

JUNE 22, 2020

T HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, June 22, 2020, 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.*

Public Information Officer Maurer read four comments offered either by e-mail or phone prior to the meeting from Todd Snarr, Kason Seward, Sarah Graham and Linda VanTreece (attached).

Wilson Boots spoke about the June 6th events. He said he previously heard Councilor Bradbury that the Liberate Idaho group should be ashamed of themselves. Mr. Boots said he is ashamed that he voted for a democrat and that it would never happen again. He stressed the point of being on Main Street during the Black Lives Matter protest was to defend the City from any violence and not to invoke it. He was unaware of any business owners who asked the individuals in front of their businesses to move and in fact, most were thankful for their presence. Mr. Boots said this event made him proud of his town. People came together with opposing views with a peaceful outcome.

Nathaniel Tucker, downtown resident, stated he did ask militia members to move away from the front of his residence and they refused. He stated that he is pro second amendment and just because he doesn't show his gun doesn't mean that he doesn't own one. Mr. Tucker said he did not enjoy walking into his apartment with somebody carrying an AR300 out front. If protection of the downtown businesses is needed, then that should be the job of the local Police Department and not the local militia.

Heather Rogers said that according to the second amendment rights, individuals have the right to assemble and the right to a militia. She noted that Liberate Idaho interacted well with the protestors, handing out water, buying lunch

for several people and walking individuals to their cars after dark. Ms. Rogers said the whole point was that the Liberate Idaho group was worried about what has happened in other cities and would not allow U.S. flags to be burned, people to be harmed or businesses to be vandalized. She reiterated that the second amendment right should not be infringed upon.

Yvonne Cary indicated that she was very glad the guns were out in full force during the June 6th protest. She said she knows many business owners who were grateful and said that something bad could have happened without the militia along Main Street.

Lynn Moss addressed the golf course. He explained that in 1980, the golf course contractor was given permission to assess a water development fee for individual rounds of play. Once sufficient funds were in place, they asked permission to drill a well for golf course use. At that time, Parks & Recreation was under the administration of the Public Works Department, and the golf course was allowed to drill a well at the end of the 11 fairway which then provided an unlimited supply of water for the course. When a new contractor was selected for golf operations in 1990, the contract included an operations maintenance fee to assist the city in paying for the operation of the well. In approximately 2010, the golf course went out for bid for a new irrigation system authorized by the City Council and the Water Fund loaned the money about 2010, golf course went out for bid for new irrigation system authorized by council and the water fund loaned the money for the contract and contract was revised to provide an annual payback on the loan of \$1 million at 50,000 per year. They continued to pay for that until recently. Sometime after 2011, without council authorization, were discussions with Parks & Rec. Commission with Players Association of Golf Course that city sell golf course's share of well to public works and use the value of that payment towards the loan. Now the golf course is only allowed sporadic use and will probably end up paying for water at some point in time which will drive the golf course bankrupt if they have to start paying city water rates when they actually have their own well. If you no longer have a golf course, you will be in violation of land and water conservation amendments. You will be in default of any grants...including for Community Park. If golf course owner, why would you ever sell your water? I doubt council knows the answer.

Mike Lorenz said as far as the golf course well is concerned, it seems there have been numerous problems with it since it was installed. The City wrote off \$250,000 in bad debt from the golf course and stuck the taxpayers. With the current economic downturn, it would seem the City should be looking to cut its budget by 10 to 20 percent rather than asking for increases. Other than Councilor Bradbury, it seems the Council only represents City Hall and not the citizens of Lewiston.

Emily Fig spoke on behalf of the second amendment. She indicated that she always carries her rifle or pistol and is in favor of individual's rights to bear arms.

Myndie Vanhorn, owner of Art Uncorked and resident, both on Main Street, said she did not ask the militia to stand in front of her business and did not want them there. She stressed that she had absolutely no business on Saturday as the militia was outside from 8:00 a.m. to 2:30 a.m. This was not comfortable nor was it fun. Seeing all of the people with AR's on their shoulders was extremely intimidating. Ms. Vanhorn asked how she can convince her customers that they are safe when they come downtown? Is this going to happen again? Lewiston is her home and she said she would have to leave the downtown area if this type of thing continues.

As a lawyer, Councilor Bradbury said he will take a backseat to no one with regard to the Constitution and constitutional rights, noting that it serves as the foundation for success to this democracy. He stated he believes in the right to bear arms, but questions how one should conduct themselves when doing so. Mr. Bradbury indicated the Council received approximately 50 letters with regard to the past weekend's events, noting that about ten to one indicated they were scared, intimidated and uncomfortable. He noted that it doesn't help any cause when the individuals carrying firearms are perceived to be threatening.

Shawn Benson said what happened downtown prevented events similar to those happening through the country where businesses were destroyed, citizens were raped and murdered, and law enforcement vehicles were burned. Americans have the right to carry arms and should not stand to have this right taken away because a few individuals felt threatened. Individuals downtown on June 6th were not violent and everyone was in control of their weapons.

IV. PRESENTATIONS AND PUBLIC HEARINGS

A. FINANCIAL PRESENTATION - MAY 31, 2020: *Report provided in accordance with Idaho Code 50-208 - No verbal report*

In response to a question raised by Councilor Bradbury regarding money currently held by the City, Mr. Marsh explained there was \$43.4 million at the end of May. This is a combination of operating, capital and monies in trust and ensures that operational costs can be paid on a monthly basis and that there is a stable financial reserve to be able act appropriately in time of struggle or downturn. He added that with regard to Sanitation and Water funds, they include buy-in fees, operational funding and capital funds and may be higher due to timing where there are expenses out and the City is waiting for receivables and deferred revenues.

Within the Legislative budget, Councilor Bradbury noted there is a charge of \$533,000 and questioned the expense. Mr. Marsh replied this figure includes the partnerships and agreements the city has with Valley Vision, Beautiful Downtown Lewiston, the Boys and Girls Club and a \$500,000 pledge to the Airport. At one

time, the City managed the airport within a separate fund. When the Airport Authority was formed, the money was placed into the Legislative Fund as it is the Council who determines how much will be allocated to the airport.

Councilor Bradbury then questioned the \$2.878 million under property improvement. Administrative Services Director Marsh indicated this is a reserve maintained within the General Fund that was established 4 or 5 years ago to help the city through major capital improvement projects and includes funding for a fire station and Community Park. The bulk of this revenue is from property taxes and ties back to foregone taxes the council approved 3 years ago. Bradbury: Under property improvement, budget of 2.878 million. What is this for? Dan: That reserve is maintained within General Fund established 4 to 5 years ago to help city through major capital improvement projects.

B. PUBLIC HEARING: BLASTING FEE: *Accepting testimony on the establishment of new fees for blasting permits and blasting site inspections and monitoring (Steputat)*

Stating this was the time and place advertised for the public hearing regarding blasting fees, Mayor Collins declared the hearing open. He asked that a staff report be provided.

Division Chief Steputat reported that an explanation was provided in the Council's packets and she noted she would be happy to answer any questions of the Council. Being none, Mayor Collins called for testimony either in favor of or in opposition to the new fee request. There were no comments offered and the hearing was declared closed.

C. PUBLIC HEARING: COMMUNITY PARK LAND EXCHANGE: *Accepting testimony on the potential exchange of real property owned by the City of Lewiston for real property owned jointly by the Lewiston School District, Lewis-Clark State College and the City of Lewiston (Barker/Gómez)*

It was noted by Mayor Collins that this was the time and place advertised for the public hearing regarding the Community Park Land Exchange. He declared the hearing open and called for a staff report.

Parks and Recreation Director Barker explained the Tri-Partnership, consisting of the Lewiston School District (LSD), Lewis-Clark State College (LCSC), and the City of Lewiston (COL) jointly purchased approximately 306 acres in the Lewiston Orchards in 2004. At that time, the partners divided up the property for future development of a new school, motor safety training center and park expansion/development. In 2007, the Tri-Partnership recorded the Warner Park Subdivision Administrative Plat with Nez Perce County. In 2018, the Tri-Partners entered into a development agreement that superseded the 2004 agreement which

explained how the development of property was going to be accomplished. Most recently, City Council approved the Tri-Partnership Addition Plat and associated Resolution 2020-17.

Mr. Barker said that by moving forward with the proposed land exchange, the City is fulfilling its obligation under the 2018 agreement by conveying its interests in Lots 4 and 5 to LSD and LCSC. In exchange for the city's conveyance above, LSD and LCSC agreed to convey their own interests in Lots 1, 2, 3 and 6. The purpose of the exchange is to better serve those that will utilize each of the facilities, as well as cleaning up amendments that have been made in the layout of infrastructure and features within each of the projects. A portion of the property that is being exchanged from the City to the partners falls under a purchase that was made utilizing Land and Water Conservation Funds that carry federal regulations tied to the land. Parks and Recreation Director Barker explained that throughout this process, representatives from the federal government have been involved and are aware of the proposal and support the effort and resulting effect that it will have within the park property.

Councilor Blakey asked if the high school plans to make their fields available for private use. Mr. Barker indicated this is an agreement they would have to negotiate with Little League and other organizations. He noted that ballfields and athletic venues are still a couple of years out as the main focus at this point is getting the actual school open.

Mayor Collins called for testimony either in favor of or against the proposed land exchange.

Lynn Moss explained that because grant money was used to originally purchase the property in question, a conversion of use would be required in order to make the trade and utilize the property for something other than what it was originally intended. He noted that a Federal land appraisal will be required and the parcel will need to be replotted and submitted to the National Park Service for review and subsequent approval. Mr. Moss emphasized that the City will no longer be eligible for any future grants if it is not in compliance with the requirements necessary for the exchange of property. He urged staff to move forward with this as soon as possible. Further, Mr. Moss suggested that Walker Field be purchased by the City and utilized as a West Orchards Park via the School District.

Parks and Recreation Barker indicated he is aware that the conversion process is necessary as well as lengthy. He noted that part of the reason for delaying is that if any other property lines were moved, the process would have to start from the beginning. Mr. Barker also said he is aware that the City would not be eligible for future land and water grant opportunities until it is in compliance,

but noted there are other grants available to assist with development of the property.

Councilor Kelly questioned the ramifications if the Council held off on approving the land exchange until completion of the conversion process. Mr. Barker replied that LCSC has received approval to move forward and the School District has also begun the process on their end for the exchange. City Manager Nygaard indicated that the partners all agreed to this in 2018 and it is important to move forward with the exchange of properties in an effort to make the conversion process through Land and Conservation more expedient. Not approving the exchange this evening would slow down the process. He noted that getting the plat approved was critical as there is now a legal description in place.

Replying to a question raised by Councilor Pernsteiner regarding noncompliance, Parks & Recreation Director Barker explained that the property to be exchanged is fairly equal in value and would be useable for recreation. He noted there would not be any retroactive penalty.

Lynn Moss noted that the City is obligated to ascertain a dollar amount for the property. He expressed his concern that the National Park Service has not been involved in the process.

There was no additional testimony 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".

Councilor Bradbury asked that Item E. Vouchers Payable, be moved to the Active Agenda.

Councilors Blakey and Pernsteiner 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: 05/18/20 Budget Work Session

B. RESOLUTION 2020-18: Approval of the establishment of fees for blasting permits and blasting site inspections and monitoring

- C. **RESOLUTION 2020-21:** *Approval a public storm water utility and access easement from Kole Briggs and Chelsea Briggs to the City of Lewiston*
- D. **PURCHASE OF ONE DUMPT TRUCK:** *Approval of the purchase of one dump truck from Kenworth Sales for \$107,292 by piggybacking the City's own bid, IFB-19-005 Dump Trucks*
- E. **VOUCHERS PAYABLE:** *05/29/20 through 06/11/20 - \$2,632,727.81*

VI. **ACTIVE AGENDA**

A. **ORDINANCES**

1. **First Reading**

a. **Ordinance 4776**

City Attorney Gomez explained that approximately a year ago, Councilor Miller questioned the ability for her daughter to serve on the Youth Advisory Commission. Upon reviewing State law, it was the conclusion of the legal office that family members of councilors were not prevented from serving on Advisory Boards and Commissions because the positions were not compensated. Unfortunately, it was recently determined that according to Section 2-159(g) of City Code, spouses and members of councilor's households are precluded from serving on Advisory Boards and Commissions. The Ordinance before the Council allows them to leave the City Code as is, to repeal it in its entirety or to amend City Code. One idea for consideration might be to determine if there are certain boards wherein the Council feels is might be appropriate and others that are not, such as the Planning and Zoning Commission as their decisions and recommendations are regularly reviewed and considered by the Council. Family member participation on this Commission could increase the chances of ex-parte communication and cause a perception that the Council is reviewing recommendations from a family member.

Mayor Pro Tem Schroeder offered a motion to read Ordinance 4776 by title only. Councilor Miller seconded the motion.

Councilor Bradbury said he opposes Ordinance 4776, noting that if a relative of a councilor serves on a board or commission, it gives them influence due to their relationship with the council member. He noted that his decision has nothing to do with Councilor

Miller or her daughter, but doesn't believe the Code should be amended. Councilor Blakey agreed.

Mayor Collins said he too opposes the Ordinance although this may put some in a tough position.

Mayor Pro Tem Schroeder said she believes it is a good thing for family members to be active in government and would support allowing them to participate on all City Boards and Commissions other than the Planning and Zoning Commission. Therefore, she offered a motion to allow spouses and members of a Councilor's household to volunteer on all City Boards and Commissions other than the Planning & Zoning Commission. The motion failed for lack of a second.

Councilor Miller indicated that the Youth Advisory Commission is very unique as the volunteer's involvement revolves around civic acts. YAC is a very developmental commission and all youth should be encouraged to get involved. Ms. Miller noted that Tim Barker's daughter served as the most recent President and did an amazing job. The youth of this Valley have a cap on what they can get involved in. This provides an avenue for her daughter and others like her to benefit and should not be discouraged from participating.

Responding to a question raised by Mayor Collins, City Attorney Gómez reiterated that because this is not a prohibition within State law, it is up to the Council as to how they would like for City Code to read. It is possible to allow an exception for the Youth Advisory Commission only.

Councilor Blakey moved to let the Ordinance stand as is, with the exception of allowing family members of Councilors to serve on the Youth Advisory Commission. The motion was seconded by Mayor Collins.

Councilor Bradbury said he believes this is a bad idea as it carves out an exception specifically for Councilor Miller. To change the City Code to accommodate her is not right.

Councilor Pernsteiner said he appreciates Councilor Miller's comments, but noted that when an individual runs for a seat on the Council, they have to realize there is a cost to it. It is important that each member be above board. For those reasons, Mr. Pernsteiner said he agrees with Councilor Bradbury to keep the Ordinance as is.

Councilor Miller noted that Councilor Kelly's daughter also applied to serve on YAC. She questioned the immorality of youth advising the Council on youth issues.

Councilor Blakey called for the question. Councilor Pernsteiner offered a second. It carried 5 to 2, with Mayor Pro Tem Schroeder and Councilor Miller voting nay.

The amendment carried 4 to 3. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Miller. VOTING NAY: Bradbury; Pernsteiner. ABSTAINING: Kelly.*

Mayor Collins said when he was appointed as the Mayor, he had discussions with his children that his actions may affect them in some way. Though he feels sympathetic for Councilors Miller and Kelly, he noted that his kids were in the same position. He said he would not be voting in favor of the ordinance.

The main motion on the floor to read failed for lack of a majority. *ROLL CALL VOTE: VOTING AYE: Blakey; Miller; Schroeder. VOTING NAY: Collins; Bradbury; Pernsteiner. ABSTAINING: Kelly.*

ORDINANCE 4776: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 2-159(G) OF THE LEWISTON CITY CODE RELATING TO CONFLICTS OF INTEREST, AND PROVIDING AN EFFECTIVE DATE"

2. First, Second and Third Readings

- a. Ordinance 4775:** *Authorizing the exchange of real property owned by the City of Lewiston for real property owned jointly by the Lewiston School District, Lewis-Clark State College and the City of Lewiston*
- b. Ordinance 4777:** *Adopting the termination budget for the City of Lewiston Urban Renewal Agency; terminating Revenue Allocation Area 3, as set forth in the Urban Renewal Plan 2 for the City of Lewiston Urban Renewal Agency*

A motion was made by Councilor Blakey and seconded by Councilor Pernsteiner to combine the first, second and third readings of Ordinances 4775 and 4777 and to waive the third readings in full. The motion carried 6 to 0, with Councilor Bradbury voting nay.

Councilor Blakey then moved to approve the first, second and third readings of Ordinances 4775 and 4777 by title only. The motion was seconded by Councilor Pernsteiner. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

ORDINANCE 4775: "AN ORDINANCE OF THE CITY OF LEWISTON AUTHORIZING THE EXCHANGE OF REAL PROPERTY OWNED BY THE CITY OF LEWISTON FOR REAL PROPERTY OWNED JOINTLY BY THE LEWISTON SCHOOL DISTRICT, LEWIS-CLARK STATE COLLEGE, AND THE CITY OF LEWISTON; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ALL DOCUMENTS NECESSARY TO EFFECTUATE SUCH EXCHANGE; AND PROVIDING AN EFFECTIVE DATE"

ORDINANCE 4777: "AN ORDINANCE OF THE CITY OF LEWISTON ADOPTING THE TERMINATION BUDGET OF THE CITY OF LEWISTON URBAN RENEWAL AGENCY; TERMINATING REVENUE ALLOCATION AREA 3, AS SET FORTH IN THE URBAN RENEWAL PLAN 2 FOR THE CITY OF LEWISTON URBAN RENEWAL AGENCY; PROVIDING THAT ALLOCATION OF REVENUES ATTRIBUTABLE TO REVENUE ALLOCATION AREA 3 SHALL CEASE EFFECTIVE JANUARY 1, 2020; PROVIDING FOR THE PAYMENT OF DELINQUENT PROPERTY TAXES FOLLOWING TERMINATION; REQUIRING DISTRIBUTION OF ANY SURPLUS REVENUE ALLOCATION FUNDS DETERMINED TO EXIST AS OF SEPTEMBER 30, 2020, PURSUANT TO IDAHO CODE SECTION 50-2909(4); DIRECTING THE CITY OF LEWISTON URBAN RENEWAL AGENCY TO CAUSE THIS ORDINANCE, A MAP, AND THE LEGAL DESCRIPTION OF REVENUE ALLOCATION AREA 3 TO BE RECORDED IN THE OFFICE OF THE NEZ PERCE COUNTY RECORDER AND FILED IN THE OFFICE OF THE NEZ PERCE COUNTY ASSESSOR AND WITH THE IDAHO STATE TAX COMMISSION, AS PROVIDED IN IDAHO CODE SECTIONS 50-2903(5) AND 63-215; DIRECTING THE CITY OF LEWISTON URBAN RENEWAL AGENCY TO PROVIDE A COPY OF THIS ORDINANCE TO EACH OF THE TAXING ENTITIES AFFECTED BY TERMINATION OF REVENUE ALLOCATION AREA 3; AND PROVIDING AN EFFECTIVE DATE"

3. **Adoption and Approval of Ordinance Summaries**

a. **Ordinance 4775**

b. **Ordinance 4777**

Councilor Kelly made a motion to adopt Ordinances 4775 and 4777 and approve the Ordinance Summaries. The motion was seconded by Councilor Blakey. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.*

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

1. **VOUCHERS PAYABLE: 05/29/20 through 06/11/20 - \$2,632,727.81**

Councilor Bradbury questioned the payment to Land Title. Administrative Services Director Marsh explained this was for an investment in the Lewis and Clark Valley Resource Center through the CDBG Program. He noted that there would be one more payment for purchase of the building. Councilor Blakey noted that an e-mail was submitted by Eric Kjournes expressing concern for a house for troubled youth being located right across the street from the Whitman Elementary playground.

A motion and a second were made by Councilors Pernsteiner and Kelly, respectively, to approve the Vouchers Payable. The motion carried 6 to 1, with Councilor Miller excused.

VII. **UNFINISHED AND NEW BUSINESS**

A. **CITY COUNCILOR COMMENTS**

Councilor Blakey expressed appreciation to those involved in weed removal on Nez Perce Terrace and Juniper. However, he expressed concern for the weeds along Nez Perce Road. Chief Hurd indicated that Mr. McCann was contacted today and has indicated that he is getting the equipment to take care of the weeds.

With regard to Covid-19, Mayor Collins encouraged everyone to continue to do what is necessary to keep safe. Public Information Officer Maurer said the City is continuing to actively work with Nez Perce County and other partners to create messaging to encourage residents to do the right thing.

Councilor Pernsteiner stated he values the input presented this evening and appreciates everyone's comments. The wearing of masks is a topic that residents

care deeply about. People are extremely passionate and the discussion will continue.

B. CITY MANAGER COMMENTS

City Manager Nygaard reported that recent news from Boise with regard to increased cases of Covid-19 was discouraging. It is imperative that individuals step up and follow social distancing guidelines, increase hygiene and wear masks. He noted that staff is working with Nez Perce County and the Health Department to try to find a message that will get people's attention. It is up to the community to be responsible. The pandemic is not over, noting that there were five new cases in Nez Perce County just today.

Councilor Pernsteiner questioned the results of recent Covid-19 testing at the Wastewater Treatment Plant. City Manager Nygaard explained that it was not successful in terms of tracking as the toxicity kept it from working as it should. Some additional testing will be performed, but if better results are not obtained, then the data will not be useful.

C. ADVISORY BOARD AND COMMISSION APPOINTMENTS

There were no new Advisory Board or Commission appointments.

D. AGENDA TOPICS

Councilor Bradbury asked for a follow-up on determining if there would be any savings in bypassing the transfer station and utilizing direct haul to the Asotin County Landfill.

VIII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Councilor Schroeder moved and Councilor Miller seconded adjournment of the June 22, 2020, Regular Council Meeting at 8:18 p.m.

Kari Ravencroft, Recording Secretary

Date approved by City Council