

**SPECIAL CITY COUNCIL MEETING
IONA COMMUNITY CENTER
OCTOBER 11, 2016 – 7:00 P.M.**

PRESENT: Mayor Brad Andersen, Council President Dan Gubler, Council Member Rob Geray, Council Member Kathy McNamara, City Clerk Shara Roberts, Public Works Director Zech Prouse, and City Attorney Dale Storer.

ABSENT: Chief of Police Karl Bowcutt.

VISITORS: Attorney Rob Harris, Gary & Larie Elliott, Terry McNamara, Dennis Bateman, Curtis Bateman, Dana Andersen, and Susan Gardner.

Mayor Andersen welcomed everyone and Council Member Garren led with the Pledge of Allegiance. A roll call was taken to open the meeting.

Consent Agenda: None.

Items of Business:

Discussion of Procuring Water Rights: Mayor Andersen explained the purpose of tonight's meeting was to discuss where the City is currently at in regards to procuring water rights, and how to supply water to the new development recently presented by Rockwell Homes, if the City decides to annex.

Attorney Storer began by explaining how water utility fits into the future plans of the City of Iona. He explained one of the first things the City needs to define is where they want to be in 50 years. He then outlined both the pros and cons of growth vs. stagnation in a city. Mr. Storer expressed it's a complex challenge defining where a city wants to go, and the water system is an important factor. He commented it is often perceived that cities live on forever. However, they can and do perish unless they are managed well and have something to offer. He referenced a ghost town called Bannack located in Montana which was founded approximately 20 years prior to the City of Iona, which at one point in history was thriving and had a population of 10,000 people. He reported as of today the population is zero. He went on to express the key factor in keeping a city alive and vibrant comes down to service, such as well-maintained roads, parks, water and sewer system, fire and police protection, good youth and recreation programs, and good planning. In closing, he discussed the importance of the City finding its niche, and recommended the City perhaps consider hiring a planning consultant to develop a model outlining where the City wants to go in regards to growth. Mr. Storer then introduced Water Law Attorney Rob Harris.

Mr. Harris began by explaining a handout, which outlines a summary of the City's current water rights. He reported currently the City has 5.77 cfs ground water rights. When that is converted it is approximately 2,600 gallons per minute. Mr. Harris then provided a brief overview on the process for establishing new water rights.

Mr. Harris discussed the protection of cities existing water rights. He explained the Surface Water Coalition is a group of seven canal companies and irrigation districts, who have made claims that ground water pumping interferes with the flows in the river. As a result, there is now a process the State goes through to determine whether or not there will be a shortage based on the run off that is predicted in early April. If there is a predicted shortage, they conduct an analysis to outline how the curtailment of ground water pumping could be beneficial to the river, and issue a curtailment order. Mr. Harris reported the City's 1993 water right was almost curtailed in 2016, because they projected all junior water rights after 1989 would need to be curtailed. However, in working with a number of cities, they were able to get a one year interim mitigation plan approved, and the City leased a small amount of water from the City of Pocatello which was then diverted to the coalition. Mr. Harris reported without the interim mitigation plan, Idaho Department of Water Resources (IDWR) could have come in and informed the City they would need to figure out a way to reduce ground water pumping by 1.2 cfs. Mr. Harris reported this continues to be an ongoing process, and they are trying to negotiate more of a long term plan. He expressed one challenge is the State views all municipal pumping as consumptive. Mr. Harris outlined two of the key issues being protested by the Coalition is their water rights are being hurt without mitigation, and they are also asserting that cities should require all new developments to put in secondary pressurized irrigation systems, and implement that stipulation through ordinance.

Council President Gubler inquired why Iona's existing surface water rights can't be utilized for mitigation. Mr. Harris asked if the City still pays an assessment to the irrigation district for the use of that water. Public Works Director Prouse responded they do for city owned property.

Mr. Harris further explained that there would need to be an agreement, in which the land owner would assign the assessment to the City, and the City would pay for the assessment then have the ability to use the rights for mitigation purposes. Council President Gubler then asked what the process would be to convert those surface water rights to ground water rights. Mr. Harris explained the City would have to convert it through an application process and because the irrigation district has the title to the water rights they may not be thrilled to convert them specifically for mitigation.

Mr. Harris then discussed the Idaho Water Supply Bank, which allows different entities to lease water in and take it back out, which is something the Association of Idaho Cities (AIC) is really pushing because there are a lot of cities within the State of Idaho that are expressing exactly what Council President Gubler is describing. Cities continue to pay assessments for land, in which they aren't able to use the surface water rights, but would like to use for mitigation. He expressed that could be a possibility down the road, but right now there is no mechanism for doing that. Attorney Storer asked Mr. Harris what his sense was of these ongoing negotiations.

Mr. Harris expressed a municipal attorneys group has been organized, and explained AIC is hosting a Water Users Summit on October 25th in Boise, ID. Additionally, the cities which participated in the interim mitigation plan should be receiving an invitation to a meeting on November 2nd in Pocatello, ID which will provide an update on where negotiations are at with the Surface Water Coalition and continued efforts toward a long term mitigation plan.

Council President Gubler inquired what some of the requests from the Coalition have been during the negotiations. Mr. Harris explained again they are huge proponents of secondary pressurized irrigation systems, and recharge sites. He explained the State has made some funds available to help with recharge sites. Attorney Storer asked Mr. Harris what his recommendations would be for the City Council to preserve its ability to provide water to its existing citizens and be in a position to serve new growth.

Mr. Harris explained when you bring in new development the City has to look at providing the water utility service or having the developer put in their own system. He expressed based on his general experience, private culinary systems in subdivisions can be problematic if left under the control of the Homeowner's Association (HOA). He also explained the reason why it's attractive for a developer to tie into a city's water system is because constructing a community well and meeting the redundancy requirements gets very expensive. Overall, Mr. Harris recommended the City look at their current demand, and if needed try to acquire new water rights.

Attorney Storer followed up by expressing agreement with Mr. Harris's comment regarding the attractiveness of a City's water system. He described it as a very sellable commodity when a developer looks at annexation.

Mr. Harris outlined three key things the City needs to look at. First, the City needs to evaluate existing water rights, and what their actual usage is to determine if they have adequate supply, and if there is room to grow with what already exists. Secondly, if they need to appropriate additional water rights how will they mitigate for it, because it's important to note the AIC only mitigates for existing water rights. Thirdly, look at a "buy and dry" method in which they find a farmer who has ground water rights for sale with a decent priority date, and move it into the City. He explained the challenge with the latter is, ground water rights that are west of the river, IDWR can determine if they will cause an increased impact on the river, and if they don't move well the City has to leave some behind for mitigation purposes. Mr. Harris reported there is a title deficiency with the water rights the City has recently been trying to negotiate, which is still being sorted out. He further explained when a deed is recorded with the County they do not track water rights. Rather, there is a second step which requires the buyer to take the deed from the County and fill out a form which has to be submitted to IDWR so they can update their records. Overall, he reported there is an issue with where the water rights came from, and he can't recommend at this point it will be ready to go anytime soon.

Council Member Garren inquired if the City could access the surface water rights from property located within city limits if they could dump them into a gravel pit north of town, and convert them to ground water rights to be used for mitigation. Mr. Harris explained the title of those surface water rights are in the name of the irrigation district, so if you went to the board and told them what you wanted to do that there may be some hoops you would have to jump through. He expressed irrigation districts typically aren't thrilled about this process, but the local district may be open to it. Mr. Harris also commented that the Department of Environmental Quality (DEQ) is aware this is something cities are looking at so they have some guidelines and monitoring involved to decrease contaminations.

Council President Gubler and Mayor Andersen indicated that was something the City Council discussed in the past. Mayor Andersen expressed anything the City decides to do at this point is going to cost money, and there are pros and cons to all options.

Mr. Harris expressed with the current circumstances of water issues around the State there is no easy answer to these decisions. He explained the aquifer levels are declining due to a number of factors. He said in 1980, 20% of irrigated land was sprinkled and in the last 30 years we have seen that number increase to 70%. We have become more efficient and are able to irrigate more. However, it has come at the expense of there being less incidental recharge to the aquifer. He expressed a lot of what he does is figure out how to deal with those shortages and delivery calls.

Attorney Storer agreed it's a difficult complex equation, and it is integrated into the future of Iona. He expressed the City could choose to simply decide at this point in time they are going to continue to supply the existing residents with what they have, and leave it to the developer to come up with their own method of providing culinary water service. He indicated there is nothing from a legal perspective which would prohibit that. However, he noted two different systems operating independently of each other could cause some ramifications, and encouraged the City to spend some time receiving some expert consultation to see what those are.

Council President Gubler commented the purpose of tonight's meeting was to discuss solutions for supplying water to this particular development, and he doesn't feel at this point the City has time to put it off. Attorney Storer expressed the City isn't going to get the kind of planning accomplished like he is referring to within a short time frame.

Mayor Andersen expressed in the last 10 years the City has made efforts towards planning through establishing two different water committees, and conducting a water facility study. He commented if they look at the documents the City has a pretty good idea of where the shortages are. He explained the City of Ammon has used Falls Water to provide water service on a couple of different developments in their City, and they would just need to look at the pros and cons if they decided to go with that option. He also expressed secondary irrigation does look good on paper and works well in bigger cities, but it doesn't work as well in smaller communities, and it is very expensive. He outlined other items which were discussed during the water committee meetings such as increasing water rights, secondary irrigation, increasing storage, requiring all new subdivisions to have water meters, or more xeriscaping. Mayor Andersen also explained the City Engineer outlined a few months ago that with what they currently have the City does not have enough to take an additional 110 homes. However, if they constructed another tank for more storage and created redundancy they could potentially take on more development. In closing, he expressed there are a lot of different options to look at depending on what they want the future of Iona to look like.

Council Member Garren commented with the City already bumping against its allowable pumping rate its clear we can't take anymore development onto the water system at this time. Public Works Director Prouse agreed and expressed especially if there is a chance for curtailment orders down the road.

Attorney Storer commented if the City doesn't have a water utility system that developers can connect to what is the incentive for the developer to annex into city limits. With the increased amount of urban development going on in the County, unless the City can come up with an incentive to attract people to the community he can foresee in 30 or 40 year it being totally encompassed by county urban growth.

Mayor Andersen expressed the growth is going to happen around the City whether they like it or not. Council President Gubler expressed the importance of the City being able to have a say in what that growth looks like is very important, and feels it's a no brainer to annex in this particular development and have Falls Water supply the water utility.

Council Member McNamara inquired if Rockwell is willing to be annexed even if the City can't provide the water. Public Works Director Prouse expressed from his perspective they are interested in hooking up to the City's water system.

Council Member Geray expressed from his perspective he is struggling to see how small town Iona can effectively, and in a fiscally responsible manner, be able to compete with Falls Water and the County. Without doubling water rates, and significantly increasing connection fees, how do you expand your system to acquire the water rights, the infrastructure, the staffing, and the attorneys needed in order to do that.

Mayor Andersen commented from what City Engineer Paul Scoresby showed in his analysis a few months ago is if the City was to construct a new 600,000 gallon storage tank they could supply water to 110 homes or more. In closing, Mayor Andersen summarized two options he saw available after tonight's discussion. The first option would be to tell Rockwell the City cannot supply the water, but are still interested in annexing them into the City if Falls Water can supply the water utility. The second option would be to tell Rockwell they want a secondary irrigation system developed which they aren't going to want to do because it's very expensive. With a secondary irrigation system, the City would have to hire another staff person for the Public Works Department.

Council Member McNamara inquired if the City decided to move forward with annexation how long it would take to construct a new water tank. After further discussion, it was estimated at least one or two years just for the construction and it would most likely have to go out for a bond for the citizens to approve because it's a very expensive project. Council President Gubler commented the city council just needs to be honest with them on where the City's water system is at. He also discussed the importance of enhancing the City's relationship with the County as they are one of the biggest tools the City has when it comes to development happening in the City's Impact Area.

Reports:

Meeting adjourned at 8:31 p.m.

COUNCIL APPROVED: October 18th, 2016

Brad Andersen, Mayor

ATTEST: _____
Shara Roberts, City Clerk