

MINUTES OF THE REGULAR COUNCIL MEETING

May 13, 2020

At 6:00 P.M. the meeting was called to order by Mayor Mac Pooler.

A roll call of the Council resulted as the following present:

Sid Armstrong, by telephone
Ron Mercado, by telephone
Dennis Norris, by telephone
Ron Delcamp, by telephone
Anna Moody, by telephone
Terry Douglas, in person

Officers present were:

Mayor Mac Pooler, in person
Building Official Mark Magnus, by telephone
Chief of Police David Wuolle, by telephone
Superintendent of Public Works Craig Lewis, by telephone
City Clerk /Treasurer Nila Jurkovich, in person
Project Manager Rod Plank, in person
Planning Consultant Collin Coles, by telephone

Others Present In Person: Andy Helky - Panhandle Health District.

Others Present By Telephone: Nancy Mabile - Panhandle Area Council, Ben Davis - Alta Science & Engineering, and Nathan Wendt - 2020 Senior Parent.

ORAL COMMENTS None.

STAFF REPORTS

All written reports were submitted, comments by the Council follow:

Councilmember Armstrong informed Superintendent of Public Works Craig Lewis that he had a conversation with the Superintendent of the Kellogg School District and they can offer manpower with the removal of the old concession stand building.

Superintendent of Public Works Craig Lewis mentioned the bid opening for Teeter's Field is scheduled for May 26th.

CONSENT CALENDAR

All items listed under Consent Calendar are considered routine by the City Council and will be enacted by one motion in the form listed below. If discussion is desired, by a Council Member, the item will be removed from the Consent Calendar and be considered at its appropriate place in the Agenda.

1. Approval or correction of the minutes of the April 8, 2020 regular council meeting and the minutes of the March 18, 2020 special council meeting.
2. Approval of payment of the bills for the month of April 2020 as presented. (Proving documents on file in the City Clerk's office)
3. Treasurer's Reports of Income & Expenditure, as submitted.
4. P&Z Commission Meeting minutes from the April 20, 2020 meeting.
5. Report of Commissions and Committees: None

It was moved by Councilmember Mercado and seconded by Councilmember Armstrong to approve the Consent Calendar as presented. Motion carried.

OLD BUSINESS

Mr. Ben Davis, present by teleconference, had previously provided the following information on the next four topics to the City and was available for any questions.

EPA Road Remediation & Sewer Project – Alta Engineering

Design of the 2020 Paved Roads project is nearing completion. Alta will send Construction Drawings to Craig Lewis for review prior to putting the project out to bid. Alta's plan is to advertise for bids the week of May 18th.

Since the last City Council meeting, both Phase 2 and 3 of the Sewer Project have been closed out and final pay applications submitted. There is a warranty walkthrough scheduled for June 30th. Any outstanding issues should be brought forth at that time. The warranty period is one year for defective work.

City Clerk Nila Jurkovich advised the Council that payment was received for the project today, and the final check was written and mailed out today.

Wardner Sewer Inflow through Kellogg's System

No update at this time.

Bunker/Wildcat Way Stormwater Update

Storm water design will be included with the 2020 Paved Roads bid package. Alta is discussing cost-sharing of the work with DEQ Roads Board.

Teeters Field Concession Stand Update

Project is currently out to bid. Contractor selection will be forthcoming.

ICDBG Fire District #2 Mid-Construction Status Update by Nancy Mabile-PAC

A mid-construction hearing was scheduled for the April 8th Council Meeting, however with the COVID-19 the hearing did not take place. The Department of Commerce recommended a report be submitted. The report was provided to the Council and Ms. Mabile provided the Council with the financial data, stating there is a 5% retainage and the project should be closed out in June. The project is on schedule and it is Ms. Mabile's understanding the Fire District moved in to the building on May 5th.

Resolution 2020-03 Amending Public Hearing Procedures

City Clerk Nila Jurkovich advised the Council this is the exact same resolution that was presented at the April Council Meeting. The agenda did not state "Action Item", and this is to correct the process.

RESOLUTION NO. 2020-03

CITY OF KELLOGG

KELLOGG: LAND USE PUBLIC HEARING PROCEDURES

WHEREAS: Idaho Code §67-6534 requires that cities maintain a regular set of procedures for public hearings held by the City of Kellogg Planning and Zoning Commission and City Council in matters governed by the Local Land Use Planning Act; and

WHEREAS: From time to time it is beneficial to review and revise those hearing procedures to better facilitate input from the public and to promote a thorough and expeditious hearing;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council that the City of Kellogg hereby adopts the following procedures to be applied in matters concerning land use-related public hearings:

Section 1. Public Notice

a. If a public hearing is required by law or ordinance, the planning commission and, when applicable, the city council shall hold at least one public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the city's official newspaper. Notice of public hearing should only be published when an application is complete in a manner sufficient to address the requirements established by ordinance and application forms.

b. In the case of annexations, special use permits, site-specific rezones, subdivisions, and variances, notice shall also be provided to property owners within the land being considered; those record owners of lands within three hundred feet (300') of the external boundaries of the land being considered; and, optionally, within any additional areas that may be substantially impacted by the proposal as determined by the planning and zoning commission or by decision of the Planning Administrator. Contents of the mailed notice must contain the information required by law and when practical should include information guided by this Resolution such as requirements of testimony, default time limits (or issue-specific time limits, if known), timing for allowing written submissions, and other significant conditions or restrictions on testifying.

c. When mailed notices would be required to be sent to two hundred (200) or more property owners, a notice of public hearing, at least 2" x 4" in size, published in the city's official newspaper at least 15 days prior to the hearing, shall be considered adequate in lieu of otherwise required mailed notices.

d. For site-specific matters, the subject property should be posted with signs describing the type of action to be considered, contact information for the Planning Administrator, and the time, date and location of the hearing. Such signage shall be posted on the site as required by law.

Section 2. General Rules for Testimony in a Quasi-judicial or Annexation-related Public Hearing:

a. At the commencement of the public hearing, the Commission/Council, or the Chairman/Mayor may establish a time limit to be observed by all speakers. This resolution provides the default time limits as follows: Applicant (to describe application and reasons that it meets requirements) – not to exceed fifteen (15) minutes. Staff explanation – not to exceed fifteen (15) minutes. Individual testimony – pro, neutral and con – three (3) minutes per person (up to fifteen (15) minutes for spokesman in cases where spokesmen are pre-authorized by the chairman). Rebuttal by the applicant (no new evidence – only information from the record to rebut assertions by contrary testimony) – as needed.

b. No person shall be permitted to testify or speak before the hearing agency at a public hearing unless such person has signed his name and written his contact address on sign-up sheets to be provided by the city. This requirement shall not apply to staff or technical witnesses directed by the chairperson to give evidence or information to the hearing agency.

Should the City conduct a hearing via a telecommunications device such as telephone or video conference, a person shall only be required to state and spell their name and contact address on the record before testifying or speaking before the hearing agency. Sign-up sheets will not be required if a hearing is conducted via a telecommunications device.

c. The presiding officer, or the council/commission, is authorized to revise the default time frames and order of proceedings so long as due process rights are maintained. In the event of disagreement by governing board members with procedural rulings by the chairman, the governing board may suspend or amend any one or more of these rules by majority vote of members of the governing board then in attendance, provided that due process rights are preserved.

d. Anyone who intends to appear as a representative of a group at a hearing where spokesmen will be allowed should contact the Planning Administrator at least five days prior to the hearing. Staff may then apprise the representative of procedures for the hearing and any special limits or allowances concerning testimony.

e. No person shall be permitted to speak before the council/commission at a public hearing until such person is recognized by the chairperson.

f. Testimony should directly address the subject at hand.

g. Testimony should not be repetitious with other entries into the record.

h. Testimony should not be personally derogatory.

- i. Testimony should comply with time restrictions established by the hearing agency.
- j. If oral testimony fails to comply with the aforementioned standards, the chairperson may declare such testimony out of order and require it to cease.
- k. All public hearing proceedings shall be recorded electronically or stenographically and all persons speaking at such public hearings shall speak before a microphone in such a manner as will assure that the recorded testimony or remarks will be complete.

Section 3. Order for Quasi-Judicial Public Hearing:

Quasi-judicial hearings involve site-specific decisions (such as rezoning specific property) as opposed to legislative hearings which require decisions that have a broad application (such as a change in the text of a zoning or subdivision ordinance, which does not necessarily affect one specific parcel of land). Quasi-judicial Public hearings should follow the order of events set forth below: Brief introduction of the subject of the hearing by city staff.

- a. Presentation by applicant. (Decision makers should address their questions to the applicant at this time.)
- b. City staff report. (Decision makers should address their initial questions to staff at this time.)
- c. Open Public Hearing: Testimony from public in the following order: (Questions from the decision makers should be asked of the person testifying before they leave the podium whenever possible.)
 - 1. In favor of proposal
 - 2. Neutral respecting proposal
 - 3. Opposed to proposal
- d. Rebuttal testimony from applicant. (Decision makers should ask any final questions.) If new facts are elicited, the public must be given an opportunity to respond to the new facts.
- e. Close Public Hearing
- f. Discussion of hearing subject among governing board members. Questions may also be directed to city staff during this period. Any procedural rules requiring a motion prior to discussion are hereby suspended for purposes of such discussion. Decision makers may table the matter until later in the meeting if other public hearings are pending or to a later meeting for deliberations.
- g. The final decision should include a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan for rezoning requests, relevant ordinance and statutory provisions for other requests, pertinent constitutional principles and factual information contained in the record.

Section 4. Standards for Written Testimony:

Written testimony and exhibits from the public to be admitted at a public hearing shall comply with the following standards:

- a. Written testimony and exhibits must be submitted at least six (6) calendar days prior to the date of the pertinent public hearing. This provision may be varied through notice to potential hearing participants.
- b. Written testimony should include the signature and address of the submitter.
- c. Written testimony should address the issue at hand.
- d. Written testimony should not be personally derogatory.
- e. If written testimony or an exhibit fails to comply with the aforementioned standards, the chairperson or council/commission may declare such testimony inadmissible.

Section 5. Exhibits:

All exhibits, photographs, diagrams, maps, evidence and other material presented during the public hearing should be marked or otherwise identified and entered into the record. Exhibits from the Applicant must be submitted at least twenty (20) days prior to the hearing and shall be marked or identified prior to publication of any notice of public hearing. Original exhibits may be released to the presenting party if requested in writing, and if acceptable to the Planning Administrator and legal counsel. If original exhibits are released, photocopies or reproducible photos of the originals should be maintained in the record.

Section 6. Records Maintained:

The City Clerk should maintain records of all public meetings in the following manner:

- a. Transcribable verbatim recordings of the proceedings should be maintained in conformance with Idaho Code §50-907 or its successor.
- b. Originals or accurate duplicates of written submittals to the hearing record and copies of applications should be maintained in conformance with Idaho Code §50-907 or its successor.
- c. Minutes which catalog the occurrences at the public hearing shall be maintained as required by applicable sections of the Idaho Code.

Section 7. Procedures for Legislative Public Hearings.

Public hearings on legislative matters brought pursuant to requirements established by the Local land Use Planning Act should take place after notice has been provided as required by law. Prior to publishing notice of legislative public hearing a draft of the legislative proposal should be prepared and be available for public inspection no later than the day the notice of public hearing is published. Procedural limits on duration of testimony may be established by the chairman, subject to approval by the governing board. Legislative public hearings do not require final decisions in a manner comparable to those for quasi-judicial proceedings.

Section 8. Land Use Decision:

A written decision shall be rendered and include the following:

- a. Aspects of compliance or noncompliance with the relevant approval standards and criteria.
- b. Failure to explain the compliance or noncompliance shall be grounds for invalidation of the approved permit or site-specific authorization, or denial of same.

Section 9. Request for Reconsideration:

Any applicant or affected person shall have the right to request reconsideration of the final decision.

- a. Reconsideration requests must be in writing and submitted to the city within fourteen (14) days of the final decision.
- b. Reconsideration request must identify specific deficiencies in the decision for which reconsideration is sought.
- c. A hearing will be held on the request for reconsideration.
- d. Following the hearing, the city council will either affirm, reverse or modify the decision on which reconsideration was requested.
- e. A written decision will be provided to the applicant or affected person within sixty (60) days of receipt of request for the reconsideration.

This resolution shall be in full force from the date of its adoption until superseded by a resolution addressing the same subject matter.

Adopted this 13th day of May, 2020.

CITY OF KELLOGG

Macklin E. Pooler, Mayor

ATTEST:

Nila Jurkovich, City Clerk/Treasurer

It was moved by Councilmember Douglas and seconded by Councilmember Moody to approve Resolution 2020-03 as submitted. Motion carried.

Wardner Sewer Analysis Options presented by Alta Science & Engineering

Councilmember Douglas would like the City send a letter to the South Fork Sewer District (SFSD) Chairperson along with a copy of the analysis prepared by Alta Science & Engineering and request a meeting with SFSD and the City of Kellogg. Copies will also go to the SFSD Manager and to the City of Wardner mayor.

Councilmember Delcamp inquired if the City should vote on an option first, and then advise the SFSD of the selected option. Selecting an option will be made at a later time.

It was moved by Councilmember Douglas and seconded by Councilmember Delcamp to reach out to the SFSD Chairperson by letter, along with the analysis options prepared by Alta Science & Engineering and a copy will also be sent to the City of Wardner mayor.

A roll call vote of the Council resulted as follows:

Councilmember Douglas-Aye	Councilmember Mercado-Aye
Councilmember Armstrong-Aye	Councilmember Moody-Aye
Councilmember Delcamp-Aye	Councilmember Norris-Aye

Motion carried.

NEW BUSINESS

Ratification on Task #2 with Panhandle Area Council-Administrative Services

The City Clerk informed the Council the City entered into a three-year contract with Panhandle Area Council for grant administrative services. Actual projects are completed by Task Orders from Panhandle Area Council. PAC and the City have been working towards the Government Gulch Project funded by EDA, and Task #2 needed approval for moving forward with the planning and engineering request for qualification work. Recommendations for the planning firm and the engineering firm are on tonight's agenda.

It was moved by Councilmember Douglas and seconded by Councilmember Norris to ratify the approval of Task #2 for Panhandle Area Council.

A roll call vote of the Council resulted as follows:

Councilmember Moody-Aye	Councilmember Delcamp-Aye
Councilmember Norris-Aye	Councilmember Armstrong-Aye
Councilmember Mercado-Aye	Councilmember Douglas-Aye

Motion carried.

Consideration on Recommendation for Planning Firm for Government Gulch Project

Mayor Pooler advised the Council the review committee met earlier today to review the request for proposal packets that were submitted to the City. The City received two proposals, and the review committee recommended Whiskey Rock Planning firm for the Government Gulch Project funded by a grant through EDA.

Councilmember Moody inquired on what were the characteristics that made the committee recommend one over the other.

Mayor Pooler addressed one characteristic being the City has done work with the owner of Whiskey Rock Planning and was comfortable with the work that was completed. Both firms presented well.

It was moved by Councilmember Douglas and seconded by Councilmember Armstrong to approve the recommendation of Whiskey Rock Planning for the Government Gulch Project funded by the grant proceeds from EDA.

A roll call vote of the Council resulted as follows:

Councilmember Delcamp-Aye	Councilmember Norris-Aye
Councilmember Moody-Aye	Councilmember Armstrong-Aye
Councilmember Mercado-Aye	Councilmember Douglas-Aye

Motion carried.

Consideration on Recommendation for Engineering Firm for Government Gulch Project
Mayor Pooler advised the Council the review committee met earlier today to review the request for proposal packets that were submitted to the City. The City received one proposal, and the review committee recommended Alta Science and Engineering firm for engineering services for the Government Gulch Project funded by a grant through EDA.

It was moved by Councilmember Moody and seconded by Councilmember Douglas to approve the recommendation of Alta Science and Engineering for engineering services for the Government Gulch Project funded by the grant proceeds from EDA.

A roll call vote of the Council resulted as follows:

Councilmember Moody -Aye	Councilmember Armstrong-Aye
Councilmember Delcamp-Aye	Councilmember Norris-Aye
Councilmember Mercado-Aye	Councilmember Douglas-Aye

Motion carried.

Consideration on Recommendation for Engineering Firm for City Engineer
Mayor Pooler advised the Council the review committee met earlier today to review the request for proposal packets that were submitted to the City. The City received one proposal, and the review committee recommended Alta Science and Engineering firm for engineering services for the City of Kellogg.

It was moved by Councilmember Armstrong and seconded by Councilmember Douglas to approve the recommendation of Alta Science and Engineering for engineering services for the City of Kellogg.

A roll call vote of the Council resulted as follows:

Councilmember Mercado-Aye	Councilmember Douglas-Aye
Councilmember Armstrong-Aye	Councilmember Moody -Aye
Councilmember Delcamp-Aye	Councilmember Norris-Aye

Motion carried.

Discussion on Activity Requests & Large Outdoor Gatherings/Events for 2020 due to COVID-19

Mayor Pooler advised the Council that Andy Helky of Panhandle Health District was present to provide comments.

Mr. Helky advised that of the five northern counties, there were 68 positive cases of COVID-19, with two new cases in the last two weeks. The cases are leveling off and dropping. With the new phase, going from Phase 1 to Phase 2 the next couple of weeks will be critical. People become symptomatic within seven days. There will be a new directive four outdoor pools coming out as of May 30th. With the Governor's guidance it did not provide information outside of the water. It will be very difficult to contain the social distancing and social gatherings. The water is not problems with pools it is the locker rooms and areas outside the pool when social distancing is not followed. The

locker rooms have extensive cross contamination. A person would need to be sanitizing before the next person touches the same surface.

Mayor Pooler would like the Council to consider cancelling the events for the remainder of the season.

After a lengthy discussion, it was moved by Councilmember Douglas and seconded by Councilmember Armstrong to continue this discussion at the June 10th Council meeting and be prepared to make a decision at that meeting.

A roll call vote of the Council resulted as follows:

Councilmember Mercado-Aye	Councilmember Douglas-Aye
Councilmember Armstrong-Aye	Councilmember Moody -Aye
Councilmember Delcamp-Aye	Councilmember Norris-Aye

Motion carried.

Consideration on Kellogg Public Library Reopening Plan

The Council was provided with the reopening plan as recommended by the Library Board of Trustees.

It was moved by Councilmember Douglas and seconded by Councilmember Norris to approve the reopening plan as recommended by the Library Board.

Councilmember Moody updated the Council, stating there were additional enhancements to the reopening plan the Council were not aware of, and explained those enhancements.

Councilmember Douglas withdrew his motion.

A second motion was made by Councilmember Moody to accept the reopening plan with the enhancements discussed in the email with the Library Director. Motion was seconded by Councilmember Douglas.

Councilmember Delcamp-Aye	Councilmember Norris-Aye
Councilmember Moody-Aye	Councilmember Armstrong-Aye
Councilmember Mercado-Aye	Councilmember Douglas-Aye

Motion carried.

At 7:05 p.m. Mayor Pooler asked to recess for a few minutes.

At 7:08 p.m. the meeting went back into session.

Construction & Access Agreement with Kellogg School District

Mr. Ben Davis, Alta Science & Engineering provided the Council with the storm water work that will be included in the 2020 Paved Roads Construction Work on Bunker Avenue and Wildcat Way. The proposed additional work will resolve the stormwater buildup on Bunker Avenue and into the Kellogg School Districts entrances. The agreement, if approved, will allow the City to enter the District's property and perform work up to twenty-five feet. The City wanted to wait until the Shoshone County Fire District's building was finalized to perform the work on Bunker Avenue.

Mr. Davis advised the Council he holding discussions with the Roads Board as the cost for the additional work is minimal, and the additional work will resolve a big stormwater problem.

It was moved by Councilmember Douglas and seconded by Councilmember Delcamp to approve the Construction & Access Agreement between the City of Kellogg and the Kellogg School District for stormwater work in their ingress and egress approaches.

A roll call vote of the Council resulted as follows:

Councilmember Douglas-Aye
Councilmember Armstrong-Aye
Councilmember Delcamp-Aye

Councilmember Mercado-Aye
Councilmember Moody-Aye
Councilmember Norris-Aye

Motion carried.

Mayor Pooler will contact Dr. Nancy Larsen advising her of the work along with funding possibilities and will provide the School District with the agreements.

Graduating 2020 Seniors' Car Parade Activity Request for 5/30/2020

The activity request was amended by Nathan Wendt to show the request to the City being a Car Parade.

Mayor Pooler had previously advised Mr. Wendt the City could not participate and the request for the parade was denied, due to COVID-19 and with the best information the City has available at this time. Mayor Pooler is trying to eliminate problems, and asked what the path the Council wishes to take.

The Council discussed the amended activity request and agreed with the Mayor, guidelines of the Governor need to be followed.

It was moved by Councilmember Armstrong and seconded by Councilmember Delcamp to deny the amended activity request as submitted.

A roll call vote of the Council resulted as follows:

Councilmember Delcamp-Aye
Councilmember Moody-Aye
Councilmember Mercado-Aye

Councilmember Norris-Aye
Councilmember Armstrong-Aye
Councilmember Douglas-Aye

Motion carried.

Mayor Pooler will once again contact Nathan Wendt.

ANNOUNCEMENTS AND REPORTS

Councilmember Moody

Updates on library were given. The library opened for curbside service, for the reopening of the library to the public plexiglass is needed for their counter, priced at \$625.00. Computers are being moved and furniture is being assembled. Refurbished computers were purchased. Reading program will be held and Amazon Kindles are being sought for prizes. Councilmembers are willing to give monetary donations towards the purchase of Kindles. Since the Fire District has moved into their new building, the Fire Chief's parking place could easily be made into a handicapped parking space. Friends of the Library will be finalizing their paperwork soon.

Councilmember Delcamp

Thanked everyone regarding COVID-19 discussions, lots of stress and looking for what is best for the community.

Councilmember Norris

Echoes Councilmember's Delcamp's comments. This is new to all of us, and we need to error on the side of safety. Wishing all good health.

Councilmember Douglas

Asked that the Library Director to contact him as he will donate the plexiglass and have it installed. Update on finances. Due to COVID-19 there are revenues that are declining which included revenues received from the State of Idaho, Local Option Tax revenue and the property tax collections that are paid to the City in July are projected to decline.

Councilmember Mercado

Council is working together and will get it right by working together.

Councilmember Armstrong

Kudos to Craig Lewis and his crew, the sweeping of streets and trimming of trees have spruced up the town.

There being no further business to come before the Council at this time, it was adjourned at 7:40 P.M. to meet for its regular council meeting on June 10, 2020.

Mac Pooler, Mayor

ATTEST:

Nila Jurkovich, City Clerk/Treasurer