

**LYNDEN CITY COUNCIL  
LYNDEN CITY HALL ANNEX  
(205 4<sup>th</sup> Street)  
REGULAR SESSION**

**7:00 P.M.  
MAY 4, 2009  
AGENDA**

**I CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**APPROVAL OF MINUTES**

**ITEMS FROM THE AUDIENCE**

A. SCHEDULED - None

B. UNSCHEDULED (20 Minutes)

During this portion of the meeting, audience members may address the Council on any issue other than those scheduled for a public hearing or those on which the public hearing has been closed. For the record, prior to commenting please state your name, address, and topic. Please keep comments under 4 minutes.

**II CONSENT AGENDA**

A. APPROVAL OF PAYROLL

B. ORDINANCE NO. 1356 - A 2009 BUDGET AMENDMENT

C. SET PUBLIC HEARING DATE - URBAN GROWTH AREA EXPANSION  
RECOMMENDATIONS

D. SET PUBLIC HEARING DATE - PROPOSED CHANGES TO COMMERCIAL ZONING

E. RESOLUTION NO. 798 - STORMWATER UTILITY RATES

**III UNFINISHED BUSINESS**

A. PUBLIC COMMENT PERIOD REGARDING THE CONFIRMATION OF THE  
DONATION MADE TO THE LYNDEN HERITAGE FOUNDATION (MUSEUM)

B. PURCHASE AND SALE AGREEMENT - 401 FRONT STREET

C. RESOLUTION NO. 797 - STORMWATER GENERAL FACILITY IMPROVEMENT FEES

**IV NEW BUSINESS**

A. CONTINGENCY FOR NEW CITY HALL - PROJECT NO. 2007-05

B. JANITORIAL CONTRACT FOR NEW CITY HALL AND SATELLITE FACILITIES

C. EAST GROVER STREET RECONSTRUCTION PROJECT - PROJECT NO. 2008-05

D. ORDINANCE NO. 1355 - AMENDING ORDINANCE NO. 1319, EXTENSION OF LINE  
OF CREDIT MATURITY PER SKAGIT STATE BANK PROPOSAL

**V EXECUTIVE SESSION**

**VI ADJOURNMENT**



**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE:**            **May 4, 2009**

<b>AGENDA ITEM:</b> Set Public Hearing Date Recommendation for UGA Expansion		<b>AGENDA SECTION:</b> <b>Consent agenda</b>
<b>PREPARED BY:</b>  Amy Harksell, AICP Planning Director	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input type="checkbox"/> Public Works <input type="checkbox"/> Com. Dev. <input type="checkbox"/> Quasi Judicial	<b>AGENDA NO.:</b>  <p align="center"><b>II. C</b></p>
<b>ATTACHMENTS:</b> None	<b>LEGAL REVIEW COMPLETED:</b> <input type="checkbox"/> Yes <input type="checkbox"/> Needed <input checked="" type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

On March 12, the Council and Planning Commission held a joint work session to discuss projected population and employment growth. During that work session, historic and potential growth of both population and growth were reviewed and the land capacity analysis completed by Whatcom County was discussed.

It was noted during that work session that the City’s urban growth area was undersized for the residential population that had been projected, but due to the limited time frame, no action would be taken unless Whatcom County received an extension of time allowing for public comment.

Whatcom County did receive a five month extension of time to complete their work, allowing the individual cities to have a public process regarding the urban growth areas. They have requested proposals for changes to the urban growth boundary be submitted to the Planning and Development Services by June 1.

The Planning Commission will hold a public hearing on May 7 – a week earlier than their usual meeting – and will provide a recommendation to the Council for a public hearing on May 18.

<b>RECOMMENDED ACTION:</b> Motion to set a public hearing date on May 18 at 7:00 P.M. to accept public comment and recommend changes to the Lynden Urban Growth Area.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

AGENDA ITEM: Set Public Hearing Date Recommendation for Commercial Zoning Changes		AGENDA SECTION: <b>Consent agenda</b>
PREPARED BY:  Amy Harksell, AICP Planning Director	COUNCIL REVIEW: <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input type="checkbox"/> Public Works <input type="checkbox"/> Com. Dev. <input type="checkbox"/> Quasi Judicial	AGENDA NO.:  <b>II. D</b>
ATTACHMENTS: Draft text	LEGAL REVIEW COMPLETED: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Needed <input type="checkbox"/> Not Needed	APPROVED BY:

The Zoning Text Review Committee has completed their work on the City's zoning ordinance as it relates to the commercial zoning. This has been a lengthy and detailed process with the Committee working through a number of issues related to the future commercial development within the City.

The Planning Commission held a public hearing on the proposed changes and has recommended approval. Due to the nature of several of the recommendations, the document has also been through a substantial legal review. Additional legal review will take place on the actual ordinance, to ensure all necessary findings are included. The document provided for your review now is the text that will actually replace the existing Chapter 19.23.

**RECOMMENDED ACTION:**

Motion to set a public hearing date on May 18 at 7:00 P.M. to accept public comment and recommend changes to Chapter 19.23 of the Lynden Municipal Code.

**COUNCIL ACTION:**

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM:</b> <b>Public Hearing – Resolution No. 798 Storm Water Utility Rates</b>		<b>AGENDA SECTION:</b> <b>Consent</b>
<b>PREPARED BY:</b> <b>Laura Burford, Administrative Office          Manager, Public Works Dept.</b>	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> <b>II-E</b>
<b>ATTACHMENTS:</b> <b>Resolution No. 798</b>	<b>LEGAL REVIEW COMPLETED:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Needed <input type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

Resolution No. 798, Storm Water Utility Rates, is a follow up to the recent City Council approval of the Storm Water Management System Ordinance No. 1350. The attached resolution describes the various customer categories and associated fees. It should be noted that the last storm water rate revision was in May, 2004.

On March 16<sup>th</sup> City Council set a public hearing date of April 20<sup>th</sup> to hear comments on this proposal.

After the April 20<sup>th</sup> public hearing, City Council tabled this agenda item as an effective date for implementation still needed to be determined.

At this time, staff is recommending that this item remain tabled until the utility billing software upgrades can be completed and an implementation date can be chosen. Once a date is confirmed, this item will be brought back to City Council for approval.

<b>RECOMMENDED ACTION:</b> That City Council continue tabling approval of Resolution No. 798 until utility billing software updates can performed and an implementation date can be chosen.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM: Comment Opportunity for Donation of Berthusen Collection to Museum</b>		<b>AGENDA SECTION:</b> Unfinished Business
<b>PREPARED BY:</b> Bill Verwolf City Administrator	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input checked="" type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> III-A
<b>ATTACHMENTS:</b>	<b>LEGAL REVIEW COMPLETED:</b> <input type="checkbox"/> Yes <input type="checkbox"/> Needed <input checked="" type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

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 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.

Our recommendation is that the City Council allow time for hearing comments from the public during the May 4, 2009 Council meeting, and to consider a motion confirming the donation by deed of gift to the Lynden Heritage Foundation.

The inventory of the Berthusen Collection is available in the Mayor's Office.

<b>RECOMMENDED ACTION:</b> Motion to confirm the deed of gift for the Berthusen Collection as signed by the Honorable Lynden Mayor in 1982.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM: Consideration of Purchase and Sale Agreement for 401 Front Street</b>		<b>AGENDA SECTION: Unfinished Business</b>
<b>PREPARED BY:</b> Bill Verwolf City Administrator	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b>  III-B
<b>ATTACHMENTS:</b>	<b>LEGAL REVIEW COMPLETED:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Needed <input type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

The 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 as street right of way.

There is an existing 5 year lease between the current owners and Councilman Gary Bode for the basement space. This existing lease is not considered a conflict of interest unless it were to be changed.

<b>RECOMMENDED ACTION:</b> Motion to approve the purchase and sale agreement for 401 Front Street and authorize the Mayor to complete the acquisition of the property.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM:</b> <b>Public Hearing – Resolution No. 797 Storm Water General Facility Improvement Fees</b>		<b>AGENDA SECTION:</b> <b>Unfinished Business</b>
<b>PREPARED BY:</b> <b>Laura Burford, Administrative Office Manager, Public Works Dept.</b>	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> <b>III-C</b>
<b>ATTACHMENTS:</b> <b>Resolution No. 797</b>	<b>LEGAL REVIEW COMPLETED:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Needed <input type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

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

On March 16<sup>th</sup>, City Council set a public hearing date of April 20<sup>th</sup> to hear comments on this proposal. After the public hearing, City Council tabled approval of the resolution in order for staff to research FCI fees associated with previous annexations.

Now that all questions and issues have been addressed the resolution is again being presented to City Council for approval. The effective date will be June 1, 2009.

<b>RECOMMENDED ACTION:</b> That City Council approve Resolution No. 797, Storm Water General Facility Improvement Fees, and authorize the Mayor's signature on the resolution.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM:</b> <b>Contingency for New City Hall Project No. 2007-05</b>		<b>AGENDA SECTION:</b> <b>New Business</b>
<b>PREPARED BY:</b> <b>Laura Burford, Administrative Office Manager</b>	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> <b>IV-A</b>
<b>ATTACHMENTS:</b> <b>City Hall Project Change Proposals</b>	<b>LEGAL REVIEW COMPLETED:</b> <input type="checkbox"/> Yes <input type="checkbox"/> Needed <input checked="" type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

On March 17th, 2008, the Lynden City Council awarded the contract for the New Lynden City Hall 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 City 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 hope 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.

Attached, is a spreadsheet showing change order proposals to date.

On April 22, 2009, the Public Works Committee reviewed this issue, and concurred to recommend to City Council approval of the establishment of a \$60,000 contingency for the building contract, as there are change requests still pending.

<b>RECOMMENDED ACTION:</b> That City Council approves the establishment of a \$60,000 contingency for the New City Hall Project in Fund No. 379.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL COMMITTEE MEETING DATE: May 4, 2009**

<b>AGENDA ITEM:</b> Contract Extension for Janitorial Services – Management Services NW		<b>AGENDA SECTION:</b> <b>New Business</b>
<b>PREPARED BY:</b> <b>Heather Sytsma, Public Works</b> <b>Senior Admin. Asst.</b>	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> <b>IV-B</b>
<b>ATTACHMENTS:</b> Janitorial Services Contract	<b>LEGAL REVIEW COMPLETED:</b> <input type="checkbox"/> Yes <input type="checkbox"/> Needed <input checked="" type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

At the City Council meeting on December 15, 2008, City Council approved an extension of the Janitorial Contract with Management Services Northwest in the amount of \$3,830.00. After this meeting, it was discovered that the pricing for cleaning the flooring and windows for the new City Hall was not included in the previous quote as it was difficult to determine costs for these items when the 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.

**RECOMMENDED ACTION:** That City Council award the contract extension for janitorial services to Management Services Northwest in the amount of \$3,960.00 per month, plus Washington State sales tax, from June 1, 2009 through December 31, 2011, and that the Mayor be authorized to sign the service contract.

**COUNCIL ACTION:**

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: May 4, 2009**

<b>AGENDA ITEM:</b> <b>Award Contract for East Grover Street Reconstruction</b> <b>Project No. 2008-05</b>		<b>AGENDA SECTION:</b> <b>New Business</b>
<b>PREPARED BY:</b> <b>Heather Sytsma, Sr. Admin. Assistant</b>	<b>COUNCIL REVIEW:</b> <input type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	<b>AGENDA NO.:</b> <b>IV-C</b>
<b>ATTACHMENTS:</b> <b>None</b>	<b>LEGAL REVIEW COMPLETED:</b> <input type="checkbox"/> Yes <input type="checkbox"/> Needed <input checked="" type="checkbox"/> Not Needed	<b>APPROVED BY:</b>

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 to Grover. The project also includes 600 lineal feet of sanitary sewer replacement, 1180 lineal feet of sanitary sewer lining, and 6100 lineal feet of water main replacement.

The following bids were received on April 22<sup>nd</sup> (excluding 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 State 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 tabulation, Reichhardt & Ebe Engineering certified that Friberg Construction was the lowest acceptable bidder and recommended that they be awarded the contract.

Due to timing, the Public Works Committee, at their April 22<sup>nd</sup> meeting, concurred that if the bids for the East Grover Street Reconstruction project came in within budget, and DBE requirements were verified, the bids should be forwarded to the full City Council to award the contract. It should be noted that the members have been given the opportunity to individually review the bid tabulation prior to the City Council meeting.

On April 28<sup>th</sup>, 2009, the Washington State Department of Transportation concurred with the City's recommendation to award the contract to Friberg Construction.

<b>RECOMMENDED ACTION:</b> That City Council award the contract for the East Grover Street Reconstruction Project to Friberg Construction, the lowest responsible bidder, in the amount of \$2,699,782.88, not including taxes, and authorize the Mayor's signature on the agreement.
<b>COUNCIL ACTION:</b>

**CITY OF LYNDEN**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: MAY 4, 2009**

AGENDA ITEM: Ordinance No. 1355 – Amending Ordinance No. 1231, Extension of Line of Credit Maturity per Skagit State Bank Proposal		AGENDA SECTION: New Business
PREPARED BY:  Teresa L. Camfield, CPA Finance Director	COUNCIL REVIEW: <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Public Safety <input type="checkbox"/> Parks <input type="checkbox"/> Public Works <input type="checkbox"/> Comm Dev. <input type="checkbox"/> Not Reviewed	AGENDA NO.:  <b>IV - D</b>
ATTACHMENTS: Ordinance No. 1355	LEGAL REVIEW COMPLETED: <input type="checkbox"/> Yes <input type="checkbox"/> No      BOND COUNSEL <input checked="" type="checkbox"/> Not Applicable	APPROVED BY:  <i>T. Camfield</i>

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 permanent financing) and 14<sup>th</sup> Street Bridge and 17<sup>th</sup> Street Reconstruction projects. Presently it is providing interim financing for the completion of the new City Hall as well 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 of 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, the City Administrator, and Finance Director 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 proceed with finalizing this amending ordinance to extend the maturity and modify the rate of the line of credit. The Finance Committee will review the final form of the ordinance at its May 4, 2009 committee meeting prior to council presentation for their review and approval Monday night.

RECOMMENDED ACTION: That the Council approves Ordinance No. 1355 as presented and authorizes the Mayor's signature.
COUNCIL ACTION: