

*JANUARY 25, 2021*

**T** HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, January 25, 2021, at the Lewiston City Library, 411 D Street. Mayor Collins called the meeting to order at 6:00 p.m.

**I. ROLL CALL**

*Councilors Present:* Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner.

**II. PLEDGE OF ALLEGIANCE**

Mayor Collins led the Pledge of Allegiance.

**III. CITIZEN COMMENTS:** *Provides an opportunity for citizens to address the council on agenda items or other items they wish to bring to the attention of the council. Citizens are encouraged to discuss operational issues in advance with the city manager. In consideration of others wishing to speak, please limit your remarks to three minutes.*

The following individuals provided comments against a mask order either by e-mail, call-in or in person: Alan Gilmore, Dan Hypkey, Brian Bedard, Rick Eldredge, John Michael, Ada Vlaskez, Susie Whitlow, Luke Blunt, \_\_\_ Sattler, Gabriel Sullivan, Katie Dugger, \_\_\_ Dugger, Kelsey Kompel, Nathaniel Rankin, Joe Beroker, Naomi \_\_\_, Victoria \_\_\_, Alex Crea, Elizabeth Hicks, Angela Beard, Darlene Lambert, Deb Stormes, Keely Nielson, Hannah Leavitt, Elaine Selberg, Callie Manfull, Christy Kurts, Doug James, Jennifer Willis, Cindy Hardin, Jordan Rinker, Seth Sabo, Sheila Bond, Anna Geidl, Gwen Koreltz, David Funke, Kyle Harris, Dan King.

The following individuals provided comments in favor of a mask order either by e-mail, call-in or in person: Doty Robbins, Amanda Gill, Barbara Bush, Cheryl Grim, Savannah Ottmar, Annie Stuart, Marilyn Irvine, Linda Bentley, Kathy Heinemeyer, Sandra Lee, Patricia Keith, Sharon Fitzgerald, Rick Tousley, Ferrell Fletcher, Dorene Walrath, Marla Barnes, Gwendolyn Koreltz, Kathy Clouser, Mary Lou Amidei, Savannah Ottmar, Carol Fletcher, Amy Canfield, Steve Martin, Margie Ruskovich, Mike Ruskovich, Michelle and Mike Purdue, Judy Matelko, Jim Corel, Kathleen Gaines, Holly Schuyler, Mary Evans, Judy Emerson, Judy Browning.

**IV. PRESENTATIONS AND PUBLIC HEARINGS**

**A. FINANCIAL REPORT - DECEMBER 31, 2020:** *Report provided by Administrative Services Director Marsh in accordance with Idaho Code 50-208 (Marsh)*

Mr. Marsh reported that the total city-wide revenues are at \$15.6 million, or 16 percent of one year's operating budget. Total city-wide expenses are at \$16.8 million, or 17.8 percent.

Mr. Marsh continued by reporting on property taxes, cash, the operating and capital funds, and the State of Idaho CARES allocation.

## V. CONSENT AGENDA

Mayor Collins explained that all items on the Consent Agenda are considered routine by the Council and will be enacted by one motion. There will be no separate discussion on these issues unless a Councilor so requests, in which case the item will be removed from the Consent Agenda and considered on the Active Agenda under "Items Moved from the Consent Agenda".

Councilors Pernsteiner and Blakey moved and seconded, respectively, adoption of the Consent Agenda. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

- A. CITY COUNCIL MEETING MINUTES: 12/07/20 Work Session; 01/11/20 Regular – Action Item
- B. ADVISORY BOARD AND COMMISSION MEETING MINUTES: 10/20/20 Parks & Recreation Commission; 12/09/20 Planning & Zoning Commission – Action Item
- C. LIBRARY MATERIALS VENDOR CONTRACT: Considering approval of a contract between the City of Lewiston and Ingram Library Services LLC for purchase of library collection materials – Action Item
- D. VOUCHERS PAYABLE: 12/24/20 through 01/08/21 - \$740,458.45; - Action Item

## VI. ACTIVE AGENDA

- A. PUBLIC HEALTH EMERGENCY ORDER NO. 20-10: Review of Order No. 20-10 regarding physical distancing and face coverings – Action Item (Nygaard)

City Manager Nygaard reported he provided Council with an Alternative Order for consideration that would provide some clarity in terms of events.

Councilor Bradbury moved to extend Public Health Emergency Order No. 20-10 an additional three months. The motion was seconded by Mayor Pro Tem Schroeder.

Councilor Bradbury reported that from the time the original Mask Order was imposed, there has been a dramatic drop in the number of COVID cases. Though masks are not 100 percent effective, they do diminish the transmission of the virus when an individual coughs or sneezes. Mr. Bradbury said he is concerned for those working as store clerks as they have no choice but to stand next to somebody when taking their money or goods. People that don't wear masks do have a choice and it's not a matter of personal freedom to put those clerk's health and lives at risk. The way the economy is going to recover is by bringing the virus to its knees.

Councilor Blakey noted that a comment was made during Citizen's Comments about an exit strategy for the Order. He said he would support an extension of the Order for 90 days, but would rather see a 45-day extension as well as an exit strategy included.

Mayor Pro Tem Schroeder said she would like the Order to be extended for 90 days, with a review of the document in 45 days. Further, she suggested the exit strategy be developed and included prior to the date of review. Councilor Bradbury added that if the vaccinations are in place prior to the 90-day extension, the time frame for the Order could always be shortened.

Still having strong concerns about enforcement and tension on both the officers and businesses, Councilor Pernsteiner noted he does not agree with extending the Order. He suggested the council and staff to go back to advocacy and encouraging proper protocols through education as the health care providers have suggested.

With regard to wastewater testing, City Manager Nygaard explained that matching the numbers presented by the Health Department is validation. It shows changes are occurring at about the same time, if people are getting tested, and provides confirmation that good numbers are being provided by Public Health.

Councilor Pernsteiner reiterated that he is not voting against extending the Order because he believes there is immunity. He said his concerns lie with the unenforceable laws that put tension on the business community and law enforcement. Businesses should get to make their own choices. An Advisory Order and education is what he believes the Council should be focusing on.

Councilor Bradbury reported that when the Council was first presented with an Advisory Order, there had been 4 deaths and 42 infections in Nez Perce County. Today, the County is at 3200 cases and 46 deaths.

Since the imposition of the Mask Order, deaths have been pretty static. He said every life that can be saved and every infection that can be avoided is a win. As to enforceability, Councilor Bradbury stated it is unknown as it has yet to happen, but said he believes it can become just like seatbelt enforcement.

If the goal is to avoid every single infection, then Councilor Pernsteiner questioned why there is not the same imposition placed on every other disease, such as the flu. Mr. Bradbury replied that the number of deaths are much higher with COVID-19 than they are with the ordinary flu.

Councilor Blakey said he doesn't believe that going to an Advisory Order is the right answer. He said he would like to review the Mask Order again in 45 days with potential criteria established for an end date.

Mayor Pro Tem Schroeder said she is in favor of continuing the Mask Order, noting that when something is started and there is success, it is foolish to stop.

Councilor Kelly noted that Public Health Director Moehrle said that everything being done is helping to slow the spread of COVID and nothing should be taken off the table. Shortly after the Mask Order was instituted, the wearing of masks increased dramatically. People are now more willing to shop in Lewiston because of the Order's influence.

The motion carried 4 to 3 with Mayor Pro Tem Schroeder, Councilor Blakey, Councilor Bradbury and Councilor Kelly voting aye and Mayor Collins, Councilor Miller and Councilor Pernsteiner voting nay.

**B. ABATEMENT OPTIONS**

It was reported by Assistant City Attorney Hermann that the insurance company would be interviewing Mr. Khurana on January 25, 2021. Additional information will be provided thereafter.

**C. RESOLUTION 2021-3: Accepting a Dedication of Right-of-Way from Joshnik LLLP to the City of Lewiston – Action Item (Weigand)**

Councilor Pernsteiner questioned why there is no need for a right-of-way dedication on 22<sup>nd</sup> Street. City Surveyor Weigand explained that the way the radius forms, 22<sup>nd</sup> Street already had enough right-of-way for the sidewalk. To the north, sidewalk already exists.

A motion was offered by Councilor Kelly and seconded by Councilor Bradbury to approve Resolution 2021-3. *ROLL CALL VOTE: VOTING AYE:*

*Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

**D. RESOLUTION 2021-5: *Declaring Cartegraph Systems LLC as the only reasonably available vendor of Operations Management Systems (OMS) software licensing and maintenance services for FY'21-FY'25 – Action Item (Davies)***

In response to a question raised by Councilor Kelly regarding not all of the suggested amendments being accepted by Cartegraph, City Attorney Gómez explained that it is ok for the City to sign as is. In accordance with the Constitution, cities cannot take the assumed liability of another. If their liability exceeded the amount the city paid in 12 months, then the city would be assuming the liability for Cartegraph. However, because it qualifies to the extent provided by law, the city is ok.

Councilor Kelly asked if this new software will work well into the future. Public Works Director Davies replied that though there may be bigger and better ways in five years, after looking at many other asset management platforms, Cartegraph has proven to be the most efficient.

Councilors Kelly and Blakey moved and seconded approval of Resolution 2021-5. ROLL CALL VOTE: VOTING AYE: *Collins; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None. EXCUSED: Schroeder (stepped away)*

**E. ORDINANCES**

**1. Second and Third Readings**

- a. Ordinance 4794: *Amending, renumbering and enacting various sections in Chapter 35, Article IX of the Lewiston City Code related to parades and public assemblies***

A motion was made by Councilor Bradbury to deny the second and third readings of Ordinance 4794 so that the City Attorney's Office can draft ordinances addressing parades and public assemblies separately. Councilor Pernsteiner seconded the motion. ROLL CALL: VOTING AYE: *Collins; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None. EXCUSED: Schroeder (stepped away from the meeting)*

- b. Ordinance 4796: *Amending Section 37-167 of the Lewiston City Code related to nonconforming uses – Action Item (Hollingshead)***

Upon a motion and second from Councilors Blakey and Pernsteiner, respectively, the second and third readings were combined and the third reading in full of Ordinance 4796 was waived. *ROLL CALL: VOTING AYE: Collins; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None. EXCUSED: Schroeder (stepped away from the meeting)*

Councilor Kelly moved to read Ordinance 4796 for the second and third times by title only. The motion was seconded by Councilor Bradbury and carried 6 to 1 with Mayor Pro Tem Schroeder excused.

ORDINANCE 4796: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 37-167 OF THE LEWISTON CITY CODE RELATED TO NONCONFORMING USES, AND PROVIDING AN EFFECTIVE DATE"

*b. Ordinance 4797: Amending Sections 37-97(c)(1) and (d)(2) of the Lewiston City Code to remove Planned Unit Development fees and add that such fees shall be set by Resolution of the City Council - Action Item (Plaskon)*

A motion was offered by Councilor Blakey to combine and second and third readings and waive the third reading in full of Ordinance 4797. The motion carried unanimously.

It was moved by Councilor Pernsteiner and seconded by Councilor Kelly to approve the second and third readings of Ordinance 4797 by title only. The motion carried 7 to 0.

ORDINANCE 4797: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTIONS 37-97(c)(1) AND (d)(2) OF THE LEWISTON CITY CODE TO REMOVE PLANNED UNIT DEVELOPMENT FEES AND ADD THAT SUCH FEES SHALL BE SET BY RESOLUTION OF THE CITY COUNCIL; AND PROVIDING AN EFFECTIVE DATE"

## 2. Third Reading

*a. Ordinance 4760: Repealing and replacing Chapter 21 of the Lewiston City Code regarding business licenses; repealing Chapter 34 of the Lewiston City Code regarding taxicabs and vehicles for hire - Action Item (Stricker)*

A motion was made by Mayor Pro Tem Schroeder to approve the third reading of Ordinance 4760. Councilor Pernsteiner seconded the motion.

Councilor Pernsteiner said he believes the final appeal looks good as amended. For clarification, he asked if there is an initial appeal fee to the City Manager and Community Development Director but not another fee if it goes to the City Council. Ms. Stricker confirmed.

An additional motion was offered by Councilor Pernsteiner to amend Ordinance 4760 to reflect the changes set forth in the document titled "Proposed Amendments to Ordinance 4760 for the January 25, 2021, City Council Meeting". The motion was seconded by Councilor Kelly and carried 7 to 0.

The motion to read carried unanimously.

ORDINANCE 4760: "AN ORDINANCE OF THE CITY OF LEWISTON REPEALING AND REPLACING CHAPTER 21 OF THE LEWISTON CITY REGARDING BUSINESS LICENSES, REPEALING CHAPTER 34 OF THE LEWISTON CITY CODE REGARDING TAXICABS AND VEHICLES FOR HIRE; AND PROVIDING AN EFFECTIVE DATE" -

3. *Adoption and Approval of Ordinance Summaries*

Mayor Pro Tem Schroeder moved and Councilor Kelly seconded adoption of Ordinances 4796, 4797 and 4760 and approval of the related Ordinance summaries. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

a. *Ordinance 4798* - Action Item

b. *Ordinance 4800* - Action Item

c. *Ordinance 4760* - Action Item

F. *LICENSES*: *Considering approval of the noted renewal licenses - Action Item (Stricker)*

Mayor Pro Tem Schroeder moved and Councilor Blakey seconded, respectively, approval of the renewal licenses for retail liquor, retail wine by the drink and bottle, and retail beer on and off premises for Eagles Lodge

#631, Alibi Sports Edition, The Zoo, Jollymore's, Red Lobster, Mandarin Pine, Bryden Canyon Golf Course, El Sombrero, Brock's/Brava's, Pals, Applebee's, Elks Lodge, Boomtown, Zany's, Boomer's Sport's Cellar, Lewiston Golf and Country Club, Corner Villa, and the Wrangler Bar and Grill. The motion carried unanimously.

G. ITEMS MOVED FROM THE CONSENT AGENDA - ACTION ITEM

None.

VII. UNFINISHED AND NEW BUSINESS

A. CITY COUNCILOR COMMENTS

Mayor Pro Tem Schroeder reported that an Audit Committee meeting is scheduled for Thursday, January 28<sup>th</sup>. She noted that if any councilors would like something discussed to let her know.

As a 4<sup>th</sup> generation Idahoan, Councilor Bradbury welcomed Councilor Blakey and City Manager Nygaard to Lewiston (in response to comments offered under Citizen's Comments). He said his goal is for Lewiston to be a welcoming town that enjoys diversity. Secondly, Mr. Bradbury said that he misinterpreted the requirements for notifying the media with regard to Saturday's Special meeting, noting that he was incorrect. Finally, regarding the enforcement of masks, he said the Council sat through two hours of citizen comments this evening wherein not one person who spoke wore a mask. He encouraged city staff to take another look at the means by which masks should be enforced.

Councilor Miller reported she recently attended an amazing Youth Leadership Council meeting with law enforcement and the School Resource Officer. Chief Hurd was on Zoom with the kids for an hour where a lot of great ideas were discussed. Ms. Miller said she appreciated everyone's time and participation.

Councilor Blakey thanked Chief Hurd and commended officers on how they are handling masks. Further, he asked for some background information on the letter read this evening from Dan Young. City Manager Nygaard explained this is a Public Works issue. Mr. Young has not yet completed the work he said he would do, so that is what the bond is for.

Mayor Collins thanked everyone for their comments this evening, noting it is hard to listen without letting emotions sway decisions. He said he appreciates the civility and ability to discuss topics wherein there are differing opinions.



**B. CITY MANAGER COMMENTS**

City Manager Nygaard reported the meeting on Saturday went very well and he appreciated both staff's and Council's time and communication. The information provided gives staff a foundation from which to start working forward.

Councilor Bradbury thanked the Council and staff for the flowers he was given for the loss of his sister. He noted that he was unable to attend Saturday's meeting as it was the same time as his sister's funeral.

**C. ADVISORY BOARD AND COMMISSION APPOINTMENTS**

Councilor Bradbury suggested either Mayor Collins or himself be appointed to the Airport Joint Powers Agreement negotiating team as they both attend the Airport JPA meetings.

A motion was offered by Councilor Pernsteiner to appoint Mayor Collins and Councilor Bradbury to serve on the Airport JPA negotiating team. Councilor Kelly offered a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Bradbury; Kelly; Pernsteiner. VOTING NAY: Blakey; Miller.*

**D. AGENDA TOPICS - ACTION ITEM**

There were no new agenda topics offered.

**VIII. ADJOURNMENT**

There being no further business to come before the Lewiston City Council, Mayor Pro Tem Schroeder and Councilor Kelly moved and seconded adjournment of the January 25, 2021, Regular Council Meeting at 9:22 p.m.

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Kari Ravencroft, Recording Secretary

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Date approved by City Council