

**City of Heyburn Council Meeting**  
**Wednesday, June 10, 2020**  
**7:00 P.M.**

**Mayor:** Mark Rosa.

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

**Employees Present:**

Paul Ross, Dan Bristol, Brian Vail, Tony Morley, and Ashlee Langley.

**Welcome & Pledge**

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

**Discuss / Consider the Minutes of the May 27, 2020 Council Meeting & the June 02, 2020 City Council Work Meeting – ACTION ITEM**

Those present reviewed the minutes of the May 27, 2020 Council Meeting & the June 02, 2020 City Council Work Meeting. The council discussed an error found in the original set of regular council meeting minutes that was uploaded to the council packet. Those present reviewed the revised set of minutes correcting this error.

After discussion, motion made by Chad Anderson to approve the minutes of the May 27, 2020 Council Meeting & the June 02, 2020 City Council Work Meeting as presented. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Paying the Bills – ACTION ITEM**

Those present reviewed the bills, questions were asked regarding the bills from Counter Strike and Eminent Technical Solutions.

After discussion, 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. 6 – ACTION ITEM (Tony Morley)**

Brad Bjerke, Project Engineer with HDR Engineering presented the Wastewater Treatment Plant Improvement Contractor's Application for Payment No. 6 in the amount of \$195,679. Mr. Bjerke provided those present with a brief update regarding project completion and delays due to COVID-19 and weather. Mr. Bjerke stated GSE Construction has been great to work with and the project is going well.

Questions were asked regarding timelines and change orders. Mr. Bjerke stated the change orders should be ready by the next regularly scheduled council meeting and timelines will be addressed within those change orders.

Those present thanked Mr. Bjerke for the update.

Motion by Dick Galbraith to approve Wastewater Treatment Plant Improvement Contractor's Application for Payment No. 6 in the amount of \$195,679 as presented. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Scope of Services for Task Order #2 with Forsgren Associates Inc., for New 18<sup>th</sup> Street Sewer Line from R Street to Handy Lift Station – ACTION ITEM (Jason Broome)**

Jason Broome, Senior Project Manager for Forsgren Associates Inc. provided those present with details regarding Task Order #2. Mr. Broome stated the task order is for the design and engineering services for the construction of a new sewer line on 18<sup>th</sup> Street from R Street to Handy Lift Station (18<sup>th</sup> Street & Highway 30) as indicated in the city's Master Plan. Those present discussed the depth of the line to eliminate lift stations.

Concerns regarding dewatering and cost of engineering were discussed.

Those present considered the possibility of grants to reimburse the city for expenses as well as the need to complete the project to meet current and future capacity demands.

Motion by Dick Galbraith to approve the Scope of Services for Task Order #2 with Forsgren Associates Inc., for New 18<sup>th</sup> Street Sewer Line from R Street to Handy Lift Station as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Scope of Services for Task Order #3 with Forsgren Associates Inc., for Peterbilt Property Sewer Feasibility Study – ACTION ITEM (Jason Broome)**

Mr. Broome presented Task Order #3 for the design and engineering services to conduct a Sewer Feasibility Study for the Peterbilt Property located at 357 South 400 West.

City Administrator Tony Morley confirmed until the sewer study is complete, and the infrastructure is in, Peterbilt and other developments in that general location will need to be on septic systems.

Those present discussed Task Orders #2 & #3 being included as part of Judicial Confirmation.

Council considered time constraints to complete the needed projects as well as funding options to reimburse the city.

Motion by Dick Galbraith to approve the Scope of Services for Task Order #3 with Forsgren Associates Inc., for Peterbilt Property Sewer Feasibility Study as presented. Second by Rose

Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Purchase of Drying Beds – ACTION ITEM**

Wastewater Department Manager Brian Vail asked the council to consider replacement of drying beds at the Treatment Plant. Mr. Vail stated the drying beds are needed to replace the two lost last winter. Mr. Vail stated once the Treatment Plant improvements are complete the drying beds will still be needed for redundancy at the plant and will extend the life of the new equipment.

Those present reviewed bids submitted by GSE Construction, Leatham Construction, and Ralph Thornton Construction.

GSE Construction was the lowest bidder.

Motion by Rose Schmitt to approve the purchase of two new drying beds in the amount of \$43,000 from GSE Construction as presented. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Submission of Reimbursements through the Coronavirus Relief Fund (CARES Act) – List #1 – ACTION ITEM**

City Clerk Ashlee Langley presented a list of expenses incurred due to COVID-19. Mrs. Langley asked the council if they would like to submit the list of expenses to the Coronavirus Relief Fund (CARES Act) for possible reimbursement. The total amount of expenses incurred between March 1, 2020 through April 16, 2020 was \$11,128.29 and do not include personnel costs to date.

Motion by Joanne Justesen to approve the submission of reimbursements through the Coronavirus Relief Fund (CARES Act) for List #1 in the amount of \$11,128.29 as presented. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Purchase & Sale Agreement with William and Cynthia Fulcher – ACTION ITEM**

City Administrator Tony Morley presented the Purchase and Sale Agreement with William and Cynthia Fulcher for the purchase of a portion of property along 21<sup>st</sup> Street. Mr. Morley stated the city has agreed to move the sign that is on the corner of the property if it is encroaching or on city property when the city starts the next phase of the 21<sup>st</sup> Street road expansion. Mr. Morley also stated the Fulcher's have agreed to transfer the ground water right to the City.

The terms of purchase shall be the City installing culinary and wastewater line hook ups from City services to the Fulcher residence and moving the sign that is encroaching or on city property.

Motion by Joanne Justesen to approve the Purchase & Sale Agreement with William and Cynthia Fulcher as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Adopting Ordinance No. 2020-625 Ordinance of the City of Heyburn, Annexing property owned by William and Cynthia Fulcher; unincorporated Minidoka County property located at 750 21<sup>st</sup> Street, Heyburn, Idaho, to City of Heyburn; Zoning as Commercial General; Amending Zoning Map. Third and Final Reading, by Title Only. – ACTION ITEM**

Those present reviewed Ordinance No. 2020-625.

Motion by Dick Galbraith to have City Attorney Paul Ross read Ordinance No. 2020-625 by title only, for the third and final reading. Second by Joanne Justesen. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

City Attorney Paul Ross read Ordinance No. 2020-625 once by title only.

Motion by Dick Galbraith to adopt Ordinance No. 2020-625 as presented. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Adopting Ordinance No. 2020-627 Ordinance of the City of Heyburn, Rezoning Property at 2651 21<sup>st</sup> Street, Heyburn, from Residential Low to Commercial General. Second of Three Readings, by Title Only. – ACTION ITEM**

Those present reviewed Ordinance No. 2020-627.

Motion by Dick Galbraith to have City Attorney Paul Ross read Ordinance No. 2020-627 by title only, for the second of three readings. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Professional Services Agreement with Civil Science for Potable Water Projects – ACTION ITEM**

City Attorney Paul Ross introduced the Professional Services Agreement with Civil Science stating that the agreement has been updated to comply with Idaho Law.

Stephan Anderson, Project Engineer for Civil Science stated the term agreement would authorize Civil Science to move forward with some of the design projects for the water system. Mr. Anderson stated Task Order #1 is to compile a list of projects and associated costs so the city can decide how they would like to move forward on the projects.

Motion by Joanne Justesen to approve the Professional Services Agreement with Civil Science for Potable Water Projects as presented. Second by Dick Galbraith. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Settlement Agreement and Release with Kenworth Sales Company and Treadway Investment Co., LLC – ACTION ITEM**

City Attorney Paul Ross introduced the Settlement Agreement and Release with Kenworth Sales Company and Treadway Investment Co., LLC, this agreement is to fix the stormwater issues by Well #3 located next to Kenworth Sales to resolve the concern is that runoff may inundate the city's well. Mr. Ross stated the city has looked into putting in a berm and this agreement provides for cost sharing between the city and Kenworth and terms regarding the berm.

Motion by Dick Galbraith to approve the Settlement Agreement and Release with Kenworth Sales Company and Treadway Investment Co., LLC as presented. Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Executive Session**

**Pursuant to Idaho Code 74-206(b) to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student; and (d) to consider records that are exempt from disclosure as provided in Chapter 1, Title 74, Idaho Code;**

Motion by Joanne Justesen to go into executive session pursuant to Idaho Code 74-206(1)(b) and (d). Second by Chad Anderson. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen - Aye; Rose Schmitt – Aye.

**Executive Session Minutes**

The Executive Session was conducted by Mayor Mark Rosa. The topics were a matter of (b) personnel and (d) records exempt from disclosure.

The Executive Session began at 8:05 PM.

No decisions were made.

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

Executive Session returned to open session at 9:17 PM.

**Discuss / Consider Ordinance No. 2020-622 Ordinance of the City of Heyburn, Amending Title 1 Chapter 12 Repealing Sections Regarding City Clerk, City Treasurer, City Attorney, and City Employees and Departments; Renumber Sections Regarding Depositories, Official Newspaper and Website, Corporate Seal, Elections, and Initiative, Referendum and Recall; Creating New Section for City Officers, Employees, and Departments; Specifying Appointed Officers, Providing Employee Policies and Procedures, Creating Human Resources Department, Public Works Department, Municipal Services Department, Electrical Department, Police Department, and City Attorney Department; and Providing Effective Date. First of Three Readings, by Title Only – ACTION ITEM**

Those present discussed concerns regarding questions of delegation of the Mayoral authority dealing with personnel and human resource issues under Ordinance No. 2019-621.

Ordinance No. 2020-622 is an attempt to clarify the questions regarding the Mayors powers by reorganizing the Departments in the city. Each Department would be defined by resolution. Those in attendance reviewed Idaho Code Section 50-602 and 50-607 regarding the Mayors general powers and responsibilities.

After discussion, motion by Joanne Justesen to have City Attorney Paul Ross read Ordinance No. 2020-622 by title only for the first of three readings. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Removal of Appointed Officers - ACTION ITEM (Councilwoman Joanne Justesen)**

Those present reviewed Idaho Code Section 50-204 regarding appointment of officers and Idaho Code Section 50-206 regarding removal of appointed officers. Appointed Officers in the City of Heyburn consist of City Clerk/Treasurer, City Attorney, City Administrator, and the Police Chief. Discussion regarding the Mayors authority to appoint officers to these positions upon taking office. Those present discussed the position of appointed officers and the need for continuity in the city.

After discussion, motion by Joanne Justesen to decline the removal of the city's Appointed Officers.

Mayor stated he has not made a motion for the removal of any Appointed Officers.

Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Aye; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

**Discuss / Consider Employment Practice, Workplace Environment, and Potential Updates to Employee Handbook- ACTION ITEM (Councilwoman Joanne Justesen)**

Those present discussed possibly revising the employee handbook to address concerns regarding general issues within the city. Those present considered current employment practices and whether the city should consider looking into adopting a for cause employee policy vs an at will policy.

Those present agreed to table this discussion to a future agenda for consideration.

**Discuss / Consider Waiving the Attorney-Client Privilege Regarding E-mails from January 2016 to Present Requested by Public Records Request – ACTION ITEM**

Those present reviewed a request to consider waiving the attorney-client privilege regarding e-mails. Clarification was made regarding the date range for the release of e-mails. E-mails being requested by Public Records Request range from March 16, 2020 through the end of May 2020 and are the only e-mails provided to Council for review for waiver.

Motion by Joanne Justesen to approve waiving the attorney-client privilege regarding e-mails from March 16, 2020 through May 2020 between Mayor Rosa and Paul Ross by Public Records Request excluding the e-mails as discussed. Second by Rose Schmitt. Roll-Call Vote: Chad Anderson – Nay; Dick Galbraith – Aye; Joanne Justesen – Aye; Rose Schmitt – Aye.

### **Mayors Time & Committee Reports**

There were no committee reports.

Mayor Rosa provided views regarding civil unrest in America stating he hopes it slows and does not intensify.

Mayor Rosa thanked all the city employees for their hard work.

Joanne Justesen asked if comments from the public will be returning to the agenda. Those present discussed limiting gatherings in person clarifying it is not a required agenda item. Mayor stated he did not know when or if the item will be returning to the agenda.

### **Motion to Adjourn - ACTION ITEM**

Mayor Rosa asked for a motion to adjourn the meeting.

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

The council meeting adjourned at 10:02 PM.

Mark Rosa  
Mayor

Ashlee Langley  
City Clerk/Treasurer