



City of Leavenworth

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City Council
Cheryl K. Farivar - *Mayor*
Michael Molohon
Elmer Larsen
Robert Francis
Carolyn Wilson - *Mayor Pro Tem*
Gretchen Wearne
Mia Bretz
Margaret Neighbors
Joel Walinski - *City Administrator*

LEAVENWORTH CITY COUNCIL

AGENDA

Leavenworth City Hall - Council Chambers
March 8, 2016 - 6:30 p.m.

Call to Order

Flag Salute

Roll Call

Consent Agenda

1. Approval of Agenda
2. Approval of February 23, 2016 Regular Meeting Minutes
3. 2016 Claims \$59,845.23
4. February 2016 Payroll \$198,835.09

Public Safety Report: Sargent Bruce Long, Liaison Officer

Comments from the Public on Items Not on the Agenda

Councilmember and Committee Reports

Mayor/Administration Reports

Resolutions, Ordinances, Orders and Other Business

1. Action: Lodging Tax Group Funding Requests
2. Action: Authorization to Bid Meadowlark Phase I Water and Sewer
 - a) Motion to Suspend Financial Policy Section 5.d
 - b) Motion to Suspend Meadowlark Development Agreement, Exhibit D
 - c) Motion to Authorize Construction Bid Advertising
3. Action: Ordinance 1522 Parking Regulations – 2nd Reading
4. Action: Resolution 04-2016 Limited Parking Enforcement Authorization
5. Action: Special Use Permit: Village Art in the Park

Information Items for Future Consideration

1. Public Disclosure Commission Filing Deadline April 15th

Council Committees - 2nd Tuesday
Public Safety 3:00 Parks 4:00 Public
Works 5:00

(Next Ordinance is 1523 - Next Resolution is 05-2016)

SUPPLEMENTAL COUNCIL AGENDA

1. Lodging Tax Group Funding Requests

The City Council is being asked to approve the expenditure of the Lodging Tax Group Funding Requests for 2016. Based on the Council discussion at the morning study session, the Mayor will confirm the motion for this evening's consideration. As a note, if the Council opts to increase the Lodging Tax Funding for 2016 then a budget amendment will be presented at a later date.

The following items are included under **TAB 1**:

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

- **MOTION:** *The Leavenworth City Council moves to approve \$_____ for _____, \$_____ for _____, \$_____ for _____, \$_____ for _____, and \$_____ for _____ for use of the Lodging Tax Group Funds for the 2016 calendar year.*

2. Authorization to Bid Meadowlark Phase I Water and Sewer

The City Council is being asked to consider authorizing for bid the Meadowlark Phase I Water and Sewer Project. To accomplish this, the City Council will need to first suspend the City's Financial Policy Section 5.d and then agree to suspend the Meadowlark Development Agreement, Exhibit D. The suspension of Section 5.d of the Financial Policy relates to language within the policy pertaining to City financial partnerships and financial sureties required. Exhibit D of the Meadowlark Development Agreement is the "Financial Pathway" exhibit and relates to the financial sureties required to be in place prior to the bidding of this project. Upper Valley MEND has requested the City Council to consider suspending these conditions so that the project may proceed to public bid.

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. The certified engineer's estimate of probable costs for all costs is \$1,003,272. 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.

The full write up of these items are included as discussion items in the Study Session material for Tuesday March 8, 2016. The information is provided again under each item.

The following items relate to the motions below and are included under **TAB 2:**

- **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

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, and 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 business owners 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.

- **MOTION FOR ITEM A:** *The Leavenworth City Council moves to suspend the Financial Policy Section 5.d under Capital Investment Budget Policies.*
- **Alternate Motion:** *The Leavenworth City Council prior to authorizing the public bid of the Meadowlark Phase I Water and Sewer project requests that the Meadowlark Developers provide the necessary financial surety as required in the City of Leavenworth Financial Policy for the approval of the City Attorney and based on the Certified Engineer's Estimate of Probable Cost.*

B. Motion to Suspend Meadowlark Development Agreement, Exhibit D

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 Highway or Titus Road is required.

- **MOTION FOR ITEM B:** *The Leavenworth City Council moves to suspend the Development Agreement with the Meadowlark Developers.*
- **Alternate Motion:** *The Leavenworth City Council prior to authorizing the public bid of the Meadowlark Phase I Water and Sewer project requests that the Meadowlark Developers provide the necessary financial surety as required in the Meadowlark Development Agreement, Exhibit D for the approval of the City Attorney and based on the Certified Engineer's Estimate of Probable Cost.*

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.

- **MOTION FOR ITEM C:** *The Leavenworth City Council moves to authorize the Meadowlark Project to proceed with bid advertising.*
- **Alternate Motion:** *The Leavenworth City Council tables the consideration of authorizing the public bid of the Meadowlark Phase I Water and Sewer project until such time that the Meadowlark Developers provide the necessary financial surety as required in the City Financial Policy and Meadowlark Development Agreement, Exhibit D for the approval of the City Attorney and based on the Certified Engineer's Estimate of Probable Cost.*

3. Ordinance 1522 Parking Regulations – 2nd Reading

The City Council is being asked to review and consider for approval of Ordinance 1522 which are changes to the Leavenworth Municipal Code Chapter 10 regarding Parking Regulations. The request for change was initiated by the Public Safety Committee after discussions with the City's Sheriff Liaison Officer Sergeant Bruce Long. The request was to authorize Pacific Security Officers, which the City contracts with, be given the additional authority to enforce other parking violations within the City. The Council reviewed these changes at the February 23, 2016 Council Meeting.

The Public Safety Committee recommendations for areas of increased enforcement by Pacific Security include the following areas:

10.08.020 – Parking in the travel lane of any street in the City.

10.08.120 – Parking Prohibited Areas. On streets or in designated municipal parking areas where signs, or pavement marking, ramps, or curbs prohibit parking.

1. "No Parking" signs or other markings, such as yellow zone markings, indicate no parking at any time.
2. "Fire Lane" signs or yellow painted curb, which shall mean no parking due to use such as fire lane or delivery lane.
3. The vehicle blocks access to a fire hydrant whether painted or not.
4. Bus Stop (not included).
5. Unauthorized disabled parking (not included).
6. Any portion of the vehicle is on the curb or the sidewalk.
7. Any portion of the vehicle blocks pedestrian access to a cross walk, whether marked or not.
8. Any portion of the vehicle blocks pedestrian access to a pedestrian ramp.

While many of these violations are currently within the Leavenworth Municipal Code (LMC) or a violation under Revised Code of Washington (RCW); code language needed to be changed to include RCW violations within the LMC and to allow for the code violation penalty to include the issuance of a “parking infraction” which requires the payment of a monetary penalty to the City of Leavenworth. One RCW violation that needed to be added to the LMC is the violation for parking in a travel lane which was added under section 10.08.020. The “parking infractions” are different from civil infractions in that the City is the agency which collects the fees and the parking infractions would be issued by Pacific Security. Unpaid “parking infractions” are referred to collections rather than the district court for compliance and payment. Parking violations issued by Chelan County Deputies would continue to be a civil infraction and payment would be made through the Chelan County District Court.

These changes have been reviewed and recommended by the City Attorney, Public Safety Liaison Officer, and Public Safety Committee. The “fine” for these parking infractions at this time is \$25.00 as set by the Council Resolution 03-2016 Amending Rates and Fees approved on February 23, 2016.

To accomplish this task, the code language needs to be changed to allow for the code violation penalty to include the issuance of a “parking infraction” which requires the payment of a monetary penalty to the City of Leavenworth. These “parking infractions” are different from civil infractions in that the City is the agency which collects the fees. Unpaid “parking infractions” are referred to collections rather than the district court for compliance and payment.

One question that did come up at the first reading was in regard to Section 10.08.030 Time limit zones. This language is within the current code. The question was asked on the application of the section of code. Since the City has very limited time zone parking areas; for example City Hall one hour limit and the Outdoor Pool Parking Lot, two hour limit, this language would prohibit users from moving the vehicle from one space to another within the lot during the same day. This language does not prohibit parking of a vehicle in an untimed on street parking location multiple times per day.

The following items are included under **TAB 4:**

- Chapter 10.08 Parking Regulations – redline version
- Ordinance No. 1522 Parking Regulations
- **MOTION:** *The Leavenworth City Council moves to adopt Ordinance 1522 Parking Regulations.*

4. Resolution 04-2016 Limited Parking Enforcement Authorization

The City Council is being asked to approve Resolution 04 – 2016 which authorizes the enforcement of parking violations to the Mayor’s designee. This authorization will allow for Pacific Security, which is contracted by the City, to issue “parking infractions” for vehicles in violation of provisions of the Leavenworth Municipal Code (LMC) 10.08. Specific violations include the following:

10.08.020 – Parking in the travel lane of any street in the City.

10.08.120 Parking Prohibited Areas. On streets or in designated municipal parking areas where signs, or pavement marking, ramps, or curbs prohibit parking.

1. “No Parking” signs or other markings, such as yellow zone markings, indicate no parking at any time.
2. “Fire Lane” signs or yellow painted curb, which shall mean no parking due to use such as fire lane or delivery lane.
3. The vehicle blocks access to a fire hydrant whether painted or not.
4. Bus Stop (not included).
5. Unauthorized disabled parking (not included).
6. Any portion of the vehicle is on the curb or the sidewalk.
7. Any portion of the vehicle blocks pedestrian access to a cross walk, whether marked or not.
8. Any portion of the vehicle blocks pedestrian access to a pedestrian ramp.

These changes have been reviewed and recommended by the City Attorney, Public Safety Liaison Officer, and Public Safety Committee. The “fine” for these parking infractions at this time is \$25.00 as set by the Council Resolution 03-2016 Amending Rates and Fees approved on February 23, 2016. Parking violations issued by Chelan County Deputies would continue to be a civil infraction and payment would be made through the Chelan County District Court.

Previously, the Council had authorized the Mayor’s designee limited authority on enforcement of timed parking either within City parking lots or the on street 30 minute zones. This authorization would allow for a more comprehensive parking enforcement program. The effort being made on parking enforcement is to increase pedestrian access and safety, limit congestion issues of improperly parked vehicles, and improve the safe operation of vehicles on City streets.

The following items are included under **TAB 4:**

- Resolution No. 04 – 2016 Parking Time Limit Zones
- **MOTION:** *The Leavenworth City Council moves to approve Resolution 04-2016 Limited Enforcement Authorization.*

5. Special Use Permit – Village Art in the Park

The City Council is being asked to consider and approve a Special Use Permit (SUP) to allow for temporary use of approximately 6,969 square feet of the City’s paver covered area of Front Street Park for the Village Art in the Park event. Art in the Park is an annual event that begins in May and is open Friday – Sunday including Holidays; 4th of July weekend begins the extended hours of Thursday – Sunday through the Labor Day holiday and then resumes the three day weekend schedule for the remainder of the season.

The SUP annual payment is reduced by \$2,000 should the event organizers choose to donate \$2,000 to a Leavenworth art education program. Earlier this year Art in the Park donated funds to Icicle River Middle School. The total cost of the 2016 SUP less the \$2,000 donation is \$6,758.28 which includes the required Washington State Leasehold Excise Tax.

Generally a SUP is approved administratively as long as the use is consistent with past City practices, current city ordinances and policies. Significant changes in the SUP or requests for a use that have not been approved and discussed previously by the City Council will be referred to the Council for review and consideration. Examples of this would include a significant street closure for multiple days, a new commercial use within a park area, or expansion on the sale of alcohol on City property. In this case the SUP for the Village Art in the Park is traditionally brought before the Council because of the scope and length of contract. The SUP allows Art in the Park to use the majority of space within Front Street Park from early May through the end of Oktoberfest. There are no significant changes to this SUP for 2016; staff recommends approval of the SUP.

The following items are included under **TAB 5**:

- Special Use Permit Agreement
- 2016 Prospectus
- **MOTION:** *The Leavenworth City Council moves to approve the Special Use Permit for Village Art in the Park.*