

MINUTES–CITY OF ASHTON

CITY COUNCIL MEETING

Wednesday, September 11, 2019

7:00 p.m.

714 Main (North Entrance)

*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.*

CALL TO ORDER & WELCOME

PRAYER OFFERED BY: Teddy Stronks
PLEDGE LED BY: Jerry Funke

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, Jeremy Harris, Blake Walker, Ray McDougal, Michelle O'Malley, Chayla Teske, Tyler Teske, Nancy Bergman, John Scafe, Jon Kaelberer, Jeff Patlovich, Rick Gokey, Todd Martindale, Brett Griffel, Sheryl Hill, Kobe Jackson, Michele Smith, Jaden Jackson, Byron Stutzman and Lisa Smith.

Mayor Stronks opened the meeting at 6:58 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 8-14-2019, ~~Special Meeting 8-28-2019~~
- 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. Councilwoman Funke seconded the motion. The motion carried unanimously

2. PUBLIC HEARING:

Each speaker will be allowed a maximum of 3 minutes unless repeat testimony is requested by the Mayor/Council.

- A. Conditional Use Permit at 417 Main – City Clerk Stegelmeier **ACTION ITEM**
City Clerk Stegelmeier opened the hearing at 7:04 pm

City Clerk Stegelmeier asked P&Z Administrator Bowersox to present her report to the City Council.

P&Z Administrator Bowersox reported that the applicant has hired a consultant and there has been some communication received from the consultant concerning the use of the building. The consultant has said that the applicant is applying for a commercial use – hotel/motel. The consultant argues that because it is a commercial use it would be allowed in the Community Core Zone. P&Z Administrator Bowersox explained that as a 'use' a hotel/motel is residential by our code and national land use guidelines. She then reminded them of the discussion at the last public hearing. The applicant would like to use the building as a short-term rental. In the zone that this property is located – residential uses are allowed only on upper floors thus the reason for the conditional use application. The Council is acting in a quasi-judicial manor as a sort of judicial review. Code requires that the application be in harmony with the City's comprehensive plan and building code as they exist today. The comprehensive plan calls for a traditional main street pattern of store fronts. The City's development code requires that all residential use be above the first floor. As a hotel/motel is classified as a residential use, even when used as a business, the application does not fit the code. Evaluating the application against the code and plan as they exist today P&Z Administrator Bowersox

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recommends that the application be denied.

City Clerk Stegelmeier asked the Council if they have any questions for Administrator Bowersox. There were no questions. She then asked the applicant, Ray McDougal, to present his proposed application.

Ray McDougal wanted to clarify two points and then asked that his consultant, Jeff Patlovich, be given the rest of his time. He first point is that they are just three weeks away from it having been one year since the first application was submitted. His second point is that they have been paying utility fees without any income since the time they purchased the property.

Jeff Patlovich of All Idaho Land Consulting introduced himself as the consultant for the applicant. He has worked with Planning and Zoning for 43 years and has worked for cities or counties. He is the most tenured land use planner in the state of Idaho. He explained does not disagree with Sara. He doesn't agree that it is a residential use. Understands why a residential use should be in a separate zone than commercial but it is no different than hotels/motels that the City has in the same zone. These kinds of short-term rentals are oriented to motorists and tourists. It fits with definition in state statute. It is a three-unit hotel/motel that can only be rented for less than 30 days. The applicant is not asking to rent for over 30 days. The applicant is asking for is a commercial hotel/motel. They have the space for parking and will comply with requirements for access. They will not need to meet ADA requirements or fire suppression requirements. He went on to discuss the Brooks vs. Pinehaven case discussing transient rental. They are not asking for transient rental.

City Clerk Stegelmeier asked if there were any questions for the applicant or his consultant. Councilwoman Hansen asked why the application was for residential use. Mr. Patlovich replied that it was a mistake. They do not want a residential use – they want commercial use. There were no more questions.

City Clerk Stegelmeier opened the public comment portion of the hearing and asked for those in favor approval of the application to speak. Between speakers, City Clerk Stegelmeier asked the Council if they had questions for the speakers.

Blake Walker, Rexburg, ID. He has commented 3 times in favor of this application. First at the P&Z Hearing, then at the 1st Hearing in front of the City Council and now. Blake is grateful that Jeff is trying to clear this up. Blake explained that everything was done according to what Kyle Baldwin had directed them to do. They have been hitting roadblocks each time. The building is falling apart, and they are not sure it will make another winter. Inside – portions of the ceiling have fallen. They are in desperate need of an avenue to receive revenue to fix up the building. He is in favor of the permit being approved.

Chayla Teske, 377 Idaho Street, Ashton, ID. She and her husband own Dan's Plumbing and she feels that granting this permit will be a great opportunity for Ashton. It will bring more people to downtown. Chayla and her husband stay at Air B&Bs when they travel. The reviews are how these properties continue to get guests, so they are always clean, nice and updated. The owners will keep it up and the visitors will do business with Ashton's downtown businesses. Chayla is in favor of approval.

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City Clerk Stegelmeier asked if anyone else would like to speak in favor of the application. With no response, she then asked for those wishing to speak who are neutral to the approval of the application.

Nancy Bergman, 1041 Highland Street, Ashton. Nancy is in favor of business but is concerned with parking because parking is an issue on Main Street already. She is also concerned about the potential that many of the property owners will now apply for conditional use permits. Nancy feels that if the City wants this kind of use, the City should specifically set rules for hotels/motels with restrictions. She is worried however that in the future these properties would be converted to long term rentals and is unsure if this use is something that the citizens would want.

City Clerk Stegelmeier asked if anyone else would like to speak neutral to the approval of the application. With no one responding to speak, she then asked for those wishing to speak who are against the approval of the application. There was no one who wanted to speak against the approval of the application.

City Clerk Stegelmeier then invited the applicant to speak again to add or reply to any information/testimony given.

Jeff Patlovich explained that he agreed with Ms. Bergman that long term rental use would not be compatible, but his client is asking only for short term rental. The applicant does comply with parking regulations in the code. They would agree in the conditions that this would be a short term or transient rental rented for no longer than 30 days. He also agreed with Ms. Teske that it will be an improved building and the applicant plans to keep its facade consistent with the rest of Main Street.

City Clerk Stegemeier asked if the Council had any questions for the applicant or his consultant. Councilman Mattingly asked if transient rental is the same as an Air B&B. Mr. Patlovich said that he is not saying that it cannot be used as this. He is saying that the applicant is willing to put in the conditional use permit that it cannot be rented for longer than 30 days. There were no more questions.

City Clerk Stegelmeier then invited P&Z Administrator Bowersox to speak again to add or reply to any information/testimony given.

P&Z Administrator Bowersox explained that she is not arguing the meaning of a hotel/motel, but the use is the key and hotel/motels are listed as a residential use whether a commercial enterprise or not. If the permit is granted the City can put conditions on the permit of which a 30-day rental could be an included condition. Should the Council vote in favor of it tonight the process would start to define the usage. It does not set a precedence. Changing the code to allow these sorts of rentals or usages on a ground floor would be a process that could take 6 months. P&Z Administrator Bowersox explained that the existing businesses or hotel/motels that exist were in existence prior to the code adoption. These are called legal non-conforming uses. She is concerned that Mr. Patlovich described the property as being a three-unit hotel/motel. The application said that the property would only rent to only one renter at a time. Unlike the other hotels it would not have a manager or a desk. The general public would not be able to come in the front door. Comprehensive plan states that properties should enhance our unique small town. Challenge is maintaining a commercial

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appearance. Please consider whether this usage would encourage locals to visit that business. The code call for properties to maintain a traditional main street atmosphere. Commercial land use – strong diverse. If we have businesses with a usage that restricts interaction - is that a business that fits the comprehensive plan and development code? P&Z Administrator Bowersox’s analysis and recommendation is that the permit be denied.

City Clerk Stegelmeier asked if the Council had any questions for Administrator Bowersox. There were no questions. City Clerk Stegelmeier closed the public hearing at 7:33 pm.

Councilman Atchley explained that he was a big supporter of having a conditional use permit for the City of Ashton. He feels that ideas for things that are unusual or different for a community is a good thing. He is sorry that it has been frustrating for the applicant. Councilman Atchley is in favor of approval of the application. He feels that that this sort of business is where Ashton is in the world today. The more hotels/motels on Main Street the more opportunities for the businesses on Main Street.

Mayor Stronks thinks that there are times when we need to start changing things. He agrees with Councilman Atchley.

Councilwoman Hansen can see all the problems that may come with approval of the application. It worries her to open the door for this type of business and that it may make other businesses leave. Councilwoman Hansen is not for the approval of the application.

Councilman Atchley made a motion to approve a conditional use permit for at 417 Main Street. Councilman Mattingly seconded the motion. The vote was as follows: Councilman Funke, nay; Councilman Atchley, aye; Councilwoman Hansen, nay; Councilman Mattingly, aye. The vote was a tie. Mayor Stronks broke the tie by voting in favor of the application for conditional use. The motion carried.

3. PRESENTATIONS, CEREMONIES, APPOINTMENTS, ANNOUNCEMENTS:

A. Arbor Day Proclamation – Mayor Stronks

Mayor Stronks explained that he has issued an Arbor Day Proclamation for the City’s Arbor Day Celebration which will be held Wednesday, November 18th at the City Park. More information will be on the City’s website and on the City’s Facebook page.

B. Committee Appointment Nominations – Mayor Stronks **ACTION ITEM**

Mayor Stronks explained that he would like to nominate Wes Hamilton, Mark Gardner and Lila Martindale to serve on the Tree Committee.

Councilwoman Hansen made a motion to appoint Wes Hamilton, Mark Gardner and Lila Martindale to the City’s Tree Committee. Councilman Atchley seconded the motion. The motion carried unanimously.

4. NEW BUSINESS/PETITIONS:

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

A. PSI Contract Extension/Rate Discussion – City Clerk Stegelmeier, Jeremy Harris **ACTION ITEM**

Jeremy Harris explained that he does not hear a lot on how the service has been for the citizens of Ashton. City Clerk Stegelmeier explained that there haven’t been any needs or problems of which she is aware. He replied that maybe no news is good news. He needed to come to Council this evening to discuss rates. As the Council is aware, Fremont County has gone up to 80 dollars a ton

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for garbage. PSI has been taking part of the City's garbage to the Bonneville County landfill but now they are also raising rates. As a result, PSI will need to raise the City rates. He has brought a rate list to City Clerk Stegelmeier and he will work with her on setting the new rates. This will be more than a 5% raise so a public hearing will be needed. The Council will review them in October to possibly set a November public hearing. Jeremy also would like the Council to consider a 10-year extension to the current contract. He feels that the contract has worked well and any raises in fees would have to come through this same process. Councilman Funke asked if PSI would consider 5-year extension. Jeremy explained that they need a little more time to get the most out of the equipment. A new garbage truck is \$300,000 and to make sure to keep the equipment current, etc. a 10-year contract is better for them. If they can keep the long-term contracts, they can keep costs down. Councilwoman Hansen explained that she is not opposed to 10-year contract. Councilman Funke is fine with an extension.

Councilwoman Hansen made a motion to approve a 10-year contract extension with PSI Waste Systems. Councilman Atchley seconded the motion. The motion carried unanimously.

B. 2020 Liquor Licenses – City Clerk Stegelmeier **ACTION ITEM**

City Clerk Stegelmeier explained that all the applicant's fees were paid, and their licenses were presented as required.

Councilman Funke made a motion to approve the 2020 liquor licenses as presented. Councilman Mattingly seconded the motion. The motion carried unanimously

C. City Election Discussion – City Clerk Stegelmeier

City Clerk Stegelmeier explained that the City election would be held on Tuesday, November 5th. Voters on the north side of Main Street will vote at the City Building. The voters on the south side of Main Street will vote at the Senior Citizen Building.

D. Census 2020 – City Clerk Stegelmeier

City Clerk Stegelmeier explained that the census will be taking place next year and the City will be taking part in helping with it. There is more information in the Council's packet.

5. UNFINISHED/OLD BUSINESS:

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

A. City Ball Park – Mayor Stronks, Byron Stutzman **ACTION ITEM**

Byron Stutzman is the Fremont County School District Superintendent. Mayor Stronks had been asked by the Council to contact him about the School District's interest in the City's Ballfield. Currently the district is working on getting a baseball field done. They would like to have a softball field as well. If the City is willing to donate the softball field the school district may be willing to take ownership. This all is, of course, contingent on a school board decision. In any case, the school would be looking to work on the current field to get the home base raised so that it did not become a mud hole as it has in the past. Councilman Funke explained that the sight lines are a problem during sundown. Councilman Atchley would like to see the City and the School District work together to save the citizens money. City Clerk Stegelmeier explained that there is a Land and Water Conservation Grant used to build the field and that there are restrictions on its use. Superintendent Stutzman said he has worked with these restrictions before and would need to consider them. He will work with City Clerk Stegelmeier to get something ready for the school board to see if they would consider negotiations.

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- B. Wastewater Project Update – City Clerk Stegelmeier, Jaden Jackson **ACTION ITEM**
Jaden Jackson is here at Council to talk about Phase II of the wastewater project. The rock removal quantities are now over 722 feet above what was bid. Jaden went over the reasons for the rock removal with the Council. The contractor is limiting the rock removal as much as possible however they are estimating up to 600 feet more. Will be about 1300 feet over. The contractor has had to import fill that was less rocky. There will be a change order coming to the Council concerning the imported fill. There will also need to be a time extension due to the rock. The contractor is still hoping to finish this fall and will be bringing back multiple crews as soon as possible. The contractor has said that the citizens have been great – even bringing them lemonade, etc. They have enjoyed working in Ashton.
- C. Ashton Living Center Water Meter—City Clerk Stegelmeier, Todd Martindale, Shon Shuldberg **ACTION ITEM Moved to October City Council Meeting**
- D. Tree Discussion – Todd Martindale, Brett Griffel, Michele Smith **ACTION ITEM**
City Clerk Stegelmeier had set up a projector and Todd, Brett and Michelle showed the Council the photos of the roots and other tree issues that have been found. Part of the problem is how close to the bedrock is to the surface. Roots are having a hard time going down. Michele has done a lot of research. She has been working with the state arborist, Gerry Bates. He had been part of the planning of the current trees. She has also discussed trees with other communities and visited Driggs. The entire main street in Driggs has 14 trees and has 15-foot-wide sidewalks. Ashton’s sidewalks are 10 feet wide and there are many more trees. She will be working with the City’s Tree Committee and Gerry Bates to come up with a long-term plan. Brett mentioned that there does need to be some discussion about the tree at the Flea Market. It has really raised the sidewalk and is a hazard. Several other trees were discussed but the Council would like Michele and the Tree Committee to get a plan together first. Todd spoke to the Council about the deterioration of the bricks that are in the sidewalks over the watering/electrical system. He is especially concerned about the amount of sidewalk salt that has been used at several locations. Councilman Atchley made a recommendation to put conduit in the brick area of the sidewalks as they are repaired. That way the City can run water and/or electrical lines through the conduit as needed.

Councilman Funke due to trip and fall as well as the raising of the sidewalk by flea market that the tree there be eliminated. Councilman Atchley seconded the motion. The motion carried unanimously

6. REGULAR BUSINESS/EMPLOYEE REPORTS:

- A. P&Z Report – P&Z Administrator Sara Bowersox’
P&Z Administrator Bowersox explained that she was focused on both of the hearings and did not prepare a regular report. There was tonight’s hearing on a conditional use permit as well as an annexation hearing. She has also been working with Shanelle Garcia at the Opera House Saloon along with the City’s Police Chief and North Fremont Fire District Chief to bring that business into compliance. Shanelle is in the process of getting ADA bathrooms installed. There was also a shed built out of compliance but now has been brought into compliance. There was a pre-1976 trailer moved onto mobile home lot without permit. The City’s building inspector is looking at it, etc. and a timeline will be set for compliance. There have been several fences, decks and accessory buildings that have been completed/permitted. Long term discussions will need to be had because of future of water, sewer, roads and railroads questions that have come up. The comprehensive plan needs to be updated and she has been visiting with City Clerk Stegelmeier and others to work through the process. Councilman Funke inquired as to whether someone who owns two lots together could split

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them and sell them separately. Administrator Bowersox said that there may be a process that they will need to go through at the City but that most likely the answer is yes.

- B. Scheduling – City Clerk Stegelmeier
City Clerk Stegelmeier went over the Council’s schedule with them.

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. ADJOURNMENT:

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

NEXT MEETING

- ◆ Special Council 7:00 p.m. – Wednesday, October 9, 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

Cathy Stegelmeier
City Clerk

Theo R. Stronks
Mayor