

## Cold Spring City Council Special Meeting December 12, 2016

The special meeting of the Cold Spring City Council was called to order by Mayor Angelo Penque. Roll call showed the following council members present – Chris Ampfer, Lou Gerding, Brenda Helton, Roger Jones, and Adam Sandfoss – excused was Lisa Cavanaugh. Also present were Administrative Officer Stephen Taylor, City Attorney Brandon Voelker, City Clerk Rita Seger, Police Chief Brian Messer and Ronnie Hitch, Public Works.

Mayor Penque gave the exit instructions, per Fire Department regulations.

The November 28, 2016 council meeting minutes were reviewed by all. Lou Gerding made a motion for approval and Adam Sandfoss seconded the motion. All were in favor. Motion carried.

The next agenda item was the ceremonial swearing in of our new police officer. Police Chief Brian Messer introduced our newest police officer, Brian Locknane who actually started on November 2, 2016. Chief Messer gave a brief background of Officer Locknane who came to us after serving the Pendleton County Sheriff's office. He has a lot of experience to bring to the police department. The city clerk then administered the Oath of Office to Police Officer Brian Locknane. Police Chief Messer then presented Officer Locknane with his badge. A round of applause followed.

Mayor Penque stated that Light Up Cold Spring contest was held on December 11<sup>th</sup>. This year it was judged by the Parks Recreation and Tree Commission. Mayor Penque announced the winner was the property owners at 47 Madonna Lane. The honorable mentions were 313 Town Square Circle, 5392 Winters Lane, 9 Goetz Drive, and 5832 Granite Spring Drive. All will receive gift certificates. Our congratulations go to the winners and honorable mentions.

**Municipal Order #16-06** was read, **reappointing three members to the Cold Spring Board of Adjustment - Stuart Oehrle, Sherry Conner, and Todd Weiner; one member re-appointed to the Board of Ethics - Rev. Gerald Reinersman; and one new member appointed to the Parks Recreation and Tree Commission - Jessica Abhat.** Christopher Ampfer made a motion for approval and Lou Gerding seconded the motion. All were in favor. **Motion carried.**

**Ordinance 16-1032** was read in summary form for the first time, **amending the Cold Spring zoning ordinance adding "outdoor dining" as a conditional use within the NC (Neighborhood Commercial) zone.** Chris Ampfer made a **motion to approve** and Roger Jones seconded the motion. Discussion followed. Lou Gerding stated that this outside seating will affect other NC (neighborhood commercial) areas in the city, at 5720 and 5730 Alexandria Pike, at the Henry Court at Alexandria Pike, at Plaza Drive at Alexandria Pike, at Pooles Creek Road at Alexandria Pike, and West Low Gap Road at Alexandria Pike. His thoughts are that some of these have residential properties adjoining them, and the reason that it doesn't have the outdoor seating now is the impact that outdoor dining might have on those residents. With that in mind, he doesn't think that it would be a good idea to have to listen to people outside talking while they are dining. Chris Ampfer stated that the only area affected would be this one at Ripple Creek. None of the other areas have restaurants. Lou Gerding responded that any of these could tear down their current building and change to a restaurant.

Mayor Penque stated that this is a conditional use and would have to go through the Board of Adjustment if they ask for outdoor dining. Brandon Voelker concurred. He stated that the ordinance lists the bare minimum requirements and no one can grant a variance on these. For instance if someone wants to place a restaurant at Plaza Drive and wants to have outdoor dining they would have to get a conditional use permit through the Board of Adjustment, who would decide if it adversely affects the general health and welfare. They would have to make findings and decide on whether or not they would grant this conditional use. Lou Gerding stated that the Staff reports says the findings are consistent with the 2005 comprehensive plan and the 2010 update, but he doesn't see where it says anything about this in our comprehensive plan. We need more information on this to have a vote.

Chris Ampfer stated that a lot of these businesses have been at these locations for a very long time, and he doesn't see anyone wanting to tear down their business and putting in a restaurant. As Brandon Voelker stated, it is a conditional use and he doesn't see a whole lot of people taking advantage of this outdoor dining. Lou Gerding stated that it is council's responsibility to respect the residential properties in the city. Adam Sandfoss stated that he understands his concerns, but in his viewpoint, whether we pass this or not, if an establishment puts in a garage type wall that you see downtown, the same amount of noise will be outside. That is indoor dining but an entire wall is gone. He doesn't have a problem with this ordinance. Roll call vote showed four yeses and one no – Lou Gerding. **Motion carried.**

**Ordinance 16-1033** was read in summary form for the first time, **amending the zoning map of the City of Cold Spring for an approximate 9.13 acre area at the intersection of Ripple Creek and US27 from SDA (Special Development Area) to NC (Neighborhood Commercial)**. Adam Sandfoss made a **motion for approval** and Chris Ampfer seconded the motion. Discussion followed.

Lou Gerding questioned who the applicant is on this map amendment and how many acres are required for a zone change. Brandon Voelker responded that the applicant is SRM Investments LLC which is the entity under which the city annexed this parcel, and Flohn Management LLC which is the LaRosa's. He stated that five acres adjacent to an existing zone are required for a zone change. Lou Gerding stated that Campbell County Staff report only shows the applicant as SRM Investments. Brandon Voelker stated that in another area on the report Staff identifies them both. This was a co-application between the two of them. This is what was presented at the Planning and Zoning public hearing. Lou Gerding stated that the Staff report should be clear on who the applicant is for this zone change. Brenda Helton stated that our ordinance which we are being asked to approve tonight shows both entities. Lou Gerding stated that Cindy Minter is our Staff, and was not clear on her report. He questioned if our Planning & Zoning Board knew who the applicants were that night.

Brandon Voelker stated that issue was addressed at the public hearing. Lou Gerding verified that Brandon Voelker was not present at the meeting that night. Brandon Voelker responded that Mark Stoeber had submitted questions in writing, and Cindy Minter prepared a document answering all the questions as part of the record. Lou Gerding questioned if Mr. Voelker could explain the statement in Staff report that stated that the proposed changes are consistent with the consistent recommendations of the Cold Spring comprehensive plan update. It doesn't make sense. Brandon Voelker stated that she went through the different elements and presented them to Planning and Zoning. Chris Ampfer verified that Cindy Minter is speaking of the past comprehensive plan, not the current one under review. Brandon Voelker stated that they are operating under the 2010 update. Lou Gerding stated that he doesn't see anywhere that this would be consistent with the comprehensive plan. Ms. Minter should be here tonight, answer questions, and show council where this is located in the comprehensive plan so that we could deal with these things and so that the citizens can understand the issues.

Brandon Voelker stated that when he wrote this ordinance he contacted Staff and asked for more information. Cindy Minter advised him that the planning commission reviewed policies contained within the comprehensive plan relating to annexation of unincorporated areas. They took into consideration the interrelationship of the plan elements in the respective goals and objectives, specifically land use and development, housing residential development, recreation and open space and economic development. Lou Gerding stated that he believes that we should have our own public hearing on this, as council is allowed to do, so that we can get our questions answered. Brenda Helton stated that there has already been a public hearing with Planning and Zoning which was on camera and he could have attended. Lou Gerding stated that he cannot ask questions at a Planning & Zoning public hearing since council also votes on this.

Chris Ampfer questioned his issues with changing this from special development area to neighborhood commercial. As far as he can gather there is not a great big difference. Lou Gerding stated that you are allowing drive thru windows. People living at the property behind there were at the public hearing. Though they were not residents of Cold Spring they had concerns about the drive thru windows and the outdoor dining. Chris Ampfer stated that the only street closest to this area is in the county, not the city, and they really have no say in the matter. Lou Gerding stated that depends on whether you respect other people's opinion. Chris Ampfer sees this as no different than the drive thru at Frisch's which is even closer to residential areas than this. There will also be a gap in this area because of the large transmission lines that you cannot build under. Lou Gerding gave a brief history of the issues with the Frisch's drive thru and the Sturbridge residents. He still hears complaints from them.

There being no further discussion, roll call vote showed four yeses and one no – Lou Gerding. **Motion carried.**

Lou Gerding made a motion to adjourn the December 12, 2016 special council meeting at 7:56 pm and Adam Sandfoss seconded the motion. All were in favor. Motion carried.

**Approved:**

**City Clerk:**

**Mayor:**