

# LYNDEN CITY COUNCIL

MINUTES OF THE REGULAR SESSION

MAY 4, 2009

## I CALL TO ORDER

Mayor Jack Louws called to order the May 4, 2009 regular session of the Lynden City Council at 7:00 P.M. at the Lynden City Hall Annex.

## ROLL CALL

Members present: Mayor Jack Louws; Councilors Doug Adelstein, Gary Bode, Dave Burns, Ron De Valois, Tobey Gelder, Jerry Kuiken, and Nick Laninga.

Members absent: None

Staff present: Fire Chief Gary Baar, Administrative Assistant Rachel Byers, Finance Director Teresa Camfield, Planning Director Amy Harksell, Public Works Director Duane Huskey, Parks and Recreation Director Vern Meenderinck, and City Administrator Bill Verwolf. Also present was City Attorney Bob Carmichael.

## APPROVAL OF MINUTES

*Councilor De Valois moved and Councilor Gelder seconded that the minutes of the April 20, 2009 Regular Council Session be approved. The motion carried.*

## ITEMS FROM THE AUDIENCE

Scheduled - None

Unscheduled - None

## II CONSENT AGENDA

### Approval of Payroll

Direct Deposits, Draws and Warrants No. 13659 through 13719

\$ 436,626.72

### Ordinance No. 1356 - A 2009 Budget Amendment

### Set Public Hearing Date - Urban Growth Area Expansion

### Set Public Hearing Date - Proposed Changes to Commercial Zoning

### Resolution No. 798 - Stormwater Utility Rates

*Councilor Adelstein moved and Councilor Bode seconded that the Consent Agenda be approved. The motion carried.*

## III UNFINISHED BUSINESS

**Public Comment Period Regarding the Confirmation of the Donation Made to the Lynden Heritage Foundation (Museum)**

According to the records we can identify, in 1977 the City of Lynden donated the Berthusen Collection of Native American artifacts to the Lynden Heritage Foundation. In 1982, then Mayor Jim Van Andel signed a deed of gift for the collection. We have not been able to find an action of the City Council that confirmed this gift.

In order for the Museum, also known as the Lynden Heritage Foundation, to have the ability to utilize this collection and to dispose of it at their discretion, as the needs of the Museum develop, they need clarity of the legal status of this collection. An inventory of the collection is available in the Mayor's Office.

Mr. Troy Luginbill, Museum Director and Curator, appeared before Council and explained the Museum's opportunity to auction some pieces of the collection that are from Northern British Columbia Tribes, and which are not relevant to the history of Whatcom County. If items were sold, the monies would be invested in the Lynden Pioneer Museum endowment foundation.

Mr. Luginbill was the only person in the audience to comment on this issue. Council discussed with Mr. Luginbill the importance of the collection, the need to honor donor's wishes, why auctioning some of the collection would be beneficial to the community, and the history of the collection.

***Councilor De Valois moved and Councilor Kuiken seconded that the Administration staff work with Mr. Luginbill to identify the pieces that are in question and to draft an agreement outlining the terms for any monies received from an auction. The motion carried.***

This item will be back before Council on June 1, 2009.

**Purchase and Sale Agreement - 401 Front Street**

Administration has negotiated a Purchase and Sale Agreement for the acquisition of the 401 Front Street property currently occupied by the Planning Department and the Information Technology operations.

The Public Works Department has scheduled asbestos and structural evaluations to determine the estimated costs of removing the building to allow the use of street right-of-way.

There is an existing five year lease between the current owners and Councilman Gary Bode for the basement space. The existing lease is not considered a conflict of interest unless it were to be changed.

City Administrator Bill Verwolf and Public Works Director Duane Huskey updated Council on the information provided by the engineers and the situation involving the wall separating 401 Front Street from Dutch Mothers restaurant.

Councilor Bode stated that he will not participate in this discussion or vote and recused himself.

***Councilor Laninga moved and Councilor Gelder seconded that the Purchase and Sale Agreement for 401 Front Street be declined. The motion failed with Councilors Adelstein, Gelder, and Laninga in favor, Councilors Burns, De Valois, and Kuiken against, Councilor Bode abstaining, and Mayor Louws breaking the tie by voting against the motion.***

***Councilor Burns moved and Councilor De Valois seconded that a 60 day extension be requested of the owners of 401 Front Street to allow for further feasibility studies and that if the extension is not agreed to then the City Council does not authorize the purchase of the building. The motion carried with Councilors Burns, De Valois, Gelder and Kuiken in favor, Councilors Adelstein and Laninga against, with Councilor Bode abstaining.***

### **Resolution No. 797 - Stormwater General Facility Improvement Fees**

Resolution No. 797, Stormwater General Facility Improvement Fees, is a follow up to the recent City Council approval of the Stormwater Management System Ordinance No. 1350. The Resolution describes the various customer categories and the associated fees.

On March 16, 2009 Council set a public hearing date of April 20, 2009 to hear comments on this proposal. After the public hearing, Council tabled this resolution in order for staff to research the fees associated with previous annexations.

All of the questions and issues have been addressed and this Resolution is being presented to Council for consideration. The effective date will be June 1, 2009.

***Councilor Bode moved and Councilor De Valois seconded that Resolution No. 797, Stormwater General Facility Improvement Fees, be approved and that the Mayor be authorized to sign said Resolution. The motion carried.***

## **IV NEW BUSINESS**

### **Contingency for New City Hall - Project No. 2007-05**

On March 17, 2008 the Council awarded the contract for the New Lynden City Hall Project, Project No. 2007-05, to Strengholt Construction in the amount of \$4,563,498.00 (not including sales tax). This award included the acceptance of all alternates except 2B (landscaping "Judson Park") and 5A (lobby floor finish). The amount of this award was less than the budget for the project.

At the time of award a contingency was discussed, as well as monies for furnishings; however, it was decided to delay establishing these numbers until the project was farther along. Now, as the contract is drawing to a close, a contingency needs to be established. The furnishings and other remaining items for construction are contained within the 2009 budget; however, since the Council only awarded the contract amount, staff believes that it is now necessary to establish the construction contingency to make the final payment to the contractor.

It was hoped that the final contract savings amount would offset any additional expenses; however, the cornice manufacturer was not able to deliver the hoped for cost savings. As is common with all projects, it is often discovered that unexpected items, changing conditions and/or alterations to the original plan are needed to better represent the owner's goals and objectives for the finished product; thus, change proposals are required. To keep a project on schedule, the majority of change orders are handled at the staff and/or administration level.

***Councilor Bode moved and Councilor Burns seconded that the establishment of a \$60,000 contingency for the New City Hall Project in Fund No. 379 be approved. The motion carried.***

Council agreed to allow Mayor Louws to purchase two sandwich board signs to advertise the new City Hall open house on June 6, 2009.

### **Janitorial Contract for New City Hall and Satellite Facilities**

At the City Council meeting on December 15, 2008, Council approved an extension of the Janitorial Contract with Management Services Northwest in the amount of \$3,830.00. After the meeting it was discovered that the pricing for cleaning the flooring and windows for the new City Hall building was incomplete. Therefore the contract was never executed.

Now that the building is substantially complete and a walk-through of the new City Hall facility has been done, an updated quote for the contract, including both window and floor cleaning, has been submitted. It

excludes cleaning of the Planning Department and old City Hall, as these buildings will be vacated at the end of May.

Janitorial service includes four City facilities: the new City Hall, the Annex, the Fire department, and the Police Department. The total cost for cleaning these four facilities is \$3,960.00 per month, plus Washington State sales tax.

***Councilor Bode moved and Councilor Gelder seconded that the contract extension for janitorial services to Management Services Northwest in the amount of \$3,960.00 per month, plus Washington State sales tax be awarded to Management Services Northwest beginning June 1, 2009 through December 31, 2011 and that the Mayor be authorized to sign the service agreement. The motion carried.***

**East Grover Street Reconstruction Project - Project No. 2008-05**

The East Grover Reconstruction Project includes street improvements to:

- Grover Street - from Lawrence to the railroad tracks;
- Nooksack Avenue - from Grover to Drayton;
- Front Street - from Bender to Tierney; and
- Lynn Street - from Front Street to Grover.

The project also includes 600 lineal feet of sanitary sewer replacement, 1,180 lineal feet of sanitary sewer lining, and 6,100 lineal feet of water main replacement.

The following bids were received on April 22, 2009 and exclude Washington State sales tax:

<b>Bidder</b>	<b>Total</b>
Friberg Construction	\$2,699,782.88
Colacurcio Brothers	\$2,800,855.80
G.G. Excavation	\$2,801,261.43
Strider Construction	\$2,848,298.00
Ram Construction	\$2,868,031.20
Granite Northwest	\$3,021,068.30
Tiger Construction	\$3,029,181.28
Interwest Construction	\$3,062,586.45
IMCO General Construction	\$3,149,300.20
Marsh Bank	\$3,461,150.90

The engineer's estimate totaled \$3,678,910.00, excluding Washington State sales tax. Due to Sate bid requirements for Disadvantaged Business Enterprises (DBE's) and training hours, the contract will be awarded without Washington State sales tax. However, sales tax will be paid according to state law.

After preparing the bid tabulations, Reichhardt & Ebe Engineering certified that Friberg Construction was the lowest acceptable bidder and recommended that they be awarded the contract. On April 28, 2009 the Washington State Department of Transportation concurred with the City's recommendation to award the contract to Friberg Construction.

***Councilor Bode moved and Councilor Laninga seconded that the contract for the East Grover Street Reconstruction Project be awarded to Friberg Construction, the lowest responsible bidder, in the amount of \$2,699,782.88, not including taxes, and that the Mayor be authorized to sign the agreement. The motion carried.***

Mayor Louws requested that the Public Works Committee look into what can be done regarding Front Street between 1<sup>st</sup> and 6<sup>th</sup> Streets.

**Ordinance No. 1355 - Amending Ordinance No. 1231, Extension of Line of Credit Maturity per Skagit State Bank Proposal**

Ordinance No. 1231 was approved by Council on May 2, 2005. It allowed the City to have a revolving line of credit. The notes have in the past provided interim financing for capital projects such as the Water Reservoir project (for DWSRF reimbursement), Arterial Street capital improvements, Police Station Acquisition/Remodel (prior to issuance of permanent financing), and East Lynden Sewer Sub-Basin improvements (prior to issuance of permanent financing), and 14<sup>th</sup> Street Bridge and 17<sup>th</sup> Street Reconstruction project. Presently it is providing interim financing for the completion of the new City Hall as well as reimbursement financing for the East Grover Street project. These projects have been either secured by grant and/or Public Works Trust Loan funding on a reimbursement basis or were funded by the City.

Since 2005, Ordinance No. 1231 has been amended by Ordinance No. 1261, 1295, and 1319, each authorizing an extension on the maturity date of the notes. On March 19, 2009, the City received an offer from Skagit State Bank to extend the maturity date of the notes from May 13, 2009 to the maturity date of May 13, 2010 at a rate of 2.75%, a decrease from the present rate of 2.90%.

Bond counsel, City Administrator Bill Verwolf, and Finance Director Teresa Camfield have reviewed this proposal prior to its final review by the Finance Committee. The Finance Committee was advised of the proposal at its April 6, 2009 meeting. The recommendation was processed with finalizing this amending ordinance to extend the maturity and modify the rate of the line of credit.

***Councilor Adelstein moved and Councilor Kuiken seconded that Ordinance No. 1355 be approved as presented and that the Mayor be authorized to sign said Ordinance. The motion carried.***

**Item Added to the Agenda - Introduction of a 2009 Budget Amendment**

As required by State regulations, a proposed amendment to the 2009 Budget was introduced to Council. The amendment reflects Council's authorized transactions and will create Fund 382 - Main Street Fishtrap Creek Culvert Replacement.

The Ordinance will be on the May 18, 2009 Council agenda for consideration.

**V EXECUTIVE SESSION**

Council went into Executive Session at 8:51 P.M. to discuss right-of-way acquisition. It was anticipated that the Executive Session would last approximately 10 minutes and that action would likely be taken following the session. Council came out of Executive Session at 8:56 P.M.

***Councilor Bode moved and Councilor Adelstein seconded that the proposed right-of-way plan be approved and that Reichhardt & Ebe Engineering and their sub-consultant Certified Land Services Corporation be authorized to prepare right-of-way acquisition documents, including costs, for the Kok Road Improvement project for future Council approval. The motion carried.***

**VI ADJOURNMENT**

The May 4, 2009 regular session of the Lynden City Council adjourned at 8:59 P.M.

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Rachel Byers, Administrative Assistant

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Jack Louws, Mayor