

**BELGRADE CITY COUNCIL MEETING MINUTES**  
**COUNCIL CHAMBERS**  
**February 17, 2015**  
**7:00 PM**

Mayor Russell Nelson called the meeting to order. Council Members in attendance were: Brad Cooper, Anne Koentopp, Kristine Menicucci, Mark Criner and John Youngberg. Others in attendance were: City Manager Ted Barkley, Planning Director Jason Karp, City Attorney Rick Ramler, Tara DePuy, Ken Williams, Kevin Scott, Veniece Lindemulde, Taylor Bickerstaff, Jessica Hodges, Clint Litle, Shawn Moran, Valerie Tofslie, Shayla Mills, Jason Leep, Phyllis Wernikowski, Morgan Scarr, Doug Daniels, Gale Bacon, Eve Parrow and Landy Leep.

Council Member Menicucci moved to excuse Council Member Smith. Council Member Criner seconded the motion.

All voted aye, motion carried unanimously.

**APPROVED MINUTES OF THE February 2, 2015 MEETING**

Council Member Youngberg moved to approve the minutes of the February 2, 2015 meeting. Council Member Cooper seconded the motion

All voted aye, motion carried unanimously.

**PUBLIC FORUM**

Mayor Nelson called for public comment. There being none, the public forum was closed.

**PUBLIC HEARING**

**Consider Preliminary Plat Approval for Ryen Glenn Estates Subdivision**

Planning Director Karp reviewed the application which included 357 single family lots in 7 phases. A similar application was approved in 2006, but was not built out due to financial difficulties and had subsequently expired. Karp reviewed changes from the original plat including how the original First Phase has now been split into 3 phases. Lot 9 of phase 5 could be subdivided at a later time and would require coming before the Council again for approval.

Karp reviewed 4 variance requests and the Planning Board's recommendations. Each variance request was addressed individually on appendix A. The Planning Board recommended allowing the first 3 variances, but did not recommend allowing the last request for variance in street width. It was recommended to require normal subdivision requirements of 40 ft wide streets.

Karp reviewed the impact fees that would also apply to this project and park land being dedicated as part of this subdivision. Open space for storm water is separate than park land. Covenants involving avigation, flood water/melt-off and the race track would go with the

property. Karp commented on the affects on wildlife and noted no regular water source and beyond ½ mile would not affect the bald eagles and other raptors in the area according to Montana Fish, Wildlife and Parks Department. City ordinance regarding shooting and pet controls would also apply in this area. Testing soils around an old rail bed was also discussed. Safe Streets policy was recommending 10 ft easements and a 5 ft. path along Penwell Bridge to Dry Creek Road. The Planning Board had recommended the condition that no lots be located in the flood plain.

Karp noted the Planning Board's recommendation that Powers Blvd shall be built to city standards, with finished paving extending at least 200 feet toward the next phase line to avoid gravel from being brought into the developed part. Allowing finished gravel should still include an agreement and financial guarantee to help finish roads. Karp pointed out another option to modify condition #40 to allow for easements and stub some roads in for future development on the airport property.

Karp reviewed a letter received from Alderman, a neighboring resident, and restated that the required public notice had been duly provided. Karp reviewed a letter from Tofslie, representing a neighboring resident, with concerns about fencing. Karp also reviewed a letter from Susan Swimley, attorney for Meadowlark Ranch, Inc., which brought up concerns about DEQ requirements, water capacity issues and fire protection issues.

#### PUBLIC COMMENT

Clint Litle, Engineer with Dowl/HKM, representing the applicant Ken Williams with North Airport LLC., spoke in support of the application.

Ken Williams, residing at 1000 Abigail Ranch Road, introduced Taylor and Kevin, stakeholders, and spoke on the history of the project, starting 11 years ago. He stated that \$10.6 million has already been spent on the Ryen Glenn project. He commented on the cost share agreements with Meadowlark Ranch which are still in place. 62% paid by Ryen Glenn, 38% paid by Meadowlark. A legal conflict began around 2008 and it was finally settled in the Fall of 2014. Williams said they paid off several firms that held liens on the project. They are ready to move forward. Williams commented that he would rather not have chain link fence, he wanted something more pleasing to look at that could be phased in and defer it to staff and the landscaping group. He commented on environmental assessment being done that showed no issues with the soil. He felt any issues with the airport about easements could be worked out.

Clint Litle again spoke and reviewed the layout of the project phases including 10,000 sq. ft. lots and 20,000 sq. ft. lots. He specifically reviewed Phase I of the project. He spoke in detail on the variance requested on the street width. He also suggested making Powers Blvd 40 ft. and the other streets at 36 ft. wide. Regarding Item #22, they wanted to start with 24 ft. of paved surface on Powers and transition it to City standard as phases come in. Regarding Item #40 he suggested the wording be changed from "shall be" to "may be" regarding easements for airport property. Litle wanted more latitude on connections.

Jessica Hodges, attorney with Refling Group, representing the applicant North Airport LLC, responded to a letter from Susan Swimley. She stated this was not new information so it has no relevance to this current project. In regard to the Stipulation Agreement that Swimley referred to in the letter, it was noted that the water tower had not been built yet. The water tower was constructed in 2008, which fully satisfied that condition. DEQ approval conditions are still to be addressed. Cost sharing agreements were between Meadowlark Ranch and Epic Development. It was not an agreement with the City of Belgrade. Hodges stated that North Airport LLC is the current owner of the property. Hodges stated the information brought forward by Swimley is not relevant and it should not delay plat approval.

Tara DePuy, attorney, co-council with Swimley, stated that the letter from Swimley was new information, and Council was under obligation to evaluate whether there was sufficient water for this subdivision. Regarding the Stipulation Agreement from 2007, DePuy noted the first 3 conditions had been met, but the DEQ requirement to provide auxiliary power to City wells had not been provided to Meadowlark Ranch yet. This meant there were not enough available hookups for this to proceed. DePuy stated there were 224 allocations available. DePuy stated that since this new information was not provided to the Planning Board, she suggested this must be taken back to the Planning Board for reconsideration. DePuy stated this was relevant and credible information and should be done within 45 days. She also commented on changes to lot layouts and whether this should be allowed. DePuy stated the need to review the fire suppression requirements. Regarding \$310,000 that Meadowlark Ranch had been required to pay toward the water tower, she noted this was paid up front to the City of Belgrade. They are asking that Ryen Glenn also be made to prepay for water, or the City should reimburse Meadowlark Ranch now and have them pay impact fees as they come along.

Council Member Youngberg asked DePuy to clarify if her question was whether the City has approved power sources on the 3 wells. She stated there was no record of having sufficient water or power. She repeated the need to have this issue go back to the Planning Board for review. In regard to paying up front for water, Council asked if Meadowlark expected every new subdivision to have to pay up front as they were required.

City Attorney Ramler stated the conditions as stated in the 2007 agreement had been met. The letter from Swimley is new, but the information on the 2007 agreement is not new. Ramler stated that the Council needed to decide if this was new, relevant and credible information.

Doug Daniels referred to study by TDH in 2008 showing that these conditions had been met. He thought the auxiliary power requirement had also been met to meet short duration power outages for emergency situations. Northwestern Energy did an assessment for outages. He noted that the TD&H report should be consulted. Daniels also suggested spending the money on new wells instead of more auxiliary power sources. The Fire Department was a participant in the testing of the water supply. Daniels felt the city had an adequate water supply for this subdivision.

Council inquired if DePuy and Swimley were representing Meadowlark Ranch Subdivision and what exactly was being sought by the client. DePuy responded that

Meadowlark wants the water analysis to be completed. If it had been done, it should be shown on the record. Council asked her why this issue was not brought up at the Planning Board's meeting. DePuy commented that she thought Swimley had been retained by Meadowlark right after the Planning Board's last meeting.

Veniece Lindemulde, neighboring resident, spoke regarding proposed fencing. Her family runs cattle and they will rub against it so it needs to be strong enough to hold up. She stated that she had attended the Planning Board meeting on Jan 26<sup>th</sup> as well. Regarding traffic flow, her concern was having a second outlet through the southern portion. She suggested bringing Lagoon Road along and redirecting traffic along south and tying in with Silver Circle and Dillon Ave which would give more alternatives to traffic flow. Lindemulde was not opposed to the subdivision. She feels the fencing is the biggest issue due to the cows.

Landy Leep, representing Oakland Companies in partnership with Meadowlark Ranch, stated that since Meadowlark Ranch is still building out, they just want to make sure there is adequate water. He spoke in support of delaying this issue until the water question is answered and has gone back through the Planning Board.

Clint Litle spoke in rebuttal. He concurred with Daniels on the conditions being met and studies done based on the water storage which met the needs of the water. NW Energy demonstrated that the power grid was dependable and the condition was waived by DEQ. He stated clear compliance with fire codes. Current impact fees would meet the requirement toward paying for the water system.

Jessica Hodges spoke in rebuttal. The conditions in the 2007 stipulation had been met. Up front payments were replaced with impact fees paid as permits were granted. She also stated that Meadowlark Ranch was only entitled to 125 hookups as allocated.

Ken Williams spoke in rebuttal. The water tower is up and running and the power grid is solid. Impact fees have taken the place of up front payments. He commented that he felt their issues with this application was improper and should not be holding the Council back from giving approval.

Mayor Nelson commented on the cost of building the water tower. The city had to obtain a loan and grants in addition to the amount paid up front by Meadowlark, so it was a combination of funding. This was a new application and there was no requirement to pay such fees up front according to Ramler. Barkley commented that he was fairly certain that the water supply was adequate, but the procedural question was not clear to him. Ramler commented that the issue was not addressed because it may not be credible. If the council believes there is adequate water, just because the question is raised, doesn't mean it is credible.

Council suggested that the TD&H report be reviewed to refresh recollection, and have Planning staff research and consider only the question of adequate water. Karp confirmed there were no close deadlines which would not allow staff to bring the info back before Council, continuing this public hearing until such time the research is complete, at the next meeting.

Mayor Nelson called again for public comment for the Ryen Glenn application.

**ACTION:** Council Member Youngberg moved to keep the public hearing open and continue at the next regular Council meeting to be held on Monday, March 2<sup>nd</sup>. Council Member Koentopp seconded the motion.

All voted aye, motion carried unanimously.

Daniels suggested the council members drive through Las Campanas and Meadowlark subdivisions to get a feel for the street widths. He confirmed that he was in favor of 40 ft. widths. Council members also spoke in favor of 40ft widths. Regarding gravel instead of pavement, Daniels commented that the gravel is adequate until the full paving is done with progressively along with the various Phases. An Improvements Agreement related to completing the street would need to be developed as a condition. The County usually requires a 75 ft. transition between gravel and pavement. Daniels suggested 200 ft. or as far as the next intersection. Daniels also addressed asphalt ramps and 10 ft easements and crossings on the long blocks.

Mayor Nelson called for a brief break at 9:20p.m. and called the meeting back to order at 9:26 p.m.

Mayor Nelson announced a change in the order of the agenda and asked to hear the Library Director's report. Gale Bacon reviewed her budget amendment information and requests for adjustments. The Library Board had recommended these adjustments as well, which would still allow the required reserves to be maintained. It was noted that these numbers will be included in the end of the year budget adjustment Resolution.

**ACTION:** Council Member Youngberg moved to approve the Library budget adjustment as stated. Council Member Koentopp seconded the motion.

All voted aye, motion carried unanimously.

Morgan Scarr with Amatics Group spoke on the Audit report for Fiscal Year 2013-2014. She reviewed the audit opinion pages on each major fund. Expenses included the settlement of the lawsuit which was paid in 2015, but was shown as an expense in 2014. Bond issuance costs were written off all at once which is a different practice worth noting. She also noted forgiveness of a water loan which was \$500,000. In regard to internal controls and compliance, there was one compliance issue regarding pledge securities being recorded and approved quarterly. It was just an oversight due to personnel turnover. It was promptly put back into practice. Last year's finding dealt with budget deficit spending and has been dealt with. The Gas Tax Fund was budgeted to spend more than the revenues reflected. Actual spending was within acceptable levels. Next year she noted that Pensions will represent a big number with booking a proportionate share of under-funded pensions. The State has said they will provide the numbers required which will show as a liability for the City.

**ACTION:** Council Member Menicucci moved to accept the audit report as prepared by Amatics for Fiscal Year 2013-2014. Council Member Criner seconded the motion.

All voted aye, motion carried unanimously.

City Manager Barkley thanked Phyllis Wernikowski for her service as the Finance Director. Phyllis expressed her appreciation for working at the City, and volunteered her CPA services on the Impact Fee Committee. The Council also thanked Phyllis for her service.

## **REPORTS**

Mayor Nelson had nothing to report.

City Attorney Ramler had nothing to report.

City Manager Barkley reported on a meeting with MDOT earlier today. Jackrabbit Road South improvements are still tentative for later this summer. There is still one property issue not resolved, but they are confident it will be worked out to start the widening project to start by August. June or July is projected to complete the interchange project. MDOT will also be starting a traffic study from Airway Blvd to the other side of Jackrabbit and MDOT is asking for a community member to serve on that advisory committee. This will give the City the opportunity to let MDOT know what we would like to see as far as improvements on Main Street. These ideas should be discussed by and with the Council so we can think of things to bring to that committee for consideration.

Barkley reported that Shakespeare in the Parks program is scheduled tentatively around Labor Day weekend or right after. They have assured us it will not conflict with Fall Festival. Coordination efforts may allow for one Play in Belgrade and another Play in Manhattan and/or Bozeman so residents may enjoy more than one program in the weekend.

Barkley reported on conditional employment offers having been made to candidates for the City Judge position and the Finance Director position. Barkley hoped to have updates on these employment offers very soon.

As a member of the Montana League of Cities and Towns, Barkley reported on their requests for our input on Senate Bill 351 putting municipal utilities under the Public Service Commission. Barkley suggested strong resistance to this proposal. More regulation would be non-productive for Belgrade. Council agreed that we should not support such a bill and the City Manager should write a letter stating this sentiment.

Barkley also explained another issue related to House Bill 471 regarding the Permissive Mill Levy. This currently allows the City to raise our mill levy by ½ of inflation average over the past 3 years. This new Bill would allow for an adjustment of the permissive mill levy to the equivalent to the level of inflation. Council agreed that Belgrade should support House Bill 471.

Barkley reported on proposed dates for town hall meetings during the first week of March. The committee felt the meetings would not be best served by dividing them up by Wards. The meetings will simply be scheduled for overall convenience. The meetings would be held at the Belgrade Community Library. Barkley asked if at least 2 council members could be present at each meeting. Refreshments would also be provided and an area for children to play games. The proposed dates will be Wednesday, March 4<sup>th</sup> at 5:30p.m., Thursday, March 5<sup>th</sup> at 5:30 p.m. and Saturday March 7<sup>th</sup> at 11:00 a.m. Council discussed the dates and their availability to attend. Some rescheduling would be needed due to vacations and scheduled conferences. Barkley stated he would advise the Council of additional date options. Barkley confirmed that a direct mailing is planned to arrive at residences the same time as the ballot, on March 13<sup>th</sup>.

Barkley reported that Congressman Ryan Zinke will be at City Hall at 9:00 a.m. on February 18<sup>th</sup>, for a Listening Session.

### **FOR YOUR INFORMATION**

Council Member Cooper reported attending the Fire Board meeting.

Council Member Koentopp had nothing to report.

Council Member Menicucci had nothing to report.

Council Member Criner wanted confirmation that the airport allowances and easements were noted in the Ryen Glenn application. The aviation easements were confirmed.

Council Member Youngberg inquired about sidewalks on open spaces at Las Campanas. Barkley confirmed he would inquire of Karp and report back. Barkley also confirmed to Youngberg that there no MDOT funds leftover to go toward improving Main Street as it stands right now. The savings came out of the State's share and it has already been re-programmed elsewhere.

Mayor Nelson asked to confirm that city staff and the Planning Department would take point on pulling together the information and address the concerns brought up during the public hearing regarding Ryen Glenn. Barkley and Ramler will confirm and review procedural issues and report back to the Council.

**ADJOURN**

Council Member Criner moved to adjourn the meeting at 10:10 p.m.

  
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Russell C. Nelson, Mayor

  
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Susan Caldwell,  
Administrative Assistant to the City Manager