

# Justice in Lewiston: Not here yet, but soon

## Marty Trillhaase/Lewiston Tribune

What wasn't said at the Lewiston City Council's work session Monday told the story.

Nobody torpedoed a proposed ordinance to make Lewiston the ninth Idaho city to banish discrimination on the basis of sexual orientation and gender identity.

Opposition to the measure came neither from the members of the public who attended nor the council members.

Indeed, had not there been a snafu depriving Mayor Pro Tem Ryan (R.J.) Johnson and Councilor Clinton Daniel of adequate time to review the draft ordinance, the session might have gone off without any drama.

Between now and late October, when the draft is set for a final vote, the atmosphere could change. For now, however, what you have is an ordinance drafted by three councilors - Jesse Maldonado, Bob Blakey and Ged Randall - that benefits from that most fragile of history's commodities - political momentum.

That would place Lewiston among Boise, Moscow, Coeur d'Alene, Sandpoint, Ketchum, Pocatello, Idaho Falls and Victor in securing the rights of gays, lesbians, bisexuals and transgender people. Because Idaho legislators have refused to "add the words" sexual orientation and gender identity to the state's Human Rights Act, it is legal to fire or demote a gay employee, evict a lesbian couple from their apartment, or deny a transgender person service at a business.

What has emerged from the trio of councilors is a measure that ranks among the most ambitious of the city anti-discrimination ordinances.

At the top is a new provision protecting people against discrimination on the basis of "familial status." Essentially safeguarding the rights of parents may be a good idea. It's already part of federal housing law.

But it's coming at the final weeks of an effort that began nearly a year ago.

None of the eight Idaho cities have taken that step, so the idea has been vetted legally or politically nowhere else in Idaho.

Proponents need to explain:

- Have parents of children suffered discrimination in employment, housing and public accommodations?
- Why have members of Idaho's human rights community pursuing justice on behalf of the LGBT community not pursued "familial status" protections in state or local law?

- However well-intentioned, does the inclusion of a new class distract from the core issue?

Likewise, Lewiston's councilors have opted for a measure with teeth. Violate someone's civil rights because they are gay - or perceived to be gay - and you could face a misdemeanor conviction, a year in jail and/or a \$1,000 fine.

It need not come to that. There are at least two safety valves.

One authorizes the parties to resolve their differences through mediation rather than criminal prosecution.

The other empowers the city attorney to treat the matter as an infraction, punishable by a \$100 fine, provided the offender undergoes remedial training, adopts a policy of nondiscrimination and agrees to eschew discriminatory behavior in the future.

The proposal's backers maintain Lewiston's package also avoids the pitfalls of endless exemptions and loopholes that have weakened measures in other communities.

Unless protected by First Amendment freedom of speech and religion, bad behavior would be subject to prosecution.

That's not to say there aren't obvious flaws to this approach. Absent state action, Lewiston's measure applies only within the city limits, contributing to a checkerboard across Idaho. A state human rights law would enable claims to be resolved in civil lawsuits. City ordinances are tied to criminal courts.

But the alternative is to wait indefinitely for a change Idaho's state leadership shows no inclination toward embracing.

Further delay would be worse than allowing the perfect to become the enemy of the good.

It would make the perfect an accomplice to the despicable. - M.T.