

A Meeting of the Meridian City Council was called to order at 4:32 p.m., Tuesday, October 11, 2022, by Mayor Robert Simison.

Members Present: Robert Simison, Joe Borton, Luke Cavener, Treg Bernt, Jessica Perreault and Liz Strader.

Members Absent: Brad Hoaglund.

Also present: Chris Johnson, Bill Nary, Dave Tiede, Shawn Harper and Dean Willis.

ROLL-CALL ATTENDANCE

☒ Liz Strader	☒ Joe Borton
☐ Brad Hoaglund	☒ Treg Bernt
☒ Jessica Perreault	☒ Luke Cavener
☒ Mayor Robert E. Simison	

Simison: Council, we will call the meeting to order. For the record it is October 11th, 2022, at 4:32 p.m. We will begin this afternoon's work session with roll call attendance.

ADOPTION OF AGENDA

Simison: Next item is adoption of the agenda.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: There are no changes to the agenda -- no changes to the agenda. I move that we approve the agenda as published.

Bernt: Second.

Simison: I have a motion and a second to approve the agenda. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the agenda is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

CONSENT AGENDA [Action Item]

- 1. Approve Minutes of the September 27, 2022 Work Session Meeting**

- 2. Approve Minutes of the September 27, 2022 City Council Regular Meeting**
- 3. Prevail Subdivision No. 3 Pedestrian Pathway Easement**
- 4. Final Plat for Alamar Subdivision No. 1 (FP-2022-0027 by Noble Rock Development, Inc., located at 4380 W. Franklin Rd.**
- 5. Final Order for Aegean Estates Subdivision No. 4 (FP-2022-0030) by Engineering Solutions, LLP, located on the east side of N. McDermott Rd., approximately 1/3 mile south of W. McMillan Rd.**
- 6. Final Order for Pollard Subdivision No. 1 (FP-2022-0023) by Brighton Development, Inc, located on the north side of W. Chinden Blvd./US 20-26, midway between State Highway 16 and N. Black Cat Rd.**
- 7. Final Order for TM Creek No. 6 (FP-2022-0024) by Brighton Development, Inc., generally located on the south side of W. Franklin Rd., 1/4 mile east of S. Ten Mile Rd.**
- 8. Findings of Facts, Conclusions of Law for Prescott Ridge Residential (H-2022-0058) by Engineering Solutions, LLP, located at 3770 & 4184 S. Linder Rd.**
- 9. Revised Contract Between the City of Meridian and Emergency Health Responders to Reflect Updated Pricing**

Simison: Next up is the Consent Agenda.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Move that we approve the Consent Agenda as published, for the Mayor to sign and Clerk to attest.

Bernt: Second.

Simison: Have a motion and a second to approve the Consent Agenda. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the Consent Agenda is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Simison: There were no items moved from the Consent Agenda.

DEPARTMENT / COMMISSION REPORTS [Action Item]

10. Proclamation for Cyber Security Awareness Month

Simison: So, we will move on to Item 10, which is Department/Commissioner Reports. First item up is a proclamation for Cyber Security Awareness Month. If Director Tiede would join me at the podium. Thank you, Dave, for helping us assist -- do this and it's always great to come down and talk about the importance of cyber security, both for our residents, for our employees and for the community. Well, I guess that is the -- the -- the residents, but our community at large on businesses on this important topic. So, I will just go ahead and read a proclamation and turn this over to you for some comments after that. Whereas the City of Meridian recognizes it has a vital role in identifying and protecting its citizens from and responding to cyber security threats that may have significant impact to our community and whereas cyber security education and awareness is crucial for everyone, including large corporations, small businesses, financial institutions, schools, government agencies, the home user and anyone who connects to the Internet and whereas you can protect yourself by monitoring your accounts, being conscientious of what you share online, keeping computer software up-to-date, using strong passwords, enabling multi-factor authentication, recognize and reporting phishing and using mobile devices safely and whereas you see yourself in cyber campaign serves as the National Cyber Security public awareness campaign implemented through a coalition working together to increase the public's understanding of cyber threats and empowering Americans to be safe and secure online and whereas maintaining the security of cyberspace is a shared responsibility in which each of us has a critical role to play and awareness of computer security essentials will improve the security of the City of Meridian's information infrastructure and economy. Therefore, I, Mayor Robert E. Simison, hereby proclaim the month of October 2022 as Cyber Security Awareness Month in the City of Meridian and call upon the community to join me in recognizing how serious cyber security is and the steps each of us can take to protect ourselves and our community. So, on behalf of myself and Council, Dave, here is a proclamation for you and your team to help memorialize the efforts that you all take in -- upstairs and the larger efforts that are taken in the community from there. So, if we can do a quick picture, then, I will let you speak.

Tiede: Just say -- say a couple words here. Cyber security affects all of us, whether at work, at school, at play or at home. Cyber Security Awareness Month every October is a collaboration between government and private industry to raise awareness about digital information security and empowering everyone to protect their own personal information from digital forms of crime. A lot of cyber security awareness articles out there today are about data breaches, ransomware and other things that are pretty scary to us. So, it can feel pretty overwhelming and you can feel kind of powerless against all the things that are stacked up against you. But this month is an opportunity to remind everyone that it is -- there are lots of ways to protect your data and your information and it's easy to do. You can make a huge difference by just following some good practices for basics of cyber

security. So, both the National Cyber Security Alliance and the -- the Cyber Security and Infrastructure Security Agency have some great resources available online that I invite you to check out at the cisa.gov and staysafeonline.org. And with that, thanks.

Simison: Thank you, Dave. Thank you to you and your team and even though I told Laurelei to start working with you, Council will probably be having a budget amendment coming, something that we talked about doing with ARPA that we didn't for SCADA to improve our security. So, just a good opportunity to make the initial plug with that. But the Public Works liaison and IT liaison will be having a conversation appropriately in the near future and, then, Council after that, so -- all right. Thanks, Dave.

11. Appeal of Denial of MSU-22-0097 by Kai Symons

Simison: Next Item up is Item 11, which is the appeal of denial of MSU-2022-0097.

Nary: I can start that, Mr. Mayor.

Simison: Mr. Nary.

Nary: So, Mr. Mayor, Members of the Council -- and we probably need to change the -- the terminology for these reviews. This is really a Council review. So, when a -- a license is denied, the applicant has the opportunity to request review of that. Really what is being looked at in an application is the person's prior record. If you recall about a year ago we actually lowered some of the years of -- of disqualification for certain offenses and so we took them from five -- from ten years to five years and things like that. So, we worked with the Police Department on what made sense. But what we are looking for is is this the person? Did we follow the process? Is there a disqualifying record. In this case with Mr. Symons there is. In the packet he provided us information about a recent charge in the last year of a paraphernalia case that was dismissed. That wasn't the basis of the denial. The denial was based on the one that was about four and a half years ago. So, he will be eligible in the next -- what is it? Yeah. February. By February of '23 if he receives no other criminal convictions to reapply. But he isn't eligible now. So, I think he was under a misimpression that his denial was based on the dismissed case, when it was actually denied based on an older case. But it is him. We did verify the records -- or Lieutenant Harper does that. He did communicate that to Mr. Symons, which may be why he is not here, so --

Simison: Lieutenant, anything to add to Mr. Nary's comments?

Harper: No, sir.

Simison: So, with that, Council, do you have enough information to make a motion?

Nary: Yeah. I think just a motion to deny -- just a motion to deny the request.

Simison: Even though it shouldn't really be a request denial, but a review?

Nary: Yeah. Either, the -- either -- yeah. I -- I think the terminology that's still in the code is appeal.

Simison: Okay.

Nary: So, it would be a request that -- it would be a motion to deny the appeal.

Simison: Okay. Thank you.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Based on the information on record and remarks of Council, I move that we deny the appeal slash review, MSU-22-0097.

Cavener: Second.

Simison: I have a motion and a second to deny the appeal. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the motion is approved.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: A quick comment on that to -- to Legal's remarks. The use of the word appeal is a problem for those instances like this where the -- the role of Council -- if -- if they -- if they have met or not met whatever requirements are in code, if -- if eliminating the appeal process -- or doing something to -- it just didn't make sense. It come -- I don't like it when they come to us feeling as if we have discretion on some subjective basis to grant the relief. We might want to, but we can't. So, maybe for another day those -- maybe this is the only one.

Nary: Well -- Council Member Borton -- sorry, I didn't mean to cut you off. We have had this conversation a number of times in my office and -- and -- and the struggle that we have -- and -- and, again, I -- I don't know is -- it is very uncommon in the city for the staff level to review to be the final say in whatever the decision is and that either the Mayor or the Council always gets one more review of it to make sure the process was followed. Now, we have narrowed the scope of them in many cases. The one I could think of that we haven't had in a long time is the Board of Adjustment and we have narrowed what is actually reviewed, but I mean in -- even in these cases, you know, Lieutenant Harper and Lieutenant -- the lieutenants before him always communicated the same thing to the applicant. Here is why you are disqualified. Here is the code. They can't waive it. So,

you know, yes, we probably should -- at the minimum we are going to leave some type of due process review, make it very clear what it is and that it's not an appeal and that it really is reviewing that we did the right thing. Because if you recall we have only had one person who had a case that was expunged and we, then, granted him the license and we said if you would have given it to us beforehand we would have done it before we got here. So, I mean we do try to address this, but that -- that's really our dilemma is that it's so uncommon for staff to be the last word on any particular topic. That's the reason.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I guess question for Legal. I mean do we need to word it as an appeal of denial? Could we say Council review of basis of denial or something that makes it more clear that it's not like anyone can appeal for any reason. That might help. Just if even the verbiage on the agenda was changed I think it might actually help that situation.

Nary: Mr. Mayor, Members of the Council, Council Member Strader, yeah, I think -- I think at the minimum that's what we need to do. We need to at least make it clearer that really what the Council is reviewing is reviewing that the city followed the process properly and that there really isn't other discretion beyond that.

Johnson: Mr. Mayor?

Simison: Mr. Clerk.

Johnson: When I do receive those appeals I -- you know, in this case Lieutenant Harper spoke with him. I also in the appeal gave him a long window to withdraw the appeal. Told him what the process was, what Council's discretion was and what it meant for their appeal to be in the permanent record. So, I did not receive word back that the applicant wanted that appeal cancelled before publication. So, that's why it went forward. But I have successfully -- hate to say talked people out of, but have successfully communicated what the role of Council is in that and had people withdraw their appeal -- or their request for appeal.

12. Request for Time Extension to Sign Development Agreement for Wood Rose Apartments

Simison: Council, anything else on this topic? All right. The next item is Item 12, which is a request for time extension to sign development agreement for Wood Rose Apartments. Mr. Nary, do you have anything on this one as well before we ask Ms. Anderson to come up?

Nary: Yes, Mr. Mayor, Members of the Council. So, if you recall on the Wood Rose Apartments there is a development agreement and we have a time limit for a development agreement to be signed and an extension can be granted to extend the time of that and

so the time had expired. Ms. Anderson hadn't requested the appeal -- or the -- the extension by that and planning felt very confined on simply allowing it. So, I spoke with Ms. Anderson a couple of times and she's talked to Caleb as well and we felt that because this -- this is such a project that we really feel is value added to the city as a general whole and that because we were looking at some other means and -- and moving -- keeping this project moving forward, the idea of them starting over, paying fees all over again, doing the same thing just to renew their development agreement felt there is discretion for the Council to grant that, that you have the ability to allow an extension now, if the cause is -- if -- if you believe in the reason for the -- the lack of -- of timeliness and that there is a time search and we can get this accomplished, because I know there is a lot of moving parts. So, that was the reason it's here is you do have discretion to grant this if you wish and that -- because the other option is for them to reapply, resubmit, renotece, public hearings, pay the new fees and so we are kind of back at square one and we felt maybe that we -- if we didn't have to go there we would see if the Council was of the mind to do this.

Simison: Thank you. Erin, would you like to come forward? If you can state your name and address for the record.

Anderson: Erin Anderson. 2238 North Astaire Way, Meridian. Thank you very much, Mayor and Council Members, for considering my request for an extension on behalf of Wood Rose Apartments on the development agreement. As you may recall, we were waiting to sign the development agreement, because we do not own the property. We can't purchase the property -- due to federal funding involved in the project we couldn't purchase the property until we completed a HUD environmental review. A HUD environmental review is a rather complicated and somewhat time-consuming process and so that started in March and we submitted -- they had their findings and they submitted it officially to HUD on September 18th and, then, HUD has about 30 days to review it. So, we are expecting that we will actually hear back in the next week or so. At that point in time we plan on closing on the purchase of the property by the end of the month -- by the end of October. Our purchase agreement expires on November 1st. So, that's the plan. Due to the income restrictions -- the income restrictions in the development agreement on the affordability requirements, we just couldn't see a way to have the current owner sign that, because it's really -- it's the affordable housing development agreement and so I had initiated a development agreement extension request a couple of times and, then, failed to get the final application in in time. It would have been -- it would have needed to be submitted by mid August -- I think August 15th and so here I am asking if there is a way we could get an extension, so we don't have to just go through the whole process again and we are also here to ask a question. As you may also recall, we changed the project a little bit. The last time I was here I mentioned we reduced the unit count. So, it went from 56 -- or 52 units to 46 units. We have eliminated one building and so I wanted to ask also if that's something that needs to be modified in the development agreement as well. So, two things. The request for the extension and, then, the second thing being asking about the -- how that works with the change in the -- slight change in the scope of the project. Thanks.

Simison: Thank you. Council, questions -- or, Mr. Nary, comment to the second item?

Nary: I -- I guess -- it's the first I have heard of that, so I'm not totally sure how significant the changes and whether or not that still would be eligible under the -- the way it's currently drafted. So, I would have to talk with the planning staff about that and whether or not an -- an amendment to the DA is going to be necessary. But I think we will have to -- we will have to figure that part out separate and apart from this extension.

Simison: Okay. Thank you.

Anderson: Okay.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: How long was the requested extension?

Anderson: Well, if -- if things go as I'm hoping they do, we would really only need the extension through the end of this month and it -- and if I find out anything different from this HUD environmental review I guess that's the only thing we haven't heard back from them. But we should know in the next week or two on that front. I guess -- you know, I guess to allow for any potential problems with that we could ask for two or three months, something like that. I don't know. I doubt -- because usually before the HUD environmental review is even submitted, any issues are identified and they didn't identify any issues. So, I'm really hopeful that when it comes back it will just be approved and will be fine and we will be able to go ahead and purchase the property.

Nary: So, Mr. Mayor -- sorry. Mr. Mayor, Members of the Council, Erin, I think the question we would need is when would the Housing Authority feel comfortable enough to -- that they are the owner of the property, because that's really what's necessary for the owner to sign the development agreement. So, that's probably not three weeks is my guess. But that's -- that's what I think we really need is whatever -- outside number of that -- of when that event occurs that they own -- they own the property to be able to sign this -- I don't know if that's 90 days or -- or more. I just don't know. And that -- that's what I think the date we are looking for.

Anderson: Yeah. Well, at this point we are anticipating that would be no more than 30 days from now. So, you know, by the first week of November is what we are planning on.

Borton: So, Mr. Mayor?

Simison: Councilman Borton.

Borton: I was thinking end of the year type. I mean closings get bumped, meetings have to happen to get authority to then sign DAs and it's the holidays and, good Lord, it's a mess. So, I think you have made a good presentation and explanation behind the DA extension, having it relatively soon, but even if it's end of the year, put some urgency on

those folks to act when it's time to act, but still gives a little flexibility for groups to meet and so --

Anderson: Yeah.

Borton: -- end of the year would be my preference.

Anderson: Thank you.

Simison: Do I have a motion to that effect to, direct that or --

Nary: I'm sorry, sir, I didn't -- I didn't hear you.

Simison: Well, we have got a -- we have got a party over here that is asking for end of the year to -- and I'm saying if someone wants to put that into motion form at this point in time or more discussion on the topic.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: In light of the record and presentation, I move that we grant the request -- let me make the application reference. The request for the time extension to sign the development agreement for Wood Rose Apartments to the end of the calendar year of 2022.

Perreault: Second.

Simison: I have a motion and a second to extend this until the end of the year. Is there any discussion?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I just want to say congratulations on getting the nine percent tax credit and how competitive that was this year and all the work that you put into that and sticking it out, because I know that it felt like that the -- the process was going to fall apart numerous occasions. So, congratulations on having this all come together and being able to see the light at the end of the tunnel.

Anderson: Thanks. I think my mic's off, but -- maybe it's on now. Thank you. And -- and all of you played a -- a part in -- in that success. I'm sure the support from the city was -- was critical to -- to the success and so I thank you all very much. Thank you for mentioning that. I -- I meant to have a moment to celebrate that fact as well. We are technically still in the appeal process. The applicants -- any applicants that did not get

selected have an opportunity. We are still in a window where they can appeal and so the official notices haven't gone out, but it's -- it's really exciting.

Simison: Are there further discussions on the motion? Okay. If not, Clerk will call the roll.

Roll call: Borton, yea; Cavener, nay; Bernt, yea; Perreault, yea; Hoaglund, absent; Strader, yea.

Simison: Four ayes. One no. Motion carries.

MOTION CARRIED: FOUR AYES. ONE NO. ONE ABSENT.

Anderson: Thank you.

Simison: Thank you. Council, we have reached the end of our agenda. Do I have a motion to adjourn?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: I move we adjourn.

Simison: Motion to adjourn. All in favor signify by saying aye. Opposed nay? The ayes have it. We are adjourned.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

MEETING ADJOURNED AT 4:55 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT E. SIMISON

DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK