

**MINUTES OF THE
City Council Special Meeting for the City of Menan held August 23, 2016**

Presiding: Chauncey T. Haight, Mayor

Present: Chauncey T. Haight, Brian Storms, Ron Jones, Keith Nelson, Noel Raymond, Matt Walker, Kris Meeks, Dennis Storms, Rand Watson, Caroline Watson, Holly Jones, Dean Hancock, Kent Clark, and Allyson Pettingill.

City Council Special Meeting called to order at 8:05 pm.

Mayor Haight starts the meeting with the Pledge of Allegiance.

Ron Jones recuses himself due to nepotism. Holly Jones is his daughter.

Review of City Code in reference to Street development: Mayor Haight begins the meeting by referring to the Agenda. The Agenda reads the review of City Code in reference to Street Development. He then asks if anyone on the Council had a chance to look over the issue, and if so what were their thoughts on the issue. Brian Storms starts by asking if he can begin with his thoughts. He starts with a review of when the old code was in effect in 1995 and that this was the code of record in April of that year when the plat for the Market Street Development was recorded. Dallin Madsen was the original developer. He does state that even though the code in 1995 was brief, it still outlines that the responsibility of the roads in a subdivision are that of the developer. The old code and the new code are basically the same. Keith asks if the building permits are subject to the Code of record when applied. Brian agrees. Brian goes on to state that the duties of any developer are the building of any infrastructure needed in said development. Keith asks if he could summarize all the pieces being discussed. He states that there was a plat approved years ago, the City of Menan paid for a portion of a road from 630 N. north to the cul-de-sac. The developer then paved the cul-de-sac, leaving the portion of 630 N. unpaved from the cul-de-sac north to the canal. The plat was recorded and accepted. That brings the Council to the current situation. The house currently being built on the corner of 630 N. does not empty onto a paved road, which is against the City code and therefore a certificate of occupancy cannot be issued until this is corrected. The remainder of 630 N. must be paved. Keith then refers to the building permit application, the application states that each application come with complete building plans. The plans submitted plans are simple with outline of property and setbacks. There is no detail of where the front of the property is and where the garage will sit and where the driveway will exit the home. He states that is the first issue, there is no way to know where the house will face. He then states that by looking at the plans submitted, the Planning and Zoning member might think that the driveway would attach to the paved road and sign off on it. He then discusses the setbacks, which the house in question is not in compliance as it sits on a corner lot and has different setbacks required as such. The final complication is that P&Z signed off on the permit, and then the City Clerk did as well. That leads to a granted building permit. He then states that this issue should have been caught several times and wasn't. Noel makes the comment that Market Street is not a subdivision street, it is a city street. He also states that there is an ambiguity in the code calling for a 20 ft. setback instead of the 25 ft. setback previously stated. There is discussion of different setbacks in the code. Keith asks Kris what can be done after permit is signed off on by the City P&Z and the City Clerk. Kris replies that it is a conundrum as the law still has to be complied with. Keith then summarizes that both the City and the developer have responsibility in fixing the situation. He thinks the details should have been looked at closer by both parties. The Council then discusses the responsibility of the Building Inspector to make sure the City code is being followed. The Mayor makes sure to point out that it is not the responsibility of the homeowner. He also states that it is time to make a decision. This brings on discussion of the cost of finishing the street. HK has given Matt an estimate of \$22,000.00. Kris reads a part of the old code #351. There is discussion of code and the definition of stub streets. There is discussion of this code and the difference in the old code and the new code. It is discussed how the street should have been completed when the City paved Market Street originally. The comment is made that the only direction to go presently is to negotiate. There is further discussion of who is responsible for what and who should pay for what. Mayor Haight makes the comment that there are only two parties involved, not a third. The negotiations are between two parties. There is clarification for Mr. Hancock on what is required in the City code for the developer. There is more discussion of how this situation arose and the way to make sure it doesn't happen again. Rand Watson asks the Council about another house being built that may not meet setbacks set in the code. There is discussion again of the confusion in the code with two different setbacks in two different sections of code. Kris states that because of confusion, there is no way for any legal action. The point is made again that there are deficiencies in our code, but considering the volunteerism of the City government, the City code is still pretty good. The mistake wasn't made on purpose, it was an honest mistake. The Mayor again states that the payment would be half from the City and half from the Developer. There is discussion again turns to how to fund the paving of the road. The discussion then turns to maybe leaving the road as gravel, but Matt mentions in order for him to plow it, it needs to be paved and be large enough to turn the snow plow around. Brian makes the statement that the road in question is to access the Market Street subdivision. He doesn't agree that the citizens of Menan are responsible for paying for the paving of said road. He further points out that Mr. Hancock should have researched the City building code, as Mr. Hancock has been building homes most of his life. He is adamant that the tax payers should not be responsible for the paving of the road only to benefit the few living in Market Street Estates. Keith agrees with Brian, but points out that the P&Z signed off on the building permit. There is

discussion of submitted plans again and maybe having driveway empty onto already paved street. Matt then reminds the Council of the drainage swell that should be around the property. This starts the discussion of drainage and road plats. Mr. Hancock states he is willing to pay half of the paving of the road. Brian then reminds the Council that in the last 2 years the Council has denied roads to other applicants. This is acknowledged, but it is also stated that the situation before the Council at present is unique and precarious. The Mayor remarks again that there needs to be a few fixes in the Code for the future. Noel states that fixing the problems in the code will not fix the problem at hand. There needs to be a decision made for the issue at hand, then start fixing the confusion in the Code. Keith then points out that he agrees with Brian again, but the City is also responsible for any City entity, the Planning and Zoning, and their decision. The City therefore has the responsibility to fix the issue. Keith also agrees with the Mayor and Council that in the future there needs to be a check list for the P&Z to check off when signing off on permits. There is then discussion of checklists. Kent Clark brings up idea of selling the City easements to homeowners to stop developers from asking City to pave because city owned the property. Kris disagrees because the City uses that property for sewer and potentially water, among other things. He reiterates that the Code should clearly outline that any developer is responsible for the improvement and infrastructure needed for developing. Rand Watson makes the comment that if the City is going to set a precedent of paying each time there is a mistake made, the City is going to continue to pay for years as there will be mistakes made in the future as well. He feels that the responsibility lies with the developer. The Mayor agrees, but states that the Code needs to be to have that right up front. Mayor Haight then says that the homeowner has no blame in the current situation, but seems to be the one being punished. Rand Watson then replies that it will be the taxpayers who will be punished by the City paying half to pave the road. Kent Clark asks why the county Building Inspector didn't catch this problem before the house was started, that should be in his contract. It is agreed that the Inspector has the City Code book and should have known what the code was. The discussion turns to what the responsibility of the P&Z is regarding building permits. It is then discussed what could have been done differently and how to fix this problem from happening in the future. The question is asked as to how a checklist will be determined and who will put the list together. Keith answers that the Mayor, P&Z Chair Victor Cammans, and he will work together to construct said checklist. The checklist will also be sent to the County P&Z. There is a discussion of a checklist.

Keith Nelson made a motion to engage with the Developer and split the cost of paving Market Street road 50/50 to comply with the requirements in the Code to have a paved street before the property can be occupied or a certificate of occupancy can be issued.

The Mayor makes the comment that there isn't a firm bid yet. Matt then states that since the work to be done looks to be over \$20,000., legally the City has to solicit 3 bids. The City then has to take the cheapest bid. Kris then interjects Idaho Code 50-311 stating that any City has the right to extend any street if deemed it is for the public good. His point is that there is no reason the City can't pay to extend Market Street if it is deemed for the good of the City and its residents. Noel agrees and states there are words in the City Code that say the same thing. Noel would like to add to Keith's motion.

Noel Raymond moved to amend Keith's motion to include the obtaining of the requisite bids and if those bids fall within a cap that the developer is willing to negotiate with the City, then proceed with it.

The Council then looks at the map of the area to determine if there is enough space to put in the required cul-de-sac.

Brian Storms seconds the amended motion.

Roll Call vote: Noel Raymond-aye, Brian Storms-aye, Keith Nelson-aye. Motion to amend passed.

Noel Raymond made a motion to pass the amended motion. Brian Storms seconded the motion.

Roll call vote: Noel Raymond-aye, Brian Storms-aye, Keith Nelson-aye. Motion carries.

The action moving forward is to get the requisite 3 bids. Matt says he will work up a spec sheet, then get the bids. After Matt gets the bids, he will contact Mr. Hancock and let him know what the bids are. Mayor Haight then asks Kris if there could be legal ramifications. Kris says there could be, but he reminds the Council that they have the authority to pave this road if it is in the best interest of the City. He also then states that everyone keeps throwing around the idea that this street has no benefit for the City. There is discussion of the uses for the road to be paved. He reiterates that the City has the authority to develop its roads. Mr. Hancock asks if he might be involved in the obtaining of the bids. He also apologizes for his part in creating the problem that has risen. Kent Clark makes the suggestion to have Matt go out and check the setbacks for new building as he knows the City code and the setbacks. There is then discussion of who is the best to do the setbacks. Keith suggests fixing the contract with the Building inspector so that he is educated in what is expected. He goes on to state that the City needs to create processes so that any one starting out on P&Z or a new developer will have a process to follow to know what to do. Kris then informs the Council that the County Building Inspector is leaving the County and going to work for Idaho Department of Building Safety and they offer the services of a Building Inspector. He states that is all they do. They contract with Cities to provide Building Inspectors. Noel asks how they are paid. Kris then informs the Council that they charge a flat rate, any funds over and above that rate goes to the City. Allyson then informs the Council that the County has no one in place to replace him, and that means no one is able to issue permits. Once that goes for 30 days, the contract between the County P&Z and the City is null and void. The

Council then asks that Allyson set up a presentation with the person at the Dept. of Building Safety to talk about contracting with them.

Well Testing in the City: Mayor Haight then moves on to the second item on the agenda, well testing in the City. Matt states what he found out from Magic Valley Labs. They will charge \$320.00 per well and that will test for nitrogen, ammonia nitrate, ecoli, sulfate, phosphate, herbicides, and pesticides. He then says the herbicides and pesticides are \$220.00, so if you took those out it would be \$95.00 for the other testing. Matt then suggests doing one well for herbicides and pesticides and the rest without. There is then discussion on whether to test more than one well for the herbicides and pesticides. It is then discussed to watch for nitrates and nitrites as these would suggest if there is a problem that would require more testing. The Mayor then talks about asking businesses in the City who may be already testing there water if the City may look at their results. He mentions the school and Jason Watson with Roto-Rooter. Maybe even the churches and the Co-op. Matt mentions his concern of how the testing is done at these different businesses. He has a way of doing them the right way, not just running the tap water. Brian then asks if anyone would be interested in looking at the testing that was done previously. There is discussion of this being a possibility. Brian explains that years ago there was testing going on in the City and Mike has a baseline on the wells he was testing. If Matt were to sample from the same wells, it would show any changes occurring. This leads to discussion of what wells to be tested and if it is possible to test the wells that were tested in the past. Brian will talk to Mike and get the info and reports from Mike. It is discussed whether to lay more responsibility on Matt. It is also mentioned that if Matt were to do the testing, at least it would be done correctly. The Mayor and Council ask Matt to please take on the responsibility to do the testing.

Results of the survey for the fence in the City Park: Keith relays the results of the survey from the City website. He states there was an overwhelming response of yes. Out of 44 responses, only 3 responded no. The Council decides the Galazins will be allowed to donate the money to the City to put in the fence around the tennis court. Matt does make the comment that whatever is put in must match the existing fence. Allyson will contact the Galazins and let them know of the Councils decision and the survey results.

Ron Jones made a motion to adjourn the Special Meeting. Keith Nelson seconded the motion. Motion passed.

Council Special meeting ends at 9:48 pm.

Allyson Pettingill, City Clerk/Treasurer