

**City of Star
Council Meeting Minutes
June 18, 2019**

The regular meeting of the Star City Council was called to order at 7:00 pm at Star City Hall, 10769 W. State Street, 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 and Kevin Nielsen were all present.

Approval of the Agenda: Chadwick moved to remove Police Presentation 5-A from Presentations and move it to Old/New Business 6-D and to approve the agenda, Keyes seconded the motion. All ayes: motion carried.

Consent Agenda: Chadwick moved to approve the Consent Agenda consisting of Regular Meeting Minutes of April 2, 2019, Regular Meeting Minutes of May 21, 2019 and Findings of Fact & Conclusions of Law for: TNT Fireworks, Family Fun Fireworks and Mark Bridgewater Conditional Use Permits, Keyes seconded the motion. All ayes: motion carried.

Presentations:

Police Presentation – Chief Jake Vogt – Item was moved to 6D.

F.A.C.T.S. (Foundation Ada County Trail Systems) Gary Segers – See power point presentation.

Old/New Business:

Public Hearing: Richard Evans Rezone – This application has been tabled to July 16, 2019. The Applicant did not post the property. A new notice to the neighbors and newspaper will be required.

Resolution 19-05 Auditor Agreement – Chadwick moved to approve Resolution 19-05, a Resolution of the City of Star, Idaho approving the proposal for Zwygart John, Certified Public Accountants, of Nampa, Idaho to provide auditing services to the City of Star for the fiscal year which will end on September 30, 2019; authorizing the Mayor to execute such approval on behalf of the City; and providing an effective date, Hershey seconded the motion. All ayes: motion carried.

Ordinance No. 289 Fireworks – Yorgason stated that this is not a public hearing and people can speak but it is up to the Council. The ordinance was drafted to provide several options for effective dates, so Council could decide when it is to be in effect.

Keyes stated that he would be open to hearing from others.

Fire Chief, Greg Timinsky, stated he has reviewed the new ordinance and agrees with it. He has spoken at length with the City Attorney, the only question is when to put this into effect. Council needs to discuss the time frame and he agrees it needs to be adopted.

Nielsen asked the Fire Chief what he believes are the pros and cons. Timinsky stated that it was brought to Council late in the year, it may not be giving applicants time for implementation. He believes that we do have the potential to have a firestorm, putting this in place won't stop people from setting off fireworks. It is an ordinance you have in place. The Fire District does have the authority to inspect the stands.

Chadwick asked if we need to expand the definition of safe fireworks. The Chief stated that some call them safe and sane, there are other measurements for safe fireworks.

Nielsen asked Police Chief Jake Vogt to speak. Chief Vogt agrees with Chief Timinsky 100%, his enforcement is clearly defined in this ordinance. He would like a little better definition of dangerous fireworks, when definitions are less clear interpretation can happen. He would support this moving forward with.

Jim Reid, 427 Paso Fino Drive, Boise, stated he is the attorney representing Fat City Fireworks. He is asking for a reprieve, he understands the concerns. They have been in Star for seven years, they have invested money in product, advertising and preparations for this year. Please do not put this into effect immediately. He doesn't think it is fair. Fat City will live with the Ordinance and will be professional. He doesn't believe it is fair to put this in place two weeks before the 4th. The lead time for ordering product is extremely far out. He understands the safety concerns and doesn't dispute that at all.

Nielsen asked if his client was aware that he has been in the violation of our ordinance. Reid does not believe they have been in violation. They are not trying to circumvent the law and they believe they have been acting within the law. They have not tried to get away with anything. Nielsen stated we have put conditions on conditional use permits for other fireworks stands. They represented they don't have to have anyone to sign the waiver. Would your client be willing to do that? Reid doesn't know. (The meeting was adjourned for a minute to discuss the waiver request.) Reid asked why you would want to do away with the waiver. Nielsen stated that the waiver is a waiver that gets signed so the fireworks do not get sold. Reid stated that he doesn't think the waiver is the issue. Nielsen stated that what he is looking for is that we gave other CUP's and we want everyone to operate under the same rules.

Keyes asked for clarification on the client's belief that he is not in violation of the current ordinance. Reid stated that it doesn't say that aerial fireworks can't be sold.

Chadwick stated that our Code says the CUP is for non-aerial fireworks. Reid stated the CUP is for the stand, not for the fireworks. That's what the new ordinance says. Reid stated that you are punishing Fat City Fireworks after buying their product which they have sold for seven years. They will abide by the ordinance completely next year.

Brook Taylor, 3351 Summit Drive, Pocatello, stated she wanted to voice concern about the application process. They are looking at other Cities for business. She would like Star to be more business friendly, they like competition. When people are selling aerial fireworks, they want to be competitive. They probably wouldn't have gone through the CUP process if they knew that you wouldn't allow aerial fireworks, they would have gone somewhere else. They want lower fees and a shorter two-page application. Nielsen asked if they go through the CUP process in other cities. Taylor stated that she didn't and there were no vendor permits or background checks.

Nielsen asked if this ordinance removes the requirement for a conditional use permit. Yorgason stated that it does not. The Fat City CUP goes back to 2008. The CUP gets done as part of the land use process. What is proposed will go in Title 4 and will still require the CUP. The current timeframe for a CUP is for one year.

Keyes would like to add the specific wording to Star's ordinance that states "we allow non-aerial fireworks only". The Mayor stated that he thinks everyone is in favor of the ordinance, it is just when it goes into effect.

Nielsen agrees we need a level playing field. The problem before was enforceability. He does not see it as a giant correction because of any action we take place tonight. He sees some risk of immediately putting this in place. We need to find a way to make it effective in August and adjust the two new CUPS.

Hershey stated that is exactly along the thoughts he has. If we put this in place now we cause financial problems and level the playing field for the two new stands. He agrees we need a better definition of dangerous fireworks. He would be okay with an August effective date.

Keyes stated the Council has the duty to protect the health, safety and welfare of Star and he believes it should be put in place immediately.

Chadwick asked if there is anything we can do about the other CUP's. Yorgason stated that several things won't change. The new ordinance would require inspections all the time. If the ordinance is put in place with a future date, inspections are done the way they have always been done.

Chadwick is torn on this, being in this position, are we creating a bigger problem? Government continues to put more and more regulations on us. On the other hand, he believes the ordinance needs to be put in place. We have a responsibility.

Hershey stated yes, we have a duty. He believes the problem is that the State law is a paper tiger. We need to keep the playing field level, he is not in favor of approving this immediately and because it came late in the game, he is for the ordinance but thinks it has to wait a couple weeks.

Nielsen stated that Chief Timinsky says we don't have to do it right away, we can do it in August.

Keyes asked the Police Chief if he had a better definition of dangerous fireworks.

Chief Vogt stated it is from an existing code definition. Dangerous Fireworks. Fireworks meeting the following criteria are to be considered "dangerous fireworks".

- A. Fireworks containing explosive material that will burn or deflagrate when ignited. Examples include, but are not limited to, firecrackers, cherry bombs, M-80s.
- B. Fireworks that leave the ground of their own accord or fly when tossed into the air. Examples include, but are not limited to, skyrockets, bottle rockets, mortar shells, Roman candles.
- C. Fireworks designated for ground or near ground use that travel outside of a fifteen (15) foot diameter circle.
- D. Fireworks designed for ground or near ground use that, as a means of propulsion, emit showers or sparks longer than twelve (12) inches.

E. Fireworks designed for use from a stationary position that emit sparks, showers, or flaming balls, vertically more than twenty (20) feet; or from which discharged material falls beyond twenty (20) foot in diameter area.

Keyes wants to include that language.

Nielsen 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. 289 be considered after one reading once by title only, Hershey seconded the motion. Rol Call: Hershey, Keyes, Chadwick, Nielsen – all ayes: motion carried.

Keyes moved to adopt Ordinance No. 289 an Ordinance of the City of Star, Ada and Canyon County, Idaho, adopting a new Fireworks Ordinance; providing for severability; providing for an effective date and to include the amendments at the earliest possible date.

No second was made; the motion fails.

Nielsen moved to approve Ordinance No. 289, an Ordinance of the City of Star, Ada and Canyon County, Idaho, adopting a new Fireworks Ordinance; providing for severability; providing for an effective date and to include the amendments and to make it effective August 2019, Hershey seconded the motion. All ayes motion carried.

Police Presentation – Chief Jake Vogt – introduce our new deputy, replacing Don Clough. The new Star Deputy, Jonathan Steel fits very well with the personalities in Star. He is a swing shift officer.

Reports: Staff – Chief Vogt reported on the significance of the Supreme Court ruling and arrests for officers. There are three arrest levels felony, misdemeanor or infraction. The Chief explained the process they will have to go through now.

Council – Hershey stated he had the pleasure of riding with our new officer, John Steel.

Keyes stated the “Welcome to Star” signs are done, and he is working on installation of one tomorrow. They are waiting on ITD to get the approval back for another one. He is on the Air Quality Board and they’ve made a recommendation to pass day to day air quality to COMPASS.

Chadwick thanked Chief Timinsky for the fire training. They put signs up around the river for “no swimming” in the river. He met with Ada County and discussed the area of impact and they are behind on updates, the last ones adopted were in 2001. He is working on the transportation plan and access points along State Street. We had a big baseball tournament in Star last week, they were impressed with the facilities – we’ve done a great job.

Nielsen’s been busy with family things but is now back at it.

Mayor – The Mayor stated he has been to several meetings at VRT, Treasure Valley Partners, met with good people and met with the Governor’s new person and she is a liaison for the Cities. He took them on a tour around Star. The Youth Committee is up and running again.

Chadwick talked about the impact fees and those meetings will start happening next week.

Ward stated that Hershey, Keyes and Shawn Nickel made a presentation to the Realtors this morning and the power point presentation was very good, something we should put on the website.

Adjournment: The meeting was adjourned at 9:04.

Approved:

Respectfully submitted:

Charlten Bell, Mayor

Cathy Ward, City Clerk