

LEAVENWORTH CITY COUNCIL
Study Session Agenda
City Hall - Council Chambers
September 13, 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 – 9:30 Washington State Auditor Exit Conference for 2015 Individual Single Federal Audit

Assistant State Auditor Kathleen Lince and Assistant Kiersten Redal will be present to review the 2015 individual single federal audit of the City's financials. They will review any identified recommendations that are anticipated to be presented as Exit level items, which are considered the lowest level of requirements presented by the Washington State Auditor's Office; there were two corrections identified to the Notes of the Annual Report that have already been corrected and submitted to the Washington State Auditor's Office. At this time, there are no other known recommendations.

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

9:30 – 9:55 Discussion with Planning Commission on Overnight Rentals

This time is provided for a presentation from Planning Commissioners Andy Lane and Chuck Reppas regarding the status of the amendment to strengthen and clarify the existing LMC regarding short-term / vacation / overnight rentals in residential neighborhoods.

The following item is included under **TAB B**:

- Leavenworth Planning Commission Report - Review and study overnight / vacation rentals in the residential neighborhoods.

9:55 – 10:15 Discussion on Suspending the Owner Occupancy Flexibility for Accessory Dwelling Units in Urban Growth Area

On the agenda for the Tuesday evening City Council Meeting is consideration for the Council to authorize a letter by the Mayor to Chelan County to suspend the owner occupancy flexibility for Accessory Dwelling Units in the Urban Growth Area. As the Council is aware, the Chelan County Board of Commissioners has postponed the adoption of the City's amendment to the Leavenworth Municipal Code (LMC) Section 18.20.020 (B) (3) - the accessory dwelling unit (ADU) standards and specifications (Ordinance No. 1523) for consideration of returning the

requirement and/or mandate for the approval of an ADU to include the owner occupancy of either the primary residence or the ADU. This time is allowed to review the information presented and provide time for a discussion on this item. Information is included in the evening write up and under **TAB 5**.

10:15 – 10:30 Coordinated Cost Reimbursement Agreement

This discussion is a review of the current status of the Coordinated Cost-Reimbursement Program (Program) which the City was participating in as a stakeholder for the processing of permitting water right applications in the Wenatchee Basin from water identified as the Wenatchee Reserve within the Wenatchee Watershed Plan. The Wenatchee Instream Resource Protection Program (WAC 173-545) established minimum instream flows and set aside 4.0 cfs in the Wenatchee Basin as a reservation for future development (reserve). The Watershed Resource Inventory Area (WRIA) 45 is the planning document for the 1370 square mile Wenatchee watershed. WRIA 45 and the Wenatchee Rule were completed by the planning unit in April 2006 and subsequently submitted to the County for approval. The plan includes a Water Resource Management Strategy to address concerns about protecting and enhancing flows for fish, while at the same time, providing a water reservation to accommodate future growth in the watershed. This strategy included proposed new instream flows on the mainstem of the Wenatchee River and several of the sub-basins. The Coordinated Cost-Reimbursement Program is a tool used to expedite the allocation of the 4.0 cfs of water in the Wenatchee Reserve.

This process is allowed under RCW 90.03.265 Appropriation Procedure – Cost-reimbursement agreement for expedited review of application – adoption of rules. In July of 2012, the water purveyors of the Wenatchee Water Work Group – Chelan County, Alpine Water District, Peshastin Water District, City of Cashmere and City of Leavenworth contracted with Aspect Engineering to initiate the Program and contacted the Department of Ecology (DOE) to request permission/agreement and initiate the Program. The Coordinated Cost-Reimbursement Program allows for the applicants of a water permit application to enter into an agreement with the DOE and pay for the cost of processing all water right permits within the basin. The cost reimbursement includes any consultant costs for processing the permit and also the staffing costs for the DOE which will oversee and approve the issuance of the water right permits. The total costs are appropriated to all individuals, agencies, businesses that have submitted an application for future water rights, have a continued interest and willing to pay their proportional share of processing. For the Upper Wenatchee Basin, in December of 2012, all 110 applicants were contacted and invited to participate in the process, as of June 2013, 56 indicated they had an interest in participating in the process.

In 2013 the Washington Supreme Court struck down the Skagit Rule in the *Swinomish v. Dep't of Ecology* decision. In October of 2014, the DOE notified Chelan County and the other municipals that they were suspending the Coordinated Cost-Reimbursement Program for the Upper Wenatchee Basin based on the uncertainty created by the Supreme Court's ruling on the Skagit Rule. The Skagit Rule; brought into question whether the DOE had the authority in establishing water reserves for future use. In the 2015/2016 legislative session, SB 6513 was

passed by the legislatures and signed by the governor which re-established the Wenatchee Watershed Planning effort and the Wenatchee Reserve.

At this time, the Coordinated Cost-Reimbursement Program is being re-started with adoption to the legislative action. The City has received the Coordinated Cost-Reimbursement Agreements; the second part of the discussion on Tuesday will be to review these contracts for the Council to consider future approval. There are two contracts which are specific to a ground water application and a surface water application for water tied to the Wenatchee River. The total amount of water being allocated to the City is 1.074 cfs. The City currently has water rights which allow for 7.64 cfs of which 5.25 is uninterruptible (2,355 gpm).

The following item is included under **TAB D**:

- RCW 90.03.265 Appropriation Procedure
- Wenatchee Basin Coordinated Cost-Reimbursement Project, DOE Request July 2012
- Aspect Consulting Memorandum Dec 13, 2013 Wenatchee Reserve Alternatives
- Interlocal Agreement: Wenatchee Watershed Reserve Allocation
- Water Right Application Letter August 15, 2016 – Chelan County Natural Resources
- Water Rights Application Cover Letter, August 15, 2016 Chelan County Natural Resources
 - Coordinated Cost-Reimbursement Agreement Application No. G4-33068 (A) Surface Water.
 - Coordinated Cost-Reimbursement Agreement Application No. G4-33068 (B) Ground Water.
- Coordinated Cost-Reimbursement, Part B: Water Right General Terms and Conditions.

10:30 – 10:45 Oktoberfest Special Use Permit Update

The City Council will be provided an update on the City permitting and planning process for the upcoming Oktoberfest event. The event is scheduled this year on the weekends of September 30th – October 1st, October 7th – 8th, and October 14th – 15th. The following are the discussion points that will be reviewed Tuesday morning; site security and added deputies; Right of Way permit; and Special Use Permits.

On Tuesday evening the City Council will be asked to approve the expenditure of funds in order to provide extra Chelan County Sheriff's Deputies. During the three Oktoberfest weekends, additional officers will be scheduled for downtown patrols and residential patrols on both Friday and Saturday evenings. The City would also provide funding for an additional officer to patrol downtown during the day to assist the regular officer on duty in responding to calls for service in the residential neighborhoods or downtown area. The Public Safety Contract includes 200 hours of overtime for additional coverage at events; the City will need to cover any contracted hours above and beyond the initial 200 hours. At this time the full schedule is 216 hours. The added cost to the City is estimated to be \$1,042.

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

- 2016 Oktoberfest Police Schedule
- Security Calendar
- Area Map
- Portable Bathroom Placement

10:45 – 11:00 Council Selection Process for Filling Vacancy – Set Interview Date

This time has been set aside to confirm the process to be used for filling the vacancy on the City Council with the resignation of City Councilmember Robert Francis. As of this time the City has provided a public press release to all news agencies announcing the resignation. If the selection process is approved by the Council on Tuesday, the City will provide postings on the City website and the City's Facebook page beginning September 14th, 2016 and will advertise in the Leavenworth Echo with a paid display ad on September 21, 2016. The initial period for the submittal for a letter of interest is through October 5, 2016.

At that time a follow-up application will be provided to the applicants for additional information. Those would be submitted by October 11, 2016 and a special Council Session for interviews and selection would be scheduled for either Thursday October 13, 2016 or Tuesday October 18th, 2016.

The uniform procedures in RCW 42.12.070 for filling vacancies on the "governing body" of a city or town (other than a first class or charter code city) merely state that "the remaining members of the governing body shall appoint a qualified person to fill the vacant position." (There are additional procedures that apply if the governing body fails to fill the vacancy within 90 days.)

The following would be a recommendation for proceeding with the candidate selection:

1. Letters of Interest and Applications reviewed by Council.
2. Public Interview of Candidates.
3. Executive Session on Candidates.
4. Open debate and vote selection of Candidate. A process for voting on candidates may need to be identified depending on the number of applications submitted.

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

- MRSC: Filling a Vacancy in a City or Town Council
- Follow-up Application

11:00 – 11:20 Willkommen Village Updates

This time is provided to discuss and update the Council on the Willkommen Village development. There are many and varied parts to the development of the Willkommen Village property owned by Thomas Lin, which includes, but is not limited to:

- 1) **Hampton Inn / Swiss Hotel continued construction and off-site improvements:** With the completion of portions of the foundation, the building structural components are being installed. The project will include “modular units.” These are sections of the building which are constructed off-site, delivered to the site, and installed like a jigsaw puzzle. The off-site improvements include the extension of Ward Strasse; and water mainline upgrade from 14th Street to Alpensee Strasse and from the Riverbend Drive and Hwy 2 intersection to the new Ward Strasse extension. This upgrade also includes a request for a Developer Reimbursement and Collection Agreement Application.
- 2) **Link Park-N-Ride development:** This includes the new parking area for 90 parking stalls, recharge bay, small storage structure, and new access onto Hwy 2. One part of the puzzle is the creation and conveyance of a property to Link for its development. This will include the processing of a Short Plat. In addition, a new city street will serve the Park-N-Ride upon Council acceptance of the new right of way.
- 3) **Pine Village KOA new city street construction:** The City is in receipt of an Excavation, Grading, and Fill Permit Application for the future construction of a new street which will provide access and necessary infrastructure to serve the Pine Village KOA and help perfect the Conditions of Annexation. The City is aware of Mr. Thomas Lin’s desire to relocate the street, and the Pine Village KOA’s desire to retain the street location; the City has issued notice to resolve and/or move forward with the Excavation, Grading, and Fill Permit process.

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

- New street configurations for future conveyance / dedication to the City
- Water mainline upgrade and improvement – draft design
- Pine Village KOA new city street – preliminary design
- Link Park-N-Ride – site concept design, access, and support
- Willkommen Short Plat – concept design
- Developer Reimbursement and Collection Agreement benefit area map

11:20 – 11:45 Accessory Dwelling Unit Conversions

This time is provided to the Council for continuing discussion on the conversion of existing garage or other storage structures to an Accessory Dwelling Unit (ADU). The conversion of these structures to an ADU have two compliance issues; one is the current location of the existing building on the building lot, the other is the compliance with the current building code. Provided below and included in **Tab H** are the compliance requirements that will need to be considered for any proposed conversion:

- A Change of Use permit is required for a variety of situations. Changing the use of a building or facility may involve an extensive remodel or may require no physical changes at all; however, the City’s Building Code (Chapter 9 of the International Building Code) requires that any time there is a proposed change in the use of a building or space, a permit must be obtained. The change of use permit is intended to verify compliance with

the applicable codes for a new use and provide a Certificate of Occupancy for new businesses or uses where there is no significant work that would otherwise require a building permit.

- The building code classifies the ways that buildings are used into separate "occupancy classifications". Every building is given an occupancy classification when it is built, and each occupancy classification has different building code requirements that go along with it. The requirements reflect the type of hazard or uses in the building. For example, the requirements for a building to be used as a day care center will be different (and stricter) than the building code requirements for a new warehouse building. A building will remain "grandfathered" even when the code requirements for any occupancy classification change over time, so long as the occupancy remains the same.
- A change of occupancy is when there is a change in the building's use that would change the way the building code classifies the building's occupancy. Some occupancy changes, such as a garage to a home, may be obvious. A change of occupancy typically requires that the building meets most of the current building code requirements for a new building. Change of Use permitting is not needed when both the present and proposed uses fall within the same 'occupancy classification', or if the Code says that a change of a higher occupancy to a lower occupancy may occur.
- If you plan on building anything on your property, you will need to know where it can be located. During the process of applying for a building permit, the land owner is required to draw a plot plan that shows existing and proposed buildings, the setbacks, easements, and other features. The plot plan is reviewed by a planner to make sure buildings and structures are outside of the required setbacks for the property.
- A setback is the distance between a building and a lot line; and there are different types of setbacks.
- Building setback (building separations) are established by the International Code Council and required by the International Building Codes. These address and focus on life safety aspects. Building setback lines exist for many reasons. For example, they prevent building structures from being built too close to one another, prevent fire from spreading to buildings or homes that are too close together, and serve as utility easements for local power or water companies to gain access to properties where they have their meters.
- Basically, and per the International Fire Code, exterior walls of dwellings, garages, and accessory buildings must maintain a 5' minimum separation distance from the property line, or otherwise be fire protected. Walls less than 5' from the property line are required to have a one-hour fire rating. Buildings can sit directly on the property line, provided they meet the fire resistance requirements and do not have roof overhangs or exterior wall openings.
- Zoning setbacks are established by the City Council; that addresses and is focused on community desire; and may be different for older neighborhoods. If you take notice of a

typical neighborhood, all the houses line up (for the most part) in the front. This is because of the zoning setback line. In general, the purpose of setbacks is to ensure that the use of a property does not infringe on the rights of neighbors, to allow room for lawns and trees, for light and sunshine in the home, for space for recreation outside the home, and to serve as filtration areas for storm water run-off. This includes requiring larger front setbacks than side and rear setbacks to promote open, visually pleasing front yards.

The following item is included under **TAB H:**

- Garage Conversion Requirements for Uses as an Accessory Dwelling Unit.

11:45 – 12:00 Council Open Discussion

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