



CASCADE CITY COUNCIL
SECOND REGULAR MEETING
January 27, 2020 at 6:00 pm
Cascade City Hall

MINUTES

CALL TO ORDER AND ROLL CALL

The meeting of the Cascade City Council was called to order by Mayor Judith R. Nissula at 6:00 P.M. Council members Rachel Huckaby, Cynda Herrick, Denise Tangen and Ron Brown, were present. Quorum exists.

Also present: Heather Soelberg City Clerk
 Matt Johnson City Attorney
 Trevor Howard City Engineer
 Peggy Breski City Planner

PLEDGE OF ALLEGIANCE

Pledge of Allegiance was recited.

PUBLIC COMMENT

Public comment is limited to three (3) minutes per person, per item, unless additional time is permitted by the presiding official. The City Council does not take any action or make any decisions during public comment. To request Council action during at Council meeting, contact City Clerk at least one week in advance of a meeting.

No public comment.

PUBLIC HEARING

RIVER DISTRICT - ANNEX 19-01, PUD 19-01, SUB 19-01 ZON 19-01, Dev. Agrmt

The Mayor made a statement clarifying that there was information (*) in the City Council meeting packet that was received after the submission deadline. The information received from the applicant on Friday, 1/24/20 at 2:35 pm. deviated from Process as the information was late and had been distributed by the Applicant directly to the governing board (City Council) and the City Attorney. Though the City provided a hard copy of the information in the Council members packets, it should be known that due the late arrival of the information, it has not been vetted by Staff or the City Attorney at this time.

(*) the information consisted of three documents as outlined in the Applicants cover letter excerpt below which was sent directly to the City Council.

“Please include this letter, the applicant’s proposed development agreement, staff’s proposed development agreement and the comparison version in the record of this matter and post them to the city’s website for public review...”

The Mayor asked if the council would be discussing the late submission of the Development Agreement information. Council members asked for clarification on the documents submitted and commented that they did not feel comfortable discussing it prior to it being vetted as there is not enough time for staff to put together a reasonable response.

Traffic Impact Study has been received (Exhibit D) and the complete (TIS was received on 1/13/20) (Exhibit C).

Engineer Howard provided information to the City Council regarding the impact of water and sewer systems, related services and connection timeline based on the development timeline.

Councilmember Herrick inquired about improvements to the wastewater system and the effects to capacity.

Howard spoke to Exhibit D of the staff report.

Mayor Nissula asked Howard to speak to the IPDES permit and what effects that has on the timeline.

Howard identified that improvements to the wastewater system are dependent on the IPDES timeline.

Howard provided explanation of how a “will serve” letter works and reiterated that once the City provides a “will serve letter” of obligation for Phase I of this application, the number of available wastewater hookups the City would have available for future development including, single homes and new businesses would be zero. Based on the facilities planning study, and preliminary engineering study; aeration has been identified as a way to expand capacity. Once appropriate aeration is installed to accommodate phase I and is designed and implemented; an additional 300 hookups would become available.

Breski read findings on Exhibits D and E - Water Supply and Fireflows Data needed for the Planned Unit Development.

Howard provided explanation to the water availability, while he believes there is enough water to serve the development due to the separate irrigation system; a DEQ facilities planning study will be required. A new well and active conservation measures for all service addresses should be done in the interim to lessen the burden on back up wells. If the City chooses to approve the development, a verification of water storage capacity to accommodate fire and fire flow capabilities as well as provide continuous service to residents is needed and will require that a water model study be done.

Councilmember Herrick inquired about fire flow capabilities applied to the largest building (the school) which were claimed by the Applicant’s engineer in a previous meeting as sufficient.

Howard reiterated the City needs to provide sufficient fire flow capacity which should be modeled and evaluated in a study and not based on assumptions as a memo from the Applicant concurred.

Mayor Nissula asked for clarification – does more water storage capacity mean expanded tanks or an extra tank or a new well?

43:47

Howard clarified that both a new well and additional storage would be required. Essentially, the City would need to have twice the number of wells that you need made available during the summer months when back up wells are in use in order to accommodate the supply needed. In summary, regardless of the fire flow storage, the City needs an additional well and/or long term, permanent conservation methods which may or may have impact on the need for an additional well.

Breski summarized the financial impact, stating that the treasurer believes there will be financial shortfall to the City. Council requested additional information.

Breski summarized the Traffic Impact Study and concern about blanket agreement to the Traffic Impact Study, without the City knowing what these requirements will be. ITD has scheduled a review of the TIS to begin on 1/30/2020. A summary of common, potential financial impact to operating costs of the City's budget including a breakdown of recommendations was made.

Recording device failure at 55:48 – fifty five minutes and forty eight seconds. City Attorney Matt Johnson – back to recording...

Breski started off with Continuation of Staff comments.

1 - Applicant has made requests of Staff to provide clear conditions of approval and to certify that Staff has no remaining requirements of the Applicant that have not already been disclosed.

Staff anticipates no additional requests for additional reports or studies for clarification, Staff does anticipate subsequent submittals to adequately address comments that had been made and that are forthcoming – i.e. the TIS Traffic Impact Study.

2 – As standard industry best practice, Staff will be submitting comments on the TIS which will require Applicant response.

3 – Staff must elicit direction from City Council in order to provide clear conditions of approval. Staff will issue conditions of approval on final determinations stipulated by Council.

Breski continued by stating that the global, financial impact to the City should be considered.

Staff Findings and Recommendations were summarized by Breski.

Mayor Nissula asked that City Attorney Johnson outline the annexation legal requirements for the Council to consider.

Johnson specified several points in the annexation statute - Idaho Code 50-222 - which address factors that are to be considered by the Council such as:

- * Does the proposed annexation match with the ongoing development within the city,
- * Is there economic and viable provision of tax supported and fee support services,
- * Cost effective availability of municipal services in urbanizing Areas,
- * Does the proposed annexation equitably allocate costs of public services in urban fringe development

Mayor Nissula identified there are approximately 200 buildable lots within the City limits. Mayor Nissula identified that the City ranks 63 of 191 as far highest levy rate.

Mayor Nissula identified that there are more than 6 buildable lots within the City; there are an estimated 200.

There was discussion regarding lots and which might have city services available.

APPLICANT:

Applicant agreed that this application has not been easy, and provided an outline from applicants' perspective of the processes the applicant has taken to move this development forward.

Applicant also identified concerns it has regarding the information provided by the city attorney, city staff and city engineer, getting to City Council.

Applicant provided concerns with the development agreement as presented by the City and identified why the applicant circumvented working with staff and directed their proposed development agreement directly to the city council.

City Clerk outlined unfulfilled information requests asked of the Applicant.

**PUBLIC
TESTIMONY**

Mayor Nissula opened public testimony at 8:42 pm.

**WRITTEN
CORRESPONDENCE**

See Staff Report.

PROPONENT:

Larry Morton provided testimony in favor of the development.

Dave O'Brien provided testimony in favor of the development.

Jenni Hart provided testimony in favor of the development.

Glenna Young provided testimony in favor of the development.

Dwight Jivden provided testimony in favor of the development.

Josh Davis provided testimony in favor of the development.

NEUTRAL:

Jacque Long left prior to provided testimony.

Steve Millemann provided testimony neutral to the development, specifically related to development agreement/annexation concerns.

Olin Balch provide testimony neutral of the development.

OPPOSED:

Karen Balch provided testimony opposed to the development.

REBUTTAL:

Applicant provided rebuttal testimony regarding issues raised by testimony received, as well as reiterating the concerns brought in the City proposed development agreement, and the cost of the SAF fees paid in advance.

**PUBLIC HEARING
CONTINUATION**

After confirming feasibility with the City Attorney, Mayor Nissula announced that this Public Hearing would not be closed but continued at a later date should Council choose to receive additional testimony following tonight's deliberations.

**FURTHER
DISCUSSION**

Councilmember Tangen asked for comments from Staff regarding issues addressed in tonight's meeting.

City Attorney cautioned discussion related specifically to the Development Agreement.

Mayor Nissula also cautioned discussion regarding the development agreement and directed the discussion to follow the agenda and the recommendation made by the Staff Report.

NEW BUSINESS

ANNEX 19-01 – RIVER DISTRICT 41.15 on “new” recording 2

DISCUSSION:

The City Attorney reiterated what the Council needs to consider when voting on annexation. Primarily:

Is the City interested in annexing the property into the City?

The Council has a variety of options and can respond either:

No, it's not orderly development for the city, or

Yes, without qualifications, or

Yes, with qualifications that a development agreement needs to be decided upon.

Mayor Nissula asked for clarification from the City Attorney as to whether the Council can consider annexation with existing code and also include specific stipulations in the development agreement.

Attorney Johnson explained that as this process and decision is quasi-legislative and not quasi-judicial; the developer does not have a certain

right or entitlement to annexation which allows the City Council a broader depth in what they can require of the Applicant as they consider their decision.

Council Member Tangen directed a question to the City Attorney that "...if Council approved annexation with conditions, does that lock us in to sticking by the code or can we negotiate?"

The City Attorney responded, no. The decision to annex subject to a development agreement means that approval of annexation is specifically conditioned upon the development agreement.

54:30

Attorney Johnson continued to provide additional direction in moving forward with annexation. Attorney Johnson also stated that this could be tabled so that Staff could have additional time to address concerns.

58:31

Attorney Johnson offered to the Council that there are several issues where uncertainty remains and clear direction from the Council is needed. Three of the biggest issues in his opinion are:

- * The Traffic Impact Study, TID, and whether or not Council wants to required this to be completed for ITD review.
- * Water
- * Waste Water

Councilmember Brown believes the City needs to move forward with annexation with conditions and at that point workout development agreement conditions.

Councilmember Tangen would like to table until the development agreement is further ahead prior to moving toward annexation.

Councilmember Huckaby agreed to move forward with annexation.

MOTION BY: Rachel Huckaby **SECOND BY:** Ron Brown

MOTION TO APPROVE ANNEXATION CONDITIONED UPON SUCCESSFUL ENTRY INTO A DEVELOPMENT AGREEMENT THAT UPON REVIEW THE COUNCIL DETERMINES WILL PROVIDE FOR THE EFFICIENT AND ECONOMICALLY VIABLE PROVISION OF TAX SUPPORTED AND FEE SUPPORTED SERVICES.

Council Member Tangen asked for clarification if this motion would tie their hands (the Council).

City Attorney said no. The development agreement remains an issue to be resolved and (if the Council approves) this is clearly approval only upon a condition of the successful development agreement. The City is in no way waiving or forgoing its ability to require anything in the that development agreement it would under the annexation decision.

Mayor Nissula asked the City Attorney what would the City gain by the conditional approval (of annexation)? Mayor Nissula further asked for clarification on moving forward. She asked for it to be clear that if the terms of development agreement cannot be agreed upon, the annexation would not move forward. Attorney Johnson confirmed.

ROLL CALL: Ron Brown Yes Cynda Herrick *Recused*
Rachel Huckaby Yes Denise Tangen Yes

Motion Passed

ZON 19-01, PUD 19-01, SUB 19-01 – RIVER DISTRICT

DISCUSSION: Discussion regarding the initial zoning designation and the development agreement. Mayor Nissula requested that the Council rely on the staff for direction in moving forward, stating the City “doesn’t know, what we don’t know.” Discussion regarding development negotiation. Councilmember Huckaby inquired about tabling these items until a later date. Attorney Johnson clarified the process of moving forward with the zoning designation.

MOTION BY: Rachel Huckaby **SECOND BY:** Cynda Herrick

MOTION TO APPROVE ZONING DESIGNATION PER THE PLANNING AND ZONING RECOMMENDATIONS.

DISCUSSION: No further discussion.

ROLL CALL: Cynda Herrick Yes Rachel Huckaby Yes
Denise Tangen Yes Ron Brown Yes

Motion Passed

MOTION BY: Rachel Huckaby **SECOND BY:** Denise Tangen

MOTION TO CONTINUE THIS PUBLIC HEARING ON THE PUD 19-01 AND SUB 19-01 APPLICATION UNTIL A DEVELOPMENT AGREEMENT CAN BE REACHED WITH CONTINUATION OF THE PUBLIC HEARING ON A DATE TO BE DETERMINED. **1:40**

DISCUSSION: Clarification on the development agreement public hearing, PUD 19-01 and SUB 19-01, this date would be triggered by the receipt of the first round of comments from ITD. Denise Tangen requested it take place after she returns in March.

ROLL CALL: Cynda Herrick Yes Rachel Huckaby Yes
Denise Tangen No Ron Brown Yes

DEVELOPMENT AGRMT – RIVER DISTRICT

DISCUSSION: Mayor Nissula asked that each City Council member provide comments to the staff regarding the drafting of the development agreement.

Councilmember Herrick asked that staff:

Rachel Huckaby Yes Denise Tangen Yes

Motion Passed

MOTION BY: Rachel Huckaby **SECOND BY:** Cynda Herrick
APPROVE CASCADE CITY COUNCIL MINUTES DATED DECEMBER 9, 2019,
DECEMBER 17, 2019 AND JANUARY 13, 2020 WITH CORRECTIONS

DISCUSSION: No further discussion.

ROLL CALL: Ron Brown Yes Cynda Herrick Yes
Rachel Huckaby Yes Denise Tangen Yes

Motion Passed

MOTION BY: Rachel Huckaby **SECOND BY:** Cynda Herrick
MOTION TO TABLE THE FINANCIAL REPORT TO TOMORROW'S MEETING ON JANUARY
28, 2020

DISCUSSION: No further discussion.

ALL IN FAVOR: Ron Brown *Aye* Cynda Herrick *Aye*
Rachel Huckaby *Aye* Denise Tangen *Aye*

Motion Carried

MAYOR REPORT

No mayor's report.

ADJOURNMENT

MOTION TO ADJOURN 11:12 pm

ALL IN FAVOR: Rachel Huckaby *Aye* Cynda Herrick *Aye*
Denise Tangen *Aye* Ron Brown *Aye*

MEETING ADJOURNED:

Respectfully submitted and Attested by,

Approved

Heather M. Soelberg

Heather M. Soelberg, Clerk/Treasurer

Judith R. Nissula, Mayor