

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

Tuesday, January 24, 2017

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: Councilmembers Kim Daughtry, Gary Petershagen, Kurt Hilt, Todd Welch, Rauchel McDaniel, Kathy Holder, Marcus Tageant

ELECTED OFFICIALS ABSENT: None.

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director/City Clerk Barb Stevens, Community Development Director Russ Wright, Police Chief John Dyer, Human Resources Director Steve Edin, Deputy City Clerk Kathy Pugh, City Attorney Grant Weed, Civil Engineer Adam Emerson, Economic Development Coordinator Jeanie Ashe, Senior Planner Stacie Pratschner, Accountant Joan Norris, Detective James Barnes, IT Department Manager Troy Stevens, Detective Jerad Wachtveitl, Records Specialist Jenn Anderson

OTHERS: Consultant Mary Swenson, Fire Chief Kevin O'Brien, Fire Marshal Mike Messer

Pledge of Allegiance: Mayor Spencer called the meeting to order and led the Pledge of Allegiance.

Roll Call: All present.

Approval of Agenda: Council President Hilt said that Action Item A, Authorize Appointment of Civil Service Commissioner, will be moved to immediately follow the Consent Agenda.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Daughtry, to approve the agenda with the noted change. On vote the motion carried (7-0-0-0).

Guest Business: None.

Oath of Office: Mayor Spencer administered the Oath of Office to Police Officer Chris Shedler.

Employee Recognitions: Mayor Spencer recognized and thanked Mary Swenson for her service, energy and dedication to Lake Stevens as Interim City Administrator, and presented her with a Certificate of Appreciation.

Mayor Spencer next recognized the following staff, each of whom have provided 10 years of service to the City, and provided them with a Certificate of Appreciation and commemorative

gift: Troy Stevens, IT Department Manager, Joan Norris, Accountant, Jenn Anderson, Police Records Specialist, Detective Jerad Wahchtveitl, and Detective Jim Barnes.

Council Business: Council President Hilt reported on the Council Retreat, including that the 2016 retreat agenda and goals were reviewed and that many of the 2016 identified goals were achieved. He next commended staff and thanked Mary Swenson for their hard work. Council President Hilt made suggestions he believes will improve the City Council regular meetings, including that each subcommittee select a chairperson to facilitate the subcommittee meetings and update the Council on the subcommittee activities during the regular Council meeting, and that the Mayor preside over the Council meetings rather than the Mayor and Council President.

- Councilmember Daughtry: Snohomish County Cities for Improved Transportation (SCCIT), Sewer subcommittee.
- Councilmember Petershagen: Retreat.
- Councilmember Hilt: AWC Action Days and National League of Cities conferences are coming up in February and March respectively.
- Councilmember Welch: Arts Commission, Library Board, passage of Library bond issues are dependent on the percentage of voter turnout based on the most recent election, which was the Presidential election.
- Councilmember McDaniel: Fire Commission.
- Councilmember Holder: No report.
- Councilmember Tageant: Public Safety subcommittee, Sewer District.

Mayor's Business: North County Mayors meeting – reviewed Snohomish County transportation projects and they are trying to synchronize efforts to ensure that transportation funding stays solid in Snohomish County this year; Sewer Utility committee – funding priorities.

City Department Report.

- Chief Dyer: Point in Time Count for Homeless with Family Center.
- Human Resources Director Edin: Started recruiting for City Hall Administrative Assistant.
- Community Development Director Wright: Next downtown subarea meeting is January 25, 2017 at Community Center.
- City Administrator Brazel: Meeting with Food Bank representative; meet and greet for Public Works Director candidate on Thursday, January 26, 2017 and Friday, January 27, 2017.

Consent Agenda:

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Hilt, to approve (A) 2016 Vouchers [Electronic Funds Transfers (ACH) of \$30,963.44, Claims Check Nos. 41731-41803 totaling \$323,505.35, Void Check No. 41002 in the amount of \$32,655.71, Previous Period Voucher 41695 in the amount of \$746.20, Total Vouchers Approved: \$322,559.28]; (B) 2017 Vouchers [Payroll Direct Deposits of \$163,479.52, Payroll Check Nos. 41726-41728, 41730 totaling \$10,051.92, Tax Deposits of \$68,637.13, Electronic Funds Transfers (ACH) of \$119,054.80, Claim Check Nos. 41729, 41804-41827 totaling \$529,648.40, Total Vouchers Approved: \$890,871.77]; (C) City Council Workshop Meeting Minutes of December 13, 2016, (D) City Council Regular Meeting Minutes of January 10, 2017, (E) Small Public Works Contract with All Phase Brush & Land Clearing for Tree Removal Services; and

(F) Amendment No. 1 to Professional Services Agreement with Mary Swenson. On vote the motion carried (7-0-0-0).

Action Items:

Appointment of Ray Mitchell as Civil Service Commissioner: Mayor Spencer said that he recommends, following interviews, the appointment of Ray Mitchell for appointment to the City's Civil Service Commission. This appointment would be to fill a vacant position for a term that expires July 1, 2019.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Tageant, to appoint Ray Mitchell to the Civil Service Commission to fill a vacant position for a term that expires July 1, 2019. On vote the motion carried (7-0-0-0).

Public Hearings:

Second Reading and Approval of Ordinance No. 972 re International Building Code:

Mayor Spencer opened the Public Hearing and reviewed the Public Hearing process.

Senior Planner Stacie Pratschner presented the staff report and said tonight's meeting is a second reading of the proposed code amendments and adoption of Ordinance 972, adopting those amendments. She reviewed that at the January 10, 2017 meeting Council had questions regarding the proposed amendments to the Fire Code and that Fire Marshal Mike Messer would review the additional changes since that last Council meeting. Planner Pratschner said that comments from the Master Builders Association were distributed this evening with suggestions for adoption of language that would allow more administrative discretion to staff, particularly in relation to Appendix D, and also concerning fire and rescue operations as described in LSMC 14.84.180. Planner Pratschner also reviewed the recommendation that when conflicts occur between the adopted appendices and the Lake Stevens Municipal Code, or the City's adopted engineering and design standards that the city regulations will apply. Language is also included that the fire code waiver modifications will be reviewed in coordination with the Fire Marshal and City staff, and also including that the municipal code will apply in the case of any conflict, including in the administration of the fire apparatus access road standards.

Fire Marshal Mike Messer reviewed the additional amendments to the Fire Code and reminded that these fire code amendments are mandated at the federal level, and that the City's adoption of these amendments will close any gaps between the two codes. Fire Marshal Messer said that the proposed amendments provide for strategic placement of fire protection facilities, including fire hydrants and fire department connection placements, standardizing functionality of fire alarms and knox boxes, and providing for safe growth for the City now and in the future. This is accomplished through the requirements of Appendix D, including providing for secondary access to large residential communities, tall buildings taller than 35 feet, and improved road widths based on parking and fire hydrant placement. There is also a provision that if developers cannot meet the strict requirement of the code they can be allowed to meet the intent of the code by providing modifications that are proven to be of an equal level of safety as required by the code. These modifications will be approved by the Fire Department in collaboration with the City.

Planner Pratschner and Fire Marshal Messer then responded to questions from the Mayor and Council. Marshall Messer noted that updates to the code are made once every three years, but procedurally the City can initiate a code amendment when it is identified as part of the annual planning docket.

Mayor Spencer invited public comment.

Patrick McCourt, 10515 20th Street SE, Lake Stevens, speaking on behalf of the Master Builders Association, said that their staff did work closely with the City and all comments were addressed. What is contained in the document is supported by the Master Builders Association. Turning to his comments from the previous Council meeting, Mr. McCourt did meet with Fire Marshal Messer to review the comments he made and his comments are included in the modifications brought forward tonight. Mr. McCourt commended both City staff and the Fire Department for effecting a catch up to the outgrown codes.

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

MOTION: Moved by Councilmember Hilt, seconded by Councilmember Daughtry, to continue the public hearing to the February 13, 2017 Special Meeting in order for Council to review the written stakeholder comments. On vote the motion carried (7-0-0-0).

First Reading of Ordinance 985 re Stormwater Amendments:

Mayor Spencer opened public hearing.

Planner Pratschner presented the staff report and said tonight's requested action is to hold a public hearing and first reading of Ordinance No. 985 adopting the 2012 Department of Ecology Stormwater Manual as part of the City's Municipal Code. The proposed code amendments are requirements under the Federal Clean Water Act. Planner Pratschner reviewed some of the specific amendments, and also how the City plans to implement the amendments. She added that Staff has reached out to stakeholders for their input, and in order to allow time to hear back, Staff will bring this ordinance back for a second reading at the February 13, 2017 Special Meeting. She also noted under new case law that courts have determined that Stormwater regulations are not a local land use control, but are instead a state mandated regulation and are treated differently under vesting law. Planner Pratschner reviewed that Staff has met all procedural requirements in bringing this Ordinance forward. She noted that Staff has received comments from the Master Builders Association, and Staff has worked with the Master Builders Association to address those comments.

Responding to a question from Councilmember Hilt, Planner Pratschner explained that Stormwater retention facilities, such as a swale or rain garden are already vegetative in nature, so requiring additional landscaping would be onerous, as opposed to a "hard" facility such as a stormwater pond or vault that does not include vegetation by design. The screening is directed to address the large above-ground structures such as vaults and stormwater ponds.

Councilmember Petershagen asked if there has been discussion or analysis regarding impacts of these code amendments to the City's buildable land.

Planner Pratschner said the new stormwater manual does not make reference as to how the new requirements will affect buildable lands, and it is designed in such a way that developers will have to look at doing an LID prior to doing the hard structural development.

Councilmember Petershagen expressed concern that the City is contemplating adopting an ordinance put forward by Department of Ecology without analyzing the full impacts on the City's buildable lands, and whether the City will build out or if it will determine to build up.

Director Wright responded that the City will be going through a buildable lands process, but the City does do its own inventory of buildable lands as part of the Comprehensive Plan update and maintains its own records on the effect of buildable lands. Additionally, Council has vocalized that it wants to look at what lies beyond the City's current urban growth area boundaries and staff will begin that analysis in the near future.

Mayor Spencer invited public comment.

Patrick McCourt, 10515 20th Street, Lake Stevens, responded to Councilmember Petershagen's question regarding land inventory. He said that in speaking with the president of LDC Engineering and discussing the impact of the stormwater manual, he asked what is the impact to the vault size under the current manual. The response was that there are many factors, but the general rule of thumb is a 30% size increase. This is a real impact to useable land that could be used for housing or commercial uses. Mr. McCourt believes there is going to be a significant issue with useable land in Lake Stevens, and there are other factors impacting useable lands including steep slopes and existing zoning.

Mayor Spencer invited additional public comment and there was none. Mayor Spencer then closed the Public Comment portion of the Public Hearing.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Holder, to continue the first Reading of Ordinance No. 985 re Amendments to the City of Lake Stevens Municipal Code to Adopt the 2012 Department of Ecology Stormwater Manual. On vote the motion carried (7-0-0-0).

First Reading of Ordinance 984 re Critical Areas:

Mayor Spencer opened the public hearing.

Community Development Director Russ Wright presented the staff report and said tonight's requested action is to hold a public hearing and first reading of Ordinance No. 984 adopting changes to the Critical Areas regulations of the Lake Stevens Municipal Code. Director Wright reviewed the history of the proposed updates, the process for reviewing the Critical Areas regulations and the amendments that are proposed including looking for innovative mitigations for critical areas impacts. Director Wright noted this is not a "one size fits all" proposal. Staff has tried to achieve a balance with the new state level regulations vs. local control. He also noted there have been conversations with different stakeholders including Department of Ecology, and public comment was received during the public hearing before the Planning Commission. He then invited Councilmembers' questions.

In response to Councilmember Hilt's question, Director Wright said he has not reviewed Snohomish County's Critical Areas Regulations. Councilmember Hilt referenced a pending

lawsuit, and Director Wright said that Snohomish County did not adopt the new buffers, whereas the City did adopt the new buffers.

Responding to Councilmember Petershagen's question, Director Wright responded that trails can be located in the outer limits of buffers. The City's code provides for utility allowances through buffers, and some small structures such as an observatory for educational purposes can be built if they are associated with a trail. Primarily buffers are to serve as a set aside to protect the function of the associated critical area, and to provide habitat for urban wildlife.

Councilmember Petershagen encouraged that Staff evaluate the impacts that will be brought about by the proposed amendments, because the mitigation type and ratio being proposed is quite a change.

Mayor Spencer commented on the irony that the Growth Management Act was established to control urban sprawl, and now as the codes and manuals evolve cities run out of buildable land, with the option being to build up or to expand the urban growth area. Mayor Spencer suggested perhaps neighboring cities would have an interest in joining with Lake Stevens to address some of the concerns with the cities' legislators.

Responding to Councilmember Holder's question, Director Wright said that Department of Ecology has now developed a model ordinance, which the City reviewed as it developed its own draft ordinance, to make sure that we included all of the big picture elements in our ordinance. Department of Ecology has reviewed each iteration of the City's ordinance as it has evolved and has approved the document as written. There is not a hard date for adoption of the ordinance, but the City does need to remain compliant with the Growth Management Act and implement Comprehensive Plan updates; there is time to go through the process methodically.

Mayor Spencer invited public comment and there was none. Mayor Spencer then closed the Public Comment portion of the hearing.

Mayor Spencer closed the Public Hearing.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Tageant, to continue the first reading of Ordinance No. 984 re Critical Areas.

Councilmember Hilt requested that the City Attorney provide input as to the potential outcome of the Snohomish County lawsuit, and also that Councilmember Petershagen's concerns be addressed.

VOTE: On vote the motion carried (7-0-0-0).

Approve Grade Road Development Agreement:

Mayor Spencer opened the public hearing.

Director Wright distributed a revised staff report and development agreement, and Resolution 2017-03. Staff has continued to work closely with Lake Stevens Senior Housing, LLC ("LSSH"), and all parties have agreed to the elements of the development agreement. Director Wright explained that the City is in a purchase agreement with LSSH to sell the Grade Road property, and LSSH wants to gain certainty for how the property can be developed. Under Washington

State law there are a few tools that can be used to gain certainty for development, and one of those tools is a development agreement. The parties can enter into a development agreement that will vest the project. Things included in the development agreement include the intended uses, what are the vesting rights, what are the exclusions, and if there are any special terms in the agreement. The proposed project that LSSH would like to build in three phases includes (1) about 170 units of assisted living, with 50 of those units being for memory care, (2) about 30,000 square feet of medical offices/retail space for that community and the greater downtown community, and (3) construction of an additional 150 residential units. This project will be complimentary to the goals of the downtown redevelopment. Director Wright believes this development agreement protects both the developer's and the City's interests.

Responding to Councilmember McDaniel's question on whether there would be sidewalk improvements, Director Wright said that before Council this evening is a concept level site plan that does not include construction details, but yes, they would be required to build sidewalk and frontage on Grade Road.

Councilmember Welch commented on SB5212 regarding vesting, and wondered if the City needs to take this into consideration. Mayor Spencer said the City will follow up on this with the City's government relations firm.

In response to Councilmember Petershagen's question as to whether the development agreement satisfies vesting, City Attorney Grant Weed said there is a lot of uncertainty because the Supreme Court ruling is very recent, but the development agreement contains language that should protect the developer's vesting rights, and also indemnifies the City as best as possible against any claims of vesting.

Mayor Spencer invited public comment.

Clay White of LDC, Inc., 20210 142nd Avenue NE, Woodinville, said he is on speaking on behalf of LSSH. He reviewed that the Grade Road property is one of two areas within the City zoned as Planned Business District. By definition this zoning designation is designed to accommodate commercial or mixed use development on sites containing sensitive resources, or due to other circumstances, detailed planning would benefit all property owners, as well as the public. This zone requires that the developer go through a Master Development Plan, and approval of this development agreement will provide some certainty to the developer that can be utilized as the phased development moves forward. He reviewed the three development phases and how they are envisioned. Critical areas assessments will dictate what the final development plan is. LSSH is hoping to complete the permit process this year and begin construction of Phase 1 in 2018 with the remaining phases following in succeeding years.

Pat McCrory, 2504 Meadow Drive, reviewed previous efforts to develop land known as The Meadow, but what did not come out to the public was the condition of the land, which is water saturated. He expressed concern about how the property will support the proposed development and provided photos of the property for distribution to Council.

Mayor Spencer closed the Public Comment portion of the Public Hearing.

Mayor Spencer closed the Public Hearing.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve Resolution 2017-03 authorizing the Mayor to enter into the Grade Road Development Agreement. On vote the motion carried (7-0-0-0).

Study Session: None.

Executive Session: Mayor Spencer announced an executive session beginning at 8:24 p.m. and lasting 20 minutes for the purpose of discussing pending litigation, with no action to follow.

At 8:44 p.m. the regular meeting of the City Council was reconvened.

Adjourn:

Moved by Councilmember Welch, seconded by Councilmember McDaniel, to adjourn the meeting at 8:44 p.m. On vote the motion carried (7-0-0-0).



John Spencer, Mayor



Kathy Pugh, Deputy City Clerk