

MINUTES OF THE MEETING OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF SODA SPRINGS, CARIBOU COUNTY, IDAHO HELD FEBRUARY 12TH, 2019.

ROLL CALL SHOWED THE FOLLOWING PRESENT: Charles Fryar - Chairman
Rod Worthington
Veda Mascarenas
Tysen Hopkins

EXCUSED: Demian Guthmiller, Lori Anne Lau, Jon Goode

ALSO PRESENT: Jason Maughan
Ryan Carpenter
Austin E. Robinson
Alan Skinner, City Director
Mitch Hart, Councilmember
JoAnna Ashley, Secretary

6:00 PM Chairman Fryar called the meeting to order. Chairman Fryar welcomed Tysen Hopkins to the Planning and Zoning Commission as the newest member. Veda Mascarenas moved to approve the January 8th, 2019 minutes, seconded by Rod Worthington. All in favor, motion approved. Rod Worthington moved to nominate Charles Fryar as Chairman, seconded by Veda Mascarenas. All in favor, motion approved. Tysen Hopkins nominated Rod Worthington to be Vice Chairman, seconded by Veda Mascarenas. All in favor, motion approved.

Chairman Fryar opened the discussion regarding the changes to the Planning and Zoning Commission bylaws. Secretary Ashley explained the changes in the proposed draft of the bylaws including the following:

- Commission shall be composed of “5 to 7 members”, (which was not written in the current draft).
- All members must reside in the “County” for the duration of their service on the commission, (which was not written in the current draft).
- Removing designating that meetings will adhere to Robert’s Rules of Order.
- Adopt the State’s verbiage regarding the terms of officers allowing members to serve more than two terms by a 2/3 majority vote of the governing commission.
- Adding reference to the State code which governs each portion.
- Adopting the State Statutes verbiage for the conflict of interest portion.

6:15 PM Chairman Fryar opened the public hearing to give consideration to the application of P4 Production L.L.C. (a member of the Bayer group of companies) requesting approval of an amendment to the zoning map in the Soda Springs Area of Impact. The zone amendment would allow a change from an A-2 Agricultural Zone to an M-1 Light Manufacturing zone. The properties in question are located directly south of Hooper Rd and between North 3rd E and North Hooper Ave/Hwy 34 in Soda Springs, Caribou County, Idaho. Secretary Ashley read the notice of public hearing.

Jason Maughan said he was the representative of P4 Production. He explained P4 Production is a subsidiary of Monsanto, which is a subsidiary of Bayer. The application is for the rezone of 57.2 acres from A-2 Agricultural to M-1 Light Manufacturing. He explained the property east of the land in question is zoned M-1 Light Manufacturing. The property directly to the north, west and south are owned by P4 Production. There is a contamination issue in the underground water plume under these properties that stems from the historical elemental phosphorous operation to the north. Bayer has been engaged with the Environmental Protection Agency (EPA) and Idaho Department of Environmental Quality (IDEQ) to address the environmental concerns. The program they work with is called the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as a Superfund site. He said the ground

in question for the rezone is currently being used for remediation research with the use of wells to monitor the ground water. The land directly to the south, while zoned R-1 Single Family residential, is part of a legally required buffer zone around the elemental phosphorous plant which prohibits the development of residences in the area. He said research has shown that a pump and treat system has been proven as a sound method and it is their intention to build a system like that on the property to treat the ground water. Bayer wants to responsibly manage the contamination and create solutions and those would allow them to do that. There is no intention of expanding the elemental phosphorous south to the property. There are utilities readily accessible at or near the property. As far as compatibility with the area, the land has manufacturing to the north and east and agricultural to south and west. He noted that they have letters of support from EPA & IDEQ to support the project.

Ryan Carpenter, 240 Court St; asked who would be employed to operate the facility. Mr. Maughan stated that additional employees would be hired. Mr. Carpenter stated he thought it was a great idea and in support of approving the rezone. Rod Worthington asked if the facility is going to be like the cooling pond located to the West. Mr. Maughan said it would not be. Clarifying questions about the facility were asked. Secretary Ashley explained that the public hearing was specifically for the rezoning of the property, and where a conditional use is required before the facility can be built; the questions on the specifics of the facility would have to be saved for the conditional use public hearing that would be happening at a later date. There was no further public comment on the land being rezoned.

6:35 PM Chairman Fryar closed the public hearing. Rod Worthington pointed out that the County Planning and Zoning Commission had done its due diligence in asking many of the questions he had. The other commission members were in agreement. Veda Mascarenas moved to recommend the City Council approve the request of rezoning the property in the Area of Impact from A-2 Agricultural to M-1 Light Manufacturing, on the basis that due diligence has been done and the request was sound, further in agreement with the County P&Z's recommendation of approval, seconded by Tysen Hopkins. All in favor, motion approved.

6:43 PM Chairman Fryar opened the public hearing for the purpose of receiving public comments regarding a proposed amendment to the Soda Springs Municipal Code changing the residency requirements of members of the Planning and Zoning Commission. The Code amendment will allow members of the City Planning and Zoning Commission to reside outside the city limits and area of city impact (AOI) and only require that they live within the county. Secretary Ashley read the notice of public hearing. Chairman Fryar asked if there had been any comments received; Secretary Ashley stated no input was received.

Ryan Carpenter of 240 Court St., asked the reasoning behind the proposed change to allow people that live within the County as a whole serve on the Commission. Austin E. Robinson of 235 West 4th South stated he also had the same question. Secretary Ashley explained that the intention was to allow those who are technically residents of Soda Springs, but live outside of the City limits and Area of Impact, to serve on the Commission. People who live in areas such as Afton's Way, Wood Canyon and Bailey Creek subdivisions would be able to serve on the Commission. Mr. Carpenter stated he was not in support of the change.

Mr. Robinson of 235 West 4th South, stated he was absolutely opposed to people in the County being able to be on the Commission, even if they are just living in Wood Canyon. He felt where they were not governed by or subject to the City's rules they should not be on a board that can affect them.

Tysen Hopkins stated he was not in support of the ordinance for concern it opens it up to have anyone from the County serve on the Commission. Veda Mascarenas stated she felt allowing anyone from the County was too broad. Rod Worthington stated he was not in support of it. He did see the value of including the area just outside of the AOI. His biggest goal for the commission is to protect the City.

7:53 PM Chairman Fryar asked if there was any more input from the public, there was not. He declared the public hearing closed. Chairman Fryar stated that there were several items brought up that he had not considered. It was discussed about extending to a certain number of miles outside of the AOI, however many still felt that would be too broad. After further discussion Veda Mascarenas moved to recommend the City Council maintain the code as is, with no changes to the residency requirements for the Planning and Zoning Commission; seconded by Tysen Hopkins. All in favor, motion approved.

Chairman Fryar returned the discussion to the Bylaws of the Planning and Zoning Commission. Rod Worthington moved to recommend adopting the drafted bylaws as presented plus the change of “5 to 7 members” and making no change to the residency requirements, seconded by Veda Mascarenas. All in favor, motion approved.

Chairman Fryar opened the discussion regarding the sign code and asked if the changes were internally or externally motivated. Secretary Ashely explained it was internally motivated to address the City’s outdated sign code which did not address new technology and modern signage. The Commission had looked at it towards the end of 2017, beginning of 2018. The proposed code is built on a template from the City of Preston’s sign code which was much more in depth than the City’s current code and addressed new technology. She explained she had merged portions of the City’s code with Preston’s sign code to address concerns about things that were lacking in Preston’s code but covered in the City’s current code. She explained one of the issues that came up in past discussion was how to deal with landowners who wanted to advertise for their business on land they own, but was not the property where the business was physically located. The concern was that allowing such signs would create a lot of roadside clutter and confusion. Rod Worthington pointed out that it had also been discovered in the minutes from when the current sign code for the City was adopted concerns had been expressed about cluttered signage in the City.

Chairman Fryar asked Councilman Hart what the City Council’s opinion on what the scope of the Comprehensive Plan should be. He expressed concern about whether the Commission should be addressing things like the sign code and putting off the Comprehensive Plan until more public input was received; or should they be moving forward with the Comprehensive Plan. Secretary Ashley pointed out that at January’s meeting it was discussed that the Commission would like to take time to digest the input received and not have discussion on the Comprehensive Plan at this meeting. Further while the Plan does need to move forward there are other issues that also need to be addressed at the same time, such as the sign code. Chairman Fryar expressed he wanted the opinion of Councilman Hart as he is a new presence in the meeting and wants direction for how the Commission should proceed on the Comprehensive Plan. Councilman Hart stated that the process should not be dragged out; however, he felt it should have sufficient policy and documentation for a consensus going forward. Further it should be looked at as a living document and evolve continually over the next several years after its adoption. He said he would not be opposed to them approving a plan in the near future and then take up the evolution as consistent review of the commission. Rod Worthington asked for clarification from Councilman Hart on how in-depth and detailed he felt the Comprehensive Plan should. Councilman Hart stated he felt the plan should maintain a much broader view, akin to like a 35,000 foot view as Rod Worthington had described it. He felt the fine details should be dealt with in ordinance. Chairman Fryar stated he felt there has been a great debate on what the scope should be and it was nice to have clarity. Councilman Hart shared an example of something that should be considered in the plan. Simplot is getting their Dairy Syncline Mine permitted which is likely going to get their mine approved. This involves moving their operation over the mountain and half way to Soda Springs instead of on the Wyoming side. This could bring the need for additional housing and infrastructure improvements. On the other side what is Itafos going to do in the next 5 years when their mine is done; permit for new ore, or shut down. These are things that can’t be exactly determined yet the City should try to consider such things for how to plan ten years into the future as these changes may come. He concluded that speculation can go

on forever, and it is important to make decisions and move forward. As a result refinements can be made to the Plan as they're brought before the Commission and Council. Secretary Ashley pointed out that implementation by the City Council and Commission was already included in the Comprehensive Plan under the "Implementation" portion which outlined it would be reviewed so often throughout the year by both entities. As a result, once it has been adopted, the Commission could take note of changes in the community or pending changes and recommend changes to the Plan accordingly. Chairman Fryar noted he had been hoping for the Plan to be perfect before adoption, but due to the nature of it and all that has been discussed that is not going to be realistic and it will be continually changed. Councilman Hart pointed out that housing has been brought up in all the meetings that have been held. One thing that could be included in the Plan is a mission statement or declaration to address this concern and could be something like "We will facilitate the infill of building homes in the City." How that is done or how much infill land there is could continue to be worked on in the months to come by a Committee that addresses this and one or two members from the Commission and one from the City Council could be on this committee. Rod Worthington felt like trying to dissect and narrow the scope of the plan will take far too long and cause micromanagement to happen. Chairman Fryar agreed and would like to see things move forward. Secretary Ashley pointed out that Lisa Bachman of J.U.B. would be coming on February 25th to do training on the Future Land Use Map portion of the Comprehensive Plan and take questions. This would be a final piece needed in the Plan aside from the fine tuning.

Tysen Hopkins brought up the sign code again. He asked if in the current code the City would be protected against a landowner being able to install a sign for their business on any property they own. Director Skinner stated that the current sign code would not allow it as signs can only be placed on the property where the business is physically located.

Veda Mascarenas asked how the Commission could have the foresight to see things coming like the Simplot mine. Councilman Hart said that notices are sent out to the public and published in the paper. There was further discussion about the scope and depth of the Plan. Secretary Ashley pointed out that as a Commission when they reviewed the currently adopted Plan from 2007 it was mutually agreed there was too much detail. The Recreation Chapter in particular had nearly two pages of goals and objectives that were very detailed, such as installing lights at Kelly Park, yet the majority of them all hadn't been achieved. The Commission unanimously felt like it did not serve the community to have so much detail due to administration changes which changed the focus of the City. Rod Worthington pointed out such extensive details should be saved for a document such as the Community Improvement Plan. The City Council had seen the wisdom in needing to spend money on sewer infrastructure rather than lighting at Kelly Park and there needs to be that flexibility. Councilman Hart said a scope of the plan could include planning components such as, the City foresees a 10% growth in the population, which is approximately 300 people and is encouraged to look into how to plan for infrastructure to support that. Councilman Hart applauded the Commission for their efforts and felt like they have done a good job on the Plan.

Secretary Ashley said she needed the Commission to review a proposal to add verbiage to the code allowing concurrent hearings for rezones and conditional uses. Allowing this would help solve the frustrations that everyone felt at this meeting where the rezone was being heard first but questions about the building which would be part of the conditional use could not be discussed. Chairman Fryar asked Councilman Hart and Director Skinner what their opinions were on allowing this. Councilman Hart voiced his support for it. Rod Worthington cautioned the Commission to look deeper and see if this is a wise decision as it may allow the Commission to not look as deeply into the issues. Councilman Hart stated he felt like the Commission should have been able to have context about the proposed operation at the land being rezoned at the hearing tonight. Secretary Ashley stated that having seen these applications come through like this a few times now it creates a problem not having the hearings concurrently as it breaks up discussion that should really be allowed to happen at the same. Further it becomes a challenge in not breaking Quasi-Judicial hearing rules

as details for the conditional use cannot be discussed during the hearing for the rezone request. She felt this would solve a rather complicated problem and allow the Commission and Council to more efficiently fulfill their duties while simplifying the process for all. Rod Worthington asked if the public would be given adequate notice. Secretary Ashley stated that public hearing process would not change and the notices to notify the public of both hearings being considered would still go out as per the adopted process. Rod Worthington asked the Commission to consider all of their public hearings in the last five years if there was a time this may have created issues. Secretary Ashley pointed out that the Learning Tree Day Care rezone and conditional use application was allowed to be heard in the same meeting due to the urgency of the circumstances. She asked the Commission to reflect on the efficiency of that meeting as the hearings were allowed to be heard one after the other and the public only having to attend one meeting to address both components. Further the publishing happened at the same time ensuring that those who saw the rezone also saw there was going to be a conditional use as well. Chairman Fryar asked about the verbiage “may be heard in the same hearing.” Secretary Ashley explained this would allow the discussion to happen all at once for both the rezone and the conditional use, not requiring the discussion to be separated to only address the rezone and then only the conditional use. Secretary Ashley pointed out that in a concurrent hearing the rezone is supposed to pertain to the characteristics of the site but it would allow the Commission to still ask context for what the site will be used for. She expanded to explain that as land ownership changes whatever the land is zoned, the new owner can move forward without any interference from the City for all allowed uses, while conditional uses for that zone would still be subject to public hearings. This is why rezones have to consider the characteristics of the land pertinent to the zone change being proposed, because once the zone is changed all things in that zone will be permitted as outlined in the code. It was clarified that this would still allow there to be two separate hearings, but provide the option to allow them at the same time too. Rod Worthington moved to recommend to the City Council to move forward with scheduling a public hearing for an amendment to the code allowing rezones and conditional use requests to be heard concurrently or even in the same hearing, seconded by Tysen Hopkins. All in favor, motion approved.

7:43 PM Rod Worthington moved to adjourn the meeting, seconded by Veda Mascarenas. All in favor, meeting adjourned.