

JUNE 8, 2020

T HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, June 8, 2020, in a virtual setting. 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.*

Public Information Officer read 7 letters of approximately 60 submissions that were provided via e-mail or phone prior to the meeting. The letters included the following:

Kason Seward – Mr. Seward expressed concerns about the behavior of Liberate Idaho on June 6, 2020. They occupied Main Street for the purpose of preventing rioting and luting; however, their behavior towards business owners and people passing by was hostile. They brandished their weapons and used racial slurs. Mr. Seward expressed his disappointment with LPD as they failed to intervene during these hostile and threatening displays.

Ryan Carter – Mr. Carter reported he attended the 100 percent peaceful Black Lives Matter march in Kiwanis Park on June 6th. There was a gracious sense of peace and community and it was a beautiful sight. However, he said that all peace left as he headed towards Main Street. There were so many people in camo and tactical gear and armed with pistols, rifles and semi-automatic weapons. He questioned why the police were not patrolling this area. Mr. Carter further expressed concern for the presence of Liberate Idaho individuals who showed up armed and displaying neo-Nazi insignias.

Zeke Uray – Mr. Uray said he is a supporter of the local Police Department as well as city leadership. Though not in town during the June 6th protests, he expressed concern for the Liberate Idaho group with regard to poor weapons handling, business disruption, a general lack of understanding of what patriotism means, and a desire to be confrontational when addressing threats to people and

property existing only due to their puffery. He asked that whatever efforts can be made to curtail this type of behavior be determined.

Amy Canfield – Ms. Canfield said she was concerned over the “Liberate Idaho” protest on Saturday in downtown Lewiston and the events that followed. The images of armed men and women, self-appointed protectors of downtown, is disturbing on many levels. She stated this group claimed that they were defending Lewiston businesses but one of the consequences was the loss of any feeling of safety over the weekend. As a big supporter of downtown, Ms. Canfield said she was unable to take her two young daughters into an environment wherein she felt was designated to intimidate. Downtown residents were harassed and continue to be harassed on social media. What was seen over the weekend was not representative of the community in which she wishes to raise her family.

Brad Monno – Mr. Monno reminded the Council that gun laws in the State of Idaho allow residents to carry legal firearms with or without a permit, open or concealed. There was nothing illegal about people being armed in public on Saturday and the fear expressed by some was created in their own minds. Mr. Monno said that he doesn’t think people who express their fears of people carrying guns realize that in Nez Perce County, they are likely to be in the presence of someone carrying a concealed weapon much more often than they know. The City Council needs to consider all these things before attempting to do anything counter to Idaho State law and the wishes of their constituents.

Lauren Connolly – Ms. Connolly said she hopes the Council takes the necessary steps to prevent heavily-armed civilians in downtown Lewiston in the future. Their actions scare people away and does not portray the friendly city she knows. She asked the Council to take into consideration the safety of Lewiston families, the economy of downtown Lewiston and to make Lewiston welcoming to all families.

Rebecca Hardin – Ms. Hardin said that as an employee of a downtown business, she was highly uncomfortable and wished there would have been more of a police presence.

Mayor Collins said he received regular updates on Saturday from both Police Chief Hurd and Fire Chief Myklebust. He noted this was a very well watched public gathering.

Police Chief Hurd said when he heard of the protests, he tried to reach out to both the Black Lives Matter group and the Liberate Idaho group in an effort to make sure the public would be safe. After meeting with the organizer of Black Lives Matter, she stepped down and was not heard from again. Permits for the events were issued, but they were eventually rescinded. LPD began planning regardless and assumed that Kiwanis Park was still going to be the location of the

protest. Eventually speaking with another organizer of a different Black Lives Matter protest, Chief Hurd said they were able to come to terms of where and when the Saturday protest would take be, about how many people were expected, and their plans. Also meeting with representatives from Liberate Idaho and Keep Lewiston Safe, it was made clear that safety was paramount. A command structure was developed with the help of the Fire Department and Directors of the City volunteered to assist with parking and other issues that may arise. With the assistance of the Grangeville Police Department, Idaho State Police and several others, the contingency was split up as equally as possible. When finished on Saturday, the LPD knew of no complaints and didn't learn of any issues until Sunday. Chief Hurd assured the Council and viewing audience that the LPD did have a presence at both events and dealt with everything as they came upon it. He said he understands the concerns of both sides, but had no choice but to allow both groups to be there. Mr. Hurd stated this is a national issue that will have to be watched closely. To him, he said the events were a success. He reminded everyone that after the protests, everyone has to go back to work, participate in activities and come together as a community and as a nation.

Mayor Collins expressed his sincere gratitude for a job well done by the Police and Fire Departments and to all those who volunteered.

Public Information Officer Maurer presented two additional comments:

Ed King – As a downtown business owner, Mr. King said he was not happy with individuals walking around downtown with assault rifles. He said he hated that Beautiful Downtown Lewiston looked like a war zone, that he didn't feel safe and that he had absolutely no customers as they were frightened away.

Susan Perez – Ms. Perez said she was downtown over the weekend with her 17-year-old son and saw nothing that scared her. Everyone was very respectful, and most were well trained to protect the businesses from rioting.

Councilor Miller questioned the role of the Fire Department during the protests. Chief Myklebust explained the Fire Department had a unified command with the Police Department and had dedicated emergency responders located there. He stressed the goal was to keep everyone safe.

Councilor Bradbury commended the Police Chief. He asked that all comments submitted be placed on the City's website as residents of Lewiston are entitled to know what others thought about the protests. He added he believes Liberate Idaho should be ashamed of what they did.

Councilor Miller said it has been stated that the residents wanted a larger police presence. Law enforcement costs money which is paid for with tax money. If the citizens would like more police presence, that's an important thing for the

Council to know. She said the Council can create policy and budgeting that allows for a larger police force. Ms. Miller commended the officers, noting this is a very noble job. Both chiefs did a great job with the resources they had. She also thanked City Manager Nygaard for his constant communication and support of his departments.

Councilor Blakey indicated he spent a great deal of time at both events, speaking with several City employees who he applauded for their hard work. He said he also spoke with three or police officers and was impressed with their professionalism. Visiting with some of the individuals along Main Street, Mr. Blakey said that personally he was uncomfortable and believes the Council should create a Resolution to the legislators regarding the possibility of changing the open carry law in Idaho.

Councilor Pernsteiner thanked Chief Hurd, the officers, Chief Myklebust, and other City staff who assisted during the protests. He also thanked the outside police and sheriff's departments who helped out. Mr. Pernsteiner said he calls the event a win. Part of this conversation should be focused on what can be done to support the downtown businesses. What is known moving forward is what it looks like for the businesses and residents in this part of the City. That is not a conversation that is going to go away.

Replying to a question about unsafe gun practice, Chief Hurd explained that when providing instructions to his staff and the others who participated, this is something he stressed needed to be looked for. Accidents happen through carelessness and everyone tried to watch as best as they could to prevent anything bad from happening.

IV. PRESENTATIONS AND PUBLIC HEARINGS

A. FINANCIAL PRESENTATION - APRIL 30, 2020: *Report provided in accordance with Idaho Code 50-208 - No verbal report*

Administrative Services Director Marsh provided an overview of the April 30, 2020, financials. He covered Funds to include Legislative, Executive, Human Resources and the Treasury Report for the Sanitation Fund, Library and Golf Course.

B. WWTP 2020 IMPROVEMENTS - PROGRESS REPORT: *No verbal report*

Councilor Pernsteiner requested a progress report and asked if the original timelines are being met. Public Works Director Davies noted he would provide that to the Council via e-mail later in the week.

Responding to a question raised by Councilor Kelly regarding the length of the contract, Public Works Director Davies explained the contract is for 850 days, with substantial completion scheduled at 800 days.

C. PUBLIC HEARING: 2020-2021 CDBG ACTION PLAN AND AMENDED CITIZEN PARTICIPATION PLAN: *Accepting testimony on the 20/21 CDBG Action Plan and Amended Citizen Participation Plan*

Stating that it was the time and place advertised for the public hearing regarding the 2020-2021 CDBG Action Plan and Amended Citizen Participation Plan, Mayor Collins declared the hearing open and called for a staff report.

Community Development Specialist Brocke explained that each year the U.S. Department of Housing and Urban Development (HUD) provides funding to cities for housing and community development programs that benefit persons of low or moderate income or eliminate blight. To continue to receive these funds, the City must develop an annual action plan which programs the funds to be awarded that program year for specific activities. The City of Lewiston's 2020 CDBG allocation is \$248,726. Activities proposed, pending Council input, for the 2020-2021 program year are:

\$ 25,979	First Step 4 Life: Public services activities for training materials and transportation
\$ 24,480	Interlink: Removal of architectural barriers through the purchase of ADA ramps
\$ 5,000	Green Apple Project: Funding for sensory items to low-moderate income households
\$ 15,267	2020 Administration: Administrative costs for the 2020 CDBG program year
\$ 28,000	Opportunities Unlimited Inc. HVAC Repair: Repair and replacement of outdated HVAC system
\$ 5,000	Habitat for Humanity Tool Lending Library: Purchase of tools to be used by low-moderate income households to upkeep and maintain property
\$ 25,000	Community Action Partnership: Direct financial assistance for low-moderate income households
\$120,000	Home Repair Program: Rehabilitation activities for low-moderate income households

Ms. Brocke noted that the public comment period for the 2020 Action Plan and Amendment to the Citizen Participation Plan began on May 24, 2020, and concludes following tonight's public hearing. In the event that one or more of these projects do not fund, or fund in a lesser amount, the City will program the remaining funds to eligible activities.

Mayor Collins called for testimony either in support of or against the 20-21 CDBG Action Plan and Amended Citizen Participation Plan. A letter was read into the record from Hannah Liedkie, President of Opportunities Unlimited, Inc., expressing her support for approval of \$28,000 to replace a 50-year-old HVAC system within the OUI building. She noted the city's consideration of assisting in this replacement would be greatly appreciated.

There being no further comments, 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".

Councilor Bradbury asked that Item F, Vouchers Payable, be moved under "Items Moved from the Consent Agenda".

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

- A. CITY COUNCIL MEETING MINUTES: 04/27/20 Regular; 05/11/20 Budget/Regular
- B. ADVISORY BOARD AND COMMISSION MEETING MINUTES: 04/15/20 Library Board
- C. PRELIMINARY PLAT - THE ESTATES AT CANYON CREST PHASE IIIB-1: Approval of the Preliminary Plat to allow the continued expansion of the Estates at Canyon Crest development
- D. 2020-2021 CDBG ACTION PLAN AND AMENDED CITIZEN PARTICIPATION PLAN: Approval of the 20/21 CDBG Action Plan and Amended Citizen Participation Plan
- E. BID AWARD - IFB-20-013 LIQUID ASPHALT: Approval of the award for MC-500 at \$580/ton and Quickseal at \$440/ton to Western States Asphalt, LLC
- F. VOUCHERS PAYABLE: 04/30/20 through 05/13/20 - \$1,570,739.18; 05/14/20 through 05/28/20 - \$2,801,705.11 - **Moved to the Active Agenda as Item 1**

VI. ACTIVE AGENDA

- A. UTILITY RATE STUDY CONSULTANT AGREEMENT - AMENDMENT #2:**
Approval of Amendment #2 to the standard agreement for services with Financial Consulting Services Group, Inc.

Councilor Bradbury asked how the consultant's opinion can be trusted if they are changing the costs for the Transfer Station. Public Works Director Davies indicated that when they were provided the original numbers, those were the correct costs at that time. City Manager Nygaard added that the original numbers covered the replacement of the Z Wall. After the contractor reviewed the project, he realized there was a way to repair the wall at a much lower cost and that is what was brought forward to the Council.

Mayor Pro Tem Schroeder moved to approve Amendment #2 to the Utility Rate Study Consultant Agreement between the City of Lewiston and FCS. The motion was seconded by Councilor Blakey. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kelly; Miller; Pernsteiner. VOTING NAY: Bradbury*

- B. RESOLUTION 2020-19:** *Considering approval of a state/local agreement for Project No. A020(781) between the City of Lewiston and the Idaho Transportation Department*

Public Works Director Davies reported that this FLAP funding application specifically has not been presented to Council. However, components of the application have been presented to Council at various times. The next step is the Design and Construction agreement between the City and the Idaho Transportation Department. He shared a map with the Council and viewing audience.

Continuing, Mr. Davies said the FLAP program awards Federal funds to provide safe and adequate transportation access to and through Federal Lands for visitors, recreationists, and resource users. The original application requested funding for several locations along the levy path in Lewiston and the project included funding participation from ITD and Nez Perce County. However, only the Demolay Park access improvement was awarded. This project will construct a path from Demolay Park down to Snake River Avenue and include a pedestrian activated crossing signal.

Councilor Bradbury said that after reading the contract, he can't believe that anybody would agree to it as the costs are open to whatever the bill comes in at. He added he does not trust the estimates and strongly objects to adoption of the Resolution.

City Attorney Gómez indicated that two years ago her office made a list of requested changes which were in turn discussed with the Municipal Attorney's

Association. To date, the Idaho Transportation Department has not been willing to make any of those changes. Therefore, there are money issues with regard to this contract.

A motion was offered by Mayor Pro Tem Schroeder and seconded by Councilor Miller to approve Resolution 2020-19.

Councilor Bradbury said he would never sign into a contract like this with his own money and it certainly shouldn't be done with the public's money.

ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Miller; Pernsteiner. VOTING NAY: Bradbury; Kelly

C. ITEMS MOVED FROM THE CONSENT AGENDA

1. **VOUCHERS PAYABLE:** 04/30/20 through 05/13/20 - \$1,570,739.18; 05/14/20 through 05/28/20 - \$2,801,705.11

Councilor Bradbury questioned the following payments with Administrative Services Director Marsh providing a response:

- Asotin County Landfill - \$104,000 - Primarily volume for tipping fees. The cost is monthly and is paid from the Sanitation Fund.
- Intermountain Claims - \$25,000 - This is the City's Third Party Administrator for Worker's Compensation - Payment was for a deductible for a claim.
- Latah Sanitation - \$87,000 - Contractor for Clearwater Composting for yard waste.
- MLR Albright and Sons - \$155,000 - Tri-Partnership Agreement for off-site improvements at Community Park. Total will be approximately \$800,000.
- Sunshine Disposal - \$203,000, \$12,000, \$18,000 - Monthly payments that represent curbside pick-up for recycling, their portion of yard waste and garbage haul. The charges also include fees for roll-offs.

Councilor Pernsteiner moved and Mayor Pro Tem Schroeder seconded approval of the Vouchers Payable. ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.

VII. UNFINISHED AND NEW BUSINESS

A. CITY COUNCILOR COMMENTS

Councilor Miller said tonight was a perfect example of another Councilor assuming the opinion of the rest of the Council. She noted that Councilor Bradbury indicated that the Council would not sign a contract and it is important for every

individual to speak for themselves. The councilors all make their own decisions based on what they feel would best represent the citizens.

Additionally, Ms. Miller stated it is good for the councilors to ask questions and there is nothing wrong with disagreeing with another's opinion during conversation. However, she said she feels the tone used by Councilor Bradbury towards City employees is very condescending and negative. Ms. Miller said these are the individuals who should feel supported and she requested that Mr. Bradbury use a respectful tone in the future.

Mayor Pro Tem Schroeder indicated she has been contacted about the 4th of July and the use of fireworks. She reminded everyone that all aerial fireworks are illegal. Additionally, she expressed concern that there is no guardrail along Gun Club Road, stressing this issue needs to be addressed.

Councilor Blakey reported that the retaining walls for the gardens above the 9th Street Grade have collapsed and are sliding down the hill. Public Works Director Davies reported that the street crew has contacted the owner of the property to make them aware of the issue.

In response to earlier comments, Councilor Bradbury said he does not pretend to speak for anyone but himself. He noted that he will continue to ask questions when he is seeking answers. He said that as long as he is on the Council, he will base his decisions on facts and not assumptions.

With regard to required language for Executive Sessions on the Council agendas, Councilor Bradbury noted that City Attorney Gómez was correct in that only the exception listed in State Code needs to be included. However, he suggested that additional explanation be provided.

Councilor Pernsteiner said that Councilor comments have broad readings as to what is allowed. He said everyone is just coming off of one of the more unprecedented weekends for this Valley and a great deal of time was spent on how discussions regarding differences can be encouraged. If there are differences amongst the Councilors, then those discussions should be held in person while being candid and honest with one another. Mr. Pernsteiner said he doesn't believe that a Council meeting is the time and place to critique one another. While dealing with personnel is appropriate, this is not the space wherein to attack one another.

Mayor Collins added there are times when discussions can become heated and passionate. Sometimes it is important to remember to take a deep breath and to move forward.

B. CITY MANAGER COMMENTS

Public Works Director Davies provided a brief update on the Southway Bridge. He noted that a bid has been awarded for resurfacing and Asotin County would be overseeing the contract. It is anticipated that construction will begin June 22nd and last approximately 2 months, with very extensive traffic control.

Councilor Blakey reported that the weeds coming up through the sidewalk along the Southway Bridge make it almost impassable. He questioned who is responsible for maintenance. Mr. Davies replied he believes it is the City of Clarkston, but noted he would double check.

City Manager Nygaard reported that City employees went the entire month of May without an injury. He said he is very proud of the staff as they are all working hard to prevent accidents and moving in the right direction.

Mr. Nygaard also noted there are several budget meetings in the near future. Information will be provided to the Council and they will be seeing the City Manager's budget request with balanced revenues and expenditures. He noted that staff has a lot of work to do between now and the end of June.

C. ADVISORY BOARD AND COMMISSION APPOINTMENTS

Mayor Collins moved to appoint Gabe Iacoboni to the Disabilities Advisory Commission. Mayor Pro Tem Schroeder provided a second and the motion carried unanimously. The motion carried 6 to 1 with Councilor Miller abstaining.

D. AGENDA TOPICS

Councilor Kelly asked that plans for the homeless this winter be added to a future agenda for discussion.

VIII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Councilor ____ moved and Councilor ____ seconded adjournment of the June 8, 2020, Regular Council Meeting at 8:05 p.m.

Kari Ravencroft, Recording Secretary

Date approved by City Council