

*CITY COUNCIL MEETING
July 10, 2023*

MAYOR & COUNCIL

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

STAFF

Linda Acock, City Clerk
Lyle Fuller, Attorney
Shawn Oliverson, Community Dev.
Kelly Mickelsen, Treasurer
Tyrell Simpson, City Engineer
Dan McCammon, Police Chief
John Balls, Public Works Director

Council Meeting was called to order at 5:00 P.M. by Mayor Dan Keller. Councilmember Chris Larsen was excused from the meeting.

Mayor/
Council

Mayor Dan Keller expressed thanks to the many volunteers and directors of the summer recreation program. Attendance was outstanding.

Councilmember Todd Thomas agreed that the program was run very well this summer, even after getting to a late start. Soccer sign-ups have started.

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.

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|----|---------------------------------|---------------------------|
| A. | Council Minutes | June 26, 2023 |
| B. | Bills | July 10, 2023 |
| C. | Treasurer's Monthly Report | June 30, 2023 |
| D. | Swale Bond Refund Kyler Burbank | 116 E Eagle Way \$5000.00 |
| E. | Swale Bond Refund Tony Crockett | 581 Eagle Drive \$1625.00 |

It was moved by Councilmember Terry Larson and seconded by Councilmember Brent Dodge to approve the Consent Calendar, which includes City Council Minutes of June 26, 2023, Bills through July 10, 2023, the Treasurer's Monthly Report dated June 30, 2023, a Swale Bond Refund to Kyler Burbank at 116 East Eagle Way in the amount of Five Thousand Dollars (\$5,000) and a Swale Bond Refund to Tony Crockett at 581 Eagle Drive in the amount of One Thousand Six Hundred Twenty-Five Dollars (\$1,625). This received unanimous approval.

Donation
Preston
Amateur
Golf
Tournament

Douglas Webb came before the council to request a donation to the Preston Amateur Golf Tournament. This is their 37th year of holding the tournament.

It was moved by Councilmember Terry Larson and seconded by Councilmember Todd Thomas to approve a One Thousand Dollar (\$1,000) donation to the Preston Golf and Country Club's Amateur Golf Tournament, using any remaining money that was not budgeted for the thousand dollars from the mayor and council budget. This received unanimous approval.

RCAC
Community
Economy
Workshops

Community Development Specialist Shawn Oliverson introduced Emma Morton of SICOG, who is working with Royal Community Assistance Corporation (RCAC), to bring in a series of workshops to involve our community members, in helping the Community Foundation know what projects the community deems important.

Emma Morton presented the Recharge Our Community's Economy (ROCE) program. The basis of the workshops is built upon a wealth works model that identifies eight different assets that you would like to see in your community. These assets are individual, intellectual, social, cultural, financial, natural, built, and political.

There are four workshops scheduled for this fall, August 29, September 19 & 20, October 18, and November 15 & 16.

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Approve Treasurer Kelly Mickelsen presented a summary of the 2022 Annual
FY 2022 Audit that was performed by Deaton & Company. The city received
Audit a clean audit.

It was moved by Councilmember Todd Thomas and seconded by Councilmember Terry Larson to accept the audit report from Deaton and Company for the fiscal year 2022. This received unanimous approval.

Sewer It was moved by Councilmember Terry Larson and seconded by
Plant Councilmember Todd Thomas to table this matter to a meeting when Keller
Cert. Engineering can attend, to better explain the certification process and
 levels for the sewer plant operator. This received unanimous approval.

Award Community Development Specialist Shawn Oliverson introduced an
Airport agreement to award the Airport Planning Services for the Franklin
Development County/Preston City Airport U10 to Ardurra Group, Inc., and another
Services agreement to award the Airport Development Services for the
U10 Franklin County/Preston City Airport U10 to Ardurra Group, Inc.
 The agreements set up Ardurra Group Inc., previously known as T-O
 Engineers, as the principal consultants for planning and designing
 future airport projects within a five-year period.

It was moved by Councilmember Terry Larson and seconded by Councilmember Todd Thomas to authorize Mayor Dan Keller to sign into the agreement with Franklin County to award the planning and design of future projects to the Ardurra Group, Inc., formerly known as T-O Engineers.

The vote was as follows:

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

Motion passed by unanimous vote.

Commercial It was moved by Councilmember Todd Thomas and seconded by Councilmember
Dog Brent Dodge to table this matter to allow the applicant time to obtain
Kennel the necessary signatures of property owners within a 400' boundary of
License his property. This received unanimous approval.

Report The following business licenses have been approved:
Of Approved
Business Denise Merrell 8 South State EmBody Wellness & Yoga Studio
Licenses Kyra Peterson 401 E Oneida k.p. INK

Request Attorney Lyle Fuller reintroduced the matter of a request from Corey
For and Nancy Beckstead, 927 South State, to extend their water line. The
Approval Becksteads have a piece of ground that's outside the city limits. This
Of parcel originally started as a beauty salon and they combined this
Extension parcel with a different parcel they had. Now, it's a four-acre
Of Water combined parcel. The Becksteads want to extend the water line from the
Line original connection out to where their new home is.

(Fuller) Preston Municipal Code 13.08.010 states that no person or entity
 located outside of the city shall be allowed to connect, hook up, or
 use any of the water in the water system of the city except those who
 presently have water connections to the city water system, in
 accordance with the list on file in the city clerk's office.

(Fuller) Preston Municipal Code 13.10 talks about, in 1995, there was a map made
 and an ordinance put together. All of section 13.10 talks about how
 these connections are going to be treated. 13.10.030 is the
 restrictions, and is the nub of the dispute as to whether the
 Becksteads would be allowed to extend the line, as they are proposing
 to do.

(Fuller) Attorney Lyle Fuller also explained that he did pen a letter to the
 Becksteads advising that the extension would not be allowed. Adam

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McKenzie, attorney for the Becksteads, responded by letter with his interpretation of the code and why it should be allowed.

(McKenzie) Attorney Adam McKenzie stated that his clients understood that if they combined the parcels into one parcel, they could extend the water line back to the house.

(McKenzie) Preston Municipal Code 13.10.030 indicates that the connections are appurtenant to the real property at which the same is located. This is pertinent and relevant to the discussion because the connection is not appurtenant to the address, but to the property, as water rights normally do. The water connection is appurtenant to the real property, it cannot be separately transferred, conveyed, or severed from the real property. That is not what the Becksteads are doing in this case. The line will not extend beyond five hundred feet (500').

(McKenzie) Attorney Adam McKenzie also stated that he understands the city's desire to limit outside water connections, and not allow any new connections, but this is not a new connection, it is a water connection and meter that the city approved many years ago. The Becksteads are asking to extend the line from the beauty shop back to the new house. The Becksteads are willing to sign into an agreement that this line will not be extended to any outbuildings and will be used for residential purposes only.

Councilmember Todd Thomas asked Attorney Adam McKenzie to verify that this is not a new connection, that this connection was already approved as an out-of-city water connection, the connection from the main line to the meter has not been disturbed, the extension does not make the distance from the meter to the home more than 500', the parcels were once two separate parcels that have now been combined into one parcel, and that the Becksteads have verbally agreed and are willing to sign an Agreement that this connection will not be used for anything but the residence. Attorney Adam McKenzie stated that these were all correct in this case.

Councilmember Brent Dodge stated that his interpretation of 13.10.040, where it states that the master list of connections are numbered upon the official map, and the present owner of said property, together with a legal description of the property to which the connection is appurtenant thereto, is attached to this chapter and kept on file in the city clerk's office, is different than that of Mr. McKenzie's.

By joining the two separate parcels into one, the legal description is now very different from the one filed in 1995 when this ordinance was drafted. That makes this connection voided because there is no legal description to match what was assigned in 1995. The scope, and the size, of the property has changed significantly.

Attorney Adam McKenzie stated that the water connection runs appurtenant to the real property, and that part of the property is still included in the new legal description.

Attorney Lyle Fuller advised the council that Councilmember Brent Dodge's point about the change in the legal description is a good point to consider. It may not be outcome determinative, but does have validity, to say that it was a legal description as shown on the map. When they combined it, they had it surveyed, and now it's a new legal description. Attorney Lyle Fuller also stated that he does not endorse Attorney Adam McKenzie's argument, but he does understand the point he's trying to make.

After discussion, it was moved by Councilmember Todd Thomas and seconded by Councilmember Terry Larson to reword this matter, on the agenda, from Request For Approval of Water Connection to Beckstead Residence, to Request for Approval for the Extension of Water Line to Beckstead Residence. The vote was as follows:

Councilmember Todd Thomas	<u>Aye</u>
Councilmember Terry Larson	<u>Aye</u>

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Councilmember Brent Dodge Nay

Motion passed by majority vote.

It was moved by Councilmember Todd Thomas and seconded by Councilmember Terry Larson to approve the water extension with a written agreement that this connection will be a residential connection only and will run with the property, and all future owners shall abide by the agreement. The vote was as follows:

Councilmember Todd Thomas Aye
Councilmember Terry Larson Nay
Councilmember Brent Dodge Nay

Motion was denied by majority vote.

Council & Dept. Head Report On Assigned Designations Councilmember Todd Thomas, Councilmember Brent Dodge, Chief Dan McCammon, Community Development Specialist Shawn Oliverson, and City Engineer Tyrell Simpson reported on their assigned designations.

Budget Workshop The approval of the preliminary plat, and vote on the 3% property tax increase will be placed on the July 25, 2023 agenda.

Workshop discussion included lighting at the city park, increase reimbursement to the sports director, recreation grants, repair and maintenance at sewer plant, land acquisition, and Petterborg Springs.

Adjourn Meeting was adjourned at 6:35 P.M. by Mayor Dan Keller.

Linda Acock, Clerk

Daniel M. Keller, Mayor