

**City of Star
Meeting Minutes
May 21, 2019**

The regular meeting of the Star City Council was held on May 21, 2019 at Star City Hall, 10769 W. State Street, Star, Idaho. Mayor Chad Bell called the meeting to order at 7:00 pm 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 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 May 7, 2019 and a Time Extension for the Witte Court N. Subdivision, Keyes seconded the motion. All ayes: motion carried.

Presentations:

Ada County Assessor – Bob McQuade – McQuade gave a power point presentation (see attached).

Star Fire Department – Fire Chief Greg Timinsky – The Chief discussed fireworks and that he gives permits for non-aerial fireworks. The City Code says the conditional use permit requires approval from the Star Fire District and the conditional use states that it is for non-aerial fireworks. He is wondering why there are sales of aerial fireworks in Star. He stated that enforcement is needed. He can come to Council and let the Council know there are non-aerial fireworks being sold and then the City can revoke the CUP. He has looked at other cities like Meridian, Eagle and Middleton. He needs help from the Council on how we can stop the sale of aerial fireworks in Star. Chadwick stated he is not a fan of taking that away from the citizens. The Chief stated that we are growing fast, and we will have dry grass in July. He doesn't believe anyone intentionally starts a fire, but if something starts and the high winds come we could have something major on our hands.

Keyes stated the more important thing is why aren't we enforcing our code. We spend an awful lot of money on our Police force. Chief Vogt stated State Statutes for aerial fireworks include an exception in that you can purchase non-aerials for carrying out of the State. Currently in City Code, the public safety section is the only place you can have a permit and it's on City property. The Police get inundated with calls on July 5, 6 and 7 regarding officers not responding. Citizens have called Dispatch and no one came out. They deal with personal crimes before property crimes. When Officers go out they have to ask themselves what is the legal justification and what is justification to do something? There is language in there for the Administrator, but it is not clear language for what the charge is, is it a misdemeanor, felony, etc.? They need clear expectations on what they can do. Chadwick asked what other cities do. They have it in the

criminal code. It needs to be “you cannot sell and use aerial fireworks” in the criminal code. He has not found it in code, if the City Attorney can show it to him he will enforce it all day long.

Keyes asked if it is your understanding that State Code is preemptive. The Chief stated he doesn’t believe that. Keyes asked if the Mayor can unilaterally revoke the permit. Yorgason stated he cannot without a public hearing. Yorgason stated that vendors are not allowed to sale aerial fireworks, but they can sell wholesale. The second part is retail fireworks for sale. We need to cover both wholesale and retail sides of this. The conditional use is for the stand, not for the selling of fireworks. The Mayor stated they will work on it.

Old / New Business:

Motion to adopt Audit Report for 2017-2018 – Keyes moved to adopt the 2017-2018 Audit Report, Nielsen seconded the motion. All ayes: motion carried.

Public Hearing: TNT Fireworks Conditional Use Permit – The Mayor reviewed the procedures for the Public Hearing. This is for a conditional permit. The Mayor asked Council for any ex parte contact or conflicts of interest. Hearing none, the Mayor opened the public hearing and asked the Applicant to speak.

Applicant - Wade White, Boise, Idaho, representing TNT Fireworks, stated he is here for a Conditional Use Permit, he really appreciates the opportunity to sell fireworks and they do not sneak things in. He believes Council will be swayed by a traffic problem. He thanked Jerry Taylor and Mike _____. As for the location, whatever you decide makes a difference in the property. There is an ingress and egress on this property. The Idaho Transportation Department did approve it for pulling in on the pavement. They will abide by the rules with the construction fence out front. He appreciates the guys in the City for letting them sell fireworks. It is pretty embarrassing to come up and talk after a discussion about illegal fireworks. If you don’t want to have aeriels, no problem, but then you will have to deal with the other fireworks stands.

Chadwick asked who owns the property. There were some calls in on traffic problems. White stated that Jerry Taylor and Mike _____ are the owners and they have no problem with TNT being there.

Keyes asked if it was White’s intention to sell aerial fireworks. White stated it was.

Public Input - Jerry Taylor, 3410 Hartley, Eagle, stated the property is owned by GM properties and they have leased a part of it to Mary Lloyd. The part where the fireworks are to be sold is on the western part of the property.

Carl Wilson, 5275 W. Elmore, Boise stated he runs the stand every year and he’s not sure about the traffic problem. Traffic isn’t as bad on the 3rd and 5th – they have moved the tent back and the whole front will be fenced off. About 80% of their business is done on the 3rd and 4th. In town, they spend about \$800 in the retail businesses in town for fuel and everything else. Their prices are really good, and the neighbors really like us. Very clean and they keep the signage up.

The Mayor closed the public hearing.

Nielsen stated he feels like Councilman Chadwick, although he will admit to lighting fireworks off, but has not in the past twelve months. We ask citizens to sign a piece of paper stating they will not light off illegal fireworks and they all go home and light them off. That bothers him. Where we have Fat City Fireworks that we can't do anything about, he doesn't feel that we should limit TNT. He is in support of this conditional use permit. With a caution that this could be the last time.

Hershey never bought fireworks in Star, because he goes to the Hometown Celebration. He has concerns because of the convoluted rules that we are going to address and fix, and that it's too late this year. He asked if putting up construction fencing would help in some fashion. The Fire Chief stated he doesn't know if he can answer that. To give someone a loop hole is not going to fix it.

Keyes stated we could fix this at our very next meeting. He stated the applicant has stated his intentions were to sell aerial fireworks. He said yes, he is going to violate the code, it makes Keyes not want to give it to him. Keyes is going to vote no. To address a little more fencing will address the concerns. He would urge the Council to reject this.

Chadwick stated he has a problem approving something that is illegal in our code. He would have no problem with the safe and sane fireworks. It is just not right. He will also vote no.

Nielsen asked if we could do something as early as next meeting. Is this something that would apply to Fat City as well, aren't they grandfathered in? Yorgason stated that you can make a code change next week, you have an application in front of you today and as we talked you get the code that is in place at the time of the application. If you deny the CUP and they come in with another application, it would be subject to whatever the code is at that time. You can't table an application, change the code and then go from there. Yorgason stated that he would have to look at any sunset clauses that may apply to them and what their original conditions say. He has not seen their permit. It is a little hard to answer, but when their permit was issued it was based on the City Code at that time. Changing the code now would not necessarily impact their permit now. Again, all Yorgason knows is that it appears to be an open ended permit. He does not have the application in front of him so he's not sure if it's a one year or three year. Nielsen would like Yorgason to review it. Moving forward he wants to address the real problem not just the ruling. Yorgason stated that it would be helpful to review what your code says so that everyone knows. So you can't have retail fireworks in residential districts, the owner has to get approval from the Fire District before they can get the CUP. Here's the part that we've been talking around, the dates of the sales have to comply with Idaho Code Section 39-2606. Then it says non-aerial common fireworks may be sold at retail and used beginning at 12 o'clock midnight June 23 and ending at midnight on July 5th and beginning at midnight December 26 and ending at midnight on January 1st. Fireworks may be sold at any time in compliance with Section 39-2605 of Idaho Code and that's the section that governs where it says permits are required for public display for public events using fireworks. Yorgason stated that you don't have anything else in your code regarding aerial or non-aerial fireworks that he has seen. Generally, it points back to the State Code with regards to permits. Nielsen stated that it also talks about retail and wholesale sales.

Yorgason stated that was correct. Discussion was held about us not violating our own code. It is a little hard to discuss the nuances because you have retail fireworks, you have wholesale fireworks, you have aerial fireworks and non-aerial fireworks, Federal Code definitions of fireworks and then the State Code and licenses. Ward stated that applicants do have to follow the Fire Department regulations for Fat City and the Fire Department doesn't allow aerial fireworks. Nielsen stated the Fire Chief does not have any authority or jurisdiction on that. Ward stated that everyone gets a statement that says they are not to sell aerial fireworks. Nielsen asked how we would enforce that. Ward stated that if we are not going to enforce that then we need to take it out of our conditions. The Mayor stated there would be no way to enforce that now. Nielsen stated that is where he is coming from, he wants it to be applied fairly to everyone. Nielsen wants to think a little more about this and make it fair to the applicant. Hershey stated he would second that. Nielsen moved to table the application for TNT Fireworks to the first meeting in June, Hershey seconded that. It was a tie vote; the Mayor voted aye to table this to the first meeting in June as he wants to address the entire issue and to be fair across the board.

Milligan Property Rezone & Development Agreement (continued) - The Mayor stated this is a continued application and asked Council if they have had any ex parte contact or conflicts of interest since our last meeting. Hearing none the Mayor re-opened the public hearing asked the Applicant to come forward and speak.

Applicant - Doug Milligan, 12111 W. Bridger Bay, Star, reviewed the property. The pre-school is in the Pinewood Lakes and is in the commercial area. The pre-school was approved ten years ago and there has been no other development there for eight years. His wife runs the pre-school and been doing that for ten years. She participates in the community and is the top pre-school in the State. The land is currently zoned Residential (R2) and was never rezoned to commercial. Jim Durst owned the southern parcel and has not changed the zoning. Their building has been there and built specifically for the pre-school and has parking and would like it to be commercial zoned. They have purchased the south lot. They both have ample parking spaces for each building, they also have a shared parking agreement. They want to rezone both properties at the same time. They have no direct access onto Bridger Bay Road. They just never got it rezoned, and so they want to rezone them both together. The empty lot is under contract now, but there are no guarantees that it will go. The pre-school property will really never be residential, there is a dentist office next to them and it makes sense to be commercial.

Keyes stated that when you were here last time you gave the HOA some design review, is that still something you are willing to do. Milligan stated the agreement will be that it is a one-story building similar to the buildings around it. It is not part of the HOA and they should not really have a say in what the building will look like. It is their intention to make it nice and not do anything to take away from that. Keyes stated so you are changing your mind. Milligan is not.

Nielsen had a little different understanding, he believes Milligan has a problem with this body giving Keyes approval to allow another body to give approvals. Milligan stated he has no problem, he wants to get it approved. Nielsen doesn't see that as a condition of the Council. Keyes asked if we had something that says the building will be compatible along with colors. Milligan stated that would be okay. Milligan stated that is his request.

Public Input – Michael Traficante, 301 Selwood Lane, Star, stated he doesn't see a problem with this volunteer group, Milligan's run the premier pre-school and they have always done for the community. They have had several meetings on this parcel and it would be appropriate. They will not strain the parking, it will be the neighbors.

Jerry Morrow, 18 S. Selwood Lane, Star, stated there are conditions taking it from residential to commercial. He is curious as to what conditions are going to be put on this. They are great neighbors. What would be in the guidelines, at least describe what they are going to do on the property. Is it a one story? Chadwick stated that it is in the conditions of approval. Morrow is concerned about the parking lot, Milligan has indicated the parking will change. Chadwick stated they will have parking requirements.

The Mayor closed the public hearing and moved to deliberations.

Chadwick is in favor of this application. Chadwick moved to approve RZ-19-01 and DA-19-04 Milligan Rezone and Development Agreement with all the conditions, Hershey seconded the motion. Keyes thought the applicant agreed that the colors and design would be similar to surrounding buildings. Chadwick amended his motion to add the condition that colors and design would be similar to surrounding buildings, Hershey amended his seconded. All ayes: motion carried.

Mark Bridgewater Conditional Use Permit – The Mayor reviewed the procedures and asked Council if they had any ex parte contact or conflicts of interest. Hearing none, the Mayor opened the public hearing and asked the Applicant to speak.

Applicant – Mark Bridgewater, 6629 Barney Lane, Meridian, stated this application is for an accessory building. They purchased this property to build their forever home on and have lived here since 1974. He loves Idaho and Star. South Star has the essence of 1974. He knows things are growing. He wants to build an accessory building, motor cycle trailer and a garden shed. He would love for Council to approve the application for the accessory building.

Keyes asked if the accessory building was for Bridgewater's personal use. Bridgewater stated that it was not for commercial use.

Public Input - Billy Ellison, 575 S. Main Street, Star, stated that he has been in the community twelve years, he brought this property five years ago and he sold half of it to Bridgewater. He is not in favor of the accessory building ten feet off the property line. The set back off his property at that time was 50 feet and it is now 10 feet off the property line. His only issue is that really big building off his fence, he has big bay windows and this building will be in the way. They haven't seen the building and he doesn't want to feel like he's next to a tire store.

Lenny Riccio, 629 N. Barney Lane, Meridian, stated that his father-in-law is living with them. He is encouraged by staff with the setbacks and he thinks the neighbors will appreciate it. Bridgewater is known in the neighborhood by plowing the roads and maintaining the road. He believes the neighbors and Star will benefit from them in the community. They are the neighbors you want to know.

Bridgewater stated that it is a unique piece of property, they originally bought the property and knew about the mixed-use setbacks and so that is nothing new, those were the setbacks when it was rezoned. They laid out their site plan accordingly with those setbacks in mind. The property was previously rezoned. He wants to be a good neighbor. They are building a really nice house, they haven't really narrowed it down as to what it looks like; it has to look really nice because of the really nice house in front. It will increase property values. There are several unpermitted buildings surrounding them. They are very conscience about the look of the building. They would love to build a building that is acceptable to the code.

Keyes asked for clarification, there is no other use than the residential use? Bridgewater stated that they don't plan to run a commercial business. They have a church in Nampa. They have no desire to have a commercial business. Keyes asked why are we looking at this as mixed-use? Bridgewater stated that it is an existing zone.

The Mayor closed the public hearing and moved to deliberation.

Nickel clarified that the residential building has to be 50% built prior to the accessory structure being built. Regarding the use, it is unique piece of property, zoned mixed use and was never built on. It has a perpetual use and it is allowed for the single family. This application does meet this requirement.

Keyes stated there was a pre-existing condition of a 50-foot setback, the only reference was a site plan showing a duplex with a setback, but it did not have a site plan for residential.

Chadwick moved to approve the Bridgewater Conditional Use Permit with conditions, Nielsen seconded the motion. Keyes stated this will illuminate the questions, we had an applicant that wanted to have a mixed-use designation, he doesn't believe he is being inconsistent. Hershey had the same thought cross his mind too.

Yorgason stated that when this was rezoned there was a perpetual approval, Council is not looking at the residence, you are looking at the accessory building. All ayes: motion carried.

Resolution to discuss the Remote Attendance and Accessibility Property - Hershey stated that all of us sitting up here are elected officials, but not like senators, we all have other jobs. He for one would love to have something like this in place as his job does require him to leave town and he believes it does not negate the wish to serve. He is all for this.

The Mayor asked for clarification as to what we are all thinking; we have a telephone over there to do call ins on. What is the technology that we are wanting? Chadwick stated it is to televise live on the internet and to make the City more available and citizens may want to look into it. He believes it is time to look into this.

Nielson stated that the success of being able to call in that was technology provided by JR Simplot. The ability to hear is due to that technology, the Microsoft 360 is the access. He thinks that it is appropriate for the City to do that. He appreciates Mr. Keyes putting this together. He

does want to move us ahead and he believes it will help our community. It will move us ahead, it needs to be a positive thing. The Mayor stated he wants to know more about this. He has talked to several Mayors and only a few do this, but the rest don't. Basically, what he found out was there will be some significant expense up front. He wants to know cost. The city's doing this also have a full IT staff to run the cameras and that's fine, he just wants to know the full scope. Nielsen believes that is a fair point, the City would have latitude and there is no need for a full time IT staff. The Mayor doesn't have a problem with that, but he wants to know the scope. Nielsen agrees. The Mayor wants to make sure we know the cost. We put a plan together, then we can approve the budget. There is ample time to do it. It is a discussion item only tonight and we can put it on a future agenda. He wants to speak to the questions. Keyes will review the question.

Keyes stated this Resolution was done with Mayor Ridgeway for another committee. He thinks we can do it for less than \$5,000.

Keyes stated that he asked for this to be on the agenda as an action item to move forward. The Mayor stated it will be on the next agenda.

Executive Session: Chadwick moved to go into Executive Session under Idaho Code Statute 74-206(1)(c) Pending Property Acquisition, Keyes seconded the motion. Roll Call: Hershey, Keyes, Chadwick, Nielsen – all ayes: motion carried.

Council came out of Executive Session and Keyes moved to pursue the property to include conditions provided by staff, Chadwick seconded the motion. All ayes: motion carried.

Yorgason emailed everyone a copy of Meridian's ordinance.

Adjourned: The meeting was adjourned at 9:31 pm.

Approved:

Charlten Bell, Mayor

Respectfully submitted:

Cathy Ward, City Clerk