

LYNDEN CITY COUNCIL

MINUTES OF THE REGULAR SESSION

September 21, 2009

I CALL TO ORDER

Mayor Jack Louws called to order the September 21, 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 Gary Bode, Dave Burns, Ron DeValois, Tobey Gelder, Jerry Kuiken, Nick Laninga, and Larry Tremaine.

Members absent: None

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

APPROVAL OF MINUTES

Councilor DeValois moved and Councilor Kuiken seconded that the minutes of the September 8, 2009 Regular Council Sessions be approved. The motion carried.

ITEMS FROM THE AUDIENCE

Scheduled – Presentation of Appreciation Plaque to Mr. Doug Adelstein for his Service as a Council Member

Mayor Louws presented a plaque to Doug Adelstein and thanked him for his years of service as Councilor to the City of Lynden.

Unscheduled - None

II CONSENT AGENDA

Approval of Claims

Manual Warrants No. 51056 through 51074	\$ 263,420.04
Voucher Warrants No. 51075 through 51268	\$ 649,634.12
Direct Deposit Payments	\$ <u>21,678.75</u>
Total	\$ <u>934,732.91</u>

Washington Finance Officers Association's Professional Finance Officer Award to Finance Director Teresa Camfield, Accounting Operations Supervisor Linde Schreifels and Senior Accounting Technician Stacy Oxford; Year 2008 Federal Single Audit

Mayor Louws thanked the Finance Department for their service and congratulated them on receiving the WFOA Professional Finance Officer Award. Gelder also thanked the Finance Department.

Ordinance No. 1363 – A 2009 Budget Amendment

Request to Set a Public Hearing for Adoption of the Water Comprehensive Plan

Councilor Burns moved and Councilor DeValois seconded that the consent agenda be approved. The motion carried.

III NEW BUSINESS

Conditional Use Permit 09-01 – T-Mobile USA

T-Mobile USA is requesting a Conditional Use Permit to allow the construction of a new wireless monopole structure at 415 Depot Road in Lynden.

Section 19.59.060 of the Lynden Municipal Code (LMC) permits the construction of a monopole II facility subject to the approval of a conditional use permit. In addition, the applicant must meet the criteria listed in section 19.49.020 of the LMC.

The Planning Commission held a public hearing on August 13, 2009 and has recommended approval under Resolution #09-02.

Councilor DeValois asked how tall the water towers were that were previously on this site. Public Works Director Huskey stated that they were approximately 105 feet tall.

Councilor Burns asked whether there was a chance that this tower will cause any interference with fire calls. Fire Chief Baar stated that fire calls are on a different frequency from cellular service. Planning Director Harksell added that any communication errors caused by this cellular tower would be regulated by the FCC.

Councilor Kuiken moved and Councilor DeValois seconded that the Council approve CUP #09-01, T-Mobile, and authorize the Mayor's signature on said Findings of Fact. The motion carried.

Ordinance No. 1364 – Rezone 09-01 – City of Lynden

The request is to rezone property owned by the City to the Public Use zone to allow construction of a new water treatment plant and other public works facilities as needed.

The assembly of property on Judson Alley and the 6th Street Alley began in 1926 with the development of the existing water treatment plant. Additional parcels were added through the years with the parcels B and C purchased in 2001 for the water reservoir, parcel A purchased in 2005 for potential stormwater use and parcel E most recently purchased in 2008. Development of these properties as public utility sites was done through the use of conditional use permits after zoning was initiated to require the permits.

In addition to meeting all requirements of the code this project will also need Design Review Board approval.

The Planning Commission held a public hearing on August 13, 2009 and has recommended approval under Resolution #09-03.

Councilor Kuiken moved and Councilor Bode seconded that the Council approve Rezone #09-02, Public Works Facility and authorize the Mayor's signature on Ordinance #1364 with the following correction:

Page 1, 6th paragraph, section 4 states "Petitioner requests that the subject property be granted a site specific rezone from RM-4 to RM-2" and should state "...site specific rezone from RM-4 to Public Use."

The motion carried.

Ordinance No. 1365 – Rezone 09-02 and Preliminary Subdivision – 1st Addition to Judson Village

The partners of 7th Heaven LLC are requesting to rezone approximately 2.93 acres from RM-4 to RM-2 and re-subdividing the property as originally platted.

In 2006, the current property owners submitted an application for a long plat under the RM-2 zoning and received final approval of that subdivision request. That request was almost identical to this application, minus the north lot. Approximately one year later, citing market changes and development costs as reasons, the applicants submitted a site specific rezone request to rezone the four lower lots of the development from RM-2 to RM-4. That request was granted and the specific plans and site design requirements were recorded under Ordinance 1291. The subdivision went from five lots to three lots and the unit count went from twenty units to twenty six units. The subdivision was recorded earlier this year.

Under this request the rezoning of the property would allow the construction of 4 buildings with up to 4 units per building for total of 16 units. That would reduce the allowable units by 6.

Due to significant changes in the economy as well as the financial institutions, the owners of the property are requesting to once again rezone the property and move forward with plans to build under the RM-2 zoning.

The Planning Commission held a public hearing on August 13, 2009, and has recommended approval under Resolution # 09-04.

Councilor Kuiken moved and Councilor Bode seconded that the Council approve rezone #09-02 and Long Plat #09-01, 1st Addition to Judson Village, and authorize the Mayor's signature on said Findings of Fact and Ordinance #1365. The motion carried.

Appointment to the Four-Year Review of Whatcom Transportation Authority Board Composition

The Whatcom Transportation Authority is conducting a four-year review of the composition of their governing body. Each city is requested to designate an elected official to serve on this review committee.

Councilor DeValois moved and Councilor Bode seconded that Mayor Louws be appointed as the City's representative for the Whatcom Transportation Authority review committee. The motion carried.

Lynden Market Square Development Agreement

In September, 2008, the City approved a shoreline permit and site plan for the redevelopment of the old Cost Cutter site, known as Lynden Market Square. Over the past year, staff has worked with the applicants to complete the details of the development agreement required for a mixed use development.

The attached agreement reflects the conditions of approval and provides the details of compliance. It has been reviewed by all the applicants and they are now asking for approval of the agreement as presented here.

Councilor Laninga asked whether this agreement includes the original easement for future trail use. Planning Director Harksell stated that the easement remains in place, though the trail is not being constructed at this time.

Councilor Kuiken moved and Councilor Gelder seconded that the Council approve the Development Agreement for Lynden Market Square as presented and authorize the Mayor's signature on the agreement. The motion carried.

IV EXECUTIVE SESSION – Potential Legal Action

Council went into executive session at 7:24 p.m. to discuss potential legal action. It was anticipated that the executive session would last approximately 30 minutes and that action may or may not be taken. Council came out of Executive Session at 7:54 p.m. No action was taken.

V ADJOURNMENT

The September 21, 2009 regular session of the Lynden City Council adjourned at 7:55 P.M.

Heather Sytsma, Senior Admin. Assistant

Jack Louws, Mayor