

**CITY OF MARSING  
COUNCIL MEETING MINUTES  
JULY 11, 2018  
7:00 P.M.**

Mayor James Ferdinand called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance.

Roll Call: Mayor James Ferdinand, Councilman Marie Herman, Councilman Chris Even, Councilman Jolyn Green and Councilman Tony Malmberg were present. Staff members present were Deputy Clerk Kim Spagnolo, City Engineer Amy Woodruff, Code Enforcement Officer Harvey Gist, Public Works Supervisor Philip Gibson, and Staff Member Doris Hayward-Roland. City Attorney Stephanie Bonney was absent and Attorney Cherese McLain from MSBT Law represented her.

Others that were also present in the audience were: Pat and Harvey Grimme, Georgia Wirth, Tim Steele from Tru North Industries, Julie Franklin, Dennis Achey, Todd Kleppinger of the Owyhee Avalanche, Program Director Mary Gauthier of Head Start and Noyam Hale.

**CONSENT AGENDA:**

**Councilman Jolyn Green moved and Chris Even seconded to approve the minutes of the June 13, 2018 meeting and the Claims Against the City for the approximate amount of \$149,024.65 from June 14, 2018 to July 11, 2018. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

Mayor Ferdinand opened a public hearing for a **special use permit for Tru North Industries for Tim Steele/Harvey and Patricia Grimme for the property located at 211 Main Street.**

Mary Gauthier, Program Director for Head Start, asked questions regarding powder coating and how it would affect the health of the children from the Head Start/WICAP program located at 120 3<sup>rd</sup> Avenue West. Gauthier said she really didn't think it was a concern but it was her job to make sure that the children were safe.

Tim Steele said that there was already an existing powder coating business, RPMS, in the area located at 19 Main Street and that is all that they do. Steele said the powder coating they would do would be on a much smaller basis.

Cherese McLain said that Department of Environmental Quality regulates the Clean Air Act which powder coating would fall under. DEQ requires a permit to make sure that anything that is put into the air complies with the air quality standards. As long as they comply with all state, federal and local permits, they will be required to comply.

Mayor Ferdinand closed the public hearing.

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McLain went over Amy Woodruff's staff report. Finding #2 explains where the property is located and what zones are next to it. It is in conformance.

Finding #3 finds that the future land use designation for the parcel is mixed use and the special use permit has narrow support in the Comprehensive Plan.

The policies in Chapter Five encourage mixed use and logical development. It wasn't the same use it previously had; it was a commercial use prior.

Chapter Nine – Economic Development protects the economic base of businesses and industries and this does bring a new business into the community.

Finding #4 talks about looking into any potential impact a business may have on a community.

McLain said the staff report does point out the applicant did not provide a site plan that is required under Marsing City Code. Where this might cause a little bit of difficulty is under Article 2 of the Code, in order to grant a special use permit, there are ten findings. Some are pretty straight forward. Where an issue may be encountered is under #10 which says:

“Be on a site of sufficient size to accommodate the proposed use, including the yards, open spaces, walls, fences, parking areas, loading zones and design standards applicable”

Without a site plan, Tru Steele doesn't have really good guidance as to whether or not there is sufficient space for their activities.

Item #6 on the application asks for a narrative describing what the applicant is going to do. The response was, “the proposed site is existing. All buildings, parking lots, loading areas, traffic areas, circulation, open space, landscaping, refuse service area, utilities, yards remain as is.”

McLain said that if that was satisfactory to the Council, she thought it was fine. If it wasn't, Council might want to discuss whether or not they would like to see a site plan that shows where employee parking will be, where public parking will be or if there will an enclosure for trash.

Councilman Even asked how many units Steele thought he would produce in a week.

Steele said he didn't know, only that they were making projections. His projection was 15 units a month. He stated he currently had three employees.

Steele said there was plenty of room for his operation to grow. The trash will remain where it has always been and the current loading docks will remain. There is room for large trucks to go down through the alley. There are gates to the other property for really large trucks once that

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property is cleaned up. He will probably pave the parking lot, do some fencing and other improvements to the buildings. He will apply for the proper permits at that time. Steele said he had already doubled production in the first month since he has been in Marsing. He hoped to eventually produce over 300 units a year.

McLain said her only suggestion would be to make the permit short-term, either three or five years to let Steele's business grow. Then she suggested he come back. It won't be invalidated at three or five years but he could come back. They would have witnessed how the business has already grown and see if there seemed to be a growing traffic concern or a growing health/safety concern. Steele could then come back and set up a traffic plan or whatever might be needed at that time since it is unknown right now.

Woodruff said it did not expire but it was within Council's purview to condition it.

McLain said you might want to limit that so you are not dealing with a permit that you could never go back in and change. It doesn't have to expire. It could be said that in three years, Steele would have to come back and take another look. Everyone wants success but with growth will come more impact. It might behoove Council to not grant a permit forever without being able to come back and look at.

She said Council could require it as a condition that in July of 2020, Steele must come back with a new site plan and update.

The Mayor said that if they failed to do that, then Council could pull the permit.

Steele inquired what the review would entail if he came back within a certain amount of time that was stipulated for a review.

McLain said it allow Council to look at the business as it has grown and see if there were issues that nobody would be aware of right now and be able to do more mitigation. If something starts to become a problem, it will allow the City to come back and say that a game plan is needed. She said that if Steele wasn't amenable to it, she recommended an expiration date be given and Steele come back to Council once he has grown.

Steele said his issue was that he was making a significant investment to the community and didn't like strings attached to things that are unknown.

Councilman Even said suppose Steele had grown to the point where his product was stacked up along 2<sup>nd</sup> Avenue, that is where Council would review the permit and ask for changes so there is no problem.

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Mayor Ferdinand said there a lot of unknowns. It is impossible for the Council to foresee what the issue might be and that would be the whole purpose for reviewing the permit in three to five years. There has never been a manufacturer in downtown Marsing before.

McLain said that if Steele came back for a review and conditions were imposed, the conditions have to be justified under Idaho Code and Marsing Code. The City has to show why the conditions were imposed and why a specific use is required. If Steele didn't like it, he could appeal. It is not a Pandora's Box where the City can tell Steele everything that needed done and he had to do them. The City has to identify and justify the conditions. The Code not only protects the City but also the applicant.

The City wouldn't pull the permit, it would mitigate any potential problems that would come as Steele's business grew.

Pat Grimme asked what the stipulations were for other businesses.

Amy Woodruff said that Subway had the exact same condition when the parking was developed at the intersection of Hwy 55 and Hwy 78. The condition of their permit was they needed to come back in 24 months once the business was up and going to revisit their parking area to make sure it was working. It worked fine.

**Councilman Chris Even moved and Jolyn Green seconded to approve the special use permit for Tru North Industries/ Harvey and Patricia Grimme with the stipulation they come back for a review of their permit in two years. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

Tim Steele said that he had an issue. He said he tried to get everything taken care of. He said they had to come back again because things weren't thorough in the previous meeting or put down correctly on what the process was. He said he waited a month and now Council was bringing up something else that should have been brought before. He felt like Council was bringing up another topic and virtually saying he needed to agree to it or he wouldn't get his permit.

Mayor Ferdinand said it was a conditional use.

Councilman Malmberg said the permit was not the issue. There was motion on the table to grant the permit. Council just wants Steele to come back in a couple of years to see how things were going, to see if something needed to be adjusted. It will not expire.

Steele asked what process was in place if there were some things that needed to be addressed.

Councilman Even said it might not be an issue with Steele, it might be an issue that the City needed to look at. Maybe the City would need to fix something.

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Steele asked what the process would be.

Cherese McLain said Council would go back to the specific conditions that Steele might not be complying with and ask if there were some health and safety issues. Maybe the site won't be sufficient to accommodate or the current traffic circulation might not be right. It was never meant to be an unknown condition.

Steele said he didn't have an issue with that. He wasn't good with it being an unknown issue.

McLain said the permit would be kept open almost like a trial run to see how everything was being done and if there were any issues.

Steele said he would not let the community down and there was nothing for Council to be concerned about.

Mayor Ferdinand opened the second public hearing for the **proposed sale of public property – city property located 410 Simpkin Lane** and asked for public comment.

Dennis Achey from AMVAC asked if a value was established for the property.

The Mayor said that was on the agenda as well and closed the public hearing.

**ORDINANCE:** A - 202 Amendment to the Comprehensive Plan Map and Zoning Map to Commercial

Amy Woodruff said this was the comp plan and zoning map amendment for the rezone of the Grimme property. The description has been verified and the zoning map will be updated.

**Councilman Jolyn Green moved and Chris Even that pursuant to Idaho Code Section 50-902, rule requiring an ordinance be read on three different days with one reading being in full be dispensed with and that Ordinance A – 202, Amendment to the Comprehensive Plan Map and Zoning Map to Commercial be considered after reading once by title only. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

**Councilman Jolyn Green moved and Tony Malmberg seconded to adopt Ordinance A - 202 Amendment to the Comprehensive Plan Map and Zoning Map to Commercial. An Ordinance of the City of Marsing, Idaho, with respect to certain lands within the City of Marsing, Idaho, amending the Comprehensive Plan Map and Zoning Map to Commercial; repealer; severability; effective date. The Mayor called for a roll call vote with all Councilman present voting aye. Motion carried.**

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**ORDINANCE:** A - 203 Addition to City Code, Section 1-4-4(D) Criminal Penalties are Exclusive of Court Costs

Mayor Ferdinand said this was the ordinance that was discussed at last month's meeting concerning the courts taking all of the City's fines.

Councilman Jolyn Green moved and Chris Even seconded that pursuant to Idaho Code, Section 50-902 the rule, requiring that an ordinance to be read on three different days with one reading to be in full, be dispensed with and that Ordinance A-203, Addition to City Code Section 1-4-4(D) Criminal Penalties are Exclusive of Court Costs, be considered after reading once by reading title only. The Mayor called for a roll call vote with all Councilman present voting aye. Motion carried.

Councilman Jolyn Green moved and Tony Malmberg seconded to adopt Ordinance A – 203, an ordinance of the City of Marsing, Idaho amending the Marsing City Code to add Section 1-4-4(D) to provide that all criminal penalties are exclusive of court costs; and providing an effective date. The Mayor called for a roll call vote with all Councilman present voting aye. Motion carried.

**PUBLIC INPUT:** None

**OLD BUSINESS:** Sale of Property, AMVAC, 410 Simpkin Lane

The Mayor said a Comparative Analysis had been done and it appeared it supported a \$40,000 to \$45,000 per acre value. The property is approximately 2.5 half acres. The Mayor asked the Council to set a minimum bid. A stipulation on the bid would be that the bidder would carry the lease.

Councilman Chris Even moved and Jolyn Green seconded to set the minimum bid at \$40,000 per acre with the conditions stipulated. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

Cherese McLain said she would work with the City Clerk to figure out if there is a notice requirement for the auction. McLain there was no time limit and no notice requirement. If the Mayor and Council wanted to set it out ten days, they could. If no bids come in meeting the \$40,000, the City can sell the property for whatever they want.

**OLD BUSINESS:** City Engineer Amy Woodruff/Civil Dynamics

- A. **Island Park Boat Ramp** – This project has been completed and the City has been invoiced for it.
- B. **City Park Restroom** – This project has been completed and was in use for the 3<sup>rd</sup> of July event.

Mayor Ferdinand said that when the bid was first approved, he had made a recommendation that time locks be placed on the doors. The locks have not been installed. Woodruff will follow up on this issue.

- C. **ITD SH-55 Sidewalk Grant** – This project was rolled into the larger ITD project which will be discussed with item “I”.
- D. **ITD SH-78 Sidewalk** – This is not a part of the school project. They are getting ready to pour the sidewalk soon.
- E. **School Project** – When project is completed it will look really nice with landscaping.
- F. **Boring under HWY 78** – This project has been completed. It was a great effort to connect to the Labor Camp. The infrastructure that was on the campus has been cleaned up significantly and public health and safety has been improved for both the school campus and the Labor Camp.
- G. **Boat Docks at Island Park** – This is an on-going project. The State Department of Parks and Recreation gave the City of Marsing an extension until June 30, 2019.
- H. **Christensen Street Right of Way Deed/Dedication** – This project has been completed.
- I. **CPS Grant Reimbursement to ITD** – The City received \$55,000 in grant funding to construct the sidewalk from HWY 78 to the Library from LHTAC. ITD agreed to put the sidewalk into their project. The City will now pass money back to ITD through LHTAC to pay for the project. A request has been received from ITD for the money.

**City Attorney Cherese McClain** – The Dog Ordinance draft will be emailed to the Councilmen and put on next month’s agenda. This is a very thorough ordinance which deals with a lot of things. There is a small section on domestic animals. A commercial animal operation is not allowed in city limits. Goats and horses are allowed based on lot size. Having a “dangerous dog” definition is a good idea. An email was sent by Stephanie Bonney to the Clerk with the draft but Council didn’t receive it.

**Code Enforcement Officer Harvey Gist** – Gist said that as a Code Enforcement Officer he cannot write a “Dog at Large” citation, only a law enforcement officer can.

McLain said it could be done through a City Code and be able to enforce the City Code. If the ordinance was adopted, Gist would have authority to cite based on the ordinance.

The “railroad property owner” has been located and a violation has been sent to them for weeds.

Two additional infractions have been written on the same people that were written previously.

Gist discussed the partially burned Quonset hut. He said his files went back 6 – 8 years. He asked if he should be doing anything with that property.

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Mayor Ferdinand said that property has been like that for probably 15 years. Unless the property degrades further or there was a health hazard, it was okay.

Gist asked about getting "orange tags" to hang on violator's fences. It might take a while longer but what he is currently doing doesn't seem to be as effective as he would like it. People pretty much ignore it because there is no "bite" in it.

Gist said there were three additional properties on 1<sup>st</sup> Street that have been written up for weeds. He also said there was a property that belongs to one of the churches that is located on the corner of Main and 4<sup>th</sup> Avenue W that has weeds.

He was going to try and come in early on some mornings for "rooster patrol".

#### **NEW BUSINESS:**

**Councilman Jolyn Green moved and Chris Even seconded to approve the Gem Irrigation District Contract effective November 1, 2018. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

**Councilman Jolyn Green moved and Marie Herman seconded to approve the 2018 – 2019 Law Enforcement Protection Contract with Owyhee County. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Councilman Chris Even abstained. Motion carried.**

**Councilman Chris Even moved and Jolyn Green seconded to approve the peddler's license for Lonny C's Donuts. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

#### **REPORTS:**

##### **A. Maintenance Supervisor Philip Gibson**

##### **New Business**

- Chlorine contact chamber cover is currently being powder coated. RPMS did match the lowest bid.
- One aerator from the lagoons is currently being repaired. Gibson is trying to do one at a time.
- Facility yards are being cleaned up.
- Prepped for the 3<sup>rd</sup> of July Festival this past month.
- Toilets were replaced and cabinets were repaired at the BLM building.
- School Water Project
- Hired a temporary employee for while Juan Pena is out for surgery.



Someone took a sawzall and cut the center post in half on the swing set at Island Park. This was discovered at the 3<sup>rd</sup> of July event. Gibson said it would be repaired in the morning of July 12<sup>th</sup>.

Next Months Planned Projects

- Gibson will get bids for patching roads.
- Continue to clean facility yards.

Discussion for City Council

- Safer flag set up and removal on power poles
  - Purchase or rent a boom lift
  - Build a "cage" for the tractor bucket (Mayor Ferdinand liked this idea.)
- Pena's surgery has been postponed to August 20<sup>th</sup>.

Mayor Ferdinand asked where Gibson was in the process of getting a new flagpole. Council had previously approved up to \$2,000 to purchase one.

Councilman Malmberg said he had gotten complaints regarding irrigation. He said the complaint was that they didn't have enough water. He asked if there was a schedule.

Gibson said that he was working on a new schedule.

Councilman Jolyn Green asked about the playground equipment placement. Gibson said that there were only two sections that Marsing got from the City of Eagle. The actual placement of the equipment will not take place until after irrigation season is over.

- B. Mayor's Report:** Mayor Ferdinand needed to amend the agenda to add the time frame for the auction of the AMVAC property located at 410 Simpkin Lane.

**Councilman Chris Even moved and Jolyn Green seconded to amend the agenda by adding the time frame for the auction of the AMVAC property located at 410 Simpkin Lane. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

**Councilman Tony Malmberg moved and Chris Even seconded to set the time frame for the auction at ten days. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.**

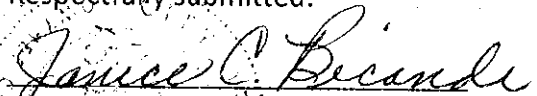
The time frame will begin as soon as it is posted on the front door.


Mayor Ferdinand announced that there will be a Special Council Meeting for Monday, July 16, 2018 at 6:00 p.m. This will be the final Budget Workshop.

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**Councilman Chris Even moved and Jolyn Green seconded to adjourn the meeting at 8:23 p.m.**  
**The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye.**  
**Motion carried.**

Respectfully submitted:

  
Janice C. Bicandi, City Clerk-Treasurer

  
James Ferdinand, Mayor

Date: August 8, 2018