



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

Minutes - Final-Amended City Council

*Mayor Dennis Weber
Council Member Ken Botero
Council Member Tom Hutchinson
Council Member Don Jensen
Council Member Chet Makinster
Mayor Pro Tem Mary Jane Melink
Council Member Michael Wallin*

Thursday, January 26, 2012

7:00 PM

2nd Floor, City Hall

**** 6:30 P.M. - COUNCIL PHOTOGRAPH ****

The City Hall is accessible for persons with disabilities. Special equipment to assist the hearing impaired is also available. Please contact the City Executive Offices at 360.442.5004 48 hours in advance if you require special accommodations to attend the meeting.

1. CALL TO ORDER

Mayor Weber called the meeting to order at 7:00 p.m.

2. INVOCATION/ FLAG SALUTE

The invocation was presented by Pastor Doug Fields, Columbia Heights Baptist Church.

3. ROLL CALL

Present: 7 - Mayor Weber, Mayor Pro Tem Melink, Council Member Botero, Council Member Hutchinson, Council Member Jensen, Council Member Makinster and Council Member Wallin

Staff present:

City Manager Bob Gregory; Interim City Attorney Stephen Shuman, and City Clerk Ann Davis.

Also present: David Campbell, Assistant City Manager; John Brickey, Director of Community Development; Jeff Cameron, Public Works Director; Jim Duscha, Police Chief; Judy Jones, Information Technology Director; Keith Larson, Human Resources Director; Daryl McDaniel, Fire Chief; and Kurt Sacha, Finance Director.

4. APPROVAL OF MINUTES

On a motion duly made and passed, the reading of the minutes of the regular Council meeting held January 12, 2012, copies of which had been submitted to the Mayor and members of the City Council, was waived and the minutes were approved as if read.

MN 12-0137 COUNCIL MINUTES - JANUARY 12, 2012

Attachments: [CNCL MIN 01122012](#)

5. CHANGES TO THE AGENDA

Mayor Weber announced the Resolution regarding extending the liquor license moratorium would be moved up on the agenda to follow the public hearing on the moratorium.

6. PRESENTATIONS & AWARDS

7. CONSTITUENTS' COMMENTS (Thirty Minutes)

Martin Wells declared Council should not have turned off the red light cameras; people do not care about stopping for red lights. "It's not a voter initiative" matter; "it's your job" to promote safety.

Rianna Taylor told about Cascade Middle School's Prevention Club activities teaching students about social norms. Each grade is doing a different campaign: 6th grade theme is "More Hugs, Less Drugs," 7th grade is doing "Love, don't shove," and 8th grade is doing "Don't Do It." Each grade will be offering an activity to advertise their theme.

Debra Price told Council May is national motorcycle awareness month. She would like Council to issue a proclamation in that regard. Mayor Weber advised her to provide proposed proclamation language to the City Clerk.

Ken Spring disagreed with Mr. Wells about the red light cameras. He thought Council did the right thing by deactivating them. He voiced his appreciation for Council and thanked them for appointing Jim Duscha Police Chief. He felt Chief Duscha did a good job of dealing with the Occupy people.

Jeff Wilson commented he believed the tentative agreement between EGT and the ILWA is a positive thing. Now the community has to go through the healing process. The stance ILWA took affected everyone in the community, and Mr. Wilson felt it was important for them to make that stand. He said the labor dispute served to remind Cowlitz County how valuable the work force is.

Lee Starr said she had not planned to speak, but had to address a comment made by Mr. Spring. She said the Occupy people she knows are intelligent, care very much about the issues, and have jobs. She suggested Mr. Spring find out what is actually going on in the Occupy movement before commenting.

Chuck Wallace advised he thought Council could run the risk of sending a bad message by giving a tax break to a casino. Council could reduce the utility tax rate, which would benefit all citizens.

8. PUBLIC HEARINGS

12-2035

PUBLIC HEARING: PROPOSED CONTINUATION OF MORATORIUM ON ISSUANCE OF NEW BUSINESS LICENSES/LIQUOR LICENSES, AND PERMITS**COUNCIL STRATEGIC INITIATIVE ADDRESSED:**

Preserve neighborhoods; Address quality of place issues.

CITY ATTORNEY REVIEW: REQUIRED**SUMMARY STATEMENT:**

On December 8, 2012 the City Council passed Resolution No. 2006, which adopted a moratorium on the issuance of licenses, permits and approvals required by the City of Longview for the establishment within the Longview city limits of new liquor stores in order to provide the Planning Commission and City Council time to complete the update of the City's commercial code. State law requires that a public hearing be held on such a moratorium within sixty days of its enactment. Such a hearing was scheduled for January 26, 2012. This proposed Resolution No. 2013 should be enacted in the event that the City Council decides pursuant to the public hearing that the moratorium should be continued.

RECOMMENDED ACTION:

Motion to adopt Resolution No. 2013 as listed in the Ordinances/Resolutions section below, RS 12 2013.

Attachments: [Proposed Resolution 2013 - Moratorium](#)

The public hearing was opened at 7:21 p.m.

Co-chair of the Anti-Drug Coalition Linda Brigham read a letter from the Coalition applauding Council's action of implementing a liquor outlet moratorium. She provided a copy of the letter to Councilmembers and the City Clerk.

Martin Wells felt positive about the initiative language – taking the State of Washington out of the business of furnishing alcohol was a good idea.

Jeff Wilson noted his support of the moratorium as it will allow the Planning Commission to perform their job to designate where new liquor stores may be located.

Chuck Wallace also supported continuing the moratorium. He felt it was consistent with what the community wants and their values.

Mr. Spring asked for clarification of the moratorium; what is it doing?

Mayor Weber advised the initiative passed by the voters gave cities the capability to develop regulations to appropriately site new liquor store establishments. During this moratorium period, no liquor licenses or permits will be issued.

The public hearing was closed at 7:26 p.m.

If confirmed, Interim City Attorney Stephen Shuman advised the moratorium would run until June 8. While it can be extended an additional six months, it can also be rescinded earlier by Council if the Planning Commission makes its recommendation and Council approves it.

No action taken following the public hearing.

RS 12 2013

RESOLUTION NO. 2013 CONTINUING THE MORATORIUM ENACTED IN RESOLUTION NO. 2006

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Preserve Neighborhoods

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

On December 8, 2012 the City Council passed Resolution No. 2006, which adopted a moratorium on the issuance of licenses, permits and approvals required by the City of Longview for the establishment within the Longview city limits of new liquor stores in order to provide the Planning Commission and City Council time to complete the update of the City's commercial code. State law requires that a public hearing be held on such a moratorium within sixty days of its enactment. Such a hearing was scheduled for January 26, 2012. This proposed Resolution No. 2013 should be enacted in the event that the City Council decides pursuant to the public hearing that the moratorium should be continued.

RECOMMENDED ACTION:

Motion to adopt Resolution No. 2013.

Attachments: [Res. No. 2013, Continuing Moratorium Enacted by Res. No. 2006](#)

A motion was made by Council Member Ken Botero, seconded by Council Member Chet Makinster, that this matter be adopted. The motion passed unanimously.

12-2018

PUBLIC HEARING FOR AN AMENDMENT TO THE 2009-2013 CONSOLIDATED PLAN FOR FLOAT LOAN PROVISION, AND AMENDMENT TO THE 2011 CDBG ANNUAL PLAN FOR FLOAT LOAN TO THE LONGVIEW HOUSING AUTHORITY FOR THE COMRADE QUARTERS REHABILITATION ACTIVITY

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Council Initiative: Continue Effective Financial Management

CITY ATTORNEY REVIEW: REQUIRED

SUMMARY STATEMENT:

A Substantial Amendment to the 2009-2013 Consolidated Plan for the CDBG program is being proposed in order to include a Float Loan provision for CDBG eligible activities as needed. The City has found it necessary to

provide a float loan in order to reduce its CDBG line of credit and remain timely regarding drawdowns per HUD regulations. Approved Float Loans will be paid back to the City of Longview CDBG line of credit with interest within 18 months.

The Consolidated Plan will also be amended to particularly include a CDBG Float Loan for \$300,000 to the Longview Housing Authority for use in its Comrade Quarters Rehabilitation activity for the Stratford Arms Apartments, 1312 Hemlock St. Longview during the 2011 CDBG Program Year. The Float Loan will be repaid in July 2012 with 1% interest. The CDBG 2011 (Program Year) Annual Action Plan will be concurrently amended to include this activity.

The Consolidated Plan is required in order to plan housing, community facilities, public facilities, economic development projects, and public services and priorities for program years 2009-2013 and was adopted in June, 2009.

This amendment will meet the existing (Decent Housing) "Objective DH-3.3 Preserve and improve the condition of the existing affordable housing stock through acquisition and/or rehabilitation" and an Outcome of "Sustainability." The additional proposed accomplishment will be to "Provide handicapped accessibility and/or life-safety improvements."

A concurrent 30-day Public Comment Period was held from December 23, 2011 through January 21, 2012 for the Proposed Substantial Amendment and 2011 Annual Plan amendment for the Float Loan provision and proposed activity.

RECOMMENDED ACTION:

Motion to amend the Consolidated Plan to include a Float Loan Provision and prepare an Inter-local agreement for a CDBG Float Loan to the Longview Housing Authority for the 2011 CDBG Program Year.

Entitlement Program Coordinator Julie Hourcle explained the need for adopting a float loan provision into the Consolidated Plan. The Highlands trail project has been delayed in construction so the funds have not been drawn down sufficiently. Therefore, the City's line of credit with HUD exceeds the 1.5 year limit the City should have on deposit with HUD. \$300,000 must be drawn down in order to drop below the limit.

The proposed short-term float loan would be made to Longview Housing Authority (LHA). The City and LHA would enter into an interlocal agreement for the loan and the funds would be returned in July, 2012. Ms. Hourcle stated this process is a maneuver that is available to the City.

The public hearing was opened at 7:34 p.m.

Dan Freedman with the LHA advised their office is moving to 820 – 11th Avenue. The temporary loan will help them rehabilitate Comrade Quarters at the Stratford Arms Apartments while awaiting receipt of some grant funds. It will be used primarily to address accessibility issues and life-safety issues.

There being no further comments, either written or oral, the public hearing was

closed at 7:37 p.m.

A motion was made by Mayor Pro Tem Mary Jane Melink, seconded by Council Member Tom Hutchinson, that this matter be accepted and referred to the City Attorney for drafting an interlocal agreement and preparation of an amendment to the Consolidated Plan. The motion passed unanimously.

9. **BOARD & COMMISSION RECOMMENDATIONS**

10. **ORDINANCES & RESOLUTIONS**

RS 12 2014 **RESOLUTION NO. 2014, AMENDING THE 2011-2015 CAPITAL IMPROVEMENT PLAN TO PROVIDE FOR THE CAPITAL ASSETS AS LISTED ON EXHIBIT A.**

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Council Initiative: Improve transportation systems. Enhance public safety and emergency response.

CITY ATTORNEY REVIEW: REQUIRED or N/A

SUMMARY STATEMENT:

The purpose of this resolution is to formally amend the City's 2011-2015 capital improvement plan to include the acquisition and installation of a Traffic Division Office Trailer (\$20,000); purchase of a evidence drying cabinet for the Police Department (\$15,000); Curb bulb-outs and pedestrian improvements at 15th & Hemlock and 15th & Douglas Streets (\$200,000); Washington Way & 28th Avenue Curb bulb-outs and pedestrian improvements (\$150,000); purchase of two transit coaches for system expansion (\$900,000); purchase three paratransit mini-buses for replacement and system expansion (\$243,000); purchase three transit coaches for system expansion - FTA Clean Fuels Grant (\$1,350,000); install Intelligent Transportation Systems on transit coaches - FTA ARRA Grant (\$178,000); purchase transit supervisor vehicle (\$40,000); and purchase transit maintenance technician service truck (\$40,000).

RECOMMENDED ACTION:

Motion to adopt Resolution No. 2014 amending the 2011-2015 Capital Improvement Plan.

Attachments: [Resolution No 2014](#)

A motion was made by Mayor Pro Tem Mary Jane Melink, seconded by Council Member Tom Hutchinson, that this matter be adopted. The motion passed unanimously.

11. **MAYOR'S REPORT AND COUNCILMEMBER'S REPORTS**

12-1997 **RESOLUTION CREATING A SMALL BUSINESS ADVISORY**

COMMITTEE

SUBMITTED BY: Mike Wallin
SUPPORTED BY: Chet Makinster

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Strengthen economic conditions and create new opportunities

CITY ATTORNEY REVIEW: REQUIRED**SUMMARY STATEMENT:**

Small business is the engine that drives the American economy. Entrepreneurs with a dream combine with those with a desire to be self-sufficient create new companies every day, striving to be successful while making their personal dreams and goals a reality.

Although small businesses are small, their impact on the economy is huge. They, not huge corporations, form the majority of exporters to other countries and they are the employers of more than 50% of all workers in the private sector.

Small businesses are greatly affected by the adoption and enforcement government imposed regulations, including municipal plumbing, electrical, building, and fire codes. Additional rules, regulations, and codes such as those concerning the use of signage, and water and sewer use affect the operations and profitability of small businesses.

It's important that in the code decision making process, that small business owners and operators are included, are informed, and able to participate in the process so that city staff and council members can best make their decisions after hearing the insight and recommendations of those affected.

The proposed resolution establishes a Small Business Advisory Committee for businesses within the City of Longview.

RECOMMENDED ACTION:

Motion to prepare a resolution authorizing the city council to appoint a Board known as the "Small Business Advisory Committee", establishing the qualifications for membership on such committee, and prescribing the Duties of such committee.

Attachments: [Small Business Advisory Committee](#)

Councilmember Mike Wallin explained this proposal would establish a Small Business Committee to provide a voice of small businesses and give input regarding legislative changes. Small businesses are the drivers of the economy; Council needs to be in touch with the small business community. Councilmember Wallin recommended directing staff to draft a resolution creating a Small Business Committee, designate the duties of such committee, and establish membership numbers and criteria.

Mr. Wallin was asked what duties he was considering. Councilmember Wallin stated he has prepared a draft Resolution which has been reviewed by the City Manager and City Attorney, but he encouraged Council input on the issue. Primarily the group would serve to make recommendations to Council on behalf of small businesses. Perhaps the committee could even become proactive in implementing changes.

Councilmember Botero noted that creating a new committee involves additional costs – in staff time to draft the Resolution and assist the committee with paperwork, minutes, etc. Mr. Botero felt some existing organizations like CEDC could fill this need. With the economy the way it is, Councilmember Botero noted the City is trying to maintain its budget, perhaps it is not the time to create a new committee.

Councilmember Wallin acknowledged there would be staff time involved, however, he felt the benefit to the community would be great. This committee would give the small business community official recommending capability to Council.

Councilmember Melink agreed it was a good idea, however, she was reluctant to support it given the undefined duties of such a committee and without an estimated budget for it.

Councilmember Wallin stated the motion is direct staff to develop a resolution setting forth the duties, membership, etc., of the committee and bring this back to Council. A budget could be part of this resolution.

Councilmember Botero said this committee is something the City might need at some point. He tended to be a little negative until he receives more information. He also did not want to sidestep existing partnerships the City has with outside organizations like the Chamber of Commerce and the LCCA.

Councilmember Hutchinson observed that the need for this committee would be in response to small businesses having difficulty obtaining permits or other City assistance; he was unaware of any trouble in this regard.

When asked if he had checked with other cities to see whether such a committee has been created elsewhere, Councilmember Wallin said no other cities are that "forward-thinking yet." However, he felt some upcoming legislation, i.e., sewer pretreatment, could have a major impact on small business owners so their input should be considered when making a decision.

Interim City Attorney Shuman said he had some concerns about conflicting jurisdictions. All land use legislation has to go through the Planning Commission; perhaps these decisions would have to be considered by both the Planning Commission and a small business committee.

Council seemed to agree that more information is needed. The motion was clarified to instruct the City Attorney to do some preliminary work investigating how such a committee would function.

Councilmembers suggested other organizations/committees that could provide this input: the Chamber of Commerce and the LCCA.

A motion was made by Council Member Wallin, seconded by Council Member Makinster, that this this issue be referred to the City Attorney for research. The motion carried by the following vote:

Ayes: 4 - Mayor Weber, Council Member Jensen, Council Member Makinster and Council Member Wallin

Nays: 3 - Mayor Pro Tem Melink, Council Member Botero and Council Member Hutchinson

TMP-0063

**PROPOSED AMENDMENT TO THE LONGVIEW MUNICIPAL CODE
RELATING TO ANIMAL CONTROL TO INCLUDE A SECTION MAKING
IT UNLAWFUL TO ALLOW DOGS TO RUN LOOSE**

SUBMITTED BY: Ken Botero

SUPPORTED BY: Chet Makinster

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Address quality of place issues

CITY ATTORNEY REVIEW: REQUIRED or N/A

SUMMARY STATEMENT:

In addition to the Animal Control ordinance update, it is requested to add a section to the LMC specifically addressing dogs running loose. Citizens have expressed their concern, noting it is a serious concern. The suggested section is as follows:

"It shall be unlawful for the owner or custodian of any dog to cause, permit, or allow such dog to roam, run, stray or be away from the premises of its owner or custodian or to be on any public place or any public property or the private property of another unless the dog is controlled by an automatic retractable leash or by a leash not more than eight feet in length under control, provided however, that this section does not apply to dogs directly supervised by their owners while using designated off leash areas on city park property. Any dog found roaming, running, straying or being away from such premises and not under control on a leash as herein provided is hereby declared to be a public nuisance and such dog may be seized and impounded subject to redemption in the manner provide for other impounded dogs."

RECOMMENDED ACTION:

Motion to prepare an ordinance with a new section of the LMC that includes the text above relating to dogs running loose.

Attachments: [Proposed Amendment to LMC re Animal Control](#)

Since if this matter is approved it will be in the form of an Ordinance, Mayor Weber asked City Clerk Davis to read the proposed leash law language into the record.

Councilmember Botero introduced his sponsored item.

City Manager Bob Gregory asked Interim City Attorney Stephen Shuman to explain to Council what the Longview Municipal Code currently states regarding control of dogs. While not specifying "on leash," the current LMC does require that dogs be under the control of the owner at all times. Provisions are in place for dealing with dogs

running at large and in packs. Longview is one of few jurisdictions that does not require dogs be on a leash.

Humane Society Director Rick Johnson said he considers leashes a tool to keep your dog safe from other dogs not on leash.

Ken Spring thanked the City Manager for naming Jim Duscha Police Chief; he sees a big difference already in the attitude of police officers. He is against adopting unnecessary laws. It appears the laws already enacted are adequate to deal with roaming dogs; leave it as it is.

Irene Klein spoke in favor of leashes. She and her dog get accosted by dogs not on leash.

Rita Walker said she has an eight-year-old pom/chi mix that has never been on a leash. He stays right by her side on walks. He does not bother anyone else or cause any problems. She did not want to have to start putting him on a leash because he does not need to be on one.

Richard Navarre stated he raises Papillions for show. When he walks his dogs on leash around the block, he is still chased by dogs contained within their fences.

Joshua Burchett said he has a golden retriever. He and the dog play ball at a Mint Farm field. If this ordinance is adopted, will he still be able to play ball with his dog?

Carol Cagle, CVG resident, said roaming dogs are a big problem in her neighborhood. If it is after 4:15 p.m., the Humane Society cannot send anyone out to respond. She alleged it isn't a problem of the laws, it is an enforcement problem.

Melissa stated her opposition to a leash law. Her dogs are usually on a leash. It is roaming dogs that create the problem. She also felt it is an enforcement problem.

Chuck Wallace, who reads meters for the PUD, told about being attacked by a pit bull earlier in the day. Perhaps some type of owner certification of responsibility should be imposed. He suggested more thought needs to go into this issue. Whatever is adopted, there will be a cost associated with it.

Councilmember Botero said he did not think this was a cost issue; it was about giving the Humane Society the tools it needs to address the situation.

Linda Brigham said she thought a leash law had been a long time coming. It would require people be a little bit more responsible.

Les Osment, noting that there is only one dog park in town where dogs can be off-leash, said it is too soon to implement a leash law. If all dog owners went out to the dog park, it would be a mud bowl. Additional spaces for off-leash dog activities are needed.

Ken Spring suggested enacting an ordinance requiring dogs to run loose only between the hours of 9 a.m. and 4 p.m. He did not think Joshua and his golden retriever should be punished for a few bad dog owners.

Steve Moon voiced his opinion a leash law would be redundant. Dogs running loose now will continue to run loose; those owners aren't going to do anything different.

Mrs. Cagle clarified that she is in favor of a leash law. Perhaps the Parks and

Recreation Department could offer classes in obedience training.

Kristen said existing ordinances are sufficient. She suggested considering a penalty for persons who do not pick up after their animals.

Animal Control Officer Mike Nicholson reported the following: In the first 26 days of 2012, Woodland has had no animal offense penalties assessed. Kelso has imposed \$512 in fines; Castle Rock has had only one infraction; while Longview has assessed over \$4,000 in fines in the same 26-day period. Adding a leash law is not going to solve the problem of dogs roaming free. Regulations already permit Humane Society officers to ticket and continue to ticket those irresponsible owners.

Mike Nicholson acknowledged that there are only two officers to cover the entire county: he and one other officer.

Joshua's mother, Debbie Burchett, said if the ordinance is adopted, even if there is no intention of enforcing it, she would not be comfortable allowing her son to break the law.

The suggestion was made to increase fees to solve the problem; increased fees could be used to pay for enforcement.

Kelso resident Keith Huff said it appears the City has a problem; there is a law that cannot be enforced.

Several other residents spoke both in favor of and in opposition to the proposed leash law.

At the Mayor's request, City Clerk Davis again read the proposed text requiring leashes being considered.

Councilmember Jensen said Council is considering adopting a leash law which would be a Class 2 civil infraction with a \$257 fine unless otherwise specified. He commented that the few irresponsible pet owners are requiring laws be enacted that affect everyone. He was leaning against adopting the leash provisions.

Councilmember Hutchison said it presents a dilemma. Funding has not been adequate to provide for enforcement. Perhaps the citizenry should be made more aware of the existing regulations and \$257 fine.

Councilmember Makinster observed it appears this is an enforcement problem not a regulatory one. He is opposed to enacting new laws that won't be enforced. He will be voting against the measure even though he co-sponsored it.

Councilmember Wallin noted he needs more information before he can support this change. In light of the greater than \$4,000 in fines assessed to date, he thought that sounded like a pretty good enforcement record.

Councilmember Botero argued that this is a safety issue, not a personnel issue. If the Humane Society cannot enforce the current regulations, then that is different issue.

A motion was made by Council Member Botero, seconded by Council Member Makinster, that this Agenda Item be approved. The motion failed by the following vote:

Ayes: 1 - Council Member Botero

Nayes: 6 - Mayor Weber, Mayor Pro Tem Melink, Council Member Hutchinson, Council Member Jensen, Council Member Makinster and Council Member Wallin

Recess

A brief recess was called. The meeting reconvened at 9:16 p.m.

Other Council Reports:

Councilmember Melink announced the bus system, now the River Cities Transit, has also adopted a new logo.

12. CONSENT CALENDAR

Councilmember Jensen asked to remove the Civic Center matter for separate consideration. There being no additional items the Council wished removed from the Consent Calendar, a motion was duly made and passed approving the items on the Consent Calendar as though acted on individually.

12-2011

APPROVAL OF CLAIMS

Final audited claims amount: \$3,804,994.83. Checks issued: 310170 - 310584.

12-2012

LIABILITY CLAIMS/LAWSUITS

12-2033

SET PUBLIC HEARING TO AMEND SIX YEAR TRANSPORTATION IMPROVEMENT PROGRAM (T.I.P.) 2012-2017

COUNCIL INITIATIVE ADDRESSED:

Continue effective financial management.
Improve transportation systems.

CITY ATTORNEY REVIEW: N/A

SUMMARY STATEMENT:

On June 9, 2011, the City Council adopted the 2012-2017 Six Year Transportation Improvement Program (T.I.P.) for the City.

The City has received state and federal grants for new transit and transportation projects, and several previous grant-funded projects have not been completed. In order to be eligible to receive these grant funds, the current T.I.P. must be amended to include these projects. Staff recommends the City Council set a public hearing for its February 9, 2012 regular city council meeting to receive comments on this proposed T.I.P. amendment.

Copies of the draft amended 2012-2017 T.I.P. will be distributed prior to the public hearing.

RECOMMENDED ACTION:

Motion to set February 9, 2012, as the date of a public hearing to receive comments regarding amending the 2012-2017 Six-Year Transportation Improvement Program.

Removed for separate consideration

PROJ #46

PROJECT COMPLETE CERTIFICATION - CIVIC CENTER TRAFFIC IMPROVEMENTS**COUNCIL INITIATIVES ADDRESSED:**

Improve transportation systems.

CITY ATTORNEY REVIEW: N/A**SUMMARY STATEMENT:**

This action is to certify that the Civic Center Traffic Improvements project has been completed in accordance with the plans and specifications under Contract No. 11-A030-T entered into between the City of Longview and Halme Excavating, Inc., and the same is hereby accepted and approved.

RECOMMENDED ACTION:

Motion to accept and approve as complete the Civic Center Traffic Improvements project.

Councilmember Don Jensen wanted to go to on the record as not being supportive of all the modifications that have been made to the Civic Center. He specifically does not like the entrances to and exits from Washington Way.

Councilmember Makinster voiced his concern that when traveling from the Lake, the law requires a driver to pull into the nearest lane. With this configuration, that throws you into the other lane. It requires a weird cut in order to make the lane.

Councilmember Wallin also noted he has heard numerous citizen concerns about the design. He felt it important to review these concerns and look at making some corrections.

Mayor Weber advised he had spent a few days at legislative meetings in Olympia; Olympia has installed round-abouts and it has eased their traffic situation. However, those round-abouts do have two-lane entrances.

City Manager Gregory remarked that the design had been developed by a traffic engineer.

Citizen Steve Moon reminded Council that this construction is the first of three phases planned for the Civic Center. Lack of available funding caused this phase to be scaled back, delaying the installation of traffic islands and curbing to channelize traffic and landscaping. He wanted Council to bear in mind that the project is not yet complete before making changes to the layout.

Fred Willard commented he is an LCC student and "everyday" another driver almost hits him on the Circle.

Ken Spring observed no problems with the design other than the crosswalk humps are too high: he has to drive his factory Corvette at 5 MPH in order to not bottom out.

Councilmember Botero recalled that the matter currently before Council is acceptance of completion of the construction project. Modifications to the design is a separate issue.

A motion was made by Council Member Ken Botero, seconded by Council Member Chet Makinster, that this matter be approved. The motion passed unanimously.

13. CITY MANAGER'S REPORT

12-2034 PROPOSED ORDINANCE AMENDING SECTIONS OF LMC CHAPTER 6.06

COUNCIL STRATEGIC INITIATIVE ADDRESSED:

Preserve neighborhoods

CITY ATTORNEY REVIEW: REQUIRED or N/A

SUMMARY STATEMENT:

The City Legal Department and the Humane Society have been working together over at least the last six months to update the primary part of the Longview Municipal Code which regulates the keeping of animals within the city limits. A proposed ordinance making changes to the City's animal control laws has been drafted and is being presented for the City Council's review as part of the City Manager's report.

RECOMMENDED ACTION:

Review and discuss proposed ordinance. Either continue discussion of proposed ordinance to a later meeting or direct City Attorney to write a final draft of proposed ordinance with any prescribed changes for Council Review.

Attachments: [2012 Animal Ordinance](#)
[Memorandum regarding Animal Control Ordinance](#)

Director of Community Development John Brickey told about situations where his department receives complaints about multiple animals in a neighborhood. These animals are not well cared for, create a nuisance of odor and noise. Current zoning regulations allow the City to specify how many farm animals are on a parcel, but there is no limit on household pets. Therefore, Community Development has no good means of dealing with situations with too many pets in a residence. When the situation is referred to the Humane Society, they, too, have trouble handling the situation. Staff is proposing an Ordinance to help deal with the problem.

Several instances of women keeping too many cats in their homes have spurred a number of neighbor complaints. The cats were fed and watered, but did not receive veterinary care and litter pans were overflowing. The smell from the cats' waste was unbearable to the neighbors. Mr. Brickey said this situation can be handled by approaching it through the nuisance abatement codes, but it is a lengthy process.

Interim City Attorney Stephen Shuman worked with Humane Society personnel when

drafting the proposed ordinance. Mr. Shuman said he reviewed the codes of 50 cities and one county to see how they handled this situation. Eighteen of those codes contained limits of household pets. He proposed a maximum of three pets for apartment/duplex residents; four for a single-family residence; and 5 for a lot in excess of 20,000 sq. ft.

Councilmember Jensen pointed out the proposed Ordinance did not mention any limit on exotic pets nor any limits on pet stores.

Councilmember Wallin expressed some concern about Humane Society officers entry onto private property.

Mr. Shuman explained the five different sections of the Ordinance. Public input was taken following each explanation.

The first section referred to the limitation of the number of household pets.

Mike said this Ordinance is not going to stop animal hoarders. He has numerous dogs; he did not think the law should restrict his animal ownership.

Irene Klein stated it is not fair to punish everyone for the deeds of bad owners. She alleged the Humane Society cannot take care of the animals already there. "What I do in my home is my business." She pays taxes, pays for police protection, and spends a lot of money for pet food and care.

Kimberly noted many people have more children than they can afford to adequately feed and care for. Is Council going to limit the number of children they can have? If people can afford to adequately care for many pets, it should be allowed.

Dick Navarre said the information in the Ordinance was "very camouflaged." His family moved here ten years ago. At that time, he checked with the Humane Society regarding any restrictions on dogs. If this restriction is implemented now, he feels the City is "stabbing me in the back." He threatened to leave town if this limitation is enacted.

Joshua Burchett asked whether previous activities/number of animals would be grandfathered-in?

Camilla McAllister, a dog trainer and breeder, said hoarding animals is a mental illness, not a responsible pet owner issue. Limiting the number of dogs on a site would hurt AKC breeders. Maybe the law should require owners to take care of animals adequately.

The possibility of a kennel license was mentioned. The City does not currently have a provision for kennel licenses. Cowlitz County does have a kennel license and Humane Society Officer Mike Nicholson said it works well.

Nan has had dogs all her life; she has judged dogs all over the world. She has owned three German Shepherd dogs over her lifetime; each has saved her life at some point. Her life is her dogs. They are more important to her than anything.

Milly Shaver took exception to the perception that people owning multiple animals had smelly houses and are dirty people. It is not necessarily so. She would not say how many cats she owns, but stated her house does not smell. Visitors to her home are surprised she has cats. She said she spends more on feed and animal care per month than she does on her house payment. She urged Council to set parameters

regarding how many pets an owner can properly care for rather than setting an arbitrary number.

Cyndi Skinner recapped the email she sent to Councilmembers earlier in the day. It should not be about numbers. Ferrets are unlicensed animals. Cat licensing is optional. How would the City know how many animals are in a residence?

Additional citizen testimony touched upon criminalizing pet ownership; if enacted, people would immediately be in violation of the law; such a limitation could not be enforced; and it would do nothing to address the problem of roaming dogs.

Humane Society Officer Mike Nicholson said a kennel licensing process would help him do his job. People with ten or more animals must register, pay a permit fee and allow the officers to inspect their facilities. Mr. Nicholson left information and color photos with the Clerk of situations where excessive numbers of animals were found and the conditions in which they were living.

Interim City Attorney Shuman outlined the provisions of the second section which dealt with penalties for obstructing an officer from performing his duties. This change would make the penalty for interfering with Humane Society officers doing their duty the same as interfering with a police officer. Currently interfering with a Humane Society officer is a civil infraction with a fine of \$257. Interfering with a police officer is a gross misdemeanor with up to one year in jail and a \$5,000 fine.

Melissa said this change is a good idea. Mr. Spring said "absolutely not," Humane Society officers are not police officers.

Councilmember Wallin asked some questions regarding what constitutes interfering with an officer performing his duties, and pointed out what he felt was a conflict in the law. Mr. Shuman said the ordinance is written to state "prevent or hinder the animal control officer from carrying out any provisions of this chapter." A judge or jury would make the final determination.

Section 3 addressed exotic animals. Currently possession of exotic animals is prohibited other than those owners who are grandfathered-in. This section would allow some exotic pets be kept but animals would be strictly regulated and licensed.

Councilmember Jensen observed this section did not limit the number of exotic animals a resident could have, nor did it address the number of exotic pets a pet store could house. In addition, the section specified the Humane Society officers could inspect at any time and seize and impound the animals if conditions are inhumane. He questioned the ability of officers to enter personal property without a search warrant.

Humane Society Officer Mike Nicholson reported he cannot go onto private property without the property owner's permission. He can obtain a search warrant if necessary, however, he has not been refused entry to date.

Section 4 addressed imminent danger to the public or animals. An official with the animal control division of the Humane Society or Longview Police Department shall have the authority to enter the property or abate the immediate danger to the public or life-threatening condition of the animal, and clarified the requirements for applying to Longview Municipal Court for a search warrant. Humane Society Director Rick Johnson stated in the spring, as soon as the sun comes out, the Society starts receiving calls about animals left in hot, parked vehicles. The law does not give them any authority to proceed; they cannot even break a window unless the dog is

convulsing. If the dog reaches the convulsing stage, it has probably sustained permanent damage.

Council expressed concern about animal control officers entering private property or damaging/seizing personal property.

Mr. Shuman said if the animal control officers came across a grizzly bear in a backyard, they would have to make a determination (which can always be second guessed in court) whether the grizzly poses an immediate health and safety hazard to the public. If they decide it does not, they they have to apply for a search warrant.

Camilla McAllister suggested the Humane Society be given some tools to help them, like language specifying "animal in distress." As a dog breeder and exhibitor, she has to sign a document authorizing others to rescue her animals if they should be left in a hot vehicle.

Keith Huff stated his civil liberties start "convulsing" at this point. Animal control officers, employed by the Humane Society, are private contractors; they are not law enforcement. Can they enter my property or must they obtain a search warrant? He asked about staying off the property entirely.

Mr. Shuman said that is "kind of a complex legal issue." There are certain portions of private property that are "impliedly" open to the public, like the walk between fence/sidewalk and the porch; areas that the mail carrier and UPS drivers use.

Returning to the grizzly bear analogy, Mr. Huff asked would a private contractor of the City have the capability to enter his property and do something to his personal property without any law enforcement or judicial powers beyond the Ordinance being discussed?

Mr. Shuman reported the Humane Society officers do have limited deputization powers from the City to issue civil infractions. Mr. Huff wondered how that would change if the penalty is increased to a gross misdemeanor? Mr. Shuman advised Council will have to make the decision whether the penalty should remain a civil infraction or become a gross misdemeanor.

Repeating his question, Mr. Huff said the private contractor, acting under the assumption of immediate health risk or risk to property, can enter my property, take my personal property, and I could be charged with a misdemeanor under some level of deputization from the City? Mr. Shuman confirmed this would be correct, if this section of the Ordinance is adopted.

Mr. Huff warned Council this was "dangerous ground, folks," since the animal control officers are not sworn police officers.

Section 5 modified language that was in conflict with the American with Disabilities Act (ADA). Prior regulation required owners with service animals to prove their need for such assistance. Under ADA regulations, this cannot be required.

Councilmember Wallin said he would be comfortable with staff bringing back an Ordinance addressing the exotic animals questions and the authority of officers. He was not interested in limiting the number of animals; these problems need to be addressed under public nuisance regulations.

Councilmember Jensen said the proposed Ordinance "goes way too far." He also thought the problem with animal hoarders should be dealt with under public nuisance

regulations, not by limiting the number of pets.

Councilmember Hutchinson also noted he would not want to impose a restriction on the number of animals. He asked whether current ordinances are sufficient to allow staff to deal with those situations under the nuisance abatement laws.

Director of Community Development John Brickey said staff is not able to resolve these issues quickly. Staff would like to have some laws that would allow them to take action more quickly.

City Manager Gregory noted that previous Councils had dismissed the kennel license approach.

Council directed Mr. Gregory to add a kennel license provision to the proposed ordinance when it is returned for further Council action.

Recess

Another brief recess was called. The meeting was reconvened at 11:14 p.m.

12-2037

MODIFICATION OF THE CITY'S GAMBLING TAX RATE

CITY ATTORNEY REVIEW: REQUIRED or N/A

SUMMARY STATEMENT:

Gambling taxes are an important source of revenue for the City of Longview's General Fund. In addition to supporting the enforcement of gambling tax regulations, gambling tax revenues assist in funding general governmental services, public safety, transportation and cultural and recreational programs. The City of Longview received total gambling taxes of \$537,980 in calendar year 2010. Attached in Exhibit A, you will find a ten-year history of gambling tax revenues.

Today, the primary source of gambling tax revenue is the card room gambling tax. In the City of Longview, social and public card rooms are assessed a gambling tax rate of 11.25 percent on the gross revenue received there from. In 2010, Cadillac Island Casino card room gambling obligation totaled \$381,931.

Card room gambling tax rates vary throughout Washington. RCW 9.46.110 sets the maximum card room gambling tax rate at twenty percent (20%) of the gross revenue from such games. In Exhibit B, I have provided you with the gambling tax rates on social and public card rooms for various cities throughout the state.

Based on information provided by Cadillac Island Casino, the casino has not been profitable since 2008. According to the owners, the Cadillac Island Casino has operated with net losses for the years 2009 through 2011. The owners attribute their results from operations to a poor economy, high unemployment, an increasing minimum wage and skyrocketing supply costs. To assist Cadillac Island Casino in overcoming its year-over-year net losses and allow it to remain a viable business in downtown Longview, the owners have requested that Council consider modifying the gambling tax rate on social and public card rooms. The owners have proposed a sliding scale gambling tax rate based on the average daily gross gambling revenue as

outlined below.

- Zero percent (0%) of the gross gambling revenue.... if the average gross gambling revenue is \$0.00 to \$10,000.00 per day.
- Three percent (3%) of the gross gambling revenue.... if the average gross gambling revenue is \$10,001.00 to \$15,000.00 per day.
- Five percent (5%) of the gross gambling revenue.... if the average gross gambling revenue is \$15,001.00 to \$20,000.00 per day.
- Ten percent (10%) of the gross gambling revenue.... if the average gross gambling revenue is \$20,001.00 or more per day.

Based on the current level of card room activity, Cadillac Island Casino would pay no card room gambling taxes under the proposed sliding scale gambling tax rate.

RECOMMENDED ACTION:

Consider modification of the card room gambling tax rate with a sunset provision.

Attachments: [Ex A Gambling History](#)
 [Ex B Card Room Tax Rates](#)

City Manager Gregory advised staff had been approached by the owners of the Cadillac Island Casino, Jim and Regina Bakunowicz, for a reduction in the gambling tax rate. State law requires municipalities to notify the State Gambling Commission if a casino/card room becomes 90 days delinquent in tax payment. The information contained in the agenda packet was provided by staff; the documents before Council on the dais were provided by the casino owners. Cadillac Island Casino is the only card room operating in the City of Longview and thus the only establishment that pays the 11.25% gambling tax.

Finance Director Kurt Sacha said the Bakunowiczses have entered into an agreement to repay the back taxes and are currently making monthly payments on that balance due.

Jim and Regina Bakunowicz told Council about their business and current financial situation. Eighty percent of all revenues goes toward payroll. The recent increase in the minimum wage rate amounted to 51 cents per hour including taxes, or a \$1,040 wage increase to each employee. This increase will cost an additional \$300,000 per year. They have cut expenses wherever they can. While repaying the delinquent balance, they cannot afford to pay an additional 11.25% on current gaming revenues.

Approximately 75% of card rooms in the State of Washington have closed in the last few years.

Mr. Bakunowicz suggested the only place left to cut is the gambling tax rate. The tax is assessed on gross gambling revenues. He has paid a very high rate all the time he has operated in Longview. When revenues were high, he had no objection to paying a high rate. Now that the economy has stalled, revenues are down significantly.

If the City decides not to lower the tax rate, the Bakunowiczses will be forced to shut their doors and put 300 employees out of work.

Mayor Weber remarked Council has four choices: do nothing; schedule a workshop or public hearing; select a different rate for card room gambling; or adopt the sliding

scale proposed by the casino owners.

Councilmembers suggested several alternate, rates lower than the 11.25%, but higher than zero. Ms. Bakunowicz said they have cut costs everywhere they can; they simply cannot continue to repay the delinquent amount and continue to pay on the gross gambling revenues and make ends meet. "If we close our doors, there is no income at all."

Mrs. Bakunowicz noted there is the possibility of the casino obtaining slot machines, which is believed would draw many people to the casino who do not play cards. The state legislature has been considering bills that would allow non-Indian casinos to have slot machines. She also said they are required to report revenues monthly. The State audits those reports; Finance Director Kurt Sacha has been granted permission to review their books. She concluded by saying "we need you to be our business partner for one year."

City Manager Gregory stated there is no pending bill on this topic currently in the legislature. Councilmember Wallin said perhaps the City should put the slot machines and a minimum-wage offset for tipped employees on its legislative agenda.

Mr. Bakunowicz said it is Council's decision whether to partner with them or "put us out of business."

Councilmember Makinster moved to amend the gambling tax rate by adopting the sliding scale as proposed by the Bakunowicz, to sunset in one year. This motion was seconded Councilmember Botero.

Council discussion revealed sympathy for the plight of the owners yet disclosed some discomfort with the zero bottom percentage rate; Councilmember Melink suggested perhaps a 3% bottom rate as a compromise would be "something we could both be uncomfortable with." This is going to be a major hit on the budget. Councilmember Hutchinson agreed that even a 1% rate would be better than zero.

Noting that Council has restricted card room competition within the City, Councilmember Wallin suggested perhaps opening up the field and allowing competitors. Director of Community Development John Brickey advised the Commercial Zoning Code is currently being updated; staff has been given direction to determine appropriate zones for the establishment of gambling facilities.

Citizen Duane Dagleish observed Council has an opportunity to keep Cadillac Island Casino in business. "\$66,000 or nothing. Easy decision."

Councilmember Hutchinson moved to amend the motion to set the bottom percentage rate at 1% rather than zero, with the balance of the sliding scale remaining the same. Councilmember Melink seconded this amendment.

Councilmember Botero said this had all been worked out; even a one percent rate may push them into bankruptcy.

Upon a vote on the amendment, it carried five votes cast by Mayor Weber, Councilmembers Jensen, Melink, Wallin and Hutchinson, to two nay votes cast by Councilmembers Botero and Makinster.

A motion was made by Council Member Chet Makinster, seconded by Council Member Ken Botero, that this matter be approved as amended. The motion passed with no nay votes.

14. **MISCELLANEOUS**

The following item(s) were presented for Council's information. No Council action was taken or required.

12-2029

LIQUOR LICENSE REQUESTS

Attachments: [LL Correction](#)
[LL Renewals for 1-26 council](#)
[LL-Spec Occ](#)

MN 12-0138

MINUTES OF THE NOVEMBER 21, 2011 REGULAR PARK BOARD MEETING

Attachments: [November 21 2011 Park Board Minutes .pdf](#)

15. **ADJOURNMENT**

The meeting was adjourned at 12:20 a.m., Friday, January 27, 2012. The next scheduled meeting of the Council is February 9, 2012.

*Ann C. Davis
City Clerk*

*Approved: _____
Mayor*

COUNCIL RETREAT:

**FRIDAY, JANUARY 27 AT 5:30 P.M. AND SATURDAY,
JANUARY 28 AT 8 A.M. AT RIVER'S EDGE CONDOMINIUMS**

NEXT REGULAR COUNCIL MEETING:

**THURSDAY, FEBRUARY 9, 2012, AT 7 P.M.
THURSDAY, FEBRUARY 23, 2012, AT 7 P.M.**

NEXT COUNCIL WORKSHOPS:

**THURSDAY, FEBRUARY 2, 2012, AT 6 P.M.:
TRANSPORTATION FUNDING; PAVEMENT
MANAGEMENT/CONDITIONS STUDY REPORT; ENERGY
PERFORMANCE CONTRACT**

**WEDNESDAY, FEBRUARY 15, 2012; AT 6 P.M: EMERGENCY
PREPAREDNESS TRAINING (INCLUDING ALL AREA
AGENCIES; TO BE HELD AT COWLITZ PUD MEETING ROOM**