

LEAVENWORTH CITY COUNCIL
Study Session Agenda
City Hall - Council Chambers
June 14, 2016 9:00 a.m.

9:00 – 9:20 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.

9:20 – 9:50 Skate Park Discussion

This time is provided for the Council to review the current status of the Skate Park Project and to discuss the process moving forward on a replacement skate park. For the Council's review, the comments collected from the City's Facebook post and the comments received via email from the City's Website are provided for review.

In developing a plan for the skate park, there are five items that will need to be considered in moving the process forward: the location, design funding, and eventually a formal submittal to the Recreation Conservation Office (RCO) for approval of the conversion process. A fifth item that will be important and define the success of the project will be the public engagement used within the various phases of the project. Creating a timeline for the project will be dependent on the process used for selecting a site and design, and the community involvement within those decision making processes. As the site and design questions are identified and answered, work can begin on developing a funding package for the project. We will continue to inform and provide information to the RCO as this work continues; an official conversion approval process however, cannot begin until more information is available on the site, design and costs.

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

- City Facebook comments
- Comments received via email

9:50 – 10:10 CDBG Grant / LID # 24 Update

This time is provided to provide an update to the City Council on the progress being made on the closeout of the Community Development Block Grant (CDBG) and the establishment of LID #24.

Over the last several months staff has been working with the Department of Commerce to identify any expenditure that may qualify for a partial reimbursement under the CDBG Contract. The two areas that could potential qualify include \$15,300 for administrative costs and \$24,000 in costs associated with project planning. While the reimbursement for the administrative costs may still be on the table, it appears we have exhausted the scenarios for reimbursement for planning costs. Planning costs would be those tasks completed in developing the scope and work of the project. They could be cultural resource, environmental, traffic, geotechnical types of studies. The limitations for reimbursement would be the time period of work performed after June 13, 2013 which is when the contract with the Department of Commerce was signed. Most of the planning work for the Meadowlark Project for both onsite and offsite work was completed prior to this date.

In addition, because reimbursement for this work was never intended to be included for reimbursement, the developers did not follow the CDBG protocol for securing contracted services in an effort to reduce costs and also to select local firms. Following the CDBG protocol for selecting consultants is a requirement for reimbursement. At this time staff will be working with the Department of Commerce in securing the reimbursement amount for administrative costs and will begin the closeout of the CDBG contract.

The second item for discussion is the release of a bank assignment and funds to Upper Valley MEND. As a requirement of the Development Agreement with the Meadowlark Developers and a condition for the establishment of the Local Improvement District #24, a bank assignment of \$100,000 was created and is being held at Banner Bank. This surety was provided to allow the City to recover a percentage of the preformation expenses (legal fees, final design fees, etc.) in the event the Chumstick Water and Sewer Transmission Line and Lift Station Project did not move forward and the LID #24 was not finalized. Upper Valley MEND has requested the City to consider releasing all or a portion of these funds as the contracts for construction of the projects are now in place and the Ordinance establishing the LID #24 has been approved. In reviewing the documents with the City Attorney and Upper Valley MEND representatives, staff is recommending a 50% release of funds at this time with the remainder being held until the construction is completed and the LID #24 has been finalized.

In approving the Ordinance establishing LID #24, the recovery of preformation expenditure funds will be recovered by the City via bonding and finalizing the LID #24. The bonding for this project and final establishment of the LID #24 is anticipated to be completed this fall after the construction of the Chumstick Water/Sewer Transmission Lines and Lift Station has been completed. At that time the actual costs for the project will be known and the City will complete the bond sale for the project for reimbursement of expenditures. A final public hearing will be held for the creation of LID #24 and the Council will be asked to approve and finalize the establishment of the LID. Future debt service on the bond will be paid for by the property owners within the benefit area. In the event an owner is delinquent on their payment, the City would be responsible for the payment. The recourse for the City on the missed payment, is the payment of the LID assessments are tied to the property; at the time of sale of the property the full amount would be reimbursed to the City with interest. The recommendation for retaining \$50,000 is being made to allow the City some surety for partial reimbursement in the event that the LID does not get established or there are extensive change orders associated with the project which exceed the current estimated LID bonding of \$960,000.

The documents have been developed and provided to all parties involved with the Meadowlark Development and the LID #24 for review. Council is being asked to review the attached documents at this time. Once a signed set of documents have been received the Council will be asked to consider approval of the release of funds.

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

- Amendment No. 1 to Contract Relating to Preformation Expenses.
- Assignment of Bank Account for Security Purposes-Preformation Expenditures

10:10 – 10:30 Front Street Park Easement Proposal

This time is provided for the Council to discuss the proposed Front Street Park easements and associated improvements necessary for the construction of a new two story 9,538 SF mixed use building owned by Mr. Flint Hartwig. The Hartwig property is approximately 7,000 square feet, and was purchased for \$600,000. During the regular May 24th Economic Development Committee, conceptual easement was introduced describing the utility and other necessary infrastructure within Front Street Park to serve the proposed building. The purpose of this easement is for the installation, maintenance, and repair of underground utilities and a ten foot (10') buffer area **where no improvements shall be allowed to be constructed**. This area is approximately 1,250 square feet. The conveyance lines are not included in this description, and will be necessary for an additional area of approximately 900 square feet. The total area of easement and burden is approximately 2,150 square feet; and if extrapolated from the value similar to that of the purchase price of the Hartwig property, the area of burden to the City could be valued at approximately \$135,248.

As discussions continue with this developer, Staff is asking the Council to consider and discuss a few factors prior to agreeing to the easement and binding Front Street Park.

- The first is the short-term operations of the land. This can include maintenance (for example: watering times, weed and pest control – herbicide and pesticide use). The expectation of a service level different from the current level of service and who is responsible.
- The second question is the long term use of Front Street Park. The current activity includes overflow area for Art in the Park, Ice Fest, Glühwein, and other public uses. Although the easement includes general language for use, but clearly prohibits construction. This does not speak to a tent (temporary improvement) that will block the access and front of the building for these events; and should be considered for clarification.
- Thirdly, staff desires feedback as to the community's goal for this park. With utilities and a ten (10) foot "no construction" limitation, are there any plans for improvements? For example, second gazebo, expansion of restrooms, etc. Is the City ready at this time to prohibit and place limitations on any future uses or construction on this section of Front Street Park.
- Finally, is the question of mitigation or compensation for the release of the use of the property to Mr. Hartwig. What value is there, and/or mitigation needed for binding the use of the park for private purposes?

In summary, any proposed easement will need to reflect the long-term use, community goal, and operations of the park to ensure that such will not have unforeseen consequences or conflicts with City use of the land for parks and recreation; or other future land use.

One last option to consider is the "hard scape" of this area, and where that is preferred?

Attached are the associated documents to consider the scope of the proposal. (*NOTE: Option 2 includes a 20-foot line, and the above review did not consider this line, but uses the easement agreement of 10 foot*)

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

- Survey of Existing Improvements and Property Line

- Potential Improvements to Burdened Property (City Park – Option 1)
- Potential Improvements to Burdened Property (City Park – Option 2)
- Draft Easement (recording instrument)

10:30 – 10:50 Alcohol Use in Parks Code Revisions

This time is being set aside for the Council to review the revised draft of the Park Regulations, Ordinance 912 - Chapter 12.24.140, regarding alcohol consumption in the parks. At the direction of Council, Staff has drafted revisions which would allow the City Administrator along with Council, to issue Special Use Permits allowing sale and consumption of beer and wine, under strict restrictions and guidelines, within the City Parks. These new revisions and guidelines were presented for review on May 10, 2016 to both the Safety Committee and the Parks Committee. The draft document is now being presented to the full Council in Study Session for further review. It should be noted that the drafted policy requires strict coherence to time, size, and type of event, security, state requirements, etc. and will not allow for wine tasting, family reunions/gatherings, or youth involved events. It will, however, allow for limited alcohol sale at adult athletic events, such as tournaments, races, etc. as deemed appropriate by Council.

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

- Draft of Park Regulations Ordinance 912 – Chapter 12.24.140

10:50 – 11:05 Pinegrass Subdivision Street Naming

This time is set aside for the Development Services and the Public Works Departments to present potential Pinegrass Subdivision Street Names for future Dedication. This process includes, but is not limited to: 1) naming the street / street designation, 2) confirmation from RiverCom (our local 911 / emergency services communications provider) that the name does not conflict or is inappropriate, and 3) City Council acceptance of the names for future dedication with the recording of the Pinegrass Subdivision (a Council approval is needed for all streets and easement to be accepted and maintained by the City).

Correct street names need to be part of the legal descriptions and the final plat. It's also preferable to have the street names to insert into the plat (legal creation of lots).

For today, the Council is asked to consider the Pinegrass Subdivision street name for Road A – Scamahorn or Sequoia (RiverCom has reviewed these names).

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

- Preliminary Plat – Pinegrass Subdivision

11:05 – 11:20 Review of Enforcement Process

This time is set aside to discuss the code compliance process. The Development Services Department believes the best approach to enforcing local codes is voluntary compliance. The

Development Services Department works with residents to resolve violations before enforcement actions are necessary.

The following steps are taken to resolve code violations:

1. Complaint review - When a complaint is received, it is reviewed by the Development Services Department to determine whether a violation of code may have occurred.
2. Investigation - If the issue is a violation of code, a City employee will visit the property or conduct research to verify the problem.
3. Property owner notification - If the City finds a violation, property owners receive a phone call or letter detailing the violation/s, necessary corrective actions and a deadline to make the corrections. This is called “voluntary compliance,” and a preferred option.
4. Re-inspection - The City again inspects the property at the end of the time frame. If violations still exists, further enforcement is taken.
5. Notice and Order - If voluntary compliance is not achieved, a Notice and Order is issued giving property owners a timeline (for example -10 days) to comply before fines begin.
6. Appeals - Property owners may appeal a Notice and Order to the Hearings Examiner. If the Hearings Examiner affirms the Notice and Order (or no appeal is requested), fines are imposed and will continue each day until the violation is corrected. Unpaid fines are recorded as a lien on the property.
7. First new letter – This is confirmation of the Notice and Order; and the first level of fines of the amount of \$250 for failure to comply.
8. Second new letter - This is confirmation of the Notice and Order; the First new letter; and the next level of fines of the amount of \$1,000 for failure to comply.
9. Third new letter - This is confirmation of the Notice and Order; the First new letter; the Second new letter; and the highest level of fines of the amount of \$1,500 for failure to comply.
10. Fines and Notice and Order repeats – At this time, the City will repeat the process, and fines are cumulative for each day of non-compliance.
11. Legal action - When compliance cannot be reached, the case is forwarded to the Prosecuting Attorney for legal action.

Development Services and Chelan County Sheriff Office (land use vs behavior).

Civil law and criminal law are two broad and separate entities of law with separate sets of laws and punishments. According to William Geldart, Introduction to English Law 146 (D.C.M. Yardley ed., 9th ed. 1984),

“The difference between civil law and criminal law turns on the difference between two different objects which law seeks to pursue - redress or punishment. The object of civil law is the redress of wrongs by compelling compensation or restitution: the wrongdoer is not punished; he only suffers so much harm as is necessary to make good the wrong he has done. The person who has suffered gets a definite benefit from the law, or at least he avoids a loss. On the other hand, in the case of crimes, the main object of the law is to punish the wrongdoer; to give

him and others a strong inducement not to commit same or similar crimes, to reform him if possible and perhaps to satisfy the public sense that wrongdoing ought to meet with retribution.”

Land Use and Building Code Enforcement is a special type of law enforcement that regulates land use and construction. The City obtains its authority to regulate land use from the police powers conferred upon it by the Washington State Constitution which permits cities to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws of the land. Unless in conflict with state law, the courts generally view land use ordinances as valid exercises of police power when reasonably related to public health, safety, and welfare.

City Council has adopted several land use ordinances to combat public nuisance including but not limited to:

- Zoning ordinance
- Public nuisance ordinance
- International building and fire codes including dangerous buildings

Development Services’ philosophy is that **compliance is our primary goal** and education is the key to reaching that goal. Many citizens do not realize that they are violating local ordinances. However, most people are willing to play by the rules if they know them. This system is not based on punitive measures or punishment, but gaining compliance to promote and maintain a safe and desirable living and working environment.

Criminal violations the Sheriff’s Office handles are defined within RCW 9A. Primarily these criminal violations would be noise, littering, trespass, malicious mischief, and public street parking violations. These are more related to “behavior” and not land use or construction.

There following items are included under **TAB F:**

- Chapter 21.13 Enforcement And Penalties
- Flow Chart

11:20 – 11:35 Fence Permit Ordinance Review

This time is requested by Councilmember Larsen to discuss the impacts of the new fence regulations. Within the May 13, 2016 Council memo regarding “Enforcement Actions;” and from this information, Mr. Larsen desired to speak to Council regarding the adopted fence standards and specifications.

There following items are included under **TAB G:**

- Fence Code Pamphlet
- Adopted Fence Code Ordinance
- Lot Configurations and Setbacks

11:35 – 11:45 Council Open Discussion

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