

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

Tuesday, March 23, 2021  
By Remote Participation via Zoom

CALL TO ORDER: 6:00 p.m. by Mayor Brett Gailey

ELECTED OFFICIALS PRESENT: Mayor Brett Gailey, Councilmembers Kim Daughtry, Gary Petershagen, Shawn Frederick, Mary Dickinson, Anji Jorstad, Marcus Tageant and Steve Ewing

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director Barb Stevens, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Chief John Dyer, Human Resources Director Anya Warrington, City Clerk Kelly Chelin, Senior Planner David Levitan, Senior Planner Melissa Place and City Attorney Greg Rubstello

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**Call to Order:**

The Mayor called the meeting to order at 6:00 p.m.

**Pledge of Allegiance:**

Mayor Gailey led the Pledge of Allegiance.

**Roll Call:**

All Councilmembers were present.

**Approval of Agenda:**

**MOTION.** Councilmember Tageant made a motion, seconded by Councilmember Jorstad, to approve the agenda. The agenda passed 7-0-0-0.

**Citizen Comments:**

Michael M., Lake Stevens. Michael spoke in favor of the Southeast Annexation.

Sally Jo Sebring, Lake Stevens. Ms. Sebring asked why the annexation vote was coming back.

Bart Pierce, Lake Stevens. Mr. Pierce spoke in favor of the Southeast Annexation.

Tony M., Lake Stevens. Tony spoke in favor of the Southeast Annexation.

Janice, Lake Stevens. Janice asked the Council to delay the annexation vote.

Scott Bennison, Lake Stevens. Mr. Bennison spoke in favor of the Southeast Annexation.

Vicki Hollingsworth, Lake Stevens. Ms. Hollingsworth spoke in favor of the Southeast Annexation.

**Council Business:**

Councilmember Ewing thanked Officer Christensen and the Lake Stevens Police Department.

Councilmember Tageant commented on all the kids at the Cavalero Skate Park.

Councilmember Daughtry commented that its been one year since COVID started.

Note: Councilmember Dickinson was experiencing connection problems and wasn't able to get her microphone working. She will send written comments to the City Clerk to read into the record.

**Guest Business:**

Civic Center Update, Bob Stowe, Stowe Development & Strategies

**Consent Agenda:**

**MOTION:** Councilmember Tageant made a motion, seconded by Councilmember Jorstad, to approve the consent agenda. The motion passed 7-0-0-0.

The consent agenda included the following:

- Vouchers
- Council Meeting Minutes of March 2, 2021
- Council Meeting Minutes of March 9, 2021
- Cancel April 6, 2021 Council Workshop
- Ordinance 1113 Amending the 2021 Budget
- Ordinance 1115 to Increase the Authorized Principal Amount of LTGO 2021A Bonds
- Resolution 2021-08 Accepting a Donation from the Arts and Parks Foundation for Spencer Reflection Area
- Quit Claim Deed to Transfer the Wastewater Treatment Plant
- Lake Stevens City Council Regular Meeting Agenda March 23, 2021
- Resolution 2021-06 Surplus Real Property
- Resolution 2021-07 Surplus Real Property
- Expiration of Temporary Hazardous Duty Compensation Policy
- Concession Contract with GEM Fitness to Provide Recreation Programming

**Public Hearing:****Ordinance 1114 Callow Green Right-of-Way Vacation**

Planner Place explained that the applicant proposes to construct a 35-unit townhome development with associated improvements on the west side of Callow Road, between Oak Road and SR-92. The proposed layout consists of four multifamily low-rise townhouse buildings accessed from a private road with two points of access off Callow Road, common open space and amenities, and preservation of critical areas. The project is proposed under the City's innovative housing options program as a unit lot subdivision. Frontage improvements along the area to be developed on Callow Road include curb, gutter, landscape strip, sidewalk, and on-street parking spaces, and dedication of ten feet along Callow Road. The applicant has also applied for Preliminary Plat, a Conditional Use permit, Administrative Design Review approval, and SEPA review in support of their proposed development as separate actions.

The applicant has applied for a right-of-way (ROW) vacation of 551 square feet along Callow Road to incorporate that portion into the development being planned. In return for the ROW vacation, the City would receive 3,739 square feet of dedicated property in compensation.

The requested ROW vacation section is currently an unopened portion of the west side of Callow Road and is not necessary for future road needs since the Callow Green development will construct the frontage improvements that the ROW needs. Subject to Lake Stevens Municipal Code 14.16C.095, the applicant has provided a cost summary of the Callow Green property using the Snohomish County Assessor value, estimated to be \$2.22 per square foot to determine a value for the proposed vacations and dedications. The public meeting for the ROW Vacation was held on March 16th.

Mayor Gailey opened the public hearing at 7:08 p.m.  
There were no comments from the public.  
The public comment portion of the hearing was closed.

Council and staff discussed the right-of-way vacation.

**MOTION.** Councilmember Daughtry made a motion, seconded by Councilmember Tageant, to approve Ordinance 1114. The motion passed 7-0-0-0.

**Action Items:**

**Ordinance 1112 Interlocal Agreement Annexing the Southeast Interlocal Annexation Area**

Planner Levitan explained that the City Council, County Council and Sewer District held a joint public hearing on March 9, 2021 to consider the Southeast Interlocal Annexation. The joint board received testimony from proponents and opponents of the proposed annexation. During the hearing, County Councilmembers raised the question as to why the parties had chosen to use this method (interlocal agreement) of annexation. Considerable discussion ensued with a recommendation to consider an advisory vote during the August 2021 primary election. Since the hearing, the city has received several emails and calls from supporters of the annexation, which are included in the Council packet. Some individuals have claimed they were not able to access the link to the Zoom meeting.

After reflection and legal counsel review, the City Council determined that it would like to reconsider its position and discuss approving the ILA. The City has determined that it cannot call for an advisory vote in an unincorporated area of Snohomish County.

Staff is recommending that City Council adopt Ordinance 1112, authorizing the Mayor to sign the Interlocal Agreement for the Southeast Interlocal Annexation (LUA2020-0117). Approval of the Agreement will require separate actions by the Snohomish County Council and Lake Stevens Sewer District Board of Commissioners.

Council and staff discussed the Ordinance.

**MOTION.** Councilmember Petershagen made a motion, seconded by Councilmember Frederick, to approve Ordinance 1112: An Ordinance Of The City Council For The City Of Lake Stevens, Washington Concerning Annexation By Interlocal Agreement; Approving Findings Of Fact; Approving And Authorizing The Mayor To Sign An Interlocal Agreement Between Snohomish County, The City Of Lake Stevens, And The Lake Stevens Sewer District For The Southeast Interlocal Annexation; Providing For Severability, An Effective Date, And For Summary Publication By Ordinance Title; And For Filing Of The Ordinance With The Board Of Snohomish County Commissioners. The motion passed 6-1-0-0 with Councilmember Dickinson opposed.

**Ordinance 1116 Criminalizing Possession of a Controlled Substance Without a Prescription**

Chief Dyer explained that on February 25, 2021, the Washington State Supreme Court held in the case of State v. Blake, No. 96873-0, that RCW 69.50.4013(1) – the statute that criminalized the possession of a controlled substance without a prescription – exceeds the state's police power and violates the due process clauses of the state and federal constitutions.

The proposed ordinance creates a misdemeanor offense for a "knowing" possession of a controlled substance without a prescription. The addition of a "*mens rea*" element (criminal intent) to the required elements of the offense avoids the court's concern that the former statute criminalized innocent and passive possession.

**MOTION.** Councilmember Frederick made a motion, seconded by Councilmember Tageant, to authorize the Mayor to sign Ordinance 1116: Amending Chapter 9.40 of the Lake Stevens Municipal Code ("LSMC") And Criminalizing the Knowing Possession of a Controlled Substance Without a Prescription.

Council and staff discussed the Ordinance.

**MOTION VOTE.** The motion passed 5-2-0-0 with Councilmember Dickinson and Councilmember Jorstad opposed.

**Adjourn:**

**MOTION.** Councilmember Tageant made a motion, seconded by Councilmember Jorstad, to adjourn the meeting at 8:05 p.m. The motion passed 7-0-0-0.

  
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Brett Gailey, Mayor  
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Kelly M. Ghelin, City Clerk