

January 23, 2023

T HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular Meeting at the Lewiston Library Second Floor Activity Room at 411 D Street. Mayor Johnson called the meeting to order at 6:00 p.m.

City Council meetings are recorded live. To view the full video, go to <https://livestream.com/lewiston/events/3725902>

COUNCIL MEMBERS PRESENT: Mayor Johnson; Councilor Forsmann (via Zoom); Councilor Kleeburg; Councilor Schroeder; Councilor Spickelmire; Councilor Tousley.

COUNCIL MEMBERS EXCUSED: Council President Liedkie

I. CALL TO ORDER

Mayor Johnson called the meeting to order at 6:00 p.m.

II. PLEDGE OF ALLEGIANCE

Community Development's Shelby Anderson and Dawn Ortiz led the Pledge of Allegiance.

III. MOTION TO AMEND AGENDA - Action Item

Councilor Kleeburg moved to amend the agenda to include item VII. E. Councilor Tousley seconded the motion which carried 5 to 0, with Council President Liedkie excused.

IV. CITIZEN COMMENTS

Dodd Snoddgrass said he empathizes with City staff with regard to the recent reservoir failure, and stated staff response has been great. He noted, however, that as a result of the rupture, there was a huge amount of property damage to many homes, including his. He pleaded with the Council that they not forget about those who were directly impacted and to ensure they are made whole.

Johanna Frank commended First Step For Life. She then suggested one possibility to assist the homeless would be for the City to put individuals up in a hotel(s) for a few months.

V. PRESENTATIONS

A. FINANCIAL REPORT - DECEMBER 2022: *Financial report for December 2022, in accordance with Idaho Code 50-208 (Gordon)*

Administrative Services Director Gordon presented the December 2022 Financial Report which is the three months of October through December 2022 and the first quarter of the 2023 fiscal year. She reported on operating expenses that are tracking ahead, noting that most of these are typical due to contracts, premiums, grants, etc.

There is nothing out of the ordinary within the General Fund, but the City did receive \$154,000 in Opioid settlement fees. As a result, there is approximately \$180,000 within the reserve fund with not projects assigned at this point.

Now that the city has an active stance in running the day-to-day operations of the golf course, staff will have more oversight of the contract. Once it is determined how things will be operated, staff will be putting dollars before the Council in the form of a budget amendment.

Ms. Gordon noted that the city has been taking advantage of reserves in those bank accounts earning interest. Currently, approximately \$150,000 per month in interest revenue is being realized, which should take some pressure off of the taxpayers.

Finally, Administrative Services Director Gordon addressed Police Retirement and Cemetery Perpetual Care, stating that they are doing very well in investments.

VI. CONSENT AGENDA

Mayor Johnson 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 Forsmann and Schroeder moved and seconded, respectively, adoption of the Consent Agenda. *ROLL CALL VOTE: VOTING AYE: Forsmann; Kleeburg; Schroeder; Spickelmire; Tousley. VOTING NAY: None. EXCUSED: Liedkie.*

- A. **LEWISTON CITY COUNCIL MEETING MINUTES**: 12/05/22 Work Session; 12/20/22 Special Work Session; 01/04/23 Special Work Session; 01/09/23 Regular - Action Item
- B. **ADVISORY BOARD AND COMMISSION MEETING MINUTES**: 11/17/22 Business Improvement District Advisory Board; 11/16/22 Parks and Recreation Commission; 12/14/22 Planning & Zoning Commission; 10/11/22 and 11/08/22 Urban Renewal Agency - Action Item
- C. **ADMINISTRATIVE PLAT - SOUTHRIDGE NO. 2**: Considering approving a four-lot subdivision located east of 1st Street, between Southway and Carol Drive - Action Item
- D. **VOUCHERS PAYABLE**: Considering approval of the Voucher's Payable dated 12/22/22 through 01/05/23 - \$757,063.23 - Action Item (Moved to Item IX.A.)

VII. ACTIVE AGENDA

- A. **LICENSES**: Considering approval of the following renewal licenses - Action Item (Anderson)

Retail Liquor, Retail Wine by the Drink and Bottle, Retail Beer On and Off Premise:

A motion and second were made by Councilors Schroeder and Forsmann to approve the renewal licenses for retail liquor, retail wine by the drink and bottle, and retail beer on and off premises for the 21 businesses listed below. The motion carried 5 to 0, with Council President Liedkie excused.

Alibi/Sports Edition, Applebees, Bojack's Broiler Pit, Boomer's/Zone, Boomtown, Brocks/Bravas, Bryden Canyon Golf Course, Canter's Inn, Corner Villa, Eagles Lodge, El Sombrero, Ernie's Steakhouse, Hells Canyon Grand Hotel, Jollymore's, Mandarin Pine, Pals, Shooters, Strike & Spare Bar and Grill, The Zoo, Wrangler, Zany's

Recommend Approval on the Below Subject to Submittal of Required Paperwork:

It was moved by Councilor Schroeder to approve the renewal licenses for retail liquor, retail wine by the drink and bottle, and retail beer on and off premises, as applicable, for the Elks Lodge, Lewiston Golf & Country Club and Red Lobster, subject to submittal of the required paperwork. Councilor Kleeburg provided a second. The motion passed with a vote of 5 to 0, with Council President Liedkie excused.

B. ORDINANCES

1. FIRST READING

- a. Ordinance 4870: Repealing and reserving Section 8-9 of the Lewiston City Code regarding animal cruelty, amending Section 8-11 to remove unnecessary definitions, amending Section 8-33 to remove provisions regarding cruelty of dogs, and amending Section 8-43(b) to remove a reference to Section 8-9 - Action Item (Drury)**

Assistant City Attorney Drury explained that Ordinance 4870 removes the animal cruelty charge from Section 8-9 of the Lewiston City Code. This doesn't mean that animal cruelty is no longer a crime as it is covered by Idaho State Code. Under Idaho Code, the charge is still a misdemeanor with the same penalties as City Code, with the caveat that a dog can be impounded until the final disposition of the case and not require the city to release the dog back to the owner 6 days later. Additionally, by following State Code, anyone charged would be prosecuted through the Nez Perce County Prosecutor's Office rather than the City Attorney's Office.

Councilor Forsmann questioned the reason for redundancy in the city's code. Ms. Drury noted that the State of Idaho altered their animal cruelty code since the last provision was updated within City Code.

In response to a question raised by Councilor Spickelmire regarding a section of the code that still maintains language on animal cruelty, City Attorney Hermann explained there are other incidences where LPD may need to impound a dog, such as an animal at large.

Councilor Schroeder moved and Councilor Tousley seconded to read Ordinance 4870 for the first time. The motion carried 5 to 0, with Council President Liedkie excused.

ORDINANCE 4870: “AN ORDINANCE OF THE CITY OF LEWISTON REPEALING AND RESERVING SECTION 8-9 OF THE LEWISTON CITY CODE REGARDING ANIMAL CRUELTY, AMENDING SECTION 8-11 TO REMOVE UNNECESSARY DEFINITIONS, AMENDING SECTION 8-33 TO REMOVE PROVISIONS REGARDING CRUELTY OF DOGS, AMENDING SECTION 8-43(b) TO REMOVE A REFERENCE TO SECTION 8-9 AND PROVIDING AN EFFECTIVE DATE”

2. SECOND AND THIRD READINGS

- a. Ordinance 4862: *Amending Sections 37-93, 37-93.D., 37-93.E., 37-93.F., and 37-93.G. of the Lewiston City Code related to the Form and Impact Based (FIB) Zone - Action Item*

There was a motion and second submitted by Councilors Schroeder and Kleeburg to combine the second and third readings and waive the third reading in full of Ordinance 4862. The motion carried 5 to 0, with Council President Liedkie excused.

A motion was then offered by Councilor Schroeder and seconded by Councilor Tousley to approve the second and third readings of Ordinance 4862. The motion carried 5 to 0 with Council President Liedkie excused.

ORDINANCE 4862: “AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTIONS 37-93, 37-93.D., 37-93.E., 37-93.F., AND 37-93.G OF THE LEWISTON CITY CODE RELATED TO THE FORM AND IMPACT BASED (FIB) ZONE”

- b. Ordinance 4869: *Implementing the City Council’s decision in ZNC22-000007, declaring that certain real property be removed from the General Commercial (C-4) Zone and included in the Central Commercial (C-5) Zone - Action Item*

It was moved by Councilor Forsmann to combine the second and third readings and waive the third reading in full of Ordinance 4869. Councilor Tousley seconded the motion which carried 5 to 0 with Council President Liedkie excused.

Councilor Forsmann made a motion to read Ordinance 4869 for the third time and Councilor Tousley provided the second. The motion carried 5 to 0, with Council President Liedkie excused.

ORDINANCE 4869: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN ZNC22-000007, DECLARING THAT CERTAIN REAL PROPERTY BE REMOVED FROM THE GENERAL COMMERCIAL (C-4) ZONE AND INCLUDED IN THE CENTRAL COMMERCIAL (C-5) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; AND PROVIDING AN EFFECTIVE DATE"

3. **ADOPTION AND APPROVAL OF ORDINANCE SUMMARIES**

a. **Ordinance 4862** - Action Item

b. **Ordinance 4869** - Action Item

Councilor Tousley moved and Councilor Kleeburg seconded the adoption of Ordinances 4862 and 4869 and approval of their related Ordinance Summaries. *ROLL CALL VOTE: VOTING AYE: Forsmann; Kleeburg; Schroeder; Spickelmire; Tousley. VOTING NAY: None. EXCUSED: Liedkie.*

C. **REASONED STATEMENT - ZNC22-000007**: *Considering approving the Reasoned Statement for ZNC22-000007, City of Lewiston - Action Item*

A motion and second were made by Councilors Forsmann and Kleeburg to approve the Reasoned Statement as written for ZNC22-000007. The motion carried 5 to 0, with Council President Liedkie excused.

D. **PFAS COST RECOVERY PROGRAM**: *Considering whether to register with the National Rural Water Association (PFAS (Polyfluoroalkyl Substances) Cost Recovery Program - Action Item*

Assistant City Attorney Tengano explained that this particular program is part of a recovery program that requires all water groups to register. The purpose is for cities to have the ability to receive settlement funds as part of a national lawsuit in reference to the Opioid program. The EPA is currently going through its fifth round of rule modifications which will further restrict PFAS regulations for drinking water and the Department of Environmental Quality is creating a program which will provide free testing for jurisdictions in Idaho. By registering, the city could potentially receive funds for cost recovery and mediation and there are no negative affects to the city by doing so. With a deadline of January 31st, the earlier the city registers, the more likely it is to receive some funding.

It was moved by Councilor Schroeder and seconded by Councilor Forsmann to register the City of Lewiston 's water utility with the National Rural Water Association PFAS Cost Recovery Program and authorize the Mayor or Public Works staff to complete the necessary paperwork. With a vote of 5 to 0, the motion passed. Council President Liedkie was excused.

- E. **RESOLUTION 2023-8:** *Considering consent to the continuance of the Declaration of Local Disaster Emergency beyond seven (7) days of its inception, if necessary, in accordance with Idaho Code 46-1011 - Action Item*

City Attorney Hermann explained that the Mayor has the ability to declare a local emergency without Council approval. However, if it needs to extend beyond seven days, then it requires the consent of the City Council. The Mayor would then have the authority to terminate the declaration at which time the local disaster emergency is no longer needed.

Councilor Tousley moved to approve Resolution 2023-8. Councilor Forsmann provided the second. *ROLL CALL VOTE: VOTING AYE: Forsmann; Kleeburg; Schroeder; Spickelmire; Tousley. VOTING NAY: None. EXCUSED: Liedkie.*

VIII. ITEMS MOVED FROM THE CONSENT AGENDA

None.

IX. UNFINISHED AND NEW BUSINESS

- A. **CITY COUNCILOR COMMENTS:** *Comments shall not be related to an item currently before the City Council or an item that may come before the City Council in the foreseeable future, and shall be limited to comments, not discussion.*

Councilors Tousley, Forsmann and Kleeburg expressed their appreciation to Public Works staff for their hard work to remedy the reservoir issue.

Mr. Tousley then encouraged people to attend the Civic Theater's production of *Abridged*, noting it is extremely entertaining and fun.

Councilor Spickelmire commended all the volunteers who are working diligently to take down the lights in Locomotive Park. He said he was amazed at the amount of people in the park on Saturday. He then thanked Parks & Recreation Director Barker, stating that he recently attended a Senior Nutrition luncheon with his mother and it was a really nice program.

- B. **CITY BOARDS AND COMMISSION LIAISON UPDATES**

None.

- C. **MAYOR COMMENTS**

Mayor Johnson said that the Incident Command Staff have done an excellent job in response to the reservoir emergency. They work together professionally, smoothly and

efficiently, which is probably the result of Incident Command training led by Chief Myklebust over the past couple of months.

Mr. Johnson then encouraged community partners to attend upcoming CDBG meetings, noting that this is a very important program which addresses affordable housing and homeless issues. He then noted for people who want to stay in the know about current emergency situations, there are several ways to do so. They can call 208-984-7084, click on the "Emergency Alert" at the top of the City of Lewiston webpage, or visit the City of Lewiston Facebook and Instagram pages.

D. ADVISORY BOARD OR COMMISSION APPOINTMENTS

1. *Considering the reappointment of Brian Hensley to the Cemetery/Urban Forestry Advisory Commission*

Mayor Johnson moved to approve the reappointment of Brian Hensley to the Cemetery/Urban Forestry Advisory Commission. The motion was seconded by Councilor Kleeburg and carried 5 to 0, with Council President Liedkie.

2. *Considering the reappointment of David Chenault to the Emergency Services Advisory Board*

It was moved by Mayor Johnson to reappoint David Chenault to the Emergency Services Advisory Board. Councilor Schroeder provided a second and it carried 5 to 0 with Council President Liedkie excused.

3. *Considering the appointment of Tim Switzer to the Urban Renewal Agency for a term of four years*

Mayor Johnson moved to appoint Tim Switzer to the Urban Renewal Agency for a term of four years. Councilor Forsmann seconded and the motion and it carried 5 to 0 with Council President Liedkie excused.

E. AGENDA TOPICS

None.

IX. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Councilors Kleeburg and Schroeder moved and seconded, respectively, adjournment of the January 23, 2023, Regular meeting at 7:02 p.m.