

Wellington City Council Meeting

Meeting held Wednesday November 20, 2019
at the Wellington City Hall
Located at 150 West Main Street, Wellington, Utah
at 6:00 P.M.

City Council Present:

Mayor Powell, Councilmember Noyes, Councilmember Wells, Councilmember Perea,
Councilmember Willson,

City Council Absent:

Councilmember Rich

City Staff Present:

Glenna Nelson – City Recorder
Shawn Sackett – Reserve Officer

Rory Bradley - Police Chief
John Schindler – City Attorney

Attendees:

Joyce Houskeeper
Helen Houskeeper
Joni Boren
Jim Schnepel

Mike Jensen
Karl Houskeeper
Lynn McCourt

Agenda Item 1. Public Comment Period

Mayor Powell opened the public meeting by inviting audience members not listed on the agenda to approach City Councilmembers for the Public Comment Period. No audience members came forward.

Agenda Item 2. Pledge of Allegiance, Roll Call, and Approval of Previous City Council Minutes

Mayor Powell noted that Councilmember Rich was the only councilmember absent, and invited everyone to stand for the Pledge of Allegiance.

Agenda Item 3. Joni Boren - Zone Map Amendment at 1B-0061-0001 Zoned R-1-43

Joni Boren approached the City Council to present her request for a Zone Map Amendment at 1B-0061-0001. Boren is currently in the R-1-43 zone, but does not meet the minimum lot size requirement of an acre. The proposed zone change will move the lot to the R-1-10 zone, which has a minimum lot size requirement of 10,000 square feet.

Boren stated for the record that she was under the impression that her property was rezoned years ago when Wellington City installed curb and gutter. During the process to install curb and gutter, Boren recalled being told that Wellington City was evaluating the entire area and rezoning it if necessary since the majority of the lots are under an acre. Boren could not state exactly when the curb and gutter was installed in her neighborhood.

Councilmember Wells questioned why only Boren's property was being rezoned. Boren stated that the zoning oversight is Wellington City's responsibility to fix, and that she is not responsible for encouraging her neighbors to seek a zone map amendment alongside her request.

Councilmember Noyes stated for the record that she found the Zone Map Amendment Request a conflict of interest because of the issues surrounding Joni Boren's accessory building (the shed) and its current placement. Noyes also noted that she was not in favor of spot zoning.

The City Attorney, John Schindler recommended that the City Council approve the Zone Map Amendment as requested. As the City Attorney, he viewed the issue as potentially a form of entrapment.

Mayor Powell noted that as the City Mayor she does not get to vote on the request, however, she agreed that the area was incorrectly zoned.

Boren ended her conversation by questioning how previous councilmembers and administrators allowed for the construction of homes on lots that did not meet the minimum lot size requirements.

Mike Jensen, the legal representative for Helen Houskeeper, along with Karl Houskeeper approached the City Council to request the denial of the Zone Map Amendment. Jensen noted that there are two issues at hand, the rezoning request and the shed and both are intertwined. As per Jensen, even the Planning and Zoning Commissioner Chair's written recommendations to City Council plainly illustrate that these two issues are intertwined. According to Jensen the zoning request was ill advised and plainly directed towards circumventing the setback requirements of the R-1-43 Zone. Jensen further noted that if the Zone Map Amendment was legitimate, and do not include the shed, then everyone in the neighborhood would have been involved in the rezoning. Instead of looking at one lot, Jensen stated the wise course of action is to review the entire area and rezone if necessary.

Instead, Jensen and the Houskeepers submit that the real issue at hand is the shed and its setback requirements. Even if it is rezoned, the shed is still in violation of the ordinance. Jensen referred to Wellington City's land use code and noted that a corner lot, such as the Boren property has very specific setbacks. In the R-1-10, the requested zone, the side yard regulations is 20' (Twenty Feet) and the rear yard regulations is 10' (Ten Feet). Jensen noted that burden of proof does not fall on Helen Houskeeper, the neighbor to the north, but on Joni Boren to prove why the non-conforming structure should remain in its current location. Furthermore,

Wellington City needs to follow State Statute and its own Land Use Code. Finally, Jensen noted that the original non-conforming structure was torn down at a minimum of four years ago according to google maps. Ultimately the rezoning accomplishing nothing, and does not include the neighbors as a whole.

Councilmember Perea asked if the prior non-confirming structure was of similar size and on the exact same location. Jensen noted that the concrete pad establishes the historical location of the shed. Perea followed up by asking if the prior shed's location was ever an issue. Jensen responded by stating that given the approximate time the shed was built, no one is for certain if it was approved as non-conforming. Perea ended by noting that this is a city issue and in her opinion it is not fair that both residents have been burdened with it.

Jensen continued by noting that Boren has repeatedly ignored the City's request to move the structure. In his professional opinion it is wrong to rezone just one lot, and he recommended that the City Council deny the request and then decide if the entire area needs rezoning.

Councilmember Perea asked the City Attorney for advice on rezoning the entire area. Schindler explained that he had only reviewed the requirements of a citizen's request for a zone map amendment. He continued by noting that there are issues that are not disputable, such as the fact that the owner is not legally zoned correctly. Schindler acknowledge Jensen's comments made on behalf of Helen Houskeeper, and noted that he was concerned about the emotionality regarding the shed. Instead, Schindler requested that the City Council review each issue separately, and first start by addressing the improper zone. Following that, then the City Council could address the other issues that have been mentioned. Councilmember Noyes asked for clarification on other issues. Schindler explained that he was referring to the ambiguous language and varying interpretations of Wellington City's Land Use Code. Schindler finished by noting that the process to amend the zone of one lot is complicated, and requested that the City Council make their decisions not based on external factors such as the characteristics or personalities of those involved.

Jensen followed up Schindler's statements by once more noting that regardless of the zone, the shed does not meet the side yard requirements.

Councilmember Perea called for a motion to either approve or deny the Zone Map Amendment. Councilmember Noyes noted that she did not agree with the Zone Map Amendment. No other councilmembers responded to Perea's request nor to Noyes's statement. The motion and requested died.

Agenda Item 4. Graphite Solar – Request to Build a Road at 1B-0128-0000

Jim Schnepel, the project manager for Graphite Solar presented the request to build a road at 1B-0128-0000, which has an easement. The City Recorder explained that the request received a favorable recommendation from the Planning and Zoning Commission, and that Wellington City requirements are

similar to that of Carbon County for the construction of a road. Additionally, should Graphite Solar one day request that Wellington City assumes the rights and liabilities of the road, it would need to meet Wellington City standards.

Councilmember Willson moved to grant Graphite Solar permission to build a road on the easement it has obtained from the landowner at 1B-0128-0000 and stated above.

Councilmember Wells seconded the motion, and the motion carried with Perea, Willson, Wells, and Noyes in favor.

Agenda Item 5. Ordinance 2019-03 – An Ordinance to Amend Title 13, Chapter 3, Section 11 of the Wellington City Code to Adopt the Revised Personnel Policies and Procedures Manual, Dated November 20, 2019 for the Wellington City Corporation

The City Recorder briefly reviewed Ordinance 2019-03 with the City Council. The ordinance was also reviewed during the prior work session.

Councilmember Noyes moved to approve Ordinance 2019-03 which amends Title 13, Chapter 3, and Section 11 of the Wellington City Code and adopts the revised Personnel Policies and Procedures Manual, dated November 20, 2019 for the Wellington City Corporation. Councilmember Perea seconded the motion, and the motion carried with Perea, Wells, and Noyes in favor and Willson against.

Agenda Item 6. Resolution 2019-13 – A Resolution Setting the Cell Phone Allowance Amount for Wellington City Employees

The City Recorder briefly reviewed Resolution 2019-13 with the City Council. The resolution was also reviewed during the prior work session and amended so that the maximum cell phone allowance is \$55/month and the minimum is \$27.50. These amounts are taxable.

Councilmember Wells moved to approve Resolution 2019-13 which sets the cell phone allowance amount for approved Wellington City Employees. Councilmember Noyes seconded the motion, and the motion carried with Perea, Wells, and Noyes in favor and Willson against.

Agenda Item 5. Vouchers and Warrants

Councilmember Noyes moved approve vouchers and warrants. Councilmember Willson seconded the motion, and the motion carried with Perea, Willson, Wells, and Noyes

Agenda Item 6. Councilmember Reports

Councilmember Noyes informed the City Council that an additional grounds cleaning day is scheduled at the City Cemetery on November 22nd, and requested that if possible Chief Bradley have inmates from Carbon County Jail help.

Councilmembers ask the City Attorney for guidance regarding residents who are living in a home without an active utility connection. Schindler reviewed a similar issue at Helper City, and the ordinance that municipality has enacted to address these concerns.

Agenda Item 7.Adjourn

Councilmember Wells moved to adjourn. Councilmember Perea seconded the motion, and the motion carried with Perea, Willson, Wells, and Noyes in favor.

The meeting adjourned at 7:12 P.M.

The next meeting is scheduled for December 11, 2019 at 6:00 P.M. at the Wellington City Hall.

Minutes approved by the City Council on **January 8, 2020**

Joan Powell, Mayor

Glenna Nelson, City Recorder