

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

Tuesday, December 12, 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 City Mayor Pro Tem Marcus Tageant

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Gary Petershagen, Todd Welch, Rauchel McDaniel, Kathy Holder and Marcus Tageant

ELECTED OFFICIALS ABSENT: Mayor John Spencer and Councilmember Hilt

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Finance Director/City Clerk Barb Stevens, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Chief John Dyer, Human Resources Director Teri Wright, Deputy City Clerk Kathy Pugh, City Attorney Grant Weed, Police Commander Ron Brooks; Economic Development Coordinator Jeanie Ashe; Senior Planner Josh Machen

OTHERS: Doug Levy, Outcomes by Levy

Pledge of Allegiance: Mayor Pro Tem Tageant led the Pledge of Allegiance.

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

Approval of Agenda: Staff requested recognition of Councilmember Holder be removed from the agenda and said this would be rescheduled at a later date.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to approve the agenda as amended. On vote the motion carried (6-0-0-1).

Guest Business: Doug Levy, Outcomes by Levy, introduced himself and noted that Lake Stevens' funding requests are still in place. He then reviewed the proposed 2018 Legislative Priorities, including top priority issues such as transportation needs and funding, and tools to address affordable housing and homelessness which impact the city directly. Other priorities that affect the city and adjoining municipalities were also reviewed and include public safety, the need to preserve state-shared revenues, protection of local rights-of-way and authority with respect to the deployment of small cell ("5G") technology, and economic development incentives that support bringing Class A office space to non-King County cities. Mr. Levy also reviewed the ongoing legislative matters that will be tracked and monitored. He then invited Councilmembers' input for finalization of the 2018 Legislative Priorities and responded to Councilmembers' questions. Mr. Levy requested Council approve the 2018 Legislative Priorities by motion. There was consensus of Council to bring this back for formal approval at the first meeting in January to allow for adequate public notice.

Citizen Comments:

Misha Jackson, introduced herself and said she is with Senator Steve Hobbs' office. She is Senator Hobbs new Legislative Assistant and will be focused on transportation issues.

Jennifer Smolen, introduced herself and said she is also with Senator Steve Hobbs' office, and congratulated the community for their civic involvement.

Council Business:

Oath of Office: City Attorney Grant Weed administered the oath of office to newly elected Councilmembers Gary Petershagen, Kim Daughtry, Brett Gailey and Marcus Tageant.

Boards and Commissions Reappointments: Mayor Pro Tem Tageant said there are three reappointments to City Boards and Commissions, which are Vicki Oslund to the Planning Commission, and Marlene Sweet and Susan Green to the Parks Board.

MOTION: Moved by Councilmember Petershagen moved, seconded by Councilmember Holder, to reappoint Vicki Oslund to the Planning Commission, and Marlene Sweet and Susan Green to the Parks Board for terms beginning January 1, 2018 and ending December 31, 2021. On vote the motion carried (6-0-0-1).

Mayor Pro Tem Tageant then administered the oath of Office to Ms. Oslund, Ms. Sweet and Ms. Green.

Councilmember Holder appreciated Marlene Sweet's work with Eagle Ridge Park and thanked her.

Veterans Commission Reappointments: Mayor Pro Tem Tageant reviewed that when the Veterans Commission was established, the initial appointments were for staggered terms, with three of those terms ending December 31, 2017. Councilmembers Hilt, Daughtry and Tageant were appointed to those three short-terms. The Veterans Commission is moving forward developing its work program and the next meeting will be in January, prior to the Council's first meeting. The requested action is that Councilmembers Hilt, Daughtry and Tageant be reappointed to the Veterans Commission for three year terms expiring December 31, 2020.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to appoint Councilmembers Hilt, Daughtry and Tageant to the Veterans Commission for three year terms beginning January 1, 2018 and expiring December 31, 2020. On vote the motion carried (6-0-0-1).

Certification of Board of Health Representative and Community Transit Liaison: Mayor Pro Tem Tageant said the Board of Health meets prior to the Council's first meeting in January and that in order to participate, board members must be certified as the City's representative prior to that meeting. Councilmember Hilt is requesting to be re-certified as the City's representative to the Board of Health in 2018. Additionally, the Community Transit board also meets prior to Council's first meeting in January, and the request is that Councilmember Daughtry be appointed the City's liaison to the Community Transit board.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Welch, to certify Councilmember Hilt as the city representative to the Board of Health, and appoint

Councilmember Daughtry as the liaison to the Community Transit Board. On vote the motion carried (6-0-0-1).

Mayor Pro Tem Tageant recognized outgoing Councilmember Holder and invited her to share her highlights while serving as a councilmember.

Councilmember Holder said it has been a pleasure to serve on the Council for the last ten years. She has worked on and with the Parks Board, and with annexations, including bringing the Lake Drive area, and then Frontier Village area, into the city. She complimented city staff and departments including the Planning and Police Departments. She noted the city has gone through some very difficult times during the recession and came out fiscally sound, and now there are new challenges for the city with the end of the recession, and new growth. She encouraged students in the audience to learn and stay involved with the community.

Consent Agenda:

MOTION: Moved by Councilmember Welch, seconded by Councilmember Daughtry, to approve (A) 2017 Vouchers [Payroll Direct Deposits of \$220,300.62, Payroll Checks 44026-44028 totaling \$5,237.86, Tax Deposits of \$93,747.60, Electronic Funds Transfers (ACH) of \$239,302.12, Claims Check Nos. 44029-44119 totaling \$380,264.96, Total Vouchers Approved: \$938,853.16], (B) City Council Regular Meeting Minutes of November 28, 2017, (C) Contract with Feldman & Lee for Public Defender Services, (D) Cancellation of January 23, 2018 City Council Meeting and Special Meeting on January 22, 2018, (E) Final Acceptance of 2017 Pavement Overlay Project, and (F) Lease to Own Sales Agreement with Komatsu re Excavator. On vote the motion carried (6-0-0-1).

Public Hearing:

Public Hearing re Ordinance 1009 Amending Marijuana Regulations: Mayor Pro Tem Tageant opened the public hearing.

Director Wright presented the staff report and said tonight Council is requested to hold the public hearing and approve Ordinance 1009 amending the City's marijuana regulations to prohibit marijuana sales in the Commercial District, and repealing Ordinance 1003. He reviewed the public process, noting that it was very thorough, and said both the Planning Commission and Council have reaffirmed their desire to maintain the City's current allocation for marijuana retail facilities as one. Additionally, the Planning Commission has recommended, and the City Council has reviewed the recommendation, to limit marijuana retail sales to the Industrial District and disallow it as a permitted use in the Commercial District. Director Wright added there has been a lot of public comment during the public process, both for and against this code amendment. He then invited Councilmembers' questions and there were none.

Mayor Pro Tem Tageant next invited public comment and said public comment will be limited to two minutes so that everyone can be heard.

City Attorney Weed recommended that proponent comments be heard first, followed by opponent comments.

Cynthia Tamlan, is a business owner and parent, and is epileptic. She commented the arguments against amending the marijuana regulations make no sense and do not take into account the medical benefits of marijuana and reek of judgment.

Barbara Dykes Ehrlichman, is an attorney representing applicant Shawn Preder, who applied for a second retail store in Frontier Village. Mr. Preder has a license from the state, and has rented a facility in Frontier Village, which was a requirement of the state to obtain the license. He relied on the fact that the city code allowed marijuana stores in Commercial zoning. Ms. Ehrlichman said there is a sound factual basis to allow a second retail store in the Commercial zone.

Shawn Preder, 2523 85th Avenue NE, Lake Stevens, spoke in support of his application. He wants to work with the Council to make his store a good store, and added that local businesses support his application and business. He has tried to meet with Council to understand their concerns and address them. He did look at the zoning and code before leasing this commercial space.

Monica Preder, 2523 – 85th Avenue NE, Lake Stevens, attended the Planning Commission meetings and learned that it is a moral value for people who oppose another shop. She believes it is wrong to go against what has already been approved by the state. Ms. Preder spoke to many business owners who support a new retail shop and she hopes the Council will come to a different decision.

Megan Crawford 4525 – 91st Avenue NE, Lake Stevens, supports signage and said it is a sign of pain relief. She is a burn survivor and uses marijuana for pain relief. Better locations make it easier for people to access stores to meet their medical needs.

Keith Bruce, 1715 – 83rd Avenue SE, Lake Stevens, supports the Preders and their business, and supports marijuana use for medical purposes. He asked that people be more open-minded.

Amber Stein, 419 – 95th Drive, Lake Stevens, supports a second location and competitive business. She commented that other cities don't experience problems with additional locations and the applicant is willing to work with city.

Kimberly Shipman, 3221 Catherine Drive, Lake Stevens, and owns Kids Way Childcare & Early Learning Center in downtown Lake Stevens. Ms. Shipman said the only pro for not limiting marijuana retail stores to the industrial area is money. She does not believe that limiting zoning will create a hardship for those wishing to purchase marijuana due to the number of retail locations in close proximity to Frontier Village. For her the question is how does Lake Stevens want to present itself and be known.

Natalie Lavering, 906 – 123rd Avenue NE, Lake Stevens, chose to raise her children here due to the wholesome, family atmosphere of the community. She does not support a second retail store, particularly in the Frontier Village area as it not an image she wants to promote as a family value.

Megan Stevens, 2906 North 13th Avenue SE, Lake Stevens, opposes a second retail location and amending the Commercial zone to allow a second retail location. She believes it is a good thing that even though marijuana retail is legal in the state, the community can determine what comes into the community. She does not believe a second location is necessary and noted there are other accessible retail locations in the area.

Steven Ewing 8617 – 11th Street NE, Lake Stevens, agrees there is not a business need for additional retail outlets, and added that a business and market need has not been

demonstrated. A second retail store is not representative of the community and the city needs to look at the long-term effects.

Darren Stevens, 2906 – 113th Avenue SE, Lake Stevens, opposes a second retail store and concurs with what has been said previously. Accessibility is not an issue.

Janice Huxford, 625 South Lake Stevens Road, Lake Stevens, commented that an inordinate amount of time has been focused on this topic and requested that Council please make a decision and set aside this topic so that everyone can get refocused on other projects in the community.

Mayor Pro Tem Tageant invited additional public comment and there was none; he then requested a motion to close the public comment portion of the public hearing.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Petershagen, to close the public comment portion of the public hearing. On vote the motion carried (6-0-0-1).

Responding to Councilmember Petershagen's question, Attorney Weed said the city is not obligated to permit this activity even though a state license was granted.

Councilmember Welch said he opposes the ordinance. He is concerned about not allowing a legal product designed for retail purposes in a retail location of the city. He believes it sets a bad precedent and goes against the free market concept.

Responding to Councilmember Tageant's question, Director Wright said that when the applicant rented its spot, the location would be allowed under the current regulations. Director Wright clarified that the zone was allowed but that staff denied the application and the application to the Liquor and Cannabis Board because city regulations allow only one retail location.

Councilmember Daughtry asked if the current retail location on Hartford could be moved right now to the commercial zone. Director Wright responded no, as Council has enacted an interim ordinance that does not allow marijuana retail in the Commercial district. A single store could have located legally in the Commercial zone if there was a single retail store in the community.

Councilmember Holder clarified that only one retail store is allowed and the existing retail store would need to close before a new one could open.

Director Wright said that the state allows two stores in Lake Stevens, but that city code does not. Attorney Weed clarified that the Attorney General's office has determined that local entities such as cities and towns can regulate the number of stores and their locations, irrespective of whether a state license is granted. So far, the courts have upheld the right of local jurisdictions to regulate marijuana stores.

Councilmember Holder reviewed the process for setting the City's current regulations and believes they were thorough and thoughtful.

Councilmember Tageant asked how many stores are located in the area and Director Wright responded there are five to ten stores located within ten miles of Lake Stevens.

Councilmember Holder commented she sees both sides and added that the city is currently working on a revitalization and beautification plan for downtown Lake Stevens and the Frontier Village area, and this retail location is proposed at a gateway to the city.

Councilmember Petershagen called for the vote.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Holder, to close the Public Hearing. On vote the motion carried (6-0-0-1).

MOTION: Moved by Councilmember Petershagen, seconded by Councilmember McDaniel, to approve Ordinance 1009, amending the City's marijuana regulations to prohibit marijuana sales in the Commercial District with the noted corrections, and repealing Ordinance 1003. On vote the motion carried (4-2-0-1).

Public Hearing re Ordinance 1004 Temporarily Prohibiting Safe Drug Injection Sites:

Mayor Pro Tem Tageant opened the public hearing.

Director Wright presented the staff report and said that tonight's hearing is for the purpose of allowing public comment on Ordinance 1004 temporarily prohibiting safe drug injection sites, and requesting that Council then direct staff as to how to proceed. Approval of this ordinance will provide a time for the city to study the changes in law and the attendant issues, and provide for a public process which would begin with the Planning Commission. Director Wright reviewed the options for moving forward and then invited Councilmembers' questions.

Councilmember Welch wondered why more time is needed for this topic. He does not support safe drug injection sites and the time it will take to move through this process. Director Wright responded that if changes are made to the Land Use code a public process is required, beginning with the Planning Commission.

Attorney Weed commented the primary purpose for adopting an interim ordinance is to stop an application being submitted during the time a regulation is not in the code and confirmed that a public process is required, although it may not need the full twelve months.

Mayor Pro Tem Tageant invited public comment.

Steve Ewing, 8617 – 11th Street NE, Lake Stevens, opposes safe injection sites.

Janice Huxford, 625 South Lake Stevens Road, Lake Stevens, urged that Council not support safe drug injection sites.

Kimberly Shipman, 3221 Catherine Drive, Lake Stevens, does not support safe drug injection sites and urged the Council to vote no.'

Mayor Pro Tem Tageant invited additional public comment and there was none.

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Daughtry, to close the public comment portion of the public hearing and the public hearing. On vote the motion carried (6-0-0-1).

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to direct staff to consider options for permanent regulations, including potentially banning supervised

drug consumption facilities within the City of Lake Stevens as part of the work program in 2018. On vote the motion carried (6-0-0-1).

Action Items:

Approve Resolution 2017-21 re Pellerin Annexation: Senior Planner Machen reviewed the history of this 10% annexation petition, including that Council previously adopted Resolution 2017-18 approving the petition with a Compact Residential zoning designation. Petitioners requested reconsideration, and Council directed staff to return with a new resolution repealing Resolution 2017-18 and accepting the 10% petition with changes to the zoning and a revised annexation boundary. He then responded to Councilmembers' questions.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to approve Resolution 2017-21 re Pellerin Annexation, accept the revised 10% Pellerin Annexation petition and authorize the circulation of a 60% petition, and require 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).

Approve Resolution 2017-22 re Rhodora Annexation: Senior Planner Machen reviewed the history of this 10% annexation petition, including that Council previously adopted Resolution 2017-19 approving the petition with a Compact Residential zoning designation. Petitioners requested reconsideration, and Council directed staff to return with a new resolution repealing Resolution 2017-19 and accepting the 10% petition which changes to the zoning. Planner Machen then invited Councilmembers' questions and there were none.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Welch, to approve Resolution 2017-22, accept the revised 10% Rhodora Annexation petition and authorize the circulation of a 60% petition, and require 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).

Approve Professional Services Agreement with Bruce Dees & Associates, LLC re Lundeen Park Restoration Project: Director Durpos presented the staff report and said approval of this professional services agreement is the first step in the restoration of Lundeen Park. He reviewed the bid process and said that Bruce Dees & Associates was selected as the best candidate based on their previous experience with Lundeen Park and their success with similar projects. Director Durpos then responded to Councilmembers' questions.

Councilmember Petershagen commented this has been presented to the Parks Subcommittee and they support this approach.

Councilmember Holder added the need for improvements at Lundeen Park has been under discussion for a while and requested the City move forward as soon as possible so that it is ready for use this summer.

MOTION: Moved by Councilmember Welch, seconded by Councilmember Holder, to authorize the Mayor to execute a Professional Services Agreement with Bruce Dees & Associates, LLC to provide design for the Lundeen Park Restoration project in the amount of \$57,903.00 with a management reserve of \$5,790.00. On vote the motion carried (6-0-0-1).

Accept a Citizen-Initiated Code Amendment to Establish a Model Home Ordinance:

Senior Planner Machen presented the staff report and said that staff is requesting direction regarding this citizen-initiated petition which proposes allowing the construction of multiple model homes within a proposed subdivision after preliminary plat approval is granted, but prior to the final recording of the plat. He then responded to Councilmembers' questions.

Responding to Councilmember Tageant's question, Planner Machen said downfalls include the risk of a market downturn. Planner Machen said there are legal remedies such as bonds and indemnifications, and added that developers cannot sell the model homes until the subdivision is completed and the plat is recorded.

Attorney Weed said that these concerns and issues can be included in any ordinance that is adopted.

Councilmember Holder asked about sewer and power access, and Planner Machen responded that would be included as part of the process as the city studies a model home ordinance.

There was consensus by Council to move forward with studying the feasibility of a Model Home ordinance.

Discussion Items: None.

Study Session: None.

Executive Session: Council President Tageant announced an executive session beginning at 8:53 p.m. and lasting seven minutes for the purpose of discussing a collective bargaining matter, with action to follow.


At 9:00 p.m. the regular meeting of the City Council was reconvened.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember McDaniel, to extend the meeting three minutes. On vote the motion carried (6-0-0-1).

MOTION: Moved by Councilmember McDaniel, seconded by Councilmember Petershagen, to authorize the Mayor to sign a three year collective bargaining agreement with the Lake Stevens Police Guild (LSPG) – Commissioned effective January 1, 2018 through December 31, 2020. On vote the motion carried (6-0-0-1).

Adjourn:

Moved by Councilmember Daughtry, seconded by Welch, to adjourn the meeting at 9:02 p.m. On vote the motion carried (6-0-0-1).



John Spencer, Mayor



Kathy Pugh, Deputy City Clerk