

# MINUTES–CITY OF ASHTON

## CITY COUNCIL MEETING

Wednesday, July 10, 2019

6:00 p.m.

714 Main (North Entrance)

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*The purpose of the Agenda is to assist the Council and interested citizens in the conduct of the public meeting. Careful review of the Agenda is encouraged. Testimony from the public will be solicited for any item or issue listed under the category of **Public Hearings**. The Mayor will not normally allow audience participation at any other time. Idaho Law prohibits council action on items brought under this section except in an emergency circumstance.*

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### CALL TO ORDER & WELCOME

**PRAYER OFFERED BY: Tadd Atchley**

**PLEDGE LED BY: Teresa Hansen**

**In Attendance:** Teddy Stronks, Tadd Atchley, Jerry Funke and Tom Mattingly. Teresa Hansen was excused.

**Also in attendance:** City Clerk Stegelmeier, P&Z Administrator Bowersox, Jaden Jackson, Reeca Marotz, Mary Lou Mattingly, Rachel Hatton, Cathy Miller, Todd Martindale, Chad Stegelmeier, Wes Owens, Chris Owens, Michele Smith, Sheryl Hill, John Grube, Ryan Lerwill, Ray McDougal, Blake Walker, Loren Stegelmeier, Brad Orme, Brittony Jackson, Dallas Hill, Nancy Bergman, Mark Brower and Lisa Smith.

Mayor Stronks opened the meeting at 6:17 pm.

### 1. CONSENT AGENDA: **ACTION ITEM**

*Being considered routine by the City Council, these items will be enacted by one motion unless requested by a Councilman or a citizen that one or more items be removed for later discussion.*

- A. **Minutes** – Approval of Meeting Minutes 6-12-2019
- B. **Treasurers Report** - As Submitted
- C. **Payables** – Bills for Council approval as a result of City expenditures
- D. **Employee Expenses** – As submitted

Councilman Atchley made a motion to accept the consent agenda as presented. Councilman Mattingly seconded the motion. The motion carried unanimously.

Councilman Atchley made a motion to go out of order and move the Public Hearing to follow Regular Business/Employee Reports. Councilman Mattingly seconded the motion. The motion carried unanimously.

Mayor Stronks moved on to item 3 on the agenda.

### 2. PUBLIC HEARING:

*Each speaker will be allowed a maximum of 5 minutes unless repeat testimony is requested by the Mayor/Council.*

- A. Conditional Use Permit at 417 Main Street – City Attorney Angell **ACTION ITEM**

Mayor Stronks came back to the agenda order and turned the time over attorney City Attorney Angell who acted as the hearing officer for the public hearing.

City Attorney Angell opened the public hearing at 7:15 PM and announced that the public hearing is for the City Council to hear public comment on an application for Conditional Use at 417 Main Street (the old Ott's Place) allowing for a residential use of nightly rental on the ground floor. He then asked City Clerk Stegelmeier if the proper notice had been given. She replied that it had and an affidavit of publication was included in the Council's packets. City Attorney Angel then asked the Council if any of them have a conflict of interest: Councilman Funke, no; Councilman Atchley, no; Councilman Mattingly, no.

City Attorney Angell then asked P&Z Administrator Sara Bowersox to give the administrator's report on this application.

Administrator Bowersox reminded the Council that the reason they are having this hearing is that the P&Z Commission's decision on the application ended in a tie and before the Council made a decision they wanted more information. In making a decision the application needs to be compared

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to the City Development Code, the Conditional Use Ordinance, the Comprehensive Plan and Zoning Map. She then directed them to their packets, specifically her report on the P&Z, the permit application, a letter from the applicant and a several pages from those materials that are applicable to this application. In the letter from the applicant, the applicant proposes a daily event rental in addition to the short-term rentals which would add another use to the application. Administrator Bowersox then went over her report explaining that she has work in comparing this application to the documents listed. She also listed Idaho State Code 67-6539 for short term rentals. According to this code a short-term rental is classified as a residential use for zoning purposes. In the Conditional Use Ordinance it states that the site will still be subject to parking, setbacks, building size, occupancy, etc. regulations in that code. This is applicable in that a parking plan will be needed. This is important to note in that for a daily event center would need 1/3 parking space per occupancy to meet the code. P&Z Administrator Bowersox explained that prior to hearing Mr. McDougal's presentation and/or seeing materials that would show differently her recommendation to the Council remains the same. She recommends that the Council deny this application as it does not meet requirements. City Attorney Angell asked the Council if they have any questions for Administrator Bowersox. The Council had no questions at this time.

City Attorney Angell then asked the applicant to give his presentation.

Ray McDougal and Blake Walker are here as applicants. Ray explained that he is not a citizen of Ashton but he and his partner have purchased the property at 417 Main and hope to run a nightly rental at that location. He first outlined the history of the application. In September 28, 2018, in considering the purchase, he and Blake met with Kyle Baldwin at the location. Kyle Baldwin was serving as the Planning and Zoning Administrator for Ashton at that time. They discussed their plans with Mr. Baldwin and he was very receptive. He indicated that there was a path for them to move forward with their plans. Ray also spoke to the Mayor, City Clerk and neighbors who all seemed excited about the plan. On November 16, 2018 they purchased the property. Shortly after purchasing the property they applied for a Conditional Use Permit. Ray then received a call from Kyle Baldwin who explained that the application was not the way to proceed and they scheduled a meeting for December 18, 2018. They met at the City Building with Kyle and the building inspector, Blake Bowman. They discussed the project at length and Kyle and Blake both agreed that the way to proceed was with a Class I Permit application. In April of 2019 they applied for the Class I Permit and stated the use a single tenant apartment. Kyle called and requested that they resubmit as a commercial. On May first of 2019 Sara Bowersox called and informed Ray that she would be denying the application based on her interpretation of the city code. She told him that they would need to apply for a Conditional Use Permit. Ray tried to explain to her that they started out that way but had been told by Kyle and Blake to apply for the Class I Permit. Sara was unsympathetic to this argument and insisted that a Conditional Use Permit was the way they needed to proceed giving no indication of disapproval in any way. On May 2<sup>nd</sup> she issued the denial of the Class I Permit application. Shortly after that, thinking that Sara was in favor of the Conditional Use Permit, they submitted that application again. About a week later, they attended a City Planning and Zoning Commission meeting with the application as an agenda item. Administrator Bowersox informed the P&Z members that the application had been received and she would be scheduling a public hearing. Ray and Blake were confused as she did not allow the members to ask questions or let them present or discuss anything. The members were blind as to what they were trying to accomplish. The public hearing was scheduled without a motion or a vote. The hearing was held on June 25<sup>th</sup>. At the hearing they were surprised when Sara presented the application and made the recommendation that the application be denied on the basis that the project was not in agreement to the Comprehensive Plan. This was the first indication that Sara was in opposition to the plan. If she

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would have expressed her opinion in the beginning Ray and his partner would have argued for the Class I Permit application. At the hearing there were only two people in opposition. Her report said all were in opposition but he wanted to point out that there were only two. They were both in an organization for the revitalization of Main Street which he finds ironic in that if they had their way it would result in a dilapidated empty bar on Main Street. When the commission voted it was a split vote with one member voting in favor and one against. Ray stated that "that is the history and I hope the Council has a little empathy for their situation in working on this since November". Ray then went through the objectives of the City's Comprehensive Plan. Objective one is to support and encourage locally owned and niche market businesses. He feels like they have complied with this objective. Locals will have the opportunity to rent this historic building if they wanted like Sara had pointed out. If that is not part of the application they would be happy to add it as a conditional use while also being available for nightly rental. Customers will enjoy dining at local restaurants and buying groceries at convenience stores and Dave's Jubilee. Their out of town dollars will absolutely support locally owned businesses along Main Street. Objective two is commercial business development along US 20 should be designed to fit the character of the area and facades should have materials similar to building fronts and setbacks. This building is a historic building and the façade will be preserved and maintained as will be the inside including the bar. The building is in desperate need of preservation and without the rental use they will be unable to pay for upkeep and preservation. Objective three is to attract industries which will need a skilled labor pool and will raise the local wage rate. In addition to the maintenance and housekeeping jobs, the business will require management, web design and marketing. As stated previously, it will also bring outside dollars to the other Ashton businesses. Objective four is to ensure commercial buildings front on public and private streets. Building facades should relate to the street and clear pedestrian entries should be provided on the street and at parking areas. Ray stated that the commercial front of Ott's Place is the stereotypical historic front for Ashton. This look will be preserved. There is an entrance at the front on Main Street as well as in the back near the parking area. The last objective is objective five is to avoid commercial zoning beyond the frontage of Main Street and preserve a commercial area on Main Street. He feels that there is no need to discuss this objective as the project complies already. In conclusion, they have been working with the City since last fall for approval. They have been desperately trying to meet all the requests of the City which have been a moving target. The City was prompt in charging water fees even though water has been turned off since before they purchased the property. Otherwise the process has been inconsistent and slow. They have been making payments on the property since purchase and have counted on revenue from this season which is now lost. Tonight he asks the good people of Ashton to approve this application and let them get to work to preserve this historic building. Blake Walker wanted to talk about preserving the building. There had not been good maintenance on the building prior to their purchase. They shored up the building best they could and then came up 5 to 6 times to clear snow off of the roof. Through the winter there was a leak and there was a collapse. They love the building and want to preserve it. They want the ability to preserve maintain and fix the old building. On the application – when they applied they applied with a narrative and he went over part of that narrative. He feels that families will come in and spend money here in Ashton. Every business owner they have spoken to has been in favor of this business or plan. What they are trying to do is not something that is not allowed – it is just that it is only allowed on the second floor. Nightly rentals are already allowed on Main Street and there are several online. They are not asking to do something that is not allowed in the zone – they are only seeking permission to do it in a building that doesn't have a second floor. City Attorney Angell asked if the Council had any questions for the applicant. The City Council had none.

City Attorney Angel opened the time for Public Comments. The first comments will be the comments in favor of

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the application.

Ryan Lerwill, 1732 N. 5000 E., Sugar City. Ryan was the agent for the purchase of the building and has been working with the clients for over a year now on this project. Without going into details, it was a mess. The building was a defunct building in foreclosure. The owner had tried to sell the building for over three years. Had it listed and was completely baffled about how she could make it of value. Their idea is to preserve the building and bring business downtown. Online commerce is causing business to go out of business and we need to take a hard look at what is happening. There is someone here who is willing to spend money preserving a business here on Main Street. In his opinion – it is a great opportunity for the City to have a business bringing more people to Ashton. He is unsure for them that a conditional use permit is to their advantage because there will be conditions. He agrees with Blake that this is not a new use on Ashton's Main Street. There are 3 other nightly rentals on Main Street right now. Of course, the power resides in the City Council to make that decision.

Chad Stegelmeier, 233 N. 3700 E., Rigby. I am the new owner of 511 Main here in Ashton. I grew up in Ashton. I love Ashton. It is just hard to see Ashton's Main Street go down like it is. What Ray is proposing to do is take care of one of Ashton's oldest buildings. It worries me that by not approving the permit it will just add to the number of vacant buildings on Main Street. One of my concerns when buying 511 Main was the amount of vacant buildings. It's really hard to run a business in a town that looks like it is dying so any growth or movement we can get on Main Street I think will be a positive thing for the town and the people that are here. That is all I have to share.

Brad Orme, 1447 N. 3600 E., Ashton. It's hard because – and I don't know these guys but - when you look at buying a business the bottom line is that it has to make money. That building or whatever you are buying you have to figure out a way to have that make money. I don't see how these guys are going to be able to make money if they aren't allowed to do some of the things they are asking to do. If that building can't make them money they are not going to be able to do anything with it – I mean it is pretty self-evident. I am kind of new to what has been going on right here with it so I would encourage you to find a way that this could work with your current ordinances and zoning and allow these gentlemen to do this. It is nice to see someone wanting to step up and take a property in Ashton and redevelop it and make this kind of a nice place for all of us to live and raise a family. That's my comments. Thank you.

Dallas Hill, 841 Maple Street, Ashton. My comments basically just go to the life blood of the town, the financial state of the town. As a new real estate agent I have had the opportunity to do a lot of investigation about properties and values and really what would help a property to sell and why. People are refusing to buy properties in Ashton. Buyers are constantly being deterred by the high levy on property taxes. Be it we've got some big dollar ticket items we've been working through to do with water supply and water waste projects that have been going on. It has put a toll on the citizens of Ashton and that toll is actually being spoken about across Eastern Idaho as far as Shelley and Idaho Falls. Now the only way we can really rectify that is to pay off some of the debts so that we can relieve some of the financial burden but this financial burden will detract people from moving here as long as it is there. The only way to combat that burden is A) to increase the revenue coming into the town by way of tourism or rental properties or income just like Brad spoke about earlier about creating revenue – a building is not going to populate itself just because it is supposed to look pretty or because it is classic. The only thing that really holds its value there is having dollars come in. So, we have to consider that for all our business purposes. If we want to keep Ashton alive there has to be fresh revenue to drink from otherwise businesses will close and people will sell. I don't want to see Ashton shrink any more. As has already been stated, there is an issue on Main Street with getting people to bid on properties – specifically the laundry mat which has been on the market all summer and part of

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the winter. One more thought really quick and that is the purpose of government and the preservation of liberty. We have to – in a small way – look at our community and realize that if we are into people’s business so much that we are preventing growth and preventing freedom then we are unjustifiably manipulating the economy. Now, to some degree with all of the applications and the re-applications and the public hearings and everything else it gets to the point that it is not only detracting willing individuals from bringing revenue into the town but it is also making it so that the people who are here and paying tax dollars are seeing that money wasted because people are constantly being tied up in processes and fees and hearings and do we really want to go down that road. Is it better to just to let freedom reign and say yes – do what you need to do with this property and make sure that things are preserved. City Attorney Angell told Mr. Hill that his time was up. Mr. Hill thanked the Council for the time to comment.

Loren Stegelmeier, 425 Stegelmeier Lane, Rexburg. I grew up in this town. I am Loren Stegelmeier, I grew up east of here but I came to this town. I was here long before a lot of you guys. Even before Councilman Funke over there – Councilman Funke replied that Loren left the town. I did leave but you know I’ve watched this town go down. I can go down Main Street and tell you people what was in each of those buildings. It makes me feel sad. What I would like to see you do is support these guys. They happen to be my relatives too, and so is Cathy (City Clerk Stegelmeier) and Chad (owns 511 Main) and we all grew up in this town. I walked up and down these streets. I even played pool in that building (Ott’s Place – 417 Main) and got caught by the bishop. So anyway, let’s build up the town. Let’s do what we can for it. I live in Rexburg and I didn’t ask them to name that lane after me either. Thank you.

City Attorney Angell explained that there are no neutral comments so he moved on to comments against the application.

Cathy Miller, 3321 E. 1300 N., Ashton. As stated, I had attended the P&Z hearing on this application in June. I spoke at that meeting also. I do not know these folks here nor am I related to half the other people here. I am new to Ashton, fairly new here – within the last couple of years. What I have done since I moved here is to try to become involved with the community. In doing such I am the president of the Ashton Community Foundation. As part of our foundation we have the Main Street Matters group. This is the group that is taxed with trying to beautify Main Street and to try to keep Main Street as positive a place as we can. Recently we have participated in the Ashton Community Review which a lot of people have been saying was a waste of time and that nothing has come out of it. But from that teams or committees were developed of which I am on which is the economic development team. We were taxed with bringing in businesses into Ashton which you would think we would be all on board with this application. I am on board with bringing business to Ashton but my concerns – which I expressed at the P&Z hearing- are that the City has ordinances and a comprehensive plan in place for a reason. Other folks have looked at that that specific building and other buildings with the intent of putting in Air B&B or other overnight rentals and were told no just like these folks and that is how it was. They were not given the opportunity to do the conditional use permit – they were just told no. I think that the City needs to be consistent as a Council and follow the ordinances and the comprehensive plan. I think it is a problem to just decide on every juncture and use a conditional use permit here and there to decide what’s going to happen on Main Street. We need to stick with the plan – the intent and purpose of the plan is to provide services to the community. Stores, goods, things that the community can enjoy on a regular basis. Not just tourism. Here other concern is that the City has lodging on the west end and lodging on the east end now thanks to Brad. He is keeping that as lodging and fixing it up. If we just keep adding lodging then it is going to affect those other businesses. Now we have a bar in the old Opera House which you would think a bar would go into a bar. They are putting money into making

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over the Opera House and could have put that money into fixing up Ott's Place. I agree that we don't need to be in everybody's business but there are some guidelines and rules and ordinances and plans in place for a reason and I think that we need to be sure to be looking at that and being consistent with everyone. Thank you.

Nancy Bergman, 1041 Highland, Ashton. I also own a business at 406 Main Street. I am extremely conflicted over this permit. In one sense I would like to see it go through. I have a personal history and a family history of Ott's Place. My father worked there; my brother had part ownership in it for a while so I have a history with the building. I have a passion for old buildings. I restored 406 Main to as close as possible to its original image. I spent a lot of money and it still has not paid for itself. I have 4 businesses in it and it has not paid for itself. I understand the issues of development – believe me. So in one sense I would be happy to see it go through however I also agree with what Cathy said. The City of Ashton is not consistent in their codes, their application of the rules and that causes conflict. It causes conflict with residents, it causes conflict with people that may be interested in investing, it causes conflict with businesses. The City needs consistency there. For this permit I have three main issues: parking, the use and the control of the unit. Now, on a short-term rental – there are some definite advantages to the City. One – you get tax revenue. Short term rentals pay a 2% additional sales tax however if that is rented for over 30 days they do not have to collect the additional 2% sales tax. Can the City control that it is only a short-term rental? Is this part of the conditional use? What control can you put in place to make sure it is not rented over 30 days? Can you limit to a short-term rental? What control do you have over parking? Parking in Ashton is a problem. Parking for businesses in Ashton is an extreme problem. Anyplace in Ashton there is an issue with parking. So these two items – the parking and the control of the use are a concern. It would be a benefit if the City could put something in place to control those concerns. The other issue I have with this permit is that if you issue this permit it opens the door for the same kind of permit in the other two empty buildings on the main block of Main Street, plus Key Bank, plus the empty lot by Imperial Club and the empty building close to my building. All of those could be purchased and used as short term rentals. Do we want Ashton's Main Street to become a short-term rental place? Can you issue a conditional use permit that has some appropriate, adequate controls that would enhance the community, the businesses and meet the needs of residents, businesses and the City appearance overall? I am also concerned about the event rental and how that is going to be addressed. On the objectives being met by the applicant – I feel the maintenance and housekeeping would be done from Ashton but I doubt that the web design, marketing and management would be jobs here in Ashton. City Attorney Angell explained that Ms. Bergman's time was up. Ms. Bergman thanked the Council for their time.

City Attorney Angell asked if there were any additional comments. There were none. He then asked the applicant, Ray McDougal, if he had anything to add to clarify.

Ray said that parking seems to be a concern. On the site plan for the business they show 6 full size parking stalls in the rear – not in the street. Ray asked Administrator Bowersox about the parking spaces required and she replied that it is one plus one per units for a rental and one for every three guests for an event center. Ray said that in any rate – for the use that they are proposing they have six spaces which is more than adequate. Ray said that as he has gone through this process here and in Sugar City that when you step up and want to do a project that there are a lot of people who are not investing who want to tell you what you should do with your investment. It can be really discouraging. We feel that this is a good project for this plan. You have a choice tonight. You have the authority to issue this permit – that is why you have a conditional use permit. You can approve this permit and we can go to work and improve this

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building and bring more money into the town OR deny and have a dilapidated bar on Main Street. City Administrator Bowersox asked if since he said he had the parking for the use requested – does that mean that he is not also going to do event rentals. Ray replied that he does not know why Administrator Bowersox is trying to limit them as it would benefit the community. Again the Council has the ability regardless of what this parking. They feel that six stalls will be enough because it is a small building and they feel six stalls will be enough. Administrator Bowersox said that it will need to be in the permit. Ray feels it is up to the Council to limit or not to limit the use. City Attorney Angell asked if the Council had any questions for Mr. McDougal. They did not ask any questions.

City Attorney Angell asked Administrator Bowersox if she wanted to clarify anything. She said she did.

Administrator Bowersox explained that as far as the planning and zoning process – they hear public hearings as a quasi-judicial body and it is not appropriate that they hear from the applicant or the public prior to the hearing. That is why at the meeting in May the applicant could not address the commission. The public hearing was the proper place to discuss the application with the commission. The Conditional Use Permit Ordinance requires that a hearing be held on the permit and that is why a motion and vote was not required to set up a public hearing. In addressing the current residential uses on the ground floors on Main Street. They are what are called legal non-conforming uses that were done prior to the code. This is what some refer to as grandfathered status. The Conditional Use Permit Ordinance specifically states that a permit does not set a precedence. Simply approving the permit does not set a precedence that others be approved. Were the Council to approve the permit they would need to set about writing the conditions of the permit and then those conditions would have to do with the occupancy and parking limits, etc. so that is why she is asking questions about what occupancy they are wanting to provide. The conditions would also need to be enforceable. City Attorney Angell asked if the Council had any questions for Administrator Bowersox. Councilman Mattingly asked Fire Chief John Grube (who was in the audience) if he knew what the maximum occupancy was at Ott's Place before. Chief Grube did not know the prior occupancy.

City Attorney Angell explained that there were three comments in favor that were received late but were accepted and the Council has them in their packets. He then asked if there were any more questions for anyone from the Council. The applicant asked City Attorney Angell who would be writing the permit. City Attorney Angell replied that it is really not who writes the permit. It is helpful for the applicant to suggest the uses they would like permitted and then it is up to the Council to decide what conditions would be applied if a permit is approved. Administrator Bowersox explained that in the ordinance it states that the administrator would write it with the Council's approval. There would be discussions with the applicant, the council and the City Attorney during that process.

City Attorney Angell closed the public hearing at 8:12 PM. He then advised that the Council discuss the permit and hearing in order to make a decision. The Council does not have to make the decision tonight but could if they would like.

Councilman Atchley explained that he has been a Councilman for 6 years and at the beginning of his time on Council he would have just pushed through to make a decision. Now he has been bit a few times and hopes that everyone will understand that taking time is good in the decision-making process. As far as the other people that have not been allowed to put a nightly rental on the ground floor uptown – the conditional use permit is new – we have only had it for about a year. When they put the conditional use permit in they knew they were going to have some big

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nights like this. This particular use was not thought of at the time. He is always looking to do a business and this is a good business. He feels that maybe a code change should be more in order than just a conditional use permit. He thinks it will set a precedence even though the code says it is not.

Councilman Funke said he has been here for considerably longer. He asked Administrator Bowersox what would happen if the business failed. What would happen to the permit? Administrator Bowersox said that permits are not transferable from one parcel to another. The Conditional Use goes on with the property but the new owner must provide written agreement to the conditional use permit or the permit may be declared void with notice and hearing. City Attorney Angell's advice would be to declare a permit void if the use changes.

Councilman Mattingly agrees with Councilman Atchley that perhaps an ordinance change is needed. He would like to know exactly what would be happening there if a permit is given. He does not have a problem with nightly rentals.

Councilman Funke asked why Dr. Rees was allowed to live on the bottom floor. City Clerk Stegelmeier explained that he had already converted part of his business to residence prior to the code and thus it is a grandfathered use just like the Bates Motel. Councilman Funke asked if City Clerk Stegelmeier knew why ground floor residences were disallowed. City Clerk Stegelmeier is unsure but her hypothesis is that it is to make it more inviting for customers walking down the street. They can go into business after business or see merchandise along their way – making shopping more inviting. Wanted store fronts open so people would go down the streets.

Councilman Atchley said he knows they don't want pushed off longer. He would like some time to go over things. City Attorney Angell reminded the Council that if they are going to table this item – they will still need to be cautious in their discussions. The public hearing is the proper arena for discussion on this subject. You will need to make the decision on what is presented at this meeting. He feels that it will be pretty hard to say no from now on so he feels that he needs to decide that it may be a code change.

City Clerk Stegelmeier reminded them that they do have time to think about it. The Council discussed the fact that many nightly rentals are in the City and that this will probably result in more opening. City Clerk Stegelmeier advised that the Council needs to also decide the conditions of the permit. She is concerned that the conditions will be enforceable. Councilman Atchley and Councilman Mattingly discussed some of the issues with enforcement, planning, etc. that this might bring. Councilman Funke said that it would be more time for the applicant if they waited for a code change. Councilman Atchley explained that they would allow it and then change the code. Councilman Atchley would like to discuss it more at the July 30<sup>th</sup> meeting. Councilman Funke agreed.

Councilman Mattingly made a motion to table this motion to the meeting on July 30<sup>th</sup>, 2019. Councilman Atchley seconded the motion. The motion passed unanimously.

Mayor Stronks went on to item 8 on the agenda.

### **3. ORDINANCES/RESOLUTIONS:**

- A. Ordinance 477-19 – Adding Designated Truck Route: Pine Street between 2<sup>nd</sup> & 3<sup>rd</sup> Streets – Detective Owens **ACTION ITEM**

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Officer Owens explained that the road in question is the first west to east road north of Trails Inn and just one block. The trucks will not be able to go very fast because it is only one block. He feels like it makes a lot of sense and makes the area safer. He and Chief Griffel feel like it will be a good use for that street. Mayor Stronks asked Todd Martindale if it has the right construction to work for trucks. Todd said that the City could have a core sample done and do some construction but that he agreed with the police department that a truck route would help with safety.

Councilman Atchley made a motion suspend the rule requiring an ordinance be read on three separate occasions and once in full and that the ordinance be read by title only. Councilman Mattingly seconded the motion. Mayor Stronks called a roll call vote: Councilman Funke, Aye; Councilman Atchley, Aye; Councilman Mattingly, Aye. The motion carried.

Councilman Atchley read the title into the record.

Councilman Atchley made a motion that Ordinance 477-19 be approved and published. Councilman Mattingly seconded the motion. Councilman Mattingly seconded the motion. Mayor Stronks called a roll call vote: Councilman Funke, Aye; Councilman Atchley, Aye; Councilman Mattingly, Aye. The motion carried.

### **4. NEW BUSINESS/PETITIONS:**

*Each speaker will be allowed a maximum of 5 minutes unless repeat testimony is requested by the Mayor/Council.*

#### A. Tree Discussion – Todd Martindale, Brett Griffel

Todd explained that the public works department repaired another water meter where the roots from the city street trees had cause damage. They took photos to show the damage to the City Council. He went over the photos with them and explained what happened. The water main and service lines are being damaged by the roots all along the street. The sidewalks are also being damaged by the trees. He is concerned that the City Council needs to start working on this problem. He feels like the trees are beautiful but they are tearing up the infrastructure. Councilman Funke asked what is Todd's solution to the problem. Todd explained that they are going to need to do something and maybe there can be planters or other beautification can be used. Councilman Funke said that if we are actively working on the trees that things would be better. He hates to lose the trees but he would hate to lose the infrastructure. Michele explained that there is an injector that they can buy to help slow growth but that would be on new trees. Councilman Atchley said the Tree Committee needs to get together and make a plan that will start to work on the problem. Councilman Funke agreed. Mayor Stronks said that he will table his item until next month to see what the Tree Committee brings to the Council.

#### B. Liquor License Transfer – City Clerk Stegelmeier **ACTION ITEM**

City Clerk Stegelmeier explained that the new owner at 511 Main, Chad Stegelmeier, has submitted an application to transfer the beer and wine licenses. He has paid the fee and included the state and county licenses as required.

Councilman Atchley made a motion to accept the transfer of licenses at 511 Main to Stegelmeier 5 Company. Councilman Funke seconded the motion. The motion carried unanimously.

#### C. Budget Discussion – City Clerk Stegelmeier **ACTION ITEM**

The Council went over the budget a little and received copies of budget requests from several department as well as health insurance & liability insurance. Mayor Stronks feels that they should wait until Councilwoman Hansen is available. They then discussed having a budget workshop at a special meeting set for Wednesday, July 30<sup>th</sup> at 6 pm. Councilman Mattingly asked about the generator at the City Building. It was already in the budget and Councilman Mattingly will get working on it.

### **5. UNFINISHED/OLD BUSINESS:**

*Each speaker will be allowed a maximum of 5 minutes unless repeat testimony is requested by the Mayor/Council.*

#### A. Wastewater Project Update – Marvin Fielding, Jaden Jackson **ACTION ITEM**

Jaden Jackson is here to talk about the project. The ongoing discussion with the railroad is at the place where the railroad wants an agreement with all crossings. The agreement requires insurance

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for construction. They also want a certificate of insurance that City Clerk Stegelmeier has been working on with ICRMP. In the State of Idaho there is some limitations through Idaho Code that the City will have to follow and show the railroad documentation. As part of the agreement there is a processing fee of \$800 and an undocumented crossing fee per crossing and an annual licensing fee. Altogether it is \$3,750. There will be an ongoing annual fee per crossing. The City has 3 water crossings, 1 sewer crossing and 2 road crossings. They are trying to get better information. City Attorney Angell said he thought it was only water and sewer but then it said more information. It seems like this is going to be an ongoing problem with the railroad. City Attorney Angell will call the City of Idaho Falls attorney and see if Idaho Falls pays this. City Clerk Stegelmeier thought that there may be negotiation because the City has cut the weeds and cared for the railroad right-of-way for several years but it seems like they are not negotiating. Councilman Funke explained his concern as East Idaho Rail just leases the lines and Union Pacific owns them. Jaden explained that to complete the sewer project crossing the City will need to pay the \$3,750 payment right now. 3H has got the contractor coming to do the pipe burst under the railroad. The railroad fees were not part of the project costs because they did not exist at the time the contract was done. City Attorney Angell says the Council should approve it up to \$3750.

Councilman Mattingly made a motion to pay up to \$3,750 for railroad fees subject to negotiation. Councilman Funke seconded the motion. The motion carried.

Jaden then explained that 3H is requesting a 4-week contract extension to wait until after harvest to complete the part of the project close to Loosli Elevator. The contract time would normally be up on September 2<sup>nd</sup> but with harvest coming – they would want to wait so that they are not affecting the harvest.

Councilman Atchley made a motion to give 3H Construction a 4-week contract extension on Phase II of the Wastewater Project. Councilman Mattingly seconded the motion. The motion carried unanimously.

The rock excavation has been 384 feet more than what was anticipating. The alleyways have been a problem. They want to make sure and keep the Council apprised of the situation. Right now that is \$45,000. They will keep the council apprised of the situation.

B. Park Project Update – Marvin Fielding, Jaden Jackson **ACTION ITEM**

The contractor will be here this week to complete the striping on the parking. Then the project will be complete. The check will then be paid. Councilman Mattingly said many people are enjoying the project.

C. Railroad Avenue Project Update– Marvin Fielding, Jaden Jackson, Tom Howell, **ACTION ITEM**

Jaden discussed with LTHAC the grant. The grant does have to be used on that part of the road but it doesn't have to be used until October of 2020. Even at that we could request an extension to 2021. Councilman Atchley spoke quickly with Dr. Toenjes and he would negotiate with the City. City Clerk Stegelmeier had asked them to look for other grants but they have not come up with anything. Councilman Funke says that the dust coating needs to be completed.

Jaden then discussed Phase I of the wastewater project. There are two bids and Automation Werx is the best bid to get the SCADA system put in on the project. Automation Werx have been a good company to work with so the system should go in well.

Councilman Atchley made a motion to accept the bid for a SCADA system at the lagoon for \$17,500.

Councilman Funke seconded the motion. The motion carried unanimously.

There are punch list items to get done out at the lagoon site. They have been waiting for it to dry up. He is hoping they will mobilize and get the project done. Eagle Rock is over time as of now. They should be starting up soon.

D. Mosquito Abatement – Councilwoman Hansen **ACTION ITEM**

City Clerk said the machine is here and need direction on what to do. Councilwoman Hansen has said that the Council would be doing the spraying. Councilman Atchley said that Brett should get a schedule together and go for it. Whoever is taking charge just go for it. Mayor Stronks said maybe

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there should be an employee meeting to go over it.

### **6. REGULAR BUSINESS/EMPLOYEE REPORTS:**

- A. P&Z Report – P&Z Administrator Sara Bowersox  
Administrator Bowersox said that there have been a few normal business items like fences, etc. There are a couple of items she is working with the applicant and building inspector. The Opera House Saloon owner is working with Administrator Bowersox on completing items that have been a concern and they are hoping to get things completed. The P&Z Commission has had a public hearing on an annexation and this annexation will be coming to the City Council later this month.
- B. Scheduling – City Clerk Stegelmeier  
City Clerk Stegelmeier explained that she already discussed the scheduling she had with the Council during the budget discussion.

Mayor Stronks called for a short recess before going back to the Public Hearing.

### **7. COUNCIL DISCUSSION:**

*Councilmembers will bring items to be discussed with the other Councilmembers & Mayor. No action should be taken on these items as they have not been specifically listed on the agenda.*

There was no Council discussion.

### **8. EXECUTIVE SESSION:**

*I.C. 74-206 Certain City-related matters may need to be discussed confidentially as a matter of law (Acquisition of real property, personnel matters, attorney-client communications) subject to applicable legal requirements, the Council may enter executive session by roll call vote to discuss such matters.*

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.

Councilman Atchley made a motion to enter executive session. Councilman Mattingly seconded the vote. A roll call vote was called. The motion passed unanimously.

The Council entered executive session at 8:27PM.

Councilman Atchley made a motion to come out of executive session. Councilwoman Hansen seconded the motion. The motion passed unanimously.

The Council exited Executive Session at 8:34PM.

### **9. ADJOURNMENT:**

Councilman Atchley made a motion to adjourn. Councilman Mattingly seconded the motion. The motion passed unanimously.

### **NEXT MEETING**

- ◆ Special Council 7:00 p.m. – Wednesday, August 14, 2019 Council Chambers, Ashton City Building – 714 Main, Ashton.
- ◆ Questions concerning items appearing on these Agendas or requests for accommodation of special needs to participate in the meetings should be addressed to the Office of the City Clerk or call 208-652-3987.

Minutes respectfully submitted by Cathy Stegelmeier, City Clerk.

Attest

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Cathy Stegelmeier  
City Clerk

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Theo R. Stronks  
Mayor