CITY OF LANSING
CITY COUNCIL MEETING

REGULAR MEETING MINUTES
April 1, 2021

Call To Order:
The regular meeting of the Lansing City Council was called to order by Mayor McNeill at 7:00 p.m.

Roll Call:
Mayor McNeill called the roll and indicated which Councilmembers were in attendance.

Councilmembers Present:
Ward 1: Gene Kirby and Dave Trinkle
Ward 2: Marcus Majure
Ward 3: Jesse Garvey
Ward 4: Ron Dixon and Gregg Buehler

Councilmembers Absent: Kerry Brungardt and Don Studnicka

OLD BUSINESS:

Approval of Minutes: Councilmember Buehler moved to approve the Regular Meeting Minutes of March 18, 2021, and the Special Meeting minutes of March 23, 2021, as presented. Councilmember Majure seconded the motion. The motion was unanimously approved.

Audience Participation: Mayor McNeill called for audience participation and there was none.
Presentations: Citizens' Academy Graduation Recognition: Community & Economic Development Director Matthew Schmitz and Mayor McNeill recognized the 2020 and 2021 Citizens Academy graduates. These participants were not able to be recognized last year due to Covid-19. Jim and Teri Nabors were in attendance and the additional graduates recognized were Mary Anderson, Rosa Kuilan, Timothy Moran, and Amelia Schwam. The 2020-2021 graduates in attendance were Patricia A. Butts, Tom and Norine Lauhon, John Wilhite, Carmen V. Elston and Ed Chapman, III along with Jackie Kennedy and Ralph Taylor. Mayor McNeill let them all know the Council appreciates the time they spend within the academy. It's a great program that allows citizens to learn more about how the city runs.
Library Update: Library Director Terri Wojtalewicz updated the Council on what has been going on at the library. They have colored coded their reopening phases and are currently in phase yellow. The library is open with patrons being able to browse stacks once again. As the weather warms up, some programs will resume outside to allow for social distancing. Indoor programs will resume in limited numbers if the positive cases don't go higher and vaccinations continue. Recent accomplishments are Dolly Parton's Imagination Library. This program provides a monthly book to children age 0-5. The library also submitted a renewal packet since first being accredited and there are no areas to work on. There was concern with the return rate of items while the library was offering curbside service. A pleasant surprise was the return rate actually increased from pre Covid. During 2020, the library gained over 200 patrons. A goal of the library was to have patrons be more aware of the digital collection and the pandemic helped with that. Usage in digital material nearly doubled last year with the expectation for that number to be even higher this year. This year's goal is to have a more of a social media presence as that is what helped the library through last year. Staff did an amazing job trying to maintain programs during the pandemic to keep our community engaged and learning and they are ready to continue those this year.

COUNCIL CONSIDERATION OF AGENDA ITEMS:

Ordinance No. 1057 – Rezone Request 1153 & 1155 Industrial Terrace: Councilmember Kirby moved to approve Ordinance No. 1057. Councilmember Buehler seconded the motion. The motion was unanimously approved.

Ordinance No. 1058 – Unified Development Ordinance Amendments: Councilmember Buehler moved to approve Ordinance No. 1058. Councilmember Garvey seconded the motion. The motion was unanimously approved.

Approval of Property Acquisition Services – K-7 & Eisenhower: Councilmember Buehler moved to approve Task Order #4 from SMH Consultants for property acquisition services in an amount not to exceed $26,600. Councilmember Kirby seconded the motion.

- Mayor McNeill stated Mike is here to answer any questions.

- Councilmember Majure stated good work Mike.

The motion was unanimously approved.

Ordinance No. 1059 – Face Mask Ordinance: Mayor McNeill asked if anyone in the audience wanted to address the Council on this agenda item.

- Kirsten Workman at 331 Sage St in Lansing stated I have been a registered nurse since March of 2009. My comments address the mask mandate. I am not here today to try and convince you of my opinion, but fabric masks are not effective at preventing the transmission of Covid-19. Masks are appropriate in certain circumstances. I believe your obligation to your constituents ends with the distribution of formal recommendations regarding those situations. For example, you might inform the public that surgical masks may be of help at certain times and that is because they are capable of filtering exhaled respiratory droplets not aerosolized particles through the air but droplets. If someone is sick, a surgical mask may help prevent viral transmission via droplets but will not prevent the spread of the virus through the air. You would probably be better off urging handwashing which is still the single best method for preventing disease transmission but that is a relatively inexpensive measure that doesn't come with lots of federal money. Until they exist, even one randomized control trial which is the gold standard for scientific evidence and supports the effectiveness of non-surgical grade masks and preventing the transmission of airborne diseases like Covid-19, tuberculosis, or the flu, I will continue to rely on the science established before this political nightmare began. But as I said I am not here to change your opinion on the effectiveness of masks. I am here to talk about what your criteria will be for giving me my freedom back because I assure you I and many others will not continue to surrender indefinitely. We all know data can be manipulated. For example, sometime around January 7th of this year, the Kansas Department of Health and Environment changed the cycle threshold recommendation for the Covid-19 PCR test from 42 cycles to 35 cycles. If you are not familiar with the PCR test, its exceedingly specific. The greater the number of cycles required for a positive result the lower a person's viral load. With continued cycles of the PCR test, at some point it becomes practically inevitable that someone will test positive for whatever the virus it's looking for. Most experts have agreed that after 35 cycles the test will yield a false positive result. Many experts say running the test beyond 30 cycles will yield a false positive. So, 30 to 35. This is why many people who have recovered from a viral illness continue to test positive months after recovery. You can imagine how many more people test positive for Covid-19 when the cycle threshold is set to 42 instead of the usual maximum range of 30-35 cycles. Of course, we would expect to see a downward trend in cases after this politically timed adjustment of the criteria for what continues to constitute a positive result. Many people have argued that our elected officials have vastly overstepped their authority this year. Trading public trust for short term political gains. I believe that is true, but I also think it is quite possible that many elected officials have underestimated the effects of these ordinances that you have passed. Many of you have shrugged off using your own common sense and denied your own intellectual capacity in order to yield to the draconian measures that public health officials claim science dictates. They do not hold the patent for the interpretation of scientific truth when they are not elected. Every time I put a mask on, I feel like I am contributing to a lie that is teaching us all to trust the government with our own health while it destroys small businesses and chips away at our self-sufficiency. That genuinely causes me moral distress and it's taking a serious toll. I need to share an even more personal story with you before I leave tonight. Before Covid-19 turned our world upside down, I never would have imagined the education my children are entitled to in this country would be in jeopardy. I found myself immensely grateful my youngest daughter would have the option to attend school in person this year. While we all sidelined the psychological effects of constant mask wearing on our children for the time being, I have been reminded many times of the psychological damage it is doing. My seven-year-old daughter is not even a little bit afraid of Covid, but she does think her face is too big. And day by day my beautiful little girl feels more and more comfortable hiding her face with a mask than she does not wearing it. My heart breaks each time I have to make her take it off so I can see her beautiful smile. I request that you cancel the mask mandate on the grounds that requiring me to cover my face in public violates my fundamental god given inalienable right forcing me to wear a mask or a yellow star or a scarlet letter or carry a vaccination card if that's where things are headed spits in the face of individual liberty. It was never in your authority to

force me to cover my face in public. You should stand up for the Constitution you have taken an oath to defend. I am not city property to be protected and neither is anyone else. Covid-19 has a survival rate of 99.997% for anyone under the age of 70 and 94.6% for those older than 70. Before you issue another mandate, I am sincerely asking you what metrics you would be looking for in order to lift it. That is all I have to ask of you. Thank you.

- Brooke Nowlin at 14132 Huntington Lane in Lansing stated I would like to, quickly before I read this, second every single thing this woman just came up here and said. Thank you, I couldn't have said it better. Mine is much more concise and come at it from not at all scientific. I'm not going to talk science at all. This was written from the heart of a believer in the Constitution. I wrote into Lansing and said I've spoken to a couple of you concerning my concerns about the mask mandate. I agree that Lansing should not be mandating masks. A mandate is a temporary power given to officials in emergencies. Emergencies by definition do not last for years. This is governmental overreach at this point and mask mandates needed lifted immediately. Many businesses are suffering because many people do not want to wear the masks and they are willing to take their money to neighboring towns. Neighboring towns who have abandoned the mask mandate. As a Lansing resident, I am personally upset to find that these votes are being made with little to no public input which is why I am here. Please end the mask mandate and I would ask that you pray that the patriotic citizens of Lansing who do understand their god given, and Constitutional rights continue to have faith in their appointed representatives. Thank you.
    - Mayor McNeill stated before we start any discussion on it or go through the motion on this ordinance, I want to make sure everyone is aware that there is no state or county mandate in place any longer. The Governor did put out an executive order but that was denied by the Legislative Coordination Council which was stood up for that specific purpose. So that is no longer in place. This ordinance would be based on the City's home rule authority. Just so everybody here is aware. Maybe you haven't seen the news but that is the case right now. This ordinance is in compliance with SB 40 and would replace Ordinance 1056 passed on March 23rd. I will open the floor to discussion.
        - Councilmember Buehler asked Mayor if I may. Thank you, ladies, I appreciate it. I was initially in favor of the mask mandate when we had it and we put in through the end of February based on governor's guidance and everything that we had heard. I have since switched my view. I believe the mask mandate needs to go away. I believe it is time as both of these ladies eloquently said to give responsibility back to the citizens of Lansing. As I mentioned in a Work Session, one of the reasons that we did this when we implemented this mask mandate was because Leavenworth implemented theirs and we didn't want the confusion. Leavenworth's is no longer in effect so I think if we implemented it to avoid some confusion, we should follow Leavenworth again and let it expire and not approve it. They are going to go from one side of the street to another where they don't have to wear a mask to where they do have to wear a mask. Secondly, a lot of the businesses that I have talked to said they are losing business because we still have a mask mandate, and the other places don't. So, if they don't want to wear a mask, they go south or go north to avoid having to wearing a mask. Finally, as I was looking on the CDC website today, there's a point on the CDC website where they say the vaccination has been proven to be effective against the transmission. And early studies have shown that the vaccination or the natural antibodies if you have either is also not allowing people to spread the virus. Those are the early studies. I'm sure they will do more studies. So, with the way the vaccinations are currently going everybody in the high-risk age groups in Leavenworth County has been given an opportunity to get a vaccination if they want one. I think those that wanted it, got it. My 80-year-old mother-in-law got one. I think if they got it again if they want to wear a mask, they can wear a mask. If they chose not to get the vaccine and they want to wear a mask, they can wear a mask. Let the citizens be responsible for their own wellbeing. Thank you.
            - Mayor McNeill asked anyone else.
                - Councilmember Kirby responded yeah; I want to make a point here that which I have said part of my reason for voting for it was to give

the Leavenworth County Health Department as much time as possible to get the vaccines out. Initially they were in short supply. As time has gone on, they have been getting more and more out. So that was my reason. I have absolutely no desire to control anybody. I have enough on my own plate. The last time I looked, they had roughly 25 percent of the County had done that. I know it's available at the VA but anybody with the VA can go up there and get it. It doesn't necessarily mean they all live in Leavenworth or Lansing. I believe they are becoming more frequent on post. Post continues to have a mask mandate as does the school district. If we do the whole mandate deal, Mr. City Attorney we set ourselves up for a lawsuit don't we. If we did the home rule.

- City Attorney Greg Robinson replied my reading and I talked to the League about this SB 40. My understanding is that there are two things at play there. One is we discussed or at least there was a discussion about the emergency designation for cities for emergency planning. No city in the state of Kansas has that designation so that doesn't apply for the city. The other issue was whether or not we would be subject to a seventy-two hour and seven day turn around on any lawsuits. That appears that will only apply to the counties, so I don't think we're worried about per se under SB 40 a lawsuit, but at the same time we were looking at being challenged before. Now with the Governor not having even a statewide mandate in place, I think that we are potentially going to be opening ourselves up to people who want to challenge these types of things. Right now, it seems like if we pass it, we might be one of the few outliers left in the state after today. I don't know what the rest of the state is doing but with the Governor not having the ability to force it statewide, it's going to be up to basically cities and counties to do what they want to do. I don't know where they're going at right now. I just know we'll find out next week about how cities and counties have handled this. But yes, would we be subject to some type of lawsuit. My understanding is from what I've read about other states perhaps even in Kansas. I know there was in Lawrence or Douglas County where they are starting to challenge the science. They're starting to challenge whether or not that the counties or the cities are making the findings necessary to say this is still a situation of a mandate, these masks and again whether or not the efficacy of the masks working against the threat. Or is the threat high enough against the threshold. I don't remember her name, but she mentioned the CT cycle. People will start to attack this science because as she stated it was correct KDHE was running 42 cycles for the longest and then January 6th. I would disagree with you on one thing, it didn't go from 42 to 35, it went from 42 to 37. So, these are the types of things people, if they have had enough wear with all and really feel this is something they are opposed against, I think you can start to see people turn towards the court system for solutions. Now, again, I think we are coming out of this anyway by end of May. So, whether or not litigation could get through in that timeframe, I would doubt it. But we are not constrained by

that seventy-two hour and seven day turn around we've talked about before.

- Councilmember Dixon asked just another quick question. Do we any confirmation on what side the local businesses are on. I've heard that some are for it, some are against it. I'm just wondering do we have any official reading on where they're at.
    - City Administrator Tim Vandall replied I think that's pretty accurate. I know we've heard from a few that like it and they feel like it levels the playing field. And then we've heard from a few that vehemently disagree with it. I don't have a percentage or anything like that but I'm sure it's comparable to the ones you guys have heard from. Some people think it's a good idea, some people think it's a terrible idea.
        - Mayor McNeill responded but I can tell you also that in some of the businesses that I've been in, I've seen people without masks because the businesses don't want to lose business so typically, they are not pushing people away.
    - Councilmember Garvey asked did they get a ticket.
- Mayor McNeill replied I didn't give them a ticket, no Jesse. I could put you on that detail if you'd like though.
    - Councilmember Garvey responded no thank you.
    - Mayor McNeill stated no I just wanted to point that out.
- Councilmember Trinkle asked if the businesses still want to use the mask mandate, is that going to be something that's going to be a problem. I mean if they want to turn somebody away or is it just going to be up to them. They can still put it in place if they want.
    - City Administrator Tim Vandall responded yeah, a business could put it in place if that business wanted to. If they had a customer who wasn't complying with their rules, that would be their property.
- Councilmember Kirby replied and there is no question about that. If they have their doors marked with whatever that says mask mandate, that's it.
- Councilmember Garvey responded there's no mandate, it's just their own property.
    - Councilmember Kirby replied well mandate. That is what they are requiring for you to enter their property.
        - City Attorney Greg Robinson stated just add mask to your no shirt, no shoes, no service. I mean that's basically it.
            - Councilmember Kirby responded oh it's the same thing.
                - City Attorney Greg Robinson agreed same thing.
                - Councilmember Garvey replied you have the right to refuse service.
                - Councilmember Kirby stated there seems to be some confusion over that.
                - Mayor McNeill responded no they have that right.
                - Councilmember Kirby replied alright I just want to be sure we are clear on that.

- Councilmember Dixon asked and has anyone been cited in any business for not having worn a mask that we know of.
- City Administrator Tim Vandall replied no citations, but a few verbal warnings have been given.
- Mayor McNeill asked can you come up to the podium please. We have people online, so we want them to hear.
- Brooke Nowlin asked so I have a question about the mandate you guys were saying. Can a business impose their own mandate. Somebody said sure it's private property, sure they can do whatever they want. But a mandate is a temporary power given in a state of emergency. Can someone explain how that would still apply now.
- Councilmember Kirby replied probably a poor choice of words.
- Brooke Nowlin responded if they can't mandate it, then they can't mandate it.
- Councilmember Garvey replied a policy is what it is. It's not a mandate, it's their policy.

- City Attorney Greg Robinson stated private business can restrict as long as they are not violating some other type of discriminatory prohibitions. I mean it's not a protected class to say you must wear a mask to come into my business. I can refuse service to you and entry if you won't wear a mask. And that has nothing to do with the city council. That's a private business making its own decision. If they don't pass a mask mandate which would be legal binding situation, a private business can do as they want. Just like if you don't want someone coming into you home wearing a mask, you can say take your mask off or you're not coming in.
  - Brooke Nowlin asked so the most they can do though is have you leave. It's not a punishable offense. They can ask you to leave.
    - City Attorney Greg Robinson replied yes. Now if you refuse to leave then the police can come and maybe perhaps cite you for trespassing. But outside of that, no it's nothing to do with the city having a legally enforceable ordinance if they don't pass that.
      - Brooke Nowlin replied alright. Thank you.
        - Mayor McNeill stated not a law, just policy. Jesse
          - Councilmember Garvey stated I guess I'll jump on what Gene said about the lawsuits. I know Wichita wanted to end their mandate because they were worried about getting sued, correct.
            - City Attorney Greg Robinson replied that is what I read, yes.
              - Councilmember Garvey stated Wichita, a big city made the decision to end it because they were worried about getting sued. I know I don't want to spend any money on court costs or anything like that especially hard-earned taxpayer money that's for sure. The other thing I want to comment on is I am just simply tired of losing my freedoms in this country right now. One of our big freedoms is freedom of speech. In our world right now, freedom of speech doesn't exist. If you open your mouth, you offend everybody anymore and I'm tired of it. My second amendment rights are compromised every day anymore because of mass shootings. And now we have this mask mandate. It's just like freedom after freedom after freedom is just disappearing. I just need it to stop. It's

ridiculous. We're adults and if we have small children, they have their parents that monitor them. We can decide whether we do or don't wear the mask. Governor Kelly thought she was smart enough to put the mandate in place and the legislature was smarter and they voted her down. That says it right there. The CDC, everybody keeps looking at the CDC this, the CDC that, the CDC had a number there and I keep going back to it. It was 480,000 people died of cigarette related deaths in 2019. I didn't look at 2020 because everyone died of Covid in 2020. But 480,000 people died of cigarette deaths, but we still allow smoking despite all those deaths. You know why because people have the freedom to smoke so they like to smoke. That's why I want my freedom back and not wear a mask. I just don't want to be told to wear a mask. If you're scared of Covid, stay home. Be safe, protect yourself, wear a mask. Just don't mandate it. It shouldn't be something we are forced to do. I just really want to thank the people that wrote letters against the mandate because I really think we need to hear the voice of those people out loud. I appreciate you ladies coming and speaking this evening. That's all I've got.

- Councilmember Trinkle stated I also think as much as a business has a right to ask you to wear a mask if that is what they want. They have as much of right to say no. Yes or no. If that is what you are trying to say.

- Councilmember Garvey responded right. Well, a bank is not going to open their doors right now with masks. They're not going to have the doors wide open because people can walk in with a mask on and rob them.

- Councilmember Kirby replied you're going to the wrong bank then. You can walk into my bank with a mask on.

- Councilmember Garvey responded can you really. That's crazy.

- Mayor McNeill stated ok Marcus. I'm sorry, are you done Jesse.

- Councilmember Majure stated I'm not going to say anything that hasn't already been said tonight. I do want to just highlight the fact that we don't know what the percentage is of declination of taking the vaccine. So, we have a number thrown out there that said we may be 25-30% vaccinated. What you don't know is that it could be 50-75% who are refusing to take the vaccine. So where does that leave us.

        - Councilmember Kirby responded I agree. There is plenty out there that had chosen, maybe its 50% of people won't take it.
    - Councilmember Majure replied you're right.
- Councilmember Kirby stated and the number I threw out was based on the Health Department as of Monday which doesn't include the VA. Those people could be coming from anywhere.
    - Councilmember Majure responded I'm not saying it's a bad thing. I'm just saying make sure we highlight the fact that we're trying to get people the vaccine.
        - Councilmember Kirby replied and that is what I was talking about. I have said from the beginning, I'm trying to give the Health Department as much time as possible to get the shots out to as many people who want them. I have been very consistent on that.
            - Councilmember Majure stated we're trying like crazy. You are absolutely right; on post we are doing second doses. A large number of first doses, it's pretty exciting for all of those that are on post. Our spouses are now working on post. It's good. I'd just like to say, I've been opposed of it for the last week when we voted, and I'm still opposed to mandate the mask. I don't believe we need to mandate it but I'm not saying not to wear the mask. I'm still going to be wearing my mask. Everybody should have the opportunity to decide to wear the mask or not. Wear the mask in a business and businesses may mandate it or may not mandate it. They aren't going to tell you not to wear it but I think the time has come at this point that we don't need to go against what the state has passed. And we don't need to be the only outlier where you come into Lansing and we are the only ones with a mask because it has been said and many of you have highlighted it that people are going to take their business somewhere else. People are going to buy homes somewhere else because they don't feel that they have the confidence in us looking at what we're doing and how we're doing it. We want people in communities, and we want everything to go well in Lansing. I support what the state is doing. That's all I got to say.
                - Mayor McNeill stated ok, so the original motion was a motion to approve ordinance 1059. I am going to ask for a motion to deny Ordinance 1059 based on the discussion.

Councilmember Buehler moved to deny Ordinance No. 1059. Councilmember Majure seconded the motion. The motion was unanimously approved.

- City Clerk Sarah Bodensteiner stated Mayor we need to handle 1056.
    - City Administrator Tim Vandall responded this would rescind the one that was passed at the previous meeting.
        - Mayor McNeill stated we still have one item because we disapproved this one. We have to go back and rescind the old one. Ordinance 1060 repeals 1056 and would eliminate the city's ordinance regarding face masks.
            - Councilmember Buehler asked hang on. Where is 1060.
                - Councilmember Majure replied at the bottom.
                - Councilmember Buehler responded ok, got it. I see it.
                - City Attorney Greg Robinson stated just procedurally what you've done because of the vote last time we predisposed it was going to go in favor of again and that would have automatically repealed this one. But because you denied it, now we have to do the housekeeping and clean up to get rid of the old one.
                - Mayor McNeill responded we need to get that one off the books.

Councilmember Buehler moved to approve Ordinance No. 1060. Councilmember Garvey seconded the motion. The motion was unanimously approved.

REPORTS:

City Attorney: City Attorney had nothing to report.

City Administrator: City Administrator Tim Vandall let the Council know LCDC sent out an email and they are wanting input on how they should be spending their time in regard to economic development goals and objectives. They are wanting to hear from elected officials in all the different cities and county so if you have time, please respond to the email.

- Mayor McNeill stated it's pretty short. You can prioritize a few things on how you think they should be spending money, etc.
    - City Administrator Tim Vandall stated the deadline has been extended for a couple more weeks.

Department Heads: Department Heads had nothing to report.

Governing Body: Councilmember Kirby watched the County Commission meeting and wanted to point out the County believes they did the right thing. He stated the County did nothing. In his opinion, it is what Leavenworth, Lansing and Tonganoxie did. He finished with he is a believer in masks, and he thinks they helped.

Councilmember Majure congratulated those who graduated this year and last year from the Citizens Academy. He thanked Matt for overseeing that and to all those who attended. He thanked Terri and her staff for their amazing work during this pandemic. He thanked the first responders for all they've done during these times.

Councilmember Garvey congratulated the academy graduates. He thanked Terri for her report on the library. We thanked those who came in to speak and all the emails, letters, and voices. He thinks they did a good thing tonight by putting the power back into the hands of the citizens. Be safe and do what you feel you need to do out there.

Councilmember Buehler also congratulated all the academy graduates. He let Terri know the library has accomplished a lot. He let Ms. Workman and Ms. Nowlin know he appreciates them coming to the meeting. The Council appreciates the feedback. He also provided a fun fact, on this day in 1976, the company Apple was founded by Steve Jobs, Steve Wozniak, and Ronald Wayne.

Councilmember Dixon thanked Terri for the very informative briefing. He thanked the academy graduates as well.

ADJOURNMENT:

Councilmember Dixon moved to adjourn. Councilmember Kirby seconded the motion. The motion was unanimously approved. The meeting was adjourned at 8:01 p.m.

ATTEST:

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Mayor, Anthony R. McNeill

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City Clerk, Sarah Bodensteiner, CMC