

LEAVENWORTH CITY COUNCIL
Study Session Agenda
City Hall - Council Chambers
March 8, 2016 9:00 a.m.

9:00 – 9:15 Chamber Report

This time is provided for a Chamber of Commerce representative to provide an update to the City Council on items of interest to the Chamber and City.

9:15 – 10:00 Meadowlark Phase 1 Water & Sewer Discussion

This time is provided to review and discuss the actions necessary by the City Council to authorize the public bid of the Meadowlark Phase I Water and Sewer Line. This is the specific project that is partially funded by the Community Development Block Grant (CDBG) awarded to the City in 2012. After receiving the award the City Council approved the contract with the Department of Commerce for the expenditure of the funds with the requirement that approximately 30 Low to Moderate income (LMI) homes would be constructed and occupied by November 30, 2019.

Over the last several years the Meadowlark Developers have modified their development plans. In 2014, the Developers negotiated and received a second approval by the City Council and Hearing Examiner for a modification of their initially approved Development Agreement. This agreement allowed for lot and roadway dimensional deviations from the City development standards and acceptance by the City Council for the construction of 22 LMI homes by the November 2019 grant deadline date. At that time the City had discussions with the Department of Commerce and negotiated an agreement of understanding with them on the approval of the 22 homes with the expenditure of \$550,000. The additional \$200,000 would be used towards a Phase II of the project or returned to the funders if a Phase II was not initiated by the Nov 2019 deadline. The 2014 Development Agreement reflects the efforts involved by all parties to construct a workable solution for MEND and the developers for the success of their projects and to address the concerns and risk assessments of the Department of Commerce and the City.

The approved Development Agreement was the basis for the City to move forward working through a number of commitments outlined within the Development Agreement in support of the Meadowlark Development. At this time, the City’s financial commitments and expenditures are outlined in the table below:

2060 Funds (MEND and City on Meadowlark/CDBG Grant Application)		\$45,450.00
City paid Attorney costs for MEND/Meadowlark Onsite - services through 2/29/16		\$14,424.00
City’s commitment and share of \$960,606 Bond for Chumstick Trail and W/S Lines.		\$193,000.00
Duncan Property and other ROW Acquisitions		\$291,000.00
CDBG Grant (Full Funding Amount)		\$750,000.00

In addition, the City has provided significant staff time in assisting the developers in moving their project through the approval process at the City and with other agencies (Department of Ecology, Corp. of Engineers, etc.). To date the estimated cost in staff time is \$45,261, many of those costs are through the Development Services Department for plan review and processing of the applications with an estimated 628 hours; recall that the site plan and development agreement have been brought through the full approval process twice; once in 2013 and again in 2014. The estimated future costs to the City for staff support through construction management, oversight and reporting of the CDBG funds, LID Bonding, and finalizing the project are estimated to be approximately \$45,000 in additional staff resources.

In February of this year, Upper Valley MEND, representing the Meadowlark Developers provided the City with information necessary to develop plan sets and bid documents for the Meadowlark Phase I Water and Sewer. Staff has reviewed the information and developed the bid document information package. The bid plan sets and bid specifications have been reviewed by the Department of Commerce. The issue at this time pertains to the funding of the project. The certified engineer's estimate is \$1,003,272. This includes construction, construction engineering and a 15% contingency (Included under Tab 2: Certified Engineers Estimate of Probable Costs, SCJ Alliance, February 16, 2016).

The current approved Development Agreement identifies \$550,000 of CDBG funds to be expended for the Meadowlark Phase I Water and Sewer Line Project, although MEND has requested the City consider the full expenditure of CDBG funds, \$750,000, on this project. The Development Agreement, Exhibit D "Financial Pathway" specifies the following requirements are to be provided by the developers prior to the bidding of this project:

1. A bond or bank assignment of funds to cover the cost of the public improvements on the site, example of these improvements would be the street, curb & gutter, and stormwater improvements,
2. A bank assignment of funds for the costs of the Meadowlark Phase I Water & Sewer Project costs estimated greater than the CDBG funding,
3. And the preliminary demonstration of capital and/or a loan commitment letter for the construction of the homes within the Phase I development.

At this time, none of these requirements within the Development Agreement have been provided to the City; the developers have requested that the City suspend the provisions within the Development Agreement, Exhibit D "Financial Pathway" (TAB 2: Meadowlark Development Letter, February 23, 2016) and proceed with the bid authorization and process. Over a given time frame the developer's would request the consideration of an amendment to the Development Agreement based on the bid results and other changes to the project.

For the City Council to move forward with authorization of this bid, the Council will need to take several steps to achieve that outcome, if desired:

1. Suspension of the City's Financial Policy, and
2. Suspension of the Development Agreement, and
3. Motion to authorize the public bidding of the Meadowlark Phase I Water and Sewer Project.

Provided below is a brief narrative summary on each of the steps necessary:

A. Motion to Suspend Financial Policy Section 5.d.

The Leavenworth City Council adopted the Financial Policy by Resolution 10-2014 on May 13, 2014. Prior to approval, the City Council began the development of the policy early in 2012; after several reviews and changes the Council approved the Financial Policy by resolution. The intent of the Financial Policy serves many purposes for the Council and Staff regarding the fiduciary responsibilities of the City. It provides the guidance to the Council on budgeting for revenue and expenses, investing in capital projects individually and in cases where a partnership is desired with a private developer, guidance for issuing short and long term debt instruments. In addition, the policy provides direction on establishing goals and maintaining reserve fund balances for operating and capital improvements, investing of public funds, establishing and maintaining special revenue funds as required by local, state and federal laws, establishing accounting, auditing and financial reporting policies and setting forth the budget calendar for administering the budget process which is governed by state statutes.

The passage and adherence to the Financial Policies provides transparency to City government, it offers residents and businesses a document that makes available to them the information on how the City goes about managing its financial resources. Auditors, banks, and bonding agencies use the City's Financial Policy to determine if the City is in adherence with their own policy and decision making guidelines, how does the City manage risk, and offers a playbook on how the City goes about managing their financial responsibilities.

Recent Council subcommittee meeting discussions with the Meadowlark Developers has resulted in the request by the Meadowlark Developers to proceed with a bid advertising process for the Meadowlark onsite utility project without the specified financing in place as outlined in the City Financial Policy. Within the Financial Policy, specific to this request, would be a deviation to the Finance Policy Section 5. Capital Investment Budget Policies, subsection d, which identifies the following criteria:

d. The City will identify the estimated costs and potential funding sources for each capital project proposal before it is submitted to Council for approval. The City will use intergovernmental assistance and other outside resources whenever possible.

1. Partnership funding with non-intergovernmental partners: The City may consider entering into agreements with various non-governmental agencies for a specific project development on a case by case basis through the use of a Developer Reimbursement and Collection Agreement as defined in the Leavenworth Municipal Code or other City Council approved agreement. In general the City is not considered a partner for development of new construction; however, the City Council may consider a financial partnership that meets at a minimum the following criteria:

- i. The project costs meet all financial criteria within this Financial Policy without jeopardizing the financial stability or credit rating of the City.*
- ii. The project has been accounted for in the City's various planning documents including but not limited to the 6-year Capital Facilities Plan, 6-year*

Transportation Improvement Plan, Water, Sewer, Stormwater, Park & Recreation, Regional Trails and/or Downtown Master Plans.

- iii. *The Developer provides the City with financial proof of ability to complete the construction of the project at 125% of the total estimated project costs prior to any City commitment. Financial proof could include secured bond funding notification from the bonding agency or a final line of credit from an FDIC banking institution.*
- iv. *The City Council may choose to incorporate additional criteria on a case by case basis for projects requesting partnership funding.*

At this time, Item d and Sections “1.i and 1.iii” are unknown factors for the City of Leavenworth as it is unknown what the full project funding will be based on the certified engineers estimate of probable costs; this specifically includes any gap funding that would be needed to cover construction costs above and beyond the \$550,000 as identified in the Development Agreement or the \$750,000 based on MEND’s current request. These funds are derived from the Community Development Block Grant that the City has acquired for the project; no formal financial documents have been provided to the City from the Meadowlark Developers to ensure that revenues are available to cover the cost of the project exceeding the CDBG funding and allowing the project to proceed to bid advertising as specified in item iii above. Items “ii and iv” are being included in the evening motion to ensure no violation of the policy is committed by the City Council regarding the Meadowlark Development Project.

For the project to move forward at this time and approve the authorization to bid, the City Council will need to suspend the City’s compliance with the Finance Policy for this project. Staff would also identify to the Council that other sections of the Finance Policy may also need to be considered for further suspension and or amendment if the City Council chooses to proceed with awarding the project to the lowest responsible bidder after bid opening has been finalized and a contract is ready to be established.

B. Motion to Suspend Development Agreement

The second action for consideration by the City Council is to consider the suspension of the approved Development Agreement. The Meadowlark Development Agreement (DA) is a contract between the City of Leavenworth and the Meadowlark Developers (owners or controlling entity) for property within the City. The purpose of the agreement is to specify the standards and conditions that govern development of the property. The development agreement provides assurances to the Meadowlark Developers that the development regulations that apply to the project will not change during the term of the agreement. The City Council has required conditions to mitigate project impacts, clarification about project phasing, and timing / extent of public improvements. In addition, this Development Agreement formalized the Council’s acceptance of deviations to the Leavenworth Municipal Code (LMC) standards and specifications to allow, for example, smaller streets, lots, and setbacks which gained flexibility (and cost savings) for the Meadowlark Developers. These many and varied deviations are perfected within the Planned Development (pursuant to LMC 18.40.020) as granted by the Hearing Examiner. Finally, the DA includes the facilitation of enforcement of requirements (since it is a contract and includes financial commitments/obligations) that details the obligations of the Meadowlark Developers and the City of Leavenworth.

On February 23, 2016 the City received a letter signed by all parties of the Meadowlark Development requesting the provisions within the DA Exhibit D “Financial Pathway” document be temporarily suspended to allow the authorization of the public bid of the Meadowlark Phase I Water & Sewer Project. The developers further requested that pending the bid results they would also request the development of an amendment to the DA.

If the City Council moves to suspend the current DA Exhibit D and open the door for an amendment, any changes will require: 1) amendment to the DA by Council Resolution; and 2) amendment to the Planned Development by Hearing Examiner action. No site disturbing permits, approvals or authorization to proceed with development (construction activity) may proceed without the required approvals of the DA amendments and/or Planned Development (PD) amendments. This is required as the DA and the PD are the contractual agreements between the developer and the City protecting the interests of both parties. The approval for moving forward on the project is based on each party’s responsibilities outlined within the DA and PD. The necessary proceedings will be initiated upon submittal (by the Meadowlark Developers) of any requested amendments with all necessary supporting documents *and fees*. If an amendment includes differing access, Chelan County approval of locations which intersect Chumstick HWY or Titus Road is required.

C. Motion to Authorize Construction Bid Advertising

The final action required by the City Council is the consideration of the authorization for the public bidding of the Meadowlark Phase I Water & Sewer Project. The project consists of the installation of various 6, 8, and 12 inch ductile iron water main, fire hydrants, and water services; 6 and 8 inch diameter PVC sanitary sewer, sewer cleanouts, manholes, surveying and other associated work to provide the water and sewer transmission lines and service lines within the Meadowlark Housing Development. The plans and specifications have been developed by David A. Allen, P.E of SCJ Alliance. The City hired Steve Marsh, P.E. of TD&H to complete the review and provide comments on the plan sets. Public Works and Development Services staff have also reviewed the plan set. The detailed specifications include a number of geotechnical reports from Nelson Geotechnical & Associates. The engineer’s estimate of probable costs for construction are \$743,715. Additional costs for the project include testing, construction engineering and onsite construction monitoring which are typical for public improvements. Full funding source for this project has not been identified. If approved Tuesday evening the project would be posted for bid on Thursday March 10, 2016 and the bid closing would be Friday April 1, 2016.

City practice has been only to bid projects where full funding for the project has been identified. While a percentage of this project will be covered with CDBG funds, at this time the assumption is that the Meadowlark Developers would provide any additional funding necessary to cover construction, contingency, and project management and those funds would be provided to the City prior to the City Council consideration of the bid award. The engineer’s estimate of probable costs for the total project is \$1,003,272.

The following items are included under **TAB 2 for Evening Agenda:**

- **A** – Resolution 10-2014 Financial Policy
- **B** – Meadowlark Development Agreement
- **C** – Certified Engineers Estimate of Probable Costs, SCJ Alliance, Feb. 16, 2016
- **C** – Meadowlark Development Letter, Feb. 23, 2016

- C – Invitation to Bid

10:00 – 10:30 Autumn Leaf Update – Bill Forhan

Founded in 1964, Leavenworth’s Autumn Leaf Festival celebrates the turning colors of the Autumn Leaves; it is Leavenworth’s original festival. Together with the City of Leavenworth’s decision to adopt the Bavarian theme, the Washington State Autumn Leaf Festival was instrumental in turning the town into a thriving tourist destination from a dying logging and railroad town. Today the Autumn Leaf Festival Association (ALFA) participates in parades and festivals across the northwest as a founding member of the Northwest Hosting Association. ALFA’s participation in those other festivals has resulted in tiny Leavenworth’s festival becoming one of the premier events around the Northwest.

This time has been provided to allow Mr. Bill Forhan the opportunity to discuss the Autumn Leaf Festival with the Council and make a request for additional funding. The City is the largest single funder for the Autumn Leaf Festival Association (ALFA); the City has provided \$15,300 for the last five years. In 2016, the City Council approved an additional \$15,000 in funding to assist with the costs associated with individuals attending parades and representing Leavenworth. The funds were primarily used to offset transportation and lodging costs incurred by individuals. The funds allocated in support of the Autumn Leaf Festival are provided through the Lodging Tax Fund. For the Autumn Leaf Festival, the City provides overtime staff hours for traffic control on parade day; additional clean-up crews before, during, and after the event; coordinates street closures with the Department of Transportation, Chelan County Sheriff’s Department, and Emergency services; completes street painting at no cost to the event organizers; and provides assistance and support to ALFA for several of their event activities.

There are no items included under **TAB B**.

10:30 – 11:00 Review Lodging Tax Group Funding Requests

This year the City has received five applications for the 2016 Lodging Tax Group Funding. A summary spreadsheet is included detailing each of the applicants and total funds requested. Also included is a copy of the current RCW defining the use of Lodging Tax funding.

In 2012 the Council carefully considered the requirements for the Group Funding Requests after receiving 11 requests for funding which included several events, although wonderful events, did not meet the requirements of this funding program. At that time the Council stated the primary purpose of these funds is to build events and enhance tourism; funding was intended as seed money for the start-up of festivals and events. The Council developed the following criteria that applicants must meet to be considered for funding approval:

- The focus of the Lodging Tax Group Funding program is to provide a source of partial funding for new events and festivals that draw visitors to town to attend the event and encourage overnight stays. Dollars allocated for the event should be focused on advertising of event to maximize those overnight stays.

- Funding is intended for short term; start up funding (max of 2 years). Are the event coordinators developing a sustainable funding method for the event?
- Funding may be considered for a third year by the Council Economic Development Committee contingent upon the following criteria in the third year request:
 - Funding is available.
 - The event clearly promotes/benefits the Leavenworth Community.
 - The event generates overnight stays.
 - The event organizers are clearly showing progress toward event sustainability.

The total available funding for groups is budgeted at \$10,000 for 2016 with the application requests totaling \$11,500 at this time; future applicant submissions for 2016 may occur as new events are developed later in the year. Of the five applicants, two are first year funding requestors, one is a second year funding request and the remaining two are third year funding requestors. Past practice, and as outlined on the application form, has required a review of the third year applicants by the City Council Economic Development Committee to meet the criteria listed above for promotion and sustainability in particular. If the City Council is not able to come to a consensus for the evening meeting allocations, it will be recommended by staff to table the evening item until the Economic Development Committee can schedule a meeting to review and provide the full Council with a recommendation for the allocations.

Regarding the three resubmission events, reports were received confirming actual data from the 2015 funding; a copy of their reporting form is attached at the back of their applications for Council consideration of event success.

The following items are included under **TAB 1 for Evening Agenda:**

- Summary Spreadsheet of Applicants
- 5 Group Funding Applications
- RCW stating use of Lodging Tax Funds

11:00 – 11:30 Accessory Dwelling Unit Phase 1 Changes

This time is provided to review and discuss the findings and recommendations of the Planning Commission as they relate to Accessory Dwelling Units (ADU). These amendments are what have been identified as the “low hanging fruit” to this broad topic. The major changes include:

- 1) Allowing parking from an alley; and
- 2) Providing more area for living and storage space (increase to 1,200 sq ft); and
- 3) Removal of the requirement for the owner to occupy one of the units.

Other minor changes are included in the language.

The Council may accept the PC recommendation and adopt the amendment without change by ordinance, or conduct its own hearing for any changes desired by the Council with subsequent adoption of an ordinance.

From previous years, the Council has conducted varied processes to amend the Code and comply with the Growth Management Act. For this amendment, the Development Services Department

has understood that the Council desires a more robust review / study process. This time is provided for the City Council's first reading of an amendment to the Leavenworth Municipal Code (LMC).

As included within the Planning Commission 2015 Amendment Docket, the Planning Commission has been asked to review and study "Residential uses. A) Review and study the allowed listed uses for this district, and B) Study substandard lot (less than 60ft) and building size ratio)." The update and modification of the accessory dwelling unit standards and specifications was separated from the body of work as "phase one" to allow for additional workshops and public outreach to address more complex portions of the residential code update.

The Planning Commission considered the differing and varied housing which plays an important role in achieving Council's priorities to increase the supply of housing options across the City. The update of the accessory dwelling unit (ADU) regulations to encourage this type of housing which helps meet one of many goals within the Comprehensive Plan for infill and meeting other housing needs. One of the clear tasks for the Planning Commission to achieve these objects is to reduce or remove limitations, restrictions, and/or standards within the ADU sections of the LMC which may encumber ADU development. In addition, the Planning Commission's changes to the LMC creates new relaxed regulations for conversion of existing structures to an ADU which may have the added benefit of removing or reducing illegal and/or "non-permitted" conversions.

These incentives included, but are not limited to: 1) Allowing parking from an alley; 2) Providing more area for living and storage space (increase to 1,200 sq ft); and 3) Removal of the requirement for the owner to occupy one of the units.

The desired benefits discussed by the Planning Commission of these changes included, but are not limited to: 1) providing an additional rental opportunity in single family neighborhoods while maintaining the streetscape and neighborhood character; 2) expanding housing options beyond owning a house; and 3) increasing the rental housing supply / stock.

The Planning Commission considered the changing and growing demographics of the Leavenworth Community which desires smaller living spaces and higher densities for better use of existing lands. Finally, the change in ADU standards can provide an opportunity for resident's to gain revenue by renting these ADUs.

From time to time, updates and edits to the LMC may be necessary to reflect appropriate changes and where necessary. The amendment to LMC 18.20.020 (B) (3) has been reviewed and deliberated upon by the Planning Commission on July 1, 2015, September 2, 2015, October 21, 2015 and November 25, 2015. During the November 25, 2015 hearing the Planning Commission continued the action upon obtaining research and feedback from the Council's Public Works Committee regarding utility connections. During the January 12, 2016 Council's Public Works Committee meeting, recommendations were discussed and incorporated into the amendment. During the Planning Commission March 2, 2016 public hearing, the Planning Commission recommended forwarding the amendment to the City Council.

Any amendment of a revision to development regulation(s) shall be consistent with and implement the Comprehensive Plan and follow the procedures within RCW 36.70A.130. Pursuant to LMC 21.31.040 (I), upon receipt of the Planning Commission's (PC) recommendation for amendments,

the City Council will begin their review process, which may include informal public workshops, forums and meetings. Prior to the end of each year, the City Council will hold a public hearing to consider an ordinance to adopt the proposed amendments, either as proposed by the Planning Commission or as subsequently amended based on public and agency comment and the Council's review, provided the criteria in subsection (H) of this section have been considered, and the criteria as outlined in the Chelan County Code, as applicable. In no instance shall the City Council adopt proposed amendments prior to the conclusion of the required 60-day review process as required under RCW 36.70A.106.

The following items are included under **TAB D:**

- Amendment to LMC 18.20.020 (B) (3)
- Planning Commission Staff Report

11:30 – 11:45 Annual Council Retreat Follow-up

This time is being provided for the Council review of the strategic planning and initiatives identified during the Annual Council Retreat to be held on March 4, 2016. Staff may provide follow-up materials to review if necessary.

There are no items included under **TAB E.**

11:45 – 12:00 Council Open Discussion

The remainder of this time slot allows for Council discussion of items not on the agenda.