

April 5, 2021

THE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Work Session on Monday, April 5, 2021, at 3:00 p.m. at the Lewiston City Library, 411 D Street.

COUNCIL MEMBERS PRESENT: Mayor Collins; Mayor Pro Tem Schroeder; Councilor Kelly; Councilor Bradbury; Councilor Pernsteiner; Councilor Miller; Councilor Blakey

STAFF MEMBERS PRESENT: Alan Nygaard; Budd Hurd; Jana Gómez; Kayla Hermann; Travis Myklebust; Dan Marsh; Tim Barker; Laura Von Tersch; Lynn Johnson; Carol Mauer; Kari Ravencroft; Brittne Purington; Alana Bailey; Aaron Butler

I. PLEDGE OF ALLEGIANCE

Councilor Bradbury led the Pledge of Allegiance.

III. CITIZEN COMMENTS

This is an opportunity for members of the public to address the City Council on agenda items or any issue of City business; provided, however, members of the public shall not address matters that are the subject of a public hearing or provide additional testimony or information on a quasi-judicial matter (e.g., Planning and Zoning matter) after the official record of such matter has been closed. Persons commenting may request that items be placed on a future agenda for further discussion; such requests are subject to approval by the City Manager or a majority vote of the City Council. Comments regarding the performance of a specific City employee are not appropriate during Citizens' Comments; instead, a meeting should be scheduled with the City Manager. The presiding officer may determine that comments regarding matters that have been previously heard and/or decided by the City Council are not appropriate for Citizens' Comments.

*A person shall not provide comment unless and until recognized by the presiding officer. Persons providing comment shall identify themselves by their names and cities of residence, but shall not be required to disclose their mailing or home addresses. Persons making comments shall be limited to **3 minutes** each, unless additional time is allowed by the presiding officer.*

Comments may be made: (1) in-person, (2) by emailing the City Clerk at kravencroft@cityoflewiston.org, or (3) by calling (208) 746-3676 and leaving a message. Comments submitted by email or phone will be forwarded to the City Council. If you would like your comment to be read out loud during the meeting, please so indicate in your message. Members of the public who wish to provide in-person comment, but who are unable to secure a seat in the designated meeting space and/or overflow room(s) due to occupancy or gathering limits, will be rotated in and out of the designated meeting space in order to provide comment. While not in the designated meeting space and/or overflow room(s), such persons may watch and listen to the livestream of the meeting on their own devices by visiting the City of Lewiston's Facebook page or the City's website at cityoflewiston.org. The City will not provide a means for listening to the meeting outside of the designated meeting space and/or overflow room(s).

There were no citizen comments.

IV. WORK SESSION ITEMS

A. ANNE BOLLINGER BUILDING PROPOSAL: *Update and discussion on costs associated with repairs* (Nygaard) 10 minutes

City Manager Nygaard updated the Council on the costs associated with the repairs that need to be made to the Anne Bollinger Building. He shared a diagram from a 2016 report that showed each side of the building and explained the affected areas in need of repairs. He provided pictures showing the water intrusion that is taking place with the sandstone exterior walls and stated that the fracturing of the rock is occurring in multiple locations. Mr. Nygaard noted that the entire roof would need to be replaced, as well as a majority of the trusses. The estimated cost to make the building secure and waterproofed is approximately \$800,000 to \$1.2 million.

City Manager Nygaard stated he feels that the options going forward for the Council would either be to start down a path of restoration or demolition. In order to begin a restoration process, a company would need to be hired to evaluate and define the scope of work needed to be done to place the building up for bid. If the Council were to choose to demolish the building, demolition experts and engineers would need to be hired to create a plan to move forward with the process.

Councilor Pernsteiner asked if the estimated cost for repairs is only to make the building dry and safe for up to 10 years, but not necessarily a useable space. Mr. Nygaard confirmed. He noted that there would need to be a fairly extensive renovation on the heating, cooling and electrical systems, as well as the inside of the building.

In response to Councilor Miller, Mr. Nygaard noted that the majority of the repair costs include the roof and sandstone. The building will need the mortar replaced between the stones and then sealed to protect from further damage.

Councilor Kelly asked if the structure is safe for the community as it stands now. Mr. Nygaard responded that there are some areas of concern on the south and east sides of the building with certain fractures. The fractures and base of the building would need to be evaluated by an engineer to further assess the damage.

Councilor Bradbury stated that the outcome for this building seems rather bleak in terms of the money that would need to be spent, the lack of identified feasible use, and the continued deterioration of the sandstone. He said that he would like to be able to assist in saving the building, but feels that this project is not physically or fiscally feasible.

Mr. Brigham stated that sandstone is a very durable material if it is treated and cared for correctly. He said that there are multiple aging buildings that are constructed of sandstone that are still standing.

Councilor Blakey stated that his position on this subject has not changed. He said he is concerned that there could be liability issues that are going to arise if this building is retained by the city. He asked if the property could be sold in an "as is" condition as surplus or if the building needs to be torn down for the property to be sold as a vacant lot. City Manager Nygaard responded that the property has to be declared as surplus and the contract would need to state the terms of purchase.

Councilor Miller expressed that it is important to know the costs associated with demolition, noting potential fundraising efforts to raise enough money to match that cost and save the building. The way these funds would then be spent would depend on what the community would like to see done with this building.

Councilor Pernsteiner asked what it would take to get a demolition quote. He recommended that the City move forward with getting that scope of work done over the next couple of months. The challenge of this topic is that the decision for this project needs to be made sooner than later.

Councilor Bradbury stated that he would like to give the Bollinger Group a chance to present the Council with options for practical uses of the building if it is restored.

Councilor Kelly asked what type of commitment from the Council is needed for the Bollinger Group to begin fundraising efforts. Mr. Brigham responded that the group needs assurance that the building will not be torn down. If the City could develop a 5-year phase to continue to repair the building in sections, there are grants available if there is assurance that the building will continue to stand.

Councilor Bradbury stated that his understanding is that per Idaho Law, the building has to be put to use by the public because it is a public building. He said he believes it would be difficult to agree to spend \$1 million on a building that may not be utilized. Mr. Brigham responded by stating that the city would not have to remain the owner of the building if it were to be improved, removed as a condemned building, and then sold.

Councilor Blakey suggested moving forward with the current meeting agenda and come back to this topic at a later date when more information is available. Mayor Collins and Councilor Bradbury suggested that this item be placed on an agenda in the upcoming months.

B. WATER TREATMENT PLANT: *Status update on construction at the Water Treatment Plant* (Bailey) 10 minutes

City Engineer Bailey provided a Water Treatment Plant (WTP) Phase I design update for the Council. She covered what has been completed so far in Phase I and noted there has been a design concept submitted to DEQ for approval. There will be a minimum of three packages included in the entire project and demolition is planned to begin in October 2021. She explained that the plan for this project is to demolish the existing plant and utilize ground water for several months then bring in temporary treatment trailers for peak watering season to supplement water demands.

Ms. Bailey reviewed the sequence of construction beginning in October 2021 and ending approximately December 2022. The first step is to demolish the existing plant and make room for the new plant. She provided a financial overview for Phase 1 and added that items for the progressive design-build will come before the Council in the future.

Councilor Bradbury asked for the budget status of the project. Ms. Bailey responded by stating that the project is currently on budget.

C. **COUNCILOR COMMENTS:** *Discussion on allowable topics under Councilor Comments on City Council agendas – Action Item (Gómez) 10 minutes*

City Attorney Gómez provided information regarding three areas of law that govern what can be discussed during councilor comments.

- Idaho Open Meetings Law Section § 74-204(4) states that the councilor must make a good faith effort to include on the original agenda all items known to be probable items of discussion.
- Lewiston City Code states that councilor comments have to be limited to items of public interest that are not related to an item currently before the council or could come before council in the foreseeable future.
- Lewiston City Code Section § 2-21 is in regards to communication made to the Mayor and council from the public. The section states that the councilor may briefly present a communication of general interest under new business and have the matter placed on a subsequent agenda for discussion.

Ms. Gómez stated that she feels that councilor comments need to be topics pertaining to events that councilors have attended or events that are upcoming in the community.

Councilor Bradbury stated that the reason he requested to have this item on the agenda was the concern for possible open meetings law violations and thanked Ms. Gómez for the research done on this topic. He noted that his questions have been clarified.

Councilor Pernsteiner stated that councilor comments should not be used to discuss agenda items that took place earlier in the meeting. He said that he feels the council needs to do their due diligence in making sure that comments made are appropriate.

Councilor Blakey asked for clarification regarding questions or issues that need to be asked of certain departments with regard to topics that are not on the agenda. Ms. Gomez stated that her recommendation would be to contact the department or City Manager directly or request the City Clerk to place that topic under councilor comments on the agenda. City Manager Nygaard stated that if it's a simple question for the department, an email could be sent directly to the department, but if the comment is a directive, it should come from the City Manager.

D. **GOLF OPERATOR CONTRACT:** *Overview of the Golf Operator Contract between the City and Golf Fun, Inc. (Barker) 15 minutes*

Parks and Recreation Director Barker updated the council on the golf operator contract with Golf Fun, Inc. He covered six specific items that were discussed with the current golf course operator, noting they will be required to complete or support necessary work on the course, such as irrigation ponds, the road into the parking lot and parking lot itself, exterior fencing, the cart path between holes 13 and 14, and the North overflow pond.

Mr. Barker stated that the current Memorandum of Understanding (MOU) includes a revenue share agreement that requires an additional lease payment of 25% if the golf course has a gross revenue above \$600,000 to \$800,000 annually. The total revenue grossed from last year did allow for that that additional lease payment.

Parks and Recreation Director Barker continued by providing a list of goals moving forward with the golf course which includes the creation of a premier training facility that would include an expanded driving range. He recommended developing a master plan for the course moving forward and the need for the city to get a better handle and understanding of the course financials.

Councilor Bradbury asked when the airport lease expires. Mr. Barker stated that the lease is signed annually, with a lease amount of approximately \$35,000. Councilor Bradbury then asked when the contract with Golf Fun, Inc. expires. Mr. Barker replied by stating that the contract has expired and is on a month-to-month basis with a lease payment of \$115,000 per year. Councilor Bradbury asked if the airport has relayed that the rates are going to increase. Mr. Barker stated that there have not been any recent discussions with the airport. Councilor Bradbury asked for the amount owed to the Sanitation Fund. Administrative Services Director Marsh responded that the amount still owing is approximately \$370,000. Mr. Bradbury noted that he has provided a copy of a section of his briefing that he will file with his judgment regarding his disagreement in providing free water to the golf course, parks and the fire department.

E. ELECTION PROCESS: Update on the election process in light of the initiative to change the city's form of government (Gómez) 10 minutes

City Attorney Gómez stated that the group that has been campaigning to have an initiative included on the November 2nd ballot, as to whether the City should revert to a strong mayor form of government, has succeeded in getting that issue on the ballot. She provided the Council with a brief overview of how the process will work and what the ballot could look like. She noted that within ten days of the City receiving verification that enough signatures were collected, the City has to issue a proclamation setting the date for the election.

Ms. Gomez explained that the City Clerk will need to prepare a voter's pamphlet that will consist of gathering arguments for and against the initiative. On or before July 20, 2021, voters can prepare and file arguments with the City Clerk to be included in the pamphlet. The pamphlet containing the information will need to be distributed to every household within the city by September 25, 2021.

Ms. Gómez explained that the state statutes are not clear as to the process of moving to a strong mayor form of government. She indicated she was able to reach out to the Secretary of State's Office for guidance on the process and they were extremely helpful and provided a letter that was forwarded to all Council members.

City Attorney Gómez explained how the ballot would appear to a voter in the November election. She continued by providing information regarding councilor selection depending on the outcome of the initiative. Idaho Code § 50-805 states that if the initiative was successful, the new governing body would consist of the same number of members currently on city council, but noted that there is a way to change the number of councilors. Ms. Gómez stated that under the city manager form of government, there can be either five or seven members; however, under a strong mayor form of government, there can be four or six members. In order to have this topic on the ballot, the city council would either pass a resolution stating that it will be on the next election for the public to vote on or there can be another initiative to get the topic on the ballot. At this point in time, there would be six city

councilors, if the initiative were successful. She stated that the initiative requires a simple majority vote to pass.

Councilor Pernsteiner asked what the financial implications would be for filing for candidacy if an individual were to run for both positions (Mayor and Councilor). Ms. Gómez indicated that she was unsure at this time, but would review and provide a response. Councilor Pernsteiner asked for clarification on how the arguments would be condensed into the voter's pamphlet. Ms. Gómez explained that any voter can file a 500-word limit argument and the City Clerk then selects which arguments are in the pamphlet. She noted that there is a hierarchy provided in Idaho Code § 34-1812(a) if multiple arguments are submitted.

Ms. Gómez continued by explaining how the citizens would vote on the initiative. She stated that there are six issues the council could decide on, but suggested that they focus on three which consist of the mayor and councilor compensation, whether to require a majority vote to prevail for the mayor, and setting of a date that the form of government would change if the initiative were to be successful.

City Attorney Gómez stated that if the form of government were to change, the city code would have to be modified extensively, as well as all policies and procedures wherein the city manager was included.

Councilor Blakey asked if it possible for the council to determine compensation for a city administrator at the time the mayor compensation is decided. Ms. Gomez stated that the council could decide that; however, the ordinance only specifies that the mayor's salary be established. Councilor Pernsteiner asked if the current council would make the changes necessary to transition to a new form of government, including a decision on what that structure would look like. Ms. Gómez responded that at the minimum, there would need to be a directive to change at least Chapter 2 of the city code until January when the new council was sworn in.

City Attorney Gómez noted that the Council, by ordinance adopted at least 120 days prior to the next general election, can assign councilor seats. Also, the council, under ordinance adopted at least 120 days prior to the next general election, the can provide for election of councilors by districts. She said that under the councilor-manager plan, the council does have the option of providing for the election of the mayor by the voters. The elected mayor would still only have the power set out in Idaho Code § 58-10 and not the powers of a strong mayor.

Councilor Bradbury commended the work that was done on the report given by the legal team. He asked for clarification on councilors elected by districts, if that was an option, would the district elect the councilor or is that an at large decision. Ms. Gómez stated that she believes that just those individuals within a particular district would elect the councilor to represent that district.

Councilor Blakey stated that assigning councilor seats is a common way of electing city officials and he believes that would be a very viable approach to an election. Ms. Gómez recommended not changing to a district election due to the complexity of what is already on the ballot. Councilor Blakey agreed.

Councilor Pernsteiner asked if there would be any other items on the ballot. Ms. Gómez replied that County Clerk Weeks indicated that there could be school district board races as well. Councilor Pernsteiner asked if information will be available prior to the meeting in May. Ms. Gómez confirmed. City Manager Nygaard suggested if the council has questions, they could submit them to the City Attorney or his office to review and have information prepared for the May 3rd meeting.

- F. **PROCLAMATION: ELECTION:** *A Proclamation wherein the Lewiston City Council proclaims that an election to determine whether to retain the City of Lewiston's council-manager plan shall be held on November 2, 2021*

Mayor Collins read aloud the Proclamation proclaiming an election to determine whether to retain the City of Lewiston's council-manager plan.

- G. **COURT HOUSE UPDATE** – *Review of the need for a Police Station analysis update (Nygaard) – 10 minutes*

City Manager Nygaard provided an update on the Police Station analysis. He stated that the summary from Valbridge Property Advisors indicated the value of the existing building is \$2,360,000, or \$180 per square foot. Lombard Conrad Architects has been working through the plan and have completed the data input from the city, various interviews, and the site analysis of the space needed for the facility. Mr. Nygaard said that they are working through the finalization of the block diagrams to show specifics on the space needed and that a more detailed update will be available at the May work session. Lombard Conrad Architects will begin reviewing sites for the facility once the block diagram is complete and will then meet with the City Manager and Police Chief to discuss. The preliminary findings are that a 21,000 square foot building would be needed.

Councilor Bradbury would like to know what comparable the company used for the data provided.

V. **UNFINISHED AND NEW BUSINESS**

A. ***CITY COUNCILOR COMMENTS***

Councilor Miller reminded everyone that the City newsletter came out today and encouraged all to take a look at the videos and information provided.

B. ***CITY MANAGER COMMENTS***

There were no City Manager comments.

C. ***ADVISORY BOARD OR COMMISSION APPOINTMENTS*** – Action Item

There were no appointments.

D. ***PROPOSED WORK SESSION TOPICS*** – Action Item

Councilor Bradbury requested the Greco Development and the sewer line project be placed on a future work session agenda. He said he understands that the city, Mr. Greco, and Nez Perce County all have their views on the topic and he would like to hear from all parties involved to gain a better understanding of the issues and assist in providing a resolve.

Councilor Pernsteiner stated that he is very interested in seeing the issue resolved, but all parties involved need to be present at the meeting.

City Manager Nygaard stated that this topic is an administrative issue with City Code violations at this time; however, he said he would reach out to the council to determine specific items they would like to discuss prior to the meeting.

Councilor Miller and Blakey suggested having a special meeting rather than having the item added to a work session. Councilor Blakey feels that it will be a lengthy discussion and should require all parties to be involved. Councilor Pernsteiner expressed the importance of having a focused agenda in place prior to the meeting.

Councilor Miller stated she feels that the situation is more complicated than just a sewer line issue and believes the meeting should be either information or a group discussion, but not both.

Councilor's Bradbury and Pernsteiner moved and seconded to have the discussion on the next work session agenda with the condition that a representative of all parties would be present. The motion carried 5-2 with Councilors Blakey and Miller voting nay.

Following a motion and second from Councilors Pernsteiner and Blakey, the Council went into Executive Session to discuss items pertaining to personnel and litigation. ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller; Pernsteiner. VOTING NAY: None.

- VI. EXECUTIVE SESSION RE: PERSONNEL AND LITIGATION:** *Idaho Code 74-206(1)(a) to consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a vacancy in an elective office or deliberations about staffing needs in general; and Idaho Code 74-206(1)(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated – Action Item*

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

VII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Mayor Pro Tem Schroeder adjourned the April 5, 2021, Work Session at 5:40 p.m.

Brittnie, Recording Secretary

Date approved by City Council