

**Star City Council**  
**Meeting Minutes**  
**May 7, 2019**

The regular meeting of the Star City Council was held on May 7, 2019 at 7:00 pm at Star City Hall, 10769 W. State Street in Star, Idaho. Mayor Chad Bell called the meeting to order and all stood for the Pledge of Allegiance.

**Roll Call:** Councilmen David Hershey, Michael Keyes, Trevor Chadwick were present. Councilman Kevin Nielsen was present by conference call.

**Approval of the Agenda:** Chadwick moved to amend the agenda moving 6A Public Hearing for Greendale Grove and Greendale Estate Subdivision to the June 4 meeting, removing 6C Reconsideration for Moon Valley Subdivision per applicant request, and moving 6E the Public Hearing for Bridgewater Conditional Use Permit to May 21, 2019, Hershey seconded the motion. All ayes: motion carried.

**Consent Agenda:** Chadwick moved to approve the Consent Agenda with stated modifications consisting of: approving 4A. Special Meeting Minutes of April 30, 2019 and 4B. Claims Against the City for April 2019, to remove 4C. Final Plat for Trident Ridge Subdivision, approving 4D. Findings of Fact and Conclusions of Law for: Trapper Ridge Subdivision and Mink Farm with amended change by staff to remove the last sentence from condition number 14, approving 4E. Liquor License for Durty Dawg, and 4F. Equine Therapy Day Proclamation, Keyes seconded the motion. All ayes: motion carried.

**Presentations/Public Input:**

2017-2018 Audit Presentation – Jared Zwycart, with Zwycart John and Associates, CPAs, reviewed the audit report for fiscal year 2017/2018, copies presented to the Council tonight. He pointed out on page 3 that the net cash value was not a true cash value as land and buildings did not have cash value until sold. Zwycart stated the City was in good shape. He pointed out that revenue was higher than projected and expenditures were within what was proposed though several expenditures were over projections due the amounts brought in, such as ACHD fees. Keyes asked if there was anything Zwycart thinks the council might want to take a closer look at. Zwycart stated the City had controls in place that they would expect to be in place, such as income/expenses are being documented, invoice samples were reviewed, reconciliation of bank statements were timely, and there were a few outstanding checks that they fixed and turned over to unclaimed property. He stated he felt the records were reliable for the City to use to make decisions. Zwycart reminded Council they needed to approve the audit report. Mayor Bell stated they would put audit approval on the next agenda.

Committee Reports – Dana Partridge, Activities Committee Chair, gave an update on the Hometown Celebration. Josh Austin is chairing the Fun Run and has a t-shirt design and possible route. Kevin Wheelock is planning the parade and is working with ITD, ACHD, and Chief Vogt on the parade route. She stated she has heard some chatter on social media that they do not want a band and wanted to clarify that they do want a band but are just having a hard time getting one. They have a bid back for the lunch of hot dogs and hamburgers and may need to

raise the lunch price unless they are able to raise more funds in donations. Through one vendor they are able to get ten kids activities for \$1,900.00, which is a bargain. They have started marketing the talent show and Larry Osborn is coordinating this event. The concert and fireworks are lined up and ready to go. She asked to meet with the Mayor regarding something for his Youth Committee. The Committee has started marketing the garden tour which is scheduled for June 1. They have chosen movies for summer movie nights scheduled for the second Friday in June, July, and August.

Mike Olsen, Beautification and Public Relations Committee Chair, stated long time committee member Gerard Cattin has resigned and suggest getting him a thank-you plaque. The plaque for quarterly service award recipients is now hanging in the hallway. They are in full swing working on the May 18 Military Event and have speakers and a color guard from the American Legion Post 21 lined-up. The banner is done and will be put up promoting the event. They have copies of letters and memorabilia from the Civil War, WWI and WWII. Partridge has been working on marketing and they have reached out to local TV and radio stations. They are working on a float for the 4th of July. They have been working on Make Star Shine Day and quarterly service awards. With Council permission the Committee would like to take on historical preservation, collecting items and identifying historical locations for a possible future museum.

Jennifer Salmonsens, Economic Development Committee Chair, stated they meet the second Wednesday of each month. She stated she is also pleased the Council adopted the Comp Plan but frustrated there has been no progress with the EDC Strategic Plan. She understands the Council has allocated money for their committee and asked if they have a time frame to use it and is it for a specific project. Mayor Bell stated the money was allocated in this year's budget and he was not aware of a specific project. Chadwick stated he thought the money was to be used for the EDC Strategic Plan. Salmonsens stated she would like to use it to hire some professional staff to start implementing the plan. Keyes suggested they choose two or three projects to bring to the Council to consider and they'll then decide whether to hire professional staff. The Mayor stated they would be willing to hold a special meeting with the EDC Committee to discuss. Salmonsens asked if they would be looking at Home Occupations when they were updating the UDC. The Mayor informed her it was part of it.

Public Input - Mary Jane Marlow, 485 Winslow Bay, Star, Idaho, asked if there was anything that could be done to remove the truck on Highway 44 that says Children Dentistry. Chadwick stated he has been in contact with ITD, as it is in their right-a-way, and the person who handles these things is gone till Monday. Hopefully it will be taken care of when he returns. Marlow stated she will be gone when they have the hearing for Greendale and will give a write-up to staff. She meant to bring a copy of the tree manual and going forward would like all subdivisions to use the tree guide. Marlow recommended the City putting a levy on all residents to purchase land to set aside along the river and the foothills. We need to set aside five to ten million dollars to do that soon.

### **Old/New Business:**

Public Hearing – Greendale Grove & Greendale Estates Subdivisions (continued): Mayor Bell noted the public hearing for the Greendale Grove & Greendale Estates Subdivisions would not be heard as it has been moved to June 4.

Reconsideration: Star RV Resort - Mayor Bell explained this reconsideration is not a public hearing, it is for Council discussion and to decide if they would consider the reconsideration and hear it again or not. Chris Yorgason, Legal Counsel, pointed out if Council decides not to approve it then the next step is to approve the Findings of Fact and Conclusions of Law and any ordinances at that point. There is another opportunity for reconsideration after approving the Findings per Idaho Code and then the appeal process that follows that. If they decide to rehear it then they will need to re-notice for public hearing and the request for reconsideration is required within ten days and applicant pays the cost for the public hearing. If not paid within ten days then the Council is notified and Council does not hear it and the consideration dies at that point. Assuming the fees are paid then they have another public hearing. There is opportunity for public input assuming the reconsideration is granted and if not granted there is still opportunity for this extra appeal process to take place as we move forward.

Chadwick asked about the appeal process, it seems like there is a double process. Legal Counsel stated yes as they had learned with the Crystal Springs project when it was appealed to District Court. When the City of Star adopted the Meridian Unified Development Code or portions of it, they adopted this preliminary reconsideration piece. It required reconsideration before the Finding are approved. Since that was adopted the Legislature put in State Code their own reconsideration requirements, requiring reconsideration occur after FFCL approval. This is something they will be looking at cleaning up with the new UDC so it is more workable.

Nielsen noted he was the only one who voted to approve this application, based on location and safety concerns. He felt these concerns were satisfied by their expert witness testimonies which were data driven analysis which demonstrated an RV Park posed no real threat to child safety. He also looked at the property owners' constitutional right and understands the City's applicable zoning and additional restrictions affects that fundamental right which is currently an R3 zone. He asked himself if they can condition this enough to allow this property owner to use their property in the way they desire. He felt this was where they could get into trouble because our code is in conflict. He believed the intent of the Code is not to be in conflict with itself, and it then is the duty of the Council to determine the intent of the RT and whether they can allow residential uses provided for. The City Code has a table that lists all the uses allowed in residential zones, including the RT zone, and code also states in 8-3-2D that the interpretation of the inclusion or exclusion of allowed uses shall be made by the administrator and based on their findings based on review. City staff has determined an RV Park in an RT zone is an allowed conditional use, which satisfied this code section in his mind. He felt the whole code needs to be considered, not just parts of it and reference the part that says they need to make a decision based on the purpose statement. The process to include a list of uses in a zone is deliberate and not accidental. He stated he did not believe the applicant should be penalized for our poorly written code and they should reconsider the decision previously made.

Chadwick stated he was of an opposite opinion, that the code specifically tells him he has to look at the purpose statement of that land use of the RT zone. He noted there are two parts to this, the rezoning part and then the conditional use if they give the rezoning part. In his opinion in the rezone part that use doesn't fit within the purpose statement in there and therefore doesn't feel it should fall in there. It doesn't tell him the five things they have to look at with conditional uses which are on the grid. They tell him specifically that he must follow those four things plus a

fifth if it is annexation and does it say what is the purpose of the purpose statement. That purpose statement clearly tells him it is a residential use as a transitional use from agricultural to something different. Currently it is zoned as R3, and he doesn't feel it should go back to an RT to simply try and fit something into there when it doesn't exactly fit the purpose statement as written in our code. Therefore he stated he is not going to vote yes to reconsider this.

Keyes stated he had read the applicant's letter and to him it comes down to whether they followed the process or violated anyone's due process rights. If they have, then they should reconsider this and if they haven't then the Council should be happy with their decision and move forward. As he reviewed this he is not finding that they have violated the applicant's rights. They have a use and can use that use. When they use legal precedence he sees over and over again that the governing board needs to find if the evidence supports the decision and he feels they have done that.

Hershey stated if they reconsider using the exact same codes that they have already interpreted in their own ways, he believes the argument goes both ways. He believes the safety is good, he believes an RV Resort is good, but just doesn't feel it is in the right place.

Chadwick moved to deny the reconsideration of the Star RV Resort, Keyes seconded the motion. Hershey, Keyes, and Chadwick aye; Nielsen nay; motion carried.

Reconsideration: Iron Mountain Estates - Mayor Bell stated they will follow the same process for this reconsideration. He explained they had a request for reconsideration by the City of Star of Iron Mountain Estates and he turned it over to Council for reconsideration.

Nielsen stated he felt there were some things represented to them that he felt afterwards, after going to the site, that weren't presented clearly to them. Specifically the topography map presented was not accurate; where some of the streets were placed was not reality, and that was something he had based his decision on. Also, he felt the landscape information presented at the hearing was a bit ambiguous and when he examined the application, the staff report, and some of the code it was not clear that it met Star's code for open space, amenities and trees. This was the purpose of why he wrote the letter requesting they reconsider this application. He stated he felt they had followed due process.

Mayor Bell directed a question to Nickel's that he had a concern about the small open space and looking at our code questioned if it qualified meeting our code. It appears to be only twenty feet wide and believes our code says fifty feet. Nickel's stated that was correct. He stated it is a large concern of his that they have something they potentially approved that does not meet code.

Chadwick stated it was also a concern for him, having open space that does not meet minimum size requirements of our code.

Hershey stated he believes the concerns Nielsen has presented are correct and he agrees with others comments.

Keyes stated he felt this is different from a due process perspective in that there was information that was presented inaccurately and thinks the applicant's due process should be treated differently and this application should be treated differently. Nielsen stated he agreed.

Hershey moved to approve the reconsideration for Iron Mountain Estates, Chadwick seconded the motion. All ayes: motion carried. Chadwick asked for clarification that since the City asked for the reconsideration the applicant would not be responsible to pay any fees. Legal Counsel stated that was correct, the City would be responsible for all costs incurred; and will hold a new hearing and take up new evidence.

Mayor Bell informed the audience the public hearing for the Bridgewater Conditional Use had been postponed to May 21, 2019.

Ordinance No. 286 Flood Plain (Canyon County only) – Mayor Bell explained that all City's and County's needed to update their Ordinances to match FEMA. Since part of the City is in Canyon County the City needs to adopt County's Ordinance, the same as we have with Ada County's.

The Mayor opened the public hearing. Richard Stuppy, 22153 Can Ada Road, Star, Idaho, asked what the differences were between the old and the new Ordinance. Mayor Bell stated he had not seen anything, but he had not compared the two. He offered to get Stuppy a copy. Nickels stated he understood this is an adoption of the Ordinance, not adoption of new maps.

Mayor Bell closed the public hearing.

The Mayor noted the river has been close to flood stage and he was just notified they are reducing the water being released.

Keyes moved that pursuant to Idaho Code Section 50-902 the rule requiring an Ordinance to be read on three different days, with one reading to be in full, be dispensed with and that Ordinance No. 286 be considered after reading once by title only, Chadwick seconded the motion. Roll Call: Hershey – aye, Keyes – aye, Chadwick – aye, Nielsen – aye: motion carried.

Keyes moved to approve Ordinance No. 286 Flood Plan Ordinance for Canyon County only, Hershey seconded the motion. All ayes: motion carried.

Discussion/Decision on Unified Development Code Update – Mayor Bell explained they had been working on updating the Unified Development Code (UDC). With the addition of the new planner and having now approved the Comprehensive Plan it is time to work on updating the UDC. The discussion tonight is to decide how they want to proceed.

Chadwick stated he felt it would be prudent to bring Mark Butler back to incorporate the Comp Plan into the UDC and then turn it over to Nickels to finish up. He felt up to twenty hours would suffice. He would like to set a date in July to have it finalized and out for public hearing. He recommended they bring Butler on board for no more than twenty hours and at the second meeting in July have it ready for public input and possible vote at that time.

Keyes concurred with Chadwick to bringing Butler on board as with all the time he spent on the Comp Plan it would make the most efficient use of their time. He stated he also shares a sense of urgency to have it ready for the second meeting in July as every application that comes to this Council with our current development code is bad for Star. He stated they need to get this done as soon as they can.

Hershey stated he concurs with both Chadwick and Keyes and believes they have the experts to get it wrapped up and before the public.

Nielsen agreed but was concerned with the July meeting date and would like for it to be ready the first part of August. He also agrees to bringing Butler on board. Chadwick stated he was looking at July because in August they have the budget hearing. Nielsen stated he understood that but if they rush it they could miss something and therefore was suggesting the first or second meeting in August.

Keyes suggested possibly having 95% of the code done and approved and then they could clean-up what was missing.

Chadwick suggested July 30th, and Nielsen stated he would agree to that.

Mayor Bell stated he was concerned with setting a date for staff and we shouldn't just jam it out to get it done.

Keyes asked Nickels what he thought about the timeframe to get it done. He noted they have budgeted money for this and it would allow them to bring Butler onboard. Nickels stated if they set a date they would try to meet it.

Chadwick pointed out it would need to be published at least fifteen days ahead of the public hearing. City Counsel stated they would need to plan on giving it a few more days to allow time to get it to the paper to process. It would have to publish on July 1st for the July 16th meeting. Nielsen stated he felt that was too tight a schedule and would like it scheduled later. Chadwick noted they had agreed July 30th was good and notice could be published around July 1st. He asked Nickel if that was a possible target date.

Nickel stated if they could get Butler on board it may be possible. He did know Butler was planning another trip out of the country. It might also require some overtime.

Mayor Bell stated he would direct staff to engage Mark Butler and get the UDC ready for a public hearing on the July 30th meeting, with public hearing notice to be by July 15th.

Keyes stated he felt the extra two weeks was prudent but feels they need to get the code updated as quickly as possible due to all the applications being submitted and our current code is not adequate.

## **Reports:**

Chief Vogt stated the Mayor had already explained the river situation and he had nothing else.

*Council* – Hershey stated he had been nominated to a new committee for solid waste and he was officially accepting it. He had met with the Fire Department and everything is going well. On a personal note he commended the Fire Department and EMS personnel for their quick and professional services when he called them for a neighbor.

Keyes stated he had been appointed to the Ada County Air Quality Board. He noted he was excited to have the Comp Plan in place and was looking forward to the Hometown Celebration.

Chadwick stated he also was excited about the new Comp Plan, especially the pathway section. He commented he was in communication with ITD to get vehicles off Highway 44.

*Mayor* – Mayor Bell informed Council the Youth Scholarship Banquet is being held May 15th and hoped all would be able to attend with their spouses. He noted they have nine scholarship recipients and will be awarding over \$20,000.00. The Mayor noted he had met with the Boise Metro Chamber, attended a board meeting for COMPASS, and met with a representative from Valley Regional Transit about the possibility for a small bus service between Star and Eagle.

**Adjournment:** The Mayor adjourned the meeting at 8:20 pm.

Approved:

Respectfully submitted:

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Charlten Bell, Mayor

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Kathleen Hutton, Deputy City Clerk