

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

Tuesday, April 26, 2016

Lake Stevens School District Educational Service Center (Admin. Bldg.)
12309 22nd Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Mayor John Spencer, Councilmembers Kim Daughtry, Sam Low, Todd Welch, Rauchel McDaniel, and Marcus Tageant

ELECTED OFFICIALS ABSENT: Councilmembers Kathy Holder and Kurt Hilt

STAFF MEMBERS PRESENT: Finance Director/City Clerk Barb Stevens, Interim Planning and Community Development Director Russ Wright, Public Works Director Mick Monken, Interim Police Chief Ralph Krusey, Human Resources Director Steve Edin, Civil Engineer Adam Emerson, Deputy City Clerk Kathy Pugh, City Attorney Cheryl Beyer, Officer Dean Thomas, Public Works Superintendent Scott Wicken, Police Records Superintendent Julie Ubert, and Police Records staff Jenn Anderson and Michelle Vanderwalker

OTHERS: John White and Kathie George of Washington State Department of Transportation, Senator Steve Hobbs, Doug Levy of Outcomes by Levy; Jeff Borgida, Wes Smith, Janet Pritchard and Jonathan Pashinski of Republic Services

Pledge of Allegiance: State Senator Steve Hobbs lead the Pledge of Allegiance.

Roll Call:

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to excuse Councilmembers Kathy Holder and Kurt Hilt from the meeting. On vote the motion carried (5-0-0-2).

Approval of Agenda:

Mayor Spencer said that Action Item F, Approve Ordinance 959 Creating a New Chapter 8.06 of the Lake Stevens Municipal Code Prohibiting Occupying Properties that Lack Adequate Water or Sewer Service would be a first reading this evening.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember McDaniel, to approve the agenda as corrected. On vote the motion carried (5-0-0-2).

Community Recognition: Mayor Spencer recognized Jeff Borgida of Republic Services, and Les Schwab Tire Center for their contributions to the upcoming City-wide Cleanup scheduled for May 7, 2016. Mayor Spencer also recognized the Rotary Club Interact Group, which are high school students, for their recent cleanup along Callow Road.

Jeff Borgida, General Manager of Republic Services introduced Operations Manager Wes Smith, Relationship Manager Janet Pritchard and driver Jonathan Pashinski. Mr. Borgida said it is a great opportunity to participate in community events such as the cleanup because it provides an opportunity to meet customers and engage with the community.

Guest Business.

Director Monken introduced Washington State Department of Transportation representatives John White, Assistant Regional Administrator and Kathie George, Engineering Manager.

Mr. White commented he has been working with Director Monken for about a year and a half now, ahead of the formal engagement, on the Connecting Washington program. He and Director Monken have been developing a relationship and common understanding of the community needs, the project, and related issues. They have worked through a procurement process to bring on a very experienced team to help deliver this project. Mr. White introduced Mike Cotton, Project Manager with Parsons Transportation Group, and also noted representatives from PRR, who will be the communications lead on the project, are present this evening.

Mr. White said the team is bringing a fresh perspective and that the challenge will be working together with the City and community to find a context appropriate solution to help keep the traffic on SR 9 / SR 204 moving while helping the business community to realize economic opportunities and improving circulation access to and from Frontier Village. Mr. White advised the consultant team is nearly ready to move forward and there will be a community outreach at that time.

Mr. White commented further that the City is also fortunate that there is funding for an Interchange Justification Report for the east end of the U.S. 2, primarily based on westbound movement to explore possible solutions to this traffic issue.

Legislative Update:

Senator Steve Hobbs provided a summary of legislative action during the last legislative session. He reviewed that the state has a biennial budget and the budget this year was a supplemental budget that allows for minor modifications. However, this year there were several things operating against minor modifications including the McCleary court decision regarding education funding, another lawsuit regarding mental health funding, the unusually high number of wildfires in 2015 and associated higher cost in combating them, and other issues such as the widespread homeless issue. And finally, because this is an election year it makes it difficult to move forward. Senator Hobbs reviewed how the budget process works.

Senator Hobbs said that funds were invested in mental health and specifically Western State Hospital. Fire suppression was paid for and a plan is being developed to address wildfires and ultimately lower costs of fire suppression. Also, homelessness was addressed.

Senator Hobbs noted that the legislature failed to address public school funding required by the McCleary decision, although some advances were made. Also, the legislature failed to find long-term solutions to increasing health care costs statewide and funding for the Model Toxics Control Act (MTCA) for toxic cleanup.

Senator Hobbs reported the City received \$309,000 for the Lake Stevens City Hall and Civic Center in the capital budget. He also noted the Transportation budget is in great shape and reviewed those funding allocations, and particularly the Connecting Washington projects. Senator Hobbs also noted that funding was allocated to increase the pay scale for the State Patrol officers, that the I-405 toll complaints are being addressed and that \$1.5 million was allocated to begin addressing the issues with the SR 2 trestle, which will hopefully position the project for future federal funding.

Senator Hobbs noted that Lake Stevens did very well in the budget this year and attributed that to the fact that the City Councilmembers travel to Olympia regularly, the City has a very active lobbyist, and the City's legislators are willing to work hard for their constituents.

Doug Levy of Outcomes by Levy, the City's lobbyist, reviewed the recently ended legislative session. He provided a brief overview of the legislative session and the budget process. He reviewed the challenges the legislators faced including the 2015 wildfires, the higher need for social and human services, more people wanting to attend colleges and university, as well as other issues.

Mr. Levy noted the legislature delayed a lot of items to the 2017 budget process including education funding. Minimum wage and carbon issues will be addressed by the voters. The legislature did provide a fix for charter schools.

Mr. Levy said some of the good things include that the legislature did pass a bill regarding body cameras which provides protections for jurisdictions that utilize body cameras as of the date of the effective date of the bill, which is June 9, 2016, and then reviewed those protections. Mr. Levy noted this is an initial step and that the Legislature will be looking at this again in 2018.

Mr. Levy also reported that some funding was allocated for law enforcement training, state-shared revenues were pretty well preserved for municipalities, Municipal Research & Services Center maintained its funding, and that pensions were not merged.

Mr. Levy said that funds were taken from the Public Works Assistance Fund, however, the governor vetoed a large portion of this bill. Also, the Fire Insurance Premium Tax Distributions were restructured, but the governor vetoed that legislation. He noted the cuts to MTCA and to stormwater grant projects.

Mr. Levy then reviewed the upcoming November elections, saying the results will have a huge impact on the citizens.

Mr. Levy next reviewed transportation issues that will continue to require monitoring. He added that he will want to meet with the Mayor, Councilmembers and administration to map out the 2017 legislative agenda and said it is important that the agenda reflects the City's top priorities.

Employee Recognition:

Mayor Spencer recognized the following employees for their years of service to the City: Human Resources Director Steve Edin for ten years of service, Officer Dean Thomas for ten years of service, Interim Planning Director Russ Wright for five years of service, and Public Works member Scott Wicken for thirty-five years of service.

Interim Police Chief Ralph Krusey recognized Police Records Superintendent Julie Ubert and the Police Records staff including Jenn Anderson, and Michelle Vanderwalker for their work and customer support. Chief Krusey noted they are experiencing significant increases in workload, particularly in passport applications, and the Police Records staff are managing this increase in a professional and courteous manner.

Council Business: Kim Daughtry: County transportation issues, Planning & Development Subcommittee, Sewer Committee, Met with Suzan DelBene regarding the Trestle, Public Works Subcommittee meeting, ST3 Open House; Sam Low: Police Community Meeting; Todd Welch: Arts Commission, Library Board, Parks Subcommittee, ST3 Public Hearing; Raichel McDaniel: Police Community Meeting, Public Safety Meeting, Planning Commission; and Marcus Tageant: Chamber of Commerce, Sewer District, Police Community Meeting, Public Safety Subcommittee.

Mayor's Business: The City is closing on the property purchase located at 99th and Chapel Hill Road where a new police station will be built. Also, the City has been working with Sno-Isle on the location and siting of a new library.

Consent Agenda.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Daughtry, to approve (A) 2016 Vouchers [Payroll Direct Deposits of \$152,920.14, Payroll Checks Nos 40222-40223 totaling \$3,880.71, Tax Deposits of \$64,221.62, Electronic Funds Transfers (ACH) of \$5,976.91, Claims Checks Nos. 40224-40306 totaling \$435,858.38, Void Check No. 40175 in the amount of \$718.92, Total Vouchers Approved: \$662,138.84]; (B) April 12, 2016 City Council Regular Meeting Minutes; and (C) Bid award for the Library and Community Center door replacement project. On vote the motion carried (5-0-0-2).

Public Hearing:

Public Hearing for Proposed Amendments to City's Marijuana Regulations and Repeal Moratorium on Retail Facilities; Adopt Ordinance 958 and Repeal Ordinance 941: Deputy City Clerk Kathy Pugh opened the public hearing and read the rules of procedure for the record.

Interim Planning and Community Development Director Russ Wright presented the staff report. He reviewed the history of legalization of marijuana beginning in 2012 with the passage of I-502 legalizing the production, processing, sale and use of marijuana and marijuana products, and the subsequent reforms to the recreational and medical marijuana regulations recently adopted by the Legislature. Following the passage of I-502 the City initiated a moratorium to allow time for it to develop its own marijuana regulations, and also the City took a "wait and see" approach to allow time for unknown legal issues to be resolved, such as the City's ability to ban marijuana or to design its own regulations.

Director Wright reviewed that in 2014 the City Council did adopt local regulations for marijuana. Prior to doing this the Council did ban medical marijuana cooperatives because it was an unregulated industry at that time and continued that way for a couple of years. In 2015 the Legislature adopted major modifications to the state marijuana regulations, with the intent to place both medical and recreational marijuana under the control of the newly renamed Liquor and Cannabis Board, which is a major step forward in regulating medical marijuana.

Additionally it was thought this legislation would help tighten up the unregulated marijuana market.

When the City adopted its own regulations it did some things differently than the state. These included setting a local cap of 100,000 square feet for production and processing facilities in the City. Director Wright distributed a handout showing a summary of the eight I-502 production and processing facilities currently located in Lake Stevens. The City has licensed approximately 63,000 square feet of production and processing facilities.

Director Wright next referred to his second handout, an overlay map showing the locations where marijuana facilities can locate in the City. He reminded of the 1,000 foot protective buffer for protected facilities such as schools. He reviewed that marijuana production and processing is allowed in the Hartford Industrial area, and all of the currently licensed marijuana are located there. He said the Commercial District would allow a retail location, but not production and processing.

Last year Staff requested guidance from Council following state amendments and the Liquor and Cannabis Board's removal of the cap for retail locations. The Council adopted a moratorium so these topics could be revisited. Following this the Liquor and Cannabis Board made some additional changes that would allow the City of Lake Stevens to have two retail locations.

Under the moratorium the City planned to look at these changes, as well as the City's co-location prohibition, specifically as it relates to two facilities located in the same building. The City has found that when a marijuana business is in place other businesses are not locating next to it so it made sense to revisit this. This would leave other buildings open for other uses. Also there was concern regarding market saturation and so it was appropriate to look at whether the 100,000 square foot cap is still appropriate, or should it be reduced. The Planning Commission discussed this and concluded the 100,000 square foot cap is appropriate.

Director Wright said that definitions were also updated for consistency with State definitions, together with general cleanup. One recommendation was to change the process for the facilities from an outright permitted use to a use that requires an administrative conditional use permit. This was done because in the licensing process City staff spends a lot of time coordinating with other state and local agencies to ensure the businesses meet the performance standards in the industrial area.

The Planning Commission completed a public hearing process and determined to make recommendations on each of the amendments rather than recommending as an entire amendment. The City Attorney has reviewed the ordinance and made changes. Additionally, the process has gone through the entire public process including notifications to the community, a non-project environmental review, review by state and local agencies, and a review of the comprehensive plan to ensure consistency.

Mr. Wright next reviewed the Planning Commission recommendations which include remove the co-location provision, modify the definitions, authorize the sale of medical marijuana at licensed retail locations with the required endorsement from the Liquor and Cannabis Board, limiting the retail locations to the current one store allocated and not accept a second store, and that this be revisited in a couple of years. The Planning Commission also recommended that the 100,000 square foot cap be retained for marijuana production and processing, and that the permitting

process be changed to administrative conditional use permit. Director Wright also reported the public hearing was well attended.

Director Wright then responded to Councilmembers questions, including how additional retail stores are added and whether applications are pending, concerns about odor, and what would be allowed for sale of medical marijuana, including documentation of sales, and timing as to revisiting this ordinance in the future.

Director Wright responded to questions regarding licensing and tiers. He explained there are three tiers and when the City adopted its ordinance it limited facilities to Tier 2. Due to the rapid market growth Washington State Liquor and Cannabis Board reduced the Tier 2 facilities cap. The tier defines the area allowed for growing. The City's requirement is more restrictive because it is a total area devoted to both the growing and production portions of the business. This is really measuring the gross square footage of a building.

Mayor Spencer invited public comment from the audience.

Megan Stevens, 2906 113th Ave SE, Lake Stevens, supports the Planning Commission recommendation to cap the number of retail operations to one.

Telisha Packard, 924 117th Drive SE, Lake Stevens, also supports capping the number of retail locations to one.

Rhonda Call, 11029 30th Street SE, Lake Stevens, also supports capping the number of retail locations to one.

Jeff Greenhaw, 8142 NE 145th Place, Kenmore, commented he is the largest grower, and under the Tier 2 cap he can only use 10,000 square feet. He can apply for an endorsement to grow medical marijuana, but the state caps are higher. The City's cap means he cannot move into the rest of his building and move into the medical market. He commented the state requirements for odor are very strict. He does not support the lower cap.

Don Hartleben, 11704 20th Street NE, Lake Stevens, said the Planning Commission minutes need to be corrected. He clarified he does not want to open a retail location, but he was speaking on behalf of allowing a second store. He is tired of the stigma of marijuana, and alcohol is worse.

Daniel Tuengel, 7006 SR 9, Lake Stevens, commented there is a huge stigma associated with marijuana. He supports multiple retail locations and believes this would be a benefit to the community.

Stephanie Hansen, 1330 113th Avenue SE, Lake Stevens, spoke against allowing more than one retail location.

Kristi Tuita, 11805 1st Place SE, Lake Stevens, supports limiting retail to one location.

MOTION: Councilmember Daughtry moved, Councilmember Welch seconded, to close the public comment portion of the public hearing. On vote the motion carried (5-0-0-2).

MOTION: Councilmember Daughtry moved, Councilmember Tageant seconded, to close the public hearing.

Director Wright responded to additional questions of Council including the difference in growing retail vs. growing medical marijuana, whether it would be possible to split the cap between medical and retail marijuana, and how are recreational and medical marijuana retail customers differentiated.

VOTE: On vote the motion carried (5-0-0-2).

Councilmember McDaniel said she would like to see language showing how many businesses could be located in one facility, or if a split wall is inserted in a facility how that affects the Tier 2 cap of 60,000 square feet. She particularly would like more clarity on co-location. She also requested data from the Police Department on the positive and negative impacts of marijuana production, processing and sale to the community.

Councilmember Tageant would like to keep the cap where it is until the space is fully used, he would like to make sure odor issues are addressed and also to review with Council whether one retail location is servicing the community adequately.

Councilmember Welch is opposed to the sale of medical marijuana.

MOTION: Councilmember Daughtry moved, Councilmember Tageant seconded, to hold a first reading of Ordinance 958 Related to the Licensing, Production, Processing and Sale of Marijuana and Marijuana Products, Adding Definitions in LSMC 14.08.010, Amending LSMC 14.40.040; Amending Table 14.40-I of Chapter 14.40 LSMC; amending LSMC 14.44.097; and Repealing Ordinance 941, a Twelve (12) Month Moratorium Temporarily Prohibiting the Establishment, Siting, Location, Permitting, Licensing or Operation of New Retail Locations, and to hold a second reading of Ordinance 958 at the May 10, 2016 Council meeting. On vote the motion carried (5-0-0-2).

Mayor Spencer noted it was close to 9:00 p.m. and there was consensus among Council to extend the meeting thirty minutes.

Action Items:

Resolution 2016-07 Setting Public Hearing for Intention of Designating an Area to Provide for a Property Tax Exemption for Industrial/Manufacturing Industries: Director Wright presented the staff report and explained that in 2015 the Legislature enacted legislation providing a 10-year exemption from ad valorem property taxes imposed by certain cities for the value of new construction of qualifying industrial/manufacturing facilities. Lake Stevens is qualified under this legislation to provide this development incentive. Director Wright said the area impacted by this proposal is the Light Industrial and General Industrial zoning districts located in the Hartford area, along with the Business District zoning district located in the 20th Street SE corridor. In order to move forward the Council needs to approve Resolution 2016-07 which sets a public hearing to take formal action by ordinance. The public hearing would be scheduled for May 10, 2016. Director Wright invited questions and there were none.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Low, to approve Resolution 2016-07 Setting a Public Hearing for the Intention of Designating an Area to Provide

for a Property Tax Exemption for Industrial/Manufacturing Industries. On vote the motion carried (5-0-0-2).

Traffic Calming Program: Civil Engineer Adam Emerson presented the staff report and said that tonight's action is to approve the 2016 Traffic Calming Program. Mr. Emerson said the program puts policies and intent in place to guide Staff's responses to traffic issues that are brought forward, and that the proposed program is aimed at providing a fair and economic way of addressing citizen concerns about speeding in the City. The Public Works Subcommittee has reviewed this and had no comments on changes to this program. Mr. Emerson invited Councilmembers' questions and there were none.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember McDaniel, to approve the Traffic Calming Program 2016. On vote the motion carried (5-0-0-2).

Supplemental Agreement No. 1 to Master Professional Services Agreement with Amec Foster Wheeler for Lundeen Park Tree Replacement: Public Works Director Mick Monken presented the staff report and reviewed that the City has removed trees from Lundeen Park for sight visibility and to address some danger trees. Additionally 72 more danger trees have been identified for removal. Because these trees are mature, under the City's code a tree replacement plan is required. The City has a Master Professional Services Agreement with Amec Foster Wheeler who provides landscaping planning as one of their services. Director Monken invited questions and there were none.

MOTION: Moved by Councilmember Low, seconded by Councilmember Tageant, to authorize the Mayor to enter into Supplemental Agreement No. 1 to Master Professional Services Agreement with Amec Foster Wheeler for Lundeen Park Tree Replacement. On vote the motion carried (5-0-0-2).

Supplemental Agreement No. 2 to Master Professional Services Agreement with Tetra Tech for Engineering Services for 36th Street NE Bridge Inspection Service: Director Monken presented the staff report and said that following the County's recent bridge inspection it was recommended that the City perform a load rating and scouring review of the 36th Street NE Bridge. This action is considered a pro-active risk assessment to ensure the integrity and safety of the bridge. Director Monken then responded to Councilmembers' questions.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Daughtry, to approve services and authorize the Mayor to enter into Supplement Number 2 with Tetra Tech to perform bridge inspection services on the 36th Street NE Bridge for an amount not to exceed \$11,970. On vote the motion carried (5-0-0-2).

Approve Resolution 2016-080 Directing the Establishment of Policies and Procedures for the Use of Body Cameras by Law Enforcement: Chief Krusey presented the staff report and said that the Legislature adopted legislation intended to address new and up and coming technologies and establishing guidelines for the use of body cameras. The Legislature strongly encouraged cities not currently deploying body cameras on the effective date of the legislation to adopt an ordinance or resolution authorizing the use of body worn cameras prior to their use by law enforcement. Chief Krusey then responded to Councilmembers' questions.

MOTION: Moved by Councilmember Daughtry, seconded Councilmember McDaniel, to approve Resolution 2016-080 Directing the Establishment of Policies and Procedures for the Use of Body Cameras by Law Enforcement. On vote the motion carried (5-0-0-2).

Approve First Reading of Ordinance 959 Prohibiting Occupying Properties that Lack Adequate Water or Sewer Service: Chief Krusey presented the staff report and said that adoption of this ordinance makes it illegal to occupy premises that do not have water or sewer service. The ordinance also provides for code enforcement if such premises are occupied. Chief Krusey then responded to Councilmembers' questions.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Tageant, to approve the first reading of Ordinance 959 Prohibiting Occupying Properties that Lack Adequate Water or Sewer Service. On vote the motion carried (5-0-0-2).

Executive Session: None.

Study Session:

First Quarter Financial Update: There was consensus to carry this agenda item over to the May 10, 2016 meeting.

Adjourn:

Moved by Councilmember Low, seconded by Councilmember Welch, to adjourn the meeting at 9:07 p.m. On vote the motion carried (5-0-0-2).



John Spencer, Mayor



Kathy Pugh, Deputy City Clerk