

JULY 26, 2021

T HE CITY COUNCIL OF THE CITY OF LEWISTON, IDAHO, met in a Regular meeting on Monday, July 26, 2021, 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.

Councilors Excused: Pernsteiner.

II. PLEDGE OF ALLEGIANCE

Councilor Kelly 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.*

Johanna Frank expressed concern for the homeless population, the ROC shelter being shut down and sidewalks that need repaired throughout the city.

Public Information Officer Maurer read a letter submitted by Vicky Ross regarding her belief that the building at 854/858 Main Street continues to be a nuisance and threatens the public health and safety of the community, as well as adjoining buildings. She pleaded with the Council to rid beautiful downtown Lewiston of this dangerous nuisance.

IV. PRESENTATIONS AND PUBLIC HEARINGS

A. FINANCIAL REPORT - QUARTER ENDING JUNE 30, 2021: *Provided by Accounting Manager Gordon in accordance with Idaho Code 50-208 (Gordon)*

Accounting Manager Gordon reported the end of June represents the end of the third quarter of FY'21 or 75 percent of the total budget. Ideally, it is desired to have all funds at 75 percent of the expenditure budget or less, but due to timing issues, some funds exceed this mark. Ms. Gordon noted the funds exceeding 75 percent as Worker's Compensation, the Economic Development Fund, the Police Retirement Fund, and the Perpetual Care Fund. With regard to the General Fund, revenues and expenses are very consistent with each other, noting they sit at 67 percent in revenues and 65 percent in expenses. By the end of June, the city will be at 96 percent with regard to property taxes collected.

Councilor Bradbury questioned the Economic Development Fund, asking specifically what the Small Business Grant program includes. City Manager Nygaard noted that several small grants were given to businesses who had to close their doors during the pandemic. He noted that Nez Perce County also provided a similar program. Mr. Bradbury questioned the businesses who received funding, and Grant Writer Gilbert replied that she would provide the list.

B. PUBLIC HEARING - PARKS AND RECREATION FEES: Accepting testimony on a proposal to add new Parks and Recreation Department fees (Barker)

Mayor Collins announced that this was the time and place advertised for the public hearing regarding Parks and Recreation Department fees. He opened the hearing and asked that a staff report be provided.

Parks and Recreation Director Barker reported that Ordinance 4824 was created to add a definition for recreational vehicle, to enact City Code regarding Parks and Recreation Department fees and to allow recreational vehicle camping in City parks if prior permission is obtained and the associated fee is paid. Resolution 2021-28 would create new fees within the parks, as well as additional options for vending in parks and parking recreational vehicles during tournaments due to limited availability of RV spots in the valley. All of the proposed fees are new and have not previously been proposed or established by the city.

The proposed new fees include:

- Pickleball court fees of \$10/court per hour with a 2 court maximum;
- Pickleball court rental fee for tournaments/camps of \$75/day plus \$55;
- Disc golf rental fee of \$20/hour with a 2-hour maximum;
- Disc golf rental fee for tournaments of \$75/day plus \$55;
- RV camping fee within the park system of \$20/night with a 4-night maximum;
- Vendor fee without utilities within the park system of \$20/day, \$50/week or \$200/month;
- Vendor fee with utilities within the park system of \$30/day, \$75/week or \$250/month.

The proposed restructured fees include:

- Ballfield fees for basic prep costs; single prep costs and tournament rental

Councilor Kelly asked how it would be handled if an individual stayed overnight in an RV and didn't pay for their stay. Mr. Barker noted that this would be a Code violation and the Police would be contacted. Chief Hurd added it would be a violation for camping in a public place without permission.

Councilor Blakey asked if staff would consider creating signage at the parks for those camping during the tournament, as well self-registration kiosks. Parks & Recreation Director Barker said he would probably not go with self-registration kiosks and require the individuals to go through the Parks office for reservations. He noted that staff will do a much better job of communicating with tournament directors so the teams are well informed ahead of the tournaments. He reminded the Council that camping is tied only to tournaments and is not open to the public to utilize at any time.

Mayor Collins asked for testimony either in favor or in support of the Parks & Recreation Department fees. There being none, Mayor Collins closed the public hearing.

C. **PUBLIC HEARING - AMBULANCE SERVICE FEES:** *Accepting testimony on a proposal to restate and amend ambulance service fees (Myklebust)*

Mayor Collins announced that this was the time and place advertised for the public hearing regarding Ambulance Service Fees. He opened the hearing and asked that a staff report be provided.

Fire Chief Myklebust explained the last fee increase was in May of 2019 which was to modify charges for equipment and medications used. A fee study was not conducted in 2020 due to the pandemic, so the Emergency Services Advisory Board (EMSAB) has advised an EMS fee study be conducted in 2021. They will then make a recommendation to Council if other fees should be adjusted or added. At this time, EMSAB feels that due to the increasing number of ALS treat no transport calls and the increased cost of supplies used on these calls, that the ALS treat no transport fee should be increased from the current \$104 to \$200.

Councilor Kelly asked how Lewiston's fees compare to other communities. Mr. Myklebust replied that the rates are very competitive with those in the valley and surrounding neighbors.

It was stated by Councilor Blakey that as a user of the 911 services twice within the last 30 days, he is very appreciative of the assistance. He asked if it is common practice for departments to not charge when individuals are not transported. Chief Myklebust explained that this is common around the nation and something the Lewiston Department has done for many years.

Mayor Collins asked for testimony either in favor or in support of the ambulance service fees. There being none, he closed the public hearing.

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 Blakey asked that the Vouchers Payable be moved to the Active Agenda for discussion.

A motion was offered by Mayor Pro Tem Schroeder and seconded by Councilor Blakey to approve the Consent Agenda as amended. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

- A. PRELIMINARY PLAT - KUZNETSOV ADDITION: *Considering the plat of approximately 2.39 acres of property located north of Bryden Avenue and east of 16th Street into 5 lots - Action Item*
- B. VOUCHERS PAYABLE: *06/25/21 through 07/08/21 - \$798,519.88 - Action Item (Moved to VI.I.1.)*

VI. ACTIVE AGENDA

A. ORDINANCES

1. First, Second and Third Readings

- a. Ordinance 4824: *Amending Section 26-1 of the Lewiston City Code to add a definition for recreational vehicle, enacting Section 26-3 regarding Parks and Recreation Department fees, amending Section 26-32(c) regarding recreational vehicle camping in city parks- Action Item (Barker)*

A motion to combine the first, second and third readings and to waive the third reading in full of Ordinance 4824 was made by Mayor Pro Tem Schroeder. Councilor Blakey offered a second and the motion carried 6 to 1 with Councilor Pernsteiner excused.

Mayor Pro Tem Schroeder then offered a motion to approve the first, second and third readings of Ordinance 4824 by title only. Councilor Kelly seconded the motion. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

ORDINANCE 4824: "AN ORDINANCE OF THE CITY OF LEWISTON AMENDING SECTION 26-1 OF THE LEWISTON CITY CODE TO ADD A DEFINITION FOR RECREATIONAL VEHICLE, ENACTING SECTION 26-3 REGARDING PARKS AND RECREATION DEPARTMENT FEES, AMENDING SECTION 26-32(c) REGARDING RECREATIONAL VEHICLE CAMPING IN CITY PARKS, AND PROVIDING AN EFFECTIVE DATE"

2. *Adoption and Approval of Ordinance Summary*

a. *Ordinance 4824* - Action Item

It was moved and seconded by Councilor Blakey and Councilor Miller, respectively, to adopt Ordinances 4824. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kelly; Miller. VOTING NAY: Bradbury. EXCUSED: Pernsteiner.*

B. *COMMUNITY PARK MASTER PLAN AGREEMENT*: *Considering approving an agreement between the City of Lewiston and J-U-B Engineers, Inc., in the amount of \$399,364 - Action Item (Barker)*

Parks and Recreation Director Barker noted that Community Park has been in the works since 1999. The city has had a great partnership with the School District and LCSC over the past five years and there is a lot of energy, passion and drive to move forward. Though there has been a lot of infrastructure work been done, the desire is to move forward with projects wherein people can see some activities happening. An RFQ was sought this past spring for landscape architecture and engineering services and six bids were received. A committee of four reviewed the bids and sent those four through the interview process where they each provided a presentation on a similar project they had completed. The committee selected J-U-B Engineers and met to negotiate an agreement to present to the council. The funding would come from the Reserve account, split between 2021 and 2022. The plan is to get started as soon as possible, with an expected nine-month turn around process. Mr. Barker noted that this plan is for full design, and once complete, the city will fully know its expenses and plans moving forward.

Councilor Bradbury noted that project management is listed at \$66,000 and questioned this expenditure. Ms. Brown, J-U-B Engineers, explained this includes time spent with the steering committee and stakeholders. Responding to an additional question from Councilor Bradbury regarding expenses within a "reserve" account, Ms. Brown replied that there may be some other elements along the way the city may want assistance with. This might include the land/water conservation fund process, etc. Rather than

revising the scope, it would be under the purview of the Parks & Recreation Director to allow assistance when or if it is needed. Ms. Brown expounded by explaining that J-U-B will be building a web map and storyboard to allow staff to provide comments, will build a 3D graphic model so everyone understands the vision, will hold an open house, will make a presentation to the Council and will work with multiple members of LHS and LCSC. Councilor Bradbury suggested approaching U of I college students to see if they would be interested in assisting with the project. Mr. Barker replied that there are 198 acres with a lot of detailed elements and specific engineering is required by specialists.

Councilor Blakey said that this document will provide the staff and council with specific costs and information related to drainage, sewer, water lines, elevations, etc. He asked if it will serve as a shovel ready document. Ms. Brown replied that the Plan will be 30 percent design piece and will show a preliminary design set with phased construction. Further, the document will provide a strategic funding time line. Councilor Blakey agreed it is time to move forward on the Community Park, stating that it is going to be a great addition to the city when complete.

Mayor Collins asked if the 9-month time frame until completion includes the reservoir, parking lot, and potentially coordinating with the high school on their time frames. Mr. Barker explained that the reservoir will require separate conversations and reviews outside of the scope of this project.

Councilor Blakey said this type of expense is another good example of why Lewiston could use an auditorium tax. He expressed his belief that there needs to be a citizen's group formed to begin the process of placing an auditorium tax on the ballot.

A motion and second were offered by Mayor Pro Tem Schroeder and Councilor Blakey, respectively, to approve the Professional Services Agreement between the City of Lewiston and J-U-B Engineers, Inc. for the Community Park Master Plan Agreement.

Councilor Miller explained the importance of a Master Plan, noting that knowing costs of construction and maintenance will provide guidance to the council when it comes time for actual construction. She said this is money well spent, especially when it comes to costs associated with ongoing maintenance. It will provide enough time for staff to apply for grants, seek donors, etc., and will definitely provide a return on the investment.

Mayor Collins expressed his support, noting it is exciting to get this started. He agreed that if there was a way to incorporate U of I students into the process, it would be a great way to enhance the projects.

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

- C. **BID AWARD - IFB-21-015 COMMUNITY PARK PARKING LOT:** Considering awarding the bid to M.L. Albright & Sons in the amount of \$328,997.50 - Action Item (Barker)

Parks and Recreation Director Barker explained there are currently about four acres between Community Drive and the Skinner's residence. In hopes to get some projects moving forward on this parcel, discussions were held with DEQ and it was determined that in order to move forward with mass development, water needs to be tied into this area. This agenda item is related to parking lots, interior roadways to provide access to the reservoir, sidewalks, interior access to restrooms, and full grading of the four acres. Tonight's potential bid award is for Phase 1 of a 2-phase parking lot improvement outside of the general Community Park development. Four bids were obtained from the city, and the low bid was M.L. Albright at \$328,997.50. This project would be funded from the building reserve account and it is hoped to be completed by the end of September.

Councilor Blakey asked if competitive bidding is done in order to obtain the lowest bid. City Attorney Gómez indicated that RFQ's are not based on the lowest bid. The theory behind bidding is supposed to be competitive so contractors will reduce their costs in order to win the project.

Councilor Miller asked to abstain due to a potential conflict of interest with her employer. There were no objections.

It was moved by Councilor Blakey to award IFB-21-015 to M.L. Albright & Sons, Inc. and authorize the Mayor to execute the agreement between M.L. Albright & Sons and the City of Lewiston. ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly. VOTING NAY: None. EXCUSED: Pernsteiner. ABSTAINING: Miller.

- D. **RESOLUTION 2021-30:** Considering declaring that the building located at 854 and 858 Main Street continues to be a nuisance and requiring Top Restaurant Investment LLC and its managing member, Praveen Khurana, to abate said nuisance within ten business days of the passage of this Resolution - Action Item (Hermann)

Assistant City Attorney Hermann reported that Council directed staff to prepare a Resolution. If passed, Top Restaurant Investment would have until August 9, 2021, to demolish the building at 854 and 858 Main Street. The Council can then provide direction at an upcoming meeting as to how they would like to proceed if action is not taken by the property owner.

Councilor Bradbury questioned why the Council has to wait until after the deadline is passed to decide what to do if Mr. Khurana doesn't demolish his building. Ms. Hermann explained that this was the process recommended by the Legal office in order to give the property owner an official last chance to take care of the problem before the city moved in to abate or seek a court order. It provides an opportunity to get the situation remedied officially and strengthens the city's position if it were to go to court or abate the property itself. Bradbury: Why do we have to wait until deadline is passed to decide what to do if he doesn't demolish? Kayla: This was a process our office recommended in order to give property owner an official last chance to take care of problem before city moved in to abate or seek a court order.

A motion and second were provided by Mayor Pro Tem Schroeder and Councilor Miller to approve Resolution 2021-30.

Councilor Bradbury said it seems whenever there is a difficult decision, the Council seems to dither and postpone. The fire occurred in December 2019, the Council declared the property a nuisance in January, public safety is at risk, and it is an eyesore to the public. Mr. Bradbury said he believes that Mr. Khurana is dictating the city's procedures and emphasized the need to take care of it now.

Councilor Bradbury offered an amended motion to add language to the Resolution which states that if the property owner doesn't comply with the orders of the Resolution within ten days, the city will move forward with dispatch of the building. The motion failed for lack of a second.

Mayor Pro Tem Schroeder expressed her feelings that staff and Council should stay the course. There is protocol and procedures in place and it is important to follow those.

Councilor Kelly offered an amended motion to add language to the Resolution which states that if at the end of the ten days the property owner has not taken care of his building, then the city will pursue declaratory judgment. Mayor Collins provided a second.

Councilor Bradbury emphasized that this will cause another six-month delay before it goes to court. City Code allows the city to legally

condemn the building now and the fact that public safety isn't peril should make a difference to the Council.

Responding to the amended motion on the floor, Assistant City Attorney Hermann said she would be hesitant to add this language. Staff is working on gathering additional information and options for the council to consider, and depending upon that information, the council may choose to take another route. She noted that this would be coming to the group in an executive session.

City Manager Nygaard noted that there are many decisions that need to be made and each one has a strategy. Staff is asking the council to approve the Resolution at this time and will then bring options for consideration in Executive Session.

The amendment on the floor failed. *VOTING AYE: Kelly; VOTING NAY: Collins; Schroeder; Blakey; Bradbury; Miller. EXCUSED: Pernsteiner.*

The main motion on the floor carried. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Kelly; Miller; Pernsteiner. VOTING NAY: Bradbury. EXCUSED: Pernsteiner.*

- E. RESOLUTION 2021-32:** *Considering a sole source Resolution declaring Polydyne, Inc. as the only reasonable available vendor for Polymer for the City's Wastewater Treatment Plant for FY'21 and FY'22 – Action Item (D. Johnson)*

Councilor Kelly asked if polymer will still be used once the plant is complete. Public Works Director Johnson confirmed, noting that polymer will be used to handle solids moving forward.

A motion was made by Mayor Pro Tem Schroeder to approve Resolution 2021-32. Councilor Blakey offered a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

- F. RESOLUTION 2021-21:** *Considering restating and amending ambulance service fees – Action Item (Myklebust)*

It was moved and seconded by Mayor Pro Tem Schroeder and Councilor Kelly, respectively, to approve Resolution 2021-21. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

- G. RESOLUTION 2021-28:** *Considering establishing City of Lewiston Parks and Recreation Department fees – Action Item (D. Barker)*

A motion to approve Resolution 2021-28 was made by Mayor Pro Tem Schroeder. Councilor Kelly provided a second. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

H. RECYCLING CONTRACT AMENDMENT: *Considering an amendment to the Recycling Contract between SDI and the City of Lewiston - Action Item (D. Johnson)*

Public Works Director Johnson explained that this amendment is merely an extension of the contract between the city and Sunshine Disposal. The recycling contract is set to expire at the end of the year, but it is stipulated within the document that any extension must be done by July 31, 2021. In an effort to consolidate all of the contracts with Sunshine Disposal, the extension is necessary to try to get all of the contracts in front of the Council for consideration.

Councilor Bradbury stated he is still curious if the collected recyclables are actually being recycled or if they are taken to the landfill. He asked for a report which indicates if it is beneficial for the city to continue to recycle.

Mayor Pro Tem Schroeder moved, and Councilor Kelly seconded, approval of the Amendment to the Recyclable Materials, Curbside Collection, Processing, and Marketing Contract between the City of Lewiston and Sanitary Disposal, Inc. *ROLL CALL VOTE: VOTING AYE: Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None. EXCUSED: Pernsteiner.*

I. ITEMS MOVED FROM THE CONSENT AGENDA - Action Item

Councilor Blakey asked for an update on the expenses to date for Councilor Bradbury's lawsuit against the City of Lewiston. City Attorney Gómez explained that her current budget for contracted services was \$35,000. The costs associated with this action are currently at \$43,000. Finance Manager Gordon added that an amendment for an additional \$35,000 will be coming before the Council for consideration. The money would be taken from reserves as there is no revenue for this line item. Councilor Blakey said it is important for the taxpayers to know that they will end up paying for this, win or lose, and said he thinks this is a frivolous lawsuit.

Mayor Pro Tem Schroeder moved and Councilor Miller seconded approval of the Vouchers Payable. *ROLL CALL VOTE: VOTING AYE:*

Collins; Schroeder; Blakey; Bradbury; Kelly; Miller. VOTING NAY: None.
EXCUSED: Pernsteiner.

VII. UNFINISHED AND NEW BUSINESS

A. CITY COUNCILOR COMMENTS

Councilor Blakey addressed an abandoned road that runs behind Sodoko and eventually ties into the 5th Street Bridge. He asked if this might be a good future Community Development project to link downtown rather than trying to navigate coming off the bridge.

B. CITY MANAGER COMMENTS

None.

C. ADVISORY BOARD AND COMMISSION APPOINTMENTS

Mayor Collins moved to approve the reappointment of Mark Havens to the Disabilities Advisory Commission. Mayor Pro Tem Schroeder offered a second. The motion carried unanimously.

A motion was made by Mayor Collins and seconded by Mayor Pro Tem Schroeder to appoint Constance Vance to the Disabilities Advisory Commission. The motion carried 7 to 0.

Finally, Mayor Collins offered a motion and Mayor Pro Tem Schroeder provided a second to approve the appointment of Trisha Decker to the Library Board. This motion carried unanimously.

D. AGENDA TOPICS - ACTION ITEM

Councilor Kelly suggested a discussion at a future work session regarding the airport providing its own personnel, and the liability associated with that, for providing their own fire operations at the airport. The Council agreed.

VIII. ADJOURNMENT

There being no further business to come before the Lewiston City Council, Mayor Pro Tem Schroeder and Councilor Kelly moved and seconded adjournment of the July 26, 2021, Regular Council Meeting at 7:45 p.m.