



Approved Minutes Draft

Regular City of Athol City Council Meeting

Held in the Council Room in City Hall

Tuesday, December 18, 2018

7:00pm Regular Council Meeting

Mayor, Mary Zichko asked for a moment of silence for the passing of Mayor, Iona Ruth McConville, of Lapwai, ID. and then she called meeting to order at 7:00 P.M. She also reminded any visitors please sign in. **PLEDGE OF ALLEGIANCE** **ROLL CALL:**

Present: Mayor Zichko; Councilman McDaniel; Councilman Hill; Councilman Spencer; Councilwoman Denis, Clerk/Treasurer-Lori Yarbrough; Public Works- Anthony Brandt; City Planner- Rand; City Attorney- John Cafferty.

REPORTS:

Treasurer Report – Lori submitted written report and read the ending account balances. STCU Checking = \$105,480.30; STCU Savings = \$55,885.72; LGIP = \$673,805.01; Misc. income was Shane's regular insurance \$50.00; HJ Grathol \$798.75; Josh \$1,468.11; and misc. transportation planning grant \$50,000.00 for a total of \$52,316.86

Lori also shared that she made a transfer from checking to savings for \$50,000.00 to earn more interest; this is money allocated strictly for the transportation plan. Lori also provided the council with a copy of the 4th Quarter financial statement for the fiscal year ending September 2018.

Water Report – Lori submitted written report. October usage = 1,852,040 gal. (haulers 152,300) and **November usage = 1,822,593 gal. (haulers 141,900)**; Late fees this month, approximately 34 getting the fee. Only 6 or 7 accounts that are 60 days past due and needing shut-off letters.

Planner Report – Rand submitted a written report and summarized the following: **DH Holdings/Krivor Annexation** - Have a draft annexation agreement and have sent out to agencies for review. The council may be seeing that soon. **Building Location Permit** #BLP19-02 was issued, Juan Uribe, for the Loves Gas Station at 29801 N. Old Hwy 95. He is wanting to open a fast food / burrito shop inside. **The Crossings** - No new info on the dedication of the well. The master sign program discussion will happen tonight, on tonight's agenda. Councilman McDaniel expressed concern about how to make sure the signs aren't too bright and become a nuisance. **Code Enforcement** - The Gary Fast and Tamara Ratcliff's coffee shop are on tonight's agenda for a revocation hearing. Several other matters are still pending: parking lot expansion at 5717 Hwy 54, inoperable vehicles & parking in right of way at 6020 Bertsch. A new code violation was started for a contractor working on the remodel at the former Love's is living in an RV behind the building-but expect that issue will be resolved soon. **Comprehensive Plan update** – Working on incorporating the changes requested from the council workshop, that was on 11/29/18. Hope to complete draft over the holidays with an eye toward a hearing in February 2019. **Second St Vacation/Water Line Easement** - The surveyor has completed the field work for locating the city water line near 2nd street, south of Menser. A draft exhibit with the legal descriptions for the water line easement is done, a bill should be coming soon. The description is done, we may schedule the right of way easement proposal for council review and approval at the January 2019 meeting.

ACTION ITEMS:

NOTE: The City will make reasonable accommodations for anyone attending this meeting who require special assistance for hearing, physical or other impairments. Please contact the City Clerk at (208) 683-2101 at least 24 hours in advance of the meeting date and time.

1. APPROVAL OF THE December 4th REGULAR MEETING MINUTES:

Motion by Hill, seconded by McDaniel that we approve the regular meeting on the 4th, minutes with the one amendment of the mayor's name. *DISCUSSION All in favor- Motion passed. ACTION ITEM

2. APPROVAL OF BILLS AS SUBMITTED: Motion by McDaniel, 2nd by Hill to approve paying Nov/Dec bills as submitted with amendments. *DISCUSSION-All in favor- Motion passed. ACTION ITEM

3. DISCUSSION/APPROVAL of the HJ Grathol Master Sign Program – Planner Rand introduced the process that brought us here today. Sign approval for Super1 was done back in 8/2018 and now we have the Crossing Sub-division, it has been a process going back and forth, some give and take due to the nature of the location and proximity to Hwy 95, additional height and sizes were given in exchange for smaller internal signs on-site. Some additional discussion was related to lighting intensity or brightness concerns, Councilman McDaniel didn't want it to be a distraction to drivers. Also, a question on light leaks, and the maintenance of such lighted signs. Geoff from HJ Grathol shared that there will be a property management team that will take care of the property and attend to those types of things, as well as they are very cautious to create a more controlled, aesthetic, type signage.

Motion by McDaniel, seconded by Spencer that we approve the Master Sign Plan presented without amendments. *DISCUSSION All in favor- Motion passed. ACTION ITEM

4. APPROVAL OF STAPLES ORDER: Motion by Spencer 2nd by Hill to approve the Staples order of a conference call center, with microphone as well as a paper shredder, not to exceed \$800.00 and it was also added that no new phonenumber should be needed. *DISCUSSION- Roll Call: Hill-yes; Spencer-yes; McDaniel-yes, Denis-yes. Motion passed. ACTION ITEM

The Mayor opened the PUBLIC HEARING #1 to consider public comment on the matter of Revocation of the approval of a campground use in the commercial zone, Gary Fast at 7:29P.M.

The Mayor spoke about how the process of how the public hearing will proceed tonight: **This is a public hearing so please speak loud and clear- it is being recorded, those wishing to speak we ask you to wait until I open it up for public comment. – 1st- the City planner will introduce the case, then the business owner, Gary Fast, will have the opportunity to address the council; and then public comments will be taken after that. After public comment the business owner may then have a few additional minutes for any rebuttal or comments he wants to add. I will close the public hearing and the council may then choose to deliberate on the matter.**

City Planner, Rand Wichman, introduced the case providing a brief history to bring anyone present up to date. This is for property address 30655 N Old Hwy 95, approximately 8 acres, primarily the back (west side) of the lot, where the city has been doing its best to piece together various previous approvals dating back to 2012 for a campground operation. Recently, on 11/20/18 the city council reviewed this information and a memo from staff and then decided to schedule up a public hearing on this matter, to consider revocation on this permit. This campground appears to have been being used, but it still has some outstanding items, they are: it still lacks functioning working toilets; people living and staying more than 3 consecutive nights, as well as, doing so during the off season; there is incomplete registration office/laundry-shower site/store building on site, which may be related to the attempt to build a 2nd floor; a number of materials stored on-site that is classified as junk. He is not in compliance for this site at this time and they have been on-going.

Property Owner/Applicant, Gary Fast, then addressed the council. He shared it was approved in 2012 for a 17-site campground. The septic was approved, with a structure with 2 showers and got the appropriate number of ER's to have the living space on-site. In 2016 Gary came and asked the City how to proceed for his building and continuation of the campgrounds. Apparently, the 2012 permit was unspecified, lost, shredded,

burned, who knows. But in 2016 gave a layout of the lot, and in the fall, got the foundation done. The following spring in April of 2018 he was nearing the 90 days, needing to continue on the work requested. Then the mayor came and told him that his permit does not cover a 2-story home, or someone living on site. So he, said that he will just use as storage until we get this figured out because of the costs he put in, he doesn't want to lose this building. He, Gary, re-submitted his plans sharing approx. 1188sq. ft. for living quarters and about the same for the office or operational space for a total of about 2400sq. ft. and a site plan and was told the planner will receive and a permit would be ready the next day. He believes this has been personal, to not let him do this, with council, previous people or council, doesn't know. But he has lots of money wrapped up in it. He just wants to finish his structure. He disagreed with Rand he was there 2 weeks ago, because Gary has done some clean up and it costs money for him to do that. Feels there's 2 issues here because he has the campground and the flea market. Many of the items are part of the flea market and maintains that that is still operational. Other things will be part of the construction. He's tired of fighting and the rules are changes and just feels like the determination has already been determined. Gary said your packets already say to revoke, **Mayor Zichko** clarified that the purpose of this hearing is to make that decision, nothing has been made yet.

It was opened to the council then, if they have any questions for Mr. Fast.- Councilman Spencer, we empathize with you, but the time-line that you're taking to accomplish these things is what he's most concerned with. He fears it's looking like favoritism, because he's been given more time than others got. **Mr. Fast** rebutted that it started in 2016 with the permit, He believes his 2016 permit was for the whole structure, even if his words only said footings, and he began the foundation in 2016, then in 2017 started the construction of the building, and the city mayor stopped him because the 2nd floor was not permitted. Currently, Gary even said he'd just build it and use it for storage. **Councilman Hill**- it's unfortunate that this began in 2012, that you were given an unlimited time frame. The city should have demanded from your construction drawings at that time, and we didn't. Often camp hosts are using their RV in one of the 17 spots, but here you wanted to build a home. We are learning and asking for better information upfront a more complete plan. Having the drawings and game plan up front is important. **Mr. Fast** rebutted saying that the city lost those, that he did and felt the city attorney accused and said it was "his fault" (Mr. Fast) for not having a copy. **The City Attorney** would take exception to that but clarified that is Mr. Fast's interpretation. **Councilman Spencer**- spoke sharing he was at that meeting, a few weeks ago, and knows that the attorney was not saying it's your fault, but rather that it was your "responsibility", you bear the "burden of proof", to present the documents that were missing. Regardless, Councilman Spencer said he feels like we have a huge discrepancy on how we are dealing with Mr. Fast compared to how we deal with everyone else and it bothers him. We have to treat everyone the same way. **Councilman McDaniel**- doesn't believe this revocation, if it was decided, will stop the project. What it will do is consolidate everything and require you to resubmit the application and the whole plan, so we know exactly what you're wanting to do. He also warned that the requirements today will not change, the issues your dealing with now will still need to be dealt with- that won't change. Gary was concerned about the costs. **Councilman McDaniel** said the code applies to the HJ Grathol's and the small businesses alike, they are not special treatments based upon the size of your business, commercial is commercial; and you have to admit you have done a lot of jumping around. *There was a debate then about when or how city codes apply. It was clarified that these areas have not been changed, Mr. Fast may have not been aware of them. Regarding outside storage, the city shared that the city may not be aware of what is being done on various properties if they haven't gone to the city to request it. In general, the code is to be followed, whether the property owner is aware of all the specifics or not. It is not up to the city to spell out everything in advance, but rather as the topic or issues arise.* **Mr. Fast, Gary**, then wanted to get back to addressing some of the specific violations stated by the planner. The issue of people living on-site, he stated everyone has moved off the property- no one living on-site anymore. Which brings him back to wanting someone to live on-site, he believes that was already given to him in 2012. He has done clean up on the property. But there are a lot of doors and vehicles. **Councilman Spencer**- asked attorney if we revoked this how soon until it takes effect? To which the city attorney responded that is all dependent on the decision made by the council. He feels like everyone just wants to set the re-set button to allow for the city to best understand what it is your wanting to do, so it's clear to everyone. **Councilman Hill**- If revoked Gary, how much time do you need to finish to be fully completed? Mr. Fast-

responded “until it takes.... as soon as he can”. Councilman Hill said this can’t keep going on forever, you want to make money too, what date do you want to have it all done? **Mr. Fast** says yes, a year of building or so; he doesn’t have the funding to just pay for everything all at once. **Councilman McDaniel-** said we can’t make decisions based upon your financial situation. **City Planner, Rand-** added one other item that was a requirement of Mr. Fast, as recommended by the fire department. He needs to obtain the Right of Way Easement for access to grove street through his other personal property, to meet the fire department’s fire flow requirements; this is regarding the building of the store/structure and is separate from the other violations. It’s now up to the council to make their determination. **Councilman McDaniel-** do we have the drawings, there’s still the fence issue, no paving has been done, and storage-how can we decide for the permit? **Planner, Rand-** shared that we do have a site plan that reflects the improvements necessary to complete the campground, the paved parking etc., that meets the city’s requirements. The campground use and the issuance of the permit for the structure is the problem, if we don’t know the size and plans of the structure, we can’t define what parking requirements are necessary and as previously mentioned the easement, as well as the overall site violations issues. A new special use permit would provide that information and detail to us to fully understand every use on the property.

Mayor opened up the Public Hearing for any Public Comments- There were no comments.

Gary Fast- made the final comments that he would get the Easement filed tomorrow, and the Pit Privy will be enclosed, and the storage issue or fencing could be added to the permit. Just asks council to please let him get his structure done. He would just like to move forward and continue to do what he was doing.

MAYOR CLOSED THE PUBLIC HEARING at 8:27P.M.

Mayor asked the City Attorney, John Cafferty, to explain to the council their options. He explained it’s up to you now to state the factors for revocation or allow the permit to continue. The purpose of this revocation hearing was to allow the applicant the opportunity to speak and give him additional due process. We are operating on the basis of some understanding, of some sort of application at some point in the past, a decision was made for some kind of campground use and the parties involved. The applicant is afforded this time to bring forward his testimony to show that he is in compliance with what was allowed in the past. Your decision, as council, should state the basis for the standards for revocation. And what that basis is for revoking the permit at this time or if it will be allowed to continue. It’s just important to explain “why” you’re making the decision you do. That is really more important than just what you decide.

Motion by Councilman Spencer, second by Hill, to deliberate the matter now. All in favor. Motion Passed.

5. DELIBERATION/DECISION on the matter of the application of Gary Fast

to consider Revocation of the approval of a campground use in the commercial zone.- DILIBERATIONS:
Councilman Hill- spoke, sharing his favoring a revocation with the hope that Gary would reapply for a clean new understanding, maybe even waive the fee, because this whole deal lacks clear specificities. It allows for him to get his ducks in a row and we will then understand his full intent of his use and have all the documents to provide that. Then it doesn’t continue to be a problem in the future. **City Attorney** encouraged the council to use specifics when making a statement as to why the revocations, based upon the findings. **Councilman Spencer-** shared his concerns that the previous permit stated seasonal use and not to exceed 3 days consecutively, he is clearly in violation for the seasonal use rules, and there is also a noncompliance of cleaning up the junk. A new permit would give a clear understanding for everyone and set time frames. **Councilwoman Denis-** shared her unhappiness with the long drawn out timeline of all of these improvements over the years, as well as the junk and seasonal use violations. **Councilman McDaniel-** added he has the same sentiments as the other council members just stated, all of it. Then there was an idea of waiving the new permit fee to help encourage Mr. Fast to reapply, which lead to a discussion that **City Planner, Rand Wichman** shared what the process would look like if he were to reapply for a special use permit that would allow the campground use; because right now what you’re looking at revoking is the original special use permit- that previously allowed for the campground use. The attorney encouraged this conversation, to better ensure everyone’s understanding and the applicant to best understand what is being discussed. **Rand shared** that he would encourage re-applying for a special (conditional) use permit as soon as Mr. Fast was ready with his information because it is at least a 4-month process. A special use permit would be to allow a seasonal campground and potentially a residential use site on the premises. Then, if or after that is approved a building location permit for the structure (house/store) could be applied for, and that process begins.

In the event of a special use permit we would need to first receive a “completed” application, then send notice to various agencies, who would then be given at least 30 days to respond. Then we need to begin to post for a Public Hearing at least 15 days prior to the Public Hearing, hold the public hearing, council decides, and an order of decision is drafted up and it goes back to council for approval; hence the 4 plus month process. A building location permit is not as long, but would require a completed application, with a full plan/drawing of building and map; but may then be approved by staff. **No further discussion regarding waiving application fees at this time.** Motion by Hill, second by McDaniel that we revoke the approval of the conditional use permit for the campground and direct staff to prepare a written decision in accordance with the deliberations, the findings and vote of the Council, and bring the written decision back to the Council for review and approval.

Roll Call: Hill-yes; Spencer-yes; McDaniel-yes, Denis-yes . Motion passed. ACTION ITEM

The Mayor then asked if the council is willing, we could plan to have a special meeting this Friday, December 21st at 9am for the council to approve the written decision. Council agreed.

(Took a short break from 8:58pm till 9:06pm)

The Mayor opened the PUBLIC HEARING #2 to consider public comment on the Revocation of Building Location/Land Use Permit BLP17-05 for the Pit Stop Espresso owned by Tamara Ratcliff at 9:07P.M.

The Mayor again reminded that the same process will be followed as the last one we just finished.

City Planner, Rand Wichman, introduced the case providing a brief history: This revocation hearing for BLP17-05 is for the Pit Stop Espresso coffee stand, located at the White Pine property address 30655 N Old Hwy 95, and was approved to open for business with the condition of within one year to do the necessary paving requirements. That time frame has now come and gone as of September 1, 2018. The acceptable area designated for paving did not get done; it went before the council and they were given another sixty days and it still has not been done to date by a date in November 2018. There was a small section that did get paved, but it did not connect with the coffee stand. Council’s directions at that November 2018 meeting were to schedule a revocation hearing because they failed to meet those terms. Applicant, Tamara Ratcliff- Not asking for an unlimited time frame, but the property owner has a time in May planned to get triple-chip seal done, if the council will allow for it. Or it would also allow her time to find a different location or even a buyer. The costs have just been too great for her to do what was asked. **It was opened to the council then, if they have any questions for Mrs. Ratcliff.**

Councilman McDaniel – asked about the cement work that was done near the north end of property. Response was by property owner, Mr. Fast. **Gary Fast, property owner**- stepped in to say when they moved into his property and they looked at it, the paving was going to cost about \$5,500.00 plus and he felt that was on the business owners to pay for. Just this last October through a conversation with Rand, Gary found out that triple chip seal is acceptable, but unable to do it before the winter. The first of May is the soonest, due to weather, that he can have it done. He’s willing to as this option is also cheaper, about a \$2,400.00 savings, and willing to do it for the business owners. **Council McDaniel**- shared his concerns of if it really was a cost savings like Mr. Fast presented. He asked some details on who he got his bid from, and the size of project/costs quoted. He asked because he got a bid at some time in the past and found there is not that much of a savings for such a project and is concerned that there’s not the large difference in savings as being suggested and sometimes the prep-work adds to the costs. **Mr. Fast** did not provide or share specifics on his quote or company. Further he felt that he was mis-informed by the city as to what material was acceptable to use for the parking lot. **Councilman Hill**- felt that if Mr. Fast had this engineered, he would not have been mis-informed, because someone would be looking at the city code and it would be discovered sooner. Further, it is up to the property owner to know if they are reading and following the code. **Councilman Spencer**- Mr. Fast hasn’t provided us with a name or much for specifics of who he’s planning on doing the work and was concerned about what happens when May comes around and it’s still not done. Then what is the city supposed to do? **Mr. Fast**- was upset and sat back down nothing further. **Tamara Ratcliff**- asked do I get to open my doors tomorrow?

MAYOR CLOSED THE PUBLIC HEARING at 9:30pm

6. DELIBERATION/DECISION on the matter of the Pit Stop Espresso owned by Tamara Ratcliff to consider Revocation of the approval of a Building Location/Land Use Permit BLP17-05. - DILIBERATIONS: Councilman Hill- felt revocation should happen because the paving did not get done or find another place to move to. **Councilman McDaniel-** agreed with Councilman Hill. We have gone through the whole year and it's still not done, it should be revoked. **Councilman Spencer-** felt it was an agreement gone bad, they were even given an additional extension of time and still did nothing, revocation. Feels the city does care and still doesn't seem to matter and now wishes the city wouldn't have. **Councilwoman Denis-** agreed and made the following motion. Motion by Denis, second by Hill that we find to revoke the approval and direct staff to prepare a written decision in accordance with the deliberations, based upon the findings as discussed. And bring the written decision back to the Council for review and approval on Friday the 21st. She will be given 30 days, (January 21st) to have the business removed from the site. **Roll Call: Hill-yes; Spencer-yes; McDaniel-no, Denis-yes. Motion passed. ACTION ITEM**

OTHER BUSINESS: Discussion on City snow removal ordinance. Lori brought to the council's attention the confusion in the snow removal language. Staff has been working on a one-page sheet, similar to City of Spirit Lakes, that shares the who's and what's about the city's snow removal procedures and noticed the language confusion. The city attorney agrees there is some confusion on the currently written snow removal ordinance, and removal of just the words from 6-4-4A the second sentence. "Any vehicle or object left in the street after the twenty-four (24) hours immediately preceding the declaration of a snow accumulation is subject to citation and/or removal, at the owner's expense." After a brief discussion council agreed to remove the 2nd sentence, they will vote on it at the next council meeting on January 15, 2019.

PUBLIC COMMENTS: **Deputy Brett Claussen-** spoke regarding abandon vehicles in the city. They can tag and 48 hours later they can tow it. But please call those in through dispatch- telling him in person is not the correct procedure. **Jim Harroun, Athol ID-** said Merry Christmas to everyone.

ANNOUNCEMENTS City Council- Spencer- shared that he's asked if there was any progress on getting the kitchen commercialized? Anthony responded still waiting for someone from the fire department to come take a look. **Denis-** wanted to know how the tree lighting turned out. Lori reported not quite as big as last year but still about 200 people. More people with kids this year but was good. / **Mayor-** the chamber president, a grandmother's representative, and Lori and herself all met with a Census Bureau Lady to discuss how the local community can help to promote the 2020 Census. They are also hiring now for many part-time jobs. / **Staff** – Lori reminded office will be open late tomorrow and closed on Monday and Tuesday for Christmas.

ADJOURNMENT at 10:01pm.

ATTEST:



Lori Yarbrough, City Clerk/Treasurer



Mary J Zichko, Mayor

Approved at Council on 1/15/19