

MINUTES OF REGULAR MEETING  
SUGAR CITY COUNCIL  
THURSDAY, JUNE 22, 2006

Presiding: Glenn W. Dalling  
Meeting Convened at 6:30 p.m.  
Prayer: Mayor Dalling  
Pledge of Allegiance

Present: Mayor Dalling; Sharon L. Bell, Clerk; Marcie A. Smith, Treasurer; Councilmembers Harold Harris, Walter Deitz, Bruce King and Brad Orme; Sharee Palmer, Planning & Zoning Commission; Jan Gallup; Charlotte Orchard of Prepaid Legal; Stoney Tucker and Adam Johnson of PSI Waste Systems; Attorney Richard Smith; A. W. Burton; Delores Burton; Verla Moss; KaraLee Ricks; Charles Ricks; and Vaun Waddell.

The Mayor asked if there were any corrections to the minutes of the regular meeting held June 8, 2006. Each Councilmember had a copy of said minutes prior to the meeting. It was moved by Councilmember Deitz and seconded by Councilmember King to accept the minutes of June 8, 2006; motion carried.

**CITIZEN INPUT:** There was no citizen input.

**RETIREMENT PARTY FOR DAN THOMAS:** The Mayor welcomed all the guests who came for Dan's retirement party. Refreshments were served and many citizens came to wish Dan well. A plaque was presented to him for his 29 years of dedicated service to the City.

**PREPAID LEGAL, PRESENTATION ON IDENTITY THEFT FOR EMPLOYEES' BENEFIT:** Charlotte Orchard addressed the Council on identify theft, which is the number one crime in America. Their company comes into communities, businesses, homes, and into other groups and makes them aware of the problem. She reported there is a law that if you employ anybody or have a vendor or any personal information about anybody in any kind of records and that gets compromised, you are liable for it. Their company covers all five identify thefts: credit cards, if reported within 90 days; Social Security numbers; school records; college records; drivers licenses. She would like to come in and talk with the employees or the community in a meeting. On the identity theft is the person and his/her spouse; on the Prepaid Legal, it is the person and his/her spouse, all the unmarried children up to age 18, any student up to age 23, any child you are the guardian for, also any mentally or physically challenged children. As a group, you can get it at \$25.90 a month per person. If you were not in a group, then it would be \$29 per month. She left a packet for the Council to review, and will call us back in a couple of weeks. It doesn't cost the City. Everyone buys it on their own. The Mayor thanked her for coming.

**PSI WASTE SYSTEMS – RATE INCREASE:** Stoney Tucker addressed the Council and requested a 10% fee increase – possibly 5% now and 4% in October. They haven't had an increase since 2002, and fuel has increased dramatically. The Mayor said the Council would work on it and get back to him. He expressed appreciation for their service to the community.

## JAN GALLUP – ORDINANCE REVISIONS:

**Title 8, Building and Site Ordinance:** The Mayor asked Councilmember King to lead a discussion on changes he proposed to Title 8. Bruce reported he wanted to go on record as favoring the design review ordinance because he believes it will further safety and livability, thus promoting the general welfare of the City. A discussion was had on snow removal not being addressed in developments. Jan will do some research on snow removal and come back with a recommendation to the Council. An item-by-item discussion was had through page 12. Bruce feels that because we have reduced the number of requirements in this ordinance and because we have eliminated any restrictions on appealing a decision of the design review board, he believes the ordinance will protect developers from excessive regulation. He feels it will be a means of bringing them to the table to talk about it and show them we do have a good standard for design and safety and livability issues.

## PLANNING & ZONING REPORT: Sharee Palmer addressed the Council.

**Report on Joint Meeting with Madison County P&Z (Impact Area):** P&Z had a good meeting with the County P&Z. They took the impact area map, which showed the new area we would like to add to our impact area. They felt we are pushing too far out west into Salem. Their idea was to stop at the Salem Road. She reported the County is trying to avoid getting subdivisions out in the impact area. They had a little question about how far east we went down by the cemetery. None of the area we are requesting is in Rexburg's impact area.

**Home Business/Home Occupation:** P&Z is working on the home business/home occupation issue. They are thinking about putting it in its own separate section, not just have definitions. A discussion was had about seasonal home business/home occupation. Sharee stated that this is in a residential area, and seasonal would be outside. The number one issue is protecting the residents. That is why a home business or home occupation is conducted within a dwelling or a building because it is the best way to limit any noise that might be bothersome to neighbors. The seasonal issue has been brought up to P&Z and they are seriously looking at it and making some changes.

**Cell Towers:** P&Z is looking into a cell tower ordinance again. Sharee has visited with a man who wants to put in a cell tower, and she reported they would have to apply for a special use permit. The Mayor reported they have also talked to him.

**Ponderosa Estates:** Sharee reported she has a concern with a home that is being built on Pine Avenue in Ponderosa Estates. A portion of the road is not completed. She feels the City Council should push that issue with Kirby Forbush to finish the road. The Council decided a letter should be written to Mr. Forbush.

**Fence Applications:** Sharee reported a number of fence applications have come in. A discussion was had on problems involved with people establishing their property lines on the alleys. The fence permit application is unclear on how to do it. The Mayor invited P&Z to research the matter and make a recommendation to the Council at our next meeting.

**Ball, Brown, Harris, Jeppesen Annexation:** Sharee reported that Mr. Harris' family has fought so hard to be with Sugar City, that P&Z feels very strongly that the City remember him and include him as part of any further negotiations.

## DEPARTMENT REPORTS:

**Harold Harris:** No report.

**Walter Deitz:** No report.

**Bruce King: City Website:** Bruce reported Jan Gallup and Dave Thompson have been

working on a City Website. He personally feels it is important and would be a wonderful thing for our City. As public officials, we need to make our activities as transparent as we can and involve the public as readily as we can. A discussion was had. Jan and Dave will have a report for the Council next meeting.

**Brad Orme:** No report.

### **MAYOR'S BUSINESS:**

**Motion of Appreciation:** It was moved by Councilmember Harris and seconded by Councilmember Deitz that we express particular appreciation to two City employees, Sharon Bell and Marcie Smith, and express our appreciation for putting this program together; motion carried.

**Ponderosa Estates Culvert:** The Mayor reported we could take care of the problem with the road and also the problem with the culvert in the same letter to Kirby Forbush. Councilmember Harris reported he received a letter from Gary Stillman wherein he feels it is the City's responsibility to force Kirby Forbush to remove the 24" culverts and replace them with 30" ones. If he wanted to put a 30" culvert in, he didn't need to get permission from the water users because that was the maximum size of it; but if he felt like he wanted to put a 24" culvert in, then he had to get written permission from the ditch owners. Harold said Kirby didn't do either of those. In defense of that, the development agreement states: "The developer shall cover all ditches within Division 3, including those on the south side of the division and north side of the division along 3<sup>rd</sup> South. The applicable ditch association shall determine the size of pipe (24" or 30") to be used by the developer for ditches."

Harold explained Brent Barrus put a 24" culvert across his place; then when it passes his place, it goes up a 30" culvert. Kirby chose to do what he wanted to do on the basis of 24" coming out of the canal and 24" going under Brent's, approximately 300 feet of restriction with a 24". Johnnie Luthy has about 15 acres that he can't irrigate because of the loss of pressure on the south end next to the canal. He is negotiating with Mr. Stillman to cut the rent down because he can't raise the crops he needed to raise unless he gets this matter corrected. Harold feels this is between the ditch owners and the developer. We should have nothing to do with it, other than the fact that we're a party to it because we asked him to cover it. Harold feels we should send a letter to Mr. Stillman stating that this is something between the ditch owners and the developer, Ponderosa Estates, and that they need to determine a legal way to handle it.

A discussion was had on the 24" pipe leaking. Other problems in Ponderosa Estates were discussed: some of the manholes are too low; and some of the street is falling apart. We addressed this last year and again this year and nothing has happened.

**MOTION:** It was moved by Councilmember Deitz and seconded by Councilmember Harris that we authorize the Mayor to send a letter to Kirby Forbush to address the issues with the irrigation ditch, the sewer manholes, the street falling apart, and completion of the road, in consultation with the lawyer; motion carried.

**Bike Path:** The Mayor reported the easement over the Jeppesen property is still in question. He has no answer for it yet.

### **RICHARD SMITH – EXECUTIVE SESSION:**

9:25 p.m. It was moved by Councilmember King and seconded by Councilmember Harris, pursuant to Title 67-2345(b) and (f), that we move into executive session to discuss personnel and litigation matters. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None  
Thereupon, the Mayor declared the motion passed.

10:40 p.m. The executive session ended and the regular Council meeting reconvened.

**MOTION:** It was moved by Councilmember Deitz and seconded by Councilmember Orme that we consult with our attorney tomorrow morning, Friday, June 23<sup>rd</sup>, about dismissing our annexation petition against the City of Rexburg, with input from the property owners. Discussion was had. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Deitz and Orme

Those voting nay: Councilmembers King and Harris

Because of a tie, Mayor Dalling voted aye

Thereupon, the Mayor declared the motion passed.

**MOTION:** It was moved by Councilmember Harris and seconded by Councilmember Deitz that we direct our Mayor to sit down with the Mayor of Rexburg and the parties involved, with the support of Richard Smith, including the attorneys representing the property owners, and the City attorneys to further negotiate an agreement. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

10:59 p.m. The executive session ended and the regular Council meeting reconvened.

**EXECUTIVE SESSION:**

11:00 p.m. It was moved by Councilmember King and seconded by Councilmember Deitz, pursuant to Title 67-2345(b), that we move into executive session to discuss personnel matters. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

11:24 p.m. The executive session ended and the regular Council meeting reconvened.

**MOTION:** It was moved by Councilmember Harris and seconded by Councilmember Deitz that we accept this letter that has been written and to be forwarded to Jan Gallup as written, with the addition of a signature line of acceptance; motion carried. The Mayor called for a roll call vote:

Those voting aye: Councilmembers Harris, Deitz, King and Orme

Those voting nay: None

Thereupon, the Mayor declared the motion passed.

Meeting adjourned at 11:25 p.m.

Signed: Glenn W. Dalling  
Glenn W. Dalling, Mayor

Attested: Sharon L. Bell  
Sharon L. Bell, Clerk