



**Approved Minutes**

## Regular City of Athol City Council Meeting

Held in the Council Room in City Hall

**Tuesday, July 18, 2023**

**6:00pm Regular Council Meeting**

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**Mayor Hill called the meeting to order at 6:04 P.M.**

**ROLL CALL:** Present: Mayor Hill; Councilwoman Devine; Councilman McDaniel; Councilwoman Kramer; Councilman Cutaiar; Clerk/Treasurer-Lori Yarbrough; Public Works-Kevin Foster; Attorney, Zach Jones; and Rand Wichman, City Planner.

### **REPORTS:**

**TREASURY REPORT** - Lori submitted the June 2023 report. The ending STCU Checking account balance was showing a negative balance as she hadn't yet entered in the transfer of funds to cover recent big checks, she will explain a bit more in bills; the ending Savings/Money Market account was \$230,007.64; and the ending LGIP account balance was \$1,307,343.67 and P1FCU Money Market account \$115,503.07 for the water loan payments and savings is \$7,398.92 which is where we are taking the coins from the water haulers.

**WATER REPORT** – Lori asked that we skip this as she did not get the report prepared in time.

**PUBLIC WORKS REPORT** – Kevin submitted a written report, there were no questions for him.

**PLANNER REPORT** – Rand is expecting brief of his written report, first mentioning Colton Acres Subdivision – still expects to see an application soon, but nothing yet; Pastime/Freemont (Hester Development) – Jeremy expecting to start on his project of the road development soon. Good Hope Baptist Council did approve their Order of Decision, and the applicant has requested a reconsideration, that will likely come before the council in August. This was the request for a conditional use permit for a church in the residential zone. Dippolito Conditional Use Permit application for a daycare is on the agenda for later tonight, so we will have the public hearing as it comes up on the agenda. The code amendments he has not yet had an opportunity to begin working on the next round of code amendments. His focus will be working on the commercial landscaping and parking standards as they are the area of greatest need now. Lastly, on the agenda later this agenda will be the Jack Pine Flats Subdivision request, they are located in the area of city impact (ACI) and the staff needs your comments. **Mayor Hill** asked how many times a request for reconsideration could happen, if we said no, it doesn't mean no? Rand explained once that it is the first step of an appeal, if the council still denies it, they could go to judicial review.

### **ACTION ITEMS:**

#### **1) APPROVAL OF THE June 20<sup>th</sup> REGULAR MEETING MINUTES:**

**Motion by McDaniel**, that we approve the last regular meeting minutes on the 20<sup>th</sup>, without amendments.

**\*DISCUSSION \*** All in favor-none opposed. **Motion passed. ACTION ITEM**

*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 48 hours in advance of the meeting date and time.*



2) **APPROVAL OF THE BILLS** Motion by Kramer to approve paying the June/July bills as submitted, no changes. DISCUSSION \* **All in favor-none opposed. Motion passed. ACTION ITEM**

3) **DISCUSSION/APPROVAL for a New Computer for the 6<sup>th</sup> Street Shop Office.** Council had a few questions related to the purchase and the software that it comes with, then made the following motion: **Motion by Cutaiar to approve the purchase of a new computer for the Public Works department for the new office, not to exceed \$1,000.00.** \*DISCUSSION Roll Call Vote: McDaniel-yes; Devine-yes; Cutaiar-yes; Kramer-yes. **Motion Passed. ACTION ITEM**

4) **DISCUSSION/REVIEW and provide direction to staff on ACI project called Jack Pine Flats.** Rand introduced the subdivision request that is before the county to the council. Chad Vineyard owns the 14-acre parcel just north of Stephen Williams property on the north end of Pastime Street. This property is not inside the city limits, his desire is to create a 5 and a 9-acre parcel. In 2005 an easement for access was granted from the south to the north end of the property at Pastime Street. According to that agreement both the county and the city's subdivision regulations apply to projects within the ACI. The city attorney, Jason Wing reviewed this as it presents several legal questions. The city subdivision code requires for lot access- that all lots must have frontage and direct access onto a public road, unless an alternate design or private roads are approved through the PUD process. This project does not meet the stand of the city's code. The staff is looking to the council for directions on how to respond to the county's request for comment. Councilman McDaniel asked what is stopping the next property from getting access for an approach or easement and this continuing? And if that property were to ask for an annexation it is costly to the applicant to improve/extend the street to city standards. After a brief discussion with the City Planner the council made the following motion: **Motion by Devine to direct the staff to respond to the county request for comment, with the concerns just discussed and request that our city subdivision stands be met before any type of approval, the main concerns related to access and compliance issues.** \*DISCUSSION Roll Call Vote: McDaniel -yes, Kramer- yes, Cutaiar-yes, Devine-yes. **Motion passed. ACTION ITEM**

**PUBLIC HEARING:** Regarding (CUP23-03) the Application for the Conditional Use Permit by the Dippolitos, Located at 5960 E Menser Avenue. They are asking for commercial use of a daycare in a residential zone that will be operated by Sonrise Christian Daycare and Preschool.

The Mayor opened the public hearing at 6:37pm to take public comment on the proposed Conditional Use Permit. *Councilwoman Devine – spoke first to recuse herself from this matter and stated she will not be voting.* He reminded anyone wishing to comment or speak tonight will need to complete the yellow half sheets of paper on the table and turn them into the front. On it, please identify if you are for, against, or neutral, if you wish to speak or not" and your full physical address. All those wishing to give public comment to be sure to speak loud and clear because it is being recorded. Once the public hearing is closed, no one else is allowed to speak after that. Then he invited City Planner, Rand Wichman to introduce the application request.

**City Planner Introduction:** The applicants are Gabe and Kurrlyn Dippolito. The request is to establish a Conditional Use Permit for a Daycare in the Residential zone. This would allow for the Sonrise Christian Daycare to relocate from Old Hwy 95. The building would be approximately 3800 square feet, they anticipate 10 employees working onsite and approximately 90 students. The property is located at 5960 and 5990 E Menser Avenue and is 0.81 acres in size, with 240 feet of frontage road and 2 Dwelling equivalent units (DE's) for septic. The city residential code does allow for daycare use through a conditional use. His report does list out several conditions of approval if approved. His report further addresses parking, surrounding use, access, water service, wastewater, and both comments submitted by the Lakeland School District and Timberlake Fire District. He also shared that the City Engineer found no need to mitigate traffic as it would not have a significant enough impact to require any further study. His City Council Minutes for July 18, 2023



report laid out applicable legal standards, the comprehensive plan analysis, and his staff evaluation and ultimately a recommendation to approve with conditions. **Rand also noted for the record that there were 17 written public comments received for the record, they were included in the council packets and are summed up as: 15 comments were in favor of the Conditional Use and 2 were opposed to Conditional Use.**

**Applicants:** Gabe and Kurrlyn Dippolito shared they have lived here their entire lives and want to invest in this community and a local business that supports local people of the community. This daycare has a big impact on the community.

**The Mayor then opened it up for Public Comment:**

**1<sup>st</sup> Comments that are For with no comments and does not wish to speak: 26 initially (34) For with a written comment but does not wish to speak: (9)**

Anissa Arnold – 1524 E Remington Road – This is needed and deserved.

Caitlyn Belvins – 4<sup>th</sup> street in Spirit Lake – Its needed, she works here.

Jennifer Tome – 1226 West Garwood Rd. – A concerned citizen, and employee of the Lakeland Joint School District; this school needs this daycare location as support for the parents of the children in Athol. People who are employed within the city need it.

Tina Moser – 12983 N Bushell Rathdrum - They provide great care for our kids, and they need more space.

Donna Fuller – 16979 Bunco Rd, Athol – No comments, doesn't want to speak, wrote is for the new location.

Kursten – 24034 N Lewellen Creek Athol – For and but doesn't want to speak. Stated all parents with no family need this daycare to expand.

Patty Muehlhauser – 32405 N Clagstone Rd Athol – Town can't continue to grow, without a way to care for the communities' children. It needs space, and they are committed to the kids.

Jeremy Moser – 12983 N Bushell Rathdrum – Why not allow it?

Michelle Dressler – 9253 E Snowy Lane Athol – Sonrise has outgrown their space, they need more room to service the families in our community.

**For and would like to speak: (9)**

Dixie Kubart – 30250 N 4<sup>th</sup> Street in the City – Worked in childcare 25 years, she worked there for 3 months, it is a very good center. They love the children and try to give the child what they need. The area is growing and so she feels Sonrise needs to grow too. There is a need, and someone will fill it.

Brandon Cravens- 9079 E Scout Trail Rd. Athol – His son was born with health issues and it's hard to get a good fit for his daycare situation. The people at Sonrise have stepped up and have had a good experience with Sonrise. They need a facility that is more appropriate for the needs of our children here in Athol. It is emotional for him.

Makaley Chidiac – 26731 N Bitterroot Court Athol. - Meant not speaking.

Shannon Breece – 29862 N Red Fish Road Athol – She did submit a letter for this, CUP but wants to also share that this is really needed. She raises her two grandsons and works full-time. There really isn't another option and she wouldn't want another option, Sonrise is amazing. She doesn't think it will create a traffic problem in that area. She loves this community and wants to see it grow and be vibrant. We need a good education and great daycare. We need to move forward and that folks don't like change but it's here and it's happening everywhere. (3 more for's, but not speaking were discovered in the pile of comments)

Marilyn Jarvis – 30625 N. Meadow Street in the City – She is the owner of the daycare, wanted to touch on a few things. While it says 90 to be enrolled, that is the maximum allowed, actual attendance is about 73%, some may even only attend 1 day a week. It really varies by the day; average is more like 40%-50% attendance. This new location will also save a whole bus route/stop for the school as they

would walk them across the street. They also prepared a list that shared how many cars would be in the parking lot per hour in a week as an example.

Natalie Tate – 275 Pendleton Drive Spirit Lake – Amazing daycare and is in favor, so close to the school she supports this. She has had bad experiences with other daycares and no parent wants to deal with that. Sonrise has morals and values and teaches the kids that, and about god. In support will be less than a mile from the school and they could have a before and after school program something this community needs, Athol is growing. Support our kids support our families.

Christopher (Adam) Grinstead – 30040 N 4<sup>th</sup> Street in City – Wants to make it clear, this is not a Dippolito daycare, this is the Sonrise daycare that has supported this community for a really long time. Sonrise stepped in when they had hard times. Also wants to point out that more people could have come tonight if they had daycare, that why many who came today brought their kids. – This daycare is needed and is an essential part of the community that is growing. He would like to see growth done the right way, supporting this daycare would do that.

Martin Dippolito – 30625 5<sup>th</sup> Street in the City – Aware of traffic concerns, he has kids himself. He understands that less traffic is better for kids, because no one wants to see anyone get run over. But the city is growing, look at Super 1. We need to think about future generations and give those kids a good start with Sonrise Christian Daycare.

Jordyn Grinstead – 30040 N 4<sup>th</sup> Street in the City- She grew up here, lives here, owns the green house on 4<sup>th</sup> street. Make the point this proposal is not to bring in a new business, but to keep an old current business of almost 20 years. Marylyn is a lifetime resident, and her staff lives here in the area. Many people may know her and Adam as their sone Boone was in a horrible accident a few years ago. After her son’s accident the daycare put together prayer groups and a fund raiser that helped them for months after the accident. She knows her boys are safe and loved by this daycare and its staff. Feels that if this is not approved that it is because the council has already made up their minds. You will have turned away a business that provides a service to the whole community, but a place that has opened 2 pizza places in less than a quarter mile in less than 6 months. You will have turned your back on things we actually do want to preserve in our town, before they came tonight.

**NO Neutral Comment received. (0)**

**The Mayor shared we have 12 comments that are “Opposed” but do not wish to speak, no comment.**

The Mayor asked for a Connie Daughtery to provide her address, as there was no address on the comment sheet; she did not step forward. Steve Rouch came forward saying he meant to mark that he does want to speak. The Mayor moved on to **Those Opposed, not speaking, but had written comments (8):**

**Lisa Morrison** –30205 N Davis Lane in the City – Feels Davis Lane is already too busy, with cars already. This is not fair to add more traffic to those who live closest to this location on Menser. We purchased our homes in a residential area, thinking it would be residential, not become business. It is a residential neighborhood, and it should stay that way. This business could easily find a location in a commercial area to meet their needs and business goals. They already have a location.

**Grant Jenkins** – 5777 E Menser Ave. in the city- Menser is already busy, he believes there is a need for this daycare and no doubt that they are great people, and that there is a need for daycare in the area but doesn’t understand why it needs to be in this location, feels should stay residential. Offered up there are lots of locations near Super 1, they could go up there. If anyone has done any homework there is a meth house 2 blocks from the purposed site that the occupants already drive by his house at 50 miles per hour. Doesn’t feel it’s a safe spot, not to mention the congestion on the road already for that area. **Sheryl McDaniel** 5820 E Menser Ave in the city – didn’t want to speak but wrote there’s too much traffic already. **Kelly Rice** – 5825 E Menser Ave, in the city – Does not want to speak but shares the purposed



use will bring an increased traffic on a heavily used road already. Feels the current infrastructure cannot handle the increase in traffic. **Marion Foster** 5825 E Menser in the city – Does not want to speak, but comments this will cause way too much traffic. **Martin Rice** 5825 E Menser in the city – says no, doesn't wish to speak but comments it is a residential lot, if you change to commercial then everyone can expect that traffic will suck.

**Steve Rousch** – 29715 N 6<sup>th</sup> street in the city – Being a new resident here they appreciated the low traffic, it would be a disappointment to have another school a block away. This is a residential area and should stay that way.

**Page Rouch** – 29715 N 6<sup>th</sup> street in the city – Traffic already busy, parents picking up grade school kids. People speeding, and using one street to avoid traffic, so going the wrong direction on the roads is not meant for this much traffic.

**Carl Moriarty** – 29660 N 6<sup>th</sup> street in the city – The Neighborhood already experiences excess traffic and parking problems during special events.

**Kim Garrett** – 30750 N Alice Ct in the City – It's important to keep residential zones as residential, do not bring any more unnecessary traffic.

**Drew Appling** – 29670 N 6<sup>th</sup> street in the city – too much traffic on an already busy street. No adequate parking for the number of students and no frontage on 5<sup>th</sup>.

#### **Those Opposed but wish to speak: (7)**

**Steve Rouch** – 6<sup>th</sup> street in the city – Realizes that daycare is an issue, but there are other issues. The people that use the daycare already have homes; a big problem in the county, state and whole country is we lack housing. Here there is a shovel ready lot with 2 potential addresses for homes, should be ready for 2 houses or a family to get started not a business with up to 10 employees. There are other places that are already commercial property they can build on. Just because the property is close to the school doesn't mean that is where it should be. Do not make this a commercial property.

**Michael Moore** – 43 Dancing Lights Lane – He is a real estate agent that sold the Johns their home on Menser across from the proposed location; they purchased from the Dippolito's and feels this is a unique relationship. He speaks with detachment. He believes the key is for the Council to preserve domestic tranquility and order in your town and determine what is the best means to allow this. This daycare use could allow for up to 368 trips a day. That is the pressing issue that must be answered about the safety and welfare of everyone in Athol. The issue is the Johns have a right to quiet and enjoyment. A fundamental element of all civic order, quiet enjoyment.

**Barry Johns** – 5965 E Menser Ave in the city – Not a discussion about how good a daycare it is. This is currently residential, the question is, should they be allowed to disrupt current residents with commercial use? This use, if allowed, is a loss of peace and quiet. The traffic and some neighbors in this area have lived here 20 to 50 years, has anyone asked them how they feel about this? Protect them not invade them. Operating from 6am to 6pm 12 hours a day all year round. According to the traffic analysis this would bring 36 weekday trips 368 daily trips, feels it would be a traffic increase on every street near menser too. Also, his understanding that the preschool would be leased and if the preschool falls, we are left with a commercial building in the neighborhood; so, others will follow over the next 20 years. This business needs to find another location where they are not trying to fit a square peg into a round hole. Also find it curious that the developers don't live in the city limits of Athol, so they are not being affected by this. This would just be unfair to all the local residents.

*Mayor Hill did make the comment clarifying that many people don't actually live in the city limits of Athol, they live in the 83801-zip code of Athol but are not in the city limits. The city itself has not grown as much as the county zip code of residents has.*

**Tina Johns** – 5968 E Menser Ave in the city – Appreciate the need of the daycare, but her issue is this is a residential area, feels invaded by commercial use. Traffic is already from the school, the post office, the library, and the park. Says its for the children, what about for the children already in the

neighborhood. Who ride their bikes and walk in the evenings; that would be in jeopardy. Traffic study didn't recognize commercial to residential impacts 365 days a year. Traffic will bottleneck and property values will go down. Will there be turn lanes so the fire engines can get through, and wants to site Idaho Code 52, does this not constitute a nuisance to neighbors? Home values will go down, and while it's for the kids it is still profitable to business to the owners. She asks what will happen in the future if we let this president happen?

**Tammy Porter – Davis Lane in the city** – The people who are for this are those for the daycare, no one is against having daycare for the children. But the issue is putting this commercial use in the residential use area. It will cause a nuisance and lower their property values. It will increase security building lights in the area and traffic would affect up to 6 streets/city blocks.

**Wyatt Jenkins – 30150 N 2<sup>nd</sup> street in the city** – Traffic is an issue like everyone else has been saying. He has 2 young children of his own and understands the need for childcare, but school buses and cars are already lined up 2 times a day and the residential neighborhood does not need to add to it.

**Marc LaFranz- 29795 N 6<sup>th</sup> Street** - not present had to leave early, no comment taken.

**The Applicant's Rebuttal: Kurryn Dippolito** – 1) She wanted to address the comment of when they sold the property to the Johns it wasn't that they didn't inform them; she wished to clarify that this plan came to light well after the sale of that property. 2) She wanted to clarify that 368 trips a day is inaccurate, not sure where that number came from, and she reminded everyone what Marilyn the Daycare owner said it truly only operated at about 70% capacity. 3) She added that the traffic analysis and the city's own engineer determined this use would not be a big enough impact to need anything further. The road is fine to handle the traffic.

The Mayor closed the hearing at 7:24pm. The Mayor allowed for a break, we returned and resumed the meeting at 7:31pm. Upon returning the mayor reminded the public that this election there are two council positions and the mayor's position coming up, if anyone living in the city is interested in running.

**The City Attorney, Jason,** to explain to the council the next steps. He shared they can deliberate now or later to allow the use or not and if you have any additional conditions. If ready to decide, then be sure to address the proposed conclusion of law/findings before making a motion. Councilman McDaniel started by staying that its about if commercial should be allowed in residential, nothing to do with if the daycare. He can see the need for daycare is needed, and that everyone likes daycare. He is therefore going to lean toward not mixing the two. There are a lot of ramifications and appears a lot of the citizens would not be happy about it going into this residential area. Nothing against the Dippolitos' or the daycare just a matter of where they are wanting to do it. There are other commercial lots in the city available. Councilwoman Kramer shared she agrees and that the increase in traffic would be substantial enough on the current residents. She has seen some comments writing that the sidewalk being there makes this location good, but she knows that for some of the winter months it will be under the snow and will be of no help. She just feels that residential needs to stay residential and there is commercial, this is probably already the busiest area in the city because of the school. As the mayor pointed out the city limits are not that big and there are not that many lots available to build homes. Councilman Cutaiar – said he likes the idea of the daycare. He has worked with the daycares current landlord and thinks they are a good business. For him the traffic doesn't really matter as much as the other citizens. Not sure where some of those traffic numbers came from, it said 360 people per year, not per week. The traffic is really not that bad, it is, but it isn't. It's just the idea of putting it into that residential area. He doesn't like the subdivision that can go in behind his house with up to 450 homes, but he could be stuck with all that traffic. It's putting a commercial place in a residential area, he said he's against it too.

**5) DISCUSSION/DECISION for the Application for Conditional Use by Dippolito for Commercial Use of a Daycare in a Residential Zone. Findings by Councilwoman Kramer:**



PROPOSED CONCLUSIONS OF LAW

*VI CONCLUSIONS OF LAW*

- 6.01 The proposed use **WILL NOT** be consistent with the various elements and policies of the comprehensive plan.
- 6.02 The use and its associated structures and facilities **WILL** be detrimental to the public health or safety, the general welfare, or the environment.
- 6.03 The use and facilities **WILL** adversely affect or conflict with adjacent uses or impede the normal development of surrounding property.
- 6.04 Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures **ARE OR WILL BE** provided for the proposed use.

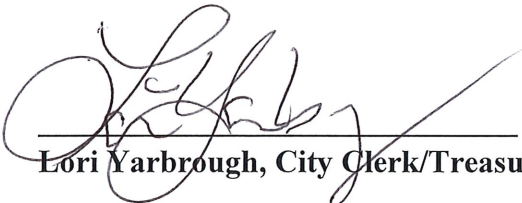
**Motion by McDaniel: Based on the aforementioned facts and Conclusions of Law, CUP23-03, by the Dippolitos to request a conditional use permit approval to relocate Sunrise Christian Daycare in the Residential zone is hereby DENIED.** \*DISCUSSION Roll Call Vote: Devine-abstain; Cutaiar-yes; Kramer-yes; McDaniel-yes. **Motion Passed. ACTION ITEM**


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**ANNOUNCEMENTS: City Council – with numerous conversations and outbursts beginning the mayor just adjourned the meeting, due to much noise and bickering at 7:41pm.**

**There were no additional standard PUBLIC COMMENTS.**

**ATTEST:**

  
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**Lori Yarbrough, City Clerk/Treasurer**

  
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**Bill Hill, Mayor**

Approved at Council on 8/15/2023.