

APRIL 12, 2021

T HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, April 12, 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 Pro Tem Schroeder 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.*

Eric Peterson provided strong support for Dustin Johnson's appointment as Public Works Director for the City of Lewiston. He emphasized his great work with the Disabilities Advisory Commission working through the Transition Plan, and added that he will be an excellent follow to Chris Davies. Mr. Peterson then addressed the disrepair of the sidewalk along 19th Avenue in front of the shopping center, noting that the Council declared this dangerous several years ago by means of a Resolution. He noted the time to deal with this is now as the property is for sale, adding that he has filed a formal ADA complaint regarding the sidewalk specifically. Finally, Mr. Peterson expressed concern for the new bus stop along 19th Avenue, noting that it is extremely dangerous as the bus drivers have to step out into traffic and walk around the busses.

IV. PRESENTATIONS AND PUBLIC HEARINGS

A. PROCLAMATION - EMERGENCY COMMUNICATIONS OFFICERS WEEK - APRIL 11-17, 2021

Mayor Collins read the Proclamation declaring April 11-17, 2021, as Emergency Communications Officers Week and presented it to Police Chief Hurd.

B. PUBLIC HEARING - ZNC21-000001: *Accepting testimony on a request to rezone the western 62.83 feet of 3120 9th Street, 3122 9th Street and 3126 9th Street from R-2A, Low Density Residential Zone, to C-3, Community Commercial Zone- Action Item (Hollingshead)*

Mayor Collins announced that this was the time and place advertised for the public hearing regarding ZNC21-000001. He opened the hearing and asked that a staff report be provided.

Assistant Planner Hollingshead explained that the subject properties contain single family dwellings owned by the applicant and used as rental properties. These properties are adjacent to a commercial property also owned by the applicant. The applicant requests the zone change so he may add square footage to his existing commercial property at 149 Thain Road (My Mechanic) while reconfiguring the three (3) residential properties to meet current lot dimension and square footage requirements of the R2A zoning district. Ms. Hollingshead noted that a site obscuring fence will be installed along the western property line of the three residential properties to screen them from the commercial operations to the west. The request conforms to the Comprehensive Plan and should not have any adverse effects to the surrounding neighborhood.

Testimony, both in favor or against, was requested by Mayor Collins. There being none, he closed the public hearing.

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 Kelly 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:** 03/22/21 Regular – Action Item
- B. **ADVISORY BOARD AND COMMISSION MEETING MINUTES:** 02/10/21, 02/24/21 and 03/10/21 Planning & Zoning Commission – Action Item
- C. **ADMINISTRATIVE PLAT - PONTIUS ADDITION:** *Considering a three-lot subdivision located east of 21st Street between Grelle Avenue and Alder Avenue in the Lewiston Orchards* – Action Item
- D. **RESOLUTION 2021-16:** *Considering acceptance of a dedication of right-of-way from Lewis Clark Credit Union Corp to the City of Lewiston* – Action Item

- E. **CHANGE ORDER 3 - THAIN ROAD, STEWART TO CEDAR:** *Considering approval of Change Order 3 for Construction Contract KN22075 Thain Road, Stewart to Cedar, in the amount of \$33,007 - Action Item*
- F. **OUTDOOR SHOOTING RANGE AGREEMENT:** *Considering an agreement between the City of Lewiston and Nez Perce County for use of the Lewiston Police Department Outdoor Shooting Range - Action Item*
- G. **VOUCHERS PAYABLE:** *03/06/21 through 03/18/21 - \$2,442,154.08 - Action Item*

VI. ACTIVE AGENDA

- A. **PUBLIC WORKS DIRECTOR:** *Confirming the appointment of Dustin Johnson as the City of Lewiston Public Works Director - Action Item (Nygaard)*

City Manager Nygaard said it is his pleasure to appoint Dustin Johnson to the position of Public Works Director for the city and to ask for Council confirmation. Mr. Johnson comes with great experience and staff has had the pleasure of working with him for the past nine months.

Mayor Pro Tem Schroeder moved and Councilor Blakey seconded the appointment of Dustin Johnson as the city's Public Works Director.

Councilor Bradbury asked Mr. Johnson if an issue came before the City Council and he had a view, but the City Manager had another, who's opinion would he give. Mr. Johnson replied that he would provide his professional opinion. Mr. Bradbury also asked if Mr. Johnson is comfortable using the words, "I don't know" when he is unsure of his answer and Mr. Johnson replied that he is.

The motion carried unanimously.

- B. **RESOLUTION 2021-15:** *Considering adoption of the City of Lewiston Utility Customer Service Policies and Procedures - Action Item (D. Johnson/Gordon)*

Dustin Johnson explained that the document is intended to provide guidance to city utility customers and city staff to achieve the common goal of efficient and economic utility service as set forth in City Code. It was written by the Utility Billing staff with assistance from the City Attorney's office.

A motion and second were offered by Mayor Pro Tem Schroeder and Councilor Kelly, respectively, to approve Resolution 2021-15. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

- C. **RESOLUTION 2021-17:** *Considering approval of a State/Local Agreement for construction for Project No. A021(998) between the City of Lewiston and the Idaho Transportation Department – Action Item (Bailey)*

Engineering Project Supervisor Bailey explained that in May 2018, the city was awarded a \$690,000 LHSIP grant and the Council subsequently approved the State and Local Funding Agreement for project development, as well as the Professional Services Agreement with Keller & Associates to progress the project from the current concept to a final design package. The next step is City Council consideration and acceptance of the State and Local Funding Agreement for construction.

Continuing, Ms. Bailey said that this project, Int. 21st Street to 19th Avenue, will reconfigure and widen the intersection to provide northbound dual left turns, eastbound dedicated left turn, updated signalization, and reconstructed pedestrian ramps. The updated estimated project cost inclusive of design and construction is \$1,135,079, of which the federal share is \$1,051,764 (92.66%) and the city's share is \$83,315 (7.34%). Design of the project is complete, and the project is ready for construction in FY'21.

Councilor Blakey asked if this project will address the concerns noted earlier by Mr. Peterson regarding the sidewalk along 19th Avenue. Ms. Bailey indicated this project is for the 21st Street/19th Avenue intersection only; however, she noted that the owners of the mall are looking at subdividing the parcel and with that they would be required to bring the sidewalk up to code.

A motion was offered by Mayor Pro Tem Schroeder and seconded by Councilor Kelly to approve Resolution 2021-17. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

- D. **BID AWARD: IFB-21-010 2021 STREET PRESERVATION – SLURRY SEAL:** *Considering approving the bid award for Slurry Seal to Morgan Industries, Inc., DBA Morgan Pavement Maintenance in the amount of \$179,036 – Action Item (Bailey)*

It was explained by Engineering Project Supervisor Bailey that street preservation is an annual project that consists of making repairs to city streets on a rotating basis and involves removal and replacement of deteriorated pavement areas, patching and overlay/chip seal, and other related rehabilitation work. This year the preservation project is split into two separate projects – Slurry Seal and Seal & Fog Coat. Not many contractors, and no local contractors, are able to do all of the work involved in the Street Preservation Project so separating the work into two projects increases competition and allows local contractors to bid.

Ms. Bailey said that six bids were opened on March 16, 2021. Morgan Industries, Inc. DBA Morgan Pavement Maintenance of Clearfield, UT, submitted the lowest specification compliant bid in the amount of \$179,036.

Councilor Bradbury questioned the rationale behind the use of slurry seal versus chip seal as slurry seal is much more easily breached. Ms. Bailey explained the city utilizes a combination of both. Slurry seal is better suited for residential areas, while chip seal holds up much better in heavy traffic areas. Councilor Bradbury asked that the difference in price, as well as the expectancy of longevity of each be provided. Engineering Project Supervisor Bailey indicated the price for slurry seal is about \$1.60 per yard, while chip seal is \$2.25 per yard. She noted that both last about five years, but she will review and provide a more detailed response.

It was moved by Mayor Pro Tem Schroeder to approve the Bid Award IFB-21-010 2021 Street Preservation - Slurry Seal to Morgan Industries, Inc. DBA Morgan Pavement Maintenance of Clearfield, UT, in the amount of \$179,036. Councilor Kelly provided a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

E. BID AWARD: IFB-21-011 STREET PRESERVATION – SEAL & FOG COAT:
Considering approving the bid award for Seal & Fog Coat to Knife River Corporation – Mountain West in the amount of \$492,000 – Action Item (Bailey)

Engineering Project Supervisor Bailey reported that three bids were opened on March 16, 2021. Knife River Corporation – Mountain West, Boise, ID, submitted the lowest specification compliant bid.

Councilor Pernsteiner questioned if there is any room in setting a local preference within a certain percentage of a bid as a local contractor was only 5 percent higher in their bid. City Attorney Gómez said her opinion is that there is no room. She explained, however, that within Public Works construction contracts there is a state statute that requires a certain percentage of employees to be Idaho residents, but it is believed by most attorneys that this is an unconstitutional statute. Ms. Bailey added that Knife River Corporation does have a local presence in Lewiston.

Councilor Blakey reminded the Council that if it were to explore local preference, other councils and cities may potentially do the same thing. He noted that local contractors also bid projects throughout the northwest and cities rely on the low bid to award the contract. This practice could prove to be detrimental to all companies who want to bid on a project.

A motion was offered by Mayor Pro Tem Schroeder to award the bid for IFB-21-011 2021 Street Preservation – Seal and Fog Coat to Knife River Corporation –

Mountain West of Boise Idaho in the amount of \$492,000. Councilor Blakey provided a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

F. ORDINANCES

1. First Readings

- a. **Ordinance 4810:** Considering implementing the City Council's decision in ZNC21-0001, declaring that certain real property be removed from the Low Density Residential (R-2A) Zone and included in the Community Commercial (C-3) Zone - Action Item (Hollingshead)*

A motion was made by Mayor Pro Tem Schroeder to read Ordinance 4810 for the first time by title only, with a second provided by Councilor Kelly. There were no objections and the motion carried unanimously.

ORDINANCE 4810: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN ZNC21-000001, DECLARING THAT CERTAIN REAL PROPERTY BE REMOVED FROM THE LOW DENSITY RESIDENTIAL (R-2A) ZONE AND INCLUDED IN THE COMMUNITY COMMERCIAL (C-3) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; AND PROVIDING AN EFFECTIVE DATE"

2. Second and Third Readings

- a. **Ordinance 4806:** Considering implementing the City Council's decision in ZNC20-000007, declaring that certain real property be removed from the Agricultural Transitional (F-2) Zone and included in the Suburban Residential (R-1) Zone - Action Item (Plaskon)*

It was moved and seconded by Mayor Pro Tem Schroeder and Councilor Kelly to combine the second and third readings and to waive the third reading in full of Ordinance 4806. There were no objections and the motion carried unanimously.

Mayor Pro Tem Schroeder then moved to read Ordinance 4806 for the second time and third times. The motion was seconded by Councilor Kelly and carried unanimously.

ORDINANCE 4806: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN

ZNC20-000007, DECLARING THAT CERTAIN REAL PROPERTY BE REMOVED FROM THE AGRICULTURAL TRANSITIONAL (F-2) ZONE AND INCLUDED IN THE SUBURBAN RESIDENTIAL (R-1) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; AND PROVIDING AN EFFECTIVE DATE”

- b. ***Ordinance 4801:*** *Considering amending Sections 37-184 and 37-185 of the Lewiston City Code related to land use public hearings and subsequent decisions – Action Item (Plaskon)*

Mayor Pro Tem Schroeder moved and Councilor Bradbury seconded the motion to combine the second and third readings and to waive the third reading in full of Ordinance 4801. There were no objections and the motion carried unanimously.

Upon a motion and second from Mayor Pro Tem Schroeder and Councilor Kelly, respectively, Ordinance 4801 was read for the second and third times by title only with a vote of 7 to 0.

ORDINANCE 4801: “AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTIONS 37-184 AND 37-185 OF THE LEWISTON CITY CODE RELATED TO LAND USE PUBLIC HEARINGS AND SUBSEQUENT DECISIONS; AND PROVIDING AN EFFECTIVE DATE”

3. **First, Second and Third Readings**

- a. ***Ordinance 4811:*** *Considering designating the speed limit on Albright Grade as Thirty-Five (35) miles per hour – Action Item (D. Johnson)*

Public Works Director Johnson reported that the primary driver for this request is the new motor sports venue that has recently started hosting events in the area. The facility is located within the county, but the primary route to access the facility is off of Albright Grade. This Grade has never had the speed limit modified, and by City Code, all roads default to 25 mph until modified by the Council. Existing speed studies for Albright Grade demonstrate that 35 mph is an appropriate speed. The reason staff has requested all three readings is due to the dramatic increase in traffic on the road. This road had very limited traffic until the motor sports venue began hosting special weekend events. It is staff’s desire to get the proper speed limit signs posted as the spring and summer racing season is approaching.

Councilor Blakey indicated that Albright Grade opens to a four-lane highway at the top wherein cars have to cross over. He expressed concern for future traffic mitigation issues. Mr. Johnson replied that communications have been held amongst city staff, Nez Perce County and the Idaho Transportation Department and they are aware of these issues. He noted that the racetrack is required to have traffic control plans for every event they hold.

Though he has no problem with the 35 mph speed limit, Councilor Pernsteiner questioned the reason for three readings at one meeting. Mr. Johnson replied that staff is unable to sign the roadway until authorization is given by the Council. Therefore, there may be a couple more events held prior to any signing be placed.

Mayor Pro Tem Schroeder moved and Councilor Miller seconded to combine the first, second and third readings and to waive the third reading in full of Ordinance 4811. The motion carried 6 to 1, with Councilor Pernsteiner voted nay.

A motion was made by Mayor Pro Tem Schroeder to read Ordinance 4811 for the first, second and third times by title only. Councilor Miller provided a second and it carried 6 to 1 with Councilor Pernsteiner voting nay.

ORDINANCE 4811: "AN ORDINANCE OF THE CITY OF LEWISTON DESIGNATING THE SPEED LIMIT ON ALBRIGHT GRADE AS THIRTY-FIVE (35) MILES PER HOUR, AND PROVIDING AN EFFECTIVE DATE"

4. Adoption and Approval of Ordinance Summaries

- a. Ordinance 4806 - Action Item
- b. Ordinance 4801 - Action Item
- c. Ordinance 4811 - Action Item

It was moved and seconded by Mayor Pro Tem Schroeder and Councilor Kelly to adopt Ordinances 4806, 4801 and 4811 and to approve the related ordinance summaries. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

- G. REASONED STATEMENT - ZNC20-000007: *Considering approval of the Reasoned Statement for ZNC20-000007 - Action Item (Plaskon)*

A motion was made by Mayor Pro Tem Schroeder to approve the Reasoned Statement for ZNC20-000007. The motion was seconded by Councilor Kelly and carried unanimously.

H. FIRST AMENDMENT TO THE LINDSAY CREEK ESTATES PLANNED UNIT DEVELOPMENT AGREEMENT AND CONCEPT DEVELOPMENT PLAN: *Considering approving the agreement and plan to allow zero lot line development of two attached dwelling units without increasing the total number of dwelling units allowed or the allowable development density – Action Item (Plaskon)*

City Planner Plaskon explained that the original PUD agreement approved by the Council allows four detached single family dwellings, each on its own lot, and forty-three duplexes (two attached dwelling units, both on one lot). The applicants, Shann and Loris Profitt, desire to be able to sell each dwelling unit within the development on its own lot, while doing the majority of the development as two dwelling units attached to each other. This scenario requires modification to the LCE PUD Agreement, as well as the associated Concept Development Plan (CDP). The proposed amendment to allow each dwelling unit of the two attached dwelling units to be sold separately on its own lot means that the wall common between the two attached dwelling units would also be a property line. Therefore, the minimum lot size standards (area, width and depth) require reduction, and the side yard setback from the property line needs amended to allow zero lot line development for those sides where the common wall would now also be the property line. These proposed amendments would not alter the total number of dwelling units allowed, nor the allowable density (dwelling units per acre).

In response to a question raised by Councilor Bradbury, Mr. Plaskon explained that each dwelling unit would be on its own lot with the wall between each dwelling unit serving as the property line to create those two separate lots. He emphasized that this action would not change the density or the total number of dwelling units within the development, but would merely allow the owner to sale the same amount of townhouses, each on their own parcel.

Councilor Kelly asked if this action would set a precedent for future Planned Unit Developments. Mr. Plaskon indicated that it will not as each PUD is treated on its own merits due to its own circumstances and conditions. One PUD doesn't set a precedent for another.

Councilor Blakey said it is his understanding that if the proposed action is approved, there would be no future restrictions on who could

purchase the properties. City Attorney Gómez explained that the initial owner of the lot would have to be 55 years or older or disabled as a requirement under the original PUD agreement. Mr. Plaskon clarified that the age limitation was removed by the Council at the end of the PUD process. The current agreement states that 33 percent of the townhouses within the development must be ADA compliant. Mr. Profitt added that each unit will be built to comply with ADA requirements, such as 3-foot doors and ADA accessible showers.

It was moved and seconded by Mayor Pro Tem Schroeder and Councilor Blakey to approve the First Amendment to Lindsay Creek Estates Planned Unit Development Agreement and Concept Development Plan to allow zero lot line development of two attached dwelling units, without increasing the total number of dwelling units allowed or the allowable development density. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

- I. FINAL PLAT - LINDSAY CREEK ESTATES PUD:** *Considering accepting the Planned Unit Development – Three final plat, conditioned on the Council having previously approved the first amendment to the Lindsay Creek Estates Development Agreement and Concept Development Plan – Action Item (Weigand)*

A motion and second were offered by Councilors Blakey and Miller to approve the Final Plat – Lindsay Creek Estates PUD. The motion carried 7 to 0.

VIII. UNFINISHED AND NEW BUSINESS

A. CITY COUNCILOR COMMENTS

There were no Councilor comments.

B. CITY MANAGER COMMENTS

City Manager Nygaard reported the School District and Parks & Recreation Director Barker have been communicating about the most efficient way to irrigate the area by the High School. Discussions are being held with the School Board this evening and if everyone works together, a solution will be determined.

Fire Chief Myklebust reported that about three and a half years ago, he and Division Chief Steputat provided the Council with an update on a Program called Tegriss which is a third party compliance program related to fire protection, system testing and acknowledgement. The program was implemented about three years ago and when it began, there were 650 active systems that the Department was aware of. Today, there are 1,331 registered in the system. Additionally, starting with 350 properties, there are now over 455, and the 8 original known companies

that provide testing is now at 59. This program has made Lewiston safer and systems required in businesses and residences can be relied upon. Mr. Myklebust acknowledged the hard work of Ms. Steputat and her team.

C. ADVISORY BOARD AND COMMISSION APPOINTMENTS

There were no board or commission appointments.

D. AGENDA TOPICS - ACTION ITEM

City Manager Nygaard reported he would like to set a special meeting with the City Council to discuss the Urban Zone Area Designation which will have a significant impact on the city's finances. At the same time, he said he was hoping to also invite Mr. Greco and Mr. Havens to the same meeting to discuss Skyview Estates as requested by the Council. Councilor Bradbury said he objects to a special meeting unless it is scheduled in the very near future. Mr. Nygaard replied that his plan is to schedule it even sooner than the next Work Session as it is important for the Council to participate in the decision making process and move quickly with regard to the Urban Zone Area issue. Councilor Blakey noted that there is a very short window for public comment on this topic and the MPO has requested that all agencies involved issue a letter emphasizing how losing the city's standing will affect city and county transportation dollars. He stressed that this is extremely important for the future of Lewiston and the entire Valley.

Councilor Miller moved to have staff set a special meeting to discuss the Urban Zone area as well as Skyview Estates as soon as possible. Councilor Blakey seconded the motion. The motion carried 6 to 1, with Councilor Bradbury voting nay.

Councilor Miller noted that the Youth Leadership Council would like to provide an update of their accomplishments over the past year to the City Council and asked that it be added to the Future Agenda Items List for either the May or June Work Session.

Councilor Blakey asked City Manager Nygaard to follow up on Mr. Peterson's earlier comments about the safety of the transit drivers at the 19th Avenue bus stop. He noted that he recently witnessed a driver stepping out into traffic at that location.

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 April 12, 2021, Regular Council Meeting at 7:00 p.m.

Kari Ravencroft, Recording Secretary

Date approved by City Council