

**TOWN OF ENNIS COMMISSION MEETING  
AUGUST 12, 2021  
7:00 PM  
ENNIS TOWN HALL**

**Open Meeting:** Mayor Leavitt opens meeting at 7:00 pm

**Pledge to the Flag**

**Commission Present:** Mayor Leavitt, Commissioners: Ranson, Roberts, Hardy, Bancroft

**Minutes:** Minutes of July 8, 2021 meeting reviewed. Bancroft moved to approve, Ranson second. Mayor Leavitt call to vote. All approve.

**Public Comment:**

Dan McGauley with Great West Engineering provides update on the process of hydrogeologic study for finding another water source for the Town to drill a third well. Hopes to have answers on where to start with a good source in a couple months and start getting bids from well drillers. Dan states that it is strongly recommend to do a test well or two before committing to the location. Ideally the study would show that there are promising locations on land that is already owned by the Town or that is public land, but that may not be the case. Opens it up to questions.

Roberts asked for a timeline on test wells.

Dan states again that he is hoping they are ready to get bids sometime in October. Hoping to start stiling holes in the October/November time frame but recognizes that is an optimistic timeline given the state of the world right now.

Brittney Hirsch asks if doing a test well requires first purchasing the property if it is not owned by the Town already.

Dan states that ideally if it's on public property then doing a test well is a simpler process. One place they are going to look is where the old water tank is because the structure is already there but he recognizes that the ground is high. He continues that if they look at doing a test well on private property that they would likely work out an agreement that if water is found, the property is purchased for \$x and if they don't then there is some incentive or payback to the property owner.

Bancroft questions about the well at the rodeo grounds, asks if it is possible to get more water there by drilling deeper.

Dan states that he is unsure about that probability but they will explore than option.

Trevor Lockhart asks about permit process for drilling well and if the town needs to apply for another permit. Heard from his own discussions that process can take up to one year.

Dan states that ultimately there will approval from DEQ and agrees that the process can take a while from start to finish.

Trevor Lockhart states that he would like to make a comment about his observations concerning the ongoing Armitage Alley situation after doing a sight visit. States that he met with owners, pulled plats and surveys, including survey 103. Personal prospective is that there are safety concerns with power lines and propane tanks directly over the alleyway and within ~25 feet. He believes that the current alley leaves the best path to the water and invites others in the public to visit the site to see what this is all about. States that the owners of the property in question have proposed other areas further from structures and with better access to the river. Trevor continues that reading the information on paper was difficult to understand the area in question and he states that he was glad he took the time to visit the property.

## **Roylance Landscaping Plans**

Mayor Leavitt comments that he will not be presenting this to the board. Says this has become a frustrating situation for the Commission. States they have requested a landscaping plan as one of the necessities to approve the conditional use permit not received what they have asked for and therefore cannot approve the CUP and he will not be turning this over to the board for vote because they do not have what is being asked for.

Jason Roylance firmly states that is false; the Town has been provided a landscaping plan, clarifies that he has submitting two plans. Roylance continues that where this needs to start is 'a man's word'. He stated that he "received a man's word from someone that represents the city of Ennis; a binding word." Roylance states that he is also frustrated and what he has been dealing with is unlawful. Roylance continues with an analogy/story about laws and their purpose. He then pulls out a sheet of paper and provides a copy to each council member of his signed, and paid for permit. He will never start a project without the proper permits in town. He held in his hand a copy of what he was presenting to the Council and states this is signed by the Zoning Administrator which indicated that the landscaping plans he provided were acceptable. Continues that he did not get a letter in the mail but rather, his son got a call that his permit is no good anymore. Roylance states that whatever the Council is planning to vote on, as far as he is concerned, is null and void because he holds permit in hand that is signed. Reiterates that what he holds in his hand is a permission to proceed.

Attorney Greenbaum asks if he has a Conditional Use Permit and asks to see it.

Roylance says this is a signed permit, signed by the Zoning Administrator.

Greenbaum states that it looks like a zoning permit, not a conditional use permit.

Roylance requests to see where in the paperwork it shows the process for revoking a permit. He calls on the Council to provide the ordinance where that is.

Mayor Leavitt clarifies that they have not revoked his permit, we are asking for a landscaping plan.

Roylance states that he was told his permit was revoked by a phone call. Says his permit was verbally revoked over the phone. He wants to know where in Town Ordinances they can revoke the permit. Continues that they cannot show him because it does not exist.

Greenbaum says let's put that aside and discuss if he is in compliance with his CUP.

Roylance says that he is in compliance and that Art Behar signed it after reviewing his application and landscaping plans.

Greenbaum states that Behar does not have authority to issue the CUP.

Roylance states that is not how it was understood and that both of them understood it as approved. He continues that the language was changed from Zoning Administrator to Zoning Council.

Roberts says she remembers when he applied for this permit two years ago and that they are not against the plan. She adds that the site plan and landscaping plan was incomplete two years ago and that they only got the recent landscaping plans in July. She continued that the motion was to conditionally approve the CUP two years ago. Roberts continues that the Town now uses an on-call planner.

Roylance argues that that company has not been hired by the Town yet.

Roberts continues that the on-call planners (referencing Cushing Terrell) reviewed the plan.

Roylance interrupts stating that Cushing Terrell has not been hired yet, there is no contract signed, yet they reviewed it. Says he does not care what they said because they are not hired by the Town. Says it is not okay that the Town is starting to implement "all these new things" when they hire this on call planner.

Roberts states these are our codes, says they are not implementing new things. Cushing Terrell reviewed this information based on the codes of the Town.

Roylance reiterates that he does not care what Cushing Terrell recommends because they are not hired by the Town. He continues that he could use the lot for contractors' operations or storage yards; references the zoning. He argues that he is improving this land by not using it for the previously stated. Roylance says he does not understand why Mayor Leavitt said that they have not been given a landscaping plan which is not true – references the plans submitted. He continues that he was told they wanted something in color. Says the council should be voting on the plans he has provided. If they do not vote to approve that then he will use the land for parking every last bit of construction equipment he has on the land which will not look very nice. Roylance asks that the council will vote. He apologizes for being hostile and say he appreciates the council doing what they do for the town. He suggests that his proposal is what's best for everyone.

Mayor Leavitt asks for Attorney Greenbaum's opinion.

Greenbaum states that his opinion is that Roylance did not receive a CUP and states that the Zoning Administrator does not have the authority to issues a CUP. He references that the Town Code says CUP must be approved by the Town Council.

Roylance states that he provided what the Council has asked for, two landscaping plans; and that they have denied him twice. Says he has spoken to multiple lawyers that believe what he has with a signed permit is binding and that even past employees of the Town have suggested to him that he give the Town the opportunity to 'do what is right'. Continues that the plans presented are very nice and that they are much nicer than what could be there (construction storage).

Roberts reads from the Cushing Terrell recommendations stating that there are additional items that need to be addresses in order to meet Code.

Roylance asks for clarification on what those items are.

Roberts continues to review the Cushing Terrell recommendations.

Roylance states that if this is what the Council chooses to do (deny the current plans presented), then the lot will be a construction yard.

Kirk Cordoso speaks up from audience and asks what more is the Council asking for.

Roylance says concrete pads. He continues that he builds a lot of condos all over the country and he is familiar with codes and regulations that he needs to meet. Asks the Council how far out of whack they want to take things.

Greenbaum references code saying that it is not his job to review the applications but only to make sure things are done in a legal matter. He continues by referencing code stating that any area that is deemed permanent parking needs to be paved; asphalt.

Roylance argues that he does not need pavement.

Greenbaum asks why he would not need it.

Roylance states that he has never needed to pour pavement in this town and it is unacceptable for the Town to decide when and where they want to enforce code.

Greenbaum states that if Roylance wants to proceed with this project he will need a conditional use permit to be granted and that is the next step.

Roylance states that they can vote on what has been provided. He looks to the Council and says that it is in their hands. He continues by stating that what Greenbaum just sited might be in the Code but "guess what? Triplex – triplex – duplex – duplex – duplex – duplex – duplex – duplex. That's what I've built in

Ennis so far. How many of those roads are paved? Zero.” Suggests that the Council goes to Otis lane to see how many of those are paved. Roylance firmly continues that the Town Code has not been enforced. He tells the Council that they need to vote on what has been presented and live with the consequences.

Leavitt asks if anyone would like to call a motion. No votes. Mayor states that with no motion there will not be a vote.

Roylance says “Okay, great. Enjoy your entry to Ennis. It will have much construction equipment there. Thank you for your kindness and your acts of helpfulness here. I’ve spent 250k on that lot there, trying. And why didn’t we vote for – why didn’t we vote for that landscape plan first of all. Because you’re all a bunch of chicken craps. No one can step up and say I’m going to make a motion.”

Roberts interjects and asks Roylance if he would like to work with the Council on the matters at hand.

Roylance says no. He provided a plan.

Roberts says there were additional items that need addressed and asks Greenbaum to repeat code.

Roylance disagrees. States that he has triplexes and duplexes all over town that do not have any of what he (Greenbaum) is talking about and that it is not okay for the Town to start enforcing them on him now.

Greenbaum says that is irrelevant.

Roylance compares what is going on to the lawless happenings in Guatemala – inferring that they will enforce what they want and let other things slide (reference to his analogy at the beginning of the meeting). Departs the meeting.

### **Agreement with Cushing/Terrel for Planning Services**

Ranson moves to approve. Hardy seconds.

Roberts says there is an item on page 8 in Exhibit A that needs revised from using the word county to the word town. On page five needs updated with Town of Ennis and PO Box.

Hardy asks if there are clearly defined goals for Alex Hogle (county interlocal agreement).

Lisa explains that they met earlier this week and decided that anywhere that the code says there needs to be planning board review is where Alex will fill that role and do a staff report. “So any subdivision, Annexation or conditional use permit.”

Brittney Hirsch asks how far the allotted budget will get the town. Her understanding is that the Town needs an abundance of work and are they going to be able to fulfill the needs within their allotted budget.

Roberts clarifies that Appx A states they will not bill more than \$3750 per month and their contract will be \$45,000k. They are going to come up with a list of priorities and what they will tackle first. Roberts suggests that the commission will do a budget review quarterly to see how much of the \$45,000 has been spent.

Blake calls to vote. All vote yes.

Maria asks for clarification if Cushing Terrell’s representation with the Roylance project and at the school board meetings is within this scope of work of this \$45,000.

Roberts confirms that those items are within the scope. She continued to say that with the Master Planning at the school meeting that also falls within the scope of gathering information for the Master Plan.

### **Marijuana Tax Discussion**

Mayor Leavitt opens with discussion and information on the topic. States that this is new legislation that passed and would need to go to a vote. Currently, the State of Montana charges a 20% tax on dispensaries and this new legislation would allow municipalities to charge an additional 3%.

Roberts explains the legislative process and states that this is now the Town's opportunity. She wanted to bring this discussion forward after reading the Montana Free Press and seeing what other towns are doing. She believes this would be advantageous to tax the recreational sales of marijuana.

Roberts comments that the 3% tax would be a revenue stream and suggests that this tax gets bought up to the county as well. She continued on the subject of zoning within the county and the ability to regulate.

Discussion: Multiple comments from the audience and the commission on the tax, business licensing, how to implement, etc.

Greenbaum states he will look into scope of amending necessary ordinance and zoning.

Roberts suggests that the State might have projections on revenue amounts.

Leavitt confirms that the recreational sales of marijuana is all that is taxable under this change, medical marijuana is not taxable.

Kirk Cordoso comments that Colorado has done studies that show the higher the tax on marijuana, 'the more underground it goes'. He continues that a 26% tax on marijuana may lead to these operations selling in the black market where the State, County and Town would not see a dime.

Roberts clarifies that the 3% from Town and County are not stackable. So, the tax would only be 23%, not 26%.

## **Department Reports**

### **Library** – Written report.

Bancroft comments that he will be at the library meeting tomorrow.

Roberts wanted to note the exceptional work going on at the library and the reading programs are flourishing. "Big props to the Friends at the Library, the Library Board and their staff."

### **Police** – Written report.

Roberts mentions the new software implemented by the county; she would like to know if there is a way to track calls with new stats from the county software.

From the audience, Trevor Lockhart states that he heard there was someone being interviewed for hire within the police department and asked if it was voted on.

Mayor Leavitt denies and states that is a rumor.

Lockhart asks if they are looking for someone to fill Ashlynn's spot.

Maria asks why that is not on the Town's website. She recommends keeping the website current.

Roberts states that Officer Moore updates the website and she believed that he posted the opening on other specific sites.

**Public Works** – Kelly reports on North Forty Phase 6. He clarifies that at the last meeting he states 30 feet deep wells. Is actually 30 gallons per minute. Updates on daily activities. Informs that a service line leak was found and repaired that may have been leaking for a year. Public Works budget has been submitted. Annual Water Report is available and shows that the quality of our water is great,

quantity is the concern. Gordon Todd asked for a tour of lagoon and sewer system. Kelly opens that opportunity to anyone.

Lockhart asks if the Commission is still considering limiting in-town private wells.

Roberts suggests that Great West Engineering be deferred to once the geologic water study is completed.

Roberts commended Eric and Kyle on helping with trees.

Roberts asks about Public Works employment opening.

#### **Zoning** – written report.

Roberts asks for specific numbers, how many sign permits. Applications in que, approved and denied and by category.

Dino Finelli asks for clarification on town limits.

Ranson comments that she is curious and concerned about permits being issued correctly.

Leavitt encourages council and others to come to Town Hall to visit with the Zoning Administrator (Susie Sprout) any time they have specific questions. States that some of these forms and processes are in the works. He continued that he met with Susie after last meeting to discuss the processes.

Maria comments that as an employer, employees should have clear expectations so they know what is expected of them.

Ranson comments in agreement and states that job descriptions were written 30 years ago by the person that held the position.

Maria asks who signs the checks and reiterates that if you sign the checks, you need to take control.

Ranson comments that council does not see any payroll information and does not do any hiring or firing or have any involvement with employees.

Mayor Leavitt states that they are doing their best and it's a work in progress.

Maria comments that in support of Susie she has read the minutes for the last two years and there has never been a zoning report so this is better than nothing. She continued that no minutes since Feb 2021 are available online but before that she could not find any information in meetings about the previous Zoning Administrator leaving or Susie being hired. She stated there was nothing stating that Susie recused herself from My Willow. "Those kinds of things might seem irrelevant to you, but if they are in there, it's now public information and it's up to the public to read it. It's not a secret. It kind of looks like that if it's not there." She stated she believes there needs to be more details added into the notes. Suggests that she comes to the meetings and get introduced to the public.

Hardy asked if the sign for the carwash was taken down.

Mayor Leavitt confirmed yes.

Ranson stated they received three citations for the period of time it was up.

#### **Clerk** – written report

Ginger Guinn states that she will be able to pull the rest of the budget together tomorrow. Requests the board to set a work session to review.

Work session set for Aug 25 at 6:00 pm. Ginger asks about setting meeting for review of North Forty Phase 6. Vujovich speaks up online and asks why he was not on tonight's agenda. There was unintelligible conversation from him online.

Mayor Leavitt states that we did not have the report from County Planning Board, Alex Hogle.

Phase 6 gets added to special meeting August 25, ahead of budget meeting.

**Attorney** – Greenbaum states he wanted to discuss the noise complaints and unfortunately the way the code is written making it near impossible to enforce.

Discussion on changing the ordinance to be enforceable.

My Willow attorney has reached out to Greenbaum, wants to know who is involved so that he can ask questions. There are questions about drainage ponds and they are submitting new plans to DEQ for drainage and he does not know who to discuss this project with.

Roberts states that Alex at the county has been mostly handling this.

Commission asks Josh if he can comment. He comments that the property developed has a retention pond. The majority of his comment is unintelligible. Mention of storm water design.

Mayor Leavitt comments that he understands it as the request for a different plan.

Greenbaum asks again who, on behalf of the town, is in charge of this project.

Multiple members of the commission repeat that it is Alex Hogle at the County.

Roberts states that it can also be forwarded to Cushing Terrell to bring them up to speed as well.

Greenbaum asks Kelly Elser if he has any comments.

Kelly defers and states that he cannot make any comments on this project.

Greenbaum questions him.

Kelly reiterates that he cannot speak on this project unless Greenbaum tells him that he can.

Greenbaum says “we’ll talk later.”

Ranson states “I feel like there is more we need to know there, but whatever.”

Roylance returns and asks to comment. He said he got halfway to Sheridan and he got to thinking “I’m not going to do any of that. I’m not going to put a bunch of construction stuff there. I’m just going to sell the lot.” He apologized for calling them chicken craps and for the personal attacks.

Mayor Leavitt addresses Roylance.

**Mayor Report** – He comments “Unfortunately you’ve fallen into, we’re trying to change the way we do things. The way things have been done for a lot of years has not been correct. They have haphazardly done things. We are trying to fix things and unfortunately you fall into the middle of that. The codes weren’t followed correctly all the time and unfortunately, it’s a bumpy road that we’re going down and we’re doing the very best we can and I’m sorry that you got – I mean you’re right there. So many things have been lost over the years. I’m not casting blame; we’re just trying to fix it now. We’re brought on a Board of Adjustments to fix things, we’ve hired on call planners, we’re trying to get things done right. We’re not going to do everything perfectly... I just hope that everyone can bear with us to get this corrected. It takes time.. and it hasn’t been done correctly. I apologize it hasn’t been done correctly but if we don’t stand our ground we will.

Ranson interrupts by stating the process they put My Willow through was very stringent and states that they could not do that to My Willow and then not do it to Roylance.

Roylance states the reason he likes building in little towns is because there aren’t miles of regulation. He would like to sleep well tonight and he wanted to leave on okay terms.

**Zoning Board of Adjustment** – Mayor comments that he has received many requests from John Heckler, about 4 pages, and will get to those as soon as he can. Maria comments on email strings among the board.

Greenbaum comments on best practices.

Tony Treglia comments that the meeting they are trying to schedule is about their administrative duties.

Discussion on how to communicate appropriately.

Town is seeking training for Susie Sprout for new role as Zoning Administrator.

Commissioners attended school meeting yesterday and has asked the school to perform a traffic study in relation to the closing of Charles Street.

#### **Commissioner Comments**

Bancroft would like to put in the budget a leader board on the Town Building for notification of meetings, emergencies, etc.

Hardy reports about visiting all the town parks to review tree health.

Ranson moves to approve. Robert seconds.

Adjourn.

\*Live recording of all Town of Ennis Public Meetings is available for viewing on YouTube at the following link or by searching “Town of Ennis Montana Public Meetings”

<https://www.youtube.com/channel/UCFA-L4QnVfTQqOD2QEOsWVA>

---

Blake Leavitt, Mayor

---

Brittney Hirsch, Deputy Clerk