

**CITY OF MARSING
COUNCIL MEETING MINUTES
FEBRUARY 13, 2019
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 Tony Malmberg, Councilman Marie Herman, Councilman Jolyn Green, Councilman Chris Even, City Clerk/Treasurer Janice Bicandi, City Attorney Stephanie Bonney, City Engineer Kirby Cook, Deputy Clerk Kim Spagnolo, Code Enforcement Officer Harvey Gist and Public Works Supervisor Philip Gibson were all present.

Others present in the audience were: Owyhee Deputy Atanacio Montes Jr., Steve Derricott from Gfeller Casemakers, Jess Ferdinand, Pam Roylance, Janet Miller, Annie Miller, Keith Berends, Bill & Sue Pastoor from Westown's Disposal, Gary Johnson, Andrea Beebe, Hannah & Martin Maisel and Todd Kleppinger from the Owyhee Avalanche.

CONSENT AGENDA:

Councilman Jolyn Green moved and Chris Even seconded to amend the agenda by moving New Business item "City Code 3-1-3 F Enumeration of Nuisances (Pigs)" after the Public Hearing and by adding "Law Enforcement Report" after the Code Enforcement Report. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

Councilman Tony Malmberg moved and Jolyn Green seconded to approve the minutes of the January 9, 2019 City Council Meeting and the Claims Against the City for the approximate amount of \$100,578.89 from January 9, 2019 to February 12, 2019. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

PUBLIC HEARING:

The public hearing for the Meadow Brook Preliminary Plat was continued until the March City Council Meeting.

Mayor Ferdinand asked if anyone wanted to speak regarding the Bulk Well Water Increase. Nobody wished to speak.

City Engineer Amy Woodruff of Civil Dynamics (305 Cornell, Middleton) said the subject of bulk water has been floating around for the last couple of years. It became apparent a few months prior that the City of Marsing's effort in providing bulk water and in keeping the facilities across the river viable didn't equate to what was being charged for the water. Woodruff

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recommended \$66.10 for any amount up to one thousand gallons and then \$25.10 for every thousand gallons over that. Both of the fees include about \$6.00 of operations and maintenance money that would go toward replacing pumps and upgrading the meters. She said currently the citizens subsidize the bulk water.

Woodruff stated that she investigated what other communities in the valley charge for bulk water. Most cities don't like to provide bulk water. The City of Middleton does provide bulk water but they have ten wells on line and each of those wells were equipped with approximately 1,500 to 2,500 gpm. They have a different water resource than the Marsing area does. It was just a simple mathematical calculation and recommendation for Council.

Councilman Green asked if there were any current contracts at the existing rates.

Woodruff said she wasn't aware of any contracts and it was just "pay as you go".

Councilman Malmberg asked what the average amount of bulk water used was or whether it varied every year.

Woodruff said that since June, 1.2 million gallons have been sold. The dust abatement people are the big users.

Mayor Ferdinand said that there has been discussion regarding installing a meter that would measure how much water was purchased instead of the customer writing it down.

The Mayor closed the public hearing at 7:07 p.m.

The Mayor stated the current recommendation was to change the existing rates of \$69.13 per two thousand gallons plus \$3.38 for every additional one thousand gallons. The proposed charge is \$66.10 per one thousand gallons plus \$25.10 for every additional one thousand gallons.

Councilman Chris Even motioned and Tony Malmberg seconded to increase the bulk water rates to \$66.10 per one thousand gallons plus \$25.10 for every additional one thousand gallons. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

RESOLUTION: Resolution R-144 Declaring Certain Personal Property to be Surplus (Picnic Tables)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARSING, IDAHO RELATING TO SURPLUS PERSONAL PROPERTY; DECLARING CERTAIN PERSONAL PROPERTY OF THE CITY TO BE SURPLUS;

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AUTHORIZING AND DIRECTING THE DISPOSAL OF THE SURPLUS PROPERTY; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

Councilman Tony Malmberg moved and Jolyn Green seconded to adopt Resolution R-144 to Declare Certain Personal Property of the City to be Surplus. The Mayor called for a roll call vote with all Councilmen present voting aye. Motion carried.

Jess Ferdinand said she was currently in the process of purchasing 1.36 acres property located at 317 N Bruneau Hwy. She asked that City Code 3-1-3 F Enumeration of Nuisances be amended or that a waiver be granted regarding allowing pigs on that property. She said she was taking possession of the pigs on March 1st and would have them through the first week in August. Ferdinand had spoken with Jason Deal and his mother and they had no issue with the pigs being in the far corner of her property, closest to AMVAC. The only time they would be out of the pen would be when the kids were walking them.

Stephanie Bonney said the whole ordinance would need to be amended to allow pigs in the entire city.

Councilman Green asked what would need to be done regarding the nuisance of the smell.

Bonney said that would be regulated as well. She recommended if Council wanted to allow the pigs to do something similar that is done with horses where shelter is required and so much land is required.

Councilman Green asked if there was a way to do it where it was specific as in 4-H or FFA.

Bonney said no. It was arbitrary and capricious distinction. Time frames could be justified, pigs could be allowed for a part of the year. You would then need to make sure that everyone complied. She recommended limiting the amount of pigs. Currently, the City limits the amount of all animals allowed, even dogs.

Jess Ferdinand asked if the problem was the smell.

Bonney said it wasn't specific to Ferdinand's specific pigs but it would then be opened up to the entire town. Some people would be more responsible than others.

Councilman Even said he had no problem amending the ordinance as long as certain criteria will be met. He asked if there was a way to amend the ordinance to say that all the neighbors have to be in agreement.

Bonney said no.

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Councilman Green asked if there was a jurisdiction that allowed pigs. She wanted to know if their ordinance could be looked at to see what they allowed.

Bonney said a conditional use permit could be issued that would be in conjunction with a change to the ordinance to allow pigs to be a CUP (conditional use permit). Then it would be a case by case basis. You could put specific regulations on it. You could specify the zones. There would be a little more administration on the City's part as a hearing would be required but it gives more control.

Councilman Malmberg said a CUP would be the better way to go.

Councilman Green said yes, at least for a short term until other options could be researched.

Bonney said a quick amendment could be done to allow pigs. A CUP application could be done that comes in conjunction with the change to the ordinance to allow pigs to be a CUP.

Councilman Tony Malmberg motioned and Jolyn Green seconded to amend Ordinance A-94 to allow for pigs under a conditional use permit. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

Mayor Ferdinand asked if anyone in the audience would like to address Council for anything that wasn't on the agenda.

Pam Roylance said she had lived in Marsing for approximately 1 ½ years and had lived in the county for twelve years. She said there is a problem with cats in Marsing and she had direct experience with abandoned cats and with cats she had on her farm. Roylance said House Bill 105 (Idaho Humane Society's Pet Friendly License Plates) has passed the Transportation Committee and would be debated on the floor of House the following Friday. The money from vehicle license plates sold would go into a fund that would support spaying and neutering services for dogs and cats in rural areas. This would be administered by the Idaho Humane Society. She thought the City Council should send a message to the legislators to approve the bill.

Roylance said there is currently an ordinance from 1959 that stated that electric fences are not allowed within the city limits. She is looking for a place to keep her horses. She found a place but the fence was not adequate and was told that electric fences weren't allowed. She thought it was an archaic law.

Gary Johnson said he had been speaking with City Engineer Amy Woodruff regarding the reconfiguration of two existing lots that are grandfathered but non-conforming. He wanted to know if there was a way to reconfigure them so something more attractive could be built. The

issue would then be that it wouldn't conform because the minimum lot size needed to be 7,000 sq. feet. The property is located at Edwards and Franklin. He questioned whether it would be a waste of time if he submitted an application. Johnson said he wanted to either build two houses or a duplex.

Woodruff said the property was zoned residential and a single-family dwelling is an approved use as well a duplex or an attached wall.

Bonney said that some cities require that if you own two non-conforming lots, it is required to use them as a conforming lot. You can combine the two lots and have a conforming lot. What a lot of cities allow is to let you change a non-conforming use to another non-conforming use provided you are not making it "more" non-conforming. The only issue is that there is a provision in the ordinance that if both of the lots were owned in a single ownership at the time the regulations went into place, they are one lot, not two lots.

Janet Miller said she wanted to speak regarding the newly formed health coalition. Marsing is one of three communities that were selected in Idaho to have this. A community wide task force was formed last year. Part of the funding requires that half of the coalition be youth. They discussed walking paths, issues with the sidewalks, educating people on healthy eating and cooking classes. They are ready to take action. She asked if someone on the Council could be a part of the decision-making processes. The next meeting is March 18, 2019 at 6:30 at the Extension Office.

City Engineers Amy Woodruff & Kirby Cook/Civil Dynamics

Kirby Cook said the State Highway 55 Water Relocation project began two weeks prior. The project began at 14th Avenue and lowered the water line so ITD could bring their storm drain line through. Three water meters needed to be connected to the new water line in front of 4th Avenue. The 6" water main that ran in front of the little church was replaced from 4th to 3rd. A 4" line was ran across and hooked into the 8" main line at 1st Avenue. They hooked into the new 8" line at Bruneau Highway. The 4" lines were abandoned in the area. The 8" line was hooked into the 6" line that runs down Bruneau southward. All of the city water mains along the ITD corridor are connected to the existing 8" line with brand new pvc pipe.

The contractor also hooked in the 8" line to the 12" line and abandoned the 6" line going underneath the roadway so the entire old system that used to connect the school is completely abandoned.

The Boat Dock Project is currently out to bid with the bid closing on the 25th.

The Idaho Transportation Department (ITD) is currently working in town. Their plan is to install storm sewer where they have the asphalt currently torn up. Cook had not heard an

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update on when the bridge would be shut down but all the work by Bruneau and Riverside needs to be completed before ITD can start on the bridge construction.

Mayor Ferdinand said he understood that the north access was to be built first. ITD is getting ready to build the pier to place their crane on. Fish & Game requested that lights be placed on the buoys for the duck hunters.

Councilman Chris Even said there was some confusion regarding curbing going up Main Street in front of businesses. He said he was told by some of the businesses that ITD said they were getting 4" squared curbing.

Nobody had contacted Cook. He said that was correct regarding the curbing. ITD does not allow a curb into a sidewalk.

The Mayor said there was extensive discussions concerning the curbing over the last two years. He discussed rolled curbing with ITD. There will be 4" on one side and rolled curb on the other side with the sidewalk on the northside of Main Street.

Both Councilmen Even and Green said that is not what the businesses on the southside are being told.

Mayor Ferdinand said he had a question concerning the C-Line box culvert. The sidewalk has been destroyed on the northside.

Kirby Cook said they are supposed to be replacing all of it. Cook said he would email Dave Barrett with ITD to address that sidewalk.

City Attorney Stephanie Bonney said she wanted to address the non-conforming lot that was just discussed. She said there is a provision in the code that said that if you own two non-conforming lots, they are considered one conforming lot. She asked the Council if they were prepared to enforce it and whether they wanted that provision. If it turned out the two lots were under single ownership, was Council okay to tell Gary Johnson it is currently one lot?

Mayor Ferdinand stated he wanted to look into it and have a discussion with Johnson before he applied.

Bonney said that when there are non-conforming lots, they are non-conforming because the City doesn't want lots like that anymore. This is if there are no buildings on the lots. The idea is if you have the non-conforming lots and somebody owns two of them, you now have one nice conforming lot.

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Amy Woodruff said she needed to follow-up with Johnson and said if he came forward with a variance application, his resulting lots would 6,800 sq. feet which is 200 sq. feet shy of the 7,000 sq. feet minimum which is a nice size lot. In more urban areas, a lot of municipalities are going to 5,500 or 6,000 sq. foot lots.

Bonney said he meets all the legal requirements in order to do the two non-conforming lots for a variance. She had an issue with whether it became one lot and whether the City wants to enforce it.

Woodruff asked if Johnson could come forward and ask for a lot split and a variance from the 7,000 sq. foot minimum to the 6,800 sq. foot minimum.

Bonney said only if it didn't become one lot.

Woodruff replied and said if it was one lot, Johnson is eligible for an administrative division. Then they would just be talking about a substandard lot size. Even with a variance, Johnson cannot do that?

Bonney said no, not legally as he can't meet the requirements for a variance. If it is one lot, it is a conforming lot so he can't change one conforming lot to two non-conforming lots.

Amy Woodruff said the code allows a mobile home on a 6,000 sq. foot lot. Johnson could split with a mobile home lot and a 7,000 sq. foot lot if the property is one lot.

Bonney said the bigger question to her was, what did the City Council feel about the provision of owning two non-conforming lots and having them automatically merge? It is kind of a standard provision that gets thrown in that most places don't even realize they have.

City Attorney Stephanie Bonney put together a trademark license agreement. It is not exclusive, it is not transferrable and it is royalty free. She did put in a provision that the logo can be used for the promotion of a business. If they going to place it on a commercial project, the City of Marsing needs to approve it. There may be some products the City may not want their logo on. The license agreement can be terminated at any time.

Councilman Chris Even moved and Tony Malmberg seconded to approve the Non-Exclusive Trademark License Agreement. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

Code Enforcement Officer Harvey Gist reported that someone in Morning Dove Subdivision placed trusses in the street. He spoke with a gentleman but the trusses were still there and the phone no longer will take any calls. If the trusses are not removed by the following Monday, Gist will write him a violation.

Gist said the property located at 401 Live Oak needs to be cleaned up.

The residents at 225 Canal Street built metal carports. Gist said that the Building Inspector Steve Pierson will have them remove the carports if that is what Council wishes. The previous owner put them in illegally as they do not meet any of the setbacks. The current property owner wants to close the carports in for a garage.

The property located at 205 Motzko is the property that has illegal storage and wants to put a fence up. This property was discussed at a prior Council Meeting. Gist wanted to know if there was a time table. The property owner has turned in their fence design.

Mayor Ferdinand said that Gist could wait until March's Council Meeting to see what the resident has done with her property.

Gist reported the Steve Pierson has issued a notice of condemnation for the property located at 220 Main Street.

Mayor Ferdinand said the City of Marsing is at the point of issuing a judgement against that property.

A letter has been written regarding the property located at 220 1st Street N. That residence has multiple washers and dryers in the yard.

There is a resident that has goats on her property and she stated that someone on the City Council gave her permission to have them. Gist has written her a violation.

Gist had questions regarding allowing pigs on properties within the City limits.

Bonney said a CUP will be required for pigs. She said there is a provision for a ¼ acre for other animals. Right now, pigs are not allowed at all. The CUP will allow a pig through a conditional use permit. The other animals allowed, llamas, cows, horses and goats, have to meet the ¼ acre requirement.

Bonney stated that every single person that gets a pig, Council will look at their property and impose specific requirements for each person that comes in.

The residents located at 917 Franklin burn pallets for wood. The entire back yard is full of pallets, bathroom vanities and windows. A violation has been written and Gist will be proceeding.

Law Enforcement Report

Mayor Ferdinand introduced Owyhee County Deputy Atanacio Montes. He said the County has placed their speed buggy by the Labor Camp near the school. Sometimes they place it on Main Street but are limited with that with all of the construction in town.

Ferdinand stated a traffic count was done on January 30th from 6:30 a.m. – 8:00 a.m. There were over 700 cars that went through the junction at Hwy 78 and Hwy 55. There were 40 semis. From 3:00 p.m. – 4:00 p.m., there were 643 passenger vehicles and 37 semis.

Deputy Montes said that as the construction progresses, he was sure they would get complaints. They are looking for items such as blocking intersections, parking in the no-parking zones and speed limit violations.

NEW BUSINESS:

Bill Pastoor with Westowns Disposal told the City Council that during the road construction time period, they will start their routes earlier. Mayor Ferdinand asked Kim Spagnolo to place a note on the water bills asking customers to put their trash out the night before their actual trash day.

Pastoor said the contract expires in 2020 and realized it was 8 ½ years into a 10-year contract and asked if the Council would consider renewing it at this point.

The Mayor said he didn't speak for the Council but he didn't have any reason not to consider renewing the contract.

Councilman Even said that if he has ever had an issue, Pastoor had resolved it right away. He has never had an issue with Westowns Disposal or the trash services. Even said he would have no issue with renewing the contract.

Pastoor said he wanted to be completely transparent. He said he would probably bring a raise in cost of services to the Council later in the year. He said the increase would be 3% or less.

Public Works Supervisor Philip Gibson presented his report.

New Business

- Equipment maintained
- Picnic tables painted/assembled
- Compliance evaluation of wastewater treatment plant completed
- Backup generator for City Hall installed
- Utility locates
- Water line replacements

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- Road construction meetings
- “No Jake Brake” signs installed
- “No Tables on docks” signs installed
- Hope House recently got all new picnic tables

Mayor Ferdinand asked Gibson to contact JW Chadez with the Percifield Tournament to see if they would like the old picnic tables.

Next Months Planned Projects

- Irrigation line replacements
- Start installing playground equipment
- Start spraying ground sterilant
- Compliance evaluation corrections
- Utility mark outs

Councilman Jolyn Green said the construction company that worked on Hwy 78 messed up the side of the road in front of her residence. She said someone parked there and got stuck. She suggested that Gibson check the water meter to see if it was damaged.

Discussion for City Council

- Ed Lowder is out for a more extensive eye surgery but expects to be back on February 19th on light duty. We have hired Tina Lemmon back temporarily.
- I suggest we do not loan out our new picnic tables to the Percifield Softball Tournament. Instead, we can donate all of the old picnic tables.
- I request that my work day be 7:00 a.m. – 4:00 p.m. I feel I can be more efficient with one hour of un-interrupted work; i.e. writing reports, project planning, creating S.O.P.s, responding to emails, creating/innovating new ideas, filing records/pictures of projects, etc.

Mayor Ferdinand said he had no problem with the change in Gibson’s schedule as long as it didn’t become an issue at the other end of the day.

- Quote to upgrade Island Park electrical system to code: ITD has to and is paying for, the upgrade of the electrical system at the Island Park from the meter to our panel by the bathrooms but the state electrical inspector will not allow our system to be re-energized (except for the new bathrooms) until it is brought up to code.

Gibson has obtained a quote for the Island Park Upgrades from Quality Electric Inc. for \$3,680.70. This is for upgrading the outlets and running a new service to the irrigation pump.

Councilman Green asked about other bids.

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Gibson stated that was the only bid he has gotten. He said he would contact a few more companies for additional bids. He said he would contact Barry Kendall and Homedale Electric.

Gibson asked the Mayor if he wanted to the road closed for the Crab Feed. (Yes.)

MAYOR'S REPORT:

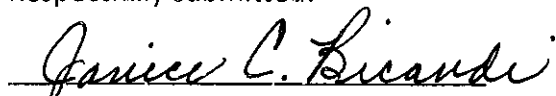
Councilman Tony Malmberg moved and Jolyn Green seconded to approve the catering permit for the Pour House/Marsing Fire Department (Crab Feed) located at the American Legion Hall on February 16, 2019. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

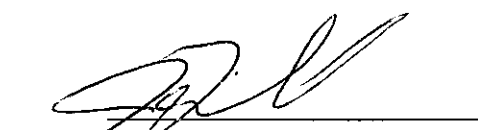
Councilman Jolyn Green moved and Tony Malmberg seconded to approve a \$150.00 donation for the FFA Auction to be held on March 1, 2019. The Mayor asked all Councilmen in favor to say aye with all Councilmen present voting aye. Motion carried.

Mayor Ferdinand said there was an ICRMP/PRIMA Training coming up and that was recommended that they attend. The Mayor asked Janice Bicandi to notify Angela Barkell with Owyhee County that the City of Marsing would be willing to host the training event. The Mayor said to table this item until the March meeting.

Councilman Jolyn Green moved and Chris Even seconded to adjourn the City Council meeting at 8:45 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: March 13, 2018