

April 11, 2022

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; Council President Liedkie; Councilor Blount; Councilor Forsmann; Councilor Kleeburg; Councilor Schroeder; Councilor Tousley.

I. CALL TO ORDER

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

II. PLEDGE OF ALLEGIANCE

A group of 4th grade Cub Scouts led the Pledge of Allegiance, asked the Council questions about City government, and shared their pledge.

III. CITIZEN COMMENTS

Maliik Prior shared concerns about public transportation in the valley. He reported that many people are experiencing problems in getting around and would like to see expanded routes.

IV. PUBLIC HEARINGS AND PRESENTATIONS

A. FINANCIAL REPORT – SIX MONTHS ENDED MARCH 31, 2021: *Report for the five months ended February 28, 2022, in accordance with Idaho Code 50-208 – No oral report*

Councilor Kleeburg noted that the percent of budget for Police Retirement is listed at negative 9.02, and stated that he believed this account was fully funded. Ms. Gordon replied that the Police Retirement Fund was not funded in FY'22, nor in FY'23, based on the last actuarial report. The slight negative in investment earnings is the result of the market and is expected to rebound. She emphasized that funding may need to be reviewed in the future, but it is considered fully funded at this time.

B. PUBLIC HEARING: VA-01-22 – PUBLIC STORMWATER UTILITY VACATION REQUEST – PETITIONER: TYLER BOLAND: *Accepting testimony on a request to vacate a portion of public storm drainage and sewer line easement in the Darby Village Subdivision (1532 24th Avenue) so that a proposed residential structure can be constructed closer to the south property line than would currently be allowed (Weigand)*

Stating that this was the time and place advertised for the Public Hearing regarding VA-01-22, Mayor Johnson opened the hearing and asked that a staff report be provided.

City Surveyor Weigand reported that Mr. Boland has filed a petition requesting that the City vacate a portion of the public storm drainage and sewer line easement located along the southern side of his property so he can build his proposed residential structure closer to

the south property line. As the proposed vacation only affects an easement which is specifically designated for stormwater and sanitary sewer use, the only entities directly affected by the proposed vacation are the applicant and the Public Works Department as custodian of the public's rights for stormwater and sanitary sewer management. The Public Works Department supports the proposal contingent upon the applicant agreeing to maintain storm water drainage through the property within the remaining easement area.

Mr. Boland indicated that he is proposing to move the easement. Currently the furthest point of storm sewer is 52 feet which takes up a portion of his property. Finding property these days and making it work for the City and developing it is getting very expensive. Where the building currently sits, one of the corners is approximately 18 inches inside of the 52-foot easement. Warren Watts Engineering performed a stormwater assessment and to maintain the drainage ditch, he recommended not worrying about the 18 inches, but rather moving back ten feet which is not anywhere near the City sewer line.

Mayor Johnson noted that he has visited this site prior to Mr. Boland applying for a vacation. Ms. Gómez indicated that because this is not a quasi-judicial matter, just disclosing this information for the record is sufficient.

Mayor Johnson asked for testimony either in favor of or in opposition of the vacation request. There being none, he declared the hearing closed.

C. PUBLIC HEARING: ANX22-000001, CPA22-000001, ZNC22-000001 - HOWARD LEGACY LLC: Accepting testimony on a request to annex the undeveloped southerly 35.19 acres generally located to the north of Frontier Drive and to assign a Comprehensive Plan Land Use Designation of Low Density Residential in the proposed Northview Legacy Addition Planned Unit Development Zoning District (Hollingshead)

Mayor Johnson noted that this evening was the time and place advertised for the public hearing regarding ANX22-000001, CPA22-000001 AND ZNC22-000001. He opened the hearing and requested a staff report.

It was reported by Assistant Planner Hollingshead that these requests are associated with a preliminary subdivision plat application to create 104 new residential building lots from 35.19 acres, which will come before the Council at a later date. Both Pathfinder Way (on the east side) and Infinity Way (on the west side) would be extended to the north to provide access. Three additional roads (Horizon Way, Range Way and Canyon Drive) would be installed to access the proposed building lots. The proposed Northview Legacy Addition PUD would be an extension of the existing Northeast Crossing PUD and design standards would be similar in nature to continue the existing neighborhood. The Planning & Zoning Commission public hearing resulted in no public testimony in opposition of the proposal.

Councilor Kleeburg noted that the R-2, Low Density Zone is being proposed and questioned the need for a PUD. Ms. Hollingshead explained that the idea is to continue on

with the things that already exist within the PUD such as sidewalks, street trees, development standards, etc., in an effort to make for a better neighborhood.

Testimony, both in favor and against, was requested by Mayor Johnson. None was provided and the hearing was closed.

V. 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".

Councilor Kleeburg requested that the March 22, 2022, minutes be amended to reflect a change from "she" to "he" on page 1, paragraph 5 under Item II.

Councilor Kleeburg and Councilor Tousley moved and seconded, respectively, adoption of the Consent Agenda. *ROLL CALL VOTE: VOTING AYE: Liedke; Blount; Forsmann; Kleeburg; Schroeder; Tousley. VOTING NAY: None.*

- A. **LEWISTON CITY COUNCIL MEETING MINUTES:** 03/22/22 Regular; 03/23/22 Chapter 2 Subcommittee
- B. **FINAL PLAT - HOOT ADDITION:** *Considering the subdivision of approximately 1.27 acres of property currently occupied by a storage building, shop and single family residence located at 1008 Airway Avenue, into three lots*
- C. **RESOLUTION 2022-18:** *Considering a public right-of-way dedication from Idaho Central Credit Union to the City of Lewiston*
- D. **VOUCHER'S PAYABLE:** *Considering approval of the Vouchers Payable dated 03/18/22 through 03/31/22 - \$1,288,753.90*

VI. ACTIVE AGENDA

- A. **RESOLUTION 2022-16:** *Considering vacating a storm water drainage and sewer line easement in VA-01-2022 (Weigand)*

A motion and second were offered by Councilor Schroeder and Council President Liedke, respectively, to approve Resolution 2022-16. *ROLL CALL VOTE: VOTING AYE: Liedkie; Blount; Forsmann; Kleeburg; Schroeder; Tousley. VOTING NAY: None.*

B. BID AWARD – IFB-22-005 DEMOLITION OF 854/858 MAIN STREET: *Considering awarding the bid for the demolition of 854/858 Main Street to Crea Construction, Inc. in the amount of \$132,580 (Hermann)*

Assistant City Attorney Hermann explained that on October 25th of last year, the City Council directed staff to abate the nuisance building at 854/858 Main Street. Staff informally requested price quotes from several local contractors but did not receive any. Ms. Hermann noted that after all legal advertisement requirements for the bid were completed, and a pre-bid conference was held, two bids were received and opened on March 29, 2022. Crea Construction submitted the lowest responsive bid in the amount of \$132,580. Ms. Hermann noted that this project was not included in the budget, so funding will need to be determined. The plan is that Crea Construction will perform the work and the City will pay for it. City staff will then mail a bill to the property owner for the cost of the work. Mr. Khurana will have 30 days to pay the City back and if payment is not made, staff will need to certify a special assessment to the Tax Assessor’s office to be placed on the tax rolls for reimbursement through the court system.

Finance Manager Gordon indicated that this was not an anticipated cost for the City in the current budget, so it will need to be included as an amendment. The hope is that the property owner will reimburse the City for the costs. However, if this doesn’t happen, the receivable will be recognized and reimbursed through the courts.

Council President Liedkie asked if staff believes the repayment will be made by the property owner. Assistant City Attorney Hermann said she is not sure at this point as she hasn’t spoken with Mr. Khurana’s attorney in several months. Of course that is the hope, but if not paid within 30 days, the City could potentially recoup those costs in time.

Councilor Tousley asked if the City could potentially end up owning the property. Ms. Hermann indicated that a delinquency of three years would trigger Nez Perce County to go through the process of selling the parcel at public auction.

Councilor Forsmann questioned the outcome if the Council chose to reject the bid. Ms. Hermann noted that then it would be at the Council’s discretion as to what they would like to do to move forward.

Councilor Kleeburg emphasized that it is time to clean up this property. It’s an eyesore, a public safety hazard, and has become a storage area for vehicles. He said he doubts that the City will see any money from the property owner, but it needs to be done. Councilor Schroeder agreed, stressing that the citizens want this property cleaned up.

Councilor Blount said he understands it’s an eyesore, but suggested that City crews and City equipment be utilized in an effort to save taxpayer money. Councilor Tousley replied that City staff are not trained for demolition, nor are they bonded for this type of

work. Though he said he doesn't want to have to pay for this clean-up, the City needs to cut its losses and move forward.

Mayor Johnson noted that he has spoken with Mr. Khurana and has asked him to work with the City. Staff plans to mail him a letter asking for his cooperation and outlining the demolition process so that he will be informed. This is a safety concern and the City has a responsibility to address it.

Councilor President Liedkie questioned Crea Construction's time line. Ms. Hermann indicated the desire is to have work begin by the end of this month.

Mayor Johnson thanked Building Official Smith and the many other staff who have worked hard to get this to the point of demolition. He noted that it has been a tough job.

Council President Liedkie moved to approve the Bid Award for the demolition of 854/858 Main Street to Crea Construction in the amount of \$132,580. Councilor Tousley provided a second.

Ms. Liedkie said that as the city moves forward with business, this building has come up too many times in conversations. She said it is time to get it cleaned up, and pointed out there may be other ways to go after the funds the City will be investing.

ROLL CALL VOTE: VOTING AYE: *Liedkie; Forsmann; Kleeburg; Schroeder; Tousley.*
VOTING NAY: *Blount.*

C. ORDINANCES

1. FIRST READINGS

- a. Ordinance 4847: *Implementing the City Council's decision in ANX22-000001 to annex land into the Lewiston City Limits (Hollingshead)*

Council President Liedkie moved and Councilor Kleeburg seconded the first reading of Ordinance 4847. The motion carried 5 to 1, with Councilor Blount voting nay.

ORDINANCE 4847: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN ANX22-000001 TO ANNEX LAND INTO THE LEWISTON CITY LIMITS; AND PROVIDING AN EFFECTIVE DATE"

- b. Ordinance 4848: *Implementing the City Council's decision in ZNC22-000001, declaring that certain newly-annexed real property be included in the Planned Unit Development (PUD) Zone; amending the official zoning map; approving the*

Northview Legacy Addition Planned Unit Development Agreement between the City and Simon Howard, Matthew Howard and Jennifer Howard (Hollingshead)

It was moved by Council President Liedkie and seconded by Councilor Forsmann to approve the first reading of Ordinance 4848 by title only. The motion carried 6 to 0.

ORDINANCE 4848: "AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL'S DECISION IN ZNC22-000001, DECLARING THAT CERTAIN NEWLY-ANNEXED REAL PROPERTY BE INCLUDED IN THE PLANNED UNIT DEVELOPMENT (PUD) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; APPROVING THE NORTHVIEW LEGACY ADDITION PLANNED UNIT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEWISTON AND SIMON R. HOWARD, MATTHEW P. HOWARD, AND JENNIFER A. HOWARD; AND PROVIDING AN EFFECTIVE DATE"

- c. *Ordinance 4849*: *Amending Section 39-1 of the Lewiston City Code to update the City of Lewiston Area of City Impact Boundary Map (Hollingshead)*

A motion was made by Council President Liedkie to read Ordinance 4849 for the first time. Councilor Tousley provided the second and the motion passed 6 to 0.

ORDINANCE 4849: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 39-1 OF THE LEWISTON CITY CODE TO UPDATE THE CITY OF LEWISTON AREA OF CITY IMPACT BOUNDARY MAP; AND PROVIDING AN EFFECTIVE DATE"

- d. *Ordinance 4850*: *Amending Chapter 2 (Administration) of the Lewiston City Code (Gómez)*

Councilors Schroeder and Forsmann moved and seconded, respectively, the first reading of Ordinance 4850.

Councilor Schroeder moved to amend Article 4, Appointed Officers. Councilor Forsmann seconded the motion. Councilor Schroeder said she would like to include all department leaders as appointed officers including Police and Fire. She noted this came to light when Ms. Banker from Mission Critical described Lewiston as being very unique. All of the City departments have longevity and institutional knowledge, which is a big asset to Lewiston.

City Attorney Gómez clarified that this would include all Department Directors, other than the Library Director as she is hired by the Library Board of Trustees. Ms. Schroeder confirmed.

Councilor Liedkie said that she cannot support this motion. The people of Lewiston have spoken that they wanted a strong mayor. Having all Directors as appointed officers creates more opportunity for miscommunication and misappropriation of duties, with no leader in sight. While she believes the City has qualified staff, Ms. Liedkie said it should remain as is with the potential for changes in the future.

Councilor Kleeburg said he is comfortable with the Mayor being in charge of personnel decisions. Councilor Schroeder replied that she isn't just taking the current mayor into account, but rather protecting the way things are handled by different mayors in the future.

If this amendment were to be accepted, Councilor Tousley asked what would change. City Attorney Gómez explained that appointed officers have to be appointed, or removed, by the Mayor with a majority vote of the Council. If the Mayor does not make a recommendation, it would take a unanimous vote of the Council to perform either of these actions. Councilor Tousley said he doesn't know who will be the next mayor and it is important that the Council have some say in the protection of those individuals who work for the City.

Councilor Liedkie emphasized that this new Council is only in its fourth month of service. If this amendment is accepted, it will bring 7 or 8 Directors before this body who could then petition to remove them all. Now is not the time to make a massive change while trying to navigate these new waters. Staff needs to spend time with the Mayor and this decision would not help with those relationships.

Councilor Forsmann agreed there should be checks and balances in place and that all personnel decisions should not fall on the Mayor's shoulders. Councilor Schroeder said now is exactly the right time to stabilize the departments, leaders and staff so they don't have to worry about one person making a decision about their job without the support of the Council. This body has every right to oversee how its assets are managed, especially when the future of the Mayor's position is unknown.

Following further discussion, the amendment failed. *ROLL CALL VOTE: VOTING AYE: Forsmann; Schroeder; Tousley. VOTING NAY: Liedkie; Blount; Kleeburg. Mayor Johnson broke the tie, by voting Nay.*

The motion to read for the first time carried 5 to 1, with Councilor Schroeder voting Nay.

ORDINANCE 4850: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING CHAPTER 2 (ADMINISTRATION) OF THE LEWISTON CITY CODE; AND PROVIDING AN EFFECTIVE DATE"

2. SECOND AND THIRD READINGS

- a. Ordinance 4843: *Amending City Code Section 37-93.6(a)(9) by removing the reference to City Manager and Section 37-93.8(a)(5) by removing the reference to City Manager and providing that the Public Works Director may determine that the requirement for planter strips is unfeasible due to existing conditions*

Council President Liedkie and Councilor Kleeburg offered a motion and second to combine the second and third readings and to waive the third reading in full of Ordinance 4843.

Following comments, Councilor Kleeburg said he would trust that the Public Works Director would use his absolute best reasoning and judgment as to why a planter strip would not be installed. He added that there is no point in having this Ordinance if the planters are not intended to be irrigated. Mr. Kleeburg said he hopes staff will continue to move forward with trying to accommodate people with planter strips as best as possible.

Council President Liedkie said she understands the idea is to clean up language within the Code; however, in retrospect the Public Works Director should be able to effectively and efficiently address these issues as they come up.

Ms. Hollingshead reminded the Council that this Ordinance is only in relation to the Bryden Avenue Special Planning Area A. Katie

The motion to combine carried 6 to 0.

Council President Liedkie then moved to approve the first reading of Ordinance 4843 by title only. The motion was seconded by Councilor Kleeburg and carried unanimously.

ORDINANCE 4843: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 37-93-6(a)(9) OF THE LEWISTON CITY CODE BY REMOVING THE REFERENCE TO CITY MANAGER, AMENDING SECTION 37-93.8(a)(5) BY REMOVING THE REFERENCE TO CITY MANAGER AND PROVIDING THAT THE PUBLIC WORKS DIRECTOR MAY DETERMINE THAT THE REQUIREMENT FOR

PLANTER STRIPS IS UNFEASIBLE DUE TO EXISTING CONDITIONS; AND PROVIDING AN EFFECTIVE DATE”

- b. **Ordinance 4844:** *Implementing the Council’s decision in PUD22-000001, rezoning certain real property from the Medium Density Residential (R-3) Zone to the Planned Unit Development (PUD) Zone*

Following a motion and second from Council President Liedkie and Councilor Forsmann, and a unanimous vote in favor, the second and third readings of Ordinance 4844 were combined and the third reading was waived in full.

Councilor Blount questioned the reasoning for waiving the third reading. City Attorney Gómez explained that Idaho law requires that Ordinances be read in their entirety. The above motion merely allows the Clerk to read the Ordinance for the third time by title only.

The motion to read carried 6 to 0.

Council President Liedkie then moved to read Ordinance 4844 for the second and third times, by title only. Councilor Kleeburg offered the second and the motion carried unanimously.

ORDINANCE 4844: “AN ORDINANCE OF THE CITY OF LEWISTON IMPLEMENTING THE CITY COUNCIL’S DECISION IN PUD22-000001, REZONING CERTAIN REAL PROPERTY FROM THE MEDIUM DENSITY RESIDENTIAL (R-3) ZONE TO THE PLANNED UNIT DEVELOPMENT (PUD) ZONE; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF LEWISTON; APPROVING THE NAADI HEALTHCARE PLANNED UNIT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LEWISTON AND NAADI HEALTHCARE LEWISTON LLC; AND PROVIDING AN EFFECTIVE DATE”

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

- a. **Ordinance 4843**

- b. **Ordinance 4844**

Council President Liedkie moved to adopt Ordinances 4843 and 4844 and to approve their respective summaries. The motion was seconded by Councilor Tousley. ROLL CALL VOTE: VOTING AYE: Liedkie; Blount; Forsmann; Kleeburg; Schroeder; Tousley. VOTING NAY: None.

D. REASONED STATEMENT – PUD22-000001: *Considering approval of the Reasoned Statement for Naadi Healthcare (Hollingshead)*

It was moved and seconded by Council President Liedkie and Councilor Schroeder to approve the Reasoned Statement for PUD22-000001.

Councilor Blount stated he cannot vote in favor of this item because he spoke with an attorney and was informed that he could not do his own research outside of what he received in his council packet as it is a quasi-judicial matter. He said he believes that as a Councilor, it's his job to do as much research as possible. City Attorney Gómez explained that it works similar to a judge in a courtroom. For due process rights of the applicant, the decision of the Council has to be based on what is in the record. Councilor Kleeburg added that it is unfair to the other councilors, as well as the applicant, if one councilor has more information than the other.

The motion on the floor carried 5 to 1, with Councilor Blount voting nay.

E. ITEMS MOVED FROM THE CONSENT AGENDA

None.

VII. 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.*

Councilor Kleeburg noted that all motions for third readings of ordinances used to have to state, "by title only, suspending the rules". City Attorney Gomez indicated that this is no longer a requirement.

B. CITY BOARDS AND COMMISSION LIAISON UPDATES

None.

C. MAYOR COMMENTS

Mayor Johnson announced that staff is trying to schedule a meeting between the Council and the COSD Board on Thursday, April 12, 2022, at 5:30 p.m. at the COSD Office. It was determined that there was a quorum of the Council available and an agenda would be prepared and distributed.

The Mayor also announced that a Special Work Session of the Council is scheduled for Monday, April 18th, to discuss stormwater, as well as to receive an update on the fire

station. He encouraged the council to read the large report on stormwater that was provided by staff prior to the meeting.

Finally, Mayor Johnson said that he appreciates the Council's respectful manner in which they have necessary civil discourse.

Public Information Officer Maurer reported that City staff has put a lot of effort into department strategic plans, as well as a Community Plan. Staff is currently working on updating their department plans and an online public dashboard will be launched within a couple of weeks. Ms. Maurer added that there are currently many opportunities for public comment: citizen comments during Council meetings, an open house on April 12th at the Community Center regarding the Lower Snake River dams, a City Council election survey on the city's website and other social media platforms, and a survey regarding Community Park and historic preservation.

D. ADVISORY BOARD OR COMMISSION APPOINTMENTS

There were no advisory Board or Commission appointments.

E. AGENDA TOPICS

There were no new agenda topics presented.

VIII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Councilors Kleeburg and Forsmann moved and seconded, respectively, adjournment of the April 11, 2022, Regular Meeting at 7:36 p.m.