emergency Management, provided an update on recent accomplishments and activities of the Department of Emergency Management. Mr. Bierman distributed a brochure prepared for National Preparedness Month that is targeted to citizens to help them prepare themselves for an emergency. He said a fairly

large exercise is being planned for 2019 based on the South Whidbey Island fault and will affect all of the county and most of the region. DEM is interested in having all jurisdictions participate.

Councilmember Daughtry asked how the test will be conducted, i.e., will the City be doing Lake Stevens-specific exercises or more regional exercises. Mr. Bierman responded that the exercise will be both Lake Stevens-specific and regional, dependent on how much effort the City wants to put into it. DEM is requesting each community designate a point of contact that DEM can work with to develop the exercise the way the community wants.

Doug Levy, Outcomes by Levy, provided an overview of the 2017 Legislative sessions and how Lake Stevens benefitted. The Legislature was in session a total of 193 days, which included a regular session and three special sessions; this is the longest single-year legislative session in history.

Mr. Levy reviewed some of the activities of the Legislature including the Market Place Fairness Act, which is included in their budget and revenue agreements; this is about ensuring that those making online sales in Washington from other states are registering and paying the sales tax on their items sold in Washington. Mr. Levy said that several big matters are left undone, including not adopting a two-year capital budget. This impacts school facilities, community college projects, and local projects state-wide are held in abeyance until there is a capital budget. Specifically for Lake Stevens, this affects the \$3.1 million dollars appropriation for the civic center, and \$300,000 for the Food Bank.

Mr. Levy said the 2017 session was good for Lake Stevens, particularly transportation, including funding to complete the Interchange Justification Report (IJR) for the east end of the U.S. 2 Trestle, \$1.82 million in the grant funds for regional mobility, \$420,000 for design and engineering of 4th Street NE access improvements, which will hopefully be ready to construct at the same time as the upgrades to SR 9 and SR 204. Also, there is just under \$2.5 million in the Basic Law Enforcement Academy to assist with getting officers statewide through the Academy.

Mr. Levy noted the state-shared revenues that flow to the cities were basically protected.

Regarding the Public Records Act, Mr. Levy noted that amendments were passed that bring the Act more current with the types of records that are maintained, including addressing electronic records, cost recovery, clarification of requests, recurring or big batch requests and requests for all records.

There were no changes in the way local governments receive property tax revenues. Mr. Levy also said the discussion about new 5G technology for deploying wireless systems was robust and that cities will keep local control.

Mr. Levy next reviewed how Lake Stevens fared on its legislative agenda including the capital budget, affordable housing/homelessness prevention/mental health, protect and restore state shared revenues, public safety and transportation, reporting there were some wins, some partial wins and a couple of setbacks.

Mr. Levy commented that the 45th District election will have a big impact on Lake Stevens as it will affect majority control of the house and senate. He reminded the 2018 session is a short session of 60 days. Mr. Levy said it is time to start crafting an agenda for the 2018 legislative session and he will be meeting with City staff next week to begin that process.

Responding to Councilmember Welch's question, Mr. Levy does not anticipate any challenges to the amendments to the Public Records Act as there was strong bi-partisan support for these amendments.

Regarding Councilmember Welch's question regarding the capital budget, Mr. Levy said there are many possibilities, including a late November, early December special session. Whether this will affect Lake Stevens when a capital budget is adopted is hard to anticipate.

Councilmember Welch asked why the Legislature cares about lifting the 1% property tax cap for cities and counties when it does not affect them directly. Mr. Levy responded that there are several dynamics, including that property tax is volatile and it is something that citizens see. He opined that some legislators agree with this, but they also must face their own voters.

Council Business:

Subcommittee Updates:

Public Safety subcommittee: Councilmember McDaniel said the subcommittee met and discussed the Marine Program including the buoy pilot program, the Lake Safety Task Force, lake statistics that were gathered this summer, having a Snohomish County Sheriff's deputy on the marine patrols during the summer, and inventory control.

Public Works Subcommittee: Councilmember Petershagen reported that Public Works is busy with cleaning retention ponds and continued storm repair, and the Nourse development project including offsite improvements along Callow

- Councilmember Daughtry: Veterans Commission, Snohomish County Committee for Improved Transportation (SCCIT).
- Councilmember Petershagen: Planning Commission, Sewer District, SCCIT.
- Councilmember Hilt: Veterans Commission; need for disaster preparedness.
- Councilmember Welch: Budget.
- Councilmember McDaniel: Historical Society, Fire Commission.
- Councilmember Holder: Family Center.

Councilmember Hilt excused himself from the meeting at 7:53 p.m.

Mayor's Business: Emergency preparedness needs; 20th Street SE and request to Senator Cantwell to observe early morning commute; SCT/SCC Assembly is September 27, 2017; visited the Mosque, located in Monroe, with City Administrator and Police Chief – part of the Mosque's initiative is to help educate people about the true nature of Islam.

City Department Report:

- City Administrator Brazel: Police Department building is experiencing significant settling; Chief Bennett, King County Sheriff's Department presented Civility Training.
- Community Development Director Wright: Planning Directors Conference; Puget Sound Regional Council Subcommittee looking at how to address Vision 2040/2050 updates.

- Human Resources Director Smith: Washington Public Employees Labor Relations Association Conference, Guild negotiations, non-represented employee salary structure, benefits review, Wellness Program.
- Public Works Director Durpos: Vernon Road repair; the southwest quadrant issues resulting from the April storm are narrowed; 20th Street SE, new City Hall update.
- Police Chief Dyer: Looking at how to streamline the hiring process; new Police Department and how to build an expandable program; SnoPac/SnoCom consolidation.

Consent Agenda:

MOTION: Moved by Councilmember Welch, seconded by Councilmember Daughtry, to approve (A) 2017 Vouchers [Payroll Direct Deposits of \$193,610.44, Payroll Checks 43419-43423 totaling \$7,058.54, Tax Deposits of \$82,230.63, Electronic Funds Transfers (ACH) of \$12,808.73, Claims Check Nos. 43424-43531 totaling \$476,152.74, Void Check Nos. 43278, 43285, 43249, 42789 and 43310 totaling \$17,291.99, Total Vouchers Approved: \$754,569.09]; (B) City Council Workshop Meeting Minutes of September 12, 2017; (C) City Council Regular Meeting Minutes of September 12, 2017; and (D) Purchase of Awnings for New City Hall. On vote the motion carried (5-0-0-2).

Public Hearing:

Mayor Spencer opened the public hearing.

Ordinance 1001 Amending LSMC 14.40.010, Allowed Businesses to Include Car Washes:

Associate Planner Dillon Roth presented the staff report and said approval of this ordinance would amend the Lake Stevens Municipal Code to allow car washes in Local Business zones, where those zones are adjacent to state highways. He noted a revised draft ordinance was distributed to Council this evening following City Attorney review. None of the changes are substantive. Planner Roth reviewed the history of this request and said that car washes would require an administratively approved conditional use permit. The Planning Commission recommends approval of the proposal.

Mayor Spencer invited Public Comment and there was none.

Mayor Spencer closed the Public Comment portion of the Public Hearing, and he then closed the Public Hearing.

Responding to Councilmember Daughtry's question, Planner Roth said the particular applicant in question plans to recycle the waste water; he added that stormwater and waste water management is a reviewed item.

Mayor Spencer added that the review will take into consideration appropriate disposal of any chemicals used on site that are contained in the waste water.

Councilmember McDaniel asked about requirements for screening or noise buffering, and Planner Roth explained that would be part of the administrative conditional use permit and that there is flexibility to require screening and noise buffering.

Councilmember Holder asked if a car wash requires a separate traffic study. Director Wright replied that the applicant for this project and the project to the north have prepared a joint traffic

study that is out for comment. The concerns are consistent with Councilmember Holder's regarding proximity to the stoplight on Highway 9, the proposed roundabout and the school location. The City is asking for a comprehensive model to ensure that the intersection as proposed will function, including school bus use of the roundabout.

Director Wright confirmed Councilmember McDaniel's comment that just because the zoning is approved, a car wash may not be feasible for the location.

Responding to Councilmember Holder's question, Director Wright said that the modelling for this intersection is being done at the most intensive use, but does not include a car wash use; he does not believe if a car wash was added it would create a dramatic increase in use.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve Ordinance 1001, amending Lake Stevens Municipal Code 14.40.010 regarding "Permissible Uses" to allow car washes in the Local Business where the zone is adjacent to a state highway. On vote the motion carried (5-0-0-2).

Action Items:

Approve Bid Award and Authorize Mayor to Enter into Contract with Petersen Brothers, Inc. for Repair and Installation of Guardrails. Public Works Director Durpos presented the staff report and said this is an on-call contract for repair and/or installation of guardrails located on city streets. These services were formerly contracted through Snohomish County, but the county is no longer able to provide this service. Director Durpos then responded to Councilmembers' questions.

Responding to Councilmember Daughtry's question, Director Durpos said the City inventory of guardrails is about 2,760 lineal feet.

Councilmember Petershagen asked if this will take care of any deficiencies this year, and Director Durpos responded that it will.

Councilmember Holder asked if the City does its due diligence in seeking reimbursement for guardrail replacement from insurance when it is appropriate, and Director Durpos replied that the City does, when it knows who the responsible party is in damaging not only guardrails, but street signs and other city-owned property.

MOTION: Moved by Councilmember Welch, seconded by Councilmember McDaniel, to authorize the Mayor to execute as Master On Call Agreement with Petersen Brothers, Inc. to provide on-call repair and installation of guardrails. On vote the motion carried (5-0-0-2).

Approve Agreement with NeoGov for Applicant Tracking and Employment Evaluations: Director Smith presented the staff report and said that approval of this agreement will provide the City with a more defensible applicant recruiting process, and establish a collaborative evaluation process with timely feedback, goal setting, tracking, transparency and accountability. Director Smith then responded Councilmembers' questions.

Councilmember Welch requested clarification on the budget, and Director Smith responded that in 2017 there is a pro-rated licensing fee and a one-time fee for implementation and training. There is an existing budget item for professional services that was set aside for a salary survey,

and Director Smith is requesting that be reallocated. Moving forward, on the applicant tracking portion of the service, the cost is about \$600 less than is currently being paid and the City will have an improved system with more functionality.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Holder, to approve the Service Agreement with GovernmentJobs.com for applicant tracking and performance evaluation cloud-based software. On vote the motion carried (5-0-0-2).

Approve Frontier Heights Park Conveyance: Parks and Recreation Coordinator Jim Haugen presented the staff report and said that approval of this park conveyance will meet one of the Council's identified goals to add to and improve the quality of the Lake Stevens parks. Staff worked with the Frontier Heights Homeowners Association (HOA) to accomplish this conveyance and the HOA membership voted to authorize the conveyance. Coordinator Haugen added that Snohomish County Council has announced there will be funds available in 2018 for community development block grants, including a category for public facility and infrastructure projects, and the City will pursue grant funding for improvements to this park, with Council approval this evening.

Mayor Spencer commented one of the first improvements will be to improve the children's playground.

Councilmember McDaniel said she is very excited about this project and thanked Coordinator Haugen for his work on this project.

Councilmember Holder said that this has been a long process and it is exciting to see it happening; this will beautify that area and be a benefit to that community.

MOTION: Moved by Councilmember Holder, seconded by Councilmember Daughtry, to authorize the Mayor to sign the documents to transfer the Frontier Heights Park property to the City of Lake Stevens. On vote the motion carried (5-0-0-2).

Discussion Items:

Marijuana Regulations Update: Director Wright reviewed that earlier this year Council indicated it would re-examine the number of allowed marijuana retail locations based on public comment received. The City received a citizen-initiated application to amend the city code to allow a second retail application in May 2017. He reviewed the procedural history of the application and commented that the State and City processes are not aligned, so in this situation, the State has approved an application, but the City has not. Director Wright said that the Planning Commission considered the proposal and voiced concerns about the existing regulations at their June 21, 2017 meeting, and again at their September 6, 2017 meeting. At the second briefing staff presented an array of potential options to address the concerns about expanding marijuana facilities. The Planning Commission was not able to reach consensus on a preferred option, but they did have a common view on restrictions including not allowing a second location and prohibiting the use in the Commercial District. At this time, staff is seeking Council direction and feedback on the proposed options and the Planning Commission's discussion to help the Planning Commission finish up its work so this can be brought back to Council for action. Director Wright then reviewed some of the possible options for consideration.

Councilmember McDaniel said it is important to protect the City's gateways as much as possible. She commented that while the Washington voters voted to legalize the sale of marijuana, it is up to each municipality to determine what it wants and what it sees in the future of its community.

Responding to Councilmember Holder's questions regarding what the Planning Commission's thought processes and concerns are, Councilmember Petershagen said that the Planning Commission was pretty adamant that they are not interested in allowing a second retail location, regardless of where it might be located. He is puzzled why this is before the Council now, because in 2016, when he was on the Planning Commission, the recommendation was to wait two years before revisiting this. Councilmember Petershagen said he is not interested in entertaining a second location.

Councilmember Holder responded that the City has a responsibility to review this as it is brought forward by a citizen.

Councilmember McDaniel said that the Planning Commission was very concerned because the proposed location is a gateway. Councilmember McDaniel also commented there is a driving school located within 200 feet of the proposed location, and asked if this falls within the definition of a school.

Attorney Weed responded that he does not know if the reach of the marijuana statute goes beyond the traditional schools and applies to other types of schools.

Director Wright added that he reviewed the Washington Administrative Code and schools are defined as primary and secondary education facilities, and the definition does not include any tertiary schools. Preschools are also included in the regulation.

Councilmember Holder asked if the City is open to liability if it does not allow a second retail location when the State does. Attorney Weed responded that as of this date, the Court of Appeals has affirmed the authority of local governments to ban facilities entirely, to regulate them through local zoning. Attorney Weed said this is a confirmation that state law does not entirely preempt the local government's right to impose regulations, or even a ban.

Councilmember Holder added that she totally agrees with the need to protect the City's gateways, and also that there is a lot of availability [of additional retail marijuana stores] along Highway 9, outside of the City limits.

Councilmember Daughtry is not ready to entertain a second location at this time, and stands by Council's 2016 decision.

Councilmember McDaniel said she would like this to go back to the Planning Commission to really examine the zoning, and that the City needs to make sure it does its due diligence.

Mayor Spencer summed up that Council wants this to go back to Planning Commission. He reminded that the City has worked very hard to acquire funding for the SR 9 / SR 204 intersection improvements so that it is an entry way to the community and it is important to support the businesses that are there now. The City does have an investment in trying to have a quality entryway into the City.

Councilmember Welch said he personally does not care if there is a second marijuana store. If a business wants to locate in Lake Stevens and it is a legal business, he does not care where the business is located as long as it is within the law.

Councilmember Holder commented there are valid arguments on both sides.

Councilmember Daughtry reviewed there were two main reasons for allowing a marijuana store in the City originally: (1) 62% of the Lake Stevens population voted for it, and (2) when first discussed, it is a business.

Councilmember Petershagen reminded that at that time the City had to allow a retail store or it might be sued.

Councilmember Daughtry commented that since that time the City staff and officials have learned more, and he will oppose a second retail store.

Councilmember McDaniel asked that there be strong outreach to the community so they can weigh in on whether they want a second retail store.

Executive Session: Mayor Spencer announced an executive session beginning at 8:55 p.m. and lasting ten minutes for the purpose of discussing two pending litigation matters and one real property matter, with no action to follow.

At 9:05 p.m. City Administrator Brazel announced the executive session would extend four additional minutes.

At 9:09 p.m. the regular meeting of the City Council was reconvened.

Study Session: None.

Adjourn:

Moved by Councilmember Holder, seconded by Councilmember Welch to adjourn the meeting at 9:09 p.m. On vote the motion carried (5-0-0-2).


John Spencer, Mayor


Kathy Pugh, Deputy City Clerk