

Lewiston City Council
Council Meeting Minutes
January 27, 2021
Lewiston City Hall – 7:00 P.M.

1. Call to Order

Electronic City Council Meeting called to order by Mayor Beth Carlson at 7:01 pm January 27, 2021.

2. Pledge of Allegiance

3. Roll Call

Present (4): Mayor Beth Carlson, Councilor Ben Borchardt, Councilor Carol Boynton, and Councilor Nick Ebnet. Not Present (1) Councilor Dan Robertson.

Others present: City Administrator/Clerk Cheryl Knight, Ambulance Director Matt Essig, Police Chief Scott Yeiter, Public Works Director Curt Benter, Erik Fredberg, James Creaghe, Wayne Schauble, Polly Calhoun, and Billy56#5149.

4. Agenda- Changes and additions

Mayor Carlson requested to add Elected Leaders Advanced Program Training as item #11.3 under the City Administrator's Report.

Councilor Boynton motioned to adopt the agenda with said change. Seconded by Councilor Ebnet.

Approved 4-0.

5. Adopt Consent Agenda

A. Regular Council Meeting Minutes- January 13, 2021

B. Accounts Payable

Mayor Carlson motioned to adopt the consent agenda as presented. Seconded by Councilor Boynton.

Approved 4-0.

6. Citizens' Concerns-Wayne Schauble Water/Sewer bill

Mr. Wayne Schauble addressed Council. A pipe broke in his office resulting in over 8,000 gallons being charged on his current bill. Because the water did not go down the sanitary sewer, he was requesting a break on the sewer charges billed. Public Works Director Curt Benter confirmed that the leaking water did not go down the sewer. Mayor Carlson said that it was standard practice that when a leak occurs that doesn't go down the sewer the Council forgives the sewer portion of the bill, not including the sewer base charge.

Councilor Boynton motioned to forgive the sewer charge on Mr. Schauble's current water and sewer bill in the amount of \$91.81 due to a leak at his property and said water leak did not go down the sewer. Seconded by Councilor Ebnet. Approved 4-0.

7. Elcor Construction- 2020 Street Project- Pay App 2 and Final, Consent of Surety, IC134-B Holtz

Bryan Holtz was not in attendance due to a meeting conflict. City Administrator/Clerk Cheryl Knight stated that the final paperwork due from Elcor was received, so we are now requesting to release the retainage holding for this project. The total bid was \$250,000 with \$247,122.50 paid out.

Councilor Boynton motioned to approve Pay App #2 and Final to Elcor Construction in the amount of \$15,206.12. Seconded by Councilor Ebnet. Approved 4-0.

8. PeopleService monthly Report and WO Maint Report- James Creaghe

This item was skipped because Mr. Creaghe was not hooked into the ZOOM meeting, and it was brought back after item #9. Creaghe stated the report was in the packet. There were no questions for him about the report. Creaghe stated the air handlers and fan replacement process had been started, but there is a three-month lead time. An electrician needing to be hired separately submitted a quote of \$85 per hour. Councilor Ebnet inquired if there were any residual affects to the plant because of the power outage. Creaghe stated that power bumps happen at the plant occasionally, but this particular episode was due to a brown-out creating uneven voltage on one leg versus the other which acts as a power outage.

9. Public Works Monthly Report- Curt Benter

9.1 Lewiston Water Supply Plan, Certificate of Adoption

Public Works Director Curt Benter stated that the City needs to adopt the new, updated water supply plan for our DNR water permit. This plan is updated every 10 years. Benter has already updated the groundwater level site establishment of wells and the static groundwater level monitoring. With this adoption, the City Council also needs to adopt a critical water deficiency ordinance. Mayor Carlson stated a few other updates within the document needed to be made also. She will send a separate email to Benter.

Councilor Boynton motioned to adopt the water supply plan. Seconded by Councilor Ebnet. Approved 4-0.

Councilor Borchardt asked about the Culligan Water agreement 9-12-18 which was enclosed in the packet, about 15 pages from the end. Did the agreement need to be updated? Benter will follow up and there is also a checklist of items to be done in the next ten years.

9.2 First Read- Ordinance 2021-02 Water Usage in a Critical Water Emergency

City Administrator/Clerk Knight stated this was a first read of this Ordinance 2021-02 as mentioned by Benter earlier, Benter stated this would be in only in case of a severe drought when water would have to be conserved. As this is a first read, no Council motion needs to be made.

10. Committee Reports

10.1 Personnel Committee

a. Ambulance Volunteer Pay Recommendation

Ambulance Director Matt Essig stated the information was in the packet, and the dollar amounts were included in the current budget. Personnel Committee recommended bringing these pay amounts to City Council.

Councilor Boynton motioned to adopt the Volunteer Ambulance pay recommendations as budgeted in 2021 and with an effective date of 1/1/2021. Seconded by Mayor Carlson. Approved 4-0.

b. Ambulance Resignation- J. Dahl

Councilor Boynton motioned to accept the resignation of Julie Dahl from the Lewiston Volunteer Ambulance Service, with thanks for her service, effective January 31, 2021. Seconded by Mayor Carlson. Approved 4-0.

c. Removal from Probation- Deputy Clerk Jana Benter, Public Works Asst Erik Fredberg

City Administrator/Clerk Knight stated there was a memo in the packet that states both Ms. Benter and Mr. Fredberg have successfully served a twelve-month probationary period per the City personnel policy and passed their probationary reviews. She requested that Council remove them both from probationary status and that they be made permanent full-time employees.

Mayor Carlson motioned to remove Jana Benter and Erik Fredberg from probationary status and make them permanent, full-time employees, effective on their anniversary date in December 2020. Seconded by Councilor Boynton. Approved 4-0.

Mayor Carlson stated that other meeting items included the pay dates for 2021, council meeting dates for 2021, a deferred comp plan for employees, a 3rd party facilitator thru LMC, and the wage study review and implementation.

10.2 EDA Meeting

Mayor Carlson stated that at the EDA meeting there was an election of officers (for chair, vice-chair, and secretary), the monthly financial reports were reviewed, and other discussion topics included the building at 295 E Main St., the draft comp plan, goals for 2021 including housing development and Main Street redevelopment, a housing institute update, grant possibilities, and it was also mentioned that the EDA is looking for additional members, as is the Planning and Zoning Commission. The City was awarded a Noxious Weed grant for the Prairie Trails Park.

11. City Administrator's Report- Cheryl Knight

11.1 FYI- Cancellation of 2021 Heartland Days Festival Email

Knight stated this was an fyi only. No persons have come forward to help with the festival going forward, and many current members are stepping down from serving on the committee. That, along with the continuation of COVID, led to the cancellation of Heartland Days for 2021.

11.2 Second Read- Ordinance 2021-01 Water and Sewer Rates

Knight stated this was a second read for this ordinance, and the effective date was changed to read "Effective with the billing after March 1, 2021". This ordinance will be published in the official newspaper.

Councilor Boynton motioned to adopt Ordinance 2021-01 Water and Sewer Rates, with an effective date of the first billing after March 1, 2021. Seconded by Councilor Ebnet. Approved 4-0.

Councilor Ebnet stated he wanted to know more about the WAC/SAC fees and how they came about. Knight stated this was something the Public Works Committee can look into.

11.3 Advanced Program Training- Mayor Carlson

Knight stated that this LMC training was available and Mayor Carlson wanted to attend.

Councilor Boynton motioned to allow Mayor Carlson to attend the LMC Elected Leaders Institute Advanced Program in the amount of \$95.00. Seconded by Councilor Ebnet. Approved 4-0.

12. COVID-19 Information and Updates

Councilor Boynton stated that the Chamber had a presentation on COVID and to let her or Administrator Knight know if you would like to receive a copy.

13. Additional Council Concerns

Councilor Borchardt asked about dates for the Public Works Committee meeting. Knight stated she would send an email out to the members and arrive at a date that works for all and send out notice. He requested a meeting in the first half of February.

Mayor Carlson had a couple concerns. First was the ability to speak to the City Attorney about matters that would be a conflict of interest for the City Administrator. Every other matter should go through the City Administrator. Previously, the Mayor required permission from the Council before contacting the City Attorney. We need to work towards a formal policy for contacting the City Attorney through the Personnel Committee. Councilor Ebnet stated that he thought at least two Council members should be able to contact the attorney, not just the Mayor. Councilor Borchardt and Boynton concurred. Again, this was only in the case of a conflict for the City Administrator, and the Councilors involved would have to decide if the matter was urgent enough for them to address immediately, or wait until the next Council meeting. The Mayor and City

Council should not send emails directly to each other, but rather have the City Attorney send out information to all if necessary.

Councilor Ebnet motioned that in the case of an urgent matter that would be a conflict of interest for the City Administrator to address, two members of City Council would be authorized to make the decision to contact the City Attorney for legal advice and to draft a memo to the City Council.

Seconded by Councilor Borchardt. Approved 4-0.

Secondly, Mayor Carlson mentioned the email from Kelly Dahl (which was sent to Council members) with questions about her data request. One item mentioned why she was being charged. The City does have a Data Practices Policy adopted in 2011. Minnesota State law has information about data practices, and most everything generated by the government, i.e., the City of Lewiston, is covered as government data and most of it is public data, with the rest being non-public or private data. Most personnel data on an individual is private data, but a person is allowed to see their data. Files might need to be redacted if they contain another person's information. Ten business days is the usual time frame to fulfill data requests. An exhibit in the policy is labeled Fees. Specific items mentioned include: allowing postage for mailed requests, fees can be waived for incidental requests at staff discretion and with specific fees listed for the City Code, the Zoning Ordinance, the Comprehensive Plan, black and white and color copies, and that fees can be charged for searching for, retrieving, summarizing, copying, or electronically transmitting the data. The Personnel Committee will review this policy, with the amount of incidental fees to be determined, and the amount to charge per black and white and color copies. There is a policy behind the charges that were set forth to Ms. Dahl. There is no charge to just look at data. Chapter 13 of the Minnesota State Statutes governs Government Data practices. Councilor Ebnet asked if the personnel file was given to Ms. Dahl. Knight stated the personnel file was given to Ms. Dahl. The redactions done in the current unemployment document were completed by the City Attorney's Office. Councilor Borchardt questioned the 4th paragraph...it was the City Attorney that had requested the documents, redacted them, and then returned them to the City Administrator.

Councilor Borchardt stated that the policy could be looked at in the Personnel committee with the distinction of employee or former employee charges Discussion continued as to whether to charge Ms. Dahl for her UC packet. Knight stated that she followed the policy in charging Ms. Dahl for the documents. She notified Ms. Dahl January 8, 2021 that the documents were available, and that she could come in and view them at no charge, or pay the \$25.25 to pick up the documents. Nothing had been heard from her until this email letter addressed to Mayor Carlson was received.

The email letter from Ms. Dahl had not been sent to all because Administrator Knight stated the letter was addressed to Council, it was received too late to be included in the Agenda packet, and she didn't believe it was intended to be an item for the Council meeting. After discussion with Mayor Carlson who indicated she would be bringing this matter up at Council, yes, the letter can be sent to all who received the packet.

Mayor Carlson stated that we do have to follow the policy that we have, but also recognizes the line that "the employer may not charge a fee for copies". She doesn't know if that line is only for private enterprise or not. The Minnesota Statute cited is 181.961 subd. 2(d). Councilor Borchardt asked if the Council could waive the fee per the City's discretion to get the citizen taken care of and then review the policy.

Councilor Borchardt motioned to waive the \$25.25 fee and give Kelly Dahl her unemployment files from the City as soon as possible. Seconded by Councilor Boynton. Approved 4-0.

Councilor Boynton motioned to adjourn the City Council meeting. Seconded by Councilor Ebnet. Approved 4-0.

The Council Meeting was adjourned at approximately 8:27 pm on January 27, 2021.

Submitted By:
Cheryl A. Knight
City Administrator/Clerk