

2011 03 21

LAKWOOD CITY COUNCIL MINUTES

Monday, March 21, 2011  
City of Lakewood  
City Council Chambers  
6000 Main Street SW  
Lakewood, WA 98499

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**CALL TO ORDER**

Mayor Richardson called the meeting to order at 7:02 p.m.

**ROLL CALL**

Councilmembers Present: 6 – Mayor Douglas Richardson; Councilmembers Mary Moss, Mike Brandstetter, Jason Whalen, Walter Neary and Claudia Thomas.

Councilmember Excused: 1 – Deputy Mayor Don Anderson.

**FLAG SALUTE**

The Pledge of Allegiance was led by Mayor Richardson.

**PROCLAMATIONS AND PRESENTATIONS**

**Proclamation recognizing the Clover Park and Lakes High Schools 2A and 3A State Basketball Youth Championships.**

Mayor Richardson presented a proclamation recognizing the Clover Park and Lakes High Schools 2A and 3A State Basketball Youth Championships to Mr. Mel Ninnis and Mr. JoJo Rodriguez, Clover Park and Lakes High School Varsity Boys Basketball Coaches; Tana Pritchard, Isom Brown, Carl Flamer and Karsten Olson, Team Captains; and the 2A and 3A Basketball Youth Champions.

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Council recessed at 7:15 p.m. and reconvened at 7:35 p.m.

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**REPORTS BY THE CITY MANAGER**

City Manager Neiditz reported that the JBLM Planning process website is up and running as of March 18, 2011.

City Manager Neiditz commented on the memorial service of Marcus Walker over the weekend and that several requests have been made to name the street near the Lakewood Playhouse, "Marcus Walker Way" and the City is in the process of contacting the property owner of that part of the Towne Center of the suggestion in honor of Marcus Walker.

City Manager Neiditz reported that the Tillicum Community Health Clinic is scheduled to be closed the end of May, 2011. A replacement agency may take over providing services, and more information is forthcoming.

**PUBLIC COMMENTS**

Speaking before the Council were:

*Dennis Haugen, Lakewood resident*, spoke about risk reduction and that the State and local social programs are risky.

*Ken Severe, Lakewood resident*, asked questions about consistency in the fines noted in Ordinance 530; surcharge for the golf course, and that pages 12-44 of the Council's Agenda Packet (vouchers) are not posted on the City's website.

*Dave Clark, Lakewood resident*, spoke about a \$25,000 month potential charge for mobile home parks that he owns in Tillicum in order to connect and use the sewer system in which more than half of the tenants are low income citizens.

## C O N S E N T   A G E N D A

- A. Approval of the minutes of the City Council meeting of March 7, 2011.
- B. Approval of the minutes of the City Council Study Session of March 14, 2011.
- C. Approval of payroll check numbers 242, 112244 to 112246, 112450 to 112459, and direct deposit check numbers 115396 to 115660, in the amount of \$875,885.99, for the period March 1 – 15, 2011.
- D. Approval of claim voucher numbers 60259 to 60355, in the amount of \$185,949.91, for the period ending March 3, 2011.
- E. Approval of claim voucher numbers 60356 to 60448, in the amount of \$250,289.85, for the period ending March 10, 2011.
- F. Items Filed in the Office of the City Clerk:
  - 1. Human Services Funding Advisory Board meeting minutes of November 17, 2010.
  - 2. Lakewood Arts Commission meeting minutes of February 7, 2011.
  - 3. Redevelopment Advisory Board meeting minutes of January 11, 2011.
  - 4. Planning Advisory Board meeting minutes of January 19 and February 9, 2011.
  - 5. Citizen's Transportation Advisory Committee meeting minutes of February 22, 2011.
- G. [Resolution No. 2011-03](#)

Setting Monday, April 18, 2011, at approximately 7:00 p.m., as the date for a public hearing by the City Council on the Fiscal Year 2011 Consolidated Plan and amendments to the Fiscal Years 2008, 2009 and 2010 Annual Action Plans and the proposed use of funds.

COUNCILMEMBER THOMAS MOVED TO ADOPT THE CONSENT AGENDA AS PRESENTED. SECONDED BY COUNCILMEMBER MOSS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

## R E G U L A R   A G E N D A

### ORDINANCES

[Ordinance No. 530](#) creating Chapter 12A.15 of the Lakewood Municipal Code relative to connections to public sanitary sewer systems.

COUNCILMEMBER neary MOVED TO ADOPT ORDINANCE NO. 530. SECONDED BY COUNCILMEMBER brandstetter.

COUNCILMEMBER bRANDSTETTER mOVED TO AMEND oRDINANCE NO. 530 to read: "WHEREAS, IN ORDER TO ENCOURAGE CONNECTIONS TO AVAILABLE SANITARY SEWERS WITHIN A REASONABLE TIME PERIOD, AFTER A PROPERTY OWNER IS NOTIFIED THAT THE PUBLIC SANITARY SEWER IS AVAILABLE TO A PROPERTY, THAT PROPERTY OWNER WILL HAVE FIVE YEARS THEREAFTER IN WHICH TO CONNECT TO THE SEWER SYSTEM OR APPLY FOR AND RECEIVE A DEFERRAL OF THE REQUIREMENT TO CONNECT, BUT IN NO EVENT SHALL PRIVATE SEPTIC SYSTEMS BE ALLOWED TO CONTINUE LONGER THAN EIGHT YEARS AFTER NOTICE IS SERVED THAT A PUBLIC SEWERAGE LINE IS AVAILABLE TO A PROPERTY." SECONDED BY COUNCILMEMBER WHALEN. VOICE VOTE WAS TAKEN AND CARRIED WITH COUNCILMEMBER WHALEN AND MAYOR RICHARDSON VOTING IN OPPOSITION.

COUNCILMEMBER BRANDSTETTER MOVED TO AMEND ORDINANCE NO. 530 12A.15.020 DEFINITIONS TO READ: "“STRUCTURE” MEANS ANY BUILDING, MANUFACTURED HOME, OR ENCLOSURE THAT CONTAINS OR SHOULD CONTAIN PLUMBING FACILITIES FOR THE DISPOSAL OF SEWAGE." SECONDED BY COUNCILMEMBER THOMAS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBERWHALEN MOVED TO AMEND ORDINANCE NO. 530 SECTIONS 12A.15.030 ITEM A AND 12A.15.040 ITEMS A & B TO READ: "A. UPON DETERMINING THAT A PUBLIC SEWER SYSTEM IS AVAILABLE TO A PROPERTY,

THE CITY MANAGER, OR THE DESIGNEE THEREOF, SHALL PROVIDE A NOTICE OF AVAILABILITY TO THE PROPERTY OWNER, AS SUCH PROPERTY OWNER IS IDENTIFIED IN THE AVAILABLE PUBLIC RECORDS APPLICABLE TO THE PROPERTY. SUCH NOTICE OF AVAILABILITY TO THE PROPERTY OWNER SHALL BE SERVED IN COMPLIANCE WITH LMC 12A.02.060. FURTHER, A COPY OF THE NOTICE OF AVAILABILITY WILL BE FILED IN THE PIERCE COUNTY REAL PROPERTY RECORDS FOR SAID PROPERTY.

12A.15.040 CONNECTION TO AVAILABLE SEWER SYSTEM.

A. SEWER CONNECTION REQUIRED. AFTER A NOTICE OF AVAILABILITY IS PROVIDED TO A PROPERTY OWNER THAT A SEWER MAIN IS AVAILABLE, IT SHALL BE UNLAWFUL FOR THAT PROPERTY OWNER TO FAIL TO OR NEGLECT TO CONNECT THE STRUCTURES ON THEIR PROPERTY TO THE SANITARY SEWER.

B. NO LATER THAN NINETY (90) DAYS AFTER SERVICE AND RECORDING OF A NOTICE OF AVAILABILITY, THE OWNER OF EACH LOT OR PARCEL OF REAL PROPERTY WITH SANITARY SEWER SERVICE AVAILABLE SHALL CONNECT ALL APPROPRIATE STRUCTURES THERE UPON TO THE SANITARY SEWER SYSTEM. FAILURE TO COMPLY WITH THIS REQUIREMENT WITHIN THE TIME FRAME SET FORTH HEREIN SHALL SUBJECT THE PROPERTY OWNER TO PAYMENT OF AN AVAILABILITY CHARGE AS SET FORTH IN LMC 12A.15.050 AND THE POSSIBILITY OF FUTURE ORDERS DIRECTING MANDATORY CONNECTION.”

SECONDED BY COUNCILMEMBER THOMAS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER BRANDSTETTER MOVED TO AMEND ORDINANCE NO. 530 SECTION 12A.15.060 MANDATORY CONNECTION, ITEM A TO READ: “A. AFTER SERVICE AND RECORDING OF A NOTICE OF AVAILABILITY, AS DESCRIBED IN SECTION 12.15.030, AN INTERIM ON-SITE SEPTIC SYSTEM MAY BE ALLOWED TO REMAIN IN USE FOR FIVE YEARS FROM THE DATE OF RECORDING. AN INTERIM ON-SITE SEPTIC SYSTEM WILL BE ALLOWED TO REMAIN IN USE AFTER THE PASSAGE OF THAT FIVE YEAR PERIOD ONLY IF THE PROPERTY OWNER APPLIES FOR AND RECEIVES A DEFERRAL OF THE REQUIREMENT TO CONNECT AS OUTLINED IN LMC 12A.15.090 AND 12A.15.100. NO DEFERRAL OF CONNECTION SHALL EXTEND USE OF AN INTERIM ON-SITE SEPTIC SYSTEM LONGER THAN EIGHT YEARS AFTER THE RECORDING OF A NOTICE OF AVAILABILITY.” SECONDED BY COUNCILMEMBER WHALEN. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER WHALEN MOVED TO AMEND ORDINANCE NO. 530 12A.15.080 ISSUANCE OF ORDERS MANDATING CONNECTION TO READ: “THE CITY MANAGER, OR THE DESIGNEE THEREOF, MAY ISSUE ORDERS MANDATING CONNECTION, WHEREBY THE PROPERTY OWNER WILL BE REQUIRED TO CONNECT A PROPERTY TO THE PUBLIC SANITARY SEWER SYSTEM WHEN SUCH ORDERS ARE APPROPRIATE UNDER THE PROVISIONS OF THIS ORDINANCE. ALL ORDERS MANDATING CONNECTION SHALL BE IN WRITING AND SHALL BE SERVED UPON THE PROPERTY OR PROPERTY OWNER IN COMPLIANCE WITH THE PROVISIONS OF LMC 12A.02.060. AN ORDER MANDATING CONNECTION TO AN AVAILABLE PUBLIC SANITARY SEWER SYSTEM SHALL ORDER THE PROPERTY OWNER TO ACT WITHIN NINETY (90) DAYS OF ISSUANCE OF THE ORDER. IT IS FURTHER WITHIN THE DISCRETION OF THE CITY MANAGER, OR THE DESIGNEE THEREOF, TO ALLOW ONE ADDITIONAL NINETY (90) DAY EXTENSION OF THE ORDER MANDATING CONNECTION.” SECONDED BY COUNCILMEMBER MOSS. VOICE VOTE WAS TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER BRANDSTETTER MOVED TO AMEND ORDINANCE NO. 530 12A.15.090 REQUESTS FOR DEFERRAL OF CONNECTON ITEMS A & B TO READ: “A. USE OF AN INTERIM ON-SITE SEPTIC SYSTEM WITHIN THE CITY OF LAKEWOOD WILL BE UNLAWFUL FIVE YEARS AFTER THE DATE ON WHICH A NOTICE OF AVAILABILITY IS RECORDED PURSUANT TO LMC 12A.15.030 IF THE OWNER OF A PROPERTY HAS NOT APPLIED FOR AND RECEIVED A DEFERRAL OF THE REQUIREMENT MANDATING CONNECTION TO THE PUBLIC SANITARY SEWER SYSTEM. DEFERRAL OF MANDATORY CONNECTION MAY BE AUTHORIZED FOR UP TO EIGHT YEARS. IN NO EVENT, HOWEVER, SHALL AN INTERIM ON-SITE SEPTIC SYSTEM BE ALLOWED TO REMAIN IN USE WITHIN THE CITY LONGER THAN EIGHT YEARS AFTER RECORDING OF A NOTICE OF AVAILABILITY.

B. REQUESTS FOR DEFERRALS MUST BE MADE IN WRITING TO THE CITY MANAGER OF THE CITY OF LAKEWOOD, AND SUCH A REQUEST SHOULD INCLUDE THE FOLLOWING INFORMATION:

1. REQUESTOR'S NAME, MAILING ADDRESS, AND THE ADDRESS OR PARCEL NUMBER OF THE PROPERTY FOR WHICH A DEFERRAL IS SOUGHT.
2. FINANCIAL, MEDICAL, UTILITY OR TAX INFORMATION AS THE REQUESTOR DEEMS RELEVANT TO THE REQUEST FOR A DEFERRAL.
3. PROOF OF AGE IF THE REQUESTOR'S AGE IS RELEVANT TO THE REQUEST FOR A DEFERRAL.
4. EVIDENCE OF THE STRUCTURAL INTEGRITY OF THE STRUCTURE ON THE PROPERTY AND INFORMATION REGARDING ANY PLAN THAT THE STRUCTURE WILL BE DEMOLISHED, REFURBISHED OR REBUILT WITHIN

THE DEFERRAL PERIOD.

5. EVIDENCE THAT THE EXISTING SEPTIC SYSTEM IS IN GOOD WORKING ORDER AS APPROVED BY THE TACOMA-PIERCE COUNTY HEALTH DEPARTMENT.
6. THE LENGTH OF TIME FOR WHICH A DEFERRAL IS SOUGHT.
7. ADDITIONAL INFORMATION AS THE REQUESTOR MAY DEEM RELEVANT TO THE REQUESTED DEFERRAL.
8. AS TO PUBLIC AGENCIES OR ENTITIES, INFORMATION MAY BE PROVIDED THAT WOULD INCLUDE FUTURE PLANS TO DECOMMISSION, SELL OR CLOSE FACILITIES OR BUILDINGS.”

SECONDED BY COUNCILMEMBER WHALEN. VOICE VOTE TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER BRANDSTETTER MOVED TO AMEND ORDINANCE NO. 530 12A.15.100 ITEM D. TO READ: “D. A DETERMINATION ON A REQUEST FOR DEFERRAL MAY IMPOSE CONDITIONS UPON THE REQUESTOR. WITHIN THE DISCRETION OF THE CITY MANAGER, OR DESIGNEE, THE REQUESTOR MAY BE REQUIRED TO FILE A VOLUNTARY COMPLIANCE AGREEMENT IN THE PUBLIC RECORDS, ACKNOWLEDGING THAT THE REQUESTOR WILL CONNECT TO THE PUBLIC SANITARY SEWER SYSTEM UPON OCCURRENCE OF A SPECIFIC EVENT OR UPON EXPIRATION OF THE DEFERRAL PERIOD. FURTHER, APPROVAL OF A DEFERRAL REQUIRES THE REQUESTOR TO PAY THE AVAILABILITY CHARGE. ADDITIONAL CONDITIONS MAY, WITHIN THE DISCRETION OF THE CITY MANAGER, OR DESIGNEE, BE ADDED THAT ARE LAWFUL AND RELEVANT TO THE NATURE OF ANY DEFERRAL.” SECONDED BY COUNCILMEMBER WHALEN. VOICE VOTE TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER WHALEN MOVED TO AMEND ORDINANCE NO. 530 12A.15.100 ITEMS D AND E TO READ: “E. A DETERMINATION OF A DEFERRAL REQUEST SHALL BE CONSIDERED AN ADMINISTRATIVE ORDER OF THE CITY.

F. NO DEFERRAL MAY BE GRANTED FOR A PERIOD OF TIME THAT EXTENDS BEYOND EIGHT YEARS FROM THE CITY’S RECORDING OF A NOTICE OF AVAILABILITY, ABSENT AN APPLICATION TO AND APPROVAL BY THE CITY MANAGER, OR THE DESIGNEE THEREOF.” SECONDED BY COUNCILMEMBER THOMAS. VOICE VOTE TAKEN AND CARRIED WITH COUNCILMEMBER BRANDSTETTER VOTING IN OPPOSITION.

COUNCILMEMBER WHALEN MOVED TO AMEND ORDINANCE NO. 530 12A.15.120 VIOLATIONS, ITEMS A & B TO READ: “IT IS A VIOLATION OF THIS CHAPTER FOR ANY PROPERTY OWNER OR PERSON RESPONSIBLE FOR A PROPERTY SUBJECT TO A NOTICE OF AVAILABILITY OR ORDER MANDATING CONNECTION TO DO OR ALLOW ANY OF THE FOLLOWING:

A. USE, OCCUPY, CONSTRUCT OR MAINTAIN ANY STRUCTURE WITHOUT CONNECTING THE STRUCTURE TO THE PUBLIC SANITARY SEWER SYSTEM AS REQUIRED IN THIS CHAPTER;

B. FAIL TO COMPLY WITH ANY ORDER DIRECTING THAT A PROPERTY BE LAWFULLY CONNECTED TO THE PUBLIC SEWER SYSTEM;” SECONDED BY COUNCILMEMBER MOSS. VOICE VOTE TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER WHALEN MOVED TO AMEND ORDINANCE NO. 530 12A.15.130 ITEM C. TO READ: “C. ANY PROPERTY OWNER, WHETHER A PRIVATE PARTY OR BUSINESS OR CORPORATE REPRESENTATIVE OR AGENT, WHO CAUSES, MAINTAINS, ALLOWS THE CONTINUATION OF OR FAILS TO ABATE A PUBLIC NUISANCE AFTER BEING LAWFULLY ORDERED TO DO SO SHALL BE DEEMED GUILTY OF A MISDEMEANOR CRIME, PUNISHABLE BY IMPRISONMENT FOR UP TO NINETY (90) DAYS, A FINE OF UP \$1,000 OR ANY COMBINATION THEREOF, PURSUANT TO RCW 9.66 AND LMC CHAPTER 1.44.” SECONDED BY COUNCILMEMBER THOMAS. VOICE VOTE TAKEN AND CARRIED UNANIMOUSLY.

COUNCILMEMBER WHALEN MOVED TO AMEND ORDINANCE NO. 530 12A.15.020 DEFINITION OF “AVAILABILITY CHARGE” TO READ: ““AVAILABILITY CHARGE” MEANS A SUM OF MONEY CHARGED OR ASSESSED AGAINST A PROPERTY OR PROPERTY OWNER WHEN SUCH PROPERTY HAS SANITARY SEWERS AVAILABLE TO IT BUT THE PROPERTY IS NOT CONNECTED TO A SANITARY SEWER. THE AVAILABILITY CHARGE SHALL BE IN AN AMOUNT EQUAL TO THE BASE MONTHLY SEWER RATE AND APPLICABLE SURCHARGES AND FEES THAT WOULD BE CHARGED AGAINST THE PROPERTY, OR A SIMILAR PROPERTY OR LAND USE, IF THE PROPERTY WERE CONNECTED TO AN AVAILABLE SANITARY SEWER SYSTEM.” SECONDED BY COUNCILMEMBER BRANDSTETTER. VOICE VOTE TAKEN AND CARRIED UNANIMOUSLY.

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VOICE VOTE WAS TAKEN on amended ordinance no. 530 AND CARRIED UNANIMOUSLY.

## **RESOLUTIONS**

**Resolution No. 2011-04 approving a modified street profile for Union Avenue.**

COUNCILMEMBER THOMAS MOVED TO ADOPT RESOLUTION NO. 2011-04. SECONDED BY COUNCILMEMBER MOSS.

COUNCILMEMBER BRANDSTETTER MOVED TO AMEND SECTION 1 OF RESOLUTION NO. 2011-04 TO READ: "THAT 'EXHIBIT A' AS ATTACHED HERETO AND INCORPORATED HEREIN SHALL CONSTITUTE THE MODIFIED STREET PROFILE AND RIGHT OF WAY PLAN FOR UNION AVENUE SW FROM WEST THROUNE LANE SW TO NORTH THORNE LANE SW."

VOICE VOTE WAS TAKEN ON THE AMENDMENT AND CARRIED UNANIMOUSLY.

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VOICE VOTE WAS TAKEN ON THE AMENDED RESOLUTION NO. 2011-04 AND CARRIED UNANIMOUSLY.

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

None.

**BRIEFING BY THE CITY MANAGER**

City Manager Neiditz reminded Council that the Parks and Recreation Advisory Board will be meeting to discuss the Ft. Steilacoom Park Golf Course recommendations.

He then indicated that Chief Farrar and will be meeting with the U.S. Attorney General and other Police Chiefs.

**CITY COUNCIL COMMENTS**

Councilmember Whalen commented about the History Museum event he attended on March 19, 2011.

Mayor Richardson indicated that he had requested that DVD copies of the Clover Park and Lakes High School Basketball Championships be made available.

Mayor Richardson asked that some of the oral history be captured of Lakewood's 15 years.

Mayor Richardson spoke about a welcoming event he attended of Lakewood's military connector.

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**Executive Session**

Mayor Richardson announced that Council will recess into Executive Session for approximately 10 minutes to discuss pending litigation.

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Council recessed into Executive Session at 9:40 p.m. and reconvened at 9:50 p.m.

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Mayor Richardson announced that Council will recess into a closed session to discuss employee relations pursuant to RCW 42.30.140(4).

**ADJOURNMENT**

There being no further business, the meeting adjourned at 9:50 p.m.

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DOUGLAS G. RICHARDSON, MAYOR

ATTEST:

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ALICE M. BUSH, MMC  
CITY CLERK