

LEAVENWORTH CITY COUNCIL STUDY SESSION MINUTES

September 13, 2016

Mayor Cheryl Kelley Farivar called the September 13, 2016 Study Session to order at 9:00 AM.

Council Present: Mayor Cheryl Kelley Farivar, Elmer Larsen, Carolyn Wilson, Gretchen Wearne, Mia Bretz, and Margaret Neighbors.

Staff Present: Joel Walinski, Herb Amick, Nathan Pate and Chantell Steiner.

Mayor Farivar excused Councilmember Richard Brinkman.

1. Chamber Report

Chamber Director Nancy Smith updated the Council on the Ski & Stay Program with Stevens Pass to offer reduced tickets at local lodging facilities; an added bonus this year includes some additional employee discounts through the use of a new merchant card program. Ms. Smith gave an update on advertising options that the Chamber is doing for media ads that is a transition away from online advertising. She noted some awards and highlights that Leavenworth made such as “Best in the West” and “Cutest Small Towns”. She discussed some ideas for small new decorations to enhance the trees for this Christmas Lighting season, updates occurring to the Chamber’s website, the exploration of an online booking calendar option for local lodging facilities and events, wine related events, and brainstorming ideas for the fourth weekend of October to ensure some activities will be occurring. She noted that the snowflakes and trees for the highway lighting decorations will be up for this season.

2. Washington State Auditor Exit Conference for 2015 Individual Single Federal Audit

Mayor Farivar introduced Ms. Kathleen Lince and Kiersten Redal of the Washington State Auditor’s Office. Ms. Redal provided the Council with handouts on the exit conference information and Financial Statement and Federal Single Audit Report for the 2015 calendar year. Ms. Lince stated that the reports reflect a clean audit with no recommendations necessary and noted how wonderful it was to work with the Staff. She and Ms. Redal thanked the City Staff for their participation, accuracy and dedication to the time and resources provided to ensure a seamless audit process. Ms. Redal identified the audit type in regards to the individual federal single audit due to the City receiving just over \$750,000 in federal grant funds; she noted that there were no misstatements identified and that there are no management recommendations. She identified the responsibilities of the City Staff regarding internal controls, compliance matters and presentation, and the design and maintenance of the financial statements. She briefly reviewed the Auditor’s responsibilities and the adverse opinion of the use of Generally Accepted Accounting Principles (GAAP) due to the City’s use of the State authorized option of reporting on a cash basis model. Ms. Lince noted that the next steps will be to finalize and publish this report on the State Auditor’s Office website and to make the necessary submission to the Federal Audit Clearinghouse for the federal grant dollars received.

3. Discussion with Planning Commission on Overnight Rentals

Development Services Manager Nathan Pate and Planning Commissioners Andy Lane and Chuck Reppas joined the discussion to provide and discuss the progress to date on the topic of Overnight Rentals in residential neighborhoods by the Planning Commission.

Commissioner Lane updated the Council on the recent meetings and involvement from the public that has driven discussions on potential changes that are necessary to the current code regarding overnight rentals. One item to note is that the City does allow overnight rental options currently in the residential neighborhoods' under the permitted authority of a Bed & Breakfast facility. It is clear that the City has the legal authority to regulate such planning and zoning regulations; however, the bigger question for Commissioner Lane is to what extent does the City need and want to regulate. Based on the significant public responses, proponents and opponents included, the pressure on housing prices, the request for more affordable housing and legal rights to property owners; the testimony and public comments have brought up many questions on how to proceed. He said the next step for the Commission is to continue working on inconsistencies within the code regarding Bed & Breakfasts to clarify and refine this code language and to incorporate the public's concerns that have been heard and documented. Commissioner Lane has some concerns with the new regulatory options for new entities such as Air BNB; however, he believes breaking down barriers for affordability should be the focus.

Commissioner Reppas shared some personal passionate ideas on what the City needs to do that he has heard from local residents. He talked about the need to have symmetry between the commercial and residential zones noting that this is a difficult task that needs to focus on the legal options that will be fair and equitable to both sides. He said that he has to clarify for residents the difference of a "ban" on overnight rentals noting that the City does not have a ban but rather has a conditional use option for Bed and Breakfasts within the residential zone and allowance without a conditional use permit within the commercial zones; there is a lot of confusion on this topic for many residents. He noted that the regulations within the code for enforcement procedures are also being reviewed by the Commission; other code language to consider is a clear process for residents to report potential violations. He said that the real problem is when a resident violates the conditional use option and is moving forward to rent out their properties without the proper permitting authority. He is not sure what the resolution will be but has heard of an option to turn off utilities that is utilized in Anaheim, California; however, this will need to be explored for Washington State laws before considering this as an option. Manager Pate clarified that in the Commercial zones a Bed and Breakfast is regulated using code language for a hotel/motel. Commissioner Reppas stated that this language will also need to be looked at and he believes there should be some continuity between the residential and commercial zones. He then discussed the need to look at creative ways to balance the housing options that are available to the public where supply and demand are driving the available housing; Mayor Farivar concurred that part of the issues relating to affordable housing is more in line with the fact that there is not adequate available housing options.

Councilmember Larsen questioned whether the Commission is looking at options for residential homeowners to have some amount of flexibility to rent out their homes for shorter than 30 days, such as weekend rentals only or when a management company transitions renters. Having a management company handle filling the home, even on several months, may require turnover of more than one family in the home in a single month. It was clarified that a Bed and Breakfast facility requires the homeowner to be on site so this may not be an option for someone who leaves for a couple of months and wants to allow a management company to fill the home during the period. Commissioner Lane stated that this concept has not yet been discussed by the

Commission; however, having a new option that may consider a two-week period instead of 30 days can be explored. Councilmember Larsen added that the enforcement would need to be considered but he feels there is a benefit to look into this further; Councilmember Bretz concurred that she likes the direction of the Bed and Breakfast and less than 30 day review options as well.

The Council discussed the need to put together a timeline of actions to allow the public better insight into the discussions and when and where to attend meetings to input and voice opinions. Commissioner Lane stated that he would like to see the Planning Commission complete this process between November and December of this year for the non-owner occupied overnight rental discussion that will include Bed and Breakfasts and clarifications to transient lodging. He added that adopting changes to the Bed and Breakfast code language is likely not the last step but is the current focus; others concurred that there will likely be a period of adoption, testing, and reconsideration based on findings of how the code is implemented and viewed by the public. Mayor Farivar stated that this entire review process will help to clarify and strengthen the current City code language that will in turn allow for the administration to properly enforce any violations to the code. Clarifications on permitted and non-permitted uses are the key to solving some of the confusion and questions that are currently being identified. Councilmember Bretz added that she supports the changes to be considered but wants to be sure that the process for compliance, such as applying for a bed and breakfast permit, remains simplistic allowing for a variety of options to the property owner for compliance.

4. Discussion on Suspending the Owner Occupancy Flexibility for Accessory Dwelling Units in Urban Growth Area

Manager Pate provided the Council some history on how the City has worked with the County in the past for annual code amendment updates through the use of a Memorandum of Understanding (MOU). In prior year updates, the City has removed Accessory Dwelling Units (ADU) from the annual amendment process to allow for more Council review. Recently, the City Council struck the requirement of having onsite owner occupancy for the main residence or the ADU as a measure to assist in the affordable housing concerns. The County Commissioners have requested the ability to suspend this requirement and maintain the current requirement of at least one unit being owner occupied. The Commission has stated concerns at the ability to enforce this new regulation, which now doubles the amount of units to respond to complaints for, as they do not have the resources to properly respond. In addition, the Commission has stated that Leavenworth is the only entity within the County with this open regulation which also increases the demand for review and response. Manager Pate stated that the MOU is a good document and has worked fairly well in the past but questioned whether the Council would be open to the requested amendment from the County.

Mayor Farivar provided additional back ground on the City's review of ADU's to allow for more housing options. Administrator Walinski added that the County has a significant area of land to enforce and clarified how the enforcement would increase on the County due to expanded uses of overnight rentals. He offered the Council two options for consideration, the first being an agreement by the City Council suspending the compliance by the County Commissioners to the MOU specifically for this particular code item or to consider amending the City's code back to the previous language for owner occupancy that would affect UGA and inside city residents. Council members discussed the potential positive ways that this could affect future additional conflicts with the MOU that may come up later and could allow for a streamlined process of the

annual code updates between the City and the County. The Council also identified that in this case, the County was asking for much more restrictive code language to be enforced within the UGA area than within the City limits.

5. Coordinated Cost Reimbursement Agreement

Administrator Walinski stated that this agreement is a culmination of the work that has been done over the past decade by stakeholders for the processing of permitting water rights. He briefed the Council on the history of the process, formation of the Watershed Resource Inventory Area planning document that has now resulted in the creation of the Coordinated Cost Reimbursement Agreement. He noted that some applications for requesting water rights date back as far as 1989. In 2012, the Wenatchee Water Workgroup began forming the Agreement after receiving approval from the Department of Ecology (DOE) to assist the DOE on administering and processing the water permits, which in turn will benefit the local municipalities to resolve and receive water right applications that have long been waiting approval. Administrator Walinski clarified that this agreement is in relation to the Wenatchee River which includes the Leavenworth well sites; he further explained how some of the available water rights have been recommended for allocation through the Agreement that will expedite municipal applications. He stated that one question is whether the City needs surface water rights versus ground water rights of which he is still reviewing. Regarding ground water rights there may need to be some hydraulic studies needing to be completed; the question to ask is whether we need surface water rights in the future. Councilmember Larsen stated that he recommends exploring both options as there may be unknown factors yet to consider; he added that another item to consider is whether a municipality can receive credits to their water rights when providing water access to residents in the UGA. Walinski stated that with Chelan County receiving water rights under this program, that transfer process and regulation could be explored.

6. Oktoberfest Special Use Permit Update

Administrator Walinski updated the Council on the different regulations for Oktoberfest including the Festhalle rental, noise permitting, and citizen concerns for security, trash, public urination/indecency and intoxication. The City implemented a review process two years ago that started to address all of these concerns and so far it has proven to be successful in putting on and regulating the event. He reviewed the increased deputy presence and identified the 2016 police schedule that includes additional foot patrols for the downtown area and the calendar of scheduled Sheriff staffing. Projekt Bayern President Steve Lord stated that there are no anticipated changes to the event from last year and asked that the Council please contact him at any time for any concerns that need to be addressed. He stated that in the past, complaints have come well after the incident that does not allow for the opportunity to address an issue right away, which is one of his main goals for providing an ongoing great event for the community and visitors. Discussion ensued on some positive shifts in change that have occurred on the perspective of Oktoberfest due to the improvements that have been implemented over the past two years. It was noted that the timed closure of the event has helped tremendously to create a transition that has lowered negativity and frustration by both the residents and the visitors.

7. Council Selection Process for Filling Vacancy – Set Interview Date

Mayor Farivar stated that this process is similar to what the Council recently used to fill a vacancy. Administrator Walinski clarified that selection and voting option is just one of the two

previously presented but is the option that the Council had previously chosen to utilize. He clarified the process underway to proceed with running advertisements, collecting applications and setting the date for the interviews. The Council proceeded to review date options and chose to tentatively select the afternoon of October 18th that would be dependent upon the number of applications received.

8. Willkommen Village Updates

Manager Pate provided the Council an update on the progress of the Willkommen Village construction and off-site improvements. He addressed the materials provided depicting the anticipated street and water mainline improvements. He identified the specific location of the KOA access easement through the property that will come out near the end of the River Bend Road area. The Council discussed what a Utility Reimbursement Agreement (URA) is and what the developers have proposed for the URA boundaries. Administrator Walinski clarified that the City can amend the URA boundaries to expand further based on calculated benefitted areas; some properties may be higher than others based on current versus improved values of the property receiving the benefit. He provided an example of how the Safeway property is currently not included in the URA but the Council may choose to include the property because there could be a significant change in that property at a later date should Safeway sale or rebuild a different facility on that property; however, at this time what is being presented is the recommendation of the developer, and the consideration of the developer is what areas are most likely to develop over time so they can receive some level of reimbursement on their investment.

Manager Pate proceeded to review the draft plans for the Link Transit Park-n-Ride that includes a specific new access point coming in from Highway 2 before the current access to Safeway off of Ward Strasse; discussions are still underway on whether there will be public access allowed for the general public in this new entrance. He then reviewed future options for dedication of right-of-way access and discussed some challenges on where the right-of-way will be located once the Council considers the annexation process of the KOA property. He noted that at this time the KOA property owners would like to implement the easement alignment proposed within the annexation agreement while the current property owners have a different utility and easement plan. Manager Pate stated that the City has encouraged the property owners to resolve the issue prior to the City taking any action for annexation. There are deadlines involved and if the property owners are not able to resolve the concerns, then the City Council will be faced with making decisions to finalize the right-of-way easements.

Councilmember Larsen stated that there have been some concerns raised by the River Bend residents regarding commercial activities; he questioned whether this has been resolved. Manager Pate stated that the developer has proposed a buffer of multi-family residential homes between the current River Bend residents and the commercial related improvements planned for the property and that there will likely be some private road options incorporated within the property as well. Mr. Pate stated that this is consistent. Councilmember Larsen questioned whether the River Bend lift station was considered as part of the utility improvements; it was clarified that yes this has been reviewed and that there will be a single main line access option for River Bend residents when they are ready to abandon their current system and join the City's infrastructure system. It was noted that road construction for the water line improvements across Highway 2 are currently getting underway; the actual date of construction could be anytime; night time work is being considered as an option to reduce impacts.

9. Accessory Dwelling Unit Conversions

Administrator Walinski gave the Council an update on some history of how conversions have occurred in the past that typically were not an issue when properly permitted. Due to the changes of the code and an increase in the desire to create accessory dwelling units (ADU), concerns have been raised for some property owners to meet current compliance requirements when a change of use occurs with an existing building. Last year the City Council reviewed the International Building Code changes and made specific choices for some of the codes that the City is allowed to approve or reject within their own code language; included in the packet materials is the specific language regarding a change of use for a garage conversion into a livable space, an ADU, which has created a concern that was previously brought forward by Councilmember Larsen. Administrator Walinski clarified that there are setback requirements within the City code as well as specific setback requirements within the International Building Code, the LMC setback requirements can be modified, the IBC setback requirements cannot be modified by the City Council; he also reminded the City Council that they cannot create code language for a specific property as there must be continuity for all property owners to be legally enforceable.

Councilmember Larsen stated that the City does have another option which is through the variance process. He stated that the City has always been and will continue to amend code language but ultimately he wants the Council to continue working to accommodate property owners to become compliant whenever possible. Mayor Farivar questioned whether Councilmember Larsen wants to resolve an issue for someone who has bootlegged an Accessory Dwelling Unit (ADU), meaning someone who has created an ADU without properly permitting it and ensuring the health and safety of the unit for rental use. Councilmember Larsen stated that he wants to see compliance for health and safety issues but he also believes that the City can pick and choose International Building Codes (IBC) to require for implementation for such items as lot line requirements which is the current issue facing a property owner. Discussion ensued on compliance requirements, what constitutes health and safety regulations, roof requirements for snow loading, setbacks for privacy within the City's code versus setback requirements within the IBC for fire and access requirements by safety personnel, liability concerns for the City when approving permits that may violate mandatory IBC codes, previously adopted administrative variance options currently within the code, requirement for Hearing Examiner reviews of variance requests, and the desire by the Council to improve the processes and approvals for residents to bring older units into current compliance in a reasonable and affordable fashion. It was noted that the City has requested a survey from the property owner in question who has refused to provide this to the City which may ultimately remove any concern on the City's part with this change of use request.

In closing Mayor Farivar stated that different variance approval options can be explored if that is what the full Council chooses to do. It is the Council's responsibility to ensure that the City creates options that are equal for all residents and reiterated that the City is not put in a liability situation by making exceptions on a case by case basis; she stated that it is critical to consider health and safety requirements in all cases and any code language updates. Administrator Walinski stated that staff will look further at the Leavenworth Municipal Code language for existing buildings regarding lot placement and setbacks and will bring back the options available for Council consideration; the placement of the unit on the buildable lot will also be considered.

10. Council Open Discussion

Councilmember Bretz questioned whether the Public Safety Committee meeting would review the stop sign requests for this evening. Council members concurred that there is a recommendation to make changes; other council members are concerned at the recommendation to create further concerns. Council discussed the options for voting or tabling motions this evening if more study is necessary for the Council to make a final decision.

Councilmember Wilson voiced concern at parking availability at City Hall when workers in the community or visitors are parking all day in the main City Hall Lot; she would like the Council to consider the option of a 2-hour or more option for all parking spaces, not designated as City Hall employee parking spots, within the City Hall parking lot.

Mayor Farivar recognized former Councilmember Larry Meyer to speak. He stated some concern at the City Pool Lot being filled with pool employee parking rather than visitor use parking; he has noticed this to be an ongoing concern. He then questioned landscaping concerns on the County Shop property and when it would be completed; Public Works Director Herb Amick stated that it is part of the waterline improvement project that will be getting underway this year.

Study Session adjourned at 12:17 PM.

APPROVED



Cheryl K. Farivar
Mayor

ATTEST



Chantell Steiner
Finance Director/City Clerk