

## ***FEBRUARY 24, 2020***

**T**HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Special meeting on Monday, February 24, 2020, on the second floor of the Lewiston City Library, 411 “D” Street, Lewiston. 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**

Councilor Miller 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.***

Mr. Molique Prior said he believes there should be additional things for kids to do in Lewiston, noting an arcade as an example. If kids had places to go it could decrease drug use in the Valley. Additionally, Mr. Prior suggested the transit routes be extended to more places and run further into the evening.

Mr. Brian Hensley said he saw the water/wastewater presentation on this evening’s agenda and was disappointed to learn there would be no oral report. Councilor Blakey provided him with a copy of the information that was provided to the Council. Mr. Hensley then suggested a book called “Just Add Water” noting it was a great read.

Mr. John Michael expressed concern that the Tribune seldom reports on issues brought to the Council under Citizen Comments. He suggested the establishment of a working group between the City and the Tribe to address issues related to the history of this area as well as economic issues. Additionally, he said he believes fluoride should be removed from the city’s water as it has a bad effect on not only the citizens, but also the fish. Finally, Mr. Michael addressed the development and business community’s relationship with the City, noting that many people are unhappy. He suggested the Council hold a couple of roundtable discussions with the small businesses in Lewiston to listen to what they have to say. Councilor Miller replied that she and the Mayor just had this discussion at the Community engagement event. The City has decided to hold a work session to review the processes all businesses and developers have to go through. Once

completely educated, then efforts will be focused on improvement. She said Mr. Michael's comments are valid and are not falling on deaf ears.

Mr. Steve Martin said the City has driven the homeless out of Lewiston with its rules and regulations. People are dying because they have no place to go when it is cold. He noted that his son recently passed away in Spokane because he froze to death. He stressed the importance of reviewing this further rather than allowing staff to establish a precedent that Lewiston doesn't want to be a haven for the homeless. Mr. Martin then addressed the state of the Cemetery noting he believes it is a huge mess. He stressed the importance of budgeting enough money to pay people to keep up on the maintenance. Mr. Martin then said he was recently seriously injured when a fire door in the City's Public Works building hit him in the head. He expressed concern for how staff handled the situation and stressed the need to review this so no further accidents occur.

#### IV. PRESENTATIONS AND PUBLIC HEARINGS

A. FINANCIAL PRESENTATION - JANUARY 2020 REPORT: *provided to Council in accordance with Idaho Code 50-208*

Councilor Bradbury asked what the \$50,000 under Contingency is for. Administrative Services Director Marsh explained that expenditure of these funds is at the sole discretion of the Council. With regard to property improvements, Councilor Bradbury then questioned the \$2,978,000. Mr. Marsh indicated this is for work in and around Community Park, the Library Foundation remodel and maintenance/upgrades for City facilities and buildings. Of that almost \$3 million, Mr. Bradbury asked if it was true that less than 10 percent had been used. Mr. Marsh confirmed, noting that is due to timing. With a big invoice in process right now, he said he doesn't anticipate that the entire amount would be used, but if the Tri-Partnership partners were to move quicker, the budget would not have to be revisited to come up with the appropriate funding.

Councilor Bradbury then questioned the \$500,000 in the Economic Development Fund. Administrative Services Director Marsh said this Fund is separate from the General Fund and captures the CDBG Rehabilitation Loan program and Contingency roll-over.

B. WWTP 2020 IMPROVEMENTS - PROGRESS REPORT: *Information provided in packets - No oral presentation provided.*

C. 2019 AUDIT PRESENTATION: *Brief overview of the FY'19 audit as presented by Presnell Gage and comments from Mike Tatko, Audit Committee Chair*

Mr. Mike Tatko, Audit Committee Chair, said the Audit Committee was formed approximately nine years ago in an effort to review the City's audit function

and increase transparency. Mayor Pro Tem Schroeder and Councilor Miller currently serve on the Board, along with three members of the community. Earlier today, Presnell Gage presented the Comprehensive Annual Financial Report to the Council. The report is an unmodified, clean report for the audit period and the City has no debt other than the URA and Police Retirement Fund. Mr. Tatko noted that the Government Finance Officers Association has awarded the City with a Certificate of Achievement for Excellence in Financial Reporting for its 29<sup>th</sup> consecutive year. He congratulated staff for their fine work. Mr. Tatko recommended approval of the audit as presented.

**D. PUBLIC HEARING - ZNC19-000001:** *Accepting testimony on a request from Ruvim and Irina Kuznetsoz to rezone 2.39 acres of undeveloped land located southeast of the intersection of Quail Run Drive and 16<sup>th</sup> Street from F-2, Agricultural Transitional, to R-2A, Low Density Residential (Gilbert)*

Mayor Collins announced this was the time and place advertised for the Public Hearing regarding ZNC19-000001. He asked that a staff report be provided.

Regional Initiatives Planner Gilbert reported this request is to bring a sub-standard sized lot into zoning compliance. During a February 2019 meeting to discuss, the applicant was advised that the property had been illegally split, leaving the property sub-standard for the current F-2, Agricultural Transitional, zoning. A public hearing was held by the Planning and Zoning Commission on January 22, 2020, whereby they directed staff to write a Reasoned Statement of Relevant Criteria and Standards granting the rezone to R-2A, Low Density Residential. That Reasoned Statement was approved on February 12, 2020.

Continuing, Planner Gilbert said the subject property is 2.39 acres of undeveloped land that the applicant is requesting a rezone from F-2, Agricultural Transitional, to R-2A, Low Density Residential. The F2 minimum lot size is five acres and the R-2A minimum lot size is 7,500 square feet. There was no opposition at the Planning & Zoning Commission public hearing, but rather only an inquiry as to what would be built on the land. She addressed animal rights so look that up in the documents.

In response to a question raised by Councilor Blakey regarding the properties supporting a septic system, Public Works Director Davies said that if City sewer is available within 200 feet of the property, then the property owner is required to hook up. Ms. Gilbert noted this is the property owner's intent.

Councilor Blakey asked if the property owners will be required to install curb, gutter and sidewalk or pay into the fee-in-lieu-of program. Planner Gilbert replied this discussion would take place upon submission of the permits for development.

Ms. Gilbert said it is the Planning & Zoning Commission's recommendation that the Council approve ZNC19-000001 via Ordinance 4769, the first reading of which is scheduled later on this evening's agenda.

The Mayor declared the hearing open and asked for testimony either in favor of or against the zone change request. There was none provided and the hearing was closed.

## 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".

Mayor Pro Tem Schroeder and Councilor Pernsteiner 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: 01/27/20 Regular
- B. ADVISORY BOARD AND COMMISSION MEETING MINUTES: 01/21/20 Emergency Medical Services Advisory Board; 01/15/20 Parks & Recreation Advisory Commission; 12/11/19 Urban Forestry and Cemetery Commission
- C. PRELIMINARY PLAT - VALLEY VISTA HEIGHTS, BLOCK 17: Considering approval to plat approximately 2.27 acres located at the dead-end of Crestline Circle Drive within State 6 of the Valley Vista PUD into six lots
- D. PRELIMINARY PLAT - CANYON RIVER ESTATES, BLOCK 2: Considering approval to re-plat approximately 9.08 acres located off of Duthie Boulevard on the north and Ridgewater Drive on the east within Block 2 of Canyon River Estates into two lots and one undevelopable tract
- E. ADMINISTRATIVE PLAT - CARLTON BIRCH ADDITION: Considering approval of a two-lot subdivision located at 1607 Birch Avenue
- F. RESOLUTION 2020-09: Considering acceptance of a public water utility and access easement from Paul Bowen, Lisa Bowen and Eric Bowen to the City of Lewiston
- G. FY'19 AUDIT: Considering approval of the FY'19 audit
- H. VOUCHER'S PAYABLE: 01/10/20 through 01/23/20 - \$1,346,921.19; 01/24/20 through 02/05/20 - \$1,811,492.65

## VI. ACTIVE AGENDA

### A. ORDINANCES

#### 1. First Reading

##### a. Ordinance 4769: ZNC19-000001

Mayor Pro Tem Schroeder and Councilor Pernsteiner moved and seconded approval of the first reading of Ordinances 4769. The motion carried 7 to 0.

**ORDINANCE 4769**: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN ZNC19-000001, DECLARING THAT CERTAIN REAL PROPERTY BE REMOVED FROM THE AGRICULTURAL TRANSITIONAL (F-2) ZONE AND INCLUDED IN THE LOW DENSITY RESIDENTIAL (R-2A) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; AND PROVIDING AN EFFECTIVE DATE"

### B. VOLUNTARY TRANSPORTATION MITIGATION FEE AGREEMENT: *Considering three agreements between the City and RPL Development LLC, All Saints Church, and DK Holdings LLC, to establish an equitable means for allocating street and intersection costs in various areas of the East Orchards*

City Engineer Stubbers said in 2017, the Council was provided a presentation on the draft Lewiston East Orchards Master Traffic Study. In July 2018, the Council executed the Tri-Partnership Development Agreement 2018-34 that outlined the traffic mitigation requirements (offsite improvements) for the City of Lewiston, Lewiston School District and LCSC. In 2017, six development groups were proposing development projects in the east orchards. All working together, they developed a traffic study and traffic mitigation plan. In May of 2017, they executed a contract with Morrison Maierle Engineering to jointly study the traffic impacts of these six developments and draft findings were presented to the City Council. Based on Council direction at that time, the final Master Traffic Impact Study was completed in June of 2018. The City of Lewiston, School District and LCSC agreed to the associated traffic mitigation improvements through the adoption of the Tri-Partnership Development Agreement. The remaining three development partners were provided draft mitigation agreements in May of 2019.

Mr. Stubbers said that after a period of review and redraft of the three development agreements, they have now been finalized and executed by All Saints Church, RPL Development and DK Holdings. The development group has offered to mitigate up to \$110.3 per daily trip. Based on the estimated trip generation of

each development, this resulted in a one-time mitigation fee from All Saints Church of \$76,800 for the private school and \$1,050 fees per each single family dwelling paid at each subdivision phase for RPL Development and DK Holdings. These single family dwelling fees will be increased each year to adjust for inflation.

Following a motion and second from Mayor Pro Tem Schroeder and Councilor Pernsteiner, the three Voluntary Transportation Mitigation Fee agreements between the City of Lewiston and RPL Development LLC, All Saints Church and DK Holdings LLC were approved. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

**C. PROFESSIONAL SERVICES AGREEMENT:** *Considering approval of the agreement between the City/State/HDR Engineering for intersection improvements at 17<sup>th</sup> Street and 16<sup>th</sup> Avenue*

Public Works Director Davies said this is the supplemental agreement for the close out of the project at 17<sup>th</sup> Street and 16<sup>th</sup> Avenue. The original project was scheduled for 35 days, but ended up taking 46 days to complete. The contractor is asking for an additional \$18,994.10, with the City's portion of that at 7.34 percent or \$1,390.50.

Councilor Pernsteiner questioned why the project went over. Mr. Davies indicated that there was a delay in delivery of some of the materials. The contract in place between the City, State and consultant was for a 35-day project. HDR has requested a supplemental agreement to complete the project close out.

Councilor Bradbury said it was his understanding that the contract was for inspection services. Mr. Davies noted the Professional Services Agreement for \$101,974 covered construction engineering, inspection services and testing services. If there was a delay in the project, Mr. Bradbury said it would seem there would be nothing to inspect. City Engineer Stubbers explained that when delays occur, much of the work that was to take place simultaneously is unable to move forward. Though the City has two construction coordinators that do field inspections, one specifically for development projects and the other for City projects, they were heavily involved in resurface projects at the time. Therefore, an outside firm was hired for inspection purposes. Councilor Bradbury said he believes City staff could have easily been paid to perform the inspections at a much lower cost. He said he doesn't understand why the City continues to pay consultants and indicated he would be voting against approval of the Professional Services Agreement.

City Engineer Stubbers said there have been a number of Public Works projects within the last three years where the inspection engineering services have been outsourced. Councilor Blakey suggested this be reviewed further.

Councilor Pernsteiner said this is perhaps something that should be reviewed during upcoming budget sessions. He noted that the project went 11 days over, but has noticed that one individual is being charged at 12 days. He asked if there are any implications to not approving the agreement this evening. Though the city's amount is only \$1,390, he finds it to be egregious to be charged this amount for an 11-day overage.

Therefore, Councilor Pernsteiner moved to table this item to the March 9<sup>th</sup> Regular Council meeting. Councilor Bradbury seconded the motion and it carried unanimously.

**D. ITEMS MOVED FROM THE CONSENT AGENDA**

There were no items moved from the Consent Agenda.

**VII. UNFINISHED AND NEW BUSINESS**

**A. CITY COUNCILOR COMMENTS**

Councilor Bradbury requested the question of asking the citizens if they would like to see a Council/Mayor form of government be placed on the next Work Session agenda.

Councilor Pernsteiner said the normal procedure for placing items on the agenda that require staff time are voted on by the entire Council. He said he does not see this as a pressing matter and would vote against discussion at the next work session meeting. Councilors Blakey and Miller and Mayor Pro Tem Schroeder agreed. City Manager Nygaard indicated he could put it on the April agenda if that is Council's desire.

Councilor Pernsteiner noted that with regard to placing items on the Work Session agenda, no one Councilor can dictate the use of staff time without the vote of the full Council. Councilor Bradbury said he wasn't trying to dictate anything, rather noted that the citizens think this is an urgent issue. Councilor Miller noted she would be happy to revisit this issue after the budget season.

Councilor Pernsteiner said he wouldn't take the stance that this discussion not be held; however, there are a number of other items before the Council. He indicated that he has never had a member of the public come to him with this issue, but would welcome their opinions. He reminded everyone that citizens can speak under Citizen's Comments at each meeting.

Upon further discussion, there was no consensus to add this to the Work Session Agenda at this time.

**B. CITY MANAGER COMMENTS**

City Manager Nygaard said that in front of the Council this evening is a letter drafted by staff. The Association of Idaho Cities has requested some assistance regarding House Bills dealing with the capital and property tax amounts. Staff drafted the letter in an effort to persuade the legislature to possibly find a better solution than just placing a cap on these items. Another issue addressed was the redistribution of sales tax. This Bill passed the House and looks like it will move forward to the Senate. If adopted, the City would anticipate a reduction in its revenue stream. If the Council chooses to support, the letter could be signed by the Mayor and would then be sent to Senator Johnson as well as Representatives Stevenson and Kingsley. The Council voted unanimously to approve.

**C. ADVISORY BOARD AND COMMISSION APPOINTMENTS**

Upon a motion from Mayor Collins followed by a second from Mayor Pro Tem Schroeder, Ms. Leah Boots was appointed to the Historic Preservation Commission. There were no objections and the motion carried unanimously.

**D. AGENDA TOPICS**

No new agenda topics were offered for future discussion/action.

At 7:00 p.m., Mayor Pro Tem Schroeder moved to go into Executive Session to discuss items pertaining to Acquisition of Property. The motion was seconded by Councilor Kelly. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kleeburg; Miller; Randall. VOTING NAY: None. EXCUSED: Pernsteiner.*

**VIII. EXECUTIVE SESSION RE: ACQUISITION OF PROPERTY: Idaho Code Section 74-206(1)(c). Action Item**

Following a short recess, the Council met to discuss the item noted above. Councilors Blakey and Pernsteiner moved and seconded to retire from Executive Session. There were no objections.

**IX. ADJOURNMENT**

There being no further business to come before the Lewiston City Council, Councilor \_\_\_\_ moved and Councilor \_\_\_\_ seconded adjournment of the February 24, 2020, Regular Council Meeting at 7:00 p.m.