

New Plymouth City Council
Special Meeting
TUESDAY
19 January 2016
6:30 P.M.
New Plymouth City Council Chambers (Library)

On the 19th of January, 2016, the New Plymouth City Council special meeting was called to order at 6:30 P.M. by Mayor Beth Earles. Roll call was taken with council members Warnke, Rouse, Kurth, and York in attendance.

Staff members in attendance were City Clerk Danielle Painter, Public Works Superintendent Beau Ziemer, City Engineer Andy Gerhke, and Deputy Clerk Alishia Elliott.

Guests included Ashley Marelus, Dale Williamson, Toby Hauntz, Jeannette Mayer, Mary Kirkpatrick, Erik Cline, Roxanna Cline, Olivia Cline, Rod Tegethoff, Amy Tiner, Sean King, and Joe Cook.

Regular Agenda – Councilwoman Kurth moved to approve the regular agenda. Councilman Warnke seconded the motion. The voting was unanimous in favor of the motion.

Consent Agenda – The consent agenda included January 4th, 2016 City Council minutes, January 6th, 2016 City Council special meeting minutes, public works report, Payette County sheriff's report, and claim approvals totaling \$14,618.07. **Councilwoman Kurth moved to approve the consent agenda. Councilman York seconded the motion. The voting was unanimous in favor of the motion.**

Old Business
None

New Business

Appeal of Animal Control Board decision by Joe Cook.

Joe Cook approached the city council and provided the council with information about the dog in question. Mr. Cook spoke of his relationship and history with the dog. Joe believes that the dog is not vicious, and should have a good family. Joe is appealing the Animal Control Board decision of declaring his dog vicious. Councilwoman Kurth asked how the animal control board came to their decision of declaring the dog vicious, and what will happen to the dog if the decision stands. Mayor Earles stated that this is a hearing and once the council hears from Joe Cook and Roxanna Cline then they can ask questions and decide if they want to uphold the Animal Control Board decisions or not. Joe Cook informed the council that he did not receive an invitation to the Animal Control Board meeting, and City Clerk Danielle Painter stated that an email was sent.

Roxanna Cline approached the city council once more. Roxanna informed city council that she had the sheriff's report from her incident and the incident that happened back in July of 2015. In the sheriff's report from July Joe Cook had commented that the dog was returned and no longer in city limits. The case was then closed. Roxanna said "I don't understand what more can be said." She then began to show the council multiple pictures of the dog out of the yard, out of owner's control, and where Mr. Cook's fence was broken down. "Safety should have been protected that first night, when I called 911" stated Roxanna. The neighborhood is afraid to let their kids out to play when the dog is there. Councilman York stated "I am with the Animal Control Board's decision.

Sean King, Animal Control Board chairman, was then asked by the council to represent the board and explain how they came to their decision of declaring the dog vicious. Mr. King read the definition of vicious animal from the ordinance book. The board was to decide if the dog was vicious based off the definition, evidence and documentation provided to them. From the police reports they determined the dog did attack the animal unprovoked, outside the dog in questions property. In July there was a similar situation, so this was not the first time. The second attack happened 6 months after the first attack, so the board determined the rehab did not take. So with the documented attacks and proof of emotional distress that was put on the family and their dog the Animal Control Board decided to rule the dog vicious.

Lieutenant Toby Haantz was asked by the council to explain what will happen to the dog if the decision of being declared vicious stands. Toby Haantz explained to the council the steps that have already occurred in the process and where it is now. The council is to decide if they would like to keep the decision of the dog being declared vicious once hearing from each party. If the dog is declared vicious then the prosecuting attorney will decide to charge the case criminally or not. If the case is charged criminally then it will come in front of a judge and the judge will then decide if the dog needs to be put down, rehomed, or not brought back into the county. If the judge allows Joe Cook to keep the dog then he will have to abide by all of the stipulations (section 6-2-28).

Councilman Rouse moved to keep the decision of the Animal Control Board for the dog being determined vicious. Councilman York seconded the motion. The voting was unanimous in favor of the motion.

Gem Agreement Renewal – Mayor Earles informed the council that the initial agreement was not included in the council packets and she would like to read through it before signing it. Public works superintendent Beau Ziemer approached City Council and wanted to give the council a brief description and overview of the agreement. Mr. Ziemer stated that the agreement was between the local cities for borrowing equipment, mainly for the streets. The larger counties felt more comfortable borrowing equipment with an agreement in place, so they created the Gem Agreement. Mayor Earles asked when the agreement expired, Andy Gerhke answered with “July of 2015.” **Councilman Warnke motioned to table the “Gem Agreement Renewal” item until every council member has read the agreement. Councilwoman Kurth seconded the motion. The voting was unanimous in favor of the motion.**

Horseshoe Park Pathway Concept Approval presented by Beau Ziemer and Andy Gerhke – Public works superintendent, Beau Ziemer, approached city council. Ziemer wanted to inform the new council member and mayor of the project. The City of New Plymouth applied for a grant for the project, and had Holladay Engineering set up a concept for the pathway. Ziemer stated everything was moving right along and that he has double checked all of the plans and is requesting the City Council approve the concept. Mayor Earles asked who created the maps. City engineer Andy Gerhke stated that Holladay Engineering created the maps because that is the Idaho Transportation process, and they would like them to follow it. These maps are only preliminary and are only for the concept. Once the concept is approved by city council then the design will become more detailed and precise. Andy Gerhke provided the council with the schedule of events and dates for the pathway project. The first four milestones have been completed, and Holladay Engineering is waiting on an approval from ITD to get the alignment finalized. Mayor Earles asked Mr. Gerhke if this pathway project would be presented to the public in any form before construction begins. City Engineer Andy Gerhke stated that no public hearing is required but a presentation can be created to post in City Hall and any questions can be answered by Holladay Engineering. Councilman Rouse asked if any private property would be infringed on, and Andy informed him that all of the pathway would be on city property and would not affect any private property.

Councilman York motioned to approve the Horseshoe Park Pathway concept as presented. Councilman Warnke seconded the motion. The voting was unanimous in favor of the motion.

New Plymouth Kiwanis – playground equipment fundraiser presented by Rod Tegethoff and Jeannette Mayer – Rod Tegethoff informed the council of the plan the Kiwanis group has for the playground equipment at New Plymouth Kiwanis Park. Tegethoff and Mayer provided the council with brochures that outlined the different items they are raising money for and the cost for each piece. Councilwoman Kurth asked if the park equipment and area are up to code for the age group the Kiwanis group is trying to appeal to. Kurth questioned if something were to happen “Who would be liable?” Mayor Earles requested public works superintendent Beau Ziemer to look into the requirements for the ground of the playground site. Mayor Earles stated that she felt uncomfortable with the city handling the fundraising money that residents drop off for Kiwanis. Mayer stated that people felt like City Hall was a safe place to leave their donations, but Mayer had no problem not having a drop box at City Hall and is changing the donation slips to take off the part about leaving donations at City Hall. Councilman York also requested that public works superintendent Beau Ziemer do some research to see if the city can donate money to the Kiwanis group for their fundraiser.

State/Local agreement (Holly Ave. railroad crossing project – Idaho Transportation Department) Mayor Earles stated that she wasn't able to read the agreement because it was not included in the council packets. City Engineer Andy Gerhke approached City Council, and provided the members with an email between Beau and Andy regarding the agreement. Andy was able to have Wayne Herbel, project administrator with LHTAC, look over the agreement to make sure it was correct and would coordinate with the construction that will be happening to Holly Ave in the future. Wayne stated in an email "the proposed agreement is to have the Railroad crossing on Holly Avenue improved using State Railroad Grade Crossing Protection account funds and the design performed by ITD District 3 under the administration of Blaine Schwendiman. We have no issues with this proposal and believe that it will be a benefit to both the City of New Plymouth and to the project." City Engineer Andy Gerhke with Holladay Engineering recommends the city sign the agreement. **The council moved to approve the signing of the state/local agreement, with Idaho Transportation Department regarding the Holly Ave railroad crossing, by Mayor Earles. Roll call vote was taken, and with 4 yays and 0 nays the motioned passed.**

Animal Ordinance – discussion: Mayor Earles asked the city council what they thought needed to be updated in the vicious dog ordinance, before she sent it to Bert Osborn for review. Councilman Warnke asked Lieutenant Hauntz if Payette and Fruitland's vicious dog ordinances are similar to Payette County's. Lieutenant Hauntz replied yes, but he recommended that the council get advice from City Attorney Bert Osborn. Hauntz informed the council that Payette and Fruitland are also updating their vicious dog ordinance. Mayor Earles requested that the council wait till they get more information before sending it to Bert Osborn.

Ordinances and Resolutions

Ordinance #348 – **Councilwoman Kurth motioned for City Clerk Danielle Painter to read the ordinance by title only, and to suspend the second and third reading. Councilman York seconded the motion. The voting was unanimous in favor of the motion.** City clerk Danielle Painter read "An ordinance of the city of New Plymouth, Idaho, amending section 1-8-6 of the New Plymouth municipal code by changing the meeting times for city council meetings. Providing for repealer; severability and an effective date." **Councilman Rouse motioned to adopt ordinance #348, changing the city council meetings start time from 7:00 P.M. to 6:30 P.M. Councilman Warnke seconded the motion. Roll call vote was taken; Councilman Rouse-Yes, Councilman Warnke-Yes, Councilman York-Yes, Councilwoman Kurth-Yes. The record shows that with 4 yays and 0 nays the motioned passed.**

Public Comments

Erik Cline, past council member, spoke of how they have talked about the horseshoe park pathway for so long now, and he is happy to see it in the works. Mr. Cline also spoke about the vicious dog ordinance. Cline asked that the stipulation, bond of \$100,000 to keep the dog, not remain in the ordinance. Mr. Cline states "it is not worth it" and believes that we should keep our community safe. Councilwoman Kurth recommended that the city not allow vicious dogs close to schools or day cares.

Ashley with Boise Bully Breed Rescue provided the council with pictures of the dog (Ike) with children. She stated "I wanted to leave pictures with you, of how vicious Ike is around children."

Mayor and Council Comments

None

Adjournment

Councilwoman Kurth motioned to adjourn the council meeting. The motion was seconded by Councilman Rouse. The voting was unanimous in favor of the motion.

The meeting adjourned at 7:27 pm.

Beth Earles, Mayor

Alishia Elliott, Deputy City Clerk