



**Twin Falls City Council  
Minutes**

Monday, November 18, 2019, 5:00 PM

City Council Chambers  
203 Main Avenue East- Twin Falls, Idaho

**1) CALL MEETING TO ORDER/CONFIRMATION OF QUORUM**

Present: Mayor Shawn Barigar, Vice Mayor Nikki Boyd, Council Member Suzanne Hawkins, Chris Talkington, Greg Lanting, Christopher Reid & Ruth Pierce.

Absent:

Staff Present: City Manager Travis Rothweiler, Deputy City Managers Mitch Humble & Brian Pike, City Attorney Shayne Nope, P & Z Director Jonathan Spendlove, City Planner Brock Cherry, Network Administrator Mike Plane, Finance Administrative Assistant Amy Luna.

**Mayor Barigar** called the meeting to order at 5:03 PM. A quorum was present.

**2) PLEDGE OF ALLEGIANCE**

**Mayor Barigar** invited all present, who wished, to recite the Pledge of Allegiance to the Flag.

**3) PROCLAMATIONS: None**

**4) GENERAL PUBLIC INPUT: None**

**5) CONSENT CALENDAR:**

**Mayor Barigar** requested that consent item (b) be voted on separately as he was not at the previous meeting.

**MOTION: Council Member Talkington** moved to approve the Consent Calendar less Item(b) as presented. **Council Member Lanting** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0

**MOTION: Council Member Lanting** moved to approve the Consent Calendar Item(b) as presented. **Council Member Pierce** seconded the motion. Roll call vote showed all members present voted with **Mayor Barigar** abstaining. 6 - 0 -1.

- a) **ACTION ITEM:** Request to approve the Accounts Payable for November 7-13, 2019.
- b) **ACTION ITEM:** Request to approve the November 12, 2019, City Council Minutes.
- c) **ACTION ITEM:** Request to Approve the Finding of Fact and Conclusions of Law: Federation Pointe, LLC Vacation.
- d) **ACTION ITEM:** Request for approval of the Annual Festival of Lights Parade to be held on Friday, December 6, 2019.
- e) **ACTION ITEM:** Request to approve a Trust Agreement for Cedarpark Subdivision No. 12, a PUD, placing Lots 1 through 26; Block 1 in trust.
- f) **ACTION ITEM:** Request to accept the Improvement Agreement for the purpose of developing Cedarpark Subdivision No. 12, a PUD.

**6) ITEMS OF CONSIDERATION**

- a) **ACTION ITEM:** Request to adopt an ordinance for a vacation request for a portion of Bolton Street right of way located north of 202 Caswell Avenue West. (PZ19-0001)  
**P&Z Director Spendlove** requested to adopt an ordinance for a vacation request for a portion of Bolton Street right of way located north of 202 Caswell Avenue West. (PZ19-001).

**MOTION: Council Member Lanting** made a motion to suspend the rules and place Ordinance 2019-013 on third and final reading by title only under suspension of the rules. **Council Member Pierce** seconded the motion. Roll call vote showed all members present voted in favor of the motion. Approved 7 to 0

**MOTION: Council Member Talkington** moved to adopt Ordinance 2019-013 approving a vacation request for a portion of Bolton Street right of way located north of 202 Caswell Avenue West. (PZ19-001) **Vice Mayor Boyd** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

- b) **ACTION ITEM:** Request to adopt an ordinance for a Zoning District Change and Zoning Map Amendment from R-4 to R-6 ZDA for property located at the 100 & 200 blocks of Caswell Avenue West. (PZ18-0097)

**P&Z Director Spendlove** requested to adopt an ordinance for a Zoning District Change and Zoning Map Amendment from R-4 to R-6 ZDA for property located at the 100 & 200 Blocks of Caswell Avenue West. (PZ18-0097)

**MOTION: Council Member Hawkins** made a motion to suspend the rules and place Ordinance 2019-014 on third and final reading by title only under suspension of the rules. **Council Member Reid** seconded the motion. Roll call vote showed all members present voted in favor of the motion. Approved 7 to 0

**MOTION: Vice Mayor Boyd** moved to adopt Ordinance 2019-014 for a Zoning District Change and Zoning Map Amendment from R-4 to R-6 ZDA for property located at the 100 & 200 Blocks of Caswell Avenue West. (PZ18-0097). **Council Member Pierce** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

- c) **ACTION ITEM:** Request for further direction on scope of a potential Smoking Ordinance.  
**City Attorney Nope** requested further direction on scope of a potential Smoking Ordinance.

**Discussion ensued on the following:**

**Mayor Barigar:** Asked if you could create a "Smoking Zone" in a special event zone.

**Council Member Talkington:** Requested clarification of the e-cigarettes to make sure that it covers all "vaping" products.

**Citizen Mona Weeks:** Voiced concerns on looking at this ordinance and no other areas.

**Council Member Talkington:** Spoke in favor of this ordinance. However, concerned on how difficult it would be to enforce.

**Mayor Barigar:** Asked about the areas in the City Parks that already have non-smoking areas and how it is being enforced.

**Parks & Recreation Director Davis:** Spoke about issues that she is aware of.

**Police Chief Kingsbury:** Spoke about the calls related to smoking violations in the City to-date.

**Council Member Lanting:** Spoke about the Wednesday night concerts and the smoking that goes on during it. Asked if it can be banned from specific city streets during an event?

**City Attorney Nope:** Explained the confinements of an event.

**Council Member Reid:** Clarification of "specific Areas" and how many hours are spent cleaning up after an event. Would it be feasible to attach the clean-up costs to the fees? Three areas of burn risk.

**P&R Director Davis:** Explained her ideas on how the ordinance could be set up.

**Mayor Barigar:** Purpose is to protect health, therefore would prefer to prohibit and then allow in specific areas rather than the opposite.

**Council Member Hawkins:** Are we passing an ordinance that could potentially cause more problems? Could we simply put up signs without an ordinance?

**Mayor Barigar:** If a sign is put up, without an ordinance, then there is nothing that the City can do.

**Council Member Hawkins:** Instead of an ordinance, could just the special use permit address the issue and allow the citizens to self-police.

**Council Member Pierce:** Spoke in favor of the ordinance with a special use permit for smoking areas. Unsure if \$17.50 fine is enough to stop someone from smoking.

**Mayor Barigar:** Asked if smoking is currently prohibited at Dierkies, and where else? What are the current codes and requests?

**Council Member Lanting:** Spoke in favor of banning smoking in some areas, but not ready to do it everywhere. In favor of "Self-Policing".

**Vice Mayor Boyd:** Are we still having this conversation due to having asked the Parks Commission for a recommendation on how to go forward? Do we want to make the ordinance be "*No Smoking on City owned property to include, parks, building, canyon rim & playgrounds*"?

Could be too hard for the Citizens to track what is allowed and not allowed.

**Mayor Barigar:** Have places already where you can and cannot smoke. Currently do not have an all or nothing plan. Believes that there is a middle ground that needs to be discussed.

**Vice Mayor Boyd:** Would we have to pass an ordinance to add to the existing places that you cannot smoke?

**City Attorney Nope:** Explained that the current signed area's we do not have teeth to enforce.

**Council Member Hawkins:** Could put a sign up at the plaza and continue as we are now?

**Council Member Lanting:** Would be against a ban at the Twin Falls Golf Course.

**Council Member Reid:** On the side of banning in the parks with smoking areas where it is being allowed. Don't think that we have a large issue.

**Council Member Pierce:** What would be the boundaries for the Parks? Would it include the sidewalks and roadways/parking lots?

**Mayor Barigar:** Would you consider having designated smoking areas within the City Parks?

**Council Member Reid:** Agreed with having designated smoking areas within the City Parks.

**Mayor Barigar:** Talked about having smoking receptacles to help with the butts being thrown down on the ground. Would be in favor of designated prohibited areas.

**Council Member Hawkins:** Would like to see some signs put up and then come back in 6 months to see how things are going before going forward with an ordinance.

**City Manager Rothweiler:** Gave direction for the Council.

**MOTION:** **Council Member Lanting** moved to have staff draft an ordinance that prohibits smoking, or the use of e-cigarettes, on all City owned property, except for the Golf Course and to have public input after 6 pm when it comes back to Council. **Council Member Reid** seconded the motion.

#### **Further Discussion Ensued:**

**Council Member Lanting** explained why he structured his motion as he did.

**Council Member Talkington** moved to amend the motion to also allow smoking at Shoshone falls. Motion died due to lack of a second.

**Council Member Hawkins:** Spoke against the motion.

**Council Member Reid:** Asked if this would come back as a public hearing?

Roll call vote showed all members present voted with **Council Member Hawkins** voting against the motion. 6 to 1.

## **7) GENERAL INPUT/ADVISORY BOARD REPORT/ANNOUNCEMENTS**

**Council Member Lanting:** Spoke about the property values that have been recently sent out.

**Council Member Talkington:** Spoke about a future voter's request.

## 8) PUBLIC HEARINGS

- a) **ACTION ITEM:** Request an Appeal of a Special Use Permit to allow a drive through facility with extended hours on property located at 1869 Addison Avenue East c/o Ron Burns (PZ19- 0137). On September 24, 2019, the Planning and Zoning Commission approved the Special Use Permit (PZ19-0107) by a vote of 9 - 0.

**City Planner Cherry** presented a request for an appeal of a Special Use Permit to allow a drive through facility with extended hours on property located at 1869 Addison Avenue East c/o Ron Burns (PZ19-0137).

### Discussion ensued on the following:

**Council Member Lanting:** Does the applicant own the property that they would be exiting on?

**Council Member Hawkins:** How late is Sip's running their drive thru? Is there concern about the added traffic exiting onto Morningside?

**Council Member Talkington:** Spoke about the "screen" that is required. Concern for the outside lighting requirements.

**Council Member Pierce:** Spoke about the concrete wall that is behind Sonic and about the concern of having just a slatted chain link fence.

**Appellant Mr. Burns:** Presented his request for the appeal. Requesting that they not be allowed to operate after 10 p.m.

**City Planner Cherry:** Clarified that the drive-up window will not have any kind of menu board or PA System/Loudspeaker related to it.

**Original Applicant** presented his counter to the appeal.

**Mayor Barigar:** What are your hours at the Washington location?

**Council Member Reid:** What are the plans for the screening wall?

**Council Member Hawkins:** How many vehicles do you have going in and out of the Washington location daily?

### Public Hearing Opened at: 6:43

**Citizen Janice Stone:** Spoke about her concerns with this special use permit.

**Citizen Fran Florence:** Spoke in favor of this permit.

**Citizen Erik Long:** Spoke in favor of this permit.

**Citizen Adam Crassat:** Spoke in favor of this permit.

**Citizen Rosalia Long:** Spoke in favor of this permit.

**Citizen Nelson Long:** Spoke in favor of this permit.

**Citizen John Hanowell:** Spoke in favor of this permit.

**Citizen Jonathan McBride:** Spoke in favor of this permit.

**Citizen Tristan Plumber:** Spoke against this permit.

**Citizen Mona Weeks:** Spoke against this permit.

**Public Hearing Closed:** 7:06

**Appellant Mr. Burns:** Presented closing comments.

**City Planner Cherry:** Clarified the standards for the screening wall.

**Further Discussion ensued:**

**Council Member Hawkins:** Is there any plans for a traffic light at Addison and Morningside in the future?

**Council Member Reid:** Have we asked for a barrier for the vehicles exiting this drive thru?

**Council Member Talkington:** Spoke in favor of the original request.

**MOTION:** **Council Member Talkington** moved to allow the special use permit for the drive through facility with extended hours on property located at 1869 Addison Avenue East c/o Ron Burns (PZ19-0137) subject to the condition that a six foot (6') masonry or block wall be constructed between the commercial and residential properties, at the applicants expense. **Council Member Lanting** seconded the motion. Roll call vote showed all members present voted in favor of the motion. 7 to 0.

**Further Discussion ensued:**

**Council Member Lanting:** Spoke about the concrete barrier used at another location and asked for clarification for the distance of the wall.

**Mayor Barrigar:** Spoke on the effectiveness of the screen and putting the cost solely on the applicant.

**Council Member Hawkins:** Spoke about the growth of Twin Falls and that this issue is going to continue to happen. Suggested that the business owner and the homeowners get together to determine what the screen would look like.

**Vice Mayor Boyd:** Spoke in favor of this permit. Would the Screen have to be 6 ft high all the way to Morning Side?

**Council Member Reid:** Spoke against the condition that has been proposed.

**Mayor Barigar:** Suggested that the motion be amended rather than voting against the motion on a whole.

**MOTION:** **Council Member Reid** moved to amend the motion to remove the condition from the original motion. **Council Member Pierce** seconded the motion.

**Further Discussion ensued:**

**Council Member Hawkins:** Spoke against removing the conditions.

Roll call vote showed all members present voted with **Council Members Lanting & Talkington** voted against. 5 to 2.

**Vice Mayor Boyd:** Spoke in favor of the business owner and the property owners coming to a consensus on the type of Screen.

**Council Member Lanting:** Wants to make sure that the current open area is addressed.

**MOTION:** **Council Member Lanting** moved to amend the motion and add the condition to have at least a 6' solid fence in the open area behind the drive thru. **Council Member Hawkins** seconded the motion.

**Further Discussion Ensued:**

**Council Member Reid:** Asked if the existing fences are enough for the screening requirement. Asked for a clarification of a "solid fence".

**Council Member Lanting:** Mostly concerned about the vehicle lights at this point.

**Vice Mayor Boyd:** Asked for clarification on the need of the screen.

**Mayor Barigar:** Asked for clarification of the existing amendment. Current condition does not address the remaining portion of the fence.

**Council Member Lanting:** Some sort of screening fence would have to be built on the commercial property regardless.

**Council Member Hawkins:** Requested that **Council Member Lanting** pull his amendment motion and another motion be made. **Council Member Lanting** agreed.

**Motion is pulled.**

**MOTION:** **Council Member Hawkins** moved to amend the original motion and to require a solid fence (limiting light) for the entire distance to Morningside and allow the property owners to opt out if they choose. **Council Member Lanting** seconded the motion. Roll call vote showed all members present voting with **Council Members Talkington** voted against. 6 to 1.

**FINAL MOTION:** Affirm the decision of the P&Z Commission and to add the condition that the required fencing be of a solid material, limiting light protrusion. Roll call vote showed all members present voted with **Council Members Talkington** voting against. 6 to 1.

**9) ADJOURNMENT**

The meeting adjourned at 07:47 PM

*Amy Luna*

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**Amy Luna, Finance Administrative Assistant**