

**CITY OF ALBION SPECIAL COUNCIL  
MEETING MINUTES JULY 27, 2020.**

CALL TO ORDER – The meeting was called to order at 7:03 p.m. in the Albion Civic Center by Mayor Isaac Loveland.

ROLL CALL – Present: Mayor Isaac Loveland, Council President Zack Alexander, Councilpersons Dalland Doc Carlson, and Brad Woodrow, City Clerk-Treasurer Mary Yeaman, City Attorney Kerry McMurray, and Maintenance Department Bryan Day. Councilperson Kevin Lloyd was excused.

OTHERS IN ATTENDANCE – John and Lori Caudill, Bruce and Mary Lynne Bristol, and Adelmo Maestas.

**AGENDA BUSINESS ITEMS**

**PUBLIC HEARING ON VARIANCE REQUEST – JOHN AND LORI CAUDILL**

Mayor Isaac Loveland opened the Public Hearing on the Variance Request from John and Lori Caudill. The Mayor reported the following Hearing Process will be followed. The Applicant will present their case, Testimony in favor of the Variance will be heard, Testimony neutral to the Variance will be heard, and Testimony against the Variance will be heard. Rebuttal by the Applicant can then be heard. The Council may ask questions at any time during this part of the Hearing. Mayor Loveland turned the time over to John and Lori Caudill

John Caudill reported to the Council they are requesting a Variance in order to place their home across the corner of their property, which is ten feet (10') closer to the corner. Caudill reported the reason for setting the house at this angle is so they are looking at trees, and not the neighbors house. Caudill also reported this is the best fit with the existing shed, as any other direction would place the home too close to the shed, which could result in a fire hazard. Caudill showed the Council the proposed plot plan. Council President Zack Alexander asked where the property is located, to which John Caudill reported across from the Park, and east of the Fire Station. Alexander reported a corner setback is twenty feet (20'), to which Caudill reported they are aware of that, but they measured and they would be thirteen feet (13') back from the corner. Caudill reported they would not be asking for the Variance if there were any safety hazards, such as creating a blind corner or other sight issues.

Council President Zack Alexander asked if Letters were sent out to surrounding property owners, to which Caudill reported he received a list from the County of property owners to be notified. Caudill reported they hand delivered three (3) Notices, and mailed the other nine (9).

City Attorney Kerry McMurray reported to the Council the file containing the Variance information includes the Request for Variance Application, the Notice of Hearing on Application for Variance, Proof of Publication in the Times News, a Certificate of Mailing, and an Affidavit of Posting. City Attorney Kerry McMurray asked John Caudill when the Mailings were sent out, to which Caudill reported the 23<sup>rd</sup> of June. McMurray

also asked Caudill when the Posting was done, to which Caudill reported he posted the Notice on his property the 13<sup>th</sup> of July. City Attorney Kerry McMurray reported to the Council the contents of the file show all notifications and posting were done within the time frame required.

Mayor Isaac Loveland asked the Clerk if any written Testimony was received, the Clerk reported she received no written Testimony. The Mayor asked the Council if they had any further questions at this time, to which the Council answered they did not. The Mayor asked City Attorney McMurray if he has any thing to add, to which McMurray reported he has.

City Attorney Kerry McMurray reported a Variance is not given for convenience. "A Variance shall not be considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site and that the Variance is not in conflict with the public interest.: Idaho Code Section 67-6516. McMurray reported the City Code mirrors Idaho Code in providing that a Variance, to be considered, must not be contrary to the public interest. McMurray reported to the Council in acting upon such Variance they shall make full investigation and shall only recommend granting a Variance upon finding that the following are true;

- (A) That the granting of the Variance will not be in conflict with the spirit and intent of the comprehensive plan for the city, and will not effect a change in zoning;
- (B) That there are exceptional or extraordinary circumstances or conditions, applicable to the property involved, or the intended use thereof, which do not apply generally to the property or class of use in the district, so that a denial of the relief sought will result in:
  - 1. Undue loss in value of property,
  - 2. Inability to preserve the property rights of the owner,
  - 3. The prevention of reasonable enjoyment of any property right of the owner;
- (C) The granting of such relief will be materially detrimental to the public health, safety or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of such property improvements.

City Attorney Kerry McMurray reported these three (3) things need to be considered when making your decision on granting or denying the Variance request.

Mayor Isaac Loveland reported in other areas of town, the sidewalks are on the inside of the property, but on the Caudill property the sidewalks are on the outside of the property. The Mayor reported he does not know if this makes a difference, but wanted this to be known.

Mayor Isaac Loveland reported testimony on favor of the Variance will now be heard, there were none. Testimony neutral of the Variance will now be heard, there were none. Testimony against the Variance will now be heard, again there were none.

Councilperson Brad Woodrow asked about the Letters sent out, who were they sent to, to which John Caudill reported all property owners within three hundred feet (300') of his property.

Council President Zack Alexander asked if there is another way to place the home on the property, to which John Caudill reported they could place the home straight on the

lot, but it leaves little room between the house and the shed, and he is concerned about this being a fire hazard.

Council President Zack Alexander reported there is no effect on the corner sight, there is no change in zoning, and no detrimental issues, and considering no one came to offer any Testimony regarding the Variance request, I feel we have enough evidence to make a decision.

Upon motion made by Alexander, seconded by Carlson, and unanimously carried, with the following vote: Alexander-aye, Carlson-aye, and Woodrow-aye, with Lloyd excused, the Council moved to close the matter to the taking of evidence.

Upon motion made by Alexander, seconded by Woodrow, and unanimously carried, with the following vote: Alexander-aye, Carlson-aye, and Woodrow-aye, with Lloyd excused, the Council moved to grant the Variance request from John and Lori Caudill, based on their findings.

## **RAFT RIVER ELECTRIC CONTRACT**

Mayor Isaac Loveland reported to the Council he and City Attorney McMurray have worked on an updated Raft River Electric Contract. The Mayor asked the Council if they had reviewed the Contract, and if there are any suggestions or changes to be added, to which the Council agreed the Contract looked good.

City Attorney Kerry McMurray reported to the Council the updated Contract is basically the same Contract as in the past, with some revisions and suggestions added. Some Procedures have been added regarding estimates, new services, and service work have been added for clarification.

Mayor Isaac Loveland reported he feels the changes in the Contract will help both entities be on the same page. The Mayor reported he will get the Contract to Raft River Electric either tonight or in the morning, in time for their next board meeting, on the 29<sup>th</sup> or 30<sup>th</sup> of July. The Mayor said he hopes to hear back from Raft River Electric on the Contract, by our August Council Meeting.

## **REVIEW AND DELIBERATE SCOPING AND VIDEOING SEWER LINES**

Mayor Isaac Loveland reported to the Council he spoke to our Engineers, and it will cost between three thousand dollars (\$3,000) and five thousand dollars (\$5,000) to evaluate the footage on the sewer lines. The Mayor reported this is in addition to the twenty-three thousand dollars (\$23,000) to twenty-five thousand dollars (\$25,000) to scope and video the sewer lines. The Mayor reported this issue will be on the August Agenda for further discussion.

## **COUNCIL ADJOURNS**

There being no further business brought before the Council, motion to adjourn was made by Carlson, seconded by Woodrow, and unanimously carried, with the following vote: Alexander-aye, Carlson-aye, and Woodrow-aye, with Lloyd excused. Adjournment was at 7:35 p.m.

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Isaac Loveland, Mayor

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Mary Yeaman, City Clerk-Treasurer