

CITY COUNCIL MEETING
February 27, 2023

MAYOR & COUNCIL

Daniel M. Keller, Mayor
Todd Thomas, Council
Terry Larson, Council
Brent Dodge, Council
Chris Larsen, Council

STAFF

Linda Acock, City Clerk
City Engineer, Tyrell Simpson
Shawn Oliverson, Community Development
Kelly Mickelsen, Treasurer
Dan McCammon, Chief of Police
Lyle Fuller, Attorney

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

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 (February 13, 2023)
- B. Bills (February 27, 2023)

It was moved by Councilmember Terry Larson and seconded by Councilmember Todd Thomas to approve all items within the Consent Calendar which include the Council Minutes of February 13, 2023 and the Bills through February 27, 2023. This received unanimous approval.

Business
Licenses

It was moved by Councilmember Brent Dodge and seconded by Councilmember Chris Larsen to approve a business license for Tanner Daniels, 175 North 3rd East, Double TD Enterprises DBA Daniels Pressure Pros. Motion passed by unanimous vote.

Variance
Decision
B. Martin
290 N 2nd E

On February 8, 2023, the Planning and Zoning Commission held a public hearing, to hear testimony and give recommendation to City Council on a request by Bryon Martin for a variance to Preston Municipal Code 17.08.170(K). After the public hearing, the commission made recommendation that city council deny the variance request.

Mayor Dan Keller invited applicant, Bryon Martin to briefly outline his request for a variance. Mr. Martin stated that he is proposing development of the property at 290 North 2nd East into an assisted living facility. In order to do that, he needs approval of a variance to grant entrance into the property from 2nd East at approximately 290 North. Mr. Martin further stated there seems to be confusion regarding the definition of a city block. It is his determination that this access is not in the same block as the side access to the Heritage Home that is north of the now vacated 3rd North, and asked that City Council vote against Planning and Zoning's recommendation and grant a variance for an access at 290 North 2nd East.

Councilmember Brent Dodge stated that the limiting of accesses per city block was another way to plan for growth in neighborhoods by not overcrowding areas with multi-family dwellings.

Councilmember Todd Thomas stated that he would like to see another assisted living center in Preston, but because of the density and ordinances, there isn't a way to grant this variance.

City Engineer Tyrell Simpson stated that it is a good project, but that Preston City Code defines a block as a group of lots that is entirely surrounded by public streets. When 3rd North was vacated, going through the property, it made this, by that definition, one city block.

Community Development Specialist Shawn Oliverson stated that on the economic development side of this issue, adding an assisted living facility would be a good thing. As for density, it is clear what the intention of the code is.

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Councilmember Chris Larsen stated that a variance is basically an exception to the rule, and these exceptions need to be considered carefully. In this particular instance, although an assisted living facility would be beneficial to the community, this area of town has too much density to add more multi-family dwellings.

Councilmember Terry Larson stated that ordinances are open to interpretation. In this instance, a variance shouldn't even be required, because the access is in the 200 block, and Heritage Home's access is in the 300 block.

Richard Swainston, Planning and Zoning Commissioner stated that he agrees with Councilmember Terry Larson's position, and that is why he voted against the other planning and zoning members, to recommend approval of the variance, though it is his opinion a variance should not be required.

After discussion, it was moved by Councilmember Chris Larsen and seconded by Councilmember Todd Thomas to uphold the recommendation of the Planning and Zoning Commission to deny Bryon Martin's request for a Variance to Preston City Code 17.08.170(K), at 290 North 2nd East. This received unanimous approval.

Authorize Clerk Linda Acock presented the Army Corps. Of Engineers' Entry Authorization for Entry for Construction Agreement between the WWTP Army Corps. and Preston City. The agreement allows the Army Const. Corps. of Engineers the right of ingress and egress at the construction Army Corps. site, in addition to Attorney Lyle Fuller certifying the titles to the Of property. Engineers

It was moved by Councilmember Terry Larson and seconded by Councilmember Brent Dodge to enter into the Agreement Authorizing Entry for Construction for the Army Corps. of Engineers and allow for Mayor Dan Keller and Attorney Lyle Fuller to sign said forms. This received unanimous approval.

Idaho Attorney General Opioid Litigation Attorney Lyle Fuller introduced the Idaho Attorney General's Opioid Settlement.

Approximately six years ago, Preston City joined in as one of many plaintiffs in a lawsuit against the makers and distributors of opioid medications. Idaho council was through the legal office of Mooney Wieland in Boise.

The Idaho Attorney General's office notified Attorney Fuller that they have reached settlement with some of the same defendants that were listed vendors in the national class action lawsuit. Attorney Fuller advised that by signing onto the Idaho settlement, we no longer have a claim with the national claim through Wieland, but the Idaho Attorney General's settlement will be better for the city.

It was moved by Councilmember Todd Thomas and seconded by Councilmember Terry Larson to enter into the Settlement Agreement through the Idaho Attorney General's Office, thereby terminating our claim through the national settlement, and to authorize Mayor Dan Keller to sign said agreements. The vote was as follows:

Councilmember Todd Thomas	<u>Aye</u>
Councilmember Terry Larson	<u>Aye</u>
Councilmember Brent Dodge	<u>Aye</u>
Councilmember Chris Larsen	<u>Aye</u>

Motion received unanimous approval.

Transfer Pipeline Space Mayor Dan Keller advised the council that Jan Seamons, of Whitney, has sold his family property in Preston City, but retained 5 shares of irrigation pipeline space appurtenant to the property. He is offering to trade the pipeline space that is here in the city limits for the City's pipeline space in Whitney.

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It was moved by Councilmember Todd Thomas and seconded by Councilmember Chris Larsen to approve the transfer of pipeline space with Consolidated Irrigation. This received unanimous approval.

County Commission Report County Commissioner Robert Swainston stated that Franklin County has sand and sand bags available for the expected spring flooding. He suggested that citizens take advantage of sandbagging early.

Executive Session It was moved by Councilmember Terry Larson and seconded by Councilmember Todd Thomas to enter into Executive Session to discuss possible litigation, as allowed in Idaho Code 74-206(1)(f). The vote was as follows:

Councilmember Todd Thomas	<u>Aye</u>
Councilmember Terry Larson	<u>Aye</u>
Councilmember Brent Dodge	<u>Aye</u>
Councilmember Chris Larsen	<u>Aye</u>

The motion received unanimous approval.

Entered Executive Session at 5:54 P.M.

It was moved by Councilmember Chris Larsen and seconded by Councilmember Terry Larson to exit Executive Session at 6:15 P.M. This received unanimous approval.

Adjourn Meeting was adjourned at 6:15 P.M. by Mayor Dan Keller.

Linda Acock, Clerk

Daniel M. Keller, Mayor