

**CITY OF LAKE STEVENS**  
**CITY COUNCIL REGULAR MEETING MINUTES**  
Tuesday, December 10, 2019  
Lake Stevens School District Educational Service Center (Admin. Bldg.)  
12309 22<sup>nd</sup> Street N.E. Lake Stevens

CALL TO ORDER: 7:30 p.m. by Mayor John Spencer

ELECTED OFFICIALS PRESENT: Councilmembers Kim Daughtry, Gary Petershagen, Kurt Hilt, Todd Welch, Rauchel McDaniel, Brett Gailey and Marcus Tageant

ELECTED OFFICIALS ABSENT: None

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, Community Development Director Russ Wright, Public Works Director Eric Durpos, Police Chief John Dyer, Commander Jeff Beazizo, Commander Ron Brooks, Interim Human Resources Director/Risk Manager Julie Good, City Clerk Kathy Pugh, City Attorney Greg Rubstello, Deputy City Clerk Adri Crim, Senior Engineer Grace Kane, Senior Planner Melissa Place, Capital Projects Coordinator Aaron Halverson, Surface Water Management Coordinator Leah Everett

OTHERS:

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**Pledge of Allegiance:** Mayor Spencer led the Pledge of Allegiance.

**Roll Call:** All present.

**Executive Session:** At 7:31 p.m. Mayor Spencer announced an executive session to last for 5 minutes regarding potential litigation, with no action to follow.

The regular meeting of the City Council reconvened at 7:37 p.m.

**Approval of Agenda:** Mayor Spencer commented on the Comprehensive Plan adopted on December 10<sup>th</sup> that calls for adoption of multi-family residential in the waterfront area, and this has raised a lot of questions. He requested Council add an agenda item to request a motion with a recommendation addressing these concerns and essentially delaying implementation of that goal in the Comprehensive Plan to allow time to study the goal and how it could be implemented, if at all.

In response to Councilmember McDaniel's question, Mayor Spencer said he is requesting this be added to the 2020 docket.

Council President Petershagen added there will be an executive session to review the applicants who have submitted for the Council vacancy created by Councilmember Gailey's resignation.

Moved by Councilmember Welch, seconded by Councilmember Gailey, to approve the agenda with the noted changes. On vote the motion carried (7-0-0-0).

**Citizen Comments:**

Brad Nysether, 525 E. Davies Loop Road, Lake Stevens, has lived adjacent to the lake for approximately 35 years, and was unaware of the proposed changes to the Comprehensive Plan; he is disappointed in the language that was used. Mr. Nysether opposes uncontrolled growth and asked that Council reopen discussions on the Comprehensive Plan.

Rich Metzner, 10404 Sandy Beach Drive, Lake Stevens, brought a petition with about 340 signatures to reconsider the Comprehensive Plan ordinance. Mr. Metzner appreciated Mayor Spencer's comments and Council's time on this, and said his concern is the language regarding multi-family in the waterfront zone, but there are inconsistencies in the plan as adopted. Mr. Metzner requested the process be slowed down and revisited to identify specific areas where this zoning would be allowed.

Darrell Moore, 12111 32<sup>nd</sup> Street NE, Lake Stevens, commented on the language in the Comprehensive Plan regarding multi-family in the shoreline zone and suggested either the idea be tabled or it be studied to ensure it is what was intended.

Charles Whipple, 10325 Sandy Beach Drive, Lake Stevens, is concerned about waterfront condos and preserving the quality of the lake and community. He encouraged the City needs to move forward with foresight and control.

Sally Jo Sebring, 1023 99<sup>th</sup> Avenue SE, Lake Stevens, believes that admitting mistakes is a good thing. She has not seen this happen in this city and said some decisions were made with no notice.

Dick Todd, 99<sup>th</sup> Avenue SE, Lake Stevens, discussed the Appearance of Fairness Doctrine, referencing the Comprehensive Plan adoption on December 10<sup>th</sup> and the rezoning of a specific property that was inserted into the plan known as 20<sup>th</sup> Point LLC, saying it represents a move to benefit a single council member and asked how this action could be taken against staff's recommendation.

**Council Business:**

- Councilmember Daughtry: Winterfest.
- Councilmember Petershagen: Meeting regarding facilities use at Pavilion.
- Councilmember McDaniel: Biscuit & Bean.
- Councilmember Gailey: Winterfest, Pavilion.
- Councilmember Tagueant: Winterfest.

**Mayor's Business:** No report.

**City Department Report:**

- City Administrator Gene Brazel: Senior Center.

**Consent Agenda:**

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Gailey, to approve:

- A. 2019 Vouchers [Payroll Direct Deposits of \$262,566.15, Payroll Check Nos. 49170-49171 totaling \$3,276.86, Electronic Funds Transfers (ACH) of \$163,991.19, Claims Check Nos. 49173-49238 totaling \$1,317,967.68, Total Vouchers Approved: \$1,747,801.88];
- B. City Council Workshop Minutes of November 19, 2019;
- C. City Council Regular Minutes of November 26, 2019;
- D. Interlocal Agreement with Arlington re Social Worker Grant;
- E. Amendment to Professional Services Agreement with Feldman and Lee re Public Defense Social Services Program;
- F. Amendment to Public Defender Agreement with Feldman and Lee;
- G. Interlocal Agreement with Snohomish County re Lake Management;
- H. Agreement with WSDOT re SR9 & 24<sup>th</sup> Roundabout;
- I. Amendment to Contract with Perteet re 20<sup>th</sup> Street SE Design;
- J. Everett Housing Authority:
  - Resolution 2019-20 Authorizing Everett Housing Authority to Operate in Lake Stevens;
  - Resolution 2019-21 Authorizing Everett Housing Authority to Operate in Lake Stevens re Hawkins House.

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

Mayor Spencer then noted that Tina Decker is present and is being reappointed to the Parks Board for a term beginning January 1, 2020 through December 31, 2023; he then administered the Oath of Office to her.

### **Public Hearing:**

**Costco Development Agreement:** Mayor Spencer said this is a continued public hearing from December 10, 2019 on the Development Agreement and reviewed the steps of the public hearing. He re-opened the public hearing and asked Council if they wish to re-open the public comment portion of the hearing.

Councilmember Tageant recused himself from the meeting and left the room.

**MOTION:** Moved by Councilmember Petershagen, seconded by Councilmember Gailey, to reopen the public comment portion of the hearing for comments that specifically address the development agreement, and that only those who have not spoken previously or who have not submitted written comments speak. On vote the motion carried (6-0-1-0) with Councilmember Tageant having recused himself and left the room.

Director Wright presented the staff report and briefly reviewed the history of this Development Agreement, including that the terms of the agreement were shared with the Council at the last Council meeting and that it is a contract between the City of Lake Stevens and Costco. He reminded this is an implementation of a process that was begun in 2012 when the Council adopted a growth strategy for the area, including the adoption of subarea plans, and added this is a legislative action.

Director Wright then reviewed the changes that were made to the development agreement since Council's review at the November 26<sup>th</sup> public hearing, including noting that additional written

comments received since that meeting have been provided to Council and some modifications have been made to the Development Agreement based on those comments, primarily directed to mitigation strategies. Director Wright then invited questions of Council.

Councilmember Petershagen asked if a development agreement is a normal course of business for projects this size and Director Wright responded that it is.

Mayor Spencer then invited public comment.

William Ryan, 1429 Avenue D, Snohomish, said he grew up on this property and he does not support putting a Costco on this piece of property. He added that he believes the City destroyed his family home based on a previous land trade.

Earl Gray, 2505 Meadow Drive, Lake Stevens, commented that Costco expressed their project is really about relief from existing Costco stores, and the purpose of the GMA is to concentrate growth to avoid urban sprawl. Lake Stevens is experiencing growth and Costco is a result of that growth. Mr. Gray commented it is really a Costco or something else, and Costco is a good neighbor, partner and employer.

Albert Lansing, 10610 20<sup>th</sup> Street, SE, Lake Stevens, is concerned about increased growth and traffic impacts that will result from Costco being located at the proposed site. He suggested all access should be from Highway 9 and keep 20<sup>th</sup> SE available to other businesses and residents. He then proposed a joined roundabout to facilitate traffic both entering the retail store and the gas station.

Nick Rodriguez, 7920 Vernon Road, Lake Stevens, commented that Costco's infrastructure allows it to minimize traffic through design. He believes growth will continue to happen with or without Costco, and Costco will provide jobs and revenue. He does not believe traffic is the biggest concern and encouraged it is time for the community to embrace Costco.

Doug Crawford, 10007 – 38<sup>th</sup> Place SE, Lake Stevens, shared a drawing of how the roundabout will affect traffic on SR 9 with or without Costco. He is concerned people accessing Costco will constrict 20<sup>th</sup> Street SE and Highway 9 and suggested a different retailer that does not draw a high traffic volume all of the time.

Josh DeWinter, 2511 121<sup>st</sup> Avenue SE, represents approximately 100 homeowners in the White Oaks neighborhood. The neighborhood is about 75% opposed to the Costco. They believe that if the development is not allowed the growth will slow down. Neighborhood concerns include increased traffic, noise and light pollution, and the impacts to animal habitat. His group does not care about possible tax revenue.

Mak Khadair, 10510 33<sup>rd</sup> Street SE, Lake Stevens, supports Costco coming to this community and believes it will be more efficient for the community to have a Costco; he noted Lake Stevens is currently limited in services.

Mike Fear, 820 99<sup>th</sup> Avenue SE, Lake Stevens, said he is not pro or anti Costco, but he does not support the location. Mr. Fear mentioned the difficulties of the waterline and other infrastructure, and said he is also concerned about traffic volumes. Mr. Fear is also concerned about a possible conflict of interest of one Councilmember and the potential cost of this development to the taxpayers of Lake Stevens. He encouraged the City proceed with caution.

Mayor Spencer clarified that Councilmember Tageant has recused himself for all Costco discussions including related property transactions and the Development Agreement.

Dan Meyers, 3313 – 127<sup>th</sup> Avenue NE, Lake Stevens, spoke last week in favor Costco. He suggested the Development Agreement could have been an advisory vote on the ballot and requested this vote be delayed so the next administration can make the determination. Mr. Meyers does not believe delay will affect the outcome, but it will make a difference to the citizens.

Doug Turner, 3201 South Lake Stevens Road, Lake Stevens, is concerned the UGA buffer requirements are being ignored and other maintenance services are not being provided; he also commented the proposed site is wetlands and does not need to be developed.

Pam Somers, 2411 118<sup>th</sup> Drive NE, Lake Stevens, spoke in favor of Costco; she believes Costco is a good partner and employer. Ms. Somers acknowledged the hard work that has gone into this and the angst about traffic, but she has faith in the work the Council has done.

Tina Decker, 11 79<sup>th</sup> Drive SE, Lake Stevens, supports this Costco. She is tired of driving out of the area to shop at Costco and is grateful to the Council for their vision to bring this company into the community; she is not concerned about the traffic based on the hours that Costco is open.

Christopher Rich, 1109 Vernon Road, Lake Stevens, supports Costco coming to Lake Stevens. He believes the sales tax revenue will build infrastructure and provide jobs. He commented Costco is a strong anchor business that brings in other businesses. Mr. Rich hopes that opposition to this project does not discourage city leaders from leading with clarity and vision to the benefit of the entire city.

There being no further public comment, Mayor Spencer closed the public comment portion of the hearing.

**MOTION:** Moved by Councilmember Gailey seconded by Councilmember Welch, to extend the meeting to 10:00 p.m. On vote the motion carried (6-0-1-0) with Councilmember Tageant having recused himself and absent from the room.

Mayor Spencer invited comments and questions by Council.

Councilmember Petershagen commented that as he looks at the maps there is a good 200 feet of separation from the project to the waterline. Director Wright confirmed there is a 300-foot separation as well as a vertical separation of approximately 20 feet.

Councilmember Petershagen commented the Development Agreement is a bookend that starts the process and provides certainty to that process for both Costco and the City; he clarified that numerous permits need to be obtained before the project can be removed. Director Wright confirmed this is correct, including required state and local permits.

Councilmember Petershagen then asked about Exhibit E setting out the percentage of costs the City will be responsible for. Mayor Spencer responded percentages of costs are provided rather than a break down cost of each item because once all of the permit processes are completed, City portions of the project will go to bid and if estimated costs are provided that will affect the bid process. Mayor Spencer added that between associated City-owned property sales to

Costco and mitigations paid by Costco to the City, the City will be approximately 50% cost neutral on the total amount estimated to be paid by the City. The other portion of City costs will be paid through Real Estate Excise Taxes the City is already receiving, and this development will not exhaust that funding resource. He added that sales tax revenue generated by Costco will be available in the City's general fund for repair and maintenance of existing roadways and sidewalks, as well as construction of new public infrastructure. The infrastructure that will be put in place by the City in connection with the construction of Costco will serve the general public's need and is not particular to this specific development.

Responding to Councilmember Daughtry's question regarding comment letters submitted by the Tulalip Tribes and Department of Ecology, Mayor Spencer said these letters relate to mitigation and have the same goal in mind but different ways to get there. The Army Corps of Engineers will also be part of this discussion, and the City will work with these agencies to find a mutually agreeable resolution. Mayor Spencer added permitting conditions will have to be met.

Councilmember Daughtry commented this is the vision in the 2010-2012 subarea plan that the City has been working on for 10 years. He noted Lake Stevens is very close to becoming the fourth largest city in Snohomish County and all legal requirements have been met; he supports this project as it will help with the City's economic development.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember McDaniel, to close the public hearing. On vote the motion carried (6-0-1-0) with Councilmember Tageant not present, having recused himself and absent from the room.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Daughtry, to approve Resolution 2019-17.

City Attorney Rubstello requested with approval that Council authorize the Mayor to execute the agreement substantially in the form presented this evening, saying this will allow for a little bit of massage to the language, particularly as it relates to offsite mitigation provisions. This will allow some flexibility in those offsite mitigations, as other agencies offer their input. These types of changes will not substantively change the agreement but will allow the City to work with Costco.

**MOTION:** Councilmember Welch amended his motion to coincide with the City Attorney's language regarding allowing the Mayor to execute the agreement substantially in the form presented, but allowing some flexibility to the language, particularly as it relates to offsite mitigation provisions.

Councilmember Welch complimented the City staff for the work in putting this Development Agreement together while at the same time continuing the work of running the City.

**VOTE:** On vote the motion carried (6-0-1-0) with Councilmember Tageant not present, having recused himself and absent from the room.

Councilmember Tageant rejoined the meeting at 9:07 p.m.

### **Action Items:**

**Interlocal Agreement with Everett re Waterline:** Director Wright presented the staff report and summarized the City of Lake Stevens and the City of Everett have been negotiating the terms of an agreement to extend 91<sup>st</sup> Avenue SE between 20<sup>th</sup> Street SE and 24<sup>th</sup> Street SE

which crosses the Everett Waterline corridor. The agreement sets the terms for cost sharing and design as it relates to the replacement of the waterline in this area. Staff has reviewed the agreement three times with Council, most recently during the December 3, 2019 workshop and received direction to bring this forward tonight. He then invited questions from Council and there were none.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Hilt, to authorize the Mayor to execute the ILA and negotiate any final changes with the City of Everett.

Councilmember Petershagen complimented staff on their hard work on this agreement.

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

**Easement with PUD re Transformer at Pavilion Site:** Public Works Director Durpos presented the staff report and explained PUD needs to relocate a transformer in North Cove Park to serve the City's new Pavilion building. The Distribution Easement agreement provides PUD with the property rights necessary to relocate and maintain the transformer.

**MOTION:** Moved by Councilmember Daughtry, seconded by Councilmember Welch, to authorize the Mayor to sign the Distribution Easement granting Snohomish County Public Utility District (PUD) an easement to locate and maintain a transformer in North Cove Park. On vote the motion carried (7-0-0-0).

**Comprehensive Plan – Multi-Family Density in Waterfront Residential:** Mayor Spencer reviewed the requested action to move consideration of multi-family density in Waterfront Residential zones to 2020.

Director Wright briefly reviewed the Comprehensive Plan and Zoning Code process and goals and the history of looking at waterfront residential. Director Wright said the infill development code provisions do have some multi-family draft language for Waterfront Residential and suggested the section of the infill development code dealing specifically with the implementation of this particular Comprehensive Plan provision can be separated and discussed as part of the Zoning Code standards. This could include a long-range work plan and task force at Council's direction. He added Council could reopen the Comprehensive Plan entirely, or push this discussion out to a later date.

Responding to Councilmember Daughtry's question, Director Wright clarified the Comprehensive Plan can only be opened once a year, so consideration of this would need to be part of the 2020 docket.

Councilmember McDaniel clarified to reopen this discussion as part of the Comprehensive Plan that a 2020 docket request would need to be made. She then reviewed the history of this discussion beginning in 2015. She believes Council has completed its due diligence and did a good job of having density at four units per acre.

Councilmember Petershagen requested Council docket this for 2020.

Mayor Spencer clarified that Council is requesting that the item in the Comprehensive Plan dealing with higher density in Waterfront Residential and discussions regarding zoning on the same topic be docketed for 2020.

Councilmember McDaniel requested this not become a discussion of road-divided properties.

City Attorney Rubstello explained that nothing will happen with this until development regulations are studied, adopted and implemented. He added this language could be modified at that time if necessary, and this would occur in the regular course of review by the Planning Commission and Council.

**MOTION:** Moved by Councilmember Petershagen, seconded by Councilmember Gailey, to approach development standards for waterfront residential and comprehensive plan provisions for multi-family shoreline residential simultaneously. On vote the motion carried (7-0-0-0).

**Discussion Items:** Councilmember Daughtry thanked the staff for their hard work in 2019.

**Executive Session:** Mayor Spencer said the City has received 15 letters of interest for the upcoming vacancy of Council Position No. 6 and will move to executive session at 9:24 p.m. for 30 minutes to review and narrow the candidate field to 6 applicants as provided for in the Council Rules of Procedure and RCW 42.30.110(h), with action to follow.

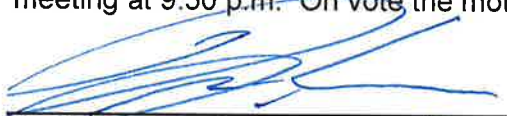
Councilmembers Gailey, McDaniel and Hilt recused themselves and did not participate in the executive session.

The regular meeting of the City Council reconvened at 9:48 p.m.

**MOTION:** Moved by Councilmember Welch, seconded by Councilmember Petershagen, to interview Carolyn Bennett, Joyce Copley, Steve Ewing, Michele Hampton, Kurt Hilt and Raichel McDaniel for Council Position 6 which is being vacated by Councilmember Gailey effective at 11:59 p.m. on December 16, 2019. On vote the motion carried (4-0-3-0), with Councilmembers Gailey, McDaniel and Hilt having recused themselves.

**Adjourn:**

Moved by Councilmember Welch, seconded by Councilmember Petershagen, to adjourn the meeting at 9:50 p.m. On vote the motion carried (7-0-0-0).

  
Brett Gailey, Mayor

  
Kathy Pugh, City Clerk