

MINUTES
City of Lewisville Regular Meeting
October 10, 2018

Meeting was called to order by Mayor George Judd at 7:06 p.m. at the Lewisville Community Center at 3451 E 480 N, Lewisville, Idaho. Present were Mayor George Judd; Council Members, Del Heward, James Ball, Mark Williamson and Leisa Watkins; City Attorney, Kris Meek; Clerk/Treasurer, Donetta Fife; Officer Alan Fullmer; maintenance supervisor, Gary Wilde; Robin Dunn attorney for Chris Hinckley and residents as listed on the attached sheet.

ROLL CALL:

- Mayor Judd -- present
- Leisa Watkins -- present
- Del Heward -- present
- James Ball -- present
- Mark Williamson -- present

The meeting is being recorded.

MINUTES:

Minutes for the regular City Council meeting held September 12, 2018 had previously been distributed by the Clerk. Mayor Judd asked if everyone had received the minutes, all had. There were no additions or corrections to the minutes. James moved that the Minutes be approved, Del seconded, the motion passed.

POLICE REPORT:

- Officer Alan Fullmer reviewed the police report between August 25, 2018 and September 21, 2018. There were 63 hours patrolling with 15 complaints, 3 citations and 8 traffic stops. He still has not been able to locate the key to the locking hinge pin on the moveable speed sign. They will continue to look for it. The Council suggested that the sign be moved to 450 North. They also thanked the officer for their work and asked that he pass the appreciation on to the department.
- The Mayor asked if there had been any progress on the incident of the poisoned dog in the City. He will check into that and see if anything has been identified.

MAINTENANCE REPORT:

- Gary Wilde, the maintenance supervisor reported that he has been cleaning up tree branches in the right of way and has replaced signs and fixed the roof on the shop that was leaking. There is a sign on 465 North that still needs to be replaced. They will be prepping for winter. The Council commended the department for the good work they are doing.

BUILDING PERMITS:

- John Jardine approached the council to request a variance for the setback on a building permit that he obtained at the last Council meeting. He indicated that the road does not set exactly as described in the City plat. He requested that he be allowed to place the structure 40 feet from the property line rather than 90 feet from the center of the road. He had signatures of neighbors as required. The City attorney suggested that the problem should be solved by a survey of the road to find where the center of the road should be located rather than issue a variance. The mayor will contact an engineering company to get the survey to establish where

the center of the road actually should be located and, therefore, allow John to meet the setback as described in his building permit.

- Mike Lynn presented his building permit Clearance and Application to the City Council. They have faxed their plans to Jeff Geisler, the Building inspector. The application was accompanied by all of the appropriate permits and the septic would be attached to the current system. James moved that the Council approve the Clearance for the Building Permit, Leisa seconded, motion passed. Donetta will send all of the documents to Jeff tomorrow so they can get the construction going before winter.

KENNEL APPLICATION:

- Mayor Judd informed the audience that this was not an open forum and people would be allowed to take 3 minutes to give input. There would be no opportunity to ask or answer questions from those giving input.
- Robin Dunn, the attorney for Chris Hinckley, presented the petition for a Commercial Kennel License. He indicated that two felonies had been committed against the Hinckleys since the last Council meeting. Hinckleys do have a current business license issued by the City of Lewisville allowing them to run their business. The Hinckleys are running a very upscale business with valuable dogs. He questioned the validity of the process of changing the dog ordinance. He also indicated that no verifiable formal complaints have been made against the Hinckleys. He encouraged the Council to grant the commercial kennel license.
- City Attorney, Kris Meek, read from the AIC manual the procedure required for a City to change an ordinance and held the position that the ordinance change was within the scope of the law. He also indicated that a business license is not necessarily a kennel license as they are two separate licenses.
- Residents and non-residents were allowed to testify. Those testifying for the issuance of a kennel license were: Roy McCarthy, neighbor; Margaret Quade, resident; Janette Melgaard, resident; Janet Williams, neighbor; T. J. King, non-resident; Daniel Hinckley, non-resident; Wade Ball, resident and Matt Rosenberg, neighbor. Points addressed were:
 - Chris runs a very upscale business with expensive hunting dogs,
 - He works hard to keep the property and kennels clean,
 - He has invested considerable money to minimize noise and smell, and
 - His business is an asset to the City.
- Residents testifying neutral were: John Jardine, resident and Glenn Watkins, resident.
- Residents testifying against were: Jerrie Flint, neighbor; Gard Flint, neighbor; Judy Rosenberg, neighbor; Larry Johnson, neighbor; Lynne Williamson, neighbor; Lori Williamson, neighbor; and Wayne Torgerson, neighbor. Points addressed were:
 - That Chris originally told neighbors he would have 6 or 7 dogs, he was granted the first kennel permit for 13 and now he has 43 dogs not including puppies under the age of 6 months. They feel that is too many dogs for a residential area.
 - Neighbors are hearing a lot of yelping, whining and fighting rather than barking. People who approve of the kennel do not live right next to it.
 - Chris has also brought in quail to train the dogs and they are taking up residence all around the neighborhood. Their calls can be quite annoying.
 - With the bird seed for the birds comes the voles and other pests.
 - Property values and the salability of property owned by neighbors are being affected by the fact that there is a kennel next door.
- Robin Dunn rebuttal: He has listened to the comments of the people and has heard testimony based on emotion but has not heard of a code violation that has occurred. For the permit to be denied he contended that there must be a violation of the Code, which he has not seen.

Public hearing was closed.

Counsel Deliberation:

The City Council discussed the following points:

- Chris did not follow the ordinance as set forth at the time of his original kennel application in that he applied for 13 dogs and that application was granted on an appeal in 2016. At the end of 2016 his license expired and he did not have a kennel license for 2017 or 2018 until this application. He only licensed 3 of the 43 dogs with the City before the Mayor addressed the issue with him last spring.
- In addition, he brought in a building that did not meet the qualifications of the ordinance and did not obtain the required building permit for it.
- This application needs to be a new application and will place the kennel under the stipulations of the updated Code which gives the Council authority to set stipulations on the license. It also gives the Council the opportunity to do inspections. He will not be grandfathered in under the old Code.
- Hinckleys currently have a business license but not a kennel license.
- We need to be careful not to limit the viability of the business by placing too small of a number on the dogs allowed in the kennel.
- Family pets are to be considered separately and not lumped in with the number allowed in the kennel.
- The number of dogs does need to be limited. Chris felt that 30 dogs would be right. Some council members felt that 20 dogs would be right. After some deliberation, the council agreed that 25 dogs over the age of 6 months would be the amount that the kennel should be licensed for.
- It will take time to find appropriate homes for the dogs in his kennel over the allowed number of 25. The Council agreed that Hinckleys be given one year from the date of this meeting (October 10, 2019) to pare down the number of dogs in the kennel.

Findings of the City Council:

James spoke in behalf of the Council with the following statement: The City Council will approve Chris Hinckley's appeal for a Commercial Kennel Permit with the following stipulations: There will be a limit of 25 dogs in the kennel based upon the noise and smell and based upon evidence and testimony of the neighbors. They will be given a restructuring period of one year to reduce the number of dogs to the 25 count.

Mark moved that the Council approve the statement, Del seconded, motion passed.

City Attorney, Kris Meek noted that no new application is needed even though the application is for 43 dogs as the approval was based on the stipulations set by the Council.

The Mayor announced that there would be a 5-minute break before resuming the issues on the Agenda.

Leisa moved that the issue regarding the tree problem in the City be moved to this point of the Agenda, James seconded, motion passed.

CITY TREE PROBLEM:

Mike and Megan Lynn have contacted Arbor Tech with regard to the removal or trimming of trees that border on their property. The bid to trim 10 trees down to 50 feet at the cost of \$8,000 was submitted to the Council.

Mayor Judd has also contacted Arbor Tech about the removal of one tree adjacent to the Wade Ball home which has lost a very large limb onto City property and damaged the Balls' fence. That bid was \$5,250.

Mayor Judd assured the Lynns that the City is well aware of the problem and that we are working on a grant through the mitigation plan in order to trim and remove certain trees in the City. Mark expressed the opinion that we need to get an assessment from Arbor Tech to see which trees in the City are critical at this point in time. Mayor Judd will contact Arbor Tech and get an evaluation on the immediate need. The Mayor will also check on the timeline of the mitigation plan grant. Our money can be more effectively spent if we work through the grant process and pay a portion rather than deal with one tree at a time. The matter was tabled until the next City Council meeting.

CITY ATTORNEY:

- Kris informed the Council that the Rounds water share for .5 share, or 5 inches of water, has been purchased for \$1,000 and we are currently having the certificate reissued in the name of the City.
- He also reviewed the Smith case that the City has been involved in under the nuisance ordinance. It seems that there is continuing violation and suggested that we contact the probation officer regarding the problem.

CLERK/TREASURER:

- The Council reviewed the list of bills that have been presented to the City between September 13, 2018 and October 10, 2018. James moved that the bills be paid, Leisa seconded, motion passed.
- The 2018 fiscal year has ended. A Profit and Loss statement for that fiscal year has been distributed to the Council. Donetta is currently working on the year-end report and will e-mail a copy to the Council. We can discuss it at the next Council meeting.

MAYOR'S REQUEST:

- The Mayor has been in contact with the architecture firm that drew plans for the Community Center. There were no plans drawn for the library or for the City offices at that time. Mayor Judd will be consulting with the architect to see if plans can be drawn. He will report at the next Council meeting.

COMMUNITY CENTER:

James noted that the flag is getting frayed again. He asked if we had a replacement. We will check the closet after the meeting. Donetta thinks that she ordered two more.

ADJOURNMENT:

James moved that the meeting be adjourned at 9:49 p.m., Leisa seconded, motion passed.

Minutes approved by the City Council of the City of Lewisville on the 14th day of November, 2018.

Mayor _____
George A. Judd

Date _____

ATTEST:

Clerk _____
Donetta R. Fife

Date _____