



City of Leavenworth

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City Council
Cheryl K. Farivar - *Mayor*
Elmer Larsen
Carolyn Wilson - *Mayor Pro-Tem*
Mia Bretz
Margaret Neighbors
Sharon Waters
Clint Strand
Jason Lundgren
Joel Walinski - *City Administrator*

LEAVENWORTH CITY COUNCIL AGENDA

Leavenworth City Hall – Council Chambers
May 22, 2018 - 6:30 PM

Call to Order

Flag Salute

Roll Call

Consent Agenda

1. Approval of Agenda
2. Approval of May 8, 2018 Regular Meeting Minutes
3. Approval of May 8, 2018 Study Session Minutes
4. 2018 Claims \$279,459.38
5. PRSA Voucher Request \$50,000.00
6. Motion to Set Public Hearing on Six Year Transportation Plan on 6/12/2018 at 6:45 PM

Councilmember and Committee Reports

Mayor/Administration Reports

Comments from the Public on Items Not on the Agenda

Group Funding Report – Leavenworth Charm Walk

Public Hearing – Annexation for 9342 Icicle Road at 6:30 PM

Resolutions, Ordinances, Orders and Other Business

1. Action: Ordinance 1565 – Annexation for 9342 Icicle Road
2. Action: Special Use Permit – Oktoberfest Noise Permit
3. Action: Annexation Request – Letter of Intent NNA Pinegrass
4. Action: Authorization to Bid – Highway 2 Crosswalks Project
5. Action: Interlocal Agreement 18-043 PUD Led Lighting Improvements
6. Discussion: First Reading of Ordinance XXXX – Prohibition of Vehicle Idling
7. Discussion: First Reading of Ordinance XXXX – Temporary Parking Lots
8. Discussion: Charter Franchise Agreement

Information Items for Future Consideration

1. Joint Mid-Year Meeting with the Planning Commission on June 6, 2018 at 7:00 PM
2. Transportation Benefit District Meeting to Follow Regular Council Meeting

Adjournment

(Next Ordinance is 1566 - Next Resolution is 8-2018)

The City of Leavenworth is committed to providing reasonable accommodations in accordance with the Americans with Disabilities Act. Please contact City Hall at (509) 548-5275 at least 72 hours prior to a scheduled meeting to request an accommodation.

Council Committees -4th Tuesday

Housing 3:00
Public Safety 4:00
Finance 5:00

SUPPLEMENTAL COUNCIL AGENDA

Public Hearing – Annexation for 9342 Icicle Road at 6:30 PM

The City Council is being asked to conduct a public hearing for the requested annexation. The Public Hearing is an opportunity for interested persons to appear and voice approval or disapproval of the annexation. During the City Council Hearing, the City Council:

- a. Gives proponents and opponents an opportunity to speak.
- b. The City Council decides whether to approve the annexation. If the Council decides to approve, the Council must enact an ordinance (motion) to annex the territory (pursuant to RCW 35A.14.140). Subject to RCW 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance, a certified copy shall be filed with the Board of Chelan County Commissioners.
- c. The Ordinance is prepared for tonight's Council action under "Resolutions, Ordinances, Orders and Other Business."

The pending property owner, David R. Moffett (agent for Larry W. Langston), is requesting annexation for property located at 9342 Icicle Road, identified as parcel no. 241711420100, and further described as Township 24 North, Range 17 East Willamette Meridian, Section 11 North West South East (quarter) – 10.55 acres. The full legal description and Survey are within the attachments of the Ordinance. David R. Moffett submitted an intent letter on February 2, 2018, and is signed by the owner's agent of not less than 10% in assessed value of the approximately 10.11 acre property sought for annexation. This property is being purchased from Larry W. Langston, and Mr. David R. Moffett has received a Dedication of Agent to pursue this annexation request.

The State of Washington's Growth Management Act of 1990 (GMA) requires counties to establish 20-year Urban Growth Area (UGA) boundaries for every city to accommodate projected growth. GMA also encourages cities to annex lands within their UGA and provide urban-level services to these areas. Lands outside the UGA cannot be annexed. Basically, the UGA establishes a boundary around the City with everything outside the boundary intended for rural land use and everything inside the boundary intended for urban land use. This helps prevent sprawl and loss of resource lands, (for example, agriculture / orchards and critical areas). This property is within the UGA. The City of Leavenworth UGA was established as a part of the GMA and has remained unchanged since 1994. In addition, this annexation appears to be the only commercial lands annexed since 1997 when the properties pertaining to the Safeway development were brought into the City.

The annexation proceeding this evening is for the same property that was previously approved for annexation by the City Council on February 27, 2018, Ordinance No. 1560. Pursuant to RCW 35A.14.120, the process starts with notice/request to the City (by 10% of the property owners). The next step is finding if the City wishes to proceed at the first Council meeting following the request. If the decision is to proceed, then under RCW 35A.14.130 a petition is circulated, which needs 60% of property owner signatures. This Petition falls under RCW 35A.01.040, and this is a petition where signatures are to be validated by the Assessor who issues a Determination of Sufficiency certificate.

In this case, the Assessor believes that the Petition and subsequent certificate of ownership must be in place prior to the Public Hearing. The commitment to the City was completed on February 13, 2018 prior to the Public Hearing on February 27, 2018, and ownership is known to be a single person (Larry Langston) with 100% ownership for a single property (the notarized agent authorization satisfied ownership). The City was satisfied with the commitment of the future owner, of their obligations (see the February 13, 2018 meeting), and confirmation paperwork for ownership could be affirmed at any time. The Assessor disagrees with the procedure used by the City, and the Assessor is requiring a new public hearing after confirmation, which is completed at this time, to be consistent with the Assessor's preferred timeline to process the taxation transfer from the County to the City.

Mandatory notice specifying the time and place of the hearing and inviting interested persons to appear and voice approval or disapproval of the annexation has been completed.

Resolutions, Ordinances, Orders and Other Business

1. Ordinance 1565 – Annexation for 9342 Icicle Road

The City Council is being asked to repeal Ordinance No. 1560 and adopt Ordinance No. 1565. Adoption of Ordinance No. 1565 is the final step for the annexation of property owned by Larry W. Langston located at 9342 Icicle Road, identified as parcel no. 241711420100, and further described and shown within Exhibits A and B of the Ordinance.

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

- Ordinance No. 1565
- Annexation Territory Legal Description Exhibit "A"
- Annexation Territory Survey Exhibit "B"
- Intent to annex letter
- Certification of Ownership / Dedication of Agent
- Petition for Annexation
- Determination of Sufficiency of Petition from Chelan County

- **MOTION:** *The Leavenworth City Council moves to repeal Ordinance No. 1560 and adopt Ordinance No. 1565, Annexation of property owned by Larry W. Langston located at 9342 Icicle Road, identified as parcel no. 241711420100.*

2. Special Use Permit – Oktoberfest Noise Permit

The City Council is being asked to give consideration of approving a Special Use Permit (SUP), applied for by Projekt Bayern in conjunction with their Oktoberfest event scheduled for Friday October 5th and Saturday October 6th, Friday October 12th and Saturday October 13th, and Friday October 19th and Saturday October 20th. The SUP would allow the noise and sound levels to exceed 95 dBA during the event (including and up to 1:00 AM). Regardless of amplification, the applicant will allow no live or recorded amplified music after:

1. 10:00 PM Spaaz Platz (Festhalle Parking Lot – P3)
2. 11:00 PM Tanz Hall (Upper Parking Lot – P1)

3. 12:00 AM Bier Stube (Lower Parking Lot – P2)
4. 1:00 AM Festhalle Building

The Festival & Events Committee determined the use of the staggered closing times in order to limit the sound emitted from the outdoor live music for the first time during Oktoberfest 2014. The requested staggered closing times are the same times that were used successfully the last three years.

The LMC 9.33.040 Exemptions allows for the City Council to approve with conditions or deny special use permits at its sole discretion. To approve the SUP the Council must consider the conditions and provisions for granting a special use permit stipulated in LMC 9.33.040 (I) (Items 1 – 5 below). The Council’s decision of approval or denial of the SUP must be based on whether the request meets the following criteria, information relating to each:

1. The special use permit is necessary;
2. There exists a special circumstance relative to size, topography, location or surroundings of the subject property;
3. Requesting property owner or agency has provided a plan for mitigation of noise to be implemented on the approval of the special use permit;
4. That the granting of the special use permit will not be materially detrimental to the comfort, health, or safety of the public; and
5. That the special use permit is limited to not more than 14 days in any 90-day period.

Projekt Bayern has committed to self-monitoring to help monitor and adjust music sound levels if and when necessary. The City will also do spot monitoring of noise levels during the evening hours of the event to ensure compliance to the SUP limitations. The request for the SUP for noise levels is consistent with the recommendations of the Festival & Event Committee recommendations.

The following items are included under **TAB 2:**

- Compliance Analysis
- Special Use Permit Agreement
- Letter of Request
- **MOTION:** *The Leavenworth City Council moves to approve the Special Use Permit for the Oktoberfest Noise Permit.*

3. Annexation Request – Letter of Intent NNA Pinegrass

a. Annexation Request – McDevitt Land Co. (Jordan McDevitt, Managing Member and Olivia McDevitt, Member)

The City Council is being asked to consider the commencement of annexation proceedings and schedule the meeting with the property owner for the property being considered for annexation. The property owner, McDevitt L and Co. (Jordan McDevitt, Managing Member and Olivia McDevitt, Member), is requesting annexation for property located at NNA Pinegrass (10175 Ski Hill Dr), identified as parcel no. 241701320060 and 241701320050, and described as the South

122.5' of Lot 3 Short Plat 2144 filed for record in Book SP-8 at Page 15; TOGETHER WITH: The South 122.5' of Lot 2 Short Plat 1193 filed for record in Book SP-3 Page 49; EXCEPT: The West 303.93' thereof. All in the North ½ of the SW ¼ of Section 1 T 24 N R 17 E W.M. Chelan County, Washington. McDevitt Land Co. (Jordan McDevitt, Managing Member and Olivia McDevitt, Member) submitted an intent letter on May 9, 2018, and is signed by the owner's agent of not less than 10% in assessed value of the approximately 2.8-acre property sought for annexation. Upon receipt of the requested annexation, the City Council must set a date within 60 days after having received such notice for a meeting with the initiating parties to determine:

- a. If the City will accept the annexation for processing;
- b. Whether the City will accept, reject, or geographically modify the proposed annexation;
- c. Whether it will require the simultaneous adoption of a proposed zoning regulation, if such a proposal has been prepared and filed (as provided for in RCW 35A.14.330 and RCW 35A.14.340);
- d. Whether it will require infrastructure improvements to complete ('mirror') the existing Pinegrass Street to adopted LMC standards;
- e. Whether it will require transfer of water rights (if any); and
- f. Whether it will require the assumption of all or any portion of existing city indebtedness by the area to be annexed.

Tonight, the Council will meet with the petitioner, and if the Council approves proceeding with the process, the Council expresses the above to the petitioner (or as modified), and the Council will record its action into the record.

In addition, the final legal description is in process with Chelan County via a Boundary Line Adjustment.

The following items are included under **TAB 3**:

- Intent to annex letter with Exhibit A intended Legal Description
- Maps (Vicinity, Zoning, and Aerial)
- **MOTION:** *The Leavenworth City Council moves to: 1) consider the acceptance for annexation from the McDevitt Land Co. (Jordan McDevitt, Managing Member and Olivia McDevitt, Member) property located at NNA Pinegrass (10175 Ski Hill Dr), identified as parcel no. 241701320060 and 241701320050, and further described as North ½ of the SW ¼ of Section 1 T 24 N R 17 E W.M.; 2) the annexed property will retain the existing zoning; 3) the City will require transfer of water rights; 4) annexation and development will require infrastructure improvements to complete ('mirror') the existing Pinegrass Street to adopted LMC standards; and 5) require the assumption of all or any portion of existing city indebtedness by the area to be annexed.*

b. Motion to Set Public Hearing on Annexation Request for McDevitt Land Co. (Jordan McDevitt, Managing Member and Olivia McDevitt, Member)

Upon acceptance of the motion to consider the annexation, the City Council is being asked to set a public hearing for July 10, 2018 at 6:30 PM and provide notice specifying the time and place of

the hearing and inviting interested persons to appear and voice approval or disapproval of the annexation. The notice is to be:

1. Published in one or more issues of a newspaper of general circulation in the City; and
2. Posted in three public places within the territory proposed for annexation.

During the City Council Hearing, the City Council:

- a. Gives proponents and opponents an opportunity to speak.
- b. The City Council decides whether to approve the annexation. If the Council decides to approve, the Council must enact an ordinance (motion) to annex the territory (Pursuant to RCW 35A.14.140). Subject to RCW 35.02.170, the ordinance may annex all or any portion of the proposed area but may not include in the annexation any property not described in the petition. Upon passage of the annexation ordinance, a certified copy shall be filed with the Board of County Commissioners of the county in which the annexed property is located.

- **MOTION:** *The Leavenworth City Council moves to set a Public Hearing on the annexation request for July 10, 2018 at 6:30 PM.*

4. Authorization to Bid – Highway 2 Crosswalks Project

The City Council is being asked to approve the advertisement for bid of the Highway 2 Crosswalk Improvement Project. This project includes the enhancements of three crosswalk locations on Highway 2; the crosswalks located at Gustav's, City Hall crosswalk, and the crosswalk located at the Link Park & Ride. The Flashing Beacon System at City Hall will be relocated to the Link Park & Ride site and replaced with a Hawk System Crossing, which will be coordinated with the existing WSDOT traffic light at the intersection of Highway 2 and 9th Street. The Gustav's crossing will also have a Hawk System Crossing installed. In addition, new striping, new pedestrian lighting, curb cuts, and ADA upgrades will be made as a part of the project. The Flashing Beacon Crossing relocated at the Park & Ride will be converted from solar to standard power.

Mr. Steve Marsh, PE, TD&H Engineering is the City's engineering consultant on this project. Funding is provided through the Pedestrian/Bicycle Safety Program which is considered State Funding and the WA State Department of Transportation (WSDOT). The bid period will be open for three weeks. Once bids are received, the bid submittals will be reviewed for completeness and a recommendation on the lowest qualified bidder will be presented to the Council for consideration of a bid award. The Call for Bids will be published in the Seattle Daily Journal of Commerce Exchange website.

The final plans and specification have been submitted and reviewed by the WSDOT and the project has been approved by WSDOT Regional Authority. The final approval for WSDOT is the obligation of construction funding, which will allow the project to be posted for bid. City staff is requesting the authorization for bid at this time to expedite the bid process once final authorization is approved by WSDOT.

The total estimate of probable construction costs for this project is \$622,453. This includes the actual construction, construction engineering oversight, and funding for WSDOT oversight.

Funding for construction includes \$466,100 of State Grant Funding and \$156,353 in City funds via the Transportation Benefit District (TBD) fund.

Included in the packet material for review is page 4/14 Demolition Plan and 7/14 Signing and Striping Plan. A full set of plans is available for your review and is available upon request.

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

- Traffic Signal Permits (Mile Post 99.65 and 99.73)
 - Estimate of Probable Cost May 9, 2018
 - Sheet 4/14 Demolition Plan
 - Sheet 7/14 Signing and Striping Plan
- MOTION:** *The Leavenworth City Council moves to authorize the advertisement for bids for the Highway 2 Crosswalk Improvement Project pending the authorization to proceed by WSDOT.*

5. Interlocal Agreement 18-043 PUD Led Lighting Improvements

The City Council is being asked to review and consider for approval an Interlocal Agreement with the Chelan County Public Utilities District (PUD) pertaining to the Light-Emitting Diode (LED) Streetlight Conversion Project. The scope of the project is to replace the incandescent street lighting with efficient LED lighting technology for both the streetlights owned by the PUD and those owned by the City of Leavenworth within City limits. The scope of the Interlocal Agreement is to define and identify the responsibilities of each agency. This project is part of a much larger project within Chelan County to convert all streetlights to LED technology. The PUD will be the lead agency for the project; they will be conducting the public bid process and securing the contracts. The PUD will also monitor installation of light fixtures on City and District owned poles, and then provide the documentation for the project closeout and warranty. The City will monitor and inspect the work being completed on City poles, respond to customer comments, concerns and complaints (if any) regarding any new LED street lights installed, and approve final acceptance of the work being completed on City owned poles.

The contract also identified the payment process by the City to the PUD. In February of 2018, the City was awarded a Relight Washington Grant by the Transportation Improvement Board (TIB) in the amount of \$83,533. The PUD will invoice the City for the work completed on the project, the City will then request the funds from the TIB, and once received submit payment to the PUD.

LED Street Lighting has several advantages over typical Metal Halide or general street lighting currently in use. The advantages range from lower energy use, less maintenance, a longer replacement timeframe, and LED lighting is directional so there is less glare associated with it. The PUD has completed a lengthy period of study and testing to select a replacement product that provides quality in the advantages listed above. The anticipated bid date for this project is June, 2018 with the conversion to be completed countywide by March, 2019.

The following item is included under **TAB 5**:

- Interlocal Agreement 18-043 for Efficient LED Lighting Improvements

- **MOTION:** *The Leavenworth City Council moves to approve and authorizes the Mayor to sign the Interlocal Agreement with Chelan County Public Utility District for the LED Lighting Conversion Project.*

6. First Reading of Ordinance XXXX – Prohibition of Vehicle Idling

The City Council is being asked to review an addition to City of Leavenworth Municipal Code (LMC) Title 10 - Vehicles and Traffic; and add “Chapter 10.40 - Excessive Idling.” During the regular May 8, 2018 Council Study Session, and upon review of the existing code by the Development Services Manager, this proposed chapter may be necessary to address impacts to the community regarding bus and other vehicle idling.

- Idling occurs when a motor vehicle with a diesel or gasoline engine is running but the vehicle is not in motion. Excessive idling causes an unnecessary release of air contaminants into the air, including fine particulates and air toxics. In addition, excessive idling adds noise and disturbance to the neighborhoods.
- The new chapter will prohibit the idling of a vehicle for more than five (5) minutes, with certain exceptions as outlined within the new chapter.
- Not all idling complaints will result in violations. In order to verify a complaint and issue an enforcement action, an investigation must be performed and the investigator must verify that the idling exceeds the five-minute limit and is not allowed by one of the exceptions in the idling rule. Pacific Security will be the “ticketing” agency. In addition, the City cannot enforce the idling rule on residential property.
- The Council will need to determine if idling on the public roadways should be enforced by State and local police departments.

This new Chapter is being brought to the Council as a first reading for review and comments. A second reading and consideration for approval will be forwarded at a future City Council meeting; and will reflect any changes that the Council may require tonight.

The following item is included under **TAB 6:**

- Ordinance XXXX – Chapter 10.40 - Excessive Idling

7. First Reading of Ordinance XXXX – Temporary Parking Lots

During the regular Council Study Session of May 8, 2018, the Council discussed the creation of “Temporary Parking Lots” consistent with the Leavenworth Parking Study. As the Leavenworth Parking Study continues to refine to the final document, an aspect of creating “Temporary Parking Lots” may be a ‘piece of the puzzle’ in an effort to relieve parking pressures and address the need for additional parking spaces as a short-term solution. The Council is being asked to review and consider a new section of the LMC, which will allow the development of “Temporary Parking Lots.” This section has been revised as discussed during the Study Session.

- This new section is intended to provide alternatives to certain parking standards within the

Commercial zoned districts.

- The new section is only applicable to commercial districts with vacant lots.
- At no time does this prevail with new development, additions, and/or change of use for new or existing development.
- Obtaining approval for a Temporary Parking Lot will be via a Special Use Permit (SUP). This means that the City Administrator can grant a SUP upon demonstration that the proposal meets or exceeds specified standards and specifications (prescriptive standards and criteria for approval).
- Each SUP will be required to be renewed annually.
- If and when additional permanent parking lots or parking garages are built, the issuance of new SUP's or the renewal of the SUP for the temporary parking lots may be suspended.

This new section is being brought to the Council as a first reading for review and comments. A second reading and consideration for approval will be forwarded at a future City Council meeting; and will reflect any changes that the Council may require tonight.

The following item is included under **TAB 7**:

- Ordinance No. XXXX - Amending LMC Chapter 10.08 - Adding Temporary Parking Lots

8. Discussion: Charter Franchise Agreement

This discussion item is a review of the Franchise Agreement between the City of Leavenworth and Charter Communications. The Franchise Agreement is a contract between the City of Leavenworth and Charter Communications that sets the terms of cable services, including service standards, public, educational, and government programming requirements, system requirements, and franchise fees paid to the City. The franchise agreement has specific terms, and is set to expire on January 28, 2021.

The City has used River Oaks Communications Corporation to assist in the review of the cable franchise renewal process. The firm is recommended by the City Attorney for their expertise in this specialized field.

The discussion this evening is to review the memo provided by Mr. Bob Duchon, River Oaks Corporation, regarding the franchise renewal process and areas for consideration in the franchise renewal negotiations.

The following items are included under **TAB 8**:

- Charter Communications "Notice of Renewal" March 15, 2018
- City of Leavenworth "Response to Notice of Renewal" May 18, 2018
- River Oaks Communications "Franchise Renewal Proceedings", May 10, 2018