

SPECIAL CITY COUNCIL MEETING APRIL 27, 2010, 6:00 P.M. PUBLIC HEARINGS;
MCARTHUR 6:00 P.M., SCHOOL DISTRICT #93 7:10 P.M., DOG ORDINANCE 7:20
P.M.. IONA COMMUNITY CENTER

PRESENT: Mayor Brad Andersen, Council President Jane Shaw, Council member Bruce Case, Council member Dennis McArthur, Council member Dan Gubler, Treasurer Ron Nelson, Public Works Supervisor Prouse, City Clerk Robyn Keyes.

ABSENT: Police Chief Shannon Basaraba

VISITORS: Mike Taylor, Adrian Beazer, Lynden Kunde, Blair Simmons, ZoAnn Simmons, Kathy McNamara, Dixie Hunting, Linda McArthur, Scott Long, Susie Ransom, Ted Ransom, Betty McKinlay, Terry McNamara, Ron Roberts, Steve Elliott, Craig Rockwood, Dave Huntsman, Sally Price.

Mayor Andersen welcomed everyone and Council member McArthur led with the Pledge of Allegiance.

Public Hearing McArthur 6:00 p.m. A public hearing was held for Dennis and Linda McArthur to consider granting the McArthur's a conditional use permit to allow them to rent their basement to people other than family members. After reviewing the request and considering public input, the McArthur's were denied their request for a conditional use permit. See appendix A for hearing minutes.

Public Hearing School District #93 7:45 p.m. A public hearing was held for School district #93 to consider the renewal of a conditional use permit for a modular classroom on the east side of the school building. After reviewing the request and considering public input, the district was granted renewal of their conditional use permit. See appendix B for hearing minutes.

Public Hearing Dog Ordinance Change 7:53 p.m. A public hearing was held to consider Chief Basaraba's recommended changes to the existing dog ordinance. After reviewing the recommendations and considering public input, the dog ordinance changes were approved. See appendix C for hearing minutes.

Historical Society Report. Lynden Kunde said that after talking with the County and the Fire Marshall regarding access to the back of the museum property, it has been determined that building a senior center on the back of the property would not be feasible. The Historical Society has decided to move forward with the museum and would continue to look for an alternative location for a senior center.

ZoAnne Simmons asked if the Council could provide more funding for the museum project, and asked the Council if they could guarantee future funding much the same as the City did for the Stanger building. Mayor Andersen said he would speak with the City attorney regarding the amount of money allowed annually for such projects.

Blair Simmons said that with the City showing support for the project the likelihood of being awarded a grant was greatly increased.

Mayor Andersen said the City Council was in support of the project and thanked the Historical Society for their time and efforts.

The Council and audience took a recess from 8:20 p.m. to 8:30 p.m.

Previous Business. Dixie Hunting said the second Veterans Monument would not be ready for Memorial Day and asked the Council if the dedication could take place during Iona Days. Mayor Andersen said Iona Days would be fine and suggested Dixie look into the cost of a bench to go along with the monuments.

Fair Housing Act Proclamation. Mayor Andersen said The Development Company had recommended the City adopt April as Fair Housing month. The Mayor read the Fair Housing Proclamation and the Council agreed to its adoption.

Chicken Ordinance. The Chicken Ordinance was read for approval. Council member McArthur made a motion to approve changing the chicken ordinance to allow chickens on land with 1/3 acre or greater. He also moved to dispense with the ruling that the ordinance be read in its entirety and on three separate occasions.

Council member Shaw seconded the motion.

Roll call as follows;

AYE: Council President Shaw
Council member McArthur
Council member Case

NAY: Council president Gubler

Motion carried, Chicken Ordinance approved.

Seasonal Water Use. Mayor Andersen said after discussing with the Water Committee the subject of charging for seasonal water use, it had been decided that it would be too difficult to police the usage, and the City would not charge a seasonal water fee.

The Mayor suggested educating the public on responsible water use and consumption. Council member Case asked if there were any meters installed in Iona. The Mayor and Supervisor Prouse said there were several meters installed at various places for data gathering purposes, all new houses had meter pits installed, and as repairs were conducted on old systems, meter pits were installed with the repairs.

Trash Collection Discussion. The Council reviewed the Request for Proposal (RFP). Council member Gubler stated his concern with section 5.1 that stated the method of rate increase shall be based upon The Consumer Price Index-All Urban Consumer U.S. City Average for Water and

Sewer and Trash Collection Services. Council member Gubler was concerned the verbiage may give the company a means for increasing its rate.

Council President Shaw suggested that on the other hand, the verbiage put a cap on what was allowed for rate increases. The Council agreed to add to the verbiage that any rate increase must be approved by the Council, and ask the City attorney to review the issue.

Council President Shaw suggested talking with the companies regarding the possibility of requiring everyone to place their trash bin on the same side of the street, possibly opposite the mailboxes. Council member Case said that request may be too difficult for some people to move their trash bin that far. The Council agreed to discuss the issue with the contracted company.

Council member McArthur suggested that the section that stated the company would additionally provide at no charge to the city, service for collection and hauling of solid waste generated by City Departments using Contractor-owned containers if commercial service was available. Council member McArthur said that not all companies offered commercial service and it would be an unfair advantage for the companies that did offer commercial service. The Council agreed to remove that section.

The RFP was approved.

Mural Approval. The Council discussed the mural project for the Council Chambers and the possibility of building a frame and acoustic panels around the mural. The Council approved the mural project and agreed to pay a deposit for the mural this year and add the remainder of the cost to next year's budget.

Consent Agenda. The consent agenda was reviewed. Mayor Andersen asked Supervisor Prouse if he had discussed the VFD recommendations with Paul Scoresby. Supervisor Prouse said he had not had the opportunity yet, but would soon.

The Mayor asked if the Supervisor had discussed the street striping with the County. Supervisor Prouse said he had, and the County did not recommend painting stripes on the sides of the street for liability reasons. The additional cost for painting a center stripe was \$150, so Supervisor Prouse scheduled the job.

Mayor Andersen said he had spoken with the City Attorney regarding business licenses for people that offered piano lessons, or hair cutting in their homes. The Attorney recommended if the business did not increase the traffic in the area, and did not have a negative impact on the neighborhood then a business license would not be necessary. The Attorney did recommend the city inquire the nature of the business to determine the legality of what was going on in the home.

The Mayor read a letter he drafted to send to homeowners that had a business in their home but did not need a business license, the Mayor also said beginning January 1st, those business owners that had very limited traffic and business that been paying for a business license would no longer be required to purchase a business license.

Mayor Andersen asked if Council member Gubler and Chief Basaraba had coordinated the purchase of water for civil defense storage. Council member Gubler said he had not because the Chief had been out of town, but he would discuss the matter with Chief Basaraba.

The Mayor asked the Council if they would be willing to discuss the possibility of setting up a retirement program for the City employees that would allow the employees to contribute to the retirement, and the City would match a certain amount of that contribution. The Council agreed to discuss the issue another time in an executive session.

Mayor Andersen noted that on the expense report Supervisor Prouse's name needed to be removed for travel expenditures and Chief Basaraba's added.

Mayor Andersen entertained a motion from the Council.

Council member McArthur made a motion to accept the consent agenda with the corrections noted.

Council member Case seconded the motion.

All were in favor. Motion carried.

Reports.

Supervisor Prouse said DEQ had approved the final plans for well #3 with the following stipulation; since the City did not have a 50 foot separation between the well and the ditch, DEQ would allow the City not to go through the variance process if the City agreed to install a chlorination system, which would cost the City approximately \$2,000 - \$3,000, and run additional water quality testing. DEQ would not require the City to chlorinate its water, but rather have the ability to go online with chlorinated water if necessary.

Mayor Andersen said that was a good idea anyway.

Supervisor Prouse said a pre-bid meeting would be held at the well site on April 29, 2010 at 11:00 a.m.

Mayor Andersen asked if a Council member could be present in the even he could not make the meeting. Council member Gubler said he would be present for the meeting.

The Supervisor said seal coating prices were similar to last year at \$31,000 to \$32,000 per mile so he scheduled one mile for this year.

Mayor Andersen asked if Supervisor Prouse had received a bid to asphalt Walker Ave. between Main Street and Olsen Street. The Supervisor said the bid came in at \$9,000 plus the cost of replacing the water line under the road. The Council agreed the amount was high, and should be placed on the budget for 2010-2011.

Council member Gubler said the fence at the daycare on Walker Ave. was out of compliance with City Code because it was 6-feet high on the front setback which impaired the vision of cars backing out into the road. The Council agreed the Code Officer should speak with the owner of the daycare regarding the issue.

Mayor Andersen reiterated the importance of the Council regulating the rules and the Mayor and the Code Officer enforcing the rules.

Supervisor Prouse reported that the re-striping of the parking lot would be white, and he would be repairing the intersection of Rockwood and Olsen. The Supervisor also said he had repaired the pot-holes on 50th as much as the railroad company would let him. The railroad said they would not let him repair anything close to the track for safety reasons.

Clerk Keyes said the Easter Egg Hunt was successful despite the bad weather. The Clerk also said that Susan Barnes had contacted her regarding the annual donation to the public transportation program, and that Mrs. Barnes was hoping for an increased donation to the program. Mayor Andersen said the budget had been set for this year, but the Council would take the request into consideration for the next fiscal year. Mayor Andersen said to ask Treasurer Nelson to issue a check to the program for this fiscal year.

Council President Shaw, no further report.

Council member Gubler, no further report.

Council member Case asked about catering for the Friday night dinner during Iona Days. The Mayor and Council member gave him suggestions for possible caterers.

Councilmember McArthur asked about vendors and booths for Iona Days. The Mayor said Saturday until 2:00 p.m. was open for anyone that wanted to set up a booth.

Council President Shaw made a motion to adjourn.

Council member McArthur seconded the motion.

All were in favor.

Adjourned 10:00 p.m.

APPENDIX A
PUBLIC HEARING DENNIS AND LINDA MCARTHUR CONDITIONAL USE PERMIT TO
RENT PART OF THEIR HOME 6:00 P.M. APRIL 27, 2010
COMMUNITY CENTER

PRESENT: Mayor Brad Andersen, Council President Jane Shaw, Council member Bruce Case, Council member Dennis McArthur, Council member Dan Gubler, Clerk Robyn Keyes.

VISITORS: Mike Taylor, Adrian Beazer, Kathy McNamara, Linda McArthur, Scott Long, Susie Ransom, Ted Ransom, Betty McKinlay, Terry McNamara, Ron Roberts, Steve Elliott, Craig Rockwood, Dave Huntsman, Sally Price.

Mayor Andersen welcomed everyone and went over the procedure for a public hearing.

Council member McArthur recused himself and sat with the audience.

Mayor Andersen explained that the McArthur's were requesting a conditional use permit to allow them to allow people other than family to live in their home in exchange for helping pay for the living expenses of the home. The mayor turned the time over to Mr. McArthur.

Mr. McArthur thanked everyone for attending and stated that the cause for the meeting began 10 years ago when the Mayor and City Council made an arbitrary and capricious ruling on the application to change the zoning. Mr. McArthur said the ruling was based on a decision announced at the meeting to not allow R2 zoning north of Iona Rd. Mr. McArthur said no mayor or council have the legal right to change the City Code or Master Plan without a hearing process. Mr. McArthur said the need for the current meeting was reinforced by a second capricious and arbitrary ruling by the City Council regarding his request for a conditional use permit. Mr. McArthur said no discussion of the rules that allow and govern such a permit were considered by the City Council, which voted 2 to 1 to oppose the permit disregarding the recommendation by the Planning and Zoning Commission to grant the permit. Mr. McArthur said one of the votes against the permit was cast by a Council member that violated the neutrality requirements when he attended the Planning and Zoning hearing after he was advised not to. Mr. McArthur said that according to the City Attorney, that Council member should have abstained from voting.

Mr. McArthur said he believed the more recent Planning and Zoning Commission made a flawed decision due to misunderstanding the requirements and purpose of the conditional use permit process. Mr. McArthur said the Planning and Zoning made their decisions based on hardship and the fear of precedence being set. Mr. McArthur said hardship was not a consideration in the conditional use permit process, and the code for conditional use permits stated that no permit can set precedence, and each application had to be judged individually.

Mr. McArthur said his request was not about what he was currently doing, but about allowing him to do something that was clearly stated as allowable in the code.

Mr. McArthur noted that a change of direction took place at the end of the Planning and Zoning hearing. Participants were instructed to write any conditions that were important for the Planning and Zoning Commission to consider regarding the permit. Mr. McArthur said no one issued a statement with conditions except him and his wife. Mr. McArthur added he had presented written statements from his neighbors that were in favor of his conditional use permit to the Planning and Zoning Commission.

Mr. McArthur said one of the requirements of a conditional use permit was the request needed to be harmonious with the objective of the zoning and would preserve residential neighborhoods, prevent overcrowding, and encourage the development of low density areas. Mr. McArthur said by renting his home there would be a total of four people in the home, which would not change the culture of the neighborhood by adding to overcrowding. Mr. McArthur said a second requirement would be to not change the appearance of the neighborhood; the appearance of his house would not change. A third requirement would be the use of the property would not be hazardous or disturbing to present or future neighbors; all of his neighbors were in approval of his rental with conditions such as: renting to only one party at a time, building and property would be maintained as per City Code, the permit expired when the McArthur's moved or sold the property, the permit may be reevaluated and revoked if the use became detrimental to the neighbors, the permit would not require excessive additional expenses or requirements for services, off street parking would be provided, and the permit would not result in any loss of natural, scenic, or historical feature. Mr. McArthur said the permit would result in additional revenue for the City by adding a water fee.

Mr. McArthur recited City Code Chapter 6, Section 11-8-5, C that stated that a conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits. Mr. McArthur said all applications should be judged on their own merit, and codes were made flexible to meet the needs and interests of the community and individuals in the community. Mr. McArthur said he believed both permits granted in the past for rental purposes did not follow the permit requirements in terms of frontage, off street parking, or lot size, but they were permitted anyway. Mr. McArthur said if hardship were to be taken into account, then anytime someone was out of work, or had insufficient funds, they could apply for a variance.

Mr. McArthur said it was wrong to micromanage people because of sentiment, and permits should be allowed because wise people recognized the reality of need for change. Mr. McArthur also said that he realized some people were upset because they viewed him as a flagrant violator of the law. Mr. McArthur said he had been open and non apologetic, and believed his actions were justified. Mr. McArthur said his application either does, or does not meet the conditions required for a conditional use permit, regardless of feelings. Mr. McArthur stated that he was concerned there was one City Council member who could not be neutral in the hearing because he believed that person had been communicating information with Mr. McNamara. Mr. McArthur asked that Council member (Council member Gubler) to recuse himself from voting.

Council member Gubler's reply was "that would be a negative".

Mr. McArthur said he would like to ask a few questions and went on to ask Council members Shaw, Case, the Mayor, and Clerk Keyes if they had disclosed any information from an executive session to Mr. McNamara. Each person said they had not.

Council member Gubler asked Mr. McArthur if he was going to ask him the question.

Mr. McArthur asked Council member Gubler the same question.

Council member Gubler said he had not disclosed information from the executive session.

Mr. McArthur said he questioned how Mr. McNamara knew that Mr. McArthur had spoken with the City Attorney.

Council member Gubler suggested that Mr. McArthur ask Mr. McNamara how he knew that information. Council member Gubler said that during the Planning and Zoning hearing Mr. McArthur publicly denied going to the City Attorney. Council member Gubler said that obviously Mr. McArthur had talked with the City Attorney.

Linda McArthur said they in fact did not go to the City Attorney, and instead the City Attorney contacted them.

Council member Gubler said there was not a conflict of interest on his part, that the conflict was when Mr. McArthur went to the City Attorney to discuss personal matters.

Mr. McArthur said he did not go to the City Attorney, the City Attorney contacted him.

Mayor Andersen reiterated the question from Mr. McArthur that asked if Council member Gubler supplied information from an executive meeting to the McNamara's.

Council member Gubler said he did not.

Mr. McArthur asked Council member Gubler if he had talked with the McNamara's about any of the issues regarding the public hearing.

Council member Gubler said that he absolutely had. Council member Gubler said everyone had been talking about the issue and asked Mr. McArthur if he had been talking with people regarding the issue.

Mr. McArthur said he had not since the hearing proceedings started.

Council member Gubler asked each Council member if he had talked with them regarding the hearing, they all said they had not.

Mr. McArthur said Council member Gubler had been talking with the community about the issues.

Council member Gubler said he had a right to talk to the community all he wanted.

Mayor Andersen restated Mr. McArthur's question and said that the point Mr. McArthur was trying to make was why people outside the adjacent properties were interested in the issue and how did they get the information when the adjacent property owners were in favor of the permit.

Council member Gubler said Mr. McArthur was not asking a question, but rather making an accusation.

Mr. McArthur said he was making an accusation because Council member Gubler was actively involved with the people that were not in favor of the permit. Mr. McArthur said Council member Gubler needed to maintain a neutral position in the issue.

Council member Gubler said that he had a responsibility to go out into the community and find out what was taking place and what the facts were. The Council member said every other Council member had the same responsibility to find out what the community wanted.

Mr. McArthur said this issue was not the same thing; the issue was whether Council member Gubler could stay neutral enough to listen to the objectivity and consider the conditional use permit for what it was.

Council member Gubler said he was there to do that.

Mr. McArthur said this conditional use permit was not about what had happened in the past, but where they were right now.

Mayor Andersen said he wanted to make sure everyone had an open mind and did not come to the hearing with prejudged ideas. The Mayor reminded the Council they were there to listen to the facts and follow the Code Book.

Mr. McArthur said all of his adjacent neighbors supported him with his request.

Mayor Andersen asked if anyone that was in favor of the request would like to speak.

Linda McArthur said she thought the hearing was getting off course, and the real question should be if they (the McArthur's) met the requirements as stated in the Code Book for a conditional use Permit. She said that was the purpose of the hearing, not who talked to whom, and what was said, the bottom line was they either met the requirements or they did not. If the requirements are met, then a conditional use permit should be granted, if they did not meet the requirements then they would not rent their basement.

Mayor Andersen asked if anyone that was neutral would like to speak.

Scott Long asked if the property had been a rental before this date.

Mayor Andersen explained the history of the property with the McArthur's. The Mayor said in 2000 the McArthur's applied for a zone change for R1 to R2 and were denied the change. Then shortly after Mayor Andersen took office, the City Clerk at the time told the Mayor that Mr. McArthur had people living in his house. The Mayor said he asked Mr. McArthur if he had people living there, Mr. McArthur said he had and they were family. The Mayor said family could stay. Then awhile later the former Clerk told the Mayor that she heard that the McArthur's had people other than family living in their house. The Mayor then asked Mr. McArthur if that was true, he said yes, he had been helping some people out. Some of those people did not pay to live with him and other people would help pay for the living expenses of the home. Mayor Andersen said he spoke with the City Attorney and the Attorney explained to the Mayor that under the Fair Housing Act the McArthur's could have people living in their home as long as there was not a written contract such as a rental agreement, and the McArthur's were not charging rent. So the McArthur's continued to let people stay in their home. The Mayor said the issue came up again by someone in the community, so he spoke with the Attorney again. The Attorney said even though what the McArthur's were doing fell under the Fair Housing Act, the actions cast a shadow upon the Council and the Mayor. Mayor Andersen said even though what the McArthur's were doing was allowed under the Fair Housing Act, he did not want people to think that the Council was granting anyone favors, so the Mayor asked Mr. McArthur to apply for a conditional use permit, which he did in 2008. The Mayor said that the conditional use permit was approved by the Planning and Zoning commission, but not approved by the Council. Mayor Andersen said the McArthur's continued to have people in their home intermittently and the issue came up again through an anonymous letter written to the City.

Mr. Long asked if Mr. McArthur was in violation of an ordinance when he continued to allow people in his home after he was denied the conditional use permit in 2008.

Mayor Andersen said that according to the Fair Housing Act, Mr. McArthur is not in violation of an ordinance, but the Mayor agreed that the issue was splitting hairs.

Mr. Long said that essentially the City was allowing people to rent their property if there is no rental agreement involved.

Mayor Andersen said based on the information given to him by the Attorney, and the laws regarding the Fair Housing Act, people were allowed to have other people in their homes.

Mr. Long said he believed the information was incorrect, and asked if Mr. McArthur was not in violation of an ordinance, why was he having a hearing?

Mayor Andersen said because the issue kept coming up from various sources, the Council agreed that the issue either needed to be made officially legal, or Mr. McArthur needed to stop renting his home.

Council member Shaw said she had done some research and found the Supreme Court refused to define "family" so according to the Fair Housing Act, as long as there was not a rental agreement anyone could be considered family. Council member Shaw said technically Mr. McArthur did not need to have a hearing, but because Iona was such a small community, he chose to have a

hearing to have the proper documentation and show to the public that he was not trying to hide anything. Council member Shaw said if the Supreme Court would not define family under the Fair Housing Act, the City did not have legal ground to stand on, however by granting the McArthur's a conditional use permit, the City could then supervise the situation and enforce the requirements of the permit.

Mr. McArthur explained that when he built the house, he did not build it with the intent of a duplex. He did build it so he could share the home with his adult children when necessary. Mr. McArthur said he has had two of his sons and their family's living there, the house had shared community space within it. An outside stairwell was added as a safety feature for exiting the basement. When McArthur's sons had moved out, a neighbor asked him if he could provide a living space for two women that needed transitional housing, so he did. Mr. McArthur said regarding the young couple that was in the home now, sometimes they help with expenses and sometimes they don't, he was helping them get on their feet financially so they could move into their own place. Mr. McArthur said his main objective was to help people by offering a place to stay until they could move onto their own place. Mr. McArthur said there had never been a time that he had collected enough money from anyone staying to pay for what would otherwise be considered rent. Mr. McArthur said he was not sharing his home with people for the money.

Sally Price said she believed people should be allowed to do what ever they wanted with their property, and if the City could not define family, then Mr. McArthur did not need a conditional use permit. Mrs. Price said the problem appeared to be that some members of the community view the McArthur's as breaking the rules while in their minds they are being harassed. Mrs. Price said maybe the entire community needed to know that they could have people in their homes that it wasn't against the law.

Adrian Beazer said according to the Comprehensive Plan, the City did not want high density housing, and that should be taken into consideration.

Mayor Andersen thanked everyone for their comments and turned the time over to anyone that was against the request.

Kathy McNamara said regarding the accusations that inside information from an executive hearing had been revealed; the Mayor had publicly stated during a meeting that the City would get with the Attorney to discuss the matter.

Mrs. McNamara also said that after the last public hearing she had people that had signed letters of approval call her at home and tell her they did not know Mr. McArthur was doing something he was not supposed to and they were cornered into supporting him.

Mrs. McArthur asked who the people were because they (the McArthur's) did not intend to mislead anyone, and were not coercing anyone.

Mrs. McNamara said the McArthur's did not need to know who the callers were.

Terry McNamara said he understood that the previous administration, and the decisions they made at the previous hearings wanted Iona to remain a bedroom community to Idaho Falls and

not a high density area. Mr. McNamara suggested the Council look at the areas in Idaho Falls that were originally single family dwellings and have been turned into multifamily units. He said there were too many people, too many vehicles, and too much crime in those areas. Mr. McNamara said that Iona would turn into the same kind of area if multiple family dwellings were allowed. Mr. McNamara also said that Mayor Andersen sat in the Council that unanimously agreed to not allow Mr. McArthur to rent his house. Mr. McNamara suggested the City check with a few more attorneys regarding the matter because there would be different opinions. Mr. McNamara said it looked like the Mayor and Council are giving Mr. McArthur perks for sitting on the Council. Mr. McNamara suggested the City did what is best for the entire community and not what is best just for the McArthur's.

Craig Rockwood said he talked with the City Attorney regarding the subject and he got a different story. Mr. Rockwood said he thought the Council was taking certain words the Attorney said and using them out of context. Mr. Rockwood said the City had put in place zoning laws to protect the citizens of the community. Mr. Rockwood also said that he heard tonight that the issue was talked about during executive session, and if that was true a conditional use permit cannot be talked about in an executive session. Mr. Rockwood said that the City Council had every right to make an arbitrary decision regarding a conditional use permit; they do not for zoning issues. Mr. Rockwood said he did not believe it was true that all of Mr. McArthur's neighbors were in support of him, and if Iona was truly a community then he was one of Mr. McArthur's neighbors and he was not in favor of the permit because it went against the established ordinances and zoning laws. Mr. Rockwood said Mr. McArthur ignored the decisions of the previous Council. Mr. Rockwood said he did not see Mr. McArthur declare his conflict of interest before the hearing.

Dave Huntsman said he was opposed to the request and said the City was trying to make a decision based on statements from a lawyer and they do not have those statements in writing.

Mayor Andersen said the City did have the Attorney's statements in writing.

Mr. Huntsman said the City had a much greater problem if the City had not put in writing the Attorneys recommendations. Mr. Huntsman suggested the City get a written statement from the Attorney detailing that the zoning ordinance he (the Attorney) helped write and implement he now can't support. Mr. Huntsman said if the City was going to allow people to rent their homes under the Fair Housing Act, then there was a very serious problem, and they would not be able to stop anyone from renting their home. Mr. Huntsman said the conditional use permit should not be used for considerations in R1 zones. Mr. Huntsman suggested Mr. McArthur vacate his tenants immediately. Mr. Huntsman went on to say that he was not comfortable having someone represent him on the Council that could not follow the rules.

Steve Elliott said he also opposed the permit mainly because Mr. McArthur had been denied twice and continued to collect funds from families or other people.

Scott Long said if the City took this approach and went down a slippery slope allowing people to get around ordinances and define anyone as family, or not have a rental agreement, then he (Mr.

Long) could rent out the upstairs of his 100 year-old house that did not have egress windows, which would not be a safe situation.

Mayor Andersen thanked everyone and turned the time over to Mr. McArthur for rebuttal.

Mr. McArthur said he did not wish for people to think he was cheating, or feel bad for what he was doing. Mr. McArthur said he had stayed within the boundaries of the law. Mr. McArthur said everyone had kept talking about the zoning and ordinances not allowing him to open his home to other people. Mr. McArthur said the conditional use permit did allow such use, specifically. Mr. McArthur said he was not asking to turn his home into an R2 dwelling, but rather he wanted the right to let people stay in his house whenever he wanted them to. Mr. McArthur said that every conditional use permit had to stand on its own; which meant that people would have to comply with issues such as, fire ordinances and off street parking. Mr. McArthur said it was not his intent to make people miserable and unhappy, he said he thought he had helped many people and made a big difference in their lives. Mr. McArthur said what he was doing did not hurt the City in anyway. Mr. McArthur said this issue had become personal, and he believed he had been slandered. He said statements were provided in an anonymous letter that were not true and factual things had been misrepresented. Mr. McArthur said that Mr. McNamara stood in the meeting tonight and said he not only knew he had talked with a lawyer, but he knew what the lawyer had told the Council. Mr. McArthur said that information did not come out of nowhere.

Council member Gubler said that Mr. McNamara also worked for the City of Idaho Falls.

Mr. McArthur asked Mr. McNamara if he had talked with the City Attorney.

Mr. McNamara said not lately.

Mr. McArthur said he was not sure what the issue was really about, and he said he certainly did not want any of his neighbors feeling like they were forced into anything. Mr. McArthur said sometimes things in the past were not done properly, and he was not asking anyone to do anything that was not allowed in the Code Book.

Mayor Andersen closed the public portion of the hearing and opened discussion up for the Council. The Mayor reminded the Council to treat each other the way they would want to be treated, and to work together toward a solution.

Mayor Andersen said he would like to address a few issues before the Council had their discussion. The Mayor said the hearing in 2000 was for a spot annexation to change from R1 to R2 zone, and it was voted against for spot annexation. This situation was different.

The Mayor said regarding seeking advice from another attorney, the only attorney he was going to talk to was the City Attorney. The Mayor also said he did have in writing the Attorney's discussions regarding the Fair Housing Act, the Mayor said he saved all of the email correspondence. Under the Fair Housing Act, people could live together in the same house there was nothing anybody could do about it.

Mayor Andersen said Mr. McArthur did not need a public hearing to do what he was doing; the reason for the public hearing was to show to the public that the McArthur's were not receiving special treatment.

Mayor Andersen clarified the conditional use permit request was not talked about during the executive session.

Mr. Rockwood asked the Mayor if Mr. McArthur would be allowed to be a part of the Council discussion and pointed out a conflict of interest.

Mayor Andersen said Mr. McArthur would not be a part of the Council discussion.

Council President Shaw said anyone that wanted to be a part of the hearing had a right to regardless if they were a direct neighbor or not. The President went on to say that she was elected to represent every member of the community, which meant she was interested in their comments and input, and the day she was not allowed to listen to what her neighbors might have to say about an issue was the day she would step down from the Council. She said she had every right to discuss issues outside of the Council chambers with the public.

Council President Shaw said she wanted to address the reference of multifamily dwellings compared to areas in Idaho Falls. President Shaw agreed that the areas in reference were a mess; however most of those dwellings did not have the owner also living on the premises. That was not the case with the McArthur's they were on the premises, so the situation was different. President Shaw said if the Council was going to govern with integrity then they needed to go by the Codes that were in place for the City, and in Title 1 Chapter 4 item 3 specifically defined in R1 zone conditional uses allowed. The Code said the City may, after notice and public hearing permit the following uses, were such uses are essential and desirable to the public convenience and welfare, and the first item (A) stated duplexes. President Shaw said allowing the McArthur's to rent their space to a young couple was a public convenience. President Shaw said if the City didn't like that provision, then it needed to change the Code, and many city's had done just that, but by doing so it would eliminate many in home occupations such as daycares. Council President Shaw said if Mr. McArthur met all of the conditions for a conditional use permit, the City needed to allow the permit, and the Council would be remiss to deny the permit unless they took the condition completely out of the Code Book. President Shaw suggested family should be defined in the ordinance, but as it stands what the McArthur's were asking was allowed.

Council member Gubler said the Code Book stated that the City may issue a conditional use permit if the use was desire bale. Council member Gubler said he wanted to talk about the Federal Housing Act and its intended purpose to stop people from being discriminated against. If Mr. McArthur can prove that the City was discriminating against him then the law would apply. Council member Gubler said what the law did allow was to increase the law to meet the needs of the City, and if the City wanted to make the law more stringent, they were able to do so. The Code was law in the City of Iona and unless discrimination was involved, the City Code superseded the Federal Housing Act law. Council member Gubler said the people of Iona liked

the bedroom community lifestyle, and by allowing multifamily dwellings that was the door that opened to high density housing.

Council member Gubler said the biggest reason he was against the McArthur's permit was because of the appearance it presented upon the Council and the fact that Mr. McArthur continued to rent his home when he was told not to. Council member Gubler said he talked with two different attorneys and asked them what rent was, and they both said rent was exchanging anything of value for the purpose of housing. Council member Gubler said the R1 zone was important and there had only been two times a conditional use permit was granted for multifamily dwelling, and both of those times were due to financial hardship and were for the current owner of the home only. Brenda Denning was granted a conditional use permit, then sold her house and the new owner began renting the bottom portion of the home, the new owner, Mr. Larsen, asked the Council for a conditional use permit and was denied for the same reason Mr. McArthur was. Council member Gubler claimed that the current homeowner said he was doing the same thing the McArthur's were doing. Council member Gubler said a conditional use permit did not create precedence, but it did create a perception and the new homeowner was doing what he was doing because of perception. Council member Gubler said the Codes were established to have a semblance of order, and a conditional use permit can be issued if the Council approved of the conditions. Council member Gubler said he had a problem with Mr. McArthur continuing to rent his home, and the Council should be held to a higher order. Council member Gubler said he agreed with Council President Shaw's ascertain that they had a right to go out into the public to discuss matters of the City with the public.

Council member Case said he understood what had been said that the City's law's contradicted other laws.

Council member Gubler said the City's laws did not contradict the Federal Housing Act.

Council member Case said that the City needed to be fair across the board, and he was voted in to represent the people. Council member Case said he appreciated everyone's comments, and as he understood the Code, the McArthur's had a right to ask for a conditional use permit. Council member Case said he noted the public's comments and he agreed with the concerns regarding high density housing, and it was obvious that everyone was not in favor of the request. The Code needed to be followed and conditional use permits could be granted when the conditionals were in the best interest of the public, but in this case not everyone agreed with the permit.

Council member Case said he thought it was wrong that the McArthur's have continued to proceed in the manner in which they have, and any exchange of money was considered rent.

Mayor Andersen said the City did not have a definition of family in the Code Book. The Mayor said from what he understood from Mr. Larsen's father was Mr. Larsen was only renting to family in his house.

The Mayor said he agreed with Mr. McArthur's concern of the possibility of Council member Gubler supplying information to the McNamara's. Council member Gubler said he did not provide information to the McNamara's.

Mayor Andersen also said he should not have read the unsigned letter that was sent to the Council last December. He said he started to read the letter before he realized it was unsigned, and in another hearing an unsigned letter was not permitted.

The Mayor agreed that it was the Council's duty to be a protector of people rights, and homeowners should have the right to do what they want to do as long as it was within the boundaries of the Code Book and it did affect the neighbors. The Mayor said there were many people in the community that did things without asking, and it seemed the people that did come in to do the right thing ended up getting punished for it.

Mayor Andersen said each month he attends a mayors meeting and he had talked with Ucon, Ammon, and Idaho Falls Mayors regarding the subject of people renting their homes, and each city said they did not worry about small issues like those. The Mayor said he wondered if Iona had too much government sometimes because it was such a small community. Mayor Andersen said he agreed that a conditional use permit would help regulate certain situations such as multifamily dwellings, and allow the City to evaluate them individually.

The Mayor reminded the Council to look at what the Code Book allowed, review the facts and keep an open mind.

Council member Case addressed the anonymous letter and said he thought anonymity needed to be allowed because sometimes hostile situations arose between neighbors, and people need to feel they could have a say without repercussions.

Mayor Andersen agreed, but said it was important to know if the person was against the issue, or if the person just didn't like their neighbor.

Council President Shaw said the Council was limited by enforceability with the nature of the issue, and if the Council wanted the conditional use permit process different, they would have to change the code.

Mayor Andersen entertained a motion from the Council.

Council member Gubler made a motion to deny the McArthur's request for a conditional use permit.

Council member Case seconded the motion.

The Mayor asked if there was any further discussion.

Council member Gubler said he wanted to clarify his reason for the motion, which was to preserve the R1 community in Iona.

Council member Case said he seconded for the same reason, that the citizens were concerned with high density housing, doubled with the fact that not everyone was onboard with the McArthur's request.

The Mayor asked for a roll call. Roll call as follows;

NAY: Council President Shaw

AYE: Council member Gubler
Council member Case.

Motion carried 2:1, request denied.

Mayor Andersen thanked everyone for their input.

Hearing closed 7:37 p.m.

APPENDIX B
PUBLIC HEARING SCHOOL DISTRICT #93 CONDITIONAL USE PERMIT TO ALLOW
THE USE OF A MODULAR CLASSROOM 7:45 P.M. APRIL 27, 2010
COMMUNITY CENTER

PRESENT: Mayor Brad Andersen, Council President Jane Shaw, Council member Bruce Case, Council member Dennis McArthur, Council member Dan Gubler, Clerk Robyn Keyes.

VISITORS: Mike Taylor, Adrian Beazer, Scott Long, Ron Roberts, Sally Price.

Mayor Andersen welcomed everyone and went over the procedure for a public hearing.

Clerk Keyes explained that since the conditional use permit had just expired a few months ago, she suggested to the school district they ask for a renewal. Clerk Keyes said she told the school district that if nothing had changed since the last hearing, they would not need to be present for the hearing if they chose not to be.

Public Works Supervisor Prouse said the district was in violation of setback requirements last time because they moved three units onto the property, which did not have enough room for three.

Mayor Andersen agreed that last time they were allowed two and they put three on the property.

Scott Long asked why they were moving modular units on when they had just built two new schools.

Clerk Keyes said the district is growing rapidly and were experiencing over crowding again.

Mayor Andersen entertained a motion from the Council.

Council member Gubler made a motion to approve the conditional use permit renewal with the following stipulations; the district was allowed only one building, and if they want more they need to get approval from the Council, they must obtain a building permit and necessary inspections, the building must meet setback requirements, and the permit must be reviewed annually.

Council member Case seconded the motion. Roll call as follows:

AYE: Council President Shaw
Council member Gubler
Council member McArthur
Council member Case

NAY: None.

Motion carried. Public hearing closed 7:50 p.m.

APPENDIX C
PUBLIC HEARING AMENDING DOG ORDINANCE 7:53 P.M. APRIL 27, 2010
COMMUNITY CENTER

PRESENT: Mayor Brad Andersen, Council President Jane Shaw, Council member Bruce Case, Council member Dennis McArthur, Council member Dan Gubler, Clerk Robyn Keyes.

VISITORS: Mike Taylor, Adrian Beazer, Scott Long, Ron Roberts, Sally Price.

Mayor Andersen welcomed everyone and went over the procedure for a public hearing.

The Council members read over the proposed changes for the dog ordinance.

Mayor Andersen said the dog licenses would be \$5 for 2 years and \$15 for a lifetime tag, and a noncommercial permit could not have more than four dogs.

Scott Long thanked everyone for the good job they were doing.

There were no further questions or discussion.

Council President Shaw made a motion to approve the amendments to the dog ordinance and to dispense with the ruling that the ordinance be read in its entirety and on three separate occasions.

Council member Gubler seconded the motion. Roll call as follows:

AYE: Council President Shaw
Council member Gubler
Council member Case
Council member McArthur

NAY: None.

Motion carried. Public hearing closed 8:00 p.m.