

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

Tuesday, June 19, 2018  
Lake Stevens Community Center  
1808 Main Street, Lake Stevens

**CALL TO ORDER:** 7:02 p.m. by Mayor John Spencer

**ELECTED OFFICIALS PRESENT:** Councilmembers Kim Daughtry, Gary Petershagen, Todd Welch, Rauchel McDaniel, Brett Gailey and Marcus Tageant

**ELECTED OFFICIALS ABSENT:** Councilmember Kurt Hilt

**STAFF MEMBERS PRESENT:** City Administrator Gene Brazel, Senior Financial Accountant Josh Roundy, Community Development Director Russ Wright, Public Works Director Eric Durpos, Human Resources Director Teri Smith, Human Resources/Executive Assistant Julie Good, City Clerk Kathy Pugh, City Attorney Brett Vinson, Commander Ron Brooks

**OTHERS:** County Councilman Sam Low

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**Pledge of Allegiance:**

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

**Approval of Agenda:**

Councilmember Tageant said there is a request to move Consent Agenda Item G, Approve Rotary Request for Alcohol in the Park during Music By the Lake to Action Items.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve the agenda as amended. On vote the motion carried (6-0-0-0).

**Citizen Comments:** None.

**Council Business:**

- Councilmember Daughtry: Sewer District.
- Councilmember Petershagen: Sewer District.
- Councilmember McDaniel: Sewer District, Planning Commission.
- Councilmember Tageant: Sewer District.

**Mayor's Business:** One of the Planning Commissioners will be asked to step down due to irregular meeting attendance. The Mayor and City Administrator Brazel will travel to Yakima on June 26, 2018 to attend an AWC meeting and a joint meeting of the Senate and House Transportation Committees. This is an opportunity to meet with Senators Hobbs and King, and Representative Mark Harmsworth to discuss the Intersection Justification Report at the east end of the Trestle. Last week there was a conference call with the U.S. Department of Transportation program manager for the grant program, to discuss grant funds and they are very interested in the project at the east end of the Trestle. Also, the 20<sup>th</sup> Street SE is a high priority on the funding list.

### **City Department Report:**

- City Administrator Gene Brazel: Mayors' Meeting, Wyatt Park cost-sharing with the County as interim measure for public safety and then revisit next year.
- Community Development Director Russ Wright: Snohomish County Tourism 20-year strategy, Downtown Plan.
- Public Works Director Eric Durpos: Capital Projects Status Report.

### **Consent Agenda:**

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Gailey, to approve the consent agenda as amended: (A) 2018 Vouchers [Payroll Direct Deposits of \$194,574.93, Payroll Checks 45344-45347, 45349 totaling \$8,996.04, Tax Deposits of \$71,046.14, Electronic Funds Transfers (ACH) of \$237,011.69, Claims Check Nos. 45348, 45350-45481 totaling \$1,908,194.66, Void Check Nos. 43913, 44640, 42585, 44284 totaling \$1,854.99, Total Vouchers Approved: \$2,417,968.47], (B) City Council Special Meeting Minutes of May 15, 2018, (C) City Council Regular Meeting Minutes of May 22, 2018, (D) Cancellation of City Council Workshop Meeting July 3, 2018, (E) Appointments to Planning Commission, Veterans Commission and Salary Commission, (F) Concept Plan for Plaza Improvements, (G) (removed to action items); (H) Resolution 2018-20 adopting a revised Comprehensive Procurement Policy, and (I) Professional Services Agreement with LDC re South Lake Stevens Road Design. On vote the motion carried (6-0-0-1).

### **Public Hearing:**

**Rhodora Heights Annexation and Approve Resolution 2018-18:** Mayor Spencer opened the public hearing.

Senior Planner Josh Machen presented the staff report and reviewed the history of this annexation request. Tonight's requested action is to approve Resolution 2018-18 accepting the 60% petition, setting out the zoning designation of High Urban Residential, and providing for assumption of the proportionate share of general indebtedness. Planner Machen added that the applicants' representative submitted written comments which was provided to Council.

Director Wright reviewed the annexation process and steps including the 10% petition, the 60% petition by property valuation and first public hearing on zoning and accepting the proportionate share of general indebtedness, Boundary Review Board 60-day review period, second public hearing and formalize the annexation through ordinance.

Mayor Spencer invited questions of Council to staff and there were none. Mayor Spencer next invited public comment.

Stacey Brewer, 11001 116<sup>th</sup> Ave SE, Lake Stevens, does not support the annexation and believes the petitioner's goal is to raise density; he wants to live in a small community. He also commented the zone changes are not clearly defined.

Dave Markel, Board Director, Northstar Homeowners Association, is not totally opposed to the annexation, but would like more information and a better understanding of how the annexation will impact those in the annexation area.

Jennine Zari, 1013 – 116<sup>th</sup> Avenue SE, Lake Stevens, also commented there was not enough information made available regarding this annexation, and she opposes the annexation.

Steve Himel, 121 – 101<sup>st</sup> Avenue NE, Lake Stevens, believes people should have the opportunity to vote.

Mayor Spencer closed the public comment portion of the hearing and invited Council questions and discussion.

Responding to Councilmember Petershagen's question, Director Wright clarified that the City did not initiate this annexation. Director Wright added that the City previously adopted an annexation resolution and strategy. This occurred because the City operates under the Growth Management Act, which sets city boundaries and establishes the Urban Growth boundaries. Whether the Urban Growth boundaries are set aside within or outside city limits, there is protocol that development will occur in those identified urban growth boundaries. This is part of the mandate under the Growth Management Act. Because of this both the City and Snohomish County support annexation proposals as they come in.

Councilmember Tageant confirmed with Director Wright that mitigation funds collected within the city are directed to improvements within the area where they are collected versus mitigation funds collected by the County are used wherever the County determines to apply them within the County.

Responding to Councilmember Welch's question, Director Wright said that if Council does not vote on the 60% petition the process will begin over. Additionally, in response to Councilmember Tageant's question, Director Wright said there are land use tools under the County which would allow higher density.

Councilmember Welch asked how information is disseminated to property owners within the annexation area. Planner Machen responded that several sets of postcards were sent to all property owners within the annexation area, as well as within a 300-foot radius of the annexation boundary. Additionally, legal notices were published in the City's newspaper and also posted at all normal posting sites.

Director Wright also referenced the proponent's comments in tonight's packet, which referenced the proponent's outreach, including attachments.

Mayor Spencer closed the public hearing.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve Resolution 2018-18 accepting the 60% Rhodora Annexation petition giving notice of intent to annex, and requiring upon annexation the simultaneous adoption of land use and zoning designations and require the assumption of all existing City indebtedness. On vote the motion carried (6-0-0-1).

**Action Items:**

**Professional Services Agreement with Hough, Beck & Baird, Inc. for Frontier Heights Park Design:**

**Park Design:** Director Wright presented the staff report and said that Hough, Beck & Baird, Inc., was the lowest responsive bidder to the City's bid request for the Frontier Heights Park Design. The City will receive a phased park plan and phase I plans.

Councilmember Tageant is excited to see this project move forward.

Councilmember Gailey commented this park is a pivot point of the Powerline project and wondered if it makes more sense and is cost effective to step back and do a complete plan for both the Powerline and Frontier Heights Park projects. Director Wright responded that is at Council's discretion, and noted this is a standalone park that will have a lot of amenities outside of the trail system, but includes tie-ins to any future trail improvements.

Responding to Councilmember Gailey's question as to whether the scope can be revised, City Attorney Vinson responded that depends on the initial request for qualifications and he would need to review that document. Another possibility is to send out another request for qualifications and build off what has already been done; there are ways to be both effective and efficient.

Councilmember Daughtry commented the City has already promised the Homeowners Association that park improvements will be made and it is important to move forward.

Mayor Spencer clarified the question is, are there elements of a Frontier Heights Park plan that would tie into a future trail plan.

Responding to Councilmember McDaniel's question, City Attorney Vinson said that generally the request for qualifications is binding and the scope cannot be expanded unless there is language in the request for qualifications providing that the scope can be expanded.

**MOTION:** Moved by Councilmember Tageant, seconded by Councilmember McDaniel, to authorize the Mayor to execute a Professional Services Agreement with Hough, Beck and Beard, Inc. to prepare a phased park plan and phase I plans, specifications and engineer's estimate for Frontier Heights Park in a contract amount of \$74,939.76 with a management reserve of \$5,060.24. On vote the motion carried (6-0-0-0).

**Discussion Items:**

**Rotary Request for Alcohol in the Park:**

Director Wright presented the staff report and said the application is to allow alcohol in the park during the Music By the Lake at Lundein Park this year. This was previously approved last

year as a pilot program. The request tonight is from Rotary and would provide a contained area that is separate from the family area and where the music is.

Councilmember Tageant supports this request.

Councilmember Gailey is concerned with the incorrect dates in the application. Director Wright responded the dates have been corrected in the current packet, and the dates for security services are still incorrect, but the correct dates are July 7 and 22. Councilmember Gailey also expressed concern that a city employee signed the application to Washington State Liquor & Cannabis Board, while acting in his capacity as a Rotary member. Director Wright said that staff is aware of that concern and will see it does not happen again.

Councilmember McDaniel expressed concern about serving alcohol at family oriented events where children are present and encouraged that screening be utilized around the area where the beer and wine are served.

City Attorney Vinson added that proper insurance needs to be in place. Additionally, responding to Councilmember McDaniel's question, Attorney Vinson did not believe there is any additional liability to the City by virtue of a city employee signing the liquor application in a representative capacity as a Rotary club member/officer.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Tageant, to approve the Rotary Club of Lake Stevens request to serve alcohol in the park at either Lundein Park or North Cove Park during Music By the Lake. On vote the motion carried (6-0-0-1).

#### **Discussion Items:**

**Temporary Encampments:** Planner Machen presented the staff report and reviewed the public process and concerns raised related to temporary encampments. He reminded it is WCIA's recommendation that the City adopt regulations for temporary encampments. Planner Machen shared a recent court decision ruling that it is unconstitutional to not allow temporary encampments as it infringes on constitutionally guaranteed freedom of religion rights. Planner Machen added that items that cannot be included in the proposed regulations are a requirement for insurance or indemnification from liability.

Planner Machen reviewed the proposed regulations including that an application for an encampment would be processed as a Type II application, requiring a public process prior to administrative approval, and could be processed by either a religious organization or a community-based nonprofit organization. Criteria includes a code of conduct, a limitation on the number of residents, site requirements including size based on the number of residents, setbacks and property lines, screening, health and safety requirements, and that the financing agency provide a financial security to provide for cleanup when the encampment vacates. Staff requested input from Council on time limits and said they are currently proposed at 90 days.

Councilmember Welch requested to only allow sponsorship by churches and add a definition of a religious organization, and he would like limitations on how many encampments are allowed each year.

Councilmember Tageant requested a time limit of 60 days and stiffer regulations regarding the definitions of and requirements for sanitation.

Responding to Councilmember McDaniel's question, Planner Machen said that problems at any encampments would be a shared responsibility between Code Enforcement and the Police Department.

Councilmember Gailey shared the sanitation concerns. He asked about the penalties and how many accrue before an encampment is asked to leave. He noted that eviction becomes a problem.

Councilmember Tageant suggested the sponsor could be fined in the case of evictions.

Director Wright reviewed the process for addressing enforcement violations and noted that criminal response is immediate and involves the Police Department, and civil response is not and involves Code Enforcement in a stepped process.

Councilmember Daughtry suggested a code of conduct be added, including something directed to the possession of weapons.

Discussion ensued regarding fees and penalties, and Council directed Staff to bring back a more robust ordinance.

City Attorney Vinson commented on his experience with temporary encampment ordinances while working for the City of Sumner, and said that he would work with Staff to bring back a more robust ordinance while still balancing the constitutional rights of churches to practice the free exercise of their religion.

Councilmember Petershagen suggested a twelve-month moratorium.

Planner Machen said that the Woodinville court ruling found that instituting a moratorium is unconstitutional, but he does not know if that applies to a temporary or a permanent moratorium. He added this is a city-initiated ordinance that is based on recommendations from WCIA, the City's insurance agency.

Mayor Spencer said he does not want an ordinance that would result in an invitation for a temporary encampment to set up. He said that staff will re-work the ordinance and bring it forward at a coming meeting.

Attorney Vinson said, in response to Mayor Spencer's question, that he will look to see if a moratorium is allowed until an ordinance can be put in place.

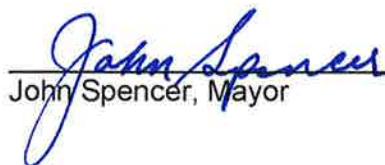
**Executive Session:** Mayor Spencer announced an executive session to discuss two real property matters and a personnel matter, to begin at 8:30 p.m. and last 15 minutes with possible action to follow.

At 8:45 p.m. City Administrator Brazel announced the executive session is extended 15 minutes.

The Special Meeting of the City Council resumed at 9:00, p.m.

Adjourn:

It was moved and seconded to adjourn the meeting at 9:00 p.m. On vote the motion carried (6-0-0-1).

  
John Spencer

John Spencer, Mayor

  
Kathy Pugh

Kathy Pugh, City Clerk