

CITY OF LAKE STEVENS
CITY COUNCIL REGULAR MEETING MINUTES
Tuesday, April 28, 2020
By Remote Participation

CALL TO ORDER: 7:00 p.m. by Mayor Brett Gailey

ELECTED OFFICIALS PRESENT: Mayor Brett Gailey, Councilmember Steve Ewing

ELECTED OFFICIALS PARTICIPATING REMOTELY: Councilmembers Kim Daughtry, Gary Petershagen, Shawn Frederick, Mary Dickinson, Anji Jorstad, Marcus Tageant,

ELECTED OFFICIALS ABSENT: None

STAFF MEMBERS PRESENT: City Administrator Gene Brazel, City Clerk Kathy Pugh, Public Works Director Eric Durpos

STAFF MEMBERS PARTICIPATING REMOTELY: Finance Director Barb Stevens, Community Development Director Russ Wright, Police Chief John Dyer, Human Resources Director Anya Warrington, Human Resources Specialist Julie Good, City Attorney Greg Rubstello, City Engineer Grace Kane. Associate Planner Sabrina Harris

OTHERS:

Mayor Gailey opened the meeting at 7:00 p.m.

Pledge of Allegiance: Mayor Gailey led the Pledge of Allegiance.

Roll Call: Mayor Gailey noted for the record all Councilmembers are present.

Approval of Agenda: Moved by Councilmember Daughtry, seconded by Councilmember Frederick, to approve the agenda. On roll call vote the motion carried (7-0-0-0).

Citizen Comments:

Dave Schultz, participating remotely, commented a letter was provided to Councilmembers by email from John Graham, Northwest Quad Association of Everett, in support of the proposed code amendment to LSMC 7.30.010 Definitions, and said he is available to answer any questions or provide additional information.

Mark Somers, participating remotely, liked the joint letter sent by the Snohomish County mayors to the community and agreed with the message. He added he likes calling in to the meetings and is looking forward to the new meeting room at The Mill and how the audio video will be provided and managed.

Council Business:

- Councilmember Daughtry: Snohomish Counties for Improved Transportation update regarding COVID-related lost gas tax revenues; Aquafest for 2020 is cancelled.
- Councilmember Petershagen: Sewer Utility Committee; happy to see construction coming back.

Councilmember Petershagen introduced Resolution 2020-08 opposing the Governor's Proclamation 20-50 reducing the state prison population, saying there is concern about the release of prisoners and the public's safety. He asked Councilmembers consider the resolution, saying it is an important issue and an important point to be made.

There was agreement to consider this resolution now.

MOTION: Moved by Councilmember Petershagen, seconded by Councilmember Daughtry, to pass Resolution 2020-08, a resolution of the City of Lake Stevens, Washington, opposing Governor's Proclamation 2050 reducing prison population.

Mayor Gailey invited Council discussion.

Councilmember Jorstad said she just received the resolution today and asked about the motivation for the City of Lake Stevens to pass this resolution.

Councilmember Petershagen responded he is concerned about the releasing of prison populations into the general population based on a virus; he believes there are better ways to handle this through segregation and quarantining of offender populations. He added he people who are being considered for release are violent offenders in his mind and it is important to not have offenders dropped into the neighborhood.

Councilmember Jorstad did look at the Department of Corrections website and said 450 individuals have already been released, with only 37 coming to Snohomish County; she does not believe this represents a large influx into the city. She reviewed charges and she didn't see any that were violent offenders. She added this appears to be a national issue and not a Washington state issue. She believes the push is to minimize density and take precautions within facilities so the virus is not communicated outside the prisons be staff. Councilmember Jorstad also commented on the large decrease of populations in county jails and asked if a resolution is being considered in response.

Councilmember Ewing explained in county jails people have been charged but have not been convicted whereas in prisons, people have been convicted. He said efforts to keep prison populations are extraordinary, and that a citizen is six times more likely to be infected with COVID than someone in a correctional facility. He added another challenge with this early release is that inmates are not prepared to be released and a number who have been released have re-offended and are back in custody. Councilmember Ewing said there is good reason to bring this resolution forward.

Councilmember Dickinson does not believe this is a City Council issue, and she finds it divisive. Councilmember Dickinson prefers to show unity during these times.

Councilmember Daughtry disagreed, saying it is important for the Council to show support or nonsupport for what elected officials above the Council level are doing. Councilmember Daughtry believes if the Council does not share its pleasure or displeasure with state-level decisions, then it is not serving city citizens.

Councilmember Frederick is concerned with the language in paragraph 2 of the resolution against releasing a person for medical reasons and believes there may be medical situations outside the capabilities of the corrections system, and it is appropriate to ensure these persons receive appropriate medical care.

Councilmember Tageant appreciated Commissioner Ewing's comments. He said he is aware of and has heard from citizens who are concerned, and he is concerned that integration services are not available for inmates who are released under the Governor's Proclamation 20-50. Councilmember Tageant agreed with Councilmember Daughtry's comments that it is important for the Council to weigh in on what other elected officials are doing as this is how the community is heard.

Responding to Councilmember Jorstad's question, Councilmember Tageant said he is hearing from community members and there is concern about this proclamation.

Councilmember Jorstad said she is hearing support for this Proclamation within the community and that needs to be considered as well.

Councilmember Petershagen acknowledged some may not support the Proclamation but believes most would. He added there are lots of concerned comments when citizens see the DOC workers in the city. Responding to Councilmember Frederick's concerns regarding people being released for a health problem, Councilmember Petershagen believes the intent is to release healthy inmates.

Councilmember Frederick explained the language in paragraph 2 of the resolution suggests a person meeting other criteria for early release but having a medical condition would not be released.

Councilmember Daughtry suggested there are probably already procedures in place for inmate medical conditions and concerns, but he would not oppose that part of the resolution being stricken.

Councilmember Ewing assured that any inmates who have a medical condition or emergent medical situation that is beyond the ability of the prisons to address are immediately provided with the level of care required from facilities located within the Pacific Northwest.

MOTION TO AMEND MAIN MOTION: Moved by Councilmember Frederick, seconded by Councilmember Tageant, to strike the words "emergency medical release" from paragraph 2 of Resolution 2020-08. On roll call vote the motion carried (5-2-0-0) with Councilmembers Jorstad and Dickinson opposing the motion.

VOTE ON MAIN MOTION: On roll call vote the motion carried (5-2-0-0) with Councilmembers Jorstad Dickinson opposing.

- Councilmember Frederick: Provided an update on COVID, noting the curve appears to be flattening and some restrictions are being lifted; every effort is to make sure this occurs in a safe manner.
- Councilmember Dickinson: Senior Center repair; Highland Elementary PTA virtual meeting; Bloodworks NW.

- Councilmember Ewing: Planning Commission; Mayors' letter; thanked Permit Center for maintaining permit functions.
- Councilmember Tageant: Sewer Utility Committee; The Mill.

Mayor's Business: Updated on the Mayor's Coalition coming together to write the letter sent to the Governor and said efforts will continue to move forward; Farmers Market; working with other mayors and Department of Emergency Management for next industries that could reopen hopefully in the near future.

City Department Report:

- Community Development Director Russ Wright: Limited reopening of parks and open spaces on May 5th and safe guidelines will be followed; working to keep permit functions open and inspection duties are being conducted; kick-off meeting for 18th Street (Festival Street").
- Public Works Director Eric Durpos: South Lake Stevens Road and Frontier Heights Park updates.
- Finance Director Barb Stevens: Annual financial statements, auditors will begin work next week, COVID-19 Payroll Benefits. Director Stevens provided a brief financial update due to COVID-19 and the city is looking at an approximate 7% decrease in revenues over the year. said the city is not as reliant on sales tax as other cities and explained how the calculations are arrived at. She said there is funding for current capital projects, but timing may need to be adjusted based on when revenues are received. COVID-related expenses are being tracked for reimbursement. Director Stevens added reserve funds are healthy.
- Police Chief John Dyer: Police Department building update is moving forward.
- City Administrator Gene Brazel: Purchase and sale agreement with Costco; Everett Herald inquiry re boat launch, which has been open.

Consent Agenda: Moved by Councilmember Frederick, seconded by Councilmember Dickinson, to approve the Consent Agenda:

- A. 2020 Vouchers [Electronic Fuds Transfers (ACH) of \$295,789.22, Claims Check Nos. 50176-50184, 50189-50289 totaling \$1,880,266.53, Void Check Nos. 49012, 50030, 50035, 50058 totaling \$80, Total Vouchers Approved \$2,175,975.75]
- B. City Council Regular Meeting Minutes of April 14, 2020;
- C. Amendment to Temporary Hazardous Pay Policy; and
- D. Ordinance 1086 Authorizing Financing for Purchase of Vactor Truck.

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

Public Hearing:

Infill Regulations and Ordinance 1081: Mayor Gailey opened the public hearing and said comments will be taken at the May 12th meeting.

Associate Planner Sabrina Harris presented the staff report and briefly reviewed the history of developing proposed amendments to the infill regulations, including gathering input from the public. She explained that adoption of infill regulations will help guide the development process by providing flexibility and efficient standards to increase diversity in housing stock throughout the community and promote quality neighborhoods. Planner Harris next highlighted some of the proposed amendments. Staff's recommendation is to continue the hearing to the May 12, 2020

Council meeting; she noted as of tonight's meeting no additional public comment has been received since posting notice of this public hearing.

Responding to Councilmember Petershagen's question, Planner Harris said no studies have been completed on the number of housing units projected, but staff has already received interest in the application of this zoning code, so it is hoped this will increase housing stock. She confirmed this applies only to R4, R6, R8 and R12 zones.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Ewing to leave the public hearing open for public comment and continue the hearing to the May 12, 2020 City Council meeting. On roll call vote the motion carried (7-0-0-0).

Action Items:

South Lake Stevens Road Multi-Use Path – Grind and Overlay Change Order: Public Works Director Durpos presented the staff report and explained that in addition to the city's project to add a multi-use path along South Lake Stevens Road, the road has also been impacted by other construction projects including extensive sanitary sewer work by the Lake Stevens Sewer District and construction of the Pellerin Plat by MainVue Homes. Collectively these projects have caused significant impact on the road quality, and the roadway needs significant road improvements to ensure its longevity. Strider Construction provided a cost estimate in the amount of \$330,000, for a grind and overlay of South Lake Stevens Road from 20th Street SE to 116th Street SE. This work will be undertaken as a change order to the original contract with Strider for the multi-use path. Both MainVue Homes and Lake Stevens Sewer District projects included half lane overlays or patches, and both have committed their funds totaling \$140,000 to partially fund this change order. Of the cost the city will be responsible, \$80,000 is already budgeted as part of the South Lake Stevens Road budget and explained this is a good time to move forward with this repaving as the cost of oil has dropped significantly.

Councilmembers Tageant and Daughtry support moving forward with this change order.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Tageant, to authorize the Mayor to execute a Change Order with Strider Construction of Bellingham, WA in the amount of \$330,000 for a grind and overlay of South Lake Stevens Road from 20th Street SE to 116th Street SE. On roll call vote the motion carried (7-0-0-0).

Interlocal Agreement with Lake Stevens Sewer District re Decant Facility: Director Durpos presented the staff report and explained this interlocal agreement sets out the responsibilities of the Sewer District and City for cost sharing of purchase, design, construction and maintenance of the decant facility. Also review of construction bids and bid award will be shared equally and the construction process will be jointly managed. Director Durpos commented the Sewer District Board of Commissioners approved the interlocal agreement at their April 23, 2020 meeting.

MOTION: Moved by Councilmember Tageant, seconded by Councilmember Petershagen, to authorize the Mayor to enter into an Interlocal Agreement with Lake Stevens Sewer District for Capital Construction of a City Decant Facility that will allow utilization of the facility for the treatment and disposal of stormwater liquids and solids from the district. On roll call vote the motion carried (7-0-0-0).

Ordinance 1085 Amending LSMC 7.30 re WATVs: Police Chief Dyer provided a brief history of the Council's approval of WATVs on city streets and said this matter is brought forward following a request received earlier this year to amend LSMC 7.30.010 Definitions to allow smaller WATVs, commonly known as "quads" on city streets. He briefly reviewed safety concerns related to quad-type vehicles that were brought forward at the time LSMC 7.30 was adopted and said he still has those concerns.

Responding to Councilmember Jorstad's question, Chief Dyer said he has not seen emails supporting this amendment directed to Council earlier in the week.

Councilmember Ewing asked if there is data from surrounding cities that allow quads either supporting or refuting the safety challenges of quads on city streets. Chief Dyer said visibility is a primary concern and the quads are lower to the ground than motorcycles; it is particularly difficult to see quads travelling on streets where cars are parked. Chief Dyer said he does not have data on visibility issues from surrounding jurisdictions.

Councilmember Tageant said his concerns are visibility, tipping and general safety concerns. He added quad riders are not required to have any additional licensing, unlike for motorcycle riders.

Councilmember Petershagen asked about a sunset date, perhaps two years, for the original ordinance and Chief Dyer responded there is not one. Councilmember suggested possibly a sunset clause to see how this might go.

Councilmember Frederick visited Consumer Product Safety Commission where there is data on ATV-related deaths and said there is a lot of data. The very first thing written to reduce ATV-related deaths is do not drive ATVs on paved roads. He also visited the ATV Safety.Org website where the first comment is always wear a helmet and the second comment is never ride on paved roads, except to cross and where permitted by law. He believes these vehicles are not designed for paved roads and his research supports this.

MOTION: Moved by Councilmember Daughtry, seconded by Councilmember Petershagen, to approve Ordinance 1085, an Ordinance of the City of Lake Stevens, Washington, amending Title 7 LSMC 7.30 Wheeled All-Terrain Vehicles (WATVS) Section 7.30.010, Definitions; providing for severability, an effective date and summary publication by ordinance title only.

There was discussion regarding amending the motion to add a sunset clause, with consensus to not do so.

VOTE: On roll call vote the motion failed (3-4-0-0) with Councilmembers Daughtry, Petershagen and Ewing voting in favor of the motion, and Councilmembers Frederick, Dickinson, Jorstad and Tageant voting against the motion.

Discussion Items:

Annexation: Community Development Director Russ Wright presented the staff report and said tonight's discussion is a follow up to previous discussions on annexation of the remaining UGA. He reviewed the methods for annexation including petition, election and interlocal agreement, noting the Legislature provided additional tools for annexation by interlocal agreement in 2019. These tools include that the annexation area is heavily affected or reliant on the city's transportation system. Looking at Annexation Areas 1 and 2 on the southeast and

south end of the lake, a way forward is to use this new tool and work with Snohomish County to complete an annexation under an interlocal agreement. Director Wright explained the process includes working with special purpose districts including Lake Stevens Sewer District and the Fire District; he added the interlocal agreement requires a public hearing and a longer public notice time. Staff previously developed an annexation fact sheet, which could be updated, and would work to educate the community on annexation benefits.

Director Wright briefly reviewed a timeline for annexation of Areas 1 and 2 under an interlocal agreement. If Council determines to use the new tool and move forward in this manner, the process could begin in June after the new legislation becomes effective. A resolution would be brought forward, to initiate the process and authorize negotiation with Snohomish County, and it would take approximately five to six months to complete the annexation process.

Councilmember Dickinson said public outreach is critical and asked if there is any benefit moving forward now. Councilmember Wright responded this is a question for the Mayor and Council. From staff's perspective there is no rush to move forward, and this is brought forward for discussion now following Council's direction at the recent retreat.

Mayor Gailey responded to Councilmember Dickinson's question saying there are benchmarks on the horizon relating to the Growth Management Act (GMA) and the city's Urban Growth Area (UGA). Annexation or attempted annexation of Areas 1 and 2 is part of that process. Additionally, this annexation fulfills the city's vision of one community around the lake, and he believes the city can provide better services to these two areas especially in the areas of law enforcement and public works. He also believes many of the residents in these annexation areas already consider themselves a part of the Lake Stevens community.

Councilmember Tageant would like to move forward with annexing these areas.

Councilmember Petershagen asked if the county could block these annexations. Director Wright said this is highly unlikely and the city and county previously entered a Master Annexation Interlocal Agreement that provides the framework for moving forward with annexations. Director Wright added the county would not be able to block any revenue benefits the city might receive through annexation.

Councilmember Daughtry confirmed the areas area already in the city's UGA.

Councilmembers Petershagen and Daughtry agreed it is important to keep these annexations moving forward, and Councilmember Daughtry said public outreach will be important.

Councilmember Ewing also agreed with moving forward and appreciated the work that has already been put into this by the Mayor and staff.

Director Wright said he will bring a resolution forward in July.

Garbage Contract: Public Works Director Durpos said garbage services for Lake Stevens are provided by both Republic (Rabanco/Allied Waste) Services and Waste Management. Republic Services provides service within the original city limits of Lake Stevens under a franchise agreement which has been amended two times to provide a senior disabled rate, and rate increases, and a third amendment to extend the term of the franchise to expire on May 31 2021 to coincide with the Waste Management contract term, which also expires on May 31, 2021 as it relates to the Southwest Annexation area. Waste Management provides service to areas that

have been annexed into the city from the County. Director Durpos explained Republic Services' service area is very small, all the newly annexed areas are serviced by Waste Management. Under the UTC Waste Management is entitled to provide service to these areas for a period of ten years after the date of annexation. Director Durpos explained waste management is very expensive and staff wants to move forward now to allow ample time for contract negotiation for whichever provider is selected to gear up.

Responding to Councilmember Ewing's question, Director Durpos said the intention is to have one provider for all of the city.

City Administrator Brazel explained that garbage contracts are different than other contracts and there are options for moving forward. One is to complete an RFP process, listing all elements that the city wants to see. Another way forward is direct negotiation. Administrator Brazel believes direct negotiation is the best way forward at this time, knowing that the process could be stopped at any time and an RFP process could be used. Administrator Brazel said there have been some preliminary discussions and his recommendation is to direct negotiate with provider that already services most of the area with the goal being to obtain a better rate and services for the ratepayers.

Responding to Councilmember Daughtry's question, Administrator Brazel recommends direct negotiation with Waste Management.

Councilmember Tageant is not sure about direct negotiation with Waste Management and said Republic Services has been a good partner to the city.

Councilmember Daughtry agreed with Councilmember Tageant and said Waste Management is late to the game.

Councilmember Jorstad asked if direct negotiations can be done at the same time with both companies and asked if information from one company can be shared with the other during direct negotiations.

Attorney Rubstello responded direct negotiations can be conducted simultaneously with two parties, but information sharing has ethical problems and would have long range negative consequences. Attorney Rubstello said direct negotiations with a trusted vendor does have advantages and is often used by cities negotiating with the garbage industry.

Responding to Councilmember Ewing's question, Administrator Brazel said he did not come to the recommendation to direct negotiate with Waste Management lightly. It is about service provided to the ratepayers and not necessarily about community events. He noted the cost of community events is built into the ratepayer cost. In this instance there is more to consider including the companies' track records, ratepayer satisfaction. Administrator Brazel said more complaints about Republic Services are received at City Hall, and also there have been some administrative changes at Republic Services that have negatively impacted services. He believes there is an opportunity to negotiate a better rate for some of the ratepayers with direct negotiation; he added an RFP drives the price up and the process takes a year.

Councilmember Ewing supports one service providers for the city and achieving good value for the ratepayers whether residential or commercial.

Director Durpos there is a lot less impact to residents for one third of the city to change providers than for two thirds of residents to make a change. Also, direct negotiating with Waste Management is a positive as it relates to annexations.

Responding to Councilmember Daughtry's question, Director Durpos said garbage service is mandatory, and he believes all cities have mandatory waste pick up. Snohomish County does not require garbage service.

Attorney Rubstello said the best contracts are direct negotiated contract and are exclusive contracts. This cuts down on code enforcement concerns as well.

Director Durpos said waste management contracts are very complex, and direct negotiation provides a lot of flexibility that an RFP cannot provide.

Councilmember Jorstad said she does support direct negotiation with Waste Management.

Councilmember Petershagen confirmed his understanding that both providers do recycle and yard waste pickup.

Responding to Councilmember Tageant's question, Attorney Rubstello said direct negotiation can be done with two companies, but the best result comes for negotiating with only one company.

Responding to Councilmember Dickinson's question, Administrator Brazel said data can be obtained from Waste Management regarding customer satisfaction. He added direct negotiation can be started with one company, but if at some point the negotiations are not going well, this will be reported back to Council and direction can be changed.

Councilmember Ewing supports the idea of providing waste service flexibility in the contract for areas that are newly annexed and not currently required to use garbage service.

Councilmember Daughtry commented newly annexed areas are with Waste Management now and those customer rates stay in place for ten years from annexation.

Director Durpos responded the intention is to negotiate a lower rate for annexed areas as well as for other customers within the city. He believes most people living in the UGA already have garbage service.

Mayor Gailey confirmed there is consensus to move forward with direct negotiation with Waste Management.

MOTION: Moved by Councilmember Ewing, seconded by Councilmember Dickinson, to extend the meeting by 20 minutes. On vote the motion carried (7-0-0-0).

Executive Session: Mayor Gailey announced an executive session and explained Councilmembers and participating staff will conduct the executive session via telephone conference call. The executive session involves potential litigation with no action to follow. He asked Councilmembers to mute their mics and turn off their video; he added Councilmembers should unmute their mics and turn their video back on when the meeting reconvenes. Mayor Gailey said the executive session will begin at 8:58 p.m. and last 10 minutes.

At 9:08 p.m. Mayor Gailey advised the executive session was extended 5 minutes, and Clerk Pugh announced the extension.

At 9:13 p.m. the regular meeting of the City Council reconvened.

Adjourn:

Moved by Councilmember Tageant, seconded by Councilmember Ewing, to adjourn the meeting at 9:13 p.m. On vote the motion carried (7-0-0-0).



Brett Gailey, Mayor



Kathy Pugh, City Clerk