

City of Heyburn Council Meeting
Wednesday, January 22, 2020
7:00 P.M.

Mayor: Mayor Mark Rosa.

Council Present: Chad Anderson, Dick Galbraith, Joanne Justesen, and Rose Schmitt.

Employees Present:

Tony Morley, Paul Ross, and Ashlee Langley.

Welcome & Pledge

Meeting conducted by Mayor Mark Rosa who welcomed everyone to the meeting and asked Joe Maloney to lead those present in the Pledge of Allegiance.

Discuss / Consider Minutes of the January 08, 2020 Council Meeting – ACTION ITEM

Motion by Chad Anderson to approve the minutes of the January 08, 2020 Council Meeting as presented. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Paying the Bills – ACTION ITEM

Motion by Dick Galbraith to approve the bills as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Wastewater Treatment Plant Improvement Contractor's Application for Payment No. 1 and discussion regarding future Payment Applications – ACTION ITEM

City Administrator Tony Morley presented Payment Application No. 1 for the Wastewater Treatment Plant Improvements. Mr. Morley stated as the project moves forward monthly payment applications will be submitted to the city council for approval at the first council meeting of the month.

Motion by Dick Galbraith to approve Wastewater Treatment Plant Improvement Contractor's Application Payment No. 1 in the amount of \$383,106 as presented. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Authorizing MSBT Law to draft the needed documents to proceed with the Water Bond Election - Stephanie Bonney, Bond Counsel – ACTION ITEM

Stephanie Bonney, Bond Counsel with MSBT Law provided those present a brief overview regarding the Bond Election Process. Ms. Bonney asked the city council to consider whether they would like to try to get on the ballot for the May 2020 Election. Ms. Bonney explained the documents needed and the timeline involved if the city council wished to move forward.

Ms. Bonney stated that under Idaho Law unless you have a project that is ordinary and necessary an election is required to get authorization to borrow money beyond the current fiscal year. Ms. Bonney stated there are two types of elections, a general obligation bond which is used for non-water or wastewater projects, something that doesn't produce revenue on its own. Ms. Bonney stated the other type of bond is called a revenue bond and requires a simple majority vote to pass. Ms. Bonney stated the Cities can go on the ballot in the May and the November elections. Ms. Bonney explained to be placed on the ballot they will need to pass an Ordinance. Ms. Bonney stated the election itself has no direct costs to the city. Ms. Bonney stated if the city decides to go to an election, they will need to determine a not to exceed amount, and not to exceed term.

Ms. Bonney stated once the city receives approval from the voters, the city then sells the bond normally through USDA or DEQ and occasionally the Idaho Bank Bond Authority.

Ms. Bonney also provided those present with a brief overview regarding advocating for the bond stating that the City is not allowed to use city funding in order to advocate for a particular position but can spend city funds to provide information regarding the project and encourage people to vote.

Motion by Joanne Justesen to authorize MSBT Law to draft the needed documents to proceed with the Water Bond Election to be on the November 2020 Ballot. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Campaign for Bond Election – ACTION ITEM

Mayor Rosa asked the city council if they would consider an extra Work Meeting on February 18, 2020 at 3:45 PM to discuss campaigning for the bond election in detail.

City Council agreed to the additional Work Meeting.

After discussion, this item was tabled until February 18.

Discuss / Consider FY 2018-19 Annual Audit – Jeff Poulsen, City Auditor – ACTION ITEM

City Auditor Jeff Poulsen presented the Fiscal Year 2018-19 Audit to those present. Mr. Poulsen stated this year's audit was delayed due to the software conversion made over the last fiscal year. Mr. Poulsen discussed large purchases that were made during the fiscal year including the purchase of additional water rights, the addition of the new street department building, and electric and water meters. Mr. Poulsen stated the city also awarded the wastewater treatment plan improvement contract to GSE Construction and entering a commitment letter with Columbia State Bank for a bond anticipation note to provide interim financing for the improvements.

Motion by Chad Anderson to approve the Fiscal Year 2018-19 Annual Audit as presented. Second by Dick Galbraith. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Update / Introduce New President by Region IV Community Development Planner Georgia Dimick

Jeff McCurdy introduced himself as the New CEO and President of Region IV Community Development. Mr. McCurdy provided those present with an overview of the services Region IV can provide to the city including lending, grant writing, and community development.

Mayor and City Council thanked Jeff McCurdy for the introduction and update.

Discussion / Training Video on City Governance

Those present watched a brief video on City Governance by Jerry Mason, Legal Counsel for the Association of Idaho Cities.

Discuss / Consider Adoption of Ordinance No. 2020-622 Ordinance of the City of Heyburn, Amending Title 1 Chapter 2 Remove City Administrator from having Authority over Personnel; and Providing Effective Date. First of Three Readings by Title Only – ACTION ITEM

Mayor Rosa stated as Mayor Elect, he talked with others about the prior ordinance and related state statutes. Mayor Rosa stated he believes that the ordinance conflicts with state statute. Mayor Rosa stated in his training with AIC, he believed if he oversteps and does something outside of the authority granted to him, he may have put himself in a liability situation. Mayor Rosa stated that he informed City Attorney Paul Ross and City Administrator Tony Morley that he assumed all the power granted to him by state statute and once this is all sorted out, he would like the ability to delegate authority to the City Administrator as he chooses. Mayor Rosa stated the version before this ordinance has caused some tension between himself and the City Administrator. Mayor Rosa stated over the last two weeks he and the City Administrator have gotten along well. Mayor Rosa stated if we can get this cleared up, we can all have a great working relationship.

City Attorney Paul Ross stated the code provision that the Mayor referred to is 50-602 and read it aloud to those present.

Mr. Ross stated this is something that the city has been working on for a couple of years and the previous Mayor delegated personnel and human resource issues to the City Administrator. Mr. Ross stated that the city council passed an ordinance to formalize this process.

Mr. Ross stated he was asked to draft a revised ordinance by Mayor Rosa to change back the powers of the City Administrator to the Mayor. Mr. Ross stated the version of the Ordinance that is before council tonight basically takes everything back to the Mayor. He did not update the section regarding equal and fair treatment by all employees and allowing the City Administrator to act as the building official.

Mr. Ross stated other cities have chosen to deal with this in multiple ways. Mr. Ross provided details as to how other cities address personnel and HR issues. Mr. Ross stated it is really a discretionary matter within the executive.

Mayor Rosa stated if he has the City Administrator as HR over the employees, he cannot have him giving the employees direction. Mayor Rosa stated what he would wish to give the City Administrator direction over the Department Heads and HR over the employees that are under the City departments. Mayor Rosa stated the City Clerk would act as HR over them. If the City Clerk had an issue in her department, the City Administrator would act as HR director for the clerk's office.

Council President Dick Galbraith expressed concerns with changing the Ordinance stating that the City's Mayor is a part-time position and conflicts and problems arise. Mr. Galbraith stated if it's in the hands of the City Administrator he is here boots on the ground day in day out all day long. Mr. Galbraith stated that puts him in a position to handle the problems.

Mayor Rosa asked City Attorney Paul Ross to lookup state statute 50-301.

Mayor Rosa stated that this statute covers the powers granted to the Mayor. Mayor Rosa stated it is up to the Mayor how he decides to handle it and if the city council tries to legislate that away from him, they are in violation of the Idaho Statute.

City Attorney Paul Ross read Idaho Statute 50-301 to those present. City Attorney Paul Ross stated this statute allows for the creation of municipal government as spelled out under state law and doesn't relate to the discussion.

Councilwoman Joanne Justesen stated she would like to see both versions of the Ordinance not just the redlined version being presented tonight.

Mayor Rosa asked the city council to look at their personal liability if they choose not to revise this ordinance.

This item was tabled to the next regularly scheduled city council meeting.

Discuss / Consider Adoption of Ordinance No. 2020-623 Ordinance of the City of Heyburn, Amending Heyburn Code Title 7 Chapter 1 Updating Animal Control Code; and Providing Effective Date. First of Three Readings by Title Only – ACTION ITEM

Mayor Rosa asked the city council to table this item to the February 04, 2020 Work Meeting due to time constraints.

Councilwoman Joanne Justesen asked the Mayor to please explain why he felt this item was going to take a lot of time.

Mayor Rosa stated he had some concerns with the language within the Ordinance.

Councilwoman Joanne Justesen stated that the Joint Animal Control Board has been working on this Ordinance for over a year.

Mayor Rosa stated he has an issue with the language stating dogs with second or subsequent bite shall be immediately destroyed upon capture.

Councilwoman Justesen stated this section specifically applies to dogs who have bitten and then bitten again. Councilwoman Justesen stated that she believes it is state law that the dog be destroyed on the second bite. Mrs. Justesen stated the law also provides all dogs to be controlled.

Councilwoman Justesen stated she could take the Mayors concern back to the Joint Animal Control Board.

City Attorney Paul Ross stated the section being discussed tonight is the rabid dog section. Mr. Ross stated the next board meeting is in April 2020. If the city is proposing changes to the Ordinance as it is written we should notify all the other cities that are part of the Joint Powers Animal Control Agreement to hold off on passing and publication of the documents so they don't incur expenses associated with its passing.

Motion by Joanne Justesen to have City Attorney Paul Ross read Ordinance No. 2020-623 for the first of three readings, by title only. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

City Attorney Paul Ross read Ordinance No. 2020-623 for the first of three readings by title only.

Discuss / Consider Training on Equal and Fair Treatment of all Employees & Potential Enrollment of the City Employees by Idaho AFL-CIO President Joe Maloney – ACTION ITEM

Mayor Rosa introduce AFL-CIO President Joe Maloney who stated the Mayor reached out to him regarding the two employees who have current agreements with the city. Mr. Maloney stated that he has a union that would like to meet with the city council and asked if they could solicit agreements with the rest of the city staff.

Councilwoman Joanne Justesen stated she thinks the city employees are treated fairly and are treated well. Mrs. Justesen stated that she thinks the employees are happy and if there is a problem there is a process that they follow. Councilwoman Joanne Justesen expressed concerns regarding budgetary constraints stating the city is at the mercy of the taxes that the city has and at the mercy of the legislative branch and what they allow the city to have. Mrs. Justesen expressed her concern with the bind it would place of the elected officials to be able to perform their jobs effectively. Mrs. Justesen stated she is opposed to it.

Motion by Joanne Justesen to deny training on Equal and Fair Treatment of all Employees & Potential Enrollment of the City Employees by Idaho AFL-CIO President Joe Maloney. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider 2020 Camp Host Agreement with Dale L. Lynn and Pamela R. Lynn – ACTION ITEM

Parks Department Manager Jose Paz asked the city council to consider the 2020 Camp Host Agreements with Dale L. Lynn and Pamela R. Lynn as well as Lewis Kennedy and Evonna Kennedy. Mr. Paz stated there were no changes since last year other than the dates.

Motion by Joanne Justesen to approve the 2020 Camp Host Agreement with Dale L. Lynn and Pamela R. Lynn as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider 2020 Camp Host Agreement with Lewis Kennedy and Evonna Kennedy – ACTION ITEM

Motion by Joanne Justesen to approve the 2020 Camp Host Agreement with Lewis Kennedy and Evonna Kennedy as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider ADA Compliance on City Park Accessibility and Submittal of Grant Application – ACTION ITEM

Mayor Rosa stated at the last city council meeting it was brought to the city council's attention the need for sidewalks at Central Park. Mayor Rosa asked the city council to consider moving forward with installing sidewalks to the pavilion. Mayor Rosa stated Parks Department Manager mentioned the possibility of applying for a \$150,000 grant in order to do improvements at the park. These improvements could include renovations to the old tennis courts, possibly doing basketball or some other recreational activity and updating the bathrooms at central park.

It was suggested that excess concrete from the Wastewater Treatment Plant upgrades be used to pour the sidewalks at Central Park.

Council President Dick Galbraith stated that unless the contractor wants to gift excess concrete to the city then the city is treading on dangerous ground to ask him to participate in a city project like this that isn't on his contract. Mr. Galbraith stated the city is better off to get enough work and areas ready, get a truck of over with the minimum yardage on it and have it billed to the city pour it out and get it taken care of that way. Mr. Galbraith stated bothering the contractor working at the Treatment Plant is a bad thing to do.

Motion by Joanne Justesen to approve moving forward with the submittal of a park ADA compliance grant application for improvements. Second by Dick Galbraith. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Resolution No. 2020-1 Providing for and Authorizing the Destruction of Certain Semi-permanent and Temporary Records – ACTION ITEM

City Attorney Paul Ross stated the proposed resolution is for the destruction of certain semi-permanent and temporary records. Mr. Ross stated this resolution comes before the city council on an annual basis.

Motion by Dick Galbraith to approve Resolution No. 2020-1 Providing for and Authorizing the Destruction of Certain Semi-permanent and Temporary Records as presented. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider 4th Quarter Treasurers Financial Report FY 2018-19 – ACTION ITEM

City Attorney Paul Ross stated it is a requirement that the City Clerk present Quarterly Treasurers Financial Reports to the city council for approval. Mr. Ross stated the FY 2018-19 report was delayed due to the audit.

Motion by Dick Galbraith to approve the 4th Quarter Treasurers Financial Report FY 2018-19 as presented. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider 1st Quarter Treasurers Financial Report FY 2019-20 – ACTION ITEM

Those present reviewed the 1st Quarter Treasurers Financial Report for Fiscal Year 2019-20.

Motion by Dick Galbraith to approve the 1st Quarter Treasurers Financial Report FY 2019-20 as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Installation of City Department Gas Tanks – ACTION ITEM

Mayor Rosa stated he has some concerns with the installation of Gas Tanks throughout the city. Mayor Rosa shared his prior experiences with gas spills and what all is involved when one happens.

Mayor Rosa asked to withdraw the item from the agenda stating that Street Department Manager Anson Parke came to the Mayor asking for a chance to visit with him and possibly change his position on the matter.

Councilwoman Joanne Justesen stated that the city budgeted for it and her consideration is that the city moves forward with the installation of the Gas Tanks to ensure the city stays on the original timeline. Mrs. Justesen stated she felt it was safe to move forward and in the budget discussions it was mentioned that the project will result in a cost savings to the city.

Mayor Rosa stated if the city has a spill incident the city council was made aware of his concerns prior to the gas tanks being installed.

After discussion, this item was withdrawn.

Discuss / Consider Appointing Committee Members to fulfill Vacancies of City Committees – ACTION ITEM

Mayor Rosa reviewed City Committees with those present. Mayor Rosa asked for clarification regarding the airport committee as well as a possible new appointment to the Comprehensive Plan Advisory Committee.

Motion by Joanne Justesen to approve the appointment of Parks Department Manager Jose Paz and reappointment of Council President Dick Galbraith to the Comprehensive Plan Advisory Committee. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discuss / Consider Hiring Grant Writer and Submitting Rural Idaho Economic Development Professional Grant Program Application – ACTION ITEM

Mayor Rosa asked the city council to consider hiring a part-time grant writer. Mayor Rosa stated the city has had a grant writer in the past but does not currently staff one.

City Administrator Tony Morley presented a grant application for the Idaho Economic Development Professional Grant Program. Mr. Morley stated this \$150,000 grant would help fund a grant writer that could possibly be shared amongst small cities if the City of Heyburn found other small cities who would like to do a joint agreement to share the cost of a grant writer.

Motion by Dick Galbraith to approve submittal of the Rural Idaho Economic Development Professional Grant Program Application to fund a Grant Writer and to direct City Administrator to reach out to surrounding small cities to seek possible joint agreement to apportion costs and use of Grant Writer but to submit the grant paperwork even if the other cities are not interested in participating. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

Discussion Regarding Code Enforcement – William and Jackie Melycher

Mayor Rosa stated he had a concern regarding the paperwork for the William and Jackie Melycher judgment and authorized signers at the time the violation occurred. Mayor Rosa stated the fire chief signed on a city code possibly without authorization from the city.

City Attorney Paul Ross reviewed four different types of authority including express authority, implied authority, inherent authority, and apparent authority. Mr. Ross stated he believes under the International Fire Code that the city has adopted, that the Minidoka County Fire District enforces it doesn't matter whether the fire chief at the time signed under the fire district code or city code it is an inherent authority for the fire chief in the city in his own district.

Those present discussed at the time of the litigation the Fire Chief was being paid by the city as an employee of the city and paid by the Minidoka County Fire Protection District, therefore it was directly authorized.

Mayors Time & Committee Reports

Mayor Rosa asked the city council for consideration in allowing him to use the City Hall meeting after hours for Friends of the NRA and Idaho Fish and Game meetings. After brief discussion, the city council asked for more time to review a possible policy regarding after hours use of City Hall for this purpose. Police Chief Dan Bristol offered the use of the Police Department stating other groups use the Police Department to hold various meetings.

Councilwoman Joanne Justesen provided those present a brief update from the recent Joint Powers Animal Control meeting. Mrs. Justesen also provided City Clerk Ashlee Langley budget information to share with the city council.

Comments from the Public (Each person has 3 min. to comment)

Mayor Rosa opened this time up to the public for additional comments.

Parks Department Employee Nathan Ganoë presented an idea of installing a Pump Track Design for Central Park.

Motion to Adjourn - ACTION ITEM

Mayor Rosa asked for a motion to adjourn the meeting.

Motion by Chad Anderson to adjourn the council meeting. Second by Dick Galbraith. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

The council meeting adjourned at 10:03 PM.

Mark Rosa
Mayor

Ashlee Langley
City Clerk/Treasurer