

Council: Mayor Andrea Rogers, Tim Mortenson, Peny Wallace, Kathy Fitzpatrick, and Steve McKibben.
Staff: City Planner Dotty DeVaney and City Recorder Jean Hadley
Absent: None Excused: None

CALL TO ORDER

Meeting was called to order by Mayor Rogers at 7:03 p.m. and roll call was taken.

ADDITIONS OR CORRECTIONS – Hadley asked Council to include in the consent agenda a more complete list of bills presented that evening and mentioned other documents presented for information only. Hadley reported to Council about the letter to DEQ regarding coal, in the signature required folder, so the Mayor could sign it.

BUSINESS FROM THE AUDIENCE – Fire Chief Appleton spoke to the Council about a few beetle kill trees on City property that he felt needed to be removed according to the Mosier Municipal code. Appleton said one of the trees he observed was on private property in the City and those land owners should be notified and the code enforced.

CONSENT AGENDA

1. Approval of Minutes, November 7, 2012
2. Review/Approve Bills

A motion was made by Councilor McKibben to approve the consent agenda including the revised list of bills. Councilor Mortenson seconded. There was no discussion. Motion passed unanimously.

BUSINESS

PUBLIC HEARING: Povey Conditional Use Permit modification request

Mayor Rogers suspended the regular meeting at 7:06pm to open the Public Hearing related to the Povey Conditional Use Permit modification request. Rogers turned the meeting over to City Planner Dotty DeVaney who announced the meeting as a Quasi-Judicial matter, the sequence of the meeting presentation, closing of the record and Council deliberation rules. DeVaney read the rules surrounding presentation of testimony, and read the rules for technical introduction. DeVaney asked for any ex-parte contacts; Mayor Andrea Rogers reported her meeting with the Povey's, at their request, to discuss the building of the road and issues related to the requirements for building the road and disclosed a conversation with them about the possibility of modifying the requirements. DeVaney asked Rogers if the meeting was more exploratory and not conclusive on the part of the Mayor. Rogers said yes. DeVaney asked for any biases or conflicts of interest among the City Council members. There were none. There were no challenges regarding the ability to hear the testimony and make an impartial decision.

DeVaney explained the documents included in the Council packet and how they relate to the record. DeVaney reminded Council what is being requested for modification; condition #5 of the original Condition Use Permit (CUP) requirements from the January 16, 2011 findings and conditions; this CUP was done administratively. DeVaney presented history of the property which is directly related to the matter being presented. The history is documented in the staff report from the original findings and conditions dated January 16, 2011. The factual basis for the original CUP remains the same. The City Council is not bound by full judicial capacity as is a court of law; this is a Quasi-Judicial hearing which allows the Council to alter the policy decision made in the past. DeVaney said that City Attorney Dan Kearns cautions that any shift in the position should be supported by a change in the facts or a substantial

change in how the facts are viewed. DeVaney reviewed the reasons in the document dated November 20, 2012 and explained staff interpretation of consideration of CUP modification for condition #5. DeVaney mentioned the four options suggested by Staff as stated on page 8. DeVaney referenced the State Fire Code related to multiple dwellings and roads.

David Povey passed out a five (5) page document with seven (7) comments responding to the staff report. Povey then reviewed and summarized each comment. The road improvements required were due to two Accessory Dwelling Units (ADU) established on property owned by the Povey's which they were renting, and would like to continue to rent after meeting the permit requirements for building improvements. The road size and amount of road improvement was part of the modification request. The Povey's asked to build the road to a lesser standard with half of the road developed; the top half or bottom half, or half of the whole length, and when the other property owners who benefit from the road, sell or develop, they are required to finish the road. The Povey's explained to Council of their efforts to invite the other property owners to help develop the road and they rejected four different offers provided by the Povey's. Povey said they only wanted what was fair and equitable.

The public testimony portion of the hearing was closed at 9:35pm and Council deliberations began.

Mortenson said the ½ road request doesn't pass the test of what the tax payers would appreciate and the Council should not get into a private property grievance. Mortenson acknowledged that it is a shame both parties to the lawsuit against the Title Company were not represented by their own legal counsel so the Poveys, or either party, could have been protected in the event the other party became reluctant to pay their fair share for full road improvements..Mortenson said if the City does get into this the City should not carry any financial burden or obligation. The City did not do this and it would not be fair to approve of a road that does not meet full standards.

Councilor McKibben left at 9:47pm.

Fitzpatrick agreed and said Povey/Minnick agreed to standards through a lengthy legal battle and the City is now being asked to reverse findings. The City should not get involved in private agreements. Not good use of taxpayer money.

Wallace asked about the ADU's and not being permitted. Wallace voiced her concern about option #1 and felt option #4 was doable and should be considered.

Fitzpatrick asked Wallace about her basis for changing the condition and option #4. Wallace was not satisfied that sticking with option #1 was fair ; though not much had really changed, other than only one party was willing to pay for road improvements, it still seemed important to be more fair if it is possible to do so. She would prefer to see if option #4 could be worked out in a satisfactory manner before she wanted to vote for option #1.

A motion was made by Councilor Mortenson to select option #1 to maintain the current condition and direct staff to continue to pursue flexible alternatives to the paved bike/ped connection and to evaluate and make recommendation to the City Council on the creation of a zone of benefit for purpose of creating a reimbursement district. NOTE: a cost recovery agreement has been required to cover costs of creation of the reimbursement district in the past and would presumably be required here as well. Councilor Fitzpatrick seconded. There was no discussion. Vote: Three ayes. (Mortenson, Fitzpatrick, & Rogers) One nay. (Wallace) Motion passed.

Council asked for a note in the minutes that McKibben voiced his opinion for Option #1 before he left the hearing.

The public hearing was closed at 10:19pm and the regular Council meeting reconvened.

1. Waste Connections rate adjustment request

Jim Winterbottom of Waste Connections addressed the Council about the increase request. Winterbottom said the CPI changed which triggered a 1.9% rate increase. Most of the increase he reviewed with Council was due to other service providers increasing their rates to Waste Connections such as the Wasco Co. landfill increase rate. Winterbottom then reviewed average use increases for residential and commercial.

A motion was made by Councilor Wallace to accept the proposed rate review of 1.9%. Councilor Mortenson seconded. There was no discussion. Motion passed unanimously.

2. Update regarding lease with Fire District

Mortenson reported to Council about his findings regarding modification to the lease with the Mosier Fire District. He said the Intergovernmental Agreement (IGA) overrides the lease and says the City must let the District stay in the building and cannot charge them for rent. Mortenson said the Fire District must help with needed improvements and pay for those after those improvements have been done.

Due to the late hour Mayor Rogers suspended the rest of the meeting agenda for the next meeting and adjourned.

3. Presenting for review: Credit Card policies document

COMMITTEE REPORTS

1. Cemetery committee
2. Park committee
3. Public Art committee

CORRESPONDENCE

Meeting adjourned at 10:43 p.m.

Approved this 12th day of December, 2012

Attest:

Andrea Rogers, Mayor

Jean M. Hadley, City Recorder