

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

August 23, 2022, at 6:00 p.m.

Hybrid Meeting - By Remote Participation via Zoom & in Person at The Mill Building

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, Marcus Tageant, Anji Jorstad and Steve Ewing.

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**Call to Order**

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

**Pledge of Allegiance**

The Mayor led the Pledge of Allegiance.

**Roll Call**

All Councilmembers were present.

**Approval of Agenda**

**MOTION.** Councilmember Daughtry made a motion, seconded by Councilmember Jorstad, to approve the agenda as presented.

Councilmember Frederick clarified for the record that the agreement on the consent agenda, Agreement for Distribution and Acceptance of Naloxone, is with the Snohomish Health District, not Snohomish County. The staff report has been corrected to reflect this.

Councilmember Daughtry and Councilmember Jorstad agreed to the clarification before the motion vote.

**MOTION VOTE.** The motion passed 7-0-0-0.

**Guest Business**

**Introduce New City Employees:**

Kelly Putnam, Police Records Specialist

Sarah Garceau, Parks and Recreation Director

David Green, Field Supervisor

Tyler Button, Facilities Maintenance Technician (will be rescheduled)

Scott VanOsrand, Crew Worker

Whitney Ojalehto, Engineering Technician

**Snohomish County Comprehensive Solid and Hazardous Waste Management Plan**  
Jon Greninger Snohomish County Superintendent

A Resolution to approve the plan will come back to the Council at a future meeting.

**Citizen Comments**

Anne Simnowitz with North Cascades Crew. Anne spoke about concerns with the club being displaced from the dock.

Tom Hall, Lake Stevens. Tom urged the Council to ban fireworks in the City.

Todd, Lake Stevens. Todd urged the Council to vote against short term rentals.

**Council Business**

Proclamation Honoring the Leadership of Shawn Frederick, Snohomish Health District Councilmember Jorstad read the proclamation into the record.

Councilmember Petershagen attended the Planning Commission meeting, Sewer Utility Commission meeting and the Legislative reception.

Councilmember Daughtry thanked staff for a great Aquafest event.

Councilmember Ewing thanked Councilmember Daughtry for his work on Aquafest. He thanked Councilmember Frederick for his work at Snohomish Health District. He stated the Suicide Awareness walk was a great event.

**Mayor Business**

Mayor Gailey thanked Councilmember Daughtry for his work with Aquafest. He thanked the Public Works crew for their work on the Davies Beach dock.

**City Department Report**

Departments presented updates to the Council.

**Consent Agenda**

MOTION. Councilmember Frederick 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 items:

- 2022 Vouchers
- City Council Meeting Minutes of June 28, 2022
- City Council Meeting Minutes of July 5, 2022
- City Council Meeting Minutes of July 12, 2022
- Agreement for Distribution and Acceptance of Naloxone
- Park Board Appointment

**Public Hearing**

LUA2022-0024: Fagerlie Annexation (Ordinance 1143)

Planning Manager Levitan explained that on March 8, 2022, the City Council passed Resolution 2022-01 accepting the 10% Fagerlie Annexation petition and authorizing the gathering of signatures for the 60% annexation petition. On April 11, 2022, the

applicant submitted the 60% annexation petition with signatures from property owners representing more than 60% of the assessed valuation of the properties contained within the proposed annexation area. On May 10, 2022, the City Council held a public hearing to consider the 60% Annexation petition and consider the land use and zoning designations for the properties proposed for the annexation.

At that May 10 meeting, the City Council adopted Resolution 2022-07 accepting the 60% Fagerlie Annexation Petition and issued a Notice of Intent to Annex and adopt land use and zoning designation for the annexed parcels. On July 19, 2022, the Snohomish County Council voted to approve motion 22-286, which stated that the Council did not oppose the Fagerlie annexation or invoke Boundary Review Board (BRB) jurisdiction to hold a hearing on the annexation. The BRB 45-day review period for BRB File 05-2022 ended on August 1, 2022, meaning that the City Council may now finalize the annexation via the adoption of a city ordinance. The area was formally annexed into Lake Stevens Sewer District boundaries on June 23, 2022 through a separate process.

The annexation area includes three properties and adjacent Williams Rd right-of-way (ROW) totaling approximately 13.9 acres and the signed petitioners own over 60% of the land value within the proposed annexation area. The annexation area is located south of Lake Stevens city limits, which is just across 20th St SE. The proposed annexation is an area bounded on the north by 20th St SE, on the east by a rural residential neighborhood (the beginning of the county's Rural Urban Transition Area, or RUTA), on the south by the White Oaks Ridge subdivision, and on the west by the Pasadera Heights subdivision.

In accordance with the adopted resolution 2022-07, the land use designation for the Fagerlie Annexation is proposed to be High Density Residential with a zoning designation of R8-12. Potential environmental impacts of the land use and zoning designations were evaluated by the city, and a SEPA Determination of Nonsignificance was issued on April 25, 2022, which generated no comments or appeals.

The notice of public hearing was posted on site (three separate signs), published in the Everett Herald, and mailed to property owners within 300 feet of the property on or around August 12, 2022. As of August 16, 2022, the city has not received any public comments.

Mayor Gailey opened the public hearing at 7:18 p.m.

There were no comments from the public.

Mayor Gailey closed the public hearing at 7:18 p.m.

**MOTION.** Councilmember Jorstad made a motion, seconded by Councilmember Dickinson, to approve Ordinance 1143 – Fagerlie Annexation. The motion passed 7-0-0-0.

**Action Items**

**Ordinance 1144 - Amending Lake Stevens Municipal Code Chapter 9.40**

City Attorney Rubstello explained that in February 2021, the Washington State Supreme Court struck down the strict drug laws of the state. These ruling hindered how officers lawfully search and seize an individuals or their property during paraphernalia and narcotic investigations.

Since the ruling, municipalities and cities with the support of the misdemeanor prosecutor, have been forced to update and enact new local ordinances related to paraphernalia laws that met the requirements of the WSSC's "Blake Decision".

LSMC Chapter 9.40 regulates crimes relating to controlled substances, drug paraphernalia, poisons, and toxic fumes. Together, the Lake Stevens Police Department, city attorneys' office and the local prosecutor's office are proposing the attached modifications to LSMC Chapter 9.40. By repealing the ordinance, the crime charges will fall under current state laws.

**MOTION.** Councilmember Ewing made a motion, seconded by Councilmember Frederick, to approve Ordinance 1144 – Amending Lake Stevens Municipal Code Chapter 9.40. The motion passed 7-0-0-0.

**Resolution 2022-11 Right of Way Access Transfer**

Director Wright explained that the City of Lake Stevens has received two requests from the Washington State Department of Transportation (WSDOT) requesting to purchase limited access rights to real property (Parcel Nos. 00493400400101 and 00493400400203) along SR-9 south of Market Place and along SR-9 between Market Place and 4th Street NE for planned highway improvements to SR-9 and SR-204. The Revised Code of Washington (RCW) 47.12.040 provides authority for the transfer of land for highway purposes.

As the project will create significant benefits for the Lake Steven community that address congestion, mobility and access issues, staff recommends approval of conveyance of the described access rights from the city of Lake Stevens (Drainage District 8) to WSDOT for the sum of one-thousand dollars (\$1000.00) or \$500 per identified property segment.

**MOTION.** Councilmember Ewing made a motion, seconded by Councilmember Jorstad, to approve Resolution 2022-11 – Right of Way Access Transfer and authorize the Mayor to execute the contract documents. The motion passed 7-0-0-0.

### Prescription Opioid Litigation Settlement

City Attorney Rubstello explained that across the nation, there have been multiple lawsuits against the manufacturers and distributors of opioid drugs (e.g., OxyContin). The central claim in these opioid lawsuits is that drug manufacturers and distributors improperly marketed and distributed opioids leading to the deaths of hundreds of thousands of Americans and costs to governments dealing with the impacts of drug addiction. The State of Washington reached a settlement with McKesson Corp., Cardinal Health Inc., and AmerisourceBergen Drug Corp. for up to \$518 million. More than \$476 million will be directed toward addressing the opioid epidemic. This money will be paid over 17 years.

Washington cities and counties with population over 10,000 can join this settlement. If a sufficient number join, they will receive up to \$215 million that must be spent on efforts to combat the opioid epidemic.

The settlement funds initially will be allocated on a regional level to "Opioid Abatement Councils" which will approve the uses to which the funds may be put. Lake Stevens and Snohomish County are in the North Sound Region, which includes Island, San Juan, Skagit, Snohomish, and Whatcom counties.

The City's allocation is expected to be 0.1385202891% of the total settlement funds for Washington. Snohomish County and all the eligible cities in the county will receive a total of 11.8213083387% of the funds made available through a settlement.

Entities that receive a share must spend the settlement money on approved uses, must keep records of its spending, must file reports with the Settlement Administrator, and must comply with all terms of the Washington and National Distributor Settlements. The City could pool any settlement funds it receives with the County and other cities to pursue county-wide strategies to combat the effects of opioid addiction.

Two things need to happen for this settlement to be finalized:

All Washington local governments that filed suit against these opioid distributors need to sign the Participation Form releasing their claims and then dismiss them with prejudice. Ninety percent (90%) of Washington local governments with a population of over 10,000 that did not file a lawsuit against these opioid distributors need to sign the Participation Form releasing their potential claims.

**MOTION.** Councilmember Jorstad made a motion, seconded by Councilmember Frederick, to proceed and allow Mayor Gailey to sign the settlement documents. The motion passed 7-0-0-0.

### **Discussion items**

#### Draft Agenda for September 6, 2022

Council reviewed the agenda.

**Executive Session**

The meeting recessed to executive session at 7:50 p.m. to discuss Property Acquisition and Potential Litigation per RCW 42.30.110 1 (c) and 42.30.110 1 (i). for approximately 30 minutes with possible action

At 8:20 p.m. the executive session was extended to 8:35 p.m.

At 8:35 p.m. the executive session was extended to 8:52 p.m.

Councilmember Tageant left the meeting at 8:44 p.m.

**Reconvene to Regular Session**

The meeting reconvened to regular session at 8:52 p.m.

**Action items:**

MOTION. Councilmember Daughtry made a motion, seconded by Councilmember Jorstad, to approve Resolution 2022-12 – Surplus Real Property. The motion passed 6-1-0-1 with Councilmember Dickinson opposed and Councilmember Tageant absent.

**Adjournment:**

MOTION. Councilmember Jorstad made a motion, seconded by Councilmember Ewing, to adjourn the meeting. The motion passed 6-0-0-1. The meeting adjourned at 8:55 p.m.



Brett Gailey, Mayor



Kelly M. Chelin, City Clerk