

**CITY COUNCIL MEETING**  
**October 26, 2020**

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MAYOR & COUNCIL

Daniel M. Keller, Mayor  
Terry D. Larson, Council  
Allyson Wadsworth, Council  
I. Brent Dodge, Council

STAFF

Linda Acock, City Clerk  
Tyrell Simpson, City Engineer  
Shawn Oliverson, Economic Development  
John Balls, Public Works  
Dan McCammon, Chief of Police  
Lyle Fuller, City Attorney

OTHERS PRESENT:

Autumn Lowder, Daniel Lowder, Cody Ralphs, Colter Hollingshead, Adrienne Alvey, LuCinda Harris, Frank Dandrige, Jim Summers, Manuel Patino, Lyle W. Porter, Scott Beckstead, Robert Swainston, David Beckstead, Amanda Collins

Council Meeting was called to order at 5:00 P.M. by Mayor Keller.

At the onset of the meeting, Mayor Keller congratulated the Preston High School girl's soccer team for taking State, and offered best of luck wishes to the boys and girls cross country teams and the girl's volleyball team at their state competitions this following week.

Mayor Keller also advised that earlier in the afternoon, Governor Brad Little updated the COVID-19 stage to Phase III.

Consent  
Calendar

The consent calendar includes items which require formal Council action, but which are typically routine or not of great controversy. Individual Council members may ask that any specific item be removed from the consent calendar in order that it be discussed in greater detail. Explanatory information is included in the City Council's agenda packet regarding these items.

- A. Council Minutes (October 12, 2020)
- B. Bills (October 26, 2020)
- C. Treasurer's Monthly/Quarterly Report (September 30, 2020)
- D. Swale Bond Refund     Daniel Higley     701 South 7<sup>th</sup> East     \$1875  
   Scott Madsen     715 East 750 South     \$4875

It was moved by Councilmember Wadsworth and seconded by Councilmember Dodge to approve all items on the Consent Calendar, which include Council Minutes of October 12, 2020, Bills through October 26, 2020, Treasurer's Monthly/Quarterly Report dated September 30, 2020 and swale bond refunds for Daniel Higley at 701 South 7<sup>th</sup> East for One Thousand Eight Hundred Seventy-Five dollars (\$1,875) and Scott Madsen at 715 East 750 South for Four Thousand Eight Hundred Seventy-Five dollars (\$4875). This received unanimous approval.

Public  
Hearing  
Idaho  
Dept. Of  
Commerce  
For CDBG  
Grant

Mayor Keller called for the public hearing to consider a proposal to the Idaho Department of Commerce for an Idaho Community Development Block Grant (CDBG) in the amount of Five Hundred Thousand dollars (\$500,000) for the wastewater treatment plant, as follows:

**Notice of Public Hearing on Proposed Grant Activities**

The City of Preston is submitting a proposal to the Idaho Department of Commerce for an Idaho Community Development Block Grant (CDBG) in the amount of \$500,000. The proposed project is to make improvements to the wastewater infrastructure. The hearing will include a discussion of the need of the project; the application process; and the project's scope of work, location, funding/budget, schedule, and expected benefits. The application, related documents, and ICDBG Application Handbook will be available for review.

The hearing has been scheduled for October 26, 2020 at 5 p.m. at 70 West Oneida, Preston, ID 83263. Verbal and written comments will be accepted prior to and at the hearing.

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The hearing will be held in a facility that is accessible to persons with disabilities. Special accommodations will be available, upon request, five (5) days prior to the hearing in a format that is usable to persons with disabilities. For more information, contact Amanda Collins at (208) 233-4535 Ext. 4

Dan Keller, Mayor  
70 W. Oneida  
Preston, Idaho 83263

This Notice can be provided in a format accessible to persons with disabilities and/or person with limited English proficiency upon request.

Al ser solicitada, ésta notificación puede ser proveída en un format fácil de usar para personas con discapacidad y/o personas con conocimientos limitados del Inglés.

Amanda Collins of the Southeast Council of Governments (SICOG) advised that the City of Preston will be seeking a Community Development Block Grant (CDBG), for improvements of the Preston Wastewater Facility, in the amount of five hundred thousand dollars (\$500,000). The grant application will be submitted in November 2020. The construction bids will go out in spring of 2022 and construction of the plant should go from 2022 to 2025. The project is now in the pre-design phase.

Councilmember Larson asked for clarification on the bids in 2022. Ms. Collins confirmed that the bids are for construction.

Mayor Keller asked if SICOG would continue soliciting for more funding on this project. Ms. Collins stated that SICOG would continue to look for funding.

Mayor Keller asked for comments in favor of SICOG applying for a CDBG. There being none, he asked if written comment had been received in the City Clerk's office. Clerk Acock replied that no written comments have been received.

Mayor Keller then asked for neutral comments in this matter. There being none, he asked if written comment had been received in the City Clerk's office. Clerk Acock replied that no written comments were received in the City Clerk's office.

Mayor Keller asked for opposing comments from those present. There being none, he asked if written comment had been received in the City Clerk's office. Clerk Acock replied that no written comments have been received.

There being no comment, it was moved by Councilmember Wadsworth and seconded by Councilmember Larson to close the public hearing portion of the meeting, and open the meeting to discussion amongst council. The vote was as follows:

Councilmember Larson	<u>Aye</u>
Councilmember Wadsworth	<u>Aye</u>
Councilmember Dodge	<u>Aye</u>

Motion received unanimous approval.

It was moved by Councilmember Larson and seconded by Councilmember Dodge to approve SICOG to apply for a block development grant for five hundred thousand dollars (\$500,000) for the wastewater treatment facility infrastructure. The vote was as follows:

Councilmember Larson	<u>Aye</u>
Councilmember Wadsworth	<u>Aye</u>
Councilmember Dodge	<u>Aye</u>

Motion received unanimous approval.

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Public  
Hearing  
Land  
Exchange  
Between  
Preston &  
Patino  
Glendale  
Road

Mayor Keller called for the public hearing to consider land exchange at the Preston City water tanks in Glendale, as follows:

Notice of Public Hearing  
Intent to Exchange City Property

NOTICE IS HEREBY GIVEN that on Monday, the 26<sup>th</sup> day of October, 2020, at 5:00 P.M. or as soon thereafter as the matter may be heard, at Preston City Hall, 70 West Oneida Street, Preston, Idaho, the City Council of the City of Preston ("the City") will conduct a public hearing regarding exchanging City owned property, specifically property to the south of the Preston City water tanks.

At the Preston City Council meeting of September 28, 2020, the city council made a declaration of intent to exchange city property. Said declaration is summarized as follows:

The City declares its intention to exchange certain City-owned property near Glendale reservoir, an approximate address being 1700 East Glendale Road, for a neighboring parcel of approximately equal size. The City Council, upon recommendation of the City staff, determined that the proposed exchange would be beneficial to the City in that the City's parcel lacks practical use by the City, and property the City would receive in exchange may be used to construct desired improvements, for example, a water storage tank. Because the proposed exchange would be of parcels of roughly equal size, the City does not declare a minimum value of the property to be exchanged.

Information is available at Preston City Hall during normal business hours of the City. Interested persons are encouraged to attend the public hearing and to present comments. Comments may also be submitted in writing prior to and at the hearing.

CITY OF PRESTON  
Linda Acock, City Clerk

Engineer Simpson presented an intent to exchange city property along the Glendale road between the City of Preston and Manuel Patino. The property was surveyed, and the two properties in the exchange are of similar size.

This would be beneficial for Preston City because the elevation of the property the city currently owns hinders future development of water treatment facilities or water tanks. The exchange is beneficial to the Patinos because the property they will be exchanging has water lines running through it. They cannot develop or put improvements on the water pipe easements.

The reason for the public hearing is to receive comments from anyone with interest in this matter.

There is a section on the top end of the property that the city is exchanging for, that is in question for an easement, with Scott, William & Lampe Owens. Engineer Simpson stated that the easement, if there is one, shouldn't prohibit the exchange from taking place.

Councilmember Dodge asked if there is an easement, would that affect building and improvements for secondary water. Engineer Simpson stated it would affect the placement and size of buildings. But the easement is on the very east portion of the property so there probably won't be any issues with secondary water.

Councilmember Larson asked if the land that is being exchanged is the only property the Patino's own. Engineer Simpson explained that Manuel and Lorena Patino bought the property from Mark Owens, and the land that is proposed for exchange is just a portion of the property. Councilmember Larson then asked why the Owens family is making issues with the easement. Engineer Simpson explained that it is a distant relative of Mark Owens that uses the right of way.

Councilmember Wadsworth asked if this easement was the only way onto their land. Engineer Simspson stated that they have access to the west of the property.

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Manuel Patino, with Lyle Porter acting as interpreter, stated that he is in favor of the land exchange, and that it will be beneficial for him and for Preston City.

Councilmember Wadsworth asked Mr. Patino if he was aware of the easement issue. Mr. Patino stated, yes, he is aware.

Attorney Fuller referenced a letter from an attorney that is representing Lampee, Scott and William Owens, and the letter laid out their contention that there's an implied easement and suggested that Preston City pay for a survey on the property for a proposed 30' easement. Attorney Fuller has not yet responded to this letter, awaiting the council's decision on the public hearing.

There's no written easement, nothing of record, the Owens's attorney implied that it is a through use over time, creating an easement for them.

Councilmember Dodge asked what the implementations would be to the city fencing the property, to protect the water line and facilities, if there is a claimed easement. Attorney Fuller stated that the water lines under the property already exist. What they are entitled to, if they have an easement, is what has been used in the past. They would have the burden of proof of what has been used in the past.

Mayor Keller asked for testimony from those present who would like to speak in favor of this matter. There being none, he asked if written comment had been received by the City Clerk's office. Clerk Acock stated that there were no written comments received in the City Clerk's office.

Mayor Keller asked for neutral testimony in the matter of the land exchange. There being none, he asked if written comment had been received by the City Clerk's office. Clerk Acock stated that there were no written comments received in the City Clerk's office.

Mayor Keller asked for any testimony in opposition to the matter. There being none, he asked if written comments opposing this matter has been received in the City Clerk's office. Clerk Acock stated that there were no written comments received in the City Clerk's office.

It was moved by Councilmember Wadsworth and seconded by Councilmember Larson to close the public hearing and turn the meeting over to discussion by the council. The vote was as follows:

Councilmember Larson	<u>Aye</u>
Councilmember Wadsworth	<u>Aye</u>
Councilmember Dodge	<u>Aye</u>

Motion passed by unanimous approval.

Mayor Keller stated that the attorney for the Owens' stated that the city should pay for a survey for the easement. He wanted it noted that he opposes the city doing a survey, and that asking for a 30' easement is quite wide, even for farm equipment.

Councilmember Dodge asked if there is proposed use for the land that is being exchanged. Engineer Simpson stated that, so far, the major discussion has been for a water treatment plant.

Councilmember Wadsworth stated that it is disappointing, if the Owens family feels this is important, that they didn't attend the public hearing.

Engineer Simpson recommended that the city council proceed with the land exchange.

Councilmember Larson asked if the city foresees any other use for this property than a water treatment plant, and, will an easement this wide, leave enough room for a treatment plant facility. Engineer Simpson stated that without knowing the exact measurements of the facility, it is hard to say, but that when he and Public Works Director Balls walked the property, it looks like there is enough land.

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It was moved by Councilmember Larson and seconded by Councilmember Dodge to proceed with the land exchange between the City of Preston and Manuel and Lorena Patino, as proposed. The vote was as follows:

Councilmember Larson	<u>Aye</u>
Councilmember Wadsworth	<u>Aye</u>
Councilmember Dodge	<u>Aye</u>

Motion passed by unanimous vote.

Preliminary Engineer Simpson introduced the preliminary plat for Countryside Plat Subdivision, Phase II. He explained that the preliminary plat went through Planning and Zoning on October 14<sup>th</sup>, and they recommended approval to the city council.

Subdiv.  
Phase II

It was moved by Councilmember Dodge and seconded by Councilmember Larson to approve the preliminary plat for Countryside Subdivision, Phase II, at 7<sup>th</sup> East and 750 South. This received unanimous approval.

Decision Preliminary Engineer Simpson introduced the preliminary plan for the Blue Sage Planned Unit Development. He explained that a public hearing for the Plan was held on October 14<sup>th</sup> before the Planning and Zoning Board. They have recommended approval to the city council.

Blue Sage  
P.U.D.

Council briefly discussed the storm water run-off. Engineer Simpson stated that he is having conversation with the developer, Cody Ralphs, to curb the storm water run-off that is coming to the development from the north.

It was moved by Councilmember Wadsworth and seconded by Councilmember Larson to approve the Blue Sage Preliminary Development plan at 3<sup>rd</sup> East and 3<sup>rd</sup> North. This received unanimous approval.

Business Mayor Keller recused himself from this matter, and turned the meeting Licenses over to Council President Wadsworth.

R. Page Economic Development Specialist/Assistant Planner Oliverson reported on the business license application for Rod Page at 1840 West 2600 South College Ward, Utah, High Peaks Construction, stating that there is no zoning issues and recommended approval.

It was moved by Councilmember Larson and seconded by Councilmember Dodge to approve the business license for Rod Page at 1840 West 2600 South College Ward, Utah, for High Peaks Construction. This received unanimous approval.

A. Ransom Economic Development Specialist/Assistant Planner Oliverson reported on the business license application for Avery Ransom at 1158 South 6<sup>th</sup> West, Preston, Idaho, for Preston Paint Party, stating that the painting parties are done at the client's home, and so there is no zoning issues and recommended approval.

It was moved by Councilmember Larson and seconded by Councilmember Dodge to approve the business license for Avery Ransom at 1158 South 6<sup>th</sup> West, Preston, Idaho, for Preston Paint Party. This received unanimous approval.

D. Lowder Economic Development Specialist/Assistant Planner Oliverson reported on the business license application for Daniel Lowder at 194 Valley View Drive, Preston, Idaho for Comfort Zone, LLC, stating that this is a contracting business and therefore, they are going to their client's property to do business. Home based businesses are allowed in the residential A-1 zone. He recommended approval.

Council President Wadsworth noted that city council has received e-mails concerning this business being in a residential neighborhood, and asked Daniel and Autumn Lowder to step to the podium to address those concerns and their vision of the business.

Autumn Lowder explained that they own a foam insulation business. The employees do park in the back yard of the residence, and carpool to the job site, or Mr. Lowder will stop on his way to the job site and pick up the employee. Equipment is stored in the yard.

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Council President Wadsworth asked them to address the noise starting at 6:00 A.M.

Daniel Lowder stated that they usually leave at 7:00 in the morning, and they start their day by loading the supplies and equipment into their truck.

Council President Wadsworth asked what chemicals were stored at the property, and what the Lowder's do to protect others from the chemicals.

Mr. Lowder stated that it is spray foam insulation chemicals. There is basically two separate materials that are loaded into the trailer, and used as they go. They do not wash out the barrels, leftover is taken to the new job site. It is stored in bulk containers on the trailers.

Councilmember Dodge asked how big their lot is and how close they are to the adjacent neighbors.

Mr. Lowder stated that it is a little shy of two acres.

Ms. Lowder stated that they do plan to build a metal storage building in the future.

Council briefly discussed municipal code 17.04.350, Home Occupation.

Council President Wadsworth allowed those in attendance to make brief statements concerning this matter.

David Beckstead asked if 2<sup>nd</sup> East has been abandoned by the city, because he doesn't think it should have been, and doesn't feel the Lowder's should be allowed to build and improve on the 2<sup>nd</sup> East easement. He also feels this type of business is too much for the neighborhood. Too much construction vehicles, too much noise, too much stuff stored in the back of the property.

Jim Summers stated that he is concerned over the presence of chemicals in a family neighborhood. There is better places for these chemicals to be stored.

Colleen Geary stated that she is the neighboring property owner, and there is a lot going on at the property. There hasn't been business there in the past. They are driving construction equipment back and forth on Valley View Drive, which is a residential street in a residential neighborhood.

LuCinda Harris stated there are children in the neighborhood all the time.

Autumn Lowder rebutted that they only have two construction trucks on the property. The rest of the vehicles are personal use vehicles. They keep the chemicals secure. They are not toxic chemicals. They plan to build a storage building for storing vehicles and the steel drums, so the property will not be unsightly once they have the storage building. The property in question is a big field. There aren't people walking around or near the field. Further, there is not a 2<sup>nd</sup> East easement going through the property.

It was moved by Councilmember Larson and seconded by Council President Wadsworth to approve the business license for Daniel and Autumn Lowder at 194 Valley View Drive, Preston, Idaho, for Comfort Zone, LLC. The vote was as follows:

Councilmember Larson	<u>Aye</u>
Council President Wadsworth	<u>Aye</u>
Councilmember Dodge	<u>Nay</u>

Motion passed by majority vote.

Meeting was turned back to Mayor Keller.

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- Water Study** Colter Hollingshead of Keller Associates explained that Mayor Keller has asked that Keller Associates look at the Preston City Water System and let the council know what kinds of grants are available for upgrading the City of Preston water system. He stated that a study was completed in 2017 so the city is open for grants.
- It was moved by Councilmember Larson and seconded by Councilmember Wadsworth to allow thirty days for the council to study the 2017 Water Study and put this matter back on the agenda in November. This received unanimous approval.
- Establish Transportation Committee** It was moved by Councilmember Wadsworth and seconded by Councilmember Dodge to approve Betty Fellows, Cindy Checketts, Victoria Smart, Cheryl Lingefelt and Kathy Ransbottom as committee members of the Transportation Committee. This received unanimous approval.
- Street Improvements Grants** There are currently grants available for street improvements, and city council needs to know what roads are in need of immediate attention.
- This matter will be placed on the November 9, 2020 agenda. Engineer Simpson and Public Works Director Balls will present a list of roads and the improvements needed.
- Hire New Employee C. Tripp** Public Works Director Balls introduced Cody Tripp for employment in the public works department. He is scheduled to start work on November 2, 2020.
- It was moved by Councilmember Larson and seconded by Councilmember Dodge to approve the hiring of Cody Tripp in the public works department, effective November 2, 2020. This received unanimous approval.
- Adjourn** Meeting was adjourned at 6:58 P.M. by Mayor Keller.

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Linda Acock, Clerk

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Daniel M. Keller, Mayor